

RESOLUTION NUMBER R-297075

ADOPTED ON AUGUST 5, 2002

WHEREAS, Western Pacific Housing, Owner/Permittee, filed an application with the City of San Diego for a planned development permit and a site development permit to construct 267 condominium units, 135 affordable housing units, a 90,000 square-foot commercial center, 1,400 square-feet of community meeting space, and a 4,200 square-feet of affordable housing/office space known as the Torrey Highlands Village Center (LMXU) project, on a 39.5-acre site located at the northwest corner of future State Route 56 and Camino Ruiz, and legally described as Portions of Parcels 1 and 2 of Parcel Map No. 18926, according to Map thereof filed in the Office of the County Recorder of San Diego County March 22, 2002, and a portion of Parcel A of Parcel Map No. 6038, According to Map thereof filed in the Office of the County Recorder of San Diego County June 14, 1977, together with portions of Camino Ruiz as dedicated to public use, in the Torrey Highlands Subarea Plan, in the RM-2-4, RM-4-10 and CC-3-4 zones; and

WHEREAS, on July 11, 2002, the Planning Commission of the City of San Diego considered Planned Development Permit [PDP] No. 7033 and Site Development Permit [SDP] No. 7034, and pursuant to Resolution No. 3283-1-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 PDP No. 7033/SDP No. 7034:

A. PLANNED DEVELOPMENT PERMIT/SITE DEVELOPMENT PERMIT FINDINGS:

1. The proposed development will not adversely affect the applicable land use plan. The subject 39.5-acre site is located in the Torrey Highlands Subarea IV Plan area of the North City Future Urbanizing Area and is designated Local Mixed Use [LMXU]. The rezone and implementation of the Planned Development Permit for the project will permit the construction of 267 condominium units, 135 affordable housing units, 90,000 square feet of retail commercial space, 1,400 square feet of community meeting room space, and 4,200 square feet of affordable housing office space, consistent with the LMXU land use description. The project will provide a well-integrated land use pattern and a range of market-rate housing opportunities, and affordable housing and retail shopping and service opportunities in the Torrey Highlands Subarea. The project design and circulation system is integrated with the designs of approved and proposed projects to the north, east and west. The project implements the land use plan designation for the site and does not adversely affect the land use designations of surrounding properties.

2. The proposed development will not be detrimental to the public health, safety, and welfare. The permits controlling the development and continuing use of the Torrey Highlands Village Center development will be conditioned to address the project's compliance with the City's regulations as well as other regional, state and federal regulations, to prevent and to mitigate any potential detrimental effect or impacts to health, safety and general welfare of persons residing and/or working in the area in or around the project. Conditions of approval require compliance with several operational constraints and development controls intended to assure that continued health, safety and general welfare issues are adequately addressed. In addition, the project provides a circulation system that accommodates appropriate fire and safety vehicle access.

3. The proposed development will comply with the regulations of the Land Development Code. Development of the Torrey Highlands Village Center project has been reviewed and determined to be in compliance with the Progress Guide and General Plan, the Torrey Highlands Subarea Plan of the City of San Diego, the Planned Development Permit provisions of the San Diego Municipal Code [SDMC], the Subdivision Map Act and all other pertinent provisions of the City's Land Development Code. The project will also comply with development standards and zoning regulations of the RM-2-4, RM-4-10 and CC-3-4 zones.

4. The proposed development when considered as a whole, will be beneficial to the community. The Torrey Highlands Village Center will allow for the construction of 267 condominium units, 135 affordable housing units, 90,000 square feet of retail commercial space, 1,400 square feet of community meeting room space, and 4,200 square feet of affordable housing office space. The project will provide a well-integrated land use pattern and a range of housing opportunities, as well as providing affordable housing and retail shopping and service

opportunities in the Torrey Highlands Subarea. Pedestrian connection points will be provided along the north, east and west sides of the project to allow convenient walking opportunities to and through the site. On and off-site circulation improvements will be constructed by the project, to improve the community roadway system. In addition, three MTDB bus stops also will be provided to encourage the use of public transit to and from the site. When considered as a whole, the project will be beneficial to the community.

5. Any proposed deviation pursuant to SDMC section 126.0602(b)(1) are appropriate for this location and will result in a more desirable project than would be achieved if designed in strict conformance with the development regulations of the applicable zone. A deviation from the proposed CC-3-4 zone's 30-foot height limit for the project's commercial structures is requested and is recommended for approval. In keeping with the Torrey Highlands Subarea Plan guidelines and the goals of the proposed City of Villages growth strategy, the project creates a vertically integrated, pedestrian-friendly, urban streetscene.

Building "G," having a pitched roof element of 40 feet, will contain residential-over-retail directly across from a four-story affordable housing structure. This emphasis on verticality will be reinforced by Building "E" which frames the public plaza and by Buildings "B," "C," and "D," which line the public entry street and contain tower elements that range from 35 to 40 feet. Vertical elevations, combined with their positioning adjacent to the sidewalk, are important for creating an urban streetscene along the entry road and providing urban visual character and distinction. Two-story buildings give the appearance of an urban character that this project strives to create. Building "A" contains a 41-foot tower element that assists in breaking-up the mass of a large-scale structure and unifies it with the urban-buildings lining the entry street.

A deviation is also proposed to allow tandem parking spaces within the affordable housing component of the project. The City's parking requirement for the project's affordable housing units is 238 spaces. The subterranean parking garage for the affordable housing units will accommodate 255 parking spaces; of which 164 spaces are tandem (eighty-two, two-car spaces) and ninety-one spaces are single-car. Chapter 13, Article 2, Division 9, Section 132.0905 of the City's Land Development Code does not allow tandem spaces to be counted as two spaces toward the minimum parking requirement. The applicant is seeking a deviation from the City's Tandem Parking Overlay for the project's affordable housing structure in order to count the tandem spaces as two spaces toward the City's minimum parking requirement. The deviation is recommended for the following reasons:

In keeping with the Torrey Highlands Subarea Plan guidelines and the goals of the proposed City of Villages growth strategy, the project creates a pedestrian-friendly, urban streetscene. For this reason, the provision of subterranean parking, including tandem spaces, is preferred in place of surface parking. Subterranean parking, including tandem space for the affordable housing building, reduces the number of surface parking spaces and creates a more pedestrian-oriented site design. The provision of tandem parking helps to maintain the affordability of the affordable housing units. In addition, the rule against giving credit for tandem parking is based only on the project's location within certain City Council Districts, and was not established pursuant to any specific transportation and/or

planning issues associated with this particular subarea. Tandem parking credit is allowed in other adjacent communities within the Interstate 15 corridor because they happen to be located within another Council District.

B. SUPPLEMENTAL SITE DEVELOPMENT PERMIT 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 subject 39.5-acre site will be developed as designated under the Local Mixed Use (LMXU) designation of the Torrey Highlands Subarea Plan. The site is located in the center of the Torrey Highlands community and is bounded on the north, east and west by approved and pending developments and on the south by the future extension of SR-56. No areas of the site are designated by the Subarea Plan to remain in open space. The Torrey Highlands Village Center project is not located within the Multiple Habitat Planning Area [MHPA], nor within any designated floodplain area. On-site earthwork would include 692,200 cubic yards of cut and 377,600 cubic yards of fill with 314,600 cubic yards of soil exported off site to an approved location. The off-site sewer connection will result in minimal disturbance to biologically sensitive lands (the MHPA), and the project has been conditioned to mitigate biological impacts and land use adjacency impacts as a result of off-site sewer line construction.

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 site is not located within a designated floodplain or flood hazard area. Grading of the site and alteration of the existing landform will be consistent with the grading concept analyzed in the Torrey Highlands Subarea IV EIR, certified by the City of San Diego in 1996. The project site is not located within a high fire hazard area. As a condition of project approval, the applicant will contribute a fair share of funding as specified in the Subarea IV EIR for public services, including fire stations. Also, a fire response time analysis will be required prior to the issuance of building permits. The site is located primarily in Geologic Hazard Zones 52 and 53 (other level areas, gently sloping to steep terrain, favorable geologic structure; and level or sloping terrain, unfavorable geologic structure; both with low to moderate risk to development) according to City of San Diego's "Seismic Safety Study." A Geotechnical Investigation was prepared for the project by GEOCON (May 2000) in response to a mitigation measure in the Torrey Highlands Subarea IV EIR. The report concluded that proper engineering of the proposed project ensures that the potential for geological impacts from regional geological hazards would be less than significant. Erosion control will be accomplished through compliance with the State Water Resources Control Board [SWRCB] Order No. 99-08-DWQ (NPDES General Permit No. CAS000002), 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 are required to be developed and implemented.

3. The proposed development will be sited and designed to prevent adverse impacts on any adjacent environmentally sensitive lands. Impacts associated with an off-site sewer line would encroach into biologically sensitive lands (the MHPA). Land Use/Multiple

Species Conservation Program [MSCP] mitigation measures have been incorporated into the project's Mitigation Monitoring and Reporting Program [MMRP] and will be made conditions of the development permit approval. Such measures include construction fencing which does not interfere with wildlife movement, placement of artificial light away from the MHPA, a prohibition of exotic, invasive plant species, compliance with City Engineering Drainage Standards, and limitation of construction impacts during the breeding season. With the implementation of these measures, the project will prevent adverse impacts on environmentally sensitive lands.

4. The proposed development will be consistent with the City of San Diego's Multiple Species Conservation Program Subarea Plan. The Torrey Highlands Village Center project is not located within the MHPA. Off-site impacts associated with an off-site sewer line would, however, encroach into the MHPA. The project is therefore subject to the MSCP, Subarea Plan, Land Use Adjacency Guidelines. Land Use/MSCP mitigation measures have been incorporated into the project's MMRP and will be made conditions of the development permit approval. Such measures include construction fencing which does not interfere with wildlife movement, placement of artificial light away from the MHPA, a prohibition of exotic, invasive plant species, compliance with City Engineering Drainage Standards, and limitation of construction impacts during the breeding season.

5. The proposed development will not contribute to the erosion of public beaches or adversely impact local shoreline sand supply. The project site is located in the Torrey Highlands Subarea, approximately 6 miles east of a public beach or shoreline. Erosion control will be accomplished through compliance with the State Water Resources Control Board [SWRCB] Order No. 99-08-DWQ (NPDES General Permit No. CAS000002), 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 are required to be developed and implemented.

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. A Mitigated Negative Declaration [MND] 40-0968 has been prepared by the City of San Diego Development Services Department. Mitigation required by the MND in the areas of biological resources, historical resources, hydrology/water quality, land use/MSCP adjacency, noise, paleontological resources, transportation/circulation, and public services/utilities is reasonably related to project impacts. Implementation of the mitigation measures, which are included as conditions of the project, would reduce negative impacts of the project to below a level of significance.

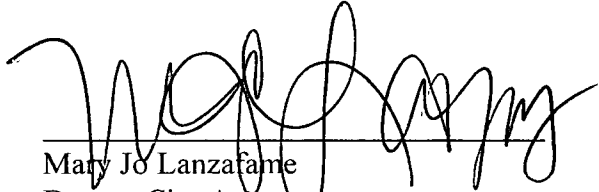
The above findings are supported by the minutes, maps and exhibits, all of which are herein incorporated by reference.

BE IT FURTHER RESOLVED, that the recommendation of the Planning Commission is sustained, and Planned Development Permit No. 7033/Site Development Permit No. 7034 is

granted to Western Pacific Housing, 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

9/23/02

Or.Dept:Clerk

R-2003-406

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Reviewed by Mike Westlake

RECORDING REQUESTED BY
CITY OF SAN DIEGO
DEVELOPMENT SERVICES DEPARTMENT
PERMIT INTAKE, MAIL STATION 501

AND WHEN RECORDED MAIL TO
CITY CLERK
MAIL STATION 2A

SPACE ABOVE THIS LINE FOR RECORDER'S USE

PLANNED DEVELOPMENT PERMIT NO. 7033
SITE DEVELOPMENT PERMIT NO. 7034
TORREY HIGHLANDS VILLAGE CENTER - PROJECT NO. 1418 [MMRP]
CITY COUNCIL

This Permit is granted by the City Council of the City of San Diego to Western Pacific Housing, Owner/Permittee, pursuant to the City of San Diego Land Development Code. The 39.5-acre site is located at the northwest corner of future State Route 56 and Camino Ruiz in the RM-2-4, RM-4-10, and CC-3-4 zone of the Torrey Highlands Subarea Plan. The project site is legally described as Portions of Parcels 1 and 2 of Parcel Map No. 18926, according to Map thereof filed in the Office of the County Recorder of San Diego County, March 22, 2002, and a portion of Parcel A of Parcel Map No. 6038, According to Map thereof filed in the Office of the County Recorder of San Diego County June 14, 1977, together with portions of Camino Ruiz as dedicated to public use.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee to develop a mixed-use project consisting of 267 condominium units, 135 affordable housing units, a 90,000 square-foot commercial center, and 1,400 square-feet of community meeting space, and 4,200 square-feet of affordable housing/office space 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. A mixed-use land development project consisting of 267 condominium units, 135 affordable housing units, a 90,000 square-foot commercial center, 1,400 square-feet of community meeting space, and 4,200 square feet of affordable housing common facilities/office space;
- 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 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. At all bus stops within the project area, if any, the applicant shall be responsible for installing sidewalk improvements where needed to comply with American with Disability Act [ADA] requirements and in accordance with standards contained in the City of San Diego Street Design Manual.

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 applications or amendment of this Permit shall have been granted.

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 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 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" 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.

ENVIRONMENTAL/MITIGATION REQUIREMENTS:

10. The applicant shall comply with the Mitigation, Monitoring and Reporting Program [MMRP] as specified in Mitigated Negative Declaration, Project No. 1418, 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
- Historical Resources
- Hydrology/Water Quality

Land Use/MHPA
Noise
Paleontological Resources
Transportation/Circulation
Public Services/Utilities.

11. 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.).

12. 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.

PLANNING/DESIGN REQUIREMENTS:

13. No fewer than 1,369 off-street parking spaces shall be maintained on the property at all times in the approximate locations shown on the approved Exhibits "A," dated August 5, 2002, on file in the office of Development Services Department. Parking spaces shall comply at all times with requirements of the SDMC/Land Development Code and shall not be converted for any other use unless otherwise authorized by the City Manager.

14. Prior to the issuance of building permits, the project shall conform to the Torrey Highlands/ Subarea IV Transportation Phasing Plan.

15. Garage doors shall be consistent with Exhibit "A," dated August 5, 2002, on file in the office of the Development Services Department, in that they shall vary in design and be designed consistent with the architectural character of the structures.
16. The builder shall make available for residential units information on energy efficient appliances and technology in its marketing materials and within its sales office. Copies of the marketing materials shall be provided to the City Manager prior to issuance of building permit.
17. The builder shall either provide, or offer as an option, alternative energy technologies to be incorporated into the residences during construction. The provision of, or option for, the alternative energy shall be identified in the marketing materials that are provided to the City Manager prior to issuance of building permit.
18. Prior to issuance of building permits for Major "A," the applicant shall demonstrate that the building incorporates daylighting as a method of reducing energy consumption. Daylighting is the use of direct, diffuse, or reflected sunlight to provide full or supplemental lighting for building interiors.
19. Building "F" shall contain an approximately 1,400 square foot community meeting room that is to be available for booking by community groups within the Torrey Highlands Community.
20. Wheel stops or similar devices shall be used in residential zones where perpendicular or angled parking is located adjacent to any contiguous sidewalk.
21. Prior to final map, if the City revises its standards or regulations regarding street design, the applicant may, in cooperation with the Development Services Department and the Planning Department, revise the Torrey Highlands Village development plan, including the vesting tentative map, to incorporate traffic calming mechanisms.
22. All retail uses in Buildings "C" through "G" shall provide street/drive facing pedestrian entrances.
23. Drive "I" (the central promenade between the commercial site and the residential recreation building) shall not be gated or access-restricted at any time. It shall also be made available, by the Home Owner's Association [HOA], for public activities such as farmers markets, bazaars, and seasonal festivities.
24. Prior to issuance of any residential building permit, the applicant shall submit to the City a copy of the HOA's Conditions, Covenants, and Restrictions [CC&R's] in order to verify that Drive "I" will be available for public use, including public activities such as farmers markets, bazaars, and seasonal festivities. The CC&R's shall also provide for appropriate and reasonable

conditions and fees for such public activities including HOA issuance of permit, indemnity agreement, cleaning deposit, and other reasonable conditions.

25. Any modification(s) to the HOA's CC&R's affecting any public use of Drive "I" must be reviewed and approved by the City for conformance with the conditions of this Planned Development Permit. Any such modifications made without City approval shall be null and void.

26. 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.

27. 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.

28. 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 regulations of the underlying zone. The cost of any such survey shall be borne by the Permittee.

29. 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.

30. All signs associated with this development shall be consistent with sign criteria established by either of the following:

- a. approved project sign plan (Exhibit "A," dated August 5, 2002, on file in the office of the Development Services Department); or
- b. citywide sign regulations.

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

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

33. The subject property and associated common areas on site shall be maintained in a neat and orderly fashion at all times.
34. 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.
35. No mechanical equipment, tank, duct, elevator enclosure, cooling tower or mechanical ventilator or air conditioner shall be erected, constructed, converted, established, altered, or enlarged on the roof of any building, unless all such equipment and appurtenances are contained within a completely enclosed structure whose top and sides may include grillwork, louvers and latticework.
36. No merchandise, material or equipment shall be stored on the roof of any building.
37. Prior to the issuance of building permits, construction documents shall fully illustrate compliance with the Citywide Storage Standards for Trash and Recyclable Materials [SDMC] 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 August 5, 2002, on file in the office of the Development Services Department.

WATER REQUIREMENTS:

38. Prior to the issuance of any building permits, the Owner/Permittee shall assure, by permit and bond, the design and construction of appropriate public water facilities as identified in the accepted water studies, necessary to serve this development, in a manner satisfactory to the Water Department Director and the City Engineer, maintaining redundancy throughout phasing of construction. At no time shall public water facilities be located within travel ways with alley type cross sections.
39. Prior to the issuance of any building permits, the Owner/Permittee shall assure, by permit and bond, the design and construction of reclaimed water irrigation service(s), in a manner satisfactory to the Water Department Director and the City Engineer. If reclaimed water is not yet available, then the irrigation systems shall be designed in such a manner as to accept reclaimed water when available and avoid any potential cross connections.
40. The Owner/Permittee shall install encroachment water services, to serve any unit or building with less than forty feet of frontage on public water facilities or less than ten feet curb to property

line distance, 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 sidewalks or any vehicular travel way including driveways.

41. Prior to the issuance of any building permits, the Owner/Permittee shall apply for a plumbing permit for the installation of appropriate private back flow prevention device(s) on each water service within the development, in a manner satisfactory to the Water Department Director and the City Engineer.

42. The Owner/Permittee shall install fire hydrants at locations satisfactory to the Fire Department, the Water Department Director, and the City Engineer. Any proposed fire hydrant installation not conforming to Water Department standards for public fire hydrants, shall be private.

43. 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 at final engineering.

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

45. 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.

46. The Owner/Permittee agrees to design and construct all proposed public water facilities in accordance with established criteria in the most current editions of the City of San Diego Water Facility Design Guidelines and City regulations, standards and practices pertaining thereto. Public water facilities, as shown on approved Exhibit "A," dated August 5, 2002, on file in the office of the Development Services Department, shall be modified at final engineering in accordance with accepted studies and standards.

47. Prior to the issuance of any building permits, the Owner/Permittee shall provide keyed access to Water Operations Division, in a manner satisfactory to the Water Department Director, on each gate located within any easement containing public water facilities. The City will not be held responsible for any issues that may arise relative to the availability of keys.

48. Providing water for this development is dependent upon prior construction of certain water facilities in previously approved developments in this area including, but not limited to, the completion of the water facilities in Camino Ruiz and Street 'B' in the Torrey Highlands Subarea IV. 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.

WASTEWATER REQUIREMENTS:

49. 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.

50. 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.

51. The developer shall provide evidence, satisfactory to the Metropolitan Wastewater Department Director, indicating that each unit 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 ownership.

52. 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.

LANDSCAPE REQUIREMENTS:

53. 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.

54. 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 August 5, 2002, on file in the office of the Development Services Department. These landscape areas shall be clearly identified with a distinct symbol, noted with dimensions and labeled as "landscaping area".

55. 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.

56. 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 identify a station point for each street tree location. Each street tree location must take into account a 40 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 August 5, 2002, on file in the office of the Development Services Department.

57. 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 Exhibit "A," (including Environmental conditions), dated August 5, 2002, on file in the office of the Development Services Department.

58. 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.

59. Prior to issuance of any Certificate of Occupancy, it shall be the responsibility of the Permittee or subsequent Owner to install all required landscape and obtain all required landscape inspections. A No Fee Street Tree Permit shall be obtained for the installation, establishment and on-going maintenance of all street trees.

60. 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.

61. 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.

62. 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.

AFFORDABLE HOUSING REQUIREMENTS:

63. Prior to the filing of the first final map, Subdivider shall comply with the requirements of the Torrey Highlands Subarea Plan, which requires that the Torrey Highlands Village Center (LMXU) Project provide 20% of the pre-density bonus units be affordable to persons at 65% of the area median income [Affordable Housing Requirements] by satisfaction of the requirements of subparagraph A., below:

A. Subdivider shall assure the construction and occupancy of an Affordable Housing Project consisting of 135 units to be constructed on Lots 2 and 4, as shown on the Tentative Map. Subdivider shall execute an agreement [Affordable Housing Agreement], subject to the approval of the Executive Director of the Housing Authority of the City of San Diego, or designee, and the City Manager of the City of San Diego, or designee, addressing the following issues:

1. Performance Security for the construction of the Affordable Housing Project and dedication of land [Affordable Housing Site] for the construction of the Affordable Units [Affordable Units] on site, in the form of bond(s), letter(s) of credit, lien(s) and/or other forms of security acceptable to the Executive Director of the Housing Authority of the City of San Diego, or designee [Executive Director];

2. Approval of the timing of the construction and occupancy of the Affordable Housing Project, acceptable to the Executive Director, provided that the following timetable is incorporated into the Affordable Housing Agreement:

a. Issuance of building permits for the Affordable Project shall occur on or before the earlier of:

(i) the issuance of building permits for construction of the 133rd market rate dwelling unit (number of units which represents 50% of market rate units); or, (--date which is eighteen months after the filing of the first final map--);

(ii) In no event shall the issuance of building permits for the construction of the 133rd market rate dwelling unit occur until building permits are issued for construction of the 135 affordable units are authorized by the City and are obtained by the Subdivider. Further, if individual parcels are

sold initially by Subdivider without first obtaining building permits for construction of market rate units, every such parcel sold shall nonetheless be included with the total number of the building permit issued, in determining when the issuance of the building permit occurs for the 133rd and 200th or greater, market rate unit.

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

(i) Twelve months after the issuance of building permit for the Affordable Project as referenced in Paragraph 2a. hereof; or

(ii) (--date--) (Date shall be two and one-half years after the filing of the first final map).

Further, the issuance of building permits for the construction of the 200th market rate unit (number of units which represents 75% of market rate units) shall not occur until the completion of the 135 affordable units is authorized by the City.

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

d. For "good cause" shown to the satisfaction of the Executive Director, the dates referenced herein may be extended for one or more period(s) of up to twelve months, each. Good cause shall include, but not be limited to, Acts of God, labor strikes, war, riots, etc., as shall be determined by the Executive Director, in her sole discretion.

3. A Declaration of Covenants, Conditions and Restrictions [Declaration], restricting the occupancy and affordability of the Affordable Project for a period of fifty-five years from the date of completion of the Affordable Project, which Declaration shall incorporate the Affordable Housing Agreement by reference, shall be recorded against the Affordable Housing Sites on Lots 2 and 4, in a first priority position. All Affordable Units shall be for occupancy by and at rates affordable to, families earning no more than 65% of the Area Median Income, as adjusted for family size and utilities. However, in the case of affordable rental units, in which provisions of the State Density Bonus Statute [Government Code section 65915] applies, rental rates shall not exceed 60% of the Area Median Income, as adjusted for assumed family size and utilities.

4. Additional security for the performance by the Subdivider of the Affordable Housing Requirements shall be provided by a deed of trust in favor of the Executive Director, recorded against the Affordable Housing Site, in second lien priority, (junior only to the Declaration) assuring the timely performance of the Agreement referenced in Paragraph A, hereof. The deed(s) of trust in favor of the Housing Authority may be subordinated to construction deed(s) of trust and/or permanent financing deed(s) of trust in favor of institutional lenders, as approved by the Executive Director, in her/his sole discretion, if deemed essential to construction and/or operation of the Affordable Project, upon such terms and conditions as she/he may impose.

5. Such other and further conditions as may be reasonably required by the Executive Director to assure satisfaction of the Affordable Housing Requirements, and such modification of existing condition(s), as may be granted by the Executive Director in her/his sole discretion.

6. Subdivider, and their successors, heirs and assigns shall execute such other and further documents and shall perform such acts, as shall be requested by the Executive Director and the City Manager and as may, from time to time, be required to effectuate the provisions of Affordable Housing as contemplated by these condition(s) of approval.

The Torrey Highlands Village Center (LMXU) Project Affordable Housing Program is attached to these Permit conditions and are on file in the Office of the Development Services Department and is incorporated herein. The provisions of the Affordable Housing Program shall not in any way modify or change any provisions of the Affordable Housing requirements. To the extent that there is any inconsistency between the two, the terms of the condition shall prevail.

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-297075, 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.

WESTERN PACIFIC HOUSING
Owner/Permittee

By _____

By _____

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