

RESOLUTION NUMBER R-293068

ADOPTED ON MAY 2, 2000

WHEREAS, Pardee Development, Owner/Permittee, filed an application with The City of San Diego for a rezone, resource protection ordinance and Otay Mesa development district permit for approximately 1.25 acres of a 6.0 acre parcel, located north of Otay Mesa Road, between Del Sol Boulevard and Otay Valley Road, legally described as the south one-half of the east one acre of the north eight acres of the southwest quarter of the southwest quarter and the south one-half of the north eleven acres of the southeast quarter of the southwest quarter, all in Section 29, Township 18, Range 1 West, San Bernardino Meridian in The City of San Diego, County of San Diego, State of California, in the Otay Community Plan area, in the A1-10 zone (proposed Industrial Sub-District); and

WHEREAS, on February 3, 2000, the Planning Commission of The City of San Diego considered Resource Protection Ordinance/Otay Mesa Development District [RPO/OMDD] Permit No. 99-0015, and pursuant to Resolution No. 2922-PC voted to recommend City Council approval of the permit; and

WHEREAS, the matter was set for public hearing on May 2, 2000, 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 Resource Protection Ordinance/Otay Mesa Development District Permit No. 99-0015:

RESOURCE PROTECTION ORDINANCE San Diego Municipal Code [SDMC]
SECTION 101.0462)

1. 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 rezone, resource protection ordinance permit, and Otay Mesa development district permit do not involve physical development at this time. The portion of the project site located within the Multiple Habitat Planning Area [MHPA] preserve will be deeded to the City as Open Space preserve. One acre of non-native grassland located on the developable area of the project site is considered to be potentially impacted by future development, and will be mitigated by either monetary compensation or off-site acquisition prior the issuance of the first grading permit. Future development is required to conform to Land Use Adjacency Guidelines for projects adjacent to the MHPA. Such Guidelines include limitations to construction, lighting, drainage, and landscaping, and are intended to minimize developmental pressures on the MHPA. The grading plan for future developments will be required to implement Best Management Practices [BMPs] regarding hydrology/water quality. Such BMPs are required to be implemented pursuant to City Engineering Standards for Urban Storm Water Management, and State Water Resources Control Board [SWRCB] permit requirements. These controls are conditions of project approval, and will ensure that sensitive natural resources and environmentally sensitive areas impacts are minimized or precluded.

2. 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 rezone, resource protection ordinance permit and Otay Mesa development district permit do not involve physical development at this time. The portion of the project site located within the MHPA preserve will be deeded to the City as Open Space preserve to provide additional buffer for environmentally sensitive habitats and resources located in the MHPA. Future development is required to conform to Land Use Adjacency Guidelines for projects adjacent to the MHPA. Such Guidelines include limitations to construction, lighting, drainage, and landscaping to minimize developmental pressures on the MHPA. The grading plan for future developments will be required to implement BMPs regarding hydrology/water quality. Such BMPs are required to implemented pursuant to City Engineering Standards for Urban Storm Water Management and SWRCB permit requirements. These controls are conditions of project approval, and will ensure that adverse impacts to environmentally sensitive habitats and resources located in adjacent parks and recreation areas are protected as much as feasible.

3. 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. The proposed rezone, resource protection ordinance permit and Otay Mesa development district permit do not involve physical development at this time. The area designated for development is flat and will require minimal grading. Future development will be subject to a grading plan containing BMPs regarding hydrology/water quality. Such BMPs are required to be implemented pursuant to City Engineering Standards for Urban Storm Water Management and SWRCB permit requirements. These measures will help control erosion,

drainage, and flooding. The building permit process will ensure that future development will not result in undue risks from geological and fire hazards.

4. 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 rezone, resource protection ordinance permit and Otay Mesa development district permit do not involve physical development. All developments within the project site are subject to an Otay Mesa development district permit. This permit process is designed to ensure that developments are consistent with the development standards of the Otay Mesa Development District Ordinance, and the Otay Corporate Center North Design Guidelines, and will ensure compatibility with surrounding developments and with design guidelines approved by the Planning Commission. More than 70 percent of the project site will remain within the MHPA to maintain its aesthetic and habitat function.

5. 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. The entire project site is zoned A1-10 (AR-1-1, effective January 1, 2000). The easternmost 1.25 acres is designated for industrial use by the Otay Mesa Community Plan. The remainder 4.75 acres is located within MHPA, and is designated for open space preservation. The proposed rezone, resource protection ordinance permit and Otay Mesa development district permit to the Industrial Subdistrict of the Otay Mesa Community Plan will update the current zoning to be consistent with the Community Plan. All developments within the project site are subject to an Otay Mesa development district permit. This permit process is designed to ensure that developments are consistent with the development standards of the Otay Mesa Development District Ordinance, and the Otay Corporate Center North Design Guidelines. The project site is not within the Coastal Zone and not subject to the Local Coastal Program.

OTAY MESA [PDO] (SDMC SECTION 103.1100)

6. The project application is complete and conforms with all City policies, guidelines, design standards and density regulations in effect for this site. The easternmost 1.25 acres is designated for industrial use by the Otay Mesa Community Plan. The remainder 4.75 acres is located within MHPA, and is designated for open space preservation. The proposed rezone, resource protection ordinance permit and Otay Mesa development district permit to the Industrial Subdistrict of the Otay Mesa Community Plan will update the current zoning to be consistent with the Community Plan.

The proposed rezone, resource protection ordinance permit and Otay Mesa development district permit does not involve physical development. Any future development(s) within the project site is subject to an Otay Mesa development district permit. This permit process is designed to ensure that developments are consistent with the development standards of the Otay Mesa Development District Ordinance, and the Otay Corporate Center North Design Guidelines, and will ensure compatibility with surrounding developments and with design guidelines approved by the Planning Commission. The project application has been reviewed and approved by City staff, and as

proposed and conditioned, has been determined to be complete and in conformance with all City policies, guidelines, design standards and density regulations in effect for this site.

7. The proposed use and project design meet the general purpose and intent of the Otay Mesa Development District and the Otay Mesa Community Plan. The proposed rezone, resource protection ordinance permit and Otay Mesa development district permit do not involve physical development. The entire project site is zoned A-1-10 (AR-1-1, effective January 1, 2000). The easternmost 1.25 acres is designated for industrial use by the Otay Mesa Community Plan. The remainder 4.75 acres is located within MHPA, and is designated for open space preservation. The proposed rezone, resource protection ordinance permit and Otay Mesa development district permit to the Industrial Subdistrict of the Otay Mesa Planned District will update the current zoning to be consistent with the Community Plan.

Future development(s) within the project site is subject to an Otay Mesa development district permit. This permit process is designed to ensure that developments are consistent with the intent of the Otay Mesa Development District Ordinance; and with the Otay Corporate Center North Design Guidelines.

8. The proposed use, because of conditions that have been applied to it, will not be detrimental to the health, safety and general welfare of persons residing or working in the area, and will not adversely affect other property in the vicinity. The proposed rezone, resource protection ordinance permit and Otay Mesa development district permit does not involve physical development. Future development(s) within the project site is subject to an Otay Mesa development district permit. This permit process is designed to ensure that developments are consistent with the development standards of the Otay Mesa Development District Ordinance, and the Otay Corporate Center North Design Guidelines, and will ensure compatibility with surrounding developments and with design guidelines approved by the Planning Commission. These development standards and design guidelines are intended to address the health, safety and general welfare of persons residing or working in the area and the visual quality of development.

9. The proposed use will comply with the relevant regulations of the Municipal Code in effect for this site. The proposed rezone, resource protection ordinance permit and Otay Mesa development district permit do not involve physical development. Future development(s) within the project site is subject to an Otay Mesa development district permit. The approval process is designed to ensure that the proposed use will comply with the development standards of the Otay Mesa Development District Ordinance, and the Otay Corporate Center North Design Guidelines, which are the relevant regulations in effect for this site.

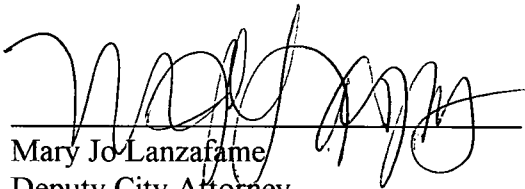
10. A plan for the financing of public facilities as provided in Section 103.1102.b of this Planned District has been approved by the City Engineer. The proposed rezone, resource protection ordinance permit and Otay Mesa Development Permit do not involve physical development. Any future development(s) within the project site is subject to an Otay Mesa development district permit. The building permit process will ensure the collection of fees for the financing of public facilities as provided in Section 103.1102.b of this Planned District as reviewed and approved by the City Engineer.

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 Resource Protection Ordinance/Otay Mesa Development District Permit No. 99-0015 is hereby granted to Pardee Construction, Owner/Permittee, under the terms and conditions set forth in the permit attached hereto and made a part hereof.

APPROVED: CASEY GWINN, City Attorney

By



Mary Jo Lanzafame
Deputy City Attorney

MJL:pev
5/16/00
Or.Dept:Clerk
R-2000-1364
Form=permitr.frm

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

**RESOURCE PROTECTION ORDINANCE/
OTAY MESA DEVELOPMENT DISTRICT PERMIT No. 99-0015 [MMRP]
OSTROW PROPERTY**

CITY COUNCIL

This permit, is granted by the Council of The City of San Diego to Pardee Development, Owner/Permittee pursuant to San Diego Municipal Code [SDMC] sections 101.0462 and 103.1102. The 6-acre site is located north of Otay Mesa Road, and west of Otay Valley Road of the Otay Community Planning Area. The project site is legally described as the south one-half of the east one acre of the north eight acres of the southwest quarter of the southwest quarter and the south one-half of the north eleven acres of the southeast quarter of the southwest quarter, all in Section 29, Township 18, Range 1 West, San Bernardino Meridian, in The City of San Diego, County of San Diego, State of California, according to the official plat thereof.

Subject to the terms and conditions set forth in this permit, permission is granted to Owner/Permittee to rezone approximately 1.25 acres of a 6-acre parcel from A1-10 to Industrial Subdistrict of the Otay Mesa Development District of the Otay Community Planning Area, described as, and identified by size, dimension, quantity, type and location on the approved Exhibits "A," dated May 2, 2000, on file in the Office of Planning and Development Review. The facility shall include:

- a. Approximately 1.25 acres of 6-acres, zoned Industrial Subdistrict of the Otay Mesa Planned District; and
 - b. Approximately 4.75 acres of approximately 6-acres of AR-1-1 zoned property for dedication in fee to the City as Open Space.
1. This permit is not effective until:
 - a. The Permittee signs and returns the permit to Planning and Development Review; and
 - b. The Permit is recorded in the office of the San Diego County Recorder.
 2. 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.

3. 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.).
4. 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.
5. All areas within the Multiple Habitat Preservation Area [MHPA] shall be dedicated in fee to the City for Open Space at no cost the City. The MHPA boundary shall terminate with the existing native habitat. The Otay Corporate Center North Final Map, or any Map implementing this condition, shall be reviewed and approved by the MSCP staff for compliance with this condition.
6. The project site shall be subject to the same requirements, guidelines, and conditions as Otay Corporate Center North (VTM 88-1144). The final map shall be processed as one.

ENVIRONMENTAL/MITIGATION REQUIREMENTS:

7. The applicant shall comply with the mitigation, monitoring, & reporting program [MMRP] identified in Mitigated Negative Declaration (MND) No. 99-0015, satisfactory to the City Manager and City Engineer. Prior to contract advertisement, all mitigation measures as specifically outlined in the MMRP shall be implemented for Public Safety/Hazardous Materials.

APPROVED by the Council of The City of San Diego by Resolution No. R-293068, on May 2, 2000.

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
Owner/Permittee

By _____

By _____

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

5/16/00

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Approved by City Council on _____, 2000 by Resolution No. R-_____

R - 293068