

(R-98-95)

RESOLUTION NUMBER R-289184

ADOPTED ON SEPTEMBER 16, 1997

WHEREAS, Larry Moore, Owner/Permittee, filed an application for a Carmel Valley Development Permit/Resource Protection Ordinance Permit (CVDP/RPO) for the Dunham Summit project to subdivide a 2.5 acre lot into four parcels, to grade building pads, and to construct three single-family dwellings on a site located at 4625 Dunham Way, as more particularly described as the westerly half of the westerly 880 feet of the southerly 247.50 feet of the Southeast Quarter of the Northwest Quarter of Section 17, Township 14 South, Range 3 West, SBBM, in the Carmel Valley Community Plan area, in the proposed SF-3 zone; and

WHEREAS, on July 24, 1997, the Planning Commission of The City of San Diego considered CVDP/RPO Permit No. 96-0312 pursuant to San Diego Municipal Code sections 101.0462 and 103.0601 et seq. and voted to recommend City Council approval of the permit; and

WHEREAS, the matter was set for public hearing on September 16, 1997, testimony having been heard, evidence having been submitted, and the City Council having fully considered the matter and being fully advised concerning the same; NOW, THEREFORE,

BE IT RESOLVED, by the Council of The City of San Diego, that this Council adopts the following findings with respect to Carmel Valley Development Permit/Resource Protection Ordinance Permit No. 96-0312:

RESOURCE PROTECTION ORDINANCE FINDINGS:

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

The project is located in an area designated for residential development in the adopted community plan. The type of development proposed is consistent with that designation and with existing development in the area.

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

The project would be consistent with the residential and open space pattern established in the surrounding Neighborhood 4-A and 7 precise planning areas and with the Resource Protection Ordinance requirements by providing off-site habitat to mitigate for sensitive habitat encroachment.

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

The proposed subdivision by its design, construction and through conditions of approval, including environmental mitigation, would avoid or reduce to a level of insignificance, adverse impacts to environmentally sensitive lands. These conditions include preservation of steep slopes and a negative open space easement that will be placed on the slope areas along the southerly portion of the project to prevent any future encroachment.

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

There are no parks or public open-space areas adjacent to, or in the vicinity of, the project site.

E. 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.

By avoiding development of the 25% slope area, the project minimizes impacts to sensitive natural landforms. Slope areas that will be created through project grading will have erosion control landscaping and will have transition contouring to soften slope edges. The brush management program will reduce risk from fire.

F. FEASIBLE MEASURES, AS DEFINED IN THIS SECTION, 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 site does not contain any known prehistoric or historic sites or resources.

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 proposed Brush Management Program, by using the zone reduction (section 6.6), as shown on Exhibit "A," will modify the existing vegetation 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 the Brush Management Zone One will be selected to visually blend with the existing hillside vegetation and no invasive species shall be used.

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.

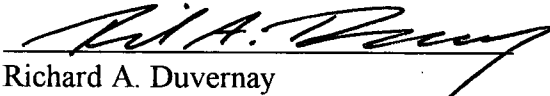
The proposed Brush Management Program will alter the existing vegetation for purposes of fire protection by providing an effective fire break which incorporates zone reduction (section 6.6), as shown on Exhibit "A." The alterations to existing vegetation will be minimized and all the new plantings on the slopes will conform to the revegetation standards of the Landscape Technical Manual, Section Seven, and incorporate low precipitation irrigation systems to minimize runoff.

BE IT FURTHER RESOLVED, that the recommendation of the Planning Commission is sustained, and Carmel Valley Development Permit/Resource Protection Ordinance Permit

No. 96-0312 is granted to Larry Moore, Owner/Permittee, under the terms and conditions set forth in the permit attached hereto and made a part hereof.

APPROVED: CASEY GWINN, City Attorney

By


Richard A. Duvernay
Deputy City Attorney

RAD:lc

11/26/97

Or.Dept:Clerk

R-98-95

Form=permitr.frm

Reviewed by Mary Roush

RECORDING REQUESTED BY
CITY OF SAN DIEGO
DEVELOPMENT SERVICES

AND WHEN RECORDED, MAIL TO
PERMIT INTAKE
MAIL STATION 501

CARMEL VALLEY DEVELOPMENT PERMIT/
RESOURCE PROTECTION ORDINANCE PERMIT NO. 96-0312
DUNHAM SUMMIT
CITY COUNCIL

This permit is granted by the Council of The City of San Diego to LARRY MOORE, Owner/Permittee, pursuant to Sections 101.0462 and 103.0601 of the Municipal Code of the City of San Diego.

Permission is hereby granted by the City Council to the referenced Owner/Permittee to subdivide one lot into four parcels, to grade building pads and to construct single-family dwellings. The 2.5 acre site is located at 4625 Dunham Way (the Westerly Half of the westerly 880 feet of the southerly 247.50 feet of the Southeast Quarter of the Northwest Quarter of Section 17, Township 14 South, Range 3 West, SBBM), in the Carmel Valley Community Plan area in the proposed SF3 Zone

1. This permit shall consist of the following facilities and/or site improvements as identified by size, dimension, quantity and location on the approved Exhibit "A," dated September 16, 1997, on file in the office of Development Services:
 - a. Grade the site for development of TM 96-0312, including building pads,
 - b. Construct three single-family dwellings,
 - c. Off-street parking,
 - d. Landscaping and brush management, and
 - e. Accessory uses as may be determined incidental and approved by the City Manager.
2. The permit is effective as of September 16, 1997.
3. No permit for the construction, occupancy or operation of any facility described in this permit shall be granted nor shall any activity authorized by this permit be conducted on the premises until:
 - a. The Permittee signs and returns the permit to Development Services; and

- b. The permit is recorded by Development Services in the office of the San Diego County Recorder.
4. This permit must be used within 36 months after the effective date. Failure to utilize the permit within 36 months will automatically void the permit unless an extension of time has been granted as set forth in Section 111.1122 of the Municipal Code.
5. Prior to filing the Parcel Map, the applicant will grant a negative open space easement, to be owned and maintained by the property owner. The easement shall be the undisturbed slope area along the southerly portion of the four parcels as indicated on the Tentative Map (approximately 0.69 acres).
6. This permit shall comply with the conditions of the Parcel Map for Tentative Parcel Map No. 96-0312.
7. Prior to the issuance of any building permits, the applicant shall provide access in conformance with Fire Department policy A-89-1 (UFC 10.297).
8. Prior to filing the Parcel Map, a detailed grading plan that demonstrates that the proposed manufactured slopes conform to the contour/grading map attached to the MMRP shall be submitted to and approved by the City Engineer.
9. Prior to the issuance of the project grading permit, the following note shall be included on the grading plans: Clearing and grubbing of the site may not occur during the period March 15 to July 15. If there is a need to clear and grub during this period, the applicant and Development Services shall contact the U.S. Fish and Wildlife Service to reevaluate the site's current avian breeding condition. The Service would determine if clearing and grubbing may proceed.
10. Prior to filing the Parcel Map and in accordance with the Mitigation, Monitoring and Reporting Program, the applicant shall acquire and preserve an off-site parcel of native vegetated land of at least 0.72 acre or contribute \$21,780 to the San Diego Habitat Acquisition Fund.
11. Prior to issuance of any grading permits, the applicant shall submit evidence, in the form of a letter to Development Services, that a qualified paleontologist has been retained. Any fossils discovered will be handled in compliance with the City of San Diego Paleontological Guidelines.
 - a. The qualified paleontologist shall attend any preconstruction meetings to make comments and/or suggestions concerning the monitoring program and discuss grading plans with the construction contractors. The requirement for paleontological construction monitoring shall be noted on the site plan.
 - b. The qualified paleontologist shall be present on site during ground disturbance operations. For high potential Friars Formation soils the monitoring shall be full time and for moderate

potential Santiago Peak Formation soils, it shall be half-time to ensure that project development avoids or recovers potentially significant deposits. Monitoring time may be increased or decreased at the discretion of the paleontologist in charge in consultation with Development Services and will depend on the rate of excavation, materials excavated and the abundance of fossils.

- c. In the event that fossil remains are discovered, the paleontologist shall have the authority to divert or temporarily halt ground disturbance operations in the area of discovery to allow the evaluation and recovery of exposed fossils. The paleontologist shall contact Development Services at the time of discovery. Development Services must concur with the salvaging procedures to be performed before ground disturbance operations will be allowed to resume.
 - d. All paleontological materials collected during monitoring of ground disturbance operations shall be cleaned, sorted, catalogued, and permanently curated with an appropriate institution.
 - e. Within three months following termination of the monitoring period or prior to the Certificate of Occupancy of the first building permit, a monitoring report and/or evaluation report, if appropriate, which describes the results (even if negative), analysis and conclusions of the above program (with appropriate graphics) shall be submitted to Development Services.
12. Prior to issuance of any grading permit, complete landscape construction documents for hydroseeding, erosion control and container stock, including plans, details and specifications (including a permanent automatic irrigation system unless otherwise approved), shall be submitted to the City Manager for approval. The construction documents shall be in substantial conformance with Exhibit "A," dated September 16, 1997, Landscape Concept Plan, on file in the Office of Development Services. No change, modifications or alterations shall be made unless appropriate applications or amendment of this permit shall have been granted.
 13. It shall be the responsibility of the Permittee to install all approved landscape and obtain all required landscape inspections and to obtain a NO FEE STREET TREE PERMIT for all street trees, and Permittee must notify and obtain signatures on a no fee street tree permit from any subsequent property owner, prior to any transfer of ownership of the property. Copies of these approved documents must be submitted to the City Manager.
 14. If any existing hardscape or landscape indicated on the approved plans is damaged or removed during demolition or construction or at any time after recordation of the parcel map, it shall be repaired and/or replaced in kind and equivalent size per the approved plans by the Owner/Permittee within 30 days. The replacement size of plant material after three years shall be the equivalent size of that plant at the time of removal (the largest size commercially available and/or an increased number) to the satisfaction of the City Manager.

15. Landscaping shall be maintained in a disease, weed, and litter-free condition at all times and shall not be modified or altered unless this permit has been amended. Modifications such as severe pruning or "topping" of trees is not permitted unless specifically noted in this permit. The Permittee, or subsequent owner, shall be responsible for maintaining all street trees and related landscape improvements consistent with the standards of the Landscape Technical Manual.
16. Prior to issuance of any building permits, complete building construction documents (including plans and/or detailed specifications) shall be submitted to the City of San Diego for approval. The plans shall be in substantial conformity with the approved Exhibit "A," Design Guidelines, dated September 16, 1997.

No change, modifications or alterations shall be made unless appropriate applications or amendment of this permit shall have been granted.

17. Brush Management Conditions

The Brush Management Program is based on the Fire Department's Fire Hazard Severity Classification of "Moderate." The Permittee shall implement the following conditions in accordance with the Brush Management Program shown on Exhibit "A," dated September 16, 1997, Brush Management Program/Landscape Concept Plan, on file in the office of Development Services:

- a) Prior to the issuance of any grading or building permits, document(s) shall be submitted indicating that the appropriate brush management areas have been recorded on the property in substantial conformance with Exhibit "A," dated September 16, 1997. The construction documents (site plan, brush management plan) shall show Zone One as a Building Restricted 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 be in substantial conformance with Exhibit "A," dated September 16, 1997, and shall comply with the Uniform Fire Code, SDMC section 55.0889.0201, and Section Six of the Landscape Technical Manual (Document Number RR-274506) on file in the office of the City Clerk.

The Brush Management Zone depths shall be as follows:

<u>Lot #</u>	<u>Hazard</u>	<u>Zone One</u>	<u>Zone Two</u>	<u>Zone Three</u>
Lots 1-4	Moderate	55'	0'	0'
	Total	55'	0'	0'

Within 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.

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 deviations 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.

Plant material shall be selected to visually blend with the existing hillside vegetation. No invasive plant material shall be permitted.

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."

- c) Prior to the issuance of any Certificate of Occupancy for any building, the approved Brush Management Program shall be implemented.
 - d) The Brush Management Program shall be maintained at all times in accordance with the City of San Diego's Landscape Technical Manual, Section Six.
18. The property included within this permit shall be used only for the purposes and under the terms and conditions set forth in this permit unless authorized by the City Manager or the permit has been revoked by The City of San Diego.
19. 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 Permittee.
20. This permit is a covenant running with the subject property and shall be binding upon the Permittee and any successor or successors, and the interests of any successor shall be subject to each and every condition set out in this permit and all referenced documents.

21. 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 this permit is obtaining as a result of this permit. It is the intent of the City that the Owner of the property which is the subject of the permit either utilize the property for any use allowed under the zoning and other restrictions which apply to the property or, in the alternative, that the Owner of the property be allowed the special and extraordinary right 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 of the findings necessary for the issuance of the permit can still be made in the absence of the "invalid" condition(s). Such hearing shall have the absolute right to approve, disapprove or modify the proposed permit and the condition(s) contained therein.

22. Construction and operation of the approved use shall comply at all times with the regulations of this or any other governmental agencies.
23. This development may be subject to payment of School Impact Fees at the time of issuance of building permits, as provided by California Government Code section 53080(b) (Statutes of 1986, Chapter 887), in accordance with procedures established by the City Manager Inspection.
24. This development may be subject to impact fees, as established by the City Council.
25. 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.

Passed and adopted by the Council of The City of San Diego on September 16, 1997, by Resolution No. R-289184.

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.

LARRY MOORE
Owner/Permittee

By _____

By _____

**NOTE: Notary acknowledgments
must be attached per Civil Code
section 1180 et seq.**

11/26/97

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