

1/8/07

RESOLUTION NUMBER R- 302250

DATE OF FINAL PASSAGE JAN - 8 2007

WHEREAS, the San Diego Community College District, Owner/Permittee, filed an application with the City of San Diego for a site development permit and a Multiple Habitat Planning Area [MHPA] Boundary Line Adjustment for grading and re-vegetation within the Multiple Habitat Planning Area, known as the Mesa College Drive Street Vacation project [Project], located at 7250 Mesa College Drive, and legally described as all that portion of Pueblo Lot 1203 of the Pueblo Lands of San Diego according to map thereof made by James Pascoe in 1870, a copy of which was filed November 14, 1921, and is known as miscellaneous map number 36, in the Clairemont Mesa and Linda Community Plan areas, in the RS-1-7 and OP-1-1 zones; and

WHEREAS, on September 14, 2006, the Planning Commission of the City of San Diego considered Site Development Permit [SDP] No. 324476, and a Multiple Habitat Planning Area Boundary Line Adjustment, and pursuant to Resolution No. 4136-PC voted to recommend approval of the Permit; 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 matter was set for public hearing on January 8, 2007; and

WHEREAS, at the Public Hearing on January 8, 2007, testimony having been heard, evidence having been submitted, and the City Council having fully considered the matter and being fully advised concerning the same, asked the project applicant whether the applicant was willing to abide by certain additional conditions of approval of the Site Development Permit, San Diego Multi-Habitat Planning Area Boundary Adjustment and Public Right-of Way vacation. The applicant stated that they would comply with all the additional conditions and had no objections. Those conditions are as follows:

- a) Provide a 1.2 acre addition to the MHPA on land owned by the San Diego Community College District located east of Genesee Avenue acceptable to the MSCP staff;
- b) Work with the Tecolote Canyon Citizens Advisory committee on the removal of palm trees on District land east of Genesee Avenue;
- c) Provide on-campus parking spaces for Kearny Mesa Park users on weekends and holidays;
- d) Other than short-term construction periods, provide at least 4,250 parking spaces on campus as stated in EXHIBIT 5-B in the binder prepared by ADWRB;
- e) Conduct an annual Mesa College Canyon Day for kids to provide educational experiences for local elementary students. This event may include, but not be limited to, field trips in Tecolote Canyon. The District shall consult with the Tecolote Canyon Citizens Advisory Committee and the Council District 6 office prior to conducting the event.
- f) Consult with the Tecolote Canyon Citizens Advisory Committee on a landscaping plan. Eucalyptus and pine trees shall be excluded.

- g) Provide additional landscaping on Kearny Mesa Park to further screen the parking structure. Landscaping shall be acceptable to the Park and Recreation Department.
- h) As part of a long-term goal to establish a Carbon Neutral program on campus, neutralize emissions of carbon dioxide from automobiles, particularly in the vicinity of the parking structure. The program may include the planting of select trees and use of solar panels.
- i) Finance the amendments to the community plans, which staff was directed to initiate, in an amount not to exceed \$20,000; and

WHEREAS, staff was directed to do the following:

- a) Initiate the amendments to the Linda Vista and Clairemont Mesa Community Plans that:
 - i.) Adjust the community plan boundaries by placing the properties acquired by the San Diego Community College District into Clairemont Mesa and placing the remainder of the City-owned parcels in the canyon identified as APN 427-010-23 and APN 427-021-18 into Linda Vista
 - ii.) Designate the remaining City-owned land (approximately 6.78 acres) as Open Space in the amended Linda Vista Community Plan.
- b) Initiate the rezoning of the northern portion of the remaining City-owned land (approximately 6.78 acres) from RS-1-7 to OP-2-1.

- c) Prepare an ordinance that would dedicate the area designated/zone as Open Space (approximately 13.67 acres) in the amended Linda Vista Community Plan; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that it adopts the following findings with respect to Site Development Permit No. 324476 and MHPA Boundary Line

Adjustment:

A. SITE DEVELOPMENT PERMIT - SAN DIEGO MUNICIPAL CODE [SDMC] SECTION 126.0504(a)

1. Findings for all Site Development Permits:

a. The proposed development will not adversely affect the applicable land use plan. The actions by the City will vacate a portion of Mesa College Drive, permit grading and drainage, adjust the MHPA boundary, and sell property to the San Diego Community College District. These actions will allow the construction of a parking structure and a new east entry in accordance with the adopted Mesa College Facilities Master Plan. The existing Mesa College campus and a major portion of the proposed campus expansion are located within the Clairemont Mesa Community Plan, which was adopted in 1989 and amended in January 1999. A portion of the campus expansion is also located within the Linda Vista Community Plan, which was adopted in 1998 and amended in January 1999.

The Clairemont Mesa Community Plan Map (Figure 40, page 133) designates the site as "School." The Plan also recommends that the Mesa College Master Plan incorporate the following:

As student enrollment increases, the Mesa College Master Plan should consider the development of parking structures in order to alleviate future on-street parking problems in adjacent neighborhoods. (page 109)

The San Diego Community College District concurred, and on June 9, 2005, the Board of Trustees approved a Mesa College Facilities Master Plan that included the development of a parking structure as part of Phase I. The proposed actions by the City of San Diego will allow the development of a parking structure as recommended by the adopted Clairemont Mesa Community Plan. Proposed actions will also allow the development of a proposed new east entry from Mesa College Drive as recommended by the adopted Facilities Master Plan.

Both the proposed new east entry and parking structure are located partially within the existing street right-of-way for Mesa College and on land which was originally intended to accommodate the future extension of Mesa College Drive from its western terminus

to Genesee Avenue. On January 19, 1999, by Resolution No. R-291206 the City Council approved the deletion of the extension of Mesa College Drive as a project from the Linda Vista Community Plan and amended the Clairemont Mesa Community Plan and City of San Diego Progress Guide and General Plan to reflect the deletion of the extension of Mesa College Drive. The Council also requested further studies for a dedicated entrance to Mesa College with the objective for better circulation and directed City staff to work with Mesa College and the community in that regard.

Neither the Linda Vista Community Plan nor the Clairemont Mesa Community Plan provides any specific recommendations regarding the use of the right-of-way that had been intended for the extension of Mesa College Drive from its current terminus to Genesee Avenue. Since the vacated area will still be utilized for vehicular traffic and alternative uses are not addressed, it does not adversely affect the land use plans.

The Progress Guide and General Plan Map, as revised in April, 1992, designate the existing Mesa College as "Colleges and Universities." As stated above, Mesa College Drive was deleted from the Progress Guide and General Plan in 1999.

As discussed above, the proposed project has been designed to be consistent with the Clairemont Mesa and Linda Vista Community Plans and the City's Progress Guide and General Plan and implements their plan, goals and policies, and therefore will not adversely affect the applicable land use plans.

b. The proposed development will not be detrimental to the public health, safety, and welfare. The proposed development as currently designed will not be detrimental to the public health, safety, and welfare. The grading proposed in connection with the development will not result in soil erosion, silting of lower slopes, slide damage, flooding, severe scarring, or any other geological instability which would affect public health, safety, and welfare as approved by the City Engineer. Erosion control measures, Best Management Practices [BMP's], and timely planting of all slopes will prevent erosion and provide slope stability.

c. The proposed development will comply with the regulations of the Land Development Code. The proposed project complies with the Land Development Code, including the Environmental Sensitive Lands [ESL] Regulations, which are addressed below.

2. Supplemental Findings – Environmentally Sensitive Lands SDMC
126.0504(b)

a. The site is physically suitable for the design and siting of the proposed development and the development will result in minimum disturbance to environmentally sensitive lands. The site is physically suitable for the design and siting of the proposed development. The existing canyon will allow the 5-level parking structure to be "nestled" into the topography, thus minimizing its apparent height and size. The location and topography also will allow five access points on three different levels, thus facilitating traffic flow and reducing traffic congestion at the campus entrance.

The project will not adversely affect ESL, except for minor impacts on sensitive biological resources. Sensitive biological resources include lands within the Multiple Species Conservation Program Preserve [MSCP] (Multi-Habitat Planning Area), Tiers II, IIIA, and IIIB habitats, and wetlands. The impacts, however, are minimal as discussed below.

The proposed project would impact approximately 0.28 acre of the existing MHPA, including 0.14 acre of Tier III habitat (southern mixed chaparral [0.05 acre] and non-native grassland [0.09 acre]) and 0.14 acre of Tier IV habitat (eucalyptus woodland [0.09 acre], and disturbed habitat [0.05 acre]). Therefore, a boundary adjustment is proposed. As recommended by City staff and approved by the wildlife agencies (U.S. Fish and Wildlife Service and California Department of Fish and Game [CDFG]), the District will pay a 4:1 in-lieu fee that will be applied to the acquisition of 1.12 acres of Tier II and Tier III habitat in East Elliott, which has been identified by the City Council as a high priority MHPA acquisition area. Thus, the proposed MHPA boundary adjustment will result in a preserve with greater biological value. This form of mitigation is consistent with Municipal Code section 143.0141(i)(3), which allows monetary payment of compensation into a fund in lieu of other forms of mitigation in circumstances where the area of impact is small.

The project will impact 0.07 acre of Tier II Habitat (Diegan Coastal Sage Scrub), 0.53 acre of Tier IIIA habitat (southern mixed chaparral), and 0.16 acre of Tier IIIB habitat (non-native grassland). To mitigate for this loss of upland habitat, the District will be required to contribute \$10,500 to the City's Habitat Acquisition Fund. This form of mitigation is consistent with Municipal Code section 143.0141(i)(3), which allows monetary payment of compensation into a fund in lieu of other forms of mitigation in circumstances where the area of impact is small.

The project will impact less than 0.02 acre of wetlands (<0.01 acre [approx. 122 sq ft/0.003 ac] of cismontane alkali marsh and 0.01 acre of disturbed wetland). Due to the small size of the impact area and the ephemeral nature of the streams, restoration/enhancement of a nearby, highly disturbed wetland drainage that feeds into Tecolote Creek is proposed as mitigation. Proposed mitigation will occur at a 5:1 ratio for impacts to cismontane alkali marsh and disturbed wetland habitat and at a 4:1 ratio for impacts to Waters of the U.S./streambed, for a total of 0.10 acre of mitigation. This mitigation, which will occur on Mesa College property, would improve the riparian habitat functions of the existing drainage and reduce a source of non-native seed into Tecolote Creek downstream within the MHPA.

The project impacts the most disturbed and least sensitive part of the canyon. The bottom of this portion of the canyon contains mostly non-native vegetation. West of the project the width of the Diegan coastal sage scrub (Tier II) widens considerably and conversely the width of the non-native vegetation (Tier IV) narrows considerably. Also, the disturbed habitat (Tier IV) and eucalyptus woodland (Tier IV) end just west of the site.

A Mitigation Monitoring and Reporting Program [MMRP] will be employed to ensure the impacts to environmentally sensitive lands will be reduced to below a level of significance. A landscape and re-vegetation plan and maintenance agreement will be required for the re-vegetated disturbed area for a period of twenty-five months.

The project will not otherwise adversely affect any other environmentally sensitive lands.

b. The proposed development will minimize the alteration of natural land forms and will not result in undue risk from geologic and erosional forces, flood hazards, or fire hazards. The proposed parking garage will be tucked into the slopes to minimize topographic alternation. Therefore, the proposal would result in a less than significant change in topography or ground surface relief features. All fill and cut slope ratios will be 2:1. The project complies with city-wide applicable requirements for BMP's as related to storm water runoff. The project area is located out of the floodway.

The proposed project will not result in potential risks from geologic forces based on the review of geotechnical reports provided by the geotechnical consultant. The project is not located within the boundaries of any special studies zone or within an area designated as geologically hazardous in the safety element of the local general plan as provided in subdivision (g) of Section 65302 of the Government Code. The Geotechnical report has been reviewed by the California Geological Survey (as required by the Division of the State Architect's office), who has concluded that "the engineering geology and seismology issues at this site have been adequately addressed in the referenced reports, and no additional information is requested for this project" (Page 2, Engineering and Seismology Review, Mesa College Parking Structure and Police Building, San Diego County, DSA file no. 37-C3).

As such, the proposed development will minimize the alteration of natural landforms and will not result in undue risk from geologic and erosional forces, flood hazards, or fire hazards.

c. The proposed development will be sited and designed to prevent adverse impacts on any adjacent environmentally sensitive lands. The site is located adjacent to environmentally sensitive biological resources, including the MHPA, Tier II, Tier IIIA, and Tier IIIB habitats, and wetlands. The proposed development, however, will be sited and designed to prevent adverse impacts on the adjacent environmentally sensitive lands. As discussed in the Mitigated Negative Declaration [MND], the project is not anticipated to cause significant indirect impacts associated with drainage/water quality, night lighting, fugitive dust, invasive plant species, or human/animal intrusion. Construction activities, however, have the potential to temporarily displace any sensitive mammals or birds occurring in the canyon to the west, which may result in decreased reproductive success or increased mortality. Such indirect impacts to raptors or any federally or state listed species, such as the coastal California gnatcatcher would be considered significant. To mitigate for the potential noise impact, the project will comply with the measures addressed in the MMRP.

d. The proposed development will be consistent with the City of San Diego's Multiple Species Conservation Program [MSCP] subarea plan. The proposed project would impact approximately 0.28 acre of the existing MHPA, including 0.14 acre of Tier III habitat (southern mixed chaparral [0.05 acre] and non-native grassland [0.09 acre]) and 0.14 acre of Tier IV habitat (eucalyptus woodland [0.09 acre], and disturbed habitat [0.05 acre]).

Therefore, a boundary adjustment is proposed. As recommended by City staff and approved by the wildlife agencies (U.S. Fish and Wildlife Service and CDFG), the District will pay a 4:1 in-lieu fee that will be applied to the acquisition of 1.12 acres of Tier II and Tier III habitat in East Elliott, which has been identified by the City Council as a high priority MHPA acquisition area. Thus, the proposed MHPA boundary adjustment will result in a preserve with greater biological value.

Mitigation for all impacts to the MHPA areas would be provided in accordance with the MSCP. In addition, the controls imposed on drainage and toxics, lighting, noise, barriers, invasive plant species, and grading would all be consistent with the Land Use Adjacency Guidelines contained in the MSCP Subarea Plan.

e. The proposed development will not contribute to the erosion of public beaches or adversely impact local shoreline sand supply. The proposed development is located approximately two and a half miles inland from public beaches or local shoreline and therefore it is unlikely that on-site development will contribute to erosion of public beaches or adversely affect shoreline sand supply. Moreover, rip-rap and dissipaters are provided at the existing point of discharge to reduce surface water runoff and reduce water runoff velocities to the extent water runoff might increase downstream siltation and contribute to the erosion of public beaches or adversely affect local shoreline sand supply.

f. The nature and extent of mitigation required as a condition of the permit is reasonably related to, and calculated to alleviate, negative impacts created by the proposed development. The project specific MND included a site specific impact analysis for this proposed development. An initial study was conducted for the proposed development on this site, which concluded that a MND for the project must be prepared to address environmental impacts. Findings to support the MND's conclusion have been made and are part of this project's record. In addition, all mitigation measures identified in the MND that are associated with this proposed development have been adopted and will be incorporated into the Site Development Permit.

As described in the MND, these mitigation measures reduce the impact of the proposed project to below a level of significance. As such, all mitigation reasonably related to and calculated to alleviate negative impacts created by the proposed development has been or will be incorporated into the conditions of the development permit.

3. Supplemental Findings – Environmentally Sensitive Lands SDMC
126.0504(c)

The project complies with the ESL regulations, with the exception of impacts to wetlands. Municipal Code section 143.0141(b) states that "...impacts to wetlands...shall be avoided...Mitigation for impacts associated with a deviation shall achieve the goal of no-net-loss and retain in-kind functions and values." The project will impact less than 0.02 acre of wetlands (<0.01 acre [approx. 122 sq ft/0.003 ac] of cismontane alkali marsh and 0.01 acre of disturbed wetland). Therefore, a deviation is requested pursuant to Municipal Code section 143.0150.

a. **There are no feasible measures that can further minimize the potential adverse effects on environmentally sensitive lands.** In order to develop the project encroachment into sensitive biological resources, including wetlands, is required. All reasonable measures were incorporated into the project to minimize the effects of the project on environmentally sensitive lands. Specifically, these include landform and contour grading, planting native plant species, and incorporating water quality features to reduce storm water effects downstream.

The majority of the area near Mesa College Drive is comprised of sensitive biological resources. Building the parking structure requires that portions of these sensitive biological resources be disturbed. The project will impact less than 0.02 acre of wetlands (<0.01 acre [approx. 122 sq ft/0.003 ac] of cismontane alkali marsh and 0.01 acre of disturbed wetland), Wetlands are not covered by the MSCP, but remain under the jurisdiction of federal and state agencies. These agencies typically require no net loss of wetlands, a criterion under which mitigation regimes would generally include a creation element at a minimum 1:1 ratio, often accompanied by a restoration element at a minimum 1:1 ratio. Due to the small size of the impact area, however, restoration/enhancement of a nearby, highly disturbed wetland drainage that feeds into Tecolote Creek is proposed as mitigation. Proposed mitigation will occur at a 5:1 ratio for impacts to cismontane alkali marsh and disturbed wetland habitat and at a 4:1 ratio for impacts to Waters of the U.S./streambed, for a total of 0.10 acre of mitigation. This mitigation, which will occur on Mesa College property, would improve the riparian habitat functions of the existing drainage and reduce a source of non-native seed into Tecolote Creek downstream within the MHPA. Permits are being processed by the Corps of Engineers, the California Regional Water Quality Control Board and the California Department of Fish and Game.

The MMRP include the following mitigation measures to address wetlands impacts:

- Impacts to Corps and CDFG jurisdictional areas shall be mitigated by restoration/enhancement on the Mesa College property within a nearby, highly disturbed wetland drainage that feeds into Tecolote Creek (located within the MHPA) as shown in Figure 11 in the Initial Study. Mitigation shall occur at a 5:1 ratio for impacts to cismontane alkali marsh and disturbed wetland habitat and at a 4:1 ratio for impacts to Waters of the U.S./streambed, for a total of 0.10 acre of mitigation.
- Restoration/enhancement shall involve removal of non-native invasive plant species, including giant reed (*Arundo donax*), pampas grass (*Cortaderia jubata*), myoporum (*Myoporum* sp.), castor bean (*Ricinus communis*), Canary Island date palm (*Phoenix canariensis*), and Mexican fan palm (*Washingtonia robusta*) followed by establishment of native plant species associated with southern willow scrub, mule fat scrub, and cismontane alkali marsh habitats, as appropriate. In the restoration/enhancement areas, all non-native plant species shall be targeted for removal, excluding palm trees that are over 15 feet tall. Future maintenance will be required to prevent the re-establishment of these non-native plant species in the future.

- The proposed restoration and enhancement activities shall be implemented in accordance with the "Wetland Restoration Plan for the Mesa College Parking Structure" dated February 23, 2006.

Based upon the factors described above, the project's grading design has incorporated all feasible measures to minimize impacts to sensitive biological resources, including wetlands, and there are no feasible measures that can further minimize the potential adverse effects of the proposed project on the environmentally sensitive lands.

b. The proposed deviation is the minimum necessary to afford relief from special circumstances or conditions of the land, not of the applicant's making. The project incorporates the City of San Diego Street Design Manual requirements while endeavoring to minimize impacts to any areas containing sensitive biological resources, including wetlands. The proposed parking structure is proposed at the main entrance and has been designed to facilitate ingress and minimize traffic impacts. In constructing the proposed parking structure, encroaching into wetlands is unavoidable. The project proposes design features minimize impacts to wetlands while still providing much needed parking for the campus and relieving parking pressure on the surrounding communities.

The project terrain, the need for design compatibility with adjacent projects and the desire to minimize visual impacts from neighboring properties impose a number of constraints relative to wetlands impacts. Consideration of these constraints, while still being responsive to engineering, access and grading requirements, creates the need to disturb wetlands.

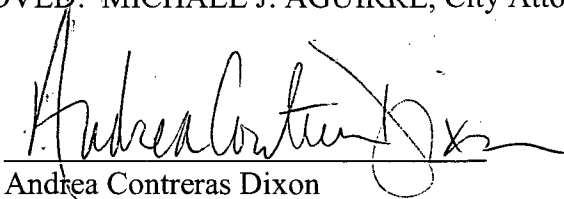
The MMRP will be employed to ensure the impacts related to the grading in environmentally sensitive lands, including wetlands, will be reduced to below a level of significance. This is the minimum necessary to afford relief from special circumstances or conditions of the land, not of the applicant's making.

The above findings are supported by the minutes, maps and exhibits, all of which are incorporated herein by this reference.

BE IT FURTHER RESOLVED, that Site Development Permit No. 324476 and a Multiple Habitat Planning Area Boundary Line Adjustment is granted to San Diego Community College District, Owner/Permittee, under the terms and conditions set forth in the attached permit which is made a part of this resolution.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By


Andrea Contreras Dixon
Deputy City Attorney

DEM:ACD:pev

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RECORDING REQUESTED BY
CITY OF SAN DIEGO
DEVELOPMENT SERVICES DEPARTMENT
PERMIT INTAKE, MAIL STATION 501

WHEN RECORDED MAIL TO
CITY CLERK
MAIL STATION 2A

SPACE ABOVE THIS LINE FOR RECORDER'S USE

SITE DEVELOPMENT PERMIT NO. 324476
MULTIPLE HABITAT PLANNING AREA BOUNDARY LINE ADJUSTMENT
MESA COLLEGE DRIVE STREET VACATION [MMRP]
CITY COUNCIL

This Site Development Permit No. 324476 and a Multiple Habitat Planning Area [MHPA] Boundary Line Adjustment is granted by the City Council of the City of San Diego to San Diego Community College District, Owner/Permittee, pursuant to San Diego Municipal Code [SDMC] section 126.0502. The 86.83-acre campus site project is located at 7250 Mesa College Drive in the RS-1-7 and OP-1-1 zones of the Clairemont Mesa and Linda Vista Community Plan areas. The project site is legally described as all that portion of Pueblo Lot 1203 of the Pueblo Lands of San Diego according to map thereof made by James Pascoe in 1870, a copy of which was filed November 14, 1921 and known as miscellaneous map number 36.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee for grading into the adjacent to city park land (Kearny Mesa Park) and an MHPA Boundary Line Adjustment associated with the construction of a parking facility, described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated _____, on file in the Development Services Department.

The project or facility shall include:

- a. Grading as outlined in Exhibit "A;"
- b. Revegetation of Grading;
- c. Accessory improvements determined by the City Manager to be consistent with the land use and development standards in effect for this site per the adopted community plan, California Environmental Quality Act Guidelines, public and private improvement requirements of the City Engineer, the underlying zone(s), conditions of this Permit, and any other applicable regulations of the SDMC in effect for this site.

STANDARD REQUIREMENTS:

1. Construction, grading or demolition must commence and be pursued in a diligent manner within thirty-six months after the effective date of final approval by the City, following all appeals. Failure to utilize the permit within thirty-six months will automatically void the permit unless an Extension of Time has been granted. Any such Extension of Time must meet all the SDMC requirements and applicable guidelines in effect at the time the extension is considered by the appropriate decision maker.
2. No permit for the grading, nor shall any activity authorized by this Permit be conducted on the premises until:
 - a. The Permittee signs and returns the Permit to the Development Services Department; and
 - b. The Permit is recorded in the Office of the San Diego County Recorder.
 - c. Property is acquired by the Owner/Permittee from the City.
3. Unless this Permit has been revoked by the City of San Diego the property included by reference within this Permit shall be used only for the purposes and under the terms and conditions set forth in this Permit unless otherwise authorized by the City Manager.
4. This Permit is a covenant running with the subject property and shall be binding upon the Permittee and any successor or successors, and the interests of any successor shall be subject to each and every condition set out in this Permit and all referenced documents.
5. The utilization and continued use of this Permit shall be subject to the regulations of this and any other applicable governmental agency.
6. Issuance of this Permit by the City of San Diego does not authorize the Permittee for this permit to violate any Federal, State or City laws, ordinances, regulations or policies including, but not limited to, the Endangered Species Act of 1973 [ESA] and any amendments thereto (16 U.S.C. § 1531 et seq.).
7. Before issuance of any grading permits, complete grading and working drawings shall be submitted to the City Manager for approval. Plans shall be in substantial conformity to Exhibit "A." No changes, modifications or alterations shall be made unless appropriate application(s) or amendment(s) to this Permit have been granted.
8. All of the conditions contained in this Permit have been considered and have been determined to be necessary in order to make the findings required for this Permit. It is the intent of the City that the holder of this Permit be required to comply with each and every condition in order to be afforded the special rights which the holder of the Permit is entitled as a result of obtaining this Permit.

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In the event that any condition of this Permit, on a legal challenge by the Owner/Permittee of this Permit, is found or held by a court of competent jurisdiction to be invalid, unenforceable, or unreasonable, this Permit shall be void. However, in such an event, the Owner/Permittee shall have the right, by paying applicable processing fees, to bring a request for a new permit without the "invalid" condition(s) back to the discretionary body which approved the Permit for a determination by that body as to whether all of the findings necessary for the issuance of the proposed permit can still be made in the absence of the "invalid" condition(s). Such hearing shall be a hearing de novo and the discretionary body shall have the absolute right to approve, disapprove, or modify the proposed permit and the condition(s) contained therein.

ENVIRONMENTAL/MITIGATION REQUIREMENTS:

9. Mitigation requirements are tied to the environmental document, specifically the Mitigation, Monitoring, and Reporting Program [MMRP]. These MMRP conditions are incorporated into the permit by reference or authorization for the project.

10. As conditions of Site Development Permit No. 324476, the mitigation measures specified in the MMRP, and outlined in Mitigated Negative Declaration, State Clearing House No. 2005121106 shall be noted on the grading plans and specifications under the heading ENVIRONMENTAL/MITIGATION REQUIREMENTS.

11. The Owner/Permittee shall comply with the MMRP as specified in Mitigated Negative Declaration, State Clearing House No. 2005121106 satisfactory to the City Manager and City Engineer. Prior to issuance of the first grading permit, all conditions of the MMRP shall be adhered to the satisfaction of the City Engineer. All mitigation measures as specifically outlined in the MMRP shall be implemented for the following issue areas:

Biological Resources
Traffic

12. Prior to the issuance of any grading permit, the applicant shall contribute at a rate of \$25,000 per acre plus 10 percent processing for 1.12 acres (4:1 MHPA replacement ratio) into the City of San Diego Habitat Acquisition Fund.

13. Prior to issuance of any grading permit, the applicant shall pay the Long Term Monitoring Fee in accordance with the Development Services Fee Schedule to cover the City's costs associated with implementation of permit compliance monitoring.

ENGINEERING REQUIREMENTS:

14. Prior to the issuance of any construction permit, the applicant shall enter into a Maintenance Agreement for the ongoing permanent Best Management Practices [BMP's] maintenance.

15. Prior to the commencement of any construction activity, the applicant shall incorporate any construction BMP's necessary to comply with Chapter 14, Article 2, Division 1 (Grading Regulations) of the San Diego Municipal Code, into the construction plans or specifications.

16. Prior to the commencement of any construction activity the applicant shall submit a Water Pollution Control Plan [WPCP]. The WPCP shall be prepared in accordance with the guidelines in Appendix E of the City's Storm Water Standards.

17. Prior to the commencement of any construction activity the applicant shall incorporate and show the type and location of all post-construction BMP's on the final construction drawings, in accordance with the approved Water Quality Technical Report.

18. Prior to the commencement of any construction activity, the applicant shall obtain an engineering permit from the city engineer for the proposed drainage system and all work in the public right of way.

19. Prior to the commencement of any construction activity, applicant shall dedicate a minimum 15-foot drainage easement along the proposed 24-inch drainage pipe and grant a physical a physical maintenance access easement satisfactory to the city engineer.

20. Prior to the commencement of any construction activity, the applicant shall obtain a grading permit for the grading proposed outside of the school property for this project. All grading shall conform to requirements in accordance with the City of San Diego Municipal Code in a manner satisfactory to the City Engineer.

LANDSCAPE REQUIREMENTS:

21. Prior to the issuance of any grading permit, grading plans shall include landscape/revegetation plans and irrigation plans which will be required to be approved by the Park and Recreation Department. The project is proposing grading on City fee-owned parkland.

22. Eucalyptus and pinus trees shall be excluded from the landscape/re-vegetation plan.

23. Prior to the issuance of any grading permit demonstrate on landscape plans additional landscaping on Kearny Mesa Park to further screen the parking structure. Landscaping shall be acceptable to the Park and Recreation Department.

24. Prior to the issuance of any grading permit, consult with the Tecolote Canyon Citizens Advisory Committee on the landscape/re-vegetation plan.

25. Work with the Tecolote Canyon Citizens Advisory committee on the removal of palm trees on District land east of Genesee Avenue.

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26. San Diego Community College District is required to maintain the re-vegetation of the graded City parkland for twenty-five months. The Park and Recreation Department must be a signatory of the final sign off of this maintenance period.

27. As part of a long-term goal to establish a Carbon Neutral program on campus, neutralize emissions of carbon dioxide from automobiles, particularly in the vicinity of the parking structure. The program may include the planting of select trees and use of solar panels

MULTIPLE HABITAT PLANNING AREA

28. Prior to issuance of any grading permit the Owner/Permitee shall convey to the City of San Diego a conservation easement over 1.2 acres of open space east of Genesee Avenue, satisfactory to Multiple Species Conservation Plan staff, and for inclusion into the Multiple Habitat Planning Area.

PLANNING/DESIGN REQUIREMENTS:

29. There shall be compliance with the regulations of the underlying zone(s) unless a deviation or variance to a specific regulation(s) is approved or granted as a condition of approval of this Permit. Where there is a conflict between a condition (including exhibits) of this Permit and a regulation of the underlying zone, the regulation shall prevail unless the condition provides for a deviation or variance from the regulations. Where a condition (including exhibits) of this Permit establishes a provision which is more restrictive than the corresponding regulation of the underlying zone, then the condition shall prevail.

30. Any future requested amendment to this Permit shall be reviewed for compliance with the regulations of the underlying zone(s) which are in effect on the date of the submittal of the requested amendment.

31. Other than short-term construction periods, provide at least 4,250 parking spaces on campus as stated in EXHIBIT 5-B in the binder prepared by ADWRB.

32. Conduct an annual Mesa College Canyon Day for kids to provide educational experiences for local elementary students. This event may include, but not be limited to, field trips in Tecolote Canyon. The District shall consult with the Tecolote Canyon Citizens Advisory Committee and the Council District 6 office prior to conducting the event.

33. Finance the amendments to the Clairemont Mesa and Linda Vista community plans, which staff was directed to initiate, in an amount not to exceed \$20,000.

TRANSPORTATION

34. Provide on-campus parking spaces for Kearny Mesa Park users on weekends and holidays.

WATER REQUIREMENTS:

35. Prior to the recordation of the Street Vacation or the approval of any Final Map the Owner/Permittee shall cut, plug and abandon all unused water services, fire services located within the vacated street. The Owner/Permittee shall re-plumb as necessary any services required for the proposed development. The cut, plug and abandonment shall be in a manner which will receive operational acceptance by the Water Department, satisfactory to the Water Department Director.

INFORMATION ONLY:

- Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of this development permit may protest the imposition within ninety days of the approval of this development permit by filing a written protest with the City Clerk pursuant to California Government Code section 66020.

APPROVED by the City Council of the City of San Diego on JAN - 8 2007, 2007
by Resolution No. 302250.

R-302250

AUTHENTICATED BY THE CITY MANAGER

By _____

The undersigned Permittee, by execution hereof, agrees to each and every condition of this Permit and promises to perform each and every obligation of Permittee hereunder.

**SAN DIEGO COMMUNITY COLLEGE
DISTRICT**
Owner/Permittee

By _____

By _____

**NOTE: Notary acknowledgments
must be attached per Civil Code
section 1180 et seq.**

PERMIT/OTHER – Permit Shell 11-01-04
*Cor. Copy 12/07/06
*01/23/07 Rev.Copy
* 03/06/07 Cor.Copy3