

RESOLUTION NUMBER R- 313606

DATE OF FINAL PASSAGE JUN 15 2021

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO AFFIRMING THE DECISION OF THE PLANNING COMMISSION TO APPROVE PLANNED DEVELOPMENT PERMIT NO. 2388324 AND SITE DEVELOPMENT PERMIT NO. 2388323 WITH MODIFICATIONS FOR THE DEL MAR HIGHLANDS ESTATES AMENDMENT – PROJECT NO. 655778.

WHEREAS, PARDEE HOMES, a California corporation (Owner and Permittee), filed an application with the City of San Diego (City) for a Site Development Permit and Planned Development Permit to amend Site Development Permit No. 2388323 and Planned Development Permit No. 2388324, an amendment of Planned Residential Development/Resource Protection Ordinance Permit No. 94-0576 to construct 20 multi-family affordable housing dwelling units and six market rate dwelling units for a total of 26 multi-family dwelling units, where 13 dwelling units were previously approved (as described in and by reference to the approved Exhibits “A” and corresponding conditions of approval for the associated Permit Nos. 2388323 and 2388324), on portions of a 1.80-acre site known as the Del Mar Highlands Estates Amendment project (Project), located east of Old El Camino Real and south of San Dieguito Road, and legally described as Parcel B of Parcel Map 19205 City of San Diego, County of San Diego, State of California, filed in the Office of the County Recorder of San Diego County April 9, 2003; and an easement for general purposes, together with the right to replace, maintain and alteration of any utility equipment of facility, and for vehicular and pedestrian ingress and egress on and over the driveway on Parcel A of Parcel Map 19205 City of San Diego, County of San Diego, State of California, filed in the Office of the County Recorder of San Diego County

April 9, 2003, Delineated on said Parcel Map as "General Utility and Access Easement Granted Hereon;" in the Pacific Highlands Ranch Subarea Plan area, in the AR-1-1 (Agricultural-Residential) and OC-1-1 (Open Space- Conservation) zones; and

WHEREAS, on February 11, 2021, the Planning Commission of the City of San Diego adopted Addendum No. 655778 to Environmental Impact Report No. 94-0576/SCH No. 96-121073 and adopted the Mitigation, Monitoring and Reporting Program for the Project; and

WHEREAS, on February 11, 2021, the Planning Commission of the City of San Diego considered and approved Site Development Permit No. 2388323 and Planned Development Permit No. 2388324 pursuant to Resolution No. 5127-PC; and

WHEREAS, on February 22, 2021, Derby Terrace, LLC submitted an appeal of the Planning Commission's approval of Site Development Permit No. 2388323 and Planned Development Permit No. 2388324 (Appeal); and

WHEREAS, on May 12, 2021, the City Council of the City of San Diego considered the Appeal and Site Development Permit No. 2388323 and Planned Development Permit No. 2388324 and continued the public hearing to May 25, 2021; and

WHEREAS, on May 25, 2021, the City Council of the City of San Diego considered the Appeal and Site Development Permit No. 2388323 and Planned Development Permit No. 2388324 and continued the public hearing to June 15, 2021; and

WHEREAS, on June 15, 2021, the City Council of the City of San Diego considered the Appeal and Site Development Permit No. 2388323 and Planned Development Permit No. 2388324, pursuant to the Land Development Code of the City of San Diego, received for its consideration written and oral presentations, evidence having been submitted, and testimony having been heard from all interested parties at the public hearing, and the City Council having fully considered the matter and being fully advised concerning the same; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that it affirms the decision of the Planning Commission to approve Site Development Permit No. 2388323 and Planned Development Permit No. 2388324 with modifications to the corresponding conditions of approval for the associated permits for the Del Mar Highlands Estates Amendment and adopts the following findings with respect to Site Development Permit No. 2388323 and Planned Development Permit No. 2388324:

**A. SITE DEVELOPMENT PERMIT – SAN DIEGO MUNICIPAL CODE (SDMC) SECTION 126.0505**

**1. Findings for all Site Development Permits SDMC section 126.0505(a):**

**a. The proposed development will not adversely affect the applicable land use plan.** The Del Mar Highlands Estates (DMHE) Amendment Project (Project) is requesting to amend the previously approved 13 affordable housing dwelling units subdivision under Site Development Permit (SDP) No. 1828039 and Planned Development Permit (PDP) No. 1783449, to add an additional 13 dwelling units (seven affordable housing dwelling units and six market rate dwelling units) for a total of 26 dwelling units within five buildings. The 1.80-acre site is located east of Old El Camino Real, south of San Dieguito Road in the AR-1-1 (Agricultural-Residential) and OC-1-1 (Open Space- Conservation) Zones within the Pacific Highlands Ranch Subarea Plan (PHRSP) area. The site is a part of Unit 10, Lot 149, of the DMHE project (Project No. 500066). This previous approval allowed for the construction of 13 multi-family affordable housing dwelling units in order to provide the affordable housing component for the Pacific Highlands Ranch (PHR) Units 8 and 9 Project (Project No. 500058), which was approved by the Planning Commission on February 23, 2017.

The site is part of Planned Residential Development (PRD)/Resource Protection Ordinance (RPO) Permit No. 94-0576 (DMHE, approved in March 1997). PRD/RPO Permit No. 94-0576 included 148 single-family dwelling units and 24 affordable multi-family dwelling units. The DMHE project reserved 166 acres for residential development and 307 acres as

dedicated Open Space. Subsequent to the approval in 1997, all 148 single-family units and 24 multi-family affordable dwelling units were constructed. The graded pad (Unit 10 Parcels A and B) reserved for affordable housing dwelling units, was not fully developed. Approximately two-thirds of Unit 10, Parcel B, remained graded but undeveloped while Parcel A was developed with the DMHE's 24 affordable multi-family dwelling units. The future development of Unit 10, Parcel B, east of the existing DMHE's 24 affordable housing dwelling units, was however contemplated by the DMHE Environmental Impact Report (EIR) No. 94-0576/SCH No. 96-121073, which indicated the area would be reserved for future affordable housing dwelling units.

The five two-story buildings would contain 10 two-bedroom units ranging from 1,006 to 1,131 square feet in size and 16 three-bedroom units ranging from 1,251 to 1,447 square feet in size. Each unit will have private usable space (porches, balconies), storage, laundry hook-ups and covered parking. Other site improvements include a 1,700 square-foot playground tot lot, access drives, parking, landscaping and the installation of site utilities, drainage improvements, landscape, irrigation, and hardscape. The 1997 DMHE project (PRD/RPO No. 94-0576) included design guidelines for development standards that focused on the implementation of contour grading principles and informal landscape design as well as achieving neighborhood design unity through use of consistent development standards. The Project includes design guidelines similar to the 1997 Guidelines for site planning, landscaping consistency, and Multiple Habitat Planning Area (MHPA) adjacency requirements.

The Project site is identified in the PHRSP as "Existing or Approved Project" and was anticipated for additional development of affordable housing dwelling units on the eastern portion of the site. The site is also identified as a "Candidate Location" for affordable housing in Exhibit 7-1 of the PHRSP. Of the 20 affordable dwelling units, 14 dwelling units are required to satisfy affordability requirements for off-site PHR development, and six dwelling units are over-allocated. Of the 14 required affordable units, 13 units will satisfy the affordability requirements for developments at PHR Units 8 and 9, and one dwelling unit will satisfy the affordability requirements for the amended development at PHR Unit 22B (Project No. 655758), approved by the City Council on January 12, 2021. This approval allowed for an amendment to the previously approved single-family dwelling subdivision to increase the number of lots from 76 to 81 and allocate the one additional affordable housing dwelling unit off-site to the DMHE (Parcel B of Parcel Map 19205), the proposed Project site. Therefore, the development would not adversely affect the applicable land use plan.

**b. The proposed development will not be detrimental to the public health, safety, and welfare.** As outlined in Site Development Permit Finding (A)(1)(a) listed above and incorporated herein by reference, the Project is requesting the construction of 20 multi-family affordable housing dwelling units and six market rate dwelling units for a total of 26 multi-family dwelling units. The Project site is adjacent to residential units west of the Project site and is adjacent to the MHPA open space to the southeast on a separate parcel. All surrounding habitat (MHPA and non MHPA) has been conserved as a result of implementation of 1997 DMHE project (PRD/RPO No. 94-0576). Currently, the topography of the Project site is relatively flat as the site has been previously graded. Access to the Project site would be via an existing road off Old El Camino Real.

Addendum No. 655778 to EIR No. 94-0576/SCH No. 96-121073 was prepared to address the Project's consistency with all applicable previously certified documents. It was determined there were no substantial changes to the Project, no changes in circumstances have occurred, and no new information of substantial importance has manifested that would result in new significant or substantially increased adverse impacts as a result of the Project.

The permit for the Project includes various conditions and referenced exhibits of approval relevant to achieving compliance with the applicable regulations of the San Diego Municipal Code (SDMC) in effect for this Project. The permit includes various conditions to address MHPA land use adjacency requirements and Brush Management Program requirements. Such conditions within the permit have been determined as necessary to avoid adverse impacts upon the health, safety and general welfare of persons residing or working in the surrounding area. The Project will comply with the development conditions in effect for the subject property as described in SDP No. 2388323 and PDP No. 2388324, and other regulations and guidelines pertaining to the subject property per the SDMC for the site. Prior to issuance of any building permits for the proposed development, the plans will be reviewed for compliance with all Building, Electrical, Mechanical, Plumbing and Fire Code requirements, and the Owner/Permittee will be required to obtain a grading and public improvement permit. Therefore, the proposed development would not be detrimental to the public health, safety and welfare.

**c. The proposed development will comply with the applicable regulations of the Land Development Code, including any allowable deviations pursuant to the Land Development Code.** As outlined in Site Development Permit Finding (A)(1)(a) listed above and incorporated herein by reference, the Project is requesting the construction of 20 multi-family affordable housing dwelling units and six market rate dwelling units for a total of 26 multi-family dwelling units.

The Project proposes two deviations as noted below:

- Deviation from SDMC Section 131.0331 and Table 131-03C to reduce the minimum side yard setback to eight feet where 20 feet is required. The reduced side yard setback will be consistent with the neighboring affordable housing development to the west and will apply only to limited portions of the building footprint, with the majority of the buildings in conformance with the standard 20-foot side yard setback increasing to as much as 42 feet in other locations. Even at the eight-foot side yard setback locations, the Project will observe a 90-foot unit separation from its nearest neighbor to the west; and
- Deviation from SDMC Section 131.0331 and Table 131-03C to increase the percentage of lot coverage to 25 percent where 10 percent is allowed. The proposed 25 percent lot coverage is for the residential structures within the boundaries of the existing graded pad and would be consistent with the neighboring affordable housing development to the west. The remaining 75 percent of the lot would be for landscaping, a tot-lot, driveways, and parking.

The deviations are minor and will not adversely affect the land use plan, adjacent properties or persons working or living in the area. Other than the requested side yard setback and lot coverage deviations, the Project meets all applicable regulations and policy documents, and is consistent with the recommended land use, design guidelines, and development standards in effect for this site per the Land Development Code (LDC). In addition, the proposed development will materially assist in accomplishing the goal of providing affordable housing opportunities in economically balanced communities by constructing 20 affordable dwelling units on-site within the DMHE, which is part of the PHRSP.

**B. PLANNED DEVELOPMENT PERMIT – SDMC SECTION 126.0605**

**1. Findings for all Planned Development Permits SDMC Section 126.0605(a):**

**a. The proposed development will not adversely affect the applicable land use plan:** As outlined in Site Development Permit Finding (A)(1)(a) listed above and incorporated herein by reference, the Project is consistent with the goals, objectives, and proposals of the PHRSP and the General Plan. Therefore, the proposed development will not adversely affect the applicable land use plan.

**b. The proposed development will not be detrimental to the public health, safety, and welfare.** As outlined in Site Development Permit Finding (A)(1)(b) listed above and incorporated herein by reference, the permit for the Project includes various conditions and referenced exhibits of approval relevant to achieving compliance with the applicable regulations of the SDMC in effect for this Project. Such conditions within the permit have been determined as necessary to avoid adverse impacts upon the health, safety and general welfare of persons residing or working in the surrounding area.

**c. The proposed development will comply with the regulations of the Land Development Code including any proposed deviations pursuant to Section 126.0602(b)(1) that 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; and any allowable deviations that are otherwise authorized pursuant to the Land Development Code.** As outlined in Site Development Permit Finding (A)(1)(c) listed above and incorporated herein by reference, the Project includes deviations for side yard setback and lot coverage. The reduced side yard setback will be consistent with the neighboring affordable housing development to the west and will apply only to limited portions of the building footprint, with the majority of the buildings constructed in conformance with the standard 20-foot side yard setback increasing to as much as 42 feet in other locations. Even at the eight-foot side yard setback locations, the Project will observe a 90-foot unit separation from its nearest neighbor to the west.

The 25 percent lot coverage is for the residential structures within the boundaries of the existing graded pad and would be consistent with the neighboring affordable housing development to the west. The remaining 75 percent of the lot would be for landscaping, a tot-lot, driveways, and parking. The deviation is minor and will not adversely affect the land use plan, adjacent properties or persons working or living in the area.

Other than the requested side yard setback and lot coverage deviations, the Project meets all applicable regulations and policy documents, and is consistent with the recommended land use, design guidelines, and development standards in effect for this site per the LDC. The requested deviations would also assist in the avoidance of the surrounding habitat (MHPA and non MHPA), which has been conserved as a result of implementation of the DMHE project. In addition, the proposed development will materially assist in accomplishing the goal of providing affordable housing opportunities in economically balanced communities by constructing 20 affordable dwelling units on-site within the DMHE, which is part of the PHRSP.

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 the appeal of DERBY TERRACE, LLC, A California Limited Liability Corporation is granted; the decision of the Planning Commission is affirmed with the modifications of the conditions for the permits as follows (~~stricken~~ language being deleted and underlined language being added):

39. Prior to issuance of ~~the first building permit~~ construction permit for the first building structure, the Owner/Permittee shall ~~provide a recorded Shared Parking Agreement between all affected properties, agree to install three standard parking spaces for the sole use of and located on the adjacent property (Derby Terrace Apartments) located at 14103 Old El Camino Real in the approximate location shown in Exhibit "A".~~ These parking spaces must be installed by Owner/Permittee prior to the first occupancy of the project, but only after the Owner/Permittee has completed the access road loop, in a condition satisfactory to the Fire Marshal and the City Engineer.

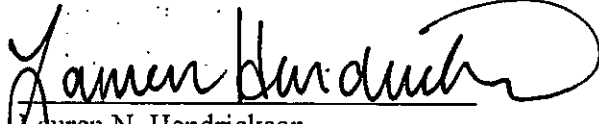
40. ~~Prior to the issuance of any building permit, the Owner/Permittee shall provide a Mutual Access Agreement, satisfactory to the City Engineer.~~

46. Prior to the issuance of a construction permit for public improvements, the Owner/Permittee shall provide a recorded agreement between all affected properties for the required connection of the proposed project sewer lateral to the existing private sewer main; or a recorded copy of the Covenants, Conditions and Restrictions (CC&R) for the owners outlining the responsibility and maintenance requirements for their share of the private sewer system, satisfactory to the Public Utilities Department Director and the City Engineer.

BE IT FURTHER RESOLVED, that, based on the findings hereinbefore adopted by the City Council, Site Development Permit No. 2388323 and Planned Development Permit No. 2388324 are hereby granted by the City Council to the referenced Owner and Permittee, in the form, exhibits, terms and conditions set forth in Permit Nos. 2388323 and 2388324, a copy of which is attached hereto and made a part hereof.

APPROVED: MARA W. ELLIOTT, City Attorney

By

  
Lauren N. Hendrickson  
Deputy City Attorney

LNH:cm  
June 15, 2021  
Or.Dept:DSD  
Doc. No.: 2696554

Attachment: Site Development Permit No. 2388323 and Planned Development Permit  
No. 2388324



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

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

INTERNAL ORDER NUMBER: 24008499

SPACE ABOVE THIS LINE FOR RECORDER'S USE

**SITE DEVELOPMENT PERMIT NO. 2388323  
PLANNED DEVELOPMENT PERMIT NO. 2388324  
DEL MAR HIGHLANDS ESTATES AMENDMENT- PROJECT NO. 655778 [MMRP]  
(AMENDMENT TO PLANNED DEVELOPMENT PERMIT NO. 1783449, SITE DEVELOPMENT PERMIT  
NO. 1828039, AND PLANNED RESIDENTIAL DEVELOPMENT/RESOURCE PROTECTION  
ORDINANCE PERMIT NO. 94-0576)  
CITY COUNCIL**

This Site Development Permit No. 2388323 and Planned Development Permit No. 2388324, an amendment to Planned Development Permit No. 1783449, Site Development Permit No. 1828039, and Planned Residential Development/Resource Protection Ordinance Permit No. 94-0576, is granted by the City Council of the City of San Diego to PARDEE HOMES, a California corporation, Owner and Permittee, pursuant to San Diego Municipal Code [SDMC] Sections 126.0505 and 126.0605. The 1.80-acre project site is located east of Old El Camino Real, south of San Dieguito Road in the AR-1-1 (Agricultural-Residential) and OC-1-1 (Open Space- Conservation) Zones within the Pacific Highlands Ranch Subarea Plan area. The project site is legally described as Parcel B of Parcel Map 19205 City of San Diego, County of San Diego, State of California, filed in the Office of the County Recorder of San Diego County April 9, 2003; and an easement for general purposes, together with the right to replace, maintain and alteration of any utility equipment of facility, and for vehicular and pedestrian ingress and egress on and over the driveway on Parcel A of Parcel Map 19205 City of San Diego, County of San Diego, State of California, filed in the Office of the County Recorder of San Diego County April 9, 2003, Delineated on said Parcel Map as "General Utility and Access Easement Granted Hereon."

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee to construct 20 multi-family affordable housing dwelling units and six market rate dwelling units for a total of 26 multi-family dwelling units, where 13 dwelling units were previously approved; described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated June 15, 2021, on file in the Development Services Department.

The project shall include:

- a. Construct 20 multi-family affordable housing dwelling units and six market rate dwelling units for a total of 26 multi-family dwelling units within five buildings, where 13 dwelling units were previously approved. The five two-story buildings would contain 10 two-bedroom units ranging from 1,006 to 1,131 square feet in size and 16 three-bedroom units ranging from 1,251 to 1,447 square feet in size. Each unit will have private usable space (porches, balconies), storage, laundry hook-ups and covered parking. Other site improvements include a 1,700 square-foot playground tot lot, access drives, parking, landscaping and the installation of site utilities, drainage improvements, landscape, irrigation, and hardscape;
- b. Allowable Deviations from the SDMC:
  1. Side Yard Setback – A deviation from SDMC Section 131.0331 and Table 131-03C allowing a minimum side yard setback of eight feet where 20 feet is required; and
  2. Lot Coverage – A deviation from SDMC Section 131.0331 and Table 131-03C allowing 25 percent lot coverage where 10 percent is allowed.
- c. Landscaping (planting, irrigation and landscape related improvements);
- d. Off-street parking; and
- e. Public and private accessory improvements determined by the Development Services Department to be consistent with the land use and development standards for this site in accordance with the adopted community plan, the California Environmental Quality Act [CEQA] and the CEQA Guidelines, the City Engineer's requirements, zoning regulations, conditions of this Permit, and any other applicable regulations of the SDMC.

**STANDARD REQUIREMENTS:**

1. This permit must be utilized within thirty-six (36) 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 within the 36-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. This permit must be utilized by June 15, 2024.
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.
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 entitlements and conditions of Planned Development Permit No. 1783449 and Site Development Permit No. 1828039 (DOC NO. 2017-0133955) and Planned Residential Development/Resource Protection Ordinance Permit No. 94-0576 (DOC NO. 1997-0490853) shall remain in force and effect except where amended by herein this Permit.

**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 Addendum No. 655778 to Environmental Impact Report No. 94-0576/SCH NO. 96-121073, 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 Addendum No. 655778 to Environmental Impact Report No. 94-0576/SCH NO. 96-121073, to the satisfaction of the Development Services Department and the City Engineer. Prior to issuance of any construction permit, all conditions of the MMRP shall be adhered to, to the satisfaction of the City Engineer. All mitigation measures described in the MMRP shall be implemented for the following issue areas:

Biological Resources;

Public Facilities and Services;

Transportation; and

Water Conservation.

**CLIMATE ACTION PLAN REQUIREMENTS:**

15. Owner/Permittee shall comply with the Climate Action Plan (CAP) Consistency Checklist stamped as Exhibit "A." Prior to issuance of any construction permit, all CAP strategies shall be noted within the first three (3) sheets of the construction plans under the heading "Climate Action Plan Requirements" and shall be enforced and implemented to the satisfaction of the Development Services Department.

**AFFORDABLE HOUSING REQUIREMENTS:**

16. Prior to issuance of any building permit associated with this Project, the Owner/Permittee shall enter into a written agreement (Agreement) with the San Diego Housing Commission with respect to the 20 affordable dwelling units in the project. The Agreement shall be drafted and approved by the San Diego Housing Commission, executed by the Owner/Permittee, recorded against the Affordable Housing Project and secured by a deed of trust, which will incorporate applicable affordability conditions consistent with the Pacific Highlands Ranch Subarea Plan. The Agreement will specify the occupancy and affordability restrictions applicable to the 20 affordable dwelling units in the Affordable Housing Project. The affordable dwelling units will be occupied by families earning no more than sixty-five percent (65%) of the Area Median Income with rental rates that do not exceed 30% of 60% of Area Median Income for no fewer than 55 years from the date of issuance of a certificate of occupancy. If for-sale properties, the sales prices will not exceed affordable housing costs of 60% of Area Median Income.

17. The timing of the construction and occupancy of the project, acceptable to the San Diego Housing Commission, shall be included in the Agreement, provided that such timing shall comply with the following:

- a. Issuance of building permits for 13 affordable dwelling units of the project required by Pacific Highlands Ranch Units 8 and 9 shall occur on or before the issuance of the 484th building permit on Pacific Highlands Ranch Units 8 and 9.
- b. Issuance of building permits for one affordable unit of the project required by Pacific Highlands Ranch Unit 22B shall occur on or before the issuance of the 77th building permit on Pacific Highlands Ranch Unit 22B.
- c. Certificate of Occupancy of the project shall occur eighteen (18) months after the issuance of building permits for the project.
- d. Occupancy of the project shall occur not later than one hundred eighty (180) days after the completion of construction of the project.
- e. For a good cause shown to the satisfaction of the President and CEO of the San Diego Housing Commission, or her/his designee, the thresholds and dates referenced herein may be adjusted and/or extended one or more times. Good cause shall include, but not be limited to, Acts of God, labor strikes, war, riots, etc., as shall be determined by the President and CEO of the San Diego Housing Commission, or her/his designee, in her/his sole discretion

**GEOLOGY REQUIREMENTS:**

18. Prior to the issuance of any construction permits (either grading or building), the Owner/Permittee shall submit a geotechnical investigation report or update letter prepared in accordance with the City's "Guidelines for Geotechnical Reports" that specifically addresses the proposed construction plans. The geotechnical investigation report or update letter shall be reviewed for adequacy by the Geology Section of the Development Services Department prior to issuance of any construction permits.

19. The Owner/ Permittee shall submit an as-graded geotechnical report prepared in accordance with the City's "Guidelines for Geotechnical Reports" following completion of the grading. The as-graded geotechnical report shall be reviewed for adequacy by the Geology Section of the Development Services Department prior to exoneration of the bond and grading permit close-out.

**ENGINEERING REQUIREMENTS:**

20. Prior to the issuance of any building permit, the Owner/Permittee shall comply with all conditions for previously approved building and grading permit for Site Development Permit No. 1828038 and Planned Development Permit No. 1783449, satisfactory to the City Engineer.

21. Prior to the issuance of any building permits, the Owner/Permittee shall assure, by permit and bond, the re-construction of a 28-foot driveway per current City Standards, adjacent to the site on Old El Camino Real.

**LANDSCAPE REQUIREMENTS:**

22. Prior to issuance of any grading permit, the Owner/Permittee shall submit complete construction documents for the revegetation and hydro-seeding of all disturbed land in accordance with the City of San Diego Landscape Standards, Storm Water Design Manual, and to the satisfaction of the Development Services Department. All plans shall be in substantial conformance to this permit (including Environmental conditions) and Exhibit "A," on file in the Development Services Department.

23. Prior to issuance of any public improvement permit, the Owner/Permittee shall submit complete landscape construction documents for right-of-way improvements to the Development Services Department for approval. Improvement plans shall show, label, and dimension 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.

24. Prior to issuance of any building permit (including shell), the Owner/Permittee shall submit complete landscape and irrigation construction documents, which are consistent with the Landscape Standards, to the Development Services Department for approval. The construction documents shall be in substantial conformance with Exhibit "A," Landscape Development Plan, on file in the Development Services Department. Construction plans shall provide a 40 square-foot area around each tree that is unencumbered by hardscape and utilities unless otherwise approved per SDMC section 142.0403(b)(6).

25. In the event that a foundation-only permit is requested by the Owner/Permittee, a site plan or staking layout plan, shall be submitted to the Development Services Department identifying all landscape areas consistent with Exhibit "A," Landscape Development Plan, on file in the Development Services Department. These landscape areas shall be clearly identified with a distinct symbol, noted with dimensions, and labeled as "landscaping area."

26. The Owner/Permittee shall be responsible for the maintenance of all landscape improvements shown on the approved plans, including in the right-of-way, unless long-term maintenance of said landscaping will be the responsibility of another entity approved by the Development Services Department. All required landscape shall be maintained consistent with the Landscape Standards in a disease, weed, and litter free condition at all times. Severe pruning or "topping" of trees is not permitted.

27. If any required landscape (including existing or new plantings, hardscape, landscape features, etc.) indicated on the approved construction documents is damaged or removed, the Owner/Permittee shall repair and/or replace in kind and equivalent size per the approved documents to the satisfaction of the Development Services Department within 30 days of damage or Certificate of Occupancy.

**BRUSH MANAGEMENT PROGRAM REQUIREMENTS:**

28. The Owner/Permittee shall implement the following requirements in accordance with the Brush Management Program shown on Exhibit "A," on file in the Development Services Department:

- a. The Brush Management Program shall consist of a modified Zone One ranging from 19 feet to 79 feet in width, extending out from the habitable structures towards the native/naturalized vegetation consistent with SDMC section 142.0412(h)(7). No Zone Two will be provided on site; and
- b. Alternative Compliance: Where Zone One is reduced, a radiant heat wall shall be provided at the interface of Zones One and offsite brush. In addition, openings along the brush side of the habitable structures, plus a 10-foot perpendicular return along adjacent wall faces, shall be upgraded to dual-glazed, dual-tempered panes as alternative compliance for the reduced brush management zones. A Zone One condition shall be maintained in the yard space between the radiant heat wall and the habitable structure.

29. Prior to issuance of any grading permit, Owner/Permittee shall submit landscape construction documents required for the engineering permit showing the brush management zones on the property in substantial conformance with Exhibit "A."

30. Prior to issuance of any building permits, Owner/Permittee shall submit a complete Brush Management Program for approval to the Development Services Department and shall be in substantial conformance with Exhibit "A," on file in the Development Services Department. The Brush Management Program shall comply with the City of San Diego's Landscape Regulations and the Landscape Standards.

31. Within Zone One, combustible accessory structures (including, but not limited to decks, trellises, gazebos, etc.) shall not be permitted while accessory structures of non-combustible, one-hour fire-rated, and/or Type IV, heavy timber construction may be approved within the designated Zone One area subject to Fire Marshal's approval.

32. The Brush Management Program shall be maintained at all times in accordance with the City of San Diego's Landscape Standards.

**MULTIPLE SPECIES CONSERVATION PROGRAM REQUIREMENTS:**

33. Prior to issuance of any construction permits, including but not limited to, the first Grading Permit, Demolition Plans/Permits and Building Plans/Permits, the Owner/Permittee shall depict the following requirements on the construction documents and plans for the project site:

- **Grading/Land Development/MHPA Boundaries** -Within or adjacent to the Multi-Habitat Planning Area (MHPA), all manufactured slopes associated with site development shall be included within the development footprint.
- **Drainage** - All staging and developed/paved areas must prevent the release of toxins, chemicals, petroleum products, exotic plant materials prior to release by incorporating the use of filtration devices, planted swales and/or planted detention/desiltation basins, or other approved temporary and permanent methods that are designed to minimize negative impacts, such as excessive water and toxins into the ecosystems of the MHPA.
- **Toxics/Project Staging Areas/Equipment Storage** - Projects that use chemicals or generate by-products such as pesticides, herbicides, and animal waste, and other substances that are potentially toxic or impactive to native habitats/flora/fauna (including water) shall incorporate measures to reduce impacts caused by the application and/or drainage of such materials into the MHPA. No trash, oil, parking, or other construction/development-related material/activities shall be allowed outside any approved construction limits. Provide a note in/on the CD's that states: "All construction related activity that may have potential for leakage or intrusion shall be monitored by the Qualified Biologist/Owners Representative or Resident Engineer to ensure there is no impact to the MHPA."
- **Lighting** -All lighting within or adjacent to the MHPA is directed away/shielded from the MHPA or limited to the immediate area and is in compliance with City Outdoor Lighting Regulations per LDC Section 142.0740.
- **Barriers** -Existing fences/walls; and/or signage along the MHPA boundaries shall remain and or be added to direct public access to appropriate locations, reduce domestic animal predation; protect wildlife in the preserve, and provide adequate noise reduction where needed.
- **Invasives** - No Invasive, non-native plant species shall be introduced into areas within or adjacent to the MHPA.
- **Brush Management** -Brush management zones will not be greater in size that is currently required by the City's regulations (this includes use of approved alternative compliance). Within Zone 2 the amount of woody vegetation clearing shall not exceed 50 percent of the vegetation existing when the initial clearing is done. Vegetation clearing shall be done consistent with City standards and shall avoid/minimize impacts to covered species to the maximum extent possible. For all new development, regardless of the ownership, the brush management in the Zone 2 area will be the responsibility of a home-owner's association or other private party.



- **Noise** - Construction noise that exceeds the maximum levels allowed (60 dB or greater at the beginning edge of the habitat) shall be avoided during the breeding seasons for the following: CA gnatcatcher (3/1-8/15). If construction is proposed during the breeding season for the species the following measures are required.

34. Prior to the issuance of any grading permit, the City Manager (or appointed designee) shall verify that the Multi-Habitat Planning Area (MHPA) boundaries and the following project requirements regarding the coastal California gnatcatcher are shown on the construction plans:

NO CLEARING, GRUBBING, GRADING, OR OTHER CONSTRUCTION ACTIVITIES SHALL OCCUR BETWEEN MARCH 1 AND AUGUST 15, THE BREEDING SEASON OF THE COASTAL CALIFORNIA GNATCATCHER, UNTIL THE FOLLOWING REQUIREMENTS HAVE BEEN MET TO THE SATISFACTION OF THE CITY MANAGER:

A. A QUALIFIED BIOLOGIST (POSSESSING A VALID ENDANGERED SPECIES ACT SECTION 10(a)(1)(A) RECOVERY PERMIT) SHALL SURVEY THOSE HABITAT AREAS WITHIN THE MHPA THAT WOULD BE SUBJECT TO CONSTRUCTION NOISE LEVELS EXCEEDING 60 DECIBELS [dB(A)] HOURLY AVERAGE FOR THE PRESENCE OF THE COASTAL CALIFORNIA GNATCATCHER. SURVEYS FOR THE COASTAL CALIFORNIA GNATCATCHER SHALL BE CONDUCTED PURSUANT TO THE PROTOCOL SURVEY GUIDELINES ESTABLISHED BY THE U.S. FISH AND WILDLIFE SERVICE WITHIN THE BREEDING SEASON PRIOR TO THE COMMENCEMENT OF ANY CONSTRUCTION. IF GNATCATCHERS ARE PRESENT, THEN THE FOLLOWING CONDITIONS MUST BE MET:

- I. BETWEEN MARCH 1 AND AUGUST 15, NO CLEARING, GRUBBING, OR GRADING OF OCCUPIED GNATCATCHER HABITAT SHALL BE PERMITTED. AREAS RESTRICTED FROM SUCH ACTIVITIES SHALL BE STAKED OR FENCED UNDER THE SUPERVISION OF A QUALIFIED BIOLOGIST; AND
- II. BETWEEN MARCH 1 AND AUGUST 15, NO CONSTRUCTION ACTIVITIES SHALL OCCUR WITHIN ANY PORTION OF THE SITE WHERE CONSTRUCTION ACTIVITIES WOULD RESULT IN NOISE LEVELS EXCEEDING 60 dB (A) HOURLY AVERAGE AT THE EDGE OF OCCUPIED GNATCATCHER HABITAT. AN ANALYSIS SHOWING THAT NOISE GENERATED BY CONSTRUCTION ACTIVITIES WOULD NOT EXCEED 60 dB (A) HOURLY AVERAGE AT THE EDGE OF OCCUPIED HABITAT MUST BE COMPLETED BY A QUALIFIED ACOUSTICIAN (POSSESSING CURRENT NOISE ENGINEER LICENSE OR REGISTRATION WITH MONITORING NOISE LEVEL EXPERIENCE WITH LISTED ANIMAL SPECIES) AND APPROVED BY THE CITY MANAGER AT LEAST TWO WEEKS PRIOR TO THE COMMENCEMENT OF CONSTRUCTION ACTIVITIES. PRIOR TO THE COMMENCEMENT OF CONSTRUCTION ACTIVITIES DURING THE BREEDING SEASON, AREAS RESTRICTED FROM SUCH ACTIVITIES SHALL BE STAKED OR FENCED UNDER THE SUPERVISION OF A QUALIFIED BIOLOGIST; OR

AT LEAST TWO WEEKS PRIOR TO THE COMMENCEMENT OF CONSTRUCTION ACTIVITIES, UNDER THE DIRECTION OF A QUALIFIED ACOUSTICIAN, NOISE ATTENUATION MEASURES (e.g., BERMS, WALLS) SHALL BE IMPLEMENTED TO ENSURE THAT NOISE LEVELS RESULTING FROM CONSTRUCTION ACTIVITIES

WILL NOT EXCEED 60 dB(A) HOURLY AVERAGE AT THE EDGE OF HABITAT OCCUPIED BY THE COASTAL CALIFORNIA GNATCATCHER. CONCURRENT WITH THE COMMENCEMENT OF CONSTRUCTION ACTIVITIES AND THE CONSTRUCTION OF NECESSARY NOISE ATTENUATION FACILITIES, NOISE MONITORING\* SHALL BE CONDUCTED AT THE EDGE OF THE OCCUPIED HABITAT AREA TO ENSURE THAT NOISE LEVELS DO NOT EXCEED 60 dB (A) HOURLY AVERAGE. IF THE NOISE ATTENUATION TECHNIQUES IMPLEMENTED ARE DETERMINED TO BE INADEQUATE BY THE QUALIFIED ACOUSTICIAN OR BIOLOGIST, THEN THE ASSOCIATED CONSTRUCTION ACTIVITIES SHALL CEASE UNTIL SUCH TIME THAT ADEQUATE NOISE ATTENUATION IS ACHIEVED OR UNTIL THE END OF THE BREEDING SEASON (AUGUST 16).

Note: Construction noise monitoring shall continue to be monitored at least twice weekly on varying days, or more frequently depending on the construction activity, to verify that noise levels at the edge of occupied habitat are maintained below 60 dB (A) hourly average or to the ambient noise level if it already exceeds 60 dB (A) hourly average. If not, other measures shall be implemented in consultation with the biologist and the City Manager, as necessary, to reduce noise levels to below 60 dB(A) hourly average or to the ambient noise level if it already exceeds 60 dB(A) hourly average. Such measures may include, but are not limited to, limitations on the placement of construction equipment and the simultaneous use of equipment.

- B. IF COASTAL CALIFORNIA GNATCATCHERS ARE NOT DETECTED DURING THE PROTOCOL SURVEY, THE QUALIFIED BIOLOGIST SHALL SUBMIT SUBSTANTIAL EVIDENCE TO THE CITY MANAGER AND APPLICABLE RESOURCE AGENCIES WHICH DEMONSTRATES WHETHER OR NOT MITIGATION MEASURES SUCH AS NOISE WALLS ARE NECESSARY BETWEEN MARCH 1 AND AUGUST 15 AS FOLLOWS:
  - III. IF THIS EVIDENCE INDICATES THE POTENTIAL IS HIGH FOR COASTAL CALIFORNIA GNATCATCHER TO BE PRESENT BASED ON HISTORICAL RECORDS OR SITE CONDITIONS, THEN CONDITION A.III SHALL BE ADHERED TO AS SPECIFIED ABOVE.
  - IV. IF THIS EVIDENCE CONCLUDES THAT NO IMPACTS TO THIS SPECIES ARE ANTICIPATED, NO MITIGATION MEASURES WOULD BE NECESSARY.

**PLANNING/DESIGN REQUIREMENTS:**

- 35. A topographical survey conforming to the provisions of the SDMC may be required if it is determined, during construction, that there may be a conflict between the building(s) under construction and a condition of this Permit or a regulation of the underlying zone. The cost of any such survey shall be borne by the Owner/Permittee.
- 36. All signs associated with this development shall be consistent with sign criteria established by either the approved Exhibit "A" or City-wide sign regulations.
- 37. 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.

## **TRANSPORTATION REQUIREMENTS**

38. The automobile, motorcycle and bicycle parking spaces must be constructed in accordance with the requirements of the SDMC. All on-site parking stalls and aisle widths shall be in compliance with requirements of the City's Land Development Code and shall not be converted and/or utilized for any other purpose, unless otherwise authorized in writing authorized by the appropriate City decision maker in accordance with the SDMC.

39. ~~Prior to issuance of the first building permit~~ construction permit for the first building structure, the Owner/Permittee shall ~~provide a recorded Shared Parking Agreement between all affected properties, agree to install three standard parking spaces for the sole use of and located on the adjacent property (Derby Terrace Apartments) located at 14103 Old El Camino Real in the approximate location shown in Exhibit "A."~~ These parking spaces must be installed by Owner/Permittee prior to the first occupancy of the project, but only after the Owner/Permittee has completed the access road loop, in a condition satisfactory to the Fire Marshal and the City Engineer.

~~40. Prior to the issuance of any building permit, the Owner/Permittee shall provide a Mutual Access Agreement, satisfactory to the City Engineer.~~

40. Prior to the issuance of the first building permit, the Owner/Permittee shall provide fair share contributions to widen El Camino Real to four lanes between Half Mile Drive and Via de la Valle. The fair share contribution for this improvement to El Camino Real based on the Pacific Highlands Ranch PFFP is \$1,765 per unit.

41. Prior to the issuance of the first building permit, the Owner/Permittee shall provide fair share contributions to widen Via de la Valle to four lanes between San Andres Drive and El Camino Real (north of Via de la Valle). The fair share contribution for this improvement to Via de la Valle based on the Pacific Highlands Ranch PFFP is \$1,508 per unit.

## **PUBLIC UTILITIES DEPARTMENT REQUIREMENTS:**

42. Prior to the issuance of any building permits, the Owner/Permittee shall assure, by permit and bond, the design and construction of new water and sewer service(s) outside of any driveway or drive aisle and the abandonment of any existing unused water and sewer services within the right-of-way adjacent to the project site, in a manner satisfactory to the Public Utilities Director and the City Engineer.

43. The Owner/Permittee shall apply for a plumbing permit for the installation of appropriate private back flow prevention device(s), on each water service (domestic, fire and irrigation), in a manner satisfactory to the Public Utilities Director and the City Engineer. BFPDs shall be located above ground on private property, in line with the service and immediately adjacent to the right-of-way.

44. All proposed private water and sewer facilities are to be designed to meet the requirements of the California Uniform Plumbing Code and will be reviewed as part of the building permit plan check.

45. No trees or shrubs exceeding three feet in height at maturity shall be installed within ten feet of any sewer facilities and five feet of any water facilities.

46. Prior to the issuance of a construction permit for public improvements, the Owner/Permittee shall provide a recorded agreement between all affected properties for the required connection of the proposed project sewer lateral to the existing private sewer main; or a recorded copy of the Covenants, Conditions and Restrictions (CC&R) for the owners outlining the responsibility and maintenance requirements for their share of the private sewer system, satisfactory to the Public Utilities Department Director and the City Engineer.

**INFORMATION ONLY:**

- The issuance of this discretionary permit alone does not allow the immediate commencement or continued operation of the proposed use on site. Any operation allowed by this discretionary permit may only begin or recommence after all conditions listed on this permit are fully completed and all required ministerial permits have been issued and received final inspection.
- Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of this 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 June 15, 2021 and Resolution No. R-313606.

AUTHENTICATED BY THE CITY OF SAN DIEGO DEVELOPMENT SERVICES DEPARTMENT

\_\_\_\_\_  
Martin Mendez  
Development Project Manager

**NOTE: Notary acknowledgment  
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 and promises to perform each and every obligation of Owner/Permittee hereunder.**

**PARDEE HOMES**  
a California corporation  
Owner/Permittee

By \_\_\_\_\_

Name:

Title:

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

Passed by the Council of The City of San Diego on JUN 15 2021, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Joe LaCava	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jennifer Campbell	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Stephen Whitburn	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Monica Montgomery Steppe	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Marni von Wilpert	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Cate	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Raul A. Campillo	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Vivian Moreno	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sean Elo-Rivera	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage JUN 15 2021.

**(Please note: When a resolution is approved by the Mayor, the date of final passage is the date the approved resolution was returned to the Office of the City Clerk.)**

AUTHENTICATED BY: TODD GLORIA  
Mayor of The City of San Diego, California.

(Seal) ELIZABETH S. MALAND  
City Clerk of The City of San Diego, California.

By *HT Read*, Deputy

Office of the City Clerk, San Diego, California  
Resolution Number R- 313806