

11/27/06

RESOLUTION NUMBER R- 303120
DATE OF FINAL PASSAGE NOV 27 2006

WHEREAS, the City of San Diego, submitted an application to the City of San Diego for a site development permit, for the Fox Canyon Neighborhood Park project [Project]; and

WHEREAS, on October 12, 2005, after considering the staff report and testimony from the public, the Project was approved by the Hearing Officer; and

WHEREAS, the Hearing Officer's decision was appealed to the Planning Commission; and

WHEREAS, on December 1, 2005, the Planning Commission of the City of San Diego heard the appeal of the project, and pursuant to Resolution No. 3897-PC, voted to uphold the Hearing Officer's decision to approve the site development permit and Mitigated Negative Declaration for Project No. 70422, SCH No. 2005081130, and to deny the appeal with the condition that Councilmember Madaffer's Office establish and coordinate a community Task Force prior to construction of the road to evaluate alternatives; and

WHEREAS, in accordance with Public Resources Code section 21151 and San Diego Municipal Code section 112.0520, J. W. Stump, Esquire, et al, for Friends of Fox Canyon Park appealed the Planning Commission decision to uphold the Hearing Officer's decision to certify the Mitigated Negative Declaration; 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 matter was heard by the City Council on March 21, 2006; and

WHEREAS, the City Council considered the appeal of the Planning Commission's decision to certify the Mitigated Negative Declaration for Project No. 70422, SCH No. 2005081130; and

WHEREAS, the City Council by Resolution No. R-301321 certified and approved Mitigated Negative Declaration Project No. 70422, SCH No. 2005081130, and adopted the Mitigated Monitoring and Reporting Program; and

WHEREAS, on April 19, 2006, a lawsuit was filed by Friends of Fox Canyon Park (Superior Court Case Number GIC86423) challenging the approval of the Project and the certification of the Mitigated Negative Declaration related thereto; and

WHEREAS, on October 10, 2006, the Parties entered into a settlement agreement in which the City Council agreed to docket rescission of the Mitigated Negative Declaration, Site Development Permit No. 267281, and Resolution No. R-301321, approving the Mitigated Negative Declaration; 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, on NOV 27 2006, 2006, the matter was heard; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that Site Development Permit No. 267281, for Project No. 70422, SCH NO. 2005081130, is hereby rescinded.

BE IT FURTHER RESOLVED, that Resolution No. R-301321, certifying the Mitigated Negative Declaration for Project No. 70422, SCH No. 2005081130, adopted by the City Council on March 21, 2006, is hereby rescinded.

BE IT FURTHER RESOLVED, that the Mitigated Negative Declaration for Project No. 70422, SCH No. 2005081130) is hereby rescinded.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By 
Malinda R. Dickinson
Deputy City Attorney

MRD:DKH:pev:ms
11/07/06
Or.Dept:City Atty
R-2007-543

Passed by the Council of The City of San Diego on NOV 27 2006, by the following vote:

Council Members	Yeas	Nays	Not Present	Recused Ineligible
Scott Peters	<input type="checkbox"/>	<input checked="" 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"/>

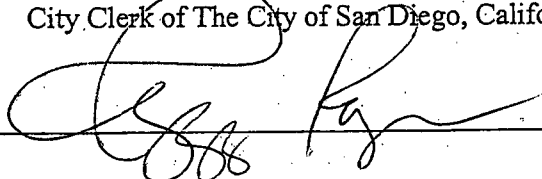
Date of final passage NOV 27 2006

AUTHENTICATED BY:

JERRY SANDERS
Mayor of The City of San Diego, California.

(Seal)

ELIZABETH S. MALAND
City Clerk of The City of San Diego, California.

By , Deputy

Office of the City Clerk, San Diego, California
Resolution Number 300120