

RESOLUTION NUMBER R-295029

ADOPTED ON JUNE 19, 2001

WHEREAS, Black Mountain Ranch Limited Partnership, Owner/Permittee, filed an application with the City of San Diego for Planned Development/Site Development [PD/SD] Permit No. 40-0529 to construct a 70 single-family residential development known as the West Clusters at Black Mountain Ranch project, located in the northwest corner of the Black Mountain Ranch Subarea, and legally described as Parcels 12 and 14 of Parcel Map 18504, in the Black Mountain Ranch Subarea 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 zone (previously referred to as the R1-40000 zone); and

WHEREAS, on June 7, 2001, the Planning Commission of the City of San Diego considered PD/SD Permit No. 40-0529, and pursuant to Resolution No. 3148-2-PC voted to recommend City Council approval of the permit; 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 PD/SD Permit No. 40-0529:

I. PLANNED DEVELOPMENT PERMIT AND SITE DEVELOPMENT PERMIT APPROVAL FINDINGS

A. The proposed development will not adversely affect the applicable land use plan.

The West Clusters project is located in the northwestern section of the 5,400 acre Black Mountain Ranch Subarea. The Black Mountain Ranch Subarea Plan designates this site for low density residential development, and all of the areas surrounding the project site have been approved for residential and open space uses. The West Clusters project implements the goals and policies of the Black Mountain Ranch Subarea Plan by creating a planned residential development that combines a predominantly residential community with an extensive open space, park, and recreation system. The proposed development areas have been located to minimize grading and respect environmentally significant areas, and most of the areas surrounding the project are Multiple Habitat Planning Area [MHPA] Open Space areas dedicated pursuant to the previously approved vesting tentative map. The proposed West Clusters project has been designed in harmony with the Black Mountain Ranch Subarea Plan, implements its plans goals and policies, and, therefore, will not adversely affect the Subarea plan.

B. The proposed development will not be detrimental to the public health, safety, and welfare.

The proposed project, together with surrounding land development (mass grading design, provision of roadways, utilities, and public facilities, drainage infrastructure, preservation of open space, etc.) in the Subarea have been designed to conform with a wide variety of the City of San Diego's codes, policies, and regulations whose primary focus is the protection of the public's health, safety, and welfare. The West Clusters project has been reviewed extensively by City staff, and is consistent with the Black Mountain Ranch Subarea Plan, the California Environmental Quality Act and the City's environmental regulations, the Multiple Species Conservation Program, landscaping and brush management policies, the Fire Department's fire protection policies, the Black Mountain Ranch Transportation Phasing Plan, water and sewer study recommendations, the City's affordable housing policies, requirements for a healthy pedestrian environment, etc. In addition, prior to the actual construction of homes on the subject property, City staff will review building permit plans against the Uniform Building Code to assure that structural, mechanical, electrical, plumbing, and access components of the project are designed to protect the public's health, safety and welfare.

C. The proposed development will comply with the regulations of the San Diego Municipal Code.

The proposed West Clusters project has been designed to comply with most of the development regulations of the San Diego Municipal Code including requirements for density, bulk and scale, setbacks, height, street design, open space, grading, landscaping, brush management, parking, etc. The West Clusters project does, however, include three deviations from the RS-1-8 zone including lot width, street frontage, and minimum lot size. Seven lots configured as panhandle/flag lots require width and street frontage deviations for the panhandle portions of the lot. Ten lots are below the 40,000 square-foot minimum lot area. These lots range from 23,774 square-feet to 39,510 square-feet. The fact that these deviations will result in a more desirable project is discussed in Finding No. 5 below.

D. The proposed development, when considered as a whole, will be beneficial to the community.

The West Clusters project, which proposes the development of seventy single family homes on ninety-nine acres, will be designed and developed in accordance with Design Guidelines to assure that the residential theme, architectural character, development considerations, and other fundamental concepts of the Black Mountain Ranch Subarea Plan are implemented. Much of the land use pattern at Black Mountain Ranch, including the West Clusters project, is a consequence of comprehensive resource analysis, therefore development areas have been sited in response to a range of environmental considerations including sensitive land forms, steep slopes, wetlands, biological habitats, archaeological sites, and water courses.

The Plan for Black Mountain Ranch focuses development in two villages surrounded by significant open space, recreational amenities, and low density development such as West Clusters. Overall, it is a plan designed to work with the natural environment, to create pleasing neighborhoods and exceptional recreational facilities. The West Clusters project implements the Black Mountain Ranch Plan, and, therefore, will be beneficial to the community as a whole.

E. Any proposed deviations pursuant to San Diego Municipal Code section 126.0602(b)(1) are appropriate for this location and will result in a more desirable project than would be achieved if designed in strict conformance with the development regulations of the applicable zone.

The West Clusters project includes three deviations from the RS-1-8 zone. Seven lots configured as panhandle/flag lots require width and street frontage deviations for the panhandle portions of the lot. Ten lots are below the 40,000 square-foot minimum lot area. These lots range from 23,774 square-feet to 39,510 square-feet. These deviations are consistent with Planned Development/Site Development Permit objectives in that the overall density of development conforms with the underlying zone, and no setback, building height, and/or floor area ratios are affected. The flag lot proposals include the use of common/shared driveways, therefore, the number of driveways impacting pedestrian circulation is actually reduced. The specific design features of the shared driveways will be subject to the Design Review Guidelines. The use of flag lots also allow grading and development of residential lots to be more sensitive to the existing topography of the site. The proposed deviations permit variety in lot configurations as well as lot configurations which respond to the unique topographic, geometric, access, habitat, and regulatory constraints on the site. Individual lot size reductions permit more area to be set aside as common open space. Therefore, the proposed deviations will result in a more desirable project than would otherwise be achieved if designed in strict conformance with the underlying development regulations.

BE IT FURTHER RESOLVED, that the recommendation of the Planning Commission is sustained, and Planned Development/Site Development Permit No. 40-0529 is granted to Black

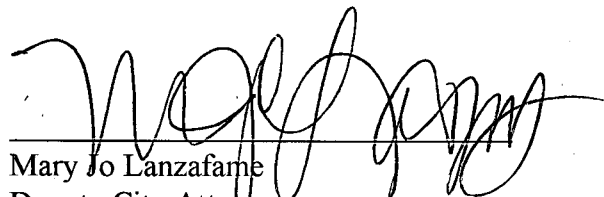
Mountain Ranch Limited Partnership, Owner/Permittee, under the terms and conditions set forth in the permit attached hereto and made a part hereof.

BE IT FURTHER RESOLVED, that in addition, project approval may include a gated entry at Unit 2 West Clusters at Black Mountain Ranch provided that:

1. The applicant constructs three areas for parking and easy access to the public trails at the following locations:
 - a. South of Unit 2 and north of Unit 1 on the west side of Camino Ruiz and the trail head at this location;
 - b. In the northern portion of Unit 2 at the westerly end of Street B and the trail head at this location; and
 - c. Off-site on the north side of Camino del Norte, satisfactory to the City Engineer.
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
R-2001-1776
Form=permitr.frm
Reviewed by Mike Westlake

**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 DEVELOPMENT PERMIT/SITE DEVELOPMENT PERMIT NO. 40-0529
WEST CLUSTERS AT BLACK MOUNTAIN RANCH (MMRP)
CITY COUNCIL**

This Planned Development/Site Development [PD/SD] Permit is granted by the Council of the City of San Diego to Black Mountain Ranch Limited Partnership, Owner/Permittee, pursuant to the San Diego Municipal Code [SDMC]. The 99-acre site is located in the northwest corner of the Black Mountain Ranch Subarea, west of proposed Camino Ruiz, in the AR-1-1 zone (previously referred to as A-1-10 zone) which is proposed to be rezoned to RS-1-8 (previously referred to as the R1-40000 zone) of the Black Mountain Ranch Subarea Plan. The project site is legally described as parcels 12 & 14, Parcel Map No. 18504.

Subject to the terms and conditions set forth in this permit, permission is granted to Owner/Permittee to develop seventy single family residential homes described, and identified by size, dimension, quantity, type and location on the approved Exhibits "A," and West Clusters Design Review Guidelines, dated June 19, 2001, on file in the Development Services Department. The project shall include:

- a. The development of 70 single-family homes;
- b. Landscaping (planting, irrigation, and landscape related improvements);
- c. Off-street parking facilities; and
- d. 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 Land Development Code 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 Owner/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. Prior to 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 June 19, 2001, on file in the Development Services Department, except that grading plans shall be modified to reflect the construction of three (3) parking, staging and turn-around areas for access to the public trail system at the following locations: south of Unit 2 and north of Unit 1 on the west side of Camino Ruiz and the trail head at this location; in the northern portion of Unit 2 at the westerly end of Street B and the trail; and off-site, on the north side of Camino del Norte, satisfactory to the City Engineer. No further changes, modifications, or alterations shall be made unless appropriate applications or amendments to this permit 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.

ENVIRONMENTAL/MITIGATION REQUIREMENTS:

11. The permittee shall comply with the Mitigation, Monitoring, and Reporting Program [MMRP] as applicable, consistent with the Black Mountain Ranch Subarea 1 Environmental Impact Report (LDR No. 96-7902), satisfactory to the City Manager and the City Engineer. All mitigation measures as specifically outlined in the MMRP (Addendum LDR No. 40-0529) shall be implemented for the following areas: Land Use (MHPA); Biology; Landform Alteration/Visual Quality; Hydrology/Water Quality; Historical Resources (Archaeology); Paleontology; Noise.

ENGINEERING REQUIREMENTS:

12. This Planned Development Permit shall comply with the conditions of the final map for Vesting Tentative Map No. 40-0529.

TRANSPORTATION REQUIREMENTS:

13. Prior to the issuance of any building permit, the project shall conform to the Black Mountain Ranch/Subarea I Transportation Phasing Plan in the Public Facilities Financing Plan.

PLANNING/DESIGN REQUIREMENTS:

14. A gated entry or gate regulating vehicular, pedestrian, or bicycle access at Unit 2, as shown on Vesting Tentative Map No. 40-0529, may be allowed provided that Permittee constructs three (3) parking, staging and turn-around areas for access to the public trail system at the following locations: south of Unit 2 and north of Unit 1 on the west side of Camino Ruiz and the trail head at this location; in the northern portion of Unit 2 at the westerly end of Street B and the trail; and off-site, on the north side of Camino del Norte, satisfactory to the City Engineer. The trail heads for the trail system shall be accessible from the parking and staging area.

15. There shall be compliance with the regulations of the West Clusters Design Review Guidelines and 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.

16. 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.

17. 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 June 19, 2001, on file in the Development Services Department); or meets the approval of the City Manager.

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

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

LANDSCAPE REQUIREMENTS:

20. No change, modification or alteration shall be made to the project unless appropriate application or amendment to this Permit has been granted by the City.

21. In the event that a foundation only permit is requested by the Permittee or subsequent Owner, a site plan or staking layout plan shall be submitted identifying all landscape areas consistent with Exhibit "A," Landscape Concept Plan, dated June 19, 2001, on file in the Development Services Department. These landscape areas shall be clearly identified with a distinct symbol, noted with dimensions and labeled as landscaping area.

22. Prior to issuance of any construction permits for structures (including shell), complete landscape and irrigation construction documents consistent with the Landscape Standards (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 June 19, 2001, on file in the Development Services Department.

23. 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 final inspection for a specific building permit. The construction documents shall be in substantial conformance with Exhibit "A," Landscape Concept Plan, dated June 19, 2001, on file in the Development Services Department.

24. Prior to issuance of any engineering permits for grading, construction documents for slope planting or re-vegetation and hydro-seeding of all disturbed land including irrigation shall be submitted in accordance with the Landscape Standards and to the satisfaction of the City Manager. All plans shall be in substantial conformance to Permit No. 40-0529 (including Environmental conditions) and Exhibit "A," dated June 19, 2001, on file in the Development Services Department.
25. 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 permanent) and appurtenances shall be installed in accordance with the approved plans and the Landscape Standards.
26. Prior to final inspection, it shall be the responsibility of the Permittee or subsequent Owner to install all required landscape. A No Fee Street Tree Permit, if applicable, shall be obtained for the installation, establishment and on-going maintenance of all street trees.
27. 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.
28. 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.
29. 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 Landscape Standards 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.
30. If any required landscape (including existing or new plantings' hard-scape, 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 thirty days of damage or Certificate of Occupancy.

BRUSH MANAGEMENT REQUIREMENTS:

31. 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 June 19, 2001, on file in the Development Services Department.
32. 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 above-referenced Exhibit "A," dated June 19, 2001, on file in the Development Services Department.

33. Prior to issuance of any building permits, a complete set of brush management construction documents shall be submitted for approval to the City Manager and the Fire Marshall. The construction documents shall be in substantial conformance with Exhibit "A," dated June 19, 2001, on file in the Development Services Department, and shall comply with the Uniform Fire Code (SDMC section 55.0889.0201), the Landscape Standards and the Landscape Technical Manual.

34. The construction documents shall conform to the Architectural features as described in SDMC section 142.0412(d).

35. Within Zone One combustible accessory structures (including, but not limited to decks, trellises, gazebos, etc) are not permitted while non-combustible accessory structures may be approved within the designated Zone One area subject to Fire Marshall and the City Manager's approval.

36. The following note shall be provided 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."

37. The Brush Management Program shall consist of three zones consistent with the Brush Management regulations of the SDMC section 142.0412 as follows:

<u>Lot #'s</u>	<u>East of I-805 (ALL)</u>	<u>Zone One</u>	<u>Zone Two</u>	<u>Zone Three</u>
1, 2		40'	40'	30'
3		40'	165'	30'
4		40'	145'	30'
5		30'	160'	30'
6		30'	150'	30'
7		40'	180'	30'
8, 9		30'	180'	30'
10		30'	160'	30'
11		30'	170'	30'
12		40'	40'	30'
13 - 24	none required	-	-	-
25		40'	40'	30'
26 - 51	none required	-	-	-
52, 53		40'	40'	30'
54 - 70	none required	-	-	-

38. 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 of the City of San Diego.

39. Prior to final inspection for any building, the approved Brush Management Program shall be implemented.

40. The Brush Management Program shall be maintained at all times in accordance with the City of San Diego's Landscape Standards.

WATER REQUIREMENTS:

41. Prior to the issuance of any building or grading permits, the developer shall assure, by permit and bond, the design and construction of appropriate public water facilities as identified in the accepted water studies, necessary to serve this development, in a manner satisfactory to the Director of the Water Department and the City Engineer, including, but not limited to a redundant source of water to the area.
42. Prior to the issuance of any building or grading permits, the Black Mountain Reservoir and associated transmission pipelines shall be complete and operational in a manner satisfactory to the Director of the Water Department.
43. Prior to the issuance of any building permits, the developer shall install fire hydrants at locations satisfactory to the Fire Department, the Director of the Water Department, and the City Engineer.
44. 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 Facility Design Guidelines and City regulations, standards and practices pertaining thereto. Water facilities as shown on the approved Exhibit "A," dated June 19, 2001, on file in the Development Services Department, will require modification in accordance with accepted studies and final engineering.
45. If on site water facilities are to be public and if it is a gated community, then, prior to the issuance of any building permits, the developer shall provide keyed access to the Water Operations Division in a manner satisfactory to the Director of the Water Department and the City Engineer. The City will not be held responsible for any issues that may arise relative to the availability of keys.
46. Providing water for this development is dependent upon prior construction of certain water facilities in previously approved TM Nos. 98-0261, 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.

WASTEWATER REQUIREMENTS:

47. Prior to the issuance of any building permits, the developer shall assure, by permit and bond, the design and construction of all public sewer facilities necessary to serve this development.
48. 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.
49. The developer shall provide evidence, satisfactory to the Director of the Metropolitan Wastewater Department, indicating that each lot will have its own sewer lateral or provide Covenants Conditions and Restrictions [CC&Rs] for the operation and maintenance of on-site private sewer facilities that serve more than one lot.

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 REQUIREMENTS:

51. The Owner/Permittee is required under the North City Future Urbanizing Area Framework Plan and the Black Mountain Ranch Subarea Plan to provide for the provision of housing for low-income households, as certified by the San Diego Housing Commission/Housing Authority of the City of San Diego. The Owner/Permittee has an option beyond the provision of the affordable units to pay in-lieu fees to the Executive Director of the Housing Authority to meet their affordable housing requirement. This project is eligible under the in-lieu fee option of the Black Mountain Ranch Subarea Plan to meet the affordable housing requirement in this manner, and the owner(s) have stated their intent to pay the then current in-lieu fee for Black Mountain Ranch Subarea as required, at the time of issuance of building permits.

INFORMATION ONLY

Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of this development permit map, may protest the imposition within ninety days of the approval of this development permit map 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 June 19, 2001, by Resolution No. R-295029.

8/29/01

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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.

**BLACK MOUNTAIN RANCH
LIMITED PARTNERSHIP**

Owner/Permittee

By _____

By _____

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

8/29/01

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