

RESOLUTION NUMBER R-299208

ADOPTED ON MAY 11, 2004

WHEREAS, Pardee Homes, Owner/Permittee, filed an application with the City of San Diego for a planned development permit, site development permit, coastal development permit, and neighborhood use permit to allow the subdivision of 277.96 acres and the future development of 139 single-family homes with guest quarters, public roads and utilities, urban amenities including a trail system, preservation of sensitive habitats, brush management, wildlife under-crossings, manufactured slopes and landscaping known as the Shaw Lorenz project, located south of Little McGonigle Ranch Road east, west and north of the proposed alignment of Carmel Mountain Road, and legally described as follows:

Parcel A: the North Half of the West Half of the Southwest Quarter of Section 22, Township 14 South, Range 3 West, San Bernardino Meridian, in the City of San Diego, County of San Diego, State of California, according to Official Plat thereof;

Parcel B: the South Half of the West Half of the Southwest Quarter of Section 22, Township 14 South, Range 3 West, San Bernardino Meridian, in the City of San Diego, County of San Diego, State of California, according to United States Government Survey;

Parcel C: Parcels 1, 2 and 3 of Parcel Map No. 17083, in the City of San Diego, County of San Diego, State of California, filed in the office of the County Recorder of San Diego County, February 26, 1993 as file No. 1993-0122845 of official records,

Parcel D: the North Half of the Northwest Quarter of the Northeast Quarter of Section 28, Township 14 South, Range 3 West, San Bernardino Base and Meridian, in the County of San Diego, State of California, according to the Official Plat thereof. Excepting therefrom that portion thereof lying within Carmel Valley Neighborhood 10, Unit No. 1 as shown by map thereof No. 13717, filed in the office of the County

Recorder of San Diego County on January 15, 1999 as file No. 1999-0025909 of official records;

Parcel E: the South Half of the Northwest Quarter of the Northeast Quarter of Section 28, Township 14 South, Range 3 West, San Bernardino Base and Meridian, in the County of San Diego, State of California, according to the Official Plat thereof. Excepting therefrom that portion thereof lying within Carmel Valley Neighborhood 10, Unit No. 1 as shown by map thereof No. 13717, filed in the office of the County Recorder of San Diego County on January 15, 1999 as file No. 1999-0025909 of official records;

Parcel F: the Southeast Quarter of the Southwest Quarter, the South half of the Northeast Quarter of the Southwest Quarter and the West 20 acres of Lot 2, all in Section 22, Township 14 South, Range 3 West, San Bernardino Meridian, in the City of San Diego, County of San Diego, State of California, according to the Official Plat thereof, in the Del Mar Mesa Specific Plan area, in the AR-1-1 zone; and

WHEREAS, on March 11, 2004, the Planning Commission of the City of San Diego considered Planned Development Permit [PDP] No. 25675/Site Development Permit [SDP] No. 25676/Coastal Development Permit [CDP] No. 25677/Neighborhood Use Permit [NUP] Permit No. 76234, and pursuant to Resolution No. 3489-PC voted to recommend City Council approval of the Permit; and

WHEREAS, the matter was set for public hearing on May 11, 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. 25675/Site Development Permit No. 25676/Coastal Development Permit No. 25677/Neighborhood Use Permit No. 76234:

**A. PLANNED DEVELOPMENT PERMIT – SAN DIEGO MUNICIPAL CODE  
[SDMC] SECTION 126.0604**

**1. The proposed development will not adversely affect the applicable land use plan.** At the time that the Del Mar Mesa Land Use Plan was considered and adopted by the City Council, a site suitability analysis was also prepared, in accordance with City Council policy, addressing development impacts to environmentally sensitive resources in the plan area. Development was directed to the least sensitive portions of the plan area, preserving the open space areas. Subsequent discretionary actions to implement the Land Use Plan were to be reviewed for consistency with the Land Use Plan/site suitability approvals. If conformance with the Land Use Plan is determined, future Site Development Permits were to be granted without requiring additional deviation findings. The proposed development is consistent with the approved Del Mar Mesa Specific Plan. The proposed 139 dwelling unit project implements the Specific Plan by providing a low-density residential development consistent with the Specific Plan's land use density designation, low-density residential, of two to five dwelling units per acre. The proposed development also provides for its fair share contribution through the Del Mar Mesa Public Facilities Financing Plan and Facilities Benefit Assessment for construction of State Route 56, the State Route 56/Camino Santa Fe interchange, and Carmel Mountain Road in the alignment and grade shown in the Specific Plan. The proposed development will also result in the dedication of open space which will become part of the City's Multiple Habitat Planning Area [MHPA] and the construction of a multi-use trail system consistent with the Specific Plan. As such, the proposed development will not adversely affect the applicable Land Use Plan.

**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 contribution of its fair share cost towards construction of State Route 56, State Route 56/Camino Santa Fe interchange, Carmel Mountain Road and Little McGonigle Ranch Road. The proposed development will construct necessary sewer and water facilities to serve the residents of the mesa as well as the development. The proposed development also constructs a detention basin necessary to handle project storm runoff. The development will also provide for the health, safety, and welfare of the residents by locating all brush management outside of the MHPA while increasing the setback of houses from the fuel sources. 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 Del Mar Mesa Specific Plan and site specific development regulations for the Shaw Texas and Lorenz parcels including having lots ranging from 14,193 square feet to 54,117 square feet which exceeds the 12,000 square foot lot minimum of the AR-1-1 zone. The proposed development complies with the Del Mar Mesa Specific Plan and the Land Development Code, except for four specific deviations as allowed through the review and approval of a Planned Development Permit. The project proposes three deviations to the regulations of the AR-1-1 zone and one to the Environmentally Sensitive Lands regulations. These deviations are for minimum lot street frontage, encroachment of architectural elements into the side yard setbacks, the maximum height of chimney spark arrestors and the minimum one hundred foot buffer for development adjacent to seasonal depressions and/or wetlands.

The Del Mar Mesa Specific Plan specifies a minimum street frontage of one hundred feet for development of single-family lots in this area; however strict compliance with this requirement would result in a standard subdivision design where the site constraints and the Del Mar Mesa Specific Plan encourage a design as the project has proposed. All other requirements including building setbacks, density, and parking requirements will comply with the regulations of the Del Mar Mesa Specific Plan.

In order to design a project which reflects the Del Mar Mesa Specific Plan's desired development pattern, deviations from the regulations of the Land Development Code are required. The Del Mar Mesa Specific Plan goal of limiting disturbance of the natural open space encourages the use of lots that are smaller than envisioned by the agricultural AR-1-1 zone of the Land Development Code. In addition, the agricultural zone does not permit architectural encroachments into required yard setbacks, yet these same encroachments are allowed in the residential RS zones. The proposed project includes architectural plans that have extensive articulation and fenestration. This level of detail is consistent with the purpose and intent of the planned development regulations; however, in order to implement this architecture in the AR-1-1 zone, a deviation is granted to permit architectural encroachments into required yard setbacks. This deviation is consistent with other projects designed and permitted in the Del Mar Mesa Community Planning Area and within the residential RS zones.

The project includes two single-story and two 2-story home plans. The chimney spark arrestors on the 2-story plans exceed by 2 feet the 30-foot height limit of the agricultural zone of the Land Development Code. Strict compliance with the height limit would be detrimental to the design aesthetic of the community and the project. The 2 foot exception to the height limit is consistent with several other approved and built projects within the Del Mar Mesa community and would be consistent with the development regulations of the residential RS zone.

A deviation from the Environmentally Sensitive Lands Ordinance is necessary to implement the alignment of Carmel Mountain Road through the project. The road alignment is not able to observe a 100 foot buffer relative to four distinct basins located adjacent to Carmel Mountain Road which qualifies as City wetlands in the southwest portion of the site. Carmel Mountain Road is part of the Del Mar Mesa Community Circulation Element which is required for regional transportation, for timely emergency vehicle response and to provide a 30-inch water main serving the community. The alignment does avoid all seasonal depressions, their watersheds and provides an adequate buffer given the constraints of topography, the City's design requirements, and the location of the depressions. At the location of the depressions the public right-of-way has been reduced to the minimum acceptable cross section to allow the safe travel of vehicles through the area. The deviation is the minimum necessary to allow the road to thread its way between the small seasonal depressions and maintain the minimum standards for a safe circulation element road.

**4. The proposed development, when considered as a whole, will be beneficial to the community.** The development will dedicate 118.3 acres of designated MHPA open space into the regional open space system. The project will preserve the functions and values of 28.25 acres of natural open space through easements on sensitive areas outside the MHPA. The project will dedicate right-of-way for public streets and construct portions of; Carmel Mountain Road; Little McGonigle Road; a 30-inch regional water main; a portion of the multi-use trail system and will

provide for a detention basin capable of handling all project-related storm runoff. The development will also contribute to the region's housing supply by constructing 139 residential units, and will pay all applicable public facilities financing and schools fees. The development will also pay an "in-lieu" affordable housing fee earmarked for production of affordable housing units as specified in the Del Mar Mesa Specific Plan. The project will also transfer density from two other sensitive sites within the Carmel Valley Community Plan area to the Shaw Lorenz site resulting in a combined preservation of 288.98 acres. For these specific reasons, the proposed development, when considered as a whole, will be beneficial to the community.

**5. Any proposed deviations pursuant to SDMC 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 designed, the project complies with the development regulations specified in the Del Mar Mesa Specific Plan. The proposed deviations are consistent with the purpose and intent of Section 126.0602 as more fully described in Finding 3 above and do not require any deviations pursuant to Section 126.0602(b)(1).

**B. SITE DEVELOPMENT PERMIT – SDMC SECTION 126.0504**

**1. The proposed development will not adversely affect the applicable land use plan.** The proposed project will not adversely affect the Del Mar Mesa Specific Plan and has been determined to be in conformance with the policies of the plan. See Finding A.1 of the Planned Development Permit Findings above.

**2. The proposed development will not be detrimental to the public health, safety, and welfare.** The proposed development will not be detrimental to the public health, safety, and welfare. See Finding A.2 of the Planned Development Permit Findings above.

**3. The proposed development will comply with the applicable regulations of the Land Development Code.** The proposed development complies with the Del Mar Mesa Specific Plan and the Land Development Code, except for four specific deviations as allowed through the review and approval of a Planned Development Permit. See Finding A.3 of the Planned Development Permit Findings above.

**C. 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.** The Del Mar Mesa Specific Plan was planned and approved consistent with the City's adopted Multiple Species Conservation Program [MSCP] preserving significant acreage for the MHPA. The proposed project creates fewer impacts to environmentally sensitive lands than otherwise approved in the adopted Del Mar Mesa Specific Plan. The development footprint has been located on areas identified in the Del Mar Mesa Specific Plan for development. Additionally, all brush management for this project has been located outside of the MHPA, thus further minimizing impact to sensitive resources. The proposed development has been sited on the portions of the project site with minimal topographic relief, most of which has been disturbed

through previous agricultural practices. As a result, both grading and disturbance of sensitive habitat is minimized.

**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 Del Mar Mesa Specific Plan was designed to minimize alterations to natural landforms. To that end, the Specific Plan includes several project specific footprints for use in analyzing future projects. As designed, the proposed project creates fewer impacts than the site specific development footprints shown in the Specific Plan for the Shaw/Lorenz property by eight acres. The development footprint has been located to minimize erosion, flood, and fire hazards. The development complies with the Region-wide erosion control plan. The plan exceeds the otherwise City-wide applicable requirements related to storm water runoff and best management practices as related to storm water runoff. Specifically, the development area is located out of the floodway and on the flatter portions of the property. All brush management will be located out of the MHPA resulting in increased building setbacks and reduced fire hazards. As such the proposed development will minimize the alteration of natural landforms and will not result in undue risk from geologic and erosional forces, flood hazards, or fire hazards.

**3. The proposed development will be sited and designed to prevent adverse impacts on any adjacent environmentally sensitive lands.** When adopted, the Del Mar Mesa Specific Plan analyzed environmentally sensitive lands within the Specific Plan area per City Council policy (600-40). The proposed project is consistent with the adopted Del Mar Mesa Specific Plan development footprint contemplated for the Shaw/Lorenz properties. The project has been sited on the flatter portion of the site, most of which was previously used for agricultural purposes. Increased brush management will be provided within the development area which further eliminates impacts to adjacent environmentally sensitive lands. The proposed development will therefore be sited and designed to prevent adverse impacts on any adjacent environmentally sensitive lands.

**4. The proposed development will be consistent with the City of San Diego's Multiple Species Conservation Program (MSCP) Subarea Plan.** The Del Mar Mesa Specific Plan established the boundary of the MHPA within the Subarea. "Hard lines" were adopted for the MHPA when the Subarea Plan was approved. This proposed development is entirely consistent with the MHPA preserve boundary. Moreover, this development accommodates all brush management within the development area, thus no brush management activities will occur within the MSCP preserve. All other requirements of the MSCP have been met or exceeded for the developable portions of the proposed development. Therefore, the proposed project will be consistent with the City's MSCP Subarea Plan.

**5. The proposed development will not contribute to the erosion of public beaches or adversely impact local shoreline sand supply.** The proposed development is located four miles east of the Pacific Ocean's beaches and local shoreline and on-site development will not contribute to erosion of public beaches or adversely impact shoreline sand supply. A detention/desiltation basin is provided on-site to reduce surface water runoff and reduce water runoff velocities to the extent water runoff will substantially decrease the potential for downstream siltation. The proposed development will not contribute to the erosion of public beaches or adversely impact local shoreline sand 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.** In addition to a Subarea-wide Environmental Impact Analysis [EIR], the EIR for the Del Mar Mesa Specific Plan included a site specific impact analysis for this proposed development. An initial study has been conducted for the proposed development on this site and concluded that the EIR for Del Mar Mesa addressed all environmental impacts associated with this project. Findings to support the EIR's conclusion have been made and are part of this project's record. In addition, all mitigation measures identified in the EIR associated with this proposed development have been adopted and will be incorporated into the requirements of the planned development permit. Thus, all mitigation reasonably related to and calculated to alleviate negative impacts created by the proposed development has been or will be incorporated into the conditions of the development permit.

**D. COASTAL DEVELOPMENT PERMIT – SDMC SECTION 126.0708**

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 coastal line crosses a very narrow section of the property along the southeastern boundary of the site. The project does not block or impede any legal or proposed accessway to the coast. The project protects and enhances views into Los Peñasquitos Canyon. In addition, views to the ocean or other scenic coastal areas do not exist and thus are not affected.

2. **The proposed coastal development will not adversely affect environmentally sensitive lands.** The Del Mar Mesa Specific Plan and EIR anticipated that certain environmentally sensitive lands will be affected within the development areas defined in the Specific Plan. Since the Del Mar Mesa Specific Plan was adopted under the City Council Policy (600-40) impacts to environmentally sensitive lands within the Specific Plans development areas has been planned. The proposed project is consistent with the adopted Del Mar Mesa Specific Plan. In fact, the project is less impactful by eight acres than either of the development footprints shown for the Shaw/Lorenz properties.

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.** As designed, the project is consistent with the Del Mar Mesa Specific Plan; therefore, consistent with the Certified Local Coastal Program Land Use Plan and Implementation Program. In fact, the proposed project affects less area than anticipated in the certified Local Coastal Program Land Use Plan by eight acres.

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 project is not located between the ocean and the first public road or between the shoreline of any body of water and the first public road. The proposed project includes a series of public trails that connect with

the surrounding neighborhoods and Los Peñasquitos Canyon. The development fully complies with the public access and recreation policies of Chapter 3 of the California Coastal Act.

**E. 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.** Several seasonal depressions are located close to the community element and regionally significant Carmel Mountain Road. The road alignment is not able to observe a 100 foot buffer relative to four distinct basins located adjacent to Carmel Mountain Road which qualify as City wetlands in the southwest portion of the site. The Environmentally Sensitive Lands Ordinance generally requires a one hundred foot buffer to be provided for wetlands within the Coastal Zone. In this instance, preservation of each depression and watershed depends upon a particular alignment of Carmel Mountain Road which makes it impossible to maintain the buffer. Implementation of the 100 foot buffer would result in the destruction of other depressions. Such destruction is not acceptable when the impact can be avoided. The design of Carmel Mountain Road preserves the entire watershed for each depression which allows the existing hydrology and existing function to remain; therefore the reduction of the buffer is environmentally preferable. Carmel Mountain Road has been designed to be the minimum roadway width and radii requirements allowed in the Street Design Manual. It also avoids all of the seasonal depressions and watersheds and provides adequate buffers given the topography, the City Street Design Requirements, and the location of the depressions. This community plan element road also includes a 30" water main to serve the Del Mar Mesa Community and other nearby communities and provides a second point of access to the community for timely fire or police emergency vehicular response. Exclusion of the road would preclude the provision of a redundant water supply, jeopardize public safety and potentially deny the applicant reasonable use of the property.

**2. Application of the Environmentally Sensitive Lands Regulations would interfere with the applicant's reasonable investment-backed expectations.** To comply with the 100 foot buffer from wetlands or vernal pools in the Coastal zone would require the elimination of Carmel Mountain Road from the Circulation Element of the Del Mar Mesa Specific Plan. Elimination of Carmel Mountain Road would significantly reduce the number of dwelling units on the property which will interfere with the applicant's responsible economic expectations. In addition, the removal of a significant number of dwelling units will adversely affect the Del Mar Mesa community by eliminating community services both within and external to the Del Mar Mesa Specific Plan area through the reduction of facilities benefit assessment/public facilities finance plan fee collected. Elimination of the circulation element road would also lengthen response times for emergency services to the Del Mar Mesa area. Allowing for the deviation is in the public's best interest and will not result in direct impacts to the wetlands.

**3. The use proposed by the applicant is consistent with the applicable zoning.** The project is consistent with the Del Mar Mesa Specific Land Use Plan and its implementing policies. The proposed development will create fewer impacts than the site-specific footprints



included in the Del Mar Mesa Specific Plan for the Shaw/Lorenz properties. The proposed project is consistent with the existing AR-1-1 zoning regulations in effect for the site.

**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.** The grade and alignment of Carmel Mountain Road has been carefully reviewed, sited, and designed to limit the reduction of the buffers for the isolated seasonal depressions in the Coastal zone. The road alignment is also consistent with the certified Local Coastal Program Land Use Plan. The width of the road is the minimum allowed, per the City of San Diego Street Design requirements, to serve the Del Mar Mesa Community, the development, and the minimum width necessary to comply with the City of San Diego Water Departments hard surface width requirements. Elimination of the road will cause the community and the development to only have one point of access and prevent the community from having a redundant water supply. Approving the proposed project design will prevent negative impacts to public health and safety conditions which is consistent with the City's mission and responsibility.

**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.** The project design has been carefully reviewed and all reasonable alternatives have been considered. City staff has determined the proposed project to be the least environmentally impacting alternative. The horizontal and vertical alignment of Carmel Mountain Road is consistent with the certified Local Coastal Program Land Use Plan. The grade and alignment of Carmel Mountain Road does not affect or damage any of the isolated seasonal depressions or their watersheds. In fact, the deviation requested relates solely to the one hundred foot buffer relative to the road. The development otherwise adheres to the one hundred foot buffer elsewhere as required in the project's design within the Coastal zone. In all other respects, the project is consistent with the Del Mar Mesa Specific Plan and the Certified Local Coastal Program.

#### **F. NEIGHBORHOOD USE PERMIT – SDMC SECTION 126.0205**

**1. The proposed development will not adversely affect the applicable land use plan.** The proposed project will not adversely affect the Del Mar Mesa Specific Plan and has been determined to be in conformance with the policies of the plan. See Finding A.1 of the Planned Development Permit Findings above.

**2. The proposed development will not be detrimental to the public health, safety, and welfare.** The proposed development will not be detrimental to the public health, safety, and welfare. See Finding A.2 of the Planned Development Permit Findings above.

**3. The proposed development will comply with the applicable regulations of the Land Development Code.** The proposed development complies with the Del Mar Mesa Specific Plan and the Land Development Code, except for four specific deviations as allowed through the review and approval of a Planned Development Permit. See Finding A.3 of the Planned Development Permit Findings above.

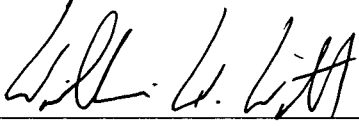
The above findings are supported by the minutes, maps and exhibits, all of which are herein incorporated by reference.

BE IT FURTHER RESOLVED, that the City Auditor and Comptroller be and he is hereby authorized to establish an interest bearing account, Maintenance Fund, to be used by the Park and Recreation Department Open Space Division for the maintenance of the MHPA acreage located within the Shaw Lorenz Project site.

BE IT FURTHER RESOLVED, that the Council hereby approves the acceptance of the Owner/Permittee's annual contribution of \$20,000 and authorizes the City Manager to expend such funds for the purpose of providing funds for the maintenance of the MHPA acreage located within the project.

BE IT FURTHER RESOLVED, that the recommendation of the Planning Commission is sustained, and Planned Development Permit No. 25675/Site Development Permit No. 25676/Coastal Development Permit No. 25677/Neighborhood Use Permit No. 76234 is granted to Pardee Homes, Owner/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   
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William W. Witt  
Deputy City Attorney

WWW:pev  
06/02/04  
08/11/04 Cor.Copy  
Or.Dept: Clerk  
R-2004-1299

**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. 25675/  
SITE DEVELOPMENT PERMIT NO. 25676/  
COASTAL DEVELOPMENT PERMIT NO. 25677/  
NEIGHBORHOOD USE PERMIT NO. 76234  
SHAW LORENZ [MMRP]**

City Council

This Planned Development Permit No. 25675/Site Development Permit No. 25676/Coastal Development Permit No. 25677/Neighborhood Use Permit No. 76234 is granted by the Council of the City of San Diego to Pardee Homes, a California Corporation, Owner/Permittee, pursuant to San Diego Municipal Code [SDMC] sections 126.0601, 126.0501, and 126.0701. The 277.96 acre site is located south of Little McGonigle Ranch Road east, east and north of the proposed alignment of Carmel Mountain Road in the AR-1-1 zone of the Del Mar Mesa Specific Plan area.

The Shaw Lorenz project site is legally described as:

The West Half of the Southwest Quarter, the Southeast Quarter of the Southwest Quarter, the South Half of the Northeast Quarter of the Southwest Quarter, and the West 20 acres of Lot 2, all in Section 22, Township 14 South, Range 3 West, San Bernardino Meridian, in the City of San Diego, County of San Diego, State of California, according to official plat thereof; Parcels 1, 2, and 3 of Parcel Map No. 17083, in the City of San Diego, County of San Diego, State of California, filed in the office of the County Recorder of San Diego County, February 26, 1993 as file No. 1993-0122845 of official records; the northwest quarter of the northeast quarter of Section 28, Township 14 South, Range 3 West, San Bernardino Base and Meridian, in the County of San Diego, State of California, according to the official plat thereof; excepting therefrom that portion thereof lying within Carmel Valley Neighborhood 10, Unit 10, as shown by map thereof No. 13717, filed in the office of the County Recorder of San Diego County on January 15, 1999 as file No. 1999-0025909 of official records.

The Clews Parcel is legally described as:

The South Half of the Southeast Quarter of Section 15, Township 14 South, Range 3 West, San Bernardino Meridian, in the City of San Diego, County of San Diego, State of California, according to the official plat thereof.

The Deer Canyon site is legally described as:

The North Half of the Northwest Quarter of the Southeast Quarter and the Northeast Quarter of the Southwest Quarter of Section 14, Township 14 South, Range 3 West, San Bernardino Meridian, in the City of San Diego, County of San Diego, State of California, according to official plat thereof.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee to vacate access and utility easements and subdivide 277.96 acres for a 139 lot single-family development, with one remainder lot of 8.23 acres, to allow future development of 139 single-family structures, public streets and private driveways, urban amenities including a trail system and preservation of sensitive habitats on the Shaw Lorenz site, described and identified by size, dimension, quantity, type, and location on the approved Exhibit "A," dated May 11, 2004, transfer of twenty-three dwellings units shall be from the Clews and Deer Canyon sites to the Shaw Lorenz site, Exhibit "B," dated May 11, 2004, on file in the Development Services Department.

The project or facility shall include:

- a. Vacate access and utility easements and subdivide 277.96 acres for a 139 lot single-family development, with one remainder lot of 8.23 acres, to allow future development of 139 single-family structures, public streets and private driveways, urban amenities including a trail system and preservation of sensitive habitats on the Shaw Lorenz site. Transfer of twenty-three dwellings units shall be from the Clews and Deer Canyon sites to the Shaw Lorenz site;
- b. 139 single-family structures in four plan types, including guest quarters in the Plan 2, ranging between 3,759 to 5,311 square feet;
- c. Landscaping (planting, irrigation and landscape related improvements);
- d. Off-street parking facilities;
- e. Deviations to allow minimum lot widths less than the AR-1-1 zone minimum, minor encroachments into the side yard setbacks, and maximum height of structures to allow chimney spark arrestors to thirty-two feet above grade;
- f. Transfer of eight dwelling units from the Clews site and fifteen dwelling units from the Deer Canyon to the Shaw Lorenz site. No residential development rights shall remain on the Clews and Deer Canyon sites with

the recording of this permit as also indicated in Doc. No. 2003-1054073, recorded on August, 28, 2003 in the County Recorders Office, County of San Diego and as adopted by ordinance number O-18571 N.S., on September 8, 1998 a copy of which is on file in the office of the City Clerk as Document No. OO-18571; and

- g. Accessory improvements determined by the City Manager to be consistent with the land use and development standards in effect for this site per the adopted community plan, California Environmental Quality Act Guidelines, public and private improvement requirements of the City Engineer, the underlying zone(s), conditions of this Permit, and any other applicable regulations of the SDMC 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. The Planned Development Permit No. 25675/Site Development Permit No. 25675/Coastal Development Permit No. 25677/Neighborhood Use Permit No. 76234 shall comply with the conditions of the final map for Shaw Lorenz Vesting Tentative Map No. 25674.

7. 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.).

8. 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.

9. The Owner/Permittee shall secure all necessary building permits. The applicant is informed that to secure these permits, substantial modifications to the building and site improvements to comply with applicable building, fire, mechanical and plumbing codes and State law requiring access for disabled people may be required.

10. Before issuance of any building or grading permits for the Shaw Lorenz site, complete grading and working drawings shall be submitted to the City Manager for approval. Plans shall be in substantial conformity to Exhibit "A." No changes, modifications or alterations shall be made unless appropriate application(s) or amendment(s) to this Permit have been granted.

11. All of the conditions contained in this Permit have been considered and have been determined to be necessary in order to make the findings required for this Permit. It is the intent of the City that the holder of this Permit be required to comply with each and every condition in order to be afforded the special rights which the holder of the Permit is entitled as a result of obtaining this Permit.

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" conditions(s) back to the

discretionary body which approved the Permit for a determination by that body as to whether all of the findings necessary for the issuance of the proposed permit can still be made in the absence of the "invalid" condition(s). Such hearing shall be a hearing de novo and the discretionary body shall have the absolute right to approve, disapprove, or modify the proposed permit and the condition(s) contained therein.

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

13. This 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.

14. This Permit may be developed in phases as indicated on the Vesting Tentative Map.

15. Prior to issuance of any grading permit for the Shaw Lorenz site, an enhancement fee shall be deposited with the Development Services Department for the Los Peñasquitos Watershed Restoration and Enhancement Program for only those portions of the project which are within the Coastal Zone. The enhancement fee shall be computed on the basis of site grading at a rate of \$0.005 per square foot for all areas graded, with an additional rate of \$0.03 per square foot for all impervious surfaces created by the development. The enhancement fee shall be computed by the applicant and verified by the Development Services Department.

**MSCP REQUIREMENTS:**

16. MSCP Compliance:

The Owner/Permittee shall comply with the Mitigation, Monitoring, and Reporting Program [MMRP] as specified in the environmental documentation for the "Shaw Lorenz" (Project No. 2873), satisfactory to the City Manager and City Engineer, for the following issues areas to ensure compliance with the MSCP: Land Use, Biological Resources and Hydrology/Water Quality. In addition, the following condition shall apply to ensure compliance with the City's MSCP Land Use Adjacency Guidelines (Section 1.4.3 of the City's MSPC Subarea Plan [March 1997]):

- a. Fencing: Prior to final inspection of any building permits for the Shaw Lorenz site, a combination of block wall (5-feet high), wood fencing (5-feet high); metal iron fencing (5-feet high), and peeler pole fencing (3-feet high) shall be constructed along the perimeter of all on-site vernal pool/resource preserve areas and areas adjacent to the MHPA in conformance with the approved Fencing Plans (Sheets 21 of 33 [dated September 8, 2003]), satisfactory to the City Manager and the City Engineer. Any proposed changes to the proposed size, location or type of fence shall be approved by the City Manager prior to issuance of occupancy permits. All preserve fencing shall be located on the subject premises, out of any City lands, and maintained by the Owner/Permittee in

perpetuity. Any necessary future fence repairs shall be conducted by the Owner/Permittee in a manner which does not result in impacts to the MHPA, sensitive biology resource or wildlife movement.

- b. **Revegetation:** Prior recordation of the first final map and/or issuance of any grading permits for the Shaw Lorenz site, the Owner/Permittee shall prepare a final revegetation plan for the on-site vernal pool perimeter planting areas, as shown on the approved landscape plans (Sheets 18-20, dated September 8, 2003 prepared by Burton Landscape), to the satisfaction of the City Manager in accordance with the City's Landscape Regulations (Chapter 14, Article 2, Division 4 of the City's Land Development Code). The vernal pool perimeter plantings shall be managed in accordance with the approved Vernal Pool Management Plan for the site.

#### 17. MHPA Conveyance

Prior to issuance of any grading permits for the Shaw Lorenz site, the on-site MHPA shall be conveyed to the City through either dedication in fee to the City, OR placement in a conservation easement OR covenant of easement in favor of the City and wildlife agencies, which is then recorded on the property. The Owner/Permitted shall manage the on-site preserve area in perpetuity in accordance with the final Habitat Management Plan [HMP] prepared for the site. The final maps shall clearly show, with acreages and method of conveyance, all areas proposed to be conveyed to the City for MHPA or other biological/open space management purposes.

Conveyance of any MHPA land in fee to the City shall require approval from the Park and Recreation Department Open Space Division Deputy Director and shall exclude detention basins or other stormwater control facilities, brush management areas, landscape/revegetation areas, and graded slopes; these features shall have conservation easements recorded over them if accepted into the MHPA, with maintenance and management responsibilities retained by the Owner/Permittee unless otherwise agreed to by the City.

#### 18. Habitat Management Plan

Prior to recordation of the first final map and/or issuance of any grading permits for the Shaw Lorenz site, the Owner/Permittee shall prepare a Final Vernal Pool Management Plan [VPMP] for the approved Shaw Lorenz tentative map to the satisfaction of the City Manager. The Final Plan shall be prepared in substantial conformance with the Draft VPMP (Appendix B to January 22, 2004 NRC Biology Report). All costs associated with plan preparation and long-term management of the on-site preserved areas shall be the responsibility of the Owner/Permittee or its designated representative. The entity/designee selected by the Owner/Permittee to manage the on-site preserved lands shall be acceptable to the City.



**ENVIRONMENTAL/MITIGATION REQUIREMENTS:**

19. Mitigation requirements are tied to the environmental document, specifically the MMRP. These MMRP conditions are incorporated into the permit by reference or authorization for the project.

20. As conditions of Planned Development Permit No. 25675/Site Development Permit No. 25676/Coastal Development Permit No. 25677/Neighborhood Use Permit No. 76234, the mitigation measures specified in the MMRP, and outlined in the Findings to Environmental Impact Report, LDR NO. 2873 shall be noted on the construction plans and specifications under the heading ENVIRONMENTAL/MITIGATION REQUIREMENTS.

21. The Owner/Permittee shall comply with the MMRP as specified in the Findings to Environmental Impact Report, LDR No. 2873 satisfactory to the City Manager and City Engineer. Prior to issuance of the first grading permit and/or recording of the first final map for the Shaw Lorenz site and/or issuance of a building permit for the Shaw Lorenz site, 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:

- Aesthetics/Neighborhood Character/Landform Alteration
- Biological Resources
- Biological Resources/Land Use
- Light/Glare/Shading
- Hydrology/Water Quality
- Cultural Resources (Archaeology)
- Paleontological Resources
- Public Services and Utilities
- Transportation/Circulation

22. The MMRP shall require a deposit of \$7,000.00 to be collected prior to the issuance of the grading permit to cover the City's costs associated with implementation of the MMRP.

23. A Job Order account shall be opened 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.

**AFFORDABLE HOUSING REQUIREMENTS:**

24. Prior to issuance of the first building permit, the Owner/Permittee shall provide evidence of satisfactory compliance with this condition to the City Manager. The Owner/Permittee is required under the North City Future Urbanizing Area Framework Plan and the Del Mar Mesa Specific Plan to provide housing for low-income households as a component of their residential development program. The low-income housing component shall equal 10 percent of the market rate dwelling unit equivalent. Instead of

developing affordable housing units on the Shaw Lorenz site, the Owner/Permittee has an option to pay an in-lieu fee to the Housing Authority. This project is eligible under the in-lieu-fee option of the Del Mar Mesa Specific Plan to meet the affordable housing requirement in this manner.

**TRANSPORTATION REQUIREMENTS:**

25. Prior to issuance of any building permits for the Shaw Lorenz site, the project shall conform to the Del Mar Mesa/Subarea V Transportation Phasing Plan.

**LANDSCAPE REQUIREMENTS:**

26. Prior to issuance of any grading or building permits for the Shaw Lorenz site, 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."

27. Prior to issuance of grading permits for the Shaw Lorenz site, interim landscape and erosion control measures, including hydro seeding of all disturbed land (all slopes and pads), shall be submitted to the satisfaction of the City Manager (including the City's Environmental Analysis Section) and City Engineer. All plans shall be in substantial conformance to Exhibit "A," and all other applicable conditions of related permits.

28. The timely erosion control including planting and seeding of all slopes and pads consistent with the approved plans is considered to be in the public interest and the Owner/Permittee shall initiate such measures within forty-five days from the date that the grading of the site is deemed to be complete. Such erosion control and the associated irrigation systems (temporary and/or permanent) and appurtenances shall be installed in accordance with the approved plans and the Land Development Manual.

29. Prior to final inspection of each single family structure for the Shaw Lorenz site, it shall be the responsibility of the Owner/Permittee to install all required landscape and obtain all required landscape inspections and to obtain a No Fee Street Tree Permit for the installation, establishment, and on-going maintenance of all street trees. Copies of these approved documents must be submitted to the City Manager.

30. All required landscape shall be maintained in a disease, weed, and litter free condition at all times and shall not be modified or altered unless this Permit has been amended. Modifications such as severe pruning or "topping" of trees is not permitted unless specifically noted in this Permit. The Owner/Permittee shall be responsible to maintain all street trees and landscape improvements consistent with the standards of the Land Development Manual.

31. If any required landscape (including, but not limited to, existing or new plantings, hardscape, landscape features) indicated on the approved plans is damaged or removed during demolition, it shall be repaired or replaced in kind and equivalent size per the approved plans within thirty days of completion of construction by the Permittee. The

replacement size of plant material after three years shall be the equivalent size of that plant at the time of removal (the largest size commercially available or an increased number) to the satisfaction of the City Manager.

32. The Owner/Permittee shall be responsible for the maintenance of all street trees and landscape improvements (right-of-way and median landscaping) consistent with the Landscape Standards. A Landscape Maintenance Agreement and bond shall be entered into prior to issuance of any grading or construction permit. The agreement and bond shall be renewed each year until such time that another approved entity assumes responsibility such as a home owners association or a Landscape Maintenance District.

33. Prior to issuance of any permits for right-of-way improvements for the Shaw Lorenz site, complete landscape and irrigation plans shall be submitted to the City Manager for approval. Plans, details and specifications (including maintenance specifications), shall indicate each street tree by station points and staking in the field with a tree stake prior to any utilities stub-outs. Tree stakes shall remain in place until trees are planted. A No Fee Street Tree Permit, shall be obtained for the installation, establishment and on-going maintenance of all street trees.

**BRUSH MANAGEMENT REQUIREMENTS:**

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

**PLANNING/DESIGN REQUIREMENTS:**

35. A copy of this permit shall be made available to all prospective buyers and be included in final escrow papers. Any CC&R's and property owner association documents for this development shall not be in conflict with the City's official documents.

36. Disclosure shall be made to all future buyers that Del Mar Mesa is a semi-rural community which permits residents of certain qualifying properties to maintain horses and horse stables on their residential property subject to horse-keeping provisions of the San Diego Municipal Code [SDMC section 44.0308].

37. All development shall utilize materials that blend with the natural landscape and specify neutral, earth tone, muted colors.

38. All setbacks shall be as specified on the Exhibit "A," Site Development Plan.

39. All fencing shall be maintained, kept clean and clear of debris and graffiti at all times by owners and/or the property owner's association, as appropriate. Any glass used as a component of fencing which is damaged or otherwise in need of repair shall be repaired or replaced at the owner's expense in a timely manner.

40. Required fencing between designated private use areas and common brush management and/or MHPA/open space lots shall not be altered, removed or relocated.
41. No fewer than two off-street parking spaces shall be maintained on the property at all times in the approximate locations shown on the approved Exhibit "A." 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.
42. Specific deviations have been approved with this permit as listed in paragraph "e" above. Other than those listed above there shall be compliance with the regulations of the underlying AR-1-1 zone. 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.
43. Except as provided by the deviation listed above in paragraph "e" above which has been granted as a specific condition of this Permit, 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.
44. 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.
45. 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.
46. 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.
47. The use of textured or enhanced paving shall meet applicable City standards as to location, noise and friction values.
48. The subject property and associated common areas on site shall be maintained in a neat and orderly fashion at all times.
49. No mechanical equipment, tank, duct, elevator enclosure, cooling tower, 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.

50. No merchandise, material, or equipment shall be stored on the roof of any building.
51. Prior to issuance of any grading permit for the Shaw Lorenz site, grading design shall utilize contour grading techniques for fill slopes, including variable slope ratios and rounding the tops and toes of slopes, as conceptually depicted on the Exhibit "A," Grading Plan. Retaining walls are to be avoided adjacent to open space lots.
52. Prior to issuance of any grading permit for the Shaw Lorenz site, grading plans shall be submitted for review and approval indicating grading of the trails as shown on the Exhibit "A," Trail & Street Light Plan, sheet 21 of 33.
53. Prior to final inspection for any building within each unit, the Owner/Permittee shall submit for review and approval construction plans for the trails and amenities identified on the Exhibit "A," Trail & Street Light Plan, sheet 21 of 33. Rest areas shall include all features and elements as indicated on sheet 21 of 33. The applicant may enter into a reimbursement agreement for development costs (excluding land) for those trail facilities identified in the Del Mar Mesa Public Facilities Financing Plan.
54. Prior to recordation of the first final map, the Owner/Permittee shall obtain a Certificate of Compliance or Exemption from the Del Mar Union School District and the San Dieguito Union School District that demonstrates project impacts on school facilities are adequately mitigated within each school district as require in the Del Mar Mesa Specific Plan.
55. Prior to issuance of the first building permit for the Shaw Lorenz site, the Owner/Permittee shall make available within its sales office information on energy efficient technologies available with new residential construction as well as offer a program to incorporate any additional energy efficient features and appliances into the homes as a construction option.
56. Prior to final inspection of any building within each unit, fencing shall be designed and installed as required by the Exhibit "A," Fencing Plan. Additional fencing may be approved subject to the requirements of the Del Mar Mesa Specific Plan. All new fencing along public right-of-way and/or private street frontage shall also meet the Del Mar mesa Community Fence and Wall Standards in addition to the requirements of the Specific Plan.
57. Gates are approved to control vehicular access only. Separate unrestricted pedestrian and bicycle entrances shall be provided adjacent to each vehicular gate identified on the Exhibit "A." The pedestrian/bicycle entrances shall provide permanent, barrier-free access.

**WATER REQUIREMENTS:**

58. Prior to the issuance of the first building permit for the Shaw Lorenz site, the Owner/Permittee shall assure, by permit and bond, the design and construction of the public water facilities, including the water transmission pipeline within the Carmel

Mountain Road right-of-way (minimum 30-inch diameter), identified in the accepted water studies necessary to serve this development, in a manner satisfactory to the Water Department Director and the City Engineer, maintaining redundancy throughout phasing of construction.

59. The Owner/Permittee shall install encroachment water services, to serve each unit or building with less than forty 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.

60. Prior to the final inspection of any building permit for the Shaw Lorenz site, 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. All fire hydrants shall be connected to distribution water facilities.

61. Prior to the issuance of any building 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," shall be modified to comply with standards at final engineering.

62. Prior to the final inspection of the 31st building permit/dwelling unit for the Shaw Lorenz site, the public water transmission pipeline, within the Carmel Mountain Road right-of-way, shall be complete and operational in a manner satisfactory to the Director of the Water Department and the City Engineer, maintaining the City's redundancy standards throughout construction phasing.

63. Prior to the final inspection of any building permit within any Unit of Shaw Lorenz, all public water facilities and vehicular access roadways necessary to serve that unit shall be complete and operational in a manner satisfactory to the Director of the Water Department and the City Engineer, maintaining the City's redundancy standards throughout construction phasing.

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

65. 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.

66. 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:**

67. Prior to the issuance of any building permits for the Shaw Lorenz site, the developer shall assure, by permit and bond, the design and construction of all public sewer facilities necessary to serve this development.

68. The Owner/Permittee shall design all proposed public sewer facilities to the most current edition of the City of San Diego's Sewer Design Guide. Proposed facilities that do not meet the current standards shall be re-designed.

69. The Owner/Permittee 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 mains that serve more than one lot.

70. 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.

**CITY COUNCIL CONDITIONS:**

71. Owner/Permittee shall convey to the City of San Diego title to the approximate 118.30 acres of land within the Multi-Habitat Planning Area upon the project site (i.e., Parcel A consisting of 56.53 acres; Parcel B consisting of 17.54 acres; and Parcel C consisting of 44.23 acres) [the MHPA Acreage]. The City of San Diego shall establish a fund [Maintenance Fund], which shall be an interest-bearing account created by the City Auditor to be used solely by the Park and Recreation Department Open Space Division for maintenance of the MHPA Acreage. The Owner/Permittee shall create an enforceable funding mechanism acceptable to the City of San Diego for maintenance of the MHPA Acreage. The enforceable funding mechanism shall be responsible for depositing \$20,000 annually into the Maintenance Fund and shall be established prior to the conveyance of the MHPA Acreage to the City.

72. This condition shall not supercede nor affect in any manner the findings and conditions of this Planned Development Permit and this project's MMRP relating to ownership and maintenance obligations for this project's vernal pool management plan.

**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 on May 11, 2004 by Resolution No. R-299208.



AUTHENTICATED BY THE CITY MANAGER

By \_\_\_\_\_

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

Pardee Homes, a California Corporation  
Owner/Permittee

By \_\_\_\_\_

By \_\_\_\_\_

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