

RESOLUTION NUMBER R-296292

ADOPTED ON APRIL 9, 2002

WHEREAS, Hillside Ventures, Ltd., a California limited partnership, Owner/Permittee, filed an application with the City of San Diego for the Fairbanks Summit II development to permit to subdivision of a 10.4 acre site into nineteen lots with one lot for open space, one lot for an affordable housing site to build ten affordable units, and seventeen lots for single family units for the future construction of the single family and affordable dwelling units, site landscaping, and other amenities including a previously approved and planned vehicular access across City-owned open space to the affordable housing site; and

WHEREAS, the site is located at the eastern end of Rancho Santa Fe Farms Drive at Via Abertura, and is legally described as Parcel 2 of Parcel Map No. 7242, in the Black Mountain Ranch Subarea I Planning area, in the AR-1-1 zone, which is proposed to be rezoned to the RS-1-11 zone; and

WHEREAS, on February 21, 2002, the Planning Commission of the City of San Diego considered Planned Development Permit/Site Development Permit [PDP/SDP] Permit No. 41-0480, and pursuant to Resolution No. 3240-PC voted to recommend City Council approval of the permit; and

WHEREAS, the matter was set for public hearing on April 9, 2002, 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,

27 APR 2002 11:11
CITY OF SAN DIEGO

BE IT RESOLVED, by the Council of the City of San Diego, that it adopts the following findings with respect to PDP/SDP No. 41-0480:

A. FINDINGS FOR ALL PLANNED DEVELOPMENT PERMITS:

1. The proposed development will not adversely affect the applicable land use plan. The proposed project will fulfill a community need by providing additional market rate and low income dwelling units to the housing base of the community. The Black Mountain Ranch Subarea I Plan designates this site for low density residential land use. The proposed residential development conforms with the Planned Development Permit regulations. The project conforms with other recommendations of the Black Mountain Ranch Subarea I Plan regarding residential development which address land form manipulation, landscaping, open space, circulation, and affordable housing. The proposed Fairbanks Summit II project will not adversely affect the City's Progress Guide and General Plan and is consistent with the community plan.

2. The proposed development will not be detrimental to the public health, safety, and welfare. The permit controlling the development, and continued use of the residential project, contains conditions addressing the project compliance with the City's Land Development Code and other regional, State and Federal regulations to prevent detrimental impacts to the health, safety, and general welfare of persons residing and working in the area.

Conditions of approval included in the project require conformance with the applicable regulations of the Land Development Code during construction and occupancy of the project. These conditions specifically address lighting, the generation of noise, the appearance of landscaping, the continued operation of the development, and all issues described by the Mitigation Monitoring and Reporting Program to prevent adverse affects to those persons or other properties in the vicinity.

3. The proposed development will comply with the regulations of the Land Development Code. Specific conditions of approval require the continued compliance with all relevant regulations of the Land Development Code effective for this site and have been written as such into the Permit No. 41-0480. All relevant regulations shall be complied with at all times for the life of the project.

4. The proposed development, when considered as a whole, will be beneficial to the community. The provision of both market rate and low income housing in this community provides a benefit to the community by adding to the available housing stock of the City, is consistent with other approved land uses in the community, is consistent with the intended long range planning efforts of the City, and will enhance the neighborhood and community by its being developed as described by the submitted conceptual designs.

5. Any proposed deviations pursuant to SDMC 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. No deviations are proposed for the Fairbanks Summit II project, nor are any deviations or variances needed to approve the project as proposed and described by the submitted concept designs.

B. FINDINGS FOR ALL SITE DEVELOPMENT PERMITS:

6. The proposed development will not adversely affect the applicable land use plan. See Finding A.1. above.

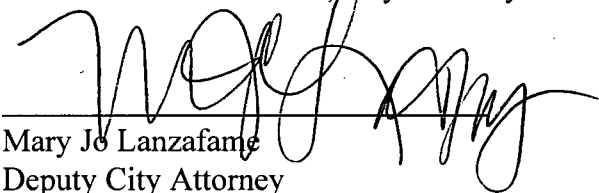
7. The proposed development will not be detrimental to the public health, safety, and welfare. See Finding A.2. above.

8. The proposed development will comply with the applicable regulations of the Land Development Code. See Finding A.3. above.

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 Development Permit/Site Development Permit No. 41-0480 is granted to Hillside Ventures, Ltd., a California limited partnership, Owner/Permittee, under the terms and conditions set forth in the permit attached hereto and made a part hereof.

APPROVED: CASEY GWINN, City Attorney

By 
Mary Jo Lanzafame
Deputy City Attorney

MJL:lc
05/01/02
Or.Dept:Clerk
R-2002-1445
Form=permitr.frm
Reviewed by John Fisher

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. 41-0480 [MMRP]
FAIRBANKS SUMMIT II
City Council**

This Permit is granted by the City Council of the City of San Diego to Hillside Ventures, Ltd, a California Limited Partnership, Owner/Permittee, pursuant to the San Diego Municipal Code [SDMC]. The 10.4 acre site is located at the eastern end of Rancho Santa Fe Farms Drive at Via Abertura in the AR-1-1 (proposed RS-1-11) zone of the Black Mountain Ranch Subarea I Plan. The project site is legally described as Parcel 2 of Parcel Map No. 7242.

Subject to the terms and conditions set forth in this permit, permission is granted to Owner/Permittee to subdivide the 10.4 acre site into nineteen lots with one for open space, one for an affordable housing site to build ten affordable units, and seventeen for single family units for the future construction of the single family and affordable dwelling units, site landscaping and other amenities including a previously approved and planned vehicular access across City owned open space to the affordable housing site in a revised location all described as, and identified by size, dimension, quantity, type and location on the approved Exhibit "A," dated April 9, 2002, on file in the Development Services Department. The facility shall include:

- a. Subdivide the 10.4 acre site into nineteen lots; one lot for open space, one lot for an affordable housing site to build ten affordable units, and 17 lots for single family units for the future construction of the single family and affordable dwelling units;
- b. Two buildings for affordable housing; one with six units, one with four units;
- c. Seventeen detached single family structures;
- d. Landscaping (planting, irrigation and landscape related improvements);
- e. Off-street parking facilities; and

- f. 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.
2. 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.
3. 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.
4. 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.
5. 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.
6. The utilization and continued use of this permit shall be subject to the regulations of this and any other applicable governmental agencies.
7. Issuance of this permit by the City of San Diego does not authorize the Owner/Permittee for said permit to violate any Federal, State or City laws, ordinances, regulations or policies including, but not limited to, the Federal Endangered Species Act of 1973 and any amendments thereto (16 U.S.C. Section 1531 et seq.).
8. The Owner/Permittee shall secure all necessary building permits. The Owner/Permittee 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 April 9, 2002, on file in the Development Services Department. No change, 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 new permit can still be made in the absence of the "invalid" condition(s). Such hearing shall be a hearing de novo and the discretionary body shall have the absolute right to approve, disapprove or modify the proposed permit and the condition(s) contained therein.

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

12. This permit may be developed in phases. Each phase shall be constructed prior to sale or lease to individual owners or tenants to ensure that all development is consistent with the conditions and exhibits approved for each respective phase (per the approved Exhibit "A," dated April 9, 2002, on file in the Development Services Department).

ENVIRONMENTAL/MITIGATION REQUIREMENTS:

13. The Owner/Permittee shall comply with the Mitigation, Monitoring and Reporting Program [MMRP] as specified in Addendum to an Environmental Impact Report LDR No. 41-0480, satisfactory to the City Manager and the City Engineer. Prior to issuance of any grading permits and/or building permits, mitigation measures as specifically outlined in the MMRP shall be implemented for the following issue areas:

- Biological Resources
- Paleontological Resources

Hydrology/Water Quality

PLANNING/DESIGN REQUIREMENTS:

14. No fewer than two off-street parking spaces per lot on lots one through seventeen and seventeen off-street parking spaces on lot nineteen shall be maintained on the property at all times in the approximate locations shown on the approved Exhibit "A," dated April 9, 2002, 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.

15. 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. A deviation is granted on lots 1, 16 and 17 reducing the required street frontage from sixty-five feet to thirty-nine feet. A second deviation is granted on lot 19 to reduce the required twenty foot setback to zero feet. Elsewhere should there be a conflict between any 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. 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.

17. 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.

18. 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.

19. 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 April 9, 2002, on file in the Development Services Department); or
- b. Citywide sign regulations.

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

21. Prior to the issuance of any multi-family building permits on lot 19, complete outdoor lighting information shall be submitted to the Development Services Department, Land Development Review Division for review and approval. Complete lighting information shall include a plan view photometric analysis indicating an isofoot candle plot and a point by point plot to include all areas within the private property and to extend a minimum of fifty (50) feet beyond the property line, construction details as necessary to direct installation of the outdoor lighting system, manufacturers name, visors, prisms, lenses and reflectors and a lighting plan locating each fixture in plan view and a legend. The outdoor lighting system shall be designed, manufactured and installed to allow shading, adjusting, and shielding of the light source so all outdoor lighting is directed to fall only onto the same premises as light sources are located.

Prior to the issuance of any occupancy permit, a night inspection shall be required to verify compliance of the outdoor lighting system. No light shall be directed to fall outside the property line. Light levels along the perimeter of the property shall be measured no higher than three footcandles. Light levels throughout the development shall be the least practical level necessary to effectively illuminate the operation. Sky glow or light halo shall be reduced to the greatest extent practical and in no case shall initial light levels be measured exceeding eight footcandles anywhere within the site. The Owner/Permittee, or an authorized representative, shall provide an illuminance meter to measure light levels as required to establish conformance with the conditions of this permit during the night inspection. Night inspections may be required additional fees as determined by the Development Services Department.

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

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

24. All uses, except storage and loading, shall be conducted entirely within an enclosed building. Outdoor storage of merchandise, material and equipment is permitted in any required interior side or rear yard, provided the storage area is completely enclosed by walls, fences or a combination thereof. Walls or fences shall be solid and not less than six feet in height and, provided further, that no merchandise, material or equipment stored not higher than any adjacent wall.

25. No mechanical equipment, tank, duct, elevator enclosure, cooling tower or 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.

26. No merchandise, material or equipment shall be stored on the roof of any building.

27. No mechanical equipment shall be erected, constructed, or enlarged on the roof of any building on this site, unless all such equipment is contained within a completely enclosed architecturally integrated structure.

28. Prior to the issuance of building permits, construction documents shall fully illustrate compliance with the Citywide Storage Standards for Trash and Recyclable Materials (SDMC regulations) to the satisfaction of the City Manager. All exterior storage enclosures for trash and recyclable materials shall be located in a manner that is convenient and accessible to all occupants of and service providers to the project, in substantial conformance with the conceptual site plan marked Exhibit "A," dated April 9, 2002, on file in the Development Services Department.

ENERGY REQUIREMENTS:

29. Prior to issuance of any building permit, the Owner/Permittee shall make available information on energy efficient appliances and technology in its marketing materials and within its sales office. Copies of the marketing materials shall be provided to the City Manager prior to issuance of building permit.

30. Prior to issuance of any building permit, the Owner/Permittee shall either provide, or offer as an option, alternative energy technologies to be incorporated into the residences during construction. The provision of, or option for, the alternative energy shall be identified in the marketing materials provided to the City Manager.

LANDSCAPE REQUIREMENTS:

31. Prior to issuance of any engineering permits for grading, construction documents for slope planting or revegetation and hydroseeding of all disturbed land including irrigation shall be submitted in accordance with the Landscape Standards and to the satisfaction of the City Manager. All plans shall be in substantial conformance to this permit and Exhibit "A," dated April 9, 2002, on file in the Development Services Department.

32. 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.

33. 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.

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

35. If any required landscape (including existing or new plants, 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 REQUIREMENTS:

36. 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 April 9, 2002, on file in the Development Services Department and shall comply with the Uniform Fire Code (SDMC § 55.0889.0201), the Landscape Standards, and the SDMC section 142.0412 (Ordinance No. O-18451).

BRUSH MANAGEMENT PROGRAM:

37. 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 April 9, 2002, on file in the Development Services Department.

- a) Prior to issuance of any engineering permits for grading, landscape construction documents required for the engineering permit shall be submitted showing the brush management zones on the property in substantial conformance with Exhibit "A," dated April 9, 2002, on file in the Development Services Department. The Brush Management Program shall consist of two zones consistent with the Brush Management regulations of the SDMC section 142.0412 as follows:
- b) Lot #1-17 and Lot 19: Zone One 30' to 35' Zone Two 40' to 50'
- c) The construction documents shall conform to the Architectural features as described in SDMC section 142.0412(d).
- d) 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.
- e) 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."

- f) 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.
38. Prior to final inspection and issuance of any Certificate of Occupancy, for any building, the approved Brush Management Program shall be implemented.
39. The Brush Management Program shall be maintained at all times in accordance with the City of San Diego's Landscape Standards.

TRANSPORTATION REQUIREMENTS:

40. Prior to issuance of any building permits, the proposed project shall conform to the Black Mountain Ranch/Subarea I Transportation Phasing Plan in the Public Facilities Financing Plan, dated September 1998.
41. Prior to issuance of any building permits, the Owner/Permittee shall construct Camino De La Luna as a two-lane collector street along the project's frontage. The Owner/Permittee shall dedicate 60 feet of right-of-way and shall provide 40 feet of pavement including curb, gutter and a 5 foot sidewalk within a 10 foot curb to property line distance, satisfactory to the City Engineer.

SEWER REQUIREMENTS:

42. Prior to the issuance of any building permits, the Owner/Permittee shall assure, by permit and bond, the design and construction of all public sewer facilities necessary to serve this development.
43. The Owner/Permittee 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.
44. The Owner/Permittee shall provide evidence, satisfactory to the Metropolitan Wastewater Department Director, indicating that each unit 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 ownership.
45. 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.

WATER REQUIREMENTS:

46. Prior to the issuance of any building permits, the Owner/Permittee shall assure, by permit and bond, the design and construction of public water facilities as identified in accepted water studies for this area, in a manner satisfactory to the Water Department Director and the City Engineer. The Owner/Permittee shall meet redundancy requirements throughout phasing of the development.
47. Prior to the issuance of any building permits, the Owner/Permittee shall install fire hydrants at locations satisfactory to the Fire Department, the Water Department Director and the City Engineer.
48. No public water services or fire hydrants shall be located within Lot 19. Lot 19 shall be served by public facilities within the Camino De La Luna right-of-way in a manner satisfactory to the Water Department Director and the City Engineer.
49. Prior to the issuance of any building permits, the Owner/Permittee shall process encroachment maintenance and removal agreements for all acceptable encroachments into any water easement in a manner satisfactory to the Water Department Director and the City Engineer. Parking stalls, trees, and shrubs are unacceptable encroachments over water facilities.
50. The Owner/Permittee agrees to design and construct all proposed public water facilities, and associated easements, 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. Facilities and easements, as shown on approved Exhibit "A," dated April 9, 2002, on file in the Development Services Department, shall be modified at final engineering in accordance with accepted standards.

AFFORDABLE HOUSING:

51. The Fairbanks Summit II Project (#41-0480) Affordable Housing Program is on file in the Office of Development Services and is incorporated herein. The provisions of the Affordable Housing Program shall not in any way modify or change any provisions of the Affordable Housing requirements as stated in the Planned Development Permit conditions. To the extent that there is any inconsistency between the two, the terms of this permit shall prevail.
51. Prior to the filing of the first final map, subdivider shall comply with the requirements of the Black Mountain Ranch Subarea Plan for Affordable Housing [Affordable Housing Requirements] by satisfying the requirements of subparagraph A below:
- A. Subdivider shall assure the construction and occupancy of an Affordable Housing Project consisting of ten units to be constructed on Lot 10, as shown on the Exhibit A, dated April 9, 2002, 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 onsite, 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 9th market rate dwelling unit (the number which represents 50 percent of market rate units); or the date which is eighteen months after the filing of the first final map

(ii) In no event shall the issuance of building permits for the construction of the 9th market rate unit occur until building permits for construction of the ten affordable units are authorized by the City and are obtained by the subdivider. Further, if individual parcels are sold initially by subdivider without first obtaining building permits for construction of the market rate units, every such parcel sold shall nonetheless be included with the total number of building permits issued in determining when the issuance of the building permit occurs for the 9th or greater market rate unit;

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

i Twelve months after the issuance of a building permit for the Affordable Housing Project as referenced in subparagraph 2a above; or

ii The date which is two and one-half years after the filing of the first final map.

Further, the issuance of building permits for the construction of the 13th market rate unit (the number of units which represents 75 percent of market rate units) shall not occur until the completion of the ten affordable units is authorized by the City.

c. Occupancy of the Affordable Housing Project shall occur not later than 180 days after the completion of construction as referenced in subparagraph 2b above.

d. For "good cause" shown to the satisfaction of the Executive Director, the dates referenced herein may be extended for one or more period(s) of up to twelve months each. Good cause shall include, but not be limited to, Acts of God, labor strikes, war, riots, 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. A Declaration of Covenants, Conditions and Restrictions [CC&Rs], restricting the occupancy and affordability of the Affordable Housing Project for a period of fifty-five years from the date of completion of the Affordable Housing Project, which 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 applied 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 approve 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 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.

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 90 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 April 9, 2002, by resolution No. R-296292.

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.

**HILLSIDE VENTURES, LTD., a
California Partnership
Owner/Permittee**

By _____

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