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RESOLUTION NUMBER R- 303335

DATE OF FINAL PASSAGE JAN 15 2008

WHEREAS, Sedlack Development Co., L.P., Owner/Permittee, filed an application with the City of San Diego for a Planned Development Permit/Site Development Permit to subdivide one existing lot into seven residential lots to be known as the Netta Terrace project, located on the north side of Cervantes Avenue, just west of South 58<sup>th</sup> Street and south of Radio Court, and legally described as Lot 54 of Las Alturas Villa Sites, Map No. 501, in the Southeastern San Diego Community Planning area, in the SF-10000 zone of the Southeastern San Diego Planned District of the Valencia Park Neighborhood; and

WHEREAS, on August 9, 2007, the Planning Commission of the City of San Diego considered Planned Development Permit [PDP] No. 4663165/Site Development Permit [SDP] No. 463166, and pursuant to Resolution No. 4285-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;

WHEREAS, the matter was set for public hearing on JAN 15 2008, 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,

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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. 463165/Site Development Permit No 463166:

**A. PLANNED DEVELOPMENT PERMIT**

**1. The proposed development will not adversely affect the applicable land use plan.** The project proposes a 7-lot subdivision located in the Valencia Park Neighborhood of the Southeastern San Diego community. The Southeastern San Diego Community Plan designates the project site for Residential use at a density of 0 to 5 dwelling units per acre [DUAC]. Under this designation, the 1.96-acre site could accommodate 0 to 10 dwelling units. The project proposes seven single-family residential lots which would be compatible with this designation.

The Southeastern San Diego Community Plan calls for new development to respect and maintain the character and scale of existing residential neighborhoods. The proposed 7-lot single-family project would be similar to existing density and lot patterns of surrounding single-family areas. In addition, the Community Plan calls for development projects to "minimize the amount of grading to produce building pads." The proposed grading plan includes more excavation than fill in order to accommodate the seven proposed lots. Lots would step up slightly from west to east and Lot 4, the panhandle lot, has been elevated in the northwestern corner of the site in order to more closely follow the natural landform. Finally, the community plan calls for "substantial landscaping, especially as viewed from public rights-of-way". The project proposes street trees along Cervantes Avenue with native trees, shrubs and groundcovers on sloping areas which will be visible from the street. Overall, the proposed project would meet the design objectives of the Southeastern San Diego Community Plan.

**2. The proposed development will not be detrimental to the public health, safety, and welfare.** The project proposes to subdivide one parcel into seven lots for the future construction of seven single-family homes consistent with the applicable land use plan designated for the site. The permit prepared for this development includes various conditions (and referenced exhibits) of approval relevant to achieving project compliance with the regulations and applicable ordinance provisions of the San Diego Municipal Code [SDMC] in affect for this site; and that such conditions have been determined by the decision-maker as necessary to avoid adverse impacts upon the health, safety, and general public welfare. These conditions (and referenced exhibits) include limitations upon the extent and amount of density, lot coverage, minimum parking, landscaping, site access, and required public improvements. A Mitigated Negative Declaration [MND] was prepared for the project containing mitigation measures for potential impacts to biological and paleontological resources which will reduce such impacts to below a level of significance. The environmental analysis included a review of a biology report, geology report, drainage study, and a cultural resource report. The environmental document concluded that the project would not pose a geological hazard, that site drainage would be in conformance with applicable standards for development, and, that there were no cultural resources found to exist at the site. The project will potentially improve vehicular circulation in the immediate area through the construction of a portion of Cervantes Avenue in

front of and adjacent to the site which will provide a physical connection in the public street system, where currently none exists. Therefore, the project will not be detrimental to the health, safety and welfare of those in the community.

**3. The proposed development will comply with the regulations of the Land Development Code [LDC].** The project proposes to subdivide one parcel into seven lots for the future construction of seven single-family homes consistent with the zoning and the land use plan. The project was reviewed for conformance with the SF-10000 zoning requirements, and traffic, engineering, water, sewer and landscape regulations and found to be consistent with the applicable regulations. The project includes minor deviations to the lot standards, hardscape requirements, and, the environmentally sensitive lands regulations to allow an impact to a disturbed wetland as allowed under a planned development permit. The project complies with all other requirements including parking, landscaping, and required public improvements therefore the proposed subdivision will comply with the regulations of the Land Development Code.

**4. The proposed development, when considered as a whole, will be beneficial to the community.** The project is subdivision of land to create seven residential lots in the Southeastern San Diego Community Planning area. The property is designated for residential uses within the community plan. The proposed subdivision is consistent with the community plan and the SF-10000 zone of the Southeastern San Diego Planned District. The project would subdivide the land for the creation of seven single-family lots for the future construction of seven single-family homes, providing additional housing for the community. The project would construct a desired connection of Cervantes Avenue, potentially improving the vehicular and pedestrian access in the community. The development would construct non-contiguous sidewalks on the north side of the street. The site is currently vacant and has been used in the past for the dumping of debris and other materials, creating an eyesore at this location. The site will be visually enhanced through the placement of enhanced landscaped areas and future single-family development. The proposed development, when considered as a whole, will be beneficial to the community.

**5. Any proposed deviations pursuant to 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 project proposes to subdivide one parcel into seven lots for the future construction of seven single-family homes. The project has incorporated minor deviations to the lot standards, hardscape requirement, and to the environmentally sensitive lands regulations to allow an impact to a disturbed wetland. Lot 4, a panhandle lot, would provide 24 feet of lot frontage where 65 feet is required. Lot 1 would total 9,150 square feet in area where 10,000 square feet is required. Project implementation would impact a disturbed wetland located within the interior of the site.

Lot Standard Deviation

Designing lots of standard width and depth is problematic and would result in skewed side lot lines rather than lot lines with right angles perpendicular to the front property lines. Such a design could result in impaired site distance due to the angle of exit for vehicular traffic. Additionally, creation of standard lots could result in either reduced building pad widths or require the construction of overheight retaining walls to maintain standard pad widths. The site is

also constrained in that it is bordered by three established subdivisions and dedicated open space lands.

Hardscape Deviation

The SF zones allow a maximum of 30 percent hardscape features in a front setback area. The deviation to allow increased hardscape areas (38 percent) within the front setback is requested for Lot 4 only as this is proposed as a panhandle lot with the building pad at the rear. This portion of the lot will function primarily as a driveway. The intent of the regulation is to restrict pavement and parking within an exterior usable open space area in front of a dwelling. The lots will be landscaped in accordance with all other landscaping requirements, including the provision for landscaping in front of the residences.

Environmentally Sensitive Lands Deviation

Project implementation would impact a 0.01-acre disturbed wetland located within the interior of the site (Attachment 4). Impacts to wetlands are classified as a deviation to the ESL regulations requiring the processing of a Planned Development Permit. The City's Biology Guidelines and Multiple Species Conservation Program [MSCP] Subarea Plan require an analysis of the value of the resource as well as project alternatives that fully or substantially avoid wetland impacts. Two additional findings of fact are required of the decision maker which stipulate that there are no feasible measures to minimize the impacts, and, that the deviation is the minimum necessary to afford relief from the special circumstance or condition applicable to the land (in this case, the existence of the wetland) and not of the making of the applicant.

A biology report was prepared for the project entitled Netta Terrace Subdivision, City of San Diego Project No. 2250, Biological Technical Report, dated September 29, 2006 prepared by Shannon M. Allen. According to the biology report, the wetland was likely created by human activities as the result of a previously graded dirt road which stopped the normal sheet flow in the area. However, wetlands created either by human activities or naturally occurring wetland areas are nonetheless subject to ESL regulations. According to the cultural resource survey required for the project, the site has been disturbed by erosion, soil and trash dumping, and recreational activities. Approximately 50 percent of the surface has been obscured by soil that has been dumped on the parcel. The biology report concluded that the disturbed wetland has limited value in that it is small in size, located within a disturbed area surrounded by urbanized development resulting in disturbed habitat that is fragmented in nature. The biology report analyzed wetland minimization and avoidance options: The original project design proposed storm drain culverts within the off-site wetlands within open space property. All storm drain structures were relocated and are now outside of the off-site wetland. Sewer and water easements are required in the proposed right-of-way, pushing development further to the northern portion of the site. The property is not within the MHPA and the on-site wetland is not apart of an existing open space corridor. The small patch of disturbed wetland cannot be avoided due to the development constraints previously described. The proposed impacts would be fully mitigated at a 2:1 ratio with the purchase of Mitigation Credits.

The deviations are appropriate for this property. The property contains several constraints, unique to the site, that inhibit or reduce the buildable area of property and restrict site design

options including topography, the irregular shape and configuration of the site, the required alignment of Cervantes Avenue and in-fill constraints. The site is also constrained in that it is bordered by three established subdivisions and designated open space lands. Topographically, the site slopes upward from unimproved Cervantes Avenue with a grade differential of approximately 30 feet from north to south. The combined effect of the conditions precludes development of the property in a manner compliant with the underlying zoning without compromising the useable area of the site. The project will dedicate and improve Cervantes Avenue and provide a street that connects the community and potentially improves traffic circulation in the immediate area. West of the subject property, Cervantes Avenue begins at its intersection with Alta Vista Avenue and Paradise Road. This westerly segment of Cervantes Avenue is not improved to current street standards and functions as a one-way street, including no curb, gutter and sidewalk. The improved connection will provide the existing developments on this street an alternative access route. The project would visually enhance the site through the development of landscaped building pads for the future development of single-family homes. The deviation will allow the applicant to achieve the number of units consistent with the community plan. Therefore, the decision-maker has determined that the proposed deviations are appropriate for this location and will result in a more desirable project.

**B. SITE DEVELOPMENT PERMIT**

**1. Findings for all Site Development Permits:**

**a. The proposed development will not adversely affect the applicable land use plan.** The proposed development will not adversely affect the applicable land use plan as described above in Planned Development Finding No. 1.

**b. The proposed development will not be detrimental to the public health, safety, and welfare.** The proposed development will not be detrimental to the public health, safety, and welfare as described above in Planned Development Permit Finding No. 2.

**c. The proposed development will comply with the applicable regulations of the LDC.** The proposed development will comply with the applicable regulations of the LDC as described above in Planned Development Permit Finding No. 3.

**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 project is a subdivision of 1.96-acre parcel into seven residential lots in an urbanized area of the Southeastern San Diego Community. The property is surrounded by residential subdivisions to the north, west and east, and a City-owned open space parcel to the south. The site has been previously disturbed and does not contain sensitive slopes, nor is it within the Special Flood Hazard Area or the Multiple Habitat Planning Area [MHPA]. A MND was prepared for the project. The site contains environmentally sensitive lands and the project would impact biological resources. The development would directly impact 1.08 acres of non-native grassland and 0.01 acres of a small on-site "drainage," which is classified as a disturbed wetland. Impacts to non-native grasslands require mitigation at a 0.5:1 ratio. Project

implementation requires that the applicant acquire a 0.54-acre of Tier IIB or habitat within a City approved MHPA Conservation Bank payment into the City's Habitat Acquisition. The proposed wetland impacts would be fully mitigated at a 2:1 ratio with the purchase of Mitigation Credits. LDC Section No. 143.0141 and the City's Biological Guidelines state that impacts to wetlands shall be avoided unless a deviation to the ESL regulations is included to allow impacts on a case by case basis. Staff has determined that the wetland has limited value in that it is small in size, located within a disturbed area surrounded by urbanized development resulting in disturbed habitat that is fragmented in nature. Therefore, the site is physically suitable for the design and siting of the proposed development and the development will result in minimum disturbance to environmentally sensitive lands.

**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 project is a proposed subdivision of land to create seven lots for the future development of seven single-family residences. The site is disturbed and does not contain steep slopes or natural land forms. The property is adjacent to 8.72-acres of native/naturalized vegetation (open space site) and does require brush management. Cervantes Avenue and the front setback of each parcel total a 62 foot wide area of Zone One. Structures will be constructed according to SDMC section 145.0501 which will result in walls that are a minimum of 1 hour rated and windows with a minimum 20 minute rating. The property is a remnant parcel of land located between established subdivisions which consist of single-family development to the north, east and west and open space land to the south. The project required the preparation of a geotechnical investigation, drainage study and a water quality technical report. The site is located in an area where there are no known active or major faults on or in the immediate vicinity of the site. The geotechnical report concluded that the development of the site is feasible from a geotechnical standpoint. The project proposes to direct all drainage through brow ditches along the top of cut slopes in the proposed subdivision rear lot areas. Water will be collected from the brow ditch into a drainage system to flow along the Lots 5 and 6 property lines within a grassy swale to a catch basin and released south of the street. Development runoff and runoff from Cervantes Street will be intercepted and filtered and all project drainage will be oriented toward Cervantes Street catch basins and released south of Cervantes Street into an existing natural drainage swale. These reports concluded that the proposed development will be consistent with current City requirements for drainage systems and Best Management Practices for water quality requirements. As such, the proposed development 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** The property is located on the north side of an unimproved segment of Cervantes Avenue. City-owned open space land (Cervantes Canyon) is located just south of the site. A portion of this site is mapped as a Special Flood Hazard Area and contains a wetland resource identified as southern riparian scrub. The proposed development would not impact this resource. Mitigation measures have been included in the MND which requires biological monitoring during grading and excavation to ensure there are no impacts to the off-site wetland, habitat or species during the construction of Cervantes Avenue. These measures include the requirement for construction of temporary fencing adjacent to open space areas, installation of erosion control techniques and restrictions on the established

limits of grading. As such, the proposed development will be sited and designed to prevent adverse impacts on any adjacent environmentally sensitive lands.

**d. The proposed development will be consistent with the City of San Diego's Multiple Species Conservation Program (MSCP) Subarea Plan.** The proposed project is a seven-lot subdivision for the future construction of seven single-family dwellings. The project site is not located within the Multiple Habitat Planning Area (MHPA), however, the environmentally sensitive lands regulations defines biological resources as those lands that are either within the MHPA or, as identified in the City of San Diego's Multiple Species Conservation Program Subarea Plan, and other lands outside of the MHPA that contain wetlands. The project site would impact 0.01-acres of a disturbed wetland within the center of the parcel. The City of San Diego's Biological Guidelines state that wetlands, either man-made or natural, should be avoided. As such, the project required the preparation of a biological report (Netta Terrace Subdivison, City of San Diego Project No. 2250, Biological Technical Report, dated 9/29/06 prepared by Shannon M. Allen). This report concluded that the disturbed wetland has limited value in that it is small in size, located within a disturbed area surrounded by urbanized development resulting in disturbed habitat that is fragmented in nature. Avoidance of the disturbed wetland in this instance would not be logical for this subdivision and would restrict the development of the seven residential lots and future single-family homes which is allowed by the community plan and the zoning for the site. The proposed impacts would be fully mitigated at a 2:1 ratio with the purchase of Mitigation Credits. Therefore, the proposed development will be consistent with the City of San Diego's Multiple Species Conservation Program [MSCP] Subarea Plan.

**e. The proposed development will not contribute to the erosion of public beaches or adversely impact local shoreline sand supply.** The project site is located in the Southeastern San Diego Community Planning area. The property is not located on or adjacent to a public beach. Therefore, the development will not contribute to the erosion of public beaches or adversely impact local shoreline sand supply.

**f. The nature and extent of mitigation r required as a condition of the permit is reasonably related to, and calculated to alleviate, negative impacts created by the proposed development.** The proposed project is a 7-lot subdivision for the future construction of seven single-family dwellings. A Mitigated Negative Declaration was prepared for the project for potential significant impacts to biological and paleontological resources. The site was determined to contain biological resources in the form of non-native grasslands, and a small disturbed wetland.

City-owned open space property is located adjacent to the south which contains a southern riparian scrub, also classified a wetland. The development would directly impact 1.08 acres of non-native grassland and 0.01 acres of a small on-site "drainage," which is classified as a disturbed wetland. Impacts to non-native grasslands require mitigation at a 0.5:1 ratio. Project implementation requires that the applicant acquire a 0.54-acre of Tier IIB or habitat within a City approved MHPA Conservation Bank payment into the City's Habitat Acquisition Fund. The project would also directly impact a small patch of disturbed wetland located within the interior of the property. LDC section 143.0141 and the City's Biological Guidelines state that impacts to wetlands shall be avoided unless a deviation to the ESL regulations is included to allow impacts

on a case by case basis. Wetlands impacts must be mitigated at a 2:1 ratio. Project implementation requires that the applicant purchase 0.02-acre of Mitigation Credits within the Rancho Jamul Mitigation Bank. The biology report prepared for the project concluded that the development could result in indirect impacts to the off-site wetland through the construction of Cervantes Avenue. As such, the MND includes mitigation measures for biological monitoring during grading and excavation, the requirement for temporary fencing adjacent to open space areas, installation of erosion control techniques and restrictions on the established limits of grading which would reduce potential indirect construction-related impacts to below a level of significance. Therefore, the nature and extent of mitigation required as a condition of the permit is reasonably related to, and calculated to alleviate, negative impacts created by the proposed development.

**3. Site Development Permit- Environmentally Sensitive Lands Deviations**

**Findings:**

a. **There are no feasible measures that can further minimize the potential adverse effects on environmentally sensitive lands.** The project is the subdivision to create seven single-family lots for the construction of seven residences. The project would impact 0.01-acre of disturbed on-site wetland. The disturbed wetland is located within the interior of the site. A biology report was prepared for the project entitled Netta Terrace Subdivision, City of San Diego Project No. – 2250, Biological Technical Report, dated 9/29/06 prepared by Shannon M. Allen. The report documented that the wetland has limited signs of bed or bank and indicators of hydric soils. According to the biological report, the wetland was likely created by human activities as the result of a previously graded dirt road which stopped the normal sheet flow in the area. Wetland created either by human activities or naturally occurring wetland areas are nonetheless subject to ESL regulations. According to the cultural resource survey required for the project, the site has been disturbed by erosion, and soil and trash dumping. Approximately 50 percent of the surface has been obscured by soil that has been dumped on the parcel. This report concluded that the disturbed wetland has limited value in that it is small in size, located within a disturbed area surrounded by urbanized development resulting in disturbed habitat that is fragmented in nature. Avoidance of the disturbed wetland in this instance would not be appropriate and would restrict the development of the seven residential lots and future single-family homes which is allowed by the community plan and the zoning for the site. The proposed impacts would be fully mitigated at a 2:1 ratio with the purchase of Mitigation Credits. The analysis has determined that there are no feasible measures that can further minimize the potential adverse effects on the environmentally sensitive land.

b. **The proposed deviation is the minimum necessary to afford relief from special circumstances or conditions of the land, not of the applicant's making.** The project is a seven-lot subdivision in the Southeastern San Diego Community. The analysis of the disturbed, vacant 1.96-acre site has determined that there are no feasible measures that can further minimize the potential adverse effects on the environmentally sensitive land. The property is an infill development surrounded by established subdivisions to the west, east and north, and designated open space land to the south. The site is further constrained in that the proposed construction of Cervantes Avenue is established adjacent to the site due to the existing alignment of this roadway immediately east and west of the site. The property is irregular in shape, has varied topography and dedication requirements that further limit the developable area.



The property is not within the MHPA and the wetland is not apart of an existing open space corridor. The small patch of disturbed wetland cannot be avoided due to the development constraints previously described. Therefore, in accordance with SDMC Section 143.0441(i)(3) appropriate mitigation has been required for the nature and extent of the project impacts. The mitigation requirement, contained in Section V. of the MND No. 2250, requires that the applicant acquire 0.54-acre of Tier IIIB or habitat within a City approved MHPA Conservation Bank by payment in to the City's Habitat Acquisition Fund, the amount necessary to purchase 0.54-acre. Therefore, the proposed deviation to allow the impact to the disturbed wetland is the minimum necessary to afford relief from the regulation and not of the applicant's making.

**4. Southeastern San Diego Planned District Findings:**

**a. The proposed use and project design meet the purpose and intent of this division, comply with the recommendations of the Southeastern San Diego Community Plan, and will not adversely affect the general plan or other applicable plans adopted by the City Council.** The proposed development and project design will meet the purpose and intent of this division, comply with the recommendations of the Southeastern San Diego Community Plan and will not adversely affect the General Plan or other applicant plans adopted by the City Council as described above in Planned Development Finding No. 1.

**b. The proposed development shall be compatible with existing and planned land use on adjoining properties and shall not constitute a disruptive element to the neighborhood and community. In addition, architectural harmony with the surrounding neighborhood and community shall be achieved as far as practicable.** The proposed development is a subdivision to create seven residential lots in the Valencia Park Neighborhood of the Encanto area of the Southeastern San Diego Community. The project will also construct a segment of Cervantes Avenue which is currently unimproved at the intersection of South 58th Street and Cervantes Avenue. The property is zoned SF-10000 of the Southeastern San Diego Planned district and designated for residential uses at a density range of zero to five dwelling units per acre. The proposed lots will meet all of the standards of the SF-10000 zone with a minor deviation to the lot standards to allow one 9,150-square-foot lot (Lot 1) where 10,000 square feet is required, and to allow one lot panhandle (Lot 4) to have 24-feet of frontage where 65 feet is required. The property is a remnant parcel of land located between three established single-family subdivisions zoned SF-5000 and open space property which are also designated for residential development. The average size of the proposed lots is larger than the prevailing size of the existing lots in the neighborhood and staff has determined that there are other panhandle lots in the vicinity of the property. The proposed subdivision will facilitate the development of additional single-family detached housing in the community as well as construct a desired connection of Cervantes Avenue with curb, gutter and sidewalks, where currently not exists within this block. Parking will be available on both sides of the street. This connection will potentially improve vehicular and pedestrian access for the existing developments on this block of Cervantes Avenue. The future development of the residences must comply with the requirements of the SF-10000 zone which includes floor area ratio restrictions, building height limitations, setbacks and landscaping requirements. The draft permit prepared for the project includes additional design standards to ensure higher quality of development. The project will visually enhance the site which has been utilized in the past for the illegal dumping of materials. Therefore, the proposed development shall be compatible with existing and planned land use on

adjoining properties and shall not constitute a disruptive element to the neighborhood and community. In addition, architectural harmony with the surrounding neighborhood and community shall be achieved as far as practicable.

**c. The proposed use, because of conditions that have been applied to it, will not be detrimental to the health, safety and general welfare of persons residing or working in the area, and will not adversely affect other property in the vicinity.** The proposed use, because of conditions that have been applied to it, will not be detrimental to the public health, safety, and general welfare as described above in Planned Development Permit Finding No. 2.

**d. The proposed use will comply with the relevant regulations of the Municipal Code.** The proposed use will comply with the applicable regulations of the Municipal Code as described above in Planned Development Permit Finding No. 3.

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 Planned Development Permit No. 463165/Site Development Permit 463166 is granted to Sedlack Development Co., L.P. Owners/Permitees, 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 Marianne Greene  
Marianne Greene  
Deputy City Attorney

MG:ca  
10/08/07  
Or.Dept: DSD  
R-2008-278  
MMS# 5321

**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 41-1058

**PLANNED DEVELOPMENT PERMIT NO. 463165/  
SITE DEVELOPMENT PERMIT NO. 463166  
NETTA TERRACE PROJECT NO. 2250 [MMRP]**

CITY COUNCIL

This Planned Development Permit/Site Development Permit [Permit] is granted by the City Council of the City of San Diego to Sedlack Development Co., L.P., Owner/Permittee, pursuant to San Diego Municipal Code [SDMC] sections 143.0401 and 143.0301. The 1.96-acre, vacant site is located on the north side of the north side of Cervantes Avenue, just west of South 58th Street (unimproved) and south of Radio Court, in the SF-10000 zone of the Southeastern San Diego Planned District of the Valencia Park Neighborhood of the Southeastern San Diego Community Planning area. The project site is legally described as Lot 54 of Las Alturas Villa Sites, Map No. 501.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee to subdivide one existing lot into seven residential lots with deviations to the lot standards, hardscape requirements and for wetland deviations. The development is described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated JAN 15 2008, on file in the Development Services Department.

The project shall include:

- a. A tentative map (approval No. 463163) for the subdivision of one lot into seven lots with deviations to the lot standards for the future construction of seven single-family dwellings. The deviations to the lot standards as indicated below:
  1. To allow 24 feet of frontage for a panhandle lot where 65 feet is required – Lot 4;

2. To allow 9,150 square feet of lot area where 10,000 square feet is required – Lot 1;
  3. Deviation to the SF-10,000 zone, to exceed the hardscape requirement within the required front yard (provide approximately 38 percent hardscape where 30 percent is the maximum allowed – reference condition no. 26) – Lot 4;
  4. Deviations to the environmentally sensitive lands regulations to allow an impact to 0.01-acre of a disturbed on-site wetland.
- b. Landscaping (planting, irrigation and landscape related improvements); and
  - c. Accessory improvements determined by the Development Services Department 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. This Permit must be utilized within thirty-six months after the date on which all rights of appeal have expired. Failure to utilize and maintain utilization of this Permit as described in the SDMC will automatically void the Permit unless an Extension of Time has been granted. Any such Extension of Time must meet all SDMC requirements and applicable guidelines in affect 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 Owner/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 Owner/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 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 Owner/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 Owner/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 Owner/Permittee by the City: (1) to grant Owner/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 Owner/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 Owner/Permittee maintaining the biological values of any and all lands committed for mitigation pursuant to this Permit and of full satisfaction by Owner/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 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.
9. Construction 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. The applicant 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 applicant of any claim, action, or proceeding and, if the City should fail to cooperate fully in the defense, the applicant 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, applicant 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 applicant 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 applicant shall not be required to pay or perform any settlement unless such settlement is approved by applicant.

**ENVIRONMENTAL/MITIGATION REQUIREMENTS:**

12. 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

13. The mitigation measures specified in the MMRP, and outlined in MMRP No. 2250, shall be noted on the construction plans and specifications under the heading ENVIRONMENTAL/MITIGATION REQUIREMENTS.

14. The Owner/Permittee shall comply with the MMRP as specified in MMRP No. 2250, satisfactory to the Development Services Department and the City Engineer. All mitigation measures as specifically outlined in the MMRP shall be implemented for the following issue areas:

Biology and Paleontology

15. 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.

**ENGINEERING REQUIREMENTS:**

16. This Permit shall comply with all conditions of Tentative Map and Public-Right-of-Way Vacation No. 463163.

**LANDSCAPE REQUIREMENTS:**

17. In the event that the Landscape Plan and the Site Plan conflict, the Site Plan shall be revised to be consistent with the Landscape Plan such that landscape areas are consistent with the Exhibit "A" of the Landscape Plan.

18. Prior to issuance of any engineering permits for grading, construction documents for the revegetation and hydro-seeding 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 with this permit (including Environmental conditions) and Exhibit "A."

19. Prior to issuance of any engineering permits for right-of-way improvements, complete landscape construction documents for right-of-way improvements shall be submitted to the City Manager for approval. Improvement plans shall take into account a 40 square foot area around each tree which is unencumbered by utilities. Driveways, utilities, drains, water and sewer laterals shall be designed so as not to prohibit the placement of street trees.

20. Prior to issuance of any construction permits for structures 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" of the Landscape Plan. Construction plans shall take into account a 40 square foot area around each tree which is unencumbered by hardscape and utilities as set forth under Land Development Code [LDC] section 142.0403(b)(5).

21. 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 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.

22. Prior to final inspection, it shall be the responsibility of the Permittee or subsequent Owner 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.

23. All required landscape improvements shall be maintained, on a permanent basis, by the permittee or subsequent property Owner(s). 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. The trees shall be maintained in a safe manner to allow each tree to grow to its mature height and spread.

24. 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.

25. Invasive species are prohibited from being planted adjacent to any canyon or native habitats within the city limits of San Diego. Invasive plants are those which rapidly self propagate by air born seeds or trailing as noted in section 1.3 of the Landscape Standards.

**BRUSH MANAGEMENT REQUIREMENTS:**

26. The Permittee shall implement the following requirements in accordance with the Brush Management Program shown on the Exhibit "A" of the Landscape Plan and in the Brush Management Plan.

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" of the Landscape Plan.

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" of the Landscape Plan and shall comply with the Uniform Fire Code, M.C. 55.0101, the Landscape Standards, and the Land Development Code Section 142.0412.

29. The Brush Management Program shall consist of one zone as modified by the Fire Chief and consistent with the Brush Management Regulations of the Land Development Code section 142.0412 as follows: a Zone One of 62 feet shall be provided as the area of Cervantes Avenue and the required front yard setback of each home (20 feet).

30. Prior to issuance of any building permits, a complete set of architectural construction documents shall be submitted for approval to the Fire Marshall and BDR-Structural. The construction documents shall comply with Chapter 14, Article 5,



Division 5: Additional Building Standards for Buildings located adjacent to Hazardous Areas of Native or Naturalized Vegetation. See LDC section 145.0501.

31. Within Zone One, combustible accessory structures (including, but not limited to decks, trellises, gazebos, etc.) 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.
32. In Zone One, no invasive plant material shall be permitted as jointly determined by the Landscape Section and the Environmental Analysis Section.
33. Prior to final inspection and issuance of any Certificate of Occupancy, the approved Brush Management Program shall be implemented.
34. The Brush Management Program shall be maintained at all times in accordance with the City of San Diego's Landscape Standards.

**PLANNING/DESIGN REQUIREMENTS:**

35. Lot 4, the panhandle lot, shall be allowed to deviate from maximum hardscape regulations by providing a driveway that does not exceed a width of 12 feet and a hardscape pedestrian path that does not exceed a width of three feet (approximately 38 percent hardscape areas where 30 percent is allowed).
36. Lot 4, the panhandle lot, shall provide a turnaround on the proposed pad so that all vehicles exiting the lot are facing the street when traveling through the handle portion of the lot.
37. Lot 4 shall provide one unenclosed guest parking space.
38. All dwellings shall provide an enclosed garage that contains a minimum of two side-by-side parking spaces.
39. All garages shall be setback at least 25 feet from the front property line.
40. Lot 4 shall provide a pedestrian path from the sidewalk to the entry door and porch.
41. All windows on any single building shall be of similar material and maintain a consistent design character throughout.
42. There shall be no more than two different wall siding materials on any single building wall.
43. On lots 1 through 3 and lots 5 through 7, garages in the street wall shall be set back an additional five feet from the facade wall enclosing habitable space on Lots 1 through 3 and lots 5 through 7.

44. In addition to all landscape shown on the Exhibit "A" landscape development and revegetation plan, Lots 1 through 3 and lots 5 through 7 shall provide one 24-inch box tree (including irrigation) in the required front yard. Provide a minimum 40 square foot root zone for each tree with no dimension less than five feet. Trees shall be planted in accordance with the requirements in the Landscape Regulations LDC section 142.0403(b)(c) and (d) and with the standards in the Land Development Manual Landscape Standards.

45. This permit shall serve as a Southeastern San Diego Development Permit and the future dwellings shall be submitted for a Process 1 construction permit. Plans submitted for a construction permit shall demonstrate compliance with the regulations of the SESDPD-SF-10000 zone.

46. All dwellings must be located within the building pads shown on Exhibit "A." Future construction of the single-family dwellings shall not require an amendment to this permit. Construction documents shall demonstrate compliance with applicable development regulations and the setbacks shown on the approved Exhibit "A."

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

#### **TRANSPORTATION REQUIRMENTS:**

48. Subdivider shall provide 5 foot of sidewalk adjacent to the property line, curb and gutter at 10 foot from the property line, 32 foot of pavement from the curb, and an asphalt concrete berm at 42 foot from the property line along the project frontage on Cervantes Avenue, with appropriate off site transitions on both sides of the street satisfactory to the City Engineer.

49. The minimum number of required on-site parking spaces for each single-family unit should comply with and satisfy the requirements of Chapter 14, Article 2, Division 5 of the SDMC. Also, the minimum parking stalls and garage dimensions should comply with the SDMC section 142.0560.

50. Width and depth of individual driveways should also comply with Section 142.0520 and Table 142-05L of the SDMC satisfactory to the City Engineer.

#### **GEOLOGY REQUIREMENTS:**

51. An updated geotechnical report will be required as grading plans are developed for the project. The project geotechnical consultant must specifically investigate the possible landslide on the property and provide remedial grading recommendations, if deemed necessary. The geotechnical consultant must review, sign and stamp the grading plans as part of the plan review and grading permit issuance process. A Final As-Built Report is required within fifteen days of completion of grading operations.

52. Additional geotechnical information such as verification of as-graded or existing soil conditions needed for design of structure foundations will be subject to approval by Building Development Review prior to issuance of building permits.

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

**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 §66020.
- This development may be subject to impact fees at the time of construction permit issuance.

APPROVED by the City Council of the City of San Diego on JAN 15 2008 by  
Resolution No. R- 303335

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.

SEDLACK DEVELOPMENT CO., L.P.  
Owner/Permittee

By \_\_\_\_\_

By \_\_\_\_\_

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