

RESOLUTION NUMBER R-297590

ADOPTED ON JANUARY 28, 2003

WHEREAS, Western Pacific Housing-CABRERA II LLC., Owner/Permittee, filed an application with the City of San Diego for a permit to construct thirty-four single-family residences on a 6.85-acre property, which was previously approved for seventy-six multi-family affordable housing units; the creation of three single-family lots from two previously approved single family lots and the reconfiguration of three other previously approved single family lots to allow for street design modifications, known as the Cabrera II project, located in the Torrey Highlands Subarea Plan south of planned State Route 56, west of Camino Ruiz and north of Deer Canyon Road, and legally described as Parcel 1 of Parcel Map No. 18867 & Lots 10-12, 36-41, 53, 54, 115, 116, Lot "A," and a portion of Lot "D" of Torrey Santa Fe Map No. 14274, in the City of San Diego California, in the RM-3-8 zone, which is proposed to be rezoned to the RM-1-1 zone.

WHEREAS, on December 12, 2002, the Planning Commission of the City of San Diego considered Planned Development Permit No. 9334, and pursuant to Resolution No. 297477, voted to approve the Permit; and

WHEREAS, the matter was set for public hearing on January 28, 2003, 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 Planned Development Permit No. 9334, dated January 28, 2003:

I. PLANNED DEVELOPMENT PERMITS

A. The proposed development will not adversely affect the applicable land use plan. The project site is within the Torrey Highlands Subarea IV Plan. The rezone and implementation of the PDP permit will allow the construction of forty single family residential units, and six affordable multi-family units in the area. These two residential densities will accommodate a variety of income levels and the project will be consistent with the surrounding land uses. The project will provide a well-integrated land-use pattern and range of housing opportunities, as well as providing affordable housing in the Torrey Highlands IV Subarea.

The Subarea Plan designates this site for Low Medium Density (LMD) which allows residential development at a density of 5-10 dwelling units per acre. The proposed project would achieve a density of 7.3 dwelling units per acre, on a site that was approved for multiple dwelling units. The Torrey Highlands Subarea Plan also contains policies that emphasize the development of pedestrian friendly streetscapes throughout the community. The homes proposed in the area subject to the amendment would be the same homes constructed in the adjacent portion of the project and consist of three models (three elevations each) all with front porches located in front of living area. The modified grid system of the existing project would be enhanced by connecting streets where two cul-de-sacs had been approved. Therefore, the proposed project meets the intent of the Subarea Plan and will not adversely affect the applicable land use plan.

B. The proposed development will not be detrimental to the public health, safety, and welfare. The permit controlling the development contains conditions addressing the project compliance with the City's Land Development Code and other regional, state and federal regulations to prevent detrimental impacts to the health, safety, and general welfare of persons residing and/or working in the area.

Conditions of approval included in the permit require conformance with the applicable regulations of the Land Development Code during construction and occupancy of the project. These conditions specifically address brush management, lighting, the generation of noise, the appearance of landscaping, the continues operation of the development, and all issues described by the Mitigation Monitoring and Reporting Program to prevent adverse effects to those persons or other properties in the vicinity.

C. The proposed development will comply with the regulations of the Land Development Code. Specific conditions of approval require the continued compliance with all relevant regulations of the Land Development Code effective for this site and have been written as such into the Permit No. 41-1092. The project complies with RM-1-1 regulations as allowed by a Planned Development Permit. All relevant regulations shall be complied with at all times for the life of the project.

D. The proposed development, when considered as a whole, will be beneficial to the community. The proposed project would allow for the development of forty market-rate and six affordable housing units in the area. The rezone and implementation of the PDP permit will allow the construction of forty single family residential units, and six affordable multi-family units in the area. These two residential densities will accommodate a variety of income levels and the project will be consistent with the surrounding land uses. The project will provide a well-integrated land-use pattern and range of housing opportunities, as well as providing affordable housing in the Torrey Highlands IV Subarea. Therefore, The proposed development, when considered as a whole, will be beneficial to the community.

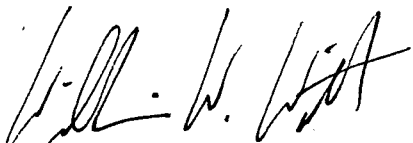
E. Any proposed deviations pursuant to Section 126.0602(b)(1) are appropriate for this location and will result in a more desirable project than would be achieved if designed in strict conformance with the development regulations of the applicable one. The requested deviations for lot size, lot width, lot depth, street frontage, front yard setback, side yard setback, rear yard setback, and height will result in achieving forty single family residential units, and six new affordable multi-family units in the area. These deviations provide a more varied development pattern and create a dynamic neighborhood. The varied elevations and front yard setbacks create a more interesting housing project. The project will be consistent with the surrounding land uses and previously approved Torrey Santa Fe Project. The project will provide a well-integrated land-use pattern and range of housing opportunities, as well as providing affordable housing in the Torrey Highlands IV Subarea Plan and result in a more desirable project than would be achieved if designed in strict conformance with the development regulations of the applicable zone.

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. 9334 is granted to Cabrera II 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 

William W. Witt
Deputy City Attorney

WWW:cdk
01/31/03
Orig.Dept.: DSD
Job No. 411092
R-2003-868

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 NUMBER 9334
CABRERA II [MMRP]
AMENDMENT TO PLANNED RESIDENTIAL DEVELOPMENT PERMIT NO. 98-0292
CITY COUNCIL

This Permit is granted by the City Council of the City of San Diego to Cabrera II LLC, Owner/Permittee, pursuant to the City of San Diego Municipal Code [SDMC] and Land Development Code [LDC]. The 7.6 acre site is located south of SR-56 west of Camino Ruiz and north of Deer Canyon Road in the RM-1-1, RM-3-8 and OP-2-1 zones of the Torrey Highlands SubArea Plan. The project site is legally described as Parcel 1 of Parcel Map No. 18867 & Lots 10-12, 36-41, 53, 54, 115, 116, Lot "A," & A portion of Lot "D" of Torrey Santa Fe Map No. 14274.

Subject to the terms and conditions set forth in this permit, permission is granted to Owner/Permittee to subdivide 12.6 acres into forty-two lots (forty single family residential, one open space and 1 (lot A) and one lettered lot (Lot B) described as, and identified by size, dimension, quantity, type and location on the approved Exhibit "A," dated January 28, 2003, on file in the Office of the Development Services Department. The facility shall include:

- a. Forty single family residential lots, one open space lot (Lot A) and one Lettered Lot (Lot B);
- 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 SDMC 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 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. 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 and any amendments thereto (16 U.S.C. § 1531 et seq.)
7. 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.
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 January 28, 2003, on file in the Office of the Development

Services Department. No changes, modifications or alterations shall be made unless appropriate application(s) or amendment(s) of this Permit have been granted.

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" 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.

10. Rezoning of the subject property shall become effective with recordation of the corresponding final subdivision map for the project site.

ENVIRONMENTAL/MITIGATION REQUIREMENTS:

11. The applicant shall comply with the updated Mitigation Monitoring and Reporting Program [MMRP] as specified in the Addendum to the Torrey Santa Fe Environmental Impact Report [EIR], Project No. 2274 (LDR No. 41-1092), satisfactory to the City Manager and the City Engineer. Prior to the issuance of any grading permits and/or building permits, the updated mitigation measures as specifically outlined in the MMRP shall be implemented for the following issue areas:

Hydrology/Water Quality

12. All applicable mitigation measures required by the Torrey Santa Fe EIR and MMRP (LDR No. 98-0292) still apply to this project.

PLANNING/DESIGN REQUIREMENTS:

13. No fewer than eighty (two spaces per unit) off-street parking spaces shall be maintained on the property at all times in the approximate locations shown on the approved Exhibit "A," dated January 28, 2003, on file in the Office of the Development Services Department. Parking spaces shall comply at all times with requirements of the SDMC and shall not be converted for any other use unless otherwise authorized by the City Manager.
14. 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.
15. 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.
16. A topographical survey conforming to the provisions of the SDMC 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.
17. 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.
18. 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.
19. Prior to issuance of grading permits, the applicant shall revise the plan to include the required common open space area. That portion of Lot A adjacent to Lot 13 and lying just northerly of the trailhead shall be improved as a usable common open space area and planted in turf.
20. All private outdoor lighting shall be shaded and adjusted to fall on the same premises where such lights are located.

21. The use of textured or enhanced paving shall meet applicable City standards as to location, noise and friction values.
22. The subject property and associated common areas on site shall be maintained in a neat and orderly fashion at all times.
23. 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.
24. 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.
25. Prior to the issuance of building permits, construction documents shall fully illustrate compliance with the Refuse and Recyclable Materials Storage Regulations (SDMC section 142.0801) 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 _____, on file in the Office of the Development Services Department.

LONG RANGE PLANNING REQUIREMENTS:

26. Prior to filing of Final Map, the applicant shall enter into a Reservation and Dedication Agreement with the San Diego Housing Commission. The Reservation and Dedication Agreement will detail that the sixty-six affordable housing units [fifty-three units for Torrey Santa Fe project (PRD 98-0292) and thirteen units for Torrey Glen project (PRD 98-0261)] originally required to be located at this site, will be located at the Torrey Highlands Village project (PDP 40-0968) to the satisfaction of Housing Commission.

GEOLOGY REQUIREMENTS:

27. The underlying grading of the proposed Tentative Map has not been approved by Field Engineering Division. Field Engineering should approve the as-built grading plan and site conditions and the "as-graded" geotechnical report must be formally submitted and accepted by LDR-Geology prior to issuing engineering or building permits on this project.

TRANSPORTATION DEVELOPMENT

28. The project shall conform to the Transportation Phasing Plan for the Torrey Highlands/Subarea IV in the Public Facilities Financing plan dated October 1996.

ENGINEERING REQUIREMENTS:

29. The Permit shall comply with the conditions of the final map for Cabrera II Tentative Map No. 41-1092.

WASTEWATER REQUIREMENTS:

30. 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.

31. 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.

32. 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.

WATER REQUIREMENTS:

33. Prior to the issuance of the first building permit, the 16-inch potable water main in Camino Ruiz, from Carmel Valley Road to Park Village Road, shall be complete and operational in a manner satisfactory to the Director of the Water Department and the City Engineer.

34. Prior to the issuance of any building permits, the Owner/Permittee shall assure, by permit and bond, the demolition of all public water facilities located within the Torrey Santa Fe Court and Cooper Canyon Road rights-of-way to be vacated, as needed, in a manner satisfactory to the Director of the Water Department and the City Engineer.

35. Prior to the issuance of any building permits, the Owner/Permittee shall assure, by permit and bond, the design and construction of public 8-inch water facilities within all public rights-of-way traversing the site, necessary to serve this development, in a manner satisfactory to the Director of the Water Department and the City Engineer, maintaining redundancy throughout phasing of construction.

36. 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 Director of the Water Department 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.

37. The Owner/Permittee shall install encroachment water services, to serve each lot with less than forty (40) feet of frontage on public water facilities or less than ten feet curb to property line distance, in a manner satisfactory to the Director of the Water Department 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.

38. Prior to the issuance of any certificates of occupancy, the Owner/Permittee shall install fire hydrants at locations satisfactory to the Fire Department, the Director of the Water Department, and the City Engineer. Any proposed fire hydrant installation not conforming to Water Department standards for public fire hydrants, shall be private.

39. 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 Director of the Water Department and the City Engineer. Easements, as shown on approved Exhibit "A," dated _____, on file in the Office of the Development Services Department, will require modification based on standards at final engineering.

40. 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.

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

42. 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. Public water facilities and associated easements, as shown on approved Exhibit "A," dated _____, on file in the Office of the Development Services Department, shall be modified at final engineering in accordance with accepted studies and standards.

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-297590 on January 28, 2003.