

RESOLUTION NUMBER R-298902

ADOPTED ON FEBRUARY 10, 2004

WHEREAS, Black Mountain Ranch, LLC, a California Limited Liability Company, Owner/Permittee, filed an application with the City of San Diego for Planned Development Permit No. 4796 to allow the subdivision of a 35.92-acre site to create fifty-nine lots and allow the development of fifty-nine single family dwellings, four property association lots, public improvements and landscaping known as the North Clusters at Black Mountain Ranch project, located adjacent to Camino del Sur, and legally described as Parcel 18 of Parcel Map No. 18504, in the Black Mountain Ranch Subarea Plan area, in the AR-1-1 zone (previously referred to as the A-1-1 zone) which is proposed to be rezoned to the RS-1-11; and

WHEREAS, on February 5, 2004, the Planning Commission of the City of San Diego considered Planned Development Permit No. 4795, and pursuant to Resolution No. 3468-PC voted to recommend City Council approval of the permit; and

WHEREAS, the matter was set for public hearing on February 10, 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 Planned Development Permit No. 4795:

1. **The proposed development will not adversely affect the applicable land use plan.** The proposed development of residential housing is consistent with the designated land use of the Black Mountain Ranch Subarea Plan and all other elements and criteria of the Black Mountain Ranch Subarea Plan. The proposed development of this site with fifty-nine single family structures will fulfill a community need by increasing the available housing supply within the City of San Diego and within the community. The site is designated for single family

residential development by the Black Mountain Ranch Subarea Plan and is consistent with the City's Progress Guide and General Plan. The proposed project is consistent with the policy guidelines of these planning documents. The development of this site for single family development would also be consistent with other approved and planned developments in the immediate area.

2. The proposed development will not be detrimental to the public health, safety, and welfare. The proposed development includes the dedication of right-of-way and will contribute its fair share towards construction of needed local infrastructure. The proposed development also includes the construction of on-site water quality measures necessary to address the project's storm runoff. The development will provide for the health, safety, and welfare of the residents by complying with all brush management requirements while also increasing the setback of houses from the fuel sources.

The permit controlling the development and continued use of the development proposed for this site contains conditions addressing compliance with the City's regulations 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 require compliance with several operational constraints and development controls intended to assure the continued health, safety and general welfare of persons residing or working in the area. All applicable Building, Fire, Plumbing, Electrical, Mechanical Code sections and the City regulations governing the construction and continued operation of the development apply to this site to prevent adverse affects to those persons or other properties in the vicinity. As such the proposed development will not be detrimental to the public health, safety, and welfare.

3. The proposed development will comply with the regulations of the Land Development Code. The proposed development complies with the Black Mountain Ranch Subarea Plan and the Land Development Code. As allowed through a Planned Development Permit the proposed project includes a deviation for the minimum lot width. The deviation is consistent with the purpose and intent of the Planned Development Permit regulations and the proposed project is consistent with the density of the Black Mountain Ranch Subarea Plan. The proposed deviation permits greater flexibility in lot configurations allowing for a variety of development pattern. Specific conditions of approval require the continued compliance with all other relevant regulations of the City of San Diego effective for this site and have been written as such into Planned Development Permit No. 4795. Development of the property will meet all requirements of the regulations and development criteria relevant to the site. Concept plans and design guidelines for the project identify all other development criteria in effect for the site as required by the Land Development Code. All relevant regulations shall be complied with at all times for the life of the project. All other requirements including density and parking will be consistent with the regulations of the Black Mountain Ranch Subarea Plan.

4. The proposed development, when considered as a whole, will be beneficial to the community. The proposed development of this site with fifty-nine single family structures will fulfill a community need by increasing the available housing supply within the City of San Diego and within the community. The proposed development of fifty-nine single family structures will continue the planned development pattern previously approved for this area; will increase the

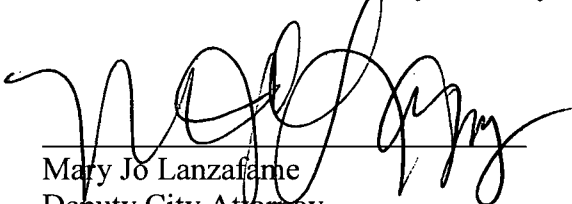
property values in the area; will add to the available tax base within the City; will provide for an increase of available lot sizes in the area; and will not present a detrimental burden to the neighborhood, community, or City of San Diego.

5. 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 zone. As stated in Finding #3 above, the proposed development complies with the Black Mountain Ranch Subarea Plan and the Land Development Code. As allowed through a Planned Development Permit the proposed project includes a deviation for the minimum lot width. The deviation is consistent with the purpose and intent of the Planned Development Permit regulations and the proposed project is consistent with the density of the Black Mountain Ranch Subarea Plan. The proposed deviation permits greater flexibility in lot configurations allowing for a variety of development pattern. As allowed through a planned development permit, the proposed project meets all the relevant regulations applicable to this site.

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. 4795 is granted to Black Mountain Ranch, LLC, a California Limited Liability Company, Owner/Permittee, under the terms and conditions set forth in the permit attached hereto and made a part hereof.

APPROVED: CASEY GWINN, City Attorney

By 
Mary Jo Lanzafame
Deputy City Attorney

MJL:cdk
02/11/04
Or.Dept: DSD
R-2004-872

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

PLANNED DEVELOPMENT PERMIT NO. 4795
NORTH CLUSTERS AT BLACK MOUNTAIN RANCH [MMRP]
City Council

This Planned Development Permit No. 4795 is granted by the Council of the City of San Diego to Black Mountain Ranch, LLC, a California Limited Liability Company, Owner/Permittee, pursuant to San Diego Municipal Code [SDMC] section 126.0601. The 35.92 acre site is located adjacent to Camino del Sur, in the northwest corner of the Black Mountain Ranch Subarea Plan in the AR-1-1 (existing) zone (RS-1-11 proposed zone). The project site is legally described as Parcel 18 of Parcel Map No. 18504, in the Black Mountain Ranch Subarea Plan area.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee to allow the development at the North Cluster. Owner/Permittee has entered into a First Amendment to Second Amended and Restated Development Agreement (Development Agreement) with the City that vests certain rights, rules, regulations and policies for a period of twenty years, as provided for in Paragraph 5.1 of the Development Agreement. In the event of a conflict between the conditions of this permit and the terms of the Development Agreement, the terms of the Development Agreement shall prevail. The permit allows the subdivision of a 35.92-acre site to create a gated neighborhood of fifty-nine lots to allow the development of fifty-nine single family dwellings, four property association lots four property association lots for open space, signage and enhanced landscaping and public and private improvements and landscaping, described and identified by size, dimension, quantity, type, and location on the approved exhibits, dated February 10, 2004, on file in the Development Services Department. The exhibits are identified as follows:

- A-1: Proposed Rezone/Master Planned Development
- A-2: Vesting Tentative Map/Master Planned Development Grading & Site Plan, Sheet 1 of 2
- A-3: Vesting Tentative Map/Master Planned Development Grading & Site Plan, Sheet 2 of 2
- A-4: Proposed Vacation Plat/Master Planned Development
- A-5: Vesting Tentative Map/Master Planned Development Planting Legend & Brush Mgt. Notes

A-6: Vesting Tentative Map/Master Planned Development Landscape Concept & Brush Mgt. Plan

A-7: Vesting Tentative Map/Master Planned Development Planting & Brush Details

The project or facility shall include:

- a. Subdivision of a 35.92-acre site to create a gated neighborhood of fifty-nine lots to allow the development of fifty-nine single family dwellings, four property association lots for open space, signage and enhanced landscaping and public and private improvements;
- b. Landscaping (planting, irrigation and landscape related improvements);
- c. Off-street parking facilities;
- 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.

STANDARD REQUIREMENTS:

1. Construction, grading or demolition must commence and be pursued in a diligent manner within thirty-six months, or as otherwise provided by the First Amendment to Second Amended Restated Development Agreement, adopted by City Council on December 10, 2001 as Document No. 22002-0043111, 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, or as otherwise provided by the Development Agreement. 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:

e. The Permittee signs and returns the Permit to the Development Services Department; and

f. 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. The Owner/Permittee shall secure all necessary building permits. The Owner/Permittee 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.

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 February 10, 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 Permit shall become effective with the recording of the corresponding final subdivision map.

11. This Permit may be developed in phases.
12. At all bus stops within the project area, if any, the Owner/Permittee shall be responsible for installing sidewalk improvements where needed to comply with Americans with Disability Act [ADA] requirements and in accordance with standards contained in the City of San Diego Street Design Manual.

ENVIRONMENTAL/MITIGATION REQUIREMENTS:

13. 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.
14. As conditions of Planned Development Permit No 4795 and Tentative Map No. 4796, the mitigation measures specified in the MMRP, and outlined in the Addendum to Environmental Impact Report No. 96-7902, LDR No. 1463 shall be noted on the construction plans and specifications under the heading ENVIRONMENTAL/MITIGATION REQUIREMENTS.
15. The Owner/Permittee shall comply with the MMRP as specified in the Addendum to Environmental Impact Report No. 96-7902, LDR No. 1463 satisfactory to the City Manager and City Engineer. Prior to issuance of the first grading permit and/or recording of the first final map and/or issuance of a building permit, as such timing is described in the MMRP, 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:

- General
- Biological Resources
- Hydrology and Water Quality
- Landform/Alteration/Visual Quality
- Historical Resources
- Paleontological Resources
- Noise

16. The MMRP shall require a deposit of \$3,200.00 to be collected prior to the issuance of grading permits to cover the City's costs associated with implementation of the MMRP.
17. A Job Order number open to the Land Development Review Division of the Development Services Department shall be required to cover the Land Development Review Division's cost associated with the implementation of the MMRP.

LANDSCAPE REQUIREMENTS:

18. The Permittee shall implement the following requirements in accordance with the Brush Management Program shown on Exhibit "A-5," Vesting Tentative Map/Master Planned Development Planting Legend & Brush Mgt. Notes, "A-6," Vesting Tentative Map/Master Planned Development Landscape Concept & Brush Mgt. Plan, "A-7," Vesting Tentative Map/Master Planned Development Planting & Brush Details, on file in the Office of the Development Services Department.
19. Prior to issuance of any engineering permits for grading, complete planting and irrigation plans, details, maintenance and construction specifications, shall be submitted to the City Manager for approval. All plans shall indicate the brush management zone depths by dimension.
20. The building construction documents shall conform to the Architectural features as described in Section 142.0412(d). In the event that Architectural Features are not incorporated into the structure(s), an additional ten feet shall be added to Zone One.
21. All plan specifications and notes mentioned in the conditions below shall be consistent with the Land Development Code 142.0401 and Landscape Standards, Exhibit "A", Landscape Concept Plan, Brush Management Plan, Details and Notes on file in the Office of the Development Services Department.
22. Prior to issuance of any engineering permits for right-of-way improvements, complete landscape and irrigation plans on duplicates of the improvement plans shall be submitted to the City Manager for approval. Improvement plans shall indicate each street tree location by station point 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.
23. All tree locations shall have a forty square feet minimum area around each tree's root zone, which is unencumbered by utilities. Driveways, utilities, drains, water and sewer laterals shall be designed so as not to prohibit the placement of any tree. During improvement activities the locations of all trees shall be identified with a lodge pole tree stake and inspected by the field engineer prior to the installation of any wet or dry utility stub-outs and placement of any pavement.
24. Installation of slope planting and erosion control, including seeding of all disturbed land (slopes and pads) and associated irrigation systems (temporary and/or permanent) is considered to be in the public interest. The Owner/Permittee shall initiate such measures as soon as the grading has been accomplished. Planting of all graded slopes shall be completed prior to any issuance of a building permit for structures. A letter of substantial conformance from the landscape architect or designer shall be submitted to the City Manager for approval.
25. Prior to issuance of any final inspection, it shall be the responsibility of the Owner/Permittee to install all required landscape improvements and obtain all required landscape

inspections. A No Fee Street Tree Permit, shall be obtained for the installation, establishment and on-going maintenance of all street trees.

26. Prior to issuance of any construction permits for structures, reference copies of approved landscape and irrigation plans, details, specifications, and brush management program shall be submitted to the City Manager for verification and approval.

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

28. Prior to recording the final map, a Landscape Maintenance Agreement and bond shall be entered into and accepted by the City Manager. 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. The Owner/Permittee shall be responsible for the maintenance of all street trees and landscape improvements within the right-of-way consistent with the Landscape Standards.

29. If any required landscape improvements (including existing or new planting, hardscape, landscape features, etc.) are damaged or removed during demolition or construction, they shall be repaired and/or replaced in kind and equivalent size per the approved documents to the satisfaction of the City Manager, within 30 days of damage and prior to any Final inspection.

BRUSH MANAGEMENT REQUIREMENTS:

30. The Owner/Permittee shall implement the following requirements in accordance with the Brush Management Program shown on Exhibits A-5, A-6 and A-7, Brush Management Program/Landscape Concept Plan, on file in the Office of the Development Services Department.

31. The building construction documents shall conform to the Architectural features as described in Section 142.0412(d). In the event Architectural Features are not incorporated into the structure(s), Zone One shall be increased an additional ten feet.

32. Within Zone One, a minimum fire rating of ONE HOUR for accessory structures, including and not limited to decks, trellises, gazebos, or other structures, may be permitted with the approval of the Fire Marshall and the City Manager.

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

34. Prior to final inspection of any building, the approved Brush Management Program shall be implemented.

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

36. The Brush Management Maintenance Program as noted on Exhibit 'A' shall be performed annually by the Owner/Permittee until such time another approved entity, such as a home owners association or a Landscape Maintenance District, assumes responsibility.

37. The Brush Management Program shall consist of two zones as follows:
Zone One at 35 feet and Zone Two at 50 feet. In accordance with the Land Development Code section 142.0412(4), a zone width alternative may be implemented, whereby the minimum Zone Two may be decreased by two feet for every one foot increase of Zone One width over the minimum 35 feet. Zone One shall not be allowed on slopes with a gradient greater than 4:1.

AFFORDABLE HOUSING REQUIREMENTS:

38. Prior to issuance of any building permits, the Owner/Permittee shall provide evidence of compliance with the Black Mountain Ranch Affordable Housing Program, Black Mountain Ranch Phase II Development Plan, attached and identified as Exhibit E to the Development Agreement, to the satisfaction of the Housing Commission and City Manager.

PLANNING/DESIGN REQUIREMENTS:

39. No fewer than two off-street parking spaces per single family structure shall be maintained on the property at all times in the approximate locations shown on the approved Exhibit "A", dated February 10, 2004. Parking spaces shall comply at all times with the SDMC and shall not be converted for any other use unless otherwise authorized by the City Manager.

40. 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.

41. 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.

42. 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 regulation of the underlying zone. The cost of any such survey shall be borne by the Permittee.
43. 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.
44. No building additions, including patio covers, shall be permitted unless approved by the homeowners association and the City Manager. Patio covers may be permitted only if they are consistent with the architecture of the dwelling unit.
45. The use of textured or enhanced paving shall meet applicable City standards as to location, noise and friction values.
46. The subject property and associated common areas on site shall be maintained in a neat and orderly fashion at all times.
47. Outdoor storage of 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 material or equipment stored not higher than any adjacent wall.
48. No merchandise, material, or equipment shall be stored on the roof of any building.
49. 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.

WATER REQUIREMENTS:

50. Prior to the issuance of the first building permit, the Owner/Permittee shall assure, by permit and bond, the design and construction of the emergency water interconnect between the City of San Diego and the Olivenhain Municipal Water District, located within the subdivision boundary, in a manner satisfactory to the Director of the Water Department and the City Engineer.
51. Prior to the issuance of the first final inspection, the emergency water interconnect shall be complete and operational in a manner satisfactory to the Director of the Water Department and the City Engineer.

52. Prior to the issuance of any building permits, the Owner/Permittee shall assure, by permit and bond, the design and construction of the public water facilities, both potable and reclaimed, identified in the accepted water studies, 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.

53. 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, unless otherwise provided for in the accepted and approved Reclaimed Water Study.

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

55. Prior to any final inspection, the Owner/Permittee shall install fire hydrants at locations satisfactory to the Fire Department, the Director of the Water Department, and the City Engineer.

56. Prior to any final inspection, 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", shall be modified to comply with standards at final engineering.

57. Prior to any final inspection, all public water facilities and vehicular access roadways 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.

58. Prior to any final inspection, the Owner/Permittee shall provide keyed access to the Water Operations Division, in a manner satisfactory to the Director of the Water Department, on all gates located within easements containing public water facilities. The City will not be held responsible for any issues that may arise relative to the availability of keys.

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

60. Providing water for this development is dependent upon prior construction of certain water facilities in previously approved developments in this area. If facilities have not been

constructed when required for this development, then the construction of certain portions of these previously approved water facilities, as required by the City Engineer, will become off-site improvements required for this development.

WASTEWATER REQUIREMENTS:

61. Prior to the issuance of any building permits, the Owner/Permittee shall assure, by permit and bond, the design and construction of all public sewer facilities necessary to serve this development.

62. The Owner/Permittee 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.

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

64. Proposed private underground sewer facilities located within a single lot shall be designed to meet the requirements of the California Uniform Plumbing Code and shall be reviewed as part of the building permit plan check.

LONG RANGE PLANNING REQUIREMENTS:

65. The pedestrian/bicycle entrance to the project shall provide permanent open access. No gates may be located at the pedestrian/bicycle entry to the project. No gates may be located at the pedestrian/bicycle entry to the project.

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

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

68. Prior to application of any building permit(s), including those for sales models, a Substantial Conformance Review shall be submitted to determine compliance with the Design Review Guidelines for the North Clusters at Black Mountain Ranch.

69. The Owner/Permittee shall comply with the Black Mountain Ranch Affordable Housing Program approved as Exhibit 'E' of the First Amendment to Second Amended and Restated Development Agreement between the City of San Diego and Black Mountain Ranch Limited Partnership, dated December 10, 2001.

70. Prior to issuance of the first building permit, the Owner/Permittee shall provide a cumulative update on the number of market rate and affordable housing units developed in the East Clusters (99-1054) and the North Village (40-0528) in order to determine compliance with the Black Mountain Ranch Affordable Housing Program.

STORMWATER REQUIREMENTS:

71. Prior to the issuance of any construction permit, the Owner/Permittee shall enter into a Maintenance Agreement for the ongoing permanent Best Management Practices maintenance, satisfactory to the City Engineer.

72. Prior to the issuance of any construction permit, the Owner/Permittee shall incorporate any construction Best Management Practices necessary to comply with Chapter 14, Article 2, Division 1 (Grading Regulations) of the San Diego Municipal Code, into the construction plans or specifications.

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-298902, on February 10, 2004.

Reviewed by John Fisher, Development Project Manager

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.

Black Mountain Ranch, LLC, a California
Limited Liability Company
Owner/Permittee

By: _____
BMR Communities LLC, a California
Limited Liability Company, its managing
member

By: _____
Standard Pacific Corp., a Delaware
Corporation, its managing member

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

