

(O-89-56)

ORDINANCE NUMBER O- 17179 (NEW SERIES)

ADOPTED ON NOV 14 1988

AN ORDINANCE APPROVING THE DEVELOPMENT AGREEMENT BETWEEN THE CITY OF SAN DIEGO AND AMERICAN NEWLAND ASSOCIATES, THE FIELDSTONE COMPANY, J. M. PETERS COMPANY, INC., AND PENASQUITOS PARK VIEW ESTATES.

WHEREAS, American Newland Associates, The Fieldstone Company, J. M. Peters Company, Inc., and Penasquitos Park View Estates ("Owner") is the legal or equitable owner of that certain real property consisting of approximately 479.55 acres located within the Penasquitos East community planning area; and

WHEREAS, The City of San Diego, a charter city, is authorized pursuant to Government Code Sections 65864 - 65869.5 to enter into binding development agreements with persons having legal or equitable interests in real property for the development of such property in order to establish certainty in the development process. The City further enters into this Development Agreement pursuant to its Charter and self-rule powers and San Diego Municipal Code Sections 105.0101 et seq. and Council Policy No. 600-37; and

WHEREAS, the parties desire to enter into this Development Agreement relating to the above-described real property in conformance with the provisions of the Government Code in order to achieve the development of private land uses together with the provision of public services, public uses, and urban infrastructure all in the promotion of the health, safety, and general welfare of the City of San Diego; and

WHEREAS, the property is located within the boundaries of the Penasquitos East community planning area. This community plan was adopted by the Council on October 17, 1978, by Resolution No. R-222051. In conjunction with the adoption of the community plan, the Council certified the information contained in the Environmental Impact Report and approved the findings of the environmental document in compliance with the California Environmental Quality Act of 1970; and

WHEREAS, development of the subject property will be in conformance with the Penasquitos East Community Plan, R1-5000 and HRO Zones, Hillside Review Permit Nos. 183, 184, 189, 203, 204, 163 and 45-228-0, Final Subdivision Map Nos. 11657, 11658, 11659, 11709, 11862, 11863, 11864 and Tentative Map No. 01-264-0. The environmental effects of development permitted pursuant to the agreement were addressed in Environmental Impact Report Nos. 79-07-24, 79-07-62, 79-10-57, 80-0119, 80-0410, 80-0411, 80-1113 and 80-0923; Mitigated Negative Declaration No. 81-0516 and Negative Declaration No. 87-0599, which has been certified by the City; and

WHEREAS, because of the complexities of financing the urban infrastructure, certainty in the development process is desirable. The phasing, timing and development of the public infrastructure including, but not limited to, parks, libraries, fire stations, transportation facilities, sewer and water facilities, other utilities, and open space maintenance necessitates a significant commitment of resources, planning and effort by property owners and the City in order for the public

facilities financing to be successfully completed. Accordingly, in return for the participation and commitment to provide a pro rata share of public facilities and the significant contribution of private resources for public purposes, the City in return desires to make a commitment for certainty in the development process; and

WHEREAS, pursuant to the terms of the Development Agreement, Owner will provide substantial public improvements and benefits to the City including participation in the public facilities financing plan for the Penasquitos East Community. In consideration of the public improvements and benefits to be provided by Owner pursuant to the Development Agreement, in consideration of Owner's agreement to finance public facilities, and in order to strengthen the public planning process and reduce the economic costs of development, by the Development Agreement the City intends to give Owner assurance that Owner can proceed with the development of the subject property for the term of the Development Agreement pursuant to the Development Agreement; and

WHEREAS, on September 15, 1988, the Planning Commission of The City of San Diego, after giving notice pursuant to Government Code Sections 65854, 65854.5, 65856, and Section 105.0103 of the San Diego Municipal Code held a public hearing on the application for the Development Agreement; and

WHEREAS, the Council of The City of San Diego, after providing public notice as required by law, held a public hearing on Owner's application, wherein all persons desiring to be heard were heard, and pursuant to said public hearing the Council recommended approval of the Development Agreement; and

WHEREAS, the Council finds that the Development Agreement is consistent with the Progress Guide and General Plan, the Penasquitos East Community Plan, Council Policy No. 600-37, as well as all other applicable policies and regulations of The City of San Diego; and

WHEREAS, the Council has reviewed and considered the Development Agreement and determined the content of the Development Agreement to be complete and correct; NOW, THEREFORE,

BE IT ORDAINED, by the Council of The City of San Diego, as follows:

Section 1. The Council finds and determines the facts stated above to be true.

Section 2. The Council further finds with respect to the Development Agreement that:

A. It is consistent with the objectives, policies, programs and uses specified in the Progress Guide and General Plan, the Penasquitos East Community Plan, and Council Policy No. 600-37.

B. It will not be detrimental to the public health, safety and general welfare.

C. It will promote the orderly development of property or the preservation of property values in accordance with good land use practice.

Section 3. The Council hereby approves the Penasquitos Development Agreement, Case No. 88-0645, a copy of which is on file in the office of the City Clerk as Document No.

00-17179, and authorizes and directs the City Manager to

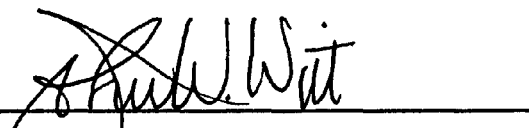
execute said Development Agreement in the name of The City of San Diego not later than 15 days following the effective date of this ordinance. Failure of Owner to execute the Development Agreement within 30 days, shall render this action null and void. The City Clerk is directed to record said Development Agreement and this ordinance with the County Recorder of San Diego County within ten days after its execution.

Section 4. This ordinance shall take effect and be in force on the thirtieth day from and after its passage.

APPROVED AS TO FORM ONLY:

John W. Witt, City Attorney

By

A handwritten signature in cursive script, appearing to read "John W. Witt", is written over a horizontal line.

TFS hbg  
09/13/88  
Or.Dept:Plan  
O-89-56  
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NOV 14 1988

Passed and adopted by the Council of The City of San Diego on  
by the following vote:

Council Members	Yeas	Nays	Not Present	Ineligible
Abbe Wolfsheimer	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ron Roberts	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Gloria McColl	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
H. Wes Pratt	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ed Struiksma	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
J. Bruce Henderson	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Judy McCarty	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Bob Filner	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Mayor Maureen O'Connor	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

AUTHENTICATED BY:

MAUREEN O'CONNOR  
Mayor of The City of San Diego, California.

CHARLES G. ABDELNOUR  
City Clerk of The City of San Diego, California.

(Seal)

By *Blonda R. Barnes* Deputy.

I HEREBY CERTIFY that the foregoing ordinance was not finally passed until twelve calendar days had elapsed between the day of its introduction and the day of its final passage, to wit, on

SEP 20 1988

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~~I FURTHER CERTIFY that said ordinance was read in full prior to its final passage.~~

I FURTHER CERTIFY that the reading of said ordinance in full was dispensed with by a vote of not less than a majority of the members elected to the Council, and that there was available for the consideration of each member of the Council and the public prior to the day of its passage a written or printed copy of said ordinance.

CHARLES G. ABDELNOUR  
City Clerk of The City of San Diego, California.

(Seal)

By *Blonda R. Barnes* Deputy.

Office of the City Clerk, San Diego, California	
Ordinance Number	0-17179
Adopted	NOV 14 1988

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CITY CLERKS OFFICE  
SAN DIEGO, CA

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