

RESOLUTION NUMBER R- 296201

ADOPTED ON MAR 19 2002

WHEREAS, on May 4, 2000, Del Mar Land Management, Inc., and Gondor Investments, LLC, submitted an application to the City of San Diego for a Vesting Tentative Map; Planned Development Permit, Site Development Permit, and Multiple Habitat Planning Area Boundary Adjustment; and a Rezone for the Torrey Highlands 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 MAR 19 2002; and

WHEREAS, the City Council considered the issues discussed in Mitigated Negative Declaration, LDR No. 40-0315; NOW, THEREFORE,

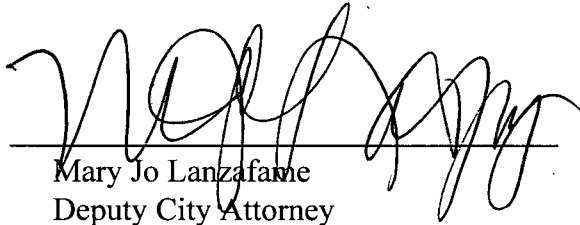
BE IT RESOLVED, by the Council of the City of San Diego, that it is certified that Mitigated Negative Declaration, LDR No. 40-0315, on file in the office of the City Clerk, has been completed in compliance with the California Environmental Quality Act of 1970 (California Public Resources Code section 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 Highlands project.

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

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

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

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03/04/02  
Or.Dept:Dev.Svcs.  
R-2002-1155  
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## EXHIBIT A

### MITIGATION, MONITORING AND REPORTING PROGRAM (MMRP)

#### TORREY HIGHLANDS, VESTING TENTATIVE MAP/REZONE/SITE DEVELOPMENT PERMIT/PLANNED DEVELOPMENT PERMIT/MHPA BOUNDARY ADJUSTMENT LDR No. 40-0315

This Mitigation, Monitoring, and Reporting Program is designed to ensure compliance with Public Resources Code (PRC) 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. 40-0315) shall be made conditions of VESTING TENTATIVE MAP/REZONE/SITE DEVELOPMENT PERMIT/PLANNED DEVELOPMENT PERMIT/MHPA BOUNDARY ADJUSTMENT as may be further described below.

#### General

1. Prior to the issuance of the first grading permit, the applicant shall submit a deposit of \$2,500 to the Environmental Analysis Section to cover the City's costs associated with the implementation of this MMRP.

#### Biological Resources

1. Prior to the recordation of the first final map, impacts to sensitive biological resources shall be mitigated in part by the recordation of a boundary adjustment to the Multi-Habitat Planning Area (MHPA) with the removal of 2.22 acres of habitat from the MHPA along the southern portion of the site, and adding 2.22 acres to the MHPA in Otay Mesa. The 2.22 acres to be removed consists of 0.49 acres of coastal sage scrub ( a Tier II habitat) and 1.73 acres of non-native grassland (a Tier III B habitat). The add-in area selected for inclusion in the MHPA in Otay Mesa consists of 2.22 acres of maritime succulent scrub (a Tier I habitat).
2. Prior to the issuance of the first final map and/or issuance of the first grading permit, the City Manager shall verify that impacts to sensitive biological resources has been mitigated through the following methods:

- A. Four separate areas ranging in size from 0.24 acres to 1.25 acres have been added to the MHPA as described in the *Torrey Highlands Employment Center Biological Technical Report*. These additions include 0.95 acres of Diegan coastal sage scrub, 0.21 acres of non-native grassland, and 1.24 acres of ruderal habitat; and
  - B. Retention of 0.96 acres of MHPA land (0.79 acres of coastal sage scrub and 0.17 acres of non-native grassland) within the Employment Center site; and
  - C. Acquisition of 6.41 acres of non-native grassland within the MHPA within Subarea IV or acquisition of 12.82 acres of non-native grassland within the MHPA outside of Subarea IV.
3. Prior to the issuance of any grading permits and/or the first pre-construction meeting, the owner/permittee shall provide a letter to the Assistant Deputy Director (ADD) of Land Development Review (LDR) verifying that a qualified biologist has been retained to implement the biological mitigation measures as outlined below:
- A. If construction occurs during the breeding season of the California gnatcatcher, March 1 through August 15, the following measures shall be implemented:
    - i) 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 ADD of the results.
    - ii) If no California gnatcatchers are found to be present, then no additional measures are required.
    - iii) 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.
    - iv) 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 60 dB hourly average. If the level is exceeded, additional measures, such as

restrictions on the simultaneous use of equipment, shall be implemented to the satisfaction of the ADD. If such measures are not effective, construction activities shall cease in the area of occupied habitat within the MHPA.

- v) Monthly letter reports shall be provided to the ADD with the results of noise monitoring and an assessment of the breeding/nesting behavior of the gnatcatchers.
- B. The qualified biologist shall ensure 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:
- i) All 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.
  - ii) 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 ADD.
  - iii) No direct drainage into the MHPA shall occur during and after construction. The biologist shall ensure that filtration devices, swales, and/or detention basins are used as needed during construction.
  - iv) No trash, oil, parking, or other construction-related activities shall be allowed outside the established limits of construction-related activities.
- C) If removal of any eucalyptus trees within the proposed development area is proposed during the raptor breeding season (February 1 through September 15) the biologist shall ensure that no raptors are nesting in such trees. Should the biologist determine that raptors are nesting, the trees shall not be removed until after the breeding season.

## Land Use

1. Prior to the recordation of the first final map, impacts to land use shall be mitigated by the recordation of a boundary adjustment to the Multi-Habitat Planning Area (MHPA) with the removal of 2.22 acres of habitat from the MHPA along the southern portion of the site, and adding 2.22 acres to the MHPA in Otay Mesa. The 2.22 acres to be removed consists of 0.49 acres of coastal sage scrub (a Tier II habitat) and 1.73 acres of non-native grassland (a Tier III B habitat). The add-in area selected for inclusion in the MHPA in Otay Mesa consists of 2.22 acres of maritime succulent scrub (a Tier I habitat).

## Paleontological Resources

1. Prior to issuance of a Notice To Proceed (NTP), grading permit, or demolition permit (whichever occurs first), the applicant shall provide a letter of verification to the Assistant Deputy Director (ADD) of Land Development Review (LDR) stating 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 second letter shall be submitted to the Mitigation Monitoring Coordination (MMC) Section 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.
2. Prior to the issuance of the first grading permit, the ADD shall verify that the requirement for paleontological monitoring has been noted on the grading plans.
3. Prior to beginning construction (any work on site) the owner/permittee shall arrange a Preconstruction Meeting that shall include the Paleontologist, Construction Manager or Grading Contractor, Resident Engineer (RE), and MMC. 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) 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 of the start and end of monitoring.
4. The qualified paleontological monitor shall be present full-time during the initial cutting of previously undisturbed formations with high and moderate resource sensitivity and shall document activity via the Consultant Site Visit Record. This record shall be faxed to the RE and MMC each month. Monitoring may be decreased at the discretion of the qualified paleontologist, provided they contact

MMC and consult with appropriate EAS Staff. The decrease will depend on the rate of excavation, the materials excavated, and the abundance of fossils.

5. 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 appropriate LDR staff contact for consultation.
6. The paleontologist shall be responsible for preparation of fossils to a point of curation as defined by the City of San Diego Paleontological Guidelines, and submittal of a letter of acceptance from a local qualified curation facility. 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.
7. The paleontologist shall be responsible for the recordation of any discovered fossil sites at the San Diego Natural History Museum.
8. Prior to the release of the grading bond, two copies of the monitoring results report, with appropriate graphics, describing the results, analysis, and conclusions of the above monitoring program shall be submitted to MMC for approval by the ADD of LDR.

#### Noise

1. Prior to the issuance of the first building permit, the applicant shall submit a final acoustical report to the satisfaction of the City Manager. The City Manager shall verify that all measures identified in the approved report which are necessary to achieve noise levels of 70 dB(A) CNEL or lower for exterior usable spaces for offices, businesses and professional uses and 75 dB(A) CNEL or lower at exterior usable spaces for commercial, retail, and industrial uses. In addition, the approved report must identify measures to reduce noise levels at exterior usable spaces of residential uses, including hotels and motels, to 65 dB(A) CNEL or lower.

#### Hydrology/Water Quality

1. 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) and the owner/permittee shall submit evidence to the satisfaction of the ADD of LDR that a Clean Water Act Section 401 Water Quality Certification from the RWQCB has been obtained. In accordance with said permit(s), 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. A Dewatering Discharge Permit (NPDES No. CA1018804) shall be obtained for the removal and disposal of groundwater (if necessary) encountered during construction. Discharge under this permit will require compliance with a number of physical, chemical, and thermal parameters (as applicable), along with pertinent site-specific conditions, pursuant to direction from the RWQCB.
- C. 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.
- D. 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 (including wetlands) 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 ADD 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. The project biologist shall also be responsible for the



monitoring of any other grading activities (and ensure implementation of water quality measures as needed) adjacent to off-site sensitive habitats, 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 of this or other fully permitted project. 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 ADD of LDR in conformance with the City's *Landscape Standards*. Permanently irrigated slopes shall be maintained for a minimum period of 90 days and non-permanently irrigated areas shall be maintained for a minimum period of 25 months, to the satisfaction of the City Manager. Re-vegetated areas shall be inspected monthly by a qualified biologist/landscape architect until vegetation is considered to have established to the satisfaction of the City Manager.

2. Hydrology/Water Quality: Post-Construction/Operational (Long-Term Mitigation Measures)

- A. Prior to the issuance of any grading permits, the Assistant Deputy Director of Land Development Review (ADD of LDR) shall verify that the site plan clearly identifies the type and location of post-construction Best Management Practices (BMPs) are clearly identified on the site plan(s). All runoff shall be routed through catch basin filter inserts or equivalent structural BMPs prior to flowing into the natural draw and/or conveyance into the public drainage system. All surface runoff shall be filtered/treated for removal of sediment, and oil/grease prior to leaving the site.
- B. Prior to the issuance of the first Certificate of Occupancy, the appropriate structural BMPs must be incorporated into the project design to the satisfaction of the ADD of LDR and the City Engineer.

Transportation/Traffic Circulation

1. Prior to the issuance of the first building permit, the project shall conform to the Torrey Highlands Subarea IV land use plan dated July 1996, the transportation phasing plan in the Public Facilities Financing Plan dated October 1996, and the final EIR/traffic study dated June 1996.
2. Prior to the recordation of the first final map, the applicant shall construct dual southbound right-turn lanes and a traffic signal at the intersection of Camino Ruiz and Street 'A', satisfactory to the City Engineer.
3. Prior to the recordation of the first final map, the applicant shall create a continuous driveway aisle connection between Lots 1 through 9, and Lot 10 through 18 on each side of Street 'A', satisfactory to the City Engineer.
4. Prior to the recordation of the first final map, the applicant shall construct the median on Street 'A' to allow left-turn in only serving Lots 5/6 and Lots 13/14, satisfactory to the City Engineer.
5. Prior to the recordation of the first final map, the applicant shall construct Camino Ruiz as a six-lane prime arterial along the project's frontage with a minimum curb-to-curb width of 115 feet to 135 feet, including a 14-foot wide median, curb, gutter, and a 5-foot right-of-way, satisfactory to the City Engineer.
6. Prior to the recordation of the first final map, the applicant shall construct Street 'A' as a modified four-lane urban collector with transition to two-lane collector with two-way left-turn lane. The applicant shall provide 64 feet of pavement, and 14 feet of median, curb, gutter, and a 5-foot sidewalk with a 15-foot curb to property line distance, within 108 feet of right-of-way, with transition to 52 feet of pavement within 82 feet of right-of-way, satisfactory to the City Engineer.
7. Prior to the recordation of the first final map, the applicant shall design the proposed project to accommodate the planned State Route 56, satisfactory to the City Engineer.
8. Prior to the recordation of the first final map, the applicant shall design the proposed bike trail for the planned SR 56, satisfactory to the City Engineer.
9. Prior to the recordation of the first final map, the applicant shall construct a traffic signal at the intersection of Street 'A' and the project's access satisfactory to the City Engineer.