

(E)
333e
9/19/06

RESOLUTION NUMBER R- 301921

DATE OF FINAL PASSAGE SEP 19 2006

WHEREAS, CREEKSIDE VILLAS, LLC, Owner/Permittee, filed an application with the City of San Diego for a permit to develop eighty-nine condominium units at 11921 Carmel Creek Road, at the southeasterly terminus of Carmel Creek Road, south of State Route 56, in the MF1 and OS zones of the Carmel Valley Community Plan area (as described in and by reference to the approved Exhibits "A" and corresponding conditions of approval for the associated Permit Nos. 9636, 9634 and 9633), on portions of a 12.25 acre site; and

WHEREAS, the project site is located at 11921 Carmel Creek Road in the MF-3 and OS (proposed) zone (MF-1 and OS existing) of the Carmel Valley Community Plan; and

WHEREAS, the project site is legally described as westerly 590.84 feet of the east 1/2 of the southeast 1/4 of Section 19, Township 14 South, Range 3 West, San Bernardino Base Meridian, County of San Diego, State of California, lying southerly of the center line of Carmel Creek Road, shown on County Road Survey No. 758, filed in the Office of the County Surveyor, described in deed to the County of San Diego, recorded September 29, 1938, in Book 819, Page 365 of Official Records, excepting therefrom all that portion thereof as condemned in the certain final order of condemnation recorded March 7, 1994 as File No. 1944-173263 of Official Records; and

WHEREAS, on June 22, 2006, the Planning Commission of the City of San Diego considered Planned Development Permit [PDP] No. 9636/Site Development Permit [SDP] No. 9634/Coastal Development Permit [CDP] No. 9633, and pursuant to Resolution No. 4091-PC voted to recommend approval of the Permit; 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 SEP 19 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 Planned Development Permit No. 9636/Site Development Permit No. 9634 and Coastal Development Permit No. 9633:

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

1. Findings for all Planned Development Permits

a. The proposed development will not adversely affect the applicable land use Plan. The proposed multi-family development on 3.21 acres of a 12.25 acre site is designated for Low-Medium density residential development at 15-29 dwelling units per acre and as open space. With the adoption of the amendment to the Carmel Valley Neighborhood 8 Precise Plan, the proposed project is consistent with the policies and guidelines of the Precise Plan. Being determined the project is consistent with the Precise Plan, the proposed development will not adversely affect the Precise Plan.

b. The proposed development will not be detrimental to the public health, safety, and welfare. The proposed development includes the dedication of right-of-way and contribution of its fair share cost towards construction of improvements in the Carmel Valley community. The proposed development will construct necessary sewer and water facilities to serve the residents of the development; will construct a detention basin necessary to handle project storm runoff; will grant a storage easement over the private underground drainage structure; will enter into a Maintenance Agreement for the ongoing permanent BMP maintenance; will comply with all requirements of State Water Resources Control Board [SWRCB] Order No. 99-08 DWQ and the Municipal Storm Water Permit, Order No. 2001-01(NPDES General Permit No. CAS000002 and CAS0108758), Waste Discharge Requirements

for Discharges of Storm Water Runoff Associated With Construction Activity; and will provide a geotechnical report in accordance with the City of San Diego's Technical Guidelines for Geotechnical Reports for the review and approval by the City Engineer. The development will also provide for the health, safety, and welfare of the residents by locating all brush management outside of the MHPA while increasing the setback of houses from the fuel sources. All structures constructed will be reviewed by professional staff for compliance with all relevant and applicable building, electrical, mechanical and fire codes to assure the structures will meet or exceed the current regulations. 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. The proposed development complies with the Carmel Valley Neighborhood 8 Precise Plan and site-specific development regulations for the Creekside Villas parcels, except as allowed through the approval of a Planned Development Permit. Five deviations are approved with this project as follows: the maximum driveway shall be allowed to be thirty feet where twenty-five is usually required; a twenty-nine foot high retaining wall shall be allowed on the east side of the proposed building where twelve feet is usually allowed; Brush Management Zone Two shall be allowed to be thirty feet in width where sixty-five feet is usually required; side yard landscape area shall be allowed to be 5,888 square feet where 6,193 square feet is usually required; and personal storage area for each unit will be 100 cubic feet where 240 cubic feet is required. These deviations have been determined to result in a superior project which results in protection of the sensitive resources and contributes to the new housing stock of the City. The project does not propose any deviations to the Environmentally Sensitive Lands regulations.

In order to design a project which reflects the Carmel Valley Neighborhood 8 Precise Plan's intended development pattern, deviations from the regulations of the Land Development Code are required at this unique site. The Carmel Valley Neighborhood 8 Precise Plan goal of limiting disturbance of the natural open space and preserving the habitat value of the environment for the benefit of wildlife species encourages the use of creative solutions to those regulations of the Land Development Code. The proposed project includes architectural plans that have extensive articulation and fenestration. This level of detail is consistent with the purpose and intent of the planned development regulations; however, in order to implement the site plan and architecture at this site; to preserve the habitat and passive recreational values of the open space; and to maximize the density at the site to contribute to the housing stock of the City of San Diego, the proposed deviations are granted to permit less storage space than required and a retaining wall whose maximum height is twenty-nine feet.

d. The proposed development, when considered as a whole, will be beneficial to the community. The development will dedicate 8.37 acres of designated MHPA open space into the regional open space system. The project will preserve the functions and values of an additional 0.82 acres of natural open space used for brush management zone two. The proposed development will provide for a detention basin capable of handling all project-related storm runoff and implement all necessary Best Management Practices to meet the requirements of SWRCB Order No. 99-08 DWQ and the Municipal Storm Water Permit, Order No. 2001-01(NPDES General Permit No. CAS000002 and CAS0108758), Waste Discharge

Requirements for Discharges of Storm Water Runoff Associated With Construction Activity. The development will also contribute to the region's housing supply by constructing eighty-nine residential units, and will pay all applicable public facilities financing and schools fees. The development will comply with the requirements of the Inclusionary Housing Ordinance by setting aside 10% of the project's units for occupancy by, and at rents affordable to, households earning no more than 65% of the area median income. Furthermore, the architecture of the buildings has been designed so that the proposed development will compliment its location and surroundings. For these specific reasons, the proposed development, when considered as a whole, will be beneficial to the community.

Five deviations are approved with this project as follows: the maximum driveway shall be allowed to be thirty feet where twenty-five is usually required; a twenty-nine foot high retaining wall shall be allowed on the east side of the proposed building where twelve feet is usually allowed; Brush Management Zone Two shall be allowed to be thirty feet in width where sixty-five feet is usually required; side yard landscape area shall be allowed to be 5,888 square feet where 6,193 square feet is usually required; and personal storage area for each unit will be 100 cubic feet where 240 cubic feet is required. These deviations have been determined to result in a superior project which results in protection of the sensitive resources and contributes to the new housing stock of the City.

e. **Any proposed deviations pursuant to 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 deviations are consistent with the purpose and intent of Section 126.0601. If the proposed project were not granted these specific deviations, as indicated above in Finding 3, the maximum area allowed for development by the Environmentally Sensitive Lands [ESL] regulations, 3.06 acres or 25 percent of the total site, would further be reduced by necessary manufactured slopes to create a building site rather than an engineered retaining wall. The City would not realize the benefit of eighty-nine additional ownership housing opportunities in this location due to the steep topography and sensitive habitat of the Multiple Habitat Preservation Area protected by the ESL regulations. Utilizing the retaining wall in its current design and location allows for the realization of the community plan goal for harmony with the natural environment consistent with the recommendations of the precise plan by reducing the effect of scale and using forms and materials that fit with texture, color and character of the site. The retaining wall will not be visible from the public right-of-way or other vantage points available to the public. Proposing the wall in its current location and at the height proposed will allow for greater density to be achieved than would otherwise be realized without the deviation and will not be detrimental to the City. The proposed deviations are consistent with the purpose and intent of Section 126.0601, are appropriate for the location, and will result in greater benefits accruing to the City.

B. SITE DEVELOPMENT PERMIT – 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 project will not adversely affect the Carmel Valley Neighborhood 8

Precise Plan and has been determined to be in conformance with the policies of the plan. See Finding A.1 of the Planned Development Permit Findings above.

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

c. The proposed development will comply with the applicable regulations of the Land Development Code. The proposed development complies with the Carmel Valley Neighborhood 8 Precise Plan and the Land Development Code, except for the two specific deviations as allowed through the review and approval of a Planned Development Permit. See Finding A.3 of the Planned Development Permit Findings above.

C. COASTAL DEVELOPMENT PERMIT – SDMC SECTION 126.0708

1. Findings for all Coastal Development Permits:

a. The proposed coastal development will not encroach upon any existing physical access way that is legally used by the public or any proposed public accessway identified in a Local Coastal Program land use plan; and the proposed coastal development will enhance and protect public views to and along the ocean and other scenic coastal areas as specified in the Local Coastal Program land use plan. The 12.25 acre site is located approximately two miles due east from the Pacific Ocean. No physical accessway legally used by the public or proposed public accessway will be compromised or encroached upon with the approval of the project. From the site at 11921 Carmel Creek Road no public views to or along the ocean or other scenic coastal areas presently exist and none will be impacted from the approval of the project.

b. The proposed coastal development will not adversely affect environmentally sensitive lands. The proposed project will impact any environmentally sensitive lands. The proposed development is sited on the least sensitive portion of the site. The project complies with the maximum development area as allowed by the Environmentally Sensitive Lands regulations. This site, 12.25 acres, allows for and proposes 3.06 acres to be developed in accordance with the Environmentally Sensitive Lands regulations.

c. The proposed coastal development is in conformity with the certified Local Coastal Program land use plan and complies with all regulations of the certified Implementation Program. The certified Local Coastal Program, the Carmel Valley Neighborhood 8 Precise Plan, designates this site for residential development and open space. The development is sited on that area of the property designated for residential development. The proposed development will comply with the certified Local Coastal Program and the regulations of the Implementation Program.

d. For every Coastal Development Permit issued for any coastal development between the nearest public road and the sea or the shoreline of any body of water located within the Coastal Overlay Zone the coastal development is in conformity with the public access and public recreation policies of Chapter 3 of the California Coastal

Act. The site at 11921 Carmel Creek Road is not between the nearest public road and the sea or shoreline of any body of water within the Coastal Overlay Zone. The development of eighty-nine residential dwelling units will have no affect upon the public's access to coastal resources or recreation policies of Chapter 3 of the Coastal Act. Being determined that the proposed project will have no affect upon the access or recreational policies of the Coastal Act, the proposed project is therefore in conformance with the policies of such act.

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 based on the findings hereinbefore adopted by the City Council, Planned Development Permit No. 9636, Site Development Permit No. 9634, Coastal Development Permit No.9633 is hereby granted by the City Council to the referenced, Owner/Permittee, in the form, exhibits, terms and conditions as set forth in Permit Nos. 9636, 9634 and 9633, a copy of which is attached hereto and made a part hereof.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By Shannon M. Thomas
Shannon M. Thomas
Deputy City Attorney

SMT:als
07/13/06
Or.Dept:DSD
R-2007-32
MMS#3481

I:\Civi\FORM FILLS; RESO_ORD FORMS\PERMITS\Permit Resolution 09-20-05.doc

SEP 19 2006

Passed by the Council of The City of San Diego on _____, 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 checked="" type="checkbox"/>	<input 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"/>

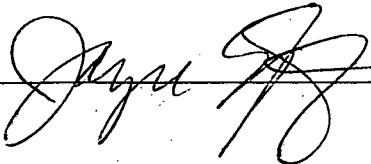
Date of final passage SEP 19 2006

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

R- 301920

Resolution Number _____

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.

CREEKSIDE VILLAS, LLC
Owner/Permittee

By _____

By _____

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

PERMIT/OTHER – Permit Shell 11-01-04

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

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.
- This development may be subject to impact fees at the time of building/engineering permit issuance.

APPROVED by the City Council of the City of San Diego on SEP 19 2006, 2006, by Resolution No. R 301920.

64. Prior to the issuance of certificates of occupancy, the City Manager shall verify the Brush Management Zone Two natural markers and directional signage indicating the appropriate location to access the Carmel Valley Restoration and Enhancement Project have been installed. The edge of on-site brush management zone two shall be delineated with naturalized features, e.g., boulders, plantings, posts, to clearly mark the limits of the approved brush thinning. All costs associated with installation and long-term maintenance shall be the responsibility of the Owner/Permittee or its designated representative. The landscaping bonds/surety for the project shall not be released until the City agrees the markers are properly installed at the limits of Brush Management Zone Two adjacent to the wildlife corridor.

WASTEWATER REQUIREMENTS:

65. 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 the public right of way.

66. 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.

67. The Owner/Permittee 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:

68. 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, and the disconnection at the water main of all existing unused services adjacent to the site, in a manner satisfactory to the Water Department Director and the City Engineer.

69. Prior to the issuance of any building permits, the Owner/Permittee shall apply for a plumbing permit for the installation of appropriate private back flow prevention device(s) on each water service (domestic, fire, and irrigation), 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 provide CC&Rs for the operation and maintenance of any on-site private water facilities that serve or traverse more than a single dwelling unit or common area.

71. 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 Water Department Director and the City Engineer.

maintenance per the approved landscape plans. The Final Plan shall be prepared consistent with City landscape regulations and approved Exhibit "A" ("Landscape Concept, Brush Management and Wall/Fence Plan," Sheets 7-8 dated 3/14/06 [stamped by J. Franzini Lic. No. 4514]), and shall include container plantings of the species *Ceanothus verrucosus*, Wart-stemmed *Ceanothus*, to offset project-related impacts to up to four individual plants in accordance with the City's MSCP.

59. Prior to the issuance of certificates of occupancy, the City Manager shall verify the on-site revegetated areas have been appropriately planted with the native palette per the approved Exhibit A and have a conservation easement recorded over the areas. All costs associated with plan preparation and long-term management of the on-site revegetated slope areas shall be the responsibility of the Owner/Permittee or its designated representative. The landscaping bonds/surety for these areas shall not be released until the City agrees the revegetation areas have meet their success criteria.

60. All construction related activities shall be limited to daylight hours to the maximum extent practicable. If nighttime construction is required, all lighting shall be the minimum necessary for safety and security purposes and shall be shielded and directed to shine downward to minimize impacts to the MHPA, Carmel Valley Restoration and Enhancement Plan [CVREP] and on-site wildlife corridor.

61. Prior to the issuance of certificates of occupancy, the City Manager shall verify all project-related operational lighting is shielded or directed downward and away from the MHPA, CVREP and on-site wildlife corridor.

62. Prior to recordation of the first final map and/or issuance of any grading permits, the existing on-site MHPA shall be conveyed to the City's MSCP preserve through either fee title to the City, or a conservation easement or covenant of easement granted in favor of the City and wildlife agencies. Conveyance of any land in fee to the City shall require approval from the Park and Recreation Department, Open Space Division Deputy Director and shall exclude detention basins or other storm water control facilities, brush management areas, landscape/revegetation areas, and graded slopes; these features shall have conservation easements recorded over them if accepted into the MHPA, with maintenance and management responsibilities retained by the Owner/Permittee, unless otherwise agreed to by the City. A copy of the final method of MHPA conveyance shall be submitted to Development Services and Planning Departments.

63. All staging areas shall be located in existing disturbed or developed areas, away from CVREP and natural vegetation, to minimize impacts to wildlife movement. All equipment and/or materials related to construction shall be stored in designated and properly maintained staging areas. The location of the staging areas shall be reviewed and approved by the City Manager. A responsible party (i.e., superintendent, resident engineer) shall be identified to ensure that all construction crews and/or field workers comply with these measures

six feet in height and, provided further, that no merchandise, material or equipment stored not higher than any adjacent wall.

52. 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.

53. 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," on file in the Development Services Department.

54. Site planning and building design shall conform to the guidelines for multi-family residential development of the Carmel Valley Neighborhood 8 Precise Plan.

55. All development shall utilize materials that blend with the natural landscape and specify neutral, earth tone, muted colors as specified on the Exhibit "A" Materials.

56. Buildings and landscaping shall be designed and constructed to incorporate measures to implement the water and energy conservation guidelines of the Carmel Valley Neighborhood 8 Precise Plan Conservation Element.

MSCP ADJACENCY REQUIREMENTS:

57. Prior to issuance of certificates of occupancy, a five foot-high-foot-high black vinyl coated chain-link fence shall be constructed along the perimeter of the development area, adjacent to the Multiple Habitat Planning Area [MHPA], in conformance with the approved "Landscape Concept, Brush Management and Wall/Fence Plan" (Sheets 7-8 dated 3/14/06 [stamped by J. Franzini, California License No. 4514]), satisfactory to the City Manager and the City Engineer. Any proposed changes to the proposed size, location or type of fence shall be approved by the City Manager prior to issuance of occupancy permits. All preserve fencing shall be located on the subject premises, out of any City lands, and maintained by the Owner/Permittee in perpetuity. Any necessary future fence repairs shall be conducted by the Owner/Permittee in a manner which does not result in impacts to the MHPA, sensitive biology resources or wildlife movement.

58. Prior to issuance of any grading permits, the Owner/Permittee shall prepare a Final Slope Revegetation Plan for the on-site graded slopes using only appropriate native species compatible with public safety. The City Manager shall verify the final construction plans for the storm drain construction areas, any grading adjacent to the MHPA and the revegetation areas, shows native revegetation with twenty-five months of

46. The Owner/Permittee shall post a copy of the approved discretionary permit and Tentative Map in the sales office for consideration by each prospective buyer.

47. Prior to the issuance of any building permits, the Owner/Permittee shall submit complete outdoor lighting information shall be submitted to the Development Services Department, Land Development Review Division, for review and approval. Complete lighting information shall include a plan view photometric analysis indicating an isofoot candle plot and a point by point plot to include all areas within the private property and to extend a minimum of 50 feet beyond the property line, construction details as necessary to direct installation of the outdoor lighting system, manufacturers name, visors, prisms, lenses and reflectors and a lighting plan locating each fixture in plan view and a legend. The outdoor lighting system shall be designed, manufactured and installed to allow shading, adjusting, and shielding of the light source so all outdoor lighting is directed to fall only onto the same premises as light sources are located. Lighting of building facades, parking and setback areas facing Carmel Creek Road and Shaw Ridge/Tang Road shall be restricted to walkways, driveways and building entries for the purposes of safety. Windows shall be recessed four inches or tinted to reduce thirty percent of all light transmission to minimize the effect of interior lighting on neighborhood character.

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

48. 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.

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

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

51. 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

38. Prior to issuance of any engineering permits for grading, the Owner/Permittee shall enter into a Landscape Establishment/Maintenance Agreement [LEMA] to assure long-term establishment and maintenance of the revegetation of Lot 3. The LEMA shall be approved by the Landscape Section of Development Services and the City Manager. Agreement shall commence prior to release of the performance bond with developer or subsequent owner posting a new bond to cover the terms of the agreement.

PLANNING/DESIGN REQUIREMENTS:

39. No fewer than 192 off-street parking spaces shall be maintained on the property at all times in the approximate locations shown on the approved Exhibit "A," on file in the Development Services Department. 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.

40. 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.

41. 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.

42. 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.

43. 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.

44. No building additions, including patio covers, shall not 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.

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

28. In Zones One and 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.

29. Prior to final inspection for any building, the approved Brush Management Program shall be implemented.

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

LANDSCAPE REQUIREMENTS:

31. 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.

32. Prior to issuance of any grading permits, construction documents for the revegetation and hydroseeding of all disturbed land shall be submitted in accordance with the Landscape Standards and to the satisfaction of the City Manager. All plans shall be in substantial conformance to this permit and Exhibit "A."

33. In the event that a foundation only permit is requested by the Owner/Permittee, a site plan or staking layout plan shall be submitted identifying all landscape areas consistent with Exhibit "A." These landscape areas shall be clearly identified with a distinct symbol, noted with dimensions and labeled as "landscaping area."

34. Prior to issuance of any building permits, 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." Construction plans shall take into account a forty square foot area around each tree which is unencumbered by hardscape and utilities as set forth under SDMC § 142.0403(b)5.

35. Prior to issuance of any certificate of occupancy, it shall be the responsibility of the Owner/Permittee to install all required landscape and obtain all required landscape inspections.

36. 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 unless specifically noted in this Permit.

37. If any required landscape, including existing or new plantings, hardscape, landscape features, 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.

ENGINEERING REQUIREMENTS:

21. The Permit shall comply with the conditions of Vesting Tentative Map No. 9641.
22. Prior to issuance of any occupancy permit, the Owner/Permittee shall conform to Municipal Code provisions for "Public Improvement Subject to Desuetude or Damage." If repair or replacement of such public improvements is required, the Owner/Permittee shall obtain the required permits for work in the public right-of-way, satisfactory to the City Engineer.

BRUSH MANAGEMENT:

23. 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."
24. Prior to issuance of any building permits, a complete set of brush management construction documents shall be submitted for approval to the City Manager and the Fire Marshall. The construction documents shall be in substantial Conformance with Exhibit "A" and shall comply with the Uniform Fire Code, SDMC Section 55.0101 and 142.0412, and the Landscape Standards. The Brush Management Program shall consist of two zones consistent with the Brush Management regulations of the SDMC §Section 142.0412 as follows:
- Zone One (within Lot 1): Minimum 35 feet.
Zone Two (within Lot 2): Minimum 30 feet
25. All new constructions within 300 feet of the boundary between Brush Management Zone One and Brush Management Zone Two shall comply with building standards and policy per 2001 California Building Code and SDMC § 145.0500, § 145.0500 and § 142.0400.
26. 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 Manger's approval.
27. The following note shall be provided on the Brush Management Construction Documents: "It shall be the responsibility of the Owner/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."

ENVIRONMENTAL/MITIGATION REQUIREMENTS:

16. 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.

17. As conditions of Planned Development Permit No. 9636/Site Development Permit No. 9634/Coastal Development Permit No. 9633 and Tentative Map No. 9641, the mitigation measures specified in the MMRP, and outlined in the Mitigated Negative Declaration, LDR No. 5769 shall be noted on the construction plans and specifications under the heading ENVIRONMENTAL/MITIGATION REQUIREMENTS.

18. The Owner/Permittee shall comply with the MMRP as specified in the Mitigated Negative Declaration, LDR No. 5769 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:

- General Measures
- Paleontological Resources
- Biological Resources
- Historical Resources
- Transportation
- Land Use/Visual Quality/MHPA
- Waste Management

19. Prior to issuance of any construction permit, the Owner/Permittee 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:

20. Prior to issuance of any building permit, the Owner/Permittee 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). To meet these requirements, the Owner/Permittee shall set aside at least 10 percent of the units for occupancy by, and at rents affordable to, households earning no more than 65 percent Area Median Income [AMI] on the site within units provided in the project. At a later date, should the Owner/Permittee elect to sell the affordable units as condominiums, the units shall be sold to, and at prices affordable to, households earning no more than 100 percent AMI. Prior to receiving a building permit, the Owner/Permittee must enter into an agreement with the San Diego Housing Commission to assure the construction and occupancy of the affordable units on the project site.

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

12. This Coastal Development Permit [CDP] shall become effective after the California Coastal Commission certifies the Local Coastal Program Amendment.

13. Prior to the issuance of any engineering permit for grading, a fee of \$654.00 shall be deposited with the Development Services Department for the Los Peñasquitos Watershed Restoration and Enhancement Program. The enhancement fee shall be computed on the basis of site grading at a rate of \$0.005 per square foot for all areas graded. The enhancement fee shall be computed by the applicant and verified by the Development Services Department.

14. Prior to issuance of any building permit, a fee of \$3,423.82 shall be deposited with the Development Services Department for the Los Peñasquitos Watershed Restoration and Enhancement Program. The enhancement fee shall be computed on the basis of rate of \$0.03 per square foot for all impervious surfaces created by the development. The enhancement fee shall be computed by the applicant and verified by the Development Services Department.

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

- 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

- a. Subdivision of the property into three lots, demolition of existing structures and an existing water well and development of a condominium project consisting of seventy-seven condominiums and twelve townhomes in three story buildings over a two-level subterranean parking garage; a recreation building; swimming pool and pool deck;
- b. Landscaping (planting, irrigation and landscape related improvements);
- c. Off-street parking in a subterranean parking garage and at grade;
- d. Grading of the site and construction of retaining walls; thinning of natural vegetation for brush management zone two; and minor improvements in the public right-of-way;
- e. Five deviations are approved with this project as follows: the maximum driveway shall be allowed to be thirty feet where twenty-five is usually required; a twenty-nine foot high retaining wall shall be allowed on the east side of the proposed building where twelve feet is usually allowed; Brush Management Zone Two shall be allowed to be thirty feet in width where sixty-five feet is usually required; side yard landscape area shall be allowed to be 5,888 square feet where 6,193 square feet is usually required; and personal storage area for each unit will be 100 cubic feet where 240 cubic feet is required; 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

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 41-0592

PLANNED DEVELOPMENT PERMIT NO. 9636
SITE DEVELOPMENT PERMIT NO. 9634
COASTAL DEVELOPMENT PERMIT NO. 9633
CREEKSIDE VILLAS - PROJECT NO.5769
CITY COUNCIL

This Planned Development Permit No. 9636/Site Development Permit No. 9634/Coastal Development Permit No. 9633 is granted by the City Council of the City of San Diego to Creekside Villas, LLC, Owner/Permittee, pursuant to San Diego Municipal Code [SDMC] section 126.0600, 126.0500 and 126.0700. The 12.25 acre site is located at 11921 Carmel Creek Road, at the southeasterly terminus of Carmel Creek Road, south of State Route 56, in the MF1 and OS zones (proposed to be rezoned to MF3 and OS zone) of the Carmel Valley Community Plan area. The project site is legally described as the westerly 590.84 feet of the east ½ of the southeast ¼ of Section 19, Township 14 South, Range 3 West, San Bernardino Base Meridian, County of San Diego, State of California, lying southerly of the center line of Carmel Creek Road, shown on County Road Survey No. 758, filed in the office of the County Surveyor, described in deed to the County of San Diego, recorded September 29, 1938, in Book 819, Page 365 of Official Records, excepting therefrom all that portion thereof as condemned in the certain final order of condemnation recorded March 7, 1994, as File No. 1944-173263 of Official Records.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee to subdivide the site into three lots, demolish two existing structures and a water tank and develop a condominium project consisting a seventy-seven condominiums and twelve townhomes in three story buildings over a two-level subterranean parking garage, a recreation building, swimming pool and pool deck; grading of the site and construction of retaining walls; thinning of natural vegetation for brush management zone two; installation of landscaping and minor improvements in the public right-of-way, described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated SEP 19 2006, on file in the Development Services Department.

The project or facility shall include: