

1225

ATTACHMENT 11  
DOC # 1998-0574600

SEP 10, 1998 11:11 AM

RECORDING REQUESTED BY  
CITY OF SAN DIEGO  
DEVELOPMENT SERVICES

OFFICIAL RECORDS  
SAN DIEGO COUNTY RECORDER'S OFFICE  
GREGORY J. SMITH, COUNTY RECORDER  
FEES: 77.00

AND WHEN RECORDED MAIL TO  
CITY CLERK'S OFFICE  
MAIL STATION 2A



1998-0574600

SPACE ABOVE THIS LINE FOR RECORDER'S USE

PLANNED INDUSTRIAL DEVELOPMENT/RESOURCE PROTECTION ORDINANCE  
PERMIT NUMBER 96-7756  
EASTGATE ACRES  
CITY COUNCIL

This Permit is granted by the Council of The City of San Diego to EASTGATE ACRES, LLC, Owner and Permittee, pursuant to Section 101.0920 and 101.0462 of the Municipal Code of The City of San Diego. The 34-acre site is located at the northern terminus of Towne Centre Drive in the SR zone within the University Community Planning area. The project site is legally described as Lot B of Referee's Partition Map of Pueblo Lot 1320.

Subject to the terms and conditions set forth in this permit, permission is granted to Owner/Permittee to develop 200,000 square feet of scientific research space described as, and identified by size, dimension, quantity, type and location on the approved Exhibits "A," dated June 16, 1998, on file in the Office of Development Services. The facility shall include:

- a. Three separate buildings consisting of 200,000 square feet of scientific research space;
- b. Landscaping (planting, irrigation and landscape related improvements); and
- c. Off-street parking facilities; and
- d. Employee amenities may include pedestrian pathways, volleyball and/or basketball courts, picnic areas, etc.
- e. Accessory improvements determined by the City Manager to be consistent with the land use and development standards in effect for this site per the adopted Community Plan, California Environmental Quality Act guidelines, public and private improvement requirements of the City Engineer, the underlying zone(s), conditions of this permit, and any other applicable regulations of the Municipal Code in effect for this site.

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1. Construction, grading or demolition must commence and be pursued in a diligent manner within 36 months after the effective date of final approval by the City, following all appeals. Failure to utilize the permit within 36 months will automatically void the permit unless an Extension of Time has been granted. Any such Extension of Time must meet all the Municipal Code requirements and applicable guidelines in effect at the time the extension is considered by the appropriate decision maker.

2. No permit for the construction, occupancy or operation of any facility or improvement described herein shall be granted, nor shall any activity authorized by this permit be conducted on the premises until:

- a. The Permittee signs and returns the Permit to Development Services; 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 Permittee and any successor or successors, and the interests of any successor shall be subject to each and every condition set out in this permit and all referenced documents.

5. The utilization and continued use of this permit shall be subject to the regulations of this and any other applicable governmental agencies.

6. Issuance of this permit by The City of San Diego does not authorize the applicant for said permit to violate any Federal, State or City laws, ordinances, regulations or policies including, but not limited to, the Federal Endangered Species Act of 1973 and any amendments thereto (16 U.S.C. § 1531 et seq.)

7. In accordance with authorization granted to The City of San Diego from the United States Fish and Wildlife Service (USFWS) pursuant to Section 10(a) of the ESA and by the California Department of Fish and Game (CDFG) pursuant to Fish and Game Code section 2835 as part of the Multiple Species Conservation Program (MSCP), The City of San Diego through the issuance of this permit hereby confers upon permittee the status of Third Party Beneficiary as provided for in Section 17 of The City of San Diego Implementing Agreement (IA), executed on July 16, 1997 and

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on File in the Office of the City Clerk as Document No. 00-18394. Third Party Beneficiary status is conferred upon permittee by the City: (1) to grant permittee the legal standing and legal right to utilize the take authorizations granted to the City pursuant to the MSCP within the context of those limitations imposed under this permit and the IA, and (2) to assure Permittee that no existing mitigation obligation imposed by The City of San Diego pursuant to this permit shall be altered in the future by The City of San Diego, USFWS or CDFG, except in the limited circumstances described in Sections 9.6 and 9.7 of the IA. If mitigation lands are identified but not yet dedicated or preserved in perpetuity, maintenance and continued recognition of Third Party Beneficiary status by the City is contingent upon permittee maintaining the biological values of any and all lands committed for mitigation pursuant to this permit and of full satisfaction by permittee of mitigation obligations required by this permit, as described in accordance with Section 17.1D of the IA.

8. The Owner/Permittee shall secure all necessary building permits. The applicant is informed that to secure these permits, modifications to the building and/or site improvements to comply with applicable building, fire, mechanical and plumbing codes and State law requiring access for disabled people may be required.

9. Before issuance of any building or grading permits, complete grading and working drawings shall be submitted to the City Manager for approval. Plans shall be in substantial conformity to Exhibit "A," dated June 16, 1998, on file in the Office of Development Services. No changes, modifications or alterations shall be made unless appropriate applications or amendment of this permit shall 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 discretionary 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 special rights which the holder of the Permit is obtaining as a result of this Permit. It is the intent of the City that the Owner of the property which is the subject of this Permit either utilize the property for any use allowed under the zoning and other restrictions which apply to the property or, in the alternative, that the Owner of the property be allowed the special and extraordinary rights conveyed by this Permit, but only if the Owner complies with all the conditions of the 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

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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 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. Rezoning of the subject property shall become effective with recordation of the corresponding final subdivision map for the project site.

12. All projects shall be in compliance with the Topographical Survey Requirements of the Municipal Code and all building plans shall be predicated upon said concurrently submitted topographical survey. Said topographical survey (and accompanying grading plan) shall accurately depict both pre-existing grade and finished grade as set forth in the City Municipal Code.

**ENVIRONMENTAL/MITIGATION REQUIREMENTS:**

**Cultural Resources**

13. Prior to the issuance of any grading permits, the applicant shall provide verification that a qualified archaeologist and/or archaeological monitor has been retained to implement the archaeological monitoring program. This verification shall be in the form of a letter from the applicant to the Environmental Review Manager of the Environmental Analysis Section of Development Services. A qualified archaeologist is defined as an individual certified by the Society of Professional Archaeologists (SOPA). At least 200 hours of field experience required for certification must have been obtained in southern California. Uncertified individuals who believe they meet the requirements for certification may submit evidence of their qualifications to Development Services. An archaeological monitor is defined as an individual who has expertise in the collection and salvage of cultural resources and who is working under the direction of a qualified archaeologist. **ALL PERSONS INVOLVED IN THE ARCHAEOLOGICAL MONITORING MUST BE APPROVED BY THE ENVIRONMENTAL ANALYSIS SECTION STAFF PRIOR TO THE PRECONSTRUCTION MEETINGS FOR THE MONITORING PROGRAM.**

14. The qualified archaeologist shall attend any preconstruction meetings to discuss grading plans with the grading and excavation contractor. The requirement for archaeological monitoring shall be noted on the grading plans.

15. The qualified archaeologist or archaeological monitor shall be present on-site during construction activity involving brush removal and the initial stages of grading to inspect for in-situ sites.

16. In the event that cultural resources are discovered, the archaeologist shall have the authority to divert, direct or temporarily halt grading activities in the area of discovery to allow evaluation of potentially significant archaeological resources. **AT THE TIME OF DISCOVERY, THE ARCHAEOLOGIST SHALL IMMEDIATELY NOTIFY THE ENVIRONMENTAL ANALYSIS SECTION STAFF OF SUCH FINDING.** The significance of the discovered resource shall be determined by the archaeologist, in consultation with Environmental Analysis Section. Environmental Analysis Section must concur with the evaluation procedures to be performed before construction activities are allowed to resume. For significant cultural resources, a Research Design and Data Recovery Program shall be prepared and carried out to mitigate impacts. Any human bones of Native American origin shall be turned over to the appropriate Native American group for reburial.

17. All collected cultural remains shall be cleaned, cataloged and permanently curated with an appropriate institution. All artifacts shall be analyzed to identify function and chronology as they relate to the history of the area. Faunal material shall be identified as to species, and specialty studies shall be completed as appropriate.

18. Prior to the issuance of building permits, in the event resources are discovered, a monitoring report, with appropriate graphics, which describes the results, analysis, and conclusions of the above program shall be prepared and submitted for approval by the Environmental Review Manager of the Environmental Analysis Section. Also, any sites or features encountered shall be recorded with the South Coastal Information Center at San Diego State University and at the San Diego Museum of Man.

#### Paleontological Resources

19. Prior to issuance of any grading permits, the applicant shall provide verification that a qualified paleontologist and/or paleontological monitor have been retained to implement the monitoring program. Verification shall be in the form of a letter from the applicant to the Environmental Review Manager of the Environmental Analysis Section of Development Services. A qualified paleontologist is defined as an individual with a PhD or MS degree in paleontology or geology and who is a recognized expert in the application of paleontological procedures and techniques such as screen washing of materials and identification of fossil deposits. A paleontological monitor is defined as an individual who has experience in the collection and salvage of fossil materials and who is working under the direction of a

qualified paleontologist. **ALL PERSONS INVOLVED IN THE PALEONTOLOGICAL MONITORING OF THE PROJECT SHALL BE APPROVED BY THE ENVIRONMENTAL ANALYSIS SECTION.**

20. The qualified paleontologist shall attend any preconstruction meetings to discuss grading plans with the grading and excavation contractor. The requirement for paleontological monitoring shall be noted on the grading plans.

21. The Paleontologist or paleontological monitor shall be on-site full-time during original cutting of previously undisturbed sediments of the Ardath Shale and Lindavista Formations to perform periodic inspections of excavations and, if necessary, to salvage exposed fossils. The frequency of inspections will depend on the rate of excavation, the materials excavated and the abundance of fossils.

22. In the event that well-preserved fossils are found, the paleontologist shall have the authority to divert, direct or temporarily halt grading activities in the area of discovery to allow evaluation and recovery of exposed fossils. **AT THE TIME OF DISCOVERY, THE PALEONTOLOGIST SHALL IMMEDIATELY NOTIFY THE ENVIRONMENTAL ANALYSIS SECTION STAFF OF SUCH FINDING.** EAS shall approve salvaging procedures to be performed before construction activities are allowed to resume.

23. All collected fossil remains shall be cleaned, sorted and cataloged following standard professional procedures. The collection should be donated to a scientific institution with a research interest in the materials (such as the San Diego Natural History Museum).

24. Prior to the issuance of building permits, in the event fossils are found, a monitoring results report shall be submitted to and approved by the Environmental Review Manager of the Environmental Analysis Section. The monitoring results report, with appropriate graphics, shall summarize the results, analysis and conclusions of the paleontological monitoring program, even if negative.

#### Biological Resources

25. Prior to issuance of any grading permits the applicant shall conduct a gnatcatcher survey, if grading will occur between March 1 and August 15 (breeding season for the California gnatcatcher). If survey results are negative, than no further mitigation is required. If gnatcatchers are present and grading is to occur during the breeding season, then a temporary 4-foot to 6-foot plywood wall or dirt berm shall be constructed at the slope edge. However, if the applicant chooses not to conduct a gnatcatcher survey, then the temporary wall or berm shall be constructed. If grading will occur before March 1 and after

August 15, then no biological mitigation would be required for this project.

Alternative mitigation measures based on a biology survey and specific acoustical study may be proposed by the applicant, and if acceptable to the Environmental Review Manager, may replace the above mitigation measures.

26. Prior to issuance of any building permits, the applicant shall show on plans that lighting of all developed areas adjacent to the Multiple Habitat Planning Area (MHPA) shall be directed away from the MHPA. Where necessary, development shall provide adequate shielding with non-invasive plant materials (preferably natives), berming and/or other methods to protect the MHPA and sensitive species from night lighting. These conditions should be clearly indicated on the project site plan.

27. Prior to issuance of any grading permits the final map shall indicate a "Fee Simple" open space lot deeded to the City of San Diego that encompasses the MHPA on-site. The initial "Fee Simple" dedication shall consist of 8.7-acres with the balance to be dedicated to the City of San Diego once the available mitigation credits are allocated. The total mitigation requirement for the project is 5.8 acres of coastal sage scrub and 2.9 acres of mixed chaparral, which shall be met by on-site preservation within the MHPA. The management plan for the open space lot shall incorporate the City's MHPA Land Use Adjacency Guidelines.

28. Prior to issuance of any grading permits, the applicant shall show that sediment basins, desilting basins or silt traps shall be installed in conjunction with the initial grading operations and maintained throughout the development process, as well as during the operation period, as necessary, to remove sediment from runoff waters draining from the land undergoing development consistent with State Water Resources Board (SWRB) requirements.

29. Installation of grassed swales/infiltration trenches/or fossil filter systems at parking lot boundaries for pollutant control shall be designed to the City Engineer's standards for Urban Storm Water Management (Best Management Practices). Design and implementation shall be to the satisfaction of the City Engineer.

30. A grading plan that incorporates runoff control procedures to be utilized during all phases of project development shall be prepared and submitted concurrently with subdivision improvement plans, where such development is proposed on land that will be graded or filled. Such a plan shall be prepared by a registered civil engineer and shall be designed to ensure that there will be no significant increase in the peak runoff rate from the fully

developed site over the greatest discharge that would occur from the existing undeveloped site as a result of the intensity of rainfall expected during a six-hour period once every ten years. Runoff control shall be accomplished by establishing on-site catchment basins, detention basins and siltation traps along with energy dissipating measures at the terminus of storm drains or other similar means of equal or greater effectiveness. Alternative designs for the implementation of runoff and erosion control devices on individual lots, at the site planning stage, shall be approved by the City Engineer and Development Services Manager. The grading plan shall also incorporate a maintenance program for erosion and runoff control measures which shall be approved by the City Engineer and Development Services Manager.

31. In addition to the above mitigation measures/conditions for biology, the following shall be made a condition of approval:

Third Party Beneficiary Status  
Standard Condition

The issuance of this permit by The City of San Diego does not authorize the applicant to violate any Federal, State or City laws, ordinances, regulations or policies including, but not limited to, the Federal Endangered Species Act of 1973 and any amendments thereto (16 U.S.C. § 1531 et seq.).

32. In accordance with authorization granted to The City of San Diego from the United States Fish and Wildlife Service (USFWS) pursuant to Section 10(a) of the ESA and by the California Department of Fish and Game (CDFG) pursuant to Fish and Game Code section 2835 as part of the Multiple Species Conservation Program (MSCP), The City of San Diego through the issuance of this permit hereby confers upon permittee the status of Third Party Beneficiary as provided for in Section 17 of The City of San Diego Implementing Agreement (IA), executed on July 16, 1997 and on file in the Office of the City Clerk as Document No. 00-18394. Third Party Beneficiary status is conferred upon permittee by the City: (1) to grant permittee the legal standing and legal right to utilize the take authorizations granted to the City pursuant to the MSCP within the context of those limitations imposed under this permit and the IA, and (2) to assure Permittee that no existing mitigation obligation imposed by The City of San Diego pursuant to this permit shall be altered in the future by The City of San Diego, USFWS or CDFG, except in the limited circumstances described in Sections 9.6 and 9.7 of the IA. If mitigation lands are identified but not yet dedicated or preserved in perpetuity, maintenance and continued recognition of Third Party Beneficiary status by the City is contingent upon permittee maintaining the biological values of any and all lands committed for mitigation pursuant to this permit and of full satisfaction by permittee of mitigation obligations required by



this permit, as described in accordance with Section 17.1D of the IA.

The above mitigation monitoring and reporting program will require a deposit of \$450.00 to be collected prior to the issuance of building permits, certificates of occupancy and/or final maps to ensure the successful completion of the monitoring program.

**ENGINEERING REQUIREMENTS:**

33. Towne Center Drive is classified as a 2 lane collector. The subdivider shall provide a temporary public improvement consisting of pavement which is a 70 foot radius cul-de-sac at the northernmost entrance, shall provide an irrevocable offer of dedication for future extension of Towne Centre Drive, and shall enter into a bonded deferred improvement agreement for the construction of full-width public improvements along project frontage for future extension of Towne Centre Drive satisfactory to City Engineer.

34. The subdivider shall obtain a grading permit from the City Engineer (referred to as an "engineering permit") for the grading proposed for this project. All grading shall conform to requirements of the City of San Diego Municipal Code in a manner satisfactory to the City Engineer.

**PLANNING/DESIGN REQUIREMENTS:**

35. No fewer than 600 off-street parking spaces shall be maintained on the property at all times in the approximate locations shown on the approved Exhibits "A," dated June 16, 1998, on file in the Office of Development Services. Parking spaces shall comply at all times with the Municipal Code and shall not be converted for any other use unless otherwise authorized by the City Manager.

36. There shall be compliance with the regulations of the underlying zone(s) unless a deviation or variance to a specific regulation(s) is approved or granted as condition of approval of this permit. Where there is a conflict between a condition (including exhibits) of this permit and a regulation of the underlying zone, the regulation shall prevail unless the condition provides for a deviation or variance from the regulations. Where a condition (including exhibits) of this permit establishes a provision which is more restrictive than the corresponding regulation of the underlying zone, then the condition shall prevail.

37. The height(s) of the building(s) or structure(s) shall not exceed those heights set forth in the conditions and the exhibits (including, but not limited to, elevations and cross sections) or

the maximum permitted building height of the underlying zone, whichever is lower, unless a deviation or variance to the height limit has been granted as a specific condition of this permit.

38. A topographical survey conforming to the provisions of the Municipal Code may be required if it is determined, during construction, that there may be a conflict between the building(s) under construction and a condition of this permit or a regulation of the underlying zone. The cost of any such survey shall be borne by the permittee.

39. Any future requested amendment to this permit shall be reviewed for compliance with the regulations of the underlying zone(s) which are in effect on the date of the submittal of the requested amendment.

40. All signage associated with this development shall be consistent with Citywide sign regulations.

41. All private outdoor lighting shall be shaded and adjusted to fall on the same premises where such lights are located.

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

43. All uses, except storage and loading, shall be conducted entirely within an enclosed building. Outdoor storage of merchandise, material and equipment is permitted in any required interior side or rear yard, provided the storage area is completely enclosed by walls, fences or a combination thereof. Walls or fences shall be solid and not less than six feet in height and, provided further, that no merchandise, material or equipment stored not higher than any adjacent wall.

44. No mechanical equipment, tank, duct, elevator enclosure, cooling tower or mechanical ventilator or air conditioner shall be erected, constructed, converted, established, altered, or enlarged on the roof of any building, unless all such equipment and appurtenances are contained within a completely enclosed structure whose top and sides may include grillwork, louvers and latticework.

45. No merchandise, material or equipment shall be stored on the roof of any building.

46. No mechanical equipment shall be erected, constructed, or enlarged on the roof of any building on this site, unless all such equipment is contained within a completely enclosed architecturally integrated structure.

LANDSCAPE REQUIREMENTS:

47. Prior to issuance of any grading, or building permits, complete landscape construction documents, including plans, details and specifications (including a permanent automatic irrigation system unless otherwise approved), shall be submitted to the City Manager for approval. The construction documents shall be in substantial conformance with Exhibit "A," Landscape Concept Plan, dated June 16, 1998, on file in the Office of Development Services. No change, modification or alteration shall be made unless appropriate application or amendment of this Permit shall have been granted.

48. Prior to issuance of any Certificate of Occupancy it shall be the responsibility of the Permittee to install all required landscape and obtain all required landscape inspections and to obtain a No Fee Street Tree Permit for the installation, establishment and on-going maintenance of all street trees. Copies of these approved documents must be submitted to the City Manager.

49. All required landscape shall be maintained in a disease, weed and litter free condition at all times and shall not be modified or altered unless this Permit has been amended. Modifications such as severe pruning or "topping" of trees is not permitted unless specifically noted in this Permit. The Permittee, or subsequent owner shall be responsible to maintain all street trees and landscape improvements consistent with the standards of the Landscape Technical Manual.

50. If any required landscape (including existing or new plantings, hardscape, landscape features, etc.) indicated on the approved plans is damaged or removed during demolition, it shall be repaired and/or replaced in kind and equivalent size per the approved plans within 30 days of completion of construction by the Permittee. The replacement size of plant material after three years shall be the equivalent size of that plant at the time of removal (the largest size commercially available and/or an increased number) to the satisfaction of the City Manager.

51. The Brush Management Program is based on the Fire Department's Fire Hazard Severity Classification. The Permittee shall comply with the applicable provisions of the "Landscape Technical Manual - Section 6," Document No. RR-2274506, and shall implement the requirements of the Brush Management Program shown on Exhibit "A," Landscape Concept Plan/Brush Management Program, dated June 16, 1998, on file in the Office of Development Services.

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**WATER AND SEWER REQUIREMENTS:**

52. The subdivider shall install fire hydrants at locations satisfactory to the Fire Department and the City Engineer. If more than two (2) fire hydrants and/or thirty (30) equivalent dwelling units are located on a dead-end main then the subdivider shall install a looped water system.

53. The subdivider shall design all public water and sewer facilities to the most current edition of the "City of San Diego Water & Sewer Design Guide." If facilities do not meet the current standards, then such facilities shall be private.

54. The subdivider shall grant adequate water, sewer, and/or vehicular access easements, including vehicular access to each appurtenance (meters, blow offs, air valves, manholes, etc.), for all public water and sewer facilities that are not located within public rights-of-way, satisfactory to the Water and Metropolitan Wastewater Departments' Managers. Vehicular access roadbeds shall be a minimum of 20 feet wide and surfaced with suitable approved material satisfactory to the appropriate department manager. Minimum easement widths: water mains with services or fire hydrants - 24 feet, sewer mains with manholes - 20 feet. The easements shall be located within single lots. No structures or trees shall be installed in or over any easement prior to the applicant obtaining an encroachment removal agreement.

55. The subdivider shall provide evidence, satisfactory to the Water and Metropolitan Wastewater Departments' Managers, indicating that each lot will have its own water service and sewer lateral or provide Codes, Covenants and Restrictions (CC&R's) for the operation and maintenance of on-site private water and sewer mains that serve more than one lot. Also, provide private easements for the private mains.

56. Providing water and sewer for this development is dependent upon prior construction of certain water and sewer facilities in previously approved VTM 88-0076 in this area. If they have not been constructed when required for this development, then the construction of certain portions of these previously approved water and sewer facilities, as required by the City Engineer, will become off-site improvements required for this development.

APPROVED by the Council of The City of San Diego on June 16, 1998, by Resolution No. R-290280.

AUTHENTICATED BY THE CITY MANAGER

By *[Signature]*

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.

EASTGATE ACRES, LLC  
Owner/Permittee

By *Amithy P. Meisner*  
*Managing Member*

By \_\_\_\_\_

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

8/24/98

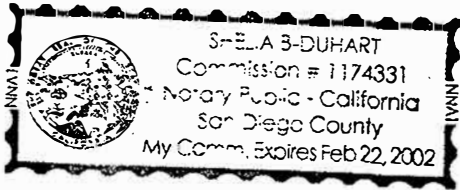
ORIGINAL



**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

State of California  
 County of San Diego  
 On September 8, 1998 before me, Shelia B-Duhart  
Date Name and Title of Officer (e.g., "Jane Doe, Notary Public")  
 personally appeared STEPHEN M. HAASE  
Name(s) of Signer(s)

personally known to me ~~OR~~  proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) ~~is~~ are subscribed to the within instrument and acknowledged to me that ~~he/she/they~~ they executed the same in his/~~her/their~~ their authorized capacity(ies), and that by ~~his/her/their~~ their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



WITNESS my hand and official seal.

Shelia B-Duhart  
Signature of Notary Public

**OPTIONAL**

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

**Description of Attached Document**

Title or Type of Document: \_\_\_\_\_

Document Date: \_\_\_\_\_ Number of Pages: \_\_\_\_\_

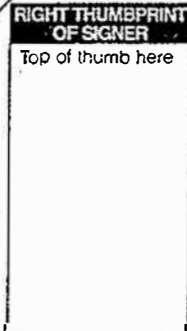
Signer(s) Other Than Named Above: \_\_\_\_\_

**Capacity(ies) Claimed by Signer(s)**

Signer's Name: \_\_\_\_\_

- Individual
- Corporate Officer  
Title(s): \_\_\_\_\_
- Partner —  Limited  General
- Attorney-in-Fact
- Trustee
- Guardian or Conservator
- Other: \_\_\_\_\_

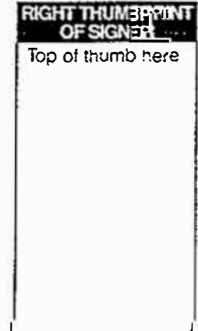
Signer Is Representing: \_\_\_\_\_



Signer's Name: \_\_\_\_\_

- Individual
- Corporate Officer  
Title(s): \_\_\_\_\_
- Partner —  Limited  General
- Attorney-in-Fact
- Trustee
- Guardian or Conservator
- Other: \_\_\_\_\_

Signer Is Representing: \_\_\_\_\_



DOC : 2000-0119238

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MAR 09, 2000 9:24 AM

RECORDING REQUESTED BY  
CITY OF SAN DIEGO  
DEVELOPMENT SERVICES

OFFICIAL RECORDS  
SAN DIEGO COUNTY RECORDER'S OFFICE  
GREGORY J. SMITH, COUNTY RECORDER  
FEES: 22.00

AND WHEN RECORDED MAIL TO  
PERMIT INTAKE  
MAIL STATION 501



SPACE ABOVE

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RESOURCE PROTECTION ORDINANCE/HILLSIDE REVIEW/GRADING REVIEW  
PERMIT NO. 99-0575 (MMRP)  
TOWNE CENTRE DRIVE BORROW SITE  
PLANNING COMMISSION

This Resource Protection Ordinance/Hillside Review/Grading Review Permit is granted by the PLANNING COMMISSION of the City of San Diego to Lawrence M. Cushman, Owner/ Permittee pursuant to Sections 101.0462 of the Municipal Code of the City of San Diego. The site is located at the northwestern end of Towne Centre Drive. Northwest of Westerra Court within the University Community Plan area. The project site is legally described as Lot A of Pueblo lot 1320, Pueblo Lands of San Diego.

Subject to the terms and conditions set forth in this permit, permission is granted to Lawrence M. Cushman, Owner Permittee to allow the grading and removal of 21,000 cubic yards of earth on 4.6 acres of a 22.2 acre parcel described as, and identified by size, dimension, quantity, type and location on the approved Exhibits "A", dated January 20, 2000 on file in the Office of Planning and Development Review. The improvements shall include:

- a. The grading and removal of approximately 21,000 cubic yards of earth on 4.6 acres of a 22.2 acre site for use as fill material for an adjacent approved roadway improvement (Towne Centre Drive extension)
- b. 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, conditions of this permit, and any other applicable regulations of the Municipal Code in effect for this site.

**GENERAL CONDITIONS:**

1. Construction, grading must commence and be pursued in a diligent manner within 36 months after the effective date of final approval by the City, following all appeals. Failure to utilize the permit within 36 months will automatically void the permit unless an Extension of Time has been granted. Any such Extension of Time must meet all the Municipal Code requirements and applicable guidelines in effect at the time the extension is considered by the appropriate decisionmaker.





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2. No permit for the construction of any facility or improvement described herein shall be granted, nor shall any activity authorized by this permit be conducted on the premises until:
  - a. The Permittee signs and returns the Permit to Development Services; 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 Permittee and any successor or successors, and the interests of any successor shall be subject to each and every condition set out in this permit and all referenced documents.
5. The utilization and continued use of this permit shall be subject to the regulations of this and any other applicable governmental agencies.
6. Issuance of this permit by the City of San Diego does not authorize the applicant for said permit to violate any Federal, State or City laws, ordinances, regulations or policies including, but not limited to, the Federal Endangered Species Act of 1973 and any amendments thereto (16 U.S.C. Section 1531 et seq.)
7. Before issuance of any grading permits, complete grading drawings shall be submitted to the City Manager for approval. Plans shall be in substantial conformity to Exhibit "A," dated January 20, 2000, on file in the Office of Planning and Development Review. No change, modifications or alterations shall be made unless appropriate applications or amendment of this permit shall have been granted.
8. 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 discretionary 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 special rights which the holder of the Permit is obtaining as a result of this Permit. It is the intent of the City that the Owner of the property which is the subject of this Permit either utilize the property for any use allowed under the zoning and other restrictions which apply to the property or, in the alternative, that the Owner of the property be allowed the special and extraordinary rights conveyed by this Permit, but only if the Owner complies with all the conditions of the 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 Permit can still be made in

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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:

9. The owner/permittee shall comply with the Mitigation, Monitoring and Reporting Program (MMRP) as specified in Mitigated Negative Declaration No. 99-0575 (LDR No. 99-0575) to the satisfaction of the City Manager and City Engineer. Prior to the issuance of the first grading permit, all mitigation measures as specifically outlined in the MMRP shall be implemented for the following issue areas:

- a. Biological Resources
- b. Hydrology/Water Quality

10. In accordance with authorization granted to the City of San Diego from the United States Fish and Wildlife Service (USFWS) pursuant to Section 10(a) of the ESA and by the California Department of Fish and Game (CDFG) pursuant to Fish and Game Code section 2835 as part of the Multiple Species Conservation Program (MSCP), the City of San Diego through the issuance of this permit hereby confers upon permittee the status of Third Party Beneficiary as provided for in Section 17 of the City of San Diego Implementing Agreement (IA), executed on July 17, 1997 and on File in the Office of the City Clerk as Document No. RR- 00-18394. Third Party Beneficiary status is conferred upon permittee by the City: (1) to grant permittee the legal standing and legal right to utilize the take authorizations granted to the City pursuant to the MSCP within the context of those limitations imposed under this permit and the IA, and (2) to assure Permittee that no existing mitigation obligation imposed by the City of San Diego pursuant to this permit shall be altered in the future by the City of San Diego, USFWS or CDFG, except in the limited circumstances described in Sections 9.6 and 9.7 of the IA. If mitigation lands are identified but not yet dedicated or preserved in perpetuity, maintenance and continued recognition of Third Party Beneficiary status by the City is contingent upon permittee maintaining the biological values of any and all lands committed for mitigation pursuant to this permit and of full satisfaction by permittee of mitigation obligations required by this permit, as described in accordance with Section 17.1D of the IA.

#### ENGINEERING REQUIREMENTS:

11. Prior to the issuance of any building permits, the applicant shall obtain a bonded grading permit from the City Engineer (referred to as an "engineering 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. A drainage study shall be submitted for approval along with the grading plans. Slopes provided on the grading plans shall be 2:1 or flatter.

12. The subdivider must provide a geologic reconnaissance report on the subject property to discover and address potential geological hazards. The report must be prepared in accordance with the most recent edition of the City of San Diego "Technical Guidelines for Geotechnical Reports." All slopes shall be constructed in accordance with the provisions of San Diego Municipal Code.

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13. Prior to the issuance of any grading permit, the applicant shall provide a letter of permission from the owner of the adjacent property for the hauling road.

**LANDSCAPE REQUIREMENTS:**

14. Prior to issuance of any grading permits, interim landscape and erosion control measures, including hydroseeding of all disturbed land (all slopes and pads), shall be submitted to the satisfaction of the City Manager (including the Environmental Section) and City Engineer. All plans shall be in substantial conformance to Exhibit 'A,' dated January 20, 2000, on file in the Office of Planning and Development Review, the Landscape Technical Manual and all other applicable conditions of related permits.

15. All required landscape shall be maintained in a disease, weed and litter free condition at all times and shall not be modified or altered unless this Permit has been amended. Modifications such as severe pruning or "topping" of trees is not permitted unless specifically noted in this Permit. The Permittee, or subsequent Owner, shall be responsible to maintain all landscape improvements consistent with the standards of the Landscape Technical Manual.

16. If any required landscape (including existing or new plantings, hardscape, landscape features, etc.) indicated on the approved plans is damaged or removed during demolition, it shall be repaired and/or replaced in kind and equivalent size per the approved plans within 30 days of completion of construction by the Permittee. The replacement size of plant material after three years shall be the equivalent size of that plant at the time of removal (the largest size commercially available and/or an increased number) to the satisfaction of the City Manager.

17. The timely erosion control including planting and seeding of all slopes and pads consistent with the approved plans is considered to be in the public interest and the Permittee shall initiate such measures within 45 days from the date that the grading of the site is deemed to be complete. Such erosion control and the associated irrigation systems (temporary and/or permanent) and appurtenances shall be installed in accordance with the approved plans and the Landscape Technical Manual.

APPROVED by PLANNING COMMISSION of the City of San Diego on January 20, 2000.

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ALL-PURPOSE CERTIFICATE

Type/Number of Document: RPO/HR/GRD No. 99-0575  
Date of Approval: January 20, 2000

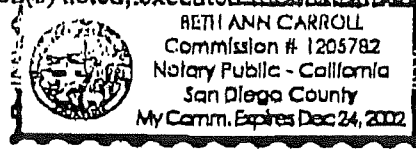
STATE OF CALIFORNIA  
COUNTY OF SAN DIEGO

Robert Gentles  
ROBERT GENTLES, Development Project Manager

On 2-3-00 before me, BETH ANN CARROLL (Notary Public), personally appeared ROBERT GENTLES, Development Project Manager of Planning and Development Review Department of the City of San Diego, personally known to me to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal

Signature Beth Ann Carroll  
Beth Ann Carroll



ALL-PURPOSE CERTIFICATE

OWNER(S)/PERMITTEE(S) SIGNATURE/NOTARIZATION:

THE UNDERSIGNED OWNER(S)/PERMITTEE(S), BY EXECUTION THEREOF, AGREES TO EACH AND EVERY CONDITION OF THIS PERMIT AND PROMISES TO PERFORM EACH AND EVERY OBLIGATION OF OWNER(S)/PERMITTEE(S) THEREUNDER.

Signed Stephen P. Cushman  
Typed Name: Stephen P. Cushman

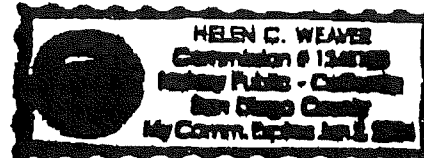
Signed Robert Gentles  
Typed Name: Robert Gentles

STATE OF California  
COUNTY OF San Diego

On February 2, 2000 before me, Helen C. Weaver (Name of Notary Public) personally appeared Lawrence M. Cushman, personally known to me (~~or proved to me on the basis of satisfactory evidence~~) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal

Signature Helen C. Weaver



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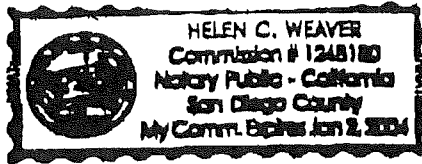
CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California }
County of San Diego } ss.

On February 2, 2000, before me, Helen C. Weaver
personally appeared Lawrence M. Cushman

[X] personally known to me
[ ] proved to me on the basis of satisfactory evidence

to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.



WITNESS my hand and official seal.
Helen C. Weaver
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document: RESOURCE PROTECTION ORDINANCE/HILLSIDE REVIEW/GRADING REVIEW PERMIT #: 99-0575 (MMP)

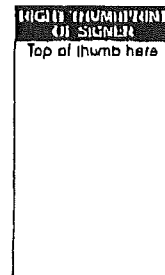
Document Date: 1-20-2000 Number of Pages: 5

Signer(s) Other Than Named Above: Robert Gentles

Capacity(ies) Claimed by Signer

- Signer's Name: Lawrence M. Cushman
[ ] Individual
[ ] Corporate Officer - Title(s):
[ ] Partner - [ ] Limited [ ] General
[X] Attorney in Fact
[ ] Trustee
[ ] Guardian or Conservator
[ ] Other:

Signer is Representing: Stephen P. Cushman



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Fl 247101

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

THE ORIGINAL OF THIS DOCUMENT  
WAS RECORDED ON JUL 25, 2005  
DOCUMENT NUMBER 2005-0626738  
GREGORY J. SMITH, COUNTY RECORDER  
SAN DIEGO COUNTY RECORDER'S OFFICE  
TIME: 2:07 PM

WHEN RECORDED MAIL TO  
CITY CLERK  
MAIL STATION 2A

SPACE ABOVE THIS LINE FOR RECORDER'S USE

Exp. 3-1-08

JOB ORDER NUMBER 400950

COASTAL DEVELOPMENT PERMIT NO. 117798  
SITE DEVELOPMENT PERMIT NO. 2758  
MULTIPLE HABITAT PLANNING AREA BOUNDARY ADJUSTMENT  
TOWNE CENTRE CORPORATE PLAZA  
CITY COUNCIL

This Coastal Development Permit, Site Development Permit and Multiple Habitat Planning Area [MHPA] Boundary Adjustment is granted by the Council of the City of San Diego to Lawrence M. Cushman, Owner/Permittee, pursuant to San Diego Municipal Code [SDMC] Chapter 12, Article 3, Division 1; Chapter 12, Article 5, Division 4; Chapter 12, Article 6, Division 5; and Chapter 12, Article 6, Division 7. The 22.2-acre site is located at the northwest terminus of Towne Centre Drive in the RS-1-7 zone of the University Community Planning Area. The project site is legally described as Lot "A" of Pueblo Lot 1320, Pueblo Lands of San Diego, in the City of San Diego, State of California, according to referee's partition map of said Pueblo Map filed in action No. 17622 in Superior Court of California, entitled *San Diego Realty Company vs. the City of San Diego*.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee to construct three buildings totaling 190,000 square feet, described and identified by size, dimension, quantity, type, and location on the approved exhibits (Exhibit "A"), dated March 1, 2005, on file in the Development Services Department.

The project or facility shall include:

- a. Three buildings totaling 190,000 square-feet of gross floor area for office use (Regional and Corporate Headquarters), as follows:

	Gross Floor Area	Height	Stories
Building A	80,500	60	4
Building B	63,500	46	3
Building C	46,000	32	2

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- b. Landscaping (planting, irrigation and landscape related improvements);
- c. Off-street parking facilities; and
- d. 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.

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STANDARD REQUIREMENTS:

1. Construction, grading or demolition must commence and be pursued in a diligent manner within thirty-six months after the effective date of final approval by the City, following all appeals. Failure to utilize the permit within thirty-six months will automatically void the permit unless an Extension of Time has been granted. Any such Extension of Time must meet all the SDMC requirements and applicable guidelines in effect at the time the extension is considered by the appropriate decision maker.
2. No permit for the construction, occupancy or operation of any facility or improvement described herein shall be granted, nor shall any activity authorized by this Permit be conducted on the premises until:
  - a. The Permittee signs and returns the Permit to the Development Services Department; and
  - b. The Permit is recorded in the Office of the San Diego County Recorder.
3. Unless this Permit has been revoked by the City of San Diego the property included by reference within this Permit shall be used only for the purposes and under the terms and conditions set forth in this Permit unless otherwise authorized by the City Manager.
4. This Permit is a covenant running with the subject property and shall be binding upon the Permittee and any successor or successors, and the interests of any successor shall be subject to each and every condition set out in this Permit and all referenced documents.
5. The utilization and continued use of this Permit shall be subject to the regulations of this and any other applicable governmental agency.
6. Issuance of this Permit by the City of San Diego does not authorize the Permittee for this permit to violate any Federal, State or City laws, ordinances, regulations or policies including, but not limited to, the Endangered Species Act of 1973 [ESA] and any amendments thereto (16 U.S.C. § 1531 et seq.).

7. The Owner/Permittee shall secure all necessary building permits. The applicant is informed that to secure these permits, substantial modifications to the building and site improvements to comply with applicable building, fire, mechanical and plumbing codes and State law requiring access for disabled people may be required.

8. Before issuance of any building or grading permits, complete grading and working drawings shall be submitted to the City Manager for approval. Plans shall be in substantial conformity to Exhibit "A." No changes, modifications or alterations shall be made unless appropriate application(s) or amendment(s) to this Permit have been granted.

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

In the event that any condition of this Permit, on a legal challenge by the Owner/Permittee of this Permit, is found or held by a court of competent jurisdiction to be invalid, unenforceable, or unreasonable, this Permit shall be void. However, in such an event, the Owner/Permittee shall have the right, by paying applicable processing fees, to bring a request for a new permit without the "invalid" conditions(s) back to the discretionary body which approved the Permit for a determination by that body as to whether all of the findings necessary for the issuance of the proposed permit can still be made in the absence of the "invalid" condition(s). Such hearing shall be a hearing de novo and the discretionary body shall have the absolute right to approve, disapprove, or modify the proposed permit and the condition(s) contained therein.

10. Prior to issuance of any grading permits for this project, a final subdivision map shall be recorded on the subject property.

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

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

13. Prior to recordation of this Permit with the County Recorder, the developer shall make a payment to the Development Services Department for the Los Peñasquitos Watershed Restoration and Enhancement Program. The enhancement fee shall be computed on the basis of site grading at a rate of \$0.005 per square foot for all areas graded, with an additional rate of \$0.03 per square foot for all impervious surfaces created by the development. The enhancement fee shall be computed by the applicant and verified by the Development Services Department.



**ENVIRONMENTAL/MITIGATION REQUIREMENTS:**

14. 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.

15. As conditions of Coastal Development Permit No. 117798, Site Development Permit No. 2758, and multiple Habitat Planning Area Boundary Adjustment, the mitigation measures specified in the MMRP, and outlined in the Mitigated negative Declaration No. 1591 shall be noted on the construction plans and specifications under the heading ENVIRONMENTAL/MITIGATION REQUIREMENTS.

16. The Owner/Permittee shall comply with the MMRP as specified in the Mitigated Negative Declaration No. 1591 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:

Biological Resources  
 Transportation/Circulation  
 Public Safety  
 Biological Resources (Land Use)

17. The MMRP shall require a deposit of \$3,200 to be collected prior to the issuance of any construction permits to cover the City's costs associated with implementation of the MMRP.

**ENGINEERING AND STORMWATER REQUIREMENTS:**

18. Prior to the issuance of any building permits, the applicant shall obtain a bonded grading permit from the City Engineer (referred to as an "engineering permit") for the grading proposed for this project. All grading shall conform to requirements in accordance with of the City of San Diego Municipal Code in a manner satisfactory to the City Engineer.

19. The drainage system proposed with this development is subject to approval by the City Engineer.

20. Prior to building occupancy, the applicant shall conform to the Municipal Code, "Public Improvement Subject to Desuetude or Damage." If repair or replacement of such public improvements is required, the owner shall obtain the required permits for work in the public right-of-way, satisfactory to the permit-issuing authority.

21. Prior to the issuance of any construction permit the Subdivider shall incorporate and show the type and location of all post-construction Best Management Practices [BMPs] on the final construction drawings, consistent with the approved Water Quality Technical Report.

22. Prior to the issuance of any construction permit, the Subdivider shall incorporate any construction BMPs necessary to comply with Chapter 14, Article 2, Division 1 (Grading Regulations) of the Municipal Code, into the construction plans or specifications.

23. Prior to the issuance of any construction permit, the Subdivider shall enter into a Maintenance Agreement for the ongoing permanent BMP maintenance, satisfactory to the City Engineer.

24. Prior to the issuance of any construction permits, the applicant shall provide evidence of coverage under the General Industrial National Pollutant Discharge Elimination System, in the form of a Notice of Intent [NOI] filed with the State Water Resources Control Board.

#### TRANSPORTATION REQUIREMENTS

25. Prior to issuance of the first building permit, the applicant shall dedicate and assure by permit and bond the improvement of Towne Centre Drive from its existing terminus to the project's southeasterly boundaries with a street cross-section of 50 feet of pavement within 70 feet of right-of-way, including a cul-de-sac with radius of 55 feet of pavement within 65 feet of right-of-way. All street improvements to include full-height curb, gutter and sidewalk to the satisfaction of the City Engineer.

26. A minimum of 661 automobile off-street parking spaces (including fifty-seven Carpool and twenty-one accessible spaces) and a maximum of 716 off-street parking spaces (if the possible future parking deck shown on Exhibit "A" is constructed), ten motorcycle parking spaces, six bicycle spaces, six bike-lockers, and shower facilities shall be permanently maintained on the property within the approximate location shown on the project's Exhibit "A."

27. All on-site parking stalls and aisle widths shall be in compliance with requirements of the City's Land Development Code [LDC], and shall not be converted and/or utilized for any other purpose, unless otherwise authorized in writing by the City Manager.

28. Per the City's LDC section 142.0530 (h) Rideshare Information. All nonresidential uses with more than 100,000 square feet of gross floor area are required to provide a kiosk or bulletin board that displays information on transit use, carpooling, and other forms of ridesharing.

29. Each proposed building shall be limited to one tenant per minimum of 40,000 square-feet of gross floor area.

30. The "Future Parking Deck" shall be subject to an amendment of this Permit. The Permit amendment shall include the review and approval of a traffic/access/parking study. The study shall address the impact of any increase in the project's average daily trips [ADT] on the area's transportation network. The amendment shall also address visual issues related to the parking deck. The submittal shall include elevation plans of

the parking deck, and proposals to address visual issues, such as specific landscape and architectural elements.

**LANDSCAPE REQUIREMENTS:**

31. Prior to issuance of any grading or building permits, complete landscape construction documents, including plans, details and specifications (including maintenance specifications and a permanent automatic irrigation system unless otherwise approved), shall be submitted to the City Manager for approval. The construction documents shall be in substantial conformance with Exhibit "A." No change, modification, or alteration shall be made unless appropriate application or amendment of this Permit shall have been granted.
32. 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 and to obtain a No Fee Street Tree Permit for the installation, establishment, and on-going maintenance of all street trees. Copies of these approved documents must be submitted to the City Manager.
33. All required landscape shall be maintained in a disease, weed, and litter free condition at all times and shall not be modified or altered unless this Permit has been amended. Modifications such as severe pruning or "topping" of trees are not permitted. The trees shall be maintained in a safe manner to allow each tree to grow to its mature height and spread. The Owner/Permittee shall be responsible to maintain all street trees and landscape improvements consistent with the standards of the Land Development Manual.
34. No change, modification or alteration shall be made to the project unless appropriate application or amendment of this Permit has been granted by the City. All plan specifications and notes mentioned in the conditions below shall be consistent with LDC section 142.0401 and Landscape Standards, Exhibit "A," Landscape Development Plan, Brush Management Plan, Details and Notes on file in the Office of the Development Services.
35. The Permittee or subsequent Owner shall be responsible for the maintenance of all street trees and landscape improvements (right-of-way and median landscaping) consistent with the Landscape Standards. A Landscape Maintenance Agreement and bond shall be entered into prior to issuance of any grading or construction permit. The agreement and bond shall be renewed each year until such time that another approved entity assumes responsibility such as a Project Association or a Landscape Maintenance District.
36. If any required landscape improvements (including existing or new planting, hardscape, landscape features, etc.) are damaged or removed during demolition or construction, they shall be repaired and/or replaced in kind and equivalent size per the approved documents to the satisfaction of the City Manager, within thirty days of damage and prior to any Certificate of Occupancy.

37. Prior to issuance of any engineering permits for right-of-way improvements, complete landscape and irrigation plans on duplicates of improvement plans shall be submitted to the City Manager for approval. Plans, details and specifications (including maintenance specifications), and landscape Improvement plans shall indicate each street tree by station points and staking in the field with a lodge pole tree stake prior to any utilities stub-outs. Tree stakes shall remain in place until trees are planted.

38. All tree locations shall have a 40' square foot minimum area around each tree's root zone, which is unencumbered by utilities. Driveways, utilities, drains, water and sewer laterals shall be designed so as not to prohibit the placement of any tree. During improvement activities the locations of all trees shall be identified with a lodge pole tree stake and inspected by the field engineer prior to the installation of any wet or dry utility stub-outs and placement of any pavement.

39. Prior to issuance of any engineering permits for grading, landscape construction documents (including irrigation plans) for slope planting, erosion control, re-vegetation and hydroseeding shall be submitted to the City Manager for approval.

40. Immediate installation of slope planting and erosion control, including seeding of all disturbed land (slopes and pads) and associated irrigation systems (temporary and/or permanent) is considered to be in the public's interest. Planting of all graded slopes shall be accomplished prior to any issuance of a build permit for structures. A letter of substantial conformance from the landscape architect or designer shall be submitted to the city manager for approval.

41. In the event that a Foundation Only permit is requested by the Permittee or subsequent Owner, a staking layout plan identifying all landscape areas shall be submitted to the City Manager for approval. These landscape areas shall be clearly identified with a distinct symbol, noted with dimensions and labeled as "Planting Area (PA)."

42. Prior to issuance of any construction permits for parking structures, the Permittee shall submit on the planting and irrigation plans a signed statement by a Registered Structural Engineer indicating that supporting structures are designed to accommodate the necessary structural loads and associated planting and irrigation.

43. In the event a parking structure is proposed, the Permittee shall provide 24-inch box trees so that every parking space is within 30 feet of a tree. Planters and tree species shall be provided that comply with the City of San Diego Landscape Regulations and the Landscape Standards.

44. The Permittee shall implement the following requirements in accordance with the Brush Management Program shown on Exhibit "A," Brush Management Program/ Landscape Development Plan.

45. Prior to issuance of permits or recording of final maps, all easements or right of entry permits for the purpose of Brush Management shall be obtained.

46. Prior to issuance of any engineering permits for grading, complete Brush Management, planting and irrigation plans, details and specifications (including maintenance specifications), shall be submitted to the City Manager for approval. All plans shall indicate the brush management zone depths by dimension.

47. Through zone reduction, the Brush Management Program shall consist of one zone as follows:

APN #: 343-121-0300 [West of I-805]  
Zone One: 40 feet (minimum)

48. Within Zone One, a minimum fire rating of ONE HOUR for additions or accessory structures (including, but not limited to decks, trellises, gazebos, etc) are permitted with the approval of the Fire Marshall and the City Manager.

49. Prior to any construction or grading, it shall be the responsibility of the Permittee to schedule a pre-construction meeting on site with the contractor and the Mitigation, Monitoring & Conservation Section of the Development Services Department to discuss and outline the implementation of the Brush Management Program.

50. Prior to final inspection and issuance of any Certificate of Occupancy for any building, the approved Brush Management Program shall be implemented.

51. Zone One shall contain no combustible construction or materials that provide a means of transmitting fire to habitable structures.

52. Perimeter plant material shall visually blend the color and texture of proposed plant material with the existing hillside vegetation.

53. In the event a fountain is provided at the entry sign, the design of the sidewalk may be contiguous provided it meets other applicable regulations within Development Services.

54. Native or naturalizing landscaping shall be utilized around the perimeter of the parking lot to buffer edge effects and provide more natural transition to the adjacent natural habitat. No invasive plantings are permitted.

**PLANNING/DESIGN REQUIREMENTS:**

55. There shall be compliance with the regulations of the underlying zone unless a deviation or variance to a specific regulation(s) is approved or granted as a condition of approval of this Permit. Where there is a conflict between a condition (including exhibits) of this Permit and a regulation of the underlying zone, the regulation shall prevail unless the condition provides for a deviation or variance from the regulations. Where a condition (including exhibits) of this Permit establishes a provision which is more restrictive than the corresponding regulation of the underlying zone, then the condition shall prevail.

56. The height of the building or structure shall not exceed those heights set forth in the conditions and the exhibits (including, but not limited to, elevations and cross sections) or the maximum permitted building height of the underlying zone, whichever is lower, unless a deviation or variance to the height limit has been granted as a specific condition of this Permit.

57. A topographical survey conforming to the provisions of the SDMC may be required if it is determined, during construction, that there may be a conflict between the building(s) under construction and a condition of this Permit or a regulation of the underlying zone. The cost of any such survey shall be borne by the Permittee.

58. Any future requested amendment to this Permit shall be reviewed for compliance with the regulations of the underlying zones which are in effect on the date of the submittal of the requested amendment.

59. All signs associated with this development shall be consistent with sign criteria established by either of the following:

- a. Approved project sign plan (Exhibit "A;") or
- b. Citywide sign regulations.

60. Prior to the issuance of any building permits, complete outdoor lighting information shall be submitted to the Development Services Department, Land Development Review Division, for review and approval. Complete lighting information shall include a plan view photometric analysis indicating an isofoot candle plot and a point by point plot to include all areas within the private property and to extend a minimum of 50 feet beyond the property line, construction details as necessary to direct installation of the outdoor lighting system, manufacturers name, visors, prisms, lenses and reflectors and a lighting plan locating each fixture in plan view and a legend. The outdoor lighting system shall be designed, manufactured and installed to allow shading, adjusting, and shielding of the light source so all outdoor lighting is directed to fall only onto the same premises as light sources are located.

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

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

63. The subject property and associated common areas on site shall be maintained in a neat and orderly fashion at all times.
64. All uses, except storage and loading, shall be conducted entirely within an enclosed building. Outdoor storage of material and equipment is permitted in any required interior side or rear yard, provided the storage area is completely enclosed by walls, fences, or a combination thereof. Walls or fences shall be solid and not less than six feet in height and, provided further, that no merchandise, material or equipment stored not higher than any adjacent wall.
65. No mechanical equipment, tank, duct, elevator enclosure, cooling tower, mechanical ventilator, or air conditioner shall be erected, constructed, converted, established, altered, or enlarged on the roof of any building, unless all such equipment and appurtenances are contained within a completely enclosed structure whose top and sides may include grillwork, louvers, and latticework.
66. No merchandise, material, or equipment shall be stored on the roof of any building.
67. No mechanical equipment shall be erected, constructed, or enlarged on the roof of any building on this site, unless all such equipment is contained within a completely enclosed architecturally integrated structure.
68. Prior to the issuance of building permits, construction documents shall fully illustrate compliance with the Citywide Storage Standards for Trash and Recyclable Materials (SDMC) to the satisfaction of the City Manager. All exterior storage enclosures for trash and recyclable materials shall be located in a manner that is convenient and accessible to all occupants of and service providers to the project, in substantial conformance with Exhibit "A."

**WASTEWATER REQUIREMENTS:**

69. Prior to the issuance of any building permits, the developer shall assure, by permit and bond, the design and construction of all public sewer facilities necessary to serve this development.
70. The developer agrees to design all proposed public sewer facilities in accordance with established criteria in the City of San Diego's current Sewer Design Guide.
71. 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.

**WATER REQUIREMENTS:**

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

73. The developer agrees to design all proposed public sewer facilities in accordance with established criteria in the City of San Diego's current sewer design guide. Proposed facilities that do not meet the current standards shall be redesigned or private.

INFORMATION ONLY:

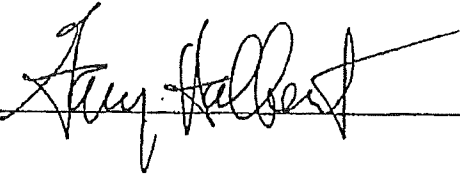
Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of this development permit, may protest the imposition within ninety days of the approval of this development permit by filing a written protest with the City Clerk pursuant to California Government Code section 66020.

APPROVED by the Council of the City of San Diego on March 1, 2005 by Resolution No. R-300181.

ORIGINAL



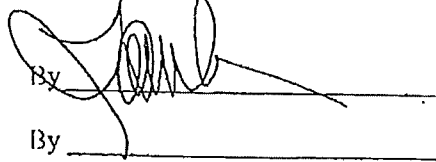
AUTHENTICATED BY THE CITY MANAGER

By 

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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.

Lawrence M. Cushman  
Owner/Permittee

By 

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

**ALL-PURPOSE ACKNOWLEDGMENT**

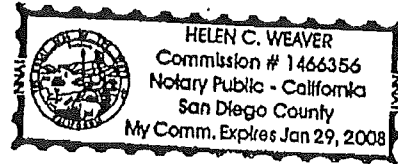
STATE OF CALIFORNIA  
COUNTY OF SAN DIEGO

On July 8, 2005 before me, Helen C. Weaver

personally appeared Lawrence M. Cushman  
personally known to me (or proved on the basis of satisfactory evidence) to be the person(x) whose name(s) is/are subscribed in the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(x), or the entity upon behalf of which the person(x) acted, executed the instrument.

WITNESS my hand and official seal,

Helen C. Weaver  
NOTARY PUBLIC IN AND FOR THE SAID STATE



**CAPACITY CLAIMED BY SIGNER**  
NAME OF PERSON(S) OR ENTITY(IES)

- INDIVIDUAL(S)
- CORPORATE \_\_\_\_\_  
OFFICER(S) \_\_\_\_\_
- PARTNER(S)
- ATTORNEY-IN-FACT
- TRUSTEE(S)
- SUBSCRIBING WITNESS
- GUARDIAN/CONSERVATOR
- OTHER Manager

**SIGNER IS REPRESENTING**  
NAME OF PERSON(S) OR ENTITY(IES)

\_\_\_\_\_  
\_\_\_\_\_  
Towne Centre Science Park  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

ATTENTION NOTARY: Although the information requested below is optional, it could prevent fraudulent attachment of this certificate to unauthorized document.

Coastal Development Permit No. 1177  
 Site Development Permit No. 2758  
 Title or Type of Document Multiple Habitat Planning Area Boundary Adjustment  
 Number of Pages Twelve (12)  
 Date of Document \_\_\_\_\_  
 Signer(s) Other Than Named Above \_\_\_\_\_

**THIS CERTIFICATE  
MUST BE ATTACHED  
TO THE DOCUMENT  
DESCRIBED AT THE RIGHT:**

This document is only a general form which may be proper for use in simple transactions and in no way acts, or is intended to act, as a substitute for the advice of an attorney. The printer does not make any warranty, either express or implied, as to the legal validity of any provision or the suitability of these forms in any specific transaction.



**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

State of California  
County of San Diego } ss.

On July 20, 2005, before me, Tracie D. Rambo-Majeed  
Date Name and Title of Officer (e.g., "Jane Doe, Notary Public")

personally appeared Gary Halbert  
Name(s) of Signer(s)

- personally known to me
- proved to me on the basis of satisfactory evidence

to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Place Notary Seal Above

Signature of Notary Public

**OPTIONAL**

*Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.*

Description of Attached Document  
Title or Type of Document: CDP # 117798 / SDP # 2758

Document Date: March 1, 2005 Number of Pages: 14

Signer(s) Other Than Named Above: \_\_\_\_\_

Capacity(ies) Claimed by Signer  
Signer's Name: Gary Halbert

- Individual
- Corporate Officer — Title(s): \_\_\_\_\_
- Partner —  Limited  General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: \_\_\_\_\_

Signer is Representing: City of San Diego

