

RESOLUTION NUMBER R- 302091

DATE OF FINAL PASSAGE NOV 14 2006

WHEREAS, San Diego Unified School District, Owner/Permittee, filed an application with the City of San Diego for an extension of time for a planned residential development permit /planned development permit to redevelop a previously designated school site by subdividing the site into seventeen lots for single family residences, two lots for open space, and one lot for a 3.11-acre park site on portions of a 12.06-acre known as the Fairbrook Estates project [Project], located on the south side of Fairbrook Road and east of Caminito Magnifica, and legally described as Lot 40, Scripps Hills Unit No. 1, Map 9953 and Lot 215, Scripps Ranch Estates, Map 9587, in the Scripps Miramar Community Plan area, in the RS-1-8 and RS-1-9 zones (previously referred to as the R1-40000 and R1-20000 zones) which is proposed to be rezoned to the RS-1-12 and OP-1-1 zones (previously referred to as the R1-8000 and OS-P zones); and

WHEREAS, on July 13, 2006, the Planning Commission of the City of San Diego considered Planned Development Permit [PDP] No. 8570, an extension of time to Planned Residential Development Permit No. 98-1011, and pursuant to Resolution No. 4101-PC voted to recommend City Council approval of the permit; and

WHEREAS, under Charter section 280(a)(2) this resolution is not subject to veto by the Mayor because this matter requires the City Council to act as a quasi-judicial body and where a public hearing was required by law implicating due process rights of individuals affected by the decision and where the Council was required by law to consider evidence at the hearing and to make legal findings based on the evidence presented; and

WHEREAS, the matter was set for public hearing on NOV 14 2006, 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 Development Permit No. 8570/an extension of time to Planned Residential Development Permit No. 98-1011:

EXTENSION OF TIME OF A DEVELOPMENT PERMIT – SAN DIEGO MUNICIPAL [SDMC] SECTION 126.0111

1. New conditions are necessary to protect the health or safety of the residents of the development or the immediate community. The Owner/Permittee requests an extension of time to Planned Residential Development Permit [PRD] No. 98-1011 and does not request any changes to the proposed development layout, approved by City Council on October 19, 1999, by Resolution No. R-292324. However, with changes to the adoption of the January 1, 2000 Land Development Code Update, additional conditions to the PRD Permit 98-1011 are required to allow for implementation of best management practices for controlling the development's construction and post-construction storm water runoff.

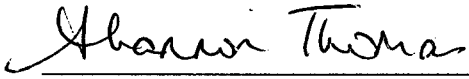
The additional permit conditions are necessary to protect the health and safety of the local community served by this development by ensuring proper installation, maintenance, and control of urban storm water runoff to reduce water quality impurities and further local degradation.

2. New conditions are necessary to comply with applicable state or federal law. The development's PRD No. 98-1011 was approved by City Council on October 19, 1999 by Resolution No. R-292324. Subsequent changes in State and Local regulations prior to the applicant obtaining any construction permits to develop the site require the addition of conditions to the permit to comply with the California Regional Water Quality Control Board's Municipal Storm Water National Pollutant Discharge Elimination System [NPDES] Permit, issued to the City of San Diego and other municipalities on February 21, 2001. The City's implementation of the NPDES Permit requires the control of any developments' urban storm water runoff.

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

BE IT FURTHER RESOLVED, that Planned Development Permit No. 8570/an extension of time to Planned Residential Development Permit No. 98-1011, is granted to San Diego Unified School District, 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
Deputy City Attorney

SMT:als
10/04/06
Or.Dept:DSD
R-2007-373
MMS#3863

(A)

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 42-0814

PLANNED DEVELOPMENT PERMIT NO. 8570
FAIRBROOK ESTATES [MMRP]
EXTENSION OF TIME TO PLANNED RESIDENTIAL DEVELOPMENT PERMIT
NO. 98-1011
CITY COUNCIL

This Planned Development Permit No. 8570, an extension of time to Planned Development Permit No. 98-1011, County Recorder's Office Document No. 2000-0070263 dated February 10, 2000, is granted by the City Council of the City of San Diego to San Diego Unified School District, Owner/Permittee, pursuant to San Diego Municipal Code [SDMC] section 126.0111. The 12.09-acre site is located south of Fairbrook Road and east of Caminito Magnifica in the RS-1-8 and RS-1-9 zones, which is proposed to be rezoned to the RS-1-12 and OP-1-1 zones, of the Scripps Miramar Community Plan area. The project site is legally described as Lot 40, Scripps Hills Unit No. 1, Map 9953 and Lot 215, Scripps Ranch Estates, Map 9587

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee to redevelop a previously designated school site by subdividing the site into seventeen lots for single family residences, two lots for open space, and one lot for a 3.11-acre park site, described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated NOV 14 2006, on file in the Development Services Department.

The project or facility shall include:

- a. Seventeen single family detached lots, two open space lots totaling 1.04 acres, and one lot for a 3.11-acre park site with on and off street parking;
- b. Landscaping (planting, irrigation and landscape related improvements);
- c. Off-street parking facilities; and
- d. 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 twelve months after the effective date of final approval by the City, following all appeals. Failure to utilize the permit within twelve months will automatically void the permit.
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. This Permit incorporates all previous conditions of the approved Planned Residential Development Permit No. 98-1011 and shall supercede the same.
6. The utilization and continued use of this Permit shall be subject to the regulations of this and any other applicable governmental agency.
7. 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.).
8. 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.

9. 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.

10. 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.

11. 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.

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

13. Rezoning of the subject properties shall become effective with recordation of the corresponding final subdivision map for and approval of the project site.

14. 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 Street Design Manual.

ENVIRONMENTAL/MITIGATION REQUIREMENTS:

15. 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.

16. As conditions of Planned Development Permit No. 8570 and Vesting Tentative Map No. 8569, the mitigation measures specified in the MMRP, and outlined in the Addendum to Mitigated Negative Declaration No. 98-1011, SCH No. 99071103, shall be noted on the construction plans and specifications under the heading ENVIRONMENTAL/MITIGATION REQUIREMENTS.

17. The Owner/Permittee shall comply with the MMRP as specified in the Addendum to Mitigated Negative Declaration No. 98-1011, SCH No. 99071103, satisfactory to the City Manager and City Engineer. Prior to issuance of the first construction permit for grading, all conditions of the MMRP shall be adhered to, to the satisfaction of the City Engineer. All mitigation measures as specifically outlined in the MMRP shall be implemented for the following issue areas:

- Biological Resources
- Wetlands
- Hydrology/Water Quality.

18. 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.

ENGINEERING REQUIREMENTS:

19. The Owner/Permittee shall provide a site-distance easement on the proposed Lot 1, satisfactory to the City Engineer. The subsequent property owner shall maintain this easement area.

20. Lots "B" and "C" shall have a non-building easement on their entirety. Lot "B" shall be owned and maintained by the Permittee, by the adjoining Homeowners Association [HOA], with the HOA having a right of first refusal, or by the owner of Lot 15. If Lot "B" is not transmitted to the adjoining HOA and is to be owned by the owner of Lot 15, the final map shall include this as one lot with the non-building easement on that portion shown on the Vesting Tentative Map No. 98-1011 as Lot "B." Lot "C" shall be owned and maintained by the Owner/Permittee or a HOA.

21. This Planned Development Permit shall conform to Vesting Tentative Map No. 8569.

LANDSCAPE REQUIREMENTS:

22. The existing mature eucalyptus to remain shall be shown on the site plans submitted for construction permits, including grading. Justification for any removal must be submitted to the Development Services Department for review and approval. Proposed removal of any of these trees will require a replacement of eucalyptus specie of 15-gallon size.

23. No fewer than thirty-four off-street parking spaces shall be maintained for the seventeen single family residences at a ration of 2:1, together with on-street parking for 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.

24. 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. All plans, specifications, and notes mentioned in the conditions below shall be consistent with Land Development Code section 142.0401 and Landscape Standards, and Exhibit "A," Landscape Development Plan.

25. Prior to the 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. A "No Fee" Street Tree Permit shall be obtained for the installation, establishment, and on-going maintenance of all street trees.

26. 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 Owner/Permittee 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.

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. The trees shall be maintained in a safe manner to allow each tree to grow to its mature height and spread.

28. 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 completion of construction by the Owner/Permittee.

29. 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 and/or an increased number) to the satisfaction of the City Manager.

30. Prior to issuance of any construction permits for grading or building, complete landscape construction documents, including an automatic permanent irrigation system unless otherwise approved, 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."

31. The Owner/Permittee shall disclose to potential home purchasers, the future development of the park on Lot "A."

PLANNING/DESIGN REQUIREMENTS:

32. No fewer than thirty-four off-street parking spaces shall be maintained for the seventeen single family residences at a ration of 2:1, together with on-street parking for 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.

33. 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.

34. 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.

35. 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.

36. 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.

37. 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.

38. All signs associated with this development shall be consistent with sign criteria established by the Citywide sign regulations.
39. The Owner/Permittee shall post a copy of the approved discretionary permit or Vesting Tentative Map in the sales office for consideration by each prospective buyer.
40. The Owner/Permittee shall disclose to potential purchasers of the dwelling units proposed with this development, that the site is within the "Miramar Airport Influence Area" identified in the Comprehensive Land Use Plan [CLUP] for Miramar and that visual and noise impacts will be routinely experienced.
41. 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.
42. The use of textured or enhanced paving shall meet applicable City standards as to location, noise and friction values.
43. The subject property and associated common areas on site shall be maintained in a neat and orderly fashion at all times.
44. No material or equipment shall be stored on the roof of any building.
45. The dwelling units shall not exceed two stories in height and shall include a mix of 1 and 2-story units. A minimum of four product types shall be utilized and the same product shall not be utilized on contiguous lots.
46. The minimum front yard setback shall be 20 feet for garages and 15 feet for living areas. A variety of front yard setbacks shall be incorporated and the front walls of no more than two adjacent units shall be on the same plane.
47. Side yard setbacks are a minimum of 5 feet when a single-story model or a 2-story model is adjacent to a 2-story unit with an adjacent 1-story element or the side yard of an adjacent 2-story unit is at least 15 feet or the side yard of an adjacent 1-story unit is at least 10 feet. The combined side yard setbacks of adjacent 2-story units shall be a minimum of 20 feet.
48. Roof materials shall be tile or other similar non-combustible materials with wood shake, asphalt shingles, composition roofs or similar materials are not permitted. No living areas shall have flat roofs. Colors may vary but shall be compatible with the adjacent development.
49. Wall and trim colors of the structures shall be subtle earth tones and be compatible with the adjacent development.
50. Wooden and chain-link fencing is specifically prohibited on the residential project perimeter to Fairbrook Road and the park site. Perimeter fencing shall be decorative block or stone walls with columns and capping and shall include a combination block or

stone with wrought-iron where views are preserved or enhanced. Fencing of the park site shall be to the satisfaction of the City Manager.

51. The Owner/Permittee shall include in the project CC&R's, a provision to prohibit the parking and storage of recreational vehicles (including but not limited to trailers, motorhomes, boats, and boat trailers) on the residential lots unless screened from view from the public right of way and satisfying minimum setback requirements.

52. Driveways on corner Lots No. 1, 11, and 17, shall be located as far from the street intersection as practical to allow more landscaping opportunity at the intersections without impeding "line-of-sight" safety considerations.

53. Side and rear elevations shall incorporate strong articulation of materials and forms. Consistent use of materials and forms of doors, windows, trim, and other features is required on all elevations.

STORMWATER REQUIREMENTS:

54. Development of this project shall comply with all requirements of State Water Resources Control Board [SWRCB] Order No. 99 08 and the Municipal Storm Water Permit, Order No. 2001-01 (NPDES General Permit No. CAS000002 and CA S0108758), 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 owner(s) and subsequent owner(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 Section C.7 of SWRCB Order No. 99 08 DWQ.

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.
- This development may be subject to impact fees at the time of building/engineering permit issuance.

APPROVED by the City Council of the City of San Diego on NOV 14, 2006,
by Resolution No. 302091..

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.

**SAN DIEGO UNIFIED SCHOOL
DISTRICT**
Owner/Permittee

By _____

By _____

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

PERMIT/OTHER – Permit Shell 11-01-04

Passed by the Council of The City of San Diego on NOV 14 2006, by the following vote:

Council Members	Yeas	Nays	Not Present	Ineligible
Scott Peters	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Kevin Faulconer	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Toni Atkins	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Anthony Young	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Brian Maienschein	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Donna Frye	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jim Madaffer	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ben Hueso	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage NOV 14 2006

AUTHENTICATED BY:

(Seal)

JERRY SANDERS

Mayor of The City of San Diego, California.

ELIZABETH S. MALAND

City Clerk of The City of San Diego, California.

By Debbie Swanson Cruz, Deputy

Office of the City Clerk, San Diego, California

Resolution Number R-302091