

RESOLUTION NUMBER R-302528

DATE OF FINAL PASSAGE APRIL 10, 2007

WHEREAS, T.G.F. Company, Owner and Applicant, submitted an application to the City of San Diego for a site development permit/planned development permit/conditional use permit, for the Genesee Plaza Expansion 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 February 25, 2007, the Planning Commission of the City of San Diego considered a site development permit/planned development permit/conditional use permit and Mitigated Negative Declaration No. 63208, and pursuant to Resolution No 4208, voted to deny the appeal and uphold the Planning Commission's decision; and

WHEREAS, in accordance with Public Resources Code section 21151, Butch Biendara appealed the Planning Commission decision to approve the Mitigated Negative Declaration 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. 63208; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that it is certified that Mitigated Negative Declaration No. 63208, 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 Genesee Plaza Expansion 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

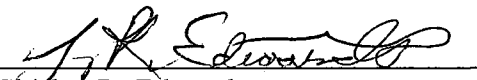
or avoid significant effects on the environment, a copy of which is attached hereto and incorporated herein by reference.

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
05/29/07
Or.Dept:Clerk
R-2007-992
MMS #4644

EXHIBIT A

MITIGATION MONITORING AND REPORTING PROGRAM

**SIITE DEVELOPMENT PERMIT/PLANNED DEVELOPMENT PERMIT/
CONDITIONAL USE PERMIT**

Project No. 63208

General

1. Prior to the issuance of a Notice to Proceed (NTP) or any permits, including but not limited to, the first Grading Permit, Demolition Permits, and Building Permits, the Assistant Deputy Director (ADD) 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: Genesee Plaza Expansion project is subject to a Mitigation, Monitoring and Reporting Program and shall conform to the mitigation conditions for Human Health and Public Safety and Transportation/Circulation as contained in the Mitigated Negative Declaration No. 63208."

Human Health and Public Safety

The following shall be verified by the environmental designee of the ADD of LDR prior to the approval of any building permit plans.

1. Prior to the issuance of the first building permit, the applicant must provide to the Environmental designee of the ADD of LDR a "No Further Action" letter or other certification from the County of San Diego Department of Environmental Health (DEH) verifying DEH approval that the site meets the criteria for commercial use.

Transportation/Circulation

The following shall be verified by the environmental designee of the ADD of LDR prior to the approval of any building permit plans.

1. Prior to the issuance of the first building permit in Phase 3, owner/permittee shall assure by permit or bond the widening of the south side of Balboa Arms Drive by 2 feet from Mount Abernathy Avenue intersection to approximately 160 feet to the west, satisfactory to the City Engineer. This would include restriping the west leg of Balboa Arms Drive and Mount Abernathy Avenue to accommodate the addition of a 100 foot long eastbound left-turn pocket and the installation of 160 feet of red curb along the south side of Balboa Arms Drive, satisfactory to the City Engineer.

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.