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9/17/07
ORG

RESOLUTION NUMBER R-302993

DATE OF FINAL PASSAGE SEPTEMBER 17, 2007

WHEREAS, Pardee Homes, Owner/Permittee, filed an application with the City of San Diego for a coastal development permit/site development permit to subdivide a 44.80-acre site and construct a single-family subdivision known as the Carmel Valley Neighborhood Ten project, located in the Carmel Valley Neighborhood Ten Precise Plan area west of Carmel Country Road along both sides of Carmel Mountain Road and at the terminus of Briarlake Woods Drive, and legally described as:

being a portion of the southwest quarter of the southeast quarter of Section 29, together with a portion of the west 10 acres of the southeast quarter of the southeast quarter of said Section 29, Township 14 South, Range 3 West, San Bernardino Meridian, according to Official Plat thereof;

Excepting therefrom that portion granted to the City of San Diego by deed recorded February 29, 2000 as File No. 2000-0101939 of Official Records;

Together with Lot 3 in Section 28, Township 14 South, Range 3 West, San Bernardino Meridian, according to Official Plat thereof;

Together with Lot E of Carmel Valley Neighborhood 10 Unit 12 South, according to Map thereof No. 15607 filed in the Office of the County Recorder of San Diego County August 10, 2005;

Together with portions of Carmel Mountain Road, Canter Heights Drive and Coach Horse Court, as dedicated to public use, all being in the City of San Diego, County of San Diego, State of California, in the Carmel Valley Community Plan area, in the SF-2, SF-3 and OS Zones of the Carmel Valley Planned District Ordinance; and

WHEREAS, on June 21, 2007, the Planning Commission of the City of San Diego considered Coastal Development Permit [CDP] No. 225393/Site Development Permit [SDP] No. 232067, and pursuant to Resolution No. 4275-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 September 17, 2007, 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 Coastal Development Permit No. 225393/Site Development Permit No. 232067:

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 single family development on 44.8-acre site is designated for Residential use by the Carmel Valley Neighborhood Ten Precise Plan and allows residential development at the densities allowed by the existing SF-2, SF-3 and OS zones of the Carmel Valley Planned District. The proposed project is consistent with this designation and will dedicate 12.56 acres to the City of San Diego as open space within the Multiple Habitat Planning Area [MHPA]. The proposed project is consistent with the land use allowed by the Precise Plan and the preservation goals of the Environmental Tier. Being determined the project is consistent with the Progress Guide and General Plan, the Carmel Valley Neighborhood Ten Precise Plan, the regulations of the SF-2, SF-3 and OS zones and the Planned Development Permit regulations, 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 includes the dedication of right-of-way and contribution of its fair share cost towards construction of public improvements in the Carmel Valley Neighborhood Ten Precise Plan. The proposed development will construct necessary sewer and water facilities to serve the residents of the development; will enter into a Maintenance Agreement for the ongoing permanent Best Management Practices [BMP] maintenance; will comply with all requirements of State Water Resources Control Board

[SWRCB] Order No. 99-08 DWQ and the Municipal Storm Water Permit, Order No. 2001-01 (NPDES General Permit No. CAS000002 and CAS0108758), Waste Discharge Requirements for Discharges of Storm Water Runoff Associated With Construction Activity; and will provide a geotechnical report in accordance with the City of San Diego's Technical Guidelines for Geotechnical Reports for the review and approval by the City Engineer. The development will also provide for the health, safety, and welfare of the residents by locating Zone 1 Brush Management outside the MPHA and Zone 2 Brush Management inside the MHPA and outside of lands owned by the City while providing setbacks for houses adjacent to fuel sources. All structures constructed will be reviewed by professional staff for compliance with all relevant and applicable building, electrical, mechanical and fire codes to assure the structures will meet or exceed the current regulations. 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. The proposed development complies with the regulations of the SF-2, SF-3 and OS zones and site specific development regulations for the property. No deviations or variances are required to approve the proposed project. The proposed development complies with all relevant regulations of the Land Development Code. Specific conditions of approval require the continued compliance with all relevant regulations of the City of San Diego effective for this site and have been written as such into Coastal Development Permit No. 225393/ Site Development Permit No. 232067. Development of the property will meet all requirements of these regulations. Concept plans for the project identify all other development criteria in effect for the site. All relevant regulations shall be complied with at all times for the life of the project. In these ways the proposed development will comply with the applicable and relevant regulations of the Land Development Code.

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 site is designated by the Carmel Valley Neighborhood Ten Precise Plan for residential development and is identified by the Land Development Code as within the SF-2, SF-3 and OS zones. The site is currently undeveloped. The proposed project will provide mitigation for the direct impact to sensitive vegetation. The project creates direct impacts to 5.30 acres of Tier 1 southern maritime chaparral all outside the MHPA; 5.22 acres of Tier I Diegan Coastal sage scrub, 4.14 outside MHPA, 1.08 inside MHPA; and 8.52 acres of non-native grassland, 5.28 acres outside MHPA and 2.95 inside MHPA. These impacts will be mitigated per the City's Environmentally Sensitive Lands Guidelines. Assuming all impacts are mitigated within the MHPA, which allows out of kind mitigation within Tiers I-III for these habitat types, the total mitigation acreage required would be 16.11 acres. These impacts are the minimum disturbance necessary to construct the proposed project. Extensive planning and development of alternatives were evaluated to determine the proposed impact is the least possible and has been shown to be the case.

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 development will alter the site to the least extent

possible while subdividing the property and grading the site for single family uses. All manufactured slopes constructed for the project will include erosion control to preclude erosional forces from impacting the site. The site is not located within or adjacent to any areas prone to flooding. Brush management requirements imposed in the conditions of approval will reduce the risks from natural wildfires to a safe level. The site is not adjacent to any high risk fuel source and is not subject to the threat of high heat fires as a result of dense brush burning in the immediate area.

c. The proposed development will be sited and designed to prevent adverse impacts on any adjacent environmentally sensitive lands. The development proposes to subdivide a 44.8-acre site for development of single-family properties. The proposed project will not create adverse impacts on adjacent environmentally sensitive lands. The project will incorporate any construction BMPs necessary to comply with Chapter 14, Article 2, Division 1 of the San Diego Municipal Code; will prepare and implement a Water Pollution Control Plan in accordance with the guidelines in Appendix E of the City's Storm Water Standards; will enter into a Maintenance Agreement for the ongoing permanent BMP maintenance; and will comply with all requirements of SWRCB Order No. 99-08 DWQ and the Municipal Storm Water Permit, Order No. 2001-01 (NPDES General Permit No. CAS000002 and CAS0108758), Waste Discharge Requirements for Discharges of Storm Water Runoff Associated With Construction Activity. No drainage will be allowed to exit the site except in a controlled manner and will not impact sensitive habitats located down stream.

The mitigation monitoring and reporting program adopted for the proposed project will reduce to a level of insignificance all probable and potential environmentally adverse affects on adjacent lands.

d. The proposed development will be consistent with the City of San Diego's Multiple Species Conservation Program (MSCP) Subarea Plan. A Multiple Habitat Planning Area Boundary Line correction has been processed by City staff and reviewed and accepted by the US Fish & Wildlife Service and California Fish and Game agencies. The minor correction is supported by the Biology Report prepared for the project. With the minor correction to the boundary line of the MHPA, the proposed project is consistent with the City of San Diego's Multiple Species Conservation Program Subarea Plan.

e. The proposed development will not contribute to the erosion of public beaches or adversely impact local shoreline sand supply. The proposed project is within the watershed of the Los Penasquitos Lagoon and contributes drainage to this impaired water body. The project will incorporate any construction BMPs necessary to comply with Chapter 14, Article 2, Division 1 of the San Diego Municipal Code; will prepare and implement a Water Pollution Control Plan in accordance with the guidelines in Appendix E of the City's Storm Water Standards; will enter into a Maintenance Agreement for the ongoing permanent BMP maintenance; and will comply with all requirements of SWRCB Order No. 99-08 DWQ and the Municipal Storm Water Permit, Order No. 2001-01 (NPDES General Permit No. CAS000002 and CAS0108758), Waste Discharge Requirements for Discharges of Storm Water Runoff Associated With Construction Activity so as to reduce or eliminate any potential adverse affects upon the Los Penasquitos Lagoon. In this way, the proposed project will not contribute to the erosion of public beaches or adversely impact local shoreline sand supply since all drainage will

be controlled appropriately to prevent any adverse impacts to downstream areas, including the shoreline of the Pacific Ocean and the Los Penasquitos Lagoon.

f. **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.** All required mitigation required as a condition of the development permit has been carefully scrutinized and is based on direct cause and effect relationships. The required mitigation is calculated to focus on those areas where a direct or potential impact will or may occur. No mitigation is required for the proposed project which does not pass this scrutiny and which is not based upon objective scientific fact or causal relationship.

B. COASTAL DEVELOPMENT PERMIT – SDMC SECTION 126.0708

1. **The proposed coastal development will not encroach upon any existing physical access way that is legally used by the public or any proposed public accessway identified in a Local Coastal Program land use plan; and the proposed coastal development will enhance and protect public views to and along the ocean and other scenic coastal areas as specified in the Local Coastal Program land use plan.** The 44.8-acre site is located approximately four miles east from the Pacific Ocean. No physical accessway legally used by the public or proposed public accessway will be compromised or encroached upon with the approval of the project as none exist crossing the property leading to and along the ocean and other scenic coastal areas. No existing or proposed physical accessway exists or is designated on or across the site. From the site no public views to or along the ocean or other scenic coastal areas presently exist and none will be impacted from the approval of the project.

2. **The proposed coastal development will not adversely affect environmentally sensitive lands.** The site is designated by the Carmel Valley Neighborhood Ten Precise Plan for residential development and is identified by the Land Development Code as within the SF-2, SF-3 and OS zones. Extensive planning and development of alternatives were evaluated to determine the proposed impact is the least possible. See SDP, Supplemental Findings-- Environmentally Sensitive Lands Finding #a above for more detail.

3. **The proposed coastal development is in conformity with the certified Local Coastal Program land use plan and complies with all regulations of the certified Implementation Program.** The certified Local Coastal Program, the Carmel Valley Neighborhood Ten Precise Plan, designates this site for residential development. The proposed development, a subdivision for the development of a single family project, will comply with the certified Local Coastal Program and the regulations of the Implementation Program. No variances or deviations are required to approve the project as proposed.

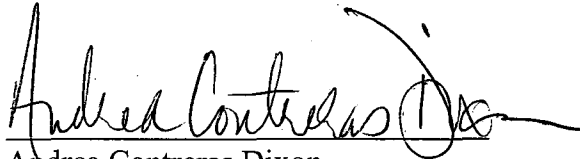
4. **For every Coastal Development Permit issued for any coastal development between the nearest public road and the sea or the shoreline of any body of water located within the Coastal Overlay Zone the coastal development is in conformity with the public access and public recreation policies of Chapter 3 of the California Coastal Act.** The site, approximately four miles east of the Pacific Ocean, is not between the nearest public road and the sea or shoreline of any body of water within the Coastal Overlay Zone. The site is located in Carmel Valley Neighborhood Ten Precise Plan east of Interstate 5. The development of a

subdivision for development of a single family neighborhood will have no affect upon the public's access to coastal resources or recreation policies of Chapter 3 of the Coastal Act. The site does not contain any existing or planned access routes to the sea or shoreline of any body of water within the Coastal Overlay Zone and will have no affect upon the recreation policies of Chapter 3 of the Coastal Act in that all necessary parking is provided on the site for employees and visitors. Being determined that the proposed project will have no affect upon the access or recreational policies of the Coastal Act, the proposed project is therefore in conformance with the policies of such act.

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

BE IT FURTHER RESOLVED, that Coastal Development Permit No. 225393/Site Development Permit No. 232067 is granted to Pardee Homes, Owner/Permittee, 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 
Andrea Contreras Dixon
Deputy City Attorney

ACD:pev
06/26/07
09/27/07 REV.
Or.Dept:DSD
R-2007-1293
MMS #5011

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 42-4540

COASTAL DEVELOPMENT PERMIT NO. 225393/
SITE DEVELOPMENT PERMIT NO. 232067
CARMEL VALLEY NEIGHBORHOOD TEN [MMRP]

CITY COUNCIL

This Coastal Development Permit No. 225393/Site Development Permit No. 232067, an amendment to Carmel Valley Planned District Development Plan Permit/Resource Protection Ordinance Permit No. 96-0737, County Recorder's Office Document number 1997-0534836 dated October 24, 1997, is granted by the Council of the City of San Diego to Pardee Homes, a California Corporation, Owner/Permittee, pursuant to San Diego Municipal Code [SDMC] sections 126.0708 and 126.0504. The 44.80-acre site is located in four separate locations generally described by unit as Unit 2 South (A): located at the terminus of Briarlake Woods Drive; Unit 5 South (B): located south of Carmel Mountain Road, west of Gaylemont Lane and west of Furlong Place; Unit 9 South: located south of Carmel Mountain Road west of the new bridge at the boundary between the Torrey Hills and Neighborhood Ten communities; and Unit 12 South (B): located north of Carmel Mountain Road, west of Canter Heights Drive, all in the SF-2, SF-3 & OS zones of the Carmel Valley Planned District of the Carmel Valley Community Plan area. The project site is legally described as:

being a portion of the southwest quarter of the southeast quarter of Section 29, together with a portion of the west 10 acres of the southeast quarter of the southeast quarter of said Section 29, Township 14 South, Range 3 West, San Bernardino Meridian, according to Official Plat thereof;

Excepting therefrom that portion granted to the City of San Diego by deed recorded February 29, 2000 as File No. 2000-0101939 of Official Records;

Together with Lot 3 in Section 28, Township 14 South, Range 3 West, San Bernardino Meridian, according to Official Plat thereof;

Together with Lot E of Carmel Valley Neighborhood 10 Unit 12 South, according to Map thereof No. 15607 filed in the Office of the County Recorder of San Diego County August 10, 2005;

Together with portions of Carmel Mountain Road, Canter Heights Drive and Coach Horse Court, as dedicated to public use, all being in the City of San Diego, County of San Diego, State of California.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee to subdivide the 44.80-acre site into 145 lots for development of 121 single-family structures; six lots for dedication as open space to the City of San Diego in fee simple; sixteen lots for manufactured slopes, brush management, monument entries, pocket parks, green space and a private driveway to be owned by the home owners association; and two additional home owners association lots to provide legal and physical access to a parcel beyond the subdivision boundary, described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated September 17, 2007, on file in the Development Services Department.

The project or facility shall include:

- a. Subdivision of the 44.80-acre site into 145 lots for development of 121 lots for 121 single-family structures; six open space lots to be deeded to the City of San Diego in fee simple; sixteen lots for ownership by the home owners association for brush management, manufactured slopes, monument entries, pocket parks, green space and a private driveway; and two additional home owners association lots to provide legal and physical access to a parcel beyond the subdivision boundary;
- b. Landscaping (planting, irrigation and landscape related improvements);
- c. Off-street parking facilities;
- d. Canter Heights Drive Street between Station 1+45 to Station 3+40 would deviate from the Street Design Manual with the roadway being an additional five feet wide in order to accommodate a looped water main system for the project;
- e. The average floor to area ratio [FAR] calculated over the entire project would not exceed 60 percent. A few lots would exceed 60 percent FAR as long as the combined total of all lots within the project does not exceed 60 percent FAR;
- f. Water meters on-site may be placed in driveways in limited instances. While water meters are not typically located within driveways, an allowance has been made by the Water Department to allow water meters to be located within the driveway on this project when other suitable locations are not feasible; and

- g. 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. This Coastal Development Permit No. 225393/Site Development Permit No. 232067 is an amendment to Carmel Valley Planned District Development Plan Permit/Resource Protection Ordinance Permit 96-0737, County Recorder's Office Document number 1997-0534836, dated October 24, 1997. All privileges, rights and obligations granted by Carmel Valley Planned District Development Plan Permit/Resource Protection Ordinance Permit 96-0737, County Recorder's Office Document number 1997-0534836, dated October 24, 1997 shall be null and void and have no effect on the properties to which this Coastal Development Permit No. 225393/Site Development Permit No. 232067 is recorded upon.
3. 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.
4. 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.
5. 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.
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 Owner/Permittee 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" conditions(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. This Permit shall become effective with recordation of the corresponding final subdivision maps for and approval of the project site.

13. This Coastal Development Permit shall become effective on the eleventh working day following receipt by the California Coastal Commission of the Notice of Final Action following all appeals.

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 each phase of development is consistent with the conditions and exhibits approved for each respective phase in accordance with the approved Exhibit "A."

15. Prior to issuance of any engineering permit for grading, the Owner/Permittee shall deposit a fee with the Development Services Department for the Los Peñasquitos Watershed Restoration and Enhancement Program. The enhancement fee shall be computed on the basis of the total area of the site to be graded at a rate of \$0.005 per square foot. The enhancement fee shall be computed by the Owner/Permittee and verified by the Development Services Department.

16. Prior to issuance of any engineering permit for public improvements, the Owner/Permittee shall deposit a fee with the Development Services Department for the Los Peñasquitos Watershed Restoration and Enhancement Program. The enhancement fee shall be computed on the basis of the proposed development at a rate of \$0.03 per square foot for all impervious surfaces created by the public improvements. The enhancement fee shall be computed by the Owner/Permittee and verified by the Development Services Department.

17. Prior to issuance of any building permit, the Owner/Permittee shall deposit a fee with the Development Services Department for the Los Peñasquitos Watershed Restoration and Enhancement Program. The enhancement fee shall be computed on the basis of the proposed development at a rate of \$0.03 per square foot for all impervious surfaces created by the site construction on each lot. The enhancement fee shall be computed by the Owner/Permittee and verified by the Development Services Department.

18. At all bus stops within the project area, if any, the Owner/Permittee 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.

19. The Coastal Development Permit No. 225393/ Site Development Permit No. 232067 shall conform to the provisions of Tentative Map No. 232063.

20. The Owner/Permittee shall defend, indemnify, and hold harmless the City, its agents, officers, and employees from any and all claims, actions, proceedings, damages, judgments, or costs, including attorney's fees, against the City or its agents, officers, or employees, including, but not limited to, any to any action to attack, set aside, void, challenge, or annul this development approval and any environmental document or decision. The City will promptly notify Owner/Permittee of any claim, action, or proceeding and, if the City should fail to cooperate fully in the defense, the Owner/Permittee shall not thereafter be responsible to defend, indemnify, and hold harmless the City or its agents, officers, and employees. The City may elect to conduct its own defense, participate in its own defense, or obtain independent legal counsel in defense of any claim related to this indemnification. In the event of such election, Owner/Permittee shall pay all of the costs related thereto, including without limitation reasonable attorney's fees and costs. In the event of a disagreement between the City and Owner/Permittee regarding litigation issues, the City shall have the authority to control the litigation and make litigation related decisions, including, but not limited to, settlement or other disposition of the matter. However, the Owner/Permittee shall not be required to pay or perform any settlement unless such settlement is approved by Owner/Permittee.

ENVIRONMENTAL/MITIGATION REQUIREMENTS:

21. 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.

22. As conditions of this permit, the mitigation measures specified in the MMRP, and outlined in the Addendum to Environmental Impact Report and Subsequent Environmental Impact Report No. 72526, shall be noted on the construction plans and specifications under the heading ENVIRONMENTAL/MITIGATION REQUIREMENTS.

23. The Owner/Permittee shall comply with the MMRP as specified in the Addendum to Environmental Impact Report and Subsequent Environmental Impact Report No. 72526 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:

- Air Quality
- Biological Resources
- Landform/Visual Quality
- Land use
- Paleontological Resources
- Public Services

24. Prior to issuance of any construction permit, the Owner/Permittee 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:

25. In accordance with the Development Agreement, Doc. #1999-0541679, recorded August 5, 1999, all single family lots within the subdivision shown on Vesting Tentative Map No. 232063, are exempt from the Inclusionary Housing Ordinance requirements except for Unit 12 South (B), Lots 1-14. Prior to the issuance of each building permit for Unit 12 South (B), Lots 1-14, as shown on the approved Vesting Tentative Map No. 232063, the Owner/Permittee shall pay the Inclusionary Housing In-Lieu Fee due for those lots, Unit 12 South (B), Lots 1-14, pursuant to the Affordable Housing Requirements of the City's Inclusionary Housing Ordinance, Chapter 14, Article 2, Division 13 of the Land Development Code.

BRUSH MANAGEMENT PROGRAM REQUIREMENTS:

26. The Owner/Permittee shall implement the following requirements in accordance with the Brush Management Program shown on Exhibit "A."

27. Prior to issuance of any engineering permits for grading, landscape construction documents required for the engineering permit shall be submitted showing the brush management zones on the property in substantial conformance with Exhibit "A."

28. Prior to issuance of any building permits, a complete set of brush management construction documents shall be submitted for approval to the City Manager and the Fire Marshall. The construction documents shall be in substantial conformance with Exhibit "A" and shall comply with the Uniform Fire Code, M.C. 55.0101, the Landscape Standards, and the Land Development Code section 142.0412 (Ordinance No. 19413).

29. The Brush Management Program shall consist of two zones consistent with the Brush Management Regulations of the Land Development Code section 142.0412 as follows: Vesting Tentative Map No. 232063 shall have a standard Zone One of 35 feet and a standard Zone Two of 65 feet, unless otherwise noted or shown on the Vesting Tentative Map No. 232063, Exhibit "A."

30. Within Zone One, combustible accessory structures, including, but not limited to decks, trellises, gazebos, or other flammable features, shall not be permitted while non-combustible accessory structures may be approved within the designated Zone One area subject to Fire Marshall and the City Manager's approval.

31. In Zone One, plant material shall be selected to visually blend with the existing vegetation located in the adjacent open space. No invasive plant material shall be permitted as jointly determined by the Landscape Section and the MSCP staff.

32. All new Zone Two planting shall be temporarily irrigated with an above-ground irrigation system until established. Zone Two shall be maintained on a regular basis by pruning and thinning plants, removal of weeds, and maintaining the temporary irrigation

system. Only native vegetation shall be planted or hydroseeded in Zone Two. If Zone Two is being revegetated, 50 percent of the planting area shall be seeded with material that will not exceed 24 inches in height.

33. Prior to final inspection of any building permit, the approved Brush Management Program shall be implemented, to the satisfaction of the City Manager. The Brush Management Program shall be maintained at all times in accordance with the City of San Diego's Land Development Manual, Landscape Standards.

GEOLOGY REQUIREMENTS:

34. Prior to the issuance of engineering permit for grading or building permit, additional geotechnical review will be required for this project.

TRANSPORTATION REQUIREMENTS:

35. Prior to the issuance of any building permit, construction plans shall indicate the depth of the driveway to be twenty feet minimum or a minimum of eighteen feet if a sectional garage door is provided.

36. Prior to the issuance of any building permit on Lots 1, 2 and 3 of Unit 9 South, construction plans shall indicate a concrete surface, or other suitable material, to allow vehicles to turn around on each lot to facilitate vehicles departing in a forward facing orientation.

LANDSCAPE REQUIREMENTS:

37. All landscape and irrigation shall conform to the City of San Diego Landscape Ordinance and City of San Diego Land Development Manual Landscape Standards and all regional standards for landscape installation and maintenance.

38. Improvements such as driveways, utilities, drains, and water and sewer laterals shall be designed so as not to prohibit the placement of street trees, all to the satisfaction of the City Manager.

39. Prior to issuance of any engineering permit for grading, landscape construction documents for the revegetation and hydroseeding of all disturbed land shall be submitted in accordance with the Land Development Manual Landscape Standards, to the satisfaction of the City Manager. All plans shall be in substantial conformance to this permit and Exhibit "A."

40. Prior to issuance of any engineering permit for public right-of-way improvements or building permits for buildings, complete landscape construction documents for right-of-way improvements shall be submitted to the City Manager for approval. Improvement plans shall provide a forty square foot area around each tree which is unencumbered by utilities as set forth under LDC section 142.0403(b)5. Driveways, utilities, drains, water and sewer laterals shall be designed so as not to prohibit the placement of street trees.

41. Prior to final inspection, it shall be the responsibility of the Owner/Permittee to install all required landscape. A "No Fee" Street Tree Permit, if applicable, shall be obtained for the installation, establishment, and on-going maintenance of all street trees.

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

43. The Owner/Permittee shall be responsible for the maintenance of all landscape improvements in the right-of-way consistent with the Land Development Manual 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.

44. If any required landscape, including existing or new plantings, hardscape, landscape features, or other features, 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 30 days of damage or prior to a final landscape inspection.

PLANNING/DESIGN REQUIREMENTS:

45. No fewer than two off-street parking spaces shall be maintained on each single-family 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.

46. 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.

47. 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.

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

49. The Owner/Permittee shall post a copy of the approved discretionary permit and Vesting Tentative Map in the sales office for consideration by each prospective buyer

50. 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.

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

52. 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.

WATER REQUIREMENTS:

53. Prior to the issuance of any building permits the Owner/Permittee shall assure, by permit and bond, the design and construction of new water services in the rights-of-way adjacent to the project sites, in a manner satisfactory to the Water Department Director and the City Engineer.

54. Providing there is no suitable location available for the water meters in the public right-of-way, water meters may be installed in driveways or other suitable locations, satisfactory to the Water Department Director.

55. Prior to final inspection of any building, public water facilities necessary to serve the development, including water services, meters and mains, shall be complete and operational in a manner satisfactory to the Water Department Director and the City Engineer.

56. Prior to final inspection of any building, the as-built drawings for the water main through the bridge on Carmel Mountain Road shall have been completed and approved by that project's resident engineer.

57. Prior to final inspection of any building, all water mains, including the water main through the bridge on Carmel Mountain Road, shall be complete and operational in a manner satisfactory to the Water Department Director and the City Engineer.

58. 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.

59. All water facilities on private property, including domestic, fire and irrigation systems, which are not located within the public right-of-way, granted a water easement or general utility easement, shall be private.

60. 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. Water facilities and water easements, as shown on the approved plans, shall be modified at final engineering to comply with standards.

WASTEWATER REQUIREMENTS:

61. No structures or landscaping, including private sewer facilities and enhanced paving, shall be installed in or over any easement prior to the Owner/Permittee obtaining a Maintenance and Encroachment Maintenance and Removal Agreement.

62. No trees or shrubs exceeding 3 feet in height at maturity shall be installed within ten feet of any public sewer facilities.

63. The Owner/Permittee shall design and construct all proposed public sewer facilities in accordance with established criteria in the most current edition of the City of San Diego sewer design guide (2004 version). Proposed facilities that do not meet the current standards shall be redesigned or private.

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

65. 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.

CITY COUNCIL REQUIREMENT:

66. For a period not to exceed a maximum of two years from the date of approval [September 17, 2007], the Owner/Permittee and the owner of APN 307-199-14 shall enter into negotiations to determine a mutually acceptable price for the sale of the property described on Vesting Tentative Map No. 232063 as Lots "T" and "U." The agreed upon price shall be between 20,000 and 176,000 dollars. If the parties cannot reach an agreed upon price, the parties shall enter into binding arbitration and be bound by the decision of the arbitrator. Binding arbitration proceedings shall be in accord with all standards and professional practices for such arbitration. If the negotiation and arbitration, if necessary, extends beyond two years from the date of approval [September 17, 2007], this condition shall be deemed null and void.

INFORMATION ONLY:

Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of this development permit, may protest the imposition within ninety days of the approval of this development permit by filing a written protest with the City Clerk pursuant to California Government Code section 66020.

APPROVED by the City Council of the City of San Diego on September 17, 2007, by Resolution No. R-302993.

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.

PARDEE HOMES, a California Corporation
Owner/Permittee

By _____

By _____

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

PERMIT/OTHER – Permit Shell 11-01-04