

RESOLUTION NUMBER R-299539

ADOPTED ON AUGUST 3, 2004

WHEREAS, American Property Enterprises, Owner/Permittee, submitted an application to the City of San Diego for a planned commercial development permit, a resource protection ordinance permit, and vesting tentative parcel map, for the Fashion Walk Project [Project]; and

WHEREAS, on April 22, 2004 the Planning Commission of the City of San Diego considered Planned Commercial Development Permit No. 80170/Resource Protection Ordinance Permit No. 80579 and Vesting Tentative Parcel Map No. 80580 and Mitigated Negative Declaration LDR No. 99-1356, and pursuant to Resolution No. 3502-PC, voted to approve the planned commercial development permit/resource protection ordinance permit, vesting tentative parcel map and Mitigated Negative Declaration LDR No. 99-1356; 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 August 3, 2004; and

WHEREAS, the City Council considered the issues discussed in Mitigated Negative Declaration LDR No. 99-1356; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that it is certified that Mitigated Negative Declaration LDR No. 99-1356, 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 Fashion Walk.

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.

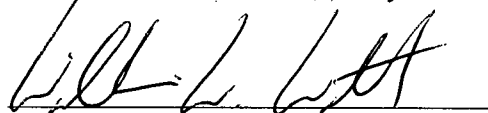
BE IT FURTHER RESOLVED, that pursuant to California Public Resources Code section 21081.6, the City Council adopts the Mitigation Monitoring and Reporting Program, or alterations to implement the changes to the project as required by this body in order to mitigate or avoid significant effects on the environment, a copy of which is attached hereto, as Exhibit "A," and incorporated herein by reference.

BE IT FURTHER RESOLVED, that the decision of the Planning Commission is sustained, and the appeal of Mark Polinsky and Michael Shames is denied

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



William W. Witt
Deputy City Attorney

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10/4/04
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R-2005-181
MMS#442

EXHIBIT A
MITIGATION MONITORING AND REPORTING PROGRAM
Fashion Walk
LDR No. 99-1356


This Mitigation Monitoring and Reporting Program is designed to ensure compliance with AB 3180 (1989) 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. The City of San Diego, Engineering and Capital Projects Department and the Development Services Department are jointly responsible for ensuring that this program is carried out.

MITIGATION, MONITORING AND REPORTING PROGRAM:

Biological Resources

1. Prior to issuance of the grading permit, impacts to sensitive biological resources shall be mitigated for 0.8 acre of impact to on site and off site coastal sage scrub. Coastal sage scrub habitat would be mitigated at a ratio of 1:1, and 0.8 acre of mitigation would be required for on site and off site impacts. The City Manager shall verify that the applicant has contributed \$39,600 to the City's Habitat Acquisition Fund (No. 105741) or purchased 0.8 acre of Tier I-III habitat as off site mitigation for impacts to 0.8 acre of coastal sage scrub.
2. Thirty days prior to the preconstruction meeting the applicant shall prepare a grading and construction schedule. The grading and construction schedule shall be submitted to potential for the project to result in noise impacts to nesting raptors in the eucalyptus trees and surrounding habitat. If grading and construction activities are proposed during raptor breeding season (February 1 through August 31), the applicant shall conduct a survey of the eucalyptus trees and surrounding habitat within 300 feet of the site to determine the presence of active raptor nests. The pre-construction survey shall be conducted by a qualified biologist in accordance with the City of San Diego Biology Guidelines (July 2002).
 1. The survey results shall be submitted in a report to the Senior Planner of Mitigation Monitoring Coordination (MMC) and the Environmental Review Manager (ERM) prior to any grading or construction that extends into the raptor breeding season. If active raptor nests are identified in the survey, an acoustical analysis report shall be submitted to MMC. The acoustical analysis shall include recommendations to reduce noise levels below 60 decibels measured from all active raptor nests. If a survey is not conducted, presence would be assumed and a temporary wall/berm would be required. Direct take of nest, eggs, or birds must be avoided.

The above biology mitigation measure shall be incorporated into the Fashion Walk Development Permit as conditions and shown as notes on the landscaping plan. The Land Development Review division shall review the plans to ensure that these measures have been noted.

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Geotechnical

In accordance with the Preliminary Geotechnical Investigation, Jefferson Fashion Valley, April 20, 2000, and prior to the issuance of the first grading permit, the City Manager shall verify that the final grading plan contains the following geotechnical mitigation measures:

1. Grading:

- A. Site preparation should begin with the removal of any detrimentally deleterious matter and vegetation, and disposal of this material off-site in a legal disposal site. The existing fill and colluvial deposits underlying settlement sensitive improvements should be removed and replaced as compacted fill. The soils exposed at the bottom of the excavation should be scarified to a depth of 12 inches, moisture-conditioned and recompacted to at least 90 percent relative compaction, as well as any imported fill that may be necessary, should be placed in six-inch to eight-inch compacted layers until desired finish grades are achieved.
- B. Horizontal minimum removal limits should be equal to five feet from the perimeter of the proposed improvements or removal depth, whichever is more. Additional subsurface explorations should be performed to further define the extent of the removal operation in the existing fill/colluvial area. Additionally, it is recommended that formational soils within four feet from the finish pad grade be removed and replaced as compacted fill. Temporary transition cut/fill slopes should be cut at an inclination no steeper than 2:1 (horizontal to vertical).
- C. All surface drainage should be directed away from the structure and the top of the slopes. Rain gutters are also recommended. To reduce the potential for water seepage into the ground, landscaping should be designed to drain all excess surface water from the site. Drought resistant vegetation is recommended.
- D. All earthwork and grading contemplated for site preparation should be accomplished in accordance with the Recommended Grading Specifications and Special Provisions presented in the Preliminary Geotechnical Investigation. All embankments, structural fill, and fill should be compacted to at least 90 percent relative compaction at or slightly over optimum moisture content. Utility trench backfill within five feet of the proposed structures and beneath asphalt pavements should be compacted to a minimum of 90 percent of its maximum dry density. The upper twelve inches of subgrade beneath paved areas should be compacted to 95 percent of its maximum dry density. The maximum dry density of each soil type should be determined in accordance with ASTM Test D-1557-91, Method A or C.

2. Temporary Cut Slopes:

- A. Temporary and/or permanent shoring may be installed. In addition, temporary shoring may be required along portions of the southern property line during the site preparation operations.
- B. Recommended unshored temporary cut slope inclinations are provided in Table 4, *UNSHORED TEMPORARY CUT SLOPE INCLINATIONS*.

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TABLE 4 UNSHORED TEMPORARY CUT SLOPE INCLINATIONS		
Soil Type	Unshored Temporary Cut Slope Height (feet)	Slope Inclination* (horizontal to vertical)
Formational Soils	0-4	vertical
	4-10	0.5:1.0
	10-20	0.75:1.0
	20-30	1.0:1.0
Existing Fill/Colluvium	0-4	vertical
	4-20	1.0:1.0

* Continuous from top to toe of slope

- C. All temporary cut slopes should be observed by the engineering geologist during construction to ascertain that no unforeseen adverse conditions exist.
- D. For safety reasons, during construction, no surcharge loads such as stockpiles, vehicles, etc. should be allowed within a distance from the top of temporary slopes equal to half the slope height. Due to the cobbly characteristics of the on-site soils, it is recommended that all slopes exceeding four feet in height be covered with a mesh type material firmly anchored near the top and bottom of the slope.
3. Foundation:

- A. Shallow foundations may be utilized for the support of the proposed structure. The footings should be founded at a minimum depth of 24 inches below finish pad grade. A minimum width of 24 inches and 36 inches is recommended for continuous and isolated footings, respectively. An allowable bearing capacity of 300 pounds per square foot (psf) may be assumed for footings supported on compacted fill. This bearing capacity may be increased by one-third when considering wind and/or seismic forces. Footings located adjacent to or within slopes should extend to a depth such that a minimum horizontal setback of seven feet exists between the bottom of the footing and the face of the slope. For retaining walls in similar conditions, a minimum setback of ten feet is recommended.
- B. Foundation reinforcing should be specified by the project structural engineer. However, as a minimum, it is recommended that both exterior and interior continuous footings be reinforced with at least two No. 5 bars positioned near the bottom of the footing and at least two No. 5 bars positioned near the top of the footing. This reinforcement is based on soil characteristics and is not intended to be in lieu of reinforcement necessary to satisfy structural considerations.
- C. It is recommended that all foundation excavations be approved by a representative from a soils consultant relative to forming or placement of reinforcing steel.
- D. The foundation plans should be submitted to a consultant for review in order to ascertain that the recommendations of the Preliminary Geotechnical Investigation report have been implemented and no additional recommendations are needed due to changes in the development plans.

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4. On Grade Slabs:

- A. The concrete on-grade floor slab for the proposed garage should have a thickness of five inches and be reinforced with bars placed at 18 inches on center each way. Slab reinforcement should be placed approximately at mid-height of the slab and should extend at least 12 inches into the footings. Where moisture-sensitive floor coverings are anticipated, the floor slabs should be underlain by a four-inch blanket of clean, poorly graded coarse sand or crushed rock. If sand is used, it should consist of 100 percent material passing the half-inch screen and no more than ten percent and five percent passing sieves, respectively. A visqueen barrier should be placed over the sand layer. To allow for proper concrete curing, the visqueen should be overlain by at least one inch of sand.

5. Earth Retaining Walls:

- A. The passive pressure for the prevailing soil conditions may be considered to be 350 pounds per square foot per foot of depth. This pressure may be increased one-third for seismic loading. The coefficient of friction for concrete to soil may be assumed to be 0.40 for the resistance to lateral movement. When combining frictional and passive resistance, the friction should be reduced by one-third. The upper 12 inches of soil should not be considered when calculating passive pressures for exterior walls unless pavements or concrete slabs abut the base of the wall.
- B. The active soil pressure for the design of unrestrained earth retaining structures with level backfills may be assumed to be equivalent to the pressure of a fluid weighing 33 pounds per cubic foot. For restrained walls, an equivalent fluid pressure of 50 pounds per cubic foot (pcf) may be assumed. An additional 15 pcf should be added to the aforementioned values due to 2:1 (horizontal to vertical) sloping conditions. As an alternative, the pressure diagrams provided in the shoring section of the *Preliminary Geotechnical Investigation* report may be utilized for the design of restrained walls. These pressures do not consider any other surcharge loads. If any surcharge loads are anticipated, the necessary increase in soil pressure should be considered. This value assumes a drained backfill condition. Waterproofing specifications and details should be provided by the project architect.
- C. All backfill soils should be compacted to at least 90 percent relative compaction. Expansive or clayey soils should not be used for backfill material. The wall should not be backfilled until the masonry has reached an adequate strength.
- D. The project should comply with the City's Uniform Building Code.

6. Landsliding

- A. In order to protect the proposed development from shallow surficial failures, rock fencing would be placed at appropriate locations to block soil, gravel, and cobbles from sliding down hill and hitting the proposed development and surrounding areas.

Noise

The following mitigation measures shall be implemented to address potential noise impacts. These requirements shall be noted on the construction plans.

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1. Prior to issuance of the first building permit, the applicant shall incorporate sound attenuation measures as described in the Exterior Noise Technical Report for Jefferson at Fashion Valley, December 20, 2000, to the satisfaction of the City Manager. Specifically, plans shall indicate 4-foot high noise barriers at the courtyard openings along Friars Road. In addition, plans shall indicate 5-foot high noise barriers around the second, third, and fourth floor balconies adjacent to Friars Road. Barriers shall be free of cracks and holes. Examples of acceptable barrier materials include, but are not limited to masonry block, wood frame with stucco, 0.5-inch-thick Plexiglas, or 0.25-inch thick plate glass. If transparent barrier materials are used, no gaps should occur between the panels.
2. Prior to 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 an interior noise level of 45dB(A) CNEq have been incorporated into the design of the proposed development. These requirements shall be noted on the construction plans.

Paleontological Resources

The following mitigation measures shall be implemented to address potential impacts to Paleontological resources. These requirements shall be noted on the grading plans.

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.

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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
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.

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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 curation 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.

Traffic

1. Prior to the issuance of the first building permit, applicant shall assure by permit and bond, construction of the widening of the southbound approach at the Friars Road/Ulric Street/SR 163 southbound ramps intersection and provide dual left turn lanes to the satisfaction of the City Traffic Engineer.

The above mitigation monitoring and reporting program shall require a deposit of \$900.00 to be collected prior to the issuance of grading permits to ensure the successful completion of the monitoring program.

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