

RESOLUTION NUMBER R-295657

ADOPTED ON OCTOBER 30, 2001

WHEREAS, Newland Group, Inc., a California corporation, Owner/Permittee, filed an application with the City of San Diego for a permit to construct eleven detached single-family dwelling units, known as the Tierra Alta project, located at the north terminus of Caminito Rodar, and legally described as a Portion of Rancho de Los Penasquitos, in the Mira Mesa Community 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-1-13 zone (previously referred to as the R1-6,000 zone); and

WHEREAS, on August 9, 2001, the Planning Commission of the City of San Diego considered Planned Residential Development/Resource Protection Ordinance/Coastal Development [PRD/RPO/CD] Permit No. 98-0792, and pursuant to Resolution No. 3168-PC voted to recommend approval of the permit; and

WHEREAS, the matter was set for public hearing on October 30, 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 it adopts the following findings with respect to PRD/CD Permit No. 98-0792:

I. PLANNED RESIDENTIAL DEVELOPMENT (PRD) FINDINGS - SAN DIEGO MUNICIPAL CODE SECTION 101.0901:

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

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The project site contains 4.44 acres and is designated for low-density residential use within the boundaries of the Mira Mesa Community Plan. Eleven detached single-family dwelling units are proposed for a density of 2.48 dwelling units per gross acre. Adjoining properties to the south, southeast and southwest have been previously developed with residential uses per the City of San Diego's Progress Guide and General Plan and the adopted Mira Mesa Community Plan. A boundary adjustment of the Multiple Habitat Planning Area (MHPA) is adjusting the development area with the sensitive resource areas bordering Rancho de Los Penasquitos Canyon Park adjacent to the north, west and east of the buildable areas. Although the City of San Diego faces a projected housing shortage in the future and this project is being developed under the potential maximum density, the site is constrained by its transition topography from mesa top to canyon slopes and the requirement to contain brush management on site and not encroaching onto park lands and due to the preservation of a vernal pool site which is centered within one of the building pad areas. The provision for low-residential density for this area of the Mira Mesa Community Plan has long been designated at 0-4 units per acre but in the past had a provision to allow up to 7 units per acre with development processed under a Planned Residential Development Permit. That provision was deleted, showing the intent to reduce the development intensity impacts to the natural park, restrict encroachment into sensitive areas and to implement visual impacts to and from the park.

The Tierra Alta project fulfills the Mira Mesa Community Plan and Progress Guide and General Plan needs for housing while implementing design goals for that development in conjunction with surrounding land uses.

2. The proposed use will not be detrimental to the health, safety and general welfare of persons residing or working in the area and will not adversely affect other properties in the vicinity.

The proposed project will develop eleven detached single-family residences on a 4.44 acre site, providing 1.53 acres in open space, 0.48 acres for brush management and preserving a vernal pool site. Grading has been limited by the use of retaining walls while retaining minimal visual intrusion impacts to the adjacent Rancho de Los Penasquitos Canyon Park and by keeping development on the naturally flatter portions of this mesa top. Adjacent properties to the south (from which site access is taken) and to the east, have been developed previously with residential use when the Mira Mesa Community Plan contained a provision allowing up to seven dwelling units per acre when developed under a Planned Residential Development Permit. That provision was deleted from the plan thereby allowing a maximum of 0-4 dwelling units per acre for this site and other vacant sites to be developed in the future. The eleven residences proposed, will be a density of 2.68 units per acre as limited by brush management requirements, the preservation of the vernal pool and dedication of open space. Conditions of the accompanying permit and tentative map resolution, require adequate pedestrian and vehicular access, parking and design criteria for the architecture of the residences so as not to 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 area.

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

The 4.44 acre Tierra Alta project site is being processed for approval under the City of San Diego's Municipal Code existing prior to January 1, 2000, through provisions which specified that applications received and deemed complete prior to that date, would continue to be subject to that Code. This project was submitted in 1998, and is subject to the Planned Residential Development and Resource Protection Ordinance Permits and to the provisions of the Coastal Development Permit regulations. The Mira Mesa Community Plan and the Progress Guide and General Plan designate the site for this intensity of residential use with the proposed eleven dwelling units achieving a density of 2.68 units per acre where the land use designation allows a range of 0-4 units per acre. The project has been subjected to City staff, Mira Mesa Community Planning Group member and general public and adjacent property owner review and with the accompanying permit and map conditions, has been determined to be in general compliance with provisions of the Municipal Code in effect for this site.

II. COASTAL DEVELOPMENT PERMIT FINDINGS - SAN DIEGO MUNICIPAL CODE SECTION 105.0202:

1. The proposed development will not encroach upon any existing physical accessway legally utilized by the general public or any proposed public accessway identified in an adopted LCP Land Use Plan; nor will it obstruct views to and along the ocean and other scenic coastal areas from public vantage points.

The development of this 4.44 acre site within the boundaries of the Mira Mesa Community Plan area with eleven dwelling units, will not encroach upon coastal accessways nor obstruct views to and along the ocean and other scenic coastal areas from public vantage points. Development is focused on the naturally flatter mesa top with brush management restricted to being implemented on-site due to the common property lines with the Rancho de Los Penasquitos Canyon Park. A pedestrian path is being provided between proposed dwelling units Nos. 4 and 5 to connect to a natural trail utilized by the public that provides access to and from the Rancho de Los Penasquitos canyon floor. The dedication of 2.53 acres of open space on the west, north and east perimeters of the site and with the setbacks of the dwellings enhanced by the implementation of brush management, the two-story dwellings will have minimal visual impacts to the adjacent open space, park lands and scenic coastal areas.

2. The proposed development will not adversely affect identified marine resources, environmentally sensitive areas, or archaeological or paleontological resources.

Mitigated Negative Declaration No. 98-0792, prepared for the development of this 4.44 acre site with eleven residential dwelling units, identified impacts to biological resources, historical resources (Archaeology) and water quality. A 0.09 acre vernal pool site is being preserved on-site and protected by the installation of a slump block wall or suitable alternative,

open space lots and land use designations will protect southern mixed chaparral habitat and Multiple Habitat Planning Area (MHPA) Adjacency Guidelines shall be implemented to direct possible adverse impacts away from sensitive areas. A qualified archaeologist is required to be retained to monitor all construction work on the project site and to follow up with additional responsibilities should discoveries be made on-site. Best Management Practices (BMPs) are to be implemented to control construction related erosion and sedimentation and to control post construction control of erosion and discharge of pollutants from the site. Through identification of these conditions and steps to control their effects, the proposed development will not adversely affect identified marine resources, environmentally sensitive areas, or archaeological or paleontological resources.

3. The proposed development will comply with the requirements related to biologically sensitive lands and significant prehistoric and historic resources as set forth in the Resource Protection Ordinance (San Diego Municipal Code section 101.0462), unless by the terms of the Resource Protection Ordinance, it is exempted therefrom.

Sensitive slope analysis and biological resource studies were required for the review of the applications to develop this 4.44 acre site for the development of eleven dwelling units on 2.43 acres of building pad area. With the presence of the Rancho de Los Penasquitos Canyon Park adjoining the site, extra attention was given to the significance of biologically sensitive lands and historic and prehistoric resources under the provision of the Resource Protection Ordinance, which is one of the required permits in order to allow development of this site. No prehistoric or historic sites have been determined to exist on this site but an archaeologist is required to be retained for construction monitoring with additional requirements should a discovery be made. Through preservation of natural open space and with development primarily on the naturally flat areas of this mesa top, this 'Finding' can be made.

4. The proposed development will not adversely affect identified recreational or visitor-serving facilities or coastal scenic resources.

The Mira Mesa Community Plan identifies the adjacent Rancho de Los Penasquitos, partially within the boundaries of the coastal zone, as a recreational resource. A trail from this mesa top area accesses the canyon floor and has been identified by the City's Park Rangers as being used by the public. The Tierra Alta project provides for a pedestrian pathway between proposed dwelling units 4 and 5 to connect the natural path to the sidewalks of the private driveway accessing the project site from Calle Cristobal, the main roadway for this area of the community. With preservation of 2.43 acres of open space, and the pathway enhancement, the proposed development will not adversely affect identified recreational or visitor-serving facilities or coastal scenic resources.

5. The proposed development will be sited and designed to prevent adverse impacts to environmentally sensitive habitats and scenic resources located in adjacent parks and recreation areas, and will provide adequate buffer areas to protect such resources.

This 4.44 acre site consists of flat mesa top lands and slopes transitioning into the Rancho de Los Penasquitos Canyon Park and coastal zone. The development of eleven single-family dwelling units will be sited adjacent to existing development and on the mesa while preserving the slopes in open space easements, maintaining all brush management on-site and preserving the use of a pedestrian path accessing the canyon. The siting of the dwelling units will minimize adverse visual impacts to the open space park and coastal zone designated areas. The open space and brush management implementation help to ensure the development of the site to prevent adverse impacts to environmentally sensitive habitats and scenic resources in the adjacent park recreation area.

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

The development of eleven dwelling units on this 4.44 acre site within the Mira Mesa Community Plan and partially within the coastal zone boundaries, is being done primarily on the naturally flatter mesa tops and utilizing some retaining walls to minimize slope alterations. A Geologic Report has been reviewed and determined to be adequate in determining that no geologic hazards exist and that the development has been properly addressed. Brush Management is being implemented on-site to reduce the risks from fire on the dwelling unit development proposed. The development has minimized the alteration of the natural landforms and will not result in any undue risk from geologic and erosional forces and/or flood and fire hazards.

7. The proposed development will be visually compatible with the character of the surrounding area, and where feasible, will restore and enhance visual quality in visually degraded areas.

Adjacent land to the south and east of this 4.44 acre site have been previously developed with residential developments at densities greater than the 2.68 units per acre proposed by Tierra Alta. The single-family product type allows for the siting and architectural design features to minimize adverse visual impacts from the adjoining Rancho de Los Penasquitos Canyon Park to the north. A vernal pool is being preserved on-site between proposed units Nos. 10 and 11. The project as proposed, is visually compatible with the character of the surrounding area and where feasible will enhance the visual quality by maintaining landscaping and brush management requirements.

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

Through the implementation of this project to construct eleven dwelling units on a 4.44 acre site by a Planned Residential Development, Coastal Development and Resource Protection

Ordinance Permit, a Tentative Subdivision Map, a rezone, a Local coastal Program Amendment and a Multiple Habitat Planning Area boundary adjustment, will conform to the City's Progress guide and General Plan, the Local Coastal Program, the Mira Mesa Community Plan and all other applicable plans, policies and programs in effect for this site.

III. RESOURCE PROTECTION ORDINANCE FINDINGS - SAN DIEGO MUNICIPAL CODE SECTION 101.0462:

1. The proposed development will not adversely affect the City of San Diego's Progress Guide and General Plan.

The City of San Diego's Progress Guide and General Plan identify this site for residential and open space land use. The Tierra Alta project proposes the construction of eleven dwelling units on a 4.44 acre site. Open space of 1.53 acres is being preserved and the development is limited to the 2.43 acres of mesa top area. The project is consistent with this plan and will not therefor, adversely affect it.

2. The proposed development will conform to the community plan for the area and any other applicable plans, policies and ordinances.

The development of this eleven dwelling unit project on 4.44 acres of land within the boundaries of the Mira Mesa Community Plan and coastal zone conforms to the land use designation, density range, open space preservation, brush management requirements, utilization of a pedestrian path accessing the adjacent park lands and conforming to the subdivision requirements and coastal zone regulations, will meet the 'Finding' as required.

3. The proposed development will be sited, designed, constructed and maintained to minimize, if not preclude, adverse impacts on environmentally sensitive lands.

The construction of eleven, 2-story detached dwelling units on this 4.44 acre site, is sited to preserve environmentally sensitive lands consisting of naturally steep canyon slopes, biological habitat and a vernal pool site. Brush Management will be implemented on-site to preclude adverse impacts to the adjacent Rancho de Los Penasquitos Canyon Park, the dwellings are setback from the canyon rims to preserve views and limit visual impacts from the floor of the canyon, Best Management Practices are being required to be implemented to prevent adverse impacts to water resources and pedestrian access to the canyon/park is being preserved. This 'Finding' can be made as the project will achieve this requirement.

4. The proposed development will be sited and designed to prevent adverse impacts on any environmentally sensitive lands and resources located in adjacent parks and public open-space areas and will provide adequate buffer areas to protect such resources.

As cited above in numerous other 'Findings' for this permit and for the Planned residential Development and Coastal Development Permit, all of which must 'be made' in order to approve this proposed development of eleven dwelling units on a 4.44 acre site, the development is sited and designed to preserve adverse impacts to the adjacent Rancho de Los Penasquitos Canyon Park, sensitive slopes, biological habitat and a vernal pool site. Developing the mesa top, minimizing grading to slope areas, fencing the vernal pool site, maintaining an existing pedestrian path into the park and utilizing Brush Management on-site, all are a part of the project design to prevent adverse impacts to environmentally sensitive lands and resources located in the park and offers adequate buffer for the resources.

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

The project proposes developing the mesa top flat land areas with minimal alteration of canyon slopes to develop these eleven dwelling units on the 4.44 acre site. Some retaining walls are utilized to achieve this reduction in grading impacts. A Geologic Report was presented and accepted by City staff that determined that there are no potential hazards to the site adversely affecting this development. A private drain facility directs water into a natural drainage course. A Brush management plan minimizes risks from fire danger. The development design has minimized the alterations of natural landform and will not result in undue geologic, erosional or flooding and fire risks.

6. Feasible measures, as defined in this section, to protect and preserve the special character or the special historical, architectural, archaeological or cultural value or the affected significant prehistoric or historic site or resource have been provided by the applicant.

The preparation of a Mitigated Negative Declaration for this project has identified the potential for archaeological resources and a qualified archaeologist is required to be present for monitoring of all construction activity and with the ability to take further measures if a "find" is made. Open space preservation and Brush Management being contained on-site are additional measures implemented to protect and preserve the special character and other values of the site, which is proposed to be developed with eleven dwelling units on the 4.44 acre site.

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

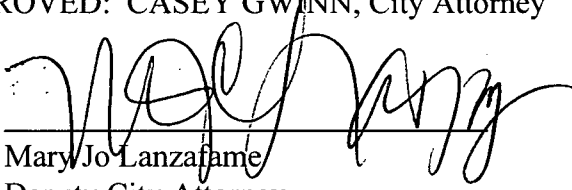
BE IT FURTHER RESOLVED, that the recommendation of the Planning Commission is sustained, and Planned Residential Development/Coastal Development Permit No. 98-0792 is

granted to Newland Group, Inc., a California corporation, Owner/Permittee, under the terms and conditions set forth in the permit attached hereto and made a part hereof, and subject to the following additional conditions:

1. Add vegetative swells at the toe of the 4:1 slope which is at the end of Brush Management Zone 1 on the west end of the project site, rather than just filtration down at the bottom of the canyon.
2. Include signs in view of the homeowners' yards that explain to the homeowners the impact of using pesticides or herbicides in their yards.

APPROVED: CASEY GWINN, City Attorney

By


Mary Jo Lanzafame
Deputy City Attorney

MJL:lc
12/11/01
04/30/02 (Permit only corrected.)
Or.Dept:Clerk
R-2002-743
Form=permitr.frm
Reviewed by Robert Korch

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 [PRD], RESOURCE PROTECTION
ORDINANCE [RPO], AND COASTAL DEVELOPMENT [CD] PERMIT, ANDA
MULTIPLE HABITAT PLANNING AREA BOUNDARY ADJUSTMENT,
CASE NO. 98-0792 **(MMRP)**
TIERRA ALTA
CITY COUNCIL

This Permit is granted by the Council of the City of San Diego to Newland Group, Inc., a California Corporation, Owner and Permittee pursuant to San Diego Municipal Code [SDMC] sections 101.0901, 101.0462 and 105.0202. The 4.44 acre site is located at the northerly terminus of Caminito Rodar in the AR-1-1 zone (proposed RS-1-14 zone) of the Mira Mesa Community Plan. The project site is legally described as a Portion of Rancho De Los Penasquitos.

Subject to the terms and conditions set forth in this permit, permission is granted to Owner/Permittee to subdivide the 4.44 acre site into ten lots for the development of 11 single-family residential dwelling units, described as, and identified by size, dimension, quantity, type and location on the approved Exhibit "A," dated October 30, 2001, on file in the Development Services Department. The facility shall include:

- a. Eleven (11) detached single-family dwelling units, 2-stories in height, with a floor area between 2,100 and 2,900 square-feet, under a condominium ownership with exclusive use yard areas; and
- b. Landscaping (planting, irrigation and landscape related improvements) and Brush Management; and
- c. Off-street parking facilities for residents and supplemental parking for guests; and
- d. The preservation of a vernal pool between Unit 10 and 11, a public trail accessing Rancho de Los Penasquitos Open Space and Park, retaining walls and fences consisting of wrought-iron and wood, and a canyon-view overlook with bench; 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

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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 36 months after the effective date of final approval by the City, following all appeals. Failure to utilize the permit within 36 months will automatically void the permit unless an Extension of Time has been granted. Any such Extension of Time must meet all the Municipal/Land Development Code requirements and applicable guidelines in effect at the time the extension is considered by the appropriate decision maker.
2. No permit for the construction, occupancy or operation of any facility or improvement described herein shall be granted, nor shall any activity authorized by this permit be conducted on the premises until:
 - 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 Federal Endangered Species Act of 1973 and any amendments thereto (16 U.S.C. § 1531 et seq.).
7. In accordance with authorization granted to the City of San Diego from the United States Fish and Wildlife Service [USFWS] pursuant to Section 10(a) of the ESA and by the California Department of Fish and Game [CDFG] pursuant to Fish and Game Code section 2835 as part of the Multiple Species Conservation Program [MSCP], the City of San Diego through the issuance of this permit hereby confers upon Permittee the status of Third Party Beneficiary as provided for in Section 17 of the City of San Diego Implementing Agreement [IA], executed on July 16, 1997, and on file in the Office of the City Clerk as Document No. OO-18394. Third Party Beneficiary status is conferred upon Permittee by the City: (1) to grant Permittee the legal standing and legal right to utilize the take authorizations granted to the City pursuant to the MSCP within the context of those limitations imposed under this permit and the IA, and (2) to assure Permittee that no existing mitigation obligation imposed by the City of San Diego pursuant to this permit shall be altered in the future by the City of San Diego, USFWS or CDFG, except in the limited circumstances described in Sections 9.6 and 9.7 of the IA. If mitigation lands are identified but not yet dedicated or preserved in perpetuity, maintenance and continued recognition of Third Party Beneficiary status by the City is contingent upon Permittee

maintaining the biological values of any and all lands committed for mitigation pursuant to this permit and of full satisfaction by Permittee of mitigation obligations required by this permit, as described in accordance with Section 17.1D of the IA.

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

9. Before issuance of any building or grading permits, complete grading and working drawings shall be submitted to the City Manager for approval. Plans shall be in substantial conformity to Exhibit "A," dated October 30, 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.

10. All of the conditions contained in this Permit have been considered and have been determined to be necessary in order to make the findings required for this discretionary permit. It is the intent of the City that the holder of this Permit be required to comply with each and every condition in order to be afforded special rights which the holder of the Permit is obtaining as a result of this Permit. It is the intent of the City that the Owner of the property which is the subject of this Permit either utilize the property for any use allowed under the zoning and other restrictions which apply to the property or, in the alternative, that the Owner of the property be allowed the special and extraordinary rights conveyed by this Permit, but only if the Owner complies with all the conditions of the Permit.

In the event that any condition of this Permit, on a legal challenge by the Owner/Permittee of this Permit, is found or held by a court of competent jurisdiction to be invalid, unenforceable or unreasonable, this Permit shall be void. However, in such an event, the Owner/Permittee shall have the right, by paying applicable processing fees, to bring a request for a new Permit without the "invalid" condition(s) back to the discretionary body which approved the Permit for a determination by that body as to whether all of the findings necessary for the issuance of the Permit can still be made in the absence of the "invalid" condition(s). Such hearing shall be a hearing de novo and the discretionary body shall have the absolute right to approve, disapprove or modify the proposed Permit and the condition(s) contained therein.

11. Rezoning of the subject property shall become effective with recordation of the corresponding final subdivision map for the project site.

12. This Coastal Development Permit shall become effective on the eleventh working day following receipt by the Coastal Commission of the Notice of Final Action, following all appeals.

13. Prior to recordation of this permit with the County Recorder, a fee shall be deposited with the Development Services Department for the Los Peñasquitos Watershed Restoration and Enhancement Program. The enhancement fee shall be computed on the basis of site grading at a rate of \$0.005 per square foot for all areas graded, with an additional rate of \$0.03 per square foot for all impervious surfaces created by the development. The enhancement fee shall be computed by the applicant and verified by the Development Services Department.

ENVIRONMENTAL/MITIGATION REQUIREMENTS:

14. The applicant shall comply with the Mitigation Monitoring and Reporting Program [MMRP] as specified in Mitigated Negative Declaration, LDR No. 99-0792, satisfactory to the City Manager and City Engineer. Prior to the issuance of the first applicable grading or building permit and/or the recordation of a final map, the mitigation measures as specifically outlined in the MMRP as to biological resources, historical resources (archaeology), and water quality, shall be implemented.

15. Prior to the issuance of any grading or building permit, the Owner/Permittee shall submit a Vernal Pool Management Plan for approval, to the satisfaction of the City Manager. The Vernal Pool Management Plan shall be prepared by a qualified biologist (per the City of San Diego Guidelines for Conducting Biological Surveys (November, 2000), and shall include, at a minimum, the following measures in order to assure the long term viability of the on-site vernal pool (Reference Exhibit "A," PRD Site Plan, Lot 1, dated October 30, 2001, on file in the Development Services Department:

- a. Perimeter Fencing & Signage - As identified in Exhibit "A," Landscape Concept Plan, dated October 30, 2001, the preserved vernal pool area totaling approximately 0.091 acre will be protected by a slump block wall of a minimum 5-foot height or, as an alternative, a slump block wall of a minimum 3-foot height and an additional 2 feet of metal fence, with an entry gate maintained with a lock. The purpose of the perimeter fencing shall be to prevent intrusion into the vernal pool area and avoid attractive nuisances. In addition to fencing, "No Trespass" signs shall be posted identifying the area as environmentally sensitive.
- b. Long-Term Biological Monitoring - A qualified biologist shall be retained to conduct quarterly inspections of the vernal pool area to evaluate fence integrity, occurrence of disturbance caused by trespass, condition and effectiveness of signs, and the establishment of exotic species. Fence and sign repairs and debris removal shall be scheduled to occur during the dry season based on these inspections. All on-site maintenance shall be monitored by the biologist.
- c. Weed and Trash Removal - Weed and trash/debris removal activities shall occur on an as-needed basis in perpetuity under the supervision of a qualified biologist. All work shall be scheduled to occur during the dry season.
- d. Reporting - Annual reports shall be submitted to the City of San Diego Land Development Review Division documenting the condition of the vernal pool area and providing any specific recommendations to best preserve habitat values and prevent or remediate any adverse impacts that could take place.

16. Prior to issuance of any construction permit, the applicant shall prepare a Storm Water Pollution Prevention Plan [SWPPP] addressing water quality issues both for during construction as well as post construction to the satisfaction of the city engineer. The plan shall specifically address the post construction Best Management Practices [BMP]. Maintenance, repair and replacement of post construction BMPs are the responsibility of this project and shall be assured by the applicant or the future owners of properties within this subdivision. The SWPPP shall address the requirement for periodic monitoring of the Post Construction BMPs to the satisfaction of the City Engineer.

17. Prior to the issuance of any grading or building permit, the Owner/Permittee shall submit evidence of a secure funding source for the long-term maintenance and monitoring of both the Vernal Pool area as described in the Vernal Pool Management Plan and for the periodic monitoring of the Post Construction BMP's, including the drainage structure at the west end of the common private driveway.

18. The developer shall provide a vegetative swale at the toe of the 4:1 slope as a part and function of the drainage facility into the canyon, satisfactory to the City Engineer and City Manager

ENGINEERING REQUIREMENTS:

19. This permit shall conform to the conditions and provisions of Tierra Alta Tentative Map No. 98-0792.

20. Vehicular access to the dwelling units within this PRD shall be by a system of privately maintained, unnamed, non-dedicated, private driveways, constructed in a manner satisfactory to the City Engineer.

21. Dwelling unit Nos. 6 and 8 shall have roll-up type garage doors because of distance for curb to garage door.

22. Brush Management Lots D, E, and F shall have open space easements.

23. Lots A, B, and C shall be Granted to the city for open space at no cost. Said lots shall be free and clear of all private easements, private encroachments, private agreements, private liens. The owner will reserve to them self a easement for private storm drain in lot A. The size location and conditions must be satisfactory to the City Engineer.

24. The trail within the Subdivision shall be a 10-foot-wide non-motor vehicle pedestrian right-of-way.

25. Provide proof that the public has a right to transit Sunland Sorrento, Map No. 12186, to access the park, otherwise a 10-foot wide non-motor vehicle pedestrian right of way must be provided across Sunland Sorrento. Map 12186.

PLANNING/DESIGN REQUIREMENTS:

26. No fewer than 25 off-street resident parking spaces in garages shall be maintained on the property at all times in addition to 6 curb spaces and 11 driveway spaces (one per dwelling unit) in the approximate locations shown on the approved Exhibit "A," dated October 30, 2001, on file in the Development Services Department. Parking spaces shall comply at all times with requirements of the Municipal/Land Development Code and shall not be converted for any other use unless otherwise authorized by the City Manager.

27. There shall be compliance with the regulations of the underlying zone(s) unless a deviation or variance to a specific regulation(s) is approved or granted as condition of approval of this permit. Where there is a conflict between a condition (including exhibits) of this permit and a regulation of the underlying zone, the regulation shall prevail unless the condition provides for a deviation or variance from the regulations. Where a condition (including exhibits) of this permit

establishes a provision which is more restrictive than the corresponding regulation of the underlying zone, then the condition shall prevail.

28. The height(s) of the building(s) or structure(s) shall not exceed those heights set forth in the conditions and the exhibits (including, but not limited to, elevations and cross sections) or the maximum permitted building height of the underlying zone, whichever is lower, unless a deviation or variance to the height limit has been granted as a specific condition of this permit.

29. A topographical survey conforming to the provisions of the Municipal/Land Development Code may be required if it is determined, during construction, that there may be a conflict between the building(s) under construction and a condition of this permit or a regulations of the underlying zone. The cost of any such survey shall be borne by the permittee.

30. 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.

31. No building additions, including patio covers, shall be permitted unless approved by the homeowners association and the Development Services Department Director.

32. All signage associated with this development shall be consistent with sign criteria established by the Citywide sign regulations.

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

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

35. No mechanical equipment, duct, mechanical ventilator or air conditioner, shall be erected, constructed, converted, established, altered, or enlarged on the roof of any building, unless all such equipment and appurtenances are contained within a completely enclosed structure whose top and sides may include grillwork, louvers and latticework.

36. No material or equipment shall be stored on the roof of any building.

LANDSCAPE REQUIREMENTS:

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

38. Prior to issuance of any construction permits for any structures, complete landscape and irrigation construction documents consistent with the Landscape Regulations and Landscape Technical Manual (including planting and irrigation plans, details and specifications) shall be submitted to the City Manager for approval. The construction documents shall be in substantial conformance with Exhibit "A," Landscape Concept Plan, dated October 30, 2001, on file in the Development Services Department.

39. Prior to issuance of any engineering permits for right-of-way improvements, complete landscape construction documents for right-of-way and median improvements shall be submitted

to the City Manager for approval. Improvement plans shall identify a 40 square feet permeable planter area for each street tree in the right-of-way. This area shall be identified as a station point and labeled "permeable area for street tree." 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 October 30, 2001, on file in the Development Services Department.

40. Prior to issuance of any engineering permits for grading, construction documents for brush management, slope planting or revegetation and hydroseeding of all disturbed land including irrigation shall be submitted in accordance with Landscape Regulations, Landscape Technical Manual Sections 6 and 7 and to the satisfaction of the City Manager. All plans shall be in substantial conformance to Permit No. 98-0792 (including Environmental conditions) and Exhibit "A," dated October 30, 2001, on file in the Development Services Department.

41. Installation of slope planting and erosion control including seeding of all disturbed land (slopes and pads) consistent with the approved landscape and grading plans is considered to be in the public interest. The Permittee shall initiate such measures as soon as the grading has been accomplished. Such erosion control/slope planting and the associated irrigation systems (temporary and/or permanent) and appurtenances shall be installed in accordance with the approved plans and the Landscape Technical Manual.

42. Prior to issuance of any engineering permits and building permits, the permittee/owner shall submit an installation schedule including the qualified landscape representatives' name and phone number, who will be performing the site observations and reporting back to the city in letter form at completion of each phase (phase include, but not limited to, job start, flat work/ foundation, irrigation pressure test, finished grade, planting layout/ size and quantity, irrigation coverage test, and a final inspection with the City's landscape inspector).

43. Prior to issuance of any building permit or engineering permit, trees shall be provided in Lot F, Lot E, Lot D, and any areas abutting the Canyon to reduce visual impact of the development and shall not be removed.

44. All walls adjacent to the Open Space shall be earth-toned to visually blend with the land.

45. There shall be no private trails or fence openings on Lots 1 through 10 to the Open Space.

46. Prior to issuance of building permits, construction documents shall provide front yard landscaping for the development and shall be submitted to the City Manager for approval. The construction documents shall be in substantial conformance with Exhibit "A," Landscape Concept Plan, dated October 30, 2001, on file in the Development Services Department.

47. No invasive plant material shall be permitted as jointly determined by the Landscape Section, MSCP, and the Environmental Analysis Section in the Open Space areas.

48. Prior to issuance of any building permit and improvement permits, the landscape construction documents shall show all the locations of walls and types of walls for the project.

49. 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 shall be obtained for the installation, establishment and on-going maintenance of all street trees.

50. 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.

51. If any required landscape (including existing or new plantings, hardscape, landscape features, etc.) indicated on the approved construction document plans is damaged or removed during demolition or construction, it shall be repaired and/or replaced in kind and equivalent size per the approved documents to the satisfaction of the City Manager within 30 days of damage or Certificate of Occupancy.

BRUSH MANAGEMENT PROGRAM - ALTERNATIVE COMPLIANCE BRUSH MANAGEMENT (PROJECTS ADJACENT TO MHPA):

52. The Permittee shall implement the following requirements in accordance with the Alternative Compliance Brush Management Program and as shown on Exhibit "A," Brush Management Program/Landscape Concept Plan, dated October 30, 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," Brush Management Program/Landscape Concept Plan, dated October 30, 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 to the City Manager and the Fire Marshall. The construction documents shall be in substantial conformance with Exhibit "A," Brush Management Program/Landscape Concept Plan, dated October 30, 2001, on file in the Development Services Department, and shall comply with the Uniform Fire Code (SDMC § 55.0889.0201), the alternative compliance provision of Section Six of the Landscape Technical Manual (document number RR-274506), on file at the Office of the City Clerk and Land Development Code section 142.0412 (Ordinance No. O-18451).

c. The Alternative Compliance Brush Management Program, using the Alternative Compliance provision, shall consist of two zones consistent with the Brush Management regulations of the Land Development Code section 142.0412. The Zone Two width has been decreased by 2 feet for each 1 foot of increase in Zone One width of the Land Development Code section 142.0412(F). The Brush Management Zones are as follows:

Property Location: Located East of I-805

Brush Management Zone Two areas consist of Lot D, Lot E, and Lot F as shown on Tentative Map No. 98-0792, and Exhibit "A," dated October 30, 2001, on file in the Development Services Department

	<u>Zone One</u>	<u>Zone Two</u>
Lot 1**	60 feet (east of structure)	
Lot 2**	60 feet (east of structure)	
Lot 3**	60 feet (southeast of structure)	
	57.2 feet (northeast of structure)	33 feet
Lot 4**	40 feet (southeast of structure)	40 feet
	57 feet (north & west of structure)	6 feet
Lot 5**	44.4 feet (north of structure)	32 feet
Lot 6**	47.3 feet (north of structure)	26 feet
Lot 7**	59.5 feet (north of structure)	19 feet
Lot 8**	51.6 feet (northeast of structure)	17 feet
	53.6 feet (northwest of structure)	13 feet
Lot 9**	40 feet (west of structure)	40 feet
	35 feet (south of structure)	50 feet
Lot 10**	35 feet (west of structure)	50 feet

** All structures shall comply with the following architectural features and these features shall be noted on all building plans:

(1) The roof shall be of fire retardant construction. Wood shake or shingles, whether fire retardant treated or untreated, are not permitted.

(2) Eaves and overhangs shall have an exterior surface as required for one hour fire resistive walls for any portion of a structure located within the minimum Table 5 setback distance.

(3) All eave vents shall be covered with wire screen not to exceed 1/4 inch mesh.

d. Prior to issuance of any building plans, all plot plans for this project shall show and label the Brush Management Zone dimensions for each lot and label Zone One as "Building Restricted Area."

e. Zone One shall not be allowed on slopes with a gradient greater than 4:1 (4 horizontal feet to 1 vertical foot).

f. Wood fences shall not be permitted in Zone One.

g. Zone One shall have permanent irrigation.

h. Within Zone One combustible accessory structures with less than a one hour fire rating are not permitted. These structures include, but are not limited to: wood decks, trellises, gazebos, etc. 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 approval by the Fire Marshall and the City Manager.

i. All requirements for fire resistive construction and other architectural features shall conform to the applicable City and Regional Building Code Standards. The Fire Marshall

may consider deviations from these conditions or may require additional conditions at the time of final inspection if it is determined an eminent health and safety risk still exist.

j. The construction documents shall conform to the Architectural features as described in Section 6.6-2 of the Landscape Technical Manual, as mentioned in condition (c).

k. 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.'

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

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

COVENANTS, CONDITIONS AND RESTRICTIONS [CC&Rs]:

55. Prior to the issuance of building permits for the dwelling units to be developed through this permit, the developer shall provide a copy of the Covenants, Conditions, and Restrictions [CC&Rs] for the subdivision/project for City review and approval that addresses the preservation and maintenance of the Vernal Pool site and the drainage facility into the canyon from the terminus of the common driveway that accomplishes the following:

a. For the Vernal Pool and Vernal Pool site, provide material describing the significance of a Vernal pool and why it is being preserved. Reference shall be made to Condition No. 15 of this Permit.

b. For the drainage structure, refer to Condition No. 16 of this Permit and the SWPPP Plan and address the biological and health hazards of the impact of pesticides, herbicides, motor vehicle fluids, painting materials and other toxic materials entering the storm drain system and possibly polluting our downstream habitats, wetlands and beaches.

MCAS:

56. The project site is within the "Miramar Airport Influence Area." Purchasers, occupants and all future homeowners will routinely hear and see fixed and rotary-wing aircraft and experience various degrees of noise and vibration. Through the Covenants, Conditions, and Restrictions [CC&Rs] and initial sales efforts, full disclosure of this condition.

INFORMATION ONLY

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

APPROVED by the Council of the City of San Diego on October 30, 2001, by Resolution No. R-295657.

12/10/01; 4/30/02 Corrected
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AUTHENTICATED BY THE CITY MANAGER

By _____

The undersigned Permittee, by execution hereof, agrees to each and every condition of this Permit and promises to perform each and every obligation of Permittee hereunder.

NEWLAND GROUP, INC.,
a California Corporation
Owner/Permittee

By _____

By _____

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

12/10/01; 4/30/02 Corrected

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