

(O-2000-67)

ORDINANCE NUMBER O- 18731 (NEW SERIES)

ADOPTED ON DEC 06 1999

AN ORDINANCE APPROVING THE MONTAÑA MIRADOR  
DEVELOPMENT AGREEMENT BETWEEN THE CITY OF  
SAN DIEGO AND WESTBROOK PENASQUITOS, L.P.

WHEREAS, WESTBROOK PENASQUITOS, L.P. [Owner] is the owner or equitable owner of that certain real property known as Montaña Mirador, consisting of approximately 633 acres located within the Rancho Penasquitos community planning area [the Property]; and

WHEREAS, The City of San Diego, a charter city, is authorized pursuant to California Government Code sections 65864 - 65869.5 to enter into binding development agreements with persons having legal or equitable interests in real property for the development of such property in order to establish certainty in the development process. The City further enters into this Development Agreement [Agreement] pursuant to its Charter and self-rule powers and San Diego Municipal Code sections 111.0901 et seq.; and

WHEREAS, the parties desire to enter into this Agreement relating to the Property in conformance with the provisions of the Government Code in order to achieve the development of private land uses together with the provision of public services, public uses, and urban infrastructure all in the promotion of the health, safety, and general welfare of the City of San Diego; and

WHEREAS, the Property is located within the boundaries of the Rancho Penasquitos community planning area. This community plan was adopted by the Council on June 1, 1993, by Resolution No. R-282056. In conjunction with the adoption of the community plan, the Council

Resolution No. R-282056. In conjunction with the adoption of the community plan, the Council certified the information contained in the Environmental Impact Report and approved the findings of the environmental document in compliance with the California Environmental Quality Act of 1970; and

WHEREAS, development of the Property will be in conformance with the Rancho Penasquitos Community Plan, the San Diego Municipal Code, Planned Residential Development Permit, Hillside Review Permit, Resource Protection Ordinance Permit and Vesting Tentative Map No. 87-0925. The environmental effects of development permitted pursuant to the Agreement were addressed in Environmental Impact Report No. 87-0925, which has been certified by the City; and

WHEREAS, on August 11, 1997, by Resolution No. R-289084, the Council of The City of San Diego entered into an Option Agreement with Westbrook Penasquitos, L.P. providing the City with exclusive rights to acquire the Property at an agreed upon price and under specified terms and conditions for dedication as open space in adherence of the goals of the Multiple Species Conservation Program; and

WHEREAS, the owner has granted the City, through the Option Agreement, exclusive rights to purchase the Property without immediately committing the funds necessary for acquisition; and

WHEREAS, the Owner has agreed to defer the development of the Property during the option period, but wishes to retain the right to develop the Property should the City elect not to acquire the Property at the end of the option period; and

Municipal Code section 105.0103 held a public hearing on the application for the Development Agreement; and

WHEREAS, the Council of The City of San Diego, after providing public notice as required by law, held a public hearing on Owner's application, wherein all persons desiring to be heard were heard, and pursuant to said public hearing the Council recommended approval of the Development Agreement; and

WHEREAS, the Council finds that the Development Agreement is consistent with the Progress Guide and General Plan and the Rancho Penasquitos Community Plan, as well as all other applicable policies and regulations of The City of San Diego; and

WHEREAS, the Council has reviewed and considered the Development Agreement and determined the content of the Development Agreement to be complete and correct; NOW, THEREFORE,

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

Section 1. The Council finds and determines the facts stated above to be true.

Section 2. The Council further finds with respect to the Development Agreement that:

A. It is consistent with the objectives, policies, programs and uses specified in the Progress Guide and General Plan and the Rancho Penasquitos Community Plan.

B. It will not be detrimental to the public health, safety and general welfare.

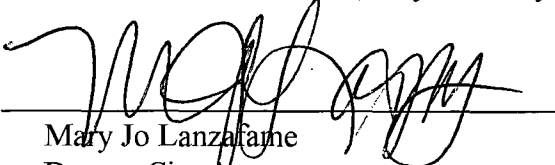
C. It will promote the orderly development of property or the preservation of property values in accordance with good land use practice.

Section 3. The Council approves the Montaña Mirador Development Agreement, a copy of which is on file in the office of the City Clerk as Document No. OO-18731, and authorizes and directs the City Manager to execute said Development Agreement in the name of The City of San Diego not later than fifteen days following the effective date of this ordinance. Failure of Owner to execute the Development Agreement within thirty days, shall render this action null and void. The City Clerk is directed to record said Development Agreement and this ordinance with the County Recorder of San Diego County within ten days after its execution.

Section 4. That a full reading of this ordinance is dispensed with prior to its final passage, a written or printed copy having been available to the City Council and the public a day prior to its final passage.

Section 5. This ordinance shall take effect and be in force on the thirtieth day from and after its passage.

APPROVED: CASEY GWINN, City Attorney

By   
Mary Jo Lanza fame  
Deputy City Attorney

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