

RESOLUTION NUMBER R-286503

ADOPTED ON October 31, 1995

WHEREAS, on October 31, 1995, the Council of The City of San Diego considered a request by BLACK MOUNTAIN RANCH LIMITED PARTNERSHIP, Owner/Permittee, pursuant to Sections 101.0900 et. al; 101.0462 et. al; 111.130 et. al; 101.0510 et. al; and other relevant regulations of the San Diego Municipal Code ("SDMC") for a Planned Residential Development; Resource Protection Ordinance ("RPO") (including Hillside Review Findings) Permits; and Findings for an Interim Habitat Loss Permit; and

WHEREAS, on October 31, 1995, the Council of The City of San Diego approved a Development Plan for Discretionary Permit No. 95-0173 which will permit the construction of up to 1,121 residential dwelling units (942 single-family residences and 179 to be maintained as affordable housing), two (2) golf courses and associated clubhouse facilities, natural and improved public open space areas, and various other related site improvements and facilities necessary to implement the proposed development of this site which is located predominantly within the North City Future Urbanizing Area Subarea I as identified by the City's Progress Guide and General Plan and partially within the adopted Rancho Peñasquitos Community Planning areas.

The project site is described as portions of Sections 35 and 36, Township 13 South, Range 3 West, San Bernardino Meridian; together with portions of Sections 1 and 2, Township 14 South, Range 3 West, San Bernardino Meridian, together with a portion of Section 1, Township 14 South, Range 3 West, San Bernardino Meridian; together with a portion of Section 31, Township 13 South, Range 2 West, San Bernardino Meridian; together with a

portion of Parcel 2 of Parcel Map 12443. In addition Section 25 and a portion of Section 36, Township 13 South, Range 3 West, San Bernardino Meridian; together with the southwest quarter, the west half of the northeast quarter of the southeast quarter, Lots 4, 5 and 6 and a portion of Section 31, Township 13 South, Range 2 West, San Bernardino Meridian; together with the south half of the southwest quarter, the southwest quarter of the southeast quarter, and Lots 1, 2, 3 and 4 of Section 32, Township 13 South, Range 2 West, San Bernardino Meridian; together with Lot 1 and a portion of Lot 2, and a portion of the south half of the southwest quarter of Section 33, Township 13 South, Range 2 West, San Bernardino Meridian; together with portions of the east half of the northwest and the east half of the southwest quarter of Section 4, Township 14 South, Range 2 West, San Bernardino Meridian; together with a portion of Parcel 1 of Parcel Map 12443 in the A-1-10 and R-1-5000 (portions in the Hillside Review) zones; NOW, THEREFORE,

BE IT RESOLVED by the Council of The City of San Diego that the Council adopts the following written Findings, dated October 31, 1995:

**PLANNED RESIDENTIAL DEVELOPMENT FINDINGS:**

**A. Non Future Urbanizing Areas**

**1. The proposed use will fulfill an individual and/or community need, and will not adversely affect the General Plan or the community plan.**

The main portion of the project is located within the Future Urbanizing Areas (FUA) of the City and not covered by a community plan. Approximately 90 acres of the project site are located within the Rancho Peñasquitos Community Planning area. The entire project area located within the Rancho Peñasquitos Community Planning area is proposed as permanent open space to be deeded to the City, except for the brush management lots, therefore, the project is consistent

with the Rancho Peñasquitos Community Plan. The proposed development will result in a density of one dwelling unit per four acres which is consistent with the Planned Residential Development Ordinance, City Council Policy, FUA policies, the General Plan, applicable portions of the Framework Plan and surrounding development.

The project offers for dedication a large block (approximately 1,760 acres) of public open space (plus 50 acres of parks) linking the San Dieguito River Valley and Black Mountain Park, which is beneficial to the public and wildlife.

The project provides a replacement location of the PGA TOUR Buick Invitational of California Golf Tournament currently held at Torrey Pines Municipal Golf Course. The tournament is a source of revenue to the City and the region, providing about \$11,000,000 in business activity and over \$100,000 to local charities. The projected business activity of the PGA venue is based on an economic impact study prepared by "CIC Research Inc." for the 1989 Shearson Lehman Hutton Open Golf Tournament.

The project would provide a reclaimed water reservoir. The project would also provide a site and participate in the construction of a 15-million-gallon potable water reservoir. The project would only require 5 million gallons, thus the remaining water storage would be of benefit to other residents of the region.

The project would also provide right-of-way, construct or participate in the construction of major segments of Circulation element roads including Camino Ruiz, Carmel Valley Road, Camino del Norte, San Dieguito Road, and Black Mountain Road. These roads are essential to the regional transportation program and satisfy a public need.

Finally, the project would provide a significant number of affordable housing units.

**2. The proposed use, because of conditions that have been applied to it, will not be detrimental to the health, safety, and general welfare of persons residing or working in the area and will not adversely affect other property in the vicinity.**

The development of Black Mountain Ranch as a rural residential community with two (2) golf courses and a village center and associated public facilities will complement the surrounding neighborhood. The golf courses and extensive trail system through the open space will provide recreational opportunities to residents and local workers. These recreational opportunities will enhance both physical and mental health. The project will provide sites for a fire station ensuring the safety of area residents and workers. The general welfare of residents will also be enhanced by a daycare center and senior center which will be located in the village.

Additionally, the project has permit conditions applied to it in addition to a comprehensive set of design guidelines (Black Mountain Ranch Design Guidelines), which govern sensitive grading techniques, drainage, brush management, site and architectural design. The Black Mountain Ranch Design Guidelines are referenced as one of the Exhibits "A," approved in conjunction with this permit and on file in the office of the Development Services Director.

**3. The proposed use will comply with the relevant regulations in the San Diego Municipal Code.**

The land use proposed for Black Mountain Ranch will comply with the relevant regulations in the Municipal Code. Rural residential development, the affordable housing units, the golf courses (and associated clubhouses), and village center uses are consistent with A-1-10 zoning, Council Policy 600-29, SDMC Sec 101.0900 (Planned Residential Development). Building permits and Engineering permits will be reviewed for substantial conformance with all discretionary permits. This process will ensure another level of review to monitor compliance

with all relevant building codes, and site development codes including, but not limited to: the governing permits for the Planned Residential Development, Resource Protection and Hillside Review Ordinances, Development Agreement No. 95-0173 (Ordinance No. O-18230) [Black Mountain Ranch Design Guidelines] thereby requiring that all other applicable codes will be adhered to. The project density does not exceed one unit per four acres consistent with Council Policy 600-29.

**B. Future Urbanizing Area**

Within the Future Urbanizing Area, a Planned Residential Development shall be considered by the Council for development at a density not to exceed one (1) dwelling unit per four (4) acres, and be granted if it finds, from the evidence presented, that all of the following **additional** facts exist:

**1. The proposed use will assist in accomplishing the goal of permanently preserving lands designated in the General Plans as part of the Environmental Tier through the provision of public and private open space easements and/or dedications, where appropriate.**

Black Mountain Ranch secures 2,870 acres in open space, of which approximately 1,810 are offered for dedication as permanent open space and parks. The remaining acreage would be preserved through permanent open space easements for recreational uses as well as for brush management lots to protect health, safety and welfare. This would protect biologically sensitive habitat identified in the Environmental Tier. The 1,810 acres offered for dedication will be enhanced by the removal of invasive species as described in the Development Agreement and revegetation and preservation of native species in accordance with the approved landscape plan (Exhibit "A") for this project.

**2. The proposed use is consistent with the Progress Guide and General Plan Transportation Element and will not foreclose future decision regarding the size of major or primary arterial streets, expressways, or freeways which may traverse the property.**

Black Mountain Ranch has been designed to accommodate General Plan roadways and freeways. Streets have been sized in accordance with City Engineering standards and, in conformance with the NCFUA Framework Plan, excess right-of-way is reserved for potential future needs. The proposed uses do not foreclose future decision regarding streets, expressways or freeways that traverse the site.

**3. The proposed use will be located adjacent to areas presently served by water and sewer lines, thereby avoiding leapfrog development.**

Black Mountain Ranch is immediately adjacent to both Rancho Peñasquitos within the City of San Diego and Fairbanks Ranch in the County of San Diego. Both adjacent communities are served by water and sewer.

**4. The proposed use will be at least fiscally neutral, thereby not imposing a burden upon the City's capital and operating budgets.**

The "Fiscal Impact Analysis for Black Mountain Ranch" prepared by Economics Research Associates (ERA) in August 1995, projects an annual surplus to the City's General Fund and therefore not imposing a burden upon the City's operating budget. The projects facilities phasing and financing plan (refer to Exhibit B of the Development Agreement No. 95-0173) obligates the developer to provide capital improvements in excess of those necessary to support the project. The City of San Diego has reviewed ERA's report for the reasonability of methodology, assumptions and conclusions. The methodology used in ERA's report to estimate the net fiscal impact of the Black Mountain Ranch Development Plan to the City's operating budget appear to

be sound. ERA has reasonably applied estimating procedures which were developed and presented in the City of San Diego's Financial Management's draft 1992 Cost/Revenue Analysis.

**5. The proposed use will provide housing on-site affordable to lower income families, as certified by the San Diego Housing Commission.**

Black Mountain Ranch will provide 179 affordable housing units. One-hundred nineteen (119) of the affordable housing units will be located in the 11-acre area in the northeast corner of the property close to a major transportation corridor and existing and future commercial and employment centers in 4S Ranch and Rancho Bernardo. The remaining 69 units will be located in the village area in the South. The San Diego Housing Commission will monitor the sales/rental program to assure compliance. The developer will enter into an agreement with the Housing Commission as described in the Development Agreement No. 95-0173 (Ordinance No. O-18230) which includes affordability criteria, enforcement mechanisms, site development obligations and sureties to ensure the proper development, maintenance and monitoring of the terms contained within the affordable housing agreement. [The PRD requirements in combination with the State requirements for the density program result in 179 units affordable with rent levels not to exceed 30% of 60% of median income, and income eligibility up to 65% of area median, adjusted for family size. The restrictions remain for 55 years; and 45 market rate bonus units.]

**6. The proposed use comprehensively addresses framework planning issues including, but not limited to, land use, character and scale of development, environmental resources, and public facilities.**

The project is consistent with the FUA Framework Plan including the proposal amendment to the Framework Plan which proposes to implement the draft Multiple Species Conservation Program ("MSCP") open space boundaries. That consistency was achieved by

addressing framework planning issues during the design phase of Black Mountain Ranch. Land use is consistent with the surrounding communities. The character and scale of development will be rural with the open space areas representing approximately 60 percent of the land use on the site. Development has been directed to areas of limited environmental resources and, where encroachment have been unavoidable, detailed mitigation programs have been established to revegetate impacted habitats. The project will provide or contribute to the construction of both local and regional facilities and capital improvements. Wildlife corridors and crossings provided in accordance with the Environmental Tier are consistent with the goals of the FUA Framework Plan. The location of the Community Park identified within the Framework Plan high intensity node areas in the northeastern portion of this property is not precluded or required in this phase of development. Regardless of future park requirements, this project provides for a 30-acre community park site and two five-acre neighborhood parks within the current project boundaries.

**7. Within the North City Future Urbanizing Area ("NCFUA") as defined by the Progress Guide and General Plan, the City shall prepare a Subarea Plan pursuant to the General Plan. Alternatively, the applicant must demonstrate that, at a minimum, all public facilities within the Subarea (as designated by the Progress Guide and General Plan) have been sited; a Purchase Agreement for the public facility sites have been completed; mixed use centers and public facilities have been aligned; a financing plan for the project area, Subareas, or large planning areas has been completed; and open space boundaries have been refined if the project deviates from the Environmental Tier boundaries shown in the General Plan.**

The Development Agreement No. 95-0173 (Ordinance No. O-18230) for the Black Mountain Ranch Development project in conjunction with the associated Vesting Tentative Map



and Development Plan No. 95-0173 site the public facilities within the Subarea and designate land to be dedicated in fee for the public facilities. Mixed use centers within the subarea have not yet been sited and are a part of a future development phase for the property, therefore they are not precluded; street systems to access mixed-use centers will be designed in conjunction with the siting of these facilities in future development plans, street systems to access public facilities have been provided and are a part of the accompanying Vesting Tentative Map No. 95-0173. The Development Agreement for this project obligates compliance with the future "North City Future Urbanizing Area Public Facilities and Financing Plan," the Master Schools Facilities Financing Plan and any subsequent amendments, thereto. Open space boundaries are consistent with the Environmental Tier boundaries indicated within the General Plan. The Environmental Tier component of the Progress Guide and General Plan shows approximately 1,900 acres of open space on the Black Mountain Ranch property. For Phase One of development, Black Mountain proposes to provide 2,870 acres of open space within Subarea I for the Framework Plan, the distribution of that open space will be approximately 1,810 acres of permanently dedicated open space and golf courses as permanently dedicated open space and parklands, 1,060 acres will be maintained as private open space and golf courses as permanent open space easements, for a total of approximately 2,870 acres of open space. Therefore, this project complies with all the provisions outlined in this finding.

**8. The applicant and property owner have agreed that in return for the present increase in density granted by the Council, no future development rights shall remain on the property.**

Owner/Applicant have agreed by approval of this Permit, the Development Agreement No. 95-0173 (Ordinance No. O-18230) and all other aspects of the Development Plan as defined

in the Development Agreement, incorporated herein by reference, that for the portions of the property covered by said Development Plan (excluding those portions designated as Future Development Areas) no future development rights not contemplated in the Development Plan shall remain on the property.

**HILLSIDE REVIEW PERMIT FINDINGS:**

**1. The site is physically suitable for the design and siting of the proposed development. The proposed development will result in minimum disturbance of sensitive areas.**

The proposed development will result in minimum disturbance of environmentally sensitive areas, such as hillside and biologically sensitive areas. The proposed development has attempted to avoid or minimize their disturbance. This has been accomplished through lot clustering grading controls, restriction on location and design of tennis courts, spas and swimming pools, as well as mandatory setbacks from environmentally and visually sensitive areas of the site. Development of individual lots will be governed by the Black Mountain Ranch Design Guidelines through the substantial conformance review process administered by the Development Services Director. Lots which are located in the HR Zone areas have grading limitations imposed to minimize, or preclude, impacts to hillsides.

**2. The grading and excavation proposed in connection with the development will not result in soil erosion, silting of lower slopes, slide damage, flooding, severe scarring or any other geological instability which would affect the health, safety and general welfare**

**as approved by the City Engineer. Disturbed slopes are planted with native and self sufficient vegetation.**

Implementation of mitigation measures to decrease erosion would reduce the potentially significant erosion impact to below a level of significance. Implementation of mitigation measures will be enforced by the City Engineering Department before a grading permit is issued and grading can commence. Graded slopes would be revegetated with drought tolerant, native species to ensure slope stability. Revegetation plans are subject to the requirements of the Land Development Ordinance, the City of San Diego's Landscape Technical Manual as well as the approved landscape Exhibit "A," and associated EIR No. 95-0173, dated October 31, 1995, on file in the office the Development Services Department Director.

**3. The proposed development retains the visual quality of the site, the aesthetic qualities of the area and the neighborhood characteristics by utilizing proper structural scale and characters, varied architectural treatments, and appropriate plant materials.**

The retention of visual quality is adequately addressed by the fact that approximately 60 percent of the site remains undeveloped, including 1,760 (1,810 with parks) acres offered for dedication as part of a proposed regional park.

The natural quality of Black Mountain Ranch will be maintained by using contour grading techniques which simulate the appearance of natural terrain. Curved manufactured slopes transition into natural landforms avoiding abrupt, angular landforms. Drainage systems have been designed and located to minimize their visibility. Permanent revegetation of manufactured slopes will provide erosion control. Fire resistant and drought tolerant plants have been selected to ensure both erosion control, visual quality and compatibility with surrounding biological communities.

**4. The proposed development is in conformance with the open space element of the General Plan, the open space and sensitive land element of the community plan, any other adopted applicable plan, and the zone. The applicant has discussed the feasibility of open space dedications or easements with appropriate City staff.**

The Environmental Tier component of the Progress Guide and General Plan shows open space on the Black Mountain Ranch property consistent with the proposed Development Plan. For Phase One of development, Black Mountain Ranch proposes to provide approximately 2,870 acres of open space within Subarea I of the Framework Plan. The distribution of that open space will be 1,760 acres of permanently dedicated open space and parklands, 1,060 acres will be maintained as private open space and golf courses pursuant to permanent open space easements, and 50 acres developed parkland, for a total of approximately 2,870 acres of open space. The open space being proposed on the property would provide a more effective regional open space system, connecting Black Mountain Park with the San Dieguito River, enhancing the Lusardi Creek Riparian corridor and providing wildlife corridors and crossing through the property.

**5. The proposed development is in conformance with the qualitative development guidelines and criteria as set forth in Document No. RR-262129 "Hillside Design and Development Guidelines."**

Development of residential single-family lots will be guided by the Black Mountain Ranch Design Guidelines which have been developed in accordance with the "Hillside Design and Development Guidelines" and which provide both generalized design policy and specific, mandatory development standards. Development of biologically sensitive areas have been minimized to the extent that 2,870 acres, 60 percent of the site, will be dedicated as either open

space or non-building easements. To leave large open space areas intact, residential lots have been clustered throughout the project.

## **RESOURCE PROTECTION ORDINANCE PERMIT**

### **A. FINDINGS:**

#### **1. The proposed development will not adversely affect the City of San Diego's Progress Guide and General Plan.**

The proposed development will not adversely affect the City of San Diego's Progress Guide and General Plan because, although the project is consistent with the existing General Plan Open Space and Circulation elements, and other applicable goals and policies of the General Plan.

Road alignments are consistent with the General Plan Circulation Element, other regional transportation plans, and the NCFUA Framework Plan. The project would offer 1,760 acres for dedication as public open space (50 acres of park land). The General Plan currently designates open space consistent with the approved Black Mountain Ranch Development Plan. The increased area of open space proposed relative to the existing General Plan designated open space on the property would provide a more effective regional open space system, connecting Black Mountain Park with the San Dieguito River and the proposed future regional open space park system.

#### **2. The proposed development will conform to the community plan for the area and any other applicable plans, policies and ordinances.**

The project is located predominantly within the FUA of the City and not covered by a community plan. Approximately 90 acres of the project site are located within the Rancho Peñasquitos Community Planning Area. The entire project area, located within the Rancho Peñasquitos Community Planning area, is proposed as permanent open space to be deeded to the

City, therefore the project is consistent with the Rancho Peñasquitos Community Plan. The proposed development will result in a density of one dwelling unit per four acres which is consistent with the Planned Residential Development Ordinance, City Council Policies 600-29, -20, and -37, FUA policies, the Progress Guide and General Plan, applicable portions of the Framework Plan and surrounding development.

The proposed development conforms to the NCFUA Framework Plan. Moreover, the project is consistent with applicable and reasonably foreseeable or pending land use plans and policies for the areas, particularly City Council Policy 600-29 concerning the maintenance of the FUA as an urban reserve. The dedication of open space and construction of trails serve to implement the goals and objectives of the proposed San Dieguito River Regional Open Space Park.

**3. The proposed development will be sited, designed, constructed and maintained to minimize, if not preclude, adverse impacts on environmentally sensitive lands.**

The project as a whole would impact approximately 12.7 acres of hillsides where approximately 42.7 acres are permitted as an encroachment allowance. For the purpose of analyzing the impacts to the project, it was assumed that all residential lots within the Hillside Review areas would extend the limits of grading to the property line. This was done for the purposes of determining the "worst case scenario" within the environmental document for project impacts. However, the Black Mountain Ranch Design Guidelines do not permit wholesale sheet grading within "Sensitive Grading Lots" [as defined in Exhibit "A," dated October 31, 1995, on file in the office of the Development Services Director.] Instead, the Black Mountain Ranch Design Guidelines describe grading limitations for all sites within hillsides which require sensitive

grading techniques responsive to the natural topography of the site. Individual site development plans will be reviewed through the Substantial Conformance review process administered by the Development Services Director, significantly reducing the project impacts to hillsides for this project. Impacts to biology, native grasslands and wetlands are fully mitigated under the California Environmental Quality Act and mitigation is provided consistent with ratios established within the Resource Protection Ordinance.

**4. The proposed development will be sited and designed to prevent adverse impacts on any environmentally sensitive lands and resources located in adjacent parks and public open space areas and will provide adequate buffer areas to protect such resources.**

The project has been designed such that no encroachment into publicly owned open space areas will be required or permitted. For residential development, all grading is to take place within lot lines and all structures will be sited and constructed such that compliance with the City's Brush Management Program will not affect native vegetation in dedicated open space. Transition areas consisting of plant materials of the same density, habitat and character as those in the open space areas are required, thereby providing vegetative buffers in addition to development setback buffers required for all canyon rim lots.

**5. The proposed development will minimize the alterations of natural landforms and will not result in undue risks from geological and erosional forces and/or flood and fire hazards.**

The project is designed overall to generally follow the existing topography of the site. Residential development on the northern portion of the site is restricted to the mesa, with recreation and preserved open space in the valleys and on the hillsides. The golf course

specifically is located in the valleys and on the hillside. The golf course specifically is located in the valley to minimize landform alteration requirements. The majority of the residential development on the southern portion of the site is located on either the mesa or the existing rolling knolls created by past agricultural activity. The reclaimed water reservoir would be located south of La Jolla Valley in the central areas of the property and would be constructed with an earthen dam across the mouth of a tributary canyon. Although the major roadways generally would not follow the natural topography, no better alignments that would avoid landform modifications are feasible.

The proposed changes to natural drainage patterns would not be significant and modifications would need to be made primarily due to road crossing. Impacts due to the increases in runoff with the introduction of streets, roads, and other hardscape surfaces will be mitigated to below a level of significance through design and implementation of a drainage system and incorporation of sediments basin and flow controls. Measures to reduce sedimentation and erosion of newly graded areas, installation of sedimentation basins and extended detention of runoff waters, use of Best Management Practices (BMP) at the golf course, and provision for treatment of reclaimed water to control TDS and nutrient levels would reduce impacts to below a level of significance.

Measures to reduce sedimentation and erosion during grading include providing temporary sedimentation and desilting basins between graded areas and streams, avoiding use of fine particulate in surface fill soils for manufactured slopes, providing ground cover or hay bales to retard the runoff from newly graded slopes, and hydroseeding and landscaping of cut/fill slopes within 30 days of grading.



To reduce erosion and sedimentation during and after construction of the project, nine detention/desilting basins, five on the western boundary of the project and four in the north, would be constructed. These basins would use extended detention methods to maximize their usefulness in controlling erosion and sedimentation impacts. The basins would be constructed and maintained by the project during construction. Once the project is completed, responsibility for the maintenance of the basins will be transferred to the homeowner's association.

**6. Feasible measures, as defined in the Resource Protection Ordinance, to protect and preserve the special character or the special historical, architectural, archaeological or cultural value of the affected significant prehistoric site or resource have been provided by the applicant.**

Feasible measures are provided by the applicant to protect and preserve the special character or the special historical, architectural, archaeological or cultural value of the affected significant prehistoric or historic site or resource have been provided by of the applicant. Two archaeological sites found to be significant resources under the City's Resource Protection Ordinance, SDI-5094 and 11, 981, would be preserved in dedicated open space. Another site that is a significant resource under CEQA criteria, SDI-4832/4833, would be impacted by development. That impact would be mitigated through implementation of a data recovery program.

The project would preserve native habitats and rare plants and animals in natural open space, revegetate and enhance habitat in excess of the areas directly impacted, impose restrictions on facilities and uses, and provide buffer areas to protect habitat and wildlife. This would reduce direct project impacts to below a level of significance.

The project proposes to preserve a total of approximately 2,870 acres as natural open space. It is anticipated that about 1,760 acres of proposed open space would be offered for dedication to the City and incorporated into the proposed regional park. This would protect 525 acres of Diegan coastal sage scrub, 31.1 acres of freshwater marsh, 10.3 acres of mule fat scrub, 139 acres of mixed sage scrub and non-native grassland, and 27.4 acres of chamise chaparral. Populations of San Diego thornmint, variegated dudleya, barrel cactus, California adolphia, and San Diego marshelder would be retained. The remaining disturbed acres and non-native grassland would be available for future revegetation or enhancement as native grassland, Diegan coastal sage scrub, or other native communities to enhance the value of preserved habitat and to benefit wildlife.

RPO ANALYSIS		
DESCRIPTION	DEVELOPMENT ENCROACHMENT	EXEMPTIBLE ENCROACHMENT
I. RPO - Allowances		
A. Maximum Encroachment Allowance (% of Total Resources)	4%	5%
B. Maximum Encroachment Allowance	71 acres	89 acres
C. Maximum Encroachment Allowance into Sensitive Slope (43% of B)	31 acres	38 acres
D. Maximum Encroachment Allowance into Sensitive Biology (57% of B)	40 acres	51 acres
II. Sensitive Resources		
A. Resources Categorically:	Sensitive Slope = 1,123 acres Sensitive Biology = 1,009 acres	
B. Resources Overlap: = 354 acres (31%) Sensitive slope areas that also contain sensitive biology		
C. Resources Adjusted for Overlap:	Sensitive Slopes = 769 acres Sensitive Biology = 1,009 acres	
D. Total Adjusted Sensitive resources On-site: 1,778 acres (38 Percent of Site)		
III. RPO - Proposed Encroachments		
A. Proposed Encroachment into Sensitive Slopes	30 acres <sup>1)</sup>	58 acres <sup>2)</sup>
B. RPO Efficiency (allowed vs proposed)	- 1 acre	+20 acres
C. Proposed Encroachment into Sensitive Biology	168 acres <sup>3)</sup>	51 acres <sup>4)</sup>
D. RPO Efficiency (allowed vs. proposed)	+128 acres	-
<sup>1)</sup> Less 36 acres of slopes with sensitive biology <sup>2)</sup> Less 15 acres of slopes with sensitive biology <sup>3)</sup> Includes 36 acres of sensitive slopes <sup>4)</sup> Includes 15 acres of sensitive slopes		

Description	Development Encroachment	Exemptible Encroachment
IV. RPO-Summary		
A. Maximum Encroachment Allowance (% of Total Resources)	4%	5%
B. Proposed Encroachment (% of Total Resources)	8.5%	6%
- Max. allowance; Sensitive Slopes	31 acres	38 acres
- Proposed; Sensitive Slopes	30 acres	58 acres
- Max. allowance; Sensitive Biology	40 acres	51 acres
- Proposed; Sensitive Biology	168 acres	51 acres

Future Development Areas Detail:						
Parcel	Sensitive Biology	Sensitive Slopes	Floodplain Fringe	Overlap	Percent of Parcel	Encroachment Allowance
Unit 23-11	1.05	0.0	0.0		2	0
Unit 27-76	3.50	3.9	0.0		5	0
Unit 27-77	1.2	1.7	0.0		9	0
Unit 28-5	0.6	5/2	0.0		44	4
unit 28-6	1.6	0.0	0.0		1	0
Unit 28-7	0.0	0.0	0.7		0	0
unit 29-5	42.3	42.2	0.0	27.8	9	0

**B. (ALTERNATIVE COMPLIANCE) FINDINGS:**

Under RPO, the project may be approved through the alternative compliance provisions if the project complies with the ordinance to the maximum extent feasible and provides extraordinary benefits to the general public. The decisionmaker may grant alternative compliance to ensure the provisions of extraordinary benefit to the general public on making findings of overriding social and economic considerations in addition to the findings enumerated a, b, and c (contained in subsequent pages of this resolution).

The main portion of the project is located within the FUA of the City and not covered by a community plan. Approximately 90 acres of the project site are located within the Rancho Peñasquitos Community Plan Area. The entire project area located within the Rancho Peñasquitos Community Plan Area is proposed as permanent open space to be deeded to the City, therefore the project is consistent with the Rancho Peñasquitos Community Plan. The proposed development will result in a density of one dwelling unit per four acres which is consistent with the Planned Residential Development Ordinance, City Council Policy 600-29, FUA policies, the General Plan, applicable portions of the Framework Plan and surrounding development.

The project offers for dedication a large block (approximately 1,760 acres) (plus 50 acres of parks) of public open space linking the San Dieguito River Valley and Black Mountain Park, which is beneficial to the public and wildlife.

The project provides a replacement location for the PGA TOUR Buick Invitational of California Golf Tournament currently held at Torrey Pined Municipal Golf Course. The tournament is a source of revenue to the City and the region, providing about \$11,000,000 in business activity and \$100,000 to local charities. The PGA TOUR and indicated that the facilities at Torrey Pines are no longer suitable for the tournament. The PGA TOUR has indicated that without a replacement course, it would eliminate San Diego from its schedule by 1995. The projected business activity for the PGA venue is based on an economic impact study prepared by "CIC Research Inc." for the 1989 Shearson Lehman Hutton Open Golf Tournament.

The project would provide a reclaimed water reservoir. The project would also provide a site and participate in the construction of a 15-million-gallon potable water reservoir. The project would only require five million gallons, thus the remaining water storage would be of benefit to other residents of the region.

The project proposes to deed to the City the land for a net 30-acre Community Park. This dedication is far in excess of the General Plan standards for projected populations of this project. The extraordinary benefit of the Park facilities and other facilities are described in more detail with the associated Development Agreement No. 95-0173.

All these facilities are of extraordinary public benefit and contribute substantially to the encroachments into sensitive lands.

**1. There are no feasible measures that further minimize the potential adverse effects on environmentally sensitive lands while still providing the extraordinary benefit.**

The project as originally submitted attempted to avoid or minimize impacts to hillsides and biologically sensitive lands and to significant cultural resources. The project has since been modified to further reduce impacts as feasible, given the goals and objectives of the project and constraints imposed by topography, engineering, and other siting requirements. Roads, reservoirs, and other proposed facilities of public benefit contribute substantially to the encroachments into sensitive lands. The PGA TOUR requires that the project ultimately finance and construct two (2) golf courses to accommodate the needs of the Buick Invitational of California. These golf courses, by their nature, are very large and expansive in order to address required facilities with respect to spectators, sponsors and the media. As a consequence, freestanding golf courses are not economically feasible and must be subsidized by surrounding residential development. This is accomplished by charging premiums on lots fronting the golf courses. In order to completely eliminate the impacts to environmentally sensitive lands the project would not be able to achieve its stated goals. Additionally, the encroachments for Circulation Element roads and other public benefit facilities alone would exceed the allowable

encroachments under RPO, so that there is no feasible way to meet the encroachment limitations of the ordinance and continue to provide these facilities.

The project proposes to provide on-site conservation of 578 acres of coastal sage scrub and MSP open space. The mitigation would provide 12 acres of Diegan coastal sage scrub and 12.6 acres of riparian habitat.

**2. The proposed development will not adversely affect the City of San Diego's Progress Guide and General Plan.**

The proposed development will not adversely affect the City of San Diego's Progress Guide and General Plan. The project would implement the goals and objectives of the Progress Guide and General Plan, including its environmental goals, and the Open Space and Circulation elements. As proposed, road alignments are consistent with the intent of the General Plan Circulation element, other regional transportation plans, and the NCFUA Framework Plan. The project would offer 1,760 acres for dedication as public open space within the property (and 50 acres of parks). The increased area of open space proposed relative to the existing General Plan designated open space on the property would provide a more effective regional open space system, connecting Black Mountain with the San Dieguito River and the proposed future regional open space park system. Consequently, the proposed amendments to the General Plan would be consistent with the goals and policies of the General Plan.

**3. The proposed development conforms to the adopted community plan for the area and any other applicable plans, policies and ordinances.**

The proposed development conforms to the adopted community plan for the area inasmuch as the project is in the FUA and the document which comes closest to a community plan is the NCFUA Framework Plan. Moreover, the project is consistent with applicable and reasonably

foreseeable or pending land use plans and policies for the area, including City Council Policy 600-29 and SANDAG's September 1991 draft Congestion Management Plan. The dedication of open space and construction of trails would also implement the goals and objectives of the proposed San Dieguito River Regional Open Space Park.

**BRUSH MANAGEMENT FINDINGS:**

**1. The proposed Brush Management Program does not adversely affect floodplains, biologically sensitive lands, hillsides, significant prehistoric sites and resources, and wetlands as defined in the Resource Protection Ordinance.**

An Environmental Impact Report (DEP No. 95-0173) was completed for this project on September 20, 1995. The Environmental Impact Report identifies no significant impacts as a result of implementing the Brush Management Program. Zone 1 occurs only within areas slated for grading. Within Zone 1 irrigation will be low gallonage with no runoff. Methods of implementation and maintenance for Zones 2 and 3 require retention of native shrubs. Therefore, the proposed Brush Management Program does not adversely affect floodplains, biologically sensitive lands, hillsides, significant prehistoric sites and resources, and wetlands as defined in the Resource Protection Ordinance.

**2. The proposed Brush Management Program, to the extent feasible, will minimize the alterations of vegetation and will not result in undue risks form erosional forces.**

The proposed Brush Management Program eliminates the need to clear vegetation on adjacent open space, requiring only pruning and thinning in open space areas, therefore minimizing alterations to existing vegetation. Erosional factors are mitigated by plant materials and low gallonage irrigation with no runoff. Therefore, the proposed Brush Management



Program, to the extent feasible, will minimize the alterations of vegetation and will not result in undue risks from erosional forces.

**NCCP FINDINGS:**

NCCP refers to the State of California's Natural Communities Conservation Program Act of 1991, which addresses the loss of coastal sage scrub and CSS-dependent species and is intended to comply with the Federal Endangered Species Act 4(d) Special Rule for take of the California gnatcatcher, effective December 10, 1993. The following findings have been made based on the information required pursuant to Section 4.2,3 of the November 1993 NCCP Process Guidelines.

The NCCP Guidelines indicate that a five percent loss of Coastal sage scrub habitat is acceptable within any individual subregion during the preparation of a subregional NCCP or its equivalent (i.e. MSCP Plan). Within the City of San Diego the five percent cumulative loss allowed is 1,186 acres of coastal sage scrub.

**1. The proposed habitat loss is consistent with the interim loss criteria in the Conservation Guidelines and with any subregional process if established by the subregion (The MSCP draft Framework Plan and subarea planning process).**

**a. The habitat loss does not cumulatively exceed the five percent guideline.**

Total allowed loss:	1,186.0 acres
Cumulative actual loss to date:	50.7 acres
Loss due to this project:	196.6 acres
Total cumulative loss:	247.3 acres
Remaining loss allowed:	938.7 acres

\* Planned loss to date (i.e. approved projects for which grading permits have not yet been obtained) is 602.14 acres.

**b. The habitat loss will not preclude connectivity between areas of high habitat values.**

The Black Mountain Ranch project will provide three viable and functional corridors between areas with high habitat value. High value areas to be connected include a large patch of coastal sage scrub in the southern portion of the property, Black Mountain Park area off-site, McGonigle Canyon regional wildlife corridor off-site (that leads to the Del Mar Mesa and Peñasquitos Canyon), pond areas on the 4S Ranch off-site, and coastal sage scrub areas in Lusardi Canyon in the northwestern area leading off-site to the San Dieguito River Valley.

The loss of coastal sage scrub and other native habitats on-site predominately occur in areas that are small, isolated and generally peripheral to areas with high habitat value, except for two locations adjacent to Black Mountain Park (for roads and facilities), and the western portion of the high value coastal sage scrub area in the south (for residential and gold course development).

The corridors on the Black Mountain Ranch property provide regionally-important connections for wildlife movement through the area. The corridor running from south to east towards Black Mountain Park is approximately 1,000 feet wide, and connects all lands from south of the property (NCFUA via McGonigle Canyon) toward Black Mountain, connecting to the central corridor. The corridor through the center of the site connects the northwest area in Lusardi Creek and Canyon (and off-site to the San Dieguito River Valley) southeast to the Black Mountain Park area. This corridor

ranges from 800 feet to 3,000 feet in width, with a proposed future bridge over Lusardi Creek constraining the corridor in that area to approximately 200 feet. The third corridor is located in Lusardi Creek, in the area known as La Jolla Valley. This is a riparian corridor that joins the central corridor at the bridge crossing Lusardi Creek in the west, and extends eastward to the property boundary that adjoins 4 S Ranch. The riparian corridor will be maintained at a 400-foot width within the golf course, which will serve as a buffer, connectively to areas with high habitat value is not preclude an additional 400-foot-wide corridor extends north from La Jolla Valley to Santa Fe Valley off-site or severely constrained by this project.

**c. The habitat loss will not preclude or prevent the preparation of a NCCP final preserve plan.**

Implementation of the Black Mountain Ranch project would result in the direct loss of 196.6 acres of coastal sage scrub, which constitutes 23 percent of the 856.2 acres on-site. Much of the loss would occur in small patches (less than five acres) that are relatively isolated from one another and do not contain gnatcatchers. The project would impact approximately 16 locations where gnatcatchers (or gnatcatcher pairs if each map siting is assumed to be paired) have been sited, out of the approximately 54 sitings on the property, through direct loss of habitat or reduction of territory size. In addition, planned trails through habitat may cause future losses through disturbance and habitat degradation, and edge effects from developed areas (human and animal intrusion and predation) may also cause additional loss. The loss of coastal sage scrub would contribute to the cumulative loss of this habitat type on a regional level.

The Black Mountain Ranch property contains a core biological resource area designated by the draft MSCP plan. Chapter 2 of the Plan, and Chapter 4 of the Resource Document, volume 1, show a large portion of the property in core area lying between numbered areas 12, 13, and 14. The core biological resource area on Black Mountain Ranch covers La Jolla Valley/Lusardi Creek and surrounding lands, as well as areas leading to Black Mountain and south toward the McGonigle Canyon linkage (Figure 2-3, E). Revisions to the approved Black Mountain Ranch project were made in consultation with MSCP planners for the area. Revisions included widening the regional corridors to ensure the maintenance of long-term connectivity from the San Dieguito River Valley to Black Mountain Park and south to Peñasquitos Canyon Preserve. The widening of the corridors ensure that a large portion of lands within the MSCP core area is included in the open space system for the project.

**d. The habitat loss has been minimized and mitigated to the maximum extent practicable.**

Mitigation for the loss of sensitive habitats would be achieved through the preservation of on-site open space. The 38 non-impacted location where gnatcatcher individuals or pairs have been sited on the property are located in areas of proposed permanent open space within the interconnected regional corridor system. Approximately 1,766 acres of natural open space will be offered for dedication to the City of San Diego. These conserved open space areas would protect 525 acres of coastal sage scrub, 139 acres of mixed sage scrub/non-native grassland, 41.6 acres of southern mixed chaparral, 31.8 acres of southern willow scrub, 3.1 acres of freshwater marsh, 10.3 acres of mule fat scrub, 8.6 acres of native grassland, 41.8 acres of southern mixed chaparral,

and 27.4 acres of chemise chaparral. Any isolated areas considered non-viable over the long term and areas within 150 feet of development that would be considered impacted by edge effects have not been included in the conserved habitat acreage above. Therefore, the preservation of on-site coastal sage scrub habitat is expected to remain viable and support gnatcatchers over the long term. These areas will be offered for dedication to the City of San Diego or placed in open space easements to achieve permanent open space protection as a condition of the tentative map. The open space area would be conveyed to the City or an easement placed on the property prior to the recordation of the final map.

Populations of the San Diego thornmint, variegated dudleya, barrel cactus, California adolphia, and San Diego marsh-elder would be retained in open space. Mitigation of impacts to San Diego horned lizard, orange-throated whiptail lizard, coastal rosy boa, southern California rufous-crowned sparrow, Bell's sage sparrow, loggerhead shrike, and San Diego black-tailed jackrabbit would also be provided by the on-site conservation of coastal sage scrub.

The loss of wetlands would be mitigated by revegetation of 12.6 acres of riparian habitat along Lusardi Creek in La Jolla Valley. The revegetation plan would restore and enhance riparian areas that had been disturbed by prior agricultural use. Impacts to the off-site vernal pools would be mitigated by the provision of funds for acquisition and conservation of existing, unprotected vernal pool habitat. Suitable areas for acquisition and conservation can be found on Del Mar Mesa to the south of Black Mountain Ranch.

The project proposes to revegetate a 12-acre patch of habitat in grassland open space to mitigate the loss of 5.4-acre patch that would be inundated by a reservoir. This

patch will provide a stepping-stone for gnatcatchers to cross the open space from Black Mountain to the San Dieguito River.

Indirect impacts would be minimized through restrictions on construction activities, maintaining appropriate buffers, control of erosion and sedimentation, and prohibiting nighttime lighting of facilities and parking lots adjacent to open space or buffers.

**2. The Habitat Loss will not appreciably reduce the likelihood of the survival and recovery of listed species in the wild.**

The project will not isolate any significant gnatcatcher populations. The 38 non-impacted gnatcatcher on the Black Mountain Ranch property are located in areas of proposed permanent open space within the interconnected regional corridor system leading to Black Mountain project proposes to make disturbed and non-native grassland areas available for future restoration projects to enhance the value of the preserved habitat. Therefore, it is expected that in the long term, the proposed open space system will not appreciably reduce, and may enhance, the long term survival or recovery of listed species including the gnatcatcher.


**3. The Habitat Loss is incidental to otherwise lawful activities.**

The proposed habitat loss would occur in association with a future grading permit for the proposed revised Black Mountain Ranch residential and golf course project. All required discretionary permits would be obtained prior to any grading of coastal sage scrub habitat.

BE IT FURTHER RESOLVED, that Planned Residential Permit, Hillside Review and Resource Protection Ordinance Permit No. 95-0173 is hereby granted to BLACK MOUNTAIN

RANCH LIMITED PARTNERSHIP, under the terms and conditions set forth in the permit attached hereto and made a part hereof.

APPROVED: CASEY GWINN, City Attorney

By   
Prescilla M. Dugard  
Deputy City Attorney

PMD:pev  
9/3/97  
Or.Dept:Clerk  
R-96-537  
Form=permitr.frm

**RECORDING REQUESTED BY  
CITY OF SAN DIEGO  
DEVELOPMENT SERVICES  
DEPARTMENT**

**AND WHEN RECORDED MAIL TO  
PERMIT INTAKE  
MAIL STATION 501**

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SPACE ABOVE THIS LINE FOR RECORDER'S USE

**PLANNED RESIDENTIAL DEVELOPMENT,  
RESOURCE PROTECTION ORDINANCE ALTERNATIVE COMPLIANCE  
(HILLSIDE REVIEW) PERMIT NO. 95-0173**

**BLACK MOUNTAIN RANCH**

This permit is granted by the Council of The City of San Diego to BLACK MOUNTAIN RANCH LIMITED PARTNERSHIP, Owner/Permittee, under the conditions contained in San Diego Municipal Code sections 101.0900 et. al.; 101.0462 et. al.; 101.0510 et. al.; 101.0454 et. al.; Council Policies 600-10, 600-29, 600-30; and other relevant sections of the San Diego Municipal Code subject to the following conditions:

- 1. Legal Description:** Permission is granted to Owner/Permittee to develop portions of the subject vacant property described as portions of sections 35 & 36, Township 13 South, Range 3 West, San Bernardino Meridian; together with portions of sections 1 & 2, Township 14 South, Range 3 West, San Bernardino Meridian, together with a portion of section 31, Township 13 South, Range 2 West, San Bernardino Meridian; together with portions of section 1, Township 14 South, Range 3 West, San Bernardino Meridian, together with a portion of parcel 2 of Parcel Map 12443. In addition, section 25 and a portion of section 36, Township 13 South, Range 3 West, San Bernardino Meridian; together with the southwest quarter, the westerly half of the northeast quarter, the northwest quarter of the southeast quarter, Lots 4, 5, and 6 and a portion of the northwest quarter of section 30, Township 13 South, Range 2 West, San Bernardino Meridian; together with a portion of section 31, Township 13 South, Range 2 West, San Bernardino Meridian; together with the southerly half of the southwest quarter, the southwest quarter of the southeast quarter, and Lots 1, 2, 3, and 4 of Section 32, Township 13 South, Range 2 West, San Bernardino Meridian; together with Lot 1 and a portion of Lot 2, and a portion of the southerly half of the southwest quarter of section 33, Township 13 South, Range 2 West, San Bernardino Meridian; together with portions of the easterly half of the northwest and the easterly half of the southwest quarter of Section 4, Township 14 South, Range 2 West, San Bernardino Meridian; together with a portion of Parcel 1 of Parcel Map 12443; and



This A1-10/HR, R1-5000 zoned site is located within portions of the North City Future Urbanizing Area as identified by the City's Progress Guide and General Plan and the adopted Rancho Peñasquitos Community Planning Area.

2. **General Project Description:** This permit shall include the total of the following facilities and improvements inclusive of the development described in the approved Exhibits "A," dated October 31, 1995, on file in the office of the Development Services Department, (also described as "Phase 1, Black Mountain Ranch including but not limited to: the "Black Mountain Ranch Design Guidelines"; Vesting Tentative Map number 95-0173, Planned Residential Development Plans, Resource Protection Ordinance/Hillside Review Permit Plans, Landscape Plans, Brush Management Plans, Trail Plans (bicycle, pedestrian and equestrian) and associated site development plans.
- a. A total of 1,121 residential units. Of this number, 179 units shall be made affordable based on affordability housing requirements contained within the associated Development Agreement No. 95-0173 adopted on November 20, 1995 by Ordinance No. OO-18230, 942 residential units are market rate; and
  - b. A 319-acre (approximately) private golf course (open to public membership) with an associated 10-acre lot for an approximately 33,400-square-foot clubhouse within the southern portion of the project and; a 288-acre (approximately) daily fee, public golf course with an approximately 25,300-square-foot clubhouse; and
  - c. Approximately 1,760 (1,810 with parks) acres of public natural open space or developed parkland; as indicated by location and dimension on the approved Exhibits "A," dated October 31, 1995, on file in the office of the Development Services Department for this project; and
  - d. Circulation Element Roads; and
  - e. Portions of a Village Center including predetermined sites for the following facilities: an administrative office for the property owners association within Black Mountain Ranch; a fire station; police/security office; a community center (meeting hall); a recreation center; a church which includes a senior citizen center and a day care center as accessory uses and a postal center & community center included in property; and
  - f. A reclaimed water reservoir covering approximately 43 acres to accommodate from 1,000-1,100-acre feet of reclaimed water; and
  - g. A potable water reservoir with a capacity of 15 mgd to be built under a shared participation agreement with the City; and
  - h. A 15-acre elementary school/park site (five-acre neighborhood park, and 10 acre elementary school site) located within the southern portion of the project and a

five-acre neighborhood park; a 10 acre elementary school site located within the northern portion of the project. A 38-acre high school site and a 17-acre middle school site; and

- i. A six-acre church site located within the southern portion of the project area; and
- j. Incidental accessory uses as may be determined and approved by the Development Services Director; and
- k. A 40 acre Community Park site in the southern portion of the project area.
- l. Associated site facilities and improvements necessary to implement the development as identified by size, dimension, and location on the approved Exhibits "A," dated October 31, 1995, on file in the office of the Development Services Department.

### 3. Construction and Grading Conditions:

- a. **Residential Development Required Approvals:** Prior to issuance of residential building or grading permits, residential development proposals will be required to:
  - a) submit plans for review to the Black Mountain Ranch Design Review Board. Said board will assist in monitoring compliance with the "Black Mountain Ranch Design Guidelines" and forward a recommendation to the Development Services Department; and
  - b) Prior to application for residential building or grading permits, residential development plans shall be submitted to the Development Services Department for a determination of 'Substantial Conformance' with the approved permits; Exhibits and Design Guidelines. Refer to the Implementation section of the "Black Mountain Ranch Design Guidelines" filed in the office of the Development Services Director as Exhibits "A," dated October 31, 1995, on file in the office of the Development Services Department for detailed information on the required approval process.
- b. **Required Plans:** Prior to the issuance of building permits: building plans, including landscaping, irrigation, and brush management plans for the associated area of construction (and sign plans when applicable), shall be submitted to the Development Services Director for approval. All plans shall be in substantial conformity with the approved permits; exhibits and design guidelines defined as the Exhibits "A," dated October 31, 1995, on file in the Development Services Department. This requirement shall not apply to advanced grading permits for the golf course provided however, that all mitigation measures have been addressed and revegetation plans as necessary are included with any grading associated with the golf courses.

- c. **Uniform Building Code:** The permittee/applicant shall comply with all requirements of the Uniform Building Code (UBC) and secure all necessary building permits prior to construction.
- d. **Exterior Radio or Television Antennas:** Exterior radio or television antennas shall be prohibited, except for one master antenna for the project. The installation of any underground CATV cable in any public rights-of-way within or adjacent to the project shall require either a license or franchise with the City prior to such installation. Single-family residential antenna dishes shall be subject to city-wide regulations.
- e. **Accessory Structures:** All accessory structures require the approval of the Development Services Director and must meet all relevant zoning and design development criteria as described in this permit and the "Black Mountain Ranch Design Guidelines."
- f. **Building Additions/Patio Covers:** No building additions, including patio covers, shall be permitted unless approved by the Development Services Director and recommended for approval by the Black Mountain Ranch Design Review Board. Such building additions and patio covers may be permitted only if they are consistent with the architecture of the dwelling unit and conform with all applicable codes and regulations.
- g. **Sidewalks:** Prior to the issuance of any building permits, the applicant shall assure that each dwelling unit, both clubhouses and all other facilities are provided with walkways that lead to the public right-of-way, as required per the Street Design Manual; and sidewalks shall be provided from each multi-family unit to a sidewalk within the dedicated right-of-way; and, if the sidewalks are contiguous to the curb of private streets, a five-foot general utility easement must be provided behind this walk.
- h. **Sound Walls And All Other R.O.W. Improvements:** Prior to the issuance of any building permits, the applicant shall obtain an Encroachment Removal Agreement, from the City Engineer, for the required sound walls, enhanced pavement, and any other non-standard improvement located within the public rights-of-way.
- i. **Development Criteria For the Affordable Housing in the Northern Village:** The Affordable Housing Units located on Lot 5, Unit 29 VTM 95-0173 shall be designed and maintained in accordance with the approved Exhibits "A," dated October 31, 1995, on file in the office of the Development Services Department. Said affordable housing units may be required to be further integrated into the town center location and subsequent development phases in accordance with the Affordable Housing Agreement as described in Development Agreement No. 95-0173 adopted on November 20, 1995, by Ordinance No. O-18230.

- j. **Lighting:** All public improvement plans and site development plans shall comply with any subsequent security lighting ordinances prior to issuance of building permits provided however that: all outdoor lighting shall be shaded and adjusted to fall on the same premises where such lights are located. Development of properties immediately adjacent to natural open space areas shall be designed specifically so that light or glare shall not be cast on the open space. Night lighting of the golf courses, driving ranges and tennis courts is prohibited. Night lighting of the golf course and clubhouse parking lots within 150 feet of open space or habitat buffer zones is prohibited.
- k. **Maximum Slope Gradient:** No manufactured slope greater than 10 feet in height shall be steeper than a ratio of 2:1. All slopes shall be undulated in accordance with Exhibits "A" dated November 17, 1992, on file in the office of the Development Services Department to the satisfaction of the Development Services Director.
- l. **Sales Office/Temporary Signs:** Any sales office or temporary sales signs advertising the subdivision shall be approved by the Development Services Director and shall be consistent with the criteria established by the R-1-5000 zone.
- m. **Development Criteria For The Village (Including the Affordable Housing):** Development criteria for each of the village structures are described in Exhibits "A" dated October 31, 1995, on file in the office of the Development Services Department which describes the following: Minimum lot area, Maximum FAR, setbacks, maximum heights, and parking. Such development criteria shall apply to the Association Office, Fire Station, Postal Center, Community Center, Senior Citizen Center, Day Care Center, Church, Recreation Center, and Affordable Housing. The Affordable Housing shall also conform with the requirements of the Development Agreement No. 95-0173 adopted on November 20, 1995, by Ordinance No. O-18230.
- n. **Visually Sensitive Lots:** No tennis courts will be allowed on lots identified as sensitive on Exhibits "A" (Sensitive Grading Plan), dated October 31, 1995, on file in the Development Services Department. Pools and spas will be considered on these lots provided they satisfy the criteria as outlined in the Black Mountain Ranch Design Guidelines and administratively meet the Hillside Review Ordinance findings for development on hillsides.
- o. **Hillside Review Lots:** No tennis courts will be allowed within Hillside Review limits. Pools and spas may be considered within the HR limits through the substantial conformance review process provided that the Development Services Director can find the design of these facilities to be consistent with the Black Mountain Ranch Design Guidelines and the Hillside Review guidelines and the HR findings can be made administratively consistent with the approved Development Plan.

- p. **Carmel Valley Road:** Carmel Valley Road from Black Mountain Road West shall be landscaped with landscaped berms medians and walls in accordance with Exhibits "A," dated October 31, 1995, on file in the office of the Development Services Department and Vesting Tentative Map Resolution No. R-286502, Condition 25.
- q. **Sensitive Habitat and Species:** Prior to the issuance of grading permits the ordinances and regulations of the State Water Resource Control Board and Regional/ Water Quality Control ("WQC") Board concerning surface drainage in order to assure that sensitive habitat and species located downstream of the northeast portion of the property but upstream of and near Del Dios Highway will be preserved.

#### 5. Parking Conditions:

- a. **Single-Family Detached (SFD) Residential Units:** A minimum total of 2,826 parking spaces shall be provided for the single-family residential element of the project (at a ratio of three spaces per dwelling unit). Of those spaces, a minimum of 942 shall be provided for guests (at a ratio of one space per unit). Each of the parking spaces shall be permanently maintained and not converted for any other use at any time. Each subsequent owner shall be informed of this requirement through the CC&R's. Each space shall be maintained on the subject property in the approximate location as shown on Exhibits "A," dated October 31, 1995, on file in the office of the Development Services Department. No charge shall be made at any time for use of these off-street parking spaces.
- b. **Affordable Housing Parking:** The affordable housing units located on Lots 7 & 8, Unit 23 & Lot 5, Unit 29 in Black Mountain Ranch shall be subject to the multi-family parking requirements described in Section 101.0835 of the Municipal Code. Each of the parking spaces shall be permanently maintained and not converted for any other use at any time. Each subsequent owner shall be informed of this requirement through the CC&R's. Each space shall be maintained on the subject property in the approximate location as shown on Exhibits "A," dated October 31, 1995, on file in the office of the Development Services Department. No charge shall be made at any time for use of these off-street parking spaces.
- c. **Village Center Public Facility Parking:** The parking requirements for the following public facilities must conform with the standards set forth on the approved Exhibits "A," dated October 31, 1995, on file in the office of the Development Services Department: community association office, police/security office fire station, postal center community center, church, day care center recreation center and senior citizen center.
- d. **Club House And Special Event Parking:** Prior to the issuance of the associated final subdivision map or building permits for the golf courses, the applicant shall

assure that adequate parking for cars and buses to serve special events is provided based upon a parking study submitted to and approved by the City Engineer. Said parking study shall be in substantial conformance to the Black Mountain Ranch Design Guidelines.

## 6. Landscape Conditions:

- a. **Timing of Landscape Installation:** The timely landscaping of the site identified herein is considered to be in the public interest and the developer shall initiate such landscaping within 90 days from the date that the grading of the designated site is (designated site as identified on the scope of work of the associated permits) deemed to be complete. Such landscaping and the supporting irrigation systems and appurtenances shall be installed in accordance with the plans approved by the Development Services Director and City Engineer. Said plans shall be in substantial conformance to Exhibits "A," dated October 31, 1995, on file in the office of the Development Services Department; and, the landscaping shall be properly maintained to ensure the survival and propagation of the plant material during the period prior to the acceptance of the public improvements or establishment of homeowner's association that will assure responsibility for the landscape maintenance (unless otherwise specified and approved by the Development Services Director and the City Engineer). All such landscaping shall be installed prior to issuance of an occupancy permit and is subject to field inspection(s) from the Development Services Department for conformance to this permit and subsequently approved construction documents.
- b. **Textured/Enhanced Paving:** The use of textured or enhanced paving shall be permitted only with the approval of the City Engineer and Development Services Director and shall meet standards of these departments as to location, noise and friction values, and any other applicable criteria.
- c. **Existing Landscape/Hardscape:** If any existing hardscape or landscape indicated on the approved plans is damaged or removed during demolition or construction, it shall be repaired and/or replaced in kind per the approved plans.
- d. **Landscape In Medians, Turnarounds, And R.O.W's:** Prior to the issuance of any building permits, the applicant shall obtain an Encroachment Removal Agreement, from the City Engineer for medians located in the cul-de-sac and turnarounds, and enhanced pavement located within the public rights-of-ways.
- e. **Landscape Berm and Noise wall:** A landscape berm and noise wall will be built adjacent to a portion of Carmel Valley Road. The actual location and size of the landscape berm and noise wall will be in accordance with Vesting Tentative Map No. 95-0173. The landscape berm and noise wall will be built concurrently with Carmel Valley Road.

- f. **Hydroseed Prior to Dedication of Open Space Lots:** Prior to acceptance of the dedication of any open space lot by the City, the owner shall hydroseed all areas of bare earth (devoid of plants) on the subject lot which are over 400 square feet with a native plant seed mix acceptable to the Director of the Parks and Recreation Department.
7. **Landscape Maintenance District:** Maintenance responsibilities for all areas of the project shall be as designated in the Black Mountain Ranch Design Guidelines and the Development Agreement. The Developer shall establish a Landscape Maintenance District acceptable to the Park and Recreation Director.
8. **Brush Management Conditions:**
- a. **Lots Affected by Brush Management:** The applicant hereby grants and relinquishes to The City of San Diego, a Municipal Corporation, any and all right to construct, erect, or maintain any structure, based on "Zone 1" of the City of San Diego Landscape Technical Manual approved by the Council of The City of San Diego and on file in the office of the City Clerk as Document No. RR-274056, upon or across those portions of the following lots (as indicated on the Brush Management Plan, Exhibit "A"): Unit 4; lots 11-25, Unit 6; lots 16, 17, 18, 20-28, Unit 7; lots 17, 18 & 19, Unit 8; lots 14-25, Unit 18; lots 1-3, 5-17, Unit 19; lots 1-7, unit 20; lots 1-23, Unit 21; lots 12-17,22,23, 29-31, 33-56, Unit 22; lots 1-13, 16-20, Unit 23; lots 1, 2 & 9, Unit 24; lots POA 2, 4-9, 16-27, 47-49, 59-68, 76-79, Unit 25; lots 8-10, 20-23, 26-39, 47-53, 67 & 68, Unit 26; lots 17-24, 26-31, 37-44, 54, 55, 56, 58-62, Unit 27; lots 1-9, 16-26, POA 1, 41, 42 & 73 unless approved by the Fire Chief and the Development Services Director. The foregoing shall not be construed as grant of any rights to the general public.
- b. **Submittal and Implementation of Brush Management Requirements:** Prior to issuance of any grading or building permits (except for the land development permit for the PGA golf courses), a complete set of brush management working drawings shall be submitted to the Development Services Director for approval. The plans shall be in substantial conformity to Exhibits "A," dated October 31, 1995, on file in the office of the Development Services Department, and shall comply with the applicable provisions of the City of San Diego Landscape Technical Manual, Document No. RR-274506. The approved Brush Management Program shall be implemented before issuance of any occupancy permit on any building. Such brush management shall not be modified or altered unless this permit has been amended and is to be maintained, at all times, in accordance with the guidelines of the City of San Diego Landscape Technical Manual. The property owner will maintain Zone 1 as defined on Exhibits "A," dated October 31, 1995, on file in the office of the Development Services Department and the Property Owner's Association will maintain Zones 2 and 3 as defined on Exhibits "A," dated October 31, 1995, on file in the office of the Development

Services Department on a permanent basis in accordance with the City of San Diego Landscape Technical Manual.

- c. **Brush Management at Undeveloped Sites:** All undeveloped sites adjacent to occupied structures will be maintained by the developer in a fire safe condition so as not to be a fire hazard to occupants of the structures.
9. **Fire Department Conditions:** Prior to the issuance of any building permits, the applicant shall:
- a. **Building Addresses:** Ensure that building address numbers are visible and legible from the street (Uniform Fire Code ("UFC") § 10.208).
  - b. **Fire Hydrants:** The Owner/Permittee shall, immediately following the recordation of the subdivision maps and prior to the preparation of the final tentative maps, submit for approval by the City Fire Marshall, exact locations for all fire hydrants on the plot plan (UFC § 10.301); and shall install such fire hydrants at locations satisfactory to the Fire Department and the City Engineer prior to the issuance of any occupancy permits.
  - c. **Fire Access:** Provide access in conformance with Fire Department Policy A-89-1 (UFC § 10.207).
  - d. **Compliance with Brush Management:** Comply with the City of San Diego Landscape Technical Manual regarding brush and landscaping in accordance with Exhibits "A," dated October 31, 1995, on file in the office of the Development Services Department.
  - e. **Fire Truck Access at Private Divided Road:** Prior to the issuance of any building permits, the applicant shall insure that the private divided road is designed with 20-foot wide minimum travel lanes on each side of the median, unless approved otherwise by the Fire Marshall and City Engineer.
  - f. Provide access in conformance with Fire Department Policy A-89-1 (UFC § 10.207).
  - g. Provide temporary street signs.
10. **School Final Agreement:** Prior to the recordation of final maps the Owner/Permittee of this permit must enter into an approved "final" agreement with the Poway Unified School District for the school facilities serving the subject permit as specified in Development Agreement No. 95-0173 adopted on November 20, 1995, by Ordinance No. O-18230.



**11. Engineering Conditions:**

- a. **Conformance With Vesting Tentative and Final Subdivision Map Conditions:** The permit shall comply at all times with the conditions of the final map for Vesting Tentative Map Nos. 95-0173.
- b. **Street Lighting:** Prior to the issuance of any building permits, the applicant shall install street lights at specific locations associated with such building construction, satisfactory to the City Engineer.
- c. **Driveways:** The slope for driveways may have a maximum 14% grade, without transitions, or a maximum 20% grade, provided that transitions of a minimum eight-foot length at half (½) of the ramp slope are installed at both ends of the ramp.
- d. **Driveways:** Driveways shall be of sufficient depth and width to provide storage for two standard-size vehicles without encroaching into the sidewalk area or within five feet from the face of curb on dedicated streets, in a manner satisfactory to the City Engineer.
- e. **Non-Building Area:** A "Non-Building Area" designation shall be granted and shown on said map on all areas not shown for building sites. Such areas shall be coupled with the severalty interests of the owners of the dwelling units and shall be maintained as open space.

**12. Fees subject to the provisions of Development Agreement 95-0173 adopted on November 20, 1995, by Ordinance No. O-18230:**

- a. **Building Permit Park Fees:** This property may be subject to a building permit park fee in accordance with San Diego Municipal Code section 96.0401 et seq.
- b. **Impact Fees:** This community may be subject to impact fees, as established by the Council, at the time of issuance of building permits.

**13. Environmental Mitigation Conditions:**

- a. Prior to the issuance of any residential building permit, the Design Review Guidelines shall be used in determining conformance with the PRD, and RPO (HRP) permits in addition to Exhibits "A," dated October 31, 1995, on file in the office of the Development Services Director.
- b. Prior to the issuance of building permits, all trails as shown on Exhibits "A," dated October 31, 1995 and on file in the Development Services Department, shall be completed to the satisfaction of the Director of Parks and Recreation.

- c. Specific traffic circulation improvements relative to parking and access for the annual PGA golf tournament consistent with the EIR shall be in place prior to issuance of the first special event permit allowing the tournament. Verification of installation of the transportation improvements described in Table 10 and Figure 25 of the EIR shall be provided to the City Engineer and the Development Services Director prior to issuance of occupancy permits.
- d. Night lighting of the golf courses, driving ranges and tennis courts shall be prohibited. Night lighting of golf course and clubhouse parking lots within 150 feet of open space or habitat buffer zones is prohibited and development of properties immediately adjacent to natural open space areas shall be designed so that light or glare shall not be cast on the open space lots.
- e. The applicant shall provide a notice to each buyer prior to sale that risks to pets exist due to the presence of coyotes, bobcats, and other natural predators which inhabit the natural open space in the area.
- f. Sensitive plant species shall be identified in the brush management plan and a qualified biologist shall monitor the clearing activities of the approved brush management plan in order to restrict the removal of sensitive plant species.
- g. A field inspection shall be conducted by the Engineering and Development Department after grading has been completed and prior to issuance of a building permit to ensure mitigation measures for hydrology and water quality including permanent basins and all other drainage facilities have been implemented consistent with the EIR. The property owner's association shall be responsible for the maintenance of these basins.
- h. Best management practices shall be utilized for irrigation, control of fertilizers, pesticides, and herbicides and the provision of filter strips in buffer areas adjacent to wetlands and sediment and control measures to the satisfaction of the City Engineer.
- i. Procedures for water conservation, including the requirement to use reclaimed water if available, shall be required for the operation of the golf courses.
- j. Landscaping shall be in place along the developed roadways and development areas prior to issuance of building permits for each area.
- k. Mitigation measures concerning grading shall be specified on grading plans. The Development Services Director shall review the site preparation/grading and landscape plans for consistency with the mitigation measures prior to issuance of a grading permit. A field inspection shall be conducted by the Engineering and Development Department to ensure grading and contouring of slopes has been

done according to the tentative map requirements prior to issuance of building permits.

- l. A brief letter report shall be prepared and submitted to the Development Services Department summarizing the paleontological salvage program described in the EIR within three months of completion of grading and prior to the issuance of building permits.
- m. Prior to the issuance of building permits, noise barriers along the circulation element roadways, internal roadways and individual residential pads necessary to reduce exterior noise levels for residential, park and school uses to below 65 DBA CNEL based on future traffic volumes shall be constructed consistent with the requirements of the EIR.
- n. An interior noise analysis shall be conducted and specific mitigation measures necessary to reduce interior noise levels to 45 DBA CNEL based on future traffic volumes shall be included on building plans to the satisfaction of the Noise Abatement Officer. Said analysis shall only be required for those lots as identified in the Mitigation Monitoring and Reporting Program of EIR NO. 95-0173 and the Black Mountain Ranch Design Guidelines.
- o. Noise generated by the pump stations shall not exceed 45 DBA Leq at any residential property line. Prior to issuance of building permits for Lots 10 and 11 of Unit 20; Lots 26 and 27 of Unit 25; and the affordable housing in Unit 29, the Noise Abatement Officer shall verify that the pump stations have been designed so that noise levels generated by the pump stations would not exceed 45 DBA Leq at the residential lot line.
- p. If the City's curbside recycling program has not been established for the project area, the property owner's association shall provide recycling containers and enter into an agreement with a recycling contractor to handle recyclable materials. The requirement for recycling bins or containers shall be included in the Design Review Guidelines.
- q. Procedures for source reduction and reuse or disposal of green waste shall be included in the golf course operation.
- r. Service letters from the Fire Department shall be submitted to the Development Services Department at the time of building permit application. If the Fire Department can not guarantee a six-minute response time, then building plans shall include sprinkler systems, or other measures to satisfaction of the Fire Department.
- s. An implementation and maintenance program for measures described in the EIR to control mosquito populations shall be prepared prior to release of reclaimed water to the reservoir. It shall be approved by the Regional Water Quality Control

Board and provided to the Development Services Department. Annual reports detailing the measures implemented and success shall be prepared by the applicant for three years and submitted to the Development Services Department.

- t. The approval of a final school financing plan by the Poway Unified School District and proof of payment of school fees shall be required prior to issuance of building permits.
- u. The applicant shall provide a notice to each buyer prior to sale that discloses the potential for nuisance level impacts from aircraft overflights departing from Navel Air Station (NAS) Miramar consistent with the EIR.

**14. General Conditions:**

- a. **Effective Date and Length of This Permit:** The effective date of this permit shall be the date of final action by the City Council. This permit must be utilized in accordance with the terms and agreements specified within Development Agreement No. 95-0173, adopted on November 20, 1995, by Ordinance No. O-18230. Failure to utilize this permit in accordance with the terms and agreements specified within Development Agreement No. 95-0173, adopted on November 20, 199, by Ordinance No. O-18230 will automatically void this permit unless an extension of time has been granted by the City Council, as set forth in the Development Agreement 90-0332 and the San Diego Municipal Code. Provided this permit is utilized in accordance with the terms set forth in this permit, associated Exhibits "A," Development Agreement No. 95-0173 and EIR No. 95-0173, then the life of this permit shall run with the land.
- b. **Recordation of this Permit:** No development shall commence, nor shall any permit for construction be issued, until:
  - 1. The Permittee signs and returns the permit to the Development Services Department; and
  - 2. The permit is recorded in the Office of the County Recorder; and
- c. **Limitations of this Permit:** The property included within this development shall be used only for the purposes and under the terms and conditions set forth in this permit unless authorized by the Development Services Director or the permit has been revoked by the City of San Diego.
- d. **Cancellation/Revocation Of This Permit:** This permit may be canceled or revoked if there is any material breach or default in any of the conditions of this permit or the associated Development Agreement No. 95-0173, adopted on November 20, 1995, by Ordinance No. O-18230. Cancellation or revocation may be instituted by the City or Permittee.

- e. **Covenant Running with the Land:** This development shall constitute a covenant running with the land; all conditions and provisions shall be binding upon the permittee and any successor(s), and the interests of any successor(s) shall be subject to every condition herein.
- f. **Sale of Individual Lots:** This permit allows the sale of individual lots for the purpose of construction of residential units consistent with conditions and exhibits of the permit.
- g. **Changes to this Permit:** Subsequent to the approval of this permit, no changes shall be made until an appropriate application for an amendment to this permit shall have been granted consistent with the provisions of Development Agreement No. 95-0173, adopted on November 20, 1995, by Ordinance No. O-18230.
- h. **Posting of this Permit and Exhibits "A":** The applicant shall post a copy of the approved permit and associated Exhibits "A," including the Black Mountain Ranch Design Guidelines in the sales office for consideration by each prospective buyer.
- i. **Posting for Employment Opportunities:** If any structure or place is established within the project where interested persons can seek information regarding employment opportunities associated with projects construction, it will be located at least one-half mile from any residence existing as of the date of the Council approval of this project.
- j. **Completion of Golf Course Construction:** Construction of the two golf course facilities shall be in accordance with the conditions and limitations described in Development Agreement No. 95-0173 adopted on November 20, 1995, by Ordinance No. O-18230.
- k. **Annual Special Event Permit Required:** A "Special Event Permit" shall be required from the City of San Diego Police and the City Engineer prior to the operation of the annual PGA tournament.
- l. **Review of Permit Required:** Each of the two subject golf courses and the associated activities are subject to an annual administrative review by the Development Services Director for conformance to this permit. Annual Review shall be conducted for six years from the date the golf courses begin operations. After six years, the golf course operations shall be reviewed every five years for the life of the operations. The applicant shall provide written verification to the Development Services Director each year subsequent to the effective date of this permit demonstrating conformance with the conditions of this permit.
- m. **Costs for on-going City Review of this Permit:** The City shall collect sufficient fees/deposits from the current owner/applicant that are in place at the time of such review, to recover all costs incurred during the review and enforcement of this.

permit including but not limited to issuance of Special Use Permits, annual review of the Permit, and Substantial Conformance Review plan checks.

- n. **Golf Course Hours of Operation:** The operation of the two golf courses and any associated outdoor maintenance shall be limited to the hours of dawn until dusk.
- o. **Management of Facilities:** The developer shall be responsible to assure that each manager or operator of the golf course and associated facilities is fully knowledgeable of the conditions of this permit, Development Agreement No. 95-0173, EIR No. 95-0173, Exhibits "A," dated October 31, 1995, on file in the office of the Development Services Director and the Black Mountain Ranch Design Review Guidelines. Any successors in interest shall also be bound to the conditions of this permit and associated documents. A copy of this permit and any amendments, shall be posted on the premises and shall be available for review by any person who may desire to see the permit.
- p. **Applicable Policies and Regulations:** The construction and continued use of this permit shall be subject to the regulations of this or other applicable governmental agencies; and to the extent this condition is consistent with state and local laws, this project shall comply with the standards, policies and requirements in effect as defined by the Development Agreement No. 95-0173 adopted on November 20, 1995, by Ordinance No. 18230, or with subsequent amendments.
- q. **Amendments and Future Development Areas:** Any changes to the Development Plan shall require an amendment to this permit. However, Future Development areas shall not require an amendment to the RPO permit if no further impacts occur to resources as identified in the Resource Protection Ordinance. In the event that the Resource Protection Ordinance is replaced by a similar Sensitive Protection Ordinance, then the impacts analyzed under this permit shall be vested.

APPROVED by the City Council of the City of San Diego on October 31, 1995 by Resolution No. R-286503.

**AUTHENTICATED BY THE CITY MANAGER**

By \_\_\_\_\_

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**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.

BLACK MOUNT RANCH LIMITED  
PARTNERSHIP  
Owner/Permittee

By \_\_\_\_\_

By \_\_\_\_\_

**NOTE: Notary acknowledgments  
must be attached per Civil  
Code Section 1180, et seq.  
Form=p.ack**