

COASTAL CONSERVANCY

Staff Recommendation
November 9, 2006

**NEWPORT BEACH
BACK BAY SCIENCE CENTER**

File No. 05-011
Project Manager: Greg Gauthier

RECOMMENDED ACTION: Authorization to disburse an amount not to exceed \$400,000 to the City of Newport Beach to assist in the construction of the teaching laboratory wing of the new Back Bay Science Center in Upper Newport Bay in Orange County.

LOCATION: City of Newport Beach on Shellmaker Island in Upper Newport Bay (Exhibits 1 and 2).

PROGRAM CATEGORY: Education and Public Access

EXHIBITS

- Exhibit 1: Project Location and Site Map
 - Exhibit 2: Newport Bay Map
 - Exhibit 3: Shellmaker Island Today
 - Exhibit 4: Shellmaker Island after Back Bay Science Center
 - Exhibit 5: Back Bay Science Center Model Photograph
 - Exhibit 6: Back Bay Science Center Floor Plan
 - Exhibit 7: Negative Declaration and Mitigation and Monitoring Program
 - Exhibit 8: Letters of Support
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RESOLUTION AND FINDINGS:

Staff recommends that the State Coastal Conservancy adopt the following resolution pursuant to Sections 31400-31409 and 31119 of the Public Resources Code:

“The State Coastal Conservancy hereby authorizes the disbursement of an amount not to exceed four hundred thousand dollars (\$400,000) to the City of Newport Beach to complete construction of the teaching laboratory wing of the Back Bay Science Center, subject to the following conditions:

1. Prior to the disbursement of any Conservancy funds for construction, the City of Newport Beach ("City") shall submit for the review and approval of the Executive Officer of the Conservancy:
 - a. Evidence that the City has obtained all necessary permits and approvals and adequate funding to complete the project.
 - b. A detailed, final work plan, a project schedule and budget.
 - c. The names and qualifications of any contractors to be used in the completion of the project.
2. The City shall install and maintain sign(s) on the project site, the design, number and placement of which has been approved by the Conservancy's Executive Officer, acknowledging Conservancy funding participation."

Staff further recommends that the Conservancy adopt the following findings:

"Based on the accompanying staff report and attached exhibits, the State Coastal Conservancy hereby finds that:

1. The proposed authorization is consistent with the purposes and objectives of Chapters 3 and 9 of Division 21 of the Public Resources Code;
2. The proposed authorization is consistent with the Project Selection Criteria and Guidelines adopted by the Conservancy on January 24, 2001;
3. The proposed project will serve greater than local needs; and
4. The Conservancy has independently reviewed the Mitigated Negative Declaration adopted by the Department of Fish and Game on September 23, 2003, and the Mitigation and Monitoring Program, attached as Exhibit 7 to the accompanying staff recommendation, and finds that there is no substantial evidence that the proposed project, as mitigated, may have a significant effect on the environment."
5. On the basis of substantial evidence, there is no evidence before the Conservancy that the project will have a potential adverse effect on wildlife resources as defined under California Fish and Game Code Section 711.2 and California Code of Regulations Section 753.5 (d)."

PROJECT SUMMARY:

Staff recommends authorization to disburse up to \$400,000 to the City of Newport Beach to assist in the construction of the teaching laboratory wing of the new Back Bay Science Center in Upper Newport Bay in Orange County (Exhibits 3, 4, 5 and 6).

The construction of the Back Bay Science Center (BBSC) will greatly enhance opportunities for public access to coastal resources for school children and the general public from throughout Orange County as well as the thousands of visitors to the area from throughout California and

beyond. The BBSC project will replace the existing facilities, several temporary trailers and storage sheds, with a 13,900 square foot building that will house a teaching laboratory, a water quality testing laboratory, and offices for Department of Fish and Game (DFG) staff and the volunteers who help with the education programs and restoration efforts. The new teaching laboratory, with classrooms overlooking Upper Newport Bay, will include wet-labs for two 30-student classes as well as various outdoor learning stations. The modular layout of the teaching lab provides for future expansion of teaching facilities as and when more funding is obtained. The project will also expand existing Coastal Commission native plant propagation facilities to enhance its capacity to provide material for Reserve restoration projects. The BBSC will serve as a focal point for Reserve management, education, research, and restoration projects sponsored by DFG, the Coastal Commission, UC Irvine, and local volunteers such as the Upper Newport Bay Naturalists and Friends.

The Back Bay Science Center (BBSC) will focus on research-based education pertaining to wetland and watershed issues. The work performed at the BBSC will provide a deeper understanding of the link between watersheds and the ocean, and allow decisions affecting Upper Newport Bay and its watershed to be driven by the application of sound science. The teaching laboratory will include visual aids to teach students of all ages about the value of the flora and fauna in the Reserve and the importance of good water quality.

Creating a link between the teaching laboratory and the working Health Care Agency (HCA) water quality-testing laboratory is an essential component of the BBSC. Linking these operations will allow students, researchers and visitors to better understand how Upper Newport Bay's water quality, marine life, and human actions at home and in the workplace are intertwined. The HCA laboratory is responsible for testing recreational water from Orange County's beaches and adjacent water. Staff works with other departments and agencies to investigate the sources and causes of bacterial pollution to coastal waters. The HCA laboratory is performing cutting-edge research in areas such as DNA fingerprinting.

The project will convert degraded uplands on the south side of the Island into a wetland demonstration area that will serve as an outdoor laboratory for scientists and researchers as well as an outdoor classroom for educators and students. An existing interpretive trail will be rehabilitated, and extended, and teaching stations will be added to enable students and the public to better understand the importance of preserving the flora and fauna in the Reserve. The saltmarsh on the south side of Shellmaker Island will be restored and expanded to create a wetlands rehabilitation demonstration project.

Buildings and pervious parking area paving will transform the barren central area of Shellmaker Island created by the deposition of dredge materials several decades ago. Storm-water runoff will be directed to a natural treatment system. All of these site features will showcase responsible environmental best management practices, and be designed to inspire visitors to help solve ecological problems. Landscaped buffers of native vegetation will protect adjacent wetlands from impacts related to light and glare from the parking area.

Site Description: The Back Bay Science Center will be located on Shellmaker Island in Upper Newport Bay in Orange County. Upper Newport Bay (UNB) is the largest of only a few remaining protected estuaries in Southern California, making the BBSC the ideal place for estuarine studies and wetlands and watershed education.

The UNB Ecological Reserve was created in 1975 as result of the purchase of 527 acres of land in and around the bay from the Irvine Company and the transfer of 214 acres of tidal wetlands from the County of Orange to the State. An additional 11 acres of land in Big Canyon was added in 1982 bringing the total acreage of the Ecological Reserve to 752 acres. It is managed by the California Department of Fish and Game (DFG). In 1990, the County of Orange acquired 140 acres of bluffs on the north and north-west sides of the bay for the creation of a Regional Park. The Regional Park was rededicated as the UNB Nature Preserve in 2000. It is managed by the County of Orange Department of Harbors, Beaches and Parks (HBP).

Shellmaker Island is owned by DFG and will be leased to the City of Newport Beach for the Back Bay Science Center as per a 2004 cooperative agreement between UC Irvine, the County of Orange, the City of Newport Beach and DFG.

The UNB is home to nearly 200 species of birds, more than 70 species of fish as well as numerous species of mammals and native plants. It is an important rest stop and winter home for birds migrating from Canada and Alaska, and up to 30,000 birds can be seen here on any one day during the winter months. During the spring and summer many birds that have migrated from the south nest here, together with other birds that are year-round residents. Nesting birds include the endangered light-footed clapper rail, California least tern, and the state endangered Belding's savannah sparrow. UNB is also an important spawning ground and nursery for many fish, including halibut and bass.

The UNB also is an important recreational site. Recreational opportunities include canoeing, kayaking, hiking, jogging, biking, equestrian, fishing, and bird watching.

An area of approximately 154 square miles of urban Orange County drains through the Upper Bay to the Pacific Ocean. Storm water runoff from this watershed brings with it trash and other pollutants including fertilizers, bacteria and other pathogens, and sediment.

Shellmaker Island has been owned by the State of California since 1975, and is managed by the California Department of Fish and Game. The University of California Irvine crew base has existed on the property since the late 1960's and is currently covered by a lease with CDFG. UCI is planning to replace its existing building with a new facility large enough to accommodate its men's and women's crew teams. The proposed parking area and utilities for the BBSC are designed to serve both facilities and costs are to be shared.

Project History:

The earliest human inhabitants of the Newport Bay lands lived here nearly 9,000 years ago. Gabriellino Native Americans dwelled here over 2,000 years ago and subsisted on the fish and plants of the Bay. James Irvine and partners acquired the Bay in 1864, for 37 cents an acre. These holdings supported a salt works from the 1930's until 1969 when it was destroyed by floods. Shellmaker Island was home to several companies until the late 1980's. Shell material was dredged and sold as a chicken feed supplement, and dredging spoils were deposited by the Arches, on Shellmaker Island and at Big Canyon, among other locations. As discussed above, the Upper Newport Bay Ecological Reserve was created in 1975.

The BBSC project on Shellmaker Island in the Upper Newport Bay Ecological Reserve is a multi-party project that has been under development for years. Many entities were involved in planning the BBSC, including: California Department of Fish and Game, City of Newport Beach, the County of Orange Health Care Agency Water Quality Laboratory, the Coastal Commission, the Newport Bay Naturalists and Friends, and UC Irvine. The current design of the BBSC teaching laboratory is the end-product of more than seven years of planning.

CDFG approved the Mitigated Negative Declaration for the project in 2003. In March 2004, the Coastal Commission unanimously approved a Coastal Development Permit for the Project. The City of Newport Beach approved plans and specifications and requested proposals in June 2004 and the Newport Beach City Council voted on February 28, 2006 to proceed with construction. The groundbreaking ceremony for the project took place on April 23, 2006.

PROJECT FINANCING:

Coastal Conservancy	\$ 400,000
DFG: Wildlife Conservation and Restoration Act Grant	985,000
DFG: American Trader Oil Spill Settlement	112,000
City of Newport Beach	1,602,564
Count of Orange	1,230,000
Irvine Co	600,000
Miocean Contribution (private funding)	500,000
UC Irvine	308,000
Wildlife Conservation Board	69,000
Total Project Cost	\$5,806,564

The anticipated source of Conservancy funds is the fiscal year 2004-2005 appropriation from the Water Security, Clean Drinking Water, Coastal Beach Protection Fund of 2002 (Proposition 50). Proposition 50 requires that a portion of these funds be used for the development of facilities to promote public access and participation in the conservation of land, water and wildlife. Eligible projects under Proposition 50 include educational interpretive centers, like the proposed project, that are in or adjacent to watersheds and wetlands and provide wildlife viewing, outdoor experiences, and conservation education programs (California Water Code Section 79571).

CONSISTENCY WITH CONSERVANCY'S ENABLING LEGISLATION:

This proposed project would be undertaken pursuant to Chapters 3 (regarding education projects) and 9 (regarding public access to the coast) of the Conservancy's enabling legislation.

Chapter 3 of Division 21 of the Public Resources Code enables the Conservancy to "undertake educational projects for pupils in kindergarten to grade 12, inclusive, relating to the preservation, protection, enhancement and maintenance of coastal resources" and to "award grants to nonprofit organizations, educational institutions, and public agencies for those purposes" Public Resources Code Section 31119(a)(1). The Back Bay Science Center will provide space for the teaching laboratory and related visual aids that will serve as a base for educators to teach students of

grades 7 to 12 about the value of the flora and fauna in the Upper Newport Bay Ecological Reserve and the importance of water quality.

Chapter 9 of Division 21 of the Public Resources Code authorizes the Conservancy to implement a system of public accessways to and along the State's coastline (Section 31400). Through the proposed authorization, the Conservancy would provide an important public coastal access opportunity for the general public as well as grade school and high school students. Consistent with Section 31400.3, the Back Bay Science Center will provide the public with an enhanced coastal accessway and related functions in order to appreciate the natural areas of the Upper Newport Bay estuary and wetlands.

Consistent with Section 31400, the proposed project would provide funding to the City of Newport Beach to complete a facility that provides coastal access and nature interpretation to school children and other visitors. Completion of the center will enhance the quality of public access to the resources of Upper Newport Bay and will increase the public's knowledge of important resource protection needs for the ocean and shore.

Consistent with Section 31400.1, the proposed project would help the City of Newport Beach develop, operate and manage the Back Bay Science Center, a visitor serving facility which meets greater than local needs. As described in the "Project Summary" above, the center will serve school children from throughout Orange County and attract visitors from throughout California.

Consistent with Section 31400.2, staff recommends approval of this project after evaluating the amount of funding provided by the Conservancy in light of the total amount of available funds for coastal educational/interpretive centers, the fiscal resources of the grantee, the urgency of the project relative to other eligible projects, and the application of factors prescribed by the Conservancy for the purpose of determining project eligibility and priority (see "Consistency with Conservancy's Project Selection Criteria & Guidelines" discussion below). The proposed authorization would leverage \$5,406,564 in matching funds from public and private sources.

**CONSISTENCY WITH CONSERVANCY'S
STRATEGIC PLAN GOAL(S) & OBJECTIVE(S):**

Consistent with **Goal 2 Objective D** of the Conservancy's Strategic Plan, the proposed project will increase coastal recreational opportunities for residents and visitors by constructing the teaching laboratory of the Back Bay Science Center, a regional environmental education center.

**CONSISTENCY WITH CONSERVANCY'S
PROJECT SELECTION CRITERIA & GUIDELINES:**

The proposed project is consistent with the Conservancy's Project Selection Criteria and Guidelines adopted January 24, 2001, in the following respects:

Required Criteria

1. **Promotion of the Conservancy's statutory programs and purposes:** See the "Consistency with Conservancy's Enabling Legislation" section above.
2. **Consistency with purposes of the funding source:** See the "Project Financing" section above.

3. **Support of the public:** There is widespread public support for the Back Bay Science Center from the local community as well as from throughout the region. In addition to financial support, the Back Bay Science Center will benefit from an active and large force of volunteers who contribute to the educational programs and activities in the Upper Newport Bay each year. The proposed Conservancy grant for the BBSC been specifically endorsed by the Newport Bay Naturalists and Friends, University of California Irvine, California Department of Fish and game, the County of Orange, Orange County CoastKeeper, SurfRider Foundation, California Coastal Commission, Friends of Harbors, Beaches and Parks, and State Assemblyman Tom Harman. Letters received in support of project are attached as Exhibit 8.
4. **Location:** The proposed project would be located within the coastal zone of the City of Newport Beach.
5. **Need:** The City of Newport Beach has already raised \$5,406,564 towards the \$5,806,564 needed for the construction of the Back Bay Science Center. Funding from the Conservancy will close the remaining funding gap and allow the City of Newport Beach to complete the construction of the BBSC in the summer 2007. Without Conservancy participation, this project will not be completed.
6. **Greater-than-local interest:** As discussed in the “Project Financing” and “Consistency with Conservancy's Enabling Legislation” sections above, the Back Bay Science Center will provide environmental educational programs for school children from throughout Orange County. The BBSC also will attract the general public. With the completion of the BBSC, the number of visitors from throughout the county is expected to increase.

Additional Criteria

7. **Urgency:** The project construction is already underway. Due to construction mobilization costs and increasing construction materials costs it is urgent that construction continue now to complete the Back Bay Science Center.
8. **Leverage:** As described in the “Project Financing” section above, Conservancy funds are being matched by \$5,406,564 of other funds. The City of Newport Beach has raised more than \$5,406,564 in funds including \$1,100,000 from private sources and businesses, and \$2,832,564 from local agencies.
9. **Innovation:** The Back Bay Science Center will provide an innovative approach to partnership for education and public outreach through the cooperative work of the Orange County Health Care Agency's water quality labs, University of California Irvine, the Newport Bay Naturalists and Friends, the City of Newport Beach water quality staff, the California Coastal Commission's habitat restoration and community-based restoration education staff. To have all these resources at one site will leverage their unique expertise in new and exciting ways.
10. **Readiness:** The grantee has finalized plans, obtained all necessary permits, raised most of the funds necessary for the project, and begun construction.
11. **Realization of prior Conservancy goals:** The Coastal Conservancy has been actively engaged in funding restoration and public access planning for the Upper Newport Bay

through numerous other projects in the area including the Big Canyon Restoration design and planning, and the Upper Newport Bay Ecological Restoration project. Conservancy staff, through the Wetlands Recovery Project, has further been actively involved in helping to identify and move forward planning and restoration projects in Upper Newport Bay through the WRP Small Grants Program.

12. **Cooperation:** As discussed in the “Innovation” section above and in the “Project History” section, a wide range of project partners are involved in construction of the Back Bay Science Center. Once construction is complete these various agencies, educational institutions, non-profit organizations and private individuals will continue to work together to deliver the educational programs and activities of the BBSC.

CONSISTENCY WITH LOCAL COASTAL PROGRAM POLICIES:

The City of Newport Beach Coastal Program (LCP) contains policies consistent with the Back Bay Science Center project. These include: Chapter 2 Land Use and Development, Policy 2.3.3-3: Identify, protect, encourage and provide lower-cost visitor-serving and recreational facilities, including museums and interpretive centers; Chapter 3 Public Access and Recreation, Policy 3.1.1-1. Protect, and where feasible, expand and enhance public access to and along the shoreline and to beaches, coastal waters, tidelands, coastal parks, and trails. Policy 3.1.1-5 Allow public access improvements in environmentally sensitive habitat areas (ESHA) when sited, designed, and maintained in a manner to avoid or minimize impacts to the ESHA. Policy 3.1.1-6. Continue to cooperate with the State Department of Parks and Recreation, the State Department of Fish and Game, the State Coastal Conservancy, Orange County, and private organizations to protect, expand and enhance public access to and along the shoreline and to beaches, coastal parks and trails; Chapter 4 Coastal Resource Protection Policy 4.1.3-8. Support the construction of tide pool exhibits at the Back Bay Science Center on Shellmaker Island to provide an educational alternative to the tide pools at Corona del Mar and Crystal Cove State Park beaches. The Back Bay Science Center will enhance public access to coastal resources, increase handicap access to these resources, promote low intensity recreation, and provide low cost or free educational opportunities, and has been designed to avoid impacts to adjacent environmentally sensitive habitat areas.

COMPLIANCE WITH CEQA:

The Department of Fish and Game adopted a Negative Declaration and a mitigation and monitoring program on September 23, 2003 for the construction of the Back Bay Science Center. The draft Negative Declaration received written comments from the California Coastal Commission, California Department of Transportation, California Department of Toxic Substances Control, City of Newport Beach, County of Orange Planning and Development Services Department and verbal comments from U.S. Fish and Wildlife Service.

Conservancy staff has independently reviewed the Department of Fish and Game’s Negative Declaration and the mitigation monitoring program. The project’s possible significant effects and mitigation measures are identified on pages 15 through 75 of Exhibit 7.

The Final Initial Study and Negative Declaration identified less than significant potential impacts with mitigation incorporated in the areas of aesthetics, biological resources, geology and soils, hazards and hazardous materials, hydrology and water quality, public services, and

transportation/traffic. Any short-term potential impacts will be mitigated by implementing the measures discussed below.

Biological Resources

Potential biological resources impacts to be mitigated include potential substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service; potential substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service; and potential substantial adverse effect on federally protected wetlands as defined by section 404 of the Clean Water Act (including but not limited to marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrologic interruption, or other means.

These potential impacts will be addressed by the following mitigation measures:

- 1) A preconstruction focused survey for Beldings savannah sparrows shall be conducted during the breeding season to determine if breeding activity is occurring. If any Belding savannah sparrows are exhibiting breeding behavior within 100 feet of the project site then the biological monitor, in conjunction with California Department of Fish and Game or U.S. Fish and Wildlife Service, shall determine if construction activity should be halted until the breeding season (March to September) has been completed.
- 2) A qualified biologist shall be on site during grading and trenching activities. The biologist shall ensure that sensitive biological resources, including rare, threatened, and endangered species, are not adversely affected by the project construction activities. The project biologist will determine whether construction should be halted during the breeding season to avoid impacts on sensitive species such as the light-footed clapper rail or California gnatcatcher.
- 3) Vehicular and construction personnel foot traffic shall not impinge on coastal sage scrub, salt marsh, mud flats, or bay environments, either on the project site or on adjacent sensitive habitat areas such as the slope area along the eastern side of Back Bay Drive. "No Entrance" signage and barriers shall be erected to prohibit intrusions into sensitive habitats.
- 4) Prior to commencement of construction, a qualified biologist shall conduct a field survey to determine whether clapper rails or California gnatcatchers are nearby. If these sensitive species are present the California Department of Fish and Game (DFG) shall determine whether construction should be scheduled to avoid critical nesting periods.
- 5) DFG shall review the proposed construction plans with the Project Manager to ensure that construction methods and equipment chosen reduce noise to the greatest extent practical.
- 6) Construction contract specifications shall require that sensitive salt marsh areas are protected from inadvertent damage during construction. Prior to commencement of construction, a qualified biologist shall flag salt marsh areas to be protected and meet with the project manager to ensure that the construction personnel are familiar with these restrictions.

The above listed design and mitigation measures would reduce potential biological resources impacts to a level that is less than significant. (Mitigation Measures: MM IV-1, MM IV-2, MM IV-3, MM IV-4, and MM IV-5, pages 57-58 of Exhibit 7).

Aesthetics

The only potential aesthetic impact was the potential for new sources of light and glare that would adversely affect day or nighttime views in the area. Exterior and security lighting will be shielded and confined within site boundaries to avoid glare in adjacent marsh areas. (Mitigation Measure MM I-1, page 34 of Exhibit 7)

Geology and Soils

Potential geology and soils impacts to be mitigated included seismic and liquefaction concerns and the potential for erosion and loss of top soil. These potential impacts will be addressed by requiring that all facilities be designed and constructed as specified in the Uniform Building Code, a grading plan and specifications will be required as a condition of a grading permit, a specific soils and foundation study will be prepared and approved by the Department of Fish and Game or its designee; and an Erosion Control Plan. The plan shall identify methods to prevent and control potential grading-associated erosion from discharging into Newport Bay. Proposed actions shall include erosion control methods to reduce the potential for windblown top soil or waterborne sediments to reach the Bay including sand bags, wind screens, watering down of dry soils, and implementing other accepted Best Management Practices during the grading process. Implementation and compliance shall be monitored by the project construction monitor. (Mitigation Measures MM VI-1 A, MM VI-1 B, MMVI-1C, MM VI-2, pages 60-61 of Exhibit 7)

Hazards and Hazardous Materials

Although no known release of hazardous materials on the project site has occurred, the following mitigation measure would ensure that any hazardous substances that may be discovered during demolition or construction are handled in a manner that does not create a significant hazard to the public or the environment. Construction specifications shall require that construction activities be halted if any indication of hazardous materials contamination is discovered and a qualified professional shall be retained to conduct an investigation and recommend the appropriate response to protect human health and the environment as well as identify the agency with oversight responsibility. Existing structures to be demolished or remodeled shall be investigated for the presence of lead-based paint and asbestos-containing materials (ACMs). If the presence of lead-based paints or ACMs is suspected, proper precautions shall be taken during demolition activities. Additionally, any contaminants shall be remediated in compliance with California environmental regulations. If project construction requires soil excavation and removal, appropriate sampling shall be required prior to disposal of the excavated soil. If the soil is contaminated, it shall be properly disposed of. Land Disposal Restrictions (LDRs) may be applicable to these soils. Also, if the project requires soil import to backfill excavated areas, proper sampling shall be required to ensure that the imported soil is free of contamination. (Mitigation Measure MM VII-1, page 63 of Exhibit 7)

Further potential impacts are reduced to less than significant in the areas of traffic and safety, construction site dust and erosion control, stormwater management and debris disposal through the requirements for a traffic control plan, an erosion, siltation and dust control plan, a storm

water management plan, and the requirement that construction debris be removed from the site and disposed of properly. (Mitigation Measures MM VII-2, MM VIII-1, MM VIII-2, and MM VIII-3, pages 64, and 66 of Exhibit 7)

A mitigation monitoring program was adopted by the Department of Fish and Game, the lead agency. It identifies for each mitigation measure the mechanism or action for monitoring, the method and timing of verification and the agency or persons responsible for conducting the monitoring.

Staff has independently reviewed the Mitigated Negative Declaration prepared and adopted by the DFG and recommends that the Conservancy finds that the project, as mitigated, does not have the potential for an adverse environmental effect. Staff will file a Notice of Determination upon approval of the project.