

RESOLUTION NUMBER R- 300347

ADOPTED ON APR 19 2005

WHEREAS, Burgener-Clark, LLC, a California Limited Liability Company, Craig W. Clark, managing member, Owner/Permittee, submitted an application to the City of San Diego for a tentative map, planned development permit and a site development permit; 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 APR 19 2005; and

WHEREAS, the City Council considered the issues discussed in the Mitigated Negative Declaration No. 5540; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that it is certified that the Mitigated Negative Declaration No. 5540, 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 tentative map, planned development agreement and site development agreement for Bay View Plaza 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

  
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Douglas K. Humphreys  
Deputy City Attorney

DKH:ai  
03/30/05  
Or.Dept:DSD  
R-2005-1024  
MMS 1706

## EXHIBIT A

MITIGATION, MONITORING AND REPORTING PROGRAM  
BAY VIEW PLAZA  
PLANNED DEVELOPMENT PERMIT, SITE DEVELOPMENT PERMIT AND  
TENTATIVE MAP  
Project No. 5540

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. 5540) shall be made conditions of the Planned Development Permit and Site Development Permit as may be further described below.

### Paleontological Resources

#### **Prior to Preconstruction 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 Assistant Deputy Director (ADD) of Land Development Review (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 the ADD*

Prior to the recordation of the first final map, NTP, or any permits, including but not limited to, issuance of the first Grading Permit and Building Plans/Permits, the applicant shall provide a letter of verification to the ADD of LDR stating that a qualified Paleontologist, as defined in the City of San Diego Paleontological Guidelines, has been retained to implement the monitoring program.

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3. *Second Letter Containing Names of Monitors has been sent to Mitigation Monitoring Coordination (MMC)*
  - a. At least thirty days prior to the Preconstruction (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.

### **Preconstruction 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 Contractors 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.

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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*

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. Further, LDR staff and MMC staff will coordinate with the Applicant in securing the project area to control access during recovery of fossil remains.

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### 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** (see Section 2. *Discoveries*, Subsection 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** (see Section 2. *Discoveries*, Subsection b.), will be followed, with the exception that the RE will contact MMC by 9 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**

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

- a. SUBMIT LETTER OF ACCEPTANCE FROM LOCAL QUALIFIED CURATION FACILITY.

The Paleontologist shall be responsible for submittal of a letter of acceptance to the ADD of LDR from a local qualified curation facility. A copy of this letter shall be forwarded to MMC.

- b. 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.

- c. 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

- d. FINAL RESULTS REPORT

1. 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 ADD of LDR.

- a. MMC shall notify the RE or BI, as appropriate, of receipt of the Final Results Report.

## Human Health/Public Safety

1. Prior to the issuance of any demolition permits, proper testing shall be conducted by the applicant, to the satisfaction of the City Engineer, to determine if asbestos or lead-based paints exist within the structures slated for demolition. If testing shows the presence of asbestos or lead-based paints, then proper precautions shall be made during the removal and disposal of these materials, as regulated by state agencies (Cal-OSHA and Cal-EPA) and the San Diego Air Pollution Control District Rule 361.145

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Standard for Demolition and Renovation, to ensure that no hazards to the demolition crew, adjacent residents, or other individuals are created.

### Noise

1. Prior to the issuance of any building permits, an acoustical analysis shall be submitted to the Development Services Department by the project applicant to ensure that interior noise levels of the project's commercial uses do not exceed 50 dB(A) CNEL.
2. Prior to the issuance of any building permits, an acoustical analysis shall be submitted to the Development Services Department by the project applicant to mitigate for any significant noise impacts that could be created by the project's roof-mounted mechanical equipment.

### Solid Waste

**LDR Plan Check** – Prior to the issuance of any permit, including but not limited to, any discretionary action, grading, or any other construction permits, the Assistant Deputy Director (ADD) shall verify that all the requirements of the Waste Management Plan have been shown and/or noted on the Demolition and/or Grading Plans (construction documents).

- 1) Prior to issuance of a demolition permit, the permittee shall be responsible to arrange a preconstruction meeting. This meeting shall be coordinated with Mitigation Monitoring Coordination (MMC) to verify that implementation of the Waste Management Plan shall be performed in compliance with the plan approved by LDR and the San Diego Environmental Services Department (ESD), to ensure that impacts to solid waste facilities are mitigated to below a level of significance.
- 2) The plan (construction documents) shall include the following elements for grading, construction, and occupancy phases of the project as applicable.
  - a) tons of waste anticipated to be generated,
  - b) material type of waste to be generated,
  - c) source separation techniques for waste generated,
  - d) how materials will be reused on-site,

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- e) name and location of recycling, reuse, or landfill facilities where waste will be taken if not reused on-site,
  - f) a "buy recycled" program,
  - g) how the project will aim to reduce the generation of construction/demolition debris,
  - h) a plan of how waste reduction and recycling goals will be communicated to subcontractors,
  - i) a time line for each main phase of the project as stated above.
- 3) The plan shall strive for a goal of 50% waste reduction.
- 4) The plan shall include specific performance measures to be assessed upon the completion of the project to measure success in achieving waste minimization goals. The permittee shall notify MMC and ESD when:
- a) A construction permit is issued.
  - b) When construction begins.
  - c) The permittee shall arrange for progress inspections, and a final inspection, as specified in the plan and shall contact both MMC and ESD to perform these periodic site visits during construction to inspect the progress of the project's waste diversion efforts. Notification shall be sent to:
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| <p>MMC/Tony Gangitano<br/> Mitigation Monitoring Coordination<br/> 9601 Ridgehaven Court<br/> Ste. 320, MS 1102B<br/> San Diego, CA 92123-1636<br/> (619) 980-7122 or<br/> <u>(858) 627-3360</u></p> | <p>Angelee Mullins<br/> Environmental Services Dept<br/> 9601 Ridgehaven Court<br/> Ste. 320, MS 1103B<br/> San Diego, CA 92123-1636<br/> (858) 492-5010</p> |
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- d) When Demolition ends.
- 5) Prior to the issuance of a grading permit, the applicant shall receive approval from the ADD that the Waste Management Plan has been prepared, approved, and implemented. Also, prior to the issuance of

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the grading permit, the applicant shall submit evidence to the ADD that the final Demolition/Construction report has been approved by MMC and ESD. This report shall summarize the results of implementing the above Waste Management Plan elements, including: the actual waste generated and diverted from the project, the waste reduction percentage achieved, and how the goal was achieved, etc.

### **Preconstruction Meeting**

- 1) At least thirty days prior to beginning any work on the site, demolition and/or grading, for the implementation of the MMRP, the Permittee is responsible to arrange a Preconstruction Meeting that shall include: the Construction Manager or Grading Contractor, MMC, and ESD and the Resident Engineer (RE), if there is an engineering permit.
- 2) At the Preconstruction Meeting, the Permittee shall submit Three (3) reduced copies (11" x 17") of the approved Waste Management Plan to MMC (2) copies and to ESD (1) copy.
- 3) Prior to the start of demolition, the Permittee/Construction Manager shall submit a construction schedule to MMC and ESD.

### **During Construction**

The Permittee/Construction Manager shall call for inspection by both MMC and ESD who will periodically visit the construction site to verify implementation of the Waste Management Plan.

### **Post Construction**

- 1) After completion of the implementation of the MMRP, a final results report shall be submitted to MMC to coordinate the review by the ADD and ESD.
- 2) Prior to final clearance of any demolition permit, issuance of any grading or building permit, release of the grading bond and/or issuance of a Certification of Occupancy, the applicant shall provide documentation that the ADD of LDR and ESD, that the Waste Management Plan has been effectively implemented.

### Traffic

- 1) Prior to the issuance of the first building permit, the applicant shall assure by permit and bond the restriping of Denver Street between Clairemont Drive and Ingulf Street to remove on-street parking and

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provide a center two-way left turn lane to the satisfaction of the City Engineer.

- 2) The applicant shall provide and maintain an additional four (4) parking spaces (above the minimum required of 468 for the project) on-site to replace the four parking spaces on the west side of Denver Street that would be lost due to the restriping of Denver Street to provide a center two-way left turn lane.

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