



Land Development  
Review Division  
(619) 446-5460

## Mitigated Negative Declaration

Project No. 54384  
SCH No. 2005091022

**SUBJECT:** PACIFIC COAST OFFICE BUILDING: SITE DEVELOPMENT PERMIT to construct an approximately 9,845 square-foot, two-story office building on a vacant 4.94-acre parcel. The project is located just east of the terminus of Scheidler Way, in the Mission Valley Planned District within the Mission Valley Community Planning area (Lot 1 of Nagel Tract Unit No. 2 Subdivision, Map 4737).

**UPDATE:** **March 5, 2007:** On September 26, 2006, an environmental appeal on the project was before the City Council. City Council granted the appeal and set aside the environmental determination and remanded the matter to the previous decision maker (the Planning Commission). In addition, City Council directed staff to provide additional information in the document regarding the various project designs that had been considered by the applicant, to allow the public to review the project's design process, and to provide for public input through the document recirculation process.

Therefore, based on City Council's direction, this information has been provided and this Mitigated Negative Declaration has been recirculated for public review and input.

- I. **PROJECT DESCRIPTION:** See attached Initial Study.
- II. **ENVIRONMENTAL SETTING:** See attached Initial Study.
- III. **DETERMINATION:**

The City of San Diego conducted an Initial Study which determined that the proposed project could have a significant environmental effect in the following area(s): **BIOLOGICAL RESOURCES, LAND USE/MSCP, AND PALEONTOLOGICAL RESOURCES**. Subsequent revisions in the project proposal create the specific mitigation identified in Section V of this

Mitigated Negative Declaration. The project as revised now avoids or mitigates the potentially significant environmental effects previously identified, and the preparation of an Environmental Impact Report will not be required.

IV. DOCUMENTATION:

The attached Initial Study documents the reasons to support the above Determination.

V. MITIGATION, MONITORING AND REPORTING PROGRAM:

GENERAL

Prior to the commencement of the preconstruction meeting, the Assistant Deputy Director of the Land Development Review Division (LDR) shall verify that the following mitigation measures are noted within the construction/grading plans and/or specifications submitted and included in the specifications under the heading *Environmental Mitigation Requirements*.

BIOLOGICAL RESOURCES

1. Prior to issuance of the first grading permit, the owner/permittee shall contribute to the City of San Diego Habitat Acquisition Fund (HAF) to mitigate for the loss of 0.64 acre of Diegan coastal sage scrub (tier II) and 0.10 acre of non-native grassland (tier IIIB). The current per acre contribution amount for the HAF is \$25,000 per-acre plus a ten percent (10%) administrative fee. This fee is based on mitigation ratios of 1:1 for Diegan coastal sage scrub and 0.5:1 for non-native grassland impacts (both impacts occurred outside the MHPA, yet mitigation would be required inside the MHPA).
2. Prior to the issuance of any grading permits and/or the first pre-construction meeting, the owner/permittee shall make arrangement to schedule a preconstruction meeting to ensure implementation of the Mitigation Monitoring and Reporting Program (MMRP). The meeting shall include the Resident Engineer (RE), monitoring biologist, monitoring archaeologist, and staff from the City's Mitigation monitoring Coordination (MMC) Section.
3. Prior to the first pre-construction meeting, the applicant shall be responsible for retaining a qualified Biologist and provide a letter of verification to the ADD of LDR stating that a qualified Biologist, as defined in the City of San Diego Biological Resource Guidelines (BRG), has been retained to implement the mitigation measures.
4. At least thirty days prior to the pre-construction meeting, the qualified Biologist shall verify that any special reports, maps, plans and time lines, such as but not limited to, revegetation plans, plant relocation requirements, avian or other wildlife protocol surveys, impact avoidance areas or other such information has been completed and updated.
5. The project biologist shall supervise the placement of orange construction fencing or equivalent along the limits of disturbance within and surrounding sensitive habitats as shown on the approved Exhibit A.

6. All construction activities (including staging areas) shall be restricted to the development area as shown on the approved Exhibit A. The project biologist shall monitor construction activities as needed to ensure that construction activities do not encroach into biologically sensitive areas beyond the limits of disturbance as shown on the approved Exhibit A.

LAND USE/MSCP

1. Prior to initiation of any construction-related grading, the biologist shall discuss the sensitive nature of the adjacent habitat with the crew and subcontractor.
2. Prior to preconstruction meeting, the limits of grading shall be clearly delineated by a survey crew prior to brushing, clearing or grading. The limits of grading shall be defined with appropriate construction fencing and checked by the biological monitor before initiation of construction grading.
3. All lighting adjacent to the MHPA shall be shielded, unidirectional, low pressure sodium illumination (or similar) and directed away from preserve areas using appropriate placement and shields. If lighting adjacent to the MHPA is required for nighttime construction, it shall be unidirectional, low pressure sodium illumination (or similar), and it shall be directed away from the preserve areas and the tops of adjacent trees with potentially nesting raptor species, using appropriate placement and shields.
4. All staging/storage areas for equipment and materials shall be located within the development footprint and shall not encroach onto adjacent sensitive habitat retained within the open space and/or/MHPA areas. No equipment maintenance shall be conducted within or near the adjacent sensitive habitat retained within the open space and/or/MHPA areas
5. Natural drainage patterns shall be maintained as much as possible during construction. Erosion control techniques, including the use of sandbags, hay bales, and/or the installation of sediment traps, shall be used to control erosion and deter drainage during construction activities into the adjacent open space. Drainage from all development areas adjacent to the MHPA shall be directed away from the MHPA, or if not possible, must not drain directly into the MHPA, but instead into sedimentation basins, grassy swales, and/or mechanical trapping devices as specified by the City Engineer.
6. No trash, oil, parking or other construction related activities shall be allowed outside the established limits of grading. All construction related debris shall be removed off-site to an approved disposal facility.
7. No invasive non-native plant-species shall be introduced into areas adjacent to the MHPA.
8. Prior to the preconstruction meeting, the ADD of LDR shall verify that the Multi-Habitat Planning Area (MHPA) boundaries and the following project requirements regarding the coastal California gnatcatcher are shown on the construction plans:

COASTAL CALIFORNIA GNATCATCHER (Federally Threatened)

1. Prior to the preconstruction meeting, the City Manager (or appointed designee) shall verify that the Multi-Habitat Planning Area (MHPA) boundaries and the following project requirements regarding the coastal California gnatcatcher are shown on the construction plans:

No clearing, grubbing, grading, or other construction activities shall occur between March 1 and August 15, the breeding season of the Coastal California gnatcatcher, until the following requirements have been met to the satisfaction of the City Manager:

- A. A qualified biologist (possessing a valid Endangered Species Act Section 10(a)(1)(a) Recovery Permit) shall survey those habitat areas within the MHPA that would be subject to construction noise levels exceeding 60 decibels [dB(A)] hourly average for the presence of the Coastal California gnatcatcher. Surveys for the Coastal California gnatcatcher shall be conducted pursuant to the protocol survey guidelines established by the U.S. Fish and Wildlife Service within the breeding season prior to the commencement of any construction. If gnatcatchers are present, then the following conditions must be met:
  - I. Between March 1 and August 15, no clearing, grubbing, or grading of occupied gnatcatcher habitat shall be permitted. Areas restricted from such activities shall be staked or fenced under the supervision of a qualified biologist; and
  - II. Between March 1 and August 15, no construction activities shall occur within any portion of the site where construction activities would result in noise levels exceeding 60 dB(A) hourly average at the edge of occupied gnatcatcher habitat. An analysis showing that noise generated by construction activities would not exceed 60 dB(A) hourly average at the edge of occupied habitat must be completed by a qualified acoustician (possessing current noise engineer license or registration with monitoring noise level experience with listed animal species) and approved by the city manager at least two weeks prior to the commencement of construction activities. Prior to the commencement of construction activities during the breeding season, areas restricted from such activities shall be staked or fenced under the supervision of a qualified biologist; or
  - III. At least two weeks prior to the commencement of construction activities, under the direction of a qualified acoustician, noise attenuation measures (e.g., berms, walls) shall be implemented to ensure that noise levels resulting from construction activities will not exceed 60 dB(A) hourly

average at the edge of habitat occupied by the Coastal California gnatcatcher. Concurrent with the commencement of construction activities and the construction of necessary noise attenuation facilities, noise monitoring\* shall be conducted at the edge of the occupied habitat area to ensure that noise levels do not exceed 60 dB(A) hourly average. If the noise attenuation techniques implemented are determined to be inadequate by the qualified acoustician or biologist, then the associated construction activities shall cease until such time that adequate noise attenuation is achieved or until the end of the breeding season (August 16).

\* Construction noise monitoring shall continue to be monitored at least twice weekly on varying days, or more frequently depending on the construction activity, to verify that noise levels at the edge of occupied habitat are maintained below 60 dB(A) hourly average or to the ambient noise level if it already exceeds 60 dB(A) hourly average. If not, other measures shall be implemented in consultation with the biologist and the City Manager, as necessary, to reduce noise levels to below 60 dB(A) hourly average or to the ambient noise level if it already exceeds 60 dB(A) hourly average. Such measures may include, but are not limited to, limitations on the placement of construction equipment and the simultaneous use of equipment.

- B. If Coastal California gnatcatchers are not detected during the protocol survey, the qualified biologist shall submit substantial evidence to the city manager and applicable resource agencies which demonstrates whether or not mitigation measures such as noise walls are necessary between March 1 and August 15 as follows:
  - I. If this evidence indicates the potential is high for Coastal California gnatcatcher to be present based on historical records or site conditions, then condition A.III shall be adhered to as specified above.
  - II. If this evidence concludes that no impacts to this species are anticipated, no further mitigation measures are necessary.

#### RAPTORS

1. If the site has a potential to support nests and nesting raptors are present during construction, compliance with the Migratory Bird Treaty Act/Section 3503 would preclude the potential for direct impacts.
2. If there is a potential for indirect noise impacts to nesting raptors, prior to construction within the development area during the raptor breeding season (February 1 through September 15) the biologist shall conduct a preconstruction survey to determine the

presence of active raptor nests. If active nests are detected, the biologist in consultation with EAS staff shall establish a species appropriate noise buffer zone. No construction shall occur within this zone.

PALEONTOLOGICAL RESOURCES

**PRIOR TO PERMIT ISSUANCE**

**A. Land Development Review (LDR) Plan Check**

1. Prior to Notice to Proceed (NTP) for any construction permits, including but not limited to, the first Grading Permit, Demolition Plans/Permits and Building Plans/Permits, but prior to the first preconstruction meeting, whichever is applicable, the Assistant Deputy Director (ADD) Environmental designee shall verify that the requirements for Paleontological Monitoring have been noted on the appropriate construction documents.

**B. Letters of Qualification have been submitted to ADD**

1. The applicant shall submit a letter of verification to Mitigation Monitoring Coordination (MMC) identifying the Principal Investigator (PI) for the project and the names of all persons involved in the paleontological monitoring program, as defined in the City of San Diego Paleontology Guidelines.
2. MMC will provide a letter to the applicant confirming the qualifications of the PI and all persons involved in the paleontological monitoring of the project.
3. Prior to the start of work, the applicant shall obtain approval from MMC for any personnel changes associated with the monitoring program.

**PRIOR TO START OF CONSTRUCTION**

**A. Verification of Records Search**

1. The PI shall provide verification to MMC that a site specific records search has been completed. Verification includes, but is not limited to a copy of a confirmation letter from San Diego Natural History Museum, other institution or, if the search was in-house, a letter of verification from the PI stating that the search was completed.
2. The letter shall introduce any pertinent information concerning expectations and probabilities of discovery during trenching and/or grading activities.

B. PI Shall Attend Precon Meetings

1. Prior to beginning any work that requires monitoring, the Applicant shall arrange a Precon Meeting that shall include the PI, Construction Manager (CM) and/or Grading Contractor, Resident Engineer (RE), Building Inspector (BI), if appropriate, and MMC. The qualified paleontologist shall attend any grading/excavation related Precon Meetings to make comments and/or suggestions concerning the Paleontological Monitoring program with the Construction Manager and/or Grading Contractor.

a. If the PI is unable to attend the Precon Meeting, the Applicant shall schedule a focused Precon Meeting with MMC, the PI, RE, CM or BI, if appropriate, prior to the start of any work that requires monitoring.

2. Identify Areas to be Monitored

Prior to the start of any work that requires monitoring, the PI shall submit a Paleontological Monitoring Exhibit (PME) based on the appropriate construction documents (reduced to 11x17) to MMC identifying the areas to be monitored including the delineation of grading/excavation limits. The PME shall be based on the results of a site specific records search as well as information regarding existing known soil conditions (native or formation).

3. When Monitoring Will Occur

a. Prior to the start of any work, the PI shall also submit a construction schedule to MMC through the RE indicating when and where monitoring will occur.

b. The PI may submit a detailed letter to MMC prior to the start of work or during construction requesting a modification to the monitoring program. This request shall be based on relevant information such as review of final construction documents which indicate conditions such as depth of excavation and/or site graded to bedrock, presence or absence of fossil resources, etc., which may reduce or increase the potential for resources to be present.

## DURING CONSTRUCTION

### A. Monitor Shall be Present During Grading/Excavation/Trenching

1. The monitor shall be present full-time during grading/excavation/trenching activities as identified on the PME that could result in impacts to formations with high and moderate resource sensitivity. **The Construction Manager is responsible for notifying the RE, PI, and MMC of changes to any construction activities.**
2. The monitor shall document field activity via the Consultant Site Visit Record (CSVSR). The CSVSR's shall be faxed by the CM to the RE the first day of monitoring, the last day of monitoring, monthly (**Notification of Monitoring Completion**), and in the case of ANY discoveries. The RE shall forward copies to MMC.
3. The PI may submit a detailed letter to MMC during construction requesting a modification to the monitoring program when a field condition such as trenching activities that do not encounter formational soils as previously assumed, and/or when unique/unusual fossils are encountered, which may reduce or increase the potential for resources to be present.

### B. Discovery Notification Process

1. In the event of a discovery, the Paleontological Monitor shall direct the contractor to temporarily divert trenching activities in the area of discovery and immediately notify the RE or BI, as appropriate.
2. The Monitor shall immediately notify the PI (unless Monitor is the PI) of the discovery.
3. The PI shall immediately notify MMC by phone of the discovery, and shall also submit written documentation to MMC within 24 hours by fax or email with photos of the resource in context, if possible.

### C. Determination of Significance

1. The PI shall evaluate the significance of the resource.
  - a. The PI shall immediately notify MMC by phone to discuss significance determination and shall also submit a letter to MMC indicating whether additional mitigation is required. The determination of significance for

fossil discoveries shall be at the discretion of the PI.

- b. If the resource is significant, the PI shall submit a Paleontological Recovery Program (PRP) and obtain written approval from MMC. Impacts to significant resources must be mitigated before ground disturbing activities in the area of discovery will be allowed to resume.
- c. If resource is not significant (e.g., small pieces of broken common shell fragments or other scattered common fossils) the PI shall notify the RE, or BI as appropriate, that a non-significant discovery has been made. The Paleontologist shall continue to monitor the area without notification to MMC unless a significant resource is encountered.
- d. The PI shall submit a letter to MMC indicating that fossil resources will be collected, curated, and documented in the Final Monitoring Report. The letter shall also indicate that no further work is required.

#### NIGHT WORK

- A. If night work is included in the contract
  1. When night work is included in the contract package, the extent and timing shall be presented and discussed at the precon meeting.
  2. The following procedures shall be followed.
    - a. No Discoveries

In the event that no discoveries were encountered during night work, The PI shall record the information on the CSVr and submit to MMC via fax by 9am the following morning, if possible.
    - b. Discoveries

All discoveries shall be processed and documented using the existing procedures detailed in Sections III - During Construction.
    - c. Potentially Significant Discoveries

If the PI determines that a potentially significant discovery has been made, the procedures detailed under Section III - During Construction

shall be followed.

- d. The PI shall immediately contact MMC, or by 8AM the following morning to report and discuss the findings as indicated in Section III-B, unless other specific arrangements have been made.
- B. If night work becomes necessary during the course of construction
1. The Construction Manager shall notify the RE, or BI, as appropriate, a minimum of 24 hours before the work is to begin.
  2. The RE, or BI, as appropriate, shall notify MMC immediately.
- C. All other procedures described above shall apply, as appropriate.

#### POST CONSTRUCTION

A. Submittal of Draft Monitoring Report

1. The PI shall submit two copies of the Draft Monitoring Report (even if negative) which describes the results, analysis, and conclusions of all phases of the Paleontological Monitoring Program (with appropriate graphics) to MMC for review and approval within 90 days following the completion of monitoring.
  - a. For significant paleontological resources encountered during monitoring, the Paleontological Recovery Program shall be included in the Draft Monitoring Report.
  - b. Recording Sites with the San Diego Natural History Museum  

The PI shall be responsible for recording (on the appropriate forms) any significant or potentially significant fossil resources encountered during the Paleontological Monitoring Program in accordance with the City's Paleontological Guidelines, and submittal of such forms to the San Diego Natural History Museum with the Final Monitoring Report.
2. MMC shall return the Draft Monitoring Report to the PI for revision or, for preparation of the Final Report.
3. The PI shall submit revised Draft Monitoring Report to MMC for approval.
4. MMC shall provide written verification to the PI of the approved report.

5. MMC shall notify the RE or BI, as appropriate, of receipt of all Draft Monitoring Report submittals and approvals.

B. Handling of Fossil Remains

1. The PI shall be responsible for ensuring that all fossil remains collected are cleaned and catalogued.
2. The PI shall be responsible for ensuring that all fossil remains are analyzed to identify function and chronology as they relate to the geologic history of the area; that faunal material is identified as to species; and that specialty studies are completed, as appropriate

C. Curation of fossil remains: Deed of Gift and Acceptance Verification

1. The PI shall be responsible for ensuring that all fossil remains associated with the monitoring for this project are permanently curated with an appropriate institution.
2. The PI shall include the Acceptance Verification from the curation institution in the Final Monitoring Report submitted to the RE or BI and MMC.

D. Final Monitoring Report(s)

1. The PI shall submit two copies of the Final Monitoring Report to MMC (even if negative), within 90 days after notification from MMC that the draft report has been approved.
2. The RE shall, in no case, issue the Notice of Completion until receiving a copy of the approved Final Monitoring Report from MMC which includes the Acceptance Verification from the curation institution.

VI. PUBLIC REVIEW DISTRIBUTION:

Draft copies or notice of this Mitigated Negative Declaration were distributed to:

United States

U.S. Fish and Wildlife Service (23)

State of California

California Department of Fish and Game (32)

Regional Water Quality Control Board (44)

State Clearinghouse (46)

City of San Diego:

Council District 6, Councilmember Frye  
Development Services Department  
Planning Department  
Branch Library (MS 17)  
Historical Resources Board (87)

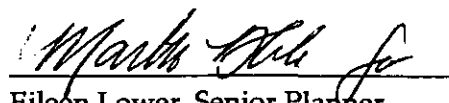
Other

Sierra Club (165)  
San Diego Audubon Society (167)  
California Native Plant Society (170)  
The Center for Biological Diversity (176)  
Citizens Coordinate for Century III (179)  
Endangered Habitats League (182)  
Dr. Jerry Schafer (209)  
South Coastal Information Center (210)  
San Diego Archaeological Society (212)  
San Diego Natural History Museum (213)  
Save Our Heritage Organisation (214)  
Ron Christman (215)  
Louie Guassac (215A)  
San Diego County Archaeological Society (218)  
Native American Heritage Commission (222)  
Kumeyaay Cultural Repatriation Committee (225)  
Native American Distribution (225A-R)  
Serra Mesa Community Council (264)  
Mission Village Homeowners Association (266)  
Normal Heights Community Planning Committee (291)  
Normal Heights Community Planning Association (292)  
Mission Valley Center Association (328)  
Hazard Center (328A)  
Mary Johnson (328B)  
Mission Valley Community Council (328C)  
Union Tribune News (329)  
San Diego River Conservancy (330A)  
Friends of the Mission Valley Preserve (330B)  
Mission Valley Unified Planning Organization (331)  
Mr. Gene Kemp (332)  
Lynn Mulholland (333)  
River Valley Preservation Project (334)

VII. RESULTS OF PUBLIC REVIEW:

- ( ) No comments were received during the public input period.
- ( ) Comments were received but did not address the draft Mitigated Negative Declaration finding or the accuracy/completeness of the Initial Study. No response is necessary. The letters are attached.
- (X) Comments addressing the findings of the draft Mitigated Negative Declaration and/or accuracy or completeness of the Initial Study were received during the public input period. The letters and responses follow.

Copies of the draft **Mitigated Negative Declaration**, the Mitigation, Monitoring and Reporting Program and any Initial Study materials are available in the office of the Land Development Review Division for review, or for purchase at the cost of reproduction.

  
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Eileen Lower, Senior Planner  
Development Services Department

March 05, 2007  
Date of Draft Report

May 4, 2007  
Date of Final Report

Analyst: SHEARER-NGUYEN