

RESOLUTION NUMBER R- 300977

ADOPTED ON OCT 25 2005

WHEREAS, Parkview Aero Court submitted an application to the Development Services Department for a site development permit, planned development permit, vesting tentative map, rezone, and Kearny Mesa Community Plan Amendment for the Parkview Aero Court [Project] Project No.44985; 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 OCT 25 2005 ; and

WHEREAS, the City Council considered the issues discussed in Mitigated Negative Declaration No. 44985; NOW, THEREFORE,

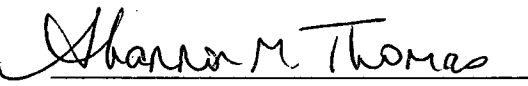
BE IT RESOLVED, by the Council of the City of San Diego, that it is certified that Mitigated Negative Declaration No. 44985, on file in the office of the City Clerk, has been completed in compliance with the California Environmental Quality Act of 1970 (California Public Resources Code section 21000 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 Parkview Aero Court – Project No. 44985.

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 
Shannon M. Thomas
Deputy City Attorney

SMT:als
10/10/05
Or.Dept:DSD
R-2006-277
MMS#2588

ENVIRONMENTAL – MND 11-01-04

EXHIBIT A

MITIGATION, MONITORING AND REPORTING PROGRAM PARKVIEW-AERO COURT – PROJECT NO. & MND NO. 44985

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. 44985 shall be made conditions of Site Development Permit, Planned Development Permit, Vesting Tentative Map, Rezone, and Kearny Mesa Community Plan Amendment, as may be further described below.

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 is the responsibility of the applicant. The basis for the MMRP can be found in the Initial Study. The mitigation measures are described below:

BIOLOGICAL RESOURCES

1. Prior to the issuances of any grading permits and or the first pre-construction meeting, the owner/permittee shall submit evidence to the Assistant Deputy Director (ADD) of Land Development Review (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.
2. Prior to the issuances of a Notice to Proceed (NTP) or any permit, including but not limited to, the first grading permit, Demolition Plans/Permits and Building Plans/Permits, direct impacts to 0.4 acres of Diegan coastal sage scrub and 0.4 acres of disturbed Diegan coastal sage scrub totaling 0.8 acres of coastal sage scrub habitat (Tier II) shall be mitigated to the satisfaction of the City Manager, through one or a combination of the following: (a) off-site acquisition of 0.8 acres of coastal sage scrub habitat within the MHPA, (b) off-site land acquisition of equivalent acreage in an approved conservation mitigation bank, or (c) payment into the City's Habitat Acquisition Fund, as described below.
 - a. The owner/permittee shall acquire off-site mitigation land that includes 0.8 acres of coastal sage scrub (Tier II or higher) within the MHPA. These acreages are based on the mitigation ratio of 1:1 for coastal sage scrub. If mitigation occurs outside the MHPA, the ratio would increase to 1.5:1 for impacts to coastal sage scrub.
 - b. The owner/permittee shall provide verification to the ADD of the LDR that conservation credits equivalent to 0.8 acres of Tier II upland habitat has been

assigned in the City's Marron Valley Conservation Bank as mitigation for project impacts to coastal sage scrub.

- c. The owner/permittee shall contribute a total of \$20,000.00 to the City of San Diego Habitat Acquisition Fund (HAF) to mitigate for the loss of 0.8 acres of coastal sage scrub (Tier II). The contribution amount for the HAF is \$25,000.00 per acre. The total amount is based on a mitigation ratio of 1:1 for coastal sage scrub (impacts would occur outside the MHPA, mitigation would be within the MHPA).

HUMAN HEALTH/PUBLIC SAFETY/HAZARDOUS MATERIALS

1. Prior to issuance of ~~Demolition~~ Building Plans/Permits, a subsurface investigation shall be conducted to determine the extent of the hazardous materials contamination on site in accordance with a work plan approved by the County of San Diego Department of Environmental Health. A remediation plan shall be prepared and implemented, based on the findings of the investigation. The results of this plan shall be summarized in a written letter and submitted to the Assistant Director of LDR.
2. Prior to issuance of Demolition Plans Permits, the applicant shall retain a hazardous materials specialist to implement an abatement plan for asbestos-containing materials and lead-based paint. The results of the program shall be summarized in a written letter and submitted to the ADD of LDR.

PALEONTOLOGICAL RESOURCES

I. Prior to Permit Issuance

A. Land Development Review (LDR) Plan Check

1. Prior to Notice to Proceed (NTP) for any construction permits, including but not limited to, the first Grading Permit, Demolition Plans/Permits and Building Plans/Permits, but prior to the first preconstruction meeting, whichever is applicable, the Assistant Deputy Director (ADD) Environmental designee shall verify that the requirements for Paleontological Monitoring have been noted on the appropriate construction documents.

B. Letters of Qualification have been submitted to ADD

1. The applicant shall submit a letter of verification to Mitigation Monitoring Coordination (MMC) identifying the Principal Investigator (PI) for the project and the names of all persons involved in the paleontological monitoring program, as defined in the City of San Diego Paleontology Guidelines.
2. MMC will provide a letter to the applicant confirming the qualifications of the PI and all persons involved in the paleontological monitoring of the project.
3. Prior to the start of work, the applicant shall obtain approval from MMC for any personnel changes associated with the monitoring program.

II. Prior to Start of Construction

A. Verification of Records Search

1. The PI shall provide verification to MMC that a site specific records search has been completed. Verification includes, but is not limited to a copy of a confirmation letter from San Diego Natural History Museum, other institution or, if the search was in-house, a letter of verification from the PI stating that the search was completed.
2. The letter shall introduce any pertinent information concerning expectations and probabilities of discovery during trenching and/or grading activities.

B. PI Shall Attend Precon Meetings

1. Prior to beginning any work that requires monitoring; the Applicant shall arrange a Precon Meeting that shall include the PI, Construction Manager (CM) and/or Grading Contractor, Resident Engineer (RE), Building Inspector (BI), if appropriate, and MMC. The qualified paleontologist shall attend any grading/excavation related Precon Meetings to make comments and/or suggestions concerning the Paleontological Monitoring program with the Construction Manager and/or Grading Contractor.
 - a. If the PI is unable to attend the Precon Meeting, the Applicant shall schedule a focused Precon Meeting with MMC, the PI, RE, CM or BI, if appropriate, prior to the start of any work that requires monitoring.
2. Identify Areas to be Monitored
Prior to the start of any work that requires monitoring, the PI shall submit a Paleontological Monitoring Exhibit (PME) based on the appropriate construction documents (reduced to 11x17) to MMC identifying the areas to be monitored including the delineation of grading/excavation limits. The PME shall be based on the results of a site specific records search as well as information regarding existing known soil conditions (native or formation).
3. When Monitoring Will Occur
 - a. Prior to the start of any work, the PI shall also submit a construction schedule to MMC through the RE indicating when and where monitoring will occur.
 - b. The PI may submit a detailed letter to MMC prior to the start of work or during construction requesting a modification to the monitoring program. This request shall be based on relevant information such as review of final construction documents which indicate conditions such as depth of excavation and/or site graded to bedrock, presence or absence of fossil resources, etc., which may reduce or increase the potential for resources to be present.

III. During Construction

A. Monitor Shall be Present During Grading/Excavation/Trenching

1. The monitor shall be present full-time during grading/excavation/trenching activities as identified on the PME that could result in impacts to formations with high and moderate resource sensitivity. **The Construction Manager is**

responsible for notifying the RE, PI, and MMC of changes to any construction activities.

2. The monitor shall document field activity via the Consultant Site Visit Record (CSV). The CSV's shall be faxed by the CM to the RE the first day of monitoring, the last day of monitoring, monthly (**Notification of Monitoring Completion**), and in the case of ANY discoveries. The RE shall forward copies to MMC.
3. The PI may submit a detailed letter to MMC during construction requesting a modification to the monitoring program when a field condition such as trenching activities that do not encounter formational soils as previously assumed, and/or when unique/unusual fossils are encountered, which may reduce or increase the potential for resources to be present.

B. Discovery Notification Process

1. In the event of a discovery, the Paleontological Monitor shall direct the contractor to temporarily divert trenching activities in the area of discovery and immediately notify the RE or BI, as appropriate.
2. The Monitor shall immediately notify the PI (unless Monitor is the PI) of the discovery.
3. The PI shall immediately notify MMC by phone of the discovery, and shall also submit written documentation to MMC within 24 hours by fax or email with photos of the resource in context, if possible.

C. Determination of Significance

1. The PI shall evaluate the significance of the resource.
 - a. The PI shall immediately notify MMC by phone to discuss significance determination and shall also submit a letter to MMC indicating whether additional mitigation is required. The determination of significance for fossil discoveries shall be at the discretion of the PI.
 - b. If the resource is significant, the PI shall submit a Paleontological Recovery Program (PRP) and obtain written approval from MMC. Impacts to significant resources must be mitigated before ground disturbing activities in the area of discovery will be allowed to resume.
 - c. If resource is not significant (e.g., small pieces of broken common shell fragments or other scattered common fossils) the PI shall notify the RE, or BI as appropriate, that a non-significant discovery has been made. The Paleontologist shall continue to monitor the area without notification to MMC unless a significant resource is encountered.
 - d. The PI shall submit a letter to MMC indicating that fossil resources will be collected, curated, and documented in the Final Monitoring Report. The letter shall also indicate that no further work is required.

IV. 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 no discoveries were encountered during night work, The PI shall record the information on the CSVr and submit to MMC via fax by 9am the following morning, if possible.
 - b. Discoveries
All discoveries shall be processed and documented using the existing procedures detailed in Sections III - During Construction.
 - c. Potentially Significant Discoveries
If the PI determines that a potentially significant discovery has been made, the procedures detailed under Section III - During Construction shall be followed.
 - d. The PI shall immediately contact MMC, or by 8AM the following morning to report and discuss the findings as indicated in Section III-B, unless other specific arrangements have been made.
- 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, shall notify MMC immediately.
- C. All other procedures described above shall apply, as appropriate.

VI. Post Construction

A. Submittal of Draft Monitoring Report

1. The PI shall submit two copies of the Draft Monitoring Report (even if negative) which describes the results, analysis, and conclusions of all phases of the Paleontological Monitoring Program (with appropriate graphics) to MMC for review and approval within 90 days following the completion of monitoring,
 - a. For significant paleontological resources encountered during monitoring, the Paleontological Recovery Program shall be included in the Draft Monitoring Report.
 - b. Recording Sites with the San Diego Natural History Museum
The PI shall be responsible for recording (on the appropriate forms) any significant or potentially significant fossil resources encountered during the Paleontological Monitoring Program in accordance with the City's Paleontological Guidelines, and submittal of such forms to the San Diego Natural History Museum with the Final Monitoring Report.
2. MMC shall return the Draft Monitoring Report to the PI for revision or, for preparation of the Final Report.
3. The PI shall submit revised Draft Monitoring Report to MMC for approval.
4. MMC shall provide written verification to the PI of the approved report.
5. MMC shall notify the RE or BI, as appropriate, of receipt of all Draft Monitoring Report submittals and approvals.

- B. Handling of Fossil Remains
1. The PI shall be responsible for ensuring that all fossil remains collected are cleaned and catalogued.
 2. The PI shall be responsible for ensuring that all fossil remains are analyzed to identify function and chronology as they relate to the geologic history of the area; that faunal material is identified as to species; and that specialty studies are completed, as appropriate
- C. Curation of fossil remains: Deed of Gift and Acceptance Verification
1. The PI shall be responsible for ensuring that all fossil remains associated with the monitoring for this project are permanently curated with an appropriate institution.
 2. The PI shall include the Acceptance Verification from the curation institution in the Final Monitoring Report submitted to the RE or BI and MMC.
- D. Final Monitoring Report(s)
1. The PI shall submit two copies of the Final Monitoring Report to MMC (even if negative), within 90 days after notification from MMC that the draft report has been approved.
 2. The RE shall, in no case, issue the Notice of Completion until receiving a copy of the approved Final Monitoring Report from MMC which includes the Acceptance Verification from the curation institution.

TRANSPORTATION/CIRCULATION

1. Prior to issuance of ~~Certificate of Occupancy for the condominium complex~~ the first building permit, the applicant shall assure by permit and bond, the construction of a traffic signal interconnected with the existing traffic signal at the Kearny Villa Road/Aero Drive intersection, which is located approximately 1,300 feet from the Kearny Villa Road and Project Access "A," shall be installed satisfactory to the City Engineer. The traffic signal installation shall be funded by the project applicant.
2. The project applicant shall make a fair share contribution to widen Aero Drive, between Kearny Villa Road and Aero Court, from a four-lane Major Arterial to a six-lane Prime Arterial in accordance with its *Kearny Mesa Community Plan* classification. Based on the expected project-generated ADT of 159 (horizon year with project minus horizon year without project) divided by 10,122 (horizon year with project minus existing), the project applicant's fair share contribution would be 1.57 percent of the improvement costs.

Noise

Prior to issuance of any Building Permits, an acoustical analysis would be required according to the City of San Diego Acoustical Report Guidelines. Any mitigation measures recommended by the approved acoustical analysis shall be incorporated in the construction plans to the satisfaction of the City Engineer.