



City of Del Mar Staff Report

PLANNING COMMISSION
STAFF REPORT
January 14, 2020

REQUEST/DESCRIPTION: A presentation of the analysis and proposed mitigation measures included within the Draft Environmental Impact Report (DEIR) prepared for the Marisol Specific Plan Initiative.

NOTE: The purpose of this agenda item is to provide information to the public regarding the Draft EIR and to allow for public input. The Planning Commission will not be discussing or deliberating on this subject, and no formal action will be taken by the Planning Commission regarding the Draft EIR at this time. Additionally, please note that interested persons must submit comments regarding the Draft EIR to the City in writing prior to 5:30 pm on February 3, 2020, in order for them to become a part of the Draft EIR record of comments.

STAFF CONTACT: Matt Bator, AICP, Principal Planner

LOCATION AND ASSESSOR PARCEL NUMBERS: The Marisol Specific Plan area consists of eight private parcels, one publically owned property, and a portion of the Camino del Mar public right-of-way, located generally southwest of the intersection of Camino del Mar and Via de la Valle in the northwest corner of the City. The 17.45 acre Plan area consists of the following Assessor's Parcel Numbers (APNs): 298-241-06, 07, 29, 34, 35 & 36; 299-030-14 & 15; and 298-241-18.

ZONES: Very Low Density Residential (R1-40) and Modified Low Density Residential (R1-14)

OVERLAY ZONES: Coastal Bluff, Lagoon, and Bluff Slope and Canyon

ENVIRONMENTAL STATUS: A Draft Environmental Impact Report (DEIR – SCH No. 2017091081) has been prepared pursuant to the requirements of the California Environmental Quality Act (CEQA). The document has been distributed for a 45-day public review period that began on December 20, 2019 and ends on February 3, 2020. The City is soliciting comments on the environmental analysis contained within the Draft DEIR pursuant to Section 15204 of the California Environmental Quality Act (CEQA) Guidelines. The Draft DEIR is available for review digitally at the following link: <http://www.delmar.ca.us/ArchiveCenter/ViewFile/Item/1315> and is also available in hard copy at both City Hall and the Del Mar Library. The associated appendices can be viewed here: <http://www.delmar.ca.us/ArchiveCenter/ViewFile/Item/1314>. Both documents are large digital files and take some time to open.

BACKGROUND:

On June 19, 2017, the City Council adopted Resolution 2017-38, initiating a Specific Plan process (rezone), Community (General) Plan amendment (GPA), and a Local Coastal Program amendment (LCPA) to consider whether to assign a resort use designation, rather than the current Residential Zone designations, to the private properties located in the northwestern portion of the City of Del Mar, south of Border Avenue and west of Camino del Mar. The proposed project, as then conceptualized, consisted of a Specific Plan and entitlements that would allow for a multiple-building resort complex consisting of 251 hotel rooms and 76 residential units (villas), low-cost visitor accommodations and employee (affordable) housing on the eight privately owned lots, and would also encompass a portion of Camino del Mar right-of-way, a City-owned parcel used as a public coastal viewing access, and City's North Bluff Preserve.

Application materials for a specific plan were submitted and outreach processes were initiated, which included two Citizens' Participation Program (CPP) meetings that involved the placement of story poles representing the conceptual heights and massing of the (then) proposed development's design. During these efforts by the applicants, the City engaged one of its contract environmental consulting firms (Helix EPI) for preparation of an Environmental Impact Report (EIR), in compliance with the requirements of the California Environmental Quality Act (CEQA). A Notice of Preparation (NOP) of the EIR was circulated for a 30-day public comment period between September 29 and October 30, 2017. A public scoping meeting was held on October 11, 2017. The majority of the public comments included environmental concerns related to transportation and traffic, aesthetics, geology, and noise, which represented more than 70 percent of the public comments received.

With public concern raised and conveyed to the City during the CPP process, concern that included requests that the project be subject to a public vote, it was decided that the City would conduct a joint public workshop of the Design Review Board (DRB) and Planning Commission (PC) as an additional (voluntary) component of the CPP and public outreach. The workshop was held on October 17, 2018, in the Del Mar Town Hall with a capacity crowd. Much public testimony was given, both against and for the project, and the PC and DRB provided preliminary feedback regarding the requested land use/zoning changes and the conceptual design of the development.

Following the October 2018 public workshop, the project applicants announced that they were going to redesign the project based on the feedback received from the public and the City. Following that announcement, City review and processing of the specific plan and environmental review was slowed down as the applicants worked on revisions.

On August 5, 2019, the City received a Notice of Intention (NOI) to Circulate a petition and materials related to the "Marisol Specific Plan Initiative," a revised version of the specific plan proposal discussed above. Petitions with signatures of registered Del Mar voters were submitted to the City Clerk on September 13, 2019.

On October 7, 2019, the City Clerk issued a Certificate of Sufficiency for the Marisol Specific Plan Initiative, which confirmed that the petition had been signed by the requisite number of Del Mar registered voters.

On November 4, 2019, staff and the City Attorney's office presented a report per the State Elections Code section 9212 assessing the potential impacts of the proposed initiative, which was formally accepted by the Council at the meeting. Also at the November 4th meeting, the Council majority determined to put the Marisol Initiative on the March 3, 2020 ballot for voter consideration and directed staff to return on December 2, 2019, with the resolutions necessary to place the Initiative on the ballot.

MARISOL SPECIFIC PLAN INITIATIVE:

The Marisol Specific Plan ("Specific Plan") is a comprehensive regulatory plan that would facilitate future development of the Specific Plan area for visitor-serving accommodations and associated private and public uses. It contains a "conceptual" development design that would conform to the regulatory standards it sets forth, however, the Specific Plan itself is a "legislative" document, not a development proposal. If the Initiative is approved, discretionary development permit submittals for a specific development "project" would be required and would be subject to the City's design review processes.

Voter approval of the Marisol Specific Plan would remove the existing residential designation and apply the following land use designations within the project area: 11.80 acres of Visitor-Serving Accommodations (VSA), 3.07 acres of Parkland/Passive Open Space (PPOS), 1.21 acres of Coastal Bluff Protection Area (CBPA), and 1.37 acres of Steep Slope Protection Area (SSPA). The existing Coastal Bluff Overlay Zone and Bluff Slope Canyon Overlay Zone within the boundaries of the Specific Plan would be replaced by the zoning restrictions contained within the Marisol Specific Plan (MSP).

Voter approval of the Specific Plan would also set zoning regulations for the area that would allow for a maximum floor area ratio (FAR) of 0.57, which equates to 410,970 sf of permissible development. Seventy-five (75) hotel rooms (10 available for Lower-Cost Shared Visitor-serving Accommodations) would be allowed by the Plan and 22 affordable housing rentals would be required. Of the 31 villas for sale, 27 could be split into an additional 81 hotel guest rooms (each villa would convert into three separate rooms for rent) when not occupied by the owner(s). If the 27 villas are rented as 81 rooms, the project would accommodate a maximum of 156 visitor-serving rooms for rent, 4 residential villas, and 22 affordable housing units (rentals).

In addition to the development discussed above, the land use and development regulations of the Specific Plan would allow for approximately 14,300 square-feet of special event spaces and gardens, pool facilities, and approximately 19,200 square-feet of ancillary commercial uses, which could include restaurants, convenience and specialty shopping, gift shops, art galleries, snack shops, recreation and spa facilities, and beach-equipment rental operations.

CEQA REQUIREMENTS AND PROCESSING:

Citizen sponsored initiatives, such as the Marisol Specific Plan Initiative, are not subject to CEQA compliance by State law. However, notwithstanding the Initiative's exemption from CEQA, the developer is currently processing an Environmental Impact Report for the Specific Plan in accordance with the City's normal process. The Initiative specifically acknowledges that CEQA review will be required for project implementation and state:

Because the development of the Specific Plan Area will require various discretionary actions by the City and others in the future, as set forth in more detail in the Specific Plan, compliance with the California Environmental Quality Act ("CEQA") will be required with respect to those future actions. The voters acknowledge that said compliance will likely include the identification of certain measures intended to avoid or substantially lessen the significant environmental impacts of the development anticipated by the Specific Plan, which measures shall be implemented provided those measures are feasible within the meaning of CEQA.¹

The proposed Specific Plan also acknowledges CEQA review will be required for future discretionary actions. Section 5.1.3 of the Specific Plan states:

Consistent with state law, subsequent discretionary project approvals, as described in Section 5.1.2, Subsequent Project Approvals that are required for development within the Plan Area are subject to review in accordance with CEQA. This Specific Plan anticipates that the subsequent project approvals will require measures intended to avoid or substantially lessen the environmental impacts of the development anticipated by the Specific Plan as required by CEQA, and those measures shall be implemented².

If the Initiative is approved by the voters, future project implementation will require discretionary approvals consisting of tentative map approval, Design Review Permit, Land Conservation Permit, Tree Removal Permit and a Coastal Development Permit ("Discretionary Project Approvals"), all of which will be subject to CEQA review and appropriate mitigation measures addressing the project's impacts can be adopted under the terms of the Initiative.

As discussed above, project implementation will require discretionary development permits, permits that cannot be approved without a certified Environmental Impact Report prepared in accordance with CEQA requirements. There Marisol Specific Plan proponents have requested that the City prepare an Environmental Impact Report based on a project that would be consistent with the land uses, development regulations and policies set forth in the Marisol Specific Plan. The draft of that report has been completed.

The draft EIR and associated technical studies are now available for a 45-day public review and comment period which ends at 5:30 pm on Monday, February 3, 2020. Written comments received by February 3, 2020, must be evaluated by the City and written responses will be prepared to

¹ Marisol Specific Plan initiative, Page 1, Section 2, Finding 10

² Marisol Specific Plan, page 75, Section 5.1.3

address those comments which raise significant environmental issues. (CEQA Guidelines 15088(a))

Based comments and information received by responsible agencies and the public, the draft EIR could require revision. If revisions to the draft EIR are deemed necessary by the City and they include significant new information, as defined in CEQA Guidelines section 15088.5(a), the draft EIR must be recirculated for additional public review and comment. Revision of the draft EIR and recirculation would also be required if the development project submitted for discretionary review and approval by the City is significantly different from the “conceptual development project” for which this environmental analysis was conducted. Therefore, the following actions must first take place in order to any further work on this EIR to occur: 1) approval of the Initiative at the March 2020 election; and 2) submittal of a development project consistent with the land uses and regulatory standards of the Marisol Specific Plan.

A Final EIR, including comments and the City’s responses, must be certified by the City Council. It is anticipated that City Council certification will occur at the time the discretionary approvals are before the City Council for consideration. Certification requires that the City Council find that:

1. That the EIR has been completed in compliance with CEQA. (CEQA Guidelines section 15090(a)(1))
2. That the final EIR was reviewed and considered by the City Council prior to approving the project. (CEQA Guidelines section 15090(a))

ENVIRONMENTAL ANALYSIS:

The following table summarizes the results of the environmental analysis completed for the Marisol Specific Plan Initiative. As shown, a development compliant with the Specific Plan would result in potentially significant environmental impacts associated with the topics of aesthetics, biological resources, cultural and tribal cultural resources, geology and soils, land use and planning, noise and vibration, and transportation and traffic. However, mitigation measures are available that would reduce those potentially significant impacts to a level of less than significant, with the exception of impacts related to traffic which would remain significant and unavoidable at specific locations on Via de la Valle during the San Diego County Fair. This determination of significance is due to the manual traffic control measures utilized by the Fairgrounds, which cannot be analyzed for mitigation. Traffic impacts also could remain significant and unavoidable at the intersections of Camino del Mar/Coast Boulevard and Camino del Mar/Via de La Valle depending on which mitigation measure options are selected.

ENVIRONMENTAL TOPICS	IMPACT DETERMINATION
Aesthetics (4.1)	<i>Less than Significant with Mitigation</i>
Air Quality (4.2)	<i>Less than Significant</i>
Biological Resources (4.3)	<i>Less than Significant with Mitigation</i>

Cultural and Tribal Cultural Resources (4.4)	<i>Less than Significant with Mitigation</i>
Geology and Soils (4.5)	<i>Less than Significant with Mitigation</i>
Greenhouse Gas Emissions (4.6)	<i>Less than Significant</i>
Hydrology and Water Quality (4.7)	<i>Less than Significant</i>
Land Use and Planning (4.8)	<i>Less than Significant with Mitigation</i>
Noise and Vibration (4.9)	<i>Less than Significant with Mitigation</i>
Public Services (4.10)	<i>Less than Significant</i>
Transportation / Traffic (4.11)	<i>Significant and Unavoidable</i>
Utilities and Service Systems (4.12)	<i>Less than Significant</i>

The potential for cumulative impacts associated with each environmental topic was also analyzed. As detailed within Chapter 6.0 (Cumulative Effects) of the Draft DEIR, cumulative impacts would be less than significant for all environmental issue areas.

The CEQA Guidelines require the discussion of “a range of reasonable alternatives to the project, or to the location of the project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project” and the evaluation of the comparative merits of the alternatives. The alternatives discussion is intended to “focus on alternatives to the project or its location which are capable of avoiding or substantially lessening any significant effects of the project,” even if these alternatives would impede to some degree the attainment of the project objectives. The draft EIR addresses the No Project (No Build) Alternative, the No Project (Existing Land Use, Zoning, and Lot Configurations) Alternative, the Single-Family Residential (Existing Land Use and Zoning with Lot Reconfigurations) Alternative, and the Reduced Project (Specific Plan) Alternative. Alternatives to the project are evaluated in full in Section 7.0, *Alternatives*, of the draft EIR. Analysis of the Alternatives identified the Single-Family Residential (Existing Land Use and Zoning with Lot Reconfigurations) Alternative as the Environmentally Superior Alternative because it would generally reduce environmental impacts associated with the proposed and would avoid the significant traffic impacts associated with the proposed project, including significant and unmitigable traffic impacts. However, this alternative would not meet most of the project objectives.

The following are summaries of all environmental topics where analysis indicates potentially significant or significant impacts would occur as a result from implementing a project consistent with the Marisol Specific Plan. The analysis, impacts and mitigation measures can be found in the noted subsections of the draft EIR.

AESTHETICS (SECTION 4.1):

The Aesthetics section of the DEIR addresses the visual aspects of the conceptual project design and compatibility with existing land use regulations and policies in terms of visual character. The analysis was supported by photo simulations prepared for 13 key view locations (described in Subsection 4.1.1.2 of the DEIR). The simulations model proposed resort structures, graded slopes, roadway improvements, driveways, parking lots, fencing, and landscaping. Landscaping was shown at

estimated 10-year growth, and modeled lighting/shadows match the time of day the baseline photographs were taken.³

It was determined that a development project could have potentially significant impacts with regard to aesthetics in terms of views, lighting and glare. The table below lists the potential impacts and proposed mitigation measures that would reduce the impacts to a level of *less than significant*.

AESTHETICS	
Impact	Mitigation Measure(s)
The presence of built development close to the more “natural” experience of the Preserve and the proposed resort buildings would introduce a discordant note that would result in a substantial change to existing conditions and a significant environmental impact.	<u>MM AES-1: Enhanced Landscaping Plan.</u> As part of the Design Review permit application, the project applicant shall prepare a detailed Enhanced Landscaping Plan for the southern boundary of the resort. The plan shall be prepared by a qualified landscape architect, as determined by the City of Del Mar, and shall specify all proposed plants for the strip between the structures and the Preserve. No invasive plants shall be included and the palette shall incorporate plants providing both width and height to obscure all of the ground floor structure and portions of the second story, as feasible.
Project implementation would substantially increase of the amount of operational lighting on the mesa top in comparison to existing conditions. This introduction of multiple sources of nighttime lighting associated with the proposed development on a primarily vacant would result in a potentially significant impact related to existing nighttime views and more specifically, potential for light trespass onto adjacent residential properties to the north.	<u>MM AES-2: Lighting Plan and Photometric Study.</u> Prior to the issuance of construction permits, the project applicant shall prepare a detailed Lighting Plan and detailed Photometric Study. The Lighting Plan shall be prepared by a qualified lighting engineer or lighting professional, as determined by the City of Del Mar, and shall specify all proposed lighting fixtures at the project site, including the intensity/characteristics of each fixture in terms of foot-candles and a detailed lighting schedule. Light levels at residential property lines adjacent and north of the project site shall be demonstrated within a Photometric Study to not exceed 0.05 foot-candle. Lighting shall be warm light rather than cool light; approximately 2,700 Kelvin, and shall be subject to review and approval by the City of Del Mar.

BIOLOGICAL RESOURCES (SECTION 4.3):

This subsection of the DEIR addresses any potential impacts on biological resources within the Specific Plan area. A Biological Resources Technical Report (DEIR Appendix D) affirms that one vegetation community and five non-natural or non-vegetated land cover types occur within the Specific Plan area, including one native vegetation community (southern coastal bluff scrub), three non-natural land cover types (ornamental, disturbed habitat, and urban/developed), and two non-vegetated land cover types (beach and cliff). Vegetation communities consist of groups of plant species that support wildlife species and are identified to better determine if there is the

³ It should be noted that the simulations are conceptual in nature and reflect proposed architectural characteristics and building materials. Project architectural guidelines permit a mix of contemporary styles and a range of exterior materials and finishes.

potential for wildlife species to nest or forage in them. There is 0.66 acre of native vegetation communities within the project site, consisting of southern coastal bluff scrub.

A total of 84 plant species (including 37 native species and 47 non-native species) and 25 wildlife species were observed or assumed to be present based on signs of existence observed during site visits. Of these, two special-status plant species were observed and no special-status wildlife species were observed. A total of 79 Monterey cypress (*Hesperocyparis macrocarpa*) and 12 Torrey pine (*Pinus torreyana* ssp. *torreyana*) trees were observed

It was determined that a development project could have potentially significant impacts with regard to aesthetics in terms of views, lighting and glare. The table below lists the potential impacts and proposed mitigation measures that would reduce the impacts to a level of *less than significant*.

BIOLOGICAL RESOURCES	
Impact	Mitigation Measure(s)
Direct impacts could occur if active nests or the young of nesting bird species are impacted during grading or other construction activities.	<u>MM BIO-1: Nesting Bird Surveys.</u> Construction shall be phased to avoid the migratory bird nesting season (typically February 15 through September 1) to the extent feasible. If construction must occur during the migratory bird nesting season, a focused avian nesting survey shall be performed at the project site within 300 feet of the proposed construction and by a qualified biologist no more than 72 hours prior to the start of construction. If an active bird nest is found, the nest shall be flagged and mapped on the construction plans along with an appropriate buffer, which will be determined by the biologist based on the biology of the species. The nest and buffer area shall be avoided until the nest is vacated and the juveniles have fledged or the nest is otherwise no longer active. The nest and buffer area shall be demarcated in the field with flagging and stakes or construction fencing. Construction shall be permitted in areas outside of the nest and buffer area. If nesting birds are present on site, a biological monitor shall be present daily during construction activities while the nest(s) is active to ensure that no effects to nesting birds occur.
Special-status wildlife may be indirectly impacted during construction of the project through the release of chemical pollutants and accidental clearing, trampling, or grading outside designated construction zones.	<u>Implement MM BIO-1.</u> <u>MM BIO-2a: Demarcation of Bluff Scrub.</u> Prior to the issuance of construction permits, the project applicant shall provide evidence to the satisfaction of the City of Del Mar that the locations of southern coastal bluff scrub outside of the approved limits of disturbance shall be avoided and marked with temporary fencing or other appropriate markers clearly visible to construction personnel. No construction access, parking, or storage of equipment or materials will be permitted within 20 feet of such marked areas.

	<p><u>MM BIO-2b: Construction Nighttime Lighting.</u> Construction within 50 feet of the adjacent Preserve shall be prohibited between sunset and sunrise, and all construction-related lighting shall be turned off during that period. The location of the Preserve shall be shown on construction documents and verified by the City of Del Mar prior to the commencement of any construction activities.</p> <p><u>MM BIO-2c: Contractor Education Program.</u> Prior to the issuance of construction permits, the project applicant shall provide evidence to the satisfaction of the City of Del Mar that a contractor education program has been prepared and approved by the City of Del Mar and implemented to apprise all construction personnel and subcontractors of environmental restrictions. The applicant and contractor shall establish a protocol for communicating problems or potential construction changes that may affect biological resources. Workers shall be made aware of protected habitat adjacent to the project site. The sensitivity of the habitat to human activities and the roles and authority of monitoring biologists shall be discussed.</p> <p><u>MM BIO-2d: Equipment Restrictions.</u> Prior to the issuance of construction permits, staging and storage areas for spoils, equipment, materials, fuels, lubricants, and solvents shall be identified within a designated impact area that shall be marked on an exhibit for the review and approval of the City of Del Mar. Stationary equipment, such as motors, pumps, generators, compressors, and welders located adjacent to southern coastal bluff scrub shall be positioned over drip-pans or other containment. Before refueling and lubrication, vehicles and other equipment shall be moved away from the southern coastal bluff scrub.</p> <p><u>MM BIO-2e: Restrictions on Use of Invasive Species.</u> Prior to the issuance of construction permits, a list of landscape plants to be used shall be reviewed and approved by the City of Del Mar and shall not include invasive plant species, as identified by the most recent version of the California Invasive Plant Inventory for the region, as published by the California Invasive Plant Council. Landscape plans shall include a plant palette composed of native or non-native, non-invasive species that do not require high irrigation rates.</p> <p><u>MM BIO-2f: Signage and Fencing.</u> Trail fencing shall be installed to prevent unmanaged access to the adjacent Preserve. Signage shall be included near access points that identify sensitive habitats and the importance of staying on designated trails/paths.</p> <p><u>MM BIO-2g: Operational Nighttime Lighting.</u> To reduce long-term nighttime lighting effects, shielded low-sodium, low-wattage lighting on proposed building and accent lighting shall</p>
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	be used to cut glare and light scatter, and to direct light away from sensitive biological resources.
Operation of the project may indirectly interfere with wildlife movement within the San Dieguito River outlet though the use of development-related lighting.	<u>Implement MM BIO-2b and -2g.</u>
Approximately 0.27 acre of southern coastal bluff scrub would be permanently impacted by the proposed public access stairway, public restrooms, interpretive signage, and pathway lighting for hotel and public visitor services.	<u>MM BIO-3a: Restoration of Bluff Scrub.</u> Prior to the issuance of construction permits, a detailed southern coastal bluff scrub restoration plan to provide mitigation for the identified 0.27 acre of impact shall be submitted to and subject to the approval of the City of Del Mar. Restoration can include enhancement of existing southern coastal bluff scrub or creation of southern coastal bluff scrub in areas where the community is not present. The detailed southern coastal bluff scrub restoration plan shall specify, at a minimum, the following: (1) the location of the restoration site; (2) site preparation, including soils preparation and irrigation installation; (3) the quantity (seed or nursery stock) and species of plants to be planted (species are to be native to the region and consist of southern coastal bluff scrub species); (4) methods for the removal of non-native plants; (5) a schedule and action plan to maintain and monitor the restoration area; (6) a list of criteria to measure the success of the restoration site (e.g., percent cover and richness of native species, percent survivorship, establishment of self-sustaining native of plantings, maximum allowable percent of non-native species); (7) measures to exclude unauthorized entry into the restoration areas; and (8) contingency measures in the event that restoration efforts are not successful. At least 0.27 acre of southern coastal bluff scrub restoration must be successful to mitigate for the proposed impacts to southern coastal bluff scrub and to meet the success criteria of the restoration plan.
If restoration activities were to occur within the remnant parcel east of Camino del Mar, potentially significant direct impacts to sensitive plants and animals and jurisdictional areas would occur.	<u>MM BIO-3b: Restoration Plan.</u> If restoration activities occur on the project parcel located east of Camino del Mar, the project applicant shall prepare and implement a restoration plan to demonstrate that significant impacts to sensitive species and jurisdictional areas would not occur. The Restoration Plan shall be submitted to the City of Del Mar and the appropriate regulating agencies for review and approval prior to implementation. The Restoration Plan shall include native plant species consistent with surrounding habitat.
Southern coastal bluff scrub beyond but adjacent to the project site may be indirectly impacted during construction and operation of the project.	<u>Implement MM BIO-2a through -2g.</u>
Implementation of the project would result in the removal of protected trees, including Monterey cypress trees and Torrey pines.	<u>MM BIO-4: Tree Removal Permit.</u> The project proponent shall comply with the requirements of DMCMC Section 23.50, Trees. Prior to the issuance of

	<p>construction permits, the project proponent shall submit a Tree Removal Permit application to the City of Del Mar with the appropriate processing fee according to the DMMC Section 23.50.080. A Tree Removal Permit, as recommended by the Design Review Board and approved by the Del Mar City Council, would be required to cut down, remove, destroy, or move a protected tree. The project applicant shall be required to comply with the requirements of the Tree Removal Permit, which would include replanting of the protected trees on site or payment of a fee to the City of Del Mar’s Tree Mitigation Fund in accordance with DMMC Sections 23.50.080(C-10), 23.50.030(D)(2), and 23.50.090(A)(2).</p>
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CULTURAL AND TRIBAL CULTURAL RESOURCES (SECTION 4.4):

This section of the DEIR addresses potential impacts on cultural resources within the Specific Plan Area. The Specific Plan area is mostly undeveloped with most activity on the site over the last century relating primarily to residential and some agricultural uses. Records of residential development on the site date back to the 1930s; however, most of the previous development has been removed with the exception of an existing single-story residence and associated structures, as well as remains from previous residential uses.

The South Coast Information Center (SCIC), which retains cultural resource records for the region, has a record of 20 cultural resources within one mile of the project site, with two prehistoric habitation sites (identified as CA-SDI-7979 and CA-SDI-10940) documented within the project site.

Site CA-SDI-7979 consists of a prehistoric habitation site that was initially recorded in 1980 after residential development had already begun. An archaeological data recovery program was prepared and implemented in 1996 for site CA-SDI-7979, which involved the excavation of 66 square meters, or an approximately four percent sample of the subsurface deposit at the site. The results of the data recovery program included the collection of 1,558 prehistoric artifacts, including flaked-stone, lithic tools, ground-stone and percussion tools and fragments, marine invertebrate shell remains, and mammal (non-human) bone. Upon conclusion of the data recovery program, no future testing or data recovery was recommended, but subsequent Native American and archaeological monitoring was recommended for future development activities.

Site CA-SDI-10940 was recorded in 1929 by Malcom Rogers as a large habitation site. Site CA-SDI-10940 was subsequently investigated in 1963 and 1974 and is referred to as the “Del Mar Man Site.” During the late 1970s and early 1980s, bone dating procedures dated a skull from the site at over 48,000 years old; however, more modern technology estimates the skull is approximately 5,000 years old. Roger’s excavation notes from the 1920s are unclear; however, it is estimated that 32 excavations were dug at site CA-SDI-10940. In 1995, additional testing of site CA-SDI-10940 indicated that portions of the site were still intact and mostly undisturbed, partly due to previous capping of the site with sterile dirt. As a result, a data recovery program was recommended prior to future project or permit approvals as well as future Native American and archaeological monitoring. An extended

phase I subsurface survey in 2017 confirmed the identification of an intact archaeological deposit within the project site, variably contained between 20 and 60 centimeters (cm) below the surface.

It was determined that a development project could have potentially significant impacts with regard to cultural and tribal cultural resources within the Specific Plan area due to ground disturbance activities that would be associated with future development of the site. The table below lists the potential impacts and proposed mitigation measures that would reduce the impacts to a level of *less than significant*.

CULTURAL AND TRIBAL CULTURAL RESOURCES	
Impact	Mitigation Measure(s)
<p>Implementation of the project grading and excavation could result in the demolition or impairment of site CA-SDI-10940, which is considered to be intact and mostly undisturbed.</p>	<p><u>MM CUL-1a: Data Recovery Program.</u> A Data Recovery Program shall be implemented for site CA-SDI-10940 prior to any ground-disturbing activity that would cause the direct impact to the site, taking into account finalized construction plans and other concerns in order to better define impacted areas.</p> <p>The data recovery program shall be based on a written research design and data recovery plan that shall be prepared prior to data recovery. The research design and data recovery plan shall make provisions for adequately recovering the scientifically consequential information from the archaeological resource and provide protocols for the subsequent cataloguing, analysis, identification, dating, and interpretation of the findings. All data recovery shall include a Kumeyaay Native American monitor. Any recovered cultural material shall be identified, mapped, and catalogued as required by standard professional archaeological practices. At the completion of data recovery for CA-SDI-10940, a report shall be completed and submitted to the City describing the methods and results of the data recovery program. Recovered cultural material shall be curated with accompanying catalog and data recovery report to current professional repository standards.</p> <p><u>MM CUL-1b: Archaeological Resources Monitoring and Treatment Plan.</u> Prior to the start of any ground-disturbing activity, an Archaeological Resources Monitoring and Treatment Plan (ARMTP) shall be prepared by a qualified archaeologist, subject to review and approval by the City. The ARMTP shall outline the monitoring program procedures and include recovery and subsequent treatment for the discovery of any archaeological or historical remains and associated data uncovered by ground-disturbing activities. The ARMTP shall provide procedures for the cataloguing, analyses, and curation of any recovered cultural material.</p>

	<p><u>MM CUL-1c: Archaeological and Native American Monitoring Program.</u></p> <p>Prior to the start of any ground-disturbing activity, a qualified archaeological Principal Investigator shall be retained by the applicant. A qualified archaeologist and a Kumeyaay Native American representative shall attend the pre-construction meeting with the contractors to explain the requirements of the monitoring program and actions to be taken in the event of a cultural resources discovery, as outlined in the ARMTP. A qualified archaeological monitor and a Kumeyaay Native American monitor shall be on site during all grading, trenching, and other ground-disturbing activities, including brush clearance and grubbing, unless otherwise agreed upon by the archaeological Principal Investigator, the Native American representative, and City staff.</p> <p>In the event that subsurface deposits are accidentally discovered or unearthed during ground-disturbing activities, earthmoving activities shall cease in the immediate area (not less than 50 feet from the discovery) until the archaeological Principal Investigator has identified and evaluated the nature and significance of the find and treatment measures implemented, as required, per the ARMTP.</p> <p>Recovered artifactual materials shall be cataloged, analyzed, and curated per the protocols in the ARMTP. Recovered cultural material shall be curated with accompanying catalog to current professional repository standards. A final summary report shall be completed that describes the methods and results of the archaeological monitoring program, documents compliance, and signifies completion of the monitoring program.</p>
<p>Implementation of the project water pipeline would result in ground disturbances in proximity to known archaeological sites and inadvertent discovery could occur during water pipeline installation</p>	<p><u>Implement MM CUL-1b and -1c.</u></p>
<p>Human remains were collected from CA-SDI-10940 during archaeological investigations at the site by Rogers in 1929; and while the probability of finding additional human remains during project construction is unknown, the potential exists for additional discoveries of human bone.</p>	<p><u>Implement MM CUL-1b and -1c.</u></p>

GEOLOGY AND SOILS (SECTION 4.5)

The 17.45-acre project site includes a coastal terrace surrounded by coastal bluffs along the Pacific Ocean in Del Mar. Elevations on the project site range from near sea level at the base of the coastal bluffs on the west portion of the site to 93 feet above mean sea level (amsl) in the northern portion of the project site. Elevations on the coastal terrace in the center of the project site are relatively flat and are about 65 to 80 feet amsl.

Potential development of the site was analyzed to determine the likelihood of direct or indirect effects such as risk of loss, injury, or death due to events such as earthquakes, ground failure from liquefaction, and landslides. Anticipated rates of coastal bluff erosion were also calculated, taking into account sea level rise, in order to determine appropriate development setbacks from the coastal bluff, consistent with the provisions of the Del Mar Municipal Code.

It was determined that a development project could have potentially significant impacts with regard to geological and soils resources (including paleontological resources in the soil) within the Specific Plan area due to coastal access (trail) improvements and excavation activities that would be associated with future development of the site. The table below lists the potential impacts and proposed mitigation measures that would reduce the impacts to a level of *less than significant*.

GEOLOGY AND SOILS	
Impact	Mitigation Measure(s)
<p>The locations of the loop trail, bluff top trail network, fencing, windscreen, and benches would be potentially subjected to future bluff collapse during the lifespan of the resort.</p>	<p><u>MM GEO-1: Bluff Erosion.</u> All new trails, fences, windscreens, and benches shall be set back a minimum of 10 feet from the top edge of a coastal bluff. All such improvements, when providing less than the identified coastal bluff-top setback of an FOS 1.5 plus 33 feet, shall be constructed above-grade using lightweight materials and without the use of grading and/or continuous foundation components. Development plans for such improvements, as well as improvements located outside and adjacent to the coastal bluff top setback, shall demonstrate Adaptive Design strategies to allow and ensure future relocation of the public amenities to the east over time, as needed due to erosion and bluff failure. Said Adaptive Design strategies shall be subject to review and approval of the Del Mar City Council during the required discretionary design review of such development</p>
<p>Direct and indirect impacts to paleontological resources could occur as a result of excavations of the Bay Point Formation at the project site and excavations related to pipeline construction.</p>	<p><u>MM GEO-2a: Paleontological Resources Monitoring and Treatment Plan.</u> Prior to the start of any ground-disturbing activity, a Paleontological Resources Monitoring and Treatment Plan (PRMTP) shall be prepared by a qualified paleontologist, subject to review and approval by the City of Del Mar. The PRMTP shall address construction monitoring procedures and provide treatment measures for paleontological resources discoveries, including the development of protocols for handling fossils discovered during construction, likely including temporary diversion of construction equipment so that the fossils could be recovered, identified, and prepared for dating, interpreting, and preserving at an established, permanent, accredited research facility.</p> <p><u>MM GEO-2b: Paleontological Monitoring Program.</u> Prior to the start of any ground-disturbing activity, a qualified paleontologist shall attend the pre-construction meeting to consult with the grading and excavation contractors concerning excavation</p>

	<p>schedules, paleontological field techniques, and safety issues. A paleontological monitor shall be on site on a full-time basis during the original cutting of previously undisturbed deposits of high paleontological resource potential (Bay Point Formation and Delmar Formation) to inspect exposures for contained fossils. Grading activities in previously undisturbed deposits of moderate paleontological resource potential (Torrey Sandstone) shall be monitored on a part-time basis.</p> <p>In the event that paleontological resources are discovered or unearthed during project subsurface activities, all earthmoving activities within radius of not less than 50 feet from the discovery shall be temporarily suspended or redirected until a certified paleontologist has recovered, identified, and/or evaluated the nature and significance of the find, in compliance with CEQA Guidelines 15064.5(f). After the find has been appropriately mitigated, work in the area may resume.</p> <p>Any fossil remains collected during monitoring and salvage shall be cleaned, repaired, sorted, and cataloged as part of the monitoring program. Prepared fossils, along with copies of all pertinent field notes, photos, and maps, shall be deposited in a scientific institution with permanent paleontological collections such as the San Diego Natural History Museum. Donation of the fossils shall be accompanied by financial support for preparation, curation, and initial specimen storage, if this work has not already been completed. A final summary report shall be completed that outlines the results of the paleontological monitoring program. This report shall include discussions of the methods used, stratigraphic section(s) exposed, fossils collected, and significance of recovered fossils.</p>
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LAND USE AND PLANNING (SECTION 4.8)

Development consistent with the Specific Plan was analyzed to determine whether the project would cause significant environmental impact due to conflict with any State, regional or local land use plan, policy or regulation adopted for the purpose of avoiding or mitigating environmental effects.

It was determined that Development consistent with the Specific Plan would result in potential land use plan consistency impacts to on-site noise sensitive locations. On-site exterior noise levels from traffic and rail noise would result in potential consistency issues with the Del Mar Community Plan’s established maximum noise level (65 CNEL). On-site interior noise levels within habitable rooms from traffic noise would result in potential consistency issues with the interior noise level standard of 45 CNEL.

The table below lists the potential impacts and proposed mitigation measures that would reduce the impacts to a level of *less than significant*.

LAND USE AND PLANNING	
Impact	Mitigation Measure(s)

<p>If usable private outdoor areas (i.e., patios or balconies) are constructed along the northern, eastern, or southern façades, traffic noise levels at these areas would exceed the City of Del Mar’s exterior noise compatibility standard of 65 CNEL established by the Del Mar Community Plan.</p>	<p><u>MM LU-1: Compliance with Exterior Noise Standards.</u> Prior to the issuance of occupancy permits, if designed with usable outdoor patio or balcony areas, the rooms in the northeastern-most portion of the project site with a direct, unobstructed view of Camino del Mar would require a noise barrier with a minimum height of 5 feet, as measured from the floor of each patio or balcony, in order to meet the City of Del Mar’s noise exterior noise compatibility standard of 65 CNEL. The noise barrier may be constructed of a material such as tempered glass, acrylic glass (or similar material), masonry material, or manufactured lumber (or a combination of these), with a surface density of at least three pounds per square foot. The noise barrier should have no openings or cracks.</p>
<p>Interior noise levels within habitable rooms could exceed the 45 CNEL interior noise standard, resulting in an inconsistency with the interior noise standards established by the State of California.</p>	<p><u>MM LU-2: Compliance with Interior Noise Standards.</u> Prior to the issuance of occupancy permits, an interior noise analysis shall be required for the proposed dwelling units. Installation of additional systems (e.g., HVAC and sound-rated windows) shall be required if the interior noise analysis shows that impacts would be above the State of California 45 CNEL interior standard. The interior noise analysis shall substantiate that the resulting interior noise levels will be less than the noise standard.</p>

NOISE AND VIBRATION (SECTION 4.9)

Development that would be consistent with the Specific Plan was analyzed to determine whether it would: 1) result in the generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies; 2) result in the generation of excessive groundborne vibration or groundborne noise levels; or 3) be located within the vicinity of a private airstrip or an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, so that the project would expose people residing or working in the project area to excessive noise levels.

It was determined that Development consistent with the Specific Plan would result in potentially significant noise impacts, in excess of the City’s Noise standards, during construction, from the operation of exterior mechanical equipment (HVAC), and from amplified music and outdoor recreational activities conducted at visitor-serving development.

The table below lists the potential impacts and proposed mitigation measures that would reduce the impacts to a level of *less than significant*.

NOISE AND VIBRATION	
Impact	Mitigation Measure(s)
<p>NOI-1: Noise associated project construction activities would exceed the 75 dBA L_{EQ} construction noise standards established in</p>	<p><u>MM NOI-1:</u> Prior to initiation of project construction activities, the City of Del Mar shall approve a construction noise mitigation program to include the following so that construction noise levels do not</p>

<p>the City of Del Mar’s Noise Control Ordinance.</p>	<p>exceed the 75-dBA L_{EQ} construction noise standard established in the City of Del Mar’s Noise Control Ordinance for off-site sensitive receptors:</p> <ul style="list-style-type: none"> • Temporary sound barriers/shielding shall be installed to shield non-mobile equipment in the vicinity of nearby sensitive receptors, or, alternatively, to shield at the site’s boundaries (i.e., north of the project site, where adjacent residences are closest). For example, for on-site construction activities, an 8-foot high noise barrier would be constructed along the project’s northern site boundary. For noisy pipeline construction activities near residential land uses, a portable noise barrier which would break the line-of-sight between the construction activity (to the extent practical) and the residences would be used. The material for a temporary noise barrier could consist of materials such as ¾-inch thick plywood, or portable barriers with a minimum sound transmission class (STC) rating of 20. • Construction equipment shall be properly outfitted and maintained with feasible noise-reduction devices (e.g., functioning mufflers and silencers, tightly closed access panels) to minimize construction-generated noise. • Stationary noise sources such as generators and pumps shall be located as far away from noise-sensitive land uses as feasible. • Laydown and construction vehicle staging areas shall be located away from noise-sensitive land uses if feasible. • Whenever possible, residential areas that will be subject to construction noise shall be informed one week before the start of each construction phase.
<p>The ultimate locations and specific model types of the HVAC units are not determined at the time of the preparation of this EIR and there is a potential for on-site noise to exceed City of Del Mar standards.</p>	<p><u>MM NOI-2:</u> Prior to the issuance of building permits, the project applicant shall retain an acoustical specialist to review project construction-level plans to confirm that the equipment specifications and plans for HVAC and other outdoor mechanical equipment incorporate measures, such as the specification of quieter equipment or provision of acoustical enclosures, so that noise levels will not exceed City of Del Mar noise standards (50 dBA L_{EQ} during daytime hours and 40 dBA L_{EQ} for nighttime hours) at the nearest off-site multi-family receptors located immediately north of the project site. Prior to the commencement of construction, the acoustical specialist shall certify in writing to the City of Del Mar that the equipment specifications and plans incorporate measures that will achieve the relevant noise limits.</p>
<p>Amplified music and outdoor recreational activities at the project site could result in noise levels in excess the City of Del Mar’s</p>	<p>MM NOI-3: During the long-term operation of the project, policies and procedures shall be implemented to ensure that noise levels from the project are minimized in the surrounding</p>

stationary noise standard of 50 dBA L _{EQ} during daytime hours and 40 dBA L _{EQ} for nighttime hours.	areas. Such policies may include signage requesting that visitors and guests be aware and respectful of the surrounding environment and refrain from excessive noise-making. Usage of the on-site pool and other recreational areas shall be limited to the hours of between 7:00 a.m. and 10:00 p.m. Additionally, amplified music shall be limited to the hours between 7:00 a.m. and 10:00 p.m. Enforcement of these limitations shall be carried out by resort staff and management, and through the posting of signs.
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TRANSPORTATION AND TRAFFIC (SECTION 4.11):

A traffic impact analysis prepared for the draft EIR found that development of the Specific Plan area with the conceptual design would result in the following: potentially significant traffic impacts at four (4) nearby intersections and three (3) nearby roadway segments; potential conflicts with vehicles, pedestrians, and bicyclists during construction activities within right-of-way portions of Camino del Mar, Via de la Valle, Jimmy Durante Boulevard, and Border Avenue; and potentially significant hazards due to additional queuing in excess of 10 feet at the westbound left-turn lane at the intersection of Camino del Mar/Via de la Valle during the PM peak hour.

The table below lists the potential impacts stated above and proposed mitigation measures, some of which would reduce impacts to a level of *less than significant*; however, traffic impacts would remain *significant and unavoidable* at specific locations along Via de la Valle during the San Diego County Fair. Also, impacts may remain *significant and unavoidable* depending on which mitigation measure options are selected to address potential queuing impacts at the westbound left-turn lane of the Camino del Mar/Via de la Valle intersection and potential impacts related to the addition of vehicles at Camino del Mar/Coast Boulevard.

TRANSPORTATION AND TRAFFIC	
Impact	Mitigation Measure(s)
The project would result in significant contributions to traffic at Intersection #9 – Via de la Valle/South Cedros Avenue, during a typical weekday and horse races weekday in the PM peak hour.	<u>MM TRA-1: Improvements at Via de la Valle/South Cedros Avenue.</u> Prior to the issuance of occupancy permits, the project applicant shall be responsible for the installation of a traffic signal at the intersection of Via de la Valle and South Cedros Avenue to the satisfaction of the City of Del Mar.
The project would result in significant contributions to traffic at Intersection #10 – Via de la Valle/Jimmy Durante Boulevard, during a fair weekday and weekend in the peak hour.	<u>MM TRA-2: Improvements at Via de la Valle/Jimmy Durante Boulevard.</u> Prior to the issuance of occupancy permits, the project applicant shall be responsible for the re-stripping of Via de la Valle at Jimmy Durante Boulevard per Figure 4.11-2, <i>Via de la Valle/Jimmy Durante Boulevard Intersection Improvements</i> , which illustrates an exclusive westbound right-turn lane for vehicles and a bike lane on westbound Via de la Valle between the right-turn lane and through lane east of Jimmy Durante Boulevard.
The project would result in significant contributions to traffic at intersection #13 – Camino del Mar/27 th Street, during a typical	<u>MM TRA-3: Improvements at Camino del Mar/ 27th Street.</u> Prior to the issuance of occupancy permits, the project applicant

weekend, fair weekday and weekend, and horse races weekday in the PM peak hour.	shall complete one of the following improvements, to the satisfaction of the City of Del Mar:
	<p>Option A: Install a traffic signal at the intersection of Camino del Mar and 27th Street.</p> <p>Option B: Install a roundabout at the intersection of Camino del Mar and 27th Street;</p> <p>Option C: Provide manual control of the intersection during the peak hours until such time as a permanent mitigation measure is decided;</p> <p>Option D: Provide a second through lane on Camino del Mar and modify the intersection control to a two-way stop control (TWSC); or</p> <p>Option E: Remove the stop signs on Camino del Mar and modify the intersection control to a two-way stop control.</p>
The project would result in significant contributions to traffic at intersection #14 – Camino del Mar/Coast Boulevard, during a typical weekday, fair weekday and weekend, and horse races weekday and weekend in the PM peak hour.	<p><u>MM TRA-4: Improvements at Camino del Mar/Coast Boulevard.</u> Prior to the issuance of occupancy permits, the project applicant shall complete one of the following improvements, to the satisfaction of the City of Del Mar:</p> <p>Option A: Install a traffic signal at the intersection of Camino del Mar and Coast Boulevard;</p> <p>Option B: Install a roundabout at the intersection of Camino del Mar and Coast Boulevard;</p> <p>Option C: Provide manual control of the intersection during the peak hours until such time as a permanent mitigation measure is decided;</p> <p>Option D: Provide a second through lane on Camino del Mar at Coast Boulevard; or</p> <p>Option E: Remove the stop signs on Camino del Mar and modify the intersection control to a two-way stop control.</p>
The project would result in significant contributions to traffic at street segment #7 – Via de la Valle, from Highway 101 to South Cedros Avenue, during a typical weekday, fair weekday, and horse races weekday.	<u>Implement MM TRA-2 and MM TRA-7</u>
The project would result in significant contributions to traffic at street segment #8 – Via de la Valle, from South Cedros Avenue to Jimmy Durante Boulevard, during a typical weekday, fair weekday, and horse races weekday.	<u>Implement MM TRA-2 and MM TRA-7</u>
The project would result in significant contributions to traffic at street segment #9 – Via de la Valle, from Jimmy Durante Boulevard to I-5 SB Ramps, during a typical	<u>Implement MM TRA-2 and MM TRA-7</u>

<p>weekday, fair weekday, and horse races weekday.</p>	
<p>The project would result in conflicts with vehicles, pedestrians, and bicyclists during construction activities within right-of-way portions of Camino del Mar, Via de la Valle, Jimmy Durante Boulevard, and Border Avenue.</p>	<p><u>MM TRA-6: Traffic Control Plan.</u> During the encroachment permit process, the contractor or other responsible party will provide a traffic control plan for review and approval by the City of Del Mar Public Works Department. The traffic control plan shall be prepared in accordance with the City of Del Mar’s Traffic and Roadway Standards Manual and to the satisfaction of the City of Del Mar Public Works Department. It must demonstrate that adequate emergency access and egress will be maintained, and that traffic will be allowed to move efficiently and safely along Camino del Mar, Border Avenue, and surrounding roadways. The traffic control plan may include measures such as signage, detours, traffic control staff, a temporary traffic signal, or other appropriate traffic controls, as determined appropriate by the City of Del Mar Public Works Department.</p>
<p>The project would result in increases in hazards due to additional queuing in excess of 10 feet at the westbound left-turn lane at the intersection of Camino del Mar/Via de la Valle during the PM peak hour.</p>	<p><u>MM TRA-7: Improvements at Camino del Mar (Highway 101)/Via de la Valle (Border Avenue).</u> Prior to the issuance of occupancy permits, the project applicant shall install either Option A or Option B, which are depicted on EIR Figure 4.11-3, <i>Border Avenue/Via de la Valle Intersection Improvements</i>, and Figure 4.11-4, <i>Via de la Valle Segment Improvements</i>, respectively:</p> <p>Option A (EIR Figure 4.11-3): An exclusive eastbound left-turn lane, one through-lane, and one shared through right-lane within Border Avenue at Camino del Mar; or</p> <p>Option B (EIR Figure 4.11-4): An exclusive eastbound left-turn lane, one through-lane, one shared through right-turn lane, in addition to restriping within Via de la Valle with a westbound right-turn lane, a shared through left-turn lane, and a left-turn lane with east/west split phasing. A second eastbound through lane on Via de la Valle from Highway 101 through approximately 200 feet east of South Cedros Avenue shall also be provided.</p>

CORRESPONDENCE/COMMENTS:

All comments must be made in writing and received prior to the end of the review period, which is 5:30 pm on Monday, February 3, 2020. The written comments on the Draft PEIR can be sent via mail to the Planning Department or sent via email to the address below:

Via Mail
City of Del Mar
Attn: Matt Bator
1050 Camino del Mar
Del Mar, CA 92014

Via E-mail
Matt Bator
mbator@delmar.ca.us

Respectfully submitted,

A handwritten signature in cursive script that reads "Matt Bator".

Matt Bator, AICP
Principal Planner