



MEMORANDUM

Date: June 10, 2021

To: Robert Dalquest, Upland Community Development Director
Mike Poland, Upland Planning Manager

From: Kent Norton, MIG Riverside

Project: Upland Memorial Park Revitalization Master Plan Mitigated Negative Declaration

Subject: Response to Comments on the MND for the June 10, 2021 City Council Meeting

On May 21, 2021, the City of Upland distributed an Initial Study/Mitigated Negative Declaration (IS/MND) for the above-referenced project. The IS/MND was circulated for a 20-day local public review period, in accordance with the requirements of California Environmental Quality Act (CEQA) that closed on June 9, 2021. During the review period, the City received four letters commenting on the IS/MND, all received on June 9, 2021. The letters are attached and comments from those letters are addressed below:

IS/MND COMMENTS

Letter #1 - Ms. Mikels

On June 9, 2021, Ms. Marjorie Musser Mikels submitted a comment letter regarding the Upland Memorial Park Revitalization Master Plan Project. Many of the comments were about the history of the City and the park, political and legal issues, cost of access, and limits to access. Most of the comments in the letter did not address CEQA or environmental issues and are not addressed in this memorandum. However, the letter contained a few comments that were related to CEQA which are addressed below:

Comment 1.1 Loss of Green Space (Pages 1 and 3): *[The park project will]...“consume the people’s vital public park space by damaging and destroying the trees and grass and natural environment (which cool the earth and provide shade and support for wild life, and oxygen/BREATH for LIFE)....Now, the City of Upland, ignoring the global climate catastrophe facing us, and without recognizing the TREASURE that pocket of green trees and grass provide us, (sucking up carbon from the atmosphere and giving us clean air to breathe, not to mention providing a small space for wildlife and birds), wants to demolish 75-year old oak trees and plant seedling, and tear up park grass land, and substituting plastic, hot, deteriorating, gas-emitting AstroTurf.”*

Response 1.1: As stated in the IS/MND (page 4). The City is proposing to mainly upgrade and rehabilitate existing facilities throughout the park, although some new facilities will be added to meet current community recreational needs. While it is anticipated construction of all the planned improvements may take up to three years, a construction time of one year was assumed as a “worst case” estimate for potential impacts in Section 4. Therefore, the estimates of short-term impacts are likely overstated in the IS/MND, especially during construction.

Several of the proposed park project improvements emphasize retaining existing trees and oak trees to the extent possible while providing a wide range of new improvements and recreational opportunities within the park (IS/MND pages 4-5). It is possible that some turf fields or new ballfields may have artificial surfaces which have different watering and other maintenance needs compared to natural ballfields.

It should be noted the IS/MND did examine impacts related to biological resources, including potential loss of trees, and recommended Mitigation Measure BIO-1 to prepare nesting bird surveys prior to removal of any trees from February 1 to September 1 (i.e., the nesting period).

The IS/MND also examined impacts related to air pollutant and greenhouse gas emissions and determined those emissions did not exceed established South Coast Air Quality Management District (SCAQMD) standards for air pollutants. Table 5 in the IS/MND shows the Project would generate a little more than one-third of SCAQMD's annual thresholds both now and in the future. In addition, Tables 2 and 3 in the IS/MND demonstrate that the Project's criteria air pollutant emissions would be well below the established SCAQMD daily thresholds for construction and operation.

Comment 1.2 Lack of Plans (Page 4): The commenter indicated in several comments that there were no specific improvements plans that could be reviewed at this time. For example..."No approval should be given to any element in this plan without actual architectural and engineering plans, specifications and drawings being available to analyze and critique."

Response 1.2: The commenter is correct in that the IS/MND is based on specific but conceptual improvements planned in specific locations around the park, but at present there are no engineering, landscaping, or other more detailed improvement plans for these facilities. CEQA requires an analysis of potential environmental impacts of an action at the earliest possible time and the City believes enough information is available at this time to determine potential environmental impacts of those proposed improvements. In this case, the proposed facilities and improvements are relatively low scale and low intensity and would not either individually or collectively produce significant environmental impacts, as demonstrated in the IS/MND analysis and its technical studies.

Comment 1.3 Biological Study Citation (Page 6 footnote): "Please note on the first page of the Table of Contents of the Biological Assessment, under 2.3.1, it cites the **City of San Bernardino's** General Plan and Municipal Code."

Response 1.3: This was an unfortunate typographical error in the table of contents in the biological report but the General Plan goals and policies and Municipal Code citations are all from the **City of Upland**.

Comment 1.4 MND vs. EIR (Page 3): ...this current alleged "initial study/mitigated negative declaration" is meant to curtail or circumvent the actual ENVIRONMENTAL IMPACT REPORT necessary for the "improvements" listed.

Response 1.4: The commenter states that an EIR should be prepared for this project rather than an MND. However, the City prepared an Initial Study specifically to determine if any of the potential impacts of the project would exceed established significance thresholds, result in impacts that cannot be mitigated to levels that are less than significant and thus warrant an environmental impact report. The Initial Study demonstrates that none of the potential impacts exceeds the identified significance thresholds and thus all project impacts are less than significant with the recommended mitigation measures (BIO-1, CR-1, and NOI-1 through NOI-3 as shown below). Therefore, an MND is the most appropriate CEQA compliance document for this proposed park project based on existing environmental conditions and the project information available at this time.

For ease of reference each of the 5 mitigation measures included in the IS/MND are provided at the end of this memorandum.

Letter #2 – People for Upland Parks – Natasha Watson

On June 9, 2021, Ms. Natasha Watson with People for Upland Parks, a local community group, submitted a letter and supporting bird survey memo from Cooper Ecological Monitoring, Inc. (see Letter #3 below).

Comment 2.1: “...the biological analysis does not truly describe the natural resources that we would lose from the proposed project (please see the attached 6/9/2021 bird survey memo provided by Cooper Ecological Monitoring, Inc.). The IS/MND claims that biological resources section 4.4d will be “less than significant with mitigation” but does not consult with the California Department of Fish and Wildlife for verification that their only mitigation measure (BIO-1) will suffice in mitigating for “impeding the use of native wildlife nursery sites.” Placing the project plans over the aerial photo of the project site clearly shows that many mature trees, including many invaluable mature oaks and sycamores that provide consistent nesting sites for native birds, will be permanently removed. Pre-construction nesting bird surveys (BIO-1) will not mitigate for the permanent loss of nesting sites, and thus must be addressed. As Dan Cooper recommends, please ensure the preservation of mature sycamores and oaks in the park.”

Response 2.1: Several of the proposed park project improvements emphasize retaining existing trees and oak trees to the extent possible while providing a wide range of new improvements and recreational opportunities within the park (IS/MND pages 4-5). It is the City’s intent to plan and place the various improvements in the park in ways that will minimize or eliminate the need to remove any existing healthy trees, especially oaks and sycamores. Although the City and its consultant did not directly consult with CDFW staff regarding this project, the biological assessment included the following current reference materials:

- CNDDDB record search for State and Federally Listed Endangered, Threatened, and Wildlife and Rare Plants of California within the Ontario and surrounding eight USGS quadrangles: Glendora, Mt. Baldy, San Dimas, Cucamonga Peak, Guasti, Yorba Linda, Prado Dam, and Corona North (CDFW CNDDDB 2021, Appendix A);
- CNPS Rare Plant Program, Inventory of Rare and Endangered Plants of California (CNPS 2021) records search within the Ontario and surrounding eight USGS quadrangles (Appendix A);
- USFWS Information for Planning and Consultation (IPaC; USFWS 2021a; Appendix A);
- Soil Survey Staff, Natural Resource Conservation Service (NRCS), United States Department of Agricultural (USDA NRCS 2021);
- CDFW California Natural Community List (CDFW 2020); and
- USFWS National Wetlands Inventory (USFWS 2021b).

In addition, it should be clarified that trees in and of themselves are not considered nursery sites without actually containing active nests, but trees can be more accurately referred to as “nesting habitat” or “locations for potential nursery sites”. There are also large trees on other properties in the surrounding area so the park trees are not the only potential nesting sites or resources available. Therefore just removing trees on the park site does not necessarily represent a significant impact to nursery or nesting sites.

Letter #3 – Cooper Ecological Monitoring

On June 9, 2021 a memorandum entitled “Birds of Upland Memorial Park” was submitted by Daniel Cooper with Cooper Ecological Monitoring, Inc. (CEM) in support of Letter #3 from Ms. Natasha Watson.

Comment 3.1 – Existing Conditions: “The ecological setting of Memorial Park is described in existing documentation, but I would add that the large size of the coast live oak grove at the park is notable, and that it supports several bird species typical of natural oak woodland. Thus, the characterization of the entire park as “Disturbed and/or Developed” and “altered from a natural state”, while technically true, does not capture the current function of the (native, though planted) oaks and sycamores at the park. Oak and oak-sycamore woodland was a common natural feature in the vicinity of the park (the “Sycamore Inn”, with its massive sycamores, lies a short distance away, and coast live oak groves are frequent along the foot of the San Gabriel Mountains in the area). Thus, the ecological setting should be evaluated not simply on the basis of how the oaks and sycamores arrived at the park, but rather, on their current ecological function. Given how developed the central and south Upland-Rancho Cucamonga area has become (south of Foothill Blvd.), it is clear that Memorial Park acts as an oasis/refuge for native oak woodland birds and other natural elements, rather than part of the undifferentiated “disturbed/developed” vegetation that characterizes the unbroken urbanized/residential areas of southern California. As such, I would consider Memorial Park to support a “modified oak woodland” (i.e., one devoid of understory), but one with enough elements to retain enough natural function to support multiple oak woodland bird species.”

Response 3.1: Page 16 of the Biological Assessment (BA) for the park clearly states “The Project Site is located in an urban setting and consists of an active park with many amenities. The park is landscaped primarily with ornamental grasses and shrubs; however, the park does possess a number of mature trees that may provide shade cooling for visitors as well as roosting areas for birds. [emphasis added] In addition, page 17 states...” There are a large number of planted mature oaks (*Quercus spp., incl. Q. agrifolia and Q. suber*), sycamores (*Platanus sp.*), sweetgums (*Liquidambar sp.*), and magnolias (*Magnolia sp.*). Figure 5, Vegetation Communities and Land Cover Types and Figure 7, Current Project Site Photographs provides a map and photographs, respectively, representing the vegetation at the existing Memorial Park site.”

It must be remembered this was a general biological assessment to determine constraints or critical impacts and not a focused survey to determine presence/absence of specific species. This issue is discussed in greater detail in Response 3.2 below.

The park property also does not meet the Public Resources Code § 12220(g) requirement as forest land (i.e., more than ten percent aerial coverage by tree canopies) and the commenter’s “classification” of the site as a modified oak woodland may be overstating its ecological importance. However, it is agreed the site contains a number of oak, sycamore, and other native trees of various sizes that should be preserved to the extent possible or practical given the site’s primary function as a community park and open space resource.

Comment 3.2 – Birds and Wildlife: “Though my visit was brief, I found an expected number and diversity of birds given the setting (surrounded by urbanization, no understory). Bird species I found that are typical of oak woodland include Band-tailed Pigeon, Cooper’s Hawk, Acorn Woodpecker, Oak Titmouse, and Western Bluebird, all of which would be expected to nest in the park. In addition, PVAS has detected other oak/oak-sycamore woodland species, including Redshouldered Hawk (6 of 8 CBC counts from 2006-2020), Nuttall’s Woodpecker (6 of 8 counts), Hutton’s Vireo (4 of 8 counts), White-breasted Nuthatch (5 of 8 counts), Chipping Sparrow (7 of 8 counts) and Lark Sparrow (6 of 8 counts).

I also detected two native mammals, Audubon’s cottontail (*Sylvilagus audubonii*) and California ground squirrel (*Otospermophilus beecheyi*). Because the consultants who prepared the General Biological Resources Assessment failed to include a species list, it is unclear whether they recorded these species.

They do list 13 species in their summary, one of which was almost certainly a mis-identification: Song Sparrow occurs in riparian vegetation and/or lush plantings, neither of which is present, and this species is not among the 53 species known from the park per eBird. The consultants also list “Squirrels (*Sciurus spp.*)” indicating they were unable to identify the local squirrels at the park, which is concerning (the common squirrel is the fox squirrel, *Sciurus niger*). The fact that the consultants “missed” all the oak woodland bird species I found (and all the others confirmed by additional sightings by PVAS and eBird) is also concerning.”

Response 3.2: Of key importance is the fact the general biological assessment was conducted in mid-April while the CEM bird survey was conducted in early June. Whenever studies are done at different times there will be different results, especially with species like birds that are transitory and mobile. The biological assessment did not include or require a focused bird survey or unit count, which is also why a detailed species list was not provided or appropriate. Mr. Cooper is an experienced and recognized ornithologist so the results of his survey can be incorporated into the administrative record for this project. However, Mitigation Measure BIO-1 (survey for nesting birds) would protect Cooper’s hawk, kestrel, and other nesting birds that would be present and were not observed by MIG or CEM during their surveys.

Comment 3.3 – Special Status Wildlife: “The consultants who prepared the General Biological Resources Assessment determined that none of the 58 special-status species submitted to the California Natural Diversity Database (CNDDDB) had any likelihood of being recorded in the park. This is puzzling because one, Cooper’s Hawk (CA WatchList), is listed as occurring in eBird, and the habitat (large trees in a residential area) is ideal habitat for the Cooper’s Hawk. In fact, it has been known to nest in the park in past years (N. Walton, pers. comm.) and during my visit, I easily found an active nest in the park (Figure 1). This pair presumably uses the park to hunt (they eat a variety of birds, mammals, and other animals). In addition to Cooper’s Hawk, the U.S. Fish and Wildlife Service maintains a list of “Bird Species of Concern” that should be addressed in CEQA documentation. I found two of these species on this list in the park during my visit, Allen’s Hummingbird and Oak Titmouse, and one (Nuttall’s Woodpecker) has been found by PVAS and eBird observers. All three likely nest in or near the park.”

Response 3.3: The commenter failed to note the general biological assessment was conducted in mid-April and his more focused bird survey was done in early June, so it is not unusual the two surveys would yield different results. It is accurate to state many bird species are present on the park site depending on the time of year in addition to those identified by MIG and CEM. It should also be remembered that Mitigation Measure BIO-1 (survey for nesting birds) would protect Cooper’s hawk, kestrel, and any other nesting birds that would be present, even ones not observed by MIG or CEM during their surveys.

It should also be remembered this is an urban park in an urbanized area, it does not contain large areas of natural undisturbed open space like a natural or passive park in the foothills to the north might contain. It is intended to provide a mix or balance of formal and informal recreational activities including passive areas with native trees. It was never primarily intended as a habitat or wildlife preserve but certainly its large trees do provide benefits to birds and other wildlife species.

Comment 3.4 - Kestrel: “While not a formally-designated special-status species, the likely nesting American Kestrel at Memorial Park is notable for several reasons. First, while it has a large global range, it is considered a sensitive species in several U.S. states/Canadian provinces due to recent declines. Of c. 500 raptor nests we have monitored in Los Angeles since 2017 (“Griffith Park Raptor Project”), we have found only two American Kestrel nests in the study area, which extends from the middle San Fernando Valley south to Culver City, and east to east Los Angeles. This is a species that is nearly extirpated as a nester from the Los Angeles Basin, so its presence at Memorial Park is significant, as it is clearly finding some important resource/nesting structure here to allow it to persist. A check of eBird reveals that kestrel has been observed in spring 2021 at just one other site in Upland (vic. Sierra Vista Park), and records involving

more than one individual (i.e., suggesting nesting) have only been found as close as Bonelli Park in San Dimas, the northern Chino Hills, and at Prado Basin. Clearly, it is a localized nesting species, and thus the Memorial Park pair is part of a dwindling population and should be addressed in environmental documentation. Notably, American kestrel was missed by consultants working on the General Biological Resources Assessment.”

Response 3.4: The commenter is incorrect that the kestrel was “missed” during the general survey, if it would have been present at that time and observed it would have been reported. As discussed in Response 3.3 above, surveys done for different reasons and at different times of the year yield different results. The more important issue is Mitigation Measure BIO-1 (survey for nesting birds) would protect Cooper’s hawk, kestrel, and any other nesting birds that would be present, even ones not observed by MIG or CEM during their surveys.

Comment 3.5 – Recommendations: Based on my site visit and research, I would recommend that no further development occur at Memorial Park that would remove oaks and sycamores, or that would occupy existing parkland with hardscape. Due to the rarity of nesting kestrels, I would not replace the light fixtures in the baseball diamond area (or if they are to be replaced, I would install at least one kestrel nesting box in the area).

Response 3.5: To provide a wide range of recreational opportunities to the park, the City cannot agree to preclude improvements that increase hardscape areas or not to remove any oak or sycamore trees – those actions would hinder if not defeat the purpose of installing park improvements. However, the City would agree to install two new kestrel nesting boxes on the park site but not necessarily in relation to the baseball field lighting.

Letter #4 – Ms. Dieter

On June 9, 2021, Ms. Lois Sicking Dieter submitted a comment letter regarding the Upland Memorial Park Revitalization Master Plan. The letter included two supporting citations – Attorney General’s Opinion No. 95-107 (6-8-95) and California Public Resources Sections 5400-5409 (Public Park Preservation Act of 1971).

Comment 4.1: “The construction of a day care center to include the Tiny Tots Day Care Center is in violation of the Park Preservation Act of 1971 Construction of a new Tiny Tots Building....The No. 95-107 Legal Opinion requires that a day care must be part of a community center to be legal...”

Response 4.1: This comment is related to the legal and planning basis for or the location of a specific improvement under the Master Plan. The CEQA document analyzes the potential environmental impacts of the proposed improvements, but CEQA does not require the document to prove each proposed improvement meets other requirements of state law and regulations that are outside the scope of CEQA.

Comment 4.2: “(CEQA) requires a project description be a definite finite description, not open ended. What is the cumulative project under proposal? That is unknown from the documents for public and decision makers review. We cannot provide detailed comments since we do not have those details and data to make and informed decision. The IS and MND do not adequately describe the Tiny Tots Day Care project, does not include a description, drawing before and after description, no before and after specific dimensions, and does not include a “worse case” environmental scenario, knowing that refurbishment and expansion allows in some scenarios up to 50% increase in square feet without requiring additional public review under the law.”

Response 4.2: The commenter is correct in that the IS/MND is based on specific but conceptual improvements planned in specific locations around the park, but at present there are no engineering,

landscaping, or other more detailed improvement plans for these facilities. CEQA requires an analysis of potential environmental impacts of an action at the earliest possible time and the City believes enough information is available at this time to determine potential environmental impacts of those proposed improvements. In this case, the proposed facilities and improvements are relatively low scale and low intensity and would not either individually or collectively produce significant environmental impacts, as demonstrated in the IS/MND analysis and its technical studies.

If the actual construction of the improvements, or plans for such construction, is beyond the scope of what was analyzed in the IS/MND, the City as lead agency under CEQA would need to determine if additional CEQA documentation was required, which could be an addendum to this IS/MND, a separate IS/MND or other compliance document depending on the nature of the actual or revised improvements.

Comment 4.3: "...the other 20 of 21 elements do not include any such details. What are the dimensions of each element footprint before and after project completion? What is the net loss/gain of open green space? What is the total present and future impermeable surface area? What is the net loss/gain of impermeable surface space? In addition, I request a copy of the current Memorial Park tree inventory. How many trees, type, and dimensions of the trees that are proposed to be removed? I request a copy of the current Memorial Park tree inventory and the proposed project completion tree inventory, type and dimensions. Furthermore the Notice of Intent indicates a project description that is open ended. Specifically, the proposed improvements include, but not limited to, ... In addition, this phase is used several individual project descriptions in the MND. This is unacceptable."

Response 4.3: CEQA gives lead agencies discretion as to how they construct the project description for the related CEQA compliance document. CEQA requires as much information as is readily available at the time the document is prepared, and CEQA encourages preparation of documents at the earliest possible time. It also allows for modifications or additional assessments if the project or information about the project changes in substantial ways. As stated above, if the actual construction of the improvements, or plans for such construction, is beyond the scope of what was analyzed in the IS/MND, the City as lead agency under CEQA would need to determine if additional CEQA documentation was required, which could be an addendum to this IS/MND, a separate IS/MND or other compliance document depending on the nature of the actual or revised improvements.

Comment 4.4 – MND vs. EIR: "As the Lead Agency, the City should either withdraw the draft IS and MND for the proposed development from further consideration, or the City Council should deny approval when the documents are submitted for consideration and formal decision. If the project and supporting documents were revised and resubmitted under separate cover, a full environmental impact study and report in accordance with the California Environmental Quality Act should be a condition for future consideration by the City. This would allow time for detailed review by all interested parties."

Response 4.4: The commenter concludes that an EIR should be prepared for this project rather than an MND. However, the City prepared an Initial Study specifically to determine if any of the potential impacts of the project would exceed established significance thresholds, result in impacts that cannot be mitigated to levels that are less than significant and thus warrant an environmental impact report. The Initial Study demonstrates that none of the potential impacts exceeds the identified significance thresholds and thus all project impacts are less than significant with the recommended mitigation measures (BIO-1, CR-1, and NOI-1 through NOI-3 as shown below). Therefore, an MND is the most appropriate CEQA compliance document for this proposed park project based on existing environmental conditions and the project information available at this time.

For ease of reference each of the 5 mitigation measures included in the IS/MND are shown below.

CONCLUSIONS: The comments and information provided by the commenters does not demonstrate that a significant impact will occur as a result of implementation of the project, nor that additional mitigation is required to reduce or eliminate identified impacts. Therefore, the IS/MND is still the most appropriate CEQA compliance document for the proposed Upland Memorial Park Revitalization Master Plan.

NOTE 1: The City will conduct an arborist tree survey of the entire park site prior to finalizing the location and design of improvements as part of the Upland Memorial Park Revitalization Master Plan.

NOTE 2: As per the City's standard procedures, engineering, landscaping, and other appropriate plans for specific park improvements will be made available to the public for at least 30 days prior to the start of grading or construction (if no grading is required).

NOTE 3: As outlined in Response 3.5 above, the City agrees to install two new kestrel nesting boxes on the park site but not necessarily in relation to the baseball field lighting as part of the proposed park upgrades.

RECOMMENDED MITIGATION MEASURES

BIOLOGICAL RESOURCES

BIO-1 Nesting Bird Survey. If vegetation removal is scheduled during the nesting season (typically February 1 to September 1), a focused survey for active nests shall be conducted by a qualified biologist (as determined by a combination of academic training and professional experience in biological sciences and related resource management activities) no more than five (5) days prior to the beginning of Project-related activities (e.g., excavation, grading and vegetation removal). Surveys shall be conducted in proposed work areas, staging and storage areas, and soil, equipment, and material stockpile areas. For passerines and small raptors, surveys shall be conducted within a 250-foot radius surrounding the work area (in non-developed areas and where access is feasible). For larger raptors, the survey area shall encompass a 500-foot radius. Surveys shall be conducted during weather conditions suited to maximize the observation of possible nests and shall concentrate on areas of suitable habitat. If a lapse in project-related work of five (5) days or longer occurs, an additional nest survey shall be required before work can be reinitiated.

If nests are encountered during any preconstruction survey, a qualified biologist shall determine if it may be feasible for construction to continue as planned without impacting the success of the nest, depending on conditions specific to each nest and the relative location and rate of construction activities. Any nest(s) within the Project site shall be monitored by a qualified biologist during active construction if work is occurring directly adjacent to the pre-determined no-work buffer. If the qualified biologist determines construction activities have potential to adversely affect a nest, the biologist shall immediately inform the construction manager to halt construction activities within minimum exclusion buffer of 50 feet for songbird nests and 200 to 500 feet for raptor nests, depending on species and location. Construction activities within the no-work buffer may proceed after a qualified biologist determines the nest is no longer active due to natural causes (e.g., young have fledged, predation, or other non-human related nest failure).

CULTURAL RESOURCES/TRIBAL CULTURAL RESOURCES

CR-1 In the event that cultural resources (historical, archaeological, or paleontological) are unearthed during excavation and grading activities of any planned park improvements, the contractor shall cease all earth-disturbing activities within a 100-foot radius of the area of discovery and retain a qualified archaeologist/paleontologist to evaluate the significance of the finding and appropriate course of action. Salvage operation requirements pursuant to Section 15064.5 of the CEQA Guidelines shall be

followed. After the find has been removed/salvaged for additional study and archiving (if necessary), work in the area may resume.

NOISE IMPACTS

NOI-1 To ensure potential construction activity noise levels do not exceed code standards or otherwise annoy or result in a temporary nuisance to adjacent properties, the City and/or its designated contractor, contractor's representatives, or other appropriate personnel shall:

- *Restrict work hours/equipment noise.* All work shall be subject to the requirements in Upland Municipal Code Section 9.140.100M Construction activities, including deliveries, shall only during the hours of 7:00 AM to 6:00 PM, Monday through Friday. Construction activities shall be prohibited on Sundays and Federal holidays. The Applicant and/or its contractor shall post a sign at all entrances to the construction site informing contractors, subcontractors, construction workers, etc. of this requirement.
- *Construction equipment selection, use, and noise control measures.* The following measures shall apply during construction activities:
 - To the extent feasible, contractors shall use the smallest size equipment capable of safely completing work activities.
 - Construction staging shall occur as far away from the adjacent residential properties as possible.
 - All stationary noise-generating equipment such as pumps, compressors, and welding machines shall be located as far from adjacent residential as possible.
 - Heavy equipment engines shall be covered, and exhaust pipes shall include a muffler in good working condition.
 - Pneumatic tools shall include a noise suppression device on the compressed air exhaust.
 - The City and/or his contractor shall connect to existing electrical service at the site to avoid the use of stationary power generators.

NOI-2 Prior to issuance of a temporary use permit from the City Development Services Department, all requests for events or concerts using amplified sound at the new amphitheater will be reviewed by City Planning Staff to assure the users are aware of City noise limits for such events, including City Municipal Code Chapter 9.40, Unnecessary Noise. The event sponsors shall implement the following to help minimize offsite noise impacts to the satisfaction of the City Development Services Department:

- All special event vendors (e.g., DJs, musical bands, etc.) shall be notified regarding noise-related conditions of approval.
- Outdoor special events and associated audio equipment, sound amplifying equipment, and/or performance of live music shall be limited to the hours of 8:00 a.m. to 10:00 p.m. Monday through Sunday.
- Noise levels shall be kept below levels prescribed in the City's General Plan Noise Element and City Municipal Code Chapter 9.40, Unnecessary Noise, by using a decibel-measuring device to measure music sound levels when amplified music is used.
- Clean-up activities associated with special events shall terminate no later than midnight.
- Outdoor speakers for all scheduled events shall be oriented toward the center of the park and/or away from adjoining residential uses to the greatest extent feasible.

- Padding/carpeting shall be installed under music speakers for early absorption of music.

NOI-3 The City Recreation Division shall monitor use of the new amphitheater facility by groups or events that use amplified sound or music. The Recreation Division shall enforce the following restrictions on any users or events that repeatedly exceed established noise or other public health and safety standards, or for which repeated complaints from neighbors have been received, including the following:

- If a particular user or event repeatedly exceeds established noise standards, the City shall retain at user's expense a qualified noise consultant to monitor noise levels at the affected property line(s) to determine if the requirements of the Municipal Code Chapter 9.40, Unnecessary Noise, and any event noise-related conditions are being followed during the special events.
- If repeated violations of the City's noise guidelines or noise-related conditions occur, the City shall reconsider allowed hours of operation, number of guests, amount of special events per year, or cancellation of requested events as appropriate.