

RESOLUTION NUMBER R- 307983DATE OF FINAL PASSAGE JAN 29 2013

A RESOLUTION OF THE COUNCIL OF THE CITY OF
SAN DIEGO APPROVING SITE DEVELOPMENT
PERMIT NO. 627502, NEIGHBORHOOD USE PERMIT
NO. 1043525, AND MHPA BOUNDARY-LINE
ADJUSTMENT NO. 1043526 FOR THE MCCA
W PROPERTY PROJECT NO. 174584.

WHEREAS, Gerald McCaw and Margaret Sue McCaw, Trustees of the McCaw Family Trust Dated December 2, 1990, Owner and Permittee, filed an application with the City of San Diego for a Site Development Permit and Neighborhood Use Permit to develop a 0.9-acre portion of a 10.0-acre site with a single-family home and guest quarters and the dedication of a conservation easement over the remainder of the parcel and a Multiple-Habitat Planning Area boundary line adjustment known as the McCaw Project, located at the terminus of Caminito Stella west of Del Vino Court, and legally described as:

The Southwest Quarter of the Northwest Quarter of the Northwest Quarter of Section 22, Township 14 South, Range 3 West, San Bernardino Base and Meridian in the City of San Diego; and

WHEREAS, the project site is within the Del Mar Mesa Community Plan Community Plan area, in the AR-2-1 zone; and

WHEREAS, on November 15, 2012, the Planning Commission of the City of San Diego considered Site Development Permit No. 627502, Neighborhood Use Permit No. 1042535 and MHPA Boundary-Line Adjustment No. 1043525 pursuant to Resolution No. (4852-PC) voted to recommend that the City Council approve the Permits and MHPA Boundary-Line Adjustment No. 1043526; and

WHEREAS, as a condition of approval of the above referenced project by the City Council, The McCaw Family Trust, Owner, will transfer the following 1.0-acre parcel to the City of San Diego in fee title:

All that portion of the Northwest Quarter of the Southwest Quarter of the Southwest Quarter of Section 14, Township 14 South, Range 3 West, San Bernadino Base and Meridian, in the County of San Diego, State of California, according to United States Government Survey Described as: Beginning at the Southeast corner of the Northeast Quarter of the Southwest Quarter of the Southwest Quarter of said Section 14; thence northerly all along the easterly line thereof, 209.42 feet; thence westerly parallel with the southerly line of said Northwest Quarter of the Southwest Quarter of the Southwest Quarter, 208.00 feet; thence southerly parallel with the easterly line thereof 209.42 feet to the intersection with the southerly line of said Northwest Quarter of the Southwest Quarter of the Southwest Quarter; thence easterly along said southerly line 208.00 feet to the point of beginning to the City of San Diego in fee title as mitigation for the proposed development; 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, testimony having been heard, evidence having been submitted, and the City Council having fully considered the matter and being fully advised concerning the same; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that it adopts the following findings with respect to Site Development Permit No. 627502 and Neighborhood Use Permit No. 1043525:

A. SITE DEVELOPMENT PERMIT SECTION 126.0504

1. The proposed development will not adversely affect the applicable land use plan.

The property is located at the west end of Caminito Stella in the AR-1-2 Zone of the Del Mar Mesa Specific Plan. The 10-acre parcel is currently undeveloped and is within a mostly developed area of single-family residences on predominantly one-acre lots. The project proposes development of 0.9-acres, for a single-family home site with guest quarters on the 10-acre parcel, preserving the remaining 9.1 acres of the parcel with a Covenant of Easement dedicated to the City of San Diego. The Del Mar Mesa Specific Plan designates the area as Resource Based Open Space.

In addition to the 9.1-acre Covenant of Easement, additional mitigation will result from the transfer in fee to the City of a one-acre parcel to the east located in the Del Mar Mesa Preserve to mitigate for the loss of the MSCP portion located on the 10-acre lot, ensuring no net loss of MSCP habitat. The remaining mitigation necessary for development of the site will be purchased from an approved mitigation bank. The one-acre parcel (APN 306-050-23) is the only remaining privately owned parcel in the heart of the Del Mar Mesa preserve that is not under City, State, or Federal Agency control. The one-acre parcel replaces the portion of the 10-acre easement released for development and the 0.9 acre portion of the lot that's within the MSCP.

The transfer in deed of property to the City of San Diego of the one-acre parcel will result in the completion of the Del Mar Mesa preserve property acquisition and has greater value than the impacted 0.9 acres. There will be a net gain of 0.1 acres to the MHPA, and although the one-acre compensation site is already in the MHPA, the benefit is greater with the dedication than it is presently. The one-acre parcel currently contains 5 vernal pools and is surrounded by open-space. Conversely, large estate residential homes surround the 0.9 acres on three sides. Ultimately the dedication of the one-acre will allow the City of San Diego to have greater control over the land and would facilitate development of a planned trail on the Del Mar Mesa preserve Subarea V.

The project would implement the goals of the Del Mar Mesa Specific Plan by providing a single-family residential lot that is compatible with the surrounding estate residential uses and consistent with the Plan's Community Design Standards. The project is consistent in

character, density, scale and intensity with the existing established residential development. The proposed development would implement the goals of preserving the rural character of the community with clustered low density residential land use and the preservation of open space by developing adjacent to existing homes, minimizing the disturbance of the natural land form, grading in the least sensitive area and establishing a conservation easement over the remaining 9.0-acres of land. The transfer of the one-acre parcel to the City of San Diego will also fulfill the goal of providing publicly-owned open space. Therefore, 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 property is located at the west end of Caminito Stella in the AR-1-2 Zone of the Del Mar Mesa Specific Plan. The 10-acre parcel is currently undeveloped and is within a mostly developed area of single-family residences on predominantly one-acre lots. The project proposes a one-acre, single-family home site with guest quarters on the 10-acre parcel, preserving the remaining 9.1 acres of the parcel with a Covenant of Easement dedicated to the City of San Diego.

The Del Mar Mesa Specific Plan (DMMSP) and accompanying (Subarea V) Master Environmental Impact Report (MEIR) No.95-0353 was prepared by the City of San Diego, as Lead Agency under the California Environmental Quality Act, and finalized on June 6, 1996, the San Diego City Council adopted the Specific Plan for Del Mar Mesa and certified the (Subarea V) MEIR. The DMMSP (Subarea V) MEIR analyzed the impacts that would potentially result from the development described in the Specific Plan.

The proposed project is within the scope of the MEIR and the implementation will not result in any new impacts beyond those identified in the MEIR. All mitigation measures set forth in the MEIR will be incorporated into the proposed project through a project-specific Mitigation, Monitoring and Reporting Program (MMRP). The proposed project includes mitigation measures to offset the potential impacts to the environment in the area of Biological Resources, Paleontological Resources and Land Use/Multiple Species Conservation Program (MSCP). Implementation of the MMRP would reduce potential impacts below a level of significance.

All Uniform Building, Fire, Plumbing, Electrical, Mechanical Code and City regulations governing the construction and continuing operation of the development apply to this project to prevent adverse affects to those persons or properties in the vicinity of the project. Therefore, the proposed development will not be detrimental to the public health, safety, and welfare.

3. **The proposed development will comply with the applicable regulations of the Land Development Code including any allowable deviations pursuant to the Land Development Code.** The property is located at the west end of Caminito Stella in the AR-1-2 Zone of the Del Mar Mesa Specific Plan. The 10-acre parcel is currently undeveloped and is within a mostly developed area of single-family residences on predominantly one-acre lots. The project proposes a one-acre, single-family home site with guest quarters on the 10-acre

parcel, preserving the remaining 9.1 acres of the parcel with a Covenant of Easement dedicated to the City of San Diego. The Del Mar Mesa Specific Plan designates the area as Resource Based Open Space.

The project would implement the goals of the Del Mar Mesa Specific Plan by providing a single-family residential lot that is compatible with the surrounding estate residential uses and consistent with the Plan's Community Design Standards. The project is consistent in character, density, scale and intensity with the existing established residential development. Therefore, the proposed project complies with all applicable regulations of the Land Development Code.

B. Supplemental Findings – Environmentally Sensitive Lands

1. **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 property is located at the west end of Caminito Stella in the AR-1-2 Zone of the Del Mar Mesa Specific Plan. The 10-acre parcel is currently undeveloped and is within a mostly developed area of single-family residences on predominantly one-acre lots. The project proposes a one-acre, single-family home site with guest quarters on the 10-acre parcel, preserving the remaining 9.1 acres of the parcel with a Covenant of Easement dedicated to the City of San Diego. The Del Mar Mesa Specific Plan designates the area as Resource Based Open Space.

The Del Mar Mesa Specific Plan (DMMSP) and accompanying (Subarea V) Master Environmental Impact Report (MEIR) No.95-0353 was prepared by the City of San Diego, as Lead Agency under the California Environmental Quality Act, and finalized on June 6, 1996, the San Diego City Council adopted the Specific Plan for Del Mar Mesa and certified the (Subarea V) MEIR. The DMMSP (Subarea V) MEIR analyzed the impacts that would potentially result from the development described in the Specific Plan.

The proposed grading plan creates a building pad on the flattest portion of the site in an area where the slopes are less than 25 percent. The slopes created by the grading would be landscaped with native and compatible non-native plant species to blend the manufactured and natural slopes together. The site plan establishes this buffer between developable portions of the residential pad to reduce the visual effects of the development contributing to the preservation of the rural character of the community as envisioned by the Specific Plan. The proposed project is within the scope of the MEIR and the implementation will not result in any additional impacts beyond those identified in the MEIR. All applicable mitigation measures set forth in the MEIR have been incorporated into the proposed project through a project specific MMRP and will be implemented to reduce, to below a level of significance, any potential impacts identified in the environmental review process.

In addition to the 9.1 acre Covenant of Easement, additional mitigation will result from the transfer in fee to the City of a one-acre parcel to the east located in the Del Mar Mesa Preserve. This transfer will mitigate for the loss of the MSCP portion located on the 10 acre lot, ensuring net loss of MSCP habitat. The remaining mitigation necessary for development

of the site will be purchased from an approved mitigation bank. The one-acre parcel (APN 306-050-23) is the only remaining privately owned parcel in the heart of the Del Mar Mesa preserve that is not under City, State, or Federal Agency control. The one-acre parcel replaces the portion of the 10 acre easement released for development and the portion of the lot within the MSCP.

A Covenant of Easement of approximately 9.1 acres will be dedicated to the City on the remaining portion of the property not used for development. This will ensure that the sensitive biological areas on the property will be preserved. Therefore, the site is physically suitable for the design and siting of the proposed development and the development would result in minimum disturbance to environmentally sensitive lands

- 2. 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 property is located at the west end of Caminito Stella in the AR-1-2 Zone of the Del Mar Mesa Specific Plan. The 10-acre parcel is currently undeveloped and is within a mostly developed area of single-family residences on predominantly one-acre lots. The project proposes a one-acre, single-family home site with guest quarters on the 10 acre parcel, preserving the remaining 9.1 acres of the parcel with a Covenant of Easement dedicated to the City of San Diego. The Del Mar Mesa Specific Plan designates the area as Resource Based Open Space.

The project would not result in any impacts beyond those disclosed in the Master Environmental Report. The project is consistent with the Del Mar Mesa Specific Plan MEIR and additional project specific mitigation is required. There were no impacts identified in the MEIR with regard to geology and proper engineering design of the proposed structures will be verified at building permit by the City Geology Staff and the City Engineer. This would ensure that the potential for geologic impacts from regional hazards is minimal. The project adheres to all requirements in regard to erosion control and brush management. The project also adheres to the City's and the Regional Water Quality Control Board's requirements for storm water management and Best Management Practices. Therefore, the proposed development will minimize the alteration of natural landforms and will not result in undue risk from geologic forces, erosion, flood or fire hazards.

- 3. The proposed development will be sited and designed to prevent adverse impacts on any adjacent environmentally sensitive lands.** The property is located at the west end of Caminito Stella in the AR-1-2 Zone of the Del Mar Mesa Specific Plan. The 10-acre parcel is currently undeveloped and is within a mostly developed area of single-family residences on predominantly one-acre lots. The project proposes a one-acre, single-family home site with guest quarters on the 10-acre parcel, preserving the remaining 9.1 acres of the parcel with a Covenant of Easement dedicated to the City of San Diego. The Del Mar Mesa Specific Plan designates the area as Resource Based Open Space.

In addition to the 9.1 acre Covenant of Easement, additional mitigation will result from the transfer in fee to the City of a one-acre parcel to the east located in the Del Mar Mesa Preserve. The one-acre parcel (APN 306-050-23) is the only remaining privately owned

parcel in the heart of the Del Mar Mesa preserve that is not under City, State, or Federal Agency control. The one-acre parcel replaces the portion of the 10-acre easement released for development.

The transfer of property to the City of San Diego of the one-acre parcel will result in the completion of the Del Mar Mesa preserve property acquisition and has greater value than the impacted 0.9 acres. There will be a net gain of 0.1 acres to the MHPA, and although the one-acre compensation site is already in the MHPA, the benefit is greater with the dedication than it is presently. The one-acre parcel currently contains 5 vernal pools and is surrounded by open-space. Conversely, large estate residential homes surround the 0.9 acres on three sides. Ultimately the dedication of the one-acre will allow the City of San Diego to have greater control over the land and would facilitate development of a planned trail on the Del Mar Mesa preserve Subarea V.

The proposed grading plan creates a building pad on the flattest portion of the site in an area where the slopes are less than 25%. The slopes created by the grading would be landscaped with native and compatible non-native plant species to blend the manufactured and natural slopes together. The site plan establishes this buffer between developable portions of the residential pad to reduce the visual effects of the development contributing to the preservation of the rural character of the community as envisioned by the Specific Plan. The proposed project is within the scope of the MEIR and the implementation will not result in any additional impacts beyond those identified in the MEIR. All applicable mitigation measures set forth in the MEIR have been incorporated into the proposed project through a project specific MMRP and will be implemented to reduce, to below a level of significance, any potential impacts identified in the environmental review process.

A Covenant of Easement of approximately 9.1 acres will be dedicated to the City on the remaining portion of the property not used for development. This will ensure that the sensitive biological areas on the property will be preserved. Therefore, the project is sited and designed to result in the minimum disturbance to environmentally sensitive lands.

4. **The proposed development will be consistent with the City of San Diego's Multiple Species Conservation Program (MSCP) Subarea Plan.** The property is located at the west end of Caminito Stella in the AR-1-2 Zone of the Del Mar Mesa Specific Plan. The 10-acre parcel is currently undeveloped and is within a mostly developed area of single-family residences on predominantly one-acre lots. The project proposes a one-acre, single-family home site with guest quarters on the 10-acre parcel, preserving the remaining 9.1 acres of the parcel with a Covenant of Easement dedicated to the City of San Diego. The Del Mar Mesa Specific Plan designates the area as Resource Based Open Space.

In addition to the 9.1 acre Covenant of Easement, additional mitigation will result from the transfer in fee to the City of a one-acre parcel to the east located in the Del Mar Mesa Preserve. The one-acre parcel (APN 306-050-23) is the only remaining privately owned parcel in the heart of the Del Mar Mesa preserve that is not under City, State, or Federal Agency control. The one-acre parcel replaces the portion of the 10-acre easement released for development.

The transfer of property to the City of San Diego of the one-acre parcel will result in the completion of the Del Mar Mesa preserve property acquisition and has greater value than the impacted 0.9 acres. There will be a net gain of 0.1 acres to the MHPA, and although the one-acre compensation site is already in the MHPA, the benefit is greater with the dedication than it is presently. The one-acre parcel currently contains five (5) vernal pools and is surrounded by open-space. Conversely, large estate residential homes surround the 0.9 acres on three sides. Ultimately the dedication of the one-acre will allow the City of San Diego to have greater control over the land and would facilitate development of a planned trail on the Del Mar Mesa preserve Subarea V.

The proposed project is within the scope of the MEIR and the implementation will not result in any additional impacts beyond those identified in the MEIR. All applicable mitigation measures set forth in the MEIR have been incorporated into the proposed project through a project specific MMRP and will be implemented to reduce, to below a level of significance, any potential impacts identified in the environmental review process. The project also includes Land Use Adjacency Guidelines for the Multiple Habitat Planning Area. A Covenant of Easement of approximately 9.1 acres will be dedicated to the City on the remaining portion of the property not used for development. Therefore, the proposed project will be consistent with the City of San Diego's Multiple Species Conservation Program (MSCP) Subarea Plan.

5. **The proposed development will not contribute to the erosion of public beaches or adversely impact local shoreline sand supply.** The property is located at the west end of Caminito Stella in the AR-1-2 Zone of the Del Mar Mesa Specific Plan. The 10-acre parcel is currently undeveloped and is within a mostly developed area of single-family residences on predominantly one-acre lots. The project proposes a one-acre, single-family home site with guest quarters on the 10-acre parcel, preserving the remaining 9.1 acres of the parcel with a Covenant of Easement dedicated to the City of San Diego. The Del Mar Mesa Specific Plan designates the area as Resource Based Open Space.

The McCaw project is located more than five miles east of the Pacific Ocean's beaches and local shoreline. Development of the site includes erosion control measures, a storm water management plan, and the adoption of best management practices as required by conditions of the Permit. Therefore, the proposed development will not contribute to erosion of public beaches or adversely impact shoreline sand supply.

6. **The nature and extent of mitigation required as a condition of the permit is reasonably related to, and calculated to alleviate, negative impacts created by the proposed development.** The property is located at the west end of Caminito Stella in the AR-1-2 Zone of the Del Mar Mesa Specific Plan. The 10-acre parcel is currently undeveloped and is within a mostly developed area of single-family residences on predominantly one-acre lots. The project proposes a one-acre, single-family home site with guest quarters on the 10-acre parcel, preserving the remaining 9.1 acres of the parcel with a Covenant of Easement dedicated to the City of San Diego. The Del Mar Mesa Specific Plan designates the area as Resource Based Open Space.

In addition to the 9.1 acre Covenant of Easement, additional mitigation will result from the transfer in fee to the City of a one-acre parcel to the east located in the Del Mar Mesa Preserve. The one-acre parcel (APN 306-050-23) is the only remaining privately owned parcel in the heart of the Del Mar Mesa preserve that is not under City, State, or Federal Agency control. The one-acre parcel replaces the portion of the 10-acre easement released for development.

The transfer of property to the City of San Diego of the one-acre parcel will result in the completion of the Del Mar Mesa preserve property acquisition and has greater value than the impacted 0.9 acres. There will be a net gain of 0.1 acres to the MHPA, and although the one-acre compensation site is already in the MHPA, the benefit is greater with the dedication than it is presently. The one-acre parcel currently contains 5 vernal pools and is surrounded by open-space. Conversely, large estate residential homes surround the 0.9 acres on three sides. Ultimately the dedication of the one-acre will allow the City of San Diego to have greater control over the land and would facilitate development of a planned trail on the Del Mar Mesa preserve Subarea V.

The Del Mar Mesa Specific Plan (DMMSP) and accompanying (Subarea V) Master Environmental Impact Report (MEIR) No.95-0353 was prepared by the City of San Diego, as Lead Agency under the California Environmental Quality Act, and finalized on June 6, 1996, the San Diego City Council adopted the Specific Plan for Del Mar Mesa and certified the (Subarea V) MEIR. The DMMSP (Subarea V) MEIR analyzed the impacts that would potentially result from the development described in the Specific Plan.

The proposed project is within the scope of the MEIR and the implementation will not result in any additional impacts beyond those identified in the MEIR. All applicable mitigation measures set forth in the MEIR have been incorporated into the proposed project through a project-specific MMRP and will be implemented to reduce, to below a level of significance, any potential impacts identified in the environmental review process. Therefore the nature and extent of mitigation required as a condition of the permit is reasonably related to, and calculated to alleviate, negative impacts created by the proposed development.

C. NEIGHBORHOOD USE PERMIT SECTION 126.0205

1. **The proposed development will not adversely affect the applicable land use Plan.** The property is located at the west end of Caminito Stella in the AR-1-2 Zone of the Del Mar Mesa Specific Plan. The 10-acre parcel is currently undeveloped and is within a mostly developed area of single-family residences on predominantly one-acre lots. The project proposes a one-acre, single-family home site with guest quarters on the 10-acre parcel, preserving the remaining 9.1 acres of the parcel with a Covenant of Easement dedicated to the City of San Diego. The Del Mar Mesa Specific Plan designates the area as Resource Based Open Space.

The project would implement the goals of the Del Mar Mesa Specific Plan by providing a single-family residential lot that is compatible with the surrounding estate residential uses and consistent with the Plan's community design standards. While guest quarters are not specifically discussed in the community plan they are considered a use compatible and

consistent with the land use standards for the area and zone. The project is consistent in character, density, scale and intensity with the established residential development of adjacent projects. Therefore, the proposed single-family development along with a guest quarters 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 property is located at the west end of Caminito Stella in the AR-1-2 Zone of the Del Mar Mesa Specific Plan. The 10-acre parcel is currently undeveloped and is within a mostly developed area of single-family residences on predominantly one-acre lots. The project proposes a one-acre, single-family home site with guest quarters on the 10-acre parcel, preserving the remaining 9.1 acres of the parcel with a Covenant of Easement dedicated to the City of San Diego. The Del Mar Mesa Specific Plan designates the area as Resource Based Open Space.

The Del Mar Mesa Specific Plan (DMMSP) and accompanying (Subarea V) Master Environmental Impact Report (MEIR) No.95-0353 was prepared by the City of San Diego, as Lead Agency under the California Environmental Quality Act, and finalized on June 6, 1996, the San Diego City Council adopted the Specific Plan for Del Mar Mesa and certified the (Subarea V) MEIR. The DMMSP (Subarea V) MEIR analyzed the impacts that would potentially result from the development described in the Specific Plan.

The proposed project is within the scope of the MEIR and the implementation will not result in any new impacts beyond those identified in the MEIR. All mitigation measures set forth in the MEIR will be incorporated into the proposed project through a project-specific MMRP. The proposed project includes mitigation measures to offset the potential impacts to the environment in the area of biological resources. Paleontological Resources and Land Use/Multiple Species Conservation Program (MSCP). Implementation of the MMRP would reduce potential impacts below a level of significance.

All Uniform Building, Fire, Plumbing, Electrical, Mechanical Code and City regulations governing the construction and continuing operation of the development apply to this project to prevent adverse affects to those persons or properties in the vicinity of the project. Therefore, the proposed development including the guest quarters will not be detrimental to the public health, safety, and welfare.

3. **The proposed development will development will comply with the applicable regulations of the Land Development Code.** The property is located at the west end of Caminito Stella in the AR-1-2 Zone of the Del Mar Mesa Specific Plan. The 10-acre parcel is currently undeveloped and is within a mostly developed area of single-family residences on predominantly one-acre lots. The project proposes a one-acre, single-family home site with guest quarters on the 10-acre parcel, preserving the remaining 9.1 acres of the parcel with a Covenant of Easement dedicated to the City of San Diego. The Del Mar Mesa Specific Plan designates the area as Resource Based Open Space.

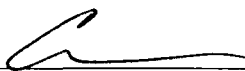
The project would implement the goals of the Del Mar Mesa Specific Plan by providing a single-family residential lot that is compatible with the surrounding estate residential uses and consistent with the Plan's community design standards. The project is consistent in character, density, scale and intensity with the existing established residential development. Therefore, the proposed project complies with all applicable regulations of the Land Development Code.

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

BE IT FURTHER RESOLVED, that Site Development Permit No. 627502 and Neighborhood Use Permit No. 1043525 is granted to Gerald McCaw and Margaret Sue McCaw, Trustees of the McCaw Family Trust Dated December 2, 1990, Owner and 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 MHPA boundary adjustment as shown on Exhibit "A" dated JAN 29 2013 is approved.

APPROVED: JAN I. GOLDSMITH, City Attorney

By 
Corrine L. Neuffer
Deputy City Attorney

CLN:jls
January 4, 2013
Or.Dept: DSD
Doc No. 494296

RECORDING REQUESTED BY
CITY OF SAN DIEGO
DEVELOPMENT SERVICES
PERMIT INTAKE, MAIL STATION 501

WHEN RECORDED MAIL TO
CITY CLERK
MAIL STATION 2A

INTERNAL ORDER NUMBER: 23432128

SPACE ABOVE THIS LINE FOR RECORDER'S USE

SITE DEVELOPMENT PERMIT NO. 627502
NEIGHBORHOOD USE PERMIT NO. 1043525
MHPA BOUNDARY-LINE ADJUSTMENT NO. 1043526
MCCAW PROPERTY - PROJECT NO. 174584 [MMRP]
CITY COUNCIL

This Site Development Permit No. 627502, Neighborhood Use Permit No. 1043525 and Multi-Habitat Planning Area (MHPA) Boundary-Line Adjustment (BLA) No. 1043526 is granted by the City Council of the City of San Diego to The McCaw Family Trust, Owner, and Permittee, pursuant to San Diego Municipal Code [SDMC] sections 126.0205 and 126.0504. The 10.0-acre site is located at the terminus of Caminito Stella west of Del Vino Court, in the AR-1-2 zone of the Del Mar Mesa Specific Plan. The project site is legally described as: The Southwest Quarter of the Northwest Quarter of the Northwest Quarter of Section 22, Township 14 South, Range 3 West, San Bernardino Base and Meridian in the City of San Diego.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner and Permittee to develop a 0.9-acre portion of the 10.0-acre parcel with a future single-family home by grading for access and a development pad described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated January 29, 2013, on file in the Development Services Department.

The project shall include:

- a. A single-family residential structure to be approved via a process one decision level Substantial Conformance Review; and
- b. Guest Quarters; and
- c. Brush Management and Landscaping (planting, irrigation and landscape related improvements); and

- d. Off-street parking; and
- e. An MHPA boundary line adjustment; and
- f. Transfer of the one-acre parcel (APN 306-050-23) in fee title to the City of San Diego; and
- g. Recordation of a Covenant of Easement over the remaining undeveloped 9.1-acres of the 10-acre project site; and
- h. Public and private accessory improvements determined by the Development Services Department to be consistent with the land use and development standards for this site in accordance with the adopted community plan, the California Environmental Quality Act [CEQA] and the CEQA Guidelines, the City Engineer's requirements, zoning regulations, conditions of this Permit, and any other applicable regulations of the SDMC.

STANDARD REQUIREMENTS:

1. This permit must be utilized within thirty-six (36) months after the date on which all rights of appeal have expired. If this permit is not utilized in accordance with Chapter 12, Article 6, Division 1 of the SDMC within the 36 month period, this permit shall be void unless an Extension of Time has been granted. Any such Extension of Time must meet all SDMC requirements and applicable guidelines in effect at the time the extension is considered by the appropriate decision maker. This permit must be utilized by February 12, 2016.
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. While this Permit is in effect, the subject property shall be used only for the purposes and under the terms and conditions set forth in this Permit unless otherwise authorized by the appropriate City decision maker.
4. This Permit is a covenant running with the subject property and all of the requirements and conditions of this Permit and related documents shall be binding upon the Owner/Permittee and any successor(s) in interest.

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 federal Endangered Species Act [ESA] and by the California Department of Fish and Game [CDFG] pursuant to California 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, 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 building modifications and site improvements may be required to comply with applicable building, fire, mechanical, and plumbing codes, and State and Federal disability access laws.
9. Construction plans shall be in substantial conformity to Exhibit "A." Changes, modifications, or alterations to the construction plans are prohibited 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 were determined-necessary to make the findings required for approval of this Permit. The Permit holder is required to comply with each and every condition in order to maintain the entitlements that are granted by this Permit.

If 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.

ENVIRONMENTAL/MITIGATION REQUIREMENTS:

11. Mitigation requirements in the Mitigation, Monitoring, and Reporting Program [MMRP] shall apply to this Permit. These MMRP conditions are hereby incorporated into this Permit by reference of the Mitigated Negative Declaration (MND) No. 174584.
12. The mitigation measures specified in the MMRP and outlined in MND No. 174584, shall be noted on the construction plans and specifications under the heading ENVIRONMENTAL MITIGATION REQUIREMENTS.
13. The Owner/Permittee shall comply with the MMRP as specified in Mitigated Negative Declaration No. 174584, to the satisfaction of the Development Services Department and the City Engineer. Prior to issuance of any construction permit, all conditions of the MMRP shall be adhered to, to the satisfaction of the City Engineer. All mitigation measures described in the MMRP shall be implemented for the following issue areas:
 - Biological Resources
 - Historical (Archeological) Resources
 - Paleontological Resources

ENGINEERING REQUIREMENTS:

14. Prior to the issuance of any construction permit, the applicant shall enter into a Maintenance Agreement for the ongoing permanent BMP maintenance, satisfactory to the City Engineer.
15. Prior to the issuance of any construction permit, the applicant shall incorporate any construction Best Management Practices necessary to comply with Chapter 14, Article 2, Division 1 (Grading Regulations) of the Municipal Code, into the construction plans or specifications.

16. Prior to the issuance of any construction permit the applicant shall submit a Water Pollution Control Plan (WPCP). The WPCP shall be prepared in accordance with the guidelines in Appendix E of the City's Storm Water Standards.
17. The drainage system for this project shall be private and will be subject to approval by the City Engineer.
18. Prior to the issuance of any building permits, the applicant shall obtain a bonded grading permit for the grading proposed for this project. All grading shall conform to requirements in accordance with the City of San Diego Municipal Code in a manner satisfactory to the City Engineer.

LANDSCAPE REQUIREMENTS:

19. Prior to issuance of any engineering permits for grading, construction documents for the revegetation and hydroseeding of all disturbed land shall be submitted in accordance with the Landscape Standards and to the satisfaction of the Development Services Department. All plans shall be in substantial conformance to this permit (including Environmental conditions) and Exhibit 'A,' on file in the Office of the Development Services Department.
20. Prior to issuance of any construction permits for structures, complete landscape, brush management and irrigation construction documents consistent with the Landscape Standards shall be submitted to the Development Services Department for approval. The construction documents shall be in substantial conformance with Exhibit 'A,' Landscape Development Plan, on file in the Office of the Development Services Department. Construction plans shall take into account a 40 sq-ft area around each tree which is unencumbered by hardscape and utilities as set forth under LDC 142.0403(b)(5).
21. Prior to issuance of any Certificate of Occupancy, it shall be the responsibility of the Permittee or subsequent Owner to install all required landscape and obtain all required landscape inspections.
22. All required landscape shall be maintained in a disease, weed and litter free condition at all times. Severe pruning or "topping" of trees is not permitted unless specifically noted in this Permit.
23. The Permittee or subsequent Owner(s) shall be responsible for the installation and maintenance of all landscape improvements consistent with the Land Development Code: Landscape Regulations and the Land Development Manual: Landscape Standards. Invasive species are prohibited from being planted adjacent to any canyon, water course, wet land or native habitats within the city limits of San Diego. Invasive plants are those which rapidly self propagate by air born seeds or trailing as noted in section 1.3 of the Landscape Standards.

24. The Permittee or subsequent owner(s) shall be responsible to ensure that irrigation drainage run off shall be directed away from the Multiple Habitat Preserve Area or from the transitional areas to ensure that no impacts occur from runoff in any of these areas.
25. If any required landscape (including existing or new plantings, hardscape, landscape features, etc.) indicated on the approved construction document plans is damaged or removed during demolition or construction, it shall be repaired and/or replaced in kind and equivalent size per the approved documents to the satisfaction of the Development Services Department within 30 days of damage or Certificate of Occupancy.

BRUSH MANAGEMENT PROGRAM REQUIREMENTS:

26. The Permittee shall implement the following requirements in accordance with the Brush Management Program shown on Exhibit 'A' Brush Management Plan, on file in the Office of the Development Services Department.
27. Prior to issuance of any engineering permits for grading, landscape construction documents required for the engineering permit shall be submitted showing the brush management zones on the property in substantial conformance with Exhibit 'A'.
28. Prior to issuance of any building permits, a complete set of brush management construction documents shall be submitted for approval to the Development Services Department and the Fire Marshall. The construction documents shall be in substantial conformance with Exhibit 'A' and shall comply with SDMC 55.0101, the Land Development Code section 142.0412, and the Land Development Manual - Landscape Standards.
29. The Brush Management Program shall consist of two zones consistent with the Brush Management regulations of the Land Development Code section 142.0412.
30. The proposed development shall have a 35 feet Zone One and 65 feet Zone Two.
31. Brush Management on the southwest corner of the development shall observe a 55-ft Zone One onsite and a 35-ft Zone Two. Where Zone reduction is applied, the reduction shall conform to LDC Section 142.0412(f).
32. Within Zone One, combustible accessory structures (including, but not limited to decks, trellises, gazebos, etc.) are not permitted, while non-combustible accessory structures may be approved within the designated Zone One area subject to Fire Marshall and the Development Services Department approval.

33. The following note shall be provided on the Brush Management Construction Documents:
'It shall be the responsibility of the 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.
34. In Zones One and Two, plant material shall be selected to visually blend with the existing hillside vegetation. No invasive plant material shall be permitted as jointly determined by the Landscape Section and the Environmental Analysis Section.
35. Prior to Final Inspection and Framing Inspection for any building, the approved Brush Management Program shall be implemented.
36. The Brush Management Program shall be maintained at all times in accordance with the City of San Diego's Landscape Standards.

MULTIPLE SPECIES CONSERVATION PROGRAM:

37. Prior to the issuance of any construction permits, the Owner/Permittee shall grant the on-site Multiple Habitat Planning Area [MHPA] to the City's Multiple Species Conservation Program [MSCP] preserve through either fee title to the City, or a covenant of easement granted in favor of the City and the U.S. Fish and Wildlife Service [USFWS] and the California Department of Fish and Game [CDFG], as shown on Exhibit "A." Conveyance of any land in fee to the City shall require approval from the Park and Recreation Department Open Space Division Deputy Director and shall exclude detention basins or other stormwater control facilities, brush management areas, landscape/revegetation areas, and graded slopes. The Owner/Permittee shall ensure all property approved for conveyance in fee title to the City for MHPA purposes shall be free and clear of all private easements, private encroachments, private agreements and/or liens. Any on-site MHPA lands that are not dedicated in fee title to the City shall grant a covenant of easement in favor of the City, USFWS, and CDFG. The Owner/Permittee shall maintain in perpetuity any MHPA lands granted by covenant of easement unless otherwise agreed to by the City.
38. Prior to issuance of any construction permits, the Owner/Permittee shall schedule an inspection with the Park and Recreation Department Open Space Division for all property approved for conveyance in fee title to the City for MHPA purposes. All trash, illegal use and associated structures on the lot(s) shall be removed prior to the City's acceptance.
39. Prior to the issuance of any construction permits, the owner shall transfer the one acre parcel (APN 306-050-23) in fee title to the City of San Diego.

PLANNING/DESIGN REQUIREMENTS:

40. Owner/Permittee shall maintain a minimum of **three (3)** off-street parking spaces on the property at all times in the approximate locations shown on the approved Exhibit "A." Two off-street parking spaces shall be dedicated to the single-family residence and one off-street parking space shall be dedicated to the guest quarters. Parking spaces shall comply at all times with the SDMC and shall not be converted for any other use unless otherwise authorized by the appropriate City decision maker in accordance with the SDMC.
41. 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.
42. Prior to submitting an application for a building permit on any lot, the Owner/Permittee shall submit an application for a Process One Substantial Conformance Review (SCR) for each lot to determine conformance with the conditions of this permit, the Vista Carmel Architectural Design Guidelines, the Exhibit 'A' development plans, and the Del Mar Mesa Specific Plan.
43. Disclosure shall be made to all future homebuyers that Del Mar Mesa is a semi-rural community which permits residents to maintain horses and horse stables on their residential property subject to the horse-keeping provisions of the SDMC, Section 44.0308.
44. Prior to the issuance of any construction permits, the Owner/Permittee shall execute and record a Covenant of Easement which ensures preservation of the Environmentally Sensitive Lands that are outside the allowable development area on the premises as shown on Exhibit "A" in accordance with SDMC section 143.0152. The Covenant of Easement shall include a legal description and an illustration of the premises showing the development area and the Environmentally Sensitive Lands as shown on Exhibit "A."
45. In order to preserve the rural character and dark night skies of Del Mar Mesa, all outdoor lighting from homes for the purposes of safety and security shall be designed to minimize the emission of light rays onto neighboring lots and open space. The lighting of private recreational facilities, such as tennis courts, shall not be permitted. Swimming pools may be lighted for safety purposes, using ground lighting that does not project more than six feet from the lighting source on the same lot.
46. All signs associated with this development shall be consistent with the sign criteria established by either the approved Exhibit 'A', or the Del Mar Mesa Specific Plan.

PUBLIC UTILITIES DEPARTMENT REQUIREMENTS:

47. The developer will be required to provide an Encroachment Maintenance and Removal Agreement for all private sewer mains located within City easements and street right-of-ways.
48. The developer will be required to pay their fair share for the construction of Carmel Valley Trunk sewer.
49. No trees or shrubs exceeding three feet in height at maturity shall be installed within ten feet of any public sewer facilities.
50. All proposed public sewer facilities are to be designed and constructed in accordance with established criteria in the most current City of San Diego sewer design guide.
51. All proposed private sewer facilities located within a single lot are to be designed to meet the requirements of the California Uniform Plumbing Code and will be reviewed as part of the building permit plan check.
52. Prior to the issuance of any building permits, the Owner/Permittee shall assure, by permit and bond, the design and construction of new water service(s) outside of any driveway, and the removal of all existing unused services, within the right-of-way adjacent to the project site, in a manner satisfactory to the Director of Public Utilities and the City Engineer.
53. Prior to the issuance of any certificates of occupancy, all public water facilities shall be complete and operational in a manner satisfactory to the Director of Public Utilities and the City Engineer.
54. 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. Public water facilities, and associated easements, as shown on approved Exhibit "A" shall be modified at final engineering to comply with standards.

GEOLOGY REQUIREMENTS:

54. The Owner/Permittee shall submit a geotechnical investigation report or update letter that specifically addresses the proposed construction plans. The geotechnical investigation report or update letter shall be reviewed for adequacy by the Geology Section of the Development Services Department prior to issuance of any construction permits.
55. The Owner/Permittee shall submit an as-graded geotechnical report prepared in accordance with the City's "Guidelines for Geotechnical Reports" following completion of the grading. The as-graded geotechnical report shall be reviewed for adequacy by the Geology Section of the Development Services Department prior to exoneration of the bond and grading permit close-out.

INFORMATION ONLY:

- The issuance of this discretionary use permit alone does not allow the immediate commencement or continued operation of the proposed use on site. The operation allowed by this discretionary use permit may only begin or recommence after all conditions listed on this permit are fully completed and all required ministerial permits have been issued and received final inspection.
- Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of this 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 City Council of the City of San Diego on January 29, 2013 pursuant to City Council Resolution No. R-307983.

SITE DEVELOPMENT PERMIT NO. 627502
NEIGHBORHOOD USE PERMIT NO. 1043525
MHPA BOUNDARY-LINE ADJUSTMENT NO. 1043526
APPROVED JANUARY 29, 2013

AUTHENTICATED BY THE CITY OF SAN DIEGO DEVELOPMENT SERVICES
DEPARTMENT

Helene Deisher
Development Project Manager

**NOTE: Notary acknowledgment
must be attached per Civil Code
section 1189 et seq.**

**The undersigned Owner/Permittee, by execution hereof, agrees to each and every condition of
this Permit and promises to perform each and every obligation of Owner/Permittee hereunder.**

McCaw Family Trust
Owner/Permittee

By _____
NAME Jerald McCaw
TITLE Trustee

McCaw Family Trust
Owner/Permittee

By _____
NAME Margaret Sue McCaw
TITLE Trustee