

RESOLUTION NUMBER R-304269

DATE APPROVED OCTOBER 20, 2008

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO DENYING THE APPEAL AND UPHOLDING THE DECISION OF THE PLANNING COMMISSION TO APPROVE THE PROJECT AND GRANTING SITE DEVELOPMENT PERMIT NO. 485233.

WHEREAS, San Diego Community College District, Owner/Permittee, filed an application with the City of San Diego for an amendment to Site Development Permit [SDP] No. 324476 (conditions number 9, 10, 11) to reference the Addendum to Mitigated Negative Declaration [MND] State Clearing House No. 2005121106 which modifies the previous Mitigation Monitoring and Reporting Program [MMRP]. The modification removes the mitigation requirement for an eastbound turn lane on Mesa College Drive at Ashford Street; and

WHEREAS, the project site is located at 7250 Mesa College Drive in the RS-1-7 zone of the Clairemont Mesa Community Plan area; and

WHEREAS, the project site is legally described as all that portion of Pueblo Lot 1203 of the Pueblo Lands of San Diego according to map thereof made by James Pascoe in 1870, a copy of which was filed November 14, 1921, and is known as miscellaneous map number 36; and

WHEREAS, on March 6, 2008, the Planning Commission of the City of San Diego considered SDP No. 485233 (to amend Site Development Permit 324476) and pursuant to Resolution No. 4379-PC voted to approve the permit; and

WHEREAS, on March 6, 2008 the Planning Commission of the City of San Diego acknowledged that the City of San Diego as the responsible agency under the California Environmental Quality Action [CEQA] has reviewed and considered the Addendum to MND prepared by the San Diego Community College District and adopted the MMRP; and

WHEREAS, March 17, 2008 the "Grandmothers" appealed the Planning Commission decision to 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 required 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 matter was set for public hearing on OCT 20 2008,
Testimony having been heard, evidence having been submitted, and the City Council having fully advised concerning the same; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that the Council adopts the following findings with respect to SDP No. 485233:

A. SITE DEVELOPMENT PERMIT:

1. The proposed development will not adversely affect the applicable land use plan. The project requires a SDP for proposed grading within environmentally sensitive lands for the development of a parking garage and improved east campus entry to Mesa College, as part of the Mesa College Facilities Master Plan. The project was approved by City Council on January 8, 2007. As part of that action, the City Council also adopted a MMRP. The MMRP included a traffic mitigation measure requiring an eastbound turn lane on Mesa College Drive at Ashford Street. The scope of the original project approval has not changed.

The existing Mesa College campus and a major portion of the proposed campus expansion are located within the Clairemont Mesa Community Plan, which was adopted in 1989 and amended in January 1999. A portion of the campus expansion is also located within the Linda Vista Community Plan, which was adopted in 1998 and amended in January 1999. The impact of the Mesa College Facilities Master Plan, grading, and the parking facility at the intersection of Mesa College Drive at Ashford Street is not significant under the City's CEQA Significance Determination Thresholds and does not require mitigation. This amendment to remove the mitigation requirement for the eastbound turn lane on Mesa College Drive to Ashford Street does not impact the Clairemont Mesa and Linda Vista Community Plans and the City's Progress Guide and General Plan. The original project has been designed to be consistent with the Clairemont Mesa and Linda Vista Community Plans and the City's Progress Guide and General Plan and implements their plan, goals and policies, and therefore will not adversely affect the applicable land use plan.

2. The proposed development will not be detrimental to the public health, safety, and welfare. The project requires a SDP for proposed grading within environmentally sensitive lands for the development of a parking garage and improved east campus entry to Mesa College, as part of the Mesa College Facilities Master Plan [MCFMP]. The project was approved by City Council on January 8, 2007. As part of that action, the City Council also adopted a MMRP. The MMRP included a traffic mitigation measure requiring an eastbound turn lane on Mesa College Drive at Ashford Street. The scope of the original project approval has not changed.

The impact of the MCFMP project at the intersection of Mesa College Drive at Ashford Street is not significant under the City's CEQA Significance Determination Thresholds and does not require mitigation. Therefore, removing the mitigation would not be detrimental to the public health, safety, and welfare.

3. The proposed development will comply with the regulations of the Land Development Code. The project requires a SDP for proposed grading within environmentally sensitive lands for the development of a parking garage and improved east campus entry to Mesa College, as part of the MCFMP. The project was approved by City Council on January 8, 2007. As part of that action, the City Council also adopted a MMRP. The MMRP included a traffic mitigation measure requiring an eastbound turn lane on Mesa College Drive at Ashford Street. The scope of the original project approval has not changed. The original project has been designed to comply with the regulations of the LDC, as allowed through a SDP.

BE IT FURTHER RESOLVED that the above findings are supported by the minutes, maps and exhibits, all of which are incorporated herein by this reference.

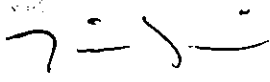
BE IT FURTHER RESOLVED that the appeal of the "Grandmothers" is denied; the decision of the Planning Commission is sustained; and Site Development Permit No. 485233 is

(R-2009-595)
REV. COPY

granted to San Diego Community College District, Owner/Permittee, under the terms and conditions set forth in the attached permit which is made a part of this resolution.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By



Nina M. Fain
Deputy City Attorney

NMF:mm
11/06/08
11/19/08 Rev. Copy
Or.Dept:Clerk
R-2009-596
MMS#6986

RECORDING REQUESTED BY
CITY OF SAN DIEGO
DEVELOPMENT SERVICES
PERMIT INTAKE, MAIL STATION 501

WHEN RECORDED MAIL TO
CITY CLERK
MAIL STATION 2A

SPACE ABOVE THIS LINE FOR RECORDER'S USE

JOB ORDER NUMBER: 42-3913

SITE DEVELOPMENT PERMIT NO. 485233
AMENDMENT TO SITE DEVELOPMENT PERMIT NO. 324476
MESA COLLEGE DRIVE AMENDMENT – PROJECT NO. 139300
CITY COUNCIL

This Site Development Permit [SDP] No. 485233 (to amend SDP No. 324476) is granted by the Council of the City of San Diego to San Diego Community College District, Owner/Permittee, pursuant to San Diego Municipal Code [SDMC] section 126.0502. The 86.83-acre campus site is located at 7250 Mesa College Drive in the RS-1-7 zone of the Clairemont Mesa Community Plan area. The project site is legally described as being a portion of Pueblo Lot 1203 of the Pueblo Lands of San Diego according to map thereof made by James Pascoe in 1870, a copy of which was filed November 14, 1921, and is known as miscellaneous map No. 36.

Subject to the terms and conditions set forth in this Permit, permission is granted to San Diego Community College District, Owner/Permittee, to amend SDP No. 324476 (Conditions No. 9, 10, 11) to reference the Addendum to Mitigated Negative Declaration [MND] State Clearing House No. 2005121106. No other changes to SDP No. 324476 are authorized with this permit.

The Addendum shall modify the previous Mitigation, Monitoring and Reporting Program [MMRP] to delete the following condition only:

An eastbound turn lane on Mesa College Drive at Ashford Street shall be provided for interim and future conditions.

All other conditions and requirements remain in full effect.

STANDARD REQUIREMENTS:

1. This permit must be utilized within thirty-six months after the date on which all rights of appeal have expired. Failure to utilize and maintain utilization of this permit as described in the

SDMC will automatically void the permit unless an Extension of Time has been granted. Any such Extension of Time must meet all the SDMC requirements and applicable guidelines in effect at the time the extension is considered by the appropriate decision maker.

2. No activity authorized by this Permit be conducted on the premises until:
 - a. The Permittee signs and returns the Permit to the Development Services Department; and
 - b. The Permit is recorded in the Office of the San Diego County Recorder.
3. Unless this Permit has been revoked by the City of San Diego the property included by reference within this Permit shall be used only for the purposes and under the terms and conditions set forth in this Permit unless otherwise authorized by the City Manager. All rights, responsibilities and obligations granted under Site Development Permit No. 324476 shall remain in full force and effect, except as provided herein.
4. The utilization and continued use of this Permit shall be subject to the regulations of this and any other applicable governmental agency.
5. Issuance of this Permit by the City of San Diego does not authorize the Permittee for this permit to violate any Federal, State or City laws, ordinances, regulations or policies including, but not limited to, the Endangered Species Act of 1973 [ESA] and any amendments thereto (16 U.S.C. § 1531 et seq.).
6. All of the conditions contained in this Permit have been considered and have been determined to be necessary in order to make the findings required for this Permit. It is the intent of the City that the holder of this Permit be required to comply with each and every condition in order to be afforded the special rights which the holder of the Permit is entitled as a result of obtaining this Permit.

In the event that any condition of this Permit, on a legal challenge by the Owner/Permittee of this Permit, is found or held by a court of competent jurisdiction to be invalid, unenforceable, or unreasonable, this Permit shall be void. However, in such an event, the Owner/Permittee shall have the right, by paying applicable processing fees, to bring a request for a new permit without the "invalid" condition(s) back to the discretionary body which approved the Permit for a determination by that body as to whether all of the findings necessary for the issuance of the proposed permit can still be made in the absence of the "invalid" condition(s). Such hearing shall be a hearing de novo and the discretionary body shall have the absolute right to approve, disapprove, or modify the proposed permit and the condition(s) contained therein.

ENVIRONMENTAL/MITIGATION REQUIREMENTS:

7. Mitigation requirements are tied to the environmental document, specifically the MMRP outlined in the MND State Clearing House No. 2005121106 Addendum, dated August 7, 2007. These MMRP conditions are incorporated into the permit by reference or authorization for the project.

8. As conditions of SDP No. 485233, the mitigation measures specified in the MMRP and outlined in the MND State Clearing House No. 2005121106 Addendum, dated August 7, 2007, shall be noted on the grading plans and specifications under the heading ENVIRONMENTAL/MITIGATION REQUIREMENTS.

9. The Owner/Permittee shall comply with the MMRP as specified in the Addendum to MND State Clearing House No. 2005121106 satisfactory to the City Manager and City Engineer. Prior to issuance of the first grading permit, all conditions of the MMRP shall be adhered to the satisfaction of the City Engineer. All mitigation measures as specifically outlined in the MMRP shall be implemented for the following issue areas:

Biological Resources
Traffic

INFORMATION ONLY:

- Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of this development permit, may protest the imposition within ninety days of the approval of this development permit by filing a written protest with the City Clerk pursuant to California Government Code section 66020.

APPROVED by the Council of the City of San Diego on OCT 20 2008, Resolution No. R-304209.

Site Development Permit No. 485233
Amendment to Site Development
Permit No. 324476

AUTHENTICATED BY THE CITY MANAGER

By _____

The undersigned Owner/Permittee, by execution hereof, agrees to each and every condition of this Permit and promises to perform each and every obligation of Owner/Permittee hereunder.

SAN DIEGO COMMUNITY COLLEGE
DISTRICT
Owner/Permittee

By _____

By _____

**NOTE: Notary acknowledgments
must be attached per Civil Code
section 1189 et seq.**