

(R-97-794)

RESOLUTION NUMBER R-288199

ADOPTED ON DECEMBER 10, 1996

WHEREAS, WESTSHAW ASSOCIATES, Owner/Permittee, filed an application with the City Manager to implement a 153 lot subdivision; including 134 single-family dwelling units, a 115,000-square-foot main hotel facility, 300 hotel suites, open space and utility dedications, interior streets, site landscaping and brush management, an 18-hole championship golf course, club house and driving range, swim and tennis club facility, general maintenance structure and various other site facilities and improvements (as described in and by reference to approved Exhibits "A" and conditions of approval contained within the associated Resource Protection Ordinance, Conditional Use and Planned Residential Development Permit No. 89-1296); and

WHEREAS, the vacant 378-acre project site is generally located on the south side of Shaw Ridge Road and east of the unpaved portion of Carmel Country Road within the A-1-10 (Agricultural), OS (Open Space) and HRO (Hillside Review Overlay) Zones of the Del Mar Mesa Specific Plan; and

WHEREAS, the project site is legally described as the south half of Section 21, T14S, R3W, San Bernardino Meridian; and the southeast quarter of Section 20, T14S, R3W, San Bernardino Meridian; and

WHEREAS, on December 10, 1996, the San Diego City Council considered a recommendation of approval from the City Manager for Resource Protection Ordinance, Conditional Use and Planned Residential Development Permit No. 89-1296, pursuant to Sections 101.0900, 101.0510 and 101.0460 of the Municipal Code of the City of San Diego;  
NOW, THEREFORE,

BE IT RESOLVED, that the Council of the City of San Diego adopts the following findings with respect to Resource Protection Ordinance, Conditional Use and Planned Residential Development Permit No. 89-1296:

**PLANNED RESIDENTIAL DEVELOPMENT AND CONDITIONAL USE 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 will satisfy a community identified need to provide adequate housing within this portion of Subarea V and will preserve significant open space resources in the form of dedications and non-building area restricted easements. The private lodging, recreational and residential land uses associated with the project are consistent with recommended land use patterns and densities of the adopted Del Mar Mesa Specific Plan in effect for this site.

Utilization of rural clustering techniques incorporated into the design of the project's single-family residential element, designation of contiguous open space acreage, and use of contoured grading techniques employed in designing the 18-hole golf course and resort/hotel facilities are project elements that will contribute to achieving a rural land use and design that will be consistent with the predominant character of this portion of the Specific Plan.

The project will also provide the necessary public utilities, fees and infrastructure services to the area, including public sewer and water facilities, drainage, fire, open space, and development impact fees (DIF) as required by the public infrastructure element of the specific plan for this portion of Subarea V.

The land uses and development intensities reflected in the project design generally reflect a rural character, incorporating significant areas of "non-building area" open space, residential clustering and passive recreational land uses (golf course), and therefore will be consistent with the land use and environmental resource management guidelines designated for this site in the Specific Plan and will not adversely affect the City's Progress Guide and General 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 permit prepared for this project includes a number of conditions of approval relevant to achieving project compliance with the applicable regulations of the Municipal Code in effect for the subject property to assure the health, safety and general welfare of persons residing or working in the area. These conditions

include minimum requirements for open space, standards for the maintenance of manufactured slopes, mitigation for encroachment into biologically sensitive areas, parking, landscaping, brush management and limitations on the extent of landform alteration and project grading activities.

The project's concept grading, landscape and brush management plans have been designed to minimize the potential for erosion, run-off and fire hazards on adjacent properties. The physical elements of the project design, including the clustering of residential parcels and utilization of a recreational element (i.e. golf course) over a majority of the site will contribute to achieving project compatibility with future development within Subarea V and the adjacent Carmel Valley Community Planning area. Therefore, the project will not adversely affect other properties in the vicinity.

**C. THE PROPOSED USE WILL COMPLY WITH THE RELEVANT REGULATIONS IN THE MUNICIPAL CODE IN EFFECT FOR THIS SITE.**

The project design will be consistent with the relevant regulations in effect for this site per the Municipal Code, including design standards of the Planned Residential Development Ordinance. The project also complies with land use designations, densities and design standards of the adopted Specific Plan, which recommends that the site be developed with a mix of open space, lodging, recreational and single-family detached land uses (not to exceed one dwelling unit per 2.5 acres of land).

**RESOURCE PROTECTION ORDINANCE PERMIT FINDINGS:**

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

The proposed grading plan for the subdivision will comply with sensitive slope and biological resource encroachment/preservation guidelines of the adopted Del Mar Mesa Specific Plan. This is primarily achieved by accommodating a limited movement wildlife corridor within the MSCP preserve boundaries of the Bougainvillea site as identified by the adopted land use plan for Subarea V. The preserve boundary generally runs parallel to the golf course on site and would be preserved by the placement of "non-building area" easements of the final map for the subdivision.

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

The concept grading plan designed for the golf course, recreational, resort and residential components of the subdivision incorporate a variety of contoured grading features that are intended to mimic the existing topographic features of the site, portions of which have also been disturbed due to previous agricultural

land uses. The meandering design of the golf course, coupled with implementation of the landscape, brush management and revegetation plans designed for the subdivision will contribute to achieving a sensitive project design that will minimize adverse impact upon environmentally sensitive lands, as prescribed by resource management guidelines of the Del Mar Mesa Specific Plan.

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

**B. THE PROPOSED DEVELOPMENT WILL BE SITED AND DESIGNED TO PREVENT ADVERSE IMPACTS TO ENVIRONMENTALLY SENSITIVE LANDS LOCATED IN ADJACENT PARKS AND PUBLIC OPEN SPACE AREAS AND WILL PROVIDE ADEQUATE BUFFER AREAS TO PROTECT SUCH RESOURCES.**

The proposed development is not located adjacent to any planned or existing public parks or public open space areas, as designated within either the Carmel Valley Community Plan or the Del Mar Mesa Specific Plan. Landscape and brush management features incorporated into the project design (including implementation of a revegetation program) will enhance efforts to establish a visual buffer along the boundary of the subdivision. Proposed structures would be divided by the design of the golf course and sited in the northernmost portions of the property.

**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.**

Manufactured slopes will be rounded, contoured and undulated where possible by using variable slope ratios to blend into the site's existing topographical features. To the extent feasible, all private drives and development areas of the site shall be graded to mimic the natural topography of the property, which is a recommended resource management design element in the adopted Del Mar Mesa specific 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 sediment basins and flowgate controls as identified in the project EIR. Measures to reduce significant sedimentation and erosion impacts occurring during grading activities on site include the provision of 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 all development phases of this project (per conditional requirements of the project's Vesting Tentative Map).

(REFER ALSO TO PRECEDING RESOURCE PROTECTION ORDINANCE PERMIT FINDING "A" FOR A DISCLOSURE OF PROJECT COMPLIANCE WITH APPLICABLE MSCP PRESERVE AND RPO SENSITIVE SLOPE

ENCROACHMENT GUIDELINES IN EFFECT FOR THIS SITE, AS AMENDED WITH ADOPTION OF THE DEL MAR MESA SPECIFIC PLAN).

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

The Del Mar Mesa Specific Plan recommends that the Bougainvillea property be developed with a mix of open space, lodging/hotel, recreational and low-density residential (maximum one dwelling unit per 2.5 acres) land uses. The golf course and driving range, clubhouse, swim and tennis facilities, 300 hotel suites and 134 detached single-family residences proposed with the project are consistent with the land use, density and open space elements of the adopted Specific Plan.

The project is also consistent with the environmental resource preservation goals in effect for this site per the Del Mar Mesa Specific Plan, which recommends the revegetation of disturbed slopes, provision of a limited-movement wildlife corridor in the southern portion of the site, utilization of narrow private roads to minimize landform alteration impacts, concentration of development areas (i.e., clustering of estate residential and hotel/resort components of the project design), retention of visual open space corridors (via implementation of the golf course), and to minimize the disturbance of natural landform features via utilization of contoured grading and variable slope ratio techniques on manufactured slopes.

Visually, the development will generally reflect a rural character and appearance with the golf course serving a dual recreation/open space function. The proposed single-family structures, lodging/hotel facilities and recreational (i.e. buildings clubhouse, swim and tennis facilities) will be sited primarily in the northwest, northcentral and northeast portions of the site and would be physically and visually separated from future land uses within the subarea by the golf course. Utilization of "rural clustering" techniques as prescribed in the Planned Residential Development Ordinance (Municipal Code Section 101.0900) will further contribute to achieving a rural appearance for the project that would be compatible with adjoining properties within the subarea.

**E. THE PROPOSED DEVELOPMENT WILL NOT ADVERSELY AFFECT THE CITY OF SAN DIEGO'S PROGRESS GUIDE AND GENERAL PLAN.**

The project site is located within Subarea V (Del Mar Mesa Specific Plan) of the North City Future Urbanizing Area (NCFUA). The NCFUA is generally designated for agricultural and low-density residential development in the City's Progress Guide and General Plan.

Utilization of "rural clustering" techniques incorporated into the project design, designation of contiguous open space acreage, provision of a limited-movement wildlife corridor and MSCP preserve area, and use of contoured grading techniques employed in designing the subdivision are project elements that will contribute to achieving a low-intensive rural land use and design that will be consistent with the predominant open space character of this portion of the NCFUA.

The project will also provide the necessary public utilities, fees and infrastructure services to the area, including public sewer and water, drainage, fire and development impact fees (DIF) as required by the public infrastructure element adopted for this portion of the subarea. The land uses and development intensities represented by the project design generally reflect a rural character, incorporating significant areas of "non-building area" open space and low-intensive recreational land uses (i.e. golf course) along the subdivision's southernmost boundary.

Therefore, it is concluded that the project will be consistent with the land use, density and environmental resource design elements designated for this site in the Del Mar Mesa Specific Plan (Subarea V) and will not adversely affect the City's Progress Guide and General Plan.

(REFER ALSO TO PRECEDING RESOURCE PROTECTION ORDINANCE PERMIT FINDING "D" FOR A DISCLOSURE OF PROJECT COMPLIANCE WITH THE LAND USE AND DESIGN STANDARDS IN EFFECT FOR THIS SITE PER THE ADOPTED DEL MAR MESA SPECIFIC PLAN).

**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.**

The project site was found to contain no special or significant historical, architectural, prehistoric or cultural value. Portions of the site have been disturbed by previous agricultural activities (primarily bean farming). However, the final EIR for the project disclosed potentially significant adverse impacts occurring to archaeological resources on portions of the site as a result of project implementation.

The Mitigation, Monitoring and Reporting Program (MMRP) prepared for the project includes adequate and feasible measures to reduce the potential for adverse impacts to significant archaeological resources which were identified on the subject property. These measures include implementation of a paleontological monitoring, salvaging and cataloging program during all phases of project grading. Implementation by the applicant of mitigation measures identified in the MMRP (via the Vesting Tentative Map resolution and corresponding RPO/CUP/PRD conditions of approval) will reduce adverse impacts to archaeological and paleontological resources on site to a level below significant.

**BRUSH MANAGEMENT FINDINGS:**

**A. THE PROPOSED BRUSH MANAGEMENT PROGRAM DESIGNED FOR THIS PROJECT, 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, SAN DIEGO MUNICIPAL CODE SECTION 101.0462.**

By utilizing the zone reduction section of the City's Landscape Technical Manual (Section 6.6), the project's Brush Management Program will modify existing vegetation on site to the least practical extent while still providing the necessary fire protection to persons and property as required by the Uniform Fire Code. (Appendix IIA). Plant material in Brush Management Zone One will be selected to visually blend with the existing hillside vegetation.

**B. THE PROPOSED BRUSH MANAGEMENT PROGRAM, TO THE EXTENT FEASIBLE, WILL MINIMIZE THE ALTERATIONS OF NATURAL OR SENSITIVE VEGETATION AND WILL NOT RESULT IN UNDUE RISKS FROM EROSIONAL FORCES.**

The Brush Management Program designed for the project will alter existing vegetation on site for purposes of providing an effective fire break which incorporates zone reduction and the alternative compliance provisions of Landscape Technical Manual. The alterations to existing vegetation on the property will be minimized to the least practicable extent and all new plantings on manufactured slopes will conform to the revegetation standards of the Landscape Technical Manual, and incorporate low precipitation irrigation systems to minimize runoff.

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

BE IT FURTHER RESOLVED, that based on the findings hereinbefore adopted, by the City Council, Conditional Use, Resource Protection Ordinance and Planned Residential Development Permit No. 89-1296 is hereby granted to Owner/Permittee, in the form and with the terms and conditions as set forth in Permit No. 89-1296, 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:ps  
01/29/97  
Or.Dept:Clerk  
R-97-794

**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

GRANTING RESOURCE PROTECTION ORDINANCE, CONDITIONAL USE  
AND PLANNED RESIDENTIAL DEVELOPMENT

PERMIT NO. 89-1296

**BOUGAINVILLEA**

CITY COUNCIL

This permit is granted by the City Council of the City of San Diego to WESTSHAW ASSOCIATES, Owner/Permittee, under the conditions, restrictions and development standards contained in Sections 101.0900, 101.0512 and 101.0462 of the Municipal Code of the City of San Diego.

1. Permission is hereby granted by the San Diego City Council to the referenced Owner/Permittee to implement a 153 parcel subdivision (i.e. single-family residential, open space, recreational and resort/hotel land uses) and associated site improvements and facilities (as described herein this permit) on portions of a vacant 378-acre site.

The project site is legally described as the south half of Section 21, T14S, R3W, San Bernardino Meridian; and the southeast quarter of the northwest quarter of Section 20, T14S, R3W, San Bernardino Meridian.

The subject property is generally located south of Shaw Ridge Road and east of the unpaved southern portion of Carmel Country Road within the A-1-10 (Agricultural), OS (Open Space) and HRO (Hillside Review Overlay) zones of the Del Mar Mesa Specific Plan Area (Subarea V of the North City Future Urbanizing Area).

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 December 10, 1996, on file in the Office of the Development Services Department:



- a. One hundred thirty-four (134) detached single-family dwelling units ranging in size from approximately 3,300 - 4,450 square feet in gross floor area). The units will be constructed on lots ranging in size from approximately 10,000 to 72,000 square feet; and
- b. A 300-suite resort/hotel lodging facility in the central portion of the site, each unit being efficiency (one-two-three-bedroom) style in design, not to exceed 40 feet in height from finished grade and ranging between approximately 500 and 2,500 square feet (gross floor area) in size. The lodging units will be contained within a total of approximately forty (40) combination two-, four-, and six-plex detached structures; and
- c. An 18-hole golf course and driving range; and
- d. A two-story, approximately 35,000-square-foot clubhouse facility featuring administrative offices, golf pro shop, locker rooms and dining facilities; and
- e. A two-story, approximately 16,500-square-foot swim and tennis center featuring a community and/or lap pool, six tennis courts, beauty salon, tennis pro shop, two squash courts, aerobics studios, weight room and locker rooms; and
- f. A one-story, general maintenance facility featuring equipment and parts storage; and
- g. A one-story, (20-foot-high) information center; and
- h. A two-story, approximately 115,000-square-foot main hotel facility, including a registration desk, administrative offices, pool, entertainment ballroom, specialty retail shops, club restaurant, recreational and other visitor service amenities facilities; and
- I. Project grading not to exceed 2.5 million cubic yards of balanced cut and fill material; and
- j. A total of twenty (20) variable height retaining walls (maximum 35 feet high) with a combined length of approximately 4,800 feet; and
- k. Concept landscape, brush management and permanent irrigation; and

- l. Off-street parking (Refer to Condition 7); and
  - m. Various open space and public utility dedications; and
  - n. A controlled access gate of the project's primary entrance on Carmel Country Road as well as individual private driveways providing vehicular access to the project's various residential, commercial and recreational land use components.
  - o. Accessory improvements determined by the City Manager to be consistent with the land use and development standards in effect for this site per the adopted Del Mar Mesa Specific Plan, the Resource Protection Ordinance, State CEQA guidelines, the *Landscape Technical Manual* and City Landscape Ordinance, the Planned Residential Development Ordinance, conditions of this permit, the Hillside Review Ordinance, and any other applicable regulations of the Municipal Code in effect for this site at the time accessory improvements are considered by the City Manager.
3. Prior to the issuance of a grading permit for the site, grading, and temporary erosion control plans and corresponding measures shall be submitted by the Permittee to the City Manager for approval.
4. Prior to the issuance of any building permits for each phase of development, complete plans for the subdivision (including complete building, finished grading, brush management, landscape, permanent irrigation) shall be submitted in substantial conformance to the approved Exhibits "A" for the project, to be determined and approved by the City Manager. No change, modifications or alterations of the approved plans for this project shall be made unless appropriate applications, Findings of Substantial Conformance Review (SCR) or amendment of this permit shall have been granted by the appropriate decisionmaker.
5. The construction and continued use of this permit shall be subject at all times to any applicable regulations of other governmental agencies.
6. A combined total of not less than 1,095 parking spaces will be provided on site in accordance with the following facility/parking ratio breakdown:
- a. A minimum of 827 spaces at the Resort/Hotel facility (for the exclusive benefit of employees, guests and

support personnel, tennis center and clubhouse patrons, driving range patrons, and maintenance area - 827 spaces.

- b. Single-family units - 268 spaces (at a ratio of two off-street spaces per unit) for the exclusive benefit of the tenants and their guests.

All parking spaces shall be maintained on the property in the approximate location as identified on the approved Exhibit "A", and shall not be converted for any other use or for anyone else's benefit unless specifically authorized by the City Manager. All parking spaces shall conform with relevant dimensional requirements as specified in Division 8 of the Municipal Code.

7. 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 89-1296).

8. Detailed specifications for exterior illumination shall be submitted and approved by the City Manager 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.

9. 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. Recordation of the corresponding final map for this site (VTM 89-1296) shall constitute utilization of this permit.

10. 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 City Manager; and
- b. The permit is recorded in the Office of the County Recorder.

11. 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 City Manager.

12. This permit is subject to revocation by the City if there is any material breach by Owner/Permittee in the conditions of this permit, in accordance with whatever process and procedures exist in the Municipal Code at the time of the alleged breach. 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.

13. The conditions of 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.

14. All signs requested and proposed for this project shall conform to Citywide Sign Regulations and be administered by the City Sign Code Administrator.

15. All streets and private roads approved as part of this development shall be improved to the requirements set forth by the City Engineer and in accordance with the approved Vesting Tentative Map for the project (VTM 89-1296).

16. CC&R's developed by and for the homeowners association shall be reviewed by the City Manager 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 of such resources.

17. 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.

18. This permit shall comply at all times with the conditions of the corresponding final map for Vesting Tentative Map 89-1296.

19. Prior to issuance of a grading or pre-grading permit for any portion of the project site, Owner/Permittee shall obtain an

Interim Habitat Loss Permit from the City of San Diego relative to protecting the habitat of the California gnatcatcher.

The following shall be included as a condition of the Interim Habitat Loss Permit:

- a. The applicant shall ensure the permanent preservation of off-site biological resources as mitigation for impacts to coastal sage scrub habitat (including coyote bush scrub) (CSS). This will be accomplished by providing to the City, prior to issuance of a grading permit or subdivision improvement agreement, and as a condition of the issuance of the Interim Habitat Loss Permit (IHLP) and the Vesting Tentative Map (VTM), a bond, letter of credit or CD, in sufficient amount (approximately \$1,500,000) to secure mitigation for 51.47 acres of CSS. If, within eight months from issuance of the grading permit, the applicant is unable to acquire and dedicate to the City a mitigation parcel which meets the approval of the Manager of Development Services, the USFWS, and the CDFG, the City shall have the ability to call upon the security and utilize the funds to acquire the necessary off-site mitigation.
- b. The applicant shall ensure the permanent preservation of off-site biological resources as mitigation for impacts to southern maritime chaparral (SMC). This will be accomplished by providing to the City, prior to issuance of a grading permit or subdivision improvement agreement, and as a condition of the issuance of the VTM, a bond, letter of credit or CD, in sufficient amount (approximately \$450,000) to secure mitigation for 15.22 acres of SMC. If, within eight months from issuance of the grading permit, the applicant is unable to acquire and dedicate to the City a mitigation parcel which meets the approval of the Manager of Development Services, the City shall have the ability to call upon the security and utilize the funds to acquire the necessary off-site mitigation.

20. 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.).

21. The Brush Management Program designed for this project is based on the Fire Department's Fire Hazard Severity Classification of "Moderate". The permittee shall implement the following conditions in accordance with the approved Brush Management Program as shown on Exhibit "A".

- a. Prior to recordation of a final map, document(s) shall be submitted indicating that the appropriate brush management areas have been recorded on the property in substantial conformance with Exhibit "A". The construction documents (site plan, brush management plan) shall show Zone One as a Building Restricted area, and Zones Two and Three as Negative Open Space area.
- b. Prior to the issuance of any building permits, a complete set of brush management construction documents shall be submitted for approval to the City Manager and the Fire Chief. The construction documents shall comply with the Uniform Fire Code, MC 55.0889.0201, and Section Six of the Landscape Technical Manual (document number RR-274506) on file at the office of the City Clerk.

22. The Brush Management zone depths shall be as follows:

| <u>Lot #</u> | <u>Units/Hazards</u> | <u>Zone One</u> | <u>Zone Three</u> |
|--------------|----------------------|-----------------|-------------------|
| All Lots     | Moderate             | 40'             | 30'               |

23. Within brush management Zone One combustible accessory structures with less than a one hour fire rating are not permitted, including but not limited to: wood decks, trellises, gazebos etc. Non-combustible accessory structures and/or combustible accessory structures with a minimum fire rating of one hour or more, may be approved within the designated Zone One area subject to approval by the Fire Chief and the City Manager.

24. All requirements for fire resistive construction and other architectural features shall conform to the applicable City and Regional Building Code Standards. The Fire Chief may consider deviation from these conditions or may require additional conditions at the time of final inspection if it is determined an eminent health and safety risk still exists.

25. Plant material shall be selected to visually blend with the existing hillside vegetation. Invasive non-native plant material shall not be permitted.

26. Provide the following note on the Brush Management Construction Documents "It shall be the responsibility of the Permittee to schedule a preconstruction meeting on site with the contractor and the City Manager to discuss and outline the implementation of the Brush Management Program.

27. Prior to the issuance of any Certificate of Occupancy for any building, the approved Brush Management Program shall be implemented to the satisfaction of the City Manager.

28. The Brush Management Program shall be maintained at all times in accordance with applicable provisions of the City of San Diego's Landscape Technical Manual.

29. Prior to the approval of improvement plans for private streets/drives within this project, the provision of street trees shall be indicated on the improvement plans for the planting of street trees. The location of street trees shall conform to Exhibit "A", Landscape Concept Plan and the Landscape Technical Manual. Other improvements such as driveways, utilities, drains, water and sewer laterals, shall be designed and located so as not to prohibit the placement of street trees and the associated rootzone area, all to the satisfaction of the City Manager.

**The following conditions (30-51) shall be implemented by the permittee in accordance with the Mitigation, Monitoring and Reporting Program (EIR 89-1296) adopted by the City Council for this project on December 10, 1996:**

30. To establish compensation standards that would adequately mitigate direct impacts to sensitive biological resources on site to below a level of significance, the permittee shall implement the following specific mitigation ratios, in a manner satisfactory to the City Manager and prior to the issuance of any building permits:

- Diegan coastal sage scrub/coyote bush scrub (intermediate conservation value) in development area and brush management zones 1 and 3 at a ratio of 2:1 = 119.6 acres
- Diegan coastal sage scrub/coyote bush scrub (intermediate conservation value) in brush management zone 3 at a ratio of 1:1 = 3.18 acres

- Southern maritime chaparral in development area and brush management zones 1 and 3 at ratio of 3:1 = 31.8 acres
- Southern maritime chaparral in brush management zone 3 at a ratio of 1:1 = 0.31 acre
- Mule fat scrub (low quality) at a ratio of 1:1 = .1 acre
- Freshwater marsh at a ratio of 1:1 = 1.8 acres
- 2.7-acre pond at a ratio of 1:1 = 2.7 acres
- Other waters at a ratio of 1:1 (no net loss)

31. The Permittee shall implement a landscape/biological mitigation plan which achieves the requirements for on-site preservation/revegetation, as illustrated in Figure 4C-4 of the project's EIR. The plan shall be received by the City of San Diego (and the wildlife agencies, as requested) and shall contain the following elements:

- a. A revegetation specialist with local experience in native species and approved by the City Manager shall be selected by the Permittee for implementing the labor portions of the revegetation/restoration plan. The revegetation specialist shall educate all contractors with regard to mitigation goals and requirements. This instruction shall be initiated at a pre-construction meeting. After each monitoring event, the revegetation specialist shall provide the permittee and installation contractors with a written list of items in need of attention.
- b. An installation contractor shall be responsible for completion of grading, soil preparation, pre-planting weed control, planting and seeding. Once the revegetation specialist has verified completion of the landscape installation, a 180-day establishment period shall begin. At the end of this period, the revegetation specialist shall certify completion of the installation contract, provided all installation and maintenance tasks have been finished. These items include, but are not limited to, weed control, dead plant replacement and reseeding. All persons involved in installation of the revegetation effort shall be trained in native plant species identification, and the planting and care of native plants.



- c. Pursuant to completion of the landscape installation contract, a maintenance contractor shall be hired by the permittee for the duration of the five-year monitoring period. The maintenance contractor shall service the entire revegetation area at least once a month. The maintenance contractor shall meet with the revegetation specialist at the site, when requested, and shall perform all checklist items in a timely manner. All persons involved in maintenance of the revegetation effort shall be trained in native plant species identification, and the planting and care of native plants.
- d. Cover by native vegetation should increase over time and ultimately approach that of the existing habitats on-site (near 100 percent). Cover is often slow at first as the roots become established, but with sufficient rainfall it should increase with time. Cover shall be measured and evaluated separately for shrub and herbaceous life forms.
- e. Impacts to Del Mar sand aster shall be mitigated through collection, proper handling and spread of seed from the populations to be impacted on-site. The collected seeds shall be spread in appropriate revegetated habitat within the biological open space on-site. A sufficient quantity of seeds to ensure establishment of a minimum of 330 specimens of Del Mar sand aster shall be collected.
- f. Impacts to Nuttall's scrub oak shall be mitigated by on-site preservation of 50% of the species and planting of one gallon specimens from a qualified nursery specializing in native plants. A sufficient number of individual plants shall be collected and planted to ensure the establishment of at least 66 specimens in appropriate revegetated habitat within the biological open space on-site.
- g. Seeds and rooted cuttings to be used in on-site revegetation programs shall be collected from natural areas to be impacted.
- h. Topsoil from areas that currently support Diegan coastal sage scrub, and that are being impacted, shall be collected and reused. This soil contains a viable and valuable seed bank as well as site-specific soil

microbes. The revegetation specialist shall flag the collection areas to avoid collecting infested soil.

- i. Habitat located outside of the construction zone shall be staked or otherwise clearly marked. The general contractor shall bear the burden of mitigation for incidental impacts caused by failure to comply with the limits of the construction zone.
- j. Specific staging areas shall be established in disturbed areas. All activities except for those directly related to the revegetation installation shall be restricted to the staging areas and any existing access roads.
- k. Revegetated areas within and surrounding the golf course shall, at a minimum, be protected with signs stating that habitat revegetation is in process and no entry is allowed. If deemed necessary, protective fencing (such as split rail fencing) may be appropriate.
- l. All specifications of the Biological Mitigation Plan for *Bougainvillea* related to the quality, quantity, type and size of specific plant materials; contract growing/plant sources; substitutions; plant inspections; soils preparation; reuse of topsoil; field plant layout and spacing of container plants; protection measures; planting methods and timing; maintenance and monitoring shall be adhered to.
- m. Prior to issuance of building permits, the City Manager shall review and approve the detailed landscape and irrigation plans and ensure that the preceding mitigation measures are clearly shown on the project's landscape/mitigation plan. The long-term maintenance of the vegetation included within the landscape revegetation plan shall be conducted by a specialist hired by the permittee. The City Manager shall also conduct periodic site inspections to confirm compliance with the revegetation plan's component/requirements. Performance standards and a contingency plan shall be added to the final restoration plan, in a manner satisfactory to the City Manager.
- n. The U.S. Fish and Wildlife Service and the California Department of Fish and Game shall be apprised in writing of the on-going work by the CSS restoration

specialist. This shall include notification of the time and location of on-site seed collection and soil solarization and receipt of copies of the progress reports.

32. Maintenance of the biological mitigation plan (condition 31) shall be ensured by the permittee through the posting of a performance bond (or other form of acceptable surety) with the City. The amount of the bond shall be equal to the cost of the monitoring and maintenance effort (which would include replacement costs), plus an additional 10 percent per year of maintenance to account for inflation. Release of the surety is dependent on achievement of the goals of the revegetation/enhancement effort, as confirmed by the revegetation specialist in writing and/or the City Manager.

33. Pursuant to successful completion of the biological mitigation requirements described in preceding condition 31, a "Notice of Completion", subject to prior review and approval of the affected wildlife agencies, will be issued by the City of San Diego. The project's Mitigation, Monitoring and Reporting Program will not be considered complete until the "Notice of Completion" has been issued.

34. When feasible, it may be appropriate to allow controlled burns of all the southern maritime chaparral considered for open space prior to development of area adjacent to this fire dependent habitat. A controlled burn would reduce the fire hazard temporarily, rejuvenate the soil with nutrients, delay the vegetation from becoming woody and flammable from old age. The controlled burn program must be approved by the City Fire Department, the City Manager, the U.S. Fish and Wildlife Service and California Department of Fish and Game.

35. If ground water is used to irrigate the golf course, to ensure suitable water quality, the permittee shall flush irrigated areas of the property to achieve the surface water quality objectives specified in Table 4D-1 of the project's EIR.

36. Impacts associated with the implementation of brush management shall be mitigated by the use of reduced-width fuel management zones made possible by employing fire-resistant architectural features such as fire retardant roofs and reduced eave overhangs.

37. The split-rail fencing designed to accommodate limited wildlife movement through the project's open space corridor shall not exceed six-feet in height.

38. All manufactured slopes on-site shall be revegetated and landscaped within 30 days from the completion of grading activities and irrigated by means of a temporary system (not to exceed two years) to ensure adequate plant establishment, slope stability, reduce erosion and enhance the visual appearance of said slopes.

39. Prior to recordation of a final map(s), a Homeowner's Association or Private Landscape Maintenance District shall be established to assume responsibility for landscape maintenance. A performance bond shall also be filed with the City of San Diego to ensure completion of the landscape program. The permittee shall be responsible for implementing the landscape maintenance and brush management programs and establishing the Homeowner's Association Landscape Maintenance District.

40. Desilting basins shall be cleaned out at a frequency set to prevent mosquito breeding, and contaminated sediments and vegetation shall be removed.

41. Upon completion of the North City Water Reclamation Plant and distribution system to the site, the Permittee shall use reclaimed water to irrigate the golf course and landscape features on site.

42. Solarization techniques shall be utilized to prepare soils for habitat revegetation and restoration. This involves the use of UV-resistant plastic sheeting and sunlight to kill weeds, weed seeds and pathogens in the top 2-6 inches of the soil. Weeds shall be removed by hand methods. The City Manager shall ensure that the mitigation measures are clearly shown on the project's landscape/conceptual mitigation plan.

43. Prior to the issuance of either a grading permit or subdivision improvement agreement for this project, the permittee shall ensure the mitigation measures required to reduce on-site biological resource impacts (i.e. encroachment into Diegan coastal sage scrub and southern maritime chaparral) to a level below significant as required per State CEQA guidelines (Refer also to Condition 19 of this permit).

44. In order to avoid potentially significant impacts associated with external lighting, night play will be prohibited on the golf course, tennis courts and all other exterior recreational facilities approved with this project. Additionally, potentially significant lighting impacts on-site shall be mitigated by using sodium lighting, and selectively placing, directing and shielding

illumination away from conserved areas. Additionally, lighting from homes shall be screened with vegetation to prevent illumination of habitat areas, and large spotlight-type lighting that may affect conserved habitat shall be prohibited.

45. Prior to the issuance of building permits for any residential units located in the northwestern portion of the project site, a site-specific acoustical analysis for the northwestern portion of the site shall be prepared to determine if the proposed residential units would, in fact, be located within the 60 dB(A) CNEL contour from SR-56 after considering topography and shielding from structures in Carmel Valley (Neighborhood 8). The analysis shall be approved by the City Manager. If the more definitive noise study determines that the residential units would be located within the 60 dB(A) contour, then a site-specific interior noise analysis shall be prepared for determination of site-specific mitigation measures, such as acoustical shielding walls, architectural treatments and construction techniques based on future buildout traffic volumes on SR-56.

46. Construction staging areas shall be located at least 100 feet from existing residences and coastal California gnatcatcher sites or; as otherwise specified by the United States Fish and Wildlife Service, the State of California Department of Fish and Game, and the City Manager.

47. Construction equipment shall be operated within the City-wide noise ordinance restrictions.

48. Clearing and/or grading of any area adjacent to coastal sage scrub on the project site shall be phased to avoid any indirect impacts to California gnatcatcher during the breeding season (February 15-August 15) to the maximum extent practicable. If due to unavoidable constraints clearing and/or grading must be conducted during the breeding season, a survey for the California gnatcatcher shall be conducted by a biologist permitted by the U.S. Fish and Wildlife Service for gnatcatcher surveys. If gnatcatcher nests are observed in adjacent coastal sage scrub, a biological monitor shall be on-site prior to and during the clearing and grading phases of the project to survey for gnatcatcher nests and to recommend potential measures that could be incorporated to avoid indirect impacts to gnatcatchers. All measures identified by the biological monitor shall be reviewed by the City Manager, the U.S. Fish and Wildlife Service, and the California Department of Fish and Game, and implemented upon approval by the City Manager.

49. The permittee shall provide written verification that a qualified paleontologist has been retained to implement the project's paleontological mitigation program. The verification shall be presented in a letter from the paleontologist to the City Manager prior to any grading activity. (A qualified paleontologist is defined as an individual with a Ph.D. or M.S. degree in paleontology or geology and who is a recognized expert in the application of paleontological procedures and techniques such as screen washing of materials and identification of fossil deposits. A paleontological monitor is defined as an individual who has experience in the collection and salvage of fossil materials and who is working under the direction of a qualified paleontologist).

50. Prior to issuance of a grading permit, the requirement for paleontological monitoring shall be noted on the construction plans. The qualified paleontologist shall attend the pre-grading meeting to consult with the grading and excavation contractors.

51. During and after grading, the paleontologist's duties shall include monitoring of grading, salvaging, preparation of materials for deposit at a scientific institution that houses paleontological collections, and preparation of a final report. These duties are defined as follows:

**Monitoring.** The paleontologist or paleontological monitor shall be on-site full-time during the initial cutting of previously undisturbed sediments of all geologic formations to inspect for well-preserved fossils. The frequency of inspections will depend on the rate of excavation, the materials excavated, and the abundance of fossils. The paleontologist shall work with the contractor to determine the monitoring locations and the amount of time necessary to ensure adequate monitoring of the project site.

**Salvaging.** In the event well-preserved fossils are found, the paleontologist shall have the authority to divert, direct, or temporarily halt construction activities in the area of discovery to allow evaluation and recovery of fossil remains in a timely manner. At the time of discovery the paleontologist shall contact the City Manager, which must concur with the salvaging methods before construction is allowed to resume.

**Preparation.** Fossil remains shall be cleaned, sorted, catalogued, and then deposited in a scientific institution that houses paleontological collections such as the San Diego Natural History Museum.

**Final Report.** Prior to issuance of building permits and after grading has occurred a monitoring results report, with appropriate graphics, summarizing the results, analysis, and conclusions of the above program shall be prepared and submitted to the City Manager. If subsequent building permits are not pursued, then the monitoring results report shall be provided to the City Manager within three months following termination of the paleontological monitoring program.

Prior to issuance of grading permits, the City Manager shall review the grading plans to ensure that the preceding notes have been provided.

52. Access to the project site from Shaw Ridge Road shall be limited to golf maintenance employees and emergency vehicles only. There shall be no access to the project site from Shaw Ridge Road to service residential, hotel or recreational uses, or for any service or delivery vehicles, nor shall there be any access to the development's internal loop road from Shaw Ridge Road.

53. Prior to the issuance of any building permits for each phase(s) of development, the Permittee shall:

- a. Ensure that building address numbers are visible and legible from the street(s) fronting the property.
- b. Show the location of all fire hydrants on the site plan.
- c. Provide access to the property in conformance with Fire Department Policy A-91-1 (UFC 10.207).
- d. Provide temporary street signs on site where deemed appropriate by the City Manager.

54. Prior to the issuance of any building permits for any of the hotel structures, the permittee shall enter into an agreement with the City of San Diego which assures compliance with Proposition C, which was approved by the voters in 1996.

55. Prior to the issuance of any building permits for any of the residential dwelling units, the permittee shall provide evidence, in a manner satisfactory to the City Manager and the Housing Commission, of compliance with affordable housing requirements of the Del Mar Mesa Specific Plan.

56. Prior to the issuance of any building permits for the hotel/resort component of the project, the permittee shall be

required to demonstrate compliance with the following requirements in a manner satisfactory to the City's Fire Department:

- a. Provide a lighted directory at both points where the private 30-foot-wide paved access drive transitions to the 24-foot-wide turf block fire lane/guest cart access drive through the resort portion of the site.
- b. Provide addresses, visible from either the 30-foot-wide paved drive or the 24-foot-wide turf block fire lane/guest cart access drive, for each of the hotel suites proposed within the resort. The type and location of said addressing shall be subject to approval of the Fire Marshall.
- c. The turf block fire lane/guest cart access drive shall meet all relevant requirements and guidelines of Bureau of Fire and Life Safety Policy A-96-9 (Modified Access Roadway Surface).
- d. In order to provide access to individual guest houses within the resort area from the turf block fire lane/guest cart access drive, individual stairways attached to each of the structures shall be constructed of a type of material and at locations satisfactory to the Fire Marshall.
- e. Provide emergency vehicle access to the upper floor of the resort's bi-level parking structure.
- f. Install fire hydrants on-site at locations satisfactory to the Fire Marshall, in accordance with Bureau of Fire and Life Safety Policy F-85-1 ("On Site Fire Hydrants"), and with water mains capable of providing the required fire flow and pressure to adequately supply these new hydrants.
- g. Design and construct an access drive to provide emergency vehicle fire access to resort buildings 29-31 and 34. This access drive shall conform to Bureau of Fire and Life Safety Policy JA-96-1, "Fire Access Roadways."
- h. Provide Development Services with a site plan, stamped approved by the Fire Marshall, that all of the preceding conditional requirements for fire access have been satisfied to the satisfaction of the Fire Department.



57. During all grading and construction phases for the project, no mechanical machinery or equipment will be operated on-site between the hours of 7:00 p.m. and 6:00 a.m.

58. All structures associated with the project's hotel/resort component shall not exceed 40-feet in height as measured from finished grade.

59. The project may include a gated entry to the site on Carmel Country Road.

60. Best Management Practices (BMP) shall be incorporated into the design and continued operation of the golf course. A description of some of the practices which shall be considered include the following:

- a. Filter Strips. Filter strips shall be used to enhance pollutant removal from the site. Filter strips are planted with erosion-resistant grasses or plant species and are designed to spread flows from the site into a wide area where overland sheet flow conditions could occur. Vegetation within the strip slows the flow, causing heavier particulates to fall out of suspension, and also acts as a biological filter when direct absorption of dissolved pollutants occurs.

The soil also acts as a filter; dissolved pollutants are absorbed onto the soil particles. This is an effective method for removal of dissolved heavy metals and phosphorus from fertilizers. Biological activity in the soil can also metabolize toxic organic contaminants from pesticides.

- b. Source Control. An integral part of achieving adequate pollutant removal from collected storm water is the implementation of source control practices that reduce the amount of contaminants of the ground surface that can come in direct contact with surface flows. These practices include the following measures that shall be incorporated into the golf course management plan:
  - i. Require outdoor chemical and contaminant storage facilities to be covered, as specified in the Business Plan for the handling and disposal of toxic and hazardous materials approved by the County Department of Environmental Health, Hazardous Materials Management Division.

- ii. Require proper use and disposal of materials including fertilizers, pesticides, and herbicides, and including appropriate methods, rates, and frequency of application of these chemicals, as specified in the Business Plan for the handling and disposal of toxic and hazardous materials approved by HMMD.
- iii. Require alternative methods for controlling weeds and insects including physical, biological and non- or low-toxicity methods including non-toxic methods of weed control such as hand pulling and soil solarization techniques.
- iv. Recycle chemicals to the most feasible extent possible, and dispose of materials in a safe and proper manner, according to the rules and regulations of the City Fire Department, Environmental Services Department and County Hazardous Materials Management Division. These BMPs shall be designed and implemented under the supervision of a California Certified Hydrologist licensed by the California State Department of Consumer Affairs.

APPROVED by the City Council of the City of San Diego on  
December 10, 1996.

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.

**WESTSHAW ASSOCIATES,**  
Owner/Permittee

By \_\_\_\_\_

**NOTE: Notary acknowledgments  
must be attached per Civil Code  
Section 1180, et seq.  
01/14/97**