

RESOLUTION NUMBER R-294813

ADOPTED ON MAY 1, 2001

WHEREAS, Fairbanks Summit, Ltd., Owner/Permittee, filed an application with the City of San Diego for a Planned Residential Development/Resource Protection Ordinance [PRD/RPO] Permit to construct a residential development known as the Fairbanks Summit project, located at the southwest boundary of Camino de la Luna, west of the South Village within Black Mountain Ranch, east of Fairbanks Ranch and west of the future extension of Camino Ruiz, and legally described as Parcel 3 of Parcel Map No. 7242 in the Black Mountain Ranch Subarea I Planning Area, in the AR-1-1 zone (previously referred to as the A-1-10 zone) which is proposed to be rezoned to the RS-1-11 zone (previously referred to as the R-1-10,000 zone); and

WHEREAS, on March 1, 2001, the Planning Commission of the City of San Diego considered PRD/RPO Permit No. 99-1364, and pursuant to Resolution No. 3102-PC voted to recommend City Council approval of the permit; and

WHEREAS, the matter was set for public hearing on May 1, 2001, testimony having been heard, evidence having been submitted, and the City Council having fully considered the matter and being fully advised concerning the same; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that this Council adopts the following findings with respect to PRD/RPO Permit No. 99-1364:

I. PLANNED RESIDENTIAL DEVELOPMENT FINDINGS

A. The proposed use will fulfill a community need and will not adversely affect the City's Progress Guide and General Plan or the adopted community plan.

The subject 20.72-acre site is designated for residential development in the City of San

Diego's Progress Guide and General Plan. The project is located within the Black Mountain Ranch Subarea I Plan which designates the site for low density residential development. The proposed project is consistent with both the Community Plan and General Plan. The Fairbanks Summit project proposes to subdivide the undeveloped site into thirty-seven lots. Thirty-five of the lots will be for single-family residential homes, one lot will be developed as affordable, multi-family residential homes, and one lot will be an amenity open space which includes a par course and running trails. The project is subject to design guidelines. The guidelines describe the architectural style, product siting, street design, landscape design and grading for the project. These guidelines have been developed using concepts from the Black Mountain Ranch to ensure that the proposed Fairbanks Summit project will be consistent with the surrounding development and streetscape.

The proposed development will provide an additional thirty-five market rate lots and one affordable housing lot to the community. The project is consistent with the General Plan land use designation and with approval of the associated rezone from the AR-1-1 zone (previously referred to as the A-1-10 zone) to the RS-1-11 zone (previously referred to as the R-1-10,000 zone) will implement the Subarea Plan to provide moderately low residential density on the site. The proposed project will therefore not adversely affect the City of San Diego Progress Guide and General Plan or the Subarea Plan in effect for the site.

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 design guidelines for Fairbanks Summit together with the Development Permit and the Mitigation, Monitoring and Reporting Program [MMRP] include conditions of approval relevant to achieving project compliance with the San Diego Municipal Code [SDMC] to assure that the health, safety, and general welfare of persons residing or working in the area would not be adversely affected. Design features and project conditions include but are not limited to design guidelines that will ensure compliance with the Black Mountain Subarea I Plan to ensure that future homes will be visually compatible with the character of the surrounding areas by regulating the architectural theme, scale and massing, landscaping, signage, implementation of Best Management Practices on-site to reduce erosion, sedimentation and run-off during construction, and on-site paleontological monitoring

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

The project will be consistent with the relevant regulations for this site per the SDMC including design standards and development regulations under the Planned Residential Development review process. The project will also comply with the land use designation and density of the adopted Black Mountain Ranch Subarea I Plan. Therefore, the proposed use will comply with the relevant regulations of the SDMC in effect for this site.

II. RESOURCE PROTECTION ORDINANCE FINDINGS

A. 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 subject 20.72-acre site is designated for residential development in the Progress Guide and General Plan. The project is located within the Black Mountain Ranch Subarea I Plan which designates the site for low density residential development. The proposed project is consistent with both the Community Plan and General Plan. The Fairbanks Summit project proposes to subdivide the undeveloped site into thirty-seven lots. Thirty-five of the lots will be for single-family residential homes, one lot will be developed as affordable, multi-family residential homes, and one lot will be an amenity open space lot. The project incorporates a number of design features through the Fairbanks Summit Design Review Guidelines [Guidelines]. The Guidelines describe the architectural style, siting, street design, landscape design and grading for the project. These Guidelines have been developed using concepts from the Black Mountain Ranch to ensure that the proposed Fairbanks Summit project when constructed will be consistent with the surrounding development and streetscape.

The proposed development will provide an additional thirty-five market rate lots and one affordable housing lot to the community. The project is consistent with the General Plan land use designation and with approval of the associated rezone from the AR-1-1 zone (previously referred to as the A-1-10 zone) to the RS-1-11 zone (previously referred to as the R-1-10,000 zone) will implement the Subarea Plan to provide moderately low residential density on the site. The proposed project will therefore not adversely affect the City of San Diego Progress Guide and General Plan or the Subarea Plan in effect for the site.

B. 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 Fairbanks Summit project is not located adjacent to any public parks or recreational area nor is it within or adjacent to the Multi-Habitat Planning Area [MHPA].

C. The proposed development will minimize the alterations of natural landforms and will not result in undue risks from geological and erosional forces or flood and fire hazards.

Contoured grading with undulating slopes will be implemented to ensure that alteration to the natural landform will not result in undue risks from geological and erosional forces or flood and fire hazards. The proposed grading is consistent with the City of San Diego Land Development regulations and the City Engineer has reviewed drainage plans for the project to ensure that the alteration of the landform for this project will not result in undue risks from geologic and erosional forces or flood and fire hazards.

D. 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 Fairbanks Summit project is a 20.72-acre site identified as Parcel G in the Black Mountain Ranch Subarea I Plan. This site is designated as one of the perimeter properties in the Subarea Plan. The perimeter areas are intended for residential use. To ensure that the proposed development will be designed to be visually compatible with the surrounding developments the project includes design Guidelines. These Guidelines identify the architectural styles, siting, street design, landscaping and grading. The Guidelines have been modeled after Black Mountain Ranch to ensure that the proposed project will be consistent with the surrounding development and streetscape.

E. 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 the site.

The subject 20.72-acre site is designated for residential development in the City's Progress Guide and General Plan. The project is located within the Black Mountain Ranch Subarea I Plan which designates the site for low density residential development. The proposed project is consistent with both the community plan and General Plan. The Fairbanks Summit project proposes to subdivide the undeveloped site into thirty-seven lots. Thirty-five of the lots will be for single-family residential homes, one lot will be developed as affordable, multi-family residential homes and one lot will be designated for open space. The project is subject to design Guidelines. The Guidelines describe the architectural style, siting, street design, landscape design and grading for the project. These Guidelines have been developed using concepts from the Black Mountain Ranch and East Clusters projects at Black Mountain Ranch to ensure that the proposed Fairbanks Summit project is consistent with the surrounding development and streetscape.

The proposed development will provide an additional thirty-five market rate lots and one affordable housing lot to the community. The project is consistent with the General Plan's residential land use designation and with approval of the associated rezone from the AR-1-1 zone (previously referred to as the A-1-10 zone) to the RS-1-11 zone (previously referred to as the R-1-10,000 zone) will implement the Subarea Plan to provide moderately low residential density on the site. The proposed project will therefore not adversely affect the City of San Diego Progress Guide and General Plan or the Subarea Plan in effect for the site.

III. BRUSH MANAGEMENT FINDINGS

A. The proposed Brush Management Program, to the extent feasible, will not adversely affect floodplains, biologically sensitive lands, hillsides, significant prehistoric sites and resources, and wetlands as defined in the Resource Protection Ordinance, San Diego Municipal Code section 101.0462.

The proposed Brush Management Program, by providing the required brush management zones of the Landscape Technical Manual as shown on Exhibit "A," dated May 1, 2001, on file in 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 alterations of vegetation and will not result in undue risks from erosional forces.

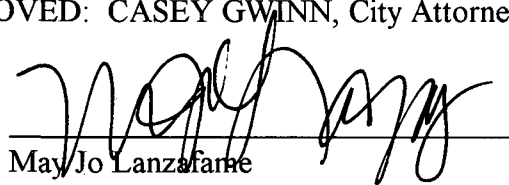
The proposed Brush Management Program will alter the existing vegetation to the least practical extent while still providing an effective fire break consistent with the standards outlined in the Landscape Technical Manual. The alterations to existing vegetation is accomplished in order to increase the stability of the slope and all new plantings on the slopes will conform to the revegetation standards of the Landscape Technical Manual, section 7, 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 Residential Development/Resource Protection Ordinance Permit No. 99-1364 is granted to Fairbanks Summit, Ltd., 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



May Jo Lanzafame
Deputy City Attorney

MJL:mdw:lc
07/20/01
Or.Dept:Clerk
R-2001-1737
Form=permitr.frm
Reviewed by Patricia Grabski

RECORDING REQUESTED BY
CITY OF SAN DIEGO
DEVELOPMENT SERVICES DEPARTMENT
PERMIT INTAKE, MAIL STATION 501

AND WHEN RECORDED MAIL TO
CITY CLERK
MAIL STATION 2A

SPACE ABOVE THIS LINE FOR RECORDER'S USE

**PLANNED RESIDENTIAL DEVELOPMENT/
RESOURCE PROTECTION ORDINANCE PERMIT 99-1364 (MMRP)
FAIRBANKS SUMMIT**

CITY COUNCIL

This Planned Residential Development/Resource Protection Ordinance [PRD/RPO] Permit is granted by the Council of the City of San Diego to Fairbanks Summit, Ltd., Owner/Permittee, pursuant to San Diego Municipal Code sections 101.0901 and 101.0462. The 20.72-acre site is located along the southwest boundary of Camino de la Luna, west of the South Village within Black Mountain Ranch, east of Fairbanks Ranch, and west of the future extension of Camino Ruiz in the RS-1-11 zone, in the Black Mountain Ranch Subarea I Planning Area. The project site is legally described as Parcel 3 of Parcel Map No. 7242.

Subject to the terms and conditions set forth in this permit, permission is granted to Fairbanks Summit, Ltd., Owner/Permittee, to subdivide a 20.72-acre parcel for the development and construction of thirty-seven lots for thirty-five single-family residential units, one amenity open space lot, and one lot for seven affordable, multi-family units described and identified by size, dimension, quantity, type and location on the approved Exhibit "A," dated May 1, 2001, on file in the Development Services Department. The project shall include:

- a. The development of thirty-five single-family residential units, one amenity open space lot, and one lot for seven affordable multi-family residential units in compliance with underlying zone and the Design Guidelines for Fairbanks Summit;
- b. Landscaping (planting, irrigation and landscape related improvements);
- c. Off-street parking facilities;
- d. 4.56 acre homeowner's association maintained area with a par course and running trails; 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 SDMC in effect for this site.

1. Construction, grading or demolition must commence and be pursued in a diligent manner within thirty-six months after the effective date of final approval by the City, following all appeals. Failure to utilize the permit within thirty-six months will automatically void the permit unless an Extension of Time has been granted. Any such Extension of Time must meet all the SDMC requirements and applicable guidelines in effect at the time the extension is considered by the appropriate decision maker.

2. No permit for the construction, occupancy or operation of any facility or improvement described herein shall be granted, nor shall any activity authorized by this permit be conducted on the premises until:

- a. The Permittee signs and returns the Permit to the Development Services 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. 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 Endangered Species Act of 1973 and any amendments thereto (16 U.S.C. § 1531 *et seq.*)

7. The Owner/Permittee shall secure all necessary building permits. The applicant is informed that to secure these permits, substantial modifications to the building and/or site improvements to comply with applicable Building, Fire, Mechanical and Plumbing codes and State law requiring access for disabled people may be required.

8. Before issuance of any building or grading permits, complete grading and working drawings shall be submitted to the City Manager for approval. Plans shall be in substantial conformity to Exhibit "A," dated May 1, 2001, 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.

9. All of the conditions contained in this Permit have been considered and have been determined to be necessary in order to make the findings required for this discretionary permit. It is the intent of the City that the holder of this Permit be required to comply with each and every condition in order to be afforded special rights which the holder of the Permit is entitled 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.

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

11. Rezoning from the AR-1-1 zone (previously referred to as the A-1-10 zone) to the RS-1-11 zone (previously referred to as the R-1-10,000 zone) 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 May 1, 2001, on file in the Development Services Department).

ENVIRONMENTAL/MITIGATION REQUIREMENTS:

13. The Owner and Permittee shall comply with the Mitigation, Monitoring and Reporting Program [MMRP] as specified in the Addendum (LDR No. 99-1364) to Environmental Impact Report LDR No. 96-7902 satisfactorily to the City Manager and City Engineer. Prior to the issuance of any grading or building permit, all mitigation measures as specifically outlined in the MMRP shall be implemented for the following issue areas: Biological Resources, Hydrology/Water Quality, and Paleontological Resources.

ENGINEERING REQUIREMENTS:

14. Prior to issuance of any building permits, the proposed project shall conform to the Black Mountain Ranch/Subarea I Transportation Phasing Plan in the Public Facilities Financing Plan, dated September, 1998.

15. Prior to issuance of any building permits, the applicant shall construct Camino De La Luna as a two-lane collector street along the project's frontage. The Owner and Permittee shall dedicate 60 feet of right-of-way and shall provide 40 feet of pavement including curb, gutter and a 5-foot-wide sidewalk within a 10 foot curb to property line distance, satisfactory to the City Engineer.

PLANNING/DESIGN REQUIREMENTS:

16. Prior to the issuance of grading permits, contour graded slopes shall be shown on the grading plans, as shown on the approved Exhibit "A," dated May 1, 2001, on file in the Development Services Department (graded slopes adjacent to Lots 4 through 12 and Lot 37), satisfactory to the City Manager.

17. Prior to the issuance of building permits, usable porches, courtyards, balconies or other design features acceptable to the City Manager shall be shown on the front elevations of the building plans for each home to create a livelier street scene. Balconies shall have a minimum area of 30 square feet. Porches and courtyards shall have a minimum area of 60 square feet.

18. Prior to the issuance of building permits, 40 percent of the homes shall have either side or rear facing garages, as shown on Exhibit "A," dated May 1, 2001, on file in the Development Services Department, satisfactory to the City Manager.
19. The pedestrian/bicycle entrance of the project shall provide permanent open access. No gates may be located at the pedestrian/bicycle entry to the project.
20. In the event that the affordable housing units are provided off-site, the market rate unit on Lot 37 may be relocated to Lot 1 through the Substantial Conformance Review process.
21. There shall be compliance with the Fairbanks Summit Design Guidelines. Where there is a conflict between the design guidelines and a regulation of the underlying zone, the design guidelines shall prevail.
22. A topographical survey conforming to the provisions of SDMC section 101.0216 may be required if it is determined, during construction, that there may be a conflict between the building(s) under construction and a condition of this permit or a regulations of the underlying zone. The cost of any such survey shall be borne by the permittee.
23. 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.
24. 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 1, 2001, on file in the Development Services Department); or
 - b. Citywide sign regulations.
25. All private outdoor lighting shall be shaded and adjusted to fall on the same premises where such lights are located.
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. All uses, 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 no merchandise, material or equipment shall be stored higher than any adjacent wall.
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.

LANDSCAPE REQUIREMENTS:

30. Prior to issuance of any construction permits for structures (including shell), 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 1, 2001, on file in the Development Services Department.

31. 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. Improvement plans shall identify a station point for each street tree location. Each street tree location must take into account a 40 square foot area around each tree which is unencumbered by utilities. 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 1, 2001, on file in the Development Services Department.

32. 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 PRD/RPO Permit No. 99-1364 (including environmental conditions) and Exhibit "A," dated May 1, 2001, on file in the Development Services Department.

33. 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 Owner/Permittee shall initiate such measures as soon as the grading has been accomplished. Such erosion control or slope planting and the associated irrigation systems (temporary 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 Owner/Permittee 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.

35. 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.

36. The Owner/Permittee shall be responsible for the maintenance of all street trees and landscape improvements (right-of-way and private driveway) 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.

37. 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 or replaced in kind and equivalent size per the approved documents to the satisfaction of the City Manager within thirty days of damage or Certificate of Occupancy.

38. Landscaping along Camino De La Luna shall be done in accordance with terms and conditions specified under "Public Road Access Agreement" (Document No. 2000-0009642), recorded on January 7, 2000 at the San Diego County Recorder's Office.

39. The Brush Management Program is based on the Fire Department's Fire Hazard Severity Classification of "Low" and "Moderate." The Permittee shall implement the following requirements in accordance with the Brush Management Program shown on Exhibit "A," Brush Management Program/Landscape Concept Plan, dated May 1, 2001, 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 May 1, 2001, 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 May 1, 2001, on file in the Development Services Department, and shall comply with the Uniform Fire Code (SDMC section 55.0889.0201), and Landscape Technical Manual, section 6 (Document No. RR-274506), on file in the Office of the City Clerk.
- c. The Brush Management Zone Depths shall be as follows:

<u>Lot #</u>	<u>Hazard</u>	<u>Zone One</u>	<u>Zone Two</u>	<u>Zone Three</u>
North side of 16, and 25, 26, 35	Low	20'	20'	10'
17	Low	30'	20'	20'
12, 13, 14, 15, and West side of 16, 37	Moderate	25'	30'	30'

- 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 zone(s) One, Two, and Three, 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 Department of the City of San Diego.
- 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."

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

41. The Brush Management Program shall be maintained at all times in accordance with the City of San Diego's Landscape Technical Manual, section 6, and appendix C.

WATER REQUIREMENTS:

42. Prior to the issuance of any building or grading permits, the developer shall assure, by permit and bond, the design and construction of the water facilities identified in accepted water studies for this area, necessary to serve this development and extending to the subdivision boundary where practical, in a manner satisfactory to the Director of the Water Department and the City Engineer.

43. Prior to the issuance of any building permits, the developer shall install fire hydrants at locations satisfactory to the Fire Chief and the City Engineer.

44. Prior to the issuance of any building or grading permits, the developer shall grant a minimum 30-foot-wide water easement over all "private driveways" in a manner satisfactory to the Director of the Water Department and the City Engineer.

45. The developer agrees to design and construct all proposed public water facilities in accordance with established criteria in the most current edition of the City of San Diego Water Design Guide and City regulations, standards and practices pertaining thereto.

46. Providing water for this development is dependent upon prior construction of certain water facilities in previously approved developments 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, will become off-site improvements required for this development.

47. Prior to the submittal of any public improvement drawings or issuance of any building permits, the developer shall assure, by permit and bond, the design and construction of certain sewer facilities, necessary to provide sewer services to this development in a manner satisfactory to the Director of the Metropolitan Wastewater Department.

48. The subdivider shall install all proposed sewer facilities as required by the accepted sewer study necessary to serve the proposed development extending to the subdivision boundary, including vehicular access within easements. Sewer facilities, as shown on the approved Tentative Map, will require modification based on the accepted sewer study.

49. 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

50. Proposed private underground sewer facilities located within a single lot shall be designed to meet the requirements of the California Uniform Plumbing Code and shall be reviewed as part of the building permit plan check.

AFFORDABLE HOUSING REQUIREMENT:

51. Prior to the filing of the first Final Map, the Subdivider shall comply with the requirements of the Black Mountain Ranch Subarea I Plan for Affordable Housing [Affordable Housing Requirements] by satisfying the requirements of subparagraph A below:

- A. Subdivider shall assure the construction and occupancy of an Affordable Housing Project consisting of seven units to be constructed on Lot 1, as shown on the Exhibit "A," dated May 1, 2001, on file in the Development Services 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 land [Affordable Housing Site] for the construction of the Affordable Units [Affordable Units] on site, in the form of bond(s), letter(s) of credit, lien(s) or other forms of security acceptable to the Executive Director of the Housing Authority of the City of San Diego, or designee [Executive Director];
 2. Approval of the timing of the construction and occupancy of the Affordable Housing Project, acceptable to the Executive Director, provided that the following timetable is incorporated into the Affordable Housing Agreement:
 - a. Issuance of building permits for the Affordable Housing Project shall occur on or before the earlier of:
 - i. The issuance of building permits for construction of the 18th market rate dwelling unit (number of units which represents 50 percent of market rate units) or the date which is 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 18th market rate unit occur until building permits are issued for construction of the seven affordable units are authorized by the City and are obtained by the subdivider. 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 with the total number of the building permits issued, in determining when the issuance of the building permit occurs for the 18th and 26th or greater market rate unit.
 - b. 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 subparagraph A2a hereof; or
 - ii. The date which is two and one-half years after the filing of the first final map.

Further, the issuance of building permits for the construction of the 26th market rate unit (number of units which represents 75 percent of market rate units) shall not occur until the completion of the seven affordable units is authorized by the City.

- c. Occupancy of the Affordable Housing Project shall occur not later than 180 days after the completion of construction as referenced in subparagraph A2b above.
 - d. For "good cause" shown to the satisfaction of the Executive Director, the dates referenced herein may be extended for one or more period(s) of up to twelve months each. Good cause shall include, but not be limited to, Acts of God, labor strikes, war, riots, as shall be determined by the Executive Director, in the Director's sole discretion.
3. A Declaration of Covenants, Conditions and Restrictions [CC&Rs], 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 Housing Project, which the CC&Rs 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, the provisions set forth in California Government Code section 65915 (referred to as the State Density Bonus Statute) apply, and rental rates shall not exceed 60 percent 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 CC&Rs), 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 the Director's sole discretion, if deemed essential to construction and/or operation of the Affordable Housing Project, upon such terms and conditions as the Director may impose.
 5. Such other additional 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 the Director's 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 the Affordable Housing Program 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 (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 seven Affordable Units within the Subarea on common site(s). Each Affordable Housing Plan must address the following issues concerning Affordable Housing to the satisfaction of the Executive Director and the City Manager, or designee:
1. Siting, design, unit mix, appearance, architectural, and floor plans of the Affordable Units, as referenced on City approved tentative maps and City approved PRD exhibits 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 Housing Units;
 5. Recordation of the CC&Rs as approved by the Executive Director, assuring affordability and occupancy of the Affordable Units for a period of fifty-five years from the date of completion of construction of the Affordable Units to families earning not more than 65 percent 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 60 percent 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 CC&Rs, 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 subparagraph A4 of this permit;
 7. Such other and further conditions as may be reasonably required by the Executive Director to assure satisfaction of the Affordable Housing Requirements, and such modification(s) of existing condition(s), as may be granted by the Executive Director in the Director's sole discretion; and
 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 the Affordable Housing Agreement as contemplated by these condition(s) of approval.

52. The Fairbanks Summit Affordable Housing Program is on file in the Development Services Department and is incorporated herein by reference. The provisions of the Affordable Housing Program shall not in any way modify or change any provisions of the Affordable Housing requirements as stated in the Planned Residential Development conditions. To the extent that there is any inconsistency between the two, the terms of the condition shall prevail.

GEOLOGY REQUIREMENT:

53. Prior to the issuance of any engineering permit for improvement or grading plans, an updated Geotechnical Investigation Report will be required to be submitted for review and approval by Land Development Review Geology. The Geotechnical Investigation Report should be prepared in accordance with the most recent editions of the City of San Diego Technical Guidelines for Geotechnical Reports.

INFORMATION ONLY:

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

APPROVED by the Council of the City of San Diego on May 1, 2001, by Resolution No. R-294813.

7/20/01

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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.

FAIRBANKS SUMMIT, LTD.
Owner/Permittee

By _____

By _____

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