

RESOLUTION NUMBER R-291820

ADOPTED ON JUNE 22, 1999

WHEREAS, The Li Family Trust and Carroll Collins III, Owners, and John Barone, J.J.B. Investments, Inc., Permittee, filed an application with The City of San Diego for Planned Residential Development/Resource Protection Ordinance [PRD/RPO] Permit No. 98-0405 to construct 24 single-family residences for the Li/Collins Project, located at the western terminus of Donaker Street, and legally described as Lot 2 of Olive Grove Tract, together with a portion of the 40 feet wide of unnamed County road and a portion of the west half of Orange Grove Avenue 20 feet wide in the City of San Diego, in the Torrey Highlands Subarea IV Plan area, in the A-1-10 zone (proposed R1-5000 zone); and

WHEREAS, on May 6, 1999, the Planning Commission of The City of San Diego considered PRD/RPO Permit No. 98-0405, and pursuant to Resolution No. 2795-2-PC voted to recommend City Council approval of the permit; and

WHEREAS, after approval of the above referenced project by the City Council, Carroll Collin III, Owner, and John Barone, J.J.B. Investments, Inc., Permittee, will no longer be involved in this project. Greystone Homes, Inc., will be an additional owner, thereby making The Li Family Trust and Greystone Homes, Inc., the Owner/Permittee of the Li/Collins project; and

WHEREAS, the matter was set for public hearing on June 22, 1999, 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/RPO Permit No. 98-0405:

PLANNED RESIDENTIAL DEVELOPMENT

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 subject 7.4-acre site is within the Torrey Highlands Subarea IV Plan area for North City Future Urbanizing Area Subarea IV and designated for Low Density (2-5 DU/Gross Acre) residential use. Table 4-3 of the Subarea Plan labels the subject site as Parcel E for the development of a maximum of 31 residential dwelling units. The proposed project of 24 dwelling units will provide single-family homes on lots compatible in size to the adjacent neighborhood. The proposed 24 single-family residential dwelling units is consistent with the City of San Diego General Plan and the adopted Torrey Highlands Subarea IV Plan and will meet the community need for residential housing as designated for Parcel E.

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 development of Parcel E as a 24-unit, 7.4-acre residential subdivision, is subject to a concurrent Planned Residential Development/Resource Protection Ordinance Permit and rezone from A-1-10 to R1-5000. The development is consistent with the adopted Torrey Highlands Subarea IV Plan and existing single-family residential development within the Rancho Peñasquitos Community Plan area adjacent to the east and to other adjacent properties within the Subarea Plan designated for residential use. No deviations from the underlying proposed R1-5000 zone are requested and the development of the 24 residential dwelling units will not be detrimental to persons or property within the vicinity or area of the subject property.

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

The Li/Collins project is consistent with the Progress Guide and General Plan and the Torrey Highlands Subarea IV Plan, the development standards of the proposed R1-5000 zone, the regulations of the Planned Residential Development Permit Ordinance, and the requirements of the State Subdivision Map Act and local subdivision regulations.

II. RESOURCE PROTECTION ORDINANCE/ALTERNATIVE COMPLIANCE PROVISION FOR SUBSTANTIAL CONFORMANCE DETERMINATION

The subdivision of this 7.4-acre site into 26 single-family residential lots with proposed R1-5000 zoning, is consistent with all of the provisions of the adopted Torrey Highlands Subarea IV Plan. Section 2.2 of the Subarea IV Plan (Resource Protection Ordinance) references City Council Policy 600-40 as to how RPO analysis was formulated for the entire Subarea IV Plan area. The Plan specifies that, "if future project or permit applications within Torrey Highlands are found to be consistent with the Torrey Highlands Subarea Plan, then future RPO permits may be approved using the substantial conformity determination referenced in the alternative compliance subsection of the RPO." The project site consists largely of disturbed open land, and is surrounded by either developed lands or lands proposed for development. The extension and right-of-way for Carmel Valley Road crosses the northern portion of the site. The project site is not within nor is it connected with any regional wildlife corridor or part of the proposed USFWS Vernal Pool National Wildlife Refuge. Additionally, the site is not adjacent to or part of the designated MHPA. The development of 24 single-family detached homes on the site is compatible with existing residential development to the east within Rancho Peñasquitos. The subject site is shown for total development within the Subarea Plan. The proposed subdivision and development of 24 residential units as indicated on "Exhibit A," dated June 22, 1999, is consistent with the RPO, Multiple Species Conservation Program (MSCP), and Open Space provisions of the Plan. The project is therefore sited and designed to minimize adverse impacts to environmentally sensitive areas, and is in conformance with the Torrey Highlands Subarea IV Plan.

III. 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 standard zone requirements established for properties with a low rating and identified in the Landscape Technical Manual, 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 Zones have been selected to visually blend with the existing hillside character and no invasive species shall be used.

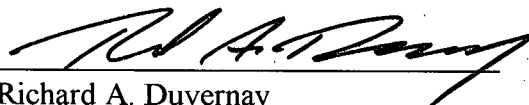
B. The proposed Brush Management Program, to the extent feasible, will minimize the alterations of vegetation and will not result in undue risks from erosional forces.

The proposed Brush Management Program will alter the existing vegetation for purposes of fire protection by providing an effective fire break consistent with the standards outlined in the Landscape Technical Manual. The alterations to existing vegetation is accomplished in order to increase the stability of the slope and all 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.

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 PRD/RPO Permit No. 98-0405 is hereby granted to The Li Family Trust and Greystone Homes, Inc., 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

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07/20/99
10/15/99 COR.COPY
Or.Dept:Clerk
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Reviewed by Mike Westlake

**RECORDING REQUESTED BY
CITY OF SAN DIEGO
PLANNING & DEVELOPMENT REVIEW**

**AND WHEN RECORDED MAIL TO
PERMIT INTAKE
MAIL STATION 501**

SPACE ABOVE THIS LINE FOR RECORDER'S USE

**PLANNED RESIDENTIAL DEVELOPMENT PERMIT
RESOURCE PROTECTION ORDINANCE PERMIT
NUMBER 98-0405
LI/COLLINS
CITY COUNCIL**

This Permit is granted by the Council of The City of San Diego to THE LI FAMILY TRUST and GREYSTONE HOMES, INC., Owner/Permittee, pursuant to the Municipal Code of the City of San Diego. The 7.4 acre site is located at the western terminus of Donaker Street in the R1-5000 zone of the Torrey Highlands Subarea IV Community Planning area. The project site is legally described as Lot 2 of Olive Grove tract, together with a portion of the 40 feet wide of unnamed County road and a portion of the west half of Orange Grove Avenue 20 feet wide in the City of San Diego.

Subject to the terms and conditions set forth in this permit, permission is granted to Owner and Permittee to develop a 26-lot single-family subdivision described as, and identified by size, dimension, quantity, type and location on the approved Exhibit "A," dated June 22, 1999, on file in the Office of Planning and Development Review. The facility shall include:

- a. A 26-lot single-family residential subdivision;
- b. Landscaping (planting, irrigation and landscape related improvements); and
- c. Off-street parking facilities; and
- d. An open space easement over portions of lots 15 and 16 for the purposes of providing protection of an on-site vernal pool basin and seasonal isolated wetland area. Upon change in existing regulations, the applicant may seek to remove the easement based upon further CEQA review and approval of an amendment to this permit in conformance with the existing regulations at that time.
- e. 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 Municipal Code 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 Municipal Code 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 Planning and Development Review; 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. Section 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 22, 1999, on file in the Office of Planning and Development Review. 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 new 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. 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 the Topographical Survey Requirements of the Municipal Code and all building plans shall be predicated upon said concurrently submitted topographical survey. Said topographical survey (and accompanying grading plan) shall accurately depict both pre-existing grade and finished grade as set forth in the Municipal Code.

ENVIRONMENTAL/MITIGATION REQUIREMENTS:

14. The applicant shall comply with the Mitigation, Monitoring, and Reporting Program (MMRP) as specified in the Mitigated Negative Declaration, LDR No. 98-0405, satisfactory to the City Manager and the City Engineer. Prior to issuance of building permits, all mitigation measures as specifically outlined in the MMRP shall be implemented for the following issue areas: biological resources and noise.

15. In accordance with authorization granted to The City of San Diego from the United States Fish and Wildlife Service (USFWS) 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 16, 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.

ENGINEERING REQUIREMENTS:

16. This permit shall comply with the conditions of the final map for Vesting Tentative Map No. 98-0405.

17. The project shall conform to the Torrey Highlands Subarea IV land use plan dated July 1996, the transportation phasing plan in the Public Facilities Financing Plan dated October 1996, and the final EIR/traffic study dated June 1996.

18. The applicant shall provide the following mitigation measures to improve the sight distance for lots 19 thru 21:

- a. Maintain a sight distance easement for lot 20.
- b. Lots 19 thru 21 should be designed for side-loaded garage door.
- c. Red curb Donaker Street along the frontage lots of 19 thru 21.

PLANNING/DESIGN REQUIREMENTS:

19. The articulation on the side and rear elevations of the homes shall match the articulation on the front elevations of the homes in style, quantity and quality.

20. The architectural articulation on all sides of the affordable housing project on lots 13 and 14, if constructed, shall match the articulation on the elevations of the single-family detached homes in style, quantity and quality.

21. There shall be an approximately equal number of all three models built in the proposed development.

22. Thirty percent (30%) of the homes shall have either a porch or a courtyard in order to create a livelier street scene and more usable outdoor space for the residents of the homes. The porches shall have a minimum length of ten (10) feet and a minimum depth of eight (8) feet. This area shall be free of obstacles and shall be covered.

23. A variety of setbacks shall be utilized in the development in order to achieve a varied and visually interesting street scene. In order to achieve variety in the setbacks provided, adjacent homes shall vary the setbacks by a minimum of five (5) feet and up to a maximum of ten (10) feet.

24. There shall be compliance with the regulations of the underlying zone(s) unless a deviation or variance to a specific regulation(s) is approved or granted as condition of

approval of this permit. Where there is a conflict between a condition (including exhibits) of this permit and a regulation of the underlying zone, the regulation shall prevail unless the condition provides for a deviation or variance from the regulations. Where a condition (including exhibits) of this permit establishes a provision which is more restrictive than the corresponding regulation of the underlying zone, then the condition shall prevail.

25. 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) or the maximum permitted building height of the underlying zone, whichever is lower, unless a deviation or variance to the height limit has been granted as a specific condition of this permit.

26. A topographical survey conforming to the provisions of SDMC section 101.0216 may be required if it is determined, during construction, that there may be a conflict between the building(s) under construction and a condition of this permit or a regulations of the underlying zone. The cost of any such survey shall be borne by the permittee.

LANDSCAPE REQUIREMENTS:

27. Prior to the recordation of the parcel map, the Owners/Permittee shall submit an improvement plan showing the required quantity of street trees, the tree species and note that the trees are located in a minimum of 40 square feet of landscape area. All planting and irrigation shall conform with the Landscape Concept Note on the tentative map and the City's Landscape Technical Manual.

28. A non-title sheet shall be incorporated into the parcel map sheets which shows the brush management program consistent with the Exhibit A. The notes describing the maintenance obligations shall specify the brush management program as an interim program that shall terminate upon the approved improvements of the adjacent properties where the improvements remove the fire hazard.

29. Prior to recordation of the parcel map the applicant shall assure by permit and bond the installation of the required street trees.

30. Prior to the recordation of the parcel map the applicant shall submit a brush management maintenance agreement from the adjoining property owners.

31. Prior to recordation of the parcel map the owner/developer shall submit for review a Landscape Maintenance Agreement for all landscape within the public right of way. The approved Landscape Maintenance Agreement shall be recorded and bonded prior to recordation of the parcel map.

32. The Brush Management Program is based on the Fire Department's Fire Hazard Severity Classification of LOW. The permittee shall implement the Brush Management program in accordance with the plan shown on Exhibit "A," Landscape Concept and Brush Management Plan, dated June 22, 1999, on file in the Office of Planning and Development Review.

33. 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" and shall comply with the Uniform Fire Code, SDMC section 55.0889.0201, and the Landscape Technical Manual (Document No. RR-274506) on file at the Office of the City Clerk.

34. The construction documents shall conform to the architectural features as described in Section 6.6-2 of the Landscape Technical Manual.

35. 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 (including the alternative compliance zone one area) subject to approval by the Fire Chief and the City Manager.

36. 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 risks still exist.

37. No invasive plant material shall be permitted.

38. 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 Development Services to discuss and outline the implementation of the Brush Management Program."

39. Prior to issuance of any Certificate of Occupancy or final inspection for any building, the Brush Management Program shall be implemented.

40. The Brush Management Program shall be maintained at all times in accordance with the City of San Diego's Landscape Technical Manual and as shown on Exhibit "A."

AFFORDABLE HOUSING REQUIREMENTS:

41. Prior to the filing of the first final map, Owners/Permittee shall comply with the requirements of the Torrey Highlands Subarea Plan for Affordable Housing (the "Affordable Housing Requirements") by satisfaction of the requirements:

A. Owners/Permittee shall assure the construction and occupation of an "Affordable Housing Project" consisting of five (5) units to be constructed on Lots 13 and 14, as shown on the Tentative Map. Owners/Permittee shall execute an agreement [the Affordable Housing Agreement], subject to the approval of the Executive Director of the Housing Authority of The City of San Diego, or designee, and the City Manager of The City of San Diego, or designee, addressing the following issues:

1. Performance Security for the construction of the "Affordable Housing Project" and dedication of land (the "Affordable Housing Site") for the construction of the Affordable Units on site, in the form of bond(s), letter(s) of credit, lien(s)



- and/or other forms of security acceptable to the Executive Director of the Housing Authority of The City of San Diego, or designee [Executive Director];
2. Approval of the timing of the construction and occupancy of the Affordable Housing Project, acceptable to the Executive Director, provided that the following timetable is incorporated into the Affordable Housing Agreement:
 - a. Issuance of building permits for the Affordable Project shall occur on or before the earlier of:
 - (i) the issuance of building permits for construction of the 12th market rate dwelling unit (number of units which represents 50% of market rate units); or, (~~date~~ which is eighteen (18) months after the filing of the first final map--);
 - (ii) In no event shall the issuance of building permits for the construction of the 13th market rate unit occur until building permits are issued for construction of the five (5) affordable units are authorized by the City and are obtained by the Owners/Permittee. Further, if individual parcels are sold initially by Owners/Permittee without first obtaining building permits for construction of market rate units, every such parcel sold shall nonetheless be included with the total number of the building permits issued, in determining when the issuance of the building permit occurs for the 13th and 19th or greater, market rate unit.
 - b. Completion of construction of the Affordable Project shall occur upon the earlier of:
 - (i) Twelve (12) months after the issuance of building permit for the Affordable Project as referenced in Paragraph 2.a. hereof; or
 - (ii) (~~date~~) (Date shall be two and one-half years after the filing of the first final map).

Further, the issuance of building permits for the construction of the 19th market rate unit (number of units which represents seventy-five percent (75%) of market rate units) shall not occur until the completion of the five (5) affordable units is authorized by the City.
 - c. Occupancy of the Affordable Project shall occur not later than one hundred eighty (180) days after the completion of construction as referenced in Paragraph 2.b. above.
 - d. For "good cause" shown to the satisfaction of the Executive Director, the dates referenced herein may be extended for one or more period(s) of up to twelve (12) months, each. Good cause shall include, but not be limited to, Acts of God, labor strikes, war, riots, etc., as shall be determined by the Executive Director, in her/his sole discretion.
 3. A Declaration of Covenants, Conditions and Restrictions [the Declaration], restricting the occupancy and affordability of the Affordable Project for a

period of fifty-five (55) years from the date of completion of the Affordable Project, which Declaration shall incorporate the Affordable Housing Agreement by reference, shall be recorded against the Affordable Housing Site, in a first priority position. All Affordable Units shall be for occupancy by and at rates affordable to, families earning no more than sixty-five percent (65%) of the Area Median Income, as adjusted for family size. However, in the case of affordable rental units, in which provisions of the State Density Bonus Statute (Government Code section 65915) applies, rental rates shall not exceed sixty percent (60%) of the Area Median Income, as adjusted for assumed family size and utilities.

4. Additional security for the performance by the Owners/Permittee of the Affordable Housing Requirements shall be provided by a deed of trust in favor of the Executive Director, recorded against the Affordable Housing Site, in second lien priority (junior only to the Declaration), assuring the timely performance of the Agreement referenced in Paragraph A, hereof. The deed(s) of trust in favor of the Housing Authority may be subordinated to construction deed(s) of trust and/or permanent financing deed(s) of trust in favor of institutional lenders, as approved by the Executive Director, in her/his sole discretion, if deemed essential to construction and/or operation of the Affordable Project, upon such terms and conditions as she/he may impose.
5. Such other and further conditions as may be reasonably required by the Executive Director to assure satisfaction of the Affordable Housing Requirements, and such modification of existing condition(s), as may be granted by the Executive Director in her/his sole discretion.
6. Owners/Permittee, and their successors, heirs and assigns shall execute such other and further documents and shall perform such acts, as shall be requested by the Executive Director and the City Manager and as may, from time to time, be required to effectuate the provisions of Affordable Housing as contemplated by these condition(s) of approval.

OR

As an alternative to satisfying the requirements of subparagraph A above, the Owners/Permittee shall, prior to the filing of the first final map, comply with the requirements of subparagraph B below:

- B. The approval by the Executive Director, or designee, and the City Manager, or designee, of the dedication (that is, the irrevocable setting aside of land for affordable housing purposes) of developable land within the Subarea and "Affordable Housing Plan(s)" that address, provide for and assure the construction and occupancy of Affordable Units within the Subarea on common site(s). Each Affordable Housing Plan must address the following issues concerning "Affordable Housing" to the satisfaction of the Executive Director and the City Manager, or designee:
 1. Siting, design, unit mix, appearance, architectural and floor plans, of the Affordable Units, as referenced on City approved tentative maps and City approved PRD exhibits;

2. Security for timely performance by the Owners/Permittee of the approved Affordable Housing Plan(s) and Affordable Housing Agreement(s);
 3. Execution and recordation of enforceable agreement(s), including the Affordable Housing Agreement, setting forth the requirements and timing of construction and occupancy of the Affordable Housing as referenced in the Affordable Housing Plan(s);
 4. Phasing of the construction and occupancy of the Affordable Units;
 5. Recordation of a Declaration of Covenants, Conditions and Restrictions, as approved by the Executive Director, assuring affordability and occupancy of the Affordable Units for a period of fifty-five (55) years from the date of completion of construction of the Affordable Units to families earning not more than sixty-five percent (65%) of Area Median Income and at rates affordable to these families, as adjusted for family size. However, in the case of affordable rental units, in which provisions of the State Density Bonus Statute applies, rental rates shall not exceed sixty percent (60%) of the Area Median Income, as adjusted for assumed family size and utilities.
 6. Security in the form of a lien with second priority, junior only to the Declaration, assuring dedication of the Affordable Housing Site and construction of the Affordable Units in a timely fashion, as set forth in the phasing element(s) of the Affordable Housing Plan(s). Subordination of the second lien priority security mentioned herein may be subordinated to construction and/or permanent financing deed(s) of trust in favor of institutional lender(s), as approved by the Executive Director, and as referenced in Paragraph 1.A.4., hereof; and
 7. Such other and further conditions as may be reasonably required by the Executive Director to assure satisfaction of the Affordable Housing Requirements, and such modification(s) of existing condition(s), as may be granted by the Executive Director in her/his sole discretion.
 8. Owners/Permittee, and their successors, heirs and assigns shall execute such other and further documents and shall perform such acts, as shall be requested by the Executive Director and the City Manager and as may, from time to time, be required to effectuate the provisions of Affordable Housing as contemplated by these condition(s) of approval.
42. The Li/Collins Affordable Housing Program is attached to this Permit as Exhibit "B."

APPROVED by the Council of The City of San Diego on June 22, 1999, by Resolution No. R-291820.

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.

THE LI FAMILY TRUST
Owner/Permittee

By _____

GREYSTONE HOMES, INC.
Owner/Permittee

By _____

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

10/25/99
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"EXHIBIT B"

Adopted with and an Attachment to Planned Residential Development Permit/Resource Protection Ordinance Permit Number 98-0405

LI/COLLINS PROJECT AFFORDABLE HOUSING PROGRAM

INTRODUCTION

This document sets forth the affordable housing program for the Li/Collins property within the Torrey Highlands Subarea. This project is a Planned Residential Development with 26 lots on 7 acres, consistent with the Subarea Plan.

AFFORDABLE HOUSING REQUIREMENTS

The Torrey Highlands Subarea Plan provides for housing for low income families, as defined by the San Diego Housing Commission. All affordable housing units must remain affordable for the life of the unit and should be phased proportionate to development of market rate units. The Li/Collins project may satisfy this requirement by:

Providing no less than 20 percent of total housing units for occupancy by, and at rates affordable to, families earning no more than 65 percent of median area income adjusted for family size, or

Dedicating developable land of equivalent value

DISCUSSION

Torrey Highlands contains multiple ownerships with projects of various sizes. In order to implement an effective affordable housing program for the Subarea, the cooperation of several landowners will likely be required for each affordable project. This entails financial commitments on the part of investors and lenders as well as lengthy and complex planning. The preferred alternative for smaller projects such as Li/Collins is to participate offsite in a larger affordable project elsewhere in the Subarea. The timing of the potential "participant" projects is currently uncertain.

The Li/Collins owners are currently negotiating with several potential affordable project developers within the Subarea to participate in a larger project. During these ongoing negotiations, the Li/Collins ownership seeks to proceed with project planning through the tentative map stage for its 26 lot development. Therefore, Li/Collins proposes to commit to the provision of the affordable units onsite, as described below, while retaining an option to participate as a partner in a larger affordable housing project within the Subarea. The larger "participant" project would be subject to approval by staff, commission and City Council prior to the recordation of the final map for Li/Collins. In addition, a mechanism will be in place to secure the construction of the affordable units.

Draft PRD/VTM conditions are attached (Exhibit "A") which enumerate the specific terms for the LI/COLLINS Project to comply with the Torrey Highlands Subarea Plan's Affordable Housing requirement. Should the total number of dwelling units change, the affordable requirements will be adjusted accordingly.

4/22/99

AFFORDABLE HOUSING PROPOSAL

Li/Collins property owners will comply with the required 20 percent affordable housing requirement through provision of affordable units either:

- a. onsite within the Li/Collins project as described below, or
- b. offsite within Subarea IV as a developer participant in a multiple developer affordable housing project to be approved by the Housing Commission, Planning Commission and City Council.

Below, both of these options is discussed.

a. **Onsite Housing**

Provision of the units onsite results in the following:

- | | | |
|-----|---|--|
| 24 | - | Detached market rate units on 24 lots |
| 5 * | - | Units for occupancy by, and at rates affordable to, families earning no more than 65% of median area income adjusted for family size on 2 lots |
| 29 | - | Total Units on 26 lots |

The onsite alternative will consist of 5 dwelling units in a single 2 story building. These units will be sited on lots 13 and 14 within the proposed subdivision (see attached Exhibit "B"). The units will incorporate materials, finishes and colors which are compatible with both existing and proposed single family homes. Roofs shall be constructed of non-flammable materials such as clay, terra cotta, concrete tile, or other material(s) that meet minimum fire resistant criteria and that are consistent with the architecture. Stucco should be the primary building wall and facade treatment. Use of wood is permitted, particularly for structural elements such as door frames, beams, posts, and lintels. Stucco finishes may be roughly textured or, if a more contemporary appearance is desired, smooth.

Units will be in a proportionate mix of 1, 2 and 3 bedrooms. The site will include facilities such as parking at a ratio of 2.0 spaces per unit, a small open play area, and a multi-purpose building for storage and trash enclosure.

* The North City Future Urbanizing Area (NCFUA) Framework Plan specifies in Section 7 that planning for the NCFUA recognize the use of the State mandated 25 percent density bonus. The Framework Plan's Estimated Housing Units assumes that the density bonus is granted for all housing projects. Torrey Highlands Subarea Plan requires a cap of 2600 dwelling units. Based upon this unit cap, the calculation of the density bonus for this proposed 29 unit project is derived as follows: The number of affordable units required is 20 percent of the pre-bonus units (i.e. 20% x 23 pre-bonus units = 5 affordable units).

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It is contemplated that the units would be for-sale condominiums, although rental units may be considered should market conditions warrant. Terms of the ownership program will be proposed for approval prior to project final map recordation.

Construction of the units will be phased to assure the construction of the affordable units prior to completion of the subdivision.

b. Offsite Housing within the Subarea

Under this alternative, Li/Collins would participate in a larger affordable housing project within the Subarea. As indicated above, discussions are currently taking place between Li/Collins and the potential developers of several affordable projects within the Subarea. This alternative is considered preferable since land use incompatibilities can be minimized and it is anticipated that higher quality projects and neighborhoods will result. In addition, larger projects with improved economies of scale have significantly greater economic feasibility. The "participant" project will be approved by staff, commission and City Council prior to the Li/Collins final map being recorded. In addition, a phasing plan to assure timely construction of the affordable units and an appropriate mechanism to secure the construction of the units will be required.

Draft conditions of approval (Exhibit "A") are attached.

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Site Statistics

- 5 Multi-family Units in a 2-story Bldg. (Stacked Flats)
- 0.42 Gross Acres
- 14.3 Units/Acre

Parking Requirements

- Per "Multi-Family Parking Requirements User's Guide," City of San Diego Planning Department
 - 2-1 Br. Units x 1.25
 - 1-2 Br. Units x 1.50
 - 2-3 Br. Units x 1.75
 - 7.5 Resident Spaces
- $7.5 \times 0.30 = 2.25$ Guest Spaces
- Total Required Parking is 10 spaces
- Total Provided Parking is 10 spaces

Open Space Requirements

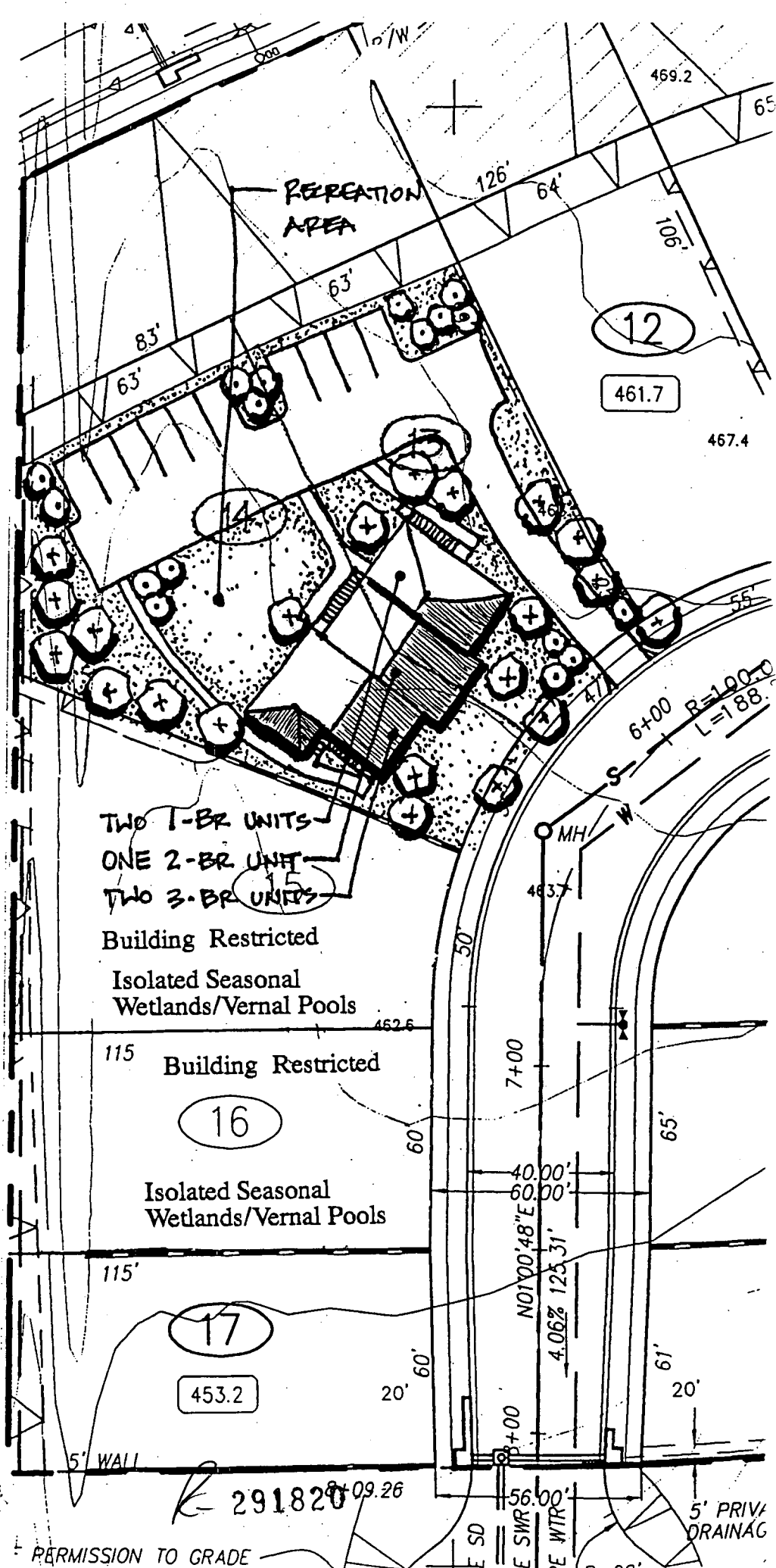
- Assume Zone of R-3000
- Required Total Open Space
 - 5 Units x 1800 SF/Unit = 9,000 SF
- Provided Total Open Space
 - 0.42 Acres(43,560) - 2400SF Bldg. Footprint = 15, 895 SF
- Required Usable Open Space
 - 5 Units x 900 SF/Unit = 4,500 SF
- Provided Usable Open Space = 7,200 SF

Lots 13 and 14 Affordable Housing Site Study Li - Collins Parcel

1" = 40'

February 18, 1999

Exhibit "B"



PERMISSION TO GRADE