

RESOLUTION NUMBER R-300951

ADOPTED ON OCTOBER 18, 2005

WHEREAS, Richard D. and Carolyn A. Van Derheyden, Trustees of the 3-V Trust as to an Undivided 50 Percent Interest and Barry C. and Connie Collins, Trustees of the Collins Family Trust as to an Undivided 50 Percent Interest, Owners/Permittees, filed an application with the City of San Diego for Community Plan Amendment [CPA] No. 7687, Rezone [RZ] No. 7686, Tentative Map [TM] No. 7685, Planned Development Permit [PDP] No. 7688 (amending Planned Industrial Development, Hillside Review and Resource Protection Overlay Zone [PID/HR/RPOZ] Permit No. 88-0794) and Site Development Permit [SDP] No. 7689, to subdivide a 6.362-acre undeveloped site into sixteen lots and one open space lot, with a deviation to the development regulations for lot area, to allow development of sixteen detached single-family dwelling units on a site containing steep slopes and sensitive biological resources, known as the River View Village Residential project, located at the northerly terminus of Wembley Street, south of Mission Gorge Road, west of Princess View Drive, and north of Fontaine Street, and legally described as Lots 3, 4, and 5 of the Subdivision of Lots 61, 62 and the easterly Portion of Lot 63, of the Rancho Mission of San Diego, according to Map No. 1550, in the Navajo Community Plan area, in the AR-1-2 zone which is proposed to be rezoned to the RX-1-1 zone; and

WHEREAS, on December 16, 2004, the Planning Commission of the City of San Diego considered Rezone No. 7686 and Community Plan Amendment No. 7687, and Planned Development Permit [PDP] No. 7688/Site Development Permit [SDP] Permit No. 7689, and

pursuant to Resolution No. 3619-PC voted to recommend City Council approval of the Permit;
and

WHEREAS, the matter was set for public hearing on October 18, 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 Planned Development Permit No. 7688/Site Development Permit No. 7689:

A. PLANNED DEVELOPMENT PERMIT SAN DIEGO MUNICIPAL CODE/LAND DEVELOPMENT CODE [SDMC/LDC] SECTION 126.0604

1. The proposed development will not adversely affect the applicable land use plan. Staff has reviewed the application and submitted plans for consistency with the Navajo Community Plan, which currently designates the 6.362-acre site for light-industrial use. The current land use designation of light-industrial includes this parcel and a larger approximately 42-acre parcel to the north adjacent to Mission Gorge Road. This larger parcel, Mission Trails Industrial Park, has been developed as a light-industrial park pursuant to previously approved discretionary actions. The subject 6.362-acre property is contiguous to and located south of this industrial park and was once part of the land which was subdivided and developed with the industrial park. With the subdivision of the industrial park land, this 6.362-acre parcel was designated as a remainder parcel and "NOT A PART" of the subdivision pursuant to provisions of the State Subdivision Map Act.

The current application seeks to amend the Navajo Community Plan to designate this 6.362-acre parcel for low-density, single-family residential development. The Planning Commission voted to initiate an amendment to the Community Plan, and directed staff to analyze several areas of concern. These concerns were analyzed and a response included in Planning Commission Report No. PC-04-193 dated November 26, 2004.

The subject parcel is topographically separated from the parcel developed with the industrial park. It is located to the south approximately 120-feet above the industrial park. The property is adjacent to an established residential neighborhood. Staff analysis determined that the request to designate this site for low-density, single-family residential use is able to be supported, due in part to the site being topographically removed from the industrial park site. The site is immediately adjacent to single-family residentially developed property. Access to the site is most practically achieved with the extension of Wembley Street. Access is not practical from the north or east of the site. An alternate access would require access across privately

owned property, topographically steep and further constrained by available area to comply with City standards for vehicular access.

The level of residential density proposed, relates to the existing single-family residential development to the south. The proposed zone is RX-1-1, which allows for one dwelling unit per lot with a minimum lot size of 4,000 square feet. The single-family residential directly adjacent to the south is built at approximately 5,000 square-feet per lot or more, with some variation.

Public services such as water, sewer, roads, etc, are in place to support this development. The proposed project will pay hook up fees for access to water and sewer services. Public facilities will not be negatively impacted by the approval of this proposed project as the project will pay development impact fees to contribute to the Navajo parks and fire departments. Police services are provided from the General Fund. School fees are an additional fee paid by the developer to the San Diego School District. In addition, according to the finalized Mitigated Negative Declaration, issued November 5, 2004, the proposed project does not require the construction or expansion of recreational facilities. Staff analysis concluded that with approval of the Amendment to the Navajo Community Plan, the development of the site as proposed would be consistent with the amended Plan.

2. The proposed development will not be detrimental to the public health, safety, and welfare. Staff has reviewed the application for the proposed development of sixteen single-family residences, including all submitted plans and exhibits. Staff has determined that public services such as water, sewer, roads, etc, are in place to support this development. The proposed project will have access to and connect with adequate water and sewer services. Public facilities will not be negatively impacted by the approval of this proposed project as the project will pay development impact fees to contribute to the Navajo area parks and fire departments. Police services are provided from the General Fund. School fees are an additional fee paid by the developer to the San Diego School District.

Grading and building plans will be submitted to staff for review with applicable Uniform and Municipal Codes, and City policies. Staff will review the plans and required corrections will subsequently be made to ensure that grading and building plans comply with applicable codes and standards. Upon and during implementation, grading and construction practices will be inspected for compliance with approved plans, industry standards and Uniform Codes.

A Mitigated Negative Declaration has been prepared for the project in accordance with California Environmental Quality Act [CEQA] Guidelines. A Mitigation, Monitoring and Reporting Program [MMRP] will be implemented to ensure that any impacts are appropriately mitigated. Alternative compliance is being granted to allow the development to observe reduced brush management zones provided that appropriate fire rating methods and techniques are utilized to minimize and reduce exposure to fire hazards. Brush thinning and modification techniques will be utilized in an effort to reduce vegetation and potential fuel sources. Based on these efforts, and with implementation of permit conditions, staff has determined that the proposed development of the site 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. Staff has reviewed the proposed development application, submitted plans and required technical studies and determined that with the exception of one minor deviation, and alternative compliance to brush management requirements, the project complies with the regulations of the Land Development Code. The deviations are being granted to allow reduced lot area for one lot, 3,921 sq. ft. in area, which is 79 sq. ft., or less than 0.02% below the required minimum. This deviation has been determined to be supportable because the majority of the lots are well in excess of the 4,000 sq. ft. minimum. This minor reduction will allow the site development to minimize impacts to adjacent open space, while accommodating reasonable density development for the property.

Grading and building plans will be submitted to staff for review for compliance with applicable Uniform and Municipal Codes, and City policies. Staff will review the plans and corrections may be required to ensure compliance with applicable codes and standards. Upon and during implementation, grading and construction practices will be inspected for compliance with approved plans, industry standards and Uniform Codes.

Conditions have been added to the approved Permit which require compliance with related Land Development Code regulations. Upon project implementation, the proposed development will comply with the regulations of the Land Development Code.

4. The proposed development, when considered as a whole, will be beneficial to the community. Staff and the recognized Community Planning Group for the area have reviewed the development proposal which proposes to construct sixteen, 2-story, single-family residential dwelling units. This development will provide additional housing opportunities for the Navajo communities and the region. It will utilize sensitive grading techniques to grade only that portion of the site necessary to implement the density, access and brush management features of the development. Alternative compliance to the brush management ordinance is being granted to achieve an acceptable level of fire safety. A significant northerly portion of the site will be set aside within an open space easement and remain undeveloped. This easement will be maintained by a homeowners association which will be formed. This open space easement will act to minimize view impacts from Mission Gorge Road which is a significant access point for the Navajo communities and a throughway to adjacent municipalities. Based on this assessment it has been determined that the proposed development, when considered as a whole, will be beneficial to the community.

5. Any proposed deviations pursuant to SDMC/LDC 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. Staff has reviewed the single deviations proposed with the project which include a deviation for Lot 8 to comprise 3,921 sq. ft. of area where a minimum of 4,000 sq. ft. is required for lots in the RX-1-1 zone. Ten of the remaining lots in the development will comprise at least 8,000 sq. ft. which is twice the minimum required. Portions of these properties will be preserved in an open space easement and remain undeveloped.

Therefore, staff has determined that the proposed deviation is 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.

B. SITE DEVELOPMENT PERMIT SDMC/LDC SECTION 126.0504

1. Findings for all Site Development Permits:

a. The proposed development will not adversely affect the applicable land use plan. Staff has reviewed the application and submitted plans for consistency with the Navajo Community Plan, which currently designates the 6.362-acre site for light-industrial use. The current land use designation of light-industrial includes this parcel and a larger approximately 42-acre parcel to the north adjacent to Mission Gorge Road. This larger parcel, Mission Trails Industrial Park, has been developed as a light-industrial park pursuant to previously approved discretionary actions. The subject 6.362-acre property is contiguous to and located south of this industrial park and was once part of the land which was subdivided and developed with the industrial park. With the subdivision of the industrial park land, this 6.362-acre parcel was designated as a remainder parcel and "NOT A PART" of the subdivision pursuant to provisions of the State Subdivision Map Act.

The current application seeks to amend the Navajo Community Plan to designate this 6.362-acre parcel for low-density, single-family residential development. The Planning Commission voted to initiate an amendment to the Community Plan, and directed staff to analyze several areas of concern. These concerns were analyzed and a response included in Planning Commission Report No. PC-04-193 dated November 26, 2004.

The subject parcel is topographically separated from the parcel developed with the industrial park. It is located to the south approximately 120-feet above the industrial park. The property is adjacent to an established residential neighborhood. Staff analysis determined that the request to designate this site for low-density, single-family residential use is able to be supported, due in part to the site being topographically removed from the industrial park site. The site is immediately adjacent to single-family residentially developed property. Access to the site is most practically achieved with the extension of Wembley Street. Access is not practical from the north or east of the site due to: access across privately owned property; topographically steep and further constrained by available area to comply with City standards for vehicular access.

The level of residential density proposed, relates to the existing single-family residential development to the south. The proposed zone is RX-1-1, which allows for one dwelling unit per lot, with a 4,000 sq. ft. minimum for each lot. The single-family residential directly adjacent to the south is built at approximately 5,000 square-feet per site or more, with some variation.

Public services such as water, sewer, roads, etc, are in place to support this development. The proposed project will pay hook-up fees for access to water and sewer services. Public facilities will not be negatively impacted by the approval of this proposed project, as the project will pay development impact fees to contribute to the Navajo area parks and fire

departments. Police services are provided from the General fund. School fees are an additional fee paid by the developer to the San Diego School District. In addition, according to the finalized Mitigated Negative Declaration, issued November 5, 2004, the proposed project does not require the construction or expansion of recreational facilities.

Staff analysis concluded that with approval of the Amendment to the Navajo Community Plan, the development of the site as proposed would be consistent with the amendment Plan.

b. The proposed development will not be detrimental to the public health, safety, and welfare. Staff has reviewed the application for the proposed development of sixteen, single-family residences, including all submitted plans and exhibits. Staff has determined that public services such as water, sewer, roads, etc, are in place to support this development. The proposed project will have access to and connect with adequate water and sewer services. Public facilities will not be negatively impacted by the approval of this proposed project as the project will pay development impact fees to contribute to the Navajo area parks and fire departments. Police services are provided from the General Fund. School fees are an additional fee paid by the developer to the San Diego School District.

Grading and building plans will be submitted to staff for review with applicable Uniform and Municipal Codes, and City policies. Staff will review the plans and required corrections will subsequently be made to ensure that grading and building plans comply with applicable codes and standards. Upon and during implementation, grading and construction practices will be inspected for compliance with approved plans, industry standards and Uniform Codes.

A Mitigated Negative Declaration has been prepared for the project in accordance with CEQA Guidelines. A MMRP will be implemented to ensure that any impacts are appropriately mitigated. Alternative compliance is being granted to allow the development at this location to observe reduced brush management zones provided that appropriate fire rating methods and techniques are utilized to minimize and reduce exposure to fire hazards. Brush thinning and modification techniques will be utilized in an effort to reduce vegetation and potential fuel sources. Based on these efforts, and will implementation of permit conditions, staff has determined that the proposed development of the site as proposed will not be detrimental to the public health, safety and welfare.

c. The proposed development will comply with the applicable regulations of the Land Development Code. Staff has reviewed the proposed development application, submitted plans and required technical studies and determined that with the exception of one minor deviation, and alternative compliance to brush management requirements, the project complies with the regulations of the Land Development Code. A deviation is being granted to allow reduced lot area for one lot, 3,921 sq. ft. in area, which is 79 sq. ft. (or less than 0.02%) below the required minimum. This deviation has been determined to be supportable because the majority of the lots are well in excess of the 4,000 sq. ft. minimum. This minor reduction will allow the site development to minimize impacts to adjacent open space, while accommodating reasonable density development for the property.

Grading and building plans will be submitted to staff for review with applicable Uniform and Municipal Codes, and City policies. Staff will review the plans and required corrections will be required to be made to ensure that grading and building plans comply with applicable codes and standards. Upon and during implementation, grading and construction practices will be inspected for compliance with approved plans, industry standards and Uniform Codes.

Conditions have been added to the approved Permit which require compliance with related Land Development Code regulations. Upon project implementation, the proposed development will comply with the regulations of the Land Development Code.

2. Supplemental Findings – Environmentally Sensitive Lands

a. 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. Staff has reviewed the application and submitted plans. The development is proposed to be located on an upper portion of the site which has been previously disturbed by grading and passive recreational activities. The intent is to develop approximately 3.45 acres of a 6.36s-acre site. The site is within the City of San Diego's Multiple Species Conservation Program [MSCP] Subarea Plan; however it is not a part of or adjacent to the City of San Diego's Multi-Habitat Planning Area [MHPA]. Due northwest of the site is 2.8 acre open space area that was established as partial mitigation for the Mission Trails Industrial Park project (EIR No. 88-0794). Access to the project site will be from an extension of Wembley Street in a northeasterly direction to the proposed residences. The residences will be located on a southerly portion of the site, adjacent to existing single-family residences and away from the steeper northerly portion of the site. Brush management zones, retaining walls and an open space easement will be utilized to accommodate the development.

A Mitigated Negative Declaration has been prepared in accordance with the California Environmental Quality Act and a MMRP will be established. Based on an assessment of the site including a site visit, and a review of submitted plans for compliance with applicable codes and policies, staff has determined that 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.

b. 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. Submitted plans indicate that the proposed development will be located on a southerly portion of the site which is located near the top of a hillside. This location has been previously disturbed by grading and passive recreational uses. The northerly portion of the site will remain undeveloped within an open space easement, maintained by the property owners through a homeowner's association which will be established.

Site review has included geotechnical boring activities to determine slope stability. Development will incorporate appropriate grading techniques to ensure that drainage is taken into established storm drains, or retained on-site.

Alternative compliance to the brush management ordinance will be utilized to ensure that appropriate measures are taken to reduce fire hazards. Retaining walls will be utilized as will measures to fire rate the structures to minimize fire exposure. No flood hazards are anticipated because the site is located at the top of a hillside and is located away from flood sources.

c. The proposed development will be sited and designed to prevent adverse impacts on any adjacent environmentally sensitive lands. Staff has reviewed the development proposal which includes the provision of an open space easement on a significant northerly portion of the site. Adjacent environmentally sensitive lands will be buffered from impacts by this easement. The development will be located as far away from the open space easement as practicable. An Initial Study has resulted in the preparation of a Mitigated Negative Declaration which incorporates a MMRP. This MMRP will reduce potential impacts to the environment to below a level of significance. Based on this review staff has determined that the proposed development is sited and designed to prevent adverse impacts on any adjacent environmentally sensitive lands.

d. The proposed development will be consistent with the City of San Diego's Multiple Species Conservation Program (MSCP) Subarea Plan. The project site is not within or adjacent to the City's MHPA.

The project site is undeveloped, with the intention to developing approximately 3.45 acres of a 6.362-acre site. The site is within the City of San Diego's MSCP Subarea Plan; however it is not a part of or adjacent to the City of San Diego's MHPA. Due northwest of the site is 2.8 acre open space area that was established as partial mitigation for the Mission Trails Industrial Park project (EIR No. 88-0794).

As part of the survey, the biologist evaluated the potential for sensitive wildlife species to occur onsite. Sensitive wildlife include animal species listed as threatened or endangered, proposed for listing, or candidates for listing by the U.S. Fish and Wildlife Service and the California Department of Fish and Game, or species that are a covered species under the City of San Diego's MSCP Subarea Plan. A focused survey was not required for the California gnatcatcher, because the MHPA is not being impacted by project development and impacts outside the MHPA are considered covered by the MSCP.

e. The proposed development will not contribute to the erosion of public beaches or adversely impact local shoreline sand supply. Staff has reviewed the project and determined that the proposed development, located within the Navajo community is not located near a public beach or the shoreline. Drainage and runoff from the development will be retained on-site or deposited into an established storm drain system. Manufactured slopes will be revegetated and managed to preclude excessive drainage and runoff from entering the storm drain system. Conditions have been included in the Permit which require compliance with established laws and policies regarding drainage and stormwater management. Staff's assessment has determined that with implementation of the project and inspection of the grading and construction, the proposed development will not contribute to the erosion of public beaches or adversely impact local shoreline sand supply.

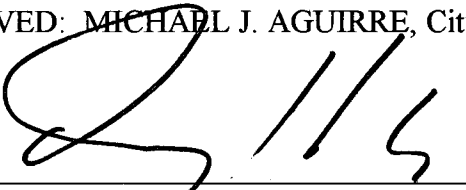
f. **The nature and extent of mitigation required as a condition of the permit is reasonably related to, and calculated to alleviate, negative impacts created by the proposed development.** Staff has reviewed the proposal, submitted plans and required technical studies. An Initial Study and Mitigated Negative Declaration were prepared in accordance with CEQA Guidelines, and a MMRP will be established to ensure that any impacts are reduced to below a level of significance. This effort was accomplished in accordance with Government Code regulations concerning mitigation of impacts. Based on staffs assessment, the nature and extent of required mitigation in the MMRP is determined to be reasonably related to and calculated to alleviate negative impacts created by the proposed development.

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

BE IT FURTHER RESOLVED, that Planned Development Permit No. 7688/Site Development Permit No. 7689 is granted to Richard D. and Carolyn A. Van Derheyden, Trustees of the 3-V Trust as to an Undivided 50% Interest and Barry C. and Connie Collins, Trustees of the Collins Family Trust as to an Undivided 50 Percent Interest, Owners/Permittees, 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



Douglas K. Humphreys
Deputy City Attorney

DKH:pev
12/05/05
01/30/06 Cor. Copy
Or. Dept: Clerk
R-2006-495
MMS #2029

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 42-0158

PLANNED DEVELOPMENT PERMIT NO. 7688
SITE DEVELOPMENT PERMIT NO. 7689
RIVER VIEW VILLAGE RESIDENTIAL – PROJECT NO. 3938
AMENDMENT TO PLANNED INDUSTRIAL DEVELOPMENT,
HILLSIDE REVIEW AND RESOURCE PROTECTION OVERLAY ZONE
PERMIT NO. 88-0794
CITY COUNCIL

This Planned Development Permit No. 7688 and Site Development Permit No. 7689 Amendment to Planned Industrial Development [PID], Hillside Review Permit [HRP] and Resource Protection Overlay Zone [RPOZ] Permit No. 88-0794 is granted by the Council of the City of San Diego to Richard D. and Carolyn A. Van Derheyden, Trustees of the 3-V Trust as to an Undivided 50 Percent Interest and Barry C. and Connie Collins, Trustees of the Collins Family Trust as to an Undivided 50 Percent Interest, Owners/ Permittees, pursuant to San Diego Municipal Code [SDMC] sections 126.0501 and 126.0601. The 6.362-acre site is located at the northerly terminus of Wembley Street, south of Mission Gorge Road, west of Princess View Drive, and north of Fontaine Street in the RX-1-1 (Single-Family Residential – Small Lot) zone of the Navajo Community Plan. The project site is legally described as Lots 3, 4, and 5 of the Subdivision of Lots 61, 62, and the easterly Portion of Lot 63 of the Rancho Mission of San Diego, according to Map No. 1550.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owners/Permittees to construct a total of sixteen, single-family residences, one on each of sixteen individual lots, described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated October 18, 2005, on file in the Development Services Department.

The project or facility shall include:

- a. Sixteen, detached, 2-story, single-family dwelling units (on Lots 1 through 16);

- b. One, open space lot (Lot 17) to be designated an open space easement, to remain undeveloped and to be maintained by the homeowner's association;
- c. Landscaping (planting, irrigation and landscape related improvements);
- d. Off-street parking facilities;
- e. Retaining walls;
- f. 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; and
- g. This Amendment shall apply only to the 6.362-acre remainder portion of the property developed pursuant to PID/HRP/RPOZ Permit No. 88-0794, and designated "NOT A PART" on the Mission Trails Industrial Park Subdivision Map No. 13703. PID/HRP/RPOZ Permit No. 88-0794 shall remain in full force and effect for the Mission Trails Industrial Park identified as Lots 1 through 5, Mission Trails Industrial Park, Map No. 13703.

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 Permittees sign and return 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 Permittees 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 Permittees for this permit to violate any Federal, State or City laws, ordinances, regulations or policies including, but not limited to, the Endangered Species Act of 1973 [ESA] and any amendments thereto (16 U.S.C. § 1531 et seq.).
7. In accordance with authorization granted to the City of San Diego from the United States Fish and Wildlife Service [USFWS] pursuant to Section 10(a) of the ESA and by the California Department of Fish and Game [CDFG] pursuant to Fish and Game Code section 2835 as part of the Multiple Species Conservation Program [MSCP], the City of San Diego through the issuance of this Permit hereby confers upon Permittees 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 Permittees by the City: (1) to grant Permittees 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 Permittees 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 Permittees maintaining the biological values of any and all lands committed for mitigation pursuant to this Permit and of full satisfaction by Permittees of mitigation obligations required by this Permit, as described in accordance with Section 17.1D of the IA.
8. The Owners/Permittees 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.
9. 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.
10. 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 Owners/ Permittees 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 Owners/Permittees 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.

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

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

ENVIRONMENTAL/MITIGATION REQUIREMENTS:

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

14. As conditions of Tentative Map No. 7685, Planned Development Permit No. 7688 and Site Development Permit No. 7689, the mitigation measures specified in the MMRP, and outlined in the Mitigated Negative Declaration, LDR No. 3938 shall be noted on the construction plans and specifications under the heading ENVIRONMENTAL/ MITIGATION REQUIREMENTS.

15. The Owners/Permittees shall comply with the MMRP as specified in the Mitigated Negative Declaration, LDR No. 3938 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
- Paleontological Resources
- Visual Quality
- Human Health and Public Safety

16. Prior to issuance of any construction permit, the applicant shall pay the Long Term Monitoring Fee in accordance with the Development Services Fee Schedule to cover the City's costs associated with implementation of permit compliance monitoring.

AFFORDABLE HOUSING REQUIREMENTS:

17. Prior to the issuance of any building permits, the developer shall comply with the Affordable Housing Requirements of the City's Inclusionary Housing Ordinance (Chapter 14, Article 2, Division 13 of the San Diego Municipal Code/Land Development Code [SDMC/LDC]). This requirement may be satisfied by providing in-lieu fees.

LANDSCAPE AND BRUSH MANAGEMENT PROGRAM REQUIREMENTS:

18. No change, modification, or alteration shall be made to the project unless appropriate application or amendment of this Permit shall have been granted by the City.

19. Prior to the issuance of any engineering permits for grading or improvement, the Permittee shall complete a Maintenance Assessment District Agreement form for early conformation.

20. In the event that the Landscape Plan and the Site Plan conflict, the Landscape Plan shall prevail.

21. Prior to issuance of any engineering permits for right-of-way improvements, complete landscape construction documents for right-of-way and median (if applicable) improvements shall be submitted to the City Manager for approval. Improvement plans shall take into account a 40-square foot area around each tree which is unencumbered by utilities. Driveways, utilities, drains, water and sewer laterals shall be designed so as not to prohibit the placement of street trees.

22. Prior to any utility sub out, for wet and dry utilities, a plot plan shall be submitted to the Landscape Section of Development Services. The plot plans shall coordinate all utilities and driveways with the required Street Trees. The location of the Street Trees shall be in substantial conformance with Exhibit "A," Landscape Development Plan.

23. Prior to issuance of any engineering permits for grading, construction documents for slope planting or revegetation including hydroseeding and irrigation shall be submitted in accordance with the Landscape Standards and to the satisfaction of the City Manager. All plans shall be in substantial conformance with Exhibit "A" (including Environmental conditions).

24. Installation of slope planting and erosion control including seeding of all disturbed land (slopes and pads) consistent with the approved landscape and grading plans is considered to be in the public interest. The Permittee shall initiate such measures as soon as the grading has been accomplished. Such erosion control/slope planting and the associated irrigation systems (temporary and/or permanent) and appurtenances shall be installed in accordance with the approved plans and the Landscape Standards.

25. Prior to final inspection, it shall be the responsibility of the Permittee or subsequent Owner to install all required landscape. A No-Fee Street Tree Permit, if applicable, shall be obtained for the installation, establishment and on-going maintenance of all street trees.

26. Prior to any grading (building permit) the Permittee or subsequent Owner shall enter into a Landscape Maintenance Agreement for all landscape improvements. The Landscape Maintenance Agreement shall be approved by the Landscape Section of Development Services and the City Manager.

27. Prior to the release of any performance bond a Landscape Maintenance Bond shall be submitted to Development Services. Prior to the release of the Landscape Maintenance Bond, an establishment period for slopes and revegetation shall be a minimum of five years.

28. The Permittee or subsequent Owner(s) shall be responsible for the installation and maintenance of all landscape improvements consistent with the Landscape Regulation and Landscape Standards. Invasive species are prohibited from being planted adjacent to any canyon, water course, wet land or native habitats within the city limits of San Diego. Invasive plants are those which rapidly self propagate by air born seeds or trailing as noted in section 1.3 of the Landscape Standards.

29. Prior to any grading permit the Landscape Architect of Record shall demonstrate to the satisfaction of the Landscape Architectural Section that the soil cut or back fill shall sustain long-term plant growth. The Soil of the cut and fill slope shall be amended and specifications shall be submitted based on the soil type and plant material selected.

30. Prior to a grading permit the Landscape Architect of Record shall demonstrate to the satisfaction of the Landscape Architectural Section that a phasing and soil stock-piling plan is in place. The first 6- to 8-inches of native top soil shall be retained and stock piled in an area designated on the plans. The stock piled top soil shall be re applied to the slope surface in a method satisfactory to the City Geologist.

BRUSH MANAGEMENT PROGRAM

31. The Permittee shall implement the following requirements in accordance with the Brush Management Program shown on Exhibit "A," Brush Management Plan:

a) Prior to issuance of any engineering permits for grading, landscape construction documents required for the engineering permit shall be submitted showing the brush management zones on the property in substantial conformance with Exhibit "A."

b) Prior to issuance of any building permits, a complete set of brush management construction documents shall be submitted for approval by the City Manager and the Fire Marshall. The construction documents shall be in substantial conformance with Exhibit "A" and shall comply with the Uniform Fire Code, M.C. 55.0888.0201, the Landscape Standards and SDMC/LDC section 142.0412 (Ordinance - 18451).

c) The Brush Management Program shall consist of two zones modified from the Brush Management regulations of SDMC/LDC section 142.0412 as follows:

Lot #		Zone One	Zone Two
10	Yes	5' - 25'	40'
11		"	
12		"	
13		"	
14		"	
15		"	
16		"	

Zone One will be reduced from the required 35' depth with the addition of a minimum 6' high retaining wall/firewall between Zone One and Zone Two.

d) The construction documents for the houses built on lots 10 through 16 shall conform to the Architectural features as described in SDMC/LDC section 142.0412(d) and as shown on the "Fire & Safety Site Plan" in "Exhibit A," and any others required to the satisfaction of the City of San Diego Fire Marshall. If the windows/doors are operable within the one-hour rated wall, they are required to have fusible link, roll down shutters. The glass behind the shutters does not have to be rated. Rated glass is only required for fixed windows/doors.

e) Within Zone One combustible accessory structures (including, but not limited to decks, trellises, gazebos, etc) are not permitted while non-combustible accessory structures may be approved within the designated Zone One area subject to Fire Marshall and the City Manager's approval.

f) Provide the following note on the Brush Management Construction Documents "It shall be the responsibility of the Permittee to schedule a pre-construction meeting on site with the contractor and the Development Services Department to discuss and outline the implementation of the Brush Management Program."

g) In Zone Two, plant material shall be selected to visually blend with the existing hillside vegetation. No invasive plant material shall be permitted as jointly determined by the Landscape Section and the Environmental Analysis Section.

32. The Brush Management Program shall be maintained at all times in accordance with the City of San Diego's Landscape Standards.

PLANNING/DESIGN REQUIREMENTS:

33. No fewer than thirty-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.

34. a. There shall be compliance with the regulations of the underlying zone(s) unless a deviation or variance to a specific regulation(s) is approved or granted as

a condition of approval of this Permit. Where there is a conflict between a condition (including exhibits) of this Permit and a regulation of the underlying zone, the regulation shall prevail unless the condition provides for a deviation or variance from the regulations. Where a condition (including exhibits) of this Permit establishes a provision which is more restrictive than the corresponding regulation of the underlying zone, then the condition shall prevail.

b. A deviation is being granted to accommodate one lot (Lot 8) containing substandard lot area.

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

36. 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.

37. 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.

38. All signs associated with this development shall be consistent with sign criteria established by Citywide sign regulations.

39. The applicant shall post a copy of the approved discretionary permit and/or tentative map in the sales office for consideration by each prospective buyer.

40. All private outdoor lighting shall be shaded and adjusted to fall on the same premises where such lights are located, and in accordance with the applicable regulations in the SDMC.

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

WASTEWATER REQUIREMENTS:

42. 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.

43. 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.

44. 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:

45. Prior to the issuance of any building permits, the Owner/Permittee shall assure, by permit and bond, the design and construction of public 8-inch water facilities within the Wembley Street right-of-way extension, from the existing public water facilities to the easterly cul-de-sac, in a manner satisfactory to the Director of the Water Department and the City Engineer.

46. Prior to the issuance of any building permits, the Owner/Permittee shall assure, by permit and bond, the design and construction of new water services to serve each lot individually in a manner satisfactory to the Director of the Water Department and the City Engineer.

47. Prior to the issuance of any certificates of occupancy, the Owner/Permittee shall install fire hydrants at locations and in a manner satisfactory to the Fire Department, the Director of the Water Department and the City Engineer.

48. Prior to the issuance of any Certificates of Occupancy, public water facilities necessary to serve the development, including services, shall be complete and operational in a manner satisfactory to the Director of the Water Department and the City Engineer.

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

GEOLOGY REQUIREMENTS:

50. An updated geotechnical report will be required as grading plans are developed for the project. The geotechnical consultant must review, sign and stamp the grading plans as part of the plan review and grading permit issuance process. A Final As-Built Report is required within fifteen days of completion of grading operations.

51. Additional geotechnical information such as verification of as-graded or existing soil conditions needed for design of structure foundations will be subject to approval by Building and Safety prior to issuance of building permits.

TRANSPORTATION REQUIREMENTS:

52. This project shall comply with all current street lighting standards according to the City of San Diego Street Design Manual (Document No. 297376, filed November 25, 2002) and the amendment to Council Policy 200-18 approved by City Council on February 26, 2002 (Resolution R-296141) satisfactory to the City Engineer.

53. The Applicant shall extend the existing Wembley Street (a residential cul-de-sac street) from station 100+00 to 287+00 with a 30-foot pavement within 47-feet of right-of-way. A 5-foot sidewalk shall also be constructed within the 10-foot parkway on the southerly side and the 7-foot parkway on the northerly side of Wembley Street, satisfactory to the City Engineer.

54. The Applicant shall extend Wembley Street from station 287+00 to 534+00 with a 30-foot pavement width within 50-feet of right-of-way and construct a standard cul-de-sac with a 50-foot radius within a 60-foot right-of-way radius at its terminus. A 5-foot wide sidewalk shall also be constructed within the 10-foot curb-to-property line on both sides of Wembley Street satisfactory to the City Engineer.

55. All heavy construction truck 9 Greater than 5-tons) trips will be restricted to Monday through Friday between the hours of 8:30 A.M. to 3:30 P.M.

56. Lot 17 shall consist entirely of a 1.53-acre open space easement which shall remain in private ownership and be maintained by a homeowner's association. Open space lot frontage shall be fenced off with six-foot high chain link fencing, coated black or green, to prohibit unauthorized access and protect biological resources.

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 October 18, 2005 by Resolution No. R-300951.

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.

RICHARD D. AND CAROLYN A. VAN
DERHEYDEN, Trustees of the 3-V Trust
Owner/Permittee

By _____

By _____

BARRY C. AND CONNIE COLLINS,
Trustees of the Collins Family Trust
Owner/Permittee

By _____

By _____

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

PERMIT/OTHER – Permit Shell 11-01-04