

RESOLUTION NUMBER R- 298519

ADOPTED ON OCT 21 2003

WHEREAS, Otto Roppel, Owner and Permittee, submitted an application to the City of San Diego for a Planned Development Permit No. 11491 and Site Development Permit No. 5773 for the River Estates 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 October 21, 2003; and

WHEREAS, the City Council considered the issues discussed in Mitigated Negative Declaration No. 3339; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that it is certified that Mitigated Negative Declaration No. 3339, 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 River Estates project.

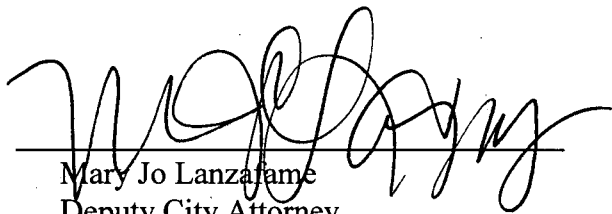
BE IT FURTHER RESOLVED, that the City Council finds that project revisions now mitigate potentially significant effects on the environment previously identified in the Initial

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 Lanza
Deputy City Attorney

MJL:cdk
09/09/03
Or.Dept:DSD
R-2004-306
Form=mndr.frm

EXHIBIT A

MITIGATION MONITORING AND REPORTING PROGRAM

River Estates

Community Plan Amendment / Rezone / Tentative Map / Site Development Permit /
Planned Development Permit and Lot Line Adjustment No. 3339

PTS No. 3339 / LDR No. 41-0268

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 Project No. 3339 (LDR No. 41-0268) shall be made conditions of Coastal Development Permit / Site Development Permit and Lot Line Adjustment No. 3339 as may be further described below.

General

1. After project approval by the Decisionmaker and prior to issuance of any discretionary approval(s), the applicant shall submit a deposit of \$900.00 to the Development Project Manager in Development Services Department to cover the City's costs associated with implementation of the Mitigation, Monitoring and Reporting Program (MMRP).

Paleontological Resources

Prior to preconstruction (precon) meeting

1. 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.
2. 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.
3. 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.

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4. **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

1. **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.
2. **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.
3. **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

1. **Monitor Shall be Present During Grading/Excavation**
 - a. 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.
2. **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.

3. 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
 - (1) 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 **During Construction 2. a.**, 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 **During Construction 2.b.**, 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.
 - b. 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.
 - c. All other procedures described above will apply, as appropriate.

4. Notification of Completion

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

Post Construction

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

1. 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.
2. 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.
3. 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.
4. 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.

Historical Resources (Archaeology)

Prior to Preconstruction (Precon) Meeting

1. **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 archaeological monitoring and Native American monitoring, if applicable, have been noted on the appropriate construction documents.
2. **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 Historical Resources Guidelines (HRG), has been retained to implement the monitoring program.
3. **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 Archaeological Monitoring of the project.
 - b. MMC will provide Plan Check with a copy of both the first and second letter.
4. **Records Search Prior to Precon Meeting**
At least thirty days prior to the Precon Meeting the qualified Archaeologist 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 South Coast Information Center, or, if the search was in-house, a letter of verification from the PI stating that the search was completed.

Precon Meeting

1. **Monitor Shall Attend Precon Meetings**
 - a. Prior to beginning any work that requires monitoring, the Applicant shall arrange a Precon Meeting that shall include the Archaeologist, Construction Manager and/or Grading Contractor, Resident Engineer (RE), Building Inspector (BI), if appropriate, and MMC. The qualified Archaeologist shall attend any grading related Precon Meetings to make comments and/or suggestions concerning the Archaeological 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, if appropriate, will schedule a focused Precon Meeting for MMC, EAS staff, as appropriate, 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.
2. **Identify Areas to be Monitored**
At the Precon Meeting, the Archaeologist shall submit to MMC a copy of the site/grading plan (reduced to 11x17) that identifies areas to be monitored as well as areas that may require delineation of grading limits.
3. **When Monitoring Will Occur**
Prior to the start of work, the Archaeologist shall also 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

1. **Monitor Shall be Present During Grading/Excavation**
The qualified Archaeologist shall be present full-time during grading/excavation of native soils and shall document activity via the Consultant Site Visit Record. This record shall be sent to the RE or BI, as appropriate, each month. The RE, or BI as appropriate, will forward copies to MMC.
2. **Discoveries**
 - a. **Discovery Process**
In the event of a discovery, and when requested by the Archaeologist, or the PI if the Monitor is not qualified as a PI, the RE or BI, as appropriate, shall be contacted and 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 PI shall also immediately notify MMC of such findings at the time of discovery. MMC will coordinate with appropriate LDR staff.
 - b. **Determination of Significance**
The significance of the discovered resources shall be determined by the PI in consultation with LDR and the Native American Community, if applicable. LDR must concur with the evaluation before grading activities will be allowed to resume. For significant archaeological resources, a Research Design and Data Recovery Program shall be prepared, approved by DSD and carried out to mitigate impacts before ground disturbing activities in the area of discovery will be allowed to resume.
3. **Human Remains**
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) as follows:
 - a. **Notification**
 - (1) Archaeological Monitor shall notify the RE or BI as appropriate, PI, if the Monitor is not qualified as a PI, and MMC. MMC will notify the appropriate Senior Planner in the Environmental Analysis Section (EAS).
 - (2) The PI shall notify the County Coroner after consultation with the RE, either in person or via telephone.
 - b. **Stop work and isolate discovery site**
 - (1) RE or BI, as appropriate, shall stop work immediately in the location of the discovery and any nearby area reasonably suspected to overlay adjacent human remains until a determination can be made by the County Coroner in consultation with the PI concerning the origin of the remains and the cause of death.
 - (2) The County Coroner, in consultation with the PI, shall determine the need for a field investigation to examine the remains and establish a cause of death.
 - (3) If a field investigation is not warranted, the PI, in consultation with the County Coroner, shall determine if the remains are of Native American origin.
 - c. **If Human Remains are Native American**
 - (1) The Coroner shall notify the Native American Historic Commission (NAHC).
(By law, **ONLY** the Coroner can make this call.)
 - (2) NAHC will identify the person or persons it believes to be the Most Likely Descendent (MLD).
 - (3) The MLD may make recommendations to the land owner or PI responsible for the excavation work to determine the treatment, with appropriate dignity, of the human remains and any associated grave goods (PRC 5097.98).
 - d. **If Human Remains are not Native American**
 - (1) The PI shall contact the NAHC and notify them of the historical context of the burial.
 - (2) NAHC will identify the person or persons it believes to be the MLD.
 - (3) The MLD may make recommendations to the land owner or PI responsible for the excavation work to determine the treatment of the human remains (PRC 5097.98).

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- (4) If the remains are of historic origin, they shall be appropriately removed and conveyed to the Museum of Man for analysis. The decision for reinterment of the human remains shall be made in consultation with MMC, EAS, the land owner, the NAHC and the Museum of Man.
- e. Disposition of Human Remains
The land owner, or his authorized representative, shall reinter the Native American human remains and any associated grave goods, with appropriate dignity, on the property in a location not subject to further subsurface disturbance, IF:
 - (1) The NAHC is unable to identify the MLD, OR the MLD failed to make a recommendation within 24 hours after being notified by the Commission; OR;
 - (2) The landowner or authorized representative rejects the recommendation of the MLD and mediation in accordance with PRC 5097.94 (k) by the NAHC fails to provide measures acceptable to the landowner.

4. 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) Potentially Significant Discoveries
If the PI determines that a potentially significant discovery has been made, the procedures under **During Construction**; 2.,a. & b, will be followed, with the exception that the PI will contact MMC by 8AM the following morning to report and discuss the findings.
- b. 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.
- c. All other procedures described above will apply, as appropriate.

5. Notification of Completion

The Archaeologist shall notify MMC and the RE or the BI, as appropriate, in writing of the end date of monitoring.

Post Construction

1. Handling and Curation of Artifacts and Letter of Acceptance
 - a. 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.
 - b. Curation of artifacts associated with the survey, testing and/or data recovery for this project shall be completed in consultation with LDR and the Native American representative, as applicable.
2. Final Results Reports (Monitoring and Research Design And Data Recovery Program)
 - a. Prior to the release of the grading bond, two copies of the Final Results Report (even if 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 for approval by the ERM of LDR.
 - b. For significant archaeological resources encountered during monitoring, the Research Design And Data Recovery Program shall be included as part of the Final Results Report.
 - c. MMC shall notify the RE or BI, as appropriate, of receipt of the Final Results Report.

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3. Recording Sites with State of California Department of Park and Recreation
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 with the Final Results Report.

Water Quality

1. Prior to the issuance of any grading permit, the City Engineer shall verify that comprehensive permanent post-construction water quality Best Management Practices (BMPs), consistent with those shown on Exhibit "A", are incorporated into the construction drawings to reduce the amount of pollutants (e.g. oil, grease, heavy metals) and sediments discharged from the site, satisfactory to the City Engineer. BMPs shall include the use of treatment control measures as shown on Exhibit "A" and as detailed in the *Water Quality Technical Report for River Estates Condominiums* prepared by Anthony Taylor Consultants (February 7, 2003). Equivalent alternative available technologies and BMPs may be approved by the City Engineer in lieu of, or in addition to, those shown on Exhibit "A". All permanent BMPs shall be maintained in accordance with the applicable manufacturer specifications. Spot checks may be made by the City Engineer to ensure compliance with proper maintenance procedures.
2. Grading plans shall incorporate short-term erosion control measures, including grading to facilitate drainage away from the slope faces, use of sediment control devices and swales at the top of slopes, and construction of desilting basins, to the satisfaction of the City Engineer and the Environmental Review Manager. The grading plan shall include a drainage system which provides for implementation of BMPs on-site to reduce construction phase runoff of pollutants into adjacent water courses.
3. Sediment and erosion control devices to retard the rate of runoff from manufactured slopes shall be installed if grading occurs during wet weather season, November 1 through April 1. Temporary sedimentation and desilting basins between graded areas and streams shall be provided during grading, as appropriate.
4. No grading shall occur between October 1 and April 30 unless an erosion control system has been made a part of grading plans to the satisfaction and approval of the City Engineer. If grading is conducted during this period, the Contractor shall install temporary erosion control measures such as silt fences, hay bales, debris basins, etc., as required by the City Engineer to prevent erosion damage.

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