

RESOLUTION NUMBER R- 292177

ADOPTED ON SEP 14 1999

WHEREAS, on March 25, 1998, Dr. Horton submitted an application to The City of San Diego for a tentative map, planned residential development/resource protection ordinance permit and a rezone for the Torrey Del Mar project; and

WHEREAS, the matter 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 September 14, 1999; and

WHEREAS, the Council of The City of San Diego considered the issues discussed in Mitigated Negative Declaration LDR No. 98-0250; NOW, THEREFORE,

BE IT RESOLVED, by the Council of The City of San Diego, that it is hereby certified that Mitigated Negative Declaration LDR No. 98-0250, 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 land use actions for the Torrey Del Mar project.

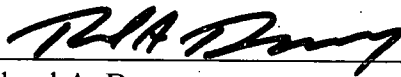
BE IT FURTHER RESOLVED, that the Council finds that project revisions now mitigate potentially significant effects on the environment previously identified in the Initial Study and

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:lc

08/31/99

Or.Dept:Plan.&Dev.Rvw.

R-2000-239

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EXHIBIT A

MITIGATION, MONITORING, AND REPORTING PROGRAM

TORREY DEL MAR TENTATIVE MAP, PLANNED RESIDENTIAL DEVELOPMENT PERMIT, RESOURCE PROTECTION ORDINANCE PERMIT and REZONE

LDR NO. 98-0250

This Mitigation Monitoring *and* Reporting Program is designed to ensure compliance with Public Resources Code Section 21081.6 during implementation of mitigation measures. This program identifies at a minimum: the department responsible for the monitoring, what is to be monitored, how the monitoring shall be accomplished, the monitoring and reporting schedule, and completion requirements. A record of the Mitigation Monitoring and Reporting Program will be maintained at the offices of the Land Development Review Division, 1222 First Avenue, Fifth Floor, San Diego, CA 92101. All mitigation measures contained in the Mitigated Negative Declaration (LDR No. 98-0250) shall be made conditions of TENTATIVE MAP, PLANNED RESIDENTIAL DEVELOPMENT PERMIT and RESOURCE PROTECTION ORDINANCE PERMIT as *may be* further described below.

BIOLOGICAL RESOURCES

1. Prior to the recordation of the first final map and/or issuance of the first grading permit, direct impacts to 0.03 acres of southern willow scrub, 0.36 acres of disturbed wetlands, 0.05 acres of coastal sage scrub 35.17 acres of *non-native grassland* shall be *mitigated at/or above the respective mitigation ratios of 3:1, 3:1, 1:1 and 0.5:1, to the satisfaction of the City Manager.*

Wetland Mitigation

- a. Mitigation for wetland impacts (0.03 acres of southern willow scrub (SWS) and 0.36 acres of disturbed wetland (DW)) shall include the preservation of 0.31 acres of freshwater marsh habitat and 1.09 acres of SWS. *In order to comply with the federal mandate of no net loss of wetlands, 1.17 (0.39 x 3) acres of wetland habitat must be enhanced or created on or off-site, to the satisfaction of the USFWS and CDFG, within the McGonigle Canyon wildlife corridor.*
- b. Prior to recordation of the first final map and/or issuance of the first grading permit, EAS, the USFWS and the CDFG must receive and approve a conceptual *restoration/revegetation plan for wetlands proposed*

to be created/restored as part of mitigation for impacts from the proposed project.

- c. Prior to recordation of the first final map and/or issuance of the first grading permit, EAS must receive and approve a conceptual restoration/revegetation plan for wetlands proposed to be created/restored as part of mitigation for impacts from the proposed project.

Upland Mitigation

- a. Prior to the issuance of the first final map and/or issuance of the first grading permit 4.11 acres of Tier II habitat (CSS) and 10.57 acres of Tier IIIB habitat (NNGL) shall be preserved on-site.
 - b. Prior to the issuance of the first final map and/or issuance of the first grading permit 2.68 acres (within MHPA) or 5.36 acres (outside MHPA) Tier IIIB habitat (NNGL) shall be acquired for preservation and enhancement within McGonigle Canyon of Subarea IV to the satisfaction of the City Manager, the USFWS and the CDFG. Upland mitigation within McGonigle Canyon will require the submittal and approval of a restoration plan by the City Manager, USFWS and the CDFG. If it is determined that mitigation within Subarea IV is infeasible, any site outside McGonigle Canyon and Subarea IV shall be subject to approval by the City Manager, USFWS and CDFG.
 - c. Mitigation for Tier IIIB impacts that are not proposed to be accommodated on-site must be accomplished through off-site acquisition of Tier IIIB or higher habitat per the City of San Diego Biological Review References. Prior to recordation of the first final map and/or issuance of the first grading permit, the owner/permittee shall record to the satisfaction of the City Manager, either a covenant of easement, conservation easement, or dedicate in fee title to the City of San Diego on the 2.68 acres of habitat located within the MHPA or 5.36 acres of habitat located outside the MHPA. The easement shall identify permissible uses and activities and/or restrictions to be placed on preserve areas. Management of the preserved open space shall be the responsibility of the owner/permittee or homeowner's association in perpetuity, unless the City accepts responsibility of the open space through dedication to the City in fee title.
2. Prior to recordation of the first final map and/or issuance of the first grading permit, the owner/permittee shall record to the satisfaction of the City Manager; either a covenant of easement, conservation easement, or dedicate in fee title to the City of San Diego on the 17.20 acres (14.41 upland acres and 2.64 acres

wetland acres) of habitat proposed to be preserved on-site shown on Exhibit A. The easement shall identify areas to be included in the MHPA and permissible uses and activities and/or restrictions to be placed on preserve areas. Management of the preserved open space shall be the responsibility of the owner/permittee or homeowner's association in perpetuity, unless the City accepts responsibility of the open space through dedication to the City in fee title.

3. Prior to recordation of the first final map and/or issuance of the first grading permit, monitoring for the presence of nesting raptors is required if grading is to occur in the eucalyptus forest or within 100 feet of the forest (as depicted on Figure 3 in the Biological Resources Technical Report for the Torrey Del Mar project, City of San Diego, Dudek, May 1999) between March 15 and September 15. If nesting raptors are located, mitigation measures to avoid disrupting breeding behavior shall be submitted and approved by EAS prior to the issuance of the grading permit.
4. Prior to recordation of the first final map and/or issuance of the first grading permit, all storm drains draining into the MHPA shall employ dissipation and filtering devices. These features shall be placed in the development area and not in the MHPA. If MHPA impacts are retained, a MHPA Boundary Adjustment and Equivalency Analysis and mitigation measures shall be prepared and approved prior to issuance of the grading permit.
5. Prior to recordation of the first final map and/or issuance of the first grading permit, monitoring and consultation with the U.S. Fish and Wildlife Service (USFWS) for the presence/absence of the federally endangered least Bell's vireo shall be required, if grading is to occur in potential vireo habitat located within the MHPA or within 500 feet of it, during the least Bell's vireo breeding season (March 15 - September 15). If grading occurs outside the breeding season, or 500 feet or more from potential habitat located in the MHPA, no surveys would be required unless otherwise requested by the USFWS and/or the CDFG. All necessary surveys shall must be performed per U.S. Fish and Wildlife Service Protocol. If vireo are located on-site within the MHPA, mitigation measures to avoid any habitat loss and/or disruption of breeding behavior between March 15 and September 15 shall be submitted and approved by EAS the USFWS and CDFG prior to the issuance of the grading permit.
6. Prior to recordation of the first final map and/or issuance of the first grading permit, landscape plans and the biological revegetation/restoration shall show revegetation (location, species mix and specimen type (seed or pot size)) of existing trail areas associated with the urban amenity located in Unit 1 and originating just below lot 61.

LAND USE/MHPA

7. Prior to recordation of the first final map and/or issuance of the first grading permit, EAS shall assure that all alterations of the subject property shall be consistent with the Multiple Species Conservation Program (MSCP) Land Use

Adjacency Guidelines, including the following conditions a-g which shall be incorporated into the project CC&R's; Fencing shall not interfere with continued wildlife movement through significant wildlife corridors.

- a. Fencing shall not interfere with continued wildlife movement through significant wildlife corridors. Fencing to prevent unrestricted encroachment into the MHPA and the urban amenity shall be placed inside the edge of the development area on lots 59-77, 129, 130, -137, 142, 181-202. Fences shall be 6 feet in overall height with either the first 3 feet solid and the second 3 feet open fencing, or open wrought-iron type view fencing.
- b. Artificial lighting shall not be permitted on the subject property except for roadways, facility use and safety. If lighting is required, it shall be low pressure sodium illumination (or similar) which is directed away from preserve areas using appropriate placement and shields.
- c. No new, exotic, invasive species (such as Australian saltbush (*Atriplex semibaccata*)) shall be utilized in, or adjacent to the MHPA.
- d. Compliance with City Engineering Drainage Standards shall be ensured to the satisfaction of the City Engineer and EAS.
- e. New trail and access road construction shall be limited to those areas depicted on plans approved by EAS.
- f. Uses in or adjacent to the MHPA must be designed to minimize noise impacts to the MHPA. Noise impacts affecting the MHPA must be mitigated or avoided during the breeding season (March 15-September 15).
- g. Management of the lands within the MHPA shall be the responsibility of the owners in fee title of the land. The owner/permittee shall prepare and distribute educational information, to the satisfaction of the City Manager, to new residents within the project site at the time of lot purchase. The information, which shall be maintained by the homeowner's association, shall inform residents of access, appropriate plantings, pet intrusion, fire management, lighting and other adjacency issues. The information packet shall include hydrology/water quality information from the City's NPDES Stormwater Program.

8. Prior to issuance of grading permits, the developer shall provide the City Manager with a construction management plan addressing traffic management of construction vehicles, siting of construction trailers and equipment staging areas, construction employee parking, maintenance of access to homes and businesses, erosion control, the requirement for a Storm Water Pollution Prevention Plan (SWPPP), dust and noise control and construction phasing. Construction should be phased to minimize the amount of graded slopes occurring at any one time in order to minimize potential erosion impacts.

HISTORICAL RESOURCES

9. Prior to the recordation of the first final map and/or issuance of the first grading permit, the applicant shall provide a letter of verification to the Environmental Review Manager of Land Development Review (LDR) stating that a qualified archaeologist and/or archaeological monitor, as defined in the City of San Diego Historical Resources Guidelines, have been retained to implement the monitoring program. The requirement for archaeological monitoring shall be noted on the grading plans. **ALL PERSONS INVOLVED IN THE ARCHAEOLOGICAL MONITORING OF THIS PROJECT SHALL BE APPROVED BY LDR PRIOR TO THE START OF MONITORING. THE APPLICANT SHALL NOTIFY LDR OF THE START AND END OF CONSTRUCTION.**
 - a. The qualified archaeologist shall attend any preconstruction meetings to make comments and/or suggestions concerning the archaeological monitoring program with the construction manager.
 - b. The qualified archaeologist or archaeological monitor shall be present on site full-time during grading of the area beginning at the western project boundary, to the northern edge of Carmel Valley Road. Monitoring will be bounded to the east (monitoring west of this line) by the eastern lot-line of lot 69 with the line running southeast from the southeast corner of lot 69 in a matchline with the eastern boundary of lot 185. At the southeast corner of lot 185, the eastern monitoring boundary follows the southern border of lot 184 and runs in a straight line along the eastern lot-lines of lot 219 and 236. At the southeast corner of lot 236 the line turns west along the southern boundary of lot 236 then runs in a straight line along the east (northeast) *lot-fines* of lots 275 and 294. The southern *monitoring* boundary runs west along the southern boundaries of lots 294-296, then jogs to the include the next lot to the north (lot 272) and stair steps north across Street G to the southeast corner of lot 242 and then runs west to include lot 243. The southern boundary line then moves west to include lots 210 and 209 and then north to include lots 196 and 197. The line then runs directly west to the property line from the northeast corner of lot 198. Additionally, monitoring shall include lots 133-135, 157-159, the

contiguous portions of Street G and Street F segment between lots 119 and 124 to the north and lots 159 and 133 to the south. Additionally, the area directly southeast of the rear lot-line of lot 130, extending to the north to Street F cul-de-sac, to the south to the existing 290 elevation contour line and west to the line contiguous with the western border of lot 130 must also be surveyed. An areal map of the areas to be monitored can be obtained from the City of San Diego, EAS, upon request.

- c. **WHEN REQUESTED BY THE ARCHAEOLOGIST, THE CITY RESIDENT ENGINEER SHALL DIVERT, DIRECT, OR TEMPORARILY HALT GROUND DISTURBANCE ACTIVITIES IN THE AREA OF DISCOVERY TO ALLOW EVALUATION OF POTENTIALLY SIGNIFICANT CULTURAL RESOURCES. THE ARCHAEOLOGIST SHALL IMMEDIATELY NOTIFY LDR STAFF OF SUCH FINDING AT THE TIME OF DISCOVERY.** The significance of the discovered resources shall be determined by the archaeologist, in consultation with LDR and the Native American community. LDR must concur with the evaluation before grading activities will be allowed to resume. For significant cultural resources, a Research Design and Data Recovery Program shall be prepared and carried out to mitigate impacts before grading activities in the area of discovery will be allowed to resume. Any human bones of Native American origin shall be turned over to the appropriate Native American group for reburial.
- d. All cultural materials collected shall be cleaned, catalogued, and permanently curretted 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.
- e. Prior to the release of the grading bond, a monitoring results report and/or evaluation report, if appropriate, which describes the results, analysis, and conclusions of the archaeological monitoring program (with appropriate graphics) shall be submitted to and approved by the Environmental Review Manager of LDR. For significant cultural resources, a Research Design and Data Recovery Program shall be included as part of the evaluation report. A mitigation report for significant cultural resources, if required, shall be submitted to and approved by the Environmental Review Manager of LDR prior to the release of the grading bond.

NOISE

10. Exterior

Prior to the issuance of the first building permit, the owner/permittee shall incorporate sound attenuation measures into the project plans as described in the acoustical report (Torrey Del Mar Site-Specific Exterior Noise Study, March 15, 1999, Dudek) to the satisfaction of the City Manager. Specifically, the plans *shall indicate that lots 48-51, 55-57, 59-80, 92-96, and 194-201*, will require noise barriers ranging from four to six feet high along the property line and/or at the top of slopes of building pads as shown on Figure 4 (from Torrey Del Mar Site-Specific Exterior Noise Study, March 16, 1999, Dudek). Lots 202, 203 and 250-260 would require 8 to 12-foot high noise barriers. The noise barriers must attenuate backyard exterior noise levels to 65 dB CNEL or less. Noise barriers less than or equal to 6 feet must be see-through (LEXAN or comparable) over 3 feet of solid wall or solid wall. Where walls are placed on mounds, they shall not exceed 12 feet in total height (12-foot barrier = 6-foot-high mound + 3 feet of solid wall material + 3 feet of see-through wall material; or 12-foot barrier = 6-foot-high mound + 6 feet of solid wall material subject to approval of the City Manager).

11. Interior

Prior to the issuance of the first building permit, a final acoustical report will be required for lots 48-51, 55-57, 59-80, 92-96, and 194-201, (*or lots called out in most current City accepted Noise Study*) to ensure that the interior CNEL will not exceed 45 dB. Where needed to meet the City's interior noise standards, air-conditioning or mechanical ventilation will be required on homes on the lots listed above. Sound rated windows will be required for homes adjacent to SR-56 and Carmel Valley Road where needed to met City Interior Noise Standards.

12. Prior to certificates of occupancy, the City Manager shall verify that the sound attenuation barriers have been installed in accordance with the approved building plans.

TRANSPORTATION/CIRCULATION

13. Prior to issuance of certificates of occupancy, the owner/permittee shall provide proof of conformance with the transportation requirements in the Torrey Highlands Subarea IV Land Use Plan (July 1996), the Transportation Phasing Plan in the Torrey Highlands Public Facilities Financing Plan (October 1996), and the Torrey Highlands Final Environmental Impact Report (EIR No. 93-0152) Traffic Study (June 1996) to the satisfaction of the City Manager.
14. A portion of the ultimate alignment for SR-56 is located within this project. If the freeway construction starts first, the subdivider shall grant enough right-of-way for the construction of the *freeway and* required slopes. Upon completion of the construction activity, the excess right-of-way will be relinquished to the subdivider.

PALEONTOLOGY

15. Prior to the recordation of the first final map and/or issuance of the first grading permit, the applicant shall provide a letter of verification to the Environmental Review Manager of Land Development Review (LDR) stating that a qualified paleontologist and/or paleontological monitor, as defined in the City of San Diego Paleontological Guidelines, have been retained to implement the monitoring program. The requirement for paleontological monitoring shall be noted on the grading plans. **ALL PERSONS INVOLVED IN THE PALEONTOLOGICAL MONITORING OF THIS PROJECT SHALL BE APPROVED BY LDR PRIOR TO THE START OF MONITORING. THE APPLICANT SHALL NOTIFY LDR OF THE START AND END OF CONSTRUCTION.**
 - a. The qualified paleontologist shall attend any preconstruction meetings to make comments and/or suggestions concerning the paleontological monitoring program with the construction manager.
 - b. The paleontologist or paleontological monitor shall be on site full-time during the initial cutting of previously undisturbed areas. Monitoring may be increased or decreased at the discretion of the qualified paleontologist, in consultation with LDR, and will depend on the rate of excavation, the materials excavated, and the abundance of fossils.
 - c. **WHEN REQUESTED BY THE PALEONTOLOGIST, THE CITY RESIDENT ENGINEER SHALL DIVERT, DIRECT, OR TEMPORARILY HALT CONSTRUCTION ACTIVITIES IN THE AREA OF DISCOVERY TO ALLOW RECOVERY OF FOSSIL REMAINS. THE PALEONTOLOGIST SHALL IMMEDIATELY NOTIFY LDR STAFF OF SUCH FINDING AT THE TIME OF DISCOVERY.** LDR shall approve salvaging procedures to be performed before construction activities are allowed to resume.
 - d. The paleontologist shall be responsible for preparation of fossils to a point of identification as defined in the City of San Diego Paleontological Guidelines and submittal of a letter of acceptance from a local qualified curation facility. Any discovered fossil sites shall be recorded by the paleontologist at the San Diego Natural History Museum.
 - e. Prior to the release of the grading bond, a monitoring results report, with appropriate graphics, summarizing the results, analysis, and conclusions of the paleontological monitoring program shall be submitted to and approved by Environmental Review Manager of LDR.

LANDFORM ALTERATION/VISUAL QUALITY

16. Prior to issuance of grading permits, the owner/permittee shall provide the following mitigation measures to the satisfaction of the City Manager;
 - a. The grading plan shall provide contour grading and variable slopes for slopes over 10 feet in height or adjacent to the MHPA, as shown on the approved Exhibit A, to simulate the natural terrain.

HYDROLOGY/WATER QUALITY

17. Prior to the issuance of grading permits and/or final maps, the proposed project shall comply with all requirements of State Water Resource Control Board (SWCRB) Order No. 92-08-DWQ (NPDES General Permit No. CAS000002), Waste Discharge Requirements for Discharges of Storm Water Runoff Associated with Construction Activity. A Storm Water Pollution Prevention Plan (SWPPP) and a Monitoring Program *Plan shall be developed during the tentative map* or prior to the commencement of grading activities, and a complete and accurate Notice of Intent (NOI) shall be filed with the SWRCB. A copy of the acknowledgment from the SWRCB that an NOI has been received for this project shall be filed with the City of San Diego when received; further, a copy of the completed NOI from the SWRCB, showing the construction permit number for this project, shall be filed and the proposed project shall be designed in accordance with the Engineering & Capital Project Department's standards for SWPPPs to the satisfaction of the City Engineer.
18. Prior to the issuance of grading permits and/or final maps, pollution control devices, Best Available Technologies (BATs) and Best Management Practices (BMPs), as specified by the City Engineer, shall be utilized in designing the drainage and detention/desilting system in response to NPDES requirements. The owner/permittee shall provide temporary and permanent desilting/detention basins and/or other erosion control measures for the project site, to the satisfaction of the City Engineer. All drainage systems, including desilting/detention basins, shall be private and maintained by the homeowner's association, unless approved as a public system by the City Engineer.

HUMAN HEALTH/PUBLIC SAFETY

19. Prior to the issuance of grading permits, the owner/permittee shall provide permanent desilting/detention basin(s) on the grading plans which meet the State of California 1993 Best Management Practice (BMP) handbook requirements to be self-draining within 72 hours to prevent the 10-day larval life cycle of the mosquito. The desilting/detention basin(s) shall be accessible for maintenance and/or periodic clean-out by the homeowner's association.

WATER CONSERVATION

20. Prior to issuance of building permits, the project shall incorporate Low-flush toilets, Low-flow faucets, and timers on sprinklers (including nighttime watering) into the construction plans, and provide information regarding water conservation measures to new residents at the time of lot purchase. These requirements shall be noted on the construction plans under the heading Environmental Requirements.

AIR QUALITY

21. Prior to approval of grading permits, the owner/permittee shall provide a construction dust abatement management program. Dust abatement should consist of, but not be limited to, soil stabilizers, truck wash stations, and site watering to the satisfaction of the City Manager. The dust abatement program shall achieve a minimum of 80 percent dust abatement. Non-compliance shall result in a cessation of all construction activities. The dust abatement program shall be made a condition of the grading permit and monitored by the City. This requirement shall be noted on the construction plans under the heading Environmental Requirements.

PUBLIC SERVICES/UTILITIES

22. Prior to the issuance of certificates of occupancy, the owner/permittee shall provide verification that the project is in compliance with the City's waste reduction and recycling plan (City Council Policy 900-06 and SRRE).
23. Prior to the recordation of the first map and/or issuance of grading permits, the above mitigation monitoring and reporting program will require an additional deposit of \$3,200.00 to ensure the successful completion of the Mitigation, Monitoring and Reporting Program.
24. All of the environmental mitigation measures listed above shall be shown on the construction plans under the heading, Environmental Requirements.