

RESOLUTION NUMBER R-298784

ADOPTED ON JANUARY 13, 2004

WHEREAS, Western Pacific Housing, Permittee, filed an application with the City of San Diego for a site development permit and coastal development permit for the replacement and realignment of the Carmel Valley Trunk Sewer known as the Carmel Valley Trunk Sewer project, located in the McGonigle Canyon, and legally described as Parcel 1 of Parcel Map No. 17811, Parcel 1 of Parcel Map No. 9882, the west one-half of the southwest quarter of Section 15, Township 14 South, Range 3 West, San Bernardino Meridian, Lot 1 of Map No. 12477, the northeast quarter Section 15, Township 14 South, Range 3 West, San Bernardino Meridian, Parcel 2 and Parcel 4 of Parcel Map No. 8133, and Lots "R," 328, and "M" of Map No. 13978, in the Torrey Highlands and Pacific Highlands Community Plan areas; and

WHEREAS, on December 11, 2003, the Planning Commission of the City of San Diego considered Site Development Permit [SDP] No. 10167 and Coastal Development Permit [CDP] No. 41872, and pursuant to Resolution No. 3443-PC voted to recommend City Council approval of the Permit; and

WHEREAS, the matter was set for public hearing on January 13, 2004, 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 Site Development Permit No. 10167 and Coastal Development Permit No. 41872:

A COASTAL DEVELOPMENT PERMIT

1. The proposed coastal development will not encroach upon any existing physical access way that is legally used by the public or any proposed public accessway identified in a Local Coastal Program land use plan; and the proposed coastal development will enhance and protect public views to and along the ocean and other scenic coastal areas as specified in the Local Coastal Program land use plan. The proposed project will not encroach upon any existing or proposed physical accessway that is legally used by the public or identified in the pertinent plans. The project site is located in McGonigle Canyon which does not contain any existing public roads or other accessways. An access road would be constructed on top of the new pipeline within the permanent easement. This access road would include compacted native soils and could be used as a public trail consistent with the trail system described in the applicable community plans.

The proposed project would replace an existing underground trunk sewer within McGonigle Canyon and would not affect public views to and along the ocean and other scenic coastal areas. The project site is not located within a public viewshed along the ocean or in a scenic coastal area.

2. The proposed coastal development will not adversely affect environmentally sensitive lands. The proposed project will result in some significant but mitigable impacts to environmentally sensitive lands, as discussed in the Mitigated Negative Declaration for the proposed project. Only one deviation from Land Development Code Environmentally Sensitive Land [ESL] regulations, section 143.0141(b) would be required for the proposed project. Otherwise, the project is consistent with the regulations. Section 143.0141(b) requires that a 100-foot buffer be maintained from wetlands occurring in the Coastal Overlay Zone. The western portion of the proposed replacement sewer would be located within the Coastal Overlay Zone in McGonigle Canyon. The Canyon is also designated Multiple Habitat Planning Area [MHPA] in the Multiple Species Conservation Program [MSCP] Subarea Plan. The selected alignment has been sited in the least sensitive areas of the Canyon bottom to minimize impacts to sensitive impacts and allow for gravity-flow. The topography of the Canyon bottom would not allow for the provision of a 100-foot wetland buffer without disturbing additional sensitive habitats and jeopardizing the gravity-flow aspect of the proposed sewer. Therefore, the proposed project would qualify for a proposed deviation because there are no feasible measures that could further minimize the potential adverse effects to environmentally sensitive lands and the proposed deviation would be the minimum necessary to afford relief from special circumstances or conditions of the land. With approval of the proposed deviation, no significant impact associated with ESL regulation compliance would occur.

3. The proposed coastal development is in conformity with the certified Local Coastal Program land use plan and complies with all regulations of the certified Implementation Program. Several City land use plans have been adopted which apply to the proposed project, the project area, or the potentially affected surrounding areas and resources. The pertinent plans and policies governing the proposed project are the City's General Plan, North City Future Urbanizing Area Framework Plan, Pacific Highlands Ranch Subarea Plan, Torrey Highlands Subarea Plan, and Multiple Species Conservation Program. The Pacific Highlands Ranch and Torrey Highlands Subarea Plans are the applicable Local Coastal Program land use plans for the project area. The proposed project is not anticipated to conflict with any of

these plans. The Pacific Highlands Ranch and Torrey Highlands Subarea Plans contain general goals, policies, and principles for development of Subareas III and IV. The most pertinent of these goals, policies, and principles are those that refer to public facilities and trails. The Subarea Plans state that all facilities in the MHPA shall be designed to comply with the MSCP Subarea Plan requirements. The proposed project would be constructed to comply with all MSCP requirements and would be designed to avoid concentrations of sensitive species where feasible. In addition, all disturbed areas would either be revegetated or mitigated per MSCP ratios. The Subarea Plans also identify planned trails and suggest that access roads be used for trails where appropriate through the MHPA. After construction, the proposed alignment would be available for conversion to a multi-use trail which is consistent with these plans. Lastly, the goals and policies in the City's General Plan and North City Future Urbanizing Area Framework Plan are more general than those in the Subarea Plans and adherence to the Subarea Plans will ensure consistency with these broader land use documents.

4. For every Coastal Development Permit issued for any coastal development between the nearest public road and the sea or the shoreline of any body of water located within the Coastal Overlay Zone the coastal development is in conformity with the public access and public recreation policies of Chapter 3 of the California Coastal Act. The proposed project is not between the nearest public road and the sea or the shoreline of any body of water located within the Coastal Overlay Zone and, therefore, it is consistent with this finding. Nevertheless, the proposed project is in conformity with the public access and public recreation policies of Chapter 3 of the California Coastal Act because it does not include any features that would alter or otherwise affect existing public access or recreation.

B SUPPLEMENTAL FINDINGS – ENVIRONMENTALLY SENSITIVE LANDS WITHIN THE COASTAL OVERLAY ZONE

1. Based on the economic information provided by the applicant, as well as any other relevant evidence, each use provided for in the Environmentally Sensitive Lands Regulations would not provide any economically viable use of the applicant's property. The proposed project is the replacement of a trunk sewer through private and public lands. Therefore, the purpose of the proposed project is not for the economic benefit of the underlying property owners and this finding is not applicable.

2. Application of the Environmentally Sensitive Lands Regulations would interfere with the applicant's reasonable investment-backed expectations. Only one deviation from ESL regulations, section 143.0141(b) would be required for the proposed project, otherwise, the project is consistent with the regulations. As previously discussed, there are no feasible alternative that would minimize impacts with regard to this deviation.

3. The use proposed by the applicant is consistent with the applicable zoning. The proposed project is a replacement of an existing sewer pipeline. The proposed sewer replacement project is located within the MHPA and is consistent with the OR-1-2 zone, pursuant to Land Development Code [LDC] section 131.0250(b) because the project alignment has been selected based on the least sensitive areas in McGonigle Canyon and is allowed under LDC section 143.0130(d).

4. The use and project design, siting, and size are the minimum necessary to provide the applicant with an economically viable use of the premises. Detailed engineering has been conducted for the proposed project and it has been determined that the site is physically

suitable for the design and siting of the project. Minimum disturbance to environmentally sensitive lands will occur as the project will avoid steep hillsides, coastal beaches, and sensitive coastal bluffs, will minimally impact sensitive biological resources as discussed in the Biology Technical Report, and will not substantially impact the 100-year floodplain. The proposed project also has been sited to minimize the alteration of the natural landforms.

5. The project is the least environmentally damaging alternative and is consistent with all provisions of the certified Local Coastal Program with the exception of the provision for which the deviation is requested. As discussed in the Biological Technical Report, the proposed project is least environmentally damaging alternative based on a review of alternatives out of the canyon and within the canyon. The proposed project is also consistent with all provisions of the certified Local Coastal Program (discussed previously and detailed in Table 1) with the exception of the provision for which the deviation is requested. The proposed coastal development will not encroach upon any existing physical access way that is legally used by the public or any proposed public accessway identified in a Local Coastal Program land use plan; and the proposed coastal development will enhance and protect public views to and along the ocean and other scenic coastal areas as specified in the Local Coastal Program land use plan.

C SITE DEVELOPMENT PERMIT

1. The proposed development will not adversely affect the applicable land use plan. Several City land use plans have been adopted which apply to the proposed project, the project area, or the potentially affected surrounding areas and resources. The pertinent plans and policies governing the proposed project are the City's General Plan, North City Future Urbanizing Area Framework Plan, Pacific Highlands Ranch Subarea Plan, Torrey Highlands Subarea Plan, and Multiple Species Conservation Program. The Pacific Highlands Ranch and Torrey Highlands Subarea Plans are the applicable Local Coastal Program land use plans for the project area. The proposed project is not anticipated to conflict with any of these plans. The Pacific Highlands Ranch and Torrey Highlands Subarea Plans contain general goals, policies, and principles for development of Subareas III and IV. The most pertinent of these goals, policies, and principles are those that refer to public facilities and trails. The Subarea Plans state that all facilities in the MHPA shall be designed to comply with the MSCP Subarea Plan requirements. The proposed project would be constructed to comply with all MSCP requirements and would be designed to avoid concentrations of sensitive species where feasible. In addition, all disturbed areas would either be revegetated or mitigated per MSCP ratios. The Subarea Plans also identify planned trails and suggest that access roads be used for trails where appropriate through the MHPA. After construction, the proposed alignment would be available for conversion to a multi-use trail which is consistent with these plans. Lastly, the goals and policies in the City's General Plan and North City Future Urbanizing Area Framework Plan are more general than those in the Subarea Plans and adherence to the Subarea Plans will ensure consistency with these broader land use documents.

2. The proposed development will not be detrimental to the public health, safety, and welfare. Conditions of approval found within the permits address health, safety and general welfare issues. Compliance with applicable grading regulations would also be required at the construction phase. Therefore, the proposed development would not be detrimental to the public health, safety and welfare.

3. The proposed development will comply with the applicable regulations of the Land Development Code. The Carmel Valley Trunk Sewer project has been designed to comply with all criteria and regulations of the Land Development Code.

D SUPPLEMENTAL FINDINGS--ENVIRONMENTALLY SENSITIVE LANDS

1. The site is physically suitable for the design and siting of the proposed development and the development will result in minimum disturbance to environmentally sensitive lands. Detailed engineering has been conducted for the proposed project and it has been determined that the site is physically suitable for the design and siting of the project. Minimum disturbance to ESL will occur since the project avoids steep hillsides, coastal beaches, and sensitive coastal bluffs. The project also minimally impacts sensitive biological resources as discussed in the Biology Technical Report prepared for the project, and does not substantially impact the 100-year flood plain.

2. The proposed development will minimize the alteration of natural land forms and will not result in undue risk from geologic and erosional forces, flood hazards, or fire hazards. The proposed project, an underground pipe line, has been aligned to minimize the alteration of the natural landforms and designed to ensure it will not result in undue risk from geologic and erosional forces, flood hazard or fire hazards. Wherever possible, the proposed sewer would be located beneath or adjacent to an existing access road to minimize the alteration of the natural landforms. The access road to the sewer would be enhanced with decomposed granite surfacing and landscaping within the remainder of the access easement to avoid undue risk from erosional forces. The proposed project is an underground pipe line consistent with the applicable floodplain regulations, and therefore, construction of the sewer project in the 100-year floodplain would not result in undue risk from flood hazards. The project would not result in undue risk from geologic forces or fire hazards.

3. The proposed development will be sited and designed to prevent adverse impacts on any adjacent environmentally sensitive lands. The proposed project is consistent with the applicable floodplain regulations as discussed in the Biological Technical Report, and is aligned and designed to prevent and minimize adverse impacts to biological resources. The project includes restoration of some disturbed areas in McGonigle Canyon. Areas temporarily impacted by construction of the sewer would be restored to appropriate habitat. The project also includes monitoring for any restored or revegetated areas pursuant to the City's Landscape Technical Manual guidelines to assure successful revegetation.

4. The proposed development will be consistent with the City of San Diego's Multiple Species Conservation Program [MSCP] Subarea Plan. As discussed in the Biological Technical Report, the proposed project is consistent with all applicable guidelines and policies in the MSCP Subarea Plan. Utility lines are considered conditionally compatible with the biological objectives of the MSCP and are allowed in the MHPA. A single utility access in McGonigle Canyon is specifically mentioned in the City's MSCP Subarea Plan. Planning policies and guidelines for such projects in the MHPA state that all proposed sewer lines should be designed to avoid or minimize intrusion into the MHPA and be routed through development or developing areas whenever possible. Other alignments were studied for the placement of this sewer line outside the MHPA. No other option was feasible. The policies and guidelines state that if no other routing is feasible, then the lines should follow existing roads, easements, right-

of-way and disturbed areas. The project is consistent with the MSCP policies and guidelines since its design follows existing easements, roads and disturbed areas to the maximum extent possible.

5. The proposed development will not contribute to the erosion of public beaches or adversely impact local shoreline sand supply. The proposed project is not located on or near a public beach and would not substantially effect the hydrology of the creeks in the vicinity. Therefore, it would not contribute to the erosion of public beaches or affect local shoreline and supply.

6. The nature and extent of mitigation required as a condition of the permit is reasonably related to, and calculated to alleviate, negative impacts created by the proposed development. All mitigation measures developed for the proposed project are reasonably related to and would alleviate the temporary impacts created by the project. All temporary impacts to sensitive habitat would be mitigated according to the mitigation ratios identified in the MSCP Subarea Plan. Temporary impacts would be mitigated by reseeding the impacted areas with appropriate species habitat when construction is completed. Such areas would be monitored for 25 months as required by the City's Landscape Technical Manual for natural revegetation. Appropriate restrictions are imposed on clearing, grubbing and grading to protect the California gnatcatcher. The project biologist would ensure appropriate mitigation measures are employed in relation to MHPA adjacency issues. With implementation of these mitigation measures, temporary impacts to sensitive biological resources from the project would be less than significant.

E SUPPLEMENTAL FINDINGS--ENVIRONMENTALLY SENSITIVE LANDS DEVIATIONS

1. There are no feasible measures that can further minimize the potential adverse effects on environmentally sensitive lands. The proposed project consists of an alignment that has been selected utilizing the least sensitive areas of McGonigle Canyon, to maximum extent possible. The only feasible location for the replacement sewer to operate on a gravity-flow system would be in McGonigle Canyon, where the existing Carmel Valley Trunk Sewer is located. McGonigle Canyon is designated MHPA in the City's MSCP Subarea Plan, to avoid adverse impacts to environmentally sensitive lands, much of the preferred alignment would be located in existing disturbed areas within the Canyon. The proposed project would not be able to maintain a 100-foot buffer from wetlands occurring in the Coastal Overlay Zone and still locate within the least sensitive areas of the Canyon. In addition, the Canyon is not wide enough to accommodate a 100-foot buffer and still maintain a gravity-flow sewer system. However, all temporary impacts to sensitive habitat would be mitigated according to the mitigation ratios identified in the Biology Guidelines. Therefore, no further measures could be implemented to further minimize the project impacts to environmentally sensitive lands.

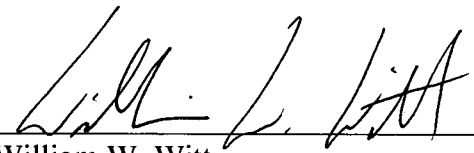
2. The proposed deviation is the minimum necessary to afford relief from special circumstances or conditions of the land, not of the applicant's making. The project would comply with all regulations of the ESL except LDC section 143.0141(b). LDC section 143.0141 (b) requires a 100-foot buffer be maintained from wetlands occurring in the Coastal Overlay Zone. The western portion of the proposed replacement sewer would be located within the Coastal Overlay Zone in McGonigle Canyon. The Canyon is also designated MHPA in the MSCP Subarea Plan. The selected alignment has been sited in the least sensitive areas of

the Canyon bottom to minimize impacts to sensitive lands and allow for gravity-flow. The topography of the Canyon bottom would not allow for the provision of 100-foot wetland buffer without disturbing additional sensitive habitats and negatively impacting the necessary functional aspects of the design to result in a successful project. The proposed project would qualify for the proposed deviation as there are no other feasible measures to further minimize the potential adverse effects to environmentally sensitive lands and the proposed deviation would be the minimum necessary to afford relief from special circumstances or conditions of the land. With approval of the proposed deviation, no significant impacts associated with ESL regulation compliance would occur.

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 Site Development Permit No. 10167 and Coastal Development Permit No. 41827 is granted to Western Pacific Housing, Permittee, under the terms and conditions set forth in the attached permit which is made a part of this resolution.

APPROVED: CASEY GWINN, City Attorney

By 
William W. Witt
Deputy City Attorney

WWW:pev
03/03/04
Or.Dept: DSD
R-2004-805
Reviewed by Farah Mahzari

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

WHEN RECORDED MAIL TO
CITY CLERK
MAIL STATION 2A

SPACE ABOVE THIS LINE FOR RECORDER'S USE

Site Development Permit No. 10167
Coastal Development Permit No. 41872
CARMEL VALLEY TRUNK SEWER PROJECT NO. 6174 (MMRP)
City Council

This Site Development Permit [SDP] No. 10167 and Coastal Development Permit [CDP] No. 41872 is granted by the City Council of the City of San Diego to Western Pacific Housing, Permittee, pursuant to the Land Development Code. The site is located in McGonigle Canyon in the Torrey Highlands and Pacific Highlands Community Plan areas. The project site is legally described as Parcel 1 of Parcel Map No. 17811, Parcel 1 of Parcel Map No. 9882, the west one-half of the southwest quarter of Section 15, Township 14 South, Range 3 West, San Bernardino Meridian, Lot 1 of Map No. 12477, the northeast quarter of Section 15, Township 14 South, Range 3 West, San Bernardino Meridian, Parcel 2 and 4 of Parcel Map No. 8133, and Lots "R," 328, and "M" of Map No. 13978.

Subject to the terms and conditions set forth in this Permit, permission is granted to Permittee for the replacement and realignment of the Carmel Valley Trunk Sewer, described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit A], dated January 13, 2004, on file in the Development Services Department. The exhibits contained in Exhibit A are identified as follows:

T-1: Title Sheet
G-1: Legends, Notes and Abbreviations
C-1 to C-14: Improvement and Grading Plans (Plan and Profile)
L-1 to L-2: Revegetation and Erosion Control Plan

The project or facility shall include:

- a. Abandonment and replacement of approximately 14,400 linear feet of 18 and 21-inch diameter reinforced plastic mortar [RPM] sewer pipeline with 24 and 30-inch diameter polyvinyl chloride [PVC] sewer pipeline in

McGonigle Canyon within the Torrey Highlands and Pacific Highlands Community Planning Areas;

- b. Landscaping (planting, irrigation and landscape related improvements);
- c. Accessory improvements determined by the City Manager to be consistent with the land use and development standards in effect for this site per the adopted community plan, California Environmental Quality Act Guidelines, public and private improvement requirements of the City Engineer, the underlying zone(s), conditions of this Permit, and any other applicable regulations of the San Diego Municipal Code [SDMC] in effect for this site.

STANDARD REQUIREMENTS:

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 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. 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 13, 2004. No changes, modifications or alterations shall be made unless appropriate application(s) or amendment(s) to 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 the special rights which the holder of the Permit is entitled as a result of obtaining 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.

10. This Coastal Development Permit shall become effective on the eleventh working day following receipt by the California Coastal Commission of the Notice of Final Action following all appeals.

ENVIRONMENTAL/MITIGATION REQUIREMENTS:

11. Mitigation requirements are tied to the environmental document, specifically the Mitigation, Monitoring, and Reporting Program [MMRP]. These MMRP conditions are incorporated into the permit by reference or authorization for the project.

12. As conditions of Site Development Permit No. 10167 and Coastal Development Permit No. 41872, the mitigation measures specified in the MMRP, and outlined in the Mitigated Negative Declaration, LDR No. 6147 shall be noted on the construction plans and specifications under the heading ENVIRONMENTAL/MITIGATION REQUIREMENTS.

13. Owner/Permittee shall comply with the Mitigation, Monitoring, and Reporting Program [MMRP] as specified in the Mitigated Negative Declaration, LDR NO. 6147 satisfactory to the City Manager and City Engineer. Prior to issuance of the first grading permit, all conditions of the MMRP shall be adhered to the satisfaction of the City Engineer. All mitigation measures as specifically outlined in the MMRP shall be implemented for the following issue areas:

- Paleontology
- Biology/MHPA
- Hazardous Waste/Public Safety

14. The Mitigation, Monitoring, and Reporting Program [MMRP] shall require a deposit of \$7,000.00 to be collected prior to the issuance of any discretionary approvals to cover the City's costs associated with implementation of the MMRP.

ENGINEERING REQUIREMENTS:

15. A portion of this project has been identified as being within the Floodway of a Special Flood Hazard Area (McGonigle Canyon). No increases to base flood elevations are allowed. A Registered Professional Engineer shall submit a no rise certification along with a detailed engineering analysis to substantiate the certification. The analysis is subject to the approval of the City Engineer.

16. If the engineering analysis shows the improvement/grading will alter the floodway or floodplain boundaries of the Special Flood Hazard Area, the Permittee must obtain a Conditional Letter of Map Revision from the Federal Emergency Management Agency [FEMA] prior to issuance of a grading, engineering, or building permits. The developer must provide all documentation, engineering calculations, and fees which are required by FEMA.

17. No bonds will be released for development associated with this project until a Letter of Map Revision [LOMR] is obtained from FEMA. The LOMR is issued based upon as-built site conditions, therefore, the Permittee must allow time to complete this process. The Permittee must provide all documentation, engineering calculations, and fees which are required by FEMA.

18. No structures except those allowed by Land Development Code section 131.0222 (Use Regulations for Open Space Zones) shall be built within the Floodway.
19. All structures built within the Special Flood Hazard Area must have the lowest floor elevated 2 feet above the base flood elevation or if the structure is nonresidential it may be flood proofed to that same elevation.
20. All fill placed within the Special Flood Hazard Area must be compacted to 95% relative compaction.
21. The developer shall denote on the improvement plans "Subject to Inundation" all areas lower than the base flood elevation plus one foot.
22. Prior to the issuance of any permits, the Permittee shall obtain a bonded grading permit for the grading proposed for this project. All grading shall conform to the requirements of the SDMC in a manner satisfactory to the City Engineer.
23. Prior to the issuance of any construction permit, the Permittee shall incorporate any construction Best Management Practices necessary to comply with Chapter 14, Article 2, Division 1 (Grading Regulations) of the SDMC, into the construction plans or specifications.
24. Development of this project shall comply with all requirements of State Water Resources Control Board [SWRCB] Order No. 99-08 and the Municipal Storm Water Permit, Order No. 2001-01 (NPDES General Permit No. CAS000002 and CA S0108758), Waste Discharge Requirements for Discharges of Storm Water Runoff Associated With Construction Activity. In accordance with said permit, a Storm Water Pollution Prevention Plan [SWPPP] and a Monitoring Program Plan shall be implemented concurrently with the commencement of grading activities, and a Notice of Intent [NOI] shall be filed with the SWRCB.
25. A copy of the acknowledgment from the SWRCB that an NOI has been received for this project shall be filed with the City of San Diego when received; further, a copy of the completed NOI from the SWRCB showing the permit number for this project shall be filed with the City of San Diego when received. In addition, the owner(s) and subsequent owner(s) of any portion of the property covered by this grading permit and by SWRCB Order No. 99-08-DWQ, and any subsequent amendments thereto, shall comply with special provisions as set forth in Section C.7 of SWRCB Order No. 99-08-DWQ.

LANDSCAPE REQUIREMENTS:

26. Prior to issuance of any grading or building permits, complete landscape construction documents, including plans, details and specifications (including a permanent automatic irrigation system unless otherwise approved), shall be submitted to the City Manager for approval. The construction documents shall be in substantial conformance with Exhibit A dated January 13, 2004. No change, modification, or alteration shall be made unless appropriate application or amendment of this Permit shall have been granted.

27. Prior to issuance of any grading permits erosion control and revegetation plans prepared by a licensed landscape architect shall be submitted to the City Manager for approval.
28. Prior to grading permit issuance, a landscape development plan meeting the requirements of the Land Development Code and the Mitigation Monitoring and Reporting Program, shall be submitted for approval.
29. Revegetation shall consist of species found in the surrounding native vegetation communities. Permittee or subsequent owner shall establish and maintain to the satisfaction of the Mitigation Monitoring Coordinator a low-growing vegetative cover not less than twelve feet wide as measured from the centerline of, and for the length of, the maintenance access road.

PLANNING/DESIGN REQUIREMENTS:

30. 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.

INFORMATION ONLY:

The applicant and city project team will furnish: plat maps and legal descriptions of the properties through which the sewer traverses, the legal description of the Coastal Commission mandated equestrian trail easement through the Barchesvsky property and all documentation and back up material supporting the MND for the sewer easement in order to facilitate efforts to procure recreation easements for the trail.

City departments will work together to put the environmental review, easement agreements, the park maintenance and other trail issues into a fast-track program on this and future trail projects of this nature.

The Parks and Recreation Department will work closely with the project to make sure that the resulting sewer maintenance road be acceptable as a trail as constructed.

The Parks and Recreation Department should work with representatives from the Carmel Valley and Del Mar Mesa Planning boards to begin to evaluate the sewer road alignment to identify any additional mitigation needed for its use as a trail once the proper easements have been secured.

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 on January 13, 2004 by Resolution No. R-298784.

AUTHENTICATED BY THE CITY MANAGER

By: _____

The undersigned Permittee, by execution hereof, agrees to each and every condition of this Permit and promises to perform each and every obligation of Permittee hereunder.

WESTERN PACIFIC HOUSING
Permittee

By _____

By _____

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

R-298784