

RESOLUTION NUMBER R- 303735

DATE OF FINAL PASSAGE MAY 20 2008

WHEREAS, on May 16, 2006, Scripps Mercy, a California Non-Profit Benefit Corporation, submitted an application to the City of San Diego for Amendments to the Progress Guide, General Plan, and Uptown Community Plan No. 333363, Rezone No. 525271, Site Development Permit No. 531932/Conditional Use Permit Amendment No. 304755, and Summary Public Right-of-Way Vacation Nos. 525320, 525326, Public Right-of-Way Dedication Nos. 525322, and 525327, Easement Dedication No. 525329, Summary Easement Vacation Nos. 525323, 525331, 525330, 525324 and, 525332 for the Scripps Mercy Hospital Project [Project]; and

WHEREAS, the matter was set for a public hearing to be conducted by the Council of the City of San Diego; and

WHEREAS, the issue was heard by the City Council on MAY 20 2008; NOW THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that it is certified that Mitigated Negative Declaration LDR No. 94392, 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 this project.

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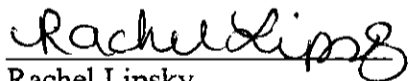
BE IT FURTHER RESOLVED, that the City Council finds that project revisions now mitigate potentially significant effects on the environment previously identified in the Initial Study and therefore, that the Mitigated Negative Declaration, a copy of which is on file in the office of the City Clerk and 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, 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 County Clerk for the County of San Diego regarding the above project.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By


Rachel Lipsky
Deputy City Attorney

RL:mm
05/01/08
Or.Dept:DSD
R-2008-1015
MMS#6208

EXHIBIT A
MITIGATION MONITORING AND REPORTING PROGRAM
SCRIPPS MERCY, A CALIFORNIA NON-PROFIT BENEFIT CORPORATION
Project No. 94392

Amendments to Progress Guide, General Plan, and Uptown Community Plan No. 333363, Rezone No. 525271, Site Development Permit No. 531932, Conditional Use Permit Amendment No. 304755, Summary Public Right-of-Way Vacation Nos. 525320, 525326, Public Right-of-Way Dedication Nos. 525322, 525327, Easement Dedication No. 525329, Summary Easement Vacation Nos. 525323, 525331, 525330, 525324, 525332

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 (Project No.94392) shall be made conditions of Amendments to Progress Guide, General Plan, and Uptown Community Plan No. 333363, Rezone No. 525271, Site Development Permit No. 531932, Conditional Use Permit Amendment No. 304755, Summary Public Right-of-Way Vacation Nos. 525320, 525326, Public Right-of-Way Dedication Nos. 525322, 525327, Easement Dedication No. 525329, Summary Easement Vacation Nos. 525323, 525331, 525330, 525324, 525332 as may be further described below.

Biological Resources

A letter of verification to the Assistant Deputy Director of the Land Development Review Division stating that a qualified biologist has been retained to implement the following mitigation measures shall be submitted prior to the granting of a grading permit.

The Scripps Mercy Hospital Project site has a potential to support nests and nesting raptors. Compliance with the Migratory Bird Treaty Act/ Section 3503 would preclude the potential for direct impacts.

If there is a potential for direct noise impacts to nesting raptors, prior to any grading or vegetation removal within the development area during the raptor breeding season (February 1 through September 15), the biologist shall ensure that no raptors are nesting. If construction occurs during the raptor breeding season a preconstruction survey would be conducted and no construction would be allowed within 300 or 500 feet of any identified nest(s) (depending on type of avian species) until the young had fledged. Should the biologist determine that raptors are nesting; an active nest shall not be removed until after the breeding season.

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Prior to the issuance of any grading permit the Assistant Deputy Director of the Land Development Review Division shall verify that the project requirements regarding nesting raptors are shown on the construction plans.

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 the 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. At least thirty days prior to the Precon meeting, 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.

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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 inches) 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

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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 (CSV). The CSV's shall be faxed by the CM to the MMC and RE the first day of monitoring, the last day of monitoring, monthly (Notification of Monitoring Completion), and in the case of ANY discoveries.
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 construction activities in the area of discovery to allow recovery of fossil remains 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

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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 and/or Weekend Work

A. If night and/or weekend work is included in the contract

- 1. If night and/or weekend 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 the RE by fax by 9am the following morning 8AM of the next business day.

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 of the next business day 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

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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. Preparation and Submittal of Draft Monitoring Report

1. The PI shall submit two copies of the Draft Monitoring Report prepared in accordance with the City of San Diego Paleontology Guidelines which describes the results, analysis, and conclusions of all phases of the Paleontological Monitoring Program (with appropriate graphics) to MMC for review and approve 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.

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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.
3. If the fossil collection is not accepted by a local qualified curation facility for reasons other than inadequate preparation of specimens, the PI shall contact LDR to suggest an alternative disposition of the fossil collection. MMC shall be notified in writing of the situation and resolution.

D. Final Monitoring Report(s)

1. The PI shall submit two copies of the Final Monitoring Report to MMC, which describes the results, analysis, and conclusions of the above Paleontological Monitoring Program (with appropriate graphics), within 90 days after notification from MMC that the draft report has been approved.
2. The grading bond for this project will not be released unless the Final Monitoring Report has been submitted and accepted by MMC for approval.
3. 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.

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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