

RESOLUTION NUMBER R-295026

ADOPTED ON JUNE 19, 2001

WHEREAS, Black Mountain Ranch Limited Partnership, Applicant, and Rick Engineering Company, Engineer, submitted by an application to the City of San Diego for a 161-lot vesting tentative map (Vesting Tentative Map No. 99-1054 for the East Clusters at Black Mountain Ranch project) and street vacations, located in the eastern section of the Black Mountain Ranch subarea, and legally described as Parcel 1, 2, 6 and Parcel B of Parcel Map 18504, in the Black Mountain Ranch Subarea I Plan 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-1-8 and RS-1-14 zones (previously referred to as the R1-40000 and R1-5000 zones, respectively); and

WHEREAS, on June 7, 2001, the Planning Commission of the City of San Diego considered Vesting Tentative Map No. 99-1054, and pursuant to Resolution No. 3147-3-PC voted to recommend City Council approval of the map; and

WHEREAS, the matter was set for public hearing on June 19, 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 Vesting Tentative Map No. 99-1054:

1. The map proposes the subdivision of a 137.23-acre site into 161 lots for residential development (138 residential, 4 open space, 7 brush management, 12 Property Owners Association lots). This type of development is consistent with the City of San Diego's Progress Guide and General Plan and the Black Mountain Ranch Subarea I Plan which designate the area for residential use. The proposed map will retain the community's character by

encouraging orderly, sequential development compatible in its intensity with surrounding existing and future land development.

2. The design and proposed improvements for the map are consistent with the zoning and development regulations of the RS-1-8 zone (previously referred to as R1-40000 zone) and RS-1-14 zone (previously referred to as R1-5000 zone) in that:

a. All lots have minimum frontage on a dedicated street which is open to and usable by vehicular traffic, as allowed under a Planned Residential Development [PRD] permit.

b. All lots meet the minimum dimension requirements of the RS-1-8 zone (previously referred to as R1-40000 zone) and RS-1-14 zone (previously referred to as R1-5000 zone), as allowed under a PRD permit.

c. All lots are designed so that required improvements do not result in nonconforming lots in respect to building area, setbacks, side yard and rear yard regulations, as allowed under a PRD permit.

d. Development of the site is controlled by Planned Residential Development Permit No. 99-1054.

3. The design and proposed improvements for the subdivision are consistent with California Government Code section 66473.1 regarding the design of the subdivision for future passive or natural heating and cooling opportunities.

4. The site is physically suitable for residential development. The harmony in scale, height, bulk, density, and coverage of development creates a compatible physical relationship to surrounding properties for which this area has been planned.

5. The site is physically suitable for the proposed density of development. This is consistent with the community plan, which provides for residential uses.

6. The design of the subdivision and the proposed improvements could cause substantial environmental damage or substantially and unavoidably injure fish or wildlife or their habitat based upon the findings of Environmental Impact Report [EIR] No. 96-7902, which is included herein by this reference. However, the project as revised now avoids or mitigates the potentially significant environmental effects based upon the findings of an Addendum to EIR No. 96-7902 (LDR No. 99-1054), which is included herein by this reference.

7. The design of the subdivision and the type of improvements will not likely cause serious public health problems inasmuch as needed public services and facilities are available or required by condition of this map to provide for water and sewage facilities, as well as other related public services.

8. The design of the subdivision and the type of improvements are such that they will not conflict with any easements, acquired by the public at large, for access through or use of property within the proposed subdivision as demonstrated by the City Engineer's request for public dedications and adequate improvement on the proposed subdivision map.

9. The City Council has reviewed the adopted Housing Element of the Progress Guide and General Plan of The City of San Diego and finds pursuant to Government Code section 66412.3, that the housing needs of the region are being met because residential development has been planned for the area and public services programmed for installation, as determined by the City Engineer are in accordance with financing and environmental policies of the Council.

10. The property contains right-of-way which must be vacated to implement the final map in accordance with San Diego Municipal Code section 125.0430.

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

BE IT FURTHER RESOLVED, that pursuant to California Government Code section 66434(g), portions of Black Mountain Road shown on Road Survey 3, and Ossuna Canon Road, located within the project boundaries as shown in Vesting Tentative Map No. 99-1054, shall be vacated, contingent upon the recordation of the approved final map for the project.

BE IT FURTHER RESOLVED, that the recommendation of the Planning Commission is sustained, and Vesting Tentative Map No. 99-1054 is hereby granted to Black Mountain Ranch Limited Partnership, Applicant, and Rick Engineering Company, Engineer, subject to the conditions attached hereto and made a part hereof.

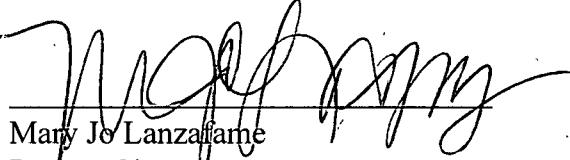
BE IT FURTHER RESOLVED, that in addition, project approval may include a gated entry at Units 1 and 2 East Clusters at Black Mountain Ranch provided that:

1. The applicant constructs three areas for parking and easy access to the public trails located immediately adjacent to the gated entry at Unit 1 for Street A and Carmel Valley Road.

2. The applicant should also provide signs at the gated developments indicating that there is a public, regional trail system that can be accessed by foot through the development (e.g., "Regional Trail System"; "Public Access to Regional Trails").

APPROVED: CASEY GWINN, City Attorney

By

  
Mary Jo Lanzafame  
Deputy City Attorney

MJL:mdw:lc

08/29/01

Or.Dept:Clerk

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Reviewed by Mike Westlake

CITY COUNCIL CONDITIONS TO VESTING TENTATIVE MAP NO. 99-1054  
EAST CLUSTERS AT BLACK MOUNTAIN RANCH  
ADOPTED BY RESOLUTION NO. R-295026 ON JUNE 19, 2001

1. This vesting tentative map will become effective on the effective date of the associated rezone. Should the rezone be denied, then this vesting tentative map shall be deemed denied.
2. Compliance with all of the following conditions shall be assured, to the satisfaction of the City Engineer, prior to the recordation of the first final map, unless otherwise noted.
3. Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of this tentative map, may protest the imposition within ninety days of the approval of this tentative map by filing a written protest with the City Clerk pursuant to California Government Code section 66020.
4. The final map shall conform to the provisions of PRD Permit No. 99-1054.
5. The "General Conditions for Tentative Subdivision Maps," filed in the Office of the City Clerk under Document No. 767688 on May 7, 1980, shall be made a condition of map approval. Only those exceptions to the General Conditions which are shown on the tentative map and covered in these special conditions will be authorized.

All public improvements and incidental facilities shall be designed in accordance with criteria established in the Street Design Manual, filed with the City Clerk as Document No. 769830.

6. "Basis of Bearings" means the source of uniform orientation of all measured bearings shown on the map. Unless otherwise approved, this source will be the California Coordinate System, Zone 6, North American Datum of 1983 (NAD 83).
7. "California Coordinate System" means the coordinate system as defined in Section 8801 through 8819 of the California Public Resources Code. The specified zone for San Diego County is "Zone 6," and the official datum is the "North American Datum of 1983."
8. Every final map shall:
  - a. Use the California Coordinate System for its "Basis of Bearing" and express all measured and calculated bearing values in terms of said system. The angle of grid divergence from a true median (theta or mapping angle) and the north point of said map shall appear on each sheet thereof. Establishment of said Basis of Bearings may be by use of existing Horizontal Control stations or astronomic observations.

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- b. Show two measured ties from the boundary of the map to existing Horizontal Control stations having California Coordinate values of Third Order accuracy or better. These tie lines to the existing control shall be shown in relation to the California Coordinate System (i.e., grid bearings and grid distances). All other distances shown on the map are to be shown as ground distances. A combined factor for conversion of grid-to-ground distances shall be shown on the map.
9. The subdivider has reserved the right to record multiple final maps over the area shown on the approved tentative map. In accordance with Section 66456.1 of the Subdivision Map Act, the City Engineer shall retain the authority to review the areas of the tentative map the subdivider is including in each final map. The City Engineer may impose reasonable conditions relating to the filing of multiple final maps, in order to provide for orderly development, such as off-site public improvements, that shall become requirements of final map approval for a particular unit.
10. The property being subdivided is non-contiguous property, therefore the subdivider shall record a minimum of two final maps and record no more than three final maps. The subdivider has requested approval to file final maps out of numerical sequence. This request is approved, subject to the provision that the City Engineer can review the off-site improvements in connection with each unit.
11. The subdivider shall provide evidence to ensure that an affirmative marketing program is established.
12. The subdivider must provide a geologic reconnaissance report on the subject property to discover and address potential geological hazards. The report must be prepared in accordance with the most recent edition of the City of San Diego "Technical Guidelines for Geotechnical Reports." All slopes shall be constructed in accordance with the provisions of San Diego Municipal Code [SDMC] section 62.0415 et seq.
13. Undergrounding of existing and proposed public utility systems and service facilities is required according to San Diego Municipal Code.
14. The street and easement vacations are conditioned upon approval and recordation of a map in accordance with Government Code section 66434 (g).
15. The subdivider shall comply with the Mitigation, Monitoring, and Reporting Program (MMRP) as applicable, consistent with the Black Mountain Ranch Subarea 1 Environmental Impact Report (LDR No. 96-7902), satisfactory to the City Manager and the City Engineer. All mitigation measures as specifically outlined in the MMRP (Addendum LDR No. 99-1054) shall be implemented for the following areas: Land Use

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(MHPA); Biology; Landform Alteration/Visual Quality; Hydrology/Water Quality; Historical Resources (Archaeology); Paleontology; Noise.

16. The subdivider shall obtain a bonded grading 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.
  - a. Grading plans shall reflect the construction of a parking, staging and turn-around area for access to the public trail system adjacent to the gated entry to Unit 1 at Street A and Carmel Valley Road, satisfactory to the City Engineer.
17. Whenever street rights-of-way are required to be dedicated, it is the responsibility of the subdivider to provide the right-of-way free and clear of all encumbrances and prior easements. The subdivider must secure "subordination agreements" for minor distribution facilities or "joint-use agreements" for major transmission facilities.
18. The project shall conform to the Transportation Phasing Plan for Subarea I/Black Mountain Ranch in the Public facilities Financing Plan.
19. The subdivider shall construct a traffic signal at the intersection of Carmel Valley Road and Street "J", satisfactory to the City Engineer.
20. Carmel Valley Road is classified as a four lane major street from the eastern project's boundary (City/County boundary) to the intersection of Carmel Valley Road and Black Mountain Road. The subdivider shall dedicate a 122 foot right-of-way. In the interim the subdivider shall construct two lanes of the ultimate four lanes with a minimum pavement width of 40 feet including curb, gutter and 5-foot-wide sidewalks on both sides of the street within 10 foot curb to property line distance, satisfactory to the City Engineer.
21. Street "J" is classified as a two-lane collector street. The subdivider shall dedicate a 60 foot right-of-way and shall provide 40 feet of pavement, curb, gutter and a 5-foot-wide sidewalk within 10 foot of curb to property line distance, with 5-foot-wide general utility easements, adjacent to the right-of-way, graded at a 2 percent fall towards the street. The cul-de-sac shall have a 50 foot curb radius with a 60 foot right-of-way radius, satisfactory to the City Engineer.
22. Streets "A", "H", "L", "M", "N" and "O" are classified as two lane local residential public streets. The subdivider shall dedicate 54 foot rights-of-way and shall provide 34 feet of pavement, curb, gutter and 5 foot wide sidewalks within a 10 foot curb to property line

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distance. The cul-de-sac's shall have a 35 foot curb radius with a 45 foot right-of-way radius, satisfactory to the City Engineer.

23. Streets "B", "C", "D", "E", "F", "G" and "I" are classified as residential private streets. The subdivider shall grant a 54-foot-wide general utility easement and provide 34 feet of pavement, curb, gutter and 5-foot-wide sidewalks within a 10 foot curb to general utility easement line distance. The cul-de-sac shall have a 50 curb radius with a 60 General Utility Easement line radius, satisfactory to the City Engineer. If gates are denied, Streets "B", "C", "D", "E", "F", "G" and "I" are classified as residential private streets. The subdivider shall grant a 54-foot-wide general utility easement and provide 34 feet of pavement, curb, gutter and 5-foot-wide sidewalks within a 10 foot curb to general utility easement line distance.
24. The subdivider shall submit complete landscape construction documents, including plans, details, and specifications (including a permanent automatic irrigation system unless otherwise approved), for the required right-of-way and median (if applicable) improvements, slope re-vegetation and hydro-seeding of all disturbed land in accordance with the Landscape Standards and to the satisfaction of the City Manager. The landscape construction documents shall be in substantial conformance with Exhibit "A" Landscape Concept Plan, on file in the Development Services Department. The applicant shall assure by permit and bond the installation of landscaping per landscape construction documents.
25. The subdivider shall submit for review, a Bonded Landscape Maintenance Agreement for all landscape improvements within the public right-of-way area consistent with Exhibit "A", dated June 19, 2001, on file in the Development Services Department. The approved Bonded Landscape Maintenance Agreement shall be recorded and bonded prior to recordation of the final map.
26. The subdivider shall identify on a separate sheet titled Non-title Sheet the brush management areas in substantial conformance with Exhibit 'A', dated June 19, 2001, on file in the Development Services Department. These brush management areas shall be identified with a hatch symbol with no specific dimensions or zones called out. The following shall be provided on the Non-title sheet to identify the hatched areas: 'Indicates fire hazard zone(s) per Section 142.0412 of the San Diego Municipal Code.'
27. 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 the Brush Management Program shown on Exhibit "A", Brush Management Program/Landscape Concept Plan, dated June 19, 2001, on file in the Development Services Department.



28. Water Requirements:

- a. Prior to the approval of any public improvement drawings, including grading plans, the subdivider shall provide an acceptable water study satisfactory to the Director of the Water Department. The study shall plan the pressure zone(s) and water facilities necessary to serve this development, including redundancy, consistent with previously accepted studies in this area. If phasing of the development is proposed, then a phasing plan shall be included in the study with any affordable housing site in the first phase.
- b. The subdivider shall design and construct all water facilities as required in the accepted water studies for this area necessary to serve this development in a manner satisfactory to the Director of the Water Department. Water facilities as shown on the approved tentative map will require modification based on the accepted water studies and final engineering.
- c. The subdivider shall relocate the existing Rancho Bernardo Pipeline into the Carmel Valley Road right-of-way, in a manner satisfactory to the Director of the Water Department, for which the City will reimburse the subdivider consistent with the terms negotiated with the Water Department and in accordance with City regulations and practices pertaining thereto. Agreement for work shall be executed prior to recordation of final map.
- d. The subdivider shall install fire hydrants at locations satisfactory to the Fire Department and the City Engineer. If more than two fire hydrants or thirty dwelling units are located on a dead-end main, then the subdivider shall design and construct a redundant water system satisfactory to the Director of the Water Department.
- e. The subdivider agrees to design and construct all proposed public water facilities in accordance with established criteria in the most current editions of the City of San Diego Water Facility Design Guidelines and City regulations, standards and practices pertaining thereto. Proposed facilities that do not meet the current standards shall be private or redesigned. Public parks and schools shall be served from the public water system.
- f. The subdivider shall install parallel water facilities with a minimum separation of 20 feet satisfactory to the Director of the Water Department.
- g. The subdivider shall grant adequate water easements, including vehicular access to each appurtenance (meters, blow offs, air valves, manholes, etc.), for all public water facilities that are not located within fully improved public rights-of-way, satisfactory to

the Director of the Water Department. No structures or trees shall be installed in or over any easement prior to the applicant obtaining an encroachment maintenance and removal agreement. No structures or landscaping of any kind shall be installed in or over any easement utilized for access.

- h. The subdivider shall provide evidence, satisfactory to the Director of the Water Department, indicating that each lot will have its own water service or provide Covenants, Conditions and Restrictions [CC&Rs] for the operation and maintenance of on-site private water facilities that serve or traverse more than one lot.
- i. If on site water facilities are to be public and if it is a gated community, then the subdivider shall provide keyed access to the Water Operations Division in a manner satisfactory to the Director of the Water Department. The City will not be held responsible for any issues that may arise relative to the availability of keys.
- j. Providing water for this development is dependent upon prior construction of certain water facilities in previously approved TM Nos. 98-0261, 98-0250, 99-0329, 96-7676, 88-1041, and 95-0173 including, but not limited to, the completion of the Black Mountain Reservoir and associated pipelines. 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.

29. Sewer Requirements:

- a. The developer shall annex all public sewer facilities for Units 2 and 3 to the Olivenhain Municipal Water District and obtain final approval of public sewer improvement drawings from the Olivenhain Municipal Water District. Should such annexation not occur, developer shall comply with Condition 29c below.
- b. Prior to the submittal of any public improvement drawings, including grading plans, the subdivider shall submit a sewer study satisfactory to the Director of the Metropolitan Wastewater Department, for the sizing, grade and alignment of public gravity sewer mains and to show that the existing and proposed public sewer facilities will provide adequate capacity and have cleansing velocities necessary to serve this development and the drainage basin in which it lies.
- c. The subdivider shall install all facilities, as required by the accepted sewer study, necessary to serve the proposed development and extending to the subdivision boundary. Sewer facilities, as shown on the approved tentative map, will require modification based on the accepted sewer study.

- d. The subdivider shall construct their fair share of the Carmel Valley Trunk Sewer and enter into a Reimbursement Agreement with all developments that construct more than their fair share of the Carmel Valley Trunk Sewer.
- e. The subdivider shall design all proposed public sewer facilities to the most current edition of the City of San Diego's Sewer Design Guide. Proposed facilities that do not meet the current standards shall be private or re-designed.
- f. All proposed private sewer facilities that serve more than one lot, including sewer laterals to the property line, shall be designed to the most current edition of the City of San Diego's Sewer Design Guide.
- g. Prior to the submittal of any public improvement drawings including grading plans, the subdivider shall submit a sewer study satisfactory to the Director of the Metropolitan Wastewater Department, for the sizing, grade and alignment of private sewer facilities, including sewer laterals to the property line, that serve more than one lot.
- h. The subdivider shall grant adequate sewer or access easements, including vehicular access to each manhole, for all public sewer facilities that are not located within public rights-of-way, satisfactory to the Director of the Metropolitan Wastewater Department. The minimum easement width for sewer mains with manholes is 20 feet. The easements shall be located within single lots. Vehicular access roadbeds shall be a minimum of 20 feet wide and surfaced with suitable approved material satisfactory to the Director of the Metropolitan Wastewater Department. Vehicular access roadbeds to sewer mains with laterals shall be a minimum 24 feet wide and paved full-width. An additional 5 feet of width per additional utility is required for easements containing more than one utility. For sewer mains more than 10 feet deep, two feet of additional easement width for each foot of depth over 10 feet shall be required.
- i. No structures or landscaping that would inhibit vehicular access shall be installed in or over any sewer access easement.
- j. No structures or landscaping, including private sewer facilities and enhanced paving, shall be installed in or over any easement prior to the applicant obtaining an encroachment removal agreement.
- k. No trees or shrubs exceeding three feet in height at maturity shall be installed within ten feet of any public sewer facilities.

- l. The developer shall obtain a building permit for any private pump station serving more than one ownership.
  - m. The subdivider shall provide evidence, satisfactory to the Director of the Metropolitan Wastewater Department, indicating that each lot will have its own sewer lateral or provide CC&R's for the operation and maintenance of on-site private sewer mains that serve more than one lot.
  - n. Providing sewer for this development is dependent upon prior construction of certain sewer facilities in the previously approved Tentative Map No. 95-0173. If they have not been constructed when required for this development, then the construction of certain portions of these previously approved sewer facilities, as required by the City Engineer, will become off-site improvements required for this development.
  - o. For public on-site sewer facilities located within a gated community, the subdivider shall provide the Wastewater Collection Divisions with keyed access satisfactory to the Director of the Metropolitan Wastewater Department. The City will not be held responsible for any issues that may arise relative to possession of the keys.
30. The drainage systems not located within a public street shall be private. Fossil filters or the BMP devices are not permitted within a public drainage system and are subject to approval by the City Engineer.
31. 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.

32. This subdivision is in a portion of a community plan area designated in the General Plan as Planned Urbanizing. As such, special financing plans have been, or will be, established to finance the public facilities required for the community plan area.

Therefore, in connection with Council approval of the final map, the subdivider shall comply with the provisions of the financing plan then in effect for this community plan area, in a manner satisfactory to the Director of the Development Services Department. This compliance shall be achieved by entering into an agreement for the payment of the assessment, paying a Facilities Benefit Assessment [FBA] or such other means as may have been established by the City Council.

33. This tentative map is a vesting tentative map. As such, the subdivider shall pay an additional \$300 fee to the Development Services Department for each final map processed in connection with this vesting tentative map.

34. Affordable Housing Requirements:

Prior to the filing of the first final map for Units 2 and 3, Subdivider shall comply with the requirements of the Black Mountain Ranch Subarea Plan for Affordable Housing [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 seventeen units to be constructed on Lots 25 through 28, as shown on the Exhibit "A", dated June 19, 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 the identified land, [Affordable Housing Site], for the construction of the Affordable Units on site, in the form of bond(s), letter(s) of credit, lien(s) and/or other forms of security acceptable to the Executive Director;
2. Approval of the timing of the construction and occupancy of the Affordable Housing Project, acceptable to the Executive Director, provided that the following timetable is incorporated into the Affordable Housing Agreement:
  - a. Issuance of building permits for the Affordable Project shall occur on or before the earlier of:

- i. The issuance of building permits for construction of the 43rd market rate dwelling unit (number of units which represents 50 percent of market rate units); or twelve months after the issuance of the first building permit for a residential market rate unit;
    - ii. In no event shall the issuance of building permits for the construction of the 43rd market rate unit occur until building permits for construction of the seventeen affordable units are authorized by the City and are obtained by the subdivider. The provisions of subsection 2c, below, of this Permit are incorporated herein by reference.
  - b. Completion of construction of the Affordable 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 2a hereof; or
    - ii. Two years after the issuance of the first building permit for a residential market rate unit.
- Further, the issuance of building permits for the construction of the 65th market rate unit (number of units which represents 75 percent) of market rate units) shall not occur until the completion of the seventeen affordable units is authorized by the City. The provisions of subsection 2c of this permit are incorporated herein by reference.
- c. If individual parcels are sold initially by subdivider without first obtaining building permits for construction of market rate units, every such parcel sold shall nonetheless be included with the total number of the building permits issued, in determining when the issuance of the building permit occurs for the 43rd and 65th or greater, market rate unit.
      - d. Occupancy of the Affordable Housing Project shall occur not later than 180 days after the completion of construction as referenced in subparagraph 2b above.
      - e. For "good cause" shown to the satisfaction of the Executive Director, the dates referenced herein may be extended for one or more

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period(s) of up to twelve months each. Good cause shall include, but not be limited to, Acts of God, labor strikes, war, riots, financial infeasibility, acts of Federal or State governmental agencies, litigation, etc., as shall be determined by the Executive Director, in the Director's sole discretion.

3. Declaration of Covenants, Conditions, and Restrictions (CC&Rs), restricting the occupancy and affordability of the Affordable Project for a period of fifty-five years from the date of completion of the Affordable Project, which 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, applies and rental rates shall not exceed 30 percent of 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 Agreement referenced in subparagraph 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 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 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, from time to time, as required to effectuate the provisions of Affordable Housing Agreement 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 as set forth below:

B. The approval by the Executive Director, or designee, and the City Manager, or designee, of the dedication (that is, the irrevocable setting aside of land for affordable housing purposes) of developable land within the Subarea and Affordable Housing Plan(s) that address, provide for and assure the construction and occupancy of seventeen Affordable Units within the Subarea on common site(s) that is not located within the boundaries of this project and that has received city approvals. Each Affordable Housing Plan must address the following issues concerning Affordable Housing to the satisfaction of the Executive Director and the City Manager or designees:

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 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 30 percent of 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 50.A.4 of this Permit; and

7. Such other and further measures as may be reasonably required by the Executive Director to assure satisfaction of the Affordable Housing Requirements, and such modification(s) of existing condition(s), as may be granted by the Executive Director in the Director's sole discretion.

8. Subdivider, and their successors, heirs and assigns shall execute such other and further documents and shall perform such acts, as shall be requested by the Executive Director and the City Manager and as may be required from time to time to effectuate the provisions of Affordable Housing Agreement as contemplated by these condition(s) of approval.

35. The Affordable Housing Requirements of PRD Permit No. 99-1054 on file with the Development Services Department are hereby incorporated by reference into this vesting tentative map. The subdivider shall comply with the affordable housing element of the Black Mountain Ranch Subarea Plan. Prior to the recordation of the final map, the subdivider shall enter into an agreement with 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. The Affordable Housing Requirements are more thoroughly described through conditions of the accompanying PRD Permit No.99-1054, such Permit becoming utilized upon recordation of this Vesting Tentative Map.
36. Prior to the filing of the first final map or the issuance of a grading permit, the subdivider shall provide evidence of compliance with the affordable housing requirement of the North City Future Urbanizing Area Framework Plan and the Black Mountain Ranch Subarea Plan, in a manner satisfactory to the City Manager, and the Executive Director of the Housing Authority of the City of San Diego. Such evidence of compliance shall include execution of an Affordable Housing In-Lieu Fee Agreement with the Executive Director of the Housing Authority that provides security for performance. That portion of the East Clusters at Black Mountain Ranch project, Unit 1, is designated for development at very low density, and therefore the subdivider is eligible under the in lieu fee option of the Black Mountain Ranch Subarea Plan to meet the affordable housing requirement for Unit 1 in this manner. The subdivider has stated its intent to pay the then current in lieu fee for Black Mountain Ranch Subarea as required, at the time of issuance of building permits.
37. Subdivider may install gated entries or gates regulating vehicular, pedestrian, or bicycle access to Unit 1 , as shown on Tentative Map No. 99-1054, provided that Subdivider

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constructs a parking, staging and turn-around area for access to the public trail system adjacent to the gated entry to Unit 1 at Street A and Carmel Valley Road, satisfactory to the City Engineer. The trail head for the trail system shall be accessible from the parking and staging area.

- a. Subdivider shall install and maintain signs at the gated developments indicating that there is a public, regional trail system that can be accessed by foot through the development. The signs shall meet the approval of the City Manager.

**FOR INFORMATION:**

This development may be subject to payment of a park fee prior to the filing of the final subdivision map in accordance with SDMC section 102.0406 et seq. This property is also subject to a building permit park fee in accordance with SDMC section 96.0401 et seq.

This development may be subject to payment of School Impact Fees at the time of issuance of building permits, as provided by California Government Code section 53080(b) (Statutes of 1986, Chapter 887), in accordance with procedures established by the Director of Building Inspection.

This vesting tentative map will be subject to fees and charges based on the rate and calculation method in effect at the time of payment.

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