

RESOLUTION NUMBER R- 312471

DATE OF FINAL PASSAGE MAY 20 2019

ITEM# 205D  
5/20/19

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO GRANTING SITE DEVELOPMENT PERMIT NO. 1905126 AND PLANNED DEVELOPMENT PERMIT NO. 1905121 RELATED TO THE SUNROAD OTAY 50 – PROJECT NO. 538140.

WHEREAS, Sunroad Otay Partners, Limited Partnership, Owner/Permittee, filed an application with the City of San Diego for Site Development Permit No. 1905126 and Planned Development Permit No. 1905121 to construct four industrial buildings totaling 845,226 square feet, known as the Sunroad Otay 50 project, located on a vacant, 49.1-acre site north of State Route 905, south of Otay Mesa Road, east of La Media Road, and west of State Route 125, and legally described as: Parcels 1 through 7 of Parcel Map No. 14023, together with Parcels 1 and 2 of Parcel Map No. 18483, in the City of San Diego, County of San Diego, State of California, excepting therefrom that land conveyed to the State of California in deeds recorded August 22, 2005, as File No. 2005-0717717 and September 28, 2005, as File No. 2005-0838476, in the Otay Mesa Community Plan area, in the IL-1-3 zone; and

WHEREAS, on April 11, 2019, the Planning Commission of the City of San Diego considered Site Development Permit No. 1905126 and Planned Development Permit No. 1905121 and voted to recommend City Council approve the Permit; and

WHEREAS, the matter was set for public hearing on May 20, 2019, 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, under San Diego 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 City Council was required by law to consider evidence at the hearing and to make legal findings based on the evidence presented; NOW, THEREFORE,

BE IT RESOLVED, by the City Council of the City of San Diego, that it adopts the following findings with respect to Site Development Permit No. 1905126 and Planned Development Permit No. 1905121:

**SITE DEVELOPMENT PERMIT – SAN DIEGO MUNICIPAL CODE (SDMC)**  
**SECTION 126.0505**

**A. Findings for all Site Development Permits:**

**1. The proposed development will not adversely affect the applicable land use plan.** The vacant 49.1-acre project site is located north of State Route (SR) 905, south of Otay Mesa Road, east of La Media Road, and west of SR-125 and is surrounded by existing and under-review commercial and industrial development. Project implementation would combine the 11 existing parcels to create four parcels for the development of four industrial buildings totaling 845,256 square feet. The project scope includes the vacation of undeveloped portions of Piper Ranch Road, St. Andrews Avenue and Avenida Costa Azul public rights-of-way as well as public easement vacations for several unused flood storage and drainage easements onsite.

The Otay Mesa Community Plan (OMCP) designates the site for Heavy Commercial uses and the General Plan designates the site for Industrial Employment. The proposed subdivision would implement the OMCP and General Plan land use designation by providing an industrial business park development that includes warehouse, industrial and office uses with truck loading docks and truck parking.

The project would further the OMCP Policy No. 2.3-4 to allow Heavy Commercial, a mix of industrial and commercial uses, near the Port of Entry and along Otay Mesa Road. The proposed industrial park with office and warehouse uses would be located immediately south of Otay Mesa Road and approximately 2.1 miles north of the Port of Entry. The project would also further OMCP Policy No. 3.1-1 to provide a sidewalk system and improved street scape through the provision of new sidewalk along the Otay Mesa Road frontage which includes substantial landscaping with street trees, shrubs and ground cover.

The project scope includes a Community Plan Amendment (CPA) and General Plan Amendment (GPA) to remove Avenida Costa Azul from the OMCP Roadway Classification Network and from the General Plan Land Use and Street System Map.

The project would provide access via a four-lane private driveway in the location of the Avenida Costa Azul right-of-way, which would be vacated with this project. The private

driveway has been designed to accommodate the future vehicles accessing both the subject project site and the adjacent La Media Retail project site, which is currently in discretionary review under Project No. 334235. The CPA would further the OMCP Policy No. 3.3-1 to provide an interconnected network of public streets and internal project circulation systems by providing two private driveway access points for the project site onto the Otay Mesa Road right-of-way in a manner that provides efficient site access and better utilization of the land for industrial uses, as designated by the OMCP. 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 proposed development will not be detrimental to 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. Prior to issuance of any building permits for the proposed development, the plans will be reviewed for compliance with all Building, Electrical, Mechanical, Plumbing and Fire Code requirements in addition to all associated conditions of approval.

The project has been conditioned to dedicate and improve 19.5-28.2 feet of additional right-of-way adjacent to the site on Otay Mesa Road and to modify the existing traffic signal at Otay Mesa Road and Piper Ranch Road to accommodate the new project driveway. In addition, Phase One of the project is conditioned to provide an exclusive northbound right-turn lane at La Media Road and Otay Mesa Road prior to occupancy, in accordance with the Otay Mesa Community Plan Update EIR. Other required and conditioned public improvements include the undergrounding of existing overhead utilities, installation of new street lights, curbs, curb ramps, gutter and sidewalk including sidewalk along the entire Otay Mesa Road frontage.

Addendum No. 538140 to the Otay Mesa Community Plan Update (CPU) Program Environmental Impact Report (PEIR) No. 30330/304032 has been prepared for this project in accordance with California Environmental Quality Act (CEQA) guidelines. A Mitigation, Monitoring and Reporting Program (MMRP) would be implemented with this project to mitigate impacts related to Air Quality, Biological Resources, Historical Resources, Paleontological Resources and Transportation/Circulation. The proposed project would not result in any additional significant impacts nor would it result in an increase in the severity of impacts from that described in the previously certified CPU EIR. Therefore, the proposed development will not be detrimental to the public health, safety, and welfare.

**3. The proposed development will comply with the regulations of the Land Development Code including any allowable deviations pursuant to the Land Development Code.** The vacant 49.1-acre project site is located north of SR-905, south of Otay Mesa Road, east of La Media Road, and west of SR-125 and is surrounded by existing and under-review commercial and industrial development. Project implementation would combine the 11 existing parcels to create four parcels for the development of four industrial buildings totaling 845,256 square feet. The site is zoned IL-1-3, which is a light industrial zone that allows a wide range of manufacturing and distribution activities including the proposed industrial business park

development that includes warehouse, industrial and office uses with truck loading docks and truck parking.

As proposed the subdivision meets all applicable zoning and development regulations, including lot size and dimensions. The project scope includes a request to deviate from the lot frontage requirement on Parcel 2, located in the southeast corner of the site, which is allowed as described in SDMC Section 143.0402 with the approval of a Process Four PDP. SDMC Section 131.0631, Table 131-06C, requires that lots in the IL-3-1 zone provide at least 75 feet of street frontage. Parcel 2 of the VTM will not have frontage on a street and therefore a deviation is required. Staff is supportive of this deviation request as Parcel 2 can be properly accessed via the proposed private driveways and reciprocal access agreements. Additionally, the requested deviation and vacation of the undeveloped public rights-of-way results in a more efficient use of available land onsite, allowing more area for industrial development and landscaping in compliance with the OMCP, IL-1-3 zone and Land Development Code requirements.

Therefore, the proposed subdivision complies with the applicable zoning and development regulations of the Land Development Code, including any allowable deviations pursuant to the Land Development Code.

**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 vacant 49.1-acre project site is located north of SR-905, south of Otay Mesa Road, east of La Media Road, and west of SR-125 and is surrounded by existing and under-review commercial and industrial development. Project implementation would combine the 11 existing parcels to create four parcels for the development of an industrial park with four buildings totaling 845,256 square feet. The previously graded project site is relatively level with onsite elevations ranging from approximately 485 feet above mean sea level (AMSL) at the west to 520 feet AMSL at the east. The project site is served by all existing utilities and fronts on Otay Mesa Road, which would be accessed via private driveways with reciprocal access agreements.

The site is not located within or adjacent to Multi-Habitat Planning Area (MHPA) lands, however project implementation would result in impacts to 47 acres of Environmentally Sensitive Lands (ESL) in the form of non-native grasslands (Tier IIIB habitat). All project ESL impacts would be mitigated through the restoration and preservation of an offsite 18.75-acre parcel and the purchase of 4.75 acres of grassland credits at an existing preserve, as required by the Mitigation, Monitoring and Reporting Program (MMRP) associated with the project's PEIR Addendum No. 538140. The site is not located in a flood plain and is not associated with any known geologic, hazardous materials site or other physical condition that would preclude the proposed development. Therefore, the site is physically suitable for the type and density of development.

Addendum No. 538140 to PEIR No. 30330/304032 has been prepared for this project in accordance with CEQA guidelines. An MMRP would be implemented with this project to mitigate potentially significant impacts to Air Quality, Biological Resources, Historical

Resources, Paleontological Resources and Transportation/Circulation to below a level of significance.

Technical studies have been prepared to address the environmental impacts of the project and have not identified any constraints that would prevent the development from being physically suitable for the project. Therefore, 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.** The previously graded site is generally level with onsite elevations ranging from approximately 485 feet above mean sea level (AMSL) at the west to 520 feet AMSL at the east and the proposed project would substantially maintain these elevations and drainage patterns. The project would not be subject to undue geologic risk as no known active faults traverse the project site. The site does not contain nor is adjacent to any watercourses and is not located in a flood zone hazard area. The project would not result in undue risk from fire hazards as it is located in a developed, industrial area, surrounded by existing and under-review commercial/ industrial development as well as the improved Otay Mesa right-of-way to the north, SR-905 to the south and SR-125 to the east. 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.** Project implementation would impact the entire 49.1-acre project site, in addition to 1.8 acres for required offsite right-of-way improvements adjacent to the developed Otay Mesa Road and La Media Road rights-of-way.

Of these 50.9 acres of impact, 47 acres would be to non-native grasslands (Tier IIIB habitat), 3.8 acres to disturbed lands (Tier IV habitat) and 0.1 acre to developed lands. The 47 acres of Tier IIIB non-native grassland habitat to be impacted are considered occupied burrowing owl habitat, which is a State Species of Special Concern and a City Multiple Species Conservation Program (MSCP) covered species. All on- and off-site project ESL impacts would be mitigated through the restoration and preservation of an offsite 18.75-acre parcel and the purchase of 4.75 acres of grassland credits at an existing preserve, as required by the MMRP associated with the project's Addendum No. 538140 to PEIR No. 30330/304032.

The site is immediately adjacent to Otay Mesa Road and existing commercial and industrial development to the north, the SR-905 and existing industrial development to the south and grading for SR-125 and existing industrial development to the east. There are environmentally sensitive lands located immediately west of the site on the La Media Retail project site, which is currently in discretionary review. Similar to the project site, the La Media Retail site is not located in the MHPA, but does contain non-native grasslands, which is considered ESL. The La Media Retail site proposal would impact all ESL on that project site and is required to identify appropriate mitigation similar to this project. 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 and Vernal Pool Habitat Conservation Plan (VPHCP).** The project site does not contain nor is adjacent to MSCP area lands. However, the 47 acres of Tier IIIB non-native grassland habitat to be impacted with project implementation are considered occupied burrowing owl habitat (BUOW), which is a State Species of Special Concern and a City MSCP covered species. All on- and off-site project ESL impacts would be mitigated through the restoration and preservation of an offsite 18.75-acre parcel (Turecek parcel) and the purchase of 4.75 acres of grassland credits at an existing preserve, as required by the MMRP associated with the project's Addendum No. 538140 to EIR No. 30330/304032.

Typically, impacts to non-native grasslands located outside of the MHPA that are mitigated outside of the MHPA require a mitigation ratio of 1:1. However, after attempts to locate BUOW mitigation sites available for acquisition within the City were unsuccessful, the Turecek parcel was considered a potential site due to its proximity to the site (0.4-mile north of site) and adjacency to existing BUOW habitat preserves.

Consequently, Wildlife Agency concurrence was necessary on selection of this parcel because the mitigation land is located outside of the City's jurisdiction.

Because the Turecek parcel is part of an identified "node", i.e. it has been identified by the Wildlife Agencies, the County of San Diego, and the City of San Diego as a preferred location to concentrate preservation and restoration/enhancement of burrowing owl habitat, and the MMRP requires enhancement of the parcel. It was determined by City staff and State/Federal Wildlife Agency staff that a 0.5:1 mitigation ratio is appropriate to reduce impacts to occupied BUOW habitat to below a level of significance. The site does not contain nor would the project impact vernal pool habitat. Therefore, the proposed development will be consistent with the City of San Diego's MSCP Subarea Plan and VPHCP.

**5. The proposed development will not contribute to the erosion of public beaches or adversely impact local shoreline sand supply.** The project would implement water quality measures and Best Management Practices to prevent adverse impacts to environments downstream from the site. The project is located approximately 10 miles from a public beach and would not require the use of beach sand for any purpose. The project has been conditioned to comply with the current State of California water quality standards and therefore will not contribute to the erosion of public beaches or adversely impact local shoreline sand supply.

**6. The nature and extent of mitigation required as a condition of the permit is reasonably related to, and calculated to alleviate, negative impacts created by the propose development.** Addendum No. 538140 to PEIR No. 30330/304032 has been prepared for the project in accordance with CEQA Guidelines. An MMRP would be implemented with this project to reduce potential impacts to below a level of significance. 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. None of the mitigation measures are without rational basis in fact or accepted best practices and scientific analysis standards. The SDMC, Land Development Manual, Community Plan, General Plan, CEQA Significance Thresholds, PEIR and Addendum, and technical studies prepared for the development were utilized to determine project impacts and required mitigation. 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.

**PLANNED DEVELOPMENT PERMIT – SAN DIEGO MUNICIPAL CODE (SDMC)**  
**SECTION 126.0605**

**A. Findings for all Planned Development Permits:**

**1. The proposed development will not adversely affect the applicable land use plan.** As described in Site Development Permit Finding (A)(1) above, with the approval of the VTM and CPA/GPA, 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.** As described in Site Development Permit Finding (A)(2) above, the proposed development will not be detrimental to the public health, safety, and welfare.

**3. The proposed development will comply with the regulations of the Land Development Code including any proposed deviations pursuant to Section 126.0602(b)(1) that are appropriate for this location and will result in a more desirable project than would be achieved if designed in strict conformance with the development regulations of the applicable zone, and any allowable deviations that are otherwise authorized pursuant to the Land Development Code.** The vacant 49.1-acre project site is located north of SR-905, south of Otay Mesa Road, east of La Media Road, and west of SR-125 and is surrounded by existing and under-review commercial and industrial development. Project implementation would combine the 11 existing parcels to create four parcels for the development of an industrial park with four buildings totaling 845,256 square feet. The site is zoned IL-1-3, which is a light industrial zone that allows a wide range of manufacturing and distribution activities including the proposed development which includes warehouse, industrial and office uses with loading docks and truck parking.

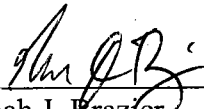
As proposed the subdivision meets all applicable zoning and development regulations, including lot size and dimensions. The project scope includes a request to deviate from the lot frontage requirement on Parcel 2, located in the southeast corner of the site, which is allowed as described in SDMC Section 143.0402 with the approval of a Process Four PDP. SDMC Section 131.0631, Table 131-06C, requires that lots in the IL-3-1 zone provide at least 75 feet of street frontage. Parcel 2 of the VTM will not have frontage on a street and therefore a deviation is required. Staff is supportive of this deviation request as Parcel 2 can be properly accessed via the proposed private driveways and reciprocal access agreements. Additionally, the requested deviation and vacation of the undeveloped public rights-of-way results in a more efficient use of

available land onsite, allowing more area for industrial development, landscaping and employee amenities such as outdoor eating areas, in compliance with the OMCP and IL-1-3 zone.

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. 1905126 and Planned Development Permit No. 1905121 is granted to Sunroad Otay Partners, Limited Partnership, 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 Resolution No. R- 312469 approving amendments to the General Plan and the Otay Mesa Community Plan.

APPROVED: MARA W. ELLIOTT, City Attorney

By   
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Noah J. Brazier  
Deputy City Attorney

NJB:als  
05/03/2019  
Or.Dept:DSD  
Doc. No.: 1998773

Attachment: Site Development Permit No. 1905126 and Planned Development Permit No. 1905121



**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: 24007193

SPACE ABOVE THIS LINE FOR RECORDER'S USE

**SITE DEVELOPMENT PERMIT NO. 1905126  
PLANNED DEVELOPMENT PERMIT NO. 1905121  
SUNROAD OTAY 50 - PROJECT NO. 538140 [MMRP]  
CITY COUNCIL**

This Site Development Permit No. 1905126 and Planned Development Permit No. 1905121 is granted by the City Council of the City of San Diego to Sunroad Otay Partners Limited Partnership, Owner/Permittee, pursuant to San Diego Municipal Code (SDMC) sections 126.0502 (Site Development Permit) and 126.0602 (Planned Development Permit). The 49.1-acre site is located north of State Route 905, south of Otay Mesa Road, west of State Route 125 and east of Avenida Costa Azul in the IL-3-1 zone of the Otay Mesa Community Plan. The project site is legally described as: Parcels 1 through 7 of Parcel Map No. 18959, together with Lots 4 and 8 of Map No. 14023, excepting therefrom that land conveyed to the State of California in deeds recorded August 22, 2005, as File No. 2005-0717717 and September 28, 2005, as File No. 2005-0838476.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee to develop an industrial business park with four buildings totaling 845,226 square feet, as described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated May 20, 2019, on file in the Development Services Department.

The project shall include:

- a. Four industrial buildings totaling 845,226 square feet with loading dock and truck parking areas;
- b. A deviation to allow the creation of Lot 2 without street frontage, with access to all lots to be provided via private driveways with reciprocal access easements between the lots;
- c. Vacation of the undeveloped, on-site portions of the Piper Ranch Road and Avenida Costa Azul public rights-of-way, and the offsite portion of Avenida Costa Azul located immediately west of the project site;

- d. A Community Plan Amendment/General Plan Amendment to remove Avenida Costa Azul from the Otay Mesa Community Plan Roadway Classification Network and from the General Plan Land Use and Street System Map;
- e. Vacation of existing but unneeded on-site drainage and flood water storage easements;
- f. Landscaping (planting, irrigation and landscape related improvements);
- g. Off-street parking;
- h. 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     MAY 20 2022    .
2. 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.
3. 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.
4. The continued use of this Permit shall be subject to the regulations of this and any other applicable governmental agency.
5. 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.).
6. 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.

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.

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

11. The Owner/Permittee shall defend, indemnify, and hold harmless the City, its agents, officers, and employees from any and all claims, actions, proceedings, damages, judgments, or costs, including attorney's fees, against the City or its agents, officers, or employees, relating to the issuance of this permit including, but not limited to, any action to attack, set aside, void,

challenge, or annul this development approval and any environmental document or decision. The City will promptly notify Owner/Permittee of any claim, action, or proceeding and, if the City should fail to cooperate fully in the defense, the Owner/Permittee shall not thereafter be responsible to defend, indemnify, and hold harmless the City or its agents, officers, and employees.

The City may elect to conduct its own defense, participate in its own defense, or obtain independent legal counsel in defense of any claim related to this indemnification. In the event of such election, Owner/Permittee shall pay all of the costs related thereto, including without limitation reasonable attorney's fees and costs. In the event of a disagreement between the City and Owner/Permittee regarding litigation issues, the City shall have the authority to control the litigation and make litigation related decisions, including, but not limited to, settlement or other disposition of the matter. However, the Owner/Permittee shall not be required to pay or perform any settlement unless such settlement is approved by Owner/Permittee.

**ENVIRONMENTAL/MITIGATION REQUIREMENTS:**

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

13. The mitigation measures specified in the MMRP and outlined in Addendum No. 538140 to the Otay Mesa Community Plan Update Program Environmental Impact Report No. 30330/304032/SCH No. 2004651076, shall be noted on the construction plans and specifications under the heading ENVIRONMENTAL MITIGATION REQUIREMENTS.

14. The Owner/Permittee shall comply with the MMRP as specified in Addendum No. 538140 to the Otay Mesa Community Plan Update Program Environmental Impact Report No. 30330/304032/SCH No. 2004651076, 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:

Air Quality, Biological Resources, Historical Resources, Paleontological Resources and Transportation/Circulation

**CLIMATE ACTION PLAN REQUIREMENTS:**

15. 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" and shall be enforced and implemented to the satisfaction of the Development Services Department.

### **AIRPORT REQUIREMENTS:**

16. Prior to the issuance of any building permits, the Owner/Permittee shall provide a copy of the signed agreement (DS-503) and 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:**

17. The Planned Development and Site Development Permits shall comply with all Conditions of the Final Map for Tentative Map No. 1905127.

18. Prior to the issuance of any building permits, the Owner/Permittee shall assure that all onsite utilities serving the subdivision shall be undergrounded. The Owner/Permittee shall provide written confirmation from applicable utilities that the conversion has taken place, or provide other means to assure the undergrounding, satisfactory to the City Engineer.

19. Prior to the issuance of any building permits, the Owner/Permittee shall underground existing and/or proposed public utility systems and service facilities in accordance with the San Diego Municipal Code.

20. Prior to the issuance of any building permits, the Owner/Permittee shall install new street lights, per Exhibit "A," adjacent to the site on Otay Mesa Road, per the City of San Diego Street Design Manual-Street Light Standards, and Council Policy 200-18.

21. Prior to the issuance of any building permits, the Owner/Permittee shall obtain an approval from CALTRANS for the proposed work in their right-of-way, to the satisfaction of the City Engineer.

22. 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.

23. The proposed drainage system, as shown on the Exhibit 'A', is subject to approval by the City Engineer.

24. Prior to the issuance of any construction permits, the Owner/Permittee shall grant to the City of San Diego a flood storage easement. The applicant shall construct drainage detention basins, the design, location, and size of which are subject to approval by the City Engineer. The design shall be such that the discharge from the improved area will be no more than the discharge would have been from the land in the unimproved state. The Owner/Permittee shall be responsible for the maintenance of the drainage detention facilities within the flood storage easement, satisfactory to the City Engineer.

25. 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 for the public drainage entering the project site from the Right-of-Way due to the design of the storm water drainage system.
26. Prior to the issuance of any construction permit, the applicant shall grant to the City of San Diego Public Storm Drain Easements for public storm drains located on private properties satisfactory to the City Engineer.
27. Prior to the issuance of any building permits, the Owner/Permittee shall obtain an Encroachment Maintenance Removal Agreement, from the City Engineer, for all private connections to public storm drain systems.
28. 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 SDMC, into the construction plans or specifications.
29. 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 the requirements of the City of San Diego Municipal Code in a manner satisfactory to the City Engineer.
30. 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.
31. 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.
32. 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.
33. 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.

34. Prior to the issuance of any building permits, the Owner/Permittee shall dedicate, and assure by permit and bond, the improvement of an additional right of way along the project frontage on Otay Mesa Road per Exhibit "A," satisfactory to the City Engineer.
35. Whenever street rights-of-way are required to be dedicated, it is the responsibility of the Owner/Permittee to provide the right-of-way free and clear of all encumbrances and prior easements. The Owner/Permittee must secure "subordination agreements" for minor distribution facilities and/or "joint-use agreements" for major transmission facilities.
36. Prior to the issuance of any building permits, the Owner/Permittee shall obtain a private shared access easement from the adjacent west property owner.
37. Prior to the issuance of any building permits, the Owner/Permittee shall construct a new 50-foot driveway at the proposed private drive adjacent property owner to the west, adjacent to site in the Otay Mesa Road right of way, per current City standards, satisfactory to the City Engineer.
38. Prior to the issuance of any building permits, the Owner/Permittee shall construct curb ramps on both sides of the proposed intersection adjacent to site in the Otay Mesa Road right-of-way, per current City standards, satisfactory to the City Engineer.
39. Prior to the issuance of any building permits associated with Phase 1, as described in the approved environmental document, of the project, the Owner/Permittee shall construct curb ramps on both sides of the proposed intersection adjacent to the site in the Otay Mesa Road right-of-way, per current City standards, satisfactory to the City Engineer.
40. Prior to the issuance of any building permits associated with Phase 2, as described in the approved environmental document of the project, the Owner/Permittee shall construct a new 50-foot driveway at the proposed private drive (in the same approximate location as the vacated Avenida Costa Azul right-of-way), adjacent to site in the Otay Mesa Road right-of-way, per current City standards, satisfactory to the City Engineer.

**LANDSCAPE REQUIREMENTS:**

41. Prior to issuance of any grading permit, the Owner/Permittee shall submit complete construction documents for the revegetation and hydro-seeding of all disturbed land in accordance with the City of San Diego Landscape Standards, Storm Water 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 Development Services Department.
42. Prior to issuance of any public improvement permit, the Owner/Permittee shall submit complete landscape construction documents for right-of-way improvements to the Development Services Department for approval. Improvement plans shall show, label, and dimension a 40-square-foot area around each tree which is unencumbered by utilities. Driveways, utilities,

drains, water and sewer laterals shall be designed so as not to prohibit the placement of street trees.

43. Prior to issuance of any building permit (including shell), the Owner/Permittee shall submit complete landscape and irrigation construction documents, which are 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 Development Services Department. Construction plans shall provide a 40-square-foot area around each tree that is unencumbered by hardscape and utilities unless otherwise approved per §142.0403(b)5.

44. 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 Development Services Department. These landscape areas shall be clearly identified with a distinct symbol, noted with dimensions, and labeled as 'landscaping area.'

45. The Owner/Permittee shall be responsible for the maintenance of all landscape improvements shown on the approved plans, including in the right-of-way, unless long-term maintenance of said landscaping will be the responsibility of another entity approved by the Development Services Department. All required landscape shall be maintained consistent with the Landscape Standards in a disease, weed, and litter free condition at all times. Severe pruning or "topping" of trees is not permitted.

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

#### **MULTIPLE SPECIES CONSERVATION PROGRAM:**

47. Prior to issuance of any construction permits including, but not limited to, the first Grading Permit, Demolition Plans/Permits and Building Plans/Permits, a covenant or conservation easement shall be recorded over the 18.75 acres offsite burrowing owl mitigation property located at the corner of Harvest Road and Lonestar Road in East Otay Mesa County known as the Turecek Parcel. The covenant or conservation easement shall be granted in favor of the County, City, and Wildlife Agencies for the sole purpose of habitat conservation in-perpetuity.

48. Prior to issuance of any construction permits including, but not limited to, the first Grading Permit, Demolition Plans/Permits and Building Plans/Permits, the Owner/Permittee shall submit a Property Analysis Record (PAR) or equivalent for the establishment of endowment to generate in-perpetuity habitat management funds for implementation of "Resource Management Plan for the Turecek Off-Site Mitigation Parcel" (Alden 2019). A long-term funding mechanism is subject to City and Wildlife Agencies approval.



49. Prior to release of construction bond or grading permit, enhancement of the 18.75-acre Turecek parcel must be approved by City Mitigation, Monitoring Coordination staff, Multiple Species Conservation Program staff, and Wildlife Agency staff. Additionally, prior to final sign off of the enhancement of the 18.75-acre Turecek parcel, the owner/permittee shall identify a Qualified Long-Term Habitat Resource Manager subject to County, City, and Wildlife Agency approval. If long-term management responsibilities are not transferred to a qualified entity, the Owner/Permittee shall remain responsible to maintain the Turecek Off-Site Mitigation Parcel in a burrowing owl habitat appropriate condition to avoid regression into a non-suitable burrowing owl habitat condition until responsibility is transferred to and/or accepted by the Qualified Long-Term Habitat Resource Manager.

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

50. Owner/Permittee shall maintain a minimum of 846 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.

51. 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.

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

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. The automobile, motorcycle and bicycle parking spaces must be constructed in accordance with the requirements of the SDMC. All on-site parking stalls and aisle widths shall be in compliance with requirements of the City's Land Development Code and shall not be converted and/or utilized for any other purpose, unless otherwise authorized in writing authorized by the appropriate City decision maker in accordance with the SDMC.

55. Prior to the issuance of any construction permits, the Owner/Permittee shall assure, by permit and bond, to dedicate and improve between 19.5- to 28.2-foot right-of-way on the project frontage on Otay Mesa Road as shown on Exhibit "A," satisfactory to the City Engineer.

56. Prior to the issuance of any construction permits, the Owner/Permittee shall assure, by permit and bond, to dedicate adequate right-of-way on the project's driveway to keep all curb ramps and their landing areas and all equipment related to traffic signal within public right-of-way, as shown on Exhibit "A," satisfactory to the City Engineer.

57. Prior to the issuance of any construction permits, the Owner/Permittee shall assure, by permit and bond, to modify the existing traffic signal at Otay Mesa Road/Piper Ranch Road to accommodate the project driveway as the fourth leg of the intersection, satisfactory to the City Engineer.

**PUBLIC UTILITIES DEPARTMENT REQUIREMENTS:**

58. The Owner/Permittee is approved for a cumulative 24 EDU's per the approved sewer study. In the event a tenant has sewer needs exceeding the cumulative 24 EDU's per the approved sewer study for the project, the Owner/Permittee will be required to submit for an amendment to this SDP/PDP specific to sewer due to lack of available capacity at Pump Station 23T. The approval of the amendment will be pending upon requirement of preparing a basin sewer study as described below.

59. The project drains to the existing temporary pump station 23 (PS 23T). In addition to the site-specific sewer study, if the sewer demand exceeds the approved cumulative 24 EDU's, the Owner/Permittee is required to provide an accepted Pump Station 23 sewer basin study based upon proposed zoning designations, satisfactory to the Public Utilities Director and the City Engineer, for all proposed public sewer facilities associated with Pump Station 23T upgrade in accordance with the City of San Diego's current Sewer Design Guide.

60. If the cumulative sewer demand exceeds 24 EDU's, prior to the issuance of any building permit, Owner/Permittee shall: (1) install components of the Permanent Pump Station 23; (2) install components of the Permanent Pump Station 23 and contribute proportionately based on the project size and impact to upgrade the affiliated sewer infrastructure; or (3) contribute proportionately based on the project size and impact to upgrade the affiliated sewer infrastructure, all in a manner satisfactory to the Public Utilities Director and the City Engineer. The components or contributions required shall be determined pursuant to the Permanent Pump Station 23 Sewer Basin Study in effect at the time of building permit application.

61. The Owner/Permittee is required to install all facilities, as required by the accepted sewer study, necessary to serve this project.

62. Prior to the issuance of any building permit, the Owner/Permittee shall provide evidence to the Public Utilities Director and the City Engineer indicating that all on-site sewer and off-site sewer basin requirements have been satisfied.

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

64. The Owner/Permittee will be required to provide evidence, satisfactory to the Public Utilities Department Director, indicating that each lot will have its own sewer lateral or provide CC&Rs for the operation and maintenance of on-site private sewer facilities that serve more than one lot.

65. All proposed 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.

66. All on-site sewer facilities shall be private.

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

**INFORMATION ONLY:**

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

APPROVED by the City Council of the City of San Diego on May 20, 2019, and by Resolution No. R- 312471.

Permit Type/PTS Approval No.: SDP No. 1905127  
PDP No. 19051521  
Date of Approval: MAY 20 2019

AUTHENTICATED BY THE CITY OF SAN DIEGO DEVELOPMENT SERVICES  
DEPARTMENT

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Paul Godwin  
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.

Sunroad Otay Partners, Limited Partnership  
Owner/Permittee

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

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

Passed by the Council of The City of San Diego on MAY 20 2019, 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"/>
Jennifer Campbell	<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"/>
Monica Montgomery	<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"/>
Vivian Moreno	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Georgette Gómez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage MAY 20 2019.

**(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.

(Seal)

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

By *Cennie Patterson* Deputy

Office of the City Clerk, San Diego, California

Resolution Number R- 312471