

RESOLUTION NUMBER R-293942

ADOPTED ON OCTOBER 3, 2000

WHEREAS, the Metropolitan Wastewater Department, City of San Diego, Owner/Permittee, filed an application with the City of San Diego Planning and Development Review Department for a Site Development Permit/Environmentally Sensitive Lands [SDP/ESL] Permit to construct an Ocean Monitoring Lab and related dock facilities on a currently unzoned 7.5-acre site located at 2392 Kincaid Road, west of San Diego International Airport (Lindbergh Field), and legally described as Parcel No. 3 of Record of Survey [R.O.S.] 16556, within the Peninsula Community Planning Area; and

WHEREAS, on September 28, 2000, the Planning Commission of The City of San Diego considered SDP/ESL Permit No. 40-0750, and voted to recommend City Council approval of the permit; and

WHEREAS, the Redevelopment Agency of the City of San Diego and Master Developer have entered into the Naval Training Center Disposition and Development Agreement dated as of June 26, 2000 [DDA], which allocates certain financial and other responsibilities regarding the Naval Training Center Redevelopment Project. The City of San Diego Redevelopment Agency [Redevelopment Agency] and the City of San Diego also have entered into the Cooperation Agreement dated as of June 26, 2000, which provides for the cooperation between the Redevelopment Agency and the City of San Diego in connection with the Naval Training Center Redevelopment Project. To the extent the conditions of SDP/ESL Permit No. 40-0750 impose

any "Additional City-Imposed Requirements" as defined in Section 9.15 of the DDA, then the provisions regarding allocation of financial responsibility for Additional City-Imposed Requirements as specified in the DDA shall apply; and

WHEREAS, the matter was set for public hearing on October 3, 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 SDP/ESL Permit No. 40-0750:

I. SITE DEVELOPMENT PERMIT FINDINGS:

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

The NTC Project includes amendment of the Peninsula Community Plan and the adoption of the NTC Precise Plan and Local Coastal Program Land Use Plan for the purpose of changing the land-use designation from the current military related industry to residential, commercial, educational, office/research and development, mixed use, park and open space, visitor/hotel, business/hotel, Metropolitan Wastewater Department, and Regional Public Safety Training Institute uses, and for the purpose of certifying a Local Coastal Program Land Use Plan for the site. The proposed project, construct an Ocean Monitoring Lab and related dock facilities, will be developed to be consistent with the proposed NTC Precise Plan and Local Coastal Program Land Use Plan, and therefore no adverse impacts will occur as a result of project implementation.

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

The permit prepared for the Ocean Monitoring Lab and related dock facilities includes various conditions and referenced exhibits of approval relevant to achieving project compliance with the applicable regulations of the City's Land Development Code in effect for this project; and that such conditions have been determined by the decision-maker as necessary to avoid adverse impacts upon the health, safety and general welfare of persons residing or working in the surrounding area. The project will

comply with the development regulations in effect for the subject property as described in Permit No. 40-0750, and the regulations/guidelines pertaining to the subject property per the San Diego Municipal Code including the land use and development standards of the implementing CC-5-5 zone.

In addition, the proposed development will be required to obtain Building Permits to show that all construction will comply with all applicable Building and Fire Code requirements. The proposed project includes mitigation measures to offset potential impacts to the environment from Water Quality and Biological Resources, as described in MND No. 99-1076. Kincaid Road will be improved to ensure appropriate access and adequate parking will be provided to meet the parking needs. The Permittee will assure the provision and long term maintenance of facilities and devices which assure adequate water quality Best Management Practices to the satisfaction of the City Engineer. The pile driving operations related to construction of the pier within the soft bottom areas of the NTC Boat Channel will require the use of sedimentation curtains in order to minimize the suspension of toxic sediment and metals that may exist along the channel bottom.

C. The proposed development will comply with the applicable regulations of the City's Land Development Code.

The project complies with the development regulations in effect for the subject property per the Peninsula Community Plan, the proposed NTC Precise Plan and Local Coastal Program Land Use Plan, the implementing CC-5-5 zone and the San Diego Municipal Code.

II. SUPPLEMENTAL FINDINGS - ENVIRONMENTALLY SENSITIVE LANDS:

A. The site is physically suitable for the design and siting of the proposed development and the development will result in minimum disturbance to environmentally sensitive lands.

The proposed project includes mitigation measures to offset potential impacts to the environment from Water Quality and Biological Resources, as described in MND No. 99-1076 (see finding B under Site Development Findings). The Permittee will assure the provision and long term maintenance of facilities and devices which assure adequate water quality Best Management Practices to the satisfaction of the City Engineer.

The project will disturb biologically sensitive lands in the construction of a pier within the NTC Boat Channel which will impact existing eelgrass (*Zostera Marina*). A mitigation program will be required to transplant eelgrass within the project study area at a ratio of 1.2:1. It is anticipated that the project will impact 1,821 square feet of eelgrass beds, which will require 2,185 square feet of area to be transplanted with new eelgrass. A monitoring program for a period of five to ten years will be implemented to ensure the success of the transplantation program. If the transplantation program is not successful, an alternative mitigation program acceptable to the appropriate state and federal agencies and the City will be required. A qualified biologist will make a determination of the potential impact of the construction in the project impact area on bird species protected under the Migratory Bird Treaty Act and to determine appropriate construction buffers with the approval of appropriate state and federal agencies.

B. The proposed development will minimize the alteration of natural land forms and will not result in undue risk from geologic and erosional forces, flood hazards, or fire hazards.

The project site was previously graded to accommodate the existing former military facilities on site and as a result, no natural landform features exist on the property. The proposed project is for the adaptive reuse of an existing naval training center which includes the demolition of the existing buildings on site to be replaced with a new Ocean Monitoring Lab and related dock facilities. As a condition of this permit, the Permittee will be required to provide structural plans and calculations to the City which demonstrate that the proposed structure and foundation improvements on this site have been designed in accordance with requirements of the Uniform Fire Code, the Uniform Building Code and the City Geologist. The proposed new construction will not alter natural land forms or result in undue risk from geologic and erosional forces, flood hazards, or fire hazards.

C. The proposed development will be sited and designed to prevent adverse impacts on any adjacent environmentally sensitive lands.

The project site contains environmentally sensitive lands in the NTC Boat Channel. Potential impacts to those environmentally sensitive lands have been mitigated as described in finding B under Site Development Findings. The proposed development adjacent to the boat channel has been sited with a 100 foot setback from the channel and will not create shadows that fall on the water or create any other impacts to the resource.

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

The project site does not contain any lands that have been identified as part of the City of San Diego Multiple Habitat Planning Area [MHPA]. The City of San Diego's Multiple Species Conservation Program [MSCP] Subarea Plan is the guiding policy document for development within the MHPA. The MSCP Subarea Plan states that unavoidable impacts to wetlands associated with essential public facilities or reasonable use would need to be minimized and mitigated. The anticipated impacts to wetlands are the minimum necessary to provide the proposed essential public facility and would be fully mitigated. Therefore, the proposed development is consistent with the MSCP Subarea Plan.

E. The proposed development will not contribute to the erosion of public beaches or adversely impact local shoreline sand supply.

The project site does not contain any public beaches. While the project site is adjacent to the boat channel, no changes are proposed to the course or direction of water movements or the flow of flood waters. The proposed project will therefore not impact the local shoreline sand supply.

F. 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 project will have a negative impact created by the proposed development in that the project will disturb biologically sensitive lands in the construction of a pier within the NTC Boat Channel which will impact existing eelgrass (*Zostera Marina*). A mitigation program will be required to transplant eelgrass within the project study area at a ratio of 1.2:1. It is anticipated that the project will impact 1,821 square feet of eelgrass beds, which will require 2,185 square feet of area to be transplanted with new eelgrass. A monitoring program for a period of five to ten years will be implemented to ensure the success of the transplantation program. If the transplantation program is not successful, an alternative mitigation program acceptable to the appropriate state and federal agencies and the City will be required. A qualified biologist will make a determination of the potential impact of the construction in the project impact area on bird species protected under the Migratory Bird Treaty Act and to determine appropriate construction buffers with the approval of appropriate state and federal agencies. These required mitigation measures are reasonably related to the impacts to the eelgrass beds in the flood channel and are

calculated to alleviate the negative impacts created by the construction of the Metropolitan Wastewater pier in the boat channel.

III. SUPPLEMENTAL FINDINGS - ENVIRONMENTALLY SENSITIVE LANDS DEVIATIONS:

- A. There are no feasible measures that can further minimize the potential adverse effects on environmentally sensitive lands.**

The Metropolitan Wastewater Department [MWWD] pier will be used as part of the process of collecting water samples from the ocean to measure the level of toxins in the off-shore waters. It is necessary for the boats that collect the water samples to have a place to dock and deliver the samples. The pier will be located adjacent to the proposed new MWWD Lab facility that will test the water samples. The pier will be a vital part of the testing process and it is essential that it be located in close proximity to the Lab facility. The use of wetlands-related scientific research is a permitted use in the coastal wetlands. The mitigation program for the impact to eelgrass beds described in the above findings will achieve the goal of no-net-loss and retain in-kind functions and values of the wetlands area as required by the Development Regulations for Sensitive Biological Resources.

- 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 wetlands scientific research use is an allowed use in coastal wetlands because, by its nature, components of that use are required to be located there. The proposed impact to Sensitive Biological Resources is the minimum necessary for the proposed pier since the pier is a necessary component of the wetlands research use and the pier is required by the nature of its function to be located in a coastal wetland area. The size and location of the pier are the minimum necessary to perform its function in a convenient and expeditious manner. The proposed mitigation measures will reduce the impact to the Sensitive Biological Resources to below a level of significance.

IV. COASTAL OVERLAY ZONE FINDINGS:

- A. The proposed coastal development will not encroach upon any existing physical accessway that is legally utilized by the general public or any proposed public accessway identified in an adopted Local Coastal Program Land Use Plan; and the proposed coastal development will enhance and**

protect public views to and along the ocean and other scenic coastal areas as specified in the Local Coastal Program Land Use Plan.

The location of the proposed pier on the NTC Boat Channel is not in a location that has been use by the public for physical access nor is it identified in the NTC Precise Plan and Local Coastal Program as a proposed public accessway. The project site does not contain views to or along the ocean. The NTC Boat Channel may be considered a scenic coastal area, however, the proposed pier will not obstruct views of the channel and will not degrade or diminish the scenic view of the channel. The proposed pier is compatible with the surroundings and is the type of structure that would be expected to be seen in the boat channel. The pier would enhance the views of the channel from the surrounding area, in particular the view from the public park across the channel.

B. The proposed coastal development will not adversely affect environmentally sensitive lands.

The proposed pier will impact the eelgrass beds in the NTC Boat Channel, but a mitigation program will be required to transplant eelgrass within the project study area at a ration of 1.2:1. It is anticipated that the project will impact 1,821 square feet of eelgrass beds, which will require 2,185 square feet of area to be transplanted with new eelgrass. A monitoring program for a period of five to ten years will be implemented to ensure the success of the transplantation program. If the transplantation program is not successful, an alternative mitigation program acceptable to the appropriate state and federal agencies and the City will be required. A qualified biologist will make a determination of the potential impact of the construction in the project impact area on bird species protected under the Migratory Bird Treaty Act and to determine appropriate construction buffers with the approval of appropriate state and federal agencies. The proposed mitigation measures will reduce the impact to the Sensitive Biological Resources to below a level of significance and so the construction of the pier will not adversely affect environmentally sensitive lands.

C. The proposed coastal development is in conformity with the certified Local Coastal Program Land Use Plan and complies with all the regulations of the certified implementation program.

The NTC Precise Plan and Local Coastal Program is the policy document that applies to the project site. The proposed Metropolitan Wastewater Department lab facility, including the pier/dock for the water sampling

boats, are the designated uses proposed for the project site in that plan. The proposed pier is, therefore, in conformity with the NTC Precise Plan and Local Coastal Program and complies with the regulations of the certified Implementation Program.

- D. For every coastal development permit issued for any coastal development located between the nearest public road and the sea, or the shoreline of any body of water located within the Coastal Overlay Zone, the coastal development is in conformity with the public access and public recreation policies of Chapter 3 of the California Coastal Act.**

The location of the proposed pier on the NTC Boat Channel is not in a location that has been used by the public for physical access nor is it identified in the NTC Precise Plan and Local Coastal Program as a proposed public accessway. The proposed site of the MWWD pier will not interfere with the surrounding public recreation area or in any way hinder the policies of encouraging increased recreational boating use of coastal waters. The proposed development is, therefore, in conformity with the public access and public recreation policies of Chapter 3 of the California Coastal Act.

V. SUPPLEMENTAL FINDINGS - ENVIRONMENTALLY SENSITIVE LANDS WITHIN THE COASTAL ZONE:

- A. Based on the economic information provided by the Applicant, as well as any other relevant evidence, each use provided for in the environmentally sensitive lands regulations would not provide any economically viable use of the Applicant's property.**

The proposed use of the pier for wetlands-related scientific research is a permitted use provided for in the Environmentally Sensitive Lands Regulations and is, therefore an economically viable use of the City of San Diego's property.

- B. Application of the environmentally sensitive lands regulations would interfere with the Applicant's reasonable investment-backed expectations.**

The Environmentally Sensitive Lands Regulations have been applied to the proposed project and, therefore, do not interfere with the City of San Diego's reasonable expectations.

C. The use proposed by the Applicant is consistent with the applicable zoning.

The NTC Boat Channel is un-zoned. The use of the property as a pier/dock for boats in the collection of ocean water samples as part of wetlands-related scientific research is consistent with the uses allowed within coastal wetlands.

D. The use and project design, siting, and size are the minimum necessary to provide the Applicant with an economically viable use of the premises.

The wetlands scientific research use is an allowed use in the coastal wetlands because, by its nature, components of that use are required to be located there. The proposed impact to Sensitive Biological Resources is the minimum necessary for the proposed pier since the pier is a necessary component of the wetlands research use and the pier is required by the nature of its function to be located in a coastal wetland area. The size and location of the pier are the minimum necessary to perform its function in a convenient and expeditious manner and provide the City of San Diego with an economically viable use of the premises.

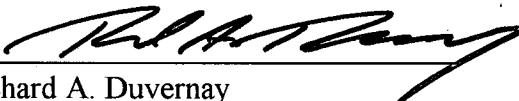
E. The project is the least environmentally damaging alternative and is consistent with all provisions of the certified Local Coastal Program with the exception of the provision for which the deviation is requested.

The proposed Metropolitan Wastewater Department lab facility, including the pier/dock for the water sampling boats, are the designated uses proposed for the project site in the NTC Precise Plan and Local Coastal Program. The proposed pier is, therefore, in conformity with the NTC Precise Plan and Local Coastal Program except that it impacts Sensitive Biological Resources. The proposed impact to Sensitive Biological Resources is the minimum necessary for the proposed pier since the pier is a necessary component of the wetlands research use and the pier is required by the nature of its function to be located in a coastal wetland area. The size and location of the pier are the minimum necessary to perform its function in a convenient and expeditious manner. The proposed mitigation measures of transplanting eelgrass in the project area at a ratio of 1.2:1 to replace the impacted area will reduce the impact to the Sensitive Biological Resources to below a level of significance.

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 Site Development Permit/Environmentally Sensitive Land Permit No. 40-0750 is granted to the Metropolitan Wastewater Department, City of San Diego, 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 
Richard A. Duvernay
Deputy City Attorney

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Or.Dept:Clerk
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Reviewed by PJ Fitzgerald

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

**SITE DEVELOPMENT PERMIT/ENVIRONMENTALLY
SENSITIVE LANDS [SDP/ESL] PERMIT
NO. 40-0750 (MMRP)
MWWD OCEAN MONITORING LAB
CITY COUNCIL**

This Site Development Permit [SDP]/Environmentally Sensitive Lands [ESL] Permit is granted by the CITY COUNCIL of the City of San Diego to the METROPOLITAN WASTEWATER DEPARTMENT, CITY OF SAN DIEGO, Owner/Permittee, pursuant to the San Diego Municipal Code [SDMC]. The approximately 7.5-acre site is located at 2392 Kincaid Road, is currently unzoned and is within the Peninsula Community Planning Area. The project site is legally described as Parcel No. 3 of R.O.S. 16556.

Subject to the terms and conditions set forth in this permit, permission is granted to Owner/Permittee to redevelop the Naval Training Center site described as, and identified by size, dimension, quantity, type and location on the approved Exhibits "A", dated October 3, 2000, on file in the Office of The Planning and Development Review Department. The facility shall include:

- a. Demolition of existing structures;
 - b. Construction of a new two-story building comprising approximately 37, 000 square-foot of office and laboratory uses;
 - c. Construction of a new boat dock within the boat channel;
 - d. Construction of the Esplanade area adjacent to the Boat Channel, including undergrounding of the existing steam lines or appropriate alternative, satisfactory to the City Manager;
 - e. Landscaping (planting, irrigation and landscape related improvements);
 - f. Off-street parking facilities; and
 - g. 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. Section 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. Before issuance of any building permits, complete working drawings shall be submitted to the City Manager for approval. Plans shall be in substantial conformity to Exhibit "A," dated October 3, 2000, on file in the Office of the Planning and Development Review Department. No changes, modifications or alterations shall be made unless appropriate applications or amendment of this permit shall have been granted.

10. 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 new 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.

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

12. Zoning: Zoning of the subject property shall become effective with recordation of the corresponding final subdivision map for the project site. In the event ownership of portions of the NTC project site have not been conveyed from the United States Navy to the City of San Diego at the time of the recording of the corresponding final subdivision map, zoning of those affected portions of the subject property shall become effective with conveyance of the property to the City of San Diego.

13. This Site Development Permit shall become effective subsequent to California Coastal Commission approval, following all appeals, of the NTC Precise Plan/Local Coastal Program Land Use Plan and associated documents.

ENVIRONMENTAL/MITIGATION REQUIREMENTS:

14. The applicant shall comply with the Mitigation, Monitoring, and Reporting Program (MMRP) as specified in Mitigated Negative Declaration, LDR No. 99-1076, satisfactory to the City Manager and the City Engineer. Prior to issuance of building permits, all mitigation measures as specifically outlined in the MMRP shall be implemented for the following issue areas: Water Quality and Biological Resources.

TRANSPORTATION REQUIREMENTS:

15. Prior to the issuance of any building permit, the applicant shall assure the following transportation improvements to the satisfaction of the City Engineer.

- a. The construction of Private Driveway west of Kincaid Road including a cul-de-sac at the west end.
- b. Construction of Kincaid Road between Spruce Street and North Harbor Drive as a two-lane collector with 40' of pavement within 60' of right-of-way.

ENGINEERING REQUIREMENTS:

16. Applicant shall provide dimensions for standard cul-de-sac design with a 50-foot curb radius and a 60-foot right-of-way.

17. Applicant shall provide all streets and driveways per city standards, satisfactory to the City Engineer.

18. Applicant shall submit a preliminary drainage study for this proposed development, satisfactory to the City Engineer. Study needs to address existing outfalls at the site.

19. The drainage system proposed with this development is subject to approval by the City Engineer.

20. Development of this project shall comply with all requirements of State Water Resources Control Board (SWRCB) Order No. 92-08-DWQ (NPDES General Permit No. CAS000002), Waste Discharge Requirements for Discharges of Storm Water Runoff Associated With Construction Activity. In accordance with said permit, a Storm Water Pollution Prevention Plan (SWPPP) and a Monitoring Program Plan shall be developed and implemented concurrently with the commencement of grading activities, and a complete and accurate Notice of Intent (NOI) shall be filed with the SWRCB. A copy of the acknowledgment from the SWRCB that an NOI has been received for this project shall be filed with the City of San Diego when received; further, a copy of the completed NOI from the SWRCB showing the permit number for this project shall be filed with the City of San Diego when received.

In addition, the owner(s) and subsequent owner(s) of any portion of the property by SWRCB Order No. 92-08-DWQ, and any subsequent amendments thereto, shall comply with special provisions as set forth in Section C.7 of SWRCB Order No. 92-08-DWQ.

21. Prior to building occupancy, the applicant shall conform to SDMC section 62.0203 of the Municipal Code, "Public Improvement Subject to Desuetude or Damage." If repair or replacement of such public improvements is required, the owner shall obtain the required permits for work in the public right-of-way, satisfactory to the permit-issuing authority.

FACILITIES FINANCING:

22. This development is in the Peninsula Community Planning Area. There are impact fees, established by City Council, within the community to provide financing for public facilities necessary to support additional development. This development will be subject to those impact fees for the portions of the project which exceed existing development levels.

PLANNING/DESIGN REQUIREMENTS:

23. Esplanade: Prior to the issuance of building permits, applicant shall assure construction of the Esplanade fronting this site comprising Lot No. 3 of Unit No. 9, consistent with Master Planned Development Permit [MPDP] No. 99-1076, the NTC Precise Plan/LCP and the NTC Urban Design Guidelines, satisfactory to the City Manager.

24. Any project proposed on Lot No. 2 of Unit No. 9, including any future San Diego State University facilities, shall require amendment of this Site Development Permit.

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. Off-street parking spaces shall be constructed and maintained on the property at all times in the approximate locations shown on the approved Exhibit "A," dated October 3, 2000, on file in the Office of the Planning and Development Review Department. Parking spaces shall comply at all times with the San Diego Municipal Code and shall not be converted for any other use unless otherwise authorized by the City Manager.

27. 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.

28. The height(s) of the building(s) or structure(s) shall not exceed those heights set forth in the conditions and the exhibits (including, but not limited to, elevations and cross sections) or the maximum permitted building height of the underlying zone, whichever is lower, unless a deviation or variance to the height limit has been granted as a specific condition of this permit.

29. A topographical survey conforming to the provisions of SDMC section 101.0216 may be required if it is determined, during construction, that there may be a conflict between the building(s) under construction and a condition of this permit or a regulations of the underlying zone. The cost of any such survey shall be borne by the permittee.

30. Prior to submitting building plans to the City for review, the applicant shall place a note on all building plans indicating that an avigation easement has been granted across the property. The note shall include the County Recorder's recording number for the avigation easement.

31. All signage associated with this development shall be consistent with sign criteria established by both of the following:

- a. The *NTC Urban Design Guidelines*; and
- b. Citywide sign regulations.

32. All private outdoor lighting shall be shaded and adjusted to fall on the same premises where such lights are located.

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

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

35. 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 screened

from view by a structure which may include grillwork, louvers and latticework, satisfactory to the City Manager.

36. Prior to the issuance of building permits, construction documents shall fully illustrate compliance with the Citywide Storage Standards for Trash and Recyclable Materials (SDMC section 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 October 3, 2000, on file in the Office of the Planning and Development Review Department.

LANDSCAPE REQUIREMENTS:

37. All planting, irrigation, and landscape-related improvements shall conform to the standards of the Landscape Regulations and the Landscape Standards Manual and all other landscape related City and Regional Standards, including The Naval Training Center Precise Plan/LCP and the *NTC Urban Design Guidelines*.

38. Applicant shall maintain required landscape areas. The landscape areas shall be maintained free of debris and litter and all plant material shall be maintained in a healthy growing condition. Diseased or dead plant material shall be satisfactorily treated or replaced per the conditions of the permit.

39. Prior to issuance of any 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 October 3, 2000, on file in the Office of the Planning and Development Review Department. No change, modification or alteration shall be made unless appropriate application or amendment of this Permit shall have been granted.

40. 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 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 Standards.

41. Prior to issuance of any Certificate of Occupancy it shall be the responsibility of the 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.

42. 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 Permittee, or subsequent Owner shall be responsible to maintain all street trees and landscape improvements consistent with the standards of the Landscape Standards.

43. 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 Permittee. The replacement size of plant material after three

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.

WASTEWATER REVIEW:

44. Consistent with the vesting tentative map conditions for the Naval Training Center Project, sewer facilities will need to conform to the City of San Diego sewer design guide. Proposed facilities that do not meet the current standards shall be private or re-designed satisfactory to the Metropolitan Wastewater Department, Wastewater Collection Division.

45. Prior to the submittal of any public improvement drawings or building permits, the developer shall submit a sewer study satisfactory to the Metropolitan Wastewater Department Director, for the sizing, grade and alignment of public gravity sewer mains and to show that the existing and proposed public sewer facilities will provide adequate capacity and have cleansing velocities necessary to serve this development and the drainage basin in which it lies.

WATER REQUIREMENTS:

46. Prior to the issuance of any building permits, the developer shall assure the design and construction of a 12-inch water main within Private Driveway 'A' adjacent to the southerly project boundary, in a manner satisfactory to the Water Department Director and the City Engineer, reconnecting to existing facilities. The developer shall abandon all existing water facilities traversing Lot 1, Unit 9.

47. The developer shall install fire hydrants at locations satisfactory to the Fire Department, the Water Department Director and the City Engineer.

48. The developer agrees to design and construct all public water facilities in accordance with established criteria in the most current edition of the City of San Diego Water Design Guide and City regulations, standards and practices pertaining thereto.

GEOLOGY:

49. Prior to issuance of any building permit, a geotechnical investigation report will be required to be submitted for review and approval by LDR Geology. The geotechnical investigation should be prepared in accordance with the most recent edition of the City of San Diego Technical Guidelines for Geotechnical Reports. The report should specifically address liquefaction, groundwater, ground shaking, and any remedial grading and mitigation that may be necessary to construct the proposed plan.

50. Prior to issuance of any building permit, Site Assessment information will be required to be submitted for review and approval by LDR Geology. The Site Assessment information should address the location of any known soil or groundwater contamination at the site, or the Department of Health closure, or approved mitigation for contaminated or hazardous soil and/or groundwater. If groundwater monitoring wells are located within the site that require protection during construction activity, it should be so noted on plans.

APPROVED by the Council of the City of San Diego on October 3, 2000, by Resolution No. R-293942.

10/27/00

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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.

**METROPOLITAN WASTEWATER
DEPARTMENT, CITY OF SAN DIEGO**
Owner/Permittee

By _____

By _____

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

10/30/00

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