

RESOLUTION NUMBER R-304583

DATE OF FINAL PASSAGE JANUARY 6, 2009

RESOLUTION GRANTING PLANNED DEVELOPMENT
PERMIT NO. 294375/SITE DEVELOPMENT PERMIT
NO. 294373 FOR THE CASA MIRA VIEW PROJECT.

WHEREAS, Scripps Mesa Developers, LLC, a Limited Liability Company, Owner/Permittee, filed an application with the City of San Diego for a planned development permit/site development permit to subdivide and develop a condominium project with 1,848 condominium units, known as the Casa Mira View project, located on six parcels along the east side of Westview Parkway between Dauntless Street and Mira Mesa Boulevard in the Mira Mesa community, and legally described as Parcels 1 through 6, inclusive, of Parcel Map No. 16194, filed August 21, 1990, in the Office of the County Recorder, in the Mira Mesa Community Plan area, in the RM-3-7 zone which is proposed to be rezoned to the RM-3-8 zone; and

WHEREAS, on October 2, 2008, the Planning Commission of the City of San Diego considered Planned Development Permit [PDP] No. 294375/Site Development Permit [SDP] No. 294373, and pursuant to Resolution No. 4449-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, a public hearing was required by law implicating due process rights of individuals affected by the decision, and 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 January 6, 2009, testimony having been heard, evidence having been submitted, and the City Council having fully considered the matter and being fully advised concerning the same; and

WHEREAS, Scripps Mesa Developers, LLC, a Limited Liability Company, Owner/ Permittee has made a commitment to the Council of the City of San Diego and vow to honor such commitment to assure to the satisfaction of the City Engineer prior to the issuance of the first residential building permit, the construction of a traffic signal at Mira Mesa Boulevard and Hibert Street with a raised median on Mira Mesa Boulevard between Interstate 15 and Scripps Ranch Boulevard, for which the City currently has a funded CIP project for median improvements on Mira Mesa Boulevard (CIP No. 52-358.0) and has collected \$100,000 from another development for funding one half of the signal at the Hibert Street driveway, Scripps Mesa Developers, LLC, a Limited Liability Company, Owner/Permittee shall be responsible for the added costs involved with implementing the improvements described in this commitment/ vow to the extent costs exceed the budget for CIP No. 52-358.0 and has collected \$100,000 for the traffic signal; and

WHEREAS, Scripps Mesa Developers, LLC, a Limited Liability Company, Owner/ Permittee has made a commitment to the Council of the City of San Diego and vow to honor such commitment to assure to the satisfaction of the City Engineer prior to the issuance of the first residential building permit, the widening of Mira Mesa Boulevard to eight lanes between the north and southbound ramps under Interstate 15 with a raised median; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that it adopts the following findings with respect to PDP No. 294375/SDP No. 294373:

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

1. The proposed development will not adversely affect the applicable land use plan. The proposed multi-family development on the 41.31-acre site is designated for Residential use by the Mira Mesa Community Plan and allows residential development at the densities allowed by the existing RM-3-8 zone. The proposed project site is located within the Mira Mesa Community Plan area and designated for Medium-high density residential development at 30-45 dwelling units per net acre. The project as proposed conforms to the density in the community plan. With the approval of the rezone, the project would be also consistent with the approved development agreement. The project will help satisfy a variety of goals of the applicable land use plans. The project will increase the supply of housing in the community within walking distance of transit, shopping, and employment opportunities. Development of the property would not conflict with goals of the community plan relative to topography as the project site has been previously graded. Being determined the project is consistent with the Progress Guide and General Plan, the Mira Mesa Community Plan, the regulations of the RM-3-8 zone and the Planned Development Permit regulations, the proposed development will not adversely affect the applicable land use plan.

2. The proposed development will not be detrimental to the public health, safety, and welfare. The proposed development is included in a Development Agreement, Doc. No. 00-17178, filed November 14, 1988, and as such has or will provide significant public benefits which would not have occurred otherwise. The proposed development will construct necessary sewer and water facilities to serve the residents of the development; will enter into a Maintenance Agreement for the ongoing permanent Best Management Practices [BMP's] 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. The development will also provide for the health, safety, and welfare of the residents by constructing all buildings in accordance with current construction standards and codes. 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.

3. The proposed development will comply with the regulations of the Land Development Code. The proposed development complies with the regulations of the RM-3-8 zone and site-specific development regulations for the property, as allowed through the approval of a Planned Development Permit. Four deviations are approved with the project and are described as follows: 1) Maximum building height would be 64 feet 7 inches above the

proposed finish grade where 50 feet is otherwise allowed; 2) Develop less than 33 percent of the minimum required Floor Area Ratio [FAR] for the structured parking. The structured parking FAR would be 27.9 percent; 3) An 8 foot noise wall within the southerly side yard setback, where a maximum height of 6 feet is allowed; and 4) Allow construction of carports, as illustrated on Exhibit "A," or their equivalent in terms of shading, for all parking spaces located on the top deck of each parking structure in lieu of complying with the tree distribution requirements for parking lots.

The proposed development complies with all relevant regulations of the Land Development Code. Specific conditions of approval require the continued compliance with all relevant regulations of the City of San Diego effective for this site and have been written as such into PDP No. 294375/SDP No. 294373. Development of the property will meet all requirements of these regulations. Concept plans for the project identify all other development criteria in effect for the site. All relevant regulations shall be complied with at all times for the life of the project. In these ways the proposed development will comply with the applicable and relevant regulations of the Land Development Code.

4. The proposed development, when considered as a whole, will be beneficial to the community. The project will provide several significant features, amenities and improvements in the community. The project will add 1,848 housing units to the housing stock of the City of San Diego at a time in the history of the city when there is a housing shortage and in a community with a very low vacancy rate. The city currently has a very limited supply of land designated and zoned for medium to high density multi-family housing. Increasing the housing supply will be particularly beneficial in the Mira Mesa area because of the large and expanding employment base in the area. This site has long been identified in the Community Plan as the location where density should be located. This proposal will help to alleviate the shortage of multi-family housing opportunities. This project will also provide for affordable housing opportunities on-site. Housing near the many employment sites in Mira Mesa will aid in reducing automobile congestion, particularly during peak travel hours. The project will also create public areas within the property to promote pedestrian activity. Pedestrian walkways have been provided around the entire perimeter of the project which creates opportunities for the public display of art. Finally, the developer will be providing much needed FBA funding for the completion of identified public improvements. Furthermore, of the 1,848 units fully 10 percent or 185 dwelling units will be affordable to persons earning no more than 65 percent of the County average median income. Thus the development of the project will materially benefit the city by providing both housing units during a shortage of supply and by providing affordable housing to persons of special need. The resulting benefits of the project will be positive for the community and City of San Diego.

5. 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 project includes several deviations, all of which provide a more desirable project. The deviations are as follows:

a. A deviation to increase the maximum allowed height of the structures. The maximum height proposed with this project is isolated at several locations along the buildings at

64 feet 7 inches above finish grade where 50 feet is otherwise allowed. Due to the existing grading of the site to control storm water on-site during the years of vacancy, when the buildings are measured from the pre-existing ground, the maximum height would be as much as 80 feet or 30 feet above the maximum allowed in the RM-3-8 zone. While the height of the flat roofed buildings is much closer to the 50 foot requirement, this increased height in limited areas on the site at specific locations of the building will permit greater flexibility for the design of the roofline, allow for more articulation of the parapets and turrets above the roofline, and an opportunity to increase the amount of open space being provided on the ground by the project. Allowing the deviation to the maximum height also results in an increase of the overall setbacks of the proposed buildings to the adjacent property lines. While the entire project meets the required setback requirements, the increase in allowable building height enables the project to greatly exceed the setback requirements. This further permits greater opportunities for landscaping within the project and along the adjacent streets of Westview Parkway and Interstate 15. When the density for the project site was designated in the community plan and in the existing Development Agreement, Doc. No. 00-17178, filed November 14, 1988, approximately twenty years ago, there was no height limit for the comparable zone. Height limits within the previous zone were not introduced into the Land Development Code until 2000 when the Land Development Code was last updated. If the buildings were reduced in height by even one entire floor, a project design consisting of the same number of dwelling units and unit floor area or square footage, would occupy an additional 201,110 square feet of site area on the ground or 4.62 acres of land. This would result in a needless reduction in usable open space and building setbacks and is not deemed to be as beneficial to the City and Mira Mesa community as allowing the proposed height deviation.

b. A deviation to develop less than the required 33 percent of the allowable FAR for structured parking. The efficiency of the architectural plan approved for the project results in structured parking that occupies less than the required minimum 33 percent of the allowable FAR. In addition, the structured parking will not be visible from any public vantage point. The residential buildings will surround the parking structures. Approving the project with a lower allocation of floor area ratio devoted to the required parking structures will result in greater amount of usable open space available to residents and visitors to the project. The project will provide a maximum of 27 percent of the available FAR for structured parking.

c. A deviation to allow an 8 foot high noise wall within the southerly side yard setback where a maximum height of 6 feet is otherwise permitted. This setback area is very wide and is measured at 59 feet in width. The noise wall is necessary to protect recreational uses that will be constructed and occur in this location within this setback area.

d. A deviation to allow the construction of carports, as illustrated on Exhibit "A," or their equivalent in terms of shading, for all the parking stalls located on the top deck of each parking structure rather than providing trees in raised containers to meet the tree distribution requirements for parking lots required in the City-wide Landscape Regulations. The purpose of providing trees within parking lots is to create shading of the pavement to reduce the heat island effect of large expanses of pavement. Carports, as illustrated on Exhibit "A," or their equivalent in terms of shading, will provide a superior quantity of shading on the parking structure deck when compared to living trees. Trees installed in containers on the top deck of the

parking structure will never attain a height and breadth capable of providing an equivalent amount of shade as will be permanently provided by the carports.

As a result of the approved deviations and other design features of the project, the proposed project conforms to the overall policies, regulations and purpose and intent of the Planned Development regulations. The design will result in a more desirable project for the City and the community than would be realized through the strict application of the development regulations at this location.

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 multi-family development on the 41.31-acre site is designated for Residential use by the Mira Mesa Community Plan and allows residential development at the densities allowed by the existing RM-3-8 zone. Being determined the project is consistent with the Progress Guide and General Plan, the Mira Mesa Community Plan, the regulations of the RM-3-8 zone and the Planned Development Permit regulations, the proposed development will not adversely affect the applicable land use plan. Refer to Planned Development Permit Finding No. 1 above for additional detail.

b. The proposed development will not be detrimental to the public health, safety, and welfare. The proposed development is included in a Development Agreement, Doc. No. 00-17178, filed November 14, 1988, and as such has or will provide significant public benefits which would not have occurred otherwise. 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. Refer to Planned Development Permit Finding No. 2 above for additional detail.

c. The proposed development will comply with the applicable regulations of the Land Development Code. The proposed development complies with the regulations of the RM-3-8 zone and site-specific development regulations for the property. Four deviations are approved with the project. The proposed development complies with all relevant regulations of the Land Development Code. Refer to Planned Development Permit Finding No. 3 above for additional detail.

2. Supplemental Findings--Deviations for Affordable/In-Fill Housing Projects and Sustainable Buildings – SDMC section 126.0504(m)

a. The proposed development will materially assist in accomplishing the goal of providing affordable housing opportunities in economically balanced communities throughout the City, and/or the proposed development will materially assist in reducing impacts associated with fossil fuel energy use by utilizing alternative energy resources, self-generation and other renewable technologies (e.g. photovoltaic, wind, and/or fuel cells) to

generate electricity needed by the building and its occupants. One hundred eighty-five dwelling units of affordable family housing will be developed as a result of the approval and subsequent construction of the project. One thousand six hundred sixty-three for-sale market rate condominiums will be developed. There will be no discernable distinction between the affordable and market rate units. These project features and goals will provide needed housing and development in an area of the city replete with redevelopment opportunity. The provision of 185 dwelling units affordable to persons at the income range described as 65 percent of the County average median income will contribute in a real and meaningful way towards the goals of providing affordable housing in the City.

b. The development will not be inconsistent with the purpose or the underlying zone. The development of 1,848 dwelling units on the proposed site will be consistent with the regulations of the RM-3-8 zone and all other regulations and policies of the City of San Diego which zone the site for residential use. The purpose of the RM-3-8 zone is to allow for the provision and development of multiple unit housing in accordance with specific development regulations of the zone in areas designated by the zoning and community plan for multiple family dwelling units. Development of the site with the project will comply with all relevant regulations of the RM-3-8 zone. Four deviations are approved with the project, as allowed through the approval of a Planned Development Permit.

c. Any proposed deviations are appropriate for this location and will result in a more desirable project than would be achieved if designed in strict conformance with the development regulations of the applicable zone. The proposed development complies with the Mira Mesa Community Plan which designates the site for multiple dwelling unit development. The proposed deviations are necessary to maximize the use of the land and to provide the highest quality affordable housing development. The deviations are required due to existing infrastructure adjacent to the site and to the limitations of the zoning regulations. The proposed project includes architectural plans with 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; and to maximize the density and intensity of development at the site to contribute to the housing stock of the City of San Diego, the proposed deviations are granted. All other requirements comply with the regulations which apply to the project site in accordance with the Land Development Code.

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

BE IT FURTHER RESOLVED, that PDP No. 294375/SDP No. 294373 is granted to Scripps Mesa Developers, LLC, a Limited Liability Company, Owner/Permittee, under the terms and conditions set forth in the attached permit which is made a part of this resolution.

APPROVED: JAN I GOLDSMITH, City Attorney

By Shannon Thomas
Shannon Thomas
Deputy City Attorney

SRE:ST:cw:pev
10/09/08
01/13/09 REV.
02/13/09 COR.COPY
Or.Dept:DSD
R-2009-446
MMS: #6880

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 425739

PLANNED DEVELOPMENT PERMIT NO. 294375/
SITE DEVELOPMENT PERMIT NO. 294373
CASA MIRA VIEW PROJECT NO. 91647 [MMRP]

CITY COUNCIL

This Planned Development Permit No. 294375/Site Development Permit No. 294373 is granted by the Council of the City of San Diego to Scripps Mesa Developers, LLC, a California Limited Liability Company, Owner/Permittee, pursuant to San Diego Municipal Code [SDMC] section 126.0600 and 126.0500. The 41.31-acre site is located on the east side of Westview Parkway between Dauntless Street and Mira Mesa Boulevard in the RM-3-7 zone which is proposed to be rezoned to the RM-3-8 zone in the Mira Mesa community plan area. The project site is legally described as Parcels 1 through 6, inclusive, of Parcel Map No. 16194, filed August 21, 1990, in the Office of the County Recorder.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee for the subdivision of land to develop a condominium project with 1,848 condominium units, described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated January 6, 2009, on file in the Development Services Department.

The project shall include:

- a. The subdivision of land and development of a condominium project with 1,848 condominium units of which 185 dwelling units shall be affordable housing units in compliance with the Inclusionary Housing Ordinance; forty of these affordable housing units may be located off-site at the Legacy Apartments project, consistent with an agreement with the Housing Commission;
- b. Four deviations are approved with the project and are described as follows: 1) Maximum building height would be 64 feet 7 inches above

the proposed finish grade where 50 feet is otherwise allowed;
2) Develop less than 33 percent of the minimum required Floor Area Ratio [FAR] for the structured parking. The structured parking FAR would be 27.9 percent; 3) An eight foot noise wall within the southerly side yard setback, where a maximum height of six feet is allowed;
4) Allow construction of carports for all parking spaces located on the top deck of each parking structure in lieu of complying with the tree distribution requirements for parking lots.

- 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. This permit must be utilized within thirty-six months after the date on which all rights of appeal have expired. Failure to utilize and maintain utilization of this permit as described in the SDMC will automatically void the permit unless an Extension of Time has been granted. Any such Extension of Time must meet all SDMC requirements and applicable guidelines in affect 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 Owner/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 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 Owner/Permittee for this permit to violate any Federal, State or City laws, ordinances, regulations or policies including, but not limited to, the Endangered Species Act of 1973 [ESA] and any amendments thereto (16 U.S.C. § 1531 et seq.).

7. The Owner/Permittee shall secure all necessary building permits. The 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.

8. Construction 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. Notwithstanding the foregoing, Owner/Permittee may provide on the top of the parking structure either carports, as illustrated on Exhibit "A," or their equivalent in terms of shading, such as trees, sails and/or trellises, with staff reviewing the shading equivalency as part of a Process One Substantial Conformance Review.

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

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

10. The Owner/Permittee shall defend, indemnify, and hold the City (including its agents, officers, and employees [together, "Indemnified Parties"]) harmless from any claim, action, or proceeding, against any Indemnified Party to attack, set aside, void, or annul City's approval of this project, which action is brought within the time period provided for in Government Code section 66499.37. City shall promptly notify Owner/Permittee of any claim, action, or proceeding and shall cooperate fully in the defense. If City fails to cooperate fully in the defense, Owner/Permittee shall not thereafter be responsible to defend, indemnify, or hold City harmless. City may participate in the defense of any claim, action, or proceeding if City both bears its own attorney's fees and

costs, and defends the action in good faith. Owner/Permittee shall not be required to pay or perform any settlement unless such settlement is approved by the Owner/Permittee.

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

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. The mitigation measures specified in the MMRP, and outlined in Environmental Impact Report No. 91647, 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 Environmental Impact Report No. 91647, satisfactory to the City Manager and the City Engineer. Prior to issuance of the first grading permit, all conditions of the MMRP shall be complied with, to the satisfaction of the City Engineer. All mitigation measures as specifically outlined in the MMRP shall be implemented for the following issue areas:

- Land Use/Multiple Species Conservation Program
- Traffic/Circulation
- Air Quality
- Public Facilities and Services
- Noise
- Paleontological Resources
- Biological 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.

16. The Permit shall comply with the conditions of the Vesting Tentative Map No. 481936.

LANDSCAPE REQUIREMENTS:

17. Prior to issuance of any construction permits for grading, the Owner/Permittee shall submit landscape construction documents for the revegetation and hydro-seeding of all disturbed land in accordance with the Land Development Manual Landscape Standards and to the satisfaction of the City Manager. All plans shall be in substantial conformance to this permit and Exhibit "A."

18. Prior to issuance of any construction permits for buildings, the Owner/Permittee shall submit complete landscape and irrigation construction documents consistent with the Land Development Manual, Landscape Standards to the Development Services Department for approval. The construction documents shall be in substantial conformance with Exhibit "A."
19. 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 shall be obtained for the installation, establishment, and on-going maintenance of all street trees.
20. The Owner/Permittee shall maintain all landscape shall be maintained in a disease, weed, and litter free condition at all times. Severe pruning or "topping" of trees is not permitted. The trees shall be maintained in a safe manner to allow each tree to grow to its mature height and spread.
21. The Owner/Permittee shall be responsible for the maintenance of all landscape improvements in the right-of-way consistent with the Land Development Manual, Landscape Standards unless long-term maintenance of said landscaping will be the responsibility of a Landscape Maintenance District or other approved entity. In this case, a Landscape Maintenance Agreement shall be submitted for review by a Landscape Planner.
22. If any required landscape, including but not limited to existing or new plantings, hardscape, landscape features, indicated on the approved construction document plans is damaged or removed during demolition, or construction, the Owner/Permittee is responsible to repair and/or replace any landscape in kind and equivalent size per the approved documents to the satisfaction of the City Manager within thirty days of damage or prior to a Certificate of Occupancy.

PLANNING/DESIGN REQUIREMENTS:

23. No fewer than 3,387 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.
24. 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 Owner/Permittee.
25. All signs associated with this development shall be consistent with sign criteria established by the City-wide sign regulations.
26. The Owner/Permittee shall post a copy of this Permit and Tentative Map in the sales office for consideration by each prospective buyer.

27. 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.

28. Prior to the issuance of building permits, the Owner/Permittee shall vary the architectural theme and color palette consistent with the approved Exhibit "A," satisfactory to the Development Services Director. Actual color selections may vary at the time of paint application in the field.

TRANSPORTATION REQUIREMENTS

29. Prior to the issuance of a building permit for the first residential dwelling unit, the Owner/Permittee shall assure, to the satisfaction of the City Engineer, construction of a northbound right-turn lane at the intersection of Mira Mesa Boulevard and Black Mountain Road.

30. Prior to the issuance of a building permit for the first residential dwelling unit, the Owner/Permittee shall assure, to the satisfaction of the City Engineer, widening of eastbound and westbound approaches and assure an additional westbound right-turn lane at the intersection of Black Mountain Road and Gold Coast Drive.

31. Prior to the issuance of a building permit for the first residential dwelling unit, the Owner/Permittee shall assure, to the satisfaction of the City Engineer, construction of a northbound right-turn lane at the intersection of Black Mountain Road and Hillery Drive.

32. Prior to the issuance of a building permit for the first residential dwelling unit, the Owner/Permittee shall provide a fair-share contribution of \$75,268 toward improvements at the intersection of Black Mountain Road and Carroll Canyon Road, to the satisfaction of the City Engineer.

33. Prior to the issuance of a building permit for the first residential dwelling unit, the Owner/Permittee shall either provide a fair-share contribution of \$1,572,000 towards the construction of the I-15 'managed lanes south segment' project or provide a fair-share contribution distributed by building and totaling \$1,572,000 (in 2008 dollars) in the following manner: Prior to the issuance of a building permit for the first residential building permit, the Owner/Permittee shall provide a fair-share contribution of \$700,000 (in 2008 dollars). Prior to the issuance of a building permit for the second building (811th residential unit), the Owner/Permittee shall provide a fair-share contribution of \$700,000 (in 2008 dollars). Prior to the issuance of a building permit for the third building (1621st residential unit), the Owner/Permittee shall provide a fair-share contribution of \$172,000 (in 2008 dollars) towards the construction of the I-15 'managed lanes south segment' project. This contribution is to be paid subject to the satisfaction of the City Engineer.

34. Prior to the issuance of a building permit for the second building (811th residential dwelling unit), the Owner/Permittee shall assure, to the satisfaction of the City Engineer, construction of a third northbound and a third southbound thru lanes and transitions on Black Mountain Road from Mercy Road transitioning to four lanes prior to the Penasquitos Canyon Creek Bridge.

35. Prior to the issuance of a building permit for the first residential dwelling unit, the Owner/Permittee shall assure, to the satisfaction of the City Engineer, an extension of the westbound dual-left turn lanes on Mira Mesa Boulevard as well as provide striping, signing, and modifications to increase the storage for the southbound left turn lanes on Westview Parkway in order to increase the capacity of this intersection and increase the capacity of street segments on Mira Mesa Boulevard.

36. Prior to the issuance of a building permit for the second building (811th residential unit), the Owner/Permittee shall provide a private shuttle service as part of the Transportation Demand Management Plan connecting the project to existing shopping opportunities at Mira Mesa Marketplace Center and transit connections on Mira Mesa Boulevard and Black Mountain Road subject to the satisfaction of the City Engineer. This shuttle shall have two stops on the project site and shall be limited to residents and guests of the development. The shuttle shall carry no fewer than 16 passengers and shall conform to the requirements of the American with Disabilities Act (ADA accessible). The shuttle shall maintain 15 minute headways in weekday peak hours. Subject to ridership demand, shuttle service shall be provided seven days a week.

37. Prior to the issuance of a building permit for first residential dwelling unit, the Owner/Permittee shall assure, to the satisfaction of the City Engineer, construction of a traffic signal at the intersection of Westview Parkway and the project's main access, relocation of the park driveway to be located at the signalized location, re-striping of Westview Parkway to accommodate the signal, and a signal interconnect between the existing signals on Westview parkway at Galvin/Westview parkway at Capricorn and the new signalized project access on Westview parkway.

38. Prior to the issuance of a building permit for the third building (1621st dwelling unit) the Owner/Permittee shall provide, to the satisfaction of the City Engineer, an improvement for a connection to the existing public road and signal at Galvin Avenue and Westview Parkway to provide a second signalized access to the project.

WASTEWATER REQUIREMENTS:

39. All onsite sewer facilities will be private.

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

41. Prior to the issuance of any occupancy permit, the Owner/Permittee shall abandon the existing onsite public sewer main in the south portion of this lot or it will be converted to private, satisfactory to the Director of Public Utilities. All associated public sewer easements shall be vacated, satisfactory to the Metropolitan Wastewater Department Director.

42. Prior to the issuance of any engineering or building permits, the Owner/Permittee shall provide evidence, satisfactory to the Metropolitan Wastewater Department Director, indicating that each condominium will have its own sewer lateral or provide Covenants,

Conditions, and Restrictions [CC&R's] for the operation and maintenance of private sewer facilities that serve more than one ownership.

43. 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.

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

45. No trees or shrubs exceeding three feet in height at maturity shall be installed within ten feet of any public sewer facilities.

WATER REQUIREMENTS:

46. Prior to the approval of any public improvement drawings, the Owner/Permittee shall provide acceptable potable and reclaimed water studies satisfactory to the Public Utilities Director. The studies shall plan the pressure zone(s) and water facilities necessary to serve this development, including potable redundancy, consistent with previously accepted studies in this area. If phasing of the development is proposed, then a phasing plan shall be included in the studies.

47. 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) and the removal of all existing unused services within the proposed driveway easement access, in a manner satisfactory to the Public Utilities Director and the City Engineer.

48. 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 Public Utilities Director, the City Engineer, and the Cross Connection Supervisor in the Customer Support Division of the Water Department.

49. Prior to the issuance of any building permits, the Owner/Permittee shall grant additional widened easement to include the proposed alignment of the driveway entrance, fire lane and portions of the northwest driveway which contain the existing water main and all associated water appurtenances including but not limited to the water and fire services, on-site fire hydrants, et cetera, in a manner satisfactory to the Public Utilities Director and the City Engineer.

50. 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.

51. 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 Public Utilities Director and the City Engineer.

52. Prior to issuance of any building or construction permits, the Owner/Permittee shall assure, by permit and bond, the design and construction of recycled water services to provide connection to the recycled water system to be used for all irrigation and construction needs of the project as approved by the Public Utilities Director and the City Engineer. If recycled water is not yet available, then the irrigation systems shall be designed in such a manner as to accept recycled water when available and avoid any potential cross connections.

53. Prior to issuance of any building permits, the Owner/Permittee shall assure, by permit and bond, to provide connection to the recycled water system to be used for all irrigation needs of the project.

54. Prior to issuance of any building permits, the Owner/Permittee shall provide the CC&R's that will be used by the Casa Mira View Homeowners Association for the operation and maintenance of all the private water recycling lines and appurtenances that serve the site. The CC&R's must also include LEED certified water conservation measures or equivalent and WaterSense or Energy Star appliances.

55. The Owner/Permittee shall design and construct all proposed buildings in compliance with the State of California 2007 California Green Building Standards Code, CCR, Title 24, Part 11 or comparable for water conservation measures which achieves a 20 percent improvement in water use efficiency for residential and commercial plumbing fixtures over the building code in effect as of the date of preparation of the Water Supply Assessment.

56. The Owner/Permittee agrees to design and construct all proposed buildings to include LEED certified or equivalent water conservation measures and Water Sense or Energy Star Appliances as approved by the Public Utilities Director and the City Engineer. These measures shall reduce the overall water demand by a minimum of 7.5 percent.

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 § 66020.
- This development may be subject to impact fees at the time of construction permit issuance

APPROVED by the Council of the City of San Diego on January 6, 2009, by Resolution Number R-304583.

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.

SCRIPPS MESA DEVELOPERS, LLC
Owner/Permittee

By _____
Stuart Posnock, Trustee of the S&L
Posnock Living Trust dated 8/4/95,
Secretary/Manager

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