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(R-2009-316)
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RESOLUTION NUMBER R-304458

DATE OF FINAL PASSAGE DEC 01 2008

WHEREAS, Melvyn V. Ingalls, Owner/Permittee, filed an application with the City of San Diego for Site Development Permit No. 320732 for phased construction of a mixed use development for 143 residential units which includes 15 affordable units, 40 commercial units and 24 industrial units known as the Ocean View Village Project No. 96580, located at 996 Otay Valley Road, and legally described as the southeast quarter of the southwest quarter of the northeast quarter of Section 29, Township 18 South, Range 1 West, San Bernardino Meridian, County of San Diego, in the Otay Mesa Community Plan area, in the AR-1-1 Zone, Airport Influence Area, and Airport Environs Overlay Zone, which is proposed to be rezoned to the RM-2-4, CN-1-2 and IL-2-1 (previously referred to as the AR-1-1 Zone); and

WHEREAS, on July 24, 2008, the Planning Commission of the City of San Diego considered Site Development Permit No. 320732, and pursuant to Resolution No. 4430-PC voted to recommend City Council approval of the permit; and

WHEREAS, under Charter section 280(a)(2) this resolution is not subject to veto by the Mayor because this matter requires the City Council to act as a quasi-judicial body and where a public hearing was required by law implicating due process rights of individuals affected by the decision and where the Council was required by law to consider evidence at the hearing and to make legal findings based on the evidence presented; and

WHEREAS, the matter was set for public hearing on DEC 01 2008, testimony having been heard, evidence having been submitted, and the City Council having fully considered the matter and being fully advised concerning the same; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that it adopts the following findings with respect to Site Development Permit No. 320732:

**A. SITE DEVELOPMENT PERMIT – SAN DIEGO MUNICIPAL CODE
[SDMC] SECTION 126.0504(a)**

1. The proposed development will not adversely affect the applicable land use plan. The 10.4 acre site located at 996 Otay Valley Road in the AR-1-1 Zone, Airport Influence Area, and Airport Environs Overlay Zone, the Robinhood Ridge Precise Plan, and the Otay Mesa Community Plan area. The existing zoning is agricultural (AR-1-1). The purpose of the AR zones is to accommodate a wide range of agricultural uses while also permitting the development of single dwelling unit homes at a very low density. Though the site is zoned agriculture, agricultural uses ceased approximately 30 years ago when the site use changed to an auto salvage yard. The property was included in the 1991 Robinhood Ridge Precise Plan which was prepared in conformance with the community plan goals. The Otay Mesa Community Plan was amended to reflect the Precise Plan approvals. The adopted Precise Plan and its accompanying Environmental Impact Report provided the basis for review of subsequent subdivision maps, and development permits within the plan area. The Precise Plan stated that the plan area was undeveloped with the exception of an existing auto salvage yard at the southeast portion, which would be relocated once development commenced. The referenced auto salvage yard is the same area proposed with the Ocean View Village project. This project proposes to change the existing agriculture zone and auto dismantling use to the three land use zones approved with the adopted Robinhood Ridge Precise Plan and Community Plan. The Precise and Community Plan designate the site for residential uses in the north, commercial use in the southwest, and industrial use in the southeast. The proposed rezone would be in conformance with these Plans.

The project proposes the subdivision of the 10.4 acre site for grading and construction of 143 residential units which includes 15 units designated as affordable housing, 40 commercial units and 24 industrial units. The subdivision would create 3 lots; Lot 1 as a 5.74 acre residential use, Lot 2 as a 2.21 acre commercial use, and Lot 3 as a 2.45 acre industrial use. The project was reviewed in the Affordable/In-Fill Housing & Sustainable Buildings Expedite Program per Council Policy 600-27 and will provide affordable housing in accordance with the City's Inclusionary Housing Ordinance (SDMC Section 142.1304). Fifteen of the residential units are designated as for rent or for sale affordable housing units to meet the Affordable Housing Requirements of the City's Inclusionary Housing Ordinance. The provision of on-site affordable housing units would also help implement the goal of the Otay Mesa Community Plan and the Robinhood Ridge Precise Plan to provide for a balanced community in terms of housing needs and economic appeal.

The property is designated for medium density at 15 to 30 dwelling units per acre for the northern half of the project per the Otay Mesa Community Plan and the Robinhood Ridge Precise Plan. The 143 proposed residential units are within the density range for multi-residential dwelling units consistent with the Precise and Community Plan and the proposed RM 2-4 and CN 1-2 zone. The commercial component of the proposed project has a Neighborhood Commercial designation intended to have a variety of retail and service uses to serve the adjacent residential areas. The Robinhood Ridge Precise Plan further states that residential uses are not

intended to be established within the commercial site without a precise plan amendment and rezone application. The proposed commercial development with commercial only and no mix of uses, would not adversely affect the commercial goals of the Otay Mesa Community Plan and the Robinhood Ridge Precise Plan.

The industrial component of the proposed project has an Industrial designation and is located within the Industrial Subdistrict of the Otay Mesa Development District and would develop in accordance with those standards. The placement of the industrial development on the rear lot would allow for residential and commercial uses to interact with pedestrians on the street frontage lots at the street level. The industrial development would occur on the rear lot with secondary access for trucks provided on the south side of the project area, helping to separate the use and associated activities from the commercial and residential uses. The proposed project's industrial development would not adversely affect the goals and objectives of the Otay Mesa Community Plan. The recently adopted General Plan provides collocation criteria for siting industrial and residential uses adjacent to one another, and City Planning & Community Investment anticipates that the criteria would be considered when determining the actual industrial uses for the site.

The Robinhood Ridge Precise Plan Design Element recommends the use of unifying design elements to create a sense of visual continuity throughout the entire plan, to provide consistent streetscape design, and to establish a harmonious design treatment of buildings. The proposed project's use of similar building materials, window treatments, awnings and trellises help to create visual continuity and harmony throughout the project site. The dwelling units along Vista Santo Domingo would provide eyes on the street and help to enhance the established neighborhood character. The landscaping plan links the mesa site's residential, commercial, and industrial land uses while incorporating the views and adjacent canyons into the project. The plant palette includes species that would frame the views, drought tolerant planting materials that would minimize irrigation upon plant establishment, and street trees and shrubs along Vista Santo Domingo that coordinate with the adjacent existing streetscape from previous development.

The urban design would include pedestrian connections, a view trail on the northwestern portion of the project, a walkway through the canyon-themed central courtyard, and enhanced paving to connect the residential with the industrial and commercial uses. Walls, a line of trees, and residential parking would help to create a buffer/transition between the residential area and the industrial/commercial areas. As recommended in the Robinhood Ridge Precise Plan Design Element, access to the commercial center from the southern Otay Corporate Center, including pedestrian and bicycle linkages would be provided.

The project proposes seven deviations from the Land Development Code, several of which could affect the Robinhood Ridge Precise Plan and the Otay Mesa Community Plan. The proposed front and side yard setbacks reductions within the residentially designated and zoned area would allow for buildings to frame the street and provide eyes on the street, providing a better sense of security while enhancing the pedestrian experience. Siting the buildings closer to the street helps implement pedestrian-oriented development and provide a more pleasing aesthetic experience, goals found in the Precise Plan, the Community Plan, and the recently adopted General Plan. The industrially designated lot is an interior lot that does not front on a public street, and the proposed street frontage deviation for the industrially designated and zoned

property would allow for treatment of the industrial area as an extension of the adjacent commercial uses and separate access, goals of the Precise Plan. The placement of the industrial development on the rear lot would allow for residential and commercial uses to interact with pedestrians at the street level, with industrial activity occurring behind the commercial uses and with separate access to minimize interaction with residential and commercial activity. The setback deviation would allow for better integration of the industrial use into the project as a whole, while providing separate access for support activities and would not adversely affect the goals and objectives of the Robinhood Ridge Precise Plan and the Otay Mesa Community Plan.

The proposed project would develop 143 dwelling units, one commercial building, and two industrial buildings on a site located in the Otay Mesa Community and Robinhood Ridge Precise Plan areas that has land use designations of Residential, Commercial, and Industrial. The proposed project would not adversely affect the goals and recommendations for land uses in the Residential, Commercial, and Industrial Elements of the Otay Mesa Community Plan and the Robinhood Ridge Precise Plan. Therefore, the proposed development would not adversely affect the applicable land use plan.

2. The proposed development will not be detrimental to the public health, safety, and welfare. The project proposes the subdivision of a 10.4 acre site for grading and construction of 143 residential units which includes 15 units designated as affordable housing, 40 commercial units and 24 industrial units. The project area is square in shape and the western boundary fronts on the unimproved portion of Vista Santo Domingo road. Access to the site is currently from the terminus of Vista Santo Domingo road at the northwest, Exposition Way at the southwest, and Innovation Drive at the southeast. The site is relatively flat and ranges in elevation from approximately 460 feet above Mean Sea Level (MSL) at a northern swale to approximately 520 feet above MSL at the top of the mesa in the central and southern portion of the property. The site drains towards the north and southwest. A variety of land uses surround the site. Open space and multiple dwelling units exist to the north, light industrial to the south, open space and auto recycling yards to the east, and open space and undeveloped property to the west.

Development of the site will require grading the entire site with the exception of the north central natural swale which contains Environmentally Sensitive Lands (ESL), to create a flat pad for structures. Since the site is fairly flat, grading would only be to depths of approximately 3 to 9 feet vertically. Grading includes remedial grading which is necessary to a depth of approximately 5 feet to mitigate for expansive and contaminated soils. Retaining walls would be constructed along the northeastern and eastern property boundaries, and would be screened by landscape and wall plantings. A Brush Management plan has been designed and will be implemented in accordance with the Precise Plan and San Diego Municipal Code. Brush Management Zones 1 and 2 were required at the northern and northeastern portion of the project adjacent to the existing hillside which descends to the north and east. Where portions of the Brush Management plan extend off-site, a recorded easement from the adjacent property owner is a permit requirement to establish and maintain the off-site zone in perpetuity.

A Water Quality Technical Report identified the anticipated pollutants and the Best Management Practices that would be implemented with project approval. Best Management Practices (BMPs) would be implemented to ensure water quality impacts would be below a level of significance. BMPs are a required feature of the project, therefore additional water quality mitigation is not necessary. The project construction plans include measures to reduce potentially

adverse impacts associated with erosion and slope instability. The project conditions require approval of an engineering permit to allow the proposed grading. The project would be constructed in accordance with engineering standards and BMP's to create a safe and stable site. The proposed development is required to obtain building permits to show that all construction would comply with all applicable building and fire code requirements.

The property was included in the amended 1991 and the final 1998 Environmental Impact Report (FEIR) No. 98-0189 for the Robinhood Ridge Precise Plan. This environmental document was intended to provide a comprehensive single environmental document that would implement the Robinhood Ridge plan. A new environmental analysis was required to be completed for the Ocean View Village project in accordance with California Environmental Quality Act (CEQA) guidelines. Staff concluded there were no new significant environmental impacts not considered in the previous FEIR, no substantial changes occurred, and there was no new information of importance. Therefore, an addendum to the FEIR was prepared in accordance with Section 15164 of the State CEQA Guidelines. Addendum No. 96580 (AEIR) to Environmental Impact Report No. 98-0189 was prepared and finalized for the project in accordance with CEQA Guidelines. A Mitigation, Monitoring, and Reporting Program (MMRP) will be implemented which would reduce, to below a level of significance, the potential environmental impacts identified from the environmental review process. The projects proposed mitigation now avoids or mitigates the following potential significant environmental effects: Transportation/Circulation, Biological Resources, Historical Resources (Archaeology), Landform Alteration/Visual Quality, Human Health and Public Safety (Hazardous Materials) and Noise.

The Robinhood Ridge FEIR found that the Precise Plan could result in trip generation volumes in excess of the existing adopted Precise Plan and could potentially result in significant impacts to the surrounding roadway network. This impact was mitigated with incorporation of fair share contributions towards transportation improvements and project specific mitigation measures. No new impacts to traffic/circulation were identified therefore the Ocean View Village project would implement the specific traffic and circulation improvements as required by the Robinhood Ridge FEIR MMRP. The Ocean View Village AEIR/MMRP No. 96580 requires as part of the first and second building Phases that the project construct off-site roadway improvements. Phase 1 requires that State Route 905 be open between Otay Mesa Road and the Otay Mesa border crossing, with all interchanges open except the Heritage Road interchange. Phase 1 also requires the construction of a traffic signal at the intersection of Avenida De Las Vistas/Otay Valley Road. Phase 2 requires the Heritage Road/State Route 905 interchange to be open, Otay Valley Road to be widened to a six lane prime arterial, and that the Otay Mesa Road/Heritage Road interchange provide a 12% fair share contribution toward one additional southbound left turn lane, re-stripe one southbound right turn lane to provide an exclusive through lane, and provide one additional northbound through lane.

The Robinhood Ridge FEIR identified potential impacts to biological resources within the Vested Tentative Map area to be less than significant. The project is within the Multiple Species Conservation Plan (MSCP), but not within though adjacent to the Multiple Habitat Planning Area (MHPA). No plant or wildlife species listed as threatened or endangered were observed within the project limits. No vernal pools were found. The project biology report mapped 0.22 acres of disturbed coastal sage scrub (Tier II upland vegetation) within the boundaries. The project would impact approximately 0.06 acres of disturbed coastal sage scrub.

Impacts to less than 0.10 acres would not be considered significant and therefore no mitigation would be required. However, the potential exists for the presence of raptors and the coastal California gnatcatcher. Potential impacts to MHPA land use adjacency guidelines, raptors and/or the gnatcatcher would be mitigated to below a level of significance by implementation of the MMRP. The MMRP mitigation requires a preconstruction survey to avoid impacts to raptors and the gnatcatcher.

The Robinhood Ridge FEIR concluded no impacts to any significant cultural resources would occur. Although no significant cultural resources were identified within the project site, due to the presence of a recorded archaeological resource within a one mile radius, a qualified archaeologist is required to monitor the site during grading in accordance with the MMRP.

The Robinhood Ridge FEIR concluded that impacts to Landform Alteration/Visual Quality to be significant at a project level of analysis due to the modification of steep, natural canyons and hillsides. The project was designed to avoid steep hillside impacts or creating large manufactured slopes. Since the site is fairly flat, grading would only be to depths of approximately 3 to 9 feet vertically. Grading includes remedial grading which is necessary to mitigate for expansive and contaminated soils and create a flat pad for structures. The project includes two retaining walls along the northern and eastern property boundaries to limit grading into steep slopes. Visual impacts of the retaining walls would not be significant as the walls would be screened with the use of landscaping, and colors to blend into the landscape. The final project design was not identified to have any significant impacts, and no additional mitigation was necessary.

The Robinhood Ridge FEIR acknowledged the potential presence of contaminated soils with the Precise Plan area. The FEIR summarized that potential soil contamination impacts would be adequately address in future discretionary actions and environmental review prior to development. Since agricultural uses ceased on site approximately 30 years ago when the site use changed to an auto salvage yard, a Phase 1 and 2 Environmental Site Assessment were necessary. The reports were prepared for the Ocean View Village project to determine the presence of soil contamination. The reports found some soil contamination and were submitted as part of the Voluntary Assistance Program (VAP) for review by the County of San Diego Department of Environmental Health (DEH). DEH concurred with the consultants recommendations. The project is required to implement the mitigation measures identified in the reports to reduce the impacts from hazardous materials to below a level of significance. Site grading includes remedial grading which is necessary to a depth of approximately 5 feet to mitigate for expansive and contaminated soils. The MMRP requires coordination with the County VAP to confirm implement and mitigation to reduce the impacts from hazardous materials to below a level of significance to protect human health and the environment.

The Robinhood Ridge FEIR found that construction activities and proposed land uses were not anticipated to result in significant increase in existing ambient noise levels, or exposure to significant future traffic noise levels. The project is within the Brown Field Airport Influence Area (AIA), and the Brown Field 60 decibel (dB) community noise equivalent level (CNEL) airport noise contour. Title 24 noise standards and the Building Permit process require construction documents fully illustrate the incorporation of building materials in the residential units to attenuate sound due to aircraft noise to the 45 dB CNEL interior noise level. A Noise Report was prepared to determine whether future traffic generated from the development would

create a noise impact to land uses adjacent to the proposed Vista Santo Domingo road. The report concluded traffic noise generated from this road would be consistent with the City's exterior noise standards and no mitigation is required. The MMRP requires an interior noise analysis to ensure the project incorporated building materials to meet the Title 24 noise standards.

The project includes mitigation measures to offset potential impacts to the environment. Therefore, the proposed development would not be detrimental to the public health, safety, and welfare.

3. The proposed development will comply with the applicable regulations of the Land Development Code. The site was previously regulated under CUP 88-0498 as an Auto Dismantling Center. The project proposes redevelopment from this auto dismantling use and the existing agricultural zone to the three approved land uses in the adopted Robinhood Ridge Precise Plan and Community Plan. The proposed redevelopment requires a Site Development Permit, Vesting Tentative Map and Rezone to construct the proposed 143 residential units, 40 commercial units and 24 industrial units. The Site Development Permit is Process 4 for development deviations as part of the Affordable/In-Fill Housing (MC 143.0920). A Site Development Permit Process 4 is necessary for subdivisions with Sensitive Biological Resources and Steep Hillides as part of Environmentally Sensitive Lands (ESL) regulations (MC 143.0110.a.1 & 2). The Vesting Tentative Map is Process 4 for a subdivision with condominium and commercial construction (MC 125.0440). The proposed Rezone to change AR1-1 to RM-2-4, CN-1-2 and IL-2-1, would be in accordance with the adopted Robinhood Ridge Precise Plan and Community Plan, and is a Process 5.

Deviations are being requested for setbacks; street frontage, drive way aisle width, retaining wall height, residential off-street loading spaces, and structure height. The Affordable/In-Fill Housing regulations allow projects to request deviations from applicable development regulations through a Site Development Permit, provided the supplemental findings can be met. Each of the requested deviations would be necessary to allow the proposed development given the site size and zoning constraints. The proposed development has otherwise been designed and conditioned to ensure conformance to the requirements of the City of San Diego Land Development Code.

The Site Development Permit is also for Environmentally Sensitive Lands (ESL) encroachment into the required buffers and resource for Steep Hillides and Sensitive Biological Resources. The northern and northeastern slope was found to meet the definition for Steep Hillides, and the north central swale the definition for Sensitive Biological Resources pursuant to the City's Land Development Code and Manual. The project grading will encroach into a small portion of each resource and the established ESL buffers.

The project request does not exceed the maximum allowed units for the proposed rezone. The project does not exceed the maximum allowed density per the Precise Plan and Community Plan. The proposed development would provide new residential housing units, commercial and industrial development in accordance with the Precise Plan and Community Plan. The development will provide additional housing for San Diego and affordable housing opportunities. Each of the requested deviations would be necessary to allow the project given the site size and zoning constraints. The proposed development has otherwise been designed and conditioned to ensure conformance to the requirements of the City of San Diego Land

Development Code. Other than the requested seven deviations, the proposed development would comply with the regulations of the Land Development Code.

B. SDP - SUPPLEMENTAL FINDINGS – ENVIRONMENTALLY SENSITIVE LANDS - SECTION 126.0504(b)

1. The site is physically suitable for the design and siting of the proposed development and the development will result in minimum disturbance to environmentally sensitive lands. The project would be constructed on property which has been disturbed by agriculture and auto dismantling uses, and is designated for residential, commercial and industrial uses in accordance with the approved Precise Plan and Community Plan. The project premises were identified as containing ESL. The northern and northeastern slope was found to meet the definition for Steep Hillside, and the north central swale the definition for Sensitive Biological Resources pursuant to the City's Land Development Code and Manual. In addition, ESL regulations require a setback to be established to buffer each resource. The project grading will encroach into a small portion of each resource and the established ESL buffers, thereby requiring a Site Development Permit for ESL.

The northern and northeastern slope was identified as a Steep Hillside. The project would grade within the required 40 foot buffer and within a small portion of the resource at the northeast corner of the property. Grading within this buffer and resource would be required for the project to grade small slopes and build retaining walls to create a flat pad to support the residential units and parking areas above the designated Steep Hillside area. The north central area covered by Steep Hillside includes coastal sage scrub which is ranked a Tier II habitat and thus is considered to be sensitive, as discussed in the environmental biology section above and in the environmental document. Approximately 0.06 acres of disturbed coastal sage scrub would be disturbed by the project construction, and the project would grade within the 100 foot buffer above the Sensitive Biological Resource. Resource impacts were less than the 0.10 acre criteria therefore were not considered significant and no mitigation was required. Grading within this resource and buffer would be required for the project to grade slopes and build retaining walls to support the residential units and parking areas above the designated Steep Hillside and Sensitive Biological Resource area. In accordance with the requirements of San Diego Municipal Code, Sections 143.0140(a) and 143.0152(a), SDP Condition No. 42 has been added which requires the applicant execute a covenant of easement to preserve the remaining Steep Slopes and Sensitive Biological Resources in the north central portion of the site. The project Vesting Tentative Map shows this area as "area to remain un-disturbed."

The Robinhood Ridge FEIR identified potential impacts to biological resources within the Vested Tentative Map area to be less than significant. The project is within the Multiple Species Conservation Plan (MSCP), but not within though adjacent to the Multiple Habitat Planning Area (MHPA). No plant or wildlife species listed as threatened or endangered were observed within the project limits. No vernal pools were found. The project biology report mapped 0.22 acres of disturbed coastal sage scrub (Tier II upland vegetation) within the boundaries. The project would impact approximately 0.06 acres of disturbed coastal sage scrub. Impacts to less than 0.10 acres would not be considered significant and therefore no mitigation would be required. However, the potential exists for the presence of raptors and the coastal California gnatcatcher. Potential impacts to MHPA land use adjacency guidelines, raptors and/or

the gnatcatcher would be mitigated to below a level of significance by implementation of the MMRP. The MMRP mitigation requires a preconstruction survey to avoid impacts to raptors and the gnatcatcher.

The projects proposed mitigation now avoids or mitigates these potential significant environmental effects. Therefore the site is physically suitable for the design and siting of the proposed development and the development would result in minimum disturbance to environmentally sensitive lands.

2. The proposed development will minimize the alteration of natural land forms and will not result in undue risk from geologic and erosional forces, flood hazards, or fire hazards. The project will minimize any encroachment into any natural landforms as the development footprint is mainly within the previous agriculture use area and the current auto salvage use area. Grading to create a flat pad for structures would include the entire site with the exception of the north central natural swale which contains Environmentally Sensitive Lands. Since the site is fairly flat, grading would only be to depths of approximately 3 to 9 feet vertically. Grading includes remedial grading which is necessary to a depth of approximately 5 feet to mitigate for expansive and contaminated soils. Retaining walls would be constructed along the northeastern and eastern property boundaries, and would be screened by landscape and wall plantings.

A geotechnical report was prepared for the project and does not identify any unusual geologic conditions posing undue risk. The project has been designed to have a factor of safety of 1.5 or greater with respect to gross and surficial slope stability. The report finds that the site is suitable for the proposed development with the implementation of the geotechnical recommendations to address the existing topsoil, expansive and contaminated soil. No earthquake faults have been mapped on or immediately adjacent to the site. The project area is not subject to flooding.

A Water Quality Technical Report was prepared for the project and identified the anticipated pollutants and the Best Management Practices that would be implemented with project approval. BMPs are a required feature of the project, therefore additional water quality mitigation is not necessary. The project would not result in fire hazards. The project has been designed to meet all fire and life safety codes. The project conditions require conformance with all building and engineering codes. Therefore, the proposed development will minimize the alteration of natural land forms and will not result in undue risk from geologic and erosional forces, flood hazards, or fire hazards.

3. The proposed development will be sited and designed to prevent adverse impacts on any adjacent environmentally sensitive lands. The project premises were identified as containing Environmentally Sensitive Lands. The northern and northeastern slope was found to meet the definition for Steep Hillside, and the north central swale the definition for Sensitive Biological Resources pursuant to the City's Land Development Code and Manual. In addition, ESL regulations require a setback to be established to buffer each resource. The project grading will encroach into a small portion of each resource and the established ESL buffers, thereby requiring a Site Development Permit for ESL. The northern and northeastern slope was identified as a Steep Hillside. The project would grade within the required 40 foot buffer and within a small portion of the resource at the northeast corner of the property. Grading within this

buffer and resource would be required for the project to grade small slopes and build retaining walls to create a flat pad to support the residential units and parking areas above the designated Steep Hillside area.

The north central area covered by Steep Hillside includes coastal sage scrub which is ranked a Tier II habitat and thus is considered to be sensitive, as discussed in the environmental biology section above and in the environmental document. Approximately 0.06 acres of disturbed coastal sage scrub would be disturbed by the project construction, and the project would grade within the 100 foot buffer above the Sensitive Biological Resource. Resource impacts were less than the 0.10 acre criteria therefore were not considered significant and no mitigation was required. Grading within this resource and buffer would be required for the project to grade slopes and build retaining walls to support the residential units and parking areas above the designated Steep Hillside and Sensitive Biological Resource area. In accordance with the requirements of San Diego Municipal Code, Sections 143.0140(a) and 143.0152(a), SDP Condition No. 42 has been added which requires the applicant execute a covenant of easement to preserve the remaining Steep Slopes and Sensitive Biological Resources in the north central portion of the site. The project VTM shows this area as "area to remain un-disturbed."

The project has been designed to avoid all on-site and off-site direct and indirect impacts to environmentally sensitive lands to the maximum extent possible. Therefore, the proposed development will be sited and designed to prevent adverse impacts on any adjacent environmentally sensitive lands.

4. The proposed development will be consistent with the City of San Diego's Multiple Species Conservation Program (MSCP) Subarea Plan. The project is not located in the City's Multiple Habitat Planning Area. The project is within the Multiple Species Conservation Plan (MSCP), and adjacent to the Multiple Habitat Planning Area (MHPA). Addendum No. 96580 to Environmental Impact Report No. 98-0189 was prepared and finalized for the project in accordance with CEQA Guidelines. A Mitigation, Monitoring, and Reporting Program (MMRP) will be implemented which would reduce, to below a level of significance, the potential environmental impacts identified from the environmental review process. The projects proposed mitigation now avoids or mitigates the potential significant environmental effects for: Transportation/Circulation, Biological Resources, Historical Resources (Archaeology), Landform Alteration/Visual Quality, Human Health and Public Safety (Hazardous Materials) and Noise. Any potential impacts to MHPA land use adjacency guidelines would be mitigated to below a level of significance by implementation of the MMRP. Therefore, the proposed development will be consistent with the City of San Diego's Multiple Species Conservation Program (MSCP) Subarea Plan.

5. The proposed development will not contribute to the erosion of public beaches or adversely impact local shoreline sand supply. The proposed project is not located on a beach or bluff and will not contribute to the erosion of public beaches. The Pacific Ocean is approximately seven miles from this project area. A Drainage Study and Water Quality Technical Report were prepared for the project. There are no existing storm drain facilities on the property. The site is relatively flat and ranges in elevation from approximately 460 feet above Mean Sea Level (MSL) at a northern swale to approximately 520 feet above MSL at the top of the mesa in the central and southern portion of the property. The site drains towards the north and southwest. Construction BMPs will minimize storm water runoff during construction and

grading activity. With the implementation of a permanent storm drain system on the site and BMPs, the project will not be a significant source of sediment or pollutants to the river or ocean. Therefore, the proposed development will not contribute to the erosion of public beaches or adversely impact local shoreline sand supply.

6. The nature and extent of mitigation required as a condition of the permit is reasonably related to, and calculated to alleviate, negative impacts created by the proposed development. The project would create affordable housing for this community on a site that previously disturbed by agricultural and auto salvage uses. The property is designated in the Precise Plan and Community Plan for residential, commercial and industrial development. The additional grading required for this project will be the minimum necessary to re-grade and stabilize this area. An environmental study and document were prepared in accordance with CEQA and a Mitigation, Monitoring and Reporting Program will be implemented which will reduce potentially adverse impacts to below a level of significance.

The northern and eastern slopes were found to meet the definition for Steep Hillsides and Sensitive Biological Resources pursuant to the City's Land Development Code and Manual. Minor encroachment into these resources will occur with the project grading and development plans. Biological impacts to coastal sage scrub are proposed, though the impact was so small that no mitigation was required. In accordance with the requirements of San Diego Municipal Code, Sections 143.0140(a) and 143.0152(a), a permit condition has been added which requires the applicant execute a covenant of easement to preserve the Steep Slopes and Sensitive Biological Resources. Therefore, the nature and extent of mitigation required as a condition of the permit is reasonably related to, and calculated to alleviate, negative impacts created by the proposed development.

C. SDP - SUPPLEMENTAL FINDINGS—DEVIATIONS FOR AFFORDABLE/IN-FILL HOUSING PROJECTS - SECTION 126.0504(m)

1. The proposed development will materially assist in accomplishing the goal of providing affordable housing opportunities in economically balanced communities throughout the City, and/or the proposed development will materially assist in reducing impacts associated with fossil fuel energy use by utilizing alternative energy resources, self-generation and other renewable technologies (e.g. photovoltaic, wind, and/or fuel cells) to generate electricity needed by the building and its occupants. The proposed project would provide 143 dwelling units within the Otay Mesa Community Plan Area and the Robinhood Ridge Precise Plan Area. The residential portion of the proposed project site has a Medium Residential designation with a density range of 15 to 30 dwelling units per acre per the Otay Mesa Community Plan and the Robinhood Ridge Precise Plan. The approximately five acres for the residential portion of the proposed project would allow the development of 75 to 150 dwelling units. The proposed project's 143 dwelling units are within the approved density range and would not adversely affect the residential density goals of the Otay Mesa Community Plan and the Robinhood Ridge Precise Plan. The dwelling units would include 143 multifamily dwelling units. To meet the requirements of the Inclusionary Housing Ordinance, approximately 11% of the total number of units, fifteen, would be Affordable units for rent to households earning no more than 65% of Area Median Income (AMI) for a period of 55 years, or for sale at

prices affordable to households making no more than 100% of the AMI. The development will provide 143 additional housing units for San Diego and 15 affordable housing opportunities.

The project includes seven deviations from the Land Development Code. Each of the seven requested deviations would be necessary to allow the proposed residential units, and the commercial and industrial development given the site size and zoning constraints. The proposed development has otherwise been designed and conditioned to ensure conformance to the requirements of the City of San Diego Land Development Code and in accordance with the Precise Plan and Community Plan. Therefore, the proposed development will materially assist in accomplishing the goal of providing affordable housing opportunities in economically balanced communities throughout the City, and/or the proposed development will materially assist in reducing impacts associated with fossil fuel energy use by utilizing alternative energy resources, self-generation and other renewable technologies (e.g. photovoltaic, wind, and/or fuel cells) to generate electricity needed by the building and its occupants.

2. The development will not be inconsistent with the purpose of the underlying zone. The project is requesting a rezone to the designated residential, commercial and industrial zoning in accordance with the approved Robinhood Ridge Precise plan and Otay Mesa Community Plan. The existing zone is agriculture. When the agriculture use ceased, the site was regulated under CUP 88-0498 as an Auto Dismantling Center. The project proposes redevelopment from this auto dismantling use and the existing agricultural zone to the three approved land uses in the adopted Robinhood Ridge Precise Plan and Community Plan. The proposed redevelopment requires a Site Development Permit, Vesting Tentative Map and Rezone to construct the proposed 143 residential units, 40 commercial units and 24 industrial units. The proposed Rezone to change AR1-1 to RM-2-4, CN-1-2 and IL-2-1, would be in accordance with the adopted Robinhood Ridge Precise Plan and Community Plan.

Deviations are being requested as part of the affordable/in-fill housing and sustainable building regulations in accordance with SDMC 143.0915 and 143.0920, pursuant to a Site Development Permit. Seven Deviations are being requested and include: street frontage, drive way aisle width, retaining wall height, residential off-street loading spaces, and structure height. The Affordable/In-Fill Housing regulations allow projects to request deviations from applicable development regulations through a Site Development Permit, provided the supplemental findings can be met. Each of the requested deviations would be necessary to allow the proposed development given the site size and zoning constraints. The proposed development has otherwise been designed and conditioned to ensure conformance to the requirements of the City of San Diego Land Development Code.

The first Deviation from SDMC Table 131-04G would reduce the front yard setback in the RM-2-4 Zone. Up to 50% of the width of the building envelope may observe the minimum 15 foot front setback, provided the remaining percentage of the building envelope width observes the standard 20 foot setback. Fifty percent or approximately 159 feet of the building envelope may observe 15 feet, and 50% or approximately 159 feet of the building envelope is required to observe 20 feet. The request provides a variable front setback ranging from 5 inches to 11 feet 8 inches for 70% of the building envelope. The proposed front yard setback would deviate 8 feet 4 inches to 19 feet 7 inches. The western residential front yard setback deviation was supported to create a more developable area for the residential affordable housing. The deviation would allow 143 residential units to be constructed in the designated multi-family residential area, provide

room to create 13 units with a detached single family appearance in the multi-family zone, provide more area for building variation, and improve the residential layout with a pedestrian environment.

The second Deviation from SDMC Table 131-04G would reduce the side yard setback in the RM-2-4 Zone. The minimum side yard setback allowed is 5 feet or 10% of the premises width, whichever is greater. The premises width is 390 feet; therefore the minimum side yard setback is 39 feet. The request provides a variable side yard setback ranging from 8-inches to 37 feet 3 inches. The proposed side yard setback would deviate 1 foot 9 inches to 38 feet 4 inches. The northern and southern residential side yard setback deviation was supported along with the above front setback deviation to create a more developable and pedestrian friendly area for the residential housing and affordable housing. The northern side yard setback deviation allows for the residential structures to be integrated with a trail system and recreational area while maintaining a buffer between the steep slopes and coastal sage scrub ESL in the northern central area. The southern side yard setback allows for a pedestrian theme with landscaping blending with the adjacent commercial and industrial uses.

The third Deviation from SDMC Table 131-06C for Industrial Zones would reduce the minimum street frontage in the IL-2-1 Zone. The minimum street frontage allowed is 75 feet. The request provides a 0 street frontage. The proposed street frontage would deviate 75 feet. The industrial street frontage deviation in the southeastern portion of the site was supported to allow the private internal streets versus public streets. The project dedicates one public right-of-way along the western project boundary, along the residential and commercial zones. No public streets border the industrial area. Street frontage requirements are at the development property line along a dedicated public right-of-way. However, the project proposes all private streets, not public streets adjacent to the industrial area; therefore this code requirement can not be met.

The fourth Deviation from SDMC Table 142-05L would increase residential drive aisle driveway width. The minimum allowed and maximum permitted are 20 and 25 feet, respectively. The request provides a variable drive-aisle width ranging from 26 to 30 feet 3 inches. The proposed increased drive-aisle width would deviate 1 to 5 feet 3 inches. The residential drive aisle width deviation was supported to accommodate fire truck turning radii based on driveway and access regulations. The increased width was necessary to meet fire and life safety access through the northern residential area.

The fifth Deviation from SDMC 142.0340(d)(1) for all Zones would exceed the retaining wall height in the required side and rear yard. Two retaining walls with a maximum height of 6 feet each are permitted in the required side and rear yard if the two retaining walls are separated by a minimum horizontal distance equal to the height of the upper wall. The request provides a variable upper retaining wall height between 6 and 12 feet with the horizontal distance between the two walls at 5 feet. The proposed height will exceed the maximum by 0 to 6 feet, and the horizontal distance separation will exceed the minimum permitted by 1 to 7 feet. The northern and eastern retaining wall height deviation was supported to create a more developable area so that the residential affordable housing adjacent would not impact steep hillsides and coastal sage scrub ESL. Allowing the taller walls with less separation creates a flatter pad area for the residential units and the recreation area. The retaining walls would be landscaped to minimize visual impacts and blend with the natural hillside and the new residential landscaping.

The sixth Deviation from SDMC Table 142-10B would not provide residential off-street loading spaces. The minimum allowed off-street loading spaces for residential development is 2 spaces. The request provides 0 off-street loading spaces. The proposed residential off-street loading spaces would deviate by 2 spaces. The off street loading space deviation was supported since an increased residential drive aisle width deviation was provided to accommodate fire truck turning radii. The increased drive aisle width would provide adequate room for loading and unloading for the northern residential development, while accommodating 143 residential units and pedestrian and recreational areas.

The seventh Deviation from SDMC Table 131-05C would exceed the maximum commercial structure height in the neighborhood commercial CN Zone. The maximum structure height allowed is 30 feet. The request provides a maximum building height of 31 feet 1 inch. The proposed building height would deviate 1 foot 1 inch. The maximum 1 foot 1 inch commercial structure height deviation was supported to allow the applicants design for functional commercial space in a two level structure. The industrial and commercial zone height limit is 30 feet, while the residential zone is 40 feet. Staff also supported the deviation as the Federal Aviation Administration (FAA) issued a no hazard to air navigation for the project, and the San Diego County Regional Airport Authority (SDCRAA) issued a consistency determination.

The proposed development would provide 143 residential units, 40 commercial units and 24 industrial units. The development will provide additional housing for San Diego, and 15 affordable housing opportunities. Each of the requested deviations would be necessary to allow the proposed development given the site size and zoning constraints. The proposed development has otherwise been designed and conditioned to ensure conformance to the requirements of the City of San Diego Land Development Code. Therefore, the development will not be inconsistent with the purpose of the underlying zone.

3. Any proposed deviations are appropriate for this location and will result in a more desirable project than would be achieved if designed in strict conformance with the development regulations of the applicable zone. The requested seven deviations are for street frontage, drive way aisle width, retaining wall height, residential off-street loading spaces, and structure height. With these seven deviations, the project request of 143 residential units does not exceed the maximum allowed density nor the maximum allowed units for the zone. Based on the project size and approved residential, commercial and industrial uses in accordance with the approved Precise Plan and Community Plan these seven deviations are the minimum necessary for developing the site.

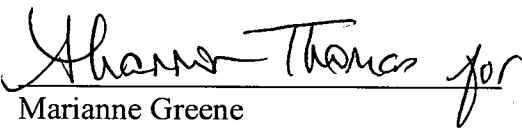
The project does not adversely affect the design guidelines and development standards in effect for this site per the adopted Robinhood Ridge Precise Plan and Otay Mesa Community Plan, the proposed Rezone from AR1-1 to RM-2-4, CN-1-2 and IL-2-1, the Subdivision Map Act, and the City of San Diego Progress Guide and General Plan. The project will meet the minimum requirements for Affordable Housing by offering 15 residential units. The project constructs half width dedication and public street improvements to connect developments on the north and south. The project creates residential, commercial and industrial uses on a site currently containing none of those designated uses. Each of the requested deviations would be necessary to allow the development given the site size and zoning constraints. The proposed

development has otherwise been designed and conditioned to ensure conformance to the requirements of the City of San Diego Land Development Code. Therefore, the proposed deviations are appropriate for this location and will result in a more desirable project than would have been achieved if designed in strict conformance with the development regulations of the applicable zone.

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 Site Development Permit No. 320732 is granted to Melvyn V. Ingalls, Owner/Permittee, under the terms and conditions set forth in the permit attached hereto and made a part hereof.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By 
Marianne Greene
Deputy City Attorney

MR:als
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12/04/08 Rev.Copy
Or.Dept:DSD
R-2009-316
MMS#6737

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

WHEN RECORDED MAIL TO
CITY CLERK
MAIL STATION 2A

SPACE ABOVE THIS LINE FOR RECORDER'S USE

JOB ORDER NUMBER 42-6098

SITE DEVELOPMENT PERMIT NO. 320732
OCEAN VIEW VILLAGE – PROJECT NO 96580 [MMRP]
CITY COUNCIL

This Site Development Permit No. 320732 is granted by the City Council of the City of San Diego to Melvyn V. Ingalls, Owner/Permittee, pursuant to San Diego Municipal Code [SDMC] sections 126.0504.a., 126.504.b. and 126.0504.m. The 10.4 acre site is located at 996 Otay Valley Road in the AR-1-1 Zone (proposed RM-2-4, CN-1-2 and IL-2-1), Airport Influence Area, and Airport Environs Overlay Zone of the Otay Mesa Community Plan. The project site is legally described as the southeast quarter of the southwest quarter of the northeast quarter of Section 29, Township 18 South, Range 1 West, San Bernardino Meridian, County of San Diego.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee for phased construction of a mixed use development for 143 residential units which includes 15 affordable units, 40 commercial units and 24 industrial units, described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated December 1, 2008, on file in the Development Services Department.

The project shall include:

- a. Demolition of an existing auto dismantling facility;
- b. Grading and construction for one hundred forty three (143) residential units in twenty three 3-story buildings totaling 224,381 square feet, forty (40) commercial units in one 2-story building totaling 40,678 square feet, and twenty four (24) industrial units in two one-story buildings totaling 37,850 square feet;
- c. Two (2) Phased Development: The first phase includes 107 multi-family residential units; the second phase includes 36 multi-family dwelling units, and the commercial and industrial buildings;

- d. Fifteen (15) of the residential units are designated as for rent or for sale affordable housing units per the Affordable Housing Requirements of the City's Inclusionary Housing Ordinance;
- e. Seven (7) Deviations: 1. To allow a front yard setback ranging from 5 inches to 11 feet 8 inches for 70% of the building envelope in the RM-2-4 Zone, where a 15 and 20 foot setback would be required for 50% of the building envelope, respectively; 2. To allow a side yard setback ranging from 8 inches to 37 feet 3 inches in the RM-2-4 Zone, where a 39 foot setback would be required; 3. To allow a zero street frontage in the IL-2-1 Zone, where 75 feet would be required; 4. To allow a variable drive aisle driveway width ranging from 26 to 30 feet 3 inches, where a 20 foot minimum and 25 foot maximum would be required per SDMC Table 412-05L; 5. To allow a variable upper retaining wall height in the side and rear yard ranging from 6 to 12 feet with a distance of 5 feet from the lower wall, where a maximum height of 6 feet would be required per SDMC 142.0340(d)(1); 6. To allow zero residential off street loading spaces, where 2 would be required per SDMC Table 142-10B; and 7. To allow a maximum building height of 31 feet 1 inch in the CN Zone, where 30 feet would be required;
- f. Landscaping (planting, irrigation and landscape related improvements);
- g. Off-street parking; and
- h. Accessory improvements determined by the Development Services Department to be consistent with the land use and development standards in effect for this site per the adopted community plan, California Environmental Quality Act Guidelines, public and private improvement requirements of the City Engineer, the underlying zone(s), conditions of this Permit, and any other applicable regulations of the SDMC in effect for this site.

STANDARD REQUIREMENTS:

1. This permit must be utilized within thirty-six (36) months after the date on which all rights of appeal have expired. Failure to utilize and maintain utilization of this permit as described in the SDMC will automatically void the permit unless an Extension of Time has been granted. Any such Extension of Time must meet all SDMC requirements and applicable guidelines in affect at the time the extension is considered by the appropriate decision maker.
2. No permit for the construction, occupancy or operation of any facility or improvement described herein shall be granted, nor shall any activity authorized by this Permit be conducted on the premises until:
 - a. The Owner/Permittee signs and returns the Permit to the Development Services Department; and

- b. The Permit is recorded in the Office of the San Diego County Recorder.
3. Unless this Permit has been revoked by the City of San Diego the property included by reference within this Permit shall be used only for the purposes and under the terms and conditions set forth in this Permit unless otherwise authorized by the Development Services Department.
4. This Permit is a covenant running with the subject property and shall be binding upon the Owner/Permittee and any successor or successors, and the interests of any successor shall be subject to each and every condition set out in this Permit and all referenced documents.
5. The continued use of this Permit shall be subject to the regulations of this and any other applicable governmental agency.
6. Issuance of this Permit by the City of San Diego does not authorize the Owner/Permittee for this permit to violate any Federal, State or City laws, ordinances, regulations or policies including, but not limited to, the Endangered Species Act of 1973 [ESA] and any amendments thereto (16 U.S.C. § 1531 et seq.).
7. The Owner/Permittee shall secure all necessary building permits. The Owner/Permittee is informed that to secure these permits, substantial modifications to the building and site improvements to comply with applicable building, fire, mechanical and plumbing codes and State law requiring access for disabled people may be required.
8. Construction plans shall be in substantial conformity to Exhibit "A." No changes, modifications or alterations shall be made unless appropriate application(s) or amendment(s) to this Permit have been granted.
9. All of the conditions contained in this Permit have been considered and have been determined to be necessary in order to make the findings required for this Permit. It is the intent of the City that the holder of this Permit be required to comply with each and every condition in order to be afforded the special rights which the holder of the Permit is entitled as a result of obtaining this Permit.

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

10. The applicant shall defend, indemnify, and hold harmless the City, its agents, officers, and employees from any and all claims, actions, proceedings, damages,

judgments, or costs, including attorney's fees, against the City or its agents, officers, or employees, relating to the issuance of this permit including, but not limited to, any action to attack, set aside, void, challenge, or annul this development approval and any environmental document or decision. The City will promptly notify applicant of any claim, action, or proceeding and, if the City should fail to cooperate fully in the defense, the applicant shall not thereafter be responsible to defend, indemnify, and hold harmless the City or its agents, officers, and employees. The City may elect to conduct its own defense, participate in its own defense, or obtain independent legal counsel in defense of any claim related to this indemnification. In the event of such election, applicant shall pay all of the costs related thereto, including without limitation reasonable attorney's fees and costs. In the event of a disagreement between the City and applicant regarding litigation issues, the City shall have the authority to control the litigation and make litigation related decisions, including, but not limited to, settlement or other disposition of the matter. However, the applicant shall not be required to pay or perform any settlement unless such settlement is approved by applicant.

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

ENVIRONMENTAL/MITIGATION REQUIREMENTS:

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

13. The mitigation measures specified in the Mitigation Monitoring and Reporting Program, and outlined in the Addendum to Environmental Impact Report No. 98-0189, No. 96580, shall be noted on the construction plans and specifications under the heading ENVIRONMENTAL/MITIGATION REQUIREMENTS.

14. The Owner/Permittee shall comply with the Mitigation, Monitoring, and Reporting Program (MMRP) as specified in the Addendum to Environmental Impact Report No. 98-0189, No. 96580, satisfactory to the Development Services Department and the City Engineer. Prior to issuance of the first grading permit, all conditions of the MMRP shall be adhered to, to the satisfaction of the City Engineer. All mitigation measures as specifically outlined in the MMRP shall be implemented for the following issue areas:

Transportation/Circulation, Biological Resources, Historical Resources (Archaeology), Landform Alteration/Visual Quality, Human Health and Public Safety (Hazardous Materials) and Noise.

15. Prior to issuance of any construction permit, the Owner/Permittee shall pay the Long Term Monitoring Fee in accordance with the Development Services Fee Schedule

to cover the City's costs associated with implementation of permit compliance monitoring.

AFFORDABLE & SUSTAINABLE HOUSING REQUIREMENTS:

16. Prior to issuance of building permits for any residential building, the Owner/Permittee or Subsequent Owner shall submit a letter from the "Certified Green Point Rater" stating that the construction drawings are in accordance with a Green Point Rated Home (50 points minimum) based on the Build it Green program, to the satisfaction of the Development Services Department.

17. The project is subject to the Inclusionary Housing Ordinance (Chapter 14, Article 2, Division 13 of the Land Development Code). To meet the requirements of the Inclusionary Housing Ordinance, the applicant shall provide at least 10% of the units as affordable housing; (a) rents affordable to households earning no more than 65% of Area Median Income (AMI) for a period of 55 years, or b) sales prices affordable to households earning no more than 100% of AMI. Prior to receiving the first residential building permit, the Owner/Permittee shall enter into an agreement with the San Diego Housing Commission to assure that the affordable units are built and occupied by eligible households.

ENGINEERING REQUIREMENTS:

18. The Permit shall comply with the conditions of Vesting Tentative Map No. 314829 and the Final Map.

LANDSCAPE REQUIREMENTS:

19. All landscape irrigation construction plans, details and notes shall demonstrate the installation of an acceptable reclaimed water irrigation system and the installation of all purple pipe connections for future reclaimed water irrigation service. At the time that reclaimed water service becomes available at the site, the Permittee or Subsequent Owner shall demonstrate that the reclaimed water (i.e. purple pipes) for landscaping is consistent with the City of San Diego's Reclaimed Water Program and the Land Development Manual, Landscape Standards which are effective at the time of installation of purple pipe. The Permittee or Subsequent Owner shall be responsible for obtaining all required approvals and inspections necessary for connecting the irrigation system to the future reclaimed water supply within one year of the reclaimed water service becoming available at the site.

20. Prior to issuance of any construction permits for grading, the Owner/Permittee or Subsequent Owner shall submit landscape construction documents for the revegetation and hydroseeding of all disturbed land in accordance with the Land Development Manual Landscape Standards and to the satisfaction of the Development Services Department. All plans shall be in substantial conformance to this permit (including Environmental conditions) and Exhibit "A" on file in the Office of the Development Services Department.

21. Prior to issuance of any construction permits for public right-of-way improvements, the Owner/Permittee or Subsequent Owner shall submit complete landscape construction documents for right-of-way improvements to the Development Services Department for approval. Improvement plans shall take into account a 40 square foot 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.
22. Prior to issuance of any construction permits for buildings, the Owner/Permittee or Subsequent Owner shall submit complete landscape and irrigation construction documents consistent with the Land Development Manual Landscape Standards to the Development Services Department for approval. The construction documents shall be in substantial conformance with Exhibit "A," Landscape Development Plan, on file in the Office of the Development Services Department. Construction plans shall take into account a 40 square foot area around each tree.
23. Prior to issuance of any Certificate of Occupancy, it shall be the responsibility of the Owner/Permittee or Subsequent Owner to install all required landscape and obtain all required landscape inspections. A "No Fee" Street Tree Permit shall be obtained for the installation, establishment, and on-going maintenance of all street trees.
24. The Owner/Permittee or Subsequent Owner shall maintain all landscape in a disease, weed and litter free condition at all times. Severe pruning or "topping" of trees is not permitted. The trees shall be maintained in a safe manner to allow each tree to grow to its mature height and spread.
25. The Owner/Permittee or Subsequent Owner shall be responsible for the maintenance of all landscape improvements in the right-of-way consistent with the Land Development Manual Landscape Standards unless long-term maintenance of said landscaping will be the responsibility of a Landscape Maintenance District or other approved entity. In this case, a Landscape Maintenance Agreement shall be submitted for review by a Landscape Planner.
26. If any required landscape (including existing or new plantings, hardscape, landscape features, etc.) indicated on the approved construction document plans is damaged or removed during demolition or construction, the Owner/Permittee or Subsequent Owner is responsible to repair and/or replace any landscape in kind and equivalent size per the approved documents to the satisfaction of the Development Services Department within 30 days of damage or prior to a Certificate of Occupancy.
27. The Owner/Permittee or Subsequent Owner shall ensure that all proposed landscaping, especially landscaping adjacent to native habitat, shall not include exotic plant species that may be invasive to native habitats. Plant species found within the California Invasive Plant Council's (Cal-IPC) Invasive Plant Inventory and the City of San Diego's Land Development Manual Landscape Standards are prohibited.

BRUSH MANAGEMENT PROGRAM REQUIREMENTS:

28. Prior to issuance of Grading or Building Permits for Phase One, a "Recorded Easement(s)" shall be granted by the adjacent property owner(s) to the owner of the subject property to establish and maintain Brush Management Zone 2 on the adjacent northern and northeastern property(s) in perpetuity per Section 142.0412(c) of the Land Development Code.

29. The Owner/Permittee or Subsequent Owner shall implement the following requirements in accordance with the Brush Management Program shown on Exhibit "A" Brush Management Plan on file in the Office of the Development Services Department.

30. Prior to issuance of any construction permits for Grading, Landscape Construction Documents required for the construction permit shall be submitted showing the Brush Management Zones on the property in substantial conformance with Exhibit "A."

31. Prior to issuance of any construction permits, a complete set of Brush Management Construction Documents shall be submitted for approval to the Development Services Department and the Fire Marshall. The construction documents shall be in substantial conformance with Exhibit "A" and shall comply with the Uniform Fire Code, M.C. 55.0101; the Land Development Manual, Landscape Standards; and the Land Development Code, Landscape Regulations Section 142.0412 (Ordinance 19413).

32. The Brush Management Program shall consist of Two Standard Zones consistent with the Brush Management Regulations of the Land Development Code Section 142.0412 as follows:

Southeast Quarter of the Southwest Quarter of the Northeast Quarter of Section 29, Township 18 South, Range 1 West, San Bernardino Meridian, in the County and City of San Diego, shall have a Standard Zone One of 35 feet and a portion of the standard 65 foot Zone Two. The remaining portion of the standard 65 foot Zone Two shall be within an off-site dedicated Brush Management Easement.

The northwest portion of the Brush Management Zones shall have a reduced Zone Two to 41 feet and an increased Zone One to 51 feet in compliance with Section 142.0412(f) of the Land Development Code, Brush Management Requirements, which states the following:

"The Zone Two width may be decreased by 1½ feet for each 1 foot of increase in Zone One width up to a maximum reduction of 30 feet of Zone Two width."

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

34. The following note shall be provided on the Brush Management Construction Documents: "It shall be the responsibility of the Permittee to schedule a pre-construction meeting on-site with the contractor and the Development Services Department to discuss and outline the implementation of the Brush Management Program."
35. In Zone One, plant material shall be selected to visually blend with the existing hillside vegetation. No invasive plant material shall be permitted as jointly determined by the Landscape Analysis Section (LAS) and the Environmental Analysis Section (EAS).
36. All new Zone Two plantings shall be temporarily irrigated with an above ground irrigation system until established. Zone Two shall be maintained on a regular basis by pruning and thinning plants, removing weeds, and maintaining the temporary irrigation system. Only native vegetation shall be planted or hydroseeded. If Zone Two is being revegetated, 50% of the planting area shall be seeded with material that does not grow taller than 24 inches.
37. Prior to final inspection and issuance of any Certificate of Occupancy, the approved Brush Management Program shall be implemented.
38. The Brush Management Program shall be maintained at all times in accordance with the City of San Diego's Land Development Manual, Landscape Standards.
39. All Brush Management including possible revegetation and erosion control of Brush Management Zone Two shall take place in Phase 1 of the proposed project phasing plan, and in accordance with the City of San Diego's Land Development Code.

PLANNING/DESIGN REQUIREMENTS:

40. Prior to the issuance of any building permits, the Owner/Permittee shall grant to the City of San Diego an avigation easement on the Final Map for the purpose of maintaining all aircraft approach paths to Brown Field. This easement shall permit the unconditioned right of flight of aircraft in the federally controlled airspace above the subject property. This easement shall identify the easement's elevation above the property and shall include prohibitions regarding use of and activity on the property that would interfere with the intended use of the easement. This easement may require the grantor of the easement to waive any right of action arising out of noise associated with the flight of aircraft within the easement.
41. Prior to submitting building plans to the City for review, the Owner/Permittee shall place a note on all building plans indicating that an avigation easement has been granted across the property. The note shall include the County Recorder's recording number for the Final Map avigation easement.
42. Prior to the issuance of any building permits, the Owner/Permittee shall provide a valid "Determination of No Hazard to Air Navigation" issued by the Federal Aviation Administration (FAA).

43. Prior to the issuance of Building Permits, construction documents shall fully illustrate the incorporation of building materials in the residential units to attenuate sound due to aircraft noise to the 45 dB CNEL interior noise level.

44. In accordance with the requirements of San Diego Municipal Code, Sections 143.0140(a) and 143.0152(a) the Owner/Permittee shall execute a covenant of easement prior to the issuance of any Building Permits, recorded against the title to the affected premises and executed in favor of the City. The Owner/Permittee shall draft the covenant of easement as follows: a) To contain a description of the premises affected by the permit with a description of the Steep Slopes and Sensitive Biological Resources that will be preserved in the north central portion of the site, shown on the Vesting Tentative Map as the "area to remain un-disturbed;" and b) To impart notice to all persons to the extent afforded by the recording laws of the state regarding the restrictions affecting the use of the environmentally sensitive lands covered by the permit; and c) To insure that the burdens of the covenant shall be binding upon, and the benefits of the covenant shall inure to, all successors in interest to the affected premises; and d) To ensure enforceability of the covenant of easement by the City.

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

46. All signs associated with this development shall be consistent with sign criteria established by either the approved Exhibit "A" or City-wide sign regulations.

47. The Owner/Permittee shall post a copy of the approved discretionary permit or Vesting Tentative Map in the sales office for consideration by each prospective buyer.

48. All private outdoor lighting shall be shaded and adjusted to fall on the same premises where such lights are located and in accordance with the applicable regulations in the SDMC.

TRANSPORTATION REQUIREMENTS

49. No fewer than 557 automobile spaces, 18 accessible spaces, 25 motorcycle spaces, and 39 bicycle spaces, shall be permanently maintained on the property within the approximate location shown on the project's Exhibit "A". Parking spaces shall comply at all times with the SDMC and shall not be converted for any other use unless otherwise authorized by the Development Services Department.

50. Prior to the issuance of any building permits, the Owner/Permittee shall dedicate 30 feet along the property frontage for the Vista Santo Domingo right-of-way, satisfactory to the City Engineer.

51. Prior to the issuance of any building permits, the Owner/Permittee shall assure by permit and bond, half width improvements along the property frontage on Vista Santo Domingo including 20 feet of pavement with the appropriate transition to connect to

Exposition Way, curb, gutter and 5-foot wide sidewalk within 10-foot curb to property line distance as shown on Exhibit "A", satisfactory to the City Engineer.

52. Prior to the issuance of any building permits, the Owner/Permittee shall provide and, assure by permit and bond, roadway striping on Exposition Way at the cul-de-sac location as shown on improvement plan Drawing # 32542-D, satisfactory to the City Engineer.

53. Prior to the issuance of any Building Permits for the first Phase which includes 107 multi-family residential units, the following roadway improvement shall be assured: State Route 905 open between Otay Mesa Road and Otay Mesa border crossing, with all interchanges open except the Heritage Road interchange.

54. Prior to the issuance of any Building Permits for the first Phase which includes 107 multi-family residential units, the Owner/Permittee shall assure by permit and bond the construction of a traffic signal at the intersection of Avenida De Las Vistas/Otay Valley Road, satisfactory to the City Engineer.

55. Prior to the issuance of any Building Permits for the second Phase which includes 36 multi-family dwelling units, and all commercial and industrial buildings, the following roadway improvements shall be assured: The Heritage Road/State Route 905 interchange is open; Otay Valley Road widened to a six lane prime arterial; and the following for Otay Mesa Road/Heritage Road: Provide a 12% fair share contribution toward one additional southbound left turn lane, re-stripe one southbound right turn lane to provide an exclusive through lane, and one additional northbound through lane.

WASTEWATER REQUIREMENTS:

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

WATER REQUIREMENTS:

57. Prior to the issuance of any Building Permits, the Owner/Permittee will be required to provide an acceptable Water Study to determine the appropriate public water facilities and pressure zones necessary to serve the proposed development. The study should include a construction phasing plan to ensure meeting the City's standards regarding redundancy. The study is a condition of the Vesting Tentative Map and must be accepted prior to the approval of any public improvement plans.

58. Prior to the issuance of any Building Permits, the Owner/Permittee shall provide proof that the existing 12 inch water main in Vista Santo Domingo connects to the existing 16 inch water main in Exposition Way. If these water mains are not connected, then the Owner/Permittee will be required as a condition of the Vesting Tentative Map and Site Development Permit to connect these water mains.

59. Prior to the issuance of any Building Permits, the Owner/Permittee shall assure, by permit and bond, the design and construction of a new water service(s) outside of any driveway, in a manner satisfactory to the Water Department Director and the City Engineer.
60. Prior to the issuance of any Building Permits, the Owner/Permittee will be required to provide an Encroachment Maintenance and Removal Agreement (EMRA) for the proposed on site public water system.
61. Prior to the issuance of any Building Permits, the Owner/Permittee shall apply for a plumbing permit for the installation of appropriate private back flow prevention device(s) on each water service serving the project, in a manner satisfactory to the Water Department Director and the City Engineer.
62. Prior to the issuance of any Certificates of Occupancy, the Owner/Permittee shall install fire hydrants at locations satisfactory to the Fire Department, the Water Department Director and the City Engineer. If more than two (2) fire hydrants or thirty (30) dwelling units are located on a dead-end main then the Subdivider shall install a redundant water system satisfactory to the Water Department Director.
63. Prior to the issuance of any Building Permits, the Owner/Permittee shall grant adequate water easements over all public water facilities that are not located within fully improved public rights-of-way, satisfactory to the Water Department Director and the City Engineer. Easements, as shown on approved Exhibit "A", will require modification based on standards at final engineering.
64. Prior to the issuance of any Building Permits, the Owner/Permittee shall provide keyed access to the Water Operations Division, in a manner satisfactory to the Water Department Director, on each gate located within any easement containing public water facilities. The City will not hold responsible for any issues that may arise relative to the availability of keys.
65. Prior to the issuance of any Certificates of Occupancy, public water facilities necessary to serve the development, including services, shall be complete and operational in a manner satisfactory to the Water Department Director and the City Engineer.
66. The Owner/Permittee agrees to design and construct all proposed public water facilities in accordance with established criteria in the most current edition of the City of San Diego Water Facility Design Guidelines and City regulations, standards and practices pertaining thereto. Public water facilities, as shown on approved Exhibit "A", shall be modified at final engineering to comply with standards.
67. Providing water for this development is dependent upon prior construction of certain water facilities in previously approved developments in this area. If these facilities have not been constructed when required for this development, then the construction of certain portions of these previously approved water facilities, as required by the City Engineer, will become off site improvements required for this development.

INFORMATION ONLY:

- Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of this development permit, may protest the imposition within ninety days of the approval of this development permit by filing a written protest with the City Clerk pursuant to California Government Code §66020.
- This development may be subject to impact fees at the time of construction permit issuance.

APPROVED by the City Council of the City of San Diego on December 1, 2008 and Resolution No. R- 304458.

AUTHENTICATED BY THE DEVELOPMENT SERVICES DEPARTMENT

By _____

Diane Murbach
Development Project Manager

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

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.

MELVYN V. INGALLS
Owner/Permittee

By _____
Melvyn V. Ingalls

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

*Revised 12/04/08

2008 DEC 30 11:23