

RESOLUTION NUMBER R-293808

ADOPTED ON SEPTEMBER 12, 2000

WHEREAS, Carmel Valley, LLC, a California Limited Liability Company, Owner and Western Athletic Clubs, Inc., Permittee, filed an application with the City of San Diego for a permit to develop, construct, and operate a private athletic club on portions of a 10.59 acre site located at 12000 Carmel Country Road and legally described as Lots 1 and 2, Carmel Del Mar Neighborhood 5, Map No. 12653, filed June 20, 1990, in the Carmel Valley Community Plan area in the SP (Special Use Area) zone, and;

WHEREAS, on August 10, 2000, the Planning Commission of The City of San Diego, considered Carmel Valley Planned District/Resource Protection Ordinance [CVPD/RPO] Permit No. 99-1136, and pursuant to Resolution No.2994-PC, recommended City Council approval of the permit; and

WHEREAS, the matter was set for public hearing on September 12, 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; and

WHEREAS, after approval of the above referenced project by the City Council, Carmel Valley, LLC, a California Limited Liability Company, transferred ownership of the property to Western Athletic Clubs, Inc., thereby making Western Athletic Clubs, Inc. the Owner/Permittee of the Carmel Valley Athletic Club; NOW, THEREFORE,

BE IT RESOLVED, by the Council of The City of San Diego, that this Council adopts the following findings with respect to Carmel Valley Planned District/Resource Protection Ordinance [CVPD/RPO] Permit No. 99-1136:

CARMEL VALLEY

1. The proposed use will fulfill a community need and will not adversely affect the City's Progress Guide and General Plan or the adopted Planned District Ordinance. The proposed project site is designated for a tennis club by the Carmel del Mar Neighborhoods 4, 5 & 6 Precise Plan. The proposed athletic club is consistent with the tennis club designation of the Precise Plan. The proposed use will provide a quality private family oriented recreational amenity in the community which includes three swimming pools, a spa, a variety of exercise rooms, a dining terrace, lawn areas, tennis courts, site landscaping, and physical park-like improvements within the 150 foot wide SDG&E easement. As the project is consistent with the precise plan, consistency with the City's Progress Guide and General Plan is also achieved and adverse affects to the Progress Guide and General Plan will not result from implementation of the project. The proposed use has been planned to occur at this location consistent with the policy documents.

2. 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 permit controlling the development and continued use of the athletic club proposed for this site contains conditions addressing the project compliance with the City's regulations and other regional, State and Federal regulations to prevent detrimental impacts to the health, safety, and general welfare of persons residing and/or working in the area. Conditions of approval require compliance with several operational constraints and development controls intended to assure the continued health, safety and general welfare of persons residing or working in the area. All Building, Fire, Plumbing, Electrical, Mechanical Code and the City regulations governing the construction and continued operation of the development apply to this site to prevent adverse affects to those persons or other properties in the vicinity.

3. The proposed use will fully comply with the relevant regulations of the Municipal Code in effect for this site. Specific conditions of approval require the continued compliance with all relevant regulations of the City of San Diego effective for this site and have been written as such into CVPD/RPO Permit No. 99-1136. Development of property shall meet the requirements of the Carmel Valley Planned District regulations and development criteria. Concept plans for the project identify all other development criteria in effect for the site. All relevant regulations shall be complied with at all times for the life of the project.

RESOURCE PROTECTION ORDINANCE

4. The proposed development will be sited, designed, and constructed to minimize, if not preclude, adverse impacts upon sensitive natural resources and environmentally sensitive areas. The proposed development is located in the areas of least sensitive steep slopes

and biologically sensitivity areas of the site. As required by the regulations of the Resource Protection Ordinance, the proposed development will minimize adverse affects to sensitive natural resources and environmentally sensitive areas. The proposed project is consistent with the allowed encroachment into these sensitive resources as regulated by Resource Protection Ordinance. The proposed development will not impact any areas within the City's Multiple Habitat Planning Area and will avoid impacts to existing onsite wetlands.

5. The proposed development will be sited and designed to prevent adverse impacts to environmentally sensitive habitats and resources located in adjacent parks and recreation areas and will provide adequate buffer areas to protect such resources. The proposed development is sited and designed to prevent adverse impacts to environmentally sensitive habitats and resources located within the sensitive slopes and biologically sensitive resources. No parks or recreation areas exist adjacent to this site, and provisions to protect such resources by means of buffer areas have not been necessary for the proposed development.

6. The proposed development will minimize the alterations of natural landforms and will not result in undue risks from geological and erosional forces and/or flood and fire hazards. The proposed development includes the minimum necessary alteration of the natural landforms while allowing a reasonable use of the property. Preliminary geotechnical reports have been submitted to and reviewed by the City's geologist to confirm the owner's geotechnical consultant has adequately addressed the soil and geologic conditions present on the site. The City's geologist has determined the proposed design is appropriate for this site.

The proposed landscape concept plan includes provisions to address erosion control for all slopes created by the development of the property to prevent soil erosion and downstream silting of water courses and estuaries. By planting of groundcovers, shrubs, and trees of varying rooting depth, the proposed erosion control will provide additional stability to manufactured slopes. Adverse impacts from flooding will not occur with the development of the site. Engineering and site design will direct, capture, and control all runoff from the site to preclude adverse impacts from potential runoff.

A brush management plan is not necessary to provide protection of persons and property from the risks of potential wildfires since the site is located within an established urban neighborhood and fuel sources are not located on the site.

7. The proposed development will be visually compatible with the character of surrounding areas, and where feasible, will restore and enhance visual quality in visually degraded areas. The proposed site development, architecture, landscaping, and signage will be consistent with and enhance the character of the Carmel Valley community. The landscaping associated with the development will enhance and restore the visual quality to the degraded areas of the site by the planting of groundcovers, shrubs, and trees.

8. The proposed development will conform with the City's Progress Guide and General Plan, the applicable community plan, the local coastal program, or any other applicable adopted plans and programs in effect for this site. The proposed project site is designated for

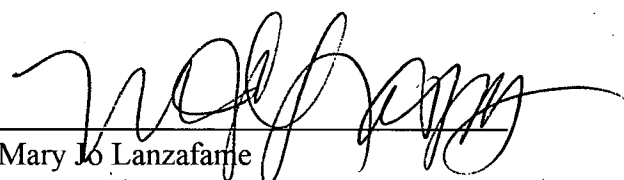
a tennis club by the Carmel del Mar Neighborhoods 4,5 & 6 Precise Plan. The proposed athletic club is consistent with the tennis club designation of the Precise Plan. The proposed use will provide a private family oriented recreational amenity in the community which includes three swimming pools, a spa, a variety of exercise rooms, a dining terrace, lawn areas, tennis courts, site landscaping, and physical park-like improvements within the 150 foot wide SDG&E easement. By virtue of the project being consistent with the precise plan, the proposed project is consistent with the City's Progress Guide and General Plan and therefore adverse affects to the Progress Guide and General Plan will not result from implementation of the project as the proposed use has been planned to occur at this location.

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

BE IT FURTHER RESOLVED, Carmel Valley Planned District/Resource Protection Ordinance [CVPD/RPO] Permit No. 99-1136 is hereby granted to Western Athletic Clubs, 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


Mary Jo Lanzafame
Deputy City Attorney

MJL:pev
10/16/00
12/7/00 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

Carmel Valley Planned District/
Resource Protection Ordinance Permit No. 99-1136 (MMRP)
CARMEL VALLEY ATHLETIC CLUB
City Council

This permit is granted by the Council of the City of San Diego to Western Athletic Clubs, Inc., Owner/Permittee pursuant to San Diego Municipal Code [SDMC] sections 103.0601 and 101.0462. The 10.59 acre site is located at 12000 Carmel Country Road and legally described as Lots 1 and 2, Carmel Del Mar Neighborhood 5, Map No. 12653, filed June 20, 1990, in the SP (Special Use Area) zone of the Carmel Valley Community Plan area.

Subject to the terms and conditions set forth in this permit, permission is granted to Owner/Permittee to develop, construct, and operate a private athletic club which includes one main building of approximately 86,679 square feet, a cabana building of approximately 1,914 square feet, a pool equipment building of approximately 830 square feet, a monument sign/planter wall, three swimming pools, a spa, a dining terrace, lawn areas, tennis courts, site landscaping, and physical park-like improvements within the 150 foot wide SDG&E easement described as, and identified by size, dimension, quantity, type and location on the approved Exhibits "A," dated September 12, 2000 on file in the Office of Planning and Development Review Department. The facility shall include:

- a. Three buildings: One, two-story main building of approximately 86,679 square feet; one, single story cabana building of approximately 1,914 square feet; and one, single story pool equipment room of approximately 830 square feet; and
- b. One monument/planter wall and other site landscaping (planting, irrigation and landscape related improvements); and
- c. Off-street parking; and
- d. Five retaining walls; 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 decisionmaker.
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 the Planning and Development Review Department; 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 issuance of this permit by The City of San Diego does not authorize the applicant to violate any Federal, State or City laws, ordinances, regulations or policies including, but not limited to, the Federal Endangered Species Act of 1973 and any amendments thereto (16 U.S.C. § 1531 et seq.).
7. 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.

8. 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 section 66020.

9. 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.

10. 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 September 12, 2000, on file in the Office of the 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.

11. 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 new permit and the condition(s) contained therein.

12. The Owner/Permittee shall comply with the Mitigation, Monitoring, and Reporting Program [MMRP] as specified in Mitigated Negative Declaration (LDR No. 99-1136), satisfactory to the City Manager. Prior to issuance of any grading permits, all mitigation measures as specifically outlined in the MMRP shall be implemented for the following issue areas:

BIOLOGICAL RESOURCES
HYDROLOGY/WATER QUALITY
TRANSPORTATION/CIRCULATION
PALEONTOLOGICAL RESOURCES.

13. Prior to the issuance of any building permits, the Owner/Permittee shall obtain a bonded grading permit from the City Engineer (referred to as an "engineering permit") for the grading proposed for this project. All grading shall conform to requirements in accordance with the City of San Diego Municipal Code in a manner satisfactory to the City Engineer.

14. All mechanical equipment located on the roof top shall be painted to match the roof top color.
15. The bell in the bell tower indicated on the Exhibit "A," dated September 12, 2000, on file in the Office of Planning and Development Review shall be silent and non-functional and shall be used for decorative purposes only.
16. The drainage system proposed for this development is subject to approval by the City Engineer.
17. Prior to the issuance of any building permits, the Owner/Permittee shall obtain an encroachment removal agreement, from the City Engineer, for the tennis courts over drainage easements and systems.
18. Development of this project shall comply with all requirements of State Water Resources Control Board (SWRCB) Order No. 92-08-DWQ (NPDES General Permit No. CAS000002), Waste Discharge Requirements for Discharges of Storm Water Runoff Associated With Construction Activity. In accordance with said permit, a Storm Water Pollution Prevention Plan (SWPPP) and a Monitoring Program Plan shall be developed and implemented concurrently with the commencement of grading activities, and a complete and accurate Notice of Intent (NOI) shall be filed with the SWRCB. A copy of the acknowledgment from the SWRCB that an NOI has been received for this project shall be filed with the City of San Diego when received; further, a copy of the completed NOI from the SWRCB showing the permit number for this project shall be filed with the City of San Diego when received.

In addition, the owner(s) and subsequent owner(s) of any portion of the property covered by this grading permit and by SWRCB Order No. 92-08-DWQ, and any subsequent amendments thereto, shall comply with special provisions as set forth in Section C.7 of SWRCB Order No. 92-08-DWQ.
19. Prior to building occupancy, the Owner/Permittee shall conform to the Municipal Code, "Public Improvement Subject to Desuetude or Damage." If repair or replacement of such public improvements is required, the owner shall obtain the required permits for work in the public right-of-way, satisfactory to the permit-issuing authority.
20. All on-site water facilities shall be private, including fire hydrants. Meters shall be located within or adjacent to the fully improved Carmel Country Road right-of-way. On-site fire hydrants will be served through a fire service.
21. The applicant shall deed a westerly portion, approximately fifty-eight feet wide, of the SDG&E easement on their property for its entire length in fee, to the City of San Diego, at no cost, for open space. Except for existing public easements, said area shall be free and clear of any additional private easements, private encroachments, private agreements, or private liens.
22. No fewer than 358 off-street parking spaces shall be maintained on the property at all times in the approximate locations shown on the approved Exhibits "A," dated September 12, 2000, on file in the Office of Planning and Development Review Department. Parking spaces shall comply at all times with the Municipal Code and shall not be converted for any other use unless otherwise authorized by the City Manager.

23. Prior to issuance of the first building permit, the Owner/Permittee shall assure by permit and bond the construction of a traffic signal at the intersection of Carmel Country Road and Carmel Mission Road, to the satisfaction of the City Engineer.

24. All signage associated with this development shall be consistent with sign criteria established by the City-Wide Sign Regulations.

25. Prior to the issuance of any building permits, complete outdoor lighting information shall be submitted to the Planning and Development Review Department, Land Development Review Division for review and approval. Complete lighting information shall include a plan view photometric analysis indicating an isofoot candle plot and a point by point plot to include all areas within the private property and to extend a minimum of 50 feet beyond the property line, construction details as necessary to direct installation of the outdoor lighting system, manufacturers name, visors, prisms, lenses and reflectors and a lighting plan locating each fixture in plan view and a legend. The outdoor lighting system shall be designed, manufactured and installed to allow shading, adjusting, and shielding of the light source so all outdoor lighting is directed to fall only onto the same premises as light sources are located.

Prior to the issuance of any occupancy permit, a night inspection shall be required to verify compliance of the outdoor lighting system. No light shall be directed to fall outside the property line. Light levels along the perimeter of the property shall be measured no higher than three footcandles. Light levels throughout the development shall be the least practical level necessary to effectively illuminate the operation. Sky glow or light halo shall be reduced to the greatest extent practical and in no case shall initial light levels be measured exceeding eight footcandles anywhere within the site, except within the tennis courts may be measured 125 footcandles. The Owner/Permittee, or an authorized representative, shall provide an illuminance meter to measure light levels as required to establish conformance with the conditions of this permit during the night inspection. Night inspections may be required additional fees as determined by the Planning and Development Review Department Manager.

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

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

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

29. 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 September 12 2000, on file in the Office of Planning and Development Review.

30. Prior to issuance of any grading permit, grading plans shall indicate the location and suitable outlet/tie in for the existing canyon sub-drain as shown on the As-Graded Geotechnical Report, Rough Grading Complete, Neighborhood 5, Unit 10, Tennis Club Site, Carmel Valley, San Diego; prepared by ICG, Inc., dated November 6, 1989.

31. 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 Park and Recreation Department, and Planning and Development Review Department for approval. The construction documents shall be in substantial conformance with Exhibit "A," Landscape Concept Plan, dated September 12, 2000, on file in the Office of the 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.

32. 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 and City Engineer. All plans shall be in substantial conformance to Exhibit "A," dated September 12, 2000, on file in the Office of the Planning and Development Review Department and all other applicable conditions of related permits.

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

34. 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.

35. 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*.

36. 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.

37. Within Neighborhoods 1 & 5 the following shall be offered:

- a. Residents of Neighborhoods 1 and 5 shall receive a ten-percent discount on the list price of membership initiation fees. From time to time, the Club may offer special initiation fee discounts and/or incentives in order to promote membership sales. At all time during such promotions, residents of Neighborhoods 1 & 5 will be able to join for the lowest individual transaction rate being offered for their membership category.
- b. Children's programs offered to non-members shall be available at member rates on a space available basis.

38. Use of loud speakers shall be limited to daylight hours.
39. Hours of operation shall be from 5:30 A.M. to 11 P.M.
40. Prior to the issuance of any grading permit, the Owner/Permittee shall elect and execute one of the following options to mitigate biological impacts from the grading of the site:
 - a. The Owner/Permittee shall acquire and dedicate to the City of San Diego, interest in property necessary to maintain the land in its existing condition in perpetuity, a total of 1.0 acre of Tier II habitat and 1.0 acre of Tier IIIB or better habitat located off-site, in the City of San Diego's Multiple Habitat Planning Area (MHPA); or
 - b. Prior to the issuance of the first grading permit, the applicant shall pay into the City's Habitat Acquisition Fund the amount necessary to purchase 1.0 acre of Tier II and 1.0 acre of tier IIIB habitat plus a 10 percent administration fee. Said payment is currently estimated at \$35,000.00 per acre, but is subject to revision at the time of payment.

Approved by City Council on September 12, 2000 by Resolution No. R-293808.

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.

Western Athletic Clubs, Inc.
Owner/Permittee

By _____

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

12/6/00

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