

CORRECTED COPY

(R-2000-182 COR.COPY)

03/07/00

RESOLUTION NUMBER R-292055

ADOPTED ON AUGUST 3, 1999

WHEREAS, The City of San Diego, Owner, and San Dieguito Partnership, L.P., Permittee, filed an application with The City of San Diego for a permit to subdivide and develop a site into 15 lots for future buildings and site development, 4 non-building lots, public roads and easements, on portions of a 42.61 acre site located north of the proposed eastern extension of Nobel Drive, west of Interstate 805, and south of La Jolla Village Drive, and legally described as a portion of pueblo lots 1304 and 1306, in the City of San Diego, in the University Community Plan area, in the R-1-5 zone (proposed SR zone); and

WHEREAS, pursuant to the 1998 Settlement Agreement, the applicant and the City agreed to exchange specific properties. Through the Settlement Agreement a baseline development acreage was established to create an equitable exchange between the relative value of the properties being exchanged. The exchange provisions of the Settlement Agreement were predicated on an assumed value of the project site based on a minimum development area and improvement costs to create a reasonable and fair equity in the exchange; and

WHEREAS, on July 15, 1999, the Planning Commission of The City of San Diego considered Planned Industrial Development/Resource Protection Ordinance [PID/RPO] Permit No. 99-0034, and pursuant to Resolution No. 2816-PC voted to recommend City Council approval of the permit; and

WHEREAS, the matter was set for public hearing on August 3, 1999, 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 PID/RPO Permit No. 99-0034:

PLANNED INDUSTRIAL DEVELOPMENT 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 proposed subdivision of this property to create fifteen building lots through a Vesting Tentative Map/Planned Industrial Development/Resource Protection Ordinance permit will fulfill a community need by providing additional sites within the community for scientific research and industrial development. The site is identified by the University Community Plan and the City's Progress Guide and General Plan for development with industrial uses. The proposed uses on this site, which are consistent with the land use policy documents guiding development in the community, will not adversely affect the community or City and will yield a net value commensurate with the terms of the Settlement Agreement between the applicant and the City which would result in the transfer of the subject property to the applicant.

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.

Conditions of approval found within the Vesting Tentative Map Resolution (Resolution No. R-292054, adopted on August 3, 1999) and PID/RPO Permit No. 99-0034 address the health, safety, and general welfare of persons residing or working in the area and properties in the vicinity to preclude detrimental effects from the existing development. Compliance with all building, electrical, plumbing, and zoning regulations as allowed through a Planned Industrial Development will be achieved by the proposed development at this site.

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

As allowed through a Planned Industrial Development, the proposed development and subdivision will comply with all relevant regulations of the Municipal Code with the exception of the impacts to sensitive biological resources which exception has been approved as set forth below in the RPO Deviations findings. With the exception of the impacts to sensitive biological resources and the findings made herein, additional variances or deviations to the Municipal Code

are not required for the approval of the proposed Vesting Tentative Map, as allowed by a discretionary decision through a Planned Industrial Development.

RESOURCE PROTECTION ORDINANCE PERMIT FINDINGS FOR IMPACTS TO SENSITIVE BIOLOGICAL RESOURCES:

A. The proposed development will not adversely affect the applicable land use plan.

The site is identified by the University Community Plan and the City's Progress Guide and General Plan for development with industrial uses. The proposed uses on this site, which are consistent with the land use policy documents guiding development in the community, will not adversely affect the community or City and will yield a net value commensurate with the terms of the Settlement Agreement.

With the adoption of the proposed rezone ordinance, rezoning the site from R-1-5 to SR, the proposed development will conform with the Progress Guide and General Plan, the University Community Plan, the relevant policies of The City of San Diego, and the relevant San Diego Municipal Code regulations. With the adoption of the proposed rezone ordinance, the proposed development will be consistent with the relevant regulations of the Municipal Code, as allowed by a discretionary decision.

B. The proposed development will not be detrimental to the public health, safety and welfare.

Conditions of approval included within PID/RPO Permit No. 99-0034 address the health, safety, and general welfare of persons residing or working in the area and properties in the vicinity to preclude detrimental effects from the existing development. Compliance with all building, electrical, plumbing, and zoning regulations as allowed through a Planned Industrial Development will be achieved by the proposed development at this site.

C. The proposed development will comply with the applicable regulations of the San Diego Municipal Code.

As allowed through a Planned Industrial Development, the proposed development and subdivision will comply with all relevant regulations of the Municipal Code with the exception of the impacts to sensitive biological resources which exception has been approved as set forth below in the RPO Deviations findings. With the exception of the impacts to sensitive biological resources and the findings made herein, additional variances or deviations to the Municipal Code are not required for the approval of the proposed Vesting Tentative Map, as allowed by a discretionary decision through a Planned Industrial Development.

D. The site is physically suitable for the design and siting of the proposed development and the development will result in minimum disturbance to sensitive biological resources.

The proposed subdivision and site development has been reviewed and considered by technical disciplines including and not limited to: Planning; Engineering; Transportation Development; Geology; Water Utilities; Landscaping; and Fire and Life Safety. Based upon prevailing development practices, general standard of care of the land development industry, and the known on-site physical attributes of soils, geology, absence of earthquake faults or other known subsurface hazards, the proposed site has been determined to be suitable to support the proposed development.

The proposed development is not located in the City's Multiple Species Conservation Program [MSCP] (or Multiple Habitat Preservation Area [MHPA]) as an area to be protected or preserved. The Biology Report prepared for the Nobel Research Park project concluded that the project would have a significant direct impact to 0.3 acres of Wetlands and 41.47 acres of Upland habitat on the proposed site. However, impacts to sensitive species and habitats identified on the site will be minimized and mitigated to a level below significance by implementation of the Mitigation Monitoring and Reporting Program as required in the conditions of approval.

E. The proposed development will be sited and designed to prevent adverse impacts on any adjacent sensitive biological resources.

The proposed project is designed to avoid, minimize, and preclude adverse impacts on adjacent sites where sensitive biological resources may be present. The analysis for the project concluded that potential impacts to adjacent sites where sensitive biological resources may be present would not occur resulting from the development of the site.

Geotechnical information indicates the site is physically suitable for the grading design of the proposed Vesting Tentative Map and the future building locations indicated by the Design Guidelines. Due to the conditions of approval and the Nobel Research Park Design Guidelines which require contoured landform grading at the northern edge of the Vesting Tentative Map, revegetation of all manufactured slopes, and the sensitive placement and design of buildings, the proposed design of the project will minimize the alterations of natural landforms, will not result in risks from geological and erosional forces and/or flood and fire hazards, and will avoid and preclude adverse impacts on adjacent sites where sensitive biological resources may be present.

All slopes adjacent to open space areas will be revegetated with native plants possessing deep rooting characteristics for added slope stability and will be low spreading varieties to provide erosion control and slope protection. The planting and continued maintenance of these slopes, and all slopes within the project, will prevent soil erosion, silting of topographically lower areas which would affect health, safety and general welfare by covering the manufactured slopes with living, deep rooted, low spreading shrubs. Flooding or severe scarring will not occur as a result of grading operations and will be assured by conditions of approval requiring all operations to the satisfaction of the City Engineer. Conditions included within Planned Industrial Development/Resource Protection Ordinance Permit No. 99-0034 require the timely planting of all slopes to prevent erosion and to provide additional slope stability. The design of the proposed project will avoid and preclude adverse impacts on adjacent sites where sensitive biological

resources may be present. A 2.5 acre conservation easement will be provided to preserve and protect the vernal pools and watershed area on the site.

F. The proposed development will be consistent with The City of San Diego's Multiple Species Conservation Program [MSCP] Subarea Plan.

The site has been confirmed by City staff to be outside the City's MSCP Subarea Plan. This is not a site which is designated for preservation and is not adjacent to or connecting as a corridor to other environmentally sensitive areas. Mitigation proposed for impacts to sensitive vegetation and habitat will occur through the creation and restoration and permanent preservation of offsite mitigation lands as required in the Mitigation Monitoring and Reporting Program adopted for the project.

G. The nature and extent of mitigation required as a condition of the permit is reasonably related to, and calculated to alleviate, negative impacts created by the proposed development.

The Mitigated Negative Declaration has identified significant impacts to biological resources. Mitigation has been identified at appropriate ratios as required to offset the impacts to biological sensitive resources. These mitigation measures will be implemented through the Mitigation Monitoring and Reporting Program [MMRP] to assure that impacts to biological resources have been appropriately mitigated. Implementation by the applicant of the mitigation measures identified in the MMRP and enforced through conditions of approval will reduce potential adverse impacts resulting from development of the site. Therefore, the nature and extent of mitigation required as a condition of the permit is reasonably related to, and calculated to alleviate, negative impacts created by the proposed development. The impacts from developing the site would be fully mitigated by the proposed mitigation plan.

DEVIATIONS FROM SENSITIVE BIOLOGICAL RESOURCES REGULATIONS:

A. There are no feasible measures that can further minimize the potential adverse effects on sensitive biological resources.

The 42.61 acre site is located within the University Community Plan area and designated for scientific research uses. The site is located west of Interstate 805, north of Nobel Drive and south of La Jolla Village Drive. The project will construct Judicial Drive west of the site. A wetlands delineation indicates that 0.3 acres of Resource Protection Ordinance [RPO] defined wetlands (.08 acres of wetlands and 0.22 acres of non-wetlands under the United States Army Corps of Engineers jurisdiction) will be disturbed by the project. A vernal pool complex on site will not be disturbed, and a 2.5 acre conservation easement will be established to protect the vernal pools consistent with the RPO development regulations. The conservation easement includes the vernal pools as well as their associated watershed on site. The impacts to the 0.3 acres of wetlands will be mitigated pursuant to a Mitigation Monitoring and Reporting Program plan to replace the function and habitat values lost on a site in the western portion of Gonzales

Canyon. A minimum 0.3 acres of restoration or creation and 0.6 acres of enhancement or acquisition would occur and would be maintained and monitored.

Without a deviation from the development regulations of the Resource Protection Ordinance, the applicant will be unable to develop the site in a manner consistent with the intent of a 1998 settlement agreement between the applicant and The City of San Diego [1998 Settlement Agreement" or "Settlement Agreement"].

Without special circumstances, strict application of the RPO development regulations would require avoidance of the wetlands. Any alternative development plan which would avoid impacts to the wetlands would reduce the net development area and increase the costs of the project. Thus, strict application would reduce the value of the exchange properties contemplated in the Settlement Agreement. The proposed land exchange will ensure the preservation of 47.75 acres in Subarea II of the North City Future Urbanizing Area [NCFUA].

An alternative plan which avoids wetlands has been considered. This plan would propose providing two access roads from Judicial Drive where currently a single point of access is indicated. This alternative would result in a net usable pad area reduction from 31.69 acres to 25.74. In this scenario, the design of the subdivision would be altered to accommodate two public roads to access the property. This alternative design would escalate development costs of the project to levels higher than anticipated in the Settlement Agreement. Avoidance of the wetlands is not feasible and no other measures exist which would minimize the adverse effects on wetlands without jeopardizing the provisions of the Settlement Agreement.

B. The proposed deviation is the minimum necessary to afford relief from special circumstances or conditions of the land not of the applicant's making.

The proposed deviation is the minimum necessary to afford relief from special circumstances to allow development of the site consistent with the provisions of the Settlement Agreement. The proposed project includes 2.5 acres of vernal pool and watershed area which will be protected through easements established to provide for their conservation. Avoidance of the additional 0.3 acre of wetlands would require a redesign of the public road system providing access to the development. An alternative means of access to the project would require construction of two public roads from Judicial Drive where one is currently proposed, and a reconfiguration of the subdivision. This alternative would reduce the usable acreage below a level consistent with the Settlement Agreement. In consideration of the value of the property to be obtained by the City in the exchange provisions of the Settlement Agreement, the impact at this site on the isolated wetland areas is considered to be minimum necessary to allow development. The property to be transferred to the City is located in the San Dieguito River Valley east of Interstate 5. The intent of the Settlement Agreement to transfer this property to the City will be jeopardized if the property to be transferred to the applicant from the City is not of comparable economic value. Avoidance of the 0.3 acres of wetland cannot be achieved without reducing the value of the property in contradiction of the terms of the Settlement Agreement. Therefore, the disturbance is the minimum necessary to afford relief from these special circumstances to allow

development of the site consistent with and to maintain the equitable terms of the Settlement Agreement.

The impacts to wetlands will be mitigated offsite in Gonzales Canyon on property which is within the MHPA. Gonzales Canyon is an important linkage between the San Dieguito River Valley and Carmel Valley. The existing wetlands and non-wetland jurisdictional waters on the project site are dominated by exotic species. The quality of the habitat to be created in the mitigation area would exceed that of the habitat to be impacted on the project site. The proposed enhancements within Gonzales Canyon required for the implementation of the proposed project as described in the Mitigation Monitoring and Reporting Program, Revegetation Plan, represent a significant contribution to the City's MSCP.

BRUSH MANAGEMENT ALTERNATIVE COMPLIANCE FINDINGS:

A. The proposed brush management program will meet the purpose and intent of the Uniform Fire Code.

The proposed development complies with the purpose and intent of the Uniform Fire Code by providing an effective fire break by means of Alternative Brush Management Zone Depths, as shown on Exhibit "A," dated August 3, 1999, on file in the Office of Planning and Development Review, the Alternative Compliance Provision (Section 6.2) and the Architectural Features (Section 6.6-2) of the Landscape Technical Manual.

B. The proposed Brush Management Program, because of conditions that have been applied to it, will not be detrimental to the health, safety and general welfare of persons residing or working in the area.

Requirements incorporated into the permit provide an effective fire break and ensure minimal risk of erosional forces affecting hillsides by providing revegetation to all slopes per the Landscape Technical Manual, Section Seven.

C. The provision as outlined in Section 6.6-2 of the document Titled City of San Diego Landscape Technical Manual (on file in the Office of the City Clerk as Document No. RR-274506) shall be satisfied and the proposed development shall offer fire resistive features as required by the Fire Chief.

The Architectural Features (Section 6.6-2) of the Landscape Technical Manual have been incorporated into the project as part of the design guidelines for the project site (see Exhibit "A," dated August 3, 1999, on file in the Office of Planning and Development Review).

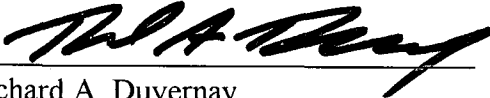
D. Compliance with the provision of this section in addition to any other applicable adopted plans or ordinances would preclude any reasonable development on the site.

The site design and proposed use of the site complies with the University Community Plan. Site constraints preclude literal compliance with the provisions of the Uniform Fire Code without encroachment into sensitive habitat. Therefore, the alternative compliance provision of the Landscape Technical Manual has been implemented to allow for reasonable development of this site and to reduce and/or prevent additional unnecessary impacts into sensitive habitats located on the site.

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 sustained, and Planned Industrial District/Resource Protection Ordinance Permit No. 99-0084 is hereby granted to The City of San Diego, Owner, and San Dieguito Partnership, L.P., Permittee, 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

RAD:lc:pev
10/13/99
03/07/00 Permit corrected.
Or.Dept:Clerk
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RECORDING REQUESTED BY
CITY OF SAN DIEGO
PLANNING AND DEVELOPMENT REVIEW
PERMIT INTAKE, MAIL STATION 501

AND WHEN RECORDED MAIL TO
CITY CLERK
MAIL STATION 2A

SPACE ABOVE THIS LINE FOR RECORDER'S USE

**Planned Industrial Development [PID]/
Resource Protection Ordinance [RPO] Permit No. 99-0034 [MMRP]**

NOBEL RESEARCH PARK

CITY COUNCIL

This permit is granted by the Council of The City of San Diego to The City of San Diego, Owner, and San Dieguito Partnership, a Limited Partnership, Permittee, pursuant to San Diego Municipal Code [SDMC] sections 101.0462 and 101.0920. The forty-two point six one (42.61) acre site is located north of the proposed eastern extension of Nobel Drive, west of Interstate 805, and south of La Jolla Village Drive in the R-1-5/Hillside Review zone (proposed Scientific Research (SR)/HR zone) of the University Community Plan. The project site is legally described as a portion of pueblo lots 1304 and 1306, in the City of San Diego.

Subject to the terms and conditions set forth in this permit, permission is granted to Owner/Permittee to subdivide and develop a site into 15 lots for future buildings and site development, 4 non-building lots, public roads and easements described as, and identified by size, dimension, quantity, type and location on the approved Exhibits "A," dated August 3, 1999, on file in the Office of Planning and Development Review. The facility shall include:

- a. 766,800 square feet of research and development, limited manufacturing, laboratories, headquarters or administrative offices as provided for in the Nobel Research Park Development and Design Guidelines.
- b. Landscaping (planting, irrigation and landscape related improvements).
- c. Off-street parking facilities.
- d. Accessory uses as provided for in the Nobel Research Park Development and Design Guidelines.
- e. Accessory improvements determined by the City Manager to be consistent with the land use and development standards in effect for this site per the adopted Community Plan, California Environmental Quality Act guidelines, public and private improvement requirements of the City Engineer, the

underlying zone(s), conditions of this permit, and any other applicable regulations of the Municipal Code in effect for this site.

1. Construction, grading or demolition must commence and be pursued in a diligent manner within 36 months after the effective date of final approval by the City, following all appeals. Failure to utilize the permit within 36 months will automatically void the permit unless an Extension of Time has been granted. 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 appropriate decision maker.
2. No permit for the construction, occupancy or operation of any facility or improvement described herein shall be granted, nor shall any activity authorized by this permit be conducted on the premises until:
 - a. The Permittee signs and returns the permit to the Planning and Development Review Department; and
 - b. The Permit is recorded in the office of the San Diego County Recorder.
3. Unless this permit has been revoked by The City of San Diego the property included by reference within this permit shall be used only for the purposes and under the terms and conditions set forth in this permit unless otherwise authorized by the City Manager.
4. This permit is a covenant running with the subject property and shall be binding upon the Permittee and any successor or successors, and the interests of any successor shall be subject to each and every condition set out in this permit and all referenced documents.
5. The utilization and continued use of this permit shall be subject to the regulations of this and any other applicable governmental agencies.
6. 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 Act of 1973 and any amendments thereto (16 U.S.C. § 1531 et seq.).
7. 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.

8. The Owner/Permittee shall secure all necessary building permits. The applicant is informed that to secure these permits, substantial modifications to the building and/or site improvements to comply with applicable building, fire, mechanical and plumbing codes and State law requiring access for disabled people may be required.

9. The Planned Industrial Development/Resource Protection Ordinance shall comply with the conditions of the final map for Vesting Tentative Map No. 99-0034.

10. The entire project shall be limited to a maximum traffic volume generation of 7,670 ADT. Prior to the issuance of each and every building permit above 3,835 ADT, actual traffic measurements, square footage built and occupancy statistics for the project shall be presented to the City. No building permits shall be issued which cause the 7,670 ADT limitation to be exceeded.

11. In the Nobel Research Park Design Guidelines, page 4, Section B, Permitted Uses, paragraph two, the second sentence shall be replaced with: All accessory commercial uses shall comply with the SR and/or IP-1-1 zones and the restrictions of the APZ1 where applicable.

12. In the Nobel Research Park Design Guidelines, page 17, Section G, Building Design, add the following sentence to the end of the first paragraph: Buildings shall incorporate roof line variation.

13. Prior to the issuance of any building permits a development plan package for each lot or group of lots shall be submitted to the Planning and Development Review Department Manager for Substantial Conformance Review, as provided for in the Nobel Research Park Development and Design Guidelines.

14. Before issuance of any building permits, complete grading and working drawings shall be submitted to the City Manager for approval. Plans shall be in substantial conformity to the approved Substantial Conformance Review Exhibit "A," dated August 3, 1999, on file in the Office of Planning and Development Review. No changes, modifications or alterations shall be made unless appropriate applications or amendment of this permit shall have been granted.

15. All of the conditions contained in this permit have been considered and have been determined to be necessary in order to make the findings required for this discretionary permit. It is the intent of the City that the holder of this permit be required to comply with each and every condition in order to be afforded special rights which the holder of the Permit is obtaining as a result of this permit. It is the intent of the City that the Owner of the property which is the subject of this permit either utilize the property for any use allowed under the zoning and other restrictions which apply to the property or, in the alternative, that the Owner of the property be allowed the special and extraordinary rights conveyed by this permit, but only if the Owner complies with all the conditions of the Permit.

In the event that any condition of this permit, on a legal challenge by the Owner/Permittee of this permit, is found or held by a court of competent jurisdiction to

be invalid, unenforceable or unreasonable, this permit shall be void. However, in such an event, the Owner/Permittee shall have the right, by paying applicable processing fees, to bring a request for a new permit without the "invalid" condition(s) back to the discretionary body which approved the permit for a determination by that body as to whether all of the findings necessary for the issuance of the permit can still be made in the absence of the "invalid" condition(s). Such hearing shall be a hearing de novo and the discretionary body shall have the absolute right to approve, disapprove or modify the proposed permit and the condition(s) contained therein.

16. Prior to issuance of any grading permits for this project, a final subdivision map shall be recorded on the subject property.

17. Rezoning of the subject property shall become effective with recordation of the corresponding final subdivision map for the project site.

18. This permit may be developed in phases. Each phase shall be constructed prior to sale or lease to individual owners or tenants to ensure that all development is consistent with the conditions and exhibits approved for each respective phase.

19. **ENVIRONMENTAL/MITIGATION REQUIREMENTS:**

The Owner/Permittee shall comply with the Mitigation Monitoring and Reporting Program [MMRP] as specified in Mitigated Negative Declaration, LDR No. 99-0034, satisfactory to the City Manager and the City Engineer. Prior to the issuance of any building permit, all mitigation measures specifically outlined in the MMRP shall be implemented for the following issue areas:

- A. Transportation
- B. Hydrology/Water Quality
- C. Noise
- D. Light/Glare

PLANNING/DESIGN REQUIREMENTS:

20. All lots or portion(s) of lots located within the Accident Potential Zone 1 [APZ 1] shall have a maximum lot coverage of twenty-five (25) percent. All other lots or portions of lots not located in the APZ 1 shall be limited to fifty (50) percent lot coverage.

21. For all lots or portion(s) of lots located within the APZ 1, the number of persons per acre shall be limited to not more than 50 persons per gross acre which includes twenty-six acres of density transfer south of Nobel Drive or more than 120 persons per net pad area within the APZ 1.

22. Prior to the recordation of the final map, a Disclosure Statement shall be recorded to advise prospective tenants or purchasers that the property is impacted by noise and overflights from the Miramar Air Station.

23. Provide one (1) parking space per 250 square feet of building area. Off-street parking spaces shall be maintained on the property at all times. Parking spaces shall comply at all times with the Municipal Code and shall not be converted for any other use unless otherwise authorized by the City Manager.

24. There shall be compliance with the regulations of the underlying zone(s) unless a deviation or variance to a specific regulation(s) is approved or granted as condition of approval of this permit. Where there is a conflict between a condition (including exhibits) of this permit and a regulation of the underlying zone, the regulation shall prevail unless the condition provides for a deviation or variance from the regulations. Where a condition (including exhibits) of this permit establishes a provision which is more restrictive than the corresponding regulation of the underlying zone, then the condition shall prevail.

25. Any future requested amendment to this permit shall be reviewed for compliance with the regulations of the underlying zone(s) which are in effect on the date of the submittal of the requested amendment.

26. All signage associated with this development shall be consistent with sign criteria established by the City-Wide Sign Regulations and sign regulations of the SR zone. Where there is conflict the underlying zone regulations shall apply.

27. Prior to the issuance of a building permit on any lot, a signage program shall be approved specific to that lot, to the satisfaction of the Planning and Development Review Manager.

28. Prior to the issuance of any building permits, complete outdoor lighting information shall be submitted to the Planning and Development Review, Land Development Review Division, for review and approval. Complete lighting information shall include a plan view photometric analysis indicating an isofoot candle plot and a point by point plot to include all areas within the private property and to extend a minimum of fifty (50) feet beyond the property line, construction details as necessary to direct installation of the outdoor lighting system, manufacturers name, visors, prisms, lenses and reflectors and a lighting plan locating each fixture in plan view and a legend. The outdoor lighting system shall be designed, manufactured and installed to allow shading, adjusting, and shielding of the light source so all outdoor lighting is directed to fall only onto the same premises as light sources are located.

29. Prior to the issuance of any occupancy permit, a night inspection shall be required to verify compliance of the outdoor lighting system. No light shall be directed to fall outside the property line. Light levels along the perimeter of the property shall be measured no higher than three footcandles. Light levels throughout the planned commercial development shall be the least practical level necessary to effectively illuminate the operation. Sky glow or light halo shall be reduced to the greatest extent practical and in no case shall initial light levels be measured exceeding fourteen footcandles anywhere within the site. The Owner/Permittee, or an authorized representative, shall provide an illuminance meter to measure light levels as required to establish conformance with the conditions of this permit during the night inspection. Night inspections may be required additional fees as determined by the Planning and Development Review Manager.

30. The use of textured or enhanced paving shall meet applicable City standards as to location, noise and friction values.

31. The subject property and associated common areas on site shall be maintained in a neat and orderly fashion at all times.

32. Outdoor storage of merchandise, material and equipment is permitted in any required interior side or rear yard, provided the storage area is completely enclosed by walls, fences or a combination thereof. Walls or fences shall be solid and not less than six feet in height and, provided further, that no merchandise, material or equipment stored not higher than any adjacent wall.

33. No mechanical equipment, tank, duct, elevator enclosure, cooling tower or mechanical ventilator or air conditioner shall be erected, constructed, converted, established, altered, or enlarged on the roof of any building, unless all such equipment and appurtenances are contained within a completely enclosed architecturally integrated structure whose top and sides may include grillwork, louvers and latticework.

34. No merchandise, material or equipment shall be stored on the roof of any building.

35. Prior to the issuance of building permits, construction documents shall fully illustrate compliance with the Citywide Storage Standards for Trash and Recyclable Materials (SDMC § 101.2001) to the satisfaction of the City Manager. All exterior storage enclosures for trash and recyclable materials shall be located in a manner that is convenient and accessible to all occupants of and service providers to the project, in substantial conformance with the conceptual site plan marked Exhibit "A," dated August 3, 1999, on file in the Office of Planning and Development Review.

36. Prior to issuance of any grading, or building permits, complete landscape construction documents, including plans, details and specifications (including a permanent automatic irrigation system unless otherwise approved), shall be submitted to the City Manager for approval. The construction documents shall be in substantial conformance with Exhibit "A," Landscape Concept Plan, dated August 3, 1999, on file in the Office of Planning and Development Review. No change, modification or alteration shall be made unless appropriate application or amendment of this permit shall have been granted.

37. Prior to issuance of grading permits, interim landscape and erosion control measures, including hydroseeding of all disturbed land (all slopes and pads), shall be submitted to the satisfaction of the City Manager (including the Environmental Section) and City Engineer. All plans shall be in substantial conformance to Exhibit "A," dated August 3, 1999, on file in the Office of Planning and Development Review, and all other applicable conditions of related permits.

38. The timely erosion control including planting and seeding of all slopes and pads consistent with the approved plans is considered to be in the public interest and the Owner/Permittee shall initiate such measures within 45 days from the date that the grading of the site is deemed to be complete. Such erosion control and the associated irrigation systems (temporary and/or permanent) and appurtenances shall be installed in accordance with the approved plans and the Landscape Technical Manual.

39. Prior to issuance of any Certificate of Occupancy it shall be the responsibility of the Owner/Permittee to install all required landscape and obtain all required landscape inspections and to obtain a No Fee Street Tree Permit for the installation, establishment and on-going maintenance of all street trees. Copies of these approved documents must be submitted to the City Manager.

40. All required landscape shall be maintained in a disease, weed and litter free condition at all times and shall not be modified or altered unless this permit has been amended. Modifications such as severe pruning or "topping" of trees is not permitted unless specifically noted in this permit. The Owner/Permittee, or subsequent owner shall be responsible to maintain all street trees and landscape improvements consistent with the standards of the Landscape Technical Manual.

41. If any required landscape (including existing or new plantings, hardscape, landscape features, etc.) indicated on the approved plans is damaged or removed during demolition, it shall be repaired and/or replaced in kind and equivalent size per the approved plans within 30 days of completion of construction by the Owner/Permittee. The replacement size of plant material after 3 years shall be the equivalent size of that plant at the time of removal (the largest size commercially available and/or an increased number) to the satisfaction of the City Manager.

42. The Owner/Permittee shall implement the following requirements in accordance with the Modified Brush Management Program shown on Exhibit "A," Brush Management Program/Landscape Concept Plan," dated August 3, 1999, on file in the Office of Planning and Development Review:

a. Prior to the issuance of any building permits, a complete set of brush management construction documents shall be submitted for approval to the City Manager and the Fire Chief. The construction documents shall be in substantial conformance with Exhibit "A," dated August 3, 1999, on file in the Office of Planning and Development Review, and shall comply with the Uniform Fire Code (SDMC section 55.0889.0201), the alternative compliance provision of Section Six of the Landscape Technical Manual (Document No. RR-274506) on file at the Office of the City Clerk, and the Land Development Code section 142.9412 (Ordinance No. O-18451).

b. The Modified Brush Management Program, using the Alternative Compliance provision, shall consist of two zones consistent with the Brush Management regulations of the Land Development Code section 142.0412 as follows:

<u>Lot #</u>	<u>Zone One</u>	<u>Zone Two</u>
4 and 5	25'	30'
3	40' (temporary brush management at the western boundary of lot 3)	
4 and 11	40' (temporary brush management at the western boundary of lot 4 and southeastern boundary of lot 11)	

c. The construction documents shall conform to the architectural features as described in Section 6.6-2 of the Landscape Technical Manual.

d. Within Zone One, combustible accessory structures with less than a one hour fire rating are not permitted, including and not limited to: wood decks, trellises, gazebos, etc. Non-combustible accessory structures and/or combustible accessory structures with a minimum fire rating of one hour or more may be approved within the designated Zone One area, subject to approval by the Fire Chief and the City Manager.

- e. All requirements for fire resistive construction and other architectural features shall conform to the applicable City and Regional Building Code Standards. The Fire Chief may consider deviations from these conditions or may require additional conditions at the time of final inspection if it is determined an eminent health and safety risk still exist.
- f. Provide the following note on the Brush Management Construction Documents: "It shall be the responsibility of the Owner/Permittee to schedule a pre-construction meeting on site with the contractor and the Planning and Development Review Department to discuss and outline the implementation of the Brush Management Program."

43. Prior to issuance of any Certificate of Occupancy for any building, the approved Brush Management Program shall be implemented.

44. The Brush Management Program shall be maintained at all times in accordance with the City of San Diego's Landscape Technical Manual, Section Six.

APPROVED by the Council of The City of San Diego on August 3, 1999, by Resolution No. RR-292055.

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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.

THE CITY OF SAN DIEGO
Owner

By _____

SAN DIEGUITO PARTNERSHIP, LLP
Permittee

By _____

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

3/10/00

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