

9/13/2022 #57

(O-2023-17)
COR. COPY

ORDINANCE NUMBER O- 21522 (NEW SERIES)

DATE OF FINAL PASSAGE SEP 13 2022

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SAN DIEGO APPROVING COASTAL DEVELOPMENT PERMIT NO. 2529205 AND SITE DEVELOPMENT PERMIT NO. 2601553 FOR THE PEREGRINE ENERGY STORAGE FACILITY AND AMENDING THE 30 DAY REMOVAL REQUIREMENT IN CHAPTER 12, ARTICLE 9, DIVISION 7 OF THE SAN DIEGO MUNICIPAL CODE FOR AN ENCROACHMENT MAINTENANCE AND REMOVAL AGREEMENT AND WAIVING THE REQUIREMENT OF A PLANNING COMMISSION HEARING AND RECOMMENDATION PRIOR TO THE PASSAGE OF THIS ORDINANCE – PROJECT NO. 680811.

WHEREAS, PEREGRINE ENERGY STORAGE, LLC, a Delaware Limited Liability Company, Owner/Permittee, filed an application with the City of San Diego for permits to construct an energy storage facility and other associated equipment to interconnect into the SDG&E Silvergate Substation (as described in and by reference to the approved Exhibit “A” and corresponding conditions of approval for the associated Coastal Development Permit No. 2529205 and Site Development Permit No. 2601553) (Project), on portions of a 3.8-acre site; and

WHEREAS, the Project Site is located at 2669 and 2697 Main Street and 1345 South 27th Street in the Barrio Logan Planned District, Sub-District D zone, and the Coastal (non-appealable), Transit Priority Area (TPA), Parking Standards TPA, Transit Area zone, Parking Impact (PIOZ)–Coastal Impact, Airport Land Use Compatibility (ALUC) overlay zones, the Airport Influence Area (AIA) Review Area two for San Diego International Airport (SDIA) and Naval Air Station (NAS)-North Island, Federal Aviation Administration Part 77 noticing area for San Diego International Airport and NAS-North Island of the Barrio Logan Community Plan; and

WHEREAS, the Project Site is legally described as Parcels 2, 3 and 4 of Parcel Map No. 16118, in the City of San Diego, County of San Diego, State of California, filed in the Office of the County Recorder of San Diego County, June 13, 1990; and

WHEREAS, the Project has indicated inability to comply with the 30 day removal or relocation of equipment encroaching into the public right of way as required in San Diego Municipal Code Chapter 12, Article 9, Division 7, Section 129.0715 and requires an additional amount of time following notice from the City for any removal or relocation of equipment located in the public right of way; and

WHEREAS, under San Diego Charter section 280(a)(2), this ordinance is not subject to veto by the Mayor because this matter requires the San Diego City Council (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 evidence presented; and

WHEREAS, the matter was set for public hearing on August 1, 2022, testimony having been heard, evidence having been submitted, and the Council having fully considered the matter and being fully advised concerning the same; NOW, THEREFORE,

BE IT ORDAINED, by the Council of the City of San Diego, as follows:

Section 1. That it adopts the following findings with respect to Coastal Development Permit No. 2529205:

COASTAL DEVELOPMENT PERMIT (SDMC section 126.0708)

a. Findings for all Coastal Development Permits:

- 1. The proposed coastal development will not encroach upon any existing physical accessway that is legally used by the public or any proposed public accessway identified in a Local Coastal Program land use plan; and the proposed coastal development will enhance and protect public views to and along the ocean and other scenic coastal areas as specified in the Local Coastal Program land use plan.**

The Peregrine Energy Storage Project (project) will be constructed and operated within four parcels (Assessor's Parcel Numbers 538-822-21, 538-822-30, 538-812-23, and 538-812-22) at 2669 and 2697 Main Street and 1345 South 27th Street, San Diego, California, and would not encroach on any existing or proposed physical coastal accessway. The project will include an underground generation transmission (gen-tie) line that will run from the project site to the existing San Diego Gas & Electric Company Silvergate Substation. During construction of the gen-tie line, there is a potential for the project to encroach on existing physical access (public roads and rail rights-of-way) temporarily; however, no full lane or sidewalk closures are anticipated. Once the underground gen-tie line is installed, there will be no encroachment into an existing accessway. It should also be noted that immediately west and southwest of the project site is a private ship-building company within Port of San Diego jurisdiction, which does not permit public access to the coast in this particular area. Naval Base San Diego is also located farther to the south and similarly does not permit public access to the coast. The nearest coastal access point to the project site appears to be Cesar Chavez Park, which is approximately one mile to the northwest.

2. The proposed coastal development will not adversely affect environmentally sensitive lands.

The project site does not contain any Environmentally Sensitive Lands as defined by the SDMC, is in a highly urbanized area, does not contain suitable habitat, and is not located within or adjacent to the Multi-Habitat Planning Area (MHPA). The project site has been entirely disturbed and developed with industrial and commercial structures, associated roadways, and landscaping. Additionally, no federally or state-listed species or U.S. Fish and Wildlife Service-designated critical habitat were identified within the project boundary. The project will use proven and established energy storage technology that is efficient, has low maintenance requirements, and is recyclable and will assist California in meeting its greenhouse gas emissions reduction goals and assist the City in meeting its Climate Action Plan requirements. As such, the project itself will contribute positively to the environment and no environmentally sensitive lands would be impacted.

3. The proposed coastal development is in conformity with the certified Local Coastal Program land use plan and complies with all regulations of the certified Implementation Program.

The project is consistent with the certified Local Coastal Program land use plan (in this case the Barrio Logan Community Plan) and complies with all regulations. The Project has been designed to comply with the zoning and other CPU policies and regulations that would prevent development in excess of height and bulk regulations. The project site is currently zoned for industrial use and the project use (battery energy storage) is consistent with industrial land use and zoning. The Project entails the redevelopment of a previously disturbed industrial site, and results in a clean and orderly development consisting of battery energy storage components that would blend with the commercial uses allowed in the area and enhance the visual quality of the area by providing landscaping. Landscaping improvements would consist of trees, shrubs, groundcover, and vines that are native to the region.

4. **For every Coastal Development Permit issued for any coastal development between the nearest public road and the sea or the shoreline of any body of water located within the Coastal Overlay Zone the coastal development is in conformity with the public access and public recreation policies of Chapter 3 of the California Coastal Act.**

The project will not interfere with the public's right of access to the coast or water-oriented recreation. The project is not considered a "new development project" pursuant to Section 30212 of the California Coastal Act and is therefore not subject to providing public access from the nearest public roadway to the shoreline and along the coast, because the project will not change the intensity of use and will not increase floor area, height, or bulk of any structure by more than 10 percent; will not block or impede public access; and will not result in a seaward encroachment by the structure (California Public Resources Code, Division 20). Further, there is no immediate existing access to coastal or recreation areas from the project site due to jurisdictional lands of the Port of San Diego and Naval Base San Diego to the south and southwest of the project site.

Section 2. That it adopts the following findings with respect to Site Development Permit

No. 2601553:

SITE DEVELOPMENT PERMIT (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 Project is consistent with the General Plan and Barrio Logan Community Plan (BLCP) because the project site is currently zoned for industrial use and the project use (battery energy storage) is consistent with industrial land use and zoning. The project will result in a clean and orderly development on a site currently zoned for industrial use. Per the General Plan, the project is located in the Transition Zone between Main Street and the railroad right-of-way. The project will result in minimal operational traffic, will not generate air emissions, will enhance the community through landscaping improvements, and as a result, will serve as a transitional land use between heavy industrial uses west of Harbor Drive and community/neighborhood commercial and residential areas. The project will be constructed on a site that contains industrial uses and will not conflict with the City's Multiple Species Conservation Plan, in that the site is not located within or adjacent to the Multi-Habitat Planning Area. The Project is located within the Airport Influence Area of the SDIA review Area 2 and the NASNI ALUCPs, but not in an area subject to ALUCP noise policies, or FAA notification.

Pursuant to SDMC sections 126.0702 and 126.0707, the project is within the Coastal Overlay Zone and will require a CDP in accordance with Process Two. With approval of the CDP, the project will not conflict with the Coastal Act or the Coastal Overlay Zone policies. The project's CDP findings are incorporated herein by reference. 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 the public health, safety, and welfare. The Project is conditioned to comply with all applicable regulations including regulations designed to protect public health, safety, and welfare. The project's lithium-ion batteries will be housed in racks similar to common computer server racks. Lithium-ion battery technology is considered one of the safest, most easily understood, and most efficient methods of energy storage on the market. The battery enclosures will be designed and installed in conformance with the National Fire Protection Association 855 Standard for the Installation of Stationary Energy Storage Systems along with all applicable state and City fire protection requirements. The battery racks will also be designed and installed in accordance with the local seismic design requirements.

There are no active cleanup sites located on the project site. Previous underground storage tanks were located on the site but have been removed and received San Diego County Department of Environmental Health case closures/no further action status letters for the tank closures and removals. Some tanks were filled in and abandoned in place at the site, but the project's grading activities have been designed to include regulatory notification, monitoring, special handling and disposal, and testing of suspected petroleum-impacted soils if they are removed or disturbed. The project will also conduct a hazardous material building survey, and any necessary abatement prior to the demolition of these structures in accordance with applicable state requirements.

The project will be fenced to help prevent access by the public. Limiting access to the project site will be necessary both to ensure the safety of the public, meet industry insurance requirements, and to protect the equipment from potential theft and vandalism. As such, 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 project site is zoned Barrio Logan Planned District: Subdistrict D (BLPD-SUBD-D), within an Industrial Heavy (IH-2-1) Base Zone and the proposed use (energy storage/electrical gride reliability facility) is consistent with industrial land use and zoning. The project is consistent with the overarching goals and purpose of Subdistrict D because it entails the redevelopment of a previously disturbed site and the applicant is not requesting any variances or deviations for development. The project will result in a clean and orderly development consisting of battery energy storage components that will blend with the existing industrial uses in the area and enhance the visual quality of the area by providing landscaping. The project will not result in operational noise or emissions, enabling it to coexist with existing uses with no adverse impacts to nearby residential areas. Therefore, the proposed development will comply with the regulations of the Land Development Code including any allowable deviations pursuant to the Land Development Code.

b. Supplemental Findings—Public Right-of-Way Encroachments

- 1. The proposed encroachment is reasonably related to public travel, or benefits a public purpose, or all record owners have given the applicant written permission to maintain the encroachment on their property.**

The project's gen-tie line benefits a public purpose because it will provide a critical reliability service to the regional electric grid by receiving energy (charging) from the SDG&E electric transmission system, storing energy on site, and then later delivering energy (discharging) back to the SDG&E Silvergate Substation. The project as a whole will provide the City, the Barrio Logan Community, and the State of California with a reliable and economically attractive development to receive, store, and discharge electricity from the California Independent System Operator (CAISO) controlled electric grid, including renewable energy produced by existing solar and wind resources in the region.

- 2. The proposed encroachment does not interfere with the free and unobstructed use of the public right-of-way for public travel.**

The gen-tie line will be installed below the ground surface throughout the corridor in order to minimize potential disturbances to transportation activities and eliminate or minimize additional construction-related impacts. The gen-tie line will be installed using horizontal directional drilling techniques, jack-and-bore drilling, or open trenching. During construction of the gen-tie (approximately 3 months), the City will approve a traffic control plan to assure construction areas in the right of way still allow for the free and unobstructed use of the public right of way for public travel. All areas disturbed during construction will be restored to pre-construction conditions and the encroachment when complete will not interfere with use of the public right-of-way.

- 3. The proposed encroachment will not adversely affect the aesthetic character of the community.**

The proposed routes being considered for the gen-tie facilities are in a highly urbanized area with existing SDG&E facilities both above ground and below ground. The proposed gen-tie facilities will be constructed underground throughout the corridor and will not be visible following construction. The gen-tie facilities will not adversely affect the aesthetic character of the community.

- 4. The proposed encroachment does not violate any other Municipal Code provisions or other local, state, or federal law.**

With the adoption of this Ordinance, the gen-tie line will be constructed and operated in accordance with Municipal Code provisions and other local, state, or federal laws. The Project requires a project-specific EMRA that provides sufficient time for an underground gen-tie to be relocated compared to the City's standard EMRA form. Specifically, the Project requires longer than the 30-day equipment removal and/or relocation period established by the Code. That longer period would be approved by this uncodified Ordinance, bringing the Project into compliance with the Municipal Code.

The Project will be able to deliver the public benefit of reliable energy for an electrical grid that increasingly dependent upon renewable energy and needs energy storage to provide reliability. The gen-tie route includes certain crossings of existing SDG&E facilities for which SDG&E easement and related agreements are required. Prior to entering into these agreements, SDG&E will seek California Public Utilities Commission approval of an advice letter for the gen-tie crossings pursuant to the provisions of California Public Utilities Code Sections 851 – 857.

5. For coastal development in the coastal overlay zone, the encroachment is consistent with Section 132.0403 (Supplemental Use Regulations of the Coastal Overlay Zone).

(a) If there is an existing or potential public view and the site is designated in the applicable land use plan as a public view to be protected.

(1) The applicant shall design and site the coastal development in such a manner as to preserve, enhance or restore the designated public view, and

(2) The decision maker shall condition the project to ensure that critical public views to the ocean and shoreline are maintained or enhanced.

There is no existing or potential public views on the project site, and the site is not designated in the BLCF or City of San Diego General Plan as a public view to be protected. Immediately west and southwest of the project site is a private ship-building company within Port of San Diego jurisdiction. Naval Base San Diego is also located farther to the south. These existing uses are located between the shoreline and the project site and entirely obstruct views of the shoreline.

(b) A visual corridor of not less than the side yard setbacks or more than 10 feet in width, and running the full depth of the premises, shall be preserved as a deed restriction as a condition of Coastal Development Permit approval whenever the following conditions exist:

(1) The proposed development is located on premises that lies between the shoreline and the first public roadway, as designated on Map Drawing No. C-731; and

(2) The requirement for a visual corridor is feasible and will serve to preserve, enhance or restore public views of the ocean or shoreline identified in the applicable land use plan.

The project is not located between the shoreline and the first public roadway (in this case, Harbor Drive). The project is located between Harbor Drive and Main Street. There is no existing or potential public views on the project site, and the site is not designated in the BLCF or City of San Diego General Plan as a public view to be protected. Immediately west and southwest of the project site is a private ship-building company within Port of San Diego jurisdiction. Naval Base San Diego is also located farther to the south. These existing uses are located between the shoreline and the project site and entirely obstruct views of the shoreline.

- (c) If there is an existing or potential public view between the ocean and the first public roadway, but the site is not designated in a land use plan as a view to be protected, it is intended that views to the ocean shall be preserved, enhanced or restored by deed restricting required side yard setback areas to cumulatively form functional view corridors and preventing a walled effect from authorized development.**

The project is not located between the shoreline and the first public roadway (in this case, Harbor Drive). The project is located between Harbor Drive and Main Street. Further, there is no existing public view between the ocean and the project site due to the existing private ship-building company within Port of San Diego jurisdiction immediately west and southwest of the project site, and Naval Base San Diego located farther to the south which both obstruct public views of the ocean.

- (d) Where remodeling is proposed and existing legally established development is to be retained that precludes establishment of the desired visual access as delineated above, preservation of any existing public view on the site will be accepted, provided that the existing public view is not reduced through the proposed remodeling.**

There is no existing or potential public view on the project site, and the site is not designated in the BLCP or City of San Diego General Plan as a public view to be protected. The project entails the redevelopment of a previously disturbed industrial site, and results in a clean and orderly development consisting of battery energy storage components that will blend with the commercial uses allowed in the area and enhance the visual quality of the area by providing landscaping.

- (e) Open fencing and landscaping may be permitted within the view corridors and visual accessways, provided such improvements do not significantly obstruct public views of the ocean. Landscaping shall be planted and maintained to preserve public views.**

There is no existing or potential public view on the project site, and the site is not designated in the BLCP or City of San Diego General Plan as a public view to be protected, nor is the site within a view corridor or visual accessway. Accordingly, open fencing is not needed for the project to be compatible with this Special Use Regulation.

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

Section 3. That, based on the findings herein before adopted by the City Council, Coastal Development Permit No. 2529205 and Site Development Permit No. 2601553 are granted to

Peregrine Energy Facility LLC, Owner/Permittee, under the terms and conditions set forth in the attached permit, which is made part of this ordinance, contingent upon final passage of

O. 21522

Section 4. That, notwithstanding Municipal Code section 129.0715(a)(3) which provides a record order shall agree to remove or relocate an encroachment within 30 days of notice by the City Engineer, the Encroachment Maintenance Removal Agreement for this Project shall allow for removal or relocation of an encroachment within 365 days following notice by the City.

Section 5. That, notwithstanding San Diego Municipal Code section 112.0509, which provides for a Planning Commission hearing or recommendation prior to certain City Council actions, no Planning Commission hearing or recommendation is required related to the actions being authorized pursuant to this ordinance.

Section 6. That a full reading of this ordinance is dispensed with prior to its final passage, a written or printed copy having been available to the City Council and the public a day prior to its final passage.

Section 7. That this ordinance shall take effect and be in force on the thirtieth day from and after its final passage.

APPROVED: MARA W. ELLIOTT, City Attorney

By /s/ Lindsey Sebastian
for Lauren N. Hendrickson
Deputy City Attorney

LNH:cm
July 8, 2022
August 2, 2022 COR. COPY
Or.Dept: DSD
Doc. No. 3024946_2

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: 24008844

SPACE ABOVE THIS LINE FOR RECORDER'S USE

COASTAL DEVELOPMENT PERMIT NO. 2529205
SITE DEVELOPMENT PERMIT NO. 2601553
PEREGRINE ENERGY STORAGE PROJECT NO. 680811
CITY COUNCIL

This Coastal Development Permit (CDP) No. 2529205 and Site Development Permit No. 2601553 is granted by the City of San Diego to Peregrine Energy Storage, LLC, A Delaware Limited Liability Company, Owner and Permittee, pursuant to San Diego Municipal Code [SDMC] section 126.0707(a) and 126.0502(e)(5). The 3.8-acre site is located at 2669 and 2697 Main Street and 1345 South 27th Street in the Barrio Logan Planned District, Sub-District D, Promise Zone, the Coastal (non-appealable), Transit Priority Area (TPA), Parking Standards TPA, Transit Area, Parking Impact-Coastal Impact, Airport Land Use Compatibility (ALUC) overlay zones, the Airport Influence Area (AIA) Review Area two for San Diego International Airport (SDIA) and Naval Air Station (NAS)-North Island, Federal Aviation Administration Part 77 noticing area for San Diego International Airport and NAS-North Island, within the Barrio Logan Community Plan. The project site is legally described as: Parcels 2, 3 and 4 of Parcel Map No. 16118, in the City of San Diego, County of San Diego, State of California, filed in the Office of the County Recorder of San Diego County, June 13, 1990.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee to demolish existing structures on site and for the construction of a Battery Energy Storage System (BESS) with associated site improvements and encroachments described and identified by size, dimension, quantity, type, and location on the approved exhibit [Exhibit "A"] dated August 1, 2022, on file in the Development Services Department ("Project").

The Project shall include:

- a. The demolition of existing structures, including office buildings, warehouses, canopy structures, perimeter fencing, paving and parking lots on a 3.8-acre site on four parcels; and
- b. The construction of an approximately 200-megawatt battery energy storage system composed of lithium-ion batteries (installed in racks), inverters, medium-voltage (MV) transformers, switchgear, a collector substation, associated equipment, SDG&E interconnection facilities and network upgrades; and

- c. Undergrounding of a 230 kV generation transmission (gen-tie) line to interconnect the site to the existing San Diego Gas & Electric Company (SDG&E) Silvergate Substation located approximately a 1/2 mile north and west of the Project site; and
- d. Modifications to standard driveway SDG-162 to accommodate existing conditions and a proposed drainage spillway to connect stormwater run-on from 27th Street; and
- b. Landscaping (planting, irrigation and landscape related improvements); and
- c. A nine-foot high perimeter fence consisting of a six-foot high vinyl coated chain link fence with screening slats in conformance with City Standard SDM-112 and three rows of barbed wire above the chain link fencing; and
- d. 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. Utilization of this permit must be initiated within thirty-six (36) months after the date on which all rights of appeal have expired. If utilization of this permit is not initiated 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. Utilization of this permit must be initiated by August 1, 2025.
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. 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 that require application(s) for amendment under applicable provisions of the SDMC are prohibited unless approval of the required application(s) or amendment(s) to this Permit have been granted.

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

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

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

including, but not limited to, settlement or other disposition of the matter. However, the Owner/Permittee shall not be required to pay or perform any settlement unless such settlement is approved by Owner/Permittee.

ENVIRONMENTAL/MITIGATION REQUIREMENTS:

11. Mitigation requirements in the Mitigation, Monitoring, and Reporting Program [MMRP] outlined in the Barrio Logan Community Plan Update Program **ENVIRONMENTAL IMPACT REPORT** No. 240982 (Resolution No. 313812) shall apply to this Permit. These MMRP conditions are hereby incorporated into this Permit by reference.

12. The mitigation measures specified in the California Environmental Quality Act - Section 15162 Evaluation Memo and outlined in the Barrio Logan Community Plan Update Program **ENVIRONMENTAL IMPACT REPORT** No. 240982 (Resolution No. 313812), shall be noted on the construction plans and specifications under the heading ENVIRONMENTAL MITIGATION REQUIREMENTS.

13. The Owner/Permittee shall comply with the California Environmental Quality Act - Section 15162 Evaluation Memo as specified in the Barrio Logan Community Plan Update Program **ENVIRONMENTAL IMPACT REPORT** No. 240982 (Resolution No. 313812), 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:

Historical Resources (archaeology)
Tribal Cultural Resources – Cultural Resources

CLIMATE ACTION PLAN REQUIREMENTS:

14. 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:

15. 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:

16. Prior to the issuance of any building permits, the Owner/Permittee shall dedicate an additional right-of-way on Main Street to provide a 14-foot curb-to-property-line distance, satisfactory to the City Engineer.
17. Prior to the issuance of any building permits, the Owner/Permittee shall dedicate an additional right-of-way on South 27th Street to provide a 14-foot curb-to-property-line distance, satisfactory to the City Engineer.
18. Prior to the issuance of any building permit, the Owner/Permittee shall assure by permit and bond the construction of the new City Standard bus pad, adjacent to the site on Main Street, satisfactory to the City Engineer.
19. Prior to the issuance of any building permit, the Owner/Permittee shall assure by permit and bond the closure of non-utilized driveways, with City Standard, curb & gutter, and sidewalk, adjacent to the site on Main Street, satisfactory to the City Engineer.
20. Prior to the issuance of any building permit, the Owner/Permittee shall assure by permit and bond the construction of new City Standard sidewalk, curb and gutter, adjacent to the site on Main Street, satisfactory to the City Engineer.
21. Prior to the issuance of any building permit, the Owner/Permittee shall assure by permit and bond the reconstruction of the existing curb ramp, with City Standard curb ramp at the southwest corner of Main Street and South 27th Street, satisfactory to the City Engineer.
22. Prior to the issuance of any building permit, the Owner/Permittee shall assure by permit and bond the construction of four new City Standards driveways, adjacent to the site on South 27th Street, satisfactory to the City Engineer.
23. Prior to the issuance of any building permit, the Owner/Permittee shall assure by permit and bond the new City Standard, curb, gutter and sidewalk, adjacent to the site (both sides) on South 27th Street, satisfactory to the City Engineer.
24. Prior to the issuance of any building permit, the Owner/Permittee shall obtain an Encroachment Maintenance Removal Agreement for the proposed conduit, landscape, and irrigation within public right-of-way, satisfactory to the City Engineer.
25. Prior to the issuance of any building permit, the Owner/Permittee shall obtain a bonded grading permit for the grading proposed for this Project. All grading shall conform to the requirements of the City of San Diego Municipal Code in a manner satisfactory to the City Engineer.
26. The drainage system proposed for this development, as shown on the site plan, is private and subject to approval by the City Engineer.

27. 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.
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 construction permit, the Permittee shall submit a Technical Report that will be subject to final review and approval by the City Engineer, based on the Storm Water Standards in effect at the time of the construction permit issuance.
30. 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.
31. 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. If ownership of the entire site or portions of the site changes prior to filing of the Notice of Termination (NOT), a revised NOI shall be submitted electronically to the State Water Resources Board in accordance with the provisions as set forth in Section II.C of Order No. 2009-0009-DWQ and a copy shall be submitted to the City.

LANDSCAPE REQUIREMENTS:

32. 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 revegetation and erosion control plans shall be in substantial conformance to this permit (including Environmental conditions) and Exhibit "A," on file in the Development Services Department.
33. 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.
34. Prior to issuance of any building permit, 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

35. 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 SDMC Section 142.0403(b)6.

36. 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.'

37. 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.

38. If any required landscape (including existing or new plantings, hardscape, landscape features, etc.) indicated on the approved construction documents is damaged or removed, 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.

PLANNING/DESIGN REQUIREMENTS:

39. 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 by the appropriate City decision maker in accordance with the SDMC.

40. 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.

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

42. 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

43. Prior to the issuance of any building permit, the Owner/Permittee shall dedicate four-feet of additional right-of-way along the Project frontage on Main Street to construct a minimum 14-foot-wide parkway and assure by permit and bond the construction of sidewalk, curb, and gutter, satisfactory to the City Engineer.
44. Prior to the issuance of any building permit, the Owner/Permittee shall assure by permit and bond the closure of all non-utilized driveways along the Project's frontage on Main Street with current City Standard curb and gutter, satisfactory to the City Engineer. All improvements shall be completed and accepted by the City Engineer prior to first occupancy.

PUBLIC UTILITIES DEPARTMENT REQUIREMENTS:

45. All domestic, irrigation, and fire water lines serving this development must pass through a permitted, private, above ground, backflow prevention device (BFPD). Unless specifically authorized by the City's Cross-Connection Control Section (Anthony Diaz - ADDiaz@sandiego.gov or 858-614-5752), BFPDs shall be located above ground on private property, in-line with the service, and immediately adjacent to the public right-of-way.
46. Any existing sewer lateral to be reused must be videoed and inspected by a California licensed plumber to verify (via a signed statement on company letterhead) all of the following: the lateral has an appropriate cleanout, is in good condition, is free of all debris, is properly connected to a public sewer main, and is suitable for reuse. If the lateral does not meet these requirements, it must be cleaned, repaired if necessary, and re-inspected or abandoned, capped, and replaced with a new permitted lateral.
47. Any private improvements which lie within a public ROW fronting the development, or within a public easement inside the development, which could inhibit the City's right to access, maintain, repair, or replace its public water and sewer facilities must be removed unless the Owner/Permittee has or obtains a City approved/County Recorded Encroachment and Maintenance Removal Agreement (EMRA) specific to that encroachment.
48. If it is determined that an existing water service is inadequately sized to serve the proposed project, the applicant must obtain a Permit to Work in the Public ROW to abandon (kill) the existing water service line at the main and install a new water service in a location acceptable to the Public Utilities Director. To ensure acceptability, the location should be at least 30-inches from any prior water service line connection, five-feet from any driveway or tree, and 10-feet from any active sewer lateral.
49. No private improvements (including landscaping, enhanced paving, private utilities, or structures of any kind) that could inhibit the City's operation, access, maintenance, repair, or replacement of its public water and sewer utilities may be installed, constructed, stored, or remain within the limits of either the public ROW or a public water, sewer, or general utility easement without a City approved and County Recorded Encroachment and Maintenance Removal Agreement (EMRA).

50. Prior to any Building Construction Permit being issued, any existing public sewer, water, or general utility easements that are not currently being utilized by the City, and for which the City has no current or foreseeable plans to utilize, must be vacated concurrently with this proposed development.

51. All proposed private water and sewer facilities which lie within a City ROW or public easement, or which serve more than one lot, must be designed and constructed in accordance with the most current edition of the City of San Diego's Water and Sewer Facility Design Guidelines as well as all applicable City regulations, standards, and practices.

GEOLOGY REQUIREMENTS:

52. Prior to the issuance of any construction permits (either grading or building), the Owner/ Permittee shall submit a geotechnical investigation report or update letter prepared in accordance with the City's "Guidelines for Geotechnical Reports" that specifically addresses the proposed construction plans. The geotechnical investigation report or update letter shall be reviewed for adequacy by the Geology Section of the Development Services Department prior to issuance of any construction permits.

53. The Owner/ Permittee shall submit an as-graded geotechnical report prepared in accordance with the City's "Guidelines for Geotechnical Reports" following completion of the grading. The as-graded geotechnical report shall be reviewed for adequacy by the Geology Section of the Development Services Department prior to release of the applicable bond and grading permit close-out.

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 SEP 13 2022 and Ordinance No. 0-24522.

Coastal Development Permit Approval No. 2529205
Site Development Permit Approval No. 2601553
Date of Approval: August 1, 2022

AUTHENTICATED BY THE CITY OF SAN DIEGO DEVELOPMENT SERVICES DEPARTMENT

Catherine Rom
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.

Peregrine Energy Storage, LLC
Owner/Permittee

By _____
Aron Branam
VP, Development & Construction

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

Passed by the Council of The City of San Diego on SEP 13 2022, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Joe LaCava	<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"/>
Stephen Whitburn	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Monica Montgomery Steppe	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Marni von Wilpert	<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"/>
Raul A. Campillo	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Vivian Moreno	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sean Elo-Rivera	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage SEP 13 2022.

AUTHENTICATED BY: TODD GLORIA
Mayor of The City of San Diego, California.

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

By [Signature], Deputy

I HEREBY CERTIFY that the foregoing ordinance was not finally passed until twelve calendar days had elapsed between the day of its introduction and the day of its final passage, to wit, on AUG 01 2022, and on SEP 13 2022.

I FURTHER CERTIFY that said ordinance was read in full prior to passage or that such reading was dispensed with by a vote of five members of the Council, and that a written copy of the ordinance was made available to each member of the Council and the public prior to the day of its passage.

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

By [Signature], Deputy

Office of the City Clerk, San Diego, California
Ordinance Number O- 21522