

RESOLUTION NUMBER R-299701

ADOPTED ON SEPTEMBER 28, 2004

WHEREAS, City of San Diego, Owner/Kim H. Peterson, Permittee, filed an application with the City of San Diego for a planned development permit, site development permit, and right-of-way vacation to construct a 7,200 square foot retail building known as the Aero Drive Three Project, located east of Murphy Canyon Road, south of Aero Drive, west of Interstate 15, and legally described as a portion of the land in the City of San Diego relinquished to the City of San Diego by the California Transportation Commission, recorded as file/page No. 81-320297, including a 60-foot wide Murphy Canyon Road, Township 16 South, Range 2 West, San Bernardino Base Meridian, in the Kearny Mesa Community Plan area, in the CC-1-3 zone; and

WHEREAS, on June 17, 2004, the Planning Commission of the City of San Diego considered Planned Development Permit [PDP] Permit No. 56270, Site Development Permit [SDP] No. 56271, and pursuant to Resolution No. 3522-PC voted to recommend City Council approval of the Permit; and

WHEREAS, the matter was set for public hearing on September 28, 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 PDP Permit No. 56270 and SDP Permit No. 56271:

A. PLANNED DEVELOPMENT PERMIT- San Diego Municipal Code Section [SDMC] 126.0604

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

The project is located on 1.123 acres of City owned land. The project proposes the construction of a 7,200 square foot retail building and parking lot on an undeveloped 1.123 acre site. The proposed retail building would have a cement plaster exterior with architectural cornices and a mission-style clay tile roof. The single-story structure would have a maximum height of 31.5 feet. The CC-1-3 zone limits the project height to a total of 45-feet. The project's 45-foot maximum height limit calculation includes the maximum height of the proposed structure at 31.5-feet plus the maximum height of the proposed fill which is 13.5-feet as measured above existing grade at the same location. The property is located in the Kearny Mesa Community Plan Area and within Planning Area 5 of the Stonecrest Specific Plan. Planning Area 5 is designated for up to 272,500 square feet of regional commercial use. The project is also within the CC-1-3 zone, a commercial community zone intended to accommodate development with an auto orientation. Adjacent land uses consist of industrial, business park and commercial to the north and industrial to the south. Land uses to the west and southwest are commercial with existing shopping center businesses for Wal Mart, Vons, Petsmart and Fry's Electronics. Another shopping center exists to the north between the properties northern boundary and Aero Drive. Highway 15 and State owned property exists along the projects eastern boundary.

The retail building proposal is consistent with these designations, the floor area limitation, and with all other requirements of the specific plan, community plan, and Progress Guide and General Plan. Therefore, the proposed development 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 project proposes constructing a retaining wall, importing 15,520 cubic yards of fill soils, and grading to create a level pad for the proposed retail building. Off-site grading is necessary along the western portion of the project to create the level pad. The project topography has been previously altered by grading, creating a north-south trending valley between Interstate 15 and Murphy Canyon Road. This project proposes grading and construction along the western portion of this valley. The project conditions require approval of an engineering permit to allow the proposed grading.

The project construction plans include measures to reduce potentially adverse impacts associated with erosion and slope instability. The project will be constructed in accordance with engineering standards and Best Management Practices [BMP] to create a safe and stable site, and safe access to the site. In addition, the project will provide an off-site 4-way stop sign at the entrance to this project on Murphy Canyon Road for traffic safety. This new 4-way stop intersection will serve the existing shopping center to the west and this project. Therefore, the proposed development will not be detrimental to the public health, safety, and welfare.

3. The proposed development will comply with the regulations of the Land Development Code. The project proposes a retail building and parking lot located in the CC-1-3 zone and Airport Environs Overlay zone. The CC-1-3 zone is a commercial community zone intended to accommodate development with an auto orientation as proposed by this project. The proposed project includes a 581-foot long keystone retaining wall to be constructed along the eastern boundary of the project site, immediately adjacent to the Interstate 15 right-of-way. This keystone wall is required in order to retain the 15,520 cubic yards of fill needed to achieve a finished level building pad. The permittee is requesting a deviation to allow portions of the retaining wall to exceed 9 and 12-feet in height (a maximum of 15.3-feet proposed), as well as relief from the requirement to provide horizontal separation. The retaining wall is proposed along the eastern boundary of the project site, and immediately adjacent to an existing approximately 25-foot high manufactured slope supporting Interstate 15. Because the retaining wall will be situated approximately 25-feet below Interstate 15, the wall would not be visible to the public, or to traffic on Interstate 15. The wall will be landscaped with cascading vines in the area of the retaining wall which is greater than 5 feet high and not restricted in a horizontal dimension by the location of the curb. In addition, Caltrans is currently landscaping the entire slope in front of the wall using reclaimed water, thereby further screening the wall.

The project is located within the 60 cnel Airport Environs Overlay Zone for Montgomery Field, however an avigation easement is not required since the parcel is City-owned. If ownership changes in the future, then this project would be subject to an avigation easement. The proposed project conforms to the development regulations of the Land Development Code, including storm water quality standards. The proposed project meets the intent, purpose, and goals of the underlying zone. Therefore, the proposed development will comply with the regulations of the Land Development Code.

4. The proposed development, when considered as a whole, will be beneficial to the community. The project area consists of previously graded lands and manufactured slopes with a paved portion of old Murphy Canyon Road. The property was previously owned by the State, however Caltrans relinquished the remnant parcel to the City as part of Interstate 15 construction. In addition, Murphy Canyon Road was realigned further west as part of the adjacent Stonecrest development, creating this 60 foot wide leftover portion of Murphy Canyon Road land. The City of San Diego is the underlying fee owner of the property for this project. Previous grading created this north-south trending valley between Interstate 15 and Murphy Canyon Road. This project proposes grading and construction along the western portion of this valley to create a useable area for a fill pad for the proposed retail building. The eastern portion of the valley is a fill slope supporting Interstate 15. This project will allow improvement and use of this previously unusable land for both the Kearny Mesa Community and the City. Therefore, the proposed development, when considered as a whole, will be beneficial to the community.

5. Any proposed deviations pursuant to SDMC Section 126.0602(b)(1) are appropriate for this location and will result in a more desirable project than would be achieved if designed in strict conformance with the development regulations of the applicable zone. The permittee is requesting a deviation to allow portions of the retaining wall to exceed 9 and 12-feet in height, as well as relief from the requirement to provide horizontal separation. A Planned Development Permit is required to allow the deviations for the proposed eastern keystone wall

located in the side yard setback. The wall is near vertical; therefore the design does not include a horizontal separation. The wall will be a maximum height of 15.3 feet constructed along the eastern boundary of the site to retain the fill soils. The wall would be a maximum length of 581 feet. This keystone retaining wall reaches its maximum height of 15.3 feet at the southern end of the site, and then decreases to 0 feet in height at the northern end of the project site. An approximately 217-foot long section of this wall exceeds the maximum height 12-foot height in the Land Development Code. An approximately 278-foot long section of this wall exceeds 9-foot height and does not incorporate the horizontal separation required in the Land Development Code. The Land Development Code limits retaining walls to a maximum height of 12-feet in height with two 6-foot walls separated by a minimum horizontal distance equal to the height of the upper wall. In addition, the Land Development Code limits retaining walls in a commercial zone to one vertical wall to a maximum height of 9-feet with no horizontal separation.

The retaining wall is proposed along the eastern boundary of the project site, and immediately adjacent to an existing approximately 25-foot high manufactured slope supporting Interstate 15. The retaining wall will be situated approximately 25-feet below Interstate 15, and the off-site slope is currently being landscaped by Caltrans. The wall will be landscaped with cascading vines. The wall would not be visible to the public, or to traffic on Interstate 15. The proposed retail building would be visible to southbound traffic along Interstate 15. A landscaping planting buffer would be incorporated into the project design along the easterly side of the building to reduce the view of the building from this southbound traffic.

The proposed deviation is appropriate for this type of development at 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 CC-1-3 zone. Therefore, the 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.

B. SITE DEVELOPMENT PERMIT – SDMC SECTION 126.0504

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

This project will construct a 7,200square foot retail building and parking lot on undeveloped land zoned for commercial uses. The property is located in the Kearny Mesa Community Plan Area and within Planning Area 5 of the Stonecrest Specific Plan. Planning Area 5 is designated for up to 272,500 square feet of regional commercial use. The project is also within the CC-1-3 zone, a commercial community zone intended to accommodate development with an auto orientation.

The Site Development Permit is required based on Environmental Sensitive Lands [ESL] as the project would result in permanent impacts to 0.08 acres of disturbed coastal sage scrub onsite, and 0.15 acres off-site, totaling 0.23 acres. A Mitigated Negative Declaration was prepared in accordance with the State of California Environmental Quality Act [CEQA], and a Mitigation, Monitoring and Reporting Program [MMRP] will be implemented to reduce impacts to biological resources to below a level of significance.

The proposed project meets the intent, purpose, and goals of the underlying commercial zone, the Kearny Mesa Community Plan, and CEQA. Therefore, the proposed project will not adversely affect the applicable land use plan.

2. The proposed development will not be detrimental to the public health, safety, and welfare. The project proposes grading and construction for a retaining wall, importing 15,520 cubic yards of fill soils, to create a level pad for the proposed retail building. Off site grading is necessary along the western portion of the project to create the level pad. The project topography has been previously altered by grading, creating a north-south trending valley between Interstate 15 and Murphy Canyon Road. This project proposes grading and construction along the western portion of this valley. The project construction plans include measures to reduce potentially adverse impacts associated with erosion and slope instability. The project conditions require approval of an engineering permit to allow the proposed grading.

The project will provide an off-site 4-way stop sign at the entrance to this project on Murphy Canyon Road for traffic safety. This new 4-way stop intersection will serve the existing shopping center to the west and this project. The project will be constructed in accordance with engineering standards and BMPs to create a safe and stable site, and safe access to the site. Therefore, 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 project proposes a retail building and parking lot located in the CC-1-3 zone and Airport Environs Overlay Zone. The project is not located in the City's Multiple Habitat Planning Area. The CC-1-3 zone is a commercial community zone intended to accommodate development with an auto orientation as proposed by this project. The project is located within the 60 cnel Airport Environs Overlay Zone for Montgomery Field, however, an avigation easement is not required since the parcel is City-owned. If ownership changes in the future, then this project would be subject to an avigation easement.

The Site Development Permit is required based on ESL as the project would result in permanent impacts to 0.08 acres of disturbed coastal sage scrub onsite, and 0.15 acres off-site, totaling 0.23 acres. A Mitigated Negative Declaration was prepared in accordance with the CEQA, and a MMRP will be implemented to reduce impacts to biological resources to below a level of significance. The proposed project conforms to the development regulations for storm water quality standards. The proposed project meets the intent, purpose, and goals of the underlying zone. Therefore, the proposed development will comply with the applicable regulations of the Land Development Code.

C. 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 requires a Site Development Permit based on the ESL regulations for sensitive biological resources. The project is in compliance with the Environmentally Sensitive Lands guidelines, and proposes no deviations from those guidelines. The Environmentally Sensitive Lands guidelines are intended to assure that development protects the overall quality of the resources by determining the impacts and providing mitigation. A complete environmental

review for the project area was completed. An Environmental Initial Study determined that this proposed project could have a significant environmental effect in the areas of biological resources. As outlined in Mitigated Negative Declaration No. 6729, a MMRP will be implemented which will reduce potentially adverse impacts associated with biological resources to below a level of significance.

Sensitive habitats were encountered on and adjacent to the subject property. Direct impacts were found to result from the proposed grading and development of the site. A biological survey was conducted. The biological letter report concluded that construction of the proposed 7,200-square-foot retail building on the 1.12 acre site would result in permanent impacts to 0.08 acres of disturbed coastal sage scrub onsite, and 0.15 acres off-site, totaling 0.23 acres. These impacts were considered significant and required mitigation. Mitigation will be accomplished by the acquisition of 0.23 acres of Tier II habitats within a City approved mitigation bank or by paying into the City of San Diego Habitat Acquisition Fund. Impacts to the 0.48 acres of disturbed land and 0.56 acres of developed lands onsite were not considered significant and did not require mitigation.

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

2. The proposed development will minimize the alteration of natural land forms and will not result in undue risk from geologic and erosional forces, flood hazards, or fire hazards. The project topography has been previously altered by grading, creating a north-south trending valley between Interstate 15 and Murphy Canyon Road. This project proposes grading and construction along the western portion of this small valley. The grading and construction include a retaining wall, and importing 15,520 cubic yards of fill soils to create a level pad for the proposed retail building. Off-site grading is necessary along the western portion of the project to create the level pad. Based on the previous grading that has occurred on this site and created this small valley, the proposed amount of grading is necessary to create a useable development site out of an un-useable site.

Based on the City of San Diego Storm Water Manual and the completed Storm Water Requirements Applicability Checklist, this development was identified as a "priority project," and required the completion of a Water Quality Technical Report. The Water Quality Technical Report concluded that the project would result in negligible changes in drainage pattern, and no net change in site hydrology is anticipated. The primary focus of the storm water plan would be to prevent contaminated runoff from leaving the construction site through the existing storm drain systems. Onsite BMPs will include slope stabilization, stockpile controls, gravel bags, fiber rolls, inlet protection devices, and sediment traps.

No geologic or fire hazards are anticipated since the project conditions require erosion control measures, and the implementation of a Storm Water Pollution Prevention Plan. The project construction plans include measures to reduce potentially adverse impacts associated with erosion and slope instability. The project will be constructed in accordance with engineering standards and BMPs to minimize grading, and create a safe and stable site. Therefore, 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.

3. The proposed development will be sited and designed to prevent adverse impacts on any adjacent environmentally sensitive lands. A complete environmental review for the project area was completed. The project is designed to improve water quality by capturing runoff and sediment. The project will be designed to capture all on-site drainage, the northern upstream drainage from the adjacent development, and the westerly drainage from the base of the adjacent Caltrans fill slope. In addition, as outlined in Mitigated Negative Declaration No. 6729, a MMRP

will be implemented which will reduce potentially adverse impacts associated with biological resources to below a level of significance. Therefore, the proposed development will 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 project is not located in the City's Multiple Habitat Planning Area, so there will be no impacts. Therefore, the proposed development will be consistent with the City of San Diego's Multiple Species Conservation Program (MSCP) Subarea Plan.

5. The proposed development will not contribute to the erosion of public beaches or adversely impact local shoreline sand supply. The proposed project is not located on a beach or bluff and will not contribute to the erosion of public beaches. The Pacific Ocean is approximately 9 miles from this project area. Based on the City of San Diego Storm Water Manual and the completed Storm Water Requirements Applicability Checklist, this development was identified as a "priority project," and required the completion of a Water Quality Technical Report. The Water Quality Technical Report concluded that the project would result in negligible changes in drainage pattern, and no net change in site hydrology is anticipated. The primary focus is to prevent contaminated runoff from leaving the construction site through the existing storm drain systems. Onsite BMPs would include slope stabilization, stockpile controls, gravel bags, fiber rolls, inlet protection devices, and sediment traps. Therefore, the proposed development will not contribute to the erosion of public beaches or adversely impact 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 would create a retail use for the community in an area that was previously un-useable land. The property was previously graded, leaving a small valley area that would be difficult for any construction of any structure. The additional grading required for this project will be the minimum necessary to grade and fill this area to create a level pad for the proposed retail building. In addition, the environmental study determined that this proposed project could have a significant environmental effect in the areas of biological resources. Mitigated Negative Declaration No. 6729 was prepared and a MMRP will be implemented which will reduce potentially adverse impacts associated with biological resources to below a level of significance. The biological letter report concluded that construction of the proposed 7,200-square-foot retail building on the 1.12-acre site would result in permanent impacts to 0.08 acres of disturbed coastal sage scrub onsite, and 0.15 acres off-site, totaling 0.23 acres. Therefore, 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.

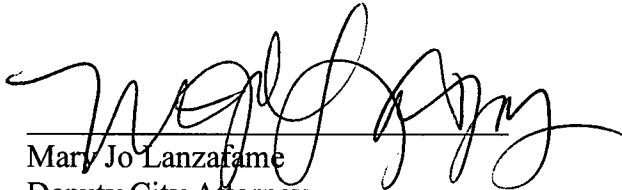
The above findings are supported by the minutes, maps and exhibits, all of which are herein incorporated by reference.

BE IT FURTHER RESOLVED, that the recommendation of the Planning Commission is sustained, and Planned Development Permit No. 56270 and Site Development Permit No. 56271

is granted to the City of San Diego, Owner/Kim H. Peterson, 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



Mary Jo Lanzafame
Deputy City Attorney

MJL:cfq
11/01/04
Or.Dept:DSD
R-2005-419
mms#315

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

PLANNED DEVELOPMENT PERMIT NO. 56270
SITE DEVELOPMENT PERMIT NO. 56271
AERO DRIVE 3 (MMRP) – PROJECT NO. 6729
CITY COUNCIL

This planned development permit, site development permit, and right-of-way vacation is granted by the City Council of the City of San Diego to the City of San Diego, Owner, and Kim H. Peterson, Permittee, pursuant to San Diego Municipal Code [SDMC] sections 126.0604 and 126.0504. The 1.123 acre site is located east of Murphy Canyon Road, south of Aero Drive, west of Interstate 15, in the CC-1-3 zone of the Kearny Mesa Community Plan. The project site is legally described as a portion of the land in the City of San Diego relinquished to the City of San Diego by the California Transportation Commission, recorded as file/page No. 81-320297, including 60 foot wide Murphy Canyon Road.

Subject to the terms and conditions set forth in this Permit, permission is granted to Permittee to construct a 7,200 square foot retail building, described and identified by size, dimension, quantity, type, and location on the approved exhibits, dated September 28, 2004, on file in the Development Services Department. The exhibits, referred to as Exhibit "A," are identified as follows:

- A-1: Title Sheet
- A-2: Architectural Site Plan
- A-3: Architectural Floor Plan
- A-4: Architectural Elevations
- A-5: Architectural Roof Plan
- A-6: Grading and Drainage Plan
- A-7: Topographic Survey
- A-8: Landscape Development Plan
- A-9: Site Sections

The project or facility shall include:

- a. Grading and construction of a 7,200 square foot retail building;

- b. Landscaping (planting, irrigation and landscape related improvements);
- c. Deviation for a portion of a 15-foot high retaining wall without horizontal separation, along the eastern portion of the project, where two 6-foot horizontally offset walls to a maximum height of 12-feet, or one wall to a maximum height of 9-feet would be required;
- d. Off-street parking facilities;
- e. Off site grading and construction of an off site 4-way stop intersection; and
- f. 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 executes a lease agreement with the City of San Diego for the land area as described in the legal description and as shown on Exhibit "A";
 - b. The Permittee signs and returns the Permit to the Development Services Department; and
 - c. The Permit is recorded in the Office of the San Diego County Recorder.
3. Unless this Permit has been revoked by the City of San Diego the property included by reference within this Permit shall be used only for the purposes and under the terms and conditions set forth in this Permit unless otherwise authorized by the City Manager.
4. This Permit is a covenant running with the subject property and shall be binding upon the Permittee and any successor or successors, and the interests of any successor

shall be subject to each and every condition set out in this Permit and all referenced documents.

5. The utilization and continued use of this Permit shall be subject to the regulations of this and any other applicable governmental agency.

6. Issuance of this Permit by the City of San Diego does not authorize the Permittee for this permit to violate any Federal, State or City laws, ordinances, regulations or policies including, but not limited to, the Endangered Species Act of 1973 [ESA] and any amendments thereto (16 U.S.C. § 1531 et seq.).

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

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

9. All of the conditions contained in this Permit have been considered and have been determined to be necessary in order to make the findings required for this Permit. It is the intent of the City that the holder of this Permit be required to comply with each and every condition in order to be afforded the special rights which the holder of the Permit is entitled as a result of obtaining this Permit.

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

ENVIRONMENTAL/MITIGATION REQUIREMENTS:

10. 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.

11. As conditions of Planned Development No. 56270 and Site Development Permit No. 56271, the mitigation measures specified in the MMRP, and outlined in the Mitigated Negative Declaration, Project 6729 shall be noted on the construction plans and

specifications under the heading ENVIRONMENTAL/MITIGATION REQUIREMENTS.

12. The Permittee shall comply with the [MMRP] as specified in the Mitigated Negative Declaration, Project 6729 satisfactory to the City Manager and City Engineer. Prior to issuance of the first grading permit, all conditions of the MMRP shall be adhered to the satisfaction of the City Engineer. All mitigation measures as specifically outlined in the MMRP shall be implemented for the following issue areas:

Biological Resources

13. The MMRP shall require a long term monitoring fee in the amount of \$1,100 to be collected prior to the recording of this permit, to cover the City's costs associated with implementation of the MMRP.

ENGINEERING REQUIREMENTS:

14. Prior to the issuance of any building permits, the applicant shall obtain a bonded grading permit for the grading proposed with this project. All grading shall conform to requirements in accordance with grading sections of the City of San Diego Municipal Code in a manner satisfactory to the City Engineer. Any surcharge to the off-site 162-inch steel storm drain will be evaluated during the grading permit process.

15. Prior to the issuance of any building permits, the applicant shall install a 4-way stop at the entrance to this project on Murphy Canyon Road, satisfactory to the City Engineer.

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

17. Prior to the issuance of any construction permits, the Permittee shall vacate the excess Old Murphy Canyon Road right-of-way and set-aside easements as shown on Drawing 20029-B, satisfactory to the City Engineer.

18. Prior to the issuance of any construction permit, the Applicant shall enter into a Maintenance Agreement for the ongoing permanent [BMPs] maintenance, satisfactory to the City Engineer.

19. Prior to the issuance of any construction permit, the Applicant shall incorporate any construction BMPs necessary to comply with Chapter 14, Article 2, Division 1 (Grading Regulations) of the Municipal Code, into the construction plans or specifications.

20. Prior to the issuance of any construction permit the applicant shall incorporate and show the type and location of all post-construction BMP's on the final construction drawings, consistent with the approved Water Quality Technical Report.

21. Development of this project shall comply with all requirements of State Water Resources Control Board [SWRCB] Order No. 99-08 DWQ and the Municipal Storm Water Permit, Order No. 2001-01 (NPDES General Permit No. CAS000002 and CAS0108758), Waste Discharge Requirements for Discharges of Storm Water Runoff Associated With Construction Activity. In accordance with said permit, a Storm Water Pollution Prevention Plan [SWPPP] and a Monitoring Program Plan shall be implemented concurrently with the commencement of grading activities, and a Notice of Intent [NOI] shall be filed with the SWRCB. A copy of the acknowledgment from the SWRCB that an NOI has been received for this project shall be filed with the City of San Diego when received; further, a copy of the completed NOI from the SWRCB showing the permit number for this project shall be filed with the City of San Diego when received. In addition, the Permittee(s) and subsequent Permittee(s) of any portion of the property covered by this grading permit and by SWRCB Order No. 99 08 DWQ, and any subsequent amendments thereto, shall comply with special provisions as set forth in SWRCB Order No. 99 08 DWQ.

22. Prior to any work performed within the eastern State of California Caltrans right-of-way, an encroachment permit shall be approved satisfactory to Caltrans.

LANDSCAPE REQUIREMENTS:

23. Prior to issuance of any construction permits for structures, cascading vines shall be shown on the Landscape Plan in the area of the retaining wall which is greater than 5 feet high and not restricted in a horizontal dimension by the location of the curb.

24. Prior to the issuance of any engineering permits for grading or improvement the Permittee shall complete a Maintenance Assessment District [MAD] Agreement form for early confirmation.

25. In the event that the Landscape Plan and the Site Plan conflict, the Site Plan shall be revised to be consistent with the Landscape Plan.

26. In the event that a foundation only permit is requested by the Permittee, a site plan or staking layout plan shall be submitted identifying all landscape areas consistent with Exhibit "A," Landscape Development Plan, on file in the Office of Development Services. These landscape areas shall be clearly identified with a distinct symbol, noted with dimensions and labeled as landscaping area.

27. Prior to issuance of any construction permits for structures (including shell), complete landscape and irrigation construction documents, consistent with the Landscape Standards (including planting and irrigation plans, details and specifications) shall be submitted to the City Manager for approval. The construction documents shall be in substantial conformance with Exhibit "A," Landscape Development Plan, on file in the Office of Development Services. No change, modification, or alteration shall be made unless appropriate application or amendment of this Permit shall have been granted.

28. Prior to issuance of any engineering permits for right-of-way improvements, complete landscape construction documents for right-of-way and median (if applicable)

improvements shall be submitted to the City Manager for approval. Improvement plans shall take into account a 40 square foot area around each tree which is unencumbered by utilities. Driveways, utilities, drains, water and sewer laterals shall be designed so as not to prohibit the placement of street trees.

29. Prior to any utility stub out, for wet and dry utilities, a plot plan shall be submitted to the Landscape Section of Development Services. The plot plans shall coordinate all utilities and driveways with the required Street Trees. The location of the Street Trees shall be in substantial conformance with Exhibit "A," Landscape Development Plan, on file in the Office of Development Review.

30. Prior to issuance of any engineering permits for grading, construction documents for slope planting (as applicable) or revegetation including hydroseeding and irrigation shall be submitted in accordance with the Landscape Standards and to the satisfaction of the City Manager. All plans shall be in substantial conformance to Exhibit "A," and all other applicable conditions of related permits.

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

32. All required landscape shall be maintained in a disease, weed, and litter free condition at all times. Severe pruning or "topping" of trees is not permitted unless specifically noted in this Permit. The trees shall be maintained in a safe manner to allow each tree to grow to its mature height and spread. The Permittee shall be responsible to maintain all street trees and landscape improvements consistent with the standards of the Land Development Manual.

33. If any required landscape (including, but not limited to, existing or new plantings, hardscape, landscape features) indicated on the approved plans is damaged or removed during demolition, it shall be repaired or replaced in kind and equivalent size per the approved plans within thirty days of completion of construction by the Permittee. The replacement size of plant material after three years shall be the equivalent size of that plant at the time of removal (the largest size commercially available or an increased number) to the satisfaction of the City Manager.

34. The Permittee shall be responsible for the installation and maintenance of all landscape improvements consistent with the Landscape Regulation and Landscape Standards. Invasive species are prohibited from being planted adjacent to any canyon, water course, wet land or native habitats within the city limits of San Diego. Invasive plants are as noted in section 1.3 of the Landscape Standards.

PLANNING/DESIGN REQUIREMENTS:

35. Prior to the recording of this Permit, the Permittee shall provide a copy of the executed lease agreement with the City of San Diego, for the land area as described in the legal description and as shown on Exhibit "A."

36. No fewer than thirty-six off-street parking spaces shall be maintained on the property at all times in the approximate locations shown on the approved Exhibit "A." Parking spaces shall comply at all times with the SDMC and shall not be converted for any other use unless otherwise authorized by the City Manager.

37. 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.

38. The height(s) of the building(s) or structure(s) shall not exceed those heights set forth in the conditions and the exhibits (including, but not limited to, elevations and cross sections) or the maximum permitted building height of the underlying zone, whichever is lower, unless a deviation or variance to the height limit has been granted as a specific condition of this Permit.

39. A topographical survey conforming to the provisions of the SDMC may be required if it is determined, during construction, that there may be a conflict between the building(s) under construction and a condition of this Permit or a regulation of the underlying zone. The cost of any such survey shall be borne by the Permittee.

40. 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.

41. All signs associated with this development shall be consistent with sign criteria established and permitted by Citywide sign regulations.

42. Prior to the issuance of any building permits, complete outdoor lighting information shall be submitted to the Development Services Department, Land Development Review Division, for review and approval. Complete lighting information shall include a plan view photometric analysis indicating an isofoot candle plot and a point by point plot to include all areas within the private property and to extend a minimum of 50 feet beyond the property line, construction details as necessary to direct installation of the outdoor lighting system, manufacturers name, visors, prisms, lenses and reflectors and a lighting plan locating each fixture in plan view and a legend. The outdoor lighting system shall be designed, manufactured and installed to allow shading,

adjusting, and shielding of the light source so all outdoor lighting is directed to fall only onto the same premises as light sources are located.

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

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

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

46. All uses, except storage and loading, shall be conducted entirely within an enclosed building. Outdoor storage of merchandise, material and equipment is permitted in any required interior side or rear yard, provided the storage area is completely enclosed by walls, fences, or a combination thereof. Walls or fences shall be solid and not less than six feet in height and, provided further, that no merchandise, material or equipment stored not higher than any adjacent wall.

47. No mechanical equipment, tank, duct, elevator enclosure, cooling tower, mechanical ventilator, or air conditioner shall be erected, constructed, converted, established, altered, or enlarged on the roof of any building, unless all such equipment and appurtenances are contained within a completely enclosed structure whose top and sides may include grillwork, louvers, and latticework.

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

49. Prior to the issuance of building permits, construction documents shall fully illustrate compliance with the Citywide Storage Standards for Trash and Recyclable Materials (SDMC) to the satisfaction of the City Manager. All exterior storage enclosures for trash and recyclable materials shall be located in a manner that is convenient and accessible to all occupants of and service providers to the project, in substantial conformance with the conceptual site plan marked Exhibit "A."

50. Any change in parcel ownership shall require the Owner to grant an avigation easement to the Airport Authority for the purpose of maintaining all aircraft approach paths to Montgomery Field.

WATER REQUIREMENTS:

51. Prior to the issuance of any construction permits, the Permittee shall show the cut, plug and abandonment of the existing dead-end water main and appurtenances, and the water easement set-aside for the fire hydrant on the grading and improvement plans, in a manner satisfactory to the City Engineer.

52. Prior to the issuance of any construction permits, the Permittee shall show the proposed public fire hydrant and a minimum 24-foot wide fully paved area for the water easement set-aside on the grading plans, in a manner satisfactory to the City Engineer.

53. No structures shall be constructed in or over any water easement set-aside prior to the Permittee obtaining an Encroachment Maintenance Removal Agreement. No trees, shrubs, or structures of any kind will be permitted within 10-feet of water facilities.

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 September 28, 2004 and Resolution No. R-299701.

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
Owner

By _____

By _____

KIM H. PETERSON
Permittee

By _____

By _____

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