

RESOLUTION NUMBER R-286817

ADOPTED ON JANUARY 16, 1996

WHEREAS, Westbrook Penasquitos, L.P., Owner/Permittee, filed an application with the City Development Services Department to implement a residential subdivision; including multi- and single-family dwelling units, various open space and utility dedications, interior streets, site landscaping, two recreational parks, an elementary school site, and various other site facilities and improvements (as described in and by reference to the approved Exhibits contained with the associated Resource Protection Ordinance Zone, Hillside Review and Planned Residential Development Permit No. 87-0925) on portions of a vacant 635-acre site, located on the west side of Interstate 15 between Carmel Mountain Road and Penasquitos Drive within the Rancho Penasquitos Community Planning Area. The project site is legally described as being a portion of the Northeast quarter of Section 7 Township 14 South, Range 2 West, San Bernardino Meridian of Rancho de los Penasquitos, in the R1-5000 and A-1-10 (portions in the Hillside Review Overlay) zones; and

WHEREAS, on January 16, 1996, the Council of the City of San Diego considered hillside Review, Resource Protection Overlay Zone and Planned Residential Development Permit No. 87-0925, pursuant to Sections 1010454, 101.0901, and 101.0462 of the Municipal Code of the City of San Diego; NOW, THEREFORE,

BE IT RESOLVED, by the Council of The City of San Diego, that this Council adopts the following findings with respect to Resource Protection Overlay Zone, Hillside Review and Planned Residential Development Permit No. 87-0925:

1. PLANNED RESIDENTIAL DEVELOPMENT PERMIT FINDINGS:

A. The proposed use will fulfill a community need and will not adversely affect the General Plan or the adopted Community Plan.

The project satisfies a community-identified need for the provision of adequate housing and open space, and is consistent with the land use pattern and residential density of the Rancho Penasquitos Community Plan in effect for this site.

The 635-acre project site lies entirely within the community of Rancho Penasquitos. As proposed, the development includes 575 residential units (410 detached and 165 attached single-family dwellings), and a 10-acre school site with an adjacent 5-acre park. Off-site, an 18-acre park along Carmel Mountain Road will be rough graded and a series of infrastructure improvements will be provided.

The project extends the range of housing types available within the community. The project is proposed for one of the last remaining development areas within the community and provides a much-desired residential "move up" opportunity within the community. This fulfills the Community Plan objective of offering a diverse range of housing types within distinct neighborhoods for a broad range of families, income levels, lifestyles, and age groups.

A total of 433 acres (or 68 percent of the site) are designated for open space. By offering dedication of the majority of this land to City of San Diego, in addition to the imposition of building restricted areas in A-1-10 lands, the preservation of permanent open space is assured.

The project's traffic circulation system is consistent with the adopted community plan and City street design standards. The project's planned circulation system will accommodate expected traffic well below design capacity.

The project provides the necessary public utilities, fees, and services to the area, including water, drainage, sewage, fire, schools, parks, open space, and recreation, consistent with the requirements of the Rancho Penasquitos Community Plan.

B. 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 design and subsequent development of this site as a residential area with a supplemental school and park site will be complimentary to adjacent residential areas in the community.

Open space dedicated as part of the project (433 acres) will significantly enhance views of the community and the rough grading of an off-site 18-acre park in addition to development of a five-acre park on site will significantly increase community recreational opportunities.

The permit prepared for this project includes a number of conditions of approval relevant to project compliance with applicable regulations of the municipal code to assure the health, safety and general welfare of persons residing or working in the area.

The proposed use is compatible with the character of the surrounding area and therefore would not adversely affect other property in the vicinity.

C. The proposed use will comply with the relevant regulations in the Municipal Code in effect for this site.

The land uses and densities for Montana Mirador will comply with the relevant regulations in the Municipal Code. Residential, school, and park uses are consistent with the requested residential zoning.

Building permits and Engineering permits will be reviewed for substantial conformance with all discretionary approvals. This process will assure another level of review by City staff 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 Overlay, and Hillside Review Ordinances; and the associated Community Benefits Agreement.

The proposed development is consistent with the relevant regulations of the municipal code in effect for this site, including requirements for setbacks, various site coverages, and structural and site design guidelines as specified and/or recommended by the R-1-5000 Zone and the adopted Rancho Penasquitos Community Plan.

2. HILLSIDE REVIEW PERMIT FINDINGS:

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

The proposed development will minimize disturbance of environmentally sensitive areas on the site, such as, hillsides and biologically sensitive resource areas in accordance with the relevant Hillside Review Ordinance. This has been accomplished primarily by avoiding development on 68 percent of the site and employing lot clustering, grading controls and other preferred site designs consistent with recommended design elements of the adopted community plan to minimize impacts within the developed portions of Montana Mirador.

The geological reconnaissance report prepared for the development (included as part of the Mitigation Monitoring and Reporting Program) indicated that the proposed structures would be sited, designed and constructed to be physically suitable to the topographic conditions of finished site grade. Ornamental and functional plant materials incorporated into the slope plantings element of the project landscape and brush management plan will contribute significantly to the structural integrity of the proposed residences.

Proposed grading activities would be consistent with slope encroachment limitations of the City's Hillside Review Ordinance relevant to the minimum disturbance of sensitive areas identified on the site.

The Mitigation Monitoring and Reporting Program prepared for the project includes measures to retain the integrity of remaining natural slopes, open space areas and other sensitive resources identified on the site, and would ensure their minimal disturbance during the construction phase of the project.

B. 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 health, safety and general welfare as approved by the City Engineer. Disturbed slopes are planted with native and self sufficient vegetation.

Implementation of project mitigation measures to minimize soil erosion will be enforced by the City Engineering Department before a grading permit is issued.

Graded slopes would be revegetated with plant materials identified in the landscape concept plan and described in the written text of the revegetation plan. Plant species considered useful for controlling erosion will be planted on steep slopes and native species will be used in an effort to blend with

surrounding natural areas for those slopes adjacent to natural open space.

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 revegetation plan and associated EIR No. 87-0925.

Daylight grading techniques will be used to the extent possible on ridge tops and highly visible areas. In addition, manufactured slopes will be rounded, contoured, and undulated where possible using variable slope ratios to blend into the natural landscape and topography.

The Mitigation Monitoring and Reporting Program prepared for the project includes various measures to reduce potential adverse impacts associated with site grading and erosion, including the installation of erosion control features and controlled grades to reduce uncontrolled run-off and resultant soil erosion.

The geologic reconnaissance report prepared for the project, and which is included in the Mitigation Monitoring and Reporting Program, indicated that the compacted soils incorporated into the project grading plan would securely support the proposed structures without any risk to the health, safety and general welfare of those living adjacent to the site.

Proposed grading activities would incorporate various techniques designed to avoid the unnecessary severe scarring of existing landform features, including the undulation and contouring of slopes to create a more visually appealing natural element on the project site.

The project landscape and brush management plan incorporate revegetation of disturbed slopes with native vegetation indigenous to the area. The revegetation of these slopes will contribute to mitigation efforts to reduce the potential for erosion and flooding impacts on site.

In addition to the above, a detailed geotechnical report will be required prior to the issuance of a grading permit to further assure that no erosional disturbances would occur during grading activities on the project site. This report would also indicate any other geologic instabilities which may occur as a result of project implementation and would recommend alternatives to mitigate the potential for adverse impacts related to slide damage or the silting of lower slopes.

C. 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 character, varied architectural treatments, and appropriate plant material.

The retention of visual quality is adequately addressed by the fact that 68 percent of the site remains undeveloped, including 433 acres either offered for dedication to the City. Manufactured slopes will occur, but will be rounded, contoured, and undulated (wherever possible) using variable slope ratios to blend into the natural landscape and topography of the project site.

Drainage systems have been designed and located to minimize their visibility. Revegetation on manufactured slopes will provide erosion control. Fire resistant and drought tolerant plants are included within the plant palette to ensure erosion control and compatibility with surrounding biological communities.

Attachment 8 to the Montana Mirador PRD (No. 87-0925) Planning Report contains design standards and guidelines for fences and walls, edges, architecture, and site design. Although not visually degraded, the proposed project would retain the aesthetic qualities and residential character of the surrounding area. The design of the proposed structures would incorporate a variety of architectural treatments, materials and styles intended to contribute to the aesthetic qualities present in the area.

D. 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.

A comprehensive revision of the Rancho Penasquitos Community Plan was approved by the San Diego City Council in June, 1993. That Plan indicates almost 34 percent of the community as designated open space, with much of the open area clustered in the northeastern portion of the community.

The proposed Montana Mirador development respects the open space boundaries shown in the adopted Community Plan. This is emphasized by the fact that 68 percent of the ownership where Montana Mirador develops will remain in open space.

The applicant has discussed the feasibility of open space dedications with appropriate city staff. Staff has determined the proposed open space element for the project to be acceptable in terms of acreage, function and practicality and that no additional easements, open space dedications or exactions on the property would be necessary to comply with open space requirements of the community plan.

E. 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."

The project site will be developed in accordance with the standards and guidelines created from direction given and accepted by staff which appear in PRD No. 87-0925 as "Exhibit A." Development of biologically sensitive areas have been minimized to the extent that 68 percent of the site will be dedicated as either open space or non-building easements. A sensitive form of development has been designed for this site to allow for reasonable residential use and maintain the natural character of Rancho Penasquitos.

The proposed development is consistent with relevant hillside design, encroachment and development guidelines as referenced in the Municipal Code, and which recommend a variety of site sensitive grading techniques intended to achieve compatible hillside development including; variation of architectural design, the retention of sensitive landform features (i.e. significant or prominent slopes) and contoured grading of manufactured slopes.

3. RESOURCE PROTECTION OVERLAY ZONE PERMIT FINDINGS:

A. The proposed development will be sited, designed, and constructed to minimize, if not preclude, adverse impacts upon sensitive natural resources and environmentally sensitive areas.

The proposed development will result in the minimized disturbance of environmentally sensitive areas identified on site, such as hillsides and biologically sensitive resource areas. This has been accomplished primarily by avoiding development on 68 percent of the site and employing various techniques such as lot clustering, grading controls, contoured grading of manufactured slopes and other preferred site designs to minimize impacts within the developed portions of the Montana Mirador site.

The geological reconnaissance report prepared for the proposed development (included as part of the Mitigation Monitoring and Reporting Program) indicated that the proposed structures would be sited, designed and constructed to be physically suitable to the topographic conditions of finished site grade.

Selected building materials would be consistent with surrounding residential architectural styles and were chosen based on their ability to support proposed slope structures. Ornamental and functional plant materials incorporated into the slope planting element of the project landscape and brush management plan will contribute significantly to the structural integrity of the proposed residences on site.

Proposed grading activities would be consistent with slope encroachment limitations of the City's Resource Protection Overlay Zone Ordinance relevant to the minimum disturbance of sensitive slopes and other similar resources identified on the site.

The Mitigation Monitoring and Reporting Program prepared (MMRP) for the project includes measures to retain the integrity of remaining natural slopes, open space areas and other sensitive biological resources identified on the site, and would ensure their minimal disturbance during the construction phases of the project.

B. The proposed development will be sited and designed to prevent adverse impacts to environmentally sensitive habitats and scenic resources located in adjacent parks and recreation areas and will provide adequate buffer areas to protect such resources.

All grading for the residential development portion of the project shall occur fully within identified lot lines and in compliance with the City's brush management program to assure that native slope vegetation will not be significantly affected.

The project has been designed to avoid encroachment into publicly owned open space areas. Transition areas consisting of various plant materials of similar density, habitat and character as those in open space areas is provided to retain a visually compatible appearance of the project site from the future Black Mountain City park to the north.

Consequently, implementation of these landscape transition areas and avoidance of significant grading within these buffers will contribute to preventing adverse environmental impacts occurring to sensitive habitats and scenic resources located in the adjacent City park.

C. 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 to generally follow the existing topography of the site. Residential development shall be restricted primarily to ridgeline or valley development utilizing day-light grading techniques to minimize manmade slope areas and retain sensitive natural slopes in open space.

In addition, manufactured slopes will be rounded, contoured and undulated where possible using variable slope ratios to blend into the natural landscape and topography. To the extent feasible, from an engineering standpoint, all streets and residential development areas shall be graded to mimic the

natural topography of the site, which is a recommended (preferred) design element in the adopted community plan.

Impacts due to the increase in runoff with the introduction of new streets and other hardscape surfaces will be mitigated through design and implementation of a comprehensive site drainage system and incorporation of sediment basins and flowage controls as identified in the project EIR.

Measures to reduce potentially significant sedimentation and erosion during grading activities on the site include providing temporary sedimentation and desilting basins between graded areas and stream locations. In addition, the use of Best Management Practices (BMP's) will be in effect throughout the site development phase of this project.

D. The proposed development will be visually compatible with the character of surrounding areas, and where feasible, will restore and enhance visual quality in visually degraded areas.

By way of preserving 433 acres of open space area, the project design adequately addresses the retention of visual quality in the area. The project design exceeds previous grading standards set forth by the existing surrounding neighborhoods and; the integrity of maintaining relief in the vertical scale for this project has been accomplished through the effective implementation of sensitive grading techniques on site.

The guidelines created for Montana Mirador contain criteria for fences, walls, edges, architecture, and site design. Although not visually degraded, the proposed project would clearly retain the aesthetic qualities and residential character of the surrounding area.

E. The proposed development will conform with the City of San Diego's Progress Guide and General Plan, the adopted Community Plan, or any other applicable adopted plans and programs.

The project and its various components satisfy a community-identified need for the provision of adequate mixed housing types and open space, and is consistent with the recommended land use pattern and residential density of the Rancho Penasquitos Community Plan in effect for this site.

The project extends the range of housing types available within the community. The project is proposed for one of the last remaining development areas within the Rancho Penasquitos community and provides a much-desired residential "move up" opportunity within the area. This fulfills the Community Plan objective of offering a diverse range of housing types within

distinct neighborhoods for a broad range of families, income levels, lifestyles, and age groups.

The project improves the existing traffic circulation system in the area, consistent with the adopted community plan. The projects planned traffic circulation system will accommodate expected traffic well below this project's maximum design capacity.

The project provides a viewpoint within the site, which is consistent with design elements of the community plan to preserve significant views of the surrounding hillsides and will provide the necessary public utilities, fees, and services to the area, including water, drainage, sewage, fire, schools, parks, open space, and recreation, consistent with the requirements of the Rancho Penasquitos Community Plan and the Progress Guide and General Plan in effect for this area.

4. BRUSH MANAGEMENT (ALTERNATIVE COMPLIANCE) FINDINGS:

A. The proposed Brush Management Program will meet the purpose and intent of Appendix IIA of the Uniform Fire Code.

Under the terms of Condition No. 4, Montana Mirador PRD Permit No. 87-0925, a "Non-Building Area" designation will be applied to the final map for all Brush Management areas per the Landscape Technical Manual and PRD ordinance. Condition No. 39 of that document requires masonry fencing installed on the rear yard of development areas of lots illustrated on Exhibit "A."

Attachment "A" of the Montana Mirador PRD No. 87-0925, in the section on Landscape and Open Space Responsibility, identifies the following lots as Brush Management Open Space to be maintained by the Homeowners Association: Unit 1, Lots C, D, E, F, G; Unit 2, Lots C and D; Unit 3, Lots A and F; Unit 4, Lots E and F; Unit 5, Lot E; Unit 6, Lots E, F, G; Unit 7, Lots E, H, I, J, K; and Unit 8, Lots A and B.

This will satisfy the intent of Appendix IIA of the Uniform Fire Code in providing an adequate fire barrier. Landscape within Zone 1 will be implemented and maintained in accordance with the standards in the City of San Diego Landscape Technical Manual (document number RR-274506). In all cases, Zones 2 and 3 meet or exceed the requirements for those zones.

Therefore, the proposed brush management program will meet the purpose and intent of Appendix IIA of the Uniform Fire Code.

B. The Brush Management Program will not be detrimental to the health, safety, and general welfare of persons residing or working in this area.

The provision of Zones 1, 2, and 3, in addition to masonry walls, will provide an effective fire break for the project layout and design. Additionally, the following architectural features (in accordance with Section 6.6-2 of the *Landscape Technical Manual*) will be incorporated: fire retardant roofing, 1 hour fire resistive surfaces for eaves and overhangs on walls adjacent to open space, and wire screens on eave vents.

Therefore, the brush management program designed for this project will not be detrimental to the health, safety, and general welfare of persons residing or working in the area.

C. The provisions outlined in Sections 6.6-2 of the Landscape Technical Manual (Document Number RR-274506) shall be satisfied and the proposed development shall provide other fire resistive features as required by the Fire Chief.

In addition to the masonry wall barrier, architectural features outlined in Section 6.6-2 of the *Landscape Technical Manual* have been incorporated into the project. A site analysis was performed by the Fire Department to validate the fire suppression program, which resulted in modifications to the development proposal.

Therefore, the provisions as outlined in Section 6.6-2 of the *Landscape Technical Manual* (document number RR-274506) and the proposed development provides fire resistive features as required by the Fire Chief.

D. Compliance with the provisions of this section in addition to any other applicable adopted plans or ordinances would preclude reasonable development on the site.

The purpose and intent of the Uniform Fire Code is adequately met for the project design through the compliance standards proposed. The brush management program will not be detrimental to the health, safety, and general welfare of persons residing or working in the area.

Literal compliance with all provisions of this section would require increased encroachments into open space areas. Alternative compliance methods have been reviewed and approved by the Development Services Department and the Fire Department.

As well, the project has already been modified to conform to the 1993 comprehensive update of the Community Plan to provide open space and visual links into open space areas. Therefore,

literal compliance with the provisions of this section could preclude reasonable development on the site.

E. The proposed Brush Management Program, to the extent feasible, will not adversely affect floodplains, biologically sensitive lands, hillsides, significant prehistoric sites and resources, and wetlands as defined in the Resource protection Ordinance.

The Environmental Impact Report completed for this project identified no significant impacts occurring as a result of implementing the brush management program. The development proposal and accompanying landscape plan indicate that brush management within sensitive biological and hillside areas would be implemented in conformance with the *Landscape Technical Manual*.

Selective thinning and pruning of native plants will occur, but in a manner which preserves the appearance of the site while reducing fire hazard. Therefore, the proposed brush management program does not adversely affect floodplains, biologically sensitive lands, hillsides, significant prehistoric sites and resources, and wetlands.

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

The brush management program incorporates an extensive vegetation plan to restore and/or enhance existing vegetation adjacent to the proposed development. The proposed plan 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 minimizing clearing and by utilizing drought tolerant plant material. Therefore, the proposed brush management program, to the extent feasible, will minimize the alteration of vegetation and will not result in undue risk from erosional forces.

5. EXEMPTION FROM PENASQUITOS EAST TRANSPORTATION PHASING PLAN FINDINGS:

The applicant, has requested an exemption from the Penasquitos East Transportation Phasing Plan (City Council Resolution No. 268424) which precludes the development of the Montana Mirador Project until the completion of State Route 56 between Interstate I-5 and Interstate I-15.

The Phasing Plan is included in the adopted Rancho Penasquitos Public Facilities Financing Plan for Fiscal Year 1995 (PFFP). Under current provisions, the Montana Mirador subdivision would exceed the Phasing Plan threshold of 14,700 dwelling units by 505 units.

Before development beyond this threshold can proceed, a minimum four-lane roadway between I-5 and I-15 must be constructed. All other projects listed in the Phasing Plan have been completed.

However, the Public Facilities Financing Plan provides as an attachment to the Penasquitos East Transportation Phasing Plan, in part, as follows:

It is understood that at some time in the future it may be desirable to revise some element(s) of this phasing plan, including raising the established threshold, in order to add future benefits to the community. Any change to this phasing plan will require a noticed public hearing before the City Council.

The applicant is proposing to provide additional benefits to the Rancho Penasquitos Community as specified in the CBA. The proposed CBA describes the following three off-site benefits to the Rancho Penasquitos Community resulting from this project, which would be in addition to the FY 1995 Facilities Benefit Assessments (of \$13,390 per single-family unit and \$9,373 per multiple family unit).

- 1) Design and construction of Black Mountain Neighborhood Park located north of the project site.
- 2) Rough grading of Penasquitos Village Neighborhood Park located to the east of the project site off of Carmel Mountain Road. (Design and construction of the park would be financed through FBAs.)
- 3) Various improvements along Carmel Mountain Road and Paseo Valdear Road, including improvements pursuant to conditions of the Vesting Tentative Map and a drop-off/pick-up lane for Carmel Mountain High School at the intersection of Carmel Mountain Road and Paseo Valdear.

Justification for the requested Transportation Phasing Plan exemption can be made due to the community benefits being provided with the Montana Mirador development. In summary, the benefits provided by the Montana Mirador project will:

- Satisfy the general purpose and intent of the community Phasing Plan.
- Not significantly or adversely impact roads, parks, schools or other community infrastructure or facilities.
- Not result in any physical damage or prejudice to other properties in the vicinity and will not be detrimental to public health, safety or general welfare.
- Will provide the Rancho Penasquitos Community with facilities benefits not otherwise attainable except through approval of the requested exemption.

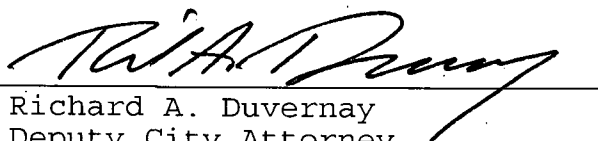
The benefits provided for by the Montana Mirador CBA are reasonably comparable to those provided for other exemptions to the Transportation Phasing Plan that have been granted by the City Council.

That said Findings are supported by maps and exhibits, all of which are herein incorporated by reference.

BE IT FURTHER RESOLVED that, based on the findings hereinbefore adopted, that the City Council hereby APPROVES Hillside Review, Resource Protection Overlay Zone and Planned Residential Development Permit 87-0925 in the form and with the terms and conditions as set forth in Permit 87-0925, a copy of which is attached hereto and made a part hereof.

APPROVED: CASEY GWINN, City Attorney

By


Richard A. Duvernay
Deputy City Attorney

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RECORDING REQUESTED BY
CITY OF SAN DIEGO
DEVELOPMENT SERVICES DEPARTMENT

AND WHEN RECORDED MAIL TO
PERMIT INTAKE
MAIL STATION 501

SPACE ABOVE THIS LINE FOR RECORDER'S USE

RESOURCE PROTECTION OVERLAY ZONE, HILLSIDE REVIEW AND
PLANNED RESIDENTIAL DEVELOPMENT PERMIT NO. 87-0925

MONTAÑA MIRADOR

CITY COUNCIL

This permit is granted by the Council of The City of San Diego to WESTBROOK PEÑASQUITOS, L.P., Owner/Permittee, under the conditions contained in Sections 101.0901, 101.0454, and 101.0462 of the Municipal Code of the City of San Diego.

1. Permission is hereby granted by the City Council to the referenced Owner/Permittee to implement a 575 unit residential subdivision (as described herein this permit) on portions of a vacant 635-acre site, legally described as being a portion of the northeast quarter of Section 7, Township 14 South, Range 2 West, San Bernardino Meridian of Rancho de los Peñasquitos. The site is located on the west side of Interstate 15, between Carmel Mountain Road and Peñasquitos Drive in the Rancho Peñasquitos Community Planning Area in the A-1-10 and R1-5000 (portions in the Hillside Review Overlay) Zones.
2. The permit shall include the total of the following facilities, dedications and site improvements as identified by size, dimension, quantity and location on the approved Exhibits "A," dated January 16, 1996, on file in the Office of the Land Development Review Division:
 - a. 410 detached single-family dwelling units and associated improvements within Units 1 through 5, 7 and 8 of the accompanying Vesting Tentative Map ("VTM") (No. 87-0925); and
 - b. 165 attached dwelling units and associated improvements within Unit 6, Lot 3 of the accompanying Vesting Tentative Map (No. 87-0925). Proposed as future development, this component of the project will require a specific amendment(s) of this permit (see Permit Conditions Nos. 27 and 28); and

- c. Off-street parking (see Condition No. 7); and
 - d. Recreational facilities, if warranted at the time of development, and associated open space areas for Unit 6, Lot 3 and;
 - e. Viewpoint Park Lot "G" (10,000 square feet) within Unit 7; and
 - f. Various open space and utility dedications; and
 - g. Site landscaping and brush management; and
 - h. Ten-acre elementary school site; and
 - i. Grading of an eighteen-acre off-site park; and
 - j. Accessory improvements determined by the Land Development Review Division to be consistent with the land use and development standards in effect for this site per the adopted Rancho Peñasquitos Community Plan, the R1-5000 and A-1-10 zones, conditions of this permit, and any other applicable regulations of the Municipal Code in effect for this site.
3. Prior to the issuance of any grading or building permits, a final map (VTM 87-0925) shall be recorded by the Permittee on the subject property. Rezoning of the property shall become effective with the recordation of the final map. Permits may be issued for model units prior to the final map recordation, subject to the requirement of the City Engineer and the Land Development Review Division.
 4. A "Non-Building Area" designation shall be granted and shown on the associated Vesting Tentative Map (VTM 87-0925) on all areas not shown for building sites and all Brush management areas per the *Landscape Technical Manual* and PRD Ordinance. Such areas shall be coupled with the severalty interests of the owners of the dwelling units and shall be maintained as open space. Areas of the site designated as open space shall be in accordance with the approved Exhibits "A" for the project.
 5. Prior to the issuance of grading permits, complete brush management, landscape, permanent irrigation, erosion control plans and corresponding measures shall be submitted to the satisfaction of the Land Development Review Division. Prior to the issuance of any building permits, complete building plans shall be submitted in substantial conformance to the approved Exhibits "A" for the project, as determined by the Land Development Review Division. No change, modifications or alterations of the approved plans for this project shall be made unless appropriate applications, Findings of

Substantial Conformance or amendment of this permit shall have been granted by the appropriate decisionmaker.

6. The construction and continued use of this permit shall be subject at all times to the regulations of other governmental agencies.
7. A minimum of 1,230 total parking spaces shall be provided at all times for single-family development Units 1 through 5, 7 and 8 of VTM No. 87-0925 (at a ratio of 3 spaces per dwelling unit). Of those spaces, a minimum of 410 curb spaces shall be provided for guests of the project (at a ratio of one space per unit).

Resident and guest parking facilities/ratios for the multifamily, attached unit component of the project (Unit 6, Lot 3) will be determined at the time of submittal of an amendment of this permit to develop Unit 6. At that time, the Land Development Review Division will impose the multifamily parking standards and requirements in effect at the time of PRD amendment submittal.

8. Exterior radio or television antennas shall be prohibited, except for one master antenna for the subdivision. 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 from the city prior to such installation.
9. No building additions, including patio covers, shall be permitted unless approved by the homeowners association and the Land Development Review Division. Patio covers may be permitted only if they are consistent with the architecture of the dwelling unit to which it relates and the project's Brush Management Program, if applicable.
10. No manufactured slope shall be steeper than a ratio of 2:1 except side yard slopes can be 1.5:1 where the corresponding vertical slope height is ten feet or less. Manufactured slopes greater than 30 feet in height shall be contour graded, wherever possible as indicated on the corresponding Vesting Tentative Map (VTM 87-0925).
11. The permittee shall post a copy of the approved permit and have copies of the adopted Rancho Peñasquitos Community Plan available in the sales office for consideration by each prospective buyer.
12. Any sales office or temporary sales signs advertising the subdivision shall be approved by the Land Development Review Division and shall be consistent with the criteria established by the existing zone.

13. Sidewalks shall be provided from each unit to the driveway or to the sidewalk within the dedicated right-of-way, and if the sidewalks are contiguous to the curb or private streets (Unit 6, Lot 3), a five-foot general utility easement must be provided behind this sidewalk.
14. Details of all exterior illumination shall be submitted and approved by the Land Development Review Division prior to the issuance of any building permits for the project. All private outdoor lighting shall be shaded and adjusted to fall on the same premises where such lights are located.
15. This permit must be utilized within 36 months after the effective date of final approval by the City Council. Failure to utilize the permit within 36 months from the effective date of approval will automatically void the permit unless an extension of time has been granted by the Hearing Officer (discretionary process 3). Recordation of the corresponding final map for this site (VTM 87-0925) shall constitute utilization of this permit.
16. No development shall commence, nor shall any permit for either grading or construction be issued, until:
 - a. The permittee signs and returns the permit to the Land Development Review Division; and
 - b. The permit is recorded in the Office of the County Recorder.
17. 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 otherwise authorized by the Land Development Review Division.
18. This permit is subject to revocation if there is any material breach by Owner/Permittee in the conditions of this permit. Revocation proceedings may be instituted by the City. Upon the notice specifying the nature of the alleged material breach or default and, when appropriate, the manner in which said breach may be satisfactorily cured, shall be provided to Owner/Permittee. Owner/Permittee shall be entitled to due process (including an opportunity to be heard orally and in writing) before any decision is made by the City regarding the revocation.
19. 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.
20. All accessory structures associated with this development will require the approval of the Land Development Review

Division and must meet zoning relevant criteria and Planned Residential Development Permit Guidelines.

21. All signs requested and proposed for this project shall conform to Citywide Sign Regulations and be administered by the City Sign Code Administrator of the Land Development Review Division.
22. Public refuse collection shall not be permitted unless approved by the City of San Diego General Services Director.

All streets shall be improved to the requirements set forth by the City Engineer.

23. This permit allows the sale of individual lots for the purpose of construction of residential units consistent with conditions and exhibits of the permit.
24. The use of textured or enhanced paving on site shall require an approved Encroachment Removal Agreement, satisfactory to the City Engineer.
25. Manufactured slopes proposed for open space lots within Units 1 through 5 and 7 of Vesting Tentative Map (VTM 87-0925) shall be built with variable slope contours and undulation techniques where possible from a practical engineering standpoint and native plant materials established per the approved Landscape Concept Plan, Exhibit "A."
26. Subsequent development of the attached multifamily residential element of this subdivision (Unit 6, Lot 3) will require discretionary approval of an amendment of this permit. Development of this particular site for attached residential use(s) will be evaluated primarily against conformance with recommended density designations and development standards of the adopted Rancho Peñasquitos Community Plan in effect for this site; a net site density not to exceed 15 dwelling units per acre and; and corresponding density, development standards and criteria of the equivalent R-1500 (multifamily) Zone. An appropriate site design and building design consistent with the development standards of this PRD and sensitive to adjacent single-family development, as well as conformance with any other regulations of Municipal Code relevant to Planned Residential Developments will also be evaluated by the Land Development Review Division at the time of amendment submittal for Unit 6, Lot 3.
27. Erosion control measures, satisfactory to the City Engineer and the Land Development Review Division, shall be implemented for subsequent multifamily residential development within the area identified as Unit 6, Lot 3 of Vesting Tentative Map 87-0925. Tree vegetation, groundcover

and other landscape concept features proposed for the attached residential development pads shall be submitted to the satisfaction of the Land Development Review Division pursuant to amendment(s) of this permit.

28. This permit will result in the following product type, numbers of dwelling units and design issues, if applicable, within each referenced unit.

Product and Density

| <u>Unit No.</u> | <u>Product</u> | <u>Dwelling Units</u> |
|-----------------|----------------------|-----------------------|
| 1 | Single Family | 50 |
| 2 | Single Family | 43 |
| 3 | Single Family | 77 |
| 4 | Single Family | 51 |
| 5 | Single Family | 44 |
| 6 | Attached Multifamily | 165* |
| 7 | Single Family | 137 |
| 8 | Single Family | <u>8</u> |
| | Total | 575 D.U. |

- * Maximum number of dwelling units to be considered within subsequent site plan submittals within the unit area. This maximum number of units will be achievable only if the subsequent plans clearly indicate that all applicable site design goals and Planned Residential Development Ordinance criteria are satisfied.

Design Control by Unit

Unit 1 - 50 Homesites

Product: Single Family Detached

Minimum Pad Size: 4275 s.f.

Average Lot Size: 6600 s.f.

Special Design Issues:

Grading:

Cut and fill along limited ridge line areas. Daylighted interface with open space where possible.

Views:

Distant westerly and southerly views into residential areas.

Edges:

Natural open space, revegetated slope areas, SDG&E easement and within proximity to existing single family residential.

Walls and Fences:

Four-foot masonry fence (where applicable), view fence and solid wood fence.

Landscaping:

Natural slope restoration, permanently irrigated revegetated interior slopes and brush management.

Setbacks:

Variable setbacks along Laurentian Drive should be used. 15-25 feet should be considered where depth of lots would allow.

Architecture:

Due to proximity to existing single family residential development in the area, rear elevations should be articulated to avoid blank walls. Designs should maximize view opportunities by providing external use areas such as balconies to create variety in scale.

Unit 2 - 43 Homesites

Product: Single Family Detached

Minimum Pad Size: 4700 s.f.

Average Lot Size: 7000 s.f.

Special Design Issues:

Grading:

Canyon fill area as extension of existing development along Oviedo Street with an emphasis on daylighted interface with natural open space.

Views:

Limited views within canyon areas. Mostly all rear lot areas are adjacent to natural open space.

Edges:

Natural open space revegetated slope areas, proposed elementary school site and existing single family residential.

Walls and Fences:

Four-foot masonry fence (where applicable), and solid wood fence.

Landscaping:

Natural slope restoration, permanently irrigated revegetated interior slopes and brush management.

Setbacks:

Due to curvilinear nature of fronting streets, no special setback requirements apply.

Architecture:

Should focus on compatibility with existing units directly adjacent. Color and texture, as well as, height and bulk should be complimentary.

Unit 3 - 77 Homesites

Product: Single Family Detached

Minimum Pad Size: 4700 s.f.

Average Lot Size: 5000 s.f.

Special Design Issues:

Grading:

A combination of canyon fill and ridge line cut with an emphasis on daylighted interface with natural open space.

Views:

Limited views within canyon areas. Distant views to ocean and Black Mountain Peak depending on lot configuration.

Edges:

Natural open space revegetated slope areas and proposed single family residential.

Walls and Fences:

Four-foot masonry fence (where applicable), view fence and solid wood fence.

Landscaping:

Natural slope restoration, permanently irrigated revegetated interior slopes and brush management.

Setbacks:

Due to curvilinear nature of fronting streets, no special setback requirements apply.

Architecture:

The units sited on ridge top cut areas should have attention given to the rear elevation. Varying roof types, detailing and single story elements should be used.

Unit 4 - 51 Homesites

Product: Single Family Detached

Minimum Pad Size: 5000 s.f.

Average Lot Size: 6800 s.f.

Special Design Issues:

Grading:

A combination of canyon fill and ridge line cut with emphasis on daylighted interface with natural open space.

Views:

Limited views within canyon views. Distant views to Black Mountain Peak and into adjoining residential areas.

Edges:

Natural open space, revegetated slope areas, proposed single family residential.

Walls and Fences:

Four-foot masonry fence (where applicable), view fence and solid wood fence.

Landscaping:

Natural slope restoration, permanently irrigated revegetated interior slopes and brush management.

Setbacks:

Variable where possible on streets that are not curvilinear. An attempt should be made to vary units from 15 ± 25 feet from public right-of-way, although the configuration of the lots may restrict this design opportunity.

Architecture:

In areas where the rear elevations are visible from surrounding areas, the massing should be articulated to avoid blank walls. Integration of single story elements should be considered.

Unit 5 - 44 Homesites

Product: Single Family Detached/Attached Duplex (Small Lot)
Minimum Pad Size: 4000 s.f.
Average Lot Size: 4500 s.f.

Special Design Issues:

Grading:

Canyon fill areas with an emphasis on daylighted techniques to effectively interface with natural open space resources.

Views:

Limited views within canyon views. Distant views to Black Mountain Peak and into residential areas.

Edges:

Natural open space, revegetated slope areas, proposed single family residential and major roadway (Paseo Valdear).

Walls and Fences:

View fence and solid wood fence.

Landscaping:

Natural slope restoration, permanently irrigated revegetated interior slopes and brush management.

Setbacks:

Variable, where possible, to mimic the variable depths of the lots.

Side yard setbacks will vary depending on the product selected for each of these 44 homesites. Conventional siting versus zero lot line, or duplexing will dictate widths. City's minimum setback requirements will be applied.

Architecture:

In areas where the rear elevations are visible from surrounding areas, the massing should be articulated to avoid blank walls. Integration of single story elements should be considered. Careful consideration should be given to bulk if duplexing is proposed.

Unit 6 - 165 Dwelling Units (Maximum Achievable)

Product: Attached Units at approximately 15 dwelling units per net site acre.

Minimum Site Size: Approximately 11.8 acres

Special Design Issues:

Grading:

Terraced, contoured pads to mimic natural land form in the vertical and horizontal scale. Pads created to maximize off-site views to southwest.

Views:

Distant ocean views. Short range views into existing residential and high school multi-sport stadium.

Edges:

Natural open space, neighborhood park site and Paseo Valdear.

Walls and Fences:

Four-foot masonry fence (where applicable), view fence and solid wood fence.

Landscaping:

Natural slope restoration, permanently irrigated revegetated interior slopes and brush management.

Setbacks:

Equivalent R-1500 (multifamily) Zone requirements shall apply.

Architecture:

Incorporate a variety of unit types, including townhomes, stacked flats, carriage units over garages or a range of other design/product configurations. Building facades should be articulated. The massing, scale and proportion of the various buildings should be carefully designed. Materials, colors and textures should be carefully planned due to the prominence of the site within the Paseo Valdear viewshed area.

Unit 7 - 137 Homesites

Product: Single Family Detached - Estate (Promontory)
Minimum Pad Size: 6900 s.f.
Average Lot Size: 9500 s.f.

Special Design Issues:

Grading:

Ridge line cut with emphasis on daylighted techniques to interface with natural open space resources. Utilize "terraced" grading concepts to maximize views.

Views:

Dramatic distant views of ocean and inland areas. Short views into existing residential areas.

Edges:

Natural open space and limited single family residential. Adjacent development areas substantially below pad grade of Unit 7.

Walls and Fences:

Four-foot fence (where applicable), view fence and solid wood fence. Attention to continuity will add to visual quality.

Landscaping:

Permanently irrigated interior slopes and brush management. Overlooks park area.

Setbacks:

Variable setbacks along street and at rear. Where there are more than four (4) dwelling units adjacent to each other, at least 20 percent of the units should be set back a minimum of 25 feet. The balance can maintain a minimum of 15 feet. Siting of units can also vary with garage location. Where garage functions as side entry, unit can be 10 feet minimum from public right-of-way.

Architecture:

Varying roof types, rear elevation detailing, integration of single story elements. Massing of rear elevations should be articulated to avoid blank walls being visible within the viewshed area of Unit 5.

Unit 8 - 8 Homesites

Product: Single Family Detached

Minimum Pad Size: 6500 s.f.

Average Lot Size 8000 s.f.

Special Design Issues:

Grading:

Existing fill area coupled with a minor ridgeline cut area. Utilization of daylighted techniques to interface with open space resources where possible. Both areas entail the completion of existing streets by constructing cul-de-sacs.

Views:

Limited distant view opportunities. Rear yards adjacent to open space.

Edges:

Natural open space, revegetated slope areas and existing single-family residential.

Walls and Fences:

View fence and solid wood fence.

Landscaping:

Natural slope restoration, permanently irrigated revegetated interior slopes and brush management.

Setbacks:

Match existing residential.

Architecture:

Due to proximity to existing single family residential to Unit 8, color texture, height, bulk and scale should be carefully considered. The eight homesites contained within this unit represent the completion of an existing neighborhood.

29. A three-year landscape maintenance and monitoring program designed for this project shall be implemented by the permittee to ensure successful revegetation of all manufactured slopes associated with the project design. The program shall include irrigation, plant replacement and maintenance (as required). The Land Development Review Division shall be informed by the Permittee, in writing, of the date on which revegetation of the slopes has been completed. Annually for three years following the date of initial plantings, the Land Development Review Division shall conduct a field survey of the manufactured slopes to verify satisfactory establishment of the vegetation. If the Land Development Review Division determines that the initial plantings have not been adequately established, then the landscape maintenance plan shall remain in effect for an additional period of at least one year.
30. Prior to the issuance of any occupancy permits for the project, a field inspection shall be conducted by the Land Development Review Division to ensure that the brush management plan as detailed on pages 77 and 78 of the EIR has been satisfactorily implemented in the areas affected by the occupancy permits. Maintenance of the Brush Management areas shall be the responsibility of the homeowner's association. Field checks every three years, shall be made by the Land Development Review Division to ensure compliance with on-going maintenance as outlined in the *Landscape Technical Manual*.
31. Areas located within public rights-of-way on Paseo Valdear and major manufactured slopes adjacent to Paseo Valdear, Carmel Mountain Road and Oviedo Street will be maintained through establishment of a Homeowner's Association(s) for this development. Areas of the site proposal to be included shall be in accordance with the approved Exhibit "A."
32. Proposed private drives, recreation centers and related open space areas within the multifamily development site (Unit 6, Lot 3), manufactured slopes adjacent to developed areas (excluding slopes adjacent to Paseo Valdear, Carmel Mountain Road and Oviedo Street), brush management areas and individual residential lots will be maintained by homeowners association(s), private owners or a combination thereof. Areas of the site to be maintained shall be in accordance with the approved Exhibit "A."
33. Prior to issuance of building permits for any attached units (Unit 6, Lot 3), a fire access plan, including details and indicating all major fire department access drives and fire lanes, satisfactory to the City Fire Department, shall be submitted for review and approval of the Land Development Review Division.

34. Prior to the issuance of a land development permit, the Land Development Review Division shall review and approve all project grading plans for conformance with the corresponding Vesting Tentative Map (No. 87-0925).
35. Public access will be provided on site from all public streets, landscape maintenance and utility easements, and cul-de-sacs that contact open space areas.
36. Prior to the issuance of any building permits, a field check shall be conducted by the Land Development Review Division to ensure that the site has been graded in accordance with the Final Grading Plan approved in those areas affecting the permits requested. If the site has not been graded in compliance with the Final Grading Plan then corrective measures, as deemed necessary by the City Field Engineer, shall be taken. If the grading conforms with Final Grading Plan, this measure shall be considered satisfied.
37. Prior to the construction of the pedestrian trail, as depicted on Exhibit "A", a conformance finding shall be made that, to the extent feasible, the location of said pedestrian trail remains within the City's utility maintenance facility. Where, due to possible utility routing changes, the trail is aligned outside the said facility a qualified biologist shall walk the proposed trail alignment and delineate an acceptable route that avoids or minimizes encroachments into sensitive habitats and avoids impacts to sensitive plant species. The biologist shall submit a routing plan with recommendations for construction methods that should be avoided, to the satisfaction of the City's Park and Recreation Director.
38. CC&R's developed by and for the homeowners association shall be reviewed by the Land Development Review Division for substantial conformance with the applicable permit conditions. Provisions shall be included within the CC&R's that provide notification to property owners of the existence of adjacent sensitive biological resources and the need and understanding for protection.
39. Low, obscured-color masonry fencing shall be installed within the rear yard of lots as illustrated on the approved Exhibits "A."
40. The Owner/Permittee shall provide building address numbers visible and legible from the street or road fronting the property or provide a directory, satisfactory to Fire Chief and City Engineer.
41. Individual lot pressure regulators shall be required when the lowest fixtures are subject to maximum pressure exceeding 80 p.s.i. in accordance with the Uniform Plumbing Code (UPC).

The following conditions (42-49) shall be implemented by the applicant in accordance with the Mitigation Monitoring and Reporting Program adopted by the Council for this project on January 16, 1996.

42. Prior to the issuance of a grading permit for each development unit associated with the phasing of this project, the permittee shall provide for and/or comply with the following to the satisfaction of the City Engineer and the Land Development Review Division, unless otherwise specified:
 - a. Provide written evidence that required permit(s) from state and federal agencies (i.e., a permit under Section 10(A) of the Endangered Species Act) have been obtained for the project.
 - b. Review of grading plans by the Land Development Review Division for compliance with the corresponding Vesting Tentative Map (No. 87-0925).
 - c. Contoured and variable-slope ratio slopes on site shall be graded per the EIR and marked accordingly "Environmental Mitigation."
 - d. Indicate on grading plans that species considered useful for erosion control will be planted on steep slopes. Native species shall be used to blend with surrounding natural areas for those slopes adjacent to natural open space.
 - e. Indicate on grading plans that disturbed slopes adjacent to open space areas will be provided with temporary irrigation systems.
 - f. Indicate on grading plans that landscaping of cut slopes identified as having pervious material and all fill slopes shall be implemented in phases coincident with development phases and prior to the issuance of building permits for each said phase. In the event that a reasonable source of water is not available within 90 to 120 days from completion of grading, visual mitigation and temporary slope stabilization measures shall be provided through the application of native and naturalized non-irrigated hydroseed mix and mechanical erosion control measures as required.
 - g. Indicate on grading plans all natural open space areas and building restricted areas on the property as being off-limits to equipment or other disturbance except for temporary access within 40-foot-wide corridors to areas needed for the installation of utilities. These

- corridors shall be revegetated with coastal sage scrub plants per the approved landscape revegetation plan.
- h. Indicate on grading plans that a construction monitoring program shall be developed and implemented by the Permittee, in a manner satisfactory to the Land Development Review Division.
 - i. Site preparation activities, especially staging area operations and maintenance rows for heavy machinery shall be restricted to well defined areas of the property. A preconstruction meeting shall be held to define the limit of grading activity adjacent to permanent open space areas. It shall be made clear to all affected parties that the limit line is mandatory and not to be compromised. The brush limit line shall be staked by a survey crew and cleared by a bulldozer under the survey crew's direction. As the brush limit line (which does not include brush management zones) is cleared, a certain color of flagging shall be placed along the perimeter designating the limit of construction activity. The color of the flagging shall be determined at the preconstruction meeting.
 - j. To minimize disturbance to breeding gnatcatchers and other wildlife species adjacent to development areas on this site, no clearing or grubbing of natural coastal sage habitat shall be conducted during the breeding season, between March 15 and July 31. A note must appear on the grading plan referencing this restriction.
 - k. The boundary between brush management zones 1 and 2 (as indicated on the approved landscape plan for the project) shall be clearly marked on all grading and construction plans. The grading and construction supervisors shall be informed of this boundary and shall inform the crews to stay out of zones 2 and 3 and corresponding open space areas as indicated on the approved Exhibits "A."
 - l. Indicate on grading plans the construction of riprap dissipaters and filter blanket material at all storm drain discharge points to reduce flow velocities and riprap blanket protection on the channel slopes of the diversion berms.
 - m. Indicate on grading plans the use of temporary erosion control measures to be implemented during all construction phases of the project design.

- n. Indicate on grading plans the construction of drainage facilities and associated erosion control measures, in a manner satisfactory to the City Engineer.
 - o. Pollution control devices shall be incorporated into the drainage system for the project. Best Management Practices as specified by the City Engineer shall be utilized in designing the pollution control system.
 - p. Prior to issuance of land development permits and approval of improvement plans for the project, the City Engineer shall review and approve the design and location of the Best Management Practice facilities.
 - q. The homeowner's association shall be held responsible for maintenance and periodic cleaning of the facilities that are located on private property. The City shall maintain any facilities located within City easements or City rights-of-way.
 - r. Retain a soils engineer to monitor all grading and construction phases of the project and submit in writing, to the City Engineer and the Land Development Review Division, certification that the project has complied with the mitigation measures identified in the EIR to reduce hydrology/water quality impacts to a level below significance.
 - s. Indicate on grading plans the need for paleontological monitoring and salvaging as identified in the EIR (87-0925).
- 43. Construct a five-foot-high masonry noise wall around the edge of the pump station pad. Said wall shall be shown on the grading plan to be approved by the Land Development Review Division prior to issuance of any grading permits.
 - 44. Prior to the issuance of grading permits for each phase of development, a detailed soil and geologic investigation will be required to be implemented by the permittee. The permittee shall retain a soils engineer and an engineering geologist to review detailed grading plans for each phase of development and assure compliance with the provisions of the project's geotechnical investigation, as discussed in the EIR for the project. Grading plans shall be reviewed by the Land Development Review Division for compliance with all conditions and prior to issuance of a grading permit for each development phase.
 - 45. Prior to release of any subdivision bond, the Land Development Review Division shall:

- a. Ensure that landscaping and permanent irrigation features for each phase of development have been installed in substantial conformance with the approved landscape concept plan for the project (Exhibit "A").
 - b. A soils engineer and engineering geologist shall prepare a final soil report at the completion of grading for each phase of development that certifies that the grading has been completed in substantial conformance to the approved grading plan and specifications designed for the project (Exhibits "A"). This final soils report shall be submitted for approval to the City Engineer and the Land Development Review Division. The subdivision bond shall not be released and no building permits will be issued for the project until this report is deemed acceptable by the City Engineer and the Land Development Review Division.
46. Prior to the issuance of building permits for each phase of development, the permittee shall demonstrate compliance with the following criteria and improvements to the satisfaction of the City Engineer and the Land Development Review Division, unless otherwise specified:
- a. Landscaping of cut slopes identified on the approved plans as having pervious material and all fill slopes shall be implemented in phases coincident with development phases and prior to the issuance of building permits for each phase.
 - b. Landscaping plans for each development unit shall indicate the following: California adolphia and coast barrel cactus populations within brush management zones 2 and 3 shall be marked by a qualified biologist prior to implementation of brush management measures.
 - c. Prior to thinning, a qualified biologist shall meet with the contractor to clarify which plants are to be spared. The thinning crews shall be instructed to spare the marked sensitive species from clearing. Selective thinning within zones 2 and 3, hand clearing, and the sparing of sensitive species shall be a part of the ongoing brush management plan.
 - d. For those units shown in the EIR to be within the 65 dB(A) CNEL contour of any roadway, special construction measures shall be used to reduce interior noise levels to 45 dB(A) CNEL.
 - e. Prior to issuance of building permits for each phase of development, building plans shall be reviewed by

Building Development Review of the Development Services Department to ensure an adequate reduction in noise levels consistent with the City's noise abatement ordinance.

- f. Prior to issuance of building permits for each phase of development, the Land Development Services Review Division will perform a field check to ensure that noise wall mitigation is adequately implemented and to check slope plantings accordingly.
 - g. Landscaping plans for each development unit within the subdivision shall indicate revegetation of currently disturbed areas in accordance with the revegetation plan in Appendix A of the EIR.
- 47. Prior to issuance of building permits, a paleontological monitoring results report shall be submitted to the Land Development Review Division for approval.
 - 48. Hand clearing techniques shall be used for all fire control measures required within zones 2 and 3 of the fire buffer area.
 - 49. Prior to final building inspection and operation of the pump station, the inspector shall contact the Land Development Review Division to inspect the noise wall to ensure that it has been constructed as described in the EIR and as shown on the grading and building plans.
 - 50. This permit shall comply at all times with the conditions of the corresponding final map for Vesting Tentative Map 87-0925.
 - 51. If the ten acres graded for the proposed elementary school site within this subdivision (Lot 1, Unit 6) is released from that use by the Poway Unified School District, then five acres shall be dedicated to the City and become part of the existing Black Mountain Neighborhood Park (Lot 2, Unit 6) and five acres may be used by the landowner for the construction of any remaining single-family residential units of the 575 total designated by this permit, subject to the limits of the product type/density percentages indicated within the adopted Community Plan discussion for the Black Mountain neighborhood.
 - 52. The project shall comply at all times with the conditions, terms, implementation phases, financial obligations and contractual agreements contained within (and by reference to) the associated Community Benefit Agreement (CBA)

prepared for this project, as identified by Exhibit "A," or as otherwise specified by the Planning Department.

53. Prior to issuance of a grading or pre-grading permit for any portion of the project site, proof of an incidental take permit under Section 7, Section 10a or 4d (Interim Habitat Loss Permit) of the endangered Species Act, relative to the California gnatcatcher, shall be provided to the satisfaction of the Land Development Review Division. If such permit is not required, then written verification to that effect from the U.S. Fish and Wildlife Service shall be provided. Any project redesign required in obtaining a Section 7, Section 10a or 4d (Interim Habitat Loss) permit will require reconsideration by the appropriate City decision-making body.
54. Approval of this permit does not guarantee approval of a future Interim Habitat Loss Permit, which is limited to a five percent cumulative loss calculated at the grading permit stage.
55. The issuance of this permit by the City of San Diego does not authorize the permittee for said permit to violate any Federal, State or City laws, ordinances, regulations or policies including, but not limited to, the Federal Endangered Species Act of 1973 and any amendments thereto (16 U.S.C. Section 1531 et seq.).
56. All of the conditions contained in this permit have been considered and have been determined by the decisionmaker to be necessary in order to make the findings of approval required for this discretionary permit. It is the intent of the City that the holder of this permit be required to comply with each and every condition in order to be afforded special rights which the holder of the permit is obtaining as a result of this permit. Furthermore, it is the intent of the City that the owner of the property, which is the subject of this permit either utilize the property for any use allowed under the existing zoning and other restrictions which apply to the property or, in the alternative, that the owner of the property be allowed the special and extraordinary rights conveyed by this permit, but only if the owner complies with all conditions of this permit.
57. In the event that any condition of this Permit, on a legal challenge by the Owner/Permittee of this Permit, is found or held by a court of competent jurisdiction to be invalid, unenforceable or unreasonable, this Permit shall be void. However, in such event, the Owner/Permittee shall have the right, by paying applicable processing fees, to bring a request for a new permit without the "invalid" condition

back to the discretionary body which approved the permit for a determination by that body as to whether all of the findings necessary for the issuance of the permit can still be made in the absence of the "invalid" condition(s). Such hearing shall be a hearing de novo and the discretionary body shall have the absolute right to approve, disapprove or modify the proposed permit and the conditions(s) contained therein.

58. All improvement plans associated with this development (as described herein) shall be fully implemented by the permittee in substantial conformance with the approved Exhibits "A" for this project, as determined by the Land Development Review Division.
59. No change, modifications or alterations of the approved plans for this project shall be made unless appropriate application(s) for either Substantial Conformance Review (SCR) to the approved Exhibits "A" for this project or an amendment(s) of this permit shall have been granted by appropriate decisionmaker.
60. Prior to recordation of the final map for Vesting Tentative Map 87-0925, the Permittee shall provide written confirmation to the Land Development Review Division, from the San Diego Gas and Electric Company (SDG&E), stating that the grading and improvement plans associated with the final map for the Montaña Mirador subdivision will provide the necessary vehicle access road grading easements and/or rights-of-way on the property which satisfy SDG&E's demands for access through the subdivision to an existing 200-foot-wide SDG&E easement and corresponding facilities within that easement.

APPROVED by the Council of the City of San Diego on January 16, 1996, by Resolution Number R-286817.

AUTHENTICATED BY THE CITY MANAGER:

By _____

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

WESTERRA MANAGEMENT, LLC
(or Authorized Representative)
Owner/Permittee

By _____

By _____

John Potts
Senior Vice President

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