

(R-94-259)

RESOLUTION NUMBER R-282410

ADOPTED ON JULY 27, 1993

WHEREAS, on January 7, 1993, the Planning Commission voted to recommend approval of Resource Protection Ordinance Permit No. 88-1144 (Otay Corporate Center North) submitted by Pardee Construction Company, a California corporation, Owner/Permittee, located on the north side of Otay Mesa Road, west of Brown Field and along the east side of Dennerly Canyon, and described as portions of the northwest, southwest and southeast quarter of Section 29 and portion of the northeast quarter of Section 32, Township 18 South, Range 1 West, SBM, in the Otay Mesa Community Plan area, in the A-1-10 zone (proposed rezone to Otay Mesa Community Development District Industrial Subdistrict zone; and

WHEREAS, the matter was set for public hearing on July 27, 1993, testimony having been heard, evidence having been submitted, and the City Council having fully considered the matter and being fully advised concerning the same; NOW, THEREFORE,

BE IT RESOLVED, by the Council of The City of San Diego, that this Council adopts the following findings with respect to Resource Protection Ordinance Permit No. 88-1144:

1. The proposed development will be sited, designed, and constructed to minimize, if not preclude, adverse impacts upon sensitive natural resources and environmentally sensitive areas.

2. The proposed development will be sited and designed to prevent adverse impacts to environmentally sensitive habitats and scenic resources located in adjacent parks and recreation areas and will provide an adequate buffer areas to protect such resources.

3. The proposed development will minimize alterations of the natural landforms and will not result in undue risks from geological and erosional forces and/or flood or fire hazards.

4. The proposed development will be visually compatible with the character of the surrounding areas, and where feasible, will restore and enhance visual quality in visually degraded areas.

5. The proposed development will conform with The City of San Diego's Progress Guide and General Plan, the Otay Mesa Community Plan, and all other applicable adopted plans and programs.

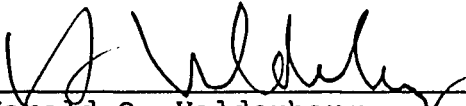
The above findings are supported by the minutes, maps and exhibits, all of which are herein incorporated by reference.

BE IT FURTHER RESOLVED, that the decision of the Planning Commission is sustained, and Resource Protection Ordinance Permit No. 88-1144 is hereby granted to Pardee Construction Company, under the terms and conditions set forth in the permit attached hereto and made a part hereof.

BE IT FURTHER RESOLVED, that the effective date of Resource Protection Ordinance Permit No. 88-1144 shall be the effective

date of the ordinance rezoning the property from the A-1-10 zone to the Otay Mesa Development District Industrial Subdistrict zone.

APPROVED: JOHN W. WITT, City Attorney

By 
Harold O. Valderhaug
Chief Deputy City Attorney

HOV:lc
09/27/93
Or.Dept:Clerk
R-94-259
Form=r.permit

RESOURCE PROTECTION ORDINANCE PERMIT NO. 88-1144
OTAY CORPORATE CENTER NORTH

CITY COUNCIL

This Resource Protection Ordinance Permit is granted by the Council of The City of San Diego to PARDEE CONSTRUCTION COMPANY, a California Corporation, Owner/Permittee, pursuant to conditions in Section 101.0462 of the Municipal Code of The City of San Diego.

1. Permission is granted to Owner/Permittee to develop a 178.7-acre site with portions within the Resource Protection Overlay Zone for industrial development and an open space system, located on the north side of Otay Mesa Road, west of Brown Field and along the east side of Dennery Canyon. The project site is described as portions of the northwest, southwest and southeast quarter of Section 29 and portion of the northeast quarter of Section 32, Township 18 South, Range 1 West, SBM.
2. This Resource Protection Ordinance Permit shall include the following:
 - a. Development of a 178.7-acre site for industrial development and open space in accordance with the Vesting Tentative Map No. 88-1144, the Otay Corporate Center Design Guidelines dated September 1993, the Otay Mesa Development District Ordinance, and the Resource Protection Overlay Zone requirements in effect at the time that this project was submitted;
 - b. An environmental mitigation program as described in the conditions below; and
 - c. Landscaping in accordance with the Vesting Tentative Map No. 88-1144 and the Otay Corporate Center Design Guidelines dated September 1992.
3. No permit for grading shall be granted nor shall any activity authorized by this permit be conducted on the premises until:
 - a. The Permittee signs and returns the permit to the Planning Department.
 - b. The Resource Protection Ordinance Permit is recorded in the office of the County Recorder.
 - c. The General Plan and community plan amendments, Rezone No. 88-1144 and annexation to the Otay Mesa Development

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District are adopted by the City Council and are effective.

4. No building permits shall be issued until the Final Vesting Tentative Map No. 88-1144, which includes the Otay Corporate Center North transportation improvements phasing plan, is recorded in the office of the County Recorder.
5. Before issuance of any building permits for individual lots, complete grading and building plans shall be submitted to the Planning Director for approval. Plans shall be in substantial conformity to Exhibit "A," dated July 27, 1993, on file in the office of the Planning Department as well as the Otay Mesa Development District Ordinance and the Otay Corporate Center Design Guidelines dated September 1992. In addition, the plans shall comply with the City Wide Brush Management requirements as described on the plans stamped Exhibit "A," and dated July 27, 1993, and as written in the Otay Corporate Center Design Guidelines. All construction shall comply with the Otay Corporate Center Design Guidelines dated September 1992 and the Otay Mesa Development District Ordinance as well as the conditions of the vesting tentative map. No change, modifications or alterations shall be made unless appropriate applications, findings of substantial conformance or amendment of this permit shall have been granted.
6. Before issuance of any grading or building permits, a complete landscape plan, including a permanent irrigation system, shall be submitted to the Planning Director for approval. The plans shall be in substantial conformity to Exhibit "A," dated July 27, 1993, on file in the office of the Planning Department. Such planting shall not be modified or altered unless this permit has been amended and is to be maintained in a disease, weed and litter free condition at all times.
7. Construction and operation of the approved use shall comply at all times with the regulations of this or any other governmental agencies.
8. This permit must be utilized within 36 months of the date of approval, failure to utilize this permit within 36 months will automatically void the permit unless extended under the provisions of San Diego Municipal Code section 101.0462(Q). Any such extension must meet all regulations, policies and Municipal Code provisions in effect at the said time extension is considered.
9. This Resource Protection Ordinance Permit may be revoked by the City if there is a material breach or default in any of the conditions of this permit.

10. This Resource Protection Ordinance Permit is a covenant running with subject property and shall be binding upon the Permittee and any successor or successors, and the interests of any successor shall be subject to each and every condition set out.
11. If any existing hardscape or landscape indicated on the approved plans is damaged or removed during demolition or construction, it shall be repaired and/or replaced in kind per the approved plans.
12. Noise walls, street trees, decorative pavements and other public right-of-way improvements shown on Exhibit "A," dated July 27, 1993, shall be permitted by an Encroachment Permit obtained from the City Engineer.
13. The following conditions are required according to the California Environmental Quality Act as mitigation to significant environmental impacts:
 - a. Prior to the issuance of a Grading Permit which impacts, or the recordation of a final map which subdivides, any of those lots designated 64-67 (i.e., those impacting wetlands), the subdivider shall enter into an agreement with the City, secured by a bond or other acceptable security, agreeing to implement the Dennerly Canyon Vernal Pool Restoration and Preservation Plan ("Plan") in order to restore and enhance both vernal pool and coastal sage scrub habitat.
 - b. Prior to the issuance of a Grading Permit which impacts, or the recordation of a final map which subdivides, any of those lots designated 64-67 (i.e., those impacting wetlands), evidence shall be submitted to the Principal Planner of the Environmental Analysis Section of the Development and Environmental Planning Division of the Planning Department showing that: (a) the U.S. Army Corps of Engineers and the California Department of Fish and Game have reviewed and, if necessary, approved the "Plan" and (b) both agencies have granted permits under their respective jurisdictions for implementation of the project, if required.
 - c. Prior to the issuance of a Grading Permit which impacts, or the recordation of a final map which subdivides, Lots 62-70 or 34-37 (i.e., those lots impacting coastal sage scrub), the subdivider must provide coastal sage scrub mitigation, as identified in the Plan, including revegetation, within the vernal pool restoration area in the Plan.

- d. Prior to issuance of a land development permit for areas not included in the Plan and recordation of any final map, the following specific tasks shall be implemented: (a) preliminary engineering and survey and (b) install temporary fencing around the preserve. The balance of the vernal pool plan requirements will be implemented in accordance with a timing and phasing schedule included in the plan.
 - e. The restoration effort described in the Plan shall be monitored by the subdivider for five years and until the specific success criteria has been met to the satisfaction of the Director of the Park and Recreation Department and the Principal Planner of the Environmental Analysis Section of the Planning Department. A funding mechanism for perpetual maintenance of the preserve area shall be established to the satisfaction of the Director of the Park and Recreation Department prior to transferring ownership of the preserve to the City.
14. The permittee/applicant shall comply with all requirements of the Uniform Building Code (UBC) and secure all necessary building permits prior to construction.
 15. Prior to recordation of a final map that subdivides Lots 34-37 and 62-70 of Vesting Tentative Map No. 88-1144 or issuance of a grading or pre-grading permit for any portion of said lots, proof or an "incidental take" permit under Section 7 or Section 10a of the Federal Endangered Species Act relative to the California Gnatcatcher shall be provided to the Principal Planner of the Environmental Analysis Section. If such permit is not required, written verification to that effect from the U.S. Fish and Wildlife Service shall be provided.

City and subdivider acknowledge that minor or insubstantial changes to the project may be required to accommodate necessary federal and state permits. Changes to the project that do not result in a change in use, an increase in density or intensity of use, significant change to circulation, cause new or increased significant environmental impacts, violate any applicable health and safety regulations, or any other change which results in the project not being in substantial conformance with the approved tentative map or other permits, may be considered a "Minor Modification" to the previously approved tentative map or other permit and may be approved by the City Planning Department. Any change to the project which is determined by the Planning Department to exceed the guidelines of a "Minor Modification" may be approved in the same manner and by the same decision-maker that approved the original tentative map or other permit. (Municipal Code section 111.1010(e)).

16. The issuance of this permit by The City of San Diego does not authorize the applicant for said permit to violate any federal, state or city laws, ordinances, regulations or policies including, but not limited to, the Federal Endangered Species Act of 1973 and any amendments thereto (16 U.S.C. section 1531 et seq.)
17. As a condition of this permit, the applicant shall agree to provide public access to future trail systems developed in Dennery Canyon as part of the Otay Valley Regional Park, and to work with the Otay Valley Regional Park planning staff to determine the most appropriate location for, and design of, access area(s).
18. In the event that 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.

Passed and adopted by the Council of The City of San Diego on July 27, 1993, by Resolution No. R-282410.

AUTHENTICATED BY:

SUSAN GOLDING, Mayor
The City of San Diego

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

STATE OF CALIFORNIA)
) ss.
COUNTY OF SAN DIEGO)

On this _____ day of _____, before me, the undersigned, a notary public in and for said County and State, residing therein, duly commissioned and sworn, personally appeared CHARLES G. ABDELNOUR, known to me to be the City Clerk of The City of San Diego, the municipal corporation that executed the within instrument, and known to me to be the person whose name is subscribed to the within instrument, as a witness thereto, who being by me duly sworn, deposes and says that he was present and saw SUSAN GOLDING known to him to be the Mayor of The City of San Diego, and known to him to be the person who executed the within instrument on behalf of the municipal corporation therein named, and acknowledged to me that such municipal corporation executed the same, and that said affiant subscribed his name to the within instrument as a witness.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal in the County of San Diego, State of California, the day and year in this certificate first above written.

Notary Public in and for the County
of San Diego, State of California

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

PARDEE CONSTRUCTION COMPANY
Owner/Permittee

By _____

By _____

NOTE: Notary acknowledgments must be attached per Civil Code Section 1180, et seq. Form=p.ack

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

JUL 27 1993

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 type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
John Hartley	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
George Stevens	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Tom Behr	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Valerie Stallings	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Judy McCarty	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Juan Vargas	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mayor Susan Golding	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

AUTHENTICATED BY:

(Seal)

SUSAN GOLDING
Mayor of The City of San Diego, California.

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

By *Mary Cepeda* Deputy.

Office of the City Clerk, San Diego, California

Resolution Number *282410* Adopted JUL 27 1993