

RESOLUTION NUMBER R-290410

ADOPTED ON JUNE 30, 1998

WHEREAS, Harry G. Cooper Trust, Owner/Permittee, filed an application with The City of San Diego to amend Hillside Review [HR] Permit No. 83-0167 for the purpose of developing 581 multifamily residential units including public and private improvements [the Torrey Reserve Gateway project — Planned Residential Development Permit No. 96-0464] on portions of a 37.9 gross-acre site located east of Interstate 5, north and south of Carmel Mountain Road, and legally described as a portion of Lots 1, 2, and 3, Section 31, Township 14 South, Range 3 West, in the Sorrento Hills Community Plan area, in the A-1-10 (proposed R-1500) Zone; and

WHEREAS, on June 4, 1998, the Planning Commission of The City of San Diego [the Planning Commission] considered PRD No. 96-0464, amending HR Permit No. 83-0167, and voted to recommend City Council approval of the permit; and

WHEREAS, the matter was set for public hearing on June 30, 1998, 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 PRD Permit No. 96-0464, amending HR Permit No. 83-0167:

PLANNED RESIDENTIAL FINDINGS:

A. The proposed use will fulfill a community need and will not adversely affect the City's Progress Guide and General Plan or the adopted community plan.

The proposed residential project requires approval of an amendment to the Sorrento Hills Community Plan and the City of San Diego Progress Guide and General Plan to redesignate the project site from industrial to residential. Approval of the proposed plan amendment would fulfill

the goals of the Housing Element of the Community Plan and the General Plan by providing 581 multi-family residential units (ranging from 1-3 bedrooms). There is currently a shortfall of multi-family residential units in the northern part of the City and especially in the Sorrento Hills community. This use will result in a balance of multi-family and single-family residential product in the Sorrento Hills community, and will provide much needed multi-family residential units for the employees of the nearly 1,100,000 square feet of industrial use and over 640,000 square feet of commercial and retail use anticipated in this community.

The development would include 581 multi-family units, private driveways, common open space areas, and associated infrastructure improvements including drainage, water, and sewer. The development would also provide approximately 12.38 acres of open space area which exceeds the R-1500 requirements.

In addition, the residential density of the proposed project would be in conformance with the proposed low-medium density residential development (15-29 dwelling units per net acre). The project proposed a density of 25 dwellings per net acre.

The proposed amendment request would implement the following goals and objectives of the Progress Guide and General Plan:

1. Where appropriate, the City shall expand housing opportunities by permitting a residential mix with job producing land uses, and shall encourage a greater mix of uses in new development projects. The Sorrento Hills community planning area is a newly developed community that will, with the changes proposed, provide a mix of residential product types together with employment areas.
2. The City shall seek to ensure that all housing is developed in areas with adequate access to employment opportunities, community facilities, and public services. This amendment request will provide housing units in close proximity to industrial and commercial development as well as community parks, a potential school site, potential for future mass transit opportunities, pedestrian trails, and regional open space areas.
3. Evaluate and consider for removal all inappropriately zoned and/or designated industrial lands from the industrial inventory. Industrial land use and market studies conducted for American General's project as well as other projects within the City have concluded that there is an extensive supply of industrial land (45 to 86 years supply) which currently exist within the City of San Diego. Conversely, it is estimated that the land designated for higher density, multi-family residential uses in the City are not expected to last longer than 25 years. Therefore, this amendment will provide multi-family residential product to meet the housing needs of a growing population in the City of San Diego. Residential units would be in close proximity to Planned Industrial Uses in Sorrento Hills and the existing industrial uses in Sorrento Valley, thus contributing to a potential balance of jobs and housing in the Sorrento Hills community planning area. In addition, the proposed land use change from industrial to residential will result in an overall decrease in vehicular traffic.

Finally, since the site is now almost completely surrounded by single-family and multi-family developments, an industrial project may not be compatible with the character of the surrounding development.

Therefore, the proposed use will fulfill a community need and will not adversely affect the General Plan or adopted Community Plan. It has been determined that the project as controlled by the Planned Residential Development Permit meets the purpose and intent of the R-1500 Zone and will be consistent with the Sorrento Hills Community Plan and the Progress Guide and General Plan as amended. (Also see Findings B and C below.)

B. The proposed use 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 properties in the vicinity.

The proposed residential development for 581 multi-family units would be compatible with the land uses and densities within the surrounding single- and multi-family residential development. The project would be improved with landscaping to enhance the development as well as the neighborhood. Perimeter landscaping including street trees and a landscaped noise wall has been provided for adequate buffer between busy roadways.

The permit prepared for this project, PRD No. 96-0464, provides conditions to ensure project compliance with all relevant regulations of the San Diego Municipal Code and to assure the safety and general welfare of persons residing or working in the area. The conditions include compliance with the Brush Management regulations, and incorporates the Mitigation Monitoring and Reporting Program required for this project as described in Environmental Impact Report No. 96-0464. The City's Fire Marshall and Development Services has also indicated that there would be proper access for traffic and fire protection. Conditions for the Vesting Tentative Map would require the proper installation of infrastructure improvements including drainage, water, and sewer conditions.

The Environmental Impact Report [EIR] identified a number of significant impacts most of which through implementation of project-related conditions, will be mitigated. The EIR determined that the proposed project would not have a significant effect on the health, safety, and general welfare of persons residing or working in the area. 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 for the subject property to assure that health, safety, and general welfare of persons residing or working in the area would not be adversely affected. These conditions include minimum requirements for mitigation for encroachment into biological sensitive areas, parking, landscaping, open space, traffic improvement measures, and limitations concerning the construction and implementation of the project. Therefore, 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. Also see Finding A above and C below.

C. The proposed use will fully comply with the relevant regulations of the Municipal Code in effect for this site.

The project design will be consistent with the relevant regulations for this site per the Municipal Code including design standards for the Planned Residential Development. The project also complies with the land use designation, densities, and design standards of the Sorrento Hills Community Plan, as amended. Finally, the Permit conditions assure compliance with the Municipal Code. Therefore, the proposed use will comply with the relevant regulations and the Municipal Code in effect for this site.

The proposed residential project will comply with applicable development regulations including the Planned Residential Development Ordinance, the Hillside Review Overlay Zone Ordinance, and the "Hillside Design and Development Guidelines." This project would amend, and supercede HR Permit No. 83-0167.1. The proposed development is exempt from the Resource Protection Ordinance because of an approved development agreement, on file in the office of the City Clerk as Document No. OO-17300 (1989). The project has been reviewed for its overall design and is consistent with the purpose and intent of the PRD Ordinance and all other relevant regulations of the Municipal Code. Also see Findings A and B above.

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 providing the required brush management zones of the *Landscape Technical Manual* 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 11A. Plant materials in the Brush Management Zones One and Two 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, by using Alternative Compliance Provision (Section 6.2) and Zone Reduction (Section 6.6-2, 3&5) of the *Landscape Technical Manual* including a 6-ft. block wall as shown on Exhibit "A," dated June 30, 1998, on file in the Office of Development Services, 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. All new plantings on slopes will conform to the Revegetation Standards of the *Landscape Technical Manual*, Section Seven and incorporated low precipitation irrigation systems to

minimize runoff. Plant materials in the Brush Management Zone One and Two will be selected to visually blend with the existing hillside vegetation and no invasive species shall be used.

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

BE IT FURTHER RESOLVED, that the recommendation of the Planning Commission is sustained, and Planned Residential Development Permit No. 96-0464, amending HR Permit No. 83-0167, is hereby granted to Harry G. Cooper Trust, 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

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08/06/98
11/13/98 COR.COPY
Or.Dept:Clerk
R-99-181
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Reviewed by Tracy Elliot-Yawn

CORRECTED 11/13/98

**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 RESIDENTIAL DEVELOPMENT PERMIT NO. 96-0464
TORREY RESERVE GATEWAY
(AMENDMENT TO HILLSIDE REVIEW PERMIT 83-0167)
CITY COUNCIL**

This Permit, Planned Residential Development/Hillside Review Permit 96-0464, is granted by the Council of The City of San Diego to HARRY G. COOPER TRUST, Owner/Permittee, pursuant to San Diego Municipal Code [SDMC] section 101.0901. The 37.9 gross acre site is located east of Interstate 5, north and south of Carmel Mountain Road, in the Sorrento Hills Community Plan area. The project site is legally described as a portion of lots 1, 2 & 3, Section 31, Township 14 South, Range 3 West-East one half.

Subject to the terms and conditions set forth in this Permit; permission is granted to Owner/Permittee to subdivide the property and develop 581 multi-family residential units described as, and identified by size, dimension, quantity, type and location on the approved Exhibits "A," dated June 30, 1998, on file in the Office of Development Services. The facility shall include:

- a. Five hundred and eighty-one (581) apartment or condominium units; and
- b. Two recreational buildings with pool facilities; and
- c. Landscaping (planting, irrigation and landscape related improvements) and Brush Management; and
- d. Off-street parking facilities; and
- e. Open space to be maintained within all common areas for a total open space area of 16 acres (12.4 on the south side of Carmel Mountain Road and 3.6 acres on the north side) shown on Exhibit "A," dated June 30, 1998, on file in the Office of Development Services; and
- f. 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 Community Plan, California Environmental Quality Act guidelines, public and private improvement requirements of the City Engineer, the underlying zone(s), conditions of this Permit, and any other applicable regulations of the SDMC in effect for this site.

1. Construction, grading or demolition must commence and be pursued in a diligent manner within 36 months after the effective date of final 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. Any such Extension of Time must meet all the SDMC requirements and applicable guidelines in effect at the time the extension is considered by the appropriate decision maker.
2. No permit for the construction, occupancy or operation of any facility or improvement described herein 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 in the office of the San Diego County Recorder.
3. Unless this Permit has been revoked by The City of San Diego 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.
4. 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.
5. The utilization and continued use of this Permit shall be subject to the regulations of this and any other applicable governmental agencies.
6. 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. § 1531 et seq.)
7. The Owner/Permittee shall secure all necessary building permits. The applicant is informed that to secure these permits, substantial modifications to the building and/or site improvements to comply with applicable building, fire, mechanical and plumbing codes and State law requiring access for disabled people may be required.
8. Before issuance of any building or grading permits, complete grading and working drawings shall be submitted to the City Manager for approval. Plans shall be in substantial conformity to Exhibit "A," dated June 30, 1998, on file in the Office of Development Services. No changes, modifications or alterations shall be made unless appropriate applications or amendment of this Permit shall have been granted.
9. All of the conditions contained in this Permit have been considered and have been determined to be necessary in order to make the findings required for this discretionary Permit. It is the intent of the City that the holder of this Permit be required to comply with each and every condition in order to be afforded special rights which the holder of the Permit is obtaining as a result of this Permit. It is the intent of the City that the Owner of the property which is the subject of this Permit either utilize the property for any use allowed under the zoning and other restrictions which apply to the property or, in the alternative, that the Owner of the property be allowed the special and

extraordinary rights conveyed by this Permit, but only if the Owner complies with all the conditions of the 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 an 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(s) 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 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.

10. Unless otherwise authorized by the City Engineer or City Manager, prior to issuance of any grading permits for this project, a final subdivision map shall be recorded on the subject property.
11. Rezoning of the subject property shall become effective with recordation of the corresponding final subdivision map for the project site.
12. All projects submitted for plan check for the purpose of obtaining building permits shall concurrently submit building plans which meet the submittal requirements of the "Applicant's Guide to Project/Permit Applications," items 11 through 29, as applicable; together with appropriate plan check fees.
13. All projects shall be in compliance with SDMC section 101.0101.25 (Gross Floor Area), and all appropriate related definitions.
14. This Permit may be developed in phases. Each phase shall be constructed prior to sale or lease to individual owners or tenants to ensure that all development is consistent with the conditions and exhibits approved for each respective phase (per the approved Exhibits "A," dated June 30, 1998, on file in the Office of Development Services).
15. The Mitigation Monitoring and Reporting Program (MMRP) has been prepared for the *Torrey Reserve Gateway* project (LDR No. 96-0464/SCH No. 97071020) to comply with the mitigation monitoring statute (*Public Resource Code* § 21081.6) which requires public agencies to adopt such programs to ensure effective implementation of the mitigation measures. This program shall be a requirement of the discretionary actions associated with the *Torrey Reserve Gateway* project.
16. The following text includes a summary of the potentially significant project impacts, a list of mitigation measures identified in the environmental impact report and the monitoring efforts necessary to ensure that the mitigation measures are properly implemented. Mitigation measures, monitoring and reporting requirements shall be as defined in the environmental impact report and may require further detail prior to construction and/or following project implementation.

The following MMRP will require additional fees and/or deposits in the amount of \$7,800 to be collected prior to the issuance of building permits, certificates of occupancy, grading permits and/or recordation of final maps to ensure the successful completion of the monitoring program.

A. Mitigation Measures, Monitoring and Reporting Program.

The proposed project would implement measures that would mitigate to below a level of significance direct impacts associated with biological resources, geology, noise and paleontology, direct and cumulative impacts associated with schools, and cumulative impacts associated with transportation/circulation. Measures incorporated into the proposed project would partially mitigate impacts associated with landform alteration, as well as cumulatively significant water quality impacts.

B. Mitigation Measures, Mitigation Monitoring and Reporting Requirements.

- i. The proposed project shall include appropriate grading techniques, erosion control measures and prompt relandscaping of disturbed areas so that runoff, sedimentation, and erosion both during and after construction is controlled.
- ii. Prior to the issuance of grading permits, EAS shall review the grading and landscape plans to ensure that manufactured slopes are landscaped in conformance with the conceptual landscape plan. The applicant shall retain a soils engineer to monitor grading and construction and a landscape architect to monitor revegetation of the project.
- iii. The project shall also be required to implement relevant Best Management Practices for storm water discharge as described in Section 5.0 of this Mitigation Monitoring and Reporting Program.
- iv. Prior to issuance of grading permits, impacts to approximately 1.68 acres of coastal sage scrub, 0.28 acres of southern mixed chaparral, and 0.04 acres of disturbed mixed chaparral shall be mitigated to the satisfaction of the City Manager, through payment of fees into The City of San Diego's Habitat Acquisition Fund (Fund #10571), as established by City Council Resolution R-275129, adopted on February 12, 1990. The process for determining the amount of mitigation monies deposited will be as follows:

Staff members from the Development Services will request from the Real Estate Assets Department an estimate of average cost of habitat land in the focused habitat acquisition area closest to the project site. Focused acquisition areas have been identified by the Multiple Species Conservation Program (MSCP) as large areas of habitat critical for biodiversity preservation and the success of the MSCP. The closest focused acquisition area to the proposed project is the Del Mar Mesa area. The Real Estate Assets Department will base the estimate on previous appraisals and comparable land costs of land within the focused acquisition area. The applicant will be required to contribute the estimated average per acre land cost multiplied by the required mitigation acreage plus an additional 10 percent to cover administration costs.

Based on today's approximate land value of \$25,000 per acre, the project applicant would be required to contribute \$55,000 [(\$25,000 (2.00 acres + \$5,000 administration cost)]. The actual payment amount would be determined 60 days prior to the issuance of a grading permit based upon the general land values at that time.

- v. Prior to the issuance of grading permits, the City Engineer shall review and approve all grading plans to ensure that grading will be performed in accordance with "Remedial Grading Requirements" contained in Appendix C of the project's geotechnical report.
- vi. Prior to the issuance of grading permits, the City Engineer shall review and approve all grading plans to verify their compliance with the recommendations contained in Section 6 of the project's geotechnical report.
- vii. Prior to the issuance of building permits, the City Engineer shall review and approve all construction documents to ensure adherence to the applicable foundation recommendations contained in the project's geotechnical report.
- viii. Prior to issuance of grading permits, erosion control measures shall be provided to the satisfaction of the City Engineer in conjunction with site development. These measures shall include such devices as hay bales and sandbags to control and direct runoff during construction, temporary detention basins to detain runoff and restrict sediment from leaving the site, directing runoff to the storm drain system proposed as part of the project and to be constructed in conjunction with the adjacent Torrey Reserve Heights and permanent desiltation basins constructed for the community, and the placement of rip rap at outlets draining into natural areas to dissipate energy and help trap sediment. The locations shall be noted on the grading plans. The applicant shall notify the Land Development Review Division (LDR) upon installation of the erosion control devices prior to release of the subdivision bond. Annual maintenance reports summarizing their effectiveness shall be provided to the LDR. The maintenance of erosion control devices shall be the responsibility of the applicant and the future property owner(s). The City shall be responsible for maintenance of drainage improvements in the public right-of-way and in public easements.
- ix. Landscaping of cut/fill slopes and the undeveloped building pads shall be accomplished within 90 days of infrastructure installation.
- x. Prior to the issuance of grading permits, the LDR shall review plans to ensure the measures have been provided. In conformance with the provisions of Public Resources Code section 21081.6, the applicant shall retain a soils engineer to monitor the grading, construction, and installation of runoff control devices and revegetation of the project site. The soils engineer shall submit in writing to the City Engineer and LDR certification that the project has complied with the required notes on the grading plan addressing erosion/urban runoff controls, prior to the issuance of building permit for the project.

- xi. Energy dissipation devices shall be installed at the terminus of canyon subdrains to minimize erosion impacts to native vegetation.
- xii. Grading plans prepared for the project shall identify temporary ditches, dikes, berms, sand bags, and bladed swales provided to control erosion.
- xiii. Sedimentation basins shall be installed and maintained during development to remove sediment from runoff water.
- xiv. Manufactured slopes identified on grading plans which exceed 10 feet in height shall have a maximum gradient of 2:1. Slopes of less than 10 feet in height may have a slope gradient of 1½:1. Erosion control measures shall be implemented during construction and post-development for all manufactured slopes.
- xv. Prior to issuance of grading permits, the City Engineer shall review and approve the plans to ensure inclusion of sedimentation basins. City Engineering field inspectors shall ensure compliance with the approved plans.
- xvi. The developer shall provide a downstream drainage study, satisfactory to the City Engineer, that demonstrates that no adverse impacts will occur to downstream properties as a result of the increases runoff from this development.
- xvii. Specific BMPs shall be shown on final engineering plans as required by the City Manager. The requirement to implement BMPs shall be made a condition of approval of the *Torrey Reserve Gateway VTM*. Prior to issuance of the grading permit, a State NPDES permit shall be obtained and submitted to the Environmental Review Manager (ERM) of the Land Development Review Division (LDR). Monitoring shall be the responsibility of the City Engineer and the RWQCB. An additional measure shall include stenciling of storm drains indicating that materials placed in the storm drains discharge to a sensitive coastal lagoon as a form of public education.
- xviii. The ERM shall review the grading plans to ensure that the notes have been provided.
- xix. Prior to recordation of the first Final Map, the following condition shall be shown on the grading plans to the satisfaction of the ERM:
- xx. All construction and general maintenance activities, except in an emergency, shall be limited to the hours of 7:00 a.m. to 7:00 p.m., Monday through Saturday. All on-site construction equipment shall have properly operating mufflers and all construction staging areas should be as far away as possible from adjacent, occupied residences.
- xxi. Prior to issuance of occupancy permits, an exterior perimeter wall with heights as shown in Figure 4.6-2 of the Final EIR shall be erected for ground floor recreation exposure.

- xxii. Prior to issuance of building permits, building plans for those units with a direct freeway noise exposure shall include architectural components that achieve a 30 dB noise reduction package is the use of dual-paned windows with a minimum sound transmission class of 29.
- xxiii. Prior to issuance of building permits, a detailed acoustical analysis shall be submitted to verify that interior noise levels for multi-family units along Carmel Mountain Road and Vista Sorrento Parkway will be below 45 dB CNEI to the satisfaction of the ERM. Multi-family units abutting Carmel Mountain Road or Vista Sorrento Parkway may require limited acoustical upgrades beyond supplemental ventilation to allow for window closure facing the roadways.
- xxiv. Prior to issuance of certificates of occupancy, the ERM shall verify compliance with building plans.
- xxv. Pursuant to the Development Agreement and the Sorrento Hills Transportation Financing Plan in the Sorrento Hills Public Facilities Financing Plan, contributions to the following improvements shall be made prior to building permits:

Widen/construct Carmel Valley Road to six lanes from El Camino Real to 300 feet east of Carmel Country Road and with four lanes from that point east to the Carmel Valley boundary. Construct a continuous four lane road from the Carmel Valley boundary east to I-15 (the latter is a Regional Transportation Improvement); and

Construct a direct freeway ramp connection (northbound off-ramp and southbound on-ramp) between I-5 and Carmel Valley Road (Regional Transportation Improvement); and

Construct freeway ramps at Carmel Mountain Road and I-5.

- xxvi. Prior to issuance of grading permits, the applicants shall provide a letter of verification to the ERM of LDR stating that a qualified paleontologist has been retained to implement the monitoring program. A qualified paleontologist is defined as an individual with a Ph.D. or Master of Science degree in paleontology or geology 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 may be retained to perform the on-site monitoring in place of the qualified paleontologist. 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 supervision of a qualified paleontologist.
- xxvii. Prior to the issuance of grading permits, the following conditions shall be included on the grading plans to the satisfaction of the LDR:
 - All persons involved in the paleontological monitoring of this project shall be approved by LDR at least 30 days prior to the preconstruction meeting.

- The qualified paleontologist shall attend the preconstruction meeting to consult with the excavation contractor. The paleontologist's duties shall include monitoring, salvaging, preparation of collected materials for storage at a scientific institution that houses paleontological collections, and preparation of a monitoring results report. These duties are defined as follows:

Monitoring

The paleontologist or paleontological monitor shall be on-site to inspect for fossils during excavation into previously undisturbed formations. Monitoring shall be done full-time in those formations with a high sensitivity rating, and shall be half-time in those formations with a moderate sensitivity rating. The monitoring time may be increased or decreased at the discretion of the paleontologist in consultation with LDR. Monitoring shall occur only when excavation activities affect the geologic formation.

Salvaging

In the event that fossils are encountered, the paleontologist shall have the authority to divert or temporarily halt construction activities in the area of discovery to allow recovery of fossil remains in a timely fashion. Because of the potential for recovery of small fossil remains, it may be necessary to set up a screen-washing operation on-site.

The paleontologist shall contact LDR at the time of discovery. LDR must concur with the salvaging methods before construction activities are allowed to resume.

Fossil Preparation

Fossil remains shall be cleaned, sorted, repaired, catalogued, and then (with the permission of the owner of the property where the remains were collected) stored in a local scientific institution that houses paleontological collections.

The qualified paleontologist shall be responsible for preparation of fossils to a point of identification, and submittal of a letter of acceptance from a local qualified curation facility. A qualified facility is defined as a research institution with a permanent commitment to long-term care of paleontological collections and employing professional curatorial staff. If the fossil collection is not accepted by a local qualified facility for reasons other than inadequate preparation of specimens, the project paleontologist shall contact LDR to suggest an alternative disposition of the collection.

Report Preparation

A monitoring results report with appropriate graphics summarizing the results (even if negative), analyses, and conclusions of the above program shall be prepared and submitted to LDR within three months following the termination of the paleontological monitoring program, and prior to LDR's final inspection. Any discovered fossil sites shall be recorded at the San Diego Natural History Museum.

Prior to the issuance of building permits, the monitoring results shall be submitted to and approved by The City of San Diego's Development Services Center.

The applicant shall participate in the Mello-Roos CFD and Mitigation Agreement formed by the school districts for the community.

ENGINEERING REQUIREMENTS:

17. The Planned Residential Development shall comply with the conditions of the final map for Vesting Tentative Map No. 96-0464, which includes the requirement for compliance with the Sorrento Hills Development Agreement (Document No. OO-17300).

18. Torrey Reserve Gateway VTM No. 96-0464 is a condominium project. The units are initially to be used as rental apartments. Prior to the rental of each unit(s) the Owner shall disclose that the unit is a condominium and subject to possible future sale. The Owner shall comply with the State Map Act regarding condominium conversion.

19. The subdivider shall provide a system of walkways from each dwelling unit to the public sidewalk within the City right-of-way.

20. Vehicular access to the dwelling units within the PRD shall be served by a system of unnamed, non-dedicated, privately maintained and gated driveways constructed in a manner satisfactory to the City Engineer.

21. Driveways with less than a 34-foot curb to curb width shall have parking on one side only. Parking shall be prohibited in driveways with less than a 28-foot curb to curb width. The subdivider shall provide red curb and/or appropriate parking restriction signs satisfactory to the Fire Department and the Development Services Manager.

22. This subdivision shall comply with the approved Torrey Hills traffic study dated June 6, 1996, for the Sorrento Hills Community Plan Update, as amended by the Torrey Reserve Gateway traffic study dated August 11, 1997, satisfactory to the City Engineer.

23. Prior to the issuance of building permits the project shall conform to the Transportation Phasing Plan for Sorrento Hills as identified in the Sorrento Hills Public Facilities Financing Plan. This may involve the assurance of additional public improvements, as set forth in the above mentioned documents, satisfactory to the City Engineer.

24. Prior to the issuance of any building permits, the applicant shall:

- a. Ensure that building address numbers are visible and legible from the street (UFC 10.208).
- b. Show the location of all fire hydrants on the plot plan (UFC 10.301).
- c. Provide access in conformance with Fire Department Policy A-8901 (UFC 10.207).
- d. Provide temporary street signs.

PLANNING/DESIGN REQUIREMENTS:

25. No fewer than 1,204 off-street parking spaces shall be maintained on the property at all times in the approximate locations shown on the approved Exhibits "A," dated June 30, 1998, on file in the Office of Development Services. Parking spaces shall comply at all times with SDMC Chapter X, Article 1, Division 8, and shall not be converted for any other use unless otherwise authorized by the City Manager.

26. The height(s) of the building(s) or structure(s) shall not exceed those heights set forth in the conditions and the exhibits (including, but not limited to, elevations and cross sections).

27. Any future requested amendment to this Permit shall be reviewed for compliance with the regulations of the underlying zone(s) which are in effect on the date of the submittal of the requested amendment.

28. All signage associated with this development shall be consistent with sign criteria established by the City sign regulations.

- a. Approved project sign plan (Exhibit "A," dated June 30, 1998, on file in the Office of Development Services); or
- b. Citywide sign regulations.

29. All private outdoor lighting shall be shaded and adjusted to fall on the same premises where such lights are located.

30. The use of textured or enhanced paving shall meet applicable City standards as to location, noise and friction values.

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

32. No merchandise, material or equipment shall be stored on the roof of any building.

33. 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 architecturally integrated structure.

34. Prior to the issuance of building permits, construction documents shall fully illustrate compliance with the Citywide Storage Standards for Trash and Recyclable Materials (SDMC § 101.2001) to the satisfaction of the City Manager. All exterior storage enclosures for trash and recyclable materials shall be located in a manner that is convenient and accessible to all occupants of and service providers to the project, in substantial conformance with the conceptual site plan marked "Exhibit A," dated June 30, 1998, on file in the Office of Development Services.

LANDSCAPE REQUIREMENTS:

35. Prior to issuance of any grading, or building permits, complete landscape construction documents, 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," Landscape Concept Plan, dated June 30, 1998, on file in

the Office of Development Services. No change, modification or alteration shall be made unless appropriate application or amendment of this Permit shall have been granted.

36. Prior to issuance of grading permits, interim landscape and erosion control measures, including hydroseeding of all disturbed land (all slopes and pads), shall be submitted to the satisfaction of the City Manager (including the Environmental Section) and City Engineer. All plans shall be in substantial conformance to Exhibit "A," dated June 30, 1998, on file in the Office of Development Services, and all other applicable conditions of related permits.

37. The timely erosion control including planting and seeding of all slopes and pads consistent with the approved plans is considered to be in the public interest and the Permittee shall initiate such measures within 45 days from the date that the grading of the site is deemed to be complete. Such erosion control and the associated irrigation systems (temporary and/or permanent) and appurtenances shall be installed in accordance with the approved plans and the *Landscape Technical Manual*.

38. Prior to issuance of any Certificate of Occupancy it shall be the responsibility of the Permittee to install all required landscape and obtain all required landscape inspections and to obtain a No Fee Street Tree Permit for the installation, establishment and on-going maintenance of all street trees. Copies of these approved documents must be submitted to the City Manager.

39. All required landscape shall be maintained in a disease, weed and litter free condition at all times and shall not be modified or altered unless this Permit has been amended. 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 to maintain all street trees and landscape improvements consistent with the standards of the *Landscape Technical Manual*.

40. If any required landscape (including existing or new plantings, hardscape, landscape features, etc.) indicated on the approved plans is damaged or removed during demolition, it shall be repaired and/or replaced in kind and equivalent size per the approved plans within 30 days of completion of construction by the Permittee. 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.

41. Prior to issuance of building permits, a brush management plan, including the depths, brush management notes and a letter of permission to perform brush management interim maintenance on Cal Trans Rights-of-Way shall be submitted to the satisfaction of the City Manager (including the Environmental Section) and City engineer. All plans shall be in substantial conformance to Exhibit "A," dated June 30, 1998, on file in the Office of Development Services, and all other applicable conditions of related permits.

42. The Brush Management Program is based on the Fire Department's Fire Hazard Severity Classification of High. The Permittee shall implement the following requirements in accordance with the Brush Management Program shown on Exhibit "A," Brush Management Program/Landscape Concept Plan, dated June 30, 1998, on file in the Office of Development Services:

43. Prior to the issuance of any grading or building permits, construction documents shall be submitted indicating that the appropriate brush management zones have been recorded on the property in substantial conformance with Exhibit "A," dated June 30, 1998, on file in the Office of Development Services. The construction documents (site plan, landscape/brush management plan) shall show Zone One as a 'Building Restricted Area' and Zones Two and Three as 'Negative Open Space Areas.'

44. 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 June 30, 1998, on file in the Office of Development Services, and shall comply with the Uniform Fire Code, SDMC § 55.0889.0201, and Section Six of the *Landscape Technical Manual* (Document Number RR-274506) on file at the Office of the City Clerk.

The Brush Management Zone Depths shall be as follows:

<u>Hazard</u>	<u>Zone One</u>	<u>Zone Two</u>	<u>Zone Three</u>
High	40'	40'	30'

45. 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 Manger.

46. 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 ricks still exist.

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

48. Provide the following note on the Brush Management Construction Documents "It shall be the responsibility of the Permittee to schedule a pre-construction meeting on site with the contractor and the Development Services Department to discuss and outline the implementation of the Brush Management Program."m

49. Prior to the issuance of any Certificate of Occupancy for any building, the approved Brush Management Program shall be implemented.

50. The Brush Management Program shall be maintained at all times in accordance with The City of San Diego's *Landscape Technical Manual*, Section Six.

51. The proposed Rezone, Community Plan Amendment, Vesting Tentative Map, and Planned Residential Development shall not release the Owner/Permittee from any obligation of the Sorrento Hills Development Agreement which remains in full force and affect.

52. The issuance of this Permit by The City of San Diego does not authorize the applicant 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. § 1531 et seq.).

53. In accordance with authorization granted to The City of San Diego from the United States Fish and Wildlife Service (USFW) pursuant to Section 10(a) of the ESA and by the California Department of Fish and Game (CDFG) pursuant to Fish and Game Code section 2835 as part of the Multiple Species Conservation Program (MSCP), The City of San Diego through the issuance of this Permit hereby confers upon Permittee the status of Third Party Beneficiary as provided for in Section 17 of The City of San Diego Implementing Agreement (IA), executed on July 17, 1997 and on file in the Office of the City Clerk as Document No. OO-18394. Third Party Beneficiary status is conferred upon Permittee by the City: (1) to grant Permittee the legal standing and legal right to utilize the take authorizations granted to the City pursuant to the MSCP within the context of those limitations imposed under this Permit and the IA, and (2) to assure Permittee that no existing mitigation obligation imposed by the City of San Diego pursuant to this Permit shall be altered in the future by The City of San Diego, USFWS or CDFG, except in the limited circumstances described in Sections 9.6 and 9.7 of the IA. If mitigation lands are identified but not yet dedicated or preserved in perpetuity, maintenance and continued recognition of Third Party Beneficiary status by the City is contingent upon Permittee maintaining the biological values of any and all lands committed for mitigation pursuant to this Permit and of full satisfaction by Permittee of mitigation obligations required by this Permit, as described in accordance with Section 17.1D of the IA.

APPROVED by the Council of The City of San Diego on June 30, 1998, by Resolution No. R-290410.

11/13/98 REV.

L:\DUVERNAY\PERMITS\96-0464.REV

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.

HARRY G. COOPER TRUST

Owner/Permittee

By _____

By _____

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

11/13/98 - COR.COPY

LADUVERNA\PERMITS\96-0464.REV

CORRECTED 11/13/98

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