

RESOLUTION NUMBER R-295406

ADOPTED ON AUGUST 7, 2001

WHEREAS, Sycamore Estates II, LLC, Owner/Permittee, filed an application with the City of San Diego for a permit to develop 277 single-family homes and the preservation of 125 acres of open space lots for the project known as Montecito [Project], located east of Pomerado Road between Spring Canyon Road and Creek Road, and legally described as a subdivision of a Portion of the Southwest Quarter of Section 25, Township 14 South, Range 2 West, San Bernardino Meridian, in the City Future Urbanizing Area, in the RS-1-8 zone (previously referred to as the R1-40,000 zone); and

WHEREAS, on July 19, 2001, the Planning Commission of the City of San Diego considered Planned Residential Development/Resource Protection Ordinance [PRD/RPO] Permit No. 99-0295, and pursuant to Resolution No. 3161-3-PC voted to recommend City Council approval of the permit; and

WHEREAS, the matter was set for public hearing on August 7, 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 it adopts the following findings with respect to PRD/RPO Permit No. 99-0295:

I. PLANNED RESIDENTIAL DEVELOPMENT PERMIT FINDINGS:

1. 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 will not adversely affect the City's Progress Guide and General Plan. The Progress Guide and General Plan identifies the project site as an Area for Future Growth Land Use within the Future Urbanizing Area (FUA). Properties within the FUA are permitted to develop in accordance with their underlying zoning designation and in accordance with City Council Policy 600-29. Council Policy 600-29 presents four options for limited development in the FUA, one of which is Rural Cluster Development. Under this option, development is permitted at the density permitted by the property's underlying zone, but clustered in order to promote more efficient land utilization and land conservation. The Montecito project would develop under this option by clustering development of 278 residential units into three planning areas, preserving approximately 160 acres of the project site in natural open space and revegetated manufactured slopes.

The proposed development is consistent with the proposed Rancho Encantada Precise Plan and approval of the Rancho Encantada Precise Plan would serve as an amendment to the General Plan to change the land use designations as applied to the site. The proposed development implements the proposed Precise Plan and City General Plan by providing a low density development on the Future Urbanizing Area property. The development proposes the dedication of substantial acreage of open space areas as MHPA land.

Council Policy 600-40 provides that a development suitability analysis be conducted as a first step in the preparation of a long range plan. The Project is consistent with Council Policy 600-40 in that the proposed Precise Plan has been designed to remain consistent with contiguous open space systems and to preserve sensitive environmental resources in open space. Implementation of the Rancho Encantada Precise Plan, of which Montecito is a sub-project, would preserve approximately 2,118 acres, or 80% of the Precise Plan area, as natural open space. Preserved open space would be consistent with contiguous open space systems to the east in the Sycamore Canyon County Open Space Preserve and to the north in the Beeler Canyon Wildlife Corridor. The proposed Project's physical site development, land use, circulation, and utilities will occur in the western and central portions of the site, in areas least constrained by sensitive environmental resources.

The Project is consistent with the City of San Diego's Multiple Species Conservation Plan. Significant portions of the project site would be preserved as part of the City's Multiple Habitat Planning Area (MHPA). Areas designated as MHPA would be preserved in perpetuity by either conveyance of the MHPA area to the City of San Diego or through the establishment of permanent conservation easements. An MHPA boundary adjustment is proposed which would increase the overall size of the MHPA by approximately 345 acres, while achieving greater biological functions and value than the existing MHPA. There would be no significant impacts to the habitats, wildlife movement, preserve conservation or management of the MHPA.

The Project is consistent with the Housing Element and is regarded as a positive contribution to the City's housing stock by providing housing opportunities in the northeast portion of the City. Consistency with the Open Space Element is achieved by preserving approximately 2,118 acres, or 80 percent of the Precise Plan area, as natural open space.

2. 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 Montecito project has been designed and conditioned specifically to avoid impacts that may be detrimental to the health, safety, and general welfare of persons residing or working in the area. No area of a portion of the site to be developed is covered by a 100-year floodplain, so flood hazards are not present on the proposed developed site. With the application of mitigation measures specified in the Project's Environmental Impact Report, the Project will not result in undue risks from geological hazards, erosional forces or fire hazards. The project will implement Best Management Practices (BMPs) consisting of swales, filter strips, infiltration basins, detention controls, and housekeeping measures to reduce erosion and sedimentation.

The Project has been designed to provide a circulation system that accommodates appropriate fire and safety vehicle access. The project provides brush management zones that separate industrial structures from potential fire hazards. Interior and exterior noise impacts for those homes that would be built adjacent to major roads will be mitigated by required noise attenuation construction measures such as double-paned windows or supplemental ventilation.

To mitigate potential short-term dust impacts during construction, the project would be required to implement an accelerated dust abatement program which includes periodic site watering, truck and wash stations, truck covers, and soil stabilizers.

To promote water conservation, the project will be required to use low water use plant species and soil moisture override systems, and provide low-flow toilets and faucets within homes.

The project will be required to contribute fees and/or dedicate land for the construction of public parks and schools.

The proposed Rancho Encantada project, of which Montecito is a sub-project, has been designed to minimize disturbance to sensitive biological resources and hillsides, and will disturb approximately 87 acres less land area than permitted by RPO's encroachment allowances for steep slopes and sensitive biological resources.

In addition, the development project has been clustered onto the least environmentally sensitive portions of the site to preserve portions of the site's natural landforms in open space. Exterior manufactured slopes will be contour graded and revegetated with native plant species to mimic the natural landform.

Additionally, prior to the actual construction of homes on the subject property, City staff will review building permit plans against the Uniform Building Code to assure that structural, mechanical, electrical, plumbing, and access components of the project are designed to protect the public's health, safety and welfare.

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

Although the City's Municipal Code (SDMC) was replaced by the Land Development Code (LDC) on January 1, 2000, the Montecito project is still subject to Municipal Code requirements because the project application was deemed complete prior to the effective date of the LDC. Both SDMC and LDC zones are referenced herein.

The Montecito sub-project site is zoned RS-1-8 (formerly R1-40,000 under the SDMC). The City's R-1-8 zone is a residential zone that requires a minimum of 40,000 square feet per each residential unit. The Montecito sub-project is consistent with the R-1-8 zoning designation by proposing 277 single family residential lots on the site, clustered into three planning areas under the provisions of Council Policy 600-29.

The project is also subject to, and consistent with the Resource Protection Ordinance. A Resource Protection Ordinance Permit is being processed to protect, preserve, and, where damaged, restore environmentally sensitive lands. Adoption of a long range plan, such as the proposed Rancho Encantada Precise Plan, is subject to Municipal Code Section 101.0426 and Council Policy 600-40. Council Policy 600-40 provides that a development suitability analysis be conducted as a first step in the preparation of a long range plan. The Project is consistent with Council Policy 600-40 in that the proposed Precise Plan has been designed to remain consistent with contiguous open space systems and to preserve sensitive environmental resources in open space. Implementation of the Rancho Encantada Precise Plan, of which Montecito is a sub-project, would preserve approximately 2,118 acres, or 80% of the Precise Plan area, as natural open space. Preserved open space would be consistent with contiguous open space systems to the east in the Sycamore Canyon County Open Space Preserve and to the north in the Beeler Canyon Wildlife Corridor. The proposed Project's physical site development, land use, circulation, and utilities will occur in the western and central portions of the site, in areas least constrained by sensitive environmental resources

II. RESOURCE PROTECTION ORDINANCE PERMIT FINDINGS:

1. The proposed development will not adversely affect the City of San Diego's Progress Guide and General Plan.

The proposed Project will not adversely affect the City's Progress Guide and General Plan. The Progress Guide and General Plan identifies the project site as an Area for Future Growth Land Use within the Future Urbanizing Area (FUA). Properties within the FUA are permitted to develop in accordance with their underlying zoning designation and in accordance with City Council Policy 600-29. Council Policy 600-29 presents four options for limited development in the FUA, one of which is Rural Cluster Development. Under this option, development is permitted at the density permitted by the property's underlying zone, but clustered in order to promote more efficient land utilization and land conservation. The Montecito sub-project would develop under this option by clustering development of 278 residential units into three planning

areas, preserving approximately 161.1 acres of the sub-project site in natural open space and revegetated manufactured slopes.

The proposed development is consistent with the proposed Rancho Encantada Precise Plan and approval of the Rancho Encantada Precise Plan would serve as an amendment to the General Plan to change the land use designations as applied to the site. The proposed development implements the proposed Precise Plan and City General Plan by providing a low density development on the Future Urbanizing Area property. The development proposes the dedication of substantial acreage of open space areas as MHPA land.

2. The proposed development will conform to the community plan for the area and any other applicable plans, policies and ordinances.

There is currently no community plan applicable to the Rancho Encantada project site. The Rancho Encantada Precise Plan has been prepared for the project site and will be adopted as a long range plan. The Rancho Encantada Precise Plan would be adopted as part of the Project and would implement, be a part of, and be consistent with the City's General Plan.

Although the City's Municipal Code (MC) was replaced by the Land Development Code (LDC) on January 1, 2000, the Rancho Encantada project is still subject to Municipal Code requirements because the project applications were deemed complete prior to the effective date of the LDC. Both MC and LDC zones are referenced herein.

The Montecito sub-project site is zoned RS-1-8 (formerly R1-40,000 under the MC). The City's R-1-8 zone is a residential zone that requires a minimum of 40,000 square feet per each residential unit. The Montecito sub-project is consistent with the R-1-8 zoning designation by proposing 277 single family residential lots on the site, clustered into three planning areas under the provisions of Council Policy 600-29.

Council Policy 600-29, "Maintenance of the Future Urbanizing Area as an Urban Reserve," was enacted to avoid premature urbanization, to conserve open space and natural environmental features and to protect the fiscal resources of the City by precluding costly sprawl and/or leapfrog urban development. The proposed Project is consistent with Council Policy 600-29 as described above.

Council Policy 600-40 provides that a development suitability analysis be conducted as a first step in the preparation of a long range plan. The Project is consistent with Council Policy 600-40 in that the proposed Precise Plan has been designed to remain consistent with contiguous open space systems and to preserve sensitive environmental resources in open space. Implementation of the Rancho Encantada Precise Plan, of which Montecito is a sub-project, would preserve approximately 2,118 acres, or 80% of the Precise Plan area, as natural open space. Preserved open space would be consistent with contiguous open space systems to the east in the Sycamore Canyon County Open Space Preserve and to the north in the Beeler Canyon Wildlife Corridor. The proposed Project's physical site development, land use, circulation, and utilities will occur in

the western and central portions of the site, in areas least constrained by sensitive environmental resources.

The Project is consistent with the City of San Diego's Multiple Species Conservation Plan. Significant portions of the project site would be preserved as part of the City's Multiple Habitat Planning Area (MHPA). Areas designated as MHPA would be preserved in perpetuity by either conveyance of the MHPA area to the City of San Diego or through the establishment of permanent conservation easements. An MHPA boundary adjustment is proposed which would increase the overall size of the MHPA by 348.3 acres, while achieving greater biological functions and value than the existing MHPA. There would be no significant impacts to the habitats, wildlife movement, preserve conservation or management of the MHPA. The proposed Project would be consistent with the MHPA guidelines by preserving approximately 75 acres of the site as natural open space.

3. The proposed development will be sited, designed, constructed and maintained to minimize, if not preclude, adverse impacts on environmentally sensitive lands.

The proposed Rancho Encantada project, of which Montecito is a sub-project, has been designed to minimize disturbance to sensitive biological resources and hillsides and will disturb approximately 87.5 acres less land area than permitted by RPO's encroachment allowances for steep slopes and sensitive biological resources. The Project conforms to the intent and purpose of RPO, notwithstanding the fact that the Project would impact 0.01-acre of wetlands on the Montecito sub-project site, 0.02-acre of wetlands on the Montecito sub-project site due to a sewer pump station, and 0.53-acre of wetlands on the Sycamore Estates sub-project site.

Portions of the Montecito and Sycamore Estates sub-projects are located within the MHPA and as a component of the proposed Project, the existing MHPA would be expanded by 348.3 acres. The Project will mitigate upland habitat impacts through on-site preservation within the MHPA.

Impacts to 0.01-acre of natural flood channel would occur on the Montecito sub-project site and impacts to 0.53-acre of natural flood channel would occur on the Sycamore Estates sub-project site. In addition, 0.02-acre of natural flood channel would be impacted from construction of the sewer pump station. The Project has been designed such that all on-site mulefat scrub, southern willow scrub, freshwater marsh and wet meadow (freshwater seep) habitat will be preserved in open space, and impacts to natural flood channel have been reduced to the maximum extent possible. All natural flood channel impacts are the result of utility and infrastructure improvements, including a water line, sewer pump station, detention basins and roadway improvements.

The 0.01-acre of impact on the Montecito sub-project site would be caused by the installation of a water line. This 0.01-acre impact cannot be avoided or further reduced because the water line is necessary to form a loop system for the Project and must connect to an existing water line in Pomerado Road by crossing the natural flood channel in the sub-project site's westernmost canyon.

The 0.02-acre of impact on the Montecito sub-project site caused by the sewer pump station also cannot be avoided or further reduced because it is necessary to place the sewer pump station at the lowest elevation on the site, at which point it would be necessary to pump sewage uphill. This point is just west of the natural flood channel, and during construction of the pump station, 0.02-acre of wetland impact would occur.

The 0.53-acre of impact on the Sycamore Estates sub-project site is the result of detention basins, a sewer line, the construction of Rancho Encantada Parkway, and improvements proposed to Beeler Canyon Road. The detention basins are necessary to reduce peak flow volumes leaving the site to pre-development levels and to improve water quality. These basins must be located in the natural flood channel because that is the location where water naturally flows. The sewer line will be located adjacent to the detention basins and must be located at the lowest site elevation in order to achieve gravity flow. In the western portion of the sub-project site, Rancho Encantada Parkway would cross the natural flood channel. In this location, Rancho Encantada Parkway follows the alignment of an existing on-site dirt roadway and is aligned here because the least amount of grading and disturbance area would be necessary to achieve its construction. Improvements to Beeler Canyon Road are necessary to meet City Engineering standards.

4. The proposed development will be sited and designed to prevent adverse impacts on any environmentally sensitive lands and resources located in adjacent parks and public open-space areas and will provide adequate buffer areas to protect such resources.

The Rancho Encantada site is bounded to the west by Pomerado Road and developed communities in the City of San Diego and as such, no environmentally sensitive lands exist to the west.

To the north is the City of Poway and the South Poway Business Park; however, between the business park and the Rancho Encantada site is the Beeler Canyon Regional Wildlife Corridor, as defined by the City of Poway Habitat Conservation Plan. The northern portions of the project site form the southern slope of Beeler Canyon. The on-site portion of the MHPA in this area borders City of Poway open space, although there are approximately 10 existing homes along Beeler Canyon Road directly to the north of the site. In addition, there are two existing homes within the MHPA in this area. Given the width of the Beeler Canyon Regional Wildlife Corridor in this location (1,200 to 1,600 feet) and the addition of open space provided by the Project, this corridor would continue to function effectively as a regional wildlife corridor. Although the Montecito sub-project would reduce the corridor width in two areas, this change in width is not considered a significant impact.

The Sycamore Canyon County Open Space Preserve, a public park operated by the County of San Diego, is located to the east of Rancho Encantada. The Sycamore Canyon Wildlife Corridor also traverses through this area. The eastern portion of the Sycamore Estates sub-project site is in the City's MHPA and will be preserved as permanent open space. As such, no impacts to the open space preserve would occur.

To the south in Marine Corps Air Station (MCAS) Miramar. The area east of I-15, including the portion of MCAS Miramar south of Rancho Encantada, is used for military training purposes. A San Diego Gas and Electric Company (SDG&E) utility substation is located on the MCAS Miramar property, approximately 200 feet south of the project site boundary, and a U.S. Forest Service facility used for vehicle repair and equipment storage is located southeast of the substation. Also, the military is considering four locations for the development of up to 1,600 military housing units. One of the locations under consideration is located immediately south of the Rancho Encantada project site. A Draft Integrated Natural Resources Management Plan (DINRMP) for MCAS Miramar is currently under review by the federal government. The DINRMP will govern MCAS Miramar's natural resource management program and the military operational requirements of the air station for the next five years. The proposed Project does not propose any off-site grading or brush management on MCAS Miramar property, and provides for natural open space and/or revegetated manufactured slopes as buffers between the site and the federal government property.

In summary, the configuration of open space to be retained on the Rancho Encantada project site would be consistent with that anticipated in the City of San Diego's adopted MSCP Subarea Plan, and would not significantly impact existing wildlife corridors or adjacent public lands. Overall project design would maintain the integrity of the preserve design mapped in the Final MSCP, City of Poway MSCP, and City of San Diego MSCP plans.

5. 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 development will alter existing natural landforms in areas proposed for development. However, development has been clustered onto the least environmentally sensitive portions of the site to preserve portions of the site's natural landforms in open space. Exterior manufactured slopes will be contour graded and revegetated with native plant species to mimic the natural landform. No area of a portion of the site to be developed is covered by a 100-year floodplain, so flood hazards are not present on the proposed developed site. With the application of mitigation measures specified in the Project's EIR, the Project will not result in undue risks from geological hazards, erosional forces or fire hazards. Structural and non-structural Best Management Practices (BMPs) consisting of swales, filter strips, infiltration basins, detention controls, and housekeeping measures will be implemented to reduce erosion and sedimentation. The Project has been designed to provide a circulation system that accommodates appropriate fire and safety vehicle access and the required brush management zones that separate industrial structures from potential fire hazards. In addition, prior to the issuance of building permits for each development phase on the Sycamore Estates sub-project site, a fire response time analysis will be prepared, and if any structure is located outside of a six-minute response time from an existing or planned fire station, a fire sprinkler system will be installed.

6. Feasible measures, as defined in this section, to protect and preserve the special character or the special historical, architectural, archaeological or cultural value or

the affected significant prehistoric or historic site or resource have been provided by the applicant.

Cultural resource surveys of the project site have been conducted. No cultural resource sites are located on the Montecito sub-project site. No known paleontological resources are located on the site, but because the potential for such resources exists, a paleontologist or paleontological monitor will be on site full-time during the initial cutting of previously undisturbed areas. In the event that resources are found, the paleontologist will have the authority halt construction activities.

III. RESOURCE PROTECTION ORDINANCE PERMIT ALTERNATIVE COMPLIANCE FINDINGS:

Section 101.04623.0012 of the Municipal Code provides for alternative compliance with the resource protection ordinance (RPO) if “the strict application of this section would either: 1) result in unnecessary hardship to the applicant; or 2) create conflict with City Council policy, the Progress Guide and General Plan, or any adopted community plan; or 3) preclude provisions of extraordinary benefit to the public.” The following findings are offered in support of each of these alternative compliance procedures.

1. There are special circumstances or conditions applying to the land that are peculiar to such land and not of the applicant’s making whereby the strict application of the provisions of this section would deprive the property owner from reasonable use of the land.

RPO stipulates that impacts shall not occur to the 100-year floodplain, cultural resources and wetlands, and provides encroachment provisions for sensitive hillsides and biological resources, and wetlands. The project meets the RPO encroachment provisions for hillsides and biological resources and no 100-year floodplain exists on the portion of the site to be developed. The Project conforms to the intent and purpose of RPO, notwithstanding the fact that the Project would impact wetlands. Because the Project would impact wetlands, the Project is seeking alternative compliance. The Project is constrained by the location of natural flood channel in the westernmost canyon of the Montecito sub-project site. The final Project design results in wetland disturbance that is the minimum necessary to afford relief from the special conditions of the land not of the applicant’s making. The Project design is the result of a reiterative process involving several redesigns which were intended to avoid impacts to wetlands to the maximum extent feasible.

Wetlands: Impacts to 0.01-acre of natural flood channel would occur on the Montecito sub-project site. In addition, 0.02-acre of natural flood channel would be impacted from construction of the sewer pump station. The Project has been designed such that all on-site mulefat scrub, southern willow scrub, freshwater marsh and wet meadow (freshwater seep) habitat will be preserved in open space, and impacts to natural flood channel have been reduced to the maximum extent possible. All natural flood channel impacts are the result of utility and infrastructure

improvements, including a water line, sewer pump station, detention basins and Rancho Encantada Parkway.

The 0.01-acre of impact on the Montecito sub-project site would be caused by the installation of a water line. This 0.01-acre impact cannot be avoided or further reduced because the water line is necessary to form a loop system for the Project and must connect to an existing water line in Pomerado Road by crossing the natural flood channel in the sub-project site's westernmost canyon. The natural flood channel traverses the bottom of this canyon in a north/south direction, and one perpendicular crossing is necessary for a domestic water system design that meets engineering standards.

The 0.02-acre of impact on the Montecito sub-project site caused by the sewer pump station also cannot be avoided or further reduced because it is necessary to place the sewer pump station at the lowest elevation on the site, at which point it would be necessary to pump sewage uphill. This point is just west of the natural flood channel, and during construction of the pump station, 0.02-acre of wetland impact would occur.

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

The Project's design has incorporated all feasible measures to minimize impacts to environmentally sensitive lands and there are no other feasible measures that can further minimize the potential adverse effects to wetlands. As noted in Finding 1, the Project has been designed such that all on-site mulefat scrub, southern willow scrub, freshwater marsh and wet meadow (freshwater seep) habitat will be preserved in open space. All natural flood channel impacts are the result of utility and infrastructure improvements necessary for the project's water and sewer system, drainage system, and from the construction of Rancho Encantada Parkway. Additional mitigation measures are not feasible or warranted. All wetland impacts will be fully mitigated through on-site wetland habitat restoration or creation. All impacts to wetlands will be mitigated "in-kind" and achieve "no-net-loss" of wetland function and values. Wetland habitat restoration plans have been prepared for the Montecito sub-project in compliance with the City's Biology Guidelines, and revegetation and/or creation will occur adjacent to existing wetland habitat and within the project boundaries. The habitat restoration plan will include a monitoring and maintenance program to ensure the success of the wetland mitigation.

3. Alternative compliance for the development will not adversely affect the Progress Guide and General Plan for the City of San Diego.

The proposed development will not adversely affect the City of San Diego's Progress Guide and General Plan. The proposed development, a neighborhood containing single family residential homes, is consistent with the land use recommendations of the adopted Progress Guide and General Plan. The Progress Guide and General Plan identifies the project site as an Area for Future Growth Land Use within the Future Urbanizing Area (FUA). Properties within the FUA are permitted to develop in accordance with their underlying zoning designation and in accordance with City Council Policy 600-29. The Project is consistent with this Council Policy by

clustering development on the least environmentally sensitive portions of the site at densities allowed by the Policy. The Project is consistent with the Housing Element and is regarded as a positive contribution to the City's housing stock by providing housing opportunities in the northeast portion of the city. Consistency with the Open Space Element is achieved by preserving approximately 2,118 acres, or 80 percent of the Precise Plan area, as natural open space. A conflict with the Industrial Element would occur from rezoning portions of the Sycamore Estates sub-project site from industrial to agricultural-residential, but this inconsistency is a land use issue that does not relate to wetland impacts.

4. The proposed development will conform to the adopted community plan for the area and any other applicable plans, policies, and ordinances.

There is currently no community plan applicable to the Rancho Encantada project site. The Rancho Encantada Precise Plan has been prepared for the project site and will be adopted as a long range plan. The Rancho Encantada Precise Plan would be adopted as part of the Project and would implement, be a part of, and be consistent with the City's General Plan.

Zoning: Although the San Diego Municipal Code (SDMC) was replaced by the Land Development Code (LDC) on January 1, 2000, the Rancho Encantada project is still subject to Municipal Code requirements because the Montecito and Sycamore Estates sub-project applications were deemed complete prior to the effective date of the LDC. Both SDMC and LDC zones are referenced herein.

The Montecito sub-project site is zoned RS-1-8 (previously referred to as R1-40,000). The City's R-1-8 zone is a residential zone that requires a minimum of 40,000 square feet per each residential unit. The Montecito sub-project is consistent with the R-1-8 zoning designation by proposing 277 single family residential lots on the site, clustered into three planning areas under the provisions of Council Policy 600-29.

The City of San Diego owned parcel is zoned OP-2-1, an open space designation, and is part of the MHPA. This parcel will be preserved as MHPA open space.

Policies: Council Policy 600-29, "Maintenance of the Future Urbanizing Area as an Urban Reserve," was enacted to avoid premature urbanization, to conserve open space and natural environmental features and to protect the fiscal resources of the City by precluding costly sprawl and/or leapfrog urban development. The proposed Project is consistent with Council Policy 600-29 as described above under Item 1.

Council Policy 600-40 provides that a development suitability analysis be conducted as a first step in the preparation of a long range plan. The Project is consistent with Council Policy 600-40 in that the proposed Precise Plan has been designed to remain consistent with contiguous open space systems and to preserve sensitive environmental resources in open space. Implementation of the Rancho Encantada Project, of which Montecito is a sub-project, would preserve approximately 2,118 acres, or 80% of the Precise Plan area, as natural open space. Preserved open space would be consistent with contiguous open space systems to the east in the Sycamore Canyon County

Open Space Preserve and to the north in the Beeler Canyon Wildlife Corridor. The proposed Project's physical site development, land use, circulation, and utilities will occur in the western and central portions of the site, in areas least constrained by sensitive environmental resources.

Plans: The Project is consistent with the City of San Diego's Multiple Species Conservation Plan. Significant portions of the project site would be preserved as part of the City's Multiple Habitat Planning Area (MHPA). Areas designated as MHPA would be preserved in perpetuity by either conveyance of the MHPA area to the City of San Diego or through the establishment of permanent conservation easements. An MHPA boundary adjustment is proposed which would increase the overall size of the MHPA by 348.3 acres, while achieving greater biological functions and value than the existing MHPA. There would be no significant impacts to the habitats, wildlife movement, preserve conservation or management of the MHPA. The proposed Project would be consistent with the MHPA guidelines by preserving approximately 75 percent of the site as natural open space.

IV. BRUSH MANAGEMENT FINDINGS:

1. The proposed Brush Management Program, to the extent feasible, will not adversely affect floodplains, biologically sensitive lands, hillsides, significant prehistoric sites and resources, and wetlands as defined in the Resource Protection Ordinance, San Diego Municipal Code Section 101.0462.

The proposed Brush Management Program, by providing the brush management zones of the Landscape Regulation in the Land Development Code as referenced by the Biology Guidelines adopted by the City Council under Ordinance - 18451, and additional guidelines of the Landscape Technical Manual as shown on Exhibit 'A', will modify the existing vegetation to the least practical extent while still providing the necessary fire protection to persons and property as required by the Uniform Fire Code, appendix IIA. Plant materials in the Brush Management Zone Two will be selected to visually blend with the existing hillside vegetation and no invasive species shall be used.

2. The proposed Brush Management Program, to the extent feasible, will minimize the alterations of vegetation and will not result in undue risks from erosional forces.

The proposed Brush Management Program, by using Alternative Compliance Provision (Section 6.2 Landscape Technical Manual) and provisions of the Land Development Code Landscape Section 142.0412 (Brush Management), Ordinance - 18451, as shown on Exhibit 'A' will modify the existing vegetation to the least practical extent while still providing the necessary fire protection to persons and property as required by the Uniform Fire Code. All new plantings on slopes will conform to the Revegetation Standards of the Landscape Technical Manual, Section Seven and incorporate low precipitation irrigation systems to minimize runoff.

V. BRUSH MANAGEMENT ALTERNATIVE COMPLIANCE FINDINGS:

1. The proposed Brush Management Program will meet the purpose and intent of the Uniform Fire Code.

The proposed development complies with the purpose and intent by providing an effective fire break while minimizing the potential for soil erosion by incorporating Zone Reduction and the Alternative Compliance provisions consistent with Landscape Technical Manual Section seven, and brush management zones of the Land Development Code Section 142.0412, Ordinance - 18451.

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

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

3. The provision as outlined in Section 6.6-2 of the document entitled 'City of San Diego Landscape Technical Manual', (on file in the office of the City Clerk as document number RR-274506) shall be satisfied and the proposed development shall provide other fire resistive features as required by the Fire Chief.

The Architectural Features (Section 6.6-2 of the Landscape Technical Manual and Section 142.0412 of the Land Development Code, Ordinance - 18451) of the Landscape Technical Manual have been incorporated into the project per Exhibit 'A'. No other fire resistive features are required by the Fire Chief.

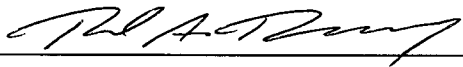
4. Compliance with the provision of this section in addition to any other applicable adopted plans or ordinances would preclude any reasonable development on the site.

Due to site constraints, including the Multiple Habitat Planning Area (MHPA) boundary line of the Multiple Species Conservation Program (MSCP), this project would encroach into sensitive habitat and the adjoining property therefore the Alternative Compliance Provision of the Landscape Technical Manual has been implemented to allow for reasonable development of the site. A modified Brush Management Program is provided which supports the purpose and intent of the other applicable adopted plans and ordinances including the Biology Guidelines Ordinance No. O-18451, which references the Brush Management requirements of SDMC section 142.0412, while providing the necessary fire protection as required by the Uniform Fire Code on this site.

The above findings are supported by the minutes, maps and exhibits, all of which are herein incorporated by reference.

BE IT FURTHER RESOLVED, that the recommendation of the Planning Commission is sustained, and Planned Residential Development/Resource Protection Ordinance Permit No. 99-0295 is granted to Sycamore Estates II, LLC, Owner/Permittee, subject to the terms and conditions set forth in the permit attached hereto and made a part hereof.

APPROVED: CASEY GWINN, City Attorney

By 
for Mary Jo Lanzafame
Deputy City Attorney

MJL:lc
10/30/01
11/05/01 COR.COPY
Or.Dept:Clerk
R-2002-427
Form=permitr.frm
Reviewed by Mike Westlake

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 PERMIT/
RESOURCE PROTECTION ORDINANCE PERMIT NO. 99-0295 (MMRP)
MONTECITO
CITY COUNCIL**

This Permit is granted by the Council of the City of San Diego to SYCAMORE ESTATES II, LLC, Owner and Permittee, pursuant to the San Diego Municipal Code [SDMC]. The 278-acre site is located east of Pomerado Road between Spring Canyon Road and Creek Road in the RS-1-8 zone (previously referred to as the R1-40,000 zone) of the City's Future Urbanizing Area. The project site is legally described as being a Subdivision of a Portion of the Southeast Quarter of the Southeast Quarter of the Southwest Quarter of Section 26 along with a portion of the Southwest Quarter of Section 25, Township 14 South, Range 2 West, San Bernardino Meridian.

Subject to the terms and conditions set forth in this permit, permission is granted to Owner/ Permittee to develop 277 single-family homes described as, and identified by size, dimension, quantity, type and location on the approved Exhibit "A," dated August 7, 2001, on file in the Development Services Department. The facility shall include:

- a. 277 single-family homes; and
- b. Landscaping (planting, irrigation and landscape related improvements); and
- c. Off-street parking facilities; and
- d. 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 Land Development 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/Land Development 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 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 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 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 August 7, 2001, on file in the Development Services 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.

ENVIRONMENTAL/MITIGATION REQUIREMENTS:

11. Prior to the issuance of any grading permits, the Permittee shall deposit \$7,200 with the Environmental Analysis Section of the Development Services Department to cover the City's

costs associated with ensuring the implementation of the Mitigation, Monitoring, and Reporting Program.

12. The permittee shall comply with the Mitigation, Monitoring, and Reporting Program [MMRP] for the Montecito sub-project specified in the Rancho Encantada Environmental Impact Report (LDR No. 99-1094) to the satisfaction of the Environmental Review Manager and/or the City Engineer in the following issue areas: Landform/Visual Quality, Biological Resources, Geology/Soils, Hydrology/Water Quality, Transportation, Noise, Air Quality, Paleontological Resources, Public Services, and Water Conservation.

PLANNING/DESIGN REQUIREMENTS:

13. 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.

14. 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.

15. A topographical survey conforming to the provisions of the Municipal/Land Development Code 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.

16. 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.

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

- a. Approved project sign plan (Exhibit "A," dated August 7, 2001, on file in the Development Services Department); or
- b. Citywide sign regulations.

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

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

LANDSCAPE REQUIREMENTS:

20. No change, modification or alteration shall be made to the project unless appropriate application or amendment of this Permit shall have been granted by the City.

21. 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 for each street tree location. Each street tree location must take into account a 40 square feet area around each tree which is unencumbered by utilities. Driveways, utilities, drains, water and sewer laterals shall be designed so as not to prohibit the placement of street trees. Location of street trees shall be identified and reserved during improvement activities and on all site plans prepared for subsequent building permit applications with actual installation taking place prior to final inspection. The construction documents shall be in substantial conformance with Exhibit "A," dated August 7, 2001, on file in the Development Services Department.

22. Prior to issuance of any engineering permits for grading, construction documents for slope planting or revegetation and hydroseeding of all disturbed land including irrigation shall be submitted in accordance with the Landscape Standards and to the satisfaction of the City Manager. All plans shall be in substantial conformance to Permit 99-0295 (including Environmental conditions) and Exhibit "A," dated August 7, 2001, on file in the Development Services Department.

23. 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 within 30 days of the completion of grading. 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 Standards.

24. 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.

25. 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.

26. 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 Landscape Standards 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. In this case, a Landscape Maintenance Agreement shall be submitted for review by a Landscape Planner.

27. 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 and/or replaced in kind and equivalent size per the approved documents to the satisfaction of the City Manager within 30 days of damage or Certificate of Occupancy.

BRUSH MANAGEMENT REQUIREMENTS:

28. The Permittee shall implement the following requirements in accordance with the Brush Management Program shown on Brush Management Program/Landscape Concept Plan, Exhibit "A," Brush Management Program/Landscape Concept Plan, dated August 7, 2001, on file in the Development Services Department.

29. 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," Brush Management Program/Landscape Concept Plan, dated August 7, 2001, on file in the Development Services Department.

30. 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 Marshall. The construction documents shall be in substantial conformance with Exhibit "A," dated August 7, 2001, on file in the Development Services Department, and shall comply with the Uniform Fire Code (SDMC § 55.0889.0201), the Landscape Standards and the SDMC section 142.0412 (Ordinance No. O-18451), as well as the natural slope restoration program which has been modified to exclude supplemental irrigation.

31. The construction documents shall conform to the Architectural features as described in SDMC section 142.0412(d).

32. Within Zone One combustible accessory structures (including, but not limited to decks, trellises, gazebos, etc) are not permitted while non-combustible accessory structures may be

approved within the designated Zone One area subject to Fire Marshall and the City Manager's approval.

33. Provide the following note 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."

34. The Brush Management Program shall consist of two zones consistent with the Brush Management regulations of the SDMC section 142.0412 as follows:

Lot #	All West of I-805	Zone One	Zone Two
1-13		35'	50'
89-94		35'	50'
95-99		35'	40'
100-109		35'	50'
110-117		35'	50'
118-122		35'	40'
146		35'	40'
170-17		35'	40'
172-180		35'	50'
181-182		35'	40'
183-187		35'	50'
219-220		35'	50'
221-222		35'	***
223 *		35'	50'
224		35'	50'
238		35'	50'
239		35'	**
240		35'	50'
241-243		35'	***
244-246		35'	50'
247-248		35'	50'
249-256		35'	40'
266-267		35'	50'
270-276		35'	50'
277		35'	40'

* = No Zone 2 on south side of property line with the addition of a 6 foot, 1-hour rated fire wall.

** = No Zone 2 with the addition of a 6 foot, 1-hour rated fire wall.

*** = No Zone 2 required, 30 foot irrigated Zone 1 on permanent irrigated slope.

35. In Zone 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 Development Services Department.

36. The Brush Management Program shall be maintained at all times in accordance with the City of San Diego's Landscape Standards.

WATER REQUIREMENTS:

37. Prior to the issuance of any building permits, the developer shall assure, by permit and bond, the design and construction of certain portions of public water facilities, identified in accepted studies, necessary to provide service to this development and extending to the subdivision boundary, in a manner satisfactory to the Water Department Director and the City Engineer. Redundancy shall be maintained throughout construction phasing. This development shall be served by a public water.

38. Prior to the issuance of any building permits, the developer shall install fire hydrants at locations satisfactory to the Fire Department, the Water Department Director, and the City Engineer. Fire hydrants within easements having no curbs or rolled curbs shall have protective posts per SDW-102.

39. If the Scripps Poway Parkway Pump Station (SPPPS) has not previously been assured, by permit and bond, then prior to the issuance of any building permits, the developer shall assure, by permit and bond, the construction of the Scripps Poway Parkway Water Pump Station, in a manner satisfactory to the Water Department Director and the City Engineer.

40. Prior to the issuance of any building or engineering permits, the developer shall grant adequate water easements over all public water facilities that are not located within fully improved public rights-of-way, satisfactory to the Water Department Director and the City Engineer. Easements, as shown on approved Exhibit "A," dated August 7, 2001, on file in the Development Services Department, will require modification based on standards and final engineering.

41. Prior to the issuance of any building permits, the developer shall process encroachment maintenance and removal agreements for all acceptable encroachments of structures or landscaping into any easement. No structures or landscaping of any kind shall be installed in or over any vehicular access roadway.

42. 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 Facility Design Guidelines and City regulations, standards and practices pertaining thereto. Water facilities that do not meet the current standards shall be redesigned.

43. If public water facilities are located behind locked gates or bollards, then prior to the issuance of any building permits, the developer shall provide keyed access to the Water Operations Division in a manner satisfactory to the Water Department Director and the City Engineer. The City will not be held responsible for any issues that may arise relative to the availability of keys.

SEWER REQUIREMENTS:

44. Prior to the submittal of any public improvement drawings or issuance of any building permits, the developer shall assure, by permit and bond, the design and construction of certain sewer facilities, necessary to provide sewer service to this development in a manner satisfactory to the Metropolitan Wastewater Department Director.

45. The subdivider agrees to design all public sewer facilities in accordance with the established criteria in the most current edition of the City of San Diego sewer design guide. Proposed facilities that do not meet the current standards shall be private or redesigned.

INFORMATION ONLY

Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of this development permit, may protest the imposition within 90 days of the approval of this development permit by filing a written protest with the City Clerk pursuant to California Government Code section 66020.

Approved by the Council of the City of San Diego on August 7, 2001, by Resolution No. R-295406.

10/30/01
L:\LANZAFAM\Resos\Reso2002\R-295406_Permit-MontecitoPRD-RPO.wpd

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.

SYCAMORE ESTATES II, LLC
Owner/Permittee

By _____

By _____

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

11/5/01
L:\LANZAFAM\Resos\Reso2002\R-295406_Permit-MontecitoPRD-RPO.wpd