

RESOLUTION NUMBER R-299669

ADOPTED ON SEPTEMBER 21, 2004

WHEREAS, M. Kevin O'Neill Construction Company, Inc., a California Limited Partnership, Owner, and Affirmed Family Housing Partners-Creekside, LLC, a California Limited Liability Company, Permittee, submitted an application to the City of San Diego for a site development permit for the Creekside Trails project; and

WHEREAS, after approval of the above referenced project by the Planning Commission of the City of San Diego, M. Kevin O'Neill, Construction Company, Inc., Owner, transferred the property to Affirmed Family Housing Partners-Creekside, LLC, thereby making Affirmed Family Housing Partners-Creekside, LLC the new Owner of the Creekside Trails 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 September 21, 2004; and

WHEREAS, the City Council considered the issues discussed in Mitigated Negative Declaration No. 31925; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that it is certified that Mitigated Negative Declaration No. 31925, 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

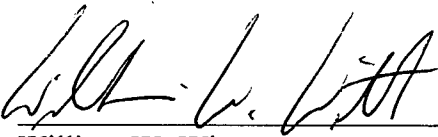
contained in the report, together with any comments received during the public review process, has been reviewed and considered by this Council in connection with the approval of the site development permit for Creekside Trails.

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 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

WWW:pev
10/25/04
Or.Dept:Clerk
R-2005-465
MMS#837

EXHIBIT A
MITIGATION MONITORING AND REPORTING PROGRAM
CREEKSIDE TRAILS
SITE DEVELOPMENT PERMIT
Project No. 31925

This Mitigation Monitoring and Reporting Program is designed to ensure compliance with California 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. 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.

A. General

Long Term Permit Monitoring Fee

Prior to the issuance of any construction permit, the applicant shall pay the Long Term Monitoring Fee of \$1,100 in accordance with the Development Services Department Fee Schedule to cover the City's costs associated with implementation of the Mitigation, Monitoring and Reporting Program (MMRP).

MMRP Conditions - The applicant shall comply with the Mitigation, Monitoring and Reporting Program (MMRP) as specified in the Mitigated Negative Declaration 31925 satisfactory to the City Manager and the City Engineer. Prior to issuance of any construction permit(s) or filing of final map(s), all mitigation measures as specifically outlined in the MMRP shall be implemented for the following issue areas: biology, water quality, and air quality, and noise.

B. Biology

1. Establish and maintain a minimum 15-foot wide buffer along the entire length of the parcel between the proposed structures and top of slope of Nestor Creek. The buffer is to be measured from the top of bank (i.e., between the top of slope and the boundary of the project footprint). The 5-foot wide paved walking trail must be located outside of this buffer. The buffer shall be a minimum 15 feet wide along the entire length of the parcel between the proposed structures and top of slope of Nestor Creek. Prohibit all structures and active or passive uses from the biological buffers. The proposed trail is to be placed outside of the buffer. The buffer applies only to the portion of the parcel to the east/northeast of the Creek, as there is no room for development on the parcel to the west of the Creek. One exception to this width of buffer applies to

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the reach of the Creek that is within the existing concrete trapezoidal structure. Along this reach, the proposed trail may run adjacent to the Creek slope.

2. Place permanent fencing along the outside boundaries of the biological buffers (i.e., between the development footprint, including the trail, and the buffer). Repair/reinforce the existing fencing or install new fencing, on the east/southwest side of the Creek, as needed to ensure fence integrity to discourage human intrusion into the creek habitat. The fencing shall be a minimum of 5 feet high and shall be designed to prevent human encroachment into the buffer and Creek (i.e., the restoration area).
3. Prior to construction and grading activities, construction workers are to be trained on proper construction techniques and practices to avoid input of any construction or other material or waste into the creek and the importance of observing the buffer restrictions. Construction debris shall not be disposed of on-site but managed in accordance with the waste minimization plan.
4. The entire reach of Nestor Creek within and adjacent to the project boundaries must be shielded with silt fencing prior to any site grading and through completion of construction. The project biologist must participate in the site survey to verify that the silt fencing is adequately placed and maintained to protect the creek habitat.
5. Restore areas within the biological buffers and in the reach of Nestor Creek within the project site by removing non-native species such as the castor bean plants and the pepper tree and planting native species (upland species within the buffer and where appropriate on the slopes, and wetland species in the Creek and on the banks), and managing them for five years. Tamarix species and Ricinus communis (Castor Bean), iceplant, a Brazilian Pepper tree, and banana plants are located on site; these plants shall be eradicated per the City of San Diego Land Development Manual - Landscape Standards and replaced with native riparian replacement plantings.
6. Prior to issuance of a grading permit, submit the revegetation plan for approval by the LDR-Environmental Analysis Section and LDR-Landscape Section in consultation with the California Department of Fish and Game and the U.S. Fish and Wildlife Service. The re-vegetation plan shall be included with the Streambed Alteration Agreement notification as submitted to the California Department of Fish and Game. The restoration/revegetation plan shall be prepared by persons with

expertise in southern California ecosystems and native plant revegetation techniques. It shall include, at a minimum:

- a. the location of the restoration/revegetation site;
 - b. the plant species to be used;
 - c. a schematic depicting the area;
 - d. time of year that planting will occur;
 - e. a description of the irrigation methodology;
 - f. measures to control exotic vegetation on site;
 - g. success criteria;
 - h. a detailed monitoring program;
 - i. contingency measures should the success criteria not be met; and
 - j. identification of the entity(ies) that will guarantee achieving the success
 - k. criteria to ensure long-term maintenance as defined in the permit conditions for the project.
7. The California Department of Fish and Game requires submittal of a notification for a Streambed Alteration Agreement (SAA) for the restoration project. A re-vegetation/restoration plan shall be included with the SAA notification.
 8. Complete consultation with the U.S. Army Corps of Engineers to determine whether implementation of the restoration project would require a 404 permit. Include verification of consultation as part of the revegetation plan submittal to the City of San Diego prior to the preconstruction meeting as discussed below.
 9. Install five-foot high fencing between the trail and creek to reduce edge effects to the creek. Install similar fencing along the creek edge along the south bank of the creek with the intent to minimize human intrusion into the creek habitat.
 10. Shield outdoor lighting so that it does not directly shine on the buffer area or Nestor Creek. Lighting, if any, provided along the trail shall only minimally illuminate the pathway for security/safety and shall not shine further into the creek area.

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11. Install signage in appropriate locations along the path to discourage human intrusion and educate the residents on the functions and values of the wetland and riparian habitat and the purpose for the buffer and restrictions. The signs shall read, "No Trespassing -- Sensitive Wetland Area and Private Property."
12. Although it is the understanding of the City of San Diego that pets would not be allowed in the apartments, it is reasonably foreseeable that other people may use the trail to walk pets. The applicant shall therefore install pet waste collection bags and signs reminding pet owners of their obligation to pick up after their pets in accordance with the City of San Diego Municipal Code, § 44.0304.1 "Committing Nuisance."
13. Provide notification to the California Department of Fish and Game prior to construction/grading activities.
14. Prior to issuance of a grading permit, conduct a pre-construction survey, as prepared by a certified biologist, to determine presence or absence of any migratory birds or birds of special concern which might have established nesting in the limited habitat along the creek bank or in the eucalyptus trees on the eastern boundary of the project site. Grading restrictions would be imposed accordingly in accordance with the City of San Diego Biology Guidelines, should any bird species of protection be noted as nesting. Provide a copy of the report to the City of San Diego Environmental Review Manager prior to the preconstruction meeting.
15. Prior to issuance of the issuance of the grading permit, the permittee shall be responsible to arrange a preconstruction meeting. This meeting shall be coordinated with LDR Mitigation Monitoring Coordination (MMC) to verify acceptance of the pre-construction biological survey update and that these biological mitigation conditions have been met.
16. Prior to the issuance of the grading permit, verify through LDR-Landscaping that the vegetation plan adequately incorporates Integrated Pest Management (IPM) techniques and long-term maintenance. Ensure landscape plans have been revised to include no invasive exotic species throughout the site.
17. Prior to the issuance of any grading permit, the owner/permittee shall mitigate for impacts to 2.38 acres of Non-Native Grassland by paying \$59,500 into the City of San Diego's Habitat Acquisition Fund (No. 10571) for off-site mitigation of biological resources.

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18. An Environmental Filing Fee is required as mandated by the California Department of Fish and Game (CDFG) as authorized under the Fish and Game Code Title 14, Ch 4, Article 1, Section 753.5. The fee amount is \$1,275.00 (\$1,250 CDFG fee + \$25 fee for the County). A check for the filing fee shall be made payable to the "County Clerk" and submitted to EAS prior to City of San Diego approval of the project.

C. Water Quality

Mitigation measures are required to reduce impacts associated with water quality and stormwater runoff from site grading, demolition of existing structures, potential excavation of potentially-contaminated soils (if any), and construction and operation of the parking spaces.

The project is required to comply with the State Water Resources Control Board (SWRCB) State General Construction Permit, Order No. 99-08-DWQ, and the Municipal Storm Water Permit, Order No. 2001-01 (NPDES General Permit No. CAS000002 and CA S0108758), Waste Discharge Requirements for Discharges of Storm Water Runoff Associated With Construction Activity. In accordance with said permit, the SWPPP and a Monitoring Program shall be implemented concurrently with the commencement of grading activities, and a Notice of Intent (NOI) shall be filed with the SWRCB.

Construction BMPs

1. Soil stabilization control techniques satisfactory to the City Engineer shall be specified on the grading plans and the Water Pollution Control Plan to minimize potential for sediment transport from surface runoff during construction. Techniques include, but are not limited to, silt fences, fiber rolls, bonded fiber matrix (BFM), site watering using potable water, storm drain inlet protection, stabilized construction entrance/exit, dewatering basin, desilting basin, sandbag barriers, and erosion control mats.
2. The entire reach of Nestor Creek within and adjacent to the project boundaries must be shielded with silt fencing prior to any site grading and through completion of construction. The project biologist must participate in the site survey to verify that the silt fencing is adequately placed and maintained to protect the creek habitat.
3. Prior to construction and grading activities, construction workers are to be trained on proper construction techniques and practices to avoid input of any construction or other material or waste into the

creek. Construction debris shall not be disposed of on-site but managed in accordance with the waste minimization plan.

4. Site inspections shall be made prior to and following storm events by the project biologist to verify adequacy of pollution controls including the integrity of the silt fencing. Records shall be kept for all inspections to verify compliance with the Water Pollution Control Plan and the National Pollution Discharge Elimination System (NPDES) permit.
5. During the rainy season (October 1 to April 30), construction debris, trash, and waste materials will be stored in a covered container, and managed to prevent overflow.
6. On-site construction vehicles shall be regularly inspected and maintained in a state of good repair to ensure proper maintenance and operations. Staging of construction equipment and vehicles shall not occur adjacent to the creek.
7. Spill prevention control equipment shall be maintained on-site and deployed as needed for clean-up.
8. A concrete waste management plan shall be incorporated as part of the Water Pollution Control Plan and specified on the grading plans. A concrete wash-out area shall be located away from the creek banks.
9. Dewatering - Prior to issuance of any permit that would allow excavation which requires dewatering, a plan for disposal of the dewatering effluent and a permit, if needed, from the Regional Water Quality Control Board shall be provided to the City of San Diego Land Development Review Division by the applicant. A National Pollutant Discharge Elimination System (NPDES) permit may be required for disposal of dewatering effluent as specified by the Regional Water Quality Control Board (RWQCB).
10. If contaminated soil is encountered during excavation, follow normal procedures and notification process for a hazardous material spill or release to include at a minimum, notification of the local emergency response agency, (911, and/or the Hazardous Materials Division at 619-338-2284), and the Governor's Office of Emergency Services (1-800-852-7550 or 916-262-1621). Additional notifications may be required depending on the nature of the contamination. If after the initial notification, it is determined that there is no imminent threat, coordinate with the Hazardous Materials Division for information about site remediation. Depending on the sources and extent of the

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contamination, remediation may be coordinated through the Department of Environmental Health, the Regional Water Quality Control Board, or the Department of Toxic Substances Control.

11. Prior to the issuance of the first construction permit, the applicant shall provide verification that a Storm Water Pollution Prevention Plan (SWPPP) has been prepared and approved by the City Engineer.

Post-Construction BMPs

1. Stormwater runoff from the project site shall be discharged through structural treatment devices (filters and detention basin). Drainage collection points must contain a hydro-cartridge filter and/or grass-lined swales. Output from the detention basin must also be filtered prior to discharge off the project site.
2. Filters shall be inspected according to manufacture recommendations and an Operations and Maintenance program as specified in a long-term agreement with the City of San Diego.
3. Prior to the issuance of any construction 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) and sediments discharged from the site, satisfactory to the City Engineer. BMPs shall include the use of vegetated bio-filter areas and catch basins with filters as shown on Exhibit "A" and detailed in Water Pollution Control Plan and Water Quality Technical Report or as revised and accepted by the City Engineer. Equivalent alternative available technologies may be approved as BMPs 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 that BMPs are being properly maintained.
4. The final landscape plans shall include the provision that maintenance plans minimize use of fertilizers and pesticides (Integrated Pest Management) to minimize runoff into Nestor Creek.
5. In accordance with the County of San Diego Vector Surveillance and Control (VSC) West Nile Strategic Response Plan (March 2003), mitigation is specified to develop an Integrated Pest

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Management (IPM) approach that uses a combination of physical, biological and/or chemical control measures:

- The detention basin shall drain within 72 hours where possible.
- Where 72-hour drainage does not occur, chemical treatment shall be required for standing water in the basin to impair growth of mosquito larvae. Chemical treatment shall be administered by the County DEH VSC unless otherwise agreed to with the DEH VSC.
- Eliminate sources of standing water on the property.
- Provide regular maintenance of grass swales and basin to remove overgrown vegetation to allow open water flow.
- Establish a communication mechanism with DEH VSC to receive periodic notification of response levels pursuant to California Department of Health Services (CDHS) California Mosquito-borne Virus Response Plan.

D. Air Quality

To mitigate impacts from generation of dust during project demolition and construction, the following mitigation measures are required:

1. Unpaved construction areas are to be watered twice daily to reduce dust emissions by approximately 50%.
2. Grading is not permitted during windy conditions (sustained winds in excess of 25 mph).
3. Graded/disturbed pad areas shall be hydro seeded to prevent erosion, in the event that construction of building(s) does not occur within 30 days of grading.
4. Minimize idling time of demolition/construction equipment and ensure equipment is appropriately maintained to minimize exhaust.

E. Noise

1. Because exterior sound levels could exceed 60 dBA Community Noise Equivalent Level (CNEL) at the building façades facing Coronado Avenue, an interior acoustical analysis would be required to ensure that the noise environment in habitable rooms would be 45 dBA CNEL or below. The interior acoustical analysis would be required before obtaining a building permit. Based on