

RESOLUTION NUMBER R-295654

ADOPTED ON OCTOBER 30, 2001

WHEREAS, Scripps Pomerado, L.L.C., Owner, and Cal Sun Development Company, Permittee, filed an application with the City of San Diego for a Planned Development Permit/Site Development Permit to construct twenty-seven two-story single-family homes, known as the Scripps Pomerado project, located at the southeast corner of the intersection of Pomerado Road and Spring Canyon Road, and legally described as Portions of the Southeast Quarter and Southwest Quarter of the Southwest Quarter, Section 26, Township 14 South, Range 2 West, and the Northwest Quarter of Section 35, Township 14 South, Range 2 West, San Bernardino Base Meridian, in the Scripps Miramar Ranch Community Plan area, in the CN zone, which is proposed to be rezoned to the RX-1-2 zone; and

WHEREAS, on August 30, 2001, the Planning Commission of the City of San Diego considered Planned Development/Site Development [PD/SD] Permit No. 40-0789, and pursuant to Resolution No. 3171-PC voted to recommend City Council approval of the permit; and

WHEREAS, the matter was set for public hearing on October 30, 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 PD/SD Permit No. 40-0789:

A. FINDINGS FOR PLANNED DEVELOPMENT PERMIT APPROVAL - SAN DIEGO MUNICIPAL CODE SECTION 126.0604:

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

The proposed land use identified in the Scripps Miramar Ranch Community Plan for the proposed project site is Neighborhood Commercial, with an optional designation of medium density residential (10-15 Dwelling Unit/net acre) if commercial use is not feasible. The proposed Scripps Pomerado project proposes construction of twenty-seven single family residences with a calculated density of 11.1 dwelling units per acre, and is therefore consistent with the optional land use designation of the Community Plan. It has been determined by the applicant and concurred with by staff that the project site is not feasible for commercial use due to a number of site constraints, as described in the "Commercial/Retail Development Feasibility Study" completed by 3rd Works. Due to a grade differential between the northern boundary of the parcel and the adjacent public right-of-way, the site can only be accessed by northbound traffic on Pomerado Road, which seriously impacts the marketability of the site for commercial use. In addition, the shopping needs of the surrounding residential areas are satisfied by the multiple neighborhood and community-serving commercial centers which have developed within the Scripps Ranch Community and the adjacent City of Poway. Therefore, the proposed development of twenty-seven single family homes on the subject site fulfills the optional use identified in the Scripps Ranch Community Plan and will not adversely affect the land use plan.

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

The proposed Scripps Pomerado project will allow development of twenty-seven two-story detached single family residences on a 3.66 acre site located in the southeast corner of the intersection of Pomerado Road (south) and Spring Canyon Road. The project includes a Tentative Map which would create thirty-one new legal parcels, including one passive recreation open space lot (0.13 acre) and three landscaped common lots (totaling 0.39 acre).

An Environmental Initial Study was completed for the project and it was determined that a Mitigation, Monitoring and Reporting Program [MMRP] in the area of Biological Resources would be required to reduce potentially significant impacts to below a level of significance. Implementation of the MMRP, as required, will serve to protect the public welfare.

The project has been designed to comply with all applicable health and safety codes and regulations, including those pertaining to traffic design, pedestrian access, handicap access, and fire and emergency access. The proposed bulk and scale of the residences is consistent with the neighborhood scale of the adjacent residential developments. The project includes three different designs/floor plans for the residences, each with a front porch area and a two car garage. The lot configuration of the project and the architecture of the residential units have been designed to promote a pedestrian friendly environment and to increase the "eyes on the street." This will serve to enhance public safety and welfare. The proposed development will provide comfortable, attractive housing and will not be detrimental to the public health, safety, or welfare.

3. The proposed development will comply with the regulations of the Land Development Code.

The proposed Scripps Pomerado project is in compliance with almost all applicable regulations of the Land Development Code, including floor area ratio [FAR], set backs, parking, pedestrian access, traffic, landscaping, and fire and emergency access. One deviation is requested with this project: a wall height deviation to allow the keystone retaining wall along the eastern border of the site to have a maximum height of 17.1 feet, where a maximum of 12 feet is allowed by regulation.

The proposed keystone retaining wall runs approximately 565 feet along the eastern border of the site and varies in height from 1 foot at the southern terminus to a maximum of 24 feet at the northern end. This wall is needed to retain the fill slope that is proposed for this project in order to create useable building pads along the eastern edge and to achieve gravity sewer flow from the proposed residences to an existing sewer line in Pomerado Road (south). The proposed height is the minimum necessary to accommodate a gravity-flow sewer system. As initially proposed by the applicant, the wall height reached a maximum height of 24 feet. The wall design and the proposed lot configurations were modified during the project review process to reduce the potential visual impacts. The currently proposed keystone wall would have a maximum height of 17.1 feet and would be planted with ornamental vines following installation and screened with additional tree plantings. As currently proposed and conditioned, the keystone wall would not create a significant adverse visual impact. Although the wall would be visible to pedestrian and vehicular traffic headed westbound on Pomerado Road, it would not be within a designated public view corridor and would not diminish views of the adjacent open space east of the proposed development. Further, because the keystone wall would be located at the rear of the proposed development, would be oriented perpendicular to the Pomerado Road (east), and would be screened with landscaping, it would not detract from the neighborhood character of Scripps Miramar Ranch community, and allowing the deviation in wall height is in compliance with the intent of the regulations.

4. The proposed development, when considered as a whole, will be beneficial to the community.

The Scripps Pomerado project propose to construct twenty-seven two-story single family homes on a vacate 3.66 acre site at the southeast corner of the intersection of Pomerado Road (south) and Spring Canyon Road. The project includes one passive recreation open space lot (0.13 acre) and three landscaped common lots. The Scripps Miramar Ranch Community Plan designates the subject property for Neighborhood Commercial development, with an option to be developed with medium density residential units if commercial development is not feasible. It has been determined that the 3.66 acre site is not feasible for commercial development due to physical constraints of the site and the limited marketability of commercial uses for the site. The site has been previously graded, approximately ten years ago, and is currently undeveloped. The proposed residential development would provide twenty-seven new single family homes, with a calculated density of 11.1 DU/net acre, which is consistent with the optional designation for medium density residential development (10-15DU/NA) in the Community Plan. The proposed development will provide much needed new homes for the Scripps Ranch Community and will contribute to the housing stock of the City. The proposed development is compatible with the nearby residential developments in terms of bulk and scale and architectural styles, and will be an attractive addition

to the community. When considered as a whole, the Scripps Pomerado project will be beneficial to the community.

5. Any proposed deviations pursuant to Section 126.0602(b)(1) are appropriate for this location and will result in a more desirable project than would be achieved if designed in strict conformance with the development regulations of the applicable zone.

One deviation is requested with this project: a wall height deviation to allow the keystone retaining wall along the eastern border of the site to have a maximum height of 17.1 feet, where a maximum of 12 feet is allowed by regulation.

The proposed keystone retaining wall runs approximately 565 feet along the eastern border of the site and varies in height from 1 foot at the southern terminus to a maximum of 24 feet at the northern end. This wall is needed to retain the fill slope that is proposed for this project in order to create useable building pads along the eastern edge and to achieve gravity sewer flow from the proposed residences to an existing sewer line in Pomerado Road (south). The proposed height is the minimum necessary to accommodate a gravity-flow sewer system. As initially proposed by the applicant, the wall height reached a maximum height of 24 feet. The wall design and the proposed lot configurations were modified during the project review process to reduce the potential visual impacts. The currently proposed keystone wall would have a maximum height of 17.1 feet and would be planted with ornamental vines following installation and screened with additional tree plantings. As currently proposed and conditioned, the keystone wall would not create a significant adverse visual impact. Although the wall would be visible to pedestrian and vehicular traffic headed westbound on Pomerado Road, it would not be within a designated public view corridor and would not diminish views of the adjacent open space east of the proposed development. Further, because the keystone wall would be located at the rear of the proposed development, would be oriented perpendicular to the Pomerado Road (east), and would be screened with landscaping, it would not detract from the neighborhood character of Scripps Miramar Ranch community, and allowing the deviation in wall height is in compliance with the intent of the regulations.

B. FINDINGS FOR SITE DEVELOPMENT PERMIT APPROVAL - SAN DIEGO MUNICIPAL CODE SECTION 126.0504 - FINDINGS FOR ALL SITE DEVELOPMENT PERMITS:

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

The proposed land use identified in the Scripps Miramar Ranch Community Plan for the proposed project site is Neighborhood Commercial, with an optional designation of medium density residential (10-15 Dwelling Unit/net acre) if commercial use is not feasible. The proposed Scripps Pomerado project proposes construction of twenty-seven single family residences with a calculated density of 11.1 dwelling units per acre, and is therefore consistent with the optional land use designation of the Community Plan. It has been determined by the applicant and concurred with by staff that the project site is not feasible for commercial use due to a number of site constraints, as described in the "Commercial/Retail Development Feasibility Study" completed

by 3rd Works. Due to a grade differential between the northern boundary of the parcel and the adjacent public right-of-way, the site can only be accessed by northbound traffic on Pomerado Road, which seriously impacts the marketability of the site for commercial use. In addition, the shopping needs of the surrounding residential areas are satisfied by the multiple neighborhood and community-serving commercial centers which have developed within the Scripps Ranch Community and the adjacent City of Poway. Therefore, the proposed development of twenty-seven single family homes on the subject site fulfills the optional use identified in the Scripps Ranch Community Plan and will not adversely affect the land use plan.

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

The proposed Scripps Pomerado project will allow development of twenty-seven two-story detached single family residences on a 3.66 acre site located in the southeast corner of the intersection of Pomerado Road (south) and Spring Canyon Road. The project includes a Tentative Map which would create thirty-one new legal parcels, including one passive recreation open space lot (0.13 acre) and three landscaped common lots (totaling 0.39 acre).

An Environmental Initial Study was completed for the project and it was determined that a Mitigation, Monitoring and Reporting Program [MMRP] in the area of Biological Resources would be required to reduce potentially significant impacts to below a level of significance. Implementation of the MMRP, as required, will serve to protect the public welfare.

The project has been designed to comply with all applicable health and safety codes and regulations, including those pertaining to traffic design, pedestrian access, handicap access, and fire and emergency access. The proposed bulk and scale of the residences is consistent with the neighborhood scale of the adjacent residential developments. The project includes three different designs/floor plans for the residences, each with a front porch area and a two car garage. The lot configuration of the project and the architecture of the residential units have been designed to promote a pedestrian friendly environment and to increase the "eyes on the street." This will serve to enhance public safety and welfare. The proposed development will provide comfortable, attractive housing and will not be detrimental to the public health, safety, or welfare.

3. The proposed development will comply with the applicable regulations of the Land Development Code.

The proposed Scripps Pomerado project is in compliance with almost all applicable regulations of the Land Development Code, including Floor Area Ratio [FAR], set backs, parking, pedestrian access, traffic, landscaping, and fire and emergency access. One deviation is requested with this project: a wall height deviation to allow the keystone retaining wall along the eastern border of the site to have a maximum height of 17.1 feet, where a maximum of 12 feet is allowed by regulation.

The proposed keystone retaining wall runs approximately 565 feet along the eastern border of the site and varies in height from 1 foot at the southern terminus to a maximum of 24 feet at the northern end. This wall is needed to retain the fill slope that is proposed for this project

in order to create useable building pads along the eastern edge and to achieve gravity sewer flow from the proposed residences to an existing sewer line in Pomerado Road (south). The proposed height is the minimum necessary to accommodate a gravity-flow sewer system. As initially proposed by the applicant, the wall height reached a maximum height of 24 feet. The wall design and the proposed lot configurations were modified during the project review process to reduce the potential visual impacts. The currently proposed keystone wall would have a maximum height of 17.1 feet and would be planted with ornamental vines following installation and screened with additional tree plantings. As currently proposed and conditioned, the keystone wall would not create a significant adverse visual impact. Although the wall would be visible to pedestrian and vehicular traffic headed westbound on Pomerado Road, it would not be within a designated public view corridor and would not diminish views of the adjacent open space east of the proposed development. Further, because the keystone wall would be located at the rear of the proposed development, would be oriented perpendicular to the Pomerado Road (east), and would be screened with landscaping, it would not detract from the neighborhood character of Scripps Miramar Ranch community, and allowing the deviation in wall height is in compliance with the intent of the regulations.

C. FINDINGS FOR SITE DEVELOPMENT PERMIT APPROVAL - SAN DIEGO MUNICIPAL CODE SECTION 126.0504 - SUPPLEMENTAL FINDINGS-- ENVIRONMENTALLY SENSITIVE LANDS:

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

The 3.66 acre project site is currently undeveloped and all of the site has been disturbed by grading that was completed in 1991. The Scripps Pomerado project proposes to construct twenty-seven two-story single family residences and would also include one passive recreation open space lot (0.13 acre) and three landscaped common lots (totaling 0.39 acre). The project site has been previously graded and is physically suited for the proposed developed. Existing elevations ranging from 886 feet above mean sea level [AMSL] to 918 feet AMSL. The project has been designed to minimize the amount of grading that will be required in order to achieve gravity sewer flow for the residential units. The Environmental Initial Study for the proposed project determined that environmentally sensitive lands exists on site, even though the site was previously graded, and would be impacted by the proposed development. The project would impact 0.25 acre of disturbed Coastal Sage Shrub and 3.41 acres of non-native annual grassland. An additional 0.17 acre of non-native annual grassland and 0.03 acre of Coastal Sage Scrub would be temporarily impacted during construction of the keystone wall along the eastern property boundary. The project has been designed to minimize the temporary disturbance. All of the significant direct impacts would be mitigated to below significant levels with implementation of the Mitigation, Monitoring, and Reporting Program [MMRP] required for this project in accordance with Mitigated Negative Declaration No. 40-0789. The site is physically suitable for the design and siting of the proposed development and the development will result in minimum disturbance to environmentally sensitive lands.

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

Grading for the proposed project would include 450 cubic yards of cut and 23,350 cubic yards of imported fill, with a net fill import of 22,900 cubic yards. The amount of fill proposed is the minimum amount needed in order to accommodate gravity sewer flow for the residences and achieve the minimum housing density designated in the Community Plan. The maximum depth of fill on the site would be approximately 22 feet, in the northeast corner of the site. The project site was previously graded in 1991, and the grading proposed for the current project was designed to minimize further alterations of natural land forms while allowing gravity sewer flow to the existing sewer line. The proposed keystone retaining wall which would run approximately 565 feet along the eastern boundary of the site and range from one foot in height at the southern terminus to 17.1 feet at the north end, has been designed to minimize the appearance of land form alteration. The maximum wall height was reduced from the original proposal of 24.5 feet, and was redesigned and landscaped to soften and camouflage its presence.

The project has been designed in conformance with an accepted Geotechnical Investigation to minimize risks from geologic forces. The Investigation determined that no soil or geologic conditions exist on the site that would preclude the development of the proposed project. The recommendations of the Investigation have been incorporated into the project design and would be required to be followed during site grading. Surface runoff from the project site would be directed to an 18-inch drain line in the northeast corner of the site. During construction, Best Management Practices are required which would minimize surface runoff and reduce the potential for erosion. Implementation of the Brush Management Plan as required for this project would minimize fire hazards. The project site is not in a flood plain and is not subject to flooding. Based upon the preceding, it is concluded that the proposed development would minimize the alterations of natural landforms and would not result in undue risks from geological and erosional forces and/or flood and fire hazards.

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

The project site is located immediately southeast of the intersection of Pomerado Road (south) and Spring Canyon Road in the Scripps Miramar Ranch Community Plan area. The proposed development has been sited and designed to prevent adverse impacts on any adjacent environmentally sensitive lands. Lands designated as part of the Multi-Habitat Planning Area [MHPA] preserve of the City's Multiple Species Conservation Program [MSCP] are adjacent to the project site, to the south. The project site is bordered on the east by open space habitats proposed for conservation in association with the adjacent Rancho Encantada Specific Plan. The proposed project complies with the City's MHPA Land Use Adjacency Guidelines. The lots proposed along the MHPA boundary would be set back 80 to 100 feet. All street lighting proposed adjacent to the MHPA, as well as adjacent to the proposed open space east of the project site, would be shaded and directed away from these areas. Drainage from the proposed development would be directed to an existing 18-inch storm drain line at northeast corner of the site. Landscape plantings would consist either of native plant species or non-invasive ornamental

plant species. Thus, the proposed development would be sited and designed to prevent adverse impacts to adjacent environmentally sensitive lands.

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

The proposed project site is a vacant 3.66 acre parcel in the southeast corner of the intersection of Pomerado Road (south) and Spring Canyon Road in the Scripps Miramar Ranch Community Plan area. Although the project site is not in the MHPA of the City of San Diego MSCP Subarea Plan, the property is adjacent to the MHPA on the southern boundary. However, the site is physically separated from the MHPA by an existing private access road for the General Dynamic's property. The project as designed would comply with the MHPA Land Use Adjacency Guidelines. The lots proposed along the MHPA boundary would be set back 80 to 100 feet. All street lighting proposed adjacent to the MHPA, as well as adjacent to the proposed open space east of the project site, would be shaded and directed away from these areas. Drainage from the proposed development would be directed to an existing 18-inch storm drain line at northeast corner of the site. Landscape plantings would consist either of native plant species or non-invasive ornamental plant species. The project as currently designed and conditioned would be consistent with the MSCP Subarea Plan.

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

The proposed project site is more than thirteen miles from the Pacific Ocean and will not, therefore, likely contribute to the erosion of public beaches or adversely impact local shoreline sand supply. Furthermore, the project would be required to incorporate Best Management Practices during construction to minimize erosion, which will further reduce the possibility of any impact to beaches or shoreline.

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

An Environmental Initial Study was conducted for the proposed project and it was determined that the project would have a significant environmental effect to Biological Resources, specifically Coastal Sage Scrub [CSS] and non-native annual grassland. The proposed development would directly and permanently impact the 3.66 acres of the subject property (0.25 acres Coastal Sage Scrub and 3.41 acre on non-native annual grassland. An additional 0.17 acres of non-native annual grassland and 0.03 acres of CSS, totaling 0.20 acres would be temporarily impacted during construction of the keystone wall along the eastern property boundary. While temporary impact areas would be revegetated with a native species mix following site development, these impacts were counted as permanent impacts for mitigation purposes. The Mitigation, Monitoring, and Reporting Program [MMRP] for the proposed project would require the contribution of \$34,155 to the City of San Diego's Habitat Acquisition Fund or the preservation of 2.07 acres off-site of Tier I-III habitat within the MHPA or as appropriate outside the MHPA in accordance with the City's Biology Guidelines. Implementation of the MMRP

would alleviate the negative impacts to environmentally sensitive lands created by the proposed development.

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 Development/Site Development [PD/SD] Permit No. 40-0789 is granted to Scripps Pomerado, L.L.C., Owner, and Cal Sun Development Company, Permittee, under the terms and conditions set forth in the permit attached hereto and made a part hereof, and subject to the follow additional conditions:

1. That there will be no street pop-outs to be built with this project.
2. That Planned Development Permit condition number 47, second sentence, shall be modified to read: "The approved Brush Management Easement shall be recorded prior to issuance of building permits, on a lot by lot basis."

APPROVED: CASEY GWINN, City Attorney

By


Richard A. Duvernay
Deputy City Attorney

RAD:lc
02/04/02
Or.Dept:Clerk
R-2002-806
Form=permitr.frm
Reviewed by Vicky Gallagher

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 DEVELOPMENT PERMIT/
SITE DEVELOPMENT PERMIT NO. 40-0789 (MMRP)
SCRIPPS POMERADO
CITY COUNCIL**

This Permit is granted by the Council of the City of San Diego to Scripps Pomerado, L.L.C., a California limited liability company, Owner, and Cal Sun Development Company, a California limited liability company, Permittee, pursuant to the San Diego Municipal Code. The 3.66 acre site is located at the southeast corner of the intersection of Pomerado Road and Spring Canyon Road in the CN zone (proposed RX 1-2 zone) of the Scripps Miramar Ranch Community Plan area. The project site is legally described as Portions of the Southeast Quarter and Southwest Quarter of the Southwest Quarter of Section 26, Township 14 South, Range 2 West, and the Northwest Quarter of Section 35, Township 14 South, Range 2 West, San Bernardino Base Meridian.

Subject to the terms and conditions set forth in this permit, permission is granted to Owner/Permittee to allow development of twenty-seven two-story single-family homes described as, and identified by size, dimension, quantity, type and location on the approved Exhibit "A," dated October 30, 2001, on file in the Development Services Department. The facility shall include:

- a. Twenty-seven two-story single family homes with three different floor plans ranging in size from approximately 2,374 square feet to approximately 2,896 square feet; 4 open space lots with a total area of 0.53 acre;
- b. Landscaping (planting, irrigation and landscape related improvements);
- c. Off-street parking facilities;
- d. A 565 foot long keystone retaining wall along the eastern edge of the property, ranging in height from 2.5 feet to a maximum of 17.1 feet; and a separate 275 foot long masonry retaining wall along the northern edge of the property with a maximum height of 5 feet; 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 Land Development Code 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 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. 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.

8. 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 October 30, 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.

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

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

10. 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 Exhibit "A," dated October 30, 2001, on file in the Development Services Department).

ENVIRONMENTAL/MITIGATION REQUIREMENTS:

11. The applicant shall comply with the Mitigation, Monitoring, and Reporting Program [MMRP] as specified in the Scripps Pomerado Mitigated Negative Declaration (LDR No. 40-0789), satisfactory to the City Manager and the City Engineer. Prior to issuance of any grading permit, all mitigation measures as specifically outlined in the MMRP shall be implemented for the following issue areas: Biological Resources.

ENGINEERING REQUIREMENTS:

12. The Permit shall comply with the conditions of the final map for Scripps Pomerado Tentative Map No. 40-0789.

13. Vehicular access to the dwelling units within the subdivision shall be by a system of privately maintained, non-dedicated, private streets constructed in a manner satisfactory to the City Engineer.

PLANNING/DESIGN REQUIREMENTS:

14. No fewer than two (2) off-street parking spaces per single family residence shall be maintained on the property at all times in the approximate locations shown on the approved Exhibit "A," dated October 30, 2001, on file in the Development Services Department. Parking spaces shall comply at all times with requirements of the Municipal/Land Development Code and shall not be converted for any other use unless otherwise authorized by the City Manager.

15. 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.

16. 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.

17. 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.

18. 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.

19. No building additions, including patio covers, shall be permitted unless approved by the homeowners association and the Development Services Department Director. Patio covers may be permitted only if they are consistent with the architecture of the dwelling unit.

20. The keystone retaining wall shall be planted with vines and shall achieve eighty percent (80%) coverage within two (2) years.

21. 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 October 30, 2001, on file in the Development Services Department); or
 - b. Citywide sign regulations.
22. All private outdoor lighting shall be shaded and adjusted to fall on the same premises where such lights are located.
23. The use of textured or enhanced paving shall meet applicable City standards as to location, noise and friction values.
24. The subject property and associated common areas on site shall be maintained in a neat and orderly fashion at all times.
25. All uses, except storage and loading, shall be conducted entirely within an enclosed building. Outdoor storage of merchandise, material and equipment is permitted in any required interior side or rear yard, provided the storage area is completely enclosed by walls, fences or a combination thereof. Walls or fences shall be solid and not less than six feet in height and, provided further, that no merchandise, material or equipment stored not higher than any adjacent wall.
26. No mechanical equipment, tank, duct, elevator enclosure, cooling tower or mechanical ventilator or air conditioner shall be erected, constructed, converted, established, altered, or enlarged on the roof of any building, unless all such equipment and appurtenances are contained within a completely enclosed structure whose top and sides may include grillwork, louvers and latticework.
27. No merchandise, material or equipment shall be stored on the roof of any building.
28. No mechanical equipment shall be erected, constructed, or enlarged on the roof of any building on this site, unless all such equipment is contained within a completely enclosed architecturally integrated structure.

WASTEWATER REQUIREMENTS:

29. Prior to the issuance of any building permits, the developer shall assure, by permit and bond, the design and construction of certain sewer facilities, identified in the accepted study, necessary to provide sewer services to the proposed development in a manner satisfactory to the Metropolitan Wastewater Department Director.
30. The developer shall provide, satisfactory to the Metropolitan Wastewater Department Director, Covenant, Conditions and Restrictions [CC&Rs] for the operation and maintenance of on-site private sewer mains that serve more than one lot.

31. 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 UTILITIES REQUIREMENTS:

32. Prior to the issuance of any building permits, the developer shall assure, by permit and bond, the design and construction of a system of public 8-inch water facilities, located in Private Streets 'A' and 'B', connecting to existing public water facilities in Pomerado Road which operate at the 1150 HGL, in a manner satisfactory to the Water Department Director and the City Engineer.

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

34. Prior to the issuance of any building permits, the developer shall grant a water easement over Private Streets 'A' and 'B' in a manner satisfactory to the Water Department Director.

35. 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.

OPEN SPACE REQUIREMENTS:

36. Lots A, B, C, and D shall have building restricted easements and be owned and maintained by the H. O. A.

37. A five foot high fence shall be required on the top of the Keystone retaining wall for safety.

LANDSCAPE REQUIREMENTS:

38. Prior to issuance of any engineering permits for grading, construction documents for slope and retaining wall 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 40-0789 (including Environmental conditions) and Exhibit "A," dated October 30, 2001, on file in the Development Services Department.

39. 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 Standards.

40. Concurrent with construction permits for each residence, the installation of landscaping and irrigation on slopes and retaining walls shall be installed consistent with the Landscape Standards and approved Landscape Construction Documents. An observation of said slopes and walls shall be performed by the Landscape Architect and a letter of conformance shall be sent to the Landscape Section of Development Services Department.

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

42. 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.

43. The Owner/Permittee 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.

44. 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 thirty days of damage or Certificate of Occupancy.

BRUSH MANAGEMENT PROGRAM:

45. The Permittee shall implement the following requirements in accordance with the Brush Management Program shown on Exhibit "A," Brush Management Program/Landscape Concept Plan, dated October 30, 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," Brush Management Program/Landscape Concept Plan, dated October 30, 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 Marshall. The construction documents shall be in substantial conformance with Exhibit "A," Brush Management Program/Landscape Concept Plan, dated October 30, 2001, on file in the Development Services Department, and shall

comply with the Uniform Fire Code (SDMC section 55.0889.0201), the Landscape Standards and the SDMC section 142.0412 (Ordinance No. O-18451).

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

	<u>Zone One</u>	<u>Zone Two</u>
Lot # 4 to 13	30'	50'
Lot # 14 to 16	30'	40' with min 6' plantable retaining wall.

- d. The construction documents shall conform to the Architectural features as described in SDMC section 142.0412(d).
- e. 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.
- f. 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 Planning and Development Review Department to discuss and outline the implementation of the Brush Management Program."
- g. 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.

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

47. The applicant shall submit for review, a Brush Management Easement on adjacent property consistent with Exhibit "A," dated October 30, 2001, on file in the Development Services Department. The approved Brush Management Easement shall be recorded prior to issuance of building permits, on a lot by lot basis.

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

MULTIPLE SPECIES CONSERVATION PROGRAM [MSCP] REQUIREMENTS:

49. The project shall conform with the Land Use Adjacency Guidelines (Section 1.4.3) of the City MSCP Subarea Plan, as described below:

- a. All street lighting proposed adjacent to the MHPA shall be directed downward and away from the MHPA and would include bollard lighting facilities where appropriate. Prior to the issuance of any building permit for structures adjacent to the MHPA, a lighting design shall be provided to the City Manager for review and approval. The plans shall require that exterior lighting in development areas adjacent to the MHPA be limited and shall, shield, and direct all lighting away from native habitat. Lighting from homes abutting the MHPA shall be screened with vegetation. Large spot light type lighting that may affect conserved habitat shall be prohibited. The lighting design shall be noted and graphically shown on building and landscape plans and compliance with this measure shall be monitored by the City Manager.
- b. Prior to issuance of any building permits, a fence plan shall be provided to the City Manager for review and approval. The plan shall require fencing in all residential areas adjacent to the MHPA to prohibit access to the MHPA. The fencing design shall be indicated on building and landscaping plans and compliance with this measure shall be reviewed by the City Manager.
- c. Prior to commencement of grading activities, the City Manager shall review grading plans to ensure that berms, swales, detention basins, or other methods are used as needed to redirect drainage away from sensitive habitat within the MHPA. No direct drainage into the MHPA shall occur during and after construction.
- d. Prior to issuance of any building permits, the applicant shall submit final landscape plans for review and approval by the City Manager. Ornamental plant species used in the landscape plan will either be natives appropriate to the area or ornamental species that will not become naturalized in native habitat.

INFORMATION ONLY

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 90 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.

APPROVED by the Council of the City of San Diego on October 30, 2001, by Resolution No. R-295654.

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AUTHENTICATED BY THE CITY MANAGER

By _____

The undersigned Permittee, by execution hereof, agrees to each and every condition of this Permit and promises to perform each and every obligation of Permittee hereunder.

SCRIPPS POMERADO, LLC
Owner

By _____

CAL SUN DEVELOPMENT COMPANY
Permittee

By _____

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

2/4/02
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