

RESOLUTION NUMBER R- 297657

ADOPTED ON FEB 18 2003

WHEREAS, on August 20, 2001, the Vons Company submitted an application to the City of San Diego for a rezone and a planned development permit; 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 FEB 18 2003; and

WHEREAS, the City Council considered the issues discussed in Mitigated Negative Declaration LDR No. 41-0648; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that it is certified that Mitigated Negative Declaration LDR No. 41-0648, 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 a rezone and planned development permit for the Torrey Hills Center 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

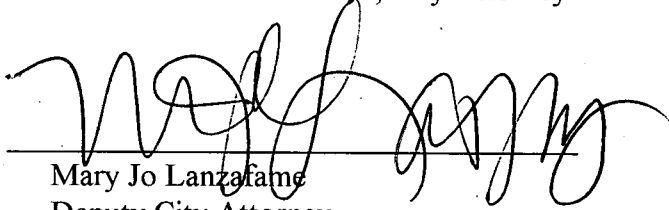
and therefore, that the Mitigated Negative Declaration, a copy of which is on file in the office of the City Clerk and incorporated by reference, is approved.

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

MJL:pev
1/9/03
Or.Dept:DSD
R-2003-898
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EXHIBIT A

MITIGATION MONITORING AND REPORTING PROGRAM TORREY HILLS CENTER REZONE AND PLANNED DEVELOPMENT PERMIT NO. 1119 LDR NO. 41-0648

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. 41-0648) shall be made conditions of the Rezone and Planned Development Permit No. 1119 as may be further described below.

General Measures

1. After project approval and prior to the recordation of any permits, the owner/permittee shall deposit \$3,200.00 with the Development Project Manager 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 Torrey Hills Center Project is subject to a Mitigation Monitoring and Reporting Program and shall conform to the mitigation conditions as contained in MND (LDR No. 41-0648)."
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 (RE) and staff from the City's Mitigation Monitoring Coordination (MMC) Section.

Biological Resources

4. Prior to the issuance of any grading permits, the permittee shall preserve 0.145 acres of Tier IIIA or better habitat inside the MHPA, or preserve 0.29 acres outside the MHPA to the satisfaction of the City ERM. In lieu of direct acquisition, payment into the City's Habitat Acquisition Fund in the sum of \$6,3805 (0.145 acres x 45,000 per acre + 580 (10% administration fee)) is also acceptable.
5. Prior to the issuance of any grading permits and/or the first pre-construction meeting, the owner/permittee shall submit evidence 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 D):

- 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. All unauthorized encroachments shall be reported and mitigated in accordance with the City's Biological Review References (November 2000), to the satisfaction of the ERM.

Hydrology/Water Quality

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

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. 99-08-DWQ (NPDES General Permit No. CAS000002), Waste Discharge Requirements for Discharges of Storm Water Runoff Associated With Construction Activity. A Storm Water Pollution Prevention Plan (SWPPP) and Monitoring Program Plan shall be developed and implemented concurrently with the commencement of grading activities satisfactory to the City Engineer. 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. 99-08-DWQ, and any subsequent amendments thereto, shall comply with special provisions as set forth in Section C.7 of SWRCB Order No. 99-08-DWQ.

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).

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.

- B. Prior to issuance of any grading permit, the 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.
- C. Prior to issuance of any grading permits, the owner/permittee shall provide a letter to the ERM of LDR verifying that a qualified specialist (e.g. biologist, or water quality engineer) has been retained stake/fence sensitive areas, monitor grading activities, and supervise implementation of water quality measures needed in and adjacent to sensitive habitat to be preserved, as shown on the approved Exhibit A.
- D. Prior to issuance of any building permits the following shall be confirmed to have occurred by MMC reporting to EAS:
 - (1) The owner/permittee shall hydroseed all applicable areas within 30 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.

Post-Construction/Operational (Long Term Mitigation Measures)

- 7. Prior to issuance of any grading permits, the 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 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.

8. Prior to issuance of any Certificates 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. 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). No structures shall be located on public property.
 - B. Surface and subsurface drainage shall preclude ponding outside of designated areas and sheet flow down slopes.
 - C. 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. No structures shall be located on public property.
9. Prior to issuance of any Certificates of Occupancy, the owner/permittee shall submit a Monitoring and Maintenance Program satisfactory to the City Engineer, addressing long-term maintenance 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, and shall identify the entity responsible for doing the maintenance.

Paleontological Resources

Prior to preconstruction (precon) meeting

10. Land Development Review (LDR) Plan Check - Prior to the issuance of a Notice to Proceed (NTP) or any permits, including but not limited to, the first Grading Permit, Demolition Plans/Permits and Building Plans/Permits, the Environmental Review Manager (ERM) of LDR shall verify that the requirements for Paleontological Monitoring have been noted on the appropriate construction documents.
11. Letters of Qualification have been Submitted to ERM - Prior to the recordation of the first final map, NTP, and/or, including but not limited to, issuance of a Grading Permit, Demolition Permit or Building Permit, the applicant shall provide a letter of verification to the ERM of LDR stating that a qualified Archaeologist, as defined in the City of San Diego Paleontological Guidelines, has been retained to implement the monitoring program.

12. Second Letter Containing Names of Monitors has been sent to Mitigation Monitoring Coordination (MMC).
 - A. At least thirty days prior to the Precon Meeting, a second letter shall be submitted to MMC which shall include the name of the Principal Investigator (PI) and the names of all persons involved in the Paleontological Monitoring of the project.
 - B. MMC will provide Plan Check with a copy of both the first and second letter.
13. Records Search Prior to Precon Meeting - At least thirty days prior to the Precon meeting, the qualified Paleontologist shall verify that a records search has been completed, and updated as necessary, and be prepared to introduce any pertinent information concerning expectations and probabilities of discovery during trenching and/or grading activities. Verification includes, but is not limited to, a copy of a confirmation letter from the San Diego Natural History Museum, other institution, or, if the record search was in-house, a letter of verification from the PI stating that the search was completed.

Precon Meeting

14. Monitor Shall Attend Precon Meetings
 - A. Prior to beginning of any work that requires monitoring, the Applicant shall arrange a Precon Meeting that shall include the Paleontologist, Construction Manager and/or Grading Contractor, Resident Engineer (RE), Building inspector (BI), and MMC. The qualified Paleontologist shall attend any grading related Precon Meetings to make comments and/or suggestions concerning the Paleontological Monitoring Program with the Construction Manager and/or Grading Contractor.
 - B. If the Monitor is not able to attend the Precon Meeting, the RE, or BI as appropriate, will schedule a focused Precon Meeting for MMC, Monitors, Construction Manager and appropriate Contractor's representatives to meet and review the job on-site prior to start of any work that requires monitoring.
15. Identify Areas to be Monitored - At the Precon Meeting, the Paleontologist shall submit to MMC a copy of the site/grading plan (reduced to 11x17) that identifies areas to be monitored.
16. When Monitoring Will Occur - Prior to the start of work, the Paleontologist also shall submit a construction schedule to MMC through the RE, or BI, as appropriate, indicating when and where monitoring is to begin and shall notify MMC of the start date for monitoring.

During Construction

17. Monitor Shall be Present During Grading/Excavation - The qualified Paleontologist 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 (form). This record shall be faxed to the RE, or BI as appropriate, and MMC each month.

18. Discoveries
 - A. Minor Paleontological Discovery - In the event of a minor Paleontological discovery (small pieces of broken common shell fragments or other scattered common fossils) the Paleontologist shall notify the RE, or BI as appropriate, that a minor discovery has been made. The determination of significance shall be at the discretion of the qualified Paleontologist. The Paleontologist will continue to monitor the area and immediately notify the RE, or BI as appropriate, if a potential significant discovery emerges.

 - B. Significant Paleontological Discovery - In the event of a significant Paleontological discovery, and when requested by the Paleontologist, the city RE, or BI as appropriate, shall be notified and 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 coordinate with appropriate LDR staff.

19. Night Work
 - A. If night work is included in the contract
 - (1) When night work is included in the contract package, the extent and timing shall be presented and discussed at the precon meeting.

 - (2.) The following procedures shall be followed:
 - (a) No Discoveries
In the event that nothing was found during the night work, The PI will record the information on the Site Visit Record Form.

B. Minor Discoveries

- (1) All Minor Discoveries will be processed and documented using the existing procedures under 17A, with the exception that the RE will contact MMC by 9 A.M. the following morning.

C. Potentially Significant Discoveries

- (1) If the PI determines that a potentially significant discovery has been made, the procedures under 17B, will be followed, with the exception that the RE will contact MMC by 8 A.M. the following morning to report and discuss the findings.

D. If night work becomes necessary during the course of construction

- (1) The Construction Manager shall notify the RE, or BI, as appropriate, a minimum of 24 hours before the work is to begin.
- (2) The RE, or BI, as appropriate, will notify MMC immediately.

E. All other procedures described above will apply, as appropriate.

20. Notification of Completion - The Paleontologist shall notify MMC and the RE, or BI as appropriate, of the end date of monitoring.

Post Construction

21. The Paleontologist shall be responsible for preparation of fossils to a point of curation as defined by the City of San Diego Paleontological Guidelines.

A. Submit Letter of Acceptance from Local Qualified Curation Facility.

The Paleontologist shall be responsible for submittal of a letter of acceptance to ERM of LDR from a local qualified curation facility. A copy of this letter shall be forwarded to MMC.

B. If Fossil Collection is not Accepted, Contact LDR for Alternatives

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. MMC shall be notified in writing of the situation and resolution.

22. Recording Sites with San Diego Natural History Museum - The Paleontologist shall be responsible for the recordation of any discovered fossil sites at the San Diego Natural History Museum.
23. Final Results Report
 - A. Prior to the release of the grading bond, two copies of the Final Results Report (even if negative), which describes the results, analysis, and conclusions of the above Paleontological Monitoring Program (with appropriate graphics) shall be submitted to MMC for approval by the ERM of LDR.
 - B. MMC shall notify the RE or BI, as appropriate, of receipt of the Final Results Report.

Transportation/Circulation

24. Prior to issuance of the first building permit, the applicant shall widen to a minimum of 26' the inbound lanes from Carmel Mountain Road onto the project's main entrance and maintain two lanes along the entry for a distance of 160 feet, satisfactory to the City Engineer.
25. Prior to issuance of the first building permit, the applicant shall provide a 30' wide standard driveway on Ocean Air Drive, satisfactory to the City Engineer.
26. Prior to issuance of the first building permit, the applicant shall provide a southbound left-turn pocket on East Ocean Air Drive onto the project's entrance, satisfactory to the City Engineer.