

RESOLUTION NUMBER R-296949

ADOPTED ON AUGUST 5, 2002

WHEREAS, Dassons-Cielo Del Mar, Ltd., Owner/Permittee, filed an application with the City of San Diego for a permit to construct thirty-two single-family residences known as the Cielo Del Mar project, located south of proposed State Route 56 and east of Carmel Country Road at the eastern end of Shaw Ridge Road, and legally described as the east half of the northeast quarter of Section 22, Township 14 South, Range 3 West, San Bernardino Base Meridian, in the Del Mar Mesa Community Plan Area, in the AR-1-1 zone; and

WHEREAS, on July 11, 2002, the Planning Commission of the City of San Diego considered Neighborhood Use Permit/Coastal Development Permit/Site Development Permit/Planned Development Permit [NUP/CDP/SDP/PDP] Permit No. 40-0513, and pursuant to Resolution No. 3284-PC voted to recommend City Council approval of the permit; and

WHEREAS, the matter was set for public hearing on August 5, 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 NUP/CDP/SDP/PDP Permit No. 40-0513:

A. PLANNED DEVELOPMENT PERMIT - SAN DIEGO MUNICIPAL CODE [SDMC] SECTION 126.0604:

1. The proposed development will not adversely affect the applicable land use plan. The subject 80.8-acre, undeveloped, site proposed for the subdivision and development of thirty-two residential lots, three open space lots, three Brush Management Zone 2 lots, one private drive lot, one miscellaneous non-residential lot, the vacation of a portion of State Route [SR] 56 and a water easement vacation is zoned AR-1-1 and is located within the Del Mar Mesa

Specific Plan [DMMSP] area and Del Mar Mesa Subarea V Planning area. Specifically, the site is south of SR 56 and east of Carmel Country Road at the eastern end of Shaw Ridge Road. The proposed development is located at the far eastern end of the development area planned for Subarea V, and is surrounded by open space that is part of the overall 1,225-acre contiguous wildlife corridor or habitat linkage between Loa Penasquitos Canyon and Deer Canyon, which was set aside as part of Del Mar Mesa Specific Plan approval. While it is recognized that the project represents an intrusion into the current biological open space, the development was contemplated as part of the Subarea V approval.

Multiple Species Conservation Program [MSCP] and Multiple Habitat Planning Area [MHPA] requirements are being met by the preservation of sensitive open space and requirements for adherence to MHPA adjacency guidelines.

Provisions for the "Affordable Housing" are required by the Subarea Plan and are contained within the accompanying Permit as a condition of approval.

The Cielo del Mar project implements the goals and policies of the Del Mar Mesa Specific Plan and Del Mar Mesa Subarea V Planning Area by creating a planned residential development that minimizes grading and respects environmentally sensitive areas. The project has been designed to be consistent with the Del Mar Mesa Specific Plan and Del Mar Mesa Subarea V Planning Area, therefore the project will not adversely affect the applicable plans.

2. The proposed development will not be detrimental to the public health, safety, and welfare. Conditions of approval found within the draft Vesting Tentative Map and the associated development permits address health, safety and general welfare issues. Compliance with applicable building, plumbing, electrical and grading regulations will also be required at the construction phase. The proposed project will be serviced by public water, sewer, and emergency services. Extension of off-site, and construction of on-site facilities will be required prior to issuance of any building permits.

3. The proposed development will comply with the regulations of the Land Development Code. Cielo del Mar has been designed to comply with all criteria and regulations of the Land Development Code unless otherwise provided for in the Planned Development Permit.

4. The proposed development, when considered as a whole, will be beneficial to the community. Substantial benefits to the community will occur as a result of the Cielo del Mar project. The dedication and construction of a multi-use public trail connecting to the project's easterly boundary will provide significant recreational opportunities for riding and hiking to the residents of the area. The dedication of approximately fifty-five acres of open space within the MHPA will insure, in perpetuity, preservation of a highly valuable resource for the community. The project's controlled access will assist in restricting unwanted or illegal activities within the MHPA's open space lands by limiting access to only approved activities and uses.

5. **Any proposed deviations pursuant to SDMC section 125.0602(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 code.** A reduction in the minimum lot size from 1.0 acre to 0.5 acre minimums will result in a more desirable project than if designed in strict conformance with the development regulations. This reduction allows for greater sensitivity in project lot and grading design while preserving the sensitive natural resources of the MHPA.

B. COASTAL DEVELOPMENT PERMIT - SDMC SECTION 126.0708:

1. **The proposed coastal development will not encroach upon any existing physical access way that is legally used by the public or any proposed public access way identified in a Local Coastal Program land use plan; and the proposed coastal development will enhance and protect public views to and along the ocean and other scenic coastal areas as specified in the Local Coastal Program land use plan and the subject property is located seven miles from the Pacific Ocean.** The subject property is located seven miles from the Pacific Ocean. A small portion of the project site in the northwest corner lies within the coastal zone boundary. No development is proposed for this area. The project has designated that the land be placed in permanent open space. No existing or proposed access is identified for this area. Upon open space dedication it will be preserved in perpetuity that will protect any view sheds. The proposed project will not encroach upon any existing physical access way that is legally used by the public or any proposed public access way identified in the Coastal Program Land Use Plan.

2. **The proposed coastal development will not adversely affect environmentally sensitive lands.** This 80.8-acre site is being proposed for the development of thirty-two detached single-family dwelling units in compliance with the existing AR-1-1 zone and the Del Mar Mesa Specific Plan and Del Mar Mesa Subarea V Plan. A Site Development Permit accompanies this Coastal Development Permit because of the presence of Environmentally Sensitive Lands. Grading Plans and Biological and Geologic studies have been reviewed and from this, a determination made that the project will not adversely affect the environmentally sensitive lands due to the preservation of the lands to open space easements, use of adjacency guidelines to reduce impacts and because of the sensitive grading and drainage techniques used.

The proposed coastal development is in conformity with the certified local coastal program land use plan and complies with all regulations or the certified implemental program.

3. **The proposed coastal development is in conformity with the certified Local Coastal Program land use plan and complies with all regulations of the certified Implementation Program.** The Cielo del Mar residential subdivision and improvement plan is in conformity with the adopted City of San Diego land use plans and the certified North City Local Coastal Program land use plan and complies with all regulations of the certified Implementation Program.

4. **For every Coastal Development Permit issued for any coastal development between the nearest public road and the sea or the shoreline of any body of water located**

within the Coastal Overlay Zone the coastal development is in conformity with the public access and public recreation policies of Chapter 3 of the California Coastal Act. The project site is not located between the nearest public road and the sea, or the shoreline of any body of water located within the Coastal Overlay Zone, and is not required to demonstrate conformance with public access and recreation policies of the California Coastal Act as required by this finding.

C. NEIGHBORHOOD DEVELOPMENT PERMIT - SDMC SECTION 126.0404.

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

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

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

D. NEIGHBORHOOD USE PERMIT - SDMC SECTION 126.0205.

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

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

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

E. SITE DEVELOPMENT PERMIT - SDMC SECTION 126.0504.

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

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

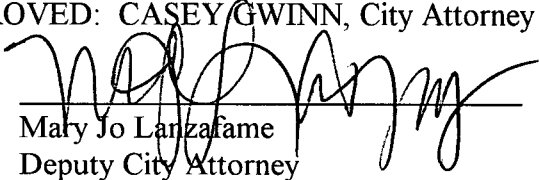
3. The proposed development will comply with the applicable regulations of the Land Development Code. See A.3., above.

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 Neighborhood Use Permit/Coastal Development Permit/Site Development Permit/Planned Development Permit No. 40-0513 is granted to Dassons-Cielo Del Mar, Ltd., 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 Larzafame
Deputy City Attorney

MJL:pev
9/4/02
Or.Dept:Clerk
R-2003-266
Form=permitr.frm
Reviewed by Patricia Grabski

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

**NEIGHBORHOOD USE PERMIT [NUP]/
COASTAL DEVELOPMENT PERMIT [CDP]/
SITE DEVELOPMENT PERMIT [SDP]/
PLANNED DEVELOPMENT PERMIT [PDP] NO. 40-0513 [MMRP]
CIELO DEL MAR
CITY COUNCIL**

This neighborhood use permit/coastal development permit/site development permit/planned development permit is granted by the Council of the City of San Diego to Dassons-Cielo Del Mar, Ltd., Owner/Permittee pursuant to the City of San Diego Land Development Code [Land Development Code. The 80.8-acre site is located south of proposed State Route 56 and east of Carmel Country Road at the eastern end of Shaw Ridge Road in the AR-1-1 zone of the Del Mar Mesa Community Plan area. The project site is legally described as the east half of the northeast quarter of Section 22, Township 14 South, Range 3 West, San Bernardino Meridian in the County of San Diego, State of California.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee for forty lots, consisting of thirty-two single family residential lots, to be developed as custom homes, subject to the "Cielo del Mar Design Guidelines," three open space lots, three Brush Management Zone 2 lots, one non-residential lot and one private drive lot and, described as, and identified by size, dimension, quantity, type and location on the approved Exhibit "A," dated August 5, 2002, on file in the Office of the Development Services Department. The facility shall include:

- a. Forty lots, consisting of thirty-two single family residential lots, to be developed as custom homes and guest quarters subject to the "Cielo del Mar Design Guidelines," three open space lots, three Brush Management Zone 2 lots, one non-residential lot and one private drive lot;
- b. Landscaping (planting, irrigation and landscape related improvements);

- c. Off-street parking facilities; and
 - d. Accessory improvements determined by the City Manager to be consistent with the land use and development standards in effect for this site per the adopted community plan, California Environmental Quality Act Guidelines, public and private improvement requirements of the City Engineer, the underlying zone(s), conditions of this Permit, and any other applicable regulations of the Land Development Code in effect for this site.
1. Construction, grading or demolition must commence and be pursued in a diligent manner within thirty-six months after the effective date of final approval by the City, following all appeals. Failure to utilize the permit within thirty-six months will automatically void the permit unless an Extension of Time has been granted. Any such Extension of Time must meet all the San Diego Municipal Code [SDMC]/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 issuance of this Permit by the City of San Diego does not authorize the Permittee for this Permit to violate any Federal, State or City laws, ordinances, regulations or policies including, but not limited to, the Endangered Species Act of 1973 [ESA] 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. 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 August 5, 2002, on file in the Office of the Development Services Department. No changes, modifications or alterations shall be made unless appropriate application(s) or amendment(s) of this Permit have been granted. The Owner/Permittee shall secure all necessary building permits. The applicant is informed that to secure these permits, substantial modifications to the building and site improvements to comply with applicable building, fire, mechanical and plumbing codes and State law requiring access for disabled people may be required.

9. All of the conditions contained in this Permit have been considered and have been determined to be necessary in order to make the findings required for this 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 the special rights which the holder of the Permit is entitled as a result of obtaining this Permit. It is the intent of the City that the Owner/Permittee 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/Permittee of the property be allowed the special and extraordinary rights conveyed by this Permit, but only if the Owner/Permittee complies with all the conditions of this 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" conditions(s) back to the discretionary body which approved the Permit for a determination by that body as to whether all of the findings necessary for the issuance of the proposed permit can still be made in the absence of the "invalid" condition(s). Such hearing shall be a hearing de novo and the discretionary body shall have the absolute right to approve, disapprove, or modify the proposed permit and the condition(s) contained therein.

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

11. CDP/SDP/PDP/NUP No. 40-0513 shall comply with the Vesting Tentative Map No. 40-0513.

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 August 5, 2002, on file in the Office of Development Services Department).

13. Prior to recordation of this Permit with the County Recorder, a fee shall be deposited with the Development Services Department for the Los Penasquitos 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. Prior to recordation of the first final map and/or issuance of any grading permits, the remainder portion of the site located outside the 25-acre development area within the MHPA (55.8 acres) shall be conserved and added to the City's MHPA, through either dedication in fee to the City, OR placed in a conservation easement OR covenant of easement which is then recorded on the property. A conservation easement would be appropriate for the Zone 2 brush management areas retained within the MHPA, which would allow for applicant maintenance of Zone 2 areas; the remainder MHPA areas can be conveyed through any of the above methods.

15. The Owner/Permittee shall comply with the MMRP as specified in the Mitigated Negative Declaration LDR No. 40-0513, satisfactory to the City Manager and the City Engineer. Prior to issuance of the first grading permits, all conditions of the MMRP shall be adhered to the satisfaction of the City Engineer. All mitigation measures as specifically outlined in the MMRP shall be implemented for the following issues areas:

Aesthetics/Neighborhood Character

Air Quality
Biological Resources
Land Use (Multi-Habitat Planning Area)
Historical Resources
Paleontological Resources
Water Quality.

PLANNING/DESIGN REQUIREMENTS:

16. The "Guest Quarters" shall comply with Land Development Code section 141.0306.
17. Prior to the first final map, the applicant shall obtain a Certificate of Compliance or Exemption from the Del Mar Union School District and the San Dieguito Union School District that demonstrates project impacts on school facilities are adequately mitigated within each school district as required by the Del Mar Mesa Specific Plan.
18. Fences and walls whether installed by the developer or future owner(s) are subject to the requirements of the Del Mar Mesa Specific and the San Diego Municipal Code, as well as the following provisions:
- a. Fencing within the 25-foot front yard setback shall be open post and rail with a maximum height of 4-feet measured to the top post;
 - b. The setback may be reduced to 15 feet for solid fences and walls that screen garages provided that they are integrated into the architecture of the main residence fences;
 - c. For lots adjacent to open space, solid fencing shall not be permitted within the Zone 1 Brush Management slope area. Solid fences within the pad are and building envelope shall be limited to 5 feet in height where visible from the proposed trail. All open and solid fences and walls shall be softened and screened with landscaping.
19. Prior to recordation of the final map, a non-buildable landscape easement shall be placed over the Brush Management Zone One slopes adjacent to open space. The area within this easement is required to be maintained as a transitional landscape to soften and screen the development edge as viewed from natural open space. A mix of native and visually and culturally compatible non-native (non-invasive) trees, shrubs and ground covers will be grouped into informal arrangements to blend with the natural landscape. Trees and large shrubs will be placed to soften and screen the building envelope.
20. Prior to the issuance of the first building permit, the applicant shall construct the portion of the 8-10-foot wide multi-use trail associated with the extension of Rancho Toyon Place as identified in the Del Mar Mesa Specific Plan. The trail will connect with the SDG&E access road

on the eastern foot wide boundary of this property as shown on Vesting Tentative Map, Exhibit "A," dated August 5, 2002, and on file in the Office of the Development Service Department. The trail facility may, at the applicant's option, also contain a rest area located in the vicinity of either SDG&E access road. The rest area will include rustic seating, a tie rack, water spigot and shade-producing native trees. If so desired, the applicant may enter into a reimbursement agreement for development costs (excluding land), provided rest areas are included as improvements associated with the neighborhood park and/or trail projects in the Del Mar Mesa Public Facilities Financing Plan.

21. A minimum of ten of the thirty-two residential lots shall be developed and maintained with homes that contain single-story front and rear building facades as generally illustrated in the Cielo del Mar Design Guidelines for this project.

22. Prior to issuance of any building permits, the Owner/Permittee shall make available within its sales office information on energy efficient technologies and appliances as well as offer a program to incorporate alternative energy technologies into the residences as a construction option.

23. 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.

24. No fewer than sixty-four off-street parking spaces shall be maintained on the property at all times in the approximate locations shown on the approved Exhibit "A," on file in the Office of the Development Services Department.

25. 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.

26. A topographical survey conforming to the provisions of the SDMC/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 regulation of the underlying zone. The cost of any such survey shall be borne by the Permittee.

27. 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.
28. The use of textured or enhanced paving shall meet applicable City standards as to location, noise and friction values.
29. Upon reasonable request by owners of property located in proximity to Road Survey 65 east of the subject property and west of the connection of Road Survey 65 with Carmel Mountain Road, the Permittee shall grant those property owners private easements of ingress and egress through the subject property satisfactory to the City Engineer and City Attorney.
30. Prior to the commencement of any work or activity authorized by this permit, the Owner/Permittee shall execute an Indemnification and Hold Harmless Agreement in a form and content acceptable to the Director of the Development Services Department. This Agreement will provide that the Owner/Permittee unconditionally waives any claim of liability against the City of San Diego and agrees to defend, indemnify and hold harmless the City of San Diego relative to the City of San Diego's approval of this Permit. The Agreement will be recorded against title to the property and will run with the land, binding upon all successors and assigns.

AFFORDABLE HOUSING REQUIREMENTS:

31. The Owner/Permittee is required under the North City Future Urbanizing Area Framework Plan and the Del Mar Mesa Specific Plan to provide for housing to accommodate the needs of low income households, as certified by the San Diego Housing Commission/Housing Authority of the City of San Diego. The low-income housing component shall equal ten percent of the market rate dwelling unit equivalent. The Owner/Permittee has an option beyond provision of dwelling units onsite to pay an in-lieu fee to the Housing Authority to meet their low-income housing requirement. This project is eligible under the in-lieu-fee option of the Del Mar Mesa Specific Plan to meet the affordable housing requirement in this manner, and the Owner/Permittee has stated their intent to pay the in-lieu fee for Del Mar Mesa as required, at the time of issuance of building permits.

LANDSCAPE REQUIREMENTS:

32. 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.
33. 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 August 5, 2002, on file in the Office of the Development Services Department.

34. 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 the location of each street tree with a 40 square feet area for each tree which is unencumbered by utilities.

35. Prior to utility sub outs for wet and dry utilities and plot plan shall be submitted to the Landscape Section of Development services. The plot plans shall coordinate all utilities and driveways with the required street trees. The location of the street trees shall be in substantial conformance with Exhibit "A," Landscape Concept Plan, dated August 5, 2002, on file in the Office of the Development Services Department.

36. 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.

37. Prior to issuance of any Certificate of Occupancy, it shall be the responsibility of the Owner/Permittee to install all required landscape and obtain all required landscape inspections and to obtain a No Fee Street Tree Permit for the installation, establishment, and on-going maintenance of all street trees. Copies of these approved documents must be submitted to the City Manager.

38. All required landscape shall be maintained in a disease, weed, and litter free condition at all times and shall not be modified or altered unless this Permit has been amended. Modifications such as severe pruning or "topping" of trees is not permitted unless specifically noted in this Permit. The Owner/Permittee shall be responsible to maintain all street trees and landscape improvements consistent with the standards of the Land Development Manual.

39. 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.

40. If any required landscape (including, but not limited to, existing or new plantings, hardscape, landscape features) indicated on the approved plans is damaged or removed during demolition, it

shall be repaired or replaced in kind and equivalent size per the approved plans within thirty days of completion of construction by the Permittee. The replacement size of plant material after three years shall be the equivalent size of that plant at the time of removal (the largest size commercially available or an increased number) to the satisfaction of the City Manager.

BRUSH MANAGEMENT REQUIREMENTS:

41. The Permittee shall implement the following requirements in accordance with the Brush Management Program shown on Exhibit "A," dated August 5, 2002, on file in the Office of the Development Services Department, and Brush Management Program/Landscape Concept Plan, dated August 5, 2002, on file in the Office of the Development Services Department.

42. 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 August 5, 2002, on file in the Office of the Development Services Department.

43. 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 August 5, 2002, on file in the Office of the Development Service 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).

44. 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:

| | | |
|-----------------------|----------|----------|
| Any Lot West of I-805 | Zone One | Zone Two |
| | 35 feet | 40 feet |

45. The construction documents shall conform to the Architectural features as described in Land Development Code section 142.0412(d).

46. 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.

47. 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.

48. In Brush Management 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.

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

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

TRANSPORTATION PLANNING REQUIREMENTS:

51. The project shall conform to the Del Mar Mesa Subarea V Specific Plan Transportation Phasing Plan and Public Facilities Financing Plan.

52. The project shall be connected to SR-56 by a network of improved public streets based on the approved Transportation Phasing Plan for Del Mar Mesa Subarea V.

53. Prior to issuance of the first final map, the applicant shall assure the construction of Private Drives "A" and "B" with a minimum pavement width of 28-feet within 46-feet of parkway, satisfactory to the City Engineer.

54. Prior to issuance of the first final map, the applicant shall assure the construction of Street "Z" from the western end project boundary to Mesa Verde Estates boundary with a minimum pavement width of 28-feet within 52-feet of right-of-way, satisfactory to the City Engineer.

55. Prior to issuance of the first final map, the applicant shall assure the construction of the cul-de-sac at the end of Private Drives "A" and "B" with a turnaround radius of 50-feet of pavement within 60-feet of parkway, satisfactory to the City Engineer.

56. Prior to issuance of the first final map, the applicant shall assure the construction of the shared driveways east and west with a minimum pavement width of 24-26-feet within 30-feet of parkway, satisfactory to the City Engineer.

57. Prior to issuance of the first final map, the applicant shall assure the construction of the cul-de-sac at the end of Street "Z" with a turnaround radius of 50-feet of pavement within 60-feet of right-of-way, satisfactory to the City Engineer.

WATER REQUIREMENTS:

58. Prior to the issuance of any building permits, a water pump station and associated piping, necessary to provide service to the development, shall be complete and operational in a manner satisfactory to the Water Department Director and the City Engineer.

59. Prior to the issuance of any building permits, the Owner/Permittee shall assure, by permit and bond, the design and construction of parallel public 8-inch water facilities within the Rancho Toyon Place right-of-way, continuing in Private Driveway "A" and "East Driveway," to the easterly subdivision boundary, in a manner satisfactory to the Water Department Director and the City Engineer.

60. Prior to the issuance of any building permits, the Owner/Permittee shall assure, by permit and bond, the design and construction of public 8-inch water facilities fronting all lots, located within acceptable easements with access, in a manner satisfactory to the Water Department Director and the City Engineer.

61. Prior to the issuance of any certificates of occupancy, the public water facilities, necessary to serve this development, shall be complete and operational in a manner satisfactory to the Water Department Director and the City Engineer.

62. The Owner/Permittee shall install encroachment water services, to serve each lot with less than adequate frontage on an improved vehicular right-of-way, in a manner satisfactory to the Water Department Director and the City Engineer. All water meters shall be installed behind full height curb and outside of any vehicular travel way including driveways.

63. Prior to the issuance of any building permits, the Owner/Permittee shall process encroachment maintenance and removal agreements for all acceptable encroachments of structures or landscaping into any easement. No structures or landscaping of any kind shall be installed in or over any vehicular access roadway.

64. If on site water facilities are to be public and if it is a gated community, then prior to the issuance of any building permits, the Owner/Permittee shall provide keyed access to the Water Operations Division in a manner satisfactory to the Water Department Director. The City will not be held responsible for any issues that may arise relative to the availability of keys

65. The Owner/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. Parallel potable water mains shall have a minimum separation of 10-feet and be located a minimum of 4-feet from face of curb to outside edge of pipe.

66. Providing water for this development is dependent upon prior construction of certain water facilities in previously approved developments in this area. If facilities have not been constructed when required for this development, then the construction of certain portions of these previously approved water facilities, as required by the City Engineer, will become off-site improvements required for this development.

67. The Owner/Permittee shall install fire hydrants at locations satisfactory to the Fire Department, the Water Department Director, and the City Engineer. Fire hydrants within easements having no curbs or rolled curbs shall have protective posts per SDW-102.

68. Prior to the issuance of any building or engineering permits, the Owner/Permittee shall grant adequate water easements over all public water facilities that are not located within fully improved public rights-of-way, satisfactory to the Water Department Director and the City Engineer. Easements, as shown on approved Exhibit "A," dated August 5, 2002, on file in the Office of the Development Services Department, will require modification based on standards and final engineering.

WASTEWATER REQUIREMENTS:

69. Prior to the issuance of any building permits, the developer shall assure, by permit and bond, the design and construction of all public sewer facilities necessary to serve this development.

70. The developer agrees to design all proposed public sewer facilities in accordance with established criteria in the City of San Diego's current sewer design guide. Proposed facilities that do not meet the current standards shall be redesigned or private.

71. The developer shall provide evidence, satisfactory to the Metropolitan Wastewater Department Director, indicating that each lot will have its own sewer lateral or provide CC&R's for the operation and maintenance of on-site private sewer facilities that serve more than one lot.

72. 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.

OPEN SPACE REQUIREMENTS:

73. Lots 34, 35 and 36 shall have open space easements for Brush Management and be owned and maintained by the Home Owner's Association.

74. Lots 37, 38 and 39 shall be deeded to the City, at no cost, for open space. The lots shall be free and clear of all private easements, private encroachments, private agreements or liens.

75. The proposed trail shall be a non-motor vehicle, pedestrian, equestrian right-of-way.
76. The modular retaining walls shall not be located on the right-of-way but shall be adjacent to the trail on the property and maintained by the Home Owner's Association.
77. The applicant shall provide fencing materials to construct a separation fence on the south side of the new SR 65 alignment in City open space, the type of materials shall be to the satisfaction of the Park and Recreation Director.

INFORMATION ONLY

Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of this development permit, may protest the imposition within ninety days of the approval of this development permit 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 by Resolution No. R-296949, on August 5, 2002.

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.

DASSONS-CIELO DEL MAR, Ltd.
Owner/Permittee

By _____

By _____

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