

ORDINANCE NUMBER O-18572 (NEW SERIES)

ADOPTED ON SEP 08 1998

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SAN
DIEGO APPROVING THE CARMEL VALLEY
NEIGHBORHOOD 8A SPECIFIC PLAN/PRECISE PLAN.

WHEREAS, San Diego Municipal Code [SDMC] section 103.0601 and the Carmel Valley Community Plan requires the preparation and adoption of Precise Plans for the systematic implementation of the Carmel Valley Community Plan; and

WHEREAS, Neighborhood 8A is located on approximately 391.1 acres in the southern portion of the Carmel Valley Community Planning Area east of Interstate 5 and south of State Route 56 and is comprised of that land and those ownership interests reflected on Attachment 1; and

WHEREAS, in response to the City Council's expressed desire for comprehensive planning within Neighborhood 8A, Loma Sorrento Investors, J.L. Elder Company, Westbrook Communities, Torrey Pines Investment Group, and Western Pacific Housing [the Applicants] applied for an initiation to prepare the Neighborhood 8A Specific Plan/Precise Plan; and

WHEREAS, the Planning Commission of The City of San Diego [Planning Commission] initiated preparation of the Neighborhood 8A Specific Plan/Precise Plan encompassing Neighborhood 8A within the Carmel Valley Community Planning Area on September 25, 1997, as a means to comprehensively plan and develop the entire Neighborhood 8A; and

WHEREAS, the Planning Commission also directed the formation of a Citizens Advisory Group comprised of landowners, community representatives, and environmental group representatives to meet and collaborative work toward creating a Neighborhood 8A Specific

Plan/Precise Plan for consideration by the City Council which contained a reasonable range of adoptable options for development and conservation of natural resources within the Neighborhood 8A Specific Plan/Precise Plan area; and

WHEREAS, at considerable expense, the Applicants for the Neighborhood 8A Specific Plan/Precise Plan agreed to participate on the Citizens Advisory Group and to prepare a plan which contained a reasonable range of adoptable options for development and conservation of natural resources within the Neighborhood 8A Specific Plan/Precise Plan area; and

WHEREAS, Pardee Construction Company is the majority land owner in the Neighborhood 8A Specific Plan/Precise Plan area with an ownership interest in approximately 150 acres of land, known as Parcels A and B; and

WHEREAS, Pardee Construction Company is also the majority land owner of property in Subarea III of the Future Urbanizing Area, an area within the City where voter approval is required in order develop at urban intensities pursuant Proposition A, approved by the voters on November 5, 1985; and

WHEREAS, subsequent to the action of the Planning Commission on September 25, 1997, which initiated preparation of the Neighborhood 8A Specific Plan/Precise Plan, Pardee Construction Company consulted with interested community and environmental group representatives regarding the processing of land use entitlements for development within Subarea III; and

WHEREAS, the interested community and environmental group representatives indicated an unwillingness to discuss development proposals within Subarea III unless Pardee agreed to concurrently plan for conservation on Parcels A and B; and

WHEREAS, in response to the indicated desire of community and environmental group representatives, Pardee Construction Company agreed to propose a concurrent and interrelated development proposal for Pardee's land holdings in Subarea III and Neighborhood 8A [Joint Development Proposal]; and

WHEREAS, as a part of Pardee's Joint Development Proposal, Pardee Construction Company is proposing to add acreage to the Multiple Habitat Planning Area [Preserve] of the Multiple Species Conservation Program [MSCP] on Pardee Parcel A and Parcel B in Neighborhood 8A and forgo development entitlements on those Parcels in exchange for increased development area in Subarea III of the Future Urbanizing Area; and

WHEREAS, the Joint Development Proposal is reflected in the Pacific Highlands Ranch Subarea Plan, adopted by the Council on July 28, 1998, by Resolution R-290521, and on file in the office of the City Clerk as Document RR-290521, and related Development Agreement, adopted by the Council on SEP 08 1998, 1998, by Ordinance O- 18571 [O-99-23], and on file in the office of the City Clerk as Document OO- 18571 ; and

WHEREAS, development within Subarea III in accordance with the Pacific Highlands Ranch Subarea Plan is contingent upon City Council action to place a measure on the ballot for consideration by the voters on November 3, 1998, Ordinance No. O- 18568 [O-99-4], and voter approval of that ballot measure [Ballot Measure]; and

WHEREAS, within the Neighborhood 8A Specific Plan/Precise Plan, treatment of Pardee Parcels A and B is consistent with the Joint Development Proposal and designates a fifteen acre Community Park use as the sole use on Pardee Parcel A in Neighborhood 8A with the balance of the parcel (123 acres) and all of Pardee Parcel B (7 acres) dedicated in fee to the City as permanent Open Space contingent upon voter approval of the Ballot Measure; and

WHEREAS, should the Ballot Measure not receive voter approval, development in accordance with the Pacific Highlands Ranch Subarea Plan cannot be legally implemented; and

WHEREAS, without voter approval of the Ballot Measure, it is appropriate for land use designations and zoning associated with Parcels A and B as part of the Neighborhood 8A Specific Plan/Precise Plan and necessary for implementation of the Joint Development Proposal to be deemed null and void; and

WHEREAS, without voter approval of the Ballot Measure, it is also appropriate for the Council to consider amendments for other development proposals for Parcels A and B as may be proposed by Pardee Construction Company; and

WHEREAS, in accordance with the MSCP, outside the Preserve development impacts to species and habitat may generally occur with appropriate mitigation but inside the Preserve impacts to these resources are restricted to low intensity Preserve compatible development; and

WHEREAS, the majority of land ownerships in the Neighborhood 8A Specific Plan/Precise Plan are affected by the MSCP; and

WHEREAS, the MSCP provides a process for adjustment of the Preserve boundary line when biological equivalence is maintained and concurrence is obtained from the U.S. Fish and Wildlife Service and the California Department of Fish and Game [Wildlife Agencies]; and

WHEREAS, development of the Loma Sorrento Parcel, the Torrey Pines Investment Group Parcel, and the Joint Development Proposal, as recommended by the City Manager, all involve Preserve boundary line adjustments which have been reviewed and approved by the Wildlife Agencies; and

WHEREAS, the Carmel Valley Neighborhood 8A Specific Plan/Precise Plan fulfills the purpose, intent, and requirements of SDMC section 103.0601 and the Carmel Valley Community

Plan for Neighborhood 8A, as that Neighborhood is described in the Carmel Valley Community Plan; and

WHEREAS, the Planning Commission has conducted a public hearing regarding the Specific Plan/Precise Plan, together with amendments to the *Progress Guide and General Plan*, amendments to the *Carmel Valley Community Plan*, amendments to the *Sorrento Hills Community Plan*, amendments to the *Neighborhood 10 Precise Plan*, and amendments to the *North City Local Coastal Program* in order to retain consistency among such plans; and

WHEREAS, after due notice, the Council conducted a public hearing on this matter wherein all persons desiring to be heard were heard; and

WHEREAS, the Council has reviewed and considered all maps, exhibits, written documents, and materials contained in the file regarding this project on record in The City of San Diego and the oral presentations given; NOW, THEREFORE,

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

Section 1. That the Council approves and adopts the Neighborhood 8A Specific Plan/Precise Plan in the form on file in the office of the City Clerk as Document No.

OO- 18572, with designated land use, zoning, dwelling unit allocations, Preserve Boundary Adjustments and options as set forth in Attachment 2, incorporated herein by reference, but subject to the following additional conditions of approval applicable to the following parcels:

a. Pardee Parcels A and B - Land use, zoning designations and the MSCP Boundary Adjustment for Parcels A and Parcel B (exclusive of the Community Park Site) are conditionally approved subject to an affirmative vote of the People on November 3, 1998, specifically by amending the Official Phased Development Map, on file in the Office of the City Clerk as Document No. RR-267565-1, to change the designation of 2,102 acres within Pacific Highlands

Ranch Subarea Plan as reflected on Exhibit 1-1 of said Plan from “Future Urbanizing” to “Planned Urbanizing.” If the Ballot Measure should fail or if Ordinance No. O- 18568 [O-99-4] approving the submittal of the Ballot Measure to the voters is not adopted by the City Council, the land use, zoning designations and Boundary Adjustment for Parcels A and B (exclusive of the Community Park Site) shall be considered null and void. Zoning shall remain A-1-10 zoning in these areas. All other aspects of the Neighborhood 8A Specific Plan/Precise Plan shall remain in full force and effect.

b. Torrey Pines Investment Group Parcel - Development of this Parcel in accordance with the land use, zoning designation, and Preserve Boundary Adjustment as reflected on Attachment 2 is conditionally approved subject to the successful performance of private party contracts proposed by the Torrey Pines Investment Group to transfer development rights from one-acre owners within the Specific Plan/Precise Plan area to Torrey Pines Investment Group. This transfer of development rights is necessary to effectuate the Preserve Boundary Adjustment proposed for the Torrey Pines Investment Group Parcel and approved by the City and Wildlife Agencies. Specifically, any subdivision of land in accordance with the land use and zoning designation for the Torrey Pines Investment Group Parcel shall not be approved unless the proposed subdivision includes a condition for extinguishment of all development rights (through a proposed dedication in fee or easement) on eleven acres of the one-acre ownerships within the Specific Plan/Precise Plan.¹ However, a subdivision which substantially conforms to the land use, zoning designation, and required transfer of development rights (i.e., 23 acre footprint with dedication of 10 one-acre ownerships or 22 acre footprint with dedication of 9 one-acre

¹ The one acre ownerships eligible for transfer of development rights include: Robertson, Kennedy, S. Anuskiewicz, Lessie, R. Anuskiewicz, Rigoli, Althouse, Becker, R&S Anuskiewicz, Wright, Omachi and Gallagher.

ownerships) may be approved without an amendment to the Neighborhood 8A Specific Plan/Precise Plan or additional environmental review, provided that environmental impacts were analyzed within the scope of Environmental Document, EIR Nos. 91-0899, 95-0381, 96-7573, 96-7929, and 96-7996, and Addendum No. 98-0693 to EIR No. 96-7996.

c. One-Acre Ownerships - Zoning entitlements for the one-acre ownerships (see footnote 1) shall remain unaffected by the Specific Plan/Precise Plan. These parcels retain A-1-10 zoning and may develop in accordance with underlying zoning, subject to the Resource Protection Ordinance overlay restrictions applicable to development wholly within the MSCP Preserve. These owners may also transfer development rights to effectuate those Preserve Boundary Adjustments approved by the City and Wildlife Agencies as part of this Specific Plan/Precise Plan.

d. Loma Sorrento Parcel - Development of this Parcel in accordance with the land use and zoning designation as reflected on Attachment 2 is conditionally approved subject to satisfying the City Manager and Wildlife Agencies at the time a tentative map is approved for this project for any Preserve Boundary Adjustment necessary to implement the land use and zoning designations. As reflected on Attachment 2, Applicant shall have the option of proposing one of the following two alternatives: 1) up to 49 dwelling units on the 17.4 acre Residential Very Low area with an additional 11 dwelling units (total of 128) upon an expanded footprint (total of 15.9 acres) upon the Residential Low area, or 2) up to 60 dwelling units on the 17.4 acre Residential Very Low area and 117 dwelling units on the 14.4 Residential Low area.

Section 2. If the Ballot Measure is not approved on November 3, 1998, or if Ordinance No. O- 18568 [O-99-4] approving submittal of the Ballot Measure to the voters is not adopted by the City Council, thus resulting in the voiding of the land use designation and zoning entitlements for Parcels A and B (exclusive of the Community Park Site), Pardee Construction

Company may propose an amendment to the Neighborhood 8A Specific Plan/Precise Plan to designate a new land use, zoning, and dwelling unit allocation for Parcels A and B. At Pardee Construction Company's request, without the need for a plan initiation (waiver of the Initiation Process) or Planning Commission recommendation, the City Clerk is directed to docket the amendment for a noticed public hearing at the City Council at the earliest date following the November 3, 1998 election, provided that the City Manager determines that the proposed amendment meets the following criteria:

a. The amendment proposes a land use designation, zoning, and dwelling unit allocation for Parcels A and B which creates no new or additional impacts not already analyzed within the scope of Environmental Document, EIR Nos. 91-0899, 95-0381, 96-7573, 96-7929, and 96-7996, and Addendum No. 98-0693 to EIR No. 96-7996, and the Neighborhood 8A Specific Plan/Precise Plan approved by this Ordinance; and

b. The amendment for Parcels A and B does not propose or necessitate any change to public facilities (including the Community Park Site), roadways, or land use entitlements granted as a part of the Neighborhood 8A Specific Plan/Precise Plan approved by this Ordinance.

Section 3. If the Ballot Measure is not approved on November 3, 1998, or if Ordinance No. O- 18563 [O-99-4] approving submittal of the Ballot Measure to the voters is not adopted by the City Council, thus resulting in the voiding of the land use designation and zoning entitlements for Parcels A and B (exclusive of the Community Park Site) and Pardee Construction Company proposes an amendment to the Specific Plan/Precise Plan which does not meet the criteria described above in Section 2, the amendment shall be deemed initiated (waiver of the Initiation Process) but shall otherwise be processed in accordance with normal procedures for processing amendments to a land use plan as provided for in the Municipal Code. However, if

impacts from the proposed amendment were previously analyzed within the scope of Environmental Document, EIR Nos. 91-0899, 95-0381, 96-7573, 96-7929, and 96-7996, and Addendum No. 98-0693 to EIR No. 96-7996, no additional environmental review shall be required.

Section 4. The City Council hereby finds and declares that because the land use and zoning designations for Pardee Parcels A and B are a part of the Joint Development Proposal and because legal implementation of the Joint Development Proposal is dependant upon voter approval of the Ballot Measure on November 3, 1998, in the event the Ballot Measure is not approved on November 3, 1998, or if Ordinance No. O- 18568 [O-99-4] approving submittal of the Ballot Measure to the voters is not adopted by the City Council, and only under that circumstance, the City hereby tolls the running of any applicable statute of limitations until November 4, 1998, for any claims Pardee may have arising from adoption of this ordinance, including but not limited to any claims relating to the designation of the 20 acre site in Parcel A for a school/park site or the failure by Pardee to seek reconsideration of the Council's action adopting this ordinance.

Section 5. The Council finds that the Neighborhood 8A Specific Plan/Precise Plan contains the required content set forth in California Government Code section 65451 for a specific plan by specifying in sufficient detail (1) the distribution, location, and extent of the uses of land, including open space; (2) the proposed distribution, location, and extent and intensity of major components of public and private transportation, sewage, water, drainage, solid waste disposal, energy, and other essential facilities proposed to be located within the area covered by the plan and needed to support the land uses described in the plan; (3) standards and criteria by which development will proceed, and standards for the conservation, development, and utilization

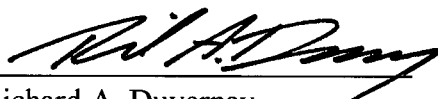
of natural resources, where applicable; (4) a program of implementation measures including regulations, programs, public works projects, and financing measures necessary to carry out points outlined above in (1), (2) and (3); and, the Neighborhood 8A Specific Plan/Precise Plan includes a statement of the relationship of the Neighborhood 8A Specific Plan/Precise Plan to the Progress Guide and General Plan of the City.

Section 6. No City public work project may be approved, no subdivision of land may be approved, and no zoning regulation may be adopted or amended within the area covered by this Specific Plan/Precise Plan unless it is consistent with the Specific Plan/Precise Plan and this Ordinance, unless an amendment to this Specific Plan/Precise Plan is processed and approved by the City Council.

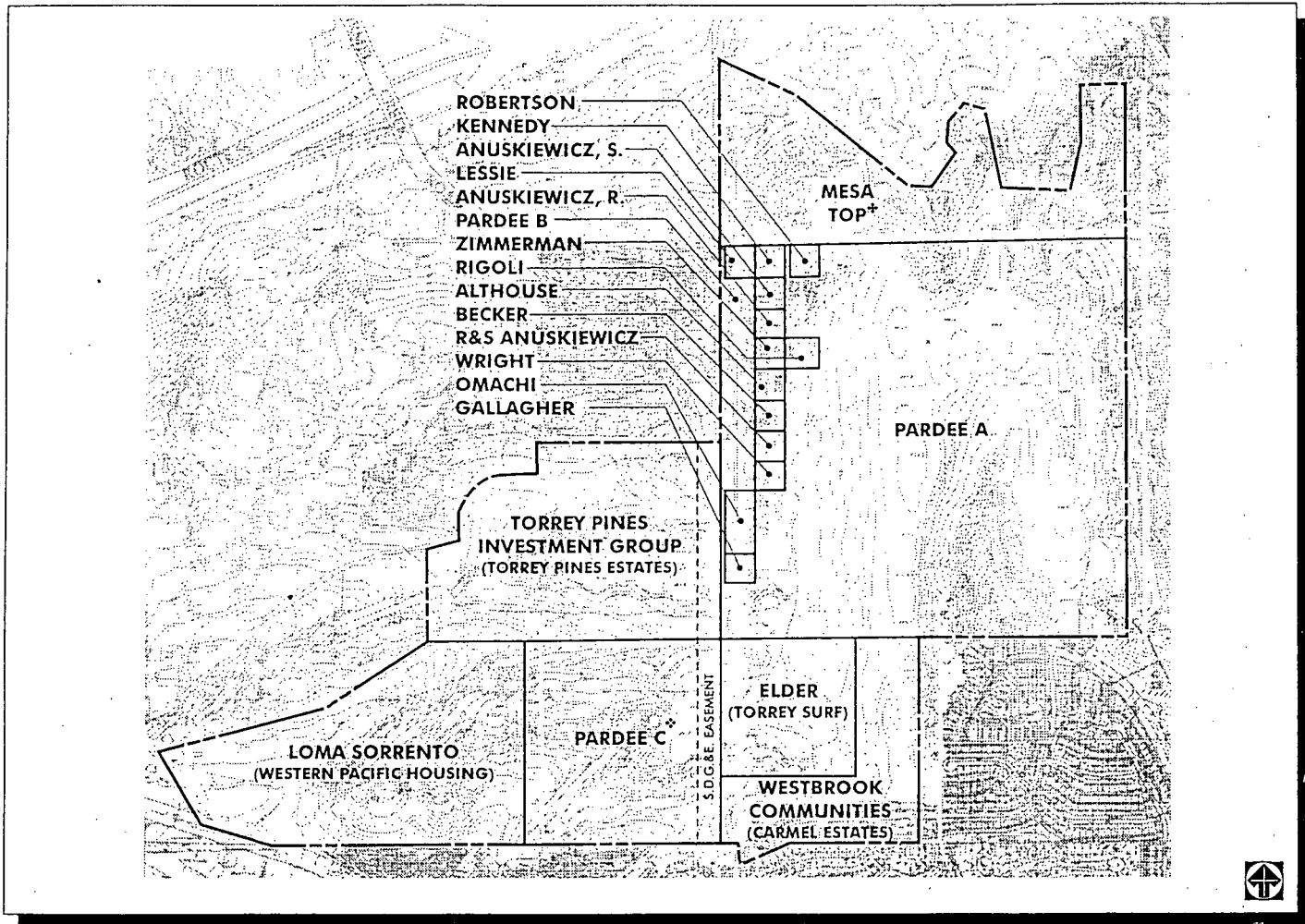
Section 7. This ordinance shall not become effective until the thirtieth day following the date of its adoption.

Section 8. That the provisions of this ordinance shall not be applicable to those properties within the Coastal Zone until the thirtieth day following the date the California Coastal Commission unconditionally certifies this ordinance as an amendment to the City's local coastal program.

APPROVED: CASEY GWINN, City Attorney

By 
Richard A. Duvernay
Deputy City Attorney

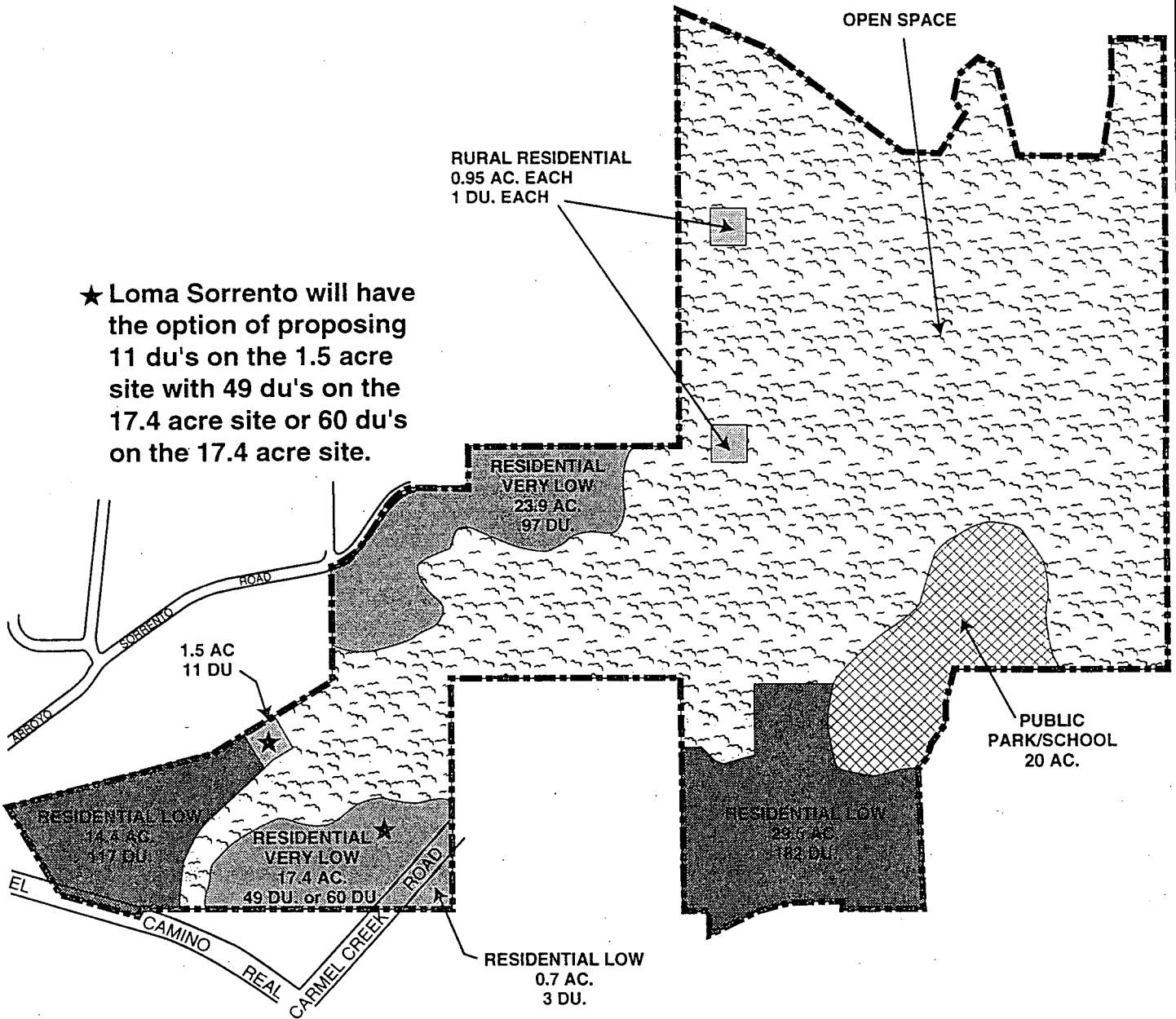
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⚡ Note: Development of Pardee Parcel C is governed by the Neighborhood 8C Precise Plan and is included on this exhibit for information purposes only.
+ Note: This parcel is proposed for acquisition by the City of San Diego.



★ Loma Sorrento will have the option of proposing 11 du's on the 1.5 acre site with 49 du's on the 17.4 acre site or 60 du's on the 17.4 acre site.



ADOPTED: _____
 ORDINANCE NO.: _____



PLANNED LAND USE

Neighborhood 8A Specific Plan/Precise Plan

CITY OF SAN DIEGO • COMMUNITY AND ECONOMIC DEVELOPMENT

ATTACHMENT 2

CAR.VAL/Neigh8aLU
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