

RESOLUTION NUMBER R- 309753

DATE OF FINAL PASSAGE MAY 19 2015

ITEM # 336
SUB-C
5/19/15

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO GRANTING PLANNED DEVELOPMENT PERMIT NO. 856425 AND SITE DEVELOPMENT PERMIT NO. 856426; AMENDMENT TO THE PLANNED DEVELOPMENT PERMIT NO. 497493 AND SITE DEVELOPMENT PERMIT NO. 497494 FOR THE CAMELOT PROJECT NO. 238281.

WHEREAS, SPIC DEL SUR LLC, a Delaware Limited Liability Company, Owner and Permittee, filed an application with the City of San Diego for a Planned Development Permit (PDP) and Site Development Permit (SDP), an amendment of Planned Development Permit No. 497493 and Site Development Permit No. 497494, to construct 307 dwelling units, of which 259 attached market-rate condominium units would be constructed onsite (total includes 7 dwelling units being transferred to the property from Lot 12, 13, 18, and 19 of Map No. 15919), on a vacant 74.42-acre parcel of land known as the Camelot project (Project), and the remaining 48 dwelling units are affordable housing units, and would be transferred and constructed on Lot 9 of Map No. 15919 in the Black Mountain Ranch (BMR) North Village Town Center; and

WHEREAS, the Project includes a Multiple Habitat Planning Area (MHPA) Boundary Line Adjustment (BLA); and

WHEREAS, the project site is located west of Deer Road and south of Camino San Bernardo, in the AR-1-1, RS-1-14, and RM-1-2 Zones, which are proposed to be rezoned to the AR-1-1 and RM-1-2 Zones within the Black Mountain Ranch Community Plan, and the MHPA. The site contains Environmentally Sensitive Lands (ESL) in the form of Steep Hillsides and Sensitive Biological Resources as defined in San Diego Municipal Code (SDMC) Section 113.0103, and a small section of the southern portion of the project site is located within a 100-Year Floodplain; and

WHEREAS, the property is legally described as: Lot 5 of Section 30 and Lot 8 of Section 31 in Township 13 South of Range 2 West, San Bernardino Meridian, in the City of San Diego, County of San Diego, State of California, according to Official Plat of the Survey of the said land; and Lot B of Black Mountain Ranch Units 16, in the City of San Diego, County of San Diego, State of California, according to Map thereof No. 15951 filed in the Office of the County Recorder of San Diego County, October 31, 2013; and

WHEREAS, on April 30, 2015, the Planning Commission of the City of San Diego considered Planned Development Permit No. 856425 and Site Development Permit No. 856426, and pursuant to Resolution No. 4681-PC voted to recommend approval of the Permit; and

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

WHEREAS, the matter was set for public hearing on May 19, 2015, testimony having been heard, evidence having been submitted, and the City Council having fully considered the matter and being fully advised concerning the same; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that it adopts the following findings with respect to Planned Development Permit No. 856425 and Site Development Permit No. 856426:

I. SITE DEVELOPMENT PERMIT APPROVAL- Section 126.0504

A. Findings for all Site Development Permits

1. The proposed development will not adversely affect the applicable land use plan. The undeveloped 74.42-acre project site is located west of Deer Road and south of Camino San Bernardo in the Black Mountain Ranch (BMR) Community Plan, and has a land use designation of Core Residential at 10-25 dwelling units per acre (du/ac). Approximately 68.97-acres of the site are identified in the BMR Subarea Plan as the Northeast Perimeter Property that allows for 300 dwelling units. The project proposes the construction of 307 dwelling units, of which 259 attached market-rate condominium units would be constructed onsite (this total includes 7 dwelling units being transferred to the property from Lot 12, 13, 18, and 19 of Map No. 15919).

The project shall comply with the affordable housing requirements of the City's North City Future Urbanizing Area Framework Plan and the BMR Subarea Plan, which requires that the project provide 20 percent of the pre-density bonus units as affordable. To meet the Affordable Housing Requirements and as a component of the application, 48 dwelling units are affordable housing units, and would be transferred and constructed on Lot 9 of Map No. 15919 in the BMR North Village Town Center. Therefore, the proposed development is consistent with the policy documents, recommended land use, design guidelines, and development standards in effect for this site per the adopted BMR Subarea Plan, BMR Community Plan, and the General Plan.

2. The proposed development will not be detrimental to the public health, safety, and welfare. The project proposes the construction of 307 dwelling units, of which 259 attached market-rate condominium units would be constructed onsite (this total includes 7 dwelling units being transferred to the property from Lot 12, 13, 18, and 19 of Map No. 15919), and the remaining 48 affordable housing units would be transferred and constructed on Lot 9 of Map No. 15919 in the BMR North Village Town Center.

The proposed 9 lot subdivision would consist of Lot 1 containing the 259 attached market-rate condominium units, Lot 2 as a Property Owner Association (POA) lot, Lot 3 as a Utility Access lot, and the remaining 6 lots (Lots A-F) as Open Space for Multiple Habitat Planning Area (MHPA) and Home Owner Association (HOA) Open Space. Approximately 25.21-acres of the 74.42-acre site would be developed, while the remaining 49.21-acres would be preserved. MHPA surrounds the project site on three sides (east, west and south) and Del Norte High School to the north. In order to develop the site, a MHPA Boundary Line Adjustment (BLA) would be required. The purpose of the adjustment is to shift the development footprint easterly and away from steep hillsides and more sensitive biological resources identified on the project site. The residential condominium development is proposed atop a relatively flat mesa located in the center of the property. A Mitigated Negative Declaration (MND), No. 238281, has been prepared for the project, which address potential impacts to Land Use (Covenant of Easement and MSCP - Land Use Adjacency Guidelines), Biological Resources, Historical Resources (Archaeology), Noise, and Paleontological Resources. A Mitigation, Monitoring and

Reporting Program (MMRP) would be implemented with this project, which will reduce the potential impacts to below a level of significance and are conditions of the approval.

The permit for the project includes various conditions and referenced exhibits of approval relevant to achieving project compliance with the applicable regulations of the San Diego Municipal Code (SDMC) in effect for this project. Such conditions within the permit have been determined as necessary to avoid adverse impacts upon the health, safety and general welfare of persons residing or working in the surrounding area. The project shall comply with the development conditions in effect for the subject property as described in Planned Development Permit No. 856425 and Site Development Permit No. 856426, and other regulations and guidelines pertaining to the subject property per the SDMC. Prior to issuance of any building permit for the proposed development, the plans shall be reviewed for compliance with all Building, Electrical, Mechanical, Plumbing and Fire Code requirements, and the owner/permittee shall be required to obtain grading and public improvement permits. 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 project proposes the construction of 307 dwelling units, of which 259 attached market-rate condominium units would be constructed onsite (this total includes 7 dwelling units being transferred to the property from Lot 12, 13, 18, and 19 of Map No. 15919), and the remaining 48 affordable housing units would be transferred and constructed on Lot 9 of Map No. 15919 in the BMR North Village Town Center.

The proposed 9 lot subdivision would consist of Lot 1 containing the 259 attached market-rate condominium units, Lot 2 as a POA lot, Lot 3 as a Utility Access lot, and the remaining 6 lots (Lots A-F) as Open Space for MHPA and HOA Open Space. A rezone is being requested to allow the project to implement the density levels identified in the BMR Subarea Plan. Portions of the property and the adjacent public right-of-way (ROW) will be rezoned from AR-1-1, RS-1-14, and RM-1-2, into the AR-1-1 and RM-1-2 Zones. Approximately 25.21-acres of the 74.42-acre site would be developed, while the remaining 49.21-acres would be preserved. The residential condominium development is proposed atop a relatively flat mesa located in the center of the property.

The project includes a request for deviations to the development regulations for lot frontage, lot area, building height, angled building envelope, and retaining wall height. The following are the code sections and justification for the deviations:

Lot Frontage: A deviation from San Diego Municipal Code (SDMC) Section 131.0331, Table 131-03C for minimum required lot frontage in the AR-1-1. The development proposes to provide lot frontages for Open Space Lot B on a private driveway with public access/utility easements rather than on a public street as required, to reduce the lot frontage for Open Space Lot C to 50 feet, and to waive the frontage requirement for Open Space Lot D where a 200 foot minimum lot frontage is required by regulations.

The proposed 259 unit residential condominium development is located on an approximately 74.42-acre site with limited public street frontage and where nearly 50 percent of the land is severely topographically constrained and inaccessible. Of the approximately 860 feet of property street frontage, less than half, or approximately 420 feet, is available for vehicular access.

The intent of the regulations is to insure that individual dwelling units on separate lots are provided adequate frontage, and therefore access to public ROW. The proposed development is a multi-family residential condominium development and the access to the public ROW is provided for residents via a connected system of private driveways with public access easements that connect by means of the primary project entry back to the project's public street frontage on Camino San Bernardo. The only lots lacking adequate frontage are three (3) open space lots being offered for dedication as MHPA Open Space.

Lot Area: A deviation from SDMC Section 131.0331, Table 131-03C for minimum required lot area in the AR-1-1 Zone. The development proposes to provide lot areas of 1.28-acres for Open Space Lot C and 0.22-acres for Open Space Lot D, where a 10-acre minimum is required within this zone.

The required minimum lot area for the AR-1-1 Zone is intended to limit residential development densities in this rural zoning classification. The subject lots are non-buildable lots being offered for dedication as MHPA Open Space.

Building Height: A deviation from SDMC Section 131.0431(e), Table 131-04G to allow a maximum height of 37 feet where regulations limit building height to a maximum of 30 feet.

The maximum structure height of 30 feet within the RM-1-2 Zone is intended to limit residential building heights consistent with the maximum densities allowed within this zoning classification and to control the perceived bulk and scale of the project. Approximately 25.21-acres of the 74.42-acre site would be developed, while the remaining 49.21-acres would be preserved. Currently, the MHPA surrounds the project site on three sides (east, west and south) and Del Norte High School to the north. The existing environmental and physical constraints of the property currently limits the ability to fully develop the property to the BMR Subarea Plan that allows for 300 dwelling units. The proposed architectural designs for the project are highly articulated buildings composed of one-, two- and three-story elements. The additional height of the proposed structures assist in adding interest and variety to the private street scene and adds to the perception of the project overall as viewed both internally and by the surrounding development.

Angled Building Envelope: A deviation from SDMC Section 131.0444(e), which requires in the RM-1-2 Zone that an angled building plane would be provided from the limits of the front yard setback in toward the center of the structure. Said plane is limited to a maximum 19 feet height at the 'minimum' front setback line and angles upward at a 45-

degree angle till it reaches the maximum allowable building height. The deviation is to allow portions of 3 of the total 32 building proposed to exceed this standard

The angled building plane height/setback requirement is intended to provide the public some degree of relief from the perceived bulk and scale along the frontage. The 3 buildings in question are located adjacent to the northerly portion of project along the Camino San Bernardo frontage. The proposed architectural designs for the project are highly articulated buildings composed of one-, two- and three-story elements. The encroaching elements are for a portion of the building façade and are offset from the primary building wall. The encroaching elements provide vertical and horizontal variation that helps to minimize the perceived bulk and scale.

Retaining Wall Height: A deviation from SDMC Section 142.0340(d) to allow a maximum retaining wall height of 15 feet 6 inches within a required side yard setback where a maximum 6 foot wall height is permitted. The several proposed retaining walls will exceed the maximum permitted height by 1 inch to 9 feet 6 inches for a combined total length of 450 feet, and vary in distance from 2-5 feet from the property line.

Approximately 25.21-acres of the 74.42-acre site would be developed, while the remaining 49.21-acres would be preserved. MHPA surrounds the project site on three sides (east, west and south) and Del Norte High School to the north. The retaining walls help the project minimize the development area in order to preserve the ESL on site. In order to minimize potential visual impacts, the proposed four walls will be “Verdura” type retaining walls, a plantable and mechanically stabilized earth block retaining walls system, and the walls will be a maximum 150 foot in length.

Encroachment into Steep Hillside: A deviation from SDMC Section 143.0142(a)(2) from the Environmentally Sensitive Lands (ESL) regulations to allow a portion of the proposed development to encroach into steep hillside with a natural gradient of 25 percent or more at a minimum elevation differential of 50 feet.

The 259 unit residential condominium development is proposed atop a relatively flat mesa, which is surrounded by existing natural steep hillsides. Approximately 31.7-acres of the total 74.42-acre property, or 43 percent, contain slopes exceeding 25 percent. Of that total, 19.6-acres, or 26 percent, comprise contiguous slope ‘systems’ that exceed both 25 percent slope and 50 feet minimum height.

The BMR Subarea Plan originally identified a development footprint for the subject site that would have resulted in a substantially larger impact on steep hillsides than currently proposed. As a part of the current development proposal, an MHPA BLA has been requested. The purpose of the adjustment is to shift the development footprint easterly and away from steep hillsides and more sensitive biological resources. Thus, the proposed development has been designed to reduce and limit encroachment upon steep hillsides over 50 feet to only 0.42-acres or less than 1 percent of the total project site area.

Based upon this positive adjustment, the design of the proposed development will reduce steep hillsides impacts to the maximum extent feasible and will preserve 49.21-acres of ESL, while still providing a highly articulated architectural designed residential development that implements the goals and objectives of the BMR Subarea Plan, which include the development of 48 off-site affordable housing units that will be constructed on Lot 9 of Map No. 15919 in the BMR North Village Town Center. For all of these reasons, including the justifications listed above, the project minimizes the potential adverse effects on environmentally sensitive lands and with the approval of the requested deviations, the proposed project meets all applicable regulations and policy documents, and would further the City's affordable housing goals and is consistent with the recommended land use, design guidelines, and development standards in effect for this site per the adopted BMR Subarea Plan and the SDMC.

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 undeveloped 74.42-acre project site is located west of Deer Road and south of Camino San Bernardo in the BMR Community Plan, and has a land use designation of Core Residential at 10-25 du/ac. Approximately 68.97-acres of the site are identified in the BMR Subarea Plan as the Northeast Perimeter Property that allows for 300 dwelling units. The project proposes the construction of 307 dwelling units, of which 259 attached market-rate condominium units would be constructed onsite (this total includes 7 dwelling units being transferred to the property from Lot 12, 13, 18, and 19 of Map No. 15919) and the remaining 48 affordable housing units would be transferred and constructed on Lot 9 of Map No. 15919 in the BMR North Village Town Center.

The proposed 9 lot subdivision would consist of Lot 1 containing the 259 attached market-rate condominium units, Lot 2 as a POA lot, Lot 3 as a Utility Access lot, and the remaining 6 lots (Lots A-F) as Open Space for MHPA and HOA Open Space. A rezone is being requested to allow the project to implement the density levels identified in the BMR Subarea Plan. The property will be rezoned from AR-1-1, RS-1-14, and RM-1-2, into the AR-1-1 and RM-1-2 Zones.

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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 undeveloped 74.42-acre project site is located west of Deer Road and south of Camino San Bernardo in the BMR Community Plan. The proposed 9 lot subdivision would consist of Lot 1 containing the 259 attached market-rate condominium units, Lot 2 as a POA lot, Lot 3 as a Utility Access lot, and the remaining 6 lots (Lots A-F) as Open Space for MHPA and HOA Open Space. A rezone is being requested to allow the project to implement the density levels identified in the BMR Subarea Plan. The property will be rezoned from AR-1-1, RS-1-14, and RM-1-2, into the AR-1-1 and RM-1-2 Zones.

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3. The proposed development will be sited and designed to prevent adverse impacts on any adjacent environmentally sensitive lands. The undeveloped 74.42-acre project site is located west of Deer Road and south of Camino San Bernardo in the BMR Community Plan, and has a land use designation of Core Residential at 10-25 du/ac. Approximately 68.97-acres of the site are identified in the BMR Subarea Plan as the Northeast Perimeter Property that allows for 300 dwelling units. The project proposes the construction of 307 dwelling units, of which 259 attached market-rate condominium units would be constructed onsite (this total includes 7 dwelling units being transferred to the property from Lot 12, 13, 18, and 19 of Map No. 15919) and the remaining 48 affordable housing units would be transferred and constructed on Lot 9 of Map No. 15919 in the BMR North Village Town Center.

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The BMR Subarea Plan originally identified a development footprint for the subject site that would have resulted in a substantially larger impact on steep hillsides than currently proposed. As a part of the current development proposal, an MHPA BLA has been requested. The purpose of the adjustment is to shift the development footprint easterly and away from steep hillsides and more sensitive biological resources. Thus, the proposed development has been designed to reduce and limit encroachment upon steep hillsides over 50 feet to only 0.42-acres or less than 1 percent of the total project site area.

Based upon this positive adjustment, the design of the proposed development will reduce steep hillsides impacts and will preserve 49.21-acres of ESL. A MND, No. 238281, has been prepared for the project, which address potential impacts to Land Use (Covenant of Easement and MSCP - Land Use Adjacency Guidelines), Biological Resources, Historical Resources (Archaeology), Noise, and Paleontological Resources. A MMRP would be implemented with this project, which will reduce the potential impacts to below a level of significance. With the implementation of the MMRP, including the justifications listed above, the proposed development has been designed to prevent adverse impacts on any adjacent ESL.

4. The proposed development will be consistent with the City of San Diego's Multiple Species Conservation Program (MSCP) Subarea Plan. The undeveloped 74.42-acre project site is located west of Deer Road and south of Camino San Bernardo in the BMR Community Plan, and has a land use designation of Core Residential at 10-25 du/ac. Approximately 68.97-acres of the site are identified in the BMR Subarea Plan as the Northeast Perimeter Property that allows for 300 dwelling units. The project proposes the construction of 307 dwelling units, of which 259 attached market-rate condominium units would be constructed onsite (this total includes 7 dwelling units being transferred to the property from Lot 12, 13, 18, and 19 of Map No. 15919) and the remaining 48 affordable housing units would be transferred and constructed on Lot 9 of Map No. 15919 in the BMR North Village Town Center.

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The purpose of the adjustment is to shift the development footprint easterly and away from steep hillsides and more sensitive biological resources. Thus, the proposed development has been designed to reduce and limit encroachment upon steep hillsides over 50 feet to only 0.42-acres or less than 1 percent of the total project site area.

Based upon this positive adjustment, the design of the proposed development will reduce steep hillsides impacts and will preserve 49.21-acres of ESL. A MND, No. 238281, has been prepared for the project, which address potential impacts to Land Use (Covenant of Easement and MSCP - Land Use Adjacency Guidelines), Biological Resources, Historical Resources (Archaeology), Noise, and Paleontological Resources. A MMRP would be implemented with this project, which will reduce the potential impacts to below a level of significance. With the implementation of the MMRP, including the justifications listed above, the proposed development would be consistent with the City of San Diego's MSCP Subarea Plan.

5. The proposed development will not contribute to the erosion of public beaches or adversely impact local shoreline sand supply. The undeveloped 74.42-acre project site is located west of Deer Road and south of Camino San Bernardo in the BMR Community Plan. The project site is located approximately 9 miles from the Pacific Ocean; therefore, the proposed development will not contribute to the erosion of public beaches or adversely impact local shoreline sand supply.

6. The nature and extent of mitigation required as a condition of the permit is reasonably related to, and calculated to alleviate, negative impacts created by the proposed development. The undeveloped 74.42-acre project site is located west of Deer Road and south of Camino San Bernardo in the BMR Community Plan, and has a land use designation of Core Residential at 10-25 du/ac. Approximately 68.97-acres of the site are identified in the BMR Subarea Plan as the Northeast Perimeter Property that allows for 300 dwelling units. The project proposes the construction of 307 dwelling units, of which 259 attached market-rate condominium units would be constructed onsite (this total includes 7 dwelling units being transferred to the property from Lot 12, 13, 18, and 19 of Map No. 15919) and the remaining 48 affordable housing units would be transferred and constructed on Lot 9 of Map No. 15919 in the BMR North Village Town Center.

The proposed 9 lot subdivision would consist of Lot 1 containing the 259 attached market-rate condominium units, Lot 2 as a POA lot, Lot 3 as a Utility Access lot, and the remaining 6 lots (Lots A-F) as Open Space for MHPA and HOA Open Space. A rezone is being requested to allow the project to implement the density levels identified in the BMR Subarea Plan. The property will be rezoned from AR-1-1, RS-1-14, and RM-1-2, into the AR-1-1 and RM-1-2 Zones.

Approximately 25.21-acres of the 74.42-acre site would be developed, while the remaining 49.21-acres would be preserved. MHPA surrounds the project site on three sides (east, west and south) and Del Norte High School to the north. The 259 unit residential condominium development is proposed atop a relatively flat mesa, which is surrounded by existing natural steep hillsides. Approximately 31.7-acres of the total 74.42-acre property, or 43 percent, contain

slopes exceeding 25 percent. Of that total, 19.6-acres, or 26 percent, comprise contiguous slope 'systems' that exceed both 25 percent slope and 50 feet minimum height.

The BMR Subarea Plan originally identified a development footprint for the subject site that would have resulted in a substantially larger impact on steep hillsides than currently proposed. As a part of the current development proposal, an MHPA BLA has been requested. The purpose of the adjustment is to shift the development footprint easterly and away from steep hillsides and more sensitive biological resources. Thus, the proposed development has been designed to reduce and limit encroachment upon steep hillsides over 50 feet to only 0.42-acres or less than 1 percent of the total project site area.

Based upon this positive adjustment, the design of the proposed development will reduce steep hillsides impacts and will preserve 49.21-acres of ESL. A MND, No. 238281, has been prepared for the project, which address potential impacts to Land Use (Covenant of Easement and MSCP - Land Use Adjacency Guidelines), Biological Resources, Historical Resources (Archaeology), Noise, and Paleontological Resources. A MMRP would be implemented with this project, which will reduce the potential impacts to below a level of significance. The City Council has reviewed the administrative record including the project plans, MND No. 238281, and heard public testimony, and has determined that the nature and extent of mitigation required as a condition of the permit are reasonably related to, and calculated to alleviate, negative impacts created by the proposed development.

II. PLANNED DEVELOPMENT PERMIT - SECTION 126.0604

A. Findings for all Planned Development Permits

1. The proposed development will not adversely affect the applicable land use plan. The undeveloped 74.42-acre project site is located west of Deer Road and south of Camino San Bernardo in the BMR Community Plan, and has a land use designation of Core Residential at 10-25 du/ac. Approximately 68.97-acres of the site are identified in the BMR Subarea Plan as the Northeast Perimeter Property that allows for 300 dwelling units. The project proposes the construction of 307 dwelling units, of which 259 attached market-rate condominium units would be constructed onsite (this total includes 7 dwelling units being transferred to the property from Lot 12, 13, 18, and 19 of Map No. 15919).

The project shall comply with the affordable housing requirements of the City's North City Future Urbanizing Area Framework Plan and the BMR Subarea Plan, which requires that the project provide 20 percent of the pre-density bonus units as affordable. To meet the Affordable Housing Requirements and as a component of the application, 48 dwelling units are affordable housing units, and would be transferred and constructed on Lot 9 of Map No. 15919 in the BMR North Village Town Center. Therefore, the proposed development is consistent with the policy documents, recommended land use, design guidelines, and development standards in effect for this site per the adopted BMR Subarea Plan and the General Plan.

2. The proposed development will not be detrimental to the public health, safety, and welfare. The project proposes the construction of 307 dwelling units, of which 259

attached market-rate condominium units would be constructed onsite (this total includes 7 dwelling units being transferred to the property from Lot 12, 13, 18, and 19 of Map No. 15919) and the remaining 48 affordable housing units would be transferred and constructed on Lot 9 of Map No. 15919 in the BMR North Village Town Center.

The proposed 9 lot subdivision would consist of Lot 1 containing the 259 attached market-rate condominium units, Lot 2 as a POA lot, Lot 3 as a Utility Access lot, and the remaining 6 lots (Lots A-F) as Open Space for MHPA and HOA Open Space. Approximately 25.2- acres of the 74.42-acre site would be developed, while the remaining 49.21-acres would be preserved. MHPA surrounds the project site on three sides (east, west and south) and Del Norte High School to the north. In order to develop the site, a MHPA BLA would be required. The purpose of the adjustment is to shift the development footprint easterly and away from steep hillsides and more sensitive biological resources identified on the project site. The residential condominium development is proposed atop a relatively flat mesa located in the center of the property. A MND, No. 238281, has been prepared for the project, which address potential impacts to Land Use (Covenant of Easement and MSCP - Land Use Adjacency Guidelines), Biological Resources, Historical Resources (Archaeology), Noise, and Paleontological Resources. A MMRP would be implemented with this project, which will reduce the potential impacts to below a level of significance and are conditions of the approval.

The permit for the project includes various conditions and referenced exhibits of approval relevant to achieving project compliance with the applicable regulations of the SDMC in effect for this project. Such conditions within the permit have been determined as necessary to avoid adverse impacts upon the health, safety and general welfare of persons residing or working in the surrounding area. The project shall comply with the development conditions in effect for the subject property as described in Planned Development Permit No. 856425 and Site Development Permit No. 856426, and other regulations and guidelines pertaining to the subject property per the SDMC. Prior to issuance of any building permit for the proposed development, the plans shall be reviewed for compliance with all Building, Electrical, Mechanical, Plumbing and Fire Code requirements, and the owner/permittee shall be required to obtain grading and public improvement permits. Therefore, the proposed development will not be detrimental to the public health, safety and welfare.

3. The proposed development will comply with the regulations of the Land Development Code including any proposed deviations pursuant to Section 126.0602(b)(1) that are appropriate for this location and will result in a more desirable project than would be achieved if designed in strict conformance with the development regulations of the applicable zone; and any allowable deviations that are otherwise authorized pursuant to the Land Development Code. The project proposes the construction of 307 dwelling units, of which 259 attached market-rate condominium units would be constructed onsite (this total includes 7 dwelling units being transferred to the property from Lot 12, 13, 18, and 19 of Map No. 15919) and the remaining 48 affordable housing units would be transferred and constructed on Lot 9 of Map No. 15919 in the BMR North Village Town Center.

The proposed 9 lot subdivision would consist of Lot 1 containing the 259 attached market-rate condominium units, Lot 2 as a POA lot, Lot 3 as a Utility Access lot, and the

remaining 6 lots (Lots A-F) as Open Space for MHPA and HOA Open Space. A rezone is being requested to allow the project to implement the density levels identified in the BMR Subarea Plan. Portions of the property and the adjacent public ROW will be rezoned from AR-1-1, RS-1-14, and RM-1-2, into the AR-1-1 and RM-1-2 Zones. Approximately 25.21-acres of the 74.42-acre site would be developed, while the remaining 49.21-acres would be preserved. The residential condominium development is proposed atop a relatively flat mesa located in the center of the property.

The project includes a request for deviations to the development regulations for lot frontage, lot area, building height, angled building envelope, and retaining wall height. The following are the code sections and justification for the deviations:

Lot Frontage: A deviation from San Diego Municipal Code (SDMC) Section 131.0331, Table 131-03C for minimum required lot frontage in the AR-1-1. The development proposes to provide lot frontages for Open Space Lot B on a private driveway with public access/utility easements rather than on a public street as required, to reduce the lot frontage for Open Space Lot C to 50 feet, and to waive the frontage requirement for Open Space Lot D where a 200 foot minimum lot frontage is required by regulations.

The proposed 259 unit residential condominium development is located on an approximately 74.42-acre site with limited public street frontage and where nearly 50 percent of the land is severely topographically constrained and inaccessible. Of the approximately 860 feet of property street frontage, less than half, or approximately 420 feet, is available for vehicular access.

The intent of the regulations is to insure that individual dwelling units on separate lots are provided adequate frontage, and therefore access to public ROW. The proposed development is a multi-family residential condominium development and the access to the public ROW is provided for residents via a connected system of private driveways with public access easements that connect by means of the primary project entry back to the project's public street frontage on Camino San Bernardo. The only lots lacking adequate frontage are three (3) open space lots being offered for dedication as MHPA Open Space.

Lot Area: A deviation from SDMC Section 131.0331, Table 131-03C for minimum required lot area in the AR-1-1 Zone. The development proposes to provide lot areas of 1.28-acres for Open Space Lot C and 0.22-acres for Open Space Lot D, where a 10-acre minimum is required within this zone.

The required minimum lot area for the AR-1-1 Zone is intended to limit residential development densities in this rural zoning classification. The subject lots are non-buildable lots being offered for dedication as MHPA Open Space.

Building Height: A deviation from SDMC Section 131.0431(e), Table 131-04G to allow a maximum height of 37 feet where regulations limit building height to a maximum of 30 feet.

The maximum structure height of 30 feet within the RM-1-2 Zone is intended to limit residential building heights consistent with the maximum densities allowed within this zoning classification and to control the perceived bulk and scale of the project. Approximately 25.21-acres of the 74.42-acre site would be developed, while the remaining 49.21-acres would be preserved. Currently, the MHPA surrounds the project site on three sides (east, west and south) and Del Norte High School to the north. The existing environmental and physical constraints of the property currently limits the ability to fully develop the property to the BMR Subarea Plan that allows for 300 dwelling units. The proposed architectural designs for the project are highly articulated buildings composed of one-, two- and three-story elements. The additional height of the proposed structures assist in adding interest and variety to the private street scene and adds to the perception of the project overall as viewed both internally and by the surrounding development.

Angled Building Envelope: A deviation from SDMC Section 131.0444(e), which requires in the RM-1-2 Zone that an angled building plane would be provided from the limits of the front yard setback in toward the center of the structure. Said plane is limited to a maximum 19 feet height at the 'minimum' front setback line and angles upward at a 45-degree angle till it reaches the maximum allowable building height. The deviation is to allow portions of 3 of the total 32 building proposed to exceed this standard

The angled building plane height/setback requirement is intended to provide the public some degree of relief from the perceived bulk and scale along the frontage. The 3 buildings in question are located adjacent to the northerly portion of project along the Camino San Bernardo frontage. The proposed architectural designs for the project are highly articulated buildings composed of one-, two- and three-story elements. The encroaching elements are for a portion of the building façade and are offset from the primary building wall. The encroaching elements provide vertical and horizontal variation that helps to minimize the perceived bulk and scale.

Retaining Wall Height: A deviation from SDMC Section 142.0340(d) to allow a maximum retaining wall height of 15 feet 6 inches within a required side yard setback where a maximum 6 foot wall height is permitted. The several proposed retaining walls will exceed the maximum permitted height by 1 inch to 9 feet 6 inches for a combined total length of 450 feet, and vary in distance from 2-5 feet from the property line.

Approximately 25.21-acres of the 74.42-acre site would be developed, while the remaining 49.21-acres would be preserved. MHPA surrounds the project site on three sides (east, west and south) and Del Norte High School to the north. The retaining walls help the project minimize the development area in order to preserve the ESL on site. In order to minimize potential visual impacts, the proposed four walls will be "Verdura" type retaining walls, a plantable and mechanically stabilized earth block retaining walls system, and the walls will be a maximum 150 foot in length.

Encroachment into Steep Hillside: A deviation from SDMC Section 143.0142(a)(2) from the Environmentally Sensitive Lands (ESL) regulations to allow a portion of the proposed

development to encroach into steep hillside with a natural gradient of 25 percent or more at a minimum elevation differential of 50 feet.

The 259 unit residential condominium development is proposed atop a relatively flat mesa, which is surrounded by existing natural steep hillsides. Approximately 31.7-acres of the total 74.42-acre property, or 43 percent, contain slopes exceeding 25 percent. Of that total, 19.6-acres, or 26 percent, comprise contiguous slope 'systems' that exceed both 25 percent slope and 50 feet minimum height.

The BMR Subarea Plan originally identified a development footprint for the subject site that would have resulted in a substantially larger impact on steep hillsides than currently proposed. As a part of the current development proposal, an MHPA BLA has been requested. The purpose of the adjustment is to shift the development footprint easterly and away from steep hillsides and more sensitive biological resources. Thus, the proposed development has been designed to reduce and limit encroachment upon steep hillsides over 50 feet to only 0.42-acres or less than 1 percent of the total project site area.

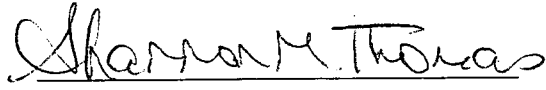
Based upon this positive adjustment, the design of the proposed development will reduce steep hillsides impacts to the maximum extent feasible and will preserve 49.21-acres of ESL, while still providing a highly articulated architectural designed residential development that implements the goals and objectives of the BMR Subarea Plan, which include the development of 48 off-site affordable housing units that will be constructed on Lot 9 of Map No. 15919 in the BMR North Village Town Center. For all of these reasons, including the justifications listed above, the project minimizes the potential adverse effects on environmentally sensitive lands and with the approval of the requested deviations, the proposed project meets all applicable regulations and policy documents, and would further the City's affordable housing goals and is consistent with the recommended land use, design guidelines, and development standards in effect for this site per the adopted BMR Subarea Plan and the SDMC.

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

BE IT FURTHER RESOLVED, that Planned Development Permit (PDP) No. 856425, Site Development Permit (SDP) No. 856426 is granted to SPIC DEL SUR LLC, a Delaware Limited Liability Company, Owner/Permittee, under the terms and conditions set forth in the attached permit which is made a part of this resolution.

BE IT FURTHER RESOLVED, that the MHPA boundary line adjustment as shown on Vesting Tentative Map No. 856427 is approved.

APPROVED: JAN I. GOLDSMITH, City Attorney

By 
Shannon M. Thomas
Deputy City Attorney

SMT:als
04/29/2015
Or.Dept:DSD
Doc. No.: 1001023

Attachment: Planned Development Permit and Site Development Permit

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

WHEN RECORDED MAIL TO
CITY CLERK
MAIL STATION 2A

SPACE ABOVE THIS LINE FOR RECORDER'S USE

INTERNAL ORDER NUMBER: 24001751

PLANNED DEVELOPMENT PERMIT NO. 856425
SITE DEVELOPMENT PERMIT NO. 856426
CAMELOT-PROJECT NO. 238281 [MMRP]
AMENDMENT TO PLANNED DEVELOPMENT PERMIT NO. 497493
AND SITE DEVELOPMENT PERMIT NO. 497494
CITY COUNCIL

This Planned Development Permit No. 856425 and Site Development Permit No. 856426, an amendment of Planned Development Permit No. 497493 and Site Development Permit No. 497494 (Black Mountain Ranch North Village-Project No. 142244) is granted by the City Council of the City of San Diego to SPIC DEL SUR LLC, a Delaware Limited Liability Company, Owner and Permittee, pursuant to San Diego Municipal Code (SDMC) Sections 126.0504 and 126.0604. The 74.42-acre site is located south of Camino San Bernardo, south of Nighthawk Lane, in the existing AR-1-1, RM-1-2, and RS-1-14 Zones (proposed AR-1-1 and RM-1-2 Zones) within the Black Mountain Ranch Community Plan, Multiple Habitat Planning Area (MHPA), and Council District 5. The project site is legally described as: Lot 5 of Section 30 and Lot 8 of Section 31 in Township 13 South of Range 2 West, San Bernardino Meridian, in the City of San Diego, County of San Diego, State of California, according to Official Plat of the Survey of the said land; and Lot B of Black Mountain Ranch Units 16, in the City of San Diego, County of San Diego, State of California, according to Map thereof No. 15951 filed in the Office of the County Recorder of San Diego County, October 31, 2013.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee to develop a 307 multi-family residential condominium unit (259 units on site and 48 affordable housing units off-site) subdivision on a vacant 74.42-acre site, and a MHPA Boundary Line Adjustment is approved; described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated MAY 19 2015, on file in the Development Services Department.

The project shall include:

- a. A 307 multi-family residential condominium unit subdivision consisting of 259 multi-family dwelling units (includes 7 dwelling units being transferred to the property from Lot 12, 13, 18, and 19 of Map No. 15919) on site within 30 multi-family residential buildings and a MHPA Boundary Line Adjustment; and transfer and to construct 48 units (“Affordable Units”) on Lot 9 in Unit No. 11 of Map No. 15919 (the “Affordable Housing Site”) in the Black Mountain Ranch North Village;
- b. Deviations as follows:
 1. A deviation from SDMC Section 131.0331, Table 131-03C for minimum required lot frontage in the AR-1-1. The development proposes to provide lot frontages for Open Space Lot B on a private driveway with public access/utility easements rather than on a public street as required, to reduce the lot frontage for Open Space Lot C to 50 feet, and to waive the frontage requirement for Open Space Lot D where a 200 foot minimum lot frontage is required by regulations;
 2. A deviation from SDMC Section 131.0331, Table 131-03C for minimum required lot area in the AR-1-1 Zone. The development proposes to provide lot areas of 1.28-acres for Open Space Lot C and 0.22-acres for Open Space Lot D, where a 10-acre minimum is required within this zone;
 3. A deviation from SDMC Section 131.0431(e), Table 131-04G to allow a maximum height of 37 feet where regulations limit building height to a maximum of 30 feet;
 4. A deviation from SDMC Section 131.0444(e), which requires in the RM-1-2 Zone that an angled building plane would be provided from the limits of the front yard setback in toward the center of the structure. Said plane is limited to a maximum 19 feet height at the ‘minimum’ front setback line and angles upward at a 45-degree angle till it reaches the maximum allowable building height. The deviation is to allow portions of 3 of the total 32 building proposed to exceed this standard;
 5. A deviation from SDMC Section 142.0340(d) to allow a maximum retaining wall height of 15 feet 6 inches within a required side yard setback where a maximum 6 foot wall height is permitted. The several proposed retaining walls will exceed the maximum permitted height by from 0 to 9 feet 6 inches for a combined total length of 450 feet, and vary in distance from 2-5 feet from the property line;
 6. A deviation from SDMC Section 143.0142(a)(2) to allow a portion of the proposed development to encroach into steep hillside with a natural

gradient of 25 percent or more and a minimum elevation differential of 50 feet.

- c. Landscaping (planting, irrigation and landscape related improvements);
- d. Off-street parking;
- 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.
- f. Amendment of Planned Development Permit No. 497493 and Site Development Permit No. 497494 (Black Mountain Ranch North Village-Project No.142244) to allow for the inclusion of Lot B of Map No. 15951 within the proposed subdivision, to allow for 48 units ("Affordable Units") to be transferred and constructed on Lot 9 of Map No. 15919, and the transfer of 7 dwelling units to the Project site from Lot 12, 13, 18, and 19 of Map No. 15919. All other development rights and conditions of Planned Development Permit No. 497493 and Site Development Permit No. 497494 remain in full force and effect.

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 MAY 19 2018.

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 Wildlife (CDFW) pursuant to California Fish and Wildlife 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 CDFW, 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" 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.

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.

ENVIRONMENTAL/MITIGATION REQUIREMENTS:

12. 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.

13. The mitigation measures specified in the MMRP and outlined in MITIGATED NEGATIVE DECLARATION No. 238281, shall be noted on the construction plans and specifications under the heading ENVIRONMENTAL MITIGATION REQUIREMENTS.

14. The Owner/Permittee shall comply with the MMRP as specified in MITIGATED NEGATIVE DECLARATION No. 238281, 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 (Covenant of Easement and MSCP - Land Use Adjacency Guidelines)
Biological Resources
Historical Resources (archaeology)
Noise
Paleontological Resources

AFFORDABLE HOUSING REQUIREMENTS:

15. The Owner/Permittee shall comply with the affordable housing requirements of the City's North City Future Urbanizing Area Framework Plan and the Black Mountain Ranch Subarea Plan, which requires that the project provide 20 percent of the pre-density bonus units as affordable (the "Affordable Housing Requirements").

a. Prior to recording the Final Map, the Owner/Permittee shall:

1. Enter into a Master Affordable Housing Agreement ("Affordable Housing Agreement"), with the San Diego Housing Commission ("Housing Commission") to detail and assure the construction and occupancy of an "Affordable Housing Project" totaling a minimum of forty-eight (48) units ("Affordable Units") on the Owner/Permittee's "Camelot Subdivision." As used herein "Affordable Housing Site" means the parcel(s) of real property upon which the Declaration is recorded and the Affordable Units are constructed. Notwithstanding the foregoing, the Affordable Housing Site may be, and the Owner/Permittee may cause the forty-eight (48) Affordable Units to be constructed on Lot 9 of Map No. 15919 in the Black Mountain Ranch North Village (which is not a part of the property that is the subject of this site development permit), provided, construction of such Affordable Units is allowed by the entitlements, zoning laws and any and all other laws and regulations applicable to such property and the Owner/Permittee is able to enter into any and all contractual agreements required by the Housing Commission to ensure those Affordable Units will be rent and occupancy restricted as set forth in the Affordable Housing Agreement. The Affordable Housing Agreement shall include all of the provisions of this Section 1 and such other and further conditions as shall be required by the President and CEO of the Housing Commission, or his designee ("President and CEO"), to assure satisfaction of the affordable housing requirements as referenced in this Permit, the North City Future Urbanizing Area Framework Plan, and the Black Mountain Ranch Subarea Plan.
2. Execute and record a declaration of covenants, conditions and restrictions (the "Declaration") in first priority position against the Affordable Housing Site, restricting the occupancy and affordability of the Affordable Housing Project for a period of fifty-five (55) years from the date of initial occupancy of the Affordable Housing Project. All Affordable Units shall be for occupancy by families earning no more than sixty-five percent

(65%) of the Area Median Income, as adjusted for family size and utilities, and with rental rates that do not exceed thirty percent (30%) of sixty percent (60%) of the Area Median Income, as adjusted for assumed family size and utilities. The Declaration shall provide for the siting, mix and architecture nature of the Affordable Housing Project.

3. Execute and record a deed of trust against the Affordable Housing Site, in second lien priority (junior only to the Declaration), assuring the timely performance of the Declaration and the Affordable Housing Agreement. The deed of trust in favor of the Housing Commission may be subordinated to the construction deed(s) of trust and/or permanent financing deed(s) of trust in favor of institutional lenders, as approved by the President and CEO in her/his sole discretion, if deemed essential to construction and/or operation of the Affordable Housing Project, upon such terms and conditions as she/he may impose.
4. Post performance security for the construction of the Affordable Housing Project, including without limitation, all onsite and offsite improvements, necessary to access and serve the Affordable Housing Project with all necessary utilities, in the form of bond(s), letter(s) of credit, lien(s) and/or other forms of security acceptable to the President and CEO in her/his sole discretion.

b. Approval of the timing of the construction and occupancy of the Affordable Housing Project, acceptable to the President and CEO, shall be included in the Affordable Housing Agreement, provided that the following timetable is incorporated into the Affordable Housing Agreement:

1. Issuance of building permits for the Affordable Project shall occur on or before the earlier of: (A) the issuance of building permits for construction of the 126th market rate dwelling unit; or (B) twenty-four (24) months after the issuance of the first residential building permit.
2. In no event shall the issuance of building permits for the construction of the 126th market rate dwelling unit occur until building permits for construction of the forty-eight (48) affordable units are authorized by the City and are obtained by the Subdivider. Further, if individual parcels are sold initially by Owner/Permittee without first obtaining building permits for construction of market rate units, every such parcel sold shall nonetheless be included with the total number of the building permit issued, in determining when the issuance of the building permit occurs for the 86th market rate unit.
3. Completion of construction of the Affordable Project shall occur upon the earlier of:

- (A) Eighteen (18) months after the issuance of building permit for the Affordable Project as referenced in Paragraph 1.b.1., hereof; or
 - (B) Three and one-half years after the issuance of the first residential building permit.
4. Occupancy of the Affordable Project shall occur not later than one hundred eighty (180) days after the completion of construction as referenced in Paragraph 1.b.3., above.
- c. For “good cause” shown to the satisfaction of the President and CEO, the thresholds and dates referenced herein may be adjusted and/or extended one or more times. Good cause shall include, but not be limited to, Acts of God, labor strikes, war, riots, etc., as shall be determined by the President and CEO, in his/her sole discretion.
 - d. The successors, heirs and assigns of the Owner/Permittee shall enter into and execute such other and further documents as the President and CEO shall require, from time to time, as may be needed to effectuate the affordable housing requirements of this Site Development Permit, the North City Future Urbanizing Area Framework Plan, and the Black Mountain Ranch Subarea Plan.

The North City Future Urbanizing Area Framework Plan and the Black Mountain Ranch Subarea Plan is on file in the Office of the Development Services Department and is incorporated herein. The provisions of the North City Future Urbanizing Area Framework Plan and the Black Mountain Ranch Subarea Plan shall not in any way modify or change any provisions of the Site Development Permit. To the extent that there is any inconsistency between them, the terms of the permit conditions shall prevail.

ENGINEERING REQUIREMENTS:

16. The Owner/Permittee shall comply with all of the conditions of this Planned Development Permit No. 856425 and Site Development Permit No. 856426, and shall comply with all conditions of Vesting Tentative Map No. 856427.

GEOLOGY REQUIREMENTS:

17. Prior to issuance of any construction permits, 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 the Development Services Department.

18. 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 the

Development Services Department prior to exoneration of the bond and grading permit close-out.

LANDSCAPE REQUIREMENTS:

19. Prior to issuance of any engineering permits for grading, the Owner/Permittee shall submit complete construction documents for the revegetation and hydroseeding of all disturbed land in accordance with the Landscape Standards, the San Diego Low Impact Development Design Manual, 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.

20. Prior to issuance of any engineering permits for right-of-way improvements, the Owner/Permittee shall submit complete landscape construction documents for right-of-way improvements to the Development Services Department for approval. Improvement plans shall show, label, and dimension 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 issuance of any construction permits for structures (including shell), the Owner/Permittee shall submit complete landscape and irrigation construction documents consistent with the Landscape Standards to the Development Services Department for approval. The construction documents shall be in substantial conformance with Exhibit "A," Landscape Development Plan, on file in the Office of the Development Services Department. Construction plans shall provide a 40 square-foot area around each tree that is unencumbered by hardscape and utilities unless otherwise approved per LDC 142.0403(b)(5).

22. In the event that a foundation only permit is requested by the Owner/Permittee, a site plan or staking layout plan shall be submitted to the Development Services Department 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.'

23. 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.

24. 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.

25. If any required landscape (including existing or new plantings, hardscape, landscape features, etc.) indicated on the approved construction document plans is damaged or removed during demolition or construction, the Owner/Permittee shall repair and/or replace 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.

BRUSH MANAGEMENT PROGRAM REQUIREMENTS:

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

27. The Brush Management Program shall be based on a standard Zone One of 35 feet in width with Zone Two of 65 feet in width, extending out from the structure towards the native/naturalized vegetation, consistent with the Brush Management Regulations of the Land Development Code, section 142.0412. Zone 1 shall vary from 23-feet to 79-feet as shown on Exhibit "A" with a corresponding Zone 2 from 77-feet to 0-feet. Where Zone 1 is less than the 35-foot standard, opening protection shall be upgraded over CBC 7A requirements to include dual-glazed, dual-tempered panes.

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 the property in substantial conformance with Exhibit "A."

29. Prior to issuance of any Building Permits, a complete set of Brush Management Plans shall be submitted for approval to the Development Services Department. The construction documents shall be in substantial conformance with Exhibit "A" and shall comply with the Landscape Standards and Brush Management Regulations as set forth under Land Development Code Section 142.0412.

30. Within Zone One, combustible accessory structures (including, but not limited to decks, trellises, gazebos, etc.) shall not be permitted while non-combustible and/or one-hour fire-rated accessory structures may be approved within the designated Zone 1 area subject to Fire Marshal's approval.

31. The Brush Management Program shall be maintained at all times in accordance with the City of San Diego's Landscape Standards.

MULTIPLE SPECIES CONSERVATION PROGRAM:

32. Prior to the recordation of the Final Map, or any construction permits, the Owner/Permittee shall grant the on-site Multiple Habitat Planning Area (MHPA) to the City's Multiple Species Conservation Program (MSCP) preserve through either a covenant of easement granted in favor of the City and the U.S. Fish and Wildlife Service (USFWS) and the California Department of Fish and Game (CDFG), or in fee title to the City through an Irrevocable Offer of Dedication, as shown on Exhibit "A." Said offer of fee-title shall be accepted by the City upon completion of the project grading and construction and approval from the Park and Recreation Department Open Space Division Deputy Director.

33. The Owner/Permittee shall ensure that there is no net loss of biological functions and values of all property identified as MHPA conveyed by covenant of easement, or fee-title, upon approval of Vesting Tentative Map No. 856427.

34. The Owner/Permittee shall ensure all property approved for conveyance in fee title to the City for MHPA purposes exclude detention basins or other stormwater control facilities, brush management areas, landscape/revegetation areas and graded slopes and be free and clear of all private easements, private encroachments, private agreements and/or liens.

35. The Owner/Permittee shall grant a covenant of easement in favor of the City and USFWS and CDFG on any on-site MHPA lands that are not dedicated in fee title to the City.

36. The Owner/Permittee shall maintain in perpetuity any MHPA lands granted by covenant of easement unless otherwise agreed by the City.

37. Prior to issuance of any building permits, the Owner/Permittee shall schedule an inspection with the Park and Recreation Department Open Space Division for all property approved for conveyance in fee title to the City for MHPA purposes. All trash, illegal use and associated structures on the lot(s) shall be removed prior to the City's acceptance.

PARK & REC REQUIREMENTS:

38. Prior to issuance of any construction permits, the Owner/Permittee shall irrevocably offer to dedicate in fee to the City of San Diego, Lots "A," "B" & "C" for MHPA open space purposes. At no time will Lots "A," "B" & "C" be encumbered by any deed of trust and shall remain free and clear until at such time the City of San Diego accepts said lots.

39. The Owner/Permittee shall ensure that the lot(s) to be deeded to the city as open space are free and clear of all private easements, private encroachments, private agreement and/or liens.

40. The Owner/Permittee shall schedule an inspection with the Park & Recreation Department, Open Space Division prior to acceptance of the Irrevocable Offer to Dedicate, for lot(s) deeded to the City.

41. The Owner/Permittee shall irrevocably offer to dedicate in fee a 10 feet wide Recreation Easement across Lot 3 for trail purposes when a trail alignment for the adjacent open space has been determined.

42. The Owner/Permittee shall ensure that prior to recordation of the project final map, all off-site easements and private parcels necessary for the grading and utility access road have been recorded.

43. The Owner/Permittee shall ensure that no project Brush Management responsibility is placed on Lots "A," "B" and "C."

44. The Owner/Permittee shall ensure that private drainage structures, subsurface or on-grade, are privately owned and maintained.

45. The Owner/Permittee shall ensure that the privately owned and maintained utility access road and associated grading as a part of Lot 3, located off-site, crossing future City fee-owned open space, is lotted out and privately owned prior to the City's acceptance of the Irrevocable Offer of Dedication of Lots "A," "B" & "C" for MHPA open space purposes.

PLANNING/DESIGN REQUIREMENTS:

46. Planned Development Permit No. 497493 and Site Development Permit No. 497494 (Black Mountain Ranch North Village-Project No. 142244) are amended to allow for the inclusion of Lot B of Map No. 15951 within the proposed subdivision, to allow for 48 units ("Affordable Units") to be transferred and constructed on Lot 9 of Map No. 15919, and the transfer of 7 dwelling units to the Project site from Lot 12, 13, 18, and 19 of Map No. 15919. All other development rights and conditions of Planned Development Permit No. 497493 and Site Development Permit No. 497494 remain in full force and effect.

47. 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.

48. Prior to the issuance of any construction permits, the Owner/Permittee shall execute and record a Covenant of Easement which ensures preservation of the Environmentally Sensitive Lands that are outside the allowable development area on the premises as shown on Exhibit "A" for Sensitive Biological Resources, Steep Hillsides, and Special Flood Hazard Areas, in accordance with SDMC section 143.0152. The Covenant of Easement shall include a legal description and an illustration of the premises showing the development area and the Environmentally Sensitive Lands as shown on Exhibit "A." Areas of Sensitive Biological Resources, Steep Hillsides, and Special Flood Hazard Areas that are also within the MHPA and are granted to the City's Multiple Species Conservation Program (MSDP) preserve through fee title to the City, shall not require the covenant of easement.

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

50. 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.

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

TRANSPORTATION REQUIREMENTS

52. Prior to the issuance of the first building permit, the Owner/Permittee shall assure by permit and bond the construction of noncontiguous 6 foot sidewalks, curb and gutter on Camino San Bernardo along the project frontage, satisfactory to the City Engineer. These improvements shall be completed and accepted by the City Engineer prior to the issuance of any occupancy permit.

53. Prior to the issuance of any building permit, the project shall demonstrate conformance with the Black Mountain Ranch Transportation Phasing Plan and Environmental Impact Report (EIR) satisfactory to the City Engineer.

54. A minimum of 656 off-street automobile parking spaces (657 provided) including 3 van accessible (3 provided), 8 accessible (8 provided), 1 carpool and zero emissions vehicles (1 provided), 26 motorcycle (31 provided) and 2 loading areas (2 provided) shall be permanently maintained on the property within the approximate location shown on the project's Exhibit "A." Further, all 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 Director of Development Services Department.

PUBLIC UTILITIES DEPARTMENT REQUIREMENTS:

55. Prior to the issuance of any building permits, the Owner/Permittee shall assure, by permit and bond the design and construction all public water and sewer facilities as required in the accepted water and sewer study for this project in a manner satisfactory to the Public Utilities Director and the City Engineer. Water and sewer facilities, as shown on the approved Exhibit "A," may require modification based on the accepted water and sewer study and final engineering.

56. 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) (BFPDs), on each water service (domestic, fire and irrigation), in a manner satisfactory to the Public Utilities Director 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. The Public Utilities Department will not permit the required BFPDs to be located below grade or within the structure.

57. Prior to the issuance of any building permits, the Owner/Permittee shall assure, by permit and bond, the design and construction of all public water and sewer facilities are to be in accordance with established criteria in the most current City of San Diego Water and Sewer Design Guides.

58. All public water and sewer facilities are to be in accordance with the established criteria in the most current City of San Diego Water and Sewer Design Guides.

59. All proposed private water and sewer facilities located within a single lot are to be designed to meet the requirements of the California Uniform Plumbing Code and will be reviewed as part of the building permit plan check.

60. No trees or shrubs exceeding three feet in height at maturity shall be installed within ten feet of any sewer facilities and five feet of any water facilities.

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 MAY 19 2015 and
Resolution No. R-309753.

Permit Type/PTS Approval No.: PDP No. 856425/SDP No. 856426
Date of Approval: _____

AUTHENTICATED BY THE CITY OF SAN DIEGO DEVELOPMENT SERVICES
DEPARTMENT

Jeffrey A. Peterson
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.**

**SPIC DEL SUR LLC,
a Delaware Limited Liability Company
Owner/Permittee**

By _____
Name:
Title:

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

Passed by the Council of The City of San Diego on MAY 19 2015, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Sherr Lightner	<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"/>
Todd Gloria	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input 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"/>
Chris Cate	<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 MAY 19 2015.

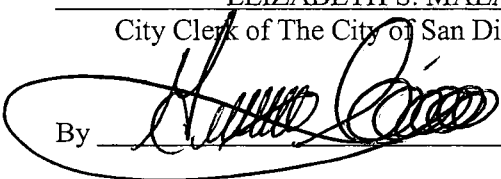
(Please note: When a resolution is approved by the Mayor, the date of final passage is the date the approved resolution was returned to the Office of the City Clerk.)

AUTHENTICATED BY:

KEVIN L. FAULCONER
Mayor of The City of San Diego, California.

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

(Seal)

By  Deputy

Office of the City Clerk, San Diego, California

Resolution Number R- **309753**