

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:

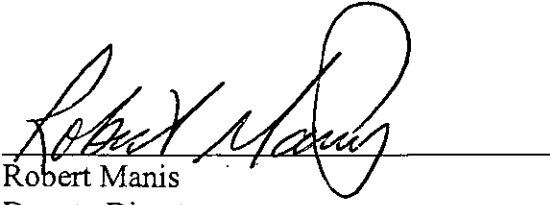
1. The motion states that the proposed project exceeds the City's allowable height and bulk regulations. This is not correct. The underlying MV-CO (Mission Valley – Commercial Office) Zone provides the development regulations governing height; setbacks, coverage, and floor-to-area ratio (F.A.R.). When 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.

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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", is written over a horizontal line. The signature is fluid and cursive, with a large loop at the end.

Robert Manis
Deputy Director
Development services Department