

RESOLUTION NUMBER R- 300200

ADOPTED ON MAR 08 2005

WHEREAS, on June 29, 2004, Marker Foothill, LLC submitted an application to the City of San Diego for a planned development permit, site development permit, public right-of-way vacation, easement abandonment and tentative map; 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 MAR 08 2005; and

WHEREAS, the City Council considered the issues discussed in Mitigated Negative Declaration No. 41718; NOW, THEREFORE,

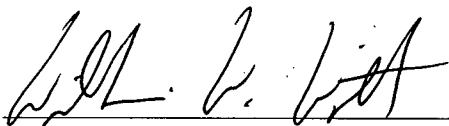
BE IT RESOLVED, by the Council of the City of San Diego, that it is certified that Mitigated Negative Declaration No. 41718, on file in the office of the City Clerk, has been completed in compliance with the California Environmental Quality Act of 1970 (California Public Resources Code section 21000 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 planned development permit, site development permit, public right-of-way vacation, easement abandonment and tentative map for the Beyer Property 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, 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: MICHAEL J. AGUIRRE, City Attorney

By 
William W. Witt
Deputy City Attorney

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02/10/05
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R-2005-781
MMS #1408
ENVIRONMENTAL – MND 11-01-04

EXHIBIT A

MITIGATION MONITORING AND REPORTING PROGRAM

Planned Development Permit / Site Development Permit
and Public-Right-Of-Way Vacation / Tentative Map

Project No. 41718

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. 41718) shall be made conditions of the project as may be further described below.

Biological Resources

1. Prior to the issuance of the first grading permit, the Environmental Review Manager (ERM) of the Land Development Review Division (LDR) shall verify that the owner/permittee has contributed \$72,600.00 to the City's Habitat Acquisition Fund (No. 10571) for acquisition of in-tire habitat within the Multi-Habitat Planning Area (MHPA) for impacts to 0.59-acre of Tier I disturbed maritime succulent scrub habitat (1:1 mitigation ratio, \$25,000 per acre, plus a 10% administration fee) and 4.10-acres of Tier IV non-native grassland habitat (0.5:1 mitigation ration, \$25,000 per acre, plus a 10% administration fee).

Noise

1. Prior to issuance of any building permit, an acoustical report shall be submitted to the Acoustical Plan Check Section (APCS) to include measures which ensure that interior noise levels for any unit facing Beyer Boulevard within Building #1 is below 45 dBA CNEL. Construction measures needed to reduce noise levels shall be called out on plans as "Environmental Mitigation Measures." The APCS shall review all building plans to ensure that interior noise levels in any unit facing Beyer Boulevard within Building #1 will not exceed 45 dBA CNEL. The Environmental Analysis Section (EAS) of the Land Development Review (LDR) Division shall not approve any final building plans until EAS, in conjunction with the APCS has reviewed the plans to determine conformance.
2. While construction noise levels are not projected to exceed the City's noise ordinance standard at adjacent residences and daycare center the following measures shall be noted on the grading plans:
 - Locate noise equipment as far as possible from adjacent noise sensitive areas.
 - Install stationary equipment in enclosures.
 - Equip all construction equipment, fixed or mobile, with properly operating and maintained muffler exhaust systems.
 - Locate stockpile and vehicle staging areas as far as practical from residences.
 - Use quieter (i.e., typically smaller) pieces of equipment while working immediately adjacent to the residences situated along the southwestern boundary of the site.
 - When construction [or demolition] activities occur adjacent to the single-family residences, daycare center, and church, the contractor shall limit construction activities to the hours of 8 a.m. to 3 p.m. Also, letters shall be sent to inform the adjacent residences, daycare center, and church of the construction times, duration, and person to contact for questions or concerns. If noise concerns are

R- 300200

received, the City's Noise Abatement Officer shall conduct noise surveys of the construction activities. If the noise measurements indicate that the construction noise level exceeds the City's construction noise criteria, the Noise Abatement Officer shall require the contractor to utilize quieter and typically smaller construction equipment, and possibly further reduce the number of construction hours per day. If these modifications do not result in compliance with the City's construction noise criteria, then construction activities shall be temporarily suspended and temporary 12-foot high noise barriers shall be constructed along the backyards of the residences, daycare center, and/or church located along the eastern portion of the site with the concurrence of the impacted residents, daycare center, and/or church. The barrier shall be constructed of minimum 3/4-inch thick plywood or other material having a Sound Transmission Class (STC) rating of 25 or higher.

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.
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

R- 300200

- 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

R- 300200

- (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.

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

R- 300200

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.

R-300200