

RESOLUTION NUMBER R-295385

ADOPTED ON AUG 7 - 2001

WHEREAS, on July 30, 1999, Sea Breeze Investments, LLC, submitted an application to the City of San Diego for a Tentative Map and Street Vacation, a Planned Development Permit/Resource Protection Ordinance Permit, Multiple Habitat Planning Area Boundary Adjustment for the Duck Pond Ranch 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 City Council on AUG 7 - 2001; and

WHEREAS, the City Council considered the issues discussed in Findings to Master Environmental Impact Report [EIR], LDR No. 99-0729 (Findings to Master EIR No. 95-0353, Master EIR SCH No. 93071097); NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that it is certified that Findings to Master Environmental Impact Report [EIR], LDR No. 99-0729 (Findings to Master EIR No. 95-0353, Master EIR SCH No. 93071097), on file in the office of the City Clerk, has been completed in compliance with the California Environmental Quality Act of 1970 (Cal. Pub. Res. Code § 21000 et seq.), as amended, and the State guidelines thereto (Cal. Code Regs. § 15000 et seq.), that the report reflects the independent judgment of the City of San Diego as Lead Agency and that the information contained in said 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 Duck Pond Ranch project.

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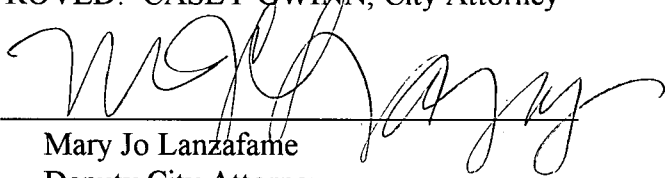
BE IT FURTHER RESOLVED, that pursuant to California Public Resources Code section 21157.1 and California Code of Regulations section 15177, the Council finds that the Duck Pond Ranch project is a subsequent project to the Del Mar Mesa Specific Plan Master Environmental Impact Report (LDR No. 95-0353) and no additional significant environmental effect will result from the Duck Pond Ranch proposal, no new additional mitigation measures or alternatives may be required beyond those included in the Master Environmental Impact Report, and that the project is within the scope of the project covered by Master Environmental Impact Report No. 95-0353.

BE IT FURTHER RESOLVED, that pursuant to California Public Resources Code section 21081.6, the City Council adopts the project specific 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.

BE IT FURTHER RESOLVED, that the City Clerk is directed to file a Notice of Determination [NOD] with the Clerk of the Board of Supervisors for the County of San Diego regarding the above project.

APPROVED: CASEY GWINN, City Attorney

By


Mary Jo Lanzafame
Deputy City Attorney

MJL:lc
07/23/01
Or.Dept:Dev.Svcs.
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EXHIBIT A

**MITIGATION MONITORING AND REPORTING PROGRAM
for
DUCK POND RANCH**

**Tentative Map and Street Vacation; Planned Residential Development/Resource
Protection Ordinance Permit No. 99-0729,
and Multiple Habitat Planning Area Boundary Adjustment
LDR NO. 99-0729**

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 Findings to Master Environmental Impact Report [EIR], LDR No. 99-0729 (Findings to Master EIR No. 95-0353, Master EIR SCH No. 93071097) shall be made conditions of the [Tentative Map and Street Vacation, Planned Residential Development/Resource Protection Ordinance Permit, including the Multiple Habitat Planning Area Boundary Adjustment, as may be further described below.

General Measures

1. Prior to issuance of any grading permits, the owner/permittee shall deposit \$3,200.00 with the Environmental Analysis Section (EAS) of the Development Services Department to cover the City's costs associated with ensuring the implementation of the Mitigation, Monitoring and Reporting Program (MMRP).
2. Prior to issuance of any grading permits, the Environmental Review Manager (ERM) of the City's Land Development Review Division (LDR) shall verify that the following statement is shown on the grading and/or construction plans as a note under the heading, *Environmental Requirements*: "The Duck Pond Ranch Project is subject to a Mitigation Monitoring and Reporting Program and shall conform to the mitigation conditions as contained in the environmental document Findings to Master EIR (LDR No. 99-0729). The project is conditioned to include the monitoring of grading operations by a biologist, an archaeologist, and a paleontologist, as detailed in said document."
3. Prior to issuance of any grading permits, the owner/permittee shall make arrangements to schedule a pre-construction meeting to ensure implementation of the MMRP. The

meeting shall include the Resident Engineer, the monitoring biologist, archaeologist, and paleontologist, and staff from the City's Mitigation Monitoring Coordination Section.

Transportation/Circulation

4. Prior to the issuance of the first building permit, the project shall conform to the Del Mar Mesa/Subarea V Specific Plan, Transportation Phasing Plan and Public Facilities Financing Plan, to the satisfaction of the City Engineer.
5. Prior to recordation of the first final map, the applicant/permittee shall assure, by permit and bond, the construction of Carmel Mountain Road as a two lane modified collector street, to the satisfaction of the City Engineer.

Biological Resources

6. Prior to the issuance of any grading permits, the owner/permittee shall record a Covenant of Easement over all portions of the Multi-Habitat Planning Area (MHPA) which fall within the boundaries of lots 7-11 as shown on the approved Exhibit A. The easement shall name the U.S. Fish & Wildlife Service and California Department of Fish & Game as third party beneficiaries and specify that no clearing, grubbing, grading or disturbance of the vegetation shall occur within the area.
7. Prior to the issuance of any grading permits, the owner/permittee shall dedicate in fee title to the City lot 15 (Urban Amenity Lot, 0.6-acre) and lot 16 (Open Space Lot, 10.2-acres) as shown on the approved Exhibit A.
8. Prior to the issuance of any grading permits and/or the first pre-construction meeting, the owner/permittee shall provide a letter to the ERM of LDR verifying that a qualified biologist has been retained to implement the biological resources mitigation program as detailed below (see A through G):
 - A. The qualified biologist (project biologist) shall attend the first preconstruction meeting.
 - B. The project biologist shall supervise the placement of orange construction fencing or equivalent along the limits of disturbance within and surrounding sensitive habitats as shown on the approved Exhibit A.
 - C. All construction activities (including staging areas) shall be restricted to the development area as shown on the approved Exhibit A. The project biologist shall monitor construction activities as needed to ensure that construction activities do not encroach into biologically sensitive areas beyond the limits of disturbance as shown on the approved Exhibit A.

- D. The project biologist shall monitor the placement of gravel bags, straw logs, silt fences or equivalent erosion control measures adjacent to all graded areas, and identify locations where trench spoil may be stockpiled in order to prevent sedimentation of the habitat. The project biologist shall oversee implementation of Best Management Practices as needed to prevent any significant sediment transport.
- F. If construction occurs during the breeding season of the California gnatcatcher, March 1st to August 15th, the following measures shall be implemented:
- a) Prior to the commencement of grading, the project biologist shall survey those areas of the Multi-Habitat Planning Area (MHPA) within 500 feet of any construction activity in accordance with the USFWS protocol for determining the presence/absence of gnatcatchers and shall notify the ERM of LDR of the results.
 - b) If no California gnatcatchers are found to be present, then no additional measures are required.
 - c) If it is determined that California gnatcatchers are present, construction operations shall be suspended or noise/line of sight barrier(s) shall be constructed to buffer noise at the edge of the occupied habitat. The location of any such barrier(s) shall be determined by the project biologist.
 - d) Construction noise shall be monitored by an acoustical expert on an ongoing basis to verify that noise at the edge of gnatcatcher occupied areas of the MHPA is maintained below an hourly average of 60 dB(A). If the level is exceeded, additional measures, such as restrictions on the simultaneous use of equipment, shall be implemented to the satisfaction of the ERM of LDR. If such measures are not effective, construction activities shall cease in all areas where such activities would result in excessive noise levels at the edge of gnatcatcher occupied portions of the MHPA.
 - e) Monthly letter reports shall be provided by the monitoring biologist to the ERM of LDR documenting the results of noise monitoring and an assessment of the breeding/nesting behavior of the gnatcatchers.
- G. The qualified biologist shall assure that all construction taking place within and adjacent to the MHPA is consistent with the Multiple Species Conservation Program (MSCP) Land Use Adjacency Guidelines including:
- a) All required lighting adjacent to the MHPA shall be shielded, unidirectional, low pressure sodium illumination (or similar) and directed away from preserve areas

using appropriate placement and shields.

- b) No new, exotic, invasive species shall be utilized in, or adjacent to the MHPA. All non-irrigated hydroseeded revegetation areas and areas adjacent to the MHPA shall consist of native or non-invasive species to the satisfaction of the ERM of LDR. A list of invasive plants to be prohibited in all future landscaping shall be developed by the project biologist and submitted to the ERM of LDR for review and approval. The approved list shall be incorporated in the Conditions, Covenants and Restrictions (CCRs) of the Duck Pond Ranch Residential Project.
 - c) No direct drainage into the MHPA shall occur during and after construction. The biologist shall ensure that filtration devices, swales or detention basins are used as needed during construction.
 - d) No trash, oil, parking, or other construction-related activities shall be allowed outside the established limits of disturbance.
9. Prior to the issuance of any grading permits, the owner/permittee shall submit to the ERM of LDR evidence of compliance with Section 401 of the federal Clean Water Act. Evidence shall include either copies of the permits issued, letters of resolution issued by the responsible agencies documenting compliance, or other evidence which demonstrates that the required permit has been obtained.

Hydrology/Water Quality

10. Prior to issuance of any grading permits, the Environmental Review Manager of Land Development Review (ERM of LDR) shall verify that the following measures have been incorporated into the grading and/or landscaping plans and/or project design as appropriate:

Hydrology/Water Quality

Construction Phase (Short Term Mitigation Measures)

- A. Prior to issuance of any grading permits, development of this project shall comply with all requirements of the State Water Resources Control Board (SWRCB) Order No. 92-08-DWQ (NPDES General Permit No. CAS000002), Waste Discharge Requirements for Discharges of Storm Water Runoff Associated With Construction Activity. In accordance with said permit, a Storm Water Pollution Prevention Plan (SWPPP) and a Monitoring Program Plan shall be developed and implemented concurrently with the commencement of grading activities, and a complete and accurate Notice of Intent (NOI) shall be filed with the SWRCB.

Prior to issuance of any grading permits, 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; further, a copy of the completed NOI from the SWRCB showing the permit number for this project shall also be filed with the City of San Diego.

In addition, the permittee/owner(s) and subsequent permittee/owner(s) of any portion of the property covered by this grading permit and by SWRCB Order No. 92-08-DWQ, and any subsequent amendments thereto, shall comply with special provisions as set forth in Section C.7 of SWRCB Order No. 92-08-DWQ.

- B. The SWPPP shall identify all applicable erosion control devices to be used during construction. These may include (but may not be limited to) earthen berms, gravel bags, silt fences, temporary storm drains, desilting basins, energy dissipating devices, bladed swales, geotextile mats, plastic sheeting, and hydroseeding or other vegetation and irrigation practices. The SWPPP and grading plan shall include a drainage system which provides for implementation of Best Management Practices (BMPs) on-site to reduce construction phase runoff of pollutants into Los Peñasquitos Lagoon and other waters. Such BMPs must fulfill the intent of City Clerk Document No. 00-17068, "Erosion Control Measures for North City Areas Draining Into Los Peñasquitos or San Dieguito Lagoons" and Section 62.0419 "Protecting Water Quality in Coastal Lagoons" (City of San Diego Municipal Code).
- C. Grading plans shall clearly identify the type and location of erosion control devices to preclude any potential erosion impacts to the sensitive habitats to be preserved within and adjacent to the project footprint as shown on the approved Exhibit A.
- E. Prior to issuance of any grading permits, the owner/permittee shall provide a letter to the ERM of LDR verifying that a qualified biologist has been retained to monitor grading activities (and ensure implementation of water quality measures as needed) adjacent to the sensitive habitat to be preserved, as shown on the approved Exhibit A.
- F. The SWPPP shall include a site plan on which the grading footprint (development area) is identified as shown on the approved Exhibit A. All construction activities (including staging areas) shall be restricted to the development area. Specified vehicle fueling, maintenance procedures and hazardous materials storage areas shall be clearly designated to preclude the discharge of hazardous materials used during construction (e.g., fuels, lubricants and solvents). The SWPPP shall include measures to preclude spills and provide for the containment of any hazardous materials, including proper handling and disposal techniques and the use of temporary impervious liners to prevent soil and water contamination.
- G. The owner/permittee shall hydroseed all applicable areas within 90 days of completion

of grading activities with appropriate ground cover vegetation (e.g., use of native or noninvasive plants) to the satisfaction of the ERM of LDR in conformance with the requirements of the City's *Landscape Standards*.

Hydrology/Water Quality

Post-Construction/Operational (Long Term Mitigation Measures)

11. Prior to issuance of any grading permits, the Environmental Review Manager of Land Development Review (ERM of LDR) shall verify that the type and location of post-construction Best Management Practices (BMPs) are clearly identified on the site plan(s). All site runoff shall be routed through grass-lined swales (or equivalent structural BMPs) prior to flowing into the natural draw (to the west and south of the site) and/or conveyance into the public drainage system. All surface runoff shall be filtered/treated for removal of sediment, constituents absorbed by sediment, and oil/grease prior to leaving the site.
12. Prior to issuance of the Certificate of Occupancy, the following mitigation measures shall be incorporated into project design to the satisfaction of the ERM of LDR and the City Engineer:
 - A. A detention basin shall be constructed within lot 17 as shown on the approved Exhibit A.
 - B. All project-related drainage structures shall be adequately sized to accommodate at a minimum a 50-year flood event (provisions for other storm events may be required pursuant to direction from the City Engineer).
 - C. Surface and subsurface drainage shall preclude ponding outside of designated areas and sheet flow down slopes.
 - D. Energy-dissipating structures (e.g., detention ponds, rip rap, or drop structures) shall be used at storm drain outlets, drainage crossings, and/or downstream of all drainage channels to reduce velocity and prevent erosion.
13. Prior to issuance of any certificates of occupancy, the owner/permittee shall submit a Monitoring and Maintenance Program to assure long-term maintenance responsibility of all private drainage facilities, including detention basins and all structural and non-structural BMPs. The Monitoring and Maintenance Program shall be subject to the approval of the ERM of LDR. The Monitoring and Maintenance Program shall include a schedule for the regular maintenance of all private drainage facilities and permanent BMPs.

Landform Alteration/Visual Quality

14. Prior to issuance of any grading permits, the ERM of LDR shall verify that the grading plans identify contour grading techniques on manufactured slopes abutting the MHPA, in conformance with the approved Exhibit A. The grading and landscape plans shall include cross sections along the manufactured slopes within the southwestern portion of lot 12 to the satisfaction of the ERM of LDR, in order to evaluate compliance with the approved Exhibit A. Retaining walls along the southwestern slopes of lot shall be also identified in the grading and landscape plans and pertinent cross sections and shall conform to the approved Exhibit A to the satisfaction of the ERM of LDR.

Historical Resources (Archaeology)

15. Prior to issuance of any grading permits, the applicant/permittee shall provide a letter of verification to the ERM of LDR stating that a qualified archaeologist, as defined in the City of San Diego Historical Resources Guidelines, has been retained to implement the monitoring program. A second letter shall be submitted to Mitigation Monitoring Coordination (MMC) staff at least thirty days prior to the preconstruction meeting and shall include the names of all persons involved in the archaeological monitoring of this project.
16. Prior to the issuance of any grading permits, the ERM shall verify that the requirement for archaeological monitoring has been noted on the grading plans.
17. Prior to beginning construction (any work on site), the owner/permittee shall arrange a preconstruction meeting that shall include the monitoring archaeologist, construction manager or grading contractor, City field engineer assigned to the project and MMC staff. The monitoring archeologist shall attend any grading-related preconstruction meetings to make comments and/or suggestions concerning the archeological monitoring program with the construction manager and/or grading contractor.

At the preconstruction meeting, the archaeologist shall submit to MMC staff a copy of the site/grading plan (reduced to 11x17) that identifies areas to be monitored. The archaeologist also shall submit a construction schedule indicating when monitoring is to occur. The archaeologist shall notify MMC staff of the start and end of monitoring.

18. The project archaeologist shall be present full-time during grading/excavation of the areas to be monitored in accordance with the report, *Archaeological Resources Inventory and Testing for the Levitt Del Mar Mesa Property* (Wade 2000), on file at the offices of LDR. The project archaeologist shall document monitoring activity via the Consultant Site Visit Record. This record shall be faxed to the City field engineer and MMC staff each month.

In the event of a discovery, and when requested by the archaeologist, the resident engineer shall divert, direct or temporarily halt ground disturbing activities in the area of discovery to allow for preliminary evaluation of potentially significant archaeological resources. The archaeologist shall also immediately notify MMC staff of such finding at the time of discovery. MMC staff will provide appropriate LDR staff contact for consultation.

The significance of the discovered resources shall be determined by the archaeologist in consultation with LDR and the Native American community, if applicable. LDR must concur with the evaluation before grading activities are allowed to resume. For significant archaeological resources, a Research Design and Data Recovery Program shall be prepared and carried out to mitigate impacts before ground disturbing activities in the area of discovery will be allowed to resume.

19. If human remains are discovered, work shall halt in that area and procedures set forth in the California Public Resources Code (Sec. 5097.98) and State Health and Safety Code (Sec. 7050.5) shall be followed by the archaeological monitor after notification to the County Coroner. If Native American remains are present, the County Coroner will contact the Native American Heritage Commission to designate a Most Likely Descendant, who will arrange for the dignified disposition and treatment of the remains. Ground disturbing activities shall be allowed to resume in the area of discovery upon completion of the above requirements to the satisfaction of the ERM of LDR.
20. The archaeologist shall be responsible for ensuring that all cultural remains collected are cleaned, catalogued, and permanently curated with an appropriate institution; that a letter of acceptance from the curation institution has been submitted to MMC; that all artifacts are analyzed to identify function and chronology as they relate to the history of the area; that faunal material is identified as to species; and that specialty studies are completed as appropriate.
21. Prior to the release of the grading bond, two copies of a monitoring results report (even if results are negative) and/or evaluation report, if applicable, which describes the results, analysis, and conclusions of the archaeological monitoring program (with appropriate graphics) shall be submitted to MMC staff for approval by the ERM of LDR. An additional copy of the report shall be submitted to the City field engineer.
22. For significant archaeological resources encountered during monitoring, the Research Design And Data Recovery Program shall be included as part of the final evaluation monitoring report. Two copies of the final monitoring report for significant archaeological resources, if required, shall be submitted to MMC for approval by the ERM of LDR. An additional copy of the Program report shall be submitted to the City field engineer.
23. The archaeologist shall be responsible for recording (on the appropriate State of California

Department of Park and Recreation forms - DPR 523 A/B) any significant or potentially significant resources encountered during the archaeological monitoring program in accordance with the City's Historical Resources Guidelines, and submittal of such forms to the South Coastal Information Center at San Diego State University along with a copy of the final monitoring results report.

Paleontological Resources

24. Prior to issuance of the first grading permit, the owner/permittee shall provide a letter of verification to the ERM of LDR demonstrating that a qualified paleontologist as defined in the City of San Diego Paleontological Guidelines, has been retained to implement the monitoring program. A copy of the letter shall be submitted to Mitigation Monitoring Coordination (MMC) staff of LDR at least thirty days prior to the preconstruction meeting and shall include the names of all persons involved in the paleontological monitoring of this project.
25. Prior to the issuance of any grading permits, the ERM of LDR shall verify that the requirement for paleontological monitoring has been noted on the grading plans.
26. Prior to the commencement of any construction activities, the owner/permittee shall arrange a preconstruction meeting which includes the paleontologist, construction manager or grading contractor, resident engineer (RE), and MMC staff. The qualified paleontologist shall attend any grading-related preconstruction meetings to make comments and/or suggestions concerning the paleontological monitoring program with the construction manager and/or grading contractor. At the preconstruction meeting the paleontologist shall submit to MMC a copy of the site/grading plan (reduced to 11x17 inches) that identifies areas to be monitored. The paleontologist also shall submit a construction schedule indicating when monitoring is to occur. The paleontologist shall notify MMC staff of the start and end of monitoring.
27. In the event of a significant paleontological discovery, and when requested by the paleontologist, the city resident engineer (RE) shall divert, direct, or temporarily halt construction activities in the area of discovery to allow recovery of fossil remains. The determination of significance shall be at the discretion of the qualified paleontologist. The paleontologist with principal investigator (PI) level evaluation responsibilities shall also immediately notify MMC staff of such finding at the time of discovery. MMC staff will provide information regarding appropriate LDR staff contact for consultation.
28. The paleontologist shall be responsible for preparation of fossils to a point of curation and submittal of a letter of acceptance from a local qualified curation facility as defined by the City of San Diego Paleontological Guidelines. If the fossil collection is not accepted by a local qualified facility for reasons other than inadequate preparation of specimens, the

project paleontologist shall contact LDR to suggest an alternative disposition of the collection.

29. The paleontologist shall be responsible for the recordation of any discovered fossil sites at the San Diego Natural History Museum.
30. Prior to the release of the grading bond, two copies of the monitoring results report which describes the results, analysis, and conclusions of the above monitoring program (with appropriate graphics) shall be submitted to MMC for approval by the ERM of LDR. A copy of the monitoring report shall be forwarded to the City field engineer assigned to the project. The reports shall be submitted even if the monitoring program yields no findings.

Public Facilities and Services

Schools

31. Prior to the recordation of the first Final Map, the owner/permittee shall provide verification to the ERM demonstrating that impacts to the Del Mar Union School District have been mitigated through payment of school mitigation costs and/or participation in a Mello-Roos Community Facilities District.

Libraries

32. Prior to the recordation of the first Final Map, the owner/permittee shall provide to the ERM verification of payment of the development impact fee to provide for fair-share funding of a new branch library in the NCFUA.

Water Service Infrastructure

33. Prior to the issuance of any grading permits, the owner/permittee shall assure, by permit and bond, the design and construction of public water facilities necessary to provide service to the Duck Pond Ranch development in a manner satisfactory to the Water Department Director and the City Engineer.

Sewer Service Infrastructure

34. Prior to the issuance of any grading permits, the owner/permittee shall submit a sewer study satisfactory to the Metropolitan Wastewater Department Director. The owner/permittee shall install all facilities, as required by the accepted sewer study, necessary to serve the proposed development. The owner/permittee shall construct the Duck Pond Ranch project fair share of the Carmel Valley Trunk Sewer, as identified in the Del Mar Mesa Facilities Financing Plan.

Fire Department Services

35. Prior to issuance of any building permits, the owner/permittee shall demonstrate to the satisfaction of the ERM of LDR that a Fire department response time of six minutes to all portions of the new developments can be achieved.
36. For those areas of the developments where a six-minute response time cannot be ensured, the ERM of LDR shall verify that individual sprinkler systems have been installed in project structures to the satisfaction of the Fire Marshall, prior to the issuance of any certificates of occupancy. Prior to recordation of the first Final Map, the City Fire Department shall determine whether a first response can be provided on the project site within six minutes. Mitigation measures in the form of individual sprinkler systems and/or construction/site design safeguards shall be required if a six-minute response cannot be provided at the time of future development.

Public Safety

37. Prior to issuance of the certificates of occupancy, the owner/permittee shall provide a letter from the County Environmental Health Department Vector Surveillance and Control Division to the ERM of LDR verifying that a vector control program has been designed and is satisfactory.
38. Prior to issuance of any certificates of occupancy, the provision of the Vector Control Program elements and incorporation into project design as necessary shall be verified to the satisfaction of the ERM of LDR.