

(R-2004-11)

RESOLUTION NUMBER R-298157

ADOPTED ON JULY 1, 2003

WHEREAS, Pardee Construction Company, Owner/Permittee, filed an application with the City of San Diego for Coastal Development Permit No. 11758, Planned Development Permit No. 11760, Site Development Permit No. 11761 and a Multiple Habitat Planning Area [MHPA] Boundary Adjustment boundary line adjustment [collectively, the Permit] to develop thirty single-family homes on a 32-lot subdivision to include thirty single-family residential lots, one Homeowner's Association [HOA] lot, and one Open Space lot known as the Sunset Pointe - Project No. 3179, located at southern terminus of Sunny Mesa Road, legally described as those portions of Lot 2 and of the Northwest quarter of the Southwest quarter of Section 34, Township 14 South, Range 3 West, San Bernardino Meridian in the AR-1-1 zone (proposed RS-1-14 and OC-1-1 zones) of the Mira Mesa Community Plan area; and

WHEREAS, on May 29, 2003, the Planning Commission of the City of San Diego considered Coastal Development Permit No. 11758, Planned Development Permit No. 11760, Site Development Permit No. 11761 and a MHPA boundary line adjustment, and pursuant to Resolution No. 3384-PC voted to recommend City Council approval of the Permit; and

WHEREAS, the matter was set for public hearing on July 1, 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 Coastal Development Permit No. 11758, Planned Development Permit No. 11760, Site Development Permit No. 11761 and a MHPA boundary line adjustment::

**I. COASTAL DEVELOPMENT PERMIT - SAN DIEGO MUNICIPAL CODE SECTION 126.0708**

**A. COASTAL DEVELOPMENT PERMITS**

**1. The proposed coastal development will not encroach upon any existing physical accessway that is legally used by the public or any proposed public accessway identified in a Local Coastal Program land use plan; and the proposed coastal development will enhance and protect public views to and along the ocean and other scenic coastal areas as specified in the Local Coastal Program land use plan.** The project site is approximately eight miles east of the Pacific Ocean and the beaches and bluffs located there. The geographic location of the site will not obstruct views to and along the ocean and other scenic coastal areas as no such views are possible to these resources from the site. The proposed Sunset Pointe project site does not contain any existing physical accessway utilized by the general public to and along the ocean and other scenic coastal areas. The proposed site is not identified in the Mira Mesa Community Plan (which includes the Local Coastal Program land use plan for the area) as a proposed accessway to be utilized by the general public for providing access to the ocean or other scenic coastal areas.

**2. The proposed coastal development will not adversely affect environmentally sensitive lands.** The Sunset Pointe project has been designed to minimize its environmental impacts. As described in the Environmental Impact Report, the development of the Sunset Pointe project would result in impacts to 9.3 acres of onsite vegetation, including 4.07 acres of coastal sage scrub, 2.01 acres of native grassland, and 1.46 acres of non-native grasslands, in addition to certain smaller impacts to graded and disturbed habitat that are not considered significant. These impacts would be fully mitigated in accordance with the requirements of the Multiple Species Conservation Program [MSCP] and the Biology Guidelines by the dedication on-site of 28.12 acres of open space, the restoration of 4.04 acres of manufactured slopes with coastal sage scrub on site immediately adjacent to or within the MHPA, and the implementation of the additional measures described in the Mitigation Monitoring and Reporting Program [MMRP]. Minor disturbances to other habitats would be considered fully mitigated by the measures described in the Environmental Impact Report. The project grading would also preserve the location where a gnatcatcher pair was observed in 2000.

With the incorporation of the mitigation measures described above, the project will be deemed not to adversely affect environmentally sensitive lands, except for encroachment into steep hillsides containing sensitive biological resources within the Coastal Overlay Zone, for which a request for deviation from the Environmentally Sensitive Lands Regulations has been requested as part of this project. Upon the approval of the deviation, and the implementation by the

Owner/Permittee of the project features and conditions the conditions contained in the MMRP, the impacts to environmentally sensitive lands will be deemed reduced to below a level of significance. The Owner/Permittee has agreed to all conditions in the MMRP and the City will monitor compliance with these conditions.

The information submitted by the Owner/Permittee's engineers further shows that the development has been designed and sited to achieve the requisite number of dwelling units with the minimum impact to environmentally sensitive lands. Among other design features, the proposed Sunset Pointe development incorporates the following:

The Sunset Pointe building lots have been clustered along the northern boundaries of the property (adjacent to the existing homes on adjoining property) in order to minimize encroachment into the canyons on the southern portion of the property, minimize grading necessary to implement the project, and limit visibility of development.

On the portion of Lopez Ridge Way (Street "A") that runs closest to the canyons, the building lots have been single-loaded to be placed only on the north side of the street in order to minimize encroachment into the canyons. The building lots have been double-loaded only where ridgetop features allow for construction on the south side of the street with minimal canyon encroachment.

The elevation of the Sunset Pointe building pads and Lopez Ridge Way ("Street "A") have been lowered to avoid the need to fill in canyons to the maximum extent possible and to limit visibility of development from Lopez Canyon.

Manufactured slopes are contoured to the extent possible without causing significant incursion into canyons and are revegetated with native plant species of varying heights to resemble natural contours.

Roadways have been designed to follow natural contours to minimize grading. Significantly, the proposed project represents a consolidation of development so that one, rather than two, ridges have to be graded to accommodate development and access.

**3. The proposed coastal development is in conformity with the certified Local Coastal Program land use plan and complies with all regulations of the certified Implementation Program.** An amendment to the North City Local Coastal Program land use plan will also be necessary to conform to the MHPA boundary adjustment and other changes that are implemented by the proposed Community Plan Amendment. As described in the Environmental Impact Report, the provisions of the Local Coastal Program have been incorporated in the Mira Mesa Community Plan, and the Sunset Pointe project is consistent with the Mira Mesa Community Plan as amended by the proposed Amendment thereto. The necessary Local Coastal Program amendment is included within the Community Plan Amendment, and will become effective when the Community Plan Amendment is certified by the California Coastal Commission. Following such amendment, the proposed Sunset Pointe project will be in conformity with the certified Local Coastal Program land use plan.

The Sunset Pointe project will be developed with a combination of residential and open space zoning in accordance with the Community Plan (as amended by the Amendment thereto), which contemplates residential and open space uses on the project site. To implement the goals and policies of the Community Plan, the Owner/Permittee has proposed to rezone approximately 9.2 acres of the site from AR-1-1 zone to RS-1-14 zone (single-family residences with a minimum of 5,000-square-foot lot size) and approximately 28.12 acres to OC-1-1 zone (open space) (including 1.64 acres subject to brush management). This dual zoning will allow the clustered residential development proposed by the project while preserving a significant amount of open space.

As further described in the Environmental Impact Report, the project will comply with the relevant policies of the Local Coastal Program land use plan by dedicating over 75 percent of the project area to open space, by minimizing impacts to habitat areas (and providing appropriate mitigation for the same) and by restoring 4.04 acres of manufactured slopes with coastal sage scrub immediately adjacent to or within the MHPA.

**4. For every coastal development permit issued for any coastal development between the nearest public road and the sea or the shoreline of any body of water located within the Coastal Overlay Zone the coastal development is in conformity with the public access and public recreation policies of Chapter 3 of the California Coastal Act. Not applicable.** The Sunset Pointe project is located approximately eight miles inland, the project will not be located between the nearest public road and the sea or the shoreline of any body of water located within the Coastal Overlay Zone.

**B. ENVIRONMENTALLY SENSITIVE LANDS WITHIN THE COASTAL OVERLAY ZONE**

**1. Based on the economic information provided by the applicant, as well as any other relevant evidence, each use provided for in the Environmentally Sensitive Lands Regulations would not provide any economically viable use of the applicant's property.** Allowed uses within environmentally sensitive lands are those allowed in the applicable zone. The proposed project site is currently located within the AR-1-1 zone (agricultural base), but the applicant has proposed changing the zoning of a portion of the site to RS-1-14 zone (single-family residential). As such, the uses allowed under both zones are analyzed below.

The uses permitted in the agricultural zone include the raising and harvesting of crops, the raising of animals and processing of plant and animal by-products and single-family residential dwelling units at a very low density of one dwelling unit per 10 acres. Compliance with all of the applicable Environmentally Sensitive Land Regulations would allow permitted use of only 1.96 acres of the 37.32 acre project site. Any Development beyond the 1.96 acres would result in impacts to *sensitive biological resources and steep hillsides*.

Single-family residential dwelling units would not be permitted in this area under the agricultural zone because the 1.96 usable acres are not adequate to meet development regulations applicable in the AR-1-1 zone such as minimum lot size.

Agricultural use would not be possible in compliance with the Environmentally Sensitive Lands Regulations. Agricultural clearing constitutes *development* and would be subject to the Environmentally Sensitive Lands Regulations. Since approximately 60 percent of the Mira Mesa Community has been built out with residential, industrial, and commercial uses, agricultural use would not be compatible with adjacent uses. Furthermore, 1.96 usable acres are not adequate to accommodate any type of agricultural use. The California Land Conservation Act of 1965 (Williamson Act) conclusively presumes that parcels of fewer than 10 acres of prime agricultural land or 40 acres of non-prime agricultural land are too small to sustain agricultural use.

If the zoning of a portion of the site is changed to RS-1-14 (single-family residential) as proposed by the applicant, development of the site in accordance with the Environmentally Sensitive Lands Regulations would allow the construction of only three residential dwelling units, as shown by the site plan and supporting information provided by the applicant's engineers. As described above, only 1.96 acres of the project site could be developed at all. Most of this developable area would in turn be needed for public access, fill slopes, brush management and driveway access, leaving only 0.65 acres available for building lots. The remaining area would further be limited by its irregular shape, by the need to ensure adequate frontage for each site, and by other topographical features of the site. These factors, taken together, allow only three building lots of the necessary size (5000 square feet) to be located on the site.

The financial data submitted by the applicant demonstrates that the estimated sales revenue for three residential dwelling units would be less than the applicant's cost of land acquisition, taxes, interest, planning and development of the project site. Construction and sale of only three residential dwelling units on the Sunset Pointe property, as the Environmentally Sensitive Lands Regulations require, would not allow the applicant to realize any profit upon the sale of the units – in fact, the applicant would be forced to incur a substantial net loss in such event.

Accordingly, strict application of the Environmentally Sensitive Lands Regulations would not allow for any economically viable use of the Sunset Pointe property, as the applicant would in such event be unable to move forward with the project.

**2. Application of the Environmentally Sensitive Lands Regulations would interfere with the applicant's reasonable investment-backed expectations.** The financial information submitted by the applicant demonstrates the substantial investment that the applicant has made in the development of the Sunset Pointe property, including land acquisition costs, development expenses, infrastructure costs and taxes. The applicant would not have expended these costs without the reasonable expectancy of a financial return from a reasonable use of the property in accordance with the adopted Community Plan.

Given that the Community Plan conceptually allows for approximately 9.6 acres, including graded/revegetated slopes, to be developed at the project site (which, assuming 0-4 dwelling units per acre, would allow up to 36 dwelling units), the applicant's proposal of 30 units on 9.2 developable acres already represents a reduction from the amount of development assumed under the Community Plan. The applicant further intends to revegetate approximately 1.3 acres of the developable area following completion of grading and to utilize these 1.3 revegetated acres

as open space, resulting in a further reduction of the proposed developed area to 7.9 acres, as described in the Environmental Impact Report. In addition, by clustering the units around the northern edge of the project site, the applicant has achieved greater density with less environmental impact, in accordance with the Planning Commission's directions. Application of the Environmentally Sensitive Lands Regulations would essentially prevent development of the project as contemplated, causing a substantial loss of the applicant's investment.

**3. The use proposed by the applicant is consistent with the applicable zoning.** The Mira Mesa Community Plan establishes the goals and policies for the physical development of Mira Mesa and designates appropriate areas for residential, commercial, industrial, and open space uses. The Community Plan goals and policies are intended to be implemented by various measures including zoning and required use of Planned Development Permits (formerly known as Planned Residential Development Permits).

The Community Plan designates the project site for residential [very low density (0-4 dwelling units per acre)] and open space (one dwelling unit per 10 acres) land uses.

The project site for Sunset Pointe is currently zoned agricultural AR-1-1 zone (agricultural zone, one dwelling unit per 10 acres). The agricultural zone is often used by the City as a holding zone for future development. To implement the goals and policies of the Community Plan, the applicant has proposed to rezone approximately 9.2 acres of the site from AR-1-1 zone to RS-1-14 zone (single-family residences with a minimum of 5,000-square-foot lot size) and approximately 28.12 acres to OC-1-1 zone (open space). The rezone would allow for the construction of residential lots, interior slopes, and internal public streets within the RS-1-14 designated areas as required for the Sunset Pointe development. This zone change would be in accordance and consistent with the surrounding uses as defined in the Mira Mesa Community Plan. Upon such zone change, the Sunset Pointe project will be consistent with the applicable zoning.

**4. The use and project design, siting, and size are the minimum necessary to provide the applicant with an economically viable use of the premises.** The financial information submitted by the applicant demonstrates that the number and size of dwelling units proposed to be constructed at Sunset Pointe are the minimum necessary for an economically viable use of the property. As described in Item 1 above, development for agricultural use or construction of the three-unit alternative in accordance with the Environmentally Sensitive Lands Regulations would force the applicant to incur a significant loss on its investment. The Sunset Pointe project will need to be constructed with at least the proposed number of dwelling units in order for the applicant to receive a reasonable return on its investment.

The Environmental Impact Report describes other alternative proposals for developing the property in an economically viable manner, including the "Community Plan Based Alternative" and the "Reduced Development Alternative" described therein. As further described in the Environmental Impact Report, these alternatives would have negative effects that would outweigh their benefits, including increased impact to sensitive resources in the case of the Community Plan Based Alternative, and increased visual impact and conflicts with the

surrounding community character in the case of the Reduced Project Alternative. Furthermore, each of these alternatives would still require deviation from the Environmentally Sensitive Lands Regulations, as noted in the Environmental Impact Report.

The information submitted by the applicant's engineers further shows that the development has been designed and sited to achieve the proposed number of dwelling units with the minimum environmental impact. Among other design features, the proposed Sunset Pointe development incorporates the following:

- The Sunset Pointe building lots have been clustered along the northern boundaries of the property (adjacent to the existing homes on adjoining property) in order to minimize the encroachment of the Sunset Pointe project into the canyons on the southern portion of the property, minimize grading necessary to implement the project, and limit visibility of development.
- On the portion of Lopez Ridge Way (Street "A") that runs closest to the canyons, the building lots have been single-loaded to be placed only on the north side of the street in order to minimize encroachment into the canyons. The building lots have been double-loaded only where ridgetop features allow for construction on the south side of the street with minimal canyon encroachment.
- The elevation of the Sunset Pointe building pads and Lopez Ridge Way ("Street "A") have been lowered to avoid the need to fill in canyons to the maximum extent possible and to limit visibility of development from Lopez Canyon.
- Manufactured slopes are contoured to the extent possible without causing significant incursion into canyons and are revegetated with native plant species of varying heights to resemble natural contours.
- Roadways have been designed to follow natural contours to minimize grading. Significantly, the proposed project represents a consolidation of development so that one – rather than two – ridges have to be graded to accommodate development and access.

Any further reduction in the size and number of residential dwelling units proposed would make the project economically infeasible for the applicant. Reduction of the 9.2 acre developable area would not result in a commensurate decrease in the base costs or fixed costs associated with developing the site, such as land acquisition, taxes, interest, and on-site and off-site infrastructure costs. Reducing the number of proposed dwelling units would force the applicant to recover its costs by spreading the per unit development costs over a smaller number of units, which would substantially increase the cost of each housing unit and render the project non-competitive and economically impractical.

An additional alternative for development is the 33-unit plan, which would involve reduced lot sizes and greater density. Given that the smaller lot sizes would conflict with the character of the surrounding community (which generally features larger lot sizes), and that this alternative would

still require deviation from the Environmentally Sensitive Lands Regulations, the 30-unit proposal is generally preferable to the 33-unit alternative.

**5. The project is the least environmentally damaging alternative and is consistent with all provisions of the certified Local Coastal Program with the exception of the provision for which the deviation is requested.** The Environmental Impact Report prepared for the Sunset Pointe project includes an examination of various other alternatives. As described in Item 4, above, the proposed configuration of the Sunset Pointe project has been shown by the information submitted by the applicant to be the least environmentally damaging alternative for construction of the proposed development. The design measures described in Item 4, above (clustering of building sites, single-loading of the street to reduce hillside impact, contour grading, reduced elevation of the project, and revegetation with native plant species) demonstrate the applicant's efforts to minimize the environmental impacts of the project as much as possible.

The project proposes an amendment to the Local Coastal Program and the Mira Mesa Community Plan. The project is consistent with all provisions of the proposed amendment to the certified Local Coastal Program. The Sunset Pointe project has been shown to be consistent with all other provisions of the Local Coastal Program other than the provision for which the deviation is requested.

## **II. PLANNED DEVELOPMENT PERMIT - SAN DIEGO MUNICIPAL CODE SECTION 126.0604**

### **A. PLANNED DEVELOPMENT PERMITS**

**1. The proposed development will not adversely affect the applicable land use plan.** The Sunset Pointe project is located within the area covered by the Mira Mesa Community Plan and the Local Coastal Program, which are the applicable land use documents for the project area along with the City's Progress Guide and General Plan. The project implements the goals and policies of these documents by creating a planned residential development that accommodates a portion of the housing needs within the community, providing thirty additional single-family housing units, while minimizing the environmental impacts of the development and dedicating 28.12 acres of land into the MHPA. As described below, the proposed Sunset Pointe project has been designed to be consistent with the Mira Mesa Community Plan (as amended by the proposed Amendment thereto) and the City's Progress Guide and General Plan and implements their plan, goals and policies, and therefore will not adversely affect the applicable land use plan.

The Mira Mesa Community Plan goals and policies are intended to be implemented by various measures including zoning and required use of Planned Development Permits (formerly known as Planned Residential Development Permits). The Mira Mesa Community Plan designates the project site for residential [very low density (0-4 dwelling units per acre)] and open space (one dwelling unit per 10 acres) land uses. Based on the gross acreage of the site (37.32 acres), the



proposed residential density of the project (0.8 dwelling units per acre) is consistent with the community plan.

The project site for Sunset Pointe is currently zoned agricultural AR-1-1 zone (agricultural zone, one dwelling unit per 10 acres). The agricultural zone is often used by the City as a holding zone for future development. To implement the goals and policies of the Community Plan, the Owner/Permittee has proposed to rezone approximately 9.2 acres of the site from AR-1-1 zone to RS-1-14 zone (single-family residences with a minimum of 5,000-square-foot lot size) and approximately 28.12 acres to OC-1-1 zone (open space) (including 1.64 acres subject to brush management). These zone changes would be in accordance and consistent with the surrounding uses as defined in the Mira Mesa Community Plan.

In addition, the proposed project would implement the intent of the Sensitive Resources and Open Space Element of the Community Plan by incorporating sensitive resource preservation and enhancement and by mitigating impacts to on-site biological resources to below a level of significance, as described in the Environmental Impact Report. Dedication of open space is proposed within the subdivision to preserve sensitive areas, retain the unique visual assets of the land area and to increase the area within the MHPA. This open space then being deeded in fee to the City of San Diego would continue to be preserved in perpetuity and would not be further impacted by development.

For the foregoing reasons, the proposed Sunset Pointe project will not adversely affect the applicable land use plan.

**2. The proposed development will not be detrimental to the public health, safety, and welfare.** The proposed development as currently designed will not be detrimental to the public health, safety and welfare. The proposed Sunset Pointe project, together with the existing surrounding land development (grading design, provision of roadways, utilities, drainage infrastructure, preservation of open space, etc.) in the Mira Mesa Community Plan area, has been designed to conform with a wide variety of the City of San Diego's codes, policies, and regulations whose primary focus is the protection of the public's health, safety and welfare. The Sunset Pointe project has been reviewed by City staff and is consistent with the City's policies and requirements. Additionally, the permit controlling the development and continued use of the single family development proposed for this site contains conditions addressing the project compliance with the City's regulations and policies and other regional, state and federal regulations to prevent detrimental impacts to the public health, safety, and welfare. Compliance with these relevant regulations would result in a project which does not adversely affect the public health, safety and welfare.

The grading proposed in connection with the development will not result in soil erosion, silting of lower slopes, slide damage, flooding, severe scarring or any other geological instability which would affect public health, safety and welfare as approved by the City Engineer. All slopes adjacent to open space areas will be revegetated with native plants capable of providing deep rooting characteristics for added slope stability and will include low profile, spreading varieties to provide erosion control and protection. The planting and continued maintenance of these

slopes, and all slopes within the project, will prevent soil erosion, silting of lower areas or geologic instability which would affect public health, safety and welfare by covering the manufactured slopes with living, deep rooted, trees and low spreading shrubs. Flooding or severe scarring will not occur as a result of grading operations. Conditions included within the permit require the timely planting of all slopes to prevent erosion and to provide additional slope stability. All brush management at the Sunset Pointe project will be conducted in a manner consistent with the Landscape Technical Manual.

As described in the Environmental Impact Report, the proposed Sunset Pointe project will have adequate levels of essential public services available to it and will not have a significant impact on the provision of such services. The nearest fire station would have a response time of six minutes to the project site, and the nearest police station would have a response time of 7.6 minutes; the addition of the Sunset Pointe units would not cause these response times to increase. Other services, such as schools, public parks and libraries, would be adequate for the proposed project, as would necessary utilities such as electricity, water and sewer. The Sunset Pointe project would pay its fair share of the cost of all of these services, as described in the Environmental Impact Report.

[A portion of the sewer easement granted to the City of San Diego per document recorded December 30, 1987, as file no. 87-713712, is no longer needed for the public purpose for which it is granted. The vacation of such portion of such sewer easement will be conditioned upon approval and recordation of a final map in accordance with the Subdivision Map Act section 66434(g).]

The conditions of approval for Sunset Pointe require compliance with several operational constraints and development controls intended to assure the continued public health, safety and welfare. Conditions of approval address lighting, the generation of noise, the appearance of landscaping and the placement of buildings, and the development of the site specifically addresses the continued operation of the site. Stormwater impacts from the proposed project would be mitigated through the installation of appropriate filtration devices. All Uniform Building, Fire, Plumbing, Electrical, Mechanical Code and the San Diego Municipal Code [SDMC] regulations governing the construction and continued operation of the development apply to this site to prevent adverse effects to those persons or other properties in the vicinity. Prior to the actual construction of residential units on the subject property, City staff will review building permit plans against the Uniform Building Code to assure that structural, mechanical, electrical, plumbing, and access components of the project are designed to protect the public's health, safety and welfare.

**3. The proposed development will comply with the regulations of the Land Development Code [LDC].** The proposed Sunset Pointe project generally has been designed to comply with the regulations of the LCD, including requirements for floor area ratio, height, street design, open space, grading, landscaping, parking, etc. and other requirements of the RS-1-14 zone development criteria, as allowed through a Planned Development Permit. A deviation from the front yard setback is requested to reduce it from 15 feet as required by the RS-1-14 zone to 10 feet in order to provide varied front yard facade depths and to accommodate

non-contiguous sidewalks. Staff supports the proposed deviation because it serves to minimize encroachment into Environmentally Sensitive Lands while allowing non-contiguous sidewalks. In addition, the project will comply with the purpose of such regulations by impacting less than 25 percent of the total area of the project site, as over 75 percent of the site will be dedicated to open space.

Implementation of the Sunset Pointe project will, however, require deviation from the Environmentally Sensitive Lands Regulations adopted in 2000 as part of the City's Land Development Code with respect to encroachment into steep hillsides containing sensitive biological resources within the Coastal Overlay Zone. A request for such deviation from the Environmentally Sensitive Lands Regulations has been requested as part of this project, and upon the approval of such deviation, the project will be in compliance with the regulations of the LDC.

**4. The proposed development, when considered as a whole, will be beneficial to the community.** The proposed project would provide significant public benefits to the City of San Diego by realizing the preservation and dedication of 28.12 acres of land into the MHPA and by providing thirty additional single-family housing units. The Sunset Pointe project has been designed and will be developed in accordance with the intent of the Mira Mesa Community Plan to assure that the residential theme, architectural character, development considerations and other functional concepts of the Mira Mesa Community Plan are implemented. The proposed project would also be consistent with the Progress Guide and General Plan and would not cause adverse affects to these policy documents or to the City of San Diego.

Development areas have been sited in response to a range of environmental considerations including sensitive landforms, steep slopes, visual impacts, and biological habitats. Revisions to the project have been incorporated into the design by blending manufactured slopes to the existing topography, by orienting the street and development pattern to be compatible with the natural topography of the land. Overall, it is a plan designed to work with the natural environment and the site's topographic conditions and visually prominent location to create a neighborhood compatible with adjacent residential development while minimizing the environmental impacts. The Sunset Pointe project would fulfill a community need for additional housing while implementing the purposes of the Mira Mesa Community Plan and the other applicable policy documents, and therefore will be beneficial to the community as a whole.

**5. Any proposed deviations pursuant to 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 deviations requested for the Sunset Pointe project are appropriate for the location in which the project is located. Given the steep canyon terrain of the area, the project cannot be constructed in an economically viable manner in strict accordance with the Environmentally Sensitive Lands Regulations. The project is otherwise in conformity with all applicable regulations and standards.

The requested deviations for the Sunset Pointe project will result in a more desirable project that would otherwise be achieved. Strict conformance with the Environmentally Sensitive Lands

Regulations would conceivably allow minimum agricultural use or the construction of only three units on the project, either of which would dramatically decrease the amount of new housing provided to the area by the project. Also, construction of the Sunset Pointe project as proposed will allow equal or greater open space than is provided for by the existing Community Plan and will preserve significant natural features, such as the eastern ridge of the project site, that were allowed to be developed under the Community Plan.

The above findings are supported by the minutes, maps, exhibits, written and oral testimony, studies, reports, plans, staff report, financial data, Final Environmental Impact Report, all of which are herein incorporated by reference.

### **III. SITE DEVELOPMENT PERMIT - SAN DIEGO MUNICIPAL CODE SECTION 126.0504**

#### **A. SITE DEVELOPMENT PERMITS**

**1. The proposed development will not adversely affect the applicable land use plan.** The Sunset Pointe project is located within the area covered by the Mira Mesa Community Plan and the Local Coastal Program, which are the applicable land use documents for the project area along with the City's Progress Guide and General Plan. The project implements the goals and policies of these documents by creating a planned residential development that accommodates a portion of the housing needs within the community, providing thirty additional single-family housing units, while minimizing the environmental impacts of the development and dedicating 28.12 acres of land into the Multiple Habitat Preservation Area. As described below, the proposed Sunset Pointe project has been designed to be consistent with the Mira Mesa Community Plan (as amended by the proposed Amendment thereto) and the City's Progress Guide and General Plan and implements their plan, goals and policies, and therefore will not adversely affect the applicable land use plan.

The Mira Mesa Community Plan goals and policies are intended to be implemented by various measures including zoning and required use of Planned Development Permits (formerly known as Planned Residential Development Permits). The Mira Mesa Community Plan designates the project site for residential [very low density (0-4 dwelling units per acre)] and open space (one dwelling unit per 10 acres) land uses. Based on the gross acreage of the site (37.32 acres), the proposed residential density of the project (0.8 dwelling units per acre) is consistent with the community plan.

The project site for Sunset Pointe is currently zoned agricultural AR-1-1 zone (agricultural zone, one dwelling unit per 10 acres). The agricultural zone is often used by the City as a holding zone for future development. To implement the goals and policies of the Community Plan, the Owner/Permittee has proposed to rezone approximately 9.2 acres of the site from AR-1-1 zone to RS-1-14 zone (single-family residences with a minimum of 5,000-square-foot lot size) and approximately 28.12 acres to OC-1-1 zone (open space) (including 1.64 acres subject to brush management). These zone changes would be in accordance and consistent with the surrounding uses as defined in the Mira Mesa Community Plan.

In addition, the proposed project would implement the intent of the Sensitive Resources and Open Space Element of the Community Plan by incorporating sensitive resource preservation and enhancement and by mitigating impacts to on-site biological resources to below a level of significance, as described in the Environmental Impact Report. Dedication of open space is proposed within the subdivision to preserve sensitive areas, retain the unique visual assets of the land area and to increase the area within the MHPA. This open space then being deeded in fee to the City of San Diego would continue to be preserved in perpetuity and would not be further impacted by development.

For the foregoing reasons, the proposed Sunset Pointe project will not adversely affect the applicable land use plan.

**2. The proposed development will not be detrimental to the public health, safety, and welfare.** The proposed development as currently designed will not be detrimental to the public health, safety and welfare. The proposed Sunset Pointe project, together with the existing surrounding land development (grading design, provision of roadways, utilities, drainage infrastructure, preservation of open space, etc.) in the Mira Mesa Community Plan area, has been designed to conform with a wide variety of the City of San Diego's codes, policies, and regulations whose primary focus is the protection of the public's health, safety and welfare. The Sunset Pointe project has been reviewed by City staff and is consistent with the City's policies and requirements. Additionally, the permit controlling the development and continued use of the single family development proposed for this site contains conditions addressing the project compliance with the City's regulations and policies and other regional, state and federal regulations to prevent detrimental impacts to the public health, safety, and welfare. Compliance with these relevant regulations would result in a project which does not adversely affect the public health, safety and welfare.

The grading proposed in connection with the development will not result in soil erosion, silting of lower slopes, slide damage, flooding, severe scarring or any other geological instability which would affect public health, safety and welfare as approved by the City Engineer. All slopes adjacent to open space areas will be revegetated with native plants capable of providing deep rooting characteristics for added slope stability and will include low profile, spreading varieties to provide erosion control and protection. The planting and continued maintenance of these slopes, and all slopes within the project, will prevent soil erosion, silting of lower areas or geologic instability which would affect public health, safety and welfare by covering the manufactured slopes with living, deep rooted, trees and low spreading shrubs. Flooding or severe scarring will not occur as a result of grading operations. Conditions included within the permit require the timely planting of all slopes to prevent erosion and to provide additional slope stability. All brush management at the Sunset Pointe project will be conducted in a manner consistent with the Landscape Technical Manual.

As described in the Environmental Impact Report, the proposed Sunset Pointe project will have adequate levels of essential public services available to it and will not have a significant impact on the provision of such services. The nearest fire station would have a response time of six minutes to the project site, and the nearest police station would have a response time of 7.6

minutes; the addition of the Sunset Pointe units would not cause these response times to increase. Other services, such as schools, public parks and libraries, would be adequate for the proposed project, as would necessary utilities such as electricity, water and sewer. The Sunset Pointe project would pay its fair share of the cost of all of these services, as described in the Environmental Impact Report.

A portion of the sewer easement granted to the City of San Diego per document recorded December 30, 1987, as file no. 87-713712, is no longer needed for the public purpose for which it is granted. The vacation of such portion of such sewer easement will be conditioned upon approval and recordation of a final map in accordance with the Subdivision Map Act section 66434(g).

The conditions of approval for Sunset Pointe require compliance with several operational constraints and development controls intended to assure the continued public health, safety and welfare. Conditions of approval address lighting, the generation of noise, the appearance of landscaping and the placement of buildings, and the development of the site specifically addresses the continued operation of the site. Stormwater impacts from the proposed project would be mitigated through the installation of appropriate filtration devices. All Uniform Building, Fire, Plumbing, Electrical, Mechanical Code and the SDMC regulations governing the construction and continued operation of the development apply to this site to prevent adverse effects to those persons or other properties in the vicinity. Prior to the actual construction of residential units on the subject property, City staff will review building permit plans against the Uniform Building Code to assure that structural, mechanical, electrical, plumbing, and access components of the project are designed to protect the public's health, safety and welfare.

**3. The proposed development will comply with the applicable regulations of the Land Development Code.** The proposed Sunset Pointe project generally has been designed to comply with the regulations of the LDC, including requirements for floor area ratio, height, street design, open space, grading, landscaping, parking, etc. and other requirements of the RS-1-14 zone development criteria, as allowed through a Planned Development Permit. A deviation from the front yard setback is requested to reduce it from 15 feet as required by the RS-1-14 zone to 10 feet in order to provide varied front yard facade depths and to accommodate non-contiguous sidewalks. Staff supports the proposed deviation because it serves to minimize encroachment into Environmentally Sensitive Lands while allowing non-contiguous sidewalks. In addition, the project will comply with the purpose of such regulations by impacting less than 25 percent of the total area of the project site, as over 75 percent of the site will be dedicated to open space.

Implementation of the Sunset Pointe project will, however, require deviation from the Environmentally Sensitive Lands Regulations adopted in 2000 as part of the City's Land Development Code with respect to encroachment into steep hillsides containing sensitive biological resources within the Coastal Overlay Zone. A request for such deviation from the Environmentally Sensitive Lands Regulations has been requested as part of this project, and upon the approval of such deviation, the project will comply with the regulations of the Land Development Code.

## **B. 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 proposed Sunset Pointe residential development is on a location and scale consistent with the Mira Mesa Community Plan, and is consistent in types and intensity of use with surrounding residential developments. In addition, the open space dedicated as part of the proposed project will be contiguous with surrounding areas of the MHPA. As a result, the site is physically suitable for the design and siting of the proposed project. For the reasons set forth below, the Sunset Pointe development will result in minimum disturbance to environmentally sensitive lands.

As described in the Environmental Impact Report, the development of the Sunset Pointe project would result in impacts to 9.3 acres of onsite vegetation, including 4.07 acres of coastal sage scrub, 2.01 acres of native grassland, and 1.46 acres of non-native grasslands, in addition to certain smaller impacts to graded and disturbed habitat that are not considered significant. These impacts would be fully mitigated in accordance with the requirements of the MSCP and the Biology Guidelines by the dedication on-site of 28.12 acres of open space, the restoration of 4.04 acres of manufactured slopes with coastal sage scrub on site immediately adjacent to or within the MHPA, and the implementation of the additional measures described in the MMRP. The development of the project will not impact vernal pools, as no vernal pools were found on site, and the minor disturbances to other habitats would be considered fully mitigated by the measures described in the Environmental Impact Report. The project grading would also preserve the location where a gnatcatcher pair was observed in 2000.

With the incorporation of the mitigation measures described above, the project will be deemed not to adversely affect environmentally sensitive lands, except for encroachment into steep hillsides containing sensitive biological resources within the Coastal Overlay Zone, for which a request for deviation from the Environmentally Sensitive Lands Regulations has been separately submitted to the City. Upon the approval of such deviation, and the implementation by the Owner/Permitee of the measures described in the request for deviation and the conditions contained in the MMRP, the impacts to environmentally sensitive lands will be deemed reduced to below a level of significance. The Owner/Permitee has agreed to all conditions in the MMRP and the City will monitor compliance with these conditions.

The information submitted by the Owner/Permitee's engineers further shows that the development has been designed and sited to achieve the requisite number of dwelling units with the minimum environmental impact. Among other design features, the proposed Sunset Pointe development incorporates the following:

The Sunset Pointe building lots have been clustered along the northern boundaries of the property (adjacent to the existing homes on adjoining property) in order to minimize encroachment into the canyons on the southern portion of the property, minimize grading necessary to implement the project, and limit visibility of development.

On the portion of Lopez Ridge Way (Street "A") that runs closest to the canyons, the building lots have been single-loaded to be placed only on the north side of the street in order to minimize encroachment into the canyons. The building lots have been double-loaded only where ridgetop features allow for construction on the south side of the street with minimal canyon encroachment.

The elevation of the Sunset Pointe building pads and Lopez Ridge Way ("Street "A") have been lowered to avoid the need to fill in canyons to the maximum extent possible and to limit visibility of development from Lopez Canyon.

Manufactured slopes are contoured to the extent possible without causing significant incursion into canyons and are revegetated with native plant species of varying heights to resemble natural contours.

Roadways have been designed to follow natural contours to minimize grading. Significantly, the proposed project represents a consolidation of development so that one – rather than two – ridges have to be graded to accommodate development and access.

**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.** As described in the above Item 4 and incorporated herein, the Sunset Pointe development has incorporated numerous design features that minimize encroachment into canyons and resulting alteration of natural land forms and features. The proposed grading plans indicate the site will be graded in a manner consistent with the general existing topography. The proposed project will not result in potential risks from geologic forces based on the review of geotechnical reports provided by the geotechnical consultant. Additional geotechnical review would be provided with the construction documents for the improvement of the site.

Undue risks from erosional forces on manufactured slopes will be reduced and eventually eliminated by planting of trees, shrubs and ground covers as indicated by the Landscape Concept Plan. These plantings will be included in the grading operations during the development of the site. Undue risks from flood hazards will be not be present since the proposed site is not within any mapped floodway or flood channel.

Undue risks from fire hazards will be reduced through the implementation of the Brush Management Plan proposed in connection with the development of the site. The Brush Management Plan establishes three zones to reduce the potential of wildfires from reaching the proposed development consistent with the Landscape Technical Manual adopted by the City of San Diego. Fire protection with respect to finished landscaping and required fire protection water supplies will be provided.

**3. The proposed development will be sited and designed to prevent adverse impacts on any adjacent environmentally sensitive lands.** The Sunset Pointe project has been sited and designed to minimize its adverse impacts to adjacent environmentally sensitive lands such as the adjoining areas of the MHPA, as described in the Environmental Impact Report, including by implementation of controls on runoff, noise, lighting and invasive plants,



construction of appropriate barriers, landscaping and implementation of brush management techniques in accordance with the LDC and the Biology Guidelines. As proposed, the project will not adversely impact adjacent environmentally sensitive lands, except for encroachment into steep hillsides containing sensitive natural resources for which a request for deviation from the Environmentally Sensitive Land Regulations has been separately submitted to the City. Upon the approval of such deviation, and the implementation by the Owner/Permittee of the measures described in the request for deviation and the conditions contained in the MMRP, the impacts to environmentally sensitive lands will be deemed reduced to below a level of significance.

**4. The proposed development will be consistent with the City of San Diego's Multiple Species Conservation Program Subarea Plan.** As part of the proposed project, an MHPA boundary adjustment is proposed to allow for modification to the MHPA boundary line on the site to conserve certain sensitive biological resources. The adjustment, as proposed, will improve the configuration of the MHPA by preserving a ridge in natural open space as described in the Environmental Impact Report and result in a functionally equivalent preserve design that would not significantly impact the overall habitat function, wildlife movement, preserve configuration and management of the MHPA. Mitigation for all impacts to the MHPA areas would be provided in accordance with the MSCP. In addition, the controls imposed on drainage and toxics, lighting, noise, barriers, invasive plant species, brush management and grading would all be consistent with the Land Use Adjacency Guidelines contained in 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 Sunset Pointe development is located approximately eight miles from the public beaches and the local shoreline. Therefore, it is extremely unlikely that onsite development will contribute to erosion of public beaches or adversely impact local shoreline sand supply. Nonetheless, the project will incorporate the use of filtration devices and energy dissipaters (if necessary) in order to slow water flows and prevent any potential erosion of natural features (including public beaches) from the project's storm drainage outflows.

**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.** Mitigation for impacts to sensitive biology is being provided on-site in the 28.12 acres of undisturbed open space within the MHPA preserve area that is included with the Sunset Pointe project, which constitutes over 75 percent of the total project site area, and by the restoration of approximately 3 acres of ruderal/non-native grassland on-site to native grassland to fully mitigate for impacts to Tier I habitat. Various other mitigation measures reasonably related to and calculated to alleviate negative impacts created by the proposed development have been or will be incorporated into the conditions of the development permits and the MMRP. As described in the Environmental Impact Report, these mitigation measures reduce the biological impact of the proposed project to below a level of significance.

## C. ENVIRONMENTALLY SENSITIVE LANDS DEVIATIONS

1. **There are no feasible measures that can further minimize the potential adverse effects on environmentally sensitive lands.** Approximately 75 percent of the project site is being preserved as open space. The remaining area is designated for residential development by the Mira Mesa Community Plan, as amended by the proposed Amendment thereto. (A portion of the area that the applicant has offered to preserve was also originally designated for residential development by the Mira Mesa Community Plan.) An additional 6 percent of such remaining area designated for residential development will constitute open space in the form of revegetated slopes.

The project's grading design has incorporated all feasible measures to minimize impacts to hillsides (including clustering of building sites, single-loading of the street to reduce hillside impact, reduced elevation of the project, and the use of 10-foot front yard setbacks with non-contiguous sidewalks, each as described previously) and there are no other feasible measures that can further minimize the potential adverse effects to sensitive resources.

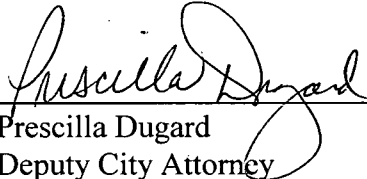
2. **The proposed deviation is the minimum necessary to afford relief from special circumstances or conditions of the land, not of the applicant's making.** The project terrain, the need for design compatibility with adjacent projects and the desire to minimize impacts to views from Lopez Canyon and neighboring properties offer a number of constraints relative to sensitive hillside impacts. Consideration of these constraints, while still being responsive to engineering access and grading requirements, creates the need to disturb sensitive hillsides. The final project design thus results in a disturbance that is the minimum necessary to afford relief from the special conditions of the land not of the applicant's making.

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 Coastal Development Permit No. 11758, Planned Development Permit No. 11760, Site Development Permit No. 11761 and a MHPA boundary line adjustment is granted to Pardee

Construction Company, 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   
Prescilla Dugard  
Deputy City Attorney

PD:dm  
6/11/03  
Or.Dept:Dev.Svcs.  
R-2004-11  
Form=permitr.frm  
Reviewed by Vicky Gallagher

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

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

SPACE ABOVE THIS LINE FOR RECORDER'S USE

**COASTAL DEVELOPMENT PERMIT NO. 11758, PLANNED DEVELOPMENT  
PERMIT NO. 11760, SITE DEVELOPMENT PERMIT NO. 11761  
SUNSET POINTE**

**CITY COUNCIL**

This Coastal Development Permit [CDP] No. 11758, Planned Development Permit [PDP] No. 11760, Site Development Permit [SDP] No. 11761, is granted by the Council of the City of San Diego to Pardee Construction Company, a California Corporation, Owner/Permittee, pursuant to San Diego Municipal Code [SDMC] sections 126.0708, 126.0604, and 126.0504. The 37.32-acre site is located at the southern terminus of Sunny Mesa Road, in the AR-1-1 zone (proposed RS-1-14 and OC-1-1 zones) of the Mira Mesa Community Plan area. The project site is legally described as those portions of Lot 2 and of the Northwest quarter of the Southwest quarter of Section 34, Township 14 South, Range 3 West, San Bernardino Meridian.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee to develop thirty single-family homes on a 32-lot subdivision to include thirty single-family residential lots, one Homeowner's Association [HOA] lot, and one Open Space lot, described and identified by size, dimension, quantity, type, and location on the approved Exhibit "A," dated July 1, 2003, on file in the Development Services Department. The facility shall include:

- a. Thirty single-family residences on individual lots;
- b. One HOA lot (3.85 acres) to be owned and maintained by the Homeowner's Association for open space and brush management purposes;
- c. One Open Space lot (26.58 acres) to be deeded to the City of San Diego for Open Space purposes;

- d. Multiple Habitat Planning Area [MHPA] Boundary Adjustment;
- e. Easement Vacation (sewer);
- f. Landscaping (planting, irrigation and landscape related improvements);
- g. Off-street parking facilities;
- h. 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:

- 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 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.).

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 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 July 1, 2003, on file in 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.

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

11. Rezoning of the subject property shall become effective with recordation of the corresponding final subdivision map for the project site only after certification of the Local Coastal Program by the California Coastal Commission.

12. This Coastal Development Permit shall become effective on the eleventh working day following receipt by the California Coastal Commission of the Notice of Final Action and

only after certification of the Local Coastal Program by the California Coastal Commission, following all appeals.

13. Prior to issuance of any grading permit, a fee shall be deposited with Development Services for the Los Peñasquitos Watershed Restoration and Enhancement Program. The enhancement fee shall be computed on the basis of site grading at a rate of \$0.005 per square foot for all areas graded. The enhancement fee shall be computed by the applicant and verified by Development Services.

14. Prior to issuance of any building permit, a fee shall be deposited with Development Services for the Los Peñasquitos Watershed Restoration and Enhancement Program. The enhancement fee shall be computed on the basis of all impervious surfaces at the rate of \$0.03 per square feet for all impervious surfaces created by the development. The enhancement fee shall be computed by the applicant and verified by Development Services.

**ENVIRONMENTAL/MITIGATION REQUIREMENTS:**

15. The Owner/Permittee shall comply with the Mitigation, Monitoring, and Reporting Program [MMRP] as specified in the Environmental Impact Report Project No. 3179, LDR Nos. 99-0639 and 40-0329, SCH No. 99091107, satisfactory to the City Manager and City Engineer. Prior to issuance of the first grading permit, all conditions of the MMRP shall be adhered to the satisfaction of the City Engineer. All mitigation measures as specifically outlined in the MMRP shall be implemented for the following issue areas:

- Land Use
- Landform Alteration/Visual Quality
- Biological Resources
- Geology/Soils
- Noise
- Hydrology/Water Quality
- Air Quality
- Cultural Resources
- Paleontological Resources

**PLANNING/DESIGN REQUIREMENTS:**

16. No fewer than sixty off-street parking spaces shall be maintained on the property at all times in the approximate locations shown on the approved Exhibit "A," dated July 1, 2003, on file in the Development Services Department. Parking spaces shall comply at all times with the SDMC and shall not be converted for any other use unless otherwise authorized by the City Manager.

17. 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.

18. 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.

19. 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 regulation of the underlying zone. The cost of any such survey shall be borne by the Permittee.

20. 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.

21. No building additions, including patio covers, shall be permitted unless approved by the homeowners association and the City Manager. Patio covers may be permitted only if they are consistent with the architecture of the dwelling unit.

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

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

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

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

26. Prior to the issuance of building permits, construction documents shall fully illustrate compliance with the Citywide Refuse and Recyclable Materials Storage Regulations (SDMC/LDC 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 July 1, 2003, on file in the Development Services Department.

27. The owner shall execute a covenant of easement unless the owner dedicates the remainder portion of the property in fee to the City. The covenant of easement shall be recorded against the title of the subject property and executed in favor of the City (SDMC/LDC section 143.0152 Covenant of Easement for Environmentally Sensitive Lands).

28. Prior to issuance of any building permits, the Owner/Permittee shall submit for review an acoustical study to assure that interior noise levels will not exceed CNEL 45, to the satisfaction of the Development Services Department.

29. The subject site is located within the 60-65 CNEL for MCAS Miramar. For all property transactions, the Owner/Permittee shall provide appropriate legal notice to all purchasers, lessees and/or renters of property which clearly describe the potential for noise associated from airport operations. Notice will also be provided as required on the state Real Estate Disclosure Form.

#### **MULTIPLE SPECIES CONSERVATION PROGRAM REQUIREMENTS:**

30. Third Party Beneficiary Status: 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.

31. MHPA Land Use Adjacency Guidelines: The applicant shall comply with the Mitigation, Monitoring and Reporting Program (MMRP) as specified in the Environmental Documentation for the "Crescent Heights and Sunset Pointe Project" (LDR Nos. 99-0639 and 40-0329, SCH No. 99091107), satisfactory to the City Manager and the City Engineer, for the following issues areas to ensure compliance with the MSCP Land Use Adjacency Guidelines: Land Use, Biological Resources and Hydrology/Water Quality.

32. MHPA Conveyance: Prior to recordation of the first final map and/or issuance of any grading permits, the adjusted 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 in the MHPA within brush management zone two and proposed revegetation areas a conservation easement or covenant of easement would be appropriate. All other areas could be conveyed through any of the three above methods. Management of the onsite preserved MHPA and revegetation areas shall be the responsibility of the owner/permittee/trustee in perpetuity, unless the City accepts responsibility for the open space through dedication to the City in fee title.

#### **LANDSCAPE REQUIREMENTS:**

33. 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/LDC section 142.0401 and Landscape Standards, Exhibit "A," Landscape Development Plan, Brush Management Plan, Details and Notes on file in the Development Services Department.

34. 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.

35. The Permittee or subsequent Owner shall be responsible for the maintenance of all street trees and landscape improvements (right-of-way and median landscaping) consistent with the Landscape Standards. A Landscape Maintenance Agreement and bond shall be entered into prior to issuance of any grading or construction permit. The agreement and bond shall be renewed each year until such time that another approved entity assumes responsibility such as a home owners association or a Landscape Maintenance District.

36. 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.

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

38. Immediate installation of slope planting and erosion control, including seeding of all disturbed land (slopes and pads) and associated irrigation systems (temporary and/or permanent) is considered to be in the public's interest. Planting of all graded slopes shall be accomplished prior to any issuance of a build permit for structures. A letter of substantial conformance from the landscape architect or designer shall be submitted to the city manager for approval.

39. Prior to grading, the first eight inches of top soil shall be stockpiled and reapply on slopes after completion of grading.

40. 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.

41. Prior to the recording of the final map, the subdivider shall submit complete landscape construction documents, including plans, details, and specifications (including a permanent automatic irrigation system unless otherwise approved), for the required right-of-way improvements, slope re-vegetation and hydroseeding of all disturbed land in accordance with the Landscape Standards and to the satisfaction of the City Manager. The applicant shall assure by permit, cost estimate and bond, the installation of landscaping per landscape construction documents.

42. Prior to the recording of the final map, the Permittee or subsequent Owner/Developer shall submit for review, a Landscape Maintenance Agreement for all landscape improvements within and visible from the public right-of-way. The approved Landscape Maintenance Agreement shall be recorded and bonded prior to recording of the final map.

43. Prior to recording of the final map, the Permittee or subsequent Owner/Developer shall identify on a separate sheet titled 'Non-title Sheet' the brush management areas in substantial conformance with Exhibit "A," dated July 1, 2003, on file in the Development Services Department. These brush management areas shall be identified with a hatch symbol with no specific dimensions or zones called out. The following note shall be provided on the 'Non-title sheet' to identify the hatched areas: "Indicates fire hazard zone(s) per Section 142.0412 of the Land Development Code."

44. Within a standard Zone One, a minimum fire rating of one hour for additions or accessory structures (including, but not limited to decks, trellises, gazebos, etc) are permitted with the approval of the Fire Marshall and the City Manager.

45. Prior to any construction or grading, it shall be the responsibility of the Permittee to schedule a pre-construction meeting on site with the contractor and the Mitigation, Monitoring & Conservation section of Development Services Department to discuss and outline the implementation of the Brush Management Program.

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

47. In all brush management zones the plant material shall be selected to visually blend with the existing hillside vegetation. No invasive plant material shall be permitted as determined by the Landscape Section of Development Services Department.

48. The Brush Management Maintenance Program as noted on Exhibit "A," dated July 1, 2003, on file in the Development Services Department, shall be performed annually by the Permittee or subsequent Owner or until such time that another approved entity such as a home owners association or a Landscape Maintenance District assumes annual responsibility.

**ENGINEERING REQUIREMENTS:**

49. This Permit shall be in conformance with Vesting Tentative Map No. 11750 for the Sunset Pointe Project.

**TRANSPORTATION REQUIREMENTS:**

50. This project shall comply with all current street lighting standards according to the City of San Diego Street Design Manual (Document No. 297376, filed November 25, 2002) and the amendment to Council Policy 200-18 approved by City Council on February 26, 2002 (Resolution R-296141), satisfactory to the City Engineer.

**GEOLOGY REQUIREMENTS:**

51. Prior to issuance of grading permits, an erosion control plan shall be submitted to and approved by the Development Services Department. The plan shall include measures to mitigate erosion and transport both during and immediately after construction. These measures may include, but not be limited to, hay bales and sandbags, temporary desilting basins, directing runoff to the storm drain system proposed as part of the project and adjacent projects, etc., as well as landscaping for short- and long-term erosion control on manufactured slopes. A phased

planting plan shall be prepared which requires installation of erosion-resistant ground cover within thirty days of completion of grading.

52. In conformance with the provisions of Public Resources Code section 21081.6, the applicant shall retain a soils engineer to monitor the grading, construction, and installation of runoff control devices and revegetation of the project site. Prior to the issuance of building permits, the project engineer shall submit in writing to the City Engineer verification that the project has complied with the required notes on the grading plan addressing erosion/urban runoff controls.

**WATER REQUIREMENTS:**

53. Prior to the issuance of any building permits, the Owner/Permittee shall assure, by permit and bond, the design and construction of a system of public 8-inch water facilities in Street "A," from Lopez Ridge Way to the westerly cul-de-sac, and in an easement traversing Lots 13 and 31, from Street "A" to Sunny Mesa Road, necessary to serve this development in a manner satisfactory to the Director of the Water Department and the City Engineer.

54. 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.

55. Prior to the issuance of any building or engineering permits, the Owner/Permittee shall grant a minimum 30 feet wide water and sewer easement traversing Lots 13 and 31, immediately adjacent to the westerly Lot 13 property line, from Street "A" to Sunny Mesa Road in a manner satisfactory to the Director of the Water Department and the City Engineer. Easements, as shown on approved Exhibit "A," dated July 1, 2003, on file in the Development Services Department, may require modification at final engineering to comply with standards.

56. The Owner/Permittee shall design and construct encroachment water services, as needed, for each lot with less than 40 feet of frontage on an improved public right-of-way, in a manner satisfactory to the Director of the Water Department and the City Engineer. Water services shall not be located within any driveway or vehicular use area.

57. Prior to the issuance of any Certificates of Occupancy, public water facilities necessary to serve the development, including services, shall be complete and operational in a manner satisfactory to the Director of the Water Department and the City Engineer.

58. The Owner/Permittee agrees to design and construct all proposed public water facilities in accordance with established criteria in the most current edition of the City of San Diego Water Facility Design Guidelines and City regulations, standards and practices pertaining thereto. Water facilities, as shown on approved Exhibit "A," dated July 1, 2003, on

file in the Development Services Department, may require modification at final engineering to comply with standards.

**WASTEWATER REQUIREMENTS:**

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

60. The developer 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 private.

61. 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.

**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 City Council of the City of San Diego by Resolution No. R-298157, on July 1, 2003.

AUTHENTICATED BY THE CITY MANAGER

By \_\_\_\_\_

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

**PARDEE CONSTRUCTION COMPANY**  
Owner/Permittee

By \_\_\_\_\_

By \_\_\_\_\_

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