

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

THE ORIGINAL OF THIS DOCUMENT
WAS RECORDED ON JAN 13, 2009
DOCUMENT NUMBER 2009-0015228
DAVID L. BUTLER, COUNTY RECORDER
SAN DIEGO COUNTY RECORDER'S OFFICE
TIME: 11:41 AM

WHEN RECORDED MAIL TO
CITY CLERK
MAIL STATION 2A

SPACE ABOVE THIS LINE FOR RECORDER'S USE

JOB ORDER NUMBER 42-6098

SITE DEVELOPMENT PERMIT NO. 320732
OCEAN VIEW VILLAGE – PROJECT NO 96580 [MMRP]
CITY COUNCIL

This Site Development Permit No. 320732 is granted by the City Council of the City of San Diego to Melvyn V. Ingalls, Owner/Permittee, pursuant to San Diego Municipal Code [SDMC] sections 126.0504.a., 126.504.b. and 126.0504.m. The 10.4 acre site is located at 996 Otay Valley Road in the AR-1-1 Zone (proposed RM-2-4, CN-1-2 and IL-2-1), Airport Influence Area, and Airport Environs Overlay Zone of the Otay Mesa Community Plan. The project site is legally described as the southeast quarter of the southwest quarter of the northeast quarter of Section 29, Township 18 South, Range 1 West, San Bernardino Meridian, County of San Diego.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee for phased construction of a mixed use development for 143 residential units which includes 15 affordable units, 40 commercial units and 24 industrial units, described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated December 1, 2008, on file in the Development Services Department.

The project shall include:

- a. Demolition of an existing auto dismantling facility;
- b. Grading and construction for one hundred forty three (143) residential units in twenty three 3-story buildings totaling 224,381 square feet, forty (40) commercial units in one 2-story building totaling 40,678 square feet, and twenty four (24) industrial units in two one-story buildings totaling 37,850 square feet;
- c. Two (2) Phased Development: The first phase includes 107 multi-family residential units; the second phase includes 36 multi-family dwelling units, and the commercial and industrial buildings;

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- d. Fifteen (15) of the residential units are designated as for rent or for sale affordable housing units per the Affordable Housing Requirements of the City's Inclusionary Housing Ordinance;
- e. Seven (7) Deviations: 1. To allow a front yard setback ranging from 5 inches to 11 feet 8 inches for 70% of the building envelope in the RM-2-4 Zone, where a 15 and 20 foot setback would be required for 50% of the building envelope, respectively; 2. To allow a side yard setback ranging from 8 inches to 37 feet 3 inches in the RM-2-4 Zone, where a 39 foot setback would be required; 3. To allow a zero street frontage in the IL-2-1 Zone, where 75 feet would be required; 4. To allow a variable drive aisle driveway width ranging from 26 to 30 feet 3 inches, where a 20 foot minimum and 25 foot maximum would be required per SDMC Table 412-05L; 5. To allow a variable upper retaining wall height in the side and rear yard ranging from 6 to 12 feet with a distance of 5 feet from the lower wall, where a maximum height of 6 feet would be required per SDMC 142.0340(d)(1); 6. To allow zero residential off street loading spaces, where 2 would be required per SDMC Table 142-10B; and 7. To allow a maximum building height of 31 feet 1 inch in the CN Zone, where 30 feet would be required;
- f. Landscaping (planting, irrigation and landscape related improvements);
- g. Off-street parking; and
- h. Accessory improvements determined by the Development Services Department to be consistent with the land use and development standards in effect for this site per the adopted community plan, California Environmental Quality Act Guidelines, public and private improvement requirements of the City Engineer, the underlying zone(s), conditions of this Permit, and any other applicable regulations of the SDMC in effect for this site.

STANDARD REQUIREMENTS:

- 1. This permit must be utilized within thirty-six (36) months after the date on which all rights of appeal have expired. Failure to utilize and maintain utilization of this permit as described in the SDMC will automatically void the permit unless an Extension of Time has been granted. Any such Extension of Time must meet all SDMC requirements and applicable guidelines in affect at the time the extension is considered by the appropriate decision maker.
- 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

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- b. The Permit is recorded in the Office of the San Diego County Recorder.
3. Unless this Permit has been revoked by the City of San Diego the property included by reference within this Permit shall be used only for the purposes and under the terms and conditions set forth in this Permit unless otherwise authorized by the Development Services Department.
4. This Permit is a covenant running with the subject property and shall be binding upon the Owner/Permittee and any successor or successors, and the interests of any successor shall be subject to each and every condition set out in this Permit and all referenced documents.
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 modifications to the building and site improvements to comply with applicable building, fire, mechanical and plumbing codes and State law requiring access for disabled people may be required.
8. Construction plans shall be in substantial conformity to Exhibit "A." No changes, modifications or alterations shall be made unless appropriate application(s) or amendment(s) to this Permit have been granted.
9. All of the conditions contained in this Permit have been considered and have been determined to be necessary in order to make the findings required for this Permit. It is the intent of the City that the holder of this Permit be required to comply with each and every condition in order to be afforded the special rights which the holder of the Permit is entitled as a result of obtaining this Permit.

In the event that 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 applicant shall defend, indemnify, and hold harmless the City, its agents, officers, and employees from any and all claims, actions, proceedings, damages,

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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 applicant of any claim, action, or proceeding and, if the City should fail to cooperate fully in the defense, the applicant 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, applicant 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 applicant 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 applicant shall not be required to pay or perform any settlement unless such settlement is approved by applicant.

11. This Permit may be developed in phases. Each phase shall be constructed prior to sale or lease to individual owners or tenants to ensure that all development is consistent with the conditions and exhibits approved for each respective phase per the approved Exhibit "A."

ENVIRONMENTAL/MITIGATION REQUIREMENTS:

12. Mitigation requirements are tied to the environmental document, specifically the Mitigation, Monitoring, and Reporting Program (MMRP). These MMRP conditions are incorporated into the permit by reference or authorization for the project.

13. The mitigation measures specified in the Mitigation Monitoring and Reporting Program, and outlined in the Addendum to Environmental Impact Report No. 98-0189, No. 96580, shall be noted on the construction plans and specifications under the heading ENVIRONMENTAL/MITIGATION REQUIREMENTS.

14. The Owner/Permittee shall comply with the Mitigation, Monitoring, and Reporting Program (MMRP) as specified in the Addendum to Environmental Impact Report No. 98-0189, No. 96580, satisfactory to the Development Services Department and the City Engineer. Prior to issuance of the first grading permit, all conditions of the MMRP shall be adhered to, to the satisfaction of the City Engineer. All mitigation measures as specifically outlined in the MMRP shall be implemented for the following issue areas:

Transportation/Circulation, Biological Resources, Historical Resources (Archaeology), Landform Alteration/Visual Quality, Human Health and Public Safety (Hazardous Materials) and Noise.

15. Prior to issuance of any construction permit, the Owner/Permittee shall pay the Long Term Monitoring Fee in accordance with the Development Services Fee Schedule

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to cover the City's costs associated with implementation of permit compliance monitoring.

AFFORDABLE & SUSTAINABLE HOUSING REQUIREMENTS:

16. Prior to issuance of building permits for any residential building, the Owner/Permittee or Subsequent Owner shall submit a letter from the "Certified Green Point Rater" stating that the construction drawings are in accordance with a Green Point Rated Home (50 points minimum) based on the Build it Green program, to the satisfaction of the Development Services Department.

17. The project is subject to the Inclusionary Housing Ordinance (Chapter 14, Article 2, Division 13 of the Land Development Code). To meet the requirements of the Inclusionary Housing Ordinance, the applicant shall provide at least 10% of the units as affordable housing; (a) rents affordable to households earning no more than 65% of Area Median Income (AMI) for a period of 55 years, or b) sales prices affordable to households earning no more than 100% of AMI. Prior to receiving the first residential building permit, the Owner/Permittee shall enter into an agreement with the San Diego Housing Commission to assure that the affordable units are built and occupied by eligible households.

ENGINEERING REQUIREMENTS:

18. The Permit shall comply with the conditions of Vesting Tentative Map No. 314829 and the Final Map.

LANDSCAPE REQUIREMENTS:

19. All landscape irrigation construction plans, details and notes shall demonstrate the installation of an acceptable reclaimed water irrigation system and the installation of all purple pipe connections for future reclaimed water irrigation service. At the time that reclaimed water service becomes available at the site, the Permittee or Subsequent Owner shall demonstrate that the reclaimed water (i.e. purple pipes) for landscaping is consistent with the City of San Diego's Reclaimed Water Program and the Land Development Manual, Landscape Standards which are effective at the time of installation of purple pipe. The Permittee or Subsequent Owner shall be responsible for obtaining all required approvals and inspections necessary for connecting the irrigation system to the future reclaimed water supply within one year of the reclaimed water service becoming available at the site.

20. Prior to issuance of any construction permits for grading, the Owner/Permittee or Subsequent Owner shall submit landscape construction documents for the revegetation and hydroseeding of all disturbed land in accordance with the Land Development Manual Landscape Standards and to the satisfaction of the Development Services Department. All plans shall be in substantial conformance to this permit (including Environmental conditions) and Exhibit "A" on file in the Office of the Development Services Department.

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21. Prior to issuance of any construction permits for public right-of-way improvements, the Owner/Permittee or Subsequent Owner shall submit complete landscape construction documents for right-of-way improvements to the Development Services Department for approval. Improvement plans shall take into account 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.
22. Prior to issuance of any construction permits for buildings, the Owner/Permittee or Subsequent Owner shall submit complete landscape and irrigation construction documents consistent with the Land Development Manual Landscape Standards to the Development Services Department for approval. The construction documents shall be in substantial conformance with Exhibit "A," Landscape Development Plan, on file in the Office of the Development Services Department. Construction plans shall take into account a 40 square foot area around each tree.
23. Prior to issuance of any Certificate of Occupancy, it shall be the responsibility of the Owner/Permittee or Subsequent Owner to install all required landscape and obtain all required landscape inspections. A "No Fee" Street Tree Permit shall be obtained for the installation, establishment, and on-going maintenance of all street trees.
24. The Owner/Permittee or Subsequent Owner shall maintain all landscape in a disease, weed and litter free condition at all times. Severe pruning or "topping" of trees is not permitted. The trees shall be maintained in a safe manner to allow each tree to grow to its mature height and spread.
25. The Owner/Permittee or Subsequent Owner shall be responsible for the maintenance of all landscape improvements in the right-of-way consistent with the Land Development Manual Landscape Standards unless long-term maintenance of said landscaping will be the responsibility of a Landscape Maintenance District or other approved entity. In this case, a Landscape Maintenance Agreement shall be submitted for review by a Landscape Planner.
26. If any required landscape (including existing or new plantings, hardscape, landscape features, etc.) indicated on the approved construction document plans is damaged or removed during demolition or construction, the Owner/Permittee or Subsequent Owner is responsible to repair and/or replace any landscape in kind and equivalent size per the approved documents to the satisfaction of the Development Services Department within 30 days of damage or prior to a Certificate of Occupancy.
27. The Owner/Permittee or Subsequent Owner shall ensure that all proposed landscaping, especially landscaping adjacent to native habitat, shall not include exotic plant species that may be invasive to native habitats. Plant species found within the California Invasive Plant Council's (Cal-IPC) Invasive Plant Inventory and the City of San Diego's Land Development Manual Landscape Standards are prohibited.

ORIGINAL

BRUSH MANAGEMENT PROGRAM REQUIREMENTS:

28. Prior to issuance of Grading or Building Permits for Phase One, a "Recorded Easement(s)" shall be granted by the adjacent property owner(s) to the owner of the subject property to establish and maintain Brush Management Zone 2 on the adjacent northern and northeastern property(s) in perpetuity per Section 142.0412(c) of the Land Development Code.

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

30. Prior to issuance of any construction permits for Grading, Landscape Construction Documents required for the construction permit shall be submitted showing the Brush Management Zones on the property in substantial conformance with Exhibit "A."

31. Prior to issuance of any construction permits, a complete set of Brush Management Construction Documents shall be submitted for approval to the Development Services Department and the Fire Marshall. The construction documents shall be in substantial conformance with Exhibit "A" and shall comply with the Uniform Fire Code, M.C. 55.0101; the Land Development Manual, Landscape Standards; and the Land Development Code, Landscape Regulations Section 142.0412 (Ordinance 19413).

32. The Brush Management Program shall consist of Two Standard Zones consistent with the Brush Management Regulations of the Land Development Code Section 142.0412 as follows:

Southeast Quarter of the Southwest Quarter of the Northeast Quarter of Section 29, Township 18 South, Range 1 West, San Bernardino Meridian, in the County and City of San Diego, shall have a Standard Zone One of 35 feet and a portion of the standard 65 foot Zone Two. The remaining portion of the standard 65 foot Zone Two shall be within an off-site dedicated Brush Management Easement.

The northwest portion of the Brush Management Zones shall have a reduced Zone Two to 41 feet and an increased Zone One to 51 feet in compliance with Section 142.0412(f) of the Land Development Code, Brush Management Requirements, which states the following:

"The Zone Two width may be decreased by 1½ feet for each 1 foot of increase in Zone One width up to a maximum reduction of 30 feet of Zone Two width."

33. Within Zone One, combustible accessory structures (including, but not limited to decks, trellises, gazebos, etc.) shall not be permitted while non-combustible accessory structures may be approved within the designated Zone One area subject to Fire Marshall and Development Services Department approval.

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

35. In Zone One, plant material shall be selected to visually blend with the existing hillside vegetation. No invasive plant material shall be permitted as jointly determined by the Landscape Analysis Section (LAS) and the Environmental Analysis Section (EAS).

36. All new Zone Two plantings shall be temporarily irrigated with an above ground irrigation system until established. Zone Two shall be maintained on a regular basis by pruning and thinning plants, removing weeds, and maintaining the temporary irrigation system. Only native vegetation shall be planted or hydroseeded. If Zone Two is being revegetated, 50% of the planting area shall be seeded with material that does not grow taller than 24 inches.

37. Prior to final inspection and issuance of any Certificate of Occupancy, the approved Brush Management Program shall be implemented.

38. The Brush Management Program shall be maintained at all times in accordance with the City of San Diego's Land Development Manual, Landscape Standards.

39. All Brush Management including possible revegetation and erosion control of Brush Management Zone Two shall take place in Phase 1 of the proposed project phasing plan, and in accordance with the City of San Diego's Land Development Code.

PLANNING/DESIGN REQUIREMENTS:

40. Prior to the issuance of any building permits, the Owner/Permittee shall grant to the City of San Diego an avigation easement on the Final Map for the purpose of maintaining all aircraft approach paths to Brown Field. This easement shall permit the unconditioned right of flight of aircraft in the federally controlled airspace above the subject property. This easement shall identify the easement's elevation above the property and shall include prohibitions regarding use of and activity on the property that would interfere with the intended use of the easement. This easement may require the grantor of the easement to waive any right of action arising out of noise associated with the flight of aircraft within the easement.

41. Prior to submitting building plans to the City for review, the Owner/Permittee shall place a note on all building plans indicating that an avigation easement has been granted across the property. The note shall include the County Recorder's recording number for the Final Map avigation easement.

42. Prior to the issuance of any building permits, the Owner/Permittee shall provide a valid "Determination of No Hazard to Air Navigation" issued by the Federal Aviation Administration (FAA).

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43. Prior to the issuance of Building Permits, construction documents shall fully illustrate the incorporation of building materials in the residential units to attenuate sound due to aircraft noise to the 45 dB CNEL interior noise level.

44. In accordance with the requirements of San Diego Municipal Code, Sections 143.0140(a) and 143.0152(a) the Owner/Permittee shall execute a covenant of easement prior to the issuance of any Building Permits, recorded against the title to the affected premises and executed in favor of the City. The Owner/Permittee shall draft the covenant of easement as follows: a) To contain a description of the premises affected by the permit with a description of the Steep Slopes and Sensitive Biological Resources that will be preserved in the north central portion of the site, shown on the Vesting Tentative Map as the "area to remain un-disturbed;" and b) To impart notice to all persons to the extent afforded by the recording laws of the state regarding the restrictions affecting the use of the environmentally sensitive lands covered by the permit; and c) To insure that the burdens of the covenant shall be binding upon, and the benefits of the covenant shall inure to, all successors in interest to the affected premises; and d) To ensure enforceability of the covenant of easement by the City.

45. A topographical survey conforming to the provisions of the SDMC may be required if it is determined, during construction, that there may be a conflict between the building(s) under construction and a condition of this Permit or a regulation of the underlying zone. The cost of any such survey shall be borne by the Owner/Permittee.

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

47. The Owner/Permittee shall post a copy of the approved discretionary permit or Vesting Tentative Map in the sales office for consideration by each prospective buyer.

48. 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

49. No fewer than 557 automobile spaces, 18 accessible spaces, 25 motorcycle spaces, and 39 bicycle spaces, shall be permanently maintained on the property within the approximate location shown on the project's Exhibit "A". Parking spaces shall comply at all times with the SDMC and shall not be converted for any other use unless otherwise authorized by the Development Services Department.

50. Prior to the issuance of any building permits, the Owner/Permittee shall dedicate 30 feet along the property frontage for the Vista Santo Domingo right-of-way, satisfactory to the City Engineer.

51. Prior to the issuance of any building permits, the Owner/Permittee shall assure by permit and bond, half width improvements along the property frontage on Vista Santo Domingo including 20 feet of pavement with the appropriate transition to connect to

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Exposition Way, curb, gutter and 5-foot wide sidewalk within 10-foot curb to property line distance as shown on Exhibit "A", satisfactory to the City Engineer.

52. Prior to the issuance of any building permits, the Owner/Permittee shall provide and, assure by permit and bond, roadway striping on Exposition Way at the cul-de-sac location as shown on improvement plan Drawing # 32542-D, satisfactory to the City Engineer.

53. Prior to the issuance of any Building Permits for the first Phase which includes 107 multi-family residential units, the following roadway improvement shall be assured: State Route 905 open between Otay Mesa Road and Otay Mesa border crossing, with all interchanges open except the Heritage Road interchange.

54. Prior to the issuance of any Building Permits for the first Phase which includes 107 multi-family residential units, the Owner/Permittee shall assure by permit and bond the construction of a traffic signal at the intersection of Avenida De Las Vistas/Otay Valley Road, satisfactory to the City Engineer.

55. Prior to the issuance of any Building Permits for the second Phase which includes 36 multi-family dwelling units, and all commercial and industrial buildings, the following roadway improvements shall be assured: The Heritage Road/State Route 905 interchange is open; Otay Valley Road widened to a six lane prime arterial; and the following for Otay Mesa Road/Heritage Road: Provide a 12% fair share contribution toward one additional southbound left turn lane, re-stripe one southbound right turn lane to provide an exclusive through lane, and one additional northbound through lane.

WASTEWATER REQUIREMENTS:

56. Prior to the issuance of any Building Permits, the Owner/Permittee shall assure, by permit and bond, the design and construction of all public sewer facilities necessary to serve this development.

WATER REQUIREMENTS:

57. Prior to the issuance of any Building Permits, the Owner/Permittee will be required to provide an acceptable Water Study to determine the appropriate public water facilities and pressure zones necessary to serve the proposed development. The study should include a construction phasing plan to ensure meeting the City's standards regarding redundancy. The study is a condition of the Vesting Tentative Map and must be accepted prior to the approval of any public improvement plans.

58. Prior to the issuance of any Building Permits, the Owner/Permittee shall provide proof that the existing 12 inch water main in Vista Santo Domingo connects to the existing 16 inch water main in Exposition Way. If these water mains are not connected, then the Owner/Permittee will be required as a condition of the Vesting Tentative Map and Site Development Permit to connect these water mains.

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59. Prior to the issuance of any Building Permits, the Owner/Permittee shall assure, by permit and bond, the design and construction of a new water service(s) outside of any driveway, in a manner satisfactory to the Water Department Director and the City Engineer.

60. Prior to the issuance of any Building Permits, the Owner/Permittee will be required to provide an Encroachment Maintenance and Removal Agreement (EMRA) for the proposed on site public water system.

61. 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) on each water service serving the project, in a manner satisfactory to the Water Department Director and the City Engineer.

62. Prior to the issuance of any Certificates of Occupancy, the Owner/Permittee shall install fire hydrants at locations satisfactory to the Fire Department, the Water Department Director and the City Engineer. If more than two (2) fire hydrants or thirty (30) dwelling units are located on a dead-end main then the Subdivider shall install a redundant water system satisfactory to the Water Department Director.

63. Prior to the issuance of any Building Permits, the Owner/Permittee shall grant adequate water easements over all public water facilities that are not located within fully improved public rights-of-way, satisfactory to the Water Department Director and the City Engineer. Easements, as shown on approved Exhibit "A", will require modification based on standards at final engineering.

64. Prior to the issuance of any Building Permits, the Owner/Permittee shall provide keyed access to the Water Operations Division, in a manner satisfactory to the Water Department Director, on each gate located within any easement containing public water facilities. The City will not hold responsible for any issues that may arise relative to the availability of keys.

65. Prior to the issuance of any Certificates of Occupancy, public water facilities necessary to serve the development, including services, shall be complete and operational in a manner satisfactory to the Water Department Director and the City Engineer.

66. The Owner/Permittee agrees to design and construct all proposed public water facilities in accordance with established criteria in the most current edition of the City of San Diego Water Facility Design Guidelines and City regulations, standards and practices pertaining thereto. Public water facilities, as shown on approved Exhibit "A", shall be modified at final engineering to comply with standards.

67. Providing water for this development is dependent upon prior construction of certain water facilities in previously approved developments in this area. If these facilities have not been constructed when required for this development, then the construction of certain portions of these previously approved water facilities, as required by the City Engineer, will become off site improvements required for this development.

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INFORMATION ONLY:

- Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of this development 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 §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 December 1, 2008 and Resolution No. R- 304458.

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AUTHENTICATED BY THE DEVELOPMENT SERVICES DEPARTMENT

By *Diane Murbach*
Diane Murbach
Development Project Manager

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

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

MELVYN V. INGALLS
Owner/Permittee

By *Melvyn V. Ingalls*
Melvyn V. Ingalls

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

*Revised 12/04/08

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CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

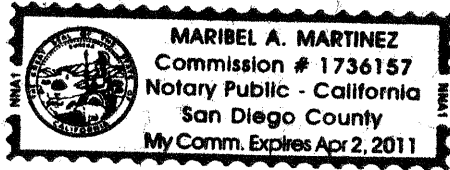
State of California

County of San Diego }

On Jan. 9, 2009 before me, Maribel A. Martinez, Notary Public
Date Here Insert Name and Title of the Officer

personally appeared Melvin T. Loggalls & Diane Murbeck
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) ~~is~~ are subscribed to the within instrument and acknowledged to me that ~~he~~ she/they executed the same in ~~his~~ her/their authorized capacity(ies), and that by ~~his~~ her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Maribel A. Martinez
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: Ocean View Village, Pts 91580, SDP No. 320732

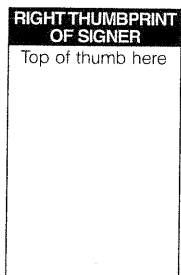
Document Date: December 1, 2008 Number of Pages: 13

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

- Individual
- Corporate Officer — Title(s): _____
- Partner — Limited General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: _____



Signer Is Representing: _____

Signer's Name: _____

- Individual
- Corporate Officer — Title(s): _____
- Partner — Limited General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: _____



Signer Is Representing: _____

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2056
H1

RESOLUTION NUMBER R-304458

DATE OF FINAL PASSAGE DEC 01 2008

WHEREAS, Melvyn V. Ingalls, Owner/Permittee, filed an application with the City of San Diego for Site Development Permit No. 320732 for phased construction of a mixed use development for 143 residential units which includes 15 affordable units, 40 commercial units and 24 industrial units known as the Ocean View Village Project No. 96580, located at 996 Otay Valley Road, and legally described as the southeast quarter of the southwest quarter of the northeast quarter of Section 29, Township 18 South, Range 1 West, San Bernardino Meridian, County of San Diego, in the Otay Mesa Community Plan area, in the AR-1-1 Zone, Airport Influence Area, and Airport Environs Overlay Zone, which is proposed to be rezoned to the RM-2-4, CN-1-2 and IL-2-1 (previously referred to as the AR-1-1 Zone); and

WHEREAS, on July 24, 2008, the Planning Commission of the City of San Diego considered Site Development Permit No. 320732, and pursuant to Resolution No. 4430-PC voted to recommend City Council approval of the permit; and

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

WHEREAS, the matter was set for public hearing on DEC 01 2008, 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,

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BE IT RESOLVED, by the Council of the City of San Diego, that it adopts the following findings with respect to Site Development Permit No. 320732:

**A. SITE DEVELOPMENT PERMIT – SAN DIEGO MUNICIPAL CODE
[SDMC] SECTION 126.0504(a)**

1. The proposed development will not adversely affect the applicable land use plan. The 10.4 acre site located at 996 Otay Valley Road in the AR-1-1 Zone, Airport Influence Area, and Airport Environs Overlay Zone, the Robinhood Ridge Precise Plan, and the Otay Mesa Community Plan area. The existing zoning is agricultural (AR-1-1). The purpose of the AR zones is to accommodate a wide range of agricultural uses while also permitting the development of single dwelling unit homes at a very low density. Though the site is zoned agriculture, agricultural uses ceased approximately 30 years ago when the site use changed to an auto salvage yard. The property was included in the 1991 Robinhood Ridge Precise Plan which was prepared in conformance with the community plan goals. The Otay Mesa Community Plan was amended to reflect the Precise Plan approvals. The adopted Precise Plan and its accompanying Environmental Impact Report provided the basis for review of subsequent subdivision maps, and development permits within the plan area. The Precise Plan stated that the plan area was undeveloped with the exception of an existing auto salvage yard at the southeast portion, which would be relocated once development commenced. The referenced auto salvage yard is the same area proposed with the Ocean View Village project. This project proposes to change the existing agriculture zone and auto dismantling use to the three land use zones approved with the adopted Robinhood Ridge Precise Plan and Community Plan. The Precise and Community Plan designate the site for residential uses in the north, commercial use in the southwest, and industrial use in the southeast. The proposed rezone would be in conformance with these Plans.

The project proposes the subdivision of the 10.4 acre site for grading and construction of 143 residential units which includes 15 units designated as affordable housing, 40 commercial units and 24 industrial units. The subdivision would create 3 lots; Lot 1 as a 5.74 acre residential use, Lot 2 as a 2.21 acre commercial use, and Lot 3 as a 2.45 acre industrial use. The project was reviewed in the Affordable/In-Fill Housing & Sustainable Buildings Expedite Program per Council Policy 600-27 and will provide affordable housing in accordance with the City's Inclusionary Housing Ordinance (SDMC Section 142.1304). Fifteen of the residential units are designated as for rent or for sale affordable housing units to meet the Affordable Housing Requirements of the City's Inclusionary Housing Ordinance. The provision of on-site affordable housing units would also help implement the goal of the Otay Mesa Community Plan and the Robinhood Ridge Precise Plan to provide for a balanced community in terms of housing needs and economic appeal.

The property is designated for medium density at 15 to 30 dwelling units per acre for the northern half of the project per the Otay Mesa Community Plan and the Robinhood Ridge Precise Plan. The 143 proposed residential units are within the density range for multi-residential dwelling units consistent with the Precise and Community Plan and the proposed RM 2-4 and CN 1-2 zone. The commercial component of the proposed project has a Neighborhood Commercial designation intended to have a variety of retail and service uses to serve the adjacent residential areas. The Robinhood Ridge Precise Plan further states that residential uses are not

ORIGINAL

intended to be established within the commercial site without a precise plan amendment and rezone application. The proposed commercial development with commercial only and no mix of uses, would not adversely affect the commercial goals of the Otay Mesa Community Plan and the Robinhood Ridge Precise Plan.

The industrial component of the proposed project has an Industrial designation and is located within the Industrial Subdistrict of the Otay Mesa Development District and would develop in accordance with those standards. The placement of the industrial development on the rear lot would allow for residential and commercial uses to interact with pedestrians on the street frontage lots at the street level. The industrial development would occur on the rear lot with secondary access for trucks provided on the south side of the project area, helping to separate the use and associated activities from the commercial and residential uses. The proposed project's industrial development would not adversely affect the goals and objectives of the Otay Mesa Community Plan. The recently adopted General Plan provides collocation criteria for siting industrial and residential uses adjacent to one another, and City Planning & Community Investment anticipates that the criteria would be considered when determining the actual industrial uses for the site.

The Robinhood Ridge Precise Plan Design Element recommends the use of unifying design elements to create a sense of visual continuity throughout the entire plan, to provide consistent streetscape design, and to establish a harmonious design treatment of buildings. The proposed project's use of similar building materials, window treatments, awnings and trellises help to create visual continuity and harmony throughout the project site. The dwelling units along Vista Santo Domingo would provide eyes on the street and help to enhance the established neighborhood character. The landscaping plan links the mesa site's residential, commercial, and industrial land uses while incorporating the views and adjacent canyons into the project. The plant palette includes species that would frame the views, drought tolerant planting materials that would minimize irrigation upon plant establishment, and street trees and shrubs along Vista Santo Domingo that coordinate with the adjacent existing streetscape from previous development.

The urban design would include pedestrian connections, a view trail on the northwestern portion of the project, a walkway through the canyon-themed central courtyard, and enhanced paving to connect the residential with the industrial and commercial uses. Walls, a line of trees, and residential parking would help to create a buffer/transition between the residential area and the industrial/commercial areas. As recommended in the Robinhood Ridge Precise Plan Design Element, access to the commercial center from the southern Otay Corporate Center, including pedestrian and bicycle linkages would be provided.

The project proposes seven deviations from the Land Development Code, several of which could affect the Robinhood Ridge Precise Plan and the Otay Mesa Community Plan. The proposed front and side yard setbacks reductions within the residentially designated and zoned area would allow for buildings to frame the street and provide eyes on the street, providing a better sense of security while enhancing the pedestrian experience. Siting the buildings closer to the street helps implement pedestrian-oriented development and provide a more pleasing aesthetic experience, goals found in the Precise Plan, the Community Plan, and the recently adopted General Plan. The industrially designated lot is an interior lot that does not front on a public street, and the proposed street frontage deviation for the industrially designated and zoned

ORIGINAL

property would allow for treatment of the industrial area as an extension of the adjacent commercial uses and separate access, goals of the Precise Plan. The placement of the industrial development on the rear lot would allow for residential and commercial uses to interact with pedestrians at the street level, with industrial activity occurring behind the commercial uses and with separate access to minimize interaction with residential and commercial activity. The setback deviation would allow for better integration of the industrial use into the project as a whole, while providing separate access for support activities and would not adversely affect the goals and objectives of the Robinhood Ridge Precise Plan and the Otay Mesa Community Plan.

The proposed project would develop 143 dwelling units, one commercial building, and two industrial buildings on a site located in the Otay Mesa Community and Robinhood Ridge Precise Plan areas that has land use designations of Residential, Commercial, and Industrial. The proposed project would not adversely affect the goals and recommendations for land uses in the Residential, Commercial, and Industrial Elements of the Otay Mesa Community Plan and the Robinhood Ridge Precise Plan. Therefore, the proposed development would not adversely affect the applicable land use plan.

2. The proposed development will not be detrimental to the public health, safety, and welfare. The project proposes the subdivision of a 10.4 acre site for grading and construction of 143 residential units which includes 15 units designated as affordable housing, 40 commercial units and 24 industrial units. The project area is square in shape and the western boundary fronts on the unimproved portion of Vista Santo Domingo road. Access to the site is currently from the terminus of Vista Santo Domingo road at the northwest, Exposition Way at the southwest, and Innovation Drive at the southeast. The site is relatively flat and ranges in elevation from approximately 460 feet above Mean Sea Level (MSL) at a northern swale to approximately 520 feet above MSL at the top of the mesa in the central and southern portion of the property. The site drains towards the north and southwest. A variety of land uses surround the site. Open space and multiple dwelling units exist to the north, light industrial to the south, open space and auto recycling yards to the east, and open space and undeveloped property to the west.

Development of the site will require grading the entire site with the exception of the north central natural swale which contains Environmentally Sensitive Lands (ESL), to create a flat pad for structures. Since the site is fairly flat, grading would only be to depths of approximately 3 to 9 feet vertically. Grading includes remedial grading which is necessary to a depth of approximately 5 feet to mitigate for expansive and contaminated soils. Retaining walls would be constructed along the northeastern and eastern property boundaries, and would be screened by landscape and wall plantings. A Brush Management plan has been designed and will be implemented in accordance with the Precise Plan and San Diego Municipal Code. Brush Management Zones 1 and 2 were required at the northern and northeastern portion of the project adjacent to the existing hillside which descends to the north and east. Where portions of the Brush Management plan extend off-site, a recorded easement from the adjacent property owner is a permit requirement to establish and maintain the off-site zone in perpetuity.

A Water Quality Technical Report identified the anticipated pollutants and the Best Management Practices that would be implemented with project approval. Best Management Practices (BMPs) would be implemented to ensure water quality impacts would be below a level of significance. BMPs are a required feature of the project, therefore additional water quality mitigation is not necessary. The project construction plans include measures to reduce potentially

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adverse impacts associated with erosion and slope instability. The project conditions require approval of an engineering permit to allow the proposed grading. The project would be constructed in accordance with engineering standards and BMP's to create a safe and stable site. The proposed development is required to obtain building permits to show that all construction would comply with all applicable building and fire code requirements.

The property was included in the amended 1991 and the final 1998 Environmental Impact Report (FEIR) No. 98-0189 for the Robinhood Ridge Precise Plan. This environmental document was intended to provide a comprehensive single environmental document that would implement the Robinhood Ridge plan. A new environmental analysis was required to be completed for the Ocean View Village project in accordance with California Environmental Quality Act (CEQA) guidelines. Staff concluded there were no new significant environmental impacts not considered in the previous FEIR, no substantial changes occurred, and there was no new information of importance. Therefore, an addendum to the FEIR was prepared in accordance with Section 15164 of the State CEQA Guidelines. Addendum No. 96580 (AEIR) to Environmental Impact Report No. 98-0189 was prepared and finalized for the project in accordance with CEQA Guidelines. A Mitigation, Monitoring, and Reporting Program (MMRP) will be implemented which would reduce, to below a level of significance, the potential environmental impacts identified from the environmental review process. The projects proposed mitigation now avoids or mitigates the following potential significant environmental effects: Transportation/Circulation, Biological Resources, Historical Resources (Archaeology), Landform Alteration/Visual Quality, Human Health and Public Safety (Hazardous Materials) and Noise.

The Robinhood Ridge FEIR found that the Precise Plan could result in trip generation volumes in excess of the existing adopted Precise Plan and could potentially result in significant impacts to the surrounding roadway network. This impact was mitigated with incorporation of fair share contributions towards transportation improvements and project specific mitigation measures. No new impacts to traffic/circulation were identified therefore the Ocean View Village project would implement the specific traffic and circulation improvements as required by the Robinhood Ridge FEIR MMRP. The Ocean View Village AEIR/MMRP No. 96580 requires as part of the first and second building Phases that the project construct off-site roadway improvements. Phase 1 requires that State Route 905 be open between Otay Mesa Road and the Otay Mesa border crossing, with all interchanges open except the Heritage Road interchange. Phase 1 also requires the construction of a traffic signal at the intersection of Avenida De Las Vistas/Otay Valley Road. Phase 2 requires the Heritage Road/State Route 905 interchange to be open, Otay Valley Road to be widened to a six lane prime arterial, and that the Otay Mesa Road/Heritage Road interchange provide a 12% fair share contribution toward one additional southbound left turn lane, re-stripe one southbound right turn lane to provide an exclusive through lane, and provide one additional northbound through lane.

The Robinhood Ridge FEIR identified potential impacts to biological resources within the Vested Tentative Map area to be less than significant. The project is within the Multiple Species Conservation Plan (MSCP), but not within though adjacent to the Multiple Habitat Planning Area (MHPA). No plant or wildlife species listed as threatened or endangered were observed within the project limits. No vernal pools were found. The project biology report mapped 0.22 acres of disturbed coastal sage scrub (Tier II upland vegetation) within the boundaries. The project would impact approximately 0.06 acres of disturbed coastal sage scrub.

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Impacts to less than 0.10 acres would not be considered significant and therefore no mitigation would be required. However, the potential exists for the presence of raptors and the coastal California gnatcatcher. Potential impacts to MHPA land use adjacency guidelines, raptors and/or the gnatcatcher would be mitigated to below a level of significance by implementation of the MMRP. The MMRP mitigation requires a preconstruction survey to avoid impacts to raptors and the gnatcatcher.

The Robinhood Ridge FEIR concluded no impacts to any significant cultural resources would occur. Although no significant cultural resources were identified within the project site, due to the presence of a recorded archaeological resource within a one mile radius, a qualified archaeologist is required to monitor the site during grading in accordance with the MMRP.

The Robinhood Ridge FEIR concluded that impacts to Landform Alteration/Visual Quality to be significant at a project level of analysis due to the modification of steep, natural canyons and hillsides. The project was designed to avoid steep hillside impacts or creating large manufactured slopes. Since the site is fairly flat, grading would only be to depths of approximately 3 to 9 feet vertically. Grading includes remedial grading which is necessary to mitigate for expansive and contaminated soils and create a flat pad for structures. The project includes two retaining walls along the northern and eastern property boundaries to limit grading into steep slopes. Visual impacts of the retaining walls would not be significant as the walls would be screened with the use of landscaping, and colors to blend into the landscape. The final project design was not identified to have any significant impacts, and no additional mitigation was necessary.

The Robinhood Ridge FEIR acknowledged the potential presence of contaminated soils with the Precise Plan area. The FEIR summarized that potential soil contamination impacts would be adequately address in future discretionary actions and environmental review prior to development. Since agricultural uses ceased on site approximately 30 years ago when the site use changed to an auto salvage yard, a Phase 1 and 2 Environmental Site Assessment were necessary. The reports were prepared for the Ocean View Village project to determine the presence of soil contamination. The reports found some soil contamination and were submitted as part of the Voluntary Assistance Program (VAP) for review by the County of San Diego Department of Environmental Health (DEH). DEH concurred with the consultants recommendations. The project is required to implement the mitigation measures identified in the reports to reduce the impacts from hazardous materials to below a level of significance. Site grading includes remedial grading which is necessary to a depth of approximately 5 feet to mitigate for expansive and contaminated soils. The MMRP requires coordination with the County VAP to confirm implement and mitigation to reduce the impacts from hazardous materials to below a level of significance to protect human health and the environment.

The Robinhood Ridge FEIR found that construction activities and proposed land uses were not anticipated to result in significant increase in existing ambient noise levels, or exposure to significant future traffic noise levels. The project is within the Brown Field Airport Influence Area (AIA), and the Brown Field 60 decibel (dB) community noise equivalent level (CNEL) airport noise contour. Title 24 noise standards and the Building Permit process require construction documents fully illustrate the incorporation of building materials in the residential units to attenuate sound due to aircraft noise to the 45 dB CNEL interior noise level. A Noise Report was prepared to determine whether future traffic generated from the development would

ORIGINAL

create a noise impact to land uses adjacent to the proposed Vista Santo Domingo road. The report concluded traffic noise generated from this road would be consistent with the City's exterior noise standards and no mitigation is required. The MMRP requires an interior noise analysis to ensure the project incorporated building materials to meet the Title 24 noise standards.

The project includes mitigation measures to offset potential impacts to the environment. Therefore, the proposed development would not be detrimental to the public health, safety, and welfare.

3. The proposed development will comply with the applicable regulations of the Land Development Code. The site was previously regulated under CUP 88-0498 as an Auto Dismantling Center. The project proposes redevelopment from this auto dismantling use and the existing agricultural zone to the three approved land uses in the adopted Robinhood Ridge Precise Plan and Community Plan. The proposed redevelopment requires a Site Development Permit, Vesting Tentative Map and Rezone to construct the proposed 143 residential units, 40 commercial units and 24 industrial units. The Site Development Permit is Process 4 for development deviations as part of the Affordable/In-Fill Housing (MC 143.0920). A Site Development Permit Process 4 is necessary for subdivisions with Sensitive Biological Resources and Steep Hillides as part of Environmentally Sensitive Lands (ESL) regulations (MC 143.0110.a.1 & 2). The Vesting Tentative Map is Process 4 for a subdivision with condominium and commercial construction (MC 125.0440). The proposed Rezone to change AR1-1 to RM-2-4, CN-1-2 and IL-2-1, would be in accordance with the adopted Robinhood Ridge Precise Plan and Community Plan, and is a Process 5.

Deviations are being requested for setbacks; street frontage, drive way aisle width, retaining wall height, residential off-street loading spaces, and structure height. The Affordable/In-Fill Housing regulations allow projects to request deviations from applicable development regulations through a Site Development Permit, provided the supplemental findings can be met. Each of the requested deviations would be necessary to allow the proposed development given the site size and zoning constraints. The proposed development has otherwise been designed and conditioned to ensure conformance to the requirements of the City of San Diego Land Development Code.

The Site Development Permit is also for Environmentally Sensitive Lands (ESL) encroachment into the required buffers and resource for Steep Hillides and Sensitive Biological Resources. The northern and northeastern slope was found to meet the definition for Steep Hillides, and the north central swale the definition for Sensitive Biological Resources pursuant to the City's Land Development Code and Manual. The project grading will encroach into a small portion of each resource and the established ESL buffers.

The project request does not exceed the maximum allowed units for the proposed rezone. The project does not exceed the maximum allowed density per the Precise Plan and Community Plan. The proposed development would provide new residential housing units, commercial and industrial development in accordance with the Precise Plan and Community Plan. The development will provide additional housing for San Diego and affordable housing opportunities. Each of the requested deviations would be necessary to allow the project given the site size and zoning constraints. The proposed development has otherwise been designed and conditioned to ensure conformance to the requirements of the City of San Diego Land

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Development Code. Other than the requested seven deviations, the proposed development would comply with the regulations of the Land Development Code.

B. SDP - SUPPLEMENTAL FINDINGS – ENVIRONMENTALLY SENSITIVE LANDS - SECTION 126.0504(b)

1. The site is physically suitable for the design and siting of the proposed development and the development will result in minimum disturbance to environmentally sensitive lands. The project would be constructed on property which has been disturbed by agriculture and auto dismantling uses, and is designated for residential, commercial and industrial uses in accordance with the approved Precise Plan and Community Plan. The project premises were identified as containing ESL. The northern and northeastern slope was found to meet the definition for Steep Hillside, and the north central swale the definition for Sensitive Biological Resources pursuant to the City's Land Development Code and Manual. In addition, ESL regulations require a setback to be established to buffer each resource. The project grading will encroach into a small portion of each resource and the established ESL buffers, thereby requiring a Site Development Permit for ESL.

The northern and northeastern slope was identified as a Steep Hillside. The project would grade within the required 40 foot buffer and within a small portion of the resource at the northeast corner of the property. Grading within this buffer and resource would be required for the project to grade small slopes and build retaining walls to create a flat pad to support the residential units and parking areas above the designated Steep Hillside area. The north central area covered by Steep Hillside includes coastal sage scrub which is ranked a Tier II habitat and thus is considered to be sensitive, as discussed in the environmental biology section above and in the environmental document. Approximately 0.06 acres of disturbed coastal sage scrub would be disturbed by the project construction, and the project would grade within the 100 foot buffer above the Sensitive Biological Resource. Resource impacts were less than the 0.10 acre criteria therefore were not considered significant and no mitigation was required. Grading within this resource and buffer would be required for the project to grade slopes and build retaining walls to support the residential units and parking areas above the designated Steep Hillside and Sensitive Biological Resource area. In accordance with the requirements of San Diego Municipal Code, Sections 143.0140(a) and 143.0152(a), SDP Condition No. 42 has been added which requires the applicant execute a covenant of easement to preserve the remaining Steep Slopes and Sensitive Biological Resources in the north central portion of the site. The project Vesting Tentative Map shows this area as "area to remain un-disturbed."

The Robinhood Ridge FEIR identified potential impacts to biological resources within the Vested Tentative Map area to be less than significant. The project is within the Multiple Species Conservation Plan (MSCP), but not within though adjacent to the Multiple Habitat Planning Area (MHPA). No plant or wildlife species listed as threatened or endangered were observed within the project limits. No vernal pools were found. The project biology report mapped 0.22 acres of disturbed coastal sage scrub (Tier II upland vegetation) within the boundaries. The project would impact approximately 0.06 acres of disturbed coastal sage scrub. Impacts to less than 0.10 acres would not be considered significant and therefore no mitigation would be required. However, the potential exists for the presence of raptors and the coastal California gnatcatcher. Potential impacts to MHPA land use adjacency guidelines, raptors and/or

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the gnatcatcher would be mitigated to below a level of significance by implementation of the MMRP. The MMRP mitigation requires a preconstruction survey to avoid impacts to raptors and the gnatcatcher.

The projects proposed mitigation now avoids or mitigates these potential significant environmental effects. Therefore the site is physically suitable for the design and siting of the proposed development and the development would result in minimum disturbance to environmentally sensitive lands.

2. The proposed development will minimize the alteration of natural land forms and will not result in undue risk from geologic and erosional forces, flood hazards, or fire hazards. The project will minimize any encroach into any natural landforms as the development footprint is mainly within the previous agriculture use area and the current auto salvage use area. Grading to create a flat pad for structures would include the entire site with the exception of the north central natural swale which contains Environmentally Sensitive Lands. Since the site is fairly flat, grading would only be to depths of approximately 3 to 9 feet vertically. Grading includes remedial grading which is necessary to a depth of approximately 5 feet to mitigate for expansive and contaminated soils. Retaining walls would be constructed along the northeastern and eastern property boundaries, and would be screened by landscape and wall plantings.

A geotechnical report was prepared for the project and does not identify any unusual geologic conditions posing undue risk. The project has been designed to have a factor of safety of 1.5 or greater with respect to gross and surficial slope stability. The report finds that the site is suitable for the proposed development with the implementation of the geotechnical recommendations to address the existing topsoil, expansive and contaminated soil. No earthquake faults have been mapped on or immediately adjacent to the site. The project area is not subject to flooding.

A Water Quality Technical Report was prepared for the project and identified the anticipated pollutants and the Best Management Practices that would be implemented with project approval. BMPs are a required feature of the project, therefore additional water quality mitigation is not necessary. The project would not result in fire hazards. The project has been designed to meet all fire and life safety codes. The project conditions require conformance with all building and engineering codes. Therefore, the proposed development will minimize the alteration of natural land forms and will not result in undue risk from geologic and erosional forces, flood hazards, or fire hazards.

3. The proposed development will be sited and designed to prevent adverse impacts on any adjacent environmentally sensitive lands. The project premises were identified as containing Environmentally Sensitive Lands. The northern and northeastern slope was found to meet the definition for Steep Hillside, and the north central swale the definition for Sensitive Biological Resources pursuant to the City's Land Development Code and Manual. In addition, ESL regulations require a setback to be established to buffer each resource. The project grading will encroach into a small portion of each resource and the established ESL buffers, thereby requiring a Site Development Permit for ESL. The northern and northeastern slope was identified as a Steep Hillside. The project would grade within the required 40 foot buffer and within a small portion of the resource at the northeast corner of the property. Grading within this

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buffer and resource would be required for the project to grade small slopes and build retaining walls to create a flat pad to support the residential units and parking areas above the designated Steep Hillside area.

The north central area covered by Steep Hillside includes coastal sage scrub which is ranked a Tier II habitat and thus is considered to be sensitive, as discussed in the environmental biology section above and in the environmental document. Approximately 0.06 acres of disturbed coastal sage scrub would be disturbed by the project construction, and the project would grade within the 100 foot buffer above the Sensitive Biological Resource. Resource impacts were less than the 0.10 acre criteria therefore were not considered significant and no mitigation was required. Grading within this resource and buffer would be required for the project to grade slopes and build retaining walls to support the residential units and parking areas above the designated Steep Hillside and Sensitive Biological Resource area. In accordance with the requirements of San Diego Municipal Code, Sections 143.0140(a) and 143.0152(a), SDP Condition No. 42 has been added which requires the applicant execute a covenant of easement to preserve the remaining Steep Slopes and Sensitive Biological Resources in the north central portion of the site. The project VTM shows this area as "area to remain un-disturbed."

The project has been designed to avoid all on-site and off-site direct and indirect impacts to environmentally sensitive lands to the maximum extent possible. Therefore, the proposed development will be sited and designed to prevent adverse impacts on any adjacent environmentally sensitive lands.

4. The proposed development will be consistent with the City of San Diego's Multiple Species Conservation Program (MSCP) Subarea Plan. The project is not located in the City's Multiple Habitat Planning Area. The project is within the Multiple Species Conservation Plan (MSCP), and adjacent to the Multiple Habitat Planning Area (MHPA). Addendum No. 96580 to Environmental Impact Report No. 98-0189 was prepared and finalized for the project in accordance with CEQA Guidelines. A Mitigation, Monitoring, and Reporting Program (MMRP) will be implemented which would reduce, to below a level of significance, the potential environmental impacts identified from the environmental review process. The projects proposed mitigation now avoids or mitigates the potential significant environmental effects for: Transportation/Circulation, Biological Resources, Historical Resources (Archaeology), Landform Alteration/Visual Quality, Human Health and Public Safety (Hazardous Materials) and Noise. Any potential impacts to MHPA land use adjacency guidelines would be mitigated to below a level of significance by implementation of the MMRP. Therefore, the proposed development will be consistent with the City of San Diego's Multiple Species Conservation Program (MSCP) Subarea Plan.

5. The proposed development will not contribute to the erosion of public beaches or adversely impact local shoreline sand supply. The proposed project is not located on a beach or bluff and will not contribute to the erosion of public beaches. The Pacific Ocean is approximately seven miles from this project area. A Drainage Study and Water Quality Technical Report were prepared for the project. There are no existing storm drain facilities on the property. The site is relatively flat and ranges in elevation from approximately 460 feet above Mean Sea Level (MSL) at a northern swale to approximately 520 feet above MSL at the top of the mesa in the central and southern portion of the property. The site drains towards the north and southwest. Construction BMPs will minimize storm water runoff during construction and

ORIGINAL

grading activity. With the implementation of a permanent storm drain system on the site and BMPs, the project will not be a significant source of sediment or pollutants to the river or ocean. Therefore, the proposed development will not contribute to the erosion of public beaches or adversely impact local shoreline sand supply.

6. The nature and extent of mitigation required as a condition of the permit is reasonably related to, and calculated to alleviate, negative impacts created by the proposed development. The project would create affordable housing for this community on a site that previously disturbed by agricultural and auto salvage uses. The property is designated in the Precise Plan and Community Plan for residential, commercial and industrial development. The additional grading required for this project will be the minimum necessary to re-grade and stabilize this area. An environmental study and document were prepared in accordance with CEQA and a Mitigation, Monitoring and Reporting Program will be implemented which will reduce potentially adverse impacts to below a level of significance.

The northern and eastern slopes were found to meet the definition for Steep Hillside and Sensitive Biological Resources pursuant to the City's Land Development Code and Manual. Minor encroachment into these resources will occur with the project grading and development plans. Biological impacts to coastal sage scrub are proposed, though the impact was so small that no mitigation was required. In accordance with the requirements of San Diego Municipal Code, Sections 143.0140(a) and 143.0152(a), a permit condition has been added which requires the applicant execute a covenant of easement to preserve the Steep Slopes and Sensitive Biological Resources. 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.

C. SDP - SUPPLEMENTAL FINDINGS—DEVIATIONS FOR AFFORDABLE/IN-FILL HOUSING PROJECTS - SECTION 126.0504(m)

1. The proposed development will materially assist in accomplishing the goal of providing affordable housing opportunities in economically balanced communities throughout the City, and/or the proposed development will materially assist in reducing impacts associated with fossil fuel energy use by utilizing alternative energy resources, self-generation and other renewable technologies (e.g. photovoltaic, wind, and/or fuel cells) to generate electricity needed by the building and its occupants. The proposed project would provide 143 dwelling units within the Otay Mesa Community Plan Area and the Robinhood Ridge Precise Plan Area. The residential portion of the proposed project site has a Medium Residential designation with a density range of 15 to 30 dwelling units per acre per the Otay Mesa Community Plan and the Robinhood Ridge Precise Plan. The approximately five acres for the residential portion of the proposed project would allow the development of 75 to 150 dwelling units. The proposed project's 143 dwelling units are within the approved density range and would not adversely affect the residential density goals of the Otay Mesa Community Plan and the Robinhood Ridge Precise Plan. The dwelling units would include 143 multifamily dwelling units. To meet the requirements of the Inclusionary Housing Ordinance, approximately 11% of the total number of units, fifteen, would be Affordable units for rent to households earning no more than 65% of Area Median Income (AMI) for a period of 55 years, or for sale at

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prices affordable to households making no more than 100% of the AMI. The development will provide 143 additional housing units for San Diego and 15 affordable housing opportunities.

The project includes seven deviations from the Land Development Code. Each of the seven requested deviations would be necessary to allow the proposed residential units, and the commercial and industrial development given the site size and zoning constraints. The proposed development has otherwise been designed and conditioned to ensure conformance to the requirements of the City of San Diego Land Development Code and in accordance with the Precise Plan and Community Plan. Therefore, the proposed development will materially assist in accomplishing the goal of providing affordable housing opportunities in economically balanced communities throughout the City, and/or the proposed development will materially assist in reducing impacts associated with fossil fuel energy use by utilizing alternative energy resources, self-generation and other renewable technologies (e.g. photovoltaic, wind, and/or fuel cells) to generate electricity needed by the building and its occupants.

2. The development will not be inconsistent with the purpose of the underlying zone. The project is requesting a rezone to the designated residential, commercial and industrial zoning in accordance with the approved Robinhood Ridge Precise plan and Otay Mesa Community Plan. The existing zone is agriculture. When the agriculture use ceased, the site was regulated under CUP 88-0498 as an Auto Dismantling Center. The project proposes redevelopment from this auto dismantling use and the existing agricultural zone to the three approved land uses in the adopted Robinhood Ridge Precise Plan and Community Plan. The proposed redevelopment requires a Site Development Permit, Vesting Tentative Map and Rezone to construct the proposed 143 residential units, 40 commercial units and 24 industrial units. The proposed Rezone to change AR1-1 to RM-2-4, CN-1-2 and IL-2-1, would be in accordance with the adopted Robinhood Ridge Precise Plan and Community Plan.

Deviations are being requested as part of the affordable/in-fill housing and sustainable building regulations in accordance with SDMC 143.0915 and 143.0920, pursuant to a Site Development Permit. Seven Deviations are being requested and include: street frontage, drive way aisle width, retaining wall height, residential off-street loading spaces, and structure height. The Affordable/In-Fill Housing regulations allow projects to request deviations from applicable development regulations through a Site Development Permit, provided the supplemental findings can be met. Each of the requested deviations would be necessary to allow the proposed development given the site size and zoning constraints. The proposed development has otherwise been designed and conditioned to ensure conformance to the requirements of the City of San Diego Land Development Code.

The first Deviation from SDMC Table 131-04G would reduce the front yard setback in the RM-2-4 Zone. Up to 50% of the width of the building envelope may observe the minimum 15 foot front setback, provided the remaining percentage of the building envelope width observes the standard 20 foot setback. Fifty percent or approximately 159 feet of the building envelope may observe 15 feet, and 50% or approximately 159 feet of the building envelope is required to observe 20 feet. The request provides a variable front setback ranging from 5 inches to 11 feet 8 inches for 70% of the building envelope. The proposed front yard setback would deviate 8 feet 4 inches to 19 feet 7 inches. The western residential front yard setback deviation was supported to create a more developable area for the residential affordable housing. The deviation would allow 143 residential units to be constructed in the designated multi-family residential area, provide

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room to create 13 units with a detached single family appearance in the multi-family zone, provide more area for building variation, and improve the residential layout with a pedestrian environment.

The second Deviation from SDMC Table 131-04G would reduce the side yard setback in the RM-2-4 Zone. The minimum side yard setback allowed is 5 feet or 10% of the premises width, whichever is greater. The premises width is 390 feet; therefore the minimum side yard setback is 39 feet. The request provides a variable side yard setback ranging from 8-inches to 37 feet 3 inches. The proposed side yard setback would deviate 1 foot 9 inches to 38 feet 4 inches. The northern and southern residential side yard setback deviation was supported along with the above front setback deviation to create a more developable and pedestrian friendly area for the residential housing and affordable housing. The northern side yard setback deviation allows for the residential structures to be integrated with a trail system and recreational area while maintaining a buffer between the steep slopes and coastal sage scrub ESL in the northern central area. The southern side yard setback allows for a pedestrian theme with landscaping blending with the adjacent commercial and industrial uses.

The third Deviation from SDMC Table 131-06C for Industrial Zones would reduce the minimum street frontage in the IL-2-1 Zone. The minimum street frontage allowed is 75 feet. The request provides a 0 street frontage. The proposed street frontage would deviate 75 feet. The industrial street frontage deviation in the southeastern portion of the site was supported to allow the private internal streets versus public streets. The project dedicates one public right-of-way along the western project boundary, along the residential and commercial zones. No public streets border the industrial area. Street frontage requirements are at the development property line along a dedicated public right-of-way. However, the project proposes all private streets, not public streets adjacent to the industrial area; therefore this code requirement can not be met.

The fourth Deviation from SDMC Table 142-05L would increase residential drive aisle driveway width. The minimum allowed and maximum permitted are 20 and 25 feet, respectively. The request provides a variable drive-aisle width ranging from 26 to 30 feet 3 inches. The proposed increased drive-aisle width would deviate 1 to 5 feet 3 inches. The residential drive aisle width deviation was supported to accommodate fire truck turning radii based on driveway and access regulations. The increased width was necessary to meet fire and life safety access through the northern residential area.

The fifth Deviation from SDMC 142.0340(d)(1) for all Zones would exceed the retaining wall height in the required side and rear yard. Two retaining walls with a maximum height of 6 feet each are permitted in the required side and rear yard if the two retaining walls are separated by a minimum horizontal distance equal to the height of the upper wall. The request provides a variable upper retaining wall height between 6 and 12 feet with the horizontal distance between the two walls at 5 feet. The proposed height will exceed the maximum by 0 to 6 feet, and the horizontal distance separation will exceed the minimum permitted by 1 to 7 feet. The northern and eastern retaining wall height deviation was supported to create a more developable area so that the residential affordable housing adjacent would not impact steep hillsides and coastal sage scrub ESL. Allowing the taller walls with less separation creates a flatter pad area for the residential units and the recreation area. The retaining walls would be landscaped to minimize visual impacts and blend with the natural hillside and the new residential landscaping.

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The sixth Deviation from SDMC Table 142-10B would not provide residential off-street loading spaces. The minimum allowed off-street loading spaces for residential development is 2 spaces. The request provides 0 off-street loading spaces. The proposed residential off-street loading spaces would deviate by 2 spaces. The off street loading space deviation was supported since an increased residential drive aisle width deviation was provided to accommodate fire truck turning radii. The increased drive aisle width would provide adequate room for loading and unloading for the northern residential development, while accommodating 143 residential units and pedestrian and recreational areas.

The seventh Deviation from SDMC Table 131-05C would exceed the maximum commercial structure height in the neighborhood commercial CN Zone. The maximum structure height allowed is 30 feet. The request provides a maximum building height of 31 feet 1 inch. The proposed building height would deviate 1 foot 1 inch. The maximum 1 foot 1 inch commercial structure height deviation was supported to allow the applicants design for functional commercial space in a two level structure. The industrial and commercial zone height limit is 30 feet, while the residential zone is 40 feet. Staff also supported the deviation as the Federal Aviation Administration (FAA) issued a no hazard to air navigation for the project, and the San Diego County Regional Airport Authority (SDCRAA) issued a consistency determination.

The proposed development would provide 143 residential units, 40 commercial units and 24 industrial units. The development will provide additional housing for San Diego, and 15 affordable housing opportunities. Each of the requested deviations would be necessary to allow the proposed development given the site size and zoning constraints. The proposed development has otherwise been designed and conditioned to ensure conformance to the requirements of the City of San Diego Land Development Code. Therefore, the development will not be inconsistent with the purpose of the underlying zone.

3. Any proposed deviations are appropriate for this location and will result in a more desirable project than would be achieved if designed in strict conformance with the development regulations of the applicable zone. The requested seven deviations are for street frontage, drive way aisle width, retaining wall height, residential off-street loading spaces, and structure height. With these seven deviations, the project request of 143 residential units does not exceed the maximum allowed density nor the maximum allowed units for the zone. Based on the project size and approved residential, commercial and industrial uses in accordance with the approved Precise Plan and Community Plan these seven deviations are the minimum necessary for developing the site.

The project does not adversely affect the design guidelines and development standards in effect for this site per the adopted Robinhood Ridge Precise Plan and Otay Mesa Community Plan, the proposed Rezone from AR1-1 to RM-2-4, CN-1-2 and IL-2-1, the Subdivision Map Act, and the City of San Diego Progress Guide and General Plan. The project will meet the minimum requirements for Affordable Housing by offering 15 residential units. The project constructs half width dedication and public street improvements to connect developments on the north and south. The project creates residential, commercial and industrial uses on a site currently containing none of those designated uses. Each of the requested deviations would be necessary to allow the development given the site size and zoning constraints. The proposed

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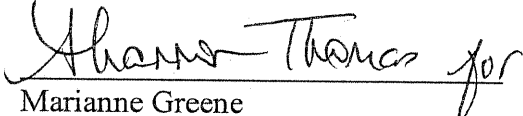
development has otherwise been designed and conditioned to ensure conformance to the requirements of the City of San Diego Land Development Code. Therefore, the proposed deviations are appropriate for this location and will result in a more desirable project than would have been achieved if designed in strict conformance with the development regulations of the applicable zone.

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

BE IT FURTHER RESOLVED, that the recommendation of the Planning Commission is sustained, and Site Development Permit No. 320732 is granted to Melvyn V. Ingalls, Owner/Permittee, under the terms and conditions set forth in the permit attached hereto and made a part hereof.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By



Marianne Greene
Deputy City Attorney

MR:als
09/15/08
12/04/08 Rev.Copy
Or.Dept:DSD
R-2009-316
MMS#6737

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Passed by the Council of The City of San Diego on December 1, 2008, by the following vote:

YEAS: **PETERS, FAULCONER, ATKINS, YOUNG, MAIENSCHEIN,
FRYE, MADAFFER, HUESO.**

NAYS: **NONE.**

NOT PRESENT: **NONE.**

RECUSED: **NONE.**

AUTHENTICATED BY:

JERRY SANDERS

Mayor of The City of San Diego, California

ELIZABETH S. MALAND

City Clerk of The City of San Diego, California

(Seal)

By: Sara Richardson, Deputy

I HEREBY CERTIFY that the above and foregoing is a full, true and correct copy of
RESOLUTION NO. **R-304458** approved by the Council of the City of San Diego, California on
December 1, 2008.

ELIZABETH S. MALAND

City Clerk of The City of San Diego, California

(SEAL)

By: *Sara Richardson*, Deputy

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RESOLUTION NUMBER R- 304457
DATE OF FINAL PASSAGE DEC 01 2008

WHEREAS, on August 23, 2006, Melvyn V. Ingalls, Owner/Permittee submitted an application Development Services Department for a Rezone Ordinance No. 314830, Site Development Permit No. 320732, and Vesting Tentative Map No. 314829, for Ocean View Village [Project], Project No. 96580; and

WHEREAS, the matter was set for a public hearing to be conducted by the Council of the City of San Diego; and

WHEREAS, the issue was heard by the City Council on DEC 01 2008; and

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

WHEREAS, the City Council considered the issues discussed in Final Addendum to Environmental Impact Report No. 98-0189; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that it is certified that Final Addendum to Environmental Impact Report No. 98-0189, on file in the office of the City Clerk, has been completed in compliance with the California Environmental Quality Act of 1970 (California Public Resources Code section 21000 et seq.), as amended, and the State guidelines thereto (California Code of Regulations section 15000 et seq.), that the report reflects the independent judgment of the City of San Diego as Lead Agency and that the information

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contained in said report, together with any comments received during the public review process, has been reviewed and considered by this Council in connection with the approval of a rezone ordinance, site development permit, and vesting tentative map for Ocean View Village project.

BE IT FURTHER RESOLVED, that pursuant to California Public Resources Code section 21081 and California Code of Regulations section 15091, the City Council adopts the findings made with respect to the project, a copy of which is on file in the office of the City Clerk and incorporated herein by reference.

BE IT FURTHER RESOLVED, that pursuant to California Code of Regulations section 15093, the City Council adopts the Statement of Overriding Considerations, a copy of which is on file in the office of the City Clerk and incorporated herein by reference, with respect to the project.

BE IT FURTHER RESOLVED, that pursuant to California Public Resources Code section 21081.6, the City Council adopts the Mitigation Monitoring and Reporting Program, or alterations to implement the changes to the project as required by this body in order to mitigate or avoid significant effects on the environment, a copy of which is attached hereto, as Exhibit A, and incorporated herein by reference.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By Marianne Greene
Marianne Greene
Deputy City Attorney

MR:als
09/15/08
Or.Dept:DSD
R-2009-315
MMS#6737

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Passed by the Council of The City of San Diego on December 1, 2008, by the following vote:

YEAS: **PETERS, FAULCONER, ATKINS, YOUNG, MAIENSCHIN,
FRYE, MADAFFER, HUESO.**

NAYS: **NONE.**

NOT PRESENT: **NONE.**

RECUSED: **NONE.**

AUTHENTICATED BY:

JERRY SANDERS

Mayor of The City of San Diego, California

ELIZABETH S. MALAND

City Clerk of The City of San Diego, California

(Seal)

By: Sara Richardson, Deputy

I HEREBY CERTIFY that the above and foregoing is a full, true and correct copy of
RESOLUTION NO. R-304457 approved by the Council of the City of San Diego, California on
December 1, 2008.

ELIZABETH S. MALAND

City Clerk of The City of San Diego, California

(SEAL)

By: *Sara Richardson*, Deputy

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EXHIBIT A
MITIGATION MONITORING AND REPORTING PROGRAM
OCEAN VIEW VILLAGE PROJECT NO. 96580
SITE DEVELOPMENT PERMIT NO. 320732, VESTING TENTATIVE
MAP NO. 314829 AND REZONE ORDINANCE NO. 314830

ATTACHMENT(S):

Exhibit A, EIR No. 98-0189 Conclusions

Exhibit A, EIR No. 98-0189 Findings and Statement of Overriding Considerations

Exhibit A, Addendum No. 96580 Mitigation Monitoring and Reporting Program

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R-304457



Environmental Impact Report

LDR No. 98-0189
SCH No. 97041060

SUBJECT: Robinhood Ridge Project. The proposed discretionary actions consist of amendments to the Robinhood Ridge Precise Plan (Precise Plan), Otay Mesa Community Plan, and City of San Diego Progress Guide and General Plan, and the rezoning of a portion of the Precise Plan area. Revisions to existing Vesting Tentative Map (VTM)/Planned Residential Development Permit (PRD) No. 86-1014, which covers 204 acres of the proposed 278-acre Precise Plan area, are proposed to be processed administratively through the City's Substantial Conformance Review process, contingent upon the approval of the above discretionary actions. The adopted Precise Plan accommodates the potential development of 1,116 dwelling units, 203 single-family and 913 multi-family. The project would reduce the development potential of the Precise Plan area to approximately 953 dwelling units, 520 single-family and 433 multi-family. The proposed revisions to VTM/PRD No. 86-1014 would reduce the development potential of this 204-acre property from 849 dwelling units, 191 single-family and 658 multi-family, to 698 dwelling units, 520 single-family and 178 multi-family. The primary Precise Plan area roadway connection is proposed to be shifted from Denney Canyon Road (to the west) to Otay Valley Road (to the east). The secondary Precise Plan area roadway connections to the southeast and the northwest would be maintained in the locations specified in the existing Precise Plan. The project proposes to amend the boundaries of the western portion of the Precise Plan area, reducing the plan area from 311 acres to 278. The 33-acre portion of the Precise Plan area that is proposed to be deleted is a part of an unrelated tentative map proposal within the proposed Hidden Trails Precise Plan area (LDR No. 89-0739). The project includes a boundary adjustment to the Multi-Habitat Planning Area of the City of San Diego Multiple Species Conservation Program Subarea Plan. The Precise Plan area is located approximately 1.5 miles east of Interstate 805 and two miles north of the U.S.-Mexico border (Portion of Section 29, T. 18 S., R. 1 W., S.B.B.M). Applicants: City of San Diego; Robinhood Homes, Inc.

UPDATE:

Revisions/additions have been made to the Environmental Impact Report (EIR) subsequent to the distribution of the draft document and the completion of the public review period. The revisions/additions primarily address the following issue areas: biological resources, land use, and public services and facilities. ~~Strikeout~~ and shading have been used to denote deletions and additions to these Conclusions, the EIR, and the Mitigation, Monitoring and Reporting Program.

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P 304457

CONCLUSIONS:

This EIR analyzes the environmental impacts of the Robinhood Ridge Project. The proposed discretionary actions, to be considered by the City Council in accordance with "Process Five," consist of amendments to the Robinhood Ridge Precise Plan (Precise Plan) and the Otay Mesa Community Plan and the rezoning of a portion of the Precise Plan area. Revisions to existing Vesting Tentative Map (VTM)/Planned Residential Development Permit (PRD) No. 86-1014, which covers 204 acres of the proposed 278-acre Precise Plan area (referred to herein as "VTM Area"), are proposed to be processed administratively through the City's Substantial Conformance Review process, contingent upon the approval of the above discretionary actions. Potential impacts associated with the proposed development of the VTM Area are addressed at a project level of analysis in this EIR, whereas the planned development of the remaining portions of the Precise Plan area (referred to herein as "Non-VTM Area") are addressed at a programmatic level of analysis.

Implementation of the Mitigation, Monitoring and Reporting Program (attached to this EIR) would reduce the majority of the significant environmental effects of the project to below a level of significance. However, the project would result in significant, unmitigated direct impacts in the areas of ~~land use, landform alteration/visual quality, public services and facilities (fire protection)~~, and biological resources (Non-VTM Area) and significant, unmitigated cumulative impacts with respect to landform alteration/visual quality and water quality. Implementation of the Mitigation, Monitoring and Reporting Program would reduce the following significant impacts to below a level of significance: biological resources (VTM Area), transportation/circulation, noise, land use, geology/soils, paleontological resources, public services and facilities (schools, parks and recreation, ~~and fire protection~~), utilities, hydrology/water quality (direct), and cultural resources.

Multiple Species Conservation Program

The impetus for the proposal is the City of San Diego Multiple Species Conservation Program (MSCP) Subarea Plan (Subarea Plan) and Implementing Agreement, which became effective on July 17, 1997, and which established the Multi-Habitat Planning Area (MHPA). The MHPA is comprised of those lands designated for habitat conservation wherein limited development may occur and is intended to provide the necessary habitat quantity, quality and connectivity to support the future viability of San Diego's unique biodiversity. Under the existing Precise Plan, primary vehicular access would be taken from Dennery Canyon Road to the west, which would cross Dennery Canyon, a significant component of the MHPA. The proposed segment of Dennery Canyon Road immediately west of the Precise Plan area and development in the immediate vicinity have been deleted from the Hidden Trails Precise Plan proposal. The purpose of the project is to bring the Precise Plan and VTM/PRD No. 86-1014 into conformity with the Subarea Plan and to modify the land use and circulation plans to be compatible with other developments in the surrounding area. The project includes a boundary adjustment to the Multi-Habitat Planning Area of the Subarea Plan.

During the preparation of the Subarea Plan, a revised development footprint for the Precise Plan was formulated to eliminate development within the northwest quadrant of the Precise Plan area

ORIGINAL

R-304457

and to eliminate the roadway connection to the west through Denney Canyon. This development footprint was based on a roadway connection to Otay Valley Road to serve as the primary vehicular access connection to the Precise Plan area. The adopted MHPA boundaries reflect this development footprint. Subsequent to the adoption of the Subarea Plan and the identification of a significant number of vernal pools within the VTM Area, the subdivider proposed further revisions to the development footprint in order to reduce vernal pool impacts in accordance with the federal Clean Water Act and state and federal Endangered Species Acts. The subdivider worked closely with the City of San Diego, U.S. Fish and Wildlife Service, and U.S. Army Corps of Engineers to formulate a new development footprint to reduce vernal pool impacts and to provide for adequate preservation and enhancement of on-site vernal pools, while maintaining the value and function of the MHPA and the viability of the approved development. The resulting redesign proposes two vernal pool preserves within the VTM Area, one in the southeastern portion where multi-family residential development was formerly proposed and an enlarged preserve in the central portion. To offset the preservation of these lands, development of uplands within the northwest quadrant of the VTM Area, currently within the MHPA, is proposed. Additional minor adjustments to the adopted MHPA boundaries are also proposed.

The proposed boundary adjustment would result in the reduction of the portion of the MHPA within the Precise Plan area by 6.9 acres. However, the net change in the amount of sensitive habitats would be positive. The only sensitive habitat loss that would result from the proposed MHPA boundary adjustment would be 0.1 acre of Diegan coastal sage scrub. The loss of ruderal, disturbed, and developed areas, which are not sensitive habitats, would equal 9.4 acres, which would be partially offset by the 2.5-acre net increase in sensitive habitats. Of the nine coastal California gnatcatcher siting locations within the Precise Plan area, seven are within both the existing and proposed MHPA boundaries. The siting location west of the proposed central vernal pool preserve would be impacted under either scenario. Impacts to the other siting location would result from the realignment of Otay Valley Road and would likely occur under either scenario. A portion of the Otay tarplant (*Hemizonia conjugens*) population observed on-site is within the extreme northwest segment of the VTM Area, within the existing MHPA boundaries. The proposed removal of this area from the MHPA would result in significant impacts to this species, which is an MSCP narrow endemic species and is a State listed as endangered species. Impacts to the population of this species within the VTM Area are proposed to be mitigated by translocation of seeds to the on-site vernal pool preserve areas and other suitable areas within the MHPA and a minimum five-year monitoring program.

Denney Canyon, immediately west/southwest of proposed VTM Area development, is the primary regional wildlife corridor between the Otay River Valley and Otay Mesa. Data is lacking on the existing wildlife use of this corridor. No deer or mountain lion sign was noted on site; if these larger mammals use the area they are likely quite scarce. This corridor is therefore expected to primarily accommodate small to medium-sized mammals, reptiles, and amphibians; the largest mammal likely being the coyote, which was observed on site. The proposed expansion of the development footprint into the extreme northwest portion of the VTM Area would extend development further into the wildlife corridor. Due to the width of the corridor in this area and the limited extent of the proposed encroachment, the overall impact to the corridor is not considered to be significant; ample area to support wildlife movement would be maintained.

R. 304457

Based on the corridor specific criteria for the MSCP, the proposed MHPA boundaries would be adequate to maintain the value and function of the corridor. The City and the U.S. Fish and Wildlife Service (refer to the correspondence from Gail Kobetich, USFWS, to Tom Story, City of San Diego, in Appendix A of this EIR) have determined that given the rarity of the vernal pools that would be preserved, the net gain of sensitive habitats within the MHPA, and the minimal impacts to the Dennery Canyon wildlife corridor, the proposed MHPA boundary adjustment would result in the same or higher biological value of the preserve.

SIGNIFICANT UNMITIGATED IMPACTS:

Land Use (Direct)

~~Per the City of San Diego Progress Guide and General Plan (General Plan), the Otay Mesa Community Planning Area is one of the designated Planned Urbanizing Areas of the City. The ability of the Fire Department to provide fire protection according to the established response standards of the City is one of the General Plan criteria for development proposals within Planned Urbanizing Areas. Prior to the construction of the planned roadway connection to the Dennery Ranch Precise Plan area to the northwest, response times to the majority of the VTM Area would exceed the City Fire Department's six minute response time goal for non-medical emergencies. Although the provision of fire sprinkler systems within VTM Area residences would reduce this significant impact to below a level of significance, this mitigation measure is not acceptable to the subdivider of the VTM Area. Therefore, this inconsistency with the General Plan would constitute a significant, unmitigated land use impact.~~

Landform Alteration/Visual Quality (Direct and Cumulative)

In order to implement the proposed revisions to VTM/PRD No. 86-1014, grading quantities within the 204-acre VTM Area would increase substantially, from 2.1 million cubic yards of cut and 1.7 million cubic yards of fill to approximately 3.5 million cubic yards of cut and 3.5 million cubic yards of fill. The majority of the proposed manufactured slopes would be within designated open space areas and would exceed 70 feet in height, which constitute inconsistencies with the adopted Precise Plan. The grading of the eastern slopes of the site to accommodate the proposed roadway connection to Otay Valley Road and additional grading proposed within canyons and hillsides in the northern portion of the Precise Plan area would result in a landform alteration/visual quality impact that would not result under the adopted Precise Plan and existing VTM/PRD No. 86-1014. Implementation of the Mitigation, Monitoring and Reporting Program would reduce the severity of these significant impacts, but not to below a level of significance.

The continued development of the Otay Mesa area as planned would result in further alterations to natural landforms and loss of native vegetation communities. The sporadically developed Otay Mesa area would be transformed into an intensely developed suburban community and a major regional employment center. Despite the expectation that substantial portions of the major canyons and hillsides in the Otay Mesa area would be preserved in their natural state, the extent of landform alteration that is expected to occur within the Otay Mesa area would constitute a significant landform alteration/visual quality impact. The addition of significant project-related landform alteration/visual quality impacts to this impact would constitute a significant cumulative

R.304457

impact.

Public Services and Facilities: Fire Protection (Direct)

~~As stated in the "Land Use" section above, prior to the construction of the planned roadway connection to the Denney Ranch Precise Plan area to the northwest, response times to the majority of the VTM Area would exceed the City Fire Department's six minute response time goal for non-medical emergencies. Although the provision of fire sprinkler systems within VTM Area residences would reduce this significant impact to below a level of significance, this mitigation measure is not acceptable to the subdivider of the VTM Area. Therefore, this significant public services and facilities impact would remain unmitigated.~~

Biological Resources: Non-VTM Area (Direct)

Anticipated significant, direct impacts that would result from the future development of the Non-VTM Area consist of the loss of approximately 7.4 acres of Diegan coastal sage scrub, 2,087 square feet of vernal pools, and 536 square feet of road pools. These impacts are considered to be significant and unmitigated at a programmatic level of analysis. In conjunction with the environmental review of future development proposals within the Non-VTM Area, surveys will need to be conducted to identify impacts to narrow endemic plant species and non-covered plant and animal species. In the absence of such surveys, potential impacts to narrow endemic and non-covered species within these areas are considered significant and unmitigated. These impacts are considered significant and unmitigated at a programmatic level of analysis and subsequent environmental review in accordance with the provisions of CEQA would be required for future development proposals within this area.

Water Quality (Cumulative)

As stated in the Otay Mesa Community Plan, although impacts associated with siltation and polluted urban runoff from individual projects would typically be at a low level, these impacts would be cumulatively significant. Implementation of the Mitigation, Monitoring and Reporting Program would reduce direct water quality impacts to below a level of significance. However, cumulative water quality impacts would remain significant and unmitigated.

RECOMMENDED MITIGATION OR ALTERNATIVES FOR SIGNIFICANT UNMITIGATED IMPACTS:

Land Use/Public Services and Facilities: Fire Protection

~~Although the following mitigation measure would reduce the significant, unmitigated public services and facilities (fire protection) and land use impacts of the project to below a level of significance, it is not acceptable to the subdivider of the VTM Area:~~

~~"Prior to the issuance of any building permits under VTM/PRD No. 86-1014, the City Manager shall require that all structures be equipped with a residential fire sprinkler system, unless the City Fire Marshal determines that such a system is not required."~~

R 304457

Environmentally Superior Alternative

Each of the four alternatives analyzed in Section IX of this EIR was determined to be environmentally superior to the project. Although the No Project Alternative would avoid the significant impacts of the project in the near-term, it is anticipated that this area would be developed in the long-term in a similar manner to the project. The No Project Alternative is not recommended because it would fail to attain the basic objectives of the project, which are to bring the Robinhood Ridge Precise Plan into conformity with the City's MSCP Subarea Plan and to revise the land use and circulation elements of the Precise Plan to be compatible with other approved and proposed developments in the surrounding area. Based on anticipated reductions in significant environmental effects, new significant effects which might result, feasibility of implementation, and ability to attain the basic objectives of the project, the Reduced Grading Alternative is considered to be the environmentally superior alternative.

Reduced Grading Alternative

The Reduced Grading Alternative considers a development footprint that is consistent with existing MHPA boundaries, avoids development within the two proposed vernal pool preserves, and eliminates the proposed primary access connection to Otay Valley Road to the east. This alternative would delete the 78 single-family residential lots proposed within the extreme northwest portion of the VTM Area, as well as a lesser number of single-family lots within the area immediately surrounding the proposed neighborhood park site. In addition, the proposed primary access connection to Otay Valley Road would be deleted and the proposed future connection to Dennery Road to the northwest would become the primary access point for the Precise Plan area.

The Reduced Grading Alternative would reduce significant biological resources and landform alteration/visual quality impacts, but not to below a level of significance. This alternative would avoid one, and possibly two, traffic-related impacts, but has the potential to result in new impacts that would not occur under the project. In the absence of a traffic impact analysis of this alternative, these new potential impacts are considered to be significant. The significant land use and public services and facilities (fire protection) impacts that would result from the inability of the City Fire Department to meet their response time goal would likely be avoided under this alternative.

Unless mitigation measures or project alternatives are adopted, project approval will require the decision-maker to make Findings, substantiated in the record, which state that: a) individual mitigation measures or project alternatives are infeasible; and b) the overall project is acceptable despite significant impacts because of specific overriding considerations.

R. 304457

MITIGATION, MONITORING AND REPORTING PROGRAM INCORPORATED INTO THE PROJECT:

Biological Resources: VTM Area

To mitigate the loss of ~~4.55~~ 1.76 acres of maritime succulent scrub, ~~94.34~~ 95.35 acres of Diegan Coastal sage scrub, 18.95 acres of non-native grasslands, 404 square feet of vernal pools, and 2,669 square feet of road pools, San Diego fairy shrimp, Riverside fairy shrimp, variegated dudleya, Otay tarplant, decumbent goldenbush, and potential impacts to the Quino checkerspot butterfly associated with the proposed development of the VTM Area, the following measures would be implemented: On-site preservation of ~~2.40~~ 1.89 acres of maritime succulent scrub, ~~49.47~~ 45.46 acres of Diegan coastal sage scrub, 9.05 acres of non-native grasslands, 404 square feet of vernal pools, and 2,669 square feet of road pools; On-site restoration of 404 square feet of vernal pools and 2,669 square feet of road pools; Off-site preservation of 9.80 acres of Diegan coastal sage scrub; Revegetation of 21.39 acres of manufactured slopes and ~~40.68~~ 18.36 acres of disturbed areas; Incorporation of dot-see plantain and owl's clover into the broadcast seed mix used within the on-site vernal pool preserves; and , Relocation of variegated dudleya, Otay tarplant, and decumbent goldenbush individuals within the on-site vernal pool preserves and other suitable portions of the MHPA. Mitigation of the potential introduction of invasive plant species into the MHPA would consist of the verifying that no non-native plant species would be planted within Brush Management Zone 2 areas with the MHPA.

Transportation/Circulation

The significant impacts of the project on the Otay Mesa Road/Heritage Road intersection would be mitigated through a fair share contribution from the subdivider of the VTM Area towards an additional southbound left-turn lane. Based on Caltrans' daily and peak hour warrants, it was found that a signal would be warranted at the Robinhood Ridge Drive intersection with Otay Valley Road, constituting a significant impact of the project. This impact would be mitigated through the provision of a traffic signal at this intersection by the subdivider of the VTM Area.

Noise

Potentially significant noise impacts to VTM Area residents from Coors Amphitheater, which is presently under construction within the City of Chula Vista just north of the Precise Plan area, would be mitigated through the provision of mechanical ventilation systems within habitable residential structures to allow for the closure of windows.

Land Use

To meet the City Fire Department's response time goals, which is one of the criteria for development proposals with Planned Urbanizing Areas of the City that is identified in the City's Progress Guide and General Plan, and to provide a second emergency vehicle access point for the central and western portions of the Precise Plan area, an emergency access road connection to the Dennery Ranch Precise Plan area circulation system would be constructed by the developer. This emergency access road would be constructed prior to the issuance of the

R - 304457

Certification of Occupancy for the 101st single-family dwelling unit within the VTM Area and would follow the alignments of proposed VTM Area streets. If the proposed access road, or an alternative access road acceptable to the City Fire Marshal, cannot be constructed, the developer would have the option to sprinkler dwellings to City of San Diego Fire Department standards.

The following measures would be implemented to ensure that developments within portions of the VTM Area adjacent to the MHPA would comply with the Land Use Adjacency Guidelines of the City's MSCP Subarea Plan: Restrict clearing, grubbing, and grading activities during the coastal California gnatcatcher breeding season within portions of the MHPA occupied by gnatcatchers and in areas that would result in noise levels exceeding 65 decibels within any portion of the MHPA that is occupied by gnatcatchers; Direct and shield exterior lighting to protect the MHPA and sensitive species from night lighting; and, Install barriers adjacent to the MHPA to direct access to appropriate locations and to reduce domestic animal predation.

Geology/Soils

Prior to the development of the VTM Area, a detailed geologic investigation report would be prepared to the satisfaction of the City Engineer. The report would include a determination of the precise age and location of the on-site fault and an analysis of the adequacy of the proposed fault buffer zone. All recommendations of the report would be required as conditions of grading permits issued within the VTM Area.

Paleontological Resources

Implementation of a paleontological monitoring program would be required to recover any significant paleontological resources that may be encountered during the excavation of portions of the VTM Area which contain known fossil-bearing geologic formations.

Public Services and Facilities: Schools/Parks and Recreation/Fire Protection

Prior to the development of the VTM Area, the developer would be required to enter into agreements with the affected school districts to provide for adequate permanent school facilities to serve the students projected to be generated by proposed developments.

To meet the parks and recreation needs of VTM Area the Precise Plan area, an improved 5.6 a 6.2-acre neighborhood park would be provided by the developer of the VTM Area. The developer would also reserve an additional 1.6 acres of residential land adjacent to the park for possible future expansion in order to meet the projected needs of Non VTM Area developments. Subject to the terms of a developer agreement to the satisfaction of the City Manager, the reserved residential lots, or a portion thereof, may be released to the developer at a future date for residential development.

To meet the City Fire Department's response time goals and to provide a second emergency vehicle access point for the central and western portions of the Precise Plan area, an emergency access road connection to the Dennery Ranch Precise Plan area circulation system

R. 304457

would be constructed by the developer. This emergency access road would be constructed prior to the issuance of the Certificate of Occupancy for the 101st single-family dwelling unit within the VTM Area, and would follow the alignments of proposed VTM Area streets. If the proposed access road, or an alternative access road acceptable to the City Fire Marshal, cannot be constructed, the developer would have the option to sprinkler dwellings to City of San Diego Fire Department standards.

Utilities

Due to the deficiencies in the existing South San Diego-Otay Mesa System and the current absence of system improvements which are requirements of other approved, but not yet constructed, developments in the area, the preparation of a water study to the satisfaction of the City Engineer and the provision of all water system improvements deemed necessary to meet the needs of proposed VTM Area development would be required.

Likewise, the preparation of a sewer study to the satisfaction of the City Engineer and the provision of all sewer system improvements deemed necessary to meet the needs of proposed VTM Area development would be required.

The quantity of solid waste generated by Precise Plan area development could significantly impact the City's ability to comply with the State's waste stream reduction mandate, unless adequate waste reduction measures are implemented. The preparation and implementation of a Waste Management Plan for proposed VTM Area development would be required.

Hydrology/Water Quality

The preparation of a comprehensive drainage study to the satisfaction of the City Engineer and the provision of all drainage system improvements deemed necessary to adequately accommodate surface runoff flows would be required.

To reduce water quality impacts associated with the proposed VTM Area development, the implementation of appropriate Best Management Practices identified in the Stormwater Pollution Prevention Plan approved by the City Engineer as part of the NPDES permit process would be required.

Cultural Resources

If additional off-site improvements which are not addressed in this EIR are proposed, such as sewer and water facilities, subsequent environmental review, analysis, and documentation, in accordance with the provisions of CEQA, would be required.

The above-described Mitigation, Monitoring and Reporting Program will require a deposit of \$7,000 to be collected prior to the recordation of the first final map and/or the issuance of the first grading permit to ensure the successful completion of the monitoring program.

Lawrence C. Monserrate

Lawrence C. Monserrate
Environmental Review Manager
Development Services

April 29, 1998

Date of Draft Report

June 25, 1998

Date of Final Report

Analyst: Hellman

PUBLIC REVIEW:

The following individuals, organizations, and agencies received a copy or notice of the draft EIR and were invited to comment on its adequacy and sufficiency:

Federal Government

Army Corps of Engineers
Department of the Interior, Fish and Wildlife Service
Immigration & Naturalization Service, Border Patrol
Federal Aviation Administration

State of California

Department of Transportation, District 11
Department of Transportation, Division of Aeronautics
Department of Fish and Game
Regional Water Quality Control Board, Region 9
State Clearinghouse

County of San Diego

Supervisor Cox, 1st District
Air Pollution Control District
Department of Planning and Land Use
Department of Environmental Health, Hazardous Materials Management Division

City of San Diego

Councilmember Vargas, District 8
Development Services
Community and Neighborhood Services

R- 304457

Public Works
Park & Recreation Board
Wetlands Advisory Board
Otay Mesa Branch Library

Other Agencies, Organizations and Individuals

San Diego Association of Governments
Metropolitan Transit Development Board
City of Chula Vista, Environmental Review Coordinator
Chula Vista School District
San Ysidro School District
Sweetwater Union High School District
Otay Mesa Planning Committee
Otay Mesa Development Council
Sierra Club, San Diego Chapter
San Diego Audubon Society
California Native Plant Society
Endangered Habitats League
San Diego Natural History Museum
San Diego Gas and Electric Company
The Southwest Center for Biological Diversity
San Diego County Archaeological Society, Inc.
San Diego Museum of Man
Dr. Florence Shipek
San Diego State University, South Coastal Information Center
Save Our Heritage Organisation
Ron Christman
Louie Guassac
Clarence R. Brown, Sr.
California Indian Legal Services
Robinhood Homes, Inc.
Janay Kruger
Ellen Bauder
Kimley-Horn and Associates, Inc.
Pardee Construction Company
San Luis Rey Properties
John Ponder
Project Design Consultants
Kyriakos Attisha
John McGuire
Bill Dendy
Salim Sesi
Najib Sesi

Copies of the draft EIR, the Mitigation, Monitoring and Reporting Program, and any technical appendices may be reviewed in the office of the Land Development Review Division, or purchased for the cost of reproduction.

RESULTS OF PUBLIC REVIEW:

- () No comments were received during the public input period.
- () Comments were received but the comments do not address the accuracy or completeness of the environmental report. No response is necessary and the letters are attached at the end of the EIR.
- (X) Comments addressing the accuracy or completeness of the EIR were received during the public input period. The letters and responses follow.

FINDINGS AND STATEMENT OF OVERRIDING CONSIDERATIONS

The California Environmental Quality Act (CEQA) requires that no public agency shall approve or carry out a project for which an environmental impact report has been completed which identifies one or more significant effects thereof unless such public agency makes one or more of the following findings:

- (1) Changes or alterations have been required in, or incorporated into, such project which mitigate or avoid the significant environmental effects thereof as identified in the completed environmental impact report.
- (2) Such changes or alterations are within the responsibility and jurisdiction of another public agency and such changes have been adopted by such other agency or can and should be adopted by such other agency.
- (3) Specific economic, social or other considerations make infeasible the mitigation measures or project alternatives identified in the environmental impact report.

(Sec. 21081 of the California Environmental Quality Act)

CEQA further requires that, where the decision of the public agency allows the occurrence of significant effects which are identified in the final EIR, but are not at least substantially mitigated, the agency shall state in writing the specific reasons to support its action based on the final EIR and/or other information in the record (Sec. 15093 of the CEQA Guidelines).

The following Findings and Statement of Overriding Considerations have been submitted by the project applicant as candidate findings to be made by the decision making body. The Environmental Quality Division does not recommend that the discretionary body either adopt or reject these findings. They are attached to allow readers of this report an opportunity to review the applicant's position on this matter.

R-304457

**Candidate Findings and Statement of Overriding Considerations
for the Environmental Impact Report for
Robinhood Ridge Precise Plan**

**LDR No. 98-0189
SCH No. 97041060**

Findings

The following Candidate Findings are made relative to the conclusions of the Final Environmental Impact Report (Final EIR) for the Robinhood Ridge Precise Plan, LDR No. 98-0189, SCH No. 97041060. The project applicant is Robinhood Homes. The City of San Diego ("City") is the Lead Agency responsible for making the final discretionary decisions with respect to the project.

The discretionary actions addressed in this EIR consist of amendments to the Robinhood Ridge Precise Plan, Otay Mesa Community Plan, and City of San Diego Progress Guide and General Plan, and the rezoning of the 204 -acre portion of the Precise Plan area covered by existing Vesting Tentative Map (VTM/ Planned Residential Development Permit (PRD) No. 86-1014 (referred to herein as "VTM Area"). This EIR also covers proposed revisions to VTM/PRD No. 86-1014, proposed to be processed administratively through the City's Substantial Conformance Review process contingent upon the approval of the above discretionary actions. Potential impacts associated with the proposed development of the VTM Area are addressed at a project level of analysis in this EIR, whereas the planned development of the remaining portions of the Precise Plan area are (referred to herein as "Non-VTM Area") are addressed at a programmatic level of analysis.

The project site is within the Otay Mesa Community Planning Area. The Otay Mesa Community Plan (Community Plan) was originally adopted by the San Diego City Council on April 27, 1981. On June 4, 1991, the Council adopted the Robinhood Ridge Precise Plan (Precise Plan) by Resolution No. R-278053. The Community Plan was amended to reflect the adopted Precise Plan by this same resolution.

This EIR focuses on issues that were determined to be potentially significant, based on the Environmental Initial Study and the responses to the Notice of Preparation (NOP) and Revised NOP. Environmental issues addressed in this EIR consist of: Biological Resources, Transportation/Circulation, Neighborhood Character/Landform Alteration/Visual Quality, Noise, Land Use, Geology/Soils, Paleontological Resources, Public Services and Facilities, Utilities, Hydrology/Water Quality, Human Health/Public Safety, Cultural Resources, and Air Quality. The Final EIR also evaluates cumulative impacts of the project, as well as four alternatives to the project.

The primary land use proposed under the amended Precise Plan remains residential development; however, the emphasis of housing type would shift from primarily multi-family to primarily single-family. The adopted Precise Plan is designated to accommodate a total of 1,116 dwelling units, 203 single-family and 913 multi-family, whereas the proposed amended Precise Plan would accommodate a total of 953 dwelling units, 520 single-family and 433 multi-family. Additional proposed land uses include neighborhood commercial, neighborhood park, industrial, and open space. The 2.0-acre portion of a formerly planned elementary school/park site in the extreme northwest portion of the Precise Plan area is proposed to be eliminated due to the relocation of the school site by the Chula Vista Elementary School District completely within the neighboring Denney Ranch Precise Plan area. A 6.2 acre neighborhood park is proposed within the north-central portion of the Precise Plan area, while the 0.6 acre and 0.5

R-304457

acre mini-park sites in the existing Precise Plan would be eliminated. Neighborhood commercial uses would be reduced from 3.8 acres to 2.9 acres, while industrial uses would remain at 4.6 acres. The majority of the undeveloped portions of the Precise Plan area would be designated as open space.

The Final EIR concludes that the direct impacts with respect to the following environmental issues can be reduced to less than significant levels if all the mitigation measures recommended in the Final EIR are implemented: biological resources (VTM Area), transportation/circulation, noise, land use, geology/soils, paleontological resources, public services and facilities, utilities, hydrology/water quality, and cultural resources.

The Final EIR concludes that the project would result in significant unmitigated direct impacts in the areas of landform alteration/visual quality and biological resources (Non-VTM Area) and significant, unmitigated cumulative impacts with respect to landform alteration/visual quality and water quality. The following Findings are made pursuant to Section 21081 of the California Environmental Quality Act (CEQA), California Public Resource Code §§ 21000-21177, and the State CEQA Guidelines, Cal.Code of Regulations, Title 14, §§ 15091 and 15093.

A. Section 21081 (a) Findings

Pursuant to Public Resources Code Section 21081 (a), the City, having independently reviewed and considered the information contained in the Final EIR, the appendices, and the record, finds that changes or alterations have been required of, or incorporated into, the proposed project which mitigate, avoid or substantially lessen the significant environmental effects identified in the Final EIR with respect to the following: biological resources, transportation/circulation, land use, neighborhood character/landform alteration/visual quality, geology/soils, noise, hydrology/water quality, public services and facilities, utilities, paleontological resources, and cultural resources.

Implementation of the following recommendations would occur via the imposition of conditions of approval for the project.

1) *Biological Resources*

Impact

The proposed VTM would result in significant direct impacts to 1.76 acres of maritime succulent scrub, 95.35 acres of Diegan coastal sage scrub, 18.95 acres of non-native grassland, 404 square feet of vernal pools, and 2,669 square feet of road pools. The proposal would also result in significant impacts to San Diego fairy shrimp, Riverside fairy shrimp, and potential impacts to Quino checkerspot butterfly

Finding

The above-described impacts are considered to be significant. Adoption of the following mitigation measures would reduce impacts associated with the development of the VTM Area to below a level of significance

Mitigation, Monitoring and Reporting:

1. Prior to the recordation of the first Final Map and/or the issuance of the first grading permit under VTM/PRD No. 86-1014, the City Manager shall verify that the following

R - 304457

requirements have been met:

- a. The subdivider shall dedicate in fee title to the City of San Diego the approximately 92.7-acre portion of the VTM Area that is within the adjusted MHPA boundaries (not to include any required brush management areas), plus an additional 9.8 acres of Tier I-III habitat either elsewhere within the City of San Diego MHPA or immediately north of the subject property within the City of Chula Vista. Where dedication in fee title is not appropriate, the above-described lands or portions thereof may be encumbered by a perpetual conservation easement in a form acceptable to the City Manager.
 - b. The subdivider shall enter into a bonded biological mitigation and monitoring agreement with the City for the revegetation of 21.39 acres of on-site manufactured slopes within the MHPA and for the revegetation of 18.7 acres of disturbed on-site areas within the MHPA; required brush management areas shall not be counted towards these revegetation requirements. The revegetation of these areas with Diegan coastal sage scrub habitat shall be monitored for a period of five years, in accordance with the provisions of a revegetation plan approved by the City Manager. At a minimum, the revegetation plan shall address the following: (1) revegetation sites; (2) site preparation; (3) planting specifications; (4) maintenance; (5) monitoring; and (6) success criteria.
2. Prior to the recordation of the first Final Map and/or the issuance of the first grading permit under VTM/PRD No. 86-1014, the City Manager shall verify that the subdivider has prepared a Vernal Pool Mitigation Plan to the satisfaction of the City, ACOE, and USFWS, has satisfied the applicable pre-grading elements of the Plan, and has obtained a Section 404 Permit from the ACOE, authorizing the destruction of 404 square feet of vernal pools and 2,669 square feet of road pools on the subject property.

The draft *Robinhood Ridge Vernal Pool Mitigation Plan, Biological Opinion/Conference for Robinhood Homes Residential Project (No. 97-20133-DAZ), Otay Mesa, City of San Diego, San Diego County, California (1-6-97-F-57)*, and *Update to Robinhood Ridge Biological Technical Report* identify the following vernal pool mitigation requirements (see Appendix A of this EIR):

- a. A minimum of 404 square feet of vernal pools and 2,669 square feet of road pools will be preserved and a minimum of 404 square feet of vernal pools and 2,669 square feet of road pools will be restored, along with the preservation of adequate upland watershed. Mitigation will occur within two separate vernal pool preserve areas totaling approximately nine acres within the subject property. The preserve areas will be surrounded by fencing to prevent intrusion. Prior to the grading of the project site, the developer shall execute and record a perpetual conservation easement over the vernal pool preserve areas in a form acceptable to the USFWS for biological conservation purposes in favor of the USFWS, CDFG, or other conservation organization mutually acceptable to the USFWS and ACOE.
- b. Grading activities within the vernal pool preserve areas shall be conducted during the late summer and fall to minimize soil compaction. Grading plans with 0.5-foot contours which specify the areas of existing habitat which are to remain unaffected by restoration activities shall be submitted to the USFWS and ACOE for approval prior to impacts. Avoidance areas shall be clearly delineated on grading plans.

R-304457

Avoidance areas shall be clearly delineated on grading plans. Pools to be avoided should be clearly marked with stakes, flagging, and/or rope or cord to minimize degradation or loss of adjacent habitats during facility construction. Indirect impacts to vernal pools shall be minimized through the construction of curbs along the edge of roads adjacent to the preserve areas to direct runoff away from the vernal pool watersheds. Silt fences shall be erected to prevent siltation of the preserved basins. Grading shall be conducted by a grading contractor with vernal pool restoration experience, under the direction of a qualified biologist with vernal pool restoration experience, using small-tracked dozers with ripping tines and slope boards and rubber-tired loaders. A sheep's-foot shall be used for mound construction. The project biologist must be familiar with vernal pool habitats, have worked locally on vernal pool restoration projects for a minimum of three years, and possess the appropriate federal and state permits.

- c. Any unauthorized loss of vernal pool basin areas will be offset at a 5:1 ratio (3:1 restoration and 2:1 preservation) and will be held to the same standards as the other mitigation efforts.
- d. Vernal pool soil (inoculum) shall be collected when it is dry to avoid damage to fairy shrimp cysts. A hand trowel or similar instrument shall be used to collect the sediment. The trowel shall be used to pry up intact chunks of sediment, rather than loosening the soil by rake and shoveling which can damage cysts. The active transport of propagules from donor sites into the restored pools will be accomplished through stockpiling and redistribution of topsoil containing seeds, spores, bulbs, eggs and other propagules from impacted pools on the subject property. The inoculum shall be stored in individually labeled bags or boxes that are adequately ventilated and kept out of direct sunlight. Soil containing fairy shrimp cysts shall not be introduced into pools that may already have populations of any species of shrimp. The restoration of vernal pool habitat shall require the reintroduction of plants and animals within the preserve areas. This can be accomplished by redistributing topsoil containing seeds, spores, bulbs, eggs, and other propagules from vernal pools to be impacted and by the translocation of the propagules of individual species from off-site habitats. Translocation of listed endangered vernal pool target species from off-site donor areas shall be postponed until an evaluation is made of the initial winter's hydrological and vegetation response. Following the first growing season, the initial monitoring report shall include specific recommendations for translocation from off-site to be approved by the USFWS.
- e. The target vegetation habitat of upland restoration within the preserve areas will be coastal sage scrub. Topsoil from impacted coastal sage scrub on the subject property will be salvaged for use within the preserve areas. In addition, seeds collected from impacted coastal sage scrub on the subject property or from other portions of coastal southern San Diego County will be hand broadcasted and raked into the soil in the preserve areas. To mitigate for potential impacts to the Quino checkerspot butterfly (*Euphydryas editha quino*), dot-seed plantain (*Plantago erecta*) and owl's clover (*Castilleja exserta* ssp. *exserta*), hosts for this species during its larval stage, will be incorporated into the broadcast seed mix.
- f. A five-year monitoring program will be carried out to assess the progress of the restoration efforts and to determine any appropriate remedial measures. Monitoring of the preserve areas will consist of hydrological measurements, complete floral and

R-304457

fauna inventories, quantitative vegetation transects, and photo documentation. Inspections will be conducted monthly during the first year, every other month during the second year, and every three months during the remainder of the monitoring period. Reports will be prepared and submitted to the ACOE and USFWS by September of each year during the five-year monitoring program to ensure adequate time to make any necessary alterations to the preserve area during the dry season.

- g. A five-year maintenance program will be carried out, involving removal of trash, weed control, hydrological/topographical modification, fence repair, and any remedial measures deemed necessary for the success of the mitigation program.

Impact

The project would have a significant direct impact on encumbent goldenbush and the narrow endemics variegated dudleya and Otay tarplant within the VTM Area.

Finding

Adoption of the following mitigation measure would reduce impacts to variegated dudleya, Otay tarplant, and encumbent goldenbush associated with the development of the VTM Area to below a level of significance.

Mitigation, Monitoring and Reporting

1. To mitigate for the loss of variegated dudleya individuals, prior to the recordation of the first Final Map and/or the issuance of the first grading permit under VTM/PRD No. 86-1014, the subdivider shall enter into a bonded biological mitigation and monitoring agreement with the City to ensure the successful implementation of the *Robinhood Ridge Dudleya Relocation Plan*. This plan, contained in Appendix A of this EIR, identifies the following requirements:
 - a. The receptor area to be used for the relocation of variegated dudleya consists of the proposed vernal pool preserve areas within the subject property totaling approximately nine acres.
 - b. Prior to the relocation activities and when the plant is flowering and visible, the exact location of each plant will be marked with ground flags and mapped. All plants identified during the survey will be removed between September 1 and October 1 to coincide with their dormant period. Corms will be dug up and stored in brown paper bags in a cool, dry place for at least four weeks prior to transplantation to allow for calluses to develop on any cut or damaged surfaces.
 - c. The depth and spacing recorded from the original site will be used as a guide for the transplantation of corms within the receptor area. The location of each transplanted dudleya will be marked for future monitoring activities.
 - d. A five-year monitoring program, to be carried out under the direction of the revegetation specialist, will assess the progress of the transplantation effort and ensure the identification of any appropriate remedial measures. In conjunction with the vernal/road pool monitoring program, inspections of the restoration and maintenance efforts will be conducted monthly during the first year, every other month during the second year, and every three months during the remainder of the

monitoring period. Botanical monitoring of the dudleya will occur annually during the five-year monitoring program. Reports will be prepared and submitted to the City by September of each year during the five-year monitoring program to ensure adequate time to make any necessary alterations to the preserve area during the dry season.

- e. A five-year maintenance program involving removal of trash, weed control, fence repair, and any remedial measures deemed necessary for the success for the relocation program will be carried out.
 - f. Success of the dudleya relocation program will be determined by survivorship and will be assessed by the revegetation specialist. Complete, or 100 percent, survivorship is required at the end of the five-year monitoring program. All dead plants must be replaced. Obtaining required replacement stock will be the responsibility of the subdivider.
 - g. The subdivider shall notify the City of completion of the mitigation effort through the submittal of the final monitoring report; to include all monitoring data from the annual monitoring reports and a summary of the overall success of the relocation program. After receipt of the final monitoring report, the City may inspect the mitigation area to determine the success of the program.
2. To mitigate for the loss of Otay tarplant and decumbent goldenbush individuals, prior to the recordation of the first Final Map and/or the issuance of the first grading permit under VTM/PRD No. 86-1014, the subdivider shall enter into a bonded biological mitigation and monitoring agreement with the City to ensure the successful implementation of the following mitigation plan:
- a. The general strategy will be to sow harvested Otay tarplant and decumbent goldenbush seeds into disturbed upland areas primarily within the two vernal pool preserves. This will result in Otay tarplant and decumbent goldenbush being seeded into roads and OHV paths through coastal sage scrub and in areas of disturbed habitat. Ripe Otay tarplant and decumbent goldenbush seeds will be harvested in the summer of 1998. For decumbent goldenbush, a secondary strategy will be to also transplant shrubs of this species into the same areas. Decumbent goldenbush plants will be salvaged in the late fall.
 - b. Site preparation for this planting will be one of two types based on current existing conditions. Areas that currently do not support any vegetation because of compaction by OHV's will be mechanically decompacted and seeded with Otay tarplant, decumbent goldenbush and other coastal sage scrub species. Areas with weed infested soil will have their soil replaced with soil from existing dense patches of Otay tarplant. These areas will also be seeded with Otay tarplant, decumbent goldenbush and other coastal sage scrub species.
 - c. Areas with weed infested soil will be scraped to remove the top eight inches of soil. The upper eight inches of topsoil from impacted tarplant patches will be collected and spread in areas where the weed infested soil was removed. This soil salvage also attempts to salvage the hidden seed bank in the patches of Otay tarplant that are proposed for eradication.
 - d. A five-year maintenance and monitoring program will be conducted to assess the progress of the Otay tarplant and decumbent goldenbush translocation effort and

determine any appropriate remedial measures. Monitoring of the Otay tarplant will take place while it is flowering (May - June) for each of the five years of the monitoring program. Monitoring of the decumbent goldenbush may take place at the same time, but may be monitored at any other appropriate time of year at the discretion of the revegetation specialist.

- e. During each monitoring event the size of individuals, number, distribution and overall health of each observed population will be recorded. A written memorandum will be prepared listing the results of the monitoring event and recommending any necessary remedial measures. At the end of each year an annual report will be prepared and submitted to the City of San Diego.
- f. Success of the mitigation program will be measured by the population size of the target species that are established, and will be assessed by the revegetation specialist. Complete, or 100 percent, replacement is required at the end of the five-year monitoring program. All dead plants must be replaced. For Otay tarplant, the success of the program will take into account normal yearly fluctuations in population sizes of this species by comparing the mitigation site to off site control populations. It may be necessary to extend the five-year monitoring period for Otay tarplant if unfavorable weather conditions limit the detectability of this species (verified in control populations). Obtaining required replacement stock or seed will be the responsibility of the subdivider.
- g. The subdivider shall notify the City of completion of the mitigation effort through the submittal of the final monitoring report, to include all monitoring data from the annual monitoring reports and a summary of the overall success of the relocation program. After receipt of the final monitoring report, the City may inspect the mitigation area to determine the success of the program.

Impact

The proposal could result in the introduction of invasive non-native plant species into the MHPA.

Finding

The introduction of invasive non-native plant species into the MHPA would constitute a significant impact. Adoption of the following mitigation measure would reduce potential invasive species impacts associated with the development of the VTM Area to below a level of significance.

Mitigation, Monitoring and Reporting

Prior to the issuance of any grading permits under VTM/PRD No. 86-1014, the City Manager shall verify that the final brush management plan does not permit any Brush Management Zone 1 areas within the MHPA or the use of any non-native plant species in Brush Management Zone 2 areas within the MHPA.

2) *Transportation/Circulation*

Impact

R-304457

The proposal would result in a significant impact to the Otay Mesa Road/Heritage Road intersection and the Robinhood Ridge Drive intersection with Otay Valley Road.

Finding

The impacts of the project on the Otay Mesa Road/Heritage Road intersection would be reduced to below a level of significance with the implementation of assumed improvements, which are the responsibility of others, and a fair share contribution from the subdivider of VTM/PRD No. 86-1014 towards an additional southbound left turn lane.

Based on Caltrans' daily and peak hour warrants, it was found that a signal would be warranted at the Robinhood Ridge Drive intersection with Otay Valley Road, constituting a significant impact of the project. With the provision of this signal by the subdivider of VTM/PRD No. 86-1014, this impact would be mitigated to below a level of significance.

The specific mitigation measures that reduce impacts to project intersections to below a level of significance are detailed below:

Mitigation, Monitoring and Reporting

1. Prior to the recordation of the Final Map for the last phase of VTM/PRD No. 86-1014, the subdivider shall pay its fair share contribution towards an additional southbound left turn lane at the Otay Mesa Road/Heritage Road intersection, to the satisfaction of the City Engineer.
1. Prior to the recordation of the Final Map for the last phase of VTM/PRD No. 86-1014, the subdivider shall assure the provision of a traffic signal at the Robinhood Ridge Drive intersection with Otay Valley Road, to the satisfaction of the City Engineer.

3) Noise

Impact

Off-site noise sources which may adversely affect proposed Precise Plan area land uses consist of Whitewater Canyon Waterpark and Coors Amphitheater.

Finding

Existing and future off-site noise sources are anticipated to adversely impact Precise Plan area residents. The following mitigation measure will reduce noise impacts to below a level of significance.

Mitigation, Monitoring and Reporting

1. Prior to the issuance of any building permits for habitable residential structures within the area covered by VTM/PRD Permit No. 86-1014, the City Manager shall ensure that such structures will be equipped with mechanical ventilation systems which are sufficient to allow for the closure of all windows.

4) Land Use

Impact

Land Use (Emergency Response Policy)

A significant land use impact would result if the Fire Department is not able to provide fire protection according to the established response standards of the City.

MHPA Land Use Adjacency Guidelines

Drainage/Toxics

Without the provision of adequate facilities to intercept and filter out toxic materials from urban runoff (e.g., detention basins, grass swales, mechanical trapping devices) prior to being discharged into the MHPA, significant impacts to the MHPA could result.

The proposed drainage concept consists of the conveyance of stormwater and runoff from development areas to sedimentation basins at the bottom of adjacent canyons within the MHPA through drainpipes. Water would pass through energy dissipaters (i.e., rip rap) before entering the sedimentation basins. The use of sedimentation basins would significantly reduce the discharge of sediments and pollutants directly into natural drainages within the MHPA.

Lighting

Lighting associated with Precise Plan area development could result in significant impacts to sensitive habitats in the MHPA.

Noise

Clearing, grubbing, and grading activities during the construction phase of the project would generate noise levels that could significantly interfere with the breeding activities of the sensitive coastal California gnatcatcher, which was observed on-site. The threshold for significant noise impacts to gnatcatchers during the breeding season (between March 1 and August 15) is 65 A-weighted decibels (dBA). In the absence of restrictions on the above activities during the gnatcatcher breeding season, a significant impact could result.

Barriers

New development adjacent to the MHPA may be required to provide barriers along the MHPA boundaries to direct public access to appropriate locations and reduce domestic animal predation. In the absence of requirements for appropriate barriers to be erected between Precise Plan area development and adjacent MHPA areas, a significant impact to the MHPA could result.

Brush Management/Invasives

As addressed in the "Biological Resources" section of this EIR, no Brush Management Zone 1 areas are proposed within the MHPA. Brush management Zone 2 areas are proposed within the MHPA, but only native plant species will be permitted and these areas would not be counted as mitigation land.

Grading/Land Development

R- 304457

Grading is proposed for fill slopes supporting residential development and grading for the fire emergency access road that would impact the MHPA. All manufactured slopes within the MHPA would be either used for brush management purposes (Brush Management Zone 2 with native plant species) or would be revegetated as coastal sage scrub habitat, with a five-year monitoring program, and counted as mitigation land. The revegetation of slopes associated with the fire access road would not be counted as mitigation land because this road is located within the ultimate alignment of the Dennery Canyon connection to be built in the future. Mitigation of grading for the fire access road would occur in other areas.

MHPA Guidelines

A general MHPA Guideline for the Otay Mesa and Otay River Valley areas states that vernal pools should be preserved per adopted regulations and that mitigation should occur in accordance with requirements to be determined through the permitting process for individual projects. As described in the "Biological Resources" section of this EIR, mitigation of vernal pool impacts within the VTM Area would be provided in accordance with Section 404 (federal Clean Water Act) Permit requirements as administered by the U.S. Army Corps of Engineers.

Special Conditions of Coverage

Development of the Precise Plan area would result in impacts to variegated dudleya and Hemizonia conjugens. Since these species are narrow endemic plant species under the City's MSCP Subarea Plan and Implementing Agreement, species specific mitigation is required. As outlined in the "Biological Resources" section of this EIR, impacts to these species associated with the development of the VTM Area would be mitigated by transplantation from development areas into the MHPA.

As discussed under "Land Use Adjacency Guidelines" and as mitigated below, construction-related noise impacts to the coastal California gnatcatcher during its breeding season would be regulated. Furthermore, no clearing of habitat within the MHPA occupied by gnatcatchers would be permitted during the breeding season.

As outlined in the "Biological Resources" section of this EIR, impacts to the federally listed as endangered San Diego fairy shrimp and Riverside fairy shrimp associated with the development of the VTM Area would be mitigated through the Section 404 (federal Clean Water Act) Permit requirements as administered by the U.S. Army Corps of Engineers.

Finding

The applicant has agreed to construct a fire access road that would extend from the northwest portion of the project site off site to the northwest to provide an interim fire access road. This road would be constructed to provide emergency access in the event that a planned circulation element road is not available to address emergency access needs. This access road would mitigate fire access issues to below a level of significance. This alternative mitigation measure was proposed after the Draft EIR was out for public review. The fire access road would result in impacts to the MHPA that are addressed in the Final EIR.

With respect to the Land Use Adjacency Guidelines, MHPA Guidelines, and Special Conditions of Coverage, Precise Plan area development would potentially result in significant impacts. Implementation of the following mitigation measures and those outlined under "Biological

Resources and Hydrology/Water Quality" would reduce impacts associated with VTM Area development to below a level of significance.

Mitigation, Monitoring and Reporting

The following conditions shall be met to the satisfaction of the City Fire Marshall:

- a. Prior to the issuance of the Certificate of Occupancy for the 101st single-family dwelling unit under VTM/PRD No. 86-1014, the developer shall construct an emergency access road to the northwesternmost corner of the VTM Area connecting to the adjacent roadway within the Denney Ranch Precise Plan area. The road shall be 20 feet wide, be constructed as an all-weather surface road of concrete treated base, and shall have a maximum grade of 15 percent. The road shall have one fire access gate installed at each end to limit public access, completed to the standards of the City of San Diego Fire Department for an approved vehicle strobe detector system. All dwellings shall have a paved street to City standards prior to the issuance of Certificate of Occupancy.
 - b. Prior to the issuance of the Certificate of Occupancy for the 339th single-family dwelling unit under VTM/PRD No. 86-1014, the above –described emergency access road shall be covered with asphalt paving from the intersection of Robinhood Ridge Drive and Street "F" to the westernmost point of Unit 3 (approximately 200 feet west of the intersection of Robinhood Ridge Drive and Street "Q")
 - c. Prior to the issuance of the Certificate of Occupancy for the 408th single-family dwelling unit under VTM/PRD No. 86-1014, the remainder of the above-described emergency access road shall be covered with asphalt paving to the northwesternmost corner of the VTM Area.
 - d. If the above-described access road cannot be constructed, an alternative emergency access road may be constructed, contingent upon the approval of the City Fire Marshal and the completion of subsequent environmental review in accordance with the provisions of the California Environmental Quality Act. If a viable emergency access road cannot be constructed, the option to sprinkle VTM Area dwellings to the City of San Diego Fire Department standards will be available to the developer.
2. Prior to the issuance of any grading permit under VTM/PRD No. 86-1014, the City Manager shall verify that the MHPA boundaries are shown on all applicable grading plans and that the following special notes are included on all grading plans:

SPECIAL NOTE: NO CLEARING, GRUBBING, OR GRADING ACTIVITIES SHALL OCCUR BETWEEN MARCH 1 AND AUGUST 15 UNTIL THE FOLLOWING REQUIREMENTS HAVE BEEN MET:

Grading Activities Adjacent to the MHPA

A qualified biologist shall survey those areas within the MHPA that would be subject to construction noise levels exceeding 65 dBA for the presence of the coastal California gnatcatcher. If any gnatcatchers are present, then one of the following conditions shall be met:

R. 304457

- a. No clearing, grubbing, or grading shall occur during the breeding season that would result in noise levels exceeding 65 dBA within portions of the MHPA occupied by gnatcatchers. Prior to the commencement of any of the above activities, areas restricted from such activities shall be staked or fenced under the supervision of a qualified biologist.
- b. Under the direction of a qualified acoustician, noise attenuation measures (e.g., berms, walls) shall be implemented to ensure that noise levels resulting from clearing, grubbing, or grading will not exceed 65 dBA within portions of the MHPA occupied by gnatcatchers. Immediately following the commencement of the above activities, the acoustician shall monitor those portions of the MHPA occupied by gnatcatchers to ensure that noise levels do not and will not exceed 65 dBA. If the techniques implemented are determined to be inadequate, then the above activities shall cease until such time that adequate noise attenuation is achieved.

Grading Activities Within the MHPA

A qualified biologist shall survey those portions of the MHPA approved for clearing, grubbing, or grading for the presence of the coastal California gnatcatcher. None of the above activities shall be conducted between March 1 and August 15 within any portion of the MHPA that is occupied by gnatcatchers.

3. Prior to the issuance of building permits under VTM/PRD No. 86-1014, plans shall be submitted which depict all known public and private exterior light fixtures proposed adjacent to the MHPA for the immediate phase of development that is proposed. The City Manager shall ensure that all exterior lighting would be directed away from the MHPA and, where necessary, adequate shielding would be provided with non-invasive plant materials (preferably native species), berming, and/or other appropriate methods to protect the MHPA and sensitive species from night lighting. To prevent potential impacts associated with exterior lighting that may be installed on private property in the future, the City Manager shall ensure that the above lighting restrictions will be incorporated into CC&Rs in place within those portions of the VTM Area which are adjacent to the MHPA.
4. Prior to the issuance of building permits under VTM/PRD No. 86-1014, plans shall be submitted which depict barriers (e.g., non-invasive vegetation, rocks/boulders, fences, walls, signage) adjacent to the MHPA to direct public access to appropriate locations and reduce domestic animal predation for the immediate phase of development that is proposed as well as a conceptual plan for the remainder of the VTM Area. The City Manager shall ensure that adequate protection of the MHPA would be provided.

5) *Geology/Soils*

Impact

The fault which traverses a portion of the Precise Plan area covered under VTM/PRD No. 86-1014 is thought to be potentially active. However, since the actual age of this fault has not been defined, a fault buffer zone of 100 feet (50 feet on each side of the fault) is considered to be appropriate. Proposed development within the buffer zone consists of a roadway only; the nearest structure (single-family residential) is proposed to be built approximately 50 feet beyond the limits of the buffer zone. Although no significant impacts are anticipated in connection with

R-304457

this fault, the precise age and location of the fault would be required to be determined prior to the development of the site in order to verify the adequacy of the proposed buffer zone.

The ancient landslides and areas underlain by bentonitic clays within the Precise Plan area are subject to slippage and are not suitable for development under present conditions. Construction of Otay Valley Road and the Precise Plan area roadway connection to Otay Valley Road may require extensive remedial grading due to the presence of two large, ancient landslides located on the east-facing slopes of the Precise Plan area.

The surficial soils within the Precise Plan area are not considered suitable for the support of fill or structural loads in their present condition and will require remedial grading measures. Undocumented fill, topsoils, alluvium, colluvium, debris flow materials, and shallow landslide debris are relatively compressible and may result in settlement if subjected to loads, possibly requiring the removal and recompaction of these soils. Expansive and compressible soils exist on the site, requiring remedial measures to reduce the potential for damage to improvements in areas affected by such soils. Bentonitic clays and remolded clay seams would be encountered in some cut slopes, which could represent a potential failure plane. Where bentonite beds are located at shallow depths beneath fill slopes, deeper than normal fill keys or shear keys may be necessary.

Precise Plan area soils are rated as possessing moderate to severe erosion potential. The major factor in rating of these soils is the existing slope. The grain size and lack of cohesiveness of the soil material also contributes to erosion potential. Erosion is apparent on most of the canyon slopes on the site. These conditions have been aggravated by the high level of off-road vehicle activity in the area. During initial land clearing and grading activities, the potential for erosion and downstream sedimentation would be significant. As roadways, buildings, and landscaped areas are developed, the potential for erosion would decrease.

The construction of homes, parking areas, and roads on the site would result in an increase in the volume and rate of runoff. The volume of runoff from the site is not expected to be large enough to cause significant downstream erosion problems, provided adequate erosion control measures are implemented.

Finding

Implementation of the following mitigation measure would reduce potentially significant geologic hazards and soils erosion impacts associated with development under VTM/PRD No. 86-1014 to below a level of significance.

Mitigation, Monitoring and Reporting

1. Prior to the issuance of the first grading permit and/or the recordation of the first Final Map under VTM/PRD No. 86-1014, a detailed geologic investigation report, based on the proposed grading plans, shall be approved by the City Engineer. This report shall include a determination of the precise age and location of the on-site fault identified in *Preliminary Geotechnical Investigation for Robinhood Ridge* (Geocon Incorporated, February 1988) and an analysis of the adequacy of the proposed fault buffer zone. The City Manager shall verify that the geotechnical consultant has reviewed and signed all grading plans, the on-site fault and fault buffer zone are shown on all applicable grading plans, and all recommendations of the approved geologic investigation report are required as conditions of grading permits issued under VTM/PRD No. 86-1014, except

R - 304457

where such recommendations are superceded by report updates approved by the City Engineer.

2. Prior to the issuance of any grading permits under VTM/PRD No. 86-1014, the City Manager shall verify that adequate erosion control measures are required as conditions of the grading permit including, but not limited to, the following:
 - a. Rapid revegetation of all disturbed areas.
 - b. Control of sediment production from grading operations with perimeter berms, jute matting, sandbags, bladed ditches, or other appropriate methods.
 - c. Implementation of all erosion control measures specified in the NPDES Stormwater Pollution Prevention Plan (SWPPP) for the project, as approved by the City Engineer.
 - d. Required drainage facilities, such as storm drains, retention basins, sediment basins, and energy dissipaters, shall be constructed on-site concurrently with grading operations, to the satisfaction of the City Engineer.

6) *Paleontological Resources*

Impact

Proposed grading of the portion of the Precise Plan area covered by Vesting Tentative Map (VTM)/Planned Residential Development Permit (PRD) No. 86-1014 includes 3.5 million cubic yards of excavation, a significant portion of which would occur within geologic formations with known moderate to high paleontological resource potential.

Finding

Implementation of the following mitigation measure would reduce potentially significant impacts to paleontological resources associated with development under VTM/PRD No. 86-1014 to below a level of significance.

Mitigation, Monitoring and Reporting

1. Prior to the issuance of any grading permit under VTM/PRD No. 86-1014, the applicant shall provide a letter of verification to the Environmental Review Manager of Land Development Review (LDR) stating that a qualified paleontologist and/or paleontological monitor has been retained to implement the monitoring program. The requirement for paleontological monitoring shall be noted on the grading plans. ALL PERSONS INVOLVED IN THE PALEONTOLOGICAL MONITORING OF THE PROJECT SHALL BE APPROVED BY LDR PRIOR TO THE START OF CONSTRUCTION.
 - a. The qualified paleontologist shall attend any preconstruction meeting to discuss grading plans with the grading and excavation contractor.
 - b. The paleontologist or paleontological monitor shall be on-site full-time during the initial cutting of previously undisturbed areas. Monitoring may be increased or decreased at the discretion of the qualified paleontologist, in consultation with LDR,

R-304457

and will depend on the rate of excavation, the materials excavated, and the abundance of fossils.

- c. The paleontologist shall have the authority to divert, direct, or temporarily halt construction activities in the area of discovery to allow recovery of fossil remains. THE PALEONTOLOGIST SHALL IMMEDIATELY NOTIFY LDR STAFF OF SUCH FINDING AT THE TIME OF DISCOVERY. LDR shall approve salvaging procedures to be performed before construction activities are allowed to resume.
- d. The qualified paleontologist shall be responsible for the preparation of fossils to a point of identification as defined in the City of San Diego Paleontological Guidelines and for the submittal of a letter of acceptance from a local qualified curation facility. Any discovered fossil sites shall be recorded by the paleontologist at the San Diego Natural History Museum.
- e. Prior to the issuance of any certificate of occupancy, a monitoring results report, with appropriate graphics, summarizing the results, analysis and conclusions of the paleontological monitoring program shall be submitted to LDR for approval.

7) *Public Services and Facilities*

Impact

Schools

Students generated by Precise Plan area development would significantly impact CVESD and SUHSD facilities on a long-term basis.

Parks and Recreation

The proposal would result in a need for new parks and recreation facilities in order to avoid significant impacts.

Fire

The proposal would result in a significant impact if the Fire Department's six minute response time goal for non-medical emergencies cannot be met.

Finding

Implementation of mitigation measure #1 below would ensure that impacts to school facilities associated with development of the VTM Area would be reduced to below a level of significance. Future development proposals within the remainder of the Precise Plan area would require subsequent environmental review in accordance with CEQA, at which time potential impacts to school facilities would be addressed.

Since the neighborhood park proposed to be provided in conjunction with the development of the VTM Area and the additional acreage to be reserved for future expansion of this facility would be sufficient to serve the projected Precise Plan area population, the proposal would not result in a significant impact to neighborhood park facilities. Since the proposal would result in a reduction in the number of residential dwelling units planned to be developed within the Precise

R-304457

Plan area and would contribute to the funding of future community parks and recreation facilities, no significant impacts to such facilities would result.

The applicant has agreed to construct a fire access road that would extend from the northwest portion of the project site off site to the northwest to provide an interim fire access road. This road would be constructed to provide emergency access in the event that a planned circulation element road is not available to address emergency access needs. This access road would mitigate fire access issues to below a level of significance. This alternative mitigation measure was proposed after the Draft EIR was out for public review. The fire access road would result in impacts to the MHPA that are addressed in the Final EIR.

Mitigation, Monitoring and Reporting

1. Prior to the issuance of any building permits under VTM/PRD No. 86-1014, the applicant shall demonstrate that agreements have been reached with the affected public school districts regarding the provision of adequate public elementary and junior and senior high school facilities.
2. Prior to the recordation of the first Final Map under VTM/PRD No. 86-1014, the subdivider shall enter into a developer agreement acceptable to the City Manager that provides for the grading and deeding of a 6.2-acre neighborhood park facility within the Robinhood Ridge Precise Plan area to the City of San Diego and the complete construction of adjacent public improvements.
3. The following conditions shall be met to the satisfaction of the City Fire Marshall:
 - a. Prior to the issuance of the Certificate of Occupancy for the 101st single-family dwelling unit under VTM/PRD No. 86-1014, the developer shall construct an emergency access road to the northwesternmost corner of the VTM Area connecting to the adjacent roadway within the Denney Ranch Precise Plan area. The road shall be 20 feet wide, be constructed as an all-weather surface road of concrete treated base, and shall have a maximum grade of 15 percent. The road shall have one fire access gate installed at each end to limit public access, completed to the standards of the City of San Diego Fire Department for an approved vehicle strobe detector system. All dwellings shall have a paved street to City standards prior to the issuance of Certificate of Occupancy.
 - b. Prior to the issuance of the Certificate of Occupancy for the 339th single-family dwelling unit under VTM/PRD No. 86-1014, the above -described emergency access road shall be covered with asphalt paving from the intersection of Robinhood Ridge Drive and Street "F" to the westernmost point of Unit 3 (approximately 200 feet west of the intersection of Robinhood Ridge Drive and Street "Q")
 - c. Prior to the issuance of the Certificate of Occupancy for the 408th single-family dwelling unit under VTM/PRD No. 86-1014, the remainder of the above-described emergency access road shall be covered with asphalt paving to the northwesternmost corner of the VTM Area.
 - d. If the above-described access road cannot be constructed, an alternative emergency access road may be constructed, contingent upon the approval of the City Fire Marshal and the completion of subsequent environmental review in accordance with

R. 304457

the provisions of the California Environmental Quality Act. If a viable emergency access road cannot be constructed, the option to sprinkle VTM Area dwellings to the City of San Diego Fire Department standards will be available to the developer.

8) Utilities

Impact

Water

Precise Plan area development would result in increased water consumption. The estimated water demand at buildout of Phase 1 (area covered by existing VTM/PRD No. 86-1014) would be 375,500 gpd.

Due to the deficiencies in the existing South San Diego-Otay Mesa System and the current absence of system improvements which are requirements of other approved, but not yet constructed, developments in the area, the water requirements of the project would constitute a significant impact.

Sewer

Although no upgrades to the existing sewer system are anticipated to be required to serve Precise Plan area development, in the absence of a detailed sewer study sewer service impacts to the Otay Mesa Sewer Master Plan area are considered to be potentially significant.

Solid Waste

The residential component of the project is estimated to generate approximately 1,560 tons of solid waste per year. Regardless of where solid waste generated by Precise Plan area development is disposed of, the quantity of solid waste that is generated could significantly impact the City's ability to comply with the State's waste stream reduction mandate, unless adequate waste reduction measures are implemented.

Finding

Implementation of the following mitigation measures would reduce water, sewer, and solid waste service impacts of the proposal to below a level of significance.

Mitigation, Monitoring and Reporting

1. Prior to the recordation of the first Final Map under VTM/PRD No. 86-1014, the subdivider shall provide water and sewer studies to the satisfaction of the City Engineer. The subdivider shall grant adequate water, sewer, and/or access easements, including vehicular access to each appurtenance, for all public water and sewer facilities that are not located within public rights-of-way, satisfactory to the City Engineer. Prior to the issuance of any building permits under VTM/PRD No. 86-1014, the developer shall assure the provision of those on- and off-site facilities identified in the approved water and sewer studies. Subsequent environmental review per the provisions of CEQA may be required prior to the construction of any required on- and/or off-site improvements not adequately addressed in previously adopted environmental documents.

R-304457

2. Prior to the recordation of the first Final Map under VTM/PRD No. 86-1014, the subdivider shall provide the development's pro rata share of the water plan's interim facilities identified in the findings and conclusions of the accepted South San Diego/Otay Mesa Water Study, satisfactory to the City Engineer.
3. Prior to the issuance of any building permits under VTM/PRD No. 86-1014, the City Engineer shall verify that the water and sewer facilities required to be constructed as conditions of VTM No. 88-0785 (Dennery Ranch Precise Plan area) and VTM No. 86-1032 (California Terraces Precise Plan area) which are required to serve this development have been constructed. If these facilities have not been constructed, they will become off-site improvement requirements of this development and the developer shall assure the provision of these facilities prior to the issuance of any building permits. Subsequent environmental review per the provisions of CEQA may be required prior to the construction of any required on- and/or off-site improvements not adequately addressed in previously adopted environmental documents.
4. Prior to the issuance of any building permits under VTM/PRD No. 86-1014, a Waste Management Plan submitted by the applicant shall be approved by the City Manager. The plan shall address the type and quantity of waste materials expected to enter the waste stream, source separation techniques and on-site storage areas for recyclables in accordance with San Diego Municipal Code Section 101.2001, the method of transport and destination of waste materials, and the implementation of buy-recycled programs when economically feasible.

9) *Hydrology/Water Quality*

Impact

Project implementation would not require significant modifications to the natural drainage system. The majority of the natural drainage system, comprised of Dennery Canyon and several smaller northerly and easterly canyons, would be retained in open space. However, drainage from the site must be properly directed through storm drain facilities to ensure that runoff volumes do not exceed existing levels.

Development of the Precise Plan area would include a street storm drain system which would collect surface water originating in the developed areas and convey the flows to existing natural discharge points located to the west, north and east of the project site. The increase in impermeable areas associated with project development would result in increased rates and volumes of surface runoff. The existing natural canyon drainage system has substantial surplus capacity to convey the surface flows from the proposed development. Siltation/retention basins would be located at edges of the project site at the discharge points of tributary canyons to the Otay River Valley.

Finding

Implementation of the following mitigation measure would ensure that the development of the portion of the Precise Plan area under VTM/PRD No. 86-1014 would not result in any significant hydrology impacts.

Mitigation, Monitoring and Reporting

R-304457

1. Prior to the recordation of the first Final Map and/or the issuance of any grading permits under VTM/PRD No. 86-1014, the subdivider shall prepare a comprehensive drainage study to the satisfaction of the City Engineer, the requirements of which shall be made conditions of project development.

Impact

Short-term water quality impacts could occur during grading and construction activities when cleared and graded areas would be exposed to rain and surface runoff. Improperly controlled runoff could result in erosion and the transport of sediments to the natural drainage system.

Potential long-term water quality impacts are related to the introduction of impervious surfaces and a substantial increase in urban activities within the Precise Plan area. The introduction of impervious surfaces could result in increases in the volume and velocity of stormwater runoff. Runoff from streets, driveways, rooftops, parking lots, and landscaped areas could convey pollutants such as oil and grease, heavy metals, nutrients (e.g., fertilizers), bacteria, pesticides and herbicides, and oxygen demanding substances (e.g., detergents) into the natural drainage system.

Finding

With development of the Precise Plan area, siltation and erosion control facilities would be constructed and maintained to protect downstream properties. These facilities would accommodate the 50-year storm flows (Q_{50}) from the project site and would include an overflow volume which would accommodate up to 100-year storm flows (Q_{100}). Urban pollutants would settle out as the water is retained in these facilities prior to being released downstream. Earthen dams would be required to impound water during the rainy months, and concrete outlets are anticipated to convey flows downstream of the desiltation/retention basins. It is anticipated that these facilities would not impound water for eight to nine months out of the year. All permanent drainage facilities would be designed and built in accordance with the City of San Diego Drainage Design Manual.

- As a condition of VTM/PRD No. 86-1014, the developer of this area would be required to comply with all requirements of State Water Resources Control Board Order No. 92-08-DWQ (NPDES General Permit No. CAS000002), Waste Discharge Requirements for Discharges of Storm Water Runoff Associated with Construction Activity. As specified in the mitigation measure below, all Best Management Practices (BMPs) identified in the Stormwater Pollution Prevention Plan approved by the City Engineer as part of the NPDES permit process will be requirements of development under VTM/PRD No. 86-1014.

Implementation of the following mitigation measure would ensure that significant water quality impacts associated with development under VTM/PRD No. 86-1014 would be reduced to below a level of significance. Future development proposals within the remainder of the Precise Plan area would require subsequent environmental review in accordance with the provisions of CEQA, at which time potential water quality impacts would be addressed.

Mitigation, Monitoring and Reporting

1. Prior to the issuance of any grading permits under VTM/PRD No. 86-1014, the City Manager shall verify that all Best Management Practices (BMPs) identified in the Storm

R-304457

Water Pollution Prevention Plan, approved by the City Engineer as part of the NPDES permit process, are identified on the grading plans as site improvement requirements.

10) Cultural Resources

Impact

No impacts to any significant cultural resources are anticipated as a result of proposed Precise Plan area development at this time. However, if additional off-site improvements, such as sewer and water facilities, which are not addressed in this EIR are proposed, subsequent environmental review in accordance with the provisions of CEQA would be necessary in order to evaluate the potential for impacts to cultural resources.

Finding

The following mitigation measure would ensure that potential impacts associated with additional off-site improvements would be assessed prior to the issuance of grading permits.

Mitigation, Monitoring and Reporting

Prior to the issuance of any grading permits under VTM/PRD No. 86-1014, the City Manager shall determine if the proposed grading would impact any additional off-site lands not addressed in EIR No. 98-0189. If any additional off-site grading would result, then the City Manager shall assess the potential for such grading to result in significant impacts to cultural resources and no grading permit shall be issued until the appropriate level of analysis, and subsequent documentation if necessary, has been completed in accordance with the provisions of CEQA.

B. Section 21081 (b) Findings

The City Council, having reviewed and considered the information contained in the Final EIR for the project and public record, finds there are no changes or alterations to the project which avoid or substantially lessen the significant environmental impacts that are within the responsibility and jurisdiction of another public agency.

C. Section 21081 (c) Findings

The City Council, having reviewed and considered the information contained in the Final EIR for the project and the public record, finds there are specific economic, social, and other considerations which make infeasible additional mitigation measures and project alternatives identified in the EIR. The Final EIR concludes that the project would result in significant unmitigated direct impacts in the areas of landform alteration/visual quality and biological resources (Non-VTM Area) and significant, unmitigated cumulative impacts with respect to landform alteration/visual quality and water quality. The Final EIR also discusses a range of alternatives according to the requirements of the CEQA Guidelines, Section 15126, including No Project, Reduced Grading Alternative, Reduced Development Intensity Alternative, and Revised Access Alternative.

MITIGATION MEASURES

1. *Biological Resources: Non-VTM Area (Direct)*

Impact

Anticipated significant, direct impacts that would result from the future development of the Non-VTM Area consist of the loss of approximately 7.4 acres of Diegan coastal sage scrub, 2,087 square feet of vernal pools, and 536 square feet of road pools. These impacts are considered to be significant and unmitigated at a programmatic level of analysis. In conjunction with the environmental review of future development proposals within the Non-VTM Area, surveys will need to be conducted to identify impacts to narrow endemic plant species and non-covered plant and animal species. In the absence of such surveys, potential impacts to narrow endemic and non-covered species within these areas are considered significant and unmitigated. These impacts are considered significant and unmitigated at a programmatic level of analysis and subsequent environmental review in accordance with the provisions of CEQA would be required for future development proposals within this area.

Findings

It cannot be assured at the present time that potential impacts to biological resources for projects to be proposed in the future within the non-VTM areas of the Precise Plan area will be mitigated. However, it is reasonable to expect that the City will implement the requirement for future applicants to provide biological studies to identify impacts and mitigation for any narrow endemic plant species and non-covered plant and animal species that are observed. It is further noted that future development of any vernal pool and road pool areas would require federal and City wetland permits.

ALTERNATIVES

R-304457

A. No Project Alternative

Description

The No Project Alternative assumes the continuation of existing conditions, as well as what would be reasonably expected to occur in the foreseeable future if the project were not approved, based on current plans and consistency with available infrastructure and community services.

Impacts

Existing biological resources on the site would be retained, avoiding the significant impacts identified in the "Biological Resources" section of this EIR, except that unauthorized off-road vehicle and transient use of the site would likely continue to degrade the viability and quality of these resources. Likewise, this alternative would avoid all of the additional significant environmental impacts of the project identified in Section IV of the EIR.

Findings

If the project were not approved, the adopted Robinhood Ridge Precise Plan (Precise Plan) would remain in effect as the planning policy document for the project area and the proposed revisions to existing Vesting Tentative Map (VTM)/Planned Residential Development Permit (PRD) No. 86-1014, which covers a 204-acre portion (referred to herein as "VTM Area") of the existing 311-acre Precise Plan area, could not be implemented.

The existing Precise Plan and VTM/PRD No. 86-1014 are not consistent with the adopted City of San Diego Multiple Species Conservation Program (MSCP) Subarea Plan (Subarea Plan). The Subarea Plan states that although the Robinhood Ridge project has a legal right to develop under an existing approved Tentative Map, in the event the approved map expires future development proposals would be required to conform to the Multi-Habitat Planning Area (MHPA) boundaries and associated land use regulations of the Subarea Plan. VTM/PRD No. 86-1014 is set to expire unless development activities commence shortly. If the project were not approved, development of the site would not be possible within the immediate near-term and, therefore, these existing development entitlements would likely expire. The Precise Plan area would remain undeveloped in the immediate near-term, with the exception of the existing automobile wrecking yard in the southeast portion of the site.

However, because the Precise Plan area is designated for the development of urban land uses within the existing Precise Plan, Otay Mesa Community Plan, and City of San Diego Progress Guide and General Plan, and the portion of the site outside the MHPA boundaries is anticipated to be developed under the City's MSCP Subarea Plan, it is highly likely that development entitlements would be granted and this area would be developed in the long-term. The intensity and location of such future development within the Precise Plan area would likely be similar to the project, generally consistent with the existing MHPA boundaries. Therefore, environmental impacts similar to those identified in this EIR would be expected. The environmental impacts associated with any future proposals would be addressed through subsequent environmental review in accordance with the provisions of CEQA.

Although the No Project Alternative would avoid the significant impacts of the project in the near-term, it is anticipated that this area would be developed in the long-term in a similar manner to the project. The No Project Alternative is not recommended because it would fail to

R-304457

attain the basic objectives of the project, which are to bring the Robinhood Ridge Precise Plan into conformity with the City's MSCP Subarea Plan and to revise the land use and circulation elements of the Precise Plan to be compatible with other approved and proposed developments in the surrounding area. The No Project Alternative would also fail to provide benefits of the proposed project, such as much needed housing for the San Diego region, protection and management for vernal pool preserves, increased tax revenues, and new construction related jobs. In addition, this alternative would fail to provide an economically feasible project. If the No Project Alternative were adopted, the purchase agreement between the property owner, Robinhood Homes, and the prospective purchaser and developer, Greystone/Lennar, would be negated. Furthermore, all existing entitlements for the Robinhood Homes property would expire by October 12, 1998, resulting in the loss of all funds expended on securing and revising these entitlements over the past 13 years, during which time Brown Field airport expansion studies and the Multiple Species Conservation Program have delayed the potential development of the site.

B. Reduced Grading Alternative

Description

The Reduced Grading Alternative considers a development footprint that is consistent with existing MHPA boundaries, avoids development within the two proposed vernal pool preserves, and eliminates the proposed primary access connection to Otay Valley Road to the east. This alternative would delete the 78 single-family residential lots proposed within the extreme northwest portion of the VTM Area, as well as a lesser number of single-family lots within the area immediately surrounding the proposed neighborhood park site. In addition, the proposed primary access connection to Otay Valley Road would be deleted and the proposed future connection to Dennery Road to the northwest would become the primary access point for the Precise Plan area.

Impacts

The Reduced Grading Alternative would reduce significant biological resources and landform alteration/visual quality impacts, but not to below a level of significance. This alternative would avoid one, and possibly two, traffic-related impacts, but has the potential to result in new impacts that would not occur under the project. In the absence of a traffic impact analysis of this alternative, these new potential impacts are considered to be significant. The significant land use and public services and facilities (fire protection) impacts identified in the DEIR that would result from the inability of the City Fire Department to meet their response time goal would likely be avoided under this alternative.

Findings

It is estimated that the proposed project would allow for a profitability rate approximately 1.2 percent above the threshold rate of profitability for Greystone/Lennar (NYSE public corporation), the prospective purchaser and developer of the Robinhood Homes property. In comparison, it is estimated that the Reduced Grading Alternative would allow for a profitability rate approximately 2.4 percent below the threshold rate of profitability for Greystone/Lennar. Furthermore, the profitability of this alternative may be further reduced by the likely need to construct an off-site segment of Dennery Road in order to provide access to the site from existing public streets. For these reasons, the implementation of this alternative would be economically infeasible. The applicant has submitted a confidential analysis of the economic

R-304457

feasibility of this alternative, which has been reviewed and accepted by the City's Development Services Department. The economic feasibility analysis, which is on file with the City of San Diego, is herein incorporated by reference. In addition, this alternative would result in a reduction of the tax base revenue provided by the proposed project.

This alternative was identified in the Draft EIR, in part, to avoid significant land use and public service impacts associated with emergency access. The fire access impacts have been addressed by inclusion of a mitigation measure as part of the final EIR, so that project alternatives are no longer needed to mitigate this issue.

C. Reduced Development Intensity Alternative

Description

The Reduced Development Intensity Alternative considers the identical development footprint, land uses, and circulation system as the proposed project, but with a 20 percent reduction in the density of residential development. Under this alternative, within the entire Precise Plan area a total of 762 residential dwelling units, 416 single-family and 346 multi-family, would be developed, as opposed to 953 total dwelling units, 520 single-family and 433 multi-family, under the project.

Impacts

A 20 percent reduction in the number of residential dwelling units developed within the Precise Plan area would result in a commensurate reduction in the amount of automobile trips generated by Precise Plan area development. This reduction would not be sufficient to avoid a significant impact to the Robinhood Ridge Drive/Otay Valley Road intersection, although it would be possible to delay the signalization of this intersection to some extent. In the absence of a traffic impact analysis of this alternative, whether or not the significant impact of the project to the Heritage Road/Otay Mesa Road intersection would remain significant is not known.

Significant landform alteration impacts under this alternative would be identical to those that would result from the project. Due to the decrease in residential development intensity, larger single-family lots would be provided, which would provide the developer with greater opportunities to create visual interest throughout the development, which is a desirable effect.

Under this alternative, the number of K-12 students generated by Precise Plan area development would be reduced by 20 percent. However, impacts resulting from Precise Plan area development on the affected school districts would still be significant, requiring mitigation that is acceptable to the districts.

Findings

While this alternative is somewhat environmentally superior to the project, it does not appear to have the potential to provide significant reductions in the significant environmental impacts of the project. It is estimated that the proposed project would allow for a profitability rate approximately 1.2 percent above the threshold rate of profitability for Greystone/Lennar (NYSE public corporation), the prospective purchaser and developer of the Robinhood Homes property. In comparison, it is estimated that the Reduced Development Intensity Alternative would allow for a profitability rate approximately 3.6 percent below the threshold rate of profitability for Greystone/Lennar. For this reason, the implementation of this alternative would be

R-304457

economically infeasible. The applicant has submitted a confidential analysis of the economic feasibility of this alternative, which has been reviewed and accepted by the City's Development Services Department. The economic feasibility analysis, which is on file with the City of San Diego, is herein incorporated by reference. In addition, this alternative would result in a reduction of the tax base revenue provided by the proposed project.

D. Revised Access Alternative

Description

The Revised Access Alternative includes a circulation system that is essentially identical to the Reduced Grading Alternative. The difference between these alternatives is that the development footprint and land uses under the Revised Access Alternative are consistent with the proposed project.

Impacts

Compared to the buildout of the Precise Plan area under the proposed project, the Revised Access Alternative would reduce significant impacts to biological resources and landform alteration/visual quality, but not to below a level of significance. This alternative would avoid one, and possibly two, traffic-related impacts, but has the potential to result in new impacts that would not occur under the project. In the absence of a traffic impact analysis of this alternative, these new potential impacts are considered to be significant. The significant fire protection impact of the project that would result from an inability to meet this response time goal would likely be avoided under this alternative.

Findings

It is estimated that the proposed project would allow for a profitability rate approximately 1.2 percent above the threshold rate of profitability for Greystone/Lennar (NYSE public corporation), the prospective purchaser and developer of the Robinhood Homes property. In comparison, it is estimated that the Reduced Development Intensity Alternative would allow for a profitability rate approximately 0.7 percent below the threshold rate of profitability for Greystone/Lennar. Furthermore, the profitability of this alternative may be further reduced by the likely need to construct an off-site segment of Dennery Road in order to provide access to the site from existing public streets. For these reasons, the implementation of this alternative would be economically infeasible. The applicant has submitted a confidential analysis of the economic feasibility of this alternative, which has been reviewed and accepted by the City's Development Services Department. The economic feasibility analysis, which is on file with the City of San Diego, is herein incorporated by reference.

Statement of Overriding Considerations Robinhood Ridge Precise Plan

The California Environmental Quality Act and the State CEQA Guidelines (Section 15093) provide:

- (a) CEQA requires the decision-maker to balance the benefits of a proposed project against its unavoidable environmental risks in determining whether to approve the project. If the benefits of a proposed project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered "acceptable".
- (b) Where the decision of the public agency allows the occurrence of significant effects which are identified in the final EIR, but are not at least substantially mitigated, the agency shall state in writing the specific reasons to support its action based on the final EIR and or other information in the record.
- (c) If an agency makes a statement of overriding consideration, the statement should be included in the record of the project approval and should be mentioned in the Notice of Determination.

The City Council, pursuant to Section 21081 of the California Public Resources Code and Section 15093 of the State CEQA Guidelines, having balanced the economic, legal, social and other benefits of the project against its unavoidable environmental effects, which remain notwithstanding the mitigation measures described in the Findings, determines that such remaining significant environmental effects are acceptable due to the following considerations:

1. The City of San Diego Multiple Species Conservation Program Subarea Plan (Subarea Plan) has been adopted and its implementation has begun under the authorization of contractual agreements with the U.S. Fish and Wildlife Service and the California Department of Fish and Game. With the adoption of the Subarea Plan and the establishment of the Multi-Habitat Planning Area (MHPA), the ultimate development of the Precise Plan area and surrounding development areas is well defined. For this reason, other approved and proposed developments in the surrounding area have either modified their development plans or are in the process of doing so. This is, therefore, an appropriate time for the Precise Plan to be amended and, likewise, for modifications to the existing Vesting Map/Planned Residential Development Permit No. 86-1014 in conformance with the proposed amendments. The proposed Robinhood Ridge Precise Plan is an amendment to a previously approved document. It is important to note that this proposed project is a voluntary redesign of an approved project. The applicant has redesigned the approved project (VTM 86-1014) to conform with the City of San Diego's adopted MSCP plan.
2. The Robinhood Ridge Precise Plan would contribute toward a number of implementing goals and objectives of the Otay Mesa Community Plan. Approval of the precise plan is an essential element to implementing the community plan. In order to achieve the goals and objectives of the community plan, every precise planning area must be implemented to provide a balanced community. Adoption of the precise plan would facilitate achievement of the housing, open space, circulation, and public services elements of the community plan as follows:

R-304457

- a) The housing element plans to provide a balanced community-housing program. The Robinhood Ridge Precise Plan facilitates implementation of the Otay Mesa Community Plan Housing Element's goals by providing a mixture of single- and multi-family homes.
 - b) Provision of a neighborhood commercial center, as anticipated in the community plan, will achieve the goal of providing a central focal point for the precise plan and will serve the daily needs of the residents.
 - c) Provision of an industrial development, as envisioned in the community plan, will provide employment opportunities, both for those in the precise plan area and for those in the surrounding community.
 - d) A neighborhood park is proposed, consistent with the community plan. Provision of these facilities is essential to achieving a community-wide balance of park facilities to serve the residents.
 - e) An essential component of the Otay Mesa community's Circulation Element is provided by the precise plan's construction of a segment of Otay Valley Road.
 - f) Consistent with the objectives of the Multiple Species Conservation Program, the project will preserve open space habitat for plant and animal species.
3. The Robinhood Ridge Precise Plan will provide for significant community-wide public facilities. As the plan is implemented, additional contributions for community and region serving off-site facilities and infrastructure will be provided. These facilities include:
- a) Construction of two lanes of the Six-Lane Primary Arterial cross-section of a segment of Otay Valley Road.
 - b) Construction of an interconnect with the Otay Water District to provide redundancy to the regional water system.
 - c) Construction of a 6.2-acre neighborhood park.
 - d) Preservation and enhancement of vernal pools on site in accordance with the pending 404 permit.
4. The project will provide a mixture of housing opportunities. The housing element of the community plan and subsequent precise plans are based on the assumption that a mix of densities and housing productions will create housing that is affordable to a wider range of incomes. The Robinhood Ridge Precise Plan implements a balanced community in terms of housing types and economic appeal by providing a mixture of affordable and multi-family dwellings.
5. The approved project design did not preserve a large majority of the vernal or road pools on site. The revised project will add 3,868 square feet of vernal pools and 692 square feet of road pools with the MHPA boundary adjustment. In addition, the proposed boundary adjustment would result in a 2.5-acre net increase in sensitive habitats. Given the rarity of the vernal pools that would be preserved, the net gain of sensitive habitats within the MHPA, and the minimal impacts to the Dennery Canyon wildlife corridor, the proposed adjustment to the MHPA would result in the same or higher biological value of the preserve.

6. Implementation of the Robinhood Ridge Precise Plan would generate new, temporary construction related jobs that would enhance the economic base of the community. New construction jobs would provide a benefit to the community and the region by sustaining the recent upturn of construction employment in the region. These jobs will be available through the buildout of the project. In addition to temporary construction jobs, industrial and commercial development in the precise plan will provide permanent opportunities for those residing in the precise plan area and the community.
7. Recent industrial and commercial development activity within the Otay Mesa Community Planning Area has been high, which has increased the demands for housing in the community. Construction of 953 residential dwelling units will help address the existing jobs/housing imbalance in the community. Increased housing in the community will reduce the regional traffic congestion (and associated air quality and noise impacts) resulting from employees traveling to work in Otay Mesa from outside the community.

For these reasons, on the balance, the City of San Diego finds that the above considerations resulting from the project serve to override and outweigh the project's unavoidable significant environmental effects and thus adverse environments effects are considered acceptable.

EXHIBIT A

MITIGATION MONITORING AND REPORTING PROGRAM

SITE DEVELOPMENT PERMIT NO. 320732, VESTING TENTATIVE MAP NO. 314829 AND REZONE ORDINANCE NO. 314830

PROJECT NO. 96580

This Mitigation Monitoring and Reporting Program is designed to ensure compliance with Public Resources Code Section 21081.6 during implementation of mitigation measures. This program identifies at a minimum: the department responsible for the monitoring, what is to be monitored, how the monitoring shall be accomplished, the monitoring and reporting schedule, and completion requirements. A record of the Mitigation Monitoring and Reporting Program will be maintained at the offices of the Land Development Review Division, 1222 First Avenue, Fifth Floor, San Diego, CA, 92101. All mitigation measures contained in the Environmental Impact Report No. 98-0189 and Addendum to EIR No. 98-0189 shall be made conditions of Site Development Permit No. 320732, Vesting Tentative Map No. 314829 and Rezone Ordinance No. 314830 as may be further described below.

GENERAL

1. Prior to the issuance of a Notice to Proceed (NTP) or any permits, including but not limited to, the first Grading Permit, Demolition Permits and Building Permits, the Assistant Deputy Director (ADD) of the City's Entitlements Division is to verify that the following statement is shown on the grading and/or construction plans as a note under the heading Environmental Requirements: "Ocean View Village project is subject to a Mitigation, Monitoring and Reporting Program (MMRP) and shall conform to the mitigation conditions as contained in the Addendum to EIR No. 98-0189."
2. The owner/permittee shall make arrangements to schedule a pre-construction meeting to ensure implementation of the MMRP. The meeting shall include the Resident Engineer, Biologist, Archaeologist, and the City's Mitigation Monitoring Coordination (MMC) Section.

TRANSPORTATION/CIRCULATION

1. Prior to the issuance of any building permits for the first phase including 107 multi-family residential units, the following roadway improvement should be assured:
 - A. State Route 905 open between Otay Mesa Road and Otay Mesa border crossing, with all interchanges open except the Heritage Road interchange.
2. Prior to the issuance of any building permits for the first phase including 107 multi-family residential units, applicant shall assure by permit and bond the construction of a traffic signal at the intersection of Avenida De Las Vistas/Otay Valley Road, satisfactory to the City Engineer.
3. Prior to the issuance of any building permits for the second phase including 36 multi-family dwelling units and all commercial and industrial buildings, the following roadway improvements should be assured:

- A. The Heritage Road/State Route 905 interchange open.
- B. Otay Valley Road Widened to a six lane prime arterial.
- C. Otay Mesa Road/Heritage Road
 - a. Provide a 12% fair share contribution toward one additional southbound left turn lane.
 - b. Restriping one southbound right turn lane to provide an exclusive through lane.
 - c. One additional northbound through lane.

BIOLOGICAL RESOURCES

Biological Monitor Required

- 1. Prior to the issuance of any grading permit, the owner/permittee shall provide a letter to the Assistant Deputy Director (ADD) of the City's Entitlements Division verifying that a qualified biologist has been retained to implement the biological resources mitigation program as detailed below (see A through E):
 - A. The qualified biologist (project biologist) shall attend the first preconstruction meeting and discuss the biological resources mitigation program with the Construction Manager, Contractor, Resident Engineer, and Mitigation Monitoring and Coordination (MMC) staff.
 - B. The project biologist shall supervise the placement of orange construction fencing or equivalent along the limits of disturbance within and surrounding sensitive habitats.
 - C. The project biologist shall monitor construction activities as needed to ensure that construction activities do not encroach into biologically sensitive areas beyond the approved limits of disturbance. All construction activities (including staging areas) shall be restricted to the approved development area, as shown on the approved Exhibit A.
 - D. The project biologist shall direct the placement of gravel bags, straw logs, silt fences or equivalent erosion control measures adjacent to all graded areas. The project biologist shall oversee implementation of best management practices (BMPs) as needed to prevent any significant sediment transport.
 - E. No trash, oil, parking, or other construction-related activities shall be allowed outside the established limits of disturbance.

Raptors

- 1. If the site has a potential to support nests and nesting raptors are present during grading and/or construction activities, compliance with the Migratory Bird Treaty Act/Section 3503 would preclude the potential for direct impacts.

2. If there is a potential for indirect noise impacts to nesting raptors, prior to any grading activities within the development area during the raptor breeding season (February 1 through September 15) the biologist shall ensure that no raptors are nesting. If construction occurs during the raptor breeding season a preconstruction survey would be conducted and no construction would be allowed within 300 to 500 feet of any identified nest(s) until the young fledge. Should the biologist determine that raptors are nesting, an active nest shall not be removed until after the breeding season.

Coastal California Gnatcatcher (Federally Threatened)

1. Prior to the issuance of any grading permit, the Assistant Deputy Director of Development Services (or designated appointee) shall verify that the Multi-Habitat Planning Area (MHPA) boundaries and the following project requirements regarding the Coastal California Gnatcatcher are shown on the construction plans:
 - A. No clearing, grubbing, grading, or other construction activities shall occur between March 1 and August 15, the breeding season of the Coastal California Gnatcatcher, until the following requirements have been met to the satisfaction of the Assistant Deputy Director of Development Services (or designated appointee).

2. A qualified biologist (possessing a valid endangered species act section 10(a)(1)(A) recovery permit) shall survey those habitat areas within the MHPA that would be subject to construction noise levels exceeding 60 decibels [db(A)] hourly average for the presence of the Coastal California Gnatcatcher. Surveys for the Coastal California Gnatcatcher shall be conducted pursuant to the protocol survey guidelines established by the US Fish and Wildlife service within the breeding season prior to the commencement of any construction. If gnatcatchers are present, then the following conditions must be met:

- A. Between March 1 and August 15, no clearing, grubbing, or grading of occupied gnatcatcher habitat shall be permitted. Areas restricted from such activities shall be staked or fenced under the supervision of a qualified biologist; and
- B. Between March 1 and August 15, no construction activities shall occur within any portion of the site where construction activities would result in noise levels exceeding 60 db(A) hourly average at the edge of occupied gnatcatcher habitat. An analysis showing that noise generated by construction activities would not exceed 60 db(A) hourly average at the edge of occupied habitat must be completed by a qualified acoustician (possessing current noise engineer license or registration with monitoring noise level experience with listed animal species) and approved by the Assistant Deputy Director of Development Services (or designated appointee) at least two weeks prior to the commencement of construction activities. Prior to the commencement of construction activities during the breeding season, areas restricted from such activities shall be staked or fenced under the supervision of a qualified biologist; or

- C. At least two weeks prior to the commencement of construction activities, under the direction of a qualified acoustician, noise attenuation measures (e.g., berms, walls) shall be implemented to ensure that noise levels resulting from construction activities will not exceed 60 db(A) hourly average at the edge of habitat occupied by the Coastal California Gnatcatcher. Concurrent with the commencement of construction activities and the construction of necessary noise attenuation facilities, noise monitoring* shall be conducted at the edge of the occupied habitat area to ensure that noise levels do not exceed 60 db(A) hourly average. If the noise attenuation techniques implemented are determined to be inadequate by the qualified acoustician or biologist, then the associated construction activities shall cease until such time that adequate noise attenuation is achieved or until the end of the breeding season (August 16).

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

3. If Coastal California Gnatcatchers are not detected during the protocol survey, the qualified biologist shall submit substantial evidence to the Assistant Deputy Director of Development Services (or designated appointee) and applicable resource agencies which demonstrate whether or not mitigation measures such as noise walls are necessary between March 1 and August 15 as follows:

- A. If this evidence indicates the potential is high for Coastal California Gnatcatcher to be present based on historical records or site conditions, then condition 2.C. shall be adhered to as specified above.
- B. If this evidence concludes that no impacts to this species are anticipated, no mitigation measures would be necessary.

BIOLOGICAL RESOURCES / LAND USE

1. Prior to the issuance of any grading permits and/or the first pre-construction meeting, the owner/permittee shall submit evidence to the Assistant Deputy Director (ADD) of the City's Entitlements Division (or designated appointee) verifying that a qualified biologist has been retained to review the plans to verify the project has implemented the following mitigation program as related to the Multi-Habitat Planning Area (MHPA) Land Use Adjacency Guidelines as detailed below (see A through F):

- A. Runoff from parking areas and other hardscape will drain away from the MHPA.
- B. Any energy dissipation structures, such as riprap placed at drainage outlets, must conform with City Standards.

- C. All lighting on the site will be directed away from the MHPA, or will be adequately shielded.
- D. Landscaping in area adjacent to the MHPA will not contain invasive exotic plant species. Landscape plans will be reviewed by a qualified biologist.
- E. Uses adjacent to the MHPA should be designed to minimize noise impacts.
- F. Barriers or signs restricting encroachment will be installed to prevent public access into the MHPA.

HISTORICAL / CULTURAL RESOURCES (ARCHAEOLOGY)

1. The following conditions shall be implemented to ensure that no impacts to cultural resources would occur.

I. Prior to Permit Issuance

A. Land Development Review (LDR) Plan Check

1. Prior to Notice to Proceed (NTP) for any construction permits, including but not limited to, the first Grading Permit, Demolition Plans/Permits and Building Plans/Permits, but prior to the first preconstruction meeting, whichever is applicable, the Assistant Deputy Director (ADD) Environmental designee shall verify that the requirements for Archaeological Monitoring and Native American monitoring have been noted on the appropriate construction documents.

B. Letters of Qualification have been submitted to ADD

1. The applicant shall submit a letter of verification to Mitigation Monitoring Coordination (MMC) identifying the Principal Investigator (PI) for the project and the names of all persons involved in the archaeological monitoring program, as defined in the City of San Diego Historical Resources Guidelines (HRG). If applicable, individuals involved in the archaeological monitoring program must have completed the 40-hour HAZWOPER training with certification documentation.

2. MMC will provide a letter to the applicant confirming the qualifications of the PI and all persons involved in the archaeological monitoring of the project.

3. Prior to the start of work, the applicant must obtain approval from MMC for any personnel changes associated with the monitoring program.

II. Prior to Start of Construction

A. Verification of Records Search

1. The PI shall provide verification to MMC that a site specific records search (1/4 mile radius) has been completed. Verification includes, but is not

limited to a copy of a confirmation letter from South Coast Information Center, or, if the search was in-house, a letter of verification from the PI stating that the search was completed.

2. The letter shall introduce any pertinent information concerning expectations and probabilities of discovery during trenching and/or grading activities.

3. The PI may submit a detailed letter to MMC requesting a reduction to the ¼ mile radius.

B. PI Shall Attend Precon Meetings

1. Prior to beginning any work that requires monitoring; the Applicant shall arrange a Precon Meeting that shall include the PI, Construction Manager (CM) and/or Grading Contractor, Resident Engineer (RE), Building Inspector (BI), if appropriate, and MMC. The qualified Archaeologist and Native American Monitor shall attend any grading/excavation related Precon Meetings to make comments and/or suggestions concerning the Archaeological Monitoring program with the Construction Manager and/or Grading Contractor.

a. If the PI is unable to attend the Precon Meeting, the Applicant shall schedule a focused Precon Meeting with MMC, the PI, RE, CM or BI, if appropriate, prior to the start of any work that requires monitoring.

C. Identify Areas to be Monitored

1. Prior to the start of any work that requires monitoring, the PI shall submit an Archaeological Monitoring Exhibit (AME) based on the appropriate construction documents (reduced to 11x17) to MMC identifying the areas to be monitored including the delineation of grading/excavation limits.

2. The AME shall be based on the results of a site specific records search as well as information regarding existing known soil conditions (native or formation).

3. When Monitoring Will Occur

a. Prior to the start of any work, the PI shall also submit a construction schedule to MMC through the RE indicating when and where monitoring will occur.

b. The PI may submit a detailed letter to MMC prior to the start of work or during construction requesting a modification to the monitoring program. This request shall be based on relevant information such as review of final construction documents which indicate site conditions such as depth of excavation and/or site graded to bedrock, etc., which may reduce or increase the potential for resources to be present.

III. During Construction

A. Monitor(s) Shall be Present During Grading/Excavation/Trenching

1. The Archaeological Monitor shall be present full-time during grading/excavation/trenching activities which could result in impacts to archaeological resources as identified on the AME. The Native American monitor shall determine the extent of their presence during construction related activities based on the AME and provide that information to the PI and MMC. The Construction Manager is responsible for notifying the RE, PI, and MMC of changes to any construction activities.
2. The monitor shall document field activity via the Consultant Site Visit Record (CSVr). The CSVr's shall be faxed by the CM to the RE the first day of monitoring, the last day of monitoring, monthly (Notification of Monitoring Completion), and in the case of ANY discoveries. The RE shall forward copies to MMC.
3. The PI may submit a detailed letter to MMC during construction requesting a modification to the monitoring program when a field condition such as modern disturbance post-dating the previous grading/trenching activities, presence of fossil formations, or when native soils are encountered may reduce or increase the potential for resources to be present.

B. Discovery Notification Process

1. In the event of a discovery, the Archaeological Monitor shall direct the contractor to temporarily divert trenching activities in the area of discovery and immediately notify the RE or BI, as appropriate.
2. The Monitor shall immediately notify the PI (unless Monitor is the PI) of the discovery.
3. The PI shall immediately notify MMC by phone of the discovery, and shall also submit written documentation to MMC within 24 hours by fax or email with photos of the resource in context, if possible.

C. Determination of Significance

1. The PI and Native American monitor shall evaluate the significance of the resource. If Human Remains are involved, follow protocol in Section IV below.
 - a. The PI shall immediately notify MMC by phone to discuss significance determination and shall also submit a letter to MMC indicating whether additional mitigation is required.
 - b. If the resource is significant, the PI shall submit an Archaeological Data Recovery Program (ADRP) and obtain written approval from MMC. Impacts to significant resources must be mitigated before ground disturbing activities in the area of discovery will be allowed to resume.

c. If resource is not significant, the PI shall submit a letter to MMC indicating that artifacts will be collected, curated, and documented in the Final Monitoring Report. The letter shall also indicate that that no further work is required.

IV. Discovery of Human Remains

1. If human remains are discovered, work shall halt in that area and the following procedures as set forth in the California Public Resources Code (Sec. 5097.98) and State Health and Safety Code (Sec. 7050.5) shall be undertaken:

A. Notification

1. Archaeological Monitor shall notify the RE or BI as appropriate, MMC, and the PI, if the Monitor is not qualified as a PI. MMC will notify the appropriate Senior Planner in the Environmental Analysis Section (EAS).

2. The PI shall notify the Medical Examiner after consultation with the RE, either in person or via telephone.

B. Isolate discovery site

1. Work shall be directed away from the location of the discovery and any nearby area reasonably suspected to overlay adjacent human remains until a determination can be made by the Medical Examiner in consultation with the PI concerning the provenience of the remains.

2. The Medical Examiner, in consultation with the PI, will determine the need for a field examination to determine the provenience.

3. If a field examination is not warranted, the Medical Examiner will determine with input from the PI, if the remains are or are most likely to be of Native American origin.

C. If Human Remains ARE determined to be Native American

1. The Medical Examiner will notify the Native American Heritage Commission (NAHC) within 24 hours. By law, ONLY the Medical Examiner can make this call.

2. NAHC will immediately identify the person or persons determined to be the Most Likely Descendent (MLD) and provide contact information.

3. The MLD will contact the PI within 24 hours or sooner after the Medical Examiner has completed coordination, to begin the consultation process in accordance with the California Public Resource and Health & Safety Codes.

4. The MLD will have 48 hours to make recommendations to the property owner or representative, for the treatment or disposition with proper dignity, of the human remains and associated grave goods.

5. Disposition of Native American Human Remains shall be determined between the MLD and the PI, IF:

a. The NAHC is unable to identify the MLD, OR the MLD failed to make a recommendation within 48 hours after being notified by the Commission; OR;

b. The landowner or authorized representative rejects the recommendation of the MLD and mediation in accordance with PRC 5097.94 (k) by the NAHC fails to provide measures acceptable to the landowner.

c. In order to protect these sites, the Landowner shall do one or more of the following:

- (1) Record the site with the NAHC;
- (2) Record an open space or conservation easement on the site;
- (3) Record a document with the County.

d. Upon the discovery of multiple Native American human remains during a ground disturbing land development activity, the landowner may agree that additional conferral with descendants is necessary to consider culturally appropriate treatment of multiple Native American human remains. Culturally appropriate treatment of such a discovery may be ascertained from review of the site utilizing cultural and archaeological standards. Where the parties are unable to agree on the appropriate treatment measures the human remains and buried with Native American human remains shall be reinterred with appropriate dignity, pursuant to Section 5.c., above.

D. If Human Remains are NOT Native American

1. The PI shall contact the Medical Examiner and notify them of the historic era context of the burial.

2. The Medical Examiner will determine the appropriate course of action with the PI and City staff (PRC 5097.98).

3. If the remains are of historic origin, they shall be appropriately removed and conveyed to the Museum of Man for analysis. The decision for internment of the human remains shall be made in consultation with MMC, EAS, the applicant/landowner and the Museum of Man.

V. Night and/or Weekend Work

A. If night and/or weekend work is included in the contract

1. When night and/or weekend work is included in the contract package, the extent and timing shall be presented and discussed at the precon meeting.
2. The following procedures shall be followed.
 - a. No Discoveries
In the event that no discoveries were encountered during night and/or weekend work, the PI shall record the information on the CSV and submit to MMC via fax by 8AM of the next business day.
 - b. Discoveries
All discoveries shall be processed and documented using the existing procedures detailed in Sections III - During Construction, and IV - Discovery of Human Remains.
 - c. Potentially Significant Discoveries
If the PI determines that a potentially significant discovery has been made, the procedures detailed under Section III - During Construction shall be followed.
 - d. The PI shall immediately contact MMC, or by 8AM of the next business day to report and discuss the findings as indicated in Section III-B, unless other specific arrangements have been made.

B. If night and/or weekend work becomes necessary during the course of construction

1. The Construction Manager shall notify the RE, or BI, as appropriate, a minimum of 24 hours before the work is to begin.
2. The RE, or BI, as appropriate, shall notify MMC immediately.

C. All other procedures described above shall apply, as appropriate.

VI. Post Construction

A. Preparation and Submittal of Draft Monitoring Report

1. The PI shall submit two copies of the Draft Monitoring Report (even if negative), prepared in accordance with the Historical Resources Guidelines (Appendix C/D) which describes the results, analysis, and conclusions of all phases of the Archaeological Monitoring Program (with appropriate graphics) to MMC for review and approval within 90 days following the completion of monitoring,
 - a. For significant archaeological resources encountered during monitoring, the Archaeological Data Recovery Program shall be included in the Draft Monitoring Report.

- b. Recording Sites with State of California Department of Parks and Recreation
 - c. The PI shall be responsible for recording (on the appropriate State of California Department of Park and Recreation forms-DPR 523 A/B) any significant or potentially significant resources encountered during the Archaeological Monitoring Program in accordance with the City's Historical Resources Guidelines, and submittal of such forms to the South Coastal Information Center with the Final Monitoring Report.
2. MMC shall return the Draft Monitoring Report to the PI for revision or, for preparation of the Final Report.
 3. The PI shall submit revised Draft Monitoring Report to MMC for approval.
 4. MMC shall provide written verification to the PI of the approved report.
 5. MMC shall notify the RE or BI, as appropriate, of receipt of all Draft Monitoring Report submittals and approvals.

B. Handling of Artifacts

1. The PI shall be responsible for ensuring that all cultural remains collected are cleaned and catalogued
2. The PI shall be responsible for ensuring that all artifacts are analyzed to identify function and chronology as they relate to the history of the area; that faunal material is identified as to species; and that specialty studies are completed, as appropriate.
3. The cost for curation is the responsibility of the property owner.

C. Curation of artifacts: Accession Agreement and Acceptance Verification

1. The PI shall be responsible for ensuring that all artifacts associated with the survey, testing and/or data recovery for this project are permanently curated with an appropriate institution. This shall be completed in consultation with MMC and the Native American representative, as applicable.
2. The PI shall include the Acceptance Verification from the curation institution in the Final Monitoring Report submitted to the RE or BI and MMC.

D. Final Monitoring Report(s)

1. The PI shall submit one copy of the approved Final Monitoring Report to the RE or BI as appropriate, and one copy to MMC (even if negative), within 90 days after notification from MMC that the draft report has been approved.

2. The RE shall, in no case, issue the Notice of Completion and/or release of the Performance Bond for grading until receiving a copy of the approved Final Monitoring Report from MMC which includes the Acceptance Verification from the curation institution.

LANDFORM ALTERATION/VISUAL QUALITY

1. Prior to the issuance of any grading permits, the Assistant Deputy Director's (ADD) Environmental Designee (ED) shall ensure that proposed grading would implement the grading guidelines of the Otay Mesa Community Plan and the Robinhood Ridge Precise Plan to the maximum extent feasible, including rounded tops and toes of slopes, contour grading, and blending manufactured slopes with adjacent natural slopes.

HUMAN HEALTH/PUBLIC SAFETY/HAZARDOUS MATERIALS

1. The following measures shall be implemented prior to development of the proposed project to mitigate potential impacts from Hazardous Materials:
 - A. Once construction plans have been established, the permittee shall file an application or reopen Voluntary Assistance Program (VAP) case no. H30802-001 with the County of San Diego Site Assessment and Mitigation (SAM) Program for regulatory oversight to additional site assessment and remediation activities.
 - B. Prior to the issuance any grading permit, the permittee shall provide a letter to the Assistant Deputy Director's (ADD) Environmental Designee (ED) confirming that the permittee has an application open with the County of San Diego VAP.
 - C. At the time that structures are demolished and concrete slabs are removed, the soil containing hydrocarbons shall be excavated and disposed of at an appropriately licensed facility, such as the Otay Landfill, operated by San Diego Landfill Systems. If further remedial actions are required during construction activities, based on site assessment activities performed under the direction of the County of San Diego SAM Program under the VAP or oversight agency, specific measures shall be incorporated and implemented to ensure human health and public safety issues are adequately addressed. Prior to the foundation inspection approval, the SAM Program/VAP to the ADD ED to confirm that the appropriate measures have been implemented to remove contaminated soils.
 - D. Prior to the foundation inspection approval, the permittee shall submit to the ADD ED, a Letter of Concurrence from the County of San Diego SAM Program/VAP confirming that the mitigation measures recommended to excavate and dispose (at an appropriate licensed facility) or flip-flop and thereby capping any soils that may contain reported arsenic concentrations. If further remedial actions are required during construction activities, based on site assessment activities performed under the direction of the County of San Diego SAM Program/VAP or oversight agency, specific measures shall be incorporated and implemented to ensure human health and public safety issues are adequately addressed.

NOISE

1. As required in the Robinhood Ridge Precise Plan FEIR, prior to the issuance of any building permits, a final interior acoustical report shall be prepared in conformance with the City of San Diego's Acoustical Guidelines. The final report shall be subject to the approval of the Assistant Deputy Director (ADD) of the City's Entitlements Division (or designated appointee). If it is determined that the interior noise levels in any of the affected single-family or multi-family buildings exceed city standards, specific mitigation measures to achieve interior noise levels that would not exceed the 45 db(A) CNEL standard shall be included in said report and incorporated into the project to the satisfaction of the Assistant Deputy Director (ADD) of the City's Entitlements Division (or designated appointee).

The above mitigation monitoring and reporting program will require additional fees and/or deposits to be collected prior to the issuance of building permits, certificates of occupancy and/or final maps to ensure the successful completion of the monitoring program.