

RESOLUTION NUMBER R- 305407

DATE OF FINAL PASSAGE NOV 10 2009

A RESOLUTION ADOPTING MITIGATED NEGATIVE DECLARATION LDR NO. 137944 AND THE MITIGATION, MONITORING, AND REPORTING PROGRAM FOR THE ERMA ROAD PROJECT.

WHEREAS, on July 24, 2008, H. G. Fenton Development Company, LLC submitted an application to the Development Services Department City of San Diego for a community plan amendment, vesting tentative map, planned development permit, a site development permit, cancellation of a site development permit, rescission of a vesting tentative map, and rezone for the Erma Road Project No. 137944; 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 NOV 10 2009; 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 is required by law implicating due process rights of individuals affected by the decision, and the Council is 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 Mitigated Negative Declaration [MND] LDR No. 137944 with respect to the Erma Road Project; NOW,  
THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that it is certified that MND LDR No.137944 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 MND reflects the independent judgment of the City of San Diego as Lead Agency, and that the information contained in the MND, together with any comments received during the public review process, has been reviewed and considered by this Council in connection with the approval of Erma Road Project No. 137944.


BE IT FURTHER RESOLVED, that the City Council finds that project revisions now avoid or mitigate potentially significant effects on the environment previously identified in the initial study to a point where clearly no significant effects on the environment would occur and there is no evidence in light of the whole record that the project as revised may have a significant effect on the environment; therefore, MND LDR No.137944, on file in the office of the City Clerk and incorporated by reference herein, is adopted.

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 by reference herein.

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 Erma Road Project No. 137944.

APPROVED: JAN I. GOLDSMITH, City Attorney

By

  
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Nina M. Fain  
Deputy City Attorney

NMF:js  
10/14/2009  
Or.Dept:DSD  
R-2010-287  
MMS #10523

## EXHIBIT A

### MITIGATION MONITORING AND REPORTING PROGRAM

#### **ERMA ROAD PROJECT NO. 137944**

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 Mitigated Negative Declaration (Project No. 137944) shall be made conditions of the Community Plan Amendment, Vesting Tentative Map, Planned Development Permit and Rezone as may be further described below.

#### V. MITIGATION, MONITORING AND REPORTING PROGRAM:

##### **A. GENERAL**

1. Prior to the issuance of any construction permits, including but not limited to, the first Grading Permit, Demolition Plans/Permits and Building Plans/Permits the Assistant Deputy Director (ADD) environmental designee of the City's Entitlements Division shall verify that the grading and/or construction plans include an index of sheets shown on the first map sheet which includes "Environmental Requirements"; and that this Mitigation Monitoring and Reporting Program (MMRP a.k.a. "Environmental Requirements") have been included on the submitted construction documents in their entirety (verbatim), along with contact/contract specifications.
2. The index shall also have the following statement under "Environmental Requirements, "The ERMA Road development project is conditioned to have a qualified biological monitor on-site, as determined at the preconstruction meeting. The project shall conform to the MMRP conditions as contained in the environmental document (PTS No. 137944) and as shown verbatim on sheet(s): "*(to be filled by applicant/contractor)*." Please note, additional related mitigation features and/or notes can also be included on individual map sheets where appropriate (e.g. to depict areas of revegetation, et cetera.).
3. Verbatim mitigation measures cannot be altered or edited but can be annotated individually to indicate time and method of completion (i.e. to provide enough detail for plan check verification) or to provide notes indicating where additional graphic instructions are located, etc.
4. In addition, prior to the commencement of work, a Preconstruction Meeting (Pre-con) shall be arranged by the owner/permittee and conducted. The Pre-con shall include the appropriate City of San Diego's Mitigation Monitoring Coordination (MMC) Section Representative, the Resident Engineer, Project Biologist, Applicant, and other parties of interest.

**B. MITIGATION FOR POTENTIAL INDIRECT CONSTRUCTION-RELATED NOISE IMPACTS TO SENSITIVE BIRDS**

**Biological Resources (General Birds)**

1. If project grading/brush management is proposed in or adjacent to native habitat during the typical bird breeding season (February 1-September 15), or an active nest is noted, the project biologist shall conduct a pregrading survey for active nests in the development area and within 300 feet of it, and submit a letter report to MMC prior to the preconstruction meeting.
2. If active nests are detected, or considered likely, the report shall include mitigation in conformance with the City's Biology Guidelines and applicable State and Federal Law (i.e. appropriate follow up surveys, monitoring schedules, buffers, etc.) to the satisfaction of the ADD of the Entitlements Division. Mitigation requirements determined by the project biologist and the ADD of Entitlements shall be incorporated into the project's Biological Construction Monitoring Exhibit (BCME) and monitoring results incorporated in to the final biological construction monitoring report.
3. If no nesting birds are detected per "1" above, mitigation under "1" is not required.

**C. PUBLIC UTILITIES (SOLID WASTE GENERATION/DISPOSAL)**

**Entitlements Plan check**

1. Prior to the issuance of any construction permits, including but not limited to, demolition, grading, building or any other construction permit, the ADD Environmental Designee shall verify that the all the requirements of the Refuse & Recyclable Materials Storage Regulations and all of the requirements of the Waste Management Plan (WMP) are shown and noted on the appropriate construction documents. All requirements, notes and graphics shall be in substantial conformance with the conditions and exhibits of the associated discretionary approval.
2. The construction documents shall include a WMP that addresses the following information and elements for demolition, 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 time line 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 WMP shall strive for a goal of 50% waste reduction.

4. The WMP shall include specific performance measures to be assessed upon the completion of the project to measure success in achieving waste minimization goals.
5. The WMP shall include notes requiring the Permittee to notify MMC and the Environmental Services Department (ESD) when:
  - (a) a demolition permit is issued,
  - (b) demolition begins on site,
  - (c) inspections are needed. 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 demolition and construction to inspect the progress of the project's waste diversion efforts.

When Demolition ends, notification shall be sent to:

**Mitigation Monitoring Coordination (MMC) Environmental Review Specialist**  
**9601 Ridgehaven Court , Ste. 320, MS 1102 B**  
**San Diego, CA 92123 1636**  
**(619) 980 7122**

**Development Service Department, Environmental Services Department (ESD)**  
**9601 Ridgehaven Court, Ste. 320, MS 1103 B**  
**San Diego, CA 92123 1636**  
**(858) 627-3303**

6. Prior to the issuance of any grading or building permit, the applicant shall receive approval, in writing, from the ADD environmental designee of the Entitlements Division that the WMP has been prepared, approved, and implemented. Also prior to the issuance of any grading or building permit, the applicant shall submit written evidence to the ADD that the final Demolition/Construction report has been approved by MMC and ESD. This report shall summarize the results of implementing the above WMP elements, including: the actual waste generated and diverted from the project, the waste reduction percentage achieved, and how that goal was achieved, etc.

#### **Pre-Construction Meeting**

1. Demolition Permit - Prior to issuance of any demolition permit, the permittee shall be responsible to obtain written verification from MMC indicating that the permittee has arranged a preconstruction meeting to coordinate the implementation of the MMRP. The Precon Meeting shall include the Construction Manager, Demolition/Building /Grading Contractor, MMC, ESD, and the Building Inspector and/or the Resident Engineer (RE) (whichever is applicable) to verify that implementation of the WMP shall be performed in compliance with the plan approved by Entitlements and ESD, to ensure that impacts to solid waste facilities are mitigated to below a level of significance.
2. At the Precon Meeting, the Permittee shall submit Three (3) reduced copies (11"x 17") of the approved WMP, to MMC (2) and ESD (1).
3. Prior to the start of demolition, the Permittee/Construction Manager shall submit a construction/demolition schedule to MMC and ESD.
  - a. Grading and Building Permit - Prior to issuance of any grading or building permit, the permittee shall be responsible to arrange a preconstruction meeting to coordinate the implementation of the MMRP. The Precon Meeting shall include the Construction Manager, Building/Grading Contractor, MMC,

ESD and the Building Inspector and/or the Resident Engineer (RE) (whichever is applicable) to verify that implementation of the waste management plan shall be performed in compliance with the plan approved by Entitlements and ESD, to ensure that impacts to solid waste facilities are mitigated to below a level of significance.

4. At the Precon Meeting, The Permittee shall submit reduced copies (11"x 17") of the approved WMP to the RE, BI, MMC and ESD.
5. Prior to the start of construction, the Permittee/Construction Manager shall submit a construction schedule to the RE, BI, MMC and ESD.

The Permittee/ Construction Manager shall call for inspections by the RE/BI and both MMC and ESD, who will periodically visit the demolition/construction site to verify implementation of the WMP. The Consultant Site Visit Record (CSVR) shall be used to document the Daily Waste Management Activity/progress. Within 30 days after the completion of the implementation of the MMRP, for any demolition or construction permit, a final results report shall be submitted to both MMC and ESD for review and approval to the satisfaction of the City. MMC will coordinate the approval with ESD and issue the approval notification.

Prior to final clearance of any demolition permit, issuance of any grading or building permit, release of the grading bond and/or issuance of any Certificate of Occupancy, the permittee shall provide documentation to the ADD environmental designee of the Entitlements Division that the WMP has been effectively implemented.

#### **D. NOISE**

1. Prior to issuance of a building permit, all recommendations provided in *Noise Study for the Erma Road Residential Project* (May 15, 2009) prepared by RECON Environmental, Inc. shall be shown on the building plans to the satisfaction of the ADD environmental designee of Entitlements and the City Engineer.
  - a. The project shall require three- to five-foot high sound walls to be constructed adjacent to the outdoor pool area, as shown on the approved Exhibit "A".
  - b. The sound walls shall be constructed of a minimum 0.5-inch thick Plexiglas free of cracks, holes and gaps.
  - c. The sound walls shall be constructed of a minimum 0.5-inch thick Plexiglas free of cracks, holes and gaps.
  - d. The sound walls shall be constructed of a minimum 0.5-inch thick Plexiglas free of cracks, holes and gaps.
  - e. An interior noise analysis shall be required to be conducted by a qualified acoustician to ensure that the interior Community Noise Equivalent Level (CNEL) for each multi-residential unit would not exceed 45 CNEL and the project complies with Title 24 of the California Code of Regulations (CCR). Examples of appropriate mitigation measures may include air-conditioning and/or mechanical ventilation and sound-rated windows to reduce interior noise levels to 45 CNEL or less. The project acoustician shall be responsible for determining appropriate mitigation measures within the interior noise analysis. The applicant shall incorporate all interior noise mitigation provided within the interior noise analysis into the ERMA Road project and demonstrate compliance with CCR Title 24.

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.