

RESOLUTION NUMBER R- 310942

DATE OF FINAL PASSAGE FEB 07 2017

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO APPROVING PLANNED DEVELOPMENT PERMIT NO. 1299342 AND SITE DEVELOPMENT PERMIT NO. 1821449 (AMENDING SITE DEVELOPMENT PERMIT NO. 25170) FOR THE SOUTHVIEW EAST PROJECT - PROJECT NO. 371807.

WHEREAS, Southview Development Partners, L.P., Owner/Permittee, filed an application with the City of San Diego for Site Development Permit No. 1821449 and Planned Development Permit No. 1299342, to develop a vacant 21.2-acre site for the development of 86 multi-family residential condominium units, known as the Southview East project, located east of the intersection of Airway Road and Caliente Avenue and south of State Route 905 within the Otay Mesa Community Plan area. The site is legally described as the remainder lot of Southview, Map No. 15984, dated July 16, 2014; and

WHEREAS, on December 1, 2016, the Planning Commission of the City of San Diego considered Site Development Permit No. 1821449 and Planned Development Permit No. 1299342, and pursuant to Resolution No. 4823-PC voted to recommend City Council approval of the Permit; and

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

WHEREAS, the matter was set for public hearing on FEB 07 2017,

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

BE IT RESOLVED, by the Council of the City of San Diego, that it adopts the following findings with respect to Site Development Permit No. 1821449 and Planned Development Permit No. 1299342:

I. PLANNED DEVELOPMENT PERMIT – SAN DIEGO MUNICIPAL CODE (SDMC) Section 126.0604

1. The proposed development will not adversely affect the applicable land use plan. The undeveloped 21.2-acre project site would be subdivided into six lots for the development of 86 multi-family residential condominium units. The site contains Environmentally Sensitive Lands (ESL), including wetland, upland and disturbed habitats. The project is located in the Southwest District of the Otay Mesa Community Plan (OMCP) which designates the site for Residential Medium Density at a rate of 15 to 29 dwelling units per acre (du/ac). The project would develop 5.6 acres of the site with residential condominium units (Lots 1 and 2), with the remainder consisting of storm water treatment areas and manufactured slopes (Lots 3 and 4) and conserved open space (Lots 5 and 6). The development of 86 units on 5.6 acres equals 15.4 du/ac, which meets the minimum density of 15 du/ac recommended by the OMCP.

The project includes onsite preservation of 12.9 acres of open space within a Covenant of Easement (COE) (Lots 5 and 6), which includes 5.1 acres of Multiple Habitat Planning Area (MHPA) and 7.8 acres of non-MHPA open space. To ensure the COE area is properly maintained and protected, the project is conditioned to require that a Habitat Manager will be identified and funded in perpetuity pursuant to the project's Habitat Management Plan (HMP). All project biological impacts would be mitigated onsite within the COE, as described in the EIR Addendum and Mitigation, Monitoring and Reporting Program (MMRP) prepared for this project. The project has been designed to comply with the MHPA land use adjacency guidelines and incorporates a 100-foot wetland buffer. The project features described above further the OMCP Recreation Element Policy No. 7.2-1 to maintain Spring Canyon in its natural state, the Conservation Element Policy No. 8.1-2 to preserve a network of open and relatively undisturbed canyons and No. 8.1-5 to implement City regulations and Biology Guidelines for preservation, acquisition, restoration, management and monitoring of biological resources.

The project includes a system of interconnected sidewalks that provide pedestrian access to all units as well as scenic overlooks, landscaped areas and benches facing the open space to the east, which includes MHPA, Spring Canyon and the non-MHPA open space to be conserved as part of this project. The project has been designed to use the open space as a focal point, providing residents with amenities that connect with the natural environment. These features

further the OMCP's Open Space and Parks Policy No. 2.6-2 to create a close relationship between the natural environment of Spring Canyon and development, the Mobility Element goal to create a pedestrian sidewalk network that allows for safe and comfortable walking through the community, Recreation Policy No. 7.2-4 to locate scenic overlooks adjacent to Spring Canyon and the Urban Design Element goal for an urban form that reflects land and topography as an amenity.

The project would be accessed from the adjacent project's private street systems, providing connectivity between the neighborhood streets and sidewalks which furthers the OMCP Mobility Element Policy No. 3.3-1 to provide interconnected streets and project circulation systems. The project furthers the Mobility Element Policy No. 3.3-8 to acquire needed Airway Road right-of-way (ROW) by dedicating the required onsite ROW with an Irrevocable Offer of Dedication (IOD). Airway Road currently terminates in a cul-du-sac in the west-central portion of the site and does not resume until approximately two miles east at the intersection of Cactus Road. The impacts of roadway installation have been analyzed in the project's EIR Addendum and payment of the Facilities Benefit Assessment (FBA) fees for the Otay Mesa Public Facilities Financing Plan (PFFP), which includes Airway Road, is required at ministerial permit issuance.

The project includes a noise wall adjacent to SR-905 to ensure the General Plan Noise Compatibility Guidelines for interior noise levels are met. Incorporation of the noise wall furthers the OMCP Noise Element Goal to minimize exposure of residential uses to excessive motor vehicle traffic noise. The requested deviation to allow an eight-foot wall where six feet is allowed facilitates implementation of the noise wall. Please see Planned Development Permit Finding No. 3 for additional information regarding project deviations.

The project furthers implementation of both the General Plan Conservation Element and OMCP Conservation and Sustainability Element's goals by incorporating design features and standards such as compliance with Title 24 standards as of 2013, which are estimated to exceed Title 24 standards as of 2008 by 15%; installation of low-flow fixtures, water-efficient landscaping, and water-efficient irrigation systems to minimize water usage indoors and outdoors as required by the City Landscape Water Conservation Ordinance; installation of cool roofs and energy-efficient appliances that meet EnergyStar requirements to minimize energy usage indoors; use construction products that meet California requirements for low-VOCs in various types of construction materials to minimize indoor emissions; use recycled/sustainable materials for construction materials to reduce waste; compliance with the City's ordinances related to C&D debris, recyclable materials storage and recycling to reduce solid waste generated during construction/occupancy; and installation of electric vehicle charging infrastructure in the parking areas to encourage use of alternative fuels for occupant's automobiles. The project would also incorporate drought-tolerant and low-water demand landscaping with extensive street trees to reduce the urban heat island effect. Therefore, the proposed development will not adversely affect the applicable land use plan.

2. The proposed development will not be detrimental to the public health, safety, and welfare. The project will not be detrimental to the public health, safety and welfare in that the permit controlling the development and continued use of the 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 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 building permits are implemented in accordance with the approved plans, and inspections to ensure the final product complies with the regulations.

An Addendum to the Otay Mesa Community Plan Final EIR No. 30330/304032 (OMCP FEIR) has been prepared for this project. The Addendum determined that there are no new significant environmental impacts not considered in the OMCP FEIR; no substantial changes have occurred with respect to the circumstances under which the project was undertaken and there is no new information of substantial importance to the project. Mitigation is required for project-level impacts related to Biological Resources, Historical Resources and Noise, as described in the Mitigation, Monitoring and Reporting Program (MMRP) which would be implemented with the project to reduce potential impacts to below a level of significance. All biological impacts associated with the development would be mitigated onsite.

The project is located within the FAA Part 77 Noticing Area, however FAA noticing is not required because the proposed structures would not exceed the height threshold requiring FAA notification. The site is also located in the Brown Field Airport Influence Area 2. Because the project is compatible with the Otay Mesa Community Plan land use designation, is not within the Airport Approach Overlay Zone (AAOZ) and is located outside of the Airport Land Use Compatibility Plan (ALUCP) 60 decibel (dB) Community Noise Equivalent Level (CNEL), the use is considered compatible and a Consistency Determination was not required from the Airport Land Use Commission (ALUC). Therefore, the proposed subdivision or the type of improvement would 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 site is currently zoned AR-1-1, which is an Agricultural/Residential zone that accommodates a range of agricultural uses and single-family residential development at a very low density with a minimum lot size of 10 acres. This low-density zoning designation is inconsistent with the Otay Mesa Community Plan land use designation for the site, which calls for Residential Medium Density development at a rate of 15 to 29 du/ac.

The project includes a rezone for 16.1 acres of the site located outside of the MHPA to RM-2-6 and the 5.1 acres inside the MHPA to OR-1-2, allowing implementation of the Community Plan land use and density, consistency with the adjacent multi-family developments, and protection of the onsite MHPA lands.

As proposed and conditioned, the project complies with the majority of the applicable development regulations of the proposed zones, including density, height, floor area ratio, internal setbacks, parking and useable private open space requirements of the proposed RM-2-6 zone. The project includes two deviation requests to the perimeter setback and retaining wall height requirements, as allowed with the approval of a Planned Development Permit (PDP).

The deviations requested are reasonable and will result in a better project consistent with the purpose and intent of the PDP regulations. The purpose of the PDP regulations is to provide flexibility in the application of development regulations for projects where strict application of the base zone development regulations would result in a less desirable project. The intent of the PDP regulations is to accommodate an equitable balance of development types, intensities, styles, site constraints, project amenities, public improvements and public benefits.

The site is unique in that there are four main constraints. The SR-905 is located north of the project site which generates traffic noise that impacts the ability of the project to comply with the General Plan Noise Compatibility Guidelines for interior noise levels. The project site also includes existing MHPA and non-MHPA open space lands to the east that would be preserved in a COE. Also, the project is considered a continuation of the under-construction multi-family developments to the west and as such must be integrated in a complimentary and harmonious manner.

The perimeter setback deviation for Lot 1 would allow a 15-foot front yard setback where 20 feet is otherwise required and a 10-foot interior side yard setback where 94 feet (10% of lot width) is otherwise required. For Lot 2 the deviation would allow a 15-foot front yard setback where 20 feet is otherwise required and a 10-foot interior side yard setback where 68 feet (10% of lot width) is otherwise required. Based on the overall design and considering that this project is a continuation of the approved developments to the west, reducing the setbacks will allow the project to better integrate with the adjacent multi-family projects. Additionally, the reduced setback will allow the development area to shift to the west, closer to the existing development and away from the open space and MHPA lands to the east.

The retaining wall deviation would allow a maximum wall height of eight feet where six feet is otherwise allowed. The areas of deviation would be the noise attenuation wall along the SR-905 frontage and portions of the downslope walls which face the open space areas. The walls will be appropriately landscaped and will help mitigate noise impacts from SR-905. The project is consistent with the *General Development Regulations for Planned Development Permit* described in SDMC Section 143.0410, will integrate well with the adjacent developments, will protect residents from SR-905 noise impacts and shift development away from ESL and open space areas. The requested deviations 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.

II. SITE DEVELOPMENT PERMIT – SAN DIEGO MUNICIPAL CODE (SDMC) **Section 126.0504**

A. Findings for all Site Development Permits

1. **The proposed development will not adversely affect the applicable land use plan.** The project is located in the Southwest District of the Otay Mesa Community Plan which designates the site for Residential Medium Density at a rate of 15 to 29 dwelling units per acre (du/ac). The project would develop 5.6 acres of the site with residential condominium units, with the remainder consisting of storm water treatment areas, manufactured slopes and conserved open space. The development of 86 units on 5.6 acres equals 15.4 du/ac, which meets the minimum density of 15 du/ac recommended by the Community Plan. Please refer to Planned Development Permit Finding No. 1 above for more information.

2. **The proposed development will not be detrimental to the public health, safety, and welfare.** The project will not be detrimental to the 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. Please refer to Planned Development Permit Finding No. 2 above for more information.

3. **The proposed development will comply with the regulations of the Land Development Code including any allowable deviations pursuant to the Land Development Code.** As proposed and conditioned, the project complies with the majority of the applicable development regulations of the proposed zones, including density, height, floor area ratio, internal setbacks, parking and useable private open space requirements. The project scope includes three deviation requests, as allowed with the approval of a Planned Development Permit (PDP). The deviations requested are reasonable 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, consistent with the purpose and intent of the PDP regulations. Please refer to Planned Development Permit Finding No. 3 above for more information.

B. Supplemental Findings - Environmentally Sensitive Lands

1. **The site is physically suitable for the design and siting of the proposed development and the development will result in minimum disturbance to environmentally sensitive lands.** The 21.2-acre project site is located in a developing area and is surrounded by existing or under-construction development to the west, SR-905 to the north, an under-review 500-unit multi-family residential development to the south and undeveloped MHPA and non-MHPA open space lands to the east. The majority of the site consists of flat to gently inclined ground surfaces with a portion of Spring Canyon located in the northeast portion of the site. Onsite elevations range from a high of approximately 529 feet Mean Sea Level (MSL) in the western portion of the site to approximately 505 MSL in the eastern central portion of the site. The project site contains Environmentally Sensitive Lands (ESL) in the form of disturbed, upland, wetland/riparian and vernal pool habitats.

The most environmentally sensitive portions of the site are located to the east which includes 5.1 acres of onsite Multiple Habitat Planning Area (MHPA). The project design clusters the development on the western half of the site, adjacent to similar multi-family development. The more sensitive eastern half of the site would remain undeveloped in a 12.9-acre Covenant of

Easement (COE), which would include the existing 5.1 acres of MHPA and 7.8 acres of non-MHPA open space. To ensure the COE area is properly maintained and protected, the project is conditioned to require a Habitat Manager be identified and funded in perpetuity pursuant to the project's Habitat Management Plan (HMP). The 10.32 acres of direct biological project impacts identified in Addendum to EIR No. 30330/304032 would be mitigated onsite within the COE.

The project review required the submission of several technical reports prepared by individuals qualified to practice in their respective technical fields. These reports included a Biological Technical Report prepared by Alden Environmental, an Archeological Survey and Evaluation Report prepared by ASM Affiliates, a Storm Water Quality Management Plan (SWQMP) prepared by SB&O, Inc., a Geotechnical Investigation prepared by Geocon Incorporated, an Exterior Noise Analysis prepared by dBF and Associates and a Trip Generation and Signal Warrant Analysis prepared by Kimley-Horn. These reports were reviewed and accepted by City staff.

Based on the project's location adjacent to existing multi-family and freeway development, the conclusions of the technical studies and the overall project design which preserves the most sensitive onsite habitat, the site is physically suitable for the design and siting of the proposed development and the development will result in minimum disturbance to environmentally sensitive lands.

2. The proposed development will minimize the alteration of natural land forms and will not result in undue risk from geologic and erosional forces, flood hazards, or fire hazards. A Geotechnical Investigation was prepared by Geocon Incorporated for the project site and accepted by staff. The project site is designated as Category 53: Level to sloping terrain, unfavorable geologic structure, and low to moderate risk by the City of San Diego Seismic Safety Study. No known active, potentially active, or inactive faults are located on the site. Potential geologic impacts will be reduced to an acceptable level by design and construction in accordance with prevailing building codes and the recommendations discussed in the Geotechnical Investigation. The project will comply with the recommendations of the investigation and the applicable building and grading regulations to ensure that less than significant geologic impacts will result with project implementation.

The majority of the site consists of flat to gently inclined ground surfaces with a small portion of Spring Canyon located in the northeast portion of the site. Onsite elevations range from a high of approximately 529 feet Mean Sea Level (MSL) in the western portion of the site to approximately 505 MSL near the edge of the canyon in the eastern central portion of the site. The project includes the creation of manufactured slopes with a maximum height of approximately 20 feet, which is the minimum amount necessary to integrate with existing development to the west and prevent runoff into the MHPA. All slopes will be stabilized and planted with appropriate vegetation to prevent erosion by wind, rainfall or drainage. The plant species used in erosion control will be selected for their variation of rooting depth to provide additional stability in addition to the engineering practices and standards applied in the creation of artificial slopes.

As designed and conditioned, the slopes to be created next to the MHPA will comply with the MHPA Adjacency Guidelines for drainage, toxics, lighting, noise, barriers, invasive species, brush management and grading/land development.

In order to comply with the City's storm water runoff requirements, appropriately sized detention and filtration basins/tanks have been provided as necessary for the proposed development, as analyzed in the Storm Water Quality Management Plan (SWQMP) prepared by SB&O, Inc. The site is not located within or adjacent to a flood way, flood plain or Federal Emergency Management Agency designated flood zone.

The project landscape plan incorporates brush management zones and a complete brush management plan to protect the development from fire hazards to the extent possible. Brush Management Zone Two is not allowed to encroach into the MHPA at any time. The project will also be required to comply with all relevant fire warning and suppression requirements identified in the California Uniform Building Code. Therefore, the proposed development will minimize the alteration of natural land forms and will not result in undue risk from geologic and erosional forces, flood hazards, or fire hazards.

3. The proposed development will be sited and designed to prevent adverse impacts on any adjacent environmentally sensitive lands. The project site is located in a developing area and is surrounded by existing, under-construction or future planned development on three of four sides, including under-construction multi-family development to the west, SR-905 to the north and an under-review 500-unit multi-family residential development to the south. To the east of the site are environmentally sensitive open space lands and MHPA lands.

The project design clusters proposed development on the western half of the site, which is less environmentally sensitive and is located adjacent to existing multi-family developments. The project grading is designed to direct drainage away from the MHPA and adjacent landscape areas would be non-invasive, drought tolerant plantings compatible with sensitive vegetation. Adjacent environmentally sensitive lands are further protected from the development by the project's incorporation of the MHPA Adjacency Guidelines and the inclusion of appropriate wetland buffers. The project includes onsite preservation of 12.9 acres of open space within a Covenant of Easement (COE) (Lots 5 and 6), which includes 5.1 acres of MHPA and 7.8 acres of non-MHPA open space. To ensure the COE area is properly maintained and protected, a Habitat Manager will be identified and funded in perpetuity pursuant to the project's Habitat Management Plan (HMP).

The project includes a Rezone which would change the zoning of the MHPA area from AR-1-1, which allows for agricultural and single-family residential uses, to OR-1-2 which is an open space zone more compatible with the preservation of MHPA lands. Therefore, the proposed development will be 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. As proposed and conditioned, the project would not impact the existing 5.1 acres of MHPA lands located along the eastern edge of the project site and would comply with all MHPA Adjacency Guidelines as discussed in the EIR Addendum and required in the MMRP. The project design clusters the development away from the MHPA on the western half of the site, which is less environmentally sensitive and immediately adjacent to existing multi-family developments. The more sensitive eastern half of the site would remain undeveloped in a 12.9-acre Covenant of Easement (COE), which would include the existing 5.1 acres of MHPA and 7.8 acres of non-MHPA open space. To ensure the COE area is properly maintained and protected, a Habitat Manager will be identified and funded in perpetuity pursuant to the project's Habitat Management Plan (HMP).

Compliance with the MHPA Adjacency Guidelines would be assured through implementation of the landscape plan which prohibits invasive species, adherence to the City's Storm Water requirements to direct drainage away from the MHPA, implementation of the project's Brush Management Plan and compliance with the grading plan and construction best management practices. Therefore, the proposed development will be consistent with the City of San Diego's Multiple Species Conservation Program (MSCP) Subarea Plan.

5. The proposed development will not contribute to the erosion of public beaches or adversely impact local shoreline sand supply. The project site is located approximately seven miles east of the Pacific Ocean. Implementation of the drainage system design and storm water filtration measures approved for this project, in addition to compliance with the current State of California water quality control standards will, assure the development will not contribute to the erosion on public beaches or adversely impact local shoreline sand supply.

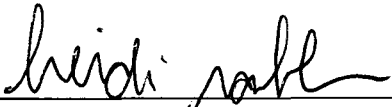
6. The nature and extent of mitigation required as a condition of the permit is reasonably related to, and calculated to alleviate, negative impacts created by the proposed development. All of the mitigation measures required as conditions of the permit are appropriate and proportional for the project in consideration of the current accepted best practices and scientific analysis standards. Staff has appropriately utilized the SDMC, Land Development Manual, Community Plan, General Plan, CEQA Significance Thresholds and technical studies prepared for the development to determine project impacts and required mitigation. The mitigation ratios applied to project impacts to biological resources have been properly adjusted and reflect a mix of impacts and mitigation both in and out of the MHPA. Therefore, the nature and extent of mitigation required as a condition of the permit is reasonably related to, and calculated to alleviate, negative impacts created by the proposed development.

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

BE IT FURTHER RESOLVED, that Site Development Permit No. 1821449 and Planned Development Permit No. 1299342 are hereby granted to Southview Development Partners, L.P.,

Owner/Permittee, under the terms and conditions set forth in the attached permit, which is made a part of this resolution, contingent upon final passage of O- 20796 rezoning a portion of the site from the existing AR-1-1 zone to the RM-2-6 and OR-1-2 zones.

APPROVED: MARA W. ELLIOTT, City Attorney

By 
Heidi K. Vonblum
Deputy City Attorney

HKV:nja
12/22/16
Or.Dept: DSD
Doc. No.: 1413979

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

**WHEN RECORDED MAIL TO
CITY CLERK
MAIL STATION 2A**

INTERNAL ORDER NUMBER 24004729 SPACE ABOVE THIS LINE FOR RECORDER'S USE

**PLANNED DEVELOPMENT PERMIT NO. 1299342
SITE DEVELOPMENT PERMIT NO. 1821449
SOUTHVIEW EAST - PROJECT NO. 371807 (MMRP)
AMENDMENT TO SITE DEVELOPMENT PERMIT NO. 25170
CITY COUNCIL**

This Planned Development Permit No. 1299342 and Site Development Permit No. 1821449, amending Site Development Permit No. 25170, is granted by the City Council of the City of San Diego to Southview Development Partners, L.P., Owner/Permittee, pursuant to San Diego Municipal Code (SDMC) sections 126.0502 and 126.0602. The 21.2-acre site is located east of the intersection of Airway Road and Caliente Avenue and south of State Route 905, in the AR-1-1 zone and within the Otay Mesa Community Plan. The project site is legally described as the remainder Lot of Southview, Map No. 15984, filed July 16, 2014.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee to develop 86 residential condominium units on a vacant site which contains environmentally sensitive lands, described and identified by size, dimension, quantity, type, and location on the approved exhibits (Exhibit "A") dated FEB 07 2017, on file in the Development Services Department.

The project shall include:

- a. The construction of 86 residential condominium units in 19 multi-unit buildings, with three- and four-bedroom units totaling 180,990 square feet and a maximum height of 35 feet.
- b. The approval of deviations as shown on the Exhibit "A", to allow:
 - a. A maximum retaining wall height of eight feet where six feet is otherwise allowed; and
 - b. Lot 1 front yard setback of 15 feet where 20 feet is otherwise required and a interior side yard setback of 10 feet where 94 feet is otherwise required;

- c. Lot 2 front yard setback of 15 feet where 20 feet is otherwise required and a interior side yard setback of 10 feet where 68 feet is otherwise required.
- c. Landscaping (planting, irrigation and landscape related improvements);
- d. A total of 233 off-street parking spaces; and
- e. Public and private accessory improvements determined by the Development Services Department to be consistent with the land use and development standards for this site in accordance with the adopted community plan, the California Environmental Quality Act (CEQA) and the CEQA Guidelines, the City Engineer's requirements, zoning regulations, conditions of this Permit, and any other applicable regulations of the SDMC.

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 February 7, 2020.
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. Ordinance No. **20796** rezoning the project site from the existing AR-1-1 zone to the RM-26 and OR-1-1 zones is finally passed and becomes effective.
 - b. The Owner/Permittee signs and returns the Permit to the Development Services Department; and
 - c. The Permit is recorded in the Office of the San Diego County Recorder.
3. While this Permit is in effect, the subject property shall be used only for the purposes and under the terms and conditions set forth in this Permit unless otherwise authorized by the appropriate City decision maker.
4. This Permit is a covenant running with the subject property and all of the requirements and conditions of this Permit and related documents shall be binding upon the Owner/Permittee and any successor(s) in interest.
5. The continued use of this Permit shall be subject to the regulations of this and any other applicable governmental agency.

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

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

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

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

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

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

11. All conditions of approval for Site Development Permit No. 25170, Project No. 2204, that are not modified by this permit shall remain in effect.

MULTIPLE SPECIES CONSERVATION PROGRAM (MSCP):

12. 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.

13. Prior to the issuance of any grading permits, the on-site MHPA and remainder non-MHPA Open Space lands located on Lot 5 and Lot 6, shall be conveyed to the City's MSCP preserve through recordation of a covenant of easement granted in favor of the City and wildlife agencies. Lot 5 and Lot 6 shall be managed and maintained in perpetuity in accordance with the Southview East Project Habitat Management Plan (HMP; Alden 2016a).

14. Prior to issuance of any certificate of occupancy, the applicant shall identify a Habitat Manager pursuant to the Southview East Project Habitat Management Plan (HMP; Alden 2016a), to be approved by the City of San Diego, and submit evidence that a funding source has been secured to fully implement the HMP in perpetuity. Management of the land shall be performed by the approved Habitat Manager, as directed by the HMP.

ENVIRONMENTAL/MITIGATION REQUIREMENTS:

15. 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.

16. The mitigation measures specified in the MMRP and outlined in Addendum to Environmental Impact Report No. 30330/304032, shall be noted on the construction plans and specifications under the heading ENVIRONMENTAL MITIGATION REQUIREMENTS.

17. The Owner/Permittee shall comply with the MMRP as specified in Addendum to Environmental Impact Report No. 30330/304032, 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:

Biological Resources, Historical Resources (Archeology) and Noise.

CLIMATE ACTION PLAN (CAP) REQUIREMENTS:

18. The Owner/Permittee shall comply with The Climate Action Plan (CAP) Consistency Checklist stamped as Exhibit 'A.' Prior to issuance of any construction permit, all CAP strategies shall be noted within the first three (3) sheets of the construction plans under the heading "Climate Action Plan Requirements."

19. The Climate Action Plan strategies as identified on Exhibit 'A' shall be enforced and implemented to the satisfaction of the Development Services Department.

AFFORDABLE HOUSING REQUIREMENTS:

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

AIRPORT REQUIREMENTS:

21. Prior to the issuance of any building permits, the Owner/Permittee shall submit a completed No FAA Notification Self-Certification Agreement (DS-503) to the Development Services Department, and shall show certification on the building plans verifying that the structures do not require Federal Aviation Administration (FAA) notice for Determination of No Hazard to Air Navigation, or provide an FAA Determination of No Hazard to Air Navigation as specified in Information Bulletin 520.

ENGINEERING REQUIREMENTS:

22. The Planned Development Permit and Site Development Permit shall comply with all Conditions of Tentative Map No.1299345.

23. The project proposes to export no material from the project site. Any excavated material that is exported, shall be exported to a legal disposal site in accordance with the Standard Specifications for Public Works Construction (the "Green Book"), 2015 edition and Regional Supplement Amendments adopted by Regional Standards Committee.

24. The drainage system for this project shall be private and will be subject to approval by the City Engineer.

25. Prior to the issuance of any building permits, 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.
26. 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.
27. 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.
28. Prior to the issuance of any construction permit, the applicant 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.
29. Development of this project shall comply with all storm water construction requirements of the State Construction General Permit, Order No. 2009-0009DWQ, or subsequent order, and the Municipal Storm Water Permit, Order No. R9-2013-0001, 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.
30. 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.
31. Prior to the issuance of any building permit, the Owner/Permittee shall enter into an agreement to indemnify, protect and hold harmless the City, its officials and employees from any and all claims, demands, causes or action, liability or loss because of, or arising out of surface drainage entering into the property from the Right-of-Way due to the treatment of runoff for storm water quality, to the satisfaction of the City Engineer.

LANDSCAPE REQUIREMENTS:

32. 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 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 (including Environmental conditions) and Exhibit 'A,' on file in the Office of the Development Services Department.

33. Prior to issuance of any engineering permits for right-of-way improvements, the Owner/Permittee shall submit complete landscape construction documents for right-of-way improvements to the Development Services Department for approval. Improvement plans shall show, label, and dimension a 40 sq-ft 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.

34. 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,' Landscape Development Plan, on file in the Office of the Development Services Department. Construction plans shall provide a 40 sq-ft area around each tree that is unencumbered by hardscape and utilities unless otherwise approved per San Diego Municipal Code section 142.0403(b)(5).

35. In the event that a foundation only permit is requested by the Owner/Permittee, a site plan or staking layout plan shall be submitted to the Development Services Department identifying all landscape areas consistent with Exhibit 'A,' Landscape Development Plan, on file in the Office of the Development Services Department. These landscape areas shall be clearly identified with a distinct symbol, noted with dimensions and labeled as 'landscaping area.'

36. 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.

37. 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.

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

BRUSH MANAGEMENT PROGRAM REQUIREMENTS:

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

40. The Brush Management Program shall be based on a standard Zone One of 35 feet in width with Zone Two of 65 feet in width, extending out from the structure towards the native/naturalized vegetation, consistent with the Brush Management Regulations of the Land Development Code, section 142.0412. Zone One shall range from 15 feet to 80+ feet with a corresponding Zone Two of 65+ feet to 0 feet, exercising Zone Two reduction options under 142.0412(f). In no case shall Zone Two extend into the MHPA for this project. Where the full defensible space is not provided, alternative compliance measures shall include opening protection upgraded to dual-glazed, dual-tempered panes along those walls facing the fuel load with a 10-foot perpendicular return along adjacent wall faces, consistent with Exhibit 'A'.

41. Prior to issuance of any Engineering Permits for grading, landscape construction documents required for the engineering permit shall be submitted showing the brush management zones on the property in substantial conformance with Exhibit 'A.'

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

43. Within Zone One, combustible accessory structures (including, but not limited to decks, trellises, gazebos, etc.) 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.

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

45. 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 City's Landscape Section and the Environmental Analysis Section.

46. Prior to final inspection, the approved Brush Management Program shall be implemented.

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

PLANNING/DESIGN REQUIREMENTS:

48. Owner/Permittee shall maintain a minimum of 233 off-street parking spaces on the 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.

49. Prior to issuance of any grading permits, a Covenant of Easement shall be granted on the site for all biologically sensitive areas, as required by Land Development Code Sections 143.0140(a), 143.0141(a)(3), 143.0142, and 143.0152, as shown on the approved Exhibit "A."

50. 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.

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

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

53. 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

54. Prior to the issuance of the first building permit, the Owner/Permittee shall grant an Irrevocable Offer to Dedicate (I.O.D) for 122 foot right-of-way plus slope easements for Airway Road along the project frontage to station 19+00, as shown on Exhibit "A", satisfactory to the City Engineer.

PUBLIC UTILITIES DEPARTMENT REQUIREMENTS:

55. Prior to issuance of any engineering permits, the Owner/Permittee shall obtain Encroachment and Maintenance Removal Agreement (EMRA) 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.

56. In lieu of designing and constructing either alone or in conjunction with other developers similarly conditioned to construct the next pending phase of the Otay Mesa Trunk Sewer (OMTS), prior to the issuance of any Certificate of Occupancy, the Owner/Permittee shall design and construct one approximately 202' segment of the OMTS just to the south of existing manhole no. 200 where the pipe size changes from newly constructed 42" to an existing 10" in a manner satisfactory to the Public Utilities Director and the City Engineer.

57. The proposed development is currently subject to the following sewer reimbursement fee: The Otay Mesa Sewer Surcharge fee of \$1821.75 per living unit plus 6% simple interest from 3/12/08 (21351-D-O).

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

59. All on-site water and sewer facilities shall be private.

60. All proposed private sewer facilities located within a single lot are to be designed to meet the requirements of the California Plumbing Code and will be reviewed as part of the building permit plan check or public standards per the City of San Diego Sewer Design Guide.

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

INFORMATION ONLY:

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

APPROVED by the City Council of the City of San Diego on FEB 07 2017 by
Resolution No. R- 310942.

Permit Type/PTS Approval No.: SDP No. 1821449

PDP No. 1299342

Date of Approval: **FEB 07 2017**

AUTHENTICATED BY THE CITY OF SAN DIEGO DEVELOPMENT SERVICES
DEPARTMENT

Paul Godwin
Development Project Manager

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

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

Southview Development Partners, L.P.
Owner/Permittee

By _____
Name:
Title:

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

Passed by the Council of The City of San Diego on FEB 07 2017, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Barbara Bry	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lorie Zapf	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Ward	<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"/>
Georgette Gomez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage FEB 07 2017.


(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- 310942