



THE CITY OF SAN DIEGO

M E M O R A N D U M

DATE: May 10, 2017

TO: City of San Diego Hearing Officer

FROM: Karen Bucey, Development Project Manger

SUBJECT: Elkins Residence, Project No. 463101, Hearing officer Agenda for May 17, 2017

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The project was originally scheduled for the April 20, 2017, Hearing Officer Agenda; however, due to a noticing issues the project was withdrawn and re-noticed for May 17, 2017. [Hearing Officer Report No. HO-17-010](#), issued on April 12, 2017, will be utilized for this hearing with the following revision:

1. The attached draft Permit and Permit Resolution have been revised to reflect the following changes, and are shown in a strikeout underline format:
  - a. The basement square footage is 2,368, not 2,568.
  - b. The second floor 'one office/bedroom' has been revise to state 'office.'
  - c. The permit utilization date has been revised to May 31, 2002.
2. The attached draft Mitigated Negative Declaration Resolution has been revised to reflect additional language, corrections, and mitigation, and are shown in a strikeout underline format.



Karen Bucey

Attachment: 

1. Revised Coastal Development Permit and Site Development Permit Resolution
2. Revised Coastal Development Permit and Site Development Permit Draft Permit
3. Revised Mitigated Negative Declaration Draft Resolution

cc: Project File No. 463101

HEARING OFFICER RESOLUTION NO.  
COASTAL DEVELOPMENT PERMIT APPROVAL NO. 1620093  
SITE DEVELOPMENT PERMIT APPROVAL NO. 1620095  
**ELKINS RESIDENCE - PROJECT NO. 463101 [MMRP]**

WHEREAS, THOMAS ELKINS ZIPOLO, Owner/Permittee, filed an application with the City of San Diego for a permit for the demolition of an existing single dwelling unit and construction of a single dwelling unit (as described in and by reference to the approved Exhibits "A" and corresponding conditions of approval for the associated Permit No. 1620093 and No. 1620095), on portions of a 0.18-acre site;

WHEREAS, the project site is located at 8260 Paseo del Ocaso in the La Jolla Shores Planned District Single Family (LJSPD SF) zone of the La Jolla Community Plan, the Coastal Overlay Zone (Non Appealable Area 2), Coastal Height Limitation, and the Parking Impact, and Residential Tandem Overlay Zones;

WHEREAS, the project site is legally described as lot 4 and the northerly 25 feet of lot 5 in block 22, La Jolla Shores Unit No. 3, in the City of San Diego, County of San Diego, State of California according to the map thereof No. 2061, file in the office of the San Diego County Recorder, September 5, 1927;

WHEREAS, on ~~April 19, 2017~~ May 17, 2017, the Hearing Officer of the City of San Diego considered Coastal Development Permit No. 1620093 and Site Development Permit No. 1620095 pursuant to the Land Development Code of the City of San Diego; now therefore;

BE IT RESOLVED by the Hearing Officer of the City of San Diego as follows:

That the Hearing Officer adopts the following written Findings, dated ~~April 19, 2017~~ May 17, 2017.

FINDINGS:

**I. Coastal Development Permit – Land Development Code Section 126.0708**

- 1. The proposed coastal development will not encroach upon any existing physical accessway that is legally used by the public or any proposed public accessway identified in a Local Coastal Program land use plan; and the proposed coastal development will enhance and protect public views to and along the ocean and other scenic coastal areas as specified in the Local Coastal Program land use plan; and**

The project proposes the demolition of an existing single dwelling unit and the construction of a 4,981-square-foot two-story residence over a ~~2,568,368~~-square-foot basement on a 0.18-acre site. The land use designation is Low Density Residential at a density range of 5-9 dwelling units per acre and within the La Jolla Shores Planned District Single Family zone. Additionally, the site is in the Coastal Overlay Zone (Non Appealable Area 2), Coastal Height Limitation, Parking Impact, and Residential Tandem Overlay Zones.

Paseo del Ocaso at this location is not designated as a physical accessway or view corridor, and does not contain intermittent or partial vistas, view sheds or scenic overlooks within the adopted La Jolla Community Plan and Local Coastal Program Land Use Plan. The project will protect public views through a structure height of 25-feet, 11.5 inches and below the Coastal Height Limitation Overlay Zone maximum of 30 feet. Therefore, the project does not impact or encroach on any existing or proposed public accessway vista, or view shed and enhances and protects public views through design features, parkways, and setbacks consistent with the with the goals and policies of the certified Local Coastal Program.

**2. The proposed coastal development will not adversely affect environmentally sensitive lands; and**

The project proposes the demolition of an existing single dwelling unit and the construction of a 4,981-square-foot two-story residence over a 2,5682,368-square-foot basement on a 0.18-acre site. The subject property is 1,200 feet from the Pacific Ocean, 21.75 feet above Mean Sea Level and is located above the 100-year floodplain. The site is not within, or adjacent to, the Multiple Species Conservation Program/Multi-Habitat Planning Area (MSCP) and does not contain any other type of Environmental Sensitive Lands as defined in San Diego Municipal Code Section 113.0103.

A Mitigated Negative Declaration (MND) has been prepared for the project in accordance with State of California Environmental Quality Act (CEQA), which addresses potential impacts to Historical Resources (Archaeology and Paleontology); and a Mitigation, Monitoring, and Reporting Program (MMRP) would be implemented with this project to reduce the potential impacts to below a level of significance. Therefore, it has been determined that the development will not adversely affect environmentally sensitive lands.

**3. The proposed coastal development is in conformity with the certified Local Coastal Program land use plan and complies with all regulations of the certified Implementation Program; and**

The project proposes the demolition of an existing single dwelling unit and the construction of a 4,981-square-foot two-story residence over a 2,5682,368-square-foot basement on a 0.18-acre site. The land use designation is Low Density Residential at a density range of 5-9 dwelling units per acre and within the La Jolla Shores Planned District Single Family zone. Additionally, the site is in the Coastal Overlay Zone (Non Appealable Area 2), Coastal Height Limitation, Parking Impact, and Residential Tandem Overlay Zones.

The project site does not contain an access way to nearby beaches or the coastline, it is not within an environmentally sensitive habitat area or marine resources. The site is an infill development and has a residential land use designation and is not within a recreation or visitor serving retail area. The existing residential structure to be demolished has been reviewed under the Secretary of the Interior Standards and determined not to be a historic resource or located in a conservation area. The parcel is not designated a park or recreation area and the proposed development will not encroach upon, or impact the use or preservation of the recreational resources. The development is a market-rate single dwelling unit and the applicant does not propose the unit as affordable housing. The parcel is a mid-

block location 1,200 feet from the Pacific Ocean and is not in a coastal bluff area. The site has been previously graded and is level with a finished grade of 21.25 feet and therefore does not meet the definition for hillside development. The project has been design to reflect storm water management requirements, a water quality study and a geotechnical investigation technical report. The community plan land use designation for this site is Low Density Residential at a density range of 5-9 dwelling units per acre. The demolition of an existing residential unit and the construction of a new residential unit will not impact land use buildout or residential development. The geologic hazard classification for the site is 52, the site contains gently sloping to steep terrain, favorable geologic structure, and the site is not within the Alquist-Priolo earthquake fault zone. The development does not contain, nor is proposed for, community serving water, sewage, gas and electric utilities. Development of the site will not impact the exiting community utilities or future provision of services.

The visual quality of the site and community is preserved through a structure height of 25-feet, 11.5 inches, which complies with the regulations of the Coastal Height Limitation Overlay Zone. The height, bulk and scale of the project is reduced by a stepped back second floor, various pitched roof planes at the first and second floors, and articulation on all sides of the structure breaking up the massing, consistent with the La Jolla Community Plan residential Element. The entryway includes a pillared porch with pitched roof to provide a lighter element to the façade and help step down the structures size to pedestrian scale.

The project is not requesting nor does it require any deviations or variances from the applicable regulations. Therefore the development is in conformity with the Certified Local Coastal Program land use plan and certified implementation program.

**4. For every Coastal Development Permit issued for any coastal development between the nearest public road and the sea or the shoreline of any body of water located within the Coastal Overlay Zone the coastal development is in conformity with the public access and public recreation policies of Chapter 3 of the California Coastal Act.**

The project proposes the demolition of an existing single dwelling unit and the construction of a 4,981-square-foot two-story residence over a ~~2,5682,368~~-square-foot basement on a 0.18-acre site. The subject property is 1,200 feet from the Pacific Ocean and is not located between the sea and the first public roadway paralleling the sea. Therefore, the finding is not applicable and the proposed development does not have to demonstrate conformance with the public access and recreation policies of the California Coastal Act as required by this finding.

**II Site Development Permit – Land Development Code Section 126.0504(A)**

**1. The proposed development will not adversely affect the applicable land use plan;**

The project proposes the demolition of an existing single dwelling unit and the construction of a 4,981-square-foot two-story residence over a ~~2,5682,368~~-square-foot basement on a 0.18-acre site. The site is in the Coastal Overlay Zone (Non Appealable Area 2), Coastal Height Limitation, and the Parking Impact, and Residential Tandem Overlay Zones. The structure incorporates a roof-mounted photovoltaic system consisting of solar panels sufficient to

generate at least 50 percent of the site's projected energy consumption in conformance with the criteria of the Affordable/In-Fill Housing and Sustainable Buildings Expedite Program.

The project site is located at 8260 Paseo del Ocaso, south of Calle Frescota, in the in the La Jolla Community Plan and Local Coastal Program. The La Jolla Community Plan designates the site as Low Density Residential at a density range of 5-9 dwelling units per acre and the site is zoned as Single Family in the La Jolla Shores Planned District. The 0.18-acre site could accommodate one dwelling unit based on the applicable community plan land use designation and implementing zone.

The project is not requesting nor does it require any deviations or variances from the policy documents and applicable regulations and is consistent with the recommended land use designation and development standards in effect for this site, including conformance with the La Jolla Shores Planned District. Therefore, the proposed development will not adversely affect the applicable land use plan.

**2. The proposed development will not be detrimental to the public health, safety, and welfare; and**

The project proposes the demolition of an existing single dwelling unit and the construction of a 4,981-square-foot two-story residence over a ~~2,5682,368~~-square-foot basement on a 0.18-acre site. The site is in the Coastal Overlay Zone (Non Appealable Area 2), Coastal Height Limitation, and the Parking Impact, and Residential Tandem Overlay Zones. The structure incorporates a roof-mounted photovoltaic system consisting of solar panels sufficient to generate at least 50 percent of the site's projected energy consumption, in conformance with the criteria of the Affordable/In-Fill Housing and Sustainable Buildings Expedite Program. The subject property is 1,200 feet from the Pacific Ocean, 21.75 feet above Mean Sea Level and is located above the 100-year floodplain. The development is conditioned to provide a new driveway and public sidewalk improvements. The site is not within or adjacent to the MSCP Area and does not contain any other type of Environmental Sensitive Lands as defined in San Diego Municipal Code Section 113.0103.

A Mitigated Negative Declaration No. 463101 has been prepared for the project in accordance with State of California Environmental Quality Act (CEQA), which addresses potential impacts to Historical Resources (Archaeology and Paleontology); and a Mitigation, Monitoring, and Reporting Program (MMRP) would be implemented with this project to reduce the potential impacts to below a level of significance.

The permit for the project includes conditions relevant to achieving project compliance with the applicable regulations in effect for this project. The permit conditions, such as the replacement of driveway, drains, curb and gutter have been determined to be necessary to avoid adverse impacts upon the health, safety and general welfare of persons residing or working in the surrounding area. The building plans and public improvement plans shall be reviewed, permitted, and inspected by the City for compliance with all applicable building, mechanical, electrical, fire code, and development regulations.

The project is not requesting nor does it require any deviations or variances from the applicable regulations and policy documents, and is consistent with development standards in effect for this site, including conformance with the La Jolla Shores Planned District. The project is conditioned to comply with the development regulations in effect for the subject property as described in Coastal Development Permit No. 1620093 and Site Development Permit No. 1620095. Therefore, the proposed development will not be detrimental to the public health, safety, and welfare.

**3. The proposed development will comply with the applicable regulations of the Land Development Code, including any allowable deviations pursuant to the Land Development Code.**

The project site is located at 8260 Paseo del Ocaso, south of Calle Frescota, in the in the La Jolla Community Plan and Local Coastal Program. The La Jolla Community Plan designates the site as Low Density Residential at a density range of 5-9 dwelling units per acre and the site is zoned as Single Family in the La Jolla Shores Planned District. The site is within the Coastal Overlay Zone (Non Appealable Area 2), Coastal Height Limitation Overlay Zone, Parking Impact Overlay Zones, and the Residential Tandem Parking Overlay Zone.

The 0.18-acre site could accommodate one dwelling unit based on the applicable community plan land use designation and implementing LJSPD-SF zone. The project conforms to the Coastal Height Limitation Overlay Zone through design height of 25-feet, 11.5 inches, below the maximum allowable height of 30 feet. The height, bulk and scale of the project is reduced by a stepped back second floor, various pitched roof planes at the first and second floors, and articulation on all sides of the structure breaking up the massing, consistent with the La Jolla Community Plan residential Element. The entryway includes a pillared porch with pitched roof to provide a lighter element to the façade and help step down the structures size to pedestrian scale. The ~~four~~six-bedroom single dwelling unit meets the Parking Impact Overlay Zones, and the Residential Tandem Parking Overlay Zone by providing off-street garage parking.

The project is not requesting, nor does it require, any deviations or variances from the applicable regulations and policy documents, and is consistent with the recommended land use designation and development standards in effect for this site, such as setbacks, floor area ratio, structure height landscaping, including conformance with the La Jolla Shores Planned District.

BE IT FURTHER RESOLVED that, based on the findings hereinbefore adopted by the Hearing Officer, Coastal Development Permit No. 1620093/Site Development Permit No. 1620095 is hereby GRANTED by the Hearing Officer to the referenced Owner/Permittee, in the form, exhibits, terms and conditions as set forth in Permit No. 1620093 and No. 1620095, a copy of which is attached hereto and made a part hereof.

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Karen Bucey  
Development Project Manager  
Development Services

Adopted on: ~~April 19, 2017~~ May 17, 2017

IO#: 24006401

**RECORDING REQUESTED BY**  
CITY OF SAN DIEGO  
DEVELOPMENT SERVICES  
PERMIT INTAKE, MAIL STATION  
501

**WHEN RECORDED MAIL TO**  
**PROJECT MANAGEMENT**  
**PERMIT CLERK**  
**MAIL STATION 501**

INTERNAL ORDER NUMBER: 24006401

SPACE ABOVE THIS LINE FOR RECORDER'S USE

COASTAL DEVELOPMENT PERMIT NO. 1620093 AND  
SITE DEVELOPMENT PERMIT NO. 1620095  
**ELKINS RESIDENCE-PROJECT NO. 463101 [MMRP]**  
HEARING OFFICER

This Coastal Development Permit No. 1620093 and Site Development Permit No. 1620095 is granted by the Hearing Officer of the City of San Diego to THOMAS ELKINS ZIPOLO, Owner and Permittee, pursuant to San Diego Municipal Code section 126.0708 and 126.0504. The 0.18-acre site is located at 8260 Paseo del Ocaso in the La Jolla Shores Planned District Single Family (LJSPD SF) zone of the La Jolla Community Plan, the Coastal Overlay Zone (Non Appealable Area 2), Coastal Height Limitation, and the Parking Impact, and Residential Tandem Overlay Zones. The project site is legally described as: lot 4 and the northerly 25 feet of lot 5 in block 22, La Jolla Shores Unit No. 3, in the City of San Diego, County of San Diego, State of California according to the map thereof No. 2061, files in the office of the San Diego County Recorder September 5, 1927.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/ Permittee for the demolition of an existing single dwelling unit and construction of a 4,981-square-foot, two-story single dwelling unit, over a 2,568368-square foot basement on a 0.18-acre site described and conditioned by size, dimension, quantity, type and location on the approved exhibits [Exhibit "A"] dated ~~April 19, 2017~~ May 17, 2017 on file in the Development Services Department.

The project shall include:

- a. Demolition of an existing single dwelling unit and construction of a 4,981-square foot two-story residence over a 2,568368-square foot basement. The basement level consisting of game room, storage rooms, craft room, home theater, two-bathrooms and guestroom. The first floor includes four-bedrooms, four-bathrooms, one-powder room, elevator, family room, and two-car garage. The second floor includes one-bedroom, ~~one~~ office/~~bedroom~~, two-bathrooms, one-powder room, laundry room, kitchen, and living/dining room. The roof contains a roof deck and photo voltaic panels;



- b. Landscaping (planting, irrigation and landscape related improvements);
- c. Two off-street parking;
- d. Pool and spa accessory improvements; and
- e. A roof-mounted photovoltaic system sufficient to generate at least 50 percent of the proposed project's projected energy consumption, in conformance with the criteria of the Affordable/In-Fill Housing and Sustainable Buildings Expedite Program.
- f. Public and private accessory improvements determined by the Development Services Department to be consistent with the land use and development standards for this site in accordance with the adopted community plan, the California Environmental Quality Act [CEQA] and the CEQA Guidelines, the City Engineer's requirements, zoning regulations, conditions of this Permit, and any other applicable regulations of the San Diego Municipal Code.

**STANDARD REQUIREMENTS:**

1. This permit must be utilized within thirty-six (36) months after the date on which all rights of appeal have expired. If this permit is not utilized in accordance with Chapter 12, Article 6, Division 1 of the San Diego Municipal Code within the 36 month period, this permit shall be void unless an Extension of Time has been granted. Any such Extension of Time must meet all San Diego Municipal Code requirements and applicable guidelines in effect at the time the extension is considered by the appropriate decision maker. This permit must be utilized by ~~May 3, 2020~~ May 31, 2020.
2. No permit for the construction, occupancy, or operation of any facility or improvement described herein shall be granted, nor shall any activity authorized by this Permit be conducted on the premises until:
  - a. The Owner/Permittee signs and returns the Permit to the Development Services Department; and
  - b. The Permit is recorded in the Office of the San Diego County Recorder.
3. While this Permit is in effect, the subject property shall be used only for the purposes and under the terms and conditions set forth in this Permit unless otherwise authorized by the appropriate City decision maker.
4. This Permit is a covenant running with the subject property and all of the requirements and conditions of this Permit and related documents shall be binding upon the Owner/Permittee and any successor(s) in interest.
5. The continued use of this Permit shall be subject to the regulations of this and any other applicable governmental agency.

6. Issuance of this Permit by the City of San Diego does not authorize the Owner/Permittee for this Permit to violate any Federal, State or City laws, ordinances, regulations or policies including, but not limited to, the Endangered Species Act of 1973 [ESA] and any amendments thereto (16 U.S.C. § 1531 et seq.).

7. The Owner/Permittee shall secure all necessary building permits. The Owner/Permittee is informed that to secure these permits, substantial building modifications and site improvements may be required to comply with applicable building, fire, mechanical, and plumbing codes, and State and Federal disability access laws.

8. Construction plans shall be in substantial conformity to Exhibit "A." Changes, modifications, or alterations to the construction plans are prohibited unless appropriate application(s) or amendment(s) to this Permit have been granted.

9. All of the conditions contained in this Permit have been considered and were determined-necessary to make the findings required for approval of this Permit. The Permit holder is required to comply with each and every condition in order to maintain the entitlements that are granted by this Permit.

If any condition of this Permit, on a legal challenge by the Owner/Permittee of this Permit, is found or held by a court of competent jurisdiction to be invalid, unenforceable, or unreasonable, this Permit shall be void. However, in such an event, the Owner/Permittee shall have the right, by paying applicable processing fees, to bring a request for a new permit without the "invalid" condition(s) back to the discretionary body which approved the Permit for a determination by that body as to whether all of the findings necessary for the issuance of the proposed permit can still be made in the absence of the "invalid" condition(s). Such hearing shall be a hearing de novo, and the discretionary body shall have the absolute right to approve, disapprove, or modify the proposed permit and the condition(s) contained therein.

10. The Owners/Permittees shall defend, indemnify, and hold harmless the City, its agents, officers, and employees from any and all claims, actions, proceedings, damages, judgments, or costs, including attorney's fees, against the City or its agents, officers, or employees, relating to the issuance of this permit including, but not limited to, any action to attack, set aside, void, challenge, or annul this development approval and any environmental document or decision. The City will promptly notify Owners/Permittees of any claim, action, or proceeding and, if the City should fail to cooperate fully in the defense, the Owners/Permittees shall not thereafter be responsible to defend, indemnify, and hold harmless the City or its agents, officers, and employees. The City may elect to conduct its own defense, participate in its own defense, or obtain independent legal counsel in defense of any claim related to this indemnification. In the event of such election, Owners/Permittees shall pay all of the costs related thereto, including without limitation reasonable attorney's fees and costs. In the event of a disagreement between the City and Owners/Permittees regarding litigation issues, the City shall have the authority to control the litigation and make litigation related decisions, including, but not limited to, settlement or other disposition of the matter. However, the Owners/Permittees shall not be required to pay or perform any settlement unless such settlement is approved by Owners/Permittees.

### **ENVIRONMENTAL/MITIGATION REQUIREMENTS:**

11. Mitigation requirements in the Mitigation, Monitoring, and Reporting Program [MMRP] shall apply to this Permit. These MMRP conditions are hereby incorporated into this Permit by reference.
12. The mitigation measures specified in the MMRP and outlined in Mitigated Negative Declaration, NO. 463101, shall be noted on the construction plans and specifications under the heading ENVIRONMENTAL MITIGATION REQUIREMENTS.
13. The Owner/Permittee shall comply with the MMRP as specified in Mitigated Negative Declaration, NO. 463101, to the satisfaction of the Development Services Department and the City Engineer. Prior to issuance of any construction permit, all conditions of the MMRP shall be adhered to the satisfaction of the City Engineer. All mitigation measures described in the MMRP shall be implemented for the following issue areas: **Historical Resources (Archeology and Paleontology)**.

### **CLIMATE ACTION PLAN (CAP) REQUIREMENTS:**

14. The Owner/Permittee shall comply with The Climate Action Plan (CAP) Consistency Checklist stamped as Exhibit "A." Prior to issuance of any construction permit, all CAP strategies shall be noted within the first three (3) sheets of the construction plans under the heading "Climate Action Plan Requirements."
15. The Climate Action Plan strategies as identified on Exhibit "A" shall be enforced and implemented to the satisfaction of the Development Services Department.

### **ENGINEERING REQUIREMENTS:**

16. The drainage system proposed for this development, as shown on the site plan, is private and subject to approval by the City Engineer.
17. Prior to the issuance of any building permits, the Owner/Permittee shall obtain an Encroachment Maintenance Removal Agreement, from the City Engineer, for the sidewalk underdrains and trees/landscaping on Paseo Del Ocaso.
18. Prior to the issuance of any building permits, the Owner/Permittee shall assure, by permit and bond, the construction of a new 12-foot driveway per current City Standards, adjacent to the site on Paseo Del Ocaso.
19. Prior to the issuance of any building permits, the Owner/Permittee shall assure, by permit and bond, the following-reconstruction of the existing sidewalk with current City Standard sidewalk.
20. Prior to the issuance of any building permits, the Owner/Permittee shall assure, by permit and bond, maintaining the existing sidewalk scoring pattern and preserving the contractor's stamp, adjacent to the site on Paseo Del Ocaso.

21. Prior to the issuance of any construction permit, the Owner/Permittee shall enter into a Maintenance Agreement to remove existing brick pavers from parkway section of Paseo Del Ocaso right of way.
22. Prior to the issuance of any construction permit, the Owner/Permittee shall enter into a Maintenance Agreement for the ongoing permanent BMP maintenance, satisfactory to the City Engineer.
23. Prior to the issuance of any construction permit the Owner/Permittee shall submit a Water Pollution Control Plan (WACO). The WPCP shall be prepared in accordance with the guidelines in Part 2 Construction BMP Standards Chapter 4 of the City's Storm Water Standards.
24. Prior to the issuance of any construction permit the Owner/Permittee shall submit a Water Pollution Control Plan.

**GEOLOGY REQUIREMENTS:**

25. The Owner/Permittee shall submit a geotechnical investigation report or update letter that specifically addresses the proposed construction plans. The geotechnical investigation report or update letter shall be reviewed for adequacy by the Geology Section of the Development Services Department prior to issuance of any construction permits.

**LANDSCAPE REQUIREMENTS:**

26. Prior to issuance of any construction permits for structures (including shell), the Owner/Permittee shall submit complete landscape and irrigation construction documents consistent with the Landscape Standards to the Development Services Department for approval. The construction documents shall be in substantial conformance with Exhibit "A," Landscape Development Plan, on file in the Office of the Development Services Department. Construction plans shall provide a 40-square feet area around each tree that is unencumbered by hardscape and utilities unless otherwise approved per LDC 142.0403(b)(5).
27. Prior to issuance of a grading or building permit, the Owner/Permittee shall submit a site/plot plan consistent with the plans submitted for a building permit showing the required 30 percent landscaped area in a crosshatch pattern and labeled "Landscape Area Diagram."
28. In the event that a foundation only permit is requested by the Owner/Permittee, a site plan or staking layout plan shall be submitted to the Development Services Department identifying all landscape areas consistent with Exhibit "A," Landscape Development Plan, on file in the Office of the Development Services Department. These landscape areas shall be clearly identified with a distinct symbol, noted with dimensions and labeled as 'landscaping area.'
29. The Owner/Permittee shall be responsible for the maintenance of all landscape improvements shown on the approved plans, including in the right-of-way, consistent with the Landscape Standards unless long-term maintenance of said landscaping will be the responsibility of a Landscape Maintenance District or other approved entity.

30. Any modifications or changes to the "Landscape Area Diagram " and existing or proposed plant material, as shown on the approved Exhibit "A" Landscape Concept Plan, are permitted provided the resulting landscape meets the minimum area requirements of the La Jolla Shores Planned District Ordinance.

31. All required landscape shall be maintained in a disease, weed and litter free condition at all times. Severe pruning or "topping" of trees is not permitted unless specifically noted in this Permit.

32. If any required landscape (including existing or new plantings, hardscape, landscape features, etc.) indicated on the approved construction document plans is damaged or removed during demolition or construction, the Owner/Permittee shall repair and/or replace in kind and equivalent size per the approved documents to the satisfaction of the Development Services Department within 30 days of damage or Certificate of Occupancy.

33. Prior to issuance of any construction permits for structures, the Owner/Permittee shall submit a water budget in accordance with the Water Conservation Requirements per San Diego Municipal Code 142.0413, Table 142-04I, to be included with the construction documents. An irrigation audit shall be submitted consistent with Section 2.7 of the Landscape Standards of the Land Development Manual at final inspection. The irrigation audit shall certify that all irrigation systems have been installed and operate as approved by the Development Services Department.

34. Visibility areas adjacent to street corner intersections, driveways (on or off the premises) and alleys shall have no portion of any fence, wall or other structure exceeding three feet in height, this shall include landscaping other than trees.

#### **PLANNING/DESIGN REQUIREMENTS:**

35. Prior to the issuance of building permits, construction documents shall fully illustrate the incorporation of a roof-mounted photovoltaic system sufficient to generate at least 50 percent of the project's projected energy consumption, in conformance with the criteria of the Affordable/In-Fill Housing and Sustainable Buildings Expedite Program.

36. There shall be compliance with the regulations of the underlying zone(s) unless a deviation or variance to a specific regulation(s) is approved or granted as condition of approval of this permit. Where there is a conflict between a condition (including exhibits) of this permit and a regulation of the underlying zone, the regulation shall prevail unless the condition provides for a deviation or variance from the regulations.

37. The height(s) of the building(s) or structure(s) shall not exceed those heights set forth in the conditions and the exhibits (including, but not limited to, elevations and cross sections) or the maximum permitted building height of the underlying zone, whichever is lower, unless a deviation or variance to the height limit has been granted as a specific condition of this permit.

38. A topographical survey conforming to the provisions of the San Diego Municipal Code may be required if it is determined, during construction, that there may be a conflict between the building(s)

under construction and a condition of this Permit or a regulation of the underlying zone. The cost of any such survey shall be borne by the Owner/Permittee.

39. Storage of merchandise, material, or equipment including refuse containers shall be permitted only when incidental to a permitted use located on the same premises, and shall be completely enclosed within a building which shall consist of walls and a roof. No outdoor storage shall be permitted.

**INFORMATION ONLY:**

- The issuance of this discretionary permit alone does not allow the immediate commencement or continued operation of the proposed use on site. The operation allowed by this discretionary permit may only begin or recommence after all conditions listed on this permit are fully completed and all required ministerial permits have been issued and received final inspection.
- Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of this Permit, may protest the imposition within ninety days of the approval of this development permit by filing a written protest with the City Clerk pursuant to California Government Code-section 66020.
- This development may be subject to impact fees at the time of construction permit issuance.

| APPROVED by the Hearing Officer of the City of San Diego on ~~April 19, 2017~~ May 17, 2017 and  
[Approved Resolution Number].

AUTHENTICATED BY THE CITY OF SAN DIEGO DEVELOPMENT SERVICES DEPARTMENT

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Karen Bucey  
Development Project Manager

**NOTE: Notary acknowledgment  
must be attached per Civil Code  
section 1189 et seq.**

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**The undersigned Owner/Permittee**, by execution hereof, agrees to each and every condition of this Permit and promises to perform each and every obligation of Owner/Permittee hereunder.

Owner/Permittee

By \_\_\_\_\_  
Thomas Elkins Zipolo

**NOTE: Notary acknowledgment  
must be attached per Civil Code  
section 1189 et seq.**

RESOLUTION ~~NO. NUMBER R-~~  
~~ELKINS RESIDENCE – PROJECT NO. 463101 [MMRP]~~  
~~MITIGATED NEGATIVE DECLARATION NO. 463101~~

ADOPTED ON \_\_\_\_\_

WHEREAS, on December ~~4021~~, 2015, Thomas Elkins Zirpolo submitted an application to the Development Services Department for a Coastal Development Permit and Site Development Permit for the Elkins Residence (Project); and

WHEREAS, the matter was set for a public hearing to be conducted by the Hearing Officer of the City of San Diego; and

WHEREAS, the issue was heard by the Hearing Officer on April 19, 2017; and

WHEREAS, the Hearing Officer considered the issues discussed in Mitigated Negative Declaration No. 463101 (Declaration) prepared for this Project; NOW THEREFORE,

BE IT RESOLVED, by the Hearing Officer that it is certified that the Declaration has been completed in compliance with the California Environmental Quality Act of 1970 (CEQA) (Public Resources Code Section 21000 et seq.), as amended, and the State CEQA Guidelines thereto (California Code of Regulations, Title 14, Chapter 3, Section 15000 et seq.), that the Declaration reflects the independent judgment of the City of San Diego as Lead Agency and that the information contained in said Declaration, together with any comments received during the public review process, has been reviewed and considered by the Hearing Officer in connection with the approval of the Project.

BE IT FURTHER RESOLVED, that the Hearing Officer finds on the basis of the entire record that project revisions now mitigate potentially significant effects on the environment previously identified in the Initial Study, that there is no substantial evidence that the Project will have a significant effect on the environment, and therefore, that said Declaration is hereby adopted.



BE IT FURTHER RESOLVED, that pursuant to CEQA Section 21081.6, the Hearing Officer hereby adopts the Mitigation Monitoring and Reporting Program, or alterations to implement the changes to the Project as required by this Hearing Officer in order to mitigate or avoid significant effects on the environment, which is attached hereto as Exhibit A.

BE IT FURTHER RESOLVED, that the Declaration and other documents constituting the record of proceedings upon which the approval is based are available to the public at the office of the Development Services Department, 1222 First Avenue, San Diego, CA 92101.

BE IT FURTHER RESOLVED, that Development Services Staff is directed to file a Notice of Determination with the Clerk of the Board of Supervisors for the County of San Diego regarding the Project.

By: \_\_\_\_\_  
Karen Bucey, Development Project Manager

ATTACHMENT(S):      Exhibit A, Mitigation Monitoring and Reporting Program

## **EXHIBIT A**

### **MITIGATION MONITORING AND REPORTING PROGRAM**

#### **COASTAL DEVELOPMENT PERMIT / SITE DEVELOPMENT PERMIT**

**PROJECT NO. 463101**

This Mitigation Monitoring and Reporting Program is designed to ensure compliance with Public Resources Code Section 21081.6 during implementation of mitigation measures. This program identifies at a minimum: the department responsible for the monitoring, what is to be monitored, how the monitoring shall be accomplished, the monitoring and reporting schedule, and completion requirements. A record of the Mitigation Monitoring and Reporting Program will be maintained at the offices of the Entitlements Division, 1222 First Avenue, Fifth Floor, San Diego, CA, 92101. All mitigation measures contained in the Mitigated Negative Declaration No. 463101 shall be made conditions of Coastal Development Permit / Site Development Permit as may be further described below.

#### **HISTORICAL RESOURCES (ARCHAEOLOGY)**

##### **I. Prior to Permit Issuance**

###### **A. Entitlements Plan Check**

1. Prior to issuance of any construction permits, including but not limited to, the first Grading Permit, Demolition Plans/Permits and Building Plans/Permits or a Notice to Proceed for Subdivisions, but prior to the first preconstruction meeting, whichever is applicable, the Assistant Deputy Director (ADD) Environmental designee shall verify that the requirements for Archaeological Monitoring and Native American monitoring have been noted on the applicable construction documents through the plan check process.

###### **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 archaeological monitoring program, as defined in the City of San Diego Historical Resources Guidelines (HRG). If applicable, individuals involved in the archaeological monitoring program must have completed the 40-hour HAZWOPER training with certification documentation.
2. MMC will provide a letter to the applicant confirming the qualifications of the PI and all persons involved in the archaeological monitoring of the project meet the qualifications established in the HRG.
3. Prior to the start of work, the applicant must obtain written approval from MMC for any personnel changes associated with the monitoring program.

##### **II. Prior to Start of Construction**

###### **A. Verification of Records Search**

1. The PI shall provide verification to MMC that a site specific records search (1/4 mile radius) has been completed. Verification includes, but is not limited to a copy of a

- confirmation letter from South Coastal Information Center, 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.
  - 3. The PI may submit a detailed letter to MMC requesting a reduction to the ¼ mile radius.
- 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, Native American consultant/monitor (where Native American resources may be impacted), Construction Manager (CM) and/or Grading Contractor, Resident Engineer (RE), Building Inspector (BI), if appropriate, and MMC. The qualified Archaeologist and Native American Monitor shall attend any grading/excavation related Precon Meetings to make comments and/or suggestions concerning the Archaeological 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
    - a. Prior to the start of any work that requires monitoring, the PI shall submit an Archaeological Monitoring Exhibit (AME) (with verification that the AME has been reviewed and approved by the Native American consultant/monitor when Native American resources may be impacted) based on the appropriate construction documents (reduced to 11x17) to MMC identifying the areas to be monitored including the delineation of grading/excavation limits.
    - b. The AME 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 site conditions such as depth of excavation and/or site graded to bedrock, etc., which may reduce or increase the potential for resources to be present.

### III. During Construction

- A. Monitor(s) Shall be Present During Grading/Excavation/Trenching
  - 1. The Archaeological Monitor shall be present full-time during all soil disturbing and grading/excavation/trenching activities which could result in impacts to archaeological resources as identified on the AME. **The Construction Manager is responsible for notifying the RE, PI, and MMC of changes to any construction activities such as in the case of a potential safety concern within the area being monitored. In certain circumstances OSHA safety requirements may necessitate modification of the AME.**

2. The Native American consultant/monitor shall determine the extent of their presence during soil disturbing and grading/excavation/trenching activities based on the AME and provide that information to the PI and MMC. If prehistoric resources are encountered during the Native American consultant/monitor's absence, work shall stop and the Discovery Notification Process detailed in Section III.B-C and IV.A-D shall commence.
  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 modern disturbance post-dating the previous grading/trenching activities, presence of fossil formations, or when native soils are encountered that may reduce or increase the potential for resources to be present.
  4. The archaeological and Native American consultant/monitor shall document field activity via the Consultant Site Visit Record (CSV). The CSV'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.
- B. Discovery Notification Process
1. In the event of a discovery, the Archaeological Monitor shall direct the contractor to temporarily divert all soil disturbing activities, including but not limited to digging, trenching, excavating or grading activities in the area of discovery and in the area reasonably suspected to overlay adjacent resources 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.
  4. No soil shall be exported off-site until a determination can be made regarding the significance of the resource specifically if Native American resources are encountered.
- C. Determination of Significance
1. The PI and Native American consultant/monitor, where Native American resources are discovered shall evaluate the significance of the resource. If Human Remains are involved, follow protocol in Section IV below.
    - 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.
    - b. If the resource is significant, the PI shall submit an Archaeological Data Recovery Program (ADRP) which has been reviewed by the Native American consultant/monitor, 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. **Note: If a unique archaeological site is also an historical resource as defined in CEQA, then the limits on the amount(s) that a project applicant may be required to pay to cover mitigation costs as indicated in CEQA Section 21083.2 shall not apply.**

- c. If the resource is not significant, the PI shall submit a letter to MMC indicating that artifacts will be collected, curated, and documented in the Final Monitoring Report. The letter shall also indicate that that no further work is required.

#### IV. **Discovery of Human Remains**

If human remains are discovered, work shall halt in that area and no soil shall be exported off-site until a determination can be made regarding the provenance of the human remains; and the following procedures as set forth in CEQA Section 15064.5(e), the California Public Resources Code (Sec. 5097.98) and State Health and Safety Code (Sec. 7050.5) shall be undertaken:

##### A. Notification

1. Archaeological Monitor shall notify the RE or BI as appropriate, MMC, and the PI, if the Monitor is not qualified as a PI. MMC will notify the appropriate Senior Planner in the Environmental Analysis Section (EAS) of the Development Services Department to assist with the discovery notification process.
2. The PI shall notify the Medical Examiner after consultation with the RE, either in person or via telephone.

##### B. Isolate discovery site

1. Work shall be directed away from the location of the discovery and any nearby area reasonably suspected to overlay adjacent human remains until a determination can be made by the Medical Examiner in consultation with the PI concerning the provenance of the remains.
2. The Medical Examiner, in consultation with the PI, will determine the need for a field examination to determine the provenance.
3. If a field examination is not warranted, the Medical Examiner will determine with input from the PI, if the remains are or are most likely to be of Native American origin.

##### C. If Human Remains **ARE** determined to be Native American

1. The Medical Examiner will notify the Native American Heritage Commission (NAHC) within 24 hours. By law, **ONLY** the Medical Examiner can make this call.
2. NAHC will immediately identify the person or persons determined to be the Most Likely Descendent (MLD) and provide contact information.
3. The MLD will contact the PI within 24 hours or sooner after the Medical Examiner has completed coordination, to begin the consultation process in accordance with CEQA Section 15064.5(e), the California Public Resources and Health & Safety Codes.
4. The MLD will have 48 hours to make recommendations to the property owner or representative, for the treatment or disposition with proper dignity, of the human remains and associated grave goods.
5. Disposition of Native American Human Remains will be determined between the MLD and the PI, and, if:
  - a. The NAHC is unable to identify the MLD, OR the MLD failed to make a recommendation within 48 hours after being notified by the Commission; OR;
  - b. The landowner or authorized representative rejects the recommendation of the MLD and mediation in accordance with PRC 5097.94 (k) by the NAHC fails to provide measures acceptable to the landowner, THEN,

- c. In order to protect these sites, the Landowner shall do one or more of the following:
    - (1) Record the site with the NAHC;
    - (2) Record an open space or conservation easement on the site;
    - (3) Record a document with the County.
  - d. Upon the discovery of multiple Native American human remains during a ground disturbing land development activity, the landowner may agree that additional conferral with descendants is necessary to consider culturally appropriate treatment of multiple Native American human remains. Culturally appropriate treatment of such a discovery may be ascertained from review of the site utilizing cultural and archaeological standards. Where the parties are unable to agree on the appropriate treatment measures the human remains and items associated and buried with Native American human remains shall be reinterred with appropriate dignity, pursuant to Section 5.c., above.
- D. If Human Remains are **NOT** Native American
- 1. The PI shall contact the Medical Examiner and notify them of the historic era context of the burial.
  - 2. The Medical Examiner will determine the appropriate course of action with the PI and City staff (PRC 5097.98).
  - 3. If the remains are of historic origin, they shall be appropriately removed and conveyed to the San Diego Museum of Man for analysis. The decision for internment of the human remains shall be made in consultation with MMC, EAS, the applicant/landowner, any known descendant group, and the San Diego Museum of Man.

## V. **Night and/or Weekend Work**

- A. If night and/or weekend work is included in the contract
- 1. When night and/or weekend 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 and/or weekend work, the PI shall record the information on the CSV and submit to MMC via fax by 8 AM of the next business day.
    - b. Discoveries  
All discoveries shall be processed and documented using the existing procedures detailed in Sections III - During Construction, and IV - Discovery of Human Remains. Discovery of human remains shall always be treated as a significant discovery.
    - c. Potentially Significant Discoveries  
If the PI determines that a potentially significant discovery has been made, the procedures detailed under Section III - During Construction and IV-Discovery of Human Remains shall be followed.
    - d. The PI shall immediately contact MMC, or by 8AM of the next business day to report and discuss the findings as indicated in Section III-B, unless other specific arrangements have been made.
- B. If night and/or weekend 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.

## VI. Post Construction

### A. Preparation and Submittal of Draft Monitoring Report

1. The PI shall submit two copies of the Draft Monitoring Report (even if negative), prepared in accordance with the Historical Resources Guidelines (Appendix C/D) which describes the results, analysis, and conclusions of all phases of the Archaeological Monitoring Program (with appropriate graphics) to MMC for review and approval within 90 days following the completion of monitoring. **It should be noted that if the PI is unable to submit the Draft Monitoring Report within the allotted 90-day timeframe resulting from delays with analysis, special study results or other complex issues, a schedule shall be submitted to MMC establishing agreed due dates and the provision for submittal of monthly status reports until this measure can be met.**
  - a. For significant archaeological resources encountered during monitoring, the Archaeological Data Recovery Program shall be included in the Draft Monitoring Report.
  - b. Recording Sites with State of California Department of Parks and Recreation  
The PI shall be responsible for recording (on the appropriate State of California Department of Park and Recreation forms-DPR 523 A/B) any significant or potentially significant resources encountered during the Archaeological Monitoring Program in accordance with the City's Historical Resources Guidelines, and submittal of such forms to the South Coastal Information Center 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 Artifacts

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

### C. Curation of artifacts: Accession Agreement and Acceptance Verification

1. The PI shall be responsible for ensuring that all artifacts associated with the survey, testing and/or data recovery for this project are permanently curated with an appropriate institution. This shall be completed in consultation with MMC and the Native American representative, as applicable.
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.

3. When applicable to the situation, the PI shall include written verification from the Native American consultant/monitor indicating that Native American resources were treated in accordance with state law and/or applicable agreements. If the resources were reinterred, verification shall be provided to show what protective measures were taken to ensure no further disturbance occurs in accordance with Section IV – Discovery of Human Remains, Subsection 5.
- D. Final Monitoring Report(s)
1. The PI shall submit one copy of the approved Final Monitoring Report to the RE or BI as appropriate, and one copy 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 and/or release of the Performance Bond for grading until receiving a copy of the approved Final Monitoring Report from MMC which includes the Acceptance Verification from the curation institution.

## **PALEONTOLOGICAL RESOURCES**

### **I. Prior to Permit Issuance**

#### **A. Entitlements Plan Check**

1. Prior to issuance of any construction permits, including but not limited to, the first Grading Permit, Demolition Plans/Permits and Building Plans/Permits or a Notice to Proceed for Subdivisions, 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.

### **II. 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.

**III. 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 such as in the case of a potential safety concern within the area being monitored. In certain circumstances OSHA safety requirements may necessitate modification of the PME.**

2. 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.

3. The monitor shall document field activity via the Consultant Site Visit Record (CSVR). The CSVR'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.

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.

#### **IV. Night and/or Weekend Work**

- A. If night and/or weekend work is included in the contract
  1. When night and/or weekend 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 and/or weekend work, The PI shall record the information on the CSV and submit to MMC via fax by 8 AM on the next business day.
    - 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 8 AM on the next business day 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.

## **V. Post Construction**

### **A. Preparation and Submittal of Draft Monitoring Report**

1. The PI shall submit two copies of the Draft Monitoring Report (even if negative), prepared in accordance with the Paleontological Guidelines 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.