

5/19

RESOLUTION NUMBER R- 304917
DATE OF FINAL PASSAGE MAY 19 2009

ADDENDUM NO. 142244 TO ENVIRONMENTAL IMPACT
REPORT NO. 96-7902.

WHEREAS, on October 22, 2007, Black Mountain Ranch, LLC, a California Limited Liability Company submitted an application to the City of San Diego for a rezone, General Plan and Black Mountain Ranch Subarea Plan amendment, public right-of-way vacation, easement vacation, vesting tentative map, and planned development permit/site development permit and multiple habitat planning area boundary line adjustment for the Black Mountain Ranch North Village 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, 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 MAY 19 2009; and

WHEREAS, the City Council considered the issues discussed in Addendum No. 142244 to Environmental Impact Report No. 96-7902; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that it is certified that Addendum No. 142244 to Environmental Impact Report No. 96-7902, 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, General Plan and Black Mountain Ranch Subarea Plan amendment, public right-of-way vacation, easement vacation, vesting tentative map, and planned development permit/site development permit and multiple habitat planning area boundary line adjustment for the Black Mountain Ranch North Village project.

BE IT FURTHER RESOLVED that the City Council of the City of San Diego finds that project revisions now mitigate potentially significant effects on the environment previously identified in the Initial Study and therefore, that said Addendum No. 142244 to Environmental Impact Report No. 96-7902, a copy of which is on file in the Office of the City Clerk and incorporated by reference, is hereby approved.

BE IT FURTHER RESOLVED, that pursuant to California Code of Regulations section 15093, the City Council adopts the Statement of Overriding Considerations, a copy of which is on file in the office of the City Clerk and incorporated herein by reference, with respect to the project.

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 Clerk of the Board of Supervisors for the County of San Diego regarding the above project.

APPROVED: JAN I. GOLDSMITH, City Attorney

By Shannon Thomas
Shannon Thomas
Deputy City Attorney

ST:pev
04/21/09
05/01/09 COR.COPY
05/01/09 COR.COPY2
Or.Dept:DSD
R-2009-1079
MMS #8756
ENVIRONMENTAL - EIR 11-01-04

Exhibit A
Mitigation Monitoring and Reporting Program

The Mitigation Monitoring and Reporting Program (MMRP) prepared for the Black Mountain Ranch Subarea I Plan, certified in 1998; and the addendum for the North Village at Black Mountain Ranch Amendment to the Subarea I Plan, certified in 2001, identify mitigation measures and design considerations which are to be applied to the plan area. Based on a review of the project plans, the previous FEIR and subsequent technical study updates, the following MMRP identifies measures which specifically apply to the proposed project.

Landform Alteration/Visual Quality

Prior to issuance of the first grading permit, the final map shall indicate that implementation of grading techniques shall be shown on the tentative map and shall be assured through the approval of the final grading plans. Those slopes which are visible from major roadways and public viewing areas shall vary slope gradient, width and contour edges, and use blending and rounding to blend to natural slopes. The Applicant shall clearly indicate on the grading plans special design requirements (in the form of enhanced landscaping) for slopes that are to be graded. Grading for major slopes shall minimize encroachment into sensitive vegetation. A note shall be included on the grading plans for the tentative and final grading plans for the North Village development indicating that the grading techniques are "Environmental Mitigation Measures" and shall include the following measures:

1. Utilize grading techniques that blend transitional manufactured slopes with the natural slope;
2. Employ blending and rounding techniques where manufactured slopes meet natural ground;
3. Vary slope gradient and width and contour edges to achieve a more natural appearance to slope banks;
4. Limit the height and gradient of slopes fronting open space to no more than 30 feet in any case.

Prior to the issuance of grading permits, the applicant shall submit the grading and landscape plans to the Assistant Deputy Director to ensure that sensitive grading techniques are being utilized and that manufactured slopes are landscaped in conformance with the conceptual landscape plan. Areas shown as open space shall be flagged in the field and construction crews shall be restricted from these areas. The applicant shall retain a soils engineer to monitor the grading and construction and a landscape architect to monitor revegetation of the project. Landscaping shall be in place along the developed roadways and development areas prior to issuance of building permits for each area. The soils engineer and landscape architect shall submit in writing to the City Engineer and provide certification that the project has complied with the required mitigation measures on the grading plans. Only after the ADD Environmental Designee and City Engineer approve the grading, shall recommendations be made to the City Council for the release of the subdivision bond.

Grading for major roads and other common facilities and areas shall include provisions for erosion control and hydro-seeding. Landscape plantings for native shrubs or exotics as shown on the overall landscape plans shall be shown on the grading plans. The landscape plans shall be implemented in phases consistent with development phases.

Paleontology

I. Prior to Permit Issuance

A. Entitlements 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
 - a. 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 CSVN and submit to MMC via fax by 8AM 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 on 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 and or weekend 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. Preparation and Submittal of Draft Monitoring Report

1. The PI shall submit two copies of the Draft Monitoring Report (even if negative), prepared in accordance with the Paleontological Guidelines 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.

Geology

General Measures

1. The presence of landslides, weak claystones, uncompacted fill soils, and potentially Compressible colluvial and alluvial deposits require special consideration where development is planned. If weak claystones or landslides are present in areas proposed to be graded, stabilization measures in the form of buttresses or stability fills shall be required.
2. Very heavy ripping may be necessary within areas underlain by the Santiago Peak Volcanics, Lusardi Formation, and gabbro. Deep cuts in the Santiago Peak Volcanics or gabbroic rocks would require blasting. Special handling of the excavated rock and placement of oversized materials would also be anticipated.
3. Highly expansive soils may be encountered within the Del Mar, Mission Valley, and Friars formations and some of the topsoils. It is anticipated, however, that there would be sufficient low expansive soils available on the site to mitigate the adverse impact of expansive soils where encountered.
4. Compressible alluvium and colluvium present along canyon alignments and on the lower flanks of the ridges would require at least partial removal and recompaction where settlement sensitive improvements are planned.
5. Perched groundwater is anticipated to be present within the low-lying alluvial areas. Hence, remedial measures in the form of subdrains shall be required where filling of the drainage courses is planned.

Grading

1. For preliminary design purposes, proposed cut and fill slopes shall be planned no steeper than 2:1 (horizontal to vertical). Safe allowable slope heights shall generally be limited by the shear strength characteristics of the particular soil or rock conditions present. Areas where high cut slopes are planned shall be investigated in detail to evaluate the potential impact of the local geology on the stability of the slopes.
2. Due to the increased grading costs associated with rock blasting and handling, that planned excavations and ungrounded utility lines for building pads shall be kept to a

minimum within those portions of the site underlain by Santiago Peak Volcanics and/or gabbroic formations.

Drainage and Maintenance

1. Providing and maintaining proper surface drainage is imperative to assure soil stability and reduce erosion. All graded pads would have drainage swales which direct storm or irrigation runoff away from structures or the top of slopes to control drainage facilities.
2. No storm or irrigation water would be allowed to discharge over the top of cut or fill slopes.

Biology

Prior to the issuance of any grading permit the Environmental Designee shall verify that the Multi-Habitat Planning Area (MHPA) boundaries and the following project requirements regarding the coastal California gnatcatcher are shown on the construction plans:

1. If the site has a potential to support nests and nesting raptors are present during grading and/or construction activities, compliance with the Fed. Migratory Bird Treaty Act/CA Code Section 3503 would preclude the potential for direct impacts.
2. If there is a potential for indirect noise impacts to nesting raptors, prior to any (insert the specific project activity) 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 per applicable FESA, CESA and/or MSCP Conditions of Coverage. If no such specific conditions apply, no construction would be allowed within 300 to 500 feet of any identified nest(s) until the young fledge. Should the biologist determine that raptors are nesting, an active nest shall not be removed until after the breeding season.