



THE CITY OF SAN DIEGO

REPORT TO THE PLANNING COMMISSION

DATE ISSUED: September 10, 2009 **REPORT NO. PC-09-069**

ATTENTION: Planning Commission, Agenda of September 17, 2009

SUBJECT: ERMA ROAD - PROJECT NO. 137944.
PROCESS 5.

REFERENCE: Planning Commission Report No. P-07-146

OWNER/ H.G. Fenton Development Company LLC (Attachment 14)

APPLICANT: Karen Ruggels

SUMMARY

Issue(s): Should the Planning Commission recommend City Council approval to construct 95 residential condominium units located at 9889 Erma Road within the Scripps Miramar Ranch Community Planning area?

Staff Recommendation:

1. Recommend City Council **CERTIFY** Mitigated Negative Declaration No. 137944 and **ADOPT** the Mitigation, Monitoring and Reporting Program;
2. Recommend City Council **APPROVE** Community Plan Amendment No. 571215, Rezone No. 571217, Vesting Tentative Map No. 571214, and Planned Development Permit No. 571238;
3. Recommend City Council **CANCEL** Site Development Permit No. 153465 with the exception of the approval to allow public right-of-way encroachment of private storm drains and, **RESCIND** Vesting Tentative Map No. 178023 (Project No. 53037, "Scripps Wisteria").

Community Planning Group Recommendation: On July 2, 2009, the Scripps Miramar Ranch Community Planning Group recommended approval of the project by a vote of 12-0-0 with two stipulations (Attachment 15). Reference the Discussion section of the

report.

Environmental Review: A Mitigated Negative Declaration No. 137944 has been prepared for the project in accordance with State of California Environmental Quality Act (CEQA) Guidelines. A Mitigation Monitoring and Reporting Program has been prepared and would be implemented which will reduce, to a level of insignificance, any potential impacts identified in the environmental review process.

Fiscal Impact Statement: None with this project. All costs associated with the processing of this project are paid in a deposit account maintained by the applicant.

Housing Impact Statement: The proposed project would change the existing land use designation from Commercial to Residential- High-Medium. Based on this land use designation, the project site could accommodate between 59 and 114 dwelling units where none presently exist. The project would include the construction of 95 dwelling units and is within the proposed density range. The proposed project would comply with the City's Affordable Housing Regulations by payment of the Inclusionary Housing In-Lieu Fee.

The two parcels located directly east of the subject site and west of Scripps Ranch Boulevard will also be included as part of this redesignation request to reflect existing conditions. The northern parcel has been developed with 62 dwelling units and the southern parcel has been developed with 67 dwelling units. Both parcels have been developed at the top end of the proposed land use designation density range (29 dwelling units per acre). The resulting redesignation of these two parcels will not result in a gain or loss of housing units.

BACKGROUND

The proposed project is the construction of a 95-unit residential development and associated amenities on a 3.92-acre vacant site located at 9889 Erma Road, north of Mira Mesa Boulevard. The site is designated as Professional Office in the Scripps Miramar Ranch Community Plan and zoned CO-1-2, Commercial-Office (Attachments 1 and 2). In addition, the project would also re-designate two adjacent parcels to the east as shown on Attachment 21 (2.15 and 2.29 acres, respectively). The property is located within the Residential Tandem Parking Overlay Zone. The previously disturbed site does not contain environmentally sensitive lands, nor is it located within or adjacent to the Multi-Habitat Planning Area. The property is a level graded pad which slopes slightly to the north. Within the rear portion of the site, south-facing fill slopes reach a height of 50 feet. Within the west and east portion of the property, existing cut and fill slopes extend to a height of 30 and 15 feet respectively. There is an approximate 60-foot grade difference within the site from the bottom of the slope at the southeastern corner (520 Mean Sea Level) to the northwestern corner of the site (582 Mean Sea Level). Surrounding uses include multi-family development across Erma Road to the north and east, and commercial developments to the south and west.

The site is entitled under Project No. 53037, a Site Development Permit and Vesting Tentative Map approved by the City Council on October 6, 2006 for the "Scripps Wisteria" project, a

mixed use development for 114 residential units and 30 commercial condominium spaces. The Site Development Permit was required for an affordable housing project with deviations to the underlying zone regulations and, for a public right-of-way encroachment of private storm drains. Subsequent to the approval of the Scripps Wisteria project, the property was sold to H.G. Fenton Development Company LLC. Implementation of the current proposal requires the cancellation and rescission of the Scripps Wisteria Project approvals with the exception of the Site Development Permit approval for the public right-of-way encroachment.

On November 7, 2006, the Planning Commission approved the initiation of an amendment to the Scripps Miramar Ranch Community Plan to consider a re-designation of the site and two adjoining parcels from Commercial-Professional Office to High Medium Density Residential and directed staff to consider other issues related to the proposed plan amendment. A Community Plan Amendment is needed because the Commercial-Professional Office land use designation does not allow 100% residential development, which is being proposed. The analyses of issues raised by the Planning Commission at the initiation hearing are included as a separate attachment to this report (Attachment 12).

The Erma Road Project requires several actions to approve the project. A Community Plan Amendment is necessary to re-designate the subject property and two adjoining parcels from Professional Office to Residential-Multiple Unit (15–29 dwelling units per acre). A Rezone is required from the CO-1-2 zone to the RM-2-5 zone. The CO-1-2 zone allows residential development with a commercial component. The land use re-designation and the rezone are necessary in order to allow exclusively residential development. Under the existing zone and land use designation, up to 114 units could be developed on the site therefore these actions do not propose an increase in density above what is currently allowed. A Planned Development Permit is required for the development of 95 condominium units with deviations to the Land Development Code (LDC) for setback and fence requirements. Last, the proposal requires the Cancellation of Site Development Permit No. 153465 with the exception of the Site Development Permit approval for the public right-of-way encroachment, and the Rescission of Vesting Tentative Map No. 178023.

DISCUSSION

Project Description

The Erma Road project proposes the construction of 95 multi-family residential dwelling units within eight, three-story, above-garage building complexes totaling approximately 12,786 square feet. The complex includes a leasing facility, fitness facility and outdoor pool and recreation area. The residential units are located in one 9-plex, one 11-plex, four 12-plexes, one 13-plex and one 14-plex building (s). The project includes 87 two-bedroom units and 8 three-bedroom units. Each unit would have two garaged parking spaces either as tandem or side by side for a total of 190 parking spaces. The guest parking requirement is 45 spaces. The 45 guest parking spaces are dispersed throughout the site. The project provides the minimum requirement of 235 parking spaces. Vehicular access to the site is proposed from one driveway on Erma Road with the main drive aisle extending north to south through the site. Each building complex would have a vehicular courtyard connecting to the main drive aisle to access each garage and a balcony and/or

covered porch on one or more levels. The project proposes 41,364 square feet of open space areas within private usable spaces within each unit, recreation areas at the rear of the site, and other landscaped areas dispersed throughout the development. The project complies with all of the regulations of the RM-2-5 zone with the exception of the 20-foot front setback, the 28-foot east and west interior side setbacks, and retaining wall/fence heights.

The two parcels located directly east of the subject site and west of Scripps Ranch Boulevard will be included in this amendment to reflect existing conditions (Attachment 20). These two parcels have been developed as 100% residential prior to the update of the zoning code, which allowed residential development in commercial zones without a commercial component. Both parcels have been developed at the proposed land use designation of High Medium Density Residential (15-29 dwelling units per acre).

Environmental Analysis

City staff conducted an Initial Study which determined the proposed project could have a significant environmental effect. Subsequent revisions in the proposed project design would create the specific mitigation identified in Section V of the Mitigated Negative Declaration. The revised project would now avoid or mitigate potentially significant environmental effects identified by earlier staff analysis. A Mitigation, Monitoring, and Reporting Program, as specified in Mitigated Negative Declaration No. 137944, would be required to address the potential impacts resulting from the implementation of the project. Mitigation would be required in the following areas: Biological Resources, Public Utilities (Solid Waste generation/Disposal) and Noise. No other mitigation would be required to reduce impacts as a direct result of the project.

COMMUNITY PLAN ANALYSIS

The proposed project located in the Scripps Miramar Ranch Community Planning Area, includes the re-designation of a 3.92 acre parcel from Commercial (Professional Office) to High Medium Density Residential (15-29 dwelling units per acre). A plan amendment is needed for the proposed project to develop 100% residential, which is not permitted by the Commercial-Professional Office land use designation. Based on this designation, the site could accommodate between 60-114 dwelling units. The accompanying development project is proposing to construct 95 dwelling units. The subject parcel is described as being in Area "A" in the Scripps Miramar Ranch Community Plan which has a total dwelling unit allocation of 608 units. The proposed development project would add an additional 95 dwelling units to the current allowance of 608 units. Additionally, the two parcels located directly east of the subject site and west of Scripps Ranch Boulevard will be included in this amendment to reflect existing conditions. These two parcels have been developed at the proposed land use designation of Residential-Medium (15-29 dwelling units per acre) and account for the remaining proposed dwelling unit increase for Area "A." Therefore, the amendment would increase the total dwelling unit count allowance for Area "A" to 852.

The proposed project includes deviation requests for reduction in the front and side yard setbacks, and a height deviation for proposed retaining walls. Deviation requests to these setback

minimums do not substantially encroach into the front or side yards. The requested front and side yard encroachment does not adversely impact the community plan. The second deviation request to allow retaining walls of greater height than what is currently allowed is primarily within the rear yard setback on the southern slope of the project site. The southern slope will be replanted with numerous trees and thick foliage to help mitigate the visual impact of these retaining walls. The retaining walls will also be required to have at least 80% coverage with vines or similar organic material within a two year timeframe. Design features to reduce the visual impact of the retaining walls, as referenced above, have been determined to be sufficient and this variance would not adversely impact the community plan.

General Plan Conformance

The City's General Plan Land Use and Community Planning Element contains policy direction to maintain or increase the City's supply of land designated for various residential densities as community plans are prepared, updated, or amended. The same element includes policy language for the redesignating or limiting of lands designated for commercial uses as appropriate. The proposed project would address both of these policy directives by providing an additional 95 dwelling units to the City's housing stock and by redesignating the subject parcel from Commercial to Residential-Medium. Previous development on the project site as an office building did not prove successful, and the most recent building on site has such been demolished by a previous owner. A market demand analysis was provided for the site which found both retail and office uses to be infeasible for this site. The market demand analysis (Attachment 12) also illustrates the need for more market-rate apartment units in the San Diego region.

A major goal within the General Plan's Mobility Element states the need for residences to be within close proximity to parks, schools, shopping, employment, and transit stops. This goal would be addressed by the location of the proposed project being in close proximity to shopping and employment sites along Mira Mesa Boulevard and Scripps Ranch Boulevard, transit stops on Mira Mesa Boulevard, and near several neighborhood parks (such as Spring Canyon Park, Westview Park, and Hourglass Field). Three elementary schools, two secondary schools, one high school, and two colleges (Miramar Community College and Alliant International University) are all in close proximity to the project site. The project would support the Mobility Element by providing several pedestrian connections between the existing sidewalk system and units fronting Erma Road. Additionally, a pedestrian path will encompass the project site providing a continuous network for residents to utilize the existing sidewalk and bike path network.

The Urban Design Element includes major goals of promoting development that provides such features as: visual diversity, choice of lifestyle, opportunities for social interaction, and that respects desirable community character and context. A major policy of this element indicates the need to design buildings that contribute to a positive neighborhood character and relate to neighborhood and community context. The Erma Road project proposal would address the above mentioned goal and policy by providing a visually interesting, varied, and cohesive building design both between and within individual buildings. Social interaction is encouraged through a site design that promotes walking through the site by way of a perimeter pathway, drive-lane permeable pavers demarking pedestrian walkways, walk aisles between buildings, and amenities such as benches and seating areas throughout the site. The proposed project would be compatible

with the surrounding residential developments in height, scale, bulk, and density.

The Economic Prosperity Element outlays several points for analysis when considering a redesignation of lands from commercial to residential or mixed-use. These points include site locations making commercial development infeasible, where existing lands are underutilized, and where good transit and bicycle/pedestrian connectivity exist to employment areas. Per the market analysis, it has been determined that the project site would not be recommended for further commercial development due to several commercial and retail uses failing at this location, and the site has remained a vacant lot for an extended period of time. In addition, the subject site is within walking distance of transit services on Mira Mesa Boulevard that provide connectivity with employment areas. Staff has analyzed these factors and determined that the proposed project will not adversely impact the Economic Prosperity Element.

The Public Facilities, Services and Safety Element strives to ensure that public services such as Fire-Rescue, Police, Wastewater, Storm Water, Water Infrastructure, Waste Management, Libraries, and Schools are adequately provided and available without adversely affecting current service levels. Staff has determined that adequate facilities for delivering such public services are in place to accommodate the proposed development. The applicant will be required to pay the appropriate Development Impact Fee (DIF) that is based on the applicable multi-family DIF fee. The applicant will also be subject to a Regional Transportation Congestion Improvement Program (RTCIP) fee at per unit built rate.

Sustainability goals within the Conservation Element have been addressed by the design of the project complemented by the dense pattern of development that concentrates growth in areas that have already been developed and does not promote sprawl. Additionally, the proposal would incorporate conservation features such as solar-powered common amenities (fitness center, pool and spa), using recycled building materials for construction, energy-efficient appliances, and the utilization of tuck-under garages to reduce surface parking. In addition, the project would seek to provide other sustainable features such as the inclusion of permeable pavers to reduce run-off and impervious surface cover, high-efficiency laundries, low-flow water fixtures, and Electric Vehicle Charging Stations in each garage to promote electric vehicle use. The applicant will be applying for Leadership in Energy and Environmental Design (LEED) certification.

Project-Related Issues:

Planned Development Permit (PDP) Analysis (Reference Attachment 19 Sheet 2 of 26):

The project requires a PDP for three deviations to the front and interior side setback requirements and to the fence/retaining wall regulations. The purpose of the PDP is to provide flexibility in the application of development regulations for projects where strict application of the base zone regulations would result in a less desirable project. The intent of the regulations is to accommodate to the greatest extent possible, an equitable balance of development types, intensities, styles, site constraints, project amenities, public improvements, community and City benefits.

The PDP contains additional development regulations which outline density limitations, open

space requirements and traffic circulation requirements. The number of units allowed in the zone shall not exceed that within the land use plan. Total open space areas must be provided at 190 square feet per dwelling unit or 18,050 square feet for the proposed development. The proposed development is providing 41,634 square feet of open space. For developments proposing 10 or more dwelling units, one additional recreational amenity must be provided such as a pool, barbeque area or shade structure. The project proposes a swimming pool, spa, and fitness center, exceeding the requirements of the Land Development Code. Parking areas and access drives should be located to avoid conflicts with internal pedestrian systems and adjacent properties. The project proposes a single driveway to access garage courtyards designed with decorative paving in order to differentiate their function from other walkways and drive aisles on the site, alerting pedestrians to the potential presence of automobiles. The project entry driveway is located at least 100 feet from the project's west and east boundaries, providing plenty of space between the project and existing developments so as to not impede their entries or traffic flow.

Minor deviations to the zone development regulations have been incorporated into the project design as noted below:

1. The RM-2-5 zone requires that 50 percent of the building observe a minimum 15'-0" front setback while the remaining 50 percent may observe a 20'-0" front setback. The project proposes two buildings fronting Erma Road for a combined building wall length of approximately 157 linear feet. Sixty-three feet six inches observe a 15'-0"- 20'-0" setback. The remaining 53'-6" would observe the 20'-0" setback. Thirty-one feet of the building walls would observe an 11'-3" to 15'-0" front yard. The project proposes 61 percent of building wall observing the 15'-0" front yard.
2. The RM-2-5 zone requires a 28'-10" interior side setback for this site calculated at 10 percent of the width of the lot. The project proposes to allow two of the structures on the east side of the property to observe varying setbacks of 16'-2" to 26'-9" at the closest point. On the western boundary, a varying setback of 15'-12" to 23'-5" setback is proposed for all of the structures.
3. The project requires the construction of retaining walls around the perimeter of the property and continuing around the northeast and northwest corners at the front of the site within the front setback area. Within the front setback the majority of the retaining wall will range in height from 1.0 feet to 5'-6" where 3'-0" is allowed. The majority of the wall will range from 1'-0" to 5'-6" in height. A small portion of the retaining wall at the northeast corner would be 9'-6" in height. This wall is below street grade and supports the slope adjacent to Erma Road to create a pedestrian walkway adjacent to the buildings. Reference Attachment 19, Sections C-C and D-D of the Landscape Concept Plan, sheet 22 of 24.
4. A maximum 18'-0" high retaining wall is proposed within the rear of the site, outside of the setback area. Noise attenuation measures require a 3'-0" to 5'-0" high barrier above a portion of this wall located around the outdoor recreation area, resulting in an overall height of 23'-0". The noise attenuation barrier is proposed to be clear glass or Plexiglas. The fence regulations limit wall heights to 12'-0" outside of the setback. The total length

of this wall at the rear is 290 linear feet. Eighty linear feet will exceed the height limit. Reference Attachment 19, Section B-B and Perspectives A and B of the Landscape Concept Plan (sheet 22 of 24).

The property contains unusual circumstances that are not of the making of the applicant. The site is elongated and narrow in shape. The majority of the graded site is level with street grade however the site's south, east and west slopes contain varying topographic conditions. The project is an infill development located adjacent to established developments including two-story multi-family to the east and across Erma Road to the north, one and three story commercial office uses to the west, and a multi-level hotel use and commercial retail center to the south. The multi-family developments to the east are approximately 16'-0" and 2'-0" higher in grade than the subject site. The commercial office uses to the south are approximately 52'-0" lower in grade than the subject site. The commercial office uses to the west are approximately 28'-0" lower in grade.

The encroachments into the front yard area for portions of the building allowing a minimum 11'-3" front yard where 15'-0" is required for a minimum of 50 percent of the building wall and, encroachments into the required 28'-0" west and east interior side yards are mitigated by various measures. The project was designed to be pedestrian-oriented with front facades providing building offsets and varying color schemes, windows, doors and balconies facing the street. The buildings have been sited to be off-set, not parallel to, the front property lines to promote visual interest and walkability along the streetscape. Siting the buildings closer to the street reduces the amount of grading required in the fill slopes at the rear. Side yard encroachments are mitigated by the offset building designs and by the topography of the site which creates a natural buffer from the adjoining multi-family development to the east and the commercial development to the west. These properties have varying pad elevations in relation to the subject property which further serves to mitigate for the encroachment of the buildings. These adjacent developments also have open surface parking areas adjacent to the subject property which provides an additional buffer.

Implementation of the project requires the construction of a series of retaining walls along the perimeter to stabilize slopes, support the development pad, and to create pedestrian connections throughout the site. The overheight retaining wall along the front extends to a height of 9'-6" where 3'-0" is allowed, however, this wall is below street grade, rendering the overheight condition visible only when viewed on-site. The wall is necessary to maintain the slope adjacent to Erma Road and facilitates the construction of a pedestrian walkway in front of the buildings. This retaining wall would be constructed of natural-tone splitface block with cascading vines for screening. The wall also serves to buffer the residents walking along the perimeter of the development from the traffic on Erma Road.

A maximum 18'-0" high retaining wall is proposed within the rear portion of the property. Portions of this wall are required to have a 3'-0" to 5'-0" noise attention barrier resulting in a maximum height of 23 linear feet exceeding the 12'-0" allowable height limit. This area of the site contains extreme topographic conditions with slopes descending to approximately 52'-0" from the building pad elevation to the commercial development to the south. The slope currently contains mature eucalyptus trees, shrubs and ground cover. The top of the retaining wall will be

at-grade with the project site, and the bottom of the retaining wall will originate mid-way up the existing slope that elevationally separates the existing uses to the south and the Erma Road project area. Additionally, the retaining wall will be curved, providing relief and definition and avoiding a straight line wall effect. Similar to other proposed retaining walls, this wall will be carefully landscaped to screen it from the existing uses adding visual interest to the slope on the south side of the project site. Clinging vines will be planted along the retaining wall which will be constructed of splitface block in a natural tone consistent with the other retaining walls on-site. Additional dense slope plantings will be utilized to screen the wall.

The Planned Development Permit ordinance contains criteria for development design to evaluate proposed development in conjunction with the required findings. The project incorporates each of these measures as summarized below:

1. Development design should be comprehensive and should demonstrate the relationships of the development on site with off-site developments. The overall development design for the Erma Road project is comprehensive, taking into mind the bulk, scale and character of neighboring uses and development. The project fits into the existing multi-family character that surrounds it to the east, southeast, and north. The building height has been limited to a height that is consistent and complementary to surrounding low rise residential buildings. Because the project will be developed as two stories of residential over a parking garage, the actually dwelling unit type is consistent with the two-story character of the neighborhood.
2. The scale of the project should be consistent with the dominant neighborhood. The project site is comprised of eight buildings designed to integrate into the community and topography. The site is currently a completely graded vacant lot and no disturbance of native vegetation or environmental resources will occur. The two-story residential development with one story, tuck-under parking is consistent with other developments in the area.
3. Projects should avoid repetitious development patterns that are inconsistent with the goals of the land use plan and should reduce the appearance of actual or apparent bulk. Buildings should be well integrated into, oriented towards and relate to the topographic features of the site. The project buildings will avoid monotonous repetition of development patterns by using multiple buildings rather than one large structure. The roofline of the project will be articulated with varying heights, pitches, and overhangs. Space between buildings as well as garage access courtyards also serve to break up the building mass and add visual interest and interactivity. Roof and building materials will complement each other. Natural tones will be utilized to blend with the natural environment.
4. Landscaping should be use to the greatest extent possible to soften the appearance of blank walls and buildings edges. Excess landscaped areas are provided to soften the appearance of blank spaces in walls, and to screen retaining walls and vegetate slopes. Streetscape planting will be utilized to provide a buffer from the street and to create a pleasant pedestrian walkway. The mature eucalyptus trees located on the western side of

the property will be preserved to the extent feasible, protecting grove-like tree character indicative of Scripps Ranch. Additionally, new plantings will include eucalyptus and other approved tree and plant species from the Scripps Miramar Ranch Community Plan, so as to be cohesive and supportive of the established community character.

The proposed deviations to the setback and retaining wall regulations are minor in scope and will be mitigated through the use of additional site design features. The site contains unique circumstances not of the making of the applicant which impose design constraints. Project implementation requires traffic improvements at the intersection of Mira Mesa Boulevard and within the public right-of-way. The deviations will facilitate the new residential development consistent with the currently allowed density range of the community plan, thereby providing additional housing stock for the community in a quality residential development that exceeds the minimum open space requirements, provides for enclosed parking for the residents and project amenities. Staff analysis is that the requested minor deviations are consistent with the PDP regulations and will result in a more desirable project than would be achieved if designed in strict conformance with the development regulations of the zone. The project provides amenities, public improvements, and community and City benefits.

Community Planning Group Vote

On July 2, 2009, the Scripps Miramar Ranch Planning Group recommended approval of the project by a vote of 12-0-0 provided the owners required a deed restriction stipulating that parking garages be used only for vehicles and that the developer pay \$60,000.00 in fair share contribution toward the widening of Scripps Ranch Boulevard at Erma Road. The applicant has indicated that they will require the deed restriction. The Land Development Code requires that off street parking be used solely for the parking of vehicles. Condition No. 31 of the draft Site Development Permit requires that the Owner/Permittee pay fifty percent of the cost not to exceed \$60,000 for improvements at the intersection of Scripps Ranch Boulevard and Erma Road.

CONCLUSION

Staff has reviewed the proposed project and all issues identified through the review process have been resolved in conformance with adopted City Council policies and regulations of the Land Development Code. Staff is recommending the Planning Commission recommend the City Council approve the project as proposed.

ALTERNATIVES:

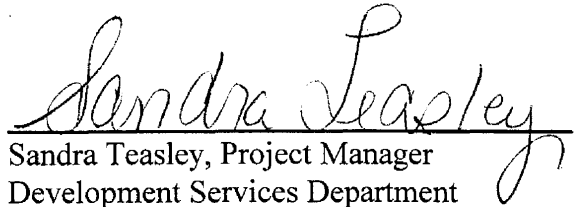
- 1. Recommend that City Council approve** Community Plan Amendment No. 571215, Rezone No. 571217, Vesting Tentative Map No. 571214, and Planned Development Permit No. 571238, Cancellation of Site Development Permit No. 153465 with the exception of the approval to allow public right-of-way encroachment of private storm drains and, Rescission of Vesting Tentative Map No. 178023 **with modifications.**
- 2. Recommend that City Council deny** Community Plan Amendment No. 571215, Rezone No. 571217, Vesting Tentative Map No. 571214, and Planned Development Permit No. 571238,

Cancellation of Site Development Permit No. 153465 with the exception of the approval to allow public right-of-way encroachment of private storm drains and, Rescission of Vesting Tentative Map No. 178023, **if the findings required to approve the project cannot be affirmed.**

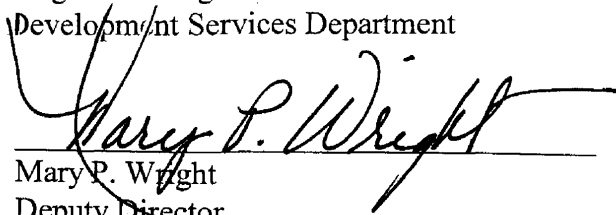
Respectfully submitted,



Mike Westlake
Program Manager
Development Services Department



Sandra Teasley, Project Manager
Development Services Department



Mary P. Wright
Deputy Director
City Planning & Community Investment Department

BROUGHTION/SMT

Attachments:

1. Aerial Photograph
2. Community Plan Land Use Map (Existing)
3. Project Location Map
4. Draft Permit Resolution with Findings
5. Draft Permit with Conditions
6. Draft VTM Resolution with Findings
7. Draft Amended Community Plan
8. Draft CPA Resolution
9. Environmental Resolution with MMRP
10. Draft Rezone Ordinance
11. Rezone B Sheet
12. Planning Commission Initiation Issues/Analysis
13. Market Analysis
14. Ownership Disclosure Statement
15. Community Planning Group Recommendation
16. Project Data Sheet
17. Project Chronology
18. Site Development Permit No. 53465
19. Project Plans
20. Adjacent Included Parcels
21. Community Plan Amendment Location Maps
22. Renderings/Photo Simulations

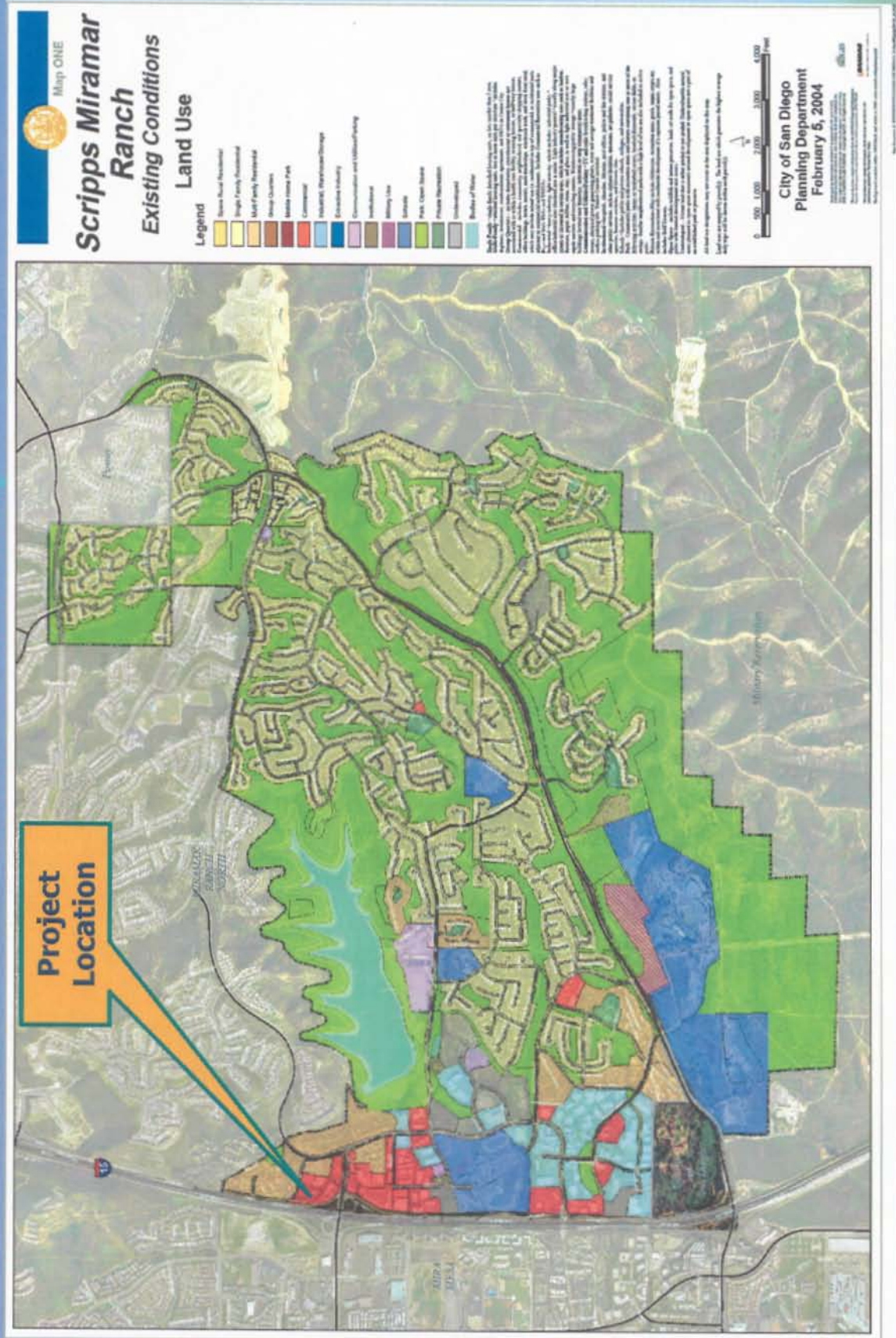
Development Services Department
Project Management Section

Aerial Photo



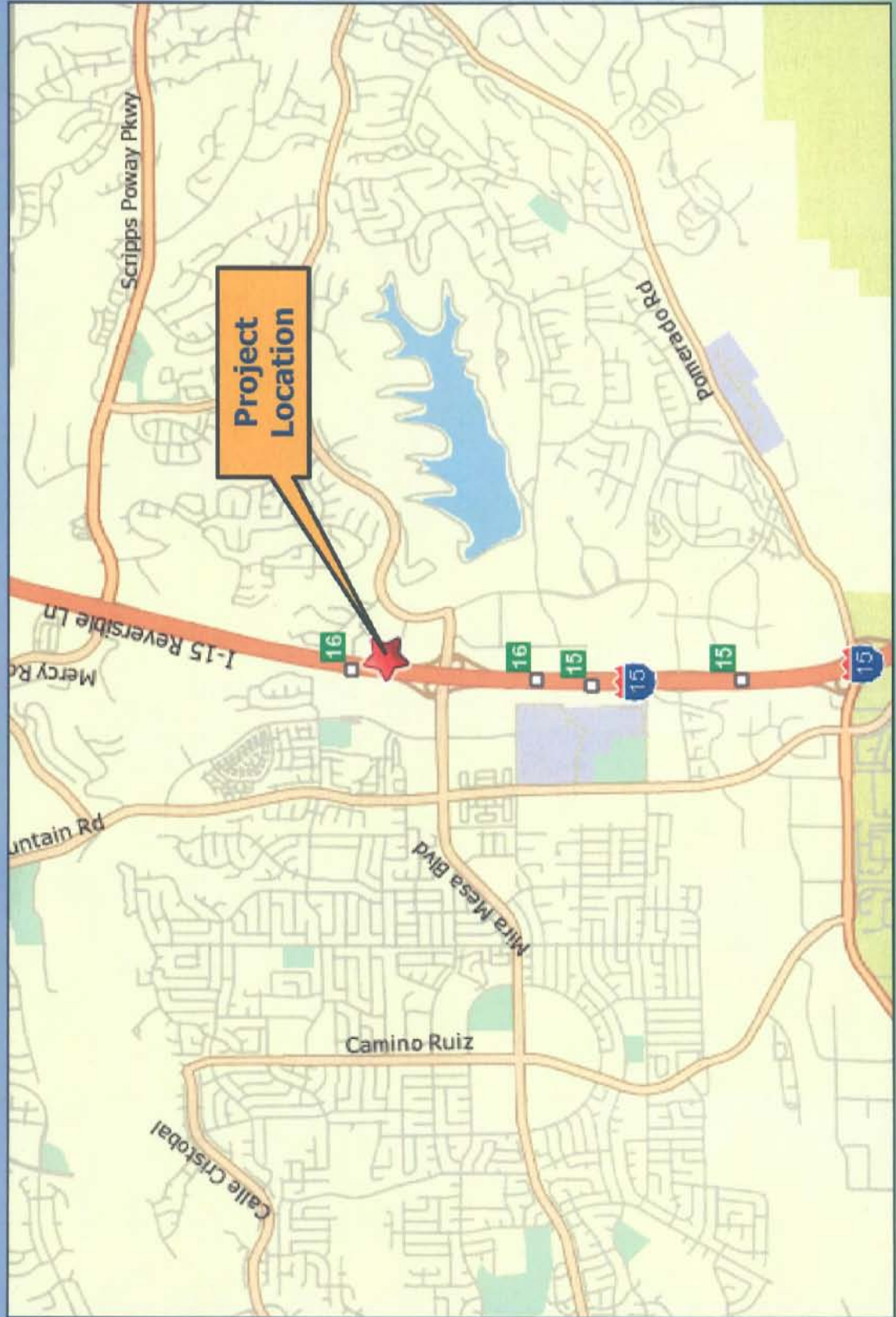
Development Services Department
Project Management Section

Land Use Map



Development Services Department
Project Management Section

Project Location Map



RESOLUTION NUMBER R-_____

DATE OF FINAL PASSAGE _____

A RESOLUTION APPROVING PLANNED DEVELOPMENT
PERMIT NO. 571238 – ERMA ROAD - PROJECT NO. 137944.

WHEREAS, H.G. FENTON DEVELOPMENT COMPANY LLC, Owner/Permitee,
filed an application with the City of San Diego for a planned development permit for the
construction of a 95 unit residential condominium development project, known as the Erma Road
project, located on one 3.92 parcel located at 9889 Erma Road, and legally described as Parcel 2
of Parcel Map 10259, in the Scripps Miramar Ranch Community Plan area, in the CO-1-2 zone
which is proposed to be rezoned to the RM-2-5 zone, and within the Airport Influence Area for
the Marine Corps Air Station (MCAS) Miramar, Federal Aviation Administration (FAA) Part 77
Noticing Area for the MCAS Miramar, and Residential Tandem Parking Overlay Area; and

WHEREAS, on September 17, 2009, the Planning Commission of the City of San Diego
considered Planned Development Permit No. 571238, and pursuant to Resolution No. _____,
the Planning Commission voted to recommend approval of the permit; and

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

WHEREAS, the matter was set for public hearing on _____,
testimony having been heard, evidence having been submitted, and the City Council having fully
considered the matter and being fully advised concerning the same; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that it adopts the following findings with respect to Planned Development Permit No. 571238:

A. **PLANNED DEVELOPMENT PERMIT SAN DIEGO MUNICIPAL CODE**
[SDMC] SECTION 126.0604

1. **The proposed development will not adversely affect the applicable land use plan.** The proposed community plan amendment would redesignate an approximately 3.92 acre site from Commercial to Residential-Medium (15-29 dwelling units per acre). Based on this designation, the site could accommodate between 60-114 dwelling units. The accompanying development project is proposing to construct 95 dwelling units. The proposed development 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 Erma Road development project proposes to construct 95 residential condominium dwelling units on a vacant 3.92 parcel, including on-site parking facilities, a leasing facility, a fitness facility and an outdoor pool and recreation area. A Mitigated Negative Declaration (MND) No. 137944 has been prepared for the project in accordance with State of California Environmental Quality Act (CEQA) guidelines, which addresses potential impacts to Biological Resources, Public Utilities (Solid Waste Generation/Disposal) and Noise. A Mitigation, Monitoring, and Reporting Program (MMRP) will be implemented with this project to reduce the potential impacts to a level below significance. This Planned Development Permit No. 571238 and the associated Vesting Tentative Map No. 571214 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 design of this subdivision and related improvements. Additionally, prior to the issuance of any building, grading or public improvement permits, all construction plans must comply with all relevant and applicable subdivision, engineering, building, electrical, mechanical and fire codes to assure the structures will meet or exceed the current regulations. As such, the proposed development will not be detrimental to the public health, safety, and welfare.
3. **The proposed development will comply with the regulations of the Land Development Code.** The Erma Road development project proposes to construct 95 residential condominium dwelling units within eight three-story above-garage building complexes totaling approximately 12,786 square feet, on a vacant 3.92 parcel. The project includes on-site parking facilities for 235 vehicles, a leasing facility, a fitness facility, an outdoor pool and recreation area. The proposed development complies with the regulations of the underlying RM-2-5 zone and site-specific development regulations for the property, excepting deviations proposed for front yard setback, side yard setback and retaining wall height. Deviations, as allowed by the approval of a Planned Development Permit (PDP), are as follows:

- Front Yard Setback: Allowing a deviation to observe an 11'-3" minimum front yard setback where 15'-0" is required and to allow 61 percent of the building to observe the 20'-0" standard setback where a maximum of 50 percent is permitted.
- Side Yard Setback: Allowing a deviation to allow a 23'-10" to 27'-8" foot west interior side yard setback and a 16'-2" to 26'-9" east interior side setback where 28'-0" is required.
- Wall Height: Allowing a deviation to allow installation of a retaining wall reaching a maximum height of 18'-0" (including a maximum five-foot high, free standing noise wall above portions of the retaining wall for a total overall height of 23'-0"), where a 12'-0" maximum is allowed outside of all setback areas, and, a 5'-6" to 9'-6" high retaining wall within the front setback where a maximum 3'-0" high wall is permitted.

The Land Development Code (Section 126.0602(b)(1)) allows deviations to be considered through the planned development permit process. Excepting the noted deviations, the proposed development complies with all other relevant regulations of the Land Development Code. Specific conditions of approval require the continued compliance with all relevant regulations of the City of San Diego effective for this site and have been written as such into Planned Development Permit No. 571238. Development of the property will meet all other requirements of these regulations. Concept plans for the project identify all other development criteria in effect for the site. The proposed project will comply with the applicable and relevant regulations of the Land Development Code, as allowed through the approval of Planned Development Permit No. 571238.

4. The proposed development, when considered as a whole, will be beneficial to the community. The project will provide several significant features, amenities and improvements in the community, and when considered as a whole, will be beneficial to the community. The project will provide 95 condominium housing units into the housing stock of the City of San Diego at a time in the history of the city when there is a housing shortage. The overall development design for the Erma Road project is comprehensive, taking into consideration the bulk, scale and character of neighboring uses and development. The project site is comprised of buildings that are designed to integrate into the community and topography. The site is currently a completely graded vacant lot; development will not disturb any sensitive resources or destroy any natural topography. To respect the stepped form of the topography, the building heights are set in such a way that result in varied elevations between the roofs of the project site and adjacent uses. Rather than building a large single building, the development has been broken into smaller structures to avoid monotonous repetition of development patterns. Rooflines will be articulated with varying height pitches and overhangs, and roof and building materials will complement each other with natural tones utilized to blend with the natural environment. Project landscaping has been designed to soften the appearance of blank spaces in walls, screen retaining walls, vegetate slopes, and will help to define the building edges and create a more pleasant pedestrian experience for residents and community members alike. Streetscape planting on Erma Road will provide a buffer from the street and create a visually enhanced pedestrian walkway.

The project will include sustainable features and will potentially encourage an eco-friendly example for further development and redevelopment in the community. Sustainable design features included in the project include the use of sustainable construction materials and practices, such as OSB plywood for shear walls, floors, and roof sheathing, energy conserving windows, low flow water features, and fluorescent lighting. Operational sustainable features include the use of reclaimed water for landscape, drought tolerant and native plant materials, natural stormwater filtration via planting areas, and a solar-heated common pool. Permeable pavers or other materials will be used in drive aisles to demark pedestrian pathways and function as water quality features for storm water runoff. An electric vehicle charging station will be provided in each garage for electric car use. All units will include natural cross ventilation, and 75% of occupied space will utilize natural light.

5. Any proposed deviations pursuant to Section 126.0602(b)(1) are appropriate for this location and will result in a more desirable project than would be achieved if designed in strict conformance with the development regulations of the applicable zone. The project includes three deviations, all of which 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 underlying RM-2-5 zone. The deviations are as follows:

- Front Yard Setback: Allowing a deviation to observe an 11'-3" minimum front yard setback where 15'-0" is required and to allow 61 percent of the building to observe the 20'-0" standard setback where a maximum of 50 percent is permitted.
- Side Yard Setback: Allowing a deviation to allow a 23'-10" to 27'-8" foot west interior side yard setback and a 16'-2" to 26'-9" east interior side setback where 28'-0" is required.
- Wall Height: Allowing a deviation to allow installation of a retaining wall reaching a maximum height of 18'-0" (including a maximum five-foot high, free standing noise wall above portions of the retaining wall for a total overall height of 23'-0"), where a 12'-0" maximum is allowed outside of all setback areas, and, a 5'-6" to 9'-6" high retaining wall within the front setback where a maximum 3'-0" high wall is permitted.

The purpose of the PDP is to provide flexibility in the application of development regulations for projects where strict application of the base zone regulations would result in a less desirable project. The intent of the regulations is to accommodate to the greatest extent possible, an equitable balance of development types, intensities, styles, site constraints, project amenities, public improvements, community and City benefits.

The Planned District Ordinance states the following:

The PDP contains additional development regulations which outline density limitations, open space requirements and traffic circulation requirements. The number of units

allowed in the zone shall not exceed that within the land use plan and the zone. Total open space areas must be provided at 190 square feet per dwelling unit or 18,050 square feet for the proposed development. The proposed development is providing 41,634 square feet of open space. For developments proposing 10 or more dwelling units, one additional recreational amenity must be provided such as a pool, barbeque area or shade structure. The project proposes a swimming pool, spa, and fitness center, exceeding the requirements of the Land Development Code. Parking areas and access drives should be located to avoid conflicts with internal pedestrian systems and adjacent properties. The project proposes a single driveway to access garage courtyards designed with decorative paving in order to differentiate their function from other walkways and drive aisles on the site, alerting pedestrians to the potential presence of automobiles. The project entry driveway is located at least 100 feet from the project's west and east boundaries, providing plenty of space between the project and existing developments so as to not impede their entries or traffic flow.

Minor deviations to the zone development regulations have been incorporated into the project design as noted below:

1. The RM-2-5 zone requires that 50 percent of the building observe a minimum 15'-0" front setback while the remaining 50 percent may observe a 20'-0" front setback. The project proposes two buildings fronting Erma Road for a combined building wall length of approximately 157 linear feet. Sixty-three feet six inches observe a 15'-0"- 20'-0" setback. The remaining 53'-6" would observe the 20'-0" setback. Thirty-one feet of the building walls would observe an 11'-3" to 15'-0" front yard.
2. The RM-2-5 zone requires a 28'-10" interior side setback for this site calculated at 10 percent of the width of the lot. The project proposes to allow two of the structures on the east side of the property to observe varying setbacks of 16'-2" to 26'-9" at the closest point. On the western boundary, a varying setback of 15'-12" to 23'-5" setback is proposed for all of the structures.
3. The project requires the construction of retaining walls around the perimeter of the property and continuing the northeast and northwest corners at the front of the site within the front setback area. Within the front setback the majority of the retaining wall will range in height from 1.0 feet to 5'-6" where 3'-0" is allowed. The majority of the retaining wall would range in height from 1'-0" to 5'-6". A small portion of the retaining wall at the northeast corner would be 9'-6" in height. This wall is below street grade and supports the slope adjacent to Erma Road to create a pedestrian walkway adjacent to the buildings. Reference Attachment 19, Sections C-C and D-D of the Landscape Concept Plan, sheet 22 of 24.
4. A maximum 18'-0" high retaining wall is proposed within the rear of the site, outside of the setback area. Noise attenuation measures require a 3'-0" to 5'-0" high barrier above a portion of this wall located around the outdoor recreation area, resulting in an overall height of 23'-0". The noise attenuation barrier is proposed to be clear glass or Plexiglas. The fence regulations limit wall heights to 12'-0" outside of the setback. The total length of this wall at the rear is 290 linear feet. Eighty linear feet will exceed

the height limit. Reference Attachment 19, Section B-B and Perspectives A and B of the Landscape Concept Plan (sheet 22 of 24).

The property contains unusual circumstances that are not of the making of the applicant. The site is elongated and narrow in shape. The majority of the graded site is level with street grade however the site's south, east and west slopes contain varying topographic conditions. The project is an infill development located adjacent to established developments including two-story multi-family to the east and across Erma Road to the north, one and three story commercial uses to the west, and a multi-level hotel use and commercial retail center to the south. The multi-family developments to the east are approximately 16'-0" and 2'-0" higher in grade than the subject site. The commercial uses to the south are approximately 52'-0" lower in grade than the subject site. The commercial uses to the west are approximately 28'-0" lower in grade.

The encroachments into the front yard area for portions of the building allowing a minimum 11'-3" front yard where 15'-0" is required for a minimum of 50 percent of the building wall and, encroachments into the required 28'-0" west and east interior side yards are mitigated by various measures. The project was designed to be pedestrian-oriented with front facades providing building offsets and varying color schemes, windows, doors and balconies facing the street. The buildings have been sited to be offset, not parallel to, the front property lines to promote visual interest and walkability along the streetscape. Siting the buildings closer to the street reduces the amount of grading required in the fill slopes at the rear. Side yard encroachments are mitigated by the offset building designs and by the topography of the site which creates a natural buffer from the adjoining multi-family development to the east and the commercial development to the west. These properties have varying pad elevations in relation to the subject property which further serves to mitigate for the encroachment of the buildings. These adjacent developments also have open surface parking areas adjacent to the subject property which provides an additional buffer.

Implementation of the project requires the construction of a series of retaining walls along the perimeter to stabilize slopes, support the development pad, and to create pedestrian connections throughout the site. The overheight retaining wall along the front extends to a height of 9'-6" where 3'-0" is allowed, however, this wall is below street grade, rendering the overheight condition visible only when viewed on-site. The wall is necessary to maintain the slope adjacent to Erma Road and facilitates the construction of a pedestrian walkway in front of the buildings. This retaining wall would be constructed of natural-tone splitface block with cascading vines for screening. The wall also serves to buffer the residents walking along the perimeter of the development from the traffic on Erma Road.

A maximum 18'-0" high retaining wall is proposed within the rear portion of the property. Portions of this wall are required to have a 3'-0" to 5'-0" noise attention barrier resulting in a maximum height of 23 linear feet exceeding the 12'-0" allowable height limit. This area of the site contains extreme topographic conditions with slopes descending to approximately 52'-0" from the building pad elevation to the commercial development to the south. The slope currently contains mature eucalyptus trees, shrubs

and ground cover. The top of the retaining wall will be at-grade with the project site, and the bottom of the retaining wall will originate mid-way up the existing slope that elevationally separates the existing uses to the south and the Erma Road project area. Additionally, the retaining wall will be curved, providing relief and definition and avoiding a straight line wall effect. Similar to other proposed retaining walls, this wall will be carefully landscaped to screen it from the existing uses adding visual interest to the slope on the south side of the project site. Clinging vines will be planted along the retaining wall which will be constructed of splitface block in a natural tone consistent with the other retaining walls on-site. Additionally, dense slope plantings will be utilized to screen the wall.

The Planned Development Permit ordinance contains criteria for development design to evaluate proposed development in conjunction with the required findings. The project incorporates each of these measures as summarized below:

1. Development design should be comprehensive and should demonstrate the relationships of the development on site with off-site developments. The overall development design for the Erma Road project is comprehensive, taking into mind the bulk, scale and character of neighboring uses and development. The project fits into the existing multi-family character that surrounds it to the east, southeast, and north. The building height has been limited to a height that is consistent and complementary to surrounding low rise residential buildings. Because the project will be developed as two stories of residential over a parking garage, the actual dwelling unit type is consistent with the two-story character of the neighborhood.
2. The scale of the project should be consistent with the dominant neighborhood. The project site is comprised of eight buildings designed to integrate into the community and topography. The site is currently a completely graded vacant lot and no disturbance of native vegetation or environmental resources will occur. The two-story residential development with one story, tuck-under parking is consistent with other developments in the area.
3. Projects should avoid repetitious development patterns that are inconsistent with the goals of the land use plan and should reduce the appearance of actual or apparent bulk. Buildings should be well integrated into, oriented towards and relate to the topographic features of the site. The project buildings will avoid monotonous repetition of development patterns by using multiple buildings rather than one large structure. The roofline of the project will be articulated with varying heights, pitches, and overhangs. Space between buildings as well as garage access courtyards also serve to break up the building mass and add visual interest and interactivity. Roof and building materials will complement each other. Natural tones will be utilized to blend with the natural environment.
4. Landscaping should be used to the greatest extent possible to soften the appearance of blank walls and buildings edges. Excess landscaped areas are provided to soften the appearance of blank spaces in walls, and to screen retaining walls and vegetate slopes. Streetscape planting will be utilized to provide a buffer from the street and to create a

pleasant pedestrian walkway. The mature eucalyptus trees located on the western side of the property will be preserved to the extent feasible, protecting grove-like tree character indicative of Scripps Ranch. Additionally, new plantings will include eucalyptus and other approved tree and plant species from the Scripps Miramar Ranch Community Plan, so as to be cohesive and supportive of the established community character.

The proposed deviations to the setback and retaining wall regulations are minor in scope and will be mitigated through the use of additional site design features. The site contains unique circumstances not of the making of the applicant which impose design constraints. Project implementation requires traffic improvements at the intersection of Mira Mesa Boulevard and within the public right-of-way. The deviations will facilitate the new residential development consistent with the currently allowed density range of the community plan, thereby providing additional housing stock for the community in a quality residential development that exceeds the minimum open space requirements, provides for enclosed parking for the residents and project amenities. Staff analysis is that the requested minor deviations are consistent with the PDP regulations and will result in a more desirable project than would be achieved if designed in strict conformance with the development regulations of the zone. The project provides amenities, public improvements, community and City benefits. The proposed project, including noted deviations, conforms to the overall policies, regulations and purpose and intent of the Planned Development regulations. The design will result in a more desirable project for the City and the community than would be realized through the strict application of the development regulations at this location.

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

BE IT FURTHER RESOLVED, that Planned Development Permit No. 571238 is granted to H.G. FENTON DEVELOPMENT COMPANY LLC, Owner/Permiteee, under the terms and conditions set forth in the attached permit which is made a part of this resolution.

APPROVED: JAN I. GOLDSMITH, City Attorney

By _____
Deputy City Attorney

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

JOB ORDER NUMBER: 42-8373

PLANNED DEVELOPMENT PERMIT NO. 571238
ERMA ROAD - PROJECT NO. 137944
[MMRP]
 CITY COUNCIL

This Planned Development Permit No. 571238 is granted by the City Council of the City of San Diego to H.G. FENTON DEVELOPMENT COMPANY LLC, Owner/Permittee, pursuant to San Diego Municipal Code [SDMC] Section 126.0604. The 3.92 acre site is located at 9889 Erma Road in the in the proposed RM-2-5 Zone (current zone is CO-1-2), within the Airport Influence Area for the Marine Corps Air Station (MCAS) Miramar, Federal Aviation Administration (FAA) Part 77 Noticing Area for the MCAS Miramar, and Residential Tandem Parking Overlay Area, within the Scripps Miramar Ranch Community Plan area. The project site is legally described as Parcel 2 of Parcel Map 10259.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee to construct 95 residential condominium units, described and identified by size, dimension, quantity, type, and location on the approved exhibits, dated _____, on file in the Development Services Department.

The project or facility shall include:

- a. A multi-family development consisting of 95 residential condominium units within eight (8) three-story above-garage building complexes totaling approximately 12,786 square feet, on-site parking facilities, a leasing facility, a fitness facility and an outdoor pool and recreation area;
- b. Deviations to the Land Development Code as follows:
 - Front Yard Setback: Allowing a deviation to observe an 11'-3" minimum front yard setback where 15'-0" is required and to allow 61 percent of the building to observe the 20'-0" standard setback where a maximum of 50 percent is permitted.

- Side Yard Setback: Allowing a deviation to allow a 23'-10" to 27'-8" foot west interior side yard setback and a 16'-2" to 26'-9" east interior side setback where 28'-0" is required.
 - Wall Height: Allowing a deviation to allow installation of a retaining wall reaching a maximum height of 18'-0" (including a maximum five-foot high, free standing noise wall above portions of the retaining wall for a total overall height of 23'-0"), where a 12'-0" maximum is allowed outside of all setback areas, and, a 5'-6" to 9'-6" high retaining wall within the front setback where a maximum 3'-0" high wall is permitted.
- c. Landscaping (planting, irrigation and landscape related improvements);
 - d. Off-street parking facilities to accommodate 235 vehicles;
 - e. Accessory improvements determined by the City Manager to be consistent with the land use and development standards in effect for this site per the adopted community plan, California Environmental Quality Act Guidelines, public and private improvement requirements of the City Engineer, the underlying zone(s), conditions of this Permit, and any other applicable regulations of the SDMC in effect for this site; and
 - f. Encroachment of private storm drains in public right-of-way pursuant to Site Development Permit No. 153465.

STANDARD REQUIREMENTS:

1. Construction, grading or demolition must commence and be pursued in a diligent manner within thirty-six months after the effective date of final approval by the City, following all appeals. Failure to utilize the permit within thirty-six months will automatically void the permit unless an Extension of Time has been granted. Any such Extension of Time must meet all the SDMC requirements and applicable guidelines in effect at the time the extension is considered by the appropriate decision maker.
2. No permit for the construction, occupancy or operation of any facility or improvement described herein shall be granted, nor shall any activity authorized by this Permit be conducted on the premises until:
 - a. The Permittee signs and returns the Permit to the Development Services Department; and
 - b. The Permit is recorded in the Office of the San Diego County Recorder
3. Unless this Permit has been revoked by the City of San Diego, the property included by reference within this Permit shall be used only for the purposes and under the terms and conditions set forth in this Permit unless otherwise authorized by the City Manager.

4. This Permit is a covenant running with the subject property and shall be binding upon the Permittee and any successor or successors, and the interests of any successor shall be subject to each and every condition set out in this Permit and all referenced documents.
5. The utilization and 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 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 applicant is informed that to secure these permits, substantial modifications to the building and site improvements to comply with applicable building, fire, mechanical and plumbing codes and State law requiring access for disabled people may be required.
8. Before issuance of any building or grading permits, complete grading and working drawings shall be submitted to the City Manager for approval. Plans shall be in substantial conformity to Exhibit "A," on file in the Development Services Department. No changes, modifications or alterations shall be made 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 have been determined to be necessary in order to make the findings required for this Permit. It is the intent of the City that the holder of this Permit is required to comply with each and every condition in order to be afforded the special rights which the holder of the Permit is entitled as a result of obtaining this Permit.

In the event that any condition of this Permit, on a legal challenge by the Owner/Permittee of this Permit, is found or held by a court of competent jurisdiction to be invalid, unenforceable, or unreasonable, this Permit shall be void. However, in such an event, the Owner/Permittee shall have the right, by paying applicable processing fees, to bring a request for a new permit without the "invalid" condition(s) back to the discretionary body which approved the Permit for a determination by that body as to whether all of the findings necessary for the issuance of the proposed permit can still be made in the absence of the "invalid" condition(s). Such hearing shall be a hearing de novo and the discretionary body shall have the absolute right to approve, disapprove, or modify the proposed permit and the condition(s) contained therein.
10. At all bus stops within the project area, if any, the applicant shall be responsible for installing sidewalk improvements where needed to comply with Americans with Disability Act (ADA) requirements and in accordance with standards contained in the City of San Diego Street Design Manual.
11. Approval of this permit rescinds Vesting Tentative Map No. 178023 and cancels Site

Development Permit No. 153465 with the exception of the approval of encroachment of private storm drains within the public right-of-way.

ENGINEERING REQUIREMENTS:

12. Prior to the building occupancy, the applicant shall enter into a Maintenance Agreement for the ongoing permanent BMP maintenance.

13. Prior to the issuance of a building permit, the applicant 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.

14. Prior to the issuance of any construction permits, the applicant shall incorporate any construction Best Management Practices necessary to comply with Chapter 14, Article 2, Division 1 (Grading Regulations) of the San Diego Municipal Code, into the construction plans or specifications.

15. Prior to the issuance of any construction permits, the applicant shall incorporate and show the type and location of all post-construction Best Management Practices (BMP's) on the final construction drawings, in accordance with the approved Water Quality Technical Report.

16. The Permit shall comply with the conditions of the Vesting Tentative Map No.571214.

17. The drainage system proposed for this development is private and subject to approval by the City Engineer.

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

19. Prior to building occupancy, the applicant shall obtain an Encroachment Maintenance and Removal Agreement, for a portion of the private 18" RCP drainage pipe within the public right-of-way.

20. 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.

21. 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.

22. Prior to the issuance of a grading permit, the applicant shall obtain a letter of concurrence from the southerly property owner for the proposed drainage system connection in their property.

ENVIRONMENTAL/MITIGATION REQUIREMENTS:

23. Mitigation requirements are tied to the environmental document, specifically the Mitigation, Monitoring, and Reporting Program (MMRP). These MMRP conditions are incorporated into the permit by reference or authorization for the project

24. The mitigation measures specified in the Mitigation Monitoring and Reporting Program, and outlined in Mitigated Negative Declaration No. 137944, shall be noted on the construction plans and specifications under the heading ENVIRONMENTAL/MITIGATION REQUIREMENTS.

25. The Owner/Permittee shall comply with the Mitigation, Monitoring, and Reporting Program (MMRP) as specified in Mitigated Negative Declaration No. 137944, 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:

Biological Resources
Public Utilities
Noise

26. 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.

LANDSCAPE REQUIREMENTS:

27. An Encroachment Maintenance and Removal Agreement will be required for the landscape maintenance within the public right-of-way.

28. Prior to issuance of any engineering permits for grading, construction documents for the revegetation and hydroseeding of all disturbed land shall be submitted in accordance with the Landscape Standards and to the satisfaction of the City Manager. All plans shall be in substantial conformance to this permit (including Environmental conditions) and Exhibit "A," on file in the Office of the Development Services Department.

29. Prior to issuance of any engineering permits for right-of-way improvements, complete landscape construction documents for right-of-way improvements shall be submitted to the City Manager for approval. Improvement plans shall take into account a 40 sq-ft 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.

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

31. Prior to issuance of any construction permits for structures, complete Landscape Planting and Irrigation Construction documents consistent with the Landscape Standards shall be submitted to the City Manager for approval. The Landscape Construction documents shall be in substantial conformance with Exhibit 'A,' Landscape Development Plan, on file in the Office of the Development Services Department. Construction plans shall take into account a 40 sq-ft area around each tree which is unencumbered by hardscape and utilities as set forth under LDC 142.0403(b)5.

32. Prior to issuance of a Certificate of Occupancy or the performance of a Final Inspection, it shall be the responsibility of the Permittee or subsequent Owner 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 street trees.

33. 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.

34. If any required landscape (including existing or new plantings, hardscape, landscape features, etc.) indicated on the approved construction document plans is damaged or removed during demolition or construction, it shall be repaired and/or replaced in kind and equivalent size per the approved documents to the satisfaction of the City Manager within 30 days of damage and prior to issuance of a Certificate of Occupancy.

35. The Permittee or subsequent owner 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 Establishment Maintenance Agreement or other approved entity. In this case, a Landscape Establishment Maintenance Agreement application form shall be submitted for review by a Landscape Planner.

TRANSPORTATION REQUIREMENTS

36. No fewer than 235 parking spaces (235 required) shall be permanently maintained on the site within the approximate location shown on the project's Exhibit "A", which includes disabled accessible spaces per CBC Chapter 11A, Section 1118A and a minimum of one Off-street Loading space. Further, 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 by the Director of Development Services Department.

37. Prior to the issuance of the first building permit, the owner/permittee shall pay fifty percent of the cost not to exceed \$60,000 for improvements at the intersection of Scripps Ranch Boulevard and Erma Road. The improvements at the intersection will include widening by two feet within the existing right-of-way on the southwest corner, relocation of existing utilities, modification to the traffic signal, removal of the existing median on the north leg of the intersection, repair to the existing pavement and restriping of the road to accommodate a northbound u-turn. Additional improvements at the intersection shall include the replacement of the existing video detection camera on the east leg of the intersection (for the westbound approach) and the installation of a "No Turn on Red" (R10-11) sign on the west leg of the intersection (for the eastbound approach), satisfactory to the City Engineer.

PLANNING/DESIGN REQUIREMENTS:

38. There shall be compliance with the regulations of the underlying zone(s) unless a deviation or variance to a specific regulation(s) is approved or granted as a condition of approval of this Permit. Where there is a conflict between a condition (including exhibits) of this Permit and a regulation of the underlying zone, the regulation shall prevail unless the condition provides for a deviation or variance from the regulations. Where a condition (including exhibits) of this Permit establishes a provision which is more restrictive than the corresponding regulation of the underlying zone, then the condition shall prevail.

39. The height(s) of the building(s) or structure(s) shall not exceed those heights set forth in the conditions and the exhibits (including, but not limited to, elevations and cross sections) or the maximum permitted building height of the underlying zone, whichever is lower, unless a deviation or variance to the height limit has been granted as a specific condition of this Permit.

40. 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 Permittee.

41. Any future requested amendment to this Permit shall be reviewed for compliance with the regulations of the underlying zone(s) which are in effect on the date of the submittal of the requested amendment.

42. All signs associated with this development shall be consistent with sign criteria established by citywide sign regulations.

43. The applicant shall post a copy of the approved Planned Development Permit No. 571238 and the associated Vesting Tentative Map No. 571214 in the sales office for consideration by each prospective buyer.

44. Prior to the issuance of any building permits, complete outdoor lighting information shall be submitted to the Development Services Department, Land Development Review Division, for review and approval. Complete lighting information shall include a plan view photometric analysis indicating an isofoot candle plot and a point by point plot to include all areas within the private property and to extend a minimum of 50 feet beyond the property line, construction details as necessary to direct installation of the outdoor lighting system, manufacturers name, visors, prisms, lenses and reflectors and a lighting plan locating each fixture in plan view and a legend. The outdoor lighting system shall be designed, manufactured and installed to allow shading, adjusting, and shielding of the light source so all outdoor lighting is directed to fall only onto the same premises as light sources are located.

45. 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 Municipal Code.

46. The use of textured or enhanced paving shall meet applicable City standards as to location, noise and friction values.

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

48. All uses, except storage and loading, shall be conducted entirely within an enclosed building. Outdoor storage of merchandise, material and equipment is permitted in any required interior side or rear yard, provided the storage area is completely enclosed by walls, fences, or a combination thereof. Walls or fences shall be solid and not less than six feet in height and, provided further, that no merchandise, material or equipment stored not higher than any adjacent wall.

49. No mechanical equipment, tank, duct, elevator enclosure, cooling tower, mechanical ventilator, or air conditioner shall be erected, constructed, converted, established, altered, or enlarged on the roof of any building, unless all such equipment and appurtenances are contained within a completely enclosed, architecturally integrated structure whose top and sides may include grillwork, louvers, and latticework.

50. Prior to the issuance of building permits, construction documents shall fully illustrate compliance with the Citywide Storage Standards for Trash and Recyclable Materials (SDMC) to the satisfaction of the City Manager. All exterior storage enclosures for trash and recyclable materials shall be located in a manner that is convenient and accessible to all occupants of and service providers to the project, in substantial conformance with the conceptual site plan marked Exhibit "A," on file in the Development Services Department.

WASTEWATER REQUIREMENTS:

51. All onsite sewer facilities shall be private.

52. Prior to the issuance of any certificate of occupancy, the developer shall obtain an Encroachment Maintenance and Removal Agreement for all private utilities installed in or over the public sewer easement.

53. Prior to the issuance of any engineering or building permits, the developer shall provide evidence, satisfactory to the Director of Public Utilities, indicating that each condominium will have its own sewer lateral or provide CC&R's for the operation and maintenance of onsite private sewer mains that serve more than one ownership.

54. The developer shall design and construct any proposed public sewer facilities to the most current edition of the City of San Diego's Sewer Design Guidelines.

55. Proposed private underground sewer facilities located within a single lot shall be designed to meet the requirements of the California Plumbing Code and shall be reviewed as part of the building permit plan check.

56. No trees or shrubs exceeding three feet in height at maturity shall be installed within ten feet of any sewer laterals.

57. Prior to the issuance of any construction permit, the subdivider shall enter into a Maintenance Agreement for the ongoing permanent BMP maintenance.

58. Prior to the issuance of any construction permit, the subdivider shall incorporate any construction Best Management Practices necessary to comply with Chapter 14, Article 2, Division 1 (Grading Regulations) of the San Diego Municipal Code, into the construction plans or specifications.

59. Prior to the issuance of any construction permit the subdivider shall incorporate and show the type and location of all post-construction Best Management Practices (BMP's) on the final construction drawings, in accordance with the approved Water Quality Technical Report.

60. 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 SWRC.

61. 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.

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 project is subject to payment of Facilities Benefit Assessment (FBA) fees at the time of building permit issuance.

APPROVED by the Council of the City of San Diego on _____ by Resolution No.xxxx.

AUTHENTICATED BY THE CITY MANAGER

By _____

The undersigned Permittee, by execution hereof, agrees to each and every condition of this Permit and promises to perform each and every obligation of Permittee hereunder.

Owner/Permittee

By _____

By _____

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

RESOLUTION NO. _____
DATE OF FINAL PASSAGE _____
VESTING TENTATIVE MAP NO. 571214
ERMA ROAD - PROJECT NO. 137944 [MMRP]

WHEREAS, H.G. FENTON DEVELOPMENT COMPANY LLC, Applicant/Subdivider, and STUART ENGINEERING, Engineer, submitted an application with the City of San Diego for Vesting Tentative Map No. 571214, for the construction of a 95 unit residential condominium development. The 3.92 acre project site is located at 9889 Erma Road, west of Scripps Ranch Boulevard, within the RM-2-5 Zone of the Scripps Miramar Ranch Community Plan Area, within the Airport Influence Area for the Marine Corps Air Station (MCAS) Miramar, Federal Aviation Administration (FAA) Part 77 Noticing Area for the MCAS Miramar, and Residential Tandem Parking Overlay Area. The property is legally described as Parcel 2 of Parcel Map 10259; and

WHEREAS, the Map proposes the subdivision of a 3.92 acre site into site into one (1) lot for a 95 unit residential condominium development; and

WHEREAS, the project complies with the requirements of a preliminary soils and/or geological reconnaissance report pursuant to the Subdivision Map Act and Section 144.0220 of the San Diego Municipal Code (SDMC) of the City of San Diego; and

WHEREAS, the subdivision is a condominium project as defined in Section 1351 of the Civil Code of the State of California and filed pursuant to the Subdivision Map Act. The total number of condominium dwelling units is 95; and

WHEREAS, the Planned Development Permit No. 571238, requires the rescission of Vesting Tentative Map No. 178023 and cancellation of Site Development Permit No. 153465 with the exception of the approval for encroachment of private storm drains within the public right-of-way; and

WHEREAS, on September 17, 2009, the Planning Commission of the City of San Diego considered Vesting Tentative Map No. 571214, and pursuant to Resolution No. _____ the Planning Commission voted to recommend City Council approval of the map; and

WHEREAS, on _____, the City Council of the City of San Diego considered Vesting Tentative Map No. 571214, and pursuant to Section 125.0440 (tentative map) of the SDMC and Subdivision Map Act Section 66428, received for its consideration written and oral presentations, evidence having been submitted, and heard testimony from all interested parties at the public hearing, 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 Vesting Tentative Map No. 571214:

- 1. The proposed subdivision and its design or improvement are consistent with the policies, goals, and objectives of the applicable land use plan (SDMC 125.0440(a) and Subdivision Map Action Sections 66473.5, 66474(a), and 66474(b)).**

The proposed use of the property shown on Vesting Tentative Map No. 571214 is consistent with the Scripps Miramar Ranch Community Plan which identifies this site for Residential-Medium (15-29 dwelling units per acre) land use. Based on this designation, the site could accommodate between 60-114 dwelling units. The Erma Road development project proposes to construct 95 dwelling units. With the adoption of the amendment to the Scripps Miramar Ranch Community Plan, the proposed project will provide a multi-family development consistent with the policies and guidelines of the Scripps Miramar Ranch Community Plan. Further the design and implementation of the proposed project will achieve the goals, policies and objectives of the Scripps Miramar Ranch Community Plan.

- 2. The proposed subdivision complies with the applicable zoning and development regulations of the Land Development Code (SDMC 125.0440(b)).**

The project proposes to construct 95 residential condominium units on a vacant 3.92 acre site. The project includes deviations to the base RM-2-5 zone front/side yard setbacks, and to retaining wall heights due to site topography constraints. Other than these deviations to building setback and retaining wall height, the proposed development meets all applicable zoning and development regulations in effect for this site per the Land Development Code (SDMC 125.0440(b)).

- 3. The site is physically suitable for the type and density of development (SDMC 125.0440(c) and Subdivision Map Act Sections 66474(c) and 66474(d)).**

With the adoption of the amendment to the Scripps Miramar Ranch Community Plan designating this site for Residential-Medium (15-29 dwelling units per acre) land use, the 3.92 acre property can accommodate between 60-114 dwelling units. The proposed 95 residential units are within the designated density range. The conclusions of several technical and scientific reports (Hydrology, Water Quality, Noise, Traffic, Biology, Waste Management, Geotechnical) specifically concerned with determining the suitability of the site for the type and density of the proposed development concluded that the site is suitable for both the type and density of the proposed project.

- 4. The design of the subdivision or the proposed improvements is not likely to cause substantial environmental damage or substantially and avoidably**

injure fish or wildlife or their habitat (SDMC 125.0440(d) and Subdivision Map Act Section 66474(e)).

A Mitigated Negative Declaration (MND) No. 137944 has been prepared for the project in accordance with State of California Environmental Quality Act (CEQA) guidelines, which addresses potential impacts to Biological Resources, Public Utilities (Solid Waste Generation/Disposal) and Noise. A Mitigation, Monitoring, and Reporting Program (MMRP) will be implemented with this project to reduce the potential impacts to a level below significance.

- 5. The design of the subdivision or the type of improvements will not be detrimental to the public health, safety, and welfare (SDMC 125.0440(e) and Subdivision Map Act Section 66474(f)).**

The project proposes to construct 95 residential condominium units on a vacant 3.92 acre site. This Vesting Tentative Map No. 571214 and the associated Planned Development Permit No. 571238 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 design of this subdivision and related improvements. Such conditions have been determined by the decision maker as necessary to avoid adverse impacts upon the public health, safety, and welfare.

- 6. The design of the subdivision or the type of improvements will not conflict with easements acquired by the public at large for access through or use of property within the proposed subdivision (SDMC 125.0440(f) and Subdivision Map Act Section 66474(g)).**

The subject property does not contain any easements by the public at large for access through or use of the property within the proposed subdivision.

- 7. The design of the proposed subdivision provides, to the extent feasible, for future passive or natural heating and cooling opportunities (SDMC 125.0440(g) and Subdivision Map Act Section 66473.1).**

The project includes deviations to the base RM-2-5 zone front/side yard setbacks, and to retaining wall heights due to site topography constraints. Other than these deviations to building setback and retaining wall height, the proposed development meets all applicable regulations and policy documents, and the project is consistent with the land use, design guidelines, and development standards in effect for this site per the SDMC, the adopted Scripps Miramar Ranch Community Plan, and the General Plan. The proposed development has been designed to not impact future passive or natural heating and cooling opportunities.

8. The decision maker has considered the effects of the proposed subdivision on the housing needs of the region and that those needs are balanced against the needs for public services and the available fiscal and environmental resources (SDMC 125.0440(h) and Subdivision Map Act Section 66412.3).

The subject Erma Road development project proposes to construct 95 residential condominium units on a vacant 3.92 acre site. With the adoption of the amendment to the Scripps Miramar Ranch Community Plan designating this site for Residential-Medium (15-29 dwelling units per acre) land use, the property could accommodate between 60-114 dwelling units. The proposed 95 residential units are within the designated density range. The proposed project will comply with the City's Affordable Housing Regulations by payment of the Inclusionary Housing In-Lieu Fee. The decision maker has considered the effects of the proposed subdivision and resulting development on the housing needs of the region and finds that the proposed development is a balanced project in regards to the housing needs, and will not impact public services and available fiscal and environmental resources.

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

BE IT FURTHER RESOLVED, that based on the Findings hereinbefore adopted by the City Council, Vesting Tentative Map No. 571214 is hereby granted to H.G. FENTON COMPANY LLC, Applicant/Subdivider, subject to the attached conditions which are made a part of this resolution by this reference.

APPROVED: JAN I. GOLDSMITH, City Attorney

By _____
NAME
Deputy City Attorney

ATTY/SEC. INITIALS
DATE
R- INSERT
Reviewed by Sandra Teasley

Job Order No. 42-8373

CITY COUNCIL
CONDITIONS FOR VESTING TENTATIVE MAP NO. 571214
ERMA ROAD - PROJECT NO. 137944 [MMRP]
ADOPTED BY RESOLUTION NO. _____ ON _____

GENERAL

1. This Vesting Tentative Map will expire _____.
2. Compliance with all of the following conditions shall be assured, to the satisfaction of the City Engineer, prior to the recordation of the Final Map, unless otherwise noted.
3. Prior to the recordation of the Final Map taxes must be paid on this property pursuant to section 66492 of the Subdivision Map Act. A tax certificate, recorded in the office of the County Recorder, must be provided to satisfy this condition.
4. The Parcel Map shall comply with the provisions of Planned Development Permit No. 571238.
5. The Subdivider shall defend, indemnify, and hold the City (including its agents, officers, and employees [together, "Indemnified Parties"]) harmless from any claim, action, or proceeding, against any Indemnified Party to attack, set aside, void, or annul City's approval of this project, which action is brought within the time period provided for in Government Code section 66499.37. City shall promptly notify Subdivider of any claim, action, or proceeding and shall cooperate fully in the defense. If City fails to cooperate fully in the defense, Subdivider shall not thereafter be responsible to defend, indemnify, or hold City harmless. City may participate in the defense of any claim, action, or proceeding if City both bears its own attorney's fees and costs, and defends the action in good faith. Subdivider shall not be required to pay or perform any settlement unless such settlement is approved by the Subdivider.

INCLUSIONARY HOUSING

6. Prior to issuance of the first residential building permit, the Applicant shall comply with the affordable housing requirements of the City's Inclusionary Housing Ordinance (Chapter 14, Article 2, Division 13 of the Land Development Code) by payment of the applicable inclusionary housing in-lieu fee.

ENGINEERING

7. Pursuant to City Council Policy 600-20, the subdivider shall provide evidence to ensure that an affirmative marketing program is established.

8. The subdivider shall enter into a Maintenance Agreement for the ongoing permanent BMP maintenance.
9. Prior to the issuance of any construction permit, the subdivider shall incorporate any construction Best Management Practices necessary to comply with Chapter 14, Article 2, Division 1 (Grading Regulations) of the San Diego Municipal Code, into the construction plans or specifications.
10. Prior to the issuance of any construction permit, the subdivider shall submit a Water Pollution Control Plan (WPCP). The WPCP shall be prepared in accordance with the guidelines in Appendix E of the City's Storm Water Standards.
11. Prior to the issuance of any construction permit, the subdivider shall incorporate and show the type and location of all post-construction Best Management Practices (BMP's) on the final construction drawings, in accordance with the approved Water Quality Technical Report.
12. Prior to the issuance of a Certificate of Compliance, taxes must be paid on this property pursuant to section 66492 of the Subdivision Map Act. A tax certificate, recorded in the office of the County Recorder, must be provided to satisfy this condition.
13. All driveways and curb openings shall comply with City Standard Drawings G-14A G-16 and SDG-100.
14. The drainage system proposed for this subdivision, as shown on the approved vesting tentative map, is private and subject to approval by the City Engineer.
15. The subdivider shall obtain an Encroachment Maintenance and Removal Agreement, for 18 inch RCP private storm drain within the public right-of-way.
16. Prior to the issuance of grading permits, a geotechnical investigation report shall be required that specifically addresses the proposed grading plans and cites the City's Job Order No. and Drawing No.. The geotechnical investigation shall provide specific geotechnical grading recommendations and include geotechnical maps, using the grading plan as a base, that depict recommended location of subdrains, location of outlet headwalls, anticipated removal depth, anticipated over-excavation depth, and limits of remedial grading.
17. A Parcel Map shall be recorded in the Office of the County Recorder, prior to the Vesting Tentative Map expiration date.
18. Compliance with all conditions shall be assured, to the satisfaction of the City Engineer, prior to the recordation of the Parcel Map, unless otherwise noted.

19. 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. 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.

20. The Subdivider shall underground existing and/or proposed public utility systems and service facilities in accordance with the San Diego Municipal Code.

21. The Subdivider shall ensure that all existing onsite utilities serving the subdivision shall be undergrounded with the appropriate permits. The subdivider shall provide written confirmation from applicable utilities that the conversion has taken place, or provide other means to assure the undergrounding, satisfactory to the City Engineer.

MAPPING

22. "Basis of Bearings" means the source of uniform orientation of all measured bearings shown on the map. Unless otherwise approved, this source will be the California Coordinate System, Zone 6, North American Datum of 1983 (NAD 83).

23. "California Coordinate System means the coordinate system as defined in Section 8801 through 8819 of the California Public Resources Code. The specified zone for San Diego County is "Zone 6," and the official datum is the "North American Datum of 1983."

24. The Final Map shall:

- a. Use the California Coordinate System for its "Basis of Bearing" and express all measured and calculated bearing values in terms of said system. The angle of grid divergence from a true median (theta or mapping angle) and the north point of said map shall appear on each sheet thereof. Establishment of said Basis of Bearings may be by use of existing Horizontal Control stations or astronomic observations.

b. Show two measured ties from the boundary of the map to existing Horizontal Control stations having California Coordinate values of Third Order accuracy or better. These tie lines to the existing control shall be shown in relation to the California Coordinate System (i.e., grid bearings and grid distances). All other distances shown on the map are to be shown as ground distances. A combined factor for conversion of grid-to-ground distances shall be shown on the map.

GEOLOGY

27. Prior to the issuance of any construction permits, the Owner/Permittee shall provide additional geotechnical information for the review and approval of the City Geologist, satisfactory to the City Geologist and Development Services Department.

WASTEWATER

28. The Subdivider shall provide evidence, satisfactory to the Director of Public Utilities, indicating that each condominium will have its own sewer lateral or provide CC&R's for the operation and maintenance of onsite private sewer mains that serve more than one ownership.

29. No private utilities, grading or improvements shall be installed in or over any public sewer easement prior to the applicant obtaining an Encroachment Maintenance and Removal Agreement.

30. The Subdivider shall design and construct any proposed public sewer facilities to the most current edition of the City of San Diego's Sewer Design Guide.

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

32. All on-site sewer facilities shall be private.

WATER

33. Prior to the issuance of any building permits, the Subdivider 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 Director of Public Utilities and the City Engineer.

34. 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(s), on each water service (domestic, fire and irrigation), in a manner satisfactory to the Director of Public Utilities and the City Engineer.

35. Subdivider shall provide a letter to the Development Project Manager agreeing to prepare CC&Rs for the operation and maintenance of all private water facilities that serve or traverse more than a single unit or lot.
36. Prior to the issuance of any building permits, the Subdivider shall assure, by permit and bond the design and construction of reclaimed water irrigation service(s), in a manner satisfactory to the Director of Public Utilities and the City Engineer.
37. Prior to the issuance of any certificates of occupancy, all public water facilities shall be complete and operational in a manner satisfactory to the Director of Public Utilities and the City Engineer.
38. Subdivider agrees to design and construct all proposed public water facilities in accordance with established criteria in the most current edition of the City of San Diego Water Facility Design Guidelines and City regulations, standards and practices pertaining thereto. Public water facilities, and associated easements, as shown on approved Exhibit "A" shall be modified at final engineering to comply with standards.

TRANSPORTATION

39. No fewer than 235 parking spaces (235 required) shall be permanently maintained on the site within the approximate location shown on the project's Exhibit "A", which includes disabled accessible spaces per CBC Chapter 11A, Section 1118A and a minimum of one Off-street Loading space. Further, 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 by the Director of Development Services Department.

ENVIRONMENTAL

40. Mitigation requirements are tied to the environmental document, specifically the Mitigation, Monitoring, and Reporting Program (MMRP). These MMRP conditions are incorporated into the permit by reference or authorization for the project.
41. The mitigation measures specified in the Mitigation Monitoring and Reporting Program, and outlined in Mitigated Negative Declaration No. 137944, shall be noted on the construction plans and specifications under the heading ENVIRONMENTAL/MITIGATION REQUIREMENTS.
42. The Subdivider shall comply with the Mitigation, Monitoring, and Reporting Program (MMRP) as specified in Mitigated Negative Declaration No. 137944, 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:

Biological Resources
Public Utilities (Solid Waste Generation/Disposal)
Noise

43. Prior to issuance of any construction permit, the Subdivider 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.

INFORMATION:

- The approval of this Vesting Tentative Map by the City Council of the City of San Diego does not authorize the subdivider to violate any Federal, State, or City laws, ordinances, regulations, or policies including but not limited to, the Federal Endangered Species Act of 1973 and any amendments thereto (16 USC Section 1531 et seq.).
- If the Subdivider makes any request for new water and sewer facilities (including services, fire hydrants, and laterals), then the Subdivider shall design and construct such facilities in accordance with established criteria in the most current editions of the City of San Diego water and sewer design guides and City regulations, standards and practices pertaining thereto. Off-site improvements may be required to provide adequate and acceptable levels of service and will be determined at final engineering.
- Subsequent applications related to this Vesting Tentative Map will be subject to fees and charges based on the rate and calculation method in effect at the time of payment.
- Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of the Vesting Tentative Map, may protest the imposition within 90 days of the approval of this Vesting Tentative Map by filing a written protest with the City Clerk pursuant to California Government Code Section 66020.
- Where in the course of development of private property, public facilities are damaged or removed the property owner shall at no cost to the City obtain the required permits for work in the public right-of-way, and repair or replace the public facility to the satisfaction of the City Engineer. Municipal Code Section 142.0607.

Job Order No. 42-8373

PROPOSED AMENDMENT
To

SCRIPPS MIRAMAR RANCH
COMMUNITY PLAN

for the
ERMA ROAD PROJECT

DRAFT: JUNE 2009

ATTACHMENT 7

SCRIPPS MIRAMAR RANCH COMMUNITY PLAN

The following amendments have been incorporated into this August 2006 posting of this Plan:

Amendment	Date Approved by Planning Commission	Resolution Number	Date Adopted by City Council	Resolution Number
Scripps Miramar Ranch Community Plan adopted.	June 8, 1978	R-1355	July 18, 1978	R-221398
Scripps Westview II redesignated from medium-density residential to high-medium residential			October 21, 1985	R-264284
Industrial Element revised to allow for a self-storage facility			March 18, 1986	R-265280
Neighborhood Area B, a 101-acre parcel, redesignated from residential to industrial park			November 4, 1986	R-266987
Scripps County Island, 285 acres, incorporated into the Scripps planning area			June 29, 1987	R-268716
Parks, Recreation and Open Space Element update			September 13, 1988	R-271857
Scripps Lake Drive, reclassified between Scripps Ranch Boulevard and Red Cedar Drive from a four-lane collector to a two-lane collector roadway			October 11, 1988	R-272098
Incorporated two City Council resolutions to widen Pomerado Road and reopen upon completion of Alternative 8A			October 31, 1988	R-272230
Redesignated a 3.9-acre site in the northeastern portion of the planning area from industrial park to community commercial			November 14, 1989	R-274731
USIU campus, designated a 17-acre site as a resource-based park			November 21, 1989	R-274780
Pomerado Road reclassified from a contingency four-lane major street to a two-lane major street and Scripps Poway Parkway reclassified from a four-lane major street to a six-lane major street			October 26, 1993	R-282903
Fairbrook Elementary School site redesignated from elementary school/park to low-density residential and park			October 19, 1999	R-292322
Redesignate an 8-acre area on the south side of Erma Road and west of Scripps Ranch Boulevard from O (Office) to Residential (15-29 du/net acre)			MM DD, 2009	R-XXXXXX

2. Low-density (3-5 dwelling units per net acre) includes primarily single-family residential development. Low-density development built under standard subdivision regulations is appropriate for homes on 6,000 square foot lots or larger, but cluster development in the form of PRDs is also encouraged as a means of providing more amenities and a greater variety of housing types.
3. Low medium-density (5-10 dwelling units per acre) will allow multifamily residential development in the form of duplexes, fourplexes and townhouses. Planned Residential Developments are encouraged within these areas to facilitate quality design and construction, maximize preservation of open space and vegetation, and minimize visual and spatial impacts on adjoining land uses.
4. Medium-density (10-15 dwelling units per net acre) has been used in the existing community and the Pomerado/Spring Canyon Road area to provide a slightly higher density of multifamily housing. The intent of this density is the same as the low medium-density.
5. High medium-density (15-29 dwelling units per net acre) has been used in the existing community for the construction of apartments at the corner of Willow Creek Drive and Pomerado Road, as well as for the area north of Erma Road. This density has also been applied to an approximate 8-acre area located on the southside of Erma Road, west of Scripps Ranch Boulevard.

Density Allocations

Figure 3 identifies the densities assigned to the various residential parcels within the planning area. These designations represent desired ranges of residential densities. The maximum number of homes permitted within each of the four new development areas is also shown on **Figure 3**. These numbers were determined by the anticipated impact on public service facilities and other community resources. Allowances for acceptable open space systems have been included in determining the desired density for each area.





The following discussions of site design and specific neighborhood concept plans delineate the more precise criteria for densities and development in each new residential area.

Site Design

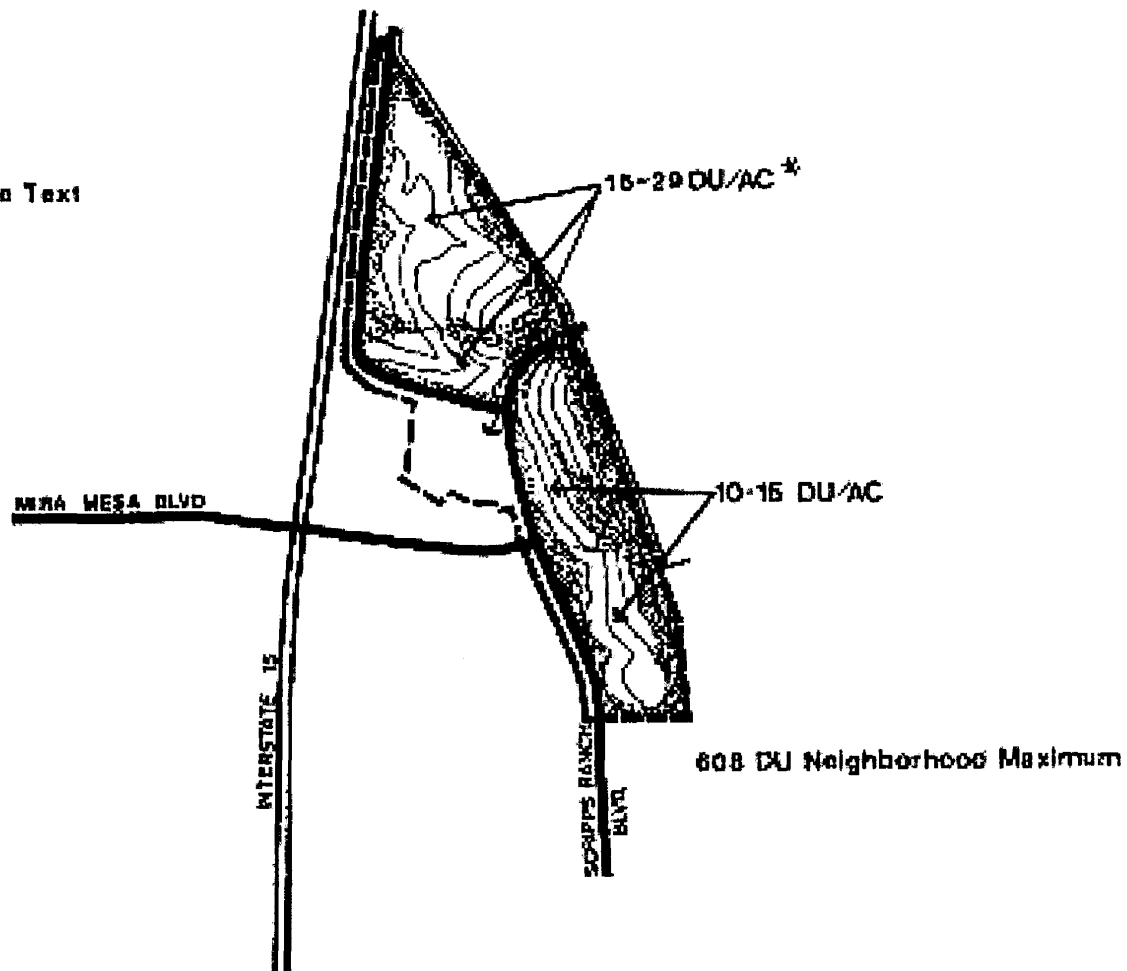
Sensitive design is extremely important in determining whether a particular dwelling or group of dwellings will be functional and aesthetic asset to the community. The following basic guidelines are set forth to aid potential developers, City officials and other governmental agencies in making site design decisions prior to land development. More specific criteria for development are contained in the **Design Element**.

The design of any new residential construction should respect existing development with regard to perseveration of views and compatibility of architectural styles, building materials and landscaping. The Planned Residential Development permit process can aid in accomplishing these design objectives.

LEGEND

- Neighborhood Area Boundary 
- Street 
- Open Space 
- Hiking Trail 

* Specific Densities are Outlined in the Text



Area "A" Neighborhood Concept Plan
Scripps Miramar Ranch Community Plan

4
FIGURE

Multifamily residential housing should be carefully designed to be compatible with adjacent land uses. Building height and bulk should be in scale with the size of the site and proximity to adjacent structures. A strong emphasis should be placed on aesthetic considerations in the site plan, architecture and landscaping. In most instances, where view property is not involved, the quality and appearance of the development will predominate over the physical setting. Therefore, architectural design, landscape architecture and environmental design should be considered prior to development.

Lots on the perimeter of Miramar Reservoir and Carroll Canyon should respect “special treatment” criteria for landscaping, grading and architecture which will minimize the visual impact of development on the adjoining scenic areas. These criteria are set forth in detail in the **Design Element**.

Landscaping should emphasize eucalyptus trees and compatible species in order to maintain and enhance the existing forested character of the community. Existing City zoning regulations and building codes which regulate land use and construction are not always flexible enough to meet the development needs of individual communities. As particular needs are identified that cannot be satisfied by the provisions of existing zones, new zones should be developed and incorporated into the Municipal Code. In addition, existing zoning regulations and building codes should be revised or amended to provide greater design flexibility with regard to placement of houses upon lots, building setback and yard restriction, and use of new construction methods and materials.

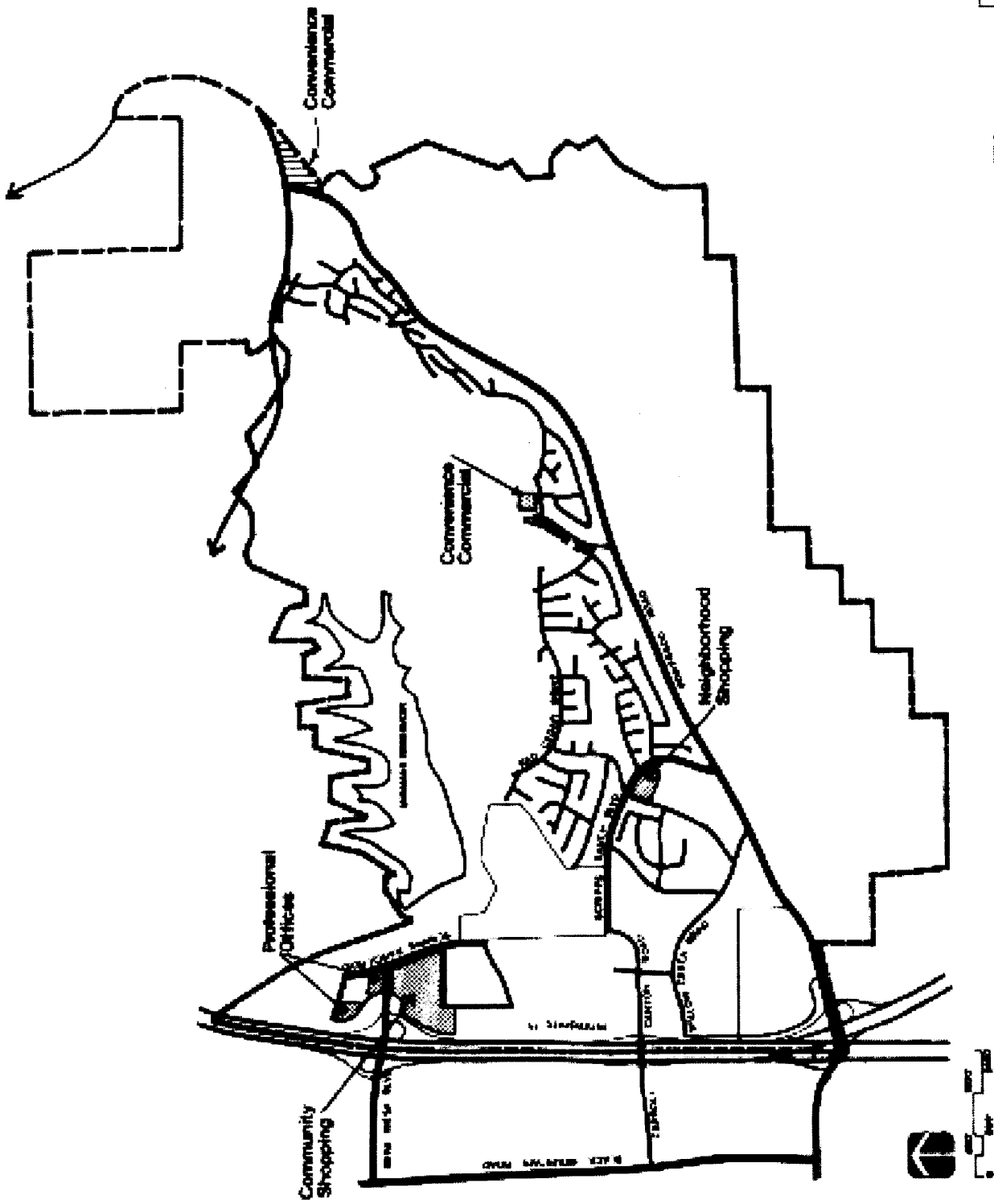
The design of all development should utilize security hardware and architectural design that will minimize the potential for criminal activity.

Neighborhood Concept Plans

Due to the variety of terrain and resources found on residential parcels throughout the planning area, four separate residential development areas have been identified. The following discussions clarify this Plan’s intent for these four areas. More specific design criteria are outlined in the **Design Element**.

1. Area A. This area comprises approximately 66 gross acres and is located in the northwest corner of the planning area. The area is bounded by I-15 on the west, the San Diego County Water Authority Aqueduct on the east, and Mira Mesa and Scripps Ranch Boulevards on the south.

Portions of the property have slopes in excess of 25 percent and large rock outcroppings. With grading and site-specific architecture, much of the property could support multifamily units. The northern portion of Area A is designated for 15-29 dwelling units per net acre, but is specifically intended to allow a maximum density of 20.14 dwelling units per net acre in Scripps Westview, a maximum density of 25.6 dwelling units per net acre in Scripps Landing, and a maximum density of 29 units per net acre in the Erma Road Project. An average density of 10-15 dwelling units per net acre is permitted for the remainder of the area. No more than **852** homes should be built within this area. At least 15 acres or 23 percent of this area should be left as open space. (See **Figure 4**. Also, please note that **Figure 5** has been deleted from this Plan.)



8
FIGURE

Commercial Element
Scrapps Miramar Ranch Community Plan

PROPOSALS

Scripps Memorial Ranch residents presently rely on commercial facilities in Mira Mesa and other communities for many of their shopping needs. However, as the community's population increases with further development of Scripps Ranch, market demands will encourage the development of additional commercial facilities. This Plan provides for the anticipated demand through the allocation of about 47+ acres for commercial uses within the planning area.

Uses within these commercial areas can be distinguished as follows: 12+ acres for neighborhood shopping facilities; 28+ acres for community shopping facilities; and 7+ acres for professional office uses. **Figure 8** depicts the location of the various commercial land uses.

The need for neighborhood shopping facilities can best be met by full development of the remaining area in the Scripps Commercial Subdivision located at Aviary Drive and Scripps Ranch Boulevard. This seven-acre site should be adequate for a full neighborhood shopping center.

In addition to these facilities, a one-acre convenience center site should be developed in the vicinity of Jerabek Elementary School. This location can serve residents from both north and south of Pomerado Road, as well as visitors to the neighborhood park and school.

An additional four-acre convenience commercial site could be developed at the intersection of Spring Canyon Road and Pomerado Road. A commercial center with a mini-market and/or gas station at this location could serve residents at the east end of the community, as well as some residents of Miramar Ranch North. This site is designated as an optional residential site, therefore, it could develop for residential purposes at a density of 10-15 du/na in keeping with the Plan's medium-density designation. To ensure adequate regulation of design, setbacks, landscaping and buffering, the development of this site shall occur in association with a PCD.

Community shopping facilities at the 24-acre site adjoining Scripps Ranch Boulevard near its intersection with Mira Mesa Boulevard would complement other neighborhood facilities and could service Scripps Ranch and Mira Mesa residents. By including those establishments normally found in neighborhood shopping centers, this commercial area would eliminate the need for a second neighborhood shopping center in the area east of Miramar Reservoir. Most residents using Mary Ellen Road for access to Mira Mesa and I-15 would find it convenient to patronize these facilities during their daily trips to school or work.

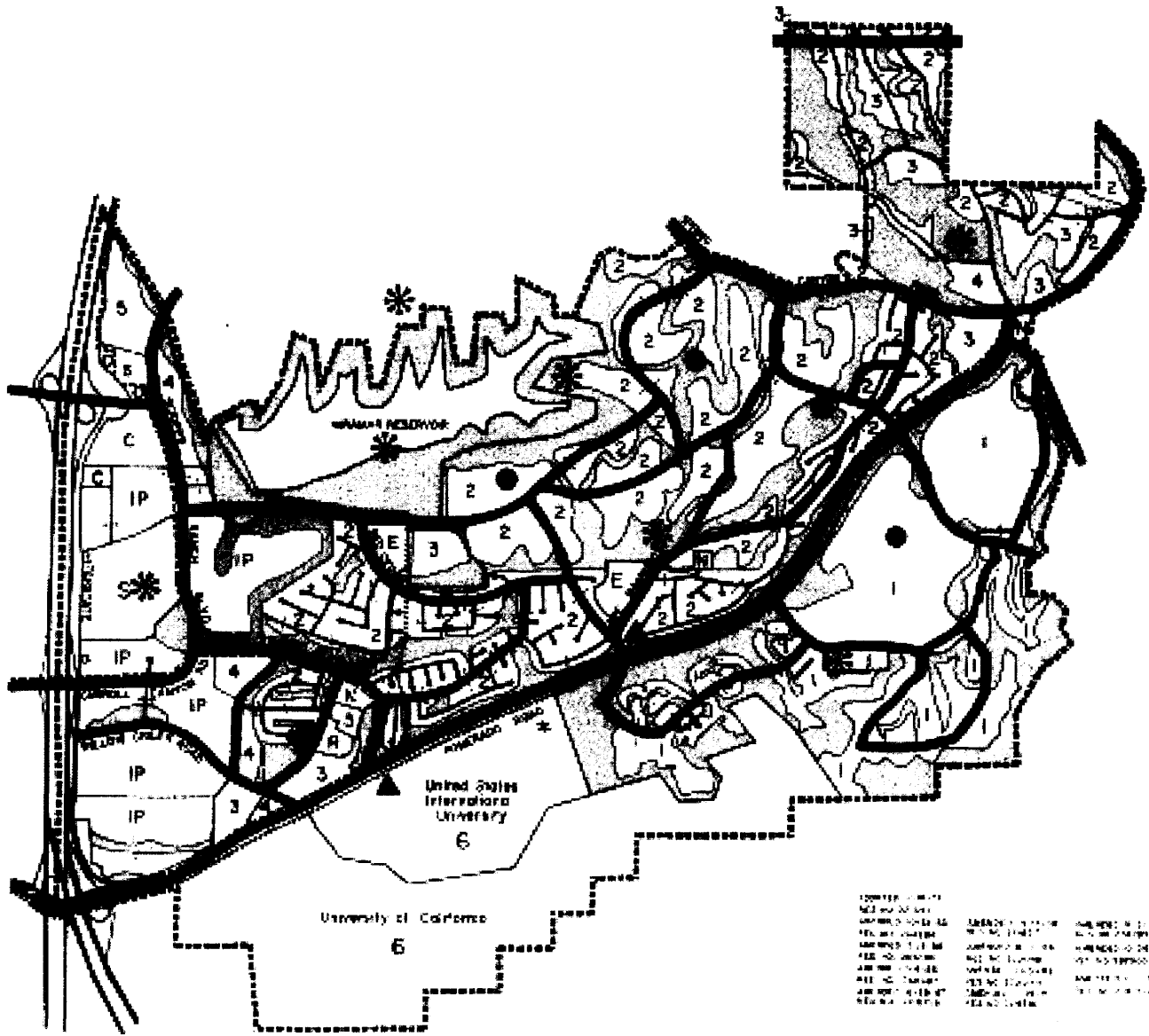
The 3.9-acre site, located at the intersection of Hibert and Treena Streets, west of Scripps Ranch Boulevard and immediately south of the above referenced 24-acre site, shall be zoned CA and developed as a PCD to control the uses allowed on the site, ensure compatibility with surrounding development, and to provide for appropriate design review.

- Design of the building should be of high quality and must include variation in wall texture, color or material. The design shall also incorporate some form of shadow relief such as pop-outs, offsetting planes, overhangs and recesses to add visual interest and to avoid large, unbroken expanses of wall.
- Exterior building walls shall be constructed of durable, permanent material such as textured concrete, stone, brick, stucco, wood or glass. Reflective glass is prohibited, particularly adjacent to I-15, because of problems with reflected glare.
- All building elevations visible from I-15 or the street shall be well detailed and visually interesting.
- Careful design of the building roof is required because it is visible from Lake Miramar, a significant community landmark. Roof-mounted equipment should be avoided. If roof-mounted equipment is provided, however, all equipment and appurtenances shall be designed so that they appear to be an integral part of overall architectural design of the building, or sensitively screened from view.
- The site design shall also include a pedestrian pathway, distinguished by either colored or stamped concrete and/or landscaping as a linkage between the building and the parking lot.
- Landscaping of the site should incorporate the extensive use of eucalyptus trees and native vegetation with low water requirements. Parking areas should incorporate extensive landscaping and, if necessary, buffering elements to screen them from view along the street.
- Signage should advertise a place of business and be aesthetically pleasing and in scale with surrounding buildings. Additional signage design criteria is contained in the **Design Element**. A sign plan must be submitted as part of the PCD.
- Use of this facility will be limited to commercial uses with low trip generation rates, such as a furniture store, to avoid significant traffic impacts. Development of the site shall generate no more trips than those generated by a small industrial park. This site is located immediately adjacent to an industrial park and slightly north of the proposed secondary school site with its only access from a two-lane road. More intense retail commercial uses on this site could result in significant traffic impacts and, therefore, should not be permitted.

The 7-acre site located north of Mira Mesa Boulevard and west of Scripps Ranch Boulevard will remain suitable for professional office uses.

LEGEND

- Residential
D-5000/Net AC 1
- Residential
S-2000/Net AC 2
- Residential
S-3000/Net AC 3
- Residential
D-15 000/Net AC 4
- Residential
D-25000/Net AC 5
- Existing
Community
Recreation R
- Community
Shopping C
- Neighborhood
Shopping N
- Professional
Offices O
- Public
Park IP
- Park *
- Tel. Lot ●
- Resource Based Park *
- Open Space
- Elementary
School E
- Secondary
School S
- University U
- Major
Hiking Trail
- Bikeway
- County Boundary
- Possible Fire
Station Site ▲



1998-2000
 2000-2005
 2005-2010
 2010-2015
 2015-2020
 2020-2025
 2025-2030
 2030-2035
 2035-2040
 2040-2045
 2045-2050
 2050-2055
 2055-2060
 2060-2065
 2065-2070
 2070-2075
 2075-2080
 2080-2085
 2085-2090
 2090-2095
 2095-2100



Land Use Plan 19
Scripps Miramar Ranch Community Plan FIGURE

PLAN SUMMARY OF LAND USE ALLOCATIONS

TABLE 2

Land Use	Acres
Very Low Residential (0-3 DU/NRA*)	475+
Low Residential (3-5 DU/NRA*)	913+
Low-Medium Residential (5-10 DU/NRA*)	99+
Medium Residential (10-15 DU/NRA*)	55+
High-Medium Residential (15-29 DU/NRA*)	28+
Neighborhood Shopping	12+
Community Shopping	28+
Professional Offices	7+
Industrial Park	386+
Park and Recreation	54+ 91+**
Reservoir and Adjoining Property	365+
Schools and Other Institutional Uses	817- 828+**
Fire Station	1+
Open Space	624+
Total Net Area	3,923+
Streets, Other Public Rights-of-Way	467+
Total Planning Area	4,365+

* Density is calculated as the number of dwelling units per net residential acre (DN/NRA). This assumes 25 percent open space and 15 percent for streets and other public right-of-way. Residential use allocations include certain non-residential uses such as church sites, private recreation facilities and private daycare centers.

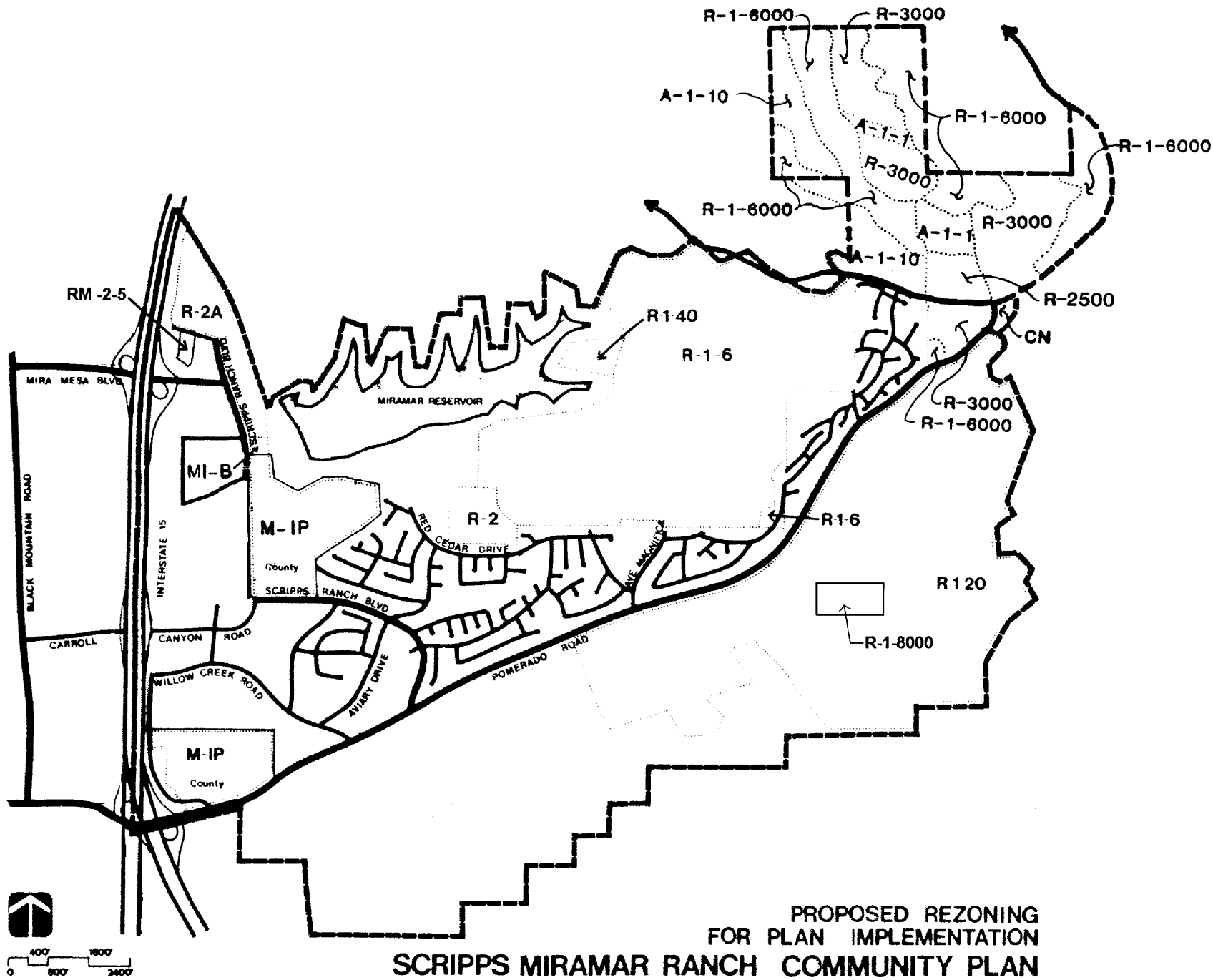
** The precise Park and Recreation and Schools/Institutional acreage will be dependent upon the future need for school facilities.

SUMMARY TABLE OF PLAN PROPOSALS

Proposal	Action	Responsibility
Residential Element		
Encourage density ranges (0-3, 3-5, 5-10, 10-15, 15-29 DU/NRA) to develop and/or maintain these densities as shown on Figure 19.	Allow no rezonings that conflict with the Plan.	Planning Commission City Council
Encourage conformance to standards and criteria set out in Design Element .	Work with developers, apply HR overlay zoning.	SMRPC* Planning Department
Investigate use of housing in Scripps Ranch Community.	Investigate state and federal housing subsidy and City-leased housing programs.	City Council City Manager Private developers
Strengthen Hillside Review process and encourage flexibility in enforcement of zones.	Amend zoning ordinances.	Planning Department
Commercial Element		
Limit commercial development in the community to those areas shown on Figure 19 .	Monitor situation.	Planning Commission City Council
Enhance the appearance of figure commercial development by encouraging PCD and Design Element standards.	Monitor situation, work with developers.	SMRPC*
Encourage development of convenience shopping facility in the eastern area of the community.	Permit rezoning, work with developer on design.	SMRPC* Planning Department Planning Commission City Council
Industrial Element		
Continue to develop industrial park under M-IP restrictions.	Monitor development proposals, compare with design recommendations of the Plan.	SMRPC* Private developers
Support design of open spaces to coincide with adjoining open spaces.	Monitor development proposals, work with developer.	SMRPC*
Protect industrial park from encroaching uses.	Approve only those uses acceptable in an M-IP zone.	Planning Commission City Council
Provide buffers to separate industrial uses from disparate uses.	Provide landscaping, fences, etc. to separate industrial uses from adjoining uses.	Private developers

* SMRPC: Scripps Miramar Ranch Planning Committee or successor

FIGURE 20



PROPOSED REZONING
FOR PLAN IMPLEMENTATION
SCRIPPS MIRAMAR RANCH COMMUNITY PLAN

RESOLUTION NUMBER R-_____

DATE OF FINAL PASSAGE _____

A RESOLUTION APPROVING AN AMENDMENT TO THE
GENERAL PLAN AND THE SCRIPPS MIRAMAR RANCH
COMMUNITY PLAN.

WHEREAS, H.G. Fenton Company, California limited liability company, requests amendments to the Scripps Miramar Ranch Community Plan to re-designate 8 acres of land from commercial use to residential use on a site located at 9889 Erma Road in the City of San Diego; and

WHEREAS, the site is legally described as Parcel 1 and 2 of Parcel Map No. 10259 filed July 21, 1980, and Parcel 2 of Parcel Map No. 1864 filed on February 7, 1984 in the Office of the San Diego County Recorder; and

WHEREAS, City Council Policy 600-7 provides that public hearings to consider revisions to the General Plan for the City of San Diego may be scheduled concurrently with public hearings on proposed community plans in order to retain consistency between said plans and the Planning Commission has held such concurrent public hearings; and

WHEREAS, on September 17, 2009, the Planning Commission of the City of San Diego held a public hearing for the purpose of considering an amendment to the Scripps Miramar Ranch Community Plan; and

WHEREAS, the Planning Commission of the City of San Diego found the proposed amendment consistent with the General Plan; and

WHEREAS, under Charter section 280(a)(2) this resolution is not subject to veto by the Mayor because this matter requires the City Council to act as a quasi-judicial body and where a

public hearing was required by law implicating due process rights of individuals affected by the decision and where the Council was required by law to consider evidence at the hearing and to make legal findings based on the evidence presented; and

WHEREAS, on _____, the City Council of the City of San Diego held a public hearing for the purpose of considering an amendment to the General Plan and the Scripps Miramar Ranch Community Plan; and

WHEREAS, the Council of the City of San Diego has considered all maps, exhibits, and written documents contained in the file for this project on record in the City of San Diego, and has considered the oral presentations given at the public hearing; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that the Council adopts the amendment to the Scripps Miramar Ranch Community Plan, a copy of which is on file in the office of the City Clerk as Document No. RR-_____.

BE IT FURTHER RESOLVED, that the Council adopts the amendment to the General Plan for the City of San Diego solely to incorporate the above amended plan.

APPROVED: JAN I. GOLDSMITH, City Attorney

By _____
INSERT
Deputy City Attorney

INSERT
09/17/09
Or.Dept:DSD
R-2009-INSERT

RESOLUTION NUMBER R-_____

ADOPTED ON _____

WHEREAS, on July 24, 2008, H.G. Fenton Development submitted an application to the Development Services Department for a Community Plan Amendment, Vesting Tentative Map, Planned Development Permit and Rezone;

WHEREAS, the permit was set for a public hearing to be conducted by the City Council of the City of San Diego; and

WHEREAS, the issue was heard by the City Council on _____; and

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

WHEREAS, the City Council of the City of San Diego considered the issues discussed in Mitigated Negative Declaration No. 137944 NOW THEREFORE,

BE IT RESOLVED, by the City Council of the City of San Diego, that it is hereby certified that Mitigated Negative Declaration No. 137944 has been completed in compliance with the California Environmental Quality Act of 1970 (California Public Resources Code Section 21000 et seq.) as amended, and the State guidelines thereto (California Administration Code Section 15000 et seq.), that the report reflects the independent judgment of the City of San Diego as Lead Agency and that the information contained in said report, together with any comments received during the public review process, has been reviewed and considered by the City Council.

BE IT FURTHER RESOLVED that the City Council finds that project revisions now mitigate potentially significant effects on the environment previously identified in the Initial Study and therefore, that said Mitigated Negative Declaration, a copy of which is attached hereto and incorporated by reference, is hereby approved.

BE IT FURTHER RESOLVED that pursuant to California Public Resources Code, Section 21081.6, the City Council hereby adopts the Mitigation Monitoring and Reporting Program, or alterations to implement the changes to the project as required by this body in order to mitigate or avoid significant effects on the environment, a copy of which is attached hereto and incorporated herein by reference.

Jan Goldsmith, City Attorney

By: _____
Deputy City Attorney

ATTACHMENT: Exhibit A, Mitigation Monitoring and Reporting Program

EXHIBIT A

MITIGATION MONITORING AND REPORTING PROGRAM

PROJECT NO. 137944

This Mitigation Monitoring and Reporting Program is designed to ensure compliance with Public Resources Code Section 21081.6 during implementation of mitigation measures. This program identifies at a minimum: the department responsible for the monitoring, what is to be monitored, how the monitoring shall be accomplished, the monitoring and reporting schedule, and completion requirements. A record of the Mitigation Monitoring and Reporting Program will be maintained at the offices of the Entitlements Division, 1222 First Avenue, Fifth Floor, San Diego, CA 92101. All mitigation measures contained in the Mitigated Negative Declaration (Project No. 137944) shall be made conditions of the Community Plan Amendment, Vesting Tentative Map, Planned Development Permit and Rezone as may be further described below.

V. MITIGATION, MONITORING AND REPORTING PROGRAM:

A. GENERAL

1. Prior to the issuance of any construction permits, including but not limited to, the first Grading Permit, Demolition Plans/Permits and Building Plans/Permits the Assistant Deputy Director (ADD) environmental designee of the City's Entitlements Division shall verify that the grading and/or construction plans include an index of sheets shown on the first map sheet which includes "Environmental Requirements"; and that this Mitigation Monitoring and Reporting Program (MMRP a.k.a. "Environmental Requirements") have been included on the submitted construction documents in their entirety (verbatim), along with contact/contract specifications.
2. The index shall also have the following statement under "Environmental Requirements, "The ERMA Road development project is conditioned to have a qualified biological monitor on-site, as determined at the preconstruction meeting. The project shall conform to the MMRP conditions as contained in the environmental document (PTS No. 137944) and as shown verbatim on sheet(s): *"(to be filled by applicant/contractor)."* Please note, additional related mitigation features and/or notes can also be included on individual map sheets where appropriate (e.g. to depict areas of revegetation, et cetera.).
3. Verbatim mitigation measures cannot be altered or edited but can be annotated individually to indicate time and method of completion (i.e. to provide enough detail for plan check verification) or to provide notes indicating where additional graphic instructions are located, etc.
4. In addition, prior to the commencement of work, a Preconstruction Meeting (Pre-con) shall be arranged by the owner/permittee and conducted. The Pre-con shall include the appropriate City of San Diego's Mitigation Monitoring Coordination (MMC) Section Representative, the Resident Engineer, Project Biologist, Applicant, and other parties of interest.

B. MITIGATION FOR POTENTIAL INDIRECT CONSTRUCTION-RELATED NOISE IMPACTS TO SENSITIVE BIRDS

Biological Resources (General Birds)

1. If project grading/brush management is proposed in or adjacent to native habitat during the typical bird breeding season (February 1-September 15), or an active nest is noted, the project biologist shall conduct a pregrading survey for active nests in the development area and within 300 feet of it, and submit a letter report to MMC prior to the preconstruction meeting.
2. If active nests are detected, or considered likely, the report shall include mitigation in conformance with the City's Biology Guidelines and applicable State and Federal Law (i.e. appropriate follow up surveys, monitoring schedules, buffers, etc.) to the satisfaction of the ADD of the Entitlements Division. Mitigation requirements determined by the project biologist and the ADD of Entitlements shall be incorporated into the project's Biological Construction Monitoring Exhibit (BCME) and monitoring results incorporated in to the final biological construction monitoring report.
3. If no nesting birds are detected per "1" above, mitigation under "1" is not required.

C. PUBLIC UTILITIES (SOLID WASTE GENERATION/DISPOSAL)

Entitlements Plan check

1. Prior to the issuance of any construction permits, including but not limited to, demolition, grading, building or any other construction permit, the ADD Environmental Designee shall verify that the all the requirements of the Refuse & Recyclable Materials Storage Regulations and all of the requirements of the Waste Management Plan (WMP) are shown and noted on the appropriate construction documents. All requirements, notes and graphics shall be in substantial conformance with the conditions and exhibits of the associated discretionary approval.
2. The construction documents shall include a WMP that addresses the following information and elements for demolition, construction, and occupancy phases of the project as applicable:
 - (a) tons of waste anticipated to be generated,
 - (b) material type of waste to be generated,
 - (c) source separation techniques for waste generated,
 - (d) how materials will be reused on site,
 - (e) name and location of recycling, reuse, or landfill facilities where waste will be taken if not reused on site,
 - (f) a "buy recycled" program,
 - (g) how the project will aim to reduce the generation of construction/ demolition debris,
 - (h) a plan of how waste reduction and recycling goals will be communicated to subcontractors,
 - (i) a time line for each of the three main phases of the project as stated above,
 - (j) a list of required progress and final inspections by City staff.

3. The WMP shall strive for a goal of 50% waste reduction.
4. The WMP shall include specific performance measures to be assessed upon the completion of the project to measure success in achieving waste minimization goals.
5. The WMP shall include notes requiring the Permittee to notify MMC and the Environmental Services Department (ESD) when:
 - (a) a demolition permit is issued,
 - (b) demolition begins on site,
 - (c) inspections are needed. The permittee shall arrange for progress inspections, and a final inspection, as specified in the plan and shall contact both MMC and ESD to perform these periodic site visits during demolition and construction to inspect the progress of the project's waste diversion efforts.

When Demolition ends, notification shall be sent to:

**Mitigation Monitoring Coordination (MMC) Environmental Review Specialist
9601 Ridgehaven Court , Ste. 320, MS 1102 B
San Diego, CA 92123 1636
(619) 980 7122**

**Development Service Department, Environmental Services Department (ESD)
9601 Ridgehaven Court, Ste. 320, MS 1103 B
San Diego, CA 92123 1636
(858) 627-3303**

6. Prior to the issuance of any grading or building permit, the applicant shall receive approval, in writing, from the ADD environmental designee of the Entitlements Division that the WMP has been prepared, approved, and implemented. Also prior to the issuance of any grading or building permit, the applicant shall submit written evidence to the ADD that the final Demolition/Construction report has been approved by MMC and ESD. This report shall summarize the results of implementing the above WMP elements, including: the actual waste generated and diverted from the project, the waste reduction percentage achieved, and how that goal was achieved, etc.

Pre-Construction Meeting

1. Demolition Permit - Prior to issuance of any demolition permit, the permittee shall be responsible to obtain written verification from MMC indicating that the permittee has arranged a preconstruction meeting to coordinate the implementation of the MMRP. The Precon Meeting shall include the Construction Manager, Demolition/Building /Grading Contractor, MMC, ESD, and the Building Inspector and/or the Resident Engineer (RE) (whichever is applicable) to verify that implementation of the WMP shall be performed in compliance with the plan approved by Entitlements and ESD, to ensure that impacts to solid waste facilities are mitigated to below a level of significance.
2. At the Precon Meeting, the Permittee shall submit Three (3) reduced copies (11"x 17") of the approved WMP, to MMC (2) and ESD (1).
3. Prior to the start of demolition, the Permittee/Construction Manager shall submit a construction/demolition schedule to MMC and ESD.
 - a. Grading and Building Permit - Prior to issuance of any grading or building permit, the permittee shall be responsible to arrange a preconstruction meeting

to coordinate the implementation of the MMRP. The Precon Meeting that shall include the Construction Manager, Building/Grading Contractor, MMC, ESD and the Building Inspector and/or the Resident Engineer (RE) (whichever is applicable) to verify that implementation of the waste management plan shall be performed in compliance with the plan approved by Entitlements and ESD, to ensure that impacts to solid waste facilities are mitigated to below a level of significance.

4. At the Precon Meeting, The Permittee shall submit reduced copies (11"x 17") of the approved WMP to the RE, BI, MMC and ESD.
5. Prior to the start of construction, the Permittee/Construction Manager shall submit a construction schedule to the RE, BI, MMC and ESD.

The Permittee/ Construction Manager shall call for inspections by the RE/BI and both MMC and ESD, who will periodically visit the demolition/construction site to verify implementation of the WMP. The Consultant Site Visit Record (CSVR) shall be used to document the Daily Waste Management Activity/progress. Within 30 days after the completion of the implementation of the MMRP, for any demolition or construction permit, a final results report shall be submitted to both MMC and ESD for review and approval to the satisfaction of the City. MMC will coordinate the approval with ESD and issue the approval notification.

Prior to final clearance of any demolition permit, issuance of any grading or building permit, release of the grading bond and/or issuance of any Certificate of Occupancy, the permittee shall provide documentation to the ADD environmental designee of the Entitlements Division that the WMP has been effectively implemented.

D. NOISE

1. Prior to issuance of a building permit, all recommendations provided in *Noise Study for the Erma Road Residential Project* (May 15, 2009) prepared by RECON Environmental, Inc. shall be shown on the building plans to the satisfaction of the ADD environmental designee of Entitlements and the City Engineer.
 - a. The project shall require three- to five-foot high sound walls to be constructed adjacent to the outdoor pool area, as shown on the approved Exhibit "A".
 - b. The sound walls shall be constructed of a minimum 0.5-inch thick Plexiglas free of cracks, holes and gaps.
 - e. An interior noise analysis shall be required to be conducted by a qualified acoustician to ensure that the interior Community Noise Equivalent Level (CNEL) for each multi-residential unit would not exceed 45 CNEL and the project complies with Title 24 of the California Code of Regulations (CCR). Examples of appropriate mitigation measures may include air-conditioning and/or mechanical ventilation and sound-rated windows to reduce interior noise levels to 45 CNEL or less. The project acoustician shall be responsible for determining appropriate mitigation measures within the interior noise analysis. The applicant shall incorporate all interior noise mitigation provided within the interior noise analysis into the ERMA Road project and demonstrate compliance with CCR Title 24.

ATTACHMENT 9

The above mitigation monitoring and reporting program will require additional fees and/or deposits to be collected prior to the issuance of building permits, certificates of occupancy and/or final maps to ensure the successful completion of the monitoring program.

Rezone Ordinance

(O-INSERT~)

ORDINANCE NUMBER O-_____ (NEW SERIES)

ADOPTED ON _____

Tb(@2Tb)

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SAN DIEGO CHANGING 3.92 ACRES LOCATED AT 9889 ERMA ROAD, WITHIN THE SCRIPPS MIRAMAR RANCH COMMUNITY PLAN AREA, IN THE CITY OF SAN DIEGO, CALIFORNIA, FROM THE CO-1-2 ZONE INTO THE RM-2-5 ZONE, AS DEFINED BY SAN DIEGO MUNICIPAL CODE SECTION 131.0406; AND REPEALING ORDINANCE NO. 11026 (NEW SERIES), ADOPTED MARCH 15, 1973, OF THE ORDINANCES OF THE CITY OF SAN DIEGO INsofar AS THE SAME CONFLICTS HEREWITH.

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

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

Section 1. That 3.92 acres located 9889 Erma Road and legally described as Parcel 2 of Parcel Map 10259, in the Scripps Miramar Ranch Community Plan area, in the City of San Diego, California, as shown on Zone Map Drawing No. B-4280, filed in the office of the City Clerk as Document No. OO- _____, are rezoned from the CO-1-2 zone into the RM-2-5 zone as described and defined by San Diego Municipal Code Chapter 13 Article 1 Division 4. This action amends the Official Zoning Map adopted by Resolution R-301263 on February 28, 2006.

ATTACHMENT 10

Section 2. That Ordinance No. 11026 (New Series), adopted March 13, 1973, of the ordinances of the City of San Diego is repealed insofar as the same conflicts with the rezoned uses of the land.

Section 3. That a full reading of this ordinance is dispensed with prior to its final passage, a written or printed copy having been available to the City Council and the public a day prior to its final passage.

APPROVED: JAN I GOLDSMITH, City Attorney

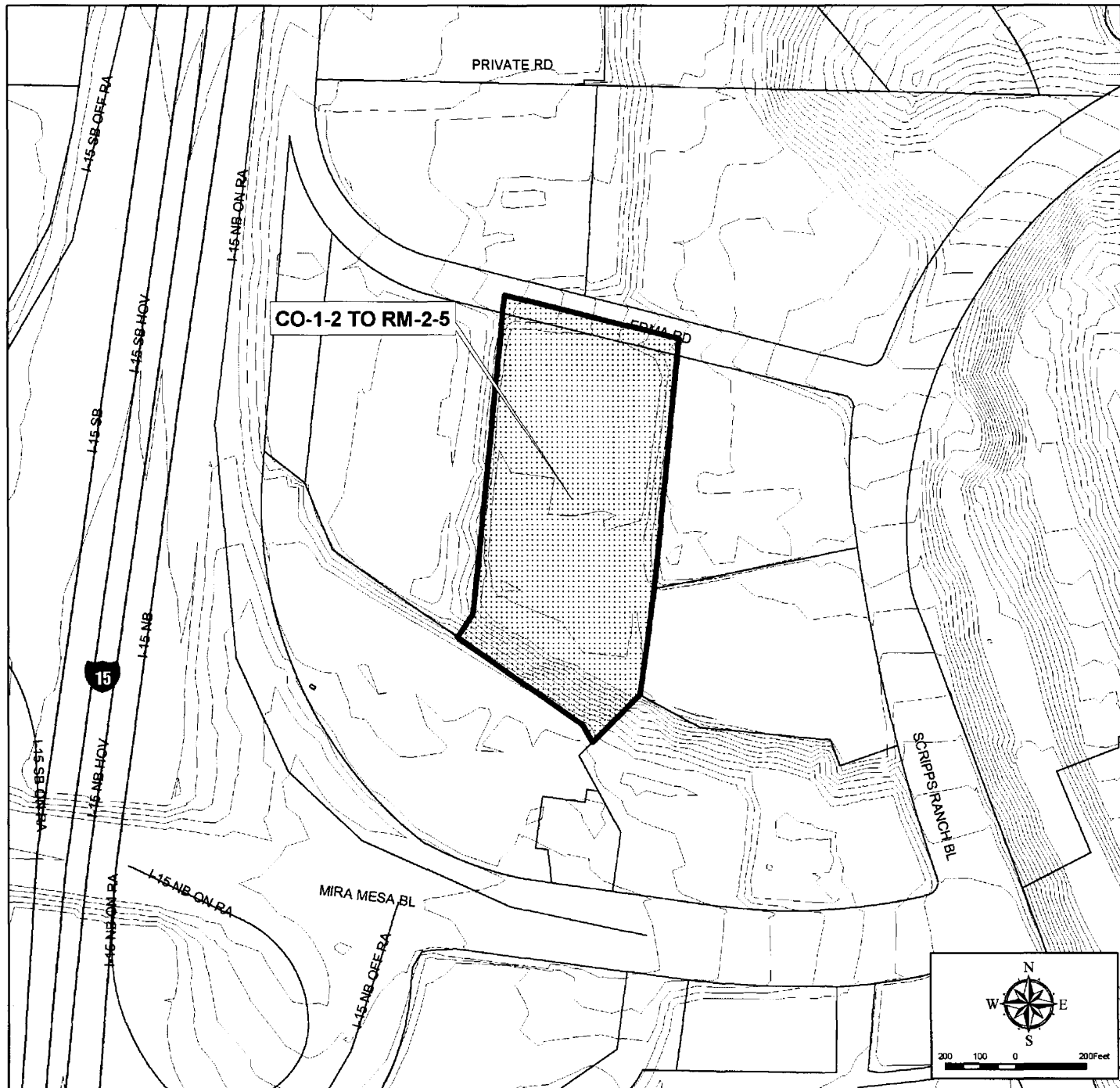
By _____
Attorney name
Deputy City Attorney

Initials~
Date~
Or.Dept: DSD
Case No.INSERT PROJECT NUMBER~
O-INSERT~



CITY OF SAN DIEGO • DEVELOPMENT SERVICES

PROPOSED REZONING



PAR 2 PM 10259		CASE NO. PTS 137944
ORDINANCE NO. _____	REQUEST RM-2-5	
EFF. DATE ORD. _____	PLANNING COMM. RECOMMENDATION	DEVELOPMENT SERVICES MANAGER
ZONING SUBJ. TO _____	CITY COUNCIL ACTION	
BEFORE DATE _____		B- 4280
EFF. DATE ZONING _____		APN: 319-180-43
MAP NAME AND NO. _____		(274-1725) 07-27-09 ldj

Planning Commission General/Community Plan Initiation Issues

1. Inclusion of properties directly east and west of the subject property in the proposed plan amendment from Commercial Office to Medium density Residential.

The properties located directly east of the project site have currently been developed at the proposed 15-29 dwelling unit per acre density range. The Scripps Miramar Ranch Community Plan designates these sites as Commercial-Professional Office, and development at these sites occurred prior to the update of the zoning code which allowed 100% residential development in commercial zones without a commercial component. These two properties will be included with this plan amendment to reflect existing conditions.

The properties located west of the project site and east of I-15 have a Commercial-Professional Office designation and have been developed as commercial buildings. These properties will not be included in this plan amendment as a change in land use is not anticipated in the near-term future.

2. Viability of commercial use at this location including a market and economic analysis

MarketPointe Realty Advisors prepared a Market and Economic analysis of the subject site, located at 9889 Erma Road in the Scripps Miramar Ranch (SMR) Community planning area. This analysis examined the site and area for potential use as retail or office space.

As a result of this study, the project location has been deemed a retail-inferior site for the preceding reasons listed below:

- 1) The relative small lot size (3.92 acres) presents a location infeasible for major single use developments (such as Target or K-Mart). The site would therefore lend itself to a more strip-mall type development which decreases development opportunities.
- 2) The project site is far removed from the mainstream of retail development in the area. As Erma Road is the frontage road for the project site, visibility from Scripps Ranch Boulevard and Mira Mesa Boulevard would be almost nonexistent. The lack of visibility from major roads greatly reduces the retail-development potential for this site.
- 3) Erma Road daily traffic counts are significantly lower than what would attract typical retail users. Erma Road primarily serves residential uses and is intended for low-volume use. A lack of adequate traffic volume on the frontage road (Erma Road) for the location makes for a retail-inferior site.

Office building demand for the market area and countywide are considerably down from past years. Vacancy rates among office buildings for the market area are also up

significantly and slightly surpass the countywide average (14%-17%). As a result of the Market and Economic Analysis, a market recovery is not foreseen within the near-term future. As such, it has been determined that the project site would not be recommended for office development.

3. The ability to provide the high end of the proposed density range and its compatibility with the site, adjacent land use, and the Scripps Miramar Ranch Community

The project site is 3.92 acres and adjacent land uses includes Multi-Family housing to the north and east, small commercial suites to the west, and hotel and retail uses to the south. The proposed density range is equivalent to the existing developments to the north of Erma Road, and east of the project location and west of Scripps Ranch Boulevard (15-29 dwelling units per acre). Additionally, further east development across Scripps Ranch Boulevard has been developed at a slightly less but similar density range (10-15 dwelling units per acre). A small area in the northwest corner of the Spring Canyon Road and Pomerado Road intersection has also been developed at the 10-15 dwelling unit per acre density.

The applicant proposes to change the land use designation from Commercial (Professional Office) to High Medium Density Residential (15-29 dwelling units per acre). Based on the development of adjacent parcels, recent failure of commercial development on site, and the results of the Market and Economic Analysis, staff has determined that the proposed land use designation is appropriate and would not be detrimental to the site, adjacent land uses, or the Scripps Miramar Ranch Community. Additionally, the proposed project would provide development at the high end of the density range (25 dwelling units per acre) and allow for the proposed 95 dwelling units.

4. The ability to provide usable “green” open space on-site for residential development

The proposed project will be required to provide a minimum of 18,050 square feet of useable open space per the Land Development Code for the RM-2-5 zone (190 square feet per dwelling unit x 95 dwelling units). The proposed project will be providing 35,277 square feet of common open space and 6,087 square feet of private open space, exceeding the Land Development Code requirement. Due to the relatively small size of the project site and its narrow configuration, providing large areas of green space is not feasible. However, the project proposal includes common amenities such as: solar powered pool, spa, and fitness facility; a perimeter pedestrian trail; a tot lot; and a barbeque area with picnic tables.

5. The difference is sustainability between commercial and residential use

The difference is sustainability between commercial and residential use greatly depends on the individual characteristics of development and varies between

developments. The proposed project has included numerous features leading to LEED certification qualification under the new guidelines adopted on April 27, 2009. These features include: permeable pavers along the drive aisle and in the fire department turnaround; solar energy used to power the pool, spa, and fitness center; electric vehicle charging stations in each garage; high efficiency toilets and laundry facilities in each unit; recycling collection in each unit with pick-up provided on-site; nearly 100% of construction waste will be recycled; use of synthetic turf throughout the site to reduce water usage; use of drought tolerant landscaping to further reduce water usage; tuck-under garages to reduce impervious surfacing; as well as other initiatives and measures.

Additionally, the proposed project would generate approximately half as many vehicle trips as the previously approved project. The proposed projects green initiatives and measures greatly increase the sustainability of the project as compared to previous commercial development on site.

6. Review of pedestrian and vehicular circulation patterns and evaluate them for connectivity and safety.

Pedestrian circulation at the project site would be accommodated through several measures, including; a perimeter pedestrian walkway around the site, several connections to the existing sidewalk system on Erma Road, walkways between residential buildings, a north-south walkway that runs the length of the project site, and a site design that limits pedestrian and vehicular interaction. Pedestrian may travel to nearby retail and commercial developments by way of an existing sidewalk system that will be accessible through several connections from the project proposal to Erma Road.

Vehicular circulation will be accommodated through an entry drive off Erma Road. Vehicular courtyards that enclose the development's garages connect to the main entry drive, creating a succinct circulation pattern. Additionally, permeable pavers demarking pedestrian crossings and pathways along the drive aisle are proposed to help separate vehicular and pedestrian traffic.

7. Traffic impacts to the community circulation system, the I-15 on- and off-ramps, and adjacent communities

In order to assess the potential traffic impacts associated with the proposed project, a traffic study entitled, "*Erma Road Residential Traffic Impact Analysis Report*" (May 2009) was prepared by RBF Consulting. The traffic study examined existing, near term (2012) and horizon year (2030) traffic conditions both with and without the proposed project. The project would generate approximately 760 Average Daily Trips (ADT's) per day. Nearby intersections and roadway segments, I-15 on- and off- ramps at Mira Mesa Boulevard, and I-15 traffic from Scripps Poway Parkway to Carroll Canyon Road were included in this analysis.

Based on the result of the *Erma Road Residential Traffic Impact Analysis Report*, the proposed project would not result in any significant traffic impacts. Although the proposed project would not result in any significant impacts, the applicant has agreed to pay 50% of the cost (not to exceed \$60,000) for improvements at the intersection of Scripps Ranch Boulevard and Erma Road.

8. Impacts to the public facilities and services including parks and public schools

As determined in the Mitigated Negative Declaration (MND) for the Erma Road project, impacts to existing fire and police protection levels, transportation LOS', parks and recreation facilities, and other governmental services are negligible. The project would be required to pay a Development Impact Fee (DIF) and Regional Transportation Congestion Improvement Program (RTCIP) fee prior to project development. These DIF and RTCIP fees would be used to address any impacts that may be caused by the proposed development project and/or improve existing services and infrastructure.

Additionally, a letter from the San Diego Unified School District was received which outlines the potential impact of the proposed project. The assigned schools for the project area are:

Grades K-5: Miramar Ranch, 10770 red Cedar Drive (92131)

Grades 6-8: Thurgood Marshall Middle. 9700 Avenue of Nations (92131)

Grades 9-12: Scripps Ranch High, 10410 Treena Street (92131)

Student generation rates were estimated based on several condominium developments within a mile of the proposed project site that have similar breakdowns of two and three bedroom units. Based on these rates, the associated schools referenced above would operate under capacity if the proposed project is developed. The low number of students generated by the Erma Road project would not result in a need for additional school facilities.



Edress: allen@hgfenton.com

October 20, 2008

Mr. Allen Jones
Vice President
H.G. Fenton Company
7577 Mission Valley Road
Suite 200
San Diego Ca 92108

**RE: RETAIL, OFFICE AND APARTMENT DEVELOPMENT POTENTIAL,
9889 ERMA ROAD, MIRA MESA/SCRIPPS RANCH AREA, CITY OF
SAN DIEGO**

Dear Mr. Jones:

In response to your recent request, MarketPointe Realty Advisors has analyzed the 3.92-acre site at 9889 Erma Road in the Mira Mesa/Scripps Ranch area for potential use as retail or office space and/or apartments. The site is currently vacant and formerly was occupied by a functionally obsolete office building.

Retail Space Demand

Based on the 3.9-acre size of the site, the site would accommodate approximately 35,000 square feet of one-story retail space, assuming a 5:1 parking ratio (5 spaces per 1,000 square feet of building space).

On that basis, if retail space were to be developed, it would not be of sufficient size to accommodate a major single use such as a K-mart or Target and would instead be built out with a strip center.

From a traditional site locational standpoint, the site would be inferior and probably rated as a 1 or 2 on a 10 scale (with 10 as the highest rating) as it is far removed from the mainstream of retail development in the area. The frontage road for the project would be Erma Road and not visible from Scripps Ranch Road, Scripps Ranch Road lies in a north/south direction and connects to Mira Mesa Blvd. that then connects to the I-15 freeway.

The average daily traffic count on Scripps Ranch Road is approximately 12,000 and significantly less on Erma Road. In terms of retail demand, for instance, 7-11 stores look

for sites that have a traffic count of 30,000-40,000 cars daily. Therefore, there is insufficient traffic to attract typical retail users.

The area east of I-15 at Mira Mesa Road has not proven to be a viable location for high traffic retailing, as evidenced by the withdrawal of the K-Mart and other retailers on the south side of Mira Mesa Blvd. at Scripps Ranch Road. The major retail additions on the southwest and northwest corner of I-15 and Mira Mesa Road have drawn the bulk of the retail business to that side of the freeway.

Should a retail strip center be built on Erma Road, it is highly likely that the quality of tenants that could be attracted to the site would not have the necessary financial strength or marketing prowess to draw a sufficient trade area market to the site. As a result, the center would have higher turnover and be unable to generate rents sufficient to financially support the center.

The retail business is becoming increasingly competitive in the current economic environment and small centers in secondary locations are finding it is very difficult to maintain full occupancy.

In addition, in today's financial world, it would prove exceptionally difficult to obtain financing for a retail center at what we can consider a retail-inferior site.

On balance, the site would not be appropriate for retail usage.

Office Building Space Demand

If built out with a new two-story office building, with four parking spaces on grade per 1,000 square feet of office space, the 3.9 acres would yield an office building of approximately 80,000 gross square feet. Parking would consume most of the non-built land.

Today's office market in San Diego is proving to be exceptionally weak, or, at least, as weak as we have seen it in more than a decade. The combination of substantial countywide construction of large structures in combination with a weakening economy has created a situation where vacancy rates have accelerated dramatically.

The San Diego County office market has been in a state of decline for the past four quarters. Vacancy rates countywide have increased from 14% - 17%. There were more than 523,000 square feet of space delivered into the saturated market in the third quarter and another 919,000 square feet is still under construction.



Class A properties have the highest vacancy rates of the three classes and between the deliveries this quarter and the remaining square footage under construction, another 5% of rentable square footage will be added.

The sublet market has grown substantially in recent quarters as many business look to exit stage left from their expensive leases, and many of these short term sublets have substantially below market rents.

The further north in the county, the worse the situation appears to be. The Kearny Mesa area – the locale of the subject property – has a 17.2% vacancy rate with another 400,300 square feet under construction.

PREMIER OFFICE LEASE SUB MARKETS (>4,000,000 SF & >\$2/SF/MO) SAN DIEGO METRO AREA 3RD QUARTER 2008						
MARKET	SF	VAC %	CONSTRUCTION		\$ / SF / MO	YTD NET ABSORP
			3Q DELIVERY	UNDER		
DOWNTOWN	9,444,542	13.8%	-	-	\$2.67	56,655
DEL MAR HTS	4,353,195	14.2%	-	-	\$3.53	250,478
KEARNY MESA	4,857,425	17.2%	-	400,300	\$2.08	(49,285)
MSN VLY	5,668,636	18.3%	-	-	\$2.49	(212,365)
SRNTO MESA	4,284,900	13.8%	-	-	\$2.31	(230,130)
UTC	4,149,850	18.1%	299,500	-	\$3.54	(56,162)
CARLSBAD	4,077,516	24.7%	-	40,000	\$2.38	(3,837)
SAN DIEGO METRO	55,203,123	17.1%	523,036	919,036	\$2.47	(684,282)
CLASS A	25,337,734	18.7%	394,867	813,039	\$2.86	(141,485)
CLASS B	21,504,793	17.0%	128,169	105,997	\$2.26	(435,944)
CLASS C	8,460,596	12.6%	-	-	\$1.75	(106,853)

SOURCE: CBRE
MARKETPOINTE REALTY ADVISORS 10.08

We do not see any change in the state of the market in the near-term future as much of the existing space was occupied by the real estate, finance, title/escrow and construction industries. Although those industries will recover, it may not be for several years.

Because the site is on a low traffic street and has limited visibility, the type of tenants that would occupy a new office building at the site would typically be characterized as "B" quality, attracting small office space users or "back office" workers. Traffic-oriented monument signage potential would be negligible.

In the current office market, space of the type identified here would generate gross rents (rents including utilities) of \$1.50-\$1.75 per square foot per month. It would compete with similar type of office space in Scripps Ranch, Mission Valley and Kearny Mesa, areas with substantial concentrations of lesser quality office space.

Using a gross rent of \$1.75 per square foot, we have calculated that the building would cost \$3,000,000 to \$4,000,000 more to build than its value upon completion with its net operating income valued at a capitalization rate (cash yield) of 9%. Buildings of this type currently sell for 8.5-9.5% capitalization rate.

Pointedly, even in a strong market environment, the site would be considered a weak office building location.

Therefore, the 3.9 acre site would be inappropriate for the development of an office or retail center.

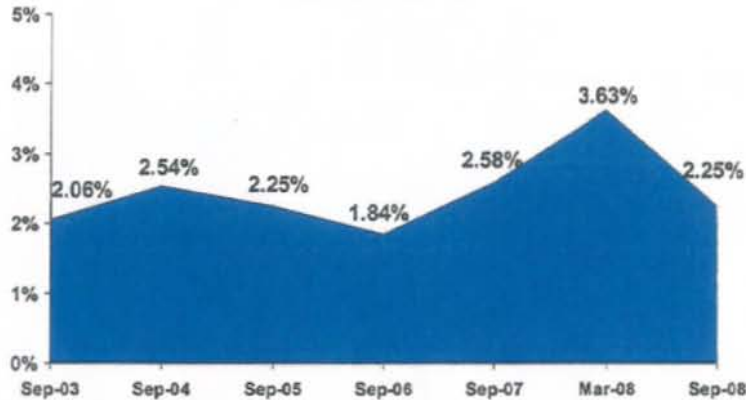
Apartment Project Demand

Countywide, the rental apartment market is proving to be one of the strongest in several years. The demand for rental apartments is growing as a result of a diminishing ability to acquire for sale homes, the near cessation of construction of new homes, the continued population growth of the County and the decline in the number of rental units.

The decline in the number of rental units relates to the burst of condominium conversions in the 2004-2006 period. In that timeframe, more than 15,000 rental units were converted into apartments.

Twice a year, MarketPointe Realty Advisors surveys some 900 apartment projects in San Diego County to determine vacancy rates and rental rate changes. Typically, vacancy rates in the county are below 5.0%, but have been hovering between 2-3% during the past few years. Rates below 5.0% indicate a shortage of rental housing.

**VACANCY RATES
SAN DIEGO COUNTY
2003 – 2008**



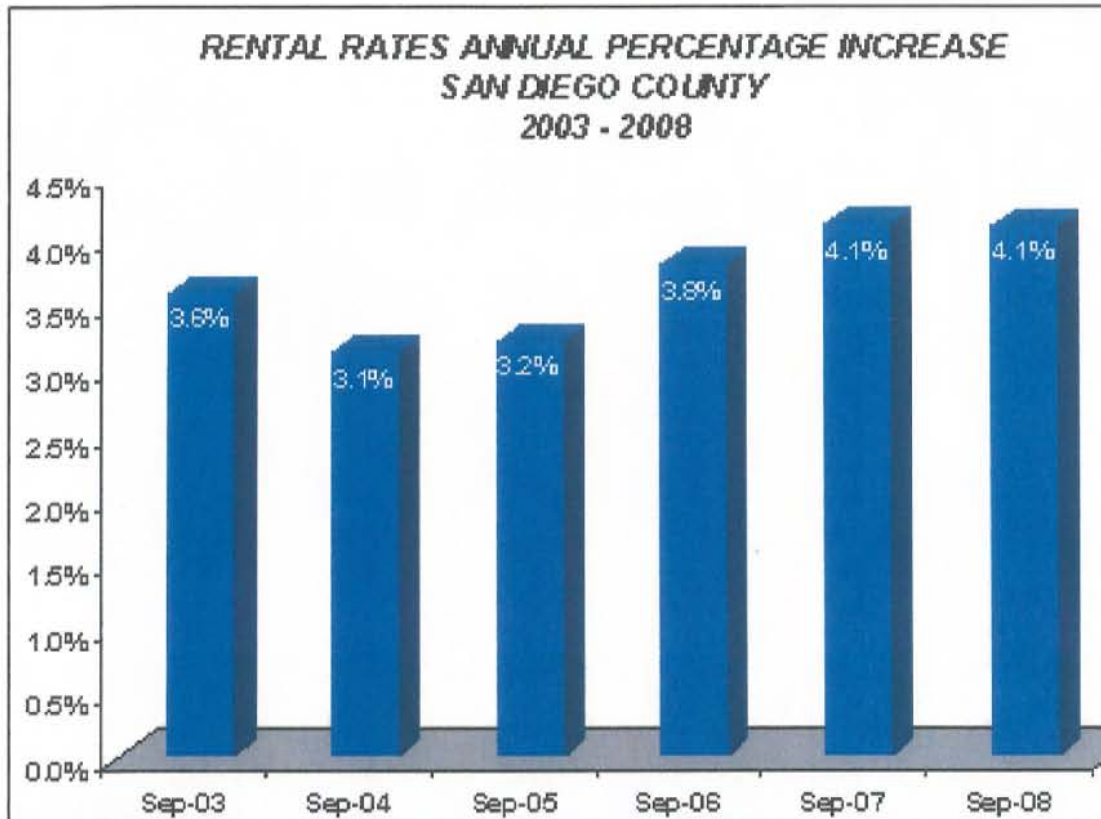
Countywide, the average rent has increased by 12.2% over that period (3.5% annualized) or 13.9% on a rent per square foot basis (4% annualized).

The total number of rental units surveyed declined between 2005 – 2007 due to many apartment projects being converted to condominiums. The condominium conversion era effectively ended in 2006, but the construction of new units has not been sufficient to return the total number of units in the rental inventory to their 2005 levels.

RENTAL MARKET OVERVIEW SAN DIEGO COUNTY 2005 - 2008								
Data	2005/1	2005/2	2006/1	2006/2	2007/1	2007/2	2008/1	2008 / 2
Total Average Rent	\$1,170	\$1,195	\$1,211	\$1,241	\$1,261	\$1,291	\$1,312	\$1,344
Total Average \$/Sqft	\$1.37	\$1.40	\$1.41	\$1.45	\$1.47	\$1.50	\$1.53	\$1.56
Total Number of Units	115,086	112,534	111,574	111,306	113,498	113,761	114,681	115,576
Total Vacancy Rate	3.26%	2.25%	3.05%	1.84%	4.54%	2.58%	3.63%	2.25%

MARKETPOINTE REALTY ADVISORS 10.08

As a result of the shortage of apartments, rents have increased at a progressive schedule. Of the past six MarketPointe Realty Advisors fall surveys, the last two have shown the highest rates of rent increases, as noted below:



The increase in rents is yet another indication of a rental housing shortage.

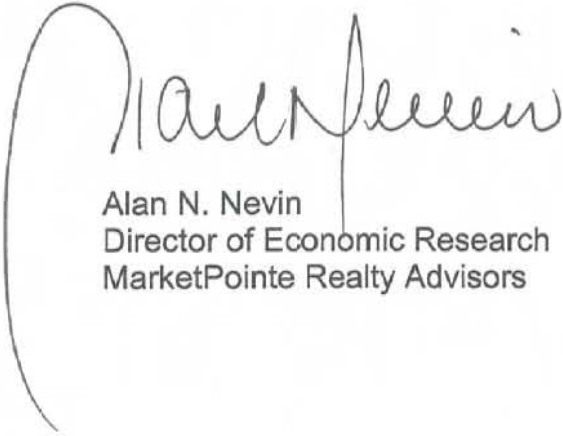
The construction of new market-rate apartment units in the County is increasing at a slow pace with most activity at the higher end of the rent scale, with areas like downtown and University Towne Center at the top of the rent scale. In those markets, the typical two-bedroom apartment rents for more than \$2,000.

The subject property is appropriate for development of apartment units for the same reason that it is not appropriate for retail or office development. Pointedly, the site is on a quiet suburban street, with nearby access to a freeway and proximate to a broad range of retail and services facilities. It is also proximate to the high quality schools in the Scripps Ranch area.

We should also mention that the site is totally appropriate for development of condominiums. We recognize that the market today for condominiums is weak, but also know that with the dearth of modern "for sale" housing in close-in locations that when the market regains strength, developers would view the site as a strong locale for condominium development.

On balance, the Erma Road site is far more appropriate for multi-family development than it is for office or retail development.

Sincerely yours,



Alan N. Nevin
Director of Economic Research
MarketPointe Realty Advisors

Project Title:
Erma Road Property

Project No. (For City Use Only)
137944

Part II - To be completed when property is held by a corporation or partnership

Legal Status (please check):

SOS#: 200504510109

Corporation Limited Liability -or- General) What State? CA Corporate Identification No. 20-2373065 (FEIN#)
 Partnership

By signing the Ownership Disclosure Statement, the owner(s) acknowledge that an application for a permit, map or other matter, as identified above, will be filed with the City of San Diego on the subject property with the intent to record an encumbrance against the property. Please list below the names, titles and addresses of all persons who have an interest in the property, recorded or otherwise, and state the type of property interest (e.g., tenants who will benefit from the permit, all corporate officers, and all partners in a partnership who own the property). A signature is required of at least one of the corporate officers or partners who own the property. Attach additional pages if needed. Note: The applicant is responsible for notifying the Project Manager of any changes in ownership during the time the application is being processed or considered. Changes in ownership are to be given to the Project Manager at least thirty days prior to any public hearing on the subject property. Failure to provide accurate and current ownership information could result in a delay in the hearing process. Additional pages attached Yes No

Corporate/Partnership Name (type or print):

H.G. Fenton Company

Owner Tenant/Lessee

Street Address:

7577 Mission Valley Road, Suite 200

City/State/Zip:

San Diego, California 92108

Phone No:

619.400.0120

Fax No:

619.400.0111

Name of Corporate Officer/Partner (type or print):

Allen Jones

Title (type or print):

Vice President

Signature:

Allen Jones

Date:

6/30/08

Corporate/Partnership Name (type or print):

Owner Tenant/Lessee

Street Address:

City/State/Zip:

Phone No:

Fax No:

Name of Corporate Officer/Partner (type or print):

Title (type or print):

Signature :

Date:

Corporate/Partnership Name (type or print):

Owner Tenant/Lessee

Street Address:

City/State/Zip:

Phone No:

Fax No:

Name of Corporate Officer/Partner (type or print):

Title (type or print):

Signature :

Date:

Corporate/Partnership Name (type or print):

Owner Tenant/Lessee

Street Address:

City/State/Zip:

Phone No:

Fax No:

Name of Corporate Officer/Partner (type or print):

Title (type or print):

Signature :

Date:

Corporate/Partnership Name (type or print):

Owner Tenant/Lessee

Street Address:

City/State/Zip:

Phone No:

Fax No:

Name of Corporate Officer/Partner (type or print):

Title (type or print):

Signature :

Date:

Corporate/Partnership Name (type or print):

Owner Tenant/Lessee

Street Address:

City/State/Zip:

Phone No:

Fax No:

Name of Corporate Officer/Partner (type or print):

Title (type or print):

Signature :

Date:



City of San Diego
 Development Services
 1222 First Ave., MS-302
 San Diego, CA 92101
 (619) 446-5000

Ownership Disclosure Statement

Approval Type: Check appropriate box for type of approval (s) requested: Neighborhood Use Permit Coastal Development Permit
 Neighborhood Development Permit Site Development Permit Planned Development Permit Conditional Use Permit
 Variance Tentative Map Vesting Tentative Map Map Waiver Land Use Plan Amendment Other _____

Project Title **Project No. For City Use Only**
137944
 Erma Road Property
Project Address:
 9889 Erma Road San Diego, California 92131

Part I - To be completed when property is held by Individual(s)

By signing the Ownership Disclosure Statement, the owner(s) acknowledge that an application for a permit, map or other matter, as identified above, will be filed with the City of San Diego on the subject property, with the intent to record an encumbrance against the property. Please list below the owner(s) and tenant(s) (if applicable) of the above referenced property. The list must include the names and addresses of all persons who have an interest in the property, recorded or otherwise, and state the type of property interest (e.g., tenants who will benefit from the permit, all individuals who own the property). A signature is required of at least one of the property owners. Attach additional pages if needed. A signature from the Assistant Executive Director of the San Diego Redevelopment Agency shall be required for all project parcels for which a Disposition and Development Agreement (DDA) has been approved / executed by the City Council. Note: The applicant is responsible for notifying the Project Manager of any changes in ownership during the time the application is being processed or considered. Changes in ownership are to be given to the Project Manager at least thirty days prior to any public hearing on the subject property. Failure to provide accurate and current ownership information could result in a delay in the hearing process.

Additional pages attached Yes No

Name of Individual (type or print):
 Owner Tenant/Lessee Redevelopment Agency
Street Address:
City/State/Zip:
Phone No: _____ **Fax No:** _____
Signature : _____ **Date:** _____

Name of Individual (type or print):
 Owner Tenant/Lessee Redevelopment Agency
Street Address:
City/State/Zip:
Phone No: _____ **Fax No:** _____
Signature : _____ **Date:** _____

Name of Individual (type or print):
 Owner Tenant/Lessee Redevelopment Agency
Street Address:
City/State/Zip:
Phone No: _____ **Fax No:** _____
Signature : _____ **Date:** _____

Name of Individual (type or print):
 Owner Tenant/Lessee Redevelopment Agency
Street Address:
City/State/Zip:
Phone No: _____ **Fax No:** _____
Signature : _____ **Date:** _____

OWNERSHIP DISCLOSURE STATEMENT
PTS 137944

Members of H.G. Fenton Company LLC:

Michael Neal

Kari Prevost

Robert Gottlieb