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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.