

CITY OF SAN DIEGO
M E M O R A N D U M

DATE: November 26, 2007

TO: Council President Peters and Members of the City Council

FROM: Robert Manis, Deputy Director, Development Services Department

SUBJECT: Pacific Coast Office Building – Project No. 54384

The purpose of this memorandum is to clarify for the public record what the Development Services Department believes to be factual errors contained within the motion to approve the environmental appeal of Mitigated Negative Declaration No. 54384 as presented by Council District 6 during the public hearing of this matter on October 30, 2007. The motion to approve the appeal failed to carry the required five votes and the matter was continued to December 4, 2007, to allow Councilmember Maieschein the opportunity to participate in the vote. Therefore, while the motion is still pending, staff would like to clarify a few important points for the public record and the benefit of the City Councilmembers:

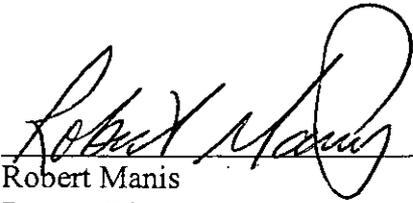
1. The motion states that the proposed project exceeds the City's allowable height and bulk regulations. This is not correct. The underlying MV-CO (Mission Valley – Commercial Office) Zone provides the development regulations governing height; setbacks, coverage, and floor-to-area ratio (F.A.R.). When applied, these development regulations determine the maximum building envelope permitted within the zone. The Pacific Coast Office Building does not exceed any of the applicable development regulations.
2. The motion states that the Mission Valley Planned District Ordinance prohibits development over the 150-foot contour line to protect steep slopes. This is not accurate in that the Mission Valley PDO Section 103.2104(d)(1)(4) specifically allows development in this planned district to be increased or decreased when, due to special circumstances, or exceptional characteristics of the property, or its location or surroundings, the strict interpretation of the criteria of the PDO would result in unusual difficulties or unnecessary hardship, or would be inconsistent with the general purpose of the PDO. The subject property displays the special circumstances the PDO anticipated. The PDO correctly recognizes that to have an outright prohibition on any development above the 150-foot contour would render certain legal lots within the PDO as non-developable property.
3. The motion erroneously restates that the project significantly conflicts with the height, bulk and/or coverage regulations of the zone – particularly in that it encroaches into Community Plan designated open space and the open space easement. The proposed project would only encroach into designated open space above the 150 contour but would

not, at any point, encroach into the open space easement. And as previously stated, the project complies with all aspects of the development regulations for bulk and scale. Therefore, to indicate that the project "significantly conflicts" with the development regulations for height and bulk when it in fact complies is inaccurate.

4. The motion states that the project is inconsistent with the Mission Valley Community Plan because the Mission Valley PDO prohibits development above the 150-contour elevation. This statement is not accurate as previously described above because the PDO provides decision makers with the discretion to approve development with deviations to any development regulation. The motion also states that the project is inconsistent with the goal of the Plan because the project does not preserve steep hillsides. Here again, this statement is inaccurate as the vast majority of the property was dedicated to the City in the form of an open space easement for the sole purpose of preserving the hillside. Since the proposed project does not encroach into the dedicated open space easement the Plan's goal to protect the steep slopes from development is being met.
5. The motion states that the Average Daily Trips (ADT) were improperly calculated because the calculation should have excluded steep hillsides. While this assertion is technically correct, the conclusion that it leads to a significant impact is somewhat misleading. The ADT calculation in the PDO was established to determine whether or not a Mission Valley project can be processed as a ministerial project or requires a discretionary action. Simply stated, there are two thresholds. If a project ADT falls below threshold 1 it can be a ministerial (building permit only) project. A project that exceeds threshold 1 but is below the maximum for threshold 2 requires a Site Development Permit. Any project that exceeds threshold 2 requires a community plan amendment. In the case of the Pacific Coast Office Building the project exceeds threshold 1 but is below threshold 2 and therefore requires a Site Development Permit. Since the project already required a Site Development Permit due to the presence of the steep hillside, the ADT issue was rendered a moot point. However, the City's review staff still had to calculate the ADT in order to assess the project's potential traffic impacts and decided to take a logical and conservative approach to the area used in the calculation. To that end, staff used the proposed development footprint (some of which includes a portion of steep hillsides outside of the open space easement) to accurately determine potential traffic impacts.
6. Lastly, the motion inaccurately states that the proposed project does not have a brush management plan and that no written opinion was provided by the Fire Chief as to the adequacy of the alternative measures required by the Land Development Code. As previously stated during staff testimony, the project complies with the Land Development Code and the Uniform Fire Code utilizing a modified brush management plan. The reason is that standard brush clearing and thinning cannot occur in sensitive biological resource areas and alternatives become necessary. This is not unusual or peculiar to this site and is in fact the norm for most infill development within the City. The designated representative of the Fire Chief did review and approve the modified brush management plan during the review process.

002295

Staff will be available at the December 4, 2007, City Council Hearing should you have any questions or require further clarification of these issues.

A handwritten signature in black ink, appearing to read "Robert Manis", written over a horizontal line.

Robert Manis

Deputy Director

Development services Department

002297

CASE NO. Project No. 54384 .

339
12/04

CITY MANAGER

Please indicate recommendation for each action. ie: resolution / ordinance

Deny the Environmental Appeal and Affirm Planning Commission decision to:
Certify the Mitigated Negative Declaration No. 54384
Adopt the associated Mitigation, Monitoring, and Reporting Program
Approve Site Development Permit (Mission Valley Planned District) Permit No. 158004

PLANNING COMMISSION

YEAS: Barry Schultz, Eric Naslaund, Gil Ontai, Dennis Otsuji, Robert Griswold

NAYS:

ABSTAINING: Kathleen Garcia – not present at meeting,

TO: Motion by Eric Naslaund, second by Gil Ontai, to approve staff's recommendation to Certify the Mitigated Negative Declaration; Adopt Mitigation, Monitoring, and Reporting Program; and Approve the Coastal Development Permit/Mission Valley Planned District Permit to include a condition that the proposed structure qualify as a LEED Certified building.

COMMUNITY PLANNING GROUP (choose one)

LIST NAME OF GROUP: Mission Valley Community Planning Organization

- No officially recognized community planning group for this area.
- Community Planning Group has been notified of this project and has not submitted a recommendation.
- Community Planning Group has been notified of this project and has not taken a position.
- Community Planning Group has recommended approval of this project.
- Community Planning Group has recommended denial of this project.
- This is a matter of City-wide effect. The following community group(s) have taken a position on the item:

In favor: 15

Opposed: 0

By _____
Patrick Hooper, Project Manager

002299

Office of
The City Attorney
City of San Diego

RECEIVED

SEP 18 2007

COUNCILMEMBER
DONNA FRYE

MEMORANDUM

MS 59

(619) 533-5800

DATE: September 18, 2007
TO: Councilmember Donna Frye, Council District 6
FROM: City Attorney's Office
SUBJECT: Substantial Evidence to Support the Preparation of an Environmental Impact Report for the Pacific Coast Office Building Project

INTRODUCTION

The Pacific Coast Office Building Project [Project] includes a Site Development Permit [SDP] for the construction of a two-story office building of approximately 9,845 square feet on a vacant parcel in the Mission Valley Planned District and Mission Valley Community Plan area. In addition, a Mitigated Negative Declaration [MND] including a Mitigation, Monitoring, and Reporting Program [MMRP] was prepared for the Project.

On July 31, 2007, the City Council heard an appeal of the Planning Commission's certification of the MND for the Project.¹ City Council voted 6-0 (Council Districts 5 and 7 absent) to set aside the MND and direct the Development Services Department [DSD] to prepare an Environmental Impact Report [EIR] for the Project; however, the item was continued to allow an opportunity to articulate specific findings to assist DSD's preparation of the EIR.

¹ This was the second appeal to the City Council of the MND. The procedural history of this Project is as follows: On April 19, 2006, the Hearing Officer certified the Project MND and approved the MMRP and SDP. On May 2, 2006, an appeal was filed challenging the certification of the MND and the approval of the MMRP and SDP. On June 15, 2006, the Planning Commission heard the appeal, and upheld the Hearing Officer's April 19th decision. An appeal was then filed to City Council to challenge the certification of the MND and MMRP. On September 26, 2006, the City Council voted unanimously to grant the appeal, set aside the environmental determination, and remand the issues back to the Planning Commission with direction for Development Services to review alternatives to reduce the impacts. Development Services staff prepared a revised MND including a review of alternatives. On May 17, 2007, the Planning Commission voted to certify the revised MND and approve the Project with a "green roof" modification. The Planning Commission's decision was again appealed to City Council under CEQA section 21151(c).

QUESTION PRESENTED

Is there substantial evidence in light of the whole record creating a fair argument to support City Council's determination that significant environmental impacts may be caused by the Pacific Coast Office Building Project requiring the preparation of an EIR?

SHORT ANSWER

Yes. At the July 31, 2007 hearing, City Council directed Development Services to prepare an EIR because substantial evidence in the administrative record created a fair argument that significant environmental impacts may occur relating to negative aesthetics, incompatibility with the surrounding area, loss of steep slopes, inconsistency with the Mission Valley Community Plan, traffic and average daily trips, and brush management.

ANALYSIS

I. Fair Argument Standard

The California Environmental Quality Act [CEQA] has a fundamental requirement that an EIR must be prepared when the approval of the project may cause significant adverse effects or impacts to the environment. See CEQA §§ 21002.1, 21061, 21100, 21151; CEQA Guidelines §§ 15080-15096, 15120-15132, 15160-15170, 15358, 15362, 15382. "An agency must determine whether the project may have significant effect based on substantial evidence 'in light of the whole record.'... Under this standard, the agency must determine whether substantial evidence in the record before it supports the 'fair argument' that the project may have a significant effect on the environment." Michael H. Remy, et. al., *Guide to the California Environmental Quality Act*, p. 158 (1999) (citing CEQA § 21082.2(a); CEQA Guidelines § 15064; *Gentry v. City of Murrieta*, 36 Cal. App. 4th 1359, 1399-1400 (1995)).

"[I]f a lead agency is presented with a fair argument that a project may have a significant effect on the environment, the lead agency shall prepare an EIR even though it may also be presented with other substantial evidence that the project will not have a significant effect." *Eureka Citizens for Responsible Government v. City of Eureka*, 147 Cal. App. 4th 357 (2007) (citing *Banker's Hill, Hillcrest, Park West Community Preservation Group v. City of San Diego*, 139 Cal.App.4th 249, 263 (2006)).

II. Substantial Evidence

Substantial evidence is defined in the CEQA Guidelines to mean "enough relevant information and reasonable inferences from this information that a fair argument can be made to support a conclusion, even though other conclusions might also be reached... Substantial evidence shall include facts, reasonable assumptions predicated upon facts, and expert opinion supported by facts." See CEQA Guidelines §§ 15384, 15064(f)(5).

“(I)input from non-experts can be substantial evidence where such input is credible and does not purport to embody analysis that would require special training. Thus, for example, any lay person could credibly relate his or her firsthand perceptions that gridlock routinely occurs on a particular roadway at particular times.” Michael H. Remy, et. al., *Guide to the California Environmental Quality Act*, p. 158 (1999) (citing *Citizens Association for sensible Development of Bishop Area v. County of Inyo*, 172 Cal. App. 3d 151 (1985), *Quail Botanical Gardens Foundation, Inc. v. City of Encinitas*, 29 Cal. App. 4th 1597, 1604-1605 (1994), and *Friends of the Old Trees v. Department of Forestry and Fire Protection*, 52 Cal. App. 4th 1383, 1399(1997).

III. Evidence in the Record Relating to Significant Impacts Identified by City Council

a. Aesthetics / Building Incompatibility / Loss of Steep Slopes

- The project exceeds the allowable height and bulk regulations and bulk of the existing patterns of development in the vicinity of the project by a substantial margin. By exceeding the 150 foot contour line, the building is incompatible with the surrounding area.
- The project would result in the physical loss, isolation or degradation of a community identification symbol or landmark, which are identified in the General Plan, applicable Community Plan, or local coastal program. The Mission Valley Community Plan identifies the “linear greenbelt and natural form of the southern hillsides” as a community landmark and calls it out for preservation. This greenbelt is located above the 150 foot contour line and is located within the steep slopes of the southern hillside where this Project will encroach. The Mission Valley Planned District Ordinance also prohibits development over the 150 foot contour line to protect steep slopes. By allowing development above the 150 foot contour line, the Project results in the physical loss of steep slopes in the linear greenbelt, which are identified in the Mission Valley Community Plan.
- The project is located in a highly visible area, on the steep slopes of Mission Valley, and would strongly contrast with surrounding development or natural topography through excessive height and bulk.
- The project significantly conflicts with height, bulk or coverage regulations of the zone particularly in the manner that it encroaches into designated open space and the open space easement, allows for development over the 150 foot contour line, and does not provide architectural interest.

b. Inconsistency with Mission Valley Community Plan

According to the Mission Valley Plan, “Development oriented toward the valley and accessed by roads from the Valley floor should not extend above the 150-foot elevation contour.” The Mission Valley Community Plan states that one of its objectives is to “Preserve as open space

those hillsides characterized by steep slopes or geological instability in order to control urban form, insure public safety, provide aesthetic enjoyment, and protect biological resources." The inconsistency with the goals, objectives, and guidelines of the Mission Valley Community Plan would also fall under the "Land Use" category of the environmental document. The following are considered significant land use impacts:

- Inconsistency/conflict with the environmental goals, objectives, or guidelines of a community or general plan. The project is inconsistent with the Mission Valley Planned District Ordinance in that the Ordinance prohibits development above the 150 foot contour line. Furthermore, the project conflicts with the environmental goals of both the community and the general plan because it encroaches on designated open space.
- Development or conversion of a general plan or community plan designated open space to a more intensive land use. **The project provides for development in designated open space to a more intensive land use; a large percentage of the building footprint encroaches into the open space.**

c. Traffic and Average Daily Trips

Generally, if any intersection or roadway segment affected by a project would operate at a Level of Service [LOS] of E or F under either direct or cumulative conditions, the project exceeds certain allowable increases in delay or intersection capacity utilization for affected intersections or volume-to-capacity ratio or speed for affected roadway segments, the impacts would be considered significant. See *City's Significance Determination Thresholds*.

Traffic impacts are evaluated by the number of average daily trips [ADTs] created by a project. "Land acreage within a steep hillside shall not be used to calculate the ADT allocation." (SDMC 1514.0301(d)(1)(A) and (C); and Table 1514-03A "excluding acreage within steep hillsides"). **The majority of the Project is located in steep hillsides, and that acreage was improperly included in the calculation of the allowable ADTs. If the steep hillsides are excluded from the calculation, the ADT allowance is exceeded by this Project and reveals significant traffic impacts.** Exceeding the allowance would also require an exception to the Planned District Ordinance regulations or an amendment to the Mission Valley Community Plan. SDMC § 1514.0303.

d. Brush Management

Brush management is required for all development adjacent to open space. SDMC § 142.0142. The Municipal Code mandates two zones established around these structures. Zone One extends 35 feet beyond the structure and must be free of habitable structures and must be irrigated among other requirements. Zone Two extends 65 feet beyond Zone One and provides for thinning of natural habitat. These requirements may be modified upon written opinion of the Fire Chief, based on a fuel load model report conducted by a certified fire behavior analyst, among other requirements.

The Project has no brush management requirement and instead relies solely on fire proof building materials and a sprinkler system in order to address fire safety. No report was conducted by a fire behavior analyst and no written opinion was obtained from the Fire Chief as to the adequacy of the alternative measures.

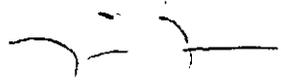
As the steep slopes where this Project will be located contain sensitive biological resources including rare, threatened, and/or endangered plant and animal species and their habitat and because fire may have a substantial adverse affect on human beings, the lack of brush management is by definition a significant environmental impact under CEQA Guidelines section 15065 subsections (a) and (d). See *Mira Monte Homeowners Association v. Ventura County*, 165 Cal. App. 357, 363-364 (1985) (holding that impacts under CEQA Guidelines section 15065 are "by definition" significant).

CONCLUSION

There is a deferential standard for the preparation of an EIR where substantial evidence supports a fair argument that a project may cause significant adverse environmental impacts. An EIR is to be prepared even where other substantial evidence has been presented that the project will not have a significant environmental effect. Based on the forgoing, in light of the entire record, there is substantial evidence to support the City Council determination that an EIR is required.

MICHAEL J. AGUIRRE, City Attorney

By



Nina M. Fain
Deputy City Attorney

NMF:nmf

0005-11
002305

Office of
The City Attorney
City of San Diego

MEMORANDUM
MS 59

(619) 236-6220

DATE: July 27, 2007
TO: Honorable Council President Peters and Members of the City Council
FROM: City Attorney
SUBJECT: Appeal of Mitigated Negative Declaration, Project No. 5434--Pacific Coast Office Building, July 31, 2007

INTRODUCTION

This item is an appeal of a Mitigated Negative Declaration, prepared for a Site Development Permit (for development on Environmentally Sensitive Lands). The project is an approximately 10,000 square foot office building located against the southern slopes of Mission Valley. The Mission Valley Community Plan designates the 4.88-acre parcel as open space.

PROCEDURAL HISTORY

This project originated as a Process Three matter, and proceeded as follows:

- April 19, 2006 Hearing Officer approved Site Development Permit No. 158004 and certified Mitigated Negative Declaration No. 54384.
- June 15, 2006 Appeal of Hearing Officer's decision heard by Planning Commission. Planning Commission denied appeal, approved Site Development Permit No. 158004 and certified Mitigated Negative Declaration No. 54384.
- September 26, 2006 City Council granted appeal of the Mitigated Negative Declaration and remanded project to Planning Commission.
- May 17, 2007 On remand, Planning Commission approved Site Development Permit No. 158004 and certified Mitigated Negative Declaration No. 54384.
- May 31, 2007 Appeal of the Environmental Determination filed.

PROCEDURE ON APPEAL

An appeal of the CEQA document was filed on May 31, 2007, by the Sierra Club, San Diego Chapter; Audubon Society, San Diego Chapter; River Valley Preservation Project; Friends of San Diego; University Heights Planning Committee; and Mission Valley Community Council.

On September 26, 2006, the City Council remanded the project to Planning Commission in accordance with San Diego Municipal Code [SDMC] section 112.0520 (d)(3). As a result, the Planning Commission's earlier decision to grant the Site Development Permit was vacated and that body considered both the entitlements and the environmental document anew. SDMC § 112.0520(f). The Planning Commission again granted the permit and certified the Mitigated Negative Declaration.

San Diego Municipal Code section 112.0520(g) provides that "[i]f the decision on remand, in accordance with section 112.0520(d)(3), results in the same type of environmental document, such decision shall be deemed the final action." Therefore, under the City's Municipal Code, the decision of the Planning Commission on May 17, 2007, would be final.

Careful examination has revealed, however, that this section of the Municipal Code conflicts with a provision of the California Environmental Quality Act. That is, Cal. Pub. Res. Code section 21151(b) requires that:

[i]f a nonelected decision-making body of a local lead agency certifies an environmental impact report, approves a negative declaration or mitigated negative declaration, or determines that a project is not subject to this division, that certification, approval, or determination may be appealed to the agency's elected decision-making body, if any.

Therefore, an interested party still has the right to appeal the Planning Commission's decision to this elected body.

In accordance with SDMC section 112.0520(d), the Council can proceed in the following manner:

- (1) Deny the appeal, uphold the environmental determination of the Planning Commission, and adopt the findings therein; or
- (2) Grant the appeal and make a superceding environmental determination or CEQA findings; or
- (3) Grant the appeal, set aside the environmental determination, and remand the matter to the Planning Commission.

In the event the Council grants the appeal, this office recommends Council retain jurisdiction and direct staff to return to Council upon accomplishing whatever action Council sees fit. In the

July 27, 2007

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alternative, this office recommends (again, only in the event the Council grants the appeal) the matter be remanded to Planning Commission with very specific instructions to staff as to how to proceed.

As always, our office is available for questions. Thank you for your attention to this matter.

MICHAEL J. AGUIRRE, City Attorney

By 

Karen A. Heumann
Assistant City Attorney

KAH:acd

002309



THE CITY OF SAN DIEGO
REPORT TO THE CITY COUNCIL

DATE ISSUED: July 25, 2007 REPORT NO. 07-122
ATTENTION: Honorable Council President and City Council,
Agenda of July 31, 2007
SUBJECT: APPEAL OF ENVIRONMENTAL DETERMINATION for
Pacific Coast Office Building - Project No. 54384, Council District No. 6
OWNER: Dr. Robert Pollack
APPELLANTS: Ellen M. Shively, Lynn Mullholland, Randy Berkman, James A. Peugh and
others (Attachment 1)

SUMMARY

Issues - Should the City Council uphold the Planning Commission's certification of Mitigated Negative Declaration No. 54384?

Staff Recommendations

1. DENY the appeal and UPHOLD the Environmental Determination (Mitigated Negative Declaration No. 54384).
2. Make an express finding that the information provided by the appellants is not substantial evidence of significant unmitigated impacts, because it is "...argument, speculation, unsubstantiated opinion or narrative, evidence that is clearly inaccurate or erroneous...." (Reference: State CEQA Guidelines Section 15384(a)).

Environmental Review - The City of San Diego as Lead Agency under the California Environmental Quality Act (CEQA) prepared an Initial Study and completed a Mitigated Negative Declaration (No. 54384).

Fiscal Impact Statement - None with this action. All costs associated with the processing of this appeal are paid by the applicant.

Code Enforcement Impact - None with this action.

Housing Impact Statement - None with this action.

Water Quality Impact Statement – The proposed project design incorporates site design and source control best management practices (BMPs) to reduce the amount of potential pollutants that could be generated from the development. Runoff from the existing vegetated slope, located south of the project site, would continue to sheet flow into a new concrete brow ditch. Two new catch basins with filtration inserts would be added to the project to collect runoff from parking and sidewalk areas and reduce or eliminate the anticipated pollutants prior to discharging into the public drainage system. Various source control BMPs have also been incorporated into the project design to further reduce negative effects to water quality. During construction, the developer must comply with best management practices to reduce or eliminate potential pollutants in runoff from the construction site. The project features described above have been designed in accordance with the City's Storm Water Standards. Compliance with the standards through the above project elements would preclude direct and cumulatively considerable hydrology/water quality impacts.

BACKGROUND

The issue before the City Council is the second appeal of the environmental document, Mitigated Negative Declaration No. 54384, prepared by Development Services staff for the Pacific Coast Office Building project. The first environmental appeal was before the Council on September 26, 2006, at which time the Council remanded the matter back to the Planning Commission for further consideration. On May 17, 2007, the Planning Commission unanimously certified the Mitigated Negative Declaration and approved the Site Development Permit. Due to the familiarity of the previous project issues by the decision makers and the background information available in the previous reports to the Council and Planning Commission, this report shall limit the focus of the discussion to the issues raised at the May 17, 2007, Planning Commission hearing and the subsequent appeal application of the environmental document.

Project Description

The approved Site Development Permit allows the development of a 9,845-square-foot commercial and medical office building on the northern 1.05-acre portion of an undeveloped 4.94-acre parcel. The southern portion of the site is within an open space easement, which would remain as open space. The building would have a maximum height of 38.7 feet. The site is accessed from Scheidler Way. Thirty six parking spaces would be provided on-site, with 20 parking stalls located at grade in a tuck-under area located along the northern side of the building. The remaining 16 parking stalls would be located on a second-level parking area on the eastern side of the building. The building would be located on a slope, and the project includes alternative design features to reduce grading, including tucking the rear of the building into the hillside and terracing the second story, creating a roof garden and/or deck. Because of this design, nine shotcrete, crib, and retaining walls varying in length from 99 to 393 feet and from two to ten feet in height are required. The walls would be terraced and landscaped, and would be

minimally visible from public viewing areas. A new condition of the permit suggested by the applicant and subsequently imposed by the Planning Commission would include LEED Certification of the building. LEED stands for Leadership in Energy and Environmental Design and is the nationally accepted benchmark for the design, construction, and operation of high performance green buildings.

DISCUSSION

Appeal Issues

The appeal of the environmental document asserts that the project was approved by the Planning Commission with factual errors, conflicts with other matters, that the findings are not supported, that there was new information and that the decision has city-wide significance. Generally, the appeal seeks an Environmental Impact Report (EIR) for the project rather than the Mitigated Negative Declaration. An EIR would be required by the California Environmental Quality Act (CEQA) if the project may have a significant effect on the environment. Staff disagrees with the contention that there are potential impacts associated with the proposed development that cannot be mitigated below a level of significance and therefore concludes that the MND is the appropriate environmental document for this action. The appeal cites a wide variety of issues that have been previously discussed and responded to in the MND. The overarching issues throughout the appeal application is the contention that the City staff did not follow the City Council direction to analyze alternative project designs when the matter was remanded back to the Planning Commission on September 26, 2006, and that staff misrepresents the San Diego Municipal Code and the Mission Valley Community Plan in the MND.

City Council Direction

As a part of the motion to approve the September 26, 2006, appeal the City Council directed staff to "review alternatives that would reduce impacts" associated with the development. This direction was a result of public testimony wherein, it was discussed that previous project design alternatives had been submitted, reviewed and subsequently rejected by Development Services during the project review phase of the entitlement process. The Council felt that the public should be made aware of those project alternatives and have had the opportunity to comment on them. The Council therefore instructed staff to include an alternatives analysis with a mandate that the revised document be recirculated for public review.

The MND was revised and recirculated pursuant to the Council direction. Various project designs were summarized along with the staff determinations that precluded these designs from further consideration. Some of the designs lessen certain impacts such as visual affect, building scale, brush management and grading. However, these resulted in increased impacts on the hillside including a higher degree of non-compliance with the Mission Valley Planned District Ordinance and the Mission Valley Community Plan.

The appeal asserts that the alternative designs the Council requested should not have included previous project designs already reviewed by the staff but rather, new design alternatives that

further reduce the project's environmental impacts. This was not the staff interpretation of the motion because previous design alternatives reviewed during the entitlement process covered the narrow scope of design and site options available to the property due to the limited nature of the site. Staff revised the document to include an array of project designs that covered the basic options for the property. These options included a building at the lower east side of the project with surface parking and access; a single story project in the middle of the site; and a two-story structure with subterranean parking. Each of the previous designs offered potential reductions in certain impacts while at the same time created additional impacts that were considered to be of greater significance. Staff was able to conclude that the proposed design was preferable to the alternatives in that the overall project provided the least potential impacts to the site and all of the impacts identified could be mitigated to a level below significant. Staff contends that there are no new or unexplored variations of site design alternatives that could be considered reasonable use of the property, therefore staff believes the purpose and intent of the City Council direction was met.

Findings Not Supported

The appeal application also contends that the City staff misrepresented or misinterpreted the Mission Valley Community Plan and the applicable Land Development Code sections that regulate development on the property. Staff has explained their reasoning, determinations and conclusions throughout the review and hearing processes and adequately addressed the appeal issues in the Mitigated Negative declaration. Staff has reviewed the applicable policy and code sections and determined that the Mission Valley Community Plan does not limit all development on this particular parcel to below the 150 foot contour line. Further, the Land Development Code and the Mission Valley Planned District Ordinance anticipated and established a public process by which to review and analyze development proposals on properties with special circumstances as in the case of this project. Staff conclusions are based on what is considered the most appropriate, least impactful scenario that includes reasonable use of the land.

Factual Errors

The appeal application makes several statements concluding that the Mitigated Negative Declaration is flawed and that due to "serious public controversy" that there is substantial evidence of significant impacts under CEQA to warrant an Environmental Impact Report. However, this is not factual in that the information provided by the appellants is not substantial evidence of significant unmitigated impacts, because it is "speculation, unsubstantiated opinion or narrative" (Reference: State CEQA Guidelines Section 15384(a)). In the appeal, the issues identified are clearly speculative and unsupported by fact. Further, CEQA Section 21082.2(b) states: The existence of public controversy over the environmental effects of a project shall not require preparation of an environmental impact report if there is no substantial evidence in light of the whole record before the lead agency that the project may have a significant effect on the environment. Staff contends that the MND is the appropriate environmental document, that the Council direction to review alternatives was followed and that the mitigation measures identified and applied to the development are adequate to ensure the project would not result in any significant impacts to the area.

New Information

The applicant contends that the Planning Commission's inclusion of a new a permit condition for a LEED Certified building requires additional public review under CEQA. However, staff disagrees with this contention in that the condition would ensure a sustainable, energy efficient building through the building permit and certification process. This condition is within the discretion of the Planning Commission and would not in any manner increase potential impacts associated with the project.

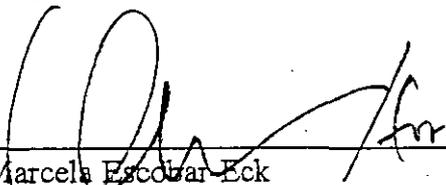
CONCLUSION

Staff has reviewed the appeal of the environmental document and disagrees with the stated conclusions. Staff believes that MND No. 54384 adequately addresses the project's potential impacts, and that implementation of the MMRP would avoid or reduce such impacts to below a level of significance. Staff further believes that the proposed building design and placement on the site represents the most acceptable design solution. The Planning Commission agrees with the staff recommendation and concluded that the issues have been adequately vetted and appropriately addressed both in the review process and the subsequent hearings.

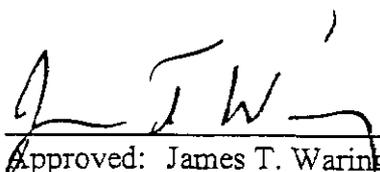
ALTERNATIVES

1. GRANT the appeal, set aside the environmental determination, and REMAND the matter to the Development Services Director for reconsideration, with direction or instruction the City Council deems appropriate.
2. GRANT the appeal and make a superceding environmental determination or CEQA findings. If Council chooses this alternative, staff respectfully requests direction from Council regarding the existence of substantial evidence, as required by Section 21082.2 of the California Public Resources Code, supporting a fair argument that the project would result in significant environmental effects.

Respectfully submitted,



 Marcela Escobar-Eck
 Director
 Development Services Department



 Approved: James T. Waring
 Deputy Chief of Land Use and
 Economic Development

002314

Attachment:

1. Appeal Application (Dated May 27, 2007 and received by the City Clerk)
2. Planning Commission Report No. PC-06-194
3. Revised Site Development Permit. (to include LEED requirement per the Planning Commission hearing of May 17, 2007)

DATE ISSUED: June 7, 2006 **REPORT NO. PC-06-194**

ATTENTION: Planning Commission, Agenda of June 15, 2006

SUBJECT: APPEAL OF THE HEARING OFFICER'S DECISION TO APPROVE
PACIFIC COAST OFFICE BUILDING - PROJECT NO. 54384.
PROCESS THREE

REFERENCE: 1) Report to the Hearing Officer No. HO-O5-203 (Attachment 5).
2) Memo to Ken Teasley, Hearing Officer, dated April 12, 2006
(Attachment 6).

OWNER Dr. Robert Pollack

APPLICANT(S): Robert Vacchi, Wertz McDade Wallace Moot & Bower
Kim Sheredy, Project Design Consultants
Doug Childs, Leary Childs Mascari Warner Architects

SUMMARY

Issue(s): Should the Planning Commission UPHOLD, REVERSE, or MODIFY the Hearing Officer's decision to approve a Site Development Permit (SDP No. 158004) to construct a 9,885 square-foot office building on an approximate five-acre site containing Environmentally Sensitive Lands, located east of the southerly terminus of Scheidler Way in the MV-CO zone of the Mission Valley Planned District?

Staff Recommendation:

1. CERTIFY Mitigated Negative Declaration (Project No. 54384), and ADOPT Mitigation, Monitoring, and Reporting Program (MMRP); and
2. DENY the appeal and UPHOLD the Hearing Officer Decision to APPROVE Site Development (Mission Valley PDO) Permit No. 158004.

Hearing Officer Recommendation: On April 19, 2006, the Hearing Officer certified Mitigated Negative Declaration No. 54384, approved the Mitigation, Monitoring, and Reporting Program, and approved the Site Development Permit No. 158004.

Community Planning Group Recommendation: On September 7, 2005, the Mission Valley Community Unified Planning Organization voted 15-0-0 to recommend approval of the project.

Other Recommendations: On January 3, 2006, the Normal Heights Planning Group voted 10-0-0 to deny the project.

Environmental Review: A Mitigated Negative Declaration, Project No. 54384, has been prepared for the project in accordance with State of California Environmental Quality Act (CEQA) Guidelines. A Mitigation, Monitoring and Reporting Program (MMRP) has been prepared and will be implemented, to reduce any potential impacts identified in the environmental review process to a level of below significance.

Fiscal Impact Statement: All costs associated with the processing of this project are recovered by a deposit account maintained by the applicant.

Code Enforcement Impact: None with this action.

Housing Impact Statement: None with this action.

BACKGROUND

Project Description

On April 19, 2006, the City of San Diego Hearing Officer approved Site Development Permit No. 158004 to allow the development of a two-story, 9,885 square-foot office building to be sited on a 1.08-acre portion of an undeveloped 4.88-acre parcel.

The project site is located on a south slope, at the terminus of Schiedler Way off of Camino Del Rio South, within the Mission Valley Community Plan (Attachment 1). The 4.88 acre parcel is currently undeveloped and contains both steep hillsides and sensitive biological resources, subject to the Environmentally Sensitive Lands (ESL) Regulations (Attachment 2). The lot is also located within and subject to the regulations of the Mission Valley Planned District Ordinance.

The Mission Valley Community Plan designates the parcel as Open Space (Attachment 3). The surrounding area includes Commercial Office uses to the north, northwest, and northeast along Camino Del Rio South; Open Space to the south, southwest, and southeast along the hillside, and Residential uses at the top of the hillside.

The topography of the site slopes upward from the north to the south at an elevation of approximately 144 feet at the bottom of the lot to approximately 340 feet at the top of the slope.

The lower portion of the parcel (approximately 1.08 acres) where development is proposed is zoned MV-CO. The lower portion of the site contains a sliver of land that is located below the 150-foot contour line. Therefore, the majority of the site is above the 150-foot contour line. The remaining 3.88 acres is zoned RS-1-1 and is restricted from development with an open space easement. The subject property is accessed from Scheidler Way.

The Hearing Officer Report dated November 2, 2004, (Attachment 5) and the Memo to the Hearing Officer dated April 12, 2006, (Attachment 6) provides further site development detail. Since the Hearing Officer approval on April 19, 2006, staff has determined that the brush management zones located within the open space easement are not required. The construction of the building (non-combustible roof and a fire sprinkler system) and the retaining wall (with no openings) adjacent to the open space easement will satisfy fire safety requirements on-site. The exhibits have been revised and Site Development Permit No. 158004, condition no. 29 is no longer required.

Site History

In 1961, a subdivision map was recorded which created two lots. Lot 1 is the subject parcel being developed. Lot 2, located at 3511 Camino Del Rio South, is currently developed with a commercial office building. The map also reserved the panhandle portion of Lot 1 for a future street. The site is legally described as Lot 1 of Nagel Tract Unit No. 2, Map No. 4737 (Attachment 8).

In March 1977, the Mesa Mortgage Company submitted an application for a Planned Commercial Development Permit (PCD NO. 35) and Rezone from RS-1-40 to CO, to allow development of the lower 1.08-acre northerly (24%) portion of the site with a three and one-half story, 10,000 square-foot office building, parking and landscaping. In July 1977, the Planning Commission denied the approval of the project.

The Planning Commission's decision was appealed to the City Council. In December 1977, the Council voted 5-3-1 to approve the project that was previously denied by Planning Commission. A copy of the approved PCD No. 35 is included as Attachment 9. A copy of the Rezoning Ordinance No. 12262 and Rezoning Map noted as "B-2993" are included as Attachment 10. Permit Condition No. 5, required that an open space easement (Attachment 11) be provided on the remaining southerly 3.8-acre portion of the site, which represented approximately 76% of the parcel area. This portion, located within the prior Hillside Review (HR) Overlay Zone, remained zoned RS-1-40 (now RS-1-1)). The City also accepted the dedication of the narrow panhandle portion of the parcel for a street (Schiedler Way), as reserved on the above mentioned subdivision map, to provide vehicular access to the subject parcel and also to properties located adjacent to the north and west.

The City's Planning Director granted an extension of time of 24 months to use the Planned Development Permit (PCD) No. 35, in July 1979 and again in April 1982. In 1982, the City accepted the dedication of the southerly 3.8-acre portion of the parcel as an open space easement, as required by condition of the PCD previously described. However, the

lower 1.08 acre portion of the property zoned CO remained undeveloped and the permit eventually expired.

In 1985, the City Council approved the Mission Valley Community Plan (MVCP). The Plan designated the southerly slopes in this area as open space. From 1990 to 1992, amendments to this Plan were approved which included restrictions on development located above the 150-foot elevation/contour line to be preserved as open space. The Plan states that "large scale development at the base of slopes should not cut or grade nor extend above the 150-foot contour line on the south slopes." The plan then further provides design recommendations and guidelines for hillside development.

In 1990, the Mission Valley Planned District Ordinance (MVPDO) was adopted. This Ordinance includes regulations pertaining to the subject property, which requires a Mission Valley Development Permit (processed as a Site Development Permit) to be approved or denied, by Hearing Officer, in accordance with Process Three, for a proposal containing acreage in "steep hillsides" as defined in the Land Development Code Section 113.0103, south of Interstate 8.

In January 2004, the current owner/applicant, Dr. Robert Pollack, submitted to the City, an application and conceptual development plans for Preliminary Review.

Based on comments received from Long-Range Planning staff, in June 2004, the Applicant submitted an application to initiate an amendment to the Mission Valley Community Plan. However, through the initiation process and review, Planning Department staff determined that a Community Plan Amendment would not be required for the proposed project. Therefore, the community plan amendment initiation was withdrawn.

In November 2004, the current development application was submitted for discretionary review. Staff identified issues related to the Community Plan, steep hillsides, design, drainage, grading, retaining walls, and landscape requirements.

In September 2005, the Mission Valley Community Planning Group voted 15-0-0 to recommend approval of the project. (Attachment 12)

City staff's analysis and conclusions have not changed since the Hearing Officer meeting. The only change in the project is the elimination of the brush management zones.

Hearing Officer Decision

The project was first heard on November 2, 2005. Testimony was taken from the opposition (Randy Berkman, Lynn Mulholland, and Eric Bowlby) and proponents (Robert Vacchi) of the project.

Based on the questions raised during the testimony, the Hearing Officer continued the project to allow environmental staff the opportunity to revise the Mitigated Negative Declaration (MND No. 54384) to clarify specific issues that were raised during the public testimony regarding

potentially significant impacts to Biological Resources, Landform Alteration/Visual Quality, Development Feature/Visual Quality, and Land Use. In addition, as disclosed in the Final MND No. 54384, dated March 31, 2006, staff added clarifying information with respect to the proposed retaining walls. Staff concluded that the changes to the MND do not affect the environmental analysis or conclusions contained in the document, no new significant impacts have been identified, and no new mitigation is required. Therefore, recirculation of the document for public review was not required in accordance with the California Environmental Quality Act (CEQA), Section 15073.5 (c)(4).

During this time, a question regarding the purpose of the proposed retaining wall in relation to the approval process was raised. The City Attorney's office provided staff a memorandum that discusses the purpose of the proposed retaining walls and justifies the decision for a Process 3 (Hearing Officer) approval. The memo states and the City Attorney's office concluded:

"Though a retaining wall constructed on a steep hillside for the purpose of erosion control requires, in the absence of existing structures, a deviation from ESL regulations, a retaining wall constructed on a steep hillside for the purpose of soil stabilization does not require a deviation. Absent the need for a deviation, a Process IV hearing will not be required. SAN DIEGO MUNICIPAL CODE Section 125.0502(a)(4). In the current case, the retaining wall proposed serves as a soil stabilization measure. As a soil stabilization measure, the retaining wall does not deviate from the ESL regulation; therefore, it does not require a Process IV hearing."

Upon resolution of the above mentioned issues, the project was rescheduled for Hearing Officer (Process 3) and then heard on April 19, 2006. Testimony was taken by both the opposition (Randy Berkman of the River Valley Preservation Project (appellant) and Eric Bowlby of the Sierra Club) and of support of the project (Dr. Pollack (applicant), Robert Vacchi (attorney), Doug Childs (architect) and David Backensto (San Diego Community College District). Two letters in opposition from the Normal Heights Community Planning Group and Dave Potter, representing two residents in Normal Heights, were also sent to the Hearing Officer and read into the public record. Based on the discussion and evidence presented at the hearing, the Hearing Officer certified the Mitigated Negative Declaration and approved Site Development Permit No. 158004.

Appeal Issues

On May 2, 2006, Randy Berkman of the River Valley Preservation Project and Lynn Mulholland, filed an appeal (Attachment 15) of the Process Three - Hearing Officer decision to certify Mitigated Negative Declaration No. 54384 and approval of Site Development Permit No. 158004, citing factual error, conflict with other matters, findings not supported, and new information as the reason for appeal.

DISCUSSION

While the appeal itself is lengthy, staff has summarized the main issues addressed in the appeal received May 2, 2006. Therefore, staff has the following responses:

1. Adequacy of the Mitigated Negative Declaration (MND) prepared and the requirement for an Environmental Impact Report (EIR) (pgs. 1-5, 8, 10-11, and 14)

Environmental Analysis Section (EAS) staff prepared a Mitigated Negative Declaration (MND) in accordance with the California Environmental Quality Act (CEQA) and the City of San Diego CEQA Significance Determination Thresholds. The MND identified potentially significant impacts to biological resources, land use/Multiple Species Conservation Program, and Paleontological Resources. However, implementation of specific conditions listed in the Mitigation, Monitoring, and Reporting Program would avoid or mitigate the potentially significant environmental effects and the preparation of an Environmental Impact Report (EIR) is not required. The MND also addresses geologic conditions, human health/public safety, historical resources, landform alteration/visual quality, development features/visual quality, land use, and water quality.

Because CEQA encourages lead agencies to focus on significant effects in writing environmental documents, staff does not typically include extensive discussions of issues that were found not to be potentially significant during the environmental review of the project. Until the draft document is circulated for review, it is not always possible to know which issue areas will be of concern to the public. It is not unusual for staff to provide additional information in the final document addressing those issues that were found to be of concern to the public during the review period, even though those issues were determined not to be potentially significant during the project review. That is the case with this project. Staff revised the final MND three times to clarify issues raised by the public and to provide additional information in response to a request by the Hearing Officer.

In accordance with CEQA Section 15073.5(c)(4), an environmental document must be recirculated when new significant environmental impacts are identified or new mitigation measures are required to avoid a significant impact. The addition of new information that clarifies, amplifies, or makes insignificant modifications does not require recirculation. The additional information provided in the Pacific Coast Office Building MND did not result in the identification of any new impacts or mitigation measures, and therefore recirculation of the MND is not appropriate.

The appeal claims that the MND contains false statements; does not adequately identify potential impacts to biological resources (encroachment into the open space easement), landform alteration (grading); erosion; and consistency or inconsistency with the land use plan (Mission Valley Community Plan) and Mission Valley Planned District Ordinance since development is allowed above the 150-contour elevation.

The Pacific Coast Office Building MND identifies the potentially significant impacts that could result from the project. Impacts to biological resources are described on pages 4-6 of the Initial Study and the errata sheet. The project would not encroach into the open space easement. The rear of the structure would be tucked into the hillside rather than affecting the contour of the ridgeline, and the second story would be terraced. The grading is needed to allow these alternative design features. Therefore, in accordance with the City's Significance Thresholds, a landform alteration impact would not occur. This issue is discussed on pages 11-12 of the Initial Study. Standard construction practices and adherence to the state and local stormwater standards would preclude erosion impacts during construction, and the site would be appropriately landscaped after construction. The project is not inconsistent with the land use plan as it meets the criteria in the PDO for allowing development above the 150-foot contour elevation. This issue is discussed on pages 13-14 of the Initial Study.

2. Development (Brush Management) within identified open space easement (1-3, 14)

The appeal states that the project encroaches into the open space easement for fire zone clearing [brush management] of coastal sage scrub. After further review of the plans and discussions with landscape, fire, and environmental staff, brush management does not need to be required for the project. Therefore, the project would not encroach into the open space easement for brush management purposes.

The City's Fire Department has reviewed the revised plans and determined that the removal of the brush management zones will not significantly reduce the fire safety for this building based upon the proposed one-hour construction required for the entire building, the wall immediately adjacent to the brush will have no openings, the roof being non-combustible and the entire building equipped with a fire sprinkler system.

3. Exception to Mission Valley Planned District Ordinance to allow development above the 150-contour (pgs. 3-8, 14)

The Mission Valley Planned District Ordinance (MVPDO) Section 103.2107(c)(3)(A) states "Development, including road construction, above the 150-foot contour line shall not occur."

As proposed, the development would encroach into and above the 150-foot contour line.

However, on an individual project basis, the PDO Section 103.2104(d)(1)(4) allows the criteria in this planned district to be increased or decreased when, due to special circumstances, or exceptional characteristics of the property, or its location or surroundings; the strict interpretation of the criteria of the PDO would therefore result in unusual difficulties or unnecessary hardship, or would be inconsistent with the general purpose of the PDO.

The appeal claims that since the proposed project would impact three sensitive resources: 1) designated open space above the 150-foot contour; 2) steep hillsides, and 3) coastal sage scrub, the City should deny the "exception" request.

In response, staff has reviewed the project in conformance with the local, state, and federal regulations and can make the appropriate findings for the Mission Valley Planned District Ordinance and Site Development Permit. Based solely upon the specific conditions of the site and given the authority in the PDO to allow the criteria (i.e. development above the 150-foot elevation) to be increased or decreased in special circumstance (of which evidence has been provided), no deviations or variances to the PDO regulations are being sought or required.

Attachment 16 illustrates the developable pad area (highlighted in yellow) below the 150-foot contour line (delineated in red) in relation to the existing topography of the site. Specifically, this small area is approximately 20 feet by 200 feet (4,000 square feet), would not be adequate for development of a commercial office building and associated improvements if strict application of the 150-foot contour elevation regulation is applied. The portion colored in blue is restricted from development by a recorded open space easement. The remaining portion not colored in between, is zoned MV-CO for commercial-office use.

The previous subdivision map and approval of PCD No. 35 has entitled a portion of the parcel zoned MV-CO to be developed for commercial office use. In addition, the majority of the parcel containing both steep hillsides and sensitive biological resources is still preserved with an open space easement. Subsequent to the approval of PCD No. 35, the Mission Valley PDO and Mission Valley Community Plan were adopted which limited development below the 150-foot elevation. Strict application of this requirement on this project site would leave a small pad area that could not support any commercial/office development.

Cited in the appeal, the applicant's attorney provided a memo to the City of San Diego dated April 14, 2006 (Attachment 17). In response to statements made in the appeal, the special circumstance to allow the exception to the PDO is not based upon a financial hardship to the owner but on the unique conditions of the site that if strict interpretation regarding development above the 150-foot contour line is applied, development could not take place on-site.

The memo and the base map exhibit illustrates and discloses that the subject property "is significantly different from every other property analyzed on the base map. The site is included within the PDO, yet has no street frontage along Camino Del Rio South. Access is taken mid-slope from Scheidler Way, a street previously dedicated by the City of San Diego in anticipation of the development of the site. The lot is located almost entirely above the 150-foot contour line. The developable area below the line is comprised of two, non-contiguous portions of land totaling less than 9,000 square feet. This represents about 4% of the entire 4.94 acre parcel."

The applicant's development is constrained to the area currently zoned MV-CO for commercial use, which is approximately at the 166-foot contour line. An existing 3.08 acre open space easement that contains a majority of sensitive biological resources (coastal sage scrub), steep slopes, well above the 150-foot contour line will be retained and restricted from any development.

Therefore, based on the provision in the PDO which allows for exceptions in special circumstances; staff determined that the proposed development would meet the purpose and intent of the Mission Valley PDO Section 103.2101, that ensures development will be accomplished in a manner that enhances and preserves sensitive resource areas (by maintaining open space easement, below the allowable encroachment into steep hillsides, and mitigating potential impacts to biological resources) and still provides reasonable use of the property.

4. Requirement for an Amendment to the Mission Valley Community Plan (pgs 4-5, 9, 12-13)

The information provided in the appeal regarding the requirement for an amendment to the Mission Valley Community Plan is out of context in relation to the actual development review process.

To clarify, in February 2004, the applicant submitted an application for a Preliminary Review of the project. Planning Department staff had initially required an Amendment to the Mission Valley Community Plan as indicated in the Preliminary Review Cycle 1 comments (Attachment 8 of the appeal).

As described in Information Bulletin 513, a Preliminary Review is a voluntary service for customers to obtain general information on the regulations with which their project must comply; find out which permits they must obtain; the review process that applies to the development; and obtain interpretations on how the City will apply code provisions to specific situations so that the customer can make a determination regarding the feasibility of their development to formally submit their project. Preliminary Review is not a comprehensive plan review, nor is it intended to replace the services provided by design professionals (architects, engineers, land use attorneys, code consultants, etc.).

As requested by staff, the applicant submitted an application to initiate a community plan amendment (CPA) and the applicant's attorney, John Michael McDade, provided a letter dated June 3, 2004 that disclosed the reasoning behind the CPA initiation.

However, when the project was submitted for discretionary review and the application was deemed complete in November 2004, Planning Department staff had a better opportunity to review the proposed project in conformance with the Mission Valley Community Plan. Planning Department staff determined that it could support the project without an accompanying community plan amendment and the initiation was not taken forward.

In response to the appeal, staff has determined that a community plan amendment is not required for this project based upon the following reasons:

1. The Plan indicates that "large scale development" should not extend above the 150-foot contour. Planning staff noted that existing structures on abutting parcels are up to 71,000 square-feet in area and average 30,000 square-feet in area. The proposed development of the site with a 10,000 square-foot structure can be considered less than large scale;

2. Due to the existing open space easement over the southerly majority of the property (76% of the site) comprising the majority of the upper slopes, and also that the northerly property line of the legally subdivided lot is located along the 144-foot contour line which would otherwise render development infeasible, the project could be located above the 150-foot contour;
3. Approximately 80 percent of the parcel is in an open space easement;
4. The development would be largely screened from the public right-of-way by existing structures; and
5. There is existing development to the west that extends above the 150-foot contour. This development includes a surface parking lot and associated retaining walls extending above the 150-foot contour line, to approximately the 166-foot contour. Research of available records indicates that this development occurred in 1975, prior to adoption of both the Mission Valley Community Plan (in 1985) and the Mission Valley Planned District Ordinance (in 1990).

CONCLUSION:

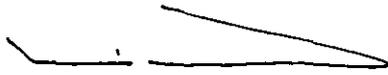
Staff has reviewed the proposed project in conformance with local, state, and federal regulations and requirements. The issues raised in the appeal are the same issues raised at the Hearing Officer meeting. Staff has addressed these issues by revising the Mitigated Negative Declaration to identify impacts on the environment; eliminating the brush management zones which were located within the open space easement; providing substantial evidence to support the exception to allow development above the 150-foot elevation, and clarifying the process and providing reasons why staff can support the project without a community plan amendment.

Therefore, staff recommends denying the appeal and upholding the Hearing Officer's approval of Site Development Permit No. 158004, subject to the conditions in the draft permit. Staff can also make the appropriate Site Development Permit and Mission Valley Planned District Ordinance Findings as described in the draft Resolution.

ALTERNATIVES

1. Uphold the appeal and Reverse the Hearing Officer Decision to Approve Site Development Permit No. 158004, if the findings required to approve the project cannot be affirmed.

Respectfully submitted,



Mike Westlake
Program Manager
Development Services Department



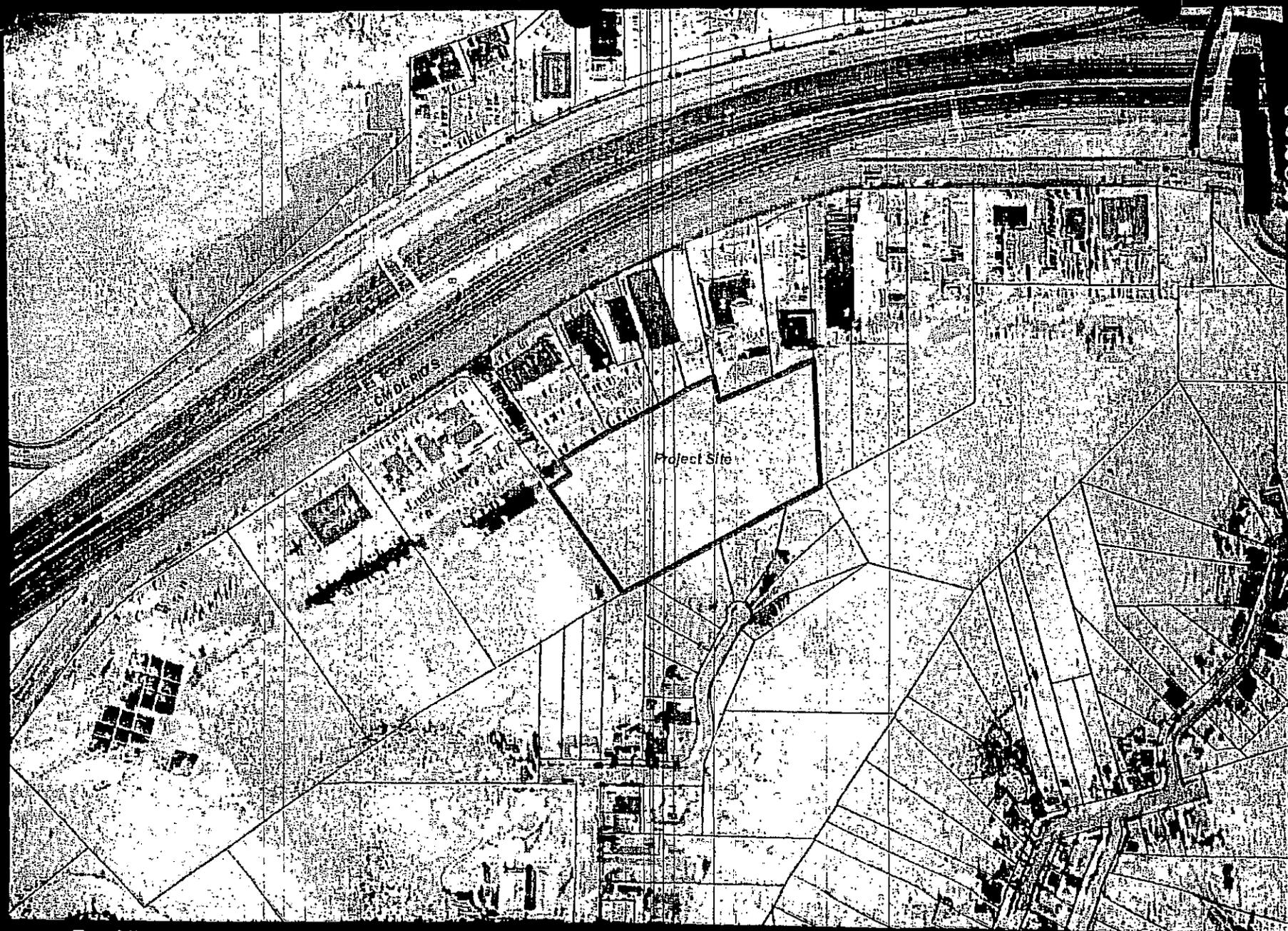
Anne B. Jarque
Project Manager
Development Services Department

WESTLAKE/abj

Attachments:

1. Project Location Map
2. Aerial Photograph
3. Community Plan Land Use Map
4. Project Data Sheet
5. Report to Hearing Officer without attachments (November 2, 2005)
6. Memo to Hearing Officer (April 12, 2005)
7. *Project Site Plan(s)*
8. Subdivision Map No. 4737
9. Planned Commercial Development (PCD) Permit No. 35
10. Rezone Ordinance No. 12262
11. Open Space Easement Acquisition Map
12. Community Planning Group Recommendation
13. Draft Permit with Conditions
14. Draft Resolution with Findings
15. Copy of Appeal (including attachments)
16. 150-Foot Contour Line Graphic
17. Modification of MVPDO Criteria Memo from Bob Vacchi (April 14, 2005)
18. Ownership Disclosure Statement
19. Project Chronology

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Pacific Coast Office Building

Vicinity Map

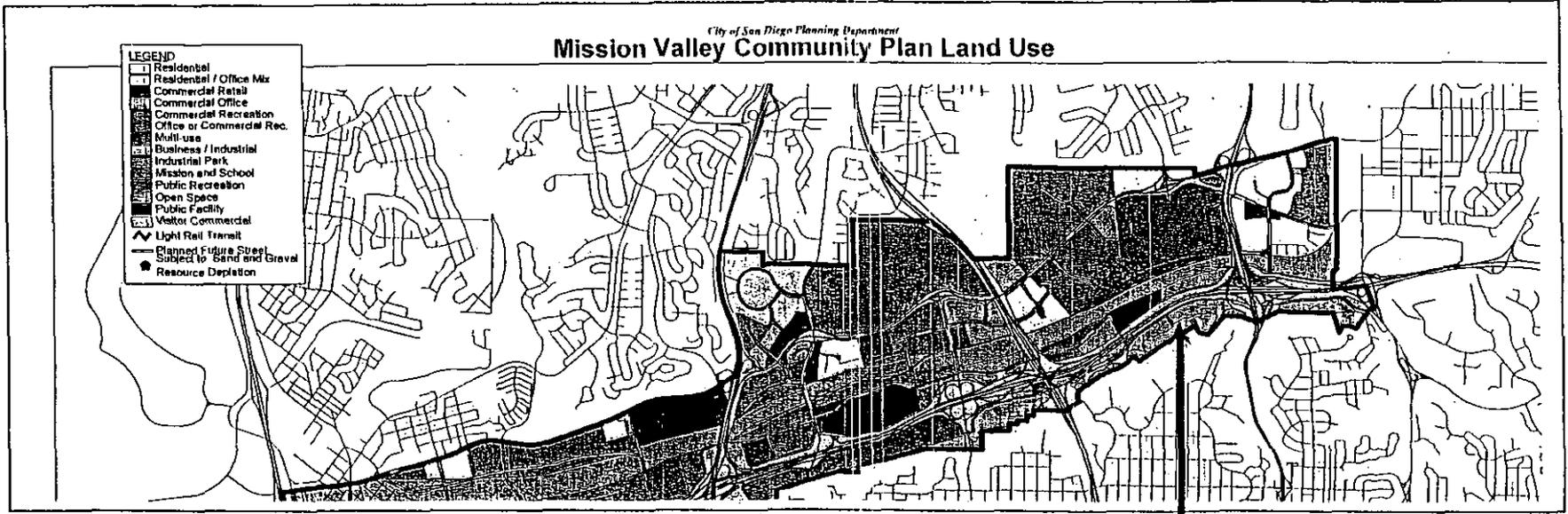
File Name: A16431.palnk-property.apr
 Date: 12/5/03
 Aerial from March 2003
 Source: Parcels, San G. S. Aerial - Alphata USA

GIS exhibits may be composed from various sources with different levels of accuracy.
 For details on accuracy of this exhibit please refer to Meta Data provided.



PROJECT DESIGN CONSULTANTS
 Building, Environmental, Engineering, Survey/GIS
 20000 KENNEDY BOULEVARD, SUITE 200
 IRVINE, CALIFORNIA 92614-4000

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PROJECT SITE



MISSION VALLEY COMMUNITY LAND USE MAP
Pacific Coast Office Building
 Project No. 54384

PROJECT DATA SHEET

PROJECT NAME:	Pacific Coast Office Building	
PROJECT DESCRIPTION:	Construction of a new multi-level office building.	
COMMUNITY PLAN AREA:	Mission Valley	
DISCRETIONARY ACTIONS:	Site Development Permit (Environmentally Sensitive Lands), Mission Valley Planned District	
COMMUNITY PLAN LAND USE DESIGNATION:	Open Space	
<u>ZONING INFORMATION:</u>		
ZONE: MV-CO (A commercial-office zone).		
HEIGHT LIMIT: No Limit.		
LOT SIZE: 5,000 square-foot minimum lot size.		
FLOOR AREA RATIO: None.		
COVERAGE: 0.50 percent.		
FRONT SETBACK: 20-feet.		
SIDE SETBACK: 10-feet.		
STREETSIDE SETBACK: 15-feet.		
REAR SETBACK: 8-feet.		
PARKING: 36 parking spaces required.		
<u>ADJACENT PROPERTIES:</u>	LAND USE DESIGNATION & ZONE	EXISTING LAND USE
NORTH:	Commercial-Office, MV-CO	Commercial-Office
SOUTH:	Open Space; RS-1-1	Open Space, Residential
EAST:	Commercial-Office, MV-CO	Commercial-Office
WEST:	Commercial-Office, MV-CO	Commercial-Office
DEVIATIONS OR VARIANCES REQUESTED:	None	
COMMUNITY PLANNING GROUP RECOMMENDATION:	On September 7, 2005, the Mission Valley Unified Planning Organization voted 15-0-0 to recommend approval of this project.	



THE CITY OF SAN DIEGO

REPORT TO THE HEARING OFFICER

HEARING DATE: November 2, 2005 REPORT NO. HO 05-203

ATTENTION: Hearing Officer

SUBJECT: PACIFIC COAST OFFICE BUILDING – PROJECT NO. 54384.
PROCESS 3.

LOCATION: 5300 Block of Scheidler Way (east side), south of Camino del Rio South.

APPLICANT: Robert B. Pollack, Managing Partner and Lola Pollack, Partner – Pacific Coast Assets. LLC (Attachment 9).

SUMMARY

Requested Action - Should the Hearing Officer approve a request for a Site Development Permit to allow development of an office building on portions of an approximate 5-acre site containing environmentally sensitive lands (ESL), located within the Mission Valley Planned District and Community Plan Area?

Staff Recommendation -

1. **CERTIFY** Mitigated Negative Declaration (MND) No. 54384 and **ADOPT** the Mitigation, Monitoring and Reporting Program (MMRP); and
2. **APPROVE** Site Development (Mission Valley PDO) Permit No. 158004.

Community Planning Group Recommendation – On September 7, 2005, the Mission Valley Unified planning Organization voted 15-0-0 to recommend approval of the project (Attachment 8).

Environmental Review – MND No. 54384 has been prepared for the project in accordance with State of California Environmental Quality Act (CEQA) Guidelines. A MMRP has been prepared and will be implemented which will reduce, to below a level of significance, any potential impacts to biological or paleontological resources, and Land Use/Multiple Species Conservation Program (MSCP).

BACKGROUND

The project proposes a Site Development Permit (Process 3) to construct an approximately 10,000 sq. ft., two-story office building on a one-acre, northerly portion (zoned MV-CO, Commercial-Office) of a vacant five-acre parcel containing environmentally sensitive lands (ESL), located within the Mission Valley Planned District. The remaining four-acre, southerly portion of the site (zoned RS-1-1, Residential/Single-Family) is located outside of the development area and will be retained in an existing open space easement granted to the City in 1982 (Attachment 11).

The site is located east of the southerly terminus of Scheidler Way (5300 block), south of Camino del Rio South and Interstate Highway 8. The site and surrounding area are within the Mission Valley Planned District and Community Plan Area. The Mission Valley Community Plan designates the site for Commercial-Office land use, and the area within the open space easement (to remain undeveloped), for Open Space land use. The proposed office use and existing open space easement are consistent with these designated land uses.

The property is bordered on the south by open space, the terminus of Scheidler Way on the west, commercial-office uses on the north, and commercial-office uses and open space on the east. Access to the subject property would continue to be from Scheidler Way. Topographically, the property is characterized by north-facing, steeply sloping land. Site elevations in the area of development vary approximately 64-feet, from a high of 200-feet along the southern portion to a low of 136-feet at an existing retaining wall on the north.

The Land Development Code requires approval of a Site Development Permit for development on properties containing environmentally sensitive lands (ESL), and also for properties located within a planned district. The subject property contains environmentally sensitive lands including steep slopes and biological resources, is located within the Mission Valley Planned District and is subject to the Mission Valley Planned District Ordinance. Draft findings for each of the required permits are included in Attachment 7.

DISCUSSION

Project Description

The proposed project includes a two-story office building, off-street parking and associated retaining walls. Project plans (Attachment 5) indicate three-levels totaling 9,885 sq. ft. as follows - First Level contains 5,463 sq. ft. of medical office space; and Second Level contains 3,960 sq. ft. of office space. A Lower Level contains 462 sq. ft. of mechanical space. A total of approximately 0.83-acre (17%) of the site will be graded to accommodate the development. Proposed grading includes 6,300 cubic yards of cut to a maximum depth of 23-feet, and 2,600 cubic yards of fill to a maximum depth of ten-feet, with 3,700 cubic yards of earth being exported off-site. Condition No. 20 of the draft Permit (Attachment 6) requires that all exported material be discharged to a legal disposal site.

Three retaining/crib walls totaling 1,865-feet in length and ten-feet in height, will be utilized to retain earth necessary to support the development pad. The pad will accommodate the building and access to required off-street parking spaces located on-site. The retaining/crib walls will be stepped to allow for utilization of landscape treatments. These walls will be a sandstone (tan) color and plantable. A mix of vines, shrubs, and accent shrub plantings are proposed along the perimeter and tops of the walls to minimize visual impacts.

The proposed building will have a maximum height of approximately 39-feet. Vehicular access to the project site is provided from Scheidler Way via a 26-foot-wide driveway. A total of 36, on-site parking spaces will be provided. Of these, 20 spaces are provided at-grade in a tuck-under parking area located along the northern side of the building. The remaining 16 spaces are located on a second-level parking area located on the eastern side of the building. Landscaping and Brush Management Zones will be provided in accordance with Land Development Code requirements. Landscape planting consists of shade, street, and courtyard trees; shrubs; vines; various groundcovers; and a non-invasive hydroseed mix to be planted along the perimeters of the property.

Staff review of the proposed project for compliance with California Environmental Quality Act (CEQA) Guidelines determined that the project could result in impacts to biological and paleontological resources. The project site is located within the City of San Diego's Multiple Species Conservation (MSCP) Subarea. Although the project site is not located within the Multi-Habitat Planning Area (MHPA), an area of MHPA open space exists uphill to the south within the Normal Heights neighborhood. In addition, approximately four-acres of a southerly portion of the subject property located within an existing open-space easement will remain undeveloped in its natural state. The project will comply with the MHPA Land Use Adjacency Guidelines of the City's MSCP Subarea Plan which will ensure that the project does not impact the MHPA. The project footprint does not encroach into the MHPA or the open space easement. Proposed lighting will be directed away from adjacent MHPA and open-space areas, and shielded as necessary. Landscape plantings consist of either native plant species or non-invasive ornamental plant species. Site drainage is directed away from the MHPA. A Mitigation, Monitoring and Reporting Program (MMRP) will be implemented which will reduce potential impacts to below a level of significance.

Conclusion

Staff has determined that the proposed development is located outside of the existing open space easement which will be retained on-site, that the development complies with applicable Municipal Code and related policy documents, and that the draft findings as noted in Attachment 6 is supportable.

ALTERNATIVES

1. Approve Site Development Permit No. 158004, with modifications.
2. Deny Site Development Permit No. 158004, if the findings required to approve the project cannot be affirmed.

Respectfully submitted,

(ORIGINAL SIGNED)

William C. Tripp
Development Project Manager
Attachments:

1. Aerial Photograph
2. Community Plan Land Use Map
3. Project Location Map
4. Project Data Sheet
5. Project Plans
6. Draft Permit with Conditions
7. Draft Resolution with Findings
8. Community Planning Group Recommendation
9. Ownership Disclosure Statement
10. Project Chronology
11. Open Space Easement (existing)



002341

THE CITY OF SAN DIEGO
MEMORANDUM

DATE: April 12, 2006
TO: Ken Teasley, Hearing Officer
FROM: Anne B. Jarque, Development Project Manager *ABJ*
SUBJECT: Hearing Officer Agenda for April 19, 2006, Pacific Coast Office Building,
Project No. 54384

This memorandum is intended to supplement the information contained in the Hearing Officer Report No. 05-203 dated November 2, 2005 (Attachment 1).

On November 2, 2005, this item was heard and the Hearing Officer (Bob Didion) continued the project to allow environmental staff the opportunity to revise the Mitigated Negative Declaration (MND No. 54384) to clarify specific issues that were raised during the public testimony regarding potentially significant impacts to Biological Resources, Landform Alteration/Visual Quality, Development Feature/Visual Quality, and Land Use. In addition, as disclosed in the Final MND No. 54384, dated March 31, 2006, staff added clarifying information with respect to the proposed retaining walls. Staff concluded that the changes to the MND do not affect the environmental analysis or conclusions contained in the document, no new significant impacts have been identified, and no new mitigation is required. Therefore, recirculation of the document for public review was not required in accordance with the California Environmental Quality Act (CEQA), Section 15073.5 (c)(4).

In addition, on March 28, 2006, the City Attorney's office provided staff a memorandum that discusses the purpose of the proposed retaining walls and justifies the decision for a Process 3 (Hearing Officer) approval. The memo states and the City Attorney's office conclude:

"Though a retaining wall constructed on a steep hillside for the purpose of erosion control requires, in the absence of existing structures, a deviation from ESL regulations, a retaining wall constructed on a steep hillside for the purpose of soil stabilization does not require a deviation. Absent the need for a deviation, a Process IV hearing will not be required. SAN DIEGO MUNICIPAL CODE Section 125.0502(a)(4). In the current case, the retain wall proposed serves as a soil stabilization measure. As a soil stabilization measure, the retaining wall does not deviate from the ESL regulation; therefore, it does not require a Process IV hearing."

The proposed development is to be sited on a 1.08-acre portion of an undeveloped 4.88-acre parcel located at the southerly end of Schiedler Way, within the Mission Valley Community. The project includes development of a two-story, approximate 9,885 square-foot office building. The following information discusses the history of the property and staffs review of the project.

The subject property was subdivided in 1961, and consists of a panhandle design with frontage on Camino del Rio South, from which vehicular access was to be provided. The topography of the site slopes upward from north to south, from an elevation of approximately 144-feet, at the lower northerly portion, to approximately 340-feet, at the higher southerly portion. The site is legally described as Lot 1 of Nagel Tract Unit No. 2, Map No. 4737 (Attachment 4).

In December 1977, the City Council voted 5-3-1 to approve a Planned Commercial Development Permit on this site (PCD No. 35). A copy of this Permit is included as Attachment 5. This Permit allowed development of the lower 1.08-acre northerly (24%) portion of the site with a three and one-half story, 10,000 square-foot office building, parking and landscaping. The Council also approved the rezoning of this portion of the site from R-1-40, single-family residential (HR) to CO, commercial-office (HR). A copy of the Rezoning Ordinance No. 12262 and Rezoning Map noted as "B-2993" are included as Attachment 6. Permit Condition No. 5, required that an open space easement be provided on the remaining southerly 3.8-acre portion of the site, which represented approximately 76% of the parcel area. This remaining portion of the site was to remain zoned R-1-40, single-family residential and located within the Hillside Review (HR) Overlay Zone. The City also accepted the dedication of the narrow panhandle portion of the parcel for a street (Schiedler Way) to provide vehicular access to the subject parcel and also to properties located adjacent to the north and west (Attachment 4).

In July 1979 and again in April 1982, the Planning Director granted an extension of time (24 months) to utilize the Planned Development Permit (PCD) No. 35 due to a tragic circumstance that required the company (Mesa Mortgage Company) to reorganize.

In 1982, the City accepted the dedication of the southerly 3.8-acre portion of the parcel as an open space easement (Attachment 7) as required by condition of the PCD. However, the lower 1.08 acre portion of the property zoned MV-CO remained undeveloped.

In 1985, the Mission Valley Community Plan (MVCP) was approved. The Plan designated the southerly slopes in this area as open space. From 1990 to 1992, amendments to this Plan were approved which included restrictions on development located above the 150-foot elevation/contour line. These restrictions proposed that slopes located above this line be preserved as open space. The Plan states that "hillsides above the 150-foot contour should be designated open space and that hillsides below the 150-foot contour should be low intensity development" (pp. 99-111).

In 1990, the Mission Valley Planned District Ordinance (MVPDO) was adopted. This Ordinance includes regulations pertaining to the subject property, which requires a discretionary Mission Valley Development Permit to be approved or denied, by Hearing Officer, in accordance with Process Three, for a proposal containing acreage in "steep hillsides" as defined in the Land Development Code Section 113.0103, south of Interstate 8. An application for a discretionary Mission Valley Development Permit shall be processed in the same manner as an application for a Site Development Permit.

The MVPDO Section 103.2104(d)(4)(1), Attachment 8, provides that the criteria in this planned

district may be increased or decreased when, due to special circumstances, or exceptional characteristics of the property, or of its location or surroundings, strict interpretation of the criteria of the PDO would result in unusual difficulties or unnecessary hardship or would be inconsistent with the general purpose of the PDO. MVPDO Section 103.2101, Attachment 8, specifies the purpose and intent of the PDO is to ensure that development and redevelopment will be accomplished in a manner that enhances and preserves sensitive resource areas, and provides reasonable use of the property.

In January 2004, the Applicant submitted an application for a preliminary review of conceptual development on the site. Planning Department staff determined that an amendment to the Mission Valley Community Plan was required. This determination was based, in part, upon an assessment of the site grading and design, and also that the proposed development was located above the 150-foot contour line.

In June 2004, the Applicant submitted an application to initiate an amendment to the Mission Valley Community Plan. Upon review of the application, a visit to the property, and further review of the Community Plan, Planning Department staff determined that it could consider a project on this site without an accompanying community plan amendment. In making this determination, staff considered the following:

- a. The Plan indicates that "large scale development" should not extend above the 150-foot contour. Planning staff noted that existing structures on abutting parcels are up to 71,000 square-feet in area and average 30,000 square-feet in area. The proposed development of the site with a 10,000 square-foot structure can be considered less than large scale;
- b. Due to the existing open space easement over the southerly majority of the property (76% of the site) comprising the majority of the upper slopes, and also that the northerly property line of the legally subdivided lot is located along the 144-foot contour line which would otherwise render development infeasible, the project could be located above the 150-foot contour;
- c. Approximately 80 percent of the parcel is in an open space easement;
- d. The development would be largely screened from the public right-of-way by existing structures; and
- e. There is existing development to the west that extends above the 150-foot contour. This development includes a surface parking lot and associated retaining walls extending above the 150-foot contour line, to approximately the 166-foot contour. Research of available records indicates that this development occurred in 1975, prior to adoption of both the Mission Valley Community Plan (in 1985) and the Mission Valley Planned District Ordinance (in 1990).

In November 2004, the current development application was submitted for discretionary review. Staff identified issues related to the Community Plan, steep hillsides, design, drainage, grading,

retaining walls and landscaping. In addition and as required by State law, the proposed project was reviewed pursuant to requirements of the California Environmental Quality Act (CEQA). Potentially significant impacts related to biological resources, land use and the Multiple Species Conservation Plan (MSCP), and paleontological resources were identified. To address these issues the Applicant made project modifications and submitted the required technical reports and analysis which were reviewed by staff. Staff determined that the revised development proposal was consistent with the Community Plan, applicable requirements of the Land Development Code, and adequately addressed the previously identified issues. These modifications included mitigation measures, as disclosed in the Final MND and Mitigation, Monitoring, and Reporting Program, intended to reduce environmental impacts to a level below significance.

As stated above, the topography of the site slopes upward from an elevation of approximately 144-feet, at the lower northerly portion, to approximately 340-feet, at the higher southerly portion. The lower portion of the site contains a sliver of land that is located below the 150-foot contour line. Therefore, a majority of the site is above the 150-foot contour line. Based on this specific site's history, development constraints, and a redesigned proposal to meet the purpose and intent of the MVCP, MVPDO, and compliance with the regulations identified in the San Diego Municipal Code (SDMC), staff can support a recommendation of approval for the proposed project, in accordance with MVPDO Section 103.2104(d)(4) as described above.

Staff considered the site to be developed with Commercial Office and Open Space land uses as designated in the MVCP. The Plan states that grading should be minimized; buildings and parking areas should be adapted to the natural terrain, such as by tucking into the hillside, utilizing small pad areas and compatible site design, emphasizing a horizontal orientation, terracing structures; and that roof area be designed to minimize disruption of views from the crest of hillsides. The proposed project accomplishes these design objectives.

In September 2005, the Mission Valley Community Planning Group voted 15-0-0 to recommend approval of the project.

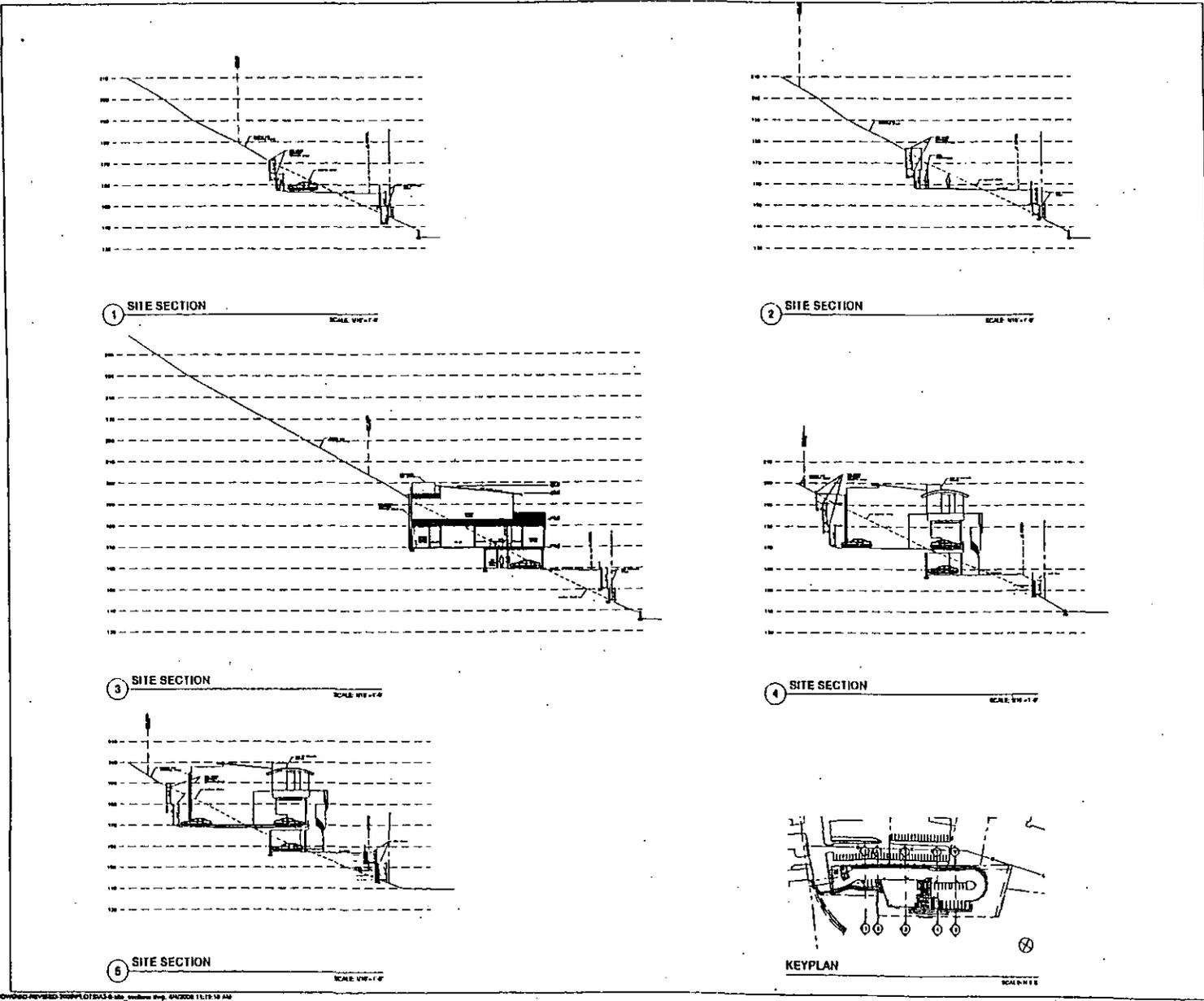
The proposed project and staff's analysis and conclusions has not changed since the November 2, 2005 Hearing Officer meeting. The Final Mitigated Negative Declaration, dated March 31, 2006, has been updated to clarify specific issues raised by opposition during public testimony and issues raised by the City Attorney's Office regarding the proposed retaining walls.

In addition, this information has also been incorporated in the revised draft resolution and findings, included as Attachment 3. The draft permit remains unchanged and is included as Attachment 2.

002348

CHILDS MASCARI WARNER
ARCHITECTS
1000 La Jolla Village Drive
San Diego, CA 92161
Tel: 619.594.1000
Fax: 619.594.1001

PACIFIC COAST OFFICE BUILDING
SCHEIDLER WAY
SAN DIEGO, CALIFORNIA



1 SITE SECTION SCALE 1/8" = 1'-0"

2 SITE SECTION SCALE 1/8" = 1'-0"

3 SITE SECTION SCALE 1/8" = 1'-0"

4 SITE SECTION SCALE 1/8" = 1'-0"

6 SITE SECTION SCALE 1/8" = 1'-0"

7 KEYPLAN SCALE 1/8" = 1'-0"

PROJECT INFORMATION	
PROJECT NO.	0019-00
DATE	11-1-00
SCALE	1/8" = 1'-0"
DATE	11-1-00
SCALE	1/8" = 1'-0"
DATE	11-1-00
SCALE	1/8" = 1'-0"
DATE	11-1-00
SCALE	1/8" = 1'-0"

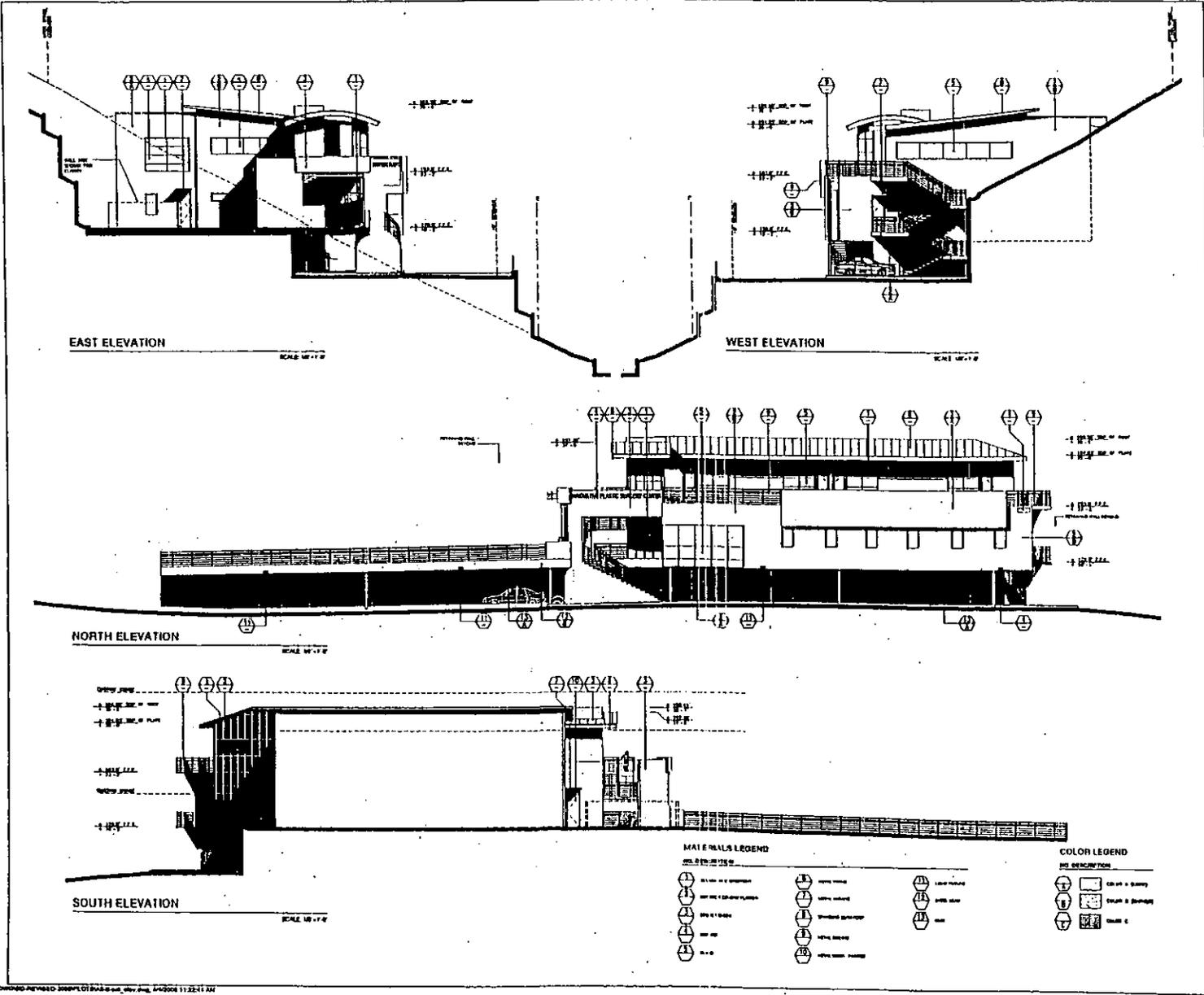
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002350

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PACIFIC COAST OFFICE BUILDING
SCHEIDLER WAY
SAN DIEGO, CALIFORNIA



MATERIALS LEGEND

①	CONCRETE	②	GLASS
③	WOOD	④	STEEL
⑤	BRICK	⑥	ALUMINUM
⑦	STONE	⑧	OTHER

COLOR LEGEND

①	CONCRETE
②	WOOD
③	BRICK
④	STONE

REVISIONS

NO.	DESCRIPTION	DATE
1	ISSUED FOR PERMIT	11-14-00
2	REVISED PER COMMENTS	11-15-00
3	REVISED PER COMMENTS	11-15-00

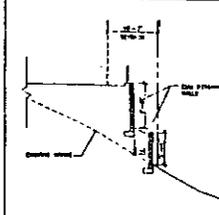
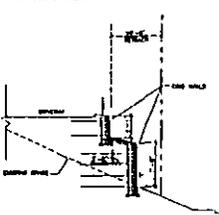
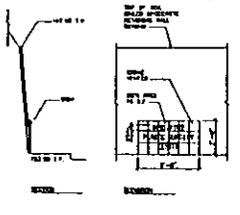
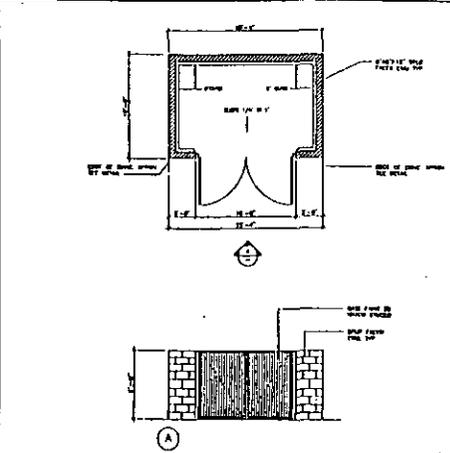
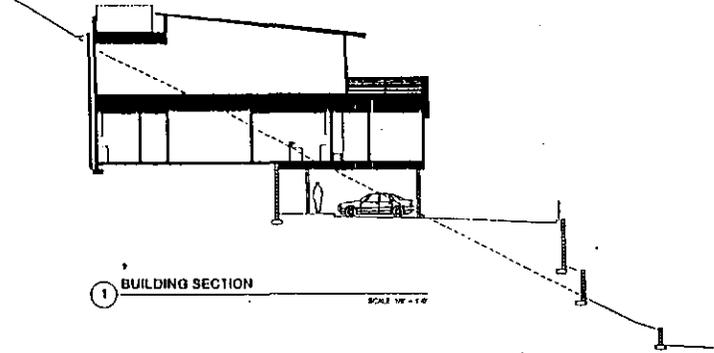
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PROJECT NUMBER: 002350 PLOT 0048 2nd Flg. 11/22/01 AM

002351

CHILDS MASCARI WARNER
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 TEL: 415/841-1100
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PACIFIC COAST OFFICE BUILDING
 SCHEIDLER WAY
 SAN DIEGO, CALIFORNIA

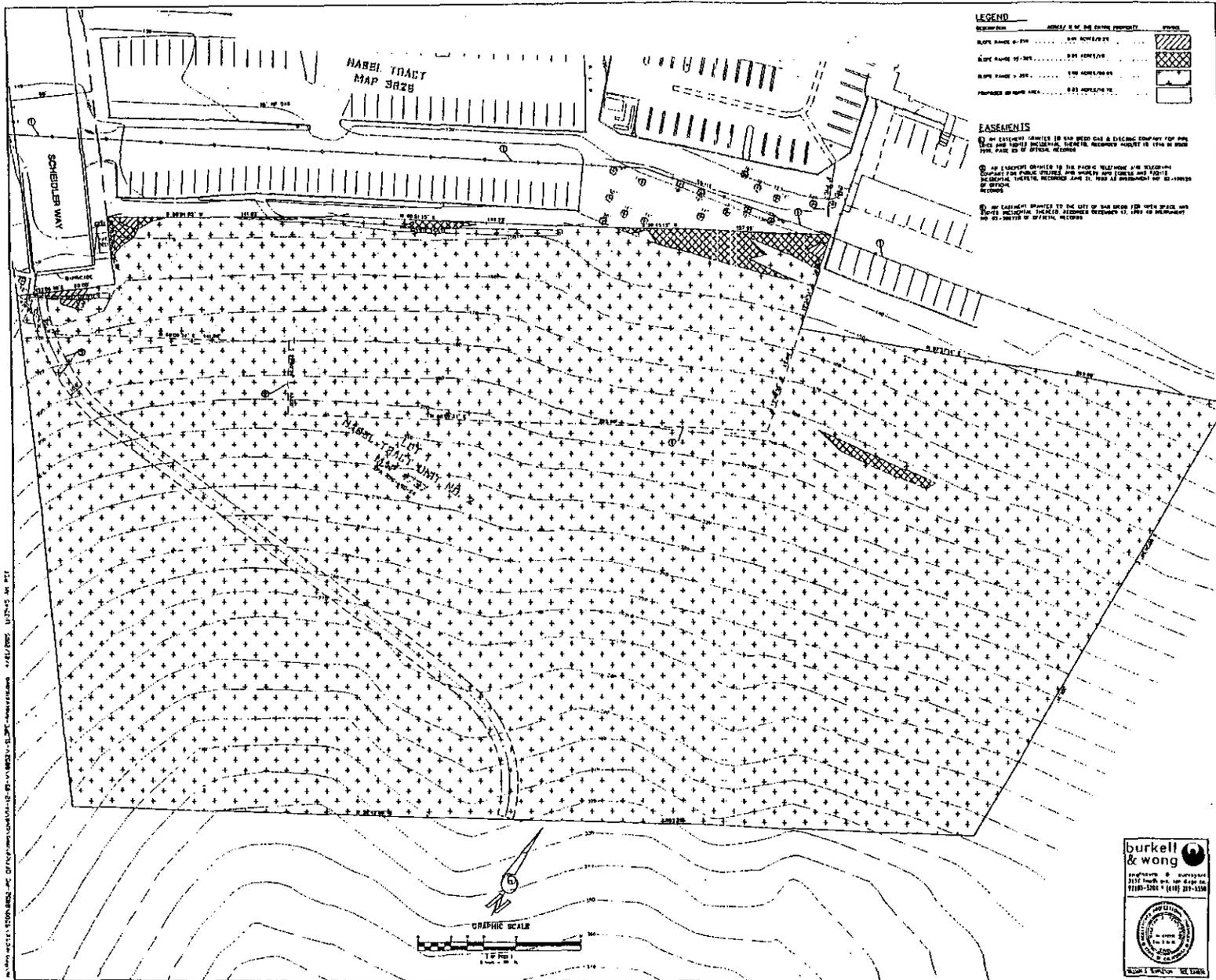


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DATE	10/20/88
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DATE	10/20/88
SCALE	AS SHOWN
DATE	10/20/88
SCALE	AS SHOWN

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002353



LEARY CHILDS MASCARI WARNER
ENGINEERS

PACIFIC COAST OFFICE BUILDING
SCHEIDLER WAY
SAN DIEGO, CALIFORNIA

FILE NAME NUMBER

PROJECT NO.	002353
DATE	12-18-01
ISSUE NO.	1
DATE	12-18-01

C11

SEP 11 2001

PLANNED COMMERCIAL DEVELOPMENT PERMIT NO. 35
CITY COUNCIL

This planned commercial development permit is granted by the City Council of The City of San Diego to MESA MORTGAGE COMPANY, Owner, hereafter referred to as "Permittee," for the purposes and under the terms and on the conditions as set out herein, pursuant to the authority contained in Section 101.0910 of the San Diego Municipal Code.

1. Permission is hereby granted to Permittee to construct and operate a Planned Commercial Development located at the end of Scheidler Way, between I-15 and I-805, more particularly described as a portion of Lot 1, Nagel Tract No. 2, Map No. 4727 in the R-1-40 (HR) Zone, proposed CO (HR) Zone.

2. The Planned Commercial Development shall include and the term "Project" as used in the Planned Commercial Development shall mean the total of the following facilities:

- a. A 10,000 square foot office building.
- b. Offstreet parking.
- c. Incidental accessory uses as may be determined and approved by the Planning Director.

3. Not less than 34 offstreet parking spaces shall be provided and maintained on the subject property in the approximate location shown on Exhibit "A," dated June 30, 1977, on file in the office of the Planning Department. Each parking space shall be a minimum of 8-1/2 feet by 20 feet in size and shall not be converted for any other use. Areas and driveways shall be surfaced with not less than 2" A.C. or its equivalent, and each parking space shall be marked. Parking spaces and aisles

shall conform to Planning Department standards. No charge shall be made at any time for the use of these offstreet parking spaces.

4. Delete Condition No. 4 of the General Conditions for Planned Commercial Development Permits and in its stead substitute the following:

This Planned Commercial Development must be utilized within 18 months after the effective date of the concurrent Rezoning Case No. 42-77-6. Failure to utilize subject permit within 18 months will automatically void the same unless an extension of time has been granted by the Planning Commission as set forth in Section 101.0910 of the Municipal Code.

5. Prior to the issuance of any building permits, an open space easement shall be provided on that portion of Lot 1, Nagle Tract No. 2, Map 4727, not proposed for CO zoning.

6. The Permittee shall comply with the General Conditions for Planned Commercial Development Permits attached hereto and made a part hereof.

Passed and adopted by the Council of The City of San Diego on December 14, 1977.

:clh
7/78
Dept.: Clerk

GENERAL CONDITIONS FOR
PLANNED COMMERCIAL DEVELOPMENT PERMITS

1. Prior to the issuance of any building permits, complete building plans (including signs) shall be submitted to the Planning Director for approval. Plans shall be in substantial conformity with Exhibit A, dated June 30, 1977, on file in the office of the Planning Department. The property shall be developed in accordance with the approved building plans except where regulations of this or other governmental agencies require deviation therefrom. Prior to and subsequent to the completion of the project, no changes, modifications or alterations shall be made unless and until appropriate applications for amendment of this permit shall have been approved and granted.

2. Prior to the issuance of any building permits, a complete landscaping plan, including a permanent watering system, shall be submitted to the Planning Director for approval. Said plans shall be in substantial conformity with Exhibit A, dated June 30, 1977, on file in the office of the Planning Department. Approved planting shall be installed prior to the issuance of an occupancy permit on any building. Such planting shall not be modified or altered unless and until this permit shall have been amended to permit such modification or alteration.

3. All outdoor lighting shall be so shaded and adjusted that the light therefrom is directed to fall only on the same premises where such light sources are located.

4. This Planned Commercial Development must be utilized within 18 months after the effective date of the concurrent Reasoning Case No. 4288-6. Failure to utilize subject permit within 18 months will automatically void the same unless an extension of time has been granted by the Planning Commission

5. Construction and operation of the approved use shall comply at all times with the regulations of this or other governmental agencies.

6. The effectiveness of this planned commercial development permit is expressly conditioned upon, and the same shall not become effective for any purpose unless and until the following events have occurred:

a. Permittee shall have agreed to each and every condition hereof by having this planned commercial development permit signed within 90 days of the Council's decision. In no event shall this condition be construed to extend the time limitation set forth in 4 above; i.e., the time commences to run on the date the City Council granted this planned commercial development permit.

b. This planned commercial development permit executed as indicated shall have been recorded in the office of the County Recorder.

7. After the establishment of the project as provided herein, the subject property shall not be used for any other purposes unless specifically authorized by the Planning

Commission, or City Council, or both unless the proposed use meets every requirement of zone existing for the subject property at the time of conversion.

8. The property included within this planned commercial development shall be used only for the purposes and under the terms and conditions as set forth in this permit unless the permit shall have been revoked by The City of San Diego.

9. In addition to any other remedy provided by law, any breach in any of the terms or conditions of this permit or any default on the part of Permittee or its successors in interest, shall be deemed a material breach hereof and this permit may be cancelled or revoked. Cancellation or revocation of this permit may be instituted by the City or Permittee. The Planning Director shall set this matter for public hearing before the Planning Commission giving the same notice as provided in Section 101.0910. An appeal from the decision of the Planning Commission may be taken to the City Council within ten days after the decision is filed with the City Clerk. The Clerk shall set the matter for public hearing before the City Council giving the same notice as provided in Section 101.0910.

10. This planned commercial development permit shall inure to the benefit of and shall constitute a covenant running with the lands, and the terms, conditions and provisions hereof shall be binding upon Permittee, and any successor or successors thereto, and the interests of any successor shall be subject to each and every condition herein set out.

RESOLUTION NO. 219899

PLANNED COMMERCIAL DEVELOPMENT PERMIT NO. 35

DEC 14 1977

WHEREAS, MESA MORTGAGE COMPANY, Owner, hereafter referred to as "Permittee," filed an application to construct a 10,000 square foot, 3-1/2 storey high office building, located at the southerly terminus of Scheidler Way, a short stub street connecting to Camino del Rio South, more particularly described as a portion of Lot 1, Nagel Tract No. 2, in the R-1-40 (H.R.) Zone; and

WHEREAS, on July 14, 1977, the Planning Commission of The City of San Diego made its findings of facts, denied said Planned Commercial Development Permit No. 35, and filed said decision in the office of the City Clerk on July 19, 1977; and

WHEREAS, on July 29, 1977, pursuant to the provisions of Section 101.0910 of the San Diego Municipal Code, MESA MORTGAGE COMPANY appealed the decision of the Planning Commission; and

WHEREAS, said appeal was set for public hearing on November 2, 1977, continued to December 14, 1977; and

WHEREAS, the Council of The City of San Diego received for its consideration documentary, written and oral testimony and heard from all interested parties present at the public hearings; NOW, THEREFORE,

BE IT RESOLVED, by the Council of The City of San Diego, as follows:

The following findings of fact as submitted by the permittee exist with respect to Planned Commercial Development Permit No. 35:

1. The proposed use at this particular location is compatible with adjacent properties that are zoned for office buildings. The project proposes construction of a 10,000 square foot office building at a location which is adequately served with the local road system. There currently is a need for office space in Mission Valley, and this addition will help fulfill that need while not adversely affecting the adopted General Plan.

2. The development would not be detrimental to the health, safety or general welfare of persons residing or working in the vicinity, nor will it be injurious to property and improvements existing now or in the future in the vicinity. The building will not adversely affect the visual appearance of the south slopes of Mission Valley due to its sensitive siting at the lowest elevation of the site and the "stepped back" design which follows the natural shape of the hillside.

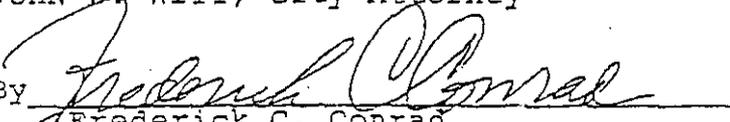
3. All design criteria and minimum standards for planned commercial developments would be met.

4. The granting of this permit would not adversely affect the Progress Guide and General Plan for the City of San Diego. The plan creates the minimum impact consistent with private use of the property while recognizing the need to preserve the major portion of the site in slope areas by offering the

dedication of a permanent open space easement over those areas outside of the development area. Further, the plan conforms to the public policy of densification of uses in the more central portions of the City.

BE IT FURTHER RESOLVED, that the appeal of MESA MORTGAGE COMPANY is granted, and this Council does hereby grant to MESA MORTGAGE COMPANY Planned Commercial Development Permit No. 35, in the form and with the terms and conditions as set forth in the form of permit attached hereto and made a part hereof.

APPROVED: JOHN W. WITT, City Attorney

BY 
Frederick C. Conrad
Chief Deputy City Attorney

CC:clh
/17/78
r.Dept.:Clerk

Passed and adopted by the Council of The City of San Diego
on December 14, 1977, by the following vote:

YEAS: Mitchell, Lowery, Schnaubelt, Gade, Stirling.

NAYS: O'Connor, Williams, Haro.

ABSENT: Wilson.

AUTHENTICATED BY:

PETE WILSON,
Mayor of The City of San Diego, California.

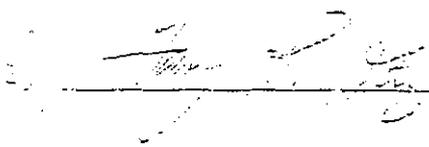
CHARLES G. ABDELNOUR
City Clerk of The City of San Diego, California.

(SEAL)

By Garv R. Page, Deputy.

I HEREBY CERTIFY that the above and foregoing is a full,
true and correct copy of RESOLUTION NO. 219899
passed and adopted by the Council of The City of San Diego,
California, on December 14, 1977.

CHARLES G. ABDELNOUR
City Clerk of The City of San Diego, California.



Page

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12262

ORDINANCE NO. _____
(New Series)

JAN 11 1978

AN ORDINANCE INCORPORATING A PORTION OF LOT 1, NAGEL TRACT NO. 2 (APPROXIMATELY 1.08 ACRES), LOCATED ON THE SOUTH SIDE OF CAMINO DEL RIO SOUTH BETWEEN HIGHWAY 15 AND I-805, IN THE CITY OF SAN DIEGO, CALIFORNIA, INTO CO (H.R.) ZONE AS DEFINED BY SECTION 101.0423 OF THE SAN DIEGO MUNICIPAL CODE, AND REPEALING ORDINANCE NO. 8536 (NEW SERIES), ADOPTED OCTOBER 26, 1961, OF THE ORDINANCES OF THE CITY OF SAN DIEGO INSOFAR AS THE SAME CONFLICTS HEREWITH.

BE IT ORDAINED, by the Council of The City of San Diego, as follows:

Section 1. That a portion of Lot 1, Nagel Tract No. 2 (approximately 1.08 acres) located on the south side of Camino Del Rio South between Highway 15 and I-805, in the City of San Diego, California, within the boundary of the district designated "CO (H.R.)" on Zone Map Drawing No. B-2993, filed in the office of the City Clerk as Document NO. 761635, be, and it is hereby incorporated into CO (H.R.) Zone, as such zone is described and defined by Section 101.0423 of the San Diego Municipal Code.

Section 2. That Ordinance No. 8536 (New Series), adopted October 26, 1961, of the ordinances of The City of San Diego, be, and it is hereby repealed insofar as it conflicts herewith.

Section 3. This ordinance shall take effect and be in force on the thirtieth day from and after its passage, and no building permits for development inconsistent with the

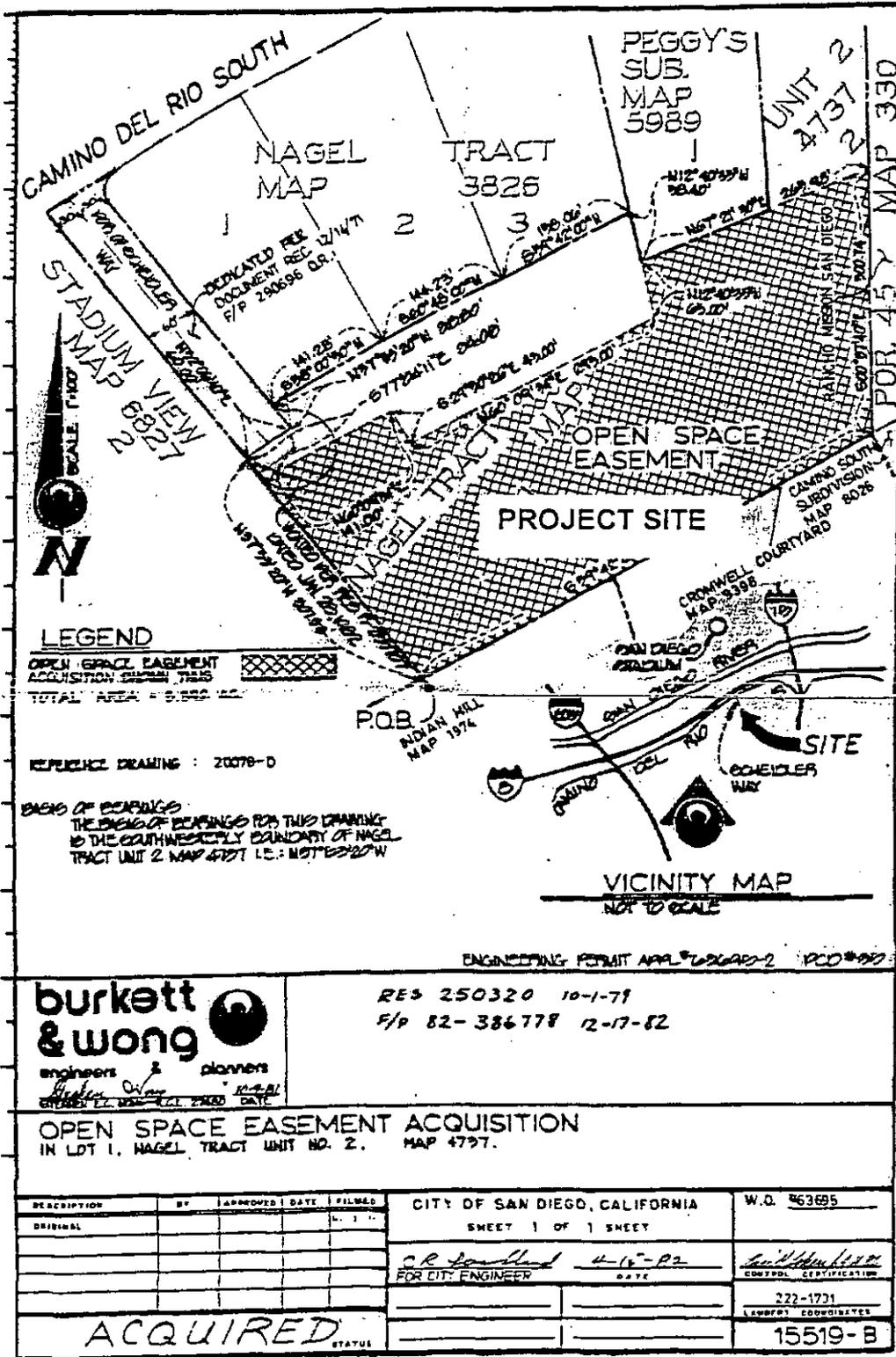
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provisions of this ordinance shall be issued unless application therefor was made prior to the date of adoption of this ordinance.

APPROVED: JOHN W. WITT, City Attorney

BY Frederick Conrad
Frederick C. Conrad
Chief Deputy City Attorney

clh
31/77
77-6
Dept. = Clerk



burkett & wong
 engineers & planners
 11-21-82
 DATE

RES 250320 10-1-79
 F/P 82-386778 12-17-82

OPEN SPACE EASEMENT ACQUISITION
 IN LOT 1, NAGEL TRACT UNIT NO. 2, MAP 4737.

DESCRIPTION	BY	APPROVED DATE	FILMED	CITY OF SAN DIEGO, CALIFORNIA	W.O. #63695
ORIGINAL			1	SHEET 1 OF 1 SHEET	
				<i>C.R. Powell</i> 4-15-82 FOR CITY ENGINEER DATE	<i>Paul H. ...</i> CONTROL CERTIFICATION
					222-1731 LABORATORY COORDINATOR
ACQUIRED	STATUS				15519-B



OPEN SPACE EASEMENT ACQUISITION MAP
 Pacific Coast Office Building
 Project No. 54384

MINUTES OF THE REGULAR MEETING OF THE
MISSION VALLEY UNIFIED PLANNING COMMITTEE

September 7, 2005

MEMBERS PRESENT

Paul Brown
Nat Cohen
Randall Dolph
Paul Dugas
Pat Grant
Ron Grant
Lisa Gualco
Eve Hager
Alex Kacur
Linda Kaufman
Alison Prager
Patty Schreiberman
Tom Sudberry
John Tessier
Gail Thompson
Bruce Warren

MEMBERS ABSENT

Robert Dipple

MEMBERS EXCUSED

Hank Hoxie
Lynn Mulholland
Joyce Nease
Geoff Swortwood

GUESTS

Karen Ruggles
Robert Pollack
Doug Childs
Marco Sessa
John Strack
J. Stephen Quinn

STAFF

Genevieve DePerio
Lisa Gonzalez
Deana Spehn
John Wilhoit

Linda Kaufman, Chair, called the regular meeting of the Mission Valley Unified Planning Committee (MVUPC) to order at 12:06 p.m. at the Mission Valley Library located at 2123 Fenton Parkway.

A. CALL TO ORDER

Verify Quorum - 12 members were present, a quorum.

B. PLEDGE OF ALLEGIANCE - Nat Cohen led The Pledge of Allegiance.

C. INTRODUCTIONS - Guests and members introduced themselves. Patty Schreiberman made a motion to send a thank you letter to Mike Trimmel for membership to Street Scene. Tom Sudberry mentioned that a scoping meeting will be held on September 19, 2005 at the Mission Valley Library. The subject will be Quarry Falls- development of 225 acre site for residential units, retail space, office/business park, parks and open space.

D. MEMBERSHIP BUSINESS

Lisa Gualco made a motion to accept the resignation of Daniel Lee and Saul Kane. Gail Thompson seconded the motion. Motion passed 15-0. Lisa Gualco made a motion to send a letter to the City notifying of membership changes. Pat Grant seconded the motion. Motion passed 15-0.

There are currently 2 open positions- local business person and resident. A notice will be posted in the library for the next 30 days.

E. TREASURER'S REPORT - Bruce Warren - 51068.60

F. NEW BUSINESS

1. Chargers Plan for Stadium Site - Mark Fabiani

Mark Fabiani made a presentation regarding the Chargers plan for the stadium site. He mentioned delivery of the following: brand new stadium paid for with private funds and owned by the city. funding will include traffic improvements such as freeway interchanges and bridge. thirty acres of park land along the naturalized river. payment of bonds on the

stadium worth approximately fifty-five to sixty million dollars; property, hotel and sales tax benefits to the city.

The plan is to develop approximately 6000 residential units, thirty acres of natural park as determined by the community, off site parking, a new stadium covering 18-22 acres and capacity to hold 64,000 people with the option to expand for a Super Bowl.

They must present the plan to the city for a ballot measure draft by February 8, 2006, in order to get on the November 2006 ballot.

Additional items discussed were that a certified EIR must be obtained before development can begin; the design of the park to be addressed by the community, comprehensive traffic study has not been completed to date-preliminary only, use of demolished concrete as fill and suggestion of economic cost benefit analysis.

2. Mitigated Negative Declaration, Pacific Coast Office Bldg – Mike McDade and Kim Sheredy
The Pacific Coast office building project consists of a 9,423 square foot building on a 1.05 acre site, which includes medical office space on the first floor and commercial office space on the second. It will be located on Sheidler Way, south of Camino De Rio South. The project will include tuck-under parking and parking adjacent to building at a parking ratio is four spaces to every 1,000 square feet. The project is consistent with all planning documents and ordinances and no variance are being requested.

Discussion included review of the trash enclosure, the HVAC, circulation, retaining wall, and architectural details.

Paul Dugas made a motion to approve to project subject to comments received during the environmental review. Eve Hager seconded the motion. Motion passed 15-0.

G. OLD BUSINESS:

1. Approval of July 6, 2005 Minutes:
Allison Prager made motion to approve the July 6, 2005 minutes. Nat Cohen seconded the motion. Motion passed 12 -0-2.
2. Community Plan Update – John Wilhoit
The traffic alternative is almost complete. The internal review draft should be ready to present to the MVUPC in a few months.
3. Subcommittee Reports:
 - a. Design Advisory Board (DAB) – Patty Schreiber
Patty stated the DAB's approval of the Pacific Coast Office Building Project.
 - b. Transportation and Zoning/Community Plan Update – Bruce Warren – no report
 - c. Stadium Committee – Randall Dolph
Randy reported on an article regarding the Indianapolis Colts' 30 year lease on a brand new stadium. The stadium will hold 63,000 and includes a retractable roof. The project is scheduled to be complete in 2008 at a cost of 700 million dollars.
 - d. PAC Committee – Paul Dugas
Paul Dugas mentioned that five projects have been submitted recently.
 - e. Mission Valley Community Council – Nat Cohen/Lynn Mulholland
The Community Council is soliciting volunteers for the Mission Valley CERT. The next meeting will be held on Wednesday, September 21st at 6:15pm. Planned discussion items include the tank farm and fire and rescue CERT training.
 - f. San Diego River Coalition – Hank Hovic –

The San Diego River Coalition met with Fashion Valley Mall and Atlas Hotels. Discussion included the Hazard Road connection. The Coalition stated that they would rather have the road go over the interstate versus under. The city proposes that the road be built under the interstate and pumped like Fashion Valley.

- g. I-5 & 805 Working Group — no report
- h. MTS — Pat Grant — no report
- i. Facilities Financing Committee - no report

3. Miscellaneous Mail - None

I. PUBLIC INPUT

- 1. State Senate's Office — Deanna Spehn
Senator Christine Kehoe was renamed chair of the Emergency Services Committee. Kehoe will be holding eminent domain hearings in October and November to hear from property owners and policy makers.
- 2. Mayor's Office — Genevieve DePerio
Toni Atkins', Interim Mayor, goals are to restore public confidence; restore financial stability and promote the strong mayor form transition committee.

- 3. City Council Office — Lisa Gonzales
The goal of the chair of the San Diego River Conservancy is to acquire property along the river. There is currently some vacant property that needs to be appraised.

- 4. San Diego Fire Department: Safety Education — Battalion Chief Chris Gonaver
John Strook reported on the Ranchos Peñasquitos fires which had been extinguished.

San Diego Fire-Rescue personnel may be contacted to train and empower citizens in safe, effective neighborhood CERT (Community Emergency Response Teams). CERT San Diego instructors teach citizens to take life-saving action to help families, neighbors, businesses and communities get through the first few hours or days when emergency services are overwhelmed.

The fire department is currently working on the San Diego River Rescue flood plan so they are looking for trouble spots along the river.

The Mission Valley fire station was also mentioned. Items discussed were the slow response time without the station and the funding for the station. By the end of the year there may be an interim fire station.

- 5. San Diego Police Department — Robert Carroll
Robert Carroll with the Police Department spoke about recent commercial break-ins where items such as computers and servers were taken. A recent hotel robbery was also reported.

In response to hurricane Katrina, please be aware of the emergency plans. Information for Earthquake awareness may be accessed on the City of San Diego and American Red Cross websites. Please use caution when donating money for hurricane Katrina victims — find reputable organizations such as American Red Cross.

- 1. **ADJOURNMENT** — There being no further business to be brought before the Committee, the meeting was adjourned at 1:50PM. The next meeting will be October 5, 2005 12:00 p.m. at the Mission Valley Library, Community Room.

Respectfully Submitted,

Eve Hager

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

WHEN RECORDED MAIL TO
PERMIT INTAKE
MAIL STATION 501

SPACE ABOVE THIS LINE FOR RECORDER'S USE

JOB ORDER NUMBER: 42-3012

SITE DEVELOPMENT PERMIT (ESL) NO. 158004
MISSION VALLEY PLANNED DISTRICT
PACIFIC COAST OFFICE BUILDING - [MMRP]
HEARING OFFICER

This Site Development Permit No. 158004, is granted by the Hearing Officer of the City of San Diego to ROBERT B. POLLACK, MANAGING PARTNER AND LOLA POLLACK, PARTNER OF PACIFIC COAST ASSETS, LLC, Owner/Permittee, pursuant to San Diego Municipal Code [SDMC] Sections 126.0504, and 123.2101. The 4.94-acre site is located in the 5300 Block of Scheidler Way, south of Camino Del Rio South in the MV-CO Zone of the Mission Valley Planned District, and Mission Valley Community Plan. The project site is legally described as Lot 1 of Nagel Tract Unit No. 2 Subdivision, Map No. 4737.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee to implement site grading and development of an approximately of a 10,000 sq. ft. office building, described and identified by size, dimension, quantity, type, and location on the approved exhibits, dated November 2, 2005, on file in the Development Services Department.

The project or facility shall include:

- a. A two-story, approximate 10,000 sq. ft. office building,
- b. Landscaping (planting, irrigation and landscape related improvements);
- c. Off-street parking facilities;
- d. Associated improvements including grading and retaining walls; and
- e. Accessory improvements determined by the City Manager to be consistent with the land use and development standards in effect for this site per the adopted community

plan, California Environmental Quality Act Guidelines, public and private improvement requirements of the City Engineer, the underlying zone(s), conditions of this Permit, and any other applicable regulations of the SDMC in effect for this site.

STANDARD REQUIREMENTS:

1. Construction, grading or demolition must commence and be pursued in a diligent manner within thirty-six months after the effective date of final approval by the City, following all appeals. Failure to utilize the permit within thirty-six months 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 permit for the construction, occupancy or operation of any facility or improvement described herein shall be granted, nor shall any 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.
4. This Permit is a covenant running with the subject property and shall be binding upon the Permittee and any successor or successors, and the interests of any successor shall be subject to each and every condition set out in this Permit and all referenced documents.
5. The utilization and continued use of this Permit shall be subject to the regulations of this and any other applicable governmental agency.
6. 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.).
7. In accordance with authorization granted to the City of San Diego from the United States Fish and Wildlife Service [USFWS] pursuant to Section 10(a) of the ESA and by the California Department of Fish and Game [CDFG] pursuant to Fish and Game Code section 2835 as part of the Multiple Species Conservation Program [MSCP], the City of San Diego through the issuance of this Permit hereby confers upon Permittee the status of Third Party Beneficiary as provided for in Section 17 of the City of San Diego Implementing Agreement [IA]; executed on July 16, 1997, and on file in the Office of the City Clerk as Document No. OO-18394. Third Party Beneficiary status is conferred upon Permittee by the City: (1) to grant Permittee the legal

standing and legal right to utilize the take authorizations granted to the City pursuant to the MSCP within the context of those limitations imposed under this Permit and the IA, and (2) to assure Permittee that no existing mitigation obligation imposed by the City of San Diego pursuant to this Permit shall be altered in the future by the City of San Diego, USFWS, or CDFG, except in the limited circumstances described in Sections 9.6 and 9.7 of the IA. If mitigation lands are identified but not yet dedicated or preserved in perpetuity, maintenance and continued recognition of Third Party Beneficiary status by the City is contingent upon Permittee maintaining the biological values of any and all lands committed for mitigation pursuant to this Permit and of full satisfaction by Permittee of mitigation obligations required by this Permit, as described in accordance with Section 17.1D of the IA.

8. The Owner/Permittee shall secure all necessary building permits. The applicant is informed that to secure these permits, substantial modifications to the building and site improvements to comply with applicable building, fire, mechanical and plumbing codes and State law requiring access for disabled people may be required.

9. Before issuance of any building or grading permits, complete grading and working drawings shall be submitted to the City Manager for approval. Plans shall be in substantial conformity to Exhibit "A," on file in the Development Services Department. No changes, modifications or alterations shall be made unless appropriate application(s) or amendment(s) to this Permit have been granted.

10. 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:

11. Mitigation requirements are tied to the environmental document, specifically the Mitigation, Monitoring, and Reporting Program (MMRP). These MMRP conditions are incorporated into the permit by reference or authorization for the project.

12. As conditions of Site Development Permit No. 158004, the mitigation measures specified in the MMRP, and outlined in the MITIGATED NEGATIVE DECLARATION, PROJECT

NO. 54384, shall be noted on the construction plans and specifications under the heading ENVIRONMENTAL MITIGATION REQUIREMENTS.

13. The Owner/Permittee shall comply with the Mitigation, Monitoring, and Reporting Program (MMRP) as specified in the MITIGATED NEGATIVE DECLARATION) PROJECT NO. 54384 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:

Paleontological and Biological Resources, and Land Use/MSCP.

14. Prior to issuance of any construction permit, the applicant shall pay the Long Term Monitoring Fee in accordance with the Development Services Fee Schedule to cover the City's costs associated with implementation of permit compliance monitoring.

ENGINEERING REQUIREMENTS:

15. Prior to the issuance of a building permit the applicant shall obtain a bonded grading permit for the grading proposed for this project. All grading shall conform to requirements in accordance with the City of San Diego Municipal Code in a manner satisfactory to the City Engineer.

16. The drainage system proposed for this development and outside of the public right-of-way is private and subject to approval by the City Engineer.

17. Prior to the issuance of any construction permit, the Subdivider shall enter into a Maintenance Agreement for the ongoing permanent BMP maintenance.

18. Prior to the issuance of any construction permit, the Applicant shall incorporate any construction Best Management Practices necessary to comply with Chapter 14, Article 2, Division 1 (Grading Regulations) of the San Diego Municipal Code, into the construction plans or specifications.

19. Prior to the issuance of any construction permit the Applicant shall incorporate and show the type and location of all post-construction Best Management Practices (BMP's) on the final construction drawings, in accordance with the approved Water Quality Technical Report.

20. This project proposes to export 3,700 cubic yards of material from the project site. All export material shall be discharged into a legal disposal site. The approval of this project does not allow the processing and sale of the export material. All such activities require a separate Conditional Use Permit.

21. Prior to the issuance of any grading permit the applicant shall obtain letters of concurrence for the drainage to the parking lot to the northwest parking lot and adjacent parking lot.

LANDSCAPE REQUIREMENTS:

22. No change, modification, or alteration shall be made to the project unless appropriate application or amendment of this Permit shall have been granted by the City.
23. In the event that the Landscape Plan and the Site Plan conflict, the Site Plan shall be revised to be consistent with the Landscape Plan such that landscape areas are consistent with the Exhibit 'A' Landscape Development Plan.
24. Prior to issuance of any grading permits, complete landscape construction documents, including a Landscape Construction Plan, an Irrigation Construction Plan, and ~~Brush Management Building Fire Protection Plan~~, shall be submitted to the Development Services Department for approval. The plans shall be in substantial conformance to Exhibit 'A', on file in the office of Development Services.
25. Prior to issuance of any construction permits for structures, complete landscape and irrigation construction documents consistent with the Landscape Standards (including planting and irrigation plans, details and specifications) shall be submitted to the City Manager for approval. The construction documents shall be in substantial conformance with Exhibit 'A', Landscape Development Plan, on file in the Office of Development Services.
26. If any required landscape (including existing or new plantings, hardscape, landscape features, etc.) indicated on the approved construction document plans is damaged or removed during demolition or construction, it shall be repaired and/or replaced in kind and equivalent size per the approved documents to the satisfaction of the City Manager within 30 days of damage or Certificate of Occupancy.
27. All required landscape shall be maintained in a disease, weed and litter free condition at all times. All required landscape shall be maintained on a permanent basis by the permittee or subsequent owner. Severe pruning or "topping" of trees is not permitted. The trees shall be maintained in a safe manner to allow each tree to grow to its mature height and spread.
28. Prior to issuance of any Certificate of Occupancy, it shall be the responsibility of the Permittee or subsequent Owner to install all required landscape and obtain all required landscape inspections. A No Fee Street Tree Permit, if applicable, shall be obtained for the installation, establishment and on-going maintenance of all street trees.
- ~~29. The Brush Management Program shall substantially conform to the Exhibit "A" and all requirements listed under Section 142.0412 of the City of San Diego Municipal Code. The permittee or subsequent owner must maintain a minimum Brush Management Zone One depth of 30 feet and a minimum Brush Management Zone Two depth of 40 feet at all times.~~
30. Prior to issuance of a construction permit, architectural plans must be submitted to City Staff which incorporate 1-hour Fire Rated Wall construction for all walls adjacent to areas of natural vegetation and Class "A" Roof construction, these plans must substantially conform to the approved Exhibit "A" on file with the Office of Development Services.

PLANNING/DESIGN REQUIREMENTS:

31. No fewer than 36 off-street automobile parking spaces, including 2 accessible spaces shall be permanently maintained on the property within the approximate location shown on the project's Exhibit "A". Additionally, a minimum of 2 motorcycle spaces, 2 bicycle spaces, lockers and shower facilities must be provided on the project site. Further, all on-site parking stalls and aisle widths shall be in compliance with requirements of the City's Land Development Code, and shall not be converted and/or utilized for any other purpose, unless otherwise authorized in writing by the City Manager.

32. This project shall comply with all current street lighting standards according to the City of San Diego Street Design Manual (Document No. 297376, filed November 25, 2002) and the amendment to Council Policy 200-18 approved by City Council on February 26, 2002 (Resolution R-296141) satisfactory to the City Engineer. Satisfying Council Policy 200-18 may require, but not be limited to, the removal/modification of existing and/or the installation of new/additional street light facilities (bulbs, fixtures, poles, etc.).

33. There shall be compliance with the regulations of the underlying zone(s) unless a deviation or variance to a specific regulation(s) is approved or granted as a condition of approval of this Permit. Where there is a conflict between a condition (including exhibits) of this Permit and a regulation of the underlying zone, the regulation shall prevail unless the condition provides for a deviation or variance from the regulations. Where a condition (including exhibits) of this Permit establishes a provision which is more restrictive than the corresponding regulation of the underlying zone, then the condition shall prevail.

34. The height(s) of the building(s) or structure(s) shall not exceed those heights set forth in the conditions and the exhibits (including, but not limited to, elevations and cross sections) or the maximum permitted building height of the underlying zone, whichever is lower, unless a deviation or variance to the height limit has been granted as a specific condition of this Permit.

35. A topographical survey conforming to the provisions of the SDMC may be required if it is determined, during construction, that there may be a conflict between the building(s) under construction and a condition of this Permit or a regulation of the underlying zone. The cost of any such survey shall be borne by the Permittee.

36. Any future requested amendment to this Permit shall be reviewed for compliance with the regulations of the underlying zone(s) which are in effect on the date of the submittal of the requested amendment.

37. All signs associated with this development shall be consistent with sign criteria established by Citywide sign regulations

38. All private outdoor lighting shall be shaded and adjusted to fall on the same premises where such lights are located and in accordance with the applicable regulations in the SDMC.

39. The use of textured or enhanced paving shall meet applicable City standards as to location, noise and friction values.

40. All uses, except storage and loading, shall be conducted entirely within an enclosed building. Outdoor storage of merchandise, material and equipment is permitted in any required interior side or rear yard, provided the storage area is completely enclosed by walls, fences, or a combination thereof. Walls or fences shall be solid and not less than six feet in height and, provided further, that no merchandise, material or equipment stored not higher than any adjacent wall.

41. No mechanical equipment, tank, duct, elevator enclosure, cooling tower, mechanical ventilator, or air conditioner shall be erected, constructed, converted, established, altered, or enlarged on the roof of any building, unless all such equipment and appurtenances are contained within a completely enclosed, architecturally integrated structure whose top and sides may include grillwork, louvers, and latticework.

42. Prior to the issuance of building permits, construction documents shall fully illustrate compliance with the Citywide Storage Standards for Trash and Recyclable Materials (SDMC) to the satisfaction of the City Manager. All exterior storage enclosures for trash and recyclable materials shall be located in a manner that is convenient and accessible to all occupants of and service providers to the project, in substantial conformance with the conceptual site plan marked Exhibit "A," on file in the Development Services Department.

WASTEWATER REQUIREMENTS:

43. Prior to issuance of any permit, the developer, owner and/or permittee shall provide improvement drawings (D-sheets) for the new off-site public sewer facilities in Scheidler Way according to all the requirements of the City of San Diego current Sewer Design Guide and to the satisfaction of Metropolitan Wastewater Department Director. These plans require approval of the wastewater section plan-check group.

44. All on-site sewer facilities are to be private and must be labeled as such.

45. Prior to the issuance of any building permit, the developer, owner and/or permittee shall assure, by permit and bond, the construction of necessary off-site sewer facilities based on approved D-sheet drawings, in a manner satisfactory to the Metropolitan Wastewater Department Director and the City Engineer.

46. Prior to the issuance of occupancy, the developer, owner and/or shall have already constructed necessary off-site sewer facilities based on approved D-sheet drawings, in a manner satisfactory to the Metropolitan Wastewater Department Director and the City Engineer.

47. All proposed public sewer facilities are to be designed and constructed in accordance with established criteria in the most current City of San Diego Sewer Design Guide.

48. All proposed private sewer facilities located within a single lot are to be designed to meet the requirements of the California Uniform Plumbing Code and will be reviewed as part of the building permit plan check. [Add if applicable.]

WATER REQUIREMENTS:

49. Prior to the issuance of the first building permit, the Owner/Permittee shall assure, by permit and bond, the design and construction of a 12-inch public water facility within an improved Scheidler Way, from Camino del Rio South to the southerly end of Scheidler Way, in a manner satisfactory to the Water Department Director and the City Engineer.

50. Prior to the issuance of any building permits, the Owner/Permittee shall assure, by permit and bond, the design and construction of new water service(s), outside of any vehicular use area, in a manner satisfactory to the Water Department Director and the City Engineer.

51. Prior to the issuance of any building permits, the Owner/Permittee shall apply for plumbing permit(s) for the installation of appropriate private back flow prevention device(s) on all proposed water services to the development, including all domestic, fire and irrigation services, in a manner satisfactory to the Cross Connection Control Group, the Water Department Director and the City Engineer.

52. Prior to the issuance of any certificates of occupancy, the Owner/Permittee shall install fire hydrants at locations satisfactory to the Fire Department, the Water Department Director and the City Engineer. Fire hydrants shall be located a minimum of five feet from any structures above, at or below grade. All on-site fire hydrants shall be private.

53. Prior to the issuance of any certificates of occupancy, all public water facilities necessary to serve this development shall be complete and operational in a manner satisfactory to the Water Department Director and the City Engineer.

54. Prior to the issuance of any certificates of occupancy, the Owner/Permittee shall design and construct new public water facilities in acceptable alignments and rights-of-way.

55. It is the sole responsibility of the Owner/Permittee for any damage caused to or by public water facilities, adjacent to the project site, due to the construction activities associated with this development. In the event any such facility loses integrity then, prior to the issuance of any certificates of occupancy, the Owner/Permittee shall reconstruct any damaged public water facility in a manner satisfactory to the Water Department Director and the City Engineer.

56. The Owner/Permittee agrees to design and construct all proposed public water facilities in accordance with established criteria in the most current edition of the City of San Diego Water Facility Design Guidelines and City regulations, standards and practices pertaining thereto. Public water facilities and associated easements, as shown on approved Exhibit "A", will require modification based on standards at final engineering. [Add if applicable.]

INFORMATION ONLY:

- a. 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.
- b. Development Impact Fees (DIF's) are required for this project and are due at the time of building permit issuance. This fee is based upon the determination that the project will result in an increase in square footage over what currently exists on the site (office building).
- c. Housing Trust Fund (HTF) impact fees on nonresidential development are required for this project and are due at the time of building permit issuance. These fees are based the square footage of the office use. Pursuant to Ordinance No. 0-17454, the HTF impact fees are dedicated to the provision of affordable housing and are administered by the San Diego Housing Commission.

APPROVED by the Hearing Officer of the City of San Diego on April 19, 2006, by Resolution No. _____.

ALL-PURPOSE CERTIFICATE

Type/PTS Approval Number of Document SDP / 54384
Date of Approval April 19, 2006

STATE OF CALIFORNIA
COUNTY OF SAN DIEGO

Anne B. Jarque, Development Project Manager

On _____ e me, _____ (Notary public), personally appeared **Anne B. Jarque**, Development Project Manager of the Development Services Department of the City of San Diego, personally known to me to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal

Signature _____
Name of Notary _____

ALL-PURPOSE CERTIFICATE

OWNER(S)/PERMITTEE(S) SIGNATURE/NOTARIZATION:

THE UNDERSIGNED OWNER(S)/PERMITTEE(S), BY EXECUTION THEREOF, AGREES TO EACH AND EVERY CONDITION OF THIS PERMIT AND PROMISES TO PERFORM EACH AND EVERY OBLIGATION OF OWNER(S)/PERMITTEE(S) THEREUNDER.

Signed _____ Signed _____
Typed Name Typed Name

STATE OF _____
COUNTY OF _____

On _____ before me, _____ (Name of Notary Public) personally appeared _____, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature _____

HEARING OFFICER
RESOLUTION NO. _____
SITE DEVELOPMENT PERMIT (ESL) NO. 158004
MISSION VALLEY PLANNED DISTRICT
PACIFIC COAST OFFICE BUILDING

WHEREAS, ROBERT B. POLLACK, MANAGING PARTNER AND LOLA POLLACK, PARTNER OF PACIFIC COAST ASSETS, LLC, Owner/Permittee, filed an application with the City of San Diego for a permit to construct an approximate 10,000 sq. ft. office building on a site containing environmentally sensitive lands (as described in and by reference to the approved Exhibits "A" and corresponding conditions of approval for the associated Permit No. 158004, on portions of a 4.88-acre site;

WHEREAS, the five-acre project site is located in the 5300 Block of Scheidler Way, south of Camino Del Rio South in the MV-CO and RS-1-1 Zones of the Mission Valley Planned District and Mission Valley Community Plan Area;

WHEREAS, the project site is legally described as Lot 1, Nagel Tract Unit No. 2 Subdivision, Map No. 4737;

WHEREAS, on April 19, 2006, the Hearing Officer of the City of San Diego considered Site Development Permit No. 158004 pursuant to the Land Development Code of the City of San Diego; NOW, THEREFORE,

BE IT RESOLVED by the Hearing Officer of the City of San Diego as follows:

That the Hearing Officer adopts the following written Findings, dated April 19, 2006.

Site Development Permit - Section 126.0504

1. The proposed development will not adversely affect the applicable land use plan.

The project site totals 4.88-acres of vacant land within the Mission Valley Community Plan Area (MVCPA). A northerly portion of the subject site is zoned MV-CO (approximately 1.08-acres) and the remaining 3.88-acres is zoned RS-1-1 and located within an open space easement granted to the City in 1982. It was granted to the City as a condition of a previously approved discretionary Planned Commercial Development Permit (PCD Permit No. 35). PCD Permit No. 35 eventually expired by limitation. This existing open space easement is not to be developed and is to be retained on the site. The site is also located within the Hillside Subdistrict of the Mission Valley Planned District, which regulates development on steep hillsides located above the 150-foot contour line. The northerly property line of the proposed 1.08-acre MV-CO zoned site is located at approximately the 148-foot contour line, which would otherwise render development on this legally subdivided parcel infeasible. The open space easement and the rezoning of the northerly portion of the parcel were granted with the intent to allow development on the MV-CO zoned parcel. The dedication of the panhandle portion of the subject property, Lot 1, was approved to provide vehicular access to the subject property and to adjacent properties to the north and west. These entitlements were granted on the property prior to adoption of the Mission Valley Community Plan, in 1985, and the Mission Valley Planned District Ordinance in 1990.

The proposed project requests approval of a 9,885 square foot, two-story office building that would contain medical and commercial office uses. The medical office portion of the building would consist of 5,463 square feet and the commercial office portion 3,960 square feet, with tuck-under parking provided along the northern side of the building. The remainder would be provided via surface parking.

The proposal complies with the standards for the Mission Valley Community Plan, Mission Valley Planned District Ordinance, MV-CO zone and, Environmentally Sensitive Lands Regulations Ordinance, and Steep Hillside Guidelines. The community plan states that "large-scale development (commercial, office, or commercial-recreation) at the base of the slopes should not cut or grade, nor extend above the 150-foot elevation contour on the southern slopes." The small size of the proposed building (9,884 square feet) in comparison to existing structures on adjacent properties (which are as large as 71,000 square feet and average 30,000 square feet), has allowed the City to consider the proposed structure as a "small-scale" project. This determination allows the proposed development to minimally encroach beyond the 150-foot contour line, on the 1.08-acre portion of the site which was anticipated for development and zoned CO in 1982. The following reasons also justify the City's position: the proposed development would be largely screened from view from the public right-of-way on Camino del Rio South by existing structures located north of the property; there is existing adjacent development to the west that extends above the 150-contour line to approximately the 166-foot contour line; and the project will not extend into the designated open space easement which comprises the southerly approximately 76 percent of the parcel. Therefore, the proposed project will be consistent with the Community Plan and 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 proposed development is to construct a 9,885 sq. ft. building on a 4.88-acre site. The project includes the construction of on-site water quality measures necessary to address the project's storm water runoff. The permit(s) controlling the development and continued use of the development proposed for this site contains conditions addressing compliance with the City's regulations and other regional, state, and federal regulations to prevent detrimental impacts to the health, safety, and welfare of persons residing and/or working in the area. Conditions of approval require compliance with several operational constraints and development controls intended to assure the continued health, safety, and general welfare of persons residing or working in the area. All applicable Building, Fire, Plumbing, Electrical, Mechanical Code sections and the City regulations governing the construction and continued operation of the development apply to this site to prevent adverse effects to those persons or other properties in the vicinity. Therefore, based on the above, the project would not be detrimental to the public health, safety, and welfare.

3. The proposed development will comply with the applicable regulations of the Land Development Code.

The proposed development is to construct a 9,885 sq. ft. building on a 4.88-acre undeveloped site. The proposed development is in compliance with the Land Development Code. The project meets the requirements of the MV-CO Zone of the Mission Valley Planned District Ordinance, the environmentally sensitive lands regulations and the steep hillside guidelines. Land Development Code Section 103.2107(c)(3)(A), Mission Valley Planned District Ordinance, regulates development above the 150-foot contour line. The project deviates from the criteria of the Hillside Subdistrict with respect to development above the 150 foot contour line, however, the unique history, configuration and topography of the site justify the deviation as permitted by the Mission Valley Planned District Ordinance. This deviation is permitted by Land Development Code Section 103.2104(d)(4)(1), which allows the criteria

of the Planned District Ordinance to be increased or decreased when, due to special circumstances, or exceptional characteristics of the property, or of its location or surroundings, the strict interpretation of the criteria of the planned district would result in unusual difficulties or unnecessary hardship or would be inconsistent with the general purpose of the planned district. Land Development Code Section 103.2101 specifies that the purpose of the planned district is to ensure that development and redevelopment in Mission Valley will be accomplished in a manner that enhances and preserves sensitive resource areas, while also providing reasonable use of the property. It is determined that allowing development on the 1.08-acre northerly portion of the site, zoned MV-CO, and intended for development will provide reasonable use. Therefore, the proposed project will comply with the regulations of the Land Development Code.

Supplemental Findings – Environmentally Sensitive Lands

- 1. The site is physically suitable for the design and siting of the proposed development and the development will result in minimum disturbance to environmentally sensitive lands.**

The existing undeveloped site totals 4.88-acres, and is to be developed with a 9,885 sq. ft. building. The proposed development area is consistent with what is shown in the Community Plan and does not propose to encroach into any areas of designated open space or MHPA open space. The project has been designed to comply with the land use adjacency guidelines. Therefore, the proposed development would be consistent with the City of San Diego's MSCP Subarea Plan. A Mitigated Negative Declaration has been prepared in accordance with CEQA Guidelines and mitigation measures will be incorporated into the project to reduce anticipated impacts to below a level of significance. A Mitigation, Monitoring and Reporting Program will be established and enforced to ensure compliance with adopted mitigation measures.

- 2. The proposed development will minimize the alteration of natural land forms and will not result in undue risk from geologic and erosional forces, flood hazards, or fire hazards.**

The proposed project will grade the site in a manner consistent with all relevant City of San Diego regulations, the Community Plan, and Hillside Guidelines and will preserve the structural character of the natural hillsides while also allowing for the development of the commercial office building on the MV-CO zoned portion of the site. The proposed project will preserve the area previously dedicated to the City in 1982 for open space purposes and has been designed to minimize its impact upon the steep hillsides. This will be further enhanced through the implementation of slope plantings that at maturity would promote and enhance the visual blending of the slopes and required retaining walls into the adjacent natural environment. The area proposed for grading is the least sensitive topographically, the most suitable area for development and zoned for commercial office development. All manufactured slopes will be planted with species capable of reducing and eventually preventing soil erosion from wind and rain. All slopes will be constructed in a manner consistent with current geotechnical and engineering standards. The site is not located in an area prone to flooding and risks to persons or property from flooding is not present. In these ways the project will not pose risks from geological and erosional forces and/or flood and fire hazards. Therefore, the proposed development will not present undue risks to persons living or working in the area.

3. **The proposed development will be sited and designed to prevent adverse impacts on any adjacent environmentally sensitive lands.**

The site is physically suitable for the design and siting of the proposed commercial office building. The proposed development area is consistent with what is shown in the Community Plan and the City's adopted zoning map and does not propose to encroach into the area of designated open space on the property.

The site is located adjacent to existing steep slope areas to the south and east, and existing development to the north and west. The proposed project design is compatible with these surrounding land uses and will serve as an extension of the adjacent existing commercial development to the north and west while ensuring the preservation of the existing open space easement. Based upon these factors, the project was designed to minimize impacts to environmentally sensitive lands. Approximately 99.8 percent of the parcel is comprised of steep slopes. A total of 16.7 percent of the steep slopes are proposed to be graded where a maximum of 20 percent is allowed by the Mission Valley Planned District Ordinance.

During construction of the project, appropriate measures will be taken to assure impacts do not occur that have not been addressed through the environmental process, such as negative impacts to water quality, erosion, slope, or geologic stability, biological and wild fire impacts or other impacts to resources. Therefore, the proposed development would be sited and designed to prevent adverse impacts to any adjacent environmentally sensitive lands.

4. **The proposed development will be consistent with the City of San Diego's Multiple Species Conservation Program (MSCP) Subarea Plan.**

The proposed development area is consistent with what is shown in the Community Plan and does not propose to encroach into any areas of designated open space or MHPA open space. The project has been designed to comply with the land use adjacency guidelines and the MSCP general management directives. Therefore, the proposed development would be consistent with the City of San Diego's MSCP Subarea Plan.

5. **The proposed development will not contribute to the erosion of public beaches or adversely impact local shoreline sand supply.**

The proposed development is to construct a 9,885 sq. ft. building on an undeveloped 4.88-acre site. The proposed project is located several miles inland, not near any beaches or the shoreline. Therefore would not contribute to the erosion of public beaches nor would it impact the local shoreline sand supply.

6. **The nature and extent of mitigation required as a condition of the permit is reasonably related to, and calculated to alleviate, negative impacts created by the proposed development.**

The proposed development is to construct a 9,885 sq. ft. building on an undeveloped 4.88-acre site. The project has been reviewed for compliance with State of California Environmental Quality Act (CEQA) Guidelines which determined that the project could have significant impacts related to biological and paleontological resources, and Land Use/MSCP. A Mitigation, Monitoring and Reporting Program (MMRP) will be established which will reduce the impacts to below a level of significance. These mitigation measures are intended to alleviate any negative impacts created by the proposed development.

MISSION VALLEY PLANNED DISTRICT ORDINANCE (PDO) ~
(MUNICIPAL CODE SECTION 103.2101)

- 1. The proposed development is consistent with the Mission Valley Community Plan and the City's Progress Guide and General Plan.**

The project site consists of approximately 4.88-acres of vacant land within the Mission Valley Community Plan ("Community Plan"). A portion of the subject site is zoned MV-CO (approximately 1.08 acres) and the remaining area is zoned RS-1-1. This remaining area is located within an open space easement that had been previously granted to the City in 1982, and would not be developed as part of this proposal.

The proposed project requests approval of a 9,884 square foot, two-story office building that would contain medical and commercial office uses. The medical office portion of the building would consist of 5,462 square feet and the commercial office portion would be 3,960 square feet with tuck-under parking provided along the northern side of the building. The remainder of the parking would be provided via surface parking.

The proposal complies with the standards for the MV-CO zone, environmentally sensitive lands ordinance, and steep hillside guidelines. The community plan states that "large-scale development (commercial, office, or commercial-recreation) at the base of the slopes should not cut or grade, nor extend above the 150-foot elevation contour on the southern slopes." The small size of the proposed building (9,884 square feet) in comparison to existing structures on adjacent properties (which are as large as 71,000 square feet and average 30,000 square feet), has allowed the City to consider the proposed structure as a "small-scale" project. This determination allows the proposed development to minimally encroach beyond the 150-foot contour line. The following reasons also justify the City's position: the proposed development would be largely screened from view from the public right-of-way on Camino del Rio South by existing structures located north of the property; there is existing adjacent development to the west that extends above the 150-contour line to approximately the 166-foot contour line; and the project will not extend into the designated open space easement which comprises the southerly approximately 76 percent of the parcel. Therefore, the proposed project will be consistent with the Community Plan and will not adversely affect the applicable land use plan.

- 2. The proposed development provides the required public facilities and is compatible with adjacent open space areas.**

The proposed development is to construct a 9,885 sq. ft. building on an undeveloped 4.88-acre site. The proposed project will provide the necessary sewer, water, and stormwater runoff improvements/facilities. There will be no impacts to the existing open space easement on the property because the development will not encroach into the easement.

- 3. The proposed development meets the general purpose, intent and criteria of the Mission Valley Planned District including the applicable "Guidelines for Discretionary Review" adopted as a part of this planned district ordinance.**

The proposed development is to construct a 9,885 sq. ft. building on an undeveloped 4.88-acre site. The building will be stucco and natural stone façade to minimize reflective surfaces. The building façade will be stepped to reflect the natural line of the existing topography. The structure will be set as far back into the hillside as possible to blend into the site while ensuring there are no impacts to the open space

easement. Tuck-under parking has been included in the design to reduce the amount of grading that would be required in comparison to underground parking. The building is designed to appear long and flat from the street and river view corridors by its trapezoidal shape providing a wider facade at the northern elevation. Additionally, the stepped design with the second floor recessed behind the first floor also emphasizes a horizontal orientation.

The proposed project deviates from the Mission Valley Planned District §103.2107(c)(3) due to development taking place above the 150 foot contour line. Pursuant to §103.2104(d)(4) the deviation is allowed for the following listed reasons:

1. Due to special conditions, or exceptional characteristics of the property, or of its location or surroundings, strict interpretation of the criteria of the planned district would result in unusual difficulties or unnecessary hardship or would be inconsistent with the general purpose of the planned district. Strict interpretation of the planned district's limitation on development above the 150-foot contour line creates unnecessary hardship to development when applied to the conditions of this site. The subject property was subdivided in 1961; and consists of an approximately 4.88-acre, panhandle design with frontage on Camino del Rio South and vehicular access provided along Scheidler Way. The topography of the site slopes upward from north to south from an elevation of approximately 144-feet, at the lower northerly portion, to approximately 340-feet, at the higher southerly portion. The topography of the site significantly limits and constrains the development area of the property located below the 150-foot contour line. This area is non-contiguous and split between the eastern and western sides of the property. The resulting small areas of development below the 150-foot contour line prohibit practical development of the site and present an unnecessary hardship on the ability to develop the land.

The historical record demonstrates that limited development above the 150-foot contour line has been anticipated for this site since 1977. In 1977, the City Council approved Planned Commercial Development (PCD) Permit No. 35 for this site allowing development of the lower 1.08-acre northerly (24%) portion of the site with a three and one-half story, 10,000 square foot office building. The City Council approved the rezoning of a lower 1.08-acre portion of the site from single-family residential to commercial-office in order to accommodate development. A condition of the permit required that an open space easement be provided on the remaining southerly 3.8-acre portion of the site, which represented approximately 76% of the parcel area. In 1982, the City accepted the dedication of the narrow panhandle portion of the parcel for Scheidler Way to provide vehicular access to the subject parcel as well as properties located adjacent to the north and west. The City also accepted dedication of the southerly 3.8-acre portion of the parcel as an open space easement as required by condition of the PCD. Although the street and open space dedications were accepted, construction of the planned office building never occurred. Approval of the proposed project allows the completion of development anticipated for this site since 1977.

Surrounding development also minimizes visual impacts to the limited encroachment above the 150-foot contour line. Existing development to the north visually screens large portions of the project from Mission Valley. In addition, existing development to the west extends above the 150-foot contour. This development includes a surface parking lot and associated retaining walls extending above the 150-foot contour line, to approximately the 166-foot contour.

2. A superior design can be achieved by altering the adopted standards.

Altering the development criteria to allow a limited encroachment above the 150-foot contour will result in a project superior to the original design approved in 1977. The project proposes to utilize alternative design features to reduce building mass and limit coverage over the lot. The design tucks the rear of the building into the hillside and terraces the second story to create a roof garden and/or deck. Proposed landscaping will soften the structural development and ensure visual compatibility with surrounding development. None of the retaining walls associated with the project will exceed 10-feet in height, as permitted by the Land Development Code. The retaining walls will be finished with a sandstone colored stucco to blend in with the surrounding landform features and planted with a mix of vines, shrubs, and accent shrub plantings along the perimeter and tops of the walls. Proposed landscaping will further screen the retaining walls from view from the public right-of-way along Camino del Rio South.

3. Conformance with the Guidelines for Discretionary Review necessitates deviation from the adopted standards.

Allowing a limited encroachment above the 150-foot contour line permits the building façade to be stepped back to reflect the natural line of the existing topography. In addition, the structure will be set into the hillside as far as possible to blend into the site while ensuring there are no impacts to the open space easement. Tuck-under parking has been included in the design to reduce the amount of grading that would be required in comparison to underground parking. The building is designed to have a horizontal orientation and appears long and flat from the street and river view corridors by its trapezoidal shape providing a wider facade at the northern elevation.

4. **The proposed development will comply will all other relevant regulations of the San Diego Municipal Code in effect for this site.**

The proposed development is to construct a 9,885 sq. ft. building on an undeveloped 4.88-acre site. The proposed development is in full compliance with the Land Development Code and the Mission Valley Planned District Ordinance. No deviations or variances are necessary. Therefore, the proposed project will comply with the regulations of the Land Development Code. The proposed development complies with relevant regulations of the San Diego Municipal Code. The project is consistent with requirements of the MV-CO zone of the Mission Valley Planned District Ordinance, the Environmentally Sensitive Lands regulations and the steep hillside guidelines. The project deviates from the criteria of the Hillside Subdistrict with respect to development above the 150-foot contour line; however, the unique history, configuration and topography of the site justify the deviation as permitted by the Mission Valley Planned District Ordinance.

The proposed project deviates from the Mission Valley Planned District §103.2107(c)(3) due to development taking place above the 150-foot contour line. Pursuant to §103.2104(d)(4) the deviation is acceptable for the following listed reasons:

1. Due to special conditions, or exceptional characteristics of the property, or of its location or surroundings, strict interpretation of the criteria of the planned district would result in unusual difficulties or unnecessary hardship or would be inconsistent with the general purpose of the planned district.

Strict interpretation of the planned district's limitation on development above the 150-foot contour line creates unnecessary hardship to development when applied to the conditions of this site. The subject property was subdivided in 1961, and consists of an approximately 4.88-acre, panhandle

design with frontage on Camino del Rio South and vehicular access provided along Scheidler Way. The topography of the site slopes upward from north to south from an elevation of approximately 144-feet, at the lower northerly portion, to approximately 340-feet, at the higher southerly portion. The topography of the site limits the development area of the property below the 150-foot contour line to 8,811 square feet. This area is non-contiguous and split between the eastern and western sides of the property. The resulting small areas of development below the 150-foot contour line prohibit practical development of the site and present an unnecessary hardship on the ability to develop the land.

The historical record demonstrates that limited development above the 150-foot contour line has been anticipated for this site since 1977. In 1977, the City Council approved Planned Commercial Development (PCD) Permit No. 35 for this site allowing development of the lower 1.08-acre northerly (24%) portion of the site with a three and one-half story, 10,000 square foot office building. The City Council also rezoned a portion of the site from single-family residential to commercial-office in order to accommodate development. A condition of the permit required that an open space easement be provided on the remaining southerly 3.8-acre portion of the site, which represented approximately 76% of the parcel area. In 1982, the City accepted the dedication of the narrow panhandle portion of the parcel for Scheidler Way to provide vehicular access to the subject parcel as well as properties located adjacent to the north and west. The City also accepted dedication of the southerly 3.8-acre portion of the parcel as an open space easement as required by condition of the PCD. Although the street and open space dedications were accepted, construction of the planned office building never occurred. Approval of the proposed project allows the completion of development anticipated for this site since 1977.

Surrounding development also minimizes visual impacts to the minor encroachment above the 150-foot contour line. Existing development to the north visually screens large portions of the project from Mission Valley. In addition, existing development to the west already extends above the 150-foot contour. This development includes a surface parking lot and associated retaining walls extending above the 150-foot contour line, to approximately the 166-foot contour.

2. A superior design can be achieved by altering the adopted standards.

Altering the development criteria to allow a limited encroachment above the 150-foot contour will result in a project far superior to the original design approved in 1977. The project proposes to utilize alternative design features to reduce building mass and limit coverage over the lot. The design tucks the rear of the building into the hillside and terraces the second story to create a roof garden and/or deck. Proposed landscaping will soften the structural development and ensure visual compatibility with surrounding development. None of the retaining walls associated with the project will exceed 10-feet in height as permitted by the Land Development Code. The retaining walls will be finished with a sandstone colored stucco to blend in with the surrounding landform features and planted with a mix of vines, shrubs, and accent shrub plantings along the perimeter and tops of the walls. Proposed landscaping will further screen the retaining walls from view.

3. Conformance with the Guidelines for Discretionary Review necessitates deviation from the adopted standards.

Allowing a limited encroachment above the 150-foot contour line permits the building façade to be stepped back to reflect the natural line of the existing topography. In addition, the structure

will be set into the hillside as far as possible to blend into the site while ensuring there are no impacts to the open space easement. Tuck-under parking has been included in the design to reduce the amount of grading that would be required in comparison to underground parking. The building is designed to have a horizontal orientation and appears long and flat from the street and river view corridors, by its trapezoidal shape which provides a wider facade at the northern elevation.

BE IT FURTHER RESOLVED that, based on the findings hereinbefore adopted by the Hearing Officer, Site Development Permit No. 158004 is hereby GRANTED by the Hearing Officer to the referenced Owner/Permittee, in the form, exhibits, terms and conditions as set forth in Permit No. 158004, a copy of which is attached hereto and made a part hereof.

Anne B. Jarque
Development Project Manager
Development Services

Adopted on: April 19, 2006

Job Order No. 42-3012

cc: Legislative Recorder



City of San Diego
Development Services
1222 First Ave. • 3rd Floor
San Diego, CA 92101-4154
(619) 446-5210
www.sandiego.gov/development-services

Development Permit Appeal Application

See Information Bulletin 505, "Development Permits Appeal Procedure," for information on the appeal procedure.

1. Type of Appeal:
- Process Two Decision - Appeal to Planning Commission
 - Process Three Decision - Appeal to Planning Commission
 - Process Three Decision - Appeal to Board of Zoning Appeals
 - Appeal of a Hearing Officer Decision to revoke a permit
 - Process Four Decision - Appeal to City Council

2. Appellant Name Please check one Applicant Officially recognized Planning Committee "Interested Person" (Per M.C. Sec. 113.0103)

Lynn Jullian, P.O. Box 50274, San Diego, 92190 619 280 2745
Randy Goldman, River Valley Prosecution Project
Address *Box 70981* City *San Diego* State *CA* Zip Code *92167* Telephone *275-5925*

3. Applicant Name (As shown on the Permit/Approval being appealed). Complete if different from appellant.
Robert Pollock, Managing Partner Pacific Coast Assets, LLC
Kyle Pollock, Partner Pacific Coast Assets, LLC

4. Project Information
Permit/Approval Being Appealed & Permit/Approval No.: *1. Site Development Permit (ESL) No. 158004* Date of Decision: *April 19, 2006* City Project Manager: *Anne Jarque*

Decision (describe the permit/approval decision):
2. Mitigated Negative Declaration, Project No. 54384
1. Certify Mitigated Negative Declaration, Project No. 54384
2. Approval of Site Development Permit (ESL) 158004

5. Reason for Appeal
- Factual Error
 - Conflict with other matters
 - Findings Not Supported
 - New Information
 - City-wide Significance (Process Four decisions only)

Description of Reasons for Appeal (Please relate your description to the allowable reasons for appeal noted above. Attach additional sheets if necessary.)
See attached

6. Appellant's Signature: I certify under penalty of perjury that the foregoing, including all names and addresses, is true and correct.

Signature *Lynn Jullian* Date *25 April 2006*
Randy Goldman *May 2, 2006*

Note: Faxed appeals are not accepted.

HISTORY OF PRECEDENT SETTING PROPOSAL TO PLACE ENTIRE OFFICE BUILDING IN DESIGNATED OPEN SPACE (CITYWIDE SIGNIFICANCE)

The Draft MND was circulated for comments in September 2005. No mention was made of any conflicts with the Mission Valley Community Plan (MVCP) or Mission Valley Planned District Ordinance (PDO) restrictions on building above the 150 foot elevation contour. The Mission Valley Unified Planning Group was not informed of this Exception prior to their vote approving the project (See staff report minutes of meeting).

Eric Bowlby and Randy Berkman pointed out that the MND was false and misleading at the November 18 hearing due to the omission of the aforementioned conflicts with the MVCP and PDO 150 foot elevation restrictions. Staff replied that the plan met an Exception to the PDO. The Hearing Officer continued the Hearing until January 18. He also instructed staff to re-circulate the CEQA document and review less damaging options. The MND was revised without re-circulation for public comment and reissued January 3, 2006. The January 18 Hearing was canceled since City Attorney David Miller found that a Deviation from Environmentally Sensitive Lands Regulations was being proposed due to non-compliant retaining walls and that made this a Process 4 to be scheduled first at Planning Commission. After receiving letters from two landowner consultants and review by City soils expert, Mr. Miller issued a Legal Opinion that the retaining walls were not deviating from ESL regulations (serving as soil stabilization rather than erosion control) and authorized scheduling of a Process 3 Hearing as was the case in November, 2005. The MND was revised for a second time without re-circulation for public comment and re-issued March 31. The revised MNDs added new discussions of land use and visual impacts. An accurately described project, with request for Exception to the PDO, has not been circulated for written public comment. The Normal Heights Planning Group voted 10-0 to deny the project in January 3, 2006. The Mission Valley Community Council's September 2005 Resolution states: "Mission Valley is built out. No additional residential units or office space is indicated."

The review of less damaging options directed by the Hearing Officer at the November Hearing and by City Attorney David Miller in November and January--has not occurred.

NEW INFORMATION: PROJECT ENCROACHES OPEN SPACE EASEMENT FOR FIRE ZONE CLEARING OF COASTAL SAGE SCRUB: ABOUT .57 ACRE OF "NEW" IMPACTS NOT DISCLOSED IN MND

Inspection of scaled Diagrams A1.1 and A2.0 (Attachment 1, two pages; not in the MND) shows Fire Zones 1 and 2 encroaching the Open Space easement just up-slope of the proposed building. Diagram A1.1 states that Fire Zone 1 is 30 feet wide and Fire Zone 2 is 40 feet wide—for a 70 foot total width fire zone buffer. These two diagrams are dated August 19, 2005. Since then the City has expanded Fire Zones to be 35 feet wide in Zone 1 and 65 feet wide in Zone 2 for a combined 100 foot wide fire buffer. This 100 foot combined width fire buffer is disclosed in the revised MND (p. 5 of Initial Study). Clearing of brush in the Open Space Easement (which contains Coastal Sage Scrub (CSS) according to Biological Report) is planned though not disclosed in the

* See Attachment 12: April 18, 2006 letter from Judy Elliot, Chair of Normal Heights Planning Committee to Hearing Officer Teasley (2 pages). April 13, 2006 letter from Dave Potter to Hearing Officer Teasley (3 pages).

MNDs. MND Reply #1 states: "The open space easement is 3.89 acres. No development/encroachment is proposed within the open space easement." The San Diego Municipal Code defines "development" to include "clearing, managing brush" (Chapter 11, Art. 3, Div. 1, Sec. 6). Diagram A2.0 and A1.1 (Attachment 1) tells a different story than the "no development/encroachment" statement of the MND. These show Fire Zones 1 and 2 extending uphill of the proposed building into the open space easement. The Zone 2 activity is described:

"50% of plants over 18" in height shall be cut and cleared to a height of 6". Within Zone 2, all plants remaining after 50% are cut and cleared shall be pruned to reduce fuel loading in accordance with the Landscape standards in the Land development code. Zone 2 shall be maintained on a regular basis by pruning and thinning plants, controlling weeds and maintaining any temporary irrigation systems." This could add to erosion problems. The 1977 EIR for a similar sized office building stated that erosion potential of the land was severe--the highest level of impact (Attachment 2).

This "new" erosion issue is not addressed in the MNDs. The MND finds such impacts to CSS are "impact neutral" (p. 5, Initial Study). However, habitat value would be impacted since the former protective cover would not be there for wildlife. See email from Audubon's Jim Peugh. He has observed the substantial negative impacts of Fire Zone 2 on CSS (Attachment 10).

Zone 1 Fire Protection, which also intrudes the Open Space Easement is described:

"These plants must be low fuel and fire resistive." This means that incendiary CSS will be permanently removed from the Open Space Easement for Zone 1 fire protection also. Fire Zone 1 impacts are disclosed in the revised MND though no mention is made of any encroachment into the Open Space Easement.

The Finding that the proposal would not have a significant impact and also not require a Mission Valley Plan Amendment is based in part on the assertion that "Approximately 80% of the parcel is within the open space easement (City Reply 2b)." And that no development will occur there (Reply #1). "The area outside of the proposed development footprint already is conserved by an open space easement." (Reply #6, MND). The 1977 Map of the site (Attachment 3) states "Retain Natural Grade And Vegetation" in the Open Space Easement area. The Open Space Easement was the "mitigation" for re-zoning part of the site to office use in 1978. Staff has repeatedly stated that no development would occur there. When part of the open space/ mitigation for this project, is itself being permanently impacted, this is evidence of significant unmitigated impacts /EIR requirement. The amount of encroachment to the Open Space Easement appears to be about $\frac{5}{8}$ acre (using diagram scale). The proposed grading "footprint" disclosed in the MND is .83 acre. Adding .83 to $\frac{5}{8}$ = 1.37 acres. The whole site is 4.94 acres. 1.37 divided by $4.94 = .277$ or 27.7%. The allowable encroachment of total property development of steep hillsides is 20% or less (when 91% of site or more is steep hillsides as is the case here). This proposal exceeds the 20% maximum. Yet no deviation is being requested.

On April 26, Project Manager Anne Jarque was emailed regarding the amount of overlap between the Fire Zones and Open Space Easement. She replied that these questions were being forwarded to staff for reply. As of this writing, no answer has been received.

Environmentally Sensitive Lands (ESL) Regulations (Chapter 143.117(k) states: "Sensitive biological resources that are outside of the allowable development area on a premises, or are acquired as off-site mitigation as a condition of permit issuance, are to be left in a natural state and used only for those passive activities allowed as a condition of permit approval." This suggests that the Open Space Easement should "be left in a natural state.." Since CSS will be cleared from Zones 1 and 2, this proposal conflicts with the aforementioned ESL regulation. However, no deviation is being acknowledged or proposed. Such a deviation would make this Process 4 on this issue.

EVIDENCE OF POTENTIAL CUMULATIVE IMPACTS IN THE VAACHI MEMO

This Memo was disclosed to the public for the first time at the April 19 hearing.

Landowner attorney Robert Vaachi's April 12-14 Memo to project Manager Anne Jarque states:

"Of the remaining lots with land above the 150-contour line, all but three have large portions of developable land above the 150-contour line and are fully developed below the 150-foot contour line." If this proposal is allowed above the 150 contour, other landowners will be financially encouraged to seek similar Exceptions to the PDO. His statement that all but three parcels have "large portions of developable land above the 150-contour line is especially foreboding for the future of the valley's steep slopes. It is relevant to note that this statement is inconsistent with Attorney McDade's letter which states "All but a tiny portion of the protected hillsides will continue to be preserved." The potentially major cumulative impacts of approving the project are not addressed in the MND; nor can such impacts be mitigated--evidence of the EIR requirement. The 1977 Planning Department also identified the likely major impacts of such a precedent encroachment higher up the slopes in the open space zone (Attachment 5, p. 4). The CEQA Mandatory Findings of Significance are addressed by the following question in the Initial Study Checklist questions: "Does the project have possible environmental

allowed to exceed the height restrictions of the PDO and MVCP, it is probable that other landowners will seek such Exceptions and the impacts of this project would be greatly magnified. A Mandatory Finding of Significance is therefore correct and an EIR is required.

The Vaachi Memo was also used to assert that development below the 150 foot elevation is not feasible. However, this assertion was not made by an engineer or other construction expert. The Hearing officer did not ask the owner's consultants whether it was feasible to build below 150 feet. The MND states that 8800 square feet is below the 150 foot elevation. Attachment 3 showing property elevations shows some of the land on-site below 150. It appears to be more than 8800 square feet. During a site visit, it appeared that a building below 150 foot elevation is readily feasible. A 2 story building might even be feasible if enough "digging down" occurred to lower the base to 110 feet.

FALSE AND MISLEADING STATEMENTS IN MNDS (FACTUAL ERRORS MAKE MND INADEQUATE)

In written comments on the MND, Randy Berkman asked: "Would any of the project occur within the Open Space designated area?" "Fully consistent with the Open Space land use designation of the Community Plan?"

Staff Reply #2: "The project is consistent with the Open Space Hillside Element of the Community Plan and with the City of San Diego Zoning Designation." While the underlying zone is consistent, the proposal is not consistent with the Community Plan Open Space Hillside Element since whole project exceeds the 150 foot elevation and intrudes the open space designated area. This is seen on Figure 4 in very small print.

Staff Reply #2: "The Planning Department originally requested a community plan amendment for the this project which partially intrudes into designated open space. After a redesign to reduce impacts and upon further analysis, the project was supported by the Planning Department for following reasons....." This Staff Reply is misleading in that the entire project intrudes into the Designated Open Space rather than "partially."

Staff Reply #3 is misleading: "Refer to Figure 3 within the Mitigated Negative Declaration that shows the development footprint which is consistent with the land use designation per, Figure 5 (Land Use Plan) of the Mission Valley Community Plan." Figure 5 (Land Use Plan) of the MVCP is colored coded to show the land use designations. It does show "green"/open space where Sheidler Way ends. It shows "orange-red" for "Commercial Office" immediately north of the Open Space Designation. The arrow drawn by staff and superimposed on the MVCP Figure 5, ends in the Commercial Office land use designation while passing through the Open Space designation. This leads the reader to think the plan is entirely in the CO designation of the MVCP and not in the Open Space designated area.

Reply #4 is misleading: "Only .8 acres will be graded and the design is consistent with both the ESL and MVPDO Hillside regulations." Since the proposal has sought an

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Exception from the PDO for exceeding the 150 foot elevation, it is not consistent with the PDO.

Reply 2c states: "Grading minimally disturbs the natural terrain." 630 dump truck loads is not minimal. This is discussed in the Land Use Impact section.

Reply 2b states: "Approximately 80% of the parcel is within the open space easement, allowing only a limited intrusion into the Open Space designation." While 80% of the parcel is an open space easement, again, the whole project is above 150 feet/in Open Space designation of MVCP. See NEW INFORMATION section for discussion of undisclosed impacts to Open Space Easement.

Initial Study Checklist questions incorrectly answer "NO" to following:

"A. Would proposal result in: A land use which is inconsistent with the adopted community plan land use designation for the site or conflict any applicable land use plan...."

B. A conflict with the goals, objective and recommendations of the community plan in which it is located?"

"Aesthetics B. The creation of a negative aesthetic site or project? The two story building would be compatible with the surrounding development and is allowed by the community plan and zoning designation."

FINDINGS NOT SUPPORTED: INACCURATE, INCONSISTENT, OR MISLEADING STATEMENTS IN PROPOSED RESOLUTION FOR SITE DEVELOPMENT PERMIT

"The proposed development will not adversely affect the applicable land use plan." (p. 1). See Section: EVIDENCE THAT THIS PROPOSAL IS PROCESS 5/MVCP AMENDMENT REQUIRED.

"The northerly property line of the proposed 1.08 acre MV-CO zoned site is located at approximately the 148-contour line." (p.1) The MNDs state that the lowest part of site is at 136 foot elevation. (P. 2, Initial Study, FMND). The 1977 Map shows the lower part of the site at about 135 feet (Attachment 3).

"The proposal complies with the standards for the Mission Valley Community Plan, Mission Valley Planned District Ordinance.... and Environmentally Sensitive Lands Regulations Ordinance....". An Exception to the PDO is being requested.

"...does not propose to encroach into any areas of designated open space." (P. 3, 4) The entire project encroaches designated open space/above 150 foot elevation.

"...has been designed to minimize its impact on steep hillsides." See Land Use Impacts section.

"Altering the development criteria to allow a limited (or "minimal") encroachment above the 150 foot contour..." (P. 5, 7, 9). Again, the entire project exceeds the 150 foot elevation and is therefore not a "limited or minimal encroachment." At other times, staff has acknowledged: "Due to the open space easement, the project could not extend more than approximately 50 feet into the designated open space." What they don't mention, is that the "50 feet extension" includes the whole project. 50 feet higher vertically is more than 100 feet laterally up the slope according to scale diagrams.

"No deviations or variances are necessary." (p. 7). A deviation from the Municipal Code is being requested for exceeding the 150 foot elevation.

The Project Data sheet includes the following erroneous information:

1. Zone: fails to mention part of the site is zoned RS-1-1.
2. Community Plan Land Use Designation: fails to include Open Space.
3. Deviations or Variances Requested incorrectly states "None." The Site Development Permit on pages 2,3,7, 8 and 9 recognizes a deviation. (Potter and Associates Letter to Hearing Officer)

STAFF OMITTS KEY LANGUAGE FROM MISSION VALLEY PLANNED DISTRICT ORDINANCE (MVPDO) "EXCEPTIONS" FROM MARCH 31, 2006 MND (see P. 14 of MND) AND WHY EXCEPTION IS NOT ALLOWED UNDER PDO

The landowner and staff are seeking an exception from the MVPDO "Preservation of Steep Slopes" section:

"Development, including road construction above the 150-foot contour line shall not occur." (103.213(A))

This language even prohibits roads which may be in the public interest. Here, the proposal is for the private interest of a single landowner who bought the land for about \$50,000/acre--pennies on the dollar for Mission Valley office land. Whatever public benefit the doctor/landowner provides is already being provided through his practice a few miles to the east. For comparison, AAA paid over \$1 million/acre several years ago for Mission Valley flood plain land. This information should be considered as to whether there is any "hardship" in having the owner review smaller, down-slope options..

Page 14 of the March 31 MND quotes PART of the MVPDO Exceptions to justify approval of the project. However, staff omits the following essential language:

"Exceptions shall not be granted that will be detrimental to the intent of this planned district, or to the general public health, safety and general welfare."

Mission Valley Planned District 103.2101 begins by stating:

"It is the purpose of these regulations to ensure that development and redevelopment in Mission Valley will be accomplished in a manner that enhances and preserves sensitive

resource areas."

This project proposes to impact three sensitive resource areas: the Mission Valley Plan Designated Open Space above the 150 foot contour (entire project), steep hillsides, and endangered Coastal Sage Scrub (CSS). Any one of these sensitive resources is enough to deny the Exceptions request.

1977 PLANNING DEPARTMENT AND PLANNING COMMISSION (6-0 VOTE)
FOUND SIMILAR PLAN DETRIMENTAL TO PUBLIC WELFARE--EVIDENCE
THIS PROPOSAL CONFLICTS WITH PDO REQUIREMENT FOR AN
EXCEPTION TO THE PDO

In 1977, the City of San Diego Planning Department recommended DENIAL of the Permit for a nearly identical sized office building (Attachment 5; 3 pages):

"The Planning Department recommends DENIAL of the proposed project based on the belief that all of the necessary finding of fact cannot be met for granting approval...

1. The proposed use at this particular location would not be necessary or desirable to provide a service or facility contributing to the general well-being of the neighborhood, the community and the City..
2. The development, would under the circumstances of this particular case, be detrimental to the health, safety and general welfare of persons living or working the area and injurious to property and improvements (existing or future) in the vicinity. The subject property is part of the steep southerly slope of Mission Valley covered with mature Chapparel and Coastal Sage Scrub. This property is part of a tier of natural hillside terrain existing along the south slope of Mission Valley ABOVE (caps added) existing office and commercial development....Approval of this development would establish a precedent for additional encroachment into the undisturbed tier of natural open space extending laterally along the entire south slope of Mission Valley.....
4. The granting of this permit would adversely affect the Progress Guide and General Plan for the City of San Diego....The adopted General Plan designates this tier of natural hillside above existing commercial development for open space preservation. Approval of the subject development would be contrary to the General Plan. The Environmental Quality Division has reviewed the proposed development and determined that the project would have the following significant impact:

For the proposed type of commercial project, on site disturbance of the hillside lot would be minimized with the proposed building placement, architectural design and landscaping. Nevertheless, the project would entail construction on a visually significant natural site in the hillside overlay review zone. Such development...would establish a precedent for encroachment into an undisturbed tier of natural open space extending laterally along the south slope of Mission Valley. There are no measures evident which would reduce to insignificance the precedent for commercial development moving higher

up the south slopes of Mission Valley. Although the proposed project utilizes only one-fourth of the large lot, it remains a significant new encroachment not only in terms of the office building itself, but more importantly in terms of future development expectations for this and adjoining properties arising from the rezoning of the entire 4.88 acre parcel to CO. Therefore, a substantial mitigation of the issue of the development precedent in a natural area would be to limit CO zoning to that minimum lot necessary to contain the proposed office project, leaving the remaining area of the property in its existing R-1-1 Zone."

A "Reduced Project Scope" alternative was considered. The EIR found: "Project which left an even greater part of the subject lot undisturbed would reduce the site specific impact of that project but would not alter the LARGER IMPACT OF SETTING THE PRECEDENT FOR DEVELOPMENT ENCROACHMENT ONTO AN UNDISTURBED TIER OF NATURAL HILLSIDE." (CAPS ADDED)(Attachment 5, page 4). The EIR also found impacts could not be mitigated to below a level of insignificance. (Attachment 5, page 5)

In light of these findings, the Planning Commission voted 6-0 to deny the project. On Appeal, the City Council voted 5-3 to approve.

HARDSHIP NOT DOCUMENTED

The Vaachi Memo "evidence" provided by applicant supporting his claim of unnecessary hardship" (as required by PDO to make an Exception) was not written by a construction expert.

Hearing Officer Didion directed assessment of less damaging alternatives at the November 18 hearing. City Attorney David Miller reiterated this in a January 13 email. This review has not been done by a construction expert. Such a review should include down slope options—with far less intrusion above 150 feet elevation.

At the April 19 Hearing, the landowner Robert Pollack testified that his not a professional developer. While that may be true, the County's real estate records website disclosed over 150 real estate transactions in his name, his family trust, and co-owner Lola Pollack. In light of his real estate experience and ultra low price paid for this land, asserting a "hardship" is not merited. Rather, the City should require review of less damaging options in an EIR.

EVIDENCE OF SIGNIFICANT UNMITIGATED LAND USE IMPACTS TRIGGERS EIR

630 DUMP TRUCK LOADS OF SOIL CONTAINING ENDANGERED COASTAL SAGE SCRUB IS NOT "GRADING [WHICH] ONLY MINIMALLY DISTURBS THE NATURAL TERRAIN" AS STATED IN THE MND

One standard dump truck holds 10 cubic yards of soil. "400 cubic yards weighs one

million pounds." (See: <http://www-formal.stanford.edu/jmc/progress/untried.html>). The MND states "approximately .83 acre would be graded. Earthwork quantities associated with the site grading are estimated at approximately 6,300 cubic yards cut and 2,600 cubic yards of fill with an export of 3,700 yards." (Initial Study, p. 2), with cut depths of approximately 23 feet." (P. 7, Initial Study). 6300 cubic yards divided by 10 cubic yards per dump truck = 630 dump trucks filled with soil. Yet the FMND (Reply #2c states that "Grading only minimally disturbs the natural terrain." The MVCP lists four things a plan can do to help accomplish such "minimal disturbance of natural terrain" such as adopting buildings and parking areas to terrain, replanting with native, drought resistant vegetation. While the proposal does attempt to do some of this, one cannot deny that the excavation of 630 dump truck loads of soil creating a 23 foot deep crater-- far from "minimal disturbance of natural terrain." Since 400 cubic yards of soil weighs a million pounds, the 6300 cubic yards proposed for excavation, would weigh 15.75 million pounds (6300 divided by 400 = 15.75 multiplied by 1 million)--again, far from minimally disturbing the natural terrain. In this sense, the plan is significantly inconsistent with the MVCP. Further evidence of the severity of the impact is listed in the 1977 EIR for a similar sized office building on this site. The 1977 EIR stated that grading in excess of 6,000 cubic yards/acre would be the highest category of impact (See Attachment 4). The present proposal calls for 7,590 cubic yards/graded acre of excavation (6300 divided by .83 acre graded = 7,590 cubic yards/graded acre). Significant unmitigated impacts trigger an EIR under CEQA. This issue is not addressed in any of the MNDs. Neither was it addressed by the Hearing Officer.

The City's DRAFT CEQA significance determination thresholds (2004) state: "The following may be considered significant land use impacts: 1. Inconsistency/conflict with the environmental goals, objectives, or guidelines of a community or general plan. 4. Development or conversion of general plan or community plan designated open space or prime farmland to a more intensive use." The prior CEQA thresholds (which may be applicable since the aforementioned Draft version has apparently not been officially adopted) stated the same except that "will be considered significant land use impact" was the language instead of "may be considered significant land use impacts." This proposal's total encroachment into MVCP Designated Open Space meets either threshold and triggers an EIR. The base pad is about 160 foot elevation, grading extends to about 190 feet, and the building's roof to nearly 200 feet. (See fine print of Figure 4 Diagram in MND). The inconsistency/conflict with the "minimal grading" MVCP guideline also triggers an EIR. The "new" impacts to the Open Space Easement are also significant land use impacts triggering an EIR.

MVCP OBJECTIVE/PROPOSALS REGARDING CSS AND UNSTALBE SOILS STATES:

"OBJECTIVE

Preserve as open space those hillsides characterized by steep slopes or geological instability in order to control urban form, insure public safety, provide aesthetic enjoyment, and protect biological resources.

"Designate the hillsides and canyons which have any of the following characteristics as open space in the community: a. contain rare or endangered species of vegetation or animal life. B. Contain unstable soils.

Coastal Sage Scrub (CSS) is the most endangered habitat in the continental United States according to the EIR for the East Mission LRT. .76 acres of CSS would be lost. (P. 2, March 31 MND; an increase from .72 acre from the first Final MND)

The MNDs do not describe the quality of the CSS.

Eric Bowlby, Sierra Club Canyon Coordinator, describes the CSS as "good quality."

CA Department of Fish and Game describes CSS:

"Diegan CSS is considered a sensitive habitat in and of itself, and supports approximately 100 species (plant and animal) considered endangered, threatened or rare by State and or Federal agencies. Information on its rarity, as one indicator of its sensitivity, range from 66% having been lost to urban development and agriculture to only 10% of the original CSS remaining in good condition (i.e., 90% of CSS in good condition lost)." (December 20, 2005 email from Elizabeth Lucas, CA Department of Fish & Game; Attachment 6)

The 1977 EIR found that the erosion potential of the soil onsite was "severe"--the highest level of impact (see Attachment 2).

The presence of CSS and unstable soils both are listed under MVCP protections/open space preservation. The proposed building is again inconsistent with these MVCP objectives. Again, this triggers an EIR due to land use impacts. This issue is not addressed in the MNDs and was not addressed by the Hearing Officer.

STAFF MIS-STATES CITY CEQA SIGNIFICANCE LANGUAGE FOR VISUAL IMPACTS IN REVISED MNDS

2,000 cubic yards/graded acre is generally considered a significant visual impact under the City's thresholds of significance. A smaller amount of grading may be significant in scenic areas such as this. This project proposes 6300 cubic yards of grading over .83 acre which equals 7590 cubic yards/graded acre. Staff misquotes the City's thresholds language to rationalize why this is not significant.

"However, the above conditions [such as excavation in excess of 2,000 cubic yards/graded acre] WOULD (INCORRECT WORD) not be considered significant if one or more of the following apply...." (referring to alternative design features alleged by staff to offset any visual impacts).

The actual language of the CEQA City Significance Thresholds for Landform

Alteration/Visual Quality states:

"However, the above conditions MAY (CORRECT WORD CAPITALIZED) not be considered significant if one or more of the following apply:"

The amount of grading is so in excess of the 2,000 cubic yard/graded acre significance threshold, that the "alternative design" aspect of the plan does not offset the severity of the visual impacts. In short, due to its proposed location higher up the south slopes than any building in the valley, it would "stick out like a sore thumb" and be visible from surrounding roads and freeway. Staff acknowledges "The building is designed to appear long and flat from the street and river view corridors..." (Resolution in support of Site Development Permit, p. 6).

RETAINING WALLS OVER 1/4 MILE LONG: THE LONGEST IN MISSION VALLEY?

The proposal calls for 1,601 linear feet of walls (retaining and Concrete Masonry Unit walls with a maximum height of 10 feet. (Page 12, Initial Study, January 3, 2006 FMND. The March 31 MND does not list this combined length of walls though since there has only been one revision to the retaining walls scheme, 1601 feet is presumed accurate). The City's CEQA Significance Determination Thresholds state the following regarding potentially significant impacts of Development Features/Visual Quality:

"The project includes crib, retaining walls or noise walls greater than six feet in height and 50 feet in length with minimal landscape screening or berming where the walls would be visible to the public."

The proposed length of 1601 feet exceeds the 50 foot significance threshold by 1551 feet or 32 times! The height threshold of 6 feet is exceeded by 4 feet. While landscaping of these walls is mentioned in FMND, the color photographic rendering (FMND, Figure 5) show 100% of the walls with no landscaping. The proposal is unusual again in that the photo shown to support the plan is persuasive evidence of another significant unmitigated visual impact. The landscaping costs, labor and maintenance of walls over 1/4 mile long make it unlikely that such a project would be any different than this photographic rendering. The 1/4 mile+ length of retaining walls—as high as 10 feet—suggesting a fortress—and the excavation nearly 4 times the City's significance threshold—triggers an EIR.

MORE EVIDENCE OF EIR REQUIRED

Proposing an entire office building in Mission Valley Designated Open Space above the 150 elevation restriction is an alarm bell for decision makers.

In 1977, Mesa Mortgage Company proposed a similar size office building ("10,000 square feet on the lower 1.08 acres of a 4.88 acre hillside lot"--1978 EIR: See

Attachment 5, page 5) on the same site as the proposed Pacific Coast Office building. The City's Environmental Quality Division prepared an EIR for that project. To reduce impacts, a 1977 alternative is shown which extends to about 185 feet. The Pacific Coast proposal extends as high as 198 feet according to Figure 4. The 1977 plan included grading of 6,000 cubic yards/graded acre (Attachment 4). The present plan is for 7590 cubic yards/graded acre. The 1977 plan preserved the Open Space Easement area whereas the current plan impacts it.

City staff found in the EIR "The Environmental Quality Division has determined that the proposed project would have the following significant impact which could be substantially mitigated as indicated below, **ALTHOUGH NOT TO A LEVEL OF INSIGNIFICANCE.**" (CAPITALS added). Impact: For the proposed type of commercial project, on-site disturbance of the hillside lot would be minimized with the proposed building placement, architectural design and landscaping. Nevertheless, the project would entail construction of a visually significant natural site in the Hillside Review overlay zone. " (Attachment 5, p. 5).

EVIDENCE THAT THIS PROPOSAL IS PROCESS 5/MVCP AMENDMENT REQUIRED

A June 3, 2004 letter (Attachment 7, 7 pages) from applicant attorney, J... Michael McDade, requests "Initiate Mission Valley Community Plan Amendment" for this proposal. "The MVCP Open Space Plan, which was adopted in 1985, protects hillsides from ANY (CAPS ADDED) development above the 150-foot contour line.....Therefore, despite being zoned for commercial development, development is prohibited because of the conflict with the restrictions above the 150-foot contour line, effectively depriving these parcels of economic use."

We do not agree that reasonable use of the property is prevented by these restrictions.

Attorney McDade's letter proposes exact MVCP Amendment language. One example:

"Designate the hillsides and canyons which have any of the following characteristics as open space in the community.....:

d. Located above the 150-foot elevation contour, EXCEPT FOR PARCELS CURRENTLY ZONED FOR COMMERCIAL/OFFICE USE AND BISECTED BY THE 150-FOOT ELEVATION CONTOUR (CAPS USED TO SHOW LANDOWNER ATTORNEY'S PROPOSED PLAN AMENDMENT LANGUAGE)

Permit only low intensity developments to occur on remaining hillsides exceeding 25 percent slope within the HR Zone located below THE 150-FOOT ELEVATION CONTOUR, EXCEPT FOR PARCELS CURRENTLY ZONED FOR COMMERCIAL/OFFICE USE AND BISECTED BY the 150-foot elevation contour. (CAPS USED FOR PROPOSED PLAN AMENDMENT)

Mr. McDade's letter is persuasive evidence that the proposal requires a MVCP Amendment and the Process 3 Hearing is inappropriate.

Development Services staff have also made written comments that the proposal requires a MVCP Amendment and is therefore Process 5:

A City "Cycle Issues" Report section dated 1/30/04, written by Renee Mezo, states:

"(Process 5 due to Plan Amendment- See Long Range comments, p.8)"

Page 8 of the Cycle Issues Report (See: bottom of that page), written by Long Range Planner, John Wilhoit, states:

"The Mission Valley Community Plan states that hillsides above the 150 foot contour should be designated open space and that hillsides below the 150 foot contour should be low intensity development. A plan amendment would be required to develop above the 150 foot contour."

(The 2 aforementioned pages of the Cycle Issues Report are Attachment 8).

City Planner John Wilhoit wrote a "good news" email to consultant Kim Sheredy explaining why a MVCP was no longer being required (Attachment 9, 1 page). This letter is not persuasive. The first reason given is that the proposal is not "large scale." Even if true, this is irrelevant pursuant to the fact that the MVCP prohibits All development above the 150-foot elevation as acknowledged by landowner attorney and John Wilhoit and Renee Mezo in their Cycle Issues comments.

The second reason is that "the development would be largely screened from public right of way by structures north of the property." Again, this is irrelevant even if it were true. Staff acknowledges "The building is designed to appear long and flat from the street and river view corridors..." (Resolution in support of Site Development Permit, p. 6).

The third reason given is that "There is development abutting to the west that extends above the 150-contour into the designated open space." Again, even if true, this is irrelevant. Staff now states that the adjacent property has a parking lot and retaining walls up to 166 foot elevation. However, even if true, this was built in 1975 according to staff research, and is NOT a building; and was built prior to 1985 MVCP restrictions (See: Memorandum from Bill Tripp to Robert Didion, Hearing Officer, January 11, 2006, p.3).

The fourth reason given is absurd: "Due to the open space easement, the project could not extend more than approximately 50 feet into the designated open space." This comment makes it sound like the Open Space intrusion is "no big deal" when in fact, the entire project would be above the 150 foot elevation according to the Figure 4 Map. Also, the plan extends over 100 feet horizontally up-slope according to scale diagrams.

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The fifth reason in support of no MVCP Amendment is "Approximately 80% of the parcel is in an open space easement." Again, this is irrelevant to the project exceeding the MVCP and SDMC 150 foot elevation limit. It is relevant to note that forming the open space easement was "mitigation" for the 1978 project. However, even with that mitigation, the Planning Department found the impacts to the open space zone above 150 feet--would still be unmitigated (See: Attachment 5). Also, as stated in New Information, the Open Space Easement will be permanently impacted for brush management/fire prevention. One half of the CSS will be removed from Zone 2; and all CSS removed from Zone 1. The remainder will have to be regularly pruned from heights of 4 feet or more to a height of six inches.

In sum, staff cannot decide to suspend or "amend" the MVCP when they wish. This would be a decision for City Council. The Permit should be denied due to staff knowingly proceeding with the wrong Process 3 rather than the MVCP Amendment Process 5.

At the April 19 Hearing, City Attorney David Miller stated that the McDade letter is "irrelevant" since it referred to an earlier design of the project. However, this misses the point that the McDade letter sought MVCP Amendment only for exceeding the 150 foot elevation and said not one word about the design of the building being inconsistent with the MVCP. The earlier design proposed exceeding 150 foot elevation and the current plan still does. Therefore, the McDade letter is as relevant to the current plan as it was to the prior version.

SUM OF PROPOSED PRECEDENT TO LOCATE ENTIRE OFFICE BUILDING IN DESIGNATED OPEN SPACE

The MVCP and MVPDO restrict development above the 150 foot elevation—which is Designated Open Space in the MVCP. This nearly 10,000 square foot building proposes a base pad at 160 feet, grading to nearly 190 feet and roof to nearly 200 feet. Retaining walls would extend to over 200 foot elevation. The building would be over 100 feet further up the slope. Fire Zone impacts would extend another 100 feet up-slope into the Open Space Easement^{*}—impacts not disclosed in the MND. CSS would also be impacted substantially by the Fire Zone 2—which the City incorrectly calls "impact neutral."

A CEQA document with accurately described project/request for PDO Exception, has never been circulated for written public comment. Damage to public input has already occurred with the Mission Valley Planning Group voting on a project they thought had no Exceptions to the PDO. The Normal Heights Planning Group voted 10-0 to oppose the project. The MND, despite two revisions, still has numerous false and misleading statements; as does the proposed Permit. Substantial evidence shows significant unmitigated impacts to visual quality, land use, and cumulative impacts of this precedent setting proposal --surpassing the CEQA threshold for an EIR. Staff required an EIR for a similar sized office building in 1977 and found unmitigated impacts. The landowner paid pennies on the dollar for the

*over 1/2 acre

land and has not demonstrated deprivation of reasonable use of his land. A one story building below 150 foot elevation is feasible. Therefore, an Exception to the PDO 150 foot elevation restriction is unjustified. A Plan Amendment is required as acknowledged by the landowner's attorney and city staff due to the plan's exceeding the 150 foot elevation restriction. The 1977 Planning Department and Planning Commission found that a similar plan was not in the public interest and would harm applicable land use plans intended to preserve this area as open space.

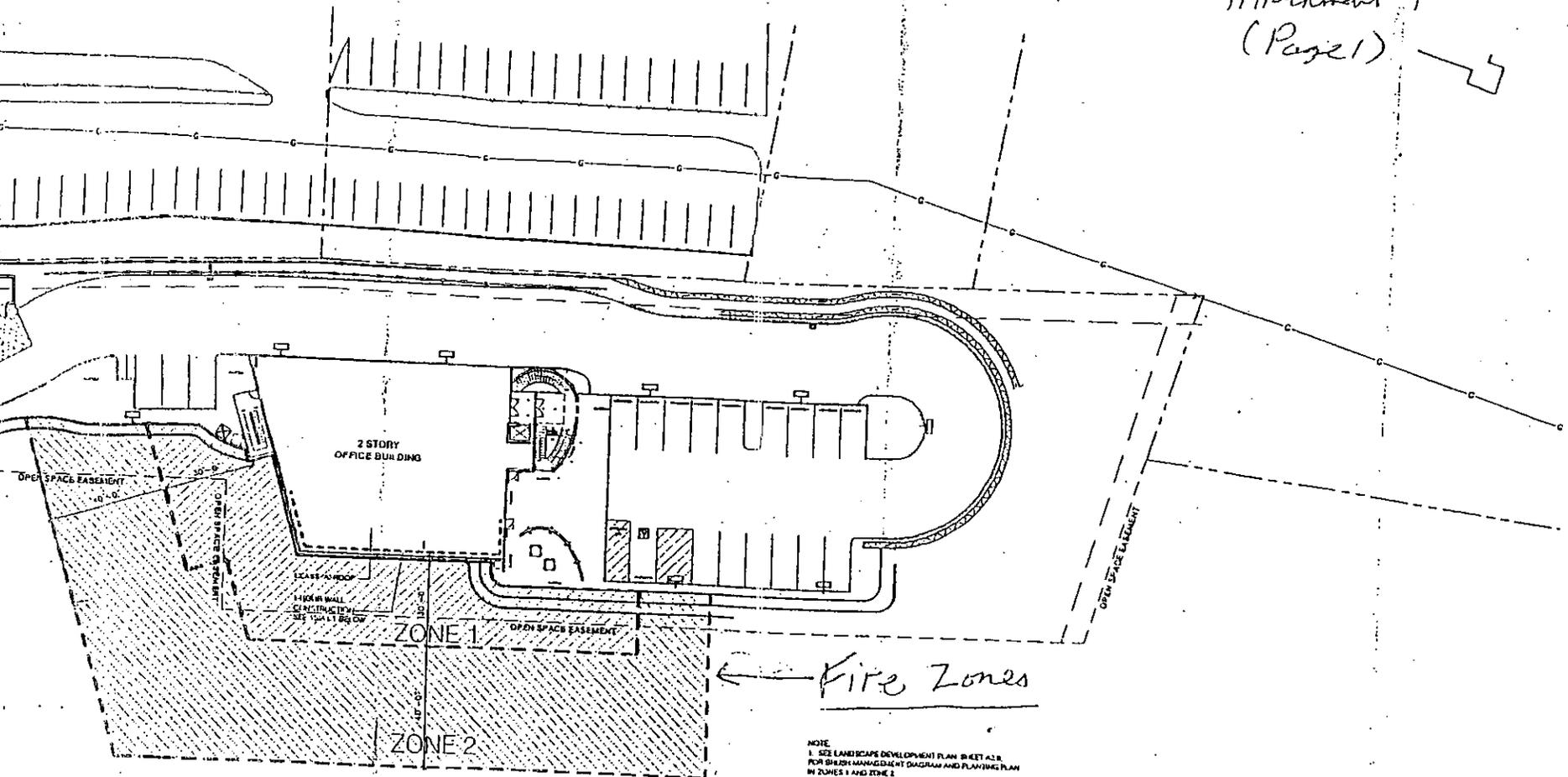
Attachment list

1. Diagrams A1.1 and A2.0 showing Fire Zones 1 and 2. These are not in the MND.
2. 1977 EIR erosion potential "severe"—highest impact.
3. 1977 EIR Elevation Map showing land elevations on-site and "Retain Existing Vegetation and Grade" in what is now called the Open Space Easement (south of the building).
4. Grading impact highest level when in excess of 6000 cubic yards/graded acre (1977 EIR for same site office building of similar size). This plan calls for 7590 cubic yard/acre.
5. Planning Department recommends DENIAL of similar office building in 1977 (3 Pages).
6. December 2005 email from Elizabeth Lucas, CA Department of Fish and Game..
7. June, 2004 landowner attorney letter requesting Mission Valley Plan Amendment (7-pages).
8. City Cycle Issues stating MVCP Amendment/Process 5 required (2 pages).
9. Good news email from city staff John Wilhoit to owner consultant Kim Sheredy.
10. April 28, 2006 email from Jim Peugh regarding Fire Zone 2 impacts on CSS.
11. Parcel Information Report of Development Services. Shows land valuation of \$255,000. County real estate records indicate the owner paid \$250,000.
12. April 18, 2006 letter from Judy Elliot, Chair of Normal Heights Planning Committee to Hearing Officer Teasley (2 pages). April 13, 2006 letter from Dave Potter to Hearing Officer Teasley (3 pages).

ATTACHMENT

Attachment 1
(Page 1)

LEARY CHILDS MASCARI WARIER
ARCHITECTS

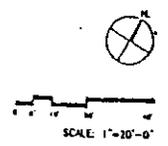


← Fire Zones

NOTE
1. SEE LANDSCAPE DEVELOPMENT PLAN SHEET A-1
FOR SHRUB MANAGEMENT DIAGRAM AND PLANNING PLAN
IN ZONES 1 AND ZONE 2

Fire Zone 1 extends 5 feet further
Fire Zone 2 extends 30 feet further
due to new City laws

A101

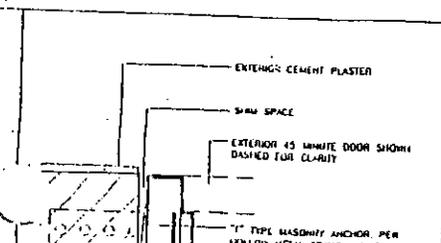


See Page 51, RND Initial Study.

3

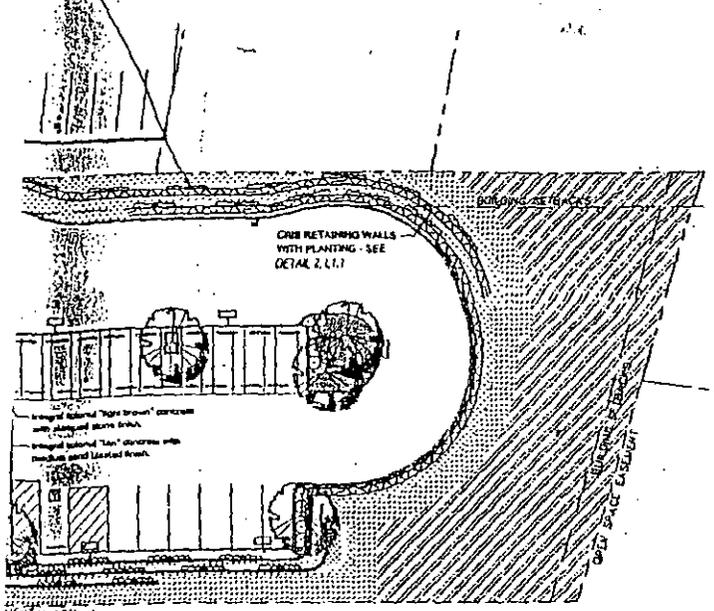
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SCHEIDLER WAY

002413-

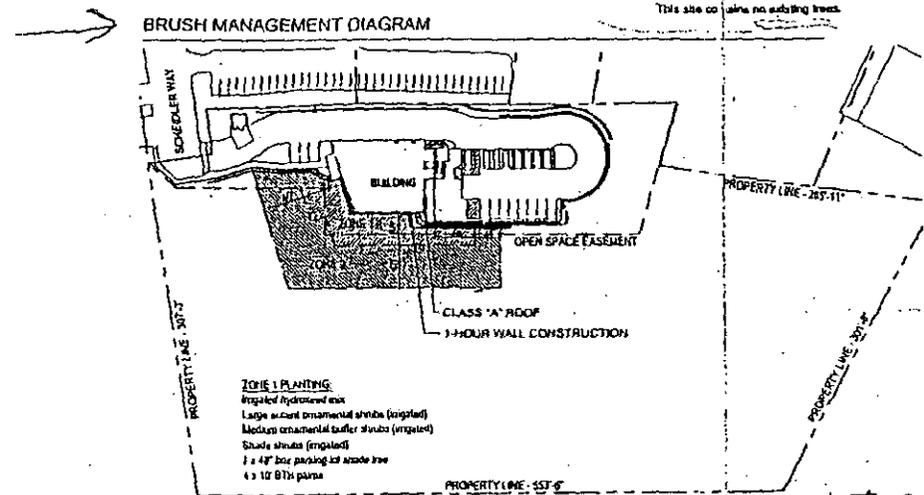


LEGEND

Attachment 1
(Page 2)



- Phormium tenax (Tasman Mauve)
 - Platanus latifolia (Wheeleria) (aka Mockorange)
 - (15) SHADE SHRUBS, (FORMA) 100% 5 gallon size (CLUMP / EVERGREEN)
 - Dickscia arborea (Tasmanian Tree Fern)
 - Cyba mitata (Katy Lay)
 - Impatiens wallerana (Impatiens)
 - EVERGREEN CLIMBING VINE 100% 5 gallon size
 - Bignonia chelon (Blood-Red Trumpet Vine)
 - Ficus pumila (Creeping Fig)
 - Bignonia "tricolor" (Trumpet Vine)
 - Trechosapajum "jambolicum" (Star Jasmine)
 - CASCADING GROUND COVER 100% 1 gallon size 5' O.C.
 - Rozmarinus edulis (Trailing Rosemary)
 - Lantana montevidensis (Purple Lantana)
 - Celastrus thornhalla (Grape Ivy)
 - SPREADING GROUND COVER 100% PLANTS @ 16" O.C.
 - Delosperma rose (Dianeland (Iceplant))
 - Myoporum "Pati" (Pink Myoporum)
 - Medara helle "Heddeplant" (Heddeplant (My))
 - IRRIGATED 6" IN INVASIVE HYDROSEED MIX
 - Gazania "Copper King" (Gazania)
 - Gazania "Elysians" (Gazania)
 - Achillea Millefolium (Goldenrod Yarrow)
 - Achillea millefolium (White Yarrow)
 - Clarkia amara (Farwell to Spring)
 - Clarkia purpurea (Winecup Clarkia)
 - Cornopsis bicolor (Cornopsis)
 - Eschscholzia californica (California Poppy)
 - Mia douglasiana (Douglas Iris)
 - Mimulus aurantiacus (Monkey Flower)
 - EXISTING VEGETATION TO REMAIN
- NOTE:
This site contains no existing trees.



ZONE 1 PLANTING
Irrigated hydroseed mix
Large accent ornamental shrubs (irrigated)
Medium ornamental buffer shrubs (irrigated)
Shade shrubs (irrigated)
1 x 4" box parking lot grade tree
4 x 10" BTH palm

ZONE 1 BRUSH MANAGEMENT - 30' WIDE
Required width is thirty feet (30') plus five feet (5') additional width because adjacent slope is greater than 4:1. additional width has been mitigated with a 1 hour rated wall/parapet designation on the south side of the building, wrapping around a minimum of ten feet (10') to the sides. The roof shall be non-combustible.
On the east side only, Zone 1 has been increased one foot (1') in width for every two feet (2') that Zone 2 has been decreased, for a total Zone 1 width on the east side of thirty eight feet (38'). 142.0412 (I).
Zone 1 of the required brush management cannot contain habitable structures, structures that are directly attached to habitable structures, or other combustible construction that provides means for transmitting fire to a habitable structure.
Plants within Zone 1 of the required brush management must be low growing, and less than 4 feet in height with the exception of trees. These plants must also be low-bud and fire-resistant. Trees located within Zone 1 of the required brush management must be located at least 10 feet away from all structures as measured from the drip line of the tree at maturity.
Zone 1 irrigation overspray and runoff shall not be allowed into adjacent areas of native or naturalized vegetation.

ZONE 2 BRUSH MANAGEMENT - 40' WIDE
Required width is forty feet (40') plus ten feet (10') additional width because adjacent slope is greater than 4:1. additional width has been mitigated with a 1 hour rated wall/parapet designation on the south side of the building, wrapping around a minimum of ten feet (10') to the sides.
On the east side only, Zone 2 has been decreased two feet (2') in width for every one foot (1') that Zone 1 has been increased for a total Zone 2 width on the east side of twenty four feet (24'). 142.0412(I). No structures can be constructed within Brush Management Zone 2.
Plants over 10' in height shall be cut and cleared to a height of 8'. Within Zone 2, all plants remaining in the landscape Standards in the Land

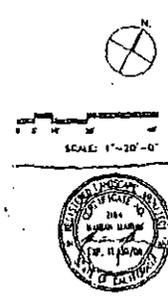
extended to 35 feet wide according to MIV (I), p. 5, Initial Study

PACIFIC COAST OFFICE BUILDING
SCHEIDLER WAY
SAN DIEGO, CALIFORNIA

00-24-14

TITLE LANDSCAPE DEVELOPMENT PLAN

PROJECT NO.	200330 60
DRAWN BY	
ISSUE NO.	SD DATE: 12-8-02
REVISED SD	3-24-02
REVISED SD	7-12-02



A2.0

ANALYSIS OF IMPACTS

I. GEOLOGY AND SOILS

IMPACT SCORE

1. Risk Zone Rating (includes faults, landslides, liquefaction) (see Seismic Safety Study Geotechnical Land Use Capability Map):

<u>Rating</u>	<u>Small</u>	<u>Medium</u>	<u>Large</u>
A (Nominal)	0	0	0
AB or B (Low)	0	0	0
AC, <u>BC</u> , (variable)	2	2	2
C (moderate) or D (high)	3	3	3

2. Soil erodibility: (see Soil Survey - Book II, pg. 32)

<u>Rating</u>	<u>Small</u>	<u>Medium</u>	<u>Large</u>
no rating	0	0	0
slight (as defined	0	0	0
moderate by the	0	1	2
severe Soil Survey)	2	3	3

3. Will the project preclude the extraction of construction material on the site in the future? (See Soil Survey, Book II, pg. 13.)

no resource present	0	0	0
sand or gravel	0	0	1
decomposed granite	0	0	1

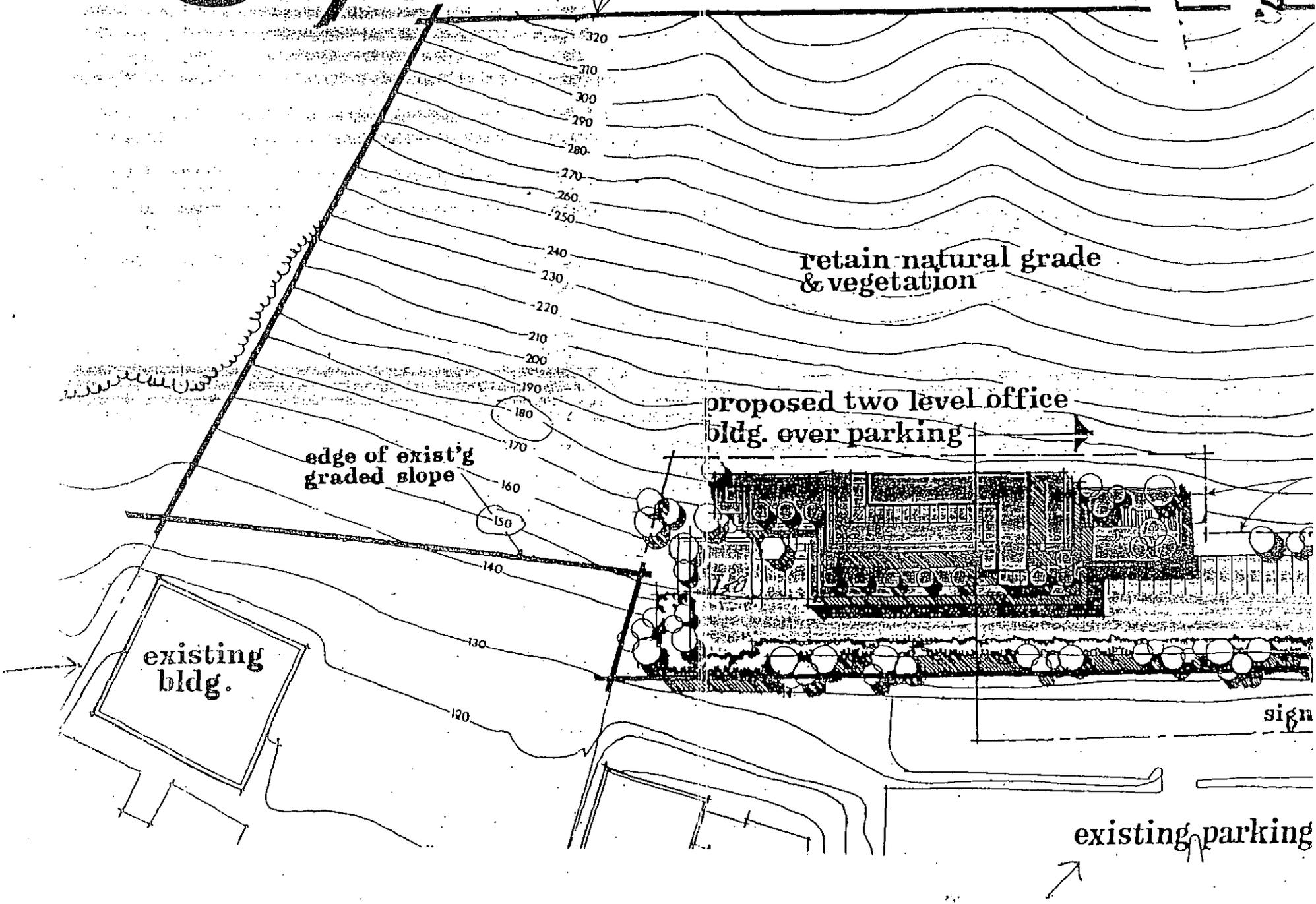
35

Ab. Sec. level
↓
Elevations

1977
proposal

Attachment

002417



4. Is the site rated as agricultural land (good or fair)? (See Soil Survey, Book V, pp. 80-83)

a) not rated as agricultural	<input checked="" type="radio"/>	0	0	0
b) not used for agriculture and surrounded by urbanization	<input type="radio"/>	0	1	1
c) not used for agriculture but surrounded by agriculture and/or open space	<input type="radio"/>	1	1	2
d) currently or previously used for agriculture	<input type="radio"/>	1	2	3

5. Will construction take place within 50-foot setback of a coastal bluff or within an area extending inland to a line formed by a 20-degree angle from the base of the coastal bluff?

no	<input checked="" type="radio"/>	0	0	0
yes	<input type="radio"/>	3	3	3

6. Will the project involve grading: yes no

a. Will grading occur (including import or export of material) in unique or unusual landforms, such as natural canyons, sandstone bluffs, rock outcrops or hillsides with slopes in excess of 25%?

Volume of grading

no grading in unique areas	<input type="radio"/>	0	0	0
0-3000 cu. yd./ac.	<input type="radio"/>	1	1	1
3-6,000 cu. yds./ac.*	<input checked="" type="radio"/>	2	2	2
greater than 6,000 + cu.yd./ac.	<input type="radio"/>	3	3	3

7590 cubic yards per graded acre for 2006 plan

* 6,000 cubic yards/ acre

for 1979 plan

ANALYSIS

The subject development proposes the construction of a 10,000 sq. ft. office building in multi levels stepping up the hillside. The lowest level of the structure, connected to Scheidler Way, would contain 34 parking spaces. Office area would be located in both the second level and a high ceiling third level, containing a mezzanine. Landscaping is to be provided along the front of each level of the building and around the sides of the building. Landscape materials would consist of: Lemon Gum Eucalyptus, Canary Island Pine, Indian Laurel, and Evergreen Pear Trees; Tobira Variegata, Lilly of the Nile, and Natal Plum Shrubs; Bougainvillea and Creeping Pig Vines; and Needle Point Ivy and lawn for ground cover.

The proposed Planned Commercial Development would cover only the southerly 1.18 acres of the total 4.88 acre hillside ownership at this location. The remainder of the site is to remain in the R-1-40 (HR) Zone. The applicant indicates that this undeveloped area could be dedicated as an open space easement.

The Planning Department recommends DENIAL of the subject Planned Commercial Development based upon the belief that all of the necessary Findings of Fact cannot be met for granting approval.

FINDING OF FACT

1. The proposed use at this particular location would not be necessary or desirable to provide a service or facility contributing to the general well-being of the neighborhood, the community and the City.

This project proposes the construction of 10,000 sq. ft. of additional office space in the Mission Valley area. The Planning Department believes that sufficient office space exists in Mission Valley to serve the needs of potential tenants within this complex and that, further, the Department believes that the amount of commercial office use in Mission Valley is exceeding that recommended by the adopted General Plan.

2. The development, would under the circumstances of this particular case, be detrimental to the health, safety and general welfare of persons living or working in the area and injurious to property and improvements (existing or future) in the vicinity.

subject property is part of the steep southerly slope of Mission Valley covered with mature Chapparel and Coastal Sage Scrub. This property is part of a tier of natural hillside terrain existing along the south slope of Mission Valley above existing office and commercial development. The proposed office building would stand three stories above this natural hillside. The Planning Department believes that the native hillsides of the south Mission Valley slopes should be protected from the encroachment of office and commercial activity. Approval of this development would establish a precedent for additional encroachment into the the undisturbed tier of natural open space extending laterally along the entire south slope of Mission Valley.

3. All design criteria and minimum standards for planned commercial developments would be met.

The subject development would meet design criteria and minimum standards established for planned commercial developments and development within the CO Zone.

- 4. The granting of this permit would adversely affect the progress guide and General Plan for the City of San Diego.

The Planning Department believes that an excessive amount of commercial office space is being constructed in the Mission Valley area. The use of this property for office development would exacerbate the existing situation. The adopted General Plan designates this tier of natural hillside above existing commercial development in Mission Valley for open space preservation. Approval of the subject development would be contrary to the General Plan.

The Environmental Quality Division has reviewed the proposed development and has determined that the project would have the following significant impact:

→ "For the proposed type of commercial project, on site disturbance of the hillside lot would be minimized with the proposed building placement, architectural design and landscaping. Nevertheless, the project would entail construction on a visually significant natural site in the hillside review overlay zone. Such development as well as the proposed rezoning of the entire sight to CO would establish a precedent for encroachment into an undisturbed tier of natural open space extending laterally along the south slope of Mission Valley."

→ A copy of the Environmental Impact Report prepared for this project is on file in the City Clerk's office and is available for public review.

ft. MSL, a significant extension of commercial encroachment into the designated open space hillside.

Mitigation: There are no measures evident which would reduce to insignificance the precedent for commercial development moving higher up the south slopes of Mission Valley in this Hillside Review area. Although the proposed project utilizes only one-fourth of the large lot, it remains a significant new encroachment not only in terms of the office building itself, but more importantly in terms of future development expectations for this and adjoining properties arising from the rezoning of the entire 4.88-acre parcel to CO.

Therefore, a substantial mitigation of the issue of development precedent in a natural area would be to limit CO zoning to that minimum lot necessary to contain the proposed office building project, leaving the remaining area of the subject property in its existing R-1-40 Zone. This mitigation would require a parcel map, but would not require further environmental processing beyond an amendment to this EIR.

B. OTHER IMPACTS

Other impact categories were considered in the Initial Study and found to have no significant impact on the project, nor would they be significantly affected by the project.

IV. PROJECT ALTERNATIVES

Alternate Project: Under existing R-1-40 zoning, up to 5 lots could be developed with single-family residences on the subject property. Such a development would utilize all of the lot instead of only 25% as with the proposed project, and would therefore be more disruptive to the hillside. Residential construction would be difficult if not impossible in any case because of the steepness of the subject property.

Reduced Project Scope: Projects which left an even greater part of the subject lot undisturbed would reduce the site-specific impact of that particular project, but would not alter the larger impact of setting the precedent for development encroachment onto an undisturbed tier of natural hillside.

No Project: This alternative would eliminate the environmental impact cited for the proposed project, but would likely be infeasible without a solution to the resulting economic impact on the property owner.



Environmental
Quality
Division

236-5775

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CITY OF SAN DIEGO OFFICE
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SAN DIEGO, CALIF.

Environmental Impact Report

#77-03-18

Attachment 2 Page 3
1977 EIR
on site

SUBJECT: Mesa Mortgage Office Building. REZONE from R-1-40 to CO of 4.88 acres in the HILLSIDE REVIEW overlay zone for PLANNED COMMERCIAL DEVELOPMENT of a 10,000 sq. ft. office building and parking area. Located south of Camino del Rio South and west of I-15 at the end of Scheidler Way in Mission Valley (Lot 1, Nagel Tract 2, Map 4737). Applicant: Mesa Mortgage Company.

I. SUMMARY AND CONCLUSIONS

The Environmental Quality Division has determined that the proposed project would have the following significant impact which could be substantially mitigated as indicated below, although not to a level of insignificance.

Impact: For the proposed type of commercial project, on-site disturbance of the hillside lot would be minimized with the proposed building placement, architectural design and landscaping. Nevertheless, the project would entail construction on a visually significant natural site in the Hillside Review overlay zone. Such development as well as the proposed rezoning of the entire site to CO would establish a precedent for encroachment into an undisturbed tier of natural open space extending laterally along the south slope of Mission Valley.

Mitigation: A substantial mitigation of the issue of development precedent on the hillside would be to limit CO zoning to that minimum lot necessary to contain the proposed office building, leaving the remaining area of the subject property in its existing R-1-40 Zone. This mitigation would require filing of a parcel map.

II. PROJECT DESCRIPTION AND SETTING

Construction of a 10,000 sq. ft. office building is proposed on the lower 1.08 acres of a 4.88-acre hillside lot. The three-level building would be stair-stepped up the hillside, each level set back from the one below. The lowest level, connecting to Scheidler Way, would contain 25 parking spaces. Office accommodations would be located in both the second level and a high-ceilinged third level containing a mezzanine. Extensive landscaping would be placed along the front of each level and around the sides of the building. From a parking level elevation of 153 ft. MSL, the terraced structure

COPY

002429

Sullivan Wertz McDade & Wallace
A PROFESSIONAL CORPORATION

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JERI L. O'KEEFE
ADMINISTRATOR

June 3, 2004

Mr. John Wilhoit
Planning Department
City of San Diego
202 First Street, Fifth Floor
San Diego, CA 92101

Re: Request to Initiate Mission Valley Community Plan Amendment
APN 439-480-24-00, Scheidler Way

Dear Mr. Wilhoit:

Pursuant to recent discussions with you and other members of your department, we are writing you on behalf of our client, Pacific Coast Assets, LLC, to request the initiation of an amendment to the Mission Valley Community Plan (MVCP). Our client is the owner of the above-referenced vacant parcel on Scheidler Way, south of Camino Del Rio South between Interstate 15 and Interstate 805. He intends to propose the development of a two-story, 10,400 square foot medical and commercial office building on that site.

The parcel is five acres in total size. The lowest northern area of the parcel, anticipated for development is approximately one acre in size and is zoned MV-CO. The remaining up-slope southerly portion of the parcel is zoned RS-1 and is approximately four acres. In connection with a much earlier land use permit application, which subsequently lapsed, the City obtained an open space easement over the southerly four acres. The parcel is entirely composed of 25% or greater slope. The 150-foot elevation contour line bisects the portion of the property zoned MV-CO.

The MVCP Open Space Plan, which was adopted in 1985, protects hillsides from any development above the 150-foot contour line. These areas are primarily zoned low-density residential and are within the Hillside Review Overlay Zone. What was apparently overlooked by City staff and the community is that there are a limited number of parcels that are zoned in the MVCP for commercial development that are at least partially above the 150-foot contour line. Therefore, despite being zoned for commercial development, development is prohibited because

Attach. 7
(7 pages)

Mr. John Wilhoit
June 3, 2004
Page 2

of the conflict with the restrictions above the 150-foot contour line, effectively depriving those parcels of any economic use. The Environmentally Sensitive Lands Ordinance allows development of steep slopes if necessary to achieve a maximum development area of 25 percent of the premises. The Mission Valley Planned District Ordinance (MVPDO) section 103.2107(c)(2) further restricts the allowable development amount to 20 percent. The 150-foot contour line restriction does not allow our client to develop up to 20 percent of the parcel as allowed per the MVPDO. This clearly was an unintended consequence which can only be corrected by amending the Community Plan.

San Diego Municipal Code (SDMC) Section 122.0104(a) allows an amendment to a land use plan to be initiated if any of three primary criteria are met, or if supplemental criteria are met. We believe that our request for amendment satisfies two primary criteria; namely:

“(a)(1) The amendment is appropriate due to a map or text error or to an omission made when the land use plan was adopted or during subsequent amendments.”

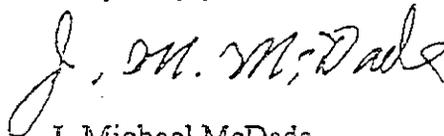
“(a)(3) The amendment is appropriate due to a material change in circumstances since the adoption of the land use plan, whereby denial of initiation would result in hardship to the applicant by denying any reasonable use of the property.”

This amendment will not frustrate the intent of the MVCP or the General Plan because it will be extremely limited in application. All but a tiny portion of the protected hillsides will continue to be preserved. Denying the initiation will cause severe hardship to the applicant because it will prevent any reasonable use of the property.

For the reasons discussed above, we respectfully request support to initiate an amendment to the MVCP. A strikeout, underline of the proposed textual changes to the MVCP is enclosed.

Please advise us at once if anything more needs to be submitted in order to allow prompt consideration of our request. Thank you for your courtesy.

Very truly yours,



J. Michael McDade

of

SULLIVAN WERTZ McDADE & WALLACE

A Professional Corporation

Enclosures

MISSION VALLEY COMMUNITY PLAN(Proposed Amendment)**HILLSIDES**

Hillsides are geological features on the landscape whose slope and soils are in a balance with vegetation, underlying geology and the amount of precipitation. Maintaining this equilibrium reduces the danger to public health and safety posed by unstable hillsides. Development affects this equilibrium. Disturbance of hillsides can result in the loss of slope and soil stability, increased run-off, and intensified erosion; it can also destroy a community's aesthetic resources. The southern slopes of Mission Valley mark the community's boundary and provide an attractive and distinctive setting.

The open space areas shown in the General Plan and Progress Guide for the City of San Diego are predominantly comprised of steep hillsides and small-undeveloped canyons. The southern slopes of Mission Valley are identified as part of that open space system. The major portions of the slopes are currently zoned for low-density residential development, and are further regulated as Environmentally Sensitive Lands, the Hillside Review Overlay Zone. As demand for land increases, these hillsides are more likely to face development pressure. Due to the impact hillside development can have on the community's health and safety, and on land, water, economic, and visual resources, it is apparent that if they are developed it must be in a manner compatible with hillside ecology. Whereas the southern slopes have been maintained in close to their natural state, the northern hillsides have been extensively modified and disturbed by extraction and building activities. Development oriented toward the Valley and accessed by roads from the Valley floor should not extend above the 150-foot elevation contour.

OBJECTIVE

Preserve as open space those hillsides characterized by steep slopes or geological instability in order to control urban form, insure public safety, provide aesthetic enjoyment, and protect biological resources.

PROPOSALS

- Designate the hillsides and canyons which have any of the following characteristics as open space in the community:
- a. Contain rare or endangered species of vegetation or animal life.
- b. Contain unstable soils.
- c. Contain the primary course of a natural drainage pattern.

located above the 150-foot elevation contour, except for parcels currently zoned for commercial/office use and bisected by the 150-foot elevation contour.

Permit only low intensity developments to occur on remaining hillsides exceeding 25 percent slope within the HR Zone located below the 150-foot elevation contour, except for parcels currently zoned for commercial/office use and bisected by the 150-foot elevation contour.

Open Space easements should be required for those lots or portions of lots in the HR Zone.

Lot splits should not be permitted on hillsides exceeding 25 percent slope except to separate that portion of a lot exceeding 25 percent slope from that portion not exceeding 25 percent slope for purposes of obtaining open space easements.

Development intensity should not be determined based upon land located exceeding 25 percent slope.

Encourage the use of Planned Developments to cluster development and retain as much open space area as possible.

Preserve the linear greenbelt and natural form of the southern hillsides.

Rehabilitate the northern hillsides and incorporate them into future development.

DEVELOPMENT GUIDELINES

Grading required to accommodate any new development should disturb only minimally the natural terrain. This can be achieved by:

- a. Contouring as naturally as possible to maintain the overall landform.
- b. Blending grading features into remaining natural terrain.
- c. Replanting with native, drought resistant plants to restore natural appearance and prevent erosion.
- d. Adapting buildings and parking areas to the natural terrain (i.e., tucking into hillsides, utilizing small pad areas, utilizing compatible site design).

Development constructed on natural hillsides should preserve and enhance the beauty of the landscape by encouraging the maximum retention of natural topographic features such as drainage swales, streams, slopes, ridgelines, rock outcroppings, vistas, natural plant formations, and trees.

Attach. 7
(P. 5)

- a. Orient new development along natural drainage courses which can provide natural amenity for the project, provided drainage is not impeded.
- b. Use pedestrian bridges and walkways to link various elements of developments separated by drainage courses or subsidiary canyons or gullies.

Design roads serving hillside and canyon developments carefully and sensitively.

- a. Roads serving residential development near the upper ridge of the south rim of the Valley should be cul-de-sacs or loops extending from existing upland streets. These extensions should be "single loaded" (with structures on one side only) and of minimum width.
- b. Roads serving Valley development (office, educational, commercial-recreation, commercial-retail) at the base of the hillsides should consist of short side streets branching off Camino Del Rio South or Hotel Circle South. These side streets should provide primary access to projects in preference to collector streets.
- c. Access roads should not intrude into the designated open space areas.

Access roads should follow the natural topography, whenever possible, to minimize cutting and grading. Where roads have to cross the natural gradient, bridges should be used rather than fill in order to maintain the natural drainage patterns.

Wherever possible, preserve and incorporate mature trees and other established vegetation into the overall project design.

Improve the appearance of the understructures of buildings and parking areas visible from below by:

- a. Providing sensitive site and structural design.
- b. Incorporating structures into the existing hillsides.
- c. Use appropriate screening materials (including landscaping).

Large-scale development (commercial, office, or commercial-recreation) at the base of the slopes should not cut or grade, nor extend above the 150-foot elevation contour on the southern slopes. except for parcels currently zoned for commercial/office use and bisected by the 150-foot elevation contour.

As part of the implementation process, height limits and site design regulations should be formulated in order to prevent the obscuring of views of the natural hillsides.

- All that portion of the Mission Valley Community Plan area located south of Interstate 8 should be incorporated into a South Mission Valley Height Limitation Zone, which establishes a height limitation for a new or altered buildings of 40 to 65 feet.

The hillsides should provide a clear area of demarcation between the Mission Valley Community Plan area and the communities on the mesas above Mission Valley.

Development at the base of the slopes should utilize the following design principles:

- a. Emphasize a horizontal rather than a vertical orientation for building shape.
- b. Step back each successive floor of the structure to follow the natural line of the slope.
- c. Set the rear of the structure into the slope to help blend the structure into the site.
- d. Utilize building materials and colors that are of earth tones, particularly dark hues.
- e. Utilize landscape materials compatible with the natural hillside vegetation.
- f. Design roof areas to minimize disruption of views from the crest of the hillsides. Sloped or landscaped roofs and enclosed mechanical equipment can help to achieve this effect.

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Attach. 7
(P. 7)

This redlined draft, generated by CompareRite (TM) - The Instant Redliner, shows the differences between -

original document : S:\CLIENTS\5059\011\DW\MISSIONVALLEYCP.DOC

and revised document: S:\CLIENTS\5059\011\DW\MISSIONVALLEYCP V2.DOC

CompareRite found 5 change(s) in the text

Deletions appear as Overstrike text

Additions appear as Bold+Dbl Underline text



Attach: 8

Project Information

Project: Pacific Coast building
Development: 24720 Pacific Coast building
Project Mgr: Tripp, Bill (619) 446-5273 wtripp@sandiego.gov

(7 pages)



Review Cycle Information

Review Cycle: 1 Preliminary Review [Closed]
Deemed Complete on 1/28/2004 15:57:56
Opened: 1/20/2004 02:10 PM
Closed: 3/23/2004 12:34 PM
Submitted: 1/28/2004 03:57 PM

Review Information

Reviewing Discipline: LDR-Planning Review
Requested: 1/30/2004 12:38 PM
Started: 2/4/2004 01:40 PM
Reviewer: Mezo, Renee
Assigned: 2/3/2004 09:09 AM
Completed: 2/17/2004 11:48 AM
Next Review Method: Preliminary Review
Reassigned:
Needed Again:

Cleared? Issue Number and Description

Item Comments

ess 5. see →
Plan Amendment -
Long Range
Comments) p. 8

- 1 The proposed project is located in the MV-CO zone, the Hillside Design Subdistrict, Area K of the Development Intensity District and Area 3 Traffic -Threshold One within the Mission Valley Community Plan.
- 2 A Site Development Permit, Process 3 is required for development within Environmentally Sensitive Lands, section 143.0140, Steep Hillside section 143.0142 and Sensitive Biological Resources section 143.0141. The proposed project must conform to the Land Development Code, Steep Hillside Guidelines and the Biological Guidelines.
- 3 Response to Applicant question #1:
Yes, per section 103.2107(2) the maximum encroachment allowance is 20%.
- 4 Response to Applicant question #2:
see comments from the Environmental Analysis Section(EAS).
- 5 Response to Applicant question #3:
Staff could not support a deviance to code section 103.2107(3)(A).
- 6 Response to Applicant question #4:
No, a Community Plan Amendment may be required. Refer to comments from Long Range Planning and Transportation Planners.
- 7 Response to Applicant question #5:
The proposed project is located in Area K of the Development intensity District and Area 3 Traffic Threshold One within the Mission Valley Community Plan.
See also Transportation comments.
- 8 Response to Applicant question #6:
The Mission Valley PDO, the Municipal Code and the Mission Valley Community Plan govern the development of the property.
- 9 Response to Applicant question #7:
The proposed project lies entirely within the Mission Valley Community Plan.
- 10 Response to Applicant question #8:
See comments from EAS
- 11 Response to Applicant question #9:
see comments from Open Space and/or Long Range.



Cycle Iss#

002438

THE CITY OF SAN DIEGO
Development Services
1222 First Avenue, San Diego, CA 92101-4154

Attach. 8
(2 pages) (P.2)

Project Information

27782 Pacific Coast building Development: 24720 Pacific Coast building
Project Mgr: Topp, Bill (619) 446-5273 wtripp@sandiego.gov



Review Cycle Information

Review Cycle: 1 Preliminary Review [Closed] Opened: 1/20/2004 02:10 PM Submittal: 1/28/2004 03:57 PM
Deemed Complete on 1/28/2004 15:57:56 Closed: 3/23/2004 12:34 PM

Review Information

Reviewing Discipline: Fire-Plans Officer Requested: 1/30/2004 12:38 PM Started: 2/6/2004 09:54 AM
Reviewer: Medan, Bob Assigned: 2/3/2004 09:40 AM Completed: 2/6/2004 10:26 AM
Next Review Method: Preliminary Review Reassigned: Needed Again:

Cleared? Issue Number and Description

7 Fire Dept. Issues (1st review)

- 1 Provide building address numbers, visible and legible from the street or road fronting the property per FHPS Policy P-00-6 (UFC 901.4.4) - provide as a note on the site plan.
- 2 Show location of all existing hydrants, within 600', on site plan. (UFC903.2)
- 3 Provide fire access roadway signs or red curbs in accordance with FHPS Policy A-00-1 - provide as a note on the site plan.
- 4 Comply with City of San Diego Landscaping Technical Manual for brush and landscaping. (Appendix II-A, Section 16)
- 5 Building is required to be sprinklered for the following reason: Believe surgical spaces, etc. will be classified I-1.2 occupancy and, therefore, will require fire sprinklers.
- 6 Post indicator valves, fire department connections, and alarm bell are to be located on the address/access side of the structure. UFC 1001.4 - provide as a note on the site plan.
- 7 Proposed "grasscrete" access shall meet Fire Department Policy A-96-9 (provided at the meeting).
- 8 What is the building height (measured from the paved parking surface to the top of the building)? If more than 35' additional access requirements for aerial ladder access must be provided.
- 9 What are you proposing as an occupancy classification for this building?
- 10 Proposed fire lane is more than 300' long - 26' minimum width required, not 24' as proposed.
- 11 Proposed turn around does not meet Fire Department access policy. Discuss at the meeting (copy of policy will be provided).
- 12 Possible on-site fire hydrant required.
- 13 Question 1 - No, discuss at the meeting.
- 14 Question 2 - vehicle access on one side is acceptable provided hose coverage meets Fire Department requirements. Discuss at the meeting.
- 15 Question 3 - yes.

Review Information

Reviewing Discipline: Plan-Long Range Planning Requested: 1/30/2004 12:38 PM Started: 2/23/2004 09:06 AM
Reviewer: Wilhoit, John Assigned: 2/6/2004 12:36 PM Completed: 2/23/2004 09:52 AM
Next Review Method: Preliminary Review Reassigned: Needed Again:

Cleared? Issue Number and Description

Review Issue Group (152446)

- 1 The entire property is within the Mission Valley Community Plan area.
- 2 The Mission Valley Community Plan states that hillsides above the 150 foot contour should be designated open space and that hillsides below the 150 foot contour should be low intensity development. A plan amendment would be required to develop above the 150 foot contour.



John Wilhoit - RE: Pacific Coast Assets Office Building PTS #27762

From: John Wilhoit
To: Sheredy, Kim
Subject: RE: Pacific Coast Assets Office Building PTS #27762
Cc: Manis, Bob.

Attachment 9
(1 page)

Kim: Some good news for the applicant. We were analyzing the proposal and considering the options to justify the community plan amendment without using the existing zoning as the applicant proposed. In doing so we've determined that we can support the project without the plan amendment based upon the following:

- 1) The community plan states that "Large-scale development (commercial, office, or commercial-recreation) at the base of the slopes should not cut or grade, nor extend above the 150-foot elevation contour on the southern slopes." Insofar as the proposed structure is approximately 10,000 square feet while the structures on the abutting properties are up to 71,000 square feet and average 30,000 square feet, the proposed structure can be considered less than "large-scale."
- 2) The development would be largely screened from view from the public right-of-way by structures north of the property.
- 3) There is development abutting to the west that extends above the 150-contour into the designated open space.
- 4) Due to the open space easement, the project could not extend more than approximately 50 feet into the designated open space.
- 5) Approximately 80 percent of the parcel is in an open space easement.

Note that any project on this site will need to be very carefully designed to minimize the grading, visual, and other impacts. Also, as I stated before FYI, the zone boundary and the easement boundary are not coterminous according to our records. Let me know if you have any questions.

John Wilhoit
Senior Planner

002441

Sender is in your Contacts list Learn more

2:06 PM 4/28/06

From: Jim Peugh (peugh@cox.net)

To: "Randy" <jrb223@hotmail.com>

Subject: Re: impact of coastal sage scrub from fire zone clearing?

Hello Randy,
Initially the wildlife value will be reduced substantially. But, the way it is designed, each year 50% will be cut and cleared, so each year there will be fewer and fewer large perennial plants.

The pruning of the remaining plants will reduce their ability to cool the soil beneath them and the duff that is usually kept around the plant by low branches will be blown away. This will probably seriously reduce the ability of new perennial native plants to sprout. It will also reduce the support value for insects, therefore rodents and birds, therefore larger mammals. The loss of ground cover and the disturbance of the crews and machinery clearing the area will encourage the additional invasion of annual weeds. I do not think that the zone 2 area will be a CSS community for more than a few years. The examples that the City showed us looked pretty miserable.

Even if some of the CSS vegetation survives, the zone 2 area will be badly degraded and not very productive and probably be considered appropriate for development in the future.

I suspect that as soon as the weeds begin to dominate, the fire risk to nearby development will be worse than with the CCS. They ignite more easily. We raised these issues during the review of the EIR, but no serious analysis was done about it and the City's responses were pretty flippant.

I will forward this to Rick Halsey and Bruce Goff who know a lot about CSS than I do.

Do you see some way to challenge the policy at this point?

Is your interest about the Gateway building in Mission Valley? Since that is on a steep slope, the removal of zone 2 vegetation will probably result in erosion problems with the subsequent water quality and possible flooding implications as

Attachment 10

Parcel Information Report

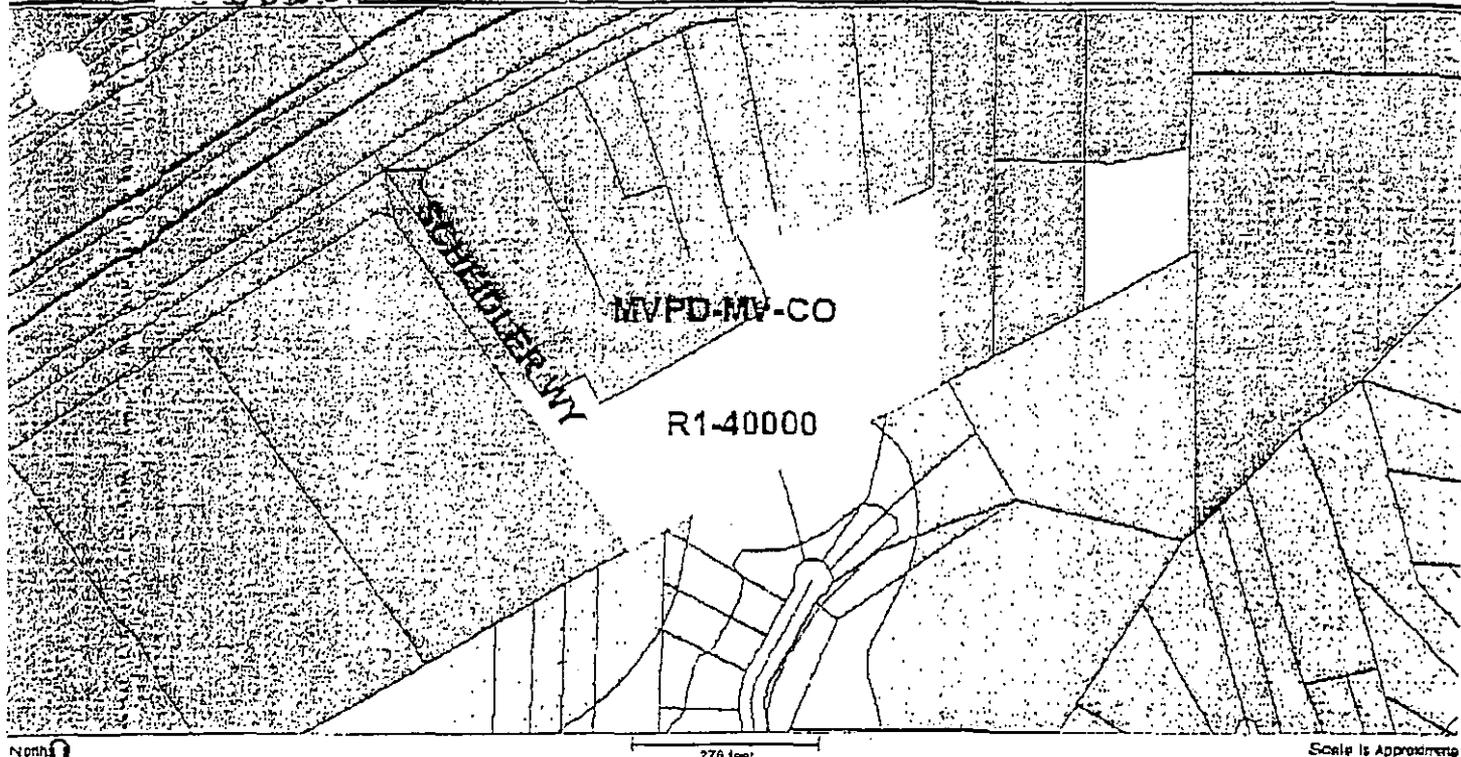
Report Number: **002443**

THE CITY OF SAN DIEGO
Development Services
1222 First Avenue, San Diego, CA 92101-4154

Attach: 11

11/1/2005 14:58:21

Page 1 of 2



Map Layers Included In Report

Description	Visible	Transparent	Has Intersecting Features
Jobs	<input checked="" type="checkbox"/>		No
Streets	<input checked="" type="checkbox"/>		No
Parcels	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Yes
Community Plan	<input type="checkbox"/>	<input type="checkbox"/>	Yes
Zoning Action Index	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Yes

Every reasonable effort has been made to ensure the accuracy of this map. However, neither the GIS participants nor San Diego Data Processing Corporation assume any liability arising from its use.

THIS MAP IS PROVIDED WITHOUT WARRANTY OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

PROPRIETARY INFORMATION: The use of this information is pursuant to sublicense agreement only. Any resale or re-use of this information is prohibited, except in accordance with such sublicensing agreements.

Intersecting Features

APN		Recordation	Owner Information	Valuation	Other
39-480-2400	Record: 443846 Date: 12/5/2003	PACIFIC COAST ASSETS L L C	9570 GRANDVIEW DR LA MESA CA	Land: \$255,000 Imp: \$0 Total: \$255,000	Units: 0 Taxable: <input checked="" type="checkbox"/> Own Occ: <input type="checkbox"/>
Address(es)		LOT 1 (EX ST OPS)	91841		

Community Plan Name	Code
MID-CITY/NORMAL HEIGHTS	59
MISSION VALLEY	19

Board Member

Judy Elliot-Chair
5054 Mansfield Street

Jim Bross
5335 N. Mountain
View Dr.

Charles Bowring
4580 40th Street

Jared Bradley
3227 Madison Avenue

Morris Dye
5080 Mansfield Street

Steve Jareh
4729 Felton Street, #B

Kelly Kreuzinger
4770 32nd St #7

Suzanne Ledeboer
3540 Eugene Place

Jessica McGee
5004 Mansfield Street

Holly Ritter
3832 Madison Avenue

Earlene Thom
4574 Cherokee
Avenue

David Van Pelt
4811 Mansfield Street

4649 Hawley Blvd
San Diego, CA 92116

Contact: Judy Elliot
(619) 428-5200

NORMAL HEIGHTS COMMUNITY PLANNING GROUP

April 18, 2006

Mr. Ken Teasley, Hearing Officer
City of San Diego
Re: Pacific Coast Office Building

Dear Mr. Teasley:

The Normal Heights Community Planning Group heard a presentation by Mr. Robert Pollack regarding his Pacific Coast Office project. A vote of 10-0 was taken against this project on several grounds.

- Mr. Pollack's project seeks to build above the 150' line in the MVPDO "Preservation of Steep Slopes" section. While we have heard that DSD has said that is not a problem, we strongly disagree. The point is not whether this project does not encroach much, or will not set a precedent, or that it prevents development of his project, it is quite simply that is not allowed under the above provision. There should not even be a hearing. It is not incumbent on the public to change zoning to allow development where it is not allowed. It is incumbent that an individual do their due diligence before purchasing property to see if current zoning will allow them to build what they want to build.
- While our Planning Group was not publicly noticed on this project it nevertheless does abut to our boundaries and a courtesy notice would have been appropriate, especially given that it is asking for an exemption to the canyon slopes which are part of our boundaries.
- This type of office development has been proposed before in 1977 and was not found to be in the public interest by the Planning Department and the Planning Commission.
- Mr. Pollack purchased the land knowing what the limitations were. It is not up to the public, the City or any other group to make accommodations for these limitations. It is however, up to him to find a way to work within the limitations of the property.
- There is no fire dept. access. Instead the building is to have sprinklers installed. I believe most new buildings already require this, so this does not address the issue of fire dept. access to the slopes. We in Normal have seen first hand what a fire in the canyons can do to us. No project anywhere near the canyon slopes should be without fire access.

I have been in contact with Mr. Randy Berkman regarding this project and can only add our voice to the many salient comments he makes and very valid issues he raises.

Ref: 12
(P. 2)

We strongly oppose this project and can find no compelling reason to allow it go forward. The Normal Heights Community Planning Group urges you to bring this forward to the Planning Commission for a full discussion of the issues and to also urge Mr. Pollack to revise his plans so that his building does not encroach into the 150' canyon contour line.

Sincerely,

Judy Elliot

Judy Elliot
Chair

002447

POTTER & ASSOCIATES

& ENVIRONMENTAL SERVICES



4975 Milton Street, San Diego, CA 92110-1252
tel: (619) 275-5120 fax: (619) 275-6960
e-mail: davidapott@aol.com

April 13, 2006

Kenneth Teasley, Hearing Officer
City of San Diego
City Administration Building
202 C Street
San Diego, CA 92101

**Subject: Hearing Officer Agenda of April 19, 2006, Pacific Coast Office Building,
Project No. 54384**

Dear Mr. Teasley:

I will be out of town starting tomorrow and may not return before April 19. Therefore, I am providing my comments to you via e-mail and request that they be entered into the record.

Unfortunately, until I read the staff memo dated April 12, I was not aware that the Mitigated Negative Declaration had once again been revised as of March 31, 2006.

I am writing on behalf of Gary and Nancy Weber, who reside in the adjacent community of Normal Heights. The Webers have long been active and strong proponents of the open space system that includes the south slopes of Mission Valley and the southerly-trending finger canyons. This is an open space system that is shared by the two communities. Mr. and Mrs. Weber were disturbed to learn recently that City staff is recommending approval of a project that extends 16 feet above the 150-foot contour that was established as the northern boundary of the open space system. Equally disturbing is the fact that they had to learn about this project from the "San Diego Reader." Without question, the Mitigated Negative Declaration should have been sent to the Normal Heights Community Planning Committee for review and comment. And, of course, it should have been sent to the Council District 3 office as well.

One need only look at the Vicinity Map to realize that this project abuts single-family residential properties in Normal Heights and may have as much, if not greater, impact on Normal Heights as on Mission Valley, particularly in the areas of Land Use, Landform Alteration and Visual Quality. Unfortunately, the Mitigated Negative Declaration addresses views of the project only from Mission Valley.

The Mitigated Negative Declaration (MND) (version dated January 3, 2006) has other deficiencies, including, but not limited to, the following:

1. The Revised Final MND (1/3/06) states "in accordance with CEQA section 15073.5(c)(4), redistribution of the revised final document was not required as there

are (no?) new impacts and no new mitigation was identified. This revision does not affect the environmental analysis or conclusions of this document."

But that's not what the CEQA Guidelines state. Section 15073.5(c) states "recirculation is not required under the following circumstances:

(4) New information is added to the negative declaration which merely clarifies, amplifies, or makes insignificant modifications to the negative declaration."

Since there was absolutely no discussion of Landform Alteration/Visual Quality or Land Use in the October 14, 2005, version, one cannot argue that the revised document (1/3/06 or 3/31/06) merely clarifies, amplifies, or makes insignificant modifications. These are entirely new discussions that warrant review by the public, including the community of Normal Heights.

2. The Revised Final MND (1/3/06) states, "the City of San Diego's Significance Guidelines include thresholds for determining potentially significant land form alteration impacts related to grading. Projects that would alter the natural (or naturalized) landform by grading more than 2,000 cubic yards of earth per graded acre by either excavation or fill could result in a significant impact."

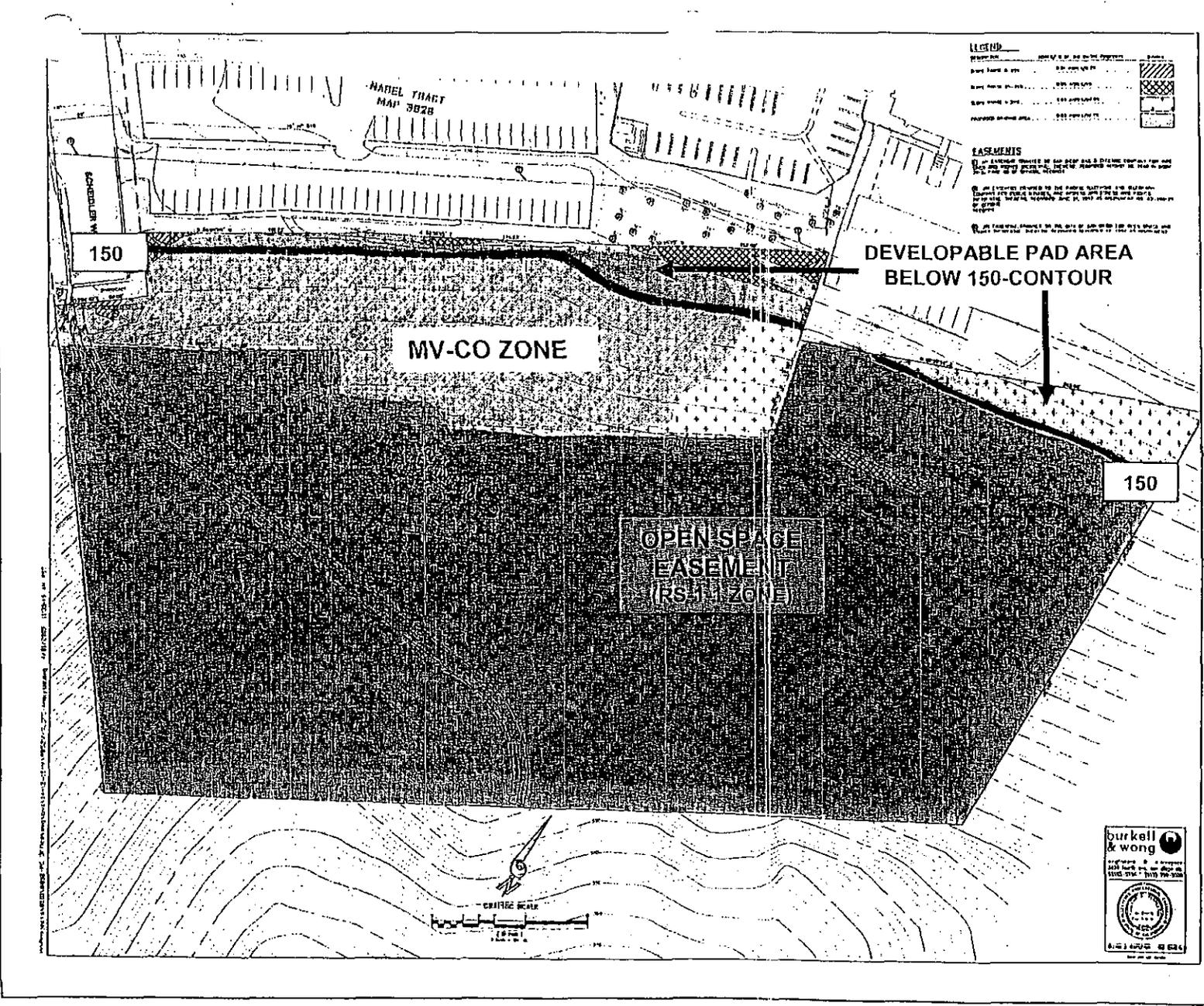
But the City's Significance Determination Thresholds also include the following caveat: "Grading of a smaller amount may still be considered significant in highly scenic or environmentally sensitive areas." (emphasis added) It's absurd to suggest that this is not a "scenic or environmentally sensitive area;" that's why a Site Development Permit is being processed. Therefore, the amount of grading proposed is potentially significant, warranting an EIR.

The Project Data Sheet includes the following erroneous information:

1. Zone: fails to mention that part of the site is zoned RS-1-1.
2. Community Plan Land Use Designation: fails to include Open Space.
3. Adjacent Properties to South: fails to include single-family residences. See Vicinity Map.
4. Deviations or Variances Requested: Why "None"? The Site Development Permit on pages 2, 3, 7, 8 and 9 clearly recognizes a deviation.

The Supplemental Findings for Environmentally Sensitive Lands make the following erroneous statement: "The proposed development is consistent with what is shown in the Community Plan and does not propose to encroach into any areas of designated open space or MHPA open space. This is clearly a false statement since the project extends above the 150-foot contour.

On behalf of Mr. and Mrs. Weber, it is requested that 1) the item be continued; 2) an EIR be prepared that addresses at a minimum Land Use and Landform Alteration/Visual Quality and provides alternatives, including at least one that does not require deviations; and 3) the environmental document be distributed to the NHCP for review and comment.



LEGEND

EXISTING BUILDING: [Symbol]

EXISTING PARKING: [Symbol]

EXISTING DRIVEWAY: [Symbol]

EXISTING DRIVEWAY: [Symbol]

EXISTING DRIVEWAY: [Symbol]

EASEMENTS

1. 15' EASEMENT FRONT OF LOT FOR GAS & UTILITY LINES AND FOR 15' WIDE SIDEWALK TO BE LOCATED WITHIN 15' FROM CURB

2. 10' EASEMENT FRONT OF LOT FOR GAS, WATER, AND SEWER LINES TO BE LOCATED WITHIN 10' FROM CURB

3. 10' EASEMENT FRONT OF LOT FOR GAS, WATER, AND SEWER LINES TO BE LOCATED WITHIN 10' FROM CURB

LEARY CRILING MASCOR WARDNER
 1111 K STREET, SUITE 100
 SAN DIEGO, CALIFORNIA 92101
 TEL: 619-591-1111
 FAX: 619-591-1112

PACIFIC COAST OFFICE BUILDING
 SCHEIDLER WAY
 SAN DIEGO, CALIFORNIA

PREPARED BY: [Blank]

PROJECT NO.: [Blank]

DATE: [Blank]

SCALE: [Blank]

burkell & wong

REGISTERED PROFESSIONAL ENGINEER
 CIVIL ENGINEERING
 1111 K STREET, SUITE 100
 SAN DIEGO, CALIFORNIA 92101
 TEL: 619-591-1111
 FAX: 619-591-1112

C11



150-FOOT CONTOUR LINE
 Pacific Coast Office Building
 Project No. 54384

MEMORANDUM

TO: Anne Jarque, Development Project Manager, City of San Diego

FROM: Robert A. Vacchi, Wertz McDade Wallace Moot & Brower

DATE: April 14, 2006

RE: Modification of MVPDO criteria for Pacific Coast Office Building
(DSD Project No. 54384)

Issue:

Does the Pacific Coast Office Building site contain special conditions that create an unnecessary hardship when the development regulations of the Mission Valley Planned District are strictly applied?

Short Answer:

Yes, the location and topography of the lot result in an unnecessary hardship by prohibiting any development of the site if the regulations of the Mission Valley Planned District regarding development above the 150-foot contour line are strictly applied. A review of similar lots along the southern slope of Mission Valley shows that every other lot is capable of reasonable commercial development.

Analysis:

Section 103.2107(c)(3)(A) of the Mission Valley Planned District Ordinance (PDO) restricts development in the Hillside Sub-district from encroaching above the 150-foot contour line. However, in Section 103.2104(d)(4), the PDO also provides language similar to a variance that allows the regulations to be modified if their strict interpretation results in unnecessary hardship due to special circumstances or exceptional characteristics of a property.

The building site for the Pacific Coast Office Building contains such special circumstances and unique characteristics that enable the application of 103.2104(d)(4) to prevent an unnecessary hardship. In reviewing the property conditions, all of the properties located on the southern slope of Mission Valley between Texas Street and Interstate 15 were researched and analyzed. The area of analysis is illustrated on the attached City of San Diego Engineering Base Map (base map) identified by its Lambert Coordinates 218-1725. In addition to the base map, analysis materials included County Assessor maps, ownership records and the City of San Diego official Zoning Map.

Memorandum: Page 2
RE: Pacific Coast Assets - Cam Del Rio South Project
April 12, 2006

The base map exhibit is a reduced copy of the City's 1:400 scale engineering base map obtained from the City of San Diego's Maps and Records office. The base map contains topographic references (contour lines) as well as subdivision and roadway information as it existed when last revised in August of 1979. Subdivisions taking place after 1979 were analyzed using the City's full size base map revised in August of 1989 and current County Assessor information. Relevant revisions to the base map are shown via the colored illustrations.

The 150 foot contour line as discussed in the PDO is highlighted in red on the illustrated base map. Properties which are highlighted in blue have a hilltop orientation. All of these lots are located outside of the boundaries of the PDO and are designated a variety of residential or open space zoning classifications. Many also contain open space easement restrictions. None of the lots shown in blue can be developed commercially.

All of the properties highlighted in green have a valley orientation and all are included within the PDO. All of the green properties have frontage along Camino Del Rio South or Texas Street and are almost entirely developed with commercial uses. Approximately 70% percent of the green lots are located entirely below the 150 foot contour line. Of the remaining lots with land above the 150-contour line, all but three have large portions of developable land and are fully developed below the 150-foot contour line. The remaining three lots, labeled numbers 1, 2 and 3 on the exhibit, are located near the intersection of Camino del Rio South and Texas Street. Each of these lots are more restricted by the 150-foot contour line yet each lot is also developed either residentially or with commercial offices.

The property labeled #1 on the illustration is located at 2335 Camino Del Rio South. Assessor records this show lot is improved with 2 multiple family residential units constructed in 1952. Using an adjacent open space easement that corresponds to the base map's 150-foot contour line, the development of this lot occurs entirely below the 150-foot contour line. In addition, in a previous listing for sale, the owner marketed this property with a statement that an 18,000 square foot office building could be constructed on the site below the 150-foot contour line.

The property labeled #2 on the illustration is located at 2399 Camino Del Rio South. This lot is improved with a multi-story commercial office building. An open space easement is shown over this lot and other adjacent properties that corresponds with the base map's location of the 150-foot contour. Assuming that the open space line and the 150 contour line are the same, all of the development on property #2 is located entirely below the 150 contour line.

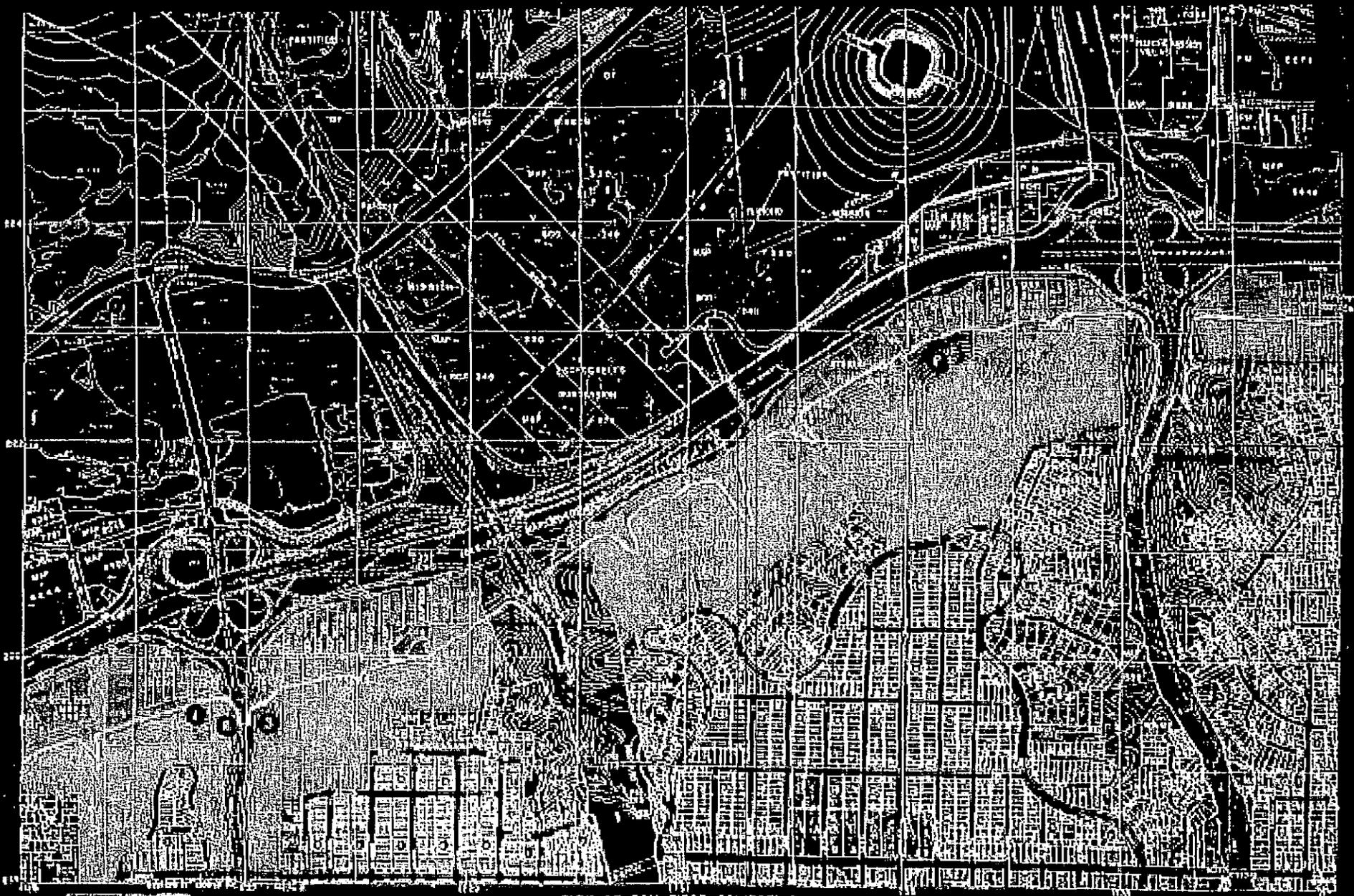
The property labeled #3 on the illustration is located at 5005 Texas Street. This lot is also developed with a multi-story office building. While it appears that the lot is developed on its most northerly corner at the lowest part of the lot, some of the development may in fact be above the 150-foot contour line. This condition is likely previously conforming due to the fact that the building construction took place in 1982 prior to the PDO adoption that took place in 1990.

The Pacific Coast project site is labeled "P" on the illustration. This site is significantly different from every other property analyzed on the base map. The site is included within the

Memorandum: Page 2
RE: Pacific Coast Assets - Cam Del Rio South Project
DATE: April 12, 2006

PDO, yet has no street frontage along Camino Del Rio South. Access is taken mid-slope from Scheidler Way, a street previously dedicated by the City of San Diego in anticipation of the development of this site. The lot is located almost entirely above the 150-foot contour line. The developable area below the line is comprised of two, non-contiguous portions of land totaling less than 9,000 square feet. This represents about 4% of the entire 4.94 acre parcel. If the restriction regarding development above the 150-foot contour line is strictly interpreted, no development at all can take place on the site. The small sliver of developable land adjacent to Scheidler Way is only 8 feet wide and does not support an access drive meeting the width requirements of the Engineering or Fire Departments. The remaining portion of developable land is cut off from Scheidler Way and cannot be accessed at all.

Compared to the rest of the green lots analyzed on the base map, this is the only lot that cannot be reasonably developed under the existing PDO regulations. Every other commercially zoned property shown on the attached base map has been developed. Even those lots with minimal area below the 150 contour line have still been allowed to develop to a reasonable extent. Given the location of this lot and its relationship to the 150-foot contour line, a strict interpretation of the PDO regulation would prohibit all development of the site and result in an unnecessary hardship for the applicant.



SCALE	1" = 1 MILE
DATE	1962
BY	...
FOR	...

CITY OF SAN DIEGO, CALIFORNIA

VERTICAL DATUM: SEA LEVEL

218-1725

Project Title:
Pacific Coast Office Building

Project No. (For City Use Only)

Part 1. To be completed when property is held by a corporation or partnership.

Legal Status (please check):

- Corporation (Limited Liability -or- General) What State? CA Corporate Identification No. 20-0403167
- Partnership

Please list below the names, titles and addresses of all persons who have an interest in the property, recorded or otherwise, and state the type of property interest (e.g., tenants who will benefit from the permit, all corporate officers, and all partners in a partnership who own the property). A signature is required of at least one of the corporate officers or partners who own the property. Attach additional pages if needed. Note: The applicant is responsible for notifying the Project Manager of any changes in ownership during the time the application is being processed or considered. Changes in ownership are to be given to the Project Manager at least thirty days prior to any public hearing on the subject property. Failure to provide accurate and current ownership information could result in a delay in the hearing process.

Additional pages attached Yes No

Corporate/Partnership Name (type or print):
Pacific Coast Assets, LLC

Owner Tenant/Lessee
In Escrow

Street Address:
6719 Alvarado Road, Ste 304

City/State/Zip:
San Diego, CA 92120

Phone No: (619) 582-9005 Fax No: (619) 582-8957

Name of Corporate Officer/Partner (type or print):
Robert B Pollack

Title (type or print):
Managing Partner

Signature:  Date: 9/28/04

Corporate/Partnership Name (type or print):
Pacific Coast Assets, LLC

Owner Tenant/Lessee
in Escrow

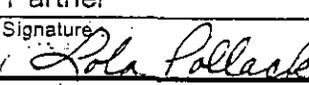
Street Address:
6719 Alvarado Road, Ste 304

City/State/Zip:
San Diego, CA 92120

Phone No: (619) 582-9005 Fax No: (619) 582-8957

Name of Corporate Officer/Partner (type or print):
Loia Pollack

Title (type or print):
Partner

Signature:  Date: 9/28/04

Corporate/Partnership Name (type or print):

Owner Tenant/Lessee

Street Address:

City/State/Zip:

Phone No: Fax No:

Name of Corporate Officer/Partner (type or print):

Title (type or print):

Signature: Date:

Corporate/Partnership Name (type or print):

Owner Tenant/Lessee

Street Address:

City/State/Zip:

Phone No: Fax No:

Name of Corporate Officer/Partner (type or print):

Title (type or print):

Signature: Date:

Corporate/Partnership Name (type or print):

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Street Address:

City/State/Zip:

Phone No: Fax No:

Name of Corporate Officer/Partner (type or print):

Title (type or print):

Signature: Date:

Corporate/Partnership Name (type or print):

Owner Tenant/Lessee

Street Address:

City/State/Zip:

Phone No: Fax No:

Name of Corporate Officer/Partner (type or print):

Title (type or print):

Signature: Date:

PACIFIC COAST OFFICE BUILDING

Project No. 54384

Project Chronology

DATE	ACTION	DESCRIPTION	CITY REVIEW TIME	APPLICANT RESPONSE
1/30/2005	Applicant submits for Preliminary Review	Project plans distributed for City staff review. (Project No. 27782)	20 days	
6/22/2004	Applicant submits for a Community Plan Amendment (CPA)	Project plans distributed for City staff review. (Project No. 41907)	30 days	
8/25/2004	CPA withdrawn	Long Range Planning determines CPA is not required		
11/23/04	Applicant submits 1 st full set of plans.	Project plans distributed for City staff review. Project No. 54384 - Deemed Complete	30 days	106 days*
5/26/05	Applicant submits 2 nd full set of plans.	Applicant's revised set of plans submitted in response to 1st assessment letter from City staff.	30 days	28 days*
8/19/05	Applicant submits 3 rd full set of plans.	Applicant's revised set of plans submitted in response to 2nd assessment letter from City staff.	30 days	
9/22/05	Environmental Determination	Mitigated Negative Declaration (MND) prepared	30 days	
10/10/05	Reviews Complete	Prepare for Hearing	18 days	
11/02/05	Hearing Officer	Public Hearing - Item continued	90 days*	
4/19/06	Public Hearing - Hearing Officer	Hearing Officer approved Site Development Permit		
5/2/06	Appeal of Hearing Decision to Planning Commission	Filed by Randy Berkman and Lynn Mulholland	9 days	
6/15/2006	Planning Commission Approves Project	Public Hearing	30 days*	
6/29/06	MND appealed to Council	Staff sets appeal hearing date	15 days	
9/26/06	City Council Hearing	Council Approves appeal and remands project to Planning Commission for reconsideration	89 days	
5/17/07	Planning Commission Hearing	Staff sets hearing for Planning Commission to reconsider project	2339 days	
TOTAL STAFF TIME		Averaged at 30 days per month	21 months	
TOTAL APPLICANT TIME		Averaged at 30 days per month		8 months

002458

ATTACHMENT 19

TOTAL PROJECT RUNNING TIME	From first submittal to Hearing (Appeal)	2 Years, 3 ½ months
----------------------------	---	---------------------

* Approximate. Days may not include weekend and holidays.

002459

CITY OF SAN DIEGO
MEMORANDUM

DATE: May 10, 2007
TO: Members of the Planning Commission
FROM: Patrick Hooper, Project Manger, Development Services Department **PH**
SUBJECT: Pacific Coast Office Building – Project No. 54384

On June 15, 2006, the Planning Commission denied an appeal of a Hearing Officer decision, certified Mitigated Negative Declaration (MND) No. 54384 and approved the Pacific Coast Office Building project. On June 29, 2006, the environmental document was appealed to the City Council. On September 26, 2006, the City Council upheld the environmental appeal and remanded the issue back to the Planning Commission for reconsideration.

As a part of the motion to approve the appeal, the City Council directed staff to “review alternatives that would reduce impacts” associated with the development. This direction was a result of public testimony wherein, it was discussed that previous project design alternatives had been submitted, reviewed and subsequently rejected by Development Services during the project review phase of the entitlement process. The Council felt that the public should be made aware of those project alternatives and have had the opportunity to comment on them. The Council therefore instructed staff to include an alternatives analysis and mandated that the revised document be recirculated for public review.

The MND was revised and recirculated pursuant to the Council direction. Various project designs were summarized along with the staff determinations that precluded these designs from further consideration. Some of the designs lessen certain impacts such as visual affect, building scale, brush management and grading. However, these resulted in increased impacts on the hillside including a higher degree of non-compliance with the Mission Valley Planned District Ordinance and the Mission Valley Community Plan.

There are no changes to the project that is now before the Planning Commission for reconsideration, nor is there any additional mitigation measures required to further reduce the impacts identified by staff to a level of below significant. Staff has followed the City Council direction to review project alternatives and circulate the revised document for public review. The additional analysis serves to document the evolution of project design and the staff conclusion that the proposed project is consistent with the applicable development regulations and land use policies established for the property. Therefore, the staff has reissued Report No. PC-06-194, and recommends that the Planning Commission Certify revised Mitigated Negative Declarations No. 54384; and approves Site Development Permit No. 158004.