

ADOPTION AGENDA, DISCUSSION, HEARINGS (Continued)

NOTICED HEARINGS: (Continued)

The following items will be considered in the afternoon session which is scheduled to begin at 2:00 p.m.

ITEM-339: Pacific Coast Office Building, PTS Project No. 54384. Appeal of the Environmental Document, Mitigated Negative Declaration No. 54384. (Mission Valley Community Plan Area. District 6.)

[▶ View referenced exhibit back-up material \(Part 1 of 3\).](#)

[▶ View referenced exhibit back-up material \(Part 2 of 3\).](#)

[▶ View referenced exhibit back-up material \(Part 3 of 3\).](#)

As a property owner, tenant, or person who has requested notice, or interested citizen, you should know that a public hearing will be held by the City Council to consider an environmental determination appeal on an application for a Site Development Permit to construct an approximate 10,000 square foot office building on an approximate five-acre site containing environmentally sensitive lands, located east of the southerly terminus of Scheidler Way, south of the 3300 block of Camino Del Rio South in the MV-CO Zone of the Mission Valley Planned District. Matter of the appeal filed by Randy Berkman, Lynn Mulholland, James A. Peugh, and Ellen Shively and others applies only to the environmental determination.

(See Report to the City Council No. 07-122.)

(Continued from the meetings of July 31, 2007, Item 330; September 25, 2007, Item 334; and October 30, 2007, Item S333; at the request of Councilmember Hueso, for full City Council. Testimony taken.)

NOTE: Hearing closed.

According to the San Diego Municipal Code (SDMC), Land Development Code, Section 112.0520(d)(1)-(3), the City Council shall consider the appeal and shall, by a majority vote:

- (1) Deny the appeal, uphold the environmental determination and adopt the CEQA findings of the previous decision-maker, where appropriate;
- (2) Grant the appeal and make a superseding environmental determination or CEQA findings; or
- (3) Grant the appeal, set aside the environmental determination, and remand the matter to the previous decision-maker, in accordance with SDMC Section 112.0520(f), to reconsider the environmental determination that incorporates any direction or instruction the City Council deems appropriate.

ADOPTION AGENDA, DISCUSSION, HEARINGS (Continued)

NOTICED HEARINGS: (Continued)

ITEM-339: (Continued)

If the City Council denies the appeal or grants the appeal under Section 112.0520(d)(2), the lower decision-maker's decision to grant the entitlements, approval or City authorization, shall become effective immediately.

If the City Council grants the appeal under Section 112.0520(d)(3), the lower decision-maker's decision to grant the entitlements, approval or City authorization shall be deemed vacated and the lower decision maker shall reconsider its environmental determination and its decision to grant the entitlements, approval or City authorization, in view of the action and, where appropriate, any direction or instruction from the City Council.

STAFF'S RECOMMENDATION:

Take the following actions:

Subitem-A:

Adoption of a Resolution granting or denying the appeal and upholding or overturning the Planning Commission's decision certifying the Mitigated Negative Declaration, Project No. 54384; and certifying the associated Mitigation, Monitoring and Reporting Program;

That the City Clerk is directed to file a Notice of Determination (NOD) with the Clerk of the Board of Supervisors for the County of San Diego regarding the above project;

Directing the City Attorney to prepare the appropriate resolutions according to Section 40 of the City Charter;

Subitem-B:

Adoption of a Resolution granting or denying the appeal and granting or denying Site Development Permit (Mission Valley Planned District) Permit No. 158004.

Directing the City Attorney to prepare the appropriate resolutions according to Section 40 of the City Charter.

ADOPTION AGENDA, DISCUSSION, HEARINGS (Continued)

NOTICED HEARINGS: (Continued)

ITEM-339: (Continued)

OTHER RECOMMENDATIONS:

Planning Commission on June 15, 2006, voted 4-2 to deny the appeal and approve staff's recommendation; was opposition.

Ayes: Schultz, Ontai, Otsuji, and Steele
Nays: Chase, Garcia
Not present: Griswold

The Mission Valley Community Planning Organization on September 7, 2005 voted to recommend approval of this project.

STAFF SUPPORTING INFORMATION:

REQUESTED ACTION:

This action is the appeal of the environmental document, Mitigated Negative Declaration No. 54384, prepared for a 10,000 square-foot office building located at 3517 Camino del Rio South in the Mission Valley Community Plan area.

STAFF RECOMMENDATION:

DENY the appeal and **UPHOLD** the Environmental Determination (Mitigated Negative Declaration No. 54384).

EXECUTIVE SUMMARY:

On September 26, 2006, the City Council voted 7-0-0 with Councilmember Maienschein absent) to approve a prior appeal of Mitigated Negative Declaration No. 54384 and remanded the issue back to the Planning Commission to reconsider the project.

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 re-circulated for public review.

ADOPTION AGENDA, DISCUSSION, HEARINGS (Continued)

NOTICED HEARINGS: (Continued)

ITEM-339: (Continued)

STAFF SUPPORTING INFORMATION: (Continued)

The MND was revised and re-circulated 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. On May 17, 2007, the project, and the revised Mitigated Negative Declaration were reconsidered by the Planning Commission. The Commission unanimously voted to certify the environmental document and approve the project. On May 27, 2007, the environmental document was again appealed to the City Council.

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. The environmental document that is the subject of this appeal is a Mitigated Negative Declaration. This type of environmental document does not typically include an analysis of project alternatives however; the staff revised the document to include an array of project designs that covered the basic design and siting options available for the property. 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. Additional appeal issues contend factual error, new information and that the findings cannot be supported. These issues are discussed in the Report to City Council.

FISCAL CONSIDERATIONS:

All costs associated with the processing of this appeal are paid by the applicant.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

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. On May 17, 2007, the Planning Commission reheard the item, certified the Mitigated Negative Declaration and approved the project.

ADOPTION AGENDA, DISCUSSION, HEARINGS (Continued)

NOTICED HEARINGS: (Continued)

ITEM-339: (Continued)

STAFF SUPPORTING INFORMATION: (Continued)

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

On May 17, 2007, the Planning Commission voted 5-0-0, with Commissioner Garcia absent to approve the project. On September 7, 2005, the Mission Valley Community Planning Organization voted 15-0-0 to recommend approval of the project. On January 3, 2006, the Normal Heights Planning Group voted 10-0-0 to recommend denial of the project. This appeal was filed by individuals representing: Friends of San Diego, the River Valley Preservation Project, University Heights Planning Committee and the San Diego Chapter of the Sierra Club.

KEY STAKEHOLDERS & PROJECTED IMPACTS (if applicable):

Dr. Robert Pollack, Pacific Coast Office Building LLC, Applicant

Escobar-Eck/Waring/PH

LEGAL DESCRIPTION:

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).

Staff: Patrick Hooper – (619) 557-7992

NOTE: This item is not subject to Mayor's veto.