

ORDINANCE NUMBER O- 20343 (NEW SERIES)

DATE OF FINAL PASSAGE JAN 14 2014

AN ORDINANCE OF THE COUNCIL OF THE CITY OF  
SAN DIEGO APPROVING CONDITIONAL USE PERMIT NO.  
998816 FOR THE SANTALUZ PROJECT – PROJECT NO.  
257983.

WHEREAS, Santaluz, LLC, Owner/Permittee, filed an application with the City of San Diego for a Community Plan Amendment and Conditional Use Permit to construct a 71,630 square-foot nursing facility designed for Assisted Living and Memory Care for senior citizens known as the Santa Luz Assisted Living project, located at 14740 Via Fiesta, and legally described as Lots 4 and 6 of Black Mountain Ranch Unit 10A per Map No. 14497, in the Black Mountain Ranch Subarea Plan area, in the AR-1-1 zone; and

WHEREAS, on May 21, 2012, the Owner/Permittee also submitted an application for a reasonable accommodation pursuant to the State of California Fair Employment and Housing laws, the Federal Fair Housing Amendments Act, and San Diego Municipal Code section 131.0466; and

WHEREAS, the reasonable accommodation requested was to allow the Project to process a request for a Conditional Use Permit in an agricultural zone in Proposition A lands without processing an amendment to the San Diego Municipal Code, notwithstanding the prohibition in San Diego Municipal Code section 141.0614 against the placement of nursing facilities in Proposition A lands; and

WHEREAS, the reasonable accommodation request was granted on December 12, 2012;  
and

WHEREAS, under Charter section 280(a)(2) this ordinance 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 evidence presented; and

WHEREAS, on October 3, 2013, the Planning Commission of the City of San Diego considered Community Plan Amendment (CPA) No. 1074589 and Conditional Use Permit (CUP) No. 908816, and pursuant to Resolution No. 4559-PC voted to recommend approval of CPA No. 1074589 and CUP No. 908816; NOW, THEREFORE,

BE IT ORDAINED, by the Council of the City of San Diego, as follows:

Section 1. That the following findings with respect to Community Plan Amendment No. 1074589 and Conditional Use Permit No. 908816 are adopted:

**CONDITIONAL USE PERMIT – SAN DIEGO MUNICIPAL CODE (SDMD) SECTION 126.0305**

**Findings for all Conditional Use Permits:**

**1. The proposed development will not adversely affect the applicable land use plan.** The project proposes a 71,630 square-foot nursing facility on a vacant 3.28-acre site located at 14740 Via Fiesta in the AR-1-1 Zone within the Black Mountain Ranch Subarea Plan (Subarea Plan) Proposition A Lands. The facility would consist of 64 assisted living units with 74 beds and 24 hour staffing. The project requires a Community Plan Amendment (CPA) to re-designate the site from Institutional-Recreation Center and Institutional-Senior Center to Institutional-Nursing Facility.

The project site is comprised of two parcels where the northern parcel is designated Institutional-Recreation Center and the Southern parcel is designated Institutional-Senior Center. The project is governed by Vesting Tentative Map/Planned Residential Development No. 95-0173 (VTM/PRD) and the Subarea Plan land use document. The Subarea Plan envisions a range and mix of institutional and employment uses that foster appealing and enjoyable neighborhoods and business districts. Institutional uses are intended to provide public and quasi-public facilities that serve the adjacent residential neighborhoods. The plan also calls for a mix of uses and intensity of development to reduce the dependency on private automobiles. The proposed amendment would help implement these goals while providing "senior housing, congregate care for the

elderly and housing with supportive services.” The proposed amendment would not adversely affect the population-based park standards of the General Plan and Subarea Plan. The previously designated Recreation Center was identified as an additional amenity through the development of the VTM, and was not included in the Subarea Plan’s population-based park standards.

The project is located on non-phased shift Proposition A land. The objectives of Proposition A can be generally summarized as follows:

- Preclude premature development and guide urbanization;
- Conserve agricultural land;
- Prevent loss of natural resources;
- Address threat to quality of life from continued urban sprawl.

A Proposition “A” analysis took place of the site and surrounding area at the time of adoption of the VTM in 1995, and again with adoption of the Subarea Plan in 1998. These plans did not envision the site as being suitable for open space or agricultural land. The proposed nursing facility would be located on a site that is graded and surrounded by developed uses and would not result in an increase in residential density.

As mentioned above, the proposed amendment site is governed by a previously approved VTM/PRD and associated Design Review Guidelines. The Guidelines state that "community facilities within the Village include uses which, in scale and character, service the needs of the Black Mountain Ranch residents. Specific sites have been identified in the Village for an elementary school, neighborhood park, church, day care center, senior center, recreation center and fire station. It is expected that the day care and senior facilities will be developed and managed by the church. The recreation center was expected to be developed as a Property Owner Association facility.”

Subsequent to the adoption of the Subarea Plan, the decision was made by the Property Owners Association (POA) not to take title to the project’s parcel designated for a recreation center. The Recreation Center was identified as a community amenity and not a population-based park facility. Instead, the POA opted to build recreational facilities at other locations within the Subarea Plan, including two 1- to 2-acre parks with playgrounds, one 3-acre enclosed dog park, additional areas improved for picnicking and parking, and walking trail enhancements; none of which were originally provided for in the Subarea Plan and are additional amenities not included in the population-based park standards of the General Plan. The proposed amendment would not adversely affect the goals of the Subarea Plan as recreational facilities are provided throughout the community. The Neighborhood Park for the South Village is located approximately 0.3 miles north of the proposed project site. The approximately 5-acre park is developed and is intended to serve a population of 3,500 to 5,000 residents within a 0.5 mile radius. While the Subarea Plan does not provide detailed criteria for the development of a Senior Center, amenities such as a fitness center, assembly room, or similar uses are common within the community.

The Black Mountain Ranch Design Guidelines approved with PRD (Planned Residential Development)/VTM (Vesting Tentative Map) 95-0173 provides development criteria for all non-residential lots within the PRD area. This includes defining a maximum height, minimum setbacks, and a maximum Floor Area Ratio (FAR). Both the "Senior Center" and "Recreation Center" parcels allow an FAR of 0.50, which would permit a comprehensive gross floor area of 71,635 square feet. The proposed institutional use will be 71,630 square feet which is below the maximum gross floor area allowed. The project's design proposes to emulate the "Tuscan Farmhouse" architectural style which conforms to the requirements of the PRD and the Black Mountain Ranch Design Guidelines to create a harmonious visual relationship with the surrounding residential area. The project will be developed below the maximum height of 30 feet and meet all setback requirements. Additionally, the project is providing 44 parking spaces where 43 are required and the parking area will be located away from the main entry and behind the Building, consistent with the design guidelines.

The "Tuscan Farmhouse" architectural style of the building conforms to the requirements of the PRD and the Black Mountain Ranch Design Guidelines to create a harmonious visual relationship with the surrounding residential area. The project includes gabled roof forms and materials, changes in ridgeline elevations, compatible exterior siding colors and materials, off-setting planes along each elevation, defined entryways, covered patios and walkways, and other architectural detail and ornamentation which relates visually to the surrounding residential area. The design guidelines of the surrounding Black Mountain Ranch community specify particular design elements to add a higher level of architectural quality within the roof massing and ridgeline detailing. This includes the north wing of the proposed building stepping down to one story and the west and south wings second floor plate stepping back to break the line of the exterior façade and then utilizing smaller scale shed roofs that bring the building down to human scale and avoid a continuous ridgeline. The design breaks the roof into several separate components while also providing roof wells that screen the mechanical equipment. The proposed bulk and scale of the building add character and articulation and allow the building to look compatible with the surrounding buildings and not detract from the current residential character of existing neighborhood.

Therefore, the proposed development will not adversely affect the applicable land use plan.

**2. The proposed development will not be detrimental to the public health, safety, and welfare.** The project proposes a 71,630 square-foot nursing facility on a vacant 3.28-acre site located at 14740 Via Fiesta in the AR-1-1 Zone within the Subarea Plan Proposition A Lands. The facility would consist of 64 assisted living units with 74 beds and 24 hour staffing. The project requires a CPA to re-designate the site from Institutional-Recreation Center and Institutional-Senior Center to Institutional-Nursing Facility.

Addendum No. 287983 (Addendum to Environmental Impact Report (EIR) Nos. 95-0173 and 96-7902 & Addendums Nos. 95-0173.1 and 99-1161) was prepared from the project as it was determined that the proposed development could have a significant impact to Paleontological resources. Because mitigation measures are required to be applied to the project in accordance with Section V of the associated Mitigation, Monitoring, and Reporting Program (MMRP), the

project now avoids or mitigates any potentially significant environmental impacts to paleontological resources in accordance with the California Environmental Quality Act.

A traffic analysis was conducted for the site and determined that the Average Daily Trips (ADT) for the project is estimated to be 222 as opposed to 945 for a Senior Center ADT and 2,250 ADT's for a Recreation Center. Although the site's traffic generation would be significantly reduced from its original intended use of a Senior Center and Recreation Center, the permit regulating the Nursing facility includes three additional permit conditions related to traffic and pedestrian safety within the area. Condition No. 31 prohibits non-management employee shift changes at the nursing facility during school drop-off and pick-up times and condition No. 32 prohibits food delivery trucks from entering or leaving the nursing facility premises during school drop-off and pick-up times. Additionally, Condition 35 requires the installation of an in roadway warning light enhanced sidewalk to further add safety to pedestrians crossing the street at corner of Via Fiesta and Via Inez while going and coming from Willow Grove Elementary. The streets adjacent to the nursing facility and leading to the nursing facility from the main thoroughfare of Camino Del Sur are classified as collector streets. Emergency Medical Services (EMS) needing the reach the facility in a timely manner would use the collector streets for a timely response and avoid the narrow residential street surrounding the site.

The permit prepared for this project includes various conditions and corresponding exhibits of approvals relevant to achieving compliance with the regulations of the Municipal Code and California Building Codes for minor grading and construction. Conditions required for the project include but are not limited to storm water and general runoff requirements, landscaping, public improvements, private sewer facilities, signage, lighting, and parking. Therefore, the proposed project will not be detrimental to the health, safety and general welfare of persons residing or working in the area.

**3. The proposed development will comply with the regulations of the Land Development Code including any allowable deviations pursuant to the Land Development Code.** The project proposes a 71,630 square-foot nursing facility on a vacant 3.28-acre site located at 14740 Via Fiesta in the AR-1-1 Zone within the Subarea Plan Proposition A Lands. The facility would consist of 64 assisted living units with 74 beds and 24 hour staffing.

The permit prepared for this project includes various conditions and corresponding exhibits of approvals relevant to achieving compliance with the regulations of the Land Development Code and California Building Codes for grading and construction. Conditions required for the project include but are not limited to storm water and general runoff requirements, landscaping, public improvements, private sewer facilities, signage, lighting, and parking. Additionally, the proposed use must meet all Building, Fire, Plumbing, Electrical and Mechanical Code regulations when submitting for construction permits.

The proposed nursing facility is located in the AR-1-1 agricultural zone of the non-phase shifted portion of Black Mountain Ranch (Proposition "A" Lands). San Diego Municipal Code (SDMC) section 141.0413(a) of the Land Development Code specifically prohibits nursing facilities within Proposition "A" Lands. Nursing facilities were a conditionally permitted use through the processing of a Conditional Use Permit (CUP) at the time of Proposition "A" passage (The

Growth Management Initiative). The prohibition of nursing facilities within the AR-1-1 agriculture zone of Proposition "A" Lands was added to the Municipal Code after Proposition "A" was approved.

The proposed nursing facility will serve as the residence of a senior population that requires 24 hour nursing care. The proposed residents have limited physical abilities and would be deemed as a protected class under the Fair Housing Amendments Act (FHAA).

The FHAA and the California Fair Employment and Housing Act (CFEHA) require that jurisdictions make reasonable accommodations to afford disabled persons the equal opportunity to use and enjoy a dwelling. In consideration of the special need and the potential benefit that can be accomplished with a requested modification, deviations to development regulations and/or waivers to processing requirements necessary to provide housing for protected classes may be approved through a Process 1 Reasonable Accommodation request. The applicant for the project has submitted a Reasonable Accommodation request in accordance with SDMC section 131.0466 asking the City allow the proposed nursing facilities use on the subject site. City Staff has determined special needs and a potential benefit can be accomplished with the request as the use would afford disabled persons an equal opportunity to use and live on the site. Therefore staff has approved the Reasonable Accommodation request allowing a nursing facility on the subject site.

San Diego Municipal Code section 141.0413 (Hospitals, Intermediate Care Facilities, and Nursing Facilities) regulates conditions under which a nursing facility can be constructed. One of the requirements is that access to the site shall be as direct as possible from freeways, primary arterials, and major streets and shall avoid residential streets. The streets adjacent to the nursing facility and leading to the nursing facility from the primary arterial of Camino Del Sur are classified as collector streets. Emergency Medical Services (EMS) needing the reach the facility in a timely manner would use the collector streets for a timely response and avoid the residential streets surrounding the site.

The Black Mountain Ranch Design Guidelines approved with PRD (Planned Residential Development)/VTM (Vesting Tentative Map) 95-0173 provides development criteria for all non-residential lots within the PRD area. This includes defining a maximum height, minimum setbacks, and a maximum Floor Area Ratio (FAR). Both the "Senior Center" and "Recreation Center" parcels allow an FAR of 0.50, which would permit a comprehensive gross floor area of 71,635 square feet. The proposed institutional use will be 71,630 square feet which is below the maximum gross floor area allowed. The project's design proposes to emulate The "Tuscan Farmhouse" architectural style which conforms to the requirements of the PRD and the Black Mountain Ranch Design Guidelines to create a harmonious visual relationship with the surrounding residential area. The project will be developed below the maximum height of 30 feet and meet all setback requirements. Additionally, the project is providing 44 parking spaces where 43 are required and the parking area will be located away from the main entry and behind the Building, consistent with the design guideline.

The "Tuscan Farmhouse" architectural style of the building conforms to the requirements of the PRD and the Black Mountain Ranch Design Guidelines to create a harmonious visual

relationship with the surrounding residential area. The project includes gabled roof forms and materials, changes in ridgeline elevations, compatible exterior siding colors and materials, off-setting planes along each elevation, defined entryways, covered patios and walkways, and other architectural detail and ornamentation which relates visually to the surrounding residential area. The design guidelines of the surrounding Black Mountain Ranch community specify particular design elements to add a higher level of architectural quality within the roof massing and ridgeline detailing. This includes the north wing of the proposed building stepping down to one story and the west and south wings second floor plate stepping back to break the line of the exterior façade and then utilizing smaller scale shed roofs that bring the building down to human scale and avoid a continuous ridgeline. The design breaks the roof into several separate components while also providing roof wells that screen the mechanical equipment. The proposed bulk and scale of the building add character and articulation and allow the building to look compatible with the surrounding buildings and not detract from the current residential character of existing neighborhood.

Additionally, the project proposes to provide landscaping in excess of what is required. This includes 4,500 square feet of landscape area above the minimum requirements. The landscape area and pedestrian element will include an excess amount of plant material, meandering walking paths, seating areas with shade cover, enhanced paving, and fountains. Landscape materials were chosen for the facility to compliment the plant palate previously approved for the communities of Black Mountain Ranch, thus blending the facility with surrounding properties and neighbors.

The project was carefully designed to add a human scale to the nursing facility and not conflict with the surrounding neighbors. Therefore, the proposed development will comply to the maximum extent feasible with the regulations of the Land Development Code.

**4. The proposed use is appropriate at the proposed location.** The project proposes a 71,630 square-foot nursing facility on a vacant 3.28-acre site located at 14740 Via Fiesta in the AR-1-1 Zone within the Subarea Plan Proposition A Lands. The facility would consist of 64 assisted living units with 74 beds and 24 hour staffing.

The Subarea Plan envisions a range and mix of institutional and employment uses that foster appealing and enjoyable neighborhoods and business districts. Institutional uses are intended to provide public and quasi-public facilities that serve the adjacent residential neighborhoods. The plan also calls for a mix of uses and intensity of development to reduce the dependency on private automobiles. The proposed amendment would help implement these goals while providing "senior housing, congregate care for the elderly and housing with supportive services." The proposed amendment is located on a site adjacent to other institutional uses, including a church, a day care, and an Elementary school. The location of the proposed institutional use on a corner lot would not adversely affect the adjacent uses nor the nearby residential developments.

Subsequent to the adoption of the Subarea Plan, the decision was made by the Property Owners Association (POA) of the site not to take title to the parcel designated for a recreation center to privately serve the property owners needs. Instead, the POA opted to build recreational facilities at other locations within the Subarea Plan, including two private 1- to 2-acre parks with playgrounds, one 3-acre enclosed dog park, additional areas improved for picnicking and

parking, and walking trail enhancements; none of which were originally provided for in the Subarea Plan. The proposed amendment would not adversely affect the goals of the Subarea Plan as population-based park and recreational facilities are provided throughout the community. While the Subarea Plan does not provide detailed criteria for the development of a Seniors Center, it included amenities such as a fitness center, assembly room, or similar uses. The site will continue to be designated for Institutional use to include nursing facilities.

The proposed nursing facility will serve as the residence of a senior population that requires 24 hour nursing care. The proposed residents have limited physical abilities and would be deemed as a protected class under the Fair Housing Amendments Act (FHAA). Surrounding the site is a day care center and single-family homes to the west, single-family and multi-family residential to the east, an elementary school and neighborhood park to the north, and multi-family residential to the south. As the senior citizen population grows at a rapid rate, there is the potential unmet demand for assisted living and memory care facilities within five miles of the subject site as the nearest facilities are approximately four to five miles away in point to point distance. Currently occupancies are running between 85-98 percent for Assisted Living Rooms and 96-97 percent for Memory Care Rooms which are quickly reaching capacity. The number of individuals who are aging, and will need access to the care and support services to be provided by the proposed community, is increasing as life expectancy is extended.

The proposed facility would help address the demand for nursing care of the nation's fastest growing population and extend the opportunity to adjacent neighbors to reside at the proposed facility. A nursing facility to address the residence of the existing population in the immediate community is compatible with mix of uses within the community. Additionally, the project is proposing an infill design that will incorporate architectural elements that were carefully designed to add a human scale to the nursing facility and not conflict with the surrounding neighbors. Therefore, the proposed use is appropriate at the proposed location.

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

Section 2. That notwithstanding the prohibition in San Diego Municipal Code section 141.0614 against the placement of nursing facilities in agricultural zones in Proposition A lands, Conditional Use Permit No. 908816 is granted to Santa Luz, LLC, Owner/Permittee, under the terms and conditions set forth in the attached permit which is made part of this ordinance.

Section 3. That a full reading of this ordinance is dispensed with prior to its final passage, a written or printed copy having been available to the City Council and the public a day prior to its final passage.



Section 4. This ordinance shall take effect and be in force on the thirtieth day from and after its passage, and no building permits for development inconsistent with the provisions of this ordinance shall be issued unless application therefore was made prior to the date of adoption of this ordinance.

APPROVED: JAN I. GOLDSMITH, City Attorney

By Shannon M. Thomas  
Shannon M. Thomas  
Deputy City Attorney

SMT:als  
11/20/13  
02/03/14 Cor.Copy  
Or.Dept:DSD  
Doc. No. 677308\_2

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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: 24002181

**CONDITIONAL USE PERMIT NO. 908816  
SANTALUZ – PROJECT NO. 257983  
CITY COUNCIL**

This Conditional Use Permit No. 908816 is granted by the City Council of the City of San Diego to Santaluz, LLC, Owner, and Permittee, pursuant to San Diego Municipal Code [SDMC] section 141.0413 and 126.0602. The 3.28-acre site is located at 14740 Via Fiesta in the AR-1-1 zone of the Black Mountain Ranch Planning area. The project site is legally described as: Lots 4 and 6 of Black Mountain Ranch Unit 10A per Map No. 14497;

Subject to the terms and conditions set forth in this Permit, permission is granted to SANTALUZ, LLC Owner/Permittee to construct a 71,630 square-foot nursing facility designed for Assisted Living and Memory Care for senior citizens described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated JAN 14 2014, on file in the Development Services Department.

The project shall include:

- a. A 64-unit, 71,630 square-foot nursing facility specializing in assisted living and memory care for senior citizens;
- b. Landscaping (planting, irrigation and landscape related improvements);
- c. Off-street parking;
- d. Recreation area, community garden, and common area;
- 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.

**STANDARD REQUIREMENTS:**

1. This permit must be utilized within thirty-six (36) months after the date on which all rights of appeal have expired. If this permit is not utilized in accordance with Chapter 12, Article 6, Division 1 of the SDMC within the 36 month period, this permit shall be void unless an Extension of Time has been granted. Any such Extension of Time must meet all SDMC requirements and applicable guidelines in effect at the time the extension is considered by the appropriate decision maker. This permit must be utilized by

JAN 14 2017

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. 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.

8. 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.

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

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

10. 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.

#### **ENVIRONMENTAL/MITIGATION REQUIREMENTS:**

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

12. The mitigation measures specified in the MMRP and outlined in Addendum, No. 257983, shall be noted on the construction plans and specifications under the heading ENVIRONMENTAL MITIGATION REQUIREMENTS.

13. The Owner/Permittee shall comply with the MMRP as specified in Addendum, No. 257983, 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 Paleontological Resources.

**ENGINEERING REQUIREMENTS:**

14. Prior to the issuance of a building permit, the Owner/Permittee shall obtain a grading permit for the grading proposed for this project. All grading shall conform to requirements in accordance with the City of San Diego Municipal Code in a manner satisfactory to the City Engineer.

15. The drainage system proposed for this development and outside of the public right-of-way is private, shall be privately maintained and subject to approval by the City Engineer.

16. Prior to the issuance of any construction permits, the Owner/Permittee shall enter into a Maintenance Agreement for the ongoing permanent BMP maintenance, satisfactory to the City Engineer.

17. Prior to the issuance of any construction permits, the Owner/Permittee shall incorporate any construction Best Management Practices necessary to comply with Chapter 14, Article 2, Division 1 (Grading Regulations) of the San Diego Municipal Code, into the construction plans or specifications, satisfactory to the City Engineer.

18. Prior to the issuance of any construction permits, the Owner/Permittee shall incorporate and show the type and location of all post-construction Best Management Practices (BMP's) on the final construction drawings, in accordance with the approved Water Quality Technical Report, satisfactory to the City Engineer.

19. All driveways and curb openings shall comply with City Standard Drawings SDG-159, SDG-160, and G-15.

20. Development of this project shall comply with all requirements of State Water Resources Control Board (SWRCB) Order No. 2009-009 DWQ and the Municipal Storm Water Permit, Order No. 2009-009(NPDES General Permit No. CAS000002 and CAS0108758), Waste Discharge Requirements for Discharges of Storm Water Runoff Associated With Construction Activity. In accordance with said permit, a Storm Water Pollution Prevention Plan (SWPPP) and a Monitoring Program Plan shall be implemented concurrently with the commencement of grading activities, and a Notice of Intent (NOI) shall be filed with the SWRCB. A copy of the acknowledgment from the

SWRCB that an NOI has been received for this project shall be filed with the City of San Diego when received; further, a copy of the completed NOI from the SWRCB showing the permit number for this project shall be filed with the City of San Diego when received. In addition, the owner(s) and subsequent owner(s) of any portion of the property covered by this grading permit and by SWRCB Order No. 2009-009 DWQ, and any subsequent amendments thereto,

**LANDSCAPE REQUIREMENTS:**

21. Prior to issuance of any engineering permits for grading, construction documents for the revegetation and hydroseeding of all disturbed land shall be submitted in accordance with the Landscape Standards and to the satisfaction of the Development Services Department. All plans shall be in substantial conformance to this permit (including Environmental conditions) and Exhibit 'A,' on file in the Office of the Development Services Department.
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 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 provide a 40 sq-ft area around each tree that is unencumbered by hardscape and utilities unless otherwise approved per LDC 142.0403(b)5.
23. In the event that a foundation only permit is requested by the Owner/Permittee, a site plan or staking layout plan shall be submitted identifying all landscape areas consistent with Exhibit 'A,' Landscape Development Plan, on file in the Office of the Development Services Department. These landscape areas shall be clearly identified with a distinct symbol, noted with dimensions and labeled as 'landscaping area.'
24. Prior to issuance of any Certificate of Occupancy, it shall be the responsibility of the Owner/Permittee to install all required landscape and obtain all required landscape inspections. A "No Fee" Street Tree Permit shall be obtained for the installation, establishment, and on-going maintenance of all street trees.
25. All required landscape shall be maintained in a disease, weed and litter free condition at all times. Severe pruning or "topping" of trees is not permitted unless specifically noted in this Permit.
26. The Owner/Permittee shall be responsible for the maintenance of all landscape improvements shown on the approved plans, including 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.
27. If any required landscape (including existing or new plantings, hardscape, landscape features, etc.) indicated on the approved construction document plans is

damaged or removed during demolition or construction, it shall be repaired and/or replaced in kind and equivalent size per the approved documents to the satisfaction of the Development Services Department within 30 days of damage or Certificate of Occupancy.

**PLANNING/DESIGN REQUIREMENTS:**

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

29. 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.

30. The assisted living units shall not contain a "kitchen," as defined in the San Diego Municipal Code.

31. On Monday, Tuesday, Wednesday, and Friday, no non-management employee shift changes for the project shall occur between the hours of 7:00 a.m. and 9:30 a.m. or 3:00 p.m. and 4:00 p.m. On Thursday, no non-management employee shift changes for the project shall occur between the hours of 7:00 a.m. and 9:30 a.m. and 1:00 p.m. and 2:30 p.m., provided, however, if Willowgrove Elementary School's schedule on Thursday were extended to be consistent with the other weekdays, the restriction in the afternoon shall change to 3:00 p.m. and 4:00 p.m.

32. On Monday, Tuesday, Wednesday, Friday, no food delivery trucks shall be scheduled to arrive or depart from the project between the hours of 7:00 a.m. and 9:30 a.m. or 3:00 p.m. and 4:00 p.m. On Thursday, no food delivery trucks shall be scheduled to arrive or depart from the project between the hours of 7:00 a.m. and 1:00 p.m. and 2:30 p.m., provided, however, if Willowgrove Elementary School's schedule on Thursday were extended to be consistent with the other weekdays, the restriction in the afternoon shall change to 3:00 p.m. and 4:00 p.m.

**TRANSPORTATION REQUIREMENTS:**

33. A minimum of 43 off-street parking spaces (with 44 off-street parking spaces provided) shall be permanently maintained on the property within the approximate location shown on the project's Exhibit "A." Further, all on-site parking stalls and aisle widths shall be in compliance with requirements of the City's Land Development Code, and shall not be converted and/or utilized for any other purpose, unless otherwise authorized in writing by the City Manager.

34. Prior to the first building permit, a signed Joint Use Driveway/Mutual Access Agreement between all affected properties shall be recorded on all affected properties for the access point at the cul da sac of Via Inez west of Via Fiesta, satisfactory to the City Engineer.

35. Prior to the issuance of the first construction permit, the owner/permittee shall assure by permit and bond the installation of an In-Roadway Illuminated Marker System including auxiliary components, supporting striping and signage on the eastern crosswalk of the Via Inez/Via Fiesta intersection, satisfactory to the City Engineer. These improvements shall be completed and accepted by the City Engineer prior to the issuance of any certificate of occupancy.

36. Prior to issuance of any certificate of occupancy, the Owner/Permittee shall demonstrate a good faith effort to enter into a shared parking agreement with the Greater San Diego Muslim Community Center to the south of the project site, satisfactory to the Development Services Director.

**PUBLIC UTILITIES DEPARTMENT REQUIREMENTS:**

37. The Owner/Permittee shall assure, by permit and bond the design and construction of any new water and sewer service(s) outside of any driveway, and the disconnection of the existing unused water and sewer service adjacent to the project site, in a manner satisfactory to the Director of Public Utilities and the City.

38. 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 (domestic, fire and irrigation), in a manner satisfactory to the Director of Public Utilities and the City Engineer. BFPDs shall be located above ground on private property, in line with the service and immediately adjacent to the right-of-way.

39. Prior to the issuance of any certificates of occupancy, all public water and sewer facilities shall be complete and operational in a manner satisfactory to the Director of Public Utilities and the City Engineer.

40. Owner/Permittee shall design and construct all proposed public water and sewer facilities, in accordance with established criteria in the current edition of the City of San Diego Water and Sewer Facility Design Guidelines and City regulations, standards and practices.

**GEOLOGY REQUIREMENTS:**

41. The Owner/Permittee shall submit a geotechnical investigation report or update letter that specifically addresses the proposed construction plans. The geotechnical investigation report or update letter shall be reviewed for adequacy by the Geology Section of Development Services prior to the issuance of any construction permit.

42. The Owner/Permittee shall submit an as-graded geotechnical report prepared in accordance with the City's "Guidelines for Geotechnical Reports" following completion of the grading. The as-graded geotechnical report shall be reviewed for adequacy by the Geology Section of Development Services prior to exoneration of the bond and grading permit close-out.



**INFORMATION ONLY:**

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

APPROVED by the City Council of the City of San Diego on JAN 14 2014.

Permit Type/PTS Approval No.: CUP No. 908816  
Date of Approval: \_\_\_\_\_

AUTHENTICATED BY THE CITY OF SAN DIEGO DEVELOPMENT SERVICES  
DEPARTMENT

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William Zounes  
Development Project Manager

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

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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.

SANTALUZ, LLC  
Owner/Permittee

By \_\_\_\_\_  
NAME  
TITLE

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

Passed by the Council of The City of San Diego on JAN 14 2014, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Sherri Lightner	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Kevin Faulconer	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Todd Gloria	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Myrtle Cole	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mark Kersey	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lorie Zapf	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Scott Sherman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
David Alvarez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Marti Emerald	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage JAN 14 2014.

AUTHENTICATED BY: TODD GLORIA, COUNCIL PRESIDENT  
as interim Mayor of The City of San Diego, California.

(Seal) ELIZABETH S. MALAND  
City Clerk of The City of San Diego, California.

By [Signature], Deputy

I HEREBY CERTIFY that the foregoing ordinance was not finally passed until twelve calendar days had elapsed between the day of its introduction and the day of its final passage, to wit, on

DEC 10 2013, and on JAN 14 2014.

I FURTHER CERTIFY that said ordinance was read in full prior to passage or that such reading was dispensed with by a vote of five members of the Council, and that a written copy of the ordinance was made available to each member of the Council and the public prior to the day of its passage.

(Seal) ELIZABETH S. MALAND  
City Clerk of The City of San Diego, California.

By [Signature], Deputy

Office of the City Clerk, San Diego, California
Ordinance Number O- <b>20343</b>