

RESOLUTION NUMBER R-302527

DATE OF FINAL PASSAGE APRIL 10, 2007

WHEREAS, Balboa Realty, LLC, Owner and Applicant, submitted an application to the City of San Diego for a site development permit/planned development permit, for the Balboa Mesa Project [Project]; and

WHEREAS, on November 15, 2006, after receiving 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 January 25, 2007, the Planning Commission of the City of San Diego considered the site development permit/planned development permit and Mitigated Negative Declaration No. 70797, and pursuant to Resolution No 4209-PC. voted to deny the appeal and to uphold the Hearing Officer's decision; and

WHEREAS, in accordance with Public Resources Code section 21151, Butch Bienders appealed the Planning Commission's decision to approve the environmental determination to the Council of the City of San Diego; 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 April 10, 2007; and

WHEREAS, the City Council considered the issues discussed in Mitigated Negative Declaration No. 70797; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that it is certified that Mitigated Negative Declaration No. 70797, 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 the land use actions for the Balboa Mesa Project.

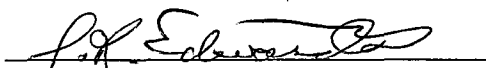
BE IT FURTHER RESOLVED, that the City Council finds that project revisions now mitigate potentially significant effects on the environment previously identified in the Initial Study and therefore, that the Mitigated Negative Declaration, a copy of which is on file in the office of the City Clerk and 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 and incorporated herein by reference.

BE IT FURTHER RESOLVED, that the decision of the Planning Commission is sustained, and the appeal of Butch Biendara is denied

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
05/25/07
Or.Dept:Clerk
R-2007-991
MMS #4643

ENVIRONMENTAL-Appeal of Environmental Documents 11-01-04

EXHIBIT A

MITIGATION MONITORING AND REPORTING PROGRAM

Planned Development Permit and Site Development Permit

Project No. 70797

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 the Mitigated Negative Declaration No. 70797 shall be made conditions of the Site Development Permit and Rezone as may be further described below.

GENERAL

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 Assistant Deputy Director (ADD) environmental designee of the City's Land Development Review Division (LDR) shall verify that the following statement is shown on the grading and/or construction plans as a note under the heading Environmental requirements: Balboa Mesa commercial development project is subject to a Mitigation Monitoring and Reporting Program and shall conform to the mitigation conditions as contained in the Mitigated Negative Declaration 70797.

HUMAN HEALTH/PUBLIC SAFETY/HAZARDOUS MATERIALS

1. Prior to Redevelopment Activities on the former Chevron Property located at 5401 Balboa Avenue, pursuant to the County of San Diego, Department of Environmental Health, Site Assessment and Mitigation Program (SAM), Chevron or whomever proposes redevelopment on the site, shall conduct a soil vapor investigation and prepare a human health risk assessment on the former Chevron Property to determine if there would be any adverse risk to construction workers or future site occupants. In the event the results of those studies do reveal an adverse risk, mitigation measures shall be required in connection with construction activities on the Former Chevron Property, such as remediation plan or installation of a vapor barrier. The results of this plan shall be summarized in a written letter and submitted to the Assistant Director of LDR.

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.