

RESOLUTION NUMBER R- 304136
DATE OF FINAL PASSAGE SEP 16 2008

WHEREAS, on July 14, 2006, Coast Income Properties, Inc. submitted an application to the Development Services Department for a Rezone No 352706, Community Plan Amendment No 354697, Vesting Tentative Map No 106228 and Planned Development Permit No 352707, for Torrey Hills VTM [Project], Project No 106228 ; 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 SEP 16 2008, 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, a public hearing was required by law implicating due process rights of individuals affected by the decision, and 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 City Council considered the issues discussed in Final Environmental Impact Report No. 106228, NOW, THEREFORE,

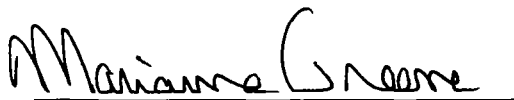
BE IT RESOLVED, by the Council of the City of San Diego, that it is certified that Final to Master Environmental Impact Report No 106228, on file in the office of the City Clerk, has been completed in compliance with the California Environmental Quality Act of 1970 (California Public Resources Code section 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 a rezone, community plan amendment, vesting tentative map and planned development permits for the Torrey Hills project.

BE IT FURTHER RESOLVED that pursuant to California Public Resources Code Section 21081 and Administrative Code Section 15091, the City Council hereby adopts the Findings made with respect to the project, a copy of which is attached hereto and incorporated herein by reference.

BE IT FURTHER RESOLVED, that pursuant to California Public Resources Code section 21081.6, the City Council adopts the Project specific 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

APPROVED MICHAEL J AGUIRRE, City Attorney

By 
Marianne Greene
Deputy City Attorney

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EXHIBIT A

MITIGATION MONITORING AND REPORTING PROGRAM

COMMUNITY PLAN AMENDMENT, PLANNED DEVELOPMENT PERMIT
AMENDING PLAN DEVELOPMENT/HILLSIDE REVIEW/COASTAL
DEVELOPMENT PERMIT NO. 95-0554, VESTING TENTATIVE MAP NO. 106228
AND REZONE
TORREY HILLS - PROJECT NO. 106228

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 Entitlements Division, 1222 First Avenue, Fifth Floor, San Diego, CA 92101. All mitigation measures contained in the Environmental Impact Report (Project No. 106228) shall be made conditions of the Community Plan Amendment, Planned Development Permit amending Planned Development/Hillside Review/Coastal Development Permit No. 95-0554, Vesting Tentative Map No. 106228 and a Rezone as may be further described below.

As Lead Agency for the proposed project under CEQA, the City of San Diego will administer the MMRP for the following environmental issue areas as identified in the Torrey Hills EIR: traffic and circulation; noise; paleontological resources; and public services and utilities. The mitigation measures identified below include all applicable measures from the Torrey Hills EIR (Project No. 106228; SCH No. 2007101032). This MMRP shall be made a requirement of project approval.

Section 21081.6 to the State of California Public Resources Code requires a lead or responsible agency that approves or carries out a project where an environmental impact report (EIR) has identified significant environmental effects to adopt a "reporting or monitoring program for adopted or required changes to mitigate or avoid significant environmental effects." The City of San Diego is the Lead Agency for the Torrey Hills EIR, and therefore must ensure the enforceability of the Mitigation Monitoring and Reporting Program (MMRP). An EIR, has been prepared for this project which addresses potential environmental impacts and, where appropriate, recommends measures to mitigate these impacts. As such, an MMRP is required to ensure that adopted mitigation measures are implemented.

GENERAL

1. Prior to the commencement of work, a Pre-construction meeting (Pre-con) shall be conducted and include City of San Diego's Mitigation Monitoring and Coordination (MMC) staff, Resident Engineer, Applicant, Project Acoustician, Traffic Consultant, Project Paleontologist and other parties of interest.
2. 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, 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 MITIGATION REQUIREMENTS**: "*The Torrey Hills VTM project is subject to a*

Mitigation Monitoring and Reporting Program and shall conform to the mitigation conditions as contained in Environmental Impact Report No. 106228.”

TRAFFIC AND CIRCULATION

The following mitigation measures would reduce the intersection traffic impacts of the project to below a level of significance.

Mitigation Measure 5.2-1: Prior to issuance of the first building permit, the developer shall restripe the southbound through lane to a southbound through-left, and add dedicated southbound right-turn lane and a westbound right overlap signal at the Vista Sorrento Parkway/Sorrento Valley Boulevard intersection, as shown on Figure 3.2-10.

Mitigation Measure 5.2-2: Prior to issuance of the first building permit, the developer shall install a traffic signal at I-5 Northbound Ramp/Roselle Street to the satisfaction of the City Engineer. The applicant shall be entitled to collect a fair share contribution from other developers which would impact this intersection to offset the cost of installing the signal.

Mitigation Measure 5.2-3: Prior to issuance of the first building permit, the developer shall install a traffic signal at I-5 Southbound Ramp/Roselle Street to the satisfaction of the City Engineer. The applicant shall be entitled to collect a fair share contribution from other developers which would impact this intersection to offset the cost of installing the signal.

NOISE

The following mitigation measures would reduce the construction and exterior public recreation area noise impacts of the project to below a level of significance.

Mitigation Measure 5.6-1: During the construction phase the following actions shall be taken:

1. A temporary construction barrier with a minimum height of eight feet shall be constructed along the project's northern and eastern boundary along Calle Mar de Mariposa and West Ocean Air Drive;
2. During all site excavation and grading, the project contractors shall equip all construction equipment, fixed or mobile, with properly operating and maintained mufflers consistent with manufacturer's standards;
3. The project contractor shall place all stationary construction equipment so that emitted noise is directed away from sensitive receptors nearest the project site; and
4. The construction contractor shall locate equipment staging in areas that would create the greatest distance between construction-related noise sources and noise-sensitive receptors nearest the project site during all project construction.

Mitigation Measure 5.6-2: The developer shall construct a sound barrier with a minimum height of six feet along the western boundary of the proposed public recreation area as shown on Exhibit A. The sound wall can be a combination of concrete block wall and Plexiglas or any material with a density equal to or greater than 3.5 pounds per square foot.

PALEONTOLOGICAL RESOURCES

The following measures shall be implemented by the project applicant to mitigate impacts to paleontological resources to below a level of significance.

Mitigation Measure 5.7-1: The following shall be implemented:

I. Prior to Permit Issuance

A. Entitlements Division (ED) 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 and/or Weekend Work

- A. If night and/or weekend work is included in the contract
 - 1. When 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 and/or weekend work, The PI shall record the information on the CSVr and submit to MMC via fax by 9am on 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 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.

V. 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.

PUBLIC SERVICES AND UTILITIES

The following measures are required to address impacts to landfill capacity. Implementation of these measures would reduce impacts to less than significant levels.

Mitigation Measure 5.8-1: Prior to Preconstruction (Precon) Meeting

Entitlements Division (ED) Plan Check - Prior to issuance of any permit, including but is not limited to, any grading or any other construction permit, the Assistant Deputy Director (ADD) shall verify that all the requirements of the Refuse and Recyclable Materials Storage Regulations, Construction and Demolition Debris Diversion Deposit Program and all of the requirements of the waste management plan have been shown and/or noted on the Grading Plans (construction documents).

1. Prior to issuance of a grading permit, the permittee shall be responsible to arrange a Precon Meeting. This meeting shall be coordinated with the Mitigation Monitoring Coordinator (MMC) to verify that implementation of

the waste management plan shall be performed in compliance with the plan approved by ED and the ESD, to ensure that impacts to solid waste facilities are mitigated to below a level of significance.

2. The plan (construction documents) shall include the following elements for grading, construction and occupancy phases of the project as applicable:
 - a. Tons of waste anticipated to be generated
 - b. Material type of waste to be generated
 - c. Source separation techniques for waste generated
 - d. How materials will be reused on site
 - e. Name and location of recycling, reuse or landfill facilities where waste will be taken if not reused on site
 - f. A "buy recycled" program
 - g. How the project will aim to reduce the generation of construction/demolition debris
 - h. A plan of how waste reduction and recycling goals will be communicated to subcontractors
 - i. A timeline for each of the three main phases of the project as stated above
 - j. A list of required progress and final inspections by City staff
3. The plan shall require a 75 percent diversion rate for construction and demolition debris, consistent with the requirements of Chapter 6, Article 6, Division 6 of the Municipal Code (the Construction and Demolition Debris Diversion Deposit Program).
4. The plan shall include specific performance measures based on the Waste Management Form (required as part of the Construction and Demolition Debris Diversion Deposit Program) which provides a general estimate of the total waste generated by the project including how much will be recycled for each material type. The performance measures shall be assessed upon the completion of the project to measure success in achieving waste minimization goals discussed in No. 3 above. The permittee shall notify MMC and ESD when: (1) a construction permit is issued; and (2) construction begins.

The permittee shall arrange for progress inspections and a final inspection, as specified in the plan and shall contact both MMC and ESD to perform these periodic site visits during construction to inspect the process of the project's waste diversion efforts. Notification shall be sent to:

Mitigation Monitoring
Coordination
9601 Ridgehaven Court
Suite 320, MS 1102B
San Diego, CA 92123-1636
(619) 980-7122

Environmental Services
Department
9601 Ridgehaven Court
Suite 320, MS 1103B
San Diego, CA 92123-1636
(858) 492-5010

5. Prior to the issuance of a grading permit, the applicant shall receive approval from the ADD that the waste management plan has been prepared, approved and implemented. Also prior to the issuance of the grading permit, the applicant shall submit evidence to the ADD that the final construction report has been approved by MMC and ESD. This report shall summarize the results of implementing the above waste management plan elements, including: the actual waste generated and diverted from the project, the waste reduction percentage achieved, how that goal was achieved, etc.

Mitigation Measure 5.8-2: Precon Meeting

1. At least 10 days prior to beginning any work on the site, for the implementation of the Mitigation Monitoring and Reporting Program (MMRP), the permittee is responsible to arrange a Precon Meeting that shall include: the Construction Manager or Grading Contractor, MMC and ESD, as well as the Resident Engineer (RE), if there is an engineering permit.
2. At the Precon Meeting, the permittee shall submit reduced copies (11" x 17") of the approved waste management plan to MMC (two copies) and ESD (one copy).
3. Prior to the start of construction, the permittee or Construction Manager shall submit a construction schedule to MMC and ESD.

Mitigation Measure 5.8-3: During Construction

The permittee or Construction Manager shall call for inspections by both MMC and ESD, who will periodically visit the construction site to verify implementation of the waste management plan.

Mitigation Measure 5.8-4: Post Construction

1. After completion of the implementation of the MMRP, a final results report shall be submitted to MMC to coordinate the review by the ADD and ESD.
2. Prior to final clearance of any demolition permit, issuance of Certificate of Occupancy, the applicant shall provide documentation to the ADD of ED and the ESD that the waste management plan has been effectively implemented.

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.

Passed by the Council of The City of San Diego on SEP 16 2008, by the following vote

Council Members	Yeas	Nays	Not Present	Recused
Scott Peters	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Kevin Faulconer	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Toni Atkins	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Anthony Young	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Brian Maienschein	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Donna Frye	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jim Madaffer	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ben Hueso	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage SEP 16 2008

AUTHENTICATED BY

JERRY SANDERS
Mayor of The City of San Diego, California.

(Seal)

ELIZABETH S. MALAND
City Clerk of The City of San Diego, California.

By Mary Zumaya, Deputy

Office of the City Clerk, San Diego, California

Resolution Number R-304136