

(R-2001-1468)

RESOLUTION NUMBER R-294671

ADOPTED ON MARCH 20, 2001

WHEREAS, Gregory D. Kasai, et al., Individuals, Owner, and D. R. Horton San Diego Holding Company, Inc., a California Corporation, Permittee, filed an application with the City of San Diego for a Planned Residential Development/Resource Protection Ordinance [PRD/RPO] permit to construct an 85 residential development known as the Kasai Mondeck project, located south of State Route 56 and west of Caminito Mendiola and legally described as Parcel A: the Northeast Quarter of the Northwest Quarter of Section 15, Township 14 South, Range 3 West, San Bernardino Base Meridian, City of San Diego, County of San Diego, State of California, according to U.S. Government Survey thereof, excepting the Westerly 125 feet thereof, and also excepting therefrom, the North 264 feet of the East 330 feet of the West 475 feet of said Northeast Quarter of the Northwest Quarter, and Parcel B: the Westerly 125 feet of the Northeast Quarter of the Northwest Quarter of Section 15, Township 14 South, Range 3 West, San Bernardino Base Meridian, County of San Diego, City of San Diego, State of California, according to the official plat thereof, excepting therefrom the Northerly 185 feet, in the Pacific Highlands Subarea Plan area, in the AR-1-1 zone (previously referred to as the A-1-10 zone) and which is proposed to be rezoned to RX-1-2 (previously referred to as the R1-5,000/SLO zone); and

WHEREAS, on January 25, 2001, the Planning Commission of the City of San Diego considered Planned Residential Development/Resource Protection Ordinance [PRD/RPO] Permit

No. 99-1088, and pursuant to Resolution No. 3080-PC voted to recommend City Council approval of the permit; and

WHEREAS, after approval of the above referenced project by the City Council, D. R. Horton acquired the property and subsequently transferred ownership to Barratt American, Inc., thereby making Barratt American, Inc., the new Owner/Permittee of the Kasai Mondeck residential project; and

WHEREAS, the matter was set for public hearing on March 20, 2001, 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 Permit No. 99-1088:

**I. PLANNED RESIDENTIAL 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 project site is designated for residential uses by the Pacific Highlands Subarea Plan [Subarea Plan]. The proposed development is consistent with this designation of the Subarea Plan and all other elements of the Subarea Plan with regard to density, use, design, and policy. As the proposed project is consistent with the Subarea Plan, consistency with the City's Progress Guide and General Plan is also achieved and adverse affects to the Progress Guide and General Plan will not result from implementation of the proposed project. The proposed use has been planned to occur at this location consistent with the policy documents.

**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.**

The permit controlling the development and continued use of the proposed development for this site contains conditions addressing the proposed project compliance with the City's regulations and other regional, state and federal regulations to prevent detrimental impacts to the health, safety, and general welfare of persons residing or working in the area. Conditions of approval require compliance with several operational constraints and development controls intended to assure the continued health, safety and general welfare of persons residing or working

in the area. All Uniform Building, Fire, Plumbing, Electrical, Mechanical Codes and the City regulations governing the construction and continued operation of the development apply to this site to prevent adverse affects to those persons or other properties in the vicinity.

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

Specific conditions of approval require the continued compliance with all relevant regulations of the City of San Diego effective for this site and have been written as such into Planned Residential Development/Resource Protection Ordinance Permit No. 99-1088. Development of property shall meet the requirements of the regulations and development criteria of the proposed residential zone, as allowed with the approval of a planned residential development permit. Concept plans for the proposed project identify all other development criteria in effect for the site. All relevant regulations shall be complied with at all times for the life of the proposed project.

**II. RESOURCE PROTECTION ORDINANCE FINDINGS (ALTERNATIVE COMPLIANCE) SUBSTANTIAL CONFORMANCE, SAN DIEGO MUNICIPAL CODE SECTION 101.0462**

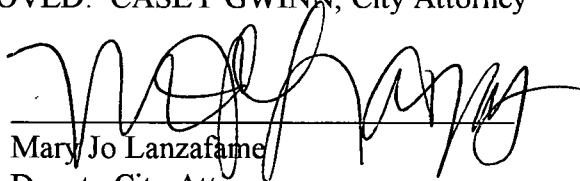
The subdivision of this 38.3 acre site for the grading, public improvement and development of fifty-seven detached single-family and twelve apartments on approximately thirty-eight acres with an option to develop sixty-two detached single-family units on the site and the twelve apartments at another location offsite, and other lots for Homeowners Association maintenance, is designed to comply with the provisions of the adopted Pacific Highlands Subarea III Plan. The Pacific Highlands Subarea Plan section 2.2 regarding the Resource Protection Ordinance [RPO], references City Council Policy 600-40 and discusses how RPO analysis was formulated for the overall Subarea III Plan area. The Plan specifies that, "if future project or permit applications within Pacific Highlands Ranch are found to be consistent with the Pacific Highlands Ranch Subarea III Plan, then future RPO permits may be approved using the substantial conformity determination referenced in the alternative compliance section of the RPO." This project is grading approximately 15.4 acres (or 40.2 percent of the entire 38.3 acre site) while designing to accommodate the alignment of State Route 56. The project site, with the constraints of State Route 56, previous RPO analysis and guidelines, and requirements for grading, has been designed in substantial compliance with all elements of the Pacific Highlands Ranch Subarea III Plan, including land use, circulation, grading, architecture and inclusion of affordable housing. In addition, the project is consistent with the Multiple Species Conservation Program/Multiple Habitat Planning Area criteria for this portion of the plan area and is not within or nor will adversely impact these areas. Impacts created by this subdivision are the minimum to implement the project and mitigation measures have been incorporated into the project to reduce adverse impacts to environmentally sensitive areas.

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 PRD/RPO Permit No. 99-1088 is granted to Barratt American, Inc., a Delaware corporation, 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:mdw:lc

06/07/01

Or.Dept:Clerk

R-2001-1468

Form=permitr.frm

Reviewed by John Fisher

**RECORDING REQUESTED BY**  
CITY OF SAN DIEGO  
DEVELOPMENT SERVICES DEPARTMENT  
PERMIT INTAKE, MAIL STATION 501

**AND WHEN RECORDED MAIL TO**  
CITY CLERK  
MAIL STATION 2A

SPACE ABOVE THIS LINE FOR RECORDER'S USE

**PLANNED RESIDENTIAL DEVELOPMENT/RESOURCE PROTECTION ORDINANCE**  
**PERMIT NO. 99-1088**  
**KASAI MONDECK PROPERTY (MMRP)**

City Council

This Planned Residential Development/Resource Protection Ordinance [PRD/RPO] Permit is granted by the Council of the City of San Diego to Barratt American, Inc., a Delaware corporation, pursuant to San Diego Municipal Code [SDMC] sections 101.0462 and 101.0900. The 38.3 acre site is located south of proposed State Route 56 and west of Caminito Mendiola in the AR-1-1 zone (previously referred to as the A-1-10 zone) and which is proposed to be rezoned to the RX-1-2 zone (previously referred to as the R1-5,000/SLO zone) of the Pacific Highlands Subarea Plan. The project site is legally described as Parcel A: the Northeast Quarter of the Northwest Quarter of Section 15, Township 14 South, Range 3 West, San Bernardino Base Meridian, City of San Diego, County of San Diego, State of California, according to U.S. Government Survey thereof, excepting the Westerly 125 feet thereof, and also excepting therefrom, the North 264 feet of the East 330 feet of the West 475 feet of said Northeast Quarter of the Northwest Quarter, and Parcel B: the Westerly 125 feet of the Northeast Quarter of the Northwest Quarter of Section 15, Township 14 South, Range 3 West, San Bernardino Base Meridian, County of San Diego, City of San Diego, State of California, according to the official plat thereof. Excepting therefrom the Northerly 185 feet.

Subject to the terms and conditions set forth in this permit, permission is granted to Owner/Permittee to develop fifty-seven detached single-family units and twelve attached apartments on approximately thirty-eight acres with an option to develop sixty-two detached single-family units on the site and the twelve attached apartments at another location offsite, described and identified by size, dimension, quantity, type and location on the approved Exhibits "A," dated March 20, 2001, on file in the Development Services Department. The project shall include:

- a. Fifty-seven detached single-family and twelve attached apartments on-site with an option to develop sixty-two detached single-family units on the site and twelve attached apartments at another location off-site ranging in size between approximately 624 square feet to approximately 1,032 square feet;
- b. Landscaping and Brush Management (planting, irrigation and landscape related improvements);
- c. Off-street parking;

- d. Passive open space recreation lots; and
  - 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 SDMC in effect for this site.
1. Construction, grading or demolition must commence and be pursued in a diligent manner within thirty-six months after the effective date of final approval by the City, following all appeals. Failure to utilize the permit within thirty-six months will automatically void the permit unless an Extension of Time has been granted. Any such Extension of Time must meet all the SDMC requirements and applicable guidelines in effect at the time the extension is considered by the appropriate decisionmaker.
  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 Development Services 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 Planned Residential Development/Resource Protection Ordinance permit shall comply with the conditions of the final map for Tentative Map No. 99-1088.
  5. This permit is a covenant running with the subject property and shall be binding upon the Owner/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.
  6. The utilization and continued use of this permit shall be subject to the regulations of this and any other applicable governmental agencies.
  7. 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 Endangered Species Act of 1973 [ESA] and any amendments thereto (16 U.S.C. §§ 1531 *et seq.*).
  8. Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of this development permit/tentative map, may protest the imposition within ninety days of the approval of this development permit/tentative map by filing a written protest with the City Clerk pursuant to California Government Code section 66020.
  9. The Owner/Permittee shall secure all necessary building permits. The applicant is informed that to secure these permits, substantial modifications to the either building and site improvements

must comply with applicable building, fire, mechanical and plumbing codes and state law requiring access for disabled people may be required.

10. Before issuance of any building or grading permits, complete grading and working drawings shall be submitted to the City Manager for approval. Plans shall be in substantial conformity to Exhibit "A," dated March 20, 2001, on file in the Development Services Department. No changes, modifications or alterations shall be made unless appropriate applications or amendment to this permit have been granted.

11. 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 entitled 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 proposed 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.

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

13. 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, per the approved Exhibits "A," dated March 20, 2001, on file in the Development Services Department.

#### **MSCP REQUIREMENTS:**

14. 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.

15. Prior to issuance of a grading permit, the area within the MHPA will be required to be dedicated in fee to the City, or placed in a conservation easement or covenant of easement which is then recorded on the property.

16. Prior to the first preconstruction meeting, the Owner/Permittee shall submit a letter to the City Manager for review and approval by the Environmental Review Manager [ERM] verifying that a qualified biologist has been retained to implement the biological resources mitigation program. The requirement shall be shown on the construction plans and specifications.

**ENVIRONMENTAL/MITIGATION REQUIREMENTS:**

17. The Owner/Permittee shall comply with the Mitigation, Monitoring, and Reporting Program [MMRP] as specified in the Findings to the Master Environmental Impact Report [MEIR], LDR No. 96-7918, satisfactory to the City Manager and the City Engineer. Prior to issuance of any grading permit or building permit, all mitigation measures as specifically outlined in the MMRP shall be implemented for the following issue areas:

- Land Use
- Transportation/Traffic Circulation
- Geology/Soils/Erosion
- Noise
- Public Services/Facilities
- Sewer
- Solid Waste
- Water Conservation

**TRANSPORTATION REQUIREMENTS:**

18. The project shall conform to the Subarea III/Pacific Highland Ranch Transportation Phasing Plan. For the purposes of this project, "improvements to be assured to the satisfaction of the City Engineer before development is authorized in this phase" shall mean that the improvements identified within the phase shall be assured prior to the issuance of any building permit for the development identified in that phase.

**GEOLOGY REQUIREMENTS:**

19. Prior to issuance of any grading permit, the grading plans shall indicate the location and suitable outlets tie in for the proposed canyon subdrains as shown in the Geotechnical Investigation for Kasai/Mondeck Property, prepared by Geocon Inc., Project No. 06499- 42-01, dated May 19, 2000.

20. Prior to issuance of any engineering permit for improvement or grading plans, an updated geotechnical investigation report will be required to be submitted for review and approval by LDR Geology. The geotechnical investigation should include all off-site grading areas, and be prepared



in accordance with the most recent edition of the City of San Diego Technical Guidelines for Geotechnical Reports.

**WASTEWATER REQUIREMENTS:**

21. Prior to the issuance of any building permits, the Owner/Permittee shall assure, by permit and bond, the design and construction of certain sewer facilities, identified in accepted studies, necessary to provide sewer services to the proposed development in a manner satisfactory to the Director of the Metropolitan Wastewater Department.
22. Prior to the issuance of any building permits, the applicant shall provide evidence satisfactory to the Director of the Metropolitan Wastewater Department, indicating that each dwelling unit will have its own sewer lateral or provide Covenants, Conditions and Restrictions [CC&Rs] for the operation and maintenance of on-site private sewer facilities that serve more than one ownership.
23. The Owner/Permittee shall design all proposed public sewer facilities to the most current edition of the City of San Diego's Sewer Design Guide. Proposed facilities that do not meet the current standards shall be private or redesigned, satisfactory to the Director of the Metropolitan Wastewater Department.
24. Proposed private underground sewer facilities located within a single lot shall be designed to meet the requirements of the California Uniform Plumbing Code and shall be reviewed as part of the building permit plan check.

**WATER REQUIREMENTS:**

25. Prior to the issuance of any building or grading permits, the developer shall assure, by permit and bond, the design and construction of all public water facilities identified in the accepted water study, necessary to serve this development, in a manner satisfactory to the Director of the Water Department and the City Engineer. Water facilities, as shown on the approved plan, may require modification based on the accepted water study and final engineering.
26. The developer shall install fire hydrants at locations satisfactory to the Fire Department, the Director of the Water Department and the City Engineer.
27. The developer agrees to design and construct all proposed 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.
28. The developer shall provide CC&Rs for the operation and maintenance of the private water system that serves more than a single unit.
29. Providing water for this development is dependent upon prior construction of certain water facilities in previously approved developments in this area. If they have not been constructed when required for this development, then prior to the issuance of any building permits, the developer shall assure, by permit and bond, the construction of certain portions of these previously approved water facilities, as required by the City Engineer.

### **PLANNING/DESIGN REQUIREMENTS:**

30. No fewer than 190 off-street parking spaces shall be maintained on the property at all times in the approximate locations shown on the approved Exhibits "A," dated March 20, 2001, on file in the Development Services Department. Parking spaces shall comply at all times with the SDMC and shall not be converted for any other use unless otherwise authorized by the City Manager.
31. Prior to the issuance of any building permits for the affordable housing units, the Owner/Permittee shall submit building plans which are designed to complement the architectural style, construction detailing, and types of materials used in the single dwelling unit products, satisfactory to the City Manager.
32. 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.
33. 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.
34. 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.
35. No building additions, including patio covers, shall be permitted unless approved by the homeowners association and the Director of the Development Services Department. Patio covers may be permitted only if they are consistent with the architecture of the dwelling unit.

### **HOUSING COMMISSION REQUIREMENTS:**

36. Prior to the filing of the first final map, subdivider shall comply with the requirements of the Pacific Highlands Ranch Subarea Plan for Affordable Housing [Affordable Housing Requirements] by satisfying the requirements of subparagraph A below:
  - A. Subdivider shall assure the construction and occupancy of an Affordable Housing Project consisting of eleven units to be constructed on Lot 58, as shown on the Exhibit "A," dated March 20, 2001, on file in the Development Services Department. Subdivider shall execute an agreement ("the Affordable Housing Agreement"), subject to the approval of the Executive Director of the Housing Authority of the City of San Diego, or designee [Executive Director], and the City Manager of the City of San Diego, or designee, addressing the following issues:
    1. Performance Security for the construction of Affordable Housing Project and dedication of land [Affordable Housing Site] for the construction of the Affordable Units [Affordable Units] on site, in the form of bond(s), letter(s) of credit, lien(s) and/or other forms of security acceptable to the Executive Director;

2. Approval of the timing of the construction and occupancy of the Affordable Housing Project, acceptable to the Executive Director, provided that the following timetable is incorporated into the Affordable Housing Agreement:

a. Issuance of building permits for the Affordable Housing Project shall occur on or before the earlier of:

i. The issuance of building permits for construction of the 29th market rate dwelling unit (the number of units which represents 50 percent of market rate units); or the date which is eighteen months after the filing of the first final map;

ii. In no event shall the issuance of building permits for the construction of the 29th market rate unit occur until building permits are issued for construction of the eleven affordable units are authorized by the City and are obtained by the subdivider. Further, if individual parcels are sold initially by subdivider without first obtaining building permits for construction of market rate units, every such parcel sold shall nonetheless be included with the total number of the building permits issued in determining when the issuance of the building permit occurs for the 29th and 43rd or greater market rate unit.

b. Completion of construction of the Affordable Housing Project shall occur upon the earlier of:

i. Twelve months after the issuance of building permit for the Affordable Project as referenced in Paragraph 2a hereof, or

ii. The date which is two and one-half years after the filing of the first final map.

Further, the issuance of building permits for the construction of the 43rd market rate unit (the number of units which represents 75 percent of market rate units) shall not occur until the completion of the eleven affordable units is authorized by the City.

c. Occupancy of the Affordable Housing Project shall occur not later than 180 days after the completion of construction as referenced in Paragraph 2b above.

d. For "good cause" shown to the satisfaction of the Executive Director, the dates referenced herein may be extended for one or more period(s) of up to twelve months each. Good cause shall include, but not be limited to, Acts of God, labor strikes, war, riots, etc., as shall be determined by the Executive Director, in the Director's sole discretion.

3. A Declaration of CC&Rs restricting the occupancy and affordability of the Affordable Housing Project for a period of fifty-five years from the date of completion of the Affordable Housing Project, which CC&Rs shall incorporate the Affordable Housing Agreement by reference, shall be recorded against the Affordable Housing Site, in a first priority position. All Affordable Units shall be for occupancy by and at

rates affordable to, families earning no more than 65 percent of the area median income, as adjusted for family size. However, in the case of affordable rental units, the provisions set forth in California Government Code section 65915, referred to as the State Density Bonus Statute, applies and rental rates shall not exceed 60 percent of the area median income, as adjusted for assumed family size and utilities.

4. Additional security for the performance by the subdivider of the Affordable Housing Requirements shall be provided by a deed of trust in favor of the Executive Director, recorded against the Affordable Housing Site, in second lien priority, (junior only to the CC&Rs) assuring the timely performance of the Affordable Housing Agreement referenced in paragraph A hereof. The deed(s) of trust in favor of the Housing Authority may be subordinated to construction deed(s) of trust and/or permanent financing deed(s) of trust in favor of institutional lenders, as approved by the Executive Director, in the Director's sole discretion, if deemed essential to construction and/or operation of the Affordable Housing Project, upon such terms and conditions as the Director may impose.

5. Such other and further conditions as may be reasonably required by the Executive Director to assure satisfaction of the Affordable Housing Requirements, and such modification of existing condition(s), as may be granted by the Executive Director in the Director's sole discretion.

6. Subdivider and their successors, heirs and assigns shall execute such other and further documents and shall perform such acts, as shall be requested by the Executive Director and the City Manager from time to time as required to effectuate the provisions of the Affordable Housing Agreement as contemplated by these condition(s) of approval.

OR

As an alternative to satisfying the requirements of subparagraph A above, the Subdivider shall, prior to the filing of the first final map, comply with the requirements of subparagraph B as set forth below:

B. The approval by the Executive Director, or designee, and the City Manager, or designee, of the dedication (the irrevocable setting aside of land for affordable housing purposes) of developable land within the Subarea and Affordable Housing Plan(s) that address, provide for and assure the construction and occupancy of Affordable Units within the Subarea on common site(s). Each Affordable Housing Plan must address the following issues concerning Affordable Housing to the satisfaction of the Executive Director and the City Manager, or designee(s):

1. Siting, design, unit mix, appearance, architectural and floor plans, of the Affordable Units, as referenced on City approved tentative maps and City approved PRD exhibits for the common site(s);
2. Security for timely performance by the subdivider of the approved Affordable Housing Plan(s) and Affordable Housing Agreement(s);
3. Execution and recordation of enforceable agreement(s), including the Affordable Housing Agreement, setting forth the requirements and timing of construction and

occupancy of the Affordable Housing as referenced in the Affordable Housing Plan(s);

4. Phasing of the construction and occupancy of the Affordable Units;
5. Recordation of the CC&Rs as approved by the Executive Director, assuring affordability and occupancy of the Affordable Units for a period of fifty-five years from the date of completion of construction of the Affordable Units to families earning not more than 65 percent of area median income and at rates affordable to these families, as adjusted for family size. However, in the case of affordable rental units, in which provisions of the State Density Bonus Statute applies, rental rates shall not exceed 60 percent of the area median income, as adjusted for assumed family size and utilities.
6. Security in the form of a lien with second priority, junior only to the CC&Rs, assuring dedication of the Affordable Housing Site and construction of the Affordable Units in a timely fashion, as set forth in the phasing element(s) of the Affordable Housing Plan(s). Subordination of the second lien priority security mentioned herein may be subordinated to construction and/or permanent financing deed(s) of trust in favor of institutional lender(s), as approved by the Executive Director, and as referenced in subparagraph 36.A.4. of this permit; and
7. Such other and further conditions as may be reasonably required by the Executive Director to assure satisfaction of the Affordable Housing Requirements, and such modification(s) of existing condition(s), as may be granted by the Executive Director in the Director's sole discretion.
8. Subdivider, and their successors, heirs and assigns shall execute such other and further documents and shall perform such acts, as shall be requested by the Executive Director and the City Manager and as may be required from time to time to effectuate the provisions of Affordable Housing Agreement as contemplated by these condition(s) of approval.

37. The Kasai-Mondeck Project Affordable Housing Program is on file in the Development Services Department and is incorporated herein. The provisions of the Affordable Housing Program shall not in any way modify or change any provisions of the Affordable Housing requirements. To the extent that there is any inconsistency between the two, the terms of these conditions shall prevail.

**ADDITIONAL PLANNING/DESIGN REQUIREMENTS:**

38. All private outdoor lighting shall be shaded and adjusted to fall on the same premises where such lights are located.
39. The use of textured or enhanced paving shall meet applicable City standards as to location, noise and friction values.
40. The subject property and associated common areas on site shall be maintained in a neat and orderly fashion at all times.
41. 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 for all multi-family units. 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 March 20, 2001, and on file in the Development Services Department.

#### **LANDSCAPE REQUIREMENTS:**

42. Prior to the issuance of any construction permits for structures, complete landscape and irrigation construction documents consistent with the Landscape Technical Manual (including planting and irrigation plans, details and specifications) shall be submitted to the City Manager for approval. The construction documents shall be in substantial conformance with Exhibit "A," Landscape Concept Plan, dated March 20, 2001, on file in the Development Services Department.

43. Prior to issuance of any engineering permits for right-of-way improvements, complete landscape construction documents for right-of-way and median (if applicable) improvements shall be submitted to the City Manager for approval. Improvement plans shall identify a station point to locate trees in the right-of-way. Forty square feet shall be provided for each tree which is a permeable area and clear of other underground utilities. Driveways, utilities, drains, water and sewer laterals shall be designed so as not to prohibit the placement of street trees. Construction documents shall be in substantial conformance with Exhibit "A," Landscape Concept Plan, dated March 20, 2001, on file in the Development Services Department.

44. Prior to issuance of any engineering permits for grading, construction documents for slope planting and/or revegetation and hydroseeding of all disturbed land, including irrigation, shall be submitted in accordance with the Landscape Technical Manual section 7 and to the satisfaction of the City Manager. All plans shall be in conformance to this permit and Exhibit "A," dated March 20, 2001, on file in the Development Services Department.

45. Installation of slope planting and erosion control including seeding of all disturbed land, slopes and pads, consistent with the approved landscape and grading plans is considered to be in the public interest. The Permittee shall initiate such measures as soon as the grading has been accomplished. Such erosion control/slope planting 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.

46. Prior to issuance of any Certificate of Occupancy, it shall be the responsibility of the Permittee or subsequent Owner to install all required landscape and obtain all required landscape inspections. A No Fee Street Tree Permit, if applicable, shall be obtained for the installation, establishment and on-going maintenance of all street trees.

47. All required landscape shall be maintained in a disease, weed and litter free condition at all times. Severe pruning or "topping" of trees is not permitted unless specifically noted in this Permit.

48. The Permittee or subsequent Owner shall be responsible for the maintenance of all street trees and landscape improvements (right-of-way and median landscaping) consistent with the standards of the Landscape Technical Manual unless long-term maintenance of street trees, right-of-way and median landscaping will be the responsibility of a Landscape Maintenance District or other approved entity. Landscape Maintenance Agreements shall be submitted for review by the City Manager.

49. If any required landscape (including existing or new plantings, hardscape, landscape features, etc.) indicated on the approved construction document plans is damaged or removed during demolition or construction, it shall be repaired or replaced in kind and equivalent size per the approved documents to the satisfaction of the City Manager within thirty days of damage or Certificate of Occupancy.

50. Street trees, at a minimum size of one 24-inch box, shall be provided along private drive 'G' for the affordable housing site at a rate of thirty linear feet. If the alternate layout option 'A' without the affordable housing component is implemented, then one street tree per lot shall be provided.

51. All street trees shall have a minimum of five feet by eight feet permeable area and shall be located a minimum of ten feet from all driveways.

**BRUSH MANAGEMENT REQUIREMENTS:**

52. The Brush Management Program shall be maintained at all times in accordance with the City of San Diego's Landscape Technical Manual, section 6, appendix C.

53. Prior to final inspection and issuance of any Certificate of Occupancy for any building, the approved Brush Management Program shall be implemented.

54. The Permittee shall implement the following requirements in accordance with the Alternative Compliance Brush Management Program shown on Exhibit "A," Brush Management Program Landscape Concept Plan, dated March 20, 2001, on file in the Development Services Department:

- a. Prior to issuance of any engineering permits for grading, landscape construction documents required for the engineering permit shall be submitted showing the brush management zones on the property in substantial conformance with Exhibit "A," dated March 20, 2001, on file in the Development Services Department.
- b. Prior to 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 Marshal. The construction documents shall be in substantial conformance with Exhibit "A," dated March 20, 2001, on file in the Development Services Department, and shall comply with the Uniform Fire Code (SDMC section 55.0889.0201), the alternative compliance provision of section 6 of the Landscape Technical Manual (Document No. RR-274506) on file at the Office of the City Clerk and the SDMC section 142.0412 (Ordinance No. O-18451).
- c. The Alternative Compliance Brush Management Program, using the Alternative Compliance provision, shall consist of two zones consistent with the Brush Management regulations of the SDMC section 142.0412 as follows:

[East of I-805 and El Camino Real]

Zone One

Zone Two

Lots 1 through 7, 9 through 17, and  
30 through 43

25'

50'

Affordable Housing Lot (12 units) or  
Lots 58 through 62 (Alternative Unit  
Layout)

25'

50' (except at the west  
side of the western-  
most building or lot  
58, in which case it  
shall be 60' of Zone  
Two)

Lots 47 through 57

25'

60'

- d. The construction documents shall conform to the Architectural features as described in Section 6.6-2 of the Landscape Technical Manual.
- e. Within Zone One combustible accessory structures with less than a one hour fire rating are not permitted (including, but not limited to decks, trellises, gazebos, etc.) while 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 Fire Marshall and the City Manager's approval.
- f. Provide the following on the Brush Management Construction Documents: "It shall be the responsibility of the Permittee to schedule a pre-construction meeting on site with the contractor and the Development Services Department to discuss and outline the implementation of the Brush Management Program."
- g. In Zone(s) One and Two plant material shall be selected to visually blend with the existing hillside vegetation. No invasive plant material shall be permitted as jointly determined by the Landscape Section and the Environmental Analysis Section of the City of San Diego.

APPROVED by the Council of the City of San Diego on March 20, 2001, by Resolution No. R-294670.

6/7/01

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AUTHENTICATED BY THE CITY MANAGER

By \_\_\_\_\_

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**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.

**BARRATT AMERICAN, INC.,**  
**a Delaware corporation**  
Owner/Permittee

By \_\_\_\_\_  
G. Jack Becker, Vice-President

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

6/7/01

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