

RESOLUTION NUMBER R-298379

ADOPTED ON SEPTEMBER 16, 2003

WHEREAS, Dr. Gerald Handler, Applicant, and Kimley-Horn and Associates, Inc., Engineer, submitted an application to the City of San Diego for a 14-lot vesting tentative map and rezone (Vesting Tentative Map No. 8182), located on the south side of Otay Mesa Road west of Corporate Center Drive, and described as a Portion of Section 32, Township 18 South, Range 1 West, in the AR-1-1 (proposed OMDD-C) Zone; and

WHEREAS, on July 17, 2003, the Planning Commission of the City of San Diego considered Vesting Tentative Map No. 8182, and pursuant to Resolution No. 3395-PC voted to recommend approval of the map; and

WHEREAS, the matter was set for public hearing on September 16, 2003, 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 this Council adopts the following findings with respect to Vesting Tentative Map No. 8182:

1. The map proposes the subdivision of a 45.5-acre site into fourteen lots for commercial development. This type of development is consistent with the General Plan and the Otay Mesa Community Plan, which designate the area for commercial use. The proposed map will retain the community's character by encouraging orderly, sequential development compatible in its intensity with surrounding existing and future land development.

2. The design and proposed improvements for the map are consistent with the zoning/development regulations of the OMDD-C Zone in that:

- a. All lots have minimum frontage on a dedicated street.
- b. All lots meet the minimum dimension requirements of the OMDD-C Zone.

c. All lots are designed so that required improvements do not result in nonconforming lots in respect to building area, setbacks, side yard and rear yard regulations.

d. Development of the site is controlled by Resource Protection Ordinance Permit No. 8163.

3. The design and proposed improvements for the subdivision are consistent with State Map Act Section 66473.1 and San Diego Municipal Code section 125.0440(g) regarding the design of the subdivision for future passive or natural heating or cooling opportunities.

4. The site is physically suitable for commercial development. The harmony in scale, height, bulk, density, and coverage of development creates a compatible physical relationship to surrounding properties for which this area has been planned.

5. The site is physically suitable for the proposed density of development. This is consistent with the community plan, which provides for commercial uses.

6. The design of the subdivision or the proposed improvements could cause substantial environmental damage or substantially and unavoidably injure fish or wildlife or their habitat. However, the project as revised now avoids or mitigates the potentially significant environmental effects based upon the findings of Mitigated Negative Declaration No. 99-0555, which is included herein by this reference.

7. The design of the subdivision and the type of improvements will not likely cause serious public health problems, in as much as needed public services and facilities are available/or required by condition of this map to provide for water and sewage facilities, as well as other related public services.

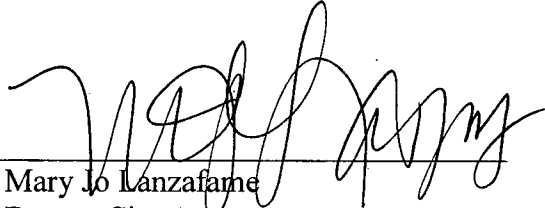
8. The design of the subdivision and the type of improvements are such that they will not conflict with any easements, acquired by the public at large, for access through or use of property within the proposed subdivision, as demonstrated by the City Engineer's request for public dedications and adequate improvement on the proposed subdivision map.

9. The Planning Commission has reviewed the adopted Housing Element, the Progress Guide, and the General Plan of the City of San Diego, and hereby finds, pursuant to section 66412.3 of the Government Code, that the housing needs of the region are being met since residential development has been planned for the area and public services programmed for installation, as determined by the City Engineer, in accordance with financing and environmental policies of the City Council.

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

BE IT FURTHER RESOLVED, that the recommendation of the Planning Commission is sustained, and Vesting Tentative Map No. 8182 is granted to Dr. Gerald Handler, Applicant, and Kimley-Horn and Associates, Inc., Engineer, subject to the conditions attached hereto and made a part hereof.

APPROVED: CASEY GWINN, City Attorney

By   
Mary Jo Lanzafame  
Deputy City Attorney

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CITY COUNCIL CONDITIONS TO TENTATIVE MAP NO. 8182  
OTAY MESA EAST PTS NO. 3159  
ADOPTED BY RESOLUTION NO. R-298379 ON SEPTEMBER 16, 2003

1. This tentative map will become effective on the effective date of the associated rezone and expire three years thereafter. Should the rezone be denied then this tentative map shall be deemed denied.
2. Compliance with all of the following conditions shall be assured, to the satisfaction of the City Engineer, prior to the recordation of the final map, unless otherwise noted.
3. Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of this tentative map, may protest the imposition within ninety days of the approval of this tentative map by filing a written protest with the City Clerk pursuant to California Government Code section 66020.
4. The final map shall conform to the provisions of Resource Protection Ordinance [RPO] Permit No. 8163.
5. The "General Conditions for Tentative Subdivision Maps," filed in the Office of the City Clerk under Document No. 767688 on May 7, 1980, shall be made a condition of map approval. Only those exceptions to the General Conditions which are shown on the tentative map and covered in these special conditions will be authorized.

All public improvements and incidental facilities shall be designed in accordance with criteria established in the Street Design Manual, filed with the City Clerk as Document No. 769830.

6. "Basis of Bearings" means the source of uniform orientation of all measured bearings shown on the map. Unless otherwise approved, this source will be the California Coordinate System, Zone 6, North American Datum of 1983 [NAD 83].
7. "California Coordinate System" means the coordinate system as defined in Sections 8801 through 8819 of the California Public Resources Code. The specified zone for San Diego County is "Zone 6," and the official datum is the "North American Datum of 1983."
8. The final map shall:
  - a. Use the California Coordinate System for its "Basis of Bearing" and express all measured and calculated bearing values in terms of said system. The angle of grid divergence from a true median (theta or mapping angle) and the north point of said map shall appear on each sheet thereof. Establishment of said Basis of Bearings may be by use of existing Horizontal Control stations or astronomic observations.

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- b. Show two measured ties from the boundary of the map to existing Horizontal Control stations having California Coordinate values of Third Order accuracy or better. These tie lines to the existing control shall be shown in relation to the California Coordinate System (i.e., grid bearings and grid distances). All other distances shown on the map are to be shown as ground distances. A combined factor for conversion of grid-to-ground distances shall be shown on the map.
9. The approval of this tentative map by the City of San Diego does not authorize the subdivider to violate any Federal, State, or City laws, ordinances, regulations, or policies, including, but not limited to, the Endangered Species Act of 1973 and any amendments thereto (16 U.S.C. § 1531 et seq.).
10. Prior to recordation of the final subdivision map by the City Council, the subdivider shall provide evidence to ensure that an affirmative marketing program is established.
11. 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 [SDMC].
12. Undergrounding of existing and proposed public utility systems and service facilities is required according to SDMC section 102.0404, subsection 2.
13. Prior to building occupancy, the applicant shall conform to section 62.0203 of the SDMC, "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.
14. The drainage system proposed for this development, as shown on the approved tentative map, is subject to approval by the City Engineer.
15. The subdivider shall obtain a bonded grading permit from the City Engineer for the grading proposed for this project. All grading shall conform to the requirements of the SDMC in a manner satisfactory to the City Engineer.
16. The applicant shall construct drainage detention basins, the design, location, and size of which are subject to approval by the City Engineer. The design shall be such that the discharge from the improved area will be no more than the discharge would have been from the land in the unimproved state. The applicant shall provide for the maintenance of the drainage detention facilities within a storage easement, satisfactory to the City

Engineer.

17. The City Engineer is making a drainage study of the Otay Mesa border area. The study will propose a method to control runoff across the U.S./Mexico border. A method of financing the design, construction, and maintenance of these facilities will be established. This applicant may be required to contribute money for this purpose through a development agreement or other means determined by the City Engineer. Prior to the issuance of any building permits, the applicant shall enter into an agreement with the City waiving the right to oppose a special assessment initiated for these improvements.
18. Development of this project shall comply with all requirements of State Water Resources Control Board [SWRCB] Order No. 99-08 and the Municipal Storm Water Permit, Order No. 2001-01 (NPDES General Permit No. CAS000002 and CA S0108758), Waste Discharge Requirements for Discharges of Storm Water Runoff Associated With Construction Activity. In accordance with said permit, a Storm Water Pollution Prevention Plan [SWPPP] and a Monitoring Program Plan shall be implemented concurrently with the commencement of grading activities, and a Notice of Intent [NOI] shall be filed with the SWRCB.
19. A copy of the acknowledgment from the SWRCB that an NOI has been received for this project shall be filed with the City of San Diego when received; further, a copy of the completed NOI from the SWRCB showing the permit number for this project shall be filed with the City of San Diego when received. In addition, the owner(s) and subsequent owner(s) of any portion of the property covered by this grading permit and by SWRCB Order No. 99-08-DWQ, and any subsequent amendments thereto, shall comply with special provisions as set forth in Section C.7 of SWRCB Order No. 99-08-DWQ.
20. The subdivider shall enter into a Maintenance Agreement for the ongoing permanent BMP maintenance, satisfactory to the City Engineer.
21. Prior to the issuance of any construction permits, the applicant 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. Street B is classified as a commercial local street. The subdivider shall dedicate 84 feet of right-of-way and shall construct 64 feet of pavement, curb gutter and a five (5)-foot-wide sidewalk. The subdivider shall also dedicate 92 feet of right-of-way for a portion of Street B and shall construct, within 200 feet of the intersection with Otay Mesa Road, 72 feet of pavement (an 18-foot southbound lane, a four (4)-foot raised center median, two (2) 12-foot northbound left turn lanes, a 12-foot northbound through lane, a 14-foot northbound through lane and a 14-foot northbound right turn lane, with curb, gutter and a

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five (5)-foot-wide sidewalk transitioning to the aforementioned 84-foot right-of-way. Finally, the subdivider shall construct, at the southern terminus of Street B, a 55-foot curb radius cul-de-sac within 65 feet of right-of-way, including curb, gutter and a five (5)-foot sidewalk.

23. Street C is classified as a commercial local street. The subdivider shall dedicate 40 feet of right-of-way along with right-of-way for a 65-foot right-of-way radius for a cul-de-sac, and shall construct the half width of Street "C" including 30 feet of pavement, curb, gutter and a five (5)-foot sidewalk within a 10-foot curb.

24. Environmental Requirements:

(a) Prior to issuance of a grading or pre-grading permit from the City of San Diego for any portion of the project site, proof of an incidental take permit under Section 7 or Section 10(a) of the Federal Endangered Species Act relative to the California gnatcatcher shall be provided to the City Manager. If such permit is not required, written verification to that effect from the U.S. Fish and Wildlife Service shall be provided. Any project redesign required in obtaining a Section 7 or 10a permit will require reconsideration by the appropriate City decision making body.

(b) The applicant shall comply with the Mitigation, Monitoring and Reporting Program (MMRP) as specified in Environmental Impact Report or Mitigated Negative Declaration, Project No. 3159, satisfactory to the City Manager and the City Engineer. Prior to issuance of any grading permits and/or building permits, mitigation measures as specifically outlined in the MMRP shall be implemented for Land Use/Biological Resources/Historical Resources (Archaeology)/Water Quality

25. Landscaping Requirements:

a. 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 the SDMC 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.

b. All required landscape plant materials shall be maintained in a disease, weed and litter free condition at all times. Severe pruning or "topping" of trees is not permitted. The trees shall be maintained in a safe manner to allow each tree to grow to it's mature height and spread.

- c. 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.
- d. 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 home owners association or a Landscape Maintenance District.
- e. 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.
- f. Prior to the issuance of any engineering permits for grading or improvement the Permittee shall complete a Maintenance Assessment District Agreement form for early confirmation.
- g. In the event that a foundation only permit is requested by the Permittee or subsequent owner, a site plan or staking layout plan shall be submitted identifying all landscape areas consistent with Exhibit "A," Landscape Development Plan, on file in the Office of Development Services. These landscape areas shall be clearly identified with a distinct symbol, noted with dimensions and labeled as landscaping area.
- h. In the event that any mass grading permit is requested by the Permittee or subsequent owner, complete landscape construction documents for revegetation and erosion control, including an automatic permanent irrigation system, shall be submitted to the Development Services Department, Land Development Review Section for approval. The plans shall be in substantial conformance to Exhibit "A", on file in the office of the Development Services.
- i. Prior to issuance of any construction permits for structures (including shell), complete landscape and irrigation construction documents consistent with the Landscape Standards (including planting and irrigation plans, details and specifications) shall be submitted to the City Manager for approval. The construction documents shall be in substantial conformance with Exhibit "A," Landscape Development Plan, on file in the Office of Development Services.



- j. In the event that any construction permit for parking structures is requested, the Permittee or subsequent owner 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.
- k. Prior to issuance of any engineering permits for right-of-way improvements, complete landscape construction documents for right-of-way improvements shall be submitted to the City Manager for approval. Improvement plans shall take into account a 40 square feet area around each tree which is unencumbered by utilities. Driveways, utilities, drains, water and sewer laterals shall be designed so as not to prohibit the placement of street trees.
- l. Prior to issuance of any engineering permits for private drive improvements, complete landscape construction documents for private drive improvements shall be submitted to the City Manager for approval. Improvement plans shall take into account a 40 square feet area around each tree which is unencumbered by utilities. Driveways, utilities, drains, water and sewer laterals shall be designed so as not to prohibit the placement of street trees.
- m. Prior to issuance of any engineering permits for grading, construction documents for slope planting (if applicable) or revegetation including hydroseeding and irrigation shall be submitted in accordance with the Landscape Standards and to the satisfaction of the City Manager. All plans shall be in substantial conformance with Exhibit "A," (including environmental conditions) on file in the Office of Development Service.
- n. Installation of slope planting and erosion control including seeding of all disturbed land (slopes and pads) consistent with the approved landscape and grading plans is considered to be in the public interest. The Permittee shall initiate such measures as soon as the grading has been accomplished. Such erosion control/slope planting and the associated irrigation systems (temporary and/or permanent) and appurtenances shall be installed in accordance with the approved plans and the Landscape Standards.
- o. 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. A No Fee Street Tree Permit, if applicable, shall be obtained for the installation, establishment and on-going maintenance of all street trees.
- p. Prior to the recording of the (parcel/final map), the Permittee or subsequent

owner/developer shall submit for review, a Landscape Maintenance Agreement for all landscape improvements within and visible from the public right-of-way. The approved Landscape Maintenance Agreement shall be recorded and bonded prior to recording of the (parcel/final map).

- q. The Permittee or subsequent owner(s) shall be responsible for the installation and maintenance of all landscape improvements consistent with the Landscape Regulation and Landscape Standards. Invasive species are prohibited from being planted adjacent to any canyon, water course, wet land or native habitats within the city limits of San Diego as noted in section 1.3 of the Landscape Standards.

26. Brush Management Requirements:

- a. The Permittee shall implement the following requirements in accordance with the Brush Management Program shown on Exhibit "A," Brush Management Program/Landscape Development Plan, on file in the Office of the Development Services Department.
- b. 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.
- c. 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 zones depths by dimension.
- d. Prior to final inspection and issuance of any Certificate of Occupancy for any building, the approved Brush Management Program shall be implemented.
- e. In all brush management zones the plant material shall be selected to visually blend with the existing vegetation. No invasive plant material shall be permitted as determined by the Landscape Section of Development Services Department.
- f. The Brush Management Maintenance Program as noted on Exhibit "A", shall be performed annually by the Permittee or subsequent owner or until such time that another approved entity such as a project association or a Landscape Maintenance District assumes annual responsibility.
- g. Provide Brush Management plants that are visually and horticulturally compatible with the native vegetation.

27. The Resource Protection Ordinance Permit No. 8163 shall comply with the conditions of

the Final Map for VTM No. 8182.

28. Transportation Requirements:

- a. The subdivider shall relinquish access rights along project frontage on Otay Mesa Road.
- b. The subdivider shall construct a second left turn lane on Otay Mesa Road at its intersection with Street "B."
- c. The subdivider shall assure by permit and bond, construction of an eastbound exclusive right turn lane with 500-feet of storage and proper transition on Otay Mesa Road at its intersections with "B" Street, satisfactory to the City Engineer.
- d. The subdivider shall assure by permit and bond, construction of private driveway "A" between Street "B" and Street "C" with 50 feet of pavement within 70 feet of private general utility easement with curb, gutter and 5-foot sidewalk on both sides of the street and raised center median at both ends of the streets within 200 feet of the intersections with Street "B" and Street "C".
- e. The subdivider shall construct half width improvements for Street "C" including 30 feet of pavement, curb, gutter and 5-foot sidewalk within a 10-foot curb to property line distance with 55-foot curb radius cul-de-sac turnaround at the southern end.
- f. The subdivider shall construct an eastbound exclusive right turn lane with 200 feet of storage and a proper transition on Otay Mesa Road at its intersection with Street "C".
- g. The subdivider shall construct a second eastbound left turn lane and one exclusive westbound right turn lane at the intersection of Otay Mesa Road and Ocean View Hills Parkway, satisfactory to the City Engineer.
- h. The subdivider shall construct a second westbound left turn lane at the intersection of Otay Mesa Road and Ocean View Hills Parkway. The subdivider may enter into a deferred improvement agreement with City of San Diego for this improvement.
- i. The subdivider shall construct the second half (western half) of Street "C" to provide 60 feet of pavement, curb, gutter and 5-foot sidewalk within a 10-foot typical curb-to-property-line distance on the west side. The subdivider may enter into a deferred improvement agreement with City of San Diego for this

improvement.

- j. The subdivider shall construct a westbound left turn lane at the intersection of Otay Mesa Road/Street "C". The subdivider may enter into a deferred improvement agreement with City of San Diego for this improvement.
- k. The subdivider shall construct a traffic signal at the intersection of Otay Mesa Road and Street "C". The subdivider may enter into a deferred improvement agreement with City of San Diego for this improvement.
- l. The subdivider shall provide an Irrevocable Offer of Dedication (IOD) for half of the cul-de-sac on Lot 12 at the western end of Camino Maquiladora with a 55-foot curb radius turnaround within 65 feet of right-of-way.

29. Wastewater Requirements:

- a. The developer shall construct the Otay Mesa Trunk Sewer Phase II or enter into a development agreement to pay their fair share cost of the trunk sewer in proportion to the ultimate zoned use of the property being developed, in accordance with the City's Sewer Design Guide.
- b. The developer shall install all sewer facilities required by the accepted sewer study, necessary to serve this development. Sewer facilities as shown on the approved tentative map will require modification based on the accepted sewer study.
- c. The developer shall design and construct all proposed public sewer facilities to the most current edition of the City of San Diego's sewer design guide. Proposed facilities that do not meet the current standards shall be re-designed.
- d. The developer shall design and construct all proposed private sewer facilities serving more than one lot to the most current edition of the City of San Diego's sewer design guide. Improvement drawings are required for private sewer facilities serving more than one lot.
- e. Prior to the issuance of any building permits, the applicant shall process and record a NOTICE & AGREEMENT for each ownership being served by a private pump station/sewer facilities which serves more than one ownership, which indemnifies the City and contains an agreement that the applicant, and successors in interest, will be responsible for the operation and maintenance of the private sewer systems.

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- f. The developer shall obtain a building permit for any private pump station serving a condominium project or more than one lot.
- g. The developer shall provide, satisfactory to the Metropolitan Wastewater Department Director, CC&Rs for the operation and maintenance of on-site private sewer facilities that serve more than one lot.
- h. No structures or landscaping, including private sewer facilities and enhanced paving, shall be installed in or over any easement or street right-of-way prior to the applicant obtaining an Encroachment Maintenance and Removal Agreement.
- i. Providing sewer for this development is dependent upon prior construction of certain portions of the Otay Mesa Trunk Sewer Phase II. If they have not been constructed when required for this development, then the construction of certain portions of these sewer facilities, as required by the City Engineer, will become off-site improvements required for this development.

30. Water Requirements:

- a. The subdivider shall design and construct a system of public 16-inch water facilities within Street "B," Street "C," and Private Driveway "A," with two points of connection to the Otay Mesa Pipeline, in a manner satisfactory to the Water Department Director and the City Engineer.
- b. The subdivider shall design and construct a public 16-inch water main extension within Otay Mesa Road, east of Street "B," to serve Lot 12 if Camino Maquiladora is not fully improved with public water facilities, in a manner satisfactory to the Water Department Director and the City Engineer.
- c. The subdivider shall install fire hydrants at locations satisfactory to the Water Department, the Fire Department and the City Engineer.
- d. The subdivider shall grant adequate water easements, including vehicular access to each appurtenance (meters, blow offs, valves, fire hydrants, etc.), over the entire Lot A, satisfactory to the Water Department Director.
- e. Grants of water easements shall be of sufficient width to accommodate a minimum 24-foot wide fully paved vehicular access road with full height curbs, and 4-feet behind curb or sidewalk. Easements shall accommodate two way traffic. Easements or lack thereof, as shown on the approved tentative map, will require modification based on standards at final engineering.

- f. The subdivider shall design and construct all irrigations systems to utilize reclaimed water in a manner satisfactory to the Water Department Director.
  - g. The subdivider agrees to design and construct all proposed public water facilities, including services, meters, and easements, in accordance with established criteria in the most current edition of the City of San Diego Water Facility Design Guidelines and City regulations, standards, and practices pertaining thereto. Water facilities, as shown on the approved tentative map, shall be modified at final engineering to comply with standards.
31. Open Space Requirements:
- a. Lots 9 and 10 shall be deeded, at no cost, to the city for open space. said lots shall be free and clear of all private encroachments, private easements, private agreements and/or liens.
  - b. An open space easement is required on the 40-foot deep Zone 2 for brush management across Lots 6, 7 and 8.
  - c. The brush management zones adjacent to Lots 6 through 8 shall be made into a separate lot and have an open space easement over Zone Two.
  - d. Brush management Zones 1, 2 and 3 or modified Zones 1 and 2 must be provided between Lot 8 and Lot 9 and Zone Two must have an open space easement. This will require a new lot and it is understood that Lot 9 will be reduced in size.
32. Multiple Species Conservation Program (MSCP) Requirements:
- a. 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. 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.

- b. 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.
- c. The applicant shall comply with the Mitigation, Monitoring and Reporting Program [MMRP] as specified in the Environmental Documentation for the "Otay Mesa East Project" (Project No. 3159, SCH No. 2003051060), satisfactory to the City Manager and the City Engineer, for the following issues areas to ensure compliance with the MSCP and MHPA Land Use Adjacency Guidelines: Land Use, Biological Resources and Water Quality.
- d. In addition, the following conditions shall apply: Operational Noise: Prior to issuance of any building occupancy permits, the sewer pump station proposed adjacent to the existing Otay Mesa Road wildlife under crossing shall be constructed, to the satisfaction of the City Manager and City Engineer, to ensure that operational noise does not impact wildlife movement, including: (1) designing the facility below-ground; (2) encasing it in concrete; (3) providing perimeter berms and native screening vegetation; and (4) shielding/directing all necessary lighting away from the MHPA.
- e. Edge Treatment: Prior to issuance of any building occupancy permits, the applicant shall construct a six-foot-high black vinyl-coated chain link fence along areas adjacent to the MHPA, including the rear of proposed Lots 6, 7 and 8, satisfactory to the City Manager and the City Engineer. The fencing shall be appropriately maintained at all times by the owner/Permittee/trustee. Any necessary future fence repairs shall be conducted in a manner which does not result in impacts to sensitive biology resource or wildlife movement.
- f. Brush Management: Prior to recordation of the first final map and/or issuance of any grading permits, the City Manager shall verify that all brush management zone 2 is located outside the limits of the on-site vernal pool watershed areas and retained within the proposed lots.
- g. Drainage: Prior to recordation of the first final map and/or issuance of any grading permits, the City Manager and City Engineer shall verify that on-site drainage for all lots, in including proposed lot no. 8, is designed to avoid discharging into the on-site vernal pool watershed areas.

- h. Prior to recordation of the first final map and/or issuance of any grading permits, the on-site MHPA shall be conserved and conveyed to the City's MHPA through either dedication in fee to the City, OR placement in a conservation easement OR covenant of easement, which is then recorded on the property. For brush management zone two and any proposed revegetation areas within the MHPA, a conservation easement would be appropriate. All other areas could be conveyed through any of the three above methods. Management of the on-site preserved MHPA shall be the responsibility of the owner/Permittee/trustee in perpetuity, unless the City accepts responsibility through dedication in fee title. Note: Any proposed dedication of land in-fee to the City outside the MHPA will require approval from the Park and Recreation Department.

FOR INFORMATION:

- This development may be subject to payment of a park fee prior to the filing of the final subdivision map in accordance with San Diego Municipal Code section 102.0406 et seq. This property is also subject to a building permit park fee in accordance with San Diego Municipal Code section 96.0401 et seq.
- This development may be subject to payment of School Impact Fees at the time of issuance of building permits, as provided by California Government Code section 53080(b) (Statutes of 1986, Chapter 887), in accordance with procedures established by the Director of Building Inspection.
- This tentative map will be subject to fees and charges based on the rate and calculation method in effect at the time of payment.
- This development will be subject to impact fees, as established by the City Council at the time of issuance of building permits.

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