

RESOLUTION NUMBER R-297099

ADOPTED ON SEPTEMBER 24, 2002

WHEREAS, Steve and Linda Obradovich Family 1996 Rev. Trust, Owner and Western Pacific Housing - Torrey Meadows, LLC., Permittee, filed an application with the City of San Diego for a Planned Residential Development Permit and a Resource Protection Ordinance Permit to construct 107 single-family and eighty-four multiple-family residential dwelling units and on-site amenities, designate open space and non-building lots and provide right-of-way for State Route 56 on the site known as the Shaw project, located between Torrey Meadows Drive and Torrey Santa Fe Road west of Camino Ruiz, and legally described as Parcel "B," Parcel Map No. 6038, in the Torrey Highlands Subarea IV Plan area, in the AR-1-1 zone which is proposed to be rezoned to the RX-1-2, RM-2-5 and OC-1-1 zones; and

WHEREAS, on August 1, 2002, the Planning Commission of the City of San Diego considered Planned Residential Development [PRD] Permit No. 7090 and Resource Protection Ordinance [RPO] Permit No. 7091, and pursuant to Resolution No. 3294-PC voted to recommend City Council approval of the permit; 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 PRD Permit No. 7090 and RPO Permit No. 7091:

**A. PLANNED RESIDENTIAL DEVELOPMENT, SAN DIEGO MUNICIPAL CODE [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 39.4 acre site is located within the boundaries of the Torrey Highlands Subarea IV Plan area adjoining the community of Rancho Penasquitos which lies to the east. This area was formerly classified as the City's Future Urbanizing Area until approved for a phase shift by the voters. This phase shift designated a maximum number of residential dwelling units, requirements for affordable housing, intensities of industrial and commercial development and attainment of the preservation of sensitive lands. Decision-makers for the City of San Diego, on previous project actions for this plan area, have stressed the need to attain the maximum development of the area to meet the City's needs for residential housing and other needs. This project provides 107 detached single-family and eighty-four multiple-family dwelling units, open space, infrastructure and the right-of-way for State Route 56 Freeway, which bisects the site.

The Rancho Penasquitos Community Planning Group has voted to support the development by a unanimous vote, recognizing that the development meets goals of both community plans and fulfills the goals of the Progress Guide and General Plan also.

**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 39.4 "Shaw Property" site was comprehensively reviewed with all the other ownerships comprising the Torrey Highlands Subarea IV Plan area for land use, densities and intensities of development, the plotting of the State Route 56 Freeway and on overall compliance with the Multiple Species Conservation Plan [MSCP] and Multiple Habitat Planning Area [MHPA] requirements, with the most sensitive areas being set aside for preservation. The different ownership components must show compliance with plan area components, share in providing public infrastructure, linking sites to each other to enhance pedestrian and vehicular circulation and access to schools, parks, commercial and industrial areas.

Additionally, this plan area lies adjacent to the Rancho Penasquitos Community, which is to the east, and criteria for compatible edge treatments was incorporated into the Torrey Highlands Subarea IV Plan to ensure that the proposed development of this area would not be detrimental to the health, safety and general welfare of persons working or residing in the area and would not adversely affect other properties in the vicinity. Each project receiving City approval, completes a portion of the overall plan for the area, thereby achieving needs of the City and providing facilities.

**3. The proposed use will fully comply with the relevant regulations of the SDMC in effect for this site.** The development of the 39.4 acre Shaw Property project with

residential uses and State Route 56 Freeway right-of-way, was submitted in 1999 and falls under SDMC regulations then in effect. By being under the umbrella of the Resource Protection Ordinance and the Planned Residential Development Ordinance, the development proposals are evaluated against the same criteria and standards under which the Torrey Highlands Subarea IV Plan have been evaluated and approved by the voters of the City who approved the phase shift of this plan area from the Future Urbanizing Area designation.

The development of 107 detached single-family and eighty-four multiple-family dwelling units will commit to the achievement of the Plan's maximum allowed residential development at a time when the city faces a housing shortage and meet the requirement for providing affordable housing. Conditions of approval in the accompanying Tentative Subdivision Map and for the Planned Residential Development and Resource Protection Ordinances, will assure that the project complies with the relevant regulations in effect for this site.

**B. RESOURCE PROTECTION ORDINANCE (ALTERNATIVE COMPLIANCE)  
SUBSTANTIAL CONFORMANCE SECTION - (SDMC SECTION 101.0462.M)**

The subdivision of this 39.4 acre site for the grading and development of 107 single-family detached dwelling units and eighty-four multiple-family dwelling units and right-of-way for the State Route 56 Freeway, is designed to comply with the provisions of the Torrey Highlands Subarea IV Plan. Section 2.2, Resource Protection Ordinance [RPO], of the Plan, references City Council Policy 600-40 as to how RPO analysis was formulated for the overall Subarea IV Plan area. The Plan specifies that, "if future project or permit applications within Torrey Highlands are found to be consistent with the Torrey Highlands Subarea IV Plan, then future RPO Permits may be approved using the Substantial Conformity determination referenced in the alternative compliance section of the RPO". This project is grading 85.6 % (33.7 acres) of the 39.4 acre site while designing around the unanticipated 'B' Street overcrossing of SR-56, the SR-56 Right-of-Way and incorporating overall design guidelines. The project site with this anticipated and inherited constraints, has been designed in substantial compliance with all elements of the Torrey Highlands Subarea IV Plan, including circulation, land use, grading, intensity and design guidelines. In addition, the project is consistent with the MSCP/MHPA criteria for this portion of the Plan area. Impacts created by this subdivision are the minimum to implement the project and mitigation measures have been incorporated into the project to reduce adverse impacts to environmentally sensitive areas.

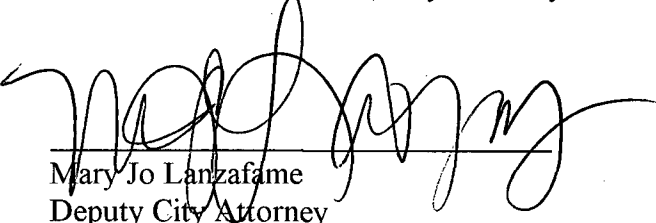
The above findings are supported by the minutes, maps and exhibits, all of which are herein incorporated by reference.

BE IT FURTHER RESOLVED, that the recommendation of the Planning Commission is sustained, and Planned Residential Development Permit No. 7090/Resource Protection Ordinance Permit No. 7091 is granted to Western Pacific Housing - Torrey Meadows, LLC., 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

  
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Mary Jo Lanzafame  
Deputy City Attorney

MJL:pev  
10/14/02  
11/5/02 Cor. Copy  
Or. Dept: Clerk  
R-2003-465  
Form=permitr. frm  
Reviewed by Robert Korch

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

**AND WHEN RECORDED MAIL TO**  
**CITY CLERK**  
**MAIL STATION 2A**

SPACE ABOVE THIS LINE FOR RECORDER'S USE

PLANNED RESIDENTIAL DEVELOPMENT PERMIT NO. 7090  
RESOURCE PROTECTION ORDINANCE PERMIT NO. 7091  
OPEN SPACE EASEMENT ABANDONMENT NO. 7094  
**SHAW PROPERTY (MMRP)**

CITY COUNCIL

This Permit is granted by the City Council of the City of San Diego to Western Pacific Housing - Torrey Meadows LLC, Owner/Permittee, pursuant to the San Diego Municipal Code [SDMC]/ Land Development Code [LDC]. After approval of the above referenced project by the City Council, Steve Obradovich and Linda A. Obradovich, as Trustees of the Steve and Linda Obradovich Family 1996 Revocable Trust, dated June 5, 2996, as amended, transferred the property to Western Pacific Housing - Torrey Meadows, LLC, a Delaware Limited Liability Company, by Grant Deed, Official Document No. 2002-0011565. The 39.4 acre site is located between Torrey Meadows Drive and Torrey Santa Fe Road west of Camino Ruiz in the AR-1-1 zone (proposed RX-1-2, RM-2-5 and OC-1-1 zones) of the Torrey Highlands Subarea IV Plan area. The project site is legally described as Parcel "B," Parcel Map No. 6038.

Subject to the terms and conditions set forth in this permit, permission is granted to Permittee to subdivide a 39.4 acre site into 2-units/142 lots for the development of 107 detached single-family dwelling units, eighty-four multiple-family dwelling units, State Route 56 Freeway Right-of-Way, open space, private streets and building restricted 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. 107 single-family dwelling units on individual lots on the south side of State Route 56 and accessed by private streets. Dwelling unit areas, including garages, range from

approximately 2,012 to 2,620 square-feet with lot sizes ranging from 2,783 to 6,667 square feet;

- b. Eighty-four multiple-family dwelling units, located on the north side of State Route 56, within twelve, 6-plex and three, 4-plex buildings with unit sizes ranging from 1,237 to 1,865 square-feet of area including the garage;
- c. One lot for the State Route 56 Right-of-Way and two lots for open space in the northwest portions of the subdivision adjacent to community/Multiple Species Conservation Program [MSCP] existing open space;
- d. Landscaping and Brush Management (planting, irrigation and landscape related improvements);
- e. Off-street parking facilities (as specified within the attached conditions of approval);
- f. Project Entry Signage, Sound Attenuation, Safety and Perimeter Walls and Fencing, and pedestrian and vehicular access to the LMXU site; and,
- g. 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. The issuance of this permit by the City of San Diego does not authorize the Permittee for this permit to violate any Federal, State or City laws, ordinances, regulations or policies including, but not limited to, the Endangered Species Act of 1973 [ESA] and any amendments thereto (16 U.S.C. § 1531 et seq.).
7. In accordance with authorization granted to the City of San Diego from the United States Fish and Wildlife Service [USFWS] pursuant to Section 10(a) of the ESA and by the California Department of Fish and Game [CDFG] pursuant to Fish and Game Code section 2835 as part of the Multiple Species Conservation Program [MSCP], the City of San Diego through the issuance of this permit hereby confers upon Permittee the status of Third Party Beneficiary as provided for in Section 17 of the City of San Diego Implementing Agreement [IA], executed on July 16, 1997, and on file in the Office of the City Clerk as Document No. OO-18394. Third Party Beneficiary status is conferred upon Permittee by the City: (1) to grant Permittee the legal standing and legal right to utilize the take authorizations granted to the City pursuant to the MSCP within the context of those limitations imposed under this permit and the IA, and (2) to assure Permittee that no existing mitigation obligation imposed by the City of San Diego pursuant to this permit shall be altered in the future by the City of San Diego, USFWS or CDFG, except in the limited circumstances described in Sections 9.6 and 9.7 of the IA. If mitigation lands are identified but not yet dedicated or preserved in perpetuity, maintenance and continued recognition of Third Party Beneficiary status by the City is contingent upon Permittee maintaining the biological values of any and all lands committed for mitigation pursuant to this permit and of full satisfaction by Permittee of mitigation obligations required by this permit, as described in accordance with Section 17.1D of the IA.
8. The Owner/Permittee shall secure all necessary building permits. The applicant is informed that to secure these permits, substantial modifications to the building and site improvements to comply with applicable building, fire, mechanical and plumbing codes and State law requiring access for disabled people may be required.
9. 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 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 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 of this permit shall 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, Project No. 1821, LDR No. 99-0518, 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  
Noise  
Public Safety  
Paleontological Resources  
Hydrology/Water Quality  
Transportation/Circulation  
Historical Resources

**PLANNING/DESIGN REQUIREMENTS:**

15. No fewer than 173 off-street parking spaces for the multiple-family dwelling units and 292 off-street parking spaces for the single-family dwelling units, 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. The project is providing 173 spaces for the multiple-family units and 338 spaces for the single-family units (forty-six in excess), and these spaces shall be maintained and not reduced without approval of the City Manager. 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.

16. Prior to issuance of any building permit, the project shall conform to the Torrey Highlands/ Subarea IV Transportation Phasing Plan dated October, 1996, and the final EIR/Traffic Study dated June 1996.

17. A minimum of 100' is required for Private Drive unit setback to allow for driveway access and parking.

18. 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.

19. 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.

20. 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.

21. 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.

22. No building additions for Unit 1 (Multi-family north site), 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.

23. No building additions for Unit 2 (Single-family detached south site) shall be permitted on Lots with a Floor Area Ratio (FAR) of 0.80 and above and no Lot shall be developed to exceed a FAR of 0.85, as shown on Exhibit "A," the Planned Residential Development Permit Site Plan, dated September 24, 2002, on file in the Office of the Development Services Department. It is also the intent of this condition to additionally specify, that no building additions will be considered or approved for any lot/unit initially developed at an FAR below 0.80 to exceed 0.80 without a specific Amendment to this Planned Residential Development Permit

24. The Multi-family site, Unit 1, shall provide additional project open space and a minimum of one enhanced outdoor bar-be-que area. The seven perpendicular parking spaces in the vicinity of Building No's 6-8, shall be modified to two parallel spaces, fencing modified on adjacent private yard areas and low retaining walls added to maximize the common open space/greenbelt in this area. The area between Building No. 16 and the entry driveway shall also minimize private yards by moving fencing and adding low retaining walls to maximize this area for common open space. The area north of Building No. 12 should also be enhanced unless shown not to be feasible. At least one area shall be enhanced as the bar-be-que area.

25. In order to reduce the potential for vandalism, the freeway facing facades of the sound walls shall be planted with an appropriate vining material to the satisfaction of the City Manager. (Staff realizes that this is the limit of SR-56 and is willing to discuss/revise this condition so long as this measure is somehow incorporated.)

26. In order to create a more pedestrian friendly environment, the motor courts and associated driveways shall utilize enhanced paving such as brick, pavers, color stamped concrete, or similar enhancement.

27. The builder 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.
28. 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.
29. 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.
30. All private outdoor lighting shall be shaded and adjusted to fall on the same premises where such lights are located.
31. The use of textured or enhanced paving shall meet applicable City standards as to location, noise and friction values.
32. The subject property and associated common areas on site shall be maintained in a neat and orderly fashion at all times.
33. No merchandise, material, or equipment shall be stored on the roof of any building.
34. No mechanical equipment shall be erected, constructed, or enlarged on the roof of any building on this site, unless all such equipment is contained within a completely enclosed architecturally integrated structure.
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 shall be maintained in a disease, weed, and litter free condition at all times and shall not be modified or altered unless this Permit has been amended. Modifications such as severe pruning or "topping" of trees is not permitted unless specifically noted in this Permit. The Owner/Permittee shall be responsible to maintain all street trees and landscape improvements consistent with the standards of the Land Development Manual.

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 construction permits for structures (including shell), complete landscape and irrigation plans, details and specifications (including maintenance specifications), shall be submitted to the City Manager for approval.

42. Prior to issuance of any construction permits for parking structures, the Permittee shall submit on the planting and irrigation plans a signed statement by a Registered Structural Engineer

indicating that supporting structures are designed to accommodate the necessary structural loads and associated planting and irrigation.

**ENGINEERING REQUIREMENTS:**

43. The vacation of a portion of the conservation and open space easement granted to the City of San Diego per document recorded November 22, 1996, as file No. 1996-0593899, is conditioned upon approval and recordation of a final map in accordance with the Subdivision Map Act section 66434(g)

44. This Permit shall conform and be consistent with Tentative Map No. 1821, Approval No. 7092.

**WATER REQUIREMENTS:**

45. 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. Parallel water mains shall have a minimum separation of 20-feet.

46. The Owner/Permittee shall install encroachment water services, to serve each building with less than 40 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.

47. 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.

48. 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", will require modification based on standards and final engineering.

49. Prior to the issuance of any building permits, the Owner/Permittee shall process encroachment maintenance and removal agreements for all acceptable encroachments of

structures, enhanced paving, 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.

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

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

52. The Owner/Permittee agrees to design and construct all proposed public water facilities in accordance with established criteria in the most current edition of the City of San Diego Water Facility Design Guidelines and City regulations, standards and practices pertaining thereto. Facilities as shown on approved Exhibit "A," dated September 24, 2002, on file in the Office of the Development Services Department, will require modification at final engineering to comply with standards.

53. 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.

**WASTEWATER REQUIREMENTS:**

54. 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.

55. The developer shall design and construct all proposed public sewer facilities in accordance with established criteria in the most current edition of the City of San Diego sewer design guide. Proposed facilities that do not meet the current standards shall be redesigned or private.

56. 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.

57. 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.

58. Prior to the issuance of any building permits, 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 fully improved public rights-of-way, satisfactory to the Metropolitan Wastewater Department Director.

59. 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.

60. 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.

**Affordable Housing:**

63. Prior to the filing of the first final map, Subdivider shall comply with the requirements of the Torrey Highlands Subarea Plan for Affordable Housing [Affordable Housing Requirements] by satisfying the requirements of subparagraph A., below:

A. Obtain the approval of the Executive Director or of the Housing Authority of the City of San Diego [Authority], or designee, and the City Manager of the City of San Diego [City], or designee, of a "Reservation and Dedication Agreement" that makes provision for the rent restricted occupation by persons and/or families earning 65% or less of area median income at rental rates that are affordable to such persons and/or families earning 60% of area median income, for thirty-one units for a period of fifty-five years, on terms and conditions acceptable to the Executive Director. The Reservation and Dedication Agreement shall address the following issues concerning Affordable Housing to the satisfaction of the Executive Director and the City Manager, or designee:

1. Siting, design, unit mix, appearance, architectural and floor plans, of the Affordable Units, as referenced on City approved tentative maps and City approved PRD exhibits for the common site(s);
2. Security for timely performance by the Subdivider of the approved Affordable Housing Plan(s) and Affordable Housing Agreement(s);
3. Execution and recordation of Affordable Housing Agreement, setting forth the requirements and timing of construction and occupancy of the Affordable Housing as referenced in the Affordable Housing Plan(s);

4. Phasing of the construction and occupancy of the Affordable Units;
5. Recordation of a Declaration of Covenants, Conditions and Restrictions, as approved by the Executive Director, assuring affordability and occupancy of the Affordable Units for a period of fifty-five years from the date of completion of construction of the Affordable Units to families earning not more than 65% of Area Median Income and at rates affordable to these families, as adjusted for family size. However, in the case of affordable rental units, in which provisions of the State Density Bonus Statute applies, rental rates shall not exceed 60% of the Area Median Income, as adjusted for assumed family size and utilities.
6. Security in the form of a lien with second priority, junior only to the Declaration, assuring dedication of the Affordable Housing Site and construction of the Affordable Units in a timely fashion, as set forth in the phasing element(s) of the Affordable Housing Plan(s). Subordination of the second lien priority security mentioned herein may be subordinated to construction and/or permanent financing deed(s) of trust in favor of institutional lender(s), as approved by the Executive Director.
7. 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(s) of existing condition(s), as may be granted by the Executive Director in her/his sole discretion.
8. 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.

64. The Shaw Project Torrey Highlands Affordable Housing Program is attached to these Planned Residential Development conditions and is on file in the Office of Planning and Development Review 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-297099, on September 24, 2002.

11/05/02 Cor.Copy

AUTHENTICATED BY THE CITY MANAGER

By \_\_\_\_\_

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**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 -  
TORREY MEADOWS, LLC**  
Owner/Permittee

By \_\_\_\_\_

By \_\_\_\_\_

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

11/6/02  
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