

Item 335-7/28/15

(R-2016-18)
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Subitem B'

RESOLUTION NUMBER R- 309903

DATE OF FINAL PASSAGE JUL 28 2015

A RESOLUTION GRANTING PLANNED DEVELOPMENT PERMIT NO. 1198582 AND SITE DEVELOPMENT PERMIT NO. 1198581, AMENDING PLANNED DEVELOPMENT PERMIT NO. 497493 AND SITE DEVELOPMENT PERMIT NO. 497494, FOR THE DEL SUR COURT PROJECT, PROJECT NO. 340862.

WHEREAS, on November 22, 2013, SPIC DEL SUR, LLC, a Delaware Limited Liability Company, Owner/Permittee, submitted an application to the City of San Diego for an Easement Vacation, Planned Development Permit, Site Development Permit and an Amended Vesting Tentative Map for the Del Sur Court, for the purpose of developing 130 lots for single family residential units, 11 condominium lots with 6 residential units per lot, 1 condominium lot with 7 units, 1 condominium lot with 3 units, and 12 homeowner association lots (as described in and by reference to the approved Exhibits "A" and corresponding conditions of approval for the associated Permit Nos. 1198582 and 1198581), on portions of an approximately 39.05 acre site (Project); and

WHEREAS, the Project, including the Black Mountain Ranch North Village Community Design Guidelines, as amended for this Project, is described in and by reference to the approved Exhibits "A" and corresponding conditions of approval for the associated Planned Development Permit No. 1198582 and Site Development Permit No. 1198581, on portions of an approximately 39.05 acre site; and

WHEREAS, the project site is located easterly of Camino Del Sur, approximately one mile north of San Dieguito Road in the RM-2-6 Zone of the Black Mountain Ranch Subarea Plan; and

WHEREAS, the project site is legally described as Parcels 1 and 2 of Parcel Map No. 21213, filed in the Office of the County Recorder of San Diego County on January 28, 2015; and

WHEREAS, on April 20, 2015, the City of San Diego, as Lead Agency, prepared Addendum No. 340862 to Environmental Impact Report No. 96-7902, as amended by Addendum No. 142244, a copy of which is on file in the Development Services Department in accordance with the California Environmental Quality Act of 1970 (CEQA) (Public Resources Code Section 21000 et seq.), as amended, and the State CEQA Guidelines thereto (California Code of Regulations, Title 14, Chapter 3, Section 15000 et seq.); and

WHEREAS, on June 18, 2015, the Planning Commission of the City of San Diego considered Planned Development Permit No. 1198582 and Site Development Permit No. 1198581, and pursuant to Resolution No. PC-4704 voted unanimously to recommend approval of Planned Development Permit No. 1198582 and Site Development Permit No. 1198581; 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 JUL 28 , 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; and NOW, THEREFORE,

BE IT RESOLVED, by the City Council of the City of San Diego, that it adopts the following findings with respect to Planned Development Permit No. 1198582 and Site Development Permit No. 1198581:

Planned Development Permit – San Diego Municipal Code Section 126.0604

- 1. The proposed development will not adversely affect the applicable land use plan.**
The Del Sur Court project (Project) proposes to subdivide and develop 206 age-restricted dwelling units (130 single family age-restricted units & 76 condominium age-restricted units) and amend the Black Mountain Ranch North Village Community Design Guidelines.

The project site is located in the north village of the 5,400 acre master planned community of Black Mountain Ranch Subarea. The Project fulfills a community need by providing needed housing in the City of San Diego. The Black Mountain Ranch Subarea Plan designates this site for Core Residential development uses at a density range of ten to twenty-five dwelling units per acre. The Project, which proposes a density range of 5.4 dwelling units per acre and will transfer 94 dwelling units to the North Village Mixed Use Core, is consistent with the requirements of the Black Mountain Ranch Subarea Implementation section and would not adversely affect the residential density goals and policies of the Subarea Plan as it relates to density within the community. The Black Mountain Ranch Subarea Plan Implementation section allows for the transfer of development entitlements, measured in equivalent dwelling units, within and among the villages and perimeter properties within the same generalized land use category and requires no amendment to the Subarea Plan so long as the transfer of residential units results in no change in the designated land use or residential density category. The proposed transfer of 94 dwelling units from a property that allows residential development to properties within the North Village that allow residential development would be consistent with the provisions of the Implementation Section of the Subarea Plan. The proposed transfer provides for additional housing within and near the Mixed Use Core consistent with the Goals and Policies of the Subarea Plan Land Use and Housing Elements.

The Project is consistent with the goals and policies of the Black Mountain Ranch Subarea Plan by proposing a predominantly residential community with an extensive open space, park, and recreation system. The proposed development areas have been located to minimize grading and preserve environmentally sensitive areas, most of which are within the Multi-Habitat Planning Area open space system. The Multi-Habitat Planning Area open space has been dedicated and preserved by previously approved vesting tentative maps. The Project development area is within the original development footprint of previously approved project which has been graded by legally issued construction permits and only minor additional impacts to environmentally sensitive areas will occur and will be mitigated as required by the City's adopted Biology

Guidelines. The proposed Project will achieve harmony with the immediately adjacent neighborhood as well as the Black Mountain Ranch Subarea Plan.

As outlined in the Black Mountain Ranch Subarea Plan, all Residential Cluster sites and Perimeter Properties are required to adopt the Design Guidelines approved for the Black Mountain Ranch Vesting Tentative Map/Planned Residential Development or are required to develop independent design guidelines in conformance with policies in the Community Design Element Subarea Plan. The proposed project site and proposed dwelling unit product types will be subject to the North Village Community Design Guidelines as amended for this Project, as well as residential design standards in conformance with policies in the Community Design Element Subarea Plan. The Project will implement the goals and policies of the Black Mountain Ranch Subarea Plan relevant to the site and therefore 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 Del Sur Court project (Project) proposes to subdivide and develop 206 age-restricted dwelling units (130 single family age-restricted units & 76 condominium age-restricted units) and amend the Black Mountain Ranch North Village Community Design Guidelines.

The proposed Project has been designed to conform to the City of San Diego's codes, policies, and regulations whose primary focus is the protection of the public's health, safety and welfare. The Project is consistent with the Black Mountain Ranch Subarea Plan, the California Environmental Quality Act and the City's environmental regulations, the Multiple Habitat Planning Area principles and guidelines, landscaping and brush management policies, the Fire Department's fire protection policies, water and sewer study recommendations and the City's affordable housing policies and regulations. In addition, prior to construction on the Project site, construction permit drawings will be reviewed to achieve conformance with all applicable construction codes to assure that structural, mechanical, electrical, plumbing, and access components of the project are designed to protect the public's health, safety and welfare. The proposed Project will therefore 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 Del Sur Court project (Project) proposes to subdivide and develop 206 age-restricted dwelling units (130 single family age-restricted units & 76 condominium age-restricted units) and amend the Black Mountain Ranch North Village Community Design Guidelines.

While the Project complies with the majority of the development regulations of the applicable zone there are requested deviations relative to lot area and lot dimensions, street frontage and minimum yard setbacks that are consistent with the currently adopted

Black Mountain Ranch North Village Community Design Guidelines, as amended for this Project. The deviations are consistent with and implement the principles of the approved Community Design Guidelines, approval of these deviations will allow a project design that is with the existing and developing character of the community than a project which might be required to strictly adhere to zoning regulations of the zone. The proposed deviations implement design principles contained in the Framework Plan and subsequent Black Mountain Ranch Subarea Plan that promote visual and physical connectivity to open space. More specifically the deviations are as follows:

The Project requires the approval of eight deviations from the development regulations of the RM-2-6 Zone. These deviations are as follows:

	<u>RM-2-6 Zone</u>	<u>Proposed</u>
• Minimum Street Frontage	50 feet	None (private driveway)
• Minimum Lot Size	6,000 square feet	1,250 – 4,000 square feet
• Lot Width	50 feet	20, 30 and 40 feet
• Lot Depth	90 feet	40 and 50 feet
• Minimum Front Setback	15 feet	5 feet
• Minimum Side Setback	5 feet	3 feet
• Minimum Street Side Setback	10 feet	4 and 5 feet
• Minimum Rear Setback	15 feet	5 and 10 feet

The proposed lots would take direct access from existing private driveways in lieu of a publicly dedicated street. The lots which gain access from the private driveways have no frontage on a public street and therefore do not meet the minimum frontage requirements of the development regulations of the zone. These deviations would create residential lots consistent with the purpose and intent of the Planned Development Permit procedures and regulations to allow greater flexibility from the strict application of the regulations and to assure the development achieves the policy goals of the applicable land use plan. The requested deviations are consistent with other developments in the North Village of the Black Mountain Ranch Subarea Plan.

The Project proposes a deviation from the minimum lot size of the RM-2-6 zone which is 6,000 square feet. Of the 143 residential lots to be created by the Project, 130 would be less than 6,000 square feet. These lots would range in size from 4,025 to 5,959 square feet. The Project proposes a deviation from the 15 foot minimum front yard setback of the RM-2-6 zone and proposes a minimum front yard setback of 5 feet for all 143 residential lots. The design of the future homes would be in conformance with the adopted Black Mountain Ranch North Village Community Design Guidelines, as amended for this Project. These adopted design guidelines set forth the basic design policies and describe the specific, detailed, and measureable criteria against which the future construction of lots would be evaluated. The Project will be consistent with these design guidelines and the present regulations of the RM-2-6 Zone with deviations, as allowed through the approval of a Planned Development Permit.

The project site is within the master planned community of Black Mountain Ranch. The Black Mountain Ranch Subarea Plan designates this site for core residential development, and all of the areas designated for residential uses surrounding the project have been approved or are under construction for low and very low density residential uses. The Project implements the goals and policies of the Black Mountain Ranch Subarea Plan by combining a residential community within an extensive open space, park, and recreation system. The proposed re-subdivided development area is within the original development footprint and no impacts to environmentally significant areas would occur.

The Del Sur Court location is unique by being surrounded by, except for access, the Subarea Plan's vast resource based open space system that occupies approximately 2,240 acres. Included within this open space are the natural resource areas of the Multi-Habitat Planning Area. This resource based open space system, coupled with additional amenity open space areas of 775 acres, golf course, public and private parks, provides over 3,000 acres, or fifty-nine percent of the entire subarea, of active and passive recreational open space uses for visitors and community residents. Additionally, located within this large expanse of open space is a planned network of community-wide multi-purpose regional trails and paths for hiking, biking, and in some instances, horseback riding. This network will ultimately provide over eighteen miles of interconnected trails linking all parts of the Subarea internally and externally to trail systems in adjacent communities. The Del Sur Court neighborhood contributes to this system by providing an important linkage to the open space areas directly adjacent to the site.

The proposed Project has been designed in harmony with the immediately adjacent neighborhood as well as the Black Mountain Ranch Subarea Plan, and the Project would implement the goals and policies of the Subarea Plan. Considering the exceptional benefits created by the adoption of the Black Mountain Ranch Subarea Plan enumerated above, these deviations will create a more desirable project that is clearly distinguishable from surrounding communities than would be achieved by strict conformance with the development regulations of the applicable zone, as allowed by the Planned Development Permit regulations.

Site Development Permit – San Diego Municipal Code Section 126.0504

- 1. The proposed development will not adversely affect the applicable land use plan.**
The Del Sur Court project (Project) proposes to subdivide and develop 206 age-restricted dwelling units (130 single family age-restricted units & 76 condominium age-restricted units) and amend the Black Mountain Ranch North Village Community Design Guidelines.

The project site is within the master planned community of Black Mountain Ranch. The Project fulfills a community need by providing needed housing in the City of San Diego. The Black Mountain Ranch Subarea Plan designates this site for core residential development, and all of the areas surrounding the project have been approved or are under construction for low and very low density residential uses coupled with open space. The proposed Project has been designed in harmony with the immediately adjacent

neighborhood as well as the Black Mountain Ranch Subarea Plan, and the Project will implement the goals and policies of the Subarea Plan, and therefore will not adversely affect the applicable land use plan. For additional information see PDP Finding No. 1 above.

2. **The proposed development will not be detrimental to the public health, safety, and welfare.** The Del Sur Court project (Project) proposes to subdivide and develop 206 age-restricted dwelling units (130 single family age-restricted units & 76 condominium age-restricted units) and amend the Black Mountain Ranch North Village Community Design Guidelines.

The proposed Project is designed to conform to the City of San Diego's codes, policies, and regulations whose primary focus is the protection of the public's health, safety and welfare. The Project is consistent with the Black Mountain Ranch Subarea Plan, the California Environmental Quality Act and the City's environmental regulations, the Multiple Habitat Planning Area principles and guidelines, landscaping and brush management policies, the Fire Department's fire protection policies, water and sewer study recommendations, the City's affordable housing policies and regulations. For additional information see PDP Finding No. 2 above.

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 Del Sur Court project (Project) proposes to subdivide and develop 206 age-restricted dwelling units (130 single family age-restricted units & 76 condominium age-restricted units) and amend the Black Mountain Ranch North Village Community Design Guidelines.

While the Project complies with the majority of the development regulations of the applicable zone there are requested deviations relative to lot area and lot dimensions and minimum yard setbacks that are consistent with the currently adopted Design Guidelines for the North Village development area. The proposed deviations were originally approved and adopted to implement design principles contained in the Framework Plan and subsequent Black Mountain Ranch Subarea Plan that promote visual and physical connectivity to open space. The proposed Project has been designed in harmony with the immediately adjacent neighborhood as well as the Black Mountain Ranch Subarea Plan, and the Project would implement the goals and policies of the Subarea Plan. Considering the exceptional benefits created by the adoption of the Black Mountain Ranch Subarea Plan enumerated above, these deviations will create a more desirable project, which is clearly distinguishable from surrounding communities, than would be achieved by strict conformance with the development regulations of the applicable zone. For additional information see PDP Finding No. 3 above.

BE IT FURTHER RESOLVED that, based on the above findings adopted by the City Council, which are supported by the minutes, maps, and exhibits, all of which are incorporated

herein by this reference, Planned Development Permit No. 1198582 and Site Development Permit No. 1198581 are hereby granted by the City Council to SPIC DEL SUR, LLC , Owner/Permittee, under the terms and conditions as set forth in the attached Permit Nos. 1198582 and 1198581, which are made a part of this resolution.

BE IT FURTHER RESOLVED, that the Development Services Department shall record a certified copy of this resolution with the attached Permit, attested by the City Clerk under seal, in the office of the County Recorder.

APPROVED: JAN I. GOLDSMITH, City Attorney

By


Inga B. Lintvedt
Deputy City Attorney

IBL:mcm
07/14/2015
07/15/2015 COR. COPY 1
07/16/2015 COR. COPY 2
Or.Dept: DSD
Doc. No.: 1063724

ATTACHMENT(S): Planned Development Permit No. 119582/Site Development Permit No. 1198581

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: 24004098

PLANNED DEVELOPMENT PERMIT NO. 1198582 and
SITE DEVELOPMENT PERMIT NO. 1198581

DEL SUR COURT PROJECT NO. 340862 [MMRP]

Amending Planned Residential Development/Resource Protection Ordinance Permit No.95-0173
and Planned Development Permit No. 497493 and Site Development Permit No. 497494

CITY COUNCIL

This Planned Development Permit No. 1198582 and Site Development Permit No. 1198581, amending Planned Residential Development/Resource Protection Ordinance Permit No.95-0173 and Planned Development Permit No. 497493 and Site Development Permit No. 497494, is granted by the City Council of the City of San Diego to SPIC DEL SUR, LLC, a Delaware Limited Liability Company, Owner/Permittee, pursuant to San Diego Municipal Code §126.0604 and §126.0504. The 39.05 acre site is located east of Camino Del Sur at Del Sur Court in the RM-2-6 Zone of the Black Mountain Ranch Subarea Plan. The project site is legally described as Parcels 1 and 2 of Parcel Map No. 21213, according to Parcel Map No. 21213 filed in the Office of the County Recorder of San Diego County January 28, 2015.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee to develop a 206 age-restricted dwelling units (130 single family age-restricted units & 76 condominium age-restricted units) project described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated June 18, 2015, on file in the Development Services Department.

The project shall include:

- a. Develop a 206 age-restricted dwelling units (130 single family age-restricted units & 76 condominium age-restricted units) project on 130 single family fee simple lots, 13 lots for residential condominium development and 12 lots for a future homeowners association;

- b. Adoption of the amended Black Mountain Ranch North Village Community Design Guidelines for the development of individual lots;
- c. Eight deviations relative to minimum street frontage, lot size, width and depth and minimum setbacks, specifically described as:

	<u>RM-2-6 Zone</u>	<u>Proposed</u>
• Minimum Street Frontage	50 feet	None (private driveway)
• Minimum Lot Size	6,000 square feet	1,250 – 4,000 square feet
• Lot Width	50 feet	20, 30 & 40 feet
• Lot Depth	90 feet	40 and 50 feet
• Minimum Front Setback	15 feet	5 feet
• Minimum Side Setback	5 feet	3 feet
• Minimum Street Side Setback	10 feet	4 and 5 feet
• Minimum Rear Setback	15 feet	5 and 10 feet

- d. Landscaping (planting, irrigation and landscape related improvements);
- e. Off-street parking; and
- f. 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 by December 10, 2021. The Owner/Permittee has entered into the First Amendment to the Second Amended and Restated Development Agreement (Development Agreement) adopted by the City Council on August 9, 1988 and as amended on September 13, 1988 and December 10, 2001 as DOC No. 2002-0043111 recorded on January 17, 2002 at the San Diego County Recorder’s Office that vests certain rights, rules, regulations and policies for a period of twenty years, or as provided in Paragraph 5.1 of that Development Agreement. In the event of a conflict between the conditions of this Permit and the terms of the Development Agreement, the terms of the Development Agreement shall prevail.

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.

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

ENVIRONMENTAL/MITIGATION REQUIREMENTS:

13. 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.

14. The mitigation measures specified in the MMRP and outlined in Addendum to Environmental Impact Report No. 96-7902 shall be noted on the construction plans and specifications under the heading ENVIRONMENTAL MITIGATION REQUIREMENTS.

15. The Owner/Permittee shall comply with the MMRP as specified in Addendum to Environmental Impact Report No. 96-7902, to the satisfaction of the Development Services Department and the City Engineer. Prior to issuance of any construction permit, all conditions of the MMRP shall be adhered to, to the satisfaction of the City Engineer. All mitigation measures described in the MMRP shall be implemented for the following issue areas:

Land Use (MSCP)

Biology

Air Quality

ENGINEERING REQUIREMENTS:

16. The Planned Development Permit and Site Development Permit shall comply with all conditions of the Amended Vesting Tentative Map No. 1198583.

17. Prior to the issuance of any construction permit, 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, on the construction plans or in the specifications.

18. The Owner/Permittee shall enter into a Maintenance Agreement for the ongoing permanent BMP maintenance.

19. Prior to the issuance of any construction permit, 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.

20. The drainage system proposed for this subdivision, as shown on the approved vesting tentative map, is private and subject to approval by the City Engineer.

21. The approval of this project does not allow the onsite processing and sale of the export material unless the underlying zone allows a construction and demolition debris recycling facility with an approved Neighborhood Use Permit or Conditional Use Permit per LDC Section 141.0620(i).

22. Development of this project shall comply with all storm water construction requirements of the State Construction General Permit, Order No. 2009-0009-DWQ and the Municipal Storm Water Permit, Order No. R9-2013-0001. In accordance with Order No. 2009-0009DWQ, a Risk Level Determination shall be calculated for the site and a Storm Water Pollution Prevention Plan (SWPPP) shall be implemented concurrently with the commencement of grading activities.

23. 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.

24. Prior to issuance of a grading or a construction permit, the Owner/Permittee shall provide a copy of the Notice of Intent (NOI) with a valid Waste Discharge ID number (WDID#) to the City of San Diego as a proof of enrollment under the Construction General Permit. When ownership of the entire site or portions of the site changes prior to filing of the Notice of Termination (NOT), a revised NOI shall be submitted electronically to the State Water Resources Board in accordance with the provisions as set forth in Section II.C of Order No. 2009-0009-DWQ and a copy shall be submitted to the City.

LANDSCAPE REQUIREMENTS:

25. 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 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.

26. Prior to issuance of any construction permits for grading, the Owner/Permittee shall submit complete Landscape Construction Documents showing the brush management zones on the property in substantial conformance with Exhibit "A" in accordance with the Landscape Standards and to the satisfaction of the Development Services Department.

27. 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 forty 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.

28. Prior to issuance of any construction permits for structures, 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." Construction plans shall show, label, and dimension a forty square foot area around each tree which is unencumbered by hardscape and utilities as set forth under LDC 142.0403(b)(5).

29. 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. 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.

30. If any required landscape, including existing or new plantings, hardscape, landscape features, et cetera, indicated on the approved construction document plans is damaged or removed during demolition or construction, the Owner/Permittee shall repair and/or replace it in kind and equivalent size per the approved documents to the satisfaction of the Development Services Department within 30 days of damage.

PLANNING/DESIGN REQUIREMENTS:

31. 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.

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

33. The Owner/Permittee shall post a copy of each approved discretionary Permit and Tentative Map in its sales office for consideration by each prospective buyer.

34. 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:

35. Prior to the issuance of any building permit, the project shall demonstrate conformance with the Black Mountain Ranch Transportation Phasing Plan and EIR satisfactory to the City Engineer.

36. A minimum of 610 automobile parking spaces including 6 disabled (with 412 automobile parking spaces required) shall be permanently maintained on the property within the approximate location shown on the 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 Director of Development Services Department.

PUBLIC UTILITIES DEPARTMENT REQUIREMENTS:

37. Prior to the issuance of any building permit, the Owner/Permittee shall assure, by permit and bond, the design and construction of all public water, sewer and recycled water facilities as shown on the approved Exhibit "A," in a manner satisfactory to the Public Utilities Director and the City Engineer.

38. Prior to the issuance of any construction permits, the Owner/Permittee shall assure, by permit and bond, the design and construction of two 12-inch diameter water mains and a 12-inch diameter recycled water main and must abandon portions of the two existing 12-inch diameter

water mains and recycled water main as shown on approved Exhibit "A," in a manner satisfactory to the Public Utilities Director and the City Engineer.

39. Prior to the issuance of any construction permits, the Owner/Permittee shall assure, by permit and bond, the design and construction of new water and sewer service(s) outside of any driveway or drive aisle and the abandonment of any existing unused water and sewer services within the right-of-way adjacent to the project site, in a manner satisfactory to the Public Utilities Director and the City Engineer.

40. Prior to the issuance of any construction permits, the Owner/Permittee shall assure, by permit and bond, the design and construction of reclaimed water irrigation service(s), in a manner satisfactory to the Public Utilities Director and the City Engineer. All irrigation systems must be designed to utilize reclaimed water.

41. Prior to the issuance of any building permit, 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 Public Utilities Director and the City Engineer. Back flow prevention devices shall be located above ground on private property, in line with the service and immediately adjacent to the right-of-way.

42. The Owner/Permittee shall be responsible for any damage caused to City of San Diego water and sewer facilities in the vicinity of the project site, due to the construction activities associated with this project, in accordance with Municipal Code section 142.0607. In the event any such facility loses integrity, the Owner/Permittee shall repair or reconstruct any damaged public water and sewer facility in a manner satisfactory to the Public Utilities Director and the City Engineer.

43. 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.

44. The 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.

INFORMATION ONLY:

- The issuance of this discretionary use permit alone does not allow the immediate commencement or continued operation of the proposed use on site. The operation allowed by this discretionary use permit may only begin or recommence after all conditions listed on this permit are fully completed and all required ministerial permits have been issued and received final inspection.
- Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of this Permit, may protest the imposition within ninety days of

the approval of this development permit by filing a written protest with the City Clerk pursuant to California Government Code-section 66020.

- This development may be subject to impact fees at the time of construction permit issuance.

APPROVED by the City Council of the City of San Diego on JUL 28, 2015 by Resolution No. R- **309903**.

Permit Type/PTS Approval No.: PDP No. 1198582 and SDP No. 1198581
Date of Approval: (to be filled in)

AUTHENTICATED BY THE CITY OF SAN DIEGO DEVELOPMENT SERVICES
DEPARTMENT

John S. Fisher
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 _____
William Ostrem,
Authorized Representative

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

Passed by the Council of The City of San Diego on JUL 28 2015, 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"/>
Lorie Zapf	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" 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 JUL 28 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- 309903