

RESOLUTION NUMBER R- 300948

ADOPTED ON OCT 18 2005

WHEREAS, on August 16, 2002, Barry Collins Inc., submitted an application to the Development Services Department for a Community Plan Amendment, rezone, tentative map, planned development permit and site development permit to subdivide a 6.36-acre vacant, undeveloped parcel into sixteen single-family residential lots and one open space lot (Project No. 3938); and

WHEREAS, the permit was set for a public hearing to be conducted by the City Council of the City of San Diego; and

WHEREAS, the issue was heard by the City Council on OCT 18, 2005; and

WHEREAS, the City Council of the City of San Diego considered the issues discussed in Mitigated Negative Declaration No. 3938; NOW THEREFORE,


BE IT RESOLVED, by the City Council of the City of San Diego, that it is hereby certified that Mitigated Negative Declaration No. 3938 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 Administration Code Section 15000 *et seq.*), that the report reflects the independent judgment of the City of San Diego as Lead Agency and that the information contained in said report, together with any comments received during the public review process, has been reviewed and considered by the City Council.

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 said Mitigated Negative Declaration, a copy of which is attached hereto and incorporated by reference, is hereby approved.

BE IT FURTHER RESOLVED that pursuant to California Public Resources Code, section 21081.6, the City Council hereby 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 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   
Douglas K. Humphreys  
Deputy City Attorney

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07/25/05  
Or.Dept:DSD  
R-2006-84

## EXHIBIT A

### MITIGATION MONITORING AND REPORTING PROGRAM

Community Plan Amendment, Rezone, Tentative Map, Planned Development Permit and Site Development Permit to subdivide a 6.36-acre vacant, undeveloped parcel into 16 single-family residential lots and one open space lot.

(Project No. 3938)

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 92101-4155. All mitigation measures contained in the Mitigated Negative Declaration No. 3938 shall be made conditions of the Development Services Department for a Community PLAN Amendment, REZONE, Tentative Map, Planned Development Permit and Site Development Permit to subdivide a 6.36-acre vacant, undeveloped parcel into 16 single-family residential lots and one open space lot as may be further described below.

The above Mitigation, Monitoring and Reporting Program will require additional fees and/or deposits to be collected prior to the issuance of building permits, certificates of occupancy and/or final maps to ensure the successful completion of the monitoring program.

#### **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 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*: "River View Village Residential project is subject to a Mitigation, Monitoring and Reporting Program and shall conform to the mitigation conditions as contained in the Mitigated Negative Declaration 3938."

## **Biological Resources**

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, direct impacts to 0.08 acres of coast live oak habitat (*Tier I*) and 2.79 acres of coastal sage scrub habitat (*Tier II*) shall be mitigated to the satisfaction of the City Manager, through a combination of the following: (a) preservation of 2.69 acres of the appropriate habitat on-site, and (b) off-site acquisition of 1.33 acres of coastal sage scrub habitat within the MHPA, or (c) off-site land acquisition of coastal sage scrub habitat within an approved conservation mitigation bank or (d) payment into the City's Habitat Acquisition Fund, as described below.
  - a. The owner/permittee shall record a Conservation Easement on Lot 17 as well as the northern portion of lots 10 through 16 in favor of the City of San Diego for the on-site preservation of 2.69 acres, including 0.36\* acres of *Tier I*, 2.19 acres of *Tier II*, and 0.14 of *Tier IIIB* habitat. The easement shall name the U.S. Fish and Wildlife Service and the California Department of Fish and Game as third party beneficiaries, define the location of the mitigation area, and provide that no clearing, grubbing or grading or disturbance of native vegetation shall occur within the area.

\* Coast live oak woodland habitat is being mitigated at a greater ratio than required per City of San Diego guidelines. There is an excess of .20 acre of coast live oak woodland being preserved onsite, however due to mitigation lands occurring outside of the MHPA, in accordance with the City's Biology Guidelines the excess acreage cannot be applied to the 1.33 acres of coastal sage due to the affected acreage not being in-kind.
  - b. The remaining mitigation of 1.33 acres of coastal sage scrub habitat (*Tier II*) outside of the MHPA shall be mitigated with equivalent *Tier II* habitat or better. These impacts shall be mitigated via preservation within the MHPA at a ratio of 1:1 for a requirement of 1.33 acres within the MHPA). If the preservation occurs outside of the MHPA, a 1.5:1 ratio shall be utilized, for a requirement of 1.99 acres, **or**
  - c. Prior to the first preconstruction meeting, the applicant shall provide verification to the ADD in the Development Services Department that conservation credits equivalent to 1.33 acres of *Tier II* upland habitat has been assigned in the City's Marron Valley Conservation Bank as mitigation for impacts to coastal sage scrub, **or**
  - d. Prior to issuance of the first grading permit, the owner/permittee shall contribute a total of \$33,250 to City of San Diego Habitat Acquisition Fund to mitigate for the loss of 1.33 acres of coastal sage scrub (*Tier II*). The current per-acre contribution amount for the Habitat Acquisition Fund is \$25,000. This fee is based on mitigation ratios of 1:1 for coastal sage scrub impacts (impacts

occur outside the MHPA, yet mitigation would be required inside the MHPA). If the offsite habitat is outside of the MHPA, the mitigation ratio would be 1.5:1, thereby requiring purchase of 1.99 acres of *Tier II* habitat.

3. Prior to the issuance of any grading permits and/or the first pre-construction meeting, the owner/permittee shall submit evidence to the ADD of LDR verifying that a qualified biologist, as defined in the City of San Diego Biological Resource Guidelines has been retained to implement the biological resources mitigation program.
4. The project biologist shall supervise the placement of orange construction fencing or equivalent along the limits of disturbance within and surrounding sensitive habitats as shown on the approved Exhibit A.
5. All construction activities (including staging areas) shall be restricted to the development area as shown on the approved Exhibit A. The project biologist shall monitor construction activities as needed to ensure that construction activities do not encroach into biologically sensitive areas beyond the limits of disturbance as shown on the approved Exhibit A.
6. No trash stockpiling or oil dumping, fueling of equipment, storage of hazardous wastes or construction equipment/materials, parking or other construction related activities shall occur adjacent to sensitive habitat. These activities shall occur only within the designated staging area located outside the area defined as sensitive habitat. All construction related debris shall be removed off-site to a legal disposal facility.
7. No direct impacts to nesting raptors are permitted. If removal of any coast live oak or eucalyptus trees is proposed during the raptor breeding season (February 1 through September 15) the biologist shall ensure that no raptors are nesting in such trees. If construction occurs during the raptor breeding season a preconstruction survey would be conducted and no construction would occur within 300 to 500 feet of any identified nest(s) until the young fledge. Should the biologist determine that raptors are nesting, the trees shall not be removed until after the breeding season.
8. The entire southerly property line of open space lot 17 shall be fenced to preclude human and domestic animals from entering the open space area.

#### **Visual Quality**

9. 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 ADD of LDR shall verify compliance with the following visual quality mitigation measures:
  - a. To minimize the impact that the project would have on the existing landform, native landscaping materials including coast live oaks (*Quercus agrifolia*) shall be incorporated into the project site to provide immediate screening of the wall segments and to break up the line of the residential dwellings. The coast live oak planted on

the grade slope shall be at a mixture of 24-inch box (50%) and 15-gallon (50%) size trees.

- b. The remainder of the native plant landscape palette shall include species large enough (minimum 1 gallon size) to provide immediate screening of the graded slope and wall segments, as other species (such as vines and trees) may require several years to provide effective screening.
- c. All of the retaining walls shall be in an earth-tone color to minimize the initial change in the visual resource.

**Human Health/Public Safety**

- 10. Prior to the issuance of any building permits the buildings on the north side of this project shall incorporate fire safety measures to be approved by the City Fire Chief. The structural modifications for the single-family dwellings (applied to the north side of each structure) located on lots 10 through 16 shall have exterior fire-rated walls that meet a minimum one hour rated construction, however that may be achieved per the California Building Code. All operable windows and doors that fall within those portions of the exterior fire-rated walls shall be 45 minute rated assemblies. All operable windows and doors that fall within portions of the exterior fire-rated walls, shall be protected by a 45 minute fusible link, roll down shutter assembly.

**Paleontological Resources**

**Prior to Preconstruction Meeting**

- 11. *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.

- 12. *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, Demolition Plans/Permits 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.

13. *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.
  
14. *Records Search Prior to Precon Meeting*

At least thirty days (30) 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**

15. *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.
  
16. *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.
  
17. *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**

18. *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.

19. *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.

20. *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.

21. *Notification of Completion*

The Paleontologist shall notify MMC and the RE, or BI as appropriate, of the end date of monitoring.

**Post Construction**

22. 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

23. 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 ADD of LDR.
- b. MMC shall notify the RE or BI, as appropriate, of receipt of the Final Results Report.