

(R-88-1945)

RESOLUTION NUMBER R- 270659

ADOPTED ON APR 04 1988

WHEREAS, Penasquitos East is a community within The City of San Diego, the Penasquitos East Community Plan was adopted on October 17, 1978 by the Council of The City of San Diego ("Council") by Resolution No. 222052; and

WHEREAS, the Transportation and Land Use Committee (the "Committee") on November 9, 1987 discussed concerns regarding the health and safety impact of the growth rate and traffic problems in the area of Rancho Penasquitos East; and

WHEREAS, a publicly noticed hearing was held on December 7, 1987, where the Council considered public health and safety impact of a suspension of vesting units based on information and materials presented by staff, members of the Rancho Penasquitos Planning Board, the President of the Rancho Penasquitos Town Council, and residents of Rancho Penasquitos East; and

WHEREAS, the Council reiterated the authority of the IDO in guiding determination that the vesting of development rights in the Rancho Penasquitos East Community ("Community") was contingent on fulfillment of certain transportation phasing conditions; and

WHEREAS, the Council ordered a suspension of issuance of building permits in the community beyond 12,439 including vesting entitlements (Resolution No. 269964) based on further authorization of California Government Code § 66498.1(c)(1); and

WHEREAS, in reaching their decision to suspend the Council considered the residential character of the Community, the health and safety impact of traffic congestion and delayed ingress and egress of emergency vehicles on its citizens, and the aggravation of this deleterious impact by new construction in the area; and

WHEREAS, subsequent to approval of the suspension by the Council, Pardee Construction Co. ("Pardee") alleged that as applied to their development project, the suspension constituted a "temporary taking" of their property; and

WHEREAS, the Council reviewed the record regarding the suspension and its impact on Pardee, and reconsidered the applicable statutory and legal authority; NOW, THEREFORE,

BE IT RESOLVED, by the Council of The City of San Diego, that the IDO is in full force and effect and that Resolution No. 269964 is in full force and effect.

BE IT FURTHER RESOLVED, that Pardee will be issued 504 building permits for their Rancho Penasquitos East property.

BE IT FURTHER RESOLVED, that in reaching its decision, the Council made the following findings:

1. Pardee obtained approval of a vesting tentative map ("VTM") and a planned residential development ("PRD") permit on February 10, 1987, for its 504-unit development at Rancho Penasquitos East.

2. Pardee has expended more than \$3 million in improvements to the property and is ready to build.

3. Unit occupancy may not commence until State Route 56 from Rancho Penasquitos Boulevard to Interstate I-15 and the High

Occupancy Vehicle lanes from Route 56 to Route 163 are completed and fully operational.

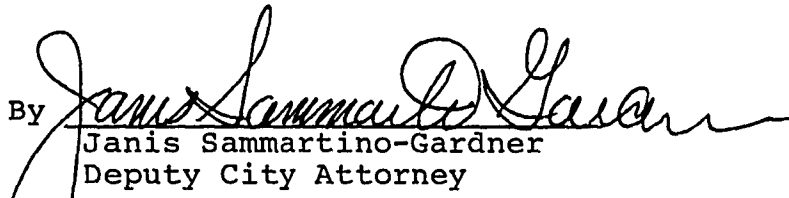
4. Subject to normal permit processing and compliance with normal on-site requirements of the Building Code, Pardee will receive 252 permits for its Sun Ridge Vista Unit Four, number one vesting tentative map project and 126 building permits each on August 15, 1988 and February 15, 1989.

5. The City of San Diego and Pardee Construction Co. have entered into these and other terms of settlement as enumerated in the letter from Pardee to the San Diego City Attorney dated February 17, 1988, attached hereto as Enclosure (1) and incorporated by reference herein.

BE IT FURTHER RESOLVED, that the decision of the Council shall be final.

APPROVED: JOHN W. WITT, City Attorney

BY

  
Janis Sammartino-Gardner  
Deputy City Attorney

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Or.Dept:Atty.  
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February 17, 1988

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OUR FILE NUMBER:

2P-3.924

BY FEDERAL EXPRESS

Janis Gardner, Esq  
Deputy City Attorney  
City Administration Building  
202 "C" Street  
Third Floor  
San Diego, California 92101-3868

Re: Pardee Construction Company v. City of San Diego

Dear Janis:

In accordance with our telephone conversation of February 16, 1988, set forth below are the revised and final terms for settlement of the dispute which is the subject of the pending claim between Pardee Construction Company and the City of San Diego:

1. Pardee will, subject to normal permit processing, immediately receive 252 building permits for its Sun Ridge Vista Unit Number 1 vesting tentative map project in Penasquitos East, to be allocated in Pardee's discretion between its Sun Ridge Vista and Terra Vista developments. Issuance of the permits will be subject to compliance with normal on-site requirements for grading and drainage, and will be subject to compliance with provisions of the building code in effect at the time of application for the permits.

2. Pardee will be entitled to receive the balance of 252 building permits as follows: Pardee will be issued 126 building permits on August 15, 1988, or at such later date as Pardee may apply for such permits. Pardee will be issued the other 126 building permits on February 15, 1989, or at such later date as Pardee may apply for such permits. Issuance of these 252 building permits will be subject to the same requirements as are set forth in paragraph 1.

3. All the building permits will be subject to a restriction that the units may not be occupied until the following road improvements are completed and operational: the two lane road currently designated State Route 56 from Rancho Penasquitos Boulevard to Interstate 15 and the High Occupancy Vehicle (HOV) lanes from Route 56 to Route 163.

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ENCLOSURE (1)

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R- 270659

Janis Gardner, Esq.  
Re: Pardee - City of San Diego  
Page 2

4. Pardee will waive its claims for damages and attorneys' fees set forth in its claim letter dated January 22, 1988.

5. All of the 504 building permits will be subject to Facilities Benefit Assessment fees that were in effect on January 8, 1988, and will not be subject to any increases in FBA fees; provided, however, that for any of the 504 building permits not applied for by March 15, 1989, applicable FBA fees shall be those in effect at the time of application for said permits.

6. Pardee and the City of San Diego agree that the above terms are in settlement of a dispute and do not constitute an admission of fault or liability by the City. Except for the matters expressly set forth above, the City does not acknowledge any rights of Pardee with respect to Penasquitos East. Pardee reserves all of its claims and legal contentions concerning Penasquitos East, except as expressly set forth above. Should any subsequent dispute arise between the parties, each party may put forth all legal theories, claims and defenses except as to those matters specifically set forth above.

Yours truly,

SANDLER AND ROSEN



Charles L. Birke

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fl- 270659

APR 04 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 type="checkbox"/>	<input checked="" 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 type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
H. Wes Pratt	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ed Struiksmas	<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 checked="" type="checkbox"/>	<input type="checkbox"/>	<input 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.

(Seal)

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

By *Jana M. Martin*, Deputy.

Office of the City Clerk, San Diego, California

Resolution Number *270659* Adopted APR 04 1988

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