

(R-2008-676)

MEET

339A

2/05/08

RESOLUTION NUMBER R-303377

DATE OF FINAL PASSAGE FEBRUARY 5, 2008

WHEREAS, on June 16, 2006, Terrace Partners, L.P., Owner/Permittee, submitted an application to the City of San Diego for a site development permit; the application was later amended to request a vesting tentative map and planned development permit for the Kensington Terrace project; and

WHEREAS, on November 15, 2007, the Planning Commission of the City of San Diego considered Mitigated Negative Declaration No. 105244, and pursuant to Resolution No. 4333-PC-1 voted to approve the project and adopt the Mitigation Monitoring and Reporting Program [MMRP]; and

WHEREAS, Margaret B. McCann appealed the Planning Commission decision 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 February 5, 2008; and

WHEREAS, the City Council considered the issues discussed in Mitigated Negative Declaration No. 105244; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that it is certified that Mitigated Negative Declaration No. 105244, 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 a vesting tentative map and planned development permit for the Kensington Terrace 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.

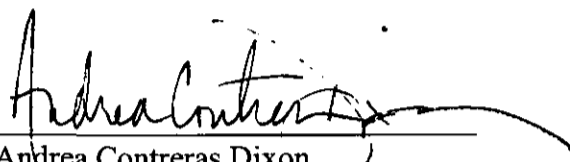
BE IT FURTHER RESOLVED, that pursuant to California Public Resources Code section 21081.6, the City Council adopts the MMRP, or alterations to implement the changes to the project as required by this body in order to mitigate or avoid significant effects on the environment, a copy of which is attached hereto, as Exhibit A, and incorporated herein by reference.

(R-2008-676)

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


Andrea Contreras Dixon
Deputy City Attorney

ACD:pev

02/28/08

Or.Dept:Clerk

R-2008-676

MMS #5675

ENVIRONMENTAL - MND 11-01-04

EXHIBIT A

MITIGATION MONITORING AND REPORTING PROGRAM

VESTING TENTATIVE MAP AND PLANNED DEVELOPMENT PERMIT

PROJECT NO. 105244

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 Entitlement Division, Land Development Review Section, 1222 First Avenue, Fifth Floor, San Diego, CA 92101. All mitigation measures contained in the Mitigated Negative Declaration (Project No. 105244) shall be made conditions of Vesting Tentative Map and Planned Development Permit, as may be further described below.

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 Entitlement Division, Land Development Review Section (LDR) shall verify that the following statement is shown on the grading and/or construction plans as a note under the heading *Environmental Requirements*: "Kensington Terrace project is subject to a Mitigation, Monitoring and Reporting Program and shall conform to the mitigation conditions as contained in the Mitigated Negative Declaration."
2. The owner/permittee shall make arrangements to schedule a pre-construction meeting to ensure implementation of the MMRP. The meeting shall include the Resident Engineer, Paleontologist, and the City's Mitigation Monitoring Coordination (MMC) Section.

PALEONTOLOGICAL RESOURCES

I. Prior to Permit Issuance

A. Land Development Review (LDR) Plan Check

1. Prior to Notice to Proceed (NTP) for any construction permits, including but not limited to, the first Grading Permit, Demolition Plans/Permits and Building Plans/Permits, but prior to the first preconstruction meeting, whichever is applicable, the Assistant Deputy Director (ADD) Environmental designee shall verify that the requirements for Paleontological Monitoring have been noted on the appropriate construction documents.

B. Letters of Qualification have been submitted to ADD

1. The applicant shall submit a letter of verification to Mitigation Monitoring Coordination (MMC) identifying the Principal Investigator (PI) for the project and the names of all persons involved in the paleontological monitoring program, as defined in the City of San Diego Paleontology Guidelines.
2. MMC will provide a letter to the applicant confirming the qualifications of the PI and all persons involved in the paleontological monitoring of the project.
3. Prior to the start of work, the applicant shall obtain approval from MMC for any personnel changes associated with the monitoring program.

II. Prior to Start of Construction

A. Verification of Records Search

1. The PI shall provide verification to MMC that a site specific records search has been completed. Verification includes, but is not limited to a copy of a confirmation letter from San Diego Natural History Museum, other institution or, if the search was in-house, a letter of verification from the PI stating that the search was completed.
2. The letter shall introduce any pertinent information concerning expectations and probabilities of discovery during trenching and/or grading activities.

B. PI Shall Attend Precon Meetings

1. Prior to beginning any work that requires monitoring, the Applicant shall arrange a Precon Meeting that shall include the PI, Construction Manager (CM) and/or Grading Contractor, Resident Engineer (RE), Building Inspector (BI), if appropriate, and MMC. The qualified paleontologist shall attend any grading/excavation related Precon Meetings to make comments and/or suggestions concerning the Paleontological Monitoring program with the Construction Manager and/or Grading Contractor.
 - a. If the PI is unable to attend the Precon Meeting, the Applicant shall schedule a focused Precon Meeting with MMC, the PI, RE, CM or BI, if appropriate, prior to the start of any work that requires monitoring.
2. Identify Areas to be Monitored

Prior to the start of any work that requires monitoring, the PI shall submit a Paleontological Monitoring Exhibit (PME) based on the appropriate construction documents (reduced to 11x17) to MMC identifying the areas to be monitored including the delineation of grading/excavation limits.

The PME shall be based on the results of a site specific records search as well as information regarding existing known soil conditions (native or formation).

3. When Monitoring Will Occur
 - a. Prior to the start of any work, the PI shall also submit a construction schedule to MMC through the RE indicating when and where monitoring will occur.
 - b. The PI may submit a detailed letter to MMC prior to the start of work or during construction requesting a modification to the monitoring program. This request shall be based on relevant information such as review of final construction documents which indicate conditions such as depth of excavation and/or site graded to bedrock, presence or absence of fossil resources, etc., which may reduce or increase the potential for resources to be present.

III. During Construction

A. Monitor Shall be Present During Grading/Excavation/Trenching

1. The monitor shall be present full-time during grading/excavation/trenching activities as identified on the PME that could result in impacts to formations with high and moderate resource sensitivity. **The Construction Manager is responsible for notifying the RE, PI, and MMC of changes to any construction activities.**
2. The monitor shall document field activity via the Consultant Site Visit Record (CSVR). The CSVR's shall be faxed by the CM to the RE the first day of monitoring, the last day of monitoring, monthly (**Notification of Monitoring Completion**), and in the case of ANY discoveries. The RE shall forward copies to MMC.
3. The PI may submit a detailed letter to MMC during construction requesting a modification to the monitoring program when a field condition such as trenching activities that do not encounter formational soils as previously assumed, and/or when unique/unusual fossils are encountered, which may reduce or increase the potential for resources to be present.

B. Discovery Notification Process

1. In the event of a discovery, the Paleontological Monitor shall direct the contractor to temporarily divert trenching activities in the area of discovery and immediately notify the RE or BI, as appropriate.
2. The Monitor shall immediately notify the PI (unless Monitor is the PI) of the discovery.

3. The PI shall immediately notify MMC by phone of the discovery, and shall also submit written documentation to MMC within 24 hours by fax or email with photos of the resource in context, if possible.

C. Determination of Significance

1. The PI shall evaluate the significance of the resource.
 - a. The PI shall immediately notify MMC by phone to discuss significance determination and shall also submit a letter to MMC indicating whether additional mitigation is required. The determination of significance for fossil discoveries shall be at the discretion of the PI.
 - b. If the resource is significant, the PI shall submit a Paleontological Recovery Program (PRP) and obtain written approval from MMC. Impacts to significant resources must be mitigated before ground disturbing activities in the area of discovery will be allowed to resume.
 - c. If resource is not significant (e.g., small pieces of broken common shell fragments or other scattered common fossils) the PI shall notify the RE, or BI as appropriate, that a non-significant discovery has been made. The Paleontologist shall continue to monitor the area without notification to MMC unless a significant resource is encountered.
 - d. The PI shall submit a letter to MMC indicating that fossil resources will be collected, curated, and documented in the Final Monitoring Report. The letter shall also indicate that no further work is required.

IV. 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 no discoveries were encountered during night work, The PI shall record the information on the CSV and submit to MMC via fax by 9am the following morning, if possible.

b. Discoveries

All discoveries shall be processed and documented using the existing procedures detailed in Sections III - During Construction.

c. Potentially Significant Discoveries

If the PI determines that a potentially significant discovery has been made, the procedures detailed under Section III - During Construction shall be followed.

d. The PI shall immediately contact MMC, or by 8AM the following morning to report and discuss the findings as indicated in Section III-B, unless other specific arrangements have been made.

B. 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, shall notify MMC immediately.

C. All other procedures described above shall apply, as appropriate.

VI. Post Construction

A. Submittal of Draft Monitoring Report

1. The PI shall submit two copies of the Draft Monitoring Report (even if negative) which describes the results, analysis, and conclusions of all phases of the Paleontological Monitoring Program (with appropriate graphics) to MMC for review and approval within 90 days following the completion of monitoring,
 - a. For significant paleontological resources encountered during monitoring, the Paleontological Recovery Program shall be included in the Draft Monitoring Report.
 - b. Recording Sites with the San Diego Natural History Museum

The PI shall be responsible for recording (on the appropriate forms) any significant or potentially significant fossil resources encountered during the Paleontological Monitoring Program in accordance with the City's Paleontological Guidelines, and submittal of such forms to the San Diego Natural History Museum with the Final Monitoring Report.
2. MMC shall return the Draft Monitoring Report to the PI for revision or, for preparation of the Final Report.

3. The PI shall submit revised Draft Monitoring Report to MMC for approval.
4. MMC shall provide written verification to the PI of the approved report.
5. MMC shall notify the RE or BI, as appropriate, of receipt of all Draft Monitoring Report submittals and approvals.

B. Handling of Fossil Remains

1. The PI shall be responsible for ensuring that all fossil remains collected are cleaned and catalogued.
2. The PI shall be responsible for ensuring that all fossil remains are analyzed to identify function and chronology as they relate to the geologic history of the area; that faunal material is identified as to species; and that specialty studies are completed, as appropriate

C. Curation of fossil remains: Deed of Gift and Acceptance Verification

1. The PI shall be responsible for ensuring that all fossil remains associated with the monitoring for this project are permanently curated with an appropriate institution.
2. The PI shall include the Acceptance Verification from the curation institution in the Final Monitoring Report submitted to the RE or BI and MMC.

D. Final Monitoring Report(s)

1. The PI shall submit two copies of the Final Monitoring Report to MMC (even if negative), within 90 days after notification from MMC that the draft report has been approved.
2. The RE shall, in no case, issue the Notice of Completion until receiving a copy of the approved Final Monitoring Report from MMC which includes the Acceptance Verification from the curation institution.

HUMAN HEALTH AND PUBLIC SAFETY (Hazardous Materials)

1. Prior to issuance of any demolition or construction permit, the Applicant/Owner/Permittee shall provide the Assistant Deputy Director (ADD)/Development Services Department (DSD), a copy of the approved Community Health and Safety Plan, Work Plan and Health Risk Assessment (included in the Work Plan or may be a separate document) for the removal of the underground storage tanks and site remediation provided to the County of San Diego Department of Environmental Health (DEH) in conjunction with the County's review through the Voluntary Assistance Program (VAP) and/or Underground Storage Tank Removal Program or permit requirements.

2. Prior to the foundation inspection for each building, or project phase, the Applicant/ Owner/Permittee shall submit to the ADD over the LDR Section, a Letter of Concurrence/Approval from the County of San Diego DEH confirming that the mitigation measures and site remediation recommended in the Work Plan and Health Risk Assessment have been implemented and that construction of the building(s), or project phase, can proceed. If further remedial action is required during construction activities based on site assessment activities performed under the direction of the County DEH or administrating agency, specific measures shall be incorporated in the remedial action work plan to ensure human health and public safety issues are adequately addressed.
3. Prior to final building inspection approval or Issuance of Occupancy, the Applicant/ Owner/Permittee shall submit to the ADD over the LDR Section a Letter of No Further Action or a similar Letter of Approval from the County of San Diego DEH documenting the environmental assessment and mitigation activities implemented under the Work Plan and Health Risk Assessment has been completed.

TRANSPORTATION/CIRCULATION

1. Using the City of San Diego's Trip Generation Manual, the project shall be restricted in size and uses so that the Average Daily Trips (ADT) shall not exceed these thresholds: 2,479 ADT; AM Peak hours (101 ADT in/32 ADT out); and PM peak hours (112 ADT in/142 ADT out; to the satisfaction of the City Engineer.
2. The applicant shall close all driveways on both Adams Avenue and Marlborough Drive and replace them with full-height curb, gutter, and sidewalk, to the satisfaction of the City Engineer. The project shall not take vehicle access onto Adams Avenue nor Marlborough Drive.
3. The applicant shall install a new traffic signal at the intersection of Adams Avenue and Kensington Drive, and shall provide appropriate interconnect with adjacent signals, to the satisfaction of the City Engineer.
4. The applicant shall restripe Adams Avenue from State Route 15 east to Aldine Drive as a 3-lane facility with a class III bicycle facility with one lane for east bound travel, a two way center left turn lane, and one lane for west bound travel, to the satisfaction of the City Engineer.
5. The applicant shall install a raised median on Adams Avenue between the northbound ramps for State Route 15 and midblock between Terrace Drive and Kensington Drive, to the satisfaction of the City Engineer.
6. The applicant shall acquire property as necessary and dedicate as necessary and widen Marlborough Drive from Adams Avenue to the first alley north of Adams Avenue to provide 36 feet of pavement with curb, gutter and sidewalk, to the satisfaction of the City Engineer.
7. The applicant shall widen to 20 feet and pave the first alley north of Adams Avenue between Marlborough Drive and Edgeware Road, to the satisfaction of 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.

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