

RESOLUTION NUMBER R- 301577

DATE OF FINAL PASSAGE JUN 20 2006

WHEREAS, Pardee Homes, Owner/Permittee submitted an application to the City of San Diego for a vesting tentative map; sewer, water and drainage easement abandonment; and planned development permit/site development permit for the Dennery Ranch Planning Areas 2 and 3 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, under Charter section 280(a)(2) this resolution is not subject to veto by the Mayor because this matter requires the City Council to act as a quasi-judicial body and where a public hearing was required by law implicating due process rights of individuals affected by the decision and where the Council was required by law to consider evidence at the hearing and to make legal findings based on the evidence presented; and

WHEREAS, the issue was heard by the City Council on JUN 20 2006; and

WHEREAS, the City Council considered the issues discussed in the Addendum to Environmental Impact Report No. 88-0785 (Project No. 5091); NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that it is certified that the Addendum to Environmental Impact Report No. 88-0785 (Project No. 5091), 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 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 this Council in connection with the approval of a vesting tentative map; sewer, water and drainage easement abandonment; and planned development permit/site development permit for the Dennery Ranch Planning Areas 2 and 3 project.

BE IT FURTHER RESOLVED, that pursuant to California Code of Regulations section 15093, the City Council adopts the Statement of Overriding Considerations, a copy of which is attached and is on file in the office of the City Clerk and incorporated herein by reference, with respect to the project.

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  FOR SHANNON THOMAS  
Shannon M. Thomas  
Deputy City Attorney

SMT:pev  
06/06/06  
06/19/06 Cor.Copy  
Or.Dept:DSD  
R-2006-1043  
MMS #3331

**STATEMENT OF OVERRIDING CONSIDERATIONS**

**DENNERY RANCH PRECISE PLAN – PLANNING AREA 2 & 3**

**(Addendum to EIR SCH No. 88113034)**

**PROJECT NO. 5091**

A Final Environmental Impact Report ("FEIR"), *Final Environmental Impact Report for the Dennerly Ranch Precise Plan* (April 1993), was prepared to evaluate the overall impacts of the Precise Plan. The Vesting Tentative Map for Planning Areas 2 and 3 is located within the area previously analyzed in the Dennerly Ranch Precise Plan FEIR. The City of San Diego has prepared an Addendum to the FEIR to address project-specific impacts associated with Planning Areas 2 and 3 ("Addendum"). The 1993 FEIR identified significant unmitigated impacts for the areas of land use, landform alteration/visual quality, biological resources, public facilities, and air quality cumulative impacts. Mitigation measures were included; however, the proposed mitigation would not reduce the impacts to below a level of significance. Similarly, the 2005 Addendum to the FEIR concluded development of the proposed Planning Areas 2 and 3 would result in significant impacts that would not be mitigated to below a level of significance.

The California Environmental Quality Act (CEQA) requires the decision-making agency to balance, as applicable, the economic, legal, social, technological, or other benefits of a proposed project against its unavoidable environmental risks when determining whether to approve the project. ~~If the specific economic, legal, social, technological, or other benefits of a proposed project outweigh the unavoidable adverse environmental effects,~~ the adverse environmental effects may be considered "acceptable" (Section 15093 [a]). CEQA further requires that, when the lead agency approves a project which will result in the occurrence of significant effects which are identified in the EIR but are not avoided or substantially lessened, the agency shall state in writing the specific reasons to support its action based on the EIR and/or other information in the record. The statement of overriding considerations shall be supported by substantial evidence in the record (Section 15093 [b] of the State CEQA Guidelines). This statement does not substitute for, and shall be in addition to, findings required pursuant to Section 15091 (Section 15093 [c] of the State CEQA Guidelines).

The City of San Diego pursuant to Section 15093 of the State CEQA Guidelines, after balancing the benefits of the proposed Planning Areas 2 and 3 project (Parcel 1 and 2 of Parcel Map Number 15134), and associated actions against the unavoidable significant impacts, as defined in the Addendum to the FEIR, hereby determines that the impacts are acceptable for the following reasons:

R. 301577

1) **Land Use.** Although the Project is consistent with findings in the FEIR that there are some significant unmitigated impacts due to some inconsistency with provisions of the Resource Protection Ordinance (RPO) and the goals of the Otay Mesa Community Plan and development guidelines, the Project will provide some important conservation measures, including 0.7-acre of brush management open space; and Lot A (6.6 acres), Lot C (1.9 acres), and Lot B (0.6-acre) open space area all to be maintained by a homeowners association. Within Lot B, 0.5-acre of burn ash exists and is proposed to be capped using either asphalt or vegetated materials. Capping the burn ash site would effectively eliminate the potential for future exposure pathways to residents of Dennery Ranch 2/3. In addition, the unmitigated land use impacts are acceptable because without them, the Dennery Canyon would not be preserved as permanent open space; the 0.7-acre of brush management would not be preserved; and Lot A (6.6 acres), Lot C (1.9 acres), and Lot B (0.6-acre) open space area would not be preserved. Some of these permanent preservation areas help maintain an integral linkage corridor for wildlife movement to and from the Otay Valley Regional Park. Both the Planned Subregional Open Space and the Otay Valley Regional Park support the long-term viability of key biological resources in the Otay Mesa Community Plan Area and contribute to a significant identified regional need for open space preservation. This preservation of these open space areas would result in additional open space areas previously anticipated for development by the Otay Mesa Community Plan.

2) **Visual Quality.** Although the Project is consistent with findings in the FEIR that there are some significant unmitigated impacts to visual quality from the Project's grading activities, there are visual quality mitigation measures set forth in the FEIR and the Mitigation, Monitoring and Reporting Program to reduce some of the visual impacts. ~~In addition, the unmitigated visual impacts are acceptable because without them the Project could not be constructed. Without the Project, the Otay Mesa Community would not benefit from the increase in the overall supply of housing it needs to help meet the growth demands that will continue in Otay Mesa regardless of whether this Project is constructed. By increasing the overall supply of housing, all housing units in the community become more affordable than they would be without this new housing stock. This helps meet the specific goals of the Otay Mesa Community Plan as well as the City and regional housing goals.~~

3) **Water Quality.** Although the Project is consistent with findings in the FEIR that there are some significant unmitigated cumulative impacts to existing water quality conditions due to stormwater runoff, there are water quality mitigation measures set forth in the FEIR and the National Pollutant Discharge Elimination System Permit and regulations that will be implemented. In addition, the unmitigated water quality impacts are acceptable because without them, the Project could not be constructed. Without the Project, the Otay Mesa Community would not benefit from the increase in the overall supply of housing it needs to help meet the growth demands in that will continue in Otay Mesa regardless of whether this Project is constructed. By increasing the overall supply of housing, all housing units in the community become more affordable than they would be without this new housing stock. This helps meet the specific goals of the Otay Mesa Community Plan as well as the City and regional housing goals. In addition, since approval of the original project and adoption of the Dennery Ranch FEIR, the City of San

Diego has adopted Storm Water Regulations for which all projects must comply. Compliance with all established mitigation measures and the Storm Water Regulations will ensure no new impacts associated with project grading or to downstream resources

4) **Biological Resources.** Although the Project is consistent with findings in the FEIR that there are some significant unmitigated impacts to biological resources, there are biological resources mitigation measures set forth in the FEIR and the City of San Diego and City of Chula Vista MSCP adjacency guidelines that have or will be implemented. In addition, the unmitigated biological resource impacts are acceptable because without them, the Dennery Canyon would not be preserved as permanent open space; the 0.7-acre of brush management would not be preserved; and Lot A (6.6 acres), Lot C (1.9 acres), and Lot B (0.6-acre) open space area would not be preserved. Some of these permanent preservation areas help maintain an integral linkage corridor for wildlife movement to and from the Otay Valley Regional Park. Both the Planned Subregional Open Space and the Otay Valley Regional Park support the long-term viability of key biological resource in the Otay Mesa Community Plan Area and contribute to a significant identified regional need for open space preservation. This preservation of these open space areas would result in additional open space areas previously anticipated for development by the Otay Mesa Community Plan.

5) **Air Quality.** Although the Project is consistent with findings in the FEIR that there are some significant unmitigated cumulative impacts to air quality, there are air quality mitigation measures set forth in the FEIR that have or will be implemented. In addition, the unmitigated air quality impacts are acceptable because without them, the Project could not be constructed. Without the Project, the Otay Mesa Community would not benefit from the increase in the overall supply of housing; it needs to help meet the growth demands in that will continue in Otay Mesa regardless of whether this Project is constructed. By increasing the overall supply of housing, all housing units in the community become more affordable than they would be without this new housing stock. This helps meet the specific goals of the Otay Mesa Community Plan as well as the City and regional housing goals.

6) Public improvements associated with the development of the site will provide an increment of the overall public improvements associated with implementation of the Otay Mesa Community Plan.

7) The Dennery Ranch project has been and would continue to be a necessary component of achieving the necessary jobs-housing balance. One of the guiding principles of the Otay Mesa Community Plan is the concept of a "balanced community." If housing is not available within projects such as Dennery Ranch, workers will be forced to commute longer distances on Interstates 5 and 805 and State Route 905. The result of this jobs/housing imbalance will be longer-than-average commutes for Otay Mesa workers, worsening air quality, and the need for significant public expenditures to upgrade or improve regional transportation facilities.

8) Dennery Ranch has provided a broad range of housing opportunities. The housing plan for Dennery Ranch was based on the assumption that a full range of densities and housing products will create a full range of prices for future residents. Otay Mesa is one of the last remaining large undeveloped areas which can potentially fulfill the housing needs for such a broad economic segment of the community. Dennery Ranch, in conformance with the community plan, is committed to implementing a balanced community in terms of housing types and economic appeal, by providing housing opportunities for various age groups, family sizes, races, and ethnic backgrounds.

9) Dennery Ranch has generated and will continue to generate construction-related jobs. Roughly one-half of the employment is construction; the balance results from consumer demand for new furniture, services, landscaping, and other new household purchases.

For these reasons, on balance, the City Council hereby finds that there are planning, economic, social, and other considerations resulting from this project that serve to override and outweigh project unavoidable significant environmental effects, and thus the adverse effects are considered acceptable.

EXHIBIT A  
MITIGATION MONITORING AND REPORTING PROGRAM

DENNERY RANCH VILLAGES 2/3

COUNCIL APPROVAL

PROJECT NUMBER: 5091

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 Addendum to EIR No. 88-0785 Project No. 5091 shall be made conditions of COUNCIL APPROVAL as may be further described below.

The following Mitigation Monitoring and Reporting Program (MMRP) would implement the requirements from the previously adopted Final EIR for the Dennery Ranch Precise Plan and VTM. That was certified in 1993. Based on a review of the project plans, the previous FEIR and subsequent technical study updates, the following MMRP identifies measures which specifically apply to the proposed project.

Land Form Alteration/Visual Quality

1. A detailed landscape and maintenance plan for all manufactured slopes shall accompany development plans. These plans shall ensure natural-appearing slope coverage by vegetation within a practicable time frame, as recommended by the landscape architect and approved by the City of San Diego Development Services Department.
2. The requirement for contour grading, horizontal and vertical undulation, variable slope ratios, and rounding of tops and toes of slopes shall be depicted on the project grading plans and shall be included as Environmental Mitigation Notes. The plans shall be reviewed and approved by the Environmental Designee of the Environmental Analysis Section (EAS) prior to issuance of any grading permit or recordation of final maps for the project.

Paleontological Resources

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 (CSVSR). The CSVSR'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. 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.

Passed by the Council of The City of San Diego on JUN 20 2006, by the following vote:

Council Members	Yeas	Nays	Not Present	Ineligible
Scott Peters	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Kevin Faulconer	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Toni Atkins	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Anthony Young	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Brian Maienschein	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Donna Frye	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jim Madaffer	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ben Hueso	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage JUN 20 2006

AUTHENTICATED BY:

(Seal)

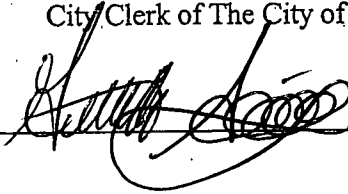
JERRY SANDERS

Mayor of The City of San Diego, California.

ELIZABETH S. MALAND

City Clerk of The City of San Diego, California.

By



, Deputy

Office of the City Clerk, San Diego, California

Resolution Number

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