

(R-2003-463)

RESOLUTION NUMBER R-297095

ADOPTED ON SEPTEMBER 24, 2002

WHEREAS, TR II, L.L.C., AND Poway Unified School District School Facilities Financing Corporation, Owners/Permittees, filed an application with the City of San Diego for a resource protection ordinance/planned residential development permit, and Multiple Habitat Preservation Area [MHPA] boundary line adjustment to create eighty-eight lots to develop sixty-seven market rate residential lots (seventy-three market rate if option for affordable housing is exercised), six lots for thirteen affordable housing units, a City park lot, an elementary school site, a Multiple Species Conservation Plan [MSCP] lot, a wetlands restoration area lot, and ten Homeowners Association lots known as the Torrey Ranch project, located north of proposed State Route 56 and west of Camino Ruiz, and legally described as Parcel 1 of Map No. 8133 filed in the Office of the County Recorder of San Diego County on December 6, 1978 as File No. 78-525379, O.R., together with those portions of Parcel 1 of Parcel Map 8133 deeded to the Poway Unified School District for a school site per document recorded September 10, 1997 as File No. 1997-0439766, O.R., and for Open Space per document recorded September 10, 1997, as File No. 1997-0438557, O.R., in the Torrey Highlands Subarea IV of the North City Planned Urbanizing Area, in the A-1-10 zone which is proposed to be rezoned to the RX-1-2, OP-2-1 and OC-1-1 zones; and

WHEREAS, on August 8, 2002, the Planning Commission of the City of San Diego considered Resource Protection Ordinance [RPO] Permit No. 7499, Planned Residential

Development [PRD] Permit No. 7500, and MHPA Boundary Line Adjustment No. 7502, and pursuant to Resolution No. 3298-PC voted to recommend City Council approval of the permit and MHPA boundary line adjustment; and

WHEREAS, the matter was set for public hearing on September 24, 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 RPO Permit No. 7499/PRD Permit No. 7500/MHPA Boundary Line Adjustment No. 7502:

A. RESOURCE PROTECTION ORDINANCE (ALTERNATIVE COMPLIANCE) - SAN DIEGO MUNICIPAL CODE [SDMC] SECTION 101.0462L.2:

1. The proposed development will not adversely affect the City of San Diego's Progress Guide and General Plan. The subject 38.2-acre site located in the Torrey Highlands Subarea IV Plan area of the North City Future Urbanizing Area is designated by the Plans as Low Density Residential (LD), Neighborhood Park (P), Elementary School (ES) and Resource-MSCP Preserve (R). The approval for this PRD permit, together with the Tentative Map [TM] and rezone, will permit the construction of up to sixty-seven (seventy-three w/offsite affordable option) single family units, thirteen affordable housing units, a 5-acre public community park site, an approx. 10-acre elementary school site, a wetlands restoration site and MSCP Preserve Open Space consistent with the Subarea Plan land use plan. The project will provide a well-integrated land use pattern consisting of market-rate housing and affordable housing opportunities as well as public park, open space and school facilities in the Torrey Highlands Subarea. The project design and circulation system is integrated with the designs of approved and proposed projects to the south, east and west. The project implements the land use element of the Torrey Highlands Subarea IV Plan which serves as the City's Community/General Plan for the area within which the subject property is located, and therefore, will not adversely affect the Plan.

2. The proposed development conforms to the adopted community plan of the area. The Torrey Highlands Subarea IV Plan serves as the Community Plan for the area of the City in which the project is located. The land use element of the Plan designates the site as Low Density Residential (LD), Neighborhood Park (P), Elementary School (ES) and Resource-MSCP Preserve (R). The approval of this PRD permit, together with the TM and rezone, will permit the construction of up to sixty-seven (seventy-three w/offsite affordable option) single family units, thirteen affordable housing units, a 5-acre public community park site, an approx. 10-acre elementary school site, a wetlands restoration site and MSCP Preserve Open Space consistent

with the land use element of the Subarea Plan. As well, the proposed developed will conform to the provisions of the City's Planned Residential Development Ordinance, the State Subdivision Map Act and all other applicable local subdivision and zoning ordinances, plans and policies.

3. There are no other feasible measures that can be taken to further minimize the potential adverse effect on environmentally sensitive lands and still avoid conflict with the substantially applicable provisions of City Council policy. The subject development has been designed in compliance with the land use element and the design guidelines of the Torrey Highlands Subarea IV Plan in an effort to avoid and/or minimize any potentially adverse impacts upon environmentally sensitive lands. The proposed project is in substantial conformance to the planned development area for the site established within the Torrey Highlands Subarea Plan. An Environmental Initial Study was completed for the proposed Torrey Ranch project and it was determined that the project could have a significant environmental impact on Biological Resources, Historical Resources, Hydrology/Water Quality, Land Use/Multiples Species Conservation Program, Paleontological Resources, Transportation/Circulation, Public Services/Utilities, and Human Health/Public Safety. The impacts identified in the project's Initial study were anticipated by the Subarea Plan. The Torrey Highlands Subarea Plan was developed using a site constraints and opportunities analysis for the entire subarea. Mitigation areas were consolidated into a planned MSCP Preserve to provide a greater benefit to sensitive resource protection than would have occurred if Torrey Highlands were developed on a parcel by parcel basis. Implementation of the Mitigation, Monitoring and Reporting Program, as required for the proposed project, would reduce potential impacts to below a level of significance. A portion of the Torrey Ranch site will be preserved in the MSCP area designated for McGonigle Canyon.

B. PLANNED RESIDENTIAL DEVELOPMENT - SDMC SECTION 101.0901:

1. The proposed use will fulfill a community need and will not adversely affect the City's Progress Guide and General Plan or the adopted Community Plan. The subject 38.2-acre site is located in the Torrey Highlands Subarea IV Plan area of the North City Future Urbanizing Area and is designated by the Plan as Low Density Residential (LD), Neighborhood Park (P), Elementary School (ES) and Resource-MSCP Preserve (R). The approval of this PRD permit, together with the TM and rezone, will permit the construction of up to sixty-seven (seventy-three w/offsite affordable option) market rate single family units, thirteen affordable housing units, a 5-acre public community park site, an approx. 10-acre elementary school site, a wetlands restoration site and MSCP Preserve Open Space consistent with the Subarea Plan land use plan. The project will provide a well-integrated land use pattern consisting of market-rate housing opportunities as well as public park, open space and school facilities in the Torrey Highlands Subarea. The project design and circulation system is integrated with the designs of approved and proposed projects to the south, east and west. The construction of the project will fulfill a community need by implementing the land use plan as defined by the Torrey Highlands Subarea IV Plan which acts as the City's Community/General Plan for the area within which the subject property is located.

2. The proposed use will not be detrimental to the health, safety and general welfare of persons residing or working in the area and will not adversely affect other properties in the vicinity. The permits controlling the development and continuing use of the Torrey Ranch 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 potentially 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 warfare issues are adequately addressed. In addition, the project provides a circulation system that accommodates appropriate fire and safety vehicle access.

3. The proposed use will fully comply with the relevant regulations of the Municipal Code in effect for this site. The Torrey Ranch project will allow for the construction of up to sixty-seven (seventy-three w/offsite affordable option) single family units, thirteen affordable housing units, a 5-acre public community park site, an approx. 10-acre elementary school site, a wetlands restoration site and MSCP Preserve Open Space. The project will provide a well-integrated land use concept providing both market rate and affordable housing opportunities, as well as providing public open space in the form of natural open space and a graded pad for future City park development. A graded pad for a future elementary school site will also be developed as a part of this project. When considered as a whole, the project will be beneficial to the community and is consistent with the land use regulations and design guidelines of the Torrey Highlands Subarea IV Plan, which govern development of the subject site as well as the Purpose and Intent of the Planned Residential Development Ordinance, the State Subdivision Map Act as well as all other subdivision and zoning requirement of the SDMC.

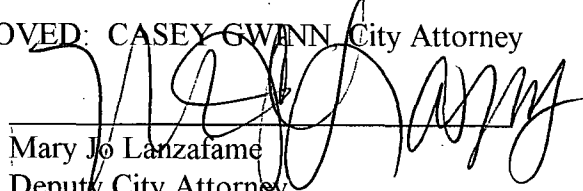
The above findings are supported by the minutes, maps and exhibits, all of which are herein incorporated by reference.

BE IT FURTHER RESOLVED, that the recommendation of the Planning Commission is sustained, and Resource Protection Ordinance Permit No. 7499/Planned Residential Development Permit No. 7500 and MHPA Boundary Line Adjustment No. 7502 is granted to TR II, L.L.C.,

and Poway Unified School District Facilities Financing Corporation, Owners/Permittees, 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

10/14/02

Or.Dept:Clerk

R-2003-463

Form=permitr.frm

Reviewed by Vicky Gallagher

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

RESOURCE PROTECTION ORDINANCE PERMIT NO. 7499/
PLANNED RESIDENTIAL DEVELOPMENT PERMIT NO. 7500
TORREY RANCH (MMRP)
CITY COUNCIL

This Resource Protection Ordinance [RPO]/Planned Residential Development Permit No. 99-1331, is granted by the City Council of the City of San Diego to TR II, LLC, a California Limited Liability Company and Poway Unified School District School Facilities Financing Corporation, a non-profit public benefit corporation, Owners/Permittees, pursuant to the City of San Diego Municipal Code [SDMC]/Land Development Code [LDC]. The 38.2 acre site is located north of proposed State Route 56 and west of Camino Ruiz in the A-1-10 zone, proposed OC-1-1, RX-1-2 and OP-2-1 zones of the Torrey Highlands Subarea Plan of the North City Planned Urbanizing area. The project site is legally described as Parcel 1 of Map No. 8133 filed in the Office of the County Recorder of San Diego County on December 6, 1978 as File No. 78-525379, O.R., together with those portions of Parcel 1 of Parcel Map 8133 deeded to the Poway Unified School District for a school site per document recorded September 10, 1997 as File No. 1997-0439766, O.R., and for Open Space per document recorded September 10, 1997, as File No. 1997-0438557, O.R.

Subject to the terms and conditions set forth in this permit, permission is granted to Owner/ Permittee to create eighty-eight lots to develop 67 market rate residential lots (seventy-three market rate if off-site option for affordable housing is exercised), six lots for thirteen affordable housing units, a City park lot, an elementary school site, a Multiple Species Conservation Plan [MSCP] lot, a wetlands restoration area lot, and ten Homeowners Association [HOA] lots described as, and identified by size, dimension, quantity, type and location on the approved Exhibit "A," dated September 24, 2002, on file in the Office of the Development Services Department. The facility shall include:

- a. Sixty-seven lots for development of market rate single family residences (seventy-three lots if the option for off-site affordable housing is exercised);

- b. Six lots for thirteen affordable housing units;
- c. One 5.3 acre City Park lot (Lot A);
- d. One 10.5 acre elementary school site (Lot B);
- e. One 5.8 acre MSCP Open Space lot (Lot C);
- f. One 120,698 square foot wetlands restoration lot (Lot D);
- g. Ten Homeowners Association lots;
- h. Landscaping (planting, irrigation and landscape related improvements);
- i. Off-street parking facilities; and
- j. 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 SDMC/LDC 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 SDMC/LDC 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 agency.
6. 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. 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.
9. 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.

10. Before issuance of any grading or building permits, complete grading or working drawings shall be submitted to the City Manager for approval. Plans shall be in substantial conformity to Exhibit "A," dated September 24, 2002, on file in the Office of the Development Services Department. No changes, modifications or alterations shall be made unless appropriate applications or amendment to this Permit have been granted.

11. 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.

12. This Permit shall become effective with recordation of the corresponding final subdivision map for and approval of the project site.

13. 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 September 24, 2002, on file in the Office of the Development Services Department).

ENVIRONMENTAL/MITIGATION REQUIREMENTS:

14. The applicant shall comply with the Mitigation, Monitoring and Reporting Program [MMRP] as specified in Mitigated Negative Declaration, LDR No. 99-1331, Project No. 3192 Number, 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
Paleontological Resources
Transportation/Circulation
Public Services/Utilities
Human Health & Public Safety

MULTIPLE SPECIES CONSERVATION PLAN REQUIREMENTS:

15. Prior to recordation of the first final map and/or issuance of any grading permits, the applicant shall ensure construction of a six-foot-high fence along areas adjacent to the MHPA, satisfactory to the City Manager and the City Engineer, to direct MHPA access to designated areas. Any necessary future fence repairs shall be conducted in a manner which does not result in impacts to sensitive biology resource or wildlife movement.

16. Prior to recordation of the first final map and/or issuance of any grading permits, the on-site MHPA area 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.

17. 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.).

18. 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:

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

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

21. Prior to issuance of any building permit a Process Two Substantial Conformance Review [SCR] shall be submitted to determine compliance with the Design Guidelines for Torrey Ranch.

22. The design of the gated entry shall be consistent with the low scale nature of the gate entry approved on the Landscape Plan Exhibit "A," dated September 24, 2002, on file in the Office of the Development Services Department.

23. The pedestrian/bicycle entrances to the project shall provide permanent open access. Gates may not be located at the pedestrian/bicycle entries to the project from Public Street 'A' or the neighborhood park (adjacent to HOA Lot H).

24. The portion of Lot 74 that is designed as a vehicle turnaround and located adjacent to HOA Passive Open Space Lot H, shall utilize grass-crete or similar surface.

25. No fewer than 246 off-street parking spaces shall be maintained on the property at all times in the approximate locations shown on the approved Exhibit "A," dated September 24, 2002, on file in the Office of the Development Services Department. Parking spaces shall comply at all times with requirements of the SDMC/LDC and shall not be converted for any other use unless otherwise authorized by the City Manager.

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 a 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/LDC 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. No building additions, including patio covers, shall be permitted unless approved by the homeowners association and the Director of the Development Services Department. Patio covers may be permitted only if they are consistent with the architecture of the dwelling unit.

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

- a. approved project sign plan (Exhibit "A," dated September 24, 2002, on file in the Office of the Development Services Department); or
- b. citywide sign regulations.

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

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

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

35. Prior to the issuance of building permits, construction documents shall fully illustrate compliance with the Citywide Storage Standards for Trash and Recyclable Materials (SDMC Chapter 14, Article 2, Division 8) 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 September 24, 2002, on file in the Office of the Development Services Department.

LANDSCAPE REQUIREMENTS:

36. No change, modification or alteration shall be made to the project unless appropriate application or amendment of this Permit has been granted by the City. All plan specifications and notes mentioned in the conditions below shall be consistent with the SDMC/LDC section 142.0401 and Landscape Standards, Exhibit A, Landscape Development Plan, Brush Management Plan, Details and Notes, dated September 24, 2002, on file in the Office of the Development Services Department.

37. All required landscape plant materials shall be maintained in a disease, weed and litter free condition at all times. Severe pruning or "topping" of trees is not permitted. The trees shall be maintained in a safe manner to allow each tree to grow to it's mature height and spread.

38. 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. A Landscape Maintenance Agreement and bond shall be entered into prior to issuance of any grading or construction permit. The agreement and bond shall be renewed each year until such time that another approved entity assumes responsibility such as a home owners association or a Landscape Maintenance District.

39. 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.

40. Prior to issuance of any engineering permits for right-of-way improvements, complete landscape and irrigation plans on duplicates of improvement plans shall be submitted to the City Manager for approval. Plans, details and specifications (including maintenance specifications), and landscape Improvement plans shall indicate each street tree by station points and staking in the field with a lodge pole tree stake prior to any utilities stub-outs. Tree stakes shall remain in place until trees are planted.

41. Prior to issuance of any engineering permits for grading, landscape construction documents (including irrigation plans) for slope planting, erosion control, re-vegetation and hydroseeding shall be submitted to the City Manager for approval.

42. Immediate installation of slope planting and erosion control, including seeding of all disturbed land (slopes and pads) and associated irrigation systems (temporary and/or permanent) is considered to be in the public's interest. Planting of all graded slopes shall be accomplished prior to any issuance of a build permit for structures. A letter of substantial conformance from the landscape architect or designer shall be submitted to the city manager for approval.

43. 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.

44. Prior to the recording of the (parcel/final map), the subdivider shall submit complete landscape construction documents, including plans, details, and specifications (including a permanent automatic irrigation system unless otherwise approved), for the required right-of-way and median (if applicable) improvements, slope re-vegetation and hydroseeding of all disturbed land in accordance with the Landscape Standards and to the satisfaction of the City Manager. The applicant shall assure by permit, cost estimate and bond, the installation of landscaping per landscape construction documents.

45. Prior to the recording of the map, the Permittee or subsequent Owner/Developer shall submit for review, a Landscape Maintenance Agreement for all landscape improvements within and visible from the public right-of-way . The approved Landscape Maintenance Agreement shall be recorded and bonded prior to recording of the map.

46. The Permittee shall implement the following requirements in accordance with the Brush Management Program shown on Exhibit A, Brush Management Program/Landscape Development Plan, dated September 24, 2002, on file in the Office of the Development Services Department.

47. Prior to issuance of permits or recording of final maps, all easements or right of entry permits for the purpose of Brush Management shall be obtained.

48. Prior to issuance of any engineering permits for grading, complete Brush Management, planting and irrigation plans, details and specifications (including maintenance specifications), shall be submitted to the City Manager for approval. All plans shall indicate the brush management zones depths by dimension.

49. Prior to any construction or grading, it shall be the responsibility of the Permittee to schedule a pre-construction meeting on site with the contractor and the Mitigation, Monitoring & Conservation section of Development Services Department to discuss and outline the implementation of the Brush Management Program.

50. In all brush management zones the plant material shall be selected to visually blend with the existing hillside vegetation. No invasive plant material shall be permitted as determined by the Landscape Section of Development Services Department.

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

TRANSPORTATION REQUIREMENTS:

52. The project shall conform to the Torrey Highlands Subarea IV Transportation Phasing Plan in the Public Facilities Financing Plan dated October 1996, and the final EIR Traffic Study dated June 1996.

WASTEWATER REVIEW REQUIREMENTS:

53. The developer shall construct the Carmel Valley Trunk Sewer or enter into a Reimbursement Agreement with other developments that construct more than their fair share of the Carmel Valley Trunk Sewer.

54. All proposed public sewer facilities are to be designed and constructed in accordance with established criteria in the most current City of San Diego sewer design guide. Proposed facilities that do not meet the current standards shall be private or re-designed. Re-design may include, but is not limited to, land form modification and changes to street alignments.

55. The developer shall install all sewer facilities required by the accepted sewer study, necessary to serve this development. Sewer facilities as shown on the approved tentative map will require modification based on the accepted sewer study.

56. The developer shall install all sewer facilities required by the accepted sewer study, necessary to serve this development. Sewer facilities as shown on the approved tentative map will require modification based on the accepted sewer study.

57. The developer shall grant adequate sewer, and/or access easements, including vehicular access to each manhole, for all public sewer facilities that are not located within public rights-of-way, satisfactory to the Metropolitan Wastewater Department Director. Minimum easement width for sewer mains with manholes - 20 feet. The easements shall be located within

single lots. Vehicular access roadbeds shall be a minimum of 20 feet wide and surfaced with suitable approved material satisfactory to the Metropolitan Wastewater Department Director.

58. An additional 5 feet of width per additional utility is required for easements containing more than one utility. For sewer mains more than 10 feet deep, two feet of additional easement width for each foot of depth over 10 feet shall be required.

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

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

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

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

63. For public on-site sewer facilities located within a gated community, the developer shall provide the Wastewater Collection Divisions with keyed access satisfactory to the Metropolitan Wastewater Department Director. The City will not be held responsible for any issues that may arise relative to possession of the keys.

64. 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.

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

WATER REVIEW REQUIREMENTS:

66. 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.

67. 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.

68. Prior to the issuance of any certificates of occupancy, the Owner/Permittee shall install encroachment water services, to serve each lot with less than forty feet of frontage on an improved vehicular right-of-way 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.

69. Prior to the issuance of any certificates of occupancy, the Owner/Permittee shall install fire hydrants at locations satisfactory to the Fire Department, the Water Department Director, and the City Engineer.

70. Prior to the issuance of any building permits, necessary public water facilities to provide a redundant water supply to this development shall be complete and operational in a manner satisfactory to the Water Department Director and the City Engineer.

71. 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 September 24, 2002, on file in the Office of the Development Services Department, will require modification based on standards at final engineering.

72. 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. No structures or landscaping of any kind shall be installed in or over any vehicular access roadway.

73. 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.

74. 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.

75. 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.

ENGINEERING REQUIREMENTS:

76. The Permit shall comply with the conditions of the final map for Torrey Ranch, Tentative Map No. 99-1331.

77. Vehicular access within the residential development shall be by a system of privately maintained, non-dedicated, private driveways constructed in a manner satisfactory to the City Engineer.

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-297095, on September 24, 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.

TR II, LLC
Owner/Permittee

By _____

Poway Unified School District School
Facilities Financing Corporation
Owner/Permittee

By _____

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