

RESOLUTION NUMBER R-297044

ADOPTED ON SEPTEMBER 10, 2002

WHEREAS, Westshaw Associates, Owner/Permittee, filed an application with the City of San Diego for Conditional Use Permit [CUP] No. 5758 (Amendment to Planned Residential Permit/Conditional Use Permit/Resource Protection Ordinance [PRD/CUP/RPO] No. 89-1296) to construct commercial condominium units in order to allow resort suites to be sold under interval ownership, fractional ownerships, or club-type ownerships known as the Meadows Del Mar project, located at 5298 Meadows Del Mar, and legally described as the south ½ of Section 21, Township 14 South, Range 3 West, San Bernardino Base Meridian, along with the southeast ¼ of the northwest ¼ of Section 21, and a portion of the south ½ of the southeast ¼ of Section 20, Township 14 South, Range 3 West, San Bernardino Meridian, in the Del Mar Mesa Specific Plan, Subarea V Community Plan area, in the AR-1-1 zone; and

WHEREAS, on August 1, 2002, the Planning Commission of the City of San Diego considered CUP No. 5758 (Amendment to PRD/CUP/RPO Permit No. 89-1296), and pursuant to Resolution No. 3295-PC voted to recommend City Council approval of the permit; and

WHEREAS, the matter was set for public hearing on September 10, 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 CUP No. 5758:

- 1. The proposed development will not adversely affect the applicable land use plan.** The original Bougainvillea project permitted a 153 parcel subdivision consisting of single-family

residential, open space, recreational and resort/hotel land uses and associated site improvements and facilities as described on the approved PRD/CUP/RPO Permit No. 89-1296. The proposed tentative map and amendment to conditional use permit will allow the creation of commercial condominium units in order to allow resort suites to be sold under internal ownerships, fractional ownerships, or club-type ownership. There are no physical changes proposed to the land uses and development intensities reflected in the approved Bougainvillea project.

The proposal will be consistent with the land use and environmental resources management guidelines designated for this site in the Specific Plan and will not adversely affect the City's Progress Guide and General Plan.

2. The proposed development will not be detrimental to the public health, safety, and welfare. The permit controlling this development 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/or working in the area.

Conditions of approval included in the permit 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 continuous operation of the development, and all issues described by the Mitigation Monitoring and Reporting Program to prevent adverse effects to those persons or other properties in the vicinity.

3. The proposed development will comply to the maximum extent feasible 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 CUP No. 5758. All relevant regulations shall be complied with at all times for the life of the project

4. The proposed use is appropriate at the proposed location. The original Bougainvillea project permitted a 153 parcel subdivision consisting of single-family residential, open space, recreational and resort/hotel land uses and associated site improvements and facilities as described on the approved PRD/CUP/RPO Permit No. 89-1296. The proposed tentative map and amendment to conditional use permit will allow the creation of commercial condominium units in order to allow resort suites to be sold under internal ownerships, fractional ownerships, or club-type ownership. There are no physical changes proposed to the previously approved project.

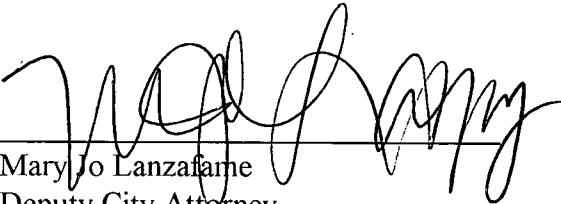
The above findings are supported by the minutes, maps and exhibits, all of which are herein incorporated by reference.

BE IT FURTHER RESOLVED, that the recommendation of the Planning Commission is sustained, and Conditional Use Permit No. 5758 (Amendment to PRD/CUP/RPO Permit

No.89-1296) is granted to Westshaw Associates, 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:pev

9/25/02

Or.Dept:Clerk

R-2003-366

Form=permitr.frm

Reviewed by Farah Mahzari

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

CONDITIONAL USE PERMIT No. 5758
MEADOWS DEL MAR (MMRP)
(Amendment to PRD/CUP/RPO No. 89-1296)
City Council

This Permit is granted by the City Council of the City of San Diego to Westshaw Associates, Owner/Permittee pursuant to the City of San Diego Land Development Code. The 24.01 acre site is located at 5298 Meadows Del Mar in the AR-1-1 zone of the Del Mar Mesa Precise Plan. The project site is legally described as the south ½ of Section 21, Township 14 South, Range 3 West, San Bernardino Base Meridian, along with the southeast ¼ of the northwest ¼ of Section 21, and a portion of the south ½ of the southeast ¼ of Section 20, Township 14 South, Range 3 West, San Bernardino Meridian, in the Del Mar Mesa Specific Plan, Subarea V Community Plan Area.

This is an amendment to the original Bougainvillea Planned Residential Development/Conditional Use Permit/Resource Protection Ordinance [PRD/CUP/RPO] Permit No. 89-1296, all rights and privileges granted by that permit shall remain in force and in effect with the approval of this permit. This Conditional Use Permit [CUP] No. 5758 shall grant additional rights, privileges, and obligations as described herein:

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee to allow the creation of commercial condominium units for the resort suites to be sold under interval ownerships, fractional ownerships, or club-type ownerships and also to abandon several General Utility Easements and regrant these easements in other locations on the site to accommodate building and driveway placement, described as, and identified by size, dimension, quantity, type and location on the approved Exhibit "A," dated September 10, 2002, on file in the office of the Development Services Department. The facility shall include:

- a. A 300-suite hotel/lodging facility, located in the central portion of the site, each unit being efficiency (one-two-three bedroom including small kitchenette) style in design, not to exceed forty feet in height from finished grade and ranging between approximately 500 to 2,500 square feet in size. The lodging units, subject to a maximum stay of no more than thirty-five continuous days, may consist of Interval, Club, Timeshare, or whole ownership consistent with the agreement between Owner and the City related to the assurances regarding Prop "C" (open space acquisition fund approved by the voters of the City of San Diego on March 26, 1996 and adopted by City Council Resolution No. R-296182 on March 18, 2002), and payment of Transit Occupancy Taxes.
 - b. Off-street parking facilities; and
 - c. 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. No permit for the construction, occupancy or operation of any facility, improvement, or sale of any unit 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.
 2. 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.
 3. 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.
 4. The utilization and continued use of this Permit shall be subject to the regulations of this and any other applicable governmental agency.
 5. 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 Endangered Species Act of 1973 [ESA] and any amendments thereto (16 U.S.C. § 1531 et seq.).

6. 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" condition(s) back to the discretionary body which approved the Permit for a determination by that body as to whether all of the findings necessary for the issuance of the proposed permit can still be made in the absence of the "invalid" condition(s). Such hearing shall be a hearing de novo and the discretionary body shall have the absolute right to approve, disapprove, or modify the proposed permit and the condition(s) contained therein.

7. Prior to issuance of any grading permits for this project, a final subdivision map shall be recorded on the subject property.

PLANNING/DESIGN REQUIREMENTS:

8. No fewer than 518 off-street parking spaces shall be maintained on the property at all times in the approximate locations shown on the approved Exhibits "A," dated September 10, 2002, on file in the office of Development Services Department. Parking spaces shall comply at all times with requirements of the San Diego Municipal Code/Land Development Code and shall not be converted for any other use unless otherwise authorized by the City Manager.

9. 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.

10. Permittee shall meet all applicable conditions of previously approved and recorded PRD/CUP/RPO Permit No. 89-1296, unless the conditions included in this amendment allow for specific deviations from permit No. 89-1296.

11 Permittee agrees that the recorded permit, approved and recorded amendments, and approved and recorded Exhibit "A," dated September 10, 2002, on file in the office of the Development Services Department, shall determine development standards for the project. All plan reviews shall be in substantial conformance to the approved and recorded permit(s), amendments, and Exhibit "A," dated September 10, 2002, on file in the Office of the Development Services Department.

ENGINEERING REQUIREMENTS:

12. The Permit shall comply with the conditions of the final map for The Meadows Del Mar Tentative Map No. 7383.

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-297044 on September 10, 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.

WESTSHAW ASSOCIATES
Owner/Permittee

By _____

By _____

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

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