

RESOLUTION NUMBER R- 292242

ADOPTED ON SEP 28 1999

WHEREAS, on February 11, 1999, Jacobs Center for Nonprofit Innovation, Owner/Permittee, submitted an application to The City of San Diego for a community plan amendment, rezone, and a Southeast San Diego Development/Resource Protection Ordinance Permit for the Market Creek Plaza 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 28, 1999; and


WHEREAS, the Council of The City of San Diego considered the issues discussed in Mitigated Negative Declaration LDR No. 99-0156; 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. 99-0156, 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 land use actions for the Market Creek Plaza 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

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EXHIBIT A

MITIGATION MONITORING AND REPORTING PROGRAM

Market Creek Plaza

COMMUNITY PLAN AMENDMENT (CPA), REZONE, RESOURCE PROTECTION ORDINANCE PERMIT (RPO), SOUTHEAST SAN DIEGO DEVELOPMENT PERMIT (SSDPD)

LDR NO. 99-0156

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. 99-0156) shall be made conditions of COMMUNITY PLAN AMENDMENT (CPA), REZONE, RESOURCE PROTECTION ORDINANCE PERMIT (RPO), SOUTHEAST SAN DIEGO DEVELOPMENT PERMIT (SSDPD) PERMIT as may be further described below.

Archaeological Resources

The following mitigation measures are required to reduce potential adverse project impacts to cultural resources to below a level of significance:

Prior to the issuance of grading permits or recordation of final map, the applicant shall provide verification that a qualified archaeologist and/or archaeological monitor have been retained to implement the archaeological construction monitoring program. This verification shall be in the form of a letter from the applicant to the Environmental Review Manager of the Land Development Review. **ALL PERSONS INVOLVED IN THE ARCHAEOLOGICAL CONSTRUCTION MONITORING OF THIS PROJECT SHALL BE APPROVED BY LDR PRIOR TO THE START OF MONITORING.**

The qualified archaeologist shall attend preconstruction meetings to make comments and/or suggestions concerning the archaeological construction monitoring program and discuss plans with the engineer. The requirement for archaeological monitoring shall be noted on the grading plan.

The qualified archaeologist or archaeological monitor shall be present on site full-time during grading.

In the event that unanticipated cultural resources are discovered, the archaeologist shall have the authority to divert or temporarily halt ground disturbance operation in the

area of discovery to allow evaluation of potentially significant cultural resources. THE ARCHAEOLOGIST SHALL CONTACT LDR AT THE TIME OF DISCOVERY. The significance of the discovered resources shall be determined by the archaeologist, in consultation with LDR. LDR must concur with the evaluation before grading activities shall 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 shall be allowed to resume. Any human bones of Native American origin shall be turned over to the appropriate Native American group for reburial.

All cultural materials collected shall be cleaned, catalogued, 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.

Biological Resources

The following mitigation measures are required to reduce potential adverse project impacts to biological resources to below a level of significance:

Direct impacts to Biological Resources shall be mitigated through a combination of on-site preservation and restoration and off-site mitigation. Mitigation measures mentioned below shall be conditions of the RPO and SSDPD permits.

The project shall significantly affect 3.28 acres of maritime succulent scrub, 3.42 acres of disturbed coastal sage scrub, 0.25 acres of riparian scrub, and 3.31 acres of non-native grassland. In addition the project shall temporarily impact 1.69 acres of creek bed and riparian scrub which shall be restored after construction. These significant impacts require mitigation under CEQA and the mitigation shall be in conformance with the City of San Diego's MSCP Subarea Plan and Biological Guidelines. The following mitigation measures are discussed separately for wetland mitigation measures and upland mitigation measures.

Wetland Mitigation Measures

The proposed project will impact the entire creek bed during construction. Permanent impacts of building and parking lot construction shall occur to the small side drainage on the site that runs east west, whereas Chollas Creek shall only be temporarily impacted during construction then restored once construction is completed. Based on the Biological Guidelines impacts to both riparian scrub habitat and natural flood channel shall be mitigated at a 2:1 ratio.

The project shall impact a total of 1.69 acres of wetland habitat (0.25 acre of riparian scrub and 1.44 acres of creek bed) onsite (the Chollas Creek north of the trolley bridge equaling 0.18 acres shall not be graded or directly impacted). The proposed new channel shall create a restoration area of 3.2 acres of riparian habitat with an additional

0.44 acre of planted rock rip rap. This acreage excludes the area proposed for the amphitheater. The City requires 2:1 mitigation for streambed impacts.

The proposed wetland restoration includes the establishment of riparian woodland within the newly established creek. Plants included within the planting plan include California sycamore, coast live oak, Mexican elderberry, cottonwood, black shallow, and sandbar shallow. The under story of the shrubs in the area includes both more riparian-typical species along the tower banks and transitional zone species on the upper banks. These species include along the lower slope bank mulefat, fuschia and California rose. The upper bank shall also include some species more readily adapted to drier conditions such as California sage brush, scrub oak, redberry and encelia. Irrigation is proposed to be a temporary below ground system. Hydroseed in these areas and within the channel shall include mugwort, Palmer's sagewort, mulefat, coyotebrush, golden bush and fleabane. A detailed planting, and irrigation plan shall be submitted. The final configurations and approval of such a plan shall be required from the City of San Diego, the ACOE and the CDFG before channel improvements could occur. As part of the final restoration plan, a five-year mitigation monitoring, and maintenance program shall be established. This program shall include, data collection, success criteria, reporting schedules, and horticultural monitoring techniques.

The creation of the habitat within Chollas Creek shall provide a higher quality habitat than currently exists in the creek area. This restoration effort shall not only replace the acreage lost during construction but shall also provide a higher quality habitat overall, thereby, reducing the level of impact to wetland resources onsite to below a level of significance.

Protection and Notice Element

The newly created Chollas Creek and restoration area, except the amphitheater, shall be either offered for dedication in fee title to the City or shall be placed in a conservation easement. The entire area shall be protected by either of these measures to ensure that future impacts do not occur to the restored habitat and the creek bed.

Management Element

The wetland restoration plan shall include having a management and monitoring plan. The management and monitoring plan shall include weed and trash maintenance of the site and temporary irrigation, as necessary, for a minimum of five years or until the site becomes self-sustaining. A detailed management and monitoring plan shall be required to be prepared and approved by the City, ACOE and the CDFG prior to construction. The plan shall include details regarding protection measures, trash maintenance, and other considerations for long term success.

When the site is deeded to the City or the conservation easement is granted, at the end of the five years or when the site is deemed successful, the City may assume any management needs of the area.

Upland Mitigation Measures

Upland habitats are proposed to be mitigated in accordance with the City's Biological guidelines. The project shall significantly affect 3.28 acres of maritime succulent scrub, 3.42 acres of disturbed coastal sage scrub, 3.3 1 acres of non-native grassland for a total of 8.35 acres. The proposed impacts are outside the of the MHPA and it is anticipated that mitigation shall be conducted within the MHPA boundary. The maritime succulent scrub (Tier 1 habitat) and the disturbed coastal sage scrub (Tier II habitat) habitats shall be mitigated at a 1:1 ratio. The non-native grassland (Tier III habitat) shall be mitigated at the rate of 0.5 to 1.

Prior to the issuance of a grading permits and/or recordation of final maps, the applicant shall either contribute \$68,887.00 (8.35 acres x \$7,500.00 + 10% administrative fee) to the City's Habitat Acquisition Fund, the contribution shall be sufficient to acquire a total of 8.35 acres of land, or the equivalent mitigation credits, within the City's Mutli-Habitat Preserve Area (MHPA), or in lieu of a cash contribution, the applicant may acquire and assure the long term preservation of land or equivalent mitigation credits: the amount and habitat type of the compensation shall be consistent with the City's MSCP and is subject to approval of the Environmental Review Manager. (The above mitigation ratios are applicable only if the off-site mitigation occurs within the MHPA.

All habitats shall be mitigated in kind or better quality habitat. Purchase of mitigation based on the above ratios and agreed to by the City of San Diego, shall mitigate the significant impacts associated with these habitats to below a level of significance.

In addition, as a requirements of the RPO and SSDPD permits grading of any area occupied by the California gnatcatchers shall occur outside of the breeding season (February 15 - August 15) to the maximum extent practicable. If clearing and or grading must occur during the breeding season, measures approved by the Planing and Development Review Department, the USF&WS and the CDFG must be implemented.

Protection and Notice Element

The proposed offsite mitigation for the upland impacts shall be conducted within a mitigation bank, a pre-approved environmental subdivision, or other land acceptable to the City of San Diego. If the land is not protected at the time of purchase, a conservation easement shall be placed over the proposed mitigation area to protect it against future development impacts.

Management Element

Upland mitigation shall be conducted at a pre-approved location within the MHPA and granted to the City. Therefore, management of these areas shall be conducted by the City, or any appropriate entity, in accordance with the City's MSCP Habitat Management Plan.

Noise

The following mitigation measures are required to reduce potential adverse project impacts to noise to below a level of significance:

An acoustical analysis was prepared for the Market Creek Plaza by Giroux & Associates, dated May 11, 1999. The report has adequately addressed the noise issues potentially affecting the site. As a condition of approval, the project shall ensure that music amplification is limited to 80 db (1-Hour average) at 20 feet from the on-stage speakers.

As a condition of approval the project shall at all times comply with the City standards for noise-sensitive uses as stated in article 9.6 of the Municipal Code.

As a condition of approval, during all musical events on site the volume control shall be fix not to exceed 80db at any time.

Normal construction hours of 7:00 am. to 7:00 pm. Mon.- Sat. shall be followed.

Transportation/Circulation

The following transportation mitigation measures are required to reduce traffic related impacts to below a level of significance:

Prior to issuance of any building permits, the applicant shall either 1) assure by permit and bond, the installation of a traffic signal at the intersection of Euclid avenue and SR-94 westbound-ramps, satisfactory to the City Engineer, or 2) provide full funding for design and construction of a traffic signal at the intersection of Euclid Avenue and SR-94 westbound-ramps, satisfactory to the City Engineer.

Prior to issuance of any building permits, the applicant shall assure by permit and bond, the installation of a traffic signal at the intersection of Euclid Avenue and Naranja Road, satisfactory to the City Engineer.

Prior to issuance of any building permit the applicant shall assure the construction of the following improvement: Due to reduced sight distance either the project's access to Market Street be limited to right-turn in/out or a traffic signal with advanced flashing beacon be installed at this location, the improvements shall be constructed to the satisfaction of the City Engineer.

Human Health/Public Safety

The following mitigation measures are required to reduce potential adverse project impacts to Human Health/Public Safety to below a level of significance:

A Phase I Environmental Site Assessment was completed for the Market Creek Plaza by Dames & Moore, (Environmental Site Assessment, former Langley Aerospace Facility, LDR No. 99-0156, City of San Diego, dated April 30, 1999, on file in the office of Planning and Development Review). The environmental site assessment found that the project would not create any additional health hazards or increase the exposure of people to additional health hazards.

Before the issuance of a grading permit the applicant must show proof that any required remediation for Hazardous Materials has been started or that the project is currently in compliance according to the County of San Diego's Environmental Health Department (CEHD). Documentation shall be in the form of a letter from CEHD stating that the proposed project shall not have a significant effect on the environment as it relates to Human Health/Public Safety concerns and that the above requirements have been fulfilled. CEHD at its discretion, may break down the remediation requirements into that portion which is currently feasible and/or required to ensure that the new land use shall not create a significant health impact to employees or patrons of the development, and another portion which is not immediately feasible and/or deferrable.

Geology/Soils

The geotechnical consultant must evaluate the stability of the existing slopes and their potential impact to the project as a condition of the grading permit.

Where retaining walls are proposed at the toe or encroaching on ascending slopes, recommended provisions for drainage, slough debris catchment and clean out of accumulated debris behind the walls must be shown on the grading plans.

The above mitigation monitoring and reporting program will require an additional deposit of \$1,275 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.