

RESOLUTION NUMBER R- 302093

DATE OF FINAL PASSAGE NOV 14 2006

WHEREAS, on October 2, 2002, the San Diego Unified School District submitted an application to the City of San Diego for a rezone, planned development permit/extension of time for planned residential development permit and vesting tentative map/extension for time for vesting tentative map for the Fairbrook Estates 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 NOV 14 2006; and

WHEREAS, the City Council considered the issues discussed in Addendum to Mitigated Negative Declaration No. 98-1011; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that it is certified that Addendum to Mitigated Negative Declaration No. 98-1011, 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 a rezone, planned development permit/extension of time for planned residential development permit and vesting tentative map/extension of time for vesting tentative map for Fairbrook Estates 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 Addendum to 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
Shannon M. Thomas
Deputy City Attorney

SMT:als
10/06/06
Or.Dept:DSD
R-2007-371
MMS#3863

ENVIRONMENTAL - MND 11-01-04

EXHIBIT A
MITIGATION MONITORING AND REPORTING PROGRAM
FAIRBROOK ESTATES
PLANNED DEVELOPMENT PERMIT, VESTING TENTATIVE MAP AND
REZONE
Project No. 5284

This Mitigation Monitoring and Reporting Program is designed to ensure compliance with California 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 Mitigated Negative Declaration (Project No. 5284), shall be made conditions of Planned Development Permit, Vesting Tentative Map and Rezone as be further described below.

Revised Mitigation Requirements for Impact to Biological Resources

Prior to the issuance of a grading permit for the proposed project, the applicant must provide a copy of a City of San Diego-approved Mitigation Monitoring and Reporting Program (MMRP) ~~and copies of the necessary resource agency permits from the U.S. Army Corps of Engineers and California Department of Fish and Game.~~ The MMRP shall include the following mitigation efforts:

Tier II habitat (0.20 acre of disturbed coastal sage scrub and 0.69 acre of disturbed broom baccharis scrub) shall be mitigated at a ratio of 1:1, by providing the equivalent of Tier II habitat (0.89 acre) within the MHPA on an offsite parcel of land currently owned by the SDUSD in the community of Tierrasanta, San Diego, California, adjacent to Mission Trails Regional Park. Alternatively, mitigation requirements may be met through payment of in-lieu fees to the City of San Diego's Habitat Acquisition Fund as established by City Council Resolution R-275129, adopted on February 12, 1990. Mitigation monies shall be \$25,000 per acre of impact plus a ten percent administrative fee; \$24,750 for the project must be deposited.

Tier IIIA habitat (1.78 acres of disturbed chamise chaparral) shall be mitigated at a ratio of 0.5:1, by providing the equivalent of Tier IIIA habitat (0.89 acre) within the MHPA on an offsite parcel of land currently owned by the SDUSD in the community of Tierrasanta, San Diego, California, adjacent to Mission Trails Regional Park. Alternatively, mitigation requirements may be met through payment of in-lieu fees to the City of San Diego's Habitat Acquisition Fund as established by City Council Resolution R-275129, adopted on February 12, 1990. Mitigation monies shall be \$25,000 per acre of impact plus a ten percent administrative fee; \$24,750 for the proposed project must be deposited.

Tier IIIB habitat (~~4.63~~ 4.89 acres of annual non-native grassland) shall be mitigated at a ratio of 0.5:1, by providing the equivalent of Tier IIIB habitat (~~2.32~~ 2.45 acres) within the MHPA on an offsite parcel of land currently owned by the SDUSD in the community of Tierrasanta, San Diego, California, adjacent to Mission Trails Regional Park. Alternatively, mitigation requirements may be met through payment of in-lieu fees to the City of San Diego's Habitat Acquisition Fund as established by City Council Resolution R-275129, adopted on February 12, 1990. Mitigation monies shall be \$25,000 per acre of impact plus a ten percent administrative fee; \$67,375 for the proposed project must be deposited.

~~Impacts to 0.26 acre of disturbed wetland habitat shall be mitigated at a 2:1 ratio, for a total of 0.52 acre. Mitigation for wetland impacts shall consist of off-site habitat acquisition of freshwater marsh or better habitat adjacent to a larger, pre-existing mitigation project. The acquired mitigation site shall be approved by the City of San Diego.~~

- ~~A. — Revegetation installation shall be provided by a licensed landscape contractor.~~
- ~~B. — Revegetation must occur prior to, concurrent with, or immediately following destruction of the on-site wetlands.~~
- ~~C. — Maintenance inspections shall be conducted weekly for the first four weeks, monthly for the next five months, and quarterly thereafter for the remainder of the revegetation project.~~
- ~~D. — The wetland mitigation site shall be monitored by a qualified project biologist over a 5-year monitoring period. Monitoring shall occur immediately following plant installation and quarterly for the first year, and twice a year for the next four years to evaluate the success of the revegetation efforts.~~
- ~~E. — By the first year, a 90% survival of all transplanted trees and 20% coverage of herbs shall be attained.~~
- ~~F. — The project biologist shall prepare and submit annual reports summarizing the results of each monitoring survey. Upon completion of the mitigation effort, a final report shall be submitted to the City of San Diego.~~

In addition, prior to the issuance of a grading permit, a conservation easement shall be placed over the on-site open space areas and the ~~4.104.23~~-acre off-site mitigation site (if off-site mitigation is implemented).

Prior to the issuance of building permits, a permanent wall shall be installed along the development side of the open space/MHPA boundary. The specific design of the wall shall be subject to review and approval by the City of San Diego Environmental Review Manager.

In accordance with authorization granted to the City of San Diego from the United States Fish and Wildlife Service (USFWS) pursuant to Section 10(a) of the

ESA and by the California Department of Fish and Game (SDFG) pursuant to Fish and Game Code section 2835 as part of the Multiple Species Conservation Program (MSC), the City of San Diego through the issuance of this permit hereby confers upon Permittee the status of Third Party Beneficiary as provided for in Section 17 of the City of San Diego Implementing Agreement (IA), executed on July 17, 1997 and on File in the Office of the City Clerk as Document No RR-00-18394. Third Party Beneficiary status is conferred upon Permittee by the City: (1) to grant Permittee the legal standing and legal right to utilize the take authorizations granted to the City pursuant to the MSCP within the context of those limitations imposed under this permit and the IA, and (2) to assure Permittee that no existing mitigation obligation imposed by the City of San Diego pursuant to this permit shall be altered in the future by the City of San Diego, USFWS, or CDFG, except in the limited circumstances described in Sections 9.6 and 9.7 of the IA. If mitigation lands are identified but not yet dedicated or preserved in perpetuity, maintenance and continued recognition of Third Party Beneficiary status by the City is contingent upon Permittee maintaining the biological values of any and all lands committed for mitigation pursuant to this permit and of full satisfaction by Permittee of mitigation obligations required by this permit, as described in accordance with Section 17.1D of the IA.

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.

Passed by the Council of The City of San Diego on NOV 14 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 checked="" type="checkbox"/>	<input type="checkbox"/>	<input 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 NOV 14 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 Debbie Lewerson-Cruz, Deputy

Office of the City Clerk, San Diego, California

Resolution Number R- 302093