

RESOLUTION NUMBER R- 310725  
DATE OF FINAL PASSAGE OCT 18 2016

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO APPROVING PLANNED DEVELOPMENT PERMIT NO. 1193245, SITE DEVELOPMENT PERMIT NO. 1193246 AND MULTIPLE HABITAT PLANNING AREA BOUNDARY LINE ADJUSTMENT FOR THE HERITAGE BLUFFS II PROJECT – PROJECT NO. 319435 [MMRP].

WHEREAS, MARIANNE MILLER, TRUSTEE OF THE MILLER FAMILY TRUST, DATED FEBRUARY 12, 2007; MARJORIE CLAYPOOL, TRUSTEE OF THE CLAYPOOL REVOCABLE TRUST, DATED SEPTEMBER 17, 2001; JEANETTE SCIUTO, TRUSTEE OF THE JASPER AND JEANETTE SCIUTO 1990 TRUST, DATED JUNE 26, 1990; MARION ROSE CONCEICAO, TRUSTEE OF THE MARION ROSE CONCEICAO FAMILY TRUST, DATED DECEMBER 31, 2013; NANCY PANZA, TRUSTEE OF THE SPINALI TRUST, DATED NOVEMBER 29, 1994; MARGARET ANSARA, TRUSTEE OF THE ANSARA NOMINEE CALIFORNIA TRUST; PAUL FAZIO, TRUSTEE OF THE SALVATORE FAZIO FAMILY TRUST, DATED NOVEMBER 28, 2012; ROBERT LUONGO, AN INDIVIDUAL; DOMENIC SCIUTO, TRUSTEE OF THE DOMENIC R. SCIUTO 2011 TRUST; REGINA VIRISSIMO, TRUSTEE OF THE VIRISSIMO FAMILY REVOCABLE TRUST 2000; JOSEPHINE ORIOL, TRUSTEE OF THE PETER F. AND JOSEPHINE ORIOL 1991 TRUST, DATED SEPTEMBER 6, 1991; JOSEPH SCIUTO, TRUSTEE OF THE JOSEPH SCIUTO AND BARBARA M. SCIUTO 2001 LIVING TRUST, DATED JUNE 28, 2001; ANGELA ANSARA, TRUSTEE OF THE ANGELA ANSARA TRUST 2015, DATED MAY 28, 2015; CLIFFORD ANSARA, AN INDIVIDUAL, Owners, and SPIC DEL SUR, LLC, Permittee, filed an application with the City of San Diego for a Planned Development Permit No. 1193245 and

Site Development Permit No. 1193246 to subdivide 169.85 acres and develop of 171 dwelling units on the subject site and to transfer 35 affordable dwelling units to Lot 9, Map No. 15919 in Black Mountain Ranch North Village Town Center and to transfer 14 dwelling units to Lots 12, 13, 18 and 19, Map No. 15919 in Black Mountain Ranch North Village Town Center, including dedication and construction of public roadways both on- and off-site, recordation of a parcel map for proposed parcels A through F within Parcel 3 of Parcel Map 18504, creation of both an on- and off-site Heritage Brodiaea Preserve, dedication both on- and off-site of land into the Multiple Habitat Planning Area as open space and a Multiple Habitat Planning Area Boundary Line Adjustment for the project known as Heritage Bluffs II, located generally south of Bernardo Center Drive/Carmel Valley Road, west of Interstate 15, and legally described as the Southwest Quarter of the Southeast Quarter of Section 32, Township 13 South, Range 2 West, San Bernardino Base and Meridian, in the City of San Diego, County of San Diego, State of California, except all crude oil, petroleum, gas, brea, asphaltum, and all kindred substances and other minerals under and in said land, as reserved in deed recorded May 30, 1960 as Instrument No. 111628 of official records and Government Lots 1 and 2 and the Southeast Quarter of the Northeast Quarter of Section 5, Township 14 South, Range 2 West, San Bernardino Base and Meridian per Official U.S. Survey Plat (1880), in the City of San Diego, County of San Diego, State of California, except all crude oil, petroleum, gas, brea, asphaltum, and all kindred substances and other minerals under and in said land, as reserved in deed recorded May 30, 1960 as Instrument No. 111628 of official records, in the within the Black Mountain Ranch Community Plan area, in the AR-1-1 Zone which is proposed to be rezoned to the RS-1-14 and RX-1-1 Zones; and

WHEREAS, on September 8, 2016, the Planning Commission of the City of San Diego considered Planned Development Permit No. 1193245, Site Development Permit No. 1193246 and Multi-Habitat Planning Area Boundary Line Adjustment, and pursuant to Resolution No. 4809-PC voted 5:0:0:2 to recommend approval of the Permit; and

WHEREAS, after approval of the above referenced project by the City Council, MARIANNE MILLER, TRUSTEE OF THE MILLER FAMILY TRUST, dated February 12, 2007, et al, Owners, will transfer the property to SPIC DEL SUR, LLC, thereby making SPIC DEL SUR, LLC the new Owner of the Heritage Bluffs II project; 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 October 18, 2016, 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

WHEREAS, after approval of the above referenced Project by the City Council, but prior to recordation of the permits, the ownership of the property changed, necessitating a change to the Project approvals; 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. 1193245 and Site Development Permit No. 1193246:

**A. PLANNED DEVELOPMENT PERMIT Section 126.0604**

**1. The proposed development will not adversely affect the applicable land use plan.**

The site is designated by the Black Mountain Ranch Subarea Plan as Residential and Open Space. The Black Mountain Ranch Subarea Plan's Figure 2.1 identifies the site as one of the "Southeast Perimeter Properties" and Figure 2.2 identifies the site as areas "A" and "B" which allows a total of 220 dwelling units.

The Heritage Bluffs II project is consistent with the Subarea Plan's anticipated use as Open Space. The portion of the site designated for Open Space by the Black Mountain Ranch Subarea Plan, approximately seventy-three percent, will remain open space and a component of the City's Multiple Habitat Planning Area consistent with the goals and policies of the General Plan Conservation Element. Planned land uses adjacent to the Multiple Habitat Planning Area within the Black Mountain Ranch Subarea Plan include single-family and multi-family residential, as well as active recreation. The project has been designed to minimize impacts and maintain the function of the Multiple Habitat Planning Area. Consistent with the City's MSCP Subarea Plan, Open Space Element of the Black Mountain Ranch Subarea Plan and Conservation Element of the General Plan, the subdivision will prevent drainage from flowing directly into the Multiple Habitat Planning Area; reduce the impact of toxics, noise, and lighting; provide new barriers along the Multiple Habitat Planning Area boundary; establish brush management zones; and limit access to the Black Mountain Ranch Open Space Park to deter off-trail use. The subdivision site plan and design guidelines conform to the Multiple Habitat Planning Area land use adjacency guidelines. The proposed subdivision will help implement the Conservation Element of the General Plan through the following features:

- All homes will be provided with Photo Voltaic systems;
- The project will participate in the Black Mountain Ranch construction waste recycling program;
- Recycled water will be used for site development activities;
- The one significant archaeological site will be preserved in an open space area;
- All common areas and graded slopes will be planted with native and/or drought tolerant vegetation.
- Street trees will help reduce the urban heat island effect.

The Heritage Bluffs II project is also consistent with the Subarea Plan's anticipation of Residential use. The current zoning for the properties is AR-1-1. The Black Mountain Ranch Subarea Plan envisions the zone for Low Density Residential to be RS-1-14. The proposed subdivision includes a zone change from AR-1-1 to the RS-1-14 and RX-1-1 zones and the construction of 171 single dwelling units. The combination of zones and proposed densities and uses on the site helps implement the Low Density Residential land use designation of the Black Mountain Ranch Subarea Plan. The proposed zoning and clustered development will minimize impacts to natural habitat and the natural landform and reduce encroachment into the City's Multiple Habitat Planning Area. These efforts help implement the Open Space and Community Design Elements of the Black Mountain Ranch Subarea Plan.

As outlined in the Black Mountain Ranch Subarea Plan, all Perimeter Properties are required to adopt the Design Guidelines approved for the Black Mountain Ranch Vesting Tentative Map/Planned Residential Development or develop independent design guidelines in conformance with policies in the Community Design Element of the Black Mountain Ranch Subarea Plan. The independent design guidelines provided as a component of the project maintain consistency with the policies of the Black Mountain Ranch Subarea Plan. The Design Guidelines developed for the project will assist to implement the goals of the Community Design Element section A.4 Residential Clusters of the Black Mountain Ranch Subarea Plan by establishing a community identity compatible with the surrounding residential uses and open space system. The Design Guidelines also address section B. Common Design Elements of the Community Design Element by implementing street design standards for local streets, landscape and open space, and signage, lighting and walls.

**2. The proposed development will not be detrimental to the public health, safety, and welfare.**

The project will not be detrimental to public health, safety and welfare in that the permit controlling the development and continued use of the Project for this site contains specific conditions addressing compliance with the City's codes, policies, and regulations, as well as other regional, state, and federal regulations to prevent detrimental impacts to the health, safety and general welfare of persons residing and/or working in the area. Conditions of approval require compliance with several operational constraints and development controls, the review of all construction plans by professional staff to determine construction will comply with all regulations, and the inspection of construction to assure construction permits are implemented in accordance with the approved plans, and that the final construction will comply with all regulations. The proposed development will not be detrimental to the health, safety, or general welfare of persons residing or working in the area.

**3. The proposed development will comply with the regulations of the Land Development Code including any proposed deviations pursuant to Section 126.0602(b)(1) that are appropriate for this location and will result in a more desirable project than will 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.**

While the project complies with the majority of the development regulations of the applicable zone, the project requires one deviation, as allowed by the Planned Development Permit regulations. The Planned Development Permit process is the proper vehicle to request deviations where the topographic and biological constraints and other existing conditions of the site dictate a design response which requires flexibility. The deviations requested are reasonable and will result in a better project in keeping with the purpose and intent of the Planned Development Permit regulations.

The project proposes a deviation from the minimum fifteen foot front yard setback of the RX-1-1 and RS-1-14 Zone development regulations, SDMC Section 131.0431 and 131.0443(b)(1), respectively, to allow an average fifteen foot front yard setback throughout the project. The requested deviation will provide for more flexibility by establishing an average front yard setback of fifteen feet. The deviation would encourage more variety in the siting of buildings within the subdivision with front setbacks ranging anywhere from ten to twenty feet to achieve an overall project average of fifteen feet. In addition, garages facing the street will be setback a minimum twenty feet and other portions of the building may observe a minimum ten foot setback and will achieve an overall project average of fifteen feet.

The purpose of the Planned Development Permit regulations is to provide flexibility in the application of development regulations for projects where strict application of the base zone development regulations would restrict design options and result in a less desirable project. The intent of the Planned Development Permit regulations is to accommodate, to the greatest extent possible, an equitable balance of development types, intensities, styles, site constraints, project amenities, public improvements, and community and City benefits. Considered together the deviation will create a more desirable project that is clearly distinguishable from surrounding communities than will be achieved by strict conformance with the development regulations of the applicable zone.

In accordance with the purpose of the Planned Development Permit regulations, deviations from the applicable base zone development regulations may be requested in order to provide flexibility in achieving a zone-equivalent project design that will be consistent with the intent of the base zone. The Project is consistent with the criteria for development design of the Land Development Code Section 143.0410(j) which states: (1) The overall development design should be comprehensive and should demonstrate the relationships of the proposed development on-site with existing development off-site, (2) The scale of the project should be consistent with the neighborhood scale as represented by the dominant development pattern in the surrounding area or as otherwise specified in the applicable land use Plan, (3) Buildings, structures, and facilities on the premises should be well integrated into, oriented towards, and related to, the topographic and natural features of the site, (4) Proposed developments should avoid repetitious development patterns that are inconsistent with the goals of the applicable land use plan, (5) Buildings should avoid an overwhelming or dominating appearance as compared to

adjacent structures and development patterns. Abrupt differences in scale between large commercial buildings and adjacent residential areas should be avoided. Instead, gradual transitions in building scale should be incorporated, (6) Larger structures should be designed to reduce actual or apparent bulk. This can be achieved by using pitched roof designs, separating large surface masses through changes in exterior treatment, or other architectural techniques, (7) To the greatest extent possible, landscaping should be used to soften the appearance of blank walls and building edges and enhance the pedestrian scale of the development, (8) Elements such as curbside landscaping, varied setbacks, and enhanced paving should be used to enhance the visual appearance of the development, (9) Roof forms should be consistent in material, design, and appearance with existing structures in the surrounding neighborhood. Plant materials and other design features should be used to define and enhance the appearance of roof spaces, especially flat roofs that are visible from higher elevations, and (10) Building material and color palettes should be consistent with applicable guidelines in the applicable land use plan, if provided. The project is consistent with each of the ten criteria for development design of the Planned Development Permit regulations.

Considering the proposed design, including the front yard setback deviation, the project will create a more desirable development that is clearly distinguishable from surrounding communities than will be achieved by strict conformance with the development regulations of the applicable zone and will be consistent with the purpose and intent of the Planned Development Permit regulations.

**B. SITE DEVELOPMENT PERMIT Section 126.0504**

**1. The proposed development will not adversely affect the applicable land use plan.**

The site is designated by the Black Mountain Ranch Subarea Plan as Residential and Open Space. The Black Mountain Ranch Subarea Plan's Figure 2.1 identifies the site as one of the "Southeast Perimeter Properties" and Figure 2.2 identifies the site as areas "A" and "B" which allows a total of 220 dwelling units. For additional information, refer to Planned Development Permit Finding No. 1 above.

**2. The proposed development will not be detrimental to the public health, safety, and welfare.**

The project will not be detrimental to public health, safety and welfare in that the permit controlling the development and continued use of the project for this site contains specific conditions addressing compliance with the City's codes, policies, and regulations, as well as other regional, state, and federal regulations to prevent detrimental impacts to the health, safety and general welfare of persons residing and/or working in the area. For additional information, refer to Planned Development Permit 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.**

While the project complies with the majority of the development regulations of the applicable zone, the project requires one deviation, as allowed by the Planned Development Permit regulations. The Planned Development Permit process is the proper vehicle to request deviations where the topographic and biological constraints and other existing conditions of the site dictate a design response which requires flexibility. The deviations requested are reasonable and will result in a better project in keeping with the purpose and intent of the Planned Development Permit regulations. For additional information, refer to Planned Development Permit Finding No. 3 above.

**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 project site is located generally south of Bernardo Center Drive/Carmel Valley Road, west of Interstate 15 on the northern slopes of Black Mountain. The site includes a gently sloping, previously disturbed area and two small drainages. The site is in an area developing with primarily residential development and open space. Single dwelling unit residential neighborhoods are to the north and east of the project site and open space and the Black Mountain Open Space Park is to the south; undeveloped land is to the west. The project site is undeveloped, although several dirt roads and trails traverse portions of the site. Elevations on the site range from 610 feet above mean sea level to 860 feet above mean sea level. Native upland and wetland vegetation occurs on the site.

Seven habitats/vegetation associations occur on the project site: coastal sage scrub, southern mixed chaparral, non-native grassland, native perennial grassland, freshwater marsh, mulefat scrub and riparian forest. Four sensitive habitats under the City of San Diego's MSCP Subarea Plan are present: native perennial grassland (Tier I habitat), coastal sage scrub (Tier II habitat), southern mixed chaparral (Tier IIIA habitat), and nonnative grassland (Tier IIIB habitat). One sensitive plant species Thread-leaved Brodiaea, two sensitive animal species (coastal California gnatcatcher and rufous-crowned sparrow) were observed on the site.

The review of the project required the submission of several technical reports prepared by individuals licensed by the state of California to practice in their respective technical fields. These technical reports were reviewed by city staff also licensed by the state of California or educated to practice their technical specialties. The applicant submitted a Geotechnical Investigation prepared by Geocon Inc., a Steep Slopes Analysis, Conceptual Grading Plan, Water Quality Technical Report, Drainage Study all prepared by Project Design Consultants, a Water System Analysis prepared by Dexter Wilson Engineering Inc., a Cultural and Paleontological Resources Survey Report, a Biological Resources Technical Report and an Archaeological Resources Report all

prepared by Affinis. Review of these technical reports when considered in total indicates 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 area of the site to be developed is the least sensitive portion of the site. The more sensitive portions of the site will be preserved. Therefore, the site is physically suitable for the design and siting of the project and the project will result in minimum disturbance to environmentally sensitive lands.

**2. The proposed development will minimize the alteration of natural land forms and will not result in undue risk from geologic and erosional forces, flood hazards, or fire hazards.**

The project complies with the applicable zoning and development regulations of the Land Development Code. The project site is approximately 169.85 acres and contains environmentally sensitive lands in the form of biological, cultural and archaeological resources and steep hillsides. The project is proposing to mitigate most yet not all impacts. A Multi-Habitat Planning Area boundary line adjustment (MHPA BLA) is required to preserve *Brodiaea filifolia* (Thread-leaved Brodiaea), avoid impacts to the majority of the non-wetland drainages, maintain a 100-foot-wide setback from a blue-line stream, and to avoid impacts to the mulefat scrub and freshwater habitats currently outside the Multi-Habitat Planning Area boundary. The MHPA BLA area to be removed from the Multi-Habitat Planning Area and the area to be added into the Multi-Habitat Planning Area will be of nearly equal portion and habitat value. All Multi-Habitat Planning Area adjacency guidelines have been adhered to for the Project.

Approximately 64.5 acres of the site is defined by the Land Development Code as “*steep hillsides*.” The design of the proposed grading is the minimum necessary to achieve the project goals and develop the site for residential uses in conformance with the Black Mountain Ranch Subarea Plan. The design of the project includes the creation of manufactured slopes adjacent to natural slopes and in these areas the manufactured slopes will be contoured to blend into the natural slopes to the greatest extent practical. All slopes will be stabilized and planted with vegetation to prevent erosion by wind and or rainfall. The plant species to be used in erosion control will be selected for their variation of rooting depth to provide additional stability to the manufactured slopes in addition to the engineering practices and standards in the excavation and embankment of earthen works. In light of these features and requirements, the Project will not result in undue risks from erosion.

The Geotechnical Investigation prepared by Geocon Inc. states the geologic structure of the site is favorable or adverse with respect to stability of the proposed cut slopes. Potential impacts of earthquake shaking on the proposed structures will be reduced to an acceptable level by design and construction in accordance with prevailing building codes, as discussed in the geotechnical investigation. The project will comply with the recommendations contained in the geotechnical investigation as well as applicable building and grading regulations to ensure that no impacts from geologic conditions will result with project implementation. Analysis of the Geotechnical

Investigation prepared by Geocon Inc. indicates the Project will not result in undue risks from geologic forces.

The site is not located within a flood way or flood plain and risks from flooding are not expected to occur. The site is surrounded by undeveloped lands subject to wildfire. The project includes a complete brush management plan in accordance with the San Diego Municipal Code and a fire suppression system will be installed in every habitable structure in compliance with the California Uniform Building Code. Therefore, the project will minimize the alteration of natural land forms and will not result in undue risk from geologic and erosional forces, flood hazards, or fire hazards.

**3. The proposed development will be sited and designed to prevent adverse impacts on any adjacent environmentally sensitive lands.**

The project site is located in an area of sloping terrain and drainages on the north slope of Black Mountain. The project site is located generally south of Bernardo Center Drive/Carmel Valley Road, west of Interstate 15 on the northern slopes of Black Mountain. The site includes a gently sloping, previously disturbed area and two small drainages. The site is in an area developing with primarily residential development and open space. Single dwelling unit residential neighborhoods are to the north and east of the project site and open space and the Black Mountain Open Space Park is to the south; undeveloped land is to the west. The project site is undeveloped, although several dirt roads and trails traverse portions of the site. Elevations on the site range from 610 feet above mean sea level to 860 feet above mean sea level. Native upland and wetland vegetation occurs on the site.

The design of the project has considered the adjacent properties so that the design, construction and continued use of the site as a single dwelling unit residential community will not have any adverse affect upon adjacent properties whether or not there are or are not environmentally sensitive lands present on those adjacent properties. The project is therefore sited and designed to prevent adverse impacts on any adjacent environmentally sensitive lands.

**4. The proposed development will be consistent with the City of San Diego's Multiple Species Conservation Program (MSCP) Subarea Plan.**

The project complies with the applicable zoning and development regulations of the Land Development Code. The project site is approximately 169.85 acres and contains environmentally sensitive lands in the form of biological, cultural and archaeological resources and steep hillsides. The project is proposing to mitigate most yet not all impacts. A Multi-Habitat Planning Area boundary line adjustment (MHPA BLA) is required to preserve *Brodiaea filifolia* (Thread-leaved Brodiaea), avoid impacts to the majority of the non-wetland drainages, maintain a 100-foot-wide setback from a blue-line stream, and to avoid impacts to the mulefat scrub and freshwater habitats currently outside the Multi-Habitat Planning Area boundary. The MHPA BLA area to be removed from the Multi-Habitat Planning Area and the area to be added into the Multi-Habitat Planning Area will be of nearly equal proportion and habitat value. All Multi-Habitat

Planning Area adjacency guidelines have been adhered to for the project. Planning Department Multiple Species Conservation Plan staff, United States Fish and Wildlife Service staff and California Department of Fish and Wildlife staff reviewed the proposed MHPA BLA and concluded the adjustment can be supported and will be consistent with the City of San Diego's Multiple Species Conservation Program Subarea Plan. The proposed development will be consistent with the Environmentally Sensitive Land Regulations and with the Multiple Species Conservation Program which specifically allows for such a boundary line adjustment to the Multi-Habitat Planning Area and will result in equal or higher biological values. Therefore the development is consistent with the City of San Diego's Multiple Species Conservation Program Subarea Plan.

**5. The proposed development will not contribute to the erosion of public beaches or adversely impact local shoreline sand supply.**

The site is more than 9.8 miles from the Pacific Ocean. The drainage design of the project, the Best Management Practices that address stormwater runoff and the practical, pragmatic management of the site will assure the project will not impact the local shoreline sand supply and will not contribute to the erosion of public beaches nine miles to the west. Furthermore the project will comply with the current state water quality control standards.

**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.**

All of the mitigation required as a condition of the permit has been determined to be appropriate for the project in consideration of current best practices and scientific analysis as is know or expected. All mitigation required of the project is balanced and reasonably related to, and calculated to alleviate, negative impacts created by the proposed development so that negative impacts will not be the result of the proposed development. All mitigation required as a condition of the permit is supported by current best practices and scientific analysis and no mitigation required as a condition of the permit is arbitrary or capricious, without rational basis in fact or known science to the best standards of the day.

The project conducted a site-specific impact analysis for the proposed development which identifies the project design features, a Mitigation Monitoring Reporting Program, and when combined with implementation of the federal, state, and local rules and regulations and the project's permit conditions, are reasonably related to and are calculated to alleviate negative impacts and reduce any negative impact to below a level of significance where feasible.

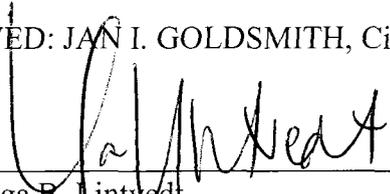
The above findings are supported by the minutes, maps and exhibits, all of which are incorporated herein by this reference.

BE IT FURTHER RESOLVED, that Planned Development Permit No. 1193245 and Site Development Permit No. 1193246 is granted to SPIC DEL SUR, LLC, a Delaware limited liability company, Owner/Permittee, under the terms and conditions set forth in the permit included as Attachment A, which is made a part of this resolution.

BE IT FURTHER RESOLVED, that the Multi-Habitat Planning Area boundary line adjustment as shown on Vesting Tentative Map No. 1193244 is approved.

APPROVED: JAN I. GOLDSMITH, City Attorney

By

  
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Inga B. Lintvedt  
Deputy City Attorney

IBL:mcm

September 29, 2016

November 7, 2016 COR. COPY

November 29, 2016 COR. COPY 1

Or.Dept: DSD

Doc. No.: 1358421\_4

Attachment A:       Planned Development Permit, Site Development Permit, and Multiple  
                          Habitat Planning Area Boundary Line Adjustment

I certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of           **OCT 18 2016**          .

ELIZABETH S. MALAND  
City Clerk

By   
\_\_\_\_\_  
Deputy City Clerk

**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: 24004059

PLANNED DEVELOPMENT PERMIT NO. 1193245,  
SITE DEVELOPMENT PERMIT NO. 1193246 and  
MULTIPLE HABITAT PLANNING AREA BOUNDARY LINE ADJUSTMENT  
**HERITAGE BLUFFS II PROJECT NO. 319435 MMRP**  
CITY COUNCIL

This Planned Development Permit No. 1193245, Site Development Permit No. 1193246 and MHPA Boundary Line Adjustment 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 [SDMC] section 126.0604 and 126.0504. The 169.85-acre site is located generally south of Bernardo Center Drive/Carmel Valley Road, west of Interstate 15 in the AR-1-1 Zone which is proposed to be rezoned to the RS-1-14 and RX-1-1 Zones of the Black Mountain Ranch Community Plan area. The project site is legally described as the Southwest Quarter of the Southeast Quarter of Section 32, Township 13 South, Range 2 West, San Bernardino Base and Meridian, in the City of San Diego, County of San Diego, State of California, except all crude oil, petroleum, gas, brea, asphaltum, and all kindred substances and other minerals under and in said land, as reserved in deed recorded May 30, 1960 as Instrument No. 111628 of official records and Government Lots 1 and 2 and the Southeast Quarter of the Northeast Quarter of Section 5, Township 14 South, Range 2 West, San Bernardino Base and Meridian per Official U.S. Survey Plat (1880), in the City of San Diego, County of San Diego, State of California, except all crude oil, petroleum, gas, brea, asphaltum, and all kindred substances and other minerals under and in said land, as reserved in deed recorded May 30, 1960 as Instrument No. 111628 of official records.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee to subdivide 169.85 acres and develop 171 dwelling units on the subject site and to transfer 35 affordable dwelling units to Lot 9, Map No. 15919 in Black Mountain Ranch North Village Town Center and to transfer 14 dwelling units to Lots 12, 13, 18 and 19, Map No. 15919 in Black Mountain Ranch North Village Town Center, including dedication and construction of public roadways both on- and off-site, recordation of a parcel map for proposed parcels A through F within Parcel 3 of Parcel Map 18504, creation of both an on- and off-site Heritage Brodiaea Preserve, dedication both on- and off-site of land into the Multi-Habitat Planning Area as open space and a

Multi-Habitat Planning Area Boundary Line Adjustment for the project known as Heritage Bluffs II described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated October 18, 2016, on file in the Development Services Department.

The project shall include:

- a. Subdivision of 169.85 acres and development of 171 dwelling units on the subject site and to transfer 35 affordable dwelling units to Lot 9, Map No. 15919 in Black Mountain Ranch North Village Town Center and to transfer 14 dwelling units to Lots 12, 13, 18 and 19, Map No. 15919 in Black Mountain Ranch North Village Town Center, including dedication and construction of public roadways both on- and off-site, recordation of a parcel map for proposed parcels A through F within Parcel 3 of Parcel Map 18504, creation of both an on- and off-site Heritage Brodiaea Preserve, dedication both on- and off-site of land into the MHPA as open space and a Multi-Habitat Planning Area Boundary Line Adjustment for the project known as Heritage Bluffs II;
- b. Development of all single dwelling units on the project site will be in conformance with the adopted Heritage Bluffs II Design Review Guidelines and will include the following:
  - All homes will be provided with Photo Voltaic systems;
  - The project will participate in the Black Mountain Ranch construction waste recycling program;
  - Recycled water will be used for site development activities;
  - The one significant archaeological site will be preserved in an open space area;
  - All common areas and graded slopes will be planted with native and/or drought tolerant vegetation.
  - Street trees will help reduce the urban heat island effect;
- c. Deviation from the minimum fifteen foot front yard setback of the RX-1-1 and RS-1-14 Zone development regulations, SDMC Section 131.0431 and 131.0443(b)(1), to allow an average fifteen foot front yard setback throughout the Project. In addition, garages facing the street would be setback a minimum twenty feet and other portions of the building may observe a minimum ten foot setback achieving an overall project average of fifteen feet.
- d. Landscaping (planting, irrigation and landscape related improvements);
- e. Off-street parking;
- 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 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 October 18, 2019.
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 Project may be developed in phases. Each phase shall be constructed prior to sale or lease to individual owners or tenants to ensure 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 Subsequent Environmental Impact Report No. 319435, 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 Subsequent Environmental Impact Report No. 319435, 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 (MHPA Adjacency)
- Biological Resources
- Cultural / Historical Resources
- Land Form Alteration/Visual Quality
- Noise
- Traffic
- Air Quality

**AFFORDABLE HOUSING REQUIREMENTS:**

16. 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 thirty-five (35) units ("Affordable Units") of the Owner/Permittee's "Heritage Bluffs Project." 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 thirty-five (35) 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 92nd 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 92nd market rate dwelling unit occur until building permits for construction of the thirty-six (36) 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 92nd 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:**

17. Prior to the issuance of building permits on lots numbered 23-35 and 155-160 on the approved Vesting Tentative Map, the Owner/Permittee shall indicate on construction plans the installation of a fence on lots numbered 23-35 and 155-160 on the approved Vesting Tentative Map of either wrought iron, concrete block or a combination thereof at the toe of the slopes at the rear of the development pad. The fence should be placed to allow access by Homeowners Association in their maintenance routines, all to the satisfaction of the Development Services Department.

18. All driveways and curb openings shall comply with City Standard Drawings SDG-160, SDG-164 and SDG-100, satisfactory to the City Engineer.

19. Prior to the issuance of any building permit, the Owner/Permittee shall construct City standard curb ramps with truncated domes, at all public streets intersection, satisfactory to the City Engineer.

20. Prior to the issuance of any construction permit, the Owner/Permittee shall enter into a Maintenance Agreement for the ongoing permanent BMP maintenance, satisfactory to the City Engineer.
21. 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 Municipal Code, into the construction plans or specifications.
22. Prior to issuance of any construction permit, the Owner/Permittee shall submit a Technical Report that will be subject to final review and approval by the City Engineer, based on the Storm Water Standards in effect at the time of the construction permit issuance.
23. The drainage system for this project shall be private and will be subject to approval by the City Engineer.
24. Prior to the issuance of any building permit, the Owner/Permittee shall obtain a bonded 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.
25. Development of this project shall comply with all storm water construction requirements of the State Construction General Permit, Order No. 2009-00090DWQ, or subsequent order, and the Municipal Storm Water Permit, Order No. R9-2007-0001, or subsequent order. In accordance with Order No. 2009-0009DWQ, or subsequent order, 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.
26. Prior to issuance of a grading or a construction permit, a copy of the Notice of Intent (NOI) with a valid Waste Discharge ID number (WDID#) shall be submitted 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:**

27. Prior to issuance of any engineering permit for grading, the Owner/Permittee shall submit complete construction documents for the revegetation and hydroseeding of all disturbed land in accordance with the City of San Diego Landscape Standards, Stormwater Design Manual, and to the satisfaction of the Development Services Department. All plans shall be in substantial conformance to this permit and Exhibit "A."

28. Prior to issuance of any engineering permit 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.

29. 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." Construction plans shall provide a forty square foot area around each tree unencumbered by hardscape and utilities unless otherwise approved per LDC 142.0403(b)5.

30. In the event 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." These landscape areas shall be clearly identified with a distinct symbol, noted with dimensions and labeled as 'landscaping area.'

31. 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.

32. 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.

33. 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 in kind and equivalent size per the approved documents to the satisfaction of the Development Services Department within thirty days of damage or Certificate of Occupancy.

**BRUSH MANAGEMENT PROGRAM REQUIREMENTS:**

34. The Owner/Permittee shall implement the Brush Management Program shown on Exhibit "A."

35. 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 §142.0412, and as shown on Exhibit "A."
36. Alternative Compliance: Where Zone One is reduced on Lots 1, 21, 126, 127, 143 & 144, a radiant heat wall shall be provided at the interface of Zones One & Two. In addition, openings of the habitable structure shall be upgraded to dual glazed/dual tempered panes on façades facing the fuel load, inclusive of a ten foot perpendicular return along the adjacent façades. A Zone One condition shall be maintained in the yard space between the radiant heat wall and the habitable structure.
37. Zone One Reduction Option: An optional reduction of the Zone One width for Lots 21-42 & 126-138 will require the implementation of one of the following, in lieu of a full 35-foot Zone One: 1) A radiant heat wall at the interface of Zones One & Two, or 2) Opening protection upgraded to dual glazed/dual tempered panes on façades facing the fuel load, inclusive of a ten foot perpendicular return along the adjacent façades.
38. Prior to issuance of any engineering permit 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."
39. Prior to issuance of any building permit, 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 §142.0412.
40. Within Zone One, combustible accessory structures, including, but not limited to decks, trellises, gazebos, et cetera, shall not be permitted while accessory structures of non-combustible, one-hour fire-rated, and/or heavy timber construction may be approved within the designated Zone One area subject to Fire Marshal's approval.
41. In Zone One, plant material shall be selected to visually blend with the existing hillside vegetation. No invasive plant material shall be permitted as jointly determined by the Landscape Section and the Environmental Analysis Section.
42. Prior to final inspection, the approved Brush Management Program shall be implemented.
43. 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:**

44. Prior to the issuance of 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 fee title to the City, or 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 Wildlife [CDFW], as shown on Exhibit "A." Conveyance of any land in fee to the City shall require approval from the Park and Recreation Department Open Space Division Deputy Director and shall exclude detention basins or other storm water control facilities, brush management areas, landscape/revegetation areas, and graded slopes. The Owner/Permittee shall ensure all property approved for conveyance in fee title to the City for MHPA purposes shall be free and clear of all private easements, private encroachments, private agreements and/or liens. Any on-site MHPA lands that are not dedicated in fee title to the City shall grant a covenant of easement in favor of the City, USFWS, and CDFW. The Owner/Permittee shall maintain in perpetuity any MHPA lands granted by covenant of easement unless otherwise agreed to by the City.

45. Prior to the issuance of any construction permits, the Owner/Permittee shall grant remaining off-site areas of the 1,766-acres subject to conservation obligations as stated in USFWS/CDFW Interim Loss Permit (1996) in fee title to the City, or 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 Wildlife [CDFW], as shown on Exhibit "A." Conveyance of any land in fee to the City shall require approval from the Park and Recreation Department Open Space Division Deputy Director and shall exclude detention basins or other stormwater control facilities, brush management areas, landscape/revegetation areas, and graded slopes. The Owner/Permittee shall ensure all property approved for conveyance in fee title to the City for MHPA purposes shall be free and clear of all private easements, private encroachments, private agreements and/or liens. Any on-site MHPA lands that are not dedicated in fee title to the City shall grant a covenant of easement in favor of the City, USFWS, and CDFW. The Owner/Permittee shall maintain in perpetuity any MHPA lands granted by covenant of easement unless otherwise agreed to by the City.

46. Prior to the issuance of any construction permits, the Owner/Permittee shall grant the 72 acres of APN 267-150-35 adjacent to the Lusardi Creek to the Multiple Habitat Planning Area [MHPA] of the City's Multiple Species Conservation Program [MSCP] preserve through either fee title to the City, or 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 Wildlife [CDFW], as shown on Exhibit "A." Conveyance of any land in fee to the City shall require approval from the Park and Recreation Department Open Space Division Deputy Director and shall exclude detention basins or other stormwater control facilities, brush management areas, landscape/revegetation areas, and graded slopes. The Owner/Permittee shall ensure all property approved for conveyance in fee title to the City for MHPA purposes shall be free and clear of all private easements, private encroachments, private agreements and/or liens. Any on-site MHPA lands that are not dedicated in fee title to the City shall grant a covenant of easement in favor of the City, USFWS, and CDFW. The Owner/Permittee shall maintain in perpetuity any MHPA lands granted by covenant of easement unless otherwise agreed to by the City.

#### **PLANNING/DESIGN REQUIREMENTS:**

47. Owner/Permittee shall maintain a minimum of two off-street parking spaces on each property at all times in the approximate locations shown on the approved Exhibit "A." Parking spaces shall comply at all times with the SDMC and shall not be converted for any other use unless otherwise authorized by the appropriate City decision maker in accordance with the SDMC.

48. 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.

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

50. The Owners/Permittee shall post a copy of this Permit and the approved Vesting 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 any building permits, the Owner/Permittee shall install bollards on the "Emergency Utility & Fire Access" road on the northern end of the cul-de-sac on Street 'D', to the satisfaction of the City Engineer.

**GEOLOGY**

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

54. 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 include a detailed geologic map showing the joint and fracture patterns exposed on the cut slopes. The project's geotechnical consultant shall analyze the gross and surficial stability of the as-graded cut slopes and provide an opinion regarding the factor-of-safety of the as-graded slopes with respect to gross and surficial slope stability.

55. The as-graded geotechnical report shall be reviewed for adequacy by the Geology Section of Development Services prior to exoneration of the bond, or grading permit close-out.

**PUBLIC UTILITIES DEPARTMENT REQUIREMENTS:**

56. The Owner/Permittee shall install fire hydrants at locations satisfactory to the Fire Marshal, the Director of Public Utilities and the City Engineer. If more than two (2) fire hydrants or thirty (30) dwelling units are located on a dead-end water main then the Owner/Permittee shall install a redundant water system, in a manner satisfactory to the Public Utilities Department Director and the City Engineer.

57. Prior to the issuance of any building permits, the Owner/Permittee is required to install all facilities, as required by the accepted water and sewer studies, necessary to serve this development. Providing public water and sewer for this development is dependent upon prior construction of certain off-site water and sewer facilities. If these facilities have not been constructed when required for this development, then the construction of certain portions of these facilities, as required by the City Engineer, will become requirements for this development.

58. 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 necessary to serve this development.

59. Prior to issuance of any engineering permits, the Owner/Permittee shall obtain Encroachment and Maintenance Removal Agreement for proposed improvements of any kind, including utilities, landscaping, enriched paving, and electrical conduits to be installed within the public right-of-way or public easement.

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

61. Prior to the issuance of any building permits, the Owner/Permittee shall apply for a plumbing permit for the installation of appropriate above ground 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 are typically located 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 back flow prevention devices to be located below grade or within the structure.

62. All proposed public water facilities must be designed and constructed in accordance with established criteria in the most current edition of the City of San Diego Water Facility Design Guidelines and City regulations, standards and practices pertaining thereto.

All proposed public sewer facilities, must be designed and constructed in accordance with established criteria in the most current edition of the Olivenhain Municipal Water District (OMWD) standard drawings and specifications and per City of San Diego design guidelines, should OMWD not have any design guidelines published at the time of permit issuance.

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

64. No trees or shrubs exceeding three feet in height at maturity shall be installed within five feet of any water facilities and ten feet of any sewer 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 payment of School Impact Fees at the time of issuance of building permits, as provided by Education Code Section 17620, in accordance with procedures established by the Director of Building Inspection.
- 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 October 18, 2016 by Resolution R-310725.

Permit Type/PTS Approval No.: PDP No. 1193245 and SDP No. 1193246  
Date of Approval: October 18, 2016

AUTHENTICATED BY THE CITY OF SAN DIEGO DEVELOPMENT SERVICES DEPARTMENT

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John S. Fisher  
Development Project Manager

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

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

**SPIC Del Sur, LLC**  
Owner/Permittee

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William T. Ostrem  
Division President San Diego  
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 OCT 18 2016, by the following vote:

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

Date of final passage OCT 18 2016

(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 Linda Bruen, Deputy

Office of the City Clerk, San Diego, California

Resolution Number R- 310725