

(R-98-1331)

RESOLUTION NUMBER R- 290279

ADOPTED ON JUN 16 1998

WHEREAS, on September 23, 1997, Eastgate Acres, LLC, submitted an application to the Development Services Department for a Vesting Tentative Map/Rezone/Planned Industrial Development Permit and Resource Protection Ordinance Permit for the Eastgate Acres Project; and

WHEREAS, the permit was set for a public hearing to be conducted by the Council of The City of San Diego; and

WHEREAS, the issue was heard by the Council on JUN 16 1998; and

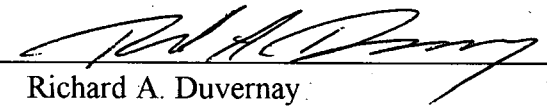
WHEREAS, the Council of The City of San Diego considered the issues discussed in Mitigated Negative Declaration No. 96-7756; NOW, THEREFORE,

BE IT RESOLVED, by the Council of The City of San Diego, that it is hereby certified that Mitigated Negative Declaration No. 96-7756, on file in the office of the City Clerk, has been completed in compliance with the California Environmental Quality Act of 1970 (California Public Resources Code section 21000 et seq.), as amended, and the State guidelines thereto (California Code of Regulations section 15000 et seq.), that the declaration reflects the independent judgment of The City of San Diego as Lead Agency and that the information contained in the report, together with any comments received during the public review process, has been reviewed and considered by this Council in connection with the approval of the Vesting Tentative Map/Rezone/Planned Industrial Development Permit and Resource Protection Ordinance Permit for the Eastgate Acres Project.

BE IT FURTHER RESOLVED, that the Council finds that project revisions now mitigate potentially significant effects on the environment previously identified in the Initial Study and therefore, that said Mitigated Negative Declaration, a copy of which is on file in the office of the City Clerk and incorporated by reference, is hereby approved.

BE IT FURTHER RESOLVED, that pursuant to California Public Resources Code section 21081.6, the Council hereby adopts the Mitigation Monitoring and Reporting Program, or alterations to implement the changes to the project as required by this body in order to mitigate or avoid significant effects on the environment, a copy of which is attached hereto and incorporated herein by reference.

APPROVED: CASEY GWINN, City Attorney

By 
Richard A. Duvernay
Deputy City Attorney

RAD:djr
05/20/98
Or.Dept:Dev.Svcs
R-98-1331
Form=mndr.frm

EXHIBIT A
MITIGATION, MONITORING AND REPORTING PROGRAM
EASTGATE ACRES
LDR NO. 96-7756

RECEIVED
CITY CLERK'S OFFICE
98 JUN 16 AM 8:37
SAN DIEGO, CALIF.

To ensure that site development would avoid significant environmental impacts, a mitigation, monitoring and reporting program will be required. Compliance with the mitigation measures would be the responsibility of the applicant. The basis for the mitigation measures are described below under each issue item.

Cultural Resources

As a condition of the Vesting Tentative Parcel Map/Planned Industrial Development Permit (VTM/PID), the applicant shall conduct a full-time archaeological monitoring program during brush removal and for the initial stages of grading as follows:

1. Prior to issuance of any grading permits, the applicant shall provide verification that a qualified archaeologist and/or archaeological monitor has been retained to implement the archaeological monitoring program. This verification shall be in the form of a letter from the applicant to the Environmental Review Manager of EAS of Development Services. A qualified archaeologist is defined as an individual certified by the Society of Professional Archaeologists (SOPA). At least 200 hours of field experience required for certification must have been obtained in southern California. Uncertified individuals who believe they meet the requirements for certification may submit evidence of their qualifications to Development Services. An archaeological monitor is defined as an individual who has expertise in the collection and salvage of cultural resources and who is working under the direction of a qualified archaeologist. **ALL PERSONS INVOLVED IN THE ARCHAEOLOGICAL MONITORING MUST BE APPROVED BY EAS STAFF PRIOR TO THE PRECONSTRUCTION MEETINGS FOR THE MONITORING PROGRAM.**
2. The qualified archaeologist shall attend any preconstruction meetings to discuss grading plans with the grading and excavation contractor. The requirement for archaeological monitoring shall be noted on the grading plans.
3. The qualified archaeologist or archaeological monitor shall be present on-site during construction activity involving brush removal and the initial stages of grading to inspect for in-situ sites.
4. In the event that cultural resources are discovered, the archaeologist shall have the authority to divert, direct or temporarily halt grading activities in the area of discovery to allow evaluation of potentially significant archaeological resources. **AT THE TIME OF DISCOVERY, THE ARCHAEOLOGIST SHALL IMMEDIATELY NOTIFY EAS STAFF OF SUCH FINDING.** The significance of

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the discovered resource shall be determined by the archaeologist, in consultation with EAS. EAS must concur with the evaluation procedures to be performed before construction activities are allowed to resume. For significant cultural resources, a Research Design and Data Recovery Program shall be prepared and carried out to mitigate impacts. Any human bones of Native American origin shall be turned over to the appropriate Native American group for reburial.

5. All collected cultural remains shall be cleaned, cataloged and permanently curated with an appropriate institution. All artifacts shall be analyzed to identify function and chronology as they relate to the history of the area. Faunal material shall be identified as to species, and specialty studies shall be completed as appropriate.
6. Prior to the issuance of building permits, a monitoring report, with appropriate graphics, which describes the results, analysis, and conclusions of the above program shall be prepared and submitted for approval by the Environmental Review Manager of EAS. Also, any sites or features encountered shall be recorded with the South Coastal Information Center at San Diego State University and at the San Diego Museum of Man.

Paleontological Resources

As a condition of the Vesting Tentative Parcel Map/Planned Industrial Development Permit (VTM/PID), the applicant shall conduct a full-time paleontological monitoring program during initial cutting and grading for the project area as follows:

1. Prior to issuance of any grading permits, the applicant shall provide verification that a qualified paleontologist and/or paleontological monitor have been retained to implement the monitoring program. Verification shall be in the form of a letter from the applicant to the Environmental Review Manager of EAS of Development Services. A qualified paleontologist is defined as an individual with a PhD or MS degree in paleontology or geology and who is a recognized expert in the application of paleontological procedures and techniques such as screen washing of materials and identification of fossil deposits. A paleontological monitor is defined as an individual who has experience in the collection and salvage of fossil materials and who is working under the direction of a qualified paleontologist. **ALL PERSONS INVOLVED IN THE PALEONTOLOGICAL MONITORING OF THE PROJECT SHALL BE APPROVED BY EAS.**
2. The qualified paleontologist shall attend any preconstruction meetings to discuss grading plans with the grading and excavation contractor. The requirement for paleontological monitoring shall be noted on the grading plans.
3. The Paleontologist or paleontological monitor shall be on-site full-time during original cutting of previously undisturbed sediments of the Ardath Shale and

Lindavista Formations to perform periodic inspections of excavations and, if necessary, to salvage exposed fossils. The frequency of inspections will depend on the rate of excavation, the materials excavated and the abundance of fossils.

4. In the event that well-preserved fossils are found, the paleontologist shall have the authority to divert, direct or temporarily halt grading activities in the area of discovery to allow evaluation and recovery of exposed fossils. **AT THE TIME OF DISCOVERY, THE PALEONTOLOGIST SHALL IMMEDIATELY NOTIFY EAS STAFF OF SUCH FINDING.** EAS shall approve salvaging procedures to be performed before construction activities are allowed to resume.
5. All collected fossil remains shall be cleaned, sorted and cataloged following standard professional procedures. The collection should be donated to a scientific institution with a research interest in the materials (such as the San Diego Natural History Museum).
6. Prior to the issuance of building permits, a monitoring results report shall be submitted to and approved by the Environmental Review Manager of EAS. The monitoring results report, with appropriate graphics, shall summarize the results, analysis and conclusions of the paleontological monitoring program, even if negative.

Biological Resources

The City of San Diego Biology Guidelines (Section III.B) directs the applicant to prepare a mitigation program consisting of three required elements: Mitigation, Protection and Management. The complete management plan is included in the Initial Study Discussion under Biology.

In addition, the following MHPA Land Use Adjacency Guidelines shall be made conditions of the VTM/PID with regards to lighting, drainage and potential construction noise impacts on the California gnatcatcher:

1. Prior to issuance of any grading permits the applicant shall conduct a gnatcatcher survey, if grading will occur between March 1 and August 15 (breeding season for the California gnatcatcher). If survey results are negative, than no further mitigation is required. If gnatcatchers are present and grading is to occur during the breeding season, then a temporary 4- foot to 6-foot plywood wall or dirt berm shall be constructed at the slope edge. However, if the applicant chooses not to conduct a gnatcatcher survey, then the temporary wall or berm shall be constructed. If grading will occur before March 1 and after August 15, than no biological mitigation would be required for this project.

Alternative mitigation measures based on a biology survey and specific acoustical study, may be proposed by the applicant, and if acceptable to the

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Environmental Review Manager, may replace the above mitigation measures.

2. Prior to issuance of any building permits, the applicant shall show on plans that lighting of all developed areas adjacent to the Multiple Habitat Planning Area (MHPA) shall be directed away from the MHPA. Where necessary, development shall provide adequate shielding with non-invasive plant materials (preferably natives), berming and/or other methods to protect the MHPA and sensitive species from night lighting. These conditions should be clearly indicated on the project site plan.
3. Prior to issuance of any grading permits the final map shall indicate a "Fee Simple" open space lot deeded to the City of San Diego that encompasses the MHPA on-site. The initial "Fee Simple" dedication shall consist of 8.7-acres with the balance to be dedicated to the City of San Diego once the available mitigation credits are allocated. The total mitigation requirement for the project is 5.8 acres of coastal sage scrub and 2.9 acres of mixed chaparral, which shall be met by on-site preservation within the MHPA. The management plan for the open space lot shall incorporate the City's MHPA Land Use Adjacency Guidelines.
4. Prior to issuance of any grading permits, the applicant shall show that sediment basins, desilting basins or silt traps shall be installed in conjunction with the initial grading operations and maintained throughout the development process, as well as during the operation period, as necessary, to remove sediment from runoff waters draining from the land undergoing development consistent with State Water Resources Board (SWRB) requirements.
5. Installation of grassed swales/infiltration trenches/or fossil filter systems at parking lot boundaries for pollutant control shall be designed to the City Engineer's standards for Urban Storm Water Management (Best Management Practices). Design and implementation shall be to the satisfaction of the City Engineer.
6. A grading plan that incorporates runoff and erosion control procedures to be utilized during all phases of project development shall be prepared and submitted concurrently with subdivision improvement plans, where such development is proposed on land that will be graded or filled. Such a plan shall be prepared by a registered civil engineer and shall be designed to ensure that there will be no significant increase in the peak runoff rate from the fully developed site over the greatest discharge that would occur from the existing undeveloped site as a result of the intensity of rainfall expected during a six-hour period once every ten years. Runoff control shall be accomplished by establishing on-site catchment basins, detention basins and siltation traps along with energy dissipating measures at the terminus of storm drains or other similar means of equal or greater effectiveness. Alternative designs for the

implementation of runoff and erosion control devices on individual lots, at the site planning stage, shall be approved by the City Engineer and Development Services Manager.

The grading plan shall also incorporate a maintenance program for erosion and runoff control measures which shall be approved by the City Engineer and Development Services Manager.

7. In addition to the above mitigation measures/conditions for biology, the following shall be made a condition of approval:

Third Party Beneficiary Status
Standard Condition

The issuance of this permit by the City of San Diego does not authorize the applicant to violate any Federal, State or City laws, ordinances, regulations or policies including, but not limited to, the Federal Endangered Species Act of 1973 and any amendments thereto (16 U.S.C. Section 1531 et seq.).

8. In accordance with authorization granted to the City of San Diego from the United States Fish and Wildlife Service (USFWS) pursuant to Section 10(a) of the ESA and by the California Department of Fish and Game (CDFG) pursuant to Fish and Game Code section 2835 as part of the Multiple Species Conservation Program (MSCP), the City of San Diego through the issuance of this permit hereby confers upon permittee the status of Third Party Beneficiary as provided for in Section 17 of the City of San Diego Implementing Agreement (IA), executed on July 17, 1997 and on File in the Office of the City Clerk as Document No. RR- 00-18394. Third Party Beneficiary status is conferred upon permittee by the City: (1) to grant permittee the legal standing and legal right to utilize the take authorizations granted to the City pursuant to the MSCP within the context of those limitations imposed under this permit and the IA, and (2) to assure Permittee that no existing mitigation obligation imposed by the City of San Diego pursuant to this permit shall be altered in the future by the City of San Diego, USFWS or CDFG, except in the limited circumstances described in Sections 9.6 and 9.7 of the IA. If mitigation lands are identified but not yet dedicated or preserved in perpetuity, maintenance and continued recognition of Third Party Beneficiary status by the City is contingent upon permittee maintaining the biological values of any and all lands committed for mitigation pursuant to this permit and of full satisfaction by permittee of mitigation obligations required by this permit, as described in accordance with Section 17.1D of the IA.
9. The above mitigation monitoring and reporting program will require a deposits of \$450.00 to be collected prior to the issuance of building permits, certificates of occupancy and/or final maps to ensure the successful completion of the monitoring program.

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