

RESOLUTION NUMBER R-302327

DATE OF FINAL PASSAGE JANUARY 30, 2007

WHEREAS, McMillin NTC, LLC, Owner/Permittee submitted an application to the City of San Diego for an Amendment to Master Planned Development Permit/Coastal Development Permit No. 99-1076 for the NTC Shoreline Plaza project; and

WHEREAS, on December 7, 2006, the Planning Commission of the City of San Diego considered an amendment to Master Planned Development Permit/Coastal Development Permit No. 99-1076 and Addendum to Environmental Impact Report No. 80411, and pursuant to Resolution No. 4182-PC voted to approve the amendment to Master Planned Development Permit/Coastal Development Permit No. 99-1076 and Addendum to Environmental Impact Report No. 80411; 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 January 30, 2007; and

WHEREAS, the City Council considered the issues discussed in Addendum to Environmental Impact Report No. 80411; NOW, THEREFORE,


BE IT RESOLVED, by the Council of the City of San Diego, that it is certified that Addendum to Environmental Impact Report No. 80411, 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 an Amendment to Master Planned Development Permit/Coastal Development Permit No. 99-1076 for the NTC Shoreline Plaza project.

BE IT FURTHER RESOLVED, that pursuant to California Public Resources Code section 21081 and California Code of Regulations section 15091, the City Council adopts the findings made with respect to the project, a copy of which is on file in the office of the City Clerk and incorporated herein by reference.

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 
Shirley R. Edwards
Chief Deputy City Attorney

SRE:pev
07/27/07
Or.Dept:Clerk
R-2007-784
MMS #4374
ENVIRONMENTAL - EIR 11-01-04

R- 302327

EXHIBIT A

MITIGATION MONITORING AND REPORTING PROGRAM NAVAL TRAINING CENTER (NTC) SHORELINE PLAZA

PROJECT NO. 80411

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 Addendum to Environmental Impact Statement, Project Number 80411, Addendum to EIR 99081140, shall be made conditions of the Master Planned Development Permit / Coastal Development Permit as may be further described below. Mitigation measures referenced below originate from *Environmental Impact Report for the NTC Redevelopment Project* ("Redevelopment EIR"), State Clearinghouse Number 99081140, certified by the Redevelopment Agency of the City of San Diego on February 1, 2000 (Resolution 292724). Mitigation measures are identified for the following resource areas: **Health and Safety, Visual Quality, Archaeology, Geology, Biology, Water Quality, and Air Quality.**

HEALTH AND SAFETY

Mitigation: The following mitigation measures adopted as part of the Redevelopment EIR would be applicable to the Project:

PH-2. Safety measures such as fencing, markers, flagging, and access restrictions will be implemented.

Other applicable mitigation measures have already been fulfilled by the Redevelopment project or are not applicable.

Since the EIR was prepared and certified an additional waste site has been discovered during the course of the broader Redevelopment project. The Project applicant has agreed to the following additional Project features as specified below to ensure potential impacts to human health and safety remain below a level of significance.

- 1. Soil disturbance requires monitoring for potential contamination. If contaminated soil is encountered, notification to the County Department of Environmental Health (DEH) would be required to appropriately manage the contaminated soil.*

2. *If contaminated soil is encountered during excavation, follow normal procedures and notification process for a hazardous material spill or release to include at a minimum, notification of the local emergency response agency, (911, and/or the Hazardous Materials Division at 619-338-2284), and the Governor's Office of Emergency Services (1-800-852-7550 or 916-262-1621). Additional notifications may be required depending on the nature of the contamination. If after the initial notification, it is determined that there is no imminent threat, coordinate with the Hazardous Materials Division for information about site remediation. Depending on the sources and extent of the contamination, remediation may be coordinated through the Department of Environmental Health, the Regional Water Quality Control Board, or the Department of Toxic Substances Control.*

VISUAL QUALITY

Mitigation: The following mitigation measures adopted as part of the Redevelopment EIR would be applicable to the Project:

VR-1.1 Minimize the time between removal or alteration of a visual element and the introduction of new visual element. Keep construction and materials out of public view as much as possible.

Other applicable mitigation measures, VR.1.2, .3, .4, and .5, have already been fulfilled by the Redevelopment project.

HISTORICAL RESOURCES (ARCHAEOLOGY)

Mitigation: The following mitigation measures adopted as part of the Redevelopment EIR would be applicable to the Project:

CR-1. An archaeological monitor shall be onsite during construction activities involving grading or excavation in areas west of the 1850 mean high tide line; monitoring shall not be required in areas east (bayward) of the 1850 mean high tide line

This mitigation measure is implemented through the following **updated** mitigation which clarifies specific responsibilities. The mitigation is not substantially different; rather it provides additional detail and structure.

Prior to Preconstruction (Precon) Meeting

1. *Land Development Review (LDR) Plan Check*

- a. *Prior to the issuance of a Notice to Proceed (NTP) or any permits, including but not limited to, the first Grading Permit, Demolition Plans/Permits and Building Plans/Permits, the Environmental Review Manager (ERM) of LDR shall verify that the requirements for archaeological monitoring and Native American monitoring, if applicable, have been noted on the appropriate construction documents.*

2. *Letters of Qualification have been submitted to ERM*

Prior to the recordation of the first final map, NTP, and/or, including but not limited to, issuance of a Grading Permit, Demolition Permit or Building Permit, the applicant shall provide a letter of verification to the ERM of LDR stating that a qualified Archaeologist, as defined in the City of San Diego Historical Resources Guidelines (HRG), has been retained to implement the monitoring program.

Individuals involved in the archaeological monitoring program must have completed the 40-hour HAZWOPER training with certification documentation.

3. *Second Letter Containing Names of Monitors has been sent to Mitigation Monitoring Coordination (MMC)*

At least thirty days prior to the Precon Meeting, a second letter shall be submitted to MMC which shall include the name of the Principal Investigator (PI) and the names of all persons involved in the Archaeological Monitoring of the project.

MMC will provide Plan Check with a copy of both the first and second letter.

4. *Records Search Prior to Precon Meeting*

- a. *At least thirty days prior to the Precon Meeting the qualified Archaeologist shall verify that a records search has been completed and updated as necessary and be prepared to introduce any pertinent information concerning expectations and probabilities of discovery during trenching and/or grading activities. Verification includes, but is not limited to a copy of a confirmation letter from South Coast Information Center, or, if the search was in-house, a letter of verification from the PI stating that the search was completed.*

Precon Meeting

1. Monitor Shall Attend Precon Meetings

- a. *Prior to beginning any work that requires monitoring, the Applicant shall arrange a Precon Meeting that shall include the Archaeologist, Construction Manager and/or Grading Contractor, Resident Engineer (RE), Building Inspector (BI), if appropriate, and MMC. The qualified Archaeologist shall attend any grading related Precon Meetings to make comments and/or suggestions concerning the Archaeological Monitoring program with the Construction Manager and/or Grading Contractor.*
- b. *If the Monitor is not able to attend the Precon Meeting, the RE or BI, if appropriate, will schedule a focused Precon Meeting for MMC, EAS staff, as appropriate, Monitors, Construction Manager and appropriate Contractor's representatives to meet and review the job on-site prior to start of any work that requires monitoring.*

2. Identify Areas to be Monitored

At the Precon Meeting, the Archaeologist shall submit to MMC a copy of the site/grading plan (reduced to 11x17) that identifies areas to be monitored as well as areas that may require delineation of grading limits.

3. When Monitoring Will Occur

- a. *Prior to the start of work, the Archaeologist shall also submit a construction schedule to MMC through the RE or BI, as appropriate, indicating when and where monitoring is to begin and shall notify MMC of the start date for monitoring.*

During Construction

1. Monitor Shall be Present During Grading/Excavation

The qualified Archaeologist shall be present full-time during grading/excavation of native soils and shall document activity via the Consultant Site Visit Record. This record shall be sent to the RE or BI, as appropriate, each month. The RE, or BI as appropriate, will forward copies to MMC.

2. Discoveries

a. Discovery Process

In the event of a discovery, and when requested by the Archaeologist, or the PI if the Monitor is not qualified as a PI, the RE or BI, as appropriate, shall be contacted and shall divert, direct or temporarily halt ground disturbing activities in the area of discovery to allow for preliminary evaluation of potentially significant archaeological resources. The PI

shall also immediately notify MMC of such findings at the time of discovery. MMC will coordinate with appropriate LDR staff.

b. Determination of Significance

The significance of the discovered resources shall be determined by the PI in consultation with LDR and the Native American Community, if applicable. LDR must concur with the evaluation before grading activities will be allowed to resume. For significant archaeological resources, a Research Design and Data Recovery Program shall be prepared, approved by DSD and carried out to mitigate impacts before ground disturbing activities in the area of discovery will be allowed to resume.

3. Human Remains

a. If human remains are discovered, work shall halt in that area and the following procedures set forth in the California Public Resources Code (Sec. 5097.98) and State Health and Safety Code (Sec. 7050.5) will be taken:

b. Notification

(1) Archaeological Monitor shall notify the RE or BI as appropriate, MMC and the PI if the Monitor is not qualified as a PI. MMC will notify the appropriate Senior Planner in the Environmental Analysis Section (EAS).

(2) The PI shall notify the Medical Examiner after consultation with the RE, either in person or via telephone.

c. Isolate discovery site

(1) Work will be redirected from the location of the discovery and any nearby area reasonably suspected to overlay adjacent human remains until a determination can be made by the Medical Examiner in consultation with the PI concerning the provenience of the remains.

(2) The Medical Examiner, in consultation with the PI, shall determine the need for a field examination to determine the provenience.

(3) If a field examination is not warranted, the Medical Examiner shall determine, with input from the PI, if the remains are or are most likely to be of Native American origin.

d. If Human Remains are determined to be Native American

(1) The Medical Examiner shall notify the Native American Heritage Commission (NAHC). By law, ONLY the Medical Examiner can make this call.

- (2) *The NAHC will contact the PI within 24 hours or sooner after the Medical Examiner has completed coordination.*
- (3) *NAHC will identify the person or persons determined to be the Most Likely Descendent (MLD) and provide contact information.*
- (4) *The PI will coordinate with the MLD for additional coordination.*
- (5) *Disposition of Native American human remains will be determined between the MLD and the PI, IF:*
 - (a) *The NAHC is unable to identify the MLD, OR the MLD failed to make a recommendation within 24 hours after being notified by the Commission; OR;*
 - (b) *The landowner or authorized representative rejects the recommendation of the MLD and mediation in accordance with PRC 5097.94 (k) by the NAHC fails to provide measures acceptable to the landowner, the landowner or their authorized representative shall re-inter the human remains and all associated grave goods with appropriate dignity, on the property in a location not subject to subsurface disturbance. Information on this process will be provided to the NAHC.*

e. If Human Remains are NOT Native American

- (1) *The PI shall contact the Medical Examiner and notify them of the historic era context of the burial.*
- (2) *The Medical Examiner will determine the appropriate course of action with the PI and City staff (PRC 5097.98).*
- (3) *If the remains are of historic origin, they shall be appropriately removed and conveyed to the Museum of Man for analysis. The decision for reinterment of the human remains shall be made in consultation with MMC, EAS, the land owner and the Museum of Man.*

4. 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 nothing was found during the night work, The

PI will record the information on the Site Visit Record Form.

- (b) *Potentially Significant Discoveries*
*If the PI determines that a potentially significant discovery has been made, the procedures under **During Construction**; 2., a. & b, will be followed, with the exception that the PI will contact MMC by 8AM the following morning to report and discuss the findings.*

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, will notify MMC immediately.*
- c. *All other procedures described above will apply, as appropriate.*
5. *Notification of Completion*
- a. *The Archaeologist shall notify MMC and the RE or the BI, as appropriate, in writing of the end date of monitoring.*

Post Construction

1. *Handling and Curation of Artifacts and Letter of Acceptance*
The Archaeologist shall be responsible for ensuring that all cultural remains collected are cleaned, catalogued, and permanently curated with an appropriate institution; that a letter of acceptance from the curation institution has been submitted to MMC; that all artifacts are analyzed to identify function and chronology as they relate to the history of the area; that faunal material is identified as to species; and that specialty studies are completed, as appropriate.

Curation of artifacts associated with the survey, testing and/or data recovery for this project shall be completed in consultation with LDR and the Native American representative, as applicable.
2. *Final Results Reports (Monitoring, Research Design, Data Recovery Program)*
 - a. *Prior to the release of the grading bond, two copies of the Final Results Report (even if negative) and/or evaluation report, if applicable, which describes the results, analysis, and conclusions of the Archaeological Monitoring Program (with appropriate graphics) shall be submitted to MMC for approval by the ERM of LDR.*
 - b. *For significant archaeological resources encountered during monitoring, the Research Design and Data Recovery Program shall be included as part of the Final Results Report.*

- c. *MMC shall notify the RE or BI, as appropriate, of receipt of the Final Results Report.*
3. *Recording Sites with State of California Department of Park and Recreation*

The Archaeologist shall be responsible for recording (on the appropriate State of California Department of Park and Recreation forms-DPR 523 A/B) any significant or potentially significant resources encountered during the Archaeological Monitoring Program in accordance with the City's Historical Resources Guidelines, and submittal of such forms to the South Coastal Information Center with the Final Results Report.

GEOLOGY

Mitigation: The following mitigation measures adopted as part of the Redevelopment EIR would be applicable to the Project:

GS-3 Prepare a soil erosion plan. Provide protective covering for exposed graded areas. Use diverting techniques. Maintain a buffer strip between the Project Area and boat channel and the adjoining portion of San Diego Bay. Revegetate open areas.

GS-4 Perform corrosivity testing prior to construction and treat or remove corrosive soils as appropriate.

Other applicable mitigation measures, GS-1, GS-2, and GS-4 have already been fulfilled by the Redevelopment project, or are not applicable to this project.

BIOLOGY

Mitigation: With the permit conditions for compliance with the stormwater runoff BMP provisions, no new mitigation is required from the Redevelopment EIR.

WATER QUALITY

Mitigation: The following mitigation measures adopted as part of the Redevelopment EIR would be applicable to the Project:

H-1. Implement soil erosion mitigation measures. Comply with National Pollutant Discharge Elimination System (NPDES) permits, AB 411, and the U.S. Environmental Protection Agency (USEPA) California Toxics Rule, prepare and implement a stormwater pollution prevent plan, and implement BMPs.

AIR QUALITY

Mitigation: The following mitigation measures adopted as part of the Redevelopment EIR would be applicable to the Project:

AQ-1. Project construction specifications will include the requirement that commercial electric power form poles on or near the site will be used during construction wherever feasible. This measure would result in a 97 to 99 percent reduction in emissions. Vehicles will not exceed 15 miles per hour when traveling over unpaved areas. This measure would result in a 40 percent reduction in PM₁₀ emissions.