

RESOLUTION NUMBER R- 312614

DATE OF FINAL PASSAGE AUG 05 2019

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO GRANTING SITE DEVELOPMENT PERMIT NO. 1689641 AND PLANNED DEVELOPMENT PERMIT NO. 2161983 FOR THE PRESERVE AT TORREY HIGHLANDS PROJECT NO. 442880 (RESCISSION OF CONDITIONAL USE PERMIT NO. 4915, SITE DEVELOPMENT PERMIT NO. 49156, AND PLANNED DEVELOPMENT PERMIT NO. 10965).

WHEREAS, THE PRESERVE AT TORREY HIGHLANDS, LLC, a California Limited Liability Company, Owner/Permittee, filed an application with the City of San Diego for a Site Development Permit and Planned Development Permit to construct three new business office buildings, one parking structure, and one amenity building collectively known as The Preserve at Torrey Highlands project, located approximately one-quarter mile south of State Route (SR) 56 along the west side of the future planned extension of Camino del Sur, and legally described as (1) The northwest quarter of the southeast quarter of the northeast quarter of the southeast quarter of section 14, township 14 south; (2) the northeast quarter of the southeast quarter of the northeast quarter of the southeast quarter of section 14, Township 14 south; (3) the southwest quarter of the southeast quarter of the northeast quarter of the southeast quarter of section 14 Township 14 south; and (4) the southeast quarter of the southeast quarter of the northeast quarter of the southeast quarter of Section 14, Towhship14 south, all in Range 3 west, San Bernardino base and meridian, in the County of San Diego, State of California, according to the official plat thereof record of survey No. 15686 in the Torrey Highlands Subarea Plan, in the AR-1-1 zone which is proposed to be rezoned to the IP-3-1 zone; and

WHEREAS, on April 4, 2019, the Planning Commission of the City of San Diego considered Site Development Permit (SDP) Permit No. 1689641 and Planned Development

Permit (PDP) No. 2161983, and pursuant to Resolution No. 4998-PC voted to recommend approval of the Permits; 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 August 5, 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; 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. 1689641 and Planned Development Permit No. 2161983: entrusted

**A. SITE DEVELOPMENT PERMIT – SAN DIEGO MUNICIPAL CODE (SDMC)  
SECTION NO. 126.0505**

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

**a. The proposed development will not adversely affect the applicable land use plan.** The project proposes a Community Plan Amendment (CPA) to redesignate the site from Commercial Limited to Employment Center to allow for a 420,000-square-foot business office campus and to rezone the site from AR-1-1 (Agriculture-Residential) to IP-3-1 (Industrial-Park). The 11.1-acre site is located approximately one-quarter mile south of State Route (SR) 56 along the west side of the future planned extension of Camino del Sur. The site is zoned AR-1-1 and within Torrey Highlands Subarea Plan and is governed by the Torrey Highlands Subarea Plan for North City Future Urbanizing Area Subarea IV.

The proposed business office development would help implement the General Plan's Economic Prosperity Element by contributing positively to the economic vitality of the community and providing opportunities for new business development. The proposed business office development would also complement the nearby Santa Fe Summit office campus to the north and the recently approved Merge 56 mixed-use center to the east, with the potential for employees in the business office campus to walk to the retail uses at Merge 56. The Subarea Plan's Employment Center land use designation allows for the development of a variety of

employment-related uses, including corporate headquarters and professional and corporate offices. The proposed project would help implement the land use goals of the Subarea Plan by providing an employment base for the North City to contribute to the jobs/housing balance for residents of Torrey Highlands and the surrounding communities.

The project site is located in the southern portion of Torrey Highlands, which contains the majority of the community's employment and commercial and land uses. The southern portion of Torrey Highlands provides a centralized area for goods, services, and job opportunities. The uses are located to take advantage of access to SR-56 and proximity to Rancho Peñasquitos. The Subarea Plan originally designated the site Commercial Limited to allow for religious facilities, trade schools, storage, veterinary clinics, nurseries, and garden centers. The uses permitted in the designation are generally automobile oriented, and are appropriate for the location of the site in proximity to State Route (SR)-56. The proposed amendment to allow for employment-related uses would similarly take advantage of access to SR-56 and the absence of comparable uses in Rancho Peñasquitos.

The proposed project would be consistent with the goals and policies of the General Plan Urban Design Element and Subarea Plan Open Space Element through compliance with the Multiple Species Conservation Program (MSCP) Land Use Adjacency Guidelines and the City's Environmentally Sensitive Lands regulations. Although the project site borders the City's Multiple-Habitat Planning Area (MHPA) on three sides, it does not include development within land designated as part of the MHPA. In addition to the parking garage, a combination of walls, signage, natural rock/boulder barriers, and landscaping are designed to prevent human intrusion into the adjacent MHPA sensitive areas. The project would ensure that all landscape planting adjacent to the MHPA would be comprised of native and non-invasive species, including species from the Torrey Highlands Subarea Plan recommended plant list. The location of the parking garage within the southern portion of the project site would help restrict access to the off-site vernal pool watershed consistent with the MSCP. The project proposes to provide outdoor meeting areas and access to walking paths that would connect to outside running and hiking trails planned in the Natural Resources Management Plan for the Del Mar Mesa Preserve.

The project design would be consistent with the Subarea Plan's Community Design Guidelines for the Employment Center by incorporating a varied building scale and architectural detail to create an interesting and lively pedestrian environment. The project has been designed to incorporate variation in building pad elevations to mimic the natural character of the site. The proposed project would locate the tallest commercial building (six stories) along Camino Del Sur, adjacent to the six-story business office development within the recently approved Merge 56 development. Additionally, the project locates one four-story building and one five-story building adjacent to the project site's western and northern boundary with the Del Mar Mesa Preserve. The proposed project's bulk and scale adjacent to the Del Mar Mesa Preserve would be consistent with the existing 480,000-square-foot Kilroy Santa Fe Summit office campus and planned expansion located to the northwest of the project site. The Santa Fe Summit office campus includes four-story buildings and a parking garage adjacent to the Del Mar Mesa Preserve.

The General Plan's Urban Design Element calls for development adjacent to natural features to be designed in a sensitive manner to highlight and complement the natural environment. The project would provide a visual transition from the surrounding natural areas to the site through a landscape palette that would include native trees, shrubs, and low-lying vegetation throughout the site and around the site perimeter. The proposed site design includes natural-colored and textured concrete paving and decomposed granite paving on walkways and patios throughout the site. The landscape plan includes mature size trees designed to mimic the off-site natural environment. The proposed building materials and landscaping have been designed to complement the surrounding natural areas and nearby existing and proposed development. The building design uses variations in massing and architectural treatments for each building, which include a mixture of stone, concrete and glass to avoid repetition in design and help reduce the sense of height and bulk for each building.

The project proposes a five-story (plus one level of subterranean parking) parking structure with 1,193 parking spaces located on the south side of the site. To help reduce the visual impact of the parking garage from the Del Mar Mesa Preserve, new tree plantings would be located along the north and south-facing wall of the parking structure to screen views of the building façade.

Consistent with the General Plan's Urban Design and Conservation Element goals and policies, sustainability features of the project would include Leadership in Energy and Environmental Design (LEED) Gold certification or equivalent by implementing a series of sustainable and environmentally friendly design features, techniques, and materials. These features include but are not limited to on-site solar installations; exceedance of Title 24, Par 6, energy requirements; energy efficient lighting, appliances, and ventilation strategies; high-efficiency plumbing and landscaping; and cool roofing materials. Therefore, the Project will not adversely affect the applicable land use plan.

**b. The proposed development will not be detrimental to the public health, safety, and welfare.** The City of San Diego as Lead Agency under the California Environmental Quality Act has prepared and completed Environmental Impact Report (EIR) No. 442880/SCH No. 2016031026 and has also completed an Initial Study for this project. The EIR concluded that the project would result in significant but mitigated environmental impacts to Air Quality and Odor, Biological Resources, Historical Resources, Paleontological Resources, and Tribal Cultural Resources, and significant and unmitigated impacts to Transportation/Circulation, Visual Effects/Neighborhood Character (Landform Alteration), and Greenhouse Gases. All other impacts analyzed in the EIR were determined to be less than significant.

The proposed grading design, in support of off-site roadway, utilities, drainage infrastructure, preservation and maintenance of open space has been designed to conform with the City of San Diego's codes and regulations which focus on the protection of the public's health, safety and welfare. The Project is consistent with the Sub Area Plan, the City's environmental regulations, the Multiple Habitat Planning Area (MHPA) principles and guidelines, landscaping and brush management policies, the Fire Department's fire protection policies, and water and sewer recommendations.

The proposed project has also been designed to meet the storm water requirements of the California Regional Water Quality Control Board for the San Diego Region National Pollutant Discharge Elimination System permit (Municipal Separate Storm Sewer Systems [MS4] Permit) that went into effect in 2013 (Order No. R9-2013-0001), and the MS4 Permit amendment from February 2015 (Order No. R9-2015-001 ). The Project will utilize biofiltration basins on-site to meet both the treatment and hydromodification requirements of the MS4 permit, with concentrated flows directed to the existing canyon to mimic the existing drainage conditions. In addition, the project would be required to obtain building permits, grading permits, and a public improvement permit for to the construction of the commercial development. The building plans and public improvement plans shall be reviewed, permitted, and inspected by the City for compliance with all applicable building, mechanical, electrical, fire code requirements, and development regulations. The permit for the project includes various conditions and referenced exhibits of approval relevant to achieving project compliance with the applicable regulations of the Land Development Code (LDC) in effect for this project. Therefore, the proposed development will not be detrimental to the public health, safety and welfare.

**c. The proposed development will comply with the regulations of the Land Development Code including any allowable deviations pursuant to the Land Development Code.** The project proposes a CPA, Rezone, Site Development Permit (SDP), and Planned Development Permit (PDP) for construction of a 420,000-square-foot campus-like business office complex including a parking structure, an amenity café, and a fitness center on an undeveloped 11.10-acre site located approximately one-quarter mile south of State Route (SR) 56 along the west side of the future planned extension of Camino del Sur. The project would consist of three commercial office buildings, an accessory café, parking structure, and fitness center. Building One, located on the east side of the site and adjacent to Camino Del Sur, consists of a five-story, 150,000- square-foot office building with 83 subterranean parking stalls. Building Two, located on the north side of the property would consist of a four-story 120,000-square-foot office building with 66 subterranean parking stalls and a 5,000-square-foot fitness center with lockers and shower stalls. Building Three, located on the west side of the site will consist of a five-story 150,000-square-foot office building with 81 subterranean parking spaces. Additionally, the site would include a single level, 3,850-square-foot café located in the middle of the site and a five-story (plus one level of subterranean parking) parking structure with 1,193 parking spaces located on the south side of the site. The project also includes 62 surface parking stalls for a total of 1,496 total parking stalls.

The site is zoned AR-1-1 and designated Commercial Limited within the Torrey Highlands Subarea Plan and is governed by the Torrey Highlands Sub Area Plan. The project proposes to rezone the site to IP-3-1 and redesignate the land use to Employment Center. Additionally, the site is located within the Airport Land Use Compatibility Overlay Zone (Marine Corps Aviation Station [MCAS] Miramar) and the Airport Influence Area (Review Area 2 - MCAS Miramar).

The proposed development complies with the applicable zoning and development regulations of the Land Development Code including development requirements regulating business office development. The proposed project was reviewed for compliance with the IP-3-1

zone development requirements, which include but are not limited to height, setbacks, density, landscape, parking, and floor area ratio.

No deviations are proposed with the project. As a component of the proposed project, the project would meet sustainable building design measures by achieving a Leadership in Energy and Environmental Design (LEED), thus meeting the requirements of the Affordable/In-Fill Housing and Sustainable Buildings Expedite Program, the City Council's Sustainable Building Policy. Therefore, the project complies with the applicable zoning and development regulations of the Land Development Code.

## **2. Supplemental Findings – Environmentally Sensitive Lands**

**a. 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 City of San Diego as Lead Agency under the California Environmental Quality Act has prepared and completed EIR No. 442880/SCH No. 2016031026 and has also completed an Initial Study for this project. The EIR concluded that the project would result in significant but mitigated environmental impacts to Air Quality and Odor, Biological Resources, Historical Resources, Paleontological Resources, and Tribal Cultural Resources, and significant and unmitigated impacts to Transportation/Circulation, Visual Effects/Neighborhood Character (Landform Alteration), Greenhouse Gases. All other impacts analyzed in the EIR were determined to be less than significant.

The project site is immediately adjacent to open space including Deer Canyon to the north and the Del Mar Mesa Preserve to the south and west. This Multi-Habitat Planning Area (MHPA) open space has been planned and or dedicated and preserved previously through the implementation of the Torrey Highlands Subarea Plan, North City Future Urbanizing Area and various approved tentative maps. The project site is surrounded on three sides by the City's MHPA, but the project is not within the preservation area. The project is designed to adhere to the City's MHPA Land Use Adjacency Guidelines (LUAG) to include, all proposed parking lots and developed areas will not drain directly into the MHPA; lighting of all developed areas adjacent to the MHPA will be directed away from the MHPA; uses in or adjacent to the MHPA will be designed to minimize noise impacts; the parking garage a combination of walls, signage, natural rock/boulder barriers, and fencing are provided to prevent human intrusion into the MHPA area; the landscape plan for the project would utilize native species; and all manufactured slopes are contained within the development footprint and would not encroach into the MHPA preventing impacts to environmentally significant areas.

In 2004, Our Lady of Mt. Carmel Conditional Use Permit No. 4915, Site Development Permit No. 4916 and Planned Development Permit No. 10965 was approved by the Planning Commission for a church facility. The entitlement was never utilized, and the permit expired. However, a set of conservation easements associated with the expired project were previously approved and are incorporated into the this projects developable boundaries. The development area of this project is within the original development footprint and no additional biological impacts are proposed. The Our Lady of Mt. Carmel project also included the acquisition and preservation of off-site mitigation land (consistent with the requirements of the development footprint) within the nearby Deer Canyon Conservation Bank. However, the project would result

in direct impacts to special-status plant and wildlife species including impacts to scrub oak and chamise vegetation. Mitigation for this project for impacts to scrub oak and chamise will be accomplished by on-site preservation and off-site purchase of Tier I and Tier IIIA habitat.

The project is consistent with the City's Environmentally Sensitive Lands regulations and with the Multiple Species Conservation Program (MSCP) requirements. The project is designed in a sensitive manner to compliment the natural environment in keeping with the goals and policies of the General Plan and the MSCP LUAG which include regulations and restrictions to drainage, lighting, noise, grading, and plant material.

The design and layout of the proposed project has been developed to conform to the existing landforms and to avoid environmentally sensitive lands to the extent possible. The Project is not within, but it is adjacent to the city's MSCP and MHPA. The development is designed to comply with the MSCP LUAG. Therefore, the site is physically suitable for the design and siting of the proposed development and the development will result in minimal disturbance to environmentally sensitive lands.

**b. 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 proposed Project's grading design, utilities, drainage infrastructure, and preservation and maintenance of open space has been designed to conform with the City of San Diego's codes, policies, and regulations. The Project is also consistent with the City's environmental regulations, landscaping and brush management regulations, the Fire Department's fire protection regulations, and water and sewer requirements.

The proposed project has been designed to meet the storm water requirements of the California Regional Water Quality Control Board for the San Diego Region National Pollutant Discharge Elimination System permit (Municipal Separate Storm Sewer Systems [MS4] Permit) that went into effect in 2013 (Order No. R9-2013-0001), and the MS4 permit amendment from February 2015 (Order No. R9-2015-001 ). The Project will utilize biofiltration basins on-site to meet both the treatment and hydromodification requirements of the aforementioned MS4 permit. The Project required the submission of several technical reports to include a Storm Water Quality Management Plan dated September 28, 2016 and Drainage Study dated June 22, 2016, both prepared by Leppart Engineering. These technical reports were reviewed by the City of San Diego for compliance to Federal, State, and Local regulations and determined to meet the development requirements for the proposed development.

The project site is located within geologic hazards zones 51, 52 and 53 as shown on the City's Seismic Safety Study. Zone 51 and 52 are as nominal to low risk. Zone 53 is characterized by level or sloping to steep terrain with unfavorable geologic structure, low to moderate risk and determined to be suitable for the proposed development.

Brush Management is required for development with structures that are within 100 feet of any highly flammable area of native or naturalized vegetation. Fire hazard conditions currently exist in the open space area to the north, west, and south of the project site. Where brush management is required, a comprehensive program would be implemented to reduce fire hazards

around all structures by providing a defensible space or fire-break between structures and areas of flammable vegetation. As allowed by the Landscape Regulations of the Land Development Code, the project would provide modified brush management zones in addition to alternative compliance measures to achieve an equivalency of a full brush management program while minimizing impacts to undisturbed native/naturalized vegetation to the north, west, and south of the project site. Building 2 and Building 3 would employ dual tempered glazing to meet alternative compliance standards for brush management and would provide functional equivalency as a full brush management zone. Additionally, along the southern property line, the project proposes a parking structure made of concrete, non-combustible, Type 1 construction, achieving a full equivalency of Zone One, with a reduced Zone Two excluding areas designated within the conservation easement.

The project has been designed to minimize the alteration of natural landforms and will not result in undue risk from geologic and erosional forces, flood hazards, or fire hazards.

**c. The proposed development will be sited and designed to prevent adverse impacts on any adjacent environmentally sensitive lands.** The project site is immediately adjacent to open space including Deer Canyon to the north, and the Del Mar Mesa Preserve to the south and west. The Multi-Habitat Planning Area (MHPA) open space has been planned and or dedicated and preserved previously through the implementation of the Torrey Highlands Subaera Plan, North City Future Urbanizing Area and various approved tentative maps. The project site is surrounded on three sides by the City's MHPA, but the project is not within the preservation area. The project is designed to adhere to the City's MHPA Land Use Adjacency Guidelines(LUAG) and no impacts to environmentally significant areas will occur.

In 2004, Our Lady of Mt. Carmel project was approved by the Planning Commission for a church facility. The entitlement was never utilized, and the permit expired. However, a set of conservation easements associated with the expired project were previously approved and are incorporated into this projects developable boundaries. The development area of the proposed project is within the original development footprint and no additional biological impacts are proposed. The Our Lady of Mt. Carmel project also included the acquisition and preservation of off-site mitigation land (consistent with the requirements of the development footprint) within the nearby Deer Canyon Conservation Bank. However, the project would result in direct impacts to special-status plant and wildlife species including impacts to scrub oak and chamise vegetation. Mitigation for this project for impacts to scrub oak and chamise will be accomplished by on-site preservation and off-site purchase of Tier I and Tier IIIA habitat.

The project is consistent with the City's Environmentally Sensitive Lands regulations and with the MSCP requirements. The project is designed in a sensitive manner to compliment the natural environment in keeping with the goals and policies of the General Plan and the MSCP LUAG which include regulations and restrictions to drainage, lighting, noise, grading, and plant material.

The design and layout of the proposed project has been developed to conform to the existing landforms and to avoid environmentally sensitive lands to the extent possible. The project is not within but adjacent to the city's MSCP and MHPA. The development is designed to



comply with the MSCP LUAG. Therefore, the proposed development will be sited and designed to prevent adverse impacts on any adjacent environmentally sensitive lands.

**d. 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 is designed in a sensitive manner to compliment the natural environment in keeping with the goals and policies of the General Plan and the MSCP Land Use Adjacency guidelines(LUAG) which include regulations and restrictions to drainage, lighting, noise, grading, and plant material.

The design and layout of the proposed project will be developed to conform with the existing landforms and to avoid environmentally sensitive lands to the extent possible. The project is not within but adjacent to the city's MSCP and MHPA. The development is designed to comply with the MSCP LUAG.

The primary resources to be protected on the preserves are vernal pools; southern maritime chaparral; the continuity of habitat for wildlife movement and gene flow and the federally and state listed flora and fauna. The Carmel Mountain Preserve and Del Mar Mesa Preserve Resource Management Plan (RMP) describe the tasks that will ensure management and maintenance of the preserves in accordance with the MSCP and the Torrey Highlands Subarea Plan. Two vernal pool features are located adjacent to the property along the southern project boundary. No vernal pool features are located within the project boundary. However, a 0.43-acre on-site covenant of easement will provide protection for the off-site vernal pool features and the watershed and will also provide mitigation for impacts to chamise chaparral at a 1:1 ratio. Therefore, the proposed development will be consistent with the City of San Diego's MSCP Subarea Plan and Vernal Pool Habitat Conservation Plan (VPHCP).

**e. The proposed development will not contribute to the erosion of public beaches or adversely impact local shoreline sand supply.** The proposed development is located approximately six miles east of the Pacific Ocean's beaches and local shoreline. All water quality and erosion control measures will be required of the project during construction and post construction. The proposed project has also been designed to meet the storm water requirements of the California Regional Water Quality Control Board for the San Diego Region National Pollutant Discharge Elimination System permit (Municipal Separate Storm Sewer Systems [MS4] Permit) that went into effect in 2013 (Order No. R9-2013-0001 ), and the MS4 Permit amendment from February 2015 (Order No. R9-2015-001 ). The Project will utilize biofiltration basins on-site to meet both the treatment and hydromodification requirements of the aforementioned MS4 permit, with concentrated flows directed to the existing canyon to mimic the existing drainage conditions. Therefore, the proposed development will not contribute to the erosion of public beaches or adversely impact local shoreline sand supply.

**f. 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 City of San Diego as Lead Agency under the California Environmental Quality Act has prepared and completed Environmental Impact Report (EIR) No. 442880/SCH No. 2016031026 and has also completed an Initial Study for this project. The EIR

concluded that the project would result in significant but mitigated environmental impacts to Air Quality and Odor, Biological Resources, Historical Resources, Paleontological Resources, and Tribal Cultural Resources, and significant and unmitigated impacts to Transportation/Circulation, Visual Effects/Neighborhood Character (landform alteration), and Greenhouse Gases. All other impacts analyzed in the EIR were determined to be less than significant.

Mitigation measures have been included in the Mitigation, Monitoring, and Reporting Program for the Project that specifically mitigate all of the potentially significant impacts. 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.

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

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

**a. The proposed development will not adversely affect the applicable land use plan.** As outlined in Site Development Permit Finding No. (1)(a), the proposed development will not adversely affect the applicable land use plan.

**b. The proposed development will not be detrimental to the public health, safety, and welfare.** As outlined in Site Development Permit Finding No. (1)(b), the proposed development will not be detrimental to the public health, safety, and welfare.

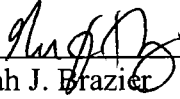
**c. The proposed development will comply with the regulations of the Land Development Code including any proposed deviations pursuant to Section 126.0602(b)(1) that are appropriate for this location and will result in a more desirable project than would be achieved if designed in strict conformance with the development regulations of the applicable zone, and any allowable deviations that are otherwise authorized pursuant to the Land Development Code.** The proposed development complies with the applicable zoning and development regulations of the Land Development Code including development requirements regulating commercial office development. The proposed project was reviewed for compliance with the IP-3-1 zone development requirements, which include but are not limited to height, setbacks, density, landscape, parking, and floor area ratio. No deviations from the IP-3-1 zone are proposed with the project.

Pursuant to the Torrey Highlands Subarea Plan Section 5.6.4, a Planned Development Permit is required to be processed to ensure development is consistent with the Subarea Plan related to site design, mutual access, landscape, building orientation, building color, parking, architecture styles, MHPA guidelines, pedestrian connections, and setbacks. The project processed a Planned Development Permit and was reviewed in accordance with the Torrey Highlands Subarea Plan Employment Center designed criteria.

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. 1689641 and Planned Development Permit No. 2161983 is granted to The Preserve at Torrey Highlands, LLC, Owner/Permittee, under the terms and conditions set forth in the attached permit which is made a part of this resolution.

APPROVED: MARA W. ELLIOTT, City Attorney

By  \_\_\_\_\_  
Noah J. Brazier  
Deputy City Attorney

NJB:als  
07/16/2019  
Or.Dept: DSD  
Doc. No.: 2052275

Attachment: Site Development Permit and Planned Development Permit

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

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

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INTERNAL ORDER NUMBER: 24006166 SPACE ABOVE THIS LINE FOR RECORDER'S USE

SITE DEVELOPMENT PERMIT NO. 1689641  
PLANNED DEVELOPMENT PERMIT NO. 2161983  
**THE PRESERVE AT TORREY HIGHLANDS PROJECT NO. 442880**  
(RESCISSION OF CONDITIONAL USE PERMIT NO. 4915, SITE DEVELOPMENT  
PERMIT NO. 49156, AND PLANNED DEVELOPMENT PERMIT NO. 10965)  
CITY COUNCIL

This Site Development Permit No. 1689641 and Planned Development Permit No. 2161983 is granted by the City Council of the City of San Diego to THE PRESERVE AT TORREY HIGHLANDS, LLC, a California Limited Liability Company, Owner and Permittee, pursuant to San Diego Municipal Code (SDMC) section 126.0506, 126.0602, 143.0465 and 143.0110. The 11.10-acre site is located approximately one-quarter mile south of State Route (SR) 56 along the west side of the future planned extension of Camino del Sur in the AR-1-1 zone of the Torrey Highlands Subarea Plan area. The project site is legally described as: (1) The northwest quarter of the southeast quarter of the northeast quarter of the southeast quarter of section 14, township 14 south; (2) the northeast quarter of the southeast quarter of the northeast quarter of the southeast quarter of section 14, Township 14 south; (3) the southwest quarter of the southeast quarter of the northeast quarter of the southeast quarter of section 14 Township 14 south; and (4) the southeast quarter of the southeast quarter of the northeast quarter of the southeast quarter of Section 14, Township 14 south, all in Range 3 west, San Bernardino base and meridian, in the County of San Diego, State of California, according to the official plat thereof record of survey No. 15686.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner, The Preserve At Torrey Highlands, LLC, a California Limited Liability Company Permittee to construct three new commercial office buildings, one parking structure, and once amenity building described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated August 5, 2019, on file in the Development Services Department.

The project shall include:

- a. Three commercial office buildings totaling 420,000 square feet (Commercial Office Building No. 1, Commercial Office Building No. 2, and Commercial Office Building No. 3), a six-story parking structure with one level of

subterranean parking, an amenity café totaling 3,850 square feet, and a fitness center totaling 5,000 square feet within Commercial Office Building No. 2;

- b. Brush Management Alternative Compliance for Commercial Office Buildings No. 2 and No. 3;
- c. Landscaping (planting, irrigation and landscape related improvements);
- d. Amenities to include an arroyo path with native chaparral character, outdoor patio, amphitheater and outdoor gathering area, and an overlook seating area;
- e. Retaining walls;
- f. Off-street parking;
- g. The project will achieve Leadership in Energy and Environmental Design (LEED) Gold certification by implementing sustainable and environmentally friendly design features, techniques, and materials in accordance with the Affordable/In-Fill Housing and Sustainable Buildings Expedite program.
- 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 AUG 05 2022.
- 2. No permit for the construction, occupancy, or operation of any facility or improvement described herein shall be granted, nor shall any activity authorized by this Permit be conducted on the premises until:
  - a. The Owner/Permittee signs and returns the Permit to the Development Services Department; and
  - b. The Permit is recorded in the Office of the San Diego County Recorder.

3. While this Permit is in effect, the subject property shall be used only for the purposes and under the terms and conditions set forth in this Permit unless otherwise authorized by the appropriate City decision maker.
4. This Permit is a covenant running with the subject property and all of the requirements and conditions of this Permit and related documents shall be binding upon the Owner/Permittee and any successor(s) in interest.
5. The continued use of this Permit shall be subject to the regulations of this and any other applicable governmental agency.
6. Issuance of this Permit by the City of San Diego does not authorize the Owner/Permittee for this Permit to violate any Federal, State or City laws, ordinances, regulations or policies including, but not limited to, the Endangered Species Act of 1973 (ESA) and any amendments thereto (16 U.S.C. § 1531 et seq.).
7. In accordance with authorization granted to the City of San Diego from the United States Fish and Wildlife Service (USFWS) pursuant to Section 10(a) of the federal Endangered Species Act (ESA) and by the California Department of Fish and Wildlife (CDFW) pursuant to California Fish and Wildlife Code section 2835 as part of the Multiple Species Conservation Program (MSCP), the City of San Diego through the issuance of this Permit hereby confers upon Owner/Permittee the status of Third Party Beneficiary as provided for in Section 17 of the City of San Diego Implementing Agreement (IA), executed on July 16, 1997, and on file in the Office of the City Clerk as Document No. OO-18394. Third Party Beneficiary status is conferred upon Owner/Permittee by the City: (1) to grant Owner/Permittee the legal standing and legal right to utilize the take authorizations granted to the City pursuant to the MSCP within the context of those limitations imposed under this Permit and the IA, and (2) to assure Owner/Permittee that no existing mitigation obligation imposed by the City of San Diego pursuant to this Permit shall be altered in the future by the City of San Diego, USFWS, or CDFW, except in the limited circumstances described in Sections 9.6 and 9.7 of the IA. If mitigation lands are identified but not yet dedicated or preserved in perpetuity, maintenance and continued recognition of Third Party Beneficiary status by the City is contingent upon Owner/Permittee maintaining the biological values of any and all lands committed for mitigation pursuant to this Permit and of full satisfaction by Owner/Permittee of mitigation obligations required by this Permit, in accordance with Section 17.1D of the IA.
8. The Owner/Permittee shall secure all necessary building permits. The Owner/Permittee is informed that to secure these permits, substantial building modifications and site improvements may be required to comply with applicable building, fire, mechanical, and plumbing codes, and State and Federal disability access laws.
9. Construction plans shall be in substantial conformity to Exhibit "A." Changes, modifications, or alterations to the construction plans are prohibited unless appropriate application(s) or amendment(s) to this Permit have been granted.

10. All of the conditions contained in this Permit have been considered and were determined necessary to make the findings required for approval of this Permit. The Permit holder is required to comply with each and every condition in order to maintain the entitlements that are granted by this Permit.
11. 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.
12. 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:**

13. Mitigation requirements in the Mitigation, Monitoring, and Reporting Program (MMRP) shall apply to this Permit. These MMRP conditions are hereby incorporated into this Permit by reference.
14. The mitigation measures specified in the MMRP and outlined in Environmental Impact Report No. 442880 shall be noted on the construction plans and specifications under the heading ENVIRONMENTAL MITIGATION REQUIREMENTS.

15. The Owner/Permittee shall comply with the MMRP as specified in Environmental Impact Report No. 442880 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 and Odor, Biological Resources, Historical Resources, Paleontological Resources, and Tribal Cultural Resources.

**CLIMATE ACTION PLAN REQUIREMENTS:**

16. 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.

**ENGINEERING REQUIREMENTS:**

17. The project proposes to export 49,000 cubic yards of material from the project site. All excavated material listed to be 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.
18. The drainage system proposed for this development, as shown on the site plan, is private and subject to approval by the City Engineer.
19. 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.
20. Prior to the issuance of any building permits, the Owner/Permittee shall assure, by permit and bond, the construction of two current City Standard curb return driveways per approved Exhibit "A," adjacent to the site on Camino Del Sur, satisfactory to the City Engineer.
21. 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.
22. 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.



23. 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.
24. 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.
25. 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. 2009-0009DWQ and a copy shall be submitted to the City.

**LANDSCAPE REQUIREMENTS:**

26. 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, 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.
27. Prior to issuance of any engineering permits for right-of-way improvements, the Owner/Permittee shall submit complete landscape construction documents for right-of-way improvements to the Development Services Department for approval. Improvement plans shall show, label, and dimension a 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.
28. Prior to issuance of any construction permits for structures (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).

29. 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."
30. 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 a Landscape Maintenance District or other approved entity. 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.
31. 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.

**BRUSH MANAGEMENT PROGRAM REQUIREMENTS:**

32. The Owner/Permittee shall implement the following requirements in accordance with the Brush Management Program shown on Exhibit "A," on file in the Development Services Department.
33. The Brush Management Program shall be based on a standard Zone One of 35-feet in width and a Zone Two of 65-feet in width, exercising the Zone Two reduction option and Alternative Compliance measures set forth under §142.0412(f), §142.0412(i), and §142.0412(j). Building 2 shall observe a Zone One ranging from 13-feet to 80-feet as measured from the north façade out towards the north property line, and a corresponding Zone Two ranging from 65-feet to 0-feet. Building 3 shall observe a Zone One ranging from 39-feet to 80-feet as measured from the west façade out towards the west property line, and a corresponding Zone Two ranging from 48-feet to 0-feet. Where the full brush management zones cannot be provided, openings along the brush side of the habitable structures shall be upgraded to dual-glazed, dual-tempered panes as alternative compliance for the reduced brush management zones.
34. 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."
35. Prior to issuance of any Building Permits, a complete Brush Management Program shall be submitted for approval to the Development Services Department and shall be in substantial conformance with Exhibit "A," on file in the Development Services

Department. The Brush Management Program shall comply with the City of San Diego's Landscape Regulations and the Landscape Standards.

36. 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.
37. The Brush Management Program shall be maintained at all times in accordance with the City of San Diego's Landscape Standards.

**MULTIPLE SPECIES CONSERVATION PROGRAM:**

38. 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 depict the following requirements verbatim on the construction documents/plan set for Project Site under "Environmental Requirements per the Site Development Permit No. 1689641/Planned Development Permit No. 2161983 for Project No. 442880 and reference them in the Sheet 1 index:

Notes:

The project will be required to comply with Migratory Bird Treaty Act and California Code 3503 as applicable.

**MHPA LAND USE ADJACENCY GUIDELINES:**

39. The applicant shall provide an implementing plan and include references on/in CD's of measures below under the bolded heading of each item.
  - **Grading/Land Development/MHPA Boundaries** - Within or adjacent to the MHPA, all manufactured slopes associated with site development shall be included within the development footprint.
  - **Drainage** - All staging and developed/paved areas must prevent the release of toxins, chemicals, petroleum products, exotic plant materials prior to release by incorporating the use of filtration devices, planted swales and/or planted detention/desiltation basins, or other approved temporary and permanent methods that are designed to minimize negative impacts, such as excessive water and toxins into the ecosystems of the MHPA.
  - **Toxics/Project Staging Areas/Equipment Storage** - Projects that use chemicals or generate by-products such as pesticides, herbicides, and animal waste, and other substances that are potentially toxic or impactful to native habitats/flora/fauna (including water) shall incorporate measures to reduce impacts caused by the application and/or drainage of such materials into the MHPA. No trash, oil,

parking, or other construction/development-related material/activities shall be allowed outside any approved construction limits. Provide a note in/on the CD's that states: "All construction related activity that may have potential for leakage or intrusion shall be monitored by the Qualified Biologist/Owners Representative or Resident Engineer to ensure there is no impact to the MHPA."

- **Lighting** -All lighting within or adjacent to the MHPA is directed away/shielded from the MHPA, or limited to the immediate area and is in compliance with City Outdoor Lighting Regulations per LDC Section 142.0740.
- **Barriers** –Existing chain link or equivalent fences/walls; and/or signage along the MHPA boundaries shall remain and or be added to direct public access to appropriate locations, reduce domestic animal predation, protect wildlife in the preserve, and provide adequate noise reduction where needed.
- **Invasives** - No invasive, non-native plant species shall be introduced into areas within or adjacent to the MHPA.
- **Brush Management** -Brush management zones will not be greater in size that is currently required by the City's regulations (this includes use of approved alternative compliance). Within Zone 2 the amount of woody vegetation clearing shall not exceed 50 percent of the vegetation existing when the initial clearing is done. Vegetation clearing shall be done consistent with City standards and shall avoid/minimize impacts to covered species to the maximum extent possible. For all new development, regardless of the ownership, the brush management in the Zone 2 area will be the responsibility of a home-owner's association or other private party.
- **Noise** - Construction noise that exceeds the maximum levels allowed (60 dB or greater at the beginning edge of the habitat) shall be avoided during the breeding seasons for the following: CA gnatcatcher (3/1-8/15). If construction is proposed during the breeding season for the species the following measures are required.

**COASTAL CALIFORNIA GNATCATCHER (Federally Threatened):**

40. Prior to the issuance of any grading permit, the City Manager (or appointed designee) shall verify that the Multi-Habitat Planning Area (MHPA) boundaries and the following project requirements regarding the coastal California gnatcatcher are shown on the construction plans:

NO CLEARING, GRUBBING, GRADING, OR OTHER CONSTRUCTION ACTIVITIES SHALL OCCUR BETWEEN MARCH 1 AND AUGUST 15, THE BREEDING SEASON OF THE COASTAL CALIFORNIA GNATCATCHER, UNTIL THE FOLLOWING REQUIREMENTS HAVE BEEN MET TO THE SATISFACTION OF THE CITY MANAGER:

- A. A QUALIFIED BIOLOGIST (POSSESSING A VALID ENDANGERED SPECIES ACT SECTION 10(a)(1)(A) RECOVERY PERMIT) SHALL SURVEY THOSE HABITAT AREAS WITHIN THE MHPA THAT WOULD BE SUBJECT TO CONSTRUCTION NOISE LEVELS EXCEEDING 60 DECIBELS [dB(A)] HOURLY AVERAGE FOR THE PRESENCE OF THE COASTAL CALIFORNIA GNATCATCHER. SURVEYS FOR THE COASTAL CALIFORNIA GNATCATCHER SHALL BE CONDUCTED PURSUANT TO THE PROTOCOL SURVEY GUIDELINES ESTABLISHED BY THE U.S. FISH AND WILDLIFE SERVICE WITHIN THE BREEDING SEASON PRIOR TO THE COMMENCEMENT OF ANY CONSTRUCTION. IF GNATCATCHERS ARE PRESENT, THEN THE FOLLOWING CONDITIONS MUST BE MET:
- I. BETWEEN MARCH 1 AND AUGUST 15, NO CLEARING, GRUBBING, OR GRADING OF OCCUPIED GNATCATCHER HABITAT SHALL BE PERMITTED. AREAS RESTRICTED FROM SUCH ACTIVITIES SHALL BE STAKED OR FENCED UNDER THE SUPERVISION OF A QUALIFIED BIOLOGIST; AND
  - II. BETWEEN MARCH 1 AND AUGUST 15, NO CONSTRUCTION ACTIVITIES SHALL OCCUR WITHIN ANY PORTION OF THE SITE WHERE CONSTRUCTION ACTIVITIES WOULD RESULT IN NOISE LEVELS EXCEEDING 60 dB (A) HOURLY AVERAGE AT THE EDGE OF OCCUPIED GNATCATCHER HABITAT. AN ANALYSIS SHOWING THAT NOISE GENERATED BY CONSTRUCTION ACTIVITIES WOULD NOT EXCEED 60 dB (A) HOURLY AVERAGE AT THE EDGE OF OCCUPIED HABITAT MUST BE COMPLETED BY A QUALIFIED ACOUSTICIAN (POSSESSING CURRENT NOISE ENGINEER LICENSE OR REGISTRATION WITH MONITORING NOISE LEVEL EXPERIENCE WITH LISTED ANIMAL SPECIES) AND APPROVED BY THE CITY MANAGER AT LEAST TWO WEEKS PRIOR TO THE COMMENCEMENT OF CONSTRUCTION ACTIVITIES. PRIOR TO THE COMMENCEMENT OF CONSTRUCTION ACTIVITIES DURING THE BREEDING SEASON, AREAS RESTRICTED FROM SUCH ACTIVITIES SHALL BE STAKED OR FENCED UNDER THE SUPERVISION OF A QUALIFIED BIOLOGIST; OR
  - III. AT LEAST TWO WEEKS PRIOR TO THE COMMENCEMENT OF CONSTRUCTION ACTIVITIES, UNDER THE DIRECTION OF A QUALIFIED ACOUSTICIAN, NOISE ATTENUATION MEASURES (e.g., BERMS, WALLS) SHALL BE IMPLEMENTED TO ENSURE THAT NOISE LEVELS RESULTING FROM CONSTRUCTION ACTIVITIES WILL NOT EXCEED 60 dB(A) HOURLY AVERAGE AT THE EDGE OF HABITAT OCCUPIED BY THE COASTAL CALIFORNIA GNATCATCHER. CONCURRENT WITH THE

COMMENCEMENT OF CONSTRUCTION ACTIVITIES AND THE CONSTRUCTION OF NECESSARY NOISE ATTENUATION FACILITIES, NOISE MONITORING\* SHALL BE CONDUCTED AT THE EDGE OF THE OCCUPIED HABITAT AREA TO ENSURE THAT NOISE LEVELS DO NOT EXCEED 60 dB (A) HOURLY AVERAGE. IF THE NOISE ATTENUATION TECHNIQUES IMPLEMENTED ARE DETERMINED TO BE INADEQUATE BY THE QUALIFIED ACOUSTICIAN OR BIOLOGIST, THEN THE ASSOCIATED CONSTRUCTION ACTIVITIES SHALL CEASE UNTIL SUCH TIME THAT ADEQUATE NOISE ATTENUATION IS ACHIEVED OR UNTIL THE END OF THE BREEDING SEASON (AUGUST 16).

\* Construction noise monitoring shall continue to be monitored at least twice weekly on varying days, or more frequently depending on the construction activity, to verify that noise levels at the edge of occupied habitat are maintained below 60 dB (A) hourly average or to the ambient noise level if it already exceeds 60 dB (A) hourly average. If not, other measures shall be implemented in consultation with the biologist and the City Manager, as necessary, to reduce noise levels to below 60 dB(A) hourly average or to the ambient noise level if it already exceeds 60 dB(A) hourly average. Such measures may include, but are not limited to, limitations on the placement of construction equipment and the simultaneous use of equipment.

- B. IF COASTAL CALIFORNIA GNATCATCHERS ARE NOT DETECTED DURING THE PROTOCOL SURVEY, THE QUALIFIED BIOLOGIST SHALL SUBMIT SUBSTANTIAL EVIDENCE TO THE CITY MANAGER AND APPLICABLE RESOURCE AGENCIES WHICH DEMONSTRATES WHETHER OR NOT MITIGATION MEASURES SUCH AS NOISE WALLS ARE NECESSARY BETWEEN MARCH 1 AND AUGUST 15 AS FOLLOWS:
  - I. IF THIS EVIDENCE INDICATES THE POTENTIAL IS HIGH FOR COASTAL CALIFORNIA GNATCATCHER TO BE PRESENT BASED ON HISTORICAL RECORDS OR SITE CONDITIONS, THEN CONDITION A.III SHALL BE ADHERED TO AS SPECIFIED ABOVE.
  - II. IF THIS EVIDENCE CONCLUDES THAT NO IMPACTS TO THIS SPECIES ARE ANTICIPATED, NO MITIGATION MEASURES WOULD BE NECESSARY.

**VERNAL POOL PRESERVE MANAGEMENT:**

- 41. 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 letter of verification demonstrating a qualified Habitat Manager has been retained to ensure Management level 1 activities are implemented in

perpetuity for the five vernal pools on the project site portion of Del Mar Mesa in accordance with the City of San Diego Vernal Pool Habitat Conservation Plan Management and Monitoring Plan.

**VERNAL POOL HABITAT CONSERVATION PLAN (VPHCP) MINIMIZATION/AVOIDANCE:**

42. 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 letter of verification demonstrating a qualified Biologist has been retained pursuant to the City of San Diego Vernal Pool Habitat Conservation Plan (VPHCP) in order to implement appropriate vernal pool minimization/avoidance measures in accordance with VPHCP Section 5.2.1.
43. 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 depict the following requirements verbatim on the construction documents/plan set for Project Site under the Heading "Vernal Pool Minimization Avoidance."
  - a. Any development adjacent to the MHPA shall be designed and constructed to slope away from the extant pools to be avoided, to ensure that runoff from the project does not flow into the pools.
  - b. Covered projects shall require temporary fencing (with silt barriers) of the limits of project impacts (including construction staging areas and access routes) to prevent additional vernal pool impacts and prevent the spread of silt from the construction zone into adjacent vernal pools. Fencing shall be installed in a manner that does not impact habitats to be avoided. Final construction plans shall include photographs that show the fenced limits of impact and all areas of vernal pools to be impacted or avoided. If work inadvertently occurs beyond the fenced or demarcated limits of impact, all work shall cease until the problem has been remedied to the satisfaction of the City. Temporary construction fencing shall be removed upon project completion.
  - c. Impacts from fugitive dust that may occur during construction grading shall be avoided and minimized through watering and other appropriate measures in accordance with San Diego Municipal Code Section 142.0710.
  - d. A qualified monitoring biologist that has been approved by the City shall be on-site during project construction activities to ensure compliance with all mitigation measures identified in the CEQA environmental document. The biologist shall be knowledgeable of vernal pool species biology and ecology. The biologist shall perform the following duties:

- (1) Oversee installation of and inspect the fencing and erosion control measures within or upslope of vernal pool restoration and/or preservation areas a minimum of once per week and daily during all rain events to ensure that any breaks in the fence or erosion control measures are repaired immediately.
  - (2) Periodically monitor the work area to ensure that work activities do not generate excessive amounts of dust.
  - (3) Train all contractors and construction personnel on the biological resources associated with this project and ensure that training is implemented by construction personnel. At a minimum, training shall include: (1) the purpose for resource protection; (2) a description of the vernal pool species and their habitat(s); (3) the conservation measures that must be implemented during project construction to conserve the vernal pool species, including strictly limiting activities, and vehicles, equipment, and construction materials to the fenced project footprint to avoid sensitive resource areas in the field (i.e., avoided areas delineated on maps or on the project site by fencing); (4) environmentally responsible construction practices as outlined in measures 5, 6 and 7; (5) the protocol to resolve conflicts that may arise at any time during the construction process; and (6) the general provisions of the project's mitigation monitoring and reporting program (MMRP), the need to adhere to the provisions of FESA, and the penalties associated with violating FESA.
- e. Halt work, if necessary, and confer with the City to ensure the proper implementation of species and habitat protection measures. The biologist shall report any violation to the City within 24 hours of its occurrence.
  - f. Submit regular (e.g., weekly) letter reports to the City during project construction and a final report following completion of construction. The final report shall include as built construction drawings with an overlay of habitat that was impacted and avoided, photographs of habitat areas that were avoided, and other relevant summary information documenting that authorized impacts were not exceeded and that general compliance with all conservation measures was achieved.
44. The following conditions shall be implemented during project construction:
- a. Employees shall strictly limit their activities, vehicles, equipment, and construction materials to the fenced project footprint.
  - b. The project site shall be kept as clean of debris as possible. All food-related trash items shall be enclosed in sealed containers and regularly removed from the site.



- c. Disposal or temporary placement of excess fill, brush, or other debris shall be limited to areas within the fenced project footprint.
45. All equipment maintenance, staging, and dispensing of fuel, oil, coolant, or any other such activities shall occur in designated areas within the fenced project impact limits. These designated areas shall be located in previously compacted and disturbed areas to the maximum extent practicable in such a manner as to prevent any runoff from entering the vernal pools or their watersheds, and shall be shown on the construction plans. Fueling of equipment shall take place within existing paved areas greater than 100 feet from the vernal pools or their watersheds. Contractor equipment shall be checked for leaks prior to operation and repaired as necessary. A spill kit for each piece of construction equipment shall be on-site and must be used in the event of a spill. "No-fueling zones" shall be designated on construction plans.
  46. Grading activities immediately adjacent to vernal pools shall be timed to avoid wet weather to minimize potential impacts (e.g., siltation) to the vernal pools unless the area to be graded is at an elevation below the pools. To achieve this goal, grading adjacent to avoided pools shall comply with the following:
    - a. Grading shall occur only when the soil is dry to the touch both at the surface and 1 inch below. A visual check for color differences (i.e., darker soil indicating moisture) in the soil between the surface and 1 inch below indicates whether the soil is dry.
    - b. After a rain of greater than 0.2-inch, grading shall occur only after the soil surface has dried sufficiently as described above, and no sooner than 2 days (48 hours) after the rain event ends.
    - c. To prevent erosion and siltation from storm water runoff due to unexpected rains, best management practices (i.e., silt fences) shall be implemented as needed during grading.
    - d. If rain occurs during grading, work shall stop and resume only after soils are dry, as described above.
    - e. Grading shall be done in a manner to prevent runoff from entering preserved vernal pools.
    - f. If necessary, water spraying shall be conducted at a level sufficient to control fugitive dust but not to cause runoff into vernal pools.
    - g. If mechanized grading is necessary, grading shall be performed in a manner to minimize soil compaction (i.e., use the smallest type of equipment needed to feasibly accomplish the work).

## **PLANNING/DESIGN REQUIREMENTS:**

47. A topographical survey conforming to the provisions of the SDMC may be required if it is determined, during construction, that there may be a conflict between the building(s) under construction and a condition of this Permit or a regulation of the underlying zone. The cost of any such survey shall be borne by the Owner/Permittee.
48. Prior to the issuance of any construction permits, the Owner/Permittee shall execute and record a Covenant of Easement which ensures preservation of the Environmentally Sensitive Lands that are outside the allowable development area on the premises as shown on Exhibit "A" for Sensitive Biological Resources, in accordance with SDMC section 143.0152. The Covenant of Easement shall include a legal description and an illustration of the premises showing the development area and the Environmentally Sensitive Lands as shown on Exhibit "A."
49. 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.
50. Medical office uses shall be prohibited in this permit.

## **TRANSPORTATION REQUIREMENTS**

51. Prior to the issuance of any building permits, the Owner/Permittee shall submit documentation that the extensions of Camino del Sur and Carmel Mountain Road as described below have been assured by permit and bond, satisfactory to the City Engineer. Additionally, the connection of Camino Del Sur between Torrey Santa Fe Road and Dormouse Road and the connection of Carmel Mountain Road between Via Las Lenas and Camino Del Sur shall be completed and open to traffic to the satisfaction of the City Engineer prior to the issuance of any occupancy permit.
52. All automobile, motorcycle and bicycle parking spaces must be designed and 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 by the appropriate City decision maker in accordance with the SDMC.
53. Prior to issuance of the first certificate of occupancy, the Owner/Permittee shall provide and maintain all elements of the Transportation Demand Management Plan (TDMP) listed in the Climate Action Plan (CAP) checklist including bicycle parking, subsidized transit passes, electric vehicle charging stations, on-site shower facilities, and preferential carpool/vanpool parking to the satisfaction of the City Engineer. In order to ensure the proposed TDM strategies are implemented and maintained, the Owner/Permittee shall conduct a TDMP Monitoring and Reporting Program to include parking occupancy counts each year for a five-year period. The TDMP Monitoring Report must be prepared

and submitted to the City Engineer on the first anniversary of the issuance of a certificate of occupancy for the project and on such date each year thereafter during the five-year monitoring period.

**PUBLIC UTILITIES DEPARTMENT REQUIREMENTS:**

54. Prior to the issuance of any building permits, the Owner/Permittee shall apply for a plumbing permit for the installation of appropriate private back flow prevention device(s) [BFPDs], on each water service (domestic, fire and irrigation), in a manner satisfactory to the Public Utilities Director and the City Engineer. BFPDs shall be located above ground on private property, in line with the service and immediately adjacent to the right-of-way. The Public Utilities Department will not permit the required BFPDs to be located below grade or within the structure.
55. Prior to the issuance of any building permits, the Owner/Permittee shall assure, by permit and bond, the design and construction of all public water and sewer facilities are to be in accordance with established criteria in the most current City of San Diego Water and Sewer Design Guides.
56. Prior to the issuance of any building permits, the Owner/Permittee shall assure by permit and bond, the design and construction of the proposed 10-inch sewer main on the north end of Camino del Sur from the proposed manhole one to the existing manhole at Torrey Santa Fe Road, as described in the sewer study date February 22, 2017 and the Civil Drawing C-1 (Revision March 15, 2017).
57. All public water and sewer facilities are to be in accordance with the established criteria in the most current City of San Diego Water and Sewer Design Guides.
58. All proposed private water and sewer facilities located within a single lot are to be designed to meet the requirements of the California Uniform Plumbing Code and will be reviewed as part of the building permit plan check.
59. No trees or shrubs exceeding three feet in height at maturity shall be installed within ten feet of any sewer facilities and five feet of any water facilities.
60. All public water and sewer facilities are to be in accordance with the approved Water and Sewer Studies dated April 4, 2016 (Leppert Engineering Corporation).

**PARK AND RECREATION REQUIREMENTS:**

61. There shall be no temporary or permanent construction impacts to the adjacent City fee-owned open space.
62. The Owner/Permittee shall address any impacts that results from project stormwater drainage discharge onto adjacent City fee-owned space.

**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 August 5, 2019, by Resolution No.  
R- 312614.

AUTHENTICATED BY THE CITY OF SAN DIEGO DEVELOPMENT SERVICES  
DEPARTMENT

\_\_\_\_\_  
William Zounes  
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.**

**The Preserve at Torrey Highlands, LLC**  
Owner/Permittee

By \_\_\_\_\_  
Jason Wood  
Project Principal

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

Passed by the Council of The City of San Diego on AUG 05 2019, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Barbara Bry	<input type="checkbox"/>	<input checked="" 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 type="checkbox"/>	<input checked="" 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 type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage AUG 05 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:

(Seal)

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

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

By *Gina Darwin*, Deputy

Office of the City Clerk, San Diego, California

Resolution Number R- 312614