

RESOLUTION NUMBER R- 288439

ADOPTED ON MAR 17 1997

WHEREAS, AG Land Associates, LLC, A California Limited Liability Company, filed an application to develop a Planned Industrial Development, Planned Residential Development, Hillside Review, Coastal Development Permit, Torrey Hills, legally described as Torrey Heights Unit 1, Map No. 13358 excepting therefrom Lot "G" of said map, all of Parcel Map No. 17371, and all of Sorrento Hills Corporate Center Phase II Unit No. 1 Map No. 12606 and all of Sorrento Hills Corporate Center Phase II Unit No. 6 Map No. 12611, and all of Sorrento Hills Corporate Center Phase II Unit 7 Map No. 12609, and Sorrento Hill Corporate Center Phase II Unit 2 Map No. 12610 excepting therefrom Lot "B" of said map, and Sorrento Hills Corporate Center Phase II Unit 3 Map No. 12607 excepting therefrom Lots 78, 79 and 80 of said map, and portions of Sections 29, 30, 31 and 32 of Township 14 South, Range 3 West, San Bernardino Meridian, in the City of San Diego, County of San Diego, State of California, in the M-1A, M-IP, R-1500, R-3000, R1-5000, OS-P, OS-OSP, A-1-10 Zones, Hillside Review Overlay Zone and Coastal Development Overlay Zone; and

WHEREAS, on February 25, 1997, the City Council of San Diego considered Planned Industrial Development, Planned Residential Development, Hillside Review, Coastal Development Permit No. 95-0554 pursuant to Section 101.0900, 101.0920, 101.0454 and 105.0200 of the Municipal Code of the City of San Diego; NOW, THEREFORE,

BE IT RESOLVED, that the City Council adopts the following findings:

I. PLANNED RESIDENTIAL DEVELOPMENT AND PLANNED INDUSTRIAL DEVELOPMENT PERMIT FINDINGS:

A. THE PROPOSED USE WILL FULFILL AN INDIVIDUAL AND/OR COMMUNITY NEED AND WILL NOT ADVERSELY AFFECT THE GENERAL PLAN OR THE ADOPTED COMMUNITY PLAN.

The project will diversify the mix of land uses in the community plan area by providing market rate housing in close proximity to the proposed industrial and commercial office developments. As proposed the development includes seven hundred seventy multi-family dwelling units, nine hundred ninety-six single family detached dwelling units, five hundred seventy thousand square feet of industrial space, approximately thirteen acres for future neighborhood commercial uses, approximately fourteen acres for a neighborhood public park and approximately thirty acres of land to be dedicated at no cost to the City.

The project's traffic circulation system is consistent with the proposed community plan and City street design standards. The project's planned circulation system has been determined acceptable by the Transportation Planning Division of the Engineering Department.

The project would provide the necessary public utilities, fees and services to the area, including water, drainage, sewage, fire, parks, open space and recreation consistent with the adopted community plan.

B. THE PROPOSED USE, BECAUSE OF CONDITIONS THAT HAVE BEEN APPLIED TO IT, WILL NOT BE DETRIMENTAL TO THE HEALTH, SAFETY, AND GENERAL WELFARE OF PERSONS RESIDING OR WORKING IN THE AREA AND WILL NOT ADVERSELY AFFECT OTHER PROPERTY IN THE VICINITY.

Significant design revisions have resulted from the City staff review of this project. Through the redesign of the project and conditions placed on its approval, the general public will be protected. Adverse impacts not successfully resolved by the project design, will be mitigated through the Mitigation Monitoring and Reporting Program.

The design and subsequent development of this site as a diverse mix of land uses will be complimentary to the adjacent current and proposed land uses. Land use conflicts have been reduced and mitigated by the project design.

The permit prepared for this project includes a number of conditions of approval relevant to project compliance with applicable regulations of the municipal code to assure the health, safety, and general welfare of persons residing or working in the area. Additional standards for the proposed project are included within the Design Guidelines and Development Standards which also address physical safety

issues and aesthetic concerns.

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

Requirements of the Municipal Code have been included in the design of the project or have been included in the permit conditions of approval. Variances are not required to approve this project.

Building permits and engineering permits will be reviewed for substantial conformance with all discretionary approvals. This process will assure another level of project review by City staff to monitor compliance with all relevant building codes including, but not limited to: the governing permits for the Planned Industrial Development, Planned Residential Development, Hillside Review and Coastal Development Permit requirements. Additionally, the Facility Financing Plan for this community will monitor the rate of development to assure that the public improvements are provided as required and ahead of individual development needs.

II. HILLSIDE REVIEW PERMIT FINDINGS:

A. THE SITE IS PHYSICALLY SUITABLE FOR THE DESIGN AND SITING OF THE PROPOSED DEVELOPMENT. PROPOSED DEVELOPMENT WILL RESULT IN MINIMUM DISTURBANCE OF SENSITIVE AREAS.

The proposed development will grade the site in conformance with the Hillside Design and Development Guidelines utilizing variable slope ratios, contour grading, blending of top and toe of slopes into the undisturbed existing grade and a variety of street gradients to simulate the natural topography. The resulting landform allows for development and simulates the character of the underlying landform.

The geological reconnaissance report prepared for the development indicated that the proposed structures would be sited, designed and constructed to be physically suitable to the topographic constraints of the land form. Regionally native California plant species and naturalized species will further provide slope stability, structural and visual integrity to the proposed development.

The Vesting Tentative Map resolution identifies several lots to remain in a natural condition precluding any development in the future. Significant natural land forms have been preserved by negative open space easements for the benefit of both residents and visitors, human and other animal species.

B. THE GRADING AND EXCAVATION IN CONNECTION WITH THE DEVELOPMENT WILL NOT RESULT IN SOIL EROSION SILTING OF

LOWER SLOPES, SLIDE DAMAGE, FLOODING, SEVERE SCARRING OR ANY OTHER GEOLOGICAL INSTABILITY WHICH WOULD AFFECT HEALTH, SAFETY AND GENERAL WELFARE AS APPROVED BY THE CITY ENGINEER. DISTURBED SLOPES ARE PLANTED WITH NATIVE AND SELF SUFFICIENT VEGETATION.

Implementation of project mitigation measures to minimize soil erosion will be required by the City Engineer before a grading permit is issued. Measures include and are not limited to implementation of Best Management Practices and grading prohibition during the rainy season from November 1 to April 1 unless specific special erosion control measures are implemented as detailed in the permit conditions.

Graded slopes will be revegetated with plant materials identified in the text of the Design Guidelines and Development Standards, as shown on the Landscape Concept Plan and as required by the Mitigation Monitoring and Reporting Program and the permit. Plant species will be selected based on their ability to control surface erosion, provide long term slope stability and their appropriateness for slope stabilization. Regionally native California plant species will be used in all areas adjacent to any undisturbed area in an effort to blend visually the development with the natural environment and open space. Revegetation plans are subject to the requirements of the Landscape Concept Plan, the Design Guidelines and Development Standards, the Land Development Ordinance, the Landscape Technical Manual and the Mitigation Monitoring and Reporting Program.

C. THE PROPOSED DEVELOPMENT RETAINS THE VISUAL QUALITY OF THE SITE, THE AESTHETIC QUALITIES OF THE AREA, AND THE NEIGHBORHOOD CHARACTERISTICS BY UTILIZING PROPER STRUCTURAL SCALE AND CHARACTER, VARIED ARCHITECTURAL TREATMENTS, AND APPROPRIATE PLANT MATERIAL.

The proposed project will simulate the essential character of the natural landform while also allowing for development. The project was reviewed and redesigned to protect the natural landform as shown by the proposed grading on the Vesting Tentative Map.

All slopes will employ contour grading, variable slope ratios and blending of slopes into the undisturbed natural when created adjacent to the undisturbed natural slopes.

D. THE PROPOSED DEVELOPMENT IS IN CONFORMANCE WITH THE OPEN SPACE ELEMENT OF THE GENERAL PLAN, THE OPEN SPACE AND SENSITIVE LAND ELEMENT OF THE COMMUNITY PLAN, ANY

OTHER ADOPTED APPLICABLE PLAN, AND THE ZONE. THE APPLICANT HAS DISCUSSED THE FEASIBILITY OF OPEN SPACE DEDICATIONS OR EASEMENTS WITH APPROPRIATE CITY STAFF.

Approval of the proposed project will confer to the City approximately thirty acres of land currently owned by the applicant. The area of land is of high quality, biologically productive habitat. The area of land is also immediately adjacent to the Los Penasquitos Canyon Preserve. Other open space lots, indicated on the tentative map, will be owned in common by the homeowners association. In both cases, these lands will be protected from future development.

E. THE PROPOSED DEVELOPMENT IS IN CONFORMANCE WITH THE QUALITATIVE DEVELOPMENT GUIDELINES AND CRITERIA AS SET FORTH IN DOCUMENT NO. RR-262129 "HILLSIDE DESIGN AND DEVELOPMENT GUIDELINES".

The project has been designed in conformance with the qualitative development guidelines and criteria set forth in the "Hillside Design and Development Guidelines". The Vesting Tentative Map for this project specifically references the guidelines and specifically reflects the intent of the design guidelines by its proposed grading plan through the use of landform manipulation. Specifically through the Design Guidelines and Development Standards for the development of the entire project and individual projects by directing how structures will be sited, how the architecture will vary in appearance and through the use of predominantly native and naturalized species on the slopes of the project and throughout the individual developments.

III. COASTAL DEVELOPMENT PERMIT 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.

No public accessway currently exists on the property covered by these permits of tentative map. No proposed public accessway is identified across this property in the adopted LCP Land Use Plan since the majority of the proposed development is outside the Coastal Zone. Physical access to the development is being provided by a system of sidewalks within the public right-of-way, and by means of two pedestrian walkways from the public right-of-way of Carmel Mountain Road and "C" Street to the proposed public park.

The proposed development occupies the majority of the Sorrento Hills

Community Plan area immediately east of Interstate 5 and north of Los Penasquitos Canyon Preserve.

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

The proposed development incorporates several design features to prevent impacts to marine resources. Detention basins will capture erosion and silt before it can enter into the local hydrologic pattern. Detention basins will be maintained throughout all grading operations until the project is completed. Periodic cleaning and removing of silt which does accumulate will be required.

Impacts to identified environmentally sensitive areas, or archaeological or paleontological resources will be mitigated as a requirement of the development and shall be directed by the Mitigation Monitoring and Reporting Program. Offsite and on-site mitigation is required for this development.

C. THE PROPOSED DEVELOPMENT WILL COMPLY WITH THE REQUIREMENTS RELATED TO BIOLOGICALLY 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.

The proposed development was exempted from the Resource Protection Ordinance by the City Council in the development agreement between the City of San Diego, American Newland and others, filed in the office of the City Clerk on May 15, 1989.

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

The majority of the proposed project is beyond the limits of the Coastal Zone. The proposed development does not include any zoning for visitor-serving facilities or recreational facilities except for the proposed public park.

Due to the location of the development, coastal scenic resources will not be directly impacted by the proposed development. Conditions of approval included within the draft permit will provide for City staff review of the development of each subsequent development area. Continued monitoring and inspection of each individual project will assure that conditions of approval are adhered to by each subsequent builder.

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 AREA TO PROTECT SUCH RESOURCES.

The project is designed to prevent adverse impacts from occurring to the Los Penasquitos Canyon Preserve. The project is not located adjacent to any other parks or recreation areas.

Location of buildings adjacent to the Los Penasquitos Canyon Preserve will require line of sight analysis to determine that visual intrusion into the Los Penasquitos Canyon Preserve will be minimized.

Hydrologic patterns of the site indicate that drainage from the proposed development will not adversely affect parks and recreational areas. Conditions of approval will require measures to control erosion and siltation of park land down stream from the proposed development.

Open space easements and dedications will be required to record on the final map which will protect the Los Penasquitos Canyon Preserve and to assure an adequate buffer between the proposed development and the Los Penasquitos Canyon Preserve.

F. 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.

The proposed development will simulate the underlying landform of the site. The "Hillside Design and Development Guidelines" have been utilized to generate a project which simulates the overall character of the existing site. The development proposes to grade the site in conformance with the Vesting Tentative Map and the conditions of approval to achieve a development which preserves the natural assets of the location.

Geologic studies will be required as a condition of approval to determine any potential geologic hazards. The report will be prepared in conformance with the most recent edition of the City of San Diego "Technical Guidelines for Geotechnical Reports". The slopes will be constructed in accordance with the provisions of San Diego Municipal Code Section 62.0415 et seq. Slopes will be planted in accordance with the conditions of approval, the Landscape Technical Manual and the San Diego Municipal Code Section 62.0415.

The potential of wildfires will be reduced by the implementation of the Brush

Management Plan submitted for this development. Fire hydrants will be required by the conditions of approval, the locations of fire hydrants will be approved by the Fire Department.

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 development will be visually compatible with the character of the communities of Carmel Valley, Mira Mesa, University and Torrey Pines. The development will visually blend the site and appear as a hillside neighborhood where development has been fitted to the terrain by simulating the visual quality of the area.

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 and its various components provide a balance to the community plan area by providing a mix of land uses. The proposed development is consistent with the requirements of the proposed community plan and the Progress Guide and General Plan in effect for this area.

IV. BRUSH MANAGEMENT FINDINGS:

A. THE PROPOSED BRUSH MANAGEMENT PROGRAM, TO THE EXTENT FEASIBLE, WILL NOT ADVERSELY AFFECT FLOODPLAINS, BIOLOGICALLY SENSITIVE LANDS, HILLSIDES, SIGNIFICANT PREHISTORIC SITES AND RESOURCES, AND WETLANDS AS DEFINED IN THE RESOURCE PROTECTION ORDINANCE, SAN DIEGO MUNICIPAL CODE SECTION 101.0462.

The development proposed indicates that brush management plan will not occur within sensitive biological areas. The brush management plan will be implemented in a manner consistent with the Landscape Technical Manual.

Selective thinning and pruning of native plants will only be done when necessary to reduce the risks associated with fires. The proposed brush management plan will not adversely affect floodplains, biologically sensitive lands, hillsides, significant prehistoric sites and resources and wetlands.

B. THE PROPOSED BRUSH MANAGEMENT PROGRAM, TO THE EXTENT FEASIBLE, WILL MINIMIZE THE ALTERATIONS OF VEGETATION AND WILL NOT RESULT IN UNDUE RISKS FROM

EROSIONAL FORCES.

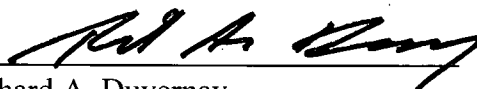
The brush management plan for this project will occur in areas revegetated for erosion control only at the time a fire risk has established. The program for this project conforms with the standards for brush management as outlined in the Landscape Technical Manual Section Six. The proposed program will not clear vegetation in open space areas and will only require thinning and pruning of vegetation in areas not owned by the City. The existing root systems of plants thinned and pruned will be retained and the soil surface will not be disturbed, therefore; minimizing alteration to existing vegetation.

Undue risks from erosional forces will not occur as a result of the brush management program. Existing vegetation will retain its root system after the thinning and pruning thereby protecting the soil surface and preventing erosion from occurring as a result of implementing the brush management program.

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, Planned Industrial Development, Planned Residential Development, Hillside Review and Coastal Development Permit No. 95-0554, is hereby granted to Owner/Permittee in the in the form and with the terms and conditions set forth in Planned Industrial Development, Planned Residential Development, Hillside Review and Coastal Development Permit No. 95-0554, 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:cdk
04/14/97
Or.Dept:Clerk
Case #95-0554
R-97-1051
Reviewed by John Fisher

RECORDING REQUESTED BY
CITY OF SAN DIEGO
DEVELOPMENT SERVICES

AND WHEN RECORDED MAIL TO
PERMIT INTAKE
MAIL STATION 501

SPACE ABOVE THIS LINE FOR RECORDER'S USE

PLANNED INDUSTRIAL DEVELOPMENT, PLANNED RESIDENTIAL DEVELOPMENT,
HILLSIDE REVIEW, COASTAL DEVELOPMENT PERMIT
CITY COUNCIL
TORREY HILLS 95-0554

This Permit is granted by the City Council of The City of San Diego to AG Land Associates, LLC, A California Limited Liability Company, Owner/Permittee, pursuant to Sections 101.0920, 101.0901, 101.0454 and 105.0200 of the Municipal Code of the City of San Diego.

Permission is hereby granted by the City Council of The City of San Diego to the referenced Owner/Permittee to develop 485.5 acres with a maximum 770 multi-family dwelling units; a maximum 996 single-family dwelling units; a maximum 570,000 square feet of industrial/office/commercial/scientific research development; and a 14-acre public park located in the Sorrento Hills Community Plan area, legally described as Torrey Reserve Heights Unit 1, Map No. 13358 excepting therefrom Lot "G" of said map, all of Parcel Map No. 17371, and all of Sorrento Hills Corporate Center Phase II, Unit No. 1, Map No. 12606, and all of Sorrento Hills Corporate Center Phase II, Unit No. 6, Map No. 12611, and all of Sorrento Hills Corporate Center Phase II, Unit 7, Map No. 12609, and Sorrento Hills Corporate Center Phase II, Unit 2, Map No. 12610 excepting therefrom Lot "B" of said map, and Sorrento Hills Corporate Center Phase II, Unit 3, Map No. 12607 excepting therefrom Lots 78, 79 and 80 of said map, and portions of Sections 29, 30, 31 and 32 of Township 14 South, Range 3 West, San Bernardino Meridian, in the City of San Diego, County of San Diego, State of California, in the existing M-1A, M-IP, R-1500, R-3000, R1-5000, OS-P, OS-OSP, A-1-10 Zones, Hillside Review Overlay Zone and Coastal Development Overlay Zone.

1. This permit shall consist of the following facilities and site improvements as identified by size, dimension, quantity and location on the approved Exhibits "A", dated March 17, 1997, on file in the Office of Development Services:

- a. Seven hundred seventy multi-family dwelling units, 996 single-family dwelling units and 570,000 square feet of industrial/office/commercial/scientific research development;
- b. Landscaping and Brush Management;
- c. Off-street parking facilities;
- d. Each multi-family development shall provide private recreation facilities which shall include a minimum: 800-square-foot water surface swimming pool, spa, restrooms with showers, concrete or decorative surface patio and lounging area, drinking fountains, trash receptacles, and barbecue grills. The size of each private recreation facility shall be based on 22 square feet per residential dwelling unit being served with a minimum recreation facility to be 2,500 square feet in size. A recreation facility shall be provided for every 200 dwelling units or portion thereof located within the development.

Each multi-family development can provide additional recreational facilities in the form of open play areas, picnic areas, tot-lots, or view points as are deemed necessary by the developer to serve the needs and different ages of the residents of the development.

- e. Incidental accessory uses as may be determined incidental and approved by the City Manager.

2. This permit shall become effective thirty days after final approval by the Coastal Commission of the State of California.

3. Development on this site is governed by the Exhibit "A", dated March 17, 1997, the approved Design Guidelines and Development Standards and this permit. It is the intention of these Design Guidelines and Development Standards to provide flexibility in the site plan within the constraints of grading and the Vesting Tentative Map (VTM), and flexibility of the architecture to respond to changing market conditions. The Design Guidelines and Development Standards define the limits of the project flexibility. Use of the word "shall" throughout the text indicates those elements of the project design which are not flexible.

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4. Prior to the issuance of any building permits, a Final Map and/or Parcel Map consistent with Vesting Tentative Map 95-0554 shall be recorded on the subject property. Rezoning of the subject property shall become effective with the recordation of the Final Map and/or Parcel Map. This permit shall become void if the Final Map and/or Parcel Map is not recorded.

5. This Planned Industrial Development/Planned Residential Development/Hillside Review/Coastal Development Permit shall comply with the conditions of the Final Map and/or Parcel Map for Vesting Tentative Map 95-0554.

6. No permit for the grading, construction, occupancy or operation of any facility described herein on this site shall be granted nor shall any activity authorized by this permit be conducted on the premises until:

- a. The Owner/Permittee signs and returns the permit to Development Services; and
- b. The permit is recorded in the Office of the San Diego County Recorder.

7. This project shall provide the required public facilities in a manner satisfactory to the City Engineer and the City Manager.

8. Prior to the issuance of a grading or pre-grading permit for any portion of the project site, proof of an incidental take permit under Section 4 (Interim Habitat Loss Permit), 7 or Section 10(a) of the Federal Endangered Species Act relative to the California gnatcatcher shall be provided to the City Manager. If such permit is not required, written verification to that effect from the U.S. Fish and Wildlife Service shall be provided. If the project is deemed inconsistent with the NCCP Conservation Guidelines, project revisions or additional/enhanced mitigation may be required. Any project redesign required to obtain agency concurrence in obtaining a Section 7 or 10a Permit will require reconsideration by the appropriate City decision making body.

A habitat take authorization issued pursuant to The Multiple Species Conservation Program (MSCP) shall suffice to meet the condition, if the MSCP is adopted and implemented prior to the issuance of a grading permit for any portion of the subject site.

Approval of this permit does not guarantee future issuance of a grading permit since the habitat loss is limited to the cumulative five percent loss of coastal sage scrub and gnatcatcher occupied habitat calculated at the grading permit stage.

9. The Sorrento Hills Community Plan and Torrey Hills Design Guidelines and Development Standards require buildings to be setback a minimum of 100 feet from the edge of the existing SDG&E Substation property line.

10. Prior to an application for any building permit being filed with Development Services, a determination of substantial conformance shall be required for all development covered by this permit. An accurate and detailed site plan shall be submitted to Development Services to determine that all proposed site planning meets or exceeds the requirements of this permit, and by reference, the Design Guidelines and Development Standards incorporated into this permit. Fees shall be charged at the time of submittal as allowed by the approved fee schedule for substantial conformance reviews in effect at the time of application. Site plans not approved through substantial conformance will require an amendment to this permit, possible additional environmental review and a noticed public hearing.

11. Prior to issuance of any grading permit, complete grading and landscape documents, (including plans, details and specifications), including a permanent irrigation system, shall be submitted to Development Services for approval.

12. Prior to issuance of any grading permit, complete landscape drawings, including an irrigation system, shall be submitted which indicate the planting of shrubs and living ground covers, but not trees on all slopes adjacent to the Los Peñasquitos Canyon Preserve and/or slopes adjacent to undisturbed open space. All slopes adjacent to any undisturbed open space shall utilize only regionally native California plant species in accordance with the Landscape Technical Manual Section 7.2-2, Natural Slope Revegetation. This condition is required by this permit and the Mitigation Monitoring and Reporting Program.

13. Prior to the issuance of any grading permit, drawings shall be submitted to Development Services indicating all areas which will be disturbed for the construction of storm drains or other necessary improvements which occur in project open space, or across a negative open space easement. These areas shall be revegetated with regionally native California plant species. This condition is required by this permit and the Mitigation Monitoring and Reporting Program.

14. Prior to the issuance of any grading permit, drawings shall be submitted which graphically represent all proposed grading by means of topographic contour lines, spot elevations and other graphic symbols necessary to communicate the design as required by this permit, the grading as shown on the VTM 95-0554 and the Hillside Review Design Guidelines to the satisfaction of the City Engineer.

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15. Prior to the issuance of any grading permit for grading on property outside the boundary of VTM 95-0554, a letter of permission shall be received by the City Engineer from the legal owner of the affected property.

16. All storm drain piping and temporary desiltation basins which discharge drainage into any area of undisturbed open space shall utilize velocity reducing ring pipe and rip rap energy dissipators in the design and construction of the drainage system to the satisfaction of the City Engineer.

17. All graded areas, slopes and future construction building pads, shall be hydroseeded to prevent and control erosion within ninety (90) days of the completion of grading activity for each area to the satisfaction of the City Engineer. All slopes and building pads shall be reviewed annually to assure the prevention of erosion until the entire project is completed. Remedial hydroseeding shall be required at the direction of the City Engineer.

18. Prior to construction of any access or emergency access roads, plans shall be reviewed and approved by the City Engineer, Fire Chief and City Manager.

19. Prior to the issuance of any grading permit for Units 8 and 9 of VTM 95-0554, a contribution to the Los Peñasquitos Watershed Restoration and Enhancement Fee shall be required for the restoration of the Los Peñasquitos Lagoon and watershed for grading of this site within the Coastal Zone. The fee shall be collected for each VTM Unit as follows: Unit 8 fee shall equal \$17.42, Unit 9 fee shall equal \$511.83. The Owner/Permittee shall deposit the required fees in an escrow account established by The City of San Diego and the State Coastal Conservancy.

20. The Owner/Permittee shall comply with all requirements of the Uniform Building Code (UBC) and secure all necessary building permits prior to construction.

21. Prior to the application of any building permit for any multi-family development, an approved fire access plan including fire hydrant locations shall be submitted to the Fire Department, New Construction Plan Check Section for review and approval.

22. Prior to the issuance of any building permit for Units 8 and 9 of VTM 95-0554, a contribution to the Los Peñasquitos Watershed Restoration and Enhancement Fee shall be required for the restoration of the Los Peñasquitos Lagoon and watershed for all areas of the named units within the Coastal Zone. The fee shall be calculated at the rate of \$0.03 per square foot for any impervious surfaces created by the finished development by the

Owner/Permittee and submitted for review and verification for all development within each VTM Unit to the satisfaction of the City Manager. The Owner/Permittee of each VTM Unit shall deposit the required fee in an escrow account established by The City of San Diego and the State Coastal Conservancy.

23. The current and future Owners/Permittees of property described by the VTM 95-0554 as Unit 8 Lots 56 and 57, Unit 9 Lots 11 through 18 shall agree to participate in any benefit assessment district or other financing mechanism created to fund the permanent maintenance and conservation of the stream channels and related habitats located within both the City of San Diego and the Los Peñasquitos Lagoon watershed, provided such assessment district includes the majority of property owners located within the Los Peñasquitos Lagoon watershed.

24. Prior to the issuance of any building permit for any multi-family development, architectural drawings, site plans, other supporting documentation shall be submitted for review and approval by Development Services indicating that all Municipal Code requirements for total required open space and required open space will be met or exceeded as specified in M.C. 101.0901.

25. Prior to the issuance of any building permits for any building, complete outdoor lighting information shall be submitted to the Development Services Department, Land Development Review Division for review and approval. The developer of Units or phases for single family development within this project may submit a letter indicating all exterior lighting on private property shall be limited to porch lights, then this condition shall be waived for that Unit or phase, otherwise the following shall be required. Complete lighting information shall include a plan view photometric analysis indicating an isofoot candle plot and/or a point by point plot to include all areas within the private property and to extend a minimum of fifty (50) feet beyond the property line, construction details as necessary to direct installation of the outdoor lighting system, manufacturers name, fixture model name and number; including all necessary shields, visors, prisms, lenses and reflectors and a lighting plan locating each fixture in plan view and a legend. The outdoor lighting system shall be designed, manufactured and installed to allow shading, adjusting, and shielding of the light source so all outdoor lighting is directed to fall only onto the same premises as light sources are located.

Prior to the issuance of any occupancy permit, a night inspection shall be required to verify compliance of the outdoor lighting system. No light shall be directed to fall outside the property line. Light levels along the perimeter of the property shall be measured no higher than two footcandles. Light levels throughout the development shall be the least practical level

necessary. Sky glow or light halo shall be reduced to the greatest extent practical and in no case shall initial light levels be measured exceeding seventeen footcandles anywhere within any site. The Owner/Permittee shall include these performance measures within the CC&R's of any Homeowner's Association to effectively control lighting within the residential portions of this permit to the standards listed herein. The Owner/Permittee, or an authorized representative, shall provide an illuminance meter to measure light levels as required to establish conformance with the conditions of this permit during the night inspection. Night inspections may require additional fees as determined by the Development Services Manager.

26. Prior to issuance of any building permits, complete building plans and landscape documents for the subject phase or Unit (including plans, elevations, details and specifications), including a permanent irrigation system, shall be submitted to the Development Services for approval. The plans shall be in substantial conformity to the approved Exhibits "A," dated March 17, 1997, on file in the Office of Development Services. Approved planting for a particular phase or Unit shall be installed before issuance of any occupancy permit on any building for the subject phase or Unit. 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. Modifications to trees such as severe pruning or "topping" is not permitted. This condition is required by this permit and the Mitigation Monitoring and Reporting Program.

27. Within the Planned Industrial Development, transfers of building square footage may be allowed only after a substantial conformance review application has been submitted and approved by Development Services. Requests for transfers of square footage outside the specific lot may require review and a determination by Transportation Planning Division of Land Development Review Division whether a supplemental traffic study and transportation phasing plan is required. If a supplemental traffic study and transportation phasing plan is required it shall be to the satisfaction of the City Engineer and Development Services. Transfers from one lot to another lot shall be allowed provided the maximum floor area ratio of the zone is not exceeded and the maximum average daily trip for the Transportation Analysis Zone is also not exceeded. The developer shall maintain a transfer tracking chart of all permitted buildings in each development area. The transfer tracking chart shall be revised, updated and submitted by the developer to Development Services with each request for a square footage transfer.

28. Prior to the issuance of any building permits for any multi-family development, construction drawings shall be submitted to Development Services for review which meet the requirements of the Municipal Code for City-wide storage standards for trash and recyclables. Permanent, adequate and convenient space for the storage and collection of trash and recyclable material shall be indicated on the proposed plans and drawings in compliance with Division 20 of the Zoning Regulations of the Municipal Code. Storage areas shall be permanently maintained and not converted for any other use, unless otherwise approved by the City Manager.

29. Prior to issuance of any building permits, parking spaces shall be shown on the site plan which meets the requirements of the Municipal Code as to number of spaces required by the underlying zone. Parking spaces shall comply with Division 8 of the Zoning Regulations of the Municipal Code and shall be permanently maintained and not converted for any other use, unless otherwise approved by the City Manager. Landscaping located in any parking area shall be permanently maintained and not converted for any other use.

30. Prior to the issuance of any building permits, the Owner/Permittee shall provide temporary street signs to the satisfaction of the Fire Department.

31. Prior to the issuance of any building permit for any R1 zoned property, drawings shall be submitted indicating all private driveways shall be of sufficient depth and width to provide for two standard parking spaces (17'x20') without encroaching into the sidewalk area. Garage setbacks may be reduced to eighteen feet if roll-up garage doors are provided.

32. Compact parking spaces and one-way surface parking isles on the subject property shall be clearly identified at all times. No charge shall be made at any time for use of these off-street parking spaces.

33. Prior to the issuance of any building permit for a particular phase or Unit, drawings shall be submitted indicating the location of all existing and proposed fire hydrants on the site plan to the satisfaction of the Fire Chief in conformance with Uniform Fire Code Section 10.301.

34. Prior to the issuance of any building permit for a particular phase or Unit, drawings shall be submitted indicating access to the site is provided in conformance with Fire Department Policy A-89-1 (Uniform Fire Code 10.207).

35. Access to private property from public streets shall be by standard City driveways, except where allowed for pan-handle lots. Curb return will be permitted when the driveway is signalized or at the entrance of an approved named private street.

36. Prior to issuance of an occupancy permit for any structure, inspection by Development Services shall confirm that all building address numbers are visible and legible from street or road fronting property or a directory in conformance with Uniform Fire Code Section 10.208.

37. Prior to the issuance of any Certificate of Occupancy for any building, it shall be the responsibility of the Owner/Permittee to perform the following:

- a. Obtain a NO FEE STREET TREE PERMIT for all street trees in the public right-of-way from the Transportation Department, Streets Division, Street Tree Section.
- b. Install all approved landscape for a particular phase or Unit and obtain all required landscape inspections.
- c. If transfer of this property is to occur, prior to any transfer of ownership, the Owner/Permittee must notify and obtain signatures on a no fee street tree permit from any subsequent property owner. Copies of these approved documents must be submitted to the City Manager.

38. If any existing or installed landscape indicated on the approved plans is damaged or removed during demolition, construction or at any time after issuance of any permit or Certificate of Occupancy, it shall be repaired and/or replaced in kind and equivalent size per the approved plans within 30 days by the Owner/Permittee. Three years from the date of occupancy, the replacement size for all damaged, dead or removed plant material shall be an equivalent size of the specific plant at the time of damage, death or removal to the satisfaction of the City Manager. Prior to three years from the date of occupancy, the replacement size shall be the same size as the original installation as indicated on the building permit set of drawings.

39. Prior to the issuance of any occupancy permit for any structure on any lot which requires brush management, the development shall comply with the City of San Diego Landscape Technical Manual regarding brush management. Alternative Compliance is granted to VTM 95-0554 Unit 9 Lots 10-13 as described by the Exhibit "A", dated March 17, 1997 Brush Management Plan.

40. No mechanical equipment shall be erected, constructed, or enlarged on the roof of any building on this site, unless all such equipment is contained within a completely enclosed structure as directed by the Design Guidelines and Development Standards of this project. No merchandise, material or equipment shall be stored on the roof of any building.

41. All signage associated with this development shall be approved by Development Services and shall be consistent with sign criteria established by City-Wide Sign Regulations as determined by the Sign Code Administrator of Development Services. All signs shall require an approved Sign Permit prior to construction and installation.

42. This permit may be developed in phases. Each phase shall be constructed prior to the sale or lease to homeowners or tenants to ensure that all development is consistent with conditions and exhibits submitted to and approved by the City Manager. This condition does not apply to the sale of lots or parcels by the Owner/Permittee to builders or developers prior to the issuance of building permits for a particular parcel.

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

44. The subject property and associated common areas on site shall be maintained in a neat and orderly fashion at all times.

45. The property included by reference 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 City Manager or the permit has been revoked by The City of San Diego.

46. This permit may be canceled 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 Owner/Permittee. Ninety days prior to the cancellation by the City, notice of the alleged material breach or default and pending cancellation or revocation shall be provided to the Owner/Permittee to allow for the correction of such material breach or default.

47. This permit is a covenant running with the subject property and shall be binding upon the Owner/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.

48. After establishment of the project, the property shall not be used for any other purposes unless an amendment to this permit is approved or as allowed through a determination of substantial conformance consistent with the rules, regulations and procedures as outlined in the Municipal Code or:

- a. The proposed use meets every requirement of the zone existing for the property at the time of conversion; and
- b. The permit has been revoked by the City.

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

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

51. This permit must be utilized within 36 months after the effective date of approval by the City, following all appeals. Failure to utilize the permit within 36 months will automatically void the permit unless an extension of time has been granted by the City Manager. Any such extension of time must meet all the Municipal Code requirements and applicable guidelines in effect at the time the extension is considered by Development Services.

52. The following are required environmental mitigation measures for the Torrey Hills project and shall be implemented by the subdivider to comply with the Mitigation Monitoring and Reporting Program (MMRP) as specified in the Subsequent Environmental Impact Report (SEIR) DEP No. 95-0554, satisfactory to the Development Services Manager, the City Engineer and Environmental Analysis Section (EAS). In addition to the measures listed below, conditions numbered 13, 14 and 27 are required by this permit as well as the MMRP.

ENVIRONMENTAL MITIGATION MONITORING AND REPORTING PROGRAM REQUIREMENTS:

- a. Prior to the issuance of any building permit, a civil engineer shall submit in writing to the City Engineer, certification that the project has complied with the notes on the grading plan addressing erosion/urban runoff controls.
- b. Prior to the issuance of any building permit for VTM 95-0554 Unit 2 Lots 9-12, 29-33 and 54-61 and Unit 18A and Unit 18B, a noise analysis shall be prepared by a qualified acoustician and submitted to the Acoustical

Plan Review Section of Development Services which verifies that final site grading achieves a sufficient obstruction to Interstate 5 traffic noise to meet City of San Diego exterior noise standards of 65 dB CNEL. If noise analysis indicates noise levels greater than 65 dB CNEL, appropriate mitigation features shall be required as part of the proposed design to obtain the exterior standard of 65dB CNEL, satisfactory to the Acoustical Plan Review Section of Development Services.

- c. Prior to the issuance of any building permit for VTM 95-0554 Unit 18A and Unit 18B, an acoustical report for each phase of development shall be prepared by a qualified acoustician and submitted with building plans to the Acoustical Plan Review Section of Development Services which verifies an interior standard of 45 dB CNEL for multi-family dwellings shall be achieved by the proposed design when constructed.
- d. Prior to the issuance of any building permit for VTM 95-0554 Unit 17 and 19, an acoustical report shall be prepared for each phase of development by a qualified acoustician and submitted with building plans to the Acoustical Plan Review Section of Development Services which verifies the proposed design of any building within 800 feet of the centerline of Interstate 5 shall conform to the interior maximum noise levels of 50 dB CNEL for office uses and 55 dB CNEL for industrial uses when constructed.
- e. Prior to the issuance of any building permit for VTM 95-0554 Unit 17 and 19, site plans shall be submitted for each phase of development to the Acoustical Plan Review Section of Development Services which verifies the design of all exterior uses within 800 feet of the centerline of Interstate 5, such as lunch areas, outdoor restaurant seating or employee recreation space, shall not be constructed with a direct visual line of sight to Interstate 5 traffic, unless adequate noise attenuation is provided within the proposed design to achieve an exterior CNEL of 75 dB, satisfactory to the Acoustical Plan Review Section of Development Services.
- f. Prior to issuance of building permits for any residential dwelling units located along Carmel Mountain Road (as shown on Figure 6-1, Noise Wall Locations included at the end of this permit) and identified on the VTM Unit 1 Lots 2-14, 90-102, Unit 14 Lots 1-10, 50-65, Unit 15 Lots 48-55, 74 and 75, plans shall be submitted which identify a six-foot high

masonry wall (or equivalent) as "noise mitigation walls" will be constructed along the top of slope between the aforementioned lots and the north side of Carmel Mountain Road to achieve an exterior CNEL of 65 dB on the lots identified herein.

- g. Prior to the issuance of building permits, a paleontological monitoring results report shall be submitted to Development Services for review and approval.
- h. Prior to the issuance of building permits, industrial uses within VTM Unit 17 and 19 shall comply with requirements of the San Diego County, Department of Environmental Health, Hazardous Material Management Division and City of San Diego Fire Department. Preparation of Risk Management Prevention Plans may be required, reviewed and approved at the determination of the aforementioned agencies.
- i. Prior to the issuance of any building permit for any residential dwelling unit, the Owner/Permittee shall participate in mitigation through either the payment of school fees and/or participation in a Mello-Roos Community Facilities District (Mello-Roos). Prior to the issuance of any residential building permit, these fees and/or participation in a Mello-Roos shall be established through an agreement with the Del Mar Union School District/San Dieguito Union High School District (the Districts). Funding of new facilities for the Districts shall provide for the inclusion of portable classrooms to insure adequate school facilities are available to serve the residents of the project area.
- j. Prior to the issuance of building permits for any lot adjacent to the Los Peñasquitos Canyon Preserve, Development Services shall review and approve a line of sight analysis to ensure that views from the Los Peñasquitos Canyon Preserve are minimized per the Design Guidelines and Development Standards.

53. Prior to the issuance of a building permit for lots identified on the VTM 95-0554 as Unit 8 Lots 45-47, 49-57, 68-70 and 72-80, Unit 9 Lots 13-28, Unit 10 Lots 11, 12 and 29, Unit 11 Lots 83-97, 100-105 and Unit 12 Lots 3 and 4 buildings shall be sited so that the only portions which will be visible from the centerline of Los Peñasquitos Canyon Creek west of the Ruiz Alvarado Adobe would be from the eave of the building to the ridgeline of the roof. Prior to the issuance of a building permit on these lots a line-of-sight analysis from the centerline of Los Peñasquitos Canyon Creek west of the Ruiz Alvarado Adobe

shall be required to confirm the requirements of this condition shall be met by the proposed construction.

54. Prior to and subsequent to the completion of this project, no changes, modifications or alterations shall be made to the approved Exhibits unless appropriate applications for substantial conformity review or amendment of this permit shall have been granted by the appropriate decisionmaker.

55. The landscaping shown on the attached Exhibit C shall be incorporated into the PRD Landscape Concept Plan.

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 be allowed the special and extraordinary rights conveyed by this permit, but only if the Owner complies with all the conditions of this permit.

In the event that any condition of this permit, on a legal challenge by the Owner/Permittee of this permit, is found or held by a court of competent jurisdiction to be invalid, unenforceable or unreasonable, this permit shall be void. However, in such event, the Owner/Permittee shall have the right, by paying applicable processing fees, to bring a request for a new permit without the "invalid" condition back to the discretionary body which approved the permit for a determination by that body as to whether all the findings necessary for the issuance of the permit can still be made in the absence of the "invalid" condition(s). Such hearing shall be a hearing de novo and the discretionary body shall have the absolute right to approve, disapprove or modify the proposed permit and the condition(s) contained therein.

The issuance of this permit by the City of San Diego does not authorize the applicant 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.).

This development may be subject to impact fees, as established by the City Council.

APPROVED by the City Council of The City of San Diego on March 17, 1997, by Resolution No. R-288439.

AUTHENTICATED BY THE CITY MANAGER

By _____

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

AG LAND ASSOCIATES, LLC,
a California Limited Liability
Company,
Permittee

By _____

NOTE: Notary acknowledgments
must be attached per Civil
Code Secion 1180, et seq.
04/14/97