

RESOLUTION NUMBER R- 302090

DATE OF FINAL PASSAGE NOV 14 2006

WHEREAS, Sorrento Hills 2, LLC, Owner/Permittee, filed an application with the City of San Diego for a planned development permit/site development permit to subdivide a 2.485 acre site into three parcels to allow the development of a 18,000 square foot mixed-use retail and office development distributed in three 1-story buildings, site landscaping, grading, retaining walls and improvements in the public right-of-way known as the Torrey Corner project [Project], located at the southwest corner of Carmel Mountain Road and East Ocean Air Drive, and legally described as a portion of Parcel 1 and a portion of Parcel "A," Parcel Map No. 18123, filed October 2, 1998, and a portion of Parcel "C," Parcel Map No. 17893, filed August 8, 1997, in the City of San Diego, in the County of San Diego, in the Torrey Hills Community Plan area, in the CN-1-2 and CC-1-3 zones; and

WHEREAS, on August 31, 2006, the Planning Commission of the City of San Diego considered Planned Development Permit [PDP] No. 99196/Site Development Permit [SDP] No. 345508, and pursuant to Resolution No. 4129-PC voted to recommend City Council 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 NOV 14 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. 99196/Site Development Permit
No. 345508:

**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 2.485-acre site is designated for both Neighborhood Commercial and Open Space uses. With the adoption of the land use plan amendment, the proposed project will be sited entirely on that portion of the site designated for commercial development and those areas designated for open space will be preserved. With the adoption of the amendment to the Torrey Hills Community Plan, the proposed project is consistent with the policies and guidelines of the land use plan. Being determined the project is consistent with the plan, the proposed development will not adversely affect the plan.

b. The proposed development will not be detrimental to the public health, safety, and welfare. The proposed development will construct necessary sewer and water facilities to serve the development; will enter into a Maintenance Agreement for the ongoing permanent Best Management Practices [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 prior to issuance of any grading permit. 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.

The permit controlling the development and continued use of the development proposed for this site contains conditions addressing the project compliance with the City's regulations and other regional, state and federal regulations to prevent detrimental impacts to the health, safety, and general welfare of persons residing and/or working in the area. Conditions of

approval require compliance with several operational constraints and development controls intended to assure the continued health, safety and general welfare of persons residing or working in the area. All Building, Fire, Plumbing, Electrical, Mechanical Code and the City regulations governing the construction and continued operation of the development apply to this site to prevent adverse affects to those persons or other properties in the vicinity.

c. The proposed development will comply with the regulations of the Land Development Code. City staff's review of the project has determined the proposed development complies with the Torrey Hills Community Plan and the development regulations relevant to the Torrey Corner parcels, except as allowed through the approval of a Planned Development Permit. Two deviations are approved with this project as follows: first, the project proposes to encroach 0.08 acres, or 3,485 square feet, into an area of the site designated as steep hillside as defined by the Land Development Code; and lastly, the height of the retaining wall behind the commercial building on parcel one varies from 6 and 0 feet at either end to 27 feet above grade at the highest point. At its highest point this wall will exceed the maximum height allowed by 17.3 feet where 9 feet is the maximum allowed by the regulations. However, the retaining wall which is the subject of the deviation will, for the majority of its length, be completely behind the proposed building on parcel one and will be entirely invisible to all observers. The retaining wall and the building wall will have only 6 inches of separation between them. The height of the proposed building on parcel one will be 27 feet six inches. Where the retaining wall is visible it will vary in height from 13 to 15 feet. In this area of the site a significant amount of landscaping is proposed; including trees, shrubs and vines. The vine species selected, *Ficus pumila*, is capable of attaching itself to the wall and completely screening the wall. The effective visible height of the wall, between 13 and 15 feet will be screened by ample landscaping sufficient to obscure the wall. In addition to these features the wall will have a faux stone facade so that any portion not covered in time by the vines will have an attractive appearance.

This level of detail is consistent with the purpose and intent of the planned development regulations to achieve a project design which is more creative and attractive than otherwise capable through strict adherence to the regulations of the base zone.

d. The proposed development, when considered as a whole, will be beneficial to the community. The proposed development will be beneficial to the community by providing a conveniently located, aesthetically pleasing retail center to meet the needs of the community. The commercial uses and design of the center has been designed in cooperation with the community to meet the needs and aspirations of its citizens. The center will increase commercial development in the Torrey Hills community adding to the diversity of goods and services available from within the neighborhood.

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 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 c, the maximum area allowed for development by the Environmentally Sensitive

Lands [ESL] regulations, 1.48 acres or 25 percent of the total site, would likely result in a site plan so diminished to be economically infeasible and without benefit. The City and community would not realize the benefit of the additional commercial opportunities provided by development. The retaining wall will not be visible from the public right-of-way or other vantage points available to the public. The encroachment into the steep slope is the minimum amount possible. The resulting project will continue to preserve the majority of the open space area and the visual resource in the community. 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 as a result of approving the project.

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 Torrey Hills Community Plan and has been determined to be in conformance with the policies of the plan. See Finding A.1.a 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.1.b 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 Torrey Hills Community 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.1.c of the Planned Development Permit Findings above.

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 majority of the site was graded through the previous approval of the Torrey Hills project approved by the City Council in 1997. Only a minor additional amount of grading is necessary to achieve a viable development area suitable for the commercial development. The geotechnical report submitted and reviewed by professional staff concludes the site will have a factor-of-safety of 1.5 or greater with respect to surficial slope stability. Further the lack of groundwater and the underlying soil characteristics indicate a low potential for liquefaction at the site. The site will be suitable for the proposed development and is designated for commercial use in the community plan. The disturbance of steep slopes, measured to be 0.08 of an acre, is considered by the City's adopted mitigation threshold to be insignificant and does not require mitigation. The applicant has considered and staff has reviewed several site designs during the process of establishing the proposed project as the least environmentally damaging and would result in the minimum amount of disturbance to the site.

b. The proposed development will minimize the alteration of natural land forms and will not result in undue risk from geologic and erosional forces, flood hazards, or fire hazards. The site, having been previously graded, will require less than 3,000 cubic yards of earthwork per acre. The grading plan will excavate 7,400 cubic yards and create 5,600 cubic yards of fill to export 1,762 cubic yards. The geotechnical report submitted and reviewed by professional staff concludes the site will have a factor-of-safety of 1.5 or greater with respect to surficial slope stability. Further the absence of groundwater and the underlying soil characteristics indicate a low potential for liquefaction at the site. The site will be suitable for the proposed development and is designated for commercial use in the community plan. The geologist retained to evaluate the site has determined the site will not result in undue risks from geologic and erosional forces. All manufactured slopes will be revegetated in accordance with the City's adopted landscaping standards for erosion and slope control. The site is not located near or adjacent to any floodways or areas prone to flooding. Fire hazards will be modulated by a fire suppression system required in each building. In these ways the proposed project will minimize the alteration of natural land forms and will not result in undue risk from geologic and erosional forces, flood hazards, or fire hazards.

c. The proposed development will be sited and designed to prevent adverse impacts on any adjacent environmentally sensitive lands. The majority of the site was graded through the previous approval of the Torrey Hills project approved by the City Council in 1997. Only a minor additional amount of grading is necessary to achieve a viable development area suitable for the commercial development. The disturbance of steep slopes, measured to be 0.08 of an acre, is considered by the City's adopted mitigation threshold to be insignificant and does not require mitigation. The applicant has considered and staff has reviewed several alternative site designs during the genesis of the proposed design and have concluded that the proposed project is the least environmentally damaging and would result in the minimum amount of disturbance to the site. The permit approved for this project includes restrictions and constraints to assure that adverse impacts to the adjacent steep slopes will not occur. These conditions address lighting, storm water run-off, landscaping, water conservation and other areas of concern. In these ways the proposed development will be sited and designed to prevent adverse impacts on any adjacent environmentally sensitive lands.

d. The proposed development will be consistent with the City of San Diego's Multiple Species Conservation Program [MSCP] Subarea Plan. The proposed site is not within or adjacent to the implementing program of the MSCP, the Multiple Habitat Preservation Area [MHPA]. Being determined the site is not within or adjacent to the MHPA the proposed development then is consistent with the City's MSCP.

e. The proposed development will not contribute to the erosion of public beaches or adversely impact local shoreline sand supply. The proposed project will comply with the conclusions and terms of the Water Quality Technical Report for the Torrey Corner project, dated March 8, 2005. The proposed project is approximately four miles inland from the Pacific Ocean and one mile from the Los Penasquitos Lagoon. With the implementation of the required Best Management Practices which include source control, structural and construction

BMP's the project will not contribute to erosion of public beaches or adversely impact local shoreline sand supply.

f. The nature and extent of mitigation required as a condition of the permit is reasonably related to, and calculated to alleviate, negative impacts created by the proposed development. The project is required to mitigate for potential impacts to Paleontological resources as a result of the proposed grading activities. No other mitigation is required to alleviate potentially negative impacts. Due to the existing soil formations the site has a reasonably high potential to contain paleontological resources. These resources, if they do in fact exist in the soil strata, could become impacted by the proposed grading activities. Therefore, the required mitigation is related to the potential of the project to affect these resources and the mitigation will prevent any such negative impacts. No other mitigation is required for the proposed project.

3. Supplemental Findings--Environmentally Sensitive Lands Deviations

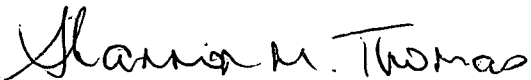
a. There are no feasible measures that can further minimize the potential adverse effects on environmentally sensitive lands. There are no additional feasible measures to reduce any potential adverse effects on environmentally sensitive lands that would result in an economically viable project at this location. The encroachment into the steep slope will be entirely obscured by the building on parcel one and this grading and retaining wall will be invisible to any observer. The appearance of the building will be that it is fit into the slope rather than next to it. The building will appear as an outgrowth from the landform. The majority of the steep slope will be preserved in its current condition and will not be impacted by the proposed project.

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 encroachment into the steep slope is the least amount necessary. The deviation would allow for an encroachment of 0.08 acres, or 3,485 square feet, into the toe of an existing slope. The encroachment will be entirely obscured by the building on parcel one and the retaining wall will be invisible to any observer. The appearance of the building will be that it is fit into the slope rather than next to it. The building will appear as an outgrowth from the landform. The majority of the steep slope will be preserved in its current condition and will not be impacted by the proposed project. The existing configuration of the parcels and the grading of the site have not been created through the actions of the applicant. The existing pad is a very irregular organic shape not easily utilized for a neighborhood commercial use. The minimum encroachment into the steep slope will allow for a reasonable use of the site. The existing conditions necessitating the encroachment have not been the result of any action on the part of the applicant.

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 Planning Development Permit No. 99196/Site
Development Permit No. 345508 is granted to Sorrento Hills 2, LLC, Owner/Permittee, under
the terms and conditions set forth in the permit attached hereto and made a part of this resolution.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By 
Shannon M. Thomas
Deputy City Attorney

SMT:als
09/25/06
10/17/06 COR.COPY
11/17/06 REV.COPY
Or.Dept:DSD
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RECORDING REQUESTED BY
CITY OF SAN DIEGO
DEVELOPMENT SERVICES DEPARTMENT
PERMIT INTAKE, MAIL STATION 501

WHEN RECORDED MAIL TO
CITY CLERK
MAIL STATION 2A

SPACE ABOVE THIS LINE FOR RECORDER'S USE

JOB ORDER NUMBER 42-2730

PLANNED DEVELOPMENT PERMIT NO. 99196
SITE DEVELOPMENT PERMIT NO.345508
TORREY CORNER PROJECT NO. 34992
CITY COUNCIL

This Planned Development Permit No. 99196/Site Development Permit No.345508 is granted by the Council of the City of San Diego to Sorrento Hills 2, LLC, a California Limited Liability Company, Owner/Permittee, pursuant to San Diego Municipal Code [SDMC] sections 126.0601 and 126.0501. The 2.485-acre site is located at the southwest corner of Carmel Mountain Road and East Ocean Air Drive in the CN-1-2 zone and CC-1-3 zones in the Torrey Hills Community Plan area. The project site is legally described as a portion of Parcel 1 and a portion of Parcel "A," Parcel Map No. 18123, filed October 2, 1998, and a portion of Parcel "C," Parcel Map No. 17893, filed August 8, 1997, in the City of San Diego, in the County of San Diego.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee to subdivide one parcel totaling 2.485 acres into three parcels, grade and develop the site to construct a neighborhood commercial project consisting of three 1-story buildings: a 4,387 square foot financial building, a 6,055 square foot retail building and a 7,558 square foot building consisting of 5,158 square feet of retail space and 2,400 square feet of restaurant space, parking, landscaping, retaining walls, 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 NOV 14 2006, on file in the Development Services Department.

The project or facility shall include:

- a. A Tentative Map to subdivide and create three parcels on a site which totals 2.485 acres;
- b. Grade and develop the site to construct a neighborhood commercial project consisting of three 1-story buildings: one 4,387 square foot financial building, one 6,055 square foot retail building and one 7,558 square foot building consisting of 5,158 square feet of retail/office space and 2,400 square feet of

restaurant space, parking, retaining walls, and minor improvements in the public right-of-way;

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

STANDARD REQUIREMENTS:

1. Construction, grading or demolition must commence and be pursued in a diligent manner within thirty-six months after the effective date of final approval by the City, following all appeals. Failure to utilize the permit within thirty-six months will automatically void the permit unless an Extension of Time has been granted. Any such Extension of Time must meet all the SDMC requirements and applicable guidelines in effect at the time the extension is considered by the appropriate decision maker.
2. No permit for the construction, occupancy or operation of any facility or improvement described herein shall be granted, nor shall any activity authorized by this Permit be conducted on the premises until:
 - a. The Permittee signs and returns the Permit to 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 Owner/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 Owner/Permittee 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. 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.

ENVIRONMENTAL/MITIGATION REQUIREMENTS:

12. 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.

13. As conditions of Planned Development Permit No. 99196/Site Development Permit No. 345508 and Tentative Parcel Map No. 99197, the mitigation measures specified in the MMRP, and outlined in Mitigated Negative Declaration LDR No. 34992 shall be noted on the construction plans and specifications under the heading ENVIRONMENTAL/MITIGATION REQUIREMENTS.

14. The Owner/Permittee shall comply with the MMRP as specified in Mitigated Negative Declaration LDR No. 34992 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:

Paleontological Resources.

15. 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.

ENGINEERING REQUIREMENTS:

16. Prior to occupancy permits, 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 shall obtain the required permits for work in the public right-of-way, satisfactory to the City Engineer.

GEOLOGY REQUIREMENTS:

17. Prior to the issuance of a grading permit, a geotechnical report shall be submitted and approved by the City Engineer in accordance with the City of San Diego's Technical Guidelines for Geotechnical Reports."

LANDSCAPE REQUIREMENTS:

18. No change, modification, or alteration shall be made to the project unless appropriate application or amendment of this Permit shall have been granted by the City of San Diego.
19. In the event that the Landscape Plan and the Site Plan conflict, the Landscape Plan shall prevail.
20. 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 like kind and equivalent size per the approved documents to the satisfaction of the City Manager within thirty days of damage or Certificate of Occupancy.
21. Prior to issuance of any grading permits, complete landscape construction documents, including an automatic permanent irrigation system, shall be submitted to the City Manager. The plans shall be in substantial conformance to Exhibit "A."
22. Prior to issuance of any construction permits for structures, including shell, complete landscape and irrigation construction documents consistent with the Landscape Standards, including planting and irrigation plans, details and specifications, shall be submitted to the City Manager for approval. The construction documents shall be in substantial conformance with Exhibit "A".
23. 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 provide a minimum 40 square feet 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.
24. 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. A No Fee Street Tree Permit, if applicable, shall be obtained for the installation, establishment and on-going maintenance of all street trees.
25. 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. The trees shall be maintained in a safe manner to allow each tree to grow to its mature height and spread.
26. The Owner/Permittee shall be responsible for the installation and maintenance of all landscape improvements consistent with the Landscape Regulation and Landscape Standards. Invasive species are prohibited from being planted adjacent to any canyon or

native habitats. Invasive plants are those which rapidly self propagate by air born seeds or trailing as noted in section 1.3 of the Landscape Standards.

27. Prior to the issuance of an engineering permit for improvements in the public right-of-way, an Encroachment Maintenance Removal Agreement is required to allow maintenance of landscaping in the public right-of-way in the Torrey Hills Maintenance Assessment District.

PLANNING/DESIGN REQUIREMENTS:

28. The hours of operation shall not to begin before 6 a.m. and shall cease no later than midnight, in accordance with the requirements of the CN-1-2 zone.

29. No fewer than 114 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.

30. At least 50 percent of all gross ground floor area or principal pedestrian level area shall be used for retail sales and commercial services, and per Land Development Code section 143.0460(c).

31. There shall be compliance with the regulations of the underlying zone(s) except as provided for and shown on the approved Exhibit "A."

32. The heights of the buildings or structures shall not exceed those heights set forth on the Exhibit "A," including, but not limited to, elevations and cross sections.

33. 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.

34. 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.

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

36. Prior to the issuance of any building permits, complete outdoor lighting information shall be submitted to the Development Services Department, Land Development Review Division, for review and approval. Complete lighting information shall include a plan view photometric analysis indicating an isofoot candle plot and a point by point plot to include all areas within the private property and to extend a minimum of 50 feet beyond the property line, construction details as necessary to direct

installation of the outdoor lighting system, manufacturers name, visors, prisms, lenses and reflectors and a lighting plan locating each fixture in plan view and a legend. The outdoor lighting system shall be designed, manufactured and installed to allow shading, adjusting, and shielding of the light source so all outdoor lighting is directed to fall only onto the same premises as light sources are located.

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.

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

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

39. 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.

40. 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.

41. 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."

TRANSPORTATION REQUIREMENTS:

42. 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.

WATER REQUIREMENTS:

43. 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.

44. 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, the City Engineer and the Cross Connection Supervisor in the Customer Support Division of the Water Department.

45. Prior to the issuance of any certificates of occupancy, the Owner/Permittee shall install fire hydrants at locations satisfactory to the Fire Department and the City Engineer. All on-site fire hydrants shall be private.

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

47. All on-site water facilities shall be private including domestic, fire and irrigation systems.

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

WASTEWATER REQUIREMENTS:

49. All sewer facilities serving this development will be private.

50. Prior to the issuance of any building permits, the Owner/Permittee 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 lot.

51. Prior to the issuance of any engineering permits, the Owner/Permittee shall obtain an Encroachment Maintenance and Removal Agreement for private sewer facilities installed in or over the public right of way.

52. The Owner/Permittee shall design and construct all proposed private sewer facilities serving more than one lot to the most current edition of the City of San Diego's Sewer Design Guide.

53. The Owner/Permittee shall design and construct all proposed private sewer facilities serving more than one lot to conform with the most current State, Federal and City Regulations, and to the requirements of the most current edition of the Metropolitan Wastewater Department Sewer Design Guide or the California Uniform Plumbing Code as adopted by the City of San Diego.

54. 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.

LIGHTS:

Developer will limit lights to a height of 18 feet.

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 City Council of the City of San Diego on NOV 14, 2006, by Resolution No. 2302090.

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.

SORRENTO HILLS 2, 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

*Revised 11/17/06

Passed by the Council of The City of San Diego on NOV 14 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 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 NOV 14 2006

AUTHENTICATED BY:

(Seal)

JERRY SANDERS

Mayor of The City of San Diego, California.

ELIZABETH S. MALAND

City Clerk of The City of San Diego, California.

By Debbie Stevenson Cruz, Deputy

Office of the City Clerk, San Diego, California

Resolution Number

R-302090