

RESOLUTION NUMBER R- 01469

DATE OF FINAL PASSAGE MAY 22 2006

WHEREAS, William Lyons Homes, Inc. and Good Nite Inn San Diego, Inc., Owner/Permittee, filed an application with the City of San Diego for a site development permit and a planned development permit to construct 100 residential condominium units with related amenities known as the Levanto project, located at 4545 Waring Road, and legally described as a portion of Lot 70 of College Canyon Park, Unit No. 3, Map No. 6287, a portion of Lot 69 of College Canyon Park, Unit No. 2, Map No. 5995 and a portion of Lot 67 of Rancho Mission of San Diego, Map thereof in the action entitled "*Juan M. Luco et al, vs. The Commercial Bank of San Diego, et al*" under Superior Court case No. 348 filed in the office of the County Recorder of San Diego, in the Navajo Community Plan area, in the CV-1-1 zone and Parking Impact Overlay zone which are proposed to be rezoned to the RM-2-4 zone, Parking Impact Overlay zone and inclusion in the Residential Tandem Parking Overlay zone; and

WHEREAS, on February 16, 2006, the Planning Commission of the City of San Diego considered Site Development Permit [SDP] No. 147056/Planned Development Permit [PDP] No. 297522, and pursuant to Resolution No. 3952-PC voted to recommend City Council approval of the Permit; and

WHEREAS, after approval of the above referenced project by the City Council, Good Nite Inn San Diego, Owner, will transfer the property to William Lyon Homes, Inc., thereby making William Lyon Homes, Inc. the new Owner of the Levanto project; and

WHEREAS, under Charter section 280(a)(2) this resolution is not subject to veto by the Mayor because this matter requires the City Council to act as a quasi-judicial body and where a

public hearing was required by law implicating due process rights of individuals affected by the decision and where the Council was required by law to consider evidence at the hearing and to make legal findings based on the evidence presented; and

WHEREAS, the matter was set for public hearing on MAY 22 2006, 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 Site Development Permit No. 147056/Planned Development Permit No. 297522:

A. SITE DEVELOPMENT PERMIT – SAN DIEGO MUNICIPAL CODE [SDMC] SECTION 126.0504

1. Findings for all Site Development Permits:

a. The proposed development will not adversely affect the applicable land use plan. The proposed development of 100 residential units with related amenities will be consistent with the Navajo Community Plan with the concurrent approval of the community plan amendment associated with the permit. The proposed 100 dwelling unit project implements the Land Use Plan by providing a Medium density development consistent with the Community Plan's Land Use designation (Multi-Family Residential) of 15 to 29 dwelling units per acre. As such, the proposed development will not adversely affect the applicable Land Use Plan.

b. The proposed development will not be detrimental to the public health, safety, and welfare. The proposed development of 100 residential units with related amenities will provide necessary sewer and water facilities to serve the residents. Police and fire stations exist to the northwest and northeast, respectively, of the development in the Kearny Mesa and Navajo Communities, which will provide response times consistent with the City's General Plan Standards. The development will also provide for the health, safety, and welfare of the residents by incorporating mitigation measures as contained in the Mitigation, Monitoring and Reporting Program [MMRP] and through the use of efficient building materials and techniques.

The permit prepared for the project includes various conditions and referenced exhibits of approval relevant to achieving project compliance with the applicable regulations of the San Diego Municipal Code in effect for this project. Such conditions have been determined by the decision-maker as necessary to avoid adverse impacts upon the health,

safety and general welfare of persons residing or working in the surrounding area. As such the proposed development 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. With the exception of the deviations requested with this application, which are appropriate for this location, the proposed development of 100 residential units with related amenities, in all other respects complies with the Land Development Code [LDC]. All other requirements including density, and parking requirements will comply with the regulations of the Land Development Code, reflecting the desired development patterns of the area and accommodating the need for future growth.

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. The proposed development of 100 residential units with related amenities would be sited in a developed area of commercial visitor and residential uses currently served by existing public services, including fire and police protection.

The eastern portion of the project site is in the identified floodway and is therefore subject to the Environmentally Sensitive Lands Regulations. The project proposes to deviate from Section 143.0130(c) of the Environmentally Sensitive Land Regulations, which restricts uses within the floodway portion of a 100-year floodplain to uses allowed in the OF zone. Residential uses are not allowed within the OF zone.

The project site is bounded on the south by a concrete-lined channel that directs the flow of the Alvarado Creek which feeds into the San Diego River. The Permittee proposes to raise the level of the eastern portion of the project site to above the 100-year floodplain, consistent with the elevation of the majority of the site. When the eastern portion of the property is raised above the 100-year floodplain, land uses will not be restricted to those allowed in the OF zone. The Permittee has filed a letter of map revision with the Federal Emergency Management Agency [FEMA] to establish that the rise in elevation of the southeast corner of the site will not result in any increase in existing base flood elevations on- or off-site.

The project site does not support any native or sensitive plants or habitats. The rise in elevation of the eastern portion of the site will not cause impacts to any natural river habitat south or west of the project site. Given the site's existing developed condition, lack of any native habitat, the channelization of the Alvarado Creek to the south of the site, and consistency with surrounding land uses, the project will not result in any 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 hazard. The project site is located in an area that is flat and has been previously disturbed with construction and use of the existing motel and nightclub. The site does not contain sensitive slopes or other prominent landforms. Improvements for construction of the residential project will not result in significant landform alteration because the site has been previously

graded and because the flat site does not require substantial amounts of grading to create the foundations for the new residential project.

No geologic hazards were identified in the geotechnical investigation prepared for the project site. As a condition of this permit, the Permittee will be required to provide plans and calculations to the City that demonstrate that the proposed improvements on site have been designed in accordance with the requirements of the Uniform Fire Code, the Uniform Building Code, and the City Geologist. The proposed new construction will not alter natural landforms or result in undue risk from geologic and erosional forces, or flood hazards.

The project would not result in fire hazards. The project has been designed to meet all Fire and Life Safety codes. Fire Department service coverage exists for this area and is provided by Station Number 31, east in the Del Cerro community, less than 2.0 miles from the project site.

Therefore, the proposed new construction will minimize alteration of natural land forms and will not result in undue risk from geologic and erosional forces, flood hazards, or fire hazards.

c. The proposed development will be sited and designed to prevent adverse impacts on any adjacent environmentally sensitive lands. The project has been sited on an already developed parcel immediately north of Interstate 8 and the concrete flood channel described above, immediately east of a Metropolitan Transit Development Board [MTDB] flyover transit facility, immediately south of Adobe Falls Road and the steep slopes beyond it that rise to the Allied Gardens community, and immediately to the west of existing commercial and residential uses. The closest natural habitat to the site is located on the steep slopes that rise to the north, and on the slopes that rise south of Interstate 8 to San Diego State University and the surrounding community.

The project site does not contain any sensitive habitat. The project site is flat and does not contain any sensitive slopes or natural landforms. The project site has been previously disturbed with development and use of the existing motel and nightclub and does not contain any sensitive habitat area for plants or animals. The project will not change the flow or direction of water within the Alvarado Creek nor the San Diego River into which it feeds. Therefore, the project will be sited and designed to avoid and 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 does not contain any lands that have been identified as part of the City of San Diego Multi-Habitat Planning Area [MHPA]. The project does not impact any sensitive plants or animals covered by the MSCP. The project site has no connectivity with the San Diego River corridor, which has been directed into a concrete-lined channel to the south of the project site. Therefore, the project does not conflict with any of the goals or policies of the MSCP.

e. The proposed development will not contribute to the erosion of public beaches or adversely impact local shoreline sand supply. The project site is located many

miles inland from the local shoreline and does not contain any public beaches. The site is located immediately to the north of a concrete-lined channel that directs the flow of the Alvarado Creek into the San Diego River and is therefore not within an area that contributes sand supply to local beaches. Construction of the project will not alter the course or direction of water movements or the flow of waters within the San Diego River or any tributary to that river that would result in the erosion of public beaches. Therefore, the project will not impact the 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. Mitigation measures have been defined for the following resources area: noise. Pursuant to the California Environmental Quality Act [CEQA], the mitigation has been defined commensurate with the level of impact to reduce potential impacts to the identified resources to below a level of significance.

To protect the future occupants from road and freeway noise, mitigation is defined to construct a noise attenuation wall of at least seven feet in height for all balconies exposed to noise levels above 65dBA CNEL as detailed in the accepted Noise Study.

The only impacts to sensitive lands identified as a result of the proposed project were the minimal disturbances associated with raising the eastern corner of the project property from the 100-year floodplain. Prior to issuance of a grading permit, the Permittee will be required to demonstrate that grading of the site and construction of the project will not result in any increase in existing base flood elevations on- or off-site. Therefore, 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

3. Supplemental Findings – Environmentally Sensitive Lands Deviations

a. There are no feasible measures that can further minimize the potential adverse effects on environmentally sensitive lands. The project site is bounded on the south by a concrete-lined channel that directs the flow of the Alvarado Creek feeder to the San Diego River. The Permittee proposes to raise the level of the eastern portion of the project site to above the 100-year floodplain, consistent with the elevation of the majority of the site. When the eastern portion of the property is raised above the 100-year floodplain, the project will no longer have deviations to the Environmentally Sensitive Lands regulations. The Permittee has filed a letter of map revision with FEMA to establish that the rise in elevation of the southeast corner of the site will not result in any increase in existing base flood elevations on- or off-site.

b. The proposed deviation is the minimum necessary to afford relief from special circumstances or conditions of the land, not of the applicant's making. The proposed project is the demolition of an existing 96-room motel with restaurant and construction of a 100-unit residential complex. The proposed deviation is to allow residential development on a portion of the site that is currently within the 100-year floodplain. A project component is to raise the eastern edge of the site out of the floodplain to be level with the majority of the site thus eliminating the deviation. The existing condition of the uneven site is not of the applicant's

making and the proposed rise in elevation of the southeast corner of the site will not result in any increase in existing base flood elevations on- or off-site.

4. Supplemental Findings--Environmentally Sensitive Lands Deviation from Federal Emergency Management Agency Regulations

a. The City Engineer has determined that the proposed development, within any designated floodway will not result in an increase in flood levels during the base flood discharge. City staff required a hydrology study to determine if a potential significant hydrologic impact would occur for the proposed 100-unit residential project.

The Hydrology Study was prepared and accepted by the City Engineer. The study compares storm runoff under existing conditions versus existing-plus-project conditions (100 year events) and identifies existing drainage problems that may be caused, or aggravated, by the proposed project's implementation. The study concluded that the project would not significantly alter the drainage patterns on the site. The report determined that the project site, with a proposed finish pad elevation of approximately 112 feet, would not affect the water surface elevation of the Alvarado Creek. The finished floor elevation would be 2 feet above the 100 year-water surface elevation and would therefore not be exposed to, or create a significant hydrologic impact.

Additionally, the applicant has submitted and the City has accepted a conditional letter of map revision to FEMA to establish that the rise in elevation of the southeast corner of the site will not result in any increase in existing base flood elevations on- or off-site.

b. The City Engineer has determined that the deviation would not result in additional threats to public safety, extraordinary public expense, or create a public nuisance. The existing development is currently sited within the floodplain. The proposed 100 residential unit development proposes to raise the elevation of the ground at the southeastern corner of the project site, therefore eliminating the deviation to FEMA Regulations. The proposed project would lessen the threat to public safety, will be performed at private expense and would not create a public nuisance.

B. PLANNED DEVELOPMENT PERMIT – SDMC SECTION 126.0604

a. The proposed development will not adversely affect the applicable land use plan. The proposed development of 100 residential units with related amenities will be consistent with the Navajo Community Plan with the concurrent approval of the community plan amendment associated with the permit. The proposed 100 dwelling unit project implements the Land Use Plan by providing a Medium density development consistent with the Community Plan's Land Use designation (Multi-Family Residential) of 15 to 29 dwelling units per acre. As such, the proposed development will not adversely affect the applicable Land Use Plan.

b. The proposed development will not be detrimental to the public health, safety, and welfare. The proposed development of 100 residential units with related amenities will provide necessary sewer and water facilities to serve the residents. Police and fire stations exist to the northwest and northeast, respectively, of the development in the Kearny Mesa and Navajo Communities, which will provide response times consistent with the City's

General Plan Standards. The development will also provide for the health, safety, and welfare of the residents by incorporating mitigation measures as contained in the MMRP and through the use of efficient building materials and techniques.

The permit prepared for the project includes various conditions and referenced exhibits of approval relevant to achieving project compliance with the applicable regulations of the San Diego Municipal Code in effect for this project. Such conditions have been determined by the decision-maker as necessary to avoid adverse impacts upon the health, safety and general welfare of persons residing or working in the surrounding area. As such the proposed development will not be detrimental to the public health, safety, and welfare.

c. The proposed development will comply with the regulations of the Land Development Code. With the exception of the deviations requested with this application, which are appropriate for this location, the proposed development of 100 residential units with related amenities, in all other respects complies with the Land Development Code. All other requirements including density, and parking requirements will comply with the regulations of the Land Development Code, reflecting the desired development patterns of the area and accommodating the need for future growth.

d. The proposed development, when considered as a whole, will be beneficial to the community. The proposed development, when considered as a whole, will be beneficial to the community. The property is currently underutilized as a 96-room motel and approximately 7,000 square-foot restaurant. The current uses have not thrived for many years, and as a struggling business, gives opportunity for criminal behavior on the property. Housing is particularly needed in areas located close to job, retail, and educational centers, such as the Navajo Community Plan area. The project assists the City in its goals to accommodate the City's fair share of the region's growth by designating adequate residential land, at appropriate densities and locations, and to stabilize, and, where possible, reduce housing prices and occupancy costs.

e. Any proposed deviations pursuant to SDMC section 126.0602(b)(1) are appropriate for this location and will result in a more desirable project than would be achieved if designed in strict conformance with the development regulations of the applicable zone. The proposed development has been designed to be in conformance with all of the underlying zone regulations for floor area ratio, coverage, parking and landscaping requirements. The proposed development requires a Planned Development Permit to deviate from the required side setback, retaining wall height restrictions in required front yards and required street side yards, and building height restrictions.

The Land Development Code requires that minimum side yard setbacks in the applicable zone be five feet or 10 percent of the premises width, whichever is greater. The project parcel is of an irregular configuration, with a frontage of approximately 566 feet along Adobe Falls Road, and an average depth of 393 feet. Ten percent of the premises width is approximately 57 feet. The west side of the project abuts property owned by the MTDB. The Permittee owns a parking easement in perpetuity over the MTDB property, benefiting the project site. The project has been designed to include parking on the easement area. The east side of the project abuts commercially zoned property currently being used as a motel. The project sets back approximately 19 feet from its eastern property line, significantly in excess of the normally

required 5-foot side yard setback. The reduction of the required setback is required to accommodate a multi-family project that provides for optimum separation of buildings within the project and on-site recreational amenities within an irregularly shaped parcel. While the project has been designed to comply with the lesser required side yard setback of five feet, rather than the distance represented by 10 percent of the premises width, the project parking on the west side of the project and the differences in grade between the motel use to the east of the project site and the project itself provide significant buffers between the residential portions of the project and adjacent uses.

The Land Development Code also restricts the maximum height of retaining walls in required front yards to two 3-foot walls separated by a 3-foot horizontal distance, and the maximum height of retaining walls in required side yards to two 6-foot walls separated by a 6-foot horizontal distance. The applicant is requesting a deviation to allow retaining walls with integrated site-stairs to exceed the maximum 6-foot-height limit within the required front setback, and to allow retaining walls exceeding the maximum 12-foot height in the required side setback along the eastern boundary of the property. These two sets of retaining walls are required to support the raise in grade elevation of the site to bring the easterly portion out of the 100-year floodplain.

The proposed project requests a deviation of the front yard retaining wall restriction to allow retaining walls to exceed the maximum 6-foot height by as much as 2.1 feet, and deleting the horizontal bench. Retaining walls along the front of the project will be approximately 8.1 feet high, comprised of standard retaining walls 2.9 feet to 6.4 feet high, with up to 8.1 feet of a plantable geo-grid retaining wall. The plantable geo-grid retaining wall is being provided as an alternative to the horizontally offset retaining wall system.

The proposed project requests a deviation of the side yard retaining wall restriction to allow retaining walls to extend up to 11.7 feet without providing the horizontal bench at the 6-foot height. Retaining walls along the eastern boundary of the project will be entirely plantable geo-grid retaining walls. The plantable geo-grid retaining wall is being provided as an alternative to the horizontally offset retaining wall system.

Additionally, the Land Development Code restricts buildings in the RM-2-4 zone to 40 feet in height, measured from existing grade or proposed grade, whichever is lower. Grading and preparation of the project site require the placement of fill in various depths beneath the buildings to raise the eastern portion of the site out of the 100-year floodplain. The project site is located at the foot of a steep hillside to the north that crowns in the Allied Gardens community. The buildings will not appear out of scale when viewed from the street, highway, or adjoining properties. The buildings are consistent with other structures in the neighborhood.

Therefore, the proposed deviations 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.

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 Site Development Permit No. 147056/Planned Development Permit No. 297522 is granted to William Lyon Homes, Inc., and Good Nite Inn San Diego, Inc., 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 Shannon M. Thomas
Shannon M. Thomas
Deputy City Attorney

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Or.Dept:DSD
R-2006-776
MMS #3095

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 423453

SITE DEVELOPMENT PERMIT NO. 147056
PLANNED DEVELOPMENT PERMIT NO. 297522
LEVANTO [MMRP] – PROJECT NO. 51049
CITY COUNCIL

This site development permit/planned development permit is granted by the Council of the City of San Diego to William Lyon Homes, Inc. and Good Nite Inn, Inc., Owner/ Permittee, pursuant to San Diego Municipal Code [SDMC] sections 126.0502 and 126.0602. The 5.672-acre site is located at 4545 Waring Road in the RM-2-4 zone, Parking Impact and Residential Tandem Parking Overlay zones of the Navajo Community Plan area. The project site is legally described as a portion of Lot 70 of College Canyon Park, Unit No. 3, Map No. 6287, a portion of Lot 69 of College Canyon Park, Unit No. 2, Map No. 5995 and a portion of Lot 67 of Rancho Mission of San Diego, Map thereof in the action entitled "*Juan M. Luco et al, vs. The Commercial Bank of San Diego, et al*" under Superior Court case No. 348 filed in the office of the County Recorder of San Diego.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee to construct 100 residential condominium units with related amenities, described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated MAY 22 2006, on file in the Development Services Department.

The project or facility shall include:

- a. The demolition of an existing 96-room hotel and restaurant;
- b. Construction of a 100-unit, 4-story residential condominium development totaling approximately 222,003 square feet of gross floor area with deviations to development regulations;
- c. Recreational facilities including a swimming pool and spa;
- d. Landscaping (planting, irrigation and landscape related improvements);

- e. Off-street parking facilities; and
- 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.

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. In accordance with authorization granted to the City of San Diego from the United States Fish and Wildlife Service [USFWS] pursuant to Section 10(a) of the ESA and by the California Department of Fish and Game [CDFG] pursuant to Fish and Game

Code section 2835 as part of the Multiple Species Conservation Program [MSCP], the City of San Diego through the issuance of this Permit hereby confers upon Permittee the status of Third Party Beneficiary as provided for in Section 17 of the City of San Diego Implementing Agreement [IA], executed on July 16, 1997, and on file in the Office of the City Clerk as Document No. OO 18394. Third Party Beneficiary status is conferred upon Permittee by the City: (1) to grant Permittee the legal standing and legal right to utilize the take authorizations granted to the City pursuant to the MSCP within the context of those limitations imposed under this Permit and the IA, and (2) to assure Permittee that no existing mitigation obligation imposed by the City of San Diego pursuant to this Permit shall be altered in the future by the City of San Diego, USFWS, or CDFG, except in the limited circumstances described in Sections 9.6 and 9.7 of the IA. If mitigation lands are identified but not yet dedicated or preserved in perpetuity, maintenance and continued recognition of Third Party Beneficiary status by the City is contingent upon Permittee maintaining the biological values of any and all lands committed for mitigation pursuant to this Permit and of full satisfaction by Permittee of mitigation obligations required by this Permit, as described in accordance with Section 17.1D of the IA.

8. 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.

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

11. Prior to issuance of any building 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.

13. This Permit may be developed in phases. Each phase shall be constructed prior to sale or lease to individual owners or tenants to ensure that all development is consistent with the conditions and exhibits approved for each respective phase (per the approved exhibits).

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 Site Development Permit No. 147056/Planned Development Permit No. 297522 and Tentative Map No. 147057, the mitigation measures specified in the MMRP, and outlined in Mitigated Negative Declaration No. 51049 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 Mitigated Negative Declaration No. 51049 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 area:

Noise

17. 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:

18. 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 Land Development Code).

ENGINEERING REQUIREMENTS:

19. The applicant shall provide and maintain an off-site parking easement on the western edge of the project under the Alvarado Canyon Road overpass.

20. The applicant shall provide and maintain 250' sight distance easement east and west of the proposed driveway on Adobe Falls Road. The applicant shall provide red curb along the project frontage within the sight distance.

21. 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. This may require (but not be limited to) installation of new street light(s), upgrading light from low pressure to high pressure sodium vapor and/or upgrading wattage.

22. The applicant shall close the two existing driveway along Adobe Falls Road and replace with standard curb, gutter and sidewalk, satisfactory to the City Engineer.

23. The applicant shall construct a new 25' wide main entrance driveway on Adobe Falls Road, satisfactory to the City Engineer.

24. Fill placed in the SFHA for the purpose of creating a building pad must be compacted to 95 percent of the maximum density obtainable with the Standard Proctor Test Fill method issued by the American Society for Testing and Materials (ASTM Standard D-698). Granular fill slopes must have adequate protection for a minimum flood water velocity of 5 feet per second.

25. For structures elevated on fill, such that the lowest adjacent grade is at or above the BFE, the applicant shall obtain a Letter of Map Revision based on Fill [LOMR-F] prior to occupancy of the building. The developer must provide all documentation, engineering calculations, and fees which are required by the Federal Emergency Management Agency [FEMA] to process and approve the LOMR-F.

26. If the engineering analysis shows the development will alter the floodway or floodplain boundaries of the Special Flood Hazard Area, (of Chollas Creek per FEMA panel 1637 & 1639) no certificates of occupancy will be granted or bonds released for development associated with this project until a Letter of Map Revision [LOMR] is obtained from FEMA. The LOMR is issued based upon as-built site conditions, therefore, the applicant must allow time to complete this process. The developer must provide all documentation, engineering calculations, and fees which are required by FEMA.

27. If the structures will be elevated on fill, such that the lowest adjacent grade is at or above the BFE, the applicant must obtain a LOMR-F prior to occupancy of the building. The developer must provide all documentation, engineering calculations, and fees which are required by FEMA to process and approve the LOMR-F.

28. Prior to the issuance of any construction permit, the subdivider shall enter into a Maintenance Agreement for the ongoing permanent Best Management Practices [BMP's] maintenance.

29. Prior to the issuance of any construction permit, the subdivider shall incorporate any construction BMP's necessary to comply with Chapter 14, Article 2, Division 1 (Grading Regulations) of the San Diego Municipal Code, into the construction plans or specifications.

30. Prior to the issuance of any construction permit the subdivider shall incorporate and show the type and location of all post-construction BMP's on the final construction drawings, in accordance with the approved Water Quality Technical Report.

31. The drainage system proposed for this subdivision, as shown on the approved vesting tentative map, is private and subject to approval by the City Engineer.

32. The lowest floor, including the basement shall be 2 feet above the baseflood elevation.

LANDSCAPE REQUIREMENTS:

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

34. In the event that the Landscape Plan and the Site Plan conflict, the Site Plan shall be revised to be consistent with the Landscape Plan such that landscape areas are consistent with the Exhibit "A" Landscape Development Plan.

35. Prior to issuance of any grading permits, complete landscape construction documents, including an automatic permanent irrigation system, shall be submitted to the City Manager for approval. All plans shall be in substantial conformance to Exhibit "A."

36. Construction Documents for grading shall include the following note:
"Installation of landscaping associated with these construction documents shall require a minimum short-term establishment period of 120 days for all native/naturalized slope restoration and a minimum long-term establishment/maintenance period of 25 months. Final approval of the required landscaping shall be to the satisfaction of the Mitigation Monitoring Coordination section of the Development Services Department.

37. Prior to issuance of any grading permits, the Permittee or subsequent Owner shall enter into a Landscape Establishment and Maintenance Agreement for slope revegetation adjacent to the drainage channel. The Landscape Establishment and Maintenance Agreement shall be approved by the Landscape Section of Development Services and the City Manager.

38. Prior to the release of the Landscape Establishment & Maintenance Bond an establishment period for slopes and revegetation shall be a minimum of 25 months or as approved otherwise by the Mitigation Monitoring & Coordination Section of Development Services.

39. 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.

40. Prior to issuance of any engineering permits for right-of-way improvements, complete landscape construction documents for right-of-way 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.

41. Prior to the issuance of any engineering permits for grading or improvement the permittee shall complete a Maintenance Assessment District Agreement form for early confirmation.

42. Prior to issuance of any construction permits for structures (including shell), complete landscape and irrigation construction documents consistent with the Landscape Standards shall be submitted to the City Manager for approval. The construction documents shall be in substantial conformance with Exhibit "A," Landscape Development Plan. Construction plans shall take into account a 40 square foot area around each tree which is unencumbered by hardscape and utilities as set forth under LDC section 142.0403(b)5.

43. Prior to issuance of any Certificate of Occupancy, it shall be the responsibility of the Permittee or subsequent Owner to install all required landscape and obtain all required landscape inspections. A "No Fee" Street Tree Permit shall be obtained for the installation, establishment, and on-going maintenance of all street trees.

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

45. If any required landscape (including existing or new plantings, hardscape, landscape features, etc.) indicated on the approved construction document plans is damaged or removed during demolition or construction, it 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 or Certificate of Occupancy.

46. The Permittee or subsequent Owner(s) shall be responsible for the installation and maintenance of all landscape improvements consistent with the Landscape Regulations 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.

47. Prior to issuance of any construction permits for structures (including shell), complete landscape and irrigation construction documents consistent with the Landscape Standards shall be submitted to the City Manager for approval. A maintenance schedule and a note should be on the landscape plan for the private driveways in the parcel to

maintain a 26' clear pathway to ensure safe fire access. This would include but not be limited to maintaining all tree canopies and shrubs around all driveways.

48. In the event that any of the proposed trees are in conflict with any lateral lines and in particular the two interior loop trees on the south side of buildings 5 and 6, then the applicant shall move the trees in the same general area to ensure that the shade over pavement regulation is satisfied with no less than the proposed amount of trees that is demonstrated on Exhibit "A" are planted prior to occupancy.

PLANNING/DESIGN REQUIREMENTS:

49. No fewer than 259 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.

50. 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.

51. The following deviations to development regulations are allowed with this Planned Development Permit:

- a. A reduction in required side yard setback from 10 percent of premises width to 5 feet due to irregular parcel configuration.
- b. A plantable geo-grid retaining wall exceeding 6' in required side yards.
- c. A plantable geo-grid retaining wall exceeding 3' in required front yard.
- d. Stairs exceeding 3 feet in height in required front yard setback.
- e. Permit structure height up to 50.5 feet where 40 feet is the maximum allowed in the RM-2-4 zone.

52. 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.

53. 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.

54. No building additions, including patio covers, shall be permitted unless approved by the homeowners association and the City Manager. Patio covers may be permitted only if they are consistent with the architecture of the dwelling unit.

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

56. The applicant shall post a copy of the approved discretionary permit or Tentative Map in the sales office for consideration by each prospective buyer.

57. 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.

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

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

60. All uses, except storage and loading, shall be conducted entirely within an enclosed building. Outdoor storage of merchandise, 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.

61. 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, architecturally integrated structure whose top and sides may include grillwork, louvers, and latticework.

62. 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 the conceptual site plan marked Exhibit "A."

WASTEWATER REQUIREMENTS:

63. All proposed on-site sewer facilities that serve only this development will be private.

64. Prior to the issuance of any grading or building permits, the developer shall realign a portion of the existing on-site 27-inch sewer main satisfactory to the Metropolitan Wastewater Department Director if realignment is necessary to

accommodate the project. If the developer is so required to realign a portion of the existing main, (a) the developer shall be entitled to receive credits against sewer fees otherwise due, and/or contribution from the City at time of realignment; and (b) the City and the developer shall enter into a Participation Agreement for the construction and realignment of up to 170 feet of 27-inch sewer. The estimated total construction cost is \$250,000. The City shall be responsible for 67% of the actual cost of construction based upon publicly opened competitive bids, with a not to exceed amount of \$167,500, the City having determined that the entire existing on-site sewer main has been in place for approximately two-thirds of its expected life and would otherwise require replacement or rehabilitation in approximately 20-25 years.

65. Prior to the issuance of any building permits, the developer shall provide CC&R's, satisfactory to the Metropolitan Wastewater Department Director, for the operation and maintenance of private sewer facilities that serve more than one ownership.

66. Prior to the issuance of any engineering permits, the developer shall obtain an Encroachment Maintenance and Removal Agreement for private sewer facilities installed in or over a public easement or right of way.

67. 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.

68. The developer shall design and construct any proposed public sewer facilities to the most current edition of the City of San Diego's Sewer Design Guide.

WATER REQUIREMENTS:

69. Prior to the issuance of any building permits, the Owner/Permittee shall assure, by permit and bond, the design and construction of new water service(s) outside of any driveway or drive aisle and the removal of any existing unused water services within all rights-of-way adjacent to the project site, in a manner satisfactory to the Water Department Director and the City Engineer.

70. Prior to the issuance of any building permits, the Owner/Permittee shall apply for plumbing permits for the installation of appropriate private back flow prevention devices on all proposed water services to the development, including all domestic, fire and irrigation services, in a manner satisfactory to the Water Department Director and the City Engineer.

71. Prior to the issuance of any certificates of occupancy, the Owner/Permittee shall install fire hydrants at locations satisfactory to the Fire Department, the Water Department Director and the City Engineer. Fire hydrants shall be located a minimum of five feet from any structures above, at or below grade. All on-site fire hydrants shall be private.

72. Prior to the issuance of any certificates of occupancy, all public water facilities necessary to serve this development, including services and meters, shall be complete and operational in a manner the Water Department Director and the City Engineer.

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

74. It is the sole responsibility of the Owner/Permittee for any damage caused to or by public water facilities, adjacent to the project site, due to the construction activities associated with this development. In the event any such facility loses integrity then, prior to the issuance of any certificates of occupancy, the Owner/Permittee shall reconstruct any damaged public water facility in a manner satisfactory to the Water Department Director and the City Engineer.

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 MAY 22 2006 by
Resolution No. R- 301469.

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.

GOOD NITE INN INC.
Owner/Permittee

By _____

By _____

WILLIAM LYON HOMES, INC.
Owner/Permittee

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

PERMIT/OTHER – Permit Shell 11-01-04

Passed by the Council of The City of San Diego on MAY 22 2006, by the following vote:

Council Members	Yeas	Nays	Not Present	Ineligible
Scott Peters	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Kevin Faulconer	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Toni Atkins	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Anthony Young	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Brian Maienschein	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Donna Frye	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jim Madaffer	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ben Hueso	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

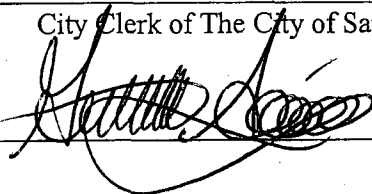
Date of final passage MAY 22 2006

AUTHENTICATED BY:

JERRY SANDERS
Mayor of The City of San Diego, California.

(Seal)

ELIZABETH S. MALAND
City Clerk of The City of San Diego, California.

By , Deputy

Office of the City Clerk, San Diego, California
Resolution Number R- 301469