

RESOLUTION NUMBER R- 297089

ADOPTED ON SEP 24 2002

WHEREAS, Del Mar Land Management submitted an application to the City of San Diego for an easement vacation, rezone, vesting tentative map, planned residential development permit and resource protection permit for the Fairbanks Country Villas 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 SEP 24 2002; and

WHEREAS, the City Council considered the issues discussed in Mitigated Negative Declaration LDR No. 99-0329; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that it is certified that Mitigated Negative Declaration LDR No. 99-0329, 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 Fairbanks Country Villas 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


fu Mary Jo Lanzafame
Deputy City Attorney

MJL:pev

8/27/02

Or.Dept:DSD

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EXHIBIT A

MITIGATION, MONITORING AND REPORTING PROGRAM (MMRP)

FAIRBANKS COUNTRY VILLAS, EASEMENT VACATION/REZONE/VESTING TENTATIVE MAP/ PLANNED RESIDENTIAL DEVELOPMENT PERMIT AND RESOURCE PROTECTION ORDINANCE PERMIT

LDR No. 99-0329

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. 99-0329) shall be made conditions of EASEMENT VACATION/REZONE/VESTING TENTATIVE MAP/ PLANNED RESIDENTIAL DEVELOPMENT PERMIT AND RESOURCE PROTECTION ORDINANCE PERMIT as may be further described below.

General

1. The mitigation monitoring and reporting program will require an additional \$3,200.00 deposit to be collected prior to the recordation of the first final map, issuance of grading permits/building permits, and/or certificates of occupancy to ensure the successful completion of the monitoring program.

Paleontological Resources

1. Prior to the recordation of the first final map, and/or issuance of a Notice To Proceed (NTP), grading permit, or demolition permit, 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 second letter shall be submitted to Mitigation Monitoring Coordination (MMC) 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 of LDR shall verify that the requirement for paleontological monitoring has been noted on the grading plans.

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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 indication 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 monitoring results reports (even if negative), that describe the results, analysis, and conclusions of the above monitoring program (with appropriate graphics) shall be submitted

to MMC for approval by the ADD of LDR and one copy sent to the RE.

Hydrology/Water Quality

1. Prior to the issuance of the first grading permit, the Assistant Deputy Director of Land Development Review (ADD 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), and the owner/permittee shall submit evidence to the satisfaction of the ADD of LDR. 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. 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

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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.

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

2. 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.
3. Prior to the issuance of the first Certificate of Occupancy, the following mitigation measures shall be incorporated into the project design to the satisfaction of the ADD of LDR and the City Engineer:
 - A. Grass-lined swales, detention basins, and rip-rap energy dissipaters shall be constructed to reduce (infiltrate) sediment and pollution in storm water prior to entering the public storm drain system. These BMPs shall be maintained as necessary by the property owner(s).
4. The subdivider shall show the type and location of all post-construction BMPs on the final construction drawings.
5. The subdivider shall prepare a report to be submitted with the final construction drawings addressing the BMPs maintenance schedule, maintenance costs, and who will be responsible for the future maintenance and associated costs. This report will also describe the types of pollutants that would be generated post-development, the pollutants to be captured by the BMPs, and the quality of the resultant discharge.

Biological Resources

1. 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. Acquisition of 0.84 acres of Diegan coastal sage scrub habitat (Tier II) within the MHPA of Subarea IV; or acquisition of 1.68 acres of Diegan coastal sage scrub within the MHPA outside of Subarea IV to mitigate for impacts to 0.84 acres of disturbed Diegan coastal sage scrub within the MHPA; and
 - B. Acquisition of 0.58 acres of non-native grassland habitat within the Subarea IV MHPA, not including within McGonigle Canyon; or

acquisition of 0.58 acres of higher Tier (I, II, or IIIA), native habitat within the McGonigle Canyon MHPA; or acquisition of 1.16 acres of non-native grassland within the MHPA outside of Subarea IV to mitigate for impacts to 0.58 acres of non-native grassland habitat within the MHPA; and

- C. Acquisition of 1.29 acres of Diegan coastal sage scrub habitat within the Subarea IV MHPA; or acquisition of 2.58 acres of Diegan coastal sage scrub within the MHPA outside of Subarea IV to mitigate for impacts to 1.29 acres of disturbed Diegan coastal sage scrub located outside the MHPA; and
 - D. Acquisition of 5.7 acres of non-native grassland habitat within the Subarea IV MHPA, not including McGonigle Canyon; or acquisition of 5.7 acres of higher Tier (I, II, or IIIA), native habitat within the McGonigle Canyon MHPA; or acquisition of 11.41 acres of non-native grassland habitat with the MHPA, outside of Subarea IV to mitigate for impacts to 11.41 acres of non-native grassland habitat outside of the MHPA; and
 - E. Acquisition of 0.47 acres of chamise chapparral within the Subarea IV MHPA or acquisition of 0.93 acres of chamise chapparral with the MHPA outside of Subarea IV to mitigate for impacts to 0.93 acres chamise chapparral outside of the MHPA; and/or
 - F. Payment into the City of San Diego's Habitat Acquisition Fund (Fund No. 10571) for a portion of the impacts may be accepted. The approximate cost per acre of mitigation land is \$45,000, and a 10% administrative fee would be added to the mitigation costs.
2. An additional amount of grading may occur off-site to the east of Unit 2 that would include 0.003 acres of coastal sage scrub, 1.16 acres of non-native grassland, and 0.04 acres of chamise chapparral, all located outside of the MHPA. This area is part of a site proposed for future development under a separate project. Whichever project is first permitted (grading permits approved) is responsible for mitigating impacts to those areas, at the appropriate mitigation levels and consistent with the Subarea IV EIR as described in the Initial Study.
3. Prior to the issuance of any grading permits, the owner/permittee shall quantify and mitigate impacts that may result from the construction of the sewer line connection. This sewer connection is to serve four proposed developments south of McGonigle Canyon, connecting to the existing trunk sewer in McGonigle Canyon. The first of the four projects to apply for and receive approved grading plans shall submit a biological resources

report quantifying the impacts to biological resources, and propose and provide mitigation for any impacts. Should this project not be the first to apply for and/or receive approved plans, the applicant shall submit to the ADD of LDR documentation that another owner/permittee has provided this report and mitigation.

4. 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.
- D. The applicant shall submit a detailed revegetation plan for the project prior to the issuance of the first grading plan. This plan shall include an annual monitoring program for five years or until the revegetation plan is satisfied. The annual monitoring report will be submitted by the applicant's consultant to the ADD of LDR. The ADD will determine when the revegetation plan has been satisfied in consultation with staff from MSCP.

Historical Resources: Archaeological

1. Any future development proposals within or adjacent to the currently mapped boundaries of site CA-SDI-5325 shall be proceeded by an adequate mitigation and data recovery plan in consultation with City of San

Diego staff.

Transportation/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 Carmel Valley Road as a four-lane major street with a minimum pavement width of 102 feet within 132 feet right-of-way along the project's frontage with appropriate transition to the east, satisfactory to the City Engineer.
3. Prior to the recordation of the first final map, the applicant shall construct a traffic signal at the intersection of Carmel Valley Road and the project's entry, satisfactory to the City Engineer.
4. Prior to the recordation of the first final map, the applicant shall construct Torrey Meadows Drive as a two-lane collector street with a minimum width of 40 feet, curb-to-curb, within 70 feet of right-of-way, then transition to a two-lane collector street with a two-way left-turn lane with 50 feet curb-to-curb within 80 feet of right-of-way, satisfactory to the City Engineer. The applicant shall provide an interim 50 foot curb-to-curb radius within 60 foot of right-of-way radius at the western end of Torrey Meadows Drive, satisfactory to the City Engineer.

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