

RESOLUTION NUMBER R- 307263

DATE OF FINAL PASSAGE JAN 31 2012

A RESOLUTION DENYING AN APPEAL AND UPHOLDING THE ENVIRONMENTAL DETERMINATION FOR THE VIA RIALTO STORM DRAIN REPAIR PROJECT (PROJECT NO. 222828).

WHEREAS, on January 11, 2010, the City Engineer submitted a request to perform emergency repair work to a failed storm drain and eroded slope in an unnamed canyon west of Caminito Rialto, near Via Rialto; and

WHEREAS, on January 15, 2010, due to the potential for slope failure and imminent threat to public health and safety of the single family residence above, the City of San Diego (City) determined the emergency work to be exempt from the California Environmental Quality Act (CEQA) and issued Emergency Coastal Development Permit No. 673200, which authorized restoration of the failed storm drain, including replacement of failed pipes, upgrades to the remaining pipes on steep slopes, and installation of a new headwall to dissipate the energy of the water flow; and

WHEREAS, the emergency work was completed in May 2010; the only work that remains to be completed is the revegetation of the slope; and

WHEREAS, Emergency Coastal Development Permit No. 673200 required the permittee to apply for a regular coastal development permit for the emergency work; and

WHEREAS, a Coastal Development Permit and Site Development Permit are proposed for the completed emergency work as well as for revegetation of the slope (Project); and

WHEREAS, on November 29, 2011, the Project was determined to be exempt from CEQA (Environmental Exemption) pursuant to CEQA Guidelines Sections 15301 (Existing Facilities), 15302 (Replacement or Reconstruction), and 15061(b)(3) (General Rule) and a Notice of Right to Appeal Environmental Determination was issued; and

WHEREAS, on December 5, 2011, CREED-21 filed an Environmental Determination Appeal Application (Appeal) with the City's Development Services Department stating that the Project "does not qualify for the exemptions stated" and that "[a]dditionally and alternatively, the CEQA exemptions do not apply because the project has the potential to have significant environmental impacts"; and

WHEREAS, the Appeal was heard before the City Council on January 31, 2011; and

WHEREAS, approval of the Project would not allow for any physical changes to the environment other than the revegetation of the slope; and

WHEREAS, approval of the Project would not result in a significant effect on the environment; and

WHEREAS, the Project meets the criteria set forth in CEQA Guidelines Sections 15301 and 15302 because the Project replaced a storm drain with a new storm drain without increasing capacity and would return the surrounding vegetation to preexisting conditions; and

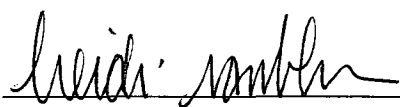
WHEREAS, the Project also meets the criteria set forth in CEQA Guidelines Sections 15301 and 15302 because the revegetation would only involve the minor alteration of topographical features with negligible or no expansion of use beyond what exists today as the use of the slope would continue to be for the purpose of facilitating drainage, the revegetation would help ensure the stability of the slope and would replace the existing revegetation to

provide a more stable slope, and the revegetation would have substantially the same purpose and capacity as the vegetation it replaces; 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; NOW THEREFORE,

BE IT RESOLVED, by the City Council of the City of San Diego, that the Appeal by CREED-21 is hereby denied and the Environmental Exemption is upheld; and


APPROVED: JAN I. GOLDSMITH, City Attorney

By 
Heidi K. Vonblum
Deputy City Attorney

HKV:hm
02/02/20112
Or.Dept:DSD
Doc. No. 313901

I hereby certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of JAN 31 2012.

ELIZABETH S. MALAND
City Clerk

By 
Deputy City Clerk

Approved: _____
(date)

JERRY SANDERS, Mayor

Vetoed: _____
(date)

JERRY SANDERS, Mayor

Note: This resolution is not subject to Mayor's veto.