

(R-96-1487)

RESOLUTION NUMBER R-287319

ADOPTED ON MAY 14, 1996

WHEREAS, CARTER-REESE AND ASSOCIATES, a California General Partnership, Owner/Permittee, filed an application with the Development Services Department for a Mid-City Communities Development (MCD) Permit and a Resource Protection Ordinance (RPO) Permit to implement a residential subdivision consisting of 30 attached dwelling units and associated public and private improvements (as described in and by reference to approved conditions and exhibits of approval contained within the associated MCD/RPO Permit No. 95-0685); and

WHEREAS, the vacant, partially improved 1.6-acre project site is located at the northeast corner of Horton Avenue and Laurel Street, west of Brant Street, within the MR-1000 Zone of the Uptown Community Planning Area (Mid-City Communities Planned District); and

WHEREAS, the project site is legally described as lots "G" through "J" in Block 291 of Horton's Addition, Parcel 1 of Parcel Map No. 14393 and Parcel 2 of Parcel Map No. 13590; and

WHEREAS, on May 14, 1996, the San Diego City Council considered Mid-City Communities Development and Resource Protection Ordinance Permit No. 95-0685, an Amendment to Conditional Use Permit No. 87-0434, pursuant to Sections 101.0462 and 103.1500 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 City Council adopts the following findings with respect to Mid-City Communities Development and Resource Protection Ordinance Permit No. 95-0685, an Amendment to Conditional Use Permit No. 87-0434:

**RESOURCE PROTECTION ORDINANCE PERMIT FINDINGS:**

**A. THE PROPOSED DEVELOPMENT WILL NOT ADVERSELY AFFECT THE PROGRESS GUIDE AND GENERAL PLAN.**

The proposed development is consistent with the land use designation in effect per this site per the City's Progress Guide and General Plan, which recommends that the property be developed with residential land uses consistent with corresponding densities prescribed for this site in the adopted Uptown Community Plan and the Mid-City Communities Planned District Ordinance (PDO). Therefore, the proposed development will not adversely affect the City's Progress Guide and General Plan relevant to land use.

**B. THE PROPOSED DEVELOPMENT WILL CONFORM TO THE COMMUNITY PLAN FOR THE AREA AND ANY OTHER APPLICABLE PLANS, POLICIES AND ORDINANCES.**

The MR-1000 Zone (Mid-City Communities Planned District Ordinance) and the adopted Uptown Community Plan designate the project site for medium-high residential development (29-44 dwelling units per acre). The proposed project reflects a density of 19 dwelling units per acre and is therefore consistent with the land use and density designations in effect for this site per the Community Plan and the Mid-City Communities PDO.

However, the design of the subdivision fails to comply with various development standards of the underlying zone, including substandard street yard areas on Brant Street, deficient front yard setbacks on Horton Avenue and street yard setbacks on Laurel Street and Brant Street. The preceding zone deviations reflected in the project design are necessary to accommodate the siting of (and architectural features incorporated into) the proposed residential structures.

Although the project proposes substandard street yard areas and front/side yard setbacks per development requirements of the underlying zone, the Mid-City Communities PDO (Municipal Code Section 103.1500) does allow minor deviations of residential zone and/or PDO

development regulations provided a discretionary (Mid-City Communities Development) permit is obtained and that the decisionmaker substantiates for the record that the deviations are the minimum necessary to accommodate the project design in accordance with the purpose and intent of the PDO.

The deviations represented by the project design are not considered to be significant by the Development Services Department and are justified based in part upon other merits of the project design, including expanded lot sizes that exceed the minimum 1,000 square feet required by the underlying zone. Secondly, the arched configuration of lots fronting on Laurel Street (parcels 16-26) and within the interior of the site, west of Brant Street (parcels 10-15) will contribute to achieving an innovative subdivision design on the site as envisioned by the adopted Uptown Community Plan and the Mid-City Communities PDO.

A third justification to support the proposed deviations is that the subdivision is proposing a total of 30 units, which is less than half the maximum density (70 units) that could be achieved on this property per the existing PDO Zone and the adopted Uptown Community Plan designation. Additionally, the proposed project reflects a far less intensive land use than the previous development (CUP 87-0434) approved on this site by the Planning Director in 1988, which included two, 11-story towers housing 101 senior citizen residential care apartments.

Considering the preceding merits of the project design, it is the determination of the Development Services Department that the proposed deviations of the underlying zone are consistent with the general purpose and intent of the Mid-City PDO, the Uptown Community Plan and would not adversely affect the City's Progress Guide and General Plan.

**C. THE PROPOSED DEVELOPMENT WILL BE SITED, DESIGNED, CONSTRUCTED AND MAINTAINED TO MINIMIZE, IF NOT PRECLUDE, ADVERSE IMPACTS ON ENVIRONMENTALLY SENSITIVE LANDS.**

Proposed grading and landform alteration activities associated with the proposed development of this site is consistent with relevant sensitive slope and biological encroachment limitations of the Resource Protection Ordinance. An easement would be placed over remaining natural slopes on the northern portion of the site to preserve their visual and ecological integrity.

The northern perimeter of the site is situated atop a north facing canyon slope extending approximately

114 feet down towards Maple Street to the north. This portion of the site (approximately 18 percent) is located within the Hillside Review (HR) Overlay Zone and is designated as open space with the potential for sensitive biological resources within the adopted Uptown Community Plan.

Although the canyon (steep slopes) portion of the site contains a small cluster of eucalyptus trees, a few patches of chaparral and a mix of non-native shrub and grass, a field inspection conducted by the Development Services Department concluded that the existing canyon slope on the subject property contained no biologically sensitive resources. Additionally, with the exception of improvements required to establish the brush management program, no portion of the proposed development would encroach into the adjacent canyon slopes. Therefore, it is concluded that the project, as designed and constructed, will preclude adverse impacts on environmentally sensitive lands and resources.

- D. 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.**

Surrounding land uses to the east, south and west consist of residential development consistent with the Mid-City Communities Planned District Ordinance. Portions of a City of San Diego owned public open space area (i.e. Maple Street Canyon) exists adjacent to the northeast corner of the site, beyond the terminus of Brant Street. No encroachment into the City-owned open space will occur as a result of implementing the project's concept grading or building plans.

Therefore, no landscaped or fenced buffer areas will be required to protect and/or transition into environmentally sensitive resources that may exist within the adjacent City-owned public open space and consequently, no adverse impacts to such sensitive lands and resources are anticipated to occur as a result of project implementation.

- E. THE PROPOSED DEVELOPMENT WILL MINIMIZE THE ALTERATIONS OF NATURAL LANDFORMS AND WILL NOT RESULT IN UNDUE RISKS FROM GEOLOGIC AND EROSIONAL FORCES AND OR FLOOD AND FIRE HAZARDS.**

Proposed grading and landform alteration activities associated with the proposed development would involve the minimal disturbance or alteration of natural landforms and would not induce significant geological,

erosional, flood or fire hazard risks on the site.

In addition, the proposed grading and brush management plans for the project include controlled finished site grades and a corresponding drainage plan to reduce the potential for erosion, flood and fire hazards, including the potential for excessive runoff. A Brush Management Plan has been designed for the site in accordance with relevant requirements of the *Landscape Technical Manual* to further mitigate potential fire and erosional hazards on site.

The northern perimeter of the site is situated atop a north facing canyon slope extending approximately 114 feet down towards Maple Street to the north. This portion of the site (approximately 18 percent) is located within the Hillside Review (HR) Overlay Zone and is designated as open space with the potential for sensitive biological resources within the adopted Uptown Community Plan.

Although the canyon (steep slopes) portion of the site contains a small cluster of eucalyptus trees, a few patches of chaparral and a mix of non-native shrub and grass, a field inspection conducted by the Development Services Department concluded that the existing canyon slope on the subject property contained no biologically sensitive resources. Additionally, with the exception of improvements required to establish the brush management program (Zones 1-3), no portion of the proposed development would encroach into the adjacent canyon slopes.

- F. FEASIBLE MEASURES 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 THE APPLICANT.**

No special or significant historic, prehistoric, cultural, archaeological or architectural resources were identified on the project site. Therefore, it will not be necessary for the applicant to incorporate measures into the project design to preserve the special significance or character of the preceding resources.

**MID-CITY COMMUNITIES DEVELOPMENT PERMIT FINDINGS:**

- A. THE PROPOSED USE AND PROJECT DESIGN MEET THE PURPOSE AND INTENT OF THE MID-CITY COMMUNITIES PLANNED DISTRICT (SECTION 103.1500), THE MID-CITY COMMUNITY PLAN AND WILL NOT ADVERSELY AFFECT THE MID-CITY COMMUNITY PLAN OR GENERAL PLAN.**

The project is consistent with various land use, density and development regulations in effect for this site per the Mid-City Communities Planned District Ordinance (PDO) and the adopted Uptown Community Plan; including standards for building height, parking, access, structural design, landscaping, building coverage and floor area ratio (FAR).

The MR-1000 Zone (Mid-City Communities Planned District Ordinance) and the adopted Uptown Community Plan designate the project site for medium-high residential development (29-44 dwelling units per acre). The proposed project reflects a density of 19 dwelling units per acre and is therefore consistent with the land use and density designations in effect for this site per the Community Plan and the Mid-City Communities PDO.

However, the design of the subdivision fails to comply with various development standards of the underlying zone, including substandard street yard areas on Brant Street, deficient front yard setbacks on Horton Avenue and street yard setbacks on Laurel Street and Brant Street. The preceding zone deviations reflected in the project design are necessary to accommodate the siting of (and architectural features incorporated into) the proposed residential structures.

Although the project proposes substandard street yard areas and front/side yard setbacks per development requirements of the underlying zone, the Mid-City Communities PDO (Municipal Code Section 103.1500) does allow minor deviations of residential zone and/or PDO development regulations provided a discretionary (Mid-City Communities Development) permit is obtained and that the decisionmaker substantiates for the record that the deviations are the minimum necessary to accommodate the project design in accordance with the purpose and intent of the PDO.

The deviations represented by the project design are not considered to be significant by the Development Services Department and are justified based in part upon other merits of the project design, including expanded lot sizes that exceed the minimum 1,000 square feet required by the underlying zone. Secondly, the arched configuration of lots fronting on Laurel Street (parcels 16-26) and within the interior of the site, west of Brant Street (parcels 10-15) will contribute to achieving an innovative subdivision design on the project site as envisioned by the adopted Uptown Community Plan and the Mid-City Communities PDO.

A third justification to support the proposed deviations is that the subdivision is proposing a total

of 30 units, which is less than half the maximum density (70 units) that could be achieved on this property per the existing PDO Zone and the Uptown Community Plan designation. Additionally, the proposed project reflects a far less intensive land use than the previous development (CUP 87-0434) approved on this site by the Planning Director in 1988, which included two, 11-story towers housing 101 senior citizen residential care apartments.

Considering the preceding merits of the project design, it is the determination of the Development Services Department that the proposed deviations of the underlying zone are consistent with the general purpose and intent of the Mid-City PDO, the Uptown Community Plan and would not adversely affect the City's Progress Guide and General Plan.

- B. THE PROPOSED DEVELOPMENT WILL BE COMPATIBLE WITH EXISTING AND PLANNED LAND USES ON ADJOINING PROPERTIES AND WILL NOT CONSTITUTE A DISRUPTIVE ELEMENT TO THE NEIGHBORHOOD AND COMMUNITY. IN ADDITION, ARCHITECTURAL HARMONY WITH THE SURROUNDING NEIGHBORHOOD AND COMMUNITY IS ACHIEVED AS FAR AS PRACTICABLE.**

The land use and density associated with the project are consistent with those of the existing residential zone on the property, the adopted Uptown Community Plan and the Mid-City Communities Planned District Ordinance. The project design shall provide the various public facilities and improvements necessary to accommodate the demands on public services at project buildout and will include varied building setbacks and perimeter landscaping (i.e, trees, shrubs and groundcover) to establish an adequate buffer between land uses and improvements on the project site and adjoining residential land uses to the north, east and west.

Therefore, the project will not constitute a disruptive element to the surrounding neighborhood or the community and will be compatible with existing land uses on adjoining properties. Architectural harmony of the project design with the surrounding neighborhood will be achieved via implementation of the various site and structural design standards incorporated into the project/permit.

- C. 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 draft permit prepared for this project includes a

number of conditions of approval relevant to project compliance with the applicable regulations of the Municipal Code in effect for this site to assure the safety and general welfare of persons residing or working in the area surrounding Laurel Street, Brant Street and Horton Avenue, including conditions to limit the type, intensity and design of development on the project site. Additional conditions included in the corresponding Tentative Map resolution for the project would assure the provision of various public facilities on site (i.e. sidewalks) to achieve acceptable levels of public safety for persons residing in the surrounding area.

A concept landscape and brush management plan will also be implemented as a component of the project design to minimize the potential for fire and subsequent erosion/drainage impacts on adjoining properties. This element of the project design is particularly critical in the northern portion of the site which consists of a steep north facing slope which extends down the north side of the property towards Maple Street.

The proposed use is compatible with the existing single- and multi-family residential character of the surrounding area to the east, south and west as prescribed by the adopted Uptown Community Plan and the Mid-City PDO. Therefore, the project design would not adversely affect other property in the vicinity.

**D. THE PROPOSED USE WILL COMPLY WITH THE RELEVANT REGULATIONS IN THE MUNICIPAL CODE.**

The project complies with relevant development standards of the City's *Landscape Technical Manual* and State CEQA guidelines. Additionally, the project will comply with development regulations of the existing MR-1000 (Mid-City PDO) Zone, including standards for floor area ratios, site coverages, landscaping, vehicular and pedestrian access, building height and parking.

The MR-1000 zone (Mid-City Communities Planned District Ordinance) and the adopted Uptown Community Plan designate the project site for medium-high residential development (29-44 dwelling units per acre). The proposed project reflects a density of 19 dwelling units per acre and is therefore consistent with the land use and density designations in effect for this site per the Community Plan and the Mid-City Communities PDO.

However, the design of the subdivision fails to comply with various development standards of the underlying zone, including substandard street yard areas on



Brant Street, deficient front yard setbacks on Horton Avenue and street yard setbacks on Laurel Street and Brant Street. The preceding zone deviations reflected in the project design are necessary to accommodate the siting of (and architectural features incorporated into) the proposed residential structures.

Although the project proposes substandard street yard areas and front/side yard setbacks per development requirements of the underlying zone, the Mid-City Communities PDO (Municipal Code Section 103.1500) does allow minor deviations of residential zone and/or PDO development regulations provided a discretionary (Mid-City Communities Development) permit is obtained and that the decisionmaker substantiates for the record that the deviations are the minimum necessary to accommodate the project design in accordance with the purpose and intent of the PDO.

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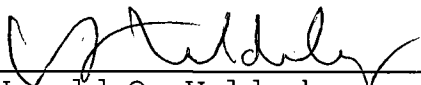
A third justification to support the proposed deviations is that the subdivision is proposing a total of 30 units, which is less than half the maximum density (70 units) that could be achieved on this property per the existing PDO Zone and the adopted Uptown Community Plan designation. Additionally, the proposed project reflects a far less intensive land use than the previous development (CUP 87-0434) approved on this site by the Planning Director in 1988, which included two, 11-story towers housing 101 senior citizen residential care apartments.

Considering the preceding merits of the project design, it is the determination of the Development Services Department that the proposed deviations of the underlying zone are consistent with the general purpose and intent of the Mid-City PDO and the Uptown Community Plan.

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

BE IT FURTHER RESOLVED that, based on the finding hereinbefore adopted by the City Council, Mid-City Communities Development and Resource Protection Ordinance Permit No. 95-0685, Amendment to Conditional Use Permit No. 87-0434, is hereby granted to Carter-Reese and Associates in the form and with the terms and conditions set forth in Permit No. 95-0685, a copy of which is attached hereto and made a part hereof.

APPROVED: JOHN W. WITT, City Attorney

By   
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Harold O. Valderhaug  
Chief Deputy City Attorney

HOV:ps  
05/21/96  
Or.Dept:Clerk  
Case No. 95-0685  
R-96-1487  
Form=r-t

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

MID-CITY COMMUNITIES DEVELOPMENT AND RESOURCE PROTECTION  
ORDINANCE PERMIT NO. 95-0685  
CITY COUNCIL  
(AMENDMENT TO CONDITIONAL USE PERMIT NO. 87-0434)  
VILLAS AT LAUREL

This Permit (Amendment to Conditional Use Permit No. 87-0434) is granted by the Council of The City of San Diego to CARTER-REESE AND ASSOCIATES, a California General Partnership, Owner/Permittee, under the conditions contained in Sections 101.0462 and 103.1500 of the Municipal Code of The City of San Diego.

Permission is hereby granted by the City Council to the referenced Owner/Permittee to construct an attached residential development and implement associated public and private improvements (as described herein) on portions of a vacant, partially improved 1.6-acre site located at the northeast corner of Laurel Street and Horton Avenue, west of Brant Street, within the MR-1000 (Multi-Family) Zone of the Uptown Community Planning area (Mid-City Communities Planned District). The project site is legally described as lots "G" through "J" in Block 291 of Horton's Addition, Parcel 1 of Map No. 14393 and Parcel 2 of Parcel Map No. 13590.

1. This Permit shall consist of the following facilities and site improvements as identified by size, dimension, quantity and location on the approved Exhibits "A" for the project, dated May 14, 1996, on file in the office of the Development Services Department:

- a. Thirty (30) attached residences on separate lots (per TM 95-0685) ranging in size from 984 to 2,250 square feet in gross lot area; and
- b. Site landscaping and permanent irrigation; and
- c. Off-street parking (minimum two spaces per lot); and
- d. Grading not to exceed 5,500 cubic yards of balanced cut and fill; and
- e. Ten concrete retaining walls (maximum height of nine feet - maximum length of 90 feet); and

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- f. Interior private driveway (minimum 22 feet wide) to provide vehicular access to development lots; and
- g. Vacation of approximately ten feet of the west side of Brant Street along the project frontage; and
- h. Motorcycle parking facilities; and
- i. Concrete, decomposed granite and enhanced paving; and
- j. An outdoor picnic area with wood trellis cover in the north central portion of the site; and
- k. Sidewalk and curb improvements along the project frontage on Brant Street and Horton Avenue; and
- l. Two project entry monument signs (two feet high by twelve feet long at the driveway entrance on Horton Avenue and three feet high by twelve feet long along the project frontage at the corner of Brant Street and Laurel Street); and
- m. Accessory improvements determined the Development Services Department to be consistent with the applicable development regulations in effect for this property, including standards prescribed by the existing MR-1000 zone, the adopted Uptown Community Plan, the *Landscape Technical Manual*, the Mid-City Communities Planned District Ordinance, CEQA guidelines, the Resource Protection Ordinance, conditions of approval contained herein and any other development guidelines in effect for this site per the Municipal Code.

2. Prior to the issuance of any grading permits, a final subdivision map (TM 95-0685) shall be recorded on the subject property.

3. Prior to the issuance of any grading, complete grading or building permits, complete grading and concept building plans shall be submitted by the Permittee to the Development Services Department for approval. All plans shall be in substantial conformance to the approved Exhibits "A" for this project, as determined by the Development Services Department. No change, modification or alterations of the approved plans for this project shall be made unless appropriate applications, Findings of Substantial Conformance or an amendment of this permit shall have been granted by the appropriate decisionmaker.

4. A "Non-Building Area" designation shall be granted and shown on said map (TM 95-0685) 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.

5. Prior to the issuance of any grading or building permits, complete landscape construction documents, including an automatic permanent irrigation, shall be submitted by the Permittee to the Development Services Department for approval. All plans shall be in substantial conformance to the approved Exhibits "A" for the project, as determined by the Development Services Department. Approved planting shall be installed prior to issuance of an occupancy permit on this site. Such planting shall not be modified or altered unless this permit has been amended, or Findings of Substantial Conformance have been granted by the Development Services Department and is to be maintained in a disease, weed and litter free condition at all times.

6. All installed landscape (planting, irrigation, and other landscape features) shall be inspected and approved by the Landscape Inspector of the Development Services Department prior to issuance of any certificate of occupancy for any building. It shall be the responsibility of the owner to request and coordinate all required inspections. Such landscape shall be maintained in a disease, weed and litter free condition at all times and shall not be modified or altered unless this permit has been amended as such.

7. 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 and equivalent size per the approved plans by the Owner/Permittee.

8. The construction of this project and continued use of this permit shall be subject to the regulations of this or other governmental agencies.

9. A total of 60 off-street parking spaces shall be provided (at a ratio of two garage spaces per dwelling unit). Each of the parking spaces shall be permanently maintained and not converted for any other use at any time. Additionally, a total of ten off-street spaces shall be provided on site for guests of the subdivision. Each subsequent owner shall be informed of this requirement through the C C and R's. Each off-street parking space shall be maintained on the subject property in the approximate location as shown on the Exhibits "A" for the project.

10. No building additions, including patio covers, shall be permitted unless approved by the homeowners association and the Development Services Department via ministerial approval of the Substantial Conformance Review (SCR) process. Patio covers may be permitted only if they are consistent with the architecture of the dwelling unit.

11. The applicant shall post a copy of the approved permit in the sales office for consideration by each prospective buyer.

12. This permit must be utilized within 36 months after the effective date of final approval by the City, following all appeals. 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 appropriate decisionmaker, as set forth in the Municipal Code. Any such extension of time must meet all the Municipal Code requirements and applicable guidelines in effect at the time the extension is considered.

13. No development shall commence, nor shall any permit for construction be issued for this project until:

- a. The Permittee signs and returns the permit to the Development Services Department;
- b. The Permit is recorded in the Office of the County Recorder.

14. 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 Development Services Department or if the permit has been revoked by the City of San Diego.

15. This permit may be canceled or revoked if there is any material breach or default in any of the conditions of this permit. Cancellation or revocation may be instituted by the City or Permittee.

16. This permit 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.

17. All signs proposed for this project shall conform to Citywide Sign Regulations and be administered by the Sign Code Administration Division of the Development Services Department.

18. This permit allows the sale of individual lots for the purpose of construction of residential units consistent with conditions and exhibits of the permit.

19. 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.).

20. This permit shall comply at all times with conditions of the final map for Tentative Map No. 95-0685.

21. Prior to the issuance of any building permits for this project, the Permittee shall:

- a. Ensure that building address numbers are visible and legible from the street fronting the property (UFC 10.208).
- b. Show the location of all fire hydrants on the plot plan (UFC 10.301).
- c. Provide vehicle access to the property in conformance with Fire Department Policy A-89-1 (UFC 10.207).
- d. In lieu of providing Fire Department vehicle access, the permittee shall install fire sprinkler systems in development units 10-15, in a manner satisfactory to the Fire Department.

22. Prior to the issuance of any building permits, the Permittee must provide written evidence to the Development Services Department that the project has obtained one of the following authorizations:

- a. An acknowledgement from the Federal Aviation Administration (FAA) stating that the proposal does not require notice to the FAA; or
- b. A letter from the Air Traffic Division of the Western Pacific Regional Office of the FAA station that the proposed development of this site has been determined not to be a hazard to air navigation and such determination has become final; and an acknowledgement from the Port District stating that it is aware of the proposed construction; and a letter from the Port District stating that it concurs with the determination made by the Regional Officer of the FAA.

23. Prior to commencement of any work or activity authorized by this permit, the permittee shall execute a Notice of Hazardous Condition-Indemnification and Hold Harmless Agreement, in a form and content acceptable to the Development Services Manager, or designated representative which shall provide that the permittee unconditionally waives any claim of liability against the City of San Diego and its advisors relative to the City of San Diego's approval of the project and for any damage due to natural hazards. This Notice of Hazardous Condition-Indemnification and Hold Harmless Agreement shall be recorded against title to the property and shall run with the land, binding upon all successor and assigns.

APPROVED by the Council of The City of San Diego on May 14, 1996, by Resolution No. R-287319.

**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.

Carter-Reese and Associates  
a California general partnership  
Owner/Permittee

By \_\_\_\_\_

By \_\_\_\_\_

**NOTE: Notary acknowledgments  
must be attached per Civil  
Code Section 1180, et seq.  
05/23/96**

*lc* 287319