

## RESOLUTION NUMBER R-302295

DATE OF FINAL PASSAGE JANUARY 9, 2007

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO DENYING THE APPEAL BY KATHERYN RHODES AND CONRAD HARTSELL AND AFFIRMATIVELY UPHOLDING AND APPROVING (1) THE CALIFORNIA PUBLIC RESOURCES CODE SECTION 21166 ANALYSIS BY THE DEVELOPMENT SERVICES DEPARTMENT AND (2) THE RESOLUTION OF THE CENTRE CITY DEVELOPMENT CORPORATION AS A RESPONSIBLE AGENCY ADOPTING SAID SECTION 21166 ANALYSIS, RELATING TO THE NAVY BROADWAY COMPLEX PROJECT.

WHEREAS, an Agreement between the City of San Diego and the United States of America adopting a development plan and urban design guidelines for the redevelopment of the Navy Broadway Complex ["Agreement"] was entered into in 1992; and

WHEREAS, said Agreement was amended in 2001 to extend its expiration date to January 1, 2003 and was amended a second time to extend its expiration date to January 1, 2007; and

WHEREAS, in March, 2006, the United States Navy ["Navy"] selected Manchester Financial Group ["Manchester"] to be the Developer of the Navy Broadway Complex Project ["NBC project"]; and

WHEREAS, an informational hearing was conducted by the Council of the City of San Diego in September, 2006, in order to receive public input and comments on said NBC project; and

WHEREAS, regarding the NBC project, the Development Services Department ["DSD"] prepared an Analysis pursuant to California Public Resources Code Section 21166 on October 19, 2006, concluding that "DSD does not find a need to conduct additional environmental review

for the proposed NBC project. The proposed NBC project is adequately addressed in the prior environmental documents that were certified for the 1990 NBC project and for other projects in the vicinity. Project impacts are adequately addressed and appropriate mitigation has been identified;" and

WHEREAS, the Centre City Development Corporation ["CCDC"] adopted a resolution at its October 25, 2006 Board meeting regarding the CEQA Analysis prepared by DSD for the NBC project, whereby the CCDC Board adopted said Analysis and determination by DSD that no further environmental review was warranted and incorporated said Analysis by reference as though fully set forth in its resolution; and

WHEREAS, pursuant to California Public Resources Code Section 21151 (c), a timely written appeal was filed by Katheryn Rhodes and Conrad Hartsell challenging both the action of DSD in its preparation and its conclusion of said Analysis and of CCDC in its adoption of said resolution; 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 January 9, 2007, the Council of the City of San Diego ["City Council"] held a noticed public hearing to consider said appeal, with testimony having been heard, written materials having been submitted and reviewed including, but not limited to, the Report to the City Council dated January 3, 2007, consisting of 25 pages plus numerous attachments ["Report"], the Final Environmental Impact Report for the Navy Broadway Complex Project,

dated October, 1990, the November 22, 2006 Lease between the Navy and Manchester [Lease No. N6247307RP07P24], and the Navy Broadway Complex Environmental Assessment ["EA"] of June, 2006, prepared by or for the Navy under the requirements of the National Environmental Policy Act ["NEPA"], and the City Council having fully considered the matter and being fully advised concerning the same;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of San Diego, that it adopts the following findings and conclusions with respect to said afore-mentioned written appeal by Katheryn Rhodes and Conrad Hartsell ["Appellants"] relating to the Navy Broadway Complex Project:

1. The test for determining whether subsequent or supplemental environmental documents, including an environmental impact report, would be required for the NBC project is determined by the three-part test set forth in California Public Resources Code Section 21166 in which one or more of the following events must occur:

- (a) Substantial changes are proposed in the project which will require major revisions of the environmental impact report.
- (b) Substantial changes occur with respect to the circumstances under which the project is being undertaken which will require major revisions in the environmental impact report.
- (c) New information, which was not known and could not have been known at the time the environmental impact report was certified as complete, becomes available.

2. Based upon all of the information, evidence and testimony considered by the City Council at this appeal hearing, the City Council concludes that there is not substantial evidence to support the position of the Appellants that the criteria set forth in the afore-mentioned Section 21166 have been met. Specifically, the information, evidence and testimony submitted by the Appellants do not constitute substantial evidence of substantial changes in the project or the

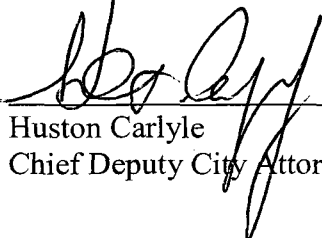
circumstances under which the project is undertaken, or new information of substantial importance concerning the project, that would suggest the project will result in new significant environmental effects or a substantial increase in the severity of previously identified significant effects.

3. The City Council concludes that there is substantial evidence to support the position that the 1990 EIR/EIS prepared for the NBC project and the subsequent environmental documents prepared for other projects in the vicinity, which were identified in the Section 21166 Analysis by the Development Services Department, adequately address the potential environmental issues associated with the current version of the NBC project. Accordingly, no additional environmental review is required.

4. The appeal by Katheryn Rhodes and Conrad Hartsell is hereby DENIED, and the City Council hereby AFFIRMATIVELY UPHOLDS and APPROVES (1) the California Public Resources Code Section 21166 Analysis by the Development Services Department and (2) the Resolution of the Centre City Development Corporation as a Responsible Agency adopting said Section 21166 Analysis, relating to the Navy Broadway Complex Project.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By

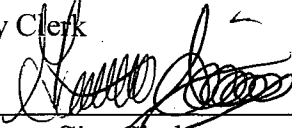
  
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Huston Carlyle  
Chief Deputy City Attorney

HC:sc  
Or.Dept: Council  
MMS#: 4301  
R-2007-732

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I hereby certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of January 9, 2007.

ELIZABETH S. MALAND  
City Clerk

By   
Deputy City Clerk

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