

RESOLUTION NUMBER R-299052

ADOPTED ON MARCH 30, 2004

WHEREAS, Keith B. Rhodes, Trustee of the Keith B. Rhodes Living Trust, dated November 11, 1999, and the John W. Grus Living Trust, dated October 2, 1996, and Fieldstone Communities Inc., a California Corporation, Owner/Permittee, filed an application with the City of San Diego for a planned development permit, a site development permit and a conditional use permit to construct a total of 734 dwelling units, 257, 200 square-feet of commercial use, 273,855 square-feet for a self-storage facility, a private park and open space, and street vacations and easement abandonments, known as the Rhodes Crossing project, located at generally in, and adjacent to, the triangular area of Camino del Sur, Carmel Mountain Road and State Route 56, and legally described as a Portion of the northwest quarter, southwest quarter and the northeast quarter, southwest quarter and the southwest quarter, southwest quarter, Section 13, Township 14 South, Range 3 West, San Bernardino Base Meridian and a Portion of Rancho de Los Penasquitos excepting therefrom Lots 1-37, Vista Alegre, Map No. 13309, in the Rancho Penasquitos Community Plan area and the Torrey Highlands Subarea plan area, in the AR-1-1 and RS-1-14 zones which are proposed to be rezoned to the RS-1-14, RM-3-9, CR-2-1 and CC-1-3 zones; and

WHEREAS, on February 5, 2004, the Planning Commission of the City of San Diego considered Planned Development Permit [PDP] No. 53203, Site Development Permit [SDP] No. 53204 and Conditional Use Permit [CUP] No. 53205, and pursuant to Resolution No. 3464-PC voted to recommend denial of the Permit; and

WHEREAS, the matter was set for public hearing on March 30, 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 Planned Developed Permit No. 53203, Site Development Permit No. 53204 and Condition Use Permit No. 53205:

A. PLANNED DEVELOPMENT PERMIT – SAN DIEGO MUNICIPAL CODE [SDMC] SECTION 126.0604

1. The proposed development will not adversely affect the applicable land use plan. The 147.39 acre site is undeveloped except for existing roadway improvements consisting of portions of Carmel Mountain Road, Camino Del Sur and the State Route 56 Freeway. Development is located within the planning areas of the Rancho Penasquitos Community Plan area and the Torrey Highlands Subarea Plan. Community Plan Amendments have been submitted for concurrent processing along with a rezone application to accommodate the proposed 257,200 square-feet of commercial retail, 273,855 square-feet of self-storage facility, 584 multi-family residential dwelling units, 150 single-family residential dwelling units, vernal pool reserves and open space development. The communities that this project is located within are nearly fully approved or developed in accordance with the adopted plans. The approval of the Rhodes Crossing proposed project will complete the orderly development of the two communities in this area.

At the time that the Torrey Highlands land use plan was considered and adopted by the City Council, a Council Policy (600-40, Preparation of Long Range Plans) site suitability analysis was also prepared addressing development impacts to environmentally sensitive resources in the plan area. Development impact was directed to the least sensitive portions of the plan area, preserving the more sensitive parts as open space. Subsequent discretionary actions to implement the land use plan are reviewed for consistency with earlier land use plan/site suitability approvals. If suitable conformance with the plan is established, future Site Development Permits shall be granted without requiring additional deviation findings.

The proposed development is consistent with the approved Torrey Highlands Subarea Land Use Plan. The proposed 289 dwelling unit project implements the Subarea Plan by providing a Low-density and Medium High density development consistent with the Subarea Plan's Land Use designations (LOW DENSITY RESIDENTIAL and MEDIUM HIGH RESIDENTIAL) of 2 to 5 and 22 to 40 dwelling units per acre. The project also includes a Regional Commercial element of 250,000 square feet of regional commercial and 273,855 square feet of self-storage consistent with the Subarea Plan's Land Use designation (COMMERCIAL REGIONAL). The proposed development also provides for its fair share of the construction of State Route 56, the State Route 56/Camino Del Sur interchange, Camino Del Sur and Carmel Mountain Road in the

alignment and grade shown in the Subarea Plan. The proposed development will also result in the dedication of Multiple Habitat Preserve Area [MHPA] open space and the construction of a multi-use trail system consistent with the Subarea Plan. As such, the proposed development will not adversely affect the applicable Land Use Plan.

The proposed is consistent with the approved Rancho Peñasquitos Community Plan. The 445 dwelling unit project implements the community plan of Low density, Medium density, and Medium High density residential development consistent with the Community Plan Land Use designations of (LOW DENSITY, MEDIUM DENSITY, and MEDIUM HIGH DENSITY) 1 to 5, 10 to 22, and 22 to 42 dwelling units per acre. The project also includes a Neighborhood Commercial element of 7,200 square feet of commercial consistent with the Community Plan's Land Use designation (NEIGHBORHOOD COMMERCIAL). The proposed development also provides for its fair share of the construction of State Route 56, the State Route 56/Camino Del Sur Interchange, Camino Del Sur, and Carmel Mountain Road in the alignment and grade shown in the Rancho Peñasquitos Community Plan and the Torrey Highlands Subarea Plan. The project will also result in the dedication of MHPA open space and 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 includes the dedication of right-of-way and contribution of its fair share cost towards construction of State Route 56, State Route 56/Camino Del Sur interchange, Camino Del Sur and Carmel Mountain Road. The proposed development also constructs detention basins necessary to handle project storm runoff. The proposed development will construct sound attenuation walls thereby reducing noise impacts from State Route 56 and provide necessary sewer and water facilities to serve the residents. Police and fire stations exist just east of the development in the Rancho Peñasquitos Community, which will provide response times of approximately five minutes. The development will also provide for the health, safety, and welfare of the residents by locating all brush management outside of the MHPA while increasing the setback of houses from the fuel sources.

The development of commercial retail and commercial self-storage facility, multi-family residential dwelling units, single-family residential units, vernal pool reserves and open space in accordance with the Rancho Penasquitos Community Plan and the Torrey Highlands Subarea Plan, as proposed to be amended, would not be detrimental to the public health, safety and welfare. All public facilities to support the development will be, or have been, constructed. These facilities include roads (freeway, major/collector and local streets, water and sewer facilities, drainage facilities, public transit facilities, pedestrian access, vernal pool reserves, Multiple Species Conservation Plan [MSCP]/Multiple Habitat Planning Areas [MHPA] and public and private open space areas.

3. The proposed development will comply with the regulations of the Land Development Code. With the exception of the deviations requested with this application, which are appropriate for this location (see Finding No. 5), the proposed development in all other respects complies with the Land Development Code. The proposed development contains eleven sub-development areas with four zone designations. Areas 3 and 4 are designated as RM-3-9 zone, which allows lots with a minimum size of 7,000 square feet. Areas 5 and 10 are designated as CR-2-1 zone, which allows lots with a minimum size of 5,000 square feet. Areas 1, 2, and 6

through 9 are designated as RS-1-14 zone, which allows lots with a minimum lot size of 5,000 square feet. Area 11 is designated as CC-1-3 zone, which allows lots with a minimum lot size of 5,000 square feet. The proposed development has lots ranging from 5,100 square feet to 396,470 square feet. All other requirements including building setbacks, density, and parking requirements will comply with the regulations of the Land Development Code, reflecting the desired development patterns of the neighborhood and accommodating the need for future growth.

4. The proposed development, when considered as a whole, will be beneficial to the community. The proposed development, when considered as a whole, will be beneficial to the community. The development will dedicate open space into the regional open space system (MHPA); dedicate right-of-way for public streets and construct a portion of State Route 56, State Route 56/Camino Del Sur interchange, Camino Del Sur and Carmel Mountain Road; construct a portion of the multi-use trail system, and provide for detention basins capable of handling all project-related storm water runoff. The development will also contribute to the region's housing supply by constructing 734 residential units (both single-family and multi-family products/market-rate and affordable), and it will pay all applicable public facilities financing and schools fees. The development will provide approximately forty-seven affordable housing units as "turn-key" dwelling units. Such affordable units will be provided in Area 4, located at the southwest corner of Carmel Mountain Road and State Route 56 adjacent to the commercial site and on the transportation corridor.

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. For Areas 2, 7 and 8, a deviation from the street frontage requirements: The proposed development is consistent with the approved Torrey Highlands Subarea and Rancho Peñasquitos Community Land Use Plans. In accordance with the land use plans, this project has been designed to preserve natural topography features, providing pedestrian and open space linkages within and between neighborhoods that are designated Low-Density Residential category of 2 to 5 dwelling units per acre. The size and shape of these planning areas is determined by the existing development pattern, the MHPA (abutting the western boundary of the subdivision), and the grades and alignment of State Route 56, Camino Del Sur and Carmel Mountain Road. Because these areas are irregularly shaped, it is necessary to design a limited number of lots with reduced street frontages. These lots include homes located to the rear of the lots, longer than normal driveways leading from the street to the dwelling, and shared driveways. Strict conformance with the street frontage requirement of, 50-feet, would result in a density at the lower end of the Land Use category (2 to 5 dwelling units per acre) and would deprive the neighborhood of sensible planning techniques and reasonable use of the land.

Three lots in Area 2 have a reduced street frontage (Lots 156, 171 and 173) because strict application of the street frontage requirement would affect the vernal pools and their associated watersheds which is not permitted under Federal and State Statues. Similarly, in Area 7, Lots 35 and 36 take access from a short street between two vernal pools. Lots 78 and 83 in Area 8 have a reduced street frontage. Strict application of the street frontage requirement would deny the applicant reasonable use of the property.

For Areas 1, 2, and 6 through 9, a deviation from the front yard setback requirements:

The proposed development is consistent with the approved Torrey Highlands Subarea and Rancho Peñasquitos Community Land Use Plans. For Areas 1, 2, 6, 7, 8, and 9 the front setbacks within this development are 10 feet (for living area or side-loaded garages), where 15 feet is required for their respective zoning designations. Front-loaded garages must, per engineering requirements, maintain an 18-foot setback (front yard). In accordance with the land use plan, this project has been designed to preserve natural topographic features, and provide pedestrian and open space linkages within and between neighborhoods within the Low-Density Residential Land Use designations. These dwelling units could be designed with side-loaded garages or living area at 10 feet which will bring the houses closer to the street and create more intimacy throughout the community. Designing the development with the homes closer to the street serves as a traffic calming device, thus, causing traffic throughout the neighborhood to drive slower, thus reducing the chance for traffic accidents. Adherence to the Brush Management Zone 1 and 2 requirements, makes it necessary to move the dwelling units closer to the street, to create more room in the rear property lines for brush management, allowing a decrease in the required front yard setback requirements.

For Area 3, a deviation from the interior yard setback requirements:

Area 3 is split by a 150foot east west SDG&E easement (vacant) which creates an unnecessary site planning constraint. In order to implement the wrapped multi-family product (the parking garage is surrounded by outward facing dwelling units) on Lot 125, a singular interior yard setback deviation is requested. The deviation is for a single corner of the building (southwest) to observe a 0 foot setback where 5 feet are required. There are no current or future buildings to be located within the SDG&E easement. The vast majority of the building is located substantially behind the setback line.

For Areas 4 and 5, a deviation from the rear and interior yard setback requirements, respectively:

The buildings in Areas 4 and 5 are significantly different in appearance and land use. The Area 4 building is a four story residential structure which consists of wrapping multi-family dwelling units around the parking garage. The core of the structure is rectangular with residential wings extending from the core. This design screens the parking areas from the surrounding uses and orients the residential units outward and away from the core of the structure. The self storage (Area 5) building is a three story structure, which faces the interior of the site. The individual setbacks for each use and Area (4 and 5) are 5 feet (rear) and 16-feet (interior) for a total setback of 21-feet. The distance between the buildings exceeds the minimum setback for the entire length of both buildings. In fact, the single closest point between the buildings is 30-feet at the southwest corner of the Area 4 building. Within the area between the buildings is an emergency access road which services both the multi family and self storage structures. As designed, the Area 5 (self storage) building would observe a 0-foot interior setback where 16-feet is required and the Area 4 (multi-family) structure would observe a 30-foot rear setback where 5-feet is required. While shifting the property line to address the setback issue would technically satisfy the Land Development Code requirements; it would not further the cause of public health, safety, and welfare. In fact, splitting the emergency access road between the properties adds unnecessary confusion.

For Areas 1, 2, 7, and 10, a deviation from the retaining wall height requirements (within and outside of setbacks):

With the site being constrained by wetlands, vernal pools, existing developments, the MHPA, and the rights of ways for State Route 56, Camino Del Sur, and Carmel Mountain Road, several retaining walls have been proposed to implement the project. Some of these retaining walls exceed the height requirements of the Land Development Code (either within or beyond the building setbacks). All walls over 6-feet in height are proposed as plantable walls to soften their appearance.

Area 1 includes an 8-foot wall within the urban run off drainage lot, where 6-feet is permitted. The wall is required to maintain a developable area for the permitted single family lots. A small portion of the wall is visible from Carmel Mountain Road; however, the wall is located below street grade and will be planted to soften its appearance.

Area 2 has two retaining walls abutting Carmel Mountain Road which were analyzed as part of the Site Development Permit (SDP No. 41-0246) for the northern portion of Camino Del Sur and this portion of Carmel Mountain Road. The Rhodes Crossing project proposes modifications to the walls to reduce their height and improve the overall aesthetics of the community. The wall north of the project entrance was approved at a maximum height of 11-feet and the Rhodes Crossing project proposes to reduce that maximum height to 8-feet. The maximum height of the wall south of the project entrance will be reduced from 16-feet to 11-feet. Based upon the existing vernal pools and their watersheds, additional reductions in the height of the walls are not possible. In addition, the Area 2 project includes an 18-foot tall retaining wall near the eastern property line. This property line is shared with the Via Panacea subdivision. The wall is necessary to preserve the slope on the adjacent properties. The project design includes utilizing the existing natural features, such as slope, to screen the properties from each other. The wall also is necessary to permit fire access to the rear of the building. Absent the fire access, the slope would naturally continue to match existing grade.

Area 7 includes a 7-foot tall retaining wall at the eastern terminus of Street "D." This plantable wall is located both above then below the grade of the cul-de-sac. The existing topography in this area of the project was the head of a finger canyon into Los Peñasquitos Canyon which was cut off by Via Panacea subdivision. Rather than filling the existing basin, the project proposes to utilize a plantable retaining wall to support the cul de sac. The eastern portion of the wall supports the off site topography of the Via Panacea subdivision and permits the applicant to construct the cul de sac and a home site.

Area 10 has two retaining walls that exceed the height limits of the Land Development Code. The first wall is located in the setback abutting Carmel Mountain Road. This wall has a maximum height of 10-feet, for a short distance within the setback then becomes shorter, is necessary to support the road and create the commercial pad for project. This plantable wall is not visible from Carmel Mountain Road or any other public vantage point. The second wall is located north of the commercial center and south of the urban wetland. This plantable wall is not within any setback and is articulated to blend into the slope. The wall has a maximum height of 17-feet; however, most of the wall is less than 10-feet in height. It is not visible from the commercial center, Camino Del Sur, or State Route 56.

For Area 5, a deviation from the parking requirements:

The requested deviation is necessary to compensate for an oversight in the City of San Diego Land Development Code. As enacted, the Land Development Code does not adjust the vehicle parking requirements based upon the Self Storage land use. Based upon the parking ratio for the CR-2-1 zone, 490 parking spaces are required for a 273,855 square foot building. Using industry's standards for traffic generation and parking requirements, the proposed project necessitates only eleven parking spaces. The City's Transportation Section has determined that Self Storage as a land use does not generate the same amount of daily traffic or parking needs as other Regional Commercial uses; however, Self Storage is required to provide parking spaces at the same rate as all Regional Commercial uses. The strict compliance with the parking requirements will increase heat gain within the community and result in underutilized space. The requested deviation will result in a more desirable project through the elimination of 479 parking spaces which will never be utilized and results in a more cohesive development.

B. SITE DEVELOPMENT PERMIT – SDMC SECTION 126.0504

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

The development of this 147.39 acre site for single-family and multi-family residential use, two commercial centers for community and neighborhood serving uses, a self-storage facility, a private park and open space, vernal pool reserves, and street vacations and easement abandonments to accomplish the development plans, will not adversely affect the applicable land use plans. The project area is within both the Rancho Penasquitos and Torrey Highlands Subarea Plan areas and the applicant has proposed amendments to both plans to accommodate changes to the plans to allow the proposed development to be approved. The City Council has approved alignments for the construction of Carmel Mountain Road, Camino del Sur and State Route 56 which are the major streets serving and impacting the development of the site. A large number of vernal pools are within the project area and are to be preserved through limitations on grading, location of development outside of the watershed, fencing and education of the adjacent property users as to their status. This area of the Torrey Highlands Subarea Plan is the last area within the plan boundary needing City Council approval and the adjoining portion of the project within the Rancho Penasquitos Community Plan area is one of the few areas remaining for development within that plan. Evaluation of impacts to steep slopes, sensitive habitats, wetlands, stormwater impacts, site drainage and other environmentally sensitive lands, has been completed thoroughly analyzed and it has been determined that this development will not adversely impact the Rancho Penasquitos and Torrey Highlands Subarea Plans.

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

The proposed project, for the development of residential and commercial land uses, is located within two different approved land use plan areas. The Torrey Highlands Subarea Plan is a voter approved plan with a maximum limit on the number of residential units and prescribed limits on other uses for traffic generation and impacts and for the balance of needs for the persons residing or working in the region. The Torrey Highlands Subarea Plan evaluated the overall development uses, development areas and the preservation and impacts to environmentally sensitive areas. The Rancho Penasquitos Community Plan contains the balance of the projects proposed development and is the area adjacent to existing development where

impacts to the natural and developed landforms can be evaluated. The development proposal has some predetermined constraints created by the approved alignments of State Route 56, Camino del Sur, and the realignment of Carmel Mountain Road to avoid a significant vernal pool area. Other sensitive habitats have been evaluated with the development proposal, at with conditions of the accompanying vesting tentative map, Development Permits and Environmental Mitigation, the project 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 development of this 147.39 acre site for 734 residential dwelling units, 257,200 square-feet of commercial retail space, 273,855 square-feet of self-storage space, a private park and open space, has been evaluated for compliance with all applicable provisions of the City of San Diego Land Development Code, the adopted community plans, the State Map Act, sensitive lands regulations, the City of San Diego Multiple Species Conservation Plan and the Multiple Habitat Planning Area goals. The proposed project is one of the last to be processed within the Torrey Highlands Subarea and is the last of the large areas remaining for development within the Rancho Penasquitos Community Plan area. Subject to the Mitigation Monitoring and Reporting Program [MMRP], conditions of approval in the permits and Vesting Tentative Map and subject to the rezoning and proposed plan amendments, the project will conform to all applicable regulations.

**C. SUPPLEMENTAL FINDINGS - ENVIRONMENTALLY SENSITIVE LANDS –
SDMC SECTION 126.0504(b)**

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 Torrey Highlands Subarea and Rancho Peñasquitos Community Plans were designed to be consistent with the City's adopted MSCP and to preserve the maximum area for the MHPA. The proposed project is less impactful to Environmentally Sensitive Lands than the adopted Torrey Highlands Subarea and Rancho Peñasquitos Community Plans due to the preservation of all of the vernal pools and wetlands. Development footprints have been located on the least sensitive area of the communities. Additionally, all brush management for this project has been located outside of the MHPA, thus further minimizing impact to sensitive resources. The proposed development has been sited on the portions of the project site with minimal topographic relief, most of which has been disturbed through previous agricultural practices. Consequently, both grading and disturbance of sensitive habitat is minimized.

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. The Torrey Highlands Subarea and Rancho Peñasquitos Plans were designed to minimize alterations to natural landforms. Development footprints have been located to minimize erosion, flood, and fire hazards. Development complies with the Region-wide erosion control plan. The plan exceeds the otherwise Citywide applicable requirements related to storm water runoff and best management practices as related to storm water runoff. Specifically, the development area is located out of the floodway and on the flatter portions of the property. All brush management will be located out of the MHPA resulting in increased building setbacks and reduced fire hazards. As such, the proposed development will minimize the alteration of natural

landforms and will not result in undue risk from geologic and erosional forces, flood hazards, or fire hazards.

3. The proposed development will be sited and designed to prevent adverse impacts on any adjacent environmentally sensitive lands. Consistent with the adopted Subarea and Community Plans, the development footprint has been sited on the flatter portion of the site, which was previously used for agricultural purposes. Increased brush management will be provided which further minimizes impacts to adjacent environmentally sensitive lands. The proposed detention basins have also been located in previously disturbed area thereby avoiding any further reducing impacts to environmentally sensitive lands. The proposed development will therefore be sited and designed 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. The 147.39 acre project site contains large expanses of vernal pools and is adjacent to the MSCP MHPA. The project is designed and conditioned to comply with required "adjacency guidelines" so that access, viewing, lighting and other impacts and benefits associated with this resource, will be in compliance with this plan. The vernal pools on site, to the extent possible, are being preserved so that the natural survival of the pools and watershed areas should be attained. Previously approved alignments and development of Camino del Sur, Carmel Mountain Road and State Route 56 have eliminated some vernal pools within the project boundaries (subject to mitigation) but the private development has been designed to comply with the City of San Diego MSCP Subarea Plan. For that portion of the development within the Torrey Highlands Subarea Plan, land designated for inclusion within the MHPA boundary and grading impacted areas, were evaluated on an overall Torrey Highlands boundary analysis and if the evaluation determined that the individual projects satisfied the parameters for development, that the determination of compliance with environmentally lands would be satisfied.

The Torrey Highlands Subarea Plan established the boundary of the MHPA within the Subarea. "Hard Lines" were adopted for the MHPA when the Subarea Plan was approved. The proposed development is entirely consistent with the MHPA preserve boundary. Moreover, the development accommodates all brush management with the development area, thus no brush management activities will occur within the MSCP preserve. All other requirements of the MSCP have been met or exceeded for the developable portions of the proposed development. Therefore, the proposed project will be consistent with the City's MSCP Subarea Plan.

5. The proposed development will not contribute to the erosion of public beaches or adversely impact local shoreline sand supply. The proposed development is located several miles inland from public beaches and local shoreline and therefore it is unlikely that on-site development will contribute to erosion of public beaches or adversely affect shoreline sand supply. Moreover, detention/desiltation basins are provided on-site to reduce surface water runoff and reduce water runoff velocities to the extent water runoff might increase downstream siltation and contribute to the erosion of public beaches or adversely affect local shoreline sand supply.

The Rhodes Crossing project is proposed for the inland communities of Rancho Penasquitos and the Torrey Highlands Subarea Plan. The development is proposed on landforms of various features consisting of flat mesa tops and canyon hillsides that ultimately flow to the west toward the Pacific Ocean. The project has been reviewed for stormwater impacts and flow and with conditions for review of the drainage plan by the City Engineer, incorporation of conditions for Best Management Practices [BMP's] and mitigation conditions in the Environmental Impact Report, this development should not contribute to the erosion of public beaches or adversely affect 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. In addition to a Subarea-wide Environmental Impact Analysis [EIR], the EIR for the Torrey Highland Subarea Plan included a site specific impact analysis for this proposed development consistent with City Council Policy (600-40). An initial study has been conducted for the proposed development on this site and concluded that the EIR for the project be prepared to address environmental impacts. Findings to support the EIR's conclusion have been made and are part of this project's record. In addition, all mitigation measures identified in the EIR that are associated with this proposed development have been adopted and will be incorporated into the planned development permit. Thus, all mitigation reasonably related to and calculated to alleviate negative impacts created by the proposed development has been or will be incorporated into the conditions of the development permit.

The entire Rhodes Crossing project has been reviewed based upon the California State Environmental Quality Act. Based upon an Initial Study, the City of San Diego's Development Services Department determined that a project related EIR must be prepared. An EIR was prepared under the direction of the City of San Diego and considered and reviewed by the decision makers prior to the approval of the project. The EIR provides for certain mitigation measures to be implemented to reduce project related impacts below the level of significance. As designed, the project implements the recommendations and mitigation measures of the EIR.

D. SUPPLEMENTAL FINDINGS--ENVIRONMENTALLY SENSITIVE LANDS DEVIATIONS - SDMC SECTION 126.0504(c)

1. There are no feasible measures that can further minimize the potential adverse effects on environmentally sensitive lands. The existing vernal pools and their watersheds, landform, abutting subdivision (Via Panacea), alignment of Camino Del Sur, and the need to provide emergency access to the Via Panacea subdivision influence the site plan design. Of the 17 acres within Area 2, vernal pools and their watersheds encumber 8 acres which limits the developable area of the site to approximately 10 acres. Added to this constraint, is the fact that Camino Del Sur is 34-feet below the existing grade of the vernal pools and Area 2. In order to provide emergency access to the Via Panacea subdivision from Camino Del Sur and to permit the reasonable development of Area 2, the existing steep hillsides must be disturbed. All feasible measures to minimize the effects of the project on environmentally sensitive lands (steep hillsides) have been incorporated into the site design.

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 existence of

several extensive vernal pools complexes within Area 2, the alignment of Camino Del Sur (34-feet below existing grade), and the need to provide emergency access to the Via Panacea subdivision are factors not of the applicant's making. Under the terms and conditions of the Implementing Agreement for the City's Multiple Species Conservation Program and the Federal Endangered Species Act, it is virtually impossible to disturb the vernal pools and the watersheds. The location and grade of Camino Del Sur is 34-feet below the existing grade of the vernal pools, their watersheds, and the Via Panacea subdivision. Emergency access to the Via Panacea subdivision is need for public health, safety and welfare. Given the extreme sensitivity of the vernal pools and the need to provide for public safety, the deviation to disturb the steep hillsides is the minimum necessary to afford the applicant reasonable use of the site.

E. SUPPLEMENTAL FINDINGS – STEEP HILLSIDES DEVELOPMENT AREA REGULATIONS ALTERNATIVE COMPLIANCE -SDMC § 126.0504 (e)

1. The proposed development is in conformance with the Steep Hillside Guidelines.

The Area 2 site plan has a series of development constraints that severely limit the developable portion of the site. These constraints include vernal pools and their watersheds, the existing subdivision to the east (Via Panacea), provision of an emergency access road between the subdivision and Camino Del Sur, and the grade and alignment of Camino Del Sur. None of these constraints can be relocated and must be accommodated. While working with and around these features, the project has been designed to conform to the steep hillside guidelines. The grading plan includes landform-grading techniques such as variable slope ratios and slope rounding. The use of retaining walls has been minimized to the extent feasible. In addition, the project grading reflects the surrounding development pattern and accommodates the emergency access requirement for the Via Paneca project.

2. The proposed development conforms to the applicable land use plan. That portion of the project containing steep hillsides (Area 2) is designated for Medium Residential density development in the Rancho Peñasquitos Community Plan (amended). Specifically, that portion of Area 2 with steep hillsides is located in the southeast corner of the site and is adjacent to an existing subdivision (Via Panacea) and the proposed Camino Del Sur southern extension. Approval of the abutting subdivision included the provision of an emergency access road across the area of steep hillsides to Camino Del Sur. The proposed project is consistent with the Rancho Peñasquitos Community Plan and subsequent project approvals.

3. Strict application of the Steep Hillside Development Area Regulations would result in conflicts with other City regulations, policies or plans. Strict application of the steep slope regulations would conflict with the Rancho Peñasquitos Community Plan, and deny emergency access to the previously approved Via Paneca Subdivision. The majority of this portion of the project contains vernal pools and their watersheds, which cannot be disturbed; therefore, Area 2 is severely restricted. In order to develop a reasonable site plan that implements the Community Plan and provide emergency access to the abutting subdivision, as envisioned, the steep hillsides must be disturbed.

F. SUPPLEMENTAL FINDING--IMPORTANT ARCHAEOLOGICAL SITES AND TRADITIONAL CULTURAL PROPERTIES – SDMC SECTION 126.0504(f)

1. The site is physically suitable for the design and siting of the proposed 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. The proposed project is consistent with and implements the Torrey Highlands and Rancho Peñasquitos Community Plans. Given the location of State Route 56 and the provision of Camino Del Sur and Carmel Mountain Road, the site is physically suited for and has been designed fully to mitigate any disturbance to the historical resources.

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. Given the restricted development footprint created by State Route 56, Camino Del Sur, and Carmel Mountain Road as well as numerous vernal pool complexes, all feasible measures to protect and preserve the significant archaeological site have been provided. The site does not contain any other known significant historical resources.

G. SUPPLEMENTAL FINDINGS--HISTORICAL RESOURCES DEVIATION FOR IMPORTANT ARCHAEOLOGICAL SITES AND TRADITIONAL CULTURAL PROPERTIES – SDMC SECTION 126.0504(g)

1. There are no feasible measures, including a less environmentally damaging location or alternative, that can further minimize the potential adverse effects on historical resources. The archaeological site is located in an area that cannot be avoided. Implementation of the regional road system through the site, (State Route 56, Camino Del Sur, and Carmel Mountain Road) and the existence of numerous vernal pool complexes severely limits where development can occur. All feasible measures were reviewed and considered; however, the potential effects to the historical resources cannot be further minimized.

2. The proposed deviation is the minimum necessary to afford relief and accommodate the development and all feasible measures to mitigate for the loss of any portion of the resource have been provided by the applicant. The resource is located in an area that cannot be avoided; therefore, the applicant has provided all feasible measures necessary to mitigate for the loss of the resource. The proposed deviation is the minimum necessary to implement the project.

3. There are special circumstances or conditions apart from the existence of historical resources, applying to the land that are peculiar to the land and are not of the applicant's making, whereby the strict application of the provisions of the historical resources regulations would deprive the property owner of reasonable use of the land. The site contains a series of wetlands (both vernal pools and drainage from off-site that feed both Deer and Los Peñasquitos Canyons) that affect the design of all areas of the site. In addition, State Route 56, Camino Del Sur, and Carmel Mountain Road, which are Community Element and regionally significant roadways, limit the design options available to the applicant. None of these limitations are of the applicant's making or within his control. The strict application of the historical resources regulations will deprive the applicant of reasonable use of the land.

H. **CONDITIONAL USE PERMIT – SDMC SECTION 126.0305**

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

The proposed gasoline service station is proposed as a component of the overall project developing detached single-family and attached multi-family residential dwelling units, a community serving commercial center, a self-storage facility and a neighborhood commercial center. The neighborhood commercial center, containing the gasoline service station, is located on the southeast corner of Camino del Sur and Carmel Mountain Road within the boundaries of the Rancho Penasquitos Community Plan area and is consistent with the land use designations of the plan that was approved by the voters of the City of San Diego. The overall project is one of the last remaining unapproved projects within Torrey Highlands and the project approval, with the gasoline service station component, will fulfill the planning area land use plan as envisioned by the property owners, the voters and the City Council of the City of San Diego and conform to the Rancho Penasquitos Community Plan. The proposed development will not adversely affect the two planning areas land use plans or conflict with the plans.

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

The development of the gasoline service station, through the Conditional Use Permit process, has permitted the analysis of this proposed site, which will also contain a mini-mart and oil/lube facility, to determine the compatibility of the use with those uses of the adjoining properties and development proposals. The facility is at the intersection of two major streets and relatively close to freeway on and off ramps, across the intersection from a community serving commercial center and in close proximity to a large number of residential dwelling units. Additionally, only one other gasoline service station will be built in the vicinity and the use is one that will fulfill a need and service for those persons residing or utilizing facilities in the area. Through conditions contained in the accompanying permit for hours of operation, limits on alcoholic beverage sales, off-street parking and landscape requirements, the use will not be a detriment to the public health, safety and welfare.

3. The proposed development will comply to the maximum extent feasible with the regulations of the Land Development Code.

A gasoline service station is a desirable land use and one that provides a necessary product for the residents and community within the City of San Diego. The City has determined that the Conditional Use Permit and process permits the evaluation of this use at a particular location in relation to the surrounding land uses and allow for appropriate conditions and limitations on its use in order to avoid negative impacts or conflicts. Staff has determined that the use is appropriate at this location at the intersection of major streets, close to freeway access ramps, across the intersection from a community serving commercial center, and that the development will comply to the maximum extent feasible with all regulations of the Land Development Code.

4. The proposed use is appropriate at the proposed location.

The developer has proposed to build an auto oriented business at the corner of the intersection of Carmel Mountain Road and Camino del Sur to contain a mini-mart, gasoline service station and a lube/oil change facility. The site is opposite a community serving commercial center, in the proximity of single-family and multi-family developments and close to freeway access ramps. Only one other gasoline service station is proposed within the area. Staff believes that the use will serve the needs of residents, shoppers and travelers in the area and is appropriate for this specific location.

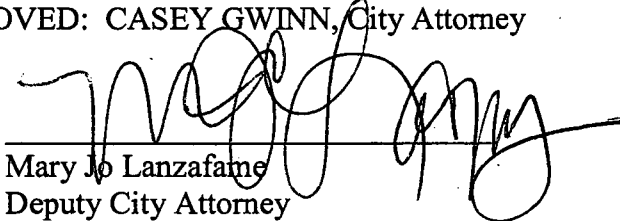
The above findings are supported by the minutes, maps and exhibits, all of which are herein incorporated by reference.

BE IT FURTHER RESOLVED, that the recommendation of the Planning Commission is overruled, and Planned Development Permit No. 53203, Site Development Permit No. 53204 and Conditional Use Permit No. 53205, is granted to Keith B. Rhodes, Trustee of the Keith B. Rhodes Living Trust and the John W. Grus Living Trust and Fieldstone Communities Inc., a California Corporation, Owner/Permittee, under the terms and conditions set forth in the attached permit which is made a part of this resolution.

BE IT FURTHER RESOLVED, that Owner/Permittee waived any right to file a protest ballot relating to the creation of a Landscape Maintenance District affecting the subject property.

APPROVED: CASEY GWINN, City Attorney

By


Mary Jo Lanzafame
Deputy City Attorney

MJL:cfq:pev
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