

RESOLUTION NUMBER R- 299704

ADOPTED ON SEP 28 2004

WHEREAS, the City and Baltimore Drive, LLC propose to enter into a ground lease for an unimproved 1.12 acre portion of City-owned right-of-way on Old Murphy Canyon Road for the development, operation, and maintenance of a retail commercial building [the 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 matter was heard by the City Council on SEP 28 2004; and

WHEREAS, the City Council considered the issues discussed in Mitigated Negative Declaration LDR No. 6729; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that it is certified that Mitigated Negative Declaration LDR No. 6729, 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 40-year lease agreement with Baltimore Drive, LLC.

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 (as set forth in the Mitigated Negative Declaration), 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



Carrie Gleeson  
Deputy City Attorney

CLG:mm  
07/14/04  
Or.Dept:READ  
Job Order No.923118  
R-2005-53



Land Development  
Review Division  
(619) 446-5460

## Mitigated Negative Declaration

Project No. 6729  
SCH No. 2004031102

**SUBJECT:** Aero Drive Three: SITE DEVELOPMENT PERMIT, PLANNED DEVELOPMENT PERMIT and RIGHT-OF-WAY VACATION (Process 5) to vacate an unimproved 1.12 acre portion of Old Murphy Canyon Road right-of-way, create a lease area, and develop a 7,200-square-foot retail building. The site is located east of Murphy Canyon Road, south of Aero Drive, and west of I-15, within the CC-1-3 zone, Airport Environs Overlay Zone, Kearny Mesa Community Plan area (Lot 4 of Map 13072 & Lot 16 of Map 13072). Applicant: Aero Three, LLC.

- I. PROJECT DESCRIPTION: See attached Initial Study.
- II. ENVIRONMENTAL SETTING: See attached Initial Study.
- III. DETERMINATION:

The City of San Diego conducted an Initial Study which determined that the proposed project could have a significant environmental effect in the following area(s): *Biological Resources*. Subsequent revisions in the project proposal create the specific mitigation identified in Section V of this Mitigated Negative Declaration. The project as revised now avoids or mitigates the potentially significant environmental effects previously identified, and the preparation of an Environmental Impact Report will not be required.

- IV. DOCUMENTATION:

The attached Initial Study documents the reasons to support the above Determination.

- V. MITIGATION, MONITORING AND REPORTING PROGRAM:

To ensure that site development would avoid significant environmental impacts, a Mitigation, Monitoring, and Reporting Program (MMRP) is required. Compliance with the mitigation measures would be the responsibility of the applicant. The basis for the MMRP can be found in the Initial Study. The mitigation measures are described below.

### General

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

2. 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 Assisted Deputy Director (ADD) 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*: "Aero Drive Three Project is subject to a Mitigation, Monitoring and Reporting Program and shall conform to the mitigation conditions as contained in the Mitigated Negative Declaration 6729."

### Biology

1. 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, direct impacts to 0.23 acres of Tier II coastal sage scrub habitat shall be mitigated to the satisfaction of the City Manager, through one of the following: (a) off-site land acquisition within the MHPA; (b) payment into the City's Habitat Acquisition Fund as described below, or (c) a combination of a and b above:
  - a. Prior to issuance of the first grading permit, the owner/permittee shall acquire and dedicate to the City of San Diego, interest in property necessary to maintain the land in its existing condition in perpetuity, a total of 0.23-acres of Tier II or better habitat located off-site, in the City of San Diego's MHPA. This 0.23-acres would satisfy the 1:1 mitigation acreage ratio requirements for impacts outside the MHPA that would be mitigated inside the MHPA; or
  - b. Prior to issuance of the first grading permit, the owner/permittee shall pay into the City's Habitat Acquisition Fund the amount necessary to purchase 0.23-acres of habitat. The current per-acre contribution amount for the Habitat Acquisition Fund is \$25,000. In order to achieve the required 1:1 ratio, \$5,750 (\$25,000 x 0.23 acre) must be paid into the fund.
  - c. A combination of a and b as referenced above.

### VI. PUBLIC REVIEW DISTRIBUTION:

Draft copies or notice of this Mitigated Negative Declaration were distributed to:

City of San Diego:

Council District 6, Councilmember Frye  
Development Services Department  
Planning Department/Multiple Species Conservation Program  
State Clearinghouse (46)  
Aero Three, LLC. c/o Kim Peterson (Applicant)  
Graham Architects (Agent)  
U.S. Fish & Wildlife Service (23)  
California Department of Fish & Game (32A)  
California Regional Water Quality Control Board (44)  
Sierra Club (165)  
Audubon Society (167)  
California Native Plant Society (170)  
Center for Biological Diversity (176)  
Endangered Habitats League (182)  
Kearny Mesa Town Council (263)

Serra Mesa Planning Group (263A)  
Mary Johnson (263B)  
Serra Mesa Community Council (264)  
Kearny Mesa Community Planning Group (265)  
Mission Village Homeowners Association (266)

VII. RESULTS OF PUBLIC REVIEW:

- ( ) No comments were received during the public input period.
- ( ) Comments were received but did not address the draft Mitigated Negative Declaration finding or the accuracy/completeness of the Initial Study. No response is necessary. The letters are attached.
- (X) Comments addressing the findings of the draft Mitigated Negative Declaration and/or accuracy or completeness of the Initial Study were received during the public input period. The letters and responses follow.

Copies of the draft **Mitigated Negative Declaration**, the Mitigation, Monitoring and Reporting Program and any Initial Study material are available in the office of the Land Development Review Division for review, or for purchase at the cost of reproduction.

  
\_\_\_\_\_  
Anne Lowry, Senior Planner  
Development Services Department

March 19, 2004  
Date of Draft Report

April 22, 2004  
Date of Final Report

Analyst: P. Schlitt