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01/09/2023

(R-2023-340)

RESOLUTION NUMBER R- 314561

DATE OF FINAL PASSAGE JAN 09 2023

A RESOLUTION OF THE COUNCIL OF THE CITY OF
SAN DIEGO APPROVING SITE DEVELOPMENT PERMIT
NO. 2416738 AND NEIGHBORHOOD DEVELOPMENT
PERMIT NO. 2513173 FOR PASEO MONTRIL - PROJECT
NO. 658273 (MMRP).

WHEREAS, TRI POINTE HOMES, a California Corporation, Owner/Permittee, filed an application with the City of San Diego for Site Development Permit No. 2416738 and Neighborhood Development Permit No. 2513173 to subdivide 15.20 acres into two lots, for a residential lot for the creation of 55 multi-family residential condominium units and an open space lot; and for the vacation of an existing public sewer easement known as Paseo Montril (Project), located on the east end of Paseo Montril, west of Interstate 15, and east of Rancho Peñasquitos Boulevard; and

WHEREAS, the Project site is legally described as that portion of Rancho Los Peñasquitos, in the City of San Diego, County of San Diego, State of California, according to map thereof accompanying the patent of said ranch recorded in the office of the County Recorder of San Diego County in book 2, page 385 of patents, described as follows: beginning at the most easterly corner of Lot 371 of Peñasquitos view unit No. 3, according to map No. 6859; thence along the easterly boundary thereof north 23°55'06" west 778.86 feet to a point on the southerly boundary of Peñasquitos view unit No. 1, according to map No. 6654; thence along the southerly boundary thereof north 66°04'54" east 275.16 feet; thence north 12°38'22" west 400.00 feet; thence north 77°21'38" east 640.00 feet to the southeast corner thereof, said point also being an angle point in the southwest boundary of Lot 11 of sun ridge vista unit No. 1, according to map No. 11924; thence along the boundary of said Lot 11, south 60°26'12" east 288.59 feet to the

most southerly corner thereof, said point also being on the northwest line of interstate 15 (XI-SD-15) as described in the lis pendens recorded January 17, 1964 as instrument No. 10305, and the amended lis pendens recorded August 03, 1965 as instrument No. 139001, both of official records; thence along said line south $25^{\circ}19'51''$ west 534.85 feet, more or less, to an angle point thereon; thence south $39^{\circ}12'51''$ west 534.40 feet; thence south $14^{\circ}08'26''$ west 283.79 feet; thence south $66^{\circ}11'51''$ west 95.91 feet to the point of beginning. Except therefrom all that portion described as follows: beginning at the intersection of the northeasterly line of Lot 371 of Peñasquitos view unit No. 3, according to map No. 6859 filed in the office of the County Recorder, with that course on the northwesterly line of state highway XI-SD-395 described in parcel 2A as "north $66^{\circ}11'50''$ east, 253.03 feet" in final order of condemnation recorded June 26, 1967 as instrument No. 92316 of official records; thence along the northwesterly and westerly line of said state highway the following numbered courses: (1) north $66^{\circ}11'50''$ east 95.91 feet; thence (2) north $14^{\circ}08'26''$ east 283.77 feet; thence (3) north $39^{\circ}12'22''$ east, 211.24 feet; thence (4) leaving said state highway northwesterly line south $71^{\circ}35'16''$ west, 195.73 feet; thence (5) south $15^{\circ}36'46''$ west, 294.70 feet; thence (6) south $65^{\circ}20'54''$ west, 86.83 feet to said northeasterly line of Lot 371 of Peñasquitos view unit No. 3; thence (7) along said northeasterly line south $23^{\circ}55'06''$ east, 108.15 feet to the point of beginning, in the City of San Diego, County of San Diego, State of California, in the Rancho Peñasquitos Community Plan area; and

WHEREAS, the Project site is in the in the RM-2-5 and RS-1-14 zones within the following overlay zones (OZ): Airport Influence Area for Marine Corps Air Station Miramar (MCAS-Miramar), Airport Land Use Compatibility Plan (ALUCP) OZ for MCAS-Miramar, Environmentally Sensitive Lands (ESL) in the form of sensitive biological resources (uplands

and wetlands) and steep hillsides, Very High Fire Hazard Severity Zone (VHFHSZ) and Fire Brush Management Zone. Additionally, the site is located within the Views Neighborhood and designated as Open Space land use within the Rancho Peñasquitos Community Plan and designated as Park, Open Space and Recreation land use within the City of San Diego's General Plan (General Plan); and

WHEREAS, a portion of the site is proposed to be redesignated from Open Space to Residential (Medium-Low Density) within the Rancho Peñasquitos Community Plan and from Park, Open Space and Recreation to Residential within the General Plan, the proposed residential lot (Lot 1) is proposed to be rezoned from the RM-2-5 and RS-1-14 zones to the RM-1-1 zone, and proposed open space lot (Lot 2) is proposed to be rezoned from the RM-2-5 zone to the OC-1-1 zone; and

WHEREAS, on November 3, 2022, the Planning Commission of the City of San Diego considered Site Development Permit No. 2416738 and Neighborhood Development Permit No. 2513173 and pursuant to Resolution No. 5218-PC voted to recommend the City Council of the City of San Diego (City Council) approve the Permits; and

WHEREAS, the matter was set for public hearing on January 9, 2023, 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,

WHEREAS, the Office of the City Attorney has drafted this resolution based on the information provided by City staff, including information provided by affected third parties and verified by City staff, with the understanding that this information is complete, true, and accurate; and

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

BE IT RESOLVED by the City Council of the City of San Diego, that it adopts the following findings with respect to Site Development Permit No. 2416738 and Neighborhood Development Permit No. 2513173:

A. SITE DEVELOPMENT PERMIT – SDMC SECTION 126.0505

1. Findings for all Site Development Permits – SDMC Section 126.0505(a)

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

The Project would subdivide the existing 15.20-acre site into two lots: a 4.90-acre residential lot (Lot 1) for 55 condominiums (including six affordable dwelling units consisting of two on-site affordable dwelling units and four off-site dwelling units) and a 10.30-acre open-space lot (Lot 2). The open-space lot would be for the preservation of open space, whereas no public access would be permitted. The 15.20-acre Project site is located at the east end of Paseo Montril, west of interstate 15, and east of Rancho Peñasquitos Boulevard. The site is located in the RM-2-5 and RS-1-14 Base zones and within the following overlay zones (OZ): Airport Influence Area for Marine Corps Air Station Miramar (MCAS-Miramar), Airport Land Use Compatibility Plan (ALUCP) OZ for MCAS-Miramar, Environmentally Sensitive Lands (ESL) for sensitive biological resources (uplands and wetlands) and steep hillsides, Very High Fire Hazard Severity Zone (VHFHSZ) and Fire Brush Management Zone within the Rancho Peñasquitos Community Plan area. Additionally, the site is located within the Views Neighborhood and designated as Open Space land use within the Rancho Peñasquitos Community Plan and designated as Park, Open Space and Recreation land use within the City of San Diego's General Plan (General Plan).

The Project would have a residential density of 11.2 dwelling units per acre (du/ac) which is in conformance with the density regulation of the proposed RM-1-1 zoning designation which permits a maximum density of 1 dwelling unit for each 3,000 square feet of lot area which would permit a maximum of 71 dwelling units for the proposed residential lot (Lot 1). The proposed 55 dwelling units fall within this

RM-1-1 density range and would be consistent with the proposed Medium-Low Residential density designation of the Rancho Peñasquitos Community Plan.

The General Plan designates the Project site for Park, Open Space and Recreation uses and the Rancho Peñasquitos Community Plan designates the Project site as Open Space. The Project includes a General Plan amendment to redesignate portions of the Project site from "Park, Open Space and Recreation" to "Residential" and an amendment to the Rancho Peñasquitos Community Plan to redesignate a portion of the from "Open Space" to "Residential (Medium-Low Density)" to allow for multi-family residential use. The Project also proposes to rezone a portion of the site, proposed as Lot 1, that is RS-1-14 (Residential-Single Unit) and RM-2-5 (Residential-Multiple Unit) to RM-1-1 (Residential-Multiple Unit); and a portion of the site, proposed as Lot 2, that is RM-2-5 (Residential-Multiple Unit) to OC-1-1 (Open Space - Conservation).

The Project site lies outside of the City's Multi-Habitat Planning Area (MHPA), and therefore, is not required to document compliance with the Multiple Specific Conservation Program (MSCP) Land Use Adjacency Guidelines. The nearest MHPA occurs approximately 0.08 miles (440 feet) from the Project area but is separated from the Project area by Interstate 15 (I-15). Implementation of the Project would result in direct permanent impacts to 4.48-acres, including 3.24-acres of Tier II Diegan coastal sage scrub, 0.03-acres of Tier IV eucalyptus woodland, 0.93-acres of Tier IV urban/developed, and 0.28-acres of Tier IV disturbed habitat. A total of 9.91-acres of Diegan coastal sage scrub would remain on site following project implementation. The Project would preserve 4.86-acres of the remaining 9.91-acres of Tier II Diegan coastal sage scrub and sensitive species habitat for coastal California gnatcatcher, western bluebird, orange-throated whiptail, and Blainville's horned lizard. In accordance with the City's Environmentally Sensitive Lands (ESL) regulations, the owner/permittee shall be required to convey a Covenant of Easement (COE) to be recorded against the title over the remaining ESL areas on the site that are outside the allowable development area. The Project would also comply with the species Area Specific Management Directives (ASMD) developed for certain MSCP covered species as a condition of coverage in the MSCP. Overall, the Project is consistent with the City's MSCP.

The Project is consistent with the General Plan's Urban Design Element and the Community Plan's Residential Element as it would allow development in an area where a high level of activity already exists, is compact, efficient and an environmentally sensitive pattern of development, includes the preservation and protection of natural landforms and open space, and is creative and flexible in its site planning to maximize the preservation of open space and hillside areas. The Project is consistent with the City of San Diego General Plan by developing a project which respects the existing neighborhood character, preserves open space systems and the natural environment, and targets new growth into compact development. The Project would implement the General Plan's Urban Design Element guidelines by developing a project that is compatible to the existing scale, bulk, architectural styles, and landscaping of existing neighborhood while maintaining the topographic relief of the

existing terrain and concentrating development in the least sensitive areas. Additionally, the proposed buildings are carefully sited and designed to preserve views while utilizing high-quality architectural and landscape designs to enhance the community aesthetically while achieving functional requirements.

The City of Villages strategy includes a commitment to creating and maintaining economically and socially diverse communities, which can be achieved by providing a mix of housing types that are suitable for households of various income levels. The General Plan's Housing Element identifies policies to help the City meet the regional housing needs allocation (RHNA) targets including designating land for a variety of residential densities to meet housing needs for a variety of household sizes, allowing residential densities that exceed the ranges defined in the General Plan and community plans for projects using State density bonus provisions (including senior housing and affordable housing) and City housing incentive programs, and encouraging location- and resource-efficient development whereby housing is located near employment, shopping, schools, recreation, transit, and walking/bicycling infrastructure. The Project proposes a condominium development which would increase the mix of housing types for the area. Additionally, the Project proposes a Rezone which would feasibly maximize the development density for the residential development portion of the site while preserving a portion of the site for open space. The proposed Project is located in an area where shopping, schools, and connections to transit and existing pedestrian and biking infrastructure is in close proximity.

The Project would assist in meeting the City's housing goals including the provision of affordable housing, whereas the Project includes the provision of 10-percent of the dwelling units (six dwelling units) as affordable housing to be included on-site (two dwelling units) and off-site (four dwelling units) at the Del Mar Highlands Estates project site. The two for-sale on-site condominium units shall be restricted to median income households at 100-percent of area median income (AMI) and the four off-site rental units shall be rent restricted to low-income households at 60-percent of area median income (AMI) for a period of not less than 55-years. The proposed Project will contribute to the diversity of the region by providing different aesthetically pleasing housing options at varying price points. The range in housing, including on-site affordable housing, will provide community members with an opportunity to live close to where they work. The property is located in close proximity to employment centers in Scripps Ranch, Carmel Mountain, Rancho Bernardo and Carmel Valley.

The Project meets the goals and follows the principles outlined in the City of San Diego's planning and community planning documents, including the following goals and objectives of the City of San Diego's Strategic Plan: Goal 2 (Work in partnership with all communities to achieve safe and livable neighborhoods) and Goal 3 (Create and sustain a resilient and economically prosperous City). Based upon a review of the City's strategic housing and community planning goals, the site would best serve the community and support the land use plan as residential. Developing multi-family residential in the area will help complement the land uses in the surrounding community. The current neighborhood supports several neighborhood and

community commercial retail spaces that would benefit from an additional residential component. Additionally, the Project will be designed to preserve open space and cluster development to maintain the character of hillside and canyon areas and would not impact MHPA lands. Therefore, the proposed development will not adversely affect the applicable land use plan. Therefore, 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.

The Project is described in Site Development Permit (SDP) Finding A.1.a above, incorporated by reference herein. The General Plan designates the Project site for Park, Open Space and Recreation uses and the Rancho Peñasquitos Community Plan designates the Project site as Open Space. The Project includes a General Plan amendment to redesignate portions of the Project site from "Park, Open Space and Recreation" to "Residential" and an amendment to the Rancho Peñasquitos Community Plan to redesignate a portion of the from "Open Space" to "Residential (Medium-Low Density)" to allow for multi-family residential use. The Project also proposes to rezone a portion of the site, proposed as Lot 1, that is RS-1-14 (Residential-Single Unit) and RM-2-5 (Residential-Multiple Unit) to RM-1-1 (Residential-Multiple Unit); and a portion of the site, proposed as Lot 2, that is RM-2-5 (Residential-Multiple Unit) to OC-1-1 (Open Space – Conservation).

The Project site is located within Review Area II of the Airport Influence Area for MCAS-Miramar and the ALUCP OZ for MCAS-Miramar. The project would not conflict with the ALUCP and would not result in airport safety hazards for people residing or working in the Project area.

Environmental Impact Report (EIR) No. 658273/SCH No. 2021030038, which incorporates associated technical studies, has been prepared for the Project in accordance with State of California Environmental Quality Act (CEQA) Guidelines. The EIR determined that the Project would result in potentially significant impacts to Land Use, Transportation/Circulation, Air Quality, Biological Resources, Greenhouse Gas Emissions, and Noise. Implementation of the Mitigation, Monitoring and Reporting Program (MMRP) would mitigate impacts to Air Quality, Biological Resources and Noise to below a level of significance. The applicant has provided Draft Candidate Findings and Statement of Overriding Considerations to allow the decision-maker to approve the Project with significant and unavoidable impacts to Land Use, Transportation/Circulation and Greenhouse Gas Emissions, as described in the EIR.

The EIR identified impacts to Land Use as it relates to the Project's inconsistency with the City's Climate Action Plan (CAP) related to impacts from Greenhouse Gas (GHG) Emissions. While the Project would incorporate mitigation and CAP measures including Vehicle Miles Traveled (VMT) reduction measures the Project would continue to generate more emissions than assumed in the CAP, the CAP utilizes the San Diego Association of Governments (SANDAG) growth assumptions to

determine the expected City build out GHG emissions. The site is designated as Open Space in the General Plan and the Community Plan therefore, the CAP assumed no development would occur at the site. To meet the assumptions in the CAP, the Project would have to obtain net zero or negative GHG emissions. Therefore, the land use impact and GHG impacts would be significant and unavoidable. Additionally, the Project has a transportation impact because the Project location in census tract 170.18 is above the 85th percentile mean VMT per Capita for the region. Even with implementation of transportation mitigation measures the Project would be unable to reduce VMT impacts to less than a significant level, and the Project's contribution to traffic/VMT in the surrounding area, in addition to that of the projects in the surrounding area would be cumulatively significant.

A public water study (PWS) was prepared for the Project to evaluate if sufficient water supplies would be available to meet the projected water demands of the Project and the demand of existing and other planned uses. The Project would connect to existing and new public water mains adjacent to the site and within the surrounding roadways, and no additional improvements would be needed to serve the Project.

On-site elevations range from approximately 580-feet above mean sea level (AMSL) along the western portion of the Project site to approximately 445-feet AMSL along the eastern portion of the Project site. Steep hillsides are present within the Project site, and the Project is requesting a deviation from SDMC Section 143.0142(a)(2) to exceed the 25-percent maximum development area within steep hillsides and proposes to develop on 27.3-percent of the steep hillsides within the Project site. In addition, grading of the Project site would result in 22-feet of fill slopes, 49-feet of cut slopes, and would require a total cut amount of 59,500 cubic yards of soil. The manufactured slopes would be constructed at a 2:1 slope ratio.

The Project design includes mass terracing of natural slopes with cut or fill slopes on order to prepare flat pads for the construction of structures. The proposed grading of the Project site is designed to retain the majority of the site as open space, reduce the overall grading footprint, and integrate the proposed buildings into the hillside. This would allow for a stepped down development plan for the buildings and internal parking lots and driveways. Of the 15.20-acre Project site, approximately 3.27-acres are proposed for development, and steep hillside encroachments are proposed within approximately 11.3-percent (1.71-acres) of the existing 11.17-acres of steep hillside areas (slopes of 25-percent or greater) on the Project site. The Project site currently consists of a southeast-facing slope with sheet flows in a southerly to southeasterly direction over the moderate to steeply sloping natural hillside. There are two ridges within the Project site, which create three drainage flow patterns across the site. While the Project would exceed the City's significance thresholds for landform alterations, the Project meets one of the three conditions provided in the City's significance guidelines and thus, the landform alteration impact would not be considered significant. The Project design would ultimately preserve 11.60-acres (10.30-acres within Lot 2 and 1.30-acres within Lot 1) as open space within a COE and would focus the development area closest to the adjacent existing homes to the west and commercial area to the south.

Per the Geotechnical Investigation prepared for the Project site, no soils or geologic conditions were encountered that would preclude the development of the Project site as proposed with incorporation of the recommendations outlined in the geotechnical investigation. Further, a mandatory geotechnical report will be prepared in accordance with the City's "Guidelines for Geotechnical Reports" and will be reviewed by the Geology Section of the Development Services Department prior to the issuance of any construction permit. The report must adequately demonstrate the Project's compliance with the California Building Code (CBC) and any applicable geologic hazards regulations.

The Drainage Report prepared for the Project concluded that development would result in an overall increase in impervious area and site runoff, but peak flows after detention would be at or below the existing condition peak flow at the Project outfall. No fires have recently occurred at the Project site. Flooding as a result of runoff or drainage changes under post-fire conditions would not expose people or structures to significant risk considering this.

Development of the 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. A Stormwater Quality Management Plan (SWQMP) that includes storm water construction best management practices (BMPs), ongoing permanent BMP maintenance, on-site biofiltration and hydromodification features, has been developed to maintain natural drainage features and minimize potential impacts to storm drain facilities. Any short-term erosion and sedimentation impacts associated with Project development would be addressed through conformance with applicable elements of the City's storm water program and related National Pollutant Discharge Elimination System (NPDES) standards. Additionally, the Project would implement an approved SWPPP and related plans, and BMPs, including appropriate measures, to address erosion and sedimentation.

The Project site is within a Very High Fire Hazard Severity Zone (VHFHSZ) within the Local Responsibility Area (CAL FIRE 2009). All Projects proposed within the urban/wildland interface would be required to meet minimum fire fuel modification and/or clearing requirements in addition to meeting the standards of the various fire codes in effect at the time of building permit issuance. Brush Management is required for premises with structures that are within 100-feet of any highly flammable area of native or naturalized vegetation. The Project would implement the City's Brush Management Regulations found in Section 142.0412 of the LDC, which establishes a means of providing fire safety in the landscape. Fire hazard conditions currently exist in the open space area to the north, east, and south of the Project site. The Project would include brush management zones which reduce fire hazards around structures by providing an effective fire break between all structures and contiguous areas of native or naturalized vegetation. Brush

management Zone One is the area adjacent to the structure and shall be the least flammable. It shall consist of pavement and permanently irrigated ornamental planting and trees canopies no closer than 10-feet from the habitable structure. Brush management Zone One shall not be allowed on the Project's slopes with a gradient greater than 4:1. Brush management Zone Two is the area between Zone One and any area of native or naturalized vegetation and would consist of thinned, native, or naturalized non-irrigated vegetation. As shown on the landscape development plan, the development cannot provide the full defensible space required, and therefore, is subject to alternative compliance measures. Alternative compliance measures for Buildings 1, 2, and 3 are required due to the reduced brush management Zone Two. Alternative compliance measures proposed for these buildings would include a combination masonry block/1-hour fire rated wall or a six-foot high masonry block wall. Maintenance of brush management zones shall include the removal of invasive species. Management and maintenance of brush management zones will be the responsibility of the developer/applicant and shall be completed in accordance with San Diego Municipal Code (SDMC).

The Project would introduce 55 dwelling units to the Project area, resulting in an increase in population base within the Rancho Peñasquitos community and fire/police protection service area, thereby increasing the demand for fire/police protection and emergency services within the service area. Cumulative Projects including this Project would be required to offset the increase in demand caused by their respective Project. Thus, the cumulative impacts related to fire and police service would not be cumulatively considerable.

The Project was reviewed by City Staff and determined to be in compliance with the SDMC. The Project must satisfy conditions of approval of Vesting Tentative Map No. 2416742, Site Development Permit No. 2416738 and Neighborhood Development Permit No. 2513173 to achieve compliance with the regulations of the SDMC. Conditions to the Vesting Tentative Map include various conditions and referenced exhibits of approval relevant to achieving compliance with applicable regulations of the SDMC in effect for this Project. Such conditions have been determined as necessary to avoid adverse impacts upon the health, safety and general welfare of persons residing or working in the surrounding area. Permit requirements include submitting an updated geotechnical report that addresses the construction plans; assuring by permit and bond plans for the revegetation and hydro-seeding of all disturbed lands and required brush management; obtaining an Encroachment Maintenance Removal Agreement (EMRA) for all private storm drain systems and connections, landscape and irrigation located in the public right-of-way; assuring by permit and bond the design and construction of all required public water and sewer facilities; and installation of private back flow prevention devices. Prior to issuance of any building permit, grading permit, and public improvement permit, for the proposed Project, the plans shall be reviewed by City staff to ensure compliance with all building, electrical, mechanical, plumbing and fire code requirements, and the Owner/Permittee shall be required to obtain grading and public improvement permits. Compliance with these regulations during and after construction would be enforced through building inspections completed by the City's building inspectors. 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 is described in SDP Findings A.1.a, and A.1.b above, incorporated by reference herein. The Project would comply with the development regulations of the Land Development Code (LDC) with exception to the requested deviations for standard side yard setback, front yard setback, structure height limitation, retaining wall height, and development encroachment into steep hillsides to achieve the maximum development area.

The Project requests the following deviations:

- Deviations from SDMC Section 131.0443, Table 131-04G for the RM-1-1 zoning designation as follows:
 - A deviation from the standard side yard setback, where the required minimum standard side yard setback is eight feet or 10-percent of the premise width, whichever is greater, whereas the proposed standard side yard setback would be 10-feet.
 - A deviation from the minimum front yard setback, where the required minimum setback is 15-feet, whereas the minimum front yard setback would be reduced to 11-feet.
 - A deviation from the standard front yard setback, where the required standard setback is 20-feet, whereas the standard front yard setback would be reduced to 19-feet.
 - A deviation from the structure height limitation, where the structure height limitation is 30-feet, whereas the structure height limitation would be increased to 40-feet.
- A deviation from SDMC Section 143.0142(a)(2), where the maximum development area within steep hillsides is limited to 25 percent, whereas the maximum development area within steep hillsides would be increased to 27.3 percent.
- A deviation from SDMC Section 142.0340(e), where the maximum retaining wall height outside of the required yard is 12-feet, whereas the maximum retaining wall height would be increased to 26-feet.

The reduced setbacks, development encroachment into steep hillsides, and increased retaining wall height allows the proposed development to meet the Rancho Peñasquitos Community Plan design guideline objectives by providing a diversity of

housing opportunities for a variety of household types, lifestyles and income levels, while meeting conservation goals for environmentally sensitive lands and maximizing the health, safety and welfare of the community. Additionally, the Project is consistent with the policies of the Rancho Peñasquitos Community Plan by providing a harmonious community appearance by using a compatible variety of architectural styles, colors, building heights, lot sizes, setbacks, landscaping and street furniture; using creative and flexible site planning to maximize the preservation of open space and hillside areas; and proposing density of new residential development based on the capacity of the land for development consistent with the objective of preserving the character of the hillside and canyon areas.

Without the requested deviations, the regulations would eliminate much of the development footprint and the Project would not be able to maximize the number of the residential units. The proposed deviations would allow for a Project design that is consistent with the goals and policies of the Community Plan and maximizes the development potential versus a Project that if designed in strict conformance with the development regulations of the applicable zone would limit the site layout and reduce the density of development. The Project will contribute to the housing mix of the community that will improve the opportunities for homeownership.

Each of the requested deviations have been reviewed as they relate to the proposed Project and the impact to the surrounding neighborhood. The requested deviations are appropriate and will result in a Project that efficiently utilizes the subject property and provides housing for a diverse and mixed population, housing near major transit stops and stations, and develop resource-efficient development located near employment, shopping, schools, recreation, and walking/bicycling infrastructure, in conformance with the goals and policies of the Rancho Peñasquitos Community Plan and the General Plan's Housing Element. The Project will also assist in providing affordable and market-rate housing opportunities. Therefore, with the requested deviations, the proposed development would comply with the applicable zoning and development regulations of the LDC, including any allowable deviations pursuant to the LDC.

2. Supplemental Findings – Environmentally Sensitive Lands – SDMC Section 126.0505(b)

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 Project is described in SDP Findings A.1.a., A.1.b. and A.1.c. above, incorporated by reference herein. The Project would be consistent with the proposed residential rezoning and the proposed General Plan and Community Plan amendments for residential development. The Project site is located approximately 800 feet from existing public transit stops and in close proximity to the Sabre Springs & Peñasquitos Transit Station, providing community members with public transit access to employment and commercial centers. Additionally, a Park and Ride site is located

approximately a quarter-mile from the Project site. The proximity to alternate means of transportation would contribute to the shift from vehicular transportation which would help achieve carbon cutting measures defined in the City of San Diego's progressive Climate Action Plan. As mentioned above the Project proposes a total of 55 dwelling units within five separate buildings on the proposed 4.90-acre residential lot which would result in approximately 11.2 du/ac. The proposed bulk and scale would be similar to the surrounding 3-story apartment complexes.

As previously described in SDP Finding A.1.a, this Project would utilize 4.86-acres area to mitigate for the Project's direct impacts to Tier II Diegan coastal sage scrub and sensitive species habitat for coastal California gnatcatcher, western bluebird, orange-throated whiptail, and Blainville's horned lizard. In accordance with the City's Environmentally Sensitive Lands (ESL) regulations, the owner/permittee shall be required to convey a COE to be recorded against the title over the remaining ESL areas on the site that are outside the allowable development area. The Project would also comply with the species Area Specific Management Directives (ASMD) developed for certain MSCP covered species as a condition of coverage in the MSCP. Overall, the Project is consistent with the City's MSCP.

The Project design includes mass terracing of natural slopes with cut or fill slopes on order to prepare flat pads for the construction of structures. The proposed grading of the Project site is designed to retain the majority of the site as open space, reduce the overall grading footprint, and integrate the proposed buildings into the hillside. This would allow for a stepped down development plan for the buildings and internal parking lots and driveways. Of the 15.20-acre Project site, approximately 3.27-acres are proposed for development, and steep hillside encroachments are proposed within approximately 11.3-percent (1.71-acres) of the existing 11.17-acres of steep hillside areas (slopes of 25-percent or greater) on the Project site. The Project site currently consists of a southeast-facing slope with sheet flows in a southerly to southeasterly direction over the moderate to steeply sloping natural hillside. There are two ridges within the Project site, which create three drainage flow patterns across the site. While the Project would exceed the City's significance thresholds for landform alterations, the Project meets one of the three conditions provided in the City's significance guidelines and thus, the landform alteration impact would not be considered significant. The Project design would ultimately preserve 11.60-acres (10.30-acres within Lot 2 and 1.30-acres within Lot 1) as open space within a COE and would focus the development area closest to the adjacent existing homes to the west and commercial area to the south.

The proposed Project will integrate into the existing community by maintaining the aesthetic appeal of the Rancho Peñasquitos region while preserving a significant amount of open space located within the Project site in conformance with the goals and policies of the General Plan and Community Plan. Therefore, the site is physically suitable for the design and siting of the proposed development and the development will result in minimum disturbance to environmentally sensitive lands.

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

The proposed Project is described in SDP findings A.1.a., A.1.b. and A.1.c. above, incorporated by reference herein. The Project has been designed to minimize alterations to natural landforms. As previously described in SDP finding A.2.a., the Project design includes mass terracing of natural slopes with cut or fill slopes in order to prepare flat pads for the construction of structures. The proposed grading of the Project site is designed to retain the majority of the site as open space, reduce the overall grading footprint, and integrate the proposed buildings into the hillside. This would allow for a stepped down development plan for the buildings and internal parking lots and driveways. Of the 15.20-acre Project site, approximately 3.27-acres are proposed for development, and steep hillside encroachments are proposed within approximately 11.3-percent (1.71-acres) of the existing 11.17-acres of steep slope areas (slopes of 25-percent or greater) on the Project site. The Project site currently consists of a southeast-facing slope with sheet flows in a southerly to southeasterly direction over the moderate to steeply sloping natural hillside. There are two ridges within the Project site, which create three drainage flow patterns across the site. While the Project would exceed the City's significance thresholds for landform alterations, the Project meets one of the three conditions provided in the City's significance guidelines and thus, the landform alteration impact would not be considered significant. The Project design would ultimately preserve 11.6-acres (10.30-acres within Lot 2 and 1.30-acres within Lot 1) as open space within a COE and would focus the development area closest to the adjacent existing homes to the west and commercial area to the south.

Development footprints have been located to minimize erosion, flood, and fire hazards. The Project would be required to utilize proper engineering design and utilization of standard construction practices, to be verified at the grading permit stage. The Project would include brush management zones which reduce fire hazards around structures by providing an effective fire break between all structures and contiguous areas of native or naturalized vegetation. Brush management Zone One is the area adjacent to the structure and shall be the least flammable. It shall consist of pavement and permanently irrigated ornamental planting and trees canopies no closer than 10-feet from the habitable structure. The Project would implement the City of San Diego's Brush Management Regulations found in Section 142.0412 of the Land Development Code, which establishes a means of providing fire safety in the landscape for public or privately-owned premises that are within 100 feet of a structure and contain native or naturalized vegetation. Additionally, the Project site lies outside of the City's MHPA, and therefore, is not required to document compliance with the MSCP Land Use Adjacency Guidelines. The nearest MHPA occurs approximately 0.08 miles (440 feet) from the Project area but is separated from the Project area by Interstate 15 (I-15). Overall, the Project is consistent with the City's MSCP guidelines and will include mitigation measures to address any significant impacts.

Development of the 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. A Stormwater Quality Management Plan (SWQMP) that includes storm water construction best management practices (BMPs), ongoing permanent BMP maintenance, on-site biofiltration and hydromodification features, has been developed to maintain natural drainage features and minimize potential impacts to storm drain facilities. Any short-term erosion and sedimentation impacts associated with Project development would be addressed through conformance with applicable elements of the City's storm water program and related National Pollutant Discharge Elimination System (NPDES) standards. Additionally, the Project would implement an approved SWPPP and related plans, and BMPs, including appropriate measures, to address erosion and sedimentation.

Each housing unit will include fire sprinklers and will be designed in conformance to the requirements of the LDC and the requirements of the CBC and Fire Code. The Project is not located within any flood hazard areas (100-year Flood Plain), therefore, will not be subject to flooding. The Project site is not located on any known active, potentially active, or inactive fault traces. Seven known active faults are located within 50 miles of the Project site. The nearest known active faults are the Newport-Inglewood and Rose Canyon Fault Zones, which are both located approximately 11-miles west of the site and are the dominant sources of potential ground motion. The Geotechnical Investigation Report did not identify any evidence of landslide deposits was encountered at the site. The proposed Project would be designed in accordance with the latest CBC, which would minimize potential risks associated with landslides. Therefore, the proposed development will 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 is described in SDP Findings A.1.a., A.1.b. and A.1.c. above, incorporated by reference herein. Steep hillsides are present within the Project site, and the Project is requesting a deviation from SDMC Section 143.0142(a)(2) to exceed the 25 percent maximum development area within steep hillsides and proposes to develop on 27.3 percent of the steep slopes within the Project site. Of the 15.20-acre Project site, approximately 3.27-acres are proposed for development, and steep hillside encroachment is proposed within approximately 11.3-percent (1.71-acres) of the existing 11.17-acres of steep hillside areas (slopes of 25-percent or greater) on the Project site.

The Project site lies outside of the City's Multi-Habitat Planning Area (MHPA), and therefore, is not required to document compliance with the Multiple Specific

Conservation Program (MSCP) Land Use Adjacency Guidelines. The nearest MHPA occurs approximately 0.08 miles (440 feet) from the Project area but is separated from the Project area by Interstate 15 (I-15). Implementation of the Project would result in direct permanent impacts to 4.48-acres, including 3.24-acres of Tier II Diegan coastal sage scrub, 0.03-acres of Tier IV eucalyptus woodland, 0.93-acres of Tier IV urban/developed, and 0.28-acres of Tier IV disturbed habitat. A total of 9.91-acres of Diegan coastal sage scrub would remain on site following Project implementation. The Project would preserve 4.86-acres of the remaining 9.91-acres of Tier II habitat on-site to mitigate for the Project's direct impacts to Tier II Diegan coastal sage scrub and sensitive species habitat for coastal California gnatcatcher, western bluebird, orange-throated whiptail, and Blainville's horned lizard. In accordance with the City's Environmentally Sensitive Lands (ESL) regulations, the owner/permittee shall be required to convey a COE to be recorded against the title over the remaining ESL areas on the site that are outside the allowable development area. The Project would also comply with the species Area Specific Management Directives (ASMD) developed for certain MSCP covered species as a condition of coverage in the MSCP. Overall, the Project is consistent with the City's MSCP guidelines and will include mitigation measures to address any significant impacts.

The Project would implement the General Plan's Urban Design Element guidelines by developing a Project that is compatible to the existing scale, bulk, architectural styles, and landscaping of existing neighborhood while maintaining the topographic relief of the existing terrain and concentrating development in the least sensitive areas. Additionally, the proposed buildings are carefully sited and designed to preserve views while utilizing high-quality architectural and landscape designs to enhance the community aesthetically while achieving functional requirements. The siting of the proposed buildings utilizes a cluster development technique to maintain the character of the hillside and canyon areas and reduce the footprint of the impact area. The Project proposes reduced brush management zones with an alternate compliance design to the brush management zones which utilizes fire walls to further minimize the encroachment and impacts to adjacent ESL. Therefore, the proposed development will be sited and designed to prevent adverse impacts on any adjacent ESL.

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 proposed development conforms to the General Plan and the Rancho Peñasquitos Community Plan as amended. The Project site lies outside of the City's Multi-Habitat Planning Area (MHPA), and therefore, is not required to document compliance with the Multiple Specific Conservation Program (MSCP) Land Use Adjacency Guidelines. The nearest MHPA occurs approximately 0.08 miles (440 feet) from the Project area but is separated from the Project area by Interstate 15 (I-15). Implementation of the Project would result in direct permanent impacts to 4.48-acres, including 3.24-acres of Tier II Diegan coastal sage scrub, 0.03-acres of Tier IV eucalyptus woodland, 0.93-acres of Tier IV urban/developed, and 0.28-acres of Tier

IV disturbed habitat. A total of 9.91-acres of Diegan coastal sage scrub would remain on site following Project implementation. The Project would preserve 4.86-acres of the remaining 9.91-acres of Tier II habitat on-site to mitigate for the Project's direct impacts to Tier II Diegan coastal sage scrub and sensitive species habitat for coastal California gnatcatcher, western bluebird, orange-throated whiptail, and Blainville's horned lizard. In accordance with the City's Environmentally Sensitive Lands (ESL) regulations, the owner/permittee shall be required to convey a COE to be recorded against the title over the remaining ESL areas on the site that are outside the allowable development area. The Project would also comply with the species Area Specific Management Directives (ASMD) developed for certain MSCP covered species as a condition of coverage in the MSCP. The Project is consistent with the City's MSCP guidelines and will include mitigation measures to address any significant impacts.

Based on the field delineation efforts described within the methods section of the Biological Technical Report (Dudek, March 2022), no city, state, or federally defined wetlands occur within the study area. The site currently supports a small drainage swale that is regulated by U.S. Army Corps of Engineers (ACOE), California Department of Fish and Wildlife (CDFW) and Regional Water Quality Control Board (RWQCB). This drainage area does not contain hydric soils and supports upland vegetation (Diegan coastal sage scrub). The drainage does not qualify as a City of San Diego wetland. 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 Project is described in SDP Findings A.1.a., A.1.b. and A.1.c. above, incorporated by reference herein. The proposed Project is located approximately nine miles inland from the Pacific Ocean, public beaches and local shoreline. Additionally, the Del Mar Highlands Estates project site located at 14163 Old El Camino Road (receiving site for the four for-rent affordable housing units) is approximately two miles inland from the Pacific Ocean, public beaches and local shoreline. Therefore, it is unlikely that on-site development at either site will contribute to erosion of public beaches or adversely impact shoreline and sand supply. Moreover, both project sites will incorporate on-site underground detention basin vaults to reduce surface water runoff and reduce water runoff velocities to the extent water runoff might increase downstream siltation and contribute to the erosion of public beaches or adversely impact local shoreline sand supply.

Development of the Project and the Del Mar Highlands Estates 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. A Stormwater Quality Management Plan (SWQMP) that includes storm water construction best management practices (BMPs), ongoing permanent BMP maintenance, on-site biofiltration and hydromodification features, has been developed to maintain natural drainage features and minimize potential impacts to storm drain facilities. Any short-term erosion and sedimentation impacts associated with Project development would be addressed through conformance with applicable elements of the City's storm water program and related National Pollutant Discharge Elimination System (NPDES) standards. Additionally, the Project would implement an approved SWPPP and related plans, and BMPs, including appropriate measures, to address erosion and sedimentation. 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.

EIR No. 658273/SCH No. 2021030038, which incorporates associated technical studies, has been prepared for the Project in accordance with CEQA Guidelines. The EIR determined that the Project would result in potentially significant impacts to Land Use, Transportation/Circulation, Air Quality, Biological Resources, Greenhouse Gas Emissions, and Noise. Implementation of the MMRP would mitigate impacts to Air Quality, Biological Resources and Noise to below a level of significance. The applicant has provided Draft Candidate Findings and Statement of Overriding Considerations to allow the decision-maker to approve the Project with significant and unavoidable impacts to Land Use, Transportation/Circulation and Greenhouse Gas Emissions, as described in the EIR.

The EIR identified impacts to Land Use as it relates to the Project's inconsistency with the City's CAP related to impacts from GHG Emissions. While the Project would incorporate mitigation and CAP measures including VMT reduction measures the Project would continue to generate more emissions than assumed in the CAP, the CAP utilizes the SANDAG growth assumptions to determine the expected City build out GHG emissions. The site is designated as Open Space in the General Plan and the Community Plan therefore, the CAP assumed no development would occur at the site. To meet the assumptions in the CAP, the Project would have to obtain net zero or negative GHG emissions. Therefore, the land use impact and GHG impacts would be significant and unavoidable. As it is a General Plan goal to be consistent with local GHG emission reduction targets, this also results in a conflict with the General Plan.

Additionally, the Project will have a transportation impact because the Project location in census tract 170.18 is above the 85th percentile mean VMT per Capita for the region. Even with implementation of transportation mitigation measures which include: pedestrian improvements; implementation of bike parking, a transit subsidy program, and a commute trip reduction program; and provision of one bicycle per dwelling unit to the first buyer of each unit, the Project would be unable to reduce VMT impacts to less than a significant level, and the Project's contribution to

traffic/VMT in the surrounding area, in addition to that of the Projects in the surrounding area would be cumulatively significant.

The Project would implement mitigation for impacts to sensitive vegetation communities and special-status wildlife species, in accordance with the City's Biological Guidelines. As discussed throughout the EIR, implementation of the Project would result in significant impacts to land use, transportation/circulation, air quality, biological resources, greenhouse gas, and noise. Impacts relative to air quality, biological resources, and noise would be mitigated to below a level of significance with implementation of mitigation measures identified in this EIR. Direct and cumulative impacts related to land use, transportation/circulation, and greenhouse gas would remain significant and unavoidable.

CEQA, Section 21081.6, requires that a mitigation monitoring and reporting program (MMRP) be established upon certification of an EIR. It stipulates that, "the public agency shall adopt a reporting or monitoring program for the changes made to the Project or conditions of Project approval, adopted in order to mitigate or avoid significant effects on the environment. The reporting or monitoring program shall be designed to ensure compliance during Project implementation" (California Public Resources Code, Section 21000 et seq.). This MMRP has been developed in compliance with Section 21081.6 of CEQA and identifies (1) Project design features to reduce the potential for environmental effects; (2) mitigation measures to be implemented prior to, during, and after construction of the Project; (3) the individual/agency responsible for that implementation; and (4) criteria for completion or monitoring of the specific measures. 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. NEIGHBORHOOD DEVELOPMENT PERMIT – SDMC SECTION 126.0404

1. Findings for all Neighborhood Development Permits – SDMC Section 126.0404(a)

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

See SDP Finding A.1.a. above, incorporated by reference herein.

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

See SDP Finding A.1.b. above, incorporated by reference herein.

c. The proposed development will comply with the applicable regulations of the Land Development Code including any allowable deviations pursuant to the Land Development Code.

See SDP Finding A.1.c. above, incorporated by reference herein.

2. Supplemental Findings – Environmentally Sensitive Lands – Section 126.0404(b)

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.

See SDP Supplemental Finding A.2.a. above, incorporated by reference herein.

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

See SDP Supplemental Finding A.2.b. above, incorporated by reference herein.

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

See SDP Supplemental Finding A.2.c. above, incorporated by reference herein.

d. The proposed development will be consistent with the City of San Diego's MSCP Subarea Plan and VPHCP.

See SDP Supplemental Finding A.2.d. above, incorporated by reference herein.

e. The nature and extent of mitigation required as a condition of the permit is reasonably calculated to alleviate negative impacts created by the proposed development.

See SDP Supplemental Finding A.2.f. above, incorporated by reference herein.

3. Supplemental Findings – Environmentally Sensitive Lands Deviations – Section 126.0404(c)

a. There are no feasible measures that can further minimize the potential adverse effects on environmentally sensitive lands.

The Project is described in SDP Findings A.1.a., A.1.b. and A.1.c. above, incorporated by reference herein. The 15.20-acre site consists of approximately 12.77-acres of steep hillsides and 2.43-acres outside steep hillsides. Given the steep slope characteristic of the site, which is outside the MHPA, SDMC Section 143.0142(a)(2) allows development within steep hillsides if necessary to achieve a maximum development area of 25 percent of the premises. The Project site has 16 percent of existing development area thus allowing an additional nine percent of development (encroachment) into the steep hillsides to keep within the 25 percent maximum development area of allowed steep hillsides development. The Project proposes an 11.3 percent of encroachment into steep hillside. Therefore, the Project is requesting a deviation from SDMC Section 143.0142(a)(2) to exceed the 25 percent maximum development area within steep slopes and proposes to develop on 27.3

percent of the steep hillsides within the Project site. Of the 15.20-acre Project site, approximately 3.27-acres are proposed for development.

The special circumstance or condition of the site in support of the additional steep hillside encroachment is that a 0.80-acre area outside of steep hillsides is not contiguous, and access to the entirety of the development area is not otherwise available and the existing development area does not have direct access to a public right-of-way. Access to the 0.80-acre area is limited because the Project is bound by the I-15 freeway and existing homes that limit vehicular access to a single access point at a cul-de-sac on Paseo Montril, which make the 0.80-acre area impractical to access. More specifically, the 0.80-acre area is impractical to access due to the topographical location and fixed boundary constraints that are unable to be modified. It should be noted however that the average grade of the 0.80-acre area inaccessible is 20 percent, and that those areas that are adjacent to steep hillsides may functionally provide an offset in support of the deviation. Additionally, it should be noted that if the deviation for steep hillside impact were not allowed, two buildings would be impacted and the Project would be reduced by 22 housing units, thus decreasing the feasibility of the proposed development. As such, there are no feasible measures that can further minimize the potential adverse effects on environmentally sensitive lands.

b. The deviation requested is the minimum necessary to afford relief from special circumstances or conditions of the land, not of the applicant's making.

The Project is described in SDP Findings A.1.a., A.1.b. and A.1.c. above, and the environmental impacts are described in SDP Supplemental Finding A.2.f., incorporated by reference herein. The Project would implement mitigation for impacts to sensitive vegetation communities and special-status wildlife species, which would mitigate impacts in accordance with the City's Biological Guidelines. As discussed throughout the EIR, implementation of the Project would result in significant impacts to land use, transportation/circulation, air quality, biological resources, greenhouse gas, and noise. Impacts relative to air quality, biological resources, and noise would be mitigated to below a level of significance with implementation of mitigation measures identified in this EIR. Direct and cumulative impacts related to land use, transportation/circulation, and greenhouse gas would remain significant and unavoidable.

CEQA, Section 21081.6, requires that a mitigation monitoring and reporting program (MMRP) be established upon certification of an EIR. It stipulates that, "the public agency shall adopt a reporting or monitoring program for the changes made to the Project or conditions of Project approval, adopted in order to mitigate or avoid significant effects on the environment. The reporting or monitoring program shall be designed to ensure compliance during Project implementation" (California Public Resources Code, Section 21000 et seq.). This MMRP has been developed in compliance with Section 21081.6 of CEQA and identifies (1) Project design features to reduce the potential for environmental effects; (2) mitigation measures to be implemented prior to, during, and after construction of the Project; (3) the individual/agency responsible for that implementation; and (4) criteria for completion

or monitoring of the specific measures. 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.

CEQA requires that EIRs contain an analysis of alternatives to the Project that would avoid or substantially lessen environmental impacts. Section 15126.6(a) of the CEQA Guidelines states that an EIR should "describe a range of reasonable alternatives to the Project, or to the location of the Project, which would feasibly attain most of the basic objectives of the Project but would avoid or substantially lessen any of the significant effects of the Project and evaluate the comparative merits of the alternatives" (14 CCR 15000 et seq.). The selection of alternatives is governed by a "rule of reason" that requires an EIR to evaluate only those alternatives necessary to permit a reasoned choice (Section 15126.6(f)). The EIR should identify any alternatives that were considered by the lead agency but were rejected as infeasible during the scoping process and briefly explain the reasons for that determination (Section 15126.6(c)).

Per CEQA Guidelines, Sections 15126.6 (b) and (c), the focus of the alternatives analysis is to determine (1) whether alternatives are capable of avoiding or substantially lessening the significant environmental effects of the Project, (2) the feasibility of alternatives, and (3) whether an alternative meet all or most of the basic Project objectives. The EIR focused on those alternatives that are capable of reducing or eliminating significant environmental impacts, even if they would impede the attainment of some Project objectives or would be more costly. In accordance with Section 15126.6 (f)(1) of the CEQA Guidelines, the factors that may be taken into account when addressing the feasibility of alternatives are site suitability; economic viability; availability of infrastructure; general plan consistency; other plans or regulatory limitations; jurisdictional boundaries; and whether the Project proponent can reasonably acquire, control, or otherwise have access to an alternative site. The EIR analyzed various Project alternatives and evaluated the comparative merits of the alternatives. Therefore, the deviations requested are the minimum necessary to afford relief from special circumstances or conditions of the land, not of the applicant's making.

4. Supplemental Findings – Affordable Housing, In-Fill Projects, or Sustainable Buildings Deviation – Section 126.0404(f)

a. The development will materially assist in accomplishing the goal of providing affordable housing, in-fill projects, or sustainable buildings opportunities.

The Project is described in SDP Findings A.1.a., A.1.b. and A.1.c. above, incorporated by reference herein. The General Plan designates the Project site for Park, Open Space and Recreation uses and the Rancho Peñasquitos Community Plan designates the Project site as Open Space. The Project includes a General Plan Amendment to redesignate portions of the Project site from "Park, Open Space and Recreation" to "Residential" and an Amendment to the Rancho Peñasquitos Community Plan to redesignate a portion of the from "Open Space" to "Residential

(Medium-Low Density)” to allow for multi-family residential use. The Project also proposes to rezone a portion of the site, proposed as Lot 1, that is RS-1-14 (Residential-Single Unit) and RM-2-5 (Residential-Multiple Unit) to RM-1-1 (Residential-Multiple Unit); and a portion of the site, proposed as Lot 2, that is RM-2-5 (Residential-Multiple Unit) to OC-1-1 (Open Space – Conservation).

The purpose of the Affordable Housing, In-Fill Projects, and Sustainable Buildings Development Regulations is to provide flexibility in the application of development regulations for qualifying project types while assuring that development achieves the purpose and intent of the applicable land use plan. Maximizing housing within this development site furthers the General Plan and Rancho Peñasquitos Community Plan goals and policies related to the provision of housing. The Project would have a residential density of 11.2 dwelling units per acre (du/ac) which is in conformance with the density regulation of the proposed RM-1-1 zone designation which permits a maximum density of 1 dwelling unit for each 3,000 square feet of lot area which would permit a maximum of 71 dwelling units for the proposed residential lot (Lot 1). The proposed 55 dwelling units fall within this RM-1-1 density range and would be consistent with the proposed Medium-Low Residential density designation of the Rancho Peñasquitos Community Plan.

The Project will provide 55 multi-family dwelling units that will help to meet the need for moderate-income housing by providing condominium dwelling units which provides a natural entry level opportunity for home ownership. Additionally, the Project includes 10-percent affordable housing as a condition of the Project, the affordable dwelling units would consist of two dwelling units provided on-site and four dwelling units provided off-site at Del Mar Highlands Estates project site. The two for-sale on-site condominium units shall be restricted to median income households at 100-percent of area median income (AMI) and the four off-site rental units shall be rent restricted to low-income households at 60-percent of area median income (AMI) for a period of not less than 55-years.

The San Diego Housing Commission has begun to address the need for additional housing in their San Diego Housing Production Objectives 2018-2028 report. The report states that the City of San Diego has the housing potential to fulfill its 10-year housing need if all of its capacity sources, including rezoning to increase density around transit hubs and the re-development of underutilized parcels of land, are fully utilized (San Diego Housing Production Objectives 2018 – 2028, Page 10). The Project would aid in closing the gap in rising housing demand in the San Diego and assist in meeting the regional housing needs allocation. Furthermore, the Project would provide sustainable features consistent with the requirements of the City of San Diego Climate Action Plan (CAP) checklist and shall be in conformance with the mandatory measures of the California Green Building Standards Code (CGBSC). Therefore, the development will materially assist in accomplishing the goal of providing affordable housing, in-fill projects, or sustainable buildings opportunities.

b. Any proposed deviations are appropriate for the proposed location.

The Project is described in SDP Findings A.1.a., A.1.b., and A.1.c. above, incorporated by reference herein. The Project site is within Views neighborhood of the Rancho Peñasquitos Community Plan area. Existing surrounding development includes commercial development to the south and west of the site, and residential development is north of the Project site with the I-15 to the east of the Project site.

The Project requests six deviations described in SDP Finding A.1.c., incorporated by reference herein. The purpose of the Affordable Housing, In-Fill Projects, and Sustainable Buildings Development Regulations is to provide flexibility in the application of development regulations for qualifying project types while assuring that development achieves the purpose and intent of the applicable land use plan. Maximizing housing within this development site furthers the General Plan and Rancho Peñasquitos Community Plan goals and policies related to the provision of housing. The requested deviations are a result of the existing topography and the location of the proposed development area within the Project site, and the requested deviations would facilitate development of the site. The reduced setbacks, development encroachment into steep hillsides, Increased building height, and the increased retaining wall height allows the proposed development to meet the Rancho Peñasquitos Community Plan design guideline objectives of providing diverse housing opportunities for a variety of household types and income levels, while meeting conservation goals for environmentally sensitive lands by reducing the development footprint and maximizing the health, safety and welfare of the community. The proposed deviations would allow for a more efficient design layout that maximizes the utility of the development area. Variation in the articulation of the buildings would be consistent with the characteristics of the existing Views neighborhood and the policies of the Rancho Peñasquitos Community Plan which include preservation of significant natural features including hillsides and the use of high-quality design and materials for buildings and the overall site design.

Each of the requested deviations have been reviewed by City Staff as they relate to the proposed Project and the impact to the surrounding neighborhood. The requested deviations are appropriate and will result in a project that efficiently utilizes the subject property and provides housing for a diverse and mixed population, housing near major transit stops and stations, and develop resource-efficient development located near employment, shopping, schools, recreation, and walking/bicycling infrastructure, in conformance with the goals and policies of the Rancho Peñasquitos Community Plan and the General Plan's Housing Element. The Project will also assist in providing affordable and market-rate housing opportunities. Therefore, the proposed deviations are appropriate for the proposed location.

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. 2416738 and Neighborhood Development Permit No. 2513173 is granted to, TRI POINTE HOMES, a California Corporation, Owner/Permittee, under the terms and conditions set forth in the attached permit, which is made a part of this resolution, contingent upon final passage of San Diego Resolution R- **314560** approving amendments to the General Plan and Rancho Peñasquitos Community Plan and San Diego O- **21608** rezoning a portion of the Project site to the RM-1-1 (Lot 1) and OC-1-1 (Lot 2).

APPROVED: MARA W. ELLIOTT, City Attorney

By /s/ Corrine L. Neuffer
Corrine L. Neuffer
Chief Deputy City Attorney

CLN:nsf:cm
December 15, 2022
Or.Dept: DSD
Doc. No. 3167474

**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: 24007662

SPACE ABOVE THIS LINE FOR RECORDER'S USE

**SITE DEVELOPMENT PERMIT NO. 2416738
NEIGHBORHOOD DEVELOPMENT PERMIT NO. 2513173
PASEO MONTRIL - PROJECT NO. 658273 [MMRP]
CITY COUNCIL**

This Site Development Permit No. 2416738 and Neighborhood Development Permit No. 2513173 is granted by the City of Council of the City of San Diego to TRI POINTE HOMES, a California Corporation, Owner and Permittee, pursuant to San Diego Municipal Code [SDMC] Sections 126.0501, 126.0402, 143.0110, and 143.0920. The 15.20-acre site is located at east end of Paseo Montril, west of interstate 15, and east of Rancho Peñasquitos Boulevard in the RM-2-5 and RS-1-14 zone(s) of the Rancho Penasquitos Community Plan area. The project site is legally described as that portion of Rancho Los Peñasquitos, in the City of San Diego, County of San Diego, State of California, according to map thereof accompanying the patent of said ranch recorded in the office of the County Recorder of San Diego County in book 2, page 385 of patents, described as follows: beginning at the most easterly corner of Lot 371 of Peñasquitos view unit No. 3, according to map No. 6859; thence along the easterly boundary thereof north 23°55'06" west 778.86 feet to a point on the southerly boundary of Peñasquitos view unit No. 1, according to map No. 6654; thence along the southerly boundary thereof north 66°04'54" east 275.16 feet; thence north 12°38'22" west 400.00 feet; thence north 77°21'38" east 640.00 feet to the southeast corner thereof, said point also being an angle point in the southwest boundary of Lot 11 of sun ridge vista unit No. 1, according to map No. 11924; thence along the boundary of said Lot 11, south 60°26'12" east 288.59 feet to the most southerly corner thereof, said point also being on the northwest line of interstate 15 (XI-SD-15) as described in the lis pendens recorded January 17, 1964 as instrument No. 10305, and the amended lis pendens recorded August 03, 1965 as instrument No. 139001, both of official records; thence along said line south 25°19'51" west 534.85 feet, more or less, to an angle point thereon; thence south 39°12'51" west 534.40 feet; thence south 14°08'26" west 283.79 feet; thence south 66°11'51" west 95.91 feet to the point of beginning. Except therefrom all that portion described as follows: beginning at the intersection of the northeasterly line of Lot 371 of Peñasquitos view unit No. 3, according to map No. 6859 filed in the office of the County Recorder, with that course on the northwesterly line of state highway XI-SD-395 described in parcel 2A as "north 66°11'50" east, 253.03 feet" in final order of condemnation recorded June 26, 1967 as instrument No. 92316 of official records; thence along the northwesterly and westerly line of said state highway the following numbered courses: (1) north 66°11'50" east 95.91 feet; thence (2) north 14°08'26" east 283.77 feet; thence (3) north 39°12'22" east, 211.24 feet; thence (4) leaving said state highway northwesterly line

south 71°35'16" west, 195.73 feet; thence (5) south 15°36'46" west, 294.70 feet; thence (6) south 65°20'54" west, 86.83 feet to said northeasterly line of Lot 371 of Peñasquitos view unit No. 3; thence (7) along said northeasterly line south 23°55'06" east, 108.15 feet to the point of beginning, in the City of San Diego, County of San Diego, State of California.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee to for the construction of 55 residential condominium units described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated JAN 09 2023 on file in the Development Services Department.

The project shall include:

- a. The construction of 55 multi-family homes consisting of one-to-three-bedroom dwelling units with private garages. The project would provide 10-percent of the total dwelling units as affordable housing dwelling units, which would consist of two on-site for-sale dwelling units and four off-site for-rent dwelling units at the Del Mar Highlands Estates development which is currently under construction and located at 14163 Old El Camino Real within the Pacific Highlands Ranch Subarea Plan. The two for-sale on-site condominium units shall be restricted to median income households at 100-percent of area median income (AMI) and the four off-site rental units shall be rent restricted to low-income households at 60-percent of area median income (AMI) for a period of not less than 55-years;
- b. The following allowable deviations from the development regulations of the Land Development Code:
 - i. A deviation from San Diego Municipal Code (SDMC) Section 131.0443, Table 131-04G allowing for a reduction in the standard side yard setback to 10-feet where the greater of eight-feet or 10-percent of lot width is required;
 - ii. A deviation from SDMC Section 131.0443, Table 131-04G allowing for a reduction in the minimum front yard setback to 11-feet where 15-feet are required;
 - iii. A deviation from SDMC Section 131.0443, Table 131-04G allowing for a reduction in the standard front yard setback to 19-feet where 20-feet are required;
 - iv. A deviation from SDMC Section 131.0443, Table 131-04G for maximum structure height where the maximum structure height is 30-feet and proposed maximum structure height is 40-feet;
 - v. A deviation from SDMC Section 143.0142(a)(2) for steep hillside guidelines to allow development on 27.3-percent of the premises where development is to occur on portions of the premises without steep hillsides, except development is permitted in steep slopes outside of MHPA and costal overlay zone, to allow for a maximum of 25-percent of the premises

- vi. A deviation from SDMC Section 142.0340(e) allowing for an increase in the maximum retaining wall height outside of required yards to 26-feet where a maximum retaining wall height outside of required yards shall not exceed 12-feet in height;
- c. A covenant of easement (COE) for on-site Environmentally Sensitive Lands (ESL);
- d. The vacation of a Public Service Utilities Easement for existing sewer facilities;
- e. Landscaping (planting, irrigation and landscape related improvements);
- f. Off-street parking;
- g. 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 January 10, 2026.
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 are prohibited unless appropriate application(s) or amendment(s) to this Permit have been granted.
9. All 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 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] shall apply to this Permit. These MMRP conditions are hereby incorporated into this Permit by reference.
12. The mitigation measures specified in the MMRP and outlined in Environmental Impact Report (EIR) No. 658273/SCH No. 2021030038, shall be noted on the construction plans and specifications under the heading ENVIRONMENTAL MITIGATION REQUIREMENTS.
13. The Owner/Permittee shall comply with the MMRP as specified in Environmental Impact Report (EIR) No. 658273/SCH No. 2021030038, to the satisfaction of the Development Services Department and the City Engineer. Prior to issuance of any construction permit, all conditions of the MMRP shall be adhered to, to the satisfaction of the City Engineer. All mitigation measures described in the MMRP shall be implemented for the following issue areas:
 - Air Quality
 - Biological Resources
 - Noise
 - Land Use
 - Greenhouse Gas Emissions
 - Transportation/Circulation

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.

AFFORDABLE HOUSING REQUIREMENTS:

15. Prior to the issuance of any building permits associated with this Project, the Owner/Permittee shall demonstrate compliance with provisions of the Inclusionary Affordable Housing Regulations of SDMC Chapter 14, Article 2, Division 13 and the Inclusionary Housing Procedures Manual.
16. Prior to issuance of any building permit associated with this Project, the Owner/Permittee shall enter into a written Agreement with the San Diego Housing Commission which shall be drafted and approved by the San Diego Housing Commission, executed by the Owner/Permittee, and secured by a deed of trust which incorporates applicable affordability conditions consistent with

the SDMC. The Agreement will specify that in exchange for the City's approval of the Project, the Owner/Permittee shall secure by a deed of trust for this Project site and the Del Mar Highlands Estates project site the provision of six affordable units, including two on-site affordable dwelling units and four off-site affordable dwelling units to be located within the Del Mar Highlands Estates project. The two for-sale on-site condominium units shall be restricted to median income households at 100-percent of area median income (AMI) and the four off-site rental units shall be rent restricted to low-income households at 60-percent of area median income (AMI) for a period of not less than 55-years. If providing units at an off-site location, the project shall comply with Section VII of the Inclusionary Housing Procedures Manual.

17. The timing of the construction and occupancy of the Project, acceptable to the San Diego Housing Commission, shall be included in the Agreement, provided that such timing shall comply with the following:
 - a. Issuance of building permits for the four required off-site affordable dwelling units located at Del Mar Highlands Estates shall occur on or before the issuance of the first building permit for the construction of habitable structures for this Project.
 - b. Completion of construction of the affordable dwelling units shall occur not later than eighteen (18) months after the issuance of the first building permit for the construction of habitable structures for this Project.
 - c. A Certificate of Occupancy for the affordable dwelling units shall occur not later than fifty-four (54) months from the issuance of the first building permit for the construction of habitable structures for this Project in conformance with SDMC Section 142.1304(5)(B)(i).
 - d. For a good cause shown to the satisfaction of the President and CEO of the San Diego Housing Commission, or her/his designee, the thresholds and dates referenced herein may be adjusted and/or extended one or more times. Good cause shall include, but not be limited to, Acts of God, labor strikes, war, riots, etc., as shall be determined by the President and CEO of the San Diego Housing Commission, or her/his designee, in her/his sole discretion.

ENGINEERING REQUIREMENTS:

18. The Site Development Permit No. 2416738 and Neighborhood Development Permit No. 2513173 shall comply with all Conditions of the Final Map for Vesting Tentative Map No. 2416742.
19. Prior to the issuance of any building permit, the Owner/Permittee shall assure by permit and bond the closure of the existing non-utilized driveway and the construction of a 25-foot wide City standard driveway, adjacent to the site on Paseo Montril, satisfactory to the City Engineer.
20. Prior to the issuance of any building permit, the Owner/Permittee shall assure by permit and bond the reconstruction of City standard curb and gutter, adjacent to the site on Paseo Montril, satisfactory to the City Engineer.

21. Prior to the issuance of any building permit, the Owner/Permittee shall assure by permit and bond the construction of City Standard Non-contiguous sidewalk, adjacent to the site on Paseo Montril, satisfactory to the City Engineer.
22. Prior to the issuance of any building permit, the Owner/Permittee shall obtain an Encroachment Maintenance Removal Agreement for the curb-outlet, private storm drain systems, landscape and irrigation located in the City's right-of-way, satisfactory to the City Engineer.

GEOLOGY

23. The Owner/Permittee shall submit a geotechnical investigation report or update letter 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.
24. 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 exoneration of the bond and grading permit close-out.

LANDSCAPE REQUIREMENTS:

25. Prior to issuance of any grading permit, the Owner/Permittee shall submit complete construction documents for the revegetation and hydro-seeding of all disturbed land in accordance with the City of San Diego Landscape Standards, Storm Water Design Manual, and to the satisfaction of the Development Services Department. All plans shall be in substantial conformance to this permit (including Environmental conditions) and Exhibit "A," on file in the Development Services Department.
26. 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.
27. Prior to issuance of any building permit (including shell), the Owner/Permittee shall submit complete landscape and irrigation construction documents, which are consistent with the Landscape Standards, to the Development Services Department for approval. The construction documents shall be in substantial conformance with Exhibit "A," Landscape Development Plan, on file in the Development Services Department. Construction plans shall provide a 40-square-foot area around each tree that is unencumbered by hardscape and utilities unless otherwise approved per SDMC section 142.0403(b)6.
28. 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.

29. 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.

BRUSH MANAGEMENT PROGRAM REQUIREMENTS:

30. The Owner/Permittee shall implement the brush management requirements in accordance with the Brush Management Program shown on Exhibit "A" on file with the Development Services Department.
31. The Brush Management Program shall be based on a standard Zone One of 35-ft. in width and a Zone Two of 65-ft. in width, exercising the Zone Two reduction option and Alternative Compliance measures set forth under SDMC Sections 142.0412(f), 142.0412(i), and 142.0412(j). Zone One shall range from 39-ft. to 61-ft. in width with a corresponding Zone Two of 0-ft. to 42-ft. in width, extending out from the habitable structures towards the native/naturalized vegetation as shown on Exhibit "A."
32. Where the full brush management zones cannot be provided alternative compliance measures set forth under SDMC Section 142.0412(i) shall be implemented in accordance with the Brush Management Program shown on Exhibit "A" on file with the Development Services Department to include a radiant heat wall (1-hour fire rated construction) constructed and located along the outer edge of Zone One and upgraded openings consisting of dual-glazed and dual-tempered panes along the brush side of the structure plus a 10-foot perpendicular return along adjacent wall faces, subject to Deputy Fire Marshal's approval.
33. Prior to Issuance of any grading permit, 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."
34. 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 approval to the Development Services Department and shall be in substantial conformance with Exhibit "A" on San Diego's Landscape Regulations and the Landscape Standards.
35. 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 Type IV heavy timber construction may be approved within the designated Zone One area subject to Fire Marshal's approval.

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

PLANNING/DESIGN REQUIREMENTS:

37. A topographical survey conforming to the provisions of the SDMC may be required if it is determined by the field inspector, 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.
38. Prior to the issuance of any building permits, the Owner/Permittee shall execute and record a Covenant of Easement to the benefit of the City and satisfactory to the City Engineer, 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 and Steep Hillside, 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."
39. All signs associated with this Project shall be consistent with sign criteria established by either the approved Exhibit "A" or City-wide sign regulations.
40. 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

41. The automobile, motorcycle and bicycle parking spaces must be constructed in accordance with the requirements of the SDMC. All on-site parking stalls and aisle widths shall be in compliance with requirements of the City's Land Development Code and shall not be converted and/or utilized for any other purpose, unless otherwise authorized in writing authorized by the appropriate City decision maker in accordance with the SDMC.
42. Prior to the issuance of any building permits, the Owner/Permittee shall assure by permit and bond the construction of a new 25-foot driveway, along the Paseo Montrail cul-de-sac bulb adjacent to the project site, satisfactory to the City Engineer.
43. Prior to the issuance of any building permits, the Owner/Permittee shall assure by permit and bond the re-construction of the cul-de-sac bulb at the eastern terminus of Paseo Montrail on the project frontage, including City Standard curb, gutter and non-contiguous sidewalk around the cul-de-sac, satisfactory to the City Engineer.
44. Prior to the issuance of any building permits, the Owner/Permittee shall assure by permit and bond the repair or replacement of sidewalk on the south side of Paseo Montrail from the project site to Rancho Penasquitos Boulevard to City Standard and clear any overgrown vegetation on the sidewalk, satisfactory to the City Engineer.

45. The Owner/Permittee shall provide a transit pass subsidy of 25-percent of the cost of a monthly MTS transit pass to all tenants for a period of five-years after first occupancy, satisfactory to the City Engineer.
46. The Owner/Permittee will provide the following Vehicle Miles Traveled (VMT) reduction measures, satisfactory to the City Engineer (when applicable):
 - a. Commute Trip Reduction Program. Prior to first occupancy, the Owner/Permittee shall develop and implement a commute trip reduction program that requires each homeowner and tenant to be provided with a one-page flyer every year that provides information regarding available transit, designated bicycle routes, local bicycle groups and programs, local walking routes and programs, and rideshare programs.
 - b. Prior to the first occupancy, the Owner/Permittee shall provide 10 short-term bike parking spaces on site.
 - c. Prior to first occupancy, the Owner/Permittee shall provide one bicycle per unit to the first buyer of each unit.

PUBLIC UTILITIES DEPARTMENT REQUIREMENTS:

47. Prior to the issuance of any construction permit, the Owner/Permittee shall assure, by permit and bond the design and construction of a 12-inch public water main within Paseo Montrail right-of-way as shown on the approved Exhibit "A", in a manner satisfactory to the Public Utilities Director and the City Engineer.
48. Prior to the issuance of any building permits, the Owner/Permittee shall submit a Deviation from Standards request for the dual water mains in the Paseo Montrail right-of-way as shown on the approved Exhibit "A", in a manner satisfactory to the Public Utilities Director and the City Engineer.
49. Prior to the Issuance of any building permits, the Owner/Permittee shall assure, by permit and bond, the design and construction of new water and sewer service(s) outside of any driveway or drive aisle and the abandonment of any existing unused water and sewer services within the public right-of-way adjacent to the project site, in a manner satisfactory to the Public Utilities Director and the City Engineer.
50. 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.
51. Prior to the issuance of any building permits, the Owner/Permittee shall obtain an Encroachment Maintenance Removal Agreement, from the City Engineer, for the private sewer facility encroaching in the public sewer easement.

52. Owner/Permittee shall design and construct all proposed private water and sewer facilities located within a single lot to meet the requirements of the California Plumbing Code and will be reviewed as part of the building permit plan check.
53. The Owner/Permittee shall be responsible for any damage caused to City of San Diego water and sewer facilities within the vicinity of the project site, due to the construction activities associated with this project, in accordance with Municipal Code section 142.0607. In the event that any such facility loses integrity then, the Owner/Permittee shall repair or reconstruct any damaged public water and sewer facility in a manner satisfactory to the Public Utilities Director and the City Engineer.
54. 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 in a manner satisfactory to the Public Utilities Director and the City Engineer.
55. Prior to final inspection, the Owner/Permittee shall ensure that all public water and sewer facilities are complete and operational in a manner satisfactory to the Public Utilities Director and the City Engineer.
56. The Owner/Permittee shall design and construct all proposed public water and sewer facilities, in accordance with established criteria in the current edition of the City of San Diego Water and Sewer Facility Design Guidelines and City regulations, standards and practices.

WASTE MANAGEMENT PLAN REQUIREMENTS:

57. The Owner/Permittee shall comply with the Waste Management Plan dated February 2021 and shall be enforced and implemented to the satisfaction of the Environmental Services Department.

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 JAN 09 2023.

AUTHENTICATED BY THE CITY OF SAN DIEGO DEVELOPMENT SERVICES DEPARTMENT

Martin Mendez
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.**

Tri Pointe Homes
Owner/Permittee

By _____
Jimmy Ayala
Division President

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

Passed by the Council of The City of San Diego on JAN 09 2023, 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 type="checkbox"/>	<input type="checkbox"/>	<input checked="" 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"/>
Kent Lee	<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 checked="" type="checkbox"/>	<input type="checkbox"/>	<input 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 JAN 09 2023.

(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:

TODD GLORIA

Mayor of The City of San Diego, California.

(Seal)

ELIZABETH S. MALAND

City Clerk of The City of San Diego, California.

By Connie Patterson, Deputy

Office of the City Clerk, San Diego, California

Resolution Number R- **314561**