



ERIC GIBSON
DIRECTOR

County of San Diego

DEPARTMENT OF PLANNING AND LAND USE

5201 RUFFIN ROAD, SUITE B, SAN DIEGO, CALIFORNIA 92123-1666
INFORMATION (858) 694-2960
TOLL FREE (800) 411-0017
www.sdcounty.ca.gov/dplu

MITIGATED NEGATIVE DECLARATION

January 29, 2009

Project Name: Spitsbergen L-Grade

Project Number(s): L-14522, Log No. 02-140-42

This Document is Considered Draft Until it is Adopted by the Appropriate County of San Diego Decision-Making Body.

This Mitigated Negative Declaration is comprised of this form along with the Environmental Initial Study that includes the following:

- a. Initial Study Form
 - b. Environmental Analysis Form and attached extended studies for Biology, Revegetation Cultural Resources, Stormwater and Drainage.
1. California Environmental Quality Act Mitigated Negative Declaration Findings:

Find, that this Mitigated Negative Declaration reflects the decision-making body's independent judgment and analysis, and; that the decision-making body has reviewed and considered the information contained in this Mitigated Negative Declaration and the comments received during the public review period; and that revisions in the project plans or proposals made by or agreed to by the project applicant would avoid the effects or mitigate the effects to a point where clearly no significant effects would occur; and, on the basis of the whole record before the decision-making body (including this Mitigated Negative Declaration) that there is no substantial evidence that the project as revised will have a significant effect on the environment.

2. Required Mitigation Measures:

Refer to the attached Environmental Initial Study for the rationale for requiring the following measures:

- A. Prior to the plan approval for grading permit L-14522, and approval of any other plan or issuance of any permit, the following conditions must be satisfied:
1. Grant to the County of San Diego and the California Department of Fish and Game by separate document, an open space easement, or grant to the California Department of Fish and Game a conservation easement, as shown on the Open Space Exhibit dated December 22, 2009 on file with the Department of Planning and Land Use as Grading Permit L-14522 and Environmental Review Number 02-14-042. This easement is for the protection of biological resources and prohibits all of the following on any portion of the land subject to said easement: grading; excavation; placement of soil, sand, rock, gravel, or other material; clearing of vegetation; construction, erection, or placement of any building or structure; vehicular activities; trash dumping; or use for any purpose other than as open space. Granting of this open space authorizes the County and its agents to periodically access the land to perform management and monitoring activities for the purposes of species and habitat conservation. **[DPLU, FEE]**

The sole exception(s) to this prohibition is:

- a. Selective clearing of vegetation by hand to the extent required by written order of the fire authorities for the express purpose of reducing an identified fire hazard. While clearing for fire management is not anticipated with the creation of this easement, such clearing may be deemed necessary in the future for the safety of lives and property. All fire clearing shall be pursuant to the Uniform Fire Code and the Memorandum of Understanding dated February 26, 1997, between the wildlife agencies and the fire districts and any subsequent amendments thereto.

- b. Activities conducted pursuant to a revegetation or habitat management plan approved by the Director of Planning and Land Use or the Director of Public Works
 - c. Vegetation removal or application of chemicals for vector control purposes where expressly required by written order of the Department of Environmental Health of the County of San Diego.
 - d. Activities required to be conducted pursuant to a revegetation, habitat management, or landscaping plan approved by the Director of Planning and Land Use.
2. Submit to and receive approval from the Director of the Department of Planning and Land Use a Revegetation Plan, which mitigates impacts to three (3) drainage channels. The following mitigation shall take place at each of the three drainage crossings: removal of fill and culverts, revegetation of channels and construction staging areas, and construction of 3 span bridges. The Revegetation Plan shall include (but not be limited to) the following to ensure the establishment of the vegetation: objectives, 24"x 36" map showing the revegetation areas, site preparation information, type of planting materials (e.g. species ratios, source, size material, etc.), planting program, 80 percent success criteria, 5-year monitoring plan and detailed cost estimate. The cost estimate shall include planting, plant materials, irrigation, maintenance, monitoring and report preparation. The report shall be prepared by a County approved biologist and a State of California Licensed Landscape Architect. The revegetation shall occur at the three drainage crossings.
 3. Enter into a Secured Agreement with the County of San Diego Department of Planning and Land Use consisting of a letter of credit, bond, or cash for 100 percent of the estimated costs associated with the implementation of the Revegetation Plan and a 10 percent cash deposit not to exceed \$30,000. A cost estimate based on a 3% annual inflation rate shall be submitted and approved by the Director of Planning and Land Use which includes the cost of the plant stock and its installation, irrigation system and installation, cost of monitoring and maintenance of the revegetation area for the required five year period, and report preparation and staff time to review. This agreement is intended to guarantee commitment to project completion and success. The monitoring time and the length of time the Secured Agreement and cash deposit will be in effect starts at the time the installation is accepted

by a County staff representative. The Secured Agreement and cash deposit shall be released upon completion of the Revegetation Plan implementation provided the installed vegetation is in a healthy condition and meets the 80 percent success criteria. Eighty- percent success rate and one hundred percent vegetative cover, excluding herbaceous species, shall be considered satisfactory completion of the Revegetation Plan.

4. Provide to the satisfaction of the Director of Planning and Land Use evidence of a contract with a County approved biologist to perform biological monitoring during all grading and clearing activities. The contract shall include the following: **[DPLU, FEE X3]**
 - a. Monitor all work near the wetland drainages, including the removal of the culverts, and bridge replacement. The monitor shall be present for all grading and construction activities to ensure against damage to biological resources that are intended to be protected and preserved. If there are disturbances, the monitor must report them immediately to DPLU Permit Compliance Coordinator.
 - b. The Biologist shall supervise the placement and delineation of the limits of disturbance for the culvert and bridge work. These areas shall be delineated with temporary orange construction fencing.
 - c. When all grading activities have been completed, the biologist shall prepare and submit a final letter report substantiating his/her supervision of the grading activities and substantiating that grading did not impact additional areas of riparian habitat or other sensitive biological resources. The report shall include but not be limited to the following items:
 - (1) Monitoring logs showing the date and time that the monitor was on site.
 - (2) Photos of the site after the grading and clearing activities.
5. Provide evidence that a County approved archaeologist (Project Archaeologist) has been contracted to implement a grading monitoring and potential data recovery program which complies with the County of San Diego Guidelines for Determining

Significance and Report Format and Content Requirements, to the satisfaction of the Director of Planning and Land Use. Also, provide evidence that a Native American Monitor has been contracted to monitor grading, or evidence that no Native American Monitor was available, in which case the Project Archaeologist shall perform that function.

The Contract shall include a cost estimate of the required monitoring; this estimate shall be submitted to the Director of Public Works and included in the Bond Cost Estimate for the required Grading.

6. Provide the Director of Planning and Land Use with a copy of a Clean Water Act, Section 401/404 permit issued by the California Regional Water Quality Control Board and the U.S. Army Corps of Engineers for all project related disturbances of waters of the U.S. and/or associated wetlands or provide evidence satisfactory to the Director of Planning and Land Use that such permit is not required.”
[DPLU, FEE]
7. Provide the Director of Planning and Land Use with a copy of a Streambed Alteration Agreement issued by the California Department of Fish and Game for all project related disturbances of any streambed or provide evidence satisfactory to the Director of Planning and Land Use that such an agreement is not required.
[DPLU, FEE]
8. Provide evidence to the satisfaction of the Director of Public Works (DPW) and or the Director of Planning and Land Use that the grading plan for L-14522 has delineated the limits of disturbance for the removal of the 3 culverts and the replacement with the bridges. The disturbance areas shall indicate temporary orange construction fencing.
9. A payment of \$75,000 for the curation of orphan collections shall be made to the San Diego Archaeological Center for unpermitted grading that has impacted site, CA-SDI-5472 to the satisfaction of the Director of Planning and Land Use. Evidence shall be in the form of a letter from San Diego Archaeological Center identifying that a payment of \$75,000 has been received. **[DPLU, FEE]**
10. Prior to the approval of any grading and or improvement plans and prior to issuance of any grading permits, provide evidence to the satisfaction of the Director of Planning and Land Use (DPLU) that

the following "Specific Environmental Items and Notes" have been placed on the grading, and or improvement plans:

Biological Resources

- a. Restrict all brushing, clearing and/or grading such that none will be allowed within 300 feet of raptor habitat during the avian breeding season. This is defined as occurring between February 1 and August 31. The Director of Planning and Land Use may waive this condition, through written concurrence from the US Fish and Wildlife Service and the California Department of Fish and Game, that no raptors are present in the vicinity of the brushing, clearing or grading. **[DPLU, FEE]**
- b. A Biological Monitor(s) shall be on site during all grading and clearing activities for the wetland culvert removal and bridge replacement construction.
- c. Prior to removal of the culverts and replacement with the bridges, the Biologist shall supervise the placement of temporary orange construction fencing, which will delineate the limits of disturbance for the construction activities.
- d. At the conclusion of grading activities and prior to Rough Grading final Inspection (Grading Ordinance SEC 87.421.a.2) provide to the satisfaction of the Director of Planning and Land Use a copy of the final Biological Monitoring report. **[DPLU, FEE]**
- e. The County approved Project Archaeologist (Project Archaeologist) and Native American Monitor shall attend the pre-construction meeting with the contractors to explain and coordinate the requirements of the monitoring program. **[DPLU, FEE]**
- f. The Project Archaeologist shall monitor all areas identified for development including off-site improvements.
- g. During the original cutting of previously undisturbed deposits, the Project Archaeologist and Native American monitor shall be onsite as determined necessary by the Project Archaeologist. Inspections will vary based on the rate of excavation, the materials excavated, and the presence and

abundance of artifacts and features. The frequency and location of inspections will be determined by the Project Archaeologist in consultation with the Native American monitor. Monitoring of cutting of previously disturbed deposits will be determined by the Project Archaeologist.

- h. In the event that previously unidentified potentially significant cultural resources are discovered, the Project Archaeologist shall have the authority to divert or temporarily halt ground disturbance operations in the area of discovery to allow evaluation of potentially significant cultural resources. The Project Archaeologist shall contact the County staff designated by the Director of Planning and Land Use at the time of discovery. The Project Archaeologist, in consultation with the designated County staff, shall determine the significance of the discovered resources. The designated County staff must concur with the evaluation before construction activities will be allowed to resume in the affected area. For significant cultural resources, a Research Design and Data Recovery Program to mitigate impacts shall be prepared by the Project Archaeologist and approved by the designated County staff, then carried out using professional archaeological methods.
- i. The Project Archaeologist and Native American monitor shall monitor all areas identified for development.”
- j. If any human bones are discovered, the Project Archaeologist shall contact the County Coroner. In the event that the remains are determined to be of Native American origin, the Most Likely Descendant, as identified by the Native American Heritage Commission, shall be contacted by the Project Archaeologist in order to determine proper treatment and disposition of the remains.
- k. The Project Archaeologist shall submit monthly status reports to the Director of Planning and Land Use starting from the date of the notice to proceed to termination of implementation of the grading monitoring program. The reports shall briefly summarize all activities during the period and the status of progress on overall plan implementation. Upon completion of the implementation phase, a final report shall be submitted describing the plan compliance procedures and site conditions before and after construction.
[DPLU, FEE]

- l. Prior to rough grading inspection sign-off for each phase, provide evidence that the field grading monitoring activities have been completed to the satisfaction of the Director of Planning and Land Use. Evidence shall be in the form of a letter from the Project Archaeologist. **[DPLU, FEE]**
- m. Prior to Final Grading Release for each phase, submit to the satisfaction of the Director of Planning and Land Use, a final report that documents the results, analysis, and conclusions of all phases of the Archaeological Monitoring Program. The report shall include the following: **[DPLU, FEE X2]**
 - (1) Department of Parks and Recreation Primary and Archaeological Site forms.
 - (2) Evidence that all cultural resources collected during the grading monitoring program has been curated at a San Diego facility that meets federal standards per 36 CFR Part 79, and therefore would be professionally curated and made available to other archaeologists/researchers for further study. The collections and associated records shall be transferred, including title, to an appropriate curation facility within San Diego County, to be accompanied by payment of the fees necessary for permanent curation. Evidence shall be in the form of a letter from the curation facility identifying that archaeological materials have been received and that all fees have been paid.
 - (3) In the event that no cultural resources are discovered, a brief letter to that effect shall be sent to the Director of Planning and Land Use by the Project Archaeologist that the grading monitoring activities have been completed.
- n. Prior to rough grading final inspection, provide evidence to the satisfaction of the Director of Planning and Land Use that all archaeological materials recovered during the Richard Carrico/Ted Cooley (July 2007) archaeological investigations of the property, including all significance testing as well as grading monitoring activities, have been curated at a San Diego facility that meets federal standards per 36 CFR Part

79, and therefore would be professionally curated and made available to other archaeologists/researchers for further study. The collections and associated records shall be transferred, including title, to an appropriate curation facility within San Diego County, to be accompanied by payment of the fees necessary for permanent curation. Evidence shall be in the form of a letter from the curation facility identifying that archaeological materials have been received and that all fees have been paid. **[DPLU, FEE]**

- o. Activities within 100 feet of CA-SDI-5492 and CA-SDI-16472 shall be restricted and prohibits all of the following: equipment storage or stockpiling, grading; excavation; placement of soil, sand, rock, gravel, or other material; clearing of vegetation; construction, erection, or placement of any building or structure; vehicular activities (including staging, turnaround, and parking); and trash dumping for the protection of cultural resources.

The sole exception(s) to this prohibition is:

The placement of a 20 foot wide driveway that would be improved to 16 feet.

- p. Prepare and implement a temporary fencing plan for the protection of archaeological resources during any grading activities within one hundred feet (100') of archaeological site(s) CA-SDI-5492 and CA-SDI-16472, as shown on Maps XII-1 and XII-2 of the archaeological technical study titled "Cultural Resources Report of the Survey and Testing Programs for the Spitsbergen Property" prepared by Richard Carrico and Ted Cooley dated July 2007. The temporary fencing plan shall be prepared in consultation with a County approved archaeologist. The fenced area shall include a buffer sufficient to protect the archaeological site(s). The fence shall be installed under the supervision of the County approved archaeologist prior to commencement of grading or brushing and be removed only after grading operations have been completed. The temporary fencing plan shall include the following requirements:

In the event that construction activities are to take place within 100 feet of archaeological site(s) CA-SDI-5492 and CA-SDI-16472, the

temporary fencing plan shall be implemented under the supervision of a County approved archaeologist that consists of the following:

- (1) The project archaeologist shall identify the site boundaries.
 - (2) The project archaeologist shall identify area of impact for site CA-SDI-5492 for the placement of the driveway and trail. The construction of the driveway is permitted as identified on the grading plans. The temporary fencing shall be placed outside of the area of the proposed driveway and trail.
 - (3) The project archaeologist shall determine an adequate buffer for the protection of the site(s) in consultation with the County archaeologist.
 - (4) Upon approval of buffers, install fencing under the supervision of the project archaeologist.
 - (5) Submit to the Department of Public Works for approval, a signed and stamped statement from a California Registered Engineer, or licensed surveyor that temporary fences have been installed in all locations of the project where proposed grading or clearing is within 100 feet of the archaeological site(s), CA-SDI-5492 and CA-SDI-16472.
 - (6) Fencing may be removed after the conclusion of construction activities.
11. The payment of the Transportation Impact Fee, which will be required at issuance of building permits, in combination with other components of this program, will mitigate potential cumulative traffic impacts to less than significant.

3. Critical Project Design Elements That Must Become Conditions of Approval:

The following project design elements were either proposed in the project application or the result of compliance with specific environmental laws and regulations and were essential in reaching the conclusions within the attached Environmental Initial Study. While the following are not technically mitigation measures, their implementation must be assured to avoid potentially significant environmental effects.

None

ADOPTION STATEMENT: This Mitigated Negative Declaration was adopted and above California Environmental Quality Act findings made by the:

Director of Planning and Land Use

on January 29, 2009

Donna Beddow, Planning Manager
Project Planning Division

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