

RESOLUTION NUMBER R-293132

ADOPTED ON MAY 16, 2000

WHEREAS, Shea Homes, Limited Partnership, Owner/Permittee, filed an application with The City of San Diego for a Planned Commercial Development/Planned Residential Development [PCD/PRD] Permit to develop an urban village referred to as the South Village at Black Mountain Ranch project, on portions of a 62-acre site located adjacent to the proposed extension of Camino Ruiz between Carmel Valley Road and San Dieguito Road, and legally described as Parcels 2 and 5 of Parcel Map 17996, in the Black Mountain Ranch Subarea Plan, in the A-1-10,000 zone (proposed CN, R-2000, and R-3000 zones); and

WHEREAS, on March 30, 2000, the Planning Commission of The City of San Diego considered PCD/PRD Permit No. 99-1161, and pursuant to Resolution No. 2944-2-PC voted to recommend City Council approval of the permit; and

WHEREAS, the matter was set for public hearing on May 16, 2000, 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 PCD/PRD Permit No. 99-1161:

- A. The proposed use will fulfill an individual and/or community need and will not adversely affect the General Plan or the community plan.**

The South Village at Black Mountain Ranch project is consistent with, and conforms to the overall goal of the Black Mountain Ranch Subarea Plan which is to "[c]reate a pattern of land use and conservation that is clearly distinguishable from surrounding communities, and that fosters appealing and enjoyable neighborhoods and business districts." The project also conforms with several of the Subarea Plan's basic planning principles by including:

- A range and mix of residential development with a neighborhood focus supported by a mix of commercial, employment, and public uses;
- An employment center as a means to create a balance between the provision of new housing and the creation of places where those residents may work;
- Designated sites for public facilities and services to serve the needs of residents and workers that are convenient and that establish community identity without burdening adjacent communities; and
- Creation of opportunities through a mix of uses and intensity of development to reduce the dependency on private automobiles and to encourage alternative forms of transportation such as walking, bicycling, horseback riding, and mass transit.

The proposed South Village project will fulfill both an individual and community need by providing a mixed-use development project whose design is based on traditional town planning principles, with an overall theme of a small country town with a central core, walkable tree-lined streets, and quiet residential areas. The project will include a variety of public facilities and public spaces that emphasize pedestrian activity and transit use. A small transit center with shelter, bike lockers, and vehicle parking will establish a focus for transit service.

The South Village project will have three distinct but integrated areas including a mixed-use Village Core, public open spaces, including a central village green with a surrounding area of retail, offices, residences, and public facilities; a Main Street; and peripheral area where residential uses predominate.

The Village Core will be the visual and activity focus of the South Village and will include the Village Green (public park), mixed-use buildings, and neighborhood-scale residential dwellings on the second floor above retail uses. There will be a combination of multifamily dwellings (affordable housing units) and bungalow-style, single-family detached housing on small lots peripheral to the core area.

Forming all sides of the Village Green is a commercial and residential area. The ground floor can be retail and office uses with residential located on the upper floors. Main street is the street leading to the Village Green from Camino Ruiz. This street shall be a retail and service focus for the Village with on-street parking, retail entrances, street trees, sidewalk cafes, and other urban design details to create a traditional village commercial street.

The residential neighborhood surrounding the Village Green and Main Street will be based on the traditional grid street organization with an emphasis to street activity through "front door" focus supported by porches, entries, and windows. Tree-lined streets with non-contiguous sidewalks define the neo-traditional compact residential neighborhood.

- B. The proposed use, because of conditions that have been applied to it, will not be detrimental to the health, safety and general welfare of persons residing or working in the area and will not adversely affect other property in the vicinity.**

The Planned Commercial Development Permit and Planned Residential Development 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 the health, safety, and general welfare of persons residing or working in the area would not be adversely affected. These conditions include minimum requirements for a water pollution prevention plan and monitoring program, a paleontological monitoring program, as well as City wide requirements for parking, landscaping, open space, traffic improvement measures, lighting, and signage. 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.

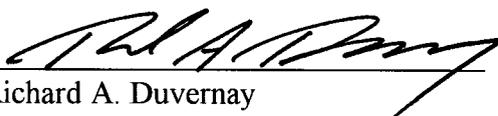
C. The proposed use will comply with the relevant regulations of the Municipal Code.

The project design will be consistent with the relevant regulations for this site per the Municipal Code including design standards and development regulations required under the Planned Commercial Development and Planned Residential Development permit process. The project will also comply with the land use designation, densities, and design standards of the adopted Black Mountain Ranch Subarea Plan. 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 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 PCD/PRD Permit No. 99-1161 is granted to Shea Homes, Limited Partnership, 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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10/31/00
7/22/02 Cor.Copy
Or.Dept:Clerk
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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 COMMERCIAL DEVELOPMENT PERMIT/
PLANNED RESIDENTIAL DEVELOPMENT PERMIT NO. 99-1161
SOUTH VILLAGE AT BLACK MOUNTAIN RANCH
CITY COUNCIL**

This Permit is granted by the Council of the City of San Diego to Shea Homes, Limited Partnership, Owner and Permittee, pursuant to the San Diego Municipal Code. The 62-acre site is located adjacent to the proposed extension of Camino Ruiz between Carmel Valley Road and San Dieguito Road in the A-1-10,000 zone (proposed CN, R-2000, and R-3000 zones) of the Black Mountain Ranch Subarea Plan. The project site is legally described as Parcels 2 and 5 of Parcel Map 17996.

Subject to the terms and conditions set forth in this permit, permission is granted to Owner/ Permittee to develop an urban village within the Black Mountain Ranch Subarea known as the South Villages described as, and identified by size, dimension, quantity, type and location on the approved Exhibit "A," dated May 16, 2000, on file in the Office of Planning and Development Review. The facility shall include:

- a. Three distinct but integrated areas including a mixed-use Village Core, public open space, a central village green with surrounding areas of retail, offices, residences, and public facilities, a Main Street, and a peripheral area where residential uses predominate. The project includes 218 single-family homes and 60,000 square feet of neighborhood commercial uses; and
- b. Landscaping (planting, irrigation and landscape related improvements); and
- c. Off-street parking facilities; and
- d. 42 Affordable Housing Units constructed on four separate lots.
- 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.

2. 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.
3. 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 the Planning and Development Review Department; and
 - b. The Permit is recorded in the office of the San Diego County Recorder.
4. 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.
5. 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.
6. The utilization and continued use of this permit shall be subject to the regulations of this and any other applicable governmental agencies.
7. 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.).
8. 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.
9. 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 May 16, 2000, on file in the Office of Planning and Development Review Department. No changes, modifications or alterations shall be made unless appropriate applications or amendment of this permit shall have been granted.

10. 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" conditions(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.

11. Rezoning of the subject property shall become effective 30 days after City Council adoption of the ordinance.

ENVIRONMENTAL/MITIGATION REQUIREMENTS:

12. The permittee shall comply with the Mitigation, Monitoring, and Reporting Program (MMRP) as applicable, consistent with the Black Mountain Ranch Subarea 1 Environmental Impact Report (LDR No. 96-7902), satisfactory to the City Manager and the City Engineer. All mitigation measures as specifically outlined in the MMRP (Addendum LDR No. 99-1161) shall be implemented for the following areas: Hydrology/Water Quality; Paleontological Resources.

ENGINEERING REQUIREMENTS:

13. The project shall conform to the Transportation Phasing Plan for Subarea I/Black Mountain Ranch in the Public Facilities Financing Plan dated September 1998.

14. The applicant shall construct traffic signals at the intersection of Street "E," Street "H" and Street "MM" with Camino Ruiz, satisfactory to the City Engineer.

15. The Planned Commercial Development Permit/Planned Residential Development Permit shall comply with the conditions of the final map for Vesting Tentative Map No. 99-1161.

PLANNING/DESIGN REQUIREMENTS:

16. 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.

17. 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.

18. A topographical survey conforming to the provisions of Section 101.0216 of the 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.

19. 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.

20. No building additions, including patio covers, shall be permitted unless approved by the homeowners association and the Planning and Development Review Department Director. Patio covers may be permitted only if they are consistent with the architecture of the dwelling unit.

21. All signage associated with this development shall be consistent with sign criteria established by either of the following:

- a. Approved project sign plan (Exhibit "A," dated May 16, 2000, on file in the Office of Planning and Development Review Department); or
- b. Citywide sign regulations.

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

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

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

25. No mechanical equipment, tank, duct, elevator enclosure, cooling tower or mechanical ventilator or air conditioner shall be erected, constructed, converted, established, altered, or enlarged on the roof of any building, unless all such equipment and appurtenances are contained within a completely enclosed structure whose top and sides may include grillwork, louvers and latticework.

26. No merchandise, material or equipment shall be stored on the roof of any building.
27. Prior to the issuance of building permits, construction documents shall fully illustrate compliance with the Citywide Storage Standards for Trash and Recyclable Materials 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 May 16, 2000, on file in the Office of Planning and Development Review Department.

LANDSCAPE REQUIREMENTS:

28. Prior to issuance of any construction permits for structures, complete landscape and irrigation construction documents consistent with the Landscape Technical Manual (including planting and irrigation plans, details and specifications) shall be submitted to the City Manager for approval. The construction documents shall be in substantial conformance with Exhibit "A," Landscape Concept Plan, dated May 16, 2000, on file in the Office of Planning and Development Review Department. No change, modification or alteration shall be made unless appropriate application or amendment of this Permit shall have been granted by the City.
29. Prior to issuance of any engineering permits for right-of-way improvements, complete landscape construction documents for right-of-way and median (if applicable) improvements shall be submitted to the City Manager for approval. Landscape construction documents shall identify a 40 square feet water permeable planting area for each street tree in the right-of-way. This area shall be identified as a rectangle with an "X" through it and labeled "planting area for street tree." Driveways, utilities, drains, water and sewer laterals shall be designed so as not to prohibit the placement of street trees. Location of street trees shall be identified and reserved during improvement activities and on all site plans prepared for subsequent building permit applications with actual installation taking place prior to issuance of a certificate of occupancy for a specific building permit. The construction documents shall be in substantial conformance with Exhibit "A," Landscape Concept Plan, dated May 16, 2000, on file in the Office of Planning and Development Review Department.
30. Prior to issuance of any engineering permits for grading, construction documents for slope planting or revegetation and hydroseeding of all disturbed land including irrigation shall be submitted in accordance with the Landscape Technical Manual Section 7 and to the satisfaction of the City Manager. All plans shall be in substantial conformance to PCD/PRD Permit No. 99-1161 (including Environmental conditions) and Exhibit "A," dated May 16, 2000, on file in the Office of Planning and Development Review Department
31. Prior to issuance of any Certificate of Occupancy it shall be the responsibility of the Permittee or subsequent owner to install all required landscape and obtain all required landscape inspections. A No Fee Street Tree Permit, if applicable, shall be obtained for the installation, establishment and on-going maintenance of all street trees.

32. All required landscape shall be maintained in a disease, weed and litter free condition at all times. Severe pruning or "topping" of trees is not permitted unless specifically noted in this Permit.

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

34. Installation of slope planting and erosion control including seeding of all disturbed land (slopes and pads) consistent with the approved landscape and grading plans is considered to be in the public interest. The Permittee shall initiate such measures as soon as the grading has been accomplished. Such erosion control/slope planting 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.

35. The Permittee or subsequent owner shall be responsible for the maintenance of all street trees and landscape improvements (right-of-way and median landscaping) consistent with the standards of the Landscape Technical Manual unless long-term maintenance of street trees, right-of-way and median landscaping will be the responsibility of a Landscape Maintenance District or other approved entity. In this case, a Landscape Maintenance Agreement shall be submitted for review by a Landscape Planner.

WATER & SEWER REQUIREMENTS:

36. Prior to the issuance of any building or grading permits, the developer shall assure, by permit and bond, the design and construction of certain portions of water facilities, identified in accepted studies, necessary to provide service to this development in a manner satisfactory to the Water Department Director and the City Engineer.

37. Prior to the issuance of any building permits, certain water facilities required of BMR must be complete and operational including the 25 million gallon Black Mountain Reservoir and the associated transmission pipelines.

38. The developer shall install water services and meters only within fully improved public rights-of-way exceeding 30 feet in width in a manner satisfactory to the Water Department Director. Lots without frontage on adequate public rights-of-way shall be served by encroachment services. The water meters will not front such lots.

39. Prior to the issuance of any building permits, the developer shall install fire hydrants at locations satisfactory to the Fire Department and the City Engineer. If more than two (2) fire hydrants or 30 dwelling units are located on a dead-end main then the developer shall install adequate facilities to provide a redundant water supply satisfactory to the Water Department Director.

40. Prior to the issuance of any building permits, the developer shall assure, by permit and bond, the design and construction of certain portions of sewer facilities, identified in accepted studies, necessary to provide service to this development in a manner satisfactory to the Metropolitan Wastewater Department Director.

41. Prior to the submittal of any public improvement or grading plans, an accepted sewer study to determine appropriate facilities needed to serve this development shall be required satisfactory to the Metropolitan Wastewater Department Director.

42. An encroachment removal agreement shall be required before installing enhanced paving within public utility easements.

AFFORDABLE HOUSING REQUIREMENTS:

43. Affordable Housing Requirements. Prior to the filing of the first final map, Subdivider shall comply with the requirements of the Black Mountain Ranch Subarea Plan for Affordable Housing (the "Affordable Housing Requirements") by satisfaction of the requirements of subparagraph A., below:

- A. Subdivider shall assure the construction and occupancy of an "Affordable Housing Project" consisting of forty-two (42) units to be constructed on Lots 221 through 224, as shown on the Exhibit "A," dated May 16, 2000, on file in the Office of Planning and Development Review Department. Subdivider shall execute an 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 the identified land, 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;
 - 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 109th market rate dwelling unit (number of units which represents 50% of market rate units); or, twelve (12) months after the issuance of the first building permit for a residential market rate unit;

- (ii) In no event shall the issuance of building permits for the construction of the 109th market rate unit occur until building permits for construction of the forty-two (42) affordable units are authorized by the City and are obtained by the Subdivider. The provisions of Section 2.c, of this condition are incorporated herein, by reference.
- 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) Two years after the issuance of the first building permit for a residential market rate unit.

Further, the issuance of building permits for the construction of the 164th market rate unit (number of units which represents seventy-five percent (75%) of market rate units) shall not occur until the completion of the forty-two (42) affordable units is authorized by the City. The provisions of Section 2.c, of this condition are incorporated herein, by reference.

- c. If individual parcels are sold initially by Subdivider 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 109th and 164th or greater, market rate unit.
 - d. Occupancy of the Affordable Housing Project shall occur not later than one hundred eighty (180) days after the completion of construction as referenced in Paragraph 2.b. above.
 - e. 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, financial infeasibility, acts of Federal or State governmental agencies, litigation, etc., as shall be determined by the Executive Director, in her/his sole discretion.
3. A Declaration of Covenants, Conditions and Restrictions (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 Subdivider 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. Subdivider, 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 Subdivider 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 forty-two (42) Affordable Units within the Subarea on common site(s) that is not located within the boundaries of this project and that has received City approvals. 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 PCD/PRD exhibits for the common site(s);
2. Security for timely performance by the Subdivider 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 A.4. of this condition; and
7. Such other and further measures 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. Subdivider, 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.

43. The Black Mountain Ranch, South Village Affordable Housing Program is attached to the PCD/PRD permit conditions for reference as Attachment "A." The provisions of the Affordable Housing Program shall not in any way modify or change any provisions of the Affordable Housing requirements. To the extent that there is any inconsistency between the two, the terms of the condition shall prevail.

APPROVED by the Council of the City of San Diego on May 16, 2000, by Resolution No. R-293132.

INFORMATION ONLY

Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of this development permit/tentative map, may protest the imposition within 90 days of the approval of this development permit/tentative map by filing a written protest with the City Clerk pursuant to California Government Code 66020.

7/22/02
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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.

**Shea Homes
Limited Partnership**
Owner/Permittee

By _____

By _____

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