

RESOLUTION NUMBER R-304920

DATE OF FINAL PASSAGE MAY 19, 2009

A RESOLUTION GRANTING PLANNED DEVELOPMENT PERMIT NO. 497493/SITE DEVELOPMENT PERMIT NO. 497494, AMENDING PLANNED DEVELOPMENT PERMIT/SITE DEVELOPMENT PERMIT NO. 40-0528 – BLACK MOUNTAIN RANCH NORTH VILLAGE PROJECT, PROJECT NO. 142244.

WHEREAS, Black Mountain Ranch, LLC, a California Limited Liability Company, Owner/Permittee, filed an application with the City of San Diego for Planned Development Permit No. 497493/Site Development Permit No. 497494 and Multiple Habitat Planning Area [MHPA] Boundary Line Adjustment No. 643464, amending Planned Development Permit/Site Development Permit No. 40-0528, to develop a mixed-use development combining affordable housing, community serving commercial and retail space, office space, market rate single-family and multi-family housing, property owners association owned parks, a village green park site, a proposed middle school site, and restored open space on a 967.50-acre site known as the Black Mountain Ranch North Village project, located in the northern portion of the Black Mountain Ranch Subarea Plan area, and legally described as Parcels 4, 8, 16, 19, 21 and 23 of Parcel Map No. 18504, Parcel 2 of Parcel Map No. 19546, and Parcel 3 of Parcel Map No. 17995, in the Black Mountain Ranch Community Plan area, in the OR-1-1, RS-1-14, RM-1-3, RM-2-6, RX-1-2, CC-3-5 and CC-4-5 zones; and

WHEREAS, on April 2, 2009, the Planning Commission of the City of San Diego considered Planned Development Permit [PDP]/Site Development Permit [SDP] No. 497494 and Multiple Habitat Planning Area [MHPA] Boundary Line Adjustment No. 643464, and pursuant to Resolution No. 4501-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 May 19, 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; 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. 497493/Site Development Permit No. 497494 and Multiple Habitat Planning Area [MHPA] Boundary Line Adjustment No. 643464:

**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 Black Mountain Ranch North Village project proposes a mixed-use development combining affordable housing, community serving commercial and retail space, office space, market rate single-family and multi-family housing, property owners association owned parks, a village green park site, adjusting the MHPA boundary, relocation Fire Station No. 48 and restoring open space.

The project site is situated within the master planned community of Black Mountain Ranch. The proposed project is a master planned, mixed-use residential/commercial development on a 967.50-acre site designated for Residential, Mixed-Use Community Commercial, Recreation and Open Space uses in the Black Mountain Ranch Subarea Plan. With the adoption of the amendment to the General Plan and Black Mountain Ranch Subarea Plan, the proposed project will allow a low medium density housing component and commercial development consistent with the policies and guidelines of the General Plan and Black Mountain Ranch Subarea Plan. Being determined the project is consistent with the General Plan and Black Mountain Ranch Subarea Plan, the proposed development will not adversely affect the General Plan and Black Mountain Ranch Subarea Plan.

**2. The proposed development will not be detrimental to the public health, safety, and welfare.** The Black Mountain Ranch North Village project is a master planned, mixed-use residential/commercial development on a 967.50-acre site designated for Residential, Mixed-Use Community Commercial, Recreation and Open Space. In addition to the proposed uses on site, the development will include enhanced plaza areas for public gathering, strong pedestrian connectivity throughout the site through implementation of a trail system, and convenient access to public transportation.

The proposed development will construct necessary sewer and water facilities to serve the users and residents of 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. 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 OR-1-1, RM-1-3, RM-2-6, RX-1-2, CC-3-5 AND CC-4-5 zones and site specific development regulations for the property. 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 Planned Development Permit No. 497493/Site Development Permit No. 497494 and Multiple Habitat Planning Boundary Line Adjustment No. 643464. The Black Mountain Ranch North Village project will develop 7.52 acres within the Black Mountain Ranch community with a total of 1,433 residential units; a mixed-use core with approximately 515,000 square feet of employment/office center uses, approximately 225,000 square feet of commercial/ retail uses; a 300 room hotel; a middle school site; a transit center; relocation of Fire Station No. 48; 277.5 acres of open space and five individual park areas; and other on- and off-site infrastructure improvements on a 967.5-acre site. Of the 1,431 dwelling units, 500 dwelling units would be specifically for seniors and 165 would be affordable units. The proposed project would revise a previously approved tentative map by changing the street and development pattern, by deleting a planned hotel and golf course replacing it with open space, by relocating a planned fire station from the North Village to the East Clusters area of Black Mountain Ranch, and by adjusting the Multiple Habitat Planning Area boundary to allow for the new location of Fire Station No. 48. The proposed development complies with the regulations of the OR-1-1, RS-1-14, RM-1-3, RM-2-6, RX-1-2, CC-3-5 AND CC-4-5 zones and site specific development regulations for the Black Mountain Ranch North Village parcels, as allowed through the approval of deviations with a Planned Development Permit. 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 Planned Development Permit No. 497493/Site Development Permit No. 497494 and Multiple Habitat Planning Area Boundary Line Adjustment No. 643464. Development of the

property will meet all requirements of all relevant regulations and will 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 a total of 1,433 residential units; a mixed-use core with approximately 515,000 square feet of employment/office center uses, approximately 225,000 square feet of commercial/retail uses; a 300-room hotel; a middle school site; a transit center; relocation of Fire Station No. 48; 277.5 acres of open space and five individual park areas; and other on- and off-site infrastructure improvements on a 967.5-acre site. Of the 1,431 dwelling units, 500 dwelling units would be specifically for seniors and 165 would be affordable units. The proposed project would revise a previously approved tentative map by changing the street and development pattern, by deleting a planned hotel and golf course replacing it with open space, by relocating a planned fire station from the North Village to the East Clusters area of Black Mountain Ranch, and by adjusting the Multiple Habitat Planning Area boundary to allow for the new location of Fire Station No. 48. The development of these housing units will increase the housing stock of the City of San Diego at a time in the history of the City when there is a housing shortage. Increasing the housing supply will be particularly beneficial in the Black Mountain Ranch Subarea Plan area because of the large and expanding employment base in the area. The project will help alleviate the shortage of housing opportunities. This project will also provide for affordable housing opportunities on-site. Housing near the many employment sites in Black Mountain Ranch will aid in reducing automobile congestion, particularly during peak travel hours. The project will also create public open spaces within the site to promote pedestrian activity and provide recreation. Pedestrian walkways, trails and parks have been provided throughout the project. The area previously approved for the golf course would be graded and improved with drainage features to address the water quality requirements of the Del Sur community. The area would also be re-vegetated to prevent erosion, aid in slope stability and improve aesthetics. This open space area would be designated as "Resource Open Space" in the Black Mountain Ranch Subarea Plan. The proposal will relocate a fire station from the North Village to a site in the eastern portion of Black Mountain Ranch to better serve the needs of the community. The new location will be more centrally located to serve the community when considering the other fire fighting facilities in the area and region. Thus the development of the project will materially benefit the City by providing both housing units during a shortage of supply, affordable housing to persons of special need, re-vegetated open space, improve fire protection in the community. Furthermore, the reduced street widths and front yard setbacks are encouraged and combined with the goal of providing greater articulations in the horizontal and vertical planes of buildings to promote a more urban character in the community. 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.** Deviations to the required building setbacks and height restrictions for the development of a limited number of single- and multi-family lots will result in attainment of the urban design goals of the Black Mountain Ranch Subarea Plan. The front yard setback of sixty-five lots within the

RS-1-14 zone would observe a ten foot setback rather than the required fifteen foot setback. The front yard setback and height limit of 123 lots within the RX-1-2 zone would observe a five foot setback rather than the required fifteen foot setback and a maximum height of thirty-five feet rather than the required thirty foot limit. The front and rear yard setback of eleven lots within the RM-2-6 zone would observe a five foot setback rather than the required fifteen foot setback, a five foot setback rather than the required ten foot setback along the street side yard and a maximum height of thirty-five feet rather than the required thirty foot limit. The front and rear yard setback of eight lots within the RM-1-3 zone would observe a five foot setback rather than the required fifteen foot setback, a five foot setback rather than the required ten foot setback along the street side yard and a maximum height of forty feet rather than the required thirty foot limit.

Deviations relating to reductions in building setbacks and increases in building heights are supported by staff primarily to achieve consistency with the previous deviations granted to the previously approved Black Mountain Ranch projects developed within the North Village. Staff further supports these deviations as they are consistent with the policy goals related to development within the adopted Black Mountain Ranch Subarea Plan. Reduced street widths and front yard setbacks are encouraged and combined with the goal of providing greater articulations in the horizontal and vertical planes of buildings to promote a more urban character in the community.

**B. SITE DEVELOPMENT PERMIT – SDMC SECTION 126.0504**

**1. Findings for all Site Development Permits SDMC section 126.0504(a):**

**a. The proposed development will not adversely affect the applicable land use plan.** With the adoption of the amendment to the General Plan and Black Mountain Ranch Subarea Plan, the proposed project will allow a low medium density housing component and commercial development consistent with the policies and guidelines of the General Plan and Black Mountain Ranch Subarea Plan. Being determined the project is consistent with the General Plan and Black Mountain Ranch Subarea Plan, the proposed development will not adversely affect the General Plan and Black Mountain Ranch Subarea Plan. See Planned Development Permit Finding No. 1 above for greater detail.

**b. The proposed development will not be detrimental to the public health, safety, and welfare.** 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. See Planned Development Permit Finding No. 2 above for greater detail.

**c. The proposed development will comply with the applicable 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 Planned Development Permit No. 497493/Site Development Permit No. 497494. Development of the property will meet all requirements of all relevant regulations and will 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. See Planned Development Permit Finding No. 3 above for greater detail.

**2. Supplemental Findings – Environmentally Sensitive Lands SDMC section 126.0504(b)**

**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 City of San Diego previously prepared a Final Environmental Impact Report which identified the project described above. Based upon a review of the current project, new significant environmental impacts not considered in the previous Environmental Impact Report will not result from the implementation of the project; no substantial changes have occurred with respect to the circumstances under which the project is undertaken; and there is no new information of substantial importance to the project which would determine the design and siting of the development will result in any disturbance to environmentally sensitive lands beyond the minimum necessary.

Evaluation of the technical reports required for the proposed project concluded the site is physically suitable for the proposed development and will result in the minimum disturbance to environmentally sensitive lands. An updated biological report was prepared for the proposed project. The revised North Village project does not change the project limits of grading or development, except at the new location of the proposed Fire Station No. 48. The impacts on the proposed fire station site will add an additional 1.77 acres of impact to non-native grassland and 0.33 acre of disturbed habitat to the impact total previously reported for the North Village. This 2.1 acre of additional impact is off-set by the addition of 2.5 acres of native habitat comprised of 1.7 acres of coastal sage scrub and 0.7 acre of native grassland on the trade parcel to be added to the Multiple Habitat Planning Area in the boundary adjustment. The incorporation of a 2.5 acre trade parcel into the Multiple Habitat Planning Area will serve as mitigation for these additional impacts. As part of the present project the Multiple Habitat Planning Area boundary will again be adjusted, therefore, the potential impacts associated with the proposed project will be adequately addressed. No new mitigation is required for the proposed project and the mitigation in the 1998 FEIR would serve to mitigate all biological impacts to below a level of significance.

The 1998 FEIR states that there was no significant soil or geologic conditions which were observed or known to exist within Subarea I which would preclude implementation of the project. However, potentially significant geologic conditions exist which will require mitigation as part of any future tentative maps. Implementation of the conclusions and recommendations in the geotechnical report would mitigate the potentially significant geological effects of the North Village development to below a level of significance. In addition, development of the North Village would include measures to reduce the erosion potential by balancing grading within the North Village and maintaining the drainage feature in the southern open space area. These impacts would be mitigated to a level below significance by incorporation of previous mitigation measures.

As stated in the 1998 FEIR, the northern portion of the North Village will impact areas of moderate to high paleontological sensitivity. Development will occur primarily within

the Stadium Conglomerate formation with development in the eastern portion of the site within the Mission Valley and Friars formations. In addition, a portion of the southwest area of the project site will occur within the Delmar/Torrey Sandstone Formations. The residential development above the small finger canyons on the ridges extending southwesterly from the village core are sited such that they will impact areas of Santiago Peak metavolcanics, which are formations of moderate to high paleontological sensitivity. The proposed location for the 300-unit senior center is sited over formations of very low to low resource sensitivity. The proposed project will not change the overall project grading limits or development footprint, thus, there will be no new impacts to paleontological resources. Therefore, as there will be no new significant impacts, pursuant to the 1998 FEIR, monitoring will be required during grading which will mitigate project-level impacts to below a level of significance.

Approximately 1,915 acres of Multiple Habitat Planning Area occur within the Black Mountain Ranch open space system. Currently, 1,190-acres of non-native grassland Multiple Habitat Planning Area are conserved on-site. The applicant will convey the remaining on-site Multiple Habitat Planning Area to the City's Multiple Species Conservation Program [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 resource agencies. On November 9, 2007, a Multiple Habitat Planning Area boundary line adjustment was reviewed by City staff and the wildlife resource agencies. The Multiple Habitat Planning Area boundary line adjustment will accommodate a future fire station to be located on Parcel 4. This will result in the deletion of 1.77 acres of Tier IIIB non-native grasslands and 0.33 acres of Tier IV disturbed area. Additions to the Multiple Habitat Planning Area will include 0.70 acre of Tier I native grassland, 1.7 acres of Tier II coastal sage scrub, and 0.1 acre of disturbed land. Therefore, the incorporation of a 2.5 acre trade parcel into the Multiple Habitat Planning Area will be included in the project. Although a boundary line adjustment was approved for the proposed future fire station, the project will be required to adhere to the Multiple Habitat Planning Area Land Use Adjacency Guidelines.

Based upon all the information submitted and reviewed, the site has been determined to be physically suitable for the design and siting of the proposed development and the development will result in minimum disturbance to environmentally sensitive lands.

**b. The proposed development will minimize the alteration of natural land forms and will not result in undue risk from geologic and erosional forces, flood hazards, or fire hazards.** The proposed project will create a development pattern based in form upon the existing landform patterns. Geologic evaluations performed to study the site concluded the site is physically suitable for the proposed development and the resultant development will not be at undue risk from geologic forces. Erosional forces in the form of wind and water effects upon the land will be minimized through requirements imposed in the conditions of approval. The site is not subject to inundation from flooding or flood hazards. Fire hazards will be reduced through requirements imposed in the conditions of approval which require brush management measures to reduce the risks associated from wild fires. The resultant development will not be at undue risk from 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.** Based upon all the

information submitted and reviewed, the site has been determined to be physically suitable for the design and siting of the proposed development and the development will result in minimum disturbance to environmentally sensitive lands. See Environmentally Sensitive Lands Finding No. a above for greater detail.

**d. The proposed development will be consistent with the City of San Diego's Multiple Species Conservation Program (MSCP) Subarea Plan.** The proposed reconfiguration of the North Village development area is not within the Multiple Species Conservation Program Multiple Habitat Planning Area, nor does it encompass areas of sensitive hillsides or sensitive habitats or species, with the exception of the proposed location for Fire Station No. 48. The site of the proposed fire station is currently within the Multiple Habitat Planning Area, yet a boundary line adjustment is included with the approval of the project to remove this development area from the Multiple Habitat Planning Area in trade for another parcel to be added to the Multiple Habitat Planning Area nearby.

Land use adjacency guidelines are incorporated into the North Village Design Guidelines and Black Mountain Ranch Subarea design guidelines, including provisions for noise control, barrier fencing, and plantings for access control, lighting restrictions, drainage and toxics, invasive plant species, brush management, and appropriate landscaping. With the implementation of the Multiple Habitat Planning Area Land Use Adjacency Guidelines, no significant direct or indirect impacts to the Multiple Habitat Planning Area or covered species will result from development of the revised North Village.

**e. The proposed development will not contribute to the erosion of public beaches or adversely impact local shoreline sand supply.** Erosional forces in the form of wind and water effects upon the land will be minimized through requirements imposed in the conditions of approval. Specifically the imposition of water quality requirements will limit the erosion of lands within the development which if unchecked or controlled would negatively affect waterways downstream and potentially affect public beaches and local shoreline sand supplies downstream within the drainage basin at the confluence of streams with the ocean.

**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.** All mitigation required for the project is the result of technical and or scientific studies concluding the mitigation will reduce or avoid significant impacts to the environment as a result of implementation of the project and is required to achieve such avoidance or reduction. That 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 is supported by the technical and or scientific studies required through the review process to assure any potential negative impacts resulting from the implementation of the project will be minimized or avoided.

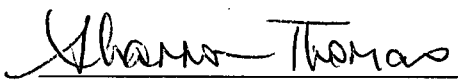
The above findings are supported by the minutes, maps and exhibits, all of which are incorporated herein by this reference.



BE IT FURTHER RESOLVED, that Planned Development Permit No. 497493/Site Development Permit No. 497494 and Multiple Habitat Planning Area [MHPA] Boundary Line Adjustment No. 643464 is granted to Black Mountain Ranch, LLC, Owner/Permittee, under the terms and conditions set forth in the attached permit which is made a part of this resolution.

BE IT FURTHER RESOLVED, that the Owner/Permittee is directed to work with City staff to ensure that the 5 acre public Community Park is maintained by the Homeowner's Association.

APPROVED: JAN I. GOLDSMITH, City Attorney

By   
Shannon Thomas  
Deputy City Attorney

ST:pev  
04/23/09  
06/12/09 Rev.  
Or.Dept:DSD  
R-2009-1080  
MMS #8756

**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 400528

PLANNED DEVELOPMENT PERMIT NO. 497493/  
SITE DEVELOPMENT PERMIT NO. 497494  
MULTIPLE HABITAT PLANNING AREA [MHPA]  
BOUNDARY LINE ADJUSTMENT NO. 643464  
**BLACK MOUNTAIN RANCH NORTH VILLAGE [MMRP]**  
Amending Planned Development Permit/Site Development Permit No. 40-0528  
CITY COUNCIL

This Planned Development Permit No. 497493/Site Development Permit No. 497494 and Multiple Habitat Planning Area [MHPA] Boundary Line Adjustment No. 643464 amending Planned Development Permit/Site Development Permit No. 40-0528 is granted by the Council of the City of San Diego to Black Mountain Ranch, LLC, a California Limited Liability Company, Owner/Permittee, pursuant to San Diego Municipal Code [SDMC] sections 126.0501 and 126.0601. The 967.50-acre site is located in the northern portion of the Black Mountain Ranch Subarea Plan in the existing OR-1-1, RX-1-2, RM-1-3, RM-2-6, CV-1-1, CC-3-5, CC-4-5, and AR-1-1 zones (proposed OR-1-1, RS-1-14, RX-1-2, RM-1-3, RM-2-6, CC-3-5 and CC-4-5 zones) of the Black Mountain Ranch Subarea Plan area. The project site is legally described as Parcels 4, 8, 16, 19, 21 and 23 of Parcel Map No. 18504, Parcel 2 of Parcel Map No. 19546, and Parcel 3 of Parcel Map No. 17995.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee to develop a mixed-use development combining affordable housing, community serving commercial and retail space, office space, market rate single-family and multi-family housing, property owners association owned parks, a village green park site, a proposed middle school site, restored open space and a fire station (Fire Station No. 48), and a MHPA Boundary Line Adjustment described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated May 19, 2009, on file in the Development Services Department.

The project or facility shall include:

- a. A mixed-use development combining affordable housing, community serving commercial and retail space, office space, market rate single-

family and multi-family housing, property owners association owned parks, a village green park site, a proposed middle school site, restored open space and a fire station (Fire Station No. 48) and a MHPA Boundary Line Adjustment. The project includes 1,433 dwelling units which include: 564 single-family dwelling units and 869 multi-family dwelling units. Of the 869 multi-family units, 604 units would be market rate units and 265 would be affordable units. Of the 604 multi-family units, 304 would have no age restriction while 300 units would be for seniors. Of the 265 affordable units, 165 units would have no age restriction and 100 units would be for seniors. The project also includes a mixed-use core with a 515,000-square-foot employment/office center and 225,000 square feet of commercial/retail space; and other on- and off-site infrastructure on 967.50 acres;

- b. Deviations to the required building setbacks and height restrictions for the development of a limited number of single- and multi-family lots, see table below.

Type of Deviation	Required	Proposed	Zone Locations	No. of Lots
Front yard Building Setback	15'	5'*	RX-1-2	123
	15'	10'	RS-1-14	65
	15'	5'	RM-1-3 & RM-2-6	19
Rear yard Building Setback	15'	5'	RM-1-3 & RM-2-6	19
Street Side yard Building Setback	10'	5'	RM-1-3 & RM-2-6	19
Building Height	30'	35'	RX-1-2 & RM-2-6	134
	30'	40'	RM-1-3	8

\* Requires five additional feet for porches resulting in a 10 foot deviation. All requested deviations are shown on Exhibit "A."

- c. Landscaping (planting, irrigation and landscape related improvements);
- d. The North Village Community Design Guidelines, Nov. '08 – Revised shall be used for the preparation, review and approval of all future development and construction as authorized under this permit;
- e. Off-street parking facilities; and
- f. Accessory improvements determined by the City Manager to be consistent with the land use and development standards in effect for this site per the adopted community plan, California Environmental Quality Act Guidelines, public and private improvement requirements of the City Engineer, the underlying zone(s), conditions of this Permit, and any other applicable regulations of the SDMC in effect for this site.

**STANDARD REQUIREMENTS:**

1. 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 or as otherwise provided by the First Amendment to Second Amended and Restated Development Agreement [Development Agreement] adopted by the City Council on August 9, 1988 and as amended on September 13, 1988 and on December 10, 2001 as Document No. 2002-0043111 recorded on January 17, 2002 of O.R.

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. 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 Owner/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 Owner/Permittee by the City: (1) to grant Owner/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 Owner/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 Owner/Permittee maintaining the biological values of any and all lands committed for mitigation pursuant to this Permit and of full satisfaction by Owner/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. 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.

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. The Owner/Permittee shall defend, indemnify, and hold harmless the City, its agents, officers, and employees from any and all claims, actions, proceedings, damages, judgments, or costs, including attorney's fees, against the City or its agents, officers, or employees, relating to the issuance of this permit including, but not limited to, any action to attack, set aside, void, challenge, or annul this development approval and any environmental document or decision. The City will promptly notify applicant of any claim, action, or proceeding and, if the City should fail to cooperate fully in the defense, the Owner/Permittee shall not thereafter be responsible to defend, indemnify, and hold harmless the City or its agents, officers, and employees. The City may elect to conduct

its own defense, participate in its own defense, or obtain independent legal counsel in defense of any claim related to this indemnification. In the event of such election, Owner/Permittee shall pay all of the costs related thereto, including without limitation reasonable attorney's fees and costs. In the event of a disagreement between the City and Owner/Permittee regarding litigation issues, the City shall have the authority to control the litigation and make litigation related decisions, including, but not limited to, settlement or other disposition of the matter as to the claims against the City. However, the Owner/Permittee shall not be required to pay or perform any settlement unless such settlement is approved by Owner/Permittee.

12. This Permit may be developed in phases; therefore, permit conditions referencing thresholds such as construction permits, building permits, occupancy permits or final maps shall apply on a phase by phase basis, satisfactory to the Development Services Department and the City Engineer.

**ENVIRONMENTAL/MITIGATION REQUIREMENTS:**

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

14. The mitigation measures specified in the MMRP, and outlined in Addendum No. 142244 to Environmental Impact Report No. 142244, shall be noted on the construction plans and specifications under the heading ENVIRONMENTAL/MITIGATION REQUIREMENTS.

15. The Owner/Permittee shall comply with the MMRP as specified in Addendum No. 142244 to Environmental Impact Report No. 142244, 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:

Land Form Alteration/Visual Quality,  
Paleontology, and  
Geology

16. 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:**

17. Planned Development Permit No. 497493/Site Development Permit No. 497494 shall comply with the conditions of the Vesting Tentative Map No. 497492.

**LANDSCAPE REQUIREMENTS:**

18. Prior to issuance of 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 Black Mountain Ranch Subarea Plan; Land Development Manual, Landscape Standards and to the satisfaction of the City Manager. All plans shall be in substantial conformance with Exhibit "A."
19. Prior to issuance of construction permits for public right-of-way improvements, the Owner/Permittee shall submit complete landscape construction documents for right-of-way improvements to the Development Services Department for approval. Improvement plans shall provide a minimum of forty square feet of permeable 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.
20. 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 the Black Mountain Ranch Subarea Plan and Exhibit "A."
21. 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.
22. The Owner/Permittee shall maintain all required landscape 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.
23. 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.
24. 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, 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 Development Services Department within thirty days of damage or prior to a Certificate of Occupancy.
25. Prior to issuance of construction permits for grading, the Owner/Permittee shall ensure that all proposed landscaping, especially landscaping adjacent to native habitat and/or the Multiple Habitat Planning Area, shall not include exotic plant species that may

be invasive to native habitats. Plant species found within the Black Mountain Ranch "North Village" Design Guidelines, the California Invasive Plant Council's (Cal-IPC) Invasive Plant Inventory and the prohibited plant species list found in Table 1 of the Landscape Standards shall not be permitted.

26. Prior to issuance of construction permits for grading, the Owner/Permittee shall ensure all existing, invasive plant species, including all vegetative parts and root systems, identified in the Black Mountain Ranch "North Village" Design Guidelines shall be completely removed from the premises when the combination of species type, location, and surrounding environmental conditions provides a means for the species to invade other areas of native plant material that are on or off of the premises.

**BRUSH MANAGEMENT PROGRAM REQUIREMENTS:**

27. Within Zone One, combustible accessory structures, including, but not limited to decks, trellises, gazebos, shall not be permitted while non-combustible accessory structures may be approved within the designated Zone One area, subject to Fire Marshall and Development Services Department approval.

28. 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."

29. In Zone One, 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 Analysis Section [LAS] and the Environmental Analysis Section [EAS].

30. All new Zone Two planting shall be temporarily irrigated with an above-ground irrigation system until established. Zone Two shall be maintained on a regular basis by pruning and thinning plants, removing weeds, and maintaining the temporary irrigation system. Only native vegetation shall be planted or hydroseeded. If Zone Two is being revegetated, 50 percent of the planting area shall be seeded with material that does not grow taller than 24 inches.

31. Prior to final inspection and issuance of any Certificate of Occupancy, the approved Brush Management Program shall be implemented and maintained at all times in accordance with the City of San Diego's Land Development Manual, Landscape Standards and as shown on Exhibit "A."

**PLANNING/DESIGN REQUIREMENTS:**

32. 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.



33. Prior to the operation of any Residential Care Facility for the Elderly and or Housing for Senior Citizens, a subsequent Conditional Use Permit for any Residential Care Facility for the Elderly and or Housing for Senior Citizens, or any such uses as defined by the Land Development Code, shall be obtained by the Owner/Permittee.
34. All signs associated with this development shall be consistent with sign criteria established by the City-wide sign regulations.
35. The Owner/Permittee shall post a copy of the approved discretionary permit or Vesting Tentative Map in the sales office for consideration by each prospective buyer.
36. 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.
37. Prior to the issuance of any building permit, the Owner/Permittee shall submit for review and approval a Substantial Conformance Review for the purposes of determining consistency of the proposed construction plans with The North Village Community Design Guidelines. Projects deemed not in substantial conformance shall require an amendment to this permit.

#### **TRANSPORTATION REQUIREMENTS**

38. Prior to the issuance of any building permit, the project shall be in conformance with the Black Mountain Ranch Transportation Phasing Plan.

#### **WASTEWATER REQUIREMENTS:**

39. Prior to the issuance of any building permits, the applicant shall process and record a NOTICE & AGREEMENT for each ownership being served by a private pump station/sewer facilities which serves more than one ownership, which indemnifies the City and contains an agreement that the applicant, and successors in interest, will be responsible for the operation and maintenance of the private sewer systems.
40. The Owner/Permittee shall design and construct all proposed public sewer facilities in accordance with established criteria in the most current edition of the City of San Diego sewer design guide. Proposed facilities that do not meet the current standards shall be redesigned or private.
41. 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.
42. 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.

43. The Owner/Permittee shall provide evidence, satisfactory to the Metropolitan Wastewater Department Director, indicating that each lot will have its own sewer lateral or provide CC&R's for the operation and maintenance of on-site private sewer facilities that serve more than one lot.

**WATER REQUIREMENTS:**

44. Prior to the issuance of any building permits, the Owner/Permittee shall assure, by permit and bond, the design and construction of appropriate water facilities as identified in accepted water studies, necessary to serve this development in a manner satisfactory to the Director of Public Utilities and the City Engineer, maintaining a redundant potable water supply throughout the phasing of construction.

45. Prior to the issuance of any building permits, the Owner/Permittee shall assure, by permit and bond, the design and construction of recycled water facilities, identified in the "City of San Diego Beneficial Reuse Study" and accepted site specific studies, in a manner satisfactory to the Director of Public Utilities and the City Engineer.

46. Prior to the issuance of any building permits, the Owner/Permittee shall assure, by permit and bond, the design and construction of the necessary water facilities to provide water service to the existing affordable housing project located north of Camino Del Norte and adjacent to Four Gee Road, in a manner satisfactory to the Director of Public Utilities and the City Engineer.

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 or master water assemblies to serve multiple lots, in a manner satisfactory to the Director of Public Utilities and the City Engineer. All water services and meters shall be installed behind full height curbs and outside of any vehicular travel way including driveways.

48. 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.

49. Prior to the issuance of any building permits the Owner/Permittee shall install fire hydrants at locations satisfactory to the Fire Department, the Director of Public Utilities, and the City Engineer. Fire hydrants within easements having no curbs or rolled curbs shall have protective posts.

50. Prior to the issuance of any construction permit, the Owner/Permittee shall grant adequate water easements, over all public water facilities that are not located within fully improved public rights-of-way, satisfactory to the Director of Public Utilities and City Engineer.

51. Prior to the issuance of any building permits, the Owner/Permittee shall process encroachment maintenance and removal agreements for all acceptable encroachments of structures or landscaping into any easement. No structures or landscaping of any kind shall be installed in or over any vehicular access roadway.

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

53. 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 vesting tentative map, shall be modified at final engineering to comply with standards.

#### **GEOLOGY REQUIREMENTS:**

54. Prior to the issuance of any construction 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."

#### **MSCP REQUIREMENTS:**

55. Prior to the issuance of any building permit or construction for Fire Station No. 48, the project plans shall indicate not less than a 100 foot buffer or other approved reduced wetland buffer, satisfactory to the Development Services Department. Should a 100 foot buffer not be indicated on the plans, then the following requirements shall apply:

1. Removal of all invasive plant species within the riparian corridor and the reduced buffer;
2. Planting of native species within the reduced buffer;
3. Twenty-five months monitoring to assure successful revegetation of the area;
4. Any proposed wall(s) shall be located outside of the reduced wetland buffer; 4. Shielding of all outdoor lighting to prevent direct lighting impacts to sensitive areas and reduction of incidental lighting of the reduced wetland buffer and the tributary to Lusardi Creek;
5. No Best Management Practices [BMPs] within the reduced wetland buffer;
6. No brush management within the reduced wetland buffer;
7. No active or passive uses within the reduced wetland buffer;
8. Installation of signage in appropriate locations to discourage people from entering the reduced wetland buffer, all satisfactory to the Development Services Department.

56. Multiple Habitat Planning Area Land Use Adjacency Guidelines:

- a. Prior to permit issuance, the ADD of Entitlements Division (Environmental Designee) and MSCP staff shall review and approve the landscape plan to ensure that no invasive non-native plant species shall be located in areas adjacent to the Multiple Habitat Planning Area [MHPA].

- b. Prior to permit issuance, the ADD Entitlements Division (Environmental Designee) and MSCP staff shall review the site plan to assure that new development adjacent to the MHPA has provided barriers (e.g. non-invasive vegetation, rocks/boulders, fences, walls, and/or signage) along the MHPA boundary to direct public access to appropriate locations and reduce domestic animal intrusion.
- c. Prior to permit issuance, brush management plans shall be submitted and reviewed by the ADD Entitlements Division (Environmental Designee) and MSCP staff.
- d. Prior to permit issuance, the ADD of Entitlements Division (Environmental Designee) and MSCP staff shall verify the requirements for sedimentation basins and the use of Best Management Practices (desilting basins, extended detention, filter strips and source controls) is noted on development plans.
- e. Prior to the issuance of the building permit, it shall be verified that all permanent basins and all other drainage facilities shall be constructed and designed to minimize impacts to the MHPA.
- f. Prior to permit issuance, the following measures shall be depicted on appropriate construction plans to reduce levels of erosion, sedimentation, and runoff during and after construction activities:
  - i. Hydroseeding and landscaping of any cut/fill slopes disturbed or built during the construction phase of the project, with appropriate ground cover vegetation shall be performed within 30 days of completion of grading activities.
  - ii. Areas of native vegetation or adjoining slopes to the avoided during grading activities shall be delineated to minimize disturbance to existing vegetation and slopes
  - iii. Artificial ground cover, hay bales, and catch basins to retard the rate of runoff from manufactured slopes shall be installed if grading occurs during wet weather season November 1 through April 1.
  - iv. Fine particles in geologic materials used to construct the surficial layers of manufactured slopes shall not be specified unless a suitable alternative is not available.
  - v. Temporary sedimentation and desilting basins between graded areas and streams shall be provided during grading

**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 construction permit issuance

APPROVED by the Council of the City of San Diego on May 19, 2009, by Resolution No. R-304920.

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.

BLACK MOUNTAIN RANCH, LLC,  
a California Limited Liability Company  
Owner/Permittee

By \_\_\_\_\_

By \_\_\_\_\_

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

PERMIT/OTHER – Permit Shell 11-01-04