May 18, 2009

Ms. Janece L. Maez  
Assistant Superintendent  
Santa Monica-Malibu Unified School District (SMMUSD)  
1651 Sixteenth Street  
Santa Monica, CA 90404-3891

RE: SMMUSD Edison Language Academy Project; Responses to Comments Received on Mitigated Negative Declaration (MND) SCH No. 2009041025

Dear Ms. Maez:

Christopher A. Joseph & Associates (CAJA) prepared a Mitigated Negative Declaration (MND) for the SMMUSD Edison Language Academy Project. Pursuant to Sections 15072 and 15073 of the California Environmental Quality Act (CEQA) Guidelines, the MND and Notice of Intent to adopt the MND were circulated for a 30-day public review period which began April 3, 2009 and ended May 2, 2009. During that period, three comment letters were received in response to the MND (see attachments to this letter). Pursuant to Section 15074(b) of the CEQA Guidelines, the lead agency is required to consider the proposed MND along with any comments received during the public review period. While written responses to comments submitted on MNDs is not required, we have nonetheless provided responses to each comment for your records. As indicated in our responses below, we find that the comments do not raise any new potentially significant impacts and do not identify any increase to the severity of any of the impacts disclosed in the MND. Therefore, pursuant to Section 15073.5 of the CEQA Guidelines, recirculation of the MND is not required.

In addition to considering comment letters received during the public review period, the lead agency is required to adopt a Mitigation Monitoring and Reporting Program (MMRP), pursuant to Sections 15074(d) and 15097 of the CEQA Guidelines. The MMRP is a program for reporting on or monitoring the changes which it has either required in the project or made a condition of approval to mitigate or avoid significant environmental effects. Accordingly, the MMRP for the Edison Language Academy Project MND will be included for consideration by the lead agency. The MMRP is included under a separate attachment to the attention of the SMMUSD Board of Education.
Ms. Janece L. Maez  
Santa Monica-Malibu Unified School District  
Re: Responses to Comments Received on the MND  
May 18, 2009  
Page 2

COMMENT LETTERS RECEIVED ON THE MND


2. Department of Transportation, Division of Aeronautics, Sandy Hesnard, Aviation Environmental Specialist, April 23, 2009.


RESPONSES TO COMMENTS

COMMENT LETTER No. 1

Terry Roberts, Director  
State of California, Governor’s Office of Planning and Research  
State Clearinghouse and Planning Unit  
1400 Tenth Street  
P.O. Box 3044  
Sacramento, CA 95812-3044  
May 5, 2009

COMMENT 1.1

Dear Janece L. Maez:

The State Clearinghouse submitted the above named Mitigated Negative Declaration to selected state agencies for review. On the enclosed Document Details Report please note that the Clearinghouse has listed the state agencies that reviewed your document. The review period closed on May 4, 2009, and the comments from the responding agency (ies) is (are) enclosed. If this comment package is not in order, please notify the State Clearinghouse immediately. Please refer to the project’s ten-digit State Clearinghouse number in future correspondence so that we may respond promptly.

Please note that Section 21104(c) of the California Public Resources Code states that:

“A responsible or other public agency shall only make substantive comments regarding those activities involved in a project which are within an area of expertise of the agency or which are
required to be carried out or approved by the agency. Those comments shall be supported by specific documentation.”

These comments are forwarded for use in preparing your final environmental document. Should you need more information or clarification of the enclosed comments, we recommend that you contact the commenting agency directly.

This letter acknowledges that you have complied with the State Clearinghouse review requirements for draft environmental documents, pursuant to the California Environmental Quality Act. Please contact the State Clearinghouse at (916) 445-0613 if you have any questions regarding the environmental review process.

Sincerely,

Terry Roberts
Director, State Clearinghouse
Enclosures, cc: Resources Agency

RESPONSE 1.1

This comment acknowledges receipt and review of the MND by the State Clearinghouse. As shown in the attachment to Comment Letter No. 1 (see attachments to this letter), the California Department of Transportation (DOT) was the only state agency to comment on the Proposed Project. The comments associated with the DOT letter are discussed in detail under Comment Letter No. 2, below. The State Clearinghouse comment letter further indicates that the Proposed Project has complied with the State Clearinghouse review requirements for draft environmental documents pursuant to CEQA. No further response to this comment is required.

COMMENT LETTER No. 2

Sandy Hesnard, Aviation Environmental Specialist
California Department of Transportation
Division of Aeronautics - M.S.#40
1120 N. Street
P. O. Box 942873
Sacramento, Ca 94273-0001
Dated 4/23/2009
COMMENT 2.1

Dear Ms. Maez:

Santa Monica-Malibu Unified School District’s Mitigated Negative Declaration for the Edison Language Academy Project; SCH# 2009041025

The California Department of Transportation (Caltrans), Division of Aeronautics (Division), reviewed the above-referenced document with respect to airport-related noise and safety impacts and regional aviation land use planning issues pursuant to the California Environmental Quality Act (CEQA).

The proposal is for the expansion of an existing school through acquisition of two adjacent residential parcels and demolition of the residences along with existing school buildings. The school site is located approximately 4,800 feet north of the Santa Monica Municipal Airport.

RESPONSE 2.1

This comment acknowledges the receipt and review of the MND and notes the basic characteristics of the Proposed Project. No further response is required.

COMMENT 2.2

State Education Code Section 17215 requires a school site investigation by the Division prior to acquisition of land for a proposed school site located within two miles of an airport runway. Please submit written notification to the California Department of Transportation requesting a determination of the acceptability by the Division. Additionally, the Division’s school site evaluation criterion is available on-line at http://www.dot.ca.gov/hq/planning/aeronaut/regulations.html.

RESPONSE 2.2

This comment states the Proposed Project is subject to State Education Code Section 17215. However, upon interpretation of Advisory 00-05 prepared and circulated by the California Department of Education (CDE), School Facilities Planning Division, the SMMUSD does not view Education Code Section 17215 to be applicable to the Proposed Project. Specifically, Education Code Section 17215(f) states: “This section does not apply to sites acquired prior to January 1, 1966, nor to any additions or extensions to those sites.” CDE shares this interpretation.

In response to this comment letter from Caltrans, telephone and electronic mail communication with Sandy Hesnard of Caltrans was initiated on May 5, 2009 stating SMMUSD’s interpretation of the
Education Code. Subsequently, Sandy Hesnard responded via electronic mail on May 7, 2009 stating: “If they [SMMUSD] are proposing acquisition of a parcel adjacent to an existing school site ‘acquired prior to Jan 1, 1966,’ then it looks like it would be exempt based on the above statement. I recommend that CDE verify the date the existing school site was acquired on. We will need verification from CDE, School Facilities Planning Division, that the existing school was acquired prior to Jan 1, 1966.”

While CDE does not typically provide the verification requested for project’s they do not directly preside over, verification has been provided to Caltrans on May 14, 2009 identifying each parcel of the subject property owned by the SMMUSD that were conveyed pre-1966. No further concerns from Caltrans regarding this matter have been received and no further response is required at this time.

COMMENT 2.3

These comments reflect the areas of concern to the Division of Aeronautics with respect to airport-related noise, safety, and regional land use planning issues. We advise you to contact our District 7 office in Los Angeles concerning surface transportation issues.

Thank you for the opportunity to review and comment on this proposal. If you have any questions, please call me at (916) 654-5314.

Sincerely,

SANDY HESNARD

RESPONSE 2.3

This comment provides contact information for Caltrans and recommends contact with District 7 in Los Angeles. The Notice of Intent to adopt the MND was circulated to Cheryl Powell, IGR/CEQA Program Manager, Caltrans District 7-Regional Planning. No comments were received from District 7 of Caltrans and no further response is required.

COMMENT LETTER No. 3

Matthew P. Snowdon, Esq.
Jeffrey D. Horowitz & Associates
14156 Magnolia Boulevard, Suite 200
Sherman Oaks, CA 91423
Dated 5/1/2009
COMMENT 3.1

Dear Ms. Maez:

This office represents Mary Hernandez, the owner of the property located at 2512 Virginia Avenue, Santa Monica, CA 90404 (the “Property”). The Santa Monica-Malibu Unified School District (the “District”) has targeted the Property for possible acquisition through condemnation to accommodate new construction on the Edison Language Academy Project (the “Project”) located at 2425 Kansas Avenue, Santa Monica, CA 90404. Please allow this letter to serve as Mrs. Hernandez’s official objection to the Mitigated Negative Declaration prepared by Christopher A Joseph & Associates, dated April 3, 2009.

RESPONSE 3.1

This comment provides introductory statements about the commenter and some specifics related to the Proposed Project. This comment also notes that Mrs. Hernandez objects to the MND. However, this comment does not state any specific concern related to the content or adequacy of the analysis contained in the MND. It is therefore noted for the record and will be forwarded to the decision makers for their consideration.

COMMENT 3.2

Mrs. Hernandez objects to the Project on the basis that the Project does not comply with requirements imposed by the California Environmental Quality Act (“CEQA”) and other governing land-use regulations. Specifically, Mrs. Hernandez alleges that Section IV(4) of the Mitigated Negative Declaration does not adequately address the Project’s impacts on Biological Resources. The Mitigated Negative Declaration states that the Project will have “No Impact” on Biological Resources within the area. Mrs. Hernandez alleges that the Project will have a substantial impact on biological resources (plant and animal life) in regards to her Property.

RESPONSE 3.2

Pages IV-27 through IV-29 of the MND includes the required analysis of biological resources pursuant to CEQA. In addition, based on this comment letter received, a full biological assessment of the property located at 2512 Virginia Avenue was conducted to ensure the impacts disclosed in the MND circulated for public review were accurate. As demonstrated in great detail in the “Biological Assessment Report for 2512 Virginia Avenue, Santa Monica, California” (included as an attachment to this letter), the Proposed Project (including the subject property) would not have an environmental impact on biological resources according to the CEQA Guidelines, as it does not have the potential to degrade the quality of the environment, reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop...
below self-sustaining levels, threaten to eliminate a plant or animal community, or reduce the number or restrict the range of a rare or endangered plant or animals.

The biological assessment included herein supports the impact conclusions of the MND and no corrections or additions to the MND are required.

**COMMENT 3.3**

The following is a summary of the biological resources on Mrs. Hernandez’s property:

Trees –

There are several fruiting trees that produce abundantly each year which are enjoyed by the family and neighbors. They consist of two (2) peach trees and one (1) apricot tree. A certain tree, the exact name of which is unknown, produces a fruit which is similar to a large pear. In Spanish, the tree and fruit are called Sapote. Family and friends use the fruit of this tree for medicinal purposes (the leaves of the tree are used in a tea to alleviate kidney ailment). In the middle of the garden there is a special pine tree which the Hernandezees planted as a sapling back in December, 1999. The pine tree now towers a good fifteen (15) feet into the air. There is also a palm tree which produces dates. The garden is home to a pair of beautiful deciduous trees which provide a canopy of shade to the home, which is certainly a blessing in the Summer months. The trees are of the same type that the City recently planted along Santa Monica Blvd. Running along the East side of the Property, there is a row of Ficus trees which stand as a buffer to the Santa Ana winds.

Shrubs –

On the Property stand two (2) wonderful twisted and gnarled junipers. They are lush and green year round and provide good privacy between the Property and the apartments to the East. The Property is home to an extensive grove of cactus, which are a staple in many of the family’s meals. When tender in the Spring and Summer, the cactus are enjoyed by all, along with the fruit it produces, the prickly pear. There is an heirloom rose bush that has been growing on the Property since before the Hernandez family moved in back in 1966. The rose bush stands 12’ tall and every January/February blooms profusely with pink blossoms. There are several laterally growing shrubs along the East fence that consist of a bougainvillea, a pink flowering shrub, a couple of jasmines, and a woody evergreen shrub. These shrubs act as good privacy providers between the home and the adjacent apartments. In addition, also growing on the Property are oleander, various lavenders, and a lemon-scented viburnum. Along the western boundary is a lush growth of broad leaved ivy that extends from the front to the rear of the Property. The ivy provides both privacy and shade to the home along the western border where it has grown to the tree height, providing an oasis on hot summer days.
Animals -

The family shares their property with a vast array of urban wildlife. Possum und raccoons visit the Hernandezes nightly. Several entertaining squirrels call the garden home. Small lizards can often be found throughout the grounds. As well, neighborhood cats are often found prowling around the garden. Countless bird, enjoy the birdbaths and water fountains the family has placed around the Property. They feast on the various fruits and berries growing on the trees and shrubs. They consist of everything from doves, crows, hummingbirds, jays, bluebirds, wrens, and small palm-sized green and yellow colored songbirds, to bees, bumblebees, butterflies and dragonflies. Gerry Hernandez even recalls that back when he was a boy, he spotted an owl perched in one of the trees. In addition, a few rare visits to the home have been made by hawks that come down from the nearby Santa Monica Mountains. Santa Monica Animal Control has told my client that they will find a resting place after gorging on a meal.

RESPONSE 3.3

As noted in Response to Comment 3.2 above, the “Biological Assessment Report for 2512 Virginia Avenue, Santa Monica, California” (included as an attachment to this letter), demonstrates the Proposed Project (including the subject property) would not have an environmental impact on biological resources according to the CEQA Guidelines, as it does not have the potential to degrade the quality of the environment, reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, or reduce the number or restrict the range of a rare or endangered plant or animals. No evidence of any nesting birds was observed during a site survey conducted by CAJA’s senior biologist on May 13, 2009. Additionally no hawks and/or raptor species were observed during the site visit. As such, no impacts to hawks or any nesting birds are anticipated. Nonetheless, in the event any nesting birds occur on the site in the future, compliance with existing regulations under the Migratory Bird Treaty Act and Fish and Game Code Sections 3503 and 3513 would ensure that no impacts would occur to any nesting and non-status migratory birds during construction.

The biological assessment included herein supports the impact conclusions of the MND and no corrections or additions to the MND are required.

COMMENT 3.4

Mrs. Hernandez asserts that all of these resources will be substantially affected by the Project, and for this reason finds the Mitigated Negative Declaration prepared in connection with the Project to be inadequate.

Mrs. Hernandez also reserves the right to make any future objections to the Project and/or the adequacy or the Mitigated Negative Declaration as further information becomes available.
Ms. Janece L. Maez  
Santa Monica-Malibu Unified School District  
Re: Responses to Comments Received on the MND  
May 18, 2009  
Page 9 

Very truly yours,  
Matthew P. Snowdon, Esq.  

RESPONSE 3.4  

As stated in Responses to Comments 3.2 and 3.3, above, the MND and the subsequently prepared biological assessment (attached), provide sufficient evidence that there is no potential for adverse biological impacts as a result of the Proposed Project. No further response to this comment letter is required.  

Conclusion  

Based on the analysis above, we find that the comments do not raise any potentially significant impacts and do not identify any increase or change to the impacts disclosed in the MND. Therefore, pursuant to Section 15073.5 CEQA Guidelines, recirculation of the MND is not required.  

Please call me if you have any questions or concerns regarding this matter.  

Sincerely,  

Christopher A. Joseph & Associates  

Shane E. Parker  
Vice President/Principal  

Attachments: Comment Letter No. 1, Comment Letter No. 2, Comment Letter No. 3, and Biological Assessment of 2512 Virginia Avenue.
May 5, 2009

Janece L. Maez
Santa Monica-Malibu Unified School District
1651 Sixteenth Street
Santa Monica, CA 90404-3891

Subject: Edison Language Academy Project
SCH#: 2009041025

Dear Janece L. Maez:

The State Clearinghouse submitted the above named Mitigated Negative Declaration to selected state agencies for review. On the enclosed Document Details Report please note that the Clearinghouse has listed the state agencies that reviewed your document. The review period closed on May 4, 2009, and the comments from the responding agency (ies) is (are) enclosed. If this comment package is not in order, please notify the State Clearinghouse immediately. Please refer to the project’s ten-digit State Clearinghouse number in future correspondence so that we may respond promptly.

Please note that Section 21104(c) of the California Public Resources Code states that:

"A responsible or other public agency shall only make substantive comments regarding those activities involved in a project which are within an area of expertise of the agency or which are required to be carried out or approved by the agency. Those comments shall be supported by specific documentation."

These comments are forwarded for use in preparing your final environmental document. Should you need more information or clarification of the enclosed comments, we recommend that you contact the commenting agency directly.

This letter acknowledges that you have complied with the State Clearinghouse review requirements for draft environmental documents, pursuant to the California Environmental Quality Act. Please contact the State Clearinghouse at (916) 445-0613 if you have any questions regarding the environmental review process.

Sincerely,

Terry Roberts
Director, State Clearinghouse

Enclosures
cc: Resources Agency
Comment Letter No. 1 (Cont.)

SCH# 2009041025  
**Project Title** Edison Language Academy Project  
**Lead Agency** Santa Monica-Malibu Unified School District  

**Type** MND  Mitigated Negative Declaration  
**Description** The Proposed Project includes the demolition and removal of ~44,034 asf of all existing school facilities on the Campus, demolition of 2,367 asf of residential uses on the two adjacent parcels (located at 2508 and 2512 Virginia Ave), and the development of ~48,140 asf of new school facilities. Implementation of the Proposed Project would yield a slight new increase of ~4,106 asf of new school facilities. Projected enrollment is expected to remain stable through 2015 with only insignificant increase of ~5 students to 433 kindergarten through the 5th grade students and no increase in the 40 pre-school students in 2015. The Proposed Project is solely local Measure BB Bond funded.

**Lead Agency Contact**  
**Name** Janice L. Mace  
**Agency** Santa Monica-Malibu Unified School District  
**Phone** 310-450-8338  
**Fax**  
**Address** 1651 Sixteenth Street  
**City** Santa Monica  
**State** CA  
**Zip** 90404-3891

**Project Location**  
**County** Los Angeles  
**City** Santa Monica  
**Region**  
**Lat / Long** 34° 1' 19.3" N / 118° 26' 0.3" W  
**Cross Streets** Kansas Ave & Cloverfield Blvd  
**Parcel No.** 4274-005-900, -032, -003  
**Township** 2S  
**Range** 13W  
**Section** 4  
**Base**

**Proximity to:**  
**Highways** Pacific Coast Hwy  
**Airports** Santa Monica  
**Railways** 0.38 miles N  
**Waterways**  
**Schools** SMMUSD  
**Land Use** GP: Institutional Uses and Low Density Housing  
Z: R-2 Low Density Multiple Residential

**Project Issues**  
Aesthetic/Visual; Agricultural Land; Air Quality; Archaeologic-Historic; Biological Resources; Cumulative Effects; Drainage/Absorption; Flood Plain/Flooding; Forest Land/Fire Hazard; Geologic/Seismic; Growth Inducing; Landuse; Minerals; Noise; Population/Housing Balance; Public Services; Recreation/Parks; Schools/Universities; Sewer Capacity; Soil Erosion/Compaction/Grading; Solid Waste; Toxic/Hazardous; Traffic/Circulation; Vegetation; Water Quality; Water Supply; Wetland/Riparian

**Reviewing Agencies**  
Resources Agency; Department of Fish and Game, Region 5; Department of Parks and Recreation; Department of Water Resources; Caltrans, Division of Aeronautics; California Highway Patrol; Caltrans, District 7; Regional Water Quality Control Board, Region 4; Department of Toxic Substances Control; Native American Heritage Commission

**Date Received** 04/03/2009  
**Start of Review** 04/03/2009  
**End of Review** 05/04/2009

Note: Blanks in data fields result from insufficient information provided by lead agency.
April 23, 2009

Ms. Janece L. Maez  
Santa Monica-Malibu Unified School District  
1651 Sixteenth Street  
Santa Monica, CA 90404-3891

Dear Ms. Maez:

Santa Monica-Malibu Unified School District’s Mitigated Negative Declaration for the Edison Language Academy Project; SCH# 2009041025

The California Department of Transportation (Caltrans), Division of Aeronautics (Division), reviewed the above-referenced document with respect to airport-related noise and safety impacts and regional aviation land use planning issues pursuant to the California Environmental Quality Act (CEQA).

The proposal is for the expansion of an existing school through acquisition of two adjacent residential parcels and demolition of the residences along with existing school buildings. The school site is located approximately 4,800 feet north of the Santa Monica Municipal Airport.

State Education Code Section 17215 requires a school site investigation by the Division prior to acquisition of land for a proposed school site located within two miles of an airport runway. Please submit written notification to the California Department of Transportation requesting a determination of the acceptability by the Division. Additionally, the Division’s school site evaluation criterion is available on-line at http://www.dot.ca.gov/hq/planning/aeronaut/regulations.html.

These comments reflect the areas of concern to the Division of Aeronautics with respect to airport-related noise, safety, and regional land use planning issues. We advise you to contact our District 7 office in Los Angeles concerning surface transportation issues.

Thank you for the opportunity to review and comment on this proposal. If you have any questions, please call me at (916) 654-5314.

Sincerely,

Original Signed by

SANDY HESNARD
Aviation Environmental Specialist

c: State Clearinghouse, California Department of Education, Santa Monica Municipal Airport
April 23, 2009

Ms. Janece L. Maez
Santa Monica-Malibu Unified School District
1651 Sixteenth Street
Santa Monica, CA 90404-3891

Dear Ms. Maez:

Santa Monica-Malibu Unified School District’s Mitigated Negative Declaration for the Edison Language Academy Project; SCH# 2009041025

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Thank you for the opportunity to review and comment on this proposal. If you have any questions, please call me at (916) 654-5314.

Sincerely,

Original Signed by

SANDY HESNARD
Aviation Environmental Specialist

c: State Clearinghouse, California Department of Education, Santa Monica Municipal Airport
May 1, 2009

VIA MAIL AND FAX (310) 581-6720

Janece L. Maez
Assistant Superintendent
1651 Sixteenth Street
Santa Monica, CA 90404

Re: Project: Edison Language Academy Project
Project Owner: Santa Monica-Malibu Unified School District
Property: 2512 Virginia Avenue, Santa Monica, CA 90404
Owner/Our Client: Mary Hernandez, Trustee of the Mary Hernandez Revocable Trust
Objection to Mitigated Negative Declaration

Dear Ms. Maez:

This office represents Mary Hernandez, the owner of the property located at 2512 Virginia Avenue, Santa Monica, CA 90404 (the “Property”). The Santa Monica-Malibu Unified School District (the “District”) has targeted the Property for possible acquisition through condemnation to accommodate new construction on the Edison Language Academy Project (the “Project”) located at 2425 Kansas Avenue, Santa Monica, CA 90404. Please allow this letter to serve as Mrs. Hernandez’s official objection to the Mitigated Negative Declaration prepared by Christopher A. Joseph & Associates, dated April 3, 2009.

Mrs. Hernandez objects to the Project on the basis that the Project does not comply with requirements imposed by the California Environmental Quality Act (“CEQA”) and other governing land-use regulations. Specifically, Mrs. Hernandez alleges that Section IV(4) of the Mitigated Negative Declaration does not adequately address the Project’s impact on Biological Resources. The Mitigated Negative Declaration states that the Project will have “No Impact” on Biological Resources within the area. Mrs. Hernandez alleges that the Project will have a substantial impact on biological resources (plant and animal life) in regards to her Property.

The following is a summary of the biological resources on Mrs. Hernandez’s property:

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There are several fruiting trees that produce abundantly each year which are enjoyed by the family and neighbors. They consist of two (2) peach trees and one (1) apricot tree. A certain tree, the exact name of which is unknown, produces a fruit which is similar to a large pear. In Spanish, the tree and fruit are called Sapote. Family and friends use the fruit of this tree for
medicinal purposes (the leaves of the tree are used in a tea to alleviate kidney ailments). In the middle of the garden there is a special pine tree which the Hernandezes planted as a sapling back in December, 1999. The pine tree now towers a good fifteen (15) feet into the air. There is also a palm tree which produces dates. The garden is home to a pair of beautiful deciduous trees which provide a canopy of shade to the home, which is certainly a blessing in the Summer months. The trees are of the same type that the City recently planted along Santa Monica Blvd. Running along the East side of the Property, there is a row of Ficus trees which stand as a buffer to the Santa Ana winds.

Shrubs -

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Animals -

The family shares their property with a vast array of urban wildlife. Possums and raccoons visit the Hernandezes nightly. Several entertaining squirrels call the garden home. Small lizards can often be found throughout the grounds. As well, neighborhood cats are often found prowling around the garden. Countless birds enjoy the bird baths and water fountains the family has placed around the Property. They feast on the various fruits and berries growing on the trees and shrubs. They consist of everything from doves, crows, hummingbirds, jays, bluebirds, wrens, and small palm-sized green and yellow colored songbirds, to bees, bumblebees, butterflies and dragonflies. Gerry Hernandez even recalls that back when he was a boy, he spotted an owl perched in one of the trees. In addition, a few rare visits to the home have been made by hawks that come down from the nearby Santa Monica Mountains. Santa Monica Animal Control has told my client that they will find a resting place after gorging on a meal.

Mrs. Hernandez asserts that all of these resources will be substantially affected by the Project, and for this reason finds the Mitigated Negative Declaration prepared in connection with the Project to be inadequate.
Ms. Macz  
May 1, 2009  
Page 3 of 3

Mrs. Hernandez also reserves the right to make any future objections to the Project and/or the adequacy of the Mitigated Negative Declaration as further information becomes available.

Very truly yours,

Matthew P. Snowdon, Esq.

cc:  Sarine A. Abrahamian, Esq.
     Mrs. Hernandez
May 15, 2009

Ms. Janece L. Maez
Assistant Superintendent
Santa Monica-Malibu Unified School District (SMMUSD)
1651 Sixteenth Street
Santa Monica, CA 90404-3891

RE: Biological Assessment Report for 2512 Virginia Avenue, Santa Monica, California

Dear Ms. Maez,

Christopher A. Joseph & Associates (CAJA) has completed an assessment of biological resources of the 2512 Virginia Avenue property (hereby referred to as “property”) in the City of Santa Monica, California, in order to address the concerns about biological resources on the property noted in a letter from the property owner’s council, Jeffrey D. Horowitz & Associates, dated April 29, 2009. The property, currently owned by Mary Hernandez, may be subject to acquisition through condemnation in order to accommodate construction of the Edison Language Academy Project. The proposed Project Site is approximately 5.5 acres in size and consists of the Edison Language Academy Campus (Campus) and two additional adjacent parcels. The two additional parcels are located adjacent to the northwest corner of the Campus and south of Virginia Avenue (2508 and 2512 Virginia Avenue). Currently, the additional parcels are not part of the Campus, but they are being considered for acquisition by the Santa Monica Malibu Unified School District (“SMMUSD”) and are considered part of the proposed project.

The purpose of this letter report is to identify potential sensitive biological resources that are present or have potential to occur within the subject property and to assess the potential significance of impacts to these resources as a result of the Proposed Project. A background information review and site visit was conducted by Amy Parravano, Senior Biologist from Christopher A. Joseph & Associates (CAJA) on May 13, 2008. The site visit consisted of traversing the entire property to evaluate the types and conditions of habitats and to determine their potential to support the special-status species, sensitive communities, jurisdictional wetland and waters, and any other biological resources that are afforded protection by federal, state, and local environmental regulations.

EXISTING CONDITIONS

The property is located in an urbanized area of the City of Santa Monica, situated approximately 200 feet south of Interstate 10 (Santa Monica Freeway). The property is completely isolated from any natural habitats in the region by commercial and residential development, local roadways and major freeways. The property is developed with a house, paved driveway and walkways, gravel pathways, fencing, and storage sheds; the rear portion consists of a landscaped backyard with several planter boxes, meandering gravel pathways, a gazebo, and ornamental trees. Photographs taken of the property during the survey are presented in Attachment A to this letter.

Plant species observed during the site visit include weedy, non-native species such as foxtail barley (*Hordeum murinum*), ripgut brome (*Bromus madritensis*), prickly sow thistle (*Sonchus asper*), and several ornamental tree and shrub species that were described in the letter from the property owner’s council, including (but not limited to) Sapote, peach, and apricot trees, bougainvillea, prickly pear cactus, trumpet vine, lavender, bamboo, geranium, English ivy, and juniper. Although the property supports an interesting and diverse assemblage of ornamental and non-native plant species as noted in the letter, none are protected under any federal, state, or local environmental regulations. Wildlife species noted during the site reconnaissance include common bird species observed in flight,
singing, foraging, and/or perching in shrubs and ornamental trees within or adjacent to the property. Such species include White-Crowned Sparrow (Zonotrichia leucophrys), American goldfinch (Carduelis tristis), Allan’s Hummingbird (Selasphorus sasin), House Finch (Carpodacus mexicanus), Common Raven (Corvus corax), Northern Mockingbird (Mimus polyglottos), House Wren (Troglodytes aedon), Steller’s Jay (Cyanocitta stelleri), Brewers Blackbird (Euphagus cyanocephalus), Dark-eyed Junco (Junco hyemalis), and Rufous-Crowned Sparrow (Aimophila ruficeps). No mammal or reptile species were observed during the site visit; however, as noted in the letter from the property owner’s council, the common Western fence lizard (Sceloporus occidentalis), western grey squirrel (Sciurus carolinensis), raccoon (Procyon lotor), and domestic cats are also likely to occur on the property. According to an e-mail from Lori Orum (Principal of Edison Elementary School), to Rashmi Menon (Project Manager, Parsons-SMMUSD Program) on Friday, May 8, 2009, over the years the school has had many incursions from “pest” species that appear to be attracted to gardens and fruit trees on the subject property, noting that raccoons, opossums and rats have been a particular problem and have posed health and safety hazards at the school. While no hawks and/or raptor species were observed during the site visit, there is some potential for them to occur in the project area as such species have become well adapted to urban environments and forage on small mammals and other species that are known to occur within the project area.

**METHODS**

The potential occurrence of special-status plant and wildlife species on the property was initially evaluated by generating a list of special-status species that are known to or have the potential to occur in the project vicinity (within approximately two miles of the project area boundaries) based on a search of current records from the California Department of Fish and Game’s (CDFG) California Natural Diversity Database (CNDDB) (CDFG 2009)\(^1\). Based on this search, 23 occurrences of special-status plant and animal species have been documented within the property vicinity. The potential for occurrence of each species included on the list was evaluated based on habitat requirements relative to the existing conditions observed during the reconnaissance-level field survey. Attachment B presents a list of special-status wildlife and plants generated by CNDDB that have potential to occur in the site vicinity.

**RESULTS**

**Special-Status Species**

For the purpose of this assessment, special-status species include: those plants and wildlife listed, proposed for listing, or candidates for listing as threatened or endangered by the USFWS or National Oceanic and Atmospheric Administration’s National Marine Fisheries Service (NOAA Fisheries Service) under the Federal Endangered Species Act (FESA); those listed or proposed for listing by the CDFG under California Endangered Species Act (CESA); wildlife designated as “Fully Protected” or “Species of Special Concern” by the CDFG; birds protected by the USFWS under the Migratory Bird Treaty Act (MTBA) and/or by the CDFG under Fish and Game Code Sections 3503 and 3513; and plants occurring on Lists 1A, 1B, and 2 of the CNPS Inventory.

No special-status species from the CNDDB record search are expected to occur on the property. The property does not contain any habitats that would be suitable to support special-status plant or wildlife species and all species observed were common wildlife adapted to urban areas and weedy or ornamental plant species. For instance, special-status species documented from the site vicinity are known from tidal marsh, coastal dune, coastal sagebrush scrub, chaparral, vernal pool, and other natural habitats that do not occur on or near the property. Furthermore, the property does not support essential habitat requirements (e.g., foraging, breeding, cover, substrate, elevation, hydrology, plant community, etc.) for any of the 23 species documented from the area and the extent of

\(^1\) California Department of Fish and Game (CDFG). 2009. California Natural Diversity Database (CNDDB) Rarefind [CD-ROM], Wildlife Habitat Data Analysis Branch, California Department of Fish and Game. Sacramento: California.
urbanization within and surrounding the property would preclude the presence of these species. The project is not expected to have an adverse effect, either directly or through habitat modifications, on any species listed as endangered or threatened or identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations or by the California Department of Fish and Game or U.S. Fish and Wildlife Service.

However, notwithstanding the above, there is always a potential for trees to support nesting birds that are protected under the State Fish and Game Code and non-status migratory birds protected under the Federal Migratory Bird Treaty Act. While some birds may nest on the property, the observations made during the site visit indicate the habitats on-site are highly disturbed and devoid of natural vegetation and/or habitat complexity generally desired by most birds for nesting. No evidence of nesting birds was observed on site at the time of the field survey. Therefore, compliance with existing regulations under the Migratory Bird Treaty Act and Fish and Game Code Sections 3503 and 3513 would further ensure that no impacts would occur to any nesting and non-status migratory birds during construction.

**Sensitive Natural Communities**

Sensitive natural communities are vegetation communities and habitats that are either unique, of relatively limited distribution in the region, or of particularly high wildlife value. However, these communities may or may not necessarily contain special-status species. Sensitive natural communities are usually identified in local or regional plans, policies or regulations, or by the CDFG (i.e., CNDDB) or the USFWS. Based on the CNDDB record search, two sensitive communities, California Walnut Woodland and Southern Coast Live Oak Riparian Forest, have been documented in the region. However, these communities, nor the species commonly found in these communities, are not present on the property and there are no other communities on the property that are afforded protection by local, state or federal agencies. Therefore, the project would not have an adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, or regulations or by the CDFG or the USFWS.

**Federally Protected Wetlands**

The U.S. Army Corps of Engineers (Corps) and the U.S. Environmental Protection Agency (USEPA) regulate the discharge of dredged or fill material into waters of the U.S., including wetlands, under Section 404 of the Clean Water Act (CWA) (33 U.S.C. 1344). Activities in waters of the United States regulated under Section 404 include fill for development, water resource projects (e.g., dams and levees), infrastructure developments (e.g., highways and airports) and mining projects. Section 404 of the CWA requires a federal license or permit before dredged or fill material may be discharged into waters of the United States, unless the activity is exempt from Section 404 regulation (e.g., certain farming and forestry activities).

No federally protected wetlands or drainages are located on the property or in the nearby vicinity. Thus, the proposed project would not impact federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means.

**Wildlife Movement or Native Wildlife Nurseries**

Development of the proposed project is not expected to impede the use of a native wildlife nursery site or migratory wildlife corridor. A migratory wildlife corridor is land that links larger areas of habitat within a landscape, allowing the movement of any established native resident or migratory fish or wildlife species. The property is a completely developed and/or landscaped parcel that is completely isolated from other natural habitats in the region by commercial and residential development and major freeways. The site has been subjected to regular human disturbance, is situated within an urbanized portion of the City, and lacks connectivity to nearby natural habitats.
Therefore, the site would not be used as a movement or migration corridor for wildlife to use while traveling between habitat areas. According to recent studies that have attempted to identify, classify and define native wildlife nurseries, a habitat must contribute a disproportionate number of juveniles into the adult population in order to qualify as a nursery. Native wildlife nursery sites are generally located in areas with optimal habitat conditions providing plentiful food and protection from disturbance, thereby facilitating successful rearing of young for a wildlife population over generations. Due to high levels of site disturbance, the lack of natural habitats, and the extent of surrounding urbanization, the property does not function as a nursery site that would contribute disproportionately to a species’ population.

Neither the property nor the surrounding area is part of a wildlife corridor and the property functions as a native wildlife nursery. Therefore, the proposed project would not interfere substantially with the movement of any native resident or migratory fish and wildlife species or with established native resident or migratory wildlife corridors, or impede the use of a native wildlife nursery site.

**Conflict with Local Policies or Ordinances**

Although the property contains several large non-native trees along its southern boundary, it does not contain any trees that are protected by the City of Santa Monica Tree Code. Removal or disturbance of non-native trees would be accomplished in a manner that is consistent with the municipal code. There are no additional municipal ordinances related to protection of any other biological resources. Therefore, the project would not conflict with local policies or ordinances protecting biological resources, including a tree preservation policy or ordinance.

**Conflict with Conservation Plans**

The Proposed Project is not located in an area covered by a Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plans. Therefore, the project would not result in impacts that would conflict with provisions set forth in local, regional, or state conservation plans.

**CONCLUSION**

Compliance with existing regulations under the State Fish and Game Code and Federal Migratory Bird Treaty Act would ensure the project would not result in an impact to biological resources, including special-status species, sensitive communities, federally protected wetlands, wildlife nursery sites or migratory corridors, or other biological resources of local or regional significance. All plant species observed on the site have been intentionally planted for landscaping purposes or are non-native, weedy species. All wildlife species observed or that have potential to occur on the site are common species that are adapted to urbanized areas. No plant or animal species observed during the site visit are considered special-status and no unique or sensitive communities are present.

In conclusion, although it is the property owner’s opinion that the backyard possesses high biological value and supports rich diversity of plant and animal species, the property does not contain sensitive biological resources that are protected under federal, state, or local laws or ordinances. The proposed project (including the subject property) would not impact biological resources according to the CEQA Guidelines, as it does not have the potential to degrade the quality of the environment, reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, or reduce the number or restrict the range of a rare or endangered plant or animals.

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Please do not hesitate to contact me at (707) 676-1903 if you have any questions or concerns regarding the results of this biological assessment.

Sincerely,

Amy Parravano  
Senior Biologist  
Christopher A. Joseph & Associates

Enclosures:  
Attachment A: Representative Photographs of the Property  
Attachment B: CNDDDB List of Special-Status Species Documented from the Property Vicinity
ATTACHMENT A
Representative Photographs of the Property
Photo 1: View of southeast corner of property, showing ornamental shrubs and gravel pathways. May 13, 2009.

Photo 2: View of property facing northeast, showing ornamental trees and non-native herbaceous ground cover. May 13, 2009.

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