

#61C
6/29/21

(O-2021-134)

ORDINANCE NUMBER O- 21346 (NEW SERIES)

ADOPTED ON JUN 29 2021

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SAN DIEGO WAIVING PAYMENT OF DEVELOPMENT IMPACT FEES REQUIRED BY CHAPTER 14, ARTICLE 2, DIVISION 6 OF THE SAN DIEGO MUNICIPAL CODE FOR THE JUNIPERS PROJECT.

WHEREAS, CARMEL PARTNERS LLC, a Delaware Limited Liability Company (Permittee) is proposing development of 536 age-restricted residential units (a mix of attached and detached homes, including 81 affordable homes for low-income senior households), a 2.87 usable net acres public park (3.23 gross acres) and a 2.75-mile "social loop" trail that encompasses approximately 112.3 acres located east of Interstate 15, west of Peñasquitos Drive and south of Carmel Mountain Road, as legally described below, in the Rancho Peñasquitos Community Plan Area (Project); and

WHEREAS, the Project site is legally described as Parcel 3 of Parcel Map No. 21621, in the City of San Diego, County of San Diego, State of California, filed in the office of the County Recorder of San Diego County on September 13, 2018 as Instrument No. 2018-7000350 of official records, in the Rancho Peñasquitos Community Plan area, in the City of San Diego, California; and

WHEREAS, the Permittee requested waiving the Development Impact Fees pursuant to San Diego Municipal Code (Municipal Code) section 142.0640 in consideration for the design and construction of 2.87 useable net acres (3.23 gross acres) of population-based park land on Lots A and B within the Project that will be conveyed to the City at no cost, in addition to a 2.75-

mile "social loop" trail to be publicly-accessible and privately-maintained in perpetuity, therefore satisfying its requirements to provide park facilities needed to serve its development; and

WHEREAS, the requested waived Development Impact Fees population-based fee as identified in the City of San Diego General Plan for the Project's 536 age-restricted residential units and population of approximately 911 residents generates a demand of 2.55 acres of usable parkland, the Permittee's provision of a 2.87 usable net acres public park (3.23 gross acres), along with the 2.75-mile "social loop" trail (that will be publicly-accessible and privately-maintained) represents a public benefit provided by the Project in excess of Permittee's General Plan's park requirements; and

WHEREAS, the park component of the applicable Rancho Peñasquitos Development Impact Fee for the project would be approximately \$8,278,520 and the City and Permittee have determined an approximate cost of the 2.87 usable net acres to be over \$14,000,000, well exceeding the Development Impact Fees to be collected for parks; and

WHEREAS, the Permittee's delivery of a completed park project, designed and constructed in accordance with a public process as set forth in Council Policy 600-33, provides direct and immediate benefits to the community, with a streamline delivery of a critically needed park asset; and

WHEREAS, delivering this asset to the City within three years provides immediate value to the City because it can be delivered much sooner, with less overall costs to the City, where waiting on funding and construction of projects under the Development Impact Fee program could take up to ten additional years to acquire additional land, design, and construct parks in the community; and

WHEREAS, the matter was set for public hearing on June 15, 2021, with testimony having been heard, evidence having been submitted, and the Council of the City of San Diego (Council) having fully considered the matter and being fully advised concerning the same; and

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

BE IT ORDAINED, by the Council of the City of San Diego, as follows:

Section 1. That, notwithstanding the requirements of Municipal Code section 142.0640, the Permittee may satisfy its obligations set forth in Chapter 14, Article 2, Division 6 of the Municipal Code and shall not be subject to payment of Development Impact Fees related to parks for the Project if the Permittee designs and constructs a 2.87 useable net acres (3.23 gross acres) population-based park onsite in accordance with Condition No. 49 in PLANNED DEVELOPMENT PERMIT NO. 2419770 / SITE DEVELOPMENT PERMIT NO. 2073790, and designs and constructs the 2.75 mile "social loop" trail in accordance with Condition No. 59 in PLANNED DEVELOPMENT PERMIT NO. 2419770 / SITE DEVELOPMENT PERMIT NO. 2073790. All other impact fees shall be applied to the Project according to the approved fee schedule on file with the City Clerk.

Section 2. That a full reading of this Ordinance is dispensed with prior to its final passage, a written or printed copy having been made available to the Council and the public a day prior to the its final passage.

Section 3. That if the SDCRAA finds this Ordinance consistent with the Airport Land Use Compatibility Plans (ALUCP) for San Diego International Airport and Montgomery Field

(collectively Airports), this Ordinance shall take effect and be in force on the thirtieth day from and after the finding of consistency, or on the thirtieth day from and after its final passage, or the date that R-2021-491, adopting amendments to the Rancho Peñasquitos Community Plan becomes effective, whichever is later.

Section 4. That if the SDCRAA determines that this Ordinance is inconsistent or conditionally consistent, subject to proposed modifications, with the ALUCPs for the Airports, the Ordinance shall be submitted to the City Council for reconsideration.

Section 5. That if the SDCRAA determines that this Ordinance is conditionally consistent with the ALUCPs for the Airports, but that consistency is subject to proposed modifications, the City Council may amend this Ordinance to accept the proposed modifications, and this Ordinance as amended shall take effect and be in force on the thirtieth day from and after its final passage, or the date that R-2021-491, adopting amendments to the Rancho Peñasquitos Community Plan becomes effective, whichever is later.

Section 6. That a proposed decision by the City Council to overrule a determination of inconsistency or to reject the proposed modifications for a finding of conditional consistency shall include the findings required pursuant to California Public Utilities Code section 21670 and require a two-thirds vote. The proposed decision and findings shall be forwarded to the SDCRAA, the California Department of Transportation, Division of Aeronautics, and the airport operators for the Airports. The City Council shall hold a second hearing not less than 45 days from the date the proposed decision and findings were provided, at which hearing any comments submitted by the public agencies shall be considered and a final decision to overrule a determination of inconsistency shall require a two-thirds vote.

Section 7. That if the City Council makes a final decision to overrule a determination of inconsistency, this Ordinance shall take effect and be in force on the thirtieth day from and after that final decision, or the date that R-2021-491, adopting amendments to the Rancho Peñasquitos Community Plan becomes effective, whichever is later.

Section 8. No building permits for development inconsistent with the provisions of this Ordinance shall be issued unless complete applications for such permits are submitted to the City prior to the date on which the applicable provisions of this Ordinance become effective, which date is determined in accordance with Sections 3-7, above.

APPROVED: MARA W. ELLIOTT, City Attorney

By /s/ Shannon C. Eckmeyer
Shannon C. Eckmeyer
Deputy City Attorney

SCE:sc
05/25/2021
Or.Dept: DSD
Doc.No.:2667970

Passed by the Council of The City of San Diego on JUN 29 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 29 2021

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 Linda Bruin, Deputy

I HEREBY CERTIFY that the foregoing ordinance was not finally passed until twelve calendar days had elapsed between the day of its introduction and the day of its final passage, to wit, on JUN 15 2021, and on JUN 29 2021.

I FURTHER CERTIFY that said ordinance was read in full prior to passage or that such reading was dispensed with by a vote of five members of the Council, and that a written copy of the ordinance was made available to each member of the Council and the public prior to the day of its passage.

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

By Linda Bruin, Deputy

Office of the City Clerk, San Diego, California

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