

RESOLUTION NUMBER R- 298990

ADOPTED ON MARCH 23, 2004

WHEREAS, the City of San Diego, Engineering and Capital Projects Department, Owner/Permittee, filed an application with the City of San Diego for a Site Development Permit to construct a 1,710-foot long and 14-foot wide pedestrian, bicycle and emergency vehicle path, including a 260-foot long and 16-foot wide clear-span bridge over the Rose Creek Channel, known as the Rose Creek Bridge project, located at 2727 De Anza Road, between the eastern terminus of Pacific Beach Drive, between Mission Bay High School and Campland on the Bay, and the western terminus of North Mission Bay Drive, and legally described as a Portion of Pueblo Lot 1798, of the Pueblo Lands, Misc. Map 36, in the boundaries of Mission Bay Park adjacent to the Pacific Beach Community Plan area, in the RS-1-7 zone; and

WHEREAS, on February 12, 2004, the Planning Commission of the City of San Diego considered Site Development Permit [SDP] Permit No. 7023, and pursuant to Resolution No. 3475-PC voted to recommend City Council approval of the Permit; and

WHEREAS, the matter was set for public hearing on March 23, 2004, 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 Site Development Permit No. 7023:

A. SITE DEVELOPMENT PERMIT

1. The proposed development will not adversely affect the applicable land use plan. The proposed project consists of the construction of a Class I bicycle, pedestrian and emergency vehicle path, 1,710 feet long and 14-foot wide, from the eastern terminus of Pacific Beach Drive to the west end of North Mission Bay Drive. The new path segment will extend an

existing bicycle route along Pacific Beach Drive that currently ends at Olney Street. Additionally, the project includes the construction of a 260-foot long and 16-foot wide, clear span bridge over the Rose Creek Channel. The bridge will be constructed as a 14-foot wide Class I bicycle path and will connect the new on-grade pathways from the east end of Pacific Beach Drive to the west end of North Mission Bay Drive. The bridge and path extension would allow for contiguous access from Campland and De Anza Point. The improvements would improve pedestrian and bicycle access and circulation along the northern end of Mission Bay Park.

The project sites are contained within the boundaries of Mission Bay Park. A master plan for Mission Bay Park was adopted by the City Council in 1994. The Mission Bay Park Master Plan outlines policies, goals and recommendations to guide park development and its management. The Master Plan functions as a planning document that addresses land use, public access, recreational facilities, economic, and environmental issues.

The proposed bicycle path expansion and bridge are identified in the Mission Bay Park Master Plan Update as "key linkage improvements" needed to "maintain safe and convenient continuity of the (bicycle and pedestrian) paths around the Park" (Mission Bay Park Master Plan Update 1994, pg. 116). The Master Plan identifies bicycle and pedestrian paths to be amongst the Park's preferred and most used recreation facilities. Within the Master Plan, it is also recognized that the path is interrupted in key parts around the park and the Plan goes on to identify needed improvements in order to enhance the paths around the Park.

Recognizing that some older portions of the existing bicycle and pedestrian paths within the Park are as narrow as 10-feet in width, the Master Plan calls for newer paths to be wider in order to accommodate maintenance and emergency vehicles. In accordance with the Master Plan, the width of the path and bridge will be 14-feet wide in order to accommodate emergency vehicles. The proposed improvements are expected to result in improved shoreline access, and bicycle and pedestrian circulation within the Park as envisioned in the Mission Bay Park Master Plan.

This bridge and pathway therefore conform to the specific recommendations of the adopted land use plans, the Mission Bay Park Master Plan Update, adopted by City Council on August 2, 1994 under Resolution Nos. R-284398, R-284399 and R-284400.

2. The proposed development will not be detrimental to the public health, safety, and welfare. The Mission Bay Park Master Plan Update (1994) calls for minimum widths of the bridge and bicycle path in order to accommodate maintenance and emergency vehicles. The proposed bridge and path extension conform to the design specifications identified in the Mission Bay Park Master Plan Update (1994). The proposed bridge and path extension has been designed to accommodate fire protection access in cases of emergencies within and adjacent to the project site. The design and route has been reviewed for conformity to these goals and it has been established that the proposed improvements will not be detrimental to the public health, safety, and welfare.

The project would not result in undue risk from geologic conditions. The project site is located in Geologic Hazard Category 31, an area with a high potential for liquefaction. The project has been designed with consideration for the geologic characteristics of the site. The geotechnical reports prepared for the project adequately address the anticipated soil and geologic

conditions of the site of the proposed bike path and bridge. Proper engineering design of the new structure would ensure that the potential for geologic impacts from regional hazards would be less than significant.

The project would not result in undue risk from erosional forces. Protective measures for the bridge piers/bents and abutments would be incorporated into the project design to protect the structure against potential scour. While the project would result in the creation of new impervious surfaces, the increase in paved area would not generate significant runoff volumes, which could change drainage patterns on site. Best Management Practices [BMPs] during and following construction would be adhered to in accordance with the City's Storm Water Standards Manual and the San Diego Municipal Code [SDMC].

Additionally, the project has been evaluated for potential impacts to sensitive resources and environmentally sensitive areas. An Environmental Initial Study, completed in accordance with the requirements of the California Environmental Quality Act [CEQA], determined that project implementation has the potential to have significant effects in the areas of Water Quality and Biological and Historical Resources. As outlined in Mitigated Negative Declaration (No. 4411; State Clearinghouse No. 2003101018), a Mitigation, Monitoring and Reported Program [MMRP] will be implemented in order to reduce potential impacts to Water Quality and Biological and Historical Resources.

Project conditions, in accordance with standard City practices, require erosion control measures and the implementation of a Storm Water Pollution Prevention Plan.

Because of project conditions that have been applied to this Site Development Permit, as well as the project's compliance with all applicable codes and laws, the proposed development will not be detrimental to the public health, safety, and welfare.

3. The proposed development will comply with the applicable regulations of the Land Development Code. The proposed project is consistent with the development regulations of the underlying zone as the project would lead to access improvements envisioned in the Mission Bay Park Master Plan Update adopted by City Council in 1994. The proposed use is also a permitted use under the project's underlying zoning, RS-1-7 (single family residential zoning). While the project site is zoned RS-1-7, the Master Plan is recognized as the official City document governing development within the designated Park site.

The project site is also within the Coastal Overlay Zone (Map C-730) within the area under the jurisdiction of the California Coastal Commission. The proposal will require a Coastal Development Permit from the California Coastal Commission.

A variety of resource agencies have permit authority over activities within Mission Bay. Resource agencies which have participated in the review of this project include the U.S. Army Corps of Engineers, the California Department of Fish and Game, and the California Coastal Commission.

Additionally, the project is subject to the Land Development Code Environmentally Sensitive Lands [ESL] regulations due to the presence of "sensitive biological resources" on-site as defined under the Land Development Code.

It should also be noted while ESL regulations restrict uses within wetlands in the Coastal Overlay Zone, the regulations do allow for "incidental public service projects, where it has been demonstrated that there is no feasible less environmentally damaging location or alternative, and where mitigation measures have been provided to minimize adverse environmental effects" [SDMC 143.0130(d)(3)]. Additionally, the Land Development Code also allows the location of "public access paths" within wetland buffers in the Coastal Overlay Zone in accordance with SDMC section 143.0130(e)(1).

Several alternatives were considered in order to minimize environmental impacts. Three bridge designs were considered during the early planning stage including a four-pier, a two-pier, and a clear span design. In addition, two different construction methods were considered including a temporary construction berm and a temporary construction trestle. The clear span bridge design with no intermediate supports was determined to be of least impact to wetlands and open waters within the project site. Additionally, a temporary construction trestle was chosen as the preferable construction method, providing a temporary access system to allow construction equipment to operate along the length of the bridge. The construction trestle would cross Rose Creek in a progressive manner, starting at the embankments and successively placing spans between piles that are driven, vibrated, or drilled in place. Timber or steel beams would span from pile cap to pile cap and are typically decked with timber lagging. The trestle would be removed after the bridge has been constructed, and the piles would be removed or cut off below the mud line in the creek. With this construction method, the only parts of the construction mechanism that would touch the ground below the trestle would be the piles. The wooden trestle would be 24 feet wide by 280 feet in length.

A Biological Resources Report as required under the ESL regulations has been prepared for the project. The "Biological Resources Report for the Proposed Rose Creek Bike Path Bridge Project" (Tierra Environmental Services, August 25, 2003) has been prepared in accordance with the City's Biology Guidelines and requirements of the Land Development Code. According to the report, construction of the bridge would result in permanent impacts to 18 square feet (0.0004 acre) of disturbed southern coastal salt marsh, 1,307 square feet (0.0300 acre) of developed land, and 675 square feet (0.0155 acre) of disturbed habitat. Temporary impacts to sensitive habitat resulting from temporary structures such as a trestle and staging areas would result in temporary impacts to 63.72 square feet (0.0015 acre) of unconsolidated soft bottom/mudflat, 810 square feet (0.0186 acre) of disturbed upland habitat, and 36,423 square feet (0.8362 acre) of developed land. The combined temporary and permanent impacts to wetland habitats from the proposed project would total 81.72 square feet (0.0019 acre). Impacts to wetland habitats of less than 0.01 acre are considered less than significant under the City's CEQA Significance Guidelines and do not require mitigation.

As part of the biological evaluation it was also determined that the project sites contain potential foraging habitat for the California least tern, listed as endangered species under Federal and State laws. Although the California least tern was not observed during the field survey, the survey was conducted outside of the least tern nesting season. Therefore, this species may forage in the project area during nesting season. Implementation of mitigation measures, as outlined in Mitigated Negative Declaration prepared for the project, would reduce any potential impacts to the California least tern due to project implementation to below a level of CEQA significance.

The project has been evaluated for potential impacts to sensitive resources and environmentally sensitive areas. An Environmental Initial Study, completed in accordance with the requirements of CEQA, determined that project implementation has the potential to have significant effects in the areas of Water Quality and Biological and Historical Resources. As outlined in Mitigated Negative Declaration [MND] No. 4411, a MMRP will be implemented in order to reduce potential impacts to Water Quality and Biological and Historical Resources. Implementation of the MMRP is a condition of project approval.

The project as proposed meets all applicable requirements of the City of San Diego Land Development Code.

B. SUPPLEMENTAL FINDINGS--ENVIRONMENTALLY SENSITIVE LANDS

1. The site is physically suitable for the design and siting of the proposed development and the development will result in minimum disturbance to environmentally sensitive lands. The project site is located in Geologic Hazard Category 31, an area with a high potential for liquefaction. In accordance with City standards, two geotechnical investigations were prepared for the proposed projects ("Preliminary Geotechnical Investigation for Proposed Rose Creek Bike Path and Bridge, Solana Beach [sic], California" dated April 21, 2003, and "Response to City of San Diego LDR Geology Review Comments, Proposed Rose Creek Bike Path and Bridge, San Diego, California," dated August 27, 2003, prepared by Kleinfelder, Inc.).

According to the reports, the loose to medium dense sands below the groundwater table at the project site are susceptible to liquefaction in the event of seismic ground motions impacting the site. The proposed project would use a pile foundation system for the construction of the bridge which would be able to accommodate the liquefaction and lateral spreading demands. The bike path would experience only minor differential settlements as a result of liquefaction and would not pose a life safety concern. The referenced reports adequately address the anticipated soil and geologic conditions of the site of the proposed bike path and bridge. Proper engineering design of the new structure would ensure that the potential for geologic impacts from regional hazards would be less than significant.

Several construction techniques' alternatives were evaluated during the planning stage of the project in order to minimize its environmental impacts. Additionally, the project incorporates pollution prevention measures in accordance with the City's Storm Water Standards Manual and the SDMC. The project would also implement a MMRP in order to reduce potential impacts to Water Quality and Biological and Historical Resources.

The project as proposed will result in minimal disturbance to environmentally sensitive lands.

2. The proposed development will minimize the alteration of natural land forms and will not result in undue risk from geologic and erosional forces, flood hazards, or fire hazards. Most of the project footprint is contained within areas previously disturbed. No alteration of natural landforms would result from the proposed project.

The project would not result in undue risk from geologic conditions. The project site is located in Geologic Hazard Category 31, an area with a high potential for liquefaction. The project has been designed with consideration for the geologic characteristics of the site. The

geotechnical reports prepared for the project adequately address the anticipated soil and geologic conditions of the site of the proposed bike path and bridge. Proper engineering design of the new structure would ensure that the potential for geologic impacts from regional hazards would be less than significant.

The project would not result in undue risk from erosional forces. Protective measures for the bridge piers/bents and abutments would be incorporated into the project design to protect the structure against potential scour. While the project would result in the creation of new impervious surfaces, the increase in paved area would not generate significant runoff volumes, which could change drainage patterns on site. BMPs during and following construction would be adhered to in accordance with the City's Storm Water Standards Manual and the SDMC.

The project would not result in undue risk from flood hazards. The proposed project site is located within Zone X of the Rose Creek floodway, as indicated on the Flood Insurance Rate Map [FIRM], prepared by the Federal Emergency Management Agency [FEMA]. Zone X refers to areas of 500-year flood, areas of 100-year flood with average depths of less than one foot or with drainage area less than one square-mile, and areas protected by levees from 100-year floods. According to the project-specific hydrology study, "Hydraulic and Scour Studies for North Mission Bay Drive Bridge on Rose Canyon Creek" (Howard H. Chang, Ph.D., P.E.; April, 2002), the 100-year flood is contained in the existing channel. Therefore, the proposed bridge would not result in a significant impact of water surface elevations. No alterations to the course or flow of flood waters would result from the construction of the proposed project.

The project would not result in undue risk from fire hazards. The Mission Bay Park Master Plan Update (1994) calls for minimum widths of the bridge and bicycle path in order to accommodate maintenance and emergency vehicles. The proposed bridge and path extension conform to the design specifications identified in the Mission Bay Park Master Plan Update (1994). The proposed bridge and path extension have been designed to accommodate fire protection access in cases of emergencies within and adjacent to the project site.

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

3. The proposed development will be sited and designed to prevent adverse impacts on any adjacent environmentally sensitive lands. The project is subject to the Land Development Code Environmentally Sensitive Lands [ESL] Regulations because the project site contains "sensitive biological resources" as defined under the SDMC. Different design and construction methods alternatives were evaluated in the early phase of project development in order to identify the most environmentally sound alternative that would meet the project objectives. Three bridge designs were considered including a four-pier, a two-pier, and a clear span design. In addition, two different construction methods were considered including a temporary construction berm and a temporary construction trestle.

In accordance with the biological report prepared for the project (Tierra Environmental Services, August 25, 2003), the project would result in combined temporary and permanent impacts to a total of 81.72 square feet (0.0019 acre) of wetland habitat as defined under the City's Biology Guidelines. No other temporary or permanent impacts to sensitive habitats would occur. Impacts to wetland habitats of less than 0.01 acre are considered less than significant under the City's Biology Guidelines and do not require mitigation.

As part of the biological evaluation it was also determined that the project sites contain potential foraging habitat for the California least tern, listed as endangered species under Federal and State laws. Although the California least tern was not observed during the field survey, the survey was conducted outside of the least tern nesting season. Therefore, there is a potential that this species may forage in the project area during nesting season. Mitigation measures have also been incorporated into the project to ensure the protection of species as regulated under the Migratory Bird Act. Implementation of mitigation measures, as outlined in the Mitigated Negative Declaration prepared for the project (MND No. 4411; State Clearinghouse No. 2003101018), would reduce any potential impacts to sensitive avian species to below a level of significance.

Additionally, the project would incorporate erosion control BMPs as required under City standards. Erosion control measures would ensure that project is implemented in such a way as to reduce any adverse impacts to adjacent sensitive habitat and receiving waters to the maximum practicable extent.

The proposed improvements will be sited and constructed in such a manner as to prevent adverse impacts on any adjacent environmentally sensitive lands.

4. The proposed development will be consistent with the City of San Diego's Multiple Species Conservation Program [MSCP] Subarea Plan. In order to be consistent with the MSCP Subarea Plan, the project must conform with applicable implementing regulations and development guidelines. In accordance with the MSCP, project that propose encroachments into sensitive biological resources are specifically regulated by the ESL Regulations and the Biology Guidelines of the Land Development Manual. ESL Regulations require the overall protection of sensitive biological resources and ensure implementation of the MSCP. The Biology Guidelines provide the standards for the determination of impact and mitigation under CEQA and the Coastal Act. The guidelines serve as the baseline biological standards for processing Site Development Permits pursuant to the ESL Regulations.

In accordance with ESL requirements, project alternatives were evaluated in order to identify the least environmentally adverse alternative which would meet project objectives, namely implementation of specific Mission Bay Park improvements identified in the Mission Bay Park Plan Update adopted by City Council. The project as proposed does not require habitat mitigation as the area of project impacts to sensitive habitat is below thresholds established in the City's Biology Guidelines. However, the project is required to implement mitigation measures due to its potential impact on the California least tern, listed as endangered species under Federal and State laws. The project also includes mitigation measures to ensure species are protected as required under the Migratory Bird Treaty Act. Mitigation measures are listed in detail in the MMRP which has been incorporated in the Mitigated Negative Declaration prepared for the project (MND No. 4411, Sch. No. 2003101018).

The project as proposed is consistent with the MSCP Subarea Plan as it conforms with the SDMC Environmentally Sensitive Lands Regulations and the Biology Guidelines of the Land Development Manual.

5. The proposed development will not contribute to the erosion of public beaches or adversely impact local shoreline sand supply. The bridge is designed as a clear-span bridge, resulting in minimal disturbance of the waterway. The project site is mostly

contained within previously disturbed areas and would result in a slight increase of imperviousness area within the drainage basin. The project has been designed in consideration of the site's characteristics and constrains and it is not anticipated to contribute to the erosion of public beaches nor adversely impact the local shoreline sand supply.

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. The project has been evaluated for potential impacts to sensitive resources and environmentally sensitive areas. An Environmental Initial Study, completed in accordance with the requirements of CEQA, determined that project implementation has the potential to have significant effects in the areas of Water Quality and Biological and Historical Resources. As outlined in the Mitigated Negative Declaration (MND No. 4411; State Clearinghouse No. 2003101018), a MMRP will be implemented in order to reduce potential impacts to Water Quality and Biological and Historical Resources.

In accordance with CEQA and applicable City policies and standards, the applicant is required to implement the MMRP. Adherence to the MMRP is a requirement of this permit. As outlined in the Mitigated Negative Declaration (MND No. 4411; State Clearinghouse No. 2003101018), the required mitigation measures are commensurate to the direct, indirect and potential environmental effects associated with project implementation.

Mitigation measures outlined in THE Mitigated Negative Declaration (MND No. 4411; State Clearinghouse No. 2003101018) are reasonably related to and calculated to alleviate the identified negative impacts caused by the proposed development.

C. SUPPLEMENTAL FINDINGS--ENVIRONMENTALLY SENSITIVE LANDS DEVIATIONS

1. There are no feasible measures that can further minimize the potential adverse effects on environmentally sensitive lands. The project as proposed is deviating from the SDMC Environmentally Sensitive Lands Regulations since its implementation as proposed would result in impacts to wetland habitat within the Coastal Overlay Zone.

A "Biological Resources Report for the Proposed Rose Creek Bike Path Bridge Project" (Tierra Environmental Services, August 25, 2003) has been prepared in accordance with the City's Biology Guidelines and requirements of the Land Development Code. According to the report, construction of the bridge would result in permanent impacts to 18 square feet (0.0004 acre) of disturbed southern coastal salt marsh, 1,307 square feet (0.0300 acre) of developed land, and 675 square feet (0.0155 acre) of disturbed habitat. Temporary impacts to sensitive habitat resulting from temporary structures such as a trestle and staging areas would result in temporary impacts to 63.72 square feet (0.0015 acre) of unconsolidated soft bottom/mudflat, 810 square feet (0.0186 acre) of disturbed upland habitat, and 36,423 square feet (0.8362 acre) of developed land.

The combined temporary and permanent impacts to wetland habitats from the proposed project would total 81.72 square feet (0.0019 acre). Impacts to wetland habitats of less than 0.01 acre are considered less than significant under the City's CEQA Significance Guidelines and do not require mitigation. Although these impacts may be considered minimal, ESL regulations require the impacts to wetlands be avoided [SDMC 143.0141(b)].

Different design and construction methods alternatives were evaluated in the early phase of project development in order to identify the most environmentally sound alternative that would meet the project objectives. Additionally, the project incorporates pollution prevention measures in accordance with the City's Storm Water Standards Manual and the SDMC.

The proposed project has also been evaluated under CEQA. An Environmental Initial Study determined that project implementation has the potential to have significant effects in the areas of Water Quality and Biological and Historical Resources. As outlined in THE Mitigated Negative Declaration (MND No. 4411; State Clearinghouse No. 2003101018), a MMRP will be implemented in order to reduce potential impacts to Water Quality and Biological and Historical Resources. The MMRP measures are intended to reduce direct, indirect and potential significant impacts to levels below significance. Implementation of the MMRP is a condition of project approval.

The project as proposed is considered to be the best project alternative which meets the project goals while minimizing environmental impacts.

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 proposed bicycle path expansion and bridge location are identified in the Mission Bay Park Master Plan Update key linkages to facility pedestrian and bicyclists' access and circulation within the Park. At the proposed bridge crossing location, Rose Creek is characterized as a tidal marine estuary with water depth varying from almost zero at low tide to around eight feet at high tide. The slopes of the Creek have rip rap protection. The site is characterized by existing conditions and constraints not of the applicant's making. All effort has been taken during the planning, design and discretionary review stages of the project in order to ensure that environmental impacts are minimized to the maximum extent possible. The combined temporary and permanent impacts to wetland habitats from the proposed project would total 81.72 square feet (0.0019 acre). No other impacts to sensitive habitats would result from project implementation.

The proposed deviation (wetland impacts) is the minimum necessary to afford relief from special circumstances or conditions of the land, not of the applicant's making.

D. SUPPLEMENTAL FINDING--IMPORTANT ARCHAEOLOGICAL SITES AND TRADITIONAL CULTURAL PROPERTIES

1. The site is physically suitable for the design and siting of the proposed improvements development, the development will result in minimum disturbance to historical resources, and measures to fully mitigate for any disturbance have been provided by the applicant. As already noted, the project site is located within an area with a high potential for liquefaction. In accordance with City standards, two geotechnical investigations were prepared for the proposed projects. The referenced reports adequately address the anticipated soil and geologic conditions of the site of the proposed bike path and bridge.

The proposed project site is located within an area of high cultural and historical resource sensitivity. Several known archaeological sites are located within one mile of the project site. An archaeological survey was conducted and a report written titled "A Cultural Resource Survey of the Rose Creek Bike Path Project, San Diego, California" dated October, 2002, prepared by ASM Affiliates, Inc. There is a possibility for disturbance and adverse impacts to occur to

potential, significant archaeological resources that may be lying subsurface within the project area. As conditions of project approval, an archaeological monitoring program is required during all grading and excavation operations as outlined in the project specific MMRP. Implementation of the mitigation measures outlined in the MMRP would reduce any potential archaeological impacts from the project to below a level of significance.

2. All feasible measures to protect and preserve the special character or the special historical, architectural, archaeological, or cultural value of the resource have been provided by the applicant. Implementation of the mitigation measures for the protection of historical and archaeological resources as outlined in the MMRP would reduce any potential impacts from the project to below a level of significance. The mitigation measures have been designed to protect and preserve historical and archaeological resources that could potentially be impacted by the project.

E. SUPPLEMENTAL FINDINGS--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. The project site is owned by a public entity, the City of San Diego, and is administered by the Park and Recreation Department. The route of the pedestrian and bicycle pathway has been identified in the Mission Bay Park Master Plan Update in order to provide for circulation improvements and access within the Park. The bridge design project is more costly as a clear-span but it is the design alternative that has been determined to result in the most environmentally sound project.

Public project would not considered as subject to the same requirement in terms of economic considerations that may apply to private development. The bridge and path extension will provide a key pedestrian and bikeway connection within the Park by linking the Campland and De Anza Point. The proposed improvements are expected to result in improved shoreline access, and bicycle and pedestrian circulation within the Park as envisioned in the Mission Bay Park Master Plan.

2. Application of the Environmentally Sensitive Lands Regulations would interfere with the applicant's reasonable investment-backed expectations. The proposed project is a public project and it is intended to enhance pedestrian and cyclists' circulation and access within Mission Bay Park. The bridge and path extension will provide a key pedestrian and bikeway connection within the Park by linking the Campland and De Anza Point. The proposed improvements are expected to result in improved shoreline access, and bicycle and pedestrian circulation within the Park as envisioned in the Mission Bay Park Master Plan.

The applicant would not benefit financially from project implementation.

3. The use proposed by the applicant is consistent with the applicable zoning. The proposed project is consistent with the development regulations of the underlying zone. Further, the project would lead to access improvements envisioned in the Mission Bay Park Master Plan Update adopted by City Council in 1994. While the project site is zoned RS-1-7 (single family residential zoning), the Master Plan is recognized as the official City document governing development within the Park.

The proposed bicycle path expansion and bridge are identified in the Mission Bay Park Master Plan Update as "key linkage improvements" needed to "maintain safe and convenient continuity of the (bicycle and pedestrian) paths around the Park" (Mission Bay Park Master Plan Update 1994, pg. 116). The Master Plan identifies bicycle and pedestrian paths to be amongst the Park's preferred and most used recreation facilities. Within the Master Plan, it is also recognized that the path is interrupted in key parts around the park and the Plan goes on to identify needed improvements in order to enhance pedestrian and bicycle paths connectivity around the Park including the specific improvements proposed as part of this project.

The project would be consistent with the intent, goals and recommendations of the Mission Bay Park Master Plan Update. The project as proposed conforms with 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. As already noted, the proposed project is a public project and it is intended to enhance pedestrian and cyclists' circulation and access within Mission Bay Park. The applicant would not benefit financially from project implementation.

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 project site is characterized by existing conditions and constraints not of the applicant's making. All efforts, including the evaluation of alternative construction techniques, have been taken during the planning, design and discretionary review stages of the project in order to ensure that environmental impacts are minimized to the maximum extent possible. The combined temporary and permanent impacts to wetland habitats from the proposed project would total 81.72 square feet (0.0019 acre). No other impacts to sensitive habitats would result from project implementation.

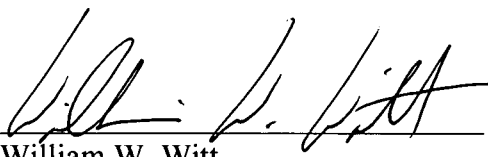
The project site is within the area under the jurisdiction of the California Coastal Commission and provisions of the Coastal Act will be enforced through the Coastal Development Permit process under the direction of the Coastal Commission.

It should be noted that the proposed pedestrian and bicycle path expansion and bridge location are identified in the Mission Bay Park Master Plan Update as needed key linkages to facility pedestrian and bicyclists' access and circulation within the Park (Mission Bay Park Master Plan Update 1994, pg. 116). The bridge and path extension will provide a key pedestrian and bikeway connection within the Park by linking the Campland and De Anza Point. The proposed improvements are expected to result in improved shoreline access, and bicycle and pedestrian circulation within the Park as envisioned in the Mission Bay Park Master Plan. The Mission Bay Park Master Plan was originally adopted by City Council on August 2, 1994. On August 1, 1995, the City Council approved an amendment to the Master Plan consisting of modifications recommended by the California Coastal Commission. The project as proposed is consistent with the intent, goals and specific recommendations of the Mission Bay Park Master Plan Update which reflects the modifications recommended by the California Coastal Commission.

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 Site Development Permit No. 7023 is granted to the City of San Diego, Engineering and Capital Project Department, Owner/Permittee, under the terms and conditions set forth in the attached permit which is made a part of this resolution.

APPROVED: CASEY GWINN, City Attorney

By 
William W. Witt
Deputy City Attorney

WWW:pev
04/09/04
Or.Dept: Clerk
R-2004-1056
Reviewed by Robert Korch

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

SITE DEVELOPMENT PERMIT NO. 7023
ROSECREEK BRIDGE [MMRP]

CITY COUNCIL

This site development permit is granted by the City Council of the City of San Diego to the City of San Diego, Engineering and Capital Projects Department, a Municipal Corporation, Owner/Permittee, pursuant to San Diego Municipal Code [SDMC] section 126.0504. The 1,710-foot long and 14-foot wide pedestrian, bicycle and emergency vehicle path and bridge site is located at 2727 De Anza Road between the eastern terminus of Pacific Beach Drive, between Mission Bay High School and Campland on the Bay, and the western terminus of North Mission Bay Drive, in the RS-1-7 zone of the Mission Bay Park Master Plan within the boundaries of Mission Bay Park, adjacent to the Pacific Beach Community Plan area. The project site is legally described as a Portion of Pueblo Lot 1798, Misc. Map No. 36.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee to construct an approximately 1,710-foot long and 14-foot wide pedestrian, bicycle and emergency vehicle path that includes a 260-foot long and 16-foot wide clear-span bridge over the Rose Creek Channel, located within Mission Bay Park between Pacific Beach Drive and Mission Bay Drive,, described and identified by size, dimension, quantity, type, and location on the approved exhibits, dated March 23, 2004, on file in the Development Services Department. The exhibits, referred to as Exhibit "A," are identified as follows:

Title Sheet
Landscape Concept Plan
Site Plan/Bridge Profile

The project or facility shall include:

- a. A 1,710-foot long and 14-foot wide pedestrian, bicycle and emergency vehicle path, including a 260-foot long and 16-foot wide clear-span bridge

over the Rose Creek Channel, connecting to existing path segments at Pacific Beach Drive to the west and Mission Bay Drive to the east;

- b. Irrigation and landscaping related improvements; and
- c. 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.

STANDARD REQUIREMENTS:

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. In accordance with authorization granted to the City of San Diego from the United States Fish and Wildlife Service [USFWS] pursuant to Section 10(a) of the ESA and by the California Department of Fish and Game [CDFG] pursuant to Fish and Game Code section 2835 as part of the Multiple Species Conservation Program [MSCP], the City of San Diego through the issuance of this Permit hereby confers upon Permittee the status of Third Party Beneficiary as provided for in Section 17 of the City of San Diego Implementing Agreement [IA], executed on July 16, 1997, and on file in the Office of the City Clerk as Document No. OO 18394. Third Party Beneficiary status is conferred upon Permittee by the City: (1) to grant Permittee the legal standing and legal right to utilize the take authorizations granted to the City pursuant to the MSCP within the context of those limitations imposed under this Permit and the IA, and (2) to assure Permittee that no existing mitigation obligation imposed by the City of San Diego pursuant to this Permit shall be altered in the future by the City of San Diego, USFWS, or CDFG, except in the limited circumstances described in Sections 9.6 and 9.7 of the IA. If mitigation lands are identified but not yet dedicated or preserved in perpetuity, maintenance and continued recognition of Third Party Beneficiary status by the City is contingent upon Permittee maintaining the biological values of any and all lands committed for mitigation pursuant to this Permit and of full satisfaction by Permittee of mitigation obligations required by this Permit, as described in accordance with Section 17.1D of the IA.

8. The Owner/Permittee shall secure all necessary building permits. The applicant is informed that to secure these permits, substantial modifications to the building and site improvements to comply with applicable building, fire, mechanical and plumbing codes and State law requiring access for disabled people may be required.

9. Before issuance of any building or grading permits, complete grading and working drawings shall be submitted to the City Manager for approval. Plans shall be in substantial conformity to Exhibit A. No changes, modifications or alterations shall be made unless appropriate application(s) or amendment(s) to this Permit have been granted.

10. All of the conditions contained in this Permit have been considered and have been determined to be necessary in order to make the findings required for this 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.

11. The project site lies entirely within the State of California Coastal Commission jurisdiction and a Coastal Development Permit, Permit Exemption or Permit Waiver is required from the State following final City of San Diego approval of this Site Development Permit.

ENVIRONMENTAL/MITIGATION REQUIREMENTS:

12. Mitigation requirements are tied to the environmental document, specifically the Mitigation, Monitoring, and Reporting Program [MMRP]. These MMRP conditions are incorporated into the permit by reference or authorization for the project.

13. As conditions of Site Development Permit No. 7023, the mitigation measures specified in the MMRP, and outlined in the Mitigated Negative Declaration, Project No. 4411, shall be noted on the construction plans and specifications under the heading ENVIRONMENTAL/MITIGATION REQUIREMENTS.

14. The Permittee/City Department shall comply with the MMRP as specified in the Mitigated Negative Declaration, Project No. 4411 satisfactory to the City Manager and City Engineer. All MMRP requirements shall be shown on the construction plans and specifications. Prior to issuance of the first preconstruction meeting, all conditions of the MMRP shall be adhered to, to the satisfaction of the City Engineer. All mitigation measures as specifically outlined in the MMRP shall be implemented for the following issue areas:

- Biological resources
- Hydrology/Water Quality
- Hazardous Materials
- Historical Resources (Archaeology)

LANDSCAPE REQUIREMENTS:

15. Prior to issuance of any grading or construction permits, complete landscape construction documents, including plans, details and specifications (including a permanent automatic irrigation system unless otherwise approved), shall be submitted to the City Manager for approval. The construction documents shall be in substantial conformance with Exhibit A. No change, modification, or alteration shall be made unless appropriate application or amendment of this Permit shall have been granted.

16. All required revegetation and erosion control shall be completed within thirty calendar days of the completion of any grading or disturbance. Erosion control and revegetation measures are required for all unpaved surfaces within the proposed staging areas also.

17. Only native and naturalized plant species which can survive when once established or within two years without supplemental irrigation, shall be utilized.

18. All required landscape shall be maintained in a disease, weed, and litter free condition at all times and shall not be modified or altered unless this Permit has been

amended. Modification is not permitted unless specifically noted in this Permit. The Owner/Permittee shall be responsible to maintain all landscape improvements consistent with the standards of the Land Development Manual.

19. The bridge abutments shall be planted with a hydroseed mix consisting of native flora and shall be non-irrigated following the establishment period.

PLANNING/DESIGN REQUIREMENTS:

20. 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.

21. 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.

22. The geotechnical investigation of the Rose Creek bike path and bridge shall be submitted to LDR-Geology for review. If ground modification is necessary to mitigate liquefaction hazards outside of the footprint of the bridge and bridge abutment, the proposed modification shall be subject to additional environmental review and if necessary, amendment of the environmental documents.

STORMWATER REQUIREMENTS:

23. Best Management Practices [BMP's] are to be incorporated into the project during construction, as outlined in Section V of the Mitigated Negative Declaration.

INFORMATION ONLY:

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

APPROVED by the City Council of the City of San Diego on March 23, 2004, by Resolution No. R- 298990

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.

CITY OF SAN DIEGO
ENGINEERING AND CAPITAL
PROJECTS DEPARTMENT
Owner/Permittee

By _____

By _____

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

R-298990