

RESOLUTION NUMBER R-288544

ADOPTED ON APRIL 15, 1997

WHEREAS, the Pardee Construction Company, Owner/Permittee, filed an application for a Planned Residential Development/Resource Protection Ordinance ("PRD/RPO") Permit to construct a 148-unit market rate and 24-unit affordable housing development on 389 acres of land located on the east side of Old El Camino Real, south of San Dieguito Road, and described as portions of Lot 1, reversionary map of San Dieguito Estates, Map No. 10780, and portions of Section 8, Township 4 South, Range 3 West, SBBM, in the North City Future Urbanizing Area ("NCFUA"), in the A-1-10 Zone; and

WHEREAS, on April 3, 1997, the Planning Commission of The City of San Diego (the "Planning Commission") considered PRD/RPO Permit No. 94-0576 pursuant to San Diego Municipal Code ("SDMC") sections 101.0901 and 101.0462, and voted 5 to 0 to deny the project; and

WHEREAS, the matter was set for public hearing on April 15, 1997, 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 Planned Residential Development/Resource Protection Ordinance Permit No. 94-0576:

**PLANNED RESIDENTIAL DEVELOPMENT FINDINGS:**

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

The proposed application will provide housing of a character and density consistent with applicable recommendations for development in the North City Future Urbanizing Area Framework Plan. The applicant is simultaneously amending the NCFUA Framework Plan to Low Density Residential providing for the construction of an open space corridor through the property and affordable housing.

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 proposed use will comply with the relevant regulations in the Municipal Code for PRD development in the NCFUA and will incorporate conditions to preserve the health, safety and general welfare of the area.

**RESOURCE PROTECTION ORDINANCE FINDINGS:**

A. THE PROPOSED DEVELOPMENT WILL NOT ADVERSELY AFFECT THE CITY OF SAN DIEGO'S PROGRESS GUIDE AND GENERAL PLAN.

The one hundred forty-eight proposed single-family estate homes would be consistent with land use recommendations of the General Plan and the NCFUA Framework Plan. Provisions for construction below market rate housing would also meet recommendations of the NCFUA Framework Plan. Housing units would be clustered to preserve the more environmental sensitive portions of the property as open space.

B. THE PROPOSED DEVELOPMENT WILL CONFORM TO THE COMMUNITY PLAN FOR THE AREA AND ANY OTHER APPLICABLE PLANS, POLICIES AND ORDINANCES.

With the proposed amendment to the NCFUA Framework Plan, this development will be consistent with residential/open space recommendations in the Framework Plan. The project will be developed as a planned residential development and is consistent with regulations of that ordinance.

C. THE PROPOSED DEVELOPMENT WILL BE SITED, DESIGNED, CONSTRUCTED AND MAINTAINED TO MINIMIZE, IF NOT PRECLUDE, ADVERSE IMPACTS ON ENVIRONMENTALLY SENSITIVE LANDS.

Development is proposed to be located on the portions of the site that have been previously disturbed by farming activities. The project will be developed as a planned residential development having design guidelines and development standards to regulate the construction and maintenance of the project so as to protect environmentally sensitive lands.

**D. THE PROPOSED DEVELOPMENT WILL BE SITED AND DESIGNED TO PREVENT ADVERSE IMPACTS ON ANY ENVIRONMENTALLY SENSITIVE LANDS AND RESOURCES LOCATED IN ADJACENT PARKS AND PUBLIC OPEN-SPACE AREAS AND WILL PROVIDE ADEQUATE BUFFER AREAS TO PROTECT SUCH RESOURCES.**

The project has been specifically designed to preserve a 1,000-foot-wide open space corridor along the south side of the property and a 700-foot-wide open space corridor, with financial contribution to constructing a culvert crossing under San Dieguito Road, to connect with the San Dieguito River Valley. These are the most environmentally sensitive portions of the site for biology preservation and native wildlife movement.

**E. THE PROPOSED DEVELOPMENT WILL MINIMIZE THE ALTERATIONS OF NATURAL LANDFORMS AND WILL NOT RESULT IN UNDUE RISKS FROM GEOLOGICAL AND EROSIONAL FORCES/AND OR FLOOD AND FIRE HAZARDS.**

Development is proposed on previously disturbed portions of the site. A brush management program is proposed to reduce the risks of fire hazard. Conditions of the tentative map and planned residential development permit respond to erosion, geology and flood issues.

**F. FEASIBLE MEASURES, AS DEFINED IN THIS SECTION, TO PROTECT AND PRESERVE THE SPECIAL CHARACTER OF THE SPECIAL HISTORICAL, ARCHITECTURAL, ARCHAEOLOGICAL OR CULTURAL VALUE OF THE AFFECTED SIGNIFICANT PREHISTORIC SITE OR RESOURCE HAVE BEEN PROVIDED BY THE APPLICANT.**

To preserve and protect on site cultural resources, the applicant has agreed to either avoid impact by redesign, cap and cover resources, and apply a conservation easement and/or find and recover resources.

**DENSITY BONUS DEVIATION FINDINGS:**

The following findings are made relative to the deviation from density bonus and affordable housing provisions pursuant to SDMC section 101.0307.6:

A. An increase in the density bonus provisions of section 101.0307.3 may be granted because the project is located with a census tract, the median household income of which exceeds 120% of the city-wide median household income as measured by the most recent U.S. Bureau of Census survey, and the project provides for the inclusion of dwelling units affordable by persons

of low income. The City median household income as described in the 1990 U.S. Bureau of Census survey was \$33,386.00. The median household income for census tract 83.26 (the census tract within which the project is located) in 1990 was \$70,148.00. Therefore, the median household income for the area where the project is located exceeds 120% of the City median household income as measured by the most recent U.S. Bureau of Census survey.

Further, the total density bonus shall not provide for a total project containing more than 150% of the units permitted by the density regulations of the underlying zone, nor does the affordable housing requirement provide that less than 10% of the total project be affordable by persons and families of low income.

B. In addition, all of the following facts exist:

1. The project as proposed will materially assist in accomplishing the goal of providing housing opportunities in economically balanced communities throughout the City. The introduction of the 24 affordable units in the area helps balance an otherwise middle to high income subregion. Further, it locates much needed low income housing in proximity to existing employment centers. The Del Mar Highlands Estates Planned Residential Development is proceeding with an estate residential development, without a commercial center, and development is widely distributed. The siting of the affordable units on Old El Camino Real will materially assist in providing balanced housing types and densities.

2. The project would not lead to over concentration of persons and families of low or very low income within a given community. The NCFUA Framework Plan indicates that affordable units should be disbursed throughout the NCFUA, primarily in or near the compact communities. Because development in the NCFUA is currently proceeding with base densities at one unit per four acres (i.e., estate residential development), pursuant to the PRD Ordinance, rather than at post-phase shift Framework Plan densities, it has become infeasible to disburse the affordable units near compact communities because compact communities are not being built, and probably will not be built until a phase shift has been approved by the voters. This project helps to introduce affordable units in close proximity to existing employment centers in an otherwise middle to high income subregion. An over concentration of persons or families of low or very low income currently does not exist in Subarea III of the North City Future Urbanizing Area. The affordable units that will be constructed concurrently with this project are the first affordable units proposed to be constructed in Subarea III in the North City Future Urbanizing Area.

3. Because of special circumstances applicable to the project, including property characteristics, economic constraints, location or surroundings, the strict applications of the provision of SDMC Section 101.0307.3 and Section 101.0307.4 would cause failure of the project. Because the property is subject to the Managed Growth initiative, passed by the voters in November of 1985, the development within the NCFUA

must not exceed that which was allowed by the regulations existing upon the passage of the Managed Growth initiative (i.e. generally, one dwelling unit for every ten acres under the A-1-10 Zone or one dwelling unit for every four acres pursuant to a planned residential development permit). These requirements must be satisfied while meeting affordable housing requirements in the North City Future Urbanizing Area. Blending lower income housing with estate housing while meeting the above requirements creates the need for flexibility and increases in density. The flexibility must assure that the affordable housing is acceptable given development at estate housing densities for the entire area.

The property upon which the project is located has unique characteristics in that the 84-acre Shell Parcel is entirely located within the Multiple Species Conservation Program ("MSCP") preserve. Development of such parcels is limited to the minimum area necessary to allow reasonable use of the parcel by the owner while achieving the goals of the MSCP. The 389-acre Del Mar Highlands Estates parcel contains two major canyons which are identified in the MSCP as wildlife corridors and whose preservation is a high priority. The east/west trending canyon is known as Gonzalez Canyon and will be preserved with a minimum width of 1,000 feet, but an average width over-all of approximately 2,500 feet. The unnamed and preserved north/south trending canyon/corridor has minimum 700 feet width and connects the San Dieguito Regional River Valley Park with Gonzalez Canyon. These areas will be retained in an undisturbed state and to a great extent will be revegetated where previously disturbed (i.e., 77 acres). The preservation of the Shell Parcel, Gonzalez Canyon and the north/south trending canyon/corridor has limited the developable area for this project to 166 acres out of 473 acres. The preservation of 307 acres in open space/MSCP preserve/wildlife corridors has greatly limited the total developable acreage (i.e., to 166 acres) and results in a reduced sizing of the estate type parcels that can be developed. This will have a negative marketing effect on the market rate units.

The density bonus deviation contemplated with this project which provides for 24 affordable units and 148 market rate units was critically evaluated by the City Manager and the Housing Commission and its staff prior to City Manager acceptance and Housing Commission approval on March 25, 1996 of the Affordable Housing Program for Del Mar Highlands Estates. Issues regarding the provision of affordable units such as permitting fees, design costs, payment of development impact fees, land development costs, land values, payment of school fees to Solana Beach School District and San Dieguito School District, transportation improvements design of the affordable units (i.e., number of bedrooms, bathrooms, square footage, exterior facades, amenities, parking, etc.), the permissible number of market rate units to support construction of the affordable units and other factors were considered, deliberated upon, and acknowledged in ultimately determining the market rate unit count in relationship to the affordable unit count for this project.

Taking into account the location of the project, the real property characteristics, the surrounding area, the economic considerations and the recommendation of the City Manager and Housing Commission, this 172 unit project would fail absent the granting of the requested deviation.

An earlier version of this project, which was considered by the City, consisted of 148 total units, with 124 market rate units and a building site which would accommodate 24 affordable units. Title to the affordable housing site real property was to be conveyed by the applicant to the City/Housing Commission. The City Manager supported this feature of the project. It was concluded by the Housing Commission staff, however, that it was preferable to obtain 24 built units and the City grant an extraordinary density bonus to achieve 148 market rate units, rather than receive title to the affordable housing site without units. The provision of the 24 affordable units would not, however, occur absent a density bonus enabling the construction of 148 market rate units. Because of these special circumstances applicable to the project, application of the provisions of SDMC sections 101.0307.3 and 101.0307.4 would cause failure of the project.

4. Granting the deviations will not adversely affect the Progress Guide and General Plan for the City of San Diego, the community plan for the area in which the project is located, cause significant adverse effects upon the environment, adversely effect solar access to neighboring property, or violate the relevant regulations of the Municipal Code. The project implements many policies contained in the Progress Guide and General Plan for the City. For example, the project will facilitate the fostering of balanced community development contained in City Council Policy No. 600-19. The project also will implement the Housing Element's policy for a pattern of small number of units and avoiding large developments (exceeding 100 units) adjacent to each other. The project will comply with the City's Affirmative Marketing Plan requirements contained in City Council Policy No. 600-20.

The EIR for the project concludes that all significant environmental impacts have been mitigated to below a level of significance or there are overriding considerations which make the overall project acceptable despite the environmental impacts.

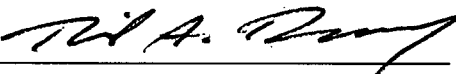
The above findings are supported by the minutes, maps, and exhibits, all of which are herein incorporated by reference.

BE IT FURTHER RESOLVED, that the decision of the Planning Commission is overturned, and Planned Residential Development/Resource Protection Ordinance

Permit No. 94-0576 is hereby to granted, under the terms and conditions set forth in the permit attached hereto and made a part hereof.

BE IT FURTHER RESOLVED, that the Council hereby stipulates that in any affordable housing area, the developer shall install a TOT lot.

APPROVED: CASEY GWINN, City Attorney

By   
Richard A. Duvernay  
Deputy City Attorney

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09/15/97 COR.COPY  
Or.Dept:Clerk  
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**RECORDING REQUESTED BY  
CITY OF SAN DIEGO  
DEVELOPMENT SERVICES**

**AND WHEN RECORDED MAIL TO  
PERMIT INTAKE  
MAIL STATION 501**

SPACE ABOVE THIS LINE FOR RECORDER'S USE

**PLANNED RESIDENTIAL DEVELOPMENT AND  
RESOURCE PROTECTION ORDINANCE PERMIT NO. 94-0576  
DEL MAR HIGHLANDS ESTATES  
CITY COUNCIL**

This Planned Residential Development Permit is granted by the Council of The City of San Diego to PARDEE CONSTRUCTION COMPANY, a California Corporation, Owner/Permittee, under the conditions contained in San Diego Municipal Code sections 101.0900 and 101.0462.

1. Permission is granted to Owner/Permittee to construct a residential development on property described as a portion of Lot 1 of Reversionary Map of San Dieguito Estates, Map No. 10780 and a portion of Section 8, Township 4 South, Range 3 West, SBM, located south of San Dieguito Road and east of Old El Camino Real, in the A-1-10 (HR) Zone and a portion of Section 21, Township 14 South, Range 3 West, SBM, also in the A-1-10 (HR) Zone.
2. The Planned Residential Development/Resource Protection Ordinance Permit shall include the total of the following facilities:
  - a. One-hundred forty-eight (148) single-family, market rate homes and 24 attached below market rate residences;
  - b. Off-street parking;
  - c. Incidental accessory uses as may be determined and approved by the City Manager.
3. Prior to the issuance of any building permits, a final subdivision map shall be recorded on the subject property. Permits may be issued for model units prior to the final map recordation, subject to the requirements of the City Attorney, City Engineer and City Manager.
4. Prior to the issuance of the first grading permit, erosion control and irrigation plans shall be submitted to the City Manager for approval. Such plans shall incorporate measures required in the Mitigation and Monitoring Program for Del Mar Highland Estates. Within 30 days of the completion of grading activities, hydroseeding, container stock planting (per the Project Design Guidelines date March 26, 1997) of naturalized slopes identified in the Landscape Concept Plan shall be completed, and erosion control, hydroseeding and planting for internal slopes adjacent to and part of residential lots shall be installed as required. Erosion control measures shall be maintained until establishment of permanent landscaping and sale of individual lots.



5. The construction and continued use of this permit shall be subject to the regulations of this or other governmental agencies.

6. For the 148 market rate units, 444 on-site total parking spaces shall be provided (at a ratio of three spaces per dwelling unit). Of those spaces, 148 shall be provided for guests (at a ratio of one space per unit). For the 24 below market rate units, not less than 47 on-site parking spaces shall be provided. Each of the parking spaces shall be permanently maintained and not converted for any other use at any time. Each subsequent owner shall be informed of this requirement through the CC&R's. Each space shall be maintained on the subject property in the approximate location as shown on Exhibit "A," dated April 15, 1997. Parking spaces and aisles shall conform to adopted City standards. No change shall be made at any time for use of these off-street parking spaces.

7. Exterior radio or television antennas shall be prohibited, except for one master antenna for the project. The installation of any underground CATV cable in any public rights-of-way within or adjacent to the project shall require either a license or franchise with the City prior to such installation. This shall not preclude the installation of satellite dishes.

8. No manufactured slope shall be steeper than a ratio of 2:1, except for internal slopes between lots, which may be 1.5:1 (if not exceeding ten feet in height) and for the project entry street grading.

9. The applicant shall post a copy of the approved permit in the sales office for consideration by each prospective buyer of market rate units or lots and in the sales/rental office for the below market rate units.

10. Any sales or rental office or temporary sales or rental signs advertising the subdivision shall be approved by the City Manager and shall be consistent with the criteria established by the adopted Development and Design Guidelines.

11. All private outdoor lighting shall be shaded and adjusted to fall on the same premises where such lights are located.

12. The effective date of this permit shall be the date of final action by the City Council. 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 City Council, as set forth in section 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.

13. No development shall commence, nor shall any permit for construction be issued, until:

- a. The Permittee signs and returns the permit to the City;
- b. The Planned Residential Development Permit is recorded in the Office of the County Recorder.

14. The property included within this development shall be used only for the purposes and under the terms and conditions set forth in this permit unless authorized by the City Manager or the permit has been revoked by the City of San Diego.

15. This Planned Residential Development Permit/Resource Protection Ordinance may be canceled or revoked if there is any material breach or default in any of the conditions of this permit. Cancellation or revocation may be instituted by the City or Permittee.
16. This Planned Residential Development Permit/Resource Protection Ordinance shall constitute a covenant running with the land; all conditions and provisions shall be binding upon the Permittee and any successor(s), and the interests of any successor(s) shall be subject to every condition herein.
17. Private streets shall be named and begin with appropriate terms such as "Caminito," "Ruelle," "Row," or "Square." Public refuse collection shall not be permitted unless approved by the City Manager. All private streets shall be improved to the requirements set forth by the City Engineer. No parking shall be permitted on any private streets except in approved locations.
18. This Planned Residential Development Permit/Resource Protection Ordinance allows the sale of individual lots for the purpose of construction of residential units consistent with conditions and exhibits of the permit.
19. Prior to the issuance of the first grading permit, a detailed revegetation plan shall be prepared and submitted by a qualified revegetation specialist for review and subsequent approval by the Development Services Manager. The subdivider shall implement the "Native Habitat Restoration Plan for Del Mar Highlands Estates" for at least the initial 37 acres of the 77-acre revegetation plan. Implementation of the revegetation plan shall occur during the first available rainy seasons upon completion of grading. A surety bond, in the amount to be determined with approval of the final plans, shall be posted with the City to assure implementation of the revegetation plan maintenance.
20. Prior to the approval of improvement plans for publicly dedicated street and private streets within the associated tentative map, an area not less than forty square feet shall be indicated on the improvement plans for the planting of street trees. The location of street trees shall conform with Exhibit "A" Landscape Concept Plan and the applicable sections of the *Landscape Technical Manual*. Other improvements such as driveways, utilities, drains, water and sewer laterals shall be designed so as not to prohibit the placement of street trees to the satisfaction of City Manager.
21. Prior to the issuance of any Certificate of Occupancy for any building, it shall be the responsibility of the Permittee to install all approved landscape and obtain all required landscape inspections and to obtain an NO FEE STREET TREE PERMIT for all street trees, and must notify and obtain signatures on a no fee street tree permit from, any subsequent property owner, prior to any transfer of ownership of the property. Copies of these approved documents must be submitted to the City Manager.
22. 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.
23. The Permittee/applicant shall comply with all requirements of the Uniform Building Code (UBC) and secure all necessary building permits prior to construction.
24. The development, including signs, shall be consistent with the "Del Mar Highlands Estates Design Guidelines and Development Standards" approved on April 15, 1997.

25. 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 the event that a challenge pertaining to future growth management requirements is found by a court of competent jurisdiction to be invalid, unenforceable or unreasonable, the City Manager shall have the right, but not the obligation, to review this Permit to confirm that the purpose and intent of the original approval will be maintained.

26. Within 30 days from the issuance of the first grading permit, detailed landscaping and irrigation plans for major slopes (Naturalized and Internal Slopes as identified in the Landscape Concept Plan) shall be submitted to the City Manager for review. Prior to the issuance of building permits, complete building plans, including landscape plans, shall be approved by the City Manager. All plans shall be in substantial conformity to Exhibit "A," dated April 15, 1997, on file with the City and in accordance with the *Landscape Technical Manual* Document No. RR-274506. Such landscaping shall be installed for each particular development unit identified on the tentative map prior to issuance of an occupancy permit in that permit in that until. Subsequent to the completion of this project, no changes shall be made unless approved by the City Manager or until an appropriate application for an amendment to this permit shall have been granted. Such landscaping shall be maintained by the developer in a disease, weed and litter free condition at all times until acceptance of public improvements or establishment of a homeowners' association to assure maintenance.

27. Only those accessory structures which are non-combustible or have an appropriate fire resistance rating shall be permitted within Brush Management Zone 1.

28. Walls of structures facing canyons shall comply with Section 6.6-2 of the *Landscape Technical Manual* Document Number RR-274506, on file in the Office of the City Clerk.

29. All requirements for fire-resistive construction and other architectural features shall conform to all applicable City and Regional building code standards.

30. Street trees and all other landscape indicated on the approved Landscape Concept Plan are required to be installed by the developer except as modified by other conditions contained within this permit. Approved planting shall be installed within each unit of the tentative map before issuance of any occupancy permit on any building in that unit. 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.

31. Within 30 days from the issuance of the first grading permit, detailed landscaping and irrigation plans for Primary Streetscape (per the Landscape Concept Plan) shall be submitted to the City Manager for review. These plans shall be approved prior to the issuance of building permits. All plans shall be in substantial conformity to Exhibit "A," dated April 15, 1997, on file with the City. Such landscaping and irrigation shall be installed for each particular development unit identified on the tentative map prior to issuance of an occupancy permit in that unit. Subsequent to the completion of this project, no changes shall be made by the developer unless approved by the City Manager or until an appropriate application for an amendment to this permit shall have been granted. Such landscaping shall be maintained by the developer in a disease, weed and litter free condition at all times and until the establishment of a homeowners' association or sale of the individual lot for maintenance by the owner.

32. 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 Action of 1973 and any amendments thereto (16 U.S.C. section 1531 et seq.).

33. The owner of Lot 149 shall confer with SDG&E's Land Management staff prior to commencing residential construction. The owner of the lot shall obtain a consent Agreement from SDG&E for any encroachments within the existing easement, including secondary uses and landscaping.

34. Prior to the issuance of any building permits, the applicant shall:

- a. Ensure that building address numbers are visible and legible from the street (UFC 10.208).
- b. Show the a location of all fire hydrants on the plot plan (UFC 10.301).
- c. Provide access in conformance with Fire Department Policy A-89-1 (UFC 10.207).
- d. Provide temporary street signs.
- e. Comply with the City of San Diego *Landscape Technical Manual* regarding brush and landscaping.

35. Development of the Affordable Housing Site (Lot 149) shall be subject to the terms of the Affordable Housing Program ("Program") attached hereto as Exhibit "B" and incorporated herein by this reference, including, but not limited to the location of the affordable housing set forth in paragraph 2.b. and the phasing schedule set forth in paragraph 2.e. of the program. Permittee shall satisfy all affordable housing requirements, by complying with the program. Permittee and the San Diego Housing Commission ("Commission") have selected the western portion of Lot 149 on the Del Mar Highlands Estates Vesting Tentative Map No. 94-0576 ("Affordable Housing Site"), see Exhibit 4 to program, as the site where twenty-four (24) affordable units will be developed. In the event that a phase shift from Future Urbanizing to Planned Urbanizing is approved by the residents of City, which includes Del Mar Highlands Estates, Permittee and the Commission may, after obtaining City approval for any necessary amendments to the Planned Residential Development Permit, agree to develop the twenty-four (24) affordable units on sites other than specified in the program.

36. As an alternative to constructing twenty-four (24) affordable units on the Affordable Housing Site, Permittee is authorized to construct in Del Mar Highlands Estates an attached or detached dwelling unit (hereinafter referred to as a "companion unit") in addition to the market rate dwelling unit on 8 of the 148 parcels containing market rate dwelling units. Should Permittee construct 8 companion units, Permittee shall be responsible to construct a maximum of 16 affordable dwelling units on the Affordable Housing Site. Permittee shall not be permitted to proceed with the construction of any companion units, however, until such time as the Executive Director of the Housing Commission, the Housing Commission, or the Housing Authority authorizes construction of the second 30 unit increment of "companion units" for the Black Mountain Ranch-NCFUA project.

In the event Permittee elects to proceed with the construction of companion units as indicated in the preceding paragraph, approval of this Planned Residential Development Permit shall constitute the discretionary approval for use of such companion units, however, Permittee shall be required to obtain permits and approvals, such as building permits, from City, including a Planned Residential Development Permit amendment, prior to construction of the companion units. In addition, companion units shall not be considered separate units but rather accessory uses to an approved residential unit and therefore reduced fees will be considered pending evaluation of data that suggests companion units have lower facility impacts than market rate units.

If construction of eight (8) companion units is authorized to proceed as described above, Permittee shall not be entitled to an additional market rate units in excess of the proposed 148 market rate units (118 base units plus 30 market rate bonus units).

37. Concurrent with recordation of the first final map for dwelling units in Del Mar Highlands Estates, Permittee shall record a lien on the Affordable Housing Site, in a form acceptable to the Executive Director of the Commission to secure the completion of construction of the twenty-four (24) affordable units. Said first final map shall include the Affordable Housing Site. Permittee shall provide Commission evidence that the Affordable Housing Site constitutes a legal lot within the meaning of California Law and title insurance which verifies that the Commission's lien is in a first priority position. Permittee further agrees that prior to recording the first final map for dwelling units in Del Mar Highlands Estates, Permittee shall provide to the Commission security in the amount of \$1.2 million, in the form of a bond, cash, letter of credit, set aside letter from a federally insured lending institution, or other security acceptable to the Commission, or any combination thereof, to secure the completion of construction of the twenty-four (24) affordable units. When occupancy of the twenty-four (24) affordable units is authorized by City, the security shall immediately be released by the Executive Director of the Commission. The design and location of the affordable units shall be reasonably similar to the product described in the program.

38. Upon filing the first final map for Del Mar Highlands Estates and posting security, Permittee is authorized to proceed with the construction of seventy-six (76) market rate units. Issuance of building permits for construction of the 77th, or greater, market rate dwelling unit shall not occur until building permits are issued for construction of the twenty-four (24) affordable units. Issuance of building permits for construction of the 115th, or greater, market rate dwelling unit shall not occur until occupancy of the twenty-four (24) affordable units is authorized by City. In any event, completion of construction of the twenty-four affordable units and their availability for occupancy shall occur no later than 15 months after issuance of the building permit for the 77th market rate unit. If individual parcels are sold initially by Pardee without first obtaining building permits for construction of market rate units, every such parcel sold shall nonetheless be included with the total number of building permits issued, in determining when the issuance of the building permit occurs for the 77th and 115th, or greater, market rate units.

39. Upon completion of construction of the twenty-four (24) affordable units, Permittee shall record against the Affordable Housing Site or the sites of the companion units, if applicable, in a first priority position a Declaration of Covenants, Conditions, and Restriction, or other documents acceptable to the Executive Director of the Commission and Permittee, to ensure that the affordable units will remain affordable for a period of fifty-five years provisions of the affordable housing declaration document shall require owner of the Affordable Housing Site to pay n initial

project start-up of \$625.00 and an annual monitoring fee of \$1,560, as may be reasonably adjusted by the Housing Commission from time to time.

In the event Permittee abandons development of the Del Mar Highlands Estates Parcel prior to initiating construction of any residential units thereon and this section is terminated and development of Del Mar Highlands Estates nullified, City agrees that Permittee shall have no obligation to construct the affordable units and Commission shall relinquish whatever security it has received from Permittee prior to the abandonment.

40. As a condition to the issuance of building permits, the following measures shall be incorporated into the final drawings:

- a. Prior to the issuance of building permits, a paleontological monitoring results report shall be submitted to Development Services for review and approval.
- b. Prior to the issuance of any building permit for any residential dwelling unit, the Owner/Permittee shall participate in mitigation through implementation of School Agreement and the participation in a Mello-Roos Community Facility or District (Mello-Roos). Prior to the issuance of any residential building permit, these fees and or participation in a Mello-Roos shall be established through an Agreement with Solana Beach/San Dieguito Union High School District (the Districts).
- c. The design Guidelines shall reflect that the development of individual lots abutting conserved habitat shall not permit large spotlight-type lighting directed into the conserved habitat. This shall not prohibit appropriate lighting of tennis courts, swimming pools, etc. so long as the lighting is directed toward the tennis court, swimming pool, etc. In addition, lighting from homes abutting conserved habitat shall be screened with vegetation to the extent appropriate that does not significantly reduce the purpose of the lighting.
- d. The developer shall pay to the City the development's fair share costs (i.e. Park fees) in providing population-based parks to serve future residents.
- e. To minimize emergency response time to future on-site residences, the following requirements shall be incorporated into the final design of plans as noted below:
  - i. Large clearly legible address numbers will be visible from the street. (Building permit.)
  - ii. Security entrances will either be staffed 24 hours a day or a security gate code will be provided to the Police and Fire Department. (Building permit.)
  - iii. Residential fire sprinklers will be required for any structure built on lots 143, 144, 145, 146, 147 and 148. (Building permit.)
- f. The following mitigation shall be incorporated into the final project plan as noted below to address water usage concerns:

- i. Limit grading in areas where no construction is proposed; thereby reducing the need for planting and irrigation of graded areas. (Landscaping plans.)
- ii. Provide integrated organic soil amendment into landscape areas to improve infiltration. (Landscaping plans.)
- iii. Reduce runoff potential from landscape areas by utilizing berming, raised planters, and drip irrigation systems. (Landscaping plan.)
- iv. Install soil moisture override systems in all common irrigation areas to avoid sprinkling when ground is already saturated. (Landscaping plan.)
- v. Identify in the plant materials list whether or not plants are native or naturalize easily and incorporate a list of local California sources for native plants. (Landscaping plan.)
- vi. Incorporate low-flush toilets, low-flow faucets, and timers on sprinklers (including nighttime watering) into project design. (Building permit and landscaping plan.)
- vii. Provide information regarding water conservation measures to new residents at the time of lot purchase. (Certificate of Occupancy.)

41. The Permittee shall install an approved vehicle strobe detector system on the main entry gates to the project, satisfactory to the Fire Department.

42. The Permittee shall install a lighted site director at the main entry and at emergency access entries to the project, satisfactory to the Fire Department.

43. The Permittee shall install a fire hydrant adjacent to the affordable housing site, in a location satisfactory to the Fire Department.

44. A turn around shall be required to serve emergency vehicles in the affordable housing parking lot, satisfactory to the Fire Department.

45. Suitable gate entries or other acceptable means of access through the perimeter wrought iron fence shall be provided, satisfactory to the Fire Department.

46. The Permittee shall ensure that building address numbers are visible and legible from the street.

47. Within 30 days from the issuance of grading permits, a complete set of brush management working drawings shall be submitted to the City Manager and the Fire Marshall for review. These plans shall be approved prior to the issuance of building permits. All plans shall be in substantial conformity to Exhibit "A," dated April 15, 1997, on file with the City, and shall comply with the applicable provisions of the "*Landscape Technical Manual*," Document No. RR-274506. The approved Brush Management Program shall be implemented within each particular development units identified on the tentative map and inspected by the City Manager prior to issuance of any occupancy permit for any building on a lot affected by brush management in that unit. Such brush management shall not be modified or altered unless this permit has been amended and is to be

maintained, at all times in accordance with the guidelines of the City's *Landscape Technical Manual*," Document No. RR-274506, on file in the office of the City Clerk.

APPROVED by the Council of The City of San Diego on April 15, 1997, by Resolution No. R-288544.



AUTHENTICATED BY THE CITY MANAGER

By \_\_\_\_\_

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**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.**

9/16/97  
LADUVERNAYPERMITS04-0576.PRD