

RESOLUTION NUMBER R-299734

ADOPTED ON OCTOBER 5, 2004

WHEREAS, Dr. Mahmood Mahdavi, Owner/Permittee, filed an application with the City of San Diego for a coastal development permit/hillside review permit to construct a 3-story single-family home known as the Hillside Drive Residence [Project], located at 7674 Hillside Drive, and legally described as Lot 4, La Jolla Hillside, Map No. 8782, in the La Jolla Community Plan area, in the RS-1-8 zone (previously referred to as the RI-40000 zone (main portion of the lot) and the RI-8000 (narrow strip portion of flag shaped lot), and Hillside Review Overlay zone); and

WHEREAS, on February 17, 1999, the Hearing Officer of the City of San Diego approved Coastal Development Permit [CDP]/Hillside Review Permit [HRP] No. 96-7549; and

WHEREAS, Beatrice Hughes, Joanne Pearson, and Scott Peters appealed the Hearing Officer's decision to the Planning Commission of the City of San Diego; and

WHEREAS, on April 8, 1999, the Planning Commission of the City of San Diego considered CDP/HRP Permit No. 96-7549, and pursuant to Resolution No. 2777-PC voted to approve the project; and

WHEREAS, Beatrice Hughes, Joanne Pearson, and Scott Peters appealed the Planning Commission decision to the Council of the City of San Diego; and

WHEREAS, on June 29, 1999, the City Council of the City of San Diego conducted a public hearing, and the appeal was continued in part, and denied in part as follows: (1) CDP/HRP No. 96-7549 was approved for the construction of an interim access road/driveway to allow

further geotechnical testing under the terms and conditions of the permit; and (2) the action of the appeal was continued as it relates to the balance of the project until staff returned with a full geotechnical analysis and recommendation. The applicant has completed the requested information, and is returning to the City Council for their review and decision on this matter; and

WHEREAS, after partial approval of the above referenced project by the City Council, Dr. Mahmood Mahdavi, Owner, transferred the property to Matthew C. DiNofia, Managing Partner of La Jolla Development Group, LLC, a Limited Liability Company, thereby making Matthew C. DiNofia, Managing Partner of La Jolla Development Group, LLC, a Limited Company the new Owner of the Hillside Drive Residence project; and

WHEREAS, the matter was set for public hearing on September 21, 2004. The matter was then continued to October 5, 2004. On October 5, 2004, the Council considered the balance of the appeal of Coastal Development Permit No. 125782 and Hillside Review Permit No. 125783, pursuant to San Diego Municipal Code [SDMC] sections 105.0202 and 101.0454, 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 Coastal Development Permit No. 125782 and Hillside Review Permit No. 125783:

A. COASTAL DEVELOPMENT PERMIT – SDMC SECTION 105.0202

1. The proposed development will not encroach upon any existing physical accessway legally utilized by the general public or any proposed public accessway identified in an adopted LCP land use plan; nor will it obstruct views to and along the ocean and other scenic coastal areas from public vantage points. The proposed single-family residential development is located on a vacant 3.8-acre hillside site. There are no current accessways on or adjacent to the property. The La Jolla Local Coastal Plan does not identify any accessways or public view corridor crossing the project site.

2. The proposed development will not adversely affect identified marine resources, environmentally sensitive areas, or archaeological or paleontological resources. The Environmental document prepared for the development proposal, Mitigated Negative Declaration 96-7549, did not identify this site as containing marine or archaeological resources. However, the site was found to contain environmentally sensitive areas and potential paleontological resources.

Mitigation measures have been added which require conservation of undeveloped portions of the lot, restrictions of non-native plant species, and drainage restrictions aimed at protecting the environmentally sensitive areas. Potential paleontological resources are required to be monitored by a qualified paleontologist.

3. The proposed development will comply with the requirements related to biologically sensitive lands and significant prehistoric and historic resources as set forth in the Resource Protection Ordinance, Chapter 10, Section 101.0462 of the San Diego Municipal Code, unless by the terms of the resource protection ordinance, it is exempted therefrom. The Mitigated Negative Declaration that was prepared for the project identified southern mixed chaparral, chamise chaparral, disturbed habitat and potential for paleontological resources. The proposed development has been designed to minimize the impacts to biologically sensitive areas, consistent with the Resource Protection Ordinance. Furthermore, mitigation conditions have been applied to the project to monitor the site during grading and construction to protect any potential paleontological resources.

4. The proposed development will not adversely affect identified recreational or visitor-serving facilities or coastal scenic resources. The project site is located immediately adjacent to the La Jolla Natural Park, to the project's west slope. However, through the project's embedded structure design, restricted brush management plan, and conservation easement will be placed on the remaining undeveloped portion of the lot, the project is designed in an effort to be sensitive to adjacent park resources.

5. The proposed development will be sited and designed to prevent adverse impacts to environmentally sensitive habitats and scenic resources located in adjacent parks and recreational areas, and will provide adequate buffer areas to protect such resources. The project is located adjacent to the La Jolla Natural Park and is designed to limit the area of brush management, restrict the use of invasive non-native plant species, and control drainage all in an effort to be sensitive to the adjacent park resource and environmentally sensitive habitat.

6. The proposed development will minimize the alterations of natural landforms and will not result in undue risks from geologic and erosional forces and/or flood and fire hazards. The project has been designed to utilize a shared common driveway design previously approved under a Hillside Review Permit No. 126, which was associated with the original tentative map approval. Grading for the home has been minimized by embedding the structure into the hillside as recommended by the Hillside Review Guidelines. Due to the topographical constraints of this property coupled with known areas of geologic instability located to the east of the proposed building location, the structure has been placed in the only feasible developable location on this lot. Further Geologic study was conducted which concluded

that the project has an adequate factor of safety, and that the previous, 1999 project design (foundation and tie back system) did not need to be re-designed. To reduce potential fire hazards, the proposed home will be equipped with fire sprinklers and will comply with the City's brush management requirements.

7. The proposed development will be visually compatible with the character of the surrounding area, and where feasible, will restore and enhance visual quality in visually degraded areas. The proposed single-family home development is designed to embed the structure into the hillside, restrict grading to a defined portion of the site and implement a landscape design to be sensitive to the adjacent native landscape, all in an effort to blend into the hillside surroundings. The proposed development is consistent with the size, bulk and mass of properties having similar topographical and geologic constraints on similar sites adjacent to this site in the community. Although neither the surrounding area nor the project site are visually degraded, the design (embedded structure and compact landscape design) is intended to enhance and blend into the project site and the surrounding neighborhood.

8. The proposed development will conform with the city's progress guide and general plan, the local coastal program, and any other applicable adopted plans and programs in effect for this site. The project has been designed to comply with the R1-40000 and Hillside Review Overlay Zone regulations and is consistent with the very low density residential/open space designations in the La Jolla Community Plan and General Plan. The proposed development has been sited and designed to reduce impacts on environmentally sensitive habitats, minimize impacts to coastal resources, and to be visually sensitive and compatible with the surrounding area, in order to comply with the Coastal Development Permit regulations and the guidelines of the Local Coastal Program. The project has additionally been sited on the only developable portion of the lot which is severely constrained by topographic, biological and geological limitations.

B. HILLSIDE REVIEW – SDMC SECTION 101.0454

1. The site is physically suitable for the design and siting of the proposed structure(s) and will result in the minimum disturbance of sensitive areas. The project site is a steep vacant 3.8-acre site with a previously approved Hillside Review Permit (HRP No. 126) for a shared driveway design. The proposed structure is designed to be embedded into the hillside and utilizes the previously approved common driveway. The proposed development has been sited and designed to minimize grading impacts, to maximize and preserve open space, and to preserve sensitive areas. The unit has additionally been sited on the only developable portion of the site which is severely constrained by topographical, biographical, and geologic limitations. The mitigation conditions applied to this project will ensure that the proposed development will not adversely impact sensitive areas.

2. The grading proposed in connection with the development will not result in soil erosion, silting of lower slopes, slide damage, flooding, severe scarring or any other geological instability which would affect health, safety and general welfare as approved by the city engineer. A geotechnical investigation was conducted for the site. The study identified the presence of a landside in the central portion of the site. A majority of the proposed development would be located beyond the existing landslide area with the exception of the

driveway and a small portion of the structure. Further Geologic study was conducted in 2004, which concluded that the project has an adequate factor of safety, and that the previous, 1999 project design (foundation and tie back system) did not need to be re-designed.

3. The proposed development retains the visual quality of the site, the aesthetic qualities of the area and the neighborhood characteristics by utilizing proper structural scale and character, varied architectural treatments, and appropriate plant material. The project conforms with the open space elements of both the General Plan and the La Jolla Community Plan. The development proposed through the mitigation measures to protect environmentally sensitive resources, and preserve natural amenities. The applicant has agreed to dedicate in fee title or place in a conservation easement the remaining undeveloped portion of the lot.

4. The proposed development is in conformance with the qualitative guidelines and criteria as set forth in document no. Rr-262129, "hillside design and development guidelines." The proposed development has been designed to conform to the Hillside Design Guidelines. The embedded design that the proposed structure utilizes is illustrated as a recommended design on page 24 of the guidelines. The project design has been sited to limit and minimize grading and landform alteration and to maximize open space areas.

C. BRUSH MANAGEMENT:

1. The proposed brush management program, to the extent feasible, will not adversely affect floodplains, biologically sensitive lands, hillsides, significant prehistoric sites and resources, and wetlands as defined in the Resource Protection Ordinance, SDMC section 101.0462. The proposed Brush Management Program, by providing the required brush management zones of the Landscape Technical Manual as shown on Exhibit "A" will modify the existing vegetation to the least practical extent while still providing the necessary fire protection to persons and property as required by the Uniform Fire Code. Appendix IIA. Existing plant material will remain within the slope areas. New plant materials in the Brush Management Zone One have been selected to visually blend with the existing hillside vegetation and no invasive species shall be used.

2. The proposed brush management program, to the extent feasible, will minimize the alterations of vegetation and will not result in undue risks from erosional forces. The proposed Brush management program, by using Alternative Compliance provision (Section 6.2) and Zone Reduction (Section 6.6-2, 3&5) of the Landscape Technical Manual including additional fire resistant construction as shown on Exhibit "A", modifies the existing vegetation to the least practical extent while still providing the necessary fire protection to persons and property as required by the Uniform Fire Code. The irrigation system incorporated a low precipitation design to minimize runoff.

Because of the limited pad size, topography, existing vegetation and proximity to off-site vegetation, Hillside Review regulations and required setbacks, the residence has been located and designed in such a way as to minimize alteration of vegetation of the existing slopes.

D. BRUSH MANAGEMENT ALTERNATIVE COMPLIANCE:

1. The proposed brush management program will meet the purpose and intent of Appendix IIA of the Uniform Fire Code. The proposed development complies with the purpose and intent by providing an effective fire break by means of: Alternative Brush Management Zones, a 6' solid wall as shown on Exhibit "A" and the Alternative Compliance Provision (Section 6.2), the Architectural Features (Section 6,6.2) and Zone Reduction application (Section 6,6-3&5) of the Landscape Technical Manual.

2. The brush management program because of conditions that have been applied to it, will not be detrimental to the health, safety, and general welfare of persons residing or working in the area. Requirements incorporated into the permit provide an effective fire break and assure minimal risk of erosional forces affecting hillsides by maintenance of the existing vegetation, using an irrigation system consisting of low-precipitation heads and new plantings on existing slopes within the Zone 1 brush management areas per the Landscape Technical Manual.

3. The provision outlined in Section 6.6-2 of the Landscape Technical Manual (Document Number RR-274506) shall be satisfied and the proposed development shall provide other fire resistive features as required by the fire chief. The Architectural Features (Section 6,6.2) of the Landscape Technical Manual have been incorporated into the project and additional two hour rated construction as show on Exhibit "A" have been incorporated into the project to provide additional fire resistive features.

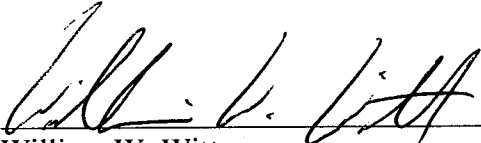
4. Compliance with the provisions of this section in addition to any other applicable adopted plans or ordinances would preclude reasonable development on the site. Due to the existing constraints (property configuration, topography adjacent native slopes) and compliance with provisions of other applicable adopted plans and ordnances (underlying zone, La Jolla Community Plan, Coastal Development/Hillside Review Permit), literal compliance to the standard brush management program would preclude reasonable development of this site. The project design complies to the applicable ordinances by meeting design standards relating to neighborhood character, bulk, scale and height. The project has been designed to step-into the slope thereby minimizing the appearance of manufactured slopes within the hillside. A modified Brush Management Program is provided with supports the propose and intent of the other applicable adopted plans and ordinances while providing the necessary fire protection as required by the Uniform Fire Code on 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 Coastal Development Permit No. 125782 and Hillside Review Permit No. 125783 is granted to Matthew C. DiNofia, Managing Partner of La Jolla Development Group, LLC, a

Limited Liability Company, Owner/Permittee, under the terms and conditions set forth in the attached permit which is made a part of this resolution.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By 
William W. Witt
Deputy City Attorney

WWW:pev
12/14/04
Or.Dept:Clerk
R-2005-420
MMS #757

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

COASTAL DEVELOPMENT PERMIT [CDP] NO. 125782 AND
HILLSIDE REVIEW PERMIT [HRP] NO. 125783
CONTINUATION OF CDP/HRP NO. 96-7549
HILLSIDE DRIVE RESIDENCE
CITY COUNCIL

This Permit is granted by the Council of the City of San Diego to Matthew C. DiNofia, Managing Partner of La Jolla Development Group, LLC a Limited Liability Company, Owner and Permittee, pursuant to Sections 105.0202 and 101.0454 of the San Diego Municipal Code [SDMC]. The 3.8-site is located at 7675 Hillside Drive (vacant land) in the RS-1-8 zone (currently), formerly in R1-40000, R1-8000 (R1-8000 is only on the handle portion of the panhandle shaped lot) and the Hillside Review Overlay [HRO] zones of the La Jolla Community Planning Area. The project site is legally described as Lot 4, La Jolla Hillside, Map No. 8782.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner and Permittee to construct a 3-story (embedded into the hillside) single-family residence with access through a common driveway previously approved with Tentative Map and associated Hillside Review permit (No. 126), described and identified by size, dimension, quantity, type, and location on the approved Exhibit "A," dated October 5, 2004, on file in the Development Services Department.

The project or facility shall include:

- a. One 3-story single-family residence to total 9,840 gross square feet;
- b. Landscaping (planting, irrigation and landscape related improvements);
- c. Off-street parking facilities;
- d. Retaining walls, patio and pool; and
- e. 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 Development Services; and
 - b. The Permit is recorded in the Office of the San Diego County Recorder.
3. Unless this Permit has been revoked by the City of San Diego the property included by reference within this Permit shall be used only for the purposes and under the terms and conditions set forth in this Permit unless otherwise authorized by the City Manager.
4. This Permit is a covenant running with the subject property and shall be binding upon the Permittee and any successor or successors, and the interests of any successor shall be subject to each and every condition set out in this Permit and all referenced documents.
5. The utilization and continued use of this Permit shall be subject to the regulations of this and any other applicable governmental agencies.
6. Issuance of this Permit by the City of San Diego does not authorize the applicant for said 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 applicant is informed that to secure these permits, substantial modifications to the building and/or site improvements to comply with applicable building, fire, mechanical and plumbing codes and State law requiring access for disabled people may be required.
8. Before issuance of any building or grading permits, complete grading and working drawings shall be submitted to the City Manager for approval. Plans shall be in substantial conformity to Exhibit "A." No changes, modifications or alterations shall be

made unless appropriate applications or amendments of this Permit shall 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 discretionary permit. It is the intent of the City that the holder of this Permit be required to comply with each and every condition in order to be afforded the special rights which the holder of the Permit is entitled as a result of obtaining this Permit. It is the intent of the City that the Owner of the property which is the subject of this Permit either utilize the property for any use allowed under the zoning and other restrictions which apply to the property or, in the alternative, that the Owner of the property be allowed the special and extraordinary rights conveyed by this Permit, but only if the Owner complies with the conditions of the Permit.

In the event that any condition of this Permit, on a legal challenge by the Owner/ Permittee of this Permit, is found or held by a court of competent jurisdiction to be invalid, unenforceable, or unreasonable, this Permit shall be void. However, in such an event, the Owner/Permittee shall have the right, by paying applicable processing fees, to bring a request for a new permit without the "invalid" condition(s) back to the discretionary body which approved the Permit for a determination by that body as to whether all of the findings necessary for the issuance of the proposed permit can still be made in the absence of the "invalid" condition(s). Such hearing shall be a hearing de novo and the discretionary body shall have the absolute right to approve, disapprove, or modify the proposed permit and the condition(s) contained therein.

10. Title Restrictions. Prior to the commencement of any work or activity authorized by this Permit, the Owner/Permittee shall execute a Notice of Hazardous Condition Indemnification and Hold Harmless Agreement, in a form and content acceptable to the Director of the Development Services Department, or designated representative who shall provide: (a) that the applicant understands that no new accessory structures and landscape features customary and incidental to residential uses shall be developed on this steep hillside site (as illustrated on approved plan Exhibit "A," on file in the Development Services Department; and (b) that the applicant understands that the site may be subject to extraordinary hazard from steep slopes and potential landslides and the applicant assumes the liability from such hazards; and (c) the applicant unconditionally waives any claim of liability against the City of San Diego and agrees to defend, indemnify and hold harmless the City of San Diego and its advisors relative to the City of San Diego's approval of the project and for any damage due to natural hazards. This Notice of Hazardous Conditions-Indemnification and Hold Harmless Agreement shall be recorded against title to the property and shall run with the land, binding upon all successor and assigns.

ENVIRONMENTAL/MITIGATION REQUIREMENTS:

11. The applicant shall comply with the Mitigation, Monitoring and Reporting Program [MMRP] as specified in Mitigated Negative Declaration LDR No. 96-7549, satisfactory to the City Manager and the City Engineer. Prior to issuance of the first

grading permits, all mitigation measures as specifically outlined in the MMRP shall be implemented for the following issue areas:

- Biological Resources
- Geotechnical Impacts
- Paleontological Resource
- Public Safety
- Visual Impacts.

ENGINEERING REQUIREMENTS:

12. Prior to the issuance of any building permits, the Owner/Permittee shall be assure by permit and bond to the installation of a standard driveway on Hillside Drive, satisfactory to the City Engineer.

13. Prior to the issuance of any building permits, the Owner/Permittee shall obtain a grading permit from the City Engineer (referred to as an “engineer permit”) for the grading proposed for this project. All grading shall conform to requirements in accordance with Sections 62.0401 – 62.0423 of the City of San Diego Municipal Code in a manner satisfactory to the City Engineer.

14. The drainage system proposed for this development as shown on the site plan, is subject to approval by the City Engineer.

15. Prior to the issuance of any building permits, the Owner/Permittee shall provide evidence of a shared access easement agreement between Lot 1, Map 8782 and the project’s Lot 4, Map 8782, satisfactory to the City Engineer.

16. Prior to the issuance of any building permits, the Owner/Permittee shall:

- a. Provide building address numbers visible and legible from street or road fronting property or a directory (UFC 901.44).
- b. Show location of all fire hydrants on plot to conform to Fire Department Policy #F-85-1 (UFC 903.2).
- c. Provide access in conformance with Fire Department Policy A-93-1 for roadways, signs, red curbs and/or turning radius (UFC 901 & 902).
- d. Comply with the City of San Diego Landscaping Technical Manual regarding brush and landscaping (Appendix II-A, Section 16).

PLANNING/DESIGN REQUIREMENTS:

17. 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,” dated April 8, 1999, on file in the Office of Development Services. Parking spaces shall comply at all

times with Division 8 of the Municipal Code and shall not be converted for any other use unless otherwise authorized by the City Manager.

18. There shall be compliance with the regulations of the underlying zone(s) unless a deviation or variance to a specific regulation(s) is approved or granted as condition of approval of this permit. Where there is a conflict between a condition (including exhibits) of this permit and a regulation of the underlying zone, the regulation shall prevail unless the condition provides for a deviation or variance from the regulations. Where a condition (including exhibits) of this permit establishes a provision which is more restrictive than the corresponding regulation of the underlying zone, then the condition shall prevail.

19. The height(s) of the building(s) or structure(s) shall not exceed those heights set forth in the conditions and the exhibits (including, but not limited to, elevations and cross section) or the maximum permitted building height of the underlying zone, whichever is lower, unless a deviation or variance to the height limit has been granted as a specific condition of this permit.

20. A topographical survey conforming to the provision of Section 101.0216 of the Municipal Code 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.

21. Any future requested amendment to this permit shall be reviewed for compliance with the regulations of the underlying zone(s) which are in effect on the date of the submittal of the requested amendment.

22. All private outdoor lighting shall be shaded and adjusted to fall on the same premises where such lights are located.

23. The use of textured or enhanced paving shall meet applicable City standards as to location, noise and friction values.

24. No mechanical equipment, tank, duct, elevator enclosure, cooling tower or mechanical ventilator or air conditioner shall be erected, constructed, converted, established, altered, or enlarged on the roof of any building, unless all such equipment and appurtenances are contained within a completely enclosed structure whose top and sides may include grillwork, louvers and latticework.

25. Prior to building permit issuance, a building restricted easement shall be recorded on all portions of the property that are not proposed for development with this permit, to the satisfaction of the City Manager.

LANDSCAPE REQUIREMENTS:

26. Prior to issuance of any grading or building permits, complete landscape construction documents, including plans, details and specifications (including a

permanent automatic irrigation system unless otherwise approved), shall be submitted to the City Manager for approval. The construction documents shall be in substantial conformance with Exhibit "A." Landscape Concept Plan, dated April 8, 1999, on file in the Office of Development Services. No change, modification, or alteration shall be made unless appropriate application or amendment of this Permit shall have been granted.

27. 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 Permittee shall initiate such measures within forty-five days from the date that the grading of the systems (temporary and/or permanent) and appurtenances shall be installed in accordance with the approved plans and the *Landscape Technical Manual*.

28. Prior to issuance of any Certificate of Occupancy, it shall be the responsibility of the 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.

29. 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 are not permitted unless specifically noted in this Permit. The Permittee or subsequent Owner shall be responsible to maintain all street trees and landscape improvements consistent with the standards of the *Landscape Technical Manual*.

30. If any required landscape (including, but not limited to, existing or new plantings, hardscape, landscape feature, etc.) indicated on the approved plans is damaged or removed during demolition, it shall be repaired and/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 and/or an increased number) to the satisfaction of the City Manager.

31. The Brush Management Program is based on the Fire Department's Fire Hazard Severity Classification of HIGH and MODERATE. The Permittee shall implement the Brush Management program in accordance with the plan show on Exhibit "A," Landscape Concept and Brush Management Plan, dated "April 8, 1999" on file in the Office of Planning and Development Review.

- a. Prior to the issuance of any building permits, a complete set of brush management construction documents shall be submitted for approval to the City Manager and the Fire Chief. The construction documents shall be in substantial conformance with Exhibit "A" and shall comply with the Uniform Fire Code, M.C. 55.0889.0201, and Section Six of the Landscape Technical Manual (Document Number RR-274506) on file at the Office of the City Clerk.

- b. The Brush Management Zone Depths shall be as follows:

“Moderate” – Zone reduction provisions are implemented

Zone One - 25'
Zone Two - 30'
Zone Three - 30'

“High” – Zone reduction and alternative compliance provisions are implemented as follows:

Zone One - 13' - 30'
Zone Two - 0' - 70'
Zone Three - None

Where the total dimension of the brush management zones is less than a 70'; the structure shall incorporate two hour rated construction with one hour rated openings.

- c. The construction documents shall conform to the architectural features as described in Section 6.6-2 of the Landscape Technical Manual. The construction documents shall show additional fire resistant construction for the walls and solarium roof as identified on Exhibit A. The construction documents shall show that the exterior walls consist of two-hour rated wall construction consistent with the Uniform Fire Code (1994) Table 7B or the Fire Resistant Design manual (version 14). All openings, including the solarium roof, within the two hour walls shall be protected with one hour rated assemblies. The two hour exterior wall construction detail and one hour rated assemblies for the openings are subject to approval by the Fire Chief and the City Manager.
- d. Within Zone One combustible accessory structures with less than a one hour fire rating are not permitted, including but not limited to: wood decks, trellises, gazebos, etc. Non-combustible accessory structures and/or combustible accessory structures with a minimum fire rating of one hour or more, may be approved within the designated Zone One (including the alternative compliance zone one area) subject to approval by the Fire Chief and the City Manager.
- e. All requirements for fire-resistive construction and other architectural features shall conform to the applicable City and Regional Building Code Standards. The Fire Chief may consider deviations from these conditions or may require additional conditions at the time of final inspection if it is determined an eminent health and safety risks still exist.
- f. No invasive plant material shall be permitted.

- g. Provide the following note on the Brush Management Construction documents: "It shall be the responsibility of the Permittee to schedule a preconstruction meeting on site with the contractor and Planning & Development Review to discuss and outline the implementation of the Brush Management Program."
- h. Prior to the issuance of any Certificate of Occupancy of final inspection for any building, the Brush Management Program shall be implemented.
- i. The Brush Management Program shall be maintained at all times in accordance with the City of San Diego's Landscape Technical Manual and as shown on Exhibit "A."

INFORMATION ONLY:

- This development may be subject to a building permit park fee in accordance with San Diego Municipal Code Section 96.0401 et seq.
- This development may be subject to payment of School Impact Fees at the time of issuance of building permits, as provided by California Government Code section 53080(b) (Statutes of 1986, Chapter 887), in accordance with procedures established by the Planning and Development Manager.
- This development may be subject to impact fees, as established by the City Council, at the time of issuance of building permits.

APPROVED by the Council of the City of San Diego on October 5, 2004 by Resolution No. R-299734

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.

La Jolla Development Group, LLC
Owner/Permittee

By _____
Matthew C. DiNofia,
Managing Partner

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

MMS#757

R-299734