

RESOLUTION NUMBER R-290672

ADOPTED ON SEPTEMBER 8, 1998

WHEREAS, Pardee Homes, a California Corporation, Owner/Permittee, filed an application with the City of San Diego for an Extension of Time (EOT) for Planned Residential Development and Resource Protection Ordinance Permit No. 90-0574 (the South Palm Vista project), for the development of 70 detached single-family dwelling units on a 27.33 acre site in conjunction with an accompanying 73-lot Vesting Tentative Map and rezone from the existing A1-10 and HRO (proposed A1-10, R1-5000/SLO and HRO) zones, within the boundaries of the Otay Community Plan area; and

WHEREAS, on July 9, 1998, the Planning Commission of The City of San Diego considered the Extension of Time for the Project, and pursuant to Resolution No. 2669-2-PC, voted to recommend City Council approval of PRD/RPO Permit No. 98-0270, extending PRD/RPO Permit No. 90-0574; and

WHEREAS, the matter was set for public hearing on September 8, 1998, 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 PRD/RPO Permit No. 98-0270 (Extension of Time to Permit No. 90-0574):

1. PLANNED RESIDENTIAL DEVELOPMENT PERMIT FINDINGS:

A. The proposed use will fulfill a community need and will not adversely affect the City's Progress Guide and General Plan or the adopted community plan.

The Otay Mesa Community Plan designates this site for very low-density residential. The project will result in seventy single-family homes with a density of 2.5 dwelling units per acre. The project proposes a small lot overlay zone to provide for clustering units and the retainment of larger open space areas.

B. The proposed use 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 properties in the vicinity.

C. The proposed use will fully comply with the relevant regulations of the San Diego Municipal Code in effect for this site.

A rezone has been proposed by the applicant to maintain consistency between the land use designations and the proposed uses. The development will comply with the regulations of the R1-5000 zone and the Small Lot Overlay zone.

2. RESOURCE PROTECTION ORDINANCE FINDINGS:

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

The proposed project was designed after California Terraces, but as an adjunct to the California Terraces Precise Plan [Precise Plan]. During negotiations with the City, this property owner, as well as surrounding property owners, compromised on a plan to allow development in less sensitive areas of Otay Mesa in return for retaining large interconnecting open space areas.

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

The proposed development has been sited and designed to retain two large areas of natural open space. The project has also been designed to provide a buffer between the residential development and the open space. The Precise Plan outlines guidelines and the RPO permit will implement the treatment of buffer and interface areas to insure the integrity of the open space.

C. 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.

Contour grading techniques are being incorporated into the permit conditions to minimize landform alteration impacts associated with manufactured slopes. Care has been taken to minimize disturbance where feasible.

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

The proposed development will be visually compatible with other proposed developments in the surrounding area. The proposed development includes revegetation of all manufactured slopes with native coastal sage scrub species. The project coordinates with adjacent precise plans to provide a comprehensive plan for residential development on Otay Mesa. Open space areas will tie into and augment adjacent open space proposals to create a major open space system for the community. The plan provides guidelines for the preservation of open space areas and treatment of all buffers and slope interfaces as well as outlining design elements to be incorporated during construction. These measures will serve to restore and enhance the visual quality of the project area.

E. The proposed development will conform with the City's Progress Guide and General Plan, the applicable community plan, the Local Coastal Program, or any other applicable adopted plans and programs in effect for this site.

A community plan amendment has been proposed by the applicant to maintain consistency between the Otay Mesa Community Plan and the General Plan and the proposed uses.

3. RESOURCE PROTECTION ORDINANCE FINDINGS (ALTERNATIVE COMPLIANCE):

A. There are no feasible measures that further minimize the potential adverse effects on environmentally sensitive lands while still providing the extraordinary benefit.

Strict adherence to the encroachment allowances for this project along with adjacent project proposals may result in a fragmented open space system. The Development Services Department coordinated with all of the Precise Plan property owners and agreed upon an open space network for Otay Mesa primarily to preserve contiguous habitat areas. South Palm Vista is proposing preservation of 12.2 acres of open space.

B. The proposed development will not adversely affect the City of San Diego's Progress Guide and General Plan.

See RPO Finding (e) above.

C. The proposed development conforms to the adopted community plan for the area and any other applicable plans, policies and ordinances.

See RPO Findings (a) and (c) above.


4. TIME EXTENSION FINDING:

The expiration of an approved permit may be extended if there has been no significant change in circumstances since the granting of such permit. The findings adopted for the approval of the original permits on April 12, 1994, by the City Council, are listed above. No significant change in circumstances has occurred in the four years since approval and this extension of time may be approved.

That 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 recommendation of the Planning Commission is sustained, and Planned Residential Development and Resource Protection Ordinance Permit No. 98-0270 (Extension of Time to PRD/RPO No. 90-0574) is granted to Pardee Construction Company, under the terms and conditions set forth in the permit attached hereto and made a part hereof.

APPROVED: CASEY GWINN, City Attorney

By 
Richard A. Duvernay
Deputy City Attorney

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05/26/99
Or.Dept:Clerk
R-99-439
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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. 98-0270
(EXTENSION OF TIME TO PERMIT NO. 90-0574)
SOUTH PALM VISTA**

CITY COUNCIL

This Planned Residential Development ("PRD") and Resource Protection Ordinance ("RPO") Permit Extension of Time 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, 101.0462, 111.0510 and 111.1122.

1. Permission is granted to Owner/Permittee to construct a Planned Residential Development described as the W 1/2, NW 1/4, SW 1/4, Section 30, T.18S, R.1W., SBBM, located on the east side of I-805 between Palm Avenue and Otay Mesa Road, in the A1-10/HRO (proposed A1-10, R1-5000/SLO and HRO) zones within the boundaries of the Otay Mesa Community Plan area.
2. The Planned Residential Development/Resource Protection Ordinance Permit shall include the total of the following facilities:
 - a. Seventy single-family units, all within the Small Lot Overlay Zone.
 - b. Off-street parking.
 - c. Incidental accessory uses as may be determined and approved by the Development Services 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. Permits may be issued for model units prior to the final map recordation, subject to the requirements of the City Manager.
4. This project is subject to and shall comply with all conditions included in Vesting Tentative Map No. 98-0270 (EOT to VTM 90-0574).

5. A "Non-building Area" designation shall be granted and shown on said map on all areas not shown for building sites and all Brush Management areas per the Landscape Technical Manual, Precise Plan, and PRD Ordinance. Such areas shall be coupled with the severalty interests of the owners of the dwelling units and shall be maintained as open space. Areas of the site designated as open space shall be in accordance with Exhibit "A," dated April 12, 1994, on file in Development Services.
6. Concurrent with the recordation of the final map, lots A, B and C are to be dedicated in fee title to The City of San Diego satisfactory to the City Engineer.
7. Prior to the issuance of grading permits, modified interim landscape and erosion control measures, including hydroseeding, shall be submitted to the satisfaction of the City Manager and City Engineer. Prior to the issuance of building permits, complete building plans, including landscaping and signs, shall be submitted to the City Manager for approval. All plans shall be reviewed for conformance to ordinances in effect at the time and shall be in substantial conformity to Exhibit "A," dated April 12, 1994, on file in Development Services. Landscaping shall be installed prior to issuance of an occupancy permit. Subsequent to the completion of this project, no changes shall be made until an appropriate application for an amendment to this permit shall have been granted.
8. The construction and continued use of this permit shall be subject to the regulations of this or other governmental agencies.
9. One hundred forty (140) total parking spaces shall be provided (at a ratio of 2.0 spaces per dwelling unit) in garages. 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 Covenants, Conditions and Restrictions ("CC&Rs").
10. 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.
11. No building additions, including patio covers, shall be permitted unless approved by the homeowners' association and the City Manager. Patio covers may be permitted only if they are consistent with the architecture of the dwelling unit.
12. No manufactured slope shall be steeper than a ratio of 2:1 and slopes shall incorporate contour grading, horizontal and vertical undulation, and variable slope ratios where shown on the Precise Plan and Vesting Tentative Map. Tops and toes of slopes shall be rounded to create a natural appearance. Portions of undifferentiated slopes visible above roof lines shall receive enhanced landscape treatment to soften their appearance to the satisfaction of the City Manager.
13. No tennis courts or pools will be allowed within Hillside Review ("HR") limits unless the Exhibit "A" drawing dated April 12, 1994, on file in Development

Services, illustrates a surplus pad area (requiring no additional earthwork) on the single-family lots. Spas may be considered within the HR limits through the substantial conformance review process provided that the City Manager can find the design of these facilities to be consistent with the Hillside Review guidelines.

14. The applicant shall post a copy of the approved permit in the sales office for consideration by each prospective buyer.
15. Prior to the issuance of any grading permit and/or recordation of any final map, documentation shall be submitted to the Environmental Analysis Section's (EAS) Principal Planner certifying that the U.S. Army Corps of Engineers and the California Department of Fish and Game have granted their respective permits for implementing the project.
16. Prior to the recordation of the first final map, a School Mitigation Agreement, which provides for school facilities, shall be entered into and approved by the affected school districts and the subdivider. Documentation of the Agreement shall be provided to the City.
17. Any sales office or temporary sales signs advertising the subdivision shall be consistent with the criteria established by the R1-5000 zone.
18. A walkway shall be provided from each unit to the sidewalk within the dedicated right-of-way.
19. All private outdoor lighting shall be shaded and adjusted to fall on the same premises where such lights are located.
20. The effective date of this permit shall be the date of final action by the City Council 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 City Manager, as set forth in San Diego 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 City Manager.
21. No development shall commence, nor shall any permit for construction be issued, until:
 - a. The Permittee signs and returns the permit to *Development Services*.
 - b. The Planned Residential Development/Resource Protection Ordinance Permit is recorded in the Office of the County Recorder.
22. The property included within this Planned Residential Development/Resource Protection Ordinance Permit 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.



23. This Planned Residential Development/Resource Protection Ordinance Permit 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.
24. This Planned Residential Development/Resource Protection Ordinance Permit 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.
25. All accessory structures less than 100 square feet require the approval of the City Manager and must meet zoning criteria and Planned Residential Development Permit Guidelines and standards regardless of Development Services requirements for building permits.
26. Unless otherwise provided specifically within this permit, all signs requested and proposed for this project shall conform to the California Terrace Precise Plan and be administered by Development Services.
27. This Planned Residential Development shall be constructed prior to sale to individual owners to ensure that all development is consistent with conditions and exhibits submitted to and approved by the City Manager.
28. This Planned Residential Development Permit allows the sale of individual lots for the purpose of construction of residential units consistent with the conditions and the exhibits of this permit.
29. The use of textured or enhanced paving shall be permitted only with the approval of the City Engineer and Planning Director, and shall meet standards of these departments as to location, noise and friction values, and any other applicable criteria.
30. The timely erosion control including the hydroseeding of all slopes herein is considered to be in the public interest and the developer shall initiate such erosion control measures within 45 days from the date that the grading of the designated slopes is deemed to be complete. Such measures, if any, shall be installed in accordance with the plans approved per the Landscape Technical Manual and the Precise Plan, by the City Manager and City Engineer. The landscaping shall be properly maintained to ensure the survival and propagation of the plant material during the period prior to the acceptance of the public improvements or establishment of Homeowners' Association which will assure responsibility for the landscape maintenance.
31. Manufactured slopes proposed for open space lots on Vesting Tentative Map No. 98-0270 (EOT to VTM 90-0574) shall be built with variable slope contours and undulation techniques and native plant materials established per the Landscape Technical Manual, Precise Plan, and Landscape Ordinance, on file in Development Services.

32. 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.
33. The project shall comply with the Landscape Technical Manual, Section 6, for Brush Management wherever possible. Where this is not possible, the project has been granted alternative compliance for brush management. Alternative compliance may require architectural features per Landscape Technical Manual Section 6.6-2 and may include additional Zone 1 setbacks except as discussed below, site walls, additional architectural features, etc., to the satisfaction of the Fire Marshall and the City Manager. Unless mutually agreed upon by the City and applicant, the granting of Alternative Compliance shall not include the expansion of Zone 1 within side yards. For the rear yards of single family lots, the non-building easement shall not impact any of the lots within eighty feet (80') of the front property line/street right-of-way.
34. Prior to the approval for occupancy, a field inspection shall be made by the Landscape Section of LDR to ensure that the brush management plan has been satisfactorily implemented. Maintenance of the Brush Management areas shall be the responsibility of the Homeowners' Association. Field checks every three years shall be made by the Landscape Section of LDR to ensure compliance with on-going maintenance as outlined in the Landscape Technical Manual.
35. Prior to the issuance of building permits, a copy of the building plans illustrating noise walls, if required, shall be submitted to the Environmental Analysis Section of LDR for review. Prior to the approval for occupancy, a field check of the site shall be made by the Environmental Analysis Section of LDR to ensure that the noise walls have been properly installed. The sound attenuation walls shall comply with Municipal Code section 101.0620 (Fences).
36. Noise walls, decorative pavements and other public right-of-way improvements, shall be permitted by an Encroachment Removal Agreement obtained from the City Engineer.
37. A three-year landscape maintenance and monitoring program shall be implemented by the developer to ensure successful revegetation of all manufactured slopes. The program shall include irrigation, plant replacement and maintenance. The Landscape Section of LDR shall be informed in writing of the date on which revegetation of the slopes has been completed. Once each year for three years following the date of initial plantings, the Landscape Section of LDR shall review to verify satisfactory establishment of the vegetation. If the initial plantings have not been adequately established, the maintenance plan shall remain in effect.
38. All common areas and/or open spaces that require irrigation shall be irrigated with reclaimed water, as specified in City Council Ordinance No. O-17327. The developer shall design and install a reclaimed water distribution system, satisfactory to the Water Utilities Director.



39. Public access will be guaranteed from all public streets, landscape maintenance and utility easements and cul-de-sacs that contact open space areas.
40. The permittee/applicant shall comply with all requirements of the Uniform Building Code ("UBC") and secure all necessary building permits prior to construction.
41. Prior to the approval for occupancy for this project, the developer will provide proof that the masonry walls within the project boundaries are treated with an acceptable anti-graffiti solution. The walls shall be kept free and clean of graffiti at all times. Maintenance responsibility for this requirement shall be transferred to the Homeowners Association at the time of its establishment.
42. The height of the buildings constructed within this subdivision shall be such that they do not penetrate the surface of the approach zone and clear zone of Brown Field, as defined in the appropriate Federal Aviation Regulations. The height of the buildings will be approved by the City Manager in connection with the approval of the specific development permits.
43. An aviation easement shall be granted for flight activities involving Brown Field over the entire subdivision. The conditions of this easement shall be satisfactory to the Deputy Director of the Airports Division of the General Services Department.
44. Prior to obtaining any building permits, except for models, the developer shall prepare and have approved by the City Manager a Landscape Concept Plan which includes:
 - a. A concept for plant materials consistent with xeriscape goals including de-emphasizing the use of turf in favor of water conserving and drought tolerant plant material. The plan must include a landscape concept and criteria for plant selection for each of the following areas: brush management zones (without a requirement for the applicant to plant Zone 1 within single family lots), natural and manufacture slopes, areas adjacent to undisturbed slopes, community entries, sidewalks and parkways, planted medians, street tree locations. The Landscape Concept Plan consist of a series of 1" = 100' exhibits or other suitable scale and will meet the requirements of the Landscape Technical Manual, as modified by the Precise Plan.
 - b. Areas covered by a Planned Residential Development will be subject to the individual landscape plan submitted in conjunction with the applicable discretionary permit rather than the Landscape Concept Plan.
45. Project temporary identification ground signs shall not exceed sixteen feet (16') in height.
46. The Phasing Plan included in the California Terraces Precise Plan shall be adhered to for future development of this project.



47. Prior to the issuance of building permits, the developer shall provide improved transit stops as required by the Metropolitan Transit District Board.

48. ENVIRONMENTAL MITIGATION REQUIREMENTS

- a. The applicant shall clearly indicate on the grading plans slopes that are to be contour graded and rounded. A note shall be included on the grading plans requiring the applicant to notify the City Manager two weeks before grading begins and for the follow-up inspection after grading is complete.
- b. Prior to the issuance of grading permits, EAS shall review the grading and landscape plans to ensure that grading techniques are being utilized and that manufactured slopes are landscaped in conformance with the conceptual landscape plan. Areas shown as open space shall be flagged in the field and confirmed by EAS.
- c. The applicant shall retain a soils engineer to monitor the grading, construction, and revegetation of the project and submit in writing to the City Engineer and EAS certification that the project has complied with the required mitigation measures on the grading plans. Only after the City Manager and City Engineer approve the grading shall a recommendation, be made to the City Council for the release of the subdivision bond.
- d. The developer shall provide maintenance of all landscaping of the manufactured slopes along major streets and adjacent to natural open space. The developer is responsible for maintaining the landscaping until such time that either homeowner associations (HOAs) or other City-approved mechanisms can assume long-term responsibility. If maintenance responsibility is accepted by a Landscape Maintenance District, the minimum maintenance period shall be two years.
- e. The applicant shall enter into a long-term maintenance agreement with the City, which shall be recorded with all final maps. The agreement shall stipulate that the developer shall be responsible for the landscape maintenance of the manufactured slopes until such time that either the HOAs or other mechanisms can assume responsibility. Any areas which are proposed to be deeded over to the City and require landscape maintenance are likewise the obligation of the developer until such time that the City has agreed to assume responsibility.
- f. The following specific measures to reduce potentially significant impacts related to geology/soils to below a level of significance shall be implemented during site grading and shall be shown as notes on future grading plans. Prior to the issuance of grading permits, EAS and the City Engineer shall review the grading plans to ensure that these measures are on the plans. The applicant shall retain a soils engineer to monitor the grading and construction. At its discretion, the City shall conduct field inspections during grading. Only after EAS and the City Engineer approve the grading and other appropriate improvements shall a

recommendation be made to the City Council for the release of the subdivision bond.

1. Removing the expansive materials to a depth of approximately four feet below the proposed finished grade, or using highly reinforced foundations and/or post-tensioned slabs where the deposit is too thick for removal.
2. Removing and recompacting existing fill sites.
3. Removing and recompacting cohesionless zones encountered within the terrace deposits. Any slopes cut into this material shall require stability fills to reduce the potential for excessive rilling, erosion, and surficial sloughing.
4. Removing and recompacting alluvium or slope wash wherever fill is to be placed in canyons. Canyon subdrains may be required if fill is placed in canyons.
5. Using stability fills in cut slopes wherever bentonite clay deposits are exposed. The buttresses shall consist of a uniform 20-foot thick fill placed at the face of overcut cut slopes. The material used in the stability fill shall consist of granular material, which could be obtained from the nearby terrace deposits and San Diego Formation.
6. Buttrressing the major landslide along the southern flank of the westerly trending drainage course at the site by construction of a buttress fill independent of the pad elevations or by increasing pad elevations from 340 to 390 MSL along the toe of the landslide. All loose slide debris shall be removed from the area underlying any proposed structural developments including streets and the area extending outside the development equal to the depth of the landslide debris at the edge of the proposed structural improvements.
7. Including setbacks or redesign of components in a site plan, should future testing indicate a need in the vicinity of the La Nacion fault.
8. Removing all potentially compressible topsoil, slopewash, and alluvium to firm natural ground in areas of proposed development and replace with suitable properly compacted fill prior to placement of additional fill or construction of structures or other improvements.
9. Scarifying areas to receive fill to a depth of 12 inches and recompact to a minimum relative compaction of 90 percent.



10. Undercutting the cut portion of cut-fill transition lots at least three feet and replace with properly compacted "very low" to "low" expansive fill soils.
 11. Providing a subdrain within the canyon drainage areas to reduce the potential for groundwater buildup.
- g. The following specific measures to reduce potentially significant impacts related to erosion to below a level of significance shall be implemented by the applicant during grading.
1. Limiting grading to only what is permitted so that spillovers into natural areas are avoided, and native vegetation to be preserved is not trampled.
 2. Watering and capping final earth surfaces to form a hardened cap.
 3. Sandbagging roadbeds (where necessary) until paved, in order to minimize erosion and prevent sediment transport. This may need to occur on portions of Palm Avenue.
 4. Controlling sediment production from graded building pads with low perimeter berms, sandbags, bladed ditches, or other appropriate methods.
 5. Construction of on-site interim and ultimate storm drain systems to reduce the off-site impact due to construction activities and ultimate development. Drainage facilities would include channels, inlets, storm drain piping, detention basins, and outlet structures to reduce impacts to the downstream receiving waters.
 6. Native areas not to be disturbed by grading shall be flagged to delineate the extent of the grading.

Prior to the issuance of grading permits, EAS and the City Engineer shall review the grading plans to ensure that these measures are shown on the plans. The applicant shall retain a soils engineer to monitor the grading and construction. At its discretion, the City shall conduct field inspections during grading. Only after the City Manager and the City Engineer approve the grading and other appropriate improvements, shall a recommendation be made to the City Council for the release of the subdivision bond.

- h. Partial mitigation of the impacts to vernal pool habitat would result from the implementation of a vernal pool preservation plan. This plan is included as Appendix C to the Final EIR. Prior to issuance of a grading permit for any area that includes wetlands, specific tasks described in detail in the Dennery Canyon Vernal Pool Restoration and Preservation Plan shall be implemented. Criteria for success of the preserve include a goal for increase in gross area of habitat and a species-oriented

restoration goal. These goals are to be met at the end of a five-year monitoring program. At least 24 pools supporting 20,200 square feet of habitat must be permanently established, in addition to previously existing pool areas within the preserve, at the end of this monitoring period. Success of the program will also be based on the establishment of populations of target species listed in the plan in pools within the preserve. Plant species and abundance will be sampled in the pools to be impacted, and soil of these pools will be sampled for populations of fairy shrimp and other fauna. These data will be analyzed to determine minimum success criteria, to be defined in terms of percent cover for each of these plant taxa, species diversity of pool plant taxa and species diversity of pool plant fauna.

- i. Regular maintenance of the vernal pool preserve areas shall be required throughout the establishment of the vegetation including a five-year monitoring period for both uplands and vernal pool areas as described in the plan. The restoration efforts shall be monitored by the subdivider for a five-year period and until the specific success criteria described in the plan have been met. Once the success criteria have been achieved, maintenance of the habitat itself should end as the plant communities mature; however, ongoing maintenance of the barriers and monitoring of trespassing shall be required. The following factors shall be included in the maintenance contract for the vernal pool preserves.
 1. The removal of aggressive non-native weeds shall be necessary during the five-year monitoring periods for the vernal pool and upland habitats. All weeding shall be done by using hand tools at least twice in the spring when the pools are dry. The monitoring biologist shall monitor and notify the landscape contractor when to remove weeds and which plants require control during the monitoring periods. The need for weeding is expected to decrease substantially by the end of the monitoring period and, provided successful habitat restoration has been achieved, no long-term weeding requirements are recommended.
 2. All barriers, fencing, and signs shall be checked and repaired as necessary once every three months. Monitoring of disturbance and maintenance of the barrier and signs shall be the responsibility of the applicant for the term of the five-year general monitoring period described below and would pass to the permanent trustee at the end of that period.
 3. Trash in the preserve areas shall be removed once every three months.
 4. Any persons found willfully damaging the habitat within the preserves, including but not restricted to trash dumping, off-road-vehicle activity, illegal alien activity, plant removal, and destruction of barriers, shall be prosecuted to the full extent of the law. Signs posted in English and Spanish to inform people of the status of the



preserve area shall also include a description of applicable laws and codes including fines for causing damage to the preserve.

- j. The applicant shall retain responsibility for maintenance and management of the Dennery Canyon Vernal Pool Preserve for a minimum five-year period or until the success criteria described in the plan have been met for the vernal pool and upland habitats. Ownership of the preserve will be transferred to the City of San Diego as a permanent steward. The applicant shall be responsible for employing an approved biological consultant to implement the monitoring programs. Other than the above-mentioned initial period, management of the preserve shall be the responsibility of the City of San Diego as the ultimate owner of the preserve. The monitoring periods are to begin as stated in the restoration plan.
- k. Long-term maintenance tasks for preserve management include: (1) monthly monitoring and repair as necessary of barriers and signs around the preserve; (2) monthly removal of trash; (3) brief annual assessment of the status of target managed species within the preserve by an agency biologist or biological consultant, with the preparation of recommended species management activities, if warranted; (4) implementation of species management activities in consultation with resource agencies, if warranted; and (5) repair of vandalism or damage to pools in the preserve. The perpetual maintenance of the vernal pool preserve shall be ensured through the provision of a funding mechanism to the satisfaction of the Director of the Park and Recreation Department prior to transferring ownership of the preserve to the City.
- l. Prior to issuance of a grading permit or recordation of a final map for areas that include wetlands, evidence shall be submitted to the Principal Planner of the Environmental Analysis Section (EAS) showing that: a) the U.S. Army Corps of Engineers and the California Department of Fish and Game have approved a Dennery Canyon Vernal Pool Restoration and Preservation Program, and that b) both agencies have granted permits under their respective jurisdictions for implementation of the project, if required.
- m. Prior to the issuance of a grading permit, EAS shall review grading and landscaping plans to ensure that all manufactured slopes adjacent to natural open space will be planted with coastal sage scrub species.
- n. A qualified biologist shall be contracted to monitor the clearing of vegetation in association with brush management during all maintenance periods. This will ensure minimal removal and cutting of native vegetation in accordance with the guidelines for the Landscape Technical Manual and the brush management plan, thus minimizing impacts to wildlife habitat.
- o. The City Engineer shall verify that the circulation system shown on the precise plan and on all subsequent tentative maps are consistent with the

system shown in Figure 39 of the Final EIR and with the City's street design standards.

- p. This project shall conform to the approved Transportation Phasing Plan, as contained in Table 15 (dated January 19, 1994) of the Final EIR.
- q. The applicant shall provide any bus stops or shelters required by MTDB to develop needed bus routes through the project site. If requested by MTDB, the applicant shall provide an irrevocable offer to dedicate all necessary right-of-way to accommodate the trolley line and station along the SR-905/Otay Mesa Road planned route. The required measures shall be provided prior to the satisfaction of MTDB.
- r. Bikeways and sidewalks shall be constructed in conformance with City standards. Lockable bike racks or storage lockers shall be provided at all schools, parks, and commercial areas. The City Manager shall verify that these conditions have been placed on the maps prior to their approval. These measures shall be in place prior to occupancy of the schools, parks and commercial developments.
- s. Prior to recording the final map, the developer shall demonstrate that agreements to ensure appropriate funds are available to the districts have been made with the affected school districts.
- t. Prior to issuance of any building permits within the precise plan area, the school sites for the phase to be developed shall be approved by the San Ysidro Elementary School District and the Sweetwater Union High School District.
- u. Water and sewer studies shall be submitted to the Water Utilities Department prior to approval of any final maps to mitigate the potentially significant impacts to water supply identified by the Water Utilities Department. A separate reclaimed study shall be provided to assure that transmission and distribution facilities within the subdivision are sized adequately to the satisfaction of the Water Utilities Department.
- v. Facilities identified in the updated studies may require subsequent environmental review, if deemed necessary by EAS. Any additional environmental review will be necessary prior to construction of any off-site facilities. The environmental review will include consideration of prior environmental documents that evaluated impacts by other projects to the same area affected by the proposed on or off site facilities. Mitigation to reduce any significant impacts shall be identified during subsequent environmental review. Off-site water and sewer improvements shall be designed and installed by the project applicant, as recommended in approved studies, to the satisfaction of the Water Utilities Department Director.

- w. Prior to issuance of any building permits, the project applicant shall assure all on-site water and sewer facilities, as recommended in approved studies, to the satisfaction of the Water Utilities Department.
- x. All applicable mitigation measures required by these approval conditions, and any mitigation measures required if subsequent environmental analysis of the water and sewer studies is considered necessary and significant impacts are identified, shall be noted on the grading plan. Prior to approval of any final maps, EAS and Water Utilities Department shall review the plan to ensure implementation of these measures. All facilities identified by the required studies shall be in place or assured prior to issuance of any building permits to the satisfaction of the City Engineer.
- y. Measures to reduce potentially significant impacts relative to paleontology include the following monitoring and salvaging program.
 - 1. A qualified paleontologist and/or paleontological monitor shall be retained to implement the monitoring program. A qualified paleontologist is defined as an individual with a Ph.D. or master's degree in paleontology or geology who is a recognized expert in the application of paleontological procedures and techniques, such as screen washing of materials and identification of fossil deposits. A paleontological monitor is defined as an individual who has experience in the collection and salvage of fossil materials and who is working under the direction of a qualified paleontologist.
 - 2. The qualified paleontologist shall attend any preconstruction meetings to consult with the excavation contractor. The requirement for paleontological monitoring shall be noted on the construction plans. The paleontologist's duties shall include monitoring, salvaging, preparing materials for deposit at a scientific institution that houses paleontological collections, and preparing a results report. These duties are defined as follows:
 - a. Monitoring. The paleontologist or paleontological monitor shall be on-site during the original cutting of previously undisturbed areas of the San Diego Formation and the Otay Formation to inspect for well-preserved fossils. The paleontologist shall work with the contractor to determine the monitoring locations and the amount of time necessary to ensure adequate monitoring of the project.
 - b. Salvaging. In the event that well-preserved fossils are found, the paleontologist shall have the authority to divert, direct, or temporarily halt construction activities in the area of discovery to allow recovery of fossil remains in a timely manner. Recovery is anticipated to take from one hour to a maximum of two days. At the time of discovery, the paleontologist shall contact EAS. The EAS must concur



with the salvaging methods before construction is allowed to resume.

- c. Preparation. Fossil remains shall be cleaned, sorted, catalogued, and then deposited in a scientific institution that houses paleontological collections (such as the San Diego Natural History Museum).
- d. Monitoring Results Report. A monitoring results report, with appropriate graphics, summarizing the results, even if negative, analysis, and conclusions of the above program shall be prepared and submitted to EAS prior to issuance of any building permits.

The above measures shall be included as notes on the grading plans. Prior to issuance of grading permits, EAS and the City Engineer shall review the grading plans to ensure that these measures are on the plans. Prior to grading activities, verification that a qualified paleontologist and/or paleontological monitor has been retained to implement the monitoring program shall be provided.

- 49. In the event that different interpretations are drawn between statements in the approved Precise Plan and more specific requirements in these permit conditions, the permit conditions shall prevail. These permit conditions are intended to implement the Precise Plan objectives and guidelines.
- 50. In the even 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.
- 51. The issuance of this permit by The City of San Diego does not authorize the applicant 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. § 1531 et seq.).
- 52. In accordance with authorization granted to The City of San Diego from the United States Fish and Wildlife Service (USFWS) pursuant to Section 10(a) of the ESA and by the California Department of Fish and Game (CDFG) pursuant to Fish and Game Code section 2835 as part of the Multiple Species Conservation Program (MSCP), The City of San Diego through the issuance of this permit hereby confers upon Permittee the status of Third Party Beneficiary as provided for in Section 17 of The City of San Diego Implementing Agreement (IA), executed on July 16, 1997, and on file in the Office of the City Clerk as Document No. OO-18394. Third Party Beneficiary status is conferred upon Permittee by the City: (1) to grant Permittee the legal standing and legal right to utilize the take authorizations granted to the City pursuant to the MSCP within the context of those limitations imposed under this permit and the IA, and (2) to assure Permittee that no existing mitigation obligation imposed by The City of San Diego pursuant to this permit shall be altered in the future by The City of



San Diego, USFWS or CDFG, except in the limited circumstances described in Sections 9.6 and 9.7 of the IA. If mitigation lands are identified but not yet dedicated or preserved in perpetuity, maintenance and continued recognition of Third Party Beneficiary status by the City is contingent upon Permittee maintaining the biological values of any and all lands committed for mitigation pursuant to this permit and of full satisfaction by Permittee of mitigation obligations required by this permit, as described in accordance with Section 17.1D of the IA.

APPROVED by the Council of the City of San Diego on September 8, 1998, by Resolution No. R-290672.

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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.

PARDEE CONSTRUCTION CO.
Owner/Permittee

By _____

By _____

**NOTE: Notary acknowledgments
must be attached per Civil Code
section 1180 et seq.**

5/6/99

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