

RESOLUTION NUMBER R-296494

ADOPTED ON MAY 14, 2002

WHEREAS, Maymom Limited Partnership, Dacon Development, General Partner, Owner/Permittee, filed an application with the City of San Diego for a Site Development Permit and Public Right-of-Way Use Permit to develop a portion of a 13.6 acre vacant lot for an equipment and materials storage yard accessed by a private driveway within a street reservation, with no buildings or employees on site, known as the Olson Industrial Lot project, located north of Olson Drive and south of the BN&SF Railroad Right-of-Way, and legally described as a Portion of Lot 1, Northeast Quarter, Northwest Quarter and North Half, Northeast Quarter, Section 9, Township 15 South, Range 3 West, San Bernardino Base Meridian, in the University Community Plan area, in the AR-1-1 zone (proposed IL-2-1 zone); and

WHEREAS, on April 4, 2002, the Planning Commission of the City of San Diego considered Site Development Permit No. 2468 and Public Right-of-Way Use Permit No. 5500 pursuant to the Land Development Code of the City of San Diego, and pursuant to Resolution No. 3251-PC, voted to recommend that the City Council adopt City staff recommendations to approve the project; and

WHEREAS, the matter was set for public hearing on May 14, 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,

BE IT RESOLVED, by the Council of the City of San Diego, that it adopts the following findings with respect to Site Development Permit No. 2468 and Public Right-of-Way Use Permit No. 5500:

A. SITE DEVELOPMENT PERMIT APPROVAL - SAN DIEGO MUNICIPAL CODE [SDMC] SECTION 126.0504

1. The proposed development will not adversely affect the applicable land use plan. The development of this vacant 13.6 acre site for a construction materials and equipment storage lot will not adversely affect the applicable land use plans as the City of San Diego General Plan and University Community Plan designate the site and surrounding land for industrial use. In addition, the site is within the Comprehensive Land Use Plan [CLUP] for Miramar Air Station and the United States Marine Corps has determined that the use is consistent with easements to the United States of America. Development of the site minimizes encroachment into steep slopes and sensitive biological habitats and will comply with Community Plan Implementation Overlay Zone [CPIOZ] requirements of the University Community Plan. The project has been reviewed by City Staff, the University Community Planning Association and the United States Marine Corps for compliance with the adopted land use plans and all have recommended approval.

2. The proposed development will not be detrimental to the public health, safety, and welfare. The development of this 13.6 acre site for construction materials and equipment storage will not be detrimental to the public health, safety and welfare as the site will be enclosed by a solid screening fence, take access through a street reservation (using retaining walls to minimize steep slope encroachment), have to comply with conditions of approval as contained in the accompanying Site Development and Public Right-of-Way Use Permit and also comply with the Mitigation Monitoring and Reporting Program [MMRP] adopted with the Mitigated Negative Declaration environmental report. Impacts to paleontological, resources, historical resources, biological resources and water quality are addressed and will be reduced below levels of significance. The surrounding land use are also industrial and have been previously developed.

3. The proposed development will comply with the applicable regulations of the Land Development Code. The 13.6 acre site, proposed to be developed as a construction materials and equipment storage yard, will comply with the designated land use for this portion of the University Community Plan with the approval of the accompanying rezone from agriculture to industrial. The access to this site is provided by a Public Right-of-Way Use Permit for a private driveway from Olson Drive to the site within a street reservation provided when the adjacent property was previously subdivided. With conditions of approval contained in the accompanying Site Development Permit and compliance with the MMRP, the proposed development will comply with all applicable regulations of the Land Development Code.

B. SUPPLEMENTAL FINDINGS--ENVIRONMENTALLY SENSITIVE LANDS

1. The site is physically suitable for the design and siting of the proposed development and the development will result in minimum disturbance to environmentally sensitive lands. The project site is a 13.6 acre site landlocked between a previously subdivided industrial development to the south and the BN&SF Railroad right-of-way to the north. A street reservation was provided to access the site from Olson Drive to the south. The site is the remaining top of a knoll with steep hillsides to the north and east and gentler sloping hillsides to the west. The flatter areas are being graded to accommodate equipment and construction

materials storage to be enclosed by fencing. No buildings or personnel will occupy the site. The site will be rezoned from AR-1-1 to the IP-2-1 zone in accord with the adopted University Community Plan land use designation for industrial. The project use has been determined to be in compliance with the CLUP for the Miramar Air Station and agreement with the Department of the Navy. The access driveway will utilize retaining walls to minimize slope impacts and overall grading. The combination of proposed land use and no buildings and parking requirements, help to minimize the need to grade and alter the natural landforms, thereby resulting in minimal disturbance of environmentally sensitive lands.

2. The proposed development will minimize the alteration of natural land forms and will not result in undue risk from geologic and erosional forces, flood hazards, or fire hazards. The proposed development of this 13.6 acre site has been reviewed by the City of San Diego's Engineering, Fire and Geologic staffs as well as the Environmental Reviewer for impacts and risks from geologic and erosional forces, fire hazards and flooding hazards. Conditions in the accompanying Permit address grading, site drainage, fire protection through brush management minimizing impacts from potential geologic conditions. The site will contain no building structures nor have employees on site. Perimeter fencing will enclose a construction material and equipment storage site compatible with the industrial use designation of the adopted University Community Plan and rezoning from AR-1-1 to the IP-2-1 zone.

3. The proposed development will be sited and designed to prevent adverse impacts on any adjacent environmentally sensitive lands. The 13.6 acre vacant site is served by a private driveway through a street reservation off-site to Olson Drive. The site is designated for restricted industrial use and the use of the site for construction material and equipment storage has been determined to be consistent to the adopted University Community Plan and the Comprehensive Land Use Plan [CLUP] for Miramar Air Station. The site will be graded to provide two pad areas for the use which will be enclosed by 6-foot high solid fencing/walls. Minor edge adjustments with the environmentally sensitive lands has been evaluated and determined to be beneficial for the City of San Diego Multiple Species Conservation Plan [MSCP] and Multiple Habitat Planning Area [MHPA] designations. Adjacency Guidelines are applied to the project and areas not developed will be preserved as open space.

4. The proposed development will be consistent with the City of San Diego's Multiple Species Conservation Program Subarea Plan. The development plans for this 13.6 acre site, proposed as a construction materials and equipment storage yard, has been reviewed by City staff assigned to the MSCP program and determined to be consistent with the MSCP Subarea Plan. Conditions in the accompanying Site Development Permit, require preservation of the MHPA through dedication, easements or other acceptable entitlements, and the reduction of impacts to the area by implementation of MHPA Adjacency Guidelines. With these conditions and approval of the proposed site plan, the development will be consistent with the City of San Diego's MSCP Subarea Plan.

5. The proposed development will not contribute to the erosion of public beaches or adversely impact local shoreline sand supply. The subject 13.6 acre site, proposed as a construction materials and storage yard, has been reviewed for grading and landform alteration, conditioned for review of drainage and erosion by the City Engineer and has been

addressed through the City Geologists review of a geologic report submitted for the project. The subject site is a portion of a mesa knoll and hillsides above the right-of-way of the BN&SF Railroad. The site is near Carroll Canyon which is a part of the drainage basin into Sorrento Valley, the Los Penasquitos Lagoon and ultimately, the Pacific Ocean at Torrey Pines State Beach. The public beach at Torrey Pines lies miles to the north and the grading and development of this site, in compliance with conditions of the Site Development Permit, will not contribute to the erosion of public beaches or adversely impact local shoreline sand supply.

6. The nature and extent of mitigation required as a condition of the permit is reasonably related to, and calculated to alleviate, negative impacts created by the proposed development. Mitigated Negative Declaration No. 40-0495, Mitigation Monitoring and Reporting Program No. 40-0495 and conditions of approval contained in the accompanying Site Development Permit, contain conditions of approval and mitigation for the areas of paleontological, historical, and biological resources and for water quality. These conditions and required mitigation specifically address the development of this 13.6 acre site for a construction materials and storage yard. The conditions and mitigation are reasonably directly related to, and calculated to alleviate any negative impacts created by the proposed development.

C. PUBLIC RIGHT-OF-WAY USE PERMIT - SDMC SECTION 126.0905

1. The proposed encroachment is reasonably related to public travel, or benefits a public purpose, or all record owners have given the applicant permission to maintain the encroachment on their property. The private driveway encroachment to serve the subject 13.6 acre, landlocked site proposed for development of a construction materials and equipment storage yard, is within a street reservation provided by the developer of the adjacent industrial subdivision in order to provide access to two parcels that would otherwise have been without legal access. The driveway will connect the site to Olson Drive and not interfere with surrounding industrial lots that have been developed. The driveway is the minimal encroachment as designed and with the use of retaining walls, also minimizes encroachment into sensitive slopes. The encroachment is reasonably related to public travel and serves the public purpose of providing public access to the subject site, and by setting aside the street reservation to the City of San Diego, the record owners have given their permission to the applicant to maintain this encroachment.

2. The proposed encroachment does not interfere with free and unobstructed use of the public right-of-way for public travel. The subject 13.6 acre site was one of two parcels under separate ownership when the subdivision map for the adjacent property to the south was subdivided. As a condition of approval, a street reservation was provided to permit the subject property and other site the opportunity to design access from the dedicated Olson Drive to the developable portions of their sites. This street reservation will remain covered also, by an open space easement for those portions not utilized for access. The Olson Industrial Lot project proposes to develop a private driveway from Olson Drive to their southerly boundary, satisfying minimal City requirements for access width and designed to minimize impacts to sensitive slopes and habitat. All surrounding properties are developed with direct access and frontage to Olson Drive with the exception of the remaining landlocked parcel. The granting of this Permit does not interfere with, or obstruct use of the public right-of-way for any other user.

3. The proposed encroachment is not detrimental to the public health, safety or welfare. The private driveway being built to serve the subject 13.6 acre site, is designed to provide City standards for width and with retaining walls to minimize encroachment into sensitive slopes. The encroachment is within a street reservation provided to permit access to this and one other landlocked parcel created when the land adjacent to the south was subdivided and developed previously. The driveway encroachment therefore fulfills the provision of access that was anticipated years ago and it will not be detrimental to the public health, safety or welfare.

4. The proposed encroachment does not interfere with the record owners' use or enjoyment of their property. The driveway encroachment to the landlocked subject 13.6 acre site, is within a street reservation provided and intended for this use when the land to the south was subdivided previously. Since the use being requested complies with the purpose for which the right-of-way was provided, it will not interfere with the record owners' use or enjoyment of their property.

5. The proposed encroachment does not adversely affect the land use plan. The 13.6 acre site is designated in the adopted University Community Plan as restricted industrial, relating to crash hazards from the Miramar Marine Air Station to the east. The Marine Corp has determined that the storage of construction materials and equipment is consistent with recorded easements and agreements. Additionally, the University Community Planning Group voted to recommend approval of the project as being consistent with the plan. The encroachment of a private driveway within a street reservation to serve this otherwise landlocked parcel, was anticipated when the surrounding property was subdivided and the encroachment does not adversely affect the land use plan.

6. The proposed encroachment is not harmful to the aesthetic character of the community. The subject 13.6 acre site is proposed for rezoning from agricultural to industrial consistent with the adopted University Community Plan and industrial land uses of the surrounding properties. The encroachment lies within a street reservation provided when the subdivision to the south was filed in order to reserve public access to this and a second parcel of land which would otherwise have been landlocked. The encroachment is for a private driveway with the use of retaining walls to minimize encroachment into sensitive slopes. The encroachment will not be harmful to the aesthetic character of the community.

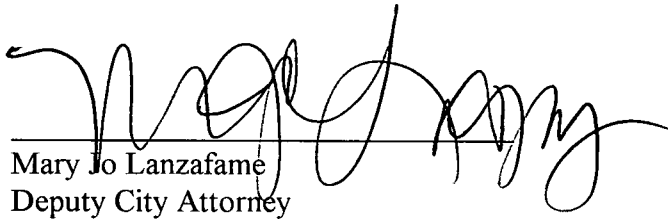
7. The proposed encroachment does not violate any other SDMC provisions or other local, state or federal law. The driveway encroachment, to serve the 13.6 acre site proposed for the storage of construction materials and equipment, lies within a street reservation specifically provided to give access to this and one other landlocked parcel, is being used for its intended purpose. The encroachment for this purpose does not violate any other SDMC provisions or other local, state or federal law.

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 Site Development Permit No. 2468 and Public Right-of-Way Use Permit No. 5500 are granted to Maymom Limited Partnership, Dacon Development, General Partner, 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:dr:pev
06/18/02
Or.Dept:Clerk
R-2002-1779
Form=permitr.frm
Reviewed by Bob 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

SITE DEVELOPMENT PERMIT NO. 2468
PUBLIC RIGHT-OF-WAY USE PERMIT NO. 5500
PROJECT NO. 1384
OLSON INDUSTRIAL LOT [MMRP]
CITY COUNCIL

This Permit is granted by the City Council of the City of San Diego to Maymom Limited Partnership, Dacon Development, General Partner, Owner/Permittee, pursuant to the San Diego Municipal Code [SDMC]. The 13.6 acre site is located on a site north of Olson Drive and south of the BN&SF Railroad Right-of-Way and accessed through a proposed private driveway through a street reservation, in the AR-1-1 (proposed IL-2-1) zone of the University Community Plan. The project site is legally described as a Portion of Lot 1, of the Northeast Quarter of the Northwest Quarter and the North Half of the Northeast Quarter, Section 9, Township 15 South, Range 3 West, San Bernardino Base Meridian.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee to develop a vacant 13.6 acre parcel for an equipment and materials storage yard with no buildings or employees permanently on site, described as, and identified by size, dimension, quantity, type and location on the approved Exhibit "A," dated May 14, 2002, on file in the Development Services Department. The facility shall include:

- a. Two graded pad areas with fence/wall screening for storage of equipment and materials with no buildings or employees on site;
- b. Landscaping and Brush Management (planting, irrigation and landscape related improvements);
- c. Off-street parking facilities;

- d. A private driveway constructed off site within an existing street reservation, from Olson Drive to the project site as a Public Right-of-Way Use Permit;
 - e. Accessory improvements determined by the City Manager to be consistent with the land use and development standards in effect for this site per the adopted Community Plan, California Environmental Quality Act guidelines, public and private improvement requirements of the City Engineer, the underlying zone(s), conditions of this Permit, and any other applicable regulations of the 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 San Diego 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. 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.

7. Before issuance of any building or grading permits, complete grading and working drawings shall be submitted to the City Manager for approval. Plans shall be in substantial conformity to Exhibit "A," dated May 14, 2002, 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.

8. 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.

9. Rezoning of the subject property shall become effective 30 days after adoption by the City Council.

ENVIRONMENTAL/MITIGATION REQUIREMENTS:

10. The issuance of this permit by The City of San Diego does not authorize the applicant 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.).

11. 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.

12. Prior to the issuance of the grading permit, the application shall place a conservation easement over the area within the on-site Multiple Habitat Planning Area [MHPA] which shall then be recorded on the property. Other equivalent options include dedication in fee title to the City or placement of a covenant of easement over the on-site MHPA.

13. The area of this site within the boundaries of the MHPA, is required to be dedicated in fee title to the City of San Diego, or placed in a conservation easement or, covenant of easement which is then recorded on the property.

14. The applicant shall comply with the Mitigation, Monitoring and Reporting Program [MMRP] as specified in Mitigated Negative Declaration, LDR No. 40-0495, 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
- Archaeological Resources
- Land Use

PLANNING/DESIGN REQUIREMENTS:

15. No designated parking spaces on site are required as long as the permitted use of the site does not change. Should an amendment of this Permit be considered, parking requirements would be re-evaluated.

16. 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.

17. 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.

18. No buildings shall be permitted unless approved through an amendment to this Permit.

19. No signage has been proposed with this Permit. Any requests for future signage will be reviewed for compliance with 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. The subject property and associated common areas on site shall be maintained in a neat and orderly fashion at all times.

22. 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.

23. Prior to the issuance of building permits, construction documents shall fully illustrate compliance with the Citywide Storage Standards for Trash and Recyclable Materials (Land Development Code) 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 May 14, 2002, on file in the Development Services Department.

LANDSCAPE REQUIREMENTS:

24. 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.

25. 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 May 14, 2002, 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."

26. 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 May 14, 2002, on file in the Development Services Department.

27. 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 include a Street Tree Location Plan, which identifies a station point for each street tree location that takes into account a forty square feet area around each tree which is unencumbered by utilities. Driveways, utilities, drains, water and sewer laterals shall be designed so as not to prohibit the placement of street trees. Location of street trees shall be identified and reserved during improvement activities and on all site plans prepared for subsequent building permit applications with actual installation taking place prior to issuance of a certificate of occupancy for a specific building permit. The construction documents shall be in substantial conformance with Exhibit "A," Landscape Concept Plan, dated May 14, 2002, on file in the Development Services Department.

28. 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 Permit 0000 (including environmental conditions) and Exhibit "A," Landscape Concept Plan, dated May 14, 2002, on file in the Development Services Department.

29. 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 Standards.

30. 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.

31. 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.
32. 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.
33. 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 thirty days of damage or Certificate of Occupancy.
34. Prior to the issuance of any grading permit, a detailed landscape plan shall be submitted for review and approval. The landscape plan shall include landscaping around the outside of the perimeter wall that is appropriate in size and type to soften the appearance of the screen wall.

BRUSH MANAGEMENT PROGRAM:

35. The Permittee shall implement the following requirements in accordance with the Brush Management Program shown on Exhibit "A," Brush Management Program/Landscape Concept Plan, dated May 14, 2002, on file in the Office of the Development Services Department.
- a. Prior to issuance of any engineering permits for grading, landscape construction documents required for the engineering permit shall be submitted showing the brush management zones on the property in substantial conformance with Exhibit "A," dated May 14, 2002, 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," dated May 14, 2002, 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 Land Development Code section 142.0412 (Ordinance - 18451).
 - c. The Brush Management Program shall consist of two zones consistent with the Brush Management regulations of the Land Development Code section 142.0412 as follows:

Lots East of I-805

Zone One
35'

Zone Two
40'

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

e. 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.

f. Provide the following note on the Brush Management Construction Documents: "It shall be the responsibility of the Permittee to schedule a pre-construction meeting on site with the contractor and the Development Services Department to discuss and outline the implementation of the Brush Management Program."

g. 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.

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

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

ENGINEERING REQUIREMENTS:

38. Prior to the issuance of any permits, the applicant shall obtain a bonded grading permit from the City Engineer [referred to as an engineering permit] for the grading proposed for this project. All grading shall conform to requirements in accordance with the City of San Diego Municipal Code in a manner satisfactory to the City Engineer.

39. The drainage system proposed with this development is subject to approval by the City Engineer.

40. This project proposes to export 5,000 cubic yards of material from the project site. All export material shall be discharged into a legal disposal site. The approval of this project does not allow processing and sale of the material. All such activities require a separate Conditional Use Permit.

41. As a condition of approval of the Public Right-of-Way Use Permit, applicant shall grant an access easement in perpetuity satisfactory for all adjacent parcels to this development.

42. Development of this project shall comply with all requirements of State Water Resources Control Board [SWRCB] Order No. 99-08-DWQ and the Municipal Storm Water Permit, Order No. 2001-01(NPDES General Permit No. CAS000002 and CAS0108758), Waste Discharge Requirements for Discharges of Storm Water Runoff Associated With Construction Activity. In accordance with said permit, a Storm Water Pollution Prevention Plan [SWPPP] and a Monitoring Program Plan shall be implemented concurrently with the commencement of grading activities, and a Notice of Intent [NOI] shall be filed with the SWRCB.

A copy of the acknowledgment from the SWRCB that an NOI has been received for this project shall be filed with the City of San Diego when received; further, a copy of the completed NOI from the SWRCB showing the permit number for this project shall be filed with the City of San Diego when received. In addition, the owner(s) and subsequent owner(s) of any portion of the property covered by this grading permit and by SWRCB Order No. 99-08-DWQ, and any subsequent amendments thereto, shall comply with special provisions as set forth in SWRCB Order No. 99-08-DWQ.

43. Prior to building occupancy, the applicant shall conform to the SDMC, "Public Improvement Subject to Desuetude or Damage." If repair or replacement of such public improvements is required, the owner shall obtain the required permits for work in the public right-of-way, satisfactory to the permit-issuing authority.

44. Please show the type and location of all post development Best Management Practices [BMP]. Either by a separate report or notes on the plans addressing the BMP's maintenance schedule, maintenance costs and who will be responsible for the future maintenance and associated cost for such facilities. The report also needs to address water quality. Describe the type of pollutants currently being generated from the site, the type of pollutants that will be generated post development, the pollutants to be captured by the BMP devise(s) and the quality of the resultant discharge.

45. Additional geological review and an updated report will be required as final improvement and grading plans are developed for the project. This grading plan review report will also need to address design details for any existing or proposed subdrains.

WATER REQUIREMENTS:

46. Prior to the issuance of any grading permits, the Permittee shall assure, by permit and bond, the design and construction of water services (domestic, irrigation and fire) and meters within or adjacent to the fully improved Olson Drive right-of-way in a manner satisfactory to the Water Department Director and the City Engineer. All on-site water facilities shall be private, including fire hydrants.

47. The Permittee 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. Proposed facilities that do not meet the current standards shall be private or redesigned.

48. The Permittee shall install fire hydrants at locations satisfactory to the Fire Department, Water Department Director and City Engineer.

WASTEWATER REQUIREMENTS:

49. No structures or landscaping that would inhibit vehicular access shall be installed in or over any sewer access easement.

50. No structures or landscaping, including private sewer facilities and enhanced paving, shall be installed in or over any easement prior to the applicant obtaining an Encroachment Maintenance and Removal Agreement.

51. No trees or shrubs exceeding three feet in height at maturity shall be installed within ten feet of any public sewer facilities.

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 City Council of the City of San Diego on May 14, 2002, by Resolution No. R-296494.

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.

**MAYMOM LIMITED PARTNERSHIP,
DACON DEVELOPMENT, GENERAL
PARTNER**

Owner/Permittee

By _____

By _____

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