



THE CITY OF SAN DIEGO

REPORT TO THE HEARING OFFICER

HEARING DATE: November 13, 2013 REPORT NO. HO 13-079

ATTENTION: Hearing Officer

SUBJECT: OTAY MESA PLANT MAP WAIVER
PROJECT NUMBER: 105926

LOCATION: 7931-7961 Airway Road

APPLICANT: Christine Goeyvaerts on behalf of RRM Properties, LTD, Owners

SUMMARY

Issue(s): Should the Hearing Officer approve a Map Waiver and a Site Development Permit to subdivide one lot developed with an existing concrete batch plant, into two lots located at 7931-7961 Airway Road within the Otay Mesa Community Planning area?

Staff Recommendations -

1. **CERTIFY** Mitigated Negative Declaration No. 105926 and **ADOPT** the Mitigation, Monitoring and Reporting Program; and
2. **APPROVE** Map Waiver No. 567516 and Site Development Permit No. 1036686.

Community Planning Group Recommendation - The Otay Mesa Community Planning Group voted on July 18, 2007 to recommend approval of the project by a vote of 12-0-0 with no conditions (Attachment 9).

Environmental Review: Mitigated Negative Declaration No. 105926 was prepared for the project in accordance with the California Environmental Quality Act. A Mitigation, Monitoring and Reporting Program was prepared which will reduce to a level below significance, any potential impacts identified in the environmental review process.

BACKGROUND

The proposed project is the subdivision of a 12.96-acre lot into two lots, currently developed with an existing concrete batch plant and vehicle storage areas. No site specific development is proposed with this application and future development may be processed ministerially if consistent with this permit. As such, the project required a build-out analysis per the underlying zone. The site is located at 7931-7961 Airway

Road, zoned Industrial Subdistrict of the Otay Mesa Development District and designated for Industrial uses within the Otay Mesa Community Plan. The property is also located within the Airport Environs Overlay Zone (AEOZ). The site does not contain environmentally sensitive lands nor is it located within or adjacent to the Multiple Species Conservation Program. A portion of the site was previously developed with a temporary truck storage/vehicle parking facility pursuant to Site Development Permit (SDP) No. 40-0182 ("Judd Otay Truck Park"), approved by the Hearing Officer in 2002.

The proposed project was submitted in 2006 and has undergone redesigns and project delays. The item was originally submitted as a 5-lot subdivision which resulted in deviations that staff was unable to support. In October 2006, the City of San Diego, along with multiple development projects, were affected by an Injunction issued by the United States District Court regarding environmentally sensitive lands in which among other issues, all discretionary projects were placed on hold in 2007 and unable to continue through the review or hearing process. The Otay Mesa Plant project was inadvertently included within the list of projects. Staff was unable to remove the site from the enjoined list. As such, project processing was placed on hold. The case was heard by the Ninth Circuit Court of Appeals and vacated in May 2011.

Subsequently, during the final stages of processing, staff determined that a Greenhouse Gas Report (GHG) was never submitted for review. In order to facilitate completion of the environmental document, the applicant was given the option of either submitting the required documents or, agreeing to limit the scope of the future development to 34,500 square feet of office use or its industrial equivalent (the maximum approximate square footage under CEQA significance thresholds for the requirement for GHG). The applicant concurred with the reduced project scope and has also agreed to accept the traffic mitigation for the larger development analyzed in the approved traffic study (169,500 square feet of industrial development) in order to facilitate the project to a hearing, rather than prepare a revised traffic study to determine potential traffic impacts for a 34,500 square-foot development.

Surrounding developments include truck park/vehicle storage facilities and industrial developments. The project requires a Map Waiver for the proposed subdivision (Land Development Code Section (LDC) 125.0120 (a)). An SDP is required for an Otay Mesa Development Permit pursuant to LDC Section 1517.0202 - *Any project for which a tentative map has not been approved subsequent to March 14, 1985.*

DISCUSSION

Project Description:

The project proposes to subdivide a 12.96-acre site currently developed with a concrete batch plant, parking and storage areas, into two industrial parcels. Parcel 1 would total 6.53 net acres and contain the existing batch plant. Parcel 2 would total 6.43 net acres. No development is proposed with this application however, SDP No. 1036686, processed concurrently with this Map Waiver, allows the future ministerial development of a maximum of 34,500 square feet of office use or its industrial equivalent for greenhouse gas emissions, on proposed Parcel 2 lot.

Project Issues:

Traffic Analysis

As discussed above, a traffic study was prepared for the project entitled *Otay Mesa Plant Traffic Impact Study* dated April 8, 2008, which analyzed the build-out scenario of a maximum 169,500 square-foot, small business park, the highest trip generating use allowed under the zone, on both proposed lots. The study provided a Horizon Year (2030) analysis assuming the site were developed, however, at the time the study was scoped with staff, a Near Term (i.e. Opening Day) analysis of the 169,500-square-foot industrial park was not conducted. As such a small industrial park with a maximum square footage of 169,500 square feet could not be constructed prior to the Horizon Year 2030. Additionally, as described above, the SDP contains conditions which limit the proposed development to a maximum square footage of 34,500 square feet of office use or its industrial equivalent per GHG significance thresholds. If the project proposes development in the future that exceeds 34,500 square feet of office use or its industrial equivalent per GHG thresholds, an amendment to the SDP would be required at that time. The traffic study will likely need to be updated.

Current Allowable Uses

The draft SDP also specifies the uses that would currently be allowed on the site without the Map Waiver and the SDP. As the underlying zone currently allows a truck park/vehicle storage facility by right, staff has determined that a truck park/vehicle storage area is an allowed use.

Environmental Analysis

The project required the preparation of a Mitigated Negative Declaration (MND) due to potential impacts to traffic and to paleontological resources. As noted above in the Background section of this report, the project review did not include a Greenhouse Gas Report or a Waste Management Plan. However, the approved traffic study analyzed the highest trip generating use per the underlying zone (a 169,500 square-foot small industrial park). The applicant has reduced the project scope to stay below the significance thresholds for these issue areas. Pursuant to the approved traffic study, the future development of a 169,500 square-foot small business park in the Horizon Year 2030 would cause a significant increase in traffic delays. Mitigation measures require the payment of a 2.9 percent fair share contribution for the construction of improvements at the intersection of Airway Road at La Media Road. Additionally, a 2.6 percent fair share contribution for improvements at the intersection of La Media Road and the State Route-905 EB ramps is required. As conditioned by the MND and the SDP, these mitigation measures must be implemented prior to issuance of any construction permit for a new development of any size on proposed Parcel 2 with the exception of a truck park/vehicle storage facility.

No development is proposed with this application however; the preliminary geotechnical soils evaluation for the project indicates that a minimum of five feet of excavation will be necessary for future building pad preparation. The site is underlain by Lindavista Formation, which is a moderately sensitive formation for discovery of paleontological resources. Per the City's CEQA significance thresholds, paleontological monitoring may be required for shallow grading (less

than ten feet) when a site has been previously graded and/or formations are present at the surface. Therefore, any future development will be subject to paleontological monitoring.

Conclusion:

Staff has reviewed the proposed project and all issues identified through the review process have been resolved in conformance with adopted City Council policies and regulations of the Land Development Code. Staff has provided draft findings to support approval of the proposed development and draft conditions of approval. Staff recommends that the Hearing Officer approve the project as proposed.

ALTERNATIVES:

1. Approve Map Waiver No. 567516 and Site Development Permit No. 1036686, **with modifications.**
2. Deny Map Waiver No. 567516 and Site Development Permit No. 1036686, **if the findings required to approve the project cannot be affirmed.**

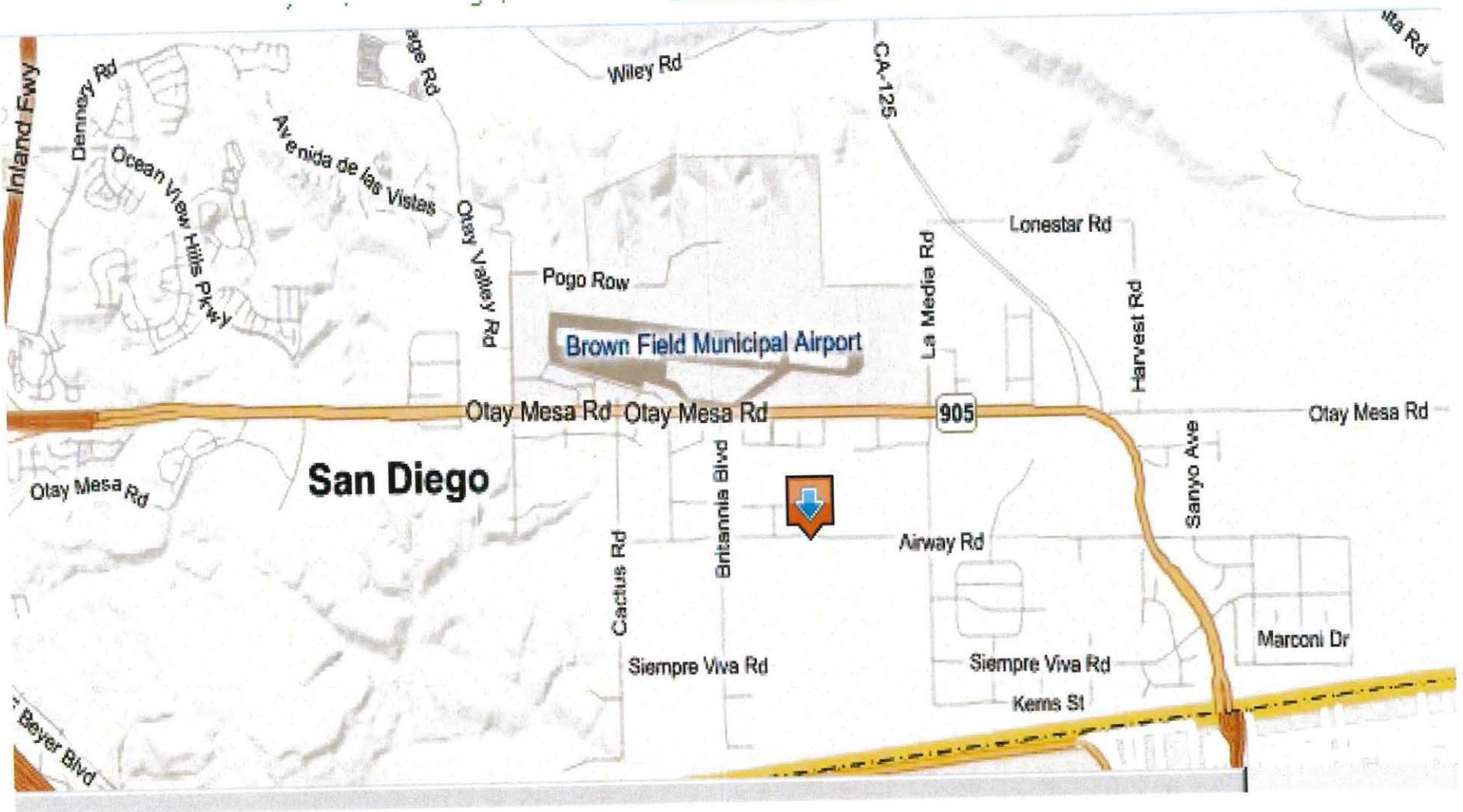
Respectfully submitted,



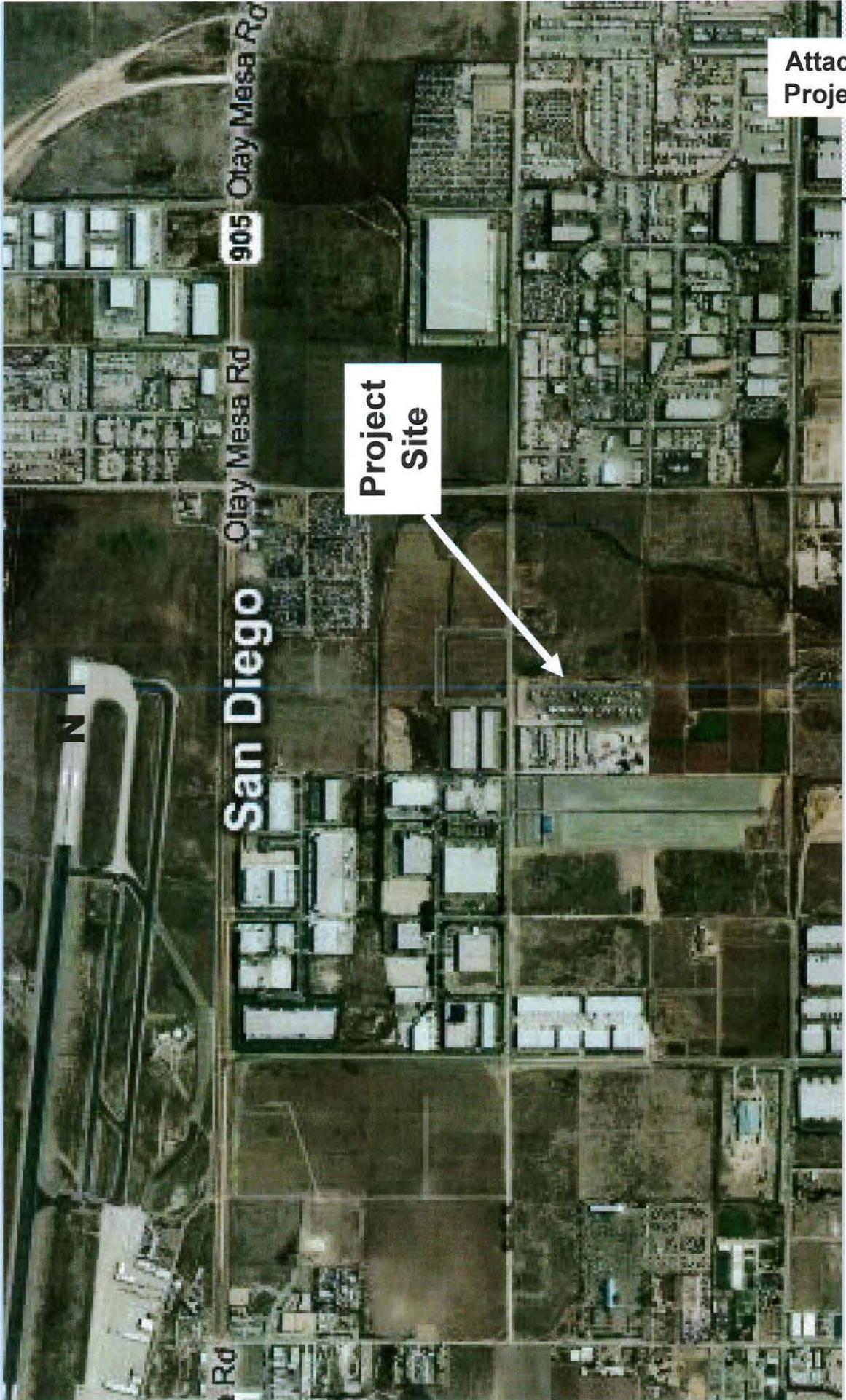
Sandra Teasley, Development Project Manager

Attachments:

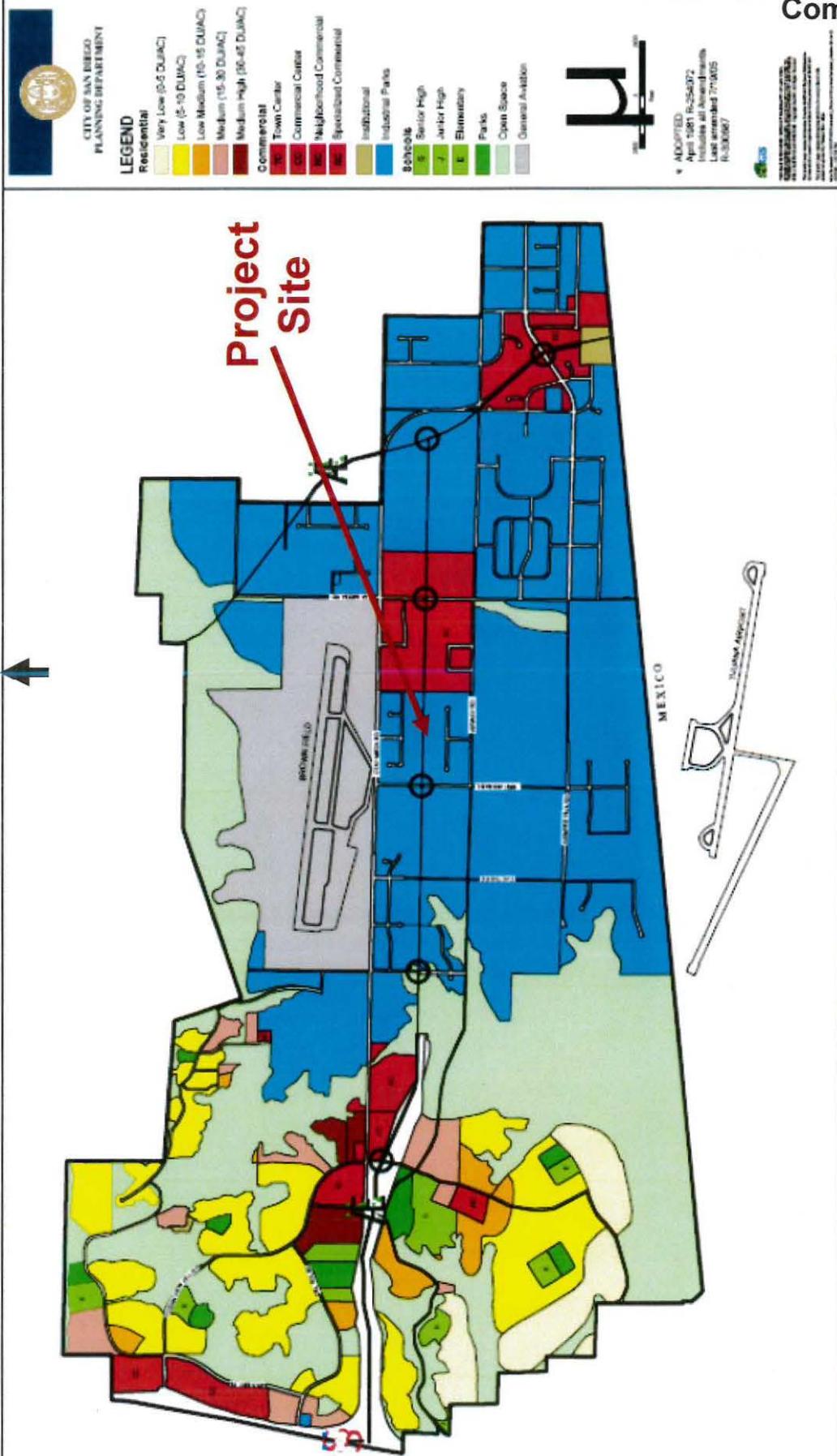
1. Aerial Photograph
2. Community Plan Land Use Map
3. Project Location Map
4. Draft Permit Resolution with Findings
5. Draft Permit with Conditions
6. Draft Map Resolution
7. Draft Map Conditions
8. Environmental Resolution with MMRP
9. Community Planning Group Recommendation
10. Ownership Disclosure Statement



**Attachment 2
Project Aerial**



OTAY MESA COMMUNITY PLAN LAND USE*



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HEARING OFFICER RESOLUTION NO. _____
SITE DEVELOPMENT PERMIT (OTAY MESA DEVELOPMENT PERMIT) NO. 1036686
OTAY MESA PLANT PROJECT NO. 105926
[MMRP]

WHEREAS, ROBERTSON'S MANAGEMENT LLC, Owner/Permittee, filed an application with the City of San Diego for a permit for the subdivision of a single lot into two lots for a maximum 34,500 square-foot industrial development or its industrial equivalent for greenhouse gas emissions on proposed Parcel 2 (6.53 net acres) and an existing batch plant on proposed Parcel 1 (6.43 net acres) (as described in and by reference to the approved Exhibits "A" and corresponding conditions of approval for the associated Permit No. 1036686), on portions of a 12.96-acre site; and

WHEREAS, the project site is located at 7931- 7961 Airway Road in the in the Otay Mesa Industrial Subdistrict of the Otay Mesa Development District of the Otay Mesa Community Plan;

WHEREAS, the project site is legally described as the west half of the west half and the set one-third of the east half of the west half of the northwest quarter of the southeast quarter of section 34, township 18 south, range 1 west, San Bernardino Meridian, in the County of San Diego, State of California, according to the official plat thereof;

WHEREAS, on November 13, 2013, the Hearing Officer of the City of San Diego considered Site Development Permit No. 1036686 pursuant to the Land Development Code of the City of San Diego; NOW, THEREFORE,

BE IT RESOLVED by the Hearing Officer of the City of San Diego as follows:

That the Hearing Officer adopts the following written Findings, dated November 13, 2013.

I. SITE DEVELOPMENT PERMIT FINDINGS (SDMC Section 126.0504):

1. THE PROPOSED DEVELOPMENT WILL NOT ADVERSELY AFFECT THE APPLICABLE LAND USE PLAN.

The project proposes to subdivide a 12.96-acre site currently developed with a batch plant, parking and storage areas and vacant land, into two industrial parcels. Parcel 1 would total 6.43 net acres and contain the existing batch plant. Parcel 2 would total 6.53 net acres and is currently used for a truck and container parking, a storage facility, office trailers, customer parking, and a fenced truck storage area. No site specific development is proposed with this application however, Site Development Permit No. 1036686, processed concurrently with this Map Waiver, allows the future ministerial development of a maximum of 34,500 square feet of office use or its industrial equivalent for greenhouse gas emissions, on proposed Parcel 2.

The property is designated as industrial within the Otay Mesa Community Plan and zoned Industrial Subdistrict of the Otay Mesa Development District. The underlying zone allows for a variety of

industrial and commercial uses. The existing batch plant facility is an allowable permitted use and proposed future development of industrial and/or office uses would be consistent with the land use designation. The Otay Mesa Community Plan contains a design objective to reduce traffic conflicts and congestion in industrial areas. A Mitigated Negative Declaration was prepared for the subdivision with mitigation measures for Traffic as, pursuant to the approved Traffic Study (*Otay Mesa Plant, Traffic Impact Study April 8, 2008*, prepared by LOS Engineering, Inc.) the future development in the horizon year 2030 would cause an increase in traffic delays. As such, mitigation measures require the 2.9 percent fair share contribution for the construction of the following at the intersection of Airway Road at La Media Road:

- Additional southbound, right-turn lane
- Additional westbound right-turn lane
- Additional eastbound left-turn
- Restriping an eastbound through lane to a shared eastbound through-right lane

Additionally, a 2.6 percent fair-share contribution of the cost to re-stripe the southbound right-turn lane to a combined through right-turn lane at the intersection of La Media Road and the State Route-905 EB ramps is required. Payment of these fees will assist in the cost of construction of these traffic improvements, implementing the General Plan goal of minimizing traffic conflicts and congestion. The General Plan's Land Use Element acknowledges that the Otay Mesa community is designated as a Subregional Employment Area. The Economic Prosperity Element of the General Plan states that availability and retention of industrial uses is an important part of the goals and strategies. The proposed subdivision will meet the land use and development regulations of the San Diego Municipal Code and is consistent with the policies, goals, and objectives of the applicable land use plan by facilitating the construction of industrial uses and increasing employment opportunities.

The proposed development meets the development regulations of the San Diego Municipal Code and will not adversely affect the Otay Mesa Community Plan.

2. THE PROPOSED DEVELOPMENT WILL NOT BE DETRIMENTAL TO THE PUBLIC HEALTH, SAFETY AND WELFARE.

The project proposes to subdivide a 12.96-acre site currently developed with a batch plant, parking and storage areas and vacant land, into two industrial parcels. Parcel 1 would total 6.43 net acres and contain the existing batch plant. Parcel 2 would total 6.53 net acres and is currently used for a truck and container parking, a storage facility, office trailers, customer parking, and a fenced truck storage area. No site specific development is proposed with this application however, Site Development Permit No. 1036686, processed concurrently with this Map Waiver, allows the future ministerial development of a maximum of 34,500 square feet of office use or its industrial equivalent for greenhouse gas emissions, on proposed Parcel 2.

Mitigated Negative Declaration No. 105926 has been prepared which includes a Mitigation, Monitoring and Reporting Program (MMRP) requiring mitigation in the form of fair share fees for the cost of improvements to Airway Road at La Media, and La Media Road and the State Route-905 EB ramps. These fees will facilitate the construction of improvements at these locations (additional travel lanes and widened lanes) which will improve the traffic flow. Project specific conditions requires the installation of a traffic median within Airway Road, relocation of two power poles currently located within the Airway Road paved vehicular roadway, and reconstruction of two driveways. The Project has been conditioned through Map Waiver No. 567516 and Site Development Permit No. 10366886 to comply with the

development regulations in effect for the subject property as set forth in the Land Development Code, and will be required to obtain building permits to show that construction will comply with all applicable Building and Fire Codes. The proposed development and associated improvements will meet all development standards and will 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, INCLUDING ANY ALLOWABLE DEVIATIONS PURSUANT TO THE LAND DEVELOPMENT CODE.

The project proposes to subdivide a 12.96-acre site currently developed with a batch plant, vehicle parking and storage areas, into two industrial parcels. The existing batch plant is an allowable use permitted ministerially in 2003 via building permits. Future development of office uses may be permitted ministerially provided no deviations are requested. No site specific development is proposed with this Site Development Permit. The subdivision of land complies with all of the lot standards for newly created lots.

II. OTAY MESA DEVELOPMENT DISTRICT PERMIT FINDINGS - SECTION 1517.0201:

1. THE APPLICATION IS COMPLETE AND CONFORMS TO ALL CITY REGULATIONS, POLICIES, GUIDELINES, DESIGN STANDARDS AND DENSITY.

The project proposes to subdivide a 12.96-acre site currently developed with a batch plant, parking and storage areas and vacant land, into two industrial parcels. Parcel 1 would total 6.43 net acres and contain the existing batch plant. Parcel 2 would total 6.53 net acres and is currently used for a truck and container parking, a storage facility, office trailers, customer parking, and a fenced truck storage area. No site specific development is proposed with this application however, Site Development Permit No. 1036686, processed concurrently with this Map Waiver, allows the future ministerial development of a maximum of 34,500 square feet of office use or its industrial equivalent for greenhouse gas emissions, on proposed Parcel 2.

The project application is complete. The existing batch plant complies with all of the development regulations of the Industrial Subdistrict zone and was permitted ministerially via building permits in the 1990s. The proposed subdivision will facilitate the future construction of industrial and/or office uses, consistent with the Otay Mesa Development District Ordinance, the Otay Mesa Community Plan, and all other City regulations, policies, guidelines, design standards and adopted land use plans applicable to this site. The project complies with the applicable regulations of the Land Development Code.

2. THE PROPOSED USE AND PROJECT DESIGN MEET THE PURPOSE AND INTENT OF THE OTAY MESA DEVELOPMENT DISTRICT AND THE OTAY MESA COMMUNITY PLAN.

The project proposes to subdivide a 12.96-acre site currently developed with a batch plant, parking and storage areas and vacant land, into two industrial parcels. Parcel 1 would total 6.43 net acres and contain the existing batch plant. Parcel 2 would total 6.53 net acres and is currently vacant. No site specific development is proposed with this application however, Site Development Permit No. 1036686, processed concurrently with this Map Waiver, allows the future ministerial development of a maximum of 34,500 square feet of office use or its industrial equivalent for greenhouse gas emissions, on proposed Parcel 2.

The proposed use and project design will not adversely affect the Otay Mesa Community Plan as described above in Site Development Finding No. 1. The purpose and intent of the Otay Mesa Development District Ordinance is to create and promote the development of the City's largest and potentially most significant industrial area. It is also the purpose of the Otay Mesa Development District Ordinance to control the use, development intensity, and development design of a primarily industrial area. It is intended that this District will provide for a full range of industrial uses emphasizing base sector manufacturing and also including wholesaling and distribution, assembly operations, and necessary support services. Because of its location adjacent to the international border, its accessibility to Mexico, and its abundance of large, readily developable parcels, Otay Mesa is a unique area. It has the potential of becoming a major industrial center, not only in San Diego County, but also in the southwestern United States.

The proposed project will assist in the implementation of these goals and the purpose and intent of the Otay Mesa Development District, through the subdivision of land, which will facilitate the future construction of a development consistent with the allowable uses and design standards of the Industrial Subdistrict. Such a development will also provide additional employment opportunities for the region. Therefore, the proposed use and project design meet the purpose and intent of the Otay Mesa development district and the Otay Mesa community plan.

3. THE PROPOSED USE, BECAUSE OF CONDITIONS THAT HAVE BEEN APPLIED TO IT, WILL NOT BE DETRIMENTAL TO THE HEALTH, SAFETY AND GENERAL WELFARE OF PERSONS RESIDING OR WORKING IN THE AREA, AND WILL NOT ADVERSELY AFFECT OTHER PROPERTIES IN THE VICINITY.

The project proposes to subdivide a 12.96-acre site currently developed with a batch plant, parking and storage areas and vacant land, into two industrial parcels. Parcel 1 would total 6.43 net acres and contain the existing batch plant. Parcel 2 would total 6.53 net acres and is currently used for a truck and container parking, a storage facility, office trailers, customer parking, and a fenced truck storage area. No site specific development is proposed with this application however, Site Development Permit No. 1036686, processed concurrently with this Map Waiver, allows the future ministerial development of a maximum of 34,500 square feet of office use or its industrial equivalent for greenhouse gas emissions, on proposed Parcel 2.

Mitigated Negative Declaration No. 105926 has been prepared which includes a Mitigation, Monitoring and Reporting Program (MMRP) requiring mitigation in the form of fair share fees for the cost of improvements to Airway Road at La Media, and La Media Road and the State Route-905 EB ramps. These fees will facilitate the construction of improvements at these locations (additional travel lanes and widened lanes) which will improve the traffic flow. The Project has been conditioned through Map Waiver No. 567516 and Site Development Permit No. 1036686 to comply with contain conditions of approval relevant to achieving project compliance with the applicable regulations of the San Diego Municipal Code in effect that will assure the project will not adversely affect the health, safety and general welfare of persons residing or working in the area. These conditions include minimum standards for the proposed driveway along Airway Road, relocation of a power pole installation of new sewer facilities for future development and the aforementioned fair share contributions for future traffic improvements. Therefore, the proposed use, because of conditions that have been applied to it, will not be detrimental to the health, safety and general welfare of persons residing or working in the area, and will not adversely affect other properties in the vicinity.

4. THE PROPOSED USE WILL COMPLY WITH THE RELEVANT REGULATIONS IN THE LAND DEVELOPMENT CODE.

The project proposes to subdivide a 12.96-acre site currently developed with a batch plant, vehicle parking and storage areas, into two industrial parcels. The existing batch plant is an allowable use permitted ministerially in the 1990s via building permits. Future development of industrial/office uses may be permitted ministerially provided no deviations are requested. No site specific development is proposed with this Site Development Permit.

5. A PLAN FOR THE FINANCING OF PUBLIC FACILITIES AS PROVIDED IN SECTION 1517.0204 OF THIS DISTRICT HAS BEEN APPROVED BY THE CITY ENGINEER.

The Otay Mesa Public Facilities Financing Plan and Facilities Benefit Assessment, Fiscal Year 2007 was approved by the City Council on November 22, 2006 by Resolution No. 302040. The Facilities Benefits Assessment for this area is based upon an estimate of project-induced impacts to the Otay Mesa Community requiring additional transportation, fire and/or police facilities. Additional fees to cover public facilities as provide in section 103.1102(b) will be calculated and due upon issuance of construction permits.

BE IT FURTHER RESOLVED that, based on the findings hereinbefore adopted by the Hearing Officer, Site Development Permit No. 1036686 is hereby GRANTED by the Hearing Officer to the referenced Owner/Permittee, in the form, exhibits, terms and conditions as set forth in Permit No. 1036686, a copy of which is attached hereto and made a part hereof.

Sandra Teasley
Development Project Manager
Development Services

Adopted on: November 13, 2013

Job Order No. 23426591

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

PROJECT MANAGEMENT
PERMIT CLERK
MAIL STATION 501

SPACE ABOVE THIS LINE FOR RECORDER'S USE

INTERNAL ORDER NUMBER: 23426591

SITE DEVELOPMENT PERMIT (OTAY MESA DEVELOPMENT PERMIT) NO. 1036686
OTAY MESA PLANT – PROJECT NO. 105926
[MMRP]
HEARING OFFICER

This Site Development Permit No. 1036686 is granted by the Hearing Officer of the City of San Diego to ROBERTSON'S MANAGEMENT LLC, Owner/Permittee, pursuant to San Diego Municipal Code [SDMC] sections 126.0501 and 1517.0201. The 12.96-acre site is located at 7931-7961 Airway Road in the Otay Mesa Industrial Subdistrict of the Otay Mesa Development District of the Otay Mesa Community Plan. The project site is legally described as the west half of the west half and the set one-third of the east half of the west half of the northwest quarter of the southeast quarter of section 34, township 18 south, range 1 west, San Bernardino Meridian, in the County of San Diego, State of California, according to the official plat thereof; and

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner and Permittee to subdivide a 12.96-acre site into two lots for a maximum 34,500 square-foot industrial development or its industrial equivalent for greenhouse gas emissions and, maintenance of an existing batch plant, described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated November 13, 2013, on file in the Development Services Department.

The project shall include:

- a. A two-lot industrial subdivision;
- b. The uses on the combined premises shall be limited to the existing batch plant on proposed Parcel 1 and future industrial development that does not exceed 34,500 square feet of office use or its industrial equivalent for greenhouse gas emissions on proposed Parcel 2.

- c. Build-out of the site pursuant to the approved traffic study beyond 34,500 square feet or its industrial equivalent for greenhouse gas emissions as described above in item "b" will require an amendment to this permit.
- d. The existing batch plant and the commercial vehicle parking facility and associated accessory activities may continued to opearate, prior to compliance with the conditions of the Map Waiver or recordation of the Parcel Map.
- e. Off-street parking; and,
- f. Public and private accessory improvements determined by the Development Services Department to be consistent with the land use and development standards for this site in accordance with the adopted community plan, the California Environmental Quality Act [CEQA] and the CEQA Guidelines, the City Engineer's requirements, zoning regulations, conditions of this Permit, and any other applicable regulations of the SDMC.

STANDARD REQUIREMENTS:

1. This permit must be utilized within thirty-six (36) months after the date on which all rights of appeal have expired. If this permit is not utilized in accordance with Chapter 12, Article 6, Division 1 of the SDMC within the 36 month period, this permit shall be void unless an Extension of Time has been granted. Any such Extension of Time must meet all SDMC requirements and applicable guidelines in effect at the time the extension is considered by the appropriate decision maker. This permit must be utilized by November 27, 2016.
2. No permit for the construction, occupancy, or operation of any facility or improvement described herein shall be granted, nor shall any activity authorized by this Permit be conducted on the premises until:
 - a. The Owner/Permittee signs and returns the Permit to the Development Services Department; and
 - b. The Permit is recorded in the Office of the San Diego County Recorder.
3. While this Permit is in effect, the subject property shall be used only for the purposes and under the terms and conditions set forth in this Permit unless otherwise authorized by the appropriate City decision maker.
4. This Permit is a covenant running with the subject property and all of the requirements and conditions of this Permit and related documents shall be binding upon the Owner/Permittee and any successor(s) in interest.
5. The continued use of this Permit shall be subject to the regulations of this and any other applicable governmental agency.

ATTACHMENT 5

6. Issuance of this Permit by the City of San Diego does not authorize the Owner/Permittee for this Permit to violate any Federal, State or City laws, ordinances, regulations or policies including, but not limited to, the Endangered Species Act of 1973 [ESA] and any amendments thereto (16 U.S.C. § 1531 et seq.).

7. The Owner/Permittee shall secure all necessary building permits. The Owner/Permittee is informed that to secure these permits, substantial building modifications and site improvements may be required to comply with applicable building, fire, mechanical, and plumbing codes, and State and Federal disability access laws.

8. Construction plans shall be in substantial conformity to Exhibit "A." Changes, modifications, or alterations to the construction plans are prohibited unless appropriate application(s) or amendment(s) to this Permit have been granted.

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

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

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

11. This Site Development Permit No. 1036686 shall comply with all of the provisions of Map Waiver No. 567516.

ENVIRONMENTAL/MITIGATION REQUIREMENTS:

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

13. The mitigation measures specified in the MMRP and outlined in Mitigated Negative Declaration No. 105926 shall be noted on the construction plans and specifications under the heading ENVIRONMENTAL MITIGATION REQUIREMENTS.

14. The Owner/Permittee shall comply with the MMRP as specified in Mitigated Negative Declaration No. 105926 to the satisfaction of the Development Services Department and the City Engineer. Prior to issuance of any construction permit, all conditions of the MMRP shall be adhered to, to the satisfaction of the City Engineer. All mitigation measures described in the MMRP shall be implemented for the following issue areas: Traffic and Paleontology.

TRANSPORTATION REQUIREMENTS:

15. No more than 34,500 square feet of small industrial park or its industrial equivalent for greenhouse gas emissions, shall be constructed on the project site.

16. A minimum of 5 automobile spaces (including 1 van accessible space), 2 motorcycle spaces, and 2 bicycle spaces with rack(s), shall be provided on Parcel 1 as required by the Land Development Code within the approximate location shown on the project's Exhibit "A". All on-site parking stalls and aisle widths shall be in compliance with requirements of the City's Land Development Code and shall not be converted and/or utilized for any other purpose, unless otherwise authorized in writing by the Development Services Director.

17. Prior to issuance of any construction permit on Parcel 2, the Owner/Permittee shall provide a fair-share contribution of 2.9 percent of the cost to provide an additional southbound right-turn lane, an additional westbound right-turn lane, an additional eastbound left-turn lane, and restripe an eastbound through lane to a shared eastbound through-right lane, at the signal.

18. Prior to issuance of any construction permit on Parcel 2, the Owner/Permittee shall provide a fair-share contribution of 2.6 percent of the cost to re-stripe the southbound right-turn lane to a combined through right-turn lane at the intersection of La Media Road and the SR-905 EB ramps, satisfactory to the City Engineer.

INFORMATION ONLY:

- The issuance of this discretionary use permit alone does not allow the immediate commencement or continued operation of the proposed use on site. The operation allowed by this discretionary use permit may only begin or recommence after all conditions listed

ATTACHMENT 5

on this permit are fully completed and all required ministerial permits have been issued and received final inspection.

- Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of this Permit, may protest the imposition within ninety days of the approval of this development permit by filing a written protest with the City Clerk pursuant to California Government Code-section 66020.
- This development may be subject to impact fees at the time of construction permit issuance.

APPROVED by the Hearing Officer of the City of San Diego on November 13, 2013 and [Approved Resolution Number].

ATTACHMENT 5

Permit Type/PTS Approval No.: SDP No. 1036686
Date of Approval: November 13, 2013

AUTHENTICATED BY THE CITY OF SAN DIEGO DEVELOPMENT SERVICES
DEPARTMENT

SANDRA TEASLEY
Development Project Manager

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

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

[ROBERTSON'S MANAGEMENT LLC]
Owner/Permittee

By _____
Jon Troesh
President

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

HEARING OFFICER RESOLUTION NO. _____
SITE DEVELOPMENT PERMIT (OTAY MESA DEVELOPMENT PERMIT) NO. 1036686
OTAY MESA PLANT PROJECT NO. 105926
[MMRP]

WHEREAS, ROBERTSON'S MANAGEMENT LLC, Owner/Permittee, filed an application with the City of San Diego for a permit for the subdivision of a single lot into two lots for a maximum 34,500 square-foot industrial development or its industrial equivalent for greenhouse gas emissions on proposed Parcel 2 (6.53 net acres) and an existing batch plant on proposed Parcel 1 (6.43 net acres) (as described in and by reference to the approved Exhibits "A" and corresponding conditions of approval for the associated Permit No. 1036686), on portions of a 12.96-acre site; and

WHEREAS, the project site is located at 7931- 7961 Airway Road in the in the Otay Mesa Industrial Subdistrict of the Otay Mesa Development District of the Otay Mesa Community Plan;

WHEREAS, the project site is legally described as the west half of the west half and the set one-third of the east half of the west half of the northwest quarter of the southeast quarter of section 34, township 18 south, range 1 west, San Bernardino Meridian, in the County of San Diego, State of California, according to the official plat thereof;

WHEREAS, on November 13, 2013, the Hearing Officer of the City of San Diego considered Site Development Permit No. 1036686 pursuant to the Land Development Code of the City of San Diego; NOW, THEREFORE,

BE IT RESOLVED by the Hearing Officer of the City of San Diego as follows:

That the Hearing Officer adopts the following written Findings, dated November 13, 2013.

I. SITE DEVELOPMENT PERMIT FINDINGS (SDMC Section 126.0504):

1. THE PROPOSED DEVELOPMENT WILL NOT ADVERSELY AFFECT THE APPLICABLE LAND USE PLAN.

The project proposes to subdivide a 12.96-acre site currently developed with a batch plant, parking and storage areas and vacant land, into two industrial parcels. Parcel 1 would total 6.43 net acres and contain the existing batch plant. Parcel 2 would total 6.53 net acres and is currently used for a truck and container parking, a storage facility, office trailers, customer parking, and a fenced truck storage area. No site specific development is proposed with this application however, Site Development Permit No. 1036686, processed concurrently with this Map Waiver, allows the future ministerial development of a maximum of 34,500 square feet of office use or its industrial equivalent for greenhouse gas emissions, on proposed Parcel 2.

The property is designated as industrial within the Otay Mesa Community Plan and zoned Industrial Subdistrict of the Otay Mesa Development District. The underlying zone allows for a variety of

industrial and commercial uses. The existing batch plant facility is an allowable permitted use and proposed future development of industrial and/or office uses would be consistent with the land use designation. The Otay Mesa Community Plan contains a design objective to reduce traffic conflicts and congestion in industrial areas. A Mitigated Negative Declaration was prepared for the subdivision with mitigation measures for Traffic as, pursuant to the approved Traffic Study (*Otay Mesa Plant, Traffic Impact Study April 8, 2008*, prepared by LOS Engineering, Inc.) the future development in the horizon year 2030 would cause an increase in traffic delays. As such, mitigation measures require the 2.9 percent fair share contribution for the construction of the following at the intersection of Airway Road at La Media Road:

- Additional southbound, right-turn lane
- Additional westbound right-turn lane
- Additional eastbound left-turn
- Restriping an eastbound through lane to a shared eastbound through-right lane

Additionally, a 2.6 percent fair-share contribution of the cost to re-stripe the southbound right-turn lane to a combined through right-turn lane at the intersection of La Media Road and the State Route-905 EB ramps is required. Payment of these fees will assist in the cost of construction of these traffic improvements, implementing the General Plan goal of minimizing traffic conflicts and congestion. The General Plan's Land Use Element acknowledges that the Otay Mesa community is designated as a Subregional Employment Area. The Economic Prosperity Element of the General Plan states that availability and retention of industrial uses is an important part of the goals and strategies. The proposed subdivision will meet the land use and development regulations of the San Diego Municipal Code and is consistent with the policies, goals, and objectives of the applicable land use plan by facilitating the construction of industrial uses and increasing employment opportunities.

The proposed development meets the development regulations of the San Diego Municipal Code and will not adversely affect the Otay Mesa Community Plan.

2. THE PROPOSED DEVELOPMENT WILL NOT BE DETRIMENTAL TO THE PUBLIC HEALTH, SAFETY AND WELFARE.

The project proposes to subdivide a 12.96-acre site currently developed with a batch plant, parking and storage areas and vacant land, into two industrial parcels. Parcel 1 would total 6.43 net acres and contain the existing batch plant. Parcel 2 would total 6.53 net acres and is currently used for a truck and container parking, a storage facility, office trailers, customer parking, and a fenced truck storage area. No site specific development is proposed with this application however, Site Development Permit No. 1036686, processed concurrently with this Map Waiver, allows the future ministerial development of a maximum of 34,500 square feet of office use or its industrial equivalent for greenhouse gas emissions, on proposed Parcel 2.

Mitigated Negative Declaration No. 105926 has been prepared which includes a Mitigation, Monitoring and Reporting Program (MMRP) requiring mitigation in the form of fair share fees for the cost of improvements to Airway Road at La Media, and La Media Road and the State Route-905 EB ramps. These fees will facilitate the construction of improvements at these locations (additional travel lanes and widened lanes) which will improve the traffic flow. Project specific conditions requires the installation of a traffic median within Airway Road, relocation of two power poles currently located within the Airway Road paved vehicular roadway, and reconstruction of two driveways. The Project has been conditioned through Map Waiver No. 567516 and Site Development Permit No. 10366886 to comply with the

development regulations in effect for the subject property as set forth in the Land Development Code, and will be required to obtain building permits to show that construction will comply with all applicable Building and Fire Codes. The proposed development and associated improvements will meet all development standards and will 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, INCLUDING ANY ALLOWABLE DEVIATIONS PURSUANT TO THE LAND DEVELOPMENT CODE.

The project proposes to subdivide a 12.96-acre site currently developed with a batch plant, vehicle parking and storage areas, into two industrial parcels. The existing batch plant is an allowable use permitted ministerially in 2003 via building permits. Future development of office uses may be permitted ministerially provided no deviations are requested. No site specific development is proposed with this Site Development Permit. The subdivision of land complies with all of the lot standards for newly created lots.

II. OTAY MESA DEVELOPMENT DISTRICT PERMIT FINDINGS - SECTION 1517.0201:

1. THE APPLICATION IS COMPLETE AND CONFORMS TO ALL CITY REGULATIONS, POLICIES, GUIDELINES, DESIGN STANDARDS AND DENSITY.

The project proposes to subdivide a 12.96-acre site currently developed with a batch plant, parking and storage areas and vacant land, into two industrial parcels. Parcel 1 would total 6.43 net acres and contain the existing batch plant. Parcel 2 would total 6.53 net acres and is currently used for a truck and container parking, a storage facility, office trailers, customer parking, and a fenced truck storage area. No site specific development is proposed with this application however, Site Development Permit No. 1036686, processed concurrently with this Map Waiver, allows the future ministerial development of a maximum of 34,500 square feet of office use or its industrial equivalent for greenhouse gas emissions, on proposed Parcel 2.

The project application is complete. The existing batch plant complies with all of the development regulations of the Industrial Subdistrict zone and was permitted ministerially via building permits in the 1990s. The proposed subdivision will facilitate the future construction of industrial and/or office uses, consistent with the Otay Mesa Development District Ordinance, the Otay Mesa Community Plan, and all other City regulations, policies, guidelines, design standards and adopted land use plans applicable to this site. The project complies with the applicable regulations of the Land Development Code.

2. THE PROPOSED USE AND PROJECT DESIGN MEET THE PURPOSE AND INTENT OF THE OTAY MESA DEVELOPMENT DISTRICT AND THE OTAY MESA COMMUNITY PLAN.

The project proposes to subdivide a 12.96-acre site currently developed with a batch plant, parking and storage areas and vacant land, into two industrial parcels. Parcel 1 would total 6.43 net acres and contain the existing batch plant. Parcel 2 would total 6.53 net acres and is currently vacant. No site specific development is proposed with this application however, Site Development Permit No. 1036686, processed concurrently with this Map Waiver, allows the future ministerial development of a maximum of 34,500 square feet of office use or its industrial equivalent for greenhouse gas emissions, on proposed Parcel 2.

ATTACHMENT 6

The proposed use and project design will not adversely affect the Otay Mesa Community Plan as described above in Site Development Finding No. 1. The purpose and intent of the Otay Mesa Development District Ordinance is to create and promote the development of the City's largest and potentially most significant industrial area. It is also the purpose of the Otay Mesa Development District Ordinance to control the use, development intensity, and development design of a primarily industrial area. It is intended that this District will provide for a full range of industrial uses emphasizing base sector manufacturing and also including wholesaling and distribution, assembly operations, and necessary support services. Because of its location adjacent to the international border, its accessibility to Mexico, and its abundance of large, readily developable parcels, Otay Mesa is a unique area. It has the potential of becoming a major industrial center, not only in San Diego County, but also in the southwestern United States.

The proposed project will assist in the implementation of these goals and the purpose and intent of the Otay Mesa Development District, through the subdivision of land, which will facilitate the future construction of a development consistent with the allowable uses and design standards of the Industrial Subdistrict. Such a development will also provide additional employment opportunities for the region. Therefore, the proposed use and project design meet the purpose and intent of the Otay Mesa development district and the Otay Mesa community plan.

3. THE PROPOSED USE, BECAUSE OF CONDITIONS THAT HAVE BEEN APPLIED TO IT, WILL NOT BE DETRIMENTAL TO THE HEALTH, SAFETY AND GENERAL WELFARE OF PERSONS RESIDING OR WORKING IN THE AREA, AND WILL NOT ADVERSELY AFFECT OTHER PROPERTIES IN THE VICINITY.

The project proposes to subdivide a 12.96-acre site currently developed with a batch plant, parking and storage areas and vacant land, into two industrial parcels. Parcel 1 would total 6.43 net acres and contain the existing batch plant. Parcel 2 would total 6.53 net acres and is currently used for a truck and container parking, a storage facility, office trailers, customer parking, and a fenced truck storage area. No site specific development is proposed with this application however, Site Development Permit No. 1036686, processed concurrently with this Map Waiver, allows the future ministerial development of a maximum of 34,500 square feet of office use or its industrial equivalent for greenhouse gas emissions, on proposed Parcel 2.

Mitigated Negative Declaration No. 105926 has been prepared which includes a Mitigation, Monitoring and Reporting Program (MMRP) requiring mitigation in the form of fair share fees for the cost of improvements to Airway Road at La Media, and La Media Road and the State Route-905 EB ramps. These fees will facilitate the construction of improvements at these locations (additional travel lanes and widened lanes) which will improve the traffic flow. The Project has been conditioned through Map Waiver No. 567516 and Site Development Permit No. 1036686 to comply with contain conditions of approval relevant to achieving project compliance with the applicable regulations of the San Diego Municipal Code in effect that will assure the project will not adversely affect the health, safety and general welfare of persons residing or working in the area. These conditions include minimum standards for the proposed driveway along Airway Road, relocation of a power pole installation of new sewer facilities for future development and the aforementioned fair share contributions for future traffic improvements. Therefore, the proposed use, because of conditions that have been applied to it, will not be detrimental to the health, safety and general welfare of persons residing or working in the area, and will not adversely affect other properties in the vicinity.

4. THE PROPOSED USE WILL COMPLY WITH THE RELEVANT REGULATIONS IN THE LAND DEVELOPMENT CODE.

The project proposes to subdivide a 12.96-acre site currently developed with a batch plant, vehicle parking and storage areas, into two industrial parcels. The existing batch plant is an allowable use permitted ministerially in the 1990s via building permits. Future development of industrial/office uses may be permitted ministerially provided no deviations are requested. No site specific development is proposed with this Site Development Permit.

5. A PLAN FOR THE FINANCING OF PUBLIC FACILITIES AS PROVIDED IN SECTION 1517.0204 OF THIS DISTRICT HAS BEEN APPROVED BY THE CITY ENGINEER.

The Otay Mesa Public Facilities Financing Plan and Facilities Benefit Assessment, Fiscal Year 2007 was approved by the City Council on November 22, 2006 by Resolution No. 302040. The Facilities Benefits Assessment for this area is based upon an estimate of project-induced impacts to the Otay Mesa Community requiring additional transportation, fire and/or police facilities. Additional fees to cover public facilities as provide in section 103.1102(b) will be calculated and due upon issuance of construction permits.

BE IT FURTHER RESOLVED that, based on the findings hereinbefore adopted by the Hearing Officer, Site Development Permit No. 1036686 is hereby GRANTED by the Hearing Officer to the referenced Owner/Permittee, in the form, exhibits, terms and conditions as set forth in Permit No. 1036686, a copy of which is attached hereto and made a part hereof.

Sandra Teasley
Development Project Manager
Development Services

Adopted on: November 13, 2013

Job Order No. 23426591

HEARING OFFICER
CONDITIONS FOR MAP WAIVER NO. 567516
OTAY MESA PLANT- PROJECT NO.105926

[MMRP]

ADOPTED BY RESOLUTION NO. R-_____ ON November 13, 2013

GENERAL

1. This Map Waiver will expire on November 27, 2016. Compliance with all of the following conditions shall be completed and/or assured, to the satisfaction of the City Engineer, prior to the recordation of the Parcel Map, unless otherwise noted.
2. Prior to the recordation of the Parcel Map, taxes must be paid on this property pursuant to Subdivision Map Act section 66492. To satisfy this condition, a tax certificate stating that there are no unpaid lien conditions against the subdivision must be recorded in the Office of the San Diego County Recorder.
3. The Map Waiver shall conform to the provisions of Site Development Permit No. 1036686.
4. The Subdivider shall defend, indemnify, and hold the City (including its agents, officers, and employees [together, "Indemnified Parties"]) harmless from any claim, action, or proceeding, against the City and/or any Indemnified Parties to attack, set aside, void, or annul City's approval of this project, which action is brought within the time period provided for in Government Code section 66499.37. City shall promptly notify Subdivider of any claim, action, or proceeding and shall cooperate fully in the defense. If City fails to promptly notify Subdivider of any claim, action, or proceeding, or if City fails to cooperate fully in the defense, Subdivider shall not thereafter be responsible to defend, indemnify, or hold City and/or any Indemnified Parties harmless. City may participate in the defense of any claim, action, or proceeding if City both bears its own attorney's fees and costs, City defends the action in good faith, and Subdivider is not required to pay or perform any settlement unless such settlement is approved by the Subdivider.

ENGINEERING

5. A Parcel Map shall be recorded in the Office of the County Recorder, prior to the Map Waiver expiration date.
6. Compliance with all conditions shall be assured, to the satisfaction of the City Engineer, prior to the recordation of the Parcel Map, unless otherwise noted.
7. Prior to recordation of the Parcel Map, the Subdivider shall relocate the existing power poles from Airway Road travel lanes.
8. Prior to recordation of the Parcel Map, the Subdivider shall replace or modified the existing driveway, on Airway Road, to provide adequate sidewalk transitions consistent with Standard Drawing G-14A.
9. The Subdivider shall underground any new service run to any new or proposed structures within the subdivision.
10. The Subdivider shall ensure that all existing onsite utilities serving the subdivision shall be undergrounded with the appropriate permits. The Subdivider shall provide written confirmation from applicable utilities that the conversion has taken place, or provide other means to assure the undergrounding, satisfactory to the City Engineer.

MAPPING

11. "Basis of Bearings" means the source of uniform orientation of all measured bearings shown on the map. Unless otherwise approved, this source shall be the California Coordinate System, Zone 6, North American Datum of 1983 [NAD 83].
12. "California Coordinate System" means the coordinate system as defined in Section 8801 through 8819 of the California Public Resources Code. The specified zone for San Diego County is "Zone 6," and the official datum is the "North American Datum of 1983."
13. The Map Waiver shall:

- a. Use the California Coordinate System for its "Basis of Bearing" and express all measured and calculated bearing values in terms of said system. The angle of grid divergence from a true median (theta or mapping angle) and the north point of said map shall appear on each sheet thereof. Establishment of said Basis of Bearings may be by use of existing Horizontal Control stations or astronomic observations.

PUBLIC UTILITIES DEPARTMENT

14. All on-site sewer facilities shall be private.
15. Prior to the issuance of any building permits, the proposed development shall pay the following reimbursement fees:
 - a. The Otay Mesa Sewer Surcharge fee of \$1821.75 per living unit plus 6% simple interest from 3-12-08 (21351-D-O).
 - b. The Otay La Media Sewer reimbursement fee for Reach 1 of \$514.07 per acre plus 6% simple interest from 8-8-94 (26783-D).
16. No trees or shrubs exceeding three feet in height at maturity shall be installed within ten feet of any public sewer facilities.
17. If the proposed sewer lateral is located in a driveway, it shall be relocated or it shall be private and built according to Figure 2-6 of the City of San Diego Sewer Design Guide. Private sewer laterals require an Encroachment Maintenance and Removal Agreement.
18. All proposed private sewer facilities that serve more than one lot shall be designed and constructed in accordance with established criteria in the most current City of San Diego sewer design guide.
19. The Subdivider shall design and construct all proposed private sewer facilities to conform with the most current State, Federal and City Regulations, and to the requirements of the most current edition of the Public Utilities Department Sewer Design Guide or the California Uniform Plumbing Code as adopted by the City of San Diego.
20. For sewer mains that exceed 25 feet in depth, vaults shall be provided with a minimum of two access manholes for each vault. Calculations shall be provided to show that the vault structures are designed to accommodate the design depths. A separate structural permit is required (Per Section 2.3.10 of the Sewer Design Guide).

21. Sewer laterals connecting directly in to manholes are not allowed (Per Sections 2.5.10 of the Sewer Design Guide). Proposed manhole connecting to proposed sewer lateral shall be moved 10 feet to the east.
22. The Subdivider will participate in and not object to the formation of a Community Facilities District (CFD) or other mechanism, to fund or reimburse the construction of the improvement phases as identified in the Otay Mesa Master Plan Revisions, dated December 2008. A recorded copy of the CFD should be sent to the Water and Sewer Development Section of the Public Utilities Department.
23. The Subdivider shall provide evidence to the Development Project Manager that approval has been obtained from the Otay Water District for water service to the site.
24. The Subdivider shall install fire hydrants at locations satisfactory to the Fire Department and the City Engineer.

GEOLOGY

25. Prior to the issuance of a grading permit, the Subdivider shall submit geotechnical report prepared in accordance with the City of San Diego's "Guidelines for Geotechnical Reports," satisfactory to the City Engineer.

PLANNING

26. The uses on the combined premises shall be limited to the existing batch plant and industrial development that does not exceed 34,500 square feet. These limitations are based on the project's traffic study. Future development that varies from these uses and gross floor area may be permitted if the total of all uses, including the size of those uses, does not exceed that which was analyzed in the traffic study.
27. The batch plant can continue to operate and a commercial vehicle parking facility may be established prior to compliance with the conditions of the Map Waiver or recordation of the Parcel Map.

TRANSPORTATION

28. A minimum of 5 automobile spaces (including 1 van accessible space), 2 motorcycle spaces, and 2 bicycle spaces with rack(s), shall be provided on Parcel 1 as required by the Land Development Code within the approximate location shown on the project's Exhibit "A." All on-site parking stalls and aisle widths shall be in compliance with requirements of the City's Land Development Code

and shall not be converted and/or utilized for any other purpose, unless otherwise authorized in writing by the Development Services Director.

29. Prior to recordation of the Parcel Map, the Subdivider shall record a Mutual Access Easement Agreement between proposed Parcel 1 and proposed Parcel 2, satisfactory to the City Engineer.
30. Prior to recordation of the Parcel Map, the Subdivider shall construct a 14 foot wide raised center median on Airway Road along the project frontage, satisfactory to the City Engineer. Alternatively, the Subdivider may enter into a Deferred Improvement Agreement with the City of San Diego for the construction of this raised median, satisfactory to the City Engineer.
31. Prior to recordation of the Parcel Map, the Subdivider shall relocate the existing power poles in the pavement section of Airway Road to the parkway area, satisfactory to the City Engineer.

INFORMATION:

- The approval of this Map Waiver by the Hearing Officer of the City of San Diego does not authorize the Subdivider to violate any Federal, State, or City laws, ordinances, regulations, or policies including but not limited to, the Federal Endangered Species Act of 1973 and any amendments thereto (16 USC § 1531 et seq.).
- If the Subdivider makes any request for new water and sewer facilities (including services, fire hydrants, and laterals), the Subdivider shall design and construct such facilities in accordance with established criteria in the most current editions of the City of San Diego water and sewer design guides and City regulations, standards and practices pertaining thereto. Off-site improvements may be required to provide adequate and acceptable levels of service and will be determined at final engineering.
- Subsequent applications related to this Map Waiver will be subject to fees and charges based on the rate and calculation method in effect at the time of payment.
- Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of the Map Waiver, may protest the imposition within ninety days of the approval of this Map Waiver by filing a written protest with the San Diego City Clerk pursuant to Government Code sections 66020 and/or 66021.
- Where in the course of development of private property, public facilities are damaged or removed, the Subdivider shall at no cost to the City, obtain the

ATTACHMENT 7

required permits for work in the public right-of-way, and repair or replace the public facility to the satisfaction of the City Engineer (San Diego Municipal Code § 142.0607.

Internal Order No. 23426591

RESOLUTION NUMBER XXXXXX

ADOPTED ON November 13, 2013

WHEREAS, on October 17, 2006, ROBERTSON'S MANAGEMENT LLC, submitted an application to Development Services Department for a Site Development Permit No. 1036686 and Map Waiver No. 567516 to subdivide a 12.96-acre site currently developed with a batch plant, parking, storage areas and vacant land, into two industrial parcels to allow for the future development of a maximum of 34,500 square feet of office use or its industrial equivalent for greenhouse gas emissions; and t.

WHEREAS, the matter was set for public hearing to be conducted by the Hearing Officer of the City of San Diego; 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, a public hearing is required by law implicating due process rights of individuals affected by the decision, and the Council is required by law to consider evidence at the hearing and to make legal findings based on the evidence presented; and

WHEREAS, the Hearing Officer considered the issues discussed in Mitigated Negative Declaration No. 105926 prepared for this Project; NOW THEREFORE,

BE IT RESOLVED, by the Hearing Officer that it is certified that the Declaration has been completed in compliance with the California Environmental Quality Act of 1970 (CEQA) (Public Resources Code Section 21000 et seq.), as amended, and the State CEQA Guidelines thereto (California Code of Regulations, Title 14, Chapter 3, Section 15000 et seq.), that the Declaration reflects the independent judgment of the City of San Diego as Lead Agency and that the information contained in said Declaration, together with any comments received during the public review process, has been reviewed and considered by the Planning Commission in connection with the approval of the Project.

BE IT FURTHER RESOLVED, that the Hearing Officer finds on the basis of the entire record that project revisions now mitigate potentially significant effects on the environment previously identified in the Initial Study, that there is no substantial evidence that the Project will have a significant effect on the environment, and therefore, that said Declaration is hereby adopted.

BE IT FURTHER RESOLVED, that pursuant to CEQA Section 21081.6, the Hearing Officer hereby adopts the Mitigation Monitoring and Reporting Program, or alterations to implement the changes to the Project as required by this Planning Commission in order to mitigate or avoid significant effects on the environment, which is attached hereto as Exhibit A.

BE IT FURTHER RESOLVED, that the Declaration and other documents constituting the record of proceedings upon which the approval is based are available to the public at the office of the Development Services Department 1222 First Avenue, San Diego, CA 92101.

ATTACHMENT 8

BE IT FURTHER RESOLVED, that Development Services Staff is directed to file a Notice of Determination with the Clerk of the Board of Supervisors for the County of San Diego regarding the Project.

APPROVED:

By: SANDRA TEASLEY
DEVELOPMENT PROJECT MANAGER

ATTACHMENT(S): Exhibit A, Mitigation Monitoring and Reporting Program

EXHIBIT A**MITIGATION MONITORING AND REPORTING PROGRAM**

Site Development Permit and Map Waiver

PROJECT NO. 105926

V. **MITIGATION, MONITORING AND REPORTING PROGRAM:** To ensure that site development would avoid significant environmental impacts, a Mitigation, Monitoring, and Reporting Program (MMRP) is required. Compliance with the mitigation measures shall be the responsibility of the applicant. The mitigation measures are described below.

A. GENERAL REQUIREMENTS – PART I**Plan Check Phase (prior to permit issuance)**

1. Prior to the issuance of a Notice To Proceed (NTP) for a subdivision, or any construction permits, such as Demolition, Grading or Building, or beginning any construction related activity on-site, the Development Services Department (DSD) Director's Environmental Designee (ED) shall review and approve all Construction Documents (CD), (plans, specification, details, etc.) to ensure the MMRP requirements are incorporated into the design.
2. In addition, the ED shall verify that the MMRP Conditions/Notes that apply ONLY to the construction phases of this project are included VERBATIM, under the heading, **"ENVIRONMENTAL/MITIGATION REQUIREMENTS."**
3. These notes must be shown within the first three (3) sheets of the construction documents in the format specified for engineering construction document templates as shown on the City website:
<http://www.sandiego.gov/development-services/industry/standtemp.shtml>
4. The **TITLE INDEX SHEET** must also show on which pages the "Environmental/Mitigation Requirements" notes are provided.
5. **SURETY AND COST RECOVERY** – The Development Services Director or City Manager may require appropriate surety instruments or bonds from private Permit Holders to ensure the long term performance or implementation of required mitigation measures or programs. The City is authorized to recover its cost to offset the salary, overhead, and expenses for City personnel and programs to monitor qualifying projects.

B. GENERAL REQUIREMENTS – PART II**Post Plan Check (After permit issuance/Prior to start of construction)**

- 1. PRE CONSTRUCTION MEETING IS REQUIRED TEN (10) WORKING DAYS PRIOR TO BEGINNING ANY WORK ON THIS PROJECT.** The PERMIT HOLDER/OWNER is responsible to arrange and perform this meeting by contacting the CITY RESIDENT ENGINEER (RE) of the Field Engineering Division and City staff from MITIGATION MONITORING COORDINATION (MMC). Attendees must also include the Permit holder's Representative(s), Job Site Superintendent and the following consultants:

Qualified Paleontologist

Note: Failure of all responsible Permit Holder's representatives and consultants to attend shall require an additional meeting with all parties present.

CONTACT INFORMATION:

- a) The PRIMARY POINT OF CONTACT is the **RE** at the **Field Engineering Division – 858-627-3200**
 - b) For Clarification of ENVIRONMENTAL REQUIREMENTS, it is also required to call **RE and MMC at 858-627-3360**
- 2. MMRP COMPLIANCE:** This Project, Project Tracking System (PTS) 105926, shall conform to the mitigation requirements contained in the associated Environmental Document and implemented to the satisfaction of the DSD's Environmental Designee (MMC) and the City Engineer (RE). The requirements may not be reduced or changed but may be annotated (i.e. to explain when and how compliance is being met and location of verifying proof, etc.). Additional clarifying information may also be added to other relevant plan sheets and/or specifications as appropriate (i.e., specific locations, times of monitoring, methodology, etc)

Note: Permit Holder's Representatives must alert RE and MMC if there are any discrepancies in the plans or notes, or any changes due to field conditions. All conflicts must be approved by RE and MMC BEFORE the work is performed.

- 3. OTHER AGENCY REQUIREMENTS:** Evidence of compliance with all other agency requirements or permits shall be submitted to the RE and MMC for review and acceptance prior to the beginning of work or within one week of the Permit Holder obtaining documentation of those permits or requirements. Evidence shall include copies of permits, letters of resolution or other documentation issued by the responsible agency.

Not Applicable

4. MONITORING EXHIBITS: All consultants are required to submit, to RE and MMC, a monitoring exhibit on a 11x17 reduction of the appropriate construction plan, such as site plan, grading, landscape, etc., marked to clearly show the specific areas including the **LIMIT OF WORK**, scope of that discipline’s work, and notes indicating when in the construction schedule that work will be performed. When necessary for clarification, a detailed methodology of how the work will be performed shall be included.

NOTE: Surety and Cost Recovery – When deemed necessary by the Development Services Director or City Manager, additional surety instruments or bonds from the private Permit Holder may be required to ensure the long term performance or implementation of required mitigation measures or programs. The City is authorized to recover its cost to offset the salary, overhead, and expenses for City personnel and programs to monitor qualifying projects.

5. OTHER SUBMITTALS AND INSPECTIONS: The Permit Holder/Owner’s representative shall submit all required documentation, verification letters, and requests for all associated inspections to the RE and MMC for approval per the following schedule:

Document Submittal/Inspection Checklist

| <i>Issue Area</i> | <i>Document submittal</i> | <i>Assoc Inspection/Approvals/ Notes</i> |
|------------------------------|---------------------------------------|--|
| General Meeting | Consultant Qualification Letters | Prior to Pre-construction |
| General Construction Meeting | Consultant Const. Monitoring Exhibits | Prior to or at the Pre- |
| Paleontology Observation | Paleontology Reports | Paleontology Site |
| Bond Release | Request for Bond Release letter | Final MMRP Inspections prior to Letter |

C. SPECIFIC MMRP ISSUE AREA CONDITIONS/REQUIREMENTS

PALEONTOLOGICAL RESOURCES

1. Prior to Permit Issuance

A. Entitlements Plan Check

1. Prior to issuance of any construction permits, including but not limited to, the first Grading Permit, Demolition Plans/Permits and Building Plans/Permits or a Notice to Proceed for Subdivisions, but prior to the first preconstruction meeting, whichever is applicable, the Assistant Deputy Director (ADD) Environmental designee shall verify that the requirements for Paleontological 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 paleontological monitoring program, as defined in the City of San Diego Paleontology Guidelines.
2. MMC will provide a letter to the applicant confirming the qualifications of the PI and all persons involved in the paleontological monitoring of the project.
3. Prior to the start of work, the applicant shall obtain approval from MMC for any personnel changes associated with the monitoring program.

2. Prior to Start of Construction

A. Verification of Records Search

1. The PI shall provide verification to MMC that a site specific records search has been completed. Verification includes, but is not limited to a copy of a confirmation letter from San Diego Natural History Museum, other institution 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.

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 paleontologist shall attend any grading/excavation related Precon Meetings to make comments and/or suggestions concerning the Paleontological 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.
2. Identify Areas to be Monitored
Prior to the start of any work that requires monitoring, the PI shall submit a Paleontological Monitoring Exhibit (PME) based on the appropriate construction documents (reduced to 11x17) to MMC identifying the areas to be monitored including the delineation of grading/excavation limits. The PME 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 conditions such as depth of excavation and/or site graded to bedrock, presence or absence of fossil resources, etc., which may reduce or increase the potential for resources to be present.

3. During Construction

- A. Monitor Shall be Present During Grading/Excavation/Trenching
1. The monitor shall be present full-time during grading/excavation/trenching activities as identified on the PME that could result in impacts to formations with high and moderate resource sensitivity. **The Construction Manager is responsible for notifying the RE, PI, and MMC of changes to any construction activities such as in the case of a potential safety concern within the area being monitored. In certain circumstances OSHA safety requirements may necessitate modification of the PME.**
 2. The PI may submit a detailed letter to MMC during construction requesting a modification to the monitoring program when a field condition such as trenching activities that do not encounter formational soils as previously assumed, and/or when unique/unusual fossils are encountered, which may reduce or increase the potential for resources to be present.
 3. The monitor shall document field activity via the Consultant Site Visit Record (CSVSR). The CSVSR'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.
- B. Discovery Notification Process
1. In the event of a discovery, the Paleontological 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 shall evaluate the significance of the resource.
 - 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. The determination of significance for fossil discoveries shall be at the discretion of the PI.
 - b. If the resource is significant, the PI shall submit a Paleontological Recovery Program (PRP) 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 (e.g., small pieces of broken common shell fragments or other scattered common fossils) the PI shall notify the RE, or BI as appropriate, that a non-significant discovery has been made. The Paleontologist shall continue to monitor the area without notification to MMC unless a significant resource is encountered.
 - d. The PI shall submit a letter to MMC indicating that fossil resources will be collected, curated, and documented in the Final Monitoring Report. The letter shall also indicate that no further work is required.

4. 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 CSVr and submit to MMC via fax by 8AM on the next business day.
 - b. Discoveries

All discoveries shall be processed and documented using the existing procedures detailed in Section 3 - During Construction.
 - c. Potentially Significant Discoveries

If the PI determines that a potentially significant discovery has been made, the procedures detailed under Section 3 - During Construction shall be followed.
 - d. The PI shall immediately contact MMC, or by 8AM on the next business day to report and discuss the findings as indicated in Section 3-B, unless other specific arrangements have been made.
- B. If night 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.

5. 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 Paleontological Guidelines which describes the results, analysis, and conclusions of all phases of the Paleontological Monitoring Program (with appropriate graphics) to MMC for review and approval within 90 days following the completion of monitoring.
 - a. For significant paleontological resources encountered during monitoring, the Paleontological Recovery Program shall be included in the Draft Monitoring Report.
 - b. Recording Sites with the San Diego Natural History Museum

The PI shall be responsible for recording (on the appropriate forms) any significant or potentially significant fossil resources encountered during the Paleontological Monitoring Program in accordance with the City's Paleontological Guidelines, and submittal of such forms to the San Diego Natural History Museum 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 Fossil Remains

1. The PI shall be responsible for ensuring that all fossil remains collected are cleaned and catalogued.
 2. The PI shall be responsible for ensuring that all fossil remains are analyzed to identify function and chronology as they relate to the geologic history of the area; that faunal material is identified as to species; and that specialty studies are completed, as appropriate
- C. Curation of fossil remains: Deed of Gift and Acceptance Verification
1. The PI shall be responsible for ensuring that all fossil remains associated with the monitoring for this project are permanently curated with an appropriate institution.
 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 two copies of the Final Monitoring Report 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 until receiving a copy of the approved Final Monitoring Report from MMC which includes the Acceptance Verification from the curation institution.

TRAFFIC

1. Prior to Permit Issuance

1. Prior to issuance of any construction permit on Parcel 2, the Owner/Permittee shall provide a fair-share contribution of 2.9 percent of the cost to provide an additional southbound right-turn lane, an additional westbound right-turn lane, an additional eastbound left-turn lane, and restripe an eastbound through lane to a shared eastbound through-right lane, at the intersection of Airway Road at La Media Road satisfactory to the City Engineer.
2. Prior to issuance of any construction permit on Parcel 2, the Owner/Permittee shall provide a fair-share contribution of 2.6 percent of the cost to re-stripe the southbound right-turn lane to a combined through right-turn lane at the intersection of La Media Road and the SR-905 EB ramps, satisfactory to the City Engineer.

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

El Niño V02.03.38 STEASLEY DSD

File Edit View Window Help

Review [542820]

Project: 105926 Title: OTAY MESA PLANT Cycle: 18 Needed Again Cycle Due: 2/26/2008 Internal Order: 23426591

Scope: OTAY MESA JO#42-6591. (PROCESS 3) REVISED PROJECT
 SCOPE/APPROVAL: Map Waiver to create 2 parcels from an existing 12.46 acre site (at 7931 Airway Road in the Industrial Subdistrict of Otay Mesa Development District within the Otay Mesa

This Rev Method: Submitted (Multi-Discipline)
 Next Rev Method: Submitted (Multi-Discipline) Estimated Hours: 4 Actual Hours: 0.5

Discipline: Plan-Long Range Planning
 PM: Teasley, Sandra 446-5271 Cycle Process: Standard Assigned To: Millette, Theresa Current Hours:

Details Issues Packages Next Time Document Requests Stamp Requirements Stamps Job Signoffs

| Issue Num | Issue Type | Issue Text | Cleared | Cleared Date | C |
|-----------|------------|---|-------------------------------------|--------------------|--------|
| 6 | Required | At the regularly scheduled July 18, 2007 Otay Mesa Community Planning Group meeting, the group unanimously voted 12-0-0 to recommend approval of the project as proposed. | <input checked="" type="checkbox"/> | 2/13/2008 10:08 AM | Millet |

Plan-Long Range Planning
 120806 Review
 021108 Review

Ready

9:22 AM
11/4/2013

Project Title: Otay Mesa Plant Project #105926 Project No. (For City Use Only) 105926

Part II - To be completed when property is held by a corporation or partnership

Legal Status (please check):

Corporation Limited Liability -or- General) What State? _____ Corporate Identification No. _____
 Partnership

By signing the Ownership Disclosure Statement, the owner(s) acknowledge that an application for a permit, map or other matter, as identified above, will be filed with the City of San Diego on the subject property with the intent to record an encumbrance against the property. Please list below the names, titles and addresses of all persons who have an interest in the property, recorded or otherwise, and state the type of property interest (e.g., tenants who will benefit from the permit, all corporate officers, and all partners in a partnership who own the property). A signature is required of at least one of the corporate officers or partners who own the property. Attach additional pages if needed. **Note:** The applicant is responsible for notifying the Project Manager of any changes in ownership during the time the application is being processed or considered. Changes in ownership are to be given to the Project Manager at least thirty days prior to any public hearing on the subject property. Failure to provide accurate and current ownership information could result in a delay in the hearing process. **Additional pages attached** Yes No

Corporate/Partnership Name (type or print): RKM Properties, LTP
 Owner Tenant/Lessee
 Street Address: 300 S Main St
 City/State/Zip: Colorado, Ca
 Phone No: (951) 760-4341 Fax No: _____
 Name of Corporate Officer/Partner (type or print): Tom Truesh
 Title (type or print): President
 Signature: [Signature] Date: _____

Corporate/Partnership Name (type or print): _____
 Owner Tenant/Lessee
 Street Address: _____
 City/State/Zip: _____
 Phone No: _____ Fax No: _____
 Name of Corporate Officer/Partner (type or print): _____
 Title (type or print): _____
 Signature: _____ Date: _____

Corporate/Partnership Name (type or print): _____
 Owner Tenant/Lessee
 Street Address: _____
 City/State/Zip: _____
 Phone No: _____ Fax No: _____
 Name of Corporate Officer/Partner (type or print): _____
 Title (type or print): _____
 Signature: _____ Date: _____

Corporate/Partnership Name (type or print): _____
 Owner Tenant/Lessee
 Street Address: _____
 City/State/Zip: _____
 Phone No: _____ Fax No: _____
 Name of Corporate Officer/Partner (type or print): _____
 Title (type or print): _____
 Signature: _____ Date: _____

Corporate/Partnership Name (type or print): _____
 Owner Tenant/Lessee
 Street Address: _____
 City/State/Zip: _____
 Phone No: _____ Fax No: _____
 Name of Corporate Officer/Partner (type or print): _____
 Title (type or print): _____
 Signature: _____ Date: _____

Corporate/Partnership Name (type or print): _____
 Owner Tenant/Lessee
 Street Address: _____
 City/State/Zip: _____
 Phone No: _____ Fax No: _____
 Name of Corporate Officer/Partner (type or print): _____
 Title (type or print): _____
 Signature: _____ Date: _____

**ACTION BY WRITTEN CONSENT
OF THE SOLE MANAGER
OF
ROBERTSON'S MANAGEMENT, LLC**

The undersigned, being the sole manager of Robertson's Management, LLC, a Delaware limited liability company (the "LLC"), in accordance with the authority contained in Section 18-404(d) of the Delaware Limited Liability Company Act, and Section 16(c) of the Limited Liability Company Agreement of the LLC, does hereby consent to, adopt and approve the following resolution without a meeting with the intention that such action will have the same force and effect as if taken by a vote of the sole manager at a meeting duly called and held.

Election of Officers

Resolved, that each of the following persons is hereby elected to the following offices until such person resigns or is removed or replaced by a duly authorized action of the Manager:

| | |
|--------------|-----------|
| Jon Troesh | President |
| Kaye Bennett | Secretary |

This Action by Written Consent shall be filed in the records of the LLC and become a part thereof.

Date: January 3, 2011



Dennis Troesh, Non-Member Manager