

(R-2003-1078)

RESOLUTION NUMBER R-297679

ADOPTED ON FEBRUARY 25, 2003

WHEREAS, Pardee Homes, Owner/Permittee, filed an application with the City of San Diego for a permit to subdivide property by means of a tentative map, a planned development permit and site development permit for forty-seven single-family dwelling units, a high school site, a four lot employment center subdivision, park and ride, and 694 multi-family dwelling units, dedication of public streets, grading, landscaping and improvements in the public right-of-way known as the Pacific Highlands Ranch, Units 12-16 project, on portions of a 248.85 acre site located north of State Route 56, east and west of Carmel Valley Road, and legally described as being a Portion of Parcel 3 of Parcel Map 18971, filed May 23, 2002, together with a portion of the west half of the northwest quarter of Section 15, Township 14 South, Range 3 West, San Bernardino Meridian, according to official plat thereof all lying northerly and westerly of the San Diego Freeway 56, as described in deed recorded December 28, 2001 as file no. 2001-0965036 and February 26, 2001 as file no. 2002-0161208 of official records, in Pacific Highlands Ranch Subarea III, of the Carmel Valley Community Plan area, in the RM-1-2, RM-1-3, RX-1-1, IP-2-1, OC, and AR-1-1 zones; and

WHEREAS, on December 12, 2002, the Planning Commission of the City of San Diego considered Planned Development Permit [PDP] No. 9181/Site Development Permit [SDP] No. 9182, and pursuant to Resolution No. 3343--PC-2 voted to approve PDP No. 9181/SDP No. 9182; and

WHEREAS, Louis E. Goebel, attorney for appellant Robert D. Barczewski appealed the Planning Commission decision to the Council of the City of San Diego; and

WHEREAS, the matter was set for public hearing on February 25, 2003, 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 PDP No. 9181/SDP No. 9182:

A. PLANNED DEVELOPMENT PERMITS

1. The proposed development will not adversely affect the applicable land use plan. The Pacific Highlands Ranch Subarea III Plan identifies these sites for single-family residential development, core residential development, multi-family development, employment center development, a senior high school, open space, Caltrans right-of-way, and public right-of-way. The design of the subdivision, layout of the streets, creation of slopes, management of potential fuel sources which will reduce the risks of wild fires, improvements in the public right-of-way, installation of landscape, and construction of single-family and multi-family homes including affordable housing units, an employment center, and high school is consistent with the land use plan and other design criteria in the existing subarea plan. Being determined the proposed project is consistent with the community plan, the proposed project will not adversely affect the land use plan.

2. The proposed development will not be detrimental to the public health, safety, and welfare. The permit controlling the development and continued use of the subdivision and development proposed for this site contains conditions addressing the project compliance with the City's regulations and other regional, state and federal regulations to prevent detrimental impacts to the health, safety, and general welfare of persons residing and/or working in the area. Conditions of approval require compliance with several operational constraints and development controls intended to assure the continued health, safety and general welfare of persons residing or working in the area. All Building, Fire, Plumbing, Electrical, Mechanical Code and the City regulations governing the construction and continued operation of the development apply to this site to prevent adverse affects to those persons or other properties in the vicinity.

3. The proposed development will comply with the regulations of the Land Development Code. Specific conditions of approval require the continued compliance with all relevant regulations of the City of San Diego effective for this site and have been written as such into PDP Permit No. 9181 and SDP Permit No. 9182. Development of property shall meet all requirements of the regulations and development criteria. Concept plans for the project identify

all other development criteria in effect for the site. All relevant regulations shall be complied with at all times for the life of the project.

4. The proposed development, when considered as a whole, will be beneficial to the community. The development of these units of Pacific Highlands Ranch will provide a graded site to the San Dieguito Union High School District for the construction of a new senior high school, will relocate the community park, will provide an employment center for new industrial development, will provide 234 affordable and housing units, market rate housing units and will complete needed public improvements in the area. Taken together these features and improvements will provide significant benefit to the community and City of San Diego.

5. Any proposed deviations pursuant to San Diego Municipal Code [SDMC] 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. The project includes limited deviations as described herein. These deviations allowing for the creation of a project are justified and will not adversely affect the land use plan, adjacent properties or persons working or living in the area. These deviations are as follows:

Unit 13: Recreation building cupola exceeds the 30 foot maximum building height by 18 feet.

Unit 16: Recreation building tower exceeds the 30 foot maximum building height by 3 feet.

A 10 foot rear yard setback is proposed, where not less than 15 feet is required by the zone.

The intent of residential height limitation is to maintain compatible scale with adjacent developments and to maintain light and air separation between developments. In this case, it is only a single roof top architectural feature on each of the two recreation buildings that exceed the specified height limit. These structures are located within the interior of their individual project sites. It is the intent of these roof top projections to provide a visual focal point for the residents of the projects and serve as a magnet to attract project residents to a common social and recreational area. The two recreational buildings are sufficiently separated from adjacent developments so as not to cause any adverse affects.

Minimum building setback standards are also intended to provide compatibility of scale and minimum separation from adjacent developments. The Unit 16 development, however, backs up to the SR-56 Freeway and Caltrans right-of-way ownership and there is no readily apparent need to maintain a greater separation in this location. The proposed reduced setback has the advantage of providing more space within the interior of the project for additional design flexibility and more open space.

B. SITE DEVELOPMENT PERMITS

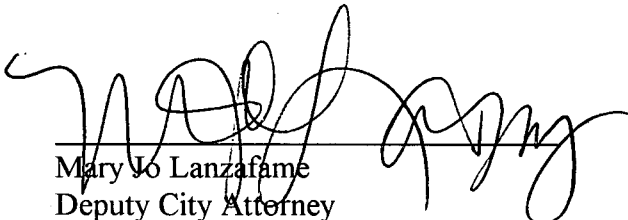
- 6. **The proposed development will not adversely affect the applicable land use plan.** See finding number 1.
- 7. **The proposed development will not be detrimental to the public health, safety, and welfare.** See finding number 2.
- 8. **The proposed development will comply with the applicable regulations of the Land Development Code.** See finding number 3.

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 appeal of Louis E. Goebel, attorney for appellant Robert D. Barczewski is denied; the decision of the Planning Commission is sustained; and Planned Development Permit No. 9181/Site Development Permit No. 9182 is granted to Pardee Homes, Owner/Permittee, under the terms and conditions set forth in the permit attached hereto and made a part hereof.

APPROVED: CASEY GWINN, City Attorney

By


Mary Jo Lanzafame
Deputy City Attorney

MJL:pev
3/5/03
Or.Dept:Clerk
R-2003-1078
Form=permitr.frm
Reviewed by John Fisher

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

AND WHEN RECORDED MAIL TO
CITY CLERK
MAIL STATION 2A

SPACE ABOVE THIS LINE FOR RECORDER'S USE

Planned Development Permit No. 9181/Site Development Permit No. 9182
PACIFIC HIGHLANDS RANCH, UNITS 12 - 16 (MMRP)
City Council

This Permit is granted by the Council of the City of San Diego to Pardee Homes, a California Corporation, Owner/Permittee pursuant to City of San Diego Municipal Code sections 143.0401 and 126.0501. The 248.85-acre site is located at the southeast corner of Del Mar Heights Road and Carmel Valley Road in the RM-1-2, RM-1-3, RX-1-1, IP-2-1, OC-1-1, and AR-1-1 zones of the Pacific Highlands Ranch Subarea Plan in the Carmel Valley Community Plan area. The project site is legally described as being a Portion of Parcel 3 of Parcel Map 18971, filed May 23, 2002, together with a portion of the west half of the northwest quarter of Section 15, Township 14 South, Range 3 West, San Bernardino Meridian, according to official plat thereof all lying northerly and westerly of the State Route 56, as described in deed recorded December 28, 2001 as file no. 2001-0965036 and February 26, 2001 as file no. 2002-0161208 of official records.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee to subdivide property by means of a tentative map, a planned development permit and site development permit for forty-seven single-family dwelling units, a high school site, community park site, a four lot employment center subdivision, park and ride, and 694 multi-family dwelling units described as, and identified by size, dimension, quantity, type and location on the approved Exhibit "A," dated February 25, 2003, on file in the Office of the Development Services Department. The facility shall include:

- a. Forty-seven single family dwelling units, a high school site, community park site, a four lot employment center subdivision, one park and ride lot, and 694 multi-family dwelling units;
- b. Landscaping (planting, irrigation and landscape related improvements);

- 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 SDMC in effect for this site.
1. Construction, grading or demolition must commence and be pursued in a diligent manner within thirty-six months after the effective date of final approval by the City, following all appeals. Failure to utilize the permit within thirty-six months will automatically void the permit unless an Extension of Time has been granted. Any such Extension of Time must meet all the SDMC requirements and applicable guidelines in effect at the time the extension is considered by the appropriate 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:
 - e. The Permittee signs and returns the Permit to the Development Services Department; and
 - f. 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 agency.
 6. Issuance of this Permit by the City of San Diego does not authorize the Permittee for this Permit to violate any Federal, State or City laws, ordinances, regulations or policies including, but not limited to, the Endangered Species Act of 1973 [ESA] and any amendments thereto. (16 U.S.C. § 1531 et seq.)

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 17, 1997 and on file in the Office of the City Clerk as Document No. 00-18394. 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.

Land Use Adjacency:

The applicant shall comply with the Mitigation, Monitoring and Reporting Program [MMRP] as specified in the Environmental Documentation for the "Pacific Highlands Ranch Units 12-16" (LDR No. 41-0962), satisfactory to the City Manager and the City Engineer, for the following issues areas to ensure compliance with the MSCP Land Use Adjacency Guidelines:

Biological Resources
Hydrology/Water Quality.

Multiple Habitat Planning Area [MHPA] Conveyance:

Prior to recordation of the first final map and/or issuance of any grading permits, the on-site MHPA shall be conserved and conveyed to the City's MHPA, through either dedication in fee to the City, OR placement in a conservation easement, OR covenant of easement, which is then recorded on the property. For areas within the MHPA that are governed by the Master Restoration Plan for Pacific Highlands Ranch, in accordance with Section 5.2.6 of the Development Agreement and other approved Units for Pacific Highlands Ranch, title for this portion of the MHPA shall only be conveyed to the City after successful completion of the restoration program. In the interim, a covenant of easement would be appropriate for the on-site MHPA within the restoration area.

7. The Owner/Permittee shall secure all necessary building permits. The Owner/Permittee is informed that to secure these permits, substantial modifications to the building and 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 February 25, 2003, on file in the Office of the Development Services Department. No changes, modifications or alterations shall be made unless appropriate application(s) or amendment(s) to this Permit 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 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 the special rights which the holder of the Permit is entitled as a result of obtaining this Permit. It is the intent of the City that the Owner/Permittee 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/Permittee of the property be allowed the special and extraordinary rights conveyed by this Permit, but only if the Owner/Permittee complies with all the conditions of this Permit.

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

10. This Permit may be developed in phases consistent with the conditions and exhibits approved for each respective phase, per the approved Exhibit "A," dated February 25, 2003, on file in the Office of the Development Services Department.

11. The Permit shall comply with the conditions of the final map(s) for Pacific Highlands Ranch Units 12-16, Vesting Tentative Map [VTM] No. 1693.

ENVIRONMENTAL/MITIGATION REQUIREMENTS:

12. The Owner/Permittee shall comply with the Mitigation, Monitoring and Reporting Program [MMRP] as specified in the Findings to Master Environmental Impact Report, Project No. 1693, satisfactory to the City Manager and the City Engineer. Prior to issuance of any grading permits and/or building permits, mitigation measures as specifically outlined in the MMRP shall be implemented for the following issue areas:

- Transportation/Circulation
- Hydrology/Water Quality
- Biological Resources
- Land Form Alteration/Visual Quality
- Paleontological Resources
- Public Services/Facilities
- Water and Sewer Facilities
- Solid Waste
- Public Safety
- Noise
- Geology/Soils

PLANNING/DESIGN REQUIREMENTS:

13. No fewer than two spaces for each single-family dwelling shall be provided for off-street parking in Unit 12; Unit 13 shall have no fewer than 939 spaces; Unit 14 shall have no fewer than the number of spaces outlined by the Design Guidelines OR if a multi-tenant office use is proposed, a maximum of five spaces per 1,000 square feet of building area, and Unit 16 shall have no fewer than 638 spaces. Should additional affordable housing units be added to the project, adjustments to the required number of parking spaces will be calculated. Off-street parking spaces shall be maintained on the property at all times in the approximate locations shown on the approved Exhibit "A," dated February 25, 2003, on file in the Office of the Development Services Department. Parking spaces shall comply at all times with requirements of the SDMC and shall not be converted for any other use unless otherwise authorized by the City Manager.

14. 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 a 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.

15. 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.

16. A topographical survey conforming to the provisions of the SDMC 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.

17. 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.

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

19. All signage associated with this development shall be consistent with sign criteria established by Citywide sign regulations.

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

21. Prior to the issuance of any building permits for any multi-family, commercial or institutional use, complete outdoor lighting information shall be submitted to the Development Services Department, Land Development Review Division, for review and approval. Complete lighting information shall include a plan view photometric analysis indicating an isofoot candle plot and a point by point plot to include all areas within the private property and to extend a minimum of 50 feet beyond the property line, construction details as necessary to direct installation of the outdoor lighting system, manufacturers name, visors, prisms, lenses and reflectors and a lighting plan locating each fixture in plan view and a legend. The outdoor lighting system shall be designed, manufactured and installed to allow shading, adjusting, and shielding of the light source so all outdoor lighting is directed to fall only onto the same premises as light sources are located.

Prior to the issuance of any occupancy permit, a night inspection shall be required to verify compliance of the outdoor lighting system. No light shall be directed to fall outside the property line. Light levels along the perimeter of the property shall be measured no higher than three footcandles. Light levels throughout the development shall be the least practical level necessary to effectively illuminate the operation. Sky glow or light halo shall be reduced to the greatest extent practical and in no case shall initial light levels be measured exceeding eight footcandles anywhere within the site. The Owner/Permittee, or an authorized representative, shall provide an illuminance meter to measure light levels as required to establish conformance with the

conditions of this Permit during the night inspection. Night inspections may be required additional fees as determined by the Director of the Development Services Department.

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

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

24. All uses in the Employment Center, 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 6 feet in height and, provided further, that no merchandise, material or equipment stored not higher than any adjacent wall.

25. No mechanical equipment, tank, duct, elevator enclosure, cooling tower, 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, architecturally integrated structure whose top and sides may include grillwork, louvers and latticework.

26. No merchandise, material or equipment shall be stored on the roof of any building.

27. Prior to the issuance of building permits for any multi-family, commercial or institutional use, single-family dwellings exempted, construction documents shall fully illustrate compliance with the Citywide Refuse and Recyclable Materials Storage Regulations (SDMC section 142.0801) to the satisfaction of the City Manager. All exterior storage enclosures for trash and recyclable materials shall be located in a manner that is convenient and accessible to all occupants of and service providers to the project, in substantial conformance with the conceptual site plan marked Exhibit "A," dated February 25, 2003, on file in the Office of the Development Services Department.

28. Prior to the issuance of any building permits for the Unit 14 Employment Center, the developer shall submit thirteen copies of the site specific grading, building, architectural and landscaping/irrigation plans for a Process 2 review and approval by the Director of the Development Services Department. Such plans shall demonstrate conformance with the Pacific Highlands Ranch Employment Center Design Guidelines. The Process 2 submittal shall include a standard development permit application and a \$2,600 processing deposit.

29. In accordance with Pacific Highlands Ranch Subarea Plan, the future Community Park identified on the VTM No. 1693 shall be utilized for a 13.49-acre community park or

alternatively, a 20-acre stand-alone community park in the event San Dieguito Union High School District does not construct a middle school adjacent to the high school.

In the event the San Dieguito Union High School District does not construct a middle school adjacent to the high school, the Community Park shall be twenty net usable acres composed of the 13.49-acre Future Community Park site indicated on the VTM No. 1693 and the 7.07-acre Park Option Site indicated as Unit 15, Lot 3 on VTM No. 1693.

AFFORDABLE HOUSING REQUIREMENTS:

30. Prior to the filing of the first final map, Owner/Permittee shall comply with the requirements of the Pacific Highlands Ranch Subarea Plan, [Affordable Housing Requirements] by satisfaction of the requirements of subparagraph A., below:

A. Owner/Permittee shall assure the construction and occupancy of an Affordable Housing Project consisting of 234 units to be constructed on Lots 13 and 16, as shown on the Vesting Tentative Map. Owner/Permittee shall execute an agreement [Affordable Housing Agreement], subject to the approval of the Executive Director of the Housing Authority of the City of San Diego, or designee, and the City Manager of the City of San Diego, or designee, addressing the following issues:

1. Performance Security for the construction of the Affordable Housing Project and dedication of land [Affordable Housing Site] for the construction of the Affordable Units [Affordable Units] on site, in the form of bond(s), letter(s) of credit, lien(s) and/or other forms of security acceptable to the Executive Director of the Housing Authority of the City of San Diego, or designee [Executive Director];

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

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

i. The issuance of building permits for the construction of the 254th market rate dwelling unit (number of units which represents 50 percent of the market rate units); or for the thirty-seven Affordable Units within Unit 16 within eighteen months of the approval of the first Final Map for Units 12-16, whichever shall occur first.

Further, Pardee shall obtain building permits for the 197 Affordable Units in Unit 13, within eighteen months of the approval of the first Final Map after the issuance of the 1,478 market rate unit and affordable dwelling unit (number of units which represents total building permits within the Pacific Highlands Ranch to which Pardee Homes is entitled prior to the I-5/SR-56 north connectors being open to traffic).

ii. In no event shall the issuance of building permits for the construction of the 254th market rate dwelling unit occur until building permits are issued for construction of the 234 Affordable Units are authorized by the City and are obtained by the Owner/ Permittee.

Further, if individual parcels are sold initially by Owner/ Permittee without first obtaining building permits for construction of market rate units, every such parcel sold shall nonetheless be included with the total number of the building permit issued, in determining when the issuance of the building permit occurs for the 254th and 381st or greater, market rate unit. Provided, however, that lots sold in bulk shall not be included in the total number of building permits issued for purposes of determining when the issuance of building permit occurs for the 254th and 381st or greater market rate unit, until building permits are issued for such individual lots.

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

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

ii. The date that shall be three years after the filing of the first final map.

iii. Further, the issuance of building permits for the construction of the 381st market rate unit (number of units which represents 75 percent of market rate units) shall not occur until the completion of the 234 Affordable Units is authorized by the City.

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

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

3. A Declaration of Covenants, Conditions and Restrictions [CC&Rs], restricting the occupancy and affordability of the Affordable Housing Project for a period of fifty-five years from the date of completion of the Affordable Housing Project, which CC&Rs shall incorporate the Affordable Housing Agreement by reference, shall be recorded against the Affordable Housing Site, in a first priority position. All Affordable Units shall be for occupancy by and at rates affordable to families earning no more than 65 percent of the area median income, as adjusted for family size and utilities. However, in the case of affordable rental units set forth in California Government Code section 65915, referred to as the State Density Bonus Statute, applies and rental rates shall not exceed 60 percent of the area median income, as adjusted for assumed family size and utilities.

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

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

6. Owner/Permittee, and their successors, heirs and assigns shall execute such other and further documents and shall perform such acts, as

shall be requested by the Executive Director and the City Manager and as may, from time to time, be required to effectuate the provisions of the Affordable Housing Agreement as contemplated by these condition(s) of approval.

The Pacific Highlands Ranch, Units 12-16, Affordable Housing Program is attached to these Planned Development Permit conditions and are on file in the Office of Development Services Department and is incorporated herein. The provisions of the Affordable Housing Program shall not in any way modify or change any provisions of the Affordable Housing requirements. To the extent that there is any inconsistency between the two, the terms of the condition shall prevail.

LANDSCAPE REQUIREMENTS:

31. No change, modification or alteration shall be made to the project unless appropriate application or amendment of this Permit has been granted by the City. All plan specifications and notes mentioned in the conditions below shall be consistent with the SDMC/Land Development Code [LDC] section 142.0401 and Landscape Standards, Exhibit "A" Landscape Development Plan, Brush Management Plan, Details and Notes, dated February 25, 2003, on file in the Office of the Development Services Department.

32. All required landscape plant materials shall be maintained in a disease, weed, and litter free condition at all times. Severe pruning or "topping" of trees is not permitted. The trees shall be maintained in a safe manner to allow each tree to grow to it's mature height and spread.

33. If any required landscape improvements (including, but not limited to, existing or new planning, hardscape, landscape features) are damaged or removed during demolition or construction, they shall be repaired or replaced in kind and equivalent size per the approved documents to the satisfaction of the City Manager, within thirty days of damage and prior to any Certificate of Occupancy.

34. Prior to issuance of any engineering permits for right-of-way improvements, complete landscape and irrigation plans on duplicates of improvement plans shall be submitted to the City Manager for approval. Plans, details and specifications (including maintenance specifications), and landscape improvement plans shall indicate each street tree by station points and staking in the field with a lodge pole tree stake prior to any utilities stub-outs. Tree stakes shall remain in place until trees are planted.

35. All tree locations shall have a 40 square feet minimum area around each tree's root zone, which is unencumbered by utilities. Driveways, utilities, drains, water and sewer laterals shall be designed so as not to prohibit the placement of any tree. During improvement activities the locations of all trees shall be identified with a lodge pole tree stake and inspected by the field

engineer prior to the installation of any wet or dry utility stub-outs and placement of any pavement.

36. Prior to issuance of any engineering permits for grading, landscape construction documents (including irrigation plans) for slope planting, erosion control, re-vegetation and hydroseeding shall be submitted to the City Manager for approval.

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

ENGINEERING REQUIREMENTS:

38. The project shall conform to all provisions of VTM No. 1693 and all conditions.

TRANSPORTATION REQUIREMENTS:

39. Prior to issuance of any building permit, the project shall conform to the Subarea III/ Pacific Highlands Ranch Transportation Phasing Plan and the approved Traffic Study/Final EIR.

40. The Pacific Highlands Ranch Employment Center, Unit 14, shall have a maximum average daily trips of 6,300.

WASTEWATER REQUIREMENTS:

41. Prior to the issuance of any building permits, the Owner/Permittee shall assure, by permit and bond, the design and construction of all public sewer facilities necessary to serve this development.

42. The Owner/Permittee agrees to design all proposed public sewer facilities in accordance with established criteria in the City of San Diego's current sewer design guide. Proposed facilities that do not meet the current standards shall be redesigned or private.

43. The Owner/Permittee shall provide evidence, satisfactory to the Director of the Metropolitan Wastewater Department, indicating that each lot will have its own sewer lateral or provide CC&R's for the operation and maintenance of on-site private sewer facilities that serve more than one ownership.

44. Proposed private underground sewer facilities located within a single lot shall be designed to meet the requirements of the California Uniform Plumbing Code and shall be reviewed as part of the building permit plan check.

WATER REQUIREMENTS:

45. Prior to the issuance of the first building permit, the 36-inch water transmission pipeline, within the Del Mar Heights Road and Carmel Valley Road rights-of-way, including a pressure regulating station, shall be complete and operational in a manner satisfactory to the Director of the Water Department and the City Engineer.
46. Prior to the issuance of any building permits, the Owner/Permittee shall assure, by permit and bond, the design and construction of the public water facilities, both potable and reclaimed, identified in the accepted water studies, necessary to serve this development, in a manner satisfactory to the Director of the Water Department and the City Engineer, maintaining redundancy throughout phasing of construction. All water facilities located within Units 13 and 16 shall be private unless proposed facilities comply with public standards, including easements.
47. At no time shall public water facilities with services be located within travel ways with alley type cross sections (no curbs). Parallel public water facilities shall have a minimum separation of 20-feet.
48. Prior to the issuance of any building permits, the Owner/Permittee shall assure, by permit and bond, the design and construction of reclaimed water irrigation service(s), in a manner satisfactory to the Director of the Water Department and the City Engineer. If reclaimed water is not yet available, then the irrigation systems shall be designed in such a manner as to accept reclaimed water when available and avoid any potential cross connections.
49. The Owner/Permittee shall install encroachment water services, to serve each unit or building with less than 40 feet of frontage on public water facilities or less than 10 feet curb to property line distance, in a manner satisfactory to the Director of the Water Department and the City Engineer. All water meters shall be installed behind full height curb and outside of sidewalks or any vehicular travel way including driveways.
50. Prior to the issuance of any building permits, the Owner/Permittee shall apply for a plumbing permit for the installation of appropriate private back flow prevention device(s) on each water service within the development, in a manner satisfactory to the Director of the Water Department and the City Engineer.
51. Prior to the issuance of any building permits within Unit 14, the Owner/Permittee shall assure, by permit and bond, the design and construction of a minimum 40-foot wide paved vehicular access roadway, traversing Unit 14, centered over the public water facilities, in a manner satisfactory to the Director of the Water Department and the City Engineer. Pavement shall be schedule "J" or better.

52. Prior to the issuance of any building permits within Unit 15, the Owner/Permittee shall assure, by permit and bond, the design and construction of a minimum 20-foot wide paved vehicular access roadway, traversing Unit 15, centered over the public water facilities, in a manner satisfactory to the Director of the Water Department and the City Engineer. Pavement shall be schedule "J" or better.

53. Prior to the issuance of any certificates of occupancy, the Owner/Permittee shall install fire hydrants at locations satisfactory to the Fire Department, the Director of the Water Department, and the City Engineer. Any proposed fire hydrant installation not conforming to Water Department standards for public fire hydrants, shall be private.

54. Prior to the issuance of any building permits, the Owner/Permittee shall provide CC&Rs for the operation and maintenance of all private water facilities that serve or traverse more than a single unit or lot.

55. Prior to the issuance of any building permits, the Owner/Permittee shall grant adequate water easements over all public water facilities that are not located within fully improved public rights-of-way, satisfactory to the Director of the Water Department and the City Engineer. Easements, as shown on approved Exhibit "A," dated February 25, 2003, on file in the Office of the Development Services Department, will require modification based on standards at final engineering.

56. Prior to the issuance of any certificates of occupancy, all public water facilities and vehicular access roadways necessary to serve this development shall be complete and operational in a manner satisfactory to the Director of the Water Department and the City Engineer.

57. Prior to the issuance of any certificates of occupancy, the Owner/Permittee shall provide keyed access to Water Operations Division, in a manner satisfactory to the Director of the Water Department, on each gate located within any easement containing public water facilities. The City will not be held responsible for any issues that may arise relative to the availability of keys.

58. The Owner/Permittee agrees to design and construct all proposed public water facilities in accordance with established criteria in the most current editions of the City of San Diego Water Facility Design Guidelines and City regulations, standards and practices pertaining thereto. Public water facilities and associated easements, as shown on approved Exhibit "A," dated February 25, 2003, on file in the Office of the Development Services Department, shall be modified at final engineering in accordance with accepted studies and standards.

59. Providing water for this development is dependent upon prior construction of certain water facilities in previously approved developments in this area. If facilities have not been constructed when required for this development, then the construction of certain portions of these

previously approved water facilities, as required by the City Engineer, will become off-site improvements required for this development.

INFORMATION ONLY

Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of this Permit, may protest the imposition within ninety days of the approval of this 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 by Resolution No. R-297679, on February 25, 2003.

AUTHENTICATED BY THE CITY MANAGER

By _____

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

**PARDEE HOMES, a California
Corporation**
Owner/Permittee

By _____

By _____

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