

RESOLUTION NUMBER R- **305580**

DATE OF FINAL PASSAGE **JAN 26 2010**

RESOLUTION DENYING THE APPEAL, AND APPROVING  
PLANNED DEVELOPMENT PERMIT NO. 12852/SITE  
DEVELOPMENT PERMIT NO. 433515/CONDITIONAL USE  
PERMIT NO. 628324, WITH CONDITIONS, FOR THE  
PACIFIC HIGHLANDS RANCH VILLAGE PROJECT –  
PROJECT NO. 7029.

WHEREAS, Pardee Homes, a California Corporation, and Pacific Carmel AFG, LLC, a California limited liability company, Pacific Carmel MAG, LLC, a California limited liability company, Pico Madeira RWJ, LLC, a California limited liability company and Pico Madeira TMJ, LLC, a California limited liability company, collectively known as the Gonsalves Ownership as Owners/Applicant, filed an application with the City of San Diego for a permit to subdivide and develop a project with 294 residential units, 195,000 square-feet of commercial retail space, 20,000 square-feet of commercial office space, a transit center, community library site and a civic use area (as described in and by reference to the approved Exhibits “A” and corresponding conditions of approval for the associated Planned Development Permit No. 12852, Site Development Permit No. 433515 and Conditional Use Permit No. 628324), on portions of a 27.67-acre site; and

WHEREAS, the project site is located at the northeast corner of Carmel Valley Road and Del Mar Heights Road in the CC-1-3 and Urban Village Overlay Zones of the Pacific Highlands Ranch Subarea Plan; and

WHEREAS, the project site is legally described as being a subdivision of Parcel 2 of Parcel Map No. 18971, filed May 23, 2002, as File No. 2002-0439514 of Official Records together with a portion of the west half of the northwest quarter of section 15, township 14 south,

range 3 west, San Bernardino Meridian, according to official plat thereof, all lying northerly and westerly of the San Diego Freeway 56, as described in deed recorded December 28, 2001 as File No. 2001-0965036 and February 26, 2002 as File No. 2002-0161208 of Official Records; and

WHEREAS, on October 15, 2009, the Planning Commission of the City of San Diego considered Planned Development Permit No. 12852, Site Development Permit No. 433515 and Conditional Use Permit No. 628324 pursuant to the Land Development Code of the City of San Diego; 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 of the City of San Diego to act as a quasi-judicial body, a public hearing was required by law implicating due process rights of individuals affected by the decision, and the City Council of the City of San Diego 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 January 26, 2010, testimony having been heard, evidence having been submitted, and the City Council of the City of San Diego having fully considered the matter and being fully advised concerning the same; NOW, THEREFORE,

BE IT RESOLVED by the City Council of the City of San Diego, that it adopts the following findings with respect to Planned Development Permit No. 12852/Site Development Permit No. 433515/Conditional Use Permit No. 628324:

**A. PLANNED DEVELOPMENT PERMIT – SAN DIEGO MUNICIPAL CODE**  
**[SDMC] SECTION 126.0604(a)**

**1. The proposed development will not adversely affect the applicable land use plan.** The proposed development of 294 residential units, 195,000 square-feet of commercial retail space, 20,000 square-feet of commercial office space, a proposed parcel for a future public library and a civic use area is consistent with the Pacific Highlands Ranch Subarea Plan. The Pacific Highlands Ranch Subarea Plan envisions the proposed project area as a high density,

pedestrian-oriented community with residential, commercial office, retail, and a civic-use area. The compact mixed-use development creates an interactive neighborhood, and draw residents to the focal point of the community, the Village Square. Therefore, the proposed development implements the Pacific Highlands Ranch community design guidelines, as well as goals and objectives of the Subarea Plan, and will not adversely affect the applicable land use plan.

The project was deemed complete on May 14, 2003, prior to the update of the General Plan in March 2008. Therefore, the project was reviewed with consideration of the policies of the previous General Plan. The project is consistent with the broader goals and objectives of updated General Plan of 2008 and the specific land use deviations. The project will incorporate many sustainable features into the project.

**2. The proposed development will not be detrimental to the public health, safety, and welfare.** The development will provide 294 residential units, 195,000 square-feet of commercial retail space, 20,000 square-feet of commercial office space, a proposed parcel for a future public library and a civic use area. The proposed project will support the provision of public services; such as, police, fire, medical, schools, public parks and libraries through the payment of Facilities Benefit Assessment fees due prior to the issuance of building permits. The proposed project will provide the necessary sewer and water facilities to serve the residents and businesses within the development. Pacific Highlands Ranch is served by Police and Fire services with response times consistent with the City's General Plan Standards.

The 294 multi-family dwelling units will contribute to the alleviating the housing shortage with the City of San Diego and provide affordable units in accordance with the Pacific Highlands Ranch Master Affordable Housing Program. The proposed project will incorporate energy and water efficient materials and efficiency strategies, and has been planned and designed to conform with the wide variety of the City of San Diego's codes, policies, and regulations, whose primary focus is the protection of the public's health, safety, and welfare. The proposed project is sensitive to the natural open space and view opportunities surrounding the project and is designed to provide a quality development that will not be detrimental to the public health, safety, and welfare.

The proposed development will provide public benefits which would not have occurred otherwise. The proposed project will provide all necessary sewer and water facilities to serve the residents and businesses within the development; will enter into a Maintenance Agreement for the ongoing permanent Best Management Practices [BMP's] 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. The conditions of approval for the project will require compliance with several operational constraints and development controls intended to assure the continued public health, safety, and welfare. The development will also provide for the health, safety, and welfare of the residents by constructing all buildings in accordance with current construction standards and codes. 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.

The residential component of the project, 294 multi-family dwelling units, will decrease the existing City-wide housing shortage and will provide 72 or 80 affordable units in accordance with the Pacific Highlands Ranch Master Affordable Housing Program. As such the proposed development will not be detrimental to the public health, safety, and welfare.

**3. The proposed development will comply with the regulations of the Land Development Code.** The development will provide 294 residential units, 195,000 square-feet of commercial retail space, 20,000 square-feet of commercial office space, a proposed parcel for a future public library and a civic use area. The proposed development complies with the regulations of the CC-1-3 zone and site-specific development regulations for the property, as allowed with the approval of a Planned Development Permit. In order to create a more desirable project, implement the goals of the Pacific Highlands Ranch Subarea Plan and comply with the Urban Village Overlay Zone, the deviations requested are appropriate for the location and for this development. The requested deviations are necessary for building height, lot width, frontage, setbacks, and residential ground floor parking restrictions. The proposed development will comply with all other applicable requirements, including density, floor area ratio, street design, grading and landscaping, of the CC-1-3 zone, as allowed through a Planned Development Permit, reflecting the desired objectives and goals for the site as described in the Pacific Highlands Ranch Subarea Plan. The proposed project has been determined to not interfere with the airspace regulated by the Federal Aviation Administration and Marine Corps Air Station Miramar or local airport land use regulations.

**4. The proposed development, when considered as a whole, will be beneficial to the community.** The development will provide 294 residential units, 195,000 square-feet of commercial retail space, 20,000 square-feet of commercial office space, a proposed parcel for a future public library and a civic use area. Many amenities will be available to the surrounding Pacific Highlands Ranch residents, such as, groceries, restaurants, shopping, entertainment, employment, and civic-use gathering areas/public open space. The development will contribute needed market rate housing and affordable housing for people earning sixty-five percent of the area median income, commercial space for retail business, retail space for a theater entertainment complex, commercial office space and a legal parcel for the development of a public library. The proposed design is consistent with the objectives and goals described and identified in the Pacific Highlands Ranch Subarea Plan for this site. When considered as a whole, the proposed development with all the opportunities and services it will bring to the community 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 development will provide 294 residential units, 195,000 square-feet of commercial retail space, 20,000 square-feet of commercial office space, a proposed parcel for a future public library and a civic use area. In order to create a more desirable project, implement the goals of the Pacific Highlands Ranch Subarea Plan and comply with the Urban Village Overlay Zone, the deviations requested are appropriate for this location and for the proposed development. The requested deviations necessary for the project address building height, minimum lot width, minimum lot frontage, yard setbacks, residential ground floor parking restrictions and parking lot

trees on the roof deck of parking structures. Deviations, as allowed by the approval of a Planned Development Permit, are required to approve the proposed project. The project will include six deviations:

a. LDC Section 131.0531, Table 131-05E, Maximum Building Height

As required by the CC-1-3 zone, the maximum building height limit is 45 feet. The Pacific Highlands Ranch Village theme and design will provide architectural elements to enhance the buildings and the overall aesthetic appearance of the project. A building height deviation is necessary to implement the concepts envisioned in the community design element of the Pacific Highlands Ranch Subarea Plan for the proposed project. Consistent with the Pacific Highlands Ranch Subarea Plan, the proposed project focuses the composition of land uses in a compact development to reduce the dependency on automobile, improve air quality and promote high quality, interactive neighborhoods.

b. LDC Section 131.0531, Table 131-05E; Minimum Lot Width, Minimum Street Frontage, and Minimum Yard Setbacks

Three sets of deviations relate to the minimum lot standards of lot width, street frontage, and setbacks. Given that the property is unique in shape, and is within the Urban Village Overlay Zone, there are twenty-two differing lot configurations and sizes for each specific land use. Several lots have unique configurations and/or lack public street frontage. The lots that deviate from the underlying zone based on the minimum 100-foot lot width are Lots 5, 9, 11, 12, 13, 16 and 19. These lots widths range from 61 feet to 87 feet. The lots that deviate from the minimum 100 foot public street frontage requirement are Lots 8, 11, 12, 13, 15, 16, 17, 19 and 20. These lots frontages range from zero to 82 feet. The CC-1-3 zone requires zero or 10 foot front and rear setbacks, however Lot 14 is situated as such that the rear setback is less than 10 feet. Consistent with the Pacific Highlands Ranch Subarea Plan, the proposed project focuses the composition of land uses in a compact development to reduce the dependency on automobile, improve air quality and promote high quality, interactive neighborhoods.

c. LDC Section 131.0540(c); Ground Floor Restriction

The fifth deviation is the residential ground floor parking restriction. The ground floor parking occurs on land locked parcels, away from the streets 'A' and 'B'. Consistent with the Pacific Highlands Ranch Subarea Plan, the proposed project focuses the composition of land uses in a compact development to reduce the dependency on automobile, improve air quality and promote high quality, interactive neighborhoods.

d. LDC Section 131.0540(c) and Table 142-04D Vehicle Use Area Requirements; One tree within 30 feet of each parking space

The sixth deviation is to allow an alternative to providing trees in containers on the roof deck of a parking structure. The purpose of trees in parking lots is to create shading of the pavement to reduce the heat island effect and improve the appearance of large expansive parking areas. The proposed trellis structures would provide a quality and quantity of shading on the

parking deck of Lot 8/Building 5 superior to trees living in containers. The shade created by trellis structures would be immediate and permanent upon completion of the project. Trees installed in containers on the top deck of the parking structure would experience a shorter life cycle than if planted in the ground and never attain the amount of shade as would be permanently provided by the trellis structures. The regulation requires approximately twenty trees on the roof of proposed Lot 8/Building 5 parking structure. In lieu of trees in containers the proposal is to provide approximately 11,680 square-feet of permanent trellis structure over eighty-nine percent of the parking spaces on the roof deck of the parking structure. Upon completion of construction the trellis structures would provide instantaneous shading of the covered area on the roof while reducing the reflected heat from the parking structure.

As the project implements a unique design, many of the lots relate to the proposed uses rather than strict compliance with the CC-1-3 zone regulations. To implement the design goals of the Subarea Plan and the Urban Village Overlay Zone, these deviation requests are necessary. Consistent with the Pacific Highlands Ranch Subarea Plan, the proposed project focuses the composition of land uses in a compact development to reduce the dependency on automobile, improve air quality and promote high quality, interactive neighborhoods.

**B. SITE DEVELOPMENT PERMIT – SDMC SECTION 126.0504**

**1. Findings for all Site Development Permits SDMC section 126.0504(a)**

**a. The proposed development will not adversely affect the applicable land use plan.** The proposed development of 294 residential units, 195,000 square-feet of commercial retail space, 20,000 square-feet of commercial office space, a proposed parcel for a future public library and a civic use area is consistent with the Pacific Highlands Ranch Subarea Plan. The Pacific Highlands Ranch Subarea Plan envisions the proposed project area as a high density, pedestrian-oriented community with residential, commercial office, retail, and a civic-use area. For additional information, see Planned Development Permit Finding No. 1 above.

**b. The proposed development will not be detrimental to the public health, safety, and welfare.** The proposed development of 294 residential units, 195,000 square-feet of commercial retail space, 20,000 square-feet of commercial office space, a proposed parcel for a future public library and a civic use area is consistent with the Pacific Highlands Ranch Subarea Plan. The Pacific Highlands Ranch Subarea Plan envisions the proposed project area as a high density, pedestrian-oriented community with residential, commercial office, retail, and a civic-use area. For additional information, see Planned Development Permit Finding No. 2 above.

**c. The proposed development will comply with the applicable regulations of the Land Development Code.** The proposed development of 294 residential units, 195,000 square-feet of commercial retail space, 20,000 square-feet of commercial office space, a proposed parcel for a future public library and a civic use area is consistent with the Pacific Highlands Ranch Subarea Plan. The Pacific Highlands Ranch Subarea Plan envisions the proposed project area as a high density, pedestrian-oriented community with residential,

commercial office, retail, and a civic-use area. For additional information, see Planned Development Permit Finding No. 3 above.

**C. CONDITIONAL USE PERMIT – SDMC SECTION 126.0305**

**1. The proposed development will not adversely affect the applicable land use Plan.** The proposed development of 294 residential units, 195,000 square-feet of commercial retail space, 20,000 square-feet of commercial office space, a proposed parcel for a future public library and a civic use area is consistent with the Pacific Highlands Ranch Subarea Plan. Consistent with the Pacific Highlands Ranch Subarea Plan, the proposed project will be a high density, mixed-use, pedestrian-oriented core of the community. Within the compact mixed-use development the cinema will be an amenity enhancing the interaction of the neighborhood as it attracts residents and visitors to the Village Square as the focal point of the community. The cinema is consistent with the overall theme and plan for the proposed project and implements the design guidelines and criteria of the Pacific Highlands Ranch Subarea Plan. Consistent with the Pacific Highlands Ranch Subarea Plan, the proposed project focuses the composition of land uses in a compact development to reduce the dependency on automobile, improve air quality and promote high quality, interactive neighborhoods. Therefore, the proposed development implements the goals and objectives of the Pacific Highlands Ranch Subarea Plan and will not adversely affect the applicable land use plan.

**2. The proposed development will not be detrimental to the public health, safety, and welfare.** The proposed development of 294 residential units, 195,000 square-feet of commercial retail space, 20,000 square-feet of commercial office space, a proposed parcel for a future public library and a civic use area is consistent with the Pacific Highlands Ranch Subarea Plan. The Pacific Highlands Ranch Subarea Plan envisions the proposed project area as a high density, pedestrian-oriented community with residential, commercial office, retail, and a civic-use area. The proposed project will support the provision of public services; such as, police, fire, medical, schools, public parks, and libraries through the payment of Facilities Benefit Assessment fees due prior to the issuance of building permits. The proposed project will provide the necessary sewer and water facilities to serve the residents and businesses within the development. Pacific Highlands Ranch is served by Police and Fire services with response times consistent with the City's General Plan Standards.

The 294 multi-family dwelling units will contribute dwelling units to alleviate the current housing shortage and provide affordable units in accordance with the Master Affordable Housing Program. The proposed project will incorporate energy and water efficient materials and techniques and has been planned and designed to conform with the wide variety of the City of San Diego's codes, policies, and regulations the primary focus of which is the protection of the public's health, safety, and welfare. The proposed project is sensitive to the natural open space and view opportunities surrounding the project, and has been tailored to provide a quality development promoting pedestrian street-level activity. Within the focal point of the community, the cinema will attract residents and visitors while enhancing the interaction of people in the neighborhood. The cinema is consistent with the overall theme and plan for the proposed project and implements the design guidelines and criteria of the Pacific Highlands Ranch Subarea.

The conditions of approval for the proposed project will require compliance with several operational constraints and development controls intended to assure the continued public health, safety, and welfare. All Uniform Building, Fire, Plumbing, Electrical, Mechanical Code, and the Municipal Code regulations governing the construction of buildings and the continued operation of the site will preclude adverse effects to persons or other properties in the vicinity. Compliance with these regulations will preclude detrimental effects to the public health, safety, and welfare. Consistent with the Pacific Highlands Ranch Subarea Plan, the proposed project focuses the composition of land uses in a compact development to reduce the dependency on automobile, improve air quality and promote high quality, interactive neighborhoods.

**3. The proposed development will comply to the maximum extent feasible with the regulations of the Land Development Code.** The proposed development of 294 residential units, 195,000 square-feet of commercial retail space, 20,000 square-feet of commercial office space, a proposed parcel for a future public library and a civic use area is consistent with the Pacific Highlands Ranch Subarea Plan. The Pacific Highlands Ranch Subarea Plan envisions the proposed project area as a high density, pedestrian-oriented community with residential, commercial office, retail, and a civic-use area. For additional information, see Planned Development Permit Finding No. 3 above.

**4. The proposed use is appropriate at the proposed location.** The proposed development of 294 residential units, 195,000 square-feet of commercial retail space, 20,000 square-feet of commercial office space, a proposed parcel for a future public library and a civic use area is consistent with the Pacific Highlands Ranch Subarea Plan. The cinema is located in the commercial core of the community and will contribute to the well being of the public and provide an opportunity for social interaction. Consistent with the Pacific Highlands Ranch Subarea Plan, the proposed project focuses the composition of land uses in a compact development to reduce the dependency on automobile, improve air quality and promote high quality, interactive neighborhoods. As defined in the Pacific Highlands Ranch Subarea Plan, the proposed project is intended to be commercial and social core of the community and the location of the cinema, fronting the Village Square, civic use area, and library, creates a dynamic and active focal point.

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

BE IT FURTHER RESOLVED, that the appeal filed by Dean and Karen Dubey, is denied, the decision of the Planning Commission is upheld, and the Permit is granted by the City Council of the City of San Diego to the referenced Owner/Permittee, in the form, exhibits, terms and conditions as set forth in Planned Development Permit No. 12852/Site Development Permit

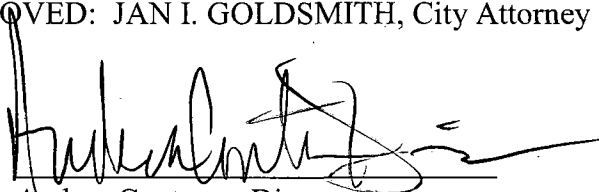


No. 433515/Conditional Use Permit No. 628324, a copy of which is attached hereto and made a part hereof.

BE IT FURTHER RESOLVED, the City Attorney is directed to prepare the appropriate resolutions(s) according to Section 40 of the City Charter.

APPROVED: JAN I. GOLDSMITH, City Attorney

By



Andrea Contreras Dixon  
Deputy City Attorney

ACD:cw  
01/29/10  
03/04/10 REV.COPY  
04/30/10 REV2.  
Or.Dept:DSD  
R-2010-535  
MMS #11175

**RECORDING REQUESTED BY**  
CITY OF SAN DIEGO  
DEVELOPMENT SERVICES  
PERMIT INTAKE, MAIL STATION 501

**WHEN RECORDED MAIL TO**  
**CITY CLERK**  
**MAIL STATION 2A**

SPACE ABOVE THIS LINE FOR RECORDER'S USE

INTERNAL ORDER NUMBER: 42-1524

PLANNED DEVELOPMENT PERMIT NO. 12852  
SITE DEVELOPMENT PERMIT NO. 433515 and  
CONDITIONAL USE PERMIT NO. 628324  
**PACIFIC HIGHLANDS RANCH VILLAGE-PROJECT NO. 7029**  
CITY COUNCIL

This Planned Development Permit [PDP] No. 12852, Site Development Permit [SDP] No. 433515 and Conditional Use Permit [CUP] No. 628324 is granted by the Council of the City of San Diego to Pardee Homes, a California Corporation, and Pacific Carmel AFG, LLC, a California limited liability company, Pacific Carmel MAG, LLC, a California limited liability company, Pico Madeira RWJ, LLC, a California limited liability company, and Pico Madeira TMJ, LLC, a California limited liability company, collectively known as the Gonsalves Ownership, Owner/Permittee pursuant to San Diego Municipal Code [SDMC] Sections 126.0604(a), 126.0504 and 126.0305. The 27.67-acre site is located at the northeast corner of Carmel Valley Road and Del Mar Heights Road in the CC-1-3 and Urban Village Overlay Zones of the Pacific Highlands Ranch Subarea Plan. The project site is legally described as being a subdivision of Parcel 2 of Parcel Map No. 18971, filed May 23, 2002, as File No. 2002-0439514 of Official Records together with a portion of the west half of the northwest quarter of section 15, township 14 south, range 3 west, San Bernardino Meridian, according to official plat thereof, all lying northerly and westerly of the San Diego Freeway 56, as described in deed recorded December 28, 2001, as File No. 2001-0965036 and February 26, 2002, as File No. 2002-0161208 of Official Records.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee to subdivide and develop a project with 294 residential units, 195,000 square-foot of commercial retail space, 20,000 square-foot of commercial office space, a proposed parcel for a future public library and a civic use area, with specific deviations to the requirements of the Land Development Code, described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated January 26, 2010, on file in the Development Services Department. Of the 294 residential units seventy-five units, as shown on Lot 14 of Vesting Tentative Map No. 433521, shall accrue to the Gonsalves Ownership,

collectively, and 219 units shall accrue to Pardee Homes. All of the 195,000 square-feet of commercial retail space shall accrue to Pardee Homes. All of the 20,000 square-feet of commercial office space, as shown on Lot 2 of Vesting Tentative Map No. 433521, shall accrue to the Gonsalves Ownership, collectively.

The project shall include:

- a. Subdivide and develop a project with 294 multi-family residential units, 195,000 square-feet of commercial retail space, 20,000 square-feet of commercial office space, a proposed parcel for a future public library and a civic use area, with specific deviations to the requirements of the Land Development Code;
- b. Five general deviations are granted throughout the project include: 1. Allow a deviation to LDC Section 131.0540(c) for ground floor use restrictions, 2 through 5. Allow deviations to LDC Section 131.0531, Table 131-05E for minimum lot width; minimum lot street frontage; minimum front yard setback; minimum rear yard setback; and maximum building height. For a full and complete list of locations, refer to Exhibit "A," sheet 3 of 34.
- c. Landscaping (planting, irrigation and landscape related improvements);
- d. Off-street parking; and
- e. 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. If this permit is not utilized in accordance with Chapter 12, Article 6, Division 1 of the SDMC with the thirty-six month period, this permit shall be void unless an Extension of Time has been granted. Any such Extension of Time must meet all SDMC requirements and applicable guidelines in effect at the time the extension is considered by the appropriate decision maker.

2. No permit for the construction, occupancy or operation of any facility or improvement described herein shall be granted, nor shall any activity authorized by this Permit be conducted on the premises until:

- a. The 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. While this Permit is in effect, the subject property shall be used only for the purposes and under the terms and conditions set forth in this Permit unless otherwise authorized by the appropriate City decision maker.

Non compliance with the terms of this Permit by one of the Owner/Permittee entities, Pardee Homes or the Gonzalves Ownership, shall not place the other Owner/Permittee into non-compliance under the terms of this Permit. The complying Owner/Permittee shall be allowed to proceed with its development under this Permit notwithstanding the non-compliance or continual non-compliance by the other Owner/Permittee.

4. This Permit is a covenant running with the subject property and all of the requirements and conditions of this Permit and related documents shall be binding upon the Owner/Permittee and any successor(s) in interest.

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. The Owner/Permittee shall secure all necessary building permits. The Owner/Permittee is informed that to secure these permits, substantial building modifications and site improvements may be required to comply with applicable building, fire, mechanical, and plumbing codes, and State and Federal disability access laws.

8. Construction plans shall be in substantial conformity to Exhibit "A." Changes, modifications or alterations to the construction plans are prohibited unless appropriate application(s) or amendment(s) to this Permit have been granted.

9. All of the conditions contained in this Permit have been considered and were determined necessary to make the findings required for approval of this Permit. The Permit holder is required to comply with each and every condition in order to maintain the entitlements that are granted by this Permit.

If 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.

10. 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, relating to the issuance of this permit including, but not limited 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.

11. The Property that is subject to the terms of this Permit may be developed in phases.

**ENVIRONMENTAL/MITIGATION REQUIREMENTS:**

12. Mitigation requirements in the Mitigation, Monitoring, and Reporting Program [MMRP] shall apply to this Permit. These MMRP conditions are hereby incorporated into this Permit by reference.

13. The mitigation measures specified in the MMRP and outlined in the Pacific Highlands Ranch Village Project Findings to the Pacific Highlands Ranch Subarea III Plan Master EIR (LDR No. 96-7918), No. 7029 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 the Pacific Highlands Ranch Village Project Findings to the Pacific Highlands Ranch Subarea III Plan Master EIR (LDR No. 96-7918), No. 7029, satisfactory to the Development Services Department and the City Engineer. Prior to issuance of the first grading permit, all conditions of the MMRP shall be adhered to, to the satisfaction of the City Engineer. All mitigation measures as specifically outlined in the MMRP shall be implemented for the following issue areas:

- Transportation/Traffic Circulation
- Biological Resources
- Hydrology/Water Quality
- Land Form Alteration/Visual Quality
- Geology/Soils
- Paleontological Resources
- Noise
- Public Services/Facilities
- Water Conservation

## Public Safety

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.

### **HOUSING COMMISSION REQUIREMENTS:**

16. Prior to issuance of the first residential building permit, the Owner/Permittee shall enter into an Affordable Housing Agreement with the Housing Commission to ensure compliance with the Declaration of Covenants, Conditions and Restrictions Regarding Affordable Housing Program for Pacific Highlands Ranch (NCFUA Subarea III), including the set-aside of no less than 20 percent of the pre-density bonus units as affordable housing.

### **ENGINEERING REQUIREMENTS:**

17. Prior to issuance of any occupancy permit, the Owner/Permittee shall enter into a Maintenance Agreement for the ongoing permanent Best Management Practice [BMP] maintenance.

18. Prior to the issuance of any construction permits, the Owner/Permittee shall incorporate any construction BMPs necessary to comply with Chapter 14, Article 2, Division 1 (Grading Regulations) of the SDMC, into the construction plans or specifications.

19. Prior to the issuance of any construction permits, the Owner/Permittee shall incorporate and show the type and location of all post-construction BMPs on the final construction drawings, in accordance with the approved Water Quality Technical Report.

20. The Planned Development Permit No. 12852, Site Development Permit No. 433515 and Conditional Use Permit No. 628324 shall comply with the conditions of the Pacific Highlands Ranch Village Vesting Tentative Map No. 433521.

21. The drainage system proposed for this development and outside of the public right-of-way is private and subject to approval by the City Engineer.

22. All driveways and curb openings shall comply with City Standard Drawings G-14A, G-14B, G-16 and SDG-100.

23. Prior to the issuance of a building permit the Owner/Permittee shall obtain a bonded grading permit for the grading proposed for this project. All grading shall conform to requirements in accordance with the City of San Diego Municipal Code in a manner satisfactory to the City Engineer.

24. Development of this project shall 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. In accordance with said permit, a Storm Water Pollution Prevention Plan [SWPPP] and a Monitoring Program Plan shall be implemented concurrently with the commencement of grading activities, and a Notice of Intent [NOI] shall be filed with the SWRCB.

25. A copy of the acknowledgment from the SWRCB that an NOI has been received for this project shall be filed with the City of San Diego when received; further, a copy of the completed NOI from the SWRCB showing the permit number for this project shall be filed with the City of San Diego when received. In addition, the owner(s) and subsequent owner(s) of any portion of the property covered by this grading permit and by SWRCB Order No. 99-08 DWQ, and any subsequent amendments thereto, shall comply with special provisions as set forth in SWRCB Order No. 99-08 DWQ.

26. Prior to issuance of an occupancy permit, the Owner/Permittee shall obtain an Encroachment Maintenance and Removal Agreement for a portion of the private 48 inch RCP drainage pipe within the public right-of-way, satisfactory to the City Engineer.

#### **LANDSCAPE REQUIREMENTS:**

27. 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, to the satisfaction of the Development Services Department. All plans shall be in substantial conformance to this permit and Exhibit "A."

28. 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 Development Services Department 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.

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

30. Prior to issuance of any construction permits for any 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." Construction plans shall provide for a 40 square-foot area around each tree which is unencumbered by hardscape and utilities as set forth under LDC 142.0403(b)5.

31. Prior to issuance of any Certificate of Occupancy, it shall be the responsibility of the Owner/Permittee to install all required landscape and obtain all required landscape inspections. A "No Fee" Street Tree permit shall be obtained for the installation, establishment, and on-going maintenance of all proposed street trees.

32. All required landscape shall be maintained in a disease, weed and litter free condition at all times. Severe pruning or “topping” of trees is not permitted unless specifically noted in this Permit.

33. The Owner/Permittee shall be responsible for the installation and maintenance of all landscape improvements consistent with the Land Development Code: Landscape Regulations and the Land Development Manual: Landscape Standards. Invasive species are prohibited from being planted adjacent to any canyon, water course, wet land 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.

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

35. If any required landscape, including existing or new plantings, hardscape, landscape features, et cetera, 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 Development Services Department within thirty days of damage or Certificate of Occupancy.

**PLANNING/DESIGN REQUIREMENTS:**

36. Owner/Permittee shall maintain a minimum of no fewer than 2,189 parking spaces (2,055 on site and 134 on local internal streets) on the property at all times in the approximate locations shown on the approved Exhibit “A,” which includes 91 disabled accessible spaces per CBC Chapter 11A, Section 1118A. Additionally, a minimum of 59 motorcycle, 167 bicycle and 8 off-street loading spaces shall be provided on site. Parking spaces shall comply at all times with the SDMC and shall not be converted for any other use unless otherwise authorized by the appropriate City decision maker in accordance with the SDMC.

37. A topographical survey conforming to the provisions of the SDMC may be required if it is determined, during construction, that there may be a conflict between the building(s) under construction and a condition of this Permit or a regulation of the underlying zone. The cost of any such survey shall be borne by the Owner/Permittee.

38. All signs associated with this development shall be consistent with sign criteria established by City-wide sign regulations or a subsequently approved Comprehensive Sign Plan.

39. The Owner/Permittee shall post a copy of this Permit and the Vesting Tentative Map in the sales office for consideration by each prospective buyer.

40. 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.



41. The cinema theater shall be limited in its hours of operation. The cinema theater shall close at midnight Sunday through Thursday and shall close no later than 1:00 a.m. on Friday and Saturday.

42. The Owner/Permittee shall develop a 2-acre privately owned and maintained Civic Use area (Vesting Tentative Map Lots 20 and 22) and 1.5 acre portion of Lot 21 as a Civic Use Area with the development of Unit 2 or Unit 3. The Civic Use area shall be available for use by the public.

43. The Owner/Permittee shall make available to prospective buyers of all residential units information on energy efficient appliances and technology in its marketing materials and within its sales office and shall either provide, or offer as an option, alternative energy technologies to be incorporated into the residences during construction.

44. The public library shall be designed in conformance with the Pacific Highlands Ranch Subarea Plan design guidelines for Village development contained in yet not limited to Section 5.4. The library building and site shall be designed with a pedestrian emphasis on all four sides of the site, with particular emphasis along that side of the building fronting the Village Square, in substantial conformance with the approved Exhibit "A." Development of the library site shall require a Process Two Substantial Conformance Review application and decision.

#### **TRANSPORTATION REQUIREMENTS**

45. Prior to issuance of any building permit, the project shall conform to the Subarea III/Pacific Highlands Ranch Transportation Phasing Plan and the approved Traffic Study/final EIR.

#### **WASTEWATER REQUIREMENTS:**

46. 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.

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

48. Proposed private underground sewer facilities located within a single lot shall be designed to meet the requirements of the California Uniform Plumbing Code and shall be reviewed as part of the building permit plan check. Improvement drawings are required for private sewer facilities serving more than one lot.

49. The Owner/Permittee shall provide evidence, satisfactory to the Public Utilities Director, indicating that each building/dwelling unit will have its own sewer lateral or provide CC&R's for the operation and maintenance of on-site private sewer mains that serve more than one ownership.

50. The Owner/Permittee shall provide an Encroachment Removal Agreement for and prior to proposed improvements of any kind, including utilities, landscaping, enriched paving, and electrical conduits to be installed within the public right-of-way or public easement.

51. No structures or landscaping that would inhibit vehicular access will be installed in or over any sewer easement. No shrubs more than 2 feet in height at maturity are allowed within any sewer easements. No trees are allowed within 10 feet of any Public Sewer Mains or Sewer Laterals. No pressurized landscape irrigation mains or electrical facilities are allowed within any Sewer Easements.

**WATER REQUIREMENTS:**

52. Prior to the issuance of any building permits, the Owner/Permittee shall assure, by permit and bond, the design and construction of any new water service(s) outside of any driveway, and the disconnection at the water main of the existing unused water service adjacent to the project site, in a manner satisfactory to the Public Utilities Director and the City Engineer.

53. Prior to the issuance of any building permits, the Owner/Permittee shall apply for a plumbing permit for the installation of appropriate private back flow prevention device, on irrigation water service, in a manner satisfactory to the Public Utilities Director and the City Engineer.

54. Prior to the issuance of any certificates of occupancy, all public water facilities shall be complete and operational in a manner satisfactory to the Public Utilities Director and the City Engineer.

**PLANNING COMMISSION REQUIREMENTS:**

55. Prior to the issuance of any building permit for the parking structure identified on Exhibit "A" as Building Five within Lot 8, the Owner/Permittee shall indicate on the construction plans photovoltaic panels for the generation of electricity on the trellises on the roof deck of the parking structure, in a manner satisfactory to the Development Services Department.

**CITY COUNCIL REQUIREMENTS:**

56. Use of all loading docks shall be prohibited between the hours of 12:00 a.m. and 6:00 a.m.

57. Deliveries to the commercial areas shall be prohibited between the hours of 12:00 a.m. and 6:00 a.m.

58. A tot-lot shall be provided in proximity to the residential units within the village.

59. The civic space shall be retained as a public use civic space with no private development allowed within the civic space area.

60. The right turn-in and right turn-out driveway on Carmel Valley Road shall be eliminated.

61. Sub-metering shall be provided to all residential units.

**INFORMATION ONLY:**

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

APPROVED by the City Council of the City of San Diego on January 26, 2010, Resolution No. R-305579.

Permit Type/PTS Approval No.:  
Planned Development Permit No. 12852,  
Site Development Permit No. No. 433515  
Conditional Use Permit No. 628324  
Date of Approval: January 26, 2010

AUTHENTICATED BY THE DEVELOPMENT SERVICES DEPARTMENT

\_\_\_\_\_  
Mike Westlake  
Program Manager

**NOTE: Notary acknowledgment  
must be attached per Civil Code  
section 1189 et seq.**

**The undersigned Owner/Permittee**, except as they related to lots 2 and 14 of Vesting Tentative Map No. 433521, by execution hereof, agrees to each and every condition of this Permit and promises to perform each and every obligation of Owner/Permittee hereunder.

**Pardee Homes**, a California Corporation  
Owner/Permittee

By \_\_\_\_\_  
Beth Fischer  
Vice President

**NOTE: Notary acknowledgments  
must be attached per Civil Code  
section 1189 et seq.**

**The undersigned Owner/Permittee**, by execution hereof, agrees to each and every condition of this Permit, as they related to lots 2 and 14 of Vesting Tentative Map No. 433521, and promises to perform each and every obligation of Owner/Permittee hereunder.

**Pacific Carmel AFG, LLC**, a California  
limited liability company  
Owner/Permittee

By: \_\_\_\_\_  
Its: \_\_\_\_\_  
Dated: \_\_\_\_\_

**Pacific Carmel MAG, LLC**, a California  
limited liability company  
Owner/Permittee

By: \_\_\_\_\_  
Its: \_\_\_\_\_  
Dated: \_\_\_\_\_

**Pico Madeira RWJ, LLC**, a California  
limited liability company  
Owner/Permittee

By: \_\_\_\_\_  
Its: \_\_\_\_\_  
Dated: \_\_\_\_\_

**Pico Madeira TMJ, LLC**, a California  
limited liability company  
Owner/Permittee

By: \_\_\_\_\_  
Its: \_\_\_\_\_  
Dated: \_\_\_\_\_

**NOTE: Notary acknowledgments  
must be attached per Civil Code  
section 1189 et seq.**

R- 305580