

RESOLUTION NUMBER R- 307597

DATE OF FINAL PASSAGE JUL 23 2012

A RESOLUTION OF THE COUNCIL OF THE CITY OF
SAN DIEGO APPROVING SITE DEVELOPMENT PERMIT
NO. 025170 FOR THE SOUTHVIEW PROJECT NO. 2204.

WHEREAS, SOUTHVIEW, LLC, a California Limited Liability Corporation,
Owner/Permittee, filed an application with the City of San Diego for a Tentative Map and Site
Development Permit No. 025170 to subdivide 21.443 acres of a 42.62-acre parcel into three lots
for the future development of 538 residential condominium units and create a 21.174 Remainder
Parcel on portions of a 42.62-acre site; and

WHEREAS, the project site is located at the southeast corner of Caliente Avenue and
Airway Road, east of Caliente Avenue, south of Otay Mesa Road and west of Spring Canyon in
the AR-1-1 zone, which is proposed to be rezoned to RM-2-6, and within the Airport Environs
Overlay Zone of the Otay Mesa Community Plan; and

WHEREAS, the project site is legally described as a portion of the SE ¼ of the NE ¼ of
Section 31, T18S, R1W, and a portion of the WLY ½ of the NW ¼ Section of 32, T18S, R1W,
SBBM of San Diego County; and

WHEREAS, on May 17, 2012, the Planning Commission of the City of San Diego
considered Site Development Permit No. 025170 pursuant to the Land Development Code of the
City of San Diego and pursuant to Resolution No. 4804-PC voted to recommend approval to the
City Council; 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

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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 JUL 23 2012,

testimony having been heard, evidence having been submitted and the City Council having full considered the matter and being fully advised concerning the same; NOW, THEREFORE,

BE IT RESOLVED, by the City Council of the City of San Diego, that it adopts the following findings with respect to Site Development Permit No. 025170:

A. Findings For All Site Development Permits:

1. The proposed development will not adversely affect the applicable land use plan. The proposed project is a Rezone, Site Development Permit for environmentally sensitive lands, and a Tentative Map to subdivide 21.443 acres of a 42.62-acre site into three lots for the future development of a maximum of 538 residential condominium units. The remaining 21.174 acres is a Remainder Parcel where no development will occur. The lot sizes and proposed densities of the proposed lots are as follows: Lot 1: 5.068 acres - 152 units; Lot 2: 7.011 acres - 210 units; and, Lot 3: 5.881 acres - 176 units; Remainder Parcel: No development. Project implementation includes the construction of public roadway/right-of-way improvements and private infrastructure to support the development footprint. Conceptual architectural plans are included in the Owners set of proposed plans to guide future ministerial development of each lot. These conceptual plans outline the general style, bulk, and scale of the surrounding developments for purposes of complementing the existing "Spanish" architecture style, to ensure compliance with the proposed RM-2-6 rezone, and consistency with the community plan recommendations. The property is zoned AR-1-1 and is proposed to be rezoned to RM-2-6 (Rezone No. 025168).

The site is designated for Medium Residential development within the Otay Mesa Community Plan. The Medium Residential land use designation has a density range of 15-30 dwelling units per acre. The rezone to RM-2-6 would allow up to 35 dwelling units per acre. The Otay Mesa Community Plan would allow a developable range of 269-538 multi-family dwelling units on the site. As such, the proposed subdivision and rezone of the approximately 21.443 acres to RM-2-6 with allowable dwelling units per acre of 35 is capped at 30 dwelling units per acre as conditioned by the Site Development Permit. Thus, making it consistent with the density range of the Otay Mesa Community Plan. The Remainder Parcel will continue to be left undeveloped. With the adoption of Rezone No. 025168 associated with this action, the proposed development would be consistent with the policies, goals, and objectives of the Otay Mesa Community Plan. Therefore, the proposed project will not adversely affect the applicable land use plan.

2. The proposed development will not be detrimental to the public health, safety, and welfare. The proposed project is a Rezone, Site Development Permit for

environmentally sensitive lands, and a Tentative Map to subdivide 21.443 acres of a 42.62-acre site into three lots for the future development of a maximum of 538 residential condominium units. The remaining 21.174 acres is a Remainder Parcel not included for development. The lot sizes and proposed densities of the proposed lots are as follows: Lot 1: 5.068 acres - 152 units; Lot 2: 7.011 acres – 210 units; and, Lot 3: 5.881 acres - 176 units; Remainder Parcel: No development. Project implementation includes the construction of public roadway/right-of-way improvements and private infrastructure to support the development footprint. Conceptual architectural plans are included in the Owners set of proposed plans to guide future ministerial development of each lot. These conceptual plans outline the general style, bulk, and scale of the surrounding developments for purposes of complementing the existing “Spanish” architecture style, to ensure compliance with the proposed RM-2-6 zone, and consistency with the community plan recommendations. The Owner/Permittee has requested to rezone the project from AR-1-1 to RM-2-6 (Rezone No. 025168). The site is designated for Medium Residential development within the Otay Mesa Community Plan. Surrounding developments are the San Ysidro High School directly across Caliente Avenue to the west and State Route 905, which is currently under construction to the north.

The proposed development required the preparation of a number of technical studies including: biological and archaeological resources surveys, a sewer study, water quality technical report, traffic study, water supply assessment, greenhouse gas emissions report, air quality report, and a noise study. These reports concluded that the proposed project with the project design features and implementation of applicable mitigation measures would not adversely impact these issue areas. As such, there are no site or design constraints that would prevent the proposed project from being suitable for development. Some of these site specific project design features include additional fencing, building setbacks, and buffer requirements.

An air quality technical report was prepared for the project, which concluded that due to the proximity of the proposed development to SR-905 and the potential for air quality risks from vehicle emissions, a 50-foot buffer is required from the nearest building on Lot 1 to the SR-905 right-of-way (*Air Quality Technical Report*, by Jones and Stokes October 2006). Within the 50-foot buffer, design measures are required on the appropriate building elevations as well as heating and air conditioning location requirements for ventilation purposes to reduce potential health risks exposures. A noise study was prepared for the project due to the projected traffic volumes on SR-905 (*Acoustical Analysis*, Rick Taveras, 2006). The noise study concluded that a five-foot high perimeter wall is required for Lot 1 to mitigate noise impacts to future residents.

A Mitigated Negative Declaration (MND) No. 2204 was prepared for the project in accordance with the California Environmentally Quality Act (CEQA) which analyzed a full build-out residential scenario in all CEQA issue areas. The environmental analysis confirms that the development would not have the potential to cause significant adverse effects to Health and Safety, Hydrology/Water Quality, or Public Services. The MND concluded that the proposed project could have a significant environmental effect in the following areas: Traffic/Circulation, Land Use (Multi- Species Conservation Plan) /Adjacency Guidelines), Noise, Historical Resources, Paleontological Resources, Biological Resources and Public Utilities. However, implementation of a Mitigation Monitoring and Reporting Program would reduce the environmental effects of the project in these issue areas to below a level of significance. No

significant impacts result from for the following issue areas: Air Quality, Greenhouse Gas Emissions, Energy, and Visual Quality/Neighborhood Character.

The project has been designed to comply with the Land Development Code to prevent detrimental impacts to the health, safety, and welfare of residents, workers, and visitors as well as adjacent development. These requirements include the design of streets, sidewalks, grading, and treatment of stormwater. Conditions of approval and mitigation measures address construction activities, shielding of lights, attenuation for noise, and placement of landscape and buildings. Construction of the project will be pursuant to the applicable Uniform Building, Fire, Plumbing, Electrical and Mechanical Codes.

All proposed improvement plans associated with the project will be reviewed prior to issuance of ministerial permit(s) and inspected during construction to assure the project will meet or exceed all relevant and applicable codes. Therefore, the proposed development will not be detrimental to the public health, safety, and welfare.

3. The proposed development will comply with the applicable regulations of the Land Development Code including any allowable deviations pursuant to the Land Development Code. The proposed project is a Rezone, Site Development Permit for environmentally sensitive lands, and a Tentative Map to subdivide 21.443 acres of a 42.62-acre site into three lots for the future development of a maximum of 538 residential condominium units. The remaining 21.174 acres is a Remainder Parcel that is not proposed for development. The lot sizes and proposed densities of the proposed lots are as follows: Lot 1: 5.068 acres - 152 units; Lot 2: 7.011 acres – 210 units; and, Lot 3: 5.881 acres - 176 units; Remainder Parcel: No development. Project implementation includes the construction of public roadway/right-of-way improvements and private infrastructure to support the development footprint. Conceptual architectural plans are included in the Owners set of proposed plans to guide future ministerial development of each lot. These conceptual plans outline the general style, bulk, and scale of the surrounding developments for purposes of complementing the existing “Spanish” architecture style, to ensure compliance with the proposed RM-2-6 zone, and consistency with the community plan recommendations. The Owner/Permittee has requested to rezone the project from AR-1-1 to RM-2-6 (Rezone No. 025168). The site is designated for Medium Residential development within the Otay Mesa Community Plan. The proposed development is not requesting and does not require any deviations to the development regulations in the Land Development Code.

With the adoption of Rezone No. 025168, the proposed project and its design and improvements are consistent with the regulations of the Land Development Code. Therefore, the proposed project will comply with the applicable regulations of the Land Development Code.

B. Supplemental Findings – Environmentally Sensitive Lands:

1. The site is physically suitable for the design and siting of the proposed development and the development will result in minimum disturbance to environmentally sensitive lands. The proposed project is a Rezone, Site Development Permit for environmentally sensitive lands, and a Tentative Map to subdivide 21.443 acres of a 42.62-acre site into three lots

for the future development of a maximum of 538 residential condominium units. The remaining 21.174 acres is a Remainder Parcel not proposed for development. The lot sizes and proposed densities of the proposed lots are as follows: Lot 1: 5.068 acres - 152 units; Lot 2: 7.011 acres – 210 units; and, Lot 3: 5.881 acres - 176 units; Remainder Parcel: No development. Project implementation includes the construction of public roadway/right-of-way improvements and private infrastructure to support the development footprint. Conceptual architectural plans are included in the Owners set of proposed plans to guide future ministerial development of each lot. These conceptual plans outline the general style, bulk, and scale of the surrounding developments for purposes of complementing the existing “Spanish” architecture style, to ensure compliance with the proposed RM-2-6 zone, and consistency with the community plan recommendations. The Owner/Permittee has requested to rezone the project from AR-1-1 to RM-2-6 (Rezone No. 025168). The site is designated for Medium Residential development within the Otay Mesa Community Plan. The property is partially located within and adjacent to the Multi-Habitat Planning Area (MHPA), and contains environmentally sensitive lands.

The site is a relatively flat, undeveloped, irregularly shaped parcel. Updated Biological and Burrowing Owls surveys conducted in 2010/2011 determined that the site contains non-native grasslands which would be directly impacted by the project. The Mitigated Negative Declaration prepared for the project includes a Mitigation Monitoring and Reporting Program (MMRP), which is required to be implemented as a condition of the SDP. The MMRP includes mitigation measures for impacts to 21.48 acres of non-native grassland requiring either off-site acquisition within the MHPA, purchase of credits within the City’s Marron Valley Cornerstone Mitigation Bank, or through a combination of both options above. The Remainder Parcel has environmentally sensitive lands, but is conditioned for no development.

The project required the preparation and analysis of several technical studies including biological and archaeological resources surveys, a sewer study, water quality technical report, traffic study, and a greenhouse gas emissions report. None of these reports identified constraints that would prevent the proposed project from being suitable for development. Therefore, 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.

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 proposed project is a Rezone, Site Development Permit for environmentally sensitive lands, and a Tentative Map to subdivide 21.443 acres of a 42.62-acre site into three lots for the future development of a maximum of 538 residential condominium units. The remaining 21.174 acres is a Remainder Parcel not included within the development. The lot sizes and proposed densities of the proposed lots are as follows: Lot 1: 5.068 acres - 152 units; Lot 2: 7.011 acres – 210 units; and, Lot 3: 5.881 acres - 176 units; Remainder Parcel: No development. Project implementation includes the construction of public roadway/right-of-way improvements and private infrastructure to support the development footprint. Surrounding developments include the San Ysidro High School, undeveloped lands, the Spring Canyon Preserve and SR-905, which is currently under construction.

The subdivision does not contain areas mapped as steep slopes, nor is it within a Special Flood Hazard Area. Implementation of the proposed project requires approximately 3,400 cubic yards of grading cut and filled to depths of approximately 4 feet below grade for the creation of the three lots. The project required the preparation of a geotechnical report as the area is located within a seismically active region of California within Geologic Hazard Categories 53 and 57 (level or sloping terrain/unfavorable geologic structure, low to moderate risk). The report entitled *Limited Geotechnical Investigation*, C. S. La Monte Company Inc, 2004, concluded that with implementation of proper engineering design for the future buildings, in accordance with the approved geotechnical and soils reports, the potential for geologic impacts from regional hazards would be insignificant and no mitigation is required.

The project required the preparation of a Water Quality Technical Report to analyze water quality standards and discharge requirements. The report entitled *Water Quality Technical Report and Stormwater Best Management Practices for Southview*, Schwerin & Associates, Inc. July 2006 and updated in 2011, concluded that the project would comply with the City of San Diego's Storm Water Standards and would not preclude considerable water quality impacts. Implementation of the project requires the construction of two on-site stormwater detention basins, vegetated swales, and comprehensive permanent post-construction water quality BMPs.

Modified Brush Management is required for all structures within 100 feet of native or naturalized vegetation. Where brush management is required, a comprehensive program shall be implemented that reduces fire hazards around structures by providing an effective fire break between all structures and contiguous areas of native or naturalized vegetation. The Tentative Map includes Brush Management zones that would be located entirely within the boundaries of the map consisting of irrigated landscape or pavement with no invasive plant material or habitable or combustive structures within zone 1. The project would implement these requirements pursuant to the adopted Brush Management Regulations. 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 proposed project is a Rezone, Site Development Permit for environmentally sensitive lands, and a Tentative Map to subdivide 21.443 acres of a 42.62-acre site into three lots for the future development of a maximum of 538 residential condominium units. The remaining 21.174 acres is a Remainder Parcel not proposed for development. A 2.48-acre portion of the Remainder Parcel is mapped as the Multi-Habitat Planning Area (MHPA). In addition, adjacent to the Remainder Parcel to the east is the Spring Canyon Preserve and the MHPA.

The Mitigated Negative Declaration prepared for the project contains a Mitigation Monitoring and Reporting Program, which includes mitigation measures to implement the MSCP/MHPA Land Use Adjacency Guidelines. These measures include barrier fencing, plantings for access control, and lighting restrictions to minimize impacts to off-site sensitive lands. Implementation of these measures will reduce potential indirect impacts (i.e. on-site construction activities) to below a level of significance.

The Remainder Parcel to the east is mapped as containing environmentally sensitive lands. Habitats on the Remainder Parcel include Diegan coastal sage scrub (0.4 acre), non-native grassland (17.79 acre), southern willow scrub (0.1 acre), freshwater marsh (0.2 acre), vernal pool (2 pools; 0.02 acre), road ruts (10 ruts; 0.06 acre), and disturbed areas (2.6 acre). The road ruts and vernal pools within the Remainder Parcel support the San Diego fairy shrimp and have been fenced to provide protection from unauthorized activities. Based on fairy shrimp surveys conducted between 2001 and 2005, as many as 54 road ruts have been identified within the overall 42.6-acre property boundary; however, only the road ruts and vernal pools within the Remainder Parcel support fairy shrimp. No development is proposed on the Remainder Parcel with this action and there will be no impacts to environmentally sensitive lands.

As ordered by a Stipulated Agreement dated 2009 related to the Remainder Parcel, signed by the Owner and other parties to a lawsuit about vernal pools (the City of San Diego was not named in this action), a 100-foot radius buffer must be maintained around all identified and/or mapped wetlands (i.e. road ruts/basins) from the development footprint to the nearest basin. This buffer is noted on the Tentative Map and will ensure that no indirect effects to this habitat and species occur. Lastly, the Owner proposes to construct a subdivision boundary fence along the easterly property line of abutting the Remainder Parcel which will further serve to separate construction activities from the three lot subdivision from adjacent sensitive habitat species and the MHPA located approximately 400 feet from the proposed residential development. No impacts would occur to the MHPA from this distance and no mitigation is required, other than those discussed above for the Land Use Adjacency Guideline requirements, to reduce potential indirect impacts. Therefore, the proposed development has been 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 proposed project is a Rezone, Site Development Permit for environmentally sensitive lands, and a Tentative Map to subdivide 21.443 acres of a 42.62-acre site into three lots for the future development of a maximum of 538 residential condominium units. The remaining 21.174 acres is a Remainder Parcel not proposed for development. The lot sizes and proposed densities of the proposed lots are as follows: Lot 1: 5.068 acres - 152 units; Lot 2: 7.011 acres – 210 units; and, Lot 3: 5.881 acres - 176 units; Remainder Parcel: No development. A 2.48-acre portion of the Remainder Parcel is mapped as the Multi- Habitat Planning Area (MHPA). In addition, adjacent to the Remainder Parcel to the east is the Spring Canyon Preserve and the MHPA.

The Mitigated Negative Declaration prepared for the project contains a Mitigation Monitoring and Reporting Program, which includes mitigation measures to implement the MSCP/MHPA Land Use Adjacency Guidelines. These measures include provisions for barrier fencing, plantings for access control, and lighting restrictions to minimize impacts to off-site sensitive lands and to reduce potential indirect impacts (i.e. on-site construction activities) to below a level of significance. 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 project site is located

approximately 8.5 to 12 miles inland and not located within the coastal overlay zone. Thus, the proposed project 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 proposed project is a Rezone, Site Development Permit for environmentally sensitive lands, and a Tentative Map to subdivide 21.443 acres of a 42.62-acre site into three lots for the future development of a maximum of 538 residential condominium units. The remaining 21.174 acres is a Remainder Parcel not proposed for development. Conceptual architectural plans are included to guide future ministerial development of each lot. These conceptual plans outline the general style, bulk, and scale of the surrounding developments for purposes of complementing the existing “Spanish” architecture style, to ensure compliance with the proposed RM-2-6 zone, and consistency with the community plan recommendations. The Owner/Permittee has requested to rezone the project from AR-1-1 to RM-2-6 (Rezone No. 025168). The site is designated for Medium Residential development within the Otoy Mesa Community Plan.

A Mitigated Negative Declaration was prepared for the project which concluded that the project could have a significant environmental effect in the following areas: land use (MSCP/MHPA), biological resources, historical resources (archaeology), transportation/circulation, noise, paleontological resources, and utilities. Subsequent revisions to the project created specific mitigation measures identified in section V of the Mitigated Negative Declaration. These mitigation measures are summarized below and require either construction of an improvement, fair share contribution, site specific conditions, or field monitoring. These measures are as follows:

- Land Use: A portion of the Remainder Parcel is mapped as MHPA. East of the Remainder Parcel is the Spring Canyon Preserve, which is also within the MHPA. The project must implement the City’s MSCP Land Use Adjacency Guidelines for the MHPA. These guidelines include limitations on drainage, restrictions for staging/construction areas, and installation of fencing and lighting.
- Biological Resources: The project would impact 20.28 acres of non-native grasslands. Mitigation measures require either off-site acquisition within the MHPA, purchase of credits within the City’s Marron Valley Cornerstone Mitigation Bank, or a combination of both options above.
- Historical Resources (Archaeology) and Paleontology: The project is located in an area which has a high potential for prehistoric and historic archaeological resources requiring monitoring during construction activities. Impacts are considered potentially significant when grading exceeds 1,000 cubic yards of cut at a depth of 10 feet or greater. The project requires only 4 feet of excavation for the creation of the three lots; however, future development of the buildings may require additional grading below the new pad elevation (i.e. in excess of six feet below the new grade), in which case paleontological monitoring would be required.

- Transportation/Circulation: A Traffic Study was prepared for the project which concluded that the project will pay fair share amounts for the construction of a traffic signal at Airway Road and Caliente Avenue and towards the widening of the intersection of Caliente Avenue/Ocean View Hills Parkway/Otay Mesa Road to provide an additional northbound right turn lane. Additionally, the project is required to construct a traffic signal at the Lot 3 (East Driveway/Airway Road) intersection. Full frontage improvements, including dedications, are also required along Airway Road and Caliente Avenue.
- Noise: The project site is located adjacent to SR-905, which is currently under construction. An Acoustical Study prepared for the project concluded that noise levels to residents of Lot 1 would be exceeded due to traffic volumes from the freeway. A five-foot high noise wall must be constructed for noise attention for the future residents.
- Utilities/Service Systems: A sewer study was prepared for the project which concluded that the project must construct the remaining segment of a 12" sewer main within Airway Road east of Caliente Avenue to serve the project. A Waste Management Plan is required targeting 75 percent waste reduction is required.

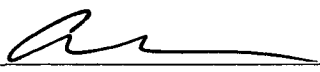
Therefore, the nature and extent of mitigation required as a condition of the permit is reasonably related to, and calculated to alleviate, negative impacts created by the proposed development.

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

BE IT FURTHER RESOLVED, that based on the findings hereinbefore adopted by the City Council, Site Development Permit No. 025170 is hereby granted by the City Council to the referenced Owner/Permittee, under the terms and conditions as set forth in Permit No. 025170, a copy of which is attached hereto and made a part hereof.

APPROVED: JAN I. GOLDSMITH, City Attorney

By



Corrine L. Neuffer
Deputy City Attorney

CLN:als
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Or.Dept:DSD
Doc. No. 398140

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

PROJECT MANAGEMENT
PERMIT CLERK
MAIL STATION 501

SPACE ABOVE THIS LINE FOR RECORDER'S USE

INTERNAL ORDER NUMBER: 23420290

SITE DEVELOPMENT PERMIT NO. 25170
SOUTHVIEW - PROJECT NO. 2204 [MMRP]
CITY COUNCIL

This Site Development Permit No. 25170 is granted by the City Council of the City of San Diego to Southview, LLC, Owner and Permittee, pursuant to San Diego Municipal Code [SDMC] sections 126.0501 through 126.0505 and 143.0101 through 143.0160. The 42.62-acre site is located at the southeast corner of Caliente Road and Airway Road, south of Otay Mesa Road and west of Spring Canyon in the AR-1-1 zone of the Otay Mesa Community Plan. The project site is legally described as a portion of the SE ¼ of the NE ¼ of Section 31, T18S, R1W, and, a portion of the W ½ of the NW ¼ Section of 32, T18S, R1W, SBBM of San Diego County; and

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee to subdivide a parcel into three lots for the future development of 538 multi-family condominium units where a portion of the site contains environmentally sensitive lands, and creating a Remainder Parcel which is not proposed for development (project implementation requires approval of Tentative Map No. 025169 and Rezone No. 025168), described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated JUL 23 2012, on file in the Development Services Department.

The project shall include:

- a. The three lot subdivision of a 42.62-acre site pursuant to Tentative Map No. 025169 and Rezone No. 025168 for the future construction of a maximum of 538 multi-family condominium units located on environmentally sensitive lands as noted in the table below. The maximum density of 538 units is consistent with the Otay Mesa Community Plan's Medium-Residential Land Use designation:

	Acreage	# of Units
Lot 1	5.06	152
Lot 2	7.01	210
Lot 3	5.88	176

- b. Conceptual Architectural Plans (AS.1 through AS.3);
 - c. Landscaping (planting, irrigation and landscape related improvements);
 - d. Off-street parking; and
 - e. Public and private accessory improvements determined by the Development Services Department to be consistent with the land use and development standards for this site in accordance with the adopted community plan, the California Environmental Quality Act [CEQA] and the CEQA Guidelines, the City Engineer's requirements, zoning regulations, conditions of this Permit, and any other applicable regulations of the SDMC.
- d. Remainder Parcel: No development proposed.

STANDARD REQUIREMENTS:

1. This permit must be utilized within thirty-six (36) months after the date on which all rights of appeal have expired. If this permit is not utilized in accordance with Chapter 12, Article 6, Division 1 of the SDMC within the 36 month period, this permit shall be void unless an Extension of Time has been granted. Any such Extension of Time must meet all SDMC requirements and applicable guidelines in effect at the time the extension is considered by the appropriate decision maker.
2. No permit for the construction, occupancy, or operation of any facility or improvement described herein shall be granted, nor shall any activity authorized by this Permit be conducted on the premises until:
 - a. The Owner/Permittee signs and returns the Permit to the Development Services Department; and
 - b. The Permit is recorded in the Office of the San Diego County Recorder.
3. While this Permit is in effect, the subject property shall be used only for the purposes and under the terms and conditions set forth in this Permit unless otherwise authorized by the appropriate City decision maker.
4. This Permit is a covenant running with the subject property and all of the requirements and conditions of this Permit and related documents shall be binding upon the Owner/Permittee and any successor(s) in interest.

5. The continued use of this Permit shall be subject to the regulations of this and any other applicable governmental agency.

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

7. In accordance with authorization granted to the City of San Diego from the United States Fish and Wildlife Service [USFWS] pursuant to Section 10(a) of the federal Endangered Species Act [ESA] and by the California Department of Fish and Game [CDFG] pursuant to California Fish and Game Code section 2835 as part of the Multiple Species Conservation Program [MSCP], the City of San Diego through the issuance of this Permit hereby confers upon Owner/Permittee the status of Third Party Beneficiary as provided for in Section 17 of the City of San Diego Implementing Agreement [IA], executed on July 16, 1997, and on file in the Office of the City Clerk as Document No. OO-18394. Third Party Beneficiary status is conferred upon Owner/Permittee by the City: (1) to grant Owner/Permittee the legal standing and legal right to utilize the take authorizations granted to the City pursuant to the MSCP within the context of those limitations imposed under this Permit and the IA, and (2) to assure Owner/Permittee that no existing mitigation obligation imposed by the City of San Diego pursuant to this Permit shall be altered in the future by the City of San Diego, USFWS, or CDFG, except in the limited circumstances described in Sections 9.6 and 9.7 of the IA. If mitigation lands are identified but not yet dedicated or preserved in perpetuity, maintenance and continued recognition of Third Party Beneficiary status by the City is contingent upon Owner/Permittee maintaining the biological values of any and all lands committed for mitigation pursuant to this Permit and of full satisfaction by Owner/Permittee of mitigation obligations required by this Permit, in accordance with Section 17.1D of the IA.

8. The Owner/Permittee shall secure all necessary building permits. The Owner/Permittee is informed that to secure these permits, substantial building modifications and site improvements may be required to comply with applicable building, fire, mechanical, and plumbing codes, and State and Federal disability access laws.

9. Construction plans shall be in substantial conformity to Exhibit "A." Changes, modifications, or alterations to the construction plans are prohibited unless appropriate application(s) or amendment(s) to this Permit have been granted.

10. All of the conditions contained in this Permit have been considered and were determined necessary to make the findings required for approval of this Permit. The Permit holder is required to comply with each and every condition in order to maintain the entitlements that are granted by this Permit.

If any condition of this Permit, on a legal challenge by the Owner/Permittee of this Permit, is found or held by a court of competent jurisdiction to be invalid, unenforceable, or unreasonable, this Permit shall be void. However, in such an event, the Owner/Permittee shall have the right, by paying applicable processing fees, to bring a request for a new permit without

the "invalid" conditions(s) back to the discretionary body which approved the Permit for a determination by that body as to whether all of the findings necessary for the issuance of the proposed permit can still be made in the absence of the "invalid" condition(s). Such hearing shall be a hearing de novo, and the discretionary body shall have the absolute right to approve, disapprove, or modify the proposed permit and the condition(s) contained therein.

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

12. This Site Development Permit shall comply with the provisions of Tentative Map No. 025169.

13. This Site Development Permit is conditioned upon the adoption of Rezone No. 025168.

ENVIRONMENTAL/MITIGATION REQUIREMENTS:

14. Mitigation requirements in the Mitigation, Monitoring, and Reporting Program [MMRP] shall apply to this Permit. These MMRP conditions are hereby incorporated into this Permit by reference.

15. The mitigation measures specified in the MMRP and outlined in Mitigated Negative Declaration No. 2204, shall be noted on the construction plans and specifications under the heading ENVIRONMENTAL MITIGATION REQUIREMENTS.

16. The Owner/Permittee shall comply with the MMRP as specified in Mitigated Negative Declaration No. 2204, to the satisfaction of the Development Services Department and the City Engineer. Prior to issuance of any construction permit, all conditions of the MMRP shall be adhered to, to the satisfaction of the City Engineer. All mitigation measures described in the MMRP shall be implemented for the following issue areas:

Land Use (MSCP/MHPA)
Biological

Historic (Archaeology)
Transportation/Circulation
Noise
Paleontology
Utilities

AFFORDABLE HOUSING REQUIREMENTS:

17. Prior to the issuance of any building permits, the Owner/Permittee shall comply with the affordable housing requirements of the City's Inclusionary Affordable Housing Regulations (SDMC § 142.1301 et seq.).

LANDSCAPE REQUIREMENTS:

18. In the event that the Landscape Plan and the Site Plan conflict, the Site Plan shall be revised to be consistent with the Landscape Plan such that landscape areas are consistent with the Exhibit "A" Landscape Development Plan.

19. Prior to issuance of any engineering permits for grading, construction documents for the revegetation and hydro-seeding of all disturbed land shall be submitted in accordance with the Landscape Standards and to the satisfaction of the City Manager. All plans shall be in substantial conformance to this permit (including Environmental conditions) and Exhibit "A," on file in the Office of the Development Services Department.

20. Prior to issuance of any 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 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.

21. 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.

22. Prior to issuance of any construction permits for structures (including shell), complete landscape and irrigation construction documents consistent with the Landscape Standards 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 the Development Services Department. Construction plans shall take into account a 40 square foot area around each tree which is unencumbered by hardscape and utilities as set forth under LDC 142.0403(b)5.

23. The Permittee or subsequent owner shall be responsible for the maintenance of all landscape improvements in the right-of-way consistent with the 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 Establishment & Maintenance Agreement (LEMA) may be required.

24. If any required landscape (including existing or new plantings, hardscape, landscape features, etc.) indicated on the approved construction document plans is damaged or removed during demolition or construction, it shall be repaired and/or replaced in kind and equivalent size per the approved documents to the satisfaction of the City manager within 30 days of damage or Certificate of Occupancy.

25. The Permittee or subsequent Owner(s) shall be responsible for the installation and maintenance of all landscape improvements consistent with the Landscape Regulations 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. Invasive plants are those which rapidly self propagate by air born seeds or trailing as noted in section 1.3 of the Landscape Standards.

26. Prior to final inspection, it shall be the responsibility of the Permittee or subsequent Owner to install all required landscape. A No Fee Street Tree Permit, if applicable, shall be obtained for the installation, establishment and on-going maintenance of all street trees.

27. Graded pad areas shall be hydro-seeded to prevent erosion, in the event that construction of building(s) does not occur within 30 days of grading. Hydro-seed shall be irrigated or reapplied as necessary to establish growth.

BRUSH MANAGEMENT PROGRAM REQUIREMENTS:

28. Prior to issuance of any engineering permits for grading, landscape construction documents required for the engineering permit shall be submitted showing the brush management zones on or off the property in substantial conformance with Exhibit "A."

29. Prior to issuance of any building permits, a complete set of brush management construction documents shall be submitted for approval to the City Manager and the Fire Marshall. The construction documents shall be in substantial conformance with Exhibit "A," on file in the Development Services Department and shall comply with the Uniform Fire Code (SDMC section 55.0889.0201) and the Land Development Manual Landscape Standards.

30. Within Zone One combustible accessory structures (including but not limited to decks, trellises, gazebos, etc.) are not permitted while non-combustible accessory structures may be approved within the designated Zone One area subject to the Fire Chief and City Manager's approval.

31. The following note shall be provided on the Brush Management Construction Documents: "It shall be the responsibility of the Owner/Permittee to schedule a pre-construction meeting on site with the contractor and the Development Services Department to discuss and outline the implementation of the Brush Management Program."

32. Prior to final inspection for any building permit, the approved Brush Management Program shall be implemented.

33. The Brush Management Program shall be maintained at all times in accordance with the City of San Diego's Chapter 14 Landscape Regulations and with the Land Development Manual Landscape Standards.

34. The Fire Chief has approved the following Modified Brush Management Program:

Lot 1 - Zone One of 35 feet on the east and no Zone Two.

Lot 2 - Zone One of 35 feet on the south and no Zone Two.

Lot 3 - Zone One of 58 feet on the east and no Zone Two, and Zone One of 35 feet on the south and no Zone Two.

MULTIPLE SPECIES CONSERVATION PROGRAM:

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

36. In accordance with authorization granted to the City of San Diego from the USFWS pursuant to Sec. 10(a) of the ESA and by the CDFG pursuant to Fish & Game Code sec. 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.

37. 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 Section 9.6 and 9.7 of the IA.

38. 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.

PLANNING/DESIGN REQUIREMENTS:

39. 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.

40. All signs associated with this development shall be consistent with sign criteria established by the City-wide sign regulations.

41. The Owner/Permittee shall post a copy of each approved discretionary Permit or Tentative Map in its sales office for consideration by each prospective buyer.
42. 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.
43. Development of Lots 1, 2 and 3 shall be consistent with the underlying zoning and the provisions of the Exhibit "A", *Conceptual Architectural Plans* numbered AS.1 through AS.3.
44. The Remainder Parcel shall have no development rights with this current action. Future development proposals will require discretionary actions.
45. Prior to issuance of the first construction permits for each building, construction documents shall fully illustrate the incorporation of the following sustainable design features on the new structures and on the site plan, floor plans, roof plan, and elevations, where applicable to achieve a 29.4% reduction in Greenhouse Gas Emissions:
 - a. Increase home energy efficiency beyond California Code of Regulations, Title 24 (2008 standard) by 20% through the installation of energy-efficient lighting and lighting control systems;
 - b. Installation of energy-efficient heating and cooling systems, appliances and equipment and control systems;
 - c. Implement a comprehensive water conservation strategy appropriate for the project and location, to include installation of water-efficient fixtures and appliances such as waterless urinals and low-flow toilets in building restrooms and low-flow bathroom fixtures in residential dwellings, plus other innovative measures that are appropriate to the specific project;
 - d. Provide interior and exterior storage areas for recyclables and green waste and adequate recycling containers in public areas;
 - e. Recycle and/or salvage 50% of nonhazardous construction and demolition waste, and develop and implement a construction waste management plan;
 - f. Use building products that have a minimum 10% recycle content; and
 - g. Work with SDG&E to make room for the electric/hybrid vehicle charging stations which will require a 240V/20amp (or 40amp) dedicated circuit connected to a breaker. The charger will need to be hand-wired directly to the circuit.

TRANSPORTATION REQUIREMENTS :

46. Prior to issuance of any construction permit, Owner/Permittee shall contribute 50 percent of the cost of the installation of a traffic signal at the intersection of the six-lane Caliente Avenue and the four-lane Airway Road, satisfactory to the City Engineer.
47. Prior to issuance of any construction permit, the Owner/Permittee shall assure by permit and bond the widening of the east side of Caliente Avenue, from the intersection of Airway Road to the southerly project property line, as a 6-lane major roadway with a 24 foot wide raised center median and 59 feet curb-to-centerline tapering to a 16 foot wide raised center median and 50 feet curb to centerline approximately 700 feet south of Airway Road, a 22 foot parkway, new curb, gutter, and a minimum five foot wide non-contiguous sidewalk, satisfactory to the City Engineer. A temporary cul-de-sac turnaround with a minimum 50 foot radius shall be provided at the southerly end of Caliente Avenue.
48. Prior to issuance of any construction permit, the Owner/Permittee shall assure by permit and bond the widening of the east side of Caliente Avenue, from the intersection of Airway Road to the northerly project property line, as a 6-lane major roadway with any necessary median improvements, 60 feet curb-to-centerline and a 22 foot parkway, new curb, gutter, and a minimum five foot wide non-contiguous sidewalk, satisfactory to the City Engineer.
49. Prior to the issuance of any construction permit the Owner/Permittee shall assure by permit and bond the full width construction of Airway Road as a 4-lane major roadway from Caliente Avenue to the easterly project property line, satisfactory to the City Engineer. Owner/Permittee shall provide a cul-de-sac at the east end of Airway Road and provide a deferred improvement agreement to install a traffic signal at the intersection of the easterly driveway of Lot 3 and Airway Road when warranted.
50. Prior to issuance of any construction permit, the Owner/Permittee shall contribute 5.7 percent towards the widening of the intersection of Caliente Avenue/Ocean View Hills Parkway/Otay Mesa Road to provide an additional northbound right turn lane, resulting in a total of one exclusive northbound left turn lane, two northbound through lanes, and two northbound exclusive right turn lanes, satisfactory to the City Engineer.
51. Prior to the issuance of the first certificate of occupancy, SR-905 Phase IB shall be completed, satisfactory to the City Engineer.
52. This project shall comply with all current street lighting standards according to the City of San Diego Street Design Manual (Document No. 297376, filed November 25, 2002) and the amendment to Council Policy 200-18 approved by City Council on February 26, 2002 (Resolution R-296141) satisfactory to the City Engineer. This may require (but not be limited to) installation of new street light(s), upgrading light from low pressure to high pressure sodium vapor and/or upgrading wattage.

PUBLIC UTILITIES DEPARTMENT REQUIREMENTS:

53. Prior to the issuance of any grading or building permits, the Owner/Permittee shall obtain an Encroachment Maintenance and Removal Agreement (EMRA) for all improvements, including private utilities, installed in or over any public street right of way.
54. Prior to the issuance of any engineering or building permits, the Owner/Permittee shall provide evidence, satisfactory to the Director of Public Utilities, indicating that each condominium will have its own sewer lateral or provide CC&R's for the operation and maintenance of onsite private sewer mains that serve more than one ownership.
55. The Owner/Permittee shall design and construct all proposed public sewer facilities to the most current edition of the City of San Diego's Sewer Design Guide.
56. Proposed private underground sewer facilities located within a single lot shall be designed to meet the requirements of the California Uniform Plumbing Code and shall be reviewed as part of the building permit plan check.
57. Prior to the issuance any construction permit the Owner/Permittee shall execute a written agreement acceptable to the City, that the Owner/Permittee will perform one of the following three activities (activities 58, 59, and 60) at the subsequent direction of the City to provide for funding and construction of the Otay Mesa Trunk Sewer System. The Owner/Permittee will secure performance of the agreement by providing a performance bond acceptable to the City prior to the issuance of any public improvement permit.
58. The Owner/Permittee shall design and construct, either alone or in conjunction with other developers similarly conditioned, the next pending improvement phase of the Otay Mesa Sewer System as identified in the Otay Mesa Sewer Master Plan Revisions dated December 2008. The improvements are those that will provide capacity to serve the development by splitting the current drainage basin.
59. If the Owner/Permittee's cost of the improvement exceeds the fair share attributable to the development, the Owner/Permittee will enter into a written agreement acceptable to the City that provides for reimbursement to the Owner/Permittee for the costs (including interest) in excess of the fair share, as it is collected from future development in the area benefiting from the improvement.
60. The Owner/Permittee will participate in and not object to the formation of a Community Facilities District (CFD) or other mechanism, to fund or reimburse the construction of the improvement phases as identified in the Otay Mesa Master Plan Revisions, dated December 2008.
61. No trees or shrubs exceeding three feet in height at maturity shall be installed within ten feet of any sewer facilities.

PARK AND RECREATION REQUIREMENTS:

62. Prior to approval of the final map a Maintenance Assessment District (MAD) shall be formed for the public improvements within the public right of way, for Caliente Avenue and Airway Road, to the satisfaction of the City of San Diego.

63. If a Maintenance Assessment District is not formed. All landscape improvements installed as a part of this project shall be maintained by a private entity (HOA).

64. The Owner/Permittee shall ensure that all Maintenance Assessment District irrigation systems and water meter are separate from HOA irrigation systems and water meter. All MAD irrigation shall be designed and installed per the City of San Diego Park Design and Development Guidelines (2011).

65. The Owner/Permittee shall ensure that all Maintenance Assessment District improvements are separated from Home Owner Association improvements by a concrete mow curb constructed to City standards.

66. Prior to the issuance of the first building permit, Public Improvement Plans shall be reviewed and approved by the Park & Recreation Department.

INFORMATION ONLY:

- The issuance of this discretionary use permit alone does not allow the immediate commencement or continued operation of the proposed use on site. The operation allowed by this discretionary use permit may only begin or recommence after all conditions listed on this permit are fully completed and all required ministerial permits have been issued and received final inspection.
- Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of this Permit, may protest the imposition within ninety days of the approval of this development permit by filing a written protest with the City Clerk pursuant to California Government Code-section 66020.
- This development may be subject to impact fees at the time of construction permit issuance.

APPROVED by the City Council of the City of San Diego on JUL 23 2012 by Resolution No. R-307597.

Permit Type/PTS Approval No.: SDP/ 25170
Date of Approval: July 23, 2012

AUTHENTICATED BY THE CITY OF SAN DIEGO DEVELOPMENT SERVICES
DEPARTMENT

Sandra Teasley
Development Project Manager

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

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

SOUTHVIEW, LLC,
a California Limited Liability Corporation
Owner/Permittee

By _____
NAME:
TITLE:

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