

RESOLUTION NUMBER R-294051

ADOPTED ON OCTOBER 24, 2000

WHEREAS, Rancho Penasquitos Partnership, a California General Partnership, Owner, and Greystone Homes, Inc., a Delaware Corporation, Permittee, filed an application with the City of San Diego for the Greystone Torrey Highlands Project [the Project] which would include the subdivision of a 108-gross/95-net acre site into 246 lots in order to develop 235 single-family residential dwelling units, an affordable housing site for seventy-six attached dwelling units, two commercial lots for limited development, two open space lots, and six lots for a Homeowners Association maintenance project, located generally on the east side of the proposed alignment of Camino Ruiz and north of the proposed State Route 56, and legally described as Parcel C and Portions of Parcels A, B, and D, Parcel Map No. 5577, in the Torrey Highlands Subarea IV Planning area, in the A1-10 and Hillside Review Overlay zones (proposed R1-5000, R-1500, CN, CA and HRO zones); and

WHEREAS, on October 12, 2000, the Planning Commission of the City of San Diego considered Planned Residential Development [PRD], Planned Commercial Development [PCD], and Resource Protection Ordinance [RPO] Permit No. 98-0392 for the Project; and

WHEREAS, the Planning Commission continued consideration of the PRD portion of the Project to its October 26, 2000, meeting; and pursuant to Resolution No. 3024-2-PC, voted to recommend City Council approval of the PCD/RPO portion of the Project; and

WHEREAS, after approval of the above referenced project by the City Council, Rancho Penasquitos Partnership, a California general partnership, Owner, will transfer ownership of the

property to LEN-Greystone Torrey Highlands, LLC, a Delaware limited liability company, thereby making LEN-Greystone Torrey Highlands, LLC, the new Owner of the Greystone Torrey Highlands project; and

WHEREAS, the matter was set for public hearing on October 24, 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/RPO Permit No. 98-0392:

I. PLANNED COMMERCIAL DEVELOPMENT FINDINGS (San Diego Municipal Code section 101.0910):

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 108-acre site is located within the Torrey Highlands Subarea IV Plan area for the North City Future Urbanizing Area and is designated for LD (Low Density / 2-5 d.u. per gross acre) Residential use, LMXU (Local Mixed Use), and LMD (Low Medium Density / 5-10 d.u. per gross acre) Residential use. These uses are shown and described on Figures 4-2 and 4-3 of the Torrey Highlands Subarea IV Plan for "Alternative 2" State Route 56 Freeway alignment. The project component within the LMD designated area lies south of the freeway and is proposed to be amended to the CR (Commercial Regional) designation. A portion of the property site designated for High School, lying north of the proposed Street 'B' and west of Camino Ruiz, was not acquired by the Poway School District and is proposed to be redesignated LMXU. Both the CR and redesignated high school sites will be developed in the future, subject to site specific amendments to the PCD portion of this Permit. The lot located within the LMXU on the south side of the proposed Street 'B' and west side of Camino Ruiz shall be developed with seventy-six affordable multi-family dwelling units subject to an agreement with the City of San Diego Housing Commission and in conformity to the Torrey Highlands Subarea IV Plan which requires affordable housing. The proposed development of this 108-acre site satisfies design criteria, land use (as proposed), freeway buffering, vernal pool and urban amenity preservation, and the requirement for minimum residential lot size for those adjacent to the Rancho Penasquitos Community Plan area, in compliance with the adopted Subarea IV Plan and the General 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 235 detached single-family dwelling units, seventy-six affordable multi-family dwelling units and two commercial sites through future site specific amendments to this Permit, on a 108 gross acre site located generally on the north side of State Route 56 and east side of Camino Ruiz (portions of the project lie on the opposite side of both rights-of-way), bordering on the west boundary of the Rancho Penasquitos Community Plan area, will not be detrimental to the health, safety or general welfare of persons residing or working in the area and will not adversely affect other properties in the vicinity. Residential lots adjacent to the Rancho Penasquitos community all meet a minimum lot size criteria to buffer the new development from the existing older community, the development complies with criteria in the Torrey Highlands Subarea IV Plan for grading, preservation of vernal pools and urban amenity open space, buffers the State Route 56 Freeway, incorporates an affordable housing site within the LMXU designated area, with conditions to integrate the site with adjoining development, and the future development of two commercial sites created by the prior actions of the Poway School District in a site selection decision and the ownership pattern in conjunction with the selected freeway alignment and plan amendment initiation of an adjoining property owner. With conditions for the development contained within the accompanying Permit, the proposed project will meet this required Finding.

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

Development of this 108-acre site with single-family residential, affordable multi-family housing, future commercial development on two separate sites and preservation of vernal pools and urban amenity open space, in conjunction with plan amendments, a tentative map and a rezone from existing A1-10 and Hillside Review Overlay (HRO) zones to the R1-5000, R-1500, CN, CA and HRO, will fully comply with the relevant regulations of the Municipal Code in effect for this site when the initial applications were made. A reduced front yard setback deviation is incorporated to permit a model offering a detached single car garage/option office. The project as proposed, would satisfy design criteria of the Torrey Highlands Subarea IV Plan with additional criteria being adopted, the proposed zones for use, intensity and site development criteria, the State Subdivision Map Act, the purpose and intent of the Planned Residential and Planned Commercial Development Permit Ordinances and all other applicable regulations as represented on the drawings and plans marked Exhibit "A," dated October 24, 2000, on file in the office of the Development Services Department.

I. RESOURCE PROTECTION ORDINANCE FINDINGS (ALTERNATIVE COMPLIANCE) - SUBSTANTIAL CONFORMANCE SECTION (San Diego Municipal Code section 101.0462(M)):

The subdivision of the 108-gross-acre site for the grading and development of 235 single-family residential dwellings; a seventy-six unit affordable multi-family housing site; two commercial sites; and eight lots for preservation of vernal pools, urban amenity open space and other lots for Homeowners Association maintenance, is designed to comply with the provisions of the adopted Torrey Highlands Subarea IV Plan. Section 2.2, Resource Protection Ordinance (RPO), of the Plan, references City Council Policy 600-40 as to how RPO analysis was

formulated for the overall 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 section of the RPO." This project is grading 92.2 acres (85 percent) of the 108-acre site while designing around an existing middle-school site, providing for the alignment of State Route 56 and the major alignment of Camino Ruiz and reserving vernal pool sites and a urban amenity canyon. The project site, with these major constraints, has been designed in substantial compliance with all elements of the Torrey Highlands Subarea IV Plan, including land use, circulation, grading, and design guidelines. In addition, the project is consistent with the Multiple Species Conservation Program/Multiple Habitat Planning Area criteria for this portion of the plan area. Impacts created by this subdivision are the minimum to implement the project. Mitigation measures have been incorporated into the project to reduce adverse impacts to environmentally sensitive areas.

III. BRUSH MANAGEMENT PROGRAM 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 October 24, 2000, on file in the office of the Development Services Department, 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 will alter the existing vegetation to the least practical extent while still providing an effective fire break consistent with the standards outlined in the Landscape Technical Manual. The alterations to existing vegetation is accomplished in order to increase the stability of the slope and all new plantings on the slopes will conform to the

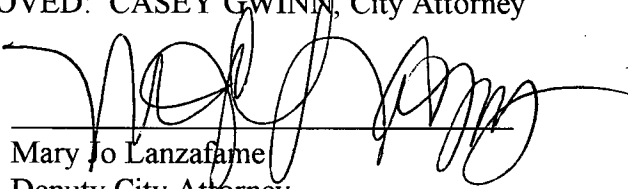
revegetation standards of the Landscape Technical Manual, Section Seven, and will incorporate low precipitation irrigation systems to minimize runoff.

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 Commercial Development/Resource Protection Ordinance Permit No. 98-0392 is granted to LEN-Greystone Torrey Highlands, LLC, Owner, and Greystone Homes, Inc., a Delaware Corporation, 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

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02/05/01 COR.COPY
Or.Dept:Clerk
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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 COMMERCIAL DEVELOPMENT/RESOURCE PROTECTION ORDINANCE
PERMIT NO. 98-0392
GREYSTONE TORREY HIGHLANDS
CITY COUNCIL

This Permit is granted by the Council of the City of San Diego to LEN-Greystone Torrey Highlands, LLC, a Delaware limited liability company, by Lennar Homes of California, Inc., a California Corporation, Owner; and Graystone Homes, Inc., a Delaware Corporation, Permittee, pursuant to San Diego Municipal Code [SDMC] sections 101.0910, 101.0462, and 111.0510. The approximately 108 acre site is located generally on the east side of the proposed alignment of Camino Ruiz and north of the proposed alignment of State Route 56 in the existing A1-10 and Hillside Review Overlay (HRO)/proposed R1-5000, R-1500, CN, CA and HRO zones of the Torrey Highlands Subarea IV planning area. The project site is legally described as Parcel C and Portions of Parcels A, B and D, Parcel Map 5577.

Subject to the terms and conditions set forth in this permit, permission is granted to Owner/ Permittee to subdivide a 108 gross/95 net acre site into 246-lots in order to develop 235 detached single-family residential lots in the proposed R1-5000 zone; one lot for seventy-six affordable, multi-family housing in the proposed R-1500 zone; one lot for commercial use in the proposed CN zone adjacent to the high school; one lot for commercial use in the proposed CA zone south of State Route 56; and eight lettered lots for Homeowners Association maintenance and open space, described as and identified by size, dimension, quantity, type and location on the approved Exhibits "A," dated October 24, 2000, on file in the Development Services Department. The facility shall include:

- a. Two hundred thirty-five lots for single-family residential dwelling units, a seventy-six-unit multi-family affordable housing site, two commercial sites for future development and eight lettered lots for preservation of vernal pool sites, canyon space urban amenity, common landscaped areas, and open space; and
- b. Landscaping (planting, irrigation and landscape related improvements); and
- c. Off-street parking facilities; and
- d. Noise berms, walls and fences, a vernal pool preserve and wetland buffers; 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 the Permittee signs and returns the Permit to the Planning and Development Services Department; and the Permit is recorded in the office of the San Diego County Recorder.
3. Unless this permit has been revoked by the City of San Diego the property included by reference within this permit shall be used only for the purposes and under the terms and conditions set forth in this permit unless otherwise authorized by the City Manager.
4. This permit is a covenant running with the subject property and shall be binding upon the Permittee and any successor or successors, and the interests of any successor shall be subject to each and every condition set out in this permit and all referenced documents.
5. The utilization and continued use of this permit shall be subject to the regulations of this and any other applicable governmental agencies.
6. Issuance of this permit by the City of San Diego does not authorize the applicant for said permit to violate any Federal, State or City laws, ordinances, regulations or policies including, but not limited to, the Federal Endangered Species Act of 1973 and any amendments thereto (16 U.S.C. Section 1531 et seq.)
7. 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. 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 October 24, 2000, on file in the Development Services 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" 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 proposed 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 with recordation of the corresponding final subdivision map for the project site.

12. This permit may be developed in phases. Each phase shall be constructed prior to sale or lease to individual owners or tenants to ensure that all development is consistent with the conditions and exhibits approved for each respective phase (per the approved Exhibit "A," dated October 24, 2000, on file in the Development Services Department).

ENVIRONMENTAL/MITIGATION REQUIREMENTS:

13. The applicant shall comply with the Mitigation Monitoring and Reporting Program (MMRP) as specified in Mitigated Negative Declaration LDR No. 98-0392 satisfactory to the City Manager and City Engineer. Prior to the issuance of the first applicable grading permit, the mitigation measures as specifically outlined in the MMRP as to safety, biological resources, wetlands, uplands, hydrology/water quality, air quality, geology/soils, and paleontological resources, shall be implemented. Prior to the issuance of the first building permit(s), the mitigation measures as specifically outlined in the MMRP as to transportation/traffic circulation, interior noise, and water conservation shall be implemented. Prior to the issuance of Certificates of Occupancy, the mitigation measures as specifically outlined in the MMRP as to exterior noise and

public services/utilities shall be implemented. Land Use mitigation measures shall be implemented as applicable.

14. The Mitigation Monitoring and Reporting Program [MMRP] shall require a deposit of \$3,200 to be collected prior to the recordation of the final map and/or issuance of the first grading permit, to cover the City's costs associated with implementation of the MMRP.

ENGINEERING REQUIREMENTS:

15. This permit shall be in conformance with Tentative Map No. 98-0392, which accompanies the permit, allowing the grading and development of the site and creating the legal building sites to develop these entitlements.

PLANNING/DESIGN REQUIREMENTS:

16. Parking for the two commercial sites will be determined when site specific permits are applied for and processed for those sites. The North Commercial Regional site shall be limited to 10,000 square-feet of gross floor area and 6,000 Average Daily Trips [ADTs]. Residential uses shall be prohibited on the commercially zoned sites.

17. The future development of the northerly LMXU site and the North Commercial Regional site shall each require approval of a site specific Site Development Permit [SDP] and shall be in conformance with the approved design guidelines for each site. The northerly LMXU site shall not permit a gasoline service station and shall not have access to the adjacent high school site.

18. In order to address future off-site street locations and to provide a street friendly environment within the designated LMXU portion of the Torrey Highlands Subarea IV Plan, the City Manager may consider relocation of the primary project entry farther west on Street 'B', a reduction of the front setbacks for the west facing affordable housing units, and realignment of the major pedestrian entry that enters the project from the west via a Substantial Conformance Review (SCR).

19. 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.

20. 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.

21. A topographical survey conforming to the provisions 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.

22. 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.
23. All signage associated with this development shall be consistent with sign criteria established by the City-wide sign regulations.
24. All private outdoor lighting shall be shaded and adjusted to fall on the same premises where such lights are located.
25. The use of textured or enhanced paving shall meet applicable City standards as to location, noise and friction values.
26. The subject property and associated common areas on site shall be maintained in a neat and orderly fashion at all times.
27. All uses within the commercial sites, except storage and loading, shall be conducted entirely within an enclosed building. Outdoor storage of merchandise, material and equipment is permitted in any required interior side or rear yard, provided the storage area is completely enclosed by walls, fences or a combination thereof. Walls or fences shall be solid and not less than six feet in height and, provided further, that no merchandise, material or equipment stored not higher than any adjacent wall.
28. No merchandise, material or equipment shall be stored on the roof of any building.
29. No mechanical equipment shall be erected, constructed, or enlarged on the roof of any building on this site, unless all such equipment is contained within a completely enclosed architecturally integrated structure.
30. Prior to the issuance of building permits, construction documents shall fully illustrate compliance with the Citywide Storage Standards for Trash and Recyclable Materials regulations in the San Diego Municipal Code 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 October 24, 2000, on file in the Development Services Department.
31. All surfaces of all walls and solid fences with exposure to or adjacent to public rights-of-ways, shall be treated and finished to minimize, to the greatest extent possible, graffiti and other similar forms of vandalism. The Homeowners Association or other acceptable entity shall be required to remove any graffiti within 72 hours. The applicant, with approval of the City Manager, may elect to use other acceptable forms of graffiti control such as landscape materials (vines, etc.).

LANDSCAPE REQUIREMENTS:

32. 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 October 24, 2000, on file in the Development Services Department.

33. Prior to issuance of any engineering permits for right-of-way improvements, complete landscape construction documents for right-of-way and median improvements shall be submitted to the City Manager for approval. Landscape construction documents shall identify a 40 square foot 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." 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," dated October 24, 2000, on file in the Development Services Department.
34. 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 this permit (including Environmental conditions) and Exhibit "A," dated October 24, 2000, on file in the Development Services Department.
35. 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.
36. 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.
37. All required landscaping 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.
38. 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 Maintenance Assessment District or other approved entity. In this case, a Landscape Maintenance Agreement shall be submitted for review by a Landscape Planner.
39. 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 documents to the satisfaction of the City Manager within 30 days of damage or Certificate of Occupancy.

BRUSH MANAGEMENT PROGRAM:

40. The Brush Management Program is based on the Fire Department's Fire Hazard Severity Classification of "Low." 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 October 24, 2000, on file in the Development Services Department:

- a. Prior to issuance of any engineering permits for grading, landscape construction documents required for the engineering permit shall be submitted showing the brush management zones on the property in substantial conformance with Exhibit "A," dated October 24, 2000, on file in the Development Services Department.
- b. Prior to issuance of any building permits, a complete set of brush management construction documents shall be submitted for approval by the City Manager and the Fire Marshall. The construction documents shall be in substantial conformance with Exhibit "A," dated October 24, 2000, on file in the Development Services Department, and shall comply with the Uniform Fire Code (SDMC section 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>Zone One</u>	<u>Zone Two</u>	<u>Zone Three</u>
1, 11 through 18, 28 30, 31, 52, 53, 63, 64, 65, 176 through 180, 201 through 213,	30'	20'	0'
2, East side of lot 18	35'	0'	0'

- d. Within Zone One combustible accessory structures with less than a one hour fire rating are not permitted (including, but not limited to decks, trellises, gazebos, etc) while 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 Fire Marshall and the City Manager's approval.
- e. In zones One and Two plant material shall be selected to visually blend with the existing hillside vegetation. No invasive plant material shall be permitted as jointly determined by the Landscape Section and the Environmental Analysis Section.
- f. Provide the following note on the Brush Management Construction Documents: "It shall be the responsibility of the Permittee to schedule a pre-construction meeting on site with the contractor and the Development Services Department to discuss and outline the implementation of the Brush Management Program."

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

42. The Brush Management Program shall be maintained at all times in accordance with the City of San Diego's Landscape Technical Manual, Section Six and Appendix C.7.

43. 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 October 24, 2000, on file in the Development Services Department. No change, modification or alteration shall be made unless appropriate application or amendment of this Permit shall have been granted.

Water Requirements:

44. 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.

45. 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 recycled water facilities, identified in the "City of San Diego Beneficial Reuse Study" by Powell, in a manner satisfactory to the Water Department Director and the City Engineer. Recycled water facilities include, but are not limited to, a minimum 10-inch recycled water main within the Camino Ruiz right-of-way adjacent to the subdivision.

46. 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.

47. Water meters shall be installed behind full height curbs. No meters shall be installed within vehicular travel ways or driveways.

48. Providing water for this development is dependent upon prior construction of certain water facilities in previously approved Permit Nos. 88-1040, 95-0173, 98-0250, 96-7676, 98-0261 and 99-0312 in this area. If facilities have not been constructed when required for this development, then the construction of certain portions of these previously approved water facilities, as required by the City Engineer and the Water Department Director, will become off-site improvements required for this development.

Wastewater Requirements:

49. Prior to the issuance of any building permits, the developer shall assure, by permit and bond, the construction of all public sewer facilities necessary to serve this development, including vehicular access within easements.

50. The developer agrees to design all proposed public sewer facilities in accordance with established criteria in the City of San Diego's current sewer design guide. Proposed facilities that do not meet the current standards shall be redesigned or private.

51. The developer shall provide evidence, satisfactory to the Metropolitan Wastewater Department Director, indicating that each lot will have its own sewer lateral or provide CC&Rs for the operation and maintenance of on-site private sewer mains that serve more than one lot.

52. Prior to the issuance of any building permits, the applicant shall process and record a NOTICE & AGREEMENT for each lot being served by a private sewer/pump station, which indemnifies the City and contains an agreement that the applicant, and successors in interest, will be responsible for the operation and maintenance of the private sewer systems.

53. The developer shall obtain building permits for all proposed private pump station(s).

AFFORDABLE HOUSING REQUIREMENTS:

54. Prior to the filing of the first final map, Subdivider shall comply with the requirements of the Torrey Highlands 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 seventy-six units to be constructed on Lot 237, as shown on the Exhibit "A," dated October 24, 2000, on file in the Development Services Department. Of this total, forty-seven affordable units shall satisfy the subdivider's on-site requirement for affordable housing related to the Tentative Map, and the surplus of twenty-nine affordable units may be available to satisfy other Torrey Highlands Subarea IV subdividers' affordable housing requirements. However, if the surplus units are not used to satisfy those other subdividers' affordable housing requirements, then the Subdivider may utilize three of the surplus units as affordable units. Subdivider shall execute an agreement (the "Affordable Housing Agreement"); subject to the approval of the Executive Director of the Housing Authority of the City of San Diego, or designee, and the City Manager of the City of San Diego, or designee, addressing the following issues:

- a). Performance Security for the construction of the "Affordable Housing Project" and dedication of land (the "Affordable Housing Site") for the construction of the Affordable Units (the "Affordable Units") on site, in the form of bond(s), letter(s) of credit, lien(s) and/or other forms of security acceptable to the Executive Director of the Housing Authority of the City of San Diego, or designee ("Executive Director");
- b). 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:
 - aa. Issuance of building permits for the Affordable Housing Project shall occur on or before the earlier of:
 - i. the issuance of building permits for construction of the 118th. market rate dwelling unit (number of units which represents 50 percent of market rate units); or, eighteen months after the filing of the first final map;

ii. in no event shall the issuance of building permits for the construction of the 118th. market rate unit (single-family residence) occur until building permits are issued by the City and are obtained by the subdivider for construction of the seventy-six affordable units. Further, 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 in the total number of building permits issued, in determining when the issuance of the building permit occurs for 118th. and 176th. or greater, market rate unit.

bb. Completion of construction of the Affordable Housing Project shall occur upon the earlier of:

i. Twelve months after the issuance of building permit for the Affordable Housing Project as referenced in Paragraph A.b).aa. hereof; or

ii. Two and one-half years after the filing of the first final map. Further, the issuance of building permits for the construction of the 176th. market rate unit (number of units which represents 75 percent of market rate units) shall not occur until completion of the seventy-six affordable units is authorized by the City.

cc. Occupancy of the Affordable Housing Project shall occur not later than 180 days after completion of construction as referenced in Paragraph A.b).bb. above.

dd. 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 months each. Good cause shall include, but not be limited to, Acts of God, labor strikes, war, riots, etc., as shall be determined by the Executive Director, at his/her sole discretion.

c). A Declaration of Covenants, Conditions and Restrictions (the "Declaration"), restricting the occupancy and affordability of the Affordable Housing Project for a period of fifty-five 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 65 percent 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 60 percent of the Area Median Income, as adjusted for assumed family size and utilities.

d). 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 Affordable Housing 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 his/her sole discretion, if deemed essential to construction and/or operation of the Affordable Housing Project, upon such terms and conditions as she/he may impose.

- e). 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.
- f). 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.

55. The Greystone Homes Torrey Highlands Affordable Housing Program is on file in the Office of Development Services. 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 October 24, 2000, by Resolution No. R-294051.

1/25/01; 2/5/01 - CORRECTED

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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.

OWNER:

LEN-GREYSTONE TORREY HIGHLANDS, LLC
a Delaware limited liability company

By: **LENNAR HOMES OF CALIFORNIA, INC.**
a California Corporation
Managing Member

By _____
Title _____

By _____
Title _____

PERMITTEE:

GRAYSTONE HOMES, INC.
a Delaware Corporation

By _____
Title _____

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

1/25/01; 2/5/01 - CORRECTED

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