

RESOLUTION NUMBER R-286647

ADOPTED ON NOVEMBER 28, 1995

WHEREAS, MISSION GORGE DEVELOPMENT COMPANY, a California Corporation, Owner/Permittee, filed an application to rezone (from A-1-1 to M-1B) and obtain Planned Industrial Development, Hillside Review and Resource Protection Overlay Zone Permits, for Mission Trails Industrial Park, described as portions of Lots 3 through 7 and 9 through 12, Rancho Mission Map No. 1550, located on the south side of Mission Gorge Road between Princess View Drive and Old Cliffs Road, within the Navajo Community Plan Area; and

WHEREAS, on November 28, 1995, the City Council of the City of San Diego considered Planned Industrial Development (PID), Hillside Review (HRP) and Resource Protection Overlay Zone (RPOZ) Permits No. 88-0794, pursuant to Sections 101.0920, and 101.0454 of the Municipal Code of the City of San Diego and Ordinance 16939 New Series; NOW, THEREFORE,

BE IT RESOLVED, by the City Council of The City of San Diego, that this City Council adopts the following findings with respect to Planned Industrial Development Permit No. 88-0794:

PLANNED INDUSTRIAL DEVELOPMENT FINDINGS:

- A. THE PROPOSED USE WILL FULFILL AN INDIVIDUAL AND/OR COMMUNITY NEED AND WILL NOT ADVERSELY AFFECT THE GENERAL PLAN OR THE COMMUNITY PLAN.

The proposed Planned Industrial Development has been reviewed against the Navajo Community Plan and General Plan and has been found to be in conformance with the land use of said plans.

- B. THE PROPOSED USE, BECAUSE OF CONDITIONS THAT HAVE BEEN APPLIED TO IT, WILL NOT BE DETRIMENTAL TO THE HEALTH, SAFETY, AND GENERAL WELFARE OF PERSONS RESIDING OR WORKING IN THE AREA AND WILL NOT ADVERSELY AFFECT OTHER PROPERTY IN THE VICINITY.**

The approved permit includes conditions which address issues including traffic, water quality, landscaping, architecture and site design. These conditions were required to ensure that the project does not adversely affect the surrounding area.

- C. THE PROPOSED USE WILL COMPLY WITH THE RELEVANT REGULATIONS IN THE MUNICIPAL CODE.**

The use complies with the regulations of the Planned Industrial Development Ordinance, the proposed M-1B Zone, and the Hillside Review and the Resource Protection Overlay Zone Ordinances.

BRUSH MANAGEMENT FINDINGS FOR ALTERNATIVE COMPLIANCE:

- A. THE PROPOSED BRUSH MANAGEMENT PROGRAM WILL MEET THE PURPOSE AND INTENT OF APPENDIX II-A OF THE UNIFORM FIRE CODE.**

The proposed development provides an effective fire break by means of a 30-foot-wide zone 1 which will consist of irrigated, ornamental plant material and/or other non-combustible features, such as paving or concrete. All proposed planting shall have a low to moderate fire rating as outlined in section 6.7-3 of the *landscape technical manual* (document number rr-274506 on file in the office of the City Clerk). Measures incorporated into the structure, and irrigated landscape and non-combustible features provide a fire resistive project. Therefore, the proposed brush management program will meet the purpose and intent of Appendix II A of the Uniform Fire Code; and

- B. THE PROPOSED BRUSH MANAGEMENT PROGRAM, BECAUSE OF CONDITIONS THAT HAVE BEEN APPLIED TO IT, WILL NOT BE DETRIMENTAL TO THE HEALTH, SAFETY AND GENERAL WELFARE OF PERSONS RESIDING IN OR WORKING IN THE AREA.**

Conditions incorporated into the permit provide an effective fire break and ensure minimal risk of erosional forces affecting hillsides. Therefore, the proposed brush management program will not be detrimental to the health, safety and general welfare of persons residing or working in the area; and

- C. THE PROVISIONS AS OUTLINED IN SUBSECTION 6.6-2 OF THE DOCUMENT ENTITLED "CITY OF SAN DIEGO LANDSCAPE**

TECHNICAL MANUAL," A COPY OF WHICH IS ON FILE IN THE OFFICE OF THE CITY CLERK AS DOCUMENT NO. RR-2740506, SHALL BE SATISFIED AND THE PROPOSED DEVELOPMENT SHALL PROVIDE OTHER FIRE RESISTIVE FEATURES AS REQUIRED BY THE FIRE CHIEF.

The architectural features outlined in Section 6.6-2 of the *Landscape Technical Manual* have been incorporated into the project. Other fire resistive features were not required by the Fire Chief. Therefore, the provisions of Section 6.6-2 of the *Landscape Technical Manual* have been satisfied and other fire resistive features as required by the Fire chief shall be provided; and

- D. COMPLIANCE WITH THE PROVISIONS OF THIS SECTION IN ADDITION TO ANY OTHER APPLICABLE ADOPTED PLANS OR ORDINANCES WOULD PRECLUDE ANY REASONABLE DEVELOPMENT ON THE SITE.**

Literal compliance with the provisions of Appendix II A of the Uniform Fire code would require encroachment into the adjacent sensitive biology, thereby increasing the environmental impacts generated by this project. Compliance with the provisions of the Hillside Review Ordinance, the Resource Protection Overlay Ordinance and the Brush Management requirements would preclude reasonable development of the site; and

- E. THE PROPOSED BRUSH MANAGEMENT PROGRAM, TO THE EXTENT FEASIBLE, AS DEFINED IN CEQA (PUBLIC RESOURCES CODE) SECTION 2106.1.1, WILL NOT ADVERSELY AFFECT FLOODPLAIN, BIOLOGICALLY SENSITIVE LANDS, HILLSIDES, SIGNIFICANT PREHISTORIC SITE AND RESOURCES, AND WETLANDS, AS DEFINED IN THE RESOURCE PROTECTION ORDINANCE, SAN DIEGO MUNICIPAL CODE SECTION 101.0462.**

An Environmental Impact Report for this project was prepared on July 29, 1993. No impacts as a result of the proposed brush management plan were identified. Therefore, the proposed Brush Management Program will not adversely affect resources as defined in the Resource Protection Overlay Ordinance; and

- F. THE PROPOSED BRUSH MANAGEMENT PROGRAM TO THE EXTENT FEASIBLE, AS DEFINED IN CEQA (PUBLIC RESOURCES CODE) SEC. 21061.1, WILL MINIMIZE THE ALTERATIONS OF VEGETATION AND WILL NOT RESULT IN UNDUE RISKS FROM EROSIONAL FORCES.**

The proposed Brush Management Program will minimize Zones 2 and 3 and requires that Zone 1 not encroach onto the slope. Therefore, the proposed Brush

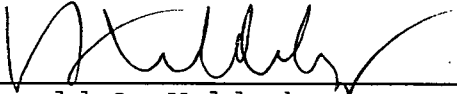
Management Program will minimize the alterations to landform and vegetation and will not result in undue risks from erosional forces.

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

BE IT FURTHER RESOLVED that, based on the findings hereinbefore adopted by the City Council, Planned Industrial Development Permit, Hillside Review Permit and Resource Protection Overlay Zone Permit No. 88-0794, is hereby granted to MISSION GORGE DEVELOPMENT COMPANY, a California Corporation, Owner/Permittee under the terms and conditions as set forth in the permit, a copy of which is attached hereto and made a part hereof.

APPROVED: JOHN W. WITT, City Attorney

By



Harold O. Valderhaug
Head Deputy City Attorney

HOV:ps
06/10/96
Or.Dept:Clerk
R-96-708
Form=r-t

RECORDING REQUESTED BY
CITY OF SAN DIEGO
DEVELOPMENT SERVICES DEPARTMENT

AND WHEN RECORDED MAIL TO
PERMIT INTAKE
MAIL STATION 501

SPACE ABOVE THIS LINE FOR RECORDER'S USE

PLANNED INDUSTRIAL DEVELOPMENT, HILLSIDE REVIEW AND
RESOURCE PROTECTION OVERLAY ZONE PERMIT NO. 88-0794
CITY COUNCIL

This Planned Industrial Development Permit, Hillside Review Permit, Resource Protection Overlay Zone Permit is granted by the City Council of the City of San Diego to MISSION GORGE DEVELOPMENT COMPANY, a California Corporation, Owner/Permittee, pursuant to Sections 101.0920, and 101.0454 of the Municipal Code of the City of San Diego, and Ordinance 16939 New Series.

1. Permission is hereby granted to Owner/Permittee to construct a Planned Industrial Development located on the south side of Mission Gorge Road between Princess View Drive and Old Cliffs Road, described as portion of Lots 3 through 7 and 9 through 12, of the Rancho Mission Map No. 1550, in the A-1-1 Zone (M1-B Zone proposed).
2. The facility shall consist of the following:
 - a. A twenty-one lot subdivision to be developed with industrial uses permitted under the M1-B Zone;
 - b. Landscaping;
 - c. Off-street parking; and
 - d. Incidental accessory uses as may be determined incidental and approved by the Development Services Department Director.
3. Prior to the issuance of any building permits, a final subdivision map shall be recorded on the subject property. Rezoning of the subject property shall be approved by the City Council and become effective with the recordation of the final subdivision map.
4. The document entitled "Mission Trails Industrial Park-Planned Industrial Development (PID) No. 88-0794, Design Guidelines" dated October 10, 1995, is included as part of

Exhibit "A." Prior to the approval of building permits, plans shall be submitted to the Development Services Department for "Substantial Conformance Review" with the conditions of this permit and the Design Guidelines. Said Guidelines have been accepted in lieu of specific site plans and building elevations. Therefore, all future development plans shall be in conformance with said Design Guidelines.

5. Parking shall be required as specified in the Design Guidelines, which are part of Exhibit "A." Parking spaces shall be consistent with Chapter X, Article 1, Division 8, sections 101.0800 through 101.0820 of the San Diego Municipal Code and shall be permanently maintained and not converted for any other use. Parking spaces and aisles shall conform to Municipal Code standards. Parking areas shall be clearly marked at all times. Landscaping located in any parking area shall be permanently maintained and not converted for any other use.

6. No permit for construction of any facility 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 Development Services Department;
- b. The Planned Industrial Development Permit is recorded by the Development Services Department in the office of the County Recorder.

7. Before issuance of any building permits, complete grading and building plans shall be submitted to the Development Services Department for approval. Plans shall be in substantial conformance to Exhibit "A," dated November 28, 1995, on file in the office the Development Services Department. No change, modifications or alterations shall be made unless a finding of substantial conformance review or amendment of this permit shall have been granted.

8. Before issuance of any grading or building permits, a complete landscape plan, including a permanent irrigation system, for the landscaping adjacent to Mission Gorge Road and Streets "A" and "B" shall be submitted to the Development Services Department for approval. The plans shall be in substantial conformance to Exhibit "A," dated November 28, 1995, on file in the office of the Development Services Department. Approved planting of the individual lots shall be installed before issuance of any occupancy permit on any building. Such planting shall not be modified or altered unless this permit has been amended and all landscaping is to be maintained in a disease, weed and litter free condition at all times.

9. All outdoor lighting shall be so shaded and adjusted that the light is directed to fall only on the same premises as light sources are located.

10. The effective date of this permit shall be the date of final action or the effective date of a concurrent rezoning case. The permit must be utilized within 36 months after the effective date. Failure to utilize the permit within 36 months will automatically void the permit unless an Extension of Time has been granted by the Development Services Department Director, as set forth in Section 111.1122 of the Municipal Code. Any such Extension of Time must meet all the Municipal Code requirements and applicable guidelines in effect at the time the extension is considered by the Development Services Department Director.

11. Construction and operation of the approved uses shall comply at all times with the regulations of this or any other governmental agencies.

12. After establishment of the project, the property shall not be used for any other purposes unless:

- a. Authorized by the Development Services Department Director; or
- b. The proposed use meets every requirement of the zone existing for the property at the time of conversion; or
- c. The permit has been revoked by the City.

13. The property included within this Permit shall be used only for the purposes and under the terms and conditions set forth in this permit unless otherwise authorized by the Development Services Department Director or the permit has been revoked by the City of San Diego.

14. This Permit may be canceled or revoked if there is a material breach or default in any of the conditions of this permit. Cancellation or revocation may be instituted by the City of San Diego or Permittee.

15. This Permit is a covenant running with the 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 in this permit and all referenced documents.

16. Permanent and/or temporary signs shall be approved by the Development Services Department Director and shall be consistent with the criteria established by the sign plan in the design guidelines manual, part of Exhibit "A," dated November 28, 1995.

17. This Planned Industrial Development may be developed in phases. Each phase shall be constructed prior to the sale or lease to individual owners or tenants to ensure that all development is consistent with these conditions and exhibits approved by the City Council.

18. The use of textured or enhanced paving shall be permitted only with the approval of the City Engineer and Development Services Department Director, and shall meet the standards of these departments as to location, noise and friction values, and any other applicable criteria.

19. 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.

20. All required drainage of the existing wetland habitat area shall be placed underground at the time of initial grading of the site.

21. Lot 1 shall have one street access to Mission Gorge Road with the condition that no median cut be allowed to provide left turn ingress or egress to or from Lot 1.

22. Permittee shall be responsible for the installation and maintenance of all landscaping and sidewalk improvements on the Mission Gorge Road frontage and "A" and "B" Streets. Additionally for safety and continuity, Permittee shall continue the Mission Gorge Road improvements to the intersection of Princess View Drive.

23. Prior to the sale of any lot, a property association shall be established for maintenance of the "common areas," i.e., areas within the public rights-of-way adjacent to Mission Gorge Road, Streets "A" and "B", entrances, and medians, etc.

24. Prior to the issuance of grading permits, the Permittee shall comply with the "Mitigation Monitoring and Reporting Program" as outlined within Environmental Impact Report No. 88-0794, issued July 29, 1993.

25. All conditions of the Tentative Map are also hereby incorporated as conditions of this permit.

26. All of the conditions contained in this Permit have been considered and have been determined to be necessary in order to make the findings required for this discretionary permit. It is the intent of the City that the holder of this permit be required to comply with each and every condition in order to be afforded special rights which the holder of the Permit is obtaining as a result of this permit. It is the intent of the City that the

owner of the property, which is the subject of this permit, either utilize the property for any use allowed under the zoning and other restrictions which apply to the property or, in the alternative, that the owner of the property be allowed the special and extraordinary rights conveyed by this permit, but only if the owner complies with all the conditions of this permit.

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. However, in such 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 back to the discretionary body to determine whether all of the findings necessary for the issuance of the 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.

27. The issuance of this Permit by the City of San Diego does not authorize the Permittee 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.).

28. BRUSH MANAGEMENT ALTERNATIVE COMPLIANCE CONDITIONS

The applicant shall implement the modified Brush Management Program for Lots 1-12 of this project in accordance with the Design Guidelines and Tentative Map, (Exhibit "A") dated November 28, 1995, on file in the Development Services Department, based on a Fire Department Severity Classification of 'LOW' and including the following measures:

- A. Prior to the issuance of any grading or building permits, a complete set of brush management construction documents, shall be submitted to the Development Services Department Director and the Fire Marshal for approval.

The plans shall be in substantial conformance to Exhibit "A" dated November 28, 1995, on file in the office of the Development Services Department and shall comply with the applicable provisions of the City of San Diego *Landscape Technical Manual*, Document No. RR-274506, on file in the office of the City Clerk.

The approved brush management program shall be implemented before issuance of any occupancy permit on any building.

Such brush management plan shall not be modified or altered unless this permit has been amended, and the area covered by this plan is to be maintained, at all times, in accordance with the guidelines of the City of San Diego *Landscape Technical Manual*.

B. Brush Management ZONE DEPTHS have been ALTERED to the following:

*ZONE 1: 30' (thirty feet)

ZONE 2: 0' (zero feet)

ZONE 3: 0' (zero feet)

*Zone 1 shall be in accordance with Section 6.7-1, 6.7-2, 6.7-3, and Appendix "C" of the *Landscape Technical Manual*.

C. The above conditions shall be in ADDITION to those Architectural Features outlined in Section 6.6-2 of the *LANDSCAPE TECHNICAL MANUAL*, Document No. RR-274506, on file in the office of the City Clerk.

D. COMBUSTIBLE ACCESSORY STRUCTURES are NOT permitted within the designated Brush Management Zone One Setback (shown as a non-building easement for Brush Management on the Tentative Map and the Landscape Concept Plan), including but not limited to: wood trellises, gazebos, etc.

NON-COMBUSTIBLE ACCESSORY STRUCTURES may be approved within the designated Zone One area subject to approval by the Fire Marshal and the Development Services Department Director.

E. The Fire Department may consider deviations from these conditions at the time of final inspection if it is deemed that eminent health and safety risk still exists.

F. All requirements for Fire Resistive Construction and other Architectural Features, shall conform to any applicable City and Regional building codes, standards, and ordinances.

APPROVED by the City Council of The City of San Diego on November 28, 1995, by Resolution Nos. R-286647, R-286648 and R-286649.

AUTHENTICATED BY THE CITY MANAGER

By _____

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.

MISSION GORGE DEVELOPMENT COMPANY
a California corporation
Owner/Permittee

By _____

By _____

**NOTE: Notary acknowledgments
must be attached per Civil
Code Section 1180, et seq.
Form=p.ack
03/18/96**