

RESOLUTION NUMBER R-300181

ADOPTED ON MARCH 1, 2005

WHEREAS, Lawrence M. Cushman, Owner/Permittee, filed an application with the City of San Diego for a Coastal Development Permit, Site Development Permit, and Multiple Habitat Planning Area [MHPA] Boundary Adjustment to construct three buildings totaling 190,000 square feet of gross floor area for Research and Development use on a 22.2-acre site, known as the Towne Centre Corporate Plaza project, located at the northwest terminus of Towne Centre Drive, and legally described as Lot "A" of Pueblo Lot 1320, Pueblo Lands of San Diego, in the City of San Diego, State of California, according to referee's partition map of said Pueblo Map filed in action No. 17622 in Superior Court of San Diego, entitled *San Diego Realty Company vs. the City of San Diego*, in the University Community Plan area, in the RS-1-7 zone which is proposed to be rezoned to the IP-1-1 (Industrial Park) zone; and

WHEREAS, on August 26, 2004, the Planning Commission of the City of San Diego considered Coastal Development Permit [CDP] No. 117798, Site Development Permit [SDP] Permit No. 2758, and MHPA Boundary Adjustment, and pursuant to Resolution No. 3564-PC voted to recommend City Council approval of the Permit; and

WHEREAS, the matter was set for public hearing on March 1, 2005, 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. 117798, Site Development Permit No. 2758 and MHPA boundary adjustment:

A. SITE DEVELOPMENT PERMIT

1. The proposed development will not adversely affect the applicable land use plan. The proposed zone change from the RS-1-7 zone to the IP-1-1 zone would update the site's zoning designation into compliance with the University Community Plan's Scientific Research land use designation. The proposal to develop the project site for Research and Development use is consistent with the Scientific Research land use designation of the University Community Plan.

The site is also subject to the Community Plan Implementation Overlay Zone [CPIOZ] Type "A," the Accident Potential Zone [APZ] "2," and the Noise Impact/Land Use Compatibility Matrix of the Comprehensive Land use Plan [CLUP] for Marine Corps Air Station [MCAS] Miramar. Collectively, these regulations establish appropriate densities and land uses for sites within the University Community Plan affected by activities by MCAS Miramar. The proposed 190,000 square-foot is below the maximum 195,120 square-foot maximum established by the Density Element of the University Community Plan; and the proposed lot coverage of 1.5 acres is below the maximum development limit of 8.9 acres for the 22.2-acre site, as required by the Miramar CLUP for sites within APZ "2." The CLUP also identifies that the proposed Scientific Research facility to be a consistent use within the project's location within the 60 to 65 decibel [Db] Community Noise Equivalent Level [CNEL] noise contour lines.

Therefore, no adverse affect on the University Community Plan will occur as a result of the project.

2. The proposed development will not be detrimental to the public health, safety, and welfare. The proposed development is consistent with the density limitation for projects located within the APZ "2," and consistent with the Noise Impact/Land Use Compatibility Matrix, of the Miramar CLUP. In addition, specific measures included in the project Mitigation, Monitoring, and Reporting Program [MMRP] require the project to make improvements to Towne Centre Drive and Eastgate Mall, and Towne Centre Drive and La Jolla Village Drive. These specific improvement measures at those intersections would mitigate potentially significant traffic impacts to a level below significance and improve circulation and traffic in the area. Additional measures to encourage ride sharing are included as project features and permit conditions.

These measures are designed to comply with APZ 2, the Miramar CLUP, and the project traffic study to reduce the public's exposure to aircraft accidents, noise exposure, and to minimize the project's traffic impacts. Therefore, the proposed development will not be detrimental to the public health, safety, and welfare.

3. The proposed development will comply with the applicable regulations of the Land Development Code. The project is consistent with the intent of the Environmentally Sensitive Lands [ESL] regulations to protect, preserve and, where damaged restore, ESLs of San Diego and the viability of the species supported by those lands. Project impacts to ESL, total 11.2 acres; impacts associated with the off-site sewer construction total 0.9 acres. Project impacts to ESLs are minimized by the preservation of a total of 9.64 acres of the required 10.7 acres of mitigation. The 9.64 acres would be dedicated to the City's MHPA as on-site mitigation intended for long-term preservation.

The 22.2 acre project site is well in excess of the 40,000 square-foot minimum lot size required in the IP-1-1 zone. With the approximate lot dimensions of 1,400 feet by 550 feet are also well in excess of the IP-1-1 minimum lot dimensions of 100 feet by 200 feet. The proposed buildings are generously set back from property lines: ~110+ feet front setback, ~70 feet and ~80 feet side setbacks, and ~500 feet rear setback rear. The proposed floor area ratio of 0.29 is well below the 2.0 limitation of the IP-1-1 zone. The development would have no effect public access or coastal resources.

Therefore, the proposed development would be in compliance with the applicable regulations of the Land Development Code.

B. 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. Development is proposed on the relatively flat area of Parcel 1 near the Towne Centre Drive entrance, on a total of 11.2 of the 22.2-acre site. Impacts associated with the off-site sewer construction total 0.9 acres. Project impacts to ESLs are minimized by the on-site preservation of a total of 9.64 acres of the required 10.7 acres of mitigation. The 9.64 acres would be dedicated to the City's MHPA as on-site mitigation for long-term preservation. In addition, the development also proposes an MHPA Boundary Adjustment that would be an equal acreage exchange (3.4 acres for 3.4 acres). The adjustment is determined to be acceptable because it would result in increased biodiversity and better habitat connectivity within the project site and immediate area.

The project design clusters the development on Parcel 1 near the project entrance. The design allows the preservation of much of the surrounding hillsides and ESLs.

2. 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. On-site grading will balance 60,000 cubic yards on-site to create about 11.9 acres of developable area on the mesa near the Towne Centre Drive entrance. Much of the surrounding hillsides would be preserved. Staff review has confirmed that the applicant has adequately addressed the soil and geologic conditions potentially affecting the development. No unusual fire safety issues exist that could potentially affect the project. The project will not result in undue risks 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. The project site is located on a relatively flat mesa top that drops off on all sides except at the southeastern portion. On-site grading will balance 60,000 cubic yards on-site to create about 11.9 acres of developable area on the mesa near the Towne Centre Drive entrance. Much of the surrounding hillsides within the 22.2-acre project site would be preserved within the MHPA and connect with adjacent environmentally sensitive lands.

The clustering of the development on the 11.9 acres allows the preservation of much of the project site. Generously building set back from property lines, ~110+ feet front setback, ~70 feet and ~80 feet side setbacks, and ~500 feet rear setback rear, protect the surrounding environmentally sensitive lands. Indirect impacts to the adjacent MHPA, such as lighting, drainage, landscaping, grading, access, and construction noise, is specifically addressed by the project MMRP. The MMRP requires the project to minimize or eliminate indirect impacts the MHPA.

The proposed development has been 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. Approximately 9.64 acres is located within the City's MHPA, which subjects the development to the MSCP Land Use Adjacency Guidelines. The Guidelines would require the project to minimize indirect impacts to the MHPA. The project MMRP lists specific conditions to address project impacts on the MHPA: impacts such as lighting, drainage, landscaping, grading, access, and construction noise. These measures would minimize or eliminate indirect impacts the MHPA and would ensure the project's consistency with the Subarea Plan.

In addition, the development also proposes an MHPA Boundary Adjustment that would be an equal acreage exchange (3.4 acres for 3.4 acres). The adjustment is determined to be acceptable because it would result in increased biodiversity and better habitat connectivity within the project site and immediate area. The exchange is therefore consistent with the Subarea Plan, provided that the exchange results a situation that is either equal or greater in quality and/or size of the resources within the MHPA.

Indirect impacts to the adjacent MHPA, such as lighting, drainage, landscaping, grading, access, and construction noise, is specifically addressed by the project MMRP. The MMRP requires the project to minimize or eliminate indirect impacts the MHPA and would ensure the project's consistency with the Subarea Plan.

Therefore, the proposed development would be consistent with the City of San Diego'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 site is over 2.5 miles of hills and canyons from the ocean, and will be required to control run-off as required by City and Regional Water Quality Control Board regulations. Therefore, 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. The proposed project impacts to ESL, total 11.2 acres; impacts associated with the off-site sewer construction total 0.9 acres would be mitigated by the preservation of a total of 9.64 acres of the required 10.7 acres of mitigation. The 9.64 acres would be dedicated to the City's MHPA as on-site mitigation for long-term preservation. The remainder acreage would be mitigated through the project's appropriate payment to the City's Habitat Acquisition Fund.

Indirect impacts to the adjacent MHPA, such as lighting, drainage, landscaping, grading, access, and construction noise, is specifically addressed by the project MMRP. The MMRP requires the project to minimize or eliminate indirect impacts the MHPA.

In addition, specific measures included in the project MMRP requires that the project provide improvements to Towne Centre Drive and Eastgate Mall, and Towne Centre Drive and La Jolla Village Drive to mitigate potentially significant impacts to a level below significance and improve circulation and traffic in the area. Additional mitigation and project conditions encourage ride sharing are included as project features and permit conditions.

Project impact mitigation measures were intended to alleviate negative impacts of the development.

C. COASTAL DEVELOPMENT PERMIT

1. The proposed coastal development will not encroach upon any existing physical access way that is legally used by the public or any proposed public accessway identified in a Local Coastal Program land use plan; and the proposed coastal development will enhance and protect public views to and along the ocean and other scenic coastal areas as specified in the Local Coastal Program land use plan. The project is located approximately 2.5 miles of hills and canyons from the coast. There is no direct coastal access or any coastal vantage points from the project site. Therefore, the project will not encroach or affect coastal access or views to the ocean.

2. The proposed coastal development will not adversely affect environmentally sensitive lands. No active development will occur within the Coastal Overlay Zone. All environmentally sensitive lands within the project, and located within the Coastal Overlay Zone, will be preserved as open space within the MHPA. Indirect impacts to the adjacent MHPA, such as lighting, drainage, landscaping, grading, access, and construction noise, is specifically addressed by the project MMRP. The MMRP requires the project to minimize or eliminate indirect impacts the MHPA.

Therefore, environmentally sensitive lands within the Coastal Overlay Zone will therefore not be adversely affected by the proposed development.

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

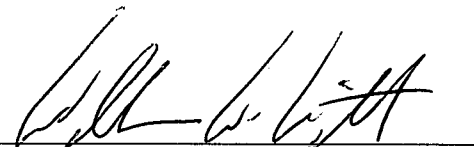
Implementation Program. The purpose of the Coastal Overlay zone is to protect and enhance the quality of public access and coastal scenic resources. Since there is no active development proposed within the Coastal Overlay zone, the proposed project is in conformance with the certified Local Coastal Program land use plan and complies with all regulations of the certified Implementation Program.

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 located approximately 2.5 miles of hills and canyons from the coast, and is not located between the ocean and the nearest public road. There is no direct coastal access from the project site. The proposed development will have no effect on public access or public recreation policies of the California Coastal Act.

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. 117798, Site Development Permit No. 2758 and Multiple Habitat Planning Area Boundary Adjustment is granted to Lawrence M. Cushman, 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
05/02/05
Or.Dept:Clerks
R-2005-969
MMS #1228
PERMIT - Permit Resolution 11-01-04

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

JOB ORDER NUMBER 400950

COASTAL DEVELOPMENT PERMIT NO. 117798
SITE DEVELOPMENT PERMIT NO. 2758
MULTIPLE HABITAT PLANNING AREA BOUNDARY ADJUSTMENT
TOWNE CENTRE CORPORATE PLAZA
CITY COUNCIL

This Coastal Development Permit, Site Development Permit and Multiple Habitat Planning Area [MHPA] Boundary Adjustment is granted by the Council of the City of San Diego to Lawrence M. Cushman, Owner/Permittee, pursuant to San Diego Municipal Code [SDMC] Chapter 12, Article 3, Division 1; Chapter 12, Article 5, Division 4; Chapter 12, Article 6, Division 5; and Chapter 12, Article 6, Division 7. The 22.2-acre site is located at the northwest terminus of Towne Centre Drive in the RS-1-7 zone of the University Community Planning Area. The project site is legally described as Lot "A" of Pueblo Lot 1320, Pueblo Lands of San Diego, in the City of San Diego, State of California, according to referee's partition map of said Pueblo Map filed in action No. 17622 in Superior Court of California, entitled *San Diego Realty Company vs. the City of San Diego*.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee to construct three buildings totaling 190,000 square feet, described and identified by size, dimension, quantity, type, and location on the approved exhibits (Exhibit "A"), dated March 1, 2005, on file in the Development Services Department.

The project or facility shall include:

- a. Three buildings totaling 190,000 square-feet of gross floor area for office use (Regional and Corporate Headquarters), as follows:

	Gross Floor Area	Height	Stories
Building A	80,500	60	4
Building B	63,500	46	3
Building C	46,000	32	2

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

STANDARD REQUIREMENTS:

1. Construction, grading or demolition must commence and be pursued in a diligent manner within thirty-six months after the effective date of final approval by the City, following all appeals. Failure to utilize the permit within thirty-six months will automatically void the permit unless an Extension of Time has been granted. Any such Extension of Time must meet all the SDMC requirements and applicable guidelines in effect at the time the extension is considered by the appropriate decision maker.
2. No permit for the construction, occupancy or operation of any facility or improvement described herein shall be granted, nor shall any activity authorized by this Permit be conducted on the premises until:
 - a. The Permittee signs and returns the Permit to the Development Services Department; and
 - b. The Permit is recorded in the Office of the San Diego County Recorder.
3. Unless this Permit has been revoked by the City of San Diego the property included by reference within this Permit shall be used only for the purposes and under the terms and conditions set forth in this Permit unless otherwise authorized by the City Manager.
4. This Permit is a covenant running with the subject property and shall be binding upon the Permittee and any successor or successors, and the interests of any successor shall be subject to each and every condition set out in this Permit and all referenced documents.
5. The utilization and continued use of this Permit shall be subject to the regulations of this and any other applicable governmental agency.
6. Issuance of this Permit by the City of San Diego does not authorize the Permittee for this permit to violate any Federal, State or City laws, ordinances, regulations or policies including, but not limited to, the Endangered Species Act of 1973 [ESA] and any amendments thereto (16 U.S.C. § 1531 et seq.).

7. 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.

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 application(s) or amendment(s) to this Permit have been granted.

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

In the event that any condition of this Permit, on a legal challenge by the Owner/Permittee of this Permit, is found or held by a court of competent jurisdiction to be invalid, unenforceable, or unreasonable, this Permit shall be void. However, in such an event, the Owner/Permittee shall have the right, by paying applicable processing fees, to bring a request for a new permit without the "invalid" 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.

10. Prior to issuance of any grading permits for this project, a final subdivision map shall be recorded on the subject property.

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

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

13. Prior to recordation of this Permit with the County Recorder, the developer shall make a payment to the Development Services Department for the Los Peñasquitos Watershed Restoration and Enhancement Program. 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.

ENVIRONMENTAL/MITIGATION REQUIREMENTS:

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

15. As conditions of Coastal Development Permit No. 117798, Site Development Permit No. 2758, and multiple Habitat Planning Area Boundary Adjustment, the mitigation measures specified in the MMRP, and outlined in the Mitigated negative Declaration No. 1591 shall be noted on the construction plans and specifications under the heading ENVIRONMENTAL/MITIGATION REQUIREMENTS.

16. The Owner/Permittee shall comply with the MMRP as specified in the Mitigated Negative Declaration No. 1591 satisfactory to the City Manager and City Engineer. Prior to issuance of the first grading permit, all conditions of the MMRP shall be adhered to the satisfaction of the City Engineer. All mitigation measures as specifically outlined in the MMRP shall be implemented for the following issue areas:

- Biological Resources
- Transportation/Circulation
- Public Safety
- Biological Resources (Land Use)

17. The MMRP shall require a deposit of \$3,200 to be collected prior to the issuance of any construction permits to cover the City's costs associated with implementation of the MMRP.

ENGINEERING AND STORMWATER REQUIREMENTS:

18. Prior to the issuance of any building permits, the applicant shall obtain a bonded grading permit from the City Engineer (referred to as an "engineering permit") for the grading proposed for this project. All grading shall conform to requirements in accordance with of the City of San Diego Municipal Code in a manner satisfactory to the City Engineer.

19. The drainage system proposed with this development is subject to approval by the City Engineer.

20. Prior to building occupancy, the applicant shall conform to the Municipal Code, "Public Improvement Subject to Desuetude or Damage." If repair or replacement of such public improvements is required, the owner shall obtain the required permits for work in the public right-of-way, satisfactory to the permit-issuing authority.

21. Prior to the issuance of any construction permit the Subdivider shall incorporate and show the type and location of all post-construction Best Management Practices [BMPs] on the final construction drawings, consistent with the approved Water Quality Technical Report.

22. Prior to the issuance of any construction permit, the Subdivider shall incorporate any construction BMPs necessary to comply with Chapter 14, Article 2, Division 1 (Grading Regulations) of the Municipal Code, into the construction plans or specifications.

23. Prior to the issuance of any construction permit, the Subdivider shall enter into a Maintenance Agreement for the ongoing permanent BMP maintenance, satisfactory to the City Engineer.

24. Prior to the issuance of any construction permits, the applicant shall provide evidence of coverage under the General Industrial National Pollutant Discharge Elimination System, in the form of a Notice of Intent [NOI] filed with the State Water Resources Control Board.

TRANSPORTATION REQUIREMENTS

25. Prior to issuance of the first building permit, the applicant shall dedicate and assure by permit and bond the improvement of Towne Centre Drive from its existing terminus to the project's southeasterly boundaries with a street cross-section of 50 feet of pavement within 70 feet of right-of-way, including a cul-de-sac with radius of 55 feet of pavement within 65 feet of right-of-way. All street improvements to include full-height curb, gutter and sidewalk to the satisfaction of the City Engineer.

26. A minimum of 661 automobile off-street parking spaces (including fifty-seven Carpool and twenty-one accessible spaces) and a maximum of 716 off-street parking spaces (if the possible future parking deck shown on Exhibit "A" is constructed), ten motorcycle parking spaces, six bicycle spaces, six bike-lockers, and shower facilities shall be permanently maintained on the property within the approximate location shown on the project's Exhibit "A."

27. All on-site parking stalls and aisle widths shall be in compliance with requirements of the City's Land Development Code [LDC], and shall not be converted and/or utilized for any other purpose, unless otherwise authorized in writing by the City Manager.

28. Per the City's LDC section 142.0530 (h) Rideshare Information. All nonresidential uses with more than 100,000 square feet of gross floor area are required to provide a kiosk or bulletin board that displays information on transit use, carpooling, and other forms of ridesharing.

29. Each proposed building shall be limited to one tenant per minimum of 40,000 square-feet of gross floor area.

30. The "Future Parking Deck" shall be subject to an amendment of this Permit. The Permit amendment shall include the review and approval of a traffic/access/parking study. The study shall address the impact of any increase in the project's average daily trips [ADT] on the area's transportation network. The amendment shall also address visual issues related to the parking deck. The submittal shall include elevation plans of

the parking deck, and proposals to address visual issues, such as specific landscape and architectural elements.

LANDSCAPE REQUIREMENTS:

31. Prior to issuance of any grading or building permits, complete landscape construction documents, including plans, details and specifications (including maintenance specifications and 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." No change, modification, or alteration shall be made unless appropriate application or amendment of this Permit shall have been granted.

32. Prior to issuance of any Certificate of Occupancy, 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.

33. 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. The trees shall be maintained in a safe manner to allow each tree to grow to its mature height and spread. The Owner/Permittee shall be responsible to maintain all street trees and landscape improvements consistent with the standards of the Land Development Manual.

34. No change, modification or alteration shall be made to the project unless appropriate application or amendment of this Permit has been granted by the City. All plan specifications and notes mentioned in the conditions below shall be consistent with LDC section 142.0401 and Landscape Standards, Exhibit "A," Landscape Development Plan, Brush Management Plan, Details and Notes on file in the Office of the Development Services.

35. The Permittee or subsequent Owner 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 Project Association or a Landscape Maintenance District.

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

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37. Prior to issuance of any engineering permits for right-of-way improvements, complete landscape and irrigation plans on duplicates of improvement plans shall be submitted to the City Manager for approval. Plans, details and specifications (including maintenance specifications), and landscape Improvement plans shall indicate each street tree by station points and staking in the field with a lodge pole tree stake prior to any utilities stub-outs. Tree stakes shall remain in place until trees are planted.
38. All tree locations shall have a 40 square foot minimum area around each tree's root zone, which is unencumbered by utilities. Driveways, utilities, drains, water and sewer laterals shall be designed so as not to prohibit the placement of any tree. During improvement activities the locations of all trees shall be identified with a lodge pole tree stake and inspected by the field engineer prior to the installation of any wet or dry utility stub-outs and placement of any pavement.
39. Prior to issuance of any engineering permits for grading, landscape construction documents (including irrigation plans) for slope planting, erosion control, re-vegetation and hydroseeding shall be submitted to the City Manager for approval.
40. Immediate installation of slope planting and erosion control, including seeding of all disturbed land (slopes and pads) and associated irrigation systems (temporary and/or permanent) is considered to be in the public's interest. Planting of all graded slopes shall be accomplished prior to any issuance of a build permit for structures. A letter of substantial conformance from the landscape architect or designer shall be submitted to the city manager for approval.
41. In the event that a Foundation Only permit is requested by the Permittee or subsequent Owner, a staking layout plan identifying all landscape areas shall be submitted to the City Manager for approval. These landscape areas shall be clearly identified with a distinct symbol, noted with dimensions and labeled as "Planting Area (PA)."
42. Prior to issuance of any construction permits for parking structures, the Permittee shall submit on the planting and irrigation plans a signed statement by a Registered Structural Engineer indicating that supporting structures are designed to accommodate the necessary structural loads and associated planting and irrigation.
43. In the event a parking structure is proposed, the Permittee shall provide 24-inch box trees so that every parking space is within 30 feet of a tree. Planters and tree species shall be provided that comply with the City of San Diego Landscape Regulations and the Landscape Standards.
44. The Permittee shall implement the following requirements in accordance with the Brush Management Program shown on Exhibit "A," Brush Management Program/ Landscape Development Plan.
45. Prior to issuance of permits or recording of final maps, all easements or right of entry permits for the purpose of Brush Management shall be obtained.

46. Prior to issuance of any engineering permits for grading, 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 zone depths by dimension.

47. Through zone reduction, the Brush Management Program shall consist of one zone as follows:

APN #: 343-121-0300 [West of I-805]
Zone One: 40 feet (minimum)

48. Within Zone One, a minimum fire rating of ONE HOUR for additions or accessory structures (including, but not limited to decks, trellises, gazebos, etc) are permitted with the approval of the Fire Marshall and the City Manager.

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

50. Prior to final inspection and issuance of any Certificate of Occupancy for any building, the approved Brush Management Program shall be implemented.

51. Zone One shall contain no combustible construction or materials that provide a means of transmitting fire to habitable structures.

52. Perimeter plant material shall visually blend the color and texture of proposed plant material with the existing hillside vegetation.

53. In the event a fountain is provided at the entry sign, the design of the sidewalk may be contiguous provided it meets other applicable regulations within Development Services.

54. Native or naturalizing landscaping shall be utilized around the perimeter of the parking lot to buffer edge effects and provide more natural transition to the adjacent natural habitat. No invasive plantings are permitted.

PLANNING/DESIGN REQUIREMENTS:

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

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

57. 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.

58. Any future requested amendment to this Permit shall be reviewed for compliance with the regulations of the underlying zones which are in effect on the date of the submittal of the requested amendment.

59. All signs associated with this development shall be consistent with sign criteria established by either of the following:

- a. Approved project sign plan (Exhibit "A,") or
- b. Citywide sign regulations.

60. Prior to the issuance of any building permits, complete outdoor lighting information shall be submitted to the Development Services Department, Land Development Review Division, for review and approval. Complete lighting information shall include a plan view photometric analysis indicating an isofoot candle plot and a point by point plot to include all areas within the private property and to extend a minimum of 50 feet beyond the property line, construction details as necessary to direct installation of the outdoor lighting system, manufacturers name, visors, prisms, lenses and reflectors and a lighting plan locating each fixture in plan view and a legend. The outdoor lighting system shall be designed, manufactured and installed to allow shading, adjusting, and shielding of the light source so all outdoor lighting is directed to fall only onto the same premises as light sources are located.

61. Prior to the issuance of any occupancy permit, a night inspection shall be required to verify compliance of the outdoor lighting system. No light shall be directed to fall outside the property line. Light levels along the perimeter of the property shall be measured no higher than three footcandles. Light levels throughout the development shall be the least practical level necessary to effectively illuminate the operation. Sky glow or light halo shall be reduced to the greatest extent practical and in no case shall initial light levels be measured exceeding eight footcandles anywhere within the site. The Owner/ Permittee, or an authorized representative, shall provide an illuminance meter to measure light levels as required to establish conformance with the conditions of this Permit during the night inspection. Night inspections may be required additional fees as may be required as determined by the City Manager.

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

63. The subject property and associated common areas on site shall be maintained in a neat and orderly fashion at all times.

64. All uses, except storage and loading, shall be conducted entirely within an enclosed building. Outdoor storage of material and equipment is permitted in any required interior side or rear yard, provided the storage area is completely enclosed by walls, fences, or a combination thereof. Walls or fences shall be solid and not less than six feet in height and, provided further, that no merchandise, material or equipment stored not higher than any adjacent wall.

65. 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.

66. No merchandise, material, or equipment shall be stored on the roof of any building.

67. No mechanical equipment shall be erected, constructed, or enlarged on the roof of any building on this site, unless all such equipment is contained within a completely enclosed architecturally integrated structure.

68. Prior to the issuance of building permits, construction documents shall fully illustrate compliance with the Citywide Storage Standards for Trash and Recyclable Materials (SDMC) to the satisfaction of the City Manager. All exterior storage enclosures for trash and recyclable materials shall be located in a manner that is convenient and accessible to all occupants of and service providers to the project, in substantial conformance with Exhibit "A."

WASTEWATER REQUIREMENTS:

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

70. The developer agrees to design all proposed public sewer facilities in accordance with established criteria in the City of San Diego's current Sewer Design Guide.

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

WATER REQUIREMENTS:

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

73. The developer agrees to design all proposed public sewer facilities in accordance with established criteria in the City of San Diego's current sewer design guide. Proposed facilities that do not meet the current standards shall be redesigned or private.

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 Council of the City of San Diego on March 1, 2005 by Resolution No. R-300181.

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.

Lawrence M. Cushman
Owner/Permittee

By _____

By _____

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

PERMIT/OTHER – Permit Shell 11-01-04