

RESOLUTION NUMBER R-300429

ADOPTED MAY 17, 2005

WHEREAS, Kenneth and Elaine Hawkins, Owners/Permittees, filed an application with the City of San Diego for a planned development permit, resource protection ordinance permit and a tentative parcel map to for the subdivision of a 0.832-acre site into three parcels and to waive the requirement to underground existing overhead utilities known as the 5253 Cardeno Drive project, located at 5253 Cardeno Drive (previously Fanuel Street), and legally described as Lot 2 of Pacific Beach, Map No. 791 and Map No. 854 in the RS-1-4 Zone in the Pacific Beach Community Plan area, and

WHEREAS, on January 13, 2005, the Planning Commission of the City of San Diego considered Planned Infill Residential Development [PIRD] Permit No. 48816 and Resource Protection Ordinance [RPO] Permit No. 48821 and pursuant to Resolution No. 3636-PC voted to recommend City Council approval of the Permits; and

WHEREAS, the matter was set for public hearing on May 17, 2005, 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 Infill Residential Development Permit No. 48816 and the Resource Protection Ordinance Permit No. 48821:

**A. PLANNED INFILL RESIDENTIAL DEVELOPMENT PERMIT SAN DIEGO MUNICIPAL CODE SECTION [SDMC] 101.0930**

**1. The proposed use will fulfill a community need and will not adversely affect the City's Progress Guide and General Plan or the adopted Community Plan.** The proposed project will fulfill a community need by providing two new single-family residences. Because the proposal is consistent with the goals and policies of both the Progress Guide and General Plan and the Pacific Beach Community Plan by providing new housing while maintaining the existing density, bulk and scale of the surrounding neighborhoods it will not adversely affect either of the plans.

**2. The proposed use will not be detrimental to the health, safety and general welfare of persons residing or working in the area and will not adversely affect other properties in the vicinity.** The proposed project will not be detrimental to the health, safety and general welfare of persons residing or working in the area and will not adversely affect other properties in the vicinity because it is consistent with the surrounding land use pattern of single family residential development.

**3. The proposed use will fully comply with the relevant regulations of the Municipal Code in effect for this site.** Refer to the following findings, "Deviations from Minimum Standards (SDMC section 101.903K).

**B. DEVIATIONS FROM MINIMUM STANDARDS SDMC SECTION 101.0930.K**

**1. Because of special circumstances applicable to the property, including size, shape, topography, location or surroundings, the strict application of the requirements deprives such privileges enjoyed by other property in the vicinity under identical zone classification.** The proposed project to create three parcels within the zone classification of R1-10,000 (Old Code) (RS-1-4 Zone, Land Development Code) is consistent with the pattern of development within the immediate vicinity. There currently exists a single-family residence on proposed Parcel 1 and takes access from Cardeno Drive by a 25-foot access easement and shared private driveway. The site terrain precludes separate access from Cardeno Drive. Therefore, Parcel 1 does not meet the zone requirement to have direct access to the public right of way.

The three parcels provide for parcel areas greater than the requirement for the base zone of 10,000 square-feet. Parcel 1 has an area of approximately 14,787 square-feet; Parcel 2 is approximately 13,777 square-feet, and Parcel 3 is approximately 12,910 square-feet. However, due to the site constraints Parcel 1 has a lot dept of approximately 87-feet where 100-feet is the minimum for the R1-10,000 Zone.

The proposed parcel dimensions and configurations have been tailored to meet two important considerations of the existing parcel. The existing parcel contains step slopes, and the siting of the proposed residences on Parcels 2 and 3 have been established to minimize the encroachments into the slopes. The configuration of the lot dimensions has revolved around the best sitings for these residential developments.

The access to the three parcels is predicated upon a common private drive tat utilizes the existing private drive, once again to minimize encroachment into slopes. It is the uniqueness of

the parcel's topography, and the necessity to minimize encroachments into sensitive slopes that has created a request to deviate from the R1-10,000 Zone development standards for street frontage and lot depth for Parcel 1.

Properties within the immediate vicinity that address on Alta Bahia Court are also classified as R1-1000 Zone. The property APN 416-010-33 is a flag-shaped lot, which does not provide for the required street frontage. Access to this property is from Alta Bahia Court due to the terrain of the lot and inability to effectively access from Cardeno Drive which the property also fronts. The property APN 416-010-26 is a flag-shaped lot, which does not meet the required street frontage. The properties APN 416-010-28, 35, 36, and 37 do not provide the required minimum of 65-feet of street frontage.

Nearby there are nine properties on Los Altos Road, within the Pacific Beach Community Plan, that have utilized a shared private driveway to access the public way. The properties APN 416-160-12, 13, 14, 15, 16, 17, 18, 19 and 20 have no street frontages provided. The property APN 416-160-25 does not provide the required lot depth of 100-feet due to the unusual shape of the lot and terrain of the lot. Access is obtained by a private drive on Loring Street, rather than the frontage on Windsor Drive.

On Candlelight Place, there are several parcels that utilize shared common private drives to access the public way APN 357-671-7, 8, 9 and 10. There are also four parcels that utilize a common private drive and do not provide for the required street frontage APN 357-672-9, 10, 11, and 13. On Van Nuys Place there is a parcel with a flag-shaped lot that does not provide for the required street frontage APN 415-121-37. On Van Nuys Place and Van Nuys Court there are three parcels that do not meet the 65-foot street frontages requirement of the R-1-10,000 Zone.

**2. Any deviation granted will assure that the adjustment thereby authorized does not constitute a grant of special privileges inconsistent with the limitation upon other properties in the vicinity and zone in which property is situated because of the conditions imposed.** The aforementioned properties on Alta Bahia Court that also have similar terrain as part of their lots already enjoy the deviations from the strict application of the requirements for the base zone of R-1-10,000. The other properties within the vicinity are under a different zoning classification that allows for parcels with 25-foot widths and street frontages, and have a potential parcel area of 3,125 square-feet. These parcels are located on Agate Street, where the terrain is flatter and permits a more standardized lot development. The proposed deviations for street frontage, and lot depth are supported because they will result in a development that will be similar with the existing pattern of development in the vicinity.

**3. That the granting of the deviation does not adversely affect the Progress Guide and General Plan for the City of San Diego or the adopted plan of any governmental agency.** The General Plan for the City of San Diego has set the goal for densification of existing communities and core areas. The Pacific Beach Community Plan has established the area of this proposed planned infill residential development as a protected area for single-family residential development with the lowest density in the plan. The subject property is within the base zone R1-10,000 which allows for a parcel to be created for location of a single-family residence, if the development criteria can be met for lot size and dimensions. The current parcel has a lot area and shape that could be configured to support the division into three parcels, each supporting a

single-family residence through the granting of deviations for lot depth and street frontage. Because the proposed development is consistent with the established character of the neighborhood it will not be in conflict with the Progress Guide and General Plan or the Pacific Beach Community Plan.

**C. RESOURCE PROTECTION ORDINANCE SDMC SECTION 101.0462**

**1. The proposed development will not adversely affect the City of San Diego's Progress Guide and General Plan.** The proposed project is consistent with the goals and policies of the Progress Guide and General Plan by providing additional housing in the established neighborhoods while maintaining the character of the neighborhood; and with the goals and policies of the Pacific Beach Community Plan by maintaining the bulk and scale of the surrounding neighborhoods.

**2. The proposed development will conform to the community plan for the area and any other applicable plans, policies and ordinances.** The proposed project, three single-family lots on a 0.832 acre (36,200 square feet) parcel, requires a Community Plan Amendment and an Amendment to the Progress Guide and General Plan because the zoning and land use do not match. The Pacific Beach Community Plan identifies the site as Very Low Density (0-2 du/ac). On March 30, 2000, the Planning Commission considered the initiation of an amendment to the Pacific Beach Community Plan and the Progress Guide and General Plan that proposed the land use re-designation of the 0.832 acre lot from Very Low Density residential (0-2 du/ac), to Very Low Density residential (2-5 du/ac), which would allow a three-lot subdivision. The zoning of the subject site, as well as the subdivision to the north and east, is RS-1-4, which requires a minimum lot size of 10,000 square-feet. This one typically implements and is applied to the Very Low density (2-5 du/ac) residential land uses.

The Planning Commission continued the item at the March 30, 2000, meeting to allow staff the time to research the extent of the status of the land use designation and the zoning in the immediate vicinity of the project site. During the next six weeks, staff studied an area that was approximately one-half square mile or 160 acres, looking for the areas where the zoning did not match the land use designation, and concluded that the situation was limited to the subject lot and the larger lot directly to the north. Staff also concluded that it was not appropriate to include the lot to the north of the subject lot in the plan amendment due to differences between the lots in visual orientation, physical access, topography and the development pattern. On May 18, 2000, the Planning Commission approved the Community Plan Amendment initiations by a vote of 7:0:90 to re-designate the subject lot to 2-5 du/ac. This would result in the existing zoning matching the land use designation, and the dwelling unit pattern would blend the low density of the east and north with the higher density of the west and south. Therefore, the project conforms to the proposed land use designation.

**3. The proposed development will be sited, designed, constructed and maintained to minimize, if not preclude, adverse impacts on environmentally sensitive lands.** Preliminary research and a site visit conducted by staff identified sensitive biological resources on the property. According to the City's Multiple Species Conservation Program [MSCP] maps (1995), the Multi-Habitat Planning Area [MHPA] is not located within or adjacent to the property although sensitive biological resources exist on site.

Therefore, to determine the project's potential to significantly impact biological resources, the applicant was required to submit a biological report which would quantify in acreage any impacts to biological resources, qualify the habitat type according to the City's Biological Resources Guidelines and provide any recommendations that would mitigate potentially significant impacts to a level below significance.

A revised biological resources survey letter report (SJM Biological Consultants, January 15, 2003) was submitted to disclose the direct, indirect, and/or cumulative biological impacts from the proposed project. The report identified approximately 0.009 acres of remnant sage scrub (Tier II) that is intermixed with a remainder 0.491 acre of non-native ornamental/ruderal (Tier IV) plant species on the project site. Research conducted confirmed that the entire site had been previously disturbed by grading and other human activities. In addition, the consultant disclosed that the relatively small area of native vegetation (containing lemonade berry, California sagebrush, and California buckwheat) that may be impacted would be considered "isolated" in nature and would not function as a sage scrub community since the surrounding area is developed with single-family residences and/or otherwise heavily disturbed habitat.

Direct impacts to upland vegetation (Tier I-Tier IIIB) would be considered significant if the project would remove 0.10 acre or more of sensitive habitat. Since the project would not meet this threshold by impacting 0.009 acre of isolated sage scrub habitat (Tier II), no significant impacts have been identified and no mitigation would be required.

**4. The proposed development will be sited and designed to prevent impacts on any environmentally sensitive lands and resources located in adjacent parks and public open-space areas and will provide adequate buffer areas to protect such resources.** The project is located outside of the MHPA and is not located adjacent to any parks or public open spaces.

**5. The proposed development will minimize the alterations of natural landforms and will not result in undue risks from geological and erosion forces and/or flood and fire hazards.** This project site is located in a seismically active region of California, and therefore, the potential exists for geologic hazards, such as earthquakes and ground failure. The project site is located in an area that is mapped with a geologic Hazard Ratings of 53 (Other level areas, unfavorable geologic structure, low to moderate risk).

A Report of Soils Investigation and Geologic Reconnaissance (C.W. La Monte Co., December 25, 1988) for the subject property was submitted for review to disclose the existing soil and geologic conditions for the proposed development. Report disclosed that the project site is suitable for the proposed development. However, a field investigation (backhoe excavation) conducted by the consultant did identify evidence of loose topsoil (at an approximate depth of three feet); and undocumented fill and colluvial soils (at a depth of seven feet). As recommended by the geotechnical consultant, the applicant must excavate these loose soils and recompact any earthwork needed to prepare the site for the proposed development. Therefore, based on the submitted technical report and underlying soil and geologic conditions, any potentially significant impacts to the existing soil and geologic conditions would not be anticipated with the implementation of the proposed recommendations of the submitted geotechnical report, and no mitigation would be required.

**6. Feasible measures, as defined in this section, to protect and preserve the special character or the special historical, architectural, archaeological or cultural value or the affected significant prehistoric or historic site or resource has been provided by the applicant. No such resources are known to occur on the site.**

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 Infill Residential Development Permit No. 46616 and Resource Protection Ordinance Permit No. 48821 is granted to Elaine and Kenneth Hawkins, Owners/Permittees, under the terms and conditions set forth in the attached permit which is made a part of this resolution.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By

  
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Douglas K. Humphreys  
Deputy City Attorney

DKH:ai  
06/30/05  
Or.Dept:DSD  
R-2005-1407

**RECORDING REQUESTED BY**

CITY OF SAN DIEGO  
DEVELOPMENT SERVICES  
PERMIT INTAKE, MAIL STATION 501

**WHEN RECORDED MAIL TO**

**CITY CLERK  
MAIL STATION 2A**

SPACE ABOVE THIS LINE FOR RECORDER'S USE

JOB ORDER NUMBER: 99-0407

PLANNED INFILL RESIDENTIAL DEVELOPMENT PERMIT NO. 48816

RESOURCE PROTECTION ORDINANCE PERMIT NO. 48821

**5253 FANUEL STREET**

**CITY COUNCIL**

This Planned Infill Residential Development [PIRD] Permit No. 48816 and Resource Protection Ordinance [RPO] Permit No. 48821 is granted by the Council of the City of San Diego to Kenneth and Elaine Hawkins, Owners/Permittees, pursuant to San Diego Municipal Code [SDMC] 101.0462 and 101.0930 (Old Code). The 0.832-acre site is located at 5352 Cardeno Drive (previously Fanuel Street) in the RS-1-4 (R1-10,000, Old Code) Zone of the Pacific Beach Community Plan area. The project site is legally described as Lot 2 of Pacific Beach, Map No. 791 and Map No. 854.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owners/Permittees for a three-lot planned infill residential project for three single-family homes, including deviation to Parcel 1 for street frontage, access and lot depth as identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit A], dated May 17, 2005, on file in the Development Services Department.

The project or facility shall include:

- a. Three single-family residences;
- b. Deviations to Parcel for street frontage, lot depth and access;
- c. Landscaping (planting, irrigation and landscape related improvements);
- d. Off-street parking facilities;
- e. 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 Permittees signs and returns the Permit to the Development Services Department; and
  - b. The Permit is recorded in the Office of the San Diego County Recorder.
3. Unless this Permit has been revoked by the City of San Diego the property included by reference within this Permit shall be used only for the purposes and under the terms and conditions set forth in this Permit unless otherwise authorized by the City Manager.
4. This Permit is a covenant running with the subject property and shall be binding upon the 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 Permittees for this permit to violate any Federal, State or City laws, ordinances, regulations or policies including, but not limited to, the Endangered Species Act of 1973 [ESA] and any amendments thereto (16 U.S.C. § 1531 *et seq.*).
7. In accordance with authorization granted to the City of San Diego from the United States Fish and Wildlife Service [USFWS] pursuant to section 10(a) of the ESA and by the California Department of Fish and Game [CDFG] pursuant to Fish and Game Code section 2835 as part of the Multiple Species Conservation Program [MSCP], the City of San Diego through the issuance of this Permit hereby confers upon Permittees the status of Third Party Beneficiary as provided for in section 17 of the City of San Diego Implementing Agreement [IA], executed on July 16, 1997, and on file in the office of the City Clerk as Document No. OO-18394. Third Party Beneficiary status is conferred upon Permittees by the City: (1) to grant Permittees the legal standing and legal right to utilize



the take authorizations granted to the City pursuant to the MSCP within the context of those limitations imposed under this Permit and the IA, and (2) to assure Permittees that no existing mitigation obligation imposed by the City of San Diego pursuant to this Permit shall be altered in the future by the City of San Diego, USFWS, or CDFG, except in the limited circumstances described in sections 9.6 and 9.7 of the IA. If mitigation lands are identified but not yet dedicated or preserved in perpetuity, maintenance and continued recognition of Third Party Beneficiary status by the City is contingent upon Permittees maintaining the biological values of any and all lands committed for mitigation pursuant to this Permit and of full satisfaction by Permittees of mitigation obligations required by this Permit, as described in accordance with section 17.1D of the IA.

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

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

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

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

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

12. This Permit shall become effective with recordation of the corresponding final subdivision map for and approval of the project site.

13. This Permit may be developed in phases. Each phase shall be constructed prior to sale or lease to individual owners or tenants to ensure that all development is consistent

with the conditions and exhibits approved for each respective phase (per the approved Exhibit A).

**ENGINEERING REQUIREMENTS:**

14. Prior to the issuance of any construction permit, the Subdivider shall enter into a Maintenance Agreement for the ongoing permanent Best Management Practices [BMP] maintenance.
15. Prior to the issuance of any construction permit, the Subdivider shall incorporate any construction BMP necessary to comply with Chapter 14, Article 2, Division 1 (Grading Regulations) of the San Diego Municipal Code, into the construction plans or specifications.
16. Prior to the issuance of any construction permit the Subdivider shall submit a Water Pollution Control Plan [WPCP]. The WPCP shall be prepared in accordance with the guidelines in Appendix E of the City's Storm Water Standards.
17. Prior to the issuance of any construction permit the Subdivider shall incorporate and show the type and location of all post-construction BMP on the final construction drawings, in accordance with the approved Water Quality Technical Report.
18. The Parcel Map shall comply with the provisions of PIRD Permit No. 48816 and RPO Permit No. 48821.
19. The subdivider shall obtain an Encroachment Maintenance Removal Agreement, for landscaping, a non-standard slope, retaining walls and a non-standard driveway in Cardeno Drive.
20. The subdivider shall obtain a bonded grading permit for the grading proposed for this project. All grading shall conform to requirements in accordance with the City of San Diego Municipal Code in a manner satisfactory to the City Engineer.

**LANDSCAPE REQUIREMENTS:**

21. No change, modification or alteration shall be made to the project unless appropriate application or amendment of this Permit shall have been granted by the City.
22. If any existing hardscape or landscape indicated on the approved plans is damaged or removed during demolition or construction, it shall be the responsibility of the Permittees/Owners, to assure that it shall be repaired and/or replaced in kind and equivalent size per the approved plans within fifteen days.
23. In the event that the Landscape Plan and the Site Plan conflict, the Landscape Plan shall prevail.
24. Installation of slope planting and erosion control including seeding of all disturbed land (slopes and pads) consistent with the approved landscape and grading

plans is considered to be in the public interest. The Permittees shall initiate such measures as soon as the grading has been accomplished. Such erosion control/slope planting and the associated irrigation systems (temporary and/or permanent) and appurtenances shall be installed in accordance with the approved plans and the Landscape Standards.

25. Prior to issuance of any grading permits, complete landscape construction documents, including an automatic permanent irrigation system, shall be submitted to the Development Services Department, Development and Environmental Planning Division for approval. The plans shall be in substantial conformance to Exhibit A, on file in the office of the Development Services.

26. 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.

27. 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.

28. Prior to any utility sub 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.

29. 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.

30. Prior to any grading (building permit) the Permittees or subsequent Owner shall enter into a Landscape Maintenance Agreement for all landscape improvements. The Landscape Maintenance Agreement shall be approved by the Landscape Section of Development Services and the City Manager.

31. Prior to issuance of any Certificate of Occupancy, it shall be the responsibility of the Permittees or subsequent Owner 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. Prior to the recording of the final map, the subdivider shall submit interim landscape/ erosion control and permanent irrigation construction documents for slope revegetation and hydroseeding of all disturbed land in accordance with the Landscape Regulations and Standards and to the satisfaction of the City Manager. The applicant shall assure by permit, cost estimate and bond for the installation of landscaping per landscape construction documents.

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

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

**AFFORDABLE HOUSING REQUIREMENTS:**

35. Prior to the issuance of any building permit, the developer shall comply with the Affordable Housing Requirements of the City's Inclusionary Housing Ordinance (Chapter 14, Article 2, Division 13 of the Land Development Code).

**PLANNING/DESIGN REQUIREMENTS:**

36. No fewer than 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. 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.

#### **TRANSPORTATION REQUIREMENTS:**

42. Prior to the recordation of the Final Map, the subdivider shall provide a Shared Access Agreement between Parcels 1, 2, and 3, satisfactory to the City Engineer.

#### **WATER REQUIREMENTS:**

43. Prior to the issuance of any building permits, the developer shall install an 8-inch gravity sewer main in Cardeno Drive from the existing sewer main in Cardeno Drive, south of Agate Street, to the northerly property line of this subdivision, satisfactory to the Metropolitan Wastewater Department Director.

44. Prior to the issuance of any building permits, the developer shall install an 8-inch gravity sewer main in Cardeno Drive from the existing sewer main in Cardeno Drive, south of Agate Street, to a point 5-feet north of the south property line of Parcel 2, satisfactory to the Metropolitan Wastewater Department Director.

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

46. The developer shall design and construct all proposed public sewer facilities to the most current edition of the City of San Diego's sewer design guide. Proposed facilities that do not meet the current standards shall be re-designed.

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

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

**INFORMATION ONLY:**

Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of this 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 May 17, 2005, by Resolution No. R-3004029.

AUTHENTICATED BY THE CITY MANAGER

By \_\_\_\_\_

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

Kenneth Hawkins and Elaine Hawkins  
Owners/Permittees

By \_\_\_\_\_

By \_\_\_\_\_

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

PERMIT/OTHER – Permit Shell 11-01-04