

RESOLUTION NUMBER R-288039

ADOPTED ON NOVEMBER 12, 1996

WHEREAS, Thomas O. Hicks, Owner/Permittee, filed an application for a Coastal Development/Sensitive Coastal Resource/La Jolla Shores Planned District Permit No. 95-0348 to develop subject property located at 8504 El Paseo Grande, in the La Jolla Community Planning area, also described as a portion of Pueblo Lots 1281 and 1297 of the Pueblo Lands of San Diego, in the SF Zone; and

WHEREAS, on November 12, 1996, the Council of The City of San Diego considered Coastal Development/Sensitive Coastal Resource/La Jolla Shores Planned District Permit No. 95-0348 pursuant to San Diego Municipal Code Sections 105.0202, 101.0480 and 103.0300; NOW, THEREFORE,

BE IT RESOLVED, by the Council of The City of San Diego, that this Council hereby adopts the following findings with respect to Coastal Development/Sensitive Coastal Resource/La Jolla Shores Planned District Permit No. 95-0348:

COASTAL DEVELOPMENT FINDINGS:

- A. THE PROPOSED DEVELOPMENT WILL NOT ENCROACH UPON ANY EXISTING PHYSICAL ACCESSWAY LEGALLY UTILIZED BY THE PUBLIC OR ANY PROPOSED PUBLIC ACCESSWAY IDENTIFIED IN AN ADOPTED LCP LAND USE PLAN; NOR WILL IT OBSTRUCT VIEWS TO AND ALONG THE OCEAN AND OTHER SCENIC COASTAL AREAS FROM PUBLIC VANTAGE POINTS.

The proposed residence and associated site improvements will not be located west of the existing seawall. The existing lateral beach access easement area dedicated for use as a public beach will not be affected.

No existing or proposed physical accessway exists on or adjacent to the proposed development. The proposed development will not encroach upon any existing or proposed physical accessway identified in the adopted Local Coastal Program.

A visual access corridor is identified in the La Jolla/La Jolla Shores LCP-Land Use Plan adjacent to the proposed development down Camino del Collado ("the view corridor"). The certified Mitigated Negative Declaration ("MND") concluded that the original design did not substantially block any designated public view, and as such, there was no significant direct or cumulative impact to visual resources. Exhibits presented by the Applicant indicate that the proposed development as redesigned will not encroach into the view corridor. In fact, the redesign project as approved by the City Council actually increases the view corridor over that which currently exists by approximately 18".

The project has also been designed to incorporate setbacks generally sited with the "string line" of development as established by other homes along the beach front. Therefore, views along the ocean have been maintained. As redesigned, the project does not obstruct views along the ocean or other scenic Coastal areas from any public vantage point(s).

**B. THE PROPOSED DEVELOPMENT WILL NOT ADVERSELY AFFECT MARINE RESOURCES, ENVIRONMENTALLY SENSITIVE AREAS, OR ARCHAEOLOGICAL OR PALEONTOLOGICAL RESOURCES.**

The property is a disturbed and developed residential lot in an urbanized area of La Jolla. The MND did not identify any marine resources, environmentally sensitive areas, or paleontological resources on the site. However, the MND identified the potential for archaeological resources on the site. Because of the high potential for archaeological resources on the site, field work was conducted on May 10 and 13, 1996 and a report was prepared and submitted to City staff. No artifacts or features were found. No concentrations were observed which might indicate in situ material. The report however acknowledged that because of the constraints of the investigation, it could not be determined with a certainty that no archaeological deposits are present on the parcel. Therefore, a Mitigation, Monitoring and Reporting Program ("MMRP") was established to protect any discovered resources as part of the approval of this project. The MMRP ensures the monitoring of construction on the site to protect any resources which may be discovered. As conditioned, the proposed development will not adversely affect marine resources, environmentally sensitive areas, or archaeological or paleontological resources.

- C. THE PROPOSED DEVELOPMENT WILL COMPLY WITH THE REQUIREMENTS RELATED TO BIOLOGICAL SENSITIVE LANDS AND SIGNIFICANT PREHISTORIC AND HISTORIC RESOURCES AS SET FORTH IN THE RESOURCE PROTECTION ORDINANCE, CHAPTER X, SECTION 101.0462 OF THE SAN DIEGO MUNICIPAL CODE, UNLESS BY THE TERMS OF THE RESOURCE PROTECTION ORDINANCE, IT IS EXEMPTED THEREFROM.

A MND has been completed for the proposed project which analyzed resources related to biology, sensitive lands, historic and prehistoric resources. The MND determined that there is no identified marine resources, environmentally sensitive areas, or paleontological resources on the site. However, it could not be determined for a certainty that no archaeological deposits remain on the property. Therefore, the MMRP as contained within the MND is required to protect any prehistoric resources if such resources are discovered during construction of the proposed project. Therefore, the project will comply with Municipal Code § 101.0462.

- D. THE PROPOSED DEVELOPMENT WILL NOT ADVERSELY AFFECT RECREATIONAL OR VISITOR-SERVING FACILITIES OR COASTAL SCENIC RESOURCES.

The project is located in a developed single family neighborhood and will not encroach onto the dedicated public beach area. The proposed project is located east of an existing sea wall adjacent to La Jolla Shores Beach (a popular recreational and visitor serving resource). There is no direct public access to the beach from or adjacent to the project site. The project proposes to construct a privacy wall two-feet back/east of the existing sea wall. Landscaping will be planted within this two foot area. This landscaping will "drape" over the proposed privacy and existing sea wall providing a visual enhancement as viewed from the beach.

In addition, the project increases an identified view corridor down Camino del Collado. The project is consistent with the established development pattern in the area and will not adversely affect visitor serving facilities. As such, the proposed development will not adversely affect recreational or visitor-serving facilities or coastal scenic resources. (Also see discussion in Finding A above).

- E. 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.

The proposed development is located along the coastal beach, east of an existing sea wall. All of the proposed development will be east of the sea wall and will not encroach onto the beach or any environmentally sensitive or scenic resource. The project is consistent with the pattern, style and intensity of residential development along this beach area. The existing sea wall provides an adequate buffer between the area of the lot devoted to development and that portion of the property which is dedicated for public beach use. In addition, there will be no impacts to environmentally sensitive habitat(s) or scenic resources located adjacent to park and recreation areas. (Also see discussion in Findings A and D above.)

F. THE PROPOSED DEVELOPMENT WILL MINIMIZE THE ALTERATION OF NATURAL LANDFORMS AND WILL NOT RESULT IN UNDUE RISKS FROM GEOLOGIC AND EROSIONAL FORCES AND/OR FLOOD AND FIRE HAZARDS.

A MND has been prepared as part of the review and analysis of the proposed development. The MND identified no impacts with respect to the existing sea wall but did identify some issues relating to existing fill on the site. Requirements for the removal and recompaction of the existing fill, shoring to stabilize adjacent soil during grading and construction and enhanced foundation and slabs will ensure adequate stability of the project. The existing sea wall and proposed privacy wall will protect the property from flooding during extreme storm action. No fire hazard has been identified for the project. Therefore, 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.

G. 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.

The proposed residence will be of a Spanish/ Mediterranean design similar to other residences in the area, therefore, the proposed project is consistent with the single-family residential development in the area, which consists of residences of varied scale, architectural style and building materials. The design incorporates one and two-story elements along the street elevation and two and three-story elements along the beach elevation which is compatible with the character and scale of the surrounding development. Many photographs and exhibits were presented at the hearing to indicate that the proposed home is consistent with general pattern of development and the character and scale of development within the surrounding area. As such, the proposed project will be visually compatible with the character of the surrounding area. The proposed residence uses a variety of high quality materials and articulates building shapes and masses to break up and soften any perceived mass and bulk. The high quality development as indicated in the colored renderings and the material board presented at the hearing will upgrade the

property in a matter commonly associated with other newly developed properties in La Jolla Shores.

The proposed privacy wall 2 feet to the east of the existing sea wall is consistent with the materials and heights of similar walls along the beach front. The proposed landscaping to be planted along the wall will visually enhance the view from the ocean and the beach.

The redesigned project will maintain the existing view corridor down Camino del Collado. As such, the proposed development will be visually compatible with the character of the surrounding areas and since it was feasible, the redesigned project maintains the visual quality of the area. (Also see Findings A and D.)

**H. THE PROPOSED DEVELOPMENT WILL CONFORM WITH THE GENERAL PLAN, THE LOCAL COASTAL PROGRAM, AND ANY OTHER APPLICABLE ADOPTED PLANS AND PROGRAMS.**

The proposed development is on a lot which is zoned and designated for single family residential use. The proposed development is consistent with all applicable regulations of the La Jolla Shores Planned District Ordinance, the goals, policies and guidelines of the La Jolla Community Plan, the La Jolla Shores Local Coastal Program Land Use Plan and the La Jolla Shores Design Manual. The project is designed to achieve the design theme of La Jolla Shores "Unity with Variety." The proposed residence is similar in scale and style to many homes in the neighborhood but is at the same time unique in its use of high quality materials and interesting architectural details. (Also see Findings A, D, E, and G.)

**SENSITIVE COASTAL RESOURCE FINDINGS:**

**A. THE PROPOSED DEVELOPMENT WILL BE SITED, DESIGNED, AND CONSTRUCTED TO MINIMIZE, IF NOT PRECLUDE, ADVERSE IMPACTS UPON SENSITIVE COASTAL RESOURCE AND ENVIRONMENTALLY SENSITIVE AREAS.**

The MND analyzed resources related to biology, sensitive lands, historic and prehistoric resources. The MND identified the potential for archaeological resources on the site. A MMRP to protect any discovered resources is required as part of the approval of this project. This program ensures the monitoring of construction on the site to protect any resources which may be discovered.

The MMRP is required to protect any prehistoric resources if such resources are discovered during construction of the proposed project.

The proposed development is located adjacent to La Jolla Shores beach, east of an existing sea wall and is sited in generally the same location as the existing

residence. All of the proposed development will be east of the sea wall and will not encroach onto the beach or any other environmentally sensitive or scenic resource(s). The project is consistent with the pattern of residential development along this beach area. Therefore, the proposed project will not impact any sensitive coastal resources or environmentally sensitive areas. (Also see all Coastal Development Findings.)

- B. THE PROPOSED DEVELOPMENT WILL NOT ENCROACH UPON ANY EXISTING PHYSICAL ACCESSWAY LEGALLY UTILIZED BY THE PUBLIC OR ANY PROPOSED PUBLIC ACCESSWAY IDENTIFIED IN AN ADOPTED COMMUNITY PLAN; NOR WILL IT OBSTRUCT VIEWS TO AND ALONG THE OCEAN AND OTHER SCENIC COASTAL AREAS FROM PUBLIC VANTAGE POINTS.

The proposed residence and associated site improvements will all be located east of the existing seawall. The existing easement area dedicated for use as a public beach will not be affected.

There are no existing or proposed physical accessways which exist on or adjacent to the proposed development. The proposed development will not encroach upon any existing or proposed physical accessway identified in the adopted Local Coastal Program. A visual access corridor is identified in the La Jolla/La Jolla Shores LCP-Land Use Plan adjacent to the proposed development down Camino del Collado. The certified MND concluded that the original design did not substantially block any designated public view, and as such, there was no significant impact to visual resources. Nevertheless, the applicants voluntarily redesigned the project so that the structure would not encroach at all into the view corridor. Exhibits presented by the Applicants at the hearing indicate that the redesign project as approved by the City Council will actually increase the view corridor over that which currently exists by approximately 18".

Therefore, the project does not obstruct views to and/or along the ocean and other scenic coastal areas from any public vantage point(s). (Also see Coastal Development Findings.)

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

A MND has been prepared as part of the review and analysis of the proposed development. The certified MND identified no impacts with respect to the existing sea wall but did identify some issues relating to existing fill on the site. Requirements for the removal and recompaction of the existing fill, shoring to stabilize adjacent soil during grading and construction and enhanced foundation

and slabs will ensure adequate stability of the project. The existing sea wall and proposed privacy wall protects the property from flooding during extreme storm action. No fire hazard has been identified for the project. Therefore, 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. (Also see Coastal Development Findings.)

**D. THE PROPOSED DEVELOPMENT WILL NOT CONTRIBUTE TO THE EROSION OF PUBLIC BEACHES OR ADVERSELY IMPACT LOCAL SHORELINE AND SUPPLY. SHORELINE PROTECTIVE WORKS WILL BE DESIGNED TO BE THE MINIMUM NECESSARY TO ADEQUATELY PROTECT EXISTING PRINCIPAL STRUCTURES, TO REDUCE BEACH CONSUMPTION AND TO MINIMIZE SHORELINE ENCROACHMENT.**

Sea walls are the predominant feature along this entire stretch of La Jolla Shores beach. The proposed development is located east of the existing sea wall and therefore, there will be no encroachment into the public beach. The existing sea wall was approved by the California Coastal Commission in 1979 to protect this existing and other homes along this beach area. A five-foot-high privacy wall will be constructed two-feet back (east) of the existing sea wall. The existing sea wall and proposed privacy wall will provide protection for the proposed new structure. The height and material of the wall is similar to adjacent and nearby walls along this beach area.

The proposed residence fits within the "string line" of development as established by the adjacent properties. Further, the new residence also fits into the general footprint of the existing residence.

Since there will be no shoreline encroachment caused by this project, the proposed development will not contribute to the erosion of public beaches or adversely impact local shoreline sand supply. The proposed residence is similar in scale and character to many of the homes in the surrounding neighborhood, but at the time, is unique in its use of quality materials and architectural details including offsetting planes, articulation and varying setbacks. The proposed development will not contribute to the erosion of public beaches or adversely impact local shoreline and supply. (Also see Coastal Development Findings.)

**E. THE PROPOSED DEVELOPMENT WILL NOT ADVERSELY AFFECT THE GENERAL PLAN, THE LOCAL COASTAL PROGRAM, OR ANY OTHER APPLICABLE ADOPTED PLANS AND PROGRAMS.**

The proposed development is on a lot which is zoned and designated for single family residential use. The proposed development is consistent with all applicable regulations of the La Jolla Shores Planned District Ordinance, the goals, policies and guidelines of the La Jolla Community Plan, the La Jolla Shores Local Coastal

Program Land Use Plan and the La Jolla Shores Design Manual. The project is designed to achieve the design theme of La Jolla Shores "Unity with Variety". The proposed residence is similar in scale and style to many homes in the neighborhood but is at the same time unique in its use of high quality materials and interesting architectural details. (Also see Findings A, D, E, and G.) The proposed development will not adversely affect the general plan, the local coastal program, or any other applicable adopted plans and programs. (Also see Coastal Development Findings.)

LA JOLLA SHORES PLANNED DISTRICT FINDINGS:

A. THE PROJECT IS CONSISTENT WITH THE PURPOSE AND INTENT OF THE PLANNED DISTRICT.

The proposed residence will be of a Spanish/Mediterranean design similar to other residences in the area. The design incorporates one and two-story elements along the street elevation and two and three-story elements (lowest level being a basement) along the beach elevation which will be compatible with the character of the surrounding area. The design of the proposed residence uses a variety of high quality materials and a variety of building shapes, masses, and forms to provide articulation and to break up any perceived impacts related to bulk and scale. This high quality development will upgrade the property in a manner which is commonly associated with other redeveloped properties in La Jolla Shores. The proposed home is consistent with all of the applicable regulations of the La Jolla Shores Planned District Ordinance, the goals, policies and guidelines of the La Jolla Community Plan and the La Jolla/La Jolla LCP-Land Use Plan as well as the La Jolla Shores Design Manual. The proposed project is well below the maximum coverage limitation and also below the maximum height as allowed by the Proposition "D" height limit and the 30-foot height limit of the Municipal Code. The project has been designed to achieve the "unity with variety" design theme of the La Jolla Shores Design Manual and is consistent with the diagram on page 48 of the La Jolla Shores Design Manual which sets forth the "unity with variety" design objective. Homes along this stretch of El Paseo Grande and the beach area are from one to three stories in height with varied architectural styles, scale and building materials. The project is consistent with the varied styles and sizes of homes in the area and is in keeping with the unique, ocean-oriented development of La Jolla. (Also see Coastal Development and Sensitive Coastal Resource Findings.)

B. THE PROJECT CONFORMS TO THE REGULATIONS OF THE LA JOLLA SHORES PLANNED DISTRICT ORDINANCE.

The proposed single family residence is located on a lot which is zoned and designated for single family residential use. The design meets all of the requirements of the La Jolla Shores Planned District Ordinance, the La Jolla

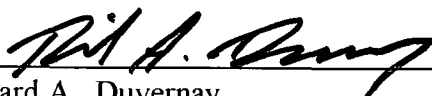


Community Plan, and the La Jolla/La Jolla Shores LCP. The proposed residence is similar in scale, character and style to many of the homes in the immediate neighborhood while at the same time being unique in its use of quality materials and architectural details. Exhibits were presented by the project applicant which indicate that the proposed home is lower in profile and smaller in bulk and scale than the maximum building envelope as permitted by the Municipal Code, the Proposition "D" and Municipal Code height limit, and the La Jolla Shores Planned District Ordinance. Further, the project meets all of the regulations with regard to parking, setbacks, coverage, landscaping and design. (Also see Coastal Development and Sensitive Coastal Resource Findings.)

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

BE IT FURTHER RESOLVED, that, based on the findings hereinbefore adopted by the Council, Coastal Development/Sensitive Coastal Resource/La Jolla Shores Planned District Permit No. 95-0348 is hereby granted to Thomas O. Hicks, Owner/Permittee, in the form and with the terms and conditions as set forth in Coastal Development/Sensitive Coastal Resource/La Jolla Shores Planned District Permit No. 95-0348, a copy of which is attached hereto and made a part hereof.

APPROVED: CASEY GWINN, City Attorney

By   
Richard A. Duvernay  
Deputy City Attorney

RAD:lc  
12/09/96  
Or.Dept:Clerk  
Aud.Cert:N/A  
R-97-597  
Form=r-t.res

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.

Thomas O. Hicks,  
Owner/Permittee

By \_\_\_\_\_

NOTE: Notary acknowledgments  
must be attached per Civil  
Code Section 1180, et seq.  
12/03/96

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

COASTAL DEVELOPMENT/SENSITIVE COASTAL RESOURCE/LA JOLLA SHORES  
PLANNED DISTRICT PERMIT NO. 95-0348  
CITY COUNCIL  
HICKS RESIDENCE

**NOTE:** The State of California Coastal Commission (CCC) appealed the City Council's approval of Coastal Development Permit No. 95-0348 on 12/26/96. Since the CCC appealed the City's Coastal Permit, the CCC assumes jurisdiction as permitting authority and all reference to Coastal Permit No. 95-0348 becomes null and void. All other special conditions of the City of San Diego's SCR/LJS Permit No. 95-0348 shall remain subject to the City's jurisdiction as part of the City's Sensitive Coastal Resource/La Jolla Shores Planned District Permit. The CCC conducted a public hearing and approved Coastal Development Permit No. A-6-LJS-96-162 with conditions on 5/14/97. On 6/16/97, the applicant requested reconsideration of the Commission decision. At the CCC meeting of 8/13/97, the CCC denied the applicant's request for reconsideration. The CCC, however, on 2/4/98 approved an Amendment to the Permit as Permit No. A-6-LJS-96-162-A1. The City of San Diego, Development Services, has reviewed the revised plans (approved by the CCC) and determined the changes reflected in the replacement plans dated 10/27/98 are in substantial conformance with SCR/LJS Permit No. 95-0348. Exhibit A to The City of San Diego's SCR/LJS Permit No. 95-0348 has been modified to reflect the changes requested by the CCC Permit No. A-6-LJS-96-162-A1, and has been incorporated as Exhibit A of SCR/LJS No. 95-0348, on file in the Office of Development Services.

This Coastal Development/Sensitive Coastal Resource/La Jolla Shores Permit 95-0348 is granted by the Council of The City of San Diego to THOMAS O. HICKS, Owner/Permittee, pursuant to Sections 105.0202, 101.0480 and 103.0300 of the Municipal Code of The City of San Diego.

1. Permission is hereby granted to Owner/Permittee to demolish an existing 2,300-square-foot single-family residence and construct a new 10,920-square-foot, single-family residence located at 8504 El Paseo Grande, also described as a portion of Pueblo Lots 1281 and 1297 of the Pueblo Lands of San Diego, in the SF Zone.

2. The development shall consist of the following:

- a. Demolition of the existing Single Family Residence on the site.
- b. Construction of an 10,920-square-foot single-family residence (7,020 square feet of gross floor area);
- c. Landscaping;
- d. Four off-street parking spaces; and
- e. Incidental accessory uses as may be determined incidental and approved by the Development Services Director.

3. Not fewer than four off-street parking spaces shall be maintained on the property in the location shown on Exhibit "A," dated November 12, 1996, on file in the office of the Development Services Department. Parking spaces shall comply with the Zoning Regulations found in San Diego Municipal Code Chapter X, Article 1, Division 8, and shall be permanently maintained and not converted for any other use. Parking space dimensions shall conform to Zoning Ordinance standards.

4. No permit shall be granted nor shall any activity authorized by this permit be conducted on the premises until:

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

5. Before issuance of any building permits, complete grading and working drawings shall be submitted to the Development Services Manager for approval. Plans shall be in substantial conformity to Exhibit "A," dated November 12, 1996, on file in the office of the Development Services Department. No change, modifications or alterations shall be made unless a finding of substantial conformance or amendment of this permit shall have been granted.

6. Before issuance of any grading or building permits, a complete landscape plan, including a permanent irrigation system, shall be submitted to the Development Services Manager for approval. The plans shall be in substantial conformity to Exhibit "A," dated November 12, 1996, on file in the office of the Development Services Department. Approved planting shall be installed before issuance of any Certificate of Occupancy on any building. Such planting shall not be modified or altered unless this permit has been amended

and is to be maintained in a disease, weed and litter free condition at all times.

7. Landscaping materials as shown on Exhibit "A," dated November 12, 1996, on file in the office of the Development Services Department shall be installed and maintained so as to assure that neither during growing stages nor upon reaching maturity will such materials encroach into the view corridor, shown on Exhibit "A," dated November 12, 1996 on file in the office of the Development Services Department.

8. Landscaping material along the sea-wall as shown on Exhibit "A," dated November 12, 1996, on file in the office of the Development Services Department, shall be installed and maintained to provide visual screening of the wall from the beach.

9. Prior to the issuance of any building permits, the Permittee shall assure by permit and bond the closure of the southerly non-utilized driveway opening, reconstruction of the northerly driveway and installation of sidewalk with 4:1 transition around obstacles adjacent to this site on El Paseo Grande, satisfactory to the Development Services Manager.

10. Prior to the issuance of any building permits, the Permittee shall obtain an Encroachment Removal Agreement from the Development Services Manager for the pressurized sidewalk underdrain to be located within El Paseo Grande.

11. Prior to the issuance of any building permits, the Permittee shall:

- a. Ensure that building address numbers are visible and legible from the street (UFC 10.208).
- b. Show the location of all fire hydrants on the plot plan (UFC 10.301).

12. The following are included as information only.

- a. This development may be subject to a building permit park fee in accordance with San Diego Municipal Code Section 96.0401 et seq.
- b. This development may be subject to payment of School Impact Fees at the time of issuance of building permits, as provided by California Government Code Section 53080(b) (Statutes of 1986, Chapter 887), in accordance with procedures established by the Director of Building Inspection.
- c. This development may be subject to impact fees, as established by the City Council, at the time of issuance of building permits.

13. The property included within this permit shall be used only for the purposes and under the terms and conditions set forth in this permit unless otherwise authorized by the Development Services Manager or the Permit has been revoked by the City of San Diego.

14. This permit may be cancelled or revoked if there is a material breach or default in any of the conditions of this permit. Cancellation or revocation may be instituted by the City of San Diego or Permittee.

15. This Permit is a covenant running with the subject property and shall be binding upon the Permittee and any successor or successors, and the interests of any successor shall be subject to each and every condition set out in this permit and all referenced documents.

16. The use of textured or enhanced paving shall be permitted only with the approval of the Development Services Manager, and shall meet City standards as to location, noise and friction values, and any other applicable criteria.

17. If any existing hardscape or landscape indicated on the approved plans is damaged or removed during demolition or construction, it shall be repaired and/or replaced in kind per the approved plans.

18. All mitigation measures listed in the Mitigated Negative Declaration No. 95-0348 are incorporated as conditions within this permit by reference and as stated below:

a. MITIGATION, MONITORING AND REPORTING PROGRAM:

Compliance with the site specific archaeological mitigation measures shall be the responsibility of the applicant and shall be assured through full time monitoring of project construction on the site by a qualified archaeologist. This will ensure that site development avoids potentially significant cultural deposits and that unanticipated finds are handled in a timely manner, in compliance with the State CEQA Guidelines. The archaeological monitoring of project construction shall include the following:

- 1) Prior to the start of ground disturbance operations (ie. demolition of foundations, grading) the applicant shall provide verification that a qualified archaeologist and/or archaeological monitor has been retained to implement the archaeological construction monitoring program. This verification shall be in the form of a letter from the applicant to the Principal Planner of the Environmental Analysis Section (EAS) of the City of San Diego Development Services Department prior to the start of ground disturbance operations. A qualified archaeologist is defined as an individual certified by the Society of Professional Archaeologists (SOPA). An archaeological monitor is defined as an individual who has expertise in the identification and recovery of cultural resources and who is working under the direction of a qualified archaeologist. ALL PERSONS INVOLVED IN THE ARCHAEOLOGICAL CONSTRUCTION MONITORING OF THIS PROJECT SHALL BE APPROVED BY EAS PRIOR TO GROUND DISTURBANCE OPERATIONS. FOR QUESTIONS REGARDING THE ARCHAEOLOGICAL SITES, EAS SHALL BE CONTACTED.

2) The qualified archaeologist shall attend any preconstruction meetings to make comments and/or suggestions concerning the archaeological construction monitoring program and discuss plans with the construction contractors. The requirement for archaeological construction monitoring shall be noted on the site plan. The archaeologist's duties shall include monitoring, evaluation, analysis of collected materials, and preparation of a monitoring report. These duties are defined as follows:

a. Monitoring

The qualified archaeologist or archaeological monitor shall be present on site full-time during ground disturbance operations to ensure that project development avoids potentially significant cultural deposits and that unanticipated intact cultural resources are handled in a timely manner.

b. Evaluation

In the event that unanticipated cultural resources are discovered, the archaeologist shall have the authority to divert or temporarily halt ground disturbance operations in the area of discovery to allow the evaluation of potentially significant cultural resources. THE ARCHAEOLOGIST SHALL CONTACT EAS AT THE TIME OF DISCOVERY. The significance of the discovered resources shall be determined by the archaeologist, in consultation with EAS. EAS must concur with the evaluation before ground disturbance operations will be allowed to resume. For significant cultural resources, a Research Design and Data Recovery Program shall be prepared and carried out to mitigate impacts. Any human bones of Native American origin shall be turned over to the appropriate Native American group for reburial.

c. Analysis

All cultural materials collected during monitoring of ground disturbance operations shall be cleaned, catalogued, and permanently curated with an appropriate institution. All artifacts shall be analyzed to identify functions and chronology as they relate to the history of the area. Faunal material shall be identified as to species and specialty studies shall be completed, as appropriate.

d. Report Preparation

A monitoring report and/or evaluation report, if appropriate, which describes the results, analysis and conclusions of the above program (with appropriate graphics) shall be submitted to be approved by the Principal Planner of EAS within three months following termination of the monitoring program. For significant cultural resources, a Research Design and Data Recovery Program shall be prepared as part of the evaluation report and carried out prior to issuance of a certificate of occupancy to mitigate project impacts. A mitigation report for significant cultural resources, if required, shall be submitted to and approved by the PRINCIPAL PLANNER OF EAS PRIOR TO ISSUANCE OF A CERTIFICATE OF OCCUPANCY.

e. The applicant shall notify EAS staff of the start and end of construction.

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

19. All of the conditions contained in this permit have been considered and have been determined to be necessary in order to make the findings required for this 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. 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 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 the conditions of this permit.

20. 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 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 condition(s) contained therein.

21. Unless appealed, the City's action on the SCR/LJS Permit shall become effective on the eleventh working day following action by the City Council. The City's action on the Coastal Development Permit (CDP) is appealable to the



California Coastal Commission. Unless appealed to the Coastal Commission, the City's action on the Coastal Development Permit shall become effective on the eleventh working day after receiving the "Notice of Final Action" from the City.

22. This Permit must be utilized within 36 months after the effective date. Failure to utilize the permit within 36 months will automatically void the permit unless an extension of time has been granted as set forth in Section 111.1122 of the Municipal Code.

APPROVED by the Council of The City of San Diego on November 12, 1996, by Resolution No. R-288039.

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.

Thomas O. Hicks,  
Owner/Permittee

By \_\_\_\_\_

NOTE: Notary acknowledgments  
must be attached per Civil  
Code Section 1180, et seq.  
12/03/96