

RESOLUTION NUMBER R- 300979

ADOPTED ON OCTOBER 25, 2005

WHEREAS, Fairfield Kearny Mesa L.P., Owner/Permittee, filed an application with the City of San Diego for Site Development Permit No. 127010 / Planned Development Permit No. 131774, to construct 288 residential condominium units including twenty nine affordable units and 20,000 sq. ft. of office space known as the Parkview Aero Court project, located at 3540 Aero Court, and legally described as those portions of Lots J and K of Research Park, Map No. 3568 lying Easterly of the Northeasterly line of Kearny Villa Road being the Northeasterly line of land described in deed to the City of San Diego recorded December 29, 1961, as File No. 223919, in the Kearny Mesa Community Plan area, in the IP-2-1 zone (previously referred to as the M-IP zone) which is proposed to be rezoned to the CO-1-2 zone; and

WHEREAS, on September 15, 2005, the Planning Commission of the City of San Diego considered Site Development Permit No. 127010 and Planned Development Permit No. 131774, and pursuant to Resolution No. 3843- PC voted to recommend City Council approval of the Permit; and

WHEREAS, the matter was set for public hearing on October 25, 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 Site Development Permit No. 127010 and Planned Development Permit No. 131774:

**A. SITE DEVELOPMENT PERMIT – SAN DIEGO MUNICIPAL CODE [SDMC]
SECTION 126.0504**

1. Findings for all Site Development Permits

a. The proposed development will not adversely affect the applicable land use plan. The proposed development of 288 residential units with related amenities and 20,000 square feet of commercial office space will be consistent with the Kearny Mesa Community Plan with the concurrent approval of the community plan amendment associated with the permit. The proposed 288 dwelling unit project implements the Land Use Plan by providing a Medium-High density development consistent with the Community Plan's Land Use designation (Mixed-Use Commercial/Residential) of 20 to 75 dwelling units per acre. The project also includes an Office element of 20,000 square feet consistent with the Community Plan's Land Use designation of Mixed Use Commercial/Residential. As such, the proposed development will not adversely affect the applicable Land Use Plan.

b. The proposed development will not be detrimental to the public health, safety, and welfare. The proposed development of 288 residential units with related amenities and 20,000 square feet of commercial office space will provide necessary sewer and water facilities to serve the residents. Police and fire stations exist just east and north of the development in the Kearny Mesa Community, which will provide response times consistent with the City's General Plan Standards. The development will also provide for the health, safety, and welfare of the residents by incorporating mitigation measures as contained in the Mitigation, Monitoring and Reporting Program [MMRP] and efficient building materials and techniques.

The permit prepared for the project includes various conditions and referenced exhibits of approval relevant to achieving project compliance with the applicable regulations of the San Diego Municipal Code in effect for this project. Such conditions have been determined by the decision-maker as necessary to avoid adverse impacts upon the health, safety and general welfare of persons residing or working in the surrounding area. The 288 dwelling units will contribute to the City Council stated housing emergency in San Diego and include twenty-nine units consistent with the City's affordable housing ordinance. As such the proposed development will not be detrimental to the public health, safety, and welfare.

c. The proposed development will comply with the applicable regulations of the Land Development Code. With the exception of the deviations requested with this application, which are appropriate for this location, the proposed development of 288 residential units with related amenities and 20,000 square feet of commercial office space, in all other respects complies with the Land Development Code. All other requirements including density, and parking requirements will comply with the regulations of the Land Development Code, reflecting the desired development patterns of the area and accommodating the need for future growth.

2. Supplemental Findings – Environmentally Sensitive Lands

a. The site is physically suitable for the design and siting of the proposed development and the development will result in minimum disturbance to environmentally sensitive lands. The proposed development of 288 residential units with related amenities and 20,000 square feet of commercial office space would be sited in a developed area of industrial/business park/office uses and institutional uses currently served by existing public services, including fire and police protection. Development of the project would have direct impacts to 0.4 acres of Diegan coastal sage scrub and 0.4 acres of disturbed Diegan coastal sage scrub totaling 0.8 acres of coastal sage scrub habitat (Tier II). Per the MMRP prepared for this project, the direct impacts shall be mitigated to the satisfaction of the City Manager and in accordance with the City's Land Development Code Biological Guidelines.

b. 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 proposed project site is not located on any known active, potentially active or inactive fault traces, as defined by the California Geological Survey, nor is it located within a State of California Alquist-Priolo Earthquake Fault Zone or within the City of San Diego Special Studies area. Because of the lack of known faults on the project site, the potential for surface rupture at the site is considered low. The proposed buildings would be designed to accommodate applicable seismic loading parameters based on the recommendations in the site-specific geotechnical investigation and existing Uniform Building Code guidelines.

The project will not result in erosional forces or flood hazards.

The project would not result in fire hazards. The project has been designed to meet all Fire and Life Safety codes. Fire Department service coverage exists for this area and is provided by Station Number 28, north on Kearny Villa Road, less than 0.25 miles from the project site.

Therefore, the proposed new construction will minimize alteration of natural land forms and will not result in undue risk from geologic and erosional forces, flood hazards, or fire hazards.

c. The proposed development will be sited and designed to prevent adverse impacts on any adjacent environmentally sensitive lands. Although the proposed development would have direct impacts to environmentally sensitive lands, the project site is not adjacent to the Multiple Habitat Planning Area [MHPA], and is located in a developed urban neighborhood.

3. The proposed development will be consistent with the City of San Diego's Multiple Species Conservation Program [MSCP] Subarea Plan. Although the proposed development would have direct impacts to environmentally sensitive lands, the project site is neither within nor adjacent to a MHPA, and no habitat planning or adjacency issues associated with the MSCP apply.

4. The proposed development will not contribute to the erosion of public beaches or adversely impact local shoreline sand supply. The proposed project is located

approximately 4.5 miles inland of the shoreline of Mission Bay and therefore would not contribute to the erosion of public beaches or adversely impact shoreline sand supply.

5. The nature and extent of mitigation required as a condition of the permit is reasonably related to, and calculated to alleviate, negative impacts created by the proposed development. Mitigation measures have been defined for the following resources areas: biology, water quality, air quality, and noise. Pursuant to the California Environmental Quality Act [CEQA], the mitigation has been defined commensurate with the level of impact to reduce potential impacts to the identified resources to below a level of significance.

To protect biological resources, mitigation is defined to:

- Retain a qualified Biologist to implement the biological resources mitigation program.
- Mitigate for the direct impacts of 0.8 acres of coastal sage scrub habitat.

To protect human health/public safety/hazardous materials, mitigation is defined to:

- Perform a subsurface investigation to determine any hazardous materials contamination.
- Prepare a remediation plan for any contamination.
- Retain a hazardous materials specialist to implement an abatement program for removal of any asbestos and lead based paint.

To protect paleontological resources, mitigation is defined to:

- Provide monitoring throughout the grading process.

To protect transportation/circulation issues, mitigation is defined to:

- Install a traffic signal at Kearny Villa Road and the project entrance.
- Make a fair share contribution to widening Aero Drive.

To protect the future occupants from road noise, mitigation is defined to:

- Conduct a noise study and provide any noise attenuation measures necessary.

**B. PLANNED DEVELOPMENT PERMIT- SAN DIEGO MUNICIPAL CODE
[SDMC] SECTION 126.0604**

1. Findings for all Planned Development Permits

a. The proposed development will not adversely affect the applicable land use plan. The proposed development of 288 residential units with related amenities and

20,000 square feet of commercial office space will be consistent with the Kearny Mesa Community Plan with the concurrent approval of the community plan amendment associated with the permit. The proposed 288 dwelling unit project implements the Land Use Plan by providing a Medium-High density development consistent with the Community Plan's Land Use designation (Mixed-Use Commercial/Residential) of twenty to seventy five dwelling units per acre. The project also includes an Office element of 20,000 square feet consistent with the Community Plan's Land Use designation of Mixed Use Commercial/Residential. As such, the proposed development will not adversely affect the applicable Land Use Plan.

b. The proposed development will not be detrimental to the public health, safety, and welfare. The proposed development of 288 residential units with related amenities and 20,000 square feet of commercial office space will provide necessary sewer and water facilities to serve the residents. Police and fire stations exist just east and north of the development in the Kearny Mesa Community, which will provide response times consistent with the City's General Plan Standards. The development will also provide for the health, safety, and welfare of the residents by incorporating mitigation measures as contained in the MMRP and efficient building materials and techniques. The 288 dwelling units will contribute to the City Council stated housing emergency in San Diego and include twenty-nine units consistent with the City's affordable housing ordinance. As such the proposed development will not be detrimental to the public health, safety, and welfare.

2. 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, the proposed development of 288 residential units with related amenities and 20,000 square feet of commercial office space, in all other respects complies with the Land Development Code. All other requirements including density, and parking requirements will comply with the regulations of the Land Development Code, reflecting the desired development patterns of the area and accommodating the need for future growth.

3. 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 provide a pedestrian trail leading to the Cabrillo Heights Park. The development will also contribute to the region's housing supply by constructing 288 residential units (multi-family products), and it will pay all applicable Development Impact Fees. The development will provide twenty nine affordable housing units on-site. In accordance with the Kearny Mesa Land Use Plan, this project has been designed to provide pedestrian linkages within the project development as well as the Cabrillo Heights Park.

4. 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 proposed development is consistent with the approved Kearny Mesa Community Land Use Plan with the exception of three deviations. A building height deviation for a small portion of the building facing the park is requested at the southern boundary. The proposed development is on a raised podium and the southern grade decreases toward the existing Cabrillo Heights Park. The project proposes at-grade units abutting the park which improves the aesthetics of the building from the park by eliminating the visibility of the garage

and provides an attractive and inviting pedestrian interface between the Cabrillo Heights Park (south) and the project.

The project includes a deviation from the ground floor restriction set forth in SDMC section 131.0540. The code restricts residential units to develop from the first half of the lot, however; the site is unique in that it is located at the end of a cul-de-sac on the edge of the community, and abutting a park. The deviation reduces the limit on the residential development within the front half of the lot (abutting Aero Court). The deviation is based upon the limited street frontage on Aero Court and orienting the office component of the project between the residential units and the other non-residential properties on Aero Court. In addition, the grade differentiation between Aero Court and Kearny Villa Road (high to low) encourages separate vehicle accesses to the office and residential elements (vehicle access to Kearny Villa Road for the residential).

The project provides a 9-foot setback abutting Kearny Villa Road, where a 10-foot setback is required. This deviation is required to comply with the Kearny Mesa Community Plan which designates Kearny Villa Road as a 4-lane major and the recently adopted City of San Diego Street Design Manual specifies an additional 3-feet of right-of-way on each side of the road. While it is unlikely the roadway will be widened across the street or either north or south of the site, the dedication is deemed necessary to allow for potential of said widening.

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

BE IT FURTHER RESOLVED, that Site Development Permit No.127010 /
Planned Development Permit No. 131774 is granted to Fairfield Kearny Mesa L.P.,
Owner/Permittee, under the terms and conditions set forth in the permit attached hereto and
made a part hereof.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By Shannon M. Thomas
Shannon M. Thomas
Deputy City Attorney

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Or.Dept:DSD
R-2006-431
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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

JOB ORDER NUMBER 423138

SITE DEVELOPMENT PERMIT NO. 127010
PLANNED DEVELOPMENT PERMIT NO. 131774
PARKVIEW AERO COURT – PROJECT NO. 44985 [MMRP]
CITY COUNCIL

This site development permit/planned development permit is granted by the City Council of the City of San Diego to Fairfield Kearny Mesa L.P., A Delaware Limited Partnership, Owner/Permittee, pursuant to San Diego Municipal Code [SDMC] sections 126.0504 and 126.0604. The 6.11-acre site is located at 3540 Aero Court in the CO-1-2 zone of the Kearny Mesa Community Plan Area. The project site is legally described as those portions of Lots J and K of Research Park, Map No. 3568 lying Easterly of the Northeasterly line of Kearny Villa road being in the Northeasterly line of land described in deed to the City of San Diego recorded December 29, 1961 as File No. 223919.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner and Permittee to construct 288 residential condominium units including twenty nine affordable units and 20,000 sq. ft. of office space, described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated October 25, 2005, on file in the Development Services Department.

The project or facility shall include:

- a. The demolition of the industrial building on site;
- b. The construction of a mixed-use project with 288 residential condominium units including twenty-nine affordable units and 20,000 sq ft of office space, over two levels of underground parking;
- c. Recreational facilities including a swimming pool, a spa, a fitness center, and a clubhouse;

- d. Landscaping (planting, irrigation and and landscape related improvements);
- e. Off-street parking facilities; 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 signs and returns the Permit to the Development Services Department; and
 - b. The Permit is recorded in the Office of the San Diego County Recorder.
3. Unless this Permit has been revoked by the City of San Diego the property included by reference within this Permit shall be used only for the purposes and under the terms and conditions set forth in this Permit unless otherwise authorized by the City Manager.
4. This Permit is a covenant running with the subject property and shall be binding upon the Permittee and any successor or successors, and the interests of any successor shall be subject to each and every condition set out in this Permit and all referenced documents.
5. The utilization and continued use of this Permit shall be subject to the regulations of this and any other applicable governmental agency.
6. Issuance of this Permit by the City of San Diego does not authorize the Permittee for this permit to violate any Federal, State or City laws, ordinances, regulations or policies including, but not limited to, the Endangered Species Act of 1973 [ESA] and any amendments thereto (16 U.S.C. § 1531 et seq.).

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

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

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

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

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

11. 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. Prior to the issuance of building permits and in lieu of the park fee portion of the Kearny Mesa Development Impact Fee, a \$4,400,000.00 payment at the time of building permit issuance is to be used in Serra Mesa for parks, including a Joint Use Facility at Wegeforth Elementary School and a dog off-leash area at Cabrillo Heights Neighborhood Park.
14. 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 exhibits).
15. At all bus stops within the project area, if any, the applicant shall be responsible for installing sidewalk improvements where needed to comply with Americans with Disability Act [ADA] requirements and in accordance with standards contained in the City of San Diego Design Manual.

ENVIRONMENTAL/MITIGATION REQUIREMENTS:

16. 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.
17. As conditions of Site Development Permit No. 127010 and Planned Development Permit No. 131774, the mitigation measures specified in the MMRP, and outlined in the Mitigated Negative Declaration No. 44985, shall be noted on the construction plans and specifications under the heading ENVIRONMENTAL/MITIGATION REQUIREMENTS.
18. The Owner/Permittee shall comply with the MMRP as specified in the Mitigated Negative Declaration No. 44985 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
- Human Health/Public Safety/Hazardous Materials
- Paleontological Resources
- Transportation/Circulation
- Noise

19. Prior to issuance of any construction permit, the applicant shall pay the Long Term Monitoring Fee in accordance with the Development Services Fee Schedule to cover the City's costs associated with implementation of permit compliance monitoring.

AFFORDABLE HOUSING REQUIREMENTS:

20. Prior to receiving the first residential building permit, the applicant 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. The applicant has elected to meet these requirements by selling at least 10 percent of the units to at prices affordable to households earning no more than 100 percent AMI. Prior to receiving the first residential building permit, the applicant must enter into an agreement with the San Diego Housing Commission.

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. Prior to issuance of any engineering permits for grading, construction documents for the revegetation and hydroseeding of all disturbed land 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 this permit (including Environmental conditions) and Exhibit "A."

23. Prior to issuance of any engineering permits for right-of-way improvements, complete landscape construction documents for right-of-way and median improvements shall be submitted to the City Manager for approval. Improvement plans shall take into account a 40 sq-ft 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.

24. In the event that a foundation only permit is requested by the Permittee or subsequent Owner, a site plan or staking layout plan shall be submitted identifying all landscape areas consistent with Exhibit "A," Landscape Concept Plan. These landscape areas shall be clearly identified with a distinct symbol, noted with dimensions and labeled as 'landscaping area.'

25. Prior to issuance of any construction permits for structures (including shell), complete landscape and irrigation construction documents consistent with the Landscape Standards shall be submitted to the City Manager for approval. The construction documents shall be in substantial conformance with Exhibit "A," Landscape Development Plan. Construction plans shall take into account a 40 sq-ft area around each tree which is unencumbered by hardscape and utilities as set forth under San Diego Municipal Code/Land Development Code [SDMC/LDC] section 142.0403(b)5.

26. Prior to issuance of any Certificate of Occupancy, it shall be the responsibility of the Permittee or subsequent Owner to install all required landscape and obtain all required landscape inspections consistent with the phased construction delineated on Exhibit "A." A No Fee Street Tree Permit shall be obtained for the installation, establishment, and on-going maintenance of all street trees.

27. 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.

28. The Permittee or subsequent owner shall be responsible for the maintenance of all landscape improvements in the right-of-way and median consistent with the Landscape Standards unless long-term maintenance of said landscaping will be the responsibility of a Landscape Maintenance District or other approved entity. In this case, a Landscape Maintenance Agreement shall be submitted for review by a Landscape Planner.

29. If any required landscape (including existing or new plantings, hardscape, landscape features, etc.) indicated on the approved construction document plans is damaged or removed during demolition or construction, it shall be repaired and/or replaced in kind and equivalent size per the approved documents to the satisfaction of the City manager within thirty days of damage or Certificate of Occupancy.

TRANSPORTATION REQUIREMENTS

30. Prior to issuance of the first building permit, the subdivider shall provide a 3-foot Dedication on Kearny Villa Road along the project's frontage.

31. Prior to issuance of the first building permit, the applicant shall assure by permit and bond, the construction of a traffic signal interconnected with the existing traffic signal at the Kearny Villa Road/Aero Drive intersection, which is located approximately 1,300 feet from the Kearny Villa Road and Project Access "A," satisfactory to the City Engineer.

32. Prior to issuance of the first building permit, the project applicant shall make a fair share contribution (applicant's fair share contribution should be 1.57 percent of the improvement costs), to widen Aero Drive, between Kearny Villa Road and Aero Court, from a four-lane Major Arterial to a six-lane Prime Arterial in accordance with its Kearny Mesa Community Plan Classification.

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

34. Prior to issuance of the first building permit, the applicant shall assure by permit and bond, the construction of a 10-foot wide raised median along the Kearny Villa Road

from the southern property line to Aero Drive, with landscaping adjacent to the project frontage, satisfactory to City Engineer

PLANNING/DESIGN REQUIREMENTS:

35. No fewer than 621 off-street parking spaces including twelve accessible spaces, twenty nine motorcycles spaces and 152 bicycle spaces for residential component, and eighty off-street automobile parking spaces including four accessible spaces, two motorcycle spaces and two bicycle spaces for the office component shall be maintained at all times in the approximate locations shown on the approved Exhibit "A." Parking spaces comply at all times with the SDMC/LDC and shall not be converted for any other use unless otherwise authorized by the City Manager.

36. 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.

37. Prior to the issuance of the occupancy permit for the residential structure, the applicant shall obtain the final shell building inspection sign-off for the office building.

38. This permit has deviations to development regulations as listed below:

Building Height to a maximum of 66'-1"
Residential Units located within the front 50 percent of the lot in the CO-1-2
Zone
9'-0 Street Setback at Kearny Villa Road

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 building additions, including patio covers, shall be permitted unless approved by the homeowners association and the City Manager. Patio covers may be permitted only if they are consistent with the architecture of the dwelling unit.

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

43. The applicant shall post a copy of the approved discretionary permit and Vesting Tentative Map in the sales office for consideration by each prospective buyer.
44. All private outdoor lighting shall be shaded and adjusted to fall on the same premises where such lights are located and in accordance with the applicable regulations in the SDMC.
45. Prior to the issuance of any Certificate of Occupancy, the Permittee or subsequent Owner shall install and make operational a photovoltaic system if providing electricity for the landscaped areas and the common area lighting to the satisfaction of the City Manager.
46. The use of textured or enhanced paving shall meet applicable City standards as to location, noise and friction values.
47. The subject property and associated common areas on site shall be maintained in a neat and orderly fashion at all times.
48. 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.
49. 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, architecturally integrated structure whose top and sides may include grillwork, louvers, and latticework
50. 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."

WATER REQUIREMENTS:

51. Prior to the issuance of any building permits, the Owner/Permittee shall assure, by permit and bond, the design and construct a new 12-inch water facility to replace the existing 8-inch water facility in Aero Court from Aero Place to the terminus of the cul-de-sac of Aero Court, in a manner satisfactory to the Director of the Water Department and the City Engineer.
52. Prior to the issuance of any building permits, the Owner/Permittee shall assure, by permit and bond, the design and construction of new water service(s) outside of any

driveway, and the disconnection at the water main of all existing unused services adjacent to the site, in a manner satisfactory to the Director of the Water Department and the City Engineer.

53. Prior to the issuance of any building permits, the Owner/Permittee shall apply for a plumbing permit for the installation of appropriate private back flow prevention device(s) on each water service (domestic, fire, and irrigation), in a manner satisfactory to the Director of the Water Department, the City Engineer, and the Cross Connection Supervisor in the Customer Support Division of the Water Department.

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

55. The Owner/Permittee agrees to design and construct all proposed public water facilities in accordance with established criteria in the most current edition of the City of San Diego Water Facility Design Guidelines and City regulations, standards and practices pertaining thereto. Public water facilities shall be modified at final engineering to comply with standards.

WASTEWATER REQUIREMENTS:

56. Prior to the issuance of any building permits, the developer shall obtain an Encroachment Maintenance and Removal Agreement for all approved structures or landscaping, including fences, private sewer facilities and enhanced paving, installed in or over any public sewer easement or right of way.

57. Prior to the issuance of any engineering or building permits, the developer shall provide evidence, satisfactory to the Director of the Metropolitan Wastewater Department, indicating that each condominium 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 ownership.

58. 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.

59. 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.

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.

FAIRFIELD KEARNY MESA L.P.,
A Delaware Limited Partnership
Owner/Permittee

By _____

By _____

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

PERMIT/OTHER – Permit Shell 11-01-04