

RESOLUTION NUMBER R-292058

ADOPTED ON AUGUST 3, 1999

WHEREAS, Mack Cohn and Stanley Cohen, Owners, and Sterling Land Development, LLC, Permittee, filed an application with The City of San Diego for Planned Residential Development/Resource Protection Ordinance Permit No. 98-1189 for the Torrey Brooke project, for the construction of ten single-family residential dwelling units on individual lots, on a site located on the north side of Adobe Bluffs Drive and west of La Trucha Street, and legally described as Lot 4, Olive Grove Tract, Miscellaneous Records Book 27, Page 297, in the Torrey Highlands Subarea IV Plan area, in the A1-10/HR zone (proposed A1-10, HRO, and R1-6000 zones); and

WHEREAS, on July 15, 1999, the Planning Commission of The City of San Diego considered PRD/RPO Permit No. 98-1189, and pursuant to Resolution No. 2819-PC voted to recommend City Council approval of the permit; and

WHEREAS, after approval of the above referenced project by the City Council, Mack Cohn and Stanley Cohen will transfer ownership of the property to Sterling Land Development, LLC, thereby making Sterling Land Development, LLC, the Owner/Permittee of the Torrey Brooke project; and

WHEREAS, the matter was set for public hearing on August 3, 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. 98-1189:

I. PLANNED RESIDENTIAL DEVELOPMENT 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 subject 7.42 acre site is within the Torrey Highlands Subarea IV Plan area for the North City Future Urbanizing Subarea IV and designated for LD Low Density (2-5 DU/Gross Acre) residential use. Table 4-3 of the Subarea Plan labels the subject site as Parcel H for the development of up to 43 dwelling units. The applicant is proposing 10 single-family dwelling units on 10-lots (satisfying a requirement that lots adjacent to Rancho Penasquitos be a minimum of 7,500 square-feet in area), 3 open space lots and one remainder parcel. The project as proposed, will fulfill the community need for residential housing, meet the affordability requirement through in-lieu fees, and not adversely affect the City's Progress Guide and General Plan or the adopted Torrey Highlands Subarea IV Plan.

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 H as a 14-lot, 10 residential dwelling unit, 3-lot open space and one remainder parcel subdivision of a 7.42 acre site, subject to a concurrent Planned Residential Development and Resource Protection Ordinance Permit with rezone from the A1-10/HRO to the A1-10 and R1-6000/HRO zone, is consistent with the adopted Torrey Highlands Subarea IV Plan and existing single-family residential development within the Rancho Penasquitos Community Plan area to the east and north and to other adjacent properties within the Subarea Plan area. The Subarea Plan was comprehensively adopted, analyzing the entire area for compliance with the Resource Protection Ordinance, delineating areas for development and open space amenities, and developing standards for compatibility to the adjacent communities, all after duly noticed public hearings. This subdivision and land use plan 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.

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

The development of 10 single-family residential dwelling units, open space and a remainder parcel on a 7.42 acre site to be rezoned A1-10 and R1-6000/HRO, is determined to be in compliance with the General Plan and the Torrey Highlands Subarea IV Plan of the City of San Diego, the proposed zones, the Planned Residential Development Ordinance Purpose and Intent, the Resource Protection Ordinance for preservation of sensitive lands, and the State Subdivision Map Act for the accompanying map.

II. RESOURCE PROTECTION ORDINANCE FINDINGS (ALTERNATIVE COMPLIANCE):

The subdivision of this 7.42 acre site into 14-lots to consist of ten (10) single-family residential lots, three (3) lots for open space and a remainder parcel with proposed A1-10 and R1-6000 and Hillside Review Overlay zoning, is being designed according to 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 IV Plan, then future RPO permits may be approved using the substantial conformity determination referenced in the alternative compliance subsection of the RPO." The subject site is shown for development within the larger southeast corner and a smaller northwest corner of this rectangular shaped site with an open space urban amenity crossing the site from the southwest corner to the northeast corner. With the inclusion of a 50-foot biological buffer and a 50-foot transitional planning buffer, the development of this site will be consistent with RPO, MSCP (Multiple Species Conservation Program) and Open Space provisions of the Plan.

The project is therefore sited and designed to minimize adverse impacts to environmentally sensitive areas.

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.

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," dated August 3, 1999, on file in the Office of Planning and Development Review, 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 materials in 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 alteration of vegetation and will not result in undue risks from erosional forces.

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.

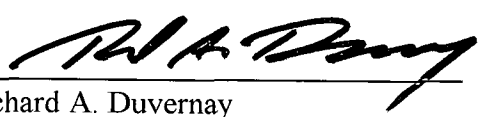
The proposed Brush Management Program, by using the Alternative Compliance Provision (Section 6.2) and Zone Reduction (Sections 6.6-2, 6.6-3 and 6.6-5) of the Landscape Technical Manual as shown on Exhibit "A" will modify the existing vegetation to the least practical extent while still providing the necessary fire protection to persons and property as required by the Uniform Fire Code. All new plantings on 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 Planned Residential Development/Resource Protection Ordinance Permit No. 98-1189 is granted to Sterling Land Development, LLC, Owner and 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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01/24/00
Or.Dept:Clerk
R-2000-175
Form=permitr.frm
Reviewed by Robert Korch

RECORDING REQUESTED BY
CITY OF SAN DIEGO
PLANNING AND DEVELOPMENT REVIEW
PERMIT INTAKE, MAIL STATION 501

AND WHEN RECORDED MAIL TO
CITY CLERK
MAIL STATION 2A

SPACE ABOVE THIS LINE FOR RECORDER'S USE

**PLANNED RESIDENTIAL DEVELOPMENT AND RESOURCE PROTECTION
ORDINANCE PERMIT AND MMRP NO. 98-1189
TORREY BROOKE
CITY COUNCIL**

This Permit is granted by the Council of The City of San Diego to Sterling Land Development, LLC, Owner and Permittee, pursuant to San Diego Municipal Code sections 101.0900, 101.0462 and 111.0510. The 7.42 acre site is located on the north side of Adobe Bluffs Drive west of La Trucha Street in the existing A1-10/HRO (proposed A1-10/HRO and R1-6000) zones of the Torrey Highlands Subarea IV Plan. The project site is legally described as Lot 4, Olive Grove Tract, Miscellaneous Records Book 27, Page 297.

Subject to the terms and conditions set forth in this permit, permission is granted to Owner and/or Permittee to subdivide the 7.42 acre site into 14-lots through the accompanying Tentative Map and construct ten single-family dwelling units on individual lots through the Planned Residential Development [PRD] Ordinance and provide open space amenities as prescribed in the Subarea Plan all through compliance with the Resource Protection Ordinance [RPO], described as, and identified by size, dimension, quantity, type and location on the approved Exhibits "A," dated August 3, 1999, on file in the Office of Planning and Development Review. The facility shall include:

- a. Ten (10) detached single-family residential dwelling units on 10-lots in compliance with the proposed R1-6000 and Hillside Review Overlay zones. Although no specific architectural plans were required with this submittal, development shall follow the "Torrey Brooke in Torrey Highlands-Subarea IV Design Guidelines," dated May 24, 1999, on file in the Office of Planning and Development Review, submitted for this project; and
- b. Landscaping (planting, irrigation and landscape related improvements) and Brush Management compliance as shown on Exhibit "A," dated August 3, 1999, on file in the Office of Planning and Development Review, and as conditioned herein; and
- c. Off-street parking facilities (two off-street garage spaces for each dwelling unit); and

- d. A decomposed granite pedestrian hiking trail within the open space amenity with biological separation fencing, footbridge and signage as shown on the Tentative Map/PRD Site Plan and Landscaping Plans and as approved by the Environmental Analysis Section of LDR; and
 - 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. 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.
 7. 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 August 3, 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.

8. 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.

9. Prior to issuance of any grading permits for this project, a final subdivision map shall be recorded on the subject property.

10. Rezoning of the subject property shall become effective with recordation of the corresponding final subdivision map for the project site.

11. 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 "Applicants Guide to Project/Permit Applications," items 11 through 29, as applicable; together with appropriate plan check fees.

12. All projects shall be in compliance with "Gross Floor Area" as defined in the Municipal Code of the City of San Diego.

13. All projects shall be in compliance with the Maximum Height of a Building or Structure and Procedural Requirements for Determination of Structure Height as specified in the Municipal Code.

14. This permit shall comply with the conditions of the final map for Tentative Map No. 98-1189.

ENVIRONMENTAL/MITIGATION REQUIREMENTS:

15. Prior to the recordation of the final map and/or the issuance of the first grading permit, the City Manager shall verify that the owner/permittee has contributed \$15,400.00 (1:1 mitigation ratio, \$10,000.00 per acre plus a 10% administration fee) to

the City's Habitat Acquisition Fund (No. 10571) for impacts to 1.4 acres of Tier II coastal sage scrub.

16. Prior to the recordation of the final map and/or the issuance of the first grading permit, the owner/permittee shall assure the avoidance of construction impacts beyond those identified in Mitigated Negative Declaration No. 98-1189 as follows: The owner/permittee shall provide a letter to the Environmental Review Manager of the Land Development Review Division verifying that he/she has retained a qualified biologist to implement Measures 18A through 18D. A qualified biologist is defined as an individual with a Bachelor's or Master's Degree in biology, ecology or a related field, who has a minimum of 5 years of experience managing biological resources in southern California.

17. The following mitigation measures shall be noted on the grading plans under the heading "Environmental Requirements":

- a. The qualified biologist (project biologist) shall supervise the placement of orange construction fencing or equivalent along the boundary of the development area as shown on Exhibit A, dated August 3, 1999, on file in the Office of Planning and Development Review.
- b. The project biologist shall meet with the owner/permittee or designee and the construction crew to conduct an on-site education session regarding the need to avoid impacts outside of the development area.
- c. During grading activities, the project biologist shall implement and document erosion control Best Management Practices as needed to prevent any significant sediment transport. These practices may include but not be limited to the following: the use of materials such as sandbags, sediment fencing and erosion control matting to stabilize disturbed areas; and installation of erosion control materials, particularly on the downslope side of disturbed areas to prevent soil loss.
- d. All construction activities shall take place only inside the fenced area. Graded materials shall be stored either inside the fenced development area or in an area approved by the biologist.

18. Within three months after the completion of grading, the project biologist shall submit a letter report to the Environmental Analysis Section verifying that project impacts did not exceed allowed amounts.

19. In the event that impacts exceed the allowed amounts, the additional impacts shall be mitigated in the manner and at the ratios specified in Measure 16 above.

20. Prior to the recordation of the final map and/or issuance of the first grading permit, the owner/permittee shall submit a Storm Water Pollution Prevention Plan [SWPPP] satisfactory to the City's Stormwater Pollution Regulation [SPR] Section of the Streets Division. Implementation of the SWPPP shall be noted on the grading and construction plans under the heading, "Environmental Requirements".

21. Prior to the recordation of the final map and/or the issuance of the first grading permit, the SPR shall verify that the structural elements of SWPPP are a part of the construction and grading plans. Such elements may include but not be limited to stormceptors, retention ponds, grass-crete or other permeable pavers, grass swales, erosion control landscaping and grading, and warnings stamped on stormdrains. The SWPPP shall include a permanent maintenance plan, and the drainage system shall be maintained and cleaned by the owner/permittee every four months, or as needed to ensure the system functions properly. The SWPPP shall include the requirement for an annual letter report prepared by the owner/permittee identifying the appropriate clean-out dates, system conditions and required maintenance, to be submitted to the SPR.

22. Prior to the issuance of building permits, the City Engineer shall inspect the drainage system. Existing runoff catchment basins or temporary erosion control devices shall not cease operations until the SWPPP and drainage system are approved by SPR.

23. Prior to the recordation of the final map and/or the issuance of the first grading permit, an additional deposit of \$450.00 shall be collected to ensure the successful implementation of the mitigation program.

ENGINEERING REQUIREMENTS:

24. This project shall conform to the Torrey Highlands Subarea IV Transportation Phasing Plan dated October 1996, and the final EIR/Traffic Study dated June, 1996.

PLANNING/DESIGN REQUIREMENTS:

25. Plans submitted to the Planning and Development Review Department for the purpose of pulling building permits for the ten single-family residences, shall be in substantial conformity to the approved "Torrey Brooke Design Guidelines," Exhibit "A," dated August 3, 1999, on file in the Office of Planning and Development Review.

26. Minimum setbacks may be deviated from to comply with requirements to subordinate garages as necessary, provided that other Subarea Plan policies and building requirements are not compromised.

27. No fewer than twenty (20) off-street parking spaces shall be maintained on the property at all times with two (2) provided per single-family dwelling unit. Parking spaces shall comply at all times with the San Diego Municipal Code, and shall not be converted for any other use unless otherwise authorized by the City Manager.

28. 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.

29. 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.
30. A topographical survey conforming to the provisions of the San Diego Municipal Code 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.
31. 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.
32. No building additions, including patio covers, shall be permitted unless approved by a homeowners association (if established) and the Planning and Development Review Director. Patio covers may be permitted only if they are consistent with the architecture of the dwelling unit.
33. All private outdoor lighting shall be shaded and adjusted to fall on the same premises where such lights are located.
34. The owner/permittee is required under the North City Future Urbanizing Area Framework Plan and the Torrey Highlands Subarea Plan to provide for the provision of housing for low income households, as certified by the San Diego Housing Commission. For residential developments of ten (10) or fewer housing units, the owner/permittee has an option beyond the provision of the affordable units to pay in-lieu fee to the Housing Commission to meet their affordable housing requirement. This project is eligible under the in-lieu fee option of the Torrey Highlands Subarea Plan to meet the affordable housing requirement in this manner, and the owner has stated their intent to pay the then current in-lieu fee for Torrey Highlands as required, at the time of issuance of building permits.
35. This subdivision is within the "Miramar Airport Influence Area," as identified in the Comprehensive Land Use Plan (CLUP) for Miramar and will be affected by sight and sound from aircraft and experience vibration and noise. The owner/permittee shall disclose these potential impacts to all initial and subsequent purchasers, lessees or other occupants through the CC& R's and contracts.
36. All signage associated with this development shall be consistent with sign criteria established by Citywide sign regulations.
37. The use of textured or enhanced paving shall meet applicable City standards as to location, noise and friction values.
38. The subject property and associated common areas on site shall be maintained in a neat and orderly fashion at all times.

LANDSCAPE REQUIREMENTS:

39. 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 August 3, 1999, on file in the Office of Planning and Development Review. No change, modification or alteration shall be made unless appropriate application or amendment of this Permit shall have been granted.

40. 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 August 3, 1999, on file in the Office of Planning and Development Review, and all other applicable conditions of related permits.

41. 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.

42. 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.

43. 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.

44. The timely erosion control 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.

45. Prior to the recordation of the final map, the subdivider shall submit complete landscape construction documents, including plans, details and specifications (including a permanent automatic irrigation system unless otherwise approved), for the required street tree improvements and the erosion control for new slope areas. The landscape construction documents shall be in substantial conformance with the

Landscape Concept Plan, Exhibit "A," dated August 3, 1999, on file in the Office of Planning and Development Review.

46. Prior to the recordation of the final map, the applicant shall assure by permit and bond the construction of landscaping per item No. 43 above.

BRUSH MANAGEMENT PROGRAM:

47. The Brush Management Program is based on the Fire Department's Fire Hazard Severity Classification of Moderate. 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 August 3, 1999, on file in the Office of Planning and Development Review:

- a. 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 August 3, 1999, on file in the Office of Planning and Development Review. 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."
- 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 August 3, 1999, on file in the Office of Planning and Development Review, 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.
- c. The Brush Management Zone Depths shall be as follows:

<u>Lot #</u>	<u>Location (Moderate)</u>	<u>Zone One</u>	<u>Zone Two</u>	<u>Zone Three</u>
9 and 10	West sides of lots 9 and 10	25'	30'	30'
	Northwest corner of lot 10	8'	35'	42'
	North side of lot 10	30'	30'	25'
8	North and west side	55'	0'	0'
	Northwest corner	30'	30'	25'

- d. 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.

- e. 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 exist.
- f. Plant material shall be selected to visually blend with the existing hillside vegetation. No invasive plant material shall be permitted.
- g. 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 Planning and Development Review Department to discuss and outline the implementation of the Brush Management Program."

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

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

THIRD PARTY BENEFICIARY:

50. 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. Section 1531 et seq.).

51. 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.

APPROVED by the Council of The City of San Diego on August 3, 1999, by Resolution No. RR-292058.

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.

STERLING LAND DEVELOPMENT, LLC
Owner/Permittee

By _____

By _____

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

1/21/00

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