



THE CITY OF SAN DIEGO

REPORT TO THE PLANNING COMMISSION

**DATE ISSUED:** March 17, 2011 **REPORT NO.** PC-11-029

**ATTENTION:** Planning Commission, Agenda of April 7, 2011

**SUBJECT:** OTAY MESA EAST EOT- PROJECT NO. 108628  
PROCESS 5

**REFERENCE:** Planning Commission Report No. P-06-279 (Attachments 15)

**OWNER/  
APPLICANT:** Gerald Handler, Trustee of the Handler Trust UDT

**SUMMARY**

**Issue:** Should the Planning Commission recommend to the City Council approval of an extension of time for the previously approved Otay Mesa East project on a vacant 45.5-acre site located in the 6100 Block of Otay Mesa Road in the Commercial Subdistrict of the Otay Mesa Development District within the Otay Mesa Community Planning area?

**Staff Recommendation:**

1. Recommend to the City Council **Approval** of Vesting Tentative Map No. 362532, for an extension of time to Vesting Tentative Map No. 8182;
2. Recommend to the City Council **Approval** of Site Development Permit No. 388242, an extension of time for Resource Protection Ordinance [RPO] Permit No. 8163; and
3. Recommend to the City Council **Adoption** of Rezone Ordinance No. 388241, for expired Rezone Ordinance No. O-19216.

**Community Planning Group Recommendation:** On November 17, 2010, the Otay Mesa Planning Committee voted 12-0-0 to recommend approval of the Extension of Time for the Otay Mesa East project (Attachment 13).

**Environmental Review:** This activity is covered under the Otay Mesa East Mitigated Negative Declaration, Project No. 3159. The activity is adequately addressed in the environmental document and there is no change in circumstance, additional information, or project changes to warrant additional environmental review. The prior environmental

documents adequately covered this activity as part of the previously approved project and the activity in not a separate project pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15060(c)(3).

**Fiscal Impact Statement:** None with this action. All costs associated with the processing of this project are paid from a deposit account maintained by the applicant.

**Code Enforcement Impact:** None with this action.

**Housing Impact Statement:** None with this action. The proposed Otay Mesa East project would subdivide a vacant site with commercial lots for development consistent with the Otay Mesa Development District (OMDD)-Commercial (C) Zone for commercial uses.

## **BACKGROUND**

The 45.5-acre vacant site is located in the 6100 block of Otay Mesa Road (temporarily addressed as 6175 Otay Mesa Road) west of Heritage Road (Attachment 1). The project site is zoned AR-1-1 within the Otay Mesa Development District (OMDD) and a land use designation for Specialized Commercial within the Otay Mesa Community Plan. The site has been historically used for agricultural purposes.

On September 16, 2003, the Otay Mesa East project was approved by the City Council of the City of San Diego, including a rezone from AR-1-1 to Commercial in the OMDD, which is abbreviated as OMDD-C. The approval allowed for the subdivision of the site into nine commercial lots (Lots 1-8 and 12); three open space lots (Lots 9-10 and 13); construction of a private underground sewer pump station located at the northeast corner of the site (Lot 11); preservation of an existing 1.3-acre wildlife corridor; preservation of the MHPA; 6-acres would be designated as open space to protect the MHPA on the southern boundary of the site; and an additional 6-acres, on the eastern boundary of the project site, would also be designated as open spaces and includes a fenced preserve for 22 existing vernal pools and one road pool located in the southeast corner of the property.

On July 21, 2006, the property owner filed an application for an Extension of Time (EOT) prior to the expiration of the Vesting Tentative Map (VTM) and Development Permits for the proposed Otay Mesa East project. The property owner has not obtained any construction permits or processed a final map for the proposed development site. Pursuant to the San Diego Municipal Code (SDMC) Sections 125.0461(a)(1) and 126.0111(b), the timely filing of the extension of time request application automatically extended the VTM and Development Permits for a period of 60 calendar days from the expiration date or until a decision on the extension of time has been made, whichever occurs last.

The original Rezone Ordinance No. O-19216 (New Series) included a three year expiration date in error and has since expired; therefore, a new rezone ordinance is accompanying this EOT, as outlined in Planning Commission Report No. P-06-279 (Attachments 15). The Resource Protection Ordinance [RPO] regulations have been replaced with the Environmentally Sensitive Lands Regulation within the current SDMC, and a Site Development Permit (SDP) has replaced the RPO permit. This RPO permit was not executed and did not get recorded; therefore, a new

SDP is accompanying the EOT to allow for the development permit to be recorded, which includes the original conditions of RPO Permit No. 8163.

On December 7, 2006, the Planning Commission voted 5-0 to recommend to the City Council approval of the EOT. On January 30, 2007, the City Council was scheduled to hear the EOT; however, the matter was withdrawn. The site was identified as containing vernal pools and was enjoined by the United States District Court decision in *Southwest Center for Biological Diversity v. Bartel*, Case No. 98-CV-2234-B, issued by Judge Brewster, affecting the project with respect to vernal pool conservation. On June 10, 2010, the District Court clarified that the injunction did not apply to properties that did not depend on the City's Incidental Take Permit. The Otay Mesa East project does not depend on the City's Incidental Take Permit for development, and therefore, this EOT is no longer enjoined by court order.

**DISCUSSION**

**Project-Related Issues:**

On August 26, 2009, approximately 24.1-acres of the site was acquired by the California Department of Transportation (Caltrans) through condemnation for the realignment of State Route (SR) 905, which is currently under construction. The possible future realignment for SR 905 was evaluated within the original review of the project and an approximate limit of the realignment was identified on the Exhibit A (Attachment 4). Staff approved a Process 1 Substantial Conformance Review of the project based on Caltrans condemnation of a larger area of the site than what was originally identified. The following table identifies the original project development vs. the adjustments based on Caltrans condemnation, and as identified on the revised Exhibit A (Attachment 5).

<b>Project</b>	<b>Approved VTM</b>	<b>Adjusted VTM</b>
Gross Area	45.5-acres	21.35-acres
Net Development Area	32.5-acres	13.9-acres
Graded Area (onsite)	32.5-acres	13.9-acres
Graded Area (offsite)	0.5-acres	0.5-acres
Open Space (VTM)	11.3-acres	7.4-acres
No. Development Lots	9	5
No. of Street Lots	3	3
No. of Open Space Lots	3	1
Pump Station Lot	1	1
City of SD Open Space	0.30-acres	0.30-acres
SR 905 ROW	0-acre	13.0-acres
Caltrans Open Space	0-acre	10.8-acres

Staff has determined that the project would be in substantial conformance, but would require a Condition to be added to the VTM for a building restrictive easement to be recorded over Lot B. This lot includes a portion of the original Lots 7 and 8 which were buildable lots, and the condemnation eliminated access to this portion of the lots. In addition, staff has determined that the legal description for the EOT VTM and the EOT SDP Draft Resolutions would reflect the

revised legal description based on the condemnation. The original VTM conditions will be attached to the EOT VTM Resolution; however, a new SDP Permit will accompany the EOT Resolution to allow for the development permit to be recorded, which includes the original conditions of RPO Permit No. 8163. The legal description within the rezone ordinance would not be required to be changed, because the City's zoning covers the areas within the public right-of-ways, which would include SR 905. In addition, the City's Official Zoning Maps already identify the property as being zoned OMDD-C (Attachment 3).

**Environmental Analysis:**

After a careful and independent review of the submitted information, including the Biological Letter Report Addendum, dated November 17, 2010, and the revised exhibits, pursuant to Public Resources Code 21166 and California Environmental Quality Act (CEQA) Guidelines Section 15162, environmental staff has concluded that this activity is covered under the Otay Mesa East Mitigated Negative Declaration (MND), Project No. 3159. The activity is adequately addressed in the environmental document and there is no new information of substantial importance which was not known and could not have been known with the exercise of reasonable diligence at the time the previous document was certified as complete. Additionally, the revised project area, minus the parcel that was acquired by Caltrans during the processing of this project, has resulted in a project with fewer impacts to non-native grasslands.

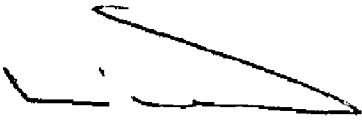
**Conclusion:**

Approval of the requested EOT would allow the owner/developer an additional three years to develop the project. Staff has determined the required findings can be supported. Staff has determined that the project would be in substantial conformance with the previously approved project as outlined above. Therefore, staff recommends that the Planning Commission recommend to the City Council approval of the EOT for the VTM and SDP, and adoption of the rezone.


**ALTERNATIVE**

1. Recommend to the City Council to **Approve** Vesting Tentative Map No. 362532, Site Development Permit No. 388242, and **Adoption** Rezone No. 388241, **with modifications.**
2. Recommend to the City Council to **Deny** Vesting Tentative Map No. 362532, Site Development Permit No. 388242, and **Do Not Adopt** Rezone No. 388241, **if the findings required to approve the project cannot be affirmed.**

Respectfully submitted,



Mike Westlake  
Program Manager  
Development Services Department

  
Jeffrey A. Peterson  
Development Project Manager  
Development Services Department

WESTLAKE /JAP

Attachments:

1. Location Map/Aerial Photograph
2. Community Group Map
3. Official Zoning Map
4. Previously Approved Exhibit A
5. Revised Exhibit A
6. Draft EOT Vesting Tentative Map Resolution
7. Vesting Tentative Map No. 8182, Resolution No. R-298379 with Conditions
8. Draft EOT Site Development Permit Resolution
9. Resource Protection Ordinance [RPO] Resolution No. R-298380 and Permit No. 8163
10. Draft Site Development Permit No. 388242
11. Draft Rezone Ordinances and Zone Map Drawing No. B-4246
12. Draft Planning Commission Resolution
13. Community Planning Group Recommendation
14. Ownership Disclosure Statement
15. Planning Commission Report No. P-06-279

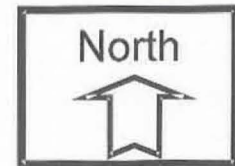
Internal Order No. 23426720



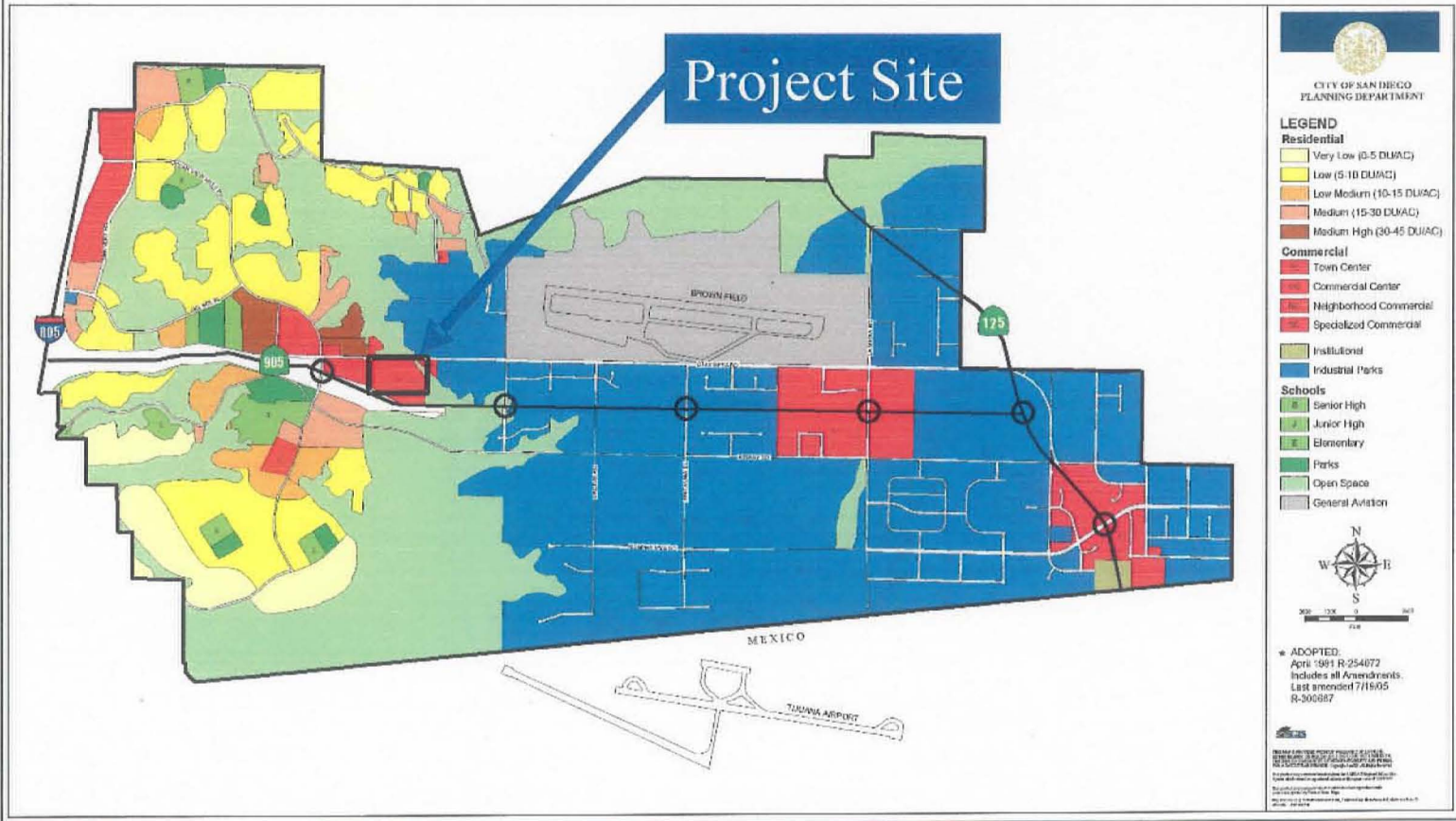
## Location Map / Aerial Photograph

**OTAY MESA EAST EOT - PROJECT NO. 108628**

**6100 block of Otay Mesa Road (temporarily addressed as 6175 Otay Mesa Road)**



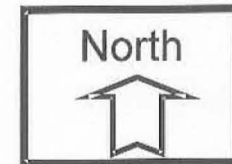
OTAY MESA COMMUNITY PLAN LAND USE\*



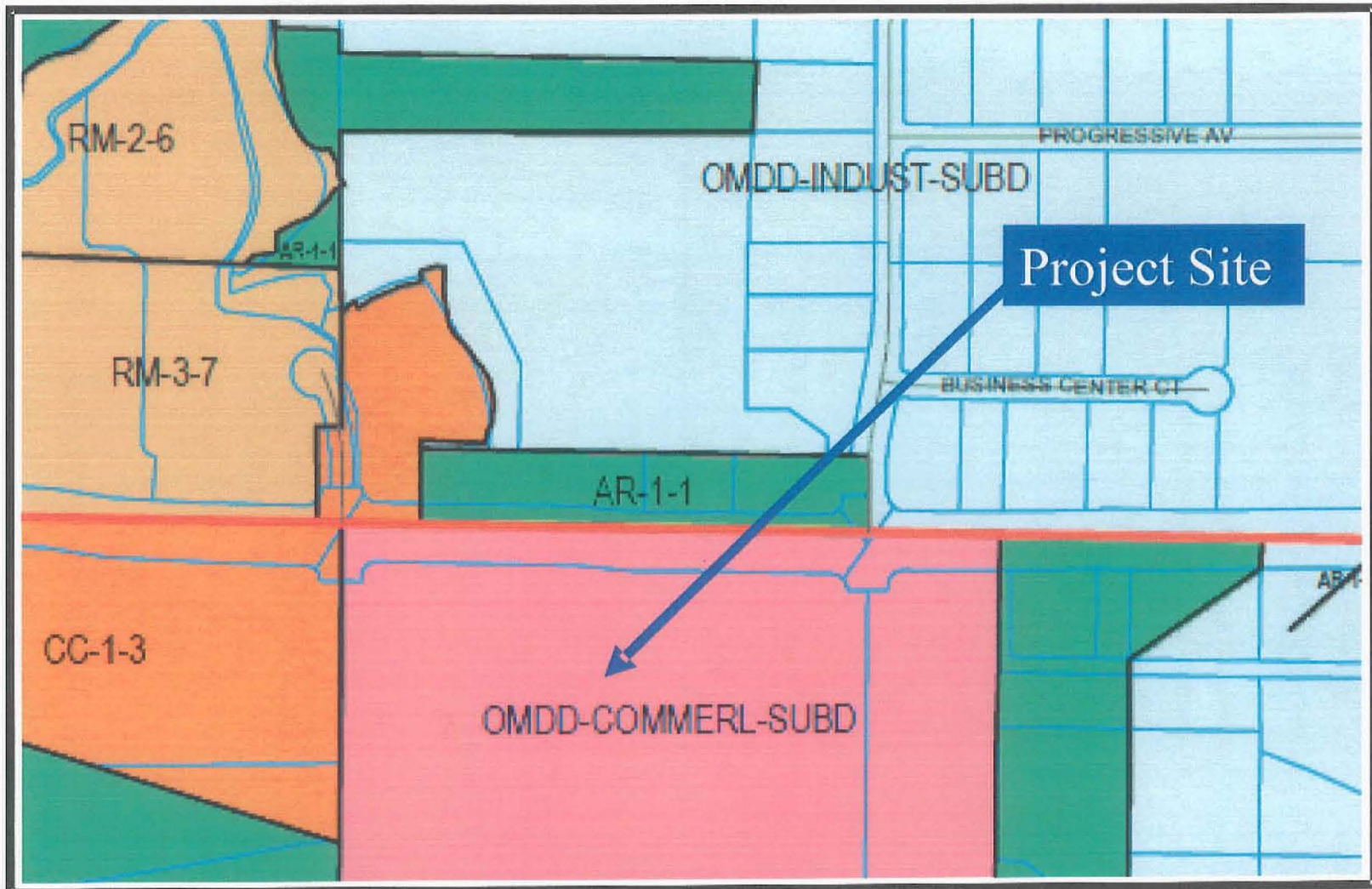
# Otay Mesa Community Plan Land Use Map

OTAY MESA EAST EOT - PROJECT NO. 108628

6100 block of Otay Mesa Road (temporarily addressed as 6175 Otay Mesa Road)



ATTACHMENT 2



**Official Zoning Map (Portion of Map)**

**OTAY MESA EAST EOT - PROJECT NO. 108628**

6100 block of Otay Mesa Road (temporarily addressed as 6175 Otay Mesa Road)





# VESTING TENTATIVE MAP HANDLER OTAY MESA COMMERCIAL

A.P.N. 645-080-13 AND 645-090-36

EXTEND PROPOSED PRIVATE SEWER FORCE MAIN NORTH TO PROPOSED PRIVATE SEWER MANHOLE (LOCATED 20' SOUTH OF CORPORATE CENTER DRIVE/BUSINESS CENTER COURT INTERSECTION) AND CONTINUE NORTH THROUGH 20' OF PROPOSED PRIVATE GRAVITY SEWER TO THE EXISTING PUBLIC SEWER MANHOLE LOCATED AT THAT INTERSECTION. (SEE DWG. NO. 79924-D)

EXISTING SIGNALIZED INTERSECTION AND CORPORATE CENTER DRIVE IMPROVEMENTS PER DWG. NO. 29624-D

EXISTING BROWDTON HEADWALLS AND 8" STREET INLET PER DWG. 28063-D

EXISTING 24" SCRPC WATER LINE PER DWG. 10737-D

EXISTING 10" HPG

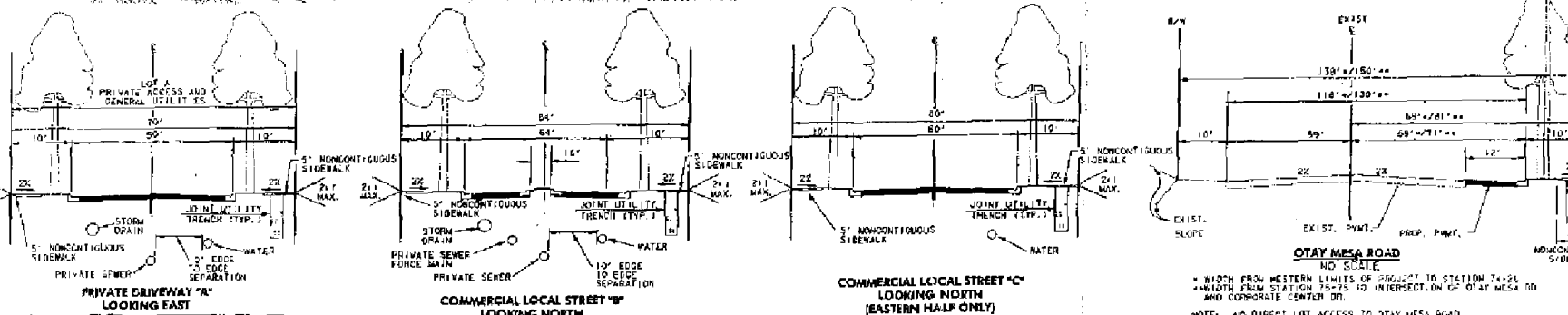
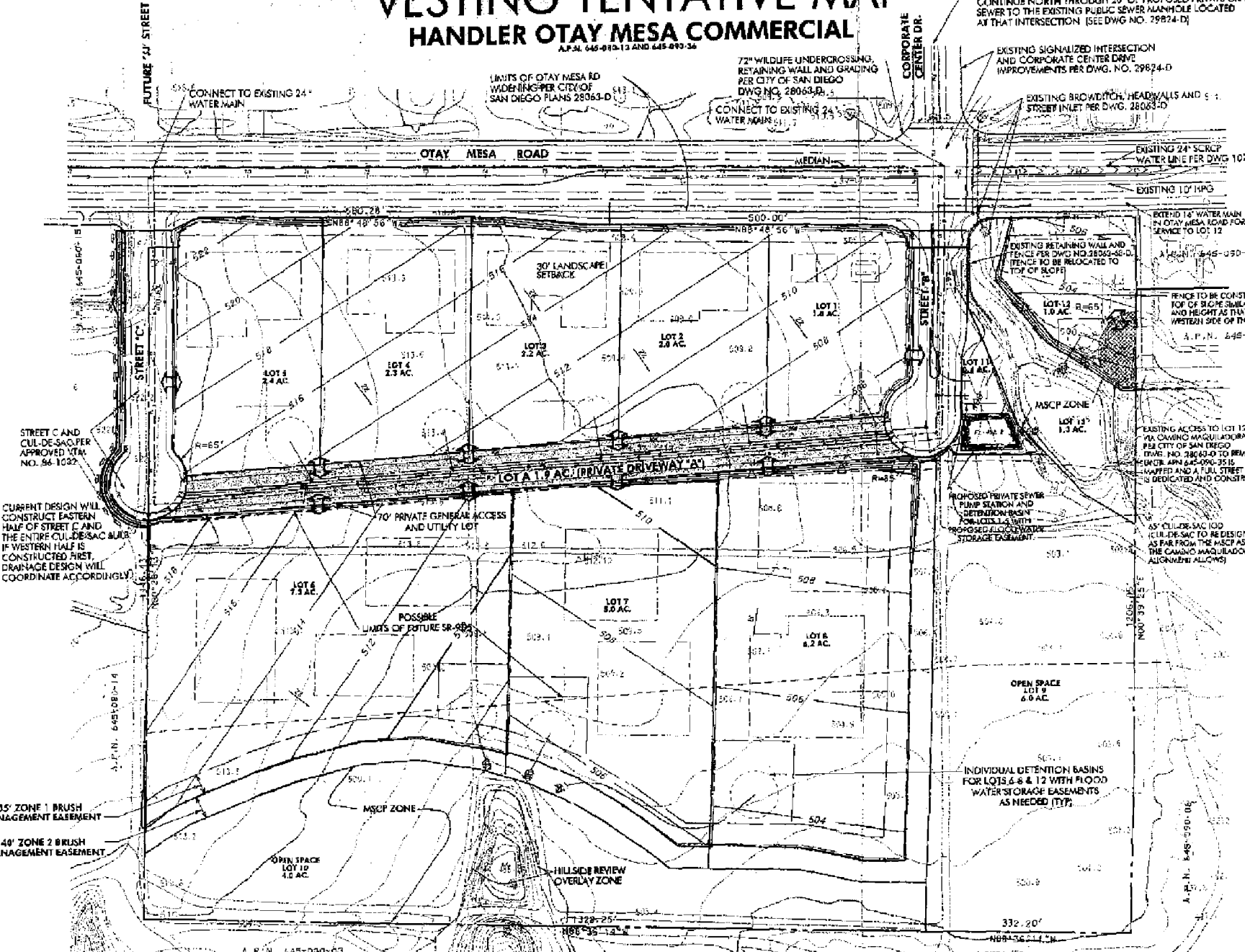
EXTEND 14" WATER MAIN IN OTAY MESA ROAD FOR SERVICE TO LOT 12

EXISTING RETAINING WALL AND FENCE TO BE RELOCATED TO TOP OF SLOPE

FENCE TO BE CONSTRUCTED AT TOP OF SLOPE BETWEEN TYPE AND HEIGHT AS SHOWN ON THE WESTERN SIDE OF THE MSCP

EXISTING ACCESS TO LOT 12 PER COUNCILMAN/QUILLADORA PER CITY OF SAN DIEGO TRAC NO. 28640-D TO BEWAIN SWICH AND 090-2515 AND A FULL STREET IS DEDICATED AND CONSTRUCTED

AS-CURB-SAC 100 CURB-SAC TO BE DESIGNED AS FAR FROM THE MSCP AS THE COUNCILMAN/QUILLADORA ALIGNMENT ALLOWS



**LEGAL DESCRIPTION**  
THE NORTH-EAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 32, TOWNSHIP 18 SOUTH, RANGE 11 WEST, SAN BERNARDINO BASE AND MERIDIAN, IN THE COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT THEREOF.  
THE WEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 32, TOWNSHIP 18 SOUTH, RANGE 11 WEST, SAN BERNARDINO BASE AND MERIDIAN, IN THE COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT THEREOF.

**ASSESSOR'S PARCEL NO.**  
645-080-13  
645-090-36

**GRADING DATA**  
TOTAL SITE AREA: 85.45 AC.  
AREA TO BE GRADED: 32.5 AC.  
PERCENT OF SITE TO BE GRADED: 70%  
AMOUNT OF SITE WITH 2% SLOPES OR GREATER: 0.  
PERCENT OF TOTAL SITE WITH 2% SLOPES OR GREATER: 0.  
AMOUNT OF SITE WITHIN HILLSIDE REVIEW: 0.4 AC.  
PERCENT OF TOTAL SITE WITHIN HILLSIDE REVIEW: 0.4%  
AMOUNT OF CUT: 65,000 C.Y.  
AMOUNT OF FILL: 65,000 C.Y.  
MAXIMUM HEIGHT OF FILL SLOPES: 8 FEET, 2% SLOPE RATIO  
MAXIMUM HEIGHT OF CUT SLOPES: 8 FEET, 2% SLOPE RATIO  
PERCENT OF IMPROVEMENTS: 0 C.Y.  
RETAINING/CURB WALLS: HOW MANY: NONE

**UTILITIES**  
WATER: CITY OF SAN DIEGO  
SEWER: CITY OF SAN DIEGO  
STORM DRAIN: CITY OF SAN DIEGO  
GAS AND ELECTRIC: SAN DIEGO GAS & ELECTRIC  
TELEPHONE: PACIFIC BELL  
CABLE T.V.: SOUTHWESTERN CABLE TELEVISION

**SITE AREA**  
TOTAL SITE AREA (GROSS): 85.45 AC.  
NET SITE AREA: 32.5 AC.

**OWNER**  
DR. GERALD HANDLER  
2223 LA JOLLA FARMS ROAD  
LA JOLLA, CA 92037-1300

**SUBDIVIDER/AGENT**  
DR. GERALD HANDLER  
2223 LA JOLLA FARMS ROAD  
LA JOLLA, CA 92037-1300

**ENGINEER OF WORK**  
KIMLEY-HORN AND ASSOCIATES, INC.  
517 FOURTH AVE. SUITE 301  
SAN DIEGO, CA 92101  
(619) 234-9411

**DATE**  
MAY 02/06  
EXP. 6/30/06

**LEGEND**

- SUBDIVISION BOUNDARY
- LOT LINE
- LOT NUMBER AND ACREAGE
- EXISTING CONTOURS
- PROPOSED CONTOURS
- DAYLIGHT LINE
- SLOPE (2% MAX)
- PROPOSED PRIVATE GRAVITY SEWER MAIN & PRIVATE MANHOLE
- PROPOSED PRIVATE SEWER FORCE MAIN
- STORM DRAIN AND INLET
- HEADWALL AND RIP-RAP
- WATER MAIN
- FIRE HYDRANT
- STREET LIGHT
- DRIVEWAY ACCESS POINT(S)
- CONCEPTUAL BUILDING FOOTPRINT

**GENERAL NOTES**

- PROPOSED ZONING IS OMD-C (EXISTING ZONING IS A-HU)
- TOTAL COMMERCIAL DEVELOPMENT AREA IS 32.5 AC.
- THIS VESTING TENTATIVE MAP PROPOSES 14 TOTAL LOTS (LETTERED LOT AND 13 NUMBERED LOTS).
- EASEMENTS ARE SHOWN UNLESS OTHERWISE NOTED.
- CUT AND FILL SLOPES ARE 2%.
- GRADING SHOWN HEREON IS PRELIMINARY AND IS SUBJECT TO REVISIONS MADE DURING THE FINAL DESIGN PROCESS.
- MANUFACTURED SLOPES LOCATED IN AREAS TRANSITIONING TO NATURAL OPEN SPACE SHALL BE CONTOUR GRADED TO BLEND WITH NATURAL TERRAIN.
- ALL CURVE RADII SHOWN ARE APPROXIMATE.
- LAMBERT COORDINATES ARE 138-476L.

**GENERAL NOTES (CONT)**

- PEDESTRIAN RAMPS ARE REQUIRED AT ALL INTERSECTIONS.
- TEMPORARY STREET SIGNS ARE REQUIRED IN ACCORDANCE WITH UFG 504.4.2.
- THERE WILL BE NO GRADING ON LOT 9, EXCEPT FOR GRADING INCIDENTAL TO THE CONSTRUCTION OF STREET 'B' AND LOT 8.
- ALL STORMWATER ENTERING THE MSCP ZONE(S) WILL BE DETAINED AND TREATED PER THE APDES.
- STREET TREES: PROVIDE (3 TREES PER 30 LINEAR FEET IN ACCORDANCE TO CHM, ART. 2, DIV. 4.
- ALL LANDSCAPE AND IRRIGATION SHALL CONFORM TO THE CITY OF SAN DIEGO LANDSCAPE ORDINANCE AND THE CITY OF SAN DIEGO LAND DEVELOPMENT MANUAL LANDSCAPE STANDARDS, THE OTAY MESA DEVELOPMENT DISTRICT AND ALL REGIONAL STANDARDS FOR LANDSCAPE INSTALLATION AND MAINTENANCE.
- ALL REQUIRED LANDSCAPE AREAS SHALL BE MAINTAINED BY THE OWNER. THE LANDSCAPE AREAS SHALL BE MAINTAINED FREE OF DEBRIS AND LITTER AND ALL PLANT MATERIAL SHALL BE MAINTAINED IN A HEALTHY GROWING CONDITION. DISEASED OR DEAD PLANT MATERIAL SHALL BE SATISFACTORILY TREATED OR REPLACED PER THE CONDITIONS OF THE PERMIT.
- INSTALL ALL APPROVED LANDSCAPE. OBTAIN REQUIRED LANDSCAPE INSPECTIONS AND OBTAIN A NO-FEE STREET TREE PERMIT FOR ALL STREET TREES. NOTIFY AND OBTAIN SIGNATURES FROM ANY SUBSEQUENT PROPERTY OWNER ON A NO-FEE STREET TREE PERMIT FORM PRIOR TO AN TRANSFER OF OWNERSHIP OF THE PROPERTY. COPIES OF THESE APPROVED DOCUMENTS MUST BE SUBMITTED TO THE CITY MANAGER.
- REFER TO THE LANDSCAPE DEVELOPMENT/BRUSH MANAGEMENT PLAN FOR FURTHER INFORMATION.
- IMPROVEMENTS SUCH AS DRIVEWAYS, UTILITIES, DRAINS, AND WATER AND SEWER LATERALS SHALL BE DESIGNED SO AS NOT TO PROHIBIT THE PLACEMENT OF STREET TREES, ALL TO THE SATISFACTION OF THE CITY MANAGER.
- PROVIDE 10 FOOT EDGE TO EDGE SEPARATION BETWEEN WATER AND SEWER MAINS.

**SOURCE OF AERIAL TOPO**  
SAN-DI AERIAL SURVEYS  
FLOWN 8-12-90 1984 CITY DATUM  
4875 VUE RIDGE AVE  
SAN DIEGO, CA 92123-1867  
PHONE (619) 565-1024

0 50 100 200 300  
SCALE: HORIZ. 1" = 100'

**PREPARED BY:**  
NAME: KIMLEY-HORN & ASSOCIATES, INC.  
ADDRESS: 517 FOURTH AVE., SUITE 301  
SAN DIEGO, CALIFORNIA 92101  
PHONE: (619) 234-9411 FAX: (619) 234-1433

**PROJECT ADDRESS:**  
HANDLER OTAY MESA COMMERCIAL

**PROJECT NAME:**  
HANDLER OTAY MESA COMMERCIAL

**DATE:**  
MAY 02/06

**REVISIONS:**

NO.	DATE	DESCRIPTION
1	5/11/06	
2	5/11/06	
3	5/11/06	
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20	5/11/06	

**SHEET TITLE:**  
VESTING TENTATIVE MAP/GRADING PLAN

**SHEET:** 1 OF 4

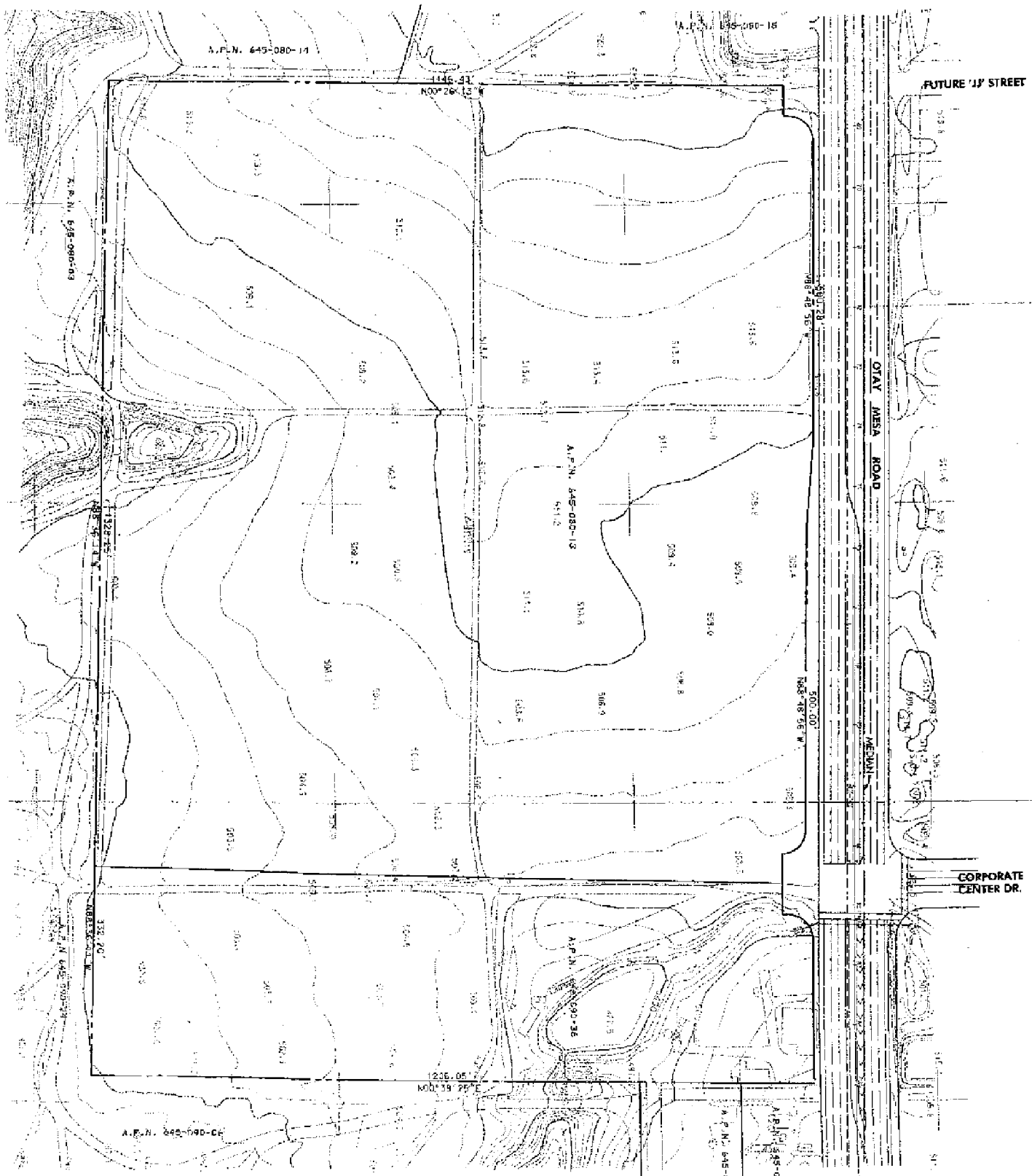
**APP:**

# EXISTING TOPOGRAPHY

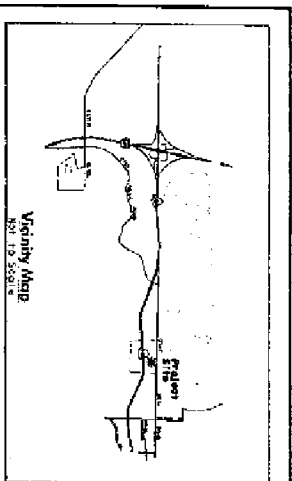
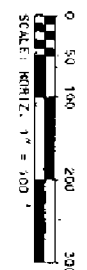
## HANDLER OTAY MESA COMMERCIAL

A.P.N. 645-080-13 AND 645-090-36

# WILBYE



**SOURCE OF AERIAL TORSO**  
 SAN-DIEGO AERIAL SURVEYS  
 FLOWN 8-17-58 BY 1928 CITY DATUM  
 4875 VIEWER/DOE AVE 22 1687  
 SAN DIEGO, CA 92122  
 PHONE 18 51 585-1024



REVISION NO.	DATE	DESCRIPTION
REVISION 11		
REVISION 10		
REVISION 9		
REVISION 8		
REVISION 7		
REVISION 6		
REVISION 5		
REVISION 4		
REVISION 3		
REVISION 2		
REVISION 1		



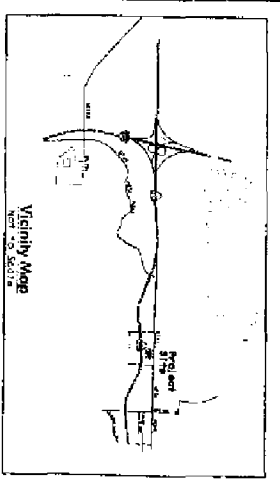
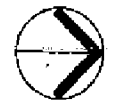
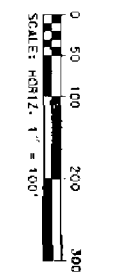
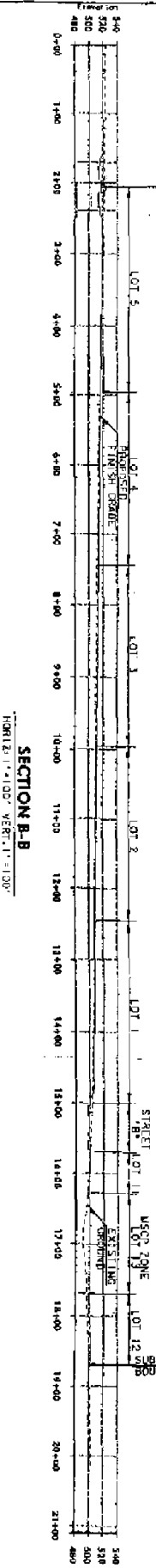
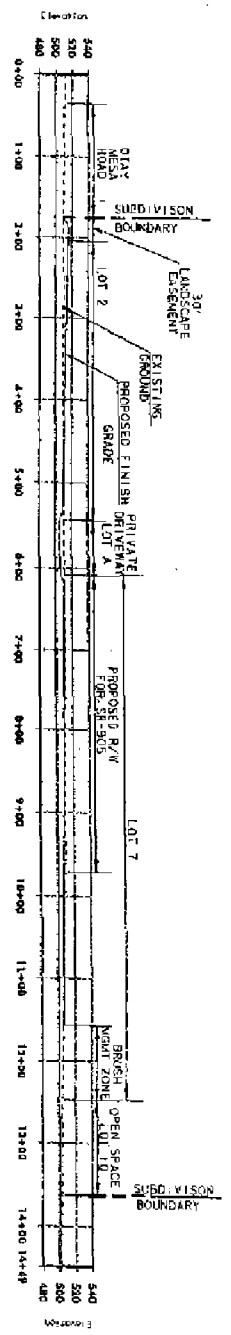
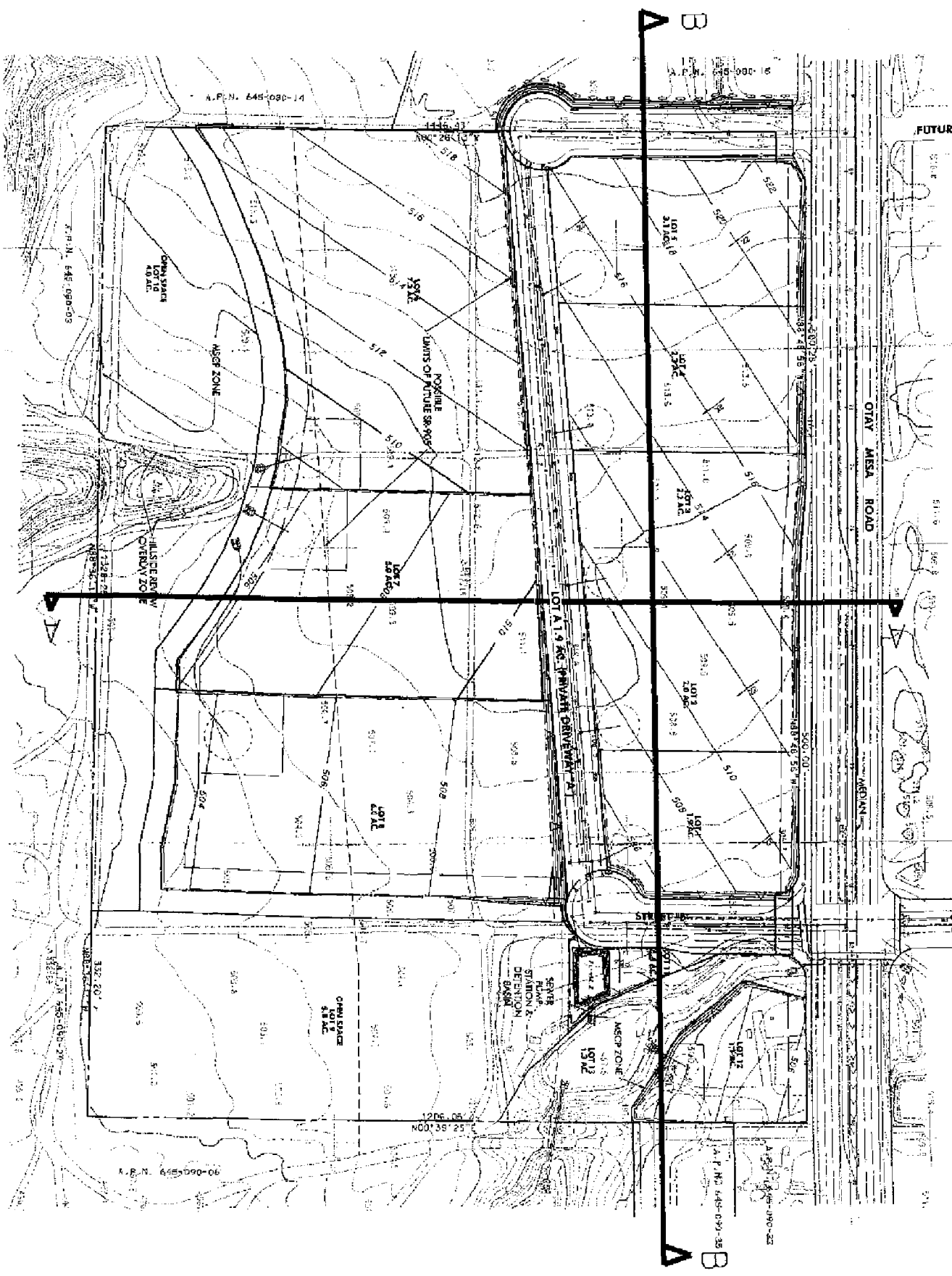
*Red Covered Approvers*

# PROJECT CROSS SECTIONS

## HANDLER OTAY MESA COMMERCIAL

A.P.N. 645-090-13 AND 645-090-36

W. J. JENSEN



PREPARED BY: QUARTERMAILL ASSOCIATES, INC.

ADDRESS: 317 NORTH AVENUE, SUITE 201, SAN DIEGO, CALIFORNIA 92101

PHONE: 619-594-1111

PROJECT ADDRESS: HANDLER OTAY MESA COMMERCIAL

PROJECT NAME: HANDLER OTAY MESA COMMERCIAL

DATE: 04/09

REVISION 14: \_\_\_\_\_

REVISION 13: \_\_\_\_\_

REVISION 12: \_\_\_\_\_

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REVISION 1: \_\_\_\_\_

DATE: 04/09

SCALE: \_\_\_\_\_

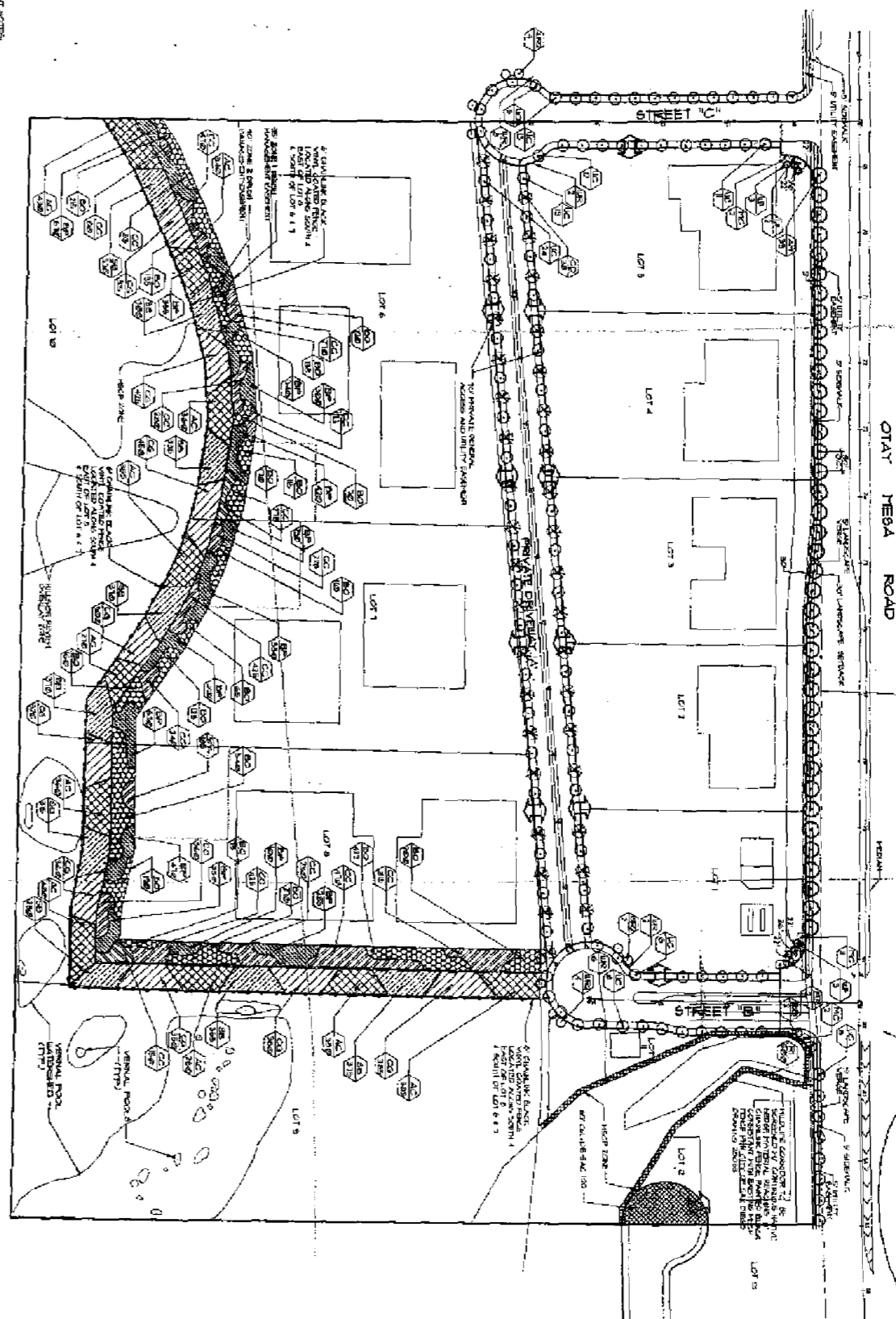
Quarterra  
and Associates, Inc.  
ENGINEERING, ARCHITECTURE AND PLANNING  
1111 EAST BROADWAY, SUITE 201, SAN DIEGO, CALIFORNIA 92101  
TEL: 619-594-1111 FAX: 619-594-1112  
WWW.QUARTERRA.COM

*Carla Louise Mendenhall*

# LANDSCAPE DEVELOPMENT / BRUSH MANAGEMENT PLAN

## HANDLER OTAY MESA EAST COMMERCIAL

City Council Approved 9/16/05  
City of San Diego  
Department of Public Works  
Engineering Division  
1000 Broadway, San Diego, CA 92101  
Tel: 619-495-3333  
Fax: 619-495-3334



**A. BRUSH MANAGEMENT PLAN**

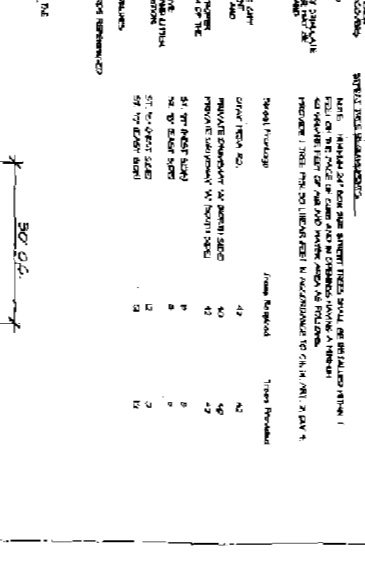
1. The brush management plan shall be prepared in accordance with the following requirements:

- The brush management plan shall be prepared by a qualified professional brush management contractor.
- The brush management plan shall be prepared in accordance with the following requirements:

**B. BRUSH MANAGEMENT PLAN**

1. The brush management plan shall be prepared in accordance with the following requirements:

- The brush management plan shall be prepared by a qualified professional brush management contractor.
- The brush management plan shall be prepared in accordance with the following requirements:



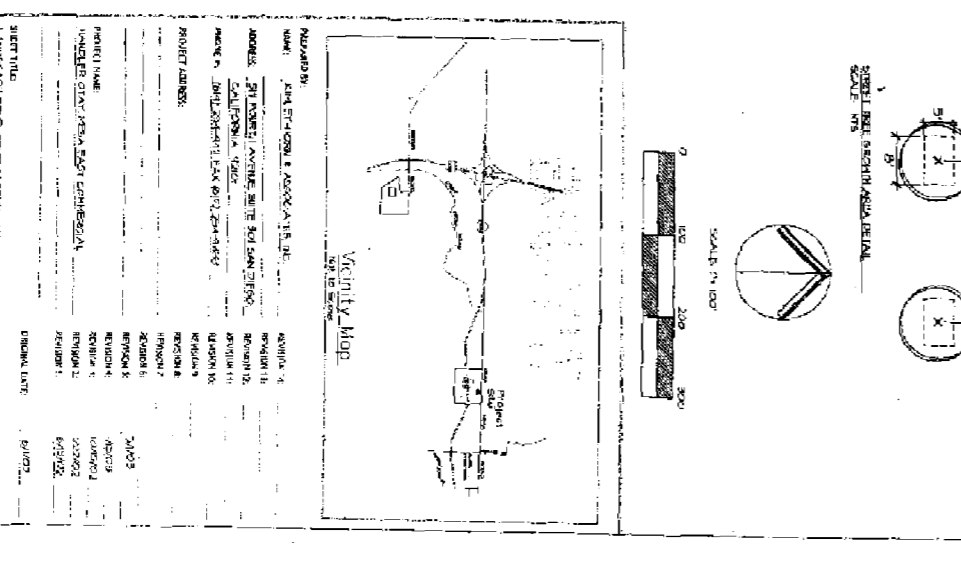
**C. BRUSH MANAGEMENT PLAN**

1. The brush management plan shall be prepared in accordance with the following requirements:

- The brush management plan shall be prepared by a qualified professional brush management contractor.
- The brush management plan shall be prepared in accordance with the following requirements:

**LANDSCAPE SCHEDULE**

SYMBOL	PLANT NAME	PLANT TYPE	PLANT SIZE	PLANT QUANTITY	PLANT NOTES
1	1000	1000	1000	1000	1000
2	1000	1000	1000	1000	1000
3	1000	1000	1000	1000	1000
4	1000	1000	1000	1000	1000
5	1000	1000	1000	1000	1000
6	1000	1000	1000	1000	1000
7	1000	1000	1000	1000	1000
8	1000	1000	1000	1000	1000
9	1000	1000	1000	1000	1000
10	1000	1000	1000	1000	1000

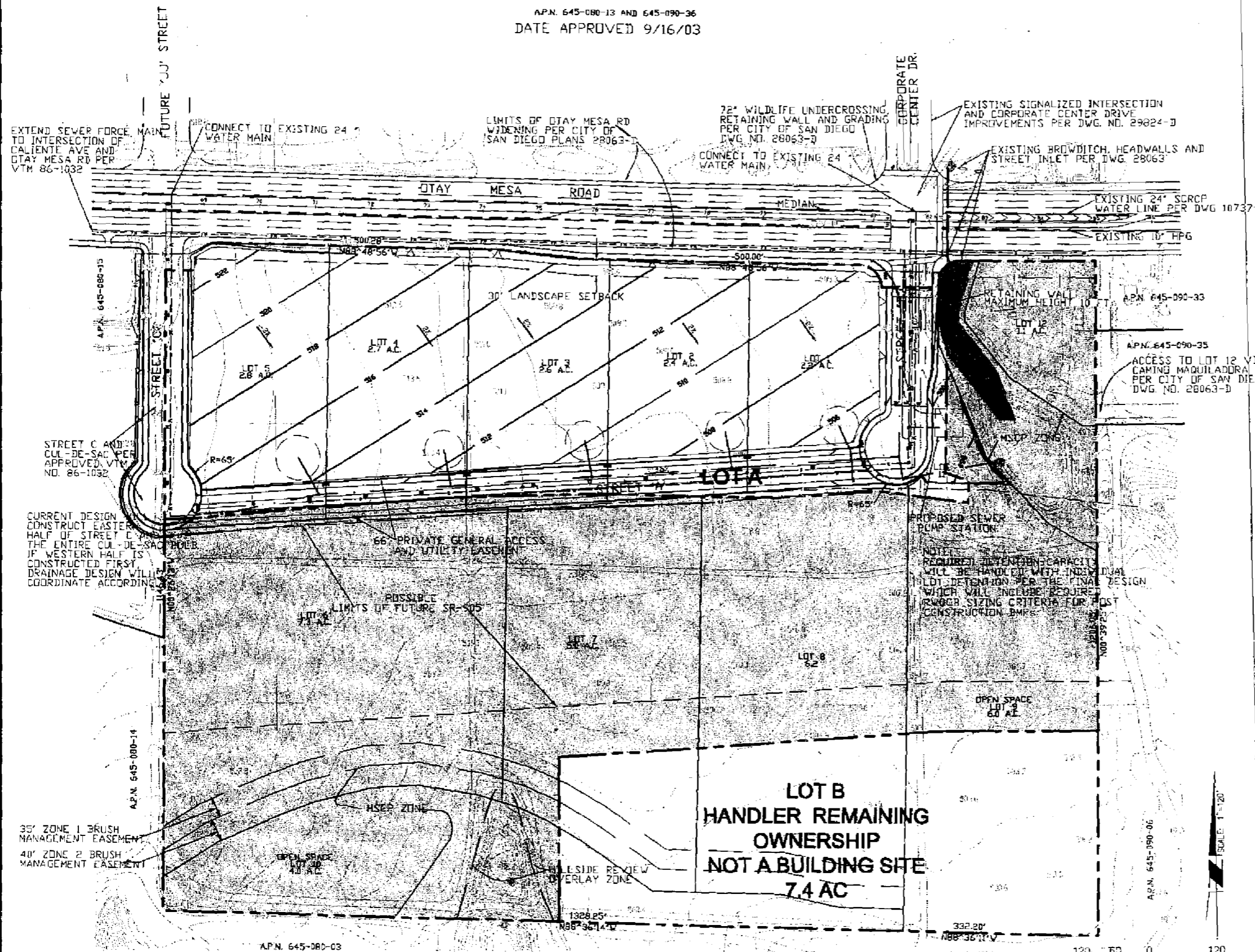


URBAN RESOURCE GROUP

PROJECT NAME: HANDLER OTAY MESA EAST COMMERCIAL

# VESTING TENTATIVE MAP HANDLER OTAY MESA COMMERCIAL

APN. 645-080-13 AND 645-090-36  
DATE APPROVED 9/16/03



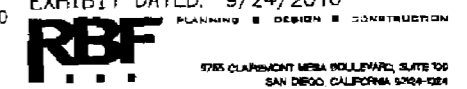
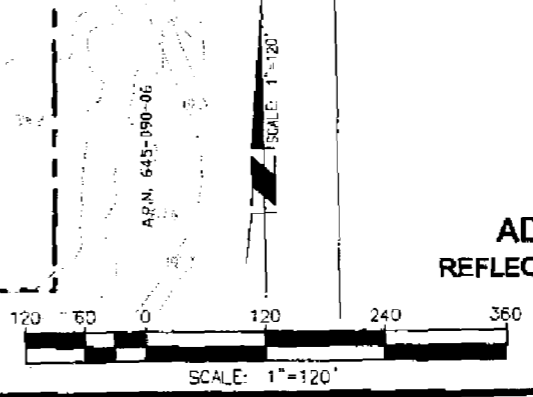
	APPROVED VTM	ADJUSTED/UPDATED VTM
GROSS AREA	45.45 AC.	21.35 AC.
NET DEVELOPMENT AREA	32.5 AC.	13.9 AC.
GRADED AREA(ONSITE)	32.5 AC.	13.9
GRADED AREA(OFFSITE)	0.5 AC.	0.5 AC.
OPEN SPACE (VTM)	11.3 AC.	7.4 AC.
No. DEVELOPMENT LOTS	9	5
No. OF STREET LOTS	3	3
No. OF OPEN SPACE LOTS	3	1
PUMP STATION LOT	1	1
CITY OF S.D. OPEN SPACE	0.30 AC.	0.30 AC.
HWY. 905 R/W	0.0 AC.	13.0 AC.
CALTRANS OPEN SPACE	0.0 AC.	10.8 AC.

\* RESULTING FROM CONDEMNATION BY CALTRANS FOR HWY. 905 AND OPEN SPACE - AUGUST 26, 2009

**LEGEND**

- PROPERTY CONDEMED BY CALTRANS (HWY 905 & OPEN SPACE)
- OPEN SPACED PREVIOUSLEY CONVEYED TO CITY OF SAN DIEGO

ADJUSTED VTM No. 008182  
REFLECTING CONDEMNATION BY CALTRANS  
EXHIBIT DATED: 9/24/2010



RESOLUTION NUMBER R-\_\_\_\_\_

DATE OF FINAL PASSAGE \_\_\_\_\_

A RESOLUTION GRANTING VESTING TENTATIVE MAP NO. 362532,  
 AN EXTENSION OF TIME TO VESTING TENTATIVE MAP NO. 8182,  
 FOR THE OTAY MESA EAST EOT PROJECT NO. 108628 [MMRP]

WHEREAS, GERALD HANDLER, Trustee of the Handler Trust UDT, Subdivider, and RBF CONSULTING, Engineer, submitted an application to the City of San Diego for an extension of time (EOT) to Vesting Tentative Map (VTM) No. 8182 pursuant to Project No. 3159. The request is for the subdivision of approximately 21.35-acres of the 45.5-acre vacant site into commercial lots and open space. The project site is located 6100 block of Otay Mesa Road (temporarily addressed as 6175 Otay Mesa Road) west of Heritage Road, in the AR-1-1 Zone, which is proposed to be rezoned to the Commercial Zone in the Otay Mesa Development District, within the Otay Mesa Community Plan. The property is legally described as Parcel A: Portion of the Northeast Quarter of the Northwest Quarter of Section 32, Township 18 South, Range 1 West, San Bernardino and Meridian, in the County of San Diego, State of California, according to the Official Plat thereof. Excepting therefrom the Northerly 40.00 feet ("Otay Mesa Road") as described in that certain deed to the City of San Diego, A Municipal Corporation, filed in the Office of the County Recorder of said County May 27, 1983, as File No. 83-177720 of Official Records. Also excepting therefrom all that portion thereof taken by the State of California in that certain Final Order of Condemnation issued out of Superior Court Case No. 37-2008-0008061-CU-EI-CTL, a Certified Copy of which Recorded November 9, 2009, as File No. 2009-0624504, Official Records.

Parcel B: Portion of the Northeast Quarter of the Northwest Quarter of Section 32, Township 18 South, Range 1 West, San Bernardino and Meridian, in the County of San Diego, State of California, according to the Official Plat thereof. Excepting therefrom the Northerly 40.00 feet ("Otay Mesa Road") as described in that certain deed to the City of San Diego, A Municipal Corporation, filed in the Office of the County Recorder of said County May 27, 1983, as File No. 83-177720 of Official Records. Also excepting therefrom all that portion thereof taken by the State of California in that certain Final Order of Condemnation issued out of Superior Court Case No. 37-2008-0008061-CU-EI-CTL, a Certified Copy of which Recorded November 9, 2009, as File No. 2009-0624504, Official Records. Also excepting therefrom all that portion thereof described deeded to the State of California Recorded February 2, 2010, as File No. 2010-00054943, Official Record; and

WHEREAS, the Map proposes the Subdivision of a 21.35-acre site into 8 lots for commercial use and open space (5 commercial lots, one open space lots, one lot for a private underground sewer pump station, and one lot for a private driveway), which reflects the remaining portion of the original 45.5-acre vacant site that was not acquired by the California Department of Transportation (Caltrans) through condemnation for the realignment of State Route (SR) 905 and open space; and

WHEREAS, all associated permits and maps shall conform to the previously approved Exhibits, Map and conditions on file with the Development Services Department pursuant to VTM No. 8182 pursuant to Project No. 3159, with the exception of the expiration date and that portion of the property acquired by the California Department of Transportation (Caltrans) through condemnation; and

WHEREAS, the activity is covered under the Otay Mesa East Mitigated Negative Declaration, Project No. 3159. The activity is adequately addressed in the environmental document and there is no change in circumstance, additional information, or project changes to warrant additional environmental review. The prior environmental documents adequately covered this activity as part of the previously approved project and the activity is not a separate project for the purpose of California Environmental Quality Act (CEQA) review pursuant to CEQA Guidelines Section 15060(c)(3); 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, on \_\_\_\_\_, the City Council of the City of San Diego considered VTM No. 362532, an extension of time to VTM No. 8182, and pursuant to San Diego Municipal Code Section(s) 125.0440 (tentative maps), and 125.0461 (extensions of time) and Subdivision Map Act section 66428, received for its consideration written and oral presentations, evidence having been submitted, and testimony having been heard from all interested parties at the public hearing, and the City Council of the City of San Diego having fully considered the matter and being fully advised concerning the same; NOW THEREFORE,

BE IT RESOLVED by the City Council of the City of San Diego, that it adopts the following findings with respect to VTM No. 362532, an extension of time to VTM No. 8182:



**1. The failure to conditionally approve or deny the request would place the residents of the subdivision or the immediate community in a condition dangerous to their health of safety;**

On September 16, 2003, the Otay Mesa East project was approved by the City Council of the City of San Diego. On July 21, 2006, the Subdivider filed an application for an EOT prior to the expiration of the VTM. On December 7, 2006, the Planning Commission voted 5-0 to recommend to the City Council approval of the EOT. On January 30, 2007, the City Council was scheduled to hear the EOT; however, the matter was withdrawn. The site was identified as containing vernal pools, and any additional action was enjoined by the United States District Court decision in *Southwest Center for Biological Diversity v. Bartel*, Case No. 98-CV-2234-B, issued by Judge Brewster, affecting the project with respect to vernal pool conservation. On June 10, 2010, the District Court clarified that the injunction did not apply to properties that did not depend on the City's Incidental Take Permit. The Otay Mesa East project does not depend on the City's Incidental Take Permit for development, and therefore, this EOT is no longer enjoined by court order.

On August 26, 2009, approximately 24.1-acres of the original 45.5-acre vacant site were acquired by the California Department of Transportation (Caltrans) through condemnation for the realignment of State Route (SR) 905 and open space, which is currently under construction. The possible future realignment for SR 905 was evaluated within the original review of the project and an approximate limit of the realignment was identified on the Exhibits. A Substantial Conformance Review of the project was conducted based on Caltrans condemnation of a larger area of the site than what was originally identified. A determination was made that the project would be in substantial conformance with the previously approved Otay Mesa East Project No.

3159. Therefore, the failure to conditionally approve or deny the request for an EOT to VTM No. 8182 would not place the residents of the subdivision or the immediate community in a condition dangerous to their health of safety.

**2. The condition or denial is required to comply with state or federal law.**

On August 26, 2009, approximately 24.1-acres of the original 45.5-acre vacant site were acquired by the Caltrans through condemnation for the realignment of State Route (SR) 905 and open space, which is currently under construction. The possible future realignment for SR 905 was evaluated within the original review of the project and an approximate limit of the realignment was identified on the Exhibits. A Substantial Conformance Review of the project was conducted based on Caltrans condemnation of a larger area of the site than what was originally identified. A determination was made that the project would be in substantial conformance with the previously approved Otay Mesa East Project No. 3159, but would require a new Condition to be added to the VTM for a building restrictive easement to be granted over Lot B. This parcel includes a portion of the original Lots 7 and 8 which were buildable lots, and the condemnation eliminated access to this portion of the lots. It was further determined, that no new condition and/or denial were required for the extension of time to VTM No. 8182 to comply with state or federal law.

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

BE IT FURTHER RESOLVED that, based on the Finding(s) hereinbefore adopted by the City Council of the City of San Diego, VTM No. 362532, an EOT to VTM No. 8182, is hereby

granted to GERALD HANDLER, Trustee of the Handler Trust UDT, Subdivider, subject to the following condition(s):

1. This Vesting Tentative Map will become effective on the effective date of the associated rezone and expire three years thereafter.
2. This Vesting Tentative Map proposes the Subdivision of a 21.35-acre site into 8 lots for commercial use and open space (5 commercial lots, one open space lots, one lot for a private underground sewer pump station, and one lot for a private driveway), which reflects the remaining portion of the original 45.5-acre vacant site that was not acquired by the California Department of Transportation (Caltrans) through condemnation for the realignment of State Route (SR) 905 and open space.
3. This Vesting Tentative Map shall conform to the provisions and conditions of Vesting Tentative Map No. 8182, adopted by Resolution No. R-298379 on September 16, 2003, by the City Council of the City of San Diego, subject to the attached conditions which are made a part of this resolution.
4. The final map shall conform to the provision of Site Development Permit No. 388242, an extension of time for Resource Protection Ordinance [RPO] Permit No. 8163.
5. At the time of the final map, the Subdivider shall grant a building restrictive easement over Lot B.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF SAN DIEGO OF THE CITY OF SAN DIEGO, CALIFORNIA, ON \_\_\_\_\_.

APPROVED: JAN I. GOLDSMITH, City Attorney

By \_\_\_\_\_  
[Attorney]  
Deputy City Attorney

[Initials]:[Initials]

[Month]/[Day]/[Year]

Or.Dept:[Dept]

**R-Error! Reference source not found.**

ATTACHMENT: Resolution No. R-298379 with Conditions

Internal Order No. 23426720

(R-2004-264)(COR. COPY)

## RESOLUTION NUMBER R-298379

ADOPTED ON SEPTEMBER 16, 2003

WHEREAS, Dr. Gerald Handler, Applicant, and Kimley-Horn and Associates, Inc., Engineer, submitted an application to the City of San Diego for a 14-lot vesting tentative map and rezone (Vesting Tentative Map No. 8182), located on the south side of Otay Mesa Road west of Corporate Center Drive, and described as a Portion of Section 32, Township 18 South, Range 1 West, in the AR-1-1 (proposed OMDD-C) Zone; and

WHEREAS, on July 17, 2003, the Planning Commission of the City of San Diego considered Vesting Tentative Map No. 8182, and pursuant to Resolution No. 3395-PC voted to recommend approval of the map; and

WHEREAS, the matter was set for public hearing on September 16, 2003, testimony having been heard, evidence having been submitted, and the City Council having fully considered the matter and being fully advised concerning the same; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that this Council adopts the following findings with respect to Vesting Tentative Map No. 8182:

1. The map proposes the subdivision of a 45.5-acre site into fourteen lots for commercial development. This type of development is consistent with the General Plan and the Otay Mesa Community Plan, which designate the area for commercial use. The proposed map will retain the community's character by encouraging orderly, sequential development compatible in its intensity with surrounding existing and future land development.

2. The design and proposed improvements for the map are consistent with the zoning/development regulations of the OMDD-C Zone in that:

- a. All lots have minimum frontage on a dedicated street.
- b. All lots meet the minimum dimension requirements of the OMDD-C Zone.

c. All lots are designed so that required improvements do not result in nonconforming lots in respect to building area, setbacks, side yard and rear yard regulations.

d. Development of the site is controlled by Resource Protection Ordinance Permit No. 8163.

3. The design and proposed improvements for the subdivision are consistent with State Map Act Section 66473.1 and San Diego Municipal Code section 125.0440(g) regarding the design of the subdivision for future passive or natural heating or cooling opportunities.

4. The site is physically suitable for commercial development. The harmony in scale, height, bulk, density, and coverage of development creates a compatible physical relationship to surrounding properties for which this area has been planned.

5. The site is physically suitable for the proposed density of development. This is consistent with the community plan, which provides for commercial uses.

6. The design of the subdivision or the proposed improvements could cause substantial environmental damage or substantially and unavoidably injure fish or wildlife or their habitat. However, the project as revised now avoids or mitigates the potentially significant environmental effects based upon the findings of Mitigated Negative Declaration No. 99-0555, which is included herein by this reference.

7. The design of the subdivision and the type of improvements will not likely cause serious public health problems, in as much as needed public services and facilities are available/or required by condition of this map to provide for water and sewage facilities, as well as other related public services.

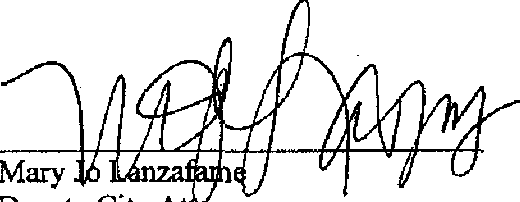
8. The design of the subdivision and the type of improvements are such that they will not conflict with any easements, acquired by the public at large, for access through or use of property within the proposed subdivision, as demonstrated by the City Engineer's request for public dedications and adequate improvement on the proposed subdivision map.

9. The Planning Commission has reviewed the adopted Housing Element, the Progress Guide, and the General Plan of the City of San Diego, and hereby finds, pursuant to section 66412.3 of the Government Code, that the housing needs of the region are being met since residential development has been planned for the area and public services programmed for installation, as determined by the City Engineer, in accordance with financing and environmental policies of the City Council.

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 Vesting Tentative Map No. 8182 is granted to Dr. Gerald Handler, Applicant, and Kimley-Horn and Associates, Inc., Engineer, subject to the conditions attached hereto and made a part hereof.

APPROVED: CASEY GWINN, City Attorney

By   
Mary Jo Lanzafame  
Deputy City Attorney

MJL:cdk  
08/28/03  
10/15/03 COR. COPY  
Or.Dept:DSD  
R-2004-264  
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CITY COUNCIL CONDITIONS TO TENTATIVE MAP NO. 8182  
OTAY MESA EAST PTS NO. 3159  
ADOPTED BY RESOLUTION NO. R-298379 ON SEPTEMBER 16, 2003

1. This tentative map will become effective on the effective date of the associated rezone and expire three years thereafter. Should the rezone be denied then this tentative map shall be deemed denied.
2. Compliance with all of the following conditions shall be assured, to the satisfaction of the City Engineer, prior to the recordation of the final map, unless otherwise noted.
3. Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of this tentative map, may protest the imposition within ninety days of the approval of this tentative map by filing a written protest with the City Clerk pursuant to California Government Code section 66020.
4. The final map shall conform to the provisions of Resource Protection Ordinance [RPO] Permit No. 8163.
5. The "General Conditions for Tentative Subdivision Maps," filed in the Office of the City Clerk under Document No. 767688 on May 7, 1980, shall be made a condition of map approval. Only those exceptions to the General Conditions which are shown on the tentative map and covered in these special conditions will be authorized.

All public improvements and incidental facilities shall be designed in accordance with criteria established in the Street Design Manual, filed with the City Clerk as Document No. 769830.

6. "Basis of Bearings" means the source of uniform orientation of all measured bearings shown on the map. Unless otherwise approved, this source will be the California Coordinate System, Zone 6, North American Datum of 1983 [NAD 83].
7. "California Coordinate System" means the coordinate system as defined in Sections 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."
8. The final map 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.



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- b. Show two measured ties from the boundary of the map to existing Horizontal Control stations having California Coordinate values of Third Order accuracy or better. These tie lines to the existing control shall be shown in relation to the California Coordinate System (i.e., grid bearings and grid distances). All other distances shown on the map are to be shown as ground distances. A combined factor for conversion of grid-to-ground distances shall be shown on the map.
9. The approval of this tentative map by 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 Endangered Species Act of 1973 and any amendments thereto (16 U.S.C. § 1531 et seq.).
10. Prior to recordation of the final subdivision map by the City Council, the subdivider shall provide evidence to ensure that an affirmative marketing program is established.
11. The subdivider must provide a geologic reconnaissance report on the subject property to discover and address potential geological hazards. The report must be prepared in accordance with the most recent edition of the City of San Diego "Technical Guidelines for Geotechnical Reports." All slopes shall be constructed in accordance with the provisions of San Diego Municipal Code [SDMC].
12. Undergrounding of existing and proposed public utility systems and service facilities is required according to SDMC section 102.0404, subsection 2.
13. Prior to building occupancy, the applicant shall conform to section 62.0203 of the SDMC, "Public Improvement Subject to Desuetude or Damage." If repair or replacement of such public improvements is required, the owner shall obtain the required permits for work in the public right-of-way, satisfactory to the permit-issuing authority.
14. The drainage system proposed for this development, as shown on the approved tentative map, is subject to approval by the City Engineer.
15. The subdivider shall obtain a bonded grading permit from the City Engineer for the grading proposed for this project. All grading shall conform to the requirements of the SDMC in a manner satisfactory to the City Engineer.
16. The applicant shall construct drainage detention basins, the design, location, and size of which are subject to approval by the City Engineer. The design shall be such that the discharge from the improved area will be no more than the discharge would have been from the land in the unimproved state. The applicant shall provide for the maintenance of the drainage detention facilities within a storage easement, satisfactory to the City

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Engineer.

17. The City Engineer is making a drainage study of the Otay Mesa border area. The study will propose a method to control runoff across the U.S./Mexico border. A method of financing the design, construction, and maintenance of these facilities will be established. This applicant may be required to contribute money for this purpose through a development agreement or other means determined by the City Engineer. Prior to the issuance of any building permits, the applicant shall enter into an agreement with the City waiving the right to oppose a special assessment initiated for these improvements.
18. Development of this project shall comply with all requirements of State Water Resources Control Board [SWRCB] Order No. 99-08 and the Municipal Storm Water Permit, Order No. 2001-01 (NPDES General Permit No. CAS000002 and CA S0108758), Waste Discharge Requirements for Discharges of Storm Water Runoff Associated With Construction Activity. In accordance with said permit, a Storm Water Pollution Prevention Plan [SWPPP] and a Monitoring Program Plan shall be implemented concurrently with the commencement of grading activities, and a Notice of Intent [NOI] shall be filed with the SWRCB.
19. A copy of the acknowledgment from the SWRCB that an NOI has been received for this project shall be filed with the City of San Diego when received; further, a copy of the completed NOI from the SWRCB showing the permit number for this project shall be filed with the City of San Diego when received. In addition, the owner(s) and subsequent owner(s) of any portion of the property covered by this grading permit and by SWRCB Order No. 99-08-DWQ, and any subsequent amendments thereto, shall comply with special provisions as set forth in Section C.7 of SWRCB Order No. 99-08-DWQ.
20. The subdivider shall enter into a Maintenance Agreement for the ongoing permanent BMP maintenance, satisfactory to the City Engineer.
21. Prior to the issuance of any construction permits, the applicant shall incorporate and show the type and location of all post-construction Best Management Practices [BMPs] on the final construction drawings, consistent with the approved Water Quality Technical Report.
22. Street B is classified as a commercial local street. The subdivider shall dedicate 84 feet of right-of-way and shall construct 64 feet of pavement, curb gutter and a five (5)-foot-wide sidewalk. The subdivider shall also dedicate 92 feet of right-of way for a portion of Street B and shall construct, within 200 feet of the intersection with Otay Mesa Road, 72 feet of pavement (an 18-foot southbound lane, a four (4)-foot raised center median, two (2) 12-foot northbound left turn lanes, a 12-foot northbound through lane, a 14-foot northbound through lane and a 14-foot northbound right turn lane, with curb, gutter and a

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five (5)-foot-wide sidewalk transitioning to the aforementioned 84-foot right-of-way. Finally, the subdivider shall construct, at the southern terminus of Street B, a 55-foot curb radius cul-de-sac within 65 feet of right-of-way, including curb, gutter and a five (5)-foot sidewalk.

23. Street C is classified as a commercial local street. The subdivider shall dedicate 40 feet of right-of-way along with right-of-way for a 65-foot right-of-way radius for a cul-de-sac, and shall construct the half width of Street "C" including 30 feet of pavement, curb, gutter and a five (5)-foot sidewalk within a 10-foot curb.

24. Environmental Requirements:

(a) Prior to issuance of a grading or pre-grading permit from the City of San Diego for any portion of the project site, proof of an incidental take permit under Section 7 or Section 10(a) of the Federal Endangered Species Act relative to the California gnatcatcher shall be provided to the City Manager. If such permit is not required, written verification to that effect from the U.S. Fish and Wildlife Service shall be provided. Any project redesign required in obtaining a Section 7 or 10a permit will require reconsideration by the appropriate City decision making body.

(b) The applicant shall comply with the Mitigation, Monitoring and Reporting Program (MMRP) as specified in Environmental Impact Report or Mitigated Negative Declaration, Project No. 3159, satisfactory to the City Manager and the City Engineer. Prior to issuance of any grading permits and/or building permits, mitigation measures as specifically outlined in the MMRP shall be implemented for Land Use/Biological Resources/Historical Resources (Archaeology)/Water Quality

25. Landscaping Requirements:

a. No change, modification or alteration shall be made to the project unless appropriate application or amendment of this Permit has been granted by the City. All plan specifications and notes mentioned in the conditions below shall be consistent with the SDMC section 142.0401 and Landscape Standards, Exhibit "A", Landscape Development Plan, Brush Management Plan, details and notes on file in the Office of the Development Services.

b. All required landscape plant materials shall be maintained 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 it's mature height and spread.

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- c. The Permittee or subsequent owner shall be responsible for the maintenance of all street trees and landscape improvements (right-of-way and median landscaping) consistent with the Landscape Standards.
- d. The Permittee or subsequent owner shall be responsible for the maintenance of all street trees and landscape improvements (right-of-way and median landscaping) consistent with the Landscape Standards. A Landscape Maintenance Agreement and bond shall be entered into prior to issuance of any grading or construction permit. The agreement and bond shall be renewed each year until such time that another approved entity assumes responsibility such as a home owners association or a Landscape Maintenance District.
- e. If any required landscape improvements (including existing or new planting, hardscape, landscape features, etc.) are damaged or removed during demolition or construction, they shall be repaired and/or replaced in kind and equivalent size per the approved documents to the satisfaction of the City Manager, within thirty days of damage and prior to any Certificate of Occupancy.
- f. Prior to the issuance of any engineering permits for grading or improvement the Permittee shall complete a Maintenance Assessment District Agreement form for early confirmation.
- g. In the event that a foundation only permit is requested by the Permittee or subsequent owner, a site plan or staking layout plan shall be submitted identifying all landscape areas consistent with Exhibit "A," Landscape Development Plan, on file in the Office of Development Services. These landscape areas shall be clearly identified with a distinct symbol, noted with dimensions and labeled as landscaping area.
- h. In the event that any mass grading permit is requested by the Permittee or subsequent owner, complete landscape construction documents for revegetation and erosion control, including an automatic permanent irrigation system, shall be submitted to the Development Services Department, Land Development Review Section for approval. The plans shall be in substantial conformance to Exhibit "A", on file in the office of the Development Services.
- i. Prior to issuance of any construction permits for structures (including shell), complete landscape and irrigation construction documents consistent with the Landscape Standards (including planting and irrigation plans, details and specifications) shall be submitted to the City Manager for approval. The construction documents shall be in substantial conformance with Exhibit "A," Landscape Development Plan, on file in the Office of Development Services.

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- j. In the event that any construction permit for parking structures is requested, the Permittee or subsequent owner shall submit on the planting and irrigation plans a signed statement by a Registered Structural Engineer indicating that supporting structures are designed to accommodate the necessary structural loads and associated planting and irrigation.
- k. Prior to issuance of any engineering permits for right-of-way improvements, complete landscape construction documents for right-of-way improvements shall be submitted to the City Manager for approval. Improvement plans shall take into account a 40 square feet 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.
- l. Prior to issuance of any engineering permits for private drive improvements, complete landscape construction documents for private drive improvements shall be submitted to the City Manager for approval. Improvement plans shall take into account a 40 square feet 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.
- m. Prior to issuance of any engineering permits for grading, construction documents for slope planting (if applicable) or revegetation including hydroseeding and irrigation shall be submitted in accordance with the Landscape Standards and to the satisfaction of the City Manager. All plans shall be in substantial conformance with Exhibit "A," (including environmental conditions) on file in the Office of Development Service.
- n. Installation of slope planting and erosion control including seeding of all disturbed land (slopes and pads) consistent with the approved landscape and grading plans is considered to be in the public interest. The Permittee shall initiate such measures as soon as the grading has been accomplished. Such erosion control/slope planting and the associated irrigation systems (temporary and/or permanent) and appurtenances shall be installed in accordance with the approved plans and the Landscape Standards.
- o. Prior to issuance of any Certificate of Occupancy, it shall be the responsibility of the Permittee or subsequent owner to install all required landscape and obtain all required landscape inspections. A No Fee Street Tree Permit, if applicable, shall be obtained for the installation, establishment and on-going maintenance of all street trees.
- p. Prior to the recording of the (parcel/final map), the Permittee or subsequent

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owner/developer shall submit for review, a Landscape Maintenance Agreement for all landscape improvements within and visible from the public right-of-way. The approved Landscape Maintenance Agreement shall be recorded and bonded prior to recording of the (parcel/final map).

- q. The Permittee or subsequent owner(s) shall be responsible for the installation and maintenance of all landscape improvements consistent with the Landscape Regulation and Landscape Standards. Invasive species are prohibited from being planted adjacent to any canyon, water course, wet land or native habitats within the city limits of San Diego as noted in section 1.3 of the Landscape Standards.

26. Brush Management Requirements:

- a. The Permittee shall implement the following requirements in accordance with the Brush Management Program shown on Exhibit "A," Brush Management Program/Landscape Development Plan, on file in the Office of the Development Services Department.
- b. Prior to issuance of permits or recording of final maps, all easements or right of entry permits for the purpose of Brush Management shall be obtained.
- c. Prior to issuance of any engineering permits for grading, complete Brush Management, planting and irrigation plans, details and specifications (including maintenance specifications), shall be submitted to the City Manager for approval. All plans shall indicate the brush management zones depths by dimension.
- d. Prior to final inspection and issuance of any Certificate of Occupancy for any building, the approved Brush Management Program shall be implemented.
- e. In all brush management zones the plant material shall be selected to visually blend with the existing vegetation. No invasive plant material shall be permitted as determined by the Landscape Section of Development Services Department.
- f. The Brush Management Maintenance Program as noted on Exhibit "A", shall be performed annually by the Permittee or subsequent owner or until such time that another approved entity such as a project association or a Landscape Maintenance District assumes annual responsibility.
- g. Provide Brush Management plants that are visually and horticulturally compatible with the native vegetation.

27. The Resource Protection Ordinance Permit No. 8163 shall comply with the conditions of

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the Final Map for VTM No. 8182.

28. Transportation Requirements:

- a. The subdivider shall relinquish access rights along project frontage on Otay Mesa Road.
- b. The subdivider shall construct a second left turn lane on Otay Mesa Road at its intersection with Street "B."
- c. The subdivider shall assure by permit and bond, construction of an eastbound exclusive right turn lane with 500-feet of storage and proper transition on Otay Mesa Road at its intersections with "B" Street, satisfactory to the City Engineer.
- d. The subdivider shall assure by permit and bond, construction of private driveway "A" between Street "B" and Street "C" with 50 feet of pavement within 70 feet of private general utility easement with curb, gutter and 5-foot sidewalk on both sides of the street and raised center median at both ends of the streets within 200 feet of the intersections with Street "B" and Street "C".
- e. The subdivider shall construct half width improvements for Street "C" including 30 feet of pavement, curb, gutter and 5-foot sidewalk within a 10-foot curb to property line distance with 55-foot curb radius cul-de-sac turnaround at the southern end.
- f. The subdivider shall construct an eastbound exclusive right turn lane with 200 feet of storage and a proper transition on Otay Mesa Road at its intersection with Street "C".
- g. The subdivider shall construct a second eastbound left turn lane and one exclusive westbound right turn lane at the intersection of Otay Mesa Road and Ocean View Hills Parkway, satisfactory to the City Engineer.
- h. The subdivider shall construct a second westbound left turn lane at the intersection of Otay Mesa Road and Ocean View Hills Parkway. The subdivider may enter into a deferred improvement agreement with City of San Diego for this improvement.
- i. The subdivider shall construct the second half (western half) of Street "C" to provide 60 feet of pavement, curb, gutter and 5-foot sidewalk within a 10-foot typical curb-to-property-line distance on the west side. The subdivider may enter into a deferred improvement agreement with City of San Diego for this

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improvement.

- j. The subdivider shall construct a westbound left turn lane at the intersection of Otay Mesa Road/Street "C". The subdivider may enter into a deferred improvement agreement with City of San Diego for this improvement.
- k. The subdivider shall construct a traffic signal at the intersection of Otay Mesa Road and Street "C". The subdivider may enter into a deferred improvement agreement with City of San Diego for this improvement.
- l. The subdivider shall provide an Irrevocable Offer of Dedication (IOD) for half of the cul-de-sac on Lot 12 at the western end of Camino Maquiladora with a 55-foot curb radius turnaround within 65 feet of right-of-way.

29. Wastewater Requirements:

- a. The developer shall construct the Otay Mesa Trunk Sewer Phase II or enter into a development agreement to pay their fair share cost of the trunk sewer in proportion to the ultimate zoned use of the property being developed, in accordance with the City's Sewer Design Guide.
- b. The developer shall install all sewer facilities required by the accepted sewer study, necessary to serve this development. Sewer facilities as shown on the approved tentative map will require modification based on the accepted sewer study.
- c. The developer shall design and construct all proposed public sewer facilities to the most current edition of the City of San Diego's sewer design guide. Proposed facilities that do not meet the current standards shall be re-designed.
- d. The developer shall design and construct all proposed private sewer facilities serving more than one lot to the most current edition of the City of San Diego's sewer design guide. Improvement drawings are required for private sewer facilities serving more than one lot.
- e. Prior to the issuance of any building permits, the applicant shall process and record a NOTICE & AGREEMENT for each ownership being served by a private pump station/sewer facilities which serves more than one ownership, which indemnifies the City and contains an agreement that the applicant, and successors in interest, will be responsible for the operation and maintenance of the private sewer systems.

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- f. The developer shall obtain a building permit for any private pump station serving a condominium project or more than one lot.
- g. The developer shall provide, satisfactory to the Metropolitan Wastewater Department Director, CC&Rs for the operation and maintenance of on-site private sewer facilities that serve more than one lot.
- h. No structures or landscaping, including private sewer facilities and enhanced paving, shall be installed in or over any easement or street right-of-way prior to the applicant obtaining an Encroachment Maintenance and Removal Agreement.
- i. Providing sewer for this development is dependent upon prior construction of certain portions of the Otay Mesa Trunk Sewer Phase II. If they have not been constructed when required for this development, then the construction of certain portions of these sewer facilities, as required by the City Engineer, will become off-site improvements required for this development.

30. Water Requirements:

- a. The subdivider shall design and construct a system of public 16-inch water facilities within Street "B," Street "C," and Private Driveway "A," with two points of connection to the Otay Mesa Pipeline, in a manner satisfactory to the Water Department Director and the City Engineer.
- b. The subdivider shall design and construct a public 16-inch water main extension within Otay Mesa Road, east of Street "B," to serve Lot 12 if Camino Maquiladora is not fully improved with public water facilities, in a manner satisfactory to the Water Department Director and the City Engineer.
- c. The subdivider shall install fire hydrants at locations satisfactory to the Water Department, the Fire Department and the City Engineer.
- d. The subdivider shall grant adequate water easements, including vehicular access to each appurtenance (meters, blow offs, valves, fire hydrants, etc.), over the entire Lot A, satisfactory to the Water Department Director.
- e. Grants of water easements shall be of sufficient width to accommodate a minimum 24-foot wide fully paved vehicular access road with full height curbs, and 4-feet behind curb or sidewalk. Easements shall accommodate two way traffic. Easements or lack thereof, as shown on the approved tentative map, will require modification based on standards at final engineering.

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- f. The subdivider shall design and construct all irrigations systems to utilize reclaimed water in a manner satisfactory to the Water Department Director.
- g. The subdivider agrees to design and construct all proposed public water facilities, including services, meters, and easements, 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. Water facilities, as shown on the approved tentative map, shall be modified at final engineering to comply with standards.

31. Open Space Requirements:

- a. Lots 9 and 10 shall be deeded, at no cost, to the city for open space. said lots shall be free and clear of all private encroachments, private easements, private agreements and/or liens.
- b. An open space easement is required on the 40-foot deep Zone 2 for brush management across Lots 6, 7 and 8.
- c. The brush management zones adjacent to Lots 6 through 8 shall be made into a separate lot and have an open space easement over Zone Two.
- d. Brush management Zones 1, 2 and 3 or modified Zones 1 and 2 must be provided between Lot 8 and Lot 9 and Zone Two must have an open space easement. This will require a new lot and it is understood that Lot 9 will be reduced in size.

32. Multiple Species Conservation Program (MSCP) Requirements:

- a. In accordance with authorization granted to the City of San Diego from the United States Fish and Wildlife Service [USFWS] pursuant to section 10(a) of the ESA and by the California Department of Fish and Game [CDFG] pursuant to Fish and Game Code section 2835 as part of the Multiple Species Conservation Program [MSCP], the City of San Diego through the issuance of this Permit hereby confers upon Permittee the status of Third Party Beneficiary as provided for in Section 17 of the City of San Diego Implementing Agreement [IA], executed on July 17, 1997 and on File in the Office of the City Clerk as Document No. 00-18394. Third Party Beneficiary status is conferred upon Permittee by the City: (1) to grant Permittee the legal standing and legal right to utilize the take authorizations granted to the City pursuant to the MSCP within the context of those limitations imposed under this Permit and the IA, and (2) to assure Permittee that no existing mitigation obligation imposed by the City of San Diego pursuant to this Permit shall be altered in the future by the City of San Diego, USFWS or CDFG, except

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in the limited circumstances described in Sections 9.6 and 9.7 of the IA.

- b. If mitigation lands are identified but not yet dedicated or preserved in perpetuity, maintenance and continued recognition of Third Party Beneficiary status by the City is contingent upon Permittee maintaining the biological values of any and all lands committed for mitigation pursuant to this Permit and of full satisfaction by Permittee of mitigation obligations required by this Permit, as described in accordance with section 17.1D of the IA.
- c. The applicant shall comply with the Mitigation, Monitoring and Reporting Program [MMRP] as specified in the Environmental Documentation for the "Otay Mesa East Project" (Project No. 3159, SCH No. 2003051060), satisfactory to the City Manager and the City Engineer, for the following issues areas to ensure compliance with the MSCP and MHPA Land Use Adjacency Guidelines: Land Use, Biological Resources and Water Quality.
- d. In addition, the following conditions shall apply: Operational Noise: Prior to issuance of any building occupancy permits, the sewer pump station proposed adjacent to the existing Otay Mesa Road wildlife under crossing shall be constructed, to the satisfaction of the City Manager and City Engineer, to ensure that operational noise does not impact wildlife movement, including: (1) designing the facility below-ground; (2) encasing it in concrete; (3) providing perimeter berms and native screening vegetation; and (4) shielding/directing all necessary lighting away from the MHPA.
- e. Edge Treatment: Prior to issuance of any building occupancy permits, the applicant shall construct a six-foot-high black vinyl-coated chain link fence along areas adjacent to the MHPA, including the rear of proposed Lots 6, 7 and 8, satisfactory to the City Manager and the City Engineer. The fencing shall be appropriately maintained at all times by the owner/Permittee/trustee. Any necessary future fence repairs shall be conducted in a manner which does not result in impacts to sensitive biology resource or wildlife movement.
- f. Brush Management: Prior to recordation of the first final map and/or issuance of any grading permits, the City Manager shall verify that all brush management zone 2 is located outside the limits of the on-site vernal pool watershed areas and retained within the proposed lots.
- g. Drainage: Prior to recordation of the first final map and/or issuance of any grading permits, the City Manager and City Engineer shall verify that on-site drainage for all lots, including proposed lot no. 8, is designed to avoid discharging into the on-site vernal pool watershed areas.

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- h. Prior to recordation of the first final map and/or issuance of any grading permits, the on-site MHPA shall be conserved and conveyed to the City's MHPA through either dedication in fee to the City, OR placement in a conservation easement OR covenant of easement, which is then recorded on the property. For brush management zone two and any proposed revegetation areas within the MHPA, a conservation easement would be appropriate. All other areas could be conveyed through any of the three above methods. Management of the on-site preserved MHPA shall be the responsibility of the owner/Permittee/trustee in perpetuity, unless the City accepts responsibility through dedication in fee title. Note: Any proposed dedication of land in-fee to the City outside the MHPA will require approval from the Park and Recreation Department.

FOR INFORMATION:

- This development may be subject to payment of a park fee prior to the filing of the final subdivision map in accordance with San Diego Municipal Code section 102.0406 et seq. This property is also subject to a building permit park fee in accordance with San Diego Municipal Code section 96.0401 et seq.
- This development may be subject to payment of School Impact Fees at the time of issuance of building permits, as provided by California Government Code section 53080(b) (Statutes of 1986, Chapter 887), in accordance with procedures established by the Director of Building Inspection.
- This tentative map will be subject to fees and charges based on the rate and calculation method in effect at the time of payment.
- This development will be subject to impact fees, as established by the City Council at the time of issuance of building permits.

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RESOLUTION NUMBER R-\_\_\_\_\_

DATE OF FINAL PASSAGE \_\_\_\_\_

A RESOLUTION GRANTING SITE DEVELOPMENT PERMIT NO.  
388242, AN EXTENSION OF TIME TO RESOURCE PROTECTION  
ORDINANCE [RPO] PERMIT NO. 8163, FOR THE OTAY MESA  
EAST EOT PROJECT NO. 108628 [MMRP]

WHEREAS, GERALD HANDLER, Trustee of the Handler Trust UDT, Owner/Permittee, filed an application with the City of San Diego for a three-year extension of time (EOT) to Resource Protection Ordinance (RPO) Permit No. 8163 pursuant to Project No. 3159, for the development of approximately 21.35-acres of the 45.5-acre vacant site into commercial lots and open space. The project site is located 6100 block of Otay Mesa Road (temporarily addressed as 6175 Otay Mesa Road) west of Heritage Road, in the AR-1-1 Zone, which is proposed to be rezoned to the Commercial Zone in the Otay Mesa Development District, within the Otay Mesa Community Plan. The property is legally described as Parcel A: Portion of the Northeast Quarter of the Northwest Quarter of Section 32, Township 18 South, Range 1 West, San Bernardino and Meridian, in the County of San Diego, State of California, according to the Official Plat thereof. Excepting therefrom the Northerly 40.00 feet ("Otay Mesa Road") as described in that certain deed to the City of San Diego, A Municipal Corporation, filed in the Office of the County Recorder of said County May 27, 1983, as File No. 83-177720 of Official Records. Also excepting therefrom all that portion thereof taken by the State of California in that certain Final Order of Condemnation issued out of Superior Court Case No. 37-2008-0008061-CU-EI-CTL, a Certified Copy of which Recorded November 9, 2009, as File No. 2009-0624504, Official Records.

Parcel B: Portion of the Northeast Quarter of the Northwest Quarter of Section 32, Township 18 South, Range 1 West, San Bernardino and Meridian, in the County of San Diego, State of California, according to the Official Plat thereof. Excepting therefrom the Northerly 40.00 feet ("Otay Mesa Road") as described in that certain deed to the City of San Diego, A Municipal Corporation, filed in the Office of

the County Recorder of said County May 27, 1983, as File No. 83-177720 of Official Records. Also excepting therefrom all that portion thereof taken by the State of California in that certain Final Order of Condemnation issued out of Superior Court Case No. 37-2008-0008061-CU-EI-CTL, a Certified Copy of which Recorded November 9, 2009, as File No. 2009-0624504, Official Records. Also excepting therefrom all that portion thereof described deeded to the State of California Recorded February 2, 2010, as File No. 2010-00054943, Official Record; and

WHEREAS, all associated permits shall conform to the previously approved Exhibits, Map and conditions on file with the Development Services Department pursuant to RPO Permit No. 8163 pursuant to Project No. 3159, with the exception of the expiration date and that portion of the property acquired by the California Department of Transportation (Caltrans) through condemnation; and

WHEREAS, the activity is covered under the Otay Mesa East Mitigated Negative Declaration, Project No. 3159. The activity is adequately addressed in the environmental document and there is no change in circumstance, additional information, or project changes to warrant additional environmental review. The prior environmental documents adequately covered this activity as part of the previously approved project and the activity is not a separate project for the purpose of California Environmental Quality Act (CEQA) review pursuant to CEQA Guidelines Section 15060(c)(3); 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, on \_\_\_\_\_, the City Council of the City of San Diego considered Site Development Permit (SDP) No. 388242, an EOT for RPO Permit No. 8163, and pursuant to San Diego Municipal Code Section(s) 126.00504 (site development permit), and 126.0111 (extensions of

time), received for its consideration written and oral presentations, evidence having been submitted, and testimony having been heard from all interested parties at the public hearing, and the City Council of the City of San Diego having fully considered the matter and being fully advised concerning the same; NOW THEREFORE,

BE IT RESOLVED by the City Council of the City of San Diego, that it adopts the following findings with respect to SDP No. 388242, an EOT for RPO Permit No. 8163:

**1. The project as originally approved and without any new conditions would not place the occupants of the proposed development or the immediate community in a condition dangerous to their health or safety.**

On September 16, 2003, the Otay Mesa East project was approved by the City Council of the City of San Diego. On July 21, 2006, the applicant filed an application for an EOT prior to the expiration of the RPO Permit. The RPO regulations have been replaced with the Environmental Sensitive Lands Regulation within the current San Diego Municipal Code Section (SDMC), and a SDP has replaced the RPO permit. This RPO permit was not executed and did not get recorded; therefore, a new SDP Permit is accompanying the EOT to allow for the development permit to be recorded, which includes the original conditions of RPO Permit No. 8163. On December 7, 2006, the Planning Commission voted 5-0 to recommend to the City Council approval of the EOT. On January 30, 2007, the City Council was scheduled to hear the EOT; however, the matter was withdrawn. The site was identified as containing vernal pools, and any additional action was enjoined by the United States District Court decision in *Southwest Center for Biological Diversity v. Bartel*, Case No. 98-CV-2234-B, issued by Judge Brewster, affecting the project with respect to vernal pool conservation. On June 10, 2010, the District Court clarified that the injunction did not apply to properties that did not depend on the City's Incidental Take Permit. The Otay Mesa East project does not depend on the City's Incidental Take Permit for development, and therefore, this EOT is no longer enjoined by court order.

On August 26, 2009, approximately 24.1-acres of the original 45.5-acre vacant site were acquired by the California Department of Transportation (Caltrans) through condemnation for the realignment of State Route (SR) 905 and open space, which is currently under construction. The possible future realignment for SR 905 was evaluated within the original review of the project and an approximate limit of the realignment was identified on the Exhibits. A Substantial Conformance Review of the project was conducted based on Caltrans condemnation of a larger area of the site than what was originally identified. A determination was made that the project would be in substantial conformance with the previously approved Otay Mesa East Project No. 3159. Therefore, the failure to conditionally approve or deny the request for an extension of time for RPO Permit No. 8163 would not place the residents of the subdivision or the immediate community in a condition dangerous to their health or safety.

**2. No new condition is required to comply with state or federal law.**

On August 26, 2009, approximately 24.1-acres of the original 45.5-acre vacant site were acquired by the Caltrans through condemnation for the realignment of SR 905 and open space, which is currently under construction. The possible future realignment for SR 905 was evaluated within the original review of the project and an approximate limit of the realignment was identified on the Exhibits. A Substantial Conformance Review of the project was conducted based on Caltrans condemnation of a larger area of the site than what was originally identified. A determination was made that the project would be in substantial conformance with the previously approved Otay Mesa East Project No. 3159, but would require a new Condition to be added to the associated Vesting Tentative Map (VTM) No. 362532 for a building restrictive easement to be granted over Lot B. This parcel includes a portion of the original Lots 7 and 8 which were buildable lots, and the condemnation eliminated access to this portion of the lots. In addition, the original Brush Management and associated Open Space requirements would no longer apply to the project and have been deleted from the new permit conditions. It was further determined, that



no new condition and/or denial were required for the SDP No. 388242, an EOT for RPO Permit No. 8163, to comply with state or federal law.

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

BE IT FURTHER RESOLVED that, that, based on the findings hereinbefore adopted by the City Council of the City of San Diego, SDP No. 388242, an EOT for RPO Permit No. 8163, is hereby granted to GERALD HANDLER, Trustee of the Handler Trust UDT, Owner/Permittee, in the form, exhibits, terms and conditions as set forth in RPO Permit No. 8163, adopted by Resolution No. R-298380 on September 16, 2003, by the City Council of the City of San Diego that have been incorporated in SDP Permit No. 388242, and subject to the attached conditions which are made a part of this resolution.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF SAN DIEGO OF THE CITY OF SAN DIEGO, CALIFORNIA, ON \_\_\_\_\_.

APPROVED: JAN I. GOLDSMITH, City Attorney

By \_\_\_\_\_  
NAME  
Deputy City Attorney

ATTY/SEC. INITIALS  
DATE  
R- INSERT  
Reviewed by Jeffrey A. Peterson, DPM

ATTACHMENTS: 1. Resolution No. R-298380 and Resource Protection Ordinance Permit No. 8163  
2. Site Development Permit No. 388242

Internal Order No. 23426720

(R-2004-337)

## RESOLUTION NUMBER R-298380

ADOPTED ON SEPTEMBER 16, 2003

WHEREAS, Dr. Gerald Handler, Owner/Permittee, filed an application with the City of San Diego for a permit to develop thirteen lots consisting of nine commercial lots (Lots 1-8 and 12) on 32.1 acres; three open space lots (Lots 9-10 and 13), and construction of a private underground sewer pump station on 0.4 acres of land at the northeast corner of the site (Lot 11), including preservation of the 1.3-acre wildlife corridor and Multiple Habitat Planning Area [MHPA] in the northeast corner of the site adjacent to the existing 6-foot wildlife underground tunnel at Otay Mesa Road and Corporate Center Drive, including four acres designated as open space to protect the MHPA on the southern boundary of the site, and an additional six acres on the eastern boundary of the project site designated as open space and includes a fenced preserve for 22 existing vernal pools and one road pool located in the southeast corner of the property (as described in and by reference to the approved Exhibit "A," and corresponding conditions of approval for the associated Permit No. 8163), on portions of a vacant 45.5-acres, known as the Otay Mesa East - Pts No. 3159 project, located in the 6600 block of Otay Mesa Road, and legally described as the Northeast Quarter of the Northwest Quarter of Section 32, Township 18 South, Range 1 West, San Bernardino Base and Meridian, in the County of San Diego, State of California, according to the Official Plat thereof; the West Quarter of the Northwest Quarter of Section 32, Township 18 South, Range 1 West, San Bernardino Base and Meridian, in the County of San Diego, State of California, according to the Official Plat thereof, in the AR-1-1

zone, which is proposed to be rezoned to the OMDD-C zone; and

WHEREAS, on July 17, 2003, the Planning Commission of the City of San Diego considered Resource Protection Ordinance Permit No. 18163 and, pursuant to Resolution No. 3395-PC, voted to approve the Permit; and

WHEREAS, the matter was set for public hearing on September 16, 2003, testimony having been heard, evidence having been submitted, and the City Council having fully considered the matter and being fully advised concerning the same; NOW, THEREFORE,

BE IT RESOLVED by the Council of the City of San Diego, that it adopts the following findings with respect to Resource Protection Ordinance Permit No. 8163, dated September 16, 2003:

**I. RESOURCE PROTECTION ORDINANCE**

**A. The proposed development will not adversely affect the City of San Diego's Progress Guide and General Plan.** The 45.5-acre vacant site is located in the 6600 block of Otay Mesa Road between Avenue of Industry and Harvest Road in the Otay Mesa Community Planning area. The project site is zoned OMDD-C and the land use designation in the Otay Mesa Community Plan is Specialized Commercial. The project proposes to develop the vacant site into 13 lots consisting of 9 commercial lots (Lots 1-8 and 12); 3 open space lots (Lots 9-10 and 13) and construction of a private underground sewer pump station (Lot 11). The proposed development is consistent with the City of San Diego's Progress Guide and General Plan commercial land use designation for the site and will therefore not adversely affect it.

**B. The proposed development will conform to the community plan for the area and any other applicable plans, policies and ordinances.** Commercial development of the vacant 45.5-acre site has been determined to be in compliance with the Otay Mesa Community Plan which designates the site for Specialized Commercial, and all other applicable plans, policies and ordinances in affect for the site.

**C. The proposed development will be sited, designed, constructed and maintained to minimize, if not preclude, adverse impacts on environmentally sensitive lands.** Mitigated Negative Declaration [MND] No. 99-0555 has been prepared

for this project in accordance with the California Environmental Act [CEQA] Guidelines. A Mitigation, Monitoring and Reporting Program [MMRP] has been prepared and will be implemented to reduce all potential impacts to below a level of significance. The MMRP addresses the issue areas of historic resources (archaeology), water quality, paleontological resources, transportation and biological resources.

A Resource Protection Ordinance [RPO] Permit is required because the project was submitted prior to December 31, 1999, when the Old Code was in effect for the site. The project includes nine commercial lots on 32.1 acres, detention basins on each lot and construction of a private underground sewer pump station on 0.4 acres of land in the northeast corner of the site.

Included in the project proposal is the preservation of the 1.3-acre wildlife corridor and MHPA in the northeast corner of the property adjacent to the existing 6-foot wildlife underground tunnel at Otay Mesa Road and Corporate Center Drive would be protected by an existing fence to be painted black and screened with a continuous hedge of native plant materials. Four acres will be designated as open space to protect the MHPA on the southern boundary of the site. An additional six acres of land would be designated as open space on the eastern boundary of the project site and includes a fenced preserve for twenty-two existing vernal pools and one road pool located in the southeast corner of the property.

Twenty-two vernal pools representing approximately 2,923 square feet of surface area and one road pool totaling approximately 290 square feet of surface area exist within the project boundary in the southwest corner of the project site. The total estimated watershed for the twenty-two pools is 2.1 acres and 0.01 acres for the road pool.

The site has been highly disturbed and its pools have little vernal pool vegetation. For this reason, the pools are considered disturbed. Vernal pool plants observed in the pools in the southeast corner of the site include woolly marbles (*Psilocapus brevissimus*), plantigo (*Plantuigo elongata*), and popcorn flower (*Plagiobothrys acanthocarpa*). All of the vernal pools are included in the six acres of open space lands on the east side of the property. A Vernal Pool Management Plan is included in Mitigated Negative Declaration to insure the protection of the Vernal Pools.

A single road pool was identified with approximately 290 square feet of potential surface area and approximately 835 square feet of watershed located in the northwestern corner of the project site. This pool is located within the impact area for the proposed project. However, the pool and watershed are also located totally within a proposed cul-de-sac right-of-way for the adjacent California Terraces, Otay Corporate Center South project. The California Terraces Vesting Tentative Map (VTM 86-1032) shows this pool within the development footprint. The Otay Corporate Center Project would dedicate and grade

the right-of-way and install underground utilities, completely removing the vernal pool and watershed. The California Terraces project has been reviewed and approved by the USFWS, ACOE and the City of San Diego. The USFWS prepared a biological opinion (BO 1-6-95-F-35) as part of an ESA Section 7 consultation with ACOE (File No. 95-2010DZ) in January, 1997. Mitigation measures were identified and implemented for project-related impacts per the BO and other project documents. Therefore, no other mitigation measures related to the road pool located in the northwest corner of the project site are required

The Traffic Impact Analysis prepared by Kimley-Horn & Associates (revised October 9, 2002) determined that the proposed project would result in significant Average Daily Trips [ADT] based impacts to segments of Otay Mesa Road and Ocean View Parkway under Near Term and Horizon Year conditions. While the project would generate a significant impact on several segments of Otay Mesa Road on an ADT under Near Term conditions, controlling intersections will be characterized by acceptable LOS during both peak hours (with the exception of Ocean View Hills Parkway/Caliente Boulevard/ Otay Mesa Road) and the overall arterial analysis shows that these segments would operate at an acceptable level of service. Accordingly, the ADT-based impacts are considered to be overstated and mitigated by the improvements to the one failing intersection. Further, the future construction of SR-905 will divert some trips from Otay Mesa Road to SR-905, restoring LOS to acceptable levels at all locations, except the segment between Caliente Boulevard and "C" Street.

On Ocean View Hills Parkway, the ADT-based impact is probably overstated because the Ocean View Hills Parkway intersections with Dennery Road and Del Sol Boulevard will have adequate LOS under all conditions and peak hours analyzed, and overall arterial analysis shows that these segments will operate at an acceptable level of service.

Water quality is affected by sedimentation caused by erosion, runoff carrying contaminants, and direct discharge of pollutants. As land is developed, or redeveloped, impervious surfaces convey an increased volume of runoff containing oils, pesticides, fertilizers, and other contaminants into adjacent watersheds. Implementation of the project would disturb 32.98 acres of land and create surface parking lots for an estimated 1,302 parking spaces. According to the City's significance thresholds for water quality impacts, any project which would construct a parking lot of fifteen or more spaces or develop a site over one acre may result in a significant water quality impact. Based on the size of the proposed site and new paved surfaces, the proposed development would result in a significant water quality impact. Therefore, a Drainage Study and a Post Construction BMP Evaluation were prepared by Kimley-Horn & Associates in October, 2002. In addition, a Water Quality Technical Report was prepared by Kimley-Horn & Associates and revised in April, 2003. These studies address pre- & post construction BMPs to be implemented as a condition of project approval.

Consequently, a National Pollution Discharge Elimination System [NPDES] permit from the State Water Resources Control Board [SWRCB] would be required to control erosion, sedimentation, runoff, point- and non-point-source pollution as a result of the proposed development. The NPDES permit requires the preparation and implementation of a Storm Water Pollution Prevention Plan [SWPPP] and a Monitoring Program Plan prior to the commencement of grading activities, which incorporate BMPs into the construction and post-construction phases of the project. The SWPPP and the mitigation measures incorporated in Section V of the Mitigated Negative Declaration would mitigate potentially significant water quality impacts to below a level of significance.

Proposed landscaping will consist of new street trees along Otay Mesa Road (*Arbutus Menziesii*), a mixture of trees along the interior roads (*Calocedrus decurrens* and *Umbellularia californica*), and a mixture of flowering trees and palms at accent points within the site (*Myrica californica*, *Bauhinia blakeana*, *Lagerstroemia indica*, *Washingtonia robusta* and *Washingtonia filifera*).

Implementation of the project requires Brush Management zones to be established around the developed areas. A 40-foot strip of Zone Two brush management will occur outside the MHPA within the lot boundaries. Zone Two brush management is considered impact neutral, therefore, there would be no impacts to the MHPA. Landscaping associated with the Zone One brush management include *Bougainvillea "La Jolla"*, *Cistus Crispus*, and *Baccharis pilularis "twin oaks"*. Native plants associated with Zone Two brush management include *Ceanothus griseus horizontalis*. The wildlife corridor in the northeast corner of the project site would be screened with continuous native hedge material (*Rhus integrifolia*).

**D. The proposed development will be sited and designed to prevent adverse impacts on any environmentally sensitive lands and resources located in adjacent parks and public open-space areas and will provide adequate buffer areas to protect such resources.** The project includes nine commercial lots on 32.1 acres, detention basins on each lot and construction of a private underground sewer pump station on 0.4 acres of land in the northeast corner of the site. Included in the project proposal is the preservation of the 1.3-acre wildlife corridor and MHPA in the northeast corner of the property adjacent to the existing 6-foot wildlife underground tunnel at Otay Mesa Road and Corporate Center Drive would be protected by an existing fence to be painted black and screened with a continuous hedge of native plant materials. Four acres will be designated as open space to protect the MHPA on the southern boundary of the site.

Implementation of the project requires Brush Management zones to be established around the developed areas. A 40-foot strip of Zone Two brush management will occur outside the MHPA within the lot boundaries. Zone Two brush management is considered impact

neutral, therefore, there would be no impacts to the MHPA. Landscaping associated with the Zone One brush management include *Bougainvillea "La Jolla"*, *Cistus Crispus*, and *Baccharis pilularis "twin oaks"*. Native plants associated with Zone Two brush management include *Ceanothus griseus horizontalis*. The wildlife corridor in the northeast corner of the project site would be screened with continuous native hedge material (*Rhus integrifolia*).

**E. The proposed development will minimize the alterations of natural landforms and will not result in undue risks from geological and erosional forces and/or flood and fire hazards.** The project site has been historically used for agricultural purposes the proposed development is designed to minimize alterations to the natural landform and will not result in undue risk from geologic and erosional forces, flood hazards, or fire hazards.

**F. Feasible measures, as defined in this section, to protect and preserve the special character or the special historical, architectural, archaeological or cultural value or the affected significant prehistoric or historic site or resource have been provided by the applicant.** An archaeological survey was conducted by Gallegos and Associates in June, 2000, and a revised letter report was submitted in February, 2002. The survey determined that the project is situated within prehistoric site CA-SDI-6941. This extensive sparse lithic scatter site contains artifact concentrations (Loci A-Y) and is spread over 10,000,000 square meters. Artifact concentrations have been identified and those remaining areas of CA-SDI-6941 are part of the "Otay Smear" (sparse lithic scatter) which is literally across Otay Mesa. For the SR 905 Project, a Management Plan was prepared in lieu of testing sparse lithic scatters (Gallegos et al. 1998). This plan was accepted by the City of San Diego, CALTRANS and the State Historic Preservation Officer (SHPO). The property was previously surveyed as part of SR 905 project and no artifacts or loci of site CA-SDI- 6941 were identified within the project area. Given the poor ground visibility during the SR 905 study and as a result of working with City Staff, it has been agreed that monitoring during construction will be required. Implementation of a monitoring program in accordance with MND's Mitigation, Monitoring and Reporting Program would reduce the potential impacts to subsurface historical resources to below a level of significance.

## II. OTAY MESA DEVELOPMENT DISTRICT

**A. The project application is complete and conforms with all city policies, guidelines, design standards and density regulations in effect for this site.** The 45.5-acre vacant site is located in the 6600 block of Otay Mesa Road between Avenue of Industry and Harvest Road in the Otay Mesa Community Planning area. The project site is zoned OMDD-C and the land use designation in the Otay Mesa Community Plan is Specialized Commercial.

The project proposes to develop the vacant site into 13 lots consisting of 9 commercial lots (Lots 1-8 and 12) on 32.1 developable acres; three open space lots (Lots 9-10 and 13), and construction of a private underground sewer pump station on 0.4 acres of land at the northeast corner of the site (Lot 11).

Included in the project proposal is the preservation of the 1.3-acre wildlife corridor and Multiple Habitat Planning Area [MHPA] in the northeast corner of the site adjacent to the existing 6-foot wildlife underground tunnel at Otay Mesa Road and Corporate Center Drive. Four acres will be designated as open space to protect the MHPA on the southern boundary of the site. An additional six acres on the eastern boundary of the project site will be designated as open space and includes a fenced preserve for twenty-two existing vernal pools and one road pool located in the southeast corner of the property.

The proposed development is consistent with the City of San Diego's Progress Guide and General Plan commercial land use designation for the site and will therefore not adversely affect it.

**B. The proposed use and project design meet the general purpose and intent of the Otay Mesa Development District and the Otay Mesa Community Plan.** The 45.5-acre vacant site is located in the 6600 block of Otay Mesa Road between Avenue of Industry and Harvest Road in the Otay Mesa Community Planning area. The project site is zoned OMDD-C and the land use designation in the Otay Mesa Community Plan is Specialized Commercial, therefore the proposal for commercial development meets the intent and purpose of the Otay Mesa Development District and the Otay Mesa Community Plan.

**C. 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 property in the vicinity.** Conditions of approval found in the Resource Protection Ordinance/Otay Mesa Development District Permit No. 8163 and Vesting Tentative Map No. 8182 address health, safety and general welfare issues. Compliance with applicable building, plumbing, electrical, mechanical and grading regulations will also be required at the construction phase, therefore, the proposal 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 property in the vicinity.

**D. The proposed use will comply with the relevant regulations of the Municipal Code in effect for this site.** Commercial development of the 45.5 acres site has been determined to be in compliance with the City's General Plan, the Municipal Code, the Resource Protection Ordinance, the State Subdivision Map Act and all other applicable relevant regulations of the Municipal Code in effect for the site.



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 Resource Protection Ordinance Permit No. 8163 is granted to Gerald Handler, Owner/Permittee, under the terms and conditions set forth in the permit attached hereto and made a part hereof.

APPROVED: CASEY GWINN, City Attorney

By

  
\_\_\_\_\_  
Mary Jo Lanzafame  
Deputy City Attorney

MJL:cdk  
09/18/03  
Or.Dept:Clerk  
R-2004-337  
Form=permitr.frm  
Reviewed by Vicky Gallagher

**RECORDING REQUESTED BY**  
CITY OF SAN DIEGO  
DEVELOPMENT SERVICES DEPARTMENT

**WHEN RECORDED MAIL TO**  
**PERMIT INTAKE**  
**MAIL STATION 501**

SPACE ABOVE THIS LINE FOR RECORDER'S USE

**RESOURCE PROTECTION ORDINANCE PERMIT NUMBER 8163**  
**OTAY MESA EAST - PTS NO. 3159**  
**CITY COUNCIL**

This Permit is granted by the City Council of the City of San Diego to Gerald Handler, Owner/Permittee, pursuant to the City of San Diego Municipal Code [SDMC] section 101.0462. The 45.5-acre site is located in the 6600 block of Otay Mesa Road in the Otay Mesa Community Planning in the OMDD-C Zone. The project site is legally described as the Northeast Quarter of the Northwest Quarter of Section 32, Township 18 South, Range 1 West, San Bernardino Base and Meridian, in the County of San Diego, State of California, according to the Official Plat thereof and the West Quarter of the Northwest Quarter of Section 32, Township 18 South, Range 1 West, San Bernardino Base and Meridian, in the County of San Diego, State of California, according to the official plat thereof.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee to develop a 45.5-acre, vacant site with commercial development consistent with the OMDD-C Zone for commercial lots, described as, and identified by size, dimension, quantity, type and location on the approved Exhibit "A," dated September 16, 2003, on file in the Office of the Development Services Department. Exhibit "A" is identified as follows:

- A-1: Landscape Concept/Brush Management Plan
- A-2: Vesting Tentative Map/Grading Plan
- A-3: Existing Topography
- A-4: Project Cross-Sections

The project or facility shall include:

- a. Nine commercial lots (Lots 1-8 and 12);
- b. Three open space lots (Lots 9-10 and 13);

- c. Construction of a private underground sewer pump station on 0.4-acre located at the northeast corner of the site (Lot 11);
  - d. Preservation of 1.3-acres wild of corridor;
  - e. Preservation of Multiple Habitat Planning Area (MHPA) in the northeast corner of the site adjacent to the existing six-foot wildlife underground tunnel at Otay Mesa Road and Corporate Center Drive;
  - f. Four acres to be designated as open space to protect the MHPA on the southern boundary of the site;
  - g. Six acres on the eastern boundary of the project site to be designated as open space, including a fenced preserve for twenty-two existing vernal pools and one (1) road pool located in the southeast corner of the property;
  - h. Landscaping (planting, irrigation and landscape related improvements); and
  - i. Accessory improvements determined by the City Manager 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.
1. Construction, grading or demolition must commence and be pursued in a diligent manner within thirty-six months after the effective date of final approval by the City, following all appeals. Failure to utilize the permit within thirty-six months will automatically void the permit unless an Extension of Time has been granted. Any such Extension of Time must meet all the SDMC requirements and applicable guidelines in effect 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 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. 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 City Manager.
4. This Permit is a covenant running with the subject property and shall be binding upon the 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 utilization and 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 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 applicant 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. Before issuance of any building or grading permits, complete grading and working drawings shall be submitted to the City Manager for approval. Plans shall be in substantial conformity to Exhibit A-2, dated September 16, 2003, on file in the Office of the Development Services Department. 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. Prior to issuance of any grading permits for this project, a final subdivision map shall be recorded on the subject property.

11. Rezoning of the subject property shall become effective with recordation of the corresponding final subdivision map for the project site.

12. 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," dated September 16, 2003, on file in the Office of the Development Services Department).

**ENVIRONMENTAL/MITIGATION REQUIREMENTS:**

13. 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.

14. As conditions of Resource Protection Ordinance No.008163, the mitigation measures specified in the MMRP, and outlined in the Mitigated Negative Declaration, LDR No. 3159 shall be noted on the construction plans and specifications under the heading ENVIRONMENTAL/MITIGATION REQUIREMENTS.

15. The Owner/Permittee shall comply with the Mitigation, Monitoring, and Reporting Program [MMRP] as specified in the Mitigated Negative Declaration, LDR No.3159 satisfactory to the City Manager and City Engineer. Prior to issuance of the first grading permit, all conditions of the MMRP shall be adhered to the satisfaction of the City Engineer. All mitigation measures as specifically outlined in the MMRP shall be implemented for the following issue areas: Land Use/Biological Resources/Historical Resources (Archaeology)/Water Quality.

16. The MMRP shall require a deposit of \$3,200.00 to be collected prior to the issuance of any discretionary approval(s) to cover the City's costs associated with implementation of the MMRP.

17. A Job Order number open to the Land Development Review Division of the Development Services Department shall be required to cover the Land Development Review Division's cost associated with the implementation of the MMRP.

**BRUSH MANAGEMENT PROGRAM REQUIREMENTS:**

18. The Permittee shall implement the following requirements in accordance with the Brush Management Program shown on Exhibit A-1, Brush Management Program/Landscape Development Plan, on file in the Office of the Development Services Department.
19. Prior to issuance of permits or recording of final maps, all easements or right of entry permits for the purpose of Brush Management shall be obtained.
20. Prior to issuance of any engineering permits for grading, complete Brush Management, planting and irrigation plans, details and specifications (including maintenance specifications), shall be submitted to the City Manager for approval. All plans shall indicate the brush management zones depths by dimension.
21. Prior to final inspection and issuance of any Certificate of Occupancy for any building, the approved Brush Management Program shall be implemented.
22. In all brush management zones the plant material shall be selected to visually blend with the existing vegetation. No invasive plant material shall be permitted as determined by the Landscape Section of Development Services Department.
23. The Brush Management Maintenance Program as noted on Exhibit A-1, shall be performed annually by the Permittee or subsequent Owner or until such time that another approved entity such as a project association or a Landscape Maintenance District assumes annual responsibility.
24. Provide Brush Management plants that are visually and horticulturally compatible with the native vegetation.

**ENGINEERING REQUIREMENTS:**

25. Grading permit, post-construction BMPs based on the Water Quality Technical Report, improvements to the right-of-way for two (2) streets, detention basins, flood water storage easements, NPDES Permit, 1911 waiver for future Otay-Mesa-wide drainage improvements, inter alia.
26. The Resource Protection Ordinance Permit No. 8163 shall comply with the conditions of the Final Map for VTM No. 8182.

**LANDSCAPE REQUIREMENTS:**

27. No change, modification or alteration shall be made to the project unless appropriate application or amendment of this Permit has been granted by the City. All plan specifications and notes mentioned in the conditions below shall be consistent with the SDMC, section 142.0401 and Landscape Standards, Exhibit A-1, Landscape Development Plan, Brush Management Plan, Details and Notes on file in the Office of the Development Services.
28. All required landscape plant materials shall be maintained 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 it's mature height and spread.
29. The Permittee or subsequent Owner shall be responsible for the maintenance of all street trees and landscape improvements (right-of-way and median landscaping) consistent with the Landscape Standards.
30. The Permittee or subsequent Owner shall be responsible for the maintenance of all street trees and landscape improvements (right-of-way and median landscaping) consistent with the Landscape Standards. A Landscape Maintenance Agreement and bond shall be entered into prior to issuance of any grading or construction permit. The agreement and bond shall be renewed each year until such time that another approved entity assumes responsibility such as a home owners association or a Landscape Maintenance District.
31. If any required landscape improvements (including existing or new planting, hardscape, landscape features, etc.) are damaged or removed during demolition or construction, they shall be repaired and/or replaced in kind and equivalent size per the approved documents to the satisfaction of the City Manager, within thirty days of damage and prior to any Certificate of Occupancy.
32. Prior to the issuance of any engineering permits for grading or improvement the Permittee shall complete a Maintenance Assessment District Agreement form for early confirmation.
33. In the event that a foundation only permit is requested by the Permittee or subsequent Owner, a site plan or staking layout plan shall be submitted identifying all landscape areas consistent with Exhibit A-1, Landscape Development Plan, on file in the Office of Development Services. These landscape areas shall be clearly identified with a distinct symbol, noted with dimensions and labeled as landscaping area.
34. In the event that any mass grading permit is requested by the Permittee or subsequent Owner, complete landscape construction documents for revegetation and erosion control, including an automatic permanent irrigation system, shall be submitted to the Development

Services Department, Land Development Review Section for approval. The plans shall be in substantial conformance to Exhibit A-1, on file in the office of the Development Services.

35. Prior to issuance of any construction permits for structures (including shell), complete landscape and irrigation construction documents consistent with the Landscape Standards (including planting and irrigation plans, details and specifications) shall be submitted to the City Manager for approval. The construction documents shall be in substantial conformance with Exhibit A-1, Landscape Development Plan, on file in the Office of Development Services.

36. In the event that any construction permit for parking structures is requested, the Permittee or subsequent Owner shall submit on the planting and irrigation plans a signed statement by a Registered Structural Engineer indicating that supporting structures are designed to accommodate the necessary structural loads and associated planting and irrigation.

37. Prior to issuance of any engineering permits for right-of-way improvements, complete landscape construction documents for right-of-way improvements shall be submitted to the City Manager 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.

38. Prior to issuance of any engineering permits for private drive improvements, complete landscape construction documents for private drive improvements shall be submitted to the City Manager 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.

39. Prior to issuance of any engineering permits for grading, construction documents for slope planting (if applicable) or revegetation including hydroseeding and irrigation shall be submitted in accordance with the Landscape Standards and to the satisfaction of the City Manager. All plans shall be in substantial conformance with Exhibit A-1, (including Environmental conditions) on file in the Office of Development Service.

40. Installation of slope planting and erosion control including seeding of all disturbed land (slopes and pads) consistent with the approved landscape and grading plans is considered to be in the public interest. The Permittee shall initiate such measures as soon as the grading has been accomplished. Such erosion control/slope planting and the associated irrigation systems (temporary and/or permanent) and appurtenances shall be installed in accordance with the approved plans and the Landscape Standards.

41. Prior to issuance of any Certificate of Occupancy, it shall be the responsibility of the Permittee or subsequent Owner to install all required landscape and obtain all required landscape



inspections. A No Fee Street Tree Permit, if applicable, shall be obtained for the installation, establishment and on-going maintenance of all street trees.

42. Prior to the recording of the (parcel/final map), the Permittee or subsequent Owner/Developer shall submit for review, a Landscape Maintenance Agreement for all landscape improvements within and visible from the public right-of-way. The approved Landscape Maintenance Agreement shall be recorded and bonded prior to recording of the (parcel/final map).

43. The Permittee or subsequent Owner(s) shall be responsible for the installation and maintenance of all landscape improvements consistent with the Landscape Regulation and Landscape Standards. Invasive species are prohibited from being planted adjacent to any canyon, water course, wet land or native habitats within the city limits of San Diego as noted in Section 1.3 of the Landscape Standards.

**PLANNING/DESIGN REQUIREMENTS:**

44. Hillside and environmentally sensitive lands that are undisturbed or restored as a result of the development must be conserved through a deed restriction, open space easement or other restriction that will preclude any future development or grading of such lands. The restriction must be acceptable to the City Attorney and to the Development Services Director.

45. There shall be compliance with the regulations of the underlying zone(s) unless a deviation or variance to a specific regulation(s) is approved or granted as condition of approval of this permit. Where there is a conflict between a condition (including exhibits) of this permit and a regulation of the underlying zone, the regulation shall prevail unless the condition provides for a deviation or variance from the regulations. Where a condition (including exhibits) of this permit establishes a provision which is more restrictive than the corresponding regulation of the underlying zone, then the condition shall prevail.

46. The height(s) of the building(s) or structure(s) shall not exceed those heights set forth in the conditions and the exhibits (including, but not limited to, elevations and cross sections) or the maximum permitted building height of the underlying zone, whichever is lower, unless a deviation or variance to the height limit has been granted as a specific condition of this permit.

47. A topographical survey conforming to the provisions of the Land Development Code 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 regulations of the underlying zone. The cost of any such survey shall be borne by the Permittee.

48. Any future requested amendment to this permit shall be reviewed for compliance with the regulations of the underlying zone(s) which are in effect on the date of the submittal of the requested amendment.
49. All signage associated with this development shall be consistent with sign criteria established by either of the following:
- a. Approved project sign plan (Exhibit A-1, dated September 16, 2003, on file in the Office of the Development Services Department); or
  - b. Citywide sign regulations.
50. All private outdoor lighting shall be shaded and adjusted to fall on the same premises where such lights are located.
51. The use of textured or enhanced paving shall meet applicable City standards as to location, noise and friction values.
52. The subject property and associated common areas on site shall be maintained in a neat and orderly fashion at all times.
53. All uses, except storage and loading, shall be conducted entirely within an enclosed building. Outdoor storage of merchandise, material and equipment is permitted in any required interior side or rear yard, provided the storage area is completely enclosed by walls, fences or a combination thereof. Walls or fences shall be solid and not less than six feet in height and, provided further, that no merchandise, material or equipment stored not higher than any adjacent wall.
54. No merchandise, material or equipment shall be stored on the roof of any building.
55. No mechanical equipment shall be erected, constructed, or enlarged on the roof of any building on this site, unless all such equipment is contained within a completely enclosed architecturally integrated structure.
56. Prior to the issuance of building permits, construction documents shall fully illustrate compliance with the Citywide Refuse and Recyclable Materials Storage Regulations (Land Development Code Section 142.0801) to the satisfaction of the City Manager. All exterior storage enclosures for trash and recyclable materials shall be located in a manner that is convenient and accessible to all occupants of and service providers to the project, in substantial conformance with the conceptual site plan marked Exhibit A-1.

**WASTEWATER REQUIREMENTS:**

57. The developer shall construct the Otay Mesa Trunk Sewer Phase II or enter into a development agreement to pay their fair share cost of the trunk sewer in proportion to the ultimate zoned use of the property being developed, in accordance with the City's Sewer Design Guide.
58. The developer shall install all sewer facilities required by the accepted sewer study, necessary to serve this development. Sewer facilities as shown on the approved tentative map will require modification based on the accepted sewer study.
59. The developer shall design and construct all proposed public sewer facilities to the most current edition of the City of San Diego's sewer design guide. Proposed facilities that do not meet the current standards shall be re-designed.
60. The developer shall design and construct all proposed private sewer facilities serving more than one lot to the most current edition of the City of San Diego's sewer design guide. Improvement drawings are required for private sewer facilities serving more than one lot.
61. Prior to the issuance of any building permits, the applicant shall process and record a Notice and Agreement for each ownership being served by a private pump station/sewer facilities which serves more than one ownership, which indemnifies the City and contains an agreement that the applicant, and successors in interest, will be responsible for the operation and maintenance of the private sewer systems.
62. The developer shall obtain a building permit for any private pump station serving a condominium project or more than one lot.
63. The developer shall provide, satisfactory to the Metropolitan Wastewater Department Director, CC&R's for the operation and maintenance of on-site private sewer facilities that serve more than one lot.
64. No structures or landscaping, including private sewer facilities and enhanced paving, shall be installed in or over any easement or street right-of-way prior to the applicant obtaining an Encroachment Maintenance and Removal Agreement.
65. Providing sewer for this development is dependent upon prior construction of certain portions of the Otay Mesa Trunk Sewer Phase II. If they have not been constructed when required for this development, then the construction of certain portions of these sewer facilities, as required by the City Engineer, will become off-site improvements required for this development.

**OPEN SPACE REQUIREMENTS:**

66. Lots 9 and 10 shall be deeded, at no cost, to the city for open space. said lots shall be free and clear of all private encroachments, private easements, private agreements and/or liens.
67. An open space easement is required on the 40-foot deep Zone 2 for brush management across Lots 6, 7 and 8.
68. The brush management zones adjacent to Lots 6 through 8 shall be made into a separate lot and have an open space easement over Zone Two.
69. Brush management Zones 1, 2 and 3 or modified Zones 1 and 2 must be provided between Lot 8 and Lot 9 and Zone Two must have an open space easement. This will require a new lot and it is understood that Lot 9 will be reduced in size.

**MULTIPLE SPECIES CONSERVATION PROGRAM (MSCP) REQUIREMENTS:**

70. In accordance with authorization granted to the City of San Diego from the United States Fish and Wildlife Service [USFWS] pursuant to section 10(a) of the ESA and by the California Department of Fish and Game [CDFG] pursuant to Fish and Game Code section 2835 as part of the Multiple Species Conservation Program [MSCP], the City of San Diego through the issuance of this Permit hereby confers upon Permittee the status of Third Party Beneficiary as provided for in Section 17 of the City of San Diego Implementing Agreement (IA), executed on July 17, 1997, and on file in the Office of the City Clerk as Document No. 00-18394. Third Party Beneficiary status is conferred upon Permittee by the City: (1) to grant Permittee the legal standing and legal right to utilize the take authorizations granted to the City pursuant to the MSCP within the context of those limitations imposed under this Permit and the IA; and (2) to assure Permittee that no existing mitigation obligation imposed by the City of San Diego pursuant to this Permit shall be altered in the future by the City of San Diego, USFWS, or CDFG, except in the limited circumstances described in Sections 9.6 and 9.7 of the IA.

If mitigation lands are identified but not yet dedicated or preserved in perpetuity, maintenance and continued recognition of Third Party Beneficiary status by the City is contingent upon Permittee maintaining the biological values of any and all lands committed for mitigation pursuant to this Permit and of full satisfaction by Permittee of mitigation obligations required by this Permit, as described in accordance with Section 17.1D of the IA.

71. The applicant shall comply with the MMRP as specified in the Environmental Documentation for the "Otay Mesa East Project" (Project No. 3159, SCH No. 2003051060), satisfactory to the City Manager and the City Engineer, for the following issues areas to ensure

compliance with the MSCP and MHPA Land Use Adjacency Guidelines: Land Use, Biological Resources and Water Quality.

In addition, the following conditions shall apply:

*Operational Noise:* Prior to issuance of any building occupancy permits, the sewer pump station proposed adjacent to the existing Otay Mesa Road wildlife under crossing shall be constructed, to the satisfaction of the City Manager and City Engineer, to ensure that operational noise does not impact wildlife movement, including: (1) designing the facility below-ground; (2) encasing it in concrete; (3) providing perimeter berms and native screening vegetation; and (4) shielding/directing all necessary lighting away from the MHPA.

*Edge Treatment:* Prior to issuance of any building occupancy permits, the applicant shall construct a six-foot-high black vinyl-coated chain link fence along areas adjacent to the MHPA, including the rear of proposed Lots 6, 7 and 8, satisfactory to the City Manager and the City Engineer. The fencing shall be appropriately maintained at all times by the owner/Permittee/trustee. Any necessary future fence repairs shall be conducted in a manner which does not result in impacts to sensitive biology resource or wildlife movement.

*Brush Management:* Prior to recordation of the first final map and/or issuance of any grading permits, the City Manager shall verify that all brush management zone 2 is located outside the limits of the on-site vernal pool watershed areas and retained within the proposed lots.

*Drainage:* Prior to recordation of the first final map and/or issuance of any grading permits, the City Manager and City Engineer shall verify that on-site drainage for all lots, including proposed lot no. 8, is designed to avoid discharging into the on-site vernal pool watershed areas.

72. Prior to recordation of the first final map and/or issuance of any grading permits, the on-site MHPA shall be conserved and conveyed to the City's MHPA through either dedication in fee to the City, or placement in a conservation easement or covenant of easement, which is then recorded on the property. For brush management zone two and any proposed revegetation areas within the MHPA, a conservation easement would be appropriate. All other areas could be conveyed through any of the three above methods. Management of the on-site preserved MHPA shall be the responsibility of the Owner/Permittee/Trustee in perpetuity, unless the City accepts responsibility through dedication in fee title. \*Note: Any proposed dedication of land in-fee to the City outside the MHPA would require approval from the Park and Recreation Department.

**TRANSPORTATION REQUIREMENTS:**

73. Prior to the recordation of first final map, subdivider shall relinquish access rights along project frontage on Otay Mesa Road, satisfactory to the City Engineer.

74. Prior to the recordation of the first final map, subdivider shall assure by permit and bond, construction of Street "B" with 64 feet curb to curb within 84 feet right-of-way including curb, gutter and 5-foot sidewalk within 10-foot curb to property line distance on both sides of the street with 55-foot curb radius cul-de-sac turnaround at the southern end, satisfactory to the City Engineer.

75. Prior to the recordation of the first final map, subdivider shall assure by permit and bond, construction of Street "B" within 200 feet of its intersection with Otay Mesa Road with 72 feet of curb to curb pavement (18-feet southbound lane, 4-feet raised center median, two 12-foot northbound left turn lanes, 12-foot northbound through lane, 14-foot northbound right turn lane) within 92 feet of right-of-way including curb, gutter and 5-foot sidewalk within 10-foot curb to property line distance on both sides of the street transiting to a 64 feet curb to curb width within 84 feet right-of-way with 55-foot curb radius cul-de-sac turnaround at the southern end within 65 feet right-of-way, satisfactory to the City Engineer.

76. Prior to the recordation of the first final map, subdivider shall assure by permit and bond, construction of a second left turn lane on Otay Mesa Road at its intersection with Street "B", satisfactory to the City Engineer.

77. Prior to the recordation of the first final map, subdivider shall assure by permit and bond, construction of an eastbound exclusive right turn lane with 500-feet of storage and proper transition on Otay Mesa Road at its intersections with "B" Street", satisfactory to the City Engineer.

78. Prior to the recordation of the first final map, subdivider shall assure by permit and bond, construction of private Street "A" between Street "B" and Street "C" with 50 feet of pavement within 70 feet of private general utility easement with curb, gutter and 5-foot sidewalk on both sides of the street and raised center median at both ends of the streets within 200 feet of intersection with Street "B" and Street "C", satisfactory to the City Engineer.

79. Prior to the recordation of the first final map, subdivider shall assure by permit and bond, construction of half width of Street "C" including 30 feet of pavement, curb, gutter and 5-foot sidewalk within 10-foot curb to property line distance with 55-foot curb radius cul-de-sac turnaround at the southern end, satisfactory to the City Engineer.

80. Prior to the recordation of the first final map, subdivider shall assure by permit and bond construction of a eastbound exclusive right turn lane with 200 feet of storage and proper transition on Otay Mesa Road at its intersection with Street "C", satisfactory to the City Engineer.

81. Prior to the recordation of the first final map, subdivider shall assure by permit and bond, construction of second eastbound left turn lane and one exclusive westbound right turn lane at

the intersection of Otay Mesa Road/Ocean View Hills Parkway, satisfactory to the City Engineer.

82. Prior to the recordation of the first final map, subdivider shall assure by permit and bond, construction of second westbound left turn lane at the intersection of Otay Mesa Road/Ocean View Hills Parkway, satisfactory to the City Engineer. Subdivider may enter into a deferred improvement agreement with City of San Diego for this improvement.

83. Prior to the recordation of the first final map, subdivider shall assure by permit and bond, construction of the second half (western half) of Street "C" to provide 60 feet of pavement, curb, gutter and 5-foot sidewalk within 10-foot curb to property line distance on the west side, satisfactory to the City Engineer. Subdivider may enter into a deferred improvement agreement with City of San Diego for this improvement.

84. Prior to the recordation of the first final map, subdivider shall assure by permit and bond, construction of a westbound left turn lane at the intersection of Otay Mesa Road/Street "C", satisfactory to the City Engineer. Subdivider may enter into a deferred improvement agreement with City of San Diego for this improvement.

85. Prior to the recordation of the first final map, subdivider shall assure by permit and bond, construction of a traffic signal at the intersection of Otay Mesa Road / Street "C", satisfactory to the City Engineer. Subdivider may enter into a deferred improvement agreement with City of San Diego for this improvement.

86. Prior to the recordation of the first final map, subdivider shall provide an Irrevocable Offer of Dedication (IOD) for half of the cul-de-sac on Lot 12 at the western end of Camino Maquiladora with 55-foot curb radius turn around within 65 feet of right-of-way, satisfactory to the City Engineer.

**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 section 66020.

APPROVED by the Council of the City of San Diego by Resolution No. R-298380 on September 16, 2003.

AUTHENTICATED BY THE CITY MANAGER

By \_\_\_\_\_

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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.

**Dr. Gerald Handler**  
Owner/Permittee

By \_\_\_\_\_

**NOTE: Notary acknowledgments  
must be attached per Civil Code  
section 1180 et seq.**



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

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

SPACE ABOVE THIS LINE FOR RECORDER'S USE

INTERNAL ORDER NUMBER: 23426720

**SIDE DEVELOPMENT PERMIT NO. 388242**  
**OTAY MESA EAST – PROJECT NO. 108628 [MMRP]**  
**EXTENSION OF TIME TO RESOURCE PROTECTION**  
**ORDINANCE PERMIT NO. 8163**  
**CITY COUNCIL**

This Site Development Permit No. 388242, an extension of time to Resource Protection Ordinance Permit No. 8163 pursuant to Project No. 3159, is granted by the City Council of the City of San Diego to GERALD HANDLER, Trustee of the Handler Trust UDT, Owner/Permittee pursuant to San Diego Municipal Code [SDMC] Sections 126.00504 (site development permit), and 126.0111 (extensions of time). The site is located in the 6100 block of Otay Mesa Road (temporarily addressed as 6175 Otay Mesa Road) west of Heritage Road, in the AR-1-1 Zone, which is proposed to be rezoned to the Commercial Zone in the Otay Mesa Development District, within the Otay Mesa Community Plan. The project site is legally described as Parcel A: Portion of the Northeast Quarter of the Northwest Quarter of Section 32, Township 18 South, Range 1 West, San Bernardino and Meridian, in the County of San Diego, State of California, according to the Official Plat thereof. Excepting therefrom the Northerly 40.00 feet (“Otay Mesa Road”) as described in that certain deed to the City of San Diego, A Municipal Corporation, filed in the Office of the County Recorder of said County May 27, 1983, as File No. 83-177720 of Official Records. Also excepting therefrom all that portion thereof taken by the State of California in that certain Final Order of Condemnation issued out of Superior Court Case No. 37-2008-0008061-CU-EI-CTL, a Certified Copy of which Recorded November 9, 2009, as File No. 2009-0624504, Official Records.

Parcel B: Portion of the Northeast Quarter of the Northwest Quarter of Section 32, Township 18 South, Range 1 West, San Bernardino and Meridian, in the County of San Diego, State of California, according to the Official Plat thereof. Excepting therefrom the Northerly 40.00 feet (“Otay Mesa Road”) as described in that certain deed to the City of San Diego, A Municipal Corporation, filed in the Office of the County Recorder of said County May 27, 1983, as File No. 83-177720 of Official Records. Also excepting therefrom all that portion thereof taken by the State of California in that certain Final Order of Condemnation issued out of Superior Court Case No. 37-2008-0008061-CU-EI-CTL, a Certified Copy of which Recorded November 9, 2009, as File No. 2009-0624504, Official Records. Also excepting therefrom all

that portion thereof described deeded to the State of California Recorded February 2, 2010, as File No. 2010-00054943, Official Record.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner /Permittee for the development of approximately 21.35-acres of the 45.5-acre vacant site into commercial lots and open space that are consistent with the OMDD-C Zone for commercial lots, described as, and identified by size, dimension, quantity, type and location on the approved Exhibits "A," not including that portion of the property acquired by the California Department of Transportation (Caltrans) through condemnation, dated \_\_\_\_\_, on file in the Office of the Development Services Department.

The project or facility shall include:

- a. Five commercial use lots (Lots 1-5); one open space lot (Lots B); construction of a private underground sewer pump station located adjacent to Street B (Formally Lot 11); private road (Lot A);
- b. 7.4-acres to be designated as open space (Lots B), including a fenced preserve for 22 existing vernal pools (this lot is not required mitigation for the project related impacts to vernal pools);
- c. Landscaping (planting, irrigation and landscape related improvements); and
- d. Accessory improvements determined by the City Manager 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 Municipal Code in effect for this site.

**STANDARD REQUIREMENTS:**

1. Construction, grading or demolition must commence and be pursued in a diligent manner within thirty-six months after the effective date of final approval by the City, following all appeals. Failure to utilize the permit within thirty-six months will automatically void the permit unless an Extension of Time has been granted. Any such Extension of Time must meet all the SDMC requirements and applicable guidelines in effect 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 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. 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 City Manager.

4. This permit is a covenant running with the subject property and shall be binding upon the 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 utilization and continued use of this permit shall be subject to the regulations of this and any other applicable governmental agencies.
6. Issuance of this permit by the City of San Diego does not authorize the applicant for said permit 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 U.S.C. Section 1531 et seq.)
7. The Owner/Permittee shall secure all necessary building permits. The applicant is informed that to secure these permits, substantial modifications to the building and/or site improvements to comply with applicable building, fire, mechanical and plumbing codes and State law requiring access for disabled people may be required.
8. Before issuance of any building or grading permits, complete grading and working drawings shall be submitted to the City Manager for approval. Plans shall be in substantial conformity to Exhibit "A," on file in the Office of the Development Services Department. No change, modifications or alterations shall be made unless appropriate applications or amendment of this permit shall 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 discretionary 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 special rights which the holder of the Permit is obtaining as a result of this Permit. It is the intent of the City that the Owner of the property which is the subject of this Permit either utilize the property for any use allowed under the zoning and other restrictions which apply to the property or, in the alternative, that the Owner of the property be allowed the special and extraordinary rights conveyed by this Permit, but only if the Owner complies with all the conditions of the 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" conditions(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 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. Prior to issuance of any grading permits for this project, a final subdivision map shall be recorded on the subject property.
11. Rezoning of the subject property shall become effective with recordation of the corresponding final subdivision map for the project site.

12. 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 Exhibits "A," on file in the Office of the Development Services Department).

**ENVIRONMENTAL/MITIGATION REQUIREMENTS:**

13. The applicant shall comply with the Mitigation, Monitoring and Reporting Program (MMRP) as specified in Environmental Impact Report or Mitigated Negative Declaration, Project No. 3159, satisfactory to the City Manager and the City Engineer. Prior to issuance of any grading permits and/or building permits, mitigation measures as specifically outlined in the MMRP shall be implemented for Land Use/Biological Resources/Historical Resources (Archaeology)/Water Quality.

**PLANNING/DESIGN REQUIREMENTS:**

14. Hillside and environmentally sensitive lands that are undisturbed or restored as a result of the development must be conserved through a deed restriction, open space easement or other restriction that will preclude any future development or grading of such lands. The restriction must be acceptable to the City Attorney and to the Development Services Director.

15. There shall be compliance with the regulations of the underlying zone(s) unless a deviation or variance to a specific regulation(s) is approved or granted as condition of approval of this permit. Where there is a conflict between a condition (including exhibits) of this permit and a regulation of the underlying zone, the regulation shall prevail unless the condition provides for a deviation or variance from the regulations. Where a condition (including exhibits) of this permit establishes a provision which is more restrictive than the corresponding regulation of the underlying zone, then the condition shall prevail.

16. The height(s) of the building(s) or structure(s) shall not exceed those heights set forth in the conditions and the exhibits (including, but not limited to, elevations and cross sections) or the maximum permitted building height of the underlying zone, whichever is lower, unless a deviation or variance to the height limit has been granted as a specific condition of this Permit.

17. A topographical survey conforming to the provisions of the Land Development Code 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 Permittee.

18. Any future requested amendment to this permit shall be reviewed for compliance with the regulations of the underlying zone(s) which are in effect on the date of the submittal of the requested amendment.

19. All signage associated with this development shall be consistent with sign criteria established by either of the following:

- a. Approved project sign plan (Exhibit "A," on file in the Office of the Development Services Department); or
- b. Citywide sign regulations.

20. 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.
21. The use of textured or enhanced paving shall meet applicable City standards as to location, noise and friction values.
22. The subject property and associated common areas on site shall be maintained in a neat and orderly fashion at all times.
23. All uses, except storage and loading, shall be conducted entirely within an enclosed building. Outdoor storage of merchandise, material and equipment is permitted in any required interior side or rear yard, provided the storage area is completely enclosed by walls, fences or a combination thereof. Walls or fences shall be solid and not less than six feet in height and, provided further, that no merchandise, material or equipment stored not higher than any adjacent wall.
24. No merchandise, material or equipment shall be stored on the roof of any building.
25. No mechanical equipment shall be erected, constructed, or enlarged on the roof of any building on this site, unless all such equipment is contained within a completely enclosed architecturally integrated structure.
26. Prior to the issuance of building permits, construction documents shall fully illustrate compliance with the Citywide Refuse and Recyclable Materials Storage Regulations (Land Development Code Section 142.0801) to the satisfaction of the City Manager. All exterior storage enclosures for trash and recyclable materials shall be located in a manner that is convenient and accessible to all occupants of and service providers to the project, in substantial conformance with the conceptual site plan marked Exhibit(s) "A," on file in the Office of the Development Services Department.

**LANDSCAPE REQUIREMENTS:**

27. No change, modification or alteration shall be made to the project unless appropriate application or amendment of this Permit has been granted by the City. All plan specifications and notes mentioned in the conditions below shall be consistent with the Land Development Code, Section 142.0401 and Landscape Standards, Exhibit "A," Landscape Development Plan, Brush Management Plan, Details and Notes on file in the Office of the Development Services Department.
28. All required landscape plant materials shall be maintained 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.
29. The Permittee or subsequent Owner shall be responsible for the maintenance of all street trees and landscape improvements (right-of-way and median landscaping) consistent with the Landscape Standards.
30. The Permittee or subsequent Owner shall be responsible for the maintenance of all street trees and landscape improvements (right-of-way and median landscaping) consistent with the Landscape Standards. A Landscape Maintenance Agreement and bond shall be entered into prior to issuance of any grading or construction permit. The agreement and bond shall be renewed

each year until such time that another approved entity assumes responsibility such as a home owners association or a Landscape Maintenance District.

31. If any required landscape improvements (including existing or new planting, hardscape, landscape features, etc.) are damaged or removed during demolition or construction, they shall be repaired and/or replaced in kind and equivalent size per the approved documents to the satisfaction of the City Manager, within 30 days of damage and prior to any Certificate of Occupancy.

32. Prior to the issuance of any engineering permits for grading or improvement the Permittee shall complete a Maintenance Assessment District Agreement form for early confirmation.

33. In the event that a foundation only permit is requested by the Permittee or subsequent Owner, a site plan or staking layout plan shall be submitted identifying all landscape areas consistent with Exhibit "A," Landscape Development Plan, on file in the Office of Development Services Department. These landscape areas shall be clearly identified with a distinct symbol, noted with dimensions and labeled as landscaping area.

34. In the event that any mass grading permit is requested by the Permittee or subsequent Owner, complete landscape construction documents for revegetation and erosion control, including an automatic permanent irrigation system, shall be submitted to the Development Services Department, Land Development Review Section for approval. The plans shall be in substantial conformance to Exhibit "A," on file in the office of the Development Services Department.

35. Prior to issuance of any construction permits for structures (including shell), complete landscape and irrigation construction documents consistent with the Landscape Standards (including planting and irrigation plans, details and specifications) shall be submitted to the City Manager for approval. The construction documents shall be in substantial conformance with Exhibit "A," Landscape Development Plan, on file in the Office of Development Services Department.

36. In the event that any construction permit for parking structures is requested, the Permittee or subsequent Owner shall submit on the planting and irrigation plans a signed statement by a Registered Structural Engineer indicating that supporting structures are designed to accommodate the necessary structural loads and associated planting and irrigation.

37. Prior to issuance of any engineering permits for right-of-way improvements, complete landscape construction documents for right-of-way improvements shall be submitted to the City Manager for approval. Improvement plans shall take into account a 40 square feet 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.

38. Prior to issuance of any engineering permits for private drive improvements, complete landscape construction documents for private drive improvements shall be submitted to the City Manager for approval. Improvement plans shall take into account a 40 square feet 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.

39. Prior to issuance of any engineering permits for grading, construction documents for slope planting (if applicable) or revegetation including hydroseeding and irrigation shall be submitted in accordance with the Landscape Standards and to the satisfaction of the City Manager. All plans shall be in substantial conformance with Exhibit "A," (including Environmental conditions) on file in the Office of Development Service Department.

40. Installation of slope planting and erosion control including seeding of all disturbed land (slopes and pads) consistent with the approved landscape and grading plans is considered to be in the public interest. The Permittee shall initiate such measures as soon as the grading has been accomplished. Such erosion control/slope planting and the associated irrigation systems (temporary and/or permanent) and appurtenances shall be installed in accordance with the approved plans and the Landscape Standards.

41. Prior to issuance of any Certificate of Occupancy, it shall be the responsibility of the Permittee or subsequent Owner to install all required landscape and obtain all required landscape inspections. A No Fee Street Tree Permit, if applicable, shall be obtained for the installation, establishment and on-going maintenance of all street trees.

42. Prior to the recording of the (parcel/final map), the Permittee or subsequent Owner/Developer shall submit for review, a Landscape Maintenance Agreement for all landscape improvements within and visible from the public right-of-way. The approved Landscape Maintenance Agreement shall be recorded and bonded prior to recording of the (parcel/final map).

43. The Permittee or subsequent Owner(s) shall be responsible for the installation and maintenance of all landscape improvements consistent with the Landscape Regulation and Landscape Standards. Invasive species are prohibited from being planted adjacent to any canyon, water course, wet land or native habitats within the city limits of San Diego as noted in Section 1.3 of the Landscape Standards.

**ENGINEERING REQUIREMENTS:**

44. Grading permit, post-construction BMP's based on the Water Quality Technical Report, improvements to the right-of-way for tow (2) streets, detention basins, flood water storage easements, NPDES Permit, 1911 waiver for future Otay-Mesa-wide drainage improvements, inter alia.

45. The Site Development Permit No. 388242 shall comply with the conditions of the Final Map for Vesting Tentative Map No. 362532.

**TRANSPORTATION REQUIREMENTS:**

46. Prior to the recordation of first final map, Subdivider shall relinquish access rights along project frontage on Otay Mesa Road, satisfactory to the City Engineer.

47. Prior to the recordation of the first final map, Subdivider shall assure by permit and bond, construction of Street "B" with 64 feet curb to curb within 84 feet right-of-way including curb, gutter and 5-foot sidewalk within 10-foot curb to property line distance on both sides of the street

with 55-foot curb radius cul-de-sac turnaround at the southern end, satisfactory to the city Engineer.

48. Prior to the recordation of the first final map, Subdivider shall assure by permit and bond, construction of Street "B" within 200 feet of its intersection with Otay Mesa Road with 72 feet of curb to curb pavement (18-foot southbound lane, 4-foot raised center median, two 12-foot northbound left turn lanes, 12-foot northbound through lane, 14-foot northbound right turn lane) within 92 feet of right-of-way including curb, gutter and 5-foot sidewalk within 10-foot curb to property line distance on both sides of the street transiting to a 64 feet curb to curb width within 84 feet right-of-way with 55-foot curb radius cul-de-sac turnaround at the southern end within 65 feet right-of-way, satisfactory to the City Engineer.

49. Prior to the recordation of the first final map, Subdivider shall assure by permit and bond, construction of a second left turn lane on Otay Mesa Road at its intersection with Street "B," satisfactory to the City Engineer.

50. Prior to the recordation of the first final map, Subdivider shall assure by permit and bond, construction of an eastbound exclusive right turn lane with 500-feet of storage and proper transition on Otay Mesa Road at its intersections with Street "B," satisfactory to the City Engineer.

51. Prior to the recordation of the first final map, Subdivider shall assure by permit and bond, construction of private Street "A" between Street "B" and Street "C" with 50 feet of pavement within 70 feet of private general utility easement with curb, gutter and 5-foot sidewalk on both sides of the street and raised center median at both ends of the streets within 200 feet of intersection with Street "B" and Street "C," satisfactory to the City Engineer.

52. Prior to the recordation of the first final map, Subdivider shall assure by permit and bond, construction of half width of Street "C" including 30 feet of pavement, curb, gutter and 5-foot sidewalk within 10-foot curb to property line distance with 55-foot curb radius cul-de-sac turnaround at the southern end, satisfactory to the City Engineer.

53. Prior to the recordation of the first final map, Subdivider shall assure by permit and bond construction of a eastbound exclusive right turn lane with 200 feet of storage and proper transition on Otay Mesa Road at its intersection with Street "C," satisfactory to the City Engineer.

54. Prior to the recordation of the first final map, Subdivider shall assure by permit and bond, construction of second eastbound left turn lane and one exclusive westbound right turn lane at the intersection of Otay Mesa Road/Ocean View Hills Parkway, satisfactory to the City Engineer.

55. Prior to the recordation of the first final map, Subdivider shall assure by permit and bond, construction of second westbound left turn lane at the intersection of Otay Mesa Road/Ocean View Hills Parkway, satisfactory to the City Engineer. Subdivider may enter into a deferred improvement agreement with City of San Diego for this improvement.

56. Prior to the recordation of the first final map, Subdivider shall assure by permit and bond, construction of the second half (western half) of Street "C" to provide 60 feet of pavement, curb, gutter and 5-foot sidewalk within 10-foot curb to property line distance on the west side,



satisfactory to the City Engineer. Subdivider may enter into a deferred improvement agreement with City of San Diego for this improvement.

57. Prior to the recordation of the first final map, Subdivider shall assure by permit and bond, construction of a westbound left turn lane at the intersection of Otay Mesa Road/Street "C," satisfactory to the City Engineer. Subdivider may enter into a deferred improvement agreement with City of San Diego for this improvement.

58. Prior to the recordation of the first final map, Subdivider shall assure by permit and bond, construction of a traffic signal at the intersection of Otay Mesa Road / Street "C," satisfactory to the City Engineer. Subdivider may enter into a deferred improvement agreement with City of San Diego for this improvement.

59. Prior to the recordation of the first final map, Subdivider shall provide an Irrevocable Offer of Dedication (IOD) for half of the cul-de-sac on Lot 12 at the western end of Camino Maquiladora with 55-foot curb radius turn around within 65 feet of right-of-way, satisfactory to the City Engineer.

**WASTEWATER REQUIREMENTS:**

60. The developer shall construct the Otay Mesa Trunk Sewer Phase II or enter into a development agreement to pay their fair share cost of the trunk sewer in proportion to the ultimate zoned use of the property being developed, in accordance with the City's Sewer Design Guide.

61. The developer shall install all sewer facilities required by the accepted sewer study, necessary to serve this development. Sewer facilities as shown on the approved tentative map will require modification based on the accepted sewer study.

62. The developer shall design and construct all proposed public sewer facilities to the most current edition of the City of San Diego's sewer design guide. Proposed facilities that do not meet the current standards shall be re-designed.

63. The developer shall design and construct all proposed private sewer facilities serving more than one lot to the most current edition of the City of San Diego's sewer design guide. Improvement drawings are required for private sewer facilities serving more than one lot.

64. Prior to the issuance of any building permits, the applicant shall process and record a NOTICE & AGREEMENT for each ownership being served by a private pump station/sewer facilities which serves more than one ownership, which indemnifies the City and contains an agreement that the applicant, and successors in interest, will be responsible for the operation and maintenance of the private sewer systems.

65. The developer shall obtain a building permit for any private pump station serving a condominium project or more than one lot.

66. The developer shall provide, satisfactory to the Metropolitan Wastewater Department Director, CC&R's for the operation and maintenance of on-site private sewer facilities that serve more than one lot.

67. No structures or landscaping, including private sewer facilities and enhanced paving, shall be installed in or over any easement or street right-of-way prior to the applicant obtaining an Encroachment Maintenance and Removal Agreement.

68. Providing sewer for this development is dependent upon prior construction of certain portions of the Otay Mesa Trunk Sewer Phase II. If they have not been constructed when required for this development, then the construction of certain portions of these sewer facilities, as required by the City Engineer, will become off-site improvements required for this development.

**MULTIPLE SPECIES CONSERVATION PROGRAM (MSCP) REQUIREMENTS:**

69. In accordance with authorization granted to the City of San Diego from the United States Fish and Wildlife Service (USFWS) pursuant to Section 10(a) of the ESA and by the California Department of Fish and Game (CDFG) pursuant to Fish and Game Code section 2835 as part of the Multiple Species Conservation Program (MSCP), the City of San Diego through the issuance of this Permit hereby confers upon Permittee the status of Third Party Beneficiary as provided for in Section 17 of the City of San Diego Implementing Agreement (IA), executed on July 17, 1997 and on File in the Office of the City Clerk as Document No. 00-18394. Third Party Beneficiary status is conferred upon Permittee by the City: (1) to grant Permittee the legal standing and legal right to utilize the take authorizations granted to the City pursuant to the MSCP within the context of those limitations imposed under this Permit and the IA, and (2) to assure Permittee that no existing mitigation obligation imposed by the City of San Diego pursuant to this Permit shall be altered in the future by the City of San Diego, USFWS or CDFG, except in the limited circumstances described in Sections 9.6 and 9.7 of the IA.

If mitigation lands are identified but not yet dedicated or preserved in perpetuity, maintenance and continued recognition of Third Party Beneficiary status by the City is contingent upon Permittee maintaining the biological values of any and all lands committed for mitigation pursuant to this Permit and of full satisfaction by Permittee of mitigation obligations required by this Permit, as described in accordance with Section 17.1D of the IA.

70. The applicant shall comply with the Mitigation, Monitoring and Reporting Program (MMRP) as specified in the Environmental Documentation for the "Otay Mesa East Project" (Project No. 3159, SCH No. 2003051060), satisfactory to the City Manager and the City Engineer, for the following issues areas to ensure compliance with the MSCP and MHPA Land Use Adjacency Guidelines: Land Use, Biological Resources and Water Quality.

In addition, the following conditions shall apply:

Operational Noise: Prior to issuance of any building occupancy permits, the sewer pump station proposed adjacent to the existing Otay Mesa Road wildlife under crossing shall be constructed, to the satisfaction of the City Manager and City Engineer, to ensure that operational noise does not impact wildlife movement, including: 1) designing the facility below-ground; 2) encasing it in concrete; 3) providing perimeter berms and native screening vegetation; and, 4) shielding/directing all necessary lighting away from the MHPA.

Edge Treatment: Prior to issuance of any building occupancy permits, the applicant shall construct a six-foot-high black vinyl-coated chain link fence along areas adjacent to the MHPA, including the rear of proposed Lots 6, 7 and 8, satisfactory to the City Manager and the City Engineer. The fencing shall be appropriately maintained at all times by the owner/Permittee/trustee. Any necessary future fence repairs shall be conducted in a manner which does not result in impacts to sensitive biology resource or wildlife movement.

Drainage: Prior to recordation of the first final map and/or issuance of any grading permits, the City Manager and City Engineer shall verify that on-site drainage for all lots, including proposed Lot No. 8, is designed to avoid discharging into the on-site vernal pool watershed areas.

71. Prior to recordation of the first final map and/or issuance of any grading permits, the on-site MHPA shall be conserved and conveyed to the City's MHPA through either dedication in fee to the City, OR covenant of easement, which is then recorded on the property. All other areas could be conveyed through any of the two above methods. Management of the on-site preserved MHPA shall be the responsibility of the owner/Permittee/trustee in perpetuity, unless the City accepts responsibility through dedication in fee title. \*Note: Any proposed dedication of land in-fee to the City outside the MHPA would require approval from the Park and Recreation Department.

**INFORMATION ONLY:**

Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of this development permit/vesting tentative map, may protest the decision within 90 days of the approval of this development permit/vesting tentative map by filing a written protest with the City Clerk pursuant to California Government Code 66020.

APPROVED by the City Council of the City of San Diego on \_\_\_\_\_, and  
Resolution Number \_\_\_\_\_.

AUTHENTICATED BY THE CITY MANAGER

By \_\_\_\_\_

---

**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.

**Handler Trust UDT**  
Owner/Permittee

By \_\_\_\_\_  
GERALD HANDLER  
Trustee of the Handler Trust UDT

**NOTE: Notary acknowledgments  
must be attached per Civil Code  
section 1180 et seq.**

**Rezone Ordinance**

(O-INSERT~)

ORDINANCE NUMBER O-\_\_\_\_\_ (NEW SERIES)

ADOPTED ON

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SAN DIEGO CHANGING PROPERTY LOCATED IN THE 6600 BLOCK OF OTAY MESA ROAD IN THE OTAY MESA COMMUNITY PLAN AREA, IN THE CITY OF SAN DIEGO, CALIFORNIA, FROM THE AR-1-1 ZONE (PREVIOUSLY REFERRED TO AS THE A-1-10 ZONE INTO THE OMDD-C ZONE, AS DEFINED BY SAN DIEGO MUNICIPAL CODE SECTION 103.1103(a); AND REPEALING ORDINANCE NO. 10862 (NEW SERIES), ADOPTED JULY 29, 1972, AND REPEALING ORDINANCE NO. O-19216 (NEW SERIES), ADOPTED ON SEPTEMBER 29, 2003, OF THE ORDINANCES OF THE CITY OF SAN DIEGO INsofar AS THE SAME CONFLICTS HEREWITH.

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

Section 1. The 45.5-acres, located in the 6100 block of Otay Mesa Road (temporarily addressed as 6175 Otay Mesa Road) west of Heritage Road, and legally described as the northeast quarter of the northwest quarter of Section 32, Township 18 South, Range 1 West, San Bernardino base and meridian, in the County of San Diego, State of California, according to the official plat thereof and the west quarter of the northwest quarter of Section 32, Township 18 South, Range 1 West, San Bernardino base and meridian, in the County of San Diego, in the Otay Mesa Community Plan area, in the City of San Diego, California, from the AR-1-1 Zones (previously referred to as the A-1-10 Zone) to the Otay Mesa Development District (OMDD)-Commercial(C) Zone, as shown on Zone Map Drawing No. C-919, the property is subdivided and a map or maps thereof duly submitted to the City, approved by the City, shall become applicable to the subdivided land, and the subdivided land shall be incorporated into the OMDD-

C Zone, as described and defined by Section 103.1103(a) the boundary of such zone to be as indicated on Zone Map Drawing No. B-4246 (portion of C-919), filed in the office of the City Clerk as Document No. OO-\_\_\_\_\_. The zoning shall attach only to those areas included in the map as provided in this section.

Section 2. That in the event the zoning restrictions shall attach to the said land described in Section 1 of this ordinance, Ordinance No. 10862 (New Series), adopted July 29, 1972, and repealing Ordinance No. O-19216 (New Series), adopted on September 29, 2003, are repealed insofar as it conflicts with the rezoned use of the land.

Section 3. That a full reading of this ordinance is dispensed with prior to its final passage, a written or printed copy having been available to the City Council and the public a day prior to its final passage.

Section 4. This ordinance shall take effect and be in force on the thirtieth day from and after its passage, and no building permits for development inconsistent with the provisions of this ordinance shall be issued unless application therefore was made prior to the date of adoption of this ordinance.

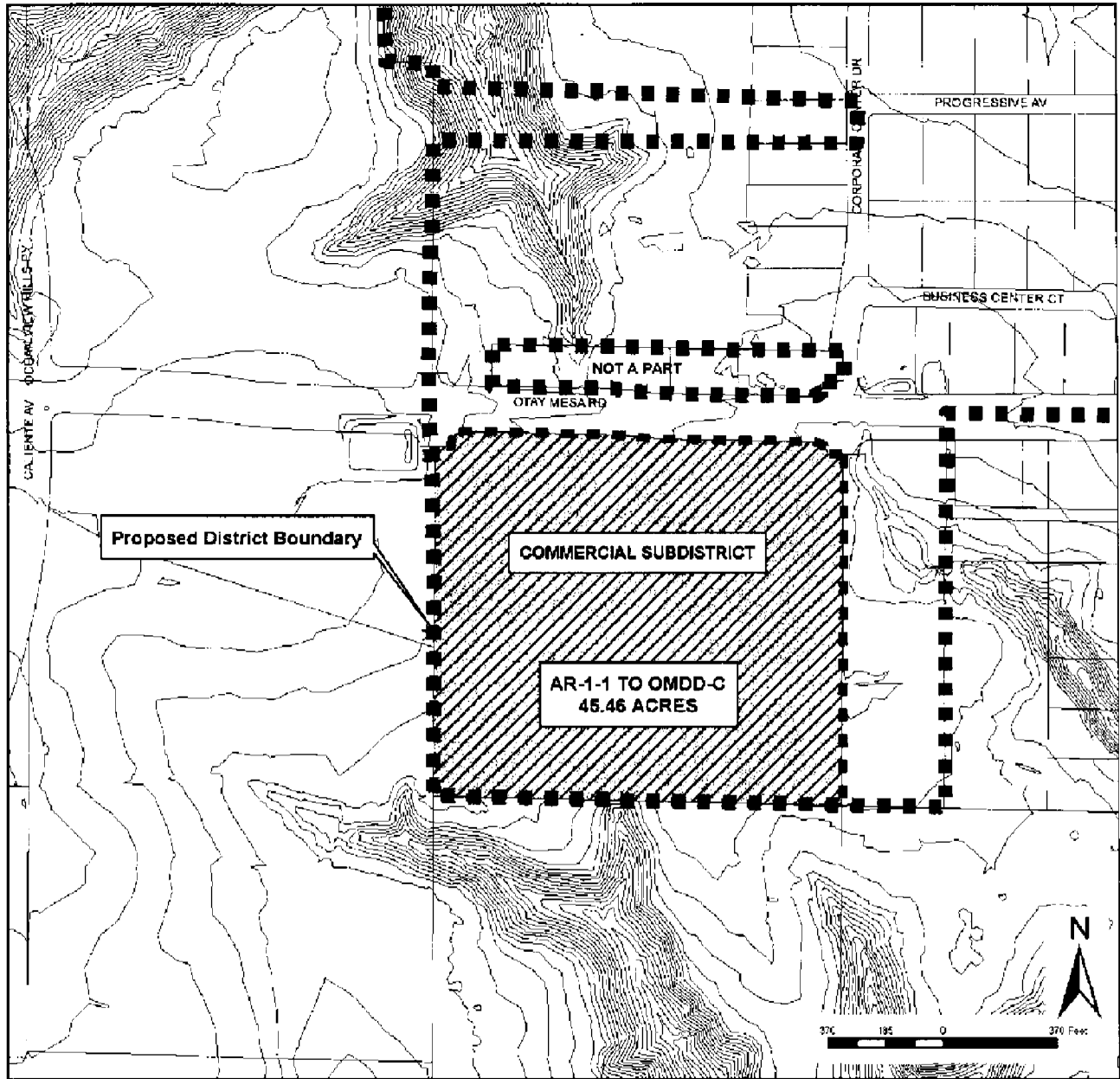
APPROVED: JAN GOLDSMITH, City Attorney

By \_\_\_\_\_  
Attorney name  
Deputy City Attorney

Initials~  
Date~  
Or.Dept: INSERT~  
Case No.INSERT PROJECT NUMBER~  
O-INSERT~  
Form=inloto.frm(61203wct)

ATTACHMENT: Zone Map Drawing No. B-4246

CITY OF SAN DIEGO • DEVELOPMENT SERVICES  
**PROPOSED REZONING**



<b>Otay Mesa Development District REZONE &amp; Boundary Amendment</b>		<b>CASE NO. 42-6720</b>
ORDINANCE NO. _____	REQUEST OMDD-C / Boundary Change	
EFF. DATE ORD. _____	PLANNING COMM. RECOMMENDATION	DEVELOPMENT SERVICES MANAGER
ZONING SUBJ. TO _____	CITY COUNCIL ACTION	<b>B-4246</b> portion of C-919
BEFORE DATE _____		APN: 645-080-13 & 080-36
EFF. DATE ZONING _____		(145-1766) 10-12-06 LOJ
MAP NAME AND NO. _____		

PLANNING COMMISSION RESOLUTION NO. XXXX-PC  
RECOMMENDATION TO THE CITY COUNCIL APPROVAL OF VESTING  
TENTATIVE MAP NO. 362532, SITE DEVELOPMENT PERMIT NO. 388242,  
AND ADOPTION OF REZONE NO. 388241  
**OTAY MESA EAST - PROJECT NO. 108628 [MMRP]**

WHEREAS, on March 24, 2011, the Planning Commission of the City of San Diego held a public hearing for the purpose of considering and recommending of to the City Council of the City of San Diego approval and adoption of Vesting Tentative Map No. 362532, Site Development Permit No. 388242, and Rezone No. 388241; and

WHEREAS, GERALD HANDLER, Trustee of the Handler Trust UDT, Owner/Permittee, submitted an application with the City of San Diego for a Vesting Tentative Map, No. 362532, an extension of time to Vesting Tentative Map No. 8182 pursuant to Project No. 3159; Site Development Permit No. 388242, an extension of time to Resource Protection Ordinance Permit No. 8163; and Rezone No. 388241 to replace Rezone Ordinance No. O-19216 (New Series) which contained a three year time limit and since has expired.

WHEREAS, the Planning Commission of the City of San Diego has considered all maps, exhibits, and written documents contained in the file for this project on record in the City of San Diego, and has considered the oral presentations given at the public hearing;  
NOW THEREFORE,

BE IT RESOLVED, by the Planning Commission of the City of San Diego that it hereby recommends to the Council of the City of San Diego approval and adoption of the Otay Mesa East Extension of Time for Vesting Tentative Map No. 362532, Site Development Permit No. 388242, and Rezone No. 388241.

---

Jeffrey A. Peterson  
Development Project Manager  
Development Services Department

Dated March 24, 2011  
By a vote of: X:X:X



**OTAY MESA PLANNING GROUP  
MINUTES  
November 17, 2010**

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- 1.- **CALL TO ORDER AND INTRODUCTIONS:** The meeting was called to order by Chairman Rob Hixson at 3:10 p.m. and introductions were made across the room.

<b>MEMBERS PRESENT</b>	<b>ABSENT MEMBERS</b>
Jimmy Ayala	Steve Gross
Nici Boon	Hector Espinoza
Wayne Dickey	Lisa Golden
Shane Harmon	Manuel Paul
Rob Hixson	Javier Serhan
Chris Holder	
Mel Ingalls	
April Massarene	
Alejandra Mier y Teran	
Kaitlan Murphy	
Sarah Street	
Emil Wohl	

- 2.- **APPROVAL OF MINUTES:** April Massarene made the correction on Item No. 8, that John Laford was the presenter and not his assistant. After reading the October, 2010 Minutes for corrections, motion was made by April Massarene to approve them. Jimmy Ayala seconded it and they passed unanimously. The Minutes from September were not approved in October because of lack of quorum.
- 3.- **PUBLIC INPUT:** Chairman Hixson commented that Ben Hueso and Lourdes Jimenez will be moving to Sacramento due to this new appointment in the State Assembly and thanked Ms Jimenez for her help in these 10 months.
- 4.- **CHAIRMAN'S REPORT:** Chair Hixson reported on the following items received for this meeting but he had not brought them with him:
1. Report from the Planning Commission on Crown Castle
  2. Agenda for Land Use & Housing
  3. Bulleting from the SD County Regional Airport Authority
  4. Information on Recycling
- 5.- **GOVERNMENT LIAISON REPORTS**
- a. **COUNCILMAN HUESO'S OFFICE. - LOURDES JIMENEZ:** One more issue to tie up before leaving to Sacramento is to request an emergency action to clean up the drains at La Media and Airway, however, the Attorney's Office said it cannot be treated as an emergency action because of the Temporary Restraining Order issued for the Tijuana River Valley that stops all dredging and cleaning with this more pressing matter. Regarding the engineering plans for the La Media extension, a small step was taken internally with the Mayor's office and the Financial, Community and Engineering groups, the next step will be to have a formal meeting to further discuss it.
  - b. **MAYOR'S OFFICE. - THERESA MILLETTE:** No report given.
  - c. **SUPERVISOR COX'S OFFICE. -** No report given.
  - d. **ASSEMBLY MEMBER SALAS' OFFICE.-** No report given.

**OTAY MESA PLANNING GROUP  
MINUTES  
November 17, 2010**

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- e. **POLICE DEPARTMENT.-** No report given.
- f. **FIRE DEPARTMENT.-** No report given.

**6.- MONTHLY REPORTS**

- a. **CPC – MEL INGALLS.-** The medical marihuana dispensaries were approved and this might affect Otay Mesa as a representative of the City of San Diego spoke to the CPC Group with the approved items so far: location only in commercial and industrial zones, eliminate commercial neighborhoods, commercial zones must be without residential uses, provide an analysis of IL-3 and ILS zones, which include Otay Mesa among others. It will not allow collectives or cooperatives within 1,000 foot radius of schools, playgrounds, libraries, child care facilities, as well as parks and places of worship.
- b. **BORDER TRANSPORTATION – ALEJANDRA MIER Y TERAN:** There was a 905 Celebration for the opening of one section of the new State Route 905, expected to open December 1. The six-lane highway connects the Otay Mesa Port of Entry to Britannia Avenue. The second half of SR-905, slated to open in 2012, will continue the highway all the way to Interstate 805. A new interchange will also be constructed between I-805 and SR-905. Also, the Otay Truck Route Widening Project is nearing completion; it has been widened by 20 feet from Drucker Land to the Port of Entry and is near the final phase of construction. There was a Transportation Committee meeting focused on SR-11 and Otay II where they showed different alternatives that will be released in December and shared that the tolling will be north and south-bound, and are working to charge one toll and then the Mexican and U.S. Governments will distribute the funds, vs. the two different countries tolling and they confirmed that they will stage the project because of funds constraints.
- c. **COMMUNITY PLAN UPDATE –THERESA MILLETE:** The Community Plan Update will be reviewing the draft in January with a build out planned until 2030. TJ Otay Ventures met with the City because their timeline, a decision is being made for then not to be involved with the Community Plan Update but do a Community Plan Amendment to get their project in zinc with the Mexican side of the project.
- d. **FACILITIES FINANCING COMMITTEE.-** Part of the Community Plan Update.- No report given.
- e. **HEAVY INDUSTRIAL USE COMMITTEE –** Part of the Community Plan Update.- No report given.
- f. **SAN DIEGO AIRPORT ADVISORY COMMITTEE (AAC) – LISA GOLDEN:** Lisa was not at the Otay Mesa Planning Group Meeting. **NICCI BOON:** The electrical plan has been completed. The Master Plan is in review for comments but it is funded to start work in February.
- g. **CODE ENFORCEMENT – ROB HIXSON:** The work is in process and moving along.
- h. **CHAMBER UPDATE – ALEJANDRA MIER Y TERAN:** Working with the Environmental Health Coalition for the SDG&E Solar Initiative in order to try to work with property owners or warehouse owners that would be interested in putting a proposal together with a solar company to compete in the project, as we had not seen initiative in the past, this time is

**OTAY MESA PLANNING GROUP  
MINUTES  
November 17, 2010**

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that SDG&E will buy the energy from whoever organizes or coordinates the project so the cost benefit should be there. This would be a minimum of 1 megawatt project. Friday, December 3, Worksite Enforcement Regulations meeting at the Comfort Suites. Thursday, December 9 at Hometown Buffet a "Meet & Greet" councilmember elect David Alvarez plus member showcase and holiday breakfast.

- i. **EAST OTAY MESA PROPERTY OWNERS' ASSOCIATION UPDATE – ROB HIXSON:** Continuing to move along with all their issues.

7.- **ACTION ITEMS.**-

- A. **Princess Park I.O.D. Vacation** - Trying to vacate the road on a piece of property owned by Pardee and utilize the graded pad to develop the 45 units, it is a parcel that has been graded and mapped with street frontage to Otay Valley Road, Otay Mesa Road and designated as a family housing site. Asking the City to vacate the road to fully utilize the graded pad. Joe Street motioned to approve, Mel Ingalls seconded it and it was unanimously approved with Jimmy Ayala recusing himself.
- B. **Jeff Barfield, AICP - Vice President, Planning - RBF Consulting.** Presentation of the Handler Family Trust's 9 developable 2-acre lots, giving a brief summary of the project and its current status and request a recommendation for approval from the Group. It has a Tentative Map on Otay Mesa Road at Corporate Center Drive, east of Caliente and it was originally approved in 2003, however the Tentative Map was re-zoned from the A110 to the Commercial Zone in the Otay Mesa Development District permit, went to the three years but didn't get final mapping until last part of 2006 and got approval, and just before going to the City Council a small vernal pool was located between this lot and Pardee's, which was then fully mitigated in the environmental documents, so there is some discussion as to how that period constitutes a moratorium but in any event, with an extension of time given at least through 2011 or further than that. We ask for your recommendation of approval to move on. Jimmy Ayala motioned to recommend the extension with Nicci Boon seconding it. It was unanimously approved.
- C. **Verizon – Verizon Wireless Land Use Renewal Project No. 149313 Adesa Location CUP** - Asking for recommendation for 10-years with a 5-year review for visual mitigation with landscaping to be installed within 60 days. All four adjacent parcels are under the same ownership and are leased for 18 or more years as a 78-acre auto auction land use, where the Project Site is dead centered in the middle and surrounded by 13 year old Eucalyptus trees and are working with property owner to see if we can plant additional trees along the northern edge of the property. Jimmy Ayala motioned to approve with Mel Ingalls seconding the motion and it was unanimously approved.

- 8.- **INFORMATIONAL ITEMS.**- No informational items.

- 9.- **ADJOURNMENT.**- The meeting was adjourned at 4:15 p.m.



City of San Diego  
 Development Services  
 1222 First Ave., MS-302  
 San Diego, CA 92101  
 (619) 446-5000

# Ownership Disclosure Statement

Approval Type: Check appropriate box for type of approval (s) requested:  Neighborhood Use Permit  Coastal Development Permit  
 Neighborhood Development Permit  Site Development Permit  Planned Development Permit  Conditional Use Permit  
 Variance  Tentative Map  Vesting Tentative Map  Map Waiver  Land Use Plan Amendment •  Other Extension of Time

Project Title

Otay Mesa East

Project No. For City Use Only

108628

Project Address:

Otay Mesa Road APN: 645-080-13 & 645-090-36

**Part I - To be completed when property is held by Individual(s)**

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 owner(s) and tenant(s) (if applicable) of the above referenced property. The list must include the names 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 individuals who own the property). A signature is required of at least one of the property owners. Attach additional pages if needed. A signature from the Assistant Executive Director of the San Diego Redevelopment Agency shall be required for all project parcels for which a Disposition and Development Agreement (DDA) has been approved / executed by the City Council. 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

Name of individual (type or print):

Dr. Gerald Handler

Owner  Tenant/Lessee  Redevelopment Agency

Street Address:

9523 La Jolla Farms

City/State/Zip:

La Jolla, CA 92037

Phone No:

(858) 452-2250

Fax No:

(858) 452-1527

Signature:

*Gerald Handler*

Date:

Name of Individual (type or print):

Owner  Tenant/Lessee  Redevelopment Agency

Street Address:

City/State/Zip:

Phone No:

Fax No:

Signature:

Date:

Name of Individual (type or print):

Owner  Tenant/Lessee  Redevelopment Agency

Street Address:

City/State/Zip:

Phone No:

Fax No:

Signature:

Date:

Name of Individual (type or print):

Owner  Tenant/Lessee  Redevelopment Agency

Street Address:

City/State/Zip:

Phone No:

Fax No:

Signature:

Date:

# **Report to the Planning Commission**

## **Report No. P-06-0279**

Attachment 15  
PC Report No. P-06-0279

### **Includes**

- Minutes of the Council of the City of San Diego for the Regular Meeting of Tuesday, September 16, 2003, Item No. 331, Subitem-A, Subitem-B, Subitem-C, Subitem-D, and Subitem-E (Page 12-16);
- Minutes of the Council of the City of San Diego for the Regular Meeting of Monday, September 29, 2003, Item No. 50, Subitem-A and Subitem-B (Page 7-8); and
- Planning Commission Report No. P-03-171



THE CITY OF SAN DIEGO

## REPORT TO THE PLANNING COMMISSION

Attachment 15  
PC Report No. P-06-0279

**DATE ISSUED:** November 2, 2006 **REPORT NO. PC-06-279**

**ATTENTION:** Planning Commission, Agenda of November 9, 2006

**SUBJECT:** OTAY MESA EAST EOT- PROJECT NO. 108628  
PROCESS 5

**REFERENCE:** Minutes of the Council of the City of San Diego for the Regular Meeting of Tuesday, September 16, 2003, Item No. 331, Subitem-A, Subitem-B, Subitem-C, Subitem-D, and Subitem-E (Page 12-16); Minutes of the Council of the City of San Diego for the Regular Meeting of Monday, September 29, 2003, Item No. 50, Subitem-A and Subitem-B (Page 7-8); and Planning Commission Report No. P-03-171 (Attachments 6 and 7)

**OWNER/  
APPLICANT:** Dr. Gerald Handler

### SUMMARY

**Issue:** Should the Planning Commission recommend to the City Council approval of an Extension of Time for the previously approved Otay Mesa East project on a vacant 45.5-acre site located in the 6600 Block of Otay Mesa Road in the Commercial Subdistrict of the Otay Mesa Development District within the Otay Mesa Community Planning area?

### Staff Recommendation:

1. Recommend to the City Council **Approval** of Vesting Tentative Map No. 362532, Site Development Permit No. 388242, and Rezone No. 388241.

**Community Planning Group Recommendation:** On September 20, 2006, the Otay Mesa Planning Committee voted 15-0-0 to recommend approval of the Extension of Time for the Otay Mesa East project with no conditions (Attachment 18).

**Environmental Review:** This activity is covered under the Otay Mesa East Mitigated Negative Declaration, Project No. 3159. The activity is adequately addressed in the environmental document and there is no change in circumstance, additional information, or project changes to warrant additional environmental review. The prior environmental documents adequately covered this activity as part of the previously approved project and

the activity in not a separate project for the purpose of California Environmental Quality Act (CEQA) review pursuant to CEQA Guidelines Section 15060(c)(3).

**Fiscal Impact Statement:** None with this action. All costs associated with the processing of this project are paid from a deposit account maintained by the applicant.

**Code Enforcement Impact:** None with this action.

**Housing Impact Statement:** None with this action. The proposed Otay Mesa East project would subdivide a vacant site with commercial lots for development consistent with the Otay Mesa Development District (OMDD)-C Zone for commercial uses.

## **BACKGROUND**

The 45.5-acre vacant site is located in the 6600 block of Otay Mesa Road between Caliente Avenue and Heritage Road (Attachment 1). The project site is zoned AR-1-1 (A-1-10, old code designation) within the Otay Mesa Development District (OMDD) and a land use designation for Specialized Commercial within the Otay Mesa Community Plan (Attachment 3). The site has been historically used for agricultural purposes. Approximately 5.82-acres of the site, at the northeast corner and southern portion of the property, lies within the Multiple Habitat Planning Area (MHPA). The site also contains an existing wildlife corridor in the northeast corner of the property and an existing six-foot wide wildlife underground tunnel, which is located under Otay Mesa Road at the intersection of Corporate Center Drive.

The Otay Mesa East project proposes to subdivide the site into nine commercial lots (Lots 1-8 and 12); three open space lots (Lots 9-10 and 13); construction of a private underground sewer pump station located at the northeast corner of the site (Lot 11); preservation of an existing 1.3-acre wildlife corridor; preservation of the MHPA; 6-acres would be designated as open space to protect the MHPA on the southern boundary of the site; and an additional 6-acres, on the eastern boundary of the project site, would also be designated as open spaces and includes a fenced preserve for 22 existing vernal pools and one road pool located in the southeast corner of the property (Attachment 5).

The originally approved project required the certification of a Mitigated Negative Declaration and the adoption of the Mitigation, Monitoring and Reporting Program (Resolution Number R-298378); adoption of a resolution granting Vesting Tentative Map No. 8182 (Resolution Number R-298379); adoption of a resolution granting Resource Protection Ordinance Permit No. 8163 (Resolution Number R-298380); adoption of an ordinance to rezone the property from AR-1-1 to the OMDD-C Zone (Ordinance No. O-19216-New Series); and the adoption of an ordinance to amend Chapter 10, Article 3, Division 11, of the San Diego Municipal Code (SDMC) by amending Section 103.1103 relating to permitted uses in the OMDD (Ordinance No. O-19217-New Series).

On July 17, 2003, the Planning Commission voted 6-0 to recommend to the City Council approval of the Otay Mesa East project. On September 16, 2003, the City Council approved the project in a vote 8-0 pursuant to Resolution Number R-298378, Resolution Number R-298379, Resolution Number R-298380; and introduced Ordinance Number O-19216 (New Series) and Ordinance

Number O-19217 (New Series) (Attachments 8-12). On September 29, 2003, the City Council adopted both Ordinances in a vote of 9-0.

**DISCUSSION**

On July 21, 2006, the property owner filed an application for an Extension of Time (EOT) prior to the expiration of the Vesting Tentative Map (VTM) and Resource Protection Ordinance Permit (RPO) for the proposed Otay Mesa East project. The property owner has not obtained any construction permits or processed a final map for the proposed development site. However, pursuant to the Municipal Code sections 125.0461(a)(1) and 126.0111(b), the timely filing of the extension of time request application automatically extended the VTM and RPO for a period of 60 calendar days from the expiration date or until a decision on the extension of time has been made, whichever occurs last.

Rezone Ordinance No. O-19216 (New Series) became effective on September 29, 2003, and required the property owner, within three years from the effective date, to subdivide the property and have final maps submitted to the City. There is not a similar extension of time for the Rezone Ordinance. Therefore, the Rezone Ordinance expired and a new rezone ordinance will need to accompany the VTM and RPO extension of time. The amendment to Chapter 10, Article 3, Division 11, of the SDMC by amending Section 103.1103 relating to permitted uses in the OMDD (Ordinance No. O-19217-New Series) has already been incorporated into the SDMC.

The original Otay Mesa East application was submitted and deemed complete on June 9, 1999, prior to the new code update that became effective on January 1, 2000. The project was approved based on the old zoning code regulations that were in affect; however, the project did incorporate the new storm water requirements prior to its approval and has been designed in accordance with the City's Storm Water Standards.

The Resource Protection Ordinance regulations have been replaced with the Environmental Sensitive Lands Regulation within the current SDMC, and a Site Development Permit (SDP) has replaced the RPO permit. Staff has reviewed both regulations and has determined that the proposed project meets the intent and purpose of both regulations to protect and preserve the environmentally sensitive lands and the viability of the species supported by those lands.

The extension of time application limits the City in its review. No new condition of modification of an existing condition may be attached to the approval of an extension, unless new conditions are mandated to comply with state or federal law or are necessary to protect the health or safety of the residents of the proposed subdivision or immediate community. The Otay Mesa East project as presented is the same project as approved by the City Council, and no new conditions are mandated to comply with state and federal law. Previous conditions of approval for the VTM and RPO permit have been included in the draft VTM No. 362532 and SDP No. 388242.

**Conclusion:**

The approval of the Extension of Time would allow the owner/developer an additional three years to develop the project. The Otay Mesa East project as presented is the same project as approved by the City Council. Staff has determined the required findings can be supported and no new

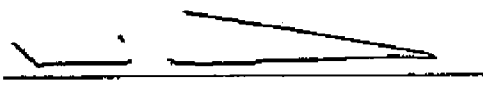


conditions are mandated to comply with state and federal law. Previous conditions of approval for the VTM and RPO permit have been included in the draft VTM No. 362532 and SDP No. 388242. Therefore, staff recommends that the Planning Commission recommend to the City Council approval of an Extension of Time for the previously approved Otay Mesa East project.

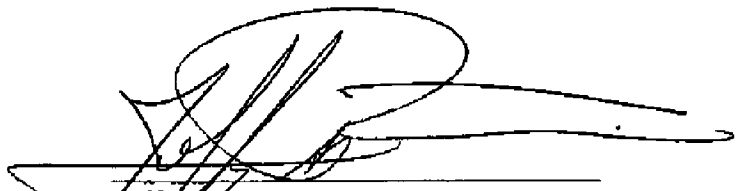
**ALTERNATIVE**

1. Recommend to the City Council to **Deny** Vesting Tentative Map No. 362532, Site Development Permit No. 388242, and Rezone No. 388241, if the findings required to approve the project cannot be affirmed.

Respectfully submitted,



Mike Westlake  
Program Manager  
Development Services Department

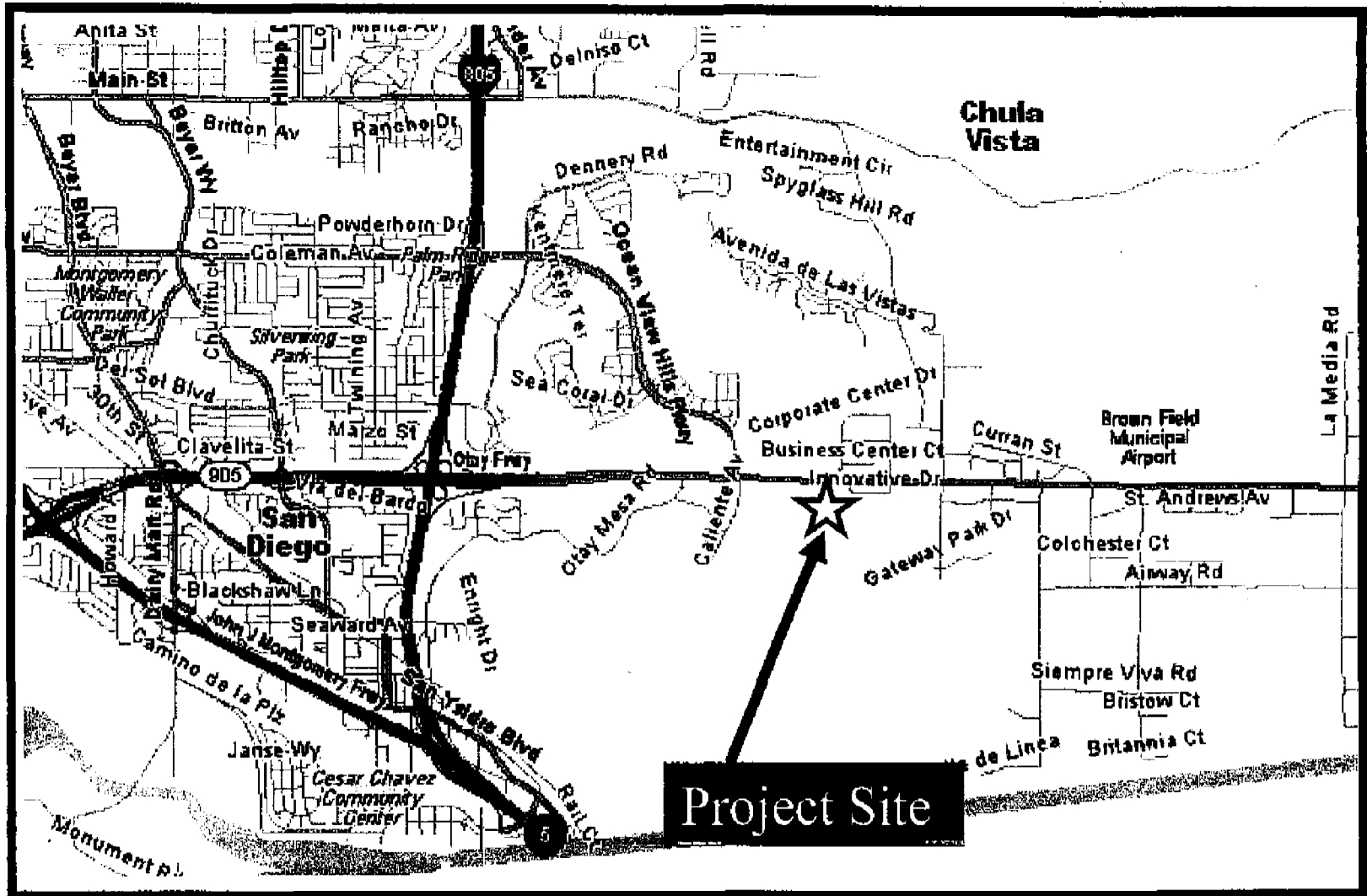


Jeffrey A. Peterson  
Development Project Manager  
Development Services Department

WESTLAKE /JAP

Attachments:

1. Project Location Map
2. Aerial Photograph
3. Community Plan Land Use Map
4. Project Data Sheet
5. Project Plans
6. City Council Minutes for September 16, 2003 and September 29, 2003
7. Planning Commission Report No. P-03-171
8. MND and the adoption of the MMRP (Resolution Number R-298378)
9. Vesting Tentative Map No. 8182 (Resolution Number R-298379)
10. Resource Protection Ordinance Permit No. 8163 (Resolution Number R-298380)
11. Resource Protection Ordinance Permit No. 8163 with Conditions
12. Rezone Ordinance No. O-19216 (New Series)
13. Draft Vesting Tentative Map Conditions and Subdivision Resolution
14. Draft Site Development Permit Resolution with Findings
15. Draft Site Development Permit with Conditions
16. Draft Rezone Ordinances and Exhibit
17. Draft Planning Commission Resolution
18. Community Planning Group Recommendation
19. Ownership Disclosure Statement
20. Project Chronology

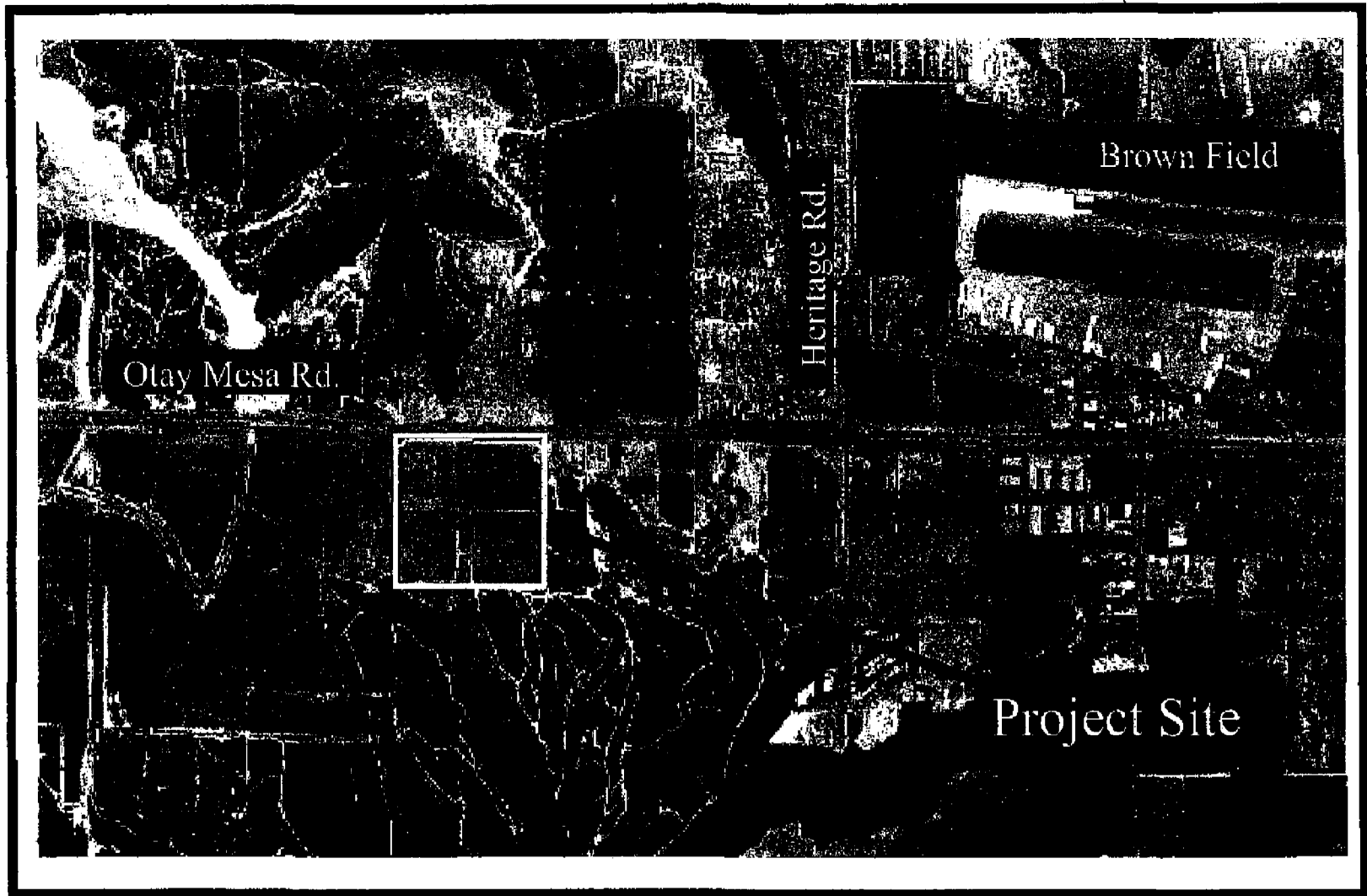


## Location Map

**OTAY MESA EAST EOT - PROJECT NO. 108628**  
 660 Block of Otay Mesa Road

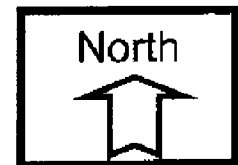


ATTACHMENT 1

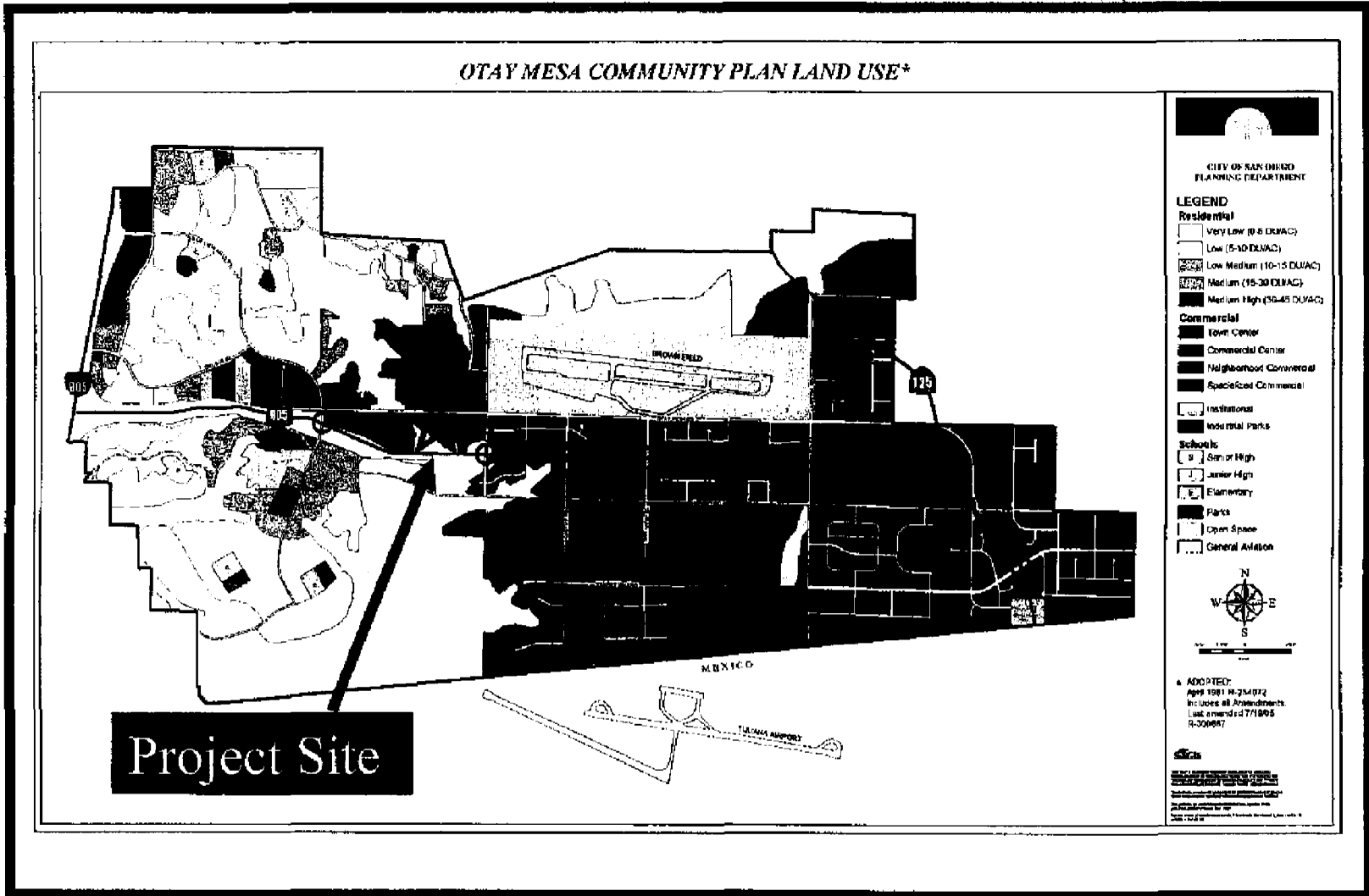


## Aerial Photo (1999)

**OTAY MESA EAST EOT - PROJECT NO. 108628**  
**660 Block of Otay Mesa Road**



ATTACHMENT 2



# Otay Mesa Community Plan Land Use Map

**OTAY MESA EAST EOT - PROJECT NO. 108628**

660 Block of Otay Mesa Road



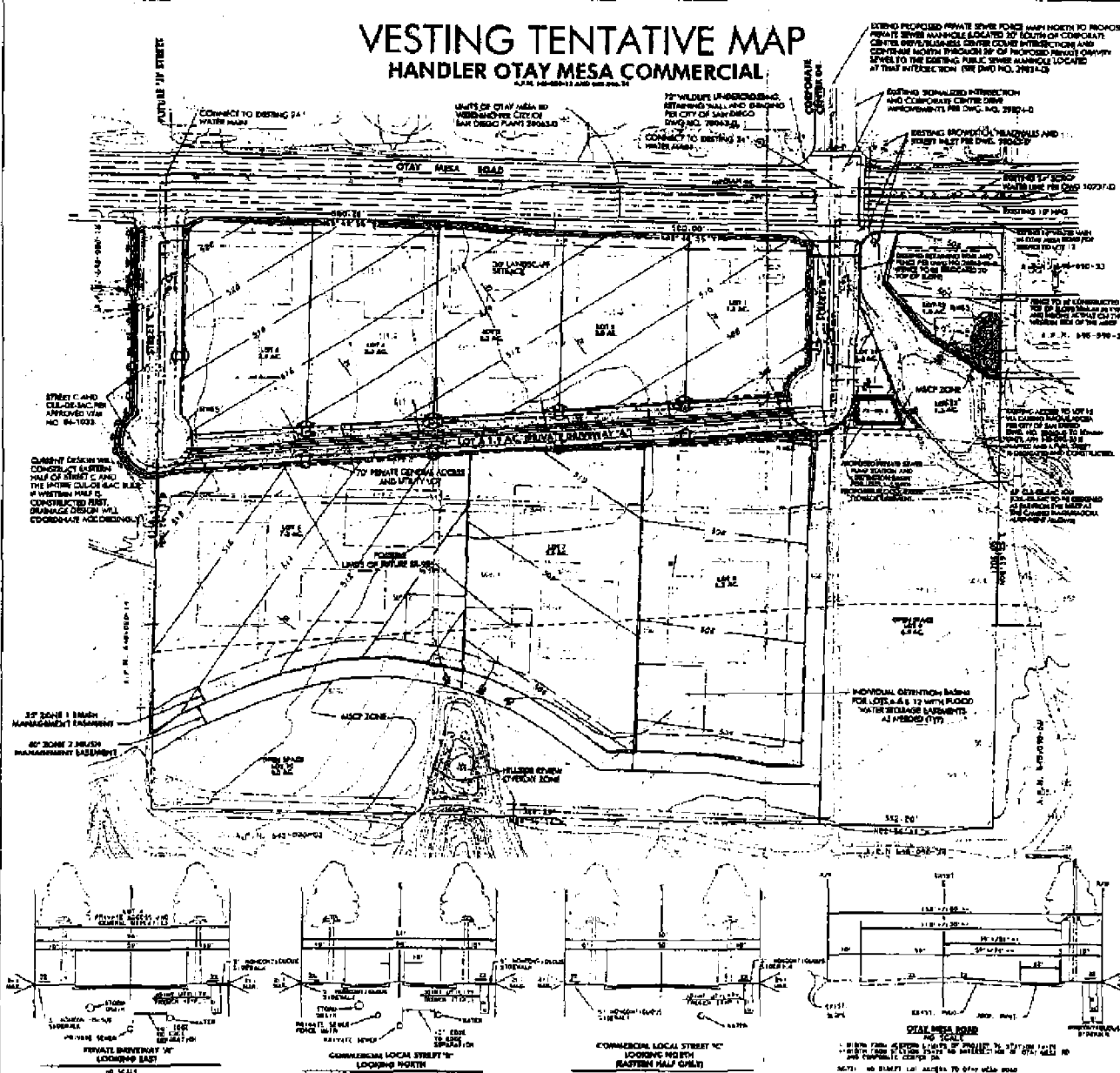
ATTACHMENT 3

## PROJECT DATA SHEET

<b>PROJECT NAME:</b>	Otay Mesa East EOT - Project No. 108628	
<b>PROJECT DESCRIPTION:</b>	An Extension of Time for the previously approved Otay Mesa East project on a vacant 45.5-acre located in the 6600 Block of Otay Mesa Road	
<b>COMMUNITY PLAN AREA:</b>	Otay Mesa	
<b>DISCRETIONARY ACTIONS:</b>	Vesting Tentative Map, Site Development Permit, and Rezone	
<b>COMMUNITY PLAN LAND USE DESIGNATION:</b>	Specialized Commercial	
<b><u>ZONING INFORMATION:</u></b>		
	<b><u>Existing/Required</u></b>	<b><u>Proposed</u></b>
<b>ZONE:</b>	AR-1-1(Formerly A-1-10)	OMDD-C
<b>HEIGHT LIMIT:</b>	No Limit	Lots/No Buildings
<b>LOT SIZE:</b>	10,000 sq. ft. Minimum	Conforms (Lots > 10,000 sq. ft.)
<b>FLOOR AREA RATIO:</b>	2.0	Lots/No Buildings
<b>FRONT SETBACK:</b>	15-ft. with a 30-ft. Landscape Strip	Conforms (All Lots excess of 30-ft.)
<b>INTERIOR SETBACK:</b>	0-ft.	Conforms (All Lots excess of 25-ft.)
<b>STREET SIDE SETBACK:</b>	15-ft.	Conforms (All Lots excess of 25-ft.)
<b>REAR SETBACK:</b>	10-ft.	Conforms (All Lots excess of 200-ft.)
<b>PARKING:</b>	1,302	1,302
<b><u>ADJACENT PROPERTIES:</u></b>		
	<b>LAND USE DESIGNATION &amp; ZONE</b>	<b>EXISTING LAND USE</b>
<b>NORTH:</b>	Industrial; AR-1-1 and OMDD-INDUST-SUBD	Undeveloped
<b>SOUTH:</b>	Industrial and Institutional; AR-1-1	Undeveloped
<b>EAST:</b>	Industrial; OMDD-INDUST-SUBD	Undeveloped
<b>WEST:</b>	Industrial and Commercial; AR-1-1	Undeveloped
<b>DEVIATIONS OR VARIANCES REQUESTED:</b>	None	
<b>COMMUNITY PLANNING GROUP RECOMMENDATION:</b>	On September 20, 2006, the Otay Mesa Planning Committee voted 15-0-0 to recommend approval of the Extension of Time for the Otay Mesa East project with no conditions.	

# VESTING TENTATIVE MAP HANDLER OTAY MESA COMMERCIAL

APN: 443-030-001 AND 443-030-002



### LEGAL DESCRIPTION

THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 15, TOWNSHIP 15 NORTH, RANGE 91ST, SAN DIEGO COUNTY, CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT THEREOF.

THE WEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 15, TOWNSHIP 15 NORTH, RANGE 91ST, SAN DIEGO COUNTY, CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT THEREOF.

### ASSESSEE'S PARCEL NO.

443-030-001 AND 443-030-002

### GRANTEE DATA

TOTAL SITE AREA: 41.43 AC.  
APN: 443-030-001 AND 443-030-002  
ACRES TO BE CANCELLED: NOT APPLICABLE  
ACRES TO BE CREATED: NOT APPLICABLE  
ACRES TO BE TRANSFERRED: 41.43 AC.

### UTILITIES

WATER: CITY OF SAN DIEGO  
SEWER: CITY OF SAN DIEGO  
GAS: SAN DIEGO GAS & ELECTRIC  
CABLE TV: SOUTHWESTERN CABLE TELEVISION

### SITE AREA

TOTAL SITE AREA CANNOT BE ASSESSED AT THIS TIME. SEE PLAT FOR DETAILS.

### OWNER

DR. BRAD HANSEN  
1111 LA JOLLA VALLEY CENTER ROAD  
LA JOLLA, CA 92037-1010

### PREPARED BY:

DATE: \_\_\_\_\_

### ENGINEER OF WORK

DATE: \_\_\_\_\_

### DATE OF EXAMINATION

DATE: \_\_\_\_\_

### LEGEND

SUBDIVISION BOUNDARY	---
LOT LINE	---
LOT NUMBER AND ACREAGE	---
EXISTING CONTIGUOUS	---
PROPOSED CONTIGUOUS	---
DAYLIGHT LINE	---
SLOPE (2% NORT)	---
PROPOSED PRIVATE GRAVITY STORM DRAIN & PRIVATE MAINDRAIN	---
PROPOSED PRIVATE SEWER FORCE MAIN	---
STORM DRAIN AND TIE IN	---
HEADWALL AND WAD-BOX	---
WATER MAIN	---
FIRE HYDRANT	---
STREET LIGHT	---
CORNER ACCESS POINT(S)	(---)
CONCEPTUAL BUILDING FOOTPRINT	(---)

### GENERAL NOTES

- PROPOSED ZONING IS CDDC-C. EXISTING ZONING IS A-1.1.
- TOTAL COMMERCIAL DEVELOPMENT AREA IS 41.43 AC.
- THIS VESTING TENTATIVE MAP PROPOSES IN TOTAL 107 LOTS (113 LOTS) AND 135 BUILDING UNITS.
- CASEMENTS ARE SHOWN UNLESS OTHERWISE NOTED.
- LOT AND P.L. SLOPES ARE 2%.
- GRADING SHOULD BE DONE IN ACCORDANCE WITH THE COMMERCIAL CODE AND THE CITY OF SAN DIEGO'S REGULATIONS.
- MANUFACTURED HOMES LOCATED IN AREAS TRANSFERRED TO NEIGHBORLY OPEN SPACE SHALL BE CONSIDERED GRASS TO GROW WITH NATURAL VEGETATION.
- ALL CURVE RADII SHOULD BE APPROPRIATE.
- ALL EASEMENT CORRECTIONS ARE SHOWN.

### GENERAL NOTES (CONT.)

- PEDESTRIAN RAMPS ARE REQUIRED AT ALL INTERSECTIONS.
- PROPOSED STREET SIZES ARE REQUIRED IN ACCORDANCE WITH LDC 16.4.0.2.
- THESE LOTS ARE TO BE DEVELOPED IN ACCORDANCE WITH THE CITY OF SAN DIEGO'S REGULATIONS.
- STREET TREES, PROVIDE 1 TREE PER 10 LINEAR FEET IN ACCORDANCE TO CDDC-16.4.0.4.
- ALL LANDSCAPE AND PLANTING SHALL COMPLY WITH THE CITY OF SAN DIEGO'S LANDSCAPE ORDINANCE AND THE CITY OF SAN DIEGO'S LANDSCAPE DESIGN ORDINANCE. LANDSCAPE DESIGN SHALL BE SUBMITTED TO THE CITY OF SAN DIEGO FOR APPROVAL PRIOR TO THE COMMENCEMENT OF CONSTRUCTION.
- ALL REQUIRED LANDSCAPE AREAS SHALL BE MAINTAINED BY THE OWNER. THE LANDSCAPE DESIGN SHALL BE MAINTAINED BY THE OWNER. THE LANDSCAPE DESIGN SHALL BE SUBMITTED TO THE CITY OF SAN DIEGO FOR APPROVAL PRIOR TO THE COMMENCEMENT OF CONSTRUCTION.
- REFER TO THE LANDSCAPE DESIGN ORDINANCE AND THE CITY OF SAN DIEGO'S LANDSCAPE DESIGN ORDINANCE FOR FURTHER INFORMATION.
- LANDSCAPE DESIGN SHALL BE SUBMITTED TO THE CITY OF SAN DIEGO FOR APPROVAL PRIOR TO THE COMMENCEMENT OF CONSTRUCTION. THE CITY OF SAN DIEGO WILL REVIEW THE LANDSCAPE DESIGN AND PROVIDE COMMENTS. THE CITY OF SAN DIEGO WILL NOT BE RESPONSIBLE FOR THE PLACEMENT OF TREES, TIE IN, OR THE EXISTENCE OF THE CITY MANAGER.
- REFER TO THE CITY OF SAN DIEGO'S REGULATIONS FOR FURTHER INFORMATION.
- REFER TO THE CITY OF SAN DIEGO'S REGULATIONS FOR FURTHER INFORMATION.

### SOURCE OF AERIAL TOPO

SAN-DIEGO AERIAL SURVEY  
FILE NO. 1412-34  
1983 CITY DATUM  
4328 1/8" x 56" SIDE A-8  
EAM DATED: CA. 02/22/1981  
PAGE 1813: 644-1024

SCALE: 1" = 100'

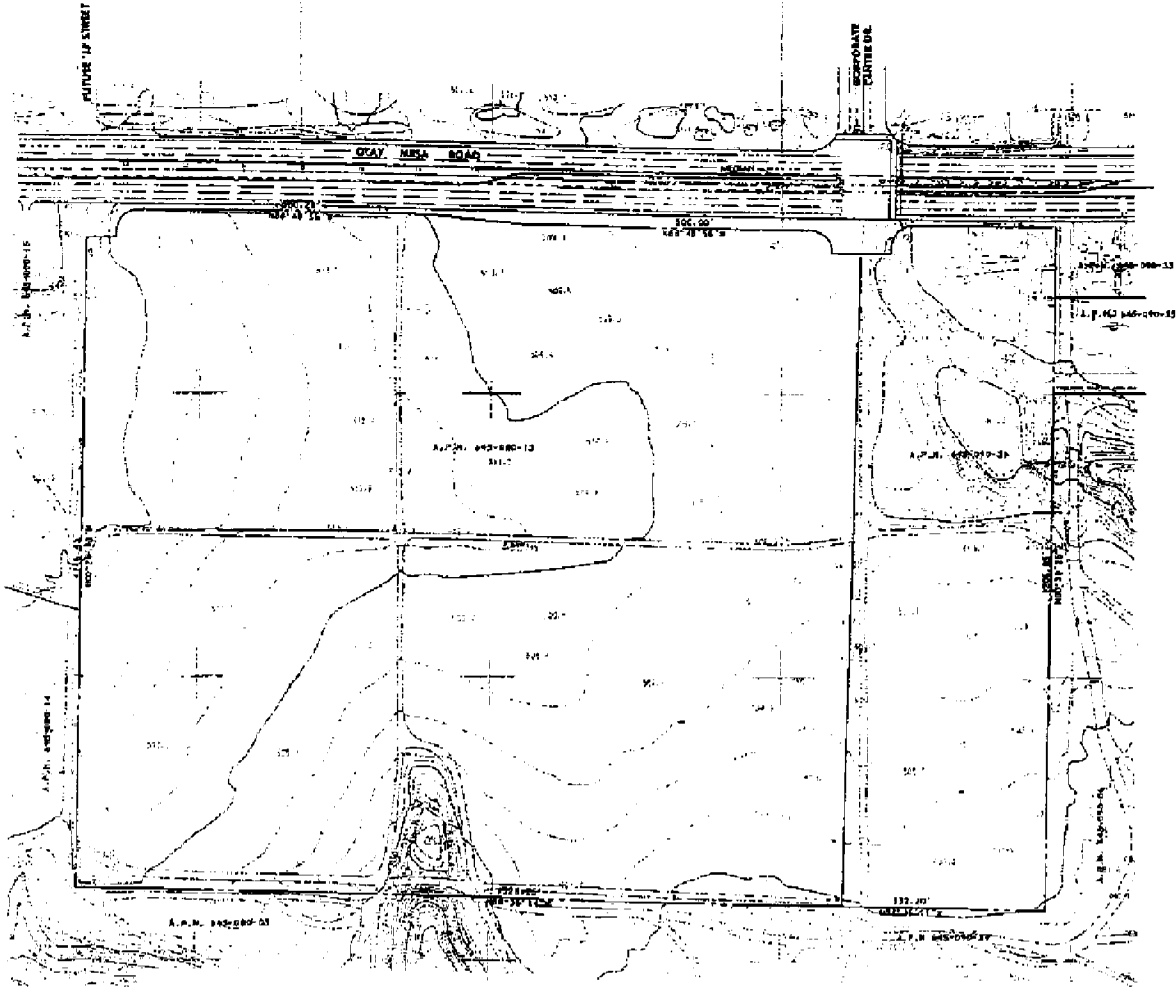
City of San Diego  
Sealing, Inc.  
1111 La Jolla Valley Center Road  
La Jolla, CA 92037-1010



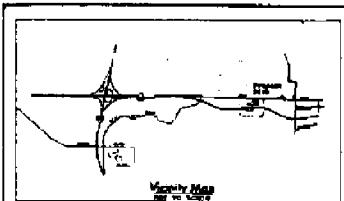
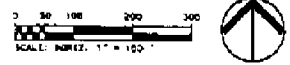
# EXISTING TOPOGRAPHY HANDLER OTAY MESA COMMERCIAL

A.P.N. 645-090-13 AND 645-090-36

EXHIBIT A  
V. DEHNKE



**SOURCE OF AERIAL TOPO**  
 24-INCH AERIAL SURVEYS  
 PLANS: 2-12-58 1958 CITY PLAN  
 4810 TELEPHONE AVE  
 SAN DIEGO, CA 92121-1007  
 PHONE: (619) 545-1029



DESIGNED BY:	ENGINEERING & ARCHITECTS, INC.	DATE:	10/20/00
CHECKED BY:	MR. JAMES W. WILSON, P.E.	REVISION:	1
PROJECT ADDRESS:	4810 TELEPHONE AVE, SAN DIEGO, CA 92121-1007	REVISION:	2
PROJECT NO.:	00-0000-00	REVISION:	3
DATE:	10/20/00	REVISION:	4
SCALE:	HORIZ. 1" = 100'	REVISION:	5
		REVISION:	6
		REVISION:	7
		REVISION:	8
		REVISION:	9
		REVISION:	10
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		REVISION:	13
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		REVISION:	15
		REVISION:	16
		REVISION:	17
		REVISION:	18
		REVISION:	19
		REVISION:	20

Attachment 15  
PC Report No. P-06-0279

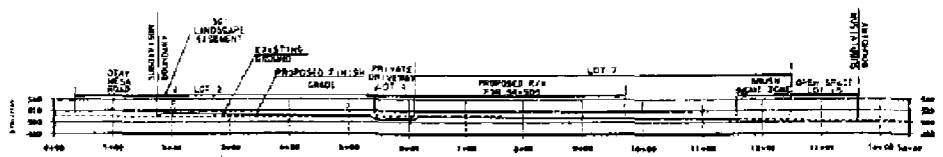
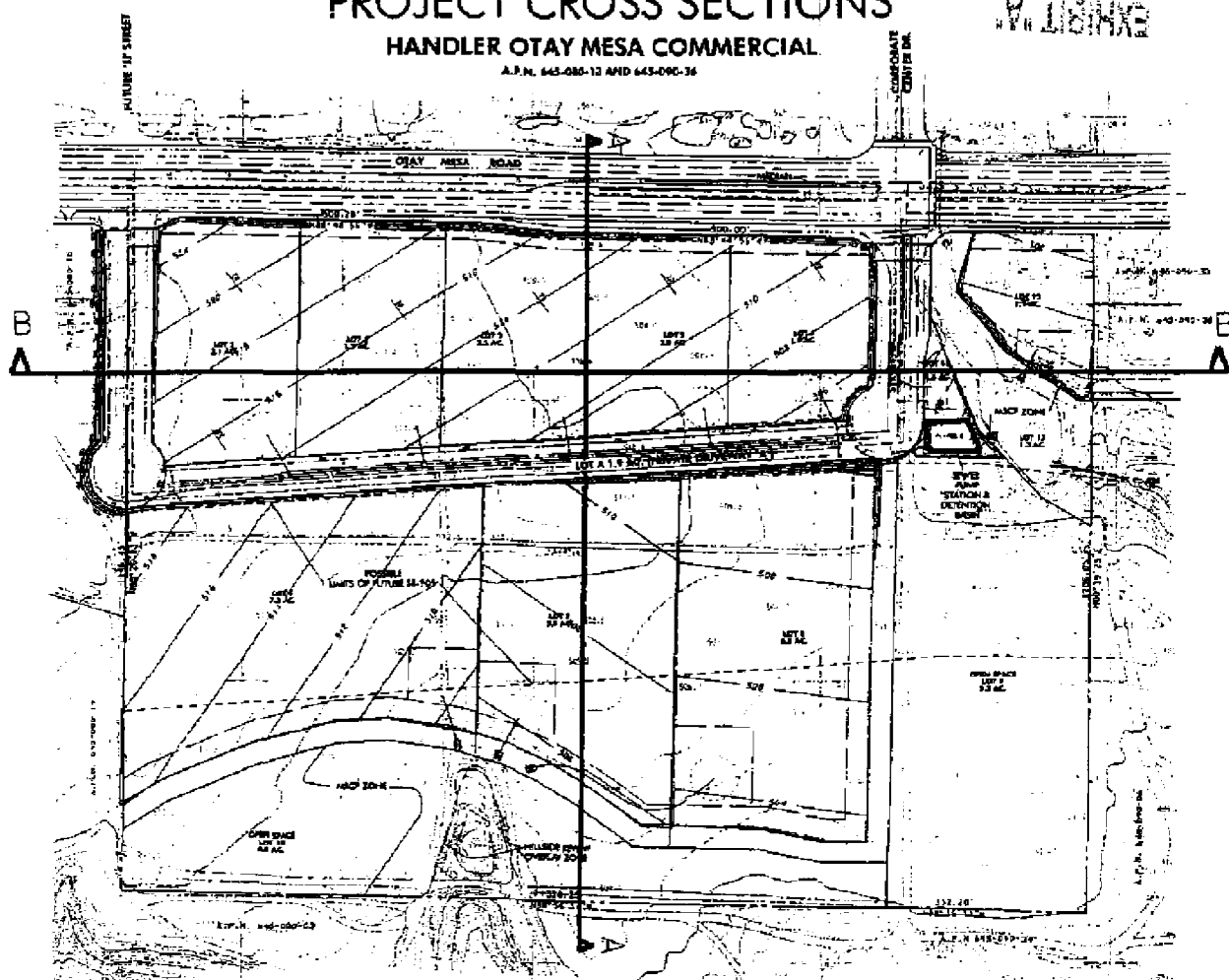
City Council Approved

# PROJECT CROSS SECTIONS

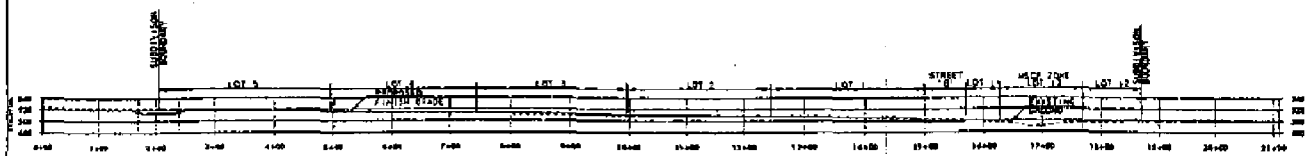
## HANDLER OTAY MESA COMMERCIAL

A.P.N. 645-086-12 AND 645-090-36

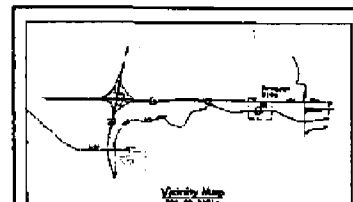
**M. USING**



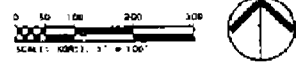
SECTION A-A  
HORZ. 1"=100' VERT. 1"=100'



SECTION B-B  
HORZ. 1"=100' VERT. 1"=100'



NO.	NAME	DATE	REVISION
1	PREPARED BY: [Name]		
2	DESIGNED BY: [Name]		
3	DRAWN BY: [Name]		
4	CHECKED BY: [Name]		
5	APPROVED BY: [Name]		
6	DATE: [Date]		



**CityPlan**  
and Associates, Inc.  
Professional Engineers and Surveyors  
111 North Center, Suite 200, San Diego, CA 92101  
Tel: 619.594.1111 Fax: 619.594.1112

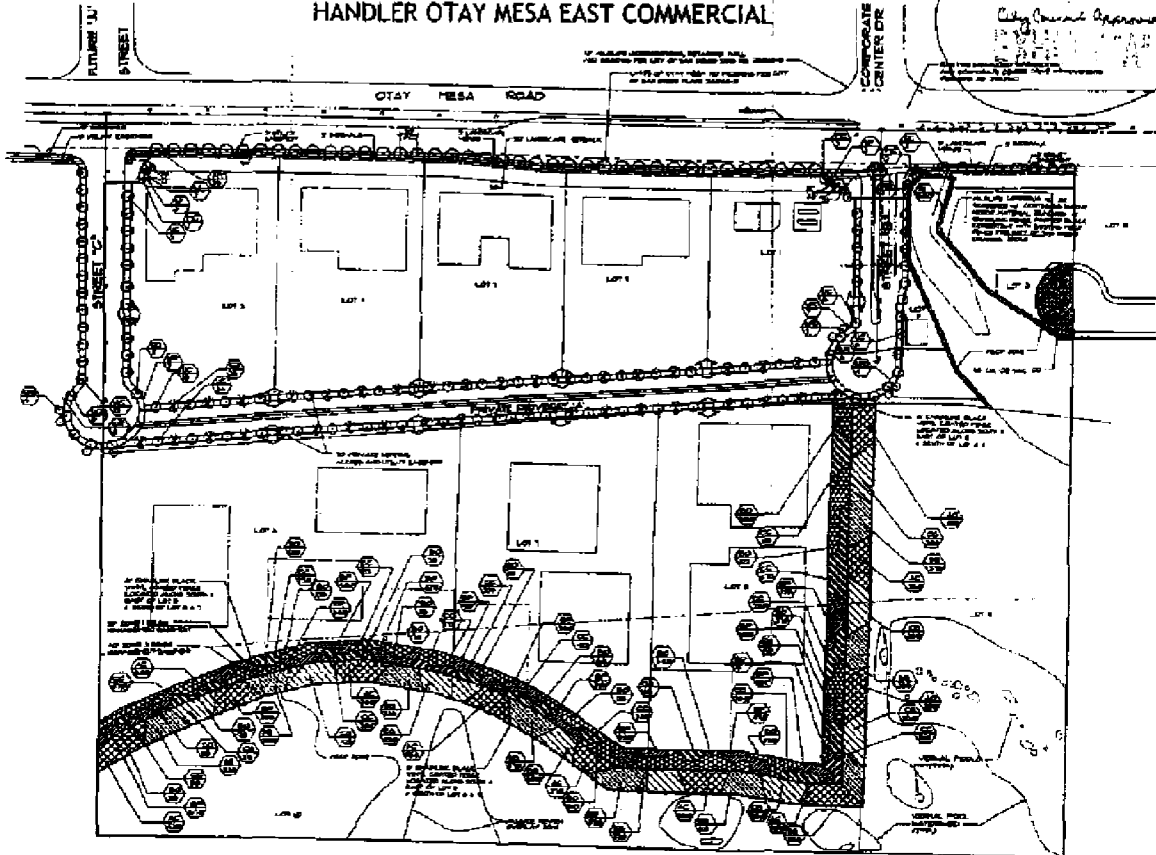
Attachment 15  
PC Report No. P-06-0279

City Council Approval



# LANDSCAPE DEVELOPMENT / BRUSH MANAGEMENT PLAN

## HANDLER OTAY MESA EAST COMMERCIAL



City Council Approval 9/16/06

Attachment 15  
PC Report No. P-06-0279

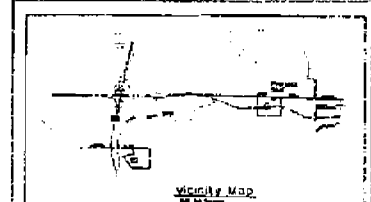
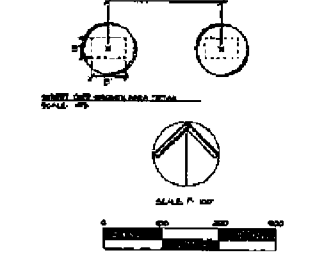
1. The landscape plan shall be prepared in accordance with the following standards and specifications:

- 1.1 The landscape plan shall be prepared by a professional landscape architect or horticulturist.
- 1.2 The landscape plan shall be prepared in accordance with the standards and specifications of the City of San Diego.
- 1.3 The landscape plan shall be prepared in accordance with the standards and specifications of the State of California.
- 1.4 The landscape plan shall be prepared in accordance with the standards and specifications of the National Fire Protection Association (NFPA).
- 1.5 The landscape plan shall be prepared in accordance with the standards and specifications of the International Fire Code (IFC).
- 1.6 The landscape plan shall be prepared in accordance with the standards and specifications of the International Building Code (IBC).
- 1.7 The landscape plan shall be prepared in accordance with the standards and specifications of the International Plumbing Code (IPC).
- 1.8 The landscape plan shall be prepared in accordance with the standards and specifications of the International Mechanical Code (IMC).
- 1.9 The landscape plan shall be prepared in accordance with the standards and specifications of the International Electrical Code (IEC).
- 1.10 The landscape plan shall be prepared in accordance with the standards and specifications of the International Fire and Building Code (IFBC).

2. The landscape plan shall be prepared in accordance with the following standards and specifications:

- 2.1 The landscape plan shall be prepared in accordance with the standards and specifications of the City of San Diego.
- 2.2 The landscape plan shall be prepared in accordance with the standards and specifications of the State of California.
- 2.3 The landscape plan shall be prepared in accordance with the standards and specifications of the National Fire Protection Association (NFPA).
- 2.4 The landscape plan shall be prepared in accordance with the standards and specifications of the International Fire Code (IFC).
- 2.5 The landscape plan shall be prepared in accordance with the standards and specifications of the International Building Code (IBC).
- 2.6 The landscape plan shall be prepared in accordance with the standards and specifications of the International Plumbing Code (IPC).
- 2.7 The landscape plan shall be prepared in accordance with the standards and specifications of the International Mechanical Code (IMC).
- 2.8 The landscape plan shall be prepared in accordance with the standards and specifications of the International Electrical Code (IEC).
- 2.9 The landscape plan shall be prepared in accordance with the standards and specifications of the International Fire and Building Code (IFBC).

SYMBOL	PLANT NAME	PLANT SPECIES	PLANT SIZE	PLANT SPACING
(Symbol)	1' - 1" Tree	Shade Tree	1' - 1"	1' - 1"
(Symbol)	2' - 2" Tree	Shade Tree	2' - 2"	2' - 2"
(Symbol)	3' - 3" Tree	Shade Tree	3' - 3"	3' - 3"
(Symbol)	4' - 4" Tree	Shade Tree	4' - 4"	4' - 4"
(Symbol)	5' - 5" Tree	Shade Tree	5' - 5"	5' - 5"
(Symbol)	6' - 6" Tree	Shade Tree	6' - 6"	6' - 6"
(Symbol)	7' - 7" Tree	Shade Tree	7' - 7"	7' - 7"
(Symbol)	8' - 8" Tree	Shade Tree	8' - 8"	8' - 8"
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(Symbol)	10' - 10" Tree	Shade Tree	10' - 10"	10' - 10"
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(Symbol)	27' - 27" Tree	Shade Tree	27' - 27"	27' - 27"
(Symbol)	28' - 28" Tree	Shade Tree	28' - 28"	28' - 28"
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(Symbol)	33' - 33" Tree	Shade Tree	33' - 33"	33' - 33"
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(Symbol)	38' - 38" Tree	Shade Tree	38' - 38"	38' - 38"
(Symbol)	39' - 39" Tree	Shade Tree	39' - 39"	39' - 39"
(Symbol)	40' - 40" Tree	Shade Tree	40' - 40"	40' - 40"
(Symbol)	41' - 41" Tree	Shade Tree	41' - 41"	41' - 41"
(Symbol)	42' - 42" Tree	Shade Tree	42' - 42"	42' - 42"
(Symbol)	43' - 43" Tree	Shade Tree	43' - 43"	43' - 43"
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(Symbol)	49' - 49" Tree	Shade Tree	49' - 49"	49' - 49"
(Symbol)	50' - 50" Tree	Shade Tree	50' - 50"	50' - 50"



NO.	DESCRIPTION	DATE	BY
1	PREPARED	09/16/06	J.P.G.
2	REVISION		
3	REVISION		
4	REVISION		
5	REVISION		
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7	REVISION		
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99	REVISION		
100	REVISION		

**Minutes of the Council of the City of San Diego  
for the Regular Meeting of Tuesday, September 16, 2003**

Page 12

Attachment 15  
PC Report No. P-06-0279

EXCEED THE PERMISSIBLE AMOUNTS FOR INDOOR PLANTS  
ACCORDING TO SECTIONS 42.1311 (c), AND 42.1311 (d).”

4. **SECTION 42.1313, SMOKING.**

THE FIRST PARAGRAPH TO READ AS FOLLOWS: “SMOKING  
CANNABIS IN ANY PUBLIC PLACE OR IN ANY PLACE OPEN TO THE  
PUBLIC IS PROHIBITED. ANY PERSON WHO VIOLATES THIS SECTION  
IS GUILTY OF AN INFRACTION.”

TO ACCEPT AS PART OF THE MOTION, AND AS REQUESTED BY COUNCIL  
MEMBER PETERS, THAT A REPORT REGARDING HOW THE PROGRAM IS  
DOING COME BACK TO PS & NS COMMITTEE WITHIN SIX MONTHS OF THE  
PASSAGE OF THE ORDINANCE. Second by Zucchet. Passed by the following vote:  
Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-nay, Frye-yea,  
Madaffer-nay, Inzunza-yea, Mayor Murphy-nay.

ITEM-331: Otay Mesa East.

Matter of approving, conditionally approving, modifying or denying rezoning a  
vacant 45.5-acre site from AR-1-1 (Agricultural) to Otay Mesa Development  
District Commercial Subdistrict (OMDD-C) and to subdivide into 13 lots (9  
commercial lots; 3 open space lots; and 1 private underground sewer pump station  
lot). An amendment to prohibit industrial uses in the OMDD-C Zone is also  
proposed. The site is located in the 6600 block of Otay Mesa Road in the Otay  
Mesa Community Planning Area.

(Otay Mesa Community Plan Area. District-8.)

**CITY MANAGER'S RECOMMENDATION:**

Adopt the resolution in subitem A; introduce the ordinances in subitems B and E; adopt  
the resolution in subitem C to grant the map; and adopt the resolution in subitem D to  
grant the permit:

Subitem-A: (R-2004-263) ADOPTED AS RESOLUTION R-298378

Adoption of a Resolution certifying that Mitigated Negative Declaration, LDR No.  
99-0555, on file in the office of the City Clerk, has been completed in

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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 declaration reflects the independent judgment of the City of San Diego as Lead Agency and that the information contained in the 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 the land use actions for the Otay Mesa East-PTS No. 3159 project;

That the City Council finds that project revisions now mitigate potentially significant effects on the environment previously identified in the Initial Study and therefore, that the Mitigated Negative Declaration, a copy of which is on file in the office of the City Clerk and incorporated by reference, is approved;

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;

That the City Clerk is directed to file a Notice of Determination [NOD] with the Clerk of the Board of Supervisors for the County of San Diego regarding the above project.

Subitem-B: (O-2004-23) INTRODUCED, TO BE ADOPTED ON  
MONDAY, SEPTEMBER 29, 2003

Introduction of an Ordinance of the Council of the City of San Diego changing property located in the 6600 Block of Otay Mesa Road in the Otay Mesa Community Plan Area, in the City of San Diego, California, from the AR-1-1 Zone (previously referred to as the A-1-10 Zone) to the OMDD-C Zone, as defined by San Diego Municipal Code section 103.1103(a); and repealing Ordinance No. 10862 (new series), adopted July 29, 1972, of the Ordinances of the City of San Diego insofar as the same conflict herewith.

Subitem-C: (R-2004- ) GRANTED MAP, ADOPTED AS  
RESOLUTION R-298379

Adoption of a Resolution granting or denying Vesting Tentative Map No. 008182, with appropriate findings to support Council action.

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Subitem-D: (R-2004- ) GRANTED PERMIT, ADOPTED AS  
RESOLUTION R-298380

Adoption of a Resolution granting or denying Resource Protection Ordinance  
Permit No. 008163, with appropriate findings to support Council action.

Subitem-E: (O-2004-24) INTRODUCED, TO BE ADOPTED ON  
MONDAY, SEPTEMBER 29, 2003

Introduction of an Ordinance of the Council of the City of San Diego amending  
Chapter 10, Article 3, Division 11 of the San Diego Municipal Code by amending  
section 103.1103 relating to permitted uses in the Otay Mesa Development  
District.

**OTHER RECOMMENDATIONS:**

Planning Commission on July 17, 2003, voted 6:0 to approve; no opposition.

Ayes: Lettieri, Schultz, Brown, Garcia, Chase and Ontai  
Not present: Steele

On June 19, 2002, the Otay Mesa Planning Group voted 16-0-0 in support of the project.

**SUPPORTING INFORMATION:**

The requested actions include a Rezone from A-1-10 to the Otay Mesa Development District-  
Commercial Subdistrict (OMDD-C) Zone, a Vesting Tentative Map (VTM) and a Otay Mesa  
Development District (OMDD)/Resource Protection Ordinance (RPO) Permit to allow  
commercial development of a vacant 45.5-acre site located in the 6600 block of Otay Mesa Road  
in the Otay Mesa Community Planning area and an amendment to Section 103.1103(b) of the  
Otay Mesa Development District Ordinance 017355, restrict industrial uses.

The Planning Commission considered this project on July 17, 2003 and voted 6:0:0 to recommend  
that the City Council adopt staff recommendations to approve the project as presented in Planning  
Report No. P-03-171. There was no opposition to the project.

On June 19, 2002, the Otay Mesa Planning Group voted 16-0-0 in support of the project.

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The City Manager recommends that the City Council:

1. CERTIFY Mitigated Negative Declaration (MND) No. 99-0555 and ADOPT the associated Mitigation, Monitoring and Reporting Program (MMRP);
2. APPROVE the proposed Rezone No. 008161 from AR-1-1 (A-1-10, Old Code) to the Otay Mesa Development District-Commercial Subdistrict (OMDD-C) Zone;
3. APPROVE Vesting Tentative Map (VTM) No. 008182;
4. APPROVE Otay Mesa Development District/Resource Protection Ordinance Permit (Old Code) No. 008163; and
5. APPROVE an amendment to Section 103.1103 (b) of the Otay Mesa Development District Ordinance, No. 017355, restricting industrial uses.

**CODE ENFORCEMENT IMPACT** - None with this action.

**HOUSING AFFORDABILITY IMPACT** -

The property is zoned A-1-10 (pre-December 31, 1999, Old Code) and is equivalent to the present AR-1-1 of the Land Development Code which allows residential development at very low densities and the minimum lot size in this zone is ten acres. The subject property contains 45.5 acres (32.2 net) and could yield a maximum of three residences. The proposed rezone to OMDD-C would preclude residential development and therefore, there is a potential loss of three dwelling units with the proposed rezone.

**WATER QUALITY IMPACT**-

The project is required to comply with the State Water Resources Control Board Order No. 92.08-DWQ (NPDES General Permit No. CAS0000002). As stated in the project's Water Quality Technical Report, the development incorporates site design, source control and treatment Best Management Practices (BMPs) to mitigate water quality impacts.

**TRAFFIC IMPACT:**

This project is estimated to generate approximately 12,631 Average Daily Trips (Phase I: 8,143 ADT, Phase II: 4,488 ADT), 1,303 of which are estimated to occur on the nearby Interstate 905 (with Phase 1 of the project), which has an estimated near term plus project volume of 50,493 ADTs between Caliente Boulevard and I-805 with level of service "A". (Attachment 19) The extension of SR-905 is planned by Caltrans to be completed by 2007. According to the applicant, occupancy of the units is anticipated in 2007.

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**FISCAL IMPACT:**

None with action. All Impacts associated with the processing of this project are paid by the applicant.

Ewell/Christiansen/AIA/PXG/AICP

**LEGAL DESCRIPTION:**

The project includes a proposal to rezone the 45.5-acre vacant project site from A1-10 (Agricultural) to Otay Mesa Development District-Commercial Subdistrict (OMDD-C). The project also proposes the subdivision of 13 legal lots consisting of 9 commercial lots (Lots 1-8 and 12) with 1,302 parking space on 32.1 developable acres; three open space lots (Lots 9-10 and 13), and construction of a private underground sewer pump station on 0.4 acres of land at the northeast corner of the site (Lot 11). Included in the project proposal is the preservation of the 1.3-acre wildlife corridor and MHPA in the northeast corner of the site adjacent to the existing 6-foot wildlife underground tunnel at Otay Mesa Road and Corporate Center Drive. Four acres will be designated as open space to protect the MHPA on the southern boundary of the site. An additional six acres on the eastern boundary of the project site will be designated as open space and includes a fenced preserve for 22 existing vernal pools and one road pool located in the southeast corner of the property. The project site is located at Otay Mesa Road and Corporate Center Drive within the Otay Mesa Community Planning Area.

**FILE LOCATION:** LUP-Otay Mesa East, 9/16/03 (65)

**COUNCIL ACTION:** (Time duration: 11:12 a.m. - 11:12 a.m.)

MOTION BY INZUNZA TO ADOPT THE RESOLUTION IN SUBITEM A, INTRODUCE THE ORDINANCES IN SUBITEMS B AND E, ADOPT THE RESOLUTION IN SUBITEM C TO GRANT THE MAP, AND ADOPT THE RESOLUTION IN SUBITEM D TO GRANT THE PERMIT. Second by Madaffer. Passed by the following vote: Peters-not present, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

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MOTION BY MADAFFER TO ADOPT. Second by Maienschein. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-32: Jim Brown Day.

**COUNCILMEMBER MADAFFER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2004-205) CONTINUED TO MONDAY, OCTOBER 13,  
2003

Commending Jim Brown for providing the City of San Diego with an excellent program manager for 29 years;

Proclaiming September 29, 2003 to be "Jim Brown Day" in the City of San Diego.

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 2:21 p.m. - 2:21 p.m.)

MOTION BY MADAFFER TO CONTINUE THIS ITEM TO MONDAY, OCTOBER 13, 2003, TO ALLOW JIM BROWN TO BE PRESENT. Second by Maienschein. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

\* ITEM-50: Otay Mesa East.

(Otay Mesa Community Plan Area. District-8.)

**CITY COUNCIL'S RECOMMENDATION:**

Adopt the following ordinances which were introduced on 9/16/2003. (Council voted 8-0. Councilmember Peters not present):

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Subitem-A: (O-2004-23) ADOPTED AS ORDINANCE O-19216 (New Series)

Rezoning the property located in the 6600 Block of Otay Mesa Road in the Otay Mesa Community Plan Area, in the City of San Diego, California, from the AR-1-1 Zone (previously referred to as the A-1-10 Zone) to the OMDD-C Zone, as defined by San Diego Municipal Code Section 103.1103(a);

Subitem-B: (O-2004-24) ADOPTED AS ORDINANCE O-19217 (New Series)

Amending Chapter 10, Article 3, Division 11 of the San Diego Municipal Code by amending Section 103.1103 relating to permitted uses in the Otay Mesa Development District.

FILE LOCATION: SUBITEMS A & B: LUP-Otay Mesa East 9/16/03 (65)

COUNCIL ACTION: (Time duration: 2:21 p.m. - 2:23 p.m.)

CONSENT MOTION BY MADAFFER TO DISPENSE WITH THE READING AND ADOPT THE ORDINANCES. Second by Peters. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-51: Amendments to Medical Cannabis Voluntary Verification Card Program.

**CITY COUNCIL'S RECOMMENDATION:**

Adopt the following ordinance which was introduced as amended on 9/16/2003. (Council voted 6-3. Councilmembers Maienschein, Madaffer, and Mayor Murphy voted nay):

(O-2004-5 Rev.) ADOPTED AS ORDINANCE O-19218 (New Series)

Amending the San Diego Municipal Code by amending Chapter 4, Article 2, Division 13 by amending Section 42.1301, 42.1302, 42.1303, 42.1304, 42.1305, and 42.1306; by renumbering and amending existing Sections 42.1307 and 42.1308, respectively to 42.1309 and 42.1310; by adding new Sections 42.1307 and 42.1308; by deleting existing Section 42.1311; by renumbering and amending existing Sections 42.1309 and 42.1310, respectively to 42.1311 and 42.1312; and



**REPORT TO THE  
PLANNING COMMISSION –  
REPORT NO. P-03-171**

**AGENDA OF JULY 17, 2003**



THE CITY OF SAN DIEGO

## REPORT TO THE PLANNING COMMISSION

Attachment 15  
PC Report No. P-06-0279

DATE ISSUED: July 10, 2003 REPORT NO: P-03-171

ATTENTION: Planning Commission, Agenda of July 17, 2003.

SUBJECT: **HANDLER OTAY MESA COMMERCIAL.**  
PTS NO. 3159. JOB ORDER NO. 99-0555. PROCESS 5 (Old Code).

OWNER/  
APPLICANT: Dr. Gerald Handler (Attachment 20)

### SUMMARY

Issue(s) - Should the Planning Commission recommend City Council approval of a Rezone from A-1-10 to Otay Mesa Development District - Commercial Subdistrict (OMDD-C) Zone, a Vesting Tentative Map (VTM) and a Otay Mesa Development District (OMDD)/Resource Protection Ordinance (RPO) Permit to allow development of a vacant 45.5-acre site located in the 6600 block of Otay Mesa Road in the Otay Mesa Community Planning area?

### Manager's Recommendation -

1. Recommend City Council CERTIFY Mitigated Negative Declaration (MND) No. 99-0555 and ADOPT the associated Mitigation, Monitoring and Reporting Program (MMRP);
2. Recommend City Council APPROVAL of the proposed Rezone No. 008161 from AR-1-1 (A-1-10, Old Code) to the Otay Mesa Development District - Commercial Subdistrict (OMDD-C) Zone (Attachments 7 and 8);
3. Recommend City Council APPROVAL of Vesting Tentative Map (VTM) No. 008182 (Attachments 11 and 12);
4. Recommend City Council APPROVAL of Otay Mesa Development



District/Resource Protection Ordinance Permit (Old Code) No. 008163  
(Attachment 13).

5. Recommend City Council APPROVAL of amendment to the Otay Mesa Development District Ordinance, No. 017355, to restrict industrial uses in the OMDD-C Zone (Attachment 10).

Community Planning Group Recommendation - On June 19, 2002, the Otay Mesa Planning Group voted 16-0-0 in support of the project.

Environmental Impact - Negative Declaration (MND) No. 99-0555 has been prepared for this project in accordance with the California Environmental Act (CEQA). A Mitigation, Monitoring and Reporting Program (MMRP) has been prepared and will be implemented to reduce all potential impacts to below a level of significance. The MMRP addresses the issue areas of historic resources (archaeology), water quality, paleontological resources, transportation and biological resources.

Fiscal Impact - None with action. All impacts associated with the processing of this project are paid by the applicant.

Code Enforcement Impact - None with this action.

Housing Affordability Impact - The property is zoned A-1-10 (pre-December 31, 1999, Old Code) and is equivalent to the present AR-1-1 of the Land Development Code which allows residential development at very low densities and the minimum lot size in this zone is ten acres. The subject property contains 45.5 acres (32.2 net) and could yield a maximum of three residences. The proposed rezone to OMDD-C would preclude residential development and therefore, there is a potential loss of three dwelling units with the proposed rezone.

Water Quality Impact - The project is required to comply with the State Water Resources Control Board Order No. 92-08-DWQ (NPDES General Permit No. CAS0000002). As stated in the project's Water Quality Technical Report, the development incorporates site design, source control and treatment Best Management Practices (BMP's) to mitigate water quality impacts.

Traffic Impact - This project is estimated to generate approximately 12,631 Average Daily Trips (ADT's) (Phase I: 8,143 ADT's and Phase II: 4,488 ADT's), 1,303 of which are estimated to occur on the nearby Interstate 905 (with Phase I of the project), which has an estimated near term plus project volume of 50,493 ADT's between Caliente Boulevard and I-805 with level of service "A" (Attachment 19). The extension of SR-905 is planned by CALTRANS to be completed by 2007. According to the applicant, occupancy of the units is anticipated in 2007.

## BACKGROUND

The 45.5-acre vacant site is located in the 6600 block of Otay Mesa Road between Caliente Avenue and Heritage Road (Attachment 1). The project site is zoned A-1-10 and the land use designation in the Otay Mesa Community Plan is Specialized Commercial (Attachment 2). The site has been historically used for agricultural purposes.

The area to the northwest is planned for multi-family development as part of the California Terraces Precise Plan. Otay Corporate Center is located to the north and although it is in the Industrial Subdistrict of the Otay Mesa Development District (OMDD) they are exercising the option to use 5% of the site as business support services. These uses will be clustered adjacent to Otay Mesa Road. To the south the land is vacant and zoned A-1-10. The property to the east is in the Industrial Subdistrict of the OMDD and a proposal for the "San Diego Storage Trailers" is currently in process. The proposal is for a permanent truck parking and container sales/storage facility (57 spaces for passenger vehicles and 92 spaces for tractor/trailers). To the west the vacant property is the commercial component of the California Terraces Precise Plan (Attachments 3 and 4).

Approximately 5.82 acres of the site at the northeast corner and southern portion of the property lie within the Multiple Habitat Planning Area (MHPA). There is also an existing wildlife corridor in the northeast corner of the project site and an existing 6-foot wildlife underground tunnel located under Otay Mesa Road at the intersection of Corporate Center Drive (Attachment 5).

## DISCUSSION

### Project Description

The proposed Otay Mesa East project would develop a vacant 45.5-acre site with development consistent with the OMDD-C Zone of the Otay Mesa Development District for commercial uses (Attachment 6). The project would include 9 commercial lots (Lots 1-8 and 12); 3 open space lots (Lots 9-10 and 13); construction of a private underground sewer pump station located at the northeast corner of the site (Lot 11); preservation of an existing 1.3-acres wildlife corridor; preservation of the MHPA located in the northeast corner of the site adjacent to the existing six-foot wildlife underground tunnel at Otay Mesa Road and Corporate Center Drive; 6 acres would be designated as open space to protect the MHPA on the southern boundary of the site; and an additional 6 acres, on the eastern boundary of the project, site would also be designated as open space and includes a fenced preserve for 22 existing vernal pools and one road pool located in the southeast corner of the property.

Rezone

The project proposes to rezone the site from AR-1-1 (A-1-10, Old Code) to the Otay Mesa Development District - Commercial Subdistrict (OMDD-C) Zone (Attachments 7 and 8). The Otay Mesa Community Plan designates the site for Specialized Commercial use, therefore, a Community Plan amendment is not required.

Otay Mesa Development District Amendment

The OMDD contains two zones: the Industrial Subdistrict and the Commercial Subdistrict (Attachment 9). The Commercial Subdistrict comprises a rectangular area located directly south of Brown Field. The commercial subdistrict allows commercial uses, as well as, industrial uses, such as, truck terminals, warehouses and manufacturing. This mix of commercial and industrial uses is suitable to the existing OMDD which is traversed by designated truck routes and bounded on all sides with industrial development. However, because the subject site, which is proposed to be annexed into the OMDD, is located at what is considered the gateway into the OMDD (between Otay Mesa Road and proposed State Route 905) staff has determined that the industrial uses permitted in the existing OMDD-C Zone (truck terminals, warehouses and manufacturing) are not appropriate at the subject location. This is further supported because the surrounding area is designated in the Otay Mesa Community Plan for commercial, residential and open space uses.

The following four options were considered as methods of ensuring that this site would be developed with commercial and not industrial uses:

1. A permit condition specifically tailored to this site.
2. A rezone to a City-wide commercial zone.
3. Create a new subdistrict in the OMDD.
4. Revise the "Permitted Use" section of the OMDD Commercial Subdistrict to prohibit industrial uses (Attachment 10).

The fourth option was selected because it allows commercial development on this site and will ensure consistent building setbacks, landscaping, and permitted uses between this site and existing development along Otay Mesa Road. It is anticipated that nearby sites, also designated for commercial development in the Community Plan, may in the future request inclusion in the OMDD Commercial Subdistrict. Therefore, the proposed text revision will simplify the process: each new development will require only a rezone to the OMDD-C Zone, an amendment to the OMDD Ordinance will not be required.

Vesting Tentative Map

The project also proposes to subdivide the site into 13 lots consisting of 9 commercial lots (Lots 1-8 and 12); 3 open space lots (Lots 9-10 and 13) and construction of a private underground

sewer pump station at the northeast corner of the site (Lot 11) (Attachments 11 and 12).

Otay Mesa Development District/Resource Protection Ordinance Permit

An Otay Mesa Development District (OMDD)/Resource Protection Ordinance (RPO) Permit (Attachment 13) is required because the project was submitted before December 31, 1999, when the Old Code was in affect. Encroachment into steep hillsides and sensitive biological resources are permitted by RPO if certain conditions are met. The subject property is essentially a flat piece of property (Attachments 4 and 14). The only areas of steep slope on the property equals 1.51 acres. The 1-acre portion is entirely within the MHPA and is located on the eastern side of the property. The project will not encroach into the MHPA. The remaining .51 acre piece is located along the southern property boundary is not intended for development and is part of the dedicated open space.

With respect to sensitive biological resources, RPO allows development on lands with sensitive biological resources, with the exception of wetlands, as long as suitable compensation accompanies development. The project site includes vernal pools, road pools and a wildlife corridor located in the MHPA (Attachment 15). The project will directly impact 31.8 acres of non-native grassland. Mitigation for the loss of this non-native grassland will be through the acquisition of similar biological resources off site within the MHPA (Attachment 16).

A single road pool was identified with approximately 290 square feet of potential surface area and approximately 835 square feet of watershed located in the northwestern corner of the project site. This pool is located within the impact area for the proposed project. However, the pool and watershed are also located totally within a proposed cul-de-sac right-of-way for the adjacent California Terraces, Otay Corporate Center South project. The California Terraces Vesting Tentative Map (VTM 86-1032) shows this pool within the development footprint. The Otay Corporate Center Project would dedicate and grade the right-of-way and install underground utilities, completely removing the vernal pool and watershed. The California Terraces project has been reviewed and approved by the United States Fish and Wildlife Service (USFWS) and the City of San Diego, therefore, no other mitigation measures related to the road pool located in the northwest corner of the project site are required.

Included in the project proposal is the preservation of the 1.3-acre wildlife corridor and MHPA in the northeast corner of the property adjacent to the existing 6-foot wildlife underground tunnel at Otay Mesa Road and Corporate Center Drive would be protected by an existing fence screened with a continuous hedge of native plant materials. Four acres will be designated as open space to protect the MHPA on the southern boundary of the site. An additional 6 acres of land would be designated as open space on the eastern boundary of the project site and includes a fenced preserve for 22 existing vernal pools and one road pool located in the southeast corner of the property.

Proposed landscaping will consist of new street trees along Otay Mesa Road (*Arbutus Menziesii*), a mixture of trees along the interior roads (*Calocedrus decurrens* and *Umbellularia californica*), and a mixture of flowering trees and palms at accent points within the site (*Myrica californica*, *Bauhinia blakeana*, *Lagerstroemia indica*, *Washingtonia robusta* and *Washingtonia filifera*) (Attachment 17).

Implementation of the project requires Brush Management Zones to be established around the developed areas (Attachment 17). Landscaping associated with the Zone One brush management include *Bougainvillea "La Jolla"*, *Cistus Crispus*, and *Baccharis pilularis* "twin oaks". Native plants associated with Zone Two brush management include *Ceanothus griseus horizontalis*. The wildlife corridor in the northeast corner of the project site would be screened with continuous native hedge material (*Rhus integrifolia*). A 40-foot strip of Zone Two Brush Management will occur outside the MHPA within the lot boundaries. Zone Two Brush Management is considered impact neutral and would not impact the MHPA.

#### Water Quality

Water quality is affected by sedimentation caused by erosion, runoff carrying contaminants, and direct discharge of pollutants. As land is developed, or redeveloped, impervious surfaces convey an increased volume of runoff containing oils, pesticides, fertilizers, and other contaminants into adjacent watersheds. Implementation of the project would disturb 32.98 acres of land and create surface parking lots for an estimated 1,302 parking spaces. According to the City's significance thresholds for water quality impacts, any project which would construct a parking lot of 15 or more spaces or develop a site over one acre may result in a significant water quality impact. Based on the size of the proposed site and new paved surfaces, the proposed development would result in a significant water quality impact. Therefore, a Drainage Study and a Post Construction BMP Evaluation were prepared by Kimley-Horn & Associates in October, 2002. In addition, a Water Quality Technical Report was prepared by Kimley-Horn & Associates and revised in April, 2003. These studies address pre- & post construction BMP's to be implemented as a condition of project approval to reduce impacts to below a level of significance.

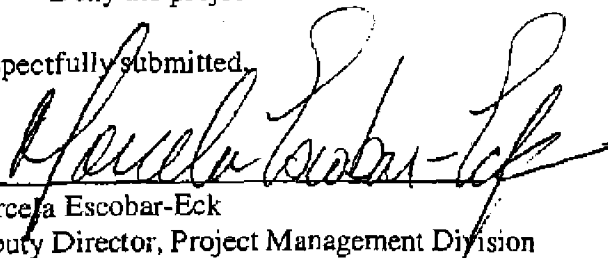
#### CONCLUSION

Staff supports the proposed amendment to the OMDD-C Zone which would prohibit industrial uses in this zone. Staff also supports the proposed rezoning of the subject site from AR-1-1 (A-1-10, Old Code) to OMDD-C Zone because the Otay Mesa Community Plan designates the site for specialized commercial uses, this action would make the zoning consistent with the land use designation of the Plan. In conclusion Staff recommends approval of the proposed Otay Mesa Development District/Resource Protection Ordinance Permit and Vesting Tentative Map to permit commercial development of the site

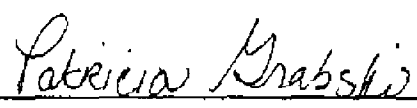
ALTERNATIVES

1. Approve the project with modifications.
2. Deny the project.

Respectfully submitted,



Marcela Escobar-Eck  
Deputy Director, Project Management Division  
Development Services Department



Patricia Grabski, AICP  
Development Project Manager  
Development Services Department

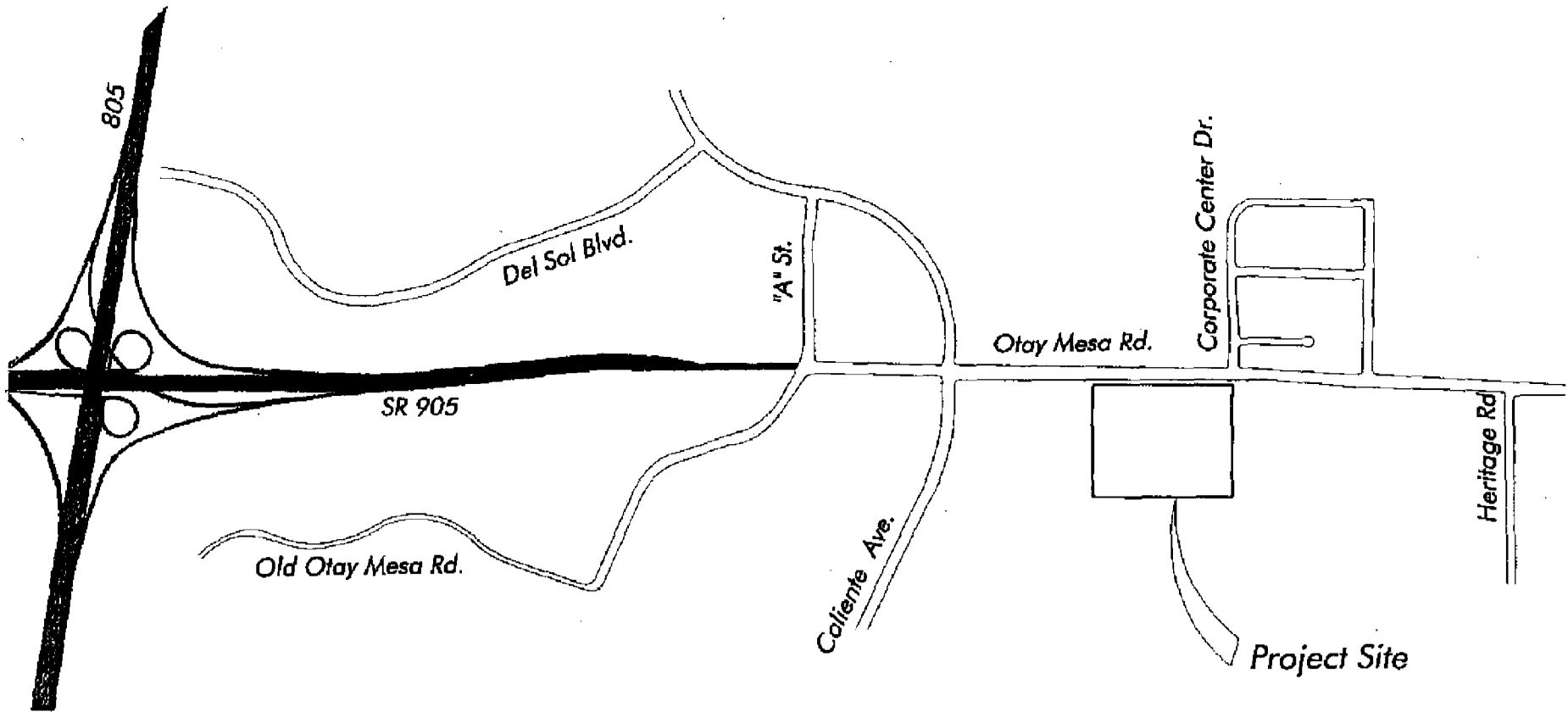
Christiansen/PXG

## Attachments:

1. Project Location Map
2. Community Plan Land Use Map
3. Aerial Photo
4. Site Photos
5. MHPA Map
6. Site Plan
7. Rezone Map
8. Rezone Ordinance
9. Existing OMDD Map
10. OMDD Amendment
11. VTM Map
12. VTM Reso
13. OMDD/RPO Permit
14. Existing Topography
15. Vegetation and Sensitive Resources
16. Mitigation Map
17. Landscape Concept Plan/Brush Management Plan
18. Project Data Sheet
19. Chronology
20. Ownership Disclosure Form
21. Traffic Impact Analysis
22. PC Resolution
23. Council Resolution
24. A-1-10 Zone
25. Resource Protection Ordinance

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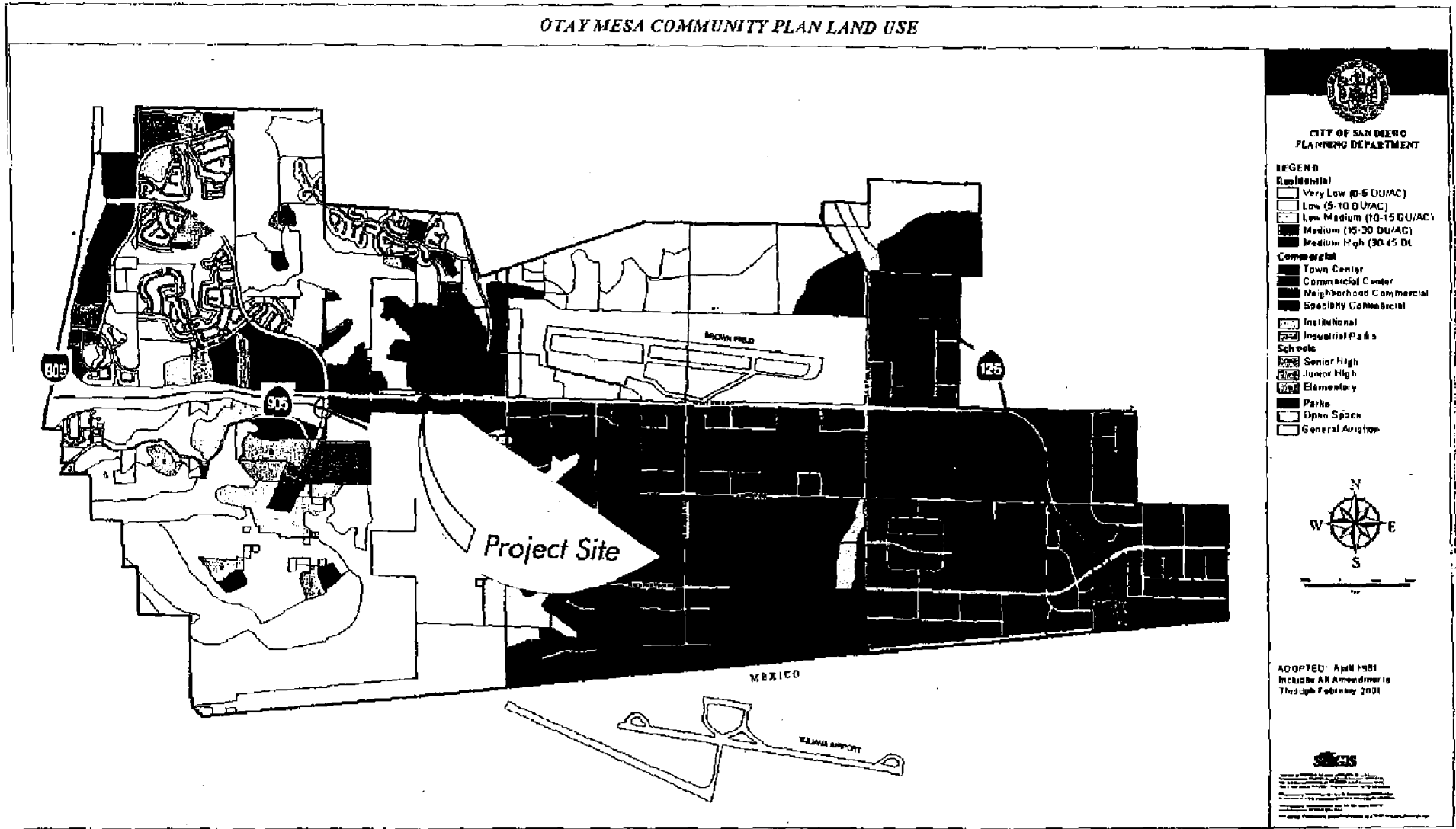




*Project Location Map*  
**Handler Otay Mesa Commercial**

June 24, 2003





Attachment 15  
PC Report No. P-06-0279

ATTACHMENT 7



Aerial Photograph  
Handler Otay Mesa Commercial  
Scale: N.T.S.  
June 23, 2003

WILLET HOHN AND ASSOCIATES

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Kimley-Horn  
and Associates, Inc.

Project: Handler Otay Mesa  
Commercial

Prepared by: Karina Fidler

Client: Dr. Gerald Handler

Job Number: 095169002

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Attachment 15  
PC Report No. P-06-0279

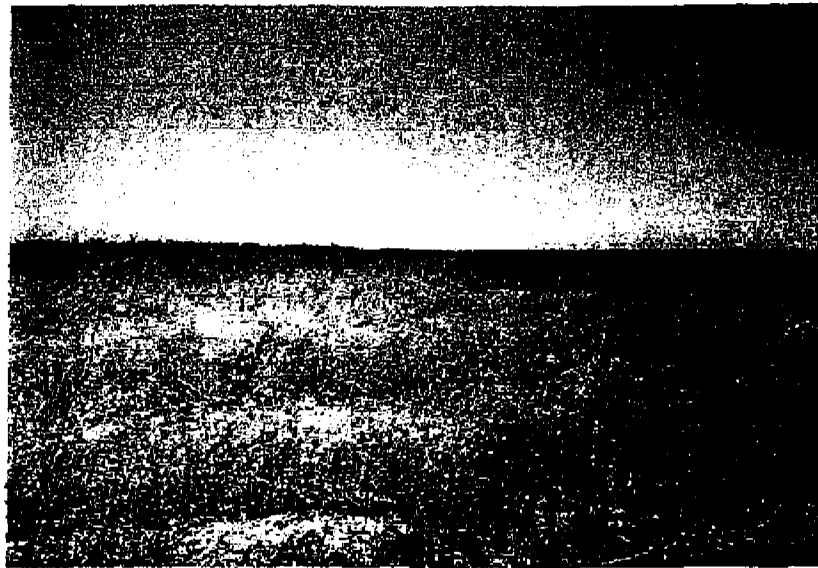


Photo 1: *View of eastern portion of site looking north*

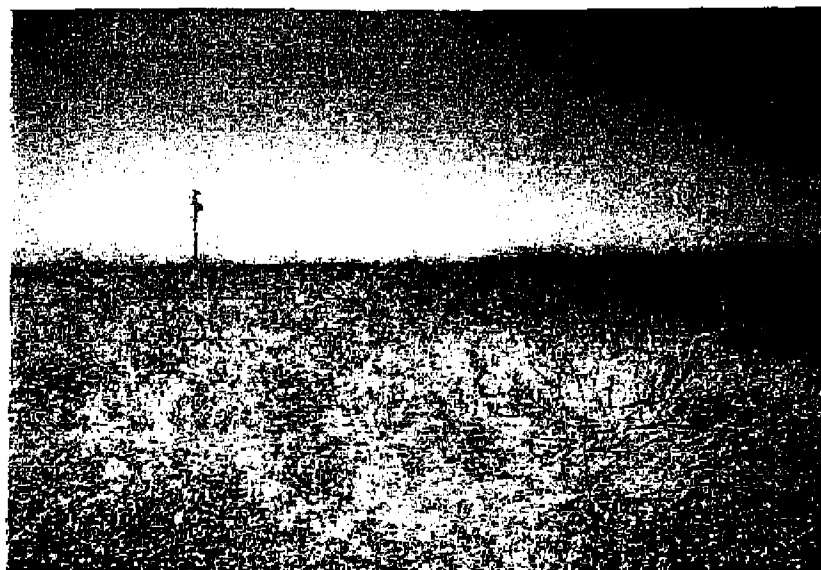


Photo 2: *View of eastern portion of site looking west*



Kimley-Horn  
and Associates, Inc.

Project: Handler Otay Mesa  
Commercial

Prepared by: Karina Fidler

Client: Dr. Gerald Handler

Job Number: 095169002

Page 2 of 2

Attachment 15  
PC Report No. P-06-0279



Photo 3: *View of western portion of site looking east*



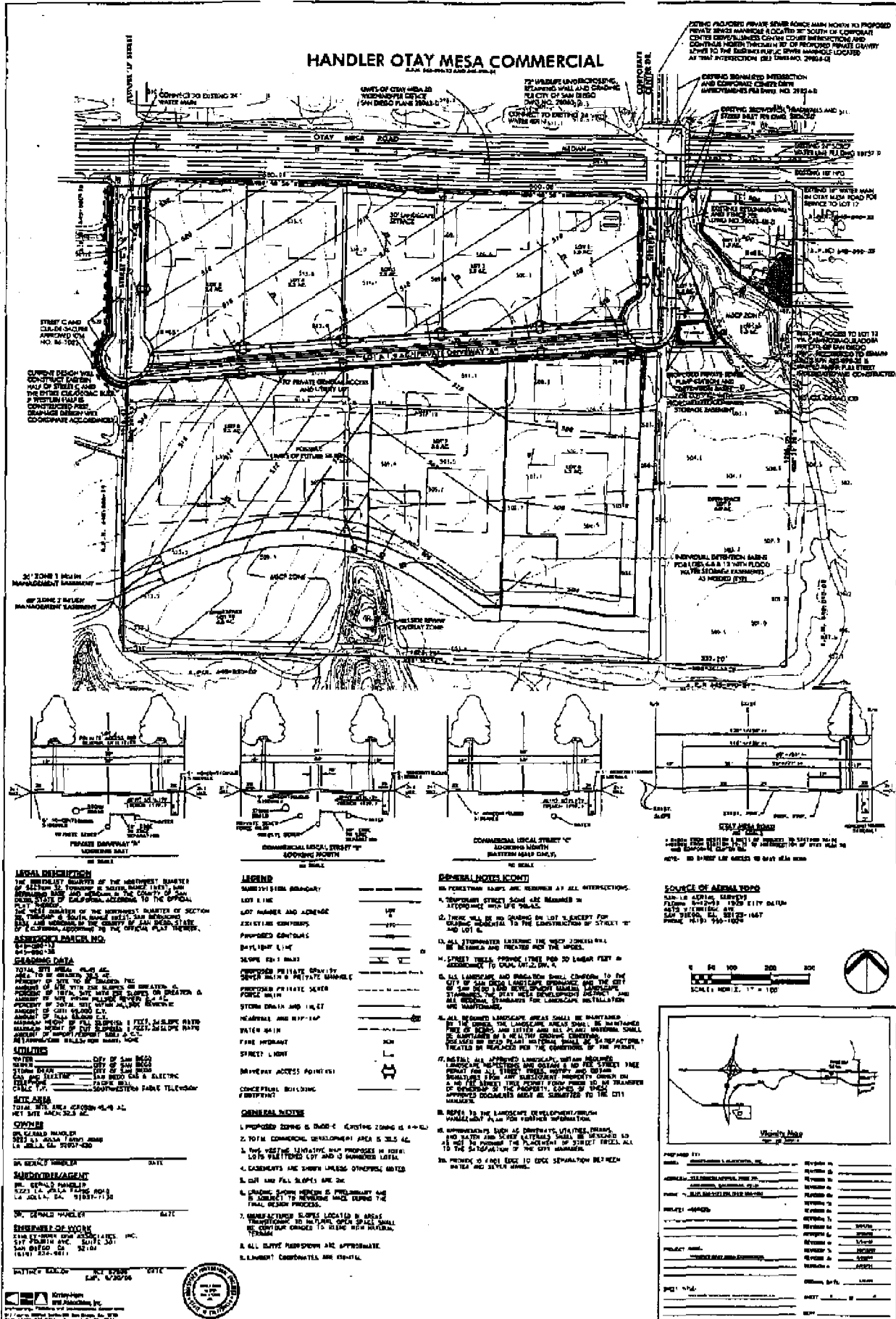
Photo 4: *View of western portion of site looking south*



Aerial Photograph  
Handler Ofay Mesa Commercial

Attachment 15  
PC Report No. P-06-0279

Scale: N.T.S.  
June 25, 2003



**LEGAL DESCRIPTION**  
THE SOUTHWEST QUARTER OF SECTION 36, TOWNSHIP 36 NORTH, RANGE 121E W. 10TH MERIDIAN, SAN DIEGO COUNTY, CALIFORNIA, BEING THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 36, TOWNSHIP 36 NORTH, RANGE 121E W. 10TH MERIDIAN, SAN DIEGO COUNTY, CALIFORNIA, APPROXIMATELY 10.0 ACRES, APPROXIMATELY 10.0 ACRES, APPROXIMATELY 10.0 ACRES.

**APPROXIMATE PLAT NO.**  
104-000-00

**PRELIMINARY DATA**  
TOTAL SITE AREA: 10.0 ACRES  
AREA TO BE DEVELOPED: 10.0 ACRES  
PROPERTY OF: [Name]  
ADDRESS OF: [Address]  
CITY AND COUNTY: [City, County]  
DATE OF: [Date]

**UTILITIES**  
WATER: [Utility Name]  
SEWER: [Utility Name]  
GAS: [Utility Name]  
ELECTRIC: [Utility Name]

**SITE AREA**  
TOTAL SITE AREA: 10.0 ACRES  
NET SITE AREA: 10.0 ACRES

**OWNER**  
[Name]  
[Address]  
[City, State, Zip]

**DESIGNER OF WORK**  
[Name]  
[Address]  
[City, State, Zip]

**DRAWING NO.**  
[Number]

**LEGEND**  
PROPERTY LINE BOUNDARY  
LOT LINE  
LOT NUMBER AND ADDRESS  
EXISTING CONTIGUOUS  
PROPOSED CONTIGUOUS  
DAYLIGHT LINE  
SLOPE 2% TO 1  
PROPOSED PRIVATE DRIVEWAY  
OWNER'S PRIVATE DRIVEWAY  
PROPOSED PRIVATE SEWER  
FORCE MAIN  
STORM DRAIN AND INLET  
WATER MAIN AND 8" W.P.  
WATER MAIN  
FIRE HYDRANT  
STREET LIGHT  
PRIVATE ACCESS POINTS  
CONCEPTUAL BUILDING FOOTPRINT

**GENERAL NOTES**  
1. PROPOSED ZONING IS COMMERCIAL (C-1).  
2. 2.0% TO 1 SLOPE DEVELOPMENT AREA IS 3.65 AC.  
3. SEE THE UTILITY MAP PROPOSED IN SEPARATE PLAT FOR THE LOCATION OF WATER MAIN, STORM DRAIN, AND GAS LINES.  
4. CONCRETE AND STORM DRAIN DITCHES SHALL BE 18" WIDE AND 18" DEEP.  
5. CURB AND GUTTER SHALL BE 18" HIGH.  
6. LANDSCAPE BUFFER SHALL BE 10' WIDE AND SHALL BE SUBJECT TO REVIEW AND APPROVAL BY THE CITY PLANNING DEPARTMENT.  
7. UNDESIRABLE USES LOCATED IN AREAS ADJACENT TO THIS SITE SHALL BE SUBJECT TO REVIEW AND APPROVAL BY THE CITY PLANNING DEPARTMENT.  
8. ALL DRIVE PAVED SHALL BE APPROXIMATELY 12' WIDE.  
9. ELEVATION COORDINATES ARE FEET/INCH.

**GENERAL NOTES (CONT)**  
10. PERMITS SHALL BE OBTAINED AT ALL INTERSECTIONS.  
11. TEMPORARY STREETS SHALL BE MAINTAINED IN ACCORDANCE WITH THE PERMITS.  
12. THERE SHALL BE NO CHANGING OF LOT LINES FOR THE CONSTRUCTION OF THIS PROJECT.  
13. ALL STREETS SHALL BE MAINTAINED IN ACCORDANCE WITH THE PERMITS.  
14. ALL LANDSCAPE AND BUFFER AREAS SHALL BE MAINTAINED IN ACCORDANCE WITH THE PERMITS.  
15. ALL LANDSCAPE AND BUFFER AREAS SHALL BE MAINTAINED IN ACCORDANCE WITH THE PERMITS.  
16. ALL LANDSCAPE AND BUFFER AREAS SHALL BE MAINTAINED IN ACCORDANCE WITH THE PERMITS.  
17. ALL LANDSCAPE AND BUFFER AREAS SHALL BE MAINTAINED IN ACCORDANCE WITH THE PERMITS.  
18. ALL LANDSCAPE AND BUFFER AREAS SHALL BE MAINTAINED IN ACCORDANCE WITH THE PERMITS.  
19. ALL LANDSCAPE AND BUFFER AREAS SHALL BE MAINTAINED IN ACCORDANCE WITH THE PERMITS.  
20. ALL LANDSCAPE AND BUFFER AREAS SHALL BE MAINTAINED IN ACCORDANCE WITH THE PERMITS.

**SOURCE OF AERIAL PHOTO**  
AERIAL PHOTO TAKEN BY [Name] ON [Date].  
SCALE: 1" = 100'

**SCALE**  
1" = 100'

**NEARBY AREAS**  
[Map showing nearby areas]

**NEARBY AREAS (CONT)**  
[Map showing nearby areas]

**NEARBY AREAS (CONT)**  
[Map showing nearby areas]

**NEARBY AREAS (CONT)**  
[Map showing nearby areas]

**NEARBY AREAS (CONT)**  
[Map showing nearby areas]

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**NEARBY AREAS (CONT)**  
[Map showing nearby areas]

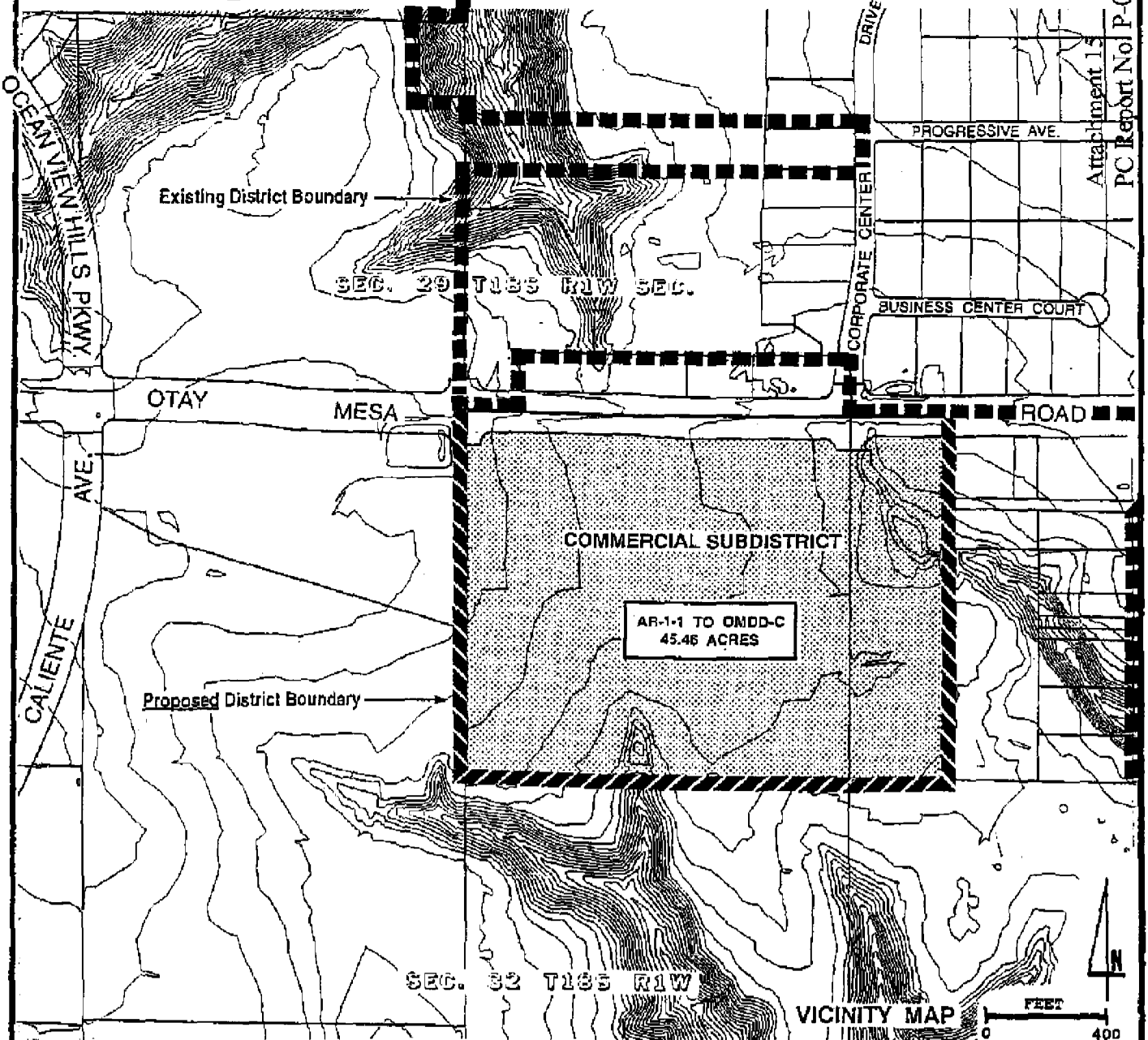
**NEARBY AREAS (CONT)**  
[Map showing nearby areas]



CITY OF SAN DIEGO · PLANNING DEPARTMENT

# PROPOSED REZONING

Attachment 13  
PC Report No P-06-0279



<b>Otay Mesa Development District REZONE &amp; Boundary Amendment</b>		
ORDINANCE NO. _____	REQUEST OMDD-C / Boundary Change	J.O. #99-0555
EFF. DATE ORD. _____	PLAN. COMM. RECOMMENDATION	(SUPERCEDES C-855)
ZONING SUBJ. TO _____	CITY COUNCIL ACTION	<b>per C - 919</b>
BEFORE DATE _____		APN: 645-060-13 & -090-36
EFF. DATE ZONING _____		(146-1766) 6-20-2003 bl.
MAP NAME & NO. _____		



**Rezone Ordinance with Tentative Map**

(O-KEYBOARD()) .

ORDINANCE NUMBER O-\_\_\_\_\_ (NEW SERIES)

ADOPTED ON \_\_\_\_\_

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SAN DIEGO CHANGING PROPERTY LOCATED IN THE 6600 BLOCK OF OTAY MESA ROAD IN THE OTAY MESA COMMUNITY PLAN AREA, IN THE CITY OF SAN DIEGO, CALIFORNIA, FROM THE AR-1-1 ZONE (PREVIOUSLY REFERRED TO AS THE A-1-10 ZONE INTO THE OMDD-C ZONE, AS DEFINED BY SAN DIEGO MUNICIPAL CODE SECTION 103.1103(a)(6); AND REPEALING ORDINANCE NO. 10862 (NEW SERIES), ADOPTED JULY 29, 1972, OF THE ORDINANCES OF THE CITY OF SAN DIEGO INSOFAR AS THE SAME CONFLICT HEREWITH.

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

Section 1. In the event that within three years of the effective date of this ordinance rezoning 45.5-acres, located in the 6600 block of Otay Mesa Road and legally described as the northeast quarter of the northwest quarter of Section 32, Township 18 South, Range 1 West, San Bernardino base and meridian, in the County of San Diego, State of California, according to the official plat thereof and the west quarter of the northwest quarter of Section 32, Township 18 South, Range 1 West, San Bernardino base and meridian, in the County of San Diego, in the Otay Mesa Community Plan area, in the City of San Diego, California, from the AR-1-1 Zones (previously referred to as the A-1-10 Zone) to the OMDD-C Zone, as shown on Zone Map Drawing No. C-919, the property is subdivided and a map or maps thereof duly submitted to the City, approved by the City, and thereafter recorded, and within such subdivision or subdivisions

provision is made for the installation of public utility services and the dedication of streets, alleys and easements for public use, the provisions of San Diego Municipal Code [SDMC] section KEYBOARD(SINGULAR/PLURAL PLUS LDC SECTION NUMBER(S)) shall attach and become applicable to the subdivided land, and the subdivided land shall be incorporated into the OMDD-C Zone, as described and defined by SectionKEYBOARD(SINGULAR/PLURAL PLUS LDC SECTION NUMBER(S)), the boundary of such zone to be as indicated on Zone Map Drawing No. C-919, filed in the office of the City Clerk as Document No. OO-\_\_\_\_\_

\_. The zoning shall attach only to those areas included in the map as provided in this section.

Section 2. That in the event the zoning restrictions shall attach to the said land described in Section 1 of this ordinance, Ordinance No. 10862 (New Series), adopted July 29, 1972, is repealed insofar as it conflicts with the rezoned use of the land.

Section 3. That a full reading of this ordinance is dispensed with prior to its final passage, a written or printed copy having been available to the City Council and the public a day prior to its final passage.

Section 4. This ordinance shall take effect and be in force on the thirtieth day from and after its passage, and no building permits for development inconsistent with the provisions of this ordinance shall be issued unless application therefor was made prior to the date of adoption of this ordinance.

APPROVED: CASEY GWINN, City Attorney

By \_\_\_\_\_  
Mary Jo Lanzafame  
Deputy City Attorney

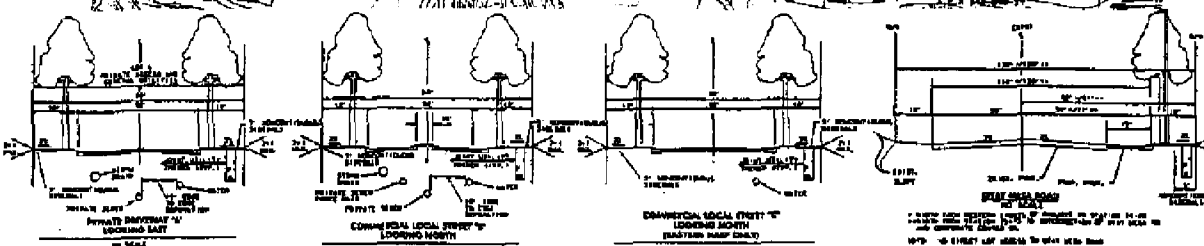
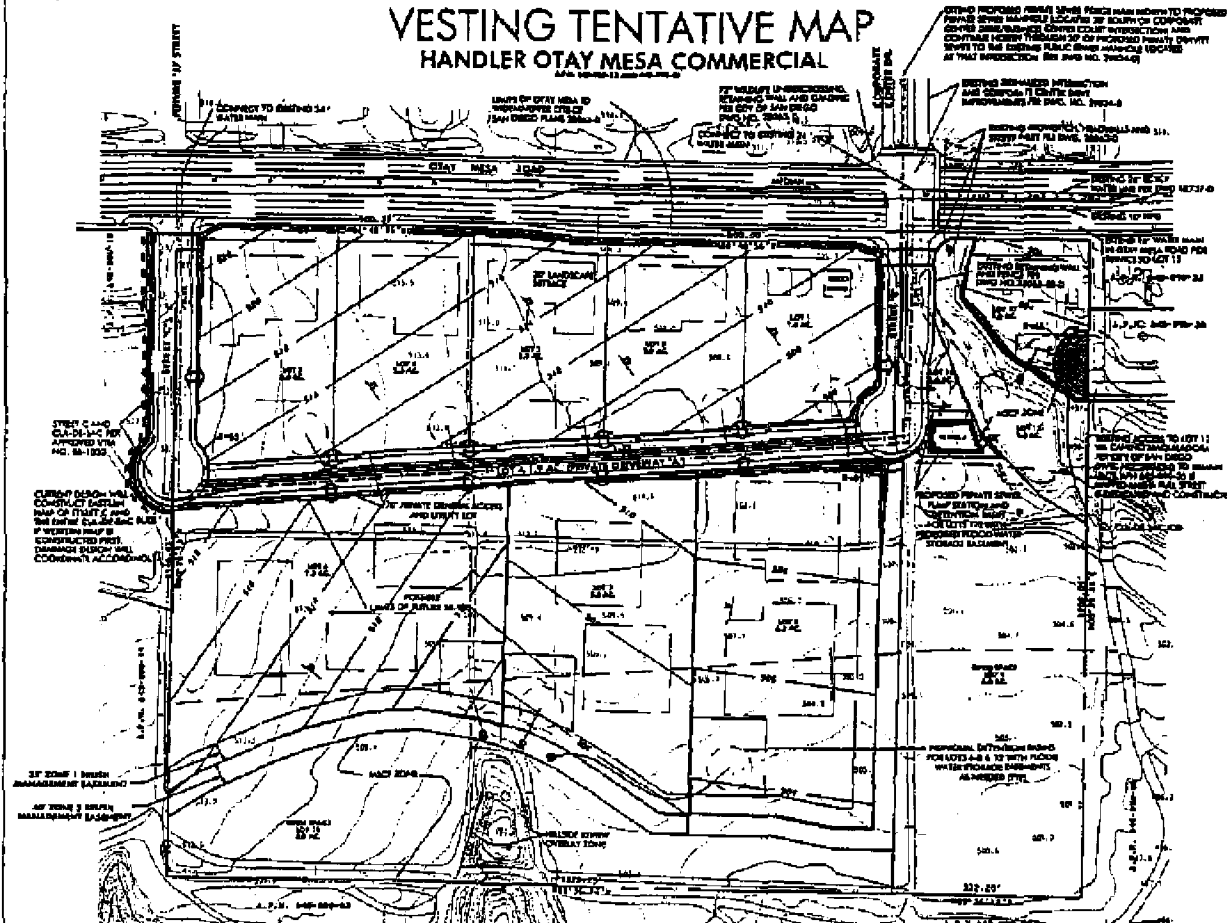
**OMDD AMENDMENT****(b) Commercial Subdistricts**

No building or improvement or portion thereof shall be erected, constructed, converted, established or enlarged, nor shall any premises be used except for one or more of the following purposes:

- (1) Uses identified as business support uses in Section 103.1103(a)(6).
- (2) Business and professional office uses.
- (3) Labor unions and trade associations.
- (4) Medical, dental, biological and X-ray laboratories.
- (5) Hotels and motels.
- (6) Retailing of consumer convenience goods and dispensing of consumer services from the following establishments:
  - (A) Barber shops.
  - (B) Beauty shops.
  - (C) Drug stores.
  - (D) Recreational facilities.
  - (E) Stationers.
  - (F) Automobile and truck sales and rental agencies.
  - (G) Automobile wash establishments.
  - (H) Financial institutions (including currency exchanges).
  - (I) Photographic equipment, supplies, and film processing stores.
  - (J) Restaurants and bars, including live entertainment.
  - (K) Tire sale, repair and recapping establishments if entirely within an enclosed building.
  - (L) Custom shops for curtains, draperies, floor covering, upholstery and wearing apparel.
  - (M) Laundries if entirely within an enclosed building.
  - (N) Lithography shops and printing establishments.

(7) Within the area bounded on the north by Otav Mesa Road, on the south by Airway Road, on the west by Ailsa Court (extended to Airway Road) and on the east by Avenida Costa Azul (extended to Airway Road) all uses permitted in the Industrial Subdistrict.

VESTING TENTATIVE MAP  
HANDLER OTAY MESA COMMERCIAL



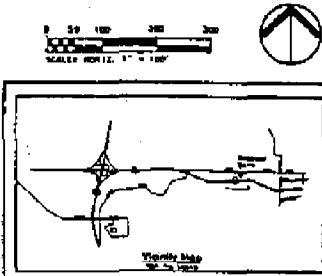
**LEGAL DESCRIPTION**  
 THE WHOLE OF THAT PORTION OF THE UNDIVIDED LOTS 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000.

**LEGEND**  
 DEFINITION SYMBOL  
 LOT LINE  
 LOT NUMBER AND ADDRESS  
 EXISTING CONTIGUOUS  
 PROPERTY BOUNDARY  
 DOTTED LINE  
 SHORELINE  
 PROPOSED PRIVATE DRIVE  
 MAINTENANCE PRIVATE DRIVE  
 PROPOSED PRIVATE DRIVE  
 FENCE LINE  
 SIGNAGE AND LIGHT  
 WALKWAY  
 FIRE HYDRANT  
 STREET LIGHT  
 DRIVEWAY ACCESS POINTS  
 CONCEPTUAL BUILDING FOOTPRINT

**GENERAL NOTES**  
 1. PROPOSED DRIVE C DASH-C BEARING ZONE S 111.0  
 2. LOCAL COMMERCIAL DEVELOPMENT AREA C ZONE AC  
 3. THIS VESTING TENTATIVE MAP PREPARED IN ACCORDANCE WITH THE VESTING TENTATIVE MAP ACT AND REGULATIONS THEREOF  
 4. EXISTING UTILITIES (ELECTRIC, GAS, TELEPHONE)  
 5. LOT AND ALL SLOPED AREAS  
 6. EXISTING DRIVEWAY SIGNAGE AND LIGHTS SHALL BE MAINTAINED AND RELOCATED TO REMAIN WITHIN THE DRIVEWAY  
 7. LANDSCAPING SHALL BE LOCATED AS SHOWN ON THE TENTATIVE MAP  
 8. ALL DRIVEWAY SIGNAGE IS APPROXIMATE  
 9. LANDSCAPE COORDINATES ARE LISTED

**GENERAL NOTES (continued)**  
 10. PROPOSED DRIVEWAY SIGNAGE SHALL BE MAINTAINED AND RELOCATED TO REMAIN WITHIN THE DRIVEWAY  
 11. ALL LANDSCAPING SHALL BE MAINTAINED AND RELOCATED TO REMAIN WITHIN THE DRIVEWAY  
 12. ALL DRIVEWAY SIGNAGE IS APPROXIMATE  
 13. LANDSCAPE COORDINATES ARE LISTED

**SOURCE OF AERIAL PHOTO**  
 1. AERIAL PHOTO  
 2. AERIAL PHOTO  
 3. AERIAL PHOTO  
 4. AERIAL PHOTO  
 5. AERIAL PHOTO  
 6. AERIAL PHOTO  
 7. AERIAL PHOTO  
 8. AERIAL PHOTO  
 9. AERIAL PHOTO  
 10. AERIAL PHOTO



Attachment 15  
PC Report No. P-06-0279



Prepared by:  
 Surveyors  
 11111 Main Street  
 San Diego, CA 92116  
 619-591-1111

Project No. 3159  
 Job Order No. 990555  
 July 17, 2003

ATTACHMENT 12

Attachment 15  
 PC Report No. P-06-0279

CITY COUNCIL RESOLUTION NO.  
 TENTATIVE MAP NO. 008182  
 TENTATIVE MAP - PROJECT NO. (MMRP)

WHEREAS, DR. GERALD HANDLER, Owner and KIMLEY-HORN and ASSOCIATES, INC., Engineer, filed an application for a 14-lot vesting tentative map and rezone, located on the south side of Otay Mesa road west of Corporate Center Drive, and described as a Portion of Section 32, Township 18 South, Range 1 West, in the AR-1-1 (proposed OMDD-C) Zone; and

WHEREAS, on July 17, 2003, the Planning Commission of the City of San Diego considered Vesting Tentative Map 99-0555, pursuant to the Municipal Code Sections 125.0430 of the City of San Diego, and received for its consideration written and oral presentations, and heard from all interested parties present at the public hearing;

NOW, THEREFORE, BE IT RESOLVED, that the Planning Commission of the City of San Diego makes the following Findings:

1. The map proposes the subdivision of a 45.5-acre site into 14 lots for commercial development. This type of development is consistent with the General Plan and the Otay Mesa Community Plan, which designate the area for commercial use. The proposed map will retain the community's character by encouraging orderly, sequential development compatible in its intensity with surrounding existing and future land development.
2. The design and proposed improvements for the map are consistent with the zoning/development regulations of the OMDD-C Zone in that:
  - a. All lots have minimum frontage on a dedicated street.
  - b. All lots meet the minimum dimension requirements of the OMDD-C Zone.
  - c. All lots are designed so that required improvements do not result in nonconforming lots in respect to building area, setbacks, side yard and rear yard regulations.
  - d. Development of the site is controlled by Resource Protection Ordinance Permit No. 99-0555.
3. The design and proposed improvements for the subdivision are consistent with State Map Act Section 66473.1 and San Diego Municipal Code Section 125.0440(g) regarding the design of the subdivision for future passive or natural heating or cooling opportunities.

Project No. 3159  
Otay Mesa East VTM 990555

Page 2

Attachment 15  
PC Report No. P-06-0279

4. The site is physically suitable for commercial development. The harmony in scale, height, bulk, density, and coverage of development creates a compatible physical relationship to surrounding properties for which this area has been planned.
5. The site is physically suitable for the proposed density of development. This is consistent with the community plan, which provides for commercial uses.
6. The design of the subdivision or the proposed improvements could cause substantial environmental damage or substantially and unavoidably injure fish or wildlife or their habitat. However, the project as revised now avoids or mitigates the potentially significant environmental effects based upon the findings of Mitigated Negative Declaration No. 99-0555, which is included herein by this reference.
7. The design of the subdivision and the type of improvements will not likely cause serious public health problems, in as much as needed public services and facilities are available/or required by condition of this map to provide for water and sewage facilities, as well as other related public services.
8. The design of the subdivision and the type of improvements are such that they will not conflict with any easements, acquired by the public at large, for access through or use of property within the proposed subdivision, as demonstrated by the City Engineer's request for public dedications and adequate improvement on the proposed subdivision map.
9. The Planning Commission has reviewed the adopted Housing Element, the Progress Guide, and the General Plan of the City of San Diego, and hereby finds, pursuant to Section 66412.3 of the Government Code, that the housing needs of the region are being met since residential development has been planned for the area and public services programmed for installation, as determined by the City Engineer, in accordance with financing and environmental policies of the City Council.
10. That said Findings are supported by the minutes, maps, and exhibits, all of which are herein incorporated by reference.

BE IT FURTHER RESOLVED, that, based on the Findings hereinbefore adopted by the City Council, Otay Mesa East, Vesting Tentative Map No. 008182 is hereby APPROVED, subject to the following conditions:

1. This tentative map will become effective on the effective date of the associated rezone and expire three years thereafter. Should the rezone be denied then this tentative map shall be deemed denied.

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2. Compliance with all of the following conditions shall be assured, to the satisfaction of the City Engineer, prior to the recordation of the final map, unless otherwise noted.
3. Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of this tentative map, may protest the imposition within ninety days of the approval of this tentative map by filing a written protest with the City Clerk pursuant to California Government Code section 66020.
4. The final map shall conform to the provisions of Resource Protection Ordinance (RPO) Permit No. \_\_\_\_\_.
5. The "General Conditions for Tentative Subdivision Maps," filed in the Office of the City Clerk under Document No. 767688 on May 7, 1980, shall be made a condition of map approval. Only those exceptions to the General Conditions which are shown on the tentative map and covered in these special conditions will be authorized.

All public improvements and incidental facilities shall be designed in accordance with criteria established in the Street Design Manual, filed with the City Clerk as Document No. 769830.

6. "Basis of Bearings" means the source of uniform orientation of all measured bearings shown on the map. Unless otherwise approved, this source will be the California Coordinate System, Zone 6, North American Datum of 1983 (NAD 83).
7. "California Coordinate System" means the coordinate system as defined in Sections 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."
8. The final map 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.
  - b. Show two measured ties from the boundary of the map to existing Horizontal Control stations having California Coordinate values of Third Order accuracy or better. These tie lines to the existing control shall be shown in relation to the California Coordinate System (i.e., grid bearings and grid distances). All other distances shown on the map are to be shown as ground distances. A combined factor for conversion of grid-to-ground distances shall be shown on the map.

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9. The approval of this tentative map by 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 Endangered Species Act of 1973 and any amendments thereto (16 U.S.C. § 1531 et seq.).
10. Prior to recordation of the final subdivision map by the City Council, the subdivider shall provide evidence to ensure that an affirmative marketing program is established.
11. The subdivider must provide a geologic reconnaissance report on the subject property to discover and address potential geological hazards. The report must be prepared in accordance with the most recent edition of the City of San Diego "Technical Guidelines for Geotechnical Reports." All slopes shall be constructed in accordance with the provisions of San Diego Municipal Code.
12. Undergrounding of existing and proposed public utility systems and service facilities is required according to San Diego Municipal Code Section 102.0404, Subsection 2.
13. Prior to building occupancy, the applicant shall conform to Section 62.0203 of the Municipal Code, "Public Improvement Subject to Desuetude or Damage." If repair or replacement of such public improvements is required, the owner shall obtain the required permits for work in the public right-of-way, satisfactory to the permit-issuing authority.
14. The drainage system proposed for this development, as shown on the approved tentative map, is subject to approval by the City Engineer.
15. The subdivider shall obtain a bonded grading permit from the City Engineer for the grading proposed for this project. All grading shall conform to the requirements of the City of San Diego Municipal Code in a manner satisfactory to the City Engineer.
16. The applicant shall construct drainage detention basins, the design, location, and size of which are subject to approval by the City Engineer. The design shall be such that the discharge from the improved area will be no more than the discharge would have been from the land in the unimproved state. The applicant shall provide for the maintenance of the drainage detention facilities within a storage easement, satisfactory to the City Engineer.
17. The City Engineer is making a drainage study of the Otay Mesa border area. The study will propose a method to control runoff across the U.S./Mexico border. A method of financing the design, construction, and maintenance of these facilities will be established. This applicant may be required to contribute money for this purpose through a development agreement or other means determined by the City Engineer. Prior to the issuance of any building permits, the applicant shall enter into an agreement with the City waiving the right to oppose a special assessment initiated for these improvements.



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18. Development of this project shall comply with all requirements of State Water Resources Control Board (SWRCB) Order No. 99-08 and the Municipal Storm Water Permit, Order No. 2001-01 (NPDES General Permit No. CAS000002 and CA S0108758), Waste Discharge Requirements for Discharges of Storm Water Runoff Associated With Construction Activity. In accordance with said permit, a Storm Water Pollution Prevention Plan (SWPPP) and a Monitoring Program Plan shall be implemented concurrently with the commencement of grading activities, and a Notice of Intent (NOI) shall be filed with the SWRCB.
19. A copy of the acknowledgment from the SWRCB that an NOI has been received for this project shall be filed with the City of San Diego when received; further, a copy of the completed NOI from the SWRCB showing the permit number for this project shall be filed with the City of San Diego when received. In addition, the owner(s) and subsequent owner(s) of any portion of the property covered by this grading permit and by SWRCB Order No. 99-08-DWQ, and any subsequent amendments thereto, shall comply with special provisions as set forth in Section C.7 of SWRCB Order No. 99-08-DWQ.
20. The subdivider shall enter into a Maintenance Agreement for the ongoing permanent BMP maintenance, satisfactory to the City Engineer.
21. Prior to the issuance of any construction permits, the applicant shall incorporate and show the type and location of all post-construction Best Management Practices (BMP's) on the final construction drawings, consistent with the approved Water Quality Technical Report.
22. Street B is classified as a commercial local street. The subdivider shall dedicate 84 feet of right-of-way and shall construct 64 feet of pavement, curb gutter and a five (5)-foot-wide sidewalk. The subdivider shall also dedicate 92 feet of right-of way for a portion of Street B and shall construct, within 200 feet of the intersection with Otay Mesa Road, 72 feet of pavement (an 18-foot southbound lane, a four (4)-foot raised center median, two (2) 12-foot northbound left turn lanes, a 12-foot northbound through lane, a 14-foot northbound through lane and a 14-foot northbound right turn lane, with curb, gutter and a five (5)-foot-wide sidewalk transitioning to the aforementioned 84-foot right-of-way. Finally, the subdivider shall construct, at the southern terminus of Street B, a 55-foot curb radius cul-de-sac within 65 feet of right-of-way, including curb, gutter and a five (5)-foot sidewalk.
23. Street C is classified as a commercial local street. The subdivider shall dedicate 40 feet of right-of-way along with right-of-way for a 65-foot right-of-way radius for a cul-de-sac, and shall construct the half width of Street "C" including 30 feet of pavement, curb, gutter and a five (5)-foot sidewalk within a 10-foot curb.

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24. Environmental

Prior to issuance of a grading or pre-grading permit from the City of San Diego for any portion of the project site, proof of an incidental take permit under Section 7 or Section 10(a) of the Federal Endangered Species Act relative to the California gnatcatcher shall be provided to the City Manager. If such permit is not required, written verification to that effect from the U.S. Fish and Wildlife Service shall be provided. Any project redesign required in obtaining a Section 7 or 10a permit will require reconsideration by the appropriate City decision making body.

25. The applicant shall comply with the Mitigation, Monitoring and Reporting Program (MMRP) as specified in Environmental Impact Report or Mitigated Negative Declaration, Project No. 3159, satisfactory to the City Manager and the City Engineer. Prior to issuance of any grading permits and/or building permits, mitigation measures as specifically outlined in the MMRP shall be implemented for Land Use/Biological Resources/Historical Resources (Archaeology)/Water Quality

26. Landscaping:

- a. No change, modification or alteration shall be made to the project unless appropriate application or amendment of this Permit has been granted by the City. All plan specifications and notes mentioned in the conditions below shall be consistent with the Land Development Code, Section 142.0401 and Landscape Standards, Exhibit "A", Landscape Development Plan, Brush Management Plan, details and notes on file in the Office of the Development Services.
- b. All required landscape plant materials shall be maintained 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 it's mature height and spread.
- c. The Permittee or subsequent owner shall be responsible for the maintenance of all street trees and landscape improvements (right-of-way and median landscaping) consistent with the Landscape Standards.
- d. The Permittee or subsequent owner shall be responsible for the maintenance of all street trees and landscape improvements (right-of-way and median landscaping) consistent with the Landscape Standards. A Landscape Maintenance Agreement and bond shall be entered into prior to issuance of any grading or construction permit. The agreement and bond shall be renewed each year until such time that another approved entity assumes responsibility such as a home owners association or a Landscape Maintenance District.

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- e. If any required landscape improvements (including existing or new planting, hardscape, landscape features, etc.) are damaged or removed during demolition or construction, they shall be repaired and/or replaced in kind and equivalent size per the approved documents to the satisfaction of the City Manager, within 30 days of damage and prior to any Certificate of Occupancy.
- f. Prior to the issuance of any engineering permits for grading or improvement the Permittee shall complete a Maintenance Assessment District Agreement form for early confirmation.
- g. In the event that a foundation only permit is requested by the Permittee or subsequent owner, a site plan or staking layout plan shall be submitted identifying all landscape areas consistent with Exhibit "A", Landscape Development Plan, on file in the Office of Development Services. These landscape areas shall be clearly identified with a distinct symbol, noted with dimensions and labeled as landscaping area.
- h. In the event that any mass grading permit is requested by the Permittee or subsequent owner, complete landscape construction documents for revegetation and erosion control, including an automatic permanent irrigation system, shall be submitted to the Development Services Department, Land Development Review Section for approval. The plans shall be in substantial conformance to Exhibit "A", on file in the office of the Development Services.
- i. Prior to issuance of any construction permits for structures (including shell), complete landscape and irrigation construction documents consistent with the Landscape Standards (including planting and irrigation plans, details and specifications) shall be submitted to the City Manager for approval. The construction documents shall be in substantial conformance with Exhibit "A", Landscape Development Plan, on file in the Office of Development Services.
- j. In the event that any construction permit for parking structures is requested, the Permittee or subsequent owner shall submit on the planting and irrigation plans a signed statement by a Registered Structural Engineer indicating that supporting structures are designed to accommodate the necessary structural loads and associated planting and irrigation.
- k. Prior to issuance of any engineering permits for right-of-way improvements, complete landscape construction documents for right-of-way improvements shall be submitted to the City Manager for approval. Improvement plans shall take into account a 40 square feet 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.

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- l. Prior to issuance of any engineering permits for private drive improvements, complete landscape construction documents for private drive improvements shall be submitted to the City Manager for approval. Improvement plans shall take into account a 40 square feet 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.
- m. Prior to issuance of any engineering permits for grading, construction documents for slope planting (if applicable) or revegetation including hydroseeding and irrigation shall be submitted in accordance with the Landscape Standards and to the satisfaction of the City Manager. All plans shall be in substantial conformance with Exhibit "A", (including Environmental conditions) on file in the Office of Development Service.
- n. Installation of slope planting and erosion control including seeding of all disturbed land (slopes and pads) consistent with the approved landscape and grading plans is considered to be in the public interest. The Permittee shall initiate such measures as soon as the grading has been accomplished. Such erosion control/slope planting and the associated irrigation systems (temporary and/or permanent) and appurtenances shall be installed in accordance with the approved plans and the Landscape Standards.
- o. Prior to issuance of any Certificate of Occupancy, it shall be the responsibility of the Permittee or subsequent owner to install all required landscape and obtain all required landscape inspections. A No Fee Street Tree Permit, if applicable, shall be obtained for the installation, establishment and on-going maintenance of all street trees.
- p. Prior to the recording of the (parcel/final map), the Permittee or subsequent owner/developer shall submit for review, a Landscape Maintenance Agreement for all landscape improvements within and visible from the public right-of-way. The approved Landscape Maintenance Agreement shall be recorded and bonded prior to recording of the (parcel/final map).
- q. The Permittee or subsequent owner(s) shall be responsible for the installation and maintenance of all landscape improvements consistent with the Landscape Regulation and Landscape Standards. Invasive species are prohibited from being planted adjacent to any canyon, water course, wet land or native habitats within the city limits of San Diego as noted in Section 1.3 of the Landscape Standards.

27. Brush Management Requirements

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- a. The Permittee shall implement the following requirements in accordance with the Brush Management Program shown on Exhibit "A", Brush Management Program/Landscape Development Plan, on file in the Office of the Development Services Department.
  - b. Prior to issuance of permits or recording of final maps, all easements or right of entry permits for the purpose of Brush Management shall be obtained.
  - c. Prior to issuance of any engineering permits for grading, complete Brush Management, planting and irrigation plans, details and specifications (including maintenance specifications), shall be submitted to the City Manager for approval. All plans shall indicate the brush management zones depths by dimension.
  - d. Prior to final inspection and issuance of any Certificate of Occupancy for any building, the approved Brush Management Program shall be implemented.
  - e. In all brush management zones the plant material shall be selected to visually blend with the existing vegetation. No invasive plant material shall be permitted as determined by the Landscape Section of Development Services Department.
  - f. The Brush Management Maintenance Program as noted on Exhibit "A", shall be performed annually by the Permittee or subsequent owner or until such time that another approved entity such as a project association or a Landscape Maintenance District assumes annual responsibility.
  - g. Provide Brush Management plants that are visually and horticulturally compatible with the native vegetation.
28. The Resource Protection Ordinance Permit No. 008163 shall comply with the conditions of the Final Map for VTM No. 008182.
29. Transportation Requirements
- a. The subdivider shall relinquish access rights along project frontage on Otay Mesa Road.
  - b. The subdivider shall construct a second left turn lane on Otay Mesa Road at its intersection with Street "B".
  - c. The subdivider shall assure by permit and bond, construction of an eastbound exclusive right turn lane with 500-feet of storage and proper transition on Otay Mesa Road at its intersections with "B" Street", satisfactory to the City Engineer.

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- d. The subdivider shall assure by permit and bond, construction of private driveway "A" between Street "B" and Street "C" with 50 feet of pavement within 70 feet of private general utility easement with curb, gutter and 5-foot sidewalk on both sides of the street and raised center median at both ends of the streets within 200 feet of the intersections with Street "B" and Street "C".
- e. The subdivider shall construct half width improvements for Street "C" including 30 feet of pavement, curb, gutter and 5-foot sidewalk within a 10-foot curb to property line distance with 55-foot curb radius cul-de-sac turnaround at the southern end.
- f. The subdivider shall construct an eastbound exclusive right turn lane with 200 feet of storage and a proper transition on Otay Mesa Road at its intersection with Street "C".
- g. The subdivider shall construct a second eastbound left turn lane and one exclusive westbound right turn lane at the intersection of Otay Mesa Road and Ocean View Hills Parkway, satisfactory to the City Engineer.
- h. The subdivider shall construct a second westbound left turn lane at the intersection of Otay Mesa Road and Ocean View Hills Parkway. The subdivider may enter into a deferred improvement agreement with City of San Diego for this improvement.
- i. The subdivider shall construct the second half (western half) of Street "C" to provide 60 feet of pavement, curb, gutter and 5-foot sidewalk within a 10-foot typical curb-to-property-line distance on the west side. The subdivider may enter into a deferred improvement agreement with City of San Diego for this improvement.
- j. The subdivider shall construct a westbound left turn lane at the intersection of Otay Mesa Road/Street "C". The subdivider may enter into a deferred improvement agreement with City of San Diego for this improvement.
- k. The subdivider shall construct a traffic signal at the intersection of Otay Mesa Road and Street "C". The subdivider may enter into a deferred improvement agreement with City of San Diego for this improvement.
- l. The subdivider shall provide an Irrevocable Offer of Dedication (IOD) for half of the cul-de-sac on Lot 12 at the western end of Camino Maquiladora with a 55-foot curb radius turnaround within 65 feet of right-of-way.

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- a. The developer shall construct the Otay Mesa Trunk Sewer Phase II or enter into a development agreement to pay their fair share cost of the trunk sewer in proportion to the ultimate zoned use of the property being developed, in accordance with the City's Sewer Design Guide.
- b. The developer shall install all sewer facilities required by the accepted sewer study, necessary to serve this development. Sewer facilities as shown on the approved tentative map will require modification based on the accepted sewer study.
- c. The developer shall design and construct all proposed public sewer facilities to the most current edition of the City of San Diego's sewer design guide. Proposed facilities that do not meet the current standards shall be re-designed.
- d. The developer shall design and construct all proposed private sewer facilities serving more than one lot to the most current edition of the City of San Diego's sewer design guide. Improvement drawings are required for private sewer facilities serving more than one lot.
- e. Prior to the issuance of any building permits, the applicant shall process and record a NOTICE & AGREEMENT for each ownership being served by a private pump station/sewer facilities which serves more than one ownership, which indemnifies the City and contains an agreement that the applicant, and successors in interest, will be responsible for the operation and maintenance of the private sewer systems.
- f. The developer shall obtain a building permit for any private pump station serving a condominium project or more than one lot.
- g. The developer shall provide, satisfactory to the Metropolitan Wastewater Department Director, CC&R's for the operation and maintenance of on-site private sewer facilities that serve more than one lot.
- h. No structures or landscaping, including private sewer facilities and enhanced paving, shall be installed in or over any easement or street right-of-way prior to the applicant obtaining an Encroachment Maintenance and Removal Agreement.
- i. Providing sewer for this development is dependent upon prior construction of certain portions of the Otay Mesa Trunk Sewer Phase II. If they have not been constructed when required for this development, then the construction of certain portions of these sewer facilities, as required by the City Engineer, will become off-site improvements required for this development.

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### 31. Water Requirements

- a. The subdivider shall design and construct a system of public 16-inch water facilities within Street "B", Street "C", and Private Driveway "A", with two points of connection to the Otay Mesa Pipeline, in a manner satisfactory to the Water Department Director and the City Engineer.
- b. The subdivider shall design and construct a public 16-inch water main extension within Otay Mesa Road, east of Street "B", to serve Lot 12 if Camino Maquiladora is not fully improved with public water facilities, in a manner satisfactory to the Water Department Director and the City Engineer.
- c. The subdivider shall install fire hydrants at locations satisfactory to the Water Department, the Fire Department and the City Engineer.
- d. The subdivider shall grant adequate water easements, including vehicular access to each appurtenance (meters, blow offs, valves, fire hydrants, etc.), over the entire Lot A, satisfactory to the Water Department Director.
- e. Grants of water easements shall be of sufficient width to accommodate a minimum 24-foot wide fully paved vehicular access road with full height curbs, and 4-foot behind curb or sidewalk. Easements shall accommodate two way traffic. Easements or lack thereof, as shown on the approved tentative map, will require modification based on standards at final engineering.
- f. The subdivider shall design and construct all irrigations systems to utilize reclaimed water in a manner satisfactory to the Water Department Director.
- g. The subdivider agrees to design and construct all proposed public water facilities, including services, meters, and easements, 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. Water facilities, as shown on the approved tentative map, shall be modified at final engineering to comply with standards.

### 32. Open Space Requirements

- a. Lots 9 and 10 shall be deeded, at no cost, to the city for open space. said lots shall be free and clear of all private encroachments, private easements, private agreements and/or liens.
- b. An open space easement is required on the 40-foot deep Zone 2 for brush



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management across Lots 6, 7 and 8.

- c. The brush management zones adjacent to Lots 6 through 8 shall be made into a separate lot and have an open space easement over Zone Two.
- d. Brush management Zones 1, 2 and 3 or modified Zones 1 and 2 must be provided between Lot 8 and Lot 9 and Zone Two must have an open space easement. This will require a new lot and it is understood that Lot 9 will be reduced in size.

• 33. Multiple Species Conservation Program (MSCP) Requirements

- a. In accordance with authorization granted to the City of San Diego from the United States Fish and Wildlife Service (USFWS) pursuant to Section 10(a) of the ESA and by the California Department of Fish and Game (CDFG) pursuant to Fish and Game Code section 2835 as part of the Multiple Species Conservation Program (MSCP), the City of San Diego through the issuance of this Permit hereby confers upon Permittee the status of Third Party Beneficiary as provided for in Section 17 of the City of San Diego Implementing Agreement (IA), executed on July 17, 1997 and on File in the Office of the City Clerk as Document No. 00-18394. Third Party Beneficiary status is conferred upon Permittee by the City: (1) to grant Permittee the legal standing and legal right to utilize the take authorizations granted to the City pursuant to the MSCP within the context of those limitations imposed under this Permit and the IA, and (2) to assure Permittee that no existing mitigation obligation imposed by the City of San Diego pursuant to this Permit shall be altered in the future by the City of San Diego, USFWS or CDFG, except in the limited circumstances described in Sections 9.6 and 9.7 of the IA.
- b. If mitigation lands are identified but not yet dedicated or preserved in perpetuity, maintenance and continued recognition of Third Party Beneficiary status by the City is contingent upon Permittee maintaining the biological values of any and all lands committed for mitigation pursuant to this Permit and of full satisfaction by Permittee of mitigation obligations required by this Permit, as described in accordance with Section 17.1D of the IA.
- c. The applicant shall comply with the Mitigation, Monitoring and Reporting Program (MMRP) as specified in the Environmental Documentation for the "Otay Mesa East Project" (Project No. 3159, SCH No. 2003051060), satisfactory to the City Manager and the City Engineer, for the following issues areas to ensure compliance with the MSCP and MHPA Land Use Adjacency Guidelines: Land Use, Biological Resources and Water Quality.
- d. In addition, the following conditions shall apply: Operational Noise: Prior to issuance of any building occupancy permits, the sewer pump station proposed

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adjacent to the existing Otay Mesa Road wildlife under crossing shall be constructed, to the satisfaction of the City Manager and City Engineer, to ensure that operational noise does not impact wildlife movement, including: 1) designing the facility below-ground; 2) encasing it in concrete; 3) providing perimeter berms and native screening vegetation; and, 4) shielding/directing all necessary lighting away from the MHPA.

- e. **Edge Treatment:** Prior to issuance of any building occupancy permits, the applicant shall construct a six-foot-high black vinyl-coated chain link fence along areas adjacent to the MHPA, including the rear of proposed Lots 6, 7 and 8, satisfactory to the City Manager and the City Engineer. The fencing shall be appropriately maintained at all times by the owner/Permittee/trustee. Any necessary future fence repairs shall be conducted in a manner which does not result in impacts to sensitive biology resource or wildlife movement.
- f. **Brush Management:** Prior to recordation of the first final map and/or issuance of any grading permits, the City Manager shall verify that all brush management zone 2 is located outside the limits of the on-site vernal pool watershed areas and retained within the proposed lots.
- g. **Drainage:** Prior to recordation of the first final map and/or issuance of any grading permits, the City Manager and City Engineer shall verify that on-site drainage for all lots, including proposed lot no. 8, is designed to avoid discharging into the on-site vernal pool watershed areas.
- h. Prior to recordation of the first final map and/or issuance of any grading permits, the on-site MHPA shall be conserved and conveyed to the City's MHPA through either dedication in fee to the City, OR placement in a conservation easement OR covenant of easement, which is then recorded on the property. For brush management zone two and any proposed revegetation areas within the MHPA, a conservation easement would be appropriate. All other areas could be conveyed through any of the three above methods. Management of the on-site preserved MHPA shall be the responsibility of the owner/Permittee/trustee in perpetuity, unless the City accepts responsibility through dedication in fee title. Note: Any proposed dedication of land in-fee to the City outside the MHPA will require approval from the Park and Recreation Department.

**FOR INFORMATION:**

- This development may be subject to payment of a park fee prior to the filing of the final subdivision map in accordance with San Diego Municipal Code section 102.0406 et seq. This property is also subject to a building permit park fee in accordance with San Diego Municipal Code section 96.0401 et seq.

- This development may be subject to payment of School Impact Fees at the time of issuance of building permits, as provided by California Government Code section 53080(b) (Statutes of 1986, Chapter 887), in accordance with procedures established by the Director of Building Inspection.
- This tentative map will be subject to fees and charges based on the rate and calculation method in effect at the time of payment.
- This development will be subject to impact fees, as established by the City Council at the time of issuance of building permits.

PASSED AND ADOPTED BY THE CITY COUNCIL  
OF THE CITY OF SAN DIEGO,  
CALIFORNIA, ON \_\_\_\_\_,  
BY A VOTE OF .

In the event that you are dissatisfied with any action of the Planning Commission with respect to the tentative map, you may appeal directly to the City Council within ten days. Notice of appeal shall be in writing and filed with the City Clerk.

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ATTACHMENT 13  
DRAFT PERMITAttachment 15  
PC Report No. P-06-0279RECORDING REQUESTED BY  
CITY OF SAN DIEGO  
DEVELOPMENT SERVICES  
DEPARTMENTWHEN RECORDED MAIL TO  
PERMIT INTAKE  
MAIL STATION 501

SPACE ABOVE THIS LINE FOR RECORDER'S USE

JOB ORDER NUMBER: 99-0555

RESOURCE PROTECTION ORDINANCE (RPO) PERMIT (MMRP)  
APPROVAL NO. 008163  
OTAY MESA EAST - PTS NO. 3159

City Council

This Permit is granted by the City Council of the City of San Diego to GERALD HANDLER, Owner/Permittee pursuant Municipal Code Section 101.0462 (Old Code) of the City of San Diego. The site is located in the 6600 block of Otay Mesa Road in the Otay Mesa Community Planning area. The project site is legally described as the northeast quarter of the northwest quarter of Section 32, Township 18 South, Range 1 West, San Bernardino base and meridian, in the County of San Diego, State of California, according to the official plat thereof and the west quarter of the northwest quarter of Section 32, Township 18 South, Range 1 West, San Bernardino base and meridian, in the County of San Diego, State of California, according to the official plat thereof.

Subject to the terms and conditions set forth in this permit, permission is granted to Owner/Permittee, GERALD HANDLER to develop a 45.5-acre, vacant site with commercial development consistent with the OMDD-C Zone for commercial lots, described as, and identified by size, dimension, quantity, type and location on the approved Exhibits "A," dated , 2003 on file in the Office of the Development Services Department. The facility shall include:

- a. Nine commercial lots (Lots 1-8 and 12);
- b. Three open space lots (Lots 9-10 and 13);
- c. Construction of a private underground sewer pump station on 0.4-acre located at the northeast corner of the site (Lot 11);
- d. Preservation of 1.3-acres wild of corridor;
- e. Preservation of Multiple Habitat Planning Area (MHPA) in the northeast corner of the site adjacent to the existing six-foot wildlife underground tunnel at Otay Mesa Road and Corporate Center Drive;

- f. Four acres to be designated as open space to protect the MHPA on the southern boundary of the site;
  - g. Six acres on the eastern boundary of the project site to be designated as open space, including a fenced preserve for 22 existing vernal pools and one (1) road pool located in the southeast corner of the property;
  - h. Landscaping (planting, irrigation and landscape related improvements);
  - i. Accessory improvements determined by the City Manager 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 Municipal Code in effect for this site.
1. Construction, grading or demolition must commence and be pursued in a diligent manner within 36 months after the effective date of final approval by the City, following all appeals. Failure to utilize the permit within 36 months will automatically void the permit unless an Extension of Time has been granted. Any such Extension of Time must meet all the Land Development Code requirements and applicable guidelines in effect 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 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. 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 City Manager.
  4. This permit is a covenant running with the subject property and shall be binding upon the 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 utilization and continued use of this permit shall be subject to the regulations of this and any other applicable governmental agencies.
  6. Issuance of this permit by the City of San Diego does not authorize the applicant for said permit 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 U.S.C. Section 1531 et seq.)

7. The Owner/Permittee shall secure all necessary building permits. The applicant is informed that to secure these permits, substantial modifications to the building and/or site improvements to comply with applicable building, fire, mechanical and plumbing codes and State law requiring access for disabled people may be required.

8. Before issuance of any building or grading permits, complete grading and working drawings shall be submitted to the City Manager for approval. Plans shall be in substantial conformity to Exhibit "A," dated , 2003, on file in the Office of the Development Services Department. No change, modifications or alterations shall be made unless appropriate applications or amendment of this permit shall 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 discretionary 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 special rights which the holder of the Permit is obtaining as a result of this Permit. It is the intent of the City that the Owner of the property which is the subject of this Permit either utilize the property for any use allowed under the zoning and other restrictions which apply to the property or, in the alternative, that the Owner of the property be allowed the special and extraordinary rights conveyed by this Permit, but only if the Owner complies with all the conditions of the 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 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. Prior to issuance of any grading permits for this project, a final subdivision map shall be recorded on the subject property.

11. Rezoning of the subject property shall become effective with recordation of the corresponding final subdivision map for the project site.

12. 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 Exhibits "A," dated , 2003, on file in the Office of the Development Services Department).

#### **ENVIRONMENTAL/MITIGATION REQUIREMENTS:**

13. The applicant shall comply with the Mitigation, Monitoring and Reporting Program (MMRP) as specified in Environmental Impact Report or Mitigated Negative Declaration, Project No. 3159, satisfactory to the City Manager and the City Engineer. Prior to issuance of

any grading permits and/or building permits, mitigation measures as specifically outlined in the MMRP shall be implemented for Land Use/Biological Resources/Historical Resources (Archaeology)/Water Quality

**PLANNING/DESIGN REQUIREMENTS:**

14. Hillside and environmentally sensitive lands that are undisturbed or restored as a result of the development must be conserved through a deed restriction, open space easement or other restriction that will preclude any future development or grading of such lands. The restriction must be acceptable to the City Attorney and to the Development Services Director.

15. There shall be compliance with the regulations of the underlying zone(s) unless a deviation or variance to a specific regulation(s) is approved or granted as condition of approval of this permit. Where there is a conflict between a condition (including exhibits) of this permit and a regulation of the underlying zone, the regulation shall prevail unless the condition provides for a deviation or variance from the regulations. Where a condition (including exhibits) of this permit establishes a provision which is more restrictive than the corresponding regulation of the underlying zone, then the condition shall prevail.

16. The height(s) of the building(s) or structure(s) shall not exceed those heights set forth in the conditions and the exhibits (including, but not limited to, elevations and cross sections) or the maximum permitted building height of the underlying zone, whichever is lower, unless a deviation or variance to the height limit has been granted as a specific condition of this permit.

17. A topographical survey conforming to the provisions of the Land Development Code 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 regulations of the underlying zone. The cost of any such survey shall be borne by the Permittee.

18. Any future requested amendment to this permit shall be reviewed for compliance with the regulations of the underlying zone(s) which are in effect on the date of the submittal of the requested amendment.

19. All signage associated with this development shall be consistent with sign criteria established by either of the following:

- a. Approved project sign plan (Exhibit "A," dated \_\_\_\_\_, 2003, on file in the Office of the Development Services Department); or
- b. Citywide sign regulations.

20. All private outdoor lighting shall be shaded and adjusted to fall on the same premises where such lights are located.

21. The use of textured or enhanced paving shall meet applicable City standards as to location, noise and friction values.

22. The subject property and associated common areas on site shall be maintained in a neat and orderly fashion at all times.
23. All uses, except storage and loading, shall be conducted entirely within an enclosed building. Outdoor storage of merchandise, material and equipment is permitted in any required interior side or rear yard, provided the storage area is completely enclosed by walls, fences or a combination thereof. Walls or fences shall be solid and not less than six feet in height and, provided further, that no merchandise, material or equipment stored not higher than any adjacent wall.
24. No merchandise, material or equipment shall be stored on the roof of any building.
25. No mechanical equipment shall be erected, constructed, or enlarged on the roof of any building on this site, unless all such equipment is contained within a completely enclosed architecturally integrated structure.
26. Prior to the issuance of building permits, construction documents shall fully illustrate compliance with the Citywide Refuse and Recyclable Materials Storage Regulations (Land Development Code Section 142.0801) to the satisfaction of the City Manager. All exterior storage enclosures for trash and recyclable materials shall be located in a manner that is convenient and accessible to all occupants of and service providers to the project, in substantial conformance with the conceptual site plan marked Exhibit(s) "A."

#### **LANDSCAPE REQUIREMENTS:**

27. No change, modification or alteration shall be made to the project unless appropriate application or amendment of this Permit has been granted by the City. All plan specifications and notes mentioned in the conditions below shall be consistent with the Land Development Code, Section 142.0401 and Landscape Standards, Exhibit "A", Landscape Development Plan, Brush Management Plan, Details and Notes on file in the Office of the Development Services.
28. All required landscape plant materials shall be maintained 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 it's mature height and spread.
29. The Permittee or subsequent Owner shall be responsible for the maintenance of all street trees and landscape improvements (right-of-way and median landscaping) consistent with the Landscape Standards.
30. The Permittee or subsequent Owner shall be responsible for the maintenance of all street trees and landscape improvements (right-of-way and median landscaping) consistent with the Landscape Standards. A Landscape Maintenance Agreement and bond shall be entered into prior to issuance of any grading or construction permit. The agreement and bond shall be renewed each year until such time that another approved entity assumes responsibility such as a home owners association or a Landscape Maintenance District.
31. If any required landscape improvements (including existing or new planting, hardscape, landscape features, etc.) are damaged or removed during demolition or construction, they shall be



repaired and/or replaced in kind and equivalent size per the approved documents to the satisfaction of the City Manager, within 30 days of damage and prior to any Certificate of Occupancy.

32. Prior to the issuance of any engineering permits for grading or improvement the Permittee shall complete a Maintenance Assessment District Agreement form for early confirmation.

33. In the event that a foundation only permit is requested by the Permittee or subsequent Owner, a site plan or staking layout plan shall be submitted identifying all landscape areas consistent with Exhibit "A", Landscape Development Plan, on file in the Office of Development Services. These landscape areas shall be clearly identified with a distinct symbol, noted with dimensions and labeled as landscaping area.

34. In the event that any mass grading permit is requested by the Permittee or subsequent Owner, complete landscape construction documents for revegetation and erosion control, including an automatic permanent irrigation system, shall be submitted to the Development Services Department, Land Development Review Section for approval. The plans shall be in substantial conformance to Exhibit "A", on file in the office of the Development Services.

35. Prior to issuance of any construction permits for structures (including shell), complete landscape and irrigation construction documents consistent with the Landscape Standards (including planting and irrigation plans, details and specifications) shall be submitted to the City Manager for approval. The construction documents shall be in substantial conformance with Exhibit "A", Landscape Development Plan, on file in the Office of Development Services.

36. In the event that any construction permit for parking structures is requested, the Permittee or subsequent Owner shall submit on the planting and irrigation plans a signed statement by a Registered Structural Engineer indicating that supporting structures are designed to accommodate the necessary structural loads and associated planting and irrigation.

37. Prior to issuance of any engineering permits for right-of-way improvements, complete landscape construction documents for right-of-way improvements shall be submitted to the City Manager for approval. Improvement plans shall take into account a 40 square feet 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.

38. Prior to issuance of any engineering permits for private drive improvements, complete landscape construction documents for private drive improvements shall be submitted to the City Manager for approval. Improvement plans shall take into account a 40 square feet 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.

39. Prior to issuance of any engineering permits for grading, construction documents for slope planting (if applicable) or revegetation including hydroseeding and irrigation shall be submitted in accordance with the Landscape Standards and to the satisfaction of the City Manager. All plans shall be in substantial conformance with Exhibit "A", (including Environmental conditions) on file in the Office of Development Service.

40. Installation of slope planting and erosion control including seeding of all disturbed land (slopes and pads) consistent with the approved landscape and grading plans is considered to be in the public interest. The Permittee shall initiate such measures as soon as the grading has been accomplished. Such erosion control/slope planting and the associated irrigation systems (temporary and/or permanent) and appurtenances shall be installed in accordance with the approved plans and the Landscape Standards.

41. Prior to issuance of any Certificate of Occupancy, it shall be the responsibility of the Permittee or subsequent Owner to install all required landscape and obtain all required landscape inspections. A No Fee Street Tree Permit, if applicable, shall be obtained for the installation, establishment and on-going maintenance of all street trees.

42. Prior to the recording of the (parcel/final map), the Permittee or subsequent Owner/Developer shall submit for review, a Landscape Maintenance Agreement for all landscape improvements within and visible from the public right-of-way. The approved Landscape Maintenance Agreement shall be recorded and bonded prior to recording of the (parcel/final map).

43. The Permittee or subsequent Owner(s) shall be responsible for the installation and maintenance of all landscape improvements consistent with the Landscape Regulation and Landscape Standards. Invasive species are prohibited from being planted adjacent to any canyon, water course, wet land or native habitats within the city limits of San Diego as noted in Section 1.3 of the Landscape Standards.

#### **BRUSH MANAGEMENT REQUIREMENTS:**

44. The Permittee shall implement the following requirements in accordance with the Brush Management Program shown on Exhibit "A", Brush Management Program/Landscape Development Plan, on file in the Office of the Development Services Department.

45. Prior to issuance of permits or recording of final maps, all easements or right of entry permits for the purpose of Brush Management shall be obtained.

46. Prior to issuance of any engineering permits for grading, complete Brush Management, planting and irrigation plans, details and specifications (including maintenance specifications), shall be submitted to the City Manager for approval. All plans shall indicate the brush management zones depths by dimension.

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

48. In all brush management zones the plant material shall be selected to visually blend with the existing vegetation. No invasive plant material shall be permitted as determined by the Landscape Section of Development Services Department.

49. The Brush Management Maintenance Program as noted on Exhibit "A", shall be performed annually by the Permittee or subsequent Owner or until such time that another approved entity such as a project association or a Landscape Maintenance District assumes annual responsibility.

50. Provide Brush Management plants that are visually and horticulturally compatible with the native vegetation.

**ENGINEERING REQUIREMENTS:**

51. Grading permit, post-construction BMP's based on the Water Quality Technical Report, improvements to the right-of-way for tow (2) streets, detention basins, flood water storage easements, NPDES Permit, 1911 waiver for future Otay-Mesa-wide drainage improvements, inter alia.

52. The Resource Protection Ordinance Permit No. 008163 shall comply with the conditions of the Final Map for VTM No. 008182.

**TRANSPORTATION REQUIREMENTS:**

53. Prior to the recordation of first final map, subdivider shall relinquish access rights along project frontage on Otay Mesa Road, satisfactory to the City Engineer.

54. Prior to the recordation of the first final map, subdivider shall assure by permit and bond, construction of Street "B" with 64 feet curb to curb within 84 feet right-of-way including curb, gutter and 5-foot sidewalk within 10-foot curb to property line distance on both sides of the street with 55-foot curb radius cul-de-sac turnaround at the southern end, satisfactory to the city Engineer.

55. Prior to the recordation of the first final map, subdivider shall assure by permit and bond, construction of Street "B" within 200 feet of its intersection with Otay Mesa Road with 72 feet of curb to curb pavement (18-foot southbound lane, 4-foot raised center median, two 12-foot northbound left turn lanes, 12-foot northbound through lane, 14-foot northbound right turn lane) within 92 feet of right-of-way including curb, gutter and 5-foot sidewalk within 10-foot curb to property line distance on both sides of the street transiting to a 64 feet curb to curb width within 84 feet right-of-way with 55-foot curb radius cul-de-sac turnaround at the southern end within 65 feet right-of-way, satisfactory to the City Engineer.

56. Prior to the recordation of the first final map, subdivider shall assure by permit and bond, construction of a second left turn lane on Otay Mesa Road at its intersection with Street "B", satisfactory to the City Engineer.

57. Prior to the recordation of the first final map, subdivider shall assure by permit and bond, construction of an eastbound exclusive right turn lane with 500-feet of storage and proper transition on Otay Mesa Road at its intersections with "B" Street", satisfactory to the City Engineer.

58. Prior to the recordation of the first final map, subdivider shall assure by permit and bond, construction of private Street "A" between Street "B" and Street "C" with 50 feet of pavement within 70 feet of private general utility easement with curb, gutter and 5-foot sidewalk on both sides of the street and raised center median at both ends of the streets within 200 feet of intersection with Street "B" and Street "C", satisfactory to the City Engineer.

59. Prior to the recordation of the first final map, subdivider shall assure by permit and bond, construction of half width of Street "C" including 30 feet of pavement, curb, gutter and 5-foot sidewalk within 10-foot curb to property line distance with 55-foot curb radius cul-de-sac turnaround at the southern end, satisfactory to the City Engineer.

60. Prior to the recordation of the first final map, subdivider shall assure by permit and bond construction of a eastbound exclusive right turn lane with 200 feet of storage and proper transition on Otay Mesa Road at its intersection with Street "C", satisfactory to the City Engineer.

61. Prior to the recordation of the first final map, subdivider shall assure by permit and bond, construction of second eastbound left turn lane and one exclusive westbound right turn lane at the intersection of Otay Mesa Road/Ocean View Hills Parkway, satisfactory to the City Engineer.

62. Prior to the recordation of the first final map, subdivider shall assure by permit and bond, construction of second westbound left turn lane at the intersection of Otay Mesa Road/Ocean View Hills Parkway, satisfactory to the City Engineer. Subdivider may enter into a deferred improvement agreement with City of San Diego for this improvement.

63. Prior to the recordation of the first final map, subdivider shall assure by permit and bond, construction of the second half (western half) of Street "C" to provide 60 feet of pavement, curb, gutter and 5-foot sidewalk within 10-foot curb to property line distance on the west side, satisfactory to the City Engineer. Subdivider may enter into a deferred improvement agreement with City of San Diego for this improvement.

64. Prior to the recordation of the first final map, subdivider shall assure by permit and bond, construction of a westbound left turn lane at the intersection of Otay Mesa Road/Street "C", satisfactory to the City Engineer. Subdivider may enter into a deferred improvement agreement with City of San Diego for this improvement.

65. Prior to the recordation of the first final map, subdivider shall assure by permit and bond, construction of a traffic signal at the intersection of Otay Mesa Road / Street "C", satisfactory to the City Engineer. Subdivider may enter into a deferred improvement agreement with City of San Diego for this improvement.

66. Prior to the recordation of the first final map, subdivider shall provide an Irrevocable Offer of Dedication (IOD) for half of the cul-de-sac on Lot 12 at the western end of Camino Maquiladora with 55-foot curb radius turn around within 65 feet of right-of-way, satisfactory to the City Engineer.

#### WASTEWATER REQUIREMENTS:

67. The developer shall construct the Otay Mesa Trunk Sewer Phase II or enter into a development agreement to pay their fair share cost of the trunk sewer in proportion to the ultimate zoned use of the property being developed, in accordance with the City's Sewer Design Guide.

68. The developer shall install all sewer facilities required by the accepted sewer study, necessary to serve this development. Sewer facilities as shown on the approved tentative map will require modification based on the accepted sewer study.
69. The developer shall design and construct all proposed public sewer facilities to the most current edition of the City of San Diego's sewer design guide. Proposed facilities that do not meet the current standards shall be re-designed.
70. The developer shall design and construct all proposed private sewer facilities serving more than one lot to the most current edition of the City of San Diego's sewer design guide. Improvement drawings are required for private sewer facilities serving more than one lot.
71. Prior to the issuance of any building permits, the applicant shall process and record a NOTICE & AGREEMENT for each ownership being served by a private pump station/sewer facilities which serves more than one ownership, which indemnifies the City and contains an agreement that the applicant, and successors in interest, will be responsible for the operation and maintenance of the private sewer systems.
72. The developer shall obtain a building permit for any private pump station serving a condominium project or more than one lot.
73. The developer shall provide, satisfactory to the Metropolitan Wastewater Department Director, CC&R's for the operation and maintenance of on-site private sewer facilities that serve more than one lot.
74. No structures or landscaping, including private sewer facilities and enhanced paving, shall be installed in or over any easement or street right-of-way prior to the applicant obtaining an Encroachment Maintenance and Removal Agreement.
75. Providing sewer for this development is dependent upon prior construction of certain portions of the Otay Mesa Trunk Sewer Phase II. If they have not been constructed when required for this development, then the construction of certain portions of these sewer facilities, as required by the City Engineer, will become off-site improvements required for this development.

**OPEN SPACE REQUIREMENTS:**

76. Lots 9 and 10 shall be deeded, at no cost, to the city for open space. said lots shall be free and clear of all private encroachments, private easements, private agreements and/or liens.
77. An open space easement is required on the 40-foot deep Zone 2 for brush management across Lots 6, 7 and 8.
78. The brush management zones adjacent to Lots 6 through 8 shall be made into a separate lot and have an open space easement over Zone Two.

79. Brush management Zones 1, 2 and 3 or modified Zones 1 and 2 must be provided between Lot 8 and Lot 9 and Zone Two must have an open space easement. This will require a new lot and it is understood that Lot 9 will be reduced in size.

**MULTIPLE SPECIES CONSERVATION PROGRAM (MSCP) REQUIREMENTS:**

80. In accordance with authorization granted to the City of San Diego from the United States Fish and Wildlife Service (USFWS) pursuant to Section 10(a) of the ESA and by the California Department of Fish and Game (CDFG) pursuant to Fish and Game Code section 2835 as part of the Multiple Species Conservation Program (MSCP), the City of San Diego through the issuance of this Permit hereby confers upon Permittee the status of Third Party Beneficiary as provided for in Section 17 of the City of San Diego Implementing Agreement (IA), executed on July 17, 1997 and on File in the Office of the City Clerk as Document No. 00-18394. Third Party Beneficiary status is conferred upon Permittee by the City: (1) to grant Permittee the legal standing and legal right to utilize the take authorizations granted to the City pursuant to the MSCP within the context of those limitations imposed under this Permit and the IA, and (2) to assure Permittee that no existing mitigation obligation imposed by the City of San Diego pursuant to this Permit shall be altered in the future by the City of San Diego, USFWS or CDFG, except in the limited circumstances described in Sections 9.6 and 9.7 of the IA.

If mitigation lands are identified but not yet dedicated or preserved in perpetuity, maintenance and continued recognition of Third Party Beneficiary status by the City is contingent upon Permittee maintaining the biological values of any and all lands committed for mitigation pursuant to this Permit and of full satisfaction by Permittee of mitigation obligations required by this Permit, as described in accordance with Section 17.1D of the IA.

81. The applicant shall comply with the Mitigation, Monitoring and Reporting Program (MMRP) as specified in the Environmental Documentation for the "Otay Mesa East Project" (Project No. 3159, SCH No. 2003051060), satisfactory to the City Manager and the City Engineer, for the following issues areas to ensure compliance with the MSCP and MHPA Land Use Adjacency Guidelines: Land Use, Biological Resources and Water Quality.

In addition, the following conditions shall apply:

*Operational Noise:* Prior to issuance of any building occupancy permits, the sewer pump station proposed adjacent to the existing Otay Mesa Road wildlife under crossing shall be constructed, to the satisfaction of the City Manager and City Engineer, to ensure that operational noise does not impact wildlife movement, including: 1) designing the facility below-ground; 2) encasing it in concrete; 3) providing perimeter berms and native screening vegetation; and, 4) shielding/directing all necessary lighting away from the MHPA.

*Edge Treatment:* Prior to issuance of any building occupancy permits, the applicant shall construct a six-foot-high black vinyl-coated chain link fence along areas adjacent to the MHPA, including the rear of proposed Lots 6, 7 and 8, satisfactory to the City Manager and the City Engineer. The fencing shall be appropriately maintained at all times by the owner/Permittee/trustee. Any necessary future fence repairs shall be conducted in a manner which does not result in impacts to sensitive biology resource or wildlife movement.

*Brush Management:* Prior to recordation of the first final map and/or issuance of any grading permits, the City Manager shall verify that all brush management zone 2 is located outside the limits of the on-site vernal pool watershed areas and retained within the proposed lots.

*Drainage:* Prior to recordation of the first final map and/or issuance of any grading permits, the City Manager and City Engineer shall verify that on-site drainage for all lots, in including proposed lot no. 8, is designed to avoid discharging into the on-site vernal pool watershed areas.

82. Prior to recordation of the first final map and/or issuance of any grading permits, the on-site MHPA shall be conserved and conveyed to the City's MHPA through either dedication in fee to the City, OR placement in a conservation easement OR covenant of easement, which is then recorded on the property. For brush management zone two and any proposed revegetation areas within the MHPA, a conservation easement would be appropriate. All other areas could be conveyed through any of the three above methods. Management of the on-site preserved MHPA shall be the responsibility of the owner/Permittee/trustee in perpetuity, unless the City accepts responsibility through dedication in fee title. \*Note: Any proposed dedication of land in-fee to the City outside the MHPA would require approval from the Park and Recreation Department.

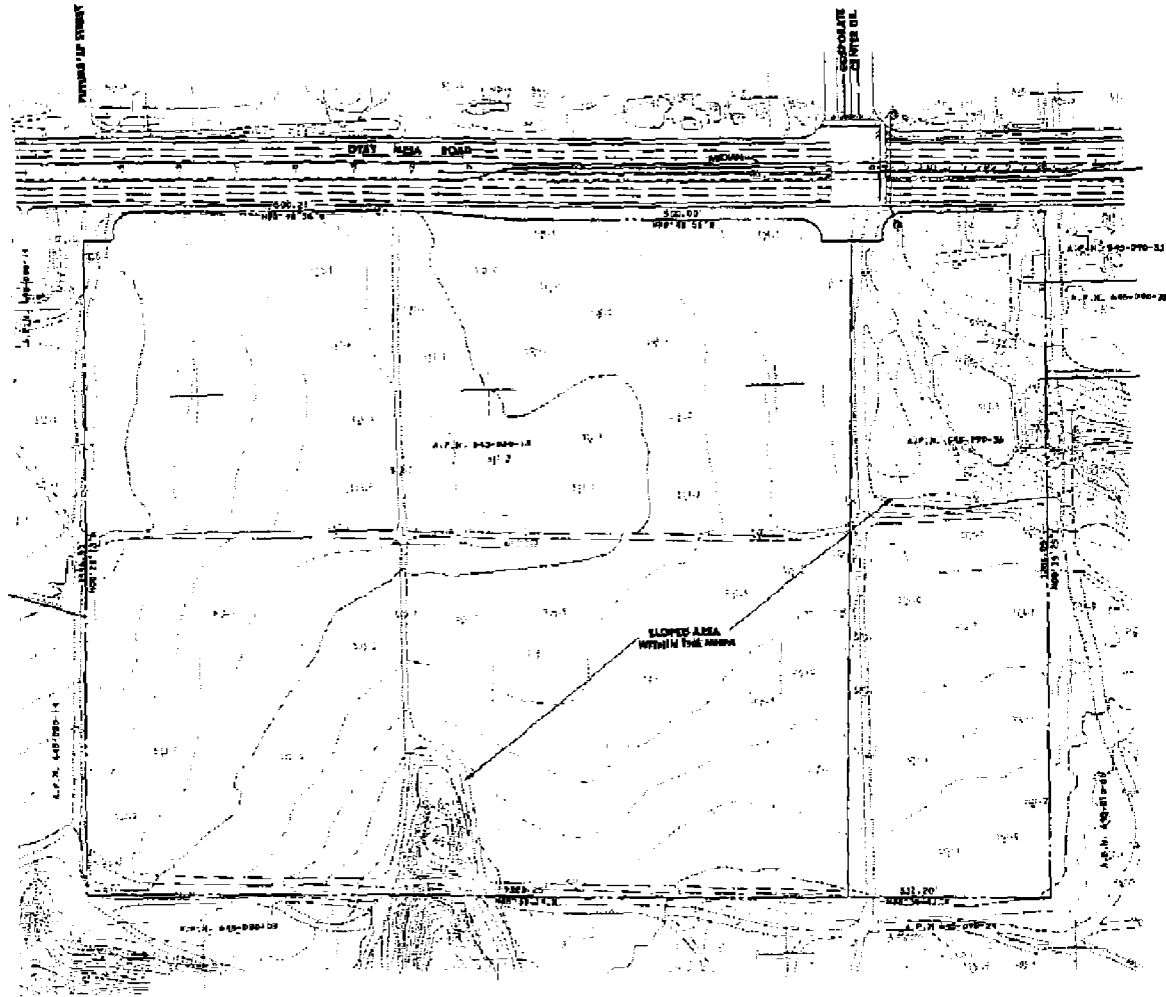
**INFORMATION ONLY**

Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of this development permit/tentative map (SELECT), may protest the decision within 90 days of the approval of this development permit/tentative map (SELECT) by filing a written protest with the City Clerk pursuant to California Government Code 66020.

APPROVED by the City of San Diego on \_\_\_\_\_, 2003.

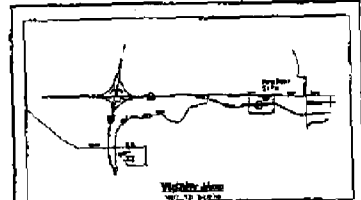
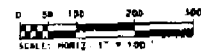
# XISTING TOPOGRAPHY HANDLER OTAY MESA COMMERCIAL

A.P.N. 545-000-13 AND 545-090-31



Attachment 15  
PC Report No. P-06-0279











**SOURCE OF AERIAL TOPS**  
AERIAL SERIAL SUPPLY  
ELEVATION 2432.000 1974 CITE DATUM  
DATE 11/05/02 AND  
SUN 07:45, 13, 14/02-18/07  
PHOTO 1478, 944-1018

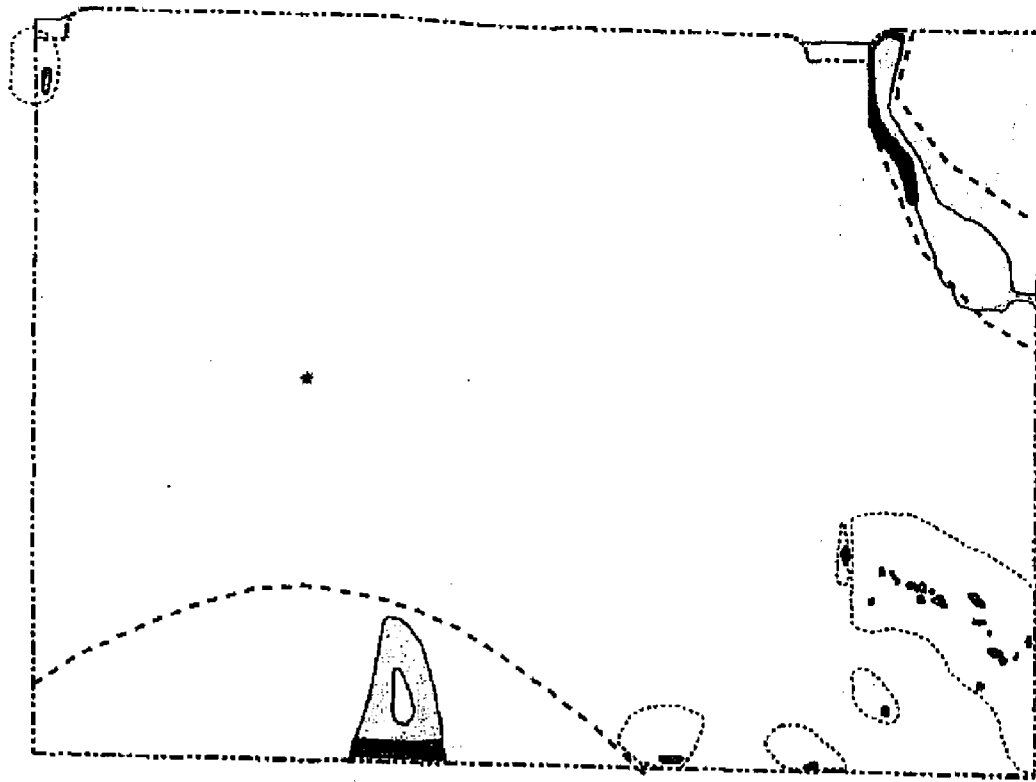


PROJECT NO.	545-000-13 AND 545-090-31	DATE	11/05/02
CLIENT	Hander Otay Mesa Commercial	PROJECT NO.	545-000-13 AND 545-090-31
PROJECT NAME	Hander Otay Mesa Commercial	DATE	11/05/02
PROJECT LOCATION	Hander Otay Mesa Commercial	PROJECT NO.	545-000-13 AND 545-090-31
PROJECT OWNER	Hander Otay Mesa Commercial	DATE	11/05/02
PROJECT ENGINEER	Hander Otay Mesa Commercial	PROJECT NO.	545-000-13 AND 545-090-31
PROJECT SURVEYOR	Hander Otay Mesa Commercial	DATE	11/05/02
PROJECT CHECKER	Hander Otay Mesa Commercial	PROJECT NO.	545-000-13 AND 545-090-31
PROJECT APPROVER	Hander Otay Mesa Commercial	DATE	11/05/02
PROJECT REVIEWER	Hander Otay Mesa Commercial	PROJECT NO.	545-000-13 AND 545-090-31
PROJECT DATE	11/05/02	DATE	11/05/02



**LEGEND**

-  Vernal pool\*
-  Road pool
-  Freshwater marsh
-  Non-native grassland
-  Diagan coastal sage scrub
-  Disturbed habitat
-  Developed
- \*All vernal pools on-site are disturbed
-  San Diego black-tailed jackrabbit  
(*Lepus californicus hesperis*)
-  Watershed boundary
-  MHPA boundary

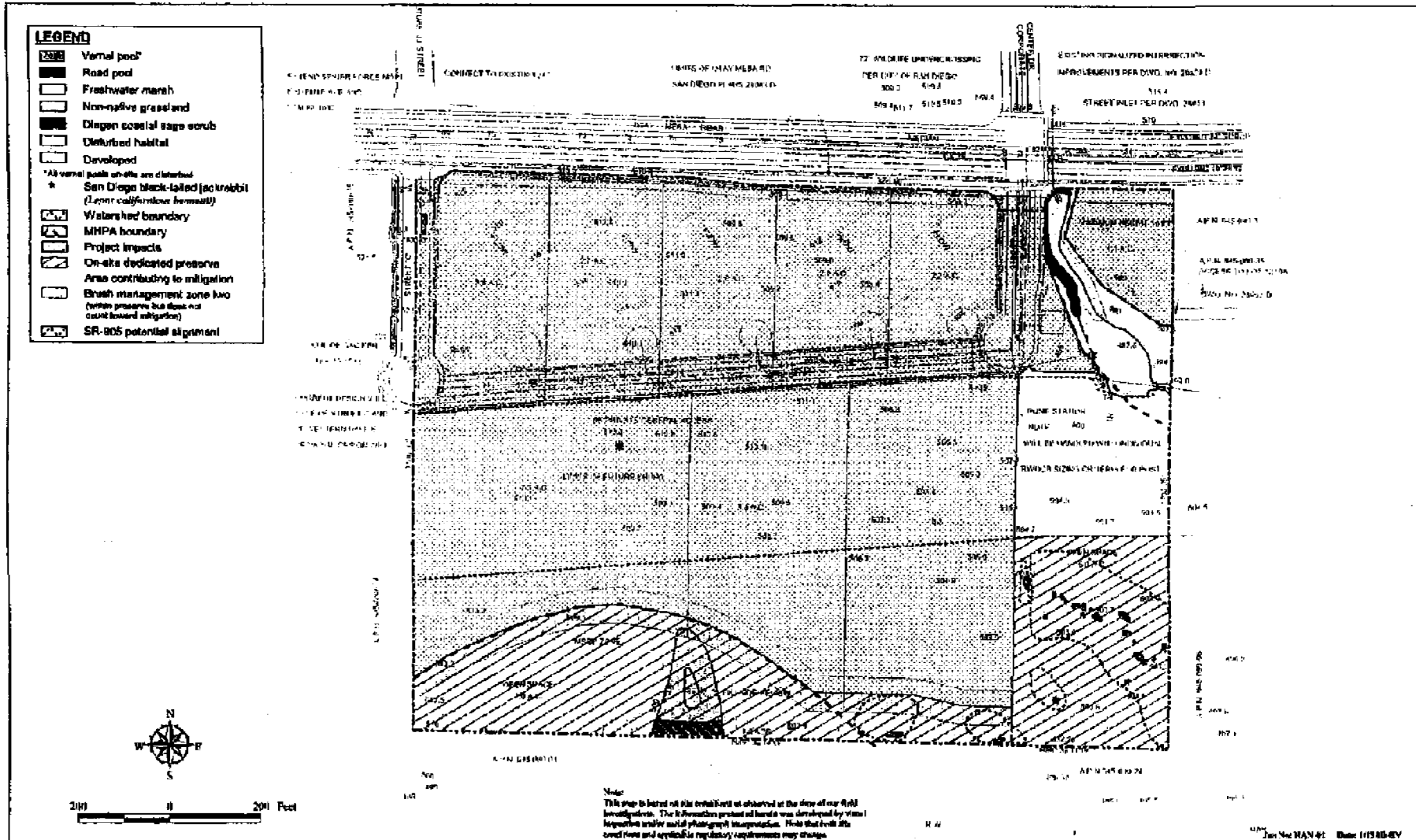


Note:  
This map is based on the most current information available at the time of map field  
investigation. The information presented herein was developed by visual  
inspection and/or aerial photograph interpretation. Note that both site  
conditions and regulatory requirements may change.

Job No: HAN-01 Date: 9/28/02

**Vegetation and Sensitive Resources**

HANDLER OTAY MESA COMMERCIAL PROJECT



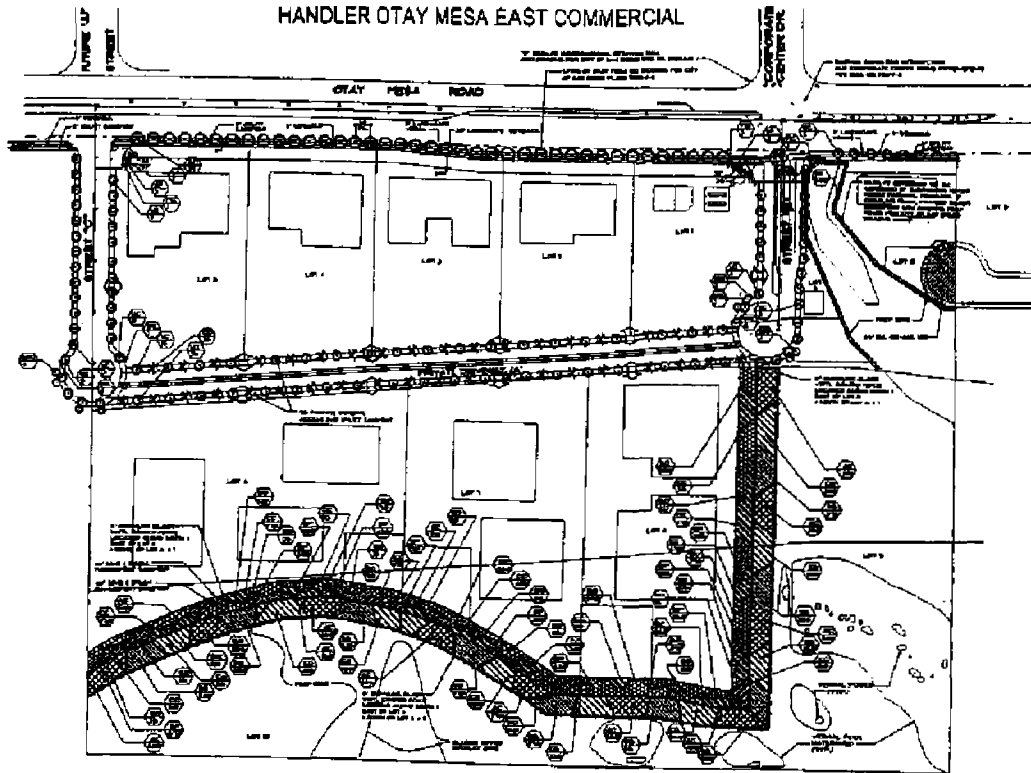
**Proposed Project Impacts/Mitigation**

HANDLER OTAY MESA COMMERCIAL PROJECT

Figure 4

# LANDSCAPE DEVELOPMENT/ BRUSH MANAGEMENT PLAN

## HANDLER OTAY MESA EAST COMMERCIAL



**1.0 INTRODUCTION**

**1.1 PROJECT DESCRIPTION**

**1.2 PROJECT LOCATION**

**1.3 PROJECT PURPOSE**

**1.4 PROJECT SCOPE**

**1.5 PROJECT SCHEDULE**

**1.6 PROJECT BUDGET**

**1.7 PROJECT RISKS**

**1.8 PROJECT STAKEHOLDERS**

**1.9 PROJECT LEGISLATION**

**1.10 PROJECT COMPLIANCE**

**1.11 PROJECT MONITORING**

**1.12 PROJECT EVALUATION**

**1.13 PROJECT REPORTING**

**1.14 PROJECT CLOSURE**

**1.15 PROJECT ARCHIVE**

**1.16 PROJECT LEGACY**

**1.17 PROJECT SUSTAINABILITY**

**1.18 PROJECT INHERITANCE**

**1.19 PROJECT IMPACT**

**1.20 PROJECT BENEFIT**

**1.21 PROJECT VALUE**

**1.22 PROJECT SUCCESS**

**1.23 PROJECT FAILURE**

**1.24 PROJECT CHALLENGE**

**1.25 PROJECT OPPORTUNITY**

**1.26 PROJECT THREAT**

**1.27 PROJECT RISK**

**1.28 PROJECT UNCERTAINTY**

**1.29 PROJECT COMPLEXITY**

**1.30 PROJECT INTERDEPENDENCY**

**1.31 PROJECT SYNERGY**

**1.32 PROJECT COOPERATION**

**1.33 PROJECT COLLABORATION**

**1.34 PROJECT PARTNERSHIP**

**1.35 PROJECT ALLIANCE**

**1.36 PROJECT CONSORTIUM**

**1.37 PROJECT NETWORK**

**1.38 PROJECT ECOSYSTEM**

**1.39 PROJECT COMMUNITY**

**1.40 PROJECT CULTURE**

**1.41 PROJECT IDENTITY**

**1.42 PROJECT REPUTATION**

**1.43 PROJECT BRAND**

**1.44 PROJECT IMAGE**

**1.45 PROJECT PERCEPTION**

**1.46 PROJECT ATTITUDE**

**1.47 PROJECT BEHAVIOR**

**1.48 PROJECT ACTION**

**1.49 PROJECT REACTION**

**1.50 PROJECT RESPONSE**

**1.51 PROJECT RECOVERY**

**1.52 PROJECT RESILIENCE**

**1.53 PROJECT ADAPTABILITY**

**1.54 PROJECT FLEXIBILITY**

**1.55 PROJECT AGILITY**

**1.56 PROJECT SPEED**

**1.57 PROJECT EFFICIENCY**

**1.58 PROJECT EFFECTIVENESS**

**1.59 PROJECT PRODUCTIVITY**

**1.60 PROJECT PERFORMANCE**

**1.61 PROJECT PROFITABILITY**

**1.62 PROJECT GROWTH**

**1.63 PROJECT INNOVATION**

**1.64 PROJECT CREATIVITY**

**1.65 PROJECT IMAGINATION**

**1.66 PROJECT VISION**

**1.67 PROJECT MISSION**

**1.68 PROJECT PURPOSE**

**1.69 PROJECT VALUES**

**1.70 PROJECT BELIEFS**

**1.71 PROJECT ETHICS**

**1.72 PROJECT INTEGRITY**

**1.73 PROJECT HONESTY**

**1.74 PROJECT TRANSPARENCY**

**1.75 PROJECT ACCOUNTABILITY**

**1.76 PROJECT RESPONSIBILITY**

**1.77 PROJECT COMMITMENT**

**1.78 PROJECT DEDICATION**

**1.79 PROJECT PASSION**

**1.80 PROJECT ENTHUSIASM**

**1.81 PROJECT ENERGY**

**1.82 PROJECT DYNAMISM**

**1.83 PROJECT VIGOR**

**1.84 PROJECT VITALITY**

**1.85 PROJECT VIBRANCY**

**1.86 PROJECT VIVIDNESS**

**1.87 PROJECT VIVIDITY**

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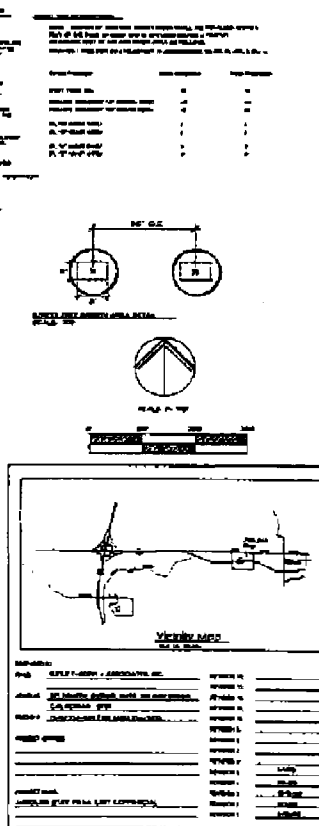
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**2.50 PROJECT VIVIDNESS**



DEVELOPMENT SERVICES  
PROJECT DATA SHEET  
RZ/VTM/RPO 99-0555 Handler Otay Mesa Commercial

DEVELOPMENT STANDARDS	EXISTING/REQUIRED	PROPOSED
COMMUNITY PLAN	Otay Mesa	Otay Mesa
LAND USE DESIGNATION	Specialized Commercial	Specialized Commercial
ZONE	AR-1-1 (formerly A-1-10)	OMDD-C
LOT COVERAGE	10,000 sq. ft.	Conforms. All lots in excess of 10,000 sq. ft.
COVERAGE	No limit	Conforms
FLOOR AREA RATIO	2.0	Conforms
HEIGHT	No limit	Elevations not provided.
PARKING	1,302	1,302
SETBACKS: FRONT	15 ft., with a 30 ft. landscaped strip on Otay Mesa Rd.	Conforms. Variable setbacks, all in excess of 30 ft.
STREET SIDE	15 ft.	Conforms. Variable setbacks, all in excess of 25 ft.
IN. SIDE	0 ft.	Conforms. Variable setbacks, all in excess of 25 ft.
REAR	10 ft.	Conforms. Variable setbacks, all in excess of 200 ft.



CITY OF SAN DIEGO  
Development Services Department

# Ownership Disclosure Statement

Attachment 15  
PC Report No. P-06-0279

Project Name: OTAY MESA EAST

Project Address: 645-080-02, 645-090-01

Legal Status (check one)     Corporation     Limited     General  
                                   Individual    What State \_\_\_\_\_

Please list below the owner(s) of the above referenced property. Include individual partnerships and corporations.

1. <u>DR. GERALD HANDLER</u>	<u>Gerald Handler</u>	<u>8/10/98</u>
Name (type or print)	Signature	Date
<u>9223 LA JOLLA FARMS ROAD LA JOLLA, CA 92037-1130</u>	<u>619-571-3131</u>	<u>452-1527</u>
Address	Phone No.	Fax No.

2. _____	_____	_____
Name (type or print)	Signature	Date
_____	_____	_____
Address	Phone No.	Fax No.

3. _____	_____	_____
Name (type or print)	Signature	Date
_____	_____	_____
Address	Phone No.	Fax No.

4. _____	_____	_____
Name (type or print)	Signature	Date
_____	_____	_____
Address	Phone No.	Fax No.

**Attention:** 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 on the Change of Responsible Party Form.

**For City use only:** Property Type \_\_\_\_\_  
 Case No \_\_\_\_\_ Date Filed \_\_\_\_\_

**CITY OF SAN DIEGO**  
**DEVELOPMENT SERVICES DEPARTMENT**  
**PROJECT TRAFFIC INFORMATION**

**PROJECT NAME:** Otay Mesa East (RZ/VTM/RPO 99-0555), PTS # 3159

**PROJECT TRIP GENERATION:** 12,631 Average Daily Trips (Phase I: 8,143 ADT, Phase II: 4,488 ADT)

Adjacent Freeway	Near-Term Freeway Average Daily Traffic	Near-Term Freeway Level Of Service	Project Average Daily Traffic On Freeway	Near-Term Plus Project Average Daily Traffic	Near-Term Plus Project Level Of Service	Planned Transportation Improvements
SR-905 (I-805 to Caliente Boulevard)	49,190	A	1,303	50,493	A	Footnote 1
SR-905 (I-805 to I-5)	45,690	A	977	46,667	A	Footnote 1
I-805 (SR-905 to Palm Avenue)	101,166	B	163	101,329	B	None
I-805 (SR-905 to Beyer Boulevard)	105,376	B	163	105,539	B	None

Adjacent Arterial	Near-Term Arterial Average Daily Traffic	Near-Term Arterial Level Of Service	Project Average Daily Traffic On Arterial	Near-Term Plus Project Average Daily Traffic	Near-Term Plus Project Level Of Service	Planned Transportation Improvements
Otay Mesa Rd (Corp. Center Dr - Street "C")	71,341	F	5,938	77,279	F	Footnote 1
Otay Mesa Rd (Corp. Center Dr - Innovative Dr)	70,307	F	4,587	74,894	F	Footnote 1
Otay Mesa Rd (Street "C" - Caliente Bl)	70,298	F	4,886	75,184	F	Footnote 1

**Footnote 1:** Phase II of the project is unlikely to be constructed since it would be located within the preferred central alignment of future SR-905. If the southern alignment of future SR-905 is selected, which would allow development of Phase II, applicant has agreed not to construct phase II until after SR-905 is completed. The level of service on Otay Mesa Road is expected to improve to "D" or better after the completion of SR-905 with an expected ADT of 32,000 to 47,000. This project will construct traffic signals, eastbound right turn lanes and additional westbound left turn lanes at the intersections of Otay Mesa Road with Streets "B" and "C". Project will also construct westbound right turn lane and eastbound and westbound left turn lanes at the intersection of Otay Mesa Road/Caliente Boulevard.

ATTACHMENT 22  
PC RESOLUTION

Attachment 15  
PC Report No. P-06-0279

PLANNING COMMISSION RESOLUTION NO. PC-  
Otay Mesa Development District Ordinance Permit/  
Resource Protection Ordinance Permit No. 008163  
(Job Order No. 99-0555)  
**OTAY MESA EAST**  
(PTS 3159)

WHEREAS, DR. GERALD HANDLER, Owner/Permittee, filed an application with the City of San Diego for a permit to develop 13 lots consisting of 9 commercial lots (Lots 1-8 and 12) on 32.1 developable acres; three open space lots (Lots 9-10 and 13), and construction of a private underground sewer pump station on 0.4 acres of land at the northeast corner of the site (Lot 11).

Included in the project proposal is the preservation of the 1.3-acre wildlife corridor and Multiple Habitat Planning Area (MHPA) in the northeast corner of the site adjacent to the existing 6-foot wildlife underground tunnel at Otay Mesa Road and Corporate Center Drive. Four acres will be designated as open space to protect the MHPA on the southern boundary of the site. An additional six acres on the eastern boundary of the project site will be designated as open space and includes a fenced preserve for 22 existing vernal pools and one road pool located in the southeast corner of the property (as described in and by reference to the approved Exhibits "A", and corresponding conditions of approval for the associated Permit No. 008163), on portions of a vacant 45.5-acres ;

WHEREAS, the project site is located in the 6600 block of Otay Mesa Road in the OMDD-C Zone in the Otay Mesa Community Planning area;

WHEREAS, the project site is legally described as the northeast quarter of the northwest quarter of Section 32, Township 18 south, range 1 west, San Bernardino base and meridian, in the County of San Diego, State of California, according to the official plat thereof. The west quarter of the northwest quarter of Section 32, Township 18 south, range 1 west, San Bernardino base and meridian, in the County of San Diego, State of California, according to the official plat thereof.

WHEREAS, on July 17, 2003, the Planning Commission of the City of San Diego considered Otay Mesa Development District Ordinance/Resource Protection Ordinance Permit (OMDD/RPO) No. 0018163, pursuant to Sections 101.0462 and 103.1100 of the Municipal Code (Old Code) of the City of San Diego; NOW, THEREFORE,

BE IT RESOLVED by the Planning Commission of the City of San Diego that they recommend approval to the City Council of the City of San Diego the following:

**FINDINGS:****RESOURCE PROTECTION ORDINANCE - (Municipal Code Section 101.0462)**

1. **The proposed development will not adversely affect the City of San Diego's Progress Guide and General Plan.**

The 45.5-acre vacant site is located in the 6600 block of Otay Mesa Road between Avenue of Industry and Harvest Road in the Otay Mesa Community Planning area. The project site is zoned AR-1-1 and the land use designation in the Otay Mesa Community Plan is Specialized Commercial. The project proposes to develop the vacant site into 13 lots consisting of 9 commercial lots (Lots 1-8 and 12); 3 open space lots (Lots 9-10 and 13) and construction of a private underground sewer pump station (Lot 11). The proposed development is consistent with the City of San Diego's Progress Guide and General Plan commercial land use designation for the site and will therefore not adversely affect it.

2. **The proposed development will conform to the community plan for the area and any other applicable plans, policies and ordinances.**

Commercial development of the vacant 45.5-acre site has been determined to be in compliance with the Otay Mesa Community Plan which designates the site for Specialized Commercial, and all other applicable plans, policies and ordinances in affect for the site.

3. **The proposed development will be sited, designed, constructed and maintained to minimize, if not preclude, adverse impacts on environmentally sensitive lands.**

Negative Declaration (MND) No. 99-0555 has been prepared for this project in accordance with the California Environmental Act (CEQA) Guidelines. A Mitigation, Monitoring and Reporting Program (MMRP) has been prepared and will be implemented to reduce all potential impacts to below a level of significance. The MMRP addresses the issue areas of historic resources (archaeology), water quality, paleontological resources, transportation and biological resources.

A Resource Protection Ordinance (RPO) Permit is required because the project was submitted prior to December 31, 1999, when the Old Code was in effect for the site. The project includes 9 commercial lots on 32.1 acres, detention basins on each lot and construction of a private underground sewer pump station on 0.4 acres of land in the northeast corner of the site.



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PC RESOLUTION

Included in the project proposal is the preservation of the 1.3-acre wildlife corridor and MHPA in the northeast corner of the property adjacent to the existing 6-foot wildlife underground tunnel at Otay Mesa Road and Corporate Center Drive would be protected by an existing fence to be painted black and screened with a continuous hedge of native plant materials. Four acres will be designated as open space to protect the MHPA on the southern boundary of the site. An additional 6 acres of land would be designated as open space on the eastern boundary of the project site and includes a fenced preserve for 22 existing vernal pools and one road pool located in the southeast corner of the property.

Twenty-two vernal pools representing approximately 2,923 square feet of surface area and one road pool totaling approximately 290 square feet of surface area exist within the project boundary in the southwest corner of the project site. The total estimated watershed for the 22 pools is 2.1 acres and 0.01 acres for the road pool.

The site has been highly disturbed and its pools have little vernal pool vegetation. For this reason, the pools are considered disturbed. Vernal pool plants observed in the pools in the southeast corner of the site include woolly marbles (*Psilocapus brevissimus*), plantigo (*Plantuigo elongata*), and popcorn flower (*Plagiobothrys acanthocarpa*). All of the vernal pools are included in the 6 acres of open space lands on the east side of the property. A Vernal Pool Management Plan is included in Mitigated Negative Declaration to insure the protection of the Vernal Pools.

A single road pool was identified with approximately 290 square feet of potential surface area and approximately 835 square feet of watershed located in the northwestern corner of the project site. This pool is located within the impact area for the proposed project. However, the pool and watershed are also located totally within a proposed cul-de-sac right-of-way for the adjacent California Terraces, Otay Corporate Center South project. The California Terraces Vesting Tentative Map (VTM 86-1032) shows this pool within the development footprint. The Otay Corporate Center Project would dedicate and grade the right-of-way and install underground utilities, completely removing the vernal pool and watershed. The California Terraces project has been reviewed and approved by the USFWS, ACOE and the City of San Diego. The USFWS prepared a biological opinion (BO 1-6-95-F-35) as part of an ESA Section 7 consultation with ACOE (File No. 95-2010DZ) in January, 1997. Mitigation measures were identified and implemented for project-related impacts per the BO and other project documents. Therefore, no other mitigation measures related to the road pool located in the northwest corner of the project site are required.

The Traffic Impact Analysis prepared by Kimley-Horn & Associates (revised October 9, 2002) determined that the proposed project would result in significant Average Daily Trips (ADT) based impacts to segments of Otay Mesa Road and Ocean View Parkway

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under Near Term and Horizon Year conditions. While the project would generate a significant impact on several segments of Otay Mesa Road on an ADT under Near Term conditions, controlling intersections will be characterized by acceptable LOS during both peak hours (with the exception of Ocean View Hills Parkway/Caliente Boulevard/ Otay Mesa Road) and the overall arterial analysis shows that these segments would operate at an acceptable level of service. Accordingly, the ADT-based impacts are considered to be overstated and mitigated by the improvements to the one failing intersection. Further, the future construction of SR-905 will divert some trips from Otay Mesa Road to SR-905, restoring LOS to acceptable levels at all locations, except the segment between Caliente Boulevard and "C" Street.

On Ocean View Hills Parkway, the ADT-based impact is probably overstated because the Ocean View Hills Parkway intersections with Dennery Road and Del Sol Boulevard will have adequate LOS under all conditions and peak hours analyzed, and overall arterial analysis shows that these segments will operate at an acceptable level of service.

Water quality is affected by sedimentation caused by erosion, runoff carrying contaminants, and direct discharge of pollutants. As land is developed, or redeveloped, impervious surfaces convey an increased volume of runoff containing oils, pesticides, fertilizers, and other contaminants into adjacent watersheds. Implementation of the project would disturb 32.98 acres of land and create surface parking lots for an estimated 1,302 parking spaces. According to the City's significance thresholds for water quality impacts, any project which would construct a parking lot of 15 or more spaces or develop a site over one acre may result in a significant water quality impact. Based on the size of the proposed site and new paved surfaces, the proposed development would result in a significant water quality impact. Therefore, a Drainage Study and a Post Construction BMP Evaluation were prepared by Kimley-Horn & Associates in October, 2002. In addition, a Water Quality Technical Report was prepared by Kimley-Horn & Associates and revised in April, 2003. These studies address pre- & post construction BMP's to be implemented as a condition of project approval.

Consequently, a National Pollution Discharge Elimination System (NPDES) permit from the State Water Resources Control Board (SWRCB) would be required to control erosion, sedimentation, runoff, point- and non-point-source pollution as a result of the proposed development. The NPDES permit requires the preparation and implementation of a Storm Water Pollution Prevention Plan (SWPPP) and a Monitoring Program Plan prior to the commencement of grading activities, which incorporate BMPs into the construction and post-construction phases of the project. The SWPPP and the mitigation measures incorporated in Section V of the Mitigated Negative Declaration would mitigate potentially significant water quality impacts to below a level of significance.

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Proposed landscaping will consist of new street trees along Otay Mesa Road (*Arbutus Menziesii*), a mixture of trees along the interior roads (*Calocedrus decurrens* and *Umbellularia californica*), and a mixture of flowering trees and palms at accent points within the site (*Myrica californica*, *Bauhinia blakeana*, *Lagerstroemia indica*, *Washingtonia robusta* and *Washingtonia filifera*).

Implementation of the project requires Brush Management zones to be established around the developed areas. A 40-foot strip of Zone Two brush management will occur outside the MHPA within the lot boundaries. Zone Two brush management is considered impact neutral, therefore, there would be no impacts to the MHPA. Landscaping associated with the Zone One brush management include *Bougainvillea "La Jolla"*, *Cistus Crispus*, and *Baccharis pilularis "twin oaks"*. Native plants associated with Zone Two brush management include *Ceanothus griseus horizontalis*. The wildlife corridor in the northeast corner of the project site would be screened with continuous native hedge material (*Rhus integrifolia*).

**4. The proposed development will be sited and designed to prevent adverse impacts on any environmentally sensitive lands and resources located in adjacent parks and public open-space areas and will provide adequate buffer areas to protect such resources.**

The project includes 9 commercial lots on 32.1 acres, detention basins on each lot and construction of a private underground sewer pump station on 0.4 acres of land in the northeast corner of the site. Included in the project proposal is the preservation of the 1.3-acre wildlife corridor and MHPA in the northeast corner of the property adjacent to the existing 6-foot wildlife underground tunnel at Otay Mesa Road and Corporate Center Drive would be protected by an existing fence to be painted black and screened with a continuous hedge of native plant materials. Four acres will be designated as open space to protect the MHPA on the southern boundary of the site.

Implementation of the project requires Brush Management zones to be established around the developed areas. A 40-foot strip of Zone Two brush management will occur outside the MHPA within the lot boundaries. Zone Two brush management is considered impact neutral, therefore, there would be no impacts to the MHPA. Landscaping associated with the Zone One brush management include *Bougainvillea "La Jolla"*, *Cistus Crispus*, and *Baccharis pilularis "twin oaks"*. Native plants associated with Zone Two brush management include *Ceanothus griseus horizontalis*. The wildlife corridor in the northeast corner of the project site would be screened with continuous native hedge material (*Rhus integrifolia*).

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PC Report No. P-06-0279

**5. The proposed development will minimize the alterations of natural landforms and will not result in undue risks from geological and erosional forces and/or flood and fire hazards.**

The project site has been historically used for agricultural purposes the proposed development is designed to minimize alterations to the natural landform and will not result in undue risk from geologic and erosional forces, flood hazards, or fire hazards.

**6. Feasible measures, as defined in this section, to protect and preserve the special character or the special historical, architectural, archaeological or cultural value or the affected significant prehistoric or historic site or resource have been provided by the applicant.**

An archaeological survey was conducted by Gallegos and Associates in June, 2000, and a revised letter report was submitted in February, 2002. The survey determined that the project is situated within prehistoric site CA-SDI-6941. This extensive sparse lithic scatter site contains artifact concentrations (Loci A-Y) and is spread over 10,000,000 square meters. Artifact concentrations have been identified and those remaining areas of CA-SDI-6941 are part of the "Otay Smear" (sparse lithic scatter) which is literally across Otay Mesa. For the SR 905 Project, a Management Plan was prepared in lieu of testing sparse lithic scatters (Gallegos et al. 1998). This plan was accepted by the City of San Diego, CALTRANS and the State Historic Preservation Officer (SHPO). The property was previously surveyed as part of SR 905 project and no artifacts or loci of site CA-SDI-6941 were identified within the project area. Given the poor ground visibility during the SR 905 study and as a result of working with City Staff, it has been agreed that monitoring during construction will be required. Implementation of a monitoring program in accordance with MND's Mitigation, Monitoring and Reporting Program would reduce the potential impacts to subsurface historical resources to below a level of significance.

**OTAY MESA DEVELOPMENT DISTRICT (OMDD) - (MUNICIPAL CODE SECTION 103.1100)**

**1. The project application is complete and conforms with all city policies, guidelines, design standards and density regulations in effect for this site.**

The 45.5-acre vacant site is located in the 6600 block of Otay Mesa Road between Avenue of Industry and Harvest Road in the Otay Mesa Community Planning area. The project site is zoned AR-1-1 and the land use designation in the Otay Mesa Community Plan is Specialized Commercial.

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The project proposes to develop the vacant site into 13 lots consisting of 9 commercial lots (Lots 1-8 and 12) on 32.1 developable acres; three open space lots (Lots 9-10 and 13), and construction of a private underground sewer pump station on 0.4 acres of land at the northeast corner of the site (Lot 11).

Included in the project proposal is the preservation of the 1.3-acre wildlife corridor and Multiple Habitat Planning Area (MHPA) in the northeast corner of the site adjacent to the existing 6-foot wildlife underground tunnel at Otay Mesa Road and Corporate Center Drive. Four acres will be designated as open space to protect the MHPA on the southern boundary of the site. An additional six acres on the eastern boundary of the project site will be designated as open space and includes a fenced preserve for 22 existing vernal pools and one road pool located in the southeast corner of the property.

The proposed development is consistent with the City of San Diego's Progress Guide and General Plan commercial land use designation for the site and will therefore not adversely affect it.

**2. The proposed use and project design meet the general purpose and intent of the Otay Mesa Development District and the Otay Mesa Community Plan.**

The 45.5-acre vacant site is located in the 6600 block of Otay Mesa Road between Avenue of Industry and Harvest Road in the Otay Mesa Community Planning area. The project site is zoned AR-1-1 and the land use designation in the Otay Mesa Community Plan is Specialized Commercial, therefore the proposal for commercial development meets the intent and purpose 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 property in the vicinity.**

Conditions of approval found in the Resource Protection Ordinance/Otay Mesa Development District Permit No. 0018163 and Vesting Tentative Map No. 0018162 address health, safety and general welfare issues. Compliance with applicable building, plumbing, electrical, mechanical and grading regulations will also be required at the construction phase, therefore, the proposal 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 property in the vicinity.

**4. The proposed use will comply with the relevant regulations of the Municipal Code in effect for this site.**

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Commercial development of the 45.5 acres site has been determined to be in compliance with the City's General Plan, the Municipal Code, the Resource Protection Ordinance, the State Subdivision Map Act and all other applicable relevant regulations of the Municipal Code in effect for the site.

BE IT FURTHER RESOLVED that, based on the findings hereinbefore adopted by the Planning Commission that it is recommended that the City Council of the City of San Diego should GRANT Otay Mesa Development District Ordinance/Resource Protection Ordinance Permit No. 0018163 to the referenced Owner/Permittee, in the form, exhibits, terms and conditions as set forth in Permit No. 0018163, a copy of which is attached hereto and made a part hereof.

Adopted on: July 17, 2003  
By a Vote of:

\_\_\_\_\_  
Patricia Grabski  
Development Project Manager

\_\_\_\_\_  
Linda Lugano  
Legislative Recorder

Job Order No. 99-0555

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ATTACHMENT 23  
COUNCIL RESO

Attachment 15  
PC Report No. P-06-0279

CITY COUNCIL RESOLUTION NO.

Otay Mesa Development District Ordinance Permit/  
Resource Protection Ordinance Permit No. 008163  
(Job Order No. 99-0555)  
**OTAY MESA EAST**

WHEREAS, DR. GERALD HANDLER, Owner/Permittee, filed an application with the City of San Diego for a permit to develop 13 lots consisting of 9 commercial lots (Lots 1-8 and 12) on 32.1 developable acres; three open space lots (Lots 9-10 and 13), and construction of a private underground sewer pump station on 0.4 acres of land at the northeast corner of the site (Lot 11).

Included in the project proposal is the preservation of the 1.3-acre wildlife corridor and Multiple Habitat Planning Area (MHPA) in the northeast corner of the site adjacent to the existing 6-foot wildlife underground tunnel at Otay Mesa Road and Corporate Center Drive. Four acres will be designated as open space to protect the MHPA on the southern boundary of the site. An additional six acres on the eastern boundary of the project site will be designated as open space and includes a fenced preserve for 22 existing vernal pools and one road pool located in the southeast corner of the property (as described in and by reference to the approved Exhibits "A", and corresponding conditions of approval for the associated Permit No. 008163), on portions of a vacant 45.5-acres ;

WHEREAS, the project site is located in the 6600 block of Otay Mesa Road in the OMDD-C Zone in the Otay Mesa Community Planning area;

WHEREAS, the project site is legally described as the northeast quarter of the northwest quarter of Section 32, Township 18 south, range 1 west, San Bernardino base and meridian, in the County of San Diego, State of California, according to the official plat thereof. The west quarter of the northwest quarter of Section 32, Township 18 south, range 1 west, San Bernardino base and meridian, in the County of San Diego, State of California, according to the official plat thereof.

WHEREAS, on , 2003, the City Council of the City of San Diego considered Otay Mesa Development District Ordinance/Resource Protection Ordinance Permit (OMDD/RPO) No. 0018163, pursuant to Sections 101.0462 and 103.1100 of the Municipal Code (Old Code) of the City of San Diego; NOW, THEREFORE,

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

That the City Council adopts the following written Findings, dated , 2003.

FINDINGS:RESOURCE PROTECTION ORDINANCE ~ (Municipal Code Section 101.0462)

1. **The proposed development will not adversely affect the City of San Diego's Progress Guide and General Plan.**

The 45.5-acre vacant site is located in the 6600 block of Otay Mesa Road between Avenue of Industry and Harvest Road in the Otay Mesa Community Planning area. The project site is zoned AR-1-1 and the land use designation in the Otay Mesa Community Plan is Specialized Commercial. The project proposes to develop the vacant site into 13 lots consisting of 9 commercial lots (Lots 1-8 and 12); 3 open space lots (Lots 9-10 and 13) and construction of a private underground sewer pump station (Lot 11). The proposed development is consistent with the City of San Diego's Progress Guide and General Plan commercial land use designation for the site and will therefore not adversely affect it.

2. **The proposed development will conform to the community plan for the area and any other applicable plans, policies and ordinances.**

Commercial development of the vacant 45.5-acre site has been determined to be in compliance with the Otay Mesa Community Plan which designates the site for Specialized Commercial, and all other applicable plans, policies and ordinances in affect for the site.

3. **The proposed development will be sited, designed, constructed and maintained to minimize, if not preclude, adverse impacts on environmentally sensitive lands.**

Negative Declaration (MND) No. 99-0555 has been prepared for this project in accordance with the California Environmental Act (CEQA) Guidelines. A Mitigation, Monitoring and Reporting Program (MMRP) has been prepared and will be implemented to reduce all potential impacts to below a level of significance. The MMRP addresses the issue areas of historic resources (archaeology), water quality, paleontological resources, transportation and biological resources.

An Resource Protection Ordinance (RPO) Permit is required because the project was submitted prior to December 31, 1999, when the Old Code was in effect for the site. The project includes 9 commercial lots on 32.1 acres, detention basins on each lot and construction of a private underground sewer pump station on 0.4 acres of land in the northeast corner of the site.

Included in the project proposal is the preservation of the 1.3-acre wildlife corridor and MHPA in the northeast corner of the property adjacent to the existing 6-foot wildlife



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underground tunnel at Otay Mesa Road and Corporate Center Drive would be protected by an existing fence to be painted black and screened with a continuous hedge of native plant materials. Four acres will be designated as open space to protect the MHPA on the southern boundary of the site. An additional 6 acres of land would be designated as open space on the eastern boundary of the project site and includes a fenced preserve for 22 existing vernal pools and one road pool located in the southeast corner of the property.

Twenty-two vernal pools representing approximately 2,923 square feet of surface area and one road pool totaling approximately 290 square feet of surface area exist within the project boundary in the southwest corner of the project site. The total estimated watershed for the 22 pools is 2.1 acres and 0.01 acres for the road pool.

The site has been highly disturbed and its pools have little vernal pool vegetation. For this reason, the pools are considered disturbed. Vernal pool plants observed in the pools in the southeast corner of the site include woolly marbles (*Psilocapus brevissimus*), plantigo (*Plantuigo elongata*), and popcorn flower (*Plagiobothrys acanthocarpa*). All of the vernal pools are included in the 6 acres of open space lands on the east side of the property. A Vernal Pool Management Plan is included in Mitigated Negative Declaration to insure the protection of the Vernal Pools.

A single road pool was identified with approximately 290 square feet of potential surface area and approximately 835 square feet of watershed located in the northwestern corner of the project site. This pool is located within the impact area for the proposed project. However, the pool and watershed are also located totally within a proposed cul-de-sac right-of-way for the adjacent California Terraces, Otay Corporate Center South project. The California Terraces Vesting Tentative Map (VTM 86-1032) shows this pool within the development footprint. The Otay Corporate Center Project would dedicate and grade the right-of-way and install underground utilities, completely removing the vernal pool and watershed. The California Terraces project has been reviewed and approved by the USFWS, ACOE and the City of San Diego. The USFWS prepared a biological opinion (BO 1-6-95-F-35) as part of an ESA Section 7 consultation with ACOE (File No. 95-2010DZ) in January, 1997. Mitigation measures were identified and implemented for project-related impacts per the BO and other project documents. Therefore, no other mitigation measures related to the road pool located in the northwest corner of the project site are required.

The Traffic Impact Analysis prepared by Kimley-Horn & Associates (revised October 9, 2002) determined that the proposed project would result in significant Average Daily Trips (ADT) based impacts to segments of Otay Mesa Road and Ocean View Parkway under Near Term and Horizon Year conditions. While the project would generate a significant impact on several segments of Otay Mesa Road on an ADT under Near Term conditions, controlling intersections will be characterized by acceptable LOS during both peak hours

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(with the exception of Ocean View Hills Parkway/Caliente Boulevard/ Otay Mesa Road) and the overall arterial analysis shows that these segments would operate at an acceptable level of service. Accordingly, the ADT-based impacts are considered to be overstated and mitigated by the improvements to the one failing intersection. Further, the future construction of SR-905 will divert some trips from Otay Mesa Road to SR-905, restoring LOS to acceptable levels at all locations, except the segment between Caliente Boulevard and "C" Street.

On Ocean View Hills Parkway, the ADT-based impact is probably overstated because the Ocean View Hills Parkway intersections with Dennery Road and Del Sol Boulevard will have adequate LOS under all conditions and peak hours analyzed, and overall arterial analysis shows that these segments will operate at an acceptable level of service.

Water quality is affected by sedimentation caused by erosion, runoff carrying contaminants, and direct discharge of pollutants. As land is developed, or redeveloped, impervious surfaces convey an increased volume of runoff containing oils, pesticides, fertilizers, and other contaminants into adjacent watersheds. Implementation of the project would disturb 32.98 acres of land and create surface parking lots for an estimated 1,302 parking spaces. According to the City's significance thresholds for water quality impacts, any project which would construct a parking lot of 15 or more spaces or develop a site over one acre may result in a significant water quality impact. Based on the size of the proposed site and new paved surfaces, the proposed development would result in a significant water quality impact. Therefore, a Drainage Study and a Post Construction BMP Evaluation were prepared by Kimley-Horn & Associates in October, 2002. In addition, a Water Quality Technical Report was prepared by Kimley-Horn & Associates and revised in April, 2003. These studies address pre- & post construction BMP's to be implemented as a condition of project approval.

Consequently, a National Pollution Discharge Elimination System (NPDES) permit from the State Water Resources Control Board (SWRCB) would be required to control erosion, sedimentation, runoff, point- and non-point-source pollution as a result of the proposed development. The NPDES permit requires the preparation and implementation of a Storm Water Pollution Prevention Plan (SWPPP) and a Monitoring Program Plan prior to the commencement of grading activities, which incorporate BMPs into the construction and post-construction phases of the project. The SWPPP and the mitigation measures incorporated in Section V of the Mitigated Negative Declaration would mitigate potentially significant water quality impacts to below a level of significance.

Proposed landscaping will consist of new street trees along Otay Mesa Road (*Arbutus Menziesii*), a mixture of trees along the interior roads (*Calocedrus decurrens* and *Umbellularia californica*), and a mixture of flowering trees and palms at accent points

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within the site (*Myrica californica*, *Bauhinia blakeana*, *Lagerstroemia indica*, *Washingtonia robusta* and *Washingtonia filifera*).

Implementation of the project requires Brush Management zones to be established around the developed areas. A 40-foot strip of Zone Two brush management will occur outside the MHPA within the lot boundaries. Zone Two brush management is considered impact neutral, therefore, there would be no impacts to the MHPA. Landscaping associated with the Zone One brush management include *Bougainvillea "La Jolla"*, *Cistus Crispus*, and *Baccharis pilularis "twin oaks"*. Native plants associated with Zone Two brush management include *Ceanothus griseus horizontalis*. The wildlife corridor in the northeast corner of the project site would be screened with continuous native hedge material (*Rhus integrifolia*).

**4. The proposed development will be sited and designed to prevent adverse impacts on any environmentally sensitive lands and resources located in adjacent parks and public open-space areas and will provide adequate buffer areas to protect such resources.**

The project includes 9 commercial lots on 32.1 acres, detention basins on each lot and construction of a private underground sewer pump station on 0.4 acres of land in the northeast corner of the site. Included in the project proposal is the preservation of the 1.3-acre wildlife corridor and MHPA in the northeast corner of the property adjacent to the existing 6-foot wildlife underground tunnel at Otay Mesa Road and Corporate Center Drive would be protected by an existing fence to be painted black and screened with a continuous hedge of native plant materials. Four acres will be designated as open space to protect the MHPA on the southern boundary of the site.

Implementation of the project requires Brush Management zones to be established around the developed areas. A 40-foot strip of Zone Two brush management will occur outside the MHPA within the lot boundaries. Zone Two brush management is considered impact neutral, therefore, there would be no impacts to the MHPA. Landscaping associated with the Zone One brush management include *Bougainvillea "La Jolla"*, *Cistus Crispus*, and *Baccharis pilularis "twin oaks"*. Native plants associated with Zone Two brush management include *Ceanothus griseus horizontalis*. The wildlife corridor in the northeast corner of the project site would be screened with continuous native hedge material (*Rhus integrifolia*).

**5. The proposed development will minimize the alterations of natural landforms and will not result in undue risks from geological and erosional forces and/or flood and fire hazards.**

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The project site has been historically used for agricultural purposes the proposed development is designed to minimize alterations to the natural landform and will not result in undue risk from geologic and erosional forces, flood hazards, or fire hazards.

**6. Feasible measures, as defined in this section, to protect and preserve the special character or the special historical, architectural, archaeological or cultural value or the affected significant prehistoric or historic site or resource have been provided by the applicant.**

An archaeological survey was conducted by Gallegos and Associates in June, 2000, and a revised letter report was submitted in February, 2002. The survey determined that the project is situated within prehistoric site CA-SDI-6941. This extensive sparse lithic scatter site contains artifact concentrations (Locs A-Y) and is spread over 10,000,000 square meters. Artifact concentrations have been identified and those remaining areas of CA-SDI-6941 are part of the "Otay Smear" ( sparse lithic scatter) which is literally across Otay Mesa. For the SR 905 Project, a Management Plan was prepared in lieu of testing sparse lithic scatters ( Gallegos et al. 1998). This plan was accepted by the City of San Diego, CALTRANS and the State Historic Preservation Officer (SHPO). The property was previously surveyed as part of SR 905 project and no artifacts or loci of site CA-SDI- 6941 were identified within the project area. Given the poor ground visibility during the SR 905 study and as a result of working with City Staff, it has been agreed that monitoring during construction will be required. Implementation of a monitoring program in accordance with MND's Mitigation, Monitoring and Reporting Program would reduce the potential impacts to subsurface historical resources to below a level of significance.

**OTAY MESA DEVELOPMENT DISTRICT (OMDD) - (MUNICIPAL CODE SECTION 103.1100)**

**1. The project application is complete and conforms with all city policies, guidelines, design standards and density regulations in effect for this site.**

The 45.5-acre vacant site is located in the 6600 block of Otay Mesa Road between Avenue of Industry and Harvest Road in the Otay Mesa Community Planning area. The project site is zoned AR-1-1 and the land use designation in the Otay Mesa Community Plan is Specialized Commercial.

The project proposes to develop the vacant site into 13 lots consisting of 9 commercial lots (Lots 1-8 and 12) on 32.1 developable acres; three open space lots (Lots 9-10 and 13), and construction of a private underground sewer pump station on 0.4 acres of land at the northeast corner of the site (Lot 11).

4) Any loss or significant degrading of existing wildlife habitat areas will be suitably mitigated.

5) Increase in runoff and sediment will be mitigated.

6) There will be no adverse water quality impacts to downstream wetland areas.

c. All development proposed in the floodplain fringe on property which borders the Floodway Zone, or is otherwise linked physically or visually with the floodway shall:

1) Provide not less than a twenty-five (25) foot wide open space strip bordering the Floodway zone.

2) Provide for landscaping of all buildings and parking facilities.

3) Retain and protect mature trees and other significant existing vegetation. Trees introduced to the site shall be adequately protected from drowning during heavy rains. Any drainage or runoff system installed for this purpose shall be serviced regularly during the November 15th to March 31st rainy season so as to avoid the accumulation of standing water around the base of such trees.

d. All landscaping shall be in substantial conformance with the standards and specifications set forth in Division 7 of this Code (City-wide Landscaping Regulations and Technical Supplement).

e. New roadways and roadway expansions shall be allowed only where indicated on an adopted Local Coastal Program Land Use Plan.

f. A buffer zone of fifty (50) feet in width shall be maintained around all identified riparian areas, unless the applicant demonstrates that a buffer of lesser width will protect the resources of the riparian habitat, based on site-specific information. Such information shall include, but is not limited to, the type and size of the development and/or proposed mitigations (such as planting of vegetation or construction of fencing) which will also achieve the purposes of the buffer. The buffer shall be measured landward from the riparian habitat. Maps and supplemental information submitted as part of the application shall be used to determine the specific boundaries of the riparian area and buffer. The California Department of Fish and Game and the United States Fish and Wildlife Service shall be consulted in such buffer determinations.

2. Development Plan Approval (see also Subsection C.)

a. Prior to the issuance of any permits or the use of any premises, preliminary development plans shall be submitted to the Development Services Director for approval.

b. Plans shall include the following:

1) A site plan showing the locations of proposed buildings, accessory structures, access roads, parking areas, storage areas and any other uses of the site.

2) A landscaping plan showing the location of plant materials, existing and proposed trees, existing river channels and streambeds, proposed channelization alignments, existing sensitive habitat

areas, open space areas, erosion control and proposed riparian enhancement c.....

3) A grading plan for any development which requires the alteration of the existing land configuration.

4) A hydrological study of the site and affected coastal watershed.

5) A runoff control plan.

c. In reviewing and approving development plans, the Development Services Director shall determine that the development is consistent with the special regulations contained in Section 101.0403(D) (1). When the development plan is reviewed in conjunction with a conditional use permit, planned development permit, sensitive coastal resource permit or coastal development permit, the following shall be added to such permits:

1) A condition that all existing and remaining riparian habitat areas, or riparian enhancement areas, where proposed, and their buffer areas, shall be conserved through an open space easement or other suitable instrument acceptable to the City.

2) Any other conditions which are determined necessary to find the development consistent with the requirements of the Floodway Zone.

(Amended 7-25-94 by O-18088 N.S.)

\* § 101.0404 A-1 Zones — (Agricultural) A-1  
A. PURPOSE AND INTENT

The purpose of the A-1 zones is to provide appropriate zoning for areas that are presently in agricultural or open space use, or which are undeveloped and are either awaiting development or premature for development at urban intensities. It is the intention of the City Council that the A-1 zones allow for reasonable present development opportunities through the use of Planned Residential Development or Rural Cluster Development regulations, while promoting the general maintenance of such areas in open and agricultural uses, but, without foreclosing future development at urban intensities where appropriate.

B. PERMITTED USES

In a zone, designated by the symbol "A1", followed by a number, the number shall determine in acres the minimum area of a lot in that Zone, and on which no building or improvement, or portion thereof, shall be erected, constructed, converted, established, altered or enlarged, nor shall any premises be used except for one or more of the following purposes:

- 1. Single-family dwellings
- 2. Churches
- 3. Private Stable

4. All agricultural uses, except the maintaining, raising, feeding or keeping of swine; provided that any dairy or the maintaining, raising, feeding, or keeping of ten (10) or more domestic animals (as defined in Municipal Code Section 44.0318) is located on premises containing five (5) or more

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acres.

5. Public utility substations, except in the Future Urbanizing area outside the Coastal Zone, unless no other location is practical and the facility is located as close as possible to existing Urbanized or Planned Urbanizing areas.

6. Killing and dressing of poultry, fowl, or rabbits raised on the premises, provided that any building so used shall be not less than fifty (50) feet from any property line.

7. Commercial riding, training, or boarding horse stable, provided that such stable shall be located on a lot containing not less than five (5) acres.

8. Harvesting, processing, or selling of crops produced on the same premises.

9. One stand exclusively of wood frame construction (except the floor), and not exceeding 300 square feet in gross floor area, for the display and sale of agricultural crops produced on the same premises.

10. Accessory buildings and uses customarily incidental to any of the above uses, including:

a. The boarding and lodging of not more than four (4) farm employees:

b. Construction and maintenance of living quarters for five (5) or more farm employees with or without their immediate families, provided that not more than one such building shall be located on any parcel of land and further provided that said parcel shall contain a minimum of ten (10) acres;

c. Signs, single-faced or double-faced, unlighted, not over 12 square feet in area for each face, nor over 12 feet measured vertically from the base of the sign at ground level to the apex of the sign, shall be permitted on each lot as follows:

(1) One sign limited to the name, address and occupation of the occupant, and

(2) One sign pertaining only to the sale of products produced on the premises, and

(3) One sign offering the premises for sale or lease.

11. Any enterprise or business which the Planning Commission determines, in accordance with "Process Four", to be similar in character to the uses enumerated in this section and consistent with the intent and purpose of this zone. For property located in the Future Urbanizing area outside the Coastal Zone, the City Council shall make this determination in accordance with "Process Five".

#### C. PERMITTED DENSITY

##### 1. Lot Area per Dwelling Unit.

a. In Zone A-1-1, a minimum of one acre for each dwelling unit;

b. In Zone A-1-5, a minimum of five acres for each dwelling unit, except in the case of Planned Residential Developments a density of one (1) unit per four (4) acres shall be permitted, and, in the case of Rural Cluster Developments a density of one unit per five (5) acres shall be permitted.

c. In Zone A-1-10, a minimum of ten acres for

each dwelling unit, except as follows:

(1) in the case of Planned Residential Developments, a density of one (1) dwelling unit per four (4) acres may be permitted subject to Municipal Code section 101.0901; and

(2) within the boundaries of the Del Mar Mesa Specific Plan area, property designated Estate Residential and zoned A-1-10 shall be permitted a density of one (1) dwelling unit per 2.5 gross acres; and

(3) in the case of Rural Cluster Developments, a density of one unit per ten (10) acres shall be permitted subject to the provisions of Municipal Code section 101.0901.

d. In zone A-1-20, a minimum of twenty acres for each dwelling unit, except in the case of Planned Residential Developments and Rural Cluster Developments a density of one unit per twenty (20) acres shall be permitted. This zone is not applicable in the Coastal Zone.

e. In zone A-1-40, a minimum of forty acres for each dwelling unit, except in the case of Planned Residential Developments and Rural Cluster Developments a density of one unit per forty (40) acres shall be permitted. This is not applicable in the Coastal Zone.

##### 2. Minimum Floor Area.

Each dwelling hereafter converted, constructed, erected, or moved in zones A-1 zones shall have a minimum living floor area, including walls, but excluding garage, of 650 square feet.

#### D. PROPERTY DEVELOPMENT REGULATIONS

No building or portions thereof shall be erected, constructed, converted, established, altered, enlarged, or used on any lot in zones A-1, unless the lot and building shall comply with the following requirements and special provisions:

##### 1. Minimum Lot Dimensions.

a. Area — one acre in Zone A-1-1; five acres in Zone A-1-5; ten acres in Zone A-1-10; except that within the area designated Estate Residential by the Del Mar Mesa Specific Plan zoned A-1-10, the minimum lot area shall be one acre; twenty acres in Zone A-1-20; and forty acres in Zone A-1-40.

b. Street Frontage — 100 feet in zone A-1-1-, except that such frontage may be reduced at the end of a street dedication where no provision is made for its future extension, to a minimum of 60 percent of the required frontage; 200 feet in all other A-1 zones; except that within the boundaries of the Del Mar Mesa Specific Plan area, minimum street frontage shall be 100 feet.

c. Width — 100 feet in Zone A-1-1, except that the front 25 percent of a lot abutting the end of a street dedication where no provision is made for its future extension may be tapered to coincide with the street frontage; 200 feet in all other A-1 zones; except that within the area designated Estate Residential by the Del Mar Mesa Specific Plan zoned A-1-10, the minimum lot width shall be 100 feet.

d. Depth — 200 feet except that within the area

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designated as Estate Residential by the Del Mar Mesa Specific Plan zoned A-1-10, the minimum lot depth shall be 150 feet.

e. A lot existing upon the effective date of this zone which does not comply with these minimum lot dimensions may be used as permitted herein, subject to all other requirements of this section.

### 2. Minimum Yard Spaces.

a. Front — 25 feet in depth.

b. Side — each 20 feet in width, except that on any lot of record upon the effective date of this section, which lot is less than the required width, such sideyards may be reduced to a minimum of ten percent of the lot width, or five feet, whichever is the greater.

c. Rear — 25 feet in depth.

### 3. Height Limit.

The above front, side, and rear yard, including lots of record less than the required width, shall be increased by ten feet for each story that the building exceeds two stories or 30 feet in height.

4. Maximum Lot Coverage — in Zones A-1-1, A-1-5 maximum lot coverage shall be 20 percent of the lot area; and in zones A-1-10, A-1-20, and A-1-40 shall be 10 percent of the lot area, except within the area designated Estate Residential in the Del Mar Mesa Specific Plan zoned A-1-10, maximum lot coverage shall be 20 percent of the lot area. Structures used to provide shade areas for growing crops, such as greenhouses and agricultural shade structures, shall not be included for the purpose of determining lot coverage.

5. Planned Residential Development and Rural Cluster Developments. In lieu of developing pursuant to the property development regulations and special provisions of this section, an owner or developer in the A-1 zones may develop pursuant to the Planned Residential or Rural Cluster Development regulations of Section 101.0900 of the Municipal Code and all applicable developmental standards and requirements contained therein.

### E. OFF-STREET PARKING REQUIREMENTS

#### 1. Church

For a church there shall be provided on the same premises one (1) automobile parking space for each five (5) seats, or for each thirty-five (35) square feet of floor area, where seats are not fixed, in the nave of said church. Twenty (20) inches of a bench or pew shall constitute one seat.

#### 2. Size

Each required parking space shall be not less than nine (9) feet in width, and twenty (20) feet in length, exclusive of aisles, driveways, ramps, columns, office or work areas. All aisles, driveways, and parking spaces shall have a clear vertical height of not less than seven (7) feet.

#### 3. Access

Each required parking space shall open directly upon an aisle or driveway of such width and design as to provide safe and efficient means of vehicular access to such parking space. All required parking

facilities shall have convenient access to a public street or alley.

#### 4. Surfacing

Except within the boundaries of the Del Mar Mesa Specific Plan area, all required driveways and parking areas shall be plainly marked, and improved with not less than two (2) inches of asphaltic concrete or its equivalent. Within the Del Mar Mesa Specific Plan area, residential driveways may be improved with four inches of decomposed granite or suitable alternate material, subject to approval by the City Engineer.

#### 5. Location

Off-street parking spaces which are open to the sky may be located in any yard except required front yards, and except areas lying between a public street and setback line.

6. Off-street parking shall not be required for permitted uses in the A-1- zones within the Future Urbanizing area outside the Coastal Zone.

### F. SPECIAL PROVISIONS

#### 1. Setbacks Adjacent to Partial Streets and Alleys

No building or structure shall be erected or maintained on a lot which abuts a street or alley having only a portion of its required width dedicated and where no part of such dedication would normally revert to said lot if the street or alley were vacated, unless the yards provided and maintained in connection with such building or structure have a width or depth of that portion of the lot needed to complete the street or alley width, plus the width or depth of the yards required on the lot by this article, if any. This section applies whether this article required yards or not. The Development Services Director, upon request, shall determine the required street or alley width, in accordance with subdivision standards set forth in Article 2, Chapter X of this Code.

#### 2. Setbacks Adjacent to Major Streets

No building or structures, except fences, shall be erected, constructed, converted, established, altered, and/or enlarged on any premises closer than 76 feet from the centerline of a major street, as shown on the adopted plan for major streets and/or as such plan may be amended or adopted in the future.

### G. COASTAL ZONE REGULATIONS

The Coastal Zone is a unique public resource of vital and enduring interest to all present and future residents of the City of San Diego. Existing developed uses, and future development consistent with the City's adopted Local Coastal Program, are essential to the economic and social well-being of the people of the City. To this end, the development of property within the Coastal Zone requires special regulations to protect the unique character of individual coastal communities and neighborhoods, while maintaining the public's right of access to the shoreline.

Within the Coastal Zone, the purpose of the A-1 Zone shall be to provide appropriate zoning for

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**D. DEVELOPMENT REGULATIONS**

Development regulations shall be those of the underlying zone and the development regulations of the overlay. In case of conflict, the regulations of the Overlay Zone shall apply. No owner of real property within the Single-family Rental Overlay Zone shall rent, lease or allow to be occupied for any form of consideration, any single-family dwelling, or portion thereof, in violation of any of the following development regulations:

**1. Floor Area — Requirements for Habitable Rooms**

Each dwelling unit shall have at least one room which shall have not less than 150 square feet of floor area. Rooms used for sleeping purposes shall have an area of not less than 80 square feet per occupant exclusive of closets and storage space.

**2. Sanitation**

Each dwelling unit shall have a minimum of one bathroom for every four people, one-half bathroom shall be counted for use by a maximum of two people. The bathroom shall contain a water closet, lavatory and either a bathtub or shower.

**3. Parking Requirements**

The minimum on-site parking requirements shall be those of the R-1 Zone or one space per automobile used by the occupants, minus one, whichever is greater.

**4. Curb Cuts**

Only one curb cut in the front yard, per dwelling unit, shall be permitted.

**5. Landscaping**

Landscaping shall be required in accordance with Chapter 10, Division 7, "City-wide Landscaping Regulations," as required for the "R" Zones when property is subject to this overlay.

**6. Age Requirement**

The regulations as contained in this section shall not apply to persons under the age of eighteen.

**E. YEARLY EVALUATION**

At the end of one year from the date specified in Subsection F of this section, the regulations and restrictions of this overlay zone shall be reviewed by the Planning Commission.

**F. APPLICATION OF THIS SECTION TO NONCONFORMING STRUCTURES AND USES**

Notwithstanding the provisions of Municipal Code Sections 101.0301, 101.0302 and 101.0303 which provide for nonconforming structures and uses, any use of a single-family dwelling in violation of any provision of this section which use existed on May 1, 1987, shall be unlawful from and after June 30, 1988.

*(Amended 11-23-92 by O-17868 N.S.)*

**§ 101.0462 Resource Protection Ordinance**

This section is indexed as follows:

**A. PURPOSE, INTENT AND TITLE**

**B. RESOURCE PROTECTION PERMIT REQUIRED**

**C. PROTECTION OF ADDITIONAL RESOURCES**

**D. GENERAL PROVISIONS**

**E. EXCLUSIONS**

**F. DEFINITIONS**

**G. PERMITTED USES AND DEVELOPMENT REGULATIONS**

**H. APPLICATION SUBMITTAL REQUIREMENTS**

**I. PERMIT EXEMPTIONS**

**J. EMERGENCY PERMIT**

**K. ADMINISTRATION OF PERMIT**

**L. ALTERNATIVE COMPLIANCE**

**M. DENIED PERMITS**

**N. CONDITIONAL USE PERMITS**

**O. VIOLATIONS**

**P. EXPIRATION OF PERMIT**

**Q. APPLICABILITY OF AMENDMENTS TO EXISTING APPLICATIONS**

**R. APPLICABILITY OF SECTION TO PUBLIC WORKS CONSTRUCTION PROJECTS**

**A. PURPOSE, INTENT AND TITLE**

This section shall be known as the Resource Protection Ordinance (RPO).

The purpose and intent of this section is to protect, preserve and, where damaged, restore the environmentally sensitive lands of San Diego, which include wetlands, wetland buffers, floodplains, hillsides, biologically sensitive lands and significant prehistoric and historic resources, as defined herein.

**B. RESOURCE PROTECTION PERMIT REQUIRED**

Within the areas regulated by the provisions of the Resource Protection Ordinance no building, improvement or portion thereof shall be erected, constructed, converted, established, altered, enlarged, or demolished, nor shall any lot or premises be excavated or graded nor shall any vegetation be cleared or grubbed nor shall any property be subdivided or re-subdivided until a separate Resource Protection Permit is obtained in accordance with the procedures set forth in this section. Any person violating this section shall be guilty of a misdemeanor and shall be punishable pursuant to the provisions of Section 12.0201 of the San Diego Municipal Code.

**C. PROTECTION OF RESOURCES**

Within the City of San Diego, the provisions of the Resource Protection Ordinance shall be applicable to the following enumerated resources:

1. All floodways and one hundred (100) year floodplain fringe areas as identified in the Federal Emergency Management Agency (FEMA) maps on file in the office of the City Clerk as Document No. OO-16939-1, all areas within the City's existing Floodway (FW) or Floodplain Fringe (FPF) Zones, and all floodways and one hundred (100) year floodplain fringe areas as identified in the County of San Diego FEMA map panel Nos. 1350, 1363, 1636, as modified, and No. 1650 on file in the office of the City Clerk as Document No. OO-17087, as

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amended by Document Nos. RR-277284-1 through -43 on file in the office of the City Clerk.

2. All hillside areas of twenty-five percent (25%) slope or greater as identified by the City's existing Hillside Review Overlay Zone (HROZ).

3. All wetland and wetland buffer areas indicated in Map Drawings C-713 and C-740 on file in the office of the City Clerk as Document Nos. OO-16939-2 and OO-16939-3.

4. All other unmapped hillsides, wetlands and wetland buffer areas which meet the definition contained herein.

5. All biologically sensitive lands which meet the definition contained herein.

6. All significant prehistoric and historic sites and resources which meet the definition contained herein.

#### D. GENERAL PROVISIONS

1. Where any portion of a parcel contains resources regulated by this section, the provisions of the Resource Protection Ordinance shall be applicable to the entire parcel.

2. The provisions of Municipal Code sections 101.0462(F) and 101.0462(G) shall be applicable within the Del Mar Mesa Specific Plan area as provided for in the Del Mar Specific Plan. Development within the Del Mar Mesa Specific Plan area shall be subject to the Supplemental Regulations for Resource Management contained in the specific plan. All other provisions of Municipal Code section 101.0462 shall apply.

3. Any person or persons may propose to the Transportation, Planning and Environment Committee revisions to the resource protection boundaries. These revisions may include deletion of areas of poor environmental quality, or addition of areas of significant environmental value. The Transportation Planning and Environment Committee may request a report from the Development Services Director on this matter and may direct that it be referred to the Planning Commission. The City Council shall consider the revisions, in accordance with "Process Five", following review by the Planning Commission and the appropriate community planning groups.

4. In the case of significant prehistoric and historic resources, biologically sensitive lands or unmapped wetlands, a map shall be prepared and maintained by the Development Services Department and considered by the City Council for adoption, in accordance with "Process Five", and shall be used to identify properties that will not require a prehistoric, historic, or biological resources survey for purposes of obtaining a Resource Protection Permit.

However, if it is demonstrated to the Development Services Director that prehistoric, historic or biological resources or unmapped wetlands do in fact exist upon these properties, the appropriate survey shall be required by the Development Services Director.

5. The Development Services Director is hereby

authorized to promulgate administrative guidelines to implement the provisions of this section. The guidelines or any revisions thereto shall be effective without a hearing thirty (30) calendar days after their publication in a newspaper of general circulation by the Development Services Director, pursuant to San Diego Municipal Code section 22.0102, unless a timely protest is filed with the Director. In this event, the Director shall consider the objections of those affected by the proposed change. As soon thereafter as practicable, the Development Services Director may then issue the guidelines with any revisions deemed necessary or appropriate, or decline to so issue them. This provision shall not be applicable to any emergency guideline issued by the Director to preclude an event that will be detrimental to the public health or safety, nor shall it apply to the initial promulgation of the guidelines authorized by R-277284 adopted January 29, 1991.

6. A Resource Protection Permit shall be required in conjunction with the processing of a long range plan, as defined in paragraph F.11., if a subdivision or parcel map or another discretionary permit approval is concurrently processed. In this event, the Resource Protection Permit shall only be required for that portion of the area that is covered by the concurrent discretionary map or permit. However, in any case a consistency determination shall be prepared when required by Council Policy 600-40.

#### E. EXCLUSIONS

##### 1. Mission Valley.

The Resource Protection Ordinance shall not be applicable to any area within the floor of Mission Valley, defined as that area located within the existing FW and FPF Zones, nor to any lawfully operating sand and gravel extraction facility located within the boundaries of the Mission Valley Community Plan.

##### 2. Calle Cristobal Assessment District.

The construction of the Calle Cristobal Assessment District area in its entirety and the development necessary to fund and support the necessary improvements shall be exempt from the provisions of the Resource Protection Ordinance.

##### 3. Miramar Ranch North.

The Resource Protection Ordinance shall not be applicable to any area within the Miramar Ranch North Community Plan and the seventy (70) acre high school project in Scripps Ranch.

##### 4. Sorrento Hills

The Resource Protection Ordinance shall not be applicable to development of the 178 acres of land known as Sorrento Hills that was the subject of the land exchange approved by the voters as Proposition D on November 4, 1986.

##### 5. Land Exchange Agreements

The provisions of this ordinance shall not be applicable to any property which the City is contractually obligated to zone for its highest and best use pursuant to the Land Exchange Agreement

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between the United States of America and the City of San Diego, filed with the City Clerk on December 8, 1986, as Document No. RR-267203-1.

## F. DEFINITIONS

The following definitions shall apply only for the purposes of this section.

## 1. Aquaculture.

A form of agriculture devoted to the controlled growing and harvesting of fish, shellfish, and plants in marine, brackish and fresh water.

## 2. Biologically Sensitive Lands.

Land which supports sensitive vegetation, as defined herein, and/or the habitats of rare, endangered, or threatened species or subspecies of animals or plants as defined by the California Endangered Species Act, or the Federal Endangered Species Act, or as defined below. Biologically sensitive land also includes the area of native vegetation which is critical to maintaining a balanced natural ecosystem or wildlife corridor. Biologically sensitive lands may also include areas that support sensitive species of plants or animals listed in the administrative guidelines to this section.

A species shall be presumed to be rare, endangered or threatened if it is listed in SEC. 670.2 or 670.5, Title 14, California Code of Regulations, or the Federal Endangered Species Act, Title 50, Code of Federal Regulations, SEC. 17.11 or 17.12. A species not included in any legislative listing may nevertheless be considered by the Development Services Director to be rare, endangered or threatened if the species meets the criteria for inclusion in state or federal lists.

Sensitive vegetation is defined as a vegetative community which typically includes, but is not limited to: habitats that are substantially depleted due to development; vegetative community types as identified by the California Department of Fish and Game listing of community associations in "Preliminary Descriptions of the Terrestrial Natural Communities of California," (DFG, Holland 1986 Ed., as updated); or habitats that support sensitive species of plants or animals.

Sensitive species of plants or animals are those species considered unusual or limited in that the species: 1) are only found in the San Diego region; or 2) are a local representative of a species or association of species not otherwise found in the region; or 3) are severely depleted within their ranges or within the region. Sensitive species of plants and animals are identified in the California Native Plant Society R-E-D List or are listed in the California Department of Fish and Game list of species of special concern and other publications listed in the administrative guidelines promulgated pursuant to this section.

## 3. "Clearing."

The cutting and removal of vegetation from the land without disturbance to the soil, surface or destruction of the root system.

## 4. "Grubbing."

The removal or destruction of vegetation by the

removal of or disturbance to the root system and/or soil surface by any means including chemical.

## 5. Feasible.

Capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social, and technological factors.

## 6. Fill.

Any material or substance which is deposited, placed, pushed, dumped, pulled or transported, or moved to a new location and the conditions resulting therefrom. Fill also includes pilings placed for the purpose of erecting structures thereon when located in a submerged area. Examples of fill materials include but are not limited to earth, excavated or dredged materials, sand, gravel, rock, riprap, and concrete.

## 7. Floodplain.

The relatively flat areas of low lands adjoining, and including, the channel of a river, stream, water course, bay or other body of water which is subject to inundation by the flood waters of the one hundred (100) year frequency flood.

## 8. Floodway.

The river channel and the adjacent land areas, within the floodplain, needed to carry a one hundred (100) year frequency flood without increasing the water surface elevation more than one (1) foot at any point. The natural flood water profile is the water surface elevation of a nonconfined one hundred (100) year frequency flood in the natural undeveloped floodplain.

## 9. Floodplain Fringe.

All that land in a floodplain not lying within a delineated floodway. Land within a floodplain fringe is subject to inundation by relatively low velocity flows and shallow water depths.

## 10. Hillsides.

All lands mapped by the Hillside Review Overlay Zone (Sec. 101.0454) and all other lands having a slope with a natural gradient of twenty-five percent (25%) or greater, (twenty-five (25) feet of vertical distance for each one hundred (100) feet of horizontal distance) and a minimum elevation differential of fifty (50) feet.

## 11. Long Range Plan.

A new community plan, or a general plan or community plan, plan amendment, precise plan, specific plan or other planning document, and amendments thereto, for long-term future planning.

## 12. Significant Prehistoric and Historic Sites and Resources.

Locations of prehistoric or historic resources that possess unique cultural, scientific, religious or ethnic value of local, regional, state or federal importance. The above shall be limited to prehistoric or historic districts, sites, buildings, structures, or objects included in the State Landmark Register, or the City of San Diego Historical Sites Board List, or included in or eligible for inclusion in the National Register of Historic Places; areas

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of past human occupation where important prehistoric or historic activities or events occurred (such as villages or permanent camps); and locations of past or current traditional religious or ceremonial observances as defined by Public Resources Code SEC. 5097.9 et seq., and protected under Public Law 95-341, the American Indian Religious Freedom Act (such as burials, pictographs, petroglyphs, solstice observation sites, and sacred shrines).

## 13. Wetlands.

Land which is transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or where the land is covered by shallow water, and waters of the United States. Waters of the United States are accorded the same protection as wetlands. They include all waters subject to the ebb and flow of the tide, rivers, streams (including intermittent streams), mudflats, natural ponds and lakes, and man-made impoundments and drainages with biological value. To be considered a wetland within this definition, the area must have one or more of the following characteristics:

a. At least periodically, the land supports predominantly hydrophytes, as defined in the Unified Federal Method Manual (Federal Manual for Identifying and Delineating Jurisdictional Wetlands, January 19, 1989), on file in the City Clerk's Office as Document No. OO-17602.

b. The substrate meets the criteria for hydric soils, including aquatic soils, as described in the Unified Federal Method Manual.

c. The substrate is saturated with water or covered by shallow water at some time during the growing season of each year, or if the hydrologic conditions meet the criteria in the Unified Federal Method Manual.

Areas classifiable as wetlands include lagoons, marshes, estuaries, vernal pools, streams and rivers and associated riparian habitat areas.

## 14. Wetland Buffers

Lands which provide a buffer area of an appropriate size to protect the environmental and functional habitat values of the wetland.

## G. PERMITTED USES AND DEVELOPMENT REGULATIONS

## 1. Wetlands

Permitted uses allowed in the wetlands shall be limited to the following:

a. Aquaculture, wetlands-related scientific research and wetlands-related educational uses.

b. Wetland restoration projects where the primary purpose is restoration of the habitat.

c. Essential public service projects including water reclamation, where it has been demonstrated that there is no feasible less environmentally damaging location or alternative, and where mitigation measures have been provided to minimize adverse environmental effects.

## 2. Wetland Buffer Areas.

A 100 foot-wide wetland buffer as mapped on Map Drawings C-713 and C-740 shall be main-

tained unless the applicant demonstrates that a buffer of lesser width will protect the resources of the wetland, based on site-specific information. Such information shall include, but is not limited to, the type and size of the development and/or proposed mitigations (such as planting of vegetation or construction of fencing) which also achieve the purposes of the buffer.

Wetland buffers for unmapped wetlands shall satisfy the wetland buffer requirements contained in paragraph F.14. The buffer shall be measured landward from wetland. Maps and supplemental information submitted as part of the application shall be used to determine the boundaries of the wetland and buffer. The California Department of Fish and Game and the United States Fish and Wildlife shall be consulted in such determinations.

All buildings or other improvements proposed to be placed or erected, and all grading activities proposed to be undertaken adjacent to a wetland shall be located so as not contribute to increased sediment loading of the wetland, disturbance to its habitat values, or otherwise impair the functional capacity of the wetland.

Permitted uses in the wetland buffer areas, shall be limited to the following, provided that such uses are compatible with protecting wetlands, and do not harm the natural ecosystem:

a. All uses permitted in wetlands.

b. Passive recreational uses, access paths, and public viewpoints, provided that all necessary mitigation measures are incorporated to protect the adjacent wetlands.

c. Improvements necessary to protect adjacent wetlands.

## 3. Floodways.

Permitted uses in the floodway areas, as designated on the Federal Emergency Management Agency (FEMA) Maps on file in the office of the City Clerk or alternatively any area zoned FW, shall be those uses permitted by the zone, subject to the following regulations and the regulations and restrictions of the FW zone.

a. New roadways and roadway expansions, except local access roadways, shall be allowed only where indicated in an adopted community plan or identified in the Circulation Element of the General Plan.

b. Floodway encroachments for utility and transportation crossings shall be offset by improvements or modifications to enable the passage of a one hundred (100) year frequency flood.

c. Channelization or other substantial alteration of rivers or streams shall be limited to:

1) Necessary water supply projects.

2) Flood control projects where no other feasible method for protecting existing public or private structures exists and where such protection is necessary for public safety or to protect existing development.

3) Developments where the primary function is the improvement of fish and wildlife habitat.

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d. Any development permitted by paragraphs C.1), C.2), and C.3) above which involves the channelization or other substantial alteration of rivers or streams shall do all of the following:

1) Incorporate into the project design and mitigation measures all relevant findings of hydrological studies for the watershed of the affected stream. Such findings shall include but shall not be limited to erosional characteristics, flow velocities, and sediment transport.

2) Incorporate mitigation measures designed to assure that there will be no increase in the peak runoff rate from the developed site as compared to the greatest discharge that would occur from the existing undeveloped site as a result of the intensity of rainfall expected during a six (6) hour period once every ten (10) years.

3) Minimize stream scour, avoid increases in and reduce, where feasible, the transport of stream sediment to downstream wetlands and other biologically sensitive lands. Acceptable techniques to control stream sediment include but are not limited to the planting of riparian vegetation in and near the stream.

4) If channelization is determined to be necessary, the floodway of the stream shall accommodate a one hundred (100) year flood. To the extent feasible, all artificial channels shall consist of natural bottoms and sides and be designed and sized to accommodate existing riparian vegetation. Where maintenance is required to keep vegetation at existing levels compatible with the design capacity of the channel, a responsible party or process shall be identified.

e. Except in wetlands and wetland buffer areas, sand and gravel extraction may be permitted, subject to an approved conditional use permit and reclamation plan. Use of the floodway area after reclamation shall be subject to all of the requirements of this section.

#### 4. Floodplain Fringe.

Permitted uses in the Floodplain Fringe (property located between the floodway and the limits of the one hundred (100) year floodplain) as designated on the Federal Emergency Management Agency (FEMA) maps on file in the office of the City Clerk or alternatively any area zoned FPF, shall be those uses permitted by the underlying zone subject to the following regulations, the regulations and restrictions of the underlying zone, the Floodplain Fringe Overlay Zone (SEC. 101.0403.1), where applicable.

a. New roadways and roadway expansions, except local access roadways, shall be allowed only where indicated in an adopted community plan or identified in the Circulation Element of the General Plan.

b. Low-intensity recreational uses may be permitted.

c. Except in wetlands wetland buffer areas, sand and gravel extraction may be permitted, subject to an approved conditional use permit and rec-

lamation plan. Use of the floodplain fringe area after reclamation shall be subject to all of the requirements of this section.

d. Within the one hundred (100) year floodplain fringe, sand and gravel extraction, permanent structures and/or fill for permanent structures, roads and other public improvements will be allowed only if the applicant can demonstrate that:

1) The development is capable of withstanding periodic flooding, and does not require the construction of off-site flood protective works including but not limited to artificial flood channels, revetments and levees. Flood protection works may be permitted to protect new or existing roads which are identified in the Circulation Element of The City of San Diego's Progress Guide and General Plan, and applicable community plans.

2) Existing biologically sensitive lands and wetlands and wetland buffers will not be disturbed.

3) Grading and filling are minimized and harm to the environmental values of the floodplain fringe is minimized.

4) The design of the development incorporates the findings and recommendations of both a site-specific and watershed hydrologic study in order that: (a) there will be no increase in the peak runoff rate from the fully developed site as compared to the discharge that would be expected from the existing undeveloped site as a result of the most intense rainfall expected once every ten (10) years during a six (6) hour period; and (b) the development neither significantly increases nor contributes to downstream bank erosion and sedimentation of wetlands or other biologically sensitive lands.

5) There will be no significant adverse water quality impacts to downstream wetlands and other biologically sensitive lands.

e. All development proposed in the floodplain fringe on property which borders the floodway or is otherwise linked physically or visually with the floodway shall:

1) Provide not less than a twenty-five (25) foot-wide open space strip bordering the floodway, revegetated as determined necessary per Section 7.1 of the City of San Diego Landscape Technical Manual, on file in the office of the City Clerk as Document No. RR-274506;

2) Provide for landscaping of all buildings and parking facilities; and

3) Retain and protect mature trees and other significant existing vegetation. Trees introduced to the site shall be adequately protected from drowning during heavy rains. As a condition of the permit, any drainage or runoff system installed for this purpose shall be serviced regularly during the November 15 to March 31 rainy season so as to avoid the accumulation of standing water around the base of such trees.

f. All landscaping shall be in substantial conformance with the standards and specifications set forth in Chapter X, Division 7, of the San Diego

Municipal Code (City-wide Landscaping Regulations) and the City of San Diego Landscape Technical Manual, on file in the office of the City Clerk.

**5. Hillside and Biologically Sensitive Lands.**

Permitted uses in the hillside areas or biologically sensitive lands, or both, shall be those uses permitted by the underlying zone subject to the following regulations and the regulations and restrictions of the underlying zone, and the Hillside Review Overlay Zone (Section 101.0454) when applicable to the hillside portion of a parcel, except that a separate Hillside Review Permit shall not be issued.

Where a development is proposed on hillsides or biologically sensitive lands, or both, the following regulations shall apply:

a. Hillsides and biologically sensitive lands shall be preserved in their natural state, provided a minimal encroachment into such lands may be permitted to the extent set forth in the following encroachment table. This encroachment must not adversely impact state or federally-listed rare, threatened or endangered species or wetlands.

All development or grading occurring in hillsides must comply with the regulations of the Hillside Review Overlay Zone ordinance and the Hillside Design and Development Guidelines (October, 1984). Development or grading occurring in biologically sensitive lands over and above the encroachment allowance in column 2 of the following table shall not be permitted unless all feasible mitigation to protect and preserve such lands is required as a condition of approval. Mitigation may include any of the following methods, as appropriate to the nature of the impact:

(1) In certain limited circumstances, replacement may be accomplished by creating new habitat or by enhancing existing degraded habitat.

(2) In other circumstances replacement may be accomplished on another site where the biological values of the mitigation site are threatened, provided the mitigation site supports the same biological values. The biological values of the replacement mitigation site must be protected and preserved in a manner acceptable to the Development Services Director.

(3) In limited circumstances, where the affected habitat area is small and is isolated from other habitat areas, monetary compensation may be paid into a fund in lieu of other forms of mitigation. The fund shall be used to acquire, maintain and administer habitat areas pursuant to City Council Resolution No. R-275129, adopted February 12, 1990. Where appropriate, the City Development Services Director, with the concurrence of the City Manager, is authorized to enter into agreements with public or private non-profit conservancies, agencies, or foundations to administer the funds and maintain and acquire habitat preservation areas.

**ENCROACHMENT TABLE FOR HILLSIDES AND BIOLOGICALLY SENSITIVE LANDS**

Column 1 Percent of Site Containing Slopes of 25% Grade and Over and/or Biologically Sensitive Lands	Column 2 Maximum Encroachment Allowance for Development (not including Public Streets, Utilities and Facilities) as Percent of Column 1	Column 3 Maximum Exemptable Area (Additional Encroachment) for Public Streets, Utilities and Facilities as Percent of Column 1 Subject to Findings in Paragraph G.5.c	Column 4 Maximum Potential of Total Encroachment as Percent of Column 1
95-100%	20%	15%	35%
90-94	18	15	33
85-89	16	15	31
80-84	14	15	29
75-79	12	15	27
70-74	10	10	20
65-69	10	10	20
60-64	8	10	18
55-59	8	10	18
50-54	6	10	16
45-49	6	5	11
40-44	4	5	9
35-39	4	5	9
30-34	2	5	7
25-29	2	5	7
0-24	0	0	0

(Note: Columns 2, 3 and 4 are expressed as a percentage of that portion which contains the hillside or biologically sensitive lands)

b. The maximum total encroachment allowance (Column 4) for parcels containing both hillsides and biologically sensitive lands shall be allocated proportionally according to the percent of the total area represented by each.

The Development Services Director may permit increased encroachment into that portion of a parcel containing hillsides provided that: the total encroachment for each parcel is within the maximum allowable set forth in the above table; there is a corresponding equal reduction of encroachment into the biologically sensitive lands portion; and, the hillsides do not occur in prime viewshed areas. Prime viewshed areas shall mean those areas which are visible from the center median and within one mile of Interstates 5, 8, 15, and 905, Freeways 905, 163, 52, 94 and all primary arterial roadways identified in the City of San Diego's Progress Guide and General Plan, and those areas visible from the midpoint of the streambed and within one mile of the following major canyon and floodplain systems: Tecolote Canyon, Pecos Canyon, Lopez Canyon, Carroll Canyon, Rose Canyon, Murphy Canyon, 34th Street

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Canyon, Maple Canyon, City Heights Southern Perimeter Canyon System, Chollas Creek Canyon System, Gonzales Canyon, Shaw Valley, Carmel Mountain Canyon, Crest Canyon, San Clemente Canyon, San Dieguito River Valley, Otay River Valley, Tijuana River Valley, and Mission Valley.

c. The following exemptions from the encroachment allowance may be considered up to the maximum allowance in Column 3 of the "Encroachment Table for Hillside and Sensitive Lands" if the Development Services Director finds that all such exemptions are sited, designed and constructed to: minimize if not preclude adverse impacts to the biologically sensitive lands; comply with the regulations of the Hillside Review Overlay Zone where applicable, and Hillside Design and Development Guidelines (October, 1984); and not adversely impact state or federally-listed rare, threatened or endangered species or wetlands:

1) Major public roads and collector streets identified in the Circulation Element of an adopted community plan of the City of San Diego's Progress Guide and General Plan.

2) Local public streets.

3) Public utility systems.

4) The following public facilities, when they are determined by the Development Services Director to be of significant benefit to the public: publicly-owned parks and recreational facilities (excluding golf courses); fire and police facilities (excluding jails); publicly-owned libraries and public schools.

5) An "erosion control measure" which does not cause the removal or disturbance of any native vegetation located on any portion of the property and is not located within the delineated "viewshed" areas of Map Drawing No. C-720. The erosion control measure shall only be allowed if it is determined to be the only feasible means of erosion control necessary to protect the existing principal structure(s) or public improvement(s). For purposes of Section 101.0462, erosion control measures include, but are not limited to retaining walls, air placed concrete and other devices, structures or methods appropriate for controlling or minimizing erosion. Erosion control measures do not include those preventive measures required for soil stabilization or drainage. Air-placed concrete used as an erosion control measure, either by gunite or shotcrete, shall be designed and applied in accordance with generally accepted engineering standards and specifications and shall also incorporate existing adjacent landform characteristics, including but not limited to color coating, texturing, landscape and topographical features.

Where an erosion control measure is proposed, the permittee shall prior to the approval of the Resource Protection Ordinance ("RPO") permit, execute and record a waiver of public liability for the approved erosion control measure. Where such erosion control measure is proposed to be located on any portion of property owned by The City of San Diego, the permittee shall provide written

permission from the City Manager prior to the approval of the RPO permit. Documentation of this approval shall be recorded with the conditions of permit approval.

d. Areas with native vegetation which are cleared or thinned to protect existing or proposed structures in potential danger from fire may also be exempted provided that: the area cleared or thinned for such brush management is the minimum necessary to comply with existing City fire codes; native root stock is retained in biologically sensitive lands, and, in all areas where the root stock is removed, replanting is done with native or naturalized non-native fire retardant vegetation; no reconfiguration of the natural landform is required; no permanent irrigation is provided and no non-native plants are introduced in biologically sensitive lands; and, no sensitive species or vegetation would be significantly adversely impacted.

e. Except as otherwise provided for in existing conditional use permits, sand, gravel and rock extraction is exempt from the hillside encroachment allowance but not from the biologically sensitive lands encroachment allowance, provided that mitigation measures are required that maximize the use of native vegetation to revegetate and landscape cut or fill areas in order to substantially restore the original habitat value and produce final graded slopes with contours and soils which reflect the original landform conditions. Use of the hillsides after reclamation shall thereafter be subject to all requirements of this section.

f. All encroachment allowances shall be subject to a determination by the Development Services Director that such encroachment is supported by the findings of fact required under Paragraph L. of this section.

g. All hillsides and biologically sensitive lands which remain undisturbed or which are restored or enhanced as a result of a development approval shall be conserved as a condition of permit approval through a deed restriction, open space easement or other suitable restriction acceptable to the City Attorney and the Development Services Director and, when applicable, the City Manager, that will preclude any future development or grading of such lands.

#### 6. Significant Prehistoric and Historic Sites and Resources

Permitted uses in lands containing significant prehistoric and historic sites and resources shall be those uses permitted by the underlying zone subject to the following regulations and the regulations and restrictions of the underlying zone.

Development shall not be permitted in significant prehistoric or historic sites or resources unless all feasible measures to protect and preserve the significant prehistoric or historic site or resource are required as a condition of development approval. Alterations and improvements to prehistoric and historic sites and resources that enhance, restore, maintain or repair the site or

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resource and which do not adversely affect the special character, or special historical, architectural, archaeological or cultural value of the prehistoric and historic site or resource may be permitted. This paragraph is intended to supplement protection provided to significant prehistoric and historic sites and resources by existing local, state and federal law. The City Council shall establish procedures for designating historic sites, with time frames for determining whether eligible sites shall be so designated, and procedures for protecting such eligible sites during the designation process.

#### H. APPLICATION SUBMITTAL REQUIREMENTS

Every application for a Resource Protection Permit shall be accompanied by the following information (where applicable) prepared in accordance with the guidelines of Section 2 of the City of San Diego Landscape Technical Manual, on file in the office of the City Clerk:

1. A site plan showing the location of proposed buildings, accessory structures, recreational areas, access roads and driveways, parking areas, storage areas, and any other uses of the site.

2. A landscaping plan showing the location of all plant materials including trees, shrubs, and ground covers.

3. A grading plan for any development which requires the alteration of the existing land configuration.

4. A preliminary elevation plan (including sections) showing basic foundation and roof configurations.

5. A drainage plan showing proposed runoff control measures.

6. An analysis and map showing the precise boundary of wetlands and wetland buffers.

7. In floodway and floodplain fringe areas:

a. A hydrological study of the site and affected watershed showing existing river channels, streambeds and proposed channelization alignments.

b. A biological resource inventory and mitigation plan.

8. In hillsides:

a. A slope analysis, based upon a topographic map with contour intervals not exceeding five (5) feet. The slope analysis shall show the following slope categories for the entire property in acres:

1) Less than twenty-five percent (25%) slope.

2) Twenty-five percent (25%) and greater slopes.

b. A geological reconnaissance report where development is proposed to be located in a "moderate" (C), "high" (D), or "variable" (BC or AC) Risk Zone as identified on the geo-technical land use capability maps referenced by the Seismic Safety Element of The City of San Diego's Progress Guide and General Plan, and on file in the office of the City Engineer. The geological reconnaissance report shall be prepared in accordance with the City's Engineering Department's Guidelines for Geo-technical Reports, and shall address poten-

tial geologic hazards. The report shall be considered and made available for public review as part of the standard environmental review process.

Where unstable conditions are indicated but, in the opinion of the City Engineer, are not sufficiently defined in the geological reconnaissance report, a preliminary engineering geology report shall also be required. Any exploratory work necessary to prepare such a report may be performed pursuant to the conditions set forth in the Land Development Ordinance (Chapter 6, Article 2, Division 4 of the Municipal Code). The preliminary engineering geology report shall include the results of subsurface investigations sufficient to identify the nature and magnitude of such unstable conditions, and shall identify alternative mitigation measures that may be needed.

c. If erosion control measures are proposed, submittal of a geotechnical report documenting the need for the erosion control measure shall be required, unless it is demonstrated by the responsible department through submittal of appropriate investigative report, documentation or other evidence that unstable conditions on the site do not exist. The geotechnical report shall identify the type and design of the erosion control measure necessary, based upon site specific conditions.

d. Repair and Maintenance of Erosion Control Measures. The responsible department shall determine if any repair or maintenance activity of an approved and permitted erosion control measure constitutes a minor modification or requires an amendment to the permit(s) or a new permit(s). The Responsible Department shall require submittal of necessary reports, documents or any other material necessary to make such determination. Repair or maintenance of an erosion control measure which was constructed or placed without City approvals or permits shall necessitate all required approvals and permits to be obtained and reviewed.

9. A biological resources survey, as provided for by the administrative guidelines to this section.

10. A prehistoric and historic resources survey.

#### I. PERMIT EXEMPTIONS

A Resource Protection Permit shall not be required for the following types of development; however, this development must comply with all other adopted City plans, ordinances and regulations:

1. Legally permitted agricultural grading on land which has been legally cultivated within the previous five (5) year period or pursuant to an agricultural permit (SEC. 62.0405(h)). This exemption shall not apply when a significant historic or prehistoric resource exists on the site.

2. Any development for which a Building Permit, Grading Permit, Hillside Review Permit, Planned Development Permit, Conditional Use Permit, Development Agreement or Planned District Permit has been requested (application on file) prior to June 22, 1987.

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3. Any development which has obtained Coastal Commission approval on or before July 10, 1987.

4. Those phases or elements of a development which have obtained a vested right prior to the effective date of the original adoption of this section, March 29, 1989.

5. Developments for which all final discretionary approvals have been granted prior to July 15, 1988.

6. Except in the case of designated historic sites or parcels located wholly or partially within the resource-based open space area reflected on Figure 5 of the Del Mar Mesa Specific Plan, the modification of a single-family house on one lot or the replacement of single-family house with another single-family house on one lot, brush management for fire protection purposes and any other improvements, alterations and landscaping on such lot. Designated historic sites shall mean sites contained on the State Landmark Register, or the City of San Diego Historical Sites Board List, or included in or eligible for inclusion in the National Register of Historic Places.

7. Except in the case of parcels located wholly or partially within the resource-based open space area reflected on Figure 5 of the Del Mar Mesa Specific Plan, the construction of a single-family house on an individually-owned single-family lot as defined in San Diego Municipal Code section 101.0101.34, or combination of lots which are legally joined together for the sole purpose of constructing only one single-family house upon such legally joined single-family house upon such legally joined lots, provided such lots were or are not joined in ownership to a contiguous lot or parcel on the effective date of this section, and brush management for fire protection purposes and any other improvements, alterations, and landscaping on such lot or combination of lots.

8. Except in the case of designated historic sites, building improvements, including paved areas, on other than single-family lots, which do not alter the ground coverage of an existing building or paved area by more than 10 percent and which do not increase the height of the building by more than 12 feet, or the height permitted in the underlying zone, whichever is less.

9. Sand, gravel and rock and related asphalt operations, and salt manufacturing operations, which have received valid approvals to conduct such operations prior to the effective date of this section and which continue to operate in compliance with the terms and conditions of those approvals, and redevelopment or reclamation as required by the California Surface Mining and Reclamation Act of 1975 of the area upon which the operations have occurred.

10. Activities to detect and remove ordnance from areas where such explosive devices may exist.

11. Within the Del Mar Mesa Specific Plan area, development that meets all of the following

criteria:

a. The development is located wholly within the area designated as Estate Residential in the Del Mar Specific Plan; and

b. The development observes a one hundred foot setback from wetlands, designated floodplains and identified archeological resources; and

c. The development entails no demolition or substantial alteration of any designated historical resource.

d. The development encroaches no more than 25 percent into steep hillsides.

#### J. EMERGENCY PERMIT

Whenever development is required by order of the City Manager or the Development Services Director to protect the public health or safety, the Development Services Director may issue an emergency Resource Protection Permit without a public hearing for the minimum amount of work necessary to protect the public health or safety. The emergency permit shall not relieve the permittee from compliance with all provisions of this section.

#### K. ADMINISTRATION OF PERMIT

The Planning Commission may approve, conditionally approve or deny an application for a Resource Protection Permit in accordance with "Process Four". An application for a Resource Protection Permit may be approved or conditionally approved only if all of the following findings of fact are made:

1. The proposed development will not adversely affect the City of San Diego's Progress Guide and General Plan.

2. The proposed development will conform to the community plan for the area and any other applicable plans, policies and ordinances.

3. The proposed development will be sited, designed, constructed and maintained to minimize, if not preclude, adverse impacts on environmentally sensitive lands.

4. The proposed development will be sited and designed to prevent adverse impacts on any environmentally sensitive lands and resources located in adjacent parks and public open-space areas and will provide adequate buffer areas to protect such resources.

5. The proposed development will minimize the alterations of natural landforms and will not result in undue risks from geological and erosional forces and/or flood and fire hazards.

6. Feasible measures, as defined in this section, to protect and preserve the special character or the special historical, architectural, archaeological or cultural value of the affected significant prehistoric or historic site or resource have been provided by of the applicant.

#### L. ALTERNATIVE COMPLIANCE

Development plans shall, to the maximum extent feasible, comply with the provisions of this section. In a case where a development plan does not comply with the provisions of this section, the



§101.0462

## SAN DIEGO MUNICIPAL CODE

Planning Commission may approve, conditionally approve or deny the plan in accordance with "Process Four". The Planning Commission may approve the plan through alternative compliance where it appears from the facts contained in the application, and from evidence presented in public hearings that the strict application of this section would either: 1) result in unnecessary hardship to the applicant; or 2) create results in conflict with City Council policy, the Progress Guide and General Plan or any adopted community plan; or 3) preclude provisions of extraordinary benefit to the general public.

1. The Planning Commission shall grant alternative compliance to prevent unnecessary hardship to the applicant if all of the following findings can be made:

a. There are special circumstances or conditions applying to the land that are peculiar to such land and not of the applicant's making whereby the strict application of the provisions of this section would deprive the property owner of reasonable use of the land;

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

c. Alternative compliance for the development will not adversely affect the Progress Guide and General Plan for the City of San Diego; and,

d. The proposed development will conform to the adopted community plan for the area and any other applicable plans, policies and ordinances.

2. The Planning Commission may grant alternative compliance for any development plan to preclude a conflict between the application of this section with adopted City Council policy if all of the following findings can be made:

a. The proposed development will not adversely affect the City of San Diego's Progress Guide and General Plan;

b. The proposed development conforms to the adopted community plan of the area; and,

c. There are no other feasible measures that can be taken to further minimize the potential adverse effect on environmentally sensitive lands and still avoid conflict with the substantially applicable provisions of City Council policy.

3. The Planning Commission may grant alternative compliance to ensure the provisions of extraordinary benefit to the general public on making findings of overriding social and economic considerations in addition to the following findings:

a. There are no feasible measures that further minimize the potential adverse effects on environmentally sensitive lands while still providing the extraordinary benefit.

b. The proposed development will not adversely affect the City of San Diego's Progress Guide and General Plan.

c. The proposed development conforms to the adopted community plan for the area.

For the purposes of this section, coastal development permit approval by the City for projects in the coastal zone and determinations of substantial conformity by the Planning Commission for development proposals pursuant to a precise or specific plan prepared and approved in accordance with Council Policy shall constitute alternative compliance.

For other than the approvals of coastal development permits, substantial conformity determinations and determinations of unnecessary hardship under this subsection, alternative compliance shall not be approved unless mitigation measures are adopted. These measures may include, but are not limited to: purchase or exchange by the applicant of like-kind real property of similar or greater quality and quantity from the City's open space retention list or any areas shown as open space in a community plan and donation of that property by fee or easement, as may be determined by the City, for use by the City as open space; or, purchase or exchange of other like-kind real property of similar or greater quality and quantity identified in a sensitive resources management plan prepared by the Development Services Department and donation of that property by fee or easement, as may be determined by the City, for use by the City as open space. "Like-kind real property" shall mean real property containing substantially the same resources as those on the impacted property. Provision of properties in a greater ratio than one to one (1:1) may be required based upon the quality of the resource impacted by the development. The Development Services Director may promulgate guidelines for mitigation, and, with the concurrence of the City Manager, enter into agreements with public or private non-profit agencies and foundations to acquire property and to maintain and administer any funds or property interests donated in furtherance of or pursuant to this section.

#### M. DENIED PERMITS

Resource Protection permits which are denied shall not be resubmitted to the Planning Commission for one year following the denial.

#### N. CONDITIONAL USE PERMITS

Conditional Use Permits which would allow development in areas regulated by the provisions of the Resource Protection Ordinance shall be consistent with the use and development restrictions specified in the Resource Protection Ordinance and shall be subject to all other applicable regulations and restrictions.

#### O. VIOLATIONS

Any person not complying with the provisions of this ordinance shall be required to restore the land affected to a condition comparable to that existing prior to the violation. Until such restoration is completed and approved by the City, the violators shall be prohibited from doing any development on the land affected. Violators are also subject to civil or criminal penalties and remedies, or both.

(R-2004-263)

RESOLUTION NUMBER R- 298378ADOPTED ON SEP 16 2003Attachment 15  
PC Report No. P-06-0279

WHEREAS, Dr. Gerald Handler, Applicant, and Kimley-Horn and Associates, Inc., Engineer, submitted an application to the City of San Diego for a Resource Protection Ordinance Permit, Tentative Map, and rezone for the Otay Mesa East - Pts No. 3159 project; 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 SEP 16 2003, 2003; and

WHEREAS, the City Council considered the issues discussed in Mitigated Negative Declaration, LDR No. 99-0555; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that it is certified that Mitigated Negative Declaration, LDR No. 99-0555, 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 declaration reflects the independent judgment of the City of San Diego as Lead Agency and that the information contained in the 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 the land use actions for the Otay Mesa East - Pts No. 3159 project.

BE IT FURTHER RESOLVED, that the City Council finds that project revisions now mitigate potentially significant effects on the environment previously identified in the Initial

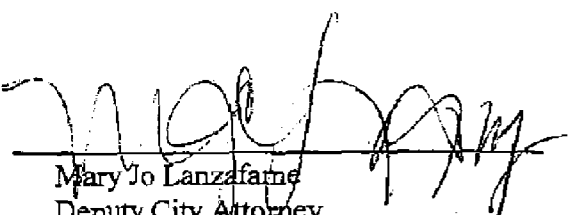
Study and therefore, that the Mitigated Negative Declaration, a copy of which is on file in the office of the City Clerk and incorporated by reference, is approved.

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 and incorporated herein by reference.

BE IT FURTHER RESOLVED, that the City Clerk is directed to file a Notice of Determination [NOD] with the Clerk of the Board of Supervisors for the County of San Diego regarding the above project.

APPROVED: CASEY GWINN, City Attorney

By

  
Mary Jo Lanzafame  
Deputy City Attorney

MJL:cdk  
08/28/03  
Or.Dept:DSD  
R-2004-263  
Form=mndr.frm

EXHIBIT A

## MITIGATION MONITORING AND REPORTING PROGRAM

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.

Otay Mesa East: REZONE/VESTING TENTATIVE MAP, OTAY MESA DEVELOPMENT DISTRICT ORDINANCE AMENDMENT AND RESOURCE PROTECTION ORDINANCE PERMIT (RZ/VTM/OMDD/RPO) which includes a proposal to rezone the 45.5-acre vacant project site from A1-10 (Agricultural) to Otay Mesa Development District - Commercial Subdistrict (OMDD-C). The project also proposes the subdivision of 13 legal lots consisting of 9 commercial lots (Lots 1-8 and 12) with 1,302 parking spaces on 32.1 developable acres; three open space lots (Lots 9-10 and 13), and construction of a private underground sewer pump station on 0.4 acres of land at the northeast corner of the site (Lot 11). Included in the project proposal is the preservation of the 1.3-acre wildlife corridor and MHPA in the northeast corner of the site adjacent to the existing 6-foot wildlife underground tunnel at Otay Mesa Road and Corporate Center Drive. Four acres will be designated as open space to protect the MHPA on the southern boundary of the site. An additional six acres on the eastern boundary of the project site will be designated as open space and includes a fenced preserve for 22 existing vernal pools and one road pool located in the southeast corner of the property. The project site is located at Otay Mesa Road and Corporate Center Drive within the Otay Mesa Community Planning Area. Applicant: Dr. Gerald Handler.

## V. MITIGATION, MONITORING AND REPORTING PROGRAM (MMRP):

**MMRP Deposit**

After project approval by the Decisionmaker and prior to issuance of any discretionary approval(s), the applicant shall submit a deposit of \$3,200 to the Development Project Manager in Development Services Department to cover the City's costs associated with implementation of the Mitigation, Monitoring and Reporting Program (MMRP).

Land Use1. Multi-Habitat Planning Area (MHPA) Land Use Adjacency Guidelines

The project site is located adjacent to the Multi-Habitat Planning Area (MHPA), therefore, the following Land Use Adjacency Guidelines will be made conditions of project approval:

- a. Lighting of all developed areas adjacent to the MHPA shall be directed away from the MHPA, or development shall provide adequate shielding with non-invasive (preferably native) plant materials, berms, or other measures.
  - b. The release of toxins, chemicals, petroleum products, exotic plant materials and other harmful elements to the MHPA shall be prevented. Drainage from all developed areas adjacent to the MHPA shall be directed away from the MHPA, or if not possible, must not drain directly into the MHPA, but instead into sedimentation basins, grassy swales, and/or properly filtered mechanical trapping devices.
  - c. No invasive non-native plant species shall be introduced into areas adjacent to the MHPA.
  - d. New development adjacent to the MHPA will be required to provide barriers along MHPA boundaries to direct public access.
  - e. Uses in or adjacent to the MHPA should be designed to minimize noise impacts. Berms or walls should be constructed adjacent to uses that may introduce noises that could impact or interfere with wildlife utilization of the MHPA. (See Biological Resources, D. Prior to Construction, 1. & 2., for additional requirements).
2. Protocol surveys
- a. United States Fish & Wildlife Service (USFWS) protocol surveys for endangered or threatened bird and amphibian species are well established and must be followed. In addition, a number of animal species are "covered" under the MSCP, and species-specific requirements are included within that document. Generally, the most appropriate time of year to remove vegetation while minimizing impacts to nesting birds and birds covered under the Migratory Bird Treaty Act, is between generally August and February. Outside of that period, site specific examinations of habitat to be impacted should be conducted by qualified (and where necessary, permitted) biologists to determine the status of nesting birds in the vicinity of the project prior to the initiation of construction activities.
  - b. Protocol surveys for California gnatcatcher, as described below, shall be required each year prior to March 1, if construction work would continue into the current breeding season. A review of the effectiveness of all sound attenuation devices and mitigation measures that have been implemented would be required to insure that the species would continue to be protected during the current breeding season.
3. Qualified Biologist responsibility
- A qualified biologist (possessing a valid Endangered Species Act Section 10(a)(1)(a) recovery permit) shall survey the habitat areas inside and outside the MHPA that would be subject to construction noise levels exceeding 60 decibels dB(A) hourly

average for the presence of California gnatcatcher. Surveys shall be conducted pursuant to the protocol survey guidelines established by the U.S. Fish and Wildlife Service. If California Gnatcatcher are present, then the following conditions must be met:

- a. 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 occupied habitat. 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, as noted above.
- b. Construction noise monitoring shall continue to be monitored at least twice weekly on varying days, or more frequently depending on the construction activity, to verify that noise levels at the edge of occupied habitat are maintained below 60 dB(A) hourly average or to the ambient noise level if it already exceeds 60 dB(A) hourly average. If not, other measures shall be implemented in consultation with the biologist and the City Manager, as necessary, to reduce noise levels to below 60 dB(A) hourly average or to the ambient noise level if it already exceeds 60 dB(A) hourly average. Such measures may include, but are not limited to, limitations on the placement of construction equipment and the simultaneous use of equipment.
- c. An analysis showing that noise generated by construction activities would not exceed 60 dB(A) hourly average at the edge of occupied habitat must be completed by a qualified acoustician (possessing current noise engineer license or registration with monitoring noise level experience with listed animal species) and approved by the City Manager at least two weeks prior to the commencement of construction activities. The analysis shall include a map locating the sound monitoring equipment, location of the habitat to be protected and the 60dB(A) sound contour.
- d. Prior to the commencement of construction activities that would disturb California gnatcatcher during the breeding season, the Biologist shall ensure that all fencing, staking and flagging identified as necessary on the ground have been installed properly in the areas restricted from such activities.
- e. If noise attenuation walls or other devices are required to assure protection to identified wildlife, then the biologist shall ensure that such devices have been properly constructed, located and installed.

- f. If California gnatcatcher is not detected during the protocol survey, the qualified biologist shall submit substantial evidence to the City Manager and applicable resource agencies which demonstrates whether or not mitigation measures such as noise walls are necessary between March 1 and August 15. If this evidence concludes that no impacts to California gnatcatcher are anticipated, no mitigation measures would be necessary.
- g. If the applicant chooses not to conduct the required surveys, then DSD shall assume that California gnatcatcher are present and all necessary protection and mitigation measures shall be required.
- h. If no surveys are completed and no sound attenuation devices are installed, it will be assumed that the habitat in question is occupied by California gnatcatcher and that construction activities would generate more than 60dB(A) within or adjacent to the habitat requiring protection. All such activities adjacent to the protected habitat will cease from March 1 to August 15 and a limits of work will be established by a qualified Biologist on the ground.
- i. Any construction activities inside the MHPA where the occurrence of the following species has been determined to be present must include an impact avoidance area as follows:
  - (a) 300 feet from any nesting site of Cooper's hawk (*Accipiter cooper*)
  - (b) 1,500 feet from known locations of the southern pond turtle (*Clemmys marmorata pallida*)
  - (c) 900 feet from any nesting sites of northern harriers (*Circus cyaneus*)
  - (d) 4,000 feet from any nesting sites of golden eagles (*Aquila chrysaetos*)
  - (e) 300 feet from any occupied burrow or burrowing owls (*Speotyto cunicularia hypogaea*)

### **Biological Resources**

#### **1. Mitigation of Direct Impacts**

Prior to the preconstruction meeting, direct impacts to 31.80 acres of Tier IIB habitat shall be mitigated to the satisfaction of the City Manager in accordance with the City of San Diego's Land Development Code, Biological Guidelines (July 2002) through one of the following options: (a) on-site preservation within and outside of the MHPA, (b) off-site acquisition within the MHPA, or c) a combination of (a) and (b).

#### **2. Plan Check**

Prior to the issuance of the first grading permit, the Environmental Review Manager (ERM) of Land Development Review (LDR) shall verify that the requirements for Biological Monitoring have been noted on the appropriate construction documents (Sheet 1 or 2, and/or site/grading plans and/or specifications). These include, but are not limited to all MMRP text, grading limits, MHPA boundaries, open space boundaries, location of other Environmentally Sensitive Lands (ESL), location of construction work areas and staging areas; and, a note that states:

"All clearing, grubbing, grading, or other construction activities within and outside the MHPA will be restricted during the breeding season where development may impact California gnatcatcher between March 1 and August 15 known or suspected to be present within and adjacent to the project site."

3. Prior to the First Preconstruction (Precon) Meeting
  - a. The applicant shall provide a letter of verification to the ERM of LDR stating that a qualified Biologist, as defined in the City of San Diego Biological Resources Guidelines (July 2002) has been retained to implement the monitoring program.
  - b. At least thirty days prior to the Precon meeting, a second letter shall be submitted to Mitigation Monitoring Coordination (MMC) which shall include the names of the qualified Biologists and the names of all persons involved in the biological monitoring of the project.
  - c. At least thirty days prior to the Precon meeting the qualified Biologist shall report to the ERM of LDR the status of any special reports, maps, plans and time lines, including, but not limited to, revegetation plans, plant relocation requirements and timing, avian or other wildlife protocol surveys, impact avoidance areas described below, or other such information.
  - d. Impacts to Multiple Species Conservation Program (MSCP) non-covered federal or state-listed species shall be avoided to the extent practical, and shall not be impacted without separate state and/or federal permitting, as may be required.
4. Precon meeting
  - a. Prior to beginning any work that requires monitoring, the applicant shall arrange a Precon meeting that shall include the Biologists, Construction Manager and/or Grading Contractor, Resident Engineer (RE) and MMC. The qualified Biologist shall attend any grading-related Precon meetings to make comments and/or suggestions concerning the biological monitoring program with the Construction Manager and/or Grading Contractor.
  - b. The biologist should be prepared to introduce any pertinent information concerning protection of sensitive resources, including, but not limited to, vernal pools and their watersheds, breeding season restrictions for California gnatcatcher and the locations to be monitored and/or protected, flagging of individual plants or small plant groups, limit of grade fencing, silt fencing, including the proposed location, such as, 10-foot or less off-set inside the limit of grading, or up against and just inside of the limit of grading fencing.
  - c. If the Monitor is not able to attend the Precon meeting, the RE, will schedule a focused Precon meeting for MMC, EAS staff, as appropriate, biological monitors, Construction Manager and appropriate Contractor's representatives to meet and review the job on-site prior to start of any work that requires monitoring.



- d. Prior to the Precon meeting, the Biologist shall submit to MMC a copy of the site/grading plan (reduced to 11x17) that identifies areas to be protected, fenced and monitored, including the location of sound monitoring equipment. This data shall include all planned locations and design of noise attenuation walls or other devices.
  - e. At the Precon meeting, the Biologist shall also submit a construction schedule to MMC through the RE, indicating when and where monitoring is to begin and shall notify MMC of the start date for monitoring.
5. Prior to Start of Construction
- a. Prior to the start of grading, the Biologist shall insure that all measures have been taken to protect the existing vernal pools including, but not limited to, permanent fencing and signs, fencing for grading limits and erosion control, location and extent of Brush Management activities, to protect the vernal pool watersheds, identification signs and controlled access. (See Vernal Pool Management Plan).
  - b. Prior to the start of mass grading, a biologist with a current U.S. Fish and Wildlife Service (USFWS) recovery permit issued by the under Section 10(a)(1)(A) of the Endangered Species Act of 1973 shall conduct a Quino checkerspot butterfly survey weekly for the duration of the five-week survey season for non-excluded portions of the site, generally during the month of February or early March. The project biologist shall recommend all appropriate protection measures and mitigation requirements which shall then be implemented as part of the MMRP for this project.
  - c. To insure that butterfly surveys are initiated during the beginning of the flight season, the Service will monitor the phenology of Quino larvae and their host plants to determine the beginning of the five-week survey season and announce the opening at least one week in advance. Questions regarding the protocol or its application to the proposed project should be sent by email to: [fwlquino@fws.gov](mailto:fwlquino@fws.gov). The project biologist shall recommend all appropriate protection measures and mitigation requirements which shall then be implemented as part of the MMRP for this project.
  - d. Prior to the start of mass grading, a survey shall be conducted during the flowering season, typically May to June, to determine the presence or absence of Otay tarplant, not only associated with vernal pools, but in other areas of the site that may have suitable habitat. The project biologist shall recommend all appropriate protection measures and mitigation requirements which shall then be implemented as part of the MMRP for this project.
  - e. Prior to start of mass grading, a burrowing owl survey, using appropriate protocols, shall be conducted in suitable habitat to determine the presence or absence of this species and the location of any active burrows. The on-site area

shall be evaluated for its potential as foraging habitat for owls occurring south of the property. The project biologist shall recommend all appropriate protection measure and mitigation requirements which shall then be implemented as part of the MMRP for this project.

6. During Construction

- a. No clearing, grubbing, or grading of occupied habitat shall be permitted within areas from such activities that have been staked or fenced under the supervision of a qualified biologist.
- b. The qualified Biologist shall be present full-time during the first stages of grading and as needed, thereafter, and shall document activity via the Consultant Site Visit Record. This record shall be sent to the RE, site presence each month. The RE will forward copies to MMC.
- c. The Biologist shall notify MMC and the RE in writing of the end date of monitoring.

7. Post Construction

- a. The Biologist shall be responsible for ensuring that all field notes and reports have been completed, all outstanding items of concern have been resolved or noted for follow up, and that focused studies are completed, as appropriate.
- b. Within three months following the completion of monitoring, two copies of the Final Biological Monitoring Report (even if negative) and/or evaluation report, if applicable, which describes the results, analysis, and conclusions of the Biological Monitoring Program (with appropriate graphics) shall be submitted to MMC for approval by the ERM of LDR
- c. For any unforeseen additional biological resources impacted during monitoring, the rehabilitation, revegetation or other such follow up action plans shall be included as part of the Final Biological Monitoring Report. Additional mitigation measures may also be required.
- d. MMC shall notify the RE of receipt of the Final Biological Monitoring Report.

8. Vernal Pool Management

- a. The applicant shall insure the City Manager that the preserved portion of the Handler parcel is in a conservation easement in favor of the City ( Parks and Recreation Department) and/or has been dedicated in fee title to the City.
- b. The applicant shall notify the ERM in writing when all construction activities adjacent to the vernal pool preserve have been completed.
- c. The applicant shall be responsible for long term management and maintenance of the vernal pool preserve and shall implement the Vernal Pool Management Plan.

9. Vernal Pool Management Plan

This plan provides the guidelines for maintenance and protection of the biological resources on site. The goal is to protect and maintain in perpetuity the vernal pool habitat on site. Long term maintenance of the site shall be of a passive nature and includes activities, such as weed control, fence repair, sign maintenance and trash removal. Maintenance activities shall be coordinated by the applicant's qualified vernal pool biological monitor (VP monitor) with MSCP, EAS, MMC, P&R and other City staff.

a. Weed Control

- (1) Weed eradication shall be part of the normal maintenance activities. As weed become evident, they shall be removed by hand, mechanical means or controlled with the proper herbicides. Within the vernal pools, weed removal shall be accomplished by hand or hoe. No herbicide use shall be permitted within the vernal pools. Limited mechanical removal and herbicide use may be incorporated in the adjacent upland areas.
- (2) Cover of bent grass (*Agrostis* sp.) and Italian ryegrass (*Lolium multiflorum*) shall not exceed one percent.
- (3) Total cover of other non-native weed species anticipated to encroach upon the vernal pools such as African brass buttons (*Cotula coronopifolia*), grass poly (*Lythrum hyssopifolium*), curly dock (*Rumex crispus*), rabbitfoot grass (*Polypogon monspeliensis*) and filaree (*Erodium* sp.) shall not exceed five percent.
- (4) Weeds in the upland portion of the preserved area including but not limited to fennel (*Foeniculum vulgare*), tree tobacco (*Nicotian Galuca*), yellow star thistle (*Centaurea melitensis*), mustard (*Brassica* Spp.), filaree (*Erodium* SPP.) and tumbleweed (*Salsola tragus*) shall be controlled such that they do not exceed five percent of the site.
- (5) Non-native grasses such as brome grass (*Bromus* sp.) and wild oats (*Avena* sp.) within the upland portion of the preserve shall be controlled such that they do not exceed 25 percent of the upland area and/or do not threaten the continued survival of the preserved vernal pool habitat.
- (6) The vernal pool biological monitor shall evaluate the success of the weed control effort and determine the need for additional weed control.

b. Fence and Sign Repair

Black vinyl-clad fencing and appropriate signs (to be coordinated with MSCP staff) shall be maintained in perpetuity by the maintenance contractor around the preserved vernal pool area to protect the site from unauthorized encroachment. The VP monitor shall ensure that all preserve signage is intact and visible. Any damaged or missing signs shall be repaired or replaced in a timely manner.

c. Trash and Debris Removal

The preserve area shall be kept free of trash and debris and shall be checked regularly in accordance with the established maintenance schedule by the maintenance contractor. Dead wood and leaf litter from native plants shall not be removed from the preserve.

d. Remedial Measures

Remedial measures, in addition to regular maintenance activities addressed above, shall be conducted by the VP Monitor, as required, in response to specific, unforeseen problems on site. Remedial measures may include activities such as invasive plant control, installation of erosion control features, erection of additional fencing and vehicle barriers and seeding of the preserve area.

e. Maintenance Schedule

General maintenance visits shall be conducted twice per year. During each of these visits all trash shall be removed and all fences and signs shall be checked. Weed control visits shall be conducted monthly from January through May of each year. The timing of the visits is intended to coincide with the rainy season and may be altered by project's long-term biological monitor, if necessary. During each monthly visit the pools and upland area are to be weeded. Additional visits may be necessary (estimated to be no more than one per year on average) if problems arise requiring immediate action. Additional maintenance visits may also be required if deemed necessary by the VP monitor in consultation with MSCP and other City staff as appropriate.

f. Monitoring Activities

- (1) Biological monitoring of the preserved areas must be conducted in order to endure long-term survival of the vernal pools habitat. The VP Monitor shall be responsible for the long-term biological monitoring of the preserved areas. The VP Monitor must have experience with vernal pool habitat restoration.
- (2) Monitoring visits shall be conducted four times per year. The first visit shall occur in the fall to assess the potential for weed problems in the upcoming rainy season and provide direction to the maintenance contractor. The next two visits shall be conducted in January and March. The final visit shall be conducted in May and shall be timed to coincide with the peak flowering period on the vernal pool flora
- (3) The exact timing of the monitoring visits shall vary from year to year, depending on site conditions in accordance with 5. G. (2) above. During each monitoring visit, the biologist shall inspect the entire preserve area. Fences and signs shall be checked for damage. Permanent photographic observation points shall be established to record progress photographically over time. Photographs and detailed notes concerning overall status of the preserved area shall be taken. Species cover and richness within the vernal pool and upland habitats shall be visually estimated.

**g. Reporting**

Following the final monitoring visit each year, the VP monitor shall prepare a letter evaluating the state of the preserved vernal pool habitat to date, along with any recommended remedial measures. Copies of the letter shall be submitted to the MSCP, EAS, MMC and other City staff, as appropriate. The Applicant shall be responsible for carrying out the measures addressed in the letter and any issues or concerns raised as a result of City staff review.

**h. Changes to Vernal Pool Management Plan**

Any changes to this Vernal Pool Management Plan, based on the results of the yearly monitoring reports and/or changes in site conditions must be approved by City staff (EAS and MSCP) prior to implementation.

**Historical Resources (Archaeology)****Prior to Preconstruction (Precon) Meeting****1. Land Development Review (LDR) Plan Check**

Prior to the issuance of a Notice to Proceed (NTP) or any permits, including but not limited to, the first Grading Permit, Demolition Plans/Permits and Building Plans/Permits, the Environmental Review Manager (ERM) of LDR shall verify that the requirements for archaeological monitoring and Native American monitoring, if applicable, have been noted on the appropriate construction documents.

**2. Letters of Qualification have been submitted to ERM**

Prior to the recordation of the first final map, NTP, and/or, including but not limited to, issuance of a Grading Permit, Demolition Permit or Building Permit, the applicant shall provide a letter of verification to the ERM of LDR stating that a qualified Archaeologist, as defined in the City of San Diego Historical Resources Guidelines (HRG), has been retained to implement the monitoring program.

**3. Second Letter Containing Names of Monitors has been sent to Mitigation Monitoring Coordination (MMC)**

- a. At least thirty days prior to the Precon Meeting, a second letter shall be submitted to MMC which shall include the name of the Principal Investigator (PI) and the names of all persons involved in the Archaeological Monitoring of the project.
- b. MMC will provide Plan Check with a copy of both the first and second letter.

**4. Records Search Prior to Precon Meeting**

At least thirty days prior to the Precon Meeting the qualified Archaeologist shall verify that a records search has been completed and updated as necessary and be prepared to introduce any pertinent information concerning expectations and probabilities of discovery during trenching and/or grading activities. 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.

**Precon Meeting****1. Monitor Shall Attend Precon Meetings**

- a. Prior to beginning any work that requires monitoring, the Applicant shall arrange a Precon Meeting that shall include the Archaeologist, Construction Manager and/or Grading Contractor, Resident Engineer (RE), Building Inspector (BI), if appropriate, and MMC. The qualified Archaeologist shall attend any grading related Precon Meetings to make comments and/or suggestions concerning the Archaeological Monitoring program with the Construction Manager and/or Grading Contractor.
- b. If the Monitor is not able to attend the Precon Meeting, the RE or BI, if appropriate, will schedule a focused Precon Meeting for MMC, EAS staff, as appropriate, Monitors, Construction Manager and appropriate Contractor's representatives to meet and review the job on-site prior to start of any work that requires monitoring.

**2. Identify Areas to be Monitored**

At the Precon Meeting, the Archaeologist shall submit to MMC a copy of the site/grading plan (reduced to 11x17) that identifies areas to be monitored as well as areas that may require delineation of grading limits.

**3. When Monitoring Will Occur**

Prior to the start of work, the Archaeologist shall also submit a construction schedule to MMC through the RE or BI, as appropriate, indicating when and where monitoring is to begin and shall notify MMC of the start date for monitoring.

**During Construction****1. Monitor Shall be Present During Grading/Excavation**

The qualified Archaeologist shall be present full-time during grading/excavation of native soils and shall document activity via the Consultant Site Visit Record. This record shall be sent to the RE or BI, as appropriate, each month. The RE, or BI as appropriate, will forward copies to MMC.

**2. Discoveries****a. Discovery Process**

In the event of a discovery, and when requested by the Archaeologist, or the PI if the Monitor is not qualified as a PI, the RE or BI, as appropriate, shall be contacted and shall divert, direct or temporarily halt ground disturbing activities in the area of discovery to allow for preliminary evaluation of potentially significant archaeological resources. The PI shall also immediately notify MMC of such findings at the time of discovery. MMC will coordinate with appropriate LDR staff.

b. **Determination of Significance**

The significance of the discovered resources shall be determined by the PI in consultation with LDR and the Native American Community, if applicable. LDR must concur with the evaluation before grading activities will be allowed to resume. For significant archaeological resources, a Research Design and Data Recovery Program shall be prepared, approved by DSD and carried out to mitigate impacts before ground disturbing activities in the area of discovery will be allowed to resume.

3. **Human Remains**

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

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 redirected 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 provenance of the remains.
- (2) The Medical Examiner, in consultation with the PI, shall determine the need for a field examine to determine the provenance.
- (3) If a field examination is not warranted, the Medical Examiner, shall 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 shall notify the Native American Historic Commission (NAHC). (By law, ONLY the Medical Examiner can make this call).
- (2) The NAHC will contact the PI within 24 hours of sooner, after the Medical Examiner has completed coordination.
- (3) NAHC will identify the person or persons determined to be the Most Likely Descendent (MLD) and provide.
- (4) The PI will coordinate with the MLD for additional consultation.
- (5) Disposition of Native American Human Remains will 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 24 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, the land owner or their authorized representative shall re-enter the human remains and all associated grave goods with appropriate dignity, on the property in a location not subject to subsurface disturbance. Information on this process will be provided to the NAHC.
  - 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 reinterment of the human remains shall be made in consultation with MMC, EAS, the land owner and the Museum of Man.
- 4. Night Work
  - a. If night work is included in the contract
    - (1) When night work is included in the contract package, the extent and timing shall be presented and discussed at the pre-con meeting.
    - (2) The following procedures shall be followed.
      - (a) No Discoveries  
In the event that nothing was found during the night work, The PI will record the information on the Site Visit Record Form.
      - (b) Potentially Significant Discoveries  
If the PI determines that a potentially significant discovery has been made, the procedures under **During Construction**; 2., a. & b, will be followed, with the exception that the PI will contact MMC by 8AM the following morning to report and discuss the findings.
  - 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, will notify MMC immediately.
  - c. All other procedures described above will apply, as appropriate.
- 5. Notification of Completion  
The Archaeologist shall notify MMC and the RE or the BI, as appropriate, in writing of the end date of monitoring.

#### Post Construction

1. Handling and Curation of Artifacts and Letter of Acceptance



- a. The Archaeologist shall be responsible for ensuring that all cultural remains collected are cleaned, catalogued, and permanently curated with an appropriate institution; that a letter of acceptance from the curation institution has been submitted to MMC; 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.
  - b. Curation of artifacts associated with the survey, testing and/or data recovery for this project shall be completed in consultation with LDR and the Native American representative, as applicable.
2. Final Results Reports (Monitoring and Research Design And Data Recovery Program)
- a. Prior to the release of the grading bond, two copies of the Final Results Report (even if negative) and/or evaluation report, if applicable, which describes the results, analysis, and conclusions of the Archaeological Monitoring Program (with appropriate graphics) shall be submitted to MMC for approval by the ERM of LDR.
  - b. For significant archaeological resources encountered during monitoring, the Research Design And Data Recovery Program shall be included as part of the Final Results Report.
  - c. MMC shall notify the RE or BI, as appropriate, of receipt of the Final Results Report.
3. Recording Sites with State of California Department of Park and Recreation  
The Archaeologist 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 Results Report.

### Paleontological Resources

#### **Prior to preconstruction (precon) meeting**

1. Land Development Review (LDR) Plan Check  
Prior to the issuance of a Notice to Proceed (NTP) or any permits, including but not limited to, the first Grading Permit, Demolition Plans/Permits and Building Plans/Permits, the Environmental Review Manager (ERM) of LDR shall verify that the requirements for Paleontological Monitoring have been noted on the appropriate construction documents.
2. Letters of Qualification have been Submitted to ERM  
Prior to the recordation of the first final map, NTP, and/or, including but not limited to, issuance of a Grading Permit, Demolition Permit or Building Permit, the applicant

shall provide a letter of verification to the ERM of LDR stating that a qualified Archaeologist, as defined in the City of San Diego Paleontological Guidelines, has been retained to implement the monitoring program.

3. Second Letter Containing Names of Monitors has been sent to Mitigation Monitoring Coordination (MMC).
  - a. At least thirty days prior to the Precon Meeting, a second letter shall be submitted to MMC which shall include the name of the Principal Investigator (PI) and the names of all persons involved in the Paleontological Monitoring of the project.
  - b. MMC will provide Plan Check with a copy of both the first and second letter.
4. Records Search Prior to Precon Meeting  
At least thirty days prior to the Precon meeting, the qualified Paleontologist shall verify that a records search has been completed, and updated as necessary, and be prepared to introduce any pertinent information concerning expectations and probabilities of discovery during trenching and/or grading activities. Verification includes, but is not limited to, a copy of a confirmation letter from the San Diego Natural History Museum, other institution, or, if the record search was in-house, a letter of verification from the PI stating that the search was completed.

#### **Precon Meeting**

1. Monitor Shall Attend Precon Meetings
  - a. Prior to beginning of any work that requires monitoring, the Applicant shall arrange a Precon Meeting that shall include the Paleontologist, Construction Manager and/or Grading Contractor, Resident Engineer (RE), Building inspector (BI), and MMC. The qualified Paleontologist shall attend any grading related Precon Meetings to make comments and/or suggestions concerning the Paleontological Monitoring Program with the Construction Manager and/or Grading Contractor.
  - b. If the Monitor is not able to attend the Precon Meeting, the RE, or BI as appropriate, will schedule a focused Precon Meeting for MMC, Monitors, Construction Manager and appropriate Contractor's representatives to meet and review the job on-site prior to start of any work that requires monitoring.
2. Identify Areas to be Monitored  
At the Precon Meeting, the Paleontologist shall submit to MMC a copy of the site/grading plan (reduced to 11x17) that identifies areas to be monitored.
3. When Monitoring Will Occur  
Prior to the start of work, the Paleontologist also shall submit a construction schedule to MMC through the RE, or BI, as appropriate, indicating when and where monitoring is to begin and shall notify MMC of the start date for monitoring.

**During Construction****1. Monitor Shall be Present During Grading/Excavation**

The qualified Paleontologist shall be present full-time during the initial cutting of previously undisturbed formations with high and moderate resource sensitivity, and shall document activity via the Consultant Site Visit Record (form). This record shall be faxed to the RE, or BI as appropriate, and MMC each month.

**2. Discoveries****(1) Minor Paleontological Discovery**

In the event of a minor Paleontological discovery (small pieces of broken common shell fragments or other scattered common fossils) the Paleontologist shall notify the RE, or BI as appropriate, that a minor discovery has been made. The determination of significance shall be at the discretion of the qualified Paleontologist. The Paleontologist will continue to monitor the area and immediately notify the RE, or BI as appropriate, if a potential significant discovery emerges.

**(2) Significant Paleontological Discovery**

In the event of a significant Paleontological discovery, and when requested by the Paleontologist, the city RE, or BI as appropriate, shall be notified and shall divert, direct, or temporarily halt construction activities in the area of discovery to allow recovery of fossil remains. The determination of significance shall be at the discretion of the qualified Paleontologist. The Paleontologist with Principal Investigator (PI) level evaluation responsibilities shall also immediately notify MMC staff of such finding at the time of discovery. MMC staff will coordinate with appropriate LDR staff.

**3. Night Work****a. If night work is included in the contract**

(1) When night 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 nothing was found during the night work, The PI will record the information on the Site Visit Record Form.

**(b) Minor Discoveries**

All Minor Discoveries will be processed and documented using the existing procedures under 2. a., with the exception that the RE will contact MMC by 9 A.M. the following morning.

**(c) Potentially Significant Discoveries**

If the PI determines that a potentially significant discovery has been made, the procedures under 2.b., will be followed, with the exception that the RE will contact MMC by 8 A.M. the following morning to report and discuss the findings

- 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, will notify MMC immediately.
  - (3) All other procedures described above will apply, as appropriate.
4. Notification of Completion

The Paleontologist shall notify MMC and the RE, or BI as appropriate, of the end date of monitoring.

#### **Post Construction**

The Paleontologist shall be responsible for preparation of fossils to a point of curation as defined by the City of San Diego Paleontological Guidelines.

1. Submit Letter of Acceptance from Local Qualified Curation Facility.

The Paleontologist shall be responsible for submittal of a letter of acceptance to ERM of LDR from a local qualified curation facility. A copy of this letter shall be forwarded to MMC.
2. If Fossil Collection is not Accepted, Contact LDR for Alternatives

If the fossil collection is not accepted by a local qualified facility for reasons other than inadequate preparation of specimens, the project Paleontologist shall contact LDR, to suggest an alternative disposition of the collection. MMC shall be notified in writing of the situation and resolution.
3. Recording Sites with San Diego Natural History Museum

The Paleontologist shall be responsible for the recordation of any discovered fossil sites at the San Diego Natural History Museum.
4. Final Results Report
  - a. Prior to the release of the grading bond, two copies of the Final Results Report (even if negative), which describes the results, analysis, and conclusions of the above Paleontological Monitoring Program (with appropriate graphics) shall be submitted to MMC for approval by the ERM of LDR.
  - b. MMC shall notify the RE or BI, as appropriate, of receipt of the Final Results Report.

#### **Water Quality**

Prior to the issuance of any grading permit, the City Engineer shall verify that comprehensive permanent post-construction water quality best management practices (BMPs), consistent with those shown on Exhibit "A," are incorporated into the construction drawings to reduce the amount of pollutants (e.g., oil, grease, heavy metals) and sediments discharged from the site, satisfactory to the City Engineer. BMPs shall include the use of a combination of site design, source control, and treatment control

measures as shown on Exhibit "A " and detailed in "Post-Construction BMP Evaluation - Otay Mesa East, Kimley-Horn & Associates, Inc., April, 2003" Equivalent alternative available technologies may be approved as BMPs by the City Engineer in lieu of, or in addition to, those shown on Exhibit "A." All permanent BMPs shall be maintained in accordance with the applicable manufacturer specifications. Spot checks may be made by the City Engineer to ensure that BMPs are being properly maintained.

(R-2004-264)

Attachment 15  
PC Report No. P-06-0279

## RESOLUTION NUMBER R-298379

ADOPTED ON SEPTEMBER 16, 2003

WHEREAS, Dr. Gerald Handler, Applicant, and Kimley-Horn and Associates, Inc., Engineer, submitted an application to the City of San Diego for a 14-lot tentative map and rezone (Tentative Map No. 8182), located on the south side of Otay Mesa Road west of Corporate Center Drive, and described as a Portion of Section 32, Township 18 South, Range 1 West, in the AR-1-1 (proposed OMDD-C) Zone; and

WHEREAS, on July 17, 2003, the Planning Commission of the City of San Diego considered Tentative Map No. 8182, and pursuant to Resolution No. 3395-PC voted to recommend approval of the map; and

WHEREAS, the matter was set for public hearing on September 16, 2003, testimony having been heard, evidence having been submitted, and the City Council having fully considered the matter and being fully advised concerning the same; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that this Council adopts the following findings with respect to Tentative Map No. 8182:

1. The map proposes the subdivision of a 45.5-acre site into fourteen lots for commercial development. This type of development is consistent with the General Plan and the Otay Mesa Community Plan, which designate the area for commercial use. The proposed map will retain the community's character by encouraging orderly, sequential development compatible in its intensity with surrounding existing and future land development.

2. The design and proposed improvements for the map are consistent with the zoning/development regulations of the OMDD-C Zone in that:

- a. All lots have minimum frontage on a dedicated street.

- b. All lots meet the minimum dimension requirements of the OMDD-C Zone.
- c. All lots are designed so that required improvements do not result in nonconforming lots in respect to building area, setbacks, side yard and rear yard regulations.
- d. Development of the site is controlled by Resource Protection Ordinance Permit No. 8163.

3. The design and proposed improvements for the subdivision are consistent with State Map Act Section 66473.1 and San Diego Municipal Code section 125.0440(g) regarding the design of the subdivision for future passive or natural heating or cooling opportunities.

4. The site is physically suitable for commercial development. The harmony in scale, height, bulk, density, and coverage of development creates a compatible physical relationship to surrounding properties for which this area has been planned.

5. The site is physically suitable for the proposed density of development. This is consistent with the community plan, which provides for commercial uses.

6. The design of the subdivision or the proposed improvements could cause substantial environmental damage or substantially and unavoidably injure fish or wildlife or their habitat. However, the project as revised now avoids or mitigates the potentially significant environmental effects based upon the findings of Mitigated Negative Declaration No. 99-0555, which is included herein by this reference.

7. The design of the subdivision and the type of improvements will not likely cause serious public health problems, in as much as needed public services and facilities are available/or required by condition of this map to provide for water and sewage facilities, as well as other related public services.

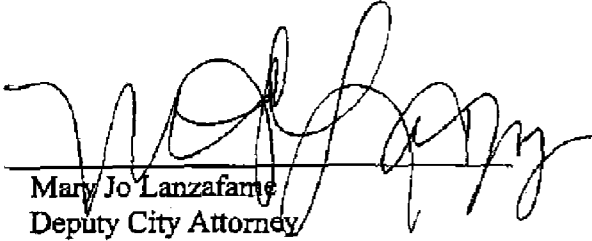
8. The design of the subdivision and the type of improvements are such that they will not conflict with any easements, acquired by the public at large, for access through or use of property within the proposed subdivision, as demonstrated by the City Engineer's request for public dedications and adequate improvement on the proposed subdivision map.

9. The Planning Commission has reviewed the adopted Housing Element, the Progress Guide, and the General Plan of the City of San Diego, and hereby finds, pursuant to section 66412.3 of the Government Code, that the housing needs of the region are being met since residential development has been planned for the area and public services programmed for installation, as determined by the City Engineer, in accordance with financing and environmental policies of the City Council.

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 Tentative Map No. 8182 is granted to Dr. Gerald Handler, Applicant, and Kimley-Horn and Associates, Inc., Engineer, subject to the conditions attached hereto and made a part hereof.

APPROVED: CASEY GWINN, City Attorney

By   
Mary Jo Lanzafame  
Deputy City Attorney

MJL:cdk  
08/28/03  
Or.Dept:DSD  
R-2004-264  
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CITY COUNCIL CONDITIONS TO TENTATIVE MAP NO. 8182  
 OTAY MESA EAST PTS NO. 3159  
 ADOPTED BY RESOLUTION NO. R-298379 ON SEPTEMBER 16, 2003

Attachment 15  
 PC Report No. P-06-0279

1. This tentative map will become effective on the effective date of the associated rezone and expire three years thereafter. Should the rezone be denied then this tentative map shall be deemed denied.
2. Compliance with all of the following conditions shall be assured, to the satisfaction of the City Engineer, prior to the recordation of the final map, unless otherwise noted.
3. Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of this tentative map, may protest the imposition within ninety days of the approval of this tentative map by filing a written protest with the City Clerk pursuant to California Government Code section 66020.
4. The final map shall conform to the provisions of Resource Protection Ordinance [RPO] Permit No. 8163.
5. The "General Conditions for Tentative Subdivision Maps," filed in the Office of the City Clerk under Document No. 767688 on May 7, 1980, shall be made a condition of map approval. Only those exceptions to the General Conditions which are shown on the tentative map and covered in these special conditions will be authorized.

All public improvements and incidental facilities shall be designed in accordance with criteria established in the Street Design Manual, filed with the City Clerk as Document No. 769830.

6. "Basis of Bearings" means the source of uniform orientation of all measured bearings shown on the map. Unless otherwise approved, this source will be the California Coordinate System, Zone 6, North American Datum of 1983 [NAD 83].
7. "California Coordinate System" means the coordinate system as defined in Sections 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."
8. The final map 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.

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- b. Show two measured ties from the boundary of the map to existing Horizontal Control stations having California Coordinate values of Third Order accuracy or better. These tie lines to the existing control shall be shown in relation to the California Coordinate System (i.e., grid bearings and grid distances). All other distances shown on the map are to be shown as ground distances. A combined factor for conversion of grid-to-ground distances shall be shown on the map.
9. The approval of this tentative map by 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 Endangered Species Act of 1973 and any amendments thereto (16 U.S.C. § 1531 et seq.).
10. Prior to recordation of the final subdivision map by the City Council, the subdivider shall provide evidence to ensure that an affirmative marketing program is established.
11. The subdivider must provide a geologic reconnaissance report on the subject property to discover and address potential geological hazards. The report must be prepared in accordance with the most recent edition of the City of San Diego "Technical Guidelines for Geotechnical Reports." All slopes shall be constructed in accordance with the provisions of San Diego Municipal Code [SDMC].
12. Undergrounding of existing and proposed public utility systems and service facilities is required according to SDMC section 102.0404, subsection 2.
13. Prior to building occupancy, the applicant shall conform to section 62.0203 of the SDMC, "Public Improvement Subject to Desuetude or Damage." If repair or replacement of such public improvements is required, the owner shall obtain the required permits for work in the public right-of-way, satisfactory to the permit-issuing authority.
14. The drainage system proposed for this development, as shown on the approved tentative map, is subject to approval by the City Engineer.
15. The subdivider shall obtain a bonded grading permit from the City Engineer for the grading proposed for this project. All grading shall conform to the requirements of the SDMC in a manner satisfactory to the City Engineer.
16. The applicant shall construct drainage detention basins, the design, location, and size of which are subject to approval by the City Engineer. The design shall be such that the discharge from the improved area will be no more than the discharge would have been from the land in the unimproved state. The applicant shall provide for the maintenance of the drainage detention facilities within a storage easement, satisfactory to the City

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Engineer.

17. The City Engineer is making a drainage study of the Otay Mesa border area. The study will propose a method to control runoff across the U.S./Mexico border. A method of financing the design, construction, and maintenance of these facilities will be established. This applicant may be required to contribute money for this purpose through a development agreement or other means determined by the City Engineer. Prior to the issuance of any building permits, the applicant shall enter into an agreement with the City waiving the right to oppose a special assessment initiated for these improvements.
18. Development of this project shall comply with all requirements of State Water Resources Control Board [SWRCB] Order No. 99-08 and the Municipal Storm Water Permit, Order No. 2001-01 (NPDES General Permit No. CAS000002 and CA S0108758), Waste Discharge Requirements for Discharges of Storm Water Runoff Associated With Construction Activity. In accordance with said permit, a Storm Water Pollution Prevention Plan [SWPPP] and a Monitoring Program Plan shall be implemented concurrently with the commencement of grading activities, and a Notice of Intent [NOI] shall be filed with the SWRCB.
19. A copy of the acknowledgment from the SWRCB that an NOI has been received for this project shall be filed with the City of San Diego when received; further, a copy of the completed NOI from the SWRCB showing the permit number for this project shall be filed with the City of San Diego when received. In addition, the owner(s) and subsequent owner(s) of any portion of the property covered by this grading permit and by SWRCB Order No. 99-08-DWQ, and any subsequent amendments thereto, shall comply with special provisions as set forth in Section C.7 of SWRCB Order No. 99-08-DWQ.
20. The subdivider shall enter into a Maintenance Agreement for the ongoing permanent BMP maintenance, satisfactory to the City Engineer.
21. Prior to the issuance of any construction permits, the applicant shall incorporate and show the type and location of all post-construction Best Management Practices [BMPs] on the final construction drawings, consistent with the approved Water Quality Technical Report.
22. Street B is classified as a commercial local street. The subdivider shall dedicate 84 feet of right-of-way and shall construct 64 feet of pavement, curb gutter and a five (5)-foot-wide sidewalk. The subdivider shall also dedicate 92 feet of right-of way for a portion of Street B and shall construct, within 200 feet of the intersection with Otay Mesa Road, 72 feet of pavement (an 18-foot southbound lane, a four (4)-foot raised center median, two (2) 12-foot northbound left turn lanes, a 12-foot northbound through lane, a 14-foot northbound through lane and a 14-foot northbound right turn lane, with curb, gutter and a

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five (5)-foot-wide sidewalk transitioning to the aforementioned 84-foot right-of-way. Finally, the subdivider shall construct, at the southern terminus of Street B, a 55-foot curb radius cul-de-sac within 65 feet of right-of-way, including curb, gutter and a five (5)-foot sidewalk.

23. Street C is classified as a commercial local street. The subdivider shall dedicate 40 feet of right-of-way along with right-of-way for a 65-foot right-of-way radius for a cul-de-sac, and shall construct the half width of Street "C" including 30 feet of pavement, curb, gutter and a five (5)-foot sidewalk within a 10-foot curb.

24. Environmental Requirements:

- (a) Prior to issuance of a grading or pre-grading permit from the City of San Diego for any portion of the project site, proof of an incidental take permit under Section 7 or Section 10(a) of the Federal Endangered Species Act relative to the California gnatcatcher shall be provided to the City Manager. If such permit is not required, written verification to that effect from the U.S. Fish and Wildlife Service shall be provided. Any project redesign required in obtaining a Section 7 or 10a permit will require reconsideration by the appropriate City decision making body.
- (b) The applicant shall comply with the Mitigation, Monitoring and Reporting Program (MMRP) as specified in Environmental Impact Report or Mitigated Negative Declaration, Project No. 3159, satisfactory to the City Manager and the City Engineer. Prior to issuance of any grading permits and/or building permits, mitigation measures as specifically outlined in the MMRP shall be implemented for Land Use/Biological Resources/Historical Resources (Archaeology)/Water Quality

25. Landscaping Requirements:

- a. No change, modification or alteration shall be made to the project unless appropriate application or amendment of this Permit has been granted by the City. All plan specifications and notes mentioned in the conditions below shall be consistent with the SDMC section 142.0401 and Landscape Standards, Exhibit "A", Landscape Development Plan, Brush Management Plan, details and notes on file in the Office of the Development Services.
- b. All required landscape plant materials shall be maintained 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 it's mature height and spread.

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- c. The Permittee or subsequent owner shall be responsible for the maintenance of all street trees and landscape improvements (right-of-way and median landscaping) consistent with the Landscape Standards.
- d. The Permittee or subsequent owner shall be responsible for the maintenance of all street trees and landscape improvements (right-of-way and median landscaping) consistent with the Landscape Standards. A Landscape Maintenance Agreement and bond shall be entered into prior to issuance of any grading or construction permit. The agreement and bond shall be renewed each year until such time that another approved entity assumes responsibility such as a home owners association or a Landscape Maintenance District.
- e. If any required landscape improvements (including existing or new planting, hardscape, landscape features, etc.) are damaged or removed during demolition or construction, they shall be repaired and/or replaced in kind and equivalent size per the approved documents to the satisfaction of the City Manager, within thirty days of damage and prior to any Certificate of Occupancy.
- f. Prior to the issuance of any engineering permits for grading or improvement the Permittee shall complete a Maintenance Assessment District Agreement form for early confirmation.
- g. In the event that a foundation only permit is requested by the Permittee or subsequent owner, a site plan or staking layout plan shall be submitted identifying all landscape areas consistent with Exhibit "A," Landscape Development Plan, on file in the Office of Development Services. These landscape areas shall be clearly identified with a distinct symbol, noted with dimensions and labeled as landscaping area.
- h. In the event that any mass grading permit is requested by the Permittee or subsequent owner, complete landscape construction documents for revegetation and erosion control, including an automatic permanent irrigation system, shall be submitted to the Development Services Department, Land Development Review Section for approval. The plans shall be in substantial conformance to Exhibit "A", on file in the office of the Development Services.
- i. Prior to issuance of any construction permits for structures (including shell), complete landscape and irrigation construction documents consistent with the Landscape Standards (including planting and irrigation plans, details and specifications) shall be submitted to the City Manager for approval. The construction documents shall be in substantial conformance with Exhibit "A," Landscape Development Plan, on file in the Office of Development Services.

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- j. In the event that any construction permit for parking structures is requested, the Permittee or subsequent owner shall submit on the planting and irrigation plans a signed statement by a Registered Structural Engineer indicating that supporting structures are designed to accommodate the necessary structural loads and associated planting and irrigation.
- k. Prior to issuance of any engineering permits for right-of-way improvements, complete landscape construction documents for right-of-way improvements shall be submitted to the City Manager for approval. Improvement plans shall take into account a 40 square feet 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.
- l. Prior to issuance of any engineering permits for private drive improvements, complete landscape construction documents for private drive improvements shall be submitted to the City Manager for approval. Improvement plans shall take into account a 40 square feet 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.
- m. Prior to issuance of any engineering permits for grading, construction documents for slope planting (if applicable) or revegetation including hydroseeding and irrigation shall be submitted in accordance with the Landscape Standards and to the satisfaction of the City Manager. All plans shall be in substantial conformance with Exhibit "A," (including environmental conditions) on file in the Office of Development Service.
- n. Installation of slope planting and erosion control including seeding of all disturbed land (slopes and pads) consistent with the approved landscape and grading plans is considered to be in the public interest. The Permittee shall initiate such measures as soon as the grading has been accomplished. Such erosion control/slope planting and the associated irrigation systems (temporary and/or permanent) and appurtenances shall be installed in accordance with the approved plans and the Landscape Standards.
- o. Prior to issuance of any Certificate of Occupancy, it shall be the responsibility of the Permittee or subsequent owner to install all required landscape and obtain all required landscape inspections. A No Fee Street Tree Permit, if applicable, shall be obtained for the installation, establishment and on-going maintenance of all street trees.
- p. Prior to the recording of the (parcel/final map), the Permittee or subsequent

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owner/developer shall submit for review, a Landscape Maintenance Agreement for all landscape improvements within and visible from the public right-of-way. The approved Landscape Maintenance Agreement shall be recorded and bonded prior to recording of the (parcel/final map).

- q. The Permittee or subsequent owner(s) shall be responsible for the installation and maintenance of all landscape improvements consistent with the Landscape Regulation and Landscape Standards. Invasive species are prohibited from being planted adjacent to any canyon, water course, wet land or native habitats within the city limits of San Diego as noted in section 1.3 of the Landscape Standards.

26. Brush Management Requirements:

- a. The Permittee shall implement the following requirements in accordance with the Brush Management Program shown on Exhibit "A," Brush Management Program/Landscape Development Plan, on file in the Office of the Development Services Department.
- b. Prior to issuance of permits or recording of final maps, all easements or right of entry permits for the purpose of Brush Management shall be obtained.
- c. Prior to issuance of any engineering permits for grading, complete Brush Management, planting and irrigation plans, details and specifications (including maintenance specifications), shall be submitted to the City Manager for approval. All plans shall indicate the brush management zones depths by dimension.
- d. Prior to final inspection and issuance of any Certificate of Occupancy for any building, the approved Brush Management Program shall be implemented.
- e. In all brush management zones the plant material shall be selected to visually blend with the existing vegetation. No invasive plant material shall be permitted as determined by the Landscape Section of Development Services Department.
- f. The Brush Management Maintenance Program as noted on Exhibit "A", shall be performed annually by the Permittee or subsequent owner or until such time that another approved entity such as a project association or a Landscape Maintenance District assumes annual responsibility.
- g. Provide Brush Management plants that are visually and horticulturally compatible with the native vegetation.

27. The Resource Protection Ordinance Permit No. 8163 shall comply with the conditions of

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the Final Map for VTM No. 8182.

28. Transportation Requirements:

- a. The subdivider shall relinquish access rights along project frontage on Otay Mesa Road.
- b. The subdivider shall construct a second left turn lane on Otay Mesa Road at its intersection with Street "B."
- c. The subdivider shall assure by permit and bond, construction of an eastbound exclusive right turn lane with 500-feet of storage and proper transition on Otay Mesa Road at its intersections with "B" Street, satisfactory to the City Engineer.
- d. The subdivider shall assure by permit and bond, construction of private driveway "A" between Street "B" and Street "C" with 50 feet of pavement within 70 feet of private general utility easement with curb, gutter and 5-foot sidewalk on both sides of the street and raised center median at both ends of the streets within 200 feet of the intersections with Street "B" and Street "C".
- e. The subdivider shall construct half width improvements for Street "C" including 30 feet of pavement, curb, gutter and 5-foot sidewalk within a 10-foot curb to property line distance with 55-foot curb radius cul-de-sac turnaround at the southern end.
- f. The subdivider shall construct an eastbound exclusive right turn lane with 200 feet of storage and a proper transition on Otay Mesa Road at its intersection with Street "C".
- g. The subdivider shall construct a second eastbound left turn lane and one exclusive westbound right turn lane at the intersection of Otay Mesa Road and Ocean View Hills Parkway, satisfactory to the City Engineer.
- h. The subdivider shall construct a second westbound left turn lane at the intersection of Otay Mesa Road and Ocean View Hills Parkway. The subdivider may enter into a deferred improvement agreement with City of San Diego for this improvement.
- i. The subdivider shall construct the second half (western half) of Street "C" to provide 60 feet of pavement, curb, gutter and 5-foot sidewalk within a 10-foot typical curb-to-property-line distance on the west side. The subdivider may enter into a deferred improvement agreement with City of San Diego for this



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improvement.

- j. The subdivider shall construct a westbound left turn lane at the intersection of Otay Mesa Road/Street "C". The subdivider may enter into a deferred improvement agreement with City of San Diego for this improvement.
- k. The subdivider shall construct a traffic signal at the intersection of Otay Mesa Road and Street "C". The subdivider may enter into a deferred improvement agreement with City of San Diego for this improvement.
- l. The subdivider shall provide an Irrevocable Offer of Dedication (IOD) for half of the cul-de-sac on Lot 12 at the western end of Camino Maquiladora with a 55-foot curb radius turnaround within 65 feet of right-of-way.

29. Wastewater Requirements:

- a. The developer shall construct the Otay Mesa Trunk Sewer Phase II or enter into a development agreement to pay their fair share cost of the trunk sewer in proportion to the ultimate zoned use of the property being developed, in accordance with the City's Sewer Design Guide.
- b. The developer shall install all sewer facilities required by the accepted sewer study, necessary to serve this development. Sewer facilities as shown on the approved tentative map will require modification based on the accepted sewer study.
- c. The developer shall design and construct all proposed public sewer facilities to the most current edition of the City of San Diego's sewer design guide. Proposed facilities that do not meet the current standards shall be re-designed.
- d. The developer shall design and construct all proposed private sewer facilities serving more than one lot to the most current edition of the City of San Diego's sewer design guide. Improvement drawings are required for private sewer facilities serving more than one lot.
- e. Prior to the issuance of any building permits, the applicant shall process and record a NOTICE & AGREEMENT for each ownership being served by a private pump station/sewer facilities which serves more than one ownership, which indemnifies the City and contains an agreement that the applicant, and successors in interest, will be responsible for the operation and maintenance of the private sewer systems.

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- f. The developer shall obtain a building permit for any private pump station serving a condominium project or more than one lot.
- g. The developer shall provide, satisfactory to the Metropolitan Wastewater Department Director, CC&Rs for the operation and maintenance of on-site private sewer facilities that serve more than one lot.
- h. No structures or landscaping, including private sewer facilities and enhanced paving, shall be installed in or over any easement or street right-of-way prior to the applicant obtaining an Encroachment Maintenance and Removal Agreement.
- i. Providing sewer for this development is dependent upon prior construction of certain portions of the Otay Mesa Trunk Sewer Phase II. If they have not been constructed when required for this development, then the construction of certain portions of these sewer facilities, as required by the City Engineer, will become off-site improvements required for this development.

30. Water Requirements:

- a. The subdivider shall design and construct a system of public 16-inch water facilities within Street "B," Street "C," and Private Driveway "A," with two points of connection to the Otay Mesa Pipeline, in a manner satisfactory to the Water Department Director and the City Engineer.
- b. The subdivider shall design and construct a public 16-inch water main extension within Otay Mesa Road, east of Street "B," to serve Lot 12 if Camino Maquiladora is not fully improved with public water facilities, in a manner satisfactory to the Water Department Director and the City Engineer.
- c. The subdivider shall install fire hydrants at locations satisfactory to the Water Department, the Fire Department and the City Engineer.
- d. The subdivider shall grant adequate water easements, including vehicular access to each appurtenance (meters, blow offs, valves, fire hydrants, etc.), over the entire Lot A, satisfactory to the Water Department Director.
- e. Grants of water easements shall be of sufficient width to accommodate a minimum 24-foot wide fully paved vehicular access road with full height curbs, and 4-feet behind curb or sidewalk. Easements shall accommodate two way traffic. Easements or lack thereof, as shown on the approved tentative map, will require modification based on standards at final engineering.

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- f. The subdivider shall design and construct all irrigations systems to utilize reclaimed water in a manner satisfactory to the Water Department Director.
- g. The subdivider agrees to design and construct all proposed public water facilities, including services, meters, and easements, 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. Water facilities, as shown on the approved tentative map, shall be modified at final engineering to comply with standards.

31. Open Space Requirements:

- a. Lots 9 and 10 shall be deeded, at no cost, to the city for open space. said lots shall be free and clear of all private encroachments, private easements, private agreements and/or liens.
- b. An open space easement is required on the 40-foot deep Zone 2 for brush management across Lots 6, 7 and 8.
- c. The brush management zones adjacent to Lots 6 through 8 shall be made into a separate lot and have an open space easement over Zone Two.
- d. Brush management Zones 1, 2 and 3 or modified Zones 1 and 2 must be provided between Lot 8 and Lot 9 and Zone Two must have an open space easement. This will require a new lot and it is understood that Lot 9 will be reduced in size.

32. Multiple Species Conservation Program (MSCP) Requirements:

- a. In accordance with authorization granted to the City of San Diego from the United States Fish and Wildlife Service [USFWS] pursuant to section 10(a) of the ESA and by the California Department of Fish and Game [CDFG] pursuant to Fish and Game Code section 2835 as part of the Multiple Species Conservation Program [MSCP], the City of San Diego through the issuance of this Permit hereby confers upon Permittee the status of Third Party Beneficiary as provided for in Section 17 of the City of San Diego Implementing Agreement [IA], executed on July 17, 1997 and on File in the Office of the City Clerk as Document No. 00-18394. Third Party Beneficiary status is conferred upon Permittee by the City: (1) to grant Permittee the legal standing and legal right to utilize the take authorizations granted to the City pursuant to the MSCP within the context of those limitations imposed under this Permit and the IA, and (2) to assure Permittee that no existing mitigation obligation imposed by the City of San Diego pursuant to this Permit shall be altered in the future by the City of San Diego, USFWS or CDFG, except

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in the limited circumstances described in Sections 9.6 and 9.7 of the IA.

- b. If mitigation lands are identified but not yet dedicated or preserved in perpetuity, maintenance and continued recognition of Third Party Beneficiary status by the City is contingent upon Permittee maintaining the biological values of any and all lands committed for mitigation pursuant to this Permit and of full satisfaction by Permittee of mitigation obligations required by this Permit, as described in accordance with section 17.1D of the IA.
- c. The applicant shall comply with the Mitigation, Monitoring and Reporting Program [MMRP] as specified in the Environmental Documentation for the "Otay Mesa East Project" (Project No. 3159, SCH No. 2003051060), satisfactory to the City Manager and the City Engineer, for the following issues areas to ensure compliance with the MSCP and MHPA Land Use Adjacency Guidelines: Land Use, Biological Resources and Water Quality.
- d. In addition, the following conditions shall apply: Operational Noise: Prior to issuance of any building occupancy permits, the sewer pump station proposed adjacent to the existing Otay Mesa Road wildlife under crossing shall be constructed, to the satisfaction of the City Manager and City Engineer, to ensure that operational noise does not impact wildlife movement, including: (1) designing the facility below-ground; (2) encasing it in concrete; (3) providing perimeter berms and native screening vegetation; and (4) shielding/directing all necessary lighting away from the MHPA.
- e. Edge Treatment: Prior to issuance of any building occupancy permits, the applicant shall construct a six-foot-high black vinyl-coated chain link fence along areas adjacent to the MHPA, including the rear of proposed Lots 6, 7 and 8, satisfactory to the City Manager and the City Engineer. The fencing shall be appropriately maintained at all times by the owner/Permittee/trustee. Any necessary future fence repairs shall be conducted in a manner which does not result in impacts to sensitive biology resource or wildlife movement.
- f. Brush Management: Prior to recordation of the first final map and/or issuance of any grading permits, the City Manager shall verify that all brush management zone 2 is located outside the limits of the on-site vernal pool watershed areas and retained within the proposed lots.
- g. Drainage: Prior to recordation of the first final map and/or issuance of any grading permits, the City Manager and City Engineer shall verify that on-site drainage for all lots, including proposed lot no. 8, is designed to avoid discharging into the on-site vernal pool watershed areas.

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- h. Prior to recordation of the first final map and/or issuance of any grading permits, the on-site MHPA shall be conserved and conveyed to the City's MHPA through either dedication in fee to the City, OR placement in a conservation easement OR covenant of easement, which is then recorded on the property. For brush management zone two and any proposed revegetation areas within the MHPA, a conservation easement would be appropriate. All other areas could be conveyed through any of the three above methods. Management of the on-site preserved MHPA shall be the responsibility of the owner/Permittee/trustee in perpetuity, unless the City accepts responsibility through dedication in fee title. Note: Any proposed dedication of land in-fee to the City outside the MHPA will require approval from the Park and Recreation Department.

FOR INFORMATION:

- This development may be subject to payment of a park fee prior to the filing of the final subdivision map in accordance with San Diego Municipal Code section 102.0406 et seq. This property is also subject to a building permit park fee in accordance with San Diego Municipal Code section 96.0401 et seq.
- This development may be subject to payment of School Impact Fees at the time of issuance of building permits, as provided by California Government Code section 53080(b) (Statutes of 1986, Chapter 887), in accordance with procedures established by the Director of Building Inspection.
- This tentative map will be subject to fees and charges based on the rate and calculation method in effect at the time of payment.
- This development will be subject to impact fees, as established by the City Council at the time of issuance of building permits.

(R-2004-337)

RESOLUTION NUMBER R-298380  
ADOPTED ON SEPTEMBER 16, 2003

Attachment 15  
PC Report No. P-06-0279

WHEREAS, Dr. Gerald Handler, Owner/Permittee, filed an application with the City of San Diego for a permit to develop thirteen lots consisting of nine commercial lots (Lots 1-8 and 12) on 32.1 acres; three open space lots (Lots 9-10 and 13), and construction of a private underground sewer pump station on 0.4 acres of land at the northeast corner of the site (Lot 11), including preservation of the 1.3-acre wildlife corridor and Multiple Habitat Planning Area [MHPA] in the northeast corner of the site adjacent to the existing 6-foot wildlife underground tunnel at Otay Mesa Road and Corporate Center Drive, including four acres designated as open space to protect the MHPA on the southern boundary of the site, and an additional six acres on the eastern boundary of the project site designated as open space and includes a fenced preserve for 22 existing vernal pools and one road pool located in the southeast corner of the property (as described in and by reference to the approved Exhibit "A," and corresponding conditions of approval for the associated Permit No. 8163), on portions of a vacant 45.5-acres, known as the Otay Mesa East - Pts No. 3159 project, located in the 6600 block of Otay Mesa Road, and legally described as the Northeast Quarter of the Northwest Quarter of Section 32, Township 18 South, Range 1 West, San Bernardino Base and Meridian, in the County of San Diego, State of California, according to the Official Plat thereof; the West Quarter of the Northwest Quarter of Section 32, Township 18 South, Range 1 West, San Bernardino Base and Meridian, in the County of San Diego, State of California, according to the Official Plat thereof, in the AR-1-1

zone, which is proposed to be rezoned to the OMDD-C zone; and

WHEREAS, on July 17, 2003, the Planning Commission of the City of San Diego considered Resource Protection Ordinance Permit No. 18163 and, pursuant to Resolution No. 3395-PC, voted to approve the Permit; and

WHEREAS, the matter was set for public hearing on September 16, 2003, testimony having been heard, evidence having been submitted, and the City Council having fully considered the matter and being fully advised concerning the same; NOW, THEREFORE,

BE IT RESOLVED by the Council of the City of San Diego, that it adopts the following findings with respect to Resource Protection Ordinance Permit No. 8163, dated September 16, 2003:

**I. RESOURCE PROTECTION ORDINANCE**

**A. The proposed development will not adversely affect the City of San Diego's Progress Guide and General Plan.** The 45.5-acre vacant site is located in the 6600 block of Otay Mesa Road between Avenue of Industry and Harvest Road in the Otay Mesa Community Planning area. The project site is zoned OMDD-C and the land use designation in the Otay Mesa Community Plan is Specialized Commercial. The project proposes to develop the vacant site into 13 lots consisting of 9 commercial lots (Lots 1-8 and 12); 3 open space lots (Lots 9-10 and 13) and construction of a private underground sewer pump station (Lot 11). The proposed development is consistent with the City of San Diego's Progress Guide and General Plan commercial land use designation for the site and will therefore not adversely affect it.

**B. The proposed development will conform to the community plan for the area and any other applicable plans, policies and ordinances.** Commercial development of the vacant 45.5-acre site has been determined to be in compliance with the Otay Mesa Community Plan which designates the site for Specialized Commercial, and all other applicable plans, policies and ordinances in affect for the site.

**C. The proposed development will be sited, designed, constructed and maintained to minimize, if not preclude, adverse impacts on environmentally sensitive lands.** Mitigated Negative Declaration [MND] No. 99-0555 has been prepared

for this project in accordance with the California Environmental Act [CEQA] Guidelines. A Mitigation, Monitoring and Reporting Program [MMRP] has been prepared and will be implemented to reduce all potential impacts to below a level of significance. The MMRP addresses the issue areas of historic resources (archaeology), water quality, paleontological resources, transportation and biological resources.

A Resource Protection Ordinance [RPO] Permit is required because the project was submitted prior to December 31, 1999, when the Old Code was in effect for the site. The project includes nine commercial lots on 32.1 acres, detention basins on each lot and construction of a private underground sewer pump station on 0.4 acres of land in the northeast corner of the site.

Included in the project proposal is the preservation of the 1.3-acre wildlife corridor and MHPA in the northeast corner of the property adjacent to the existing 6-foot wildlife underground tunnel at Otay Mesa Road and Corporate Center Drive would be protected by an existing fence to be painted black and screened with a continuous hedge of native plant materials. Four acres will be designated as open space to protect the MHPA on the southern boundary of the site. An additional six acres of land would be designated as open space on the eastern boundary of the project site and includes a fenced preserve for twenty-two existing vernal pools and one road pool located in the southeast corner of the property.

Twenty-two vernal pools representing approximately 2,923 square feet of surface area and one road pool totaling approximately 290 square feet of surface area exist within the project boundary in the southwest corner of the project site. The total estimated watershed for the twenty-two pools is 2.1 acres and 0.01 acres for the road pool.

The site has been highly disturbed and its pools have little vernal pool vegetation. For this reason, the pools are considered disturbed. Vernal pool plants observed in the pools in the southeast corner of the site include woolly marbles (*Psilocapus brevissimus*), plantigo (*Plantuigo elongata*), and popcorn flower (*Plagiobothrys acanthocarpa*). All of the vernal pools are included in the six acres of open space lands on the east side of the property. A Vernal Pool Management Plan is included in Mitigated Negative Declaration to insure the protection of the Vernal Pools.

A single road pool was identified with approximately 290 square feet of potential surface area and approximately 835 square feet of watershed located in the northwestern corner of the project site. This pool is located within the impact area for the proposed project. However, the pool and watershed are also located totally within a proposed cul-de-sac right-of-way for the adjacent California Terraces, Otay Corporate Center South project. The California Terraces Vesting Tentative Map (VTM 86-1032) shows this pool within the development footprint. The Otay Corporate Center Project would dedicate and grade



the right-of-way and install underground utilities, completely removing the vernal pool and watershed. The California Terraces project has been reviewed and approved by the USFWS, ACOE and the City of San Diego. The USFWS prepared a biological opinion (BO 1-6-95-F-35) as part of an ESA Section 7 consultation with ACOE (File No. 95-2010DZ) in January, 1997. Mitigation measures were identified and implemented for project-related impacts per the BO and other project documents. Therefore, no other mitigation measures related to the road pool located in the northwest corner of the project site are required

The Traffic Impact Analysis prepared by Kimley-Horn & Associates (revised October 9, 2002) determined that the proposed project would result in significant Average Daily Trips [ADT] based impacts to segments of Otay Mesa Road and Ocean View Parkway under Near Term and Horizon Year conditions. While the project would generate a significant impact on several segments of Otay Mesa Road on an ADT under Near Term conditions, controlling intersections will be characterized by acceptable LOS during both peak hours (with the exception of Ocean View Hills Parkway/Caliente Boulevard/ Otay Mesa Road) and the overall arterial analysis shows that these segments would operate at an acceptable level of service. Accordingly, the ADT-based impacts are considered to be overstated and mitigated by the improvements to the one failing intersection. Further, the future construction of SR-905 will divert some trips from Otay Mesa Road to SR-905, restoring LOS to acceptable levels at all locations, except the segment between Caliente Boulevard and "C" Street.

On Ocean View Hills Parkway, the ADT-based impact is probably overstated because the Ocean View Hills Parkway intersections with Denny Road and Del Sol Boulevard will have adequate LOS under all conditions and peak hours analyzed, and overall arterial analysis shows that these segments will operate at an acceptable level of service.

Water quality is affected by sedimentation caused by erosion, runoff carrying contaminants, and direct discharge of pollutants. As land is developed, or redeveloped, impervious surfaces convey an increased volume of runoff containing oils, pesticides, fertilizers, and other contaminants into adjacent watersheds. Implementation of the project would disturb 32.98 acres of land and create surface parking lots for an estimated 1,302 parking spaces. According to the City's significance thresholds for water quality impacts, any project which would construct a parking lot of fifteen or more spaces or develop a site over one acre may result in a significant water quality impact. Based on the size of the proposed site and new paved surfaces, the proposed development would result in a significant water quality impact. Therefore, a Drainage Study and a Post Construction BMP Evaluation were prepared by Kimley-Horn & Associates in October, 2002. In addition, a Water Quality Technical Report was prepared by Kimley-Horn & Associates and revised in April, 2003. These studies address pre- & post construction BMPs to be implemented as a condition of project approval.

Consequently, a National Pollution Discharge Elimination System [NPDES] permit from the State Water Resources Control Board [SWRCB] would be required to control erosion, sedimentation, runoff, point- and non-point-source pollution as a result of the proposed development. The NPDES permit requires the preparation and implementation of a Storm Water Pollution Prevention Plan [SWPPP] and a Monitoring Program Plan prior to the commencement of grading activities, which incorporate BMPs into the construction and post-construction phases of the project. The SWPPP and the mitigation measures incorporated in Section V of the Mitigated Negative Declaration would mitigate potentially significant water quality impacts to below a level of significance.

Proposed landscaping will consist of new street trees along Otay Mesa Road (*Arbutus Menziesii*), a mixture of trees along the interior roads (*Calocedrus decurrens* and *Umbellularia californica*), and a mixture of flowering trees and palms at accent points within the site (*Myrica californica*, *Bauhinia blakeana*, *Lagerstroemia indica*, *Washingtonia robusta* and *Washingtonia filifera*).

Implementation of the project requires Brush Management zones to be established around the developed areas. A 40-foot strip of Zone Two brush management will occur outside the MHPA within the lot boundaries. Zone Two brush management is considered impact neutral, therefore, there would be no impacts to the MHPA. Landscaping associated with the Zone One brush management include *Bougainvillea "La Jolla"*, *Cistus Crispus*, and *Baccharis pilularis "twin oaks"*. Native plants associated with Zone Two brush management include *Ceanothus griseus horizontali*. The wildlife corridor in the northeast corner of the project site would be screened with continuous native hedge material (*Rhus integrifolia*).

**D. The proposed development will be sited and designed to prevent adverse impacts on any environmentally sensitive lands and resources located in adjacent parks and public open-space areas and will provide adequate buffer areas to protect such resources.** The project includes nine commercial lots on 32.1 acres, detention basins on each lot and construction of a private underground sewer pump station on 0.4 acres of land in the northeast corner of the site. Included in the project proposal is the preservation of the 1.3-acre wildlife corridor and MHPA in the northeast corner of the property adjacent to the existing 6-foot wildlife underground tunnel at Otay Mesa Road and Corporate Center Drive would be protected by an existing fence to be painted black and screened with a continuous hedge of native plant materials. Four acres will be designated as open space to protect the MHPA on the southern boundary of the site.

Implementation of the project requires Brush Management zones to be established around the developed areas. A 40-foot strip of Zone Two brush management will occur outside the MHPA within the lot boundaries. Zone Two brush management is considered impact

neutral, therefore, there would be no impacts to the MHPA. Landscaping associated with the Zone One brush management include *Bougainvillea "La Jolla"*, *Cistus Crispus*, and *Baccharis pilularis "twin oaks"*. Native plants associated with Zone Two brush management include *Ceanothus griseus horizontalis*. The wildlife corridor in the northeast corner of the project site would be screened with continuous native hedge material (*Rhus integrifolia*).

**E. The proposed development will minimize the alterations of natural landforms and will not result in undue risks from geological and erosional forces and/or flood and fire hazards. The project site has been historically used for agricultural purposes the proposed development is designed to minimize alterations to the natural landform and will not result in undue risk from geologic and erosional forces, flood hazards, or fire hazards.**

**F. Feasible measures, as defined in this section, to protect and preserve the special character or the special historical, architectural, archaeological or cultural value or the affected significant prehistoric or historic site or resource have been provided by the applicant. An archaeological survey was conducted by Gallegos and Associates in June, 2000, and a revised letter report was submitted in February, 2002. The survey determined that the project is situated within prehistoric site CA-SDI-6941. This extensive sparse lithic scatter site contains artifact concentrations (Loci A-Y) and is spread over 10,000,000 square meters. Artifact concentrations have been identified and those remaining areas of CA-SDI-6941 are part of the "Otay Smear" (sparse lithic scatter) which is literally across Otay Mesa. For the SR 905 Project, a Management Plan was prepared in lieu of testing sparse lithic scatters (Gallegos et al. 1998). This plan was accepted by the City of San Diego, CALTRANS and the State Historic Preservation Officer (SHPO). The property was previously surveyed as part of SR 905 project and no artifacts or loci of site CA-SDI-6941 were identified within the project area. Given the poor ground visibility during the SR 905 study and as a result of working with City Staff, it has been agreed that monitoring during construction will be required. Implementation of a monitoring program in accordance with MND's Mitigation, Monitoring and Reporting Program would reduce the potential impacts to subsurface historical resources to below a level of significance.**

## **II. OTAY MESA DEVELOPMENT DISTRICT**

**A. The project application is complete and conforms with all city policies, guidelines, design standards and density regulations in effect for this site. The 45.5-acre vacant site is located in the 6600 block of Otay Mesa Road between Avenue of Industry and Harvest Road in the Otay Mesa Community Planning area. The project site is zoned OMDD-C and the land use designation in the Otay Mesa Community Plan is Specialized Commercial.**

The project proposes to develop the vacant site into 13 lots consisting of 9 commercial lots (Lots 1-8 and 12) on 32.1 developable acres; three open space lots (Lots 9-10 and 13), and construction of a private underground sewer pump station on 0.4 acres of land at the northeast corner of the site (Lot 11).

Included in the project proposal is the preservation of the 1.3-acre wildlife corridor and Multiple Habitat Planning Area [MHPA] in the northeast corner of the site adjacent to the existing 6-foot wildlife underground tunnel at Otay Mesa Road and Corporate Center Drive. Four acres will be designated as open space to protect the MHPA on the southern boundary of the site. An additional six acres on the eastern boundary of the project site will be designated as open space and includes a fenced preserve for twenty-two existing vernal pools and one road pool located in the southeast corner of the property.

The proposed development is consistent with the City of San Diego's Progress Guide and General Plan commercial land use designation for the site and will therefore not adversely affect it.

**B. The proposed use and project design meet the general purpose and intent of the Otay Mesa Development District and the Otay Mesa Community Plan.** The 45.5-acre vacant site is located in the 6600 block of Otay Mesa Road between Avenue of Industry and Harvest Road in the Otay Mesa Community Planning area. The project site is zoned OMDD-C and the land use designation in the Otay Mesa Community Plan is Specialized Commercial, therefore the proposal for commercial development meets the intent and purpose of the Otay Mesa Development District and the Otay Mesa Community Plan.

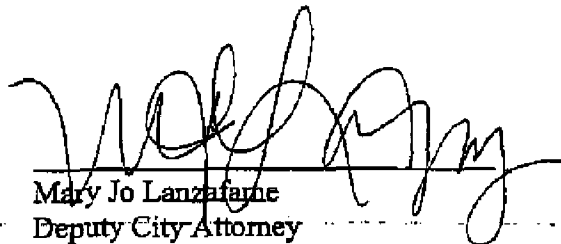
**C. The proposed use, because of conditions that have been applied to it, will not be detrimental to the health, safety and general welfare of persons residing or working in the area, and will not adversely affect other property in the vicinity.** Conditions of approval found in the Resource Protection Ordinance/Otay Mesa Development District Permit No. 8163 and Vesting Tentative Map No. 8182 address health, safety and general welfare issues. Compliance with applicable building, plumbing, electrical, mechanical and grading regulations will also be required at the construction phase, therefore, the proposal 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 property in the vicinity.

**D. The proposed use will comply with the relevant regulations of the Municipal Code in effect for this site.** Commercial development of the 45.5 acres site has been determined to be in compliance with the City's General Plan, the Municipal Code, the Resource Protection Ordinance, the State Subdivision Map Act and all other applicable relevant regulations of the Municipal Code in effect for the site.

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 Resource Protection Ordinance Permit No. 8163 is granted to Gerald Handler, Owner/Permittee, under the terms and conditions set forth in the permit attached hereto and made a part hereof.

APPROVED: CASEY GWINN, City Attorney

By   
Mary Jo Lanzafame  
Deputy City Attorney

MJL:cdk  
09/18/03  
Or.Dept:Clerk  
R-2004-337  
Form=permitr.frm  
Reviewed by Vicky Gallagher

Passed and adopted by the Council of San Diego on September 16, 2003, by the following vote:

**YEAS: ZUCCHET, ATKINS, LEWIS, MAIENSCHHEIN, FRYE, MADAFFER, INZUNZA,  
MAYOR MURPHY**

**NAYS: NONE**

**NOT PRESENT: PETERS**

**AUTHENTICATED BY:**

**DICK MURPHY**

Mayor of The City of San Diego, California

**CHARLES G. ABDELNOUR**

City Clerk of The City of San Diego, California

(SEAL)

By: Manuel E. Ketcham, Deputy

I HEREBY CERTIFY that the above and foregoing is a full, true and correct copy of  
RESOLUTION NO. R-298380 passed and adopted by the Council of The City of San Diego,  
California on September 16, 2003.

**CHARLES G. ABDELNOUR**

City Clerk of The City of San Diego, California

(SEAL)

By: Manuel E. Ketcham, Deputy

**ORIGINAL**

**RECORDING REQUESTED BY  
CITY OF SAN DIEGO  
DEVELOPMENT SERVICES DEPARTMENT**

**WHEN RECORDED MAIL TO  
PERMIT INTAKE  
MAIL STATION 501**

Attachment 15  
PC Report No. P-06-0279

SPACE ABOVE THIS LINE FOR RECORDER'S USE

**RESOURCE PROTECTION ORDINANCE PERMIT NUMBER 8163  
OTAY MESA EAST - PTS NO. 3159  
CITY COUNCIL**

This Permit is granted by the City Council of the City of San Diego to Gerald Handler, Owner/Permittee, pursuant to the City of San Diego Municipal Code [SDMC] section 101.0462. The 45.5-acre site is located in the 6600 block of Otay Mesa Road in the Otay Mesa Community Planning in the OMDD-C Zone. The project site is legally described as the Northeast Quarter of the Northwest Quarter of Section 32, Township 18 South, Range 1 West, San Bernardino Base and Meridian, in the County of San Diego, State of California, according to the Official Plat thereof and the West Quarter of the Northwest Quarter of Section 32, Township 18 South, Range 1 West, San Bernardino Base and Meridian, in the County of San Diego, State of California, according to the official plat thereof.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee to develop a 45.5-acre, vacant site with commercial development consistent with the OMDD-C Zone for commercial lots, described as, and identified by size, dimension, quantity, type and location on the approved Exhibit "A," dated September 16, 2003, on file in the Office of the Development Services Department. Exhibit "A" is identified as follows:

- A-1: Landscape Concept/Brush Management Plan
- A-2: Vesting Tentative Map/Grading Plan
- A-3: Existing Topography
- A-4: Project Cross-Sections

The project or facility shall include:

- a. Nine commercial lots (Lots 1-8 and 12);
- b. Three open space lots (Lots 9-10 and 13);

- c. Construction of a private underground sewer pump station on 0.4-acre located at the northeast corner of the site (Lot 11);
- d. Preservation of 1.3-acres wild of corridor;
- e. Preservation of Multiple Habitat Planning Area (MHPA) in the northeast corner of the site adjacent to the existing six-foot wildlife underground tunnel at Otay Mesa Road and Corporate Center Drive;
- f. Four acres to be designated as open space to protect the MHPA on the southern boundary of the site;
- g. Six acres on the eastern boundary of the project site to be designated as open space, including a fenced preserve for twenty-two existing vernal pools and one (1) road pool located in the southeast corner of the property;
- h. Landscaping (planting, irrigation and landscape related improvements); and
- i. Accessory improvements determined by the City Manager 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.

1. Construction, grading or demolition must commence and be pursued in a diligent manner within thirty-six months after the effective date of final approval by the City, following all appeals. Failure to utilize the permit within thirty-six months will automatically void the permit unless an Extension of Time has been granted. Any such Extension of Time must meet all the SDMC requirements and applicable guidelines in effect 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 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. 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 City Manager.
4. This Permit is a covenant running with the subject property and shall be binding upon the 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 utilization and 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 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 applicant 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. Before issuance of any building or grading permits, complete grading and working drawings shall be submitted to the City Manager for approval. Plans shall be in substantial conformity to Exhibit A-2, dated September 16, 2003, on file in the Office of the Development Services Department. 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. Prior to issuance of any grading permits for this project, a final subdivision map shall be recorded on the subject property.

11. Rezoning of the subject property shall become effective with recordation of the corresponding final subdivision map for the project site.

12. 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," dated September 16, 2003, on file in the Office of the Development Services Department).

#### ENVIRONMENTAL/MITIGATION REQUIREMENTS:

13. 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.

14. As conditions of Resource Protection Ordinance No.008163, the mitigation measures specified in the MMRP, and outlined in the Mitigated Negative Declaration, LDR No. 3159 shall be noted on the construction plans and specifications under the heading ENVIRONMENTAL/MITIGATION REQUIREMENTS.

15. The Owner/Permittee shall comply with the Mitigation, Monitoring, and Reporting Program [MMRP] as specified in the Mitigated Negative Declaration, LDR No.3159 satisfactory to the City Manager and City Engineer. Prior to issuance of the first grading permit, all conditions of the MMRP shall be adhered to the satisfaction of the City Engineer. All mitigation measures as specifically outlined in the MMRP shall be implemented for the following issue areas: Land Use/Biological Resources/Historical Resources (Archaeology)/Water Quality.

16. The MMRP shall require a deposit of \$3,200.00 to be collected prior to the issuance of any discretionary approval(s) to cover the City's costs associated with implementation of the MMRP.

17. A Job Order number open to the Land Development Review Division of the Development Services Department shall be required to cover the Land Development Review Division's cost associated with the implementation of the MMRP.

**BRUSH MANAGEMENT PROGRAM REQUIREMENTS:**

18. The Permittee shall implement the following requirements in accordance with the Brush Management Program shown on Exhibit A-1, Brush Management Program/Landscape Development Plan, on file in the Office of the Development Services Department.
19. Prior to issuance of permits or recording of final maps, all easements or right of entry permits for the purpose of Brush Management shall be obtained.
20. Prior to issuance of any engineering permits for grading, complete Brush Management, planting and irrigation plans, details and specifications (including maintenance specifications), shall be submitted to the City Manager for approval. All plans shall indicate the brush management zones depths by dimension.
21. Prior to final inspection and issuance of any Certificate of Occupancy for any building, the approved Brush Management Program shall be implemented.
22. In all brush management zones the plant material shall be selected to visually blend with the existing vegetation. No invasive plant material shall be permitted as determined by the Landscape Section of Development Services Department.
23. The Brush Management Maintenance Program as noted on Exhibit A-1, shall be performed annually by the Permittee or subsequent Owner or until such time that another approved entity such as a project association or a Landscape Maintenance District assumes annual responsibility.
24. Provide Brush Management plants that are visually and horticulturally compatible with the native vegetation.

**ENGINEERING REQUIREMENTS:**

25. Grading permit, post-construction BMPs based on the Water Quality Technical Report, improvements to the right-of-way for two (2) streets, detention basins, flood water storage easements, NPDES Permit, 1911 waiver for future Otay-Mesa-wide drainage improvements, inter alia.
26. The Resource Protection Ordinance Permit No. 8163 shall comply with the conditions of the Final Map for VTM No. 8182.

**LANDSCAPE REQUIREMENTS:**

27. No change, modification or alteration shall be made to the project unless appropriate application or amendment of this Permit has been granted by the City. All plan specifications and notes mentioned in the conditions below shall be consistent with the SDMC, section 142.0401 and Landscape Standards, Exhibit A-1, Landscape Development Plan, Brush Management Plan, Details and Notes on file in the Office of the Development Services.

28. All required landscape plant materials shall be maintained 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 it's mature height and spread.

29. The Permittee or subsequent Owner shall be responsible for the maintenance of all street trees and landscape improvements (right-of-way and median landscaping) consistent with the Landscape Standards.

30. The Permittee or subsequent Owner shall be responsible for the maintenance of all street trees and landscape improvements (right-of-way and median landscaping) consistent with the Landscape Standards. A Landscape Maintenance Agreement and bond shall be entered into prior to issuance of any grading or construction permit. The agreement and bond shall be renewed each year until such time that another approved entity assumes responsibility such as a home owners association or a Landscape Maintenance District.

31. If any required landscape improvements (including existing or new planting, hardscape, landscape features, etc.) are damaged or removed during demolition or construction, they shall be repaired and/or replaced in kind and equivalent size per the approved documents to the satisfaction of the City Manager, within thirty days of damage and prior to any Certificate of Occupancy.

32. Prior to the issuance of any engineering permits for grading or improvement the Permittee shall complete a Maintenance Assessment District Agreement form for early confirmation.

33. In the event that a foundation only permit is requested by the Permittee or subsequent Owner, a site plan or staking layout plan shall be submitted identifying all landscape areas consistent with Exhibit A-1, Landscape Development Plan, on file in the Office of Development Services. These landscape areas shall be clearly identified with a distinct symbol, noted with dimensions and labeled as landscaping area.

34. In the event that any mass grading permit is requested by the Permittee or subsequent Owner, complete landscape construction documents for revegetation and erosion control, including an automatic permanent irrigation system, shall be submitted to the Development

Services Department, Land Development Review Section for approval. The plans shall be in substantial conformance to Exhibit A-1, on file in the office of the Development Services.

35. Prior to issuance of any construction permits for structures (including shell), complete landscape and irrigation construction documents consistent with the Landscape Standards (including planting and irrigation plans, details and specifications) shall be submitted to the City Manager for approval. The construction documents shall be in substantial conformance with Exhibit A-1, Landscape Development Plan, on file in the Office of Development Services.

36. In the event that any construction permit for parking structures is requested, the Permittee or subsequent Owner shall submit on the planting and irrigation plans a signed statement by a Registered Structural Engineer indicating that supporting structures are designed to accommodate the necessary structural loads and associated planting and irrigation.

37. Prior to issuance of any engineering permits for right-of-way improvements, complete landscape construction documents for right-of-way improvements shall be submitted to the City Manager for approval. Improvement plans shall take into account a 40 square feet 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.

38. Prior to issuance of any engineering permits for private drive improvements, complete landscape construction documents for private drive improvements shall be submitted to the City Manager for approval. Improvement plans shall take into account a 40 square feet 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.

39. Prior to issuance of any engineering permits for grading, construction documents for slope planting (if applicable) or revegetation including hydroseeding and irrigation shall be submitted in accordance with the Landscape Standards and to the satisfaction of the City Manager. All plans shall be in substantial conformance with Exhibit A-1, (including Environmental conditions) on file in the Office of Development Service.

40. Installation of slope planting and erosion control including seeding of all disturbed land (slopes and pads) consistent with the approved landscape and grading plans is considered to be in the public interest. The Permittee shall initiate such measures as soon as the grading has been accomplished. Such erosion control/slope planting and the associated irrigation systems (temporary and/or permanent) and appurtenances shall be installed in accordance with the approved plans and the Landscape Standards.

41. Prior to issuance of any Certificate of Occupancy, it shall be the responsibility of the Permittee or subsequent Owner to install all required landscape and obtain all required landscape

inspections. A No Fee Street Tree Permit, if applicable, shall be obtained for the installation, establishment and on-going maintenance of all street trees.

42. Prior to the recording of the (parcel/final map), the Permittee or subsequent Owner/Developer shall submit for review, a Landscape Maintenance Agreement for all landscape improvements within and visible from the public right-of-way. The approved Landscape Maintenance Agreement shall be recorded and bonded prior to recording of the (parcel/final map).

43. The Permittee or subsequent Owner(s) shall be responsible for the installation and maintenance of all landscape improvements consistent with the Landscape Regulation and Landscape Standards. Invasive species are prohibited from being planted adjacent to any canyon, water course, wet land or native habitats within the city limits of San Diego as noted in Section 1.3 of the Landscape Standards.

**PLANNING/DESIGN REQUIREMENTS:**

44. Hillsides and environmentally sensitive lands that are undisturbed or restored as a result of the development must be conserved through a deed restriction, open space easement or other restriction that will preclude any future development or grading of such lands. The restriction must be acceptable to the City Attorney and to the Development Services Director.

45. There shall be compliance with the regulations of the underlying zone(s) unless a deviation or variance to a specific regulation(s) is approved or granted as condition of approval of this permit. Where there is a conflict between a condition (including exhibits) of this permit and a regulation of the underlying zone, the regulation shall prevail unless the condition provides for a deviation or variance from the regulations. Where a condition (including exhibits) of this permit establishes a provision which is more restrictive than the corresponding regulation of the underlying zone, then the condition shall prevail.

46. The height(s) of the building(s) or structure(s) shall not exceed those heights set forth in the conditions and the exhibits (including, but not limited to, elevations and cross sections) or the maximum permitted building height of the underlying zone, whichever is lower, unless a deviation or variance to the height limit has been granted as a specific condition of this permit.

47. A topographical survey conforming to the provisions of the Land Development Code 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 regulations of the underlying zone. The cost of any such survey shall be borne by the Permittee.

48. Any future requested amendment to this permit shall be reviewed for compliance with the regulations of the underlying zone(s) which are in effect on the date of the submittal of the requested amendment.
49. All signage associated with this development shall be consistent with sign criteria established by either of the following:
- a. Approved project sign plan (Exhibit A-1, dated September 16, 2003, on file in the Office of the Development Services Department); or
  - b. Citywide sign regulations.
50. All private outdoor lighting shall be shaded and adjusted to fall on the same premises where such lights are located.
51. The use of textured or enhanced paving shall meet applicable City standards as to location, noise and friction values.
52. The subject property and associated common areas on site shall be maintained in a neat and orderly fashion at all times.
53. All uses, except storage and loading, shall be conducted entirely within an enclosed building. Outdoor storage of merchandise, material and equipment is permitted in any required interior side or rear yard, provided the storage area is completely enclosed by walls, fences or a combination thereof. Walls or fences shall be solid and not less than six feet in height and, provided further, that no merchandise, material or equipment stored not higher than any adjacent wall.
54. No merchandise, material or equipment shall be stored on the roof of any building.
55. No mechanical equipment shall be erected, constructed, or enlarged on the roof of any building on this site, unless all such equipment is contained within a completely enclosed architecturally integrated structure.
56. Prior to the issuance of building permits, construction documents shall fully illustrate compliance with the Citywide Refuse and Recyclable Materials Storage Regulations (Land Development Code Section 142.0801) to the satisfaction of the City Manager. All exterior storage enclosures for trash and recyclable materials shall be located in a manner that is convenient and accessible to all occupants of and service providers to the project, in substantial conformance with the conceptual site plan marked Exhibit A-1.

**WASTEWATER REQUIREMENTS:**

57. The developer shall construct the Otay Mesa Trunk Sewer Phase II or enter into a development agreement to pay their fair share cost of the trunk sewer in proportion to the ultimate zoned use of the property being developed, in accordance with the City's Sewer Design Guide.
58. The developer shall install all sewer facilities required by the accepted sewer study, necessary to serve this development. Sewer facilities as shown on the approved tentative map will require modification based on the accepted sewer study.
59. The developer shall design and construct all proposed public sewer facilities to the most current edition of the City of San Diego's sewer design guide. Proposed facilities that do not meet the current standards shall be re-designed.
60. The developer shall design and construct all proposed private sewer facilities serving more than one lot to the most current edition of the City of San Diego's sewer design guide. Improvement drawings are required for private sewer facilities serving more than one lot.
61. Prior to the issuance of any building permits, the applicant shall process and record a Notice and Agreement for each ownership being served by a private pump station/sewer facilities which serves more than one ownership, which indemnifies the City and contains an agreement that the applicant, and successors in interest, will be responsible for the operation and maintenance of the private sewer systems.
62. The developer shall obtain a building permit for any private pump station serving a condominium project or more than one lot.
63. The developer shall provide, satisfactory to the Metropolitan Wastewater Department Director, CC&R's for the operation and maintenance of on-site private sewer facilities that serve more than one lot.
64. No structures or landscaping, including private sewer facilities and enhanced paving, shall be installed in or over any easement or street right-of-way prior to the applicant obtaining an Encroachment Maintenance and Removal Agreement.
65. Providing sewer for this development is dependent upon prior construction of certain portions of the Otay Mesa Trunk Sewer Phase II. If they have not been constructed when required for this development, then the construction of certain portions of these sewer facilities, as required by the City Engineer, will become off-site improvements required for this development.



**OPEN SPACE REQUIREMENTS:**

66. Lots 9 and 10 shall be deeded, at no cost, to the city for open space. said lots shall be free and clear of all private encroachments, private easements, private agreements and/or liens.
67. An open space easement is required on the 40-foot deep Zone 2 for brush management across Lots 6, 7 and 8.
68. The brush management zones adjacent to Lots 6 through 8 shall be made into a separate lot and have an open space easement over Zone Two.
69. Brush management Zones 1, 2 and 3 or modified Zones 1 and 2 must be provided between Lot 8 and Lot 9 and Zone Two must have an open space easement. This will require a new lot and it is understood that Lot 9 will be reduced in size.

**MULTIPLE SPECIES CONSERVATION PROGRAM (MSCP) REQUIREMENTS:**

70. In accordance with authorization granted to the City of San Diego from the United States Fish and Wildlife Service [USFWS] pursuant to section 10(a) of the ESA and by the California Department of Fish and Game [CDFG] pursuant to Fish and Game Code section 2835 as part of the Multiple Species Conservation Program [MSCP], the City of San Diego through the issuance of this Permit hereby confers upon Permittee the status of Third Party Beneficiary as provided for in Section 17 of the City of San Diego Implementing Agreement (IA), executed on July 17, 1997, and on file in the Office of the City Clerk as Document No. 00-18394. Third Party Beneficiary status is conferred upon Permittee by the City: (1) to grant Permittee the legal standing and legal right to utilize the take authorizations granted to the City pursuant to the MSCP within the context of those limitations imposed under this Permit and the IA; and (2) to assure Permittee that no existing mitigation obligation imposed by the City of San Diego pursuant to this Permit shall be altered in the future by the City of San Diego, USFWS, or CDFG, except in the limited circumstances described in Sections 9.6 and 9.7 of the IA.

If mitigation lands are identified but not yet dedicated or preserved in perpetuity, maintenance and continued recognition of Third Party Beneficiary status by the City is contingent upon Permittee maintaining the biological values of any and all lands committed for mitigation pursuant to this Permit and of full satisfaction by Permittee of mitigation obligations required by this Permit, as described in accordance with Section 17.1D of the IA.

71. The applicant shall comply with the MMRP as specified in the Environmental Documentation for the "Otay Mesa East Project" (Project No. 3159, SCH No. 2003051060), satisfactory to the City Manager and the City Engineer, for the following issues areas to ensure

compliance with the MSCP and MHPA Land Use Adjacency Guidelines: Land Use, Biological Resources and Water Quality.

In addition, the following conditions shall apply:

*Operational Noise:* Prior to issuance of any building occupancy permits, the sewer pump station proposed adjacent to the existing Otay Mesa Road wildlife under crossing shall be constructed, to the satisfaction of the City Manager and City Engineer, to ensure that operational noise does not impact wildlife movement, including: (1) designing the facility below-ground; (2) encasing it in concrete; (3) providing perimeter berms and native screening vegetation; and (4) shielding/directing all necessary lighting away from the MHPA.

*Edge Treatment:* Prior to issuance of any building occupancy permits, the applicant shall construct a six-foot-high black vinyl-coated chain link fence along areas adjacent to the MHPA, including the rear of proposed Lots 6, 7 and 8, satisfactory to the City Manager and the City Engineer. The fencing shall be appropriately maintained at all times by the owner/Permittee/trustee. Any necessary future fence repairs shall be conducted in a manner which does not result in impacts to sensitive biology resource or wildlife movement.

*Brush Management:* Prior to recordation of the first final map and/or issuance of any grading permits, the City Manager shall verify that all brush management zone 2 is located outside the limits of the on-site vernal pool watershed areas and retained within the proposed lots.

*Drainage:* Prior to recordation of the first final map and/or issuance of any grading permits, the City Manager and City Engineer shall verify that on-site drainage for all lots, including proposed lot no. 8, is designed to avoid discharging into the on-site vernal pool watershed areas.

72. Prior to recordation of the first final map and/or issuance of any grading permits, the on-site MHPA shall be conserved and conveyed to the City's MHPA through either dedication in fee to the City, or placement in a conservation easement or covenant of easement, which is then recorded on the property. For brush management zone two and any proposed revegetation areas within the MHPA, a conservation easement would be appropriate. All other areas could be conveyed through any of the three above methods. Management of the on-site preserved MHPA shall be the responsibility of the Owner/Permittee/Trustee in perpetuity, unless the City accepts responsibility through dedication in fee title. \*Note: Any proposed dedication of land in-fee to the City outside the MHPA would require approval from the Park and Recreation Department.

#### TRANSPORTATION REQUIREMENTS:

73. Prior to the recordation of first final map, subdivider shall relinquish access rights along project frontage on Otay Mesa Road, satisfactory to the City Engineer.

74. Prior to the recordation of the first final map, subdivider shall assure by permit and bond, construction of Street "B" with 64 feet curb to curb within 84 feet right-of-way including curb, gutter and 5-foot sidewalk within 10-foot curb to property line distance on both sides of the street with 55-foot curb radius cul-de-sac turnaround at the southern end, satisfactory to the City Engineer.

75. Prior to the recordation of the first final map, subdivider shall assure by permit and bond, construction of Street "B" within 200 feet of its intersection with Otay Mesa Road with 72 feet of curb to curb pavement (18-foot southbound lane, 4-foot raised center median, two 12-foot northbound left turn lanes, 12-foot northbound through lane, 14-foot northbound right turn lane) within 92 feet of right-of-way including curb, gutter and 5-foot sidewalk within 10-foot curb to property line distance on both sides of the street transiting to a 64 feet curb to curb width within 84 feet right-of-way with 55-foot curb radius cul-de-sac turnaround at the southern end within 65 feet right-of-way, satisfactory to the City Engineer.

76. Prior to the recordation of the first final map, subdivider shall assure by permit and bond, construction of a second left turn lane on Otay Mesa Road at its intersection with Street "B", satisfactory to the City Engineer.

77. Prior to the recordation of the first final map, subdivider shall assure by permit and bond, construction of an eastbound exclusive right turn lane with 500-feet of storage and proper transition on Otay Mesa Road at its intersections with "B" Street", satisfactory to the City Engineer.

78. Prior to the recordation of the first final map, subdivider shall assure by permit and bond, construction of private Street "A" between Street "B" and Street "C" with 50 feet of pavement within 70 feet of private general utility easement with curb, gutter and 5-foot sidewalk on both sides of the street and raised center median at both ends of the streets within 200 feet of intersection with Street "B" and Street "C", satisfactory to the City Engineer.

79. Prior to the recordation of the first final map, subdivider shall assure by permit and bond, construction of half width of Street "C" including 30 feet of pavement, curb, gutter and 5-foot sidewalk within 10-foot curb to property line distance with 55-foot curb radius cul-de-sac turnaround at the southern end, satisfactory to the City Engineer.

80. Prior to the recordation of the first final map, subdivider shall assure by permit and bond construction of a eastbound exclusive right turn lane with 200 feet of storage and proper transition on Otay Mesa Road at its intersection with Street "C", satisfactory to the City Engineer.

81. Prior to the recordation of the first final map, subdivider shall assure by permit and bond, construction of second eastbound left turn lane and one exclusive westbound right turn lane at

the intersection of Otay Mesa Road/Ocean View Hills Parkway, satisfactory to the City Engineer.

82. Prior to the recordation of the first final map, subdivider shall assure by permit and bond, construction of second westbound left turn lane at the intersection of Otay Mesa Road/Ocean View Hills Parkway, satisfactory to the City Engineer. Subdivider may enter into a deferred improvement agreement with City of San Diego for this improvement.

83. Prior to the recordation of the first final map, subdivider shall assure by permit and bond, construction of the second half (western half) of Street "C" to provide 60 feet of pavement, curb, gutter and 5-foot sidewalk within 10-foot curb to property line distance on the west side, satisfactory to the City Engineer. Subdivider may enter into a deferred improvement agreement with City of San Diego for this improvement.

84. Prior to the recordation of the first final map, subdivider shall assure by permit and bond, construction of a westbound left turn lane at the intersection of Otay Mesa Road/Street "C", satisfactory to the City Engineer. Subdivider may enter into a deferred improvement agreement with City of San Diego for this improvement.

85. Prior to the recordation of the first final map, subdivider shall assure by permit and bond, construction of a traffic signal at the intersection of Otay Mesa Road / Street "C", satisfactory to the City Engineer. Subdivider may enter into a deferred improvement agreement with City of San Diego for this improvement.

86. Prior to the recordation of the first final map, subdivider shall provide an Irrevocable Offer of Dedication (IOD) for half of the cul-de-sac on Lot 12 at the western end of Camino Maquiladora with 55-foot curb radius turn around within 65 feet of right-of-way, satisfactory to the City Engineer.

#### 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 section 66020.

APPROVED by the Council of the City of San Diego by Resolution No. R-298380 on September 16, 2003.

AUTHENTICATED BY THE CITY MANAGER

By \_\_\_\_\_

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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.

**Dr. Gerald Handler**  
Owner/Permittee

By \_\_\_\_\_

**NOTE: Notary acknowledgments  
must be attached per Civil Code  
section 1180 et seq.**

(O-2004-23)

ORDINANCE NUMBER O- 19216 (NEW SERIES)ADOPTED ON SEP 29 2003

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SAN DIEGO CHANGING PROPERTY LOCATED IN THE 6600 BLOCK OF OTAY MESA ROAD IN THE OTAY MESA COMMUNITY PLAN AREA, IN THE CITY OF SAN DIEGO, CALIFORNIA, FROM THE AR-1-1 ZONE (PREVIOUSLY REFERRED TO AS THE A-1-10 ZONE) TO THE OMDD-C ZONE, AS DEFINED BY SAN DIEGO MUNICIPAL CODE SECTION 103.1103(a); AND REPEALING ORDINANCE NO. 10862 (NEW SERIES), ADOPTED JULY 29, 1972, OF THE ORDINANCES OF THE CITY OF SAN DIEGO INsofar AS THE SAME CONFLICT HERewith.

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

Section 1. In the event that within three years of the effective date of this ordinance, rezoning 45.5-acres, located in the 6600 block of Otay Mesa Road, and legally described as the Northeast Quarter of the Northwest Quarter of Section 32, Township 18 South, Range 1 West, San Bernardino Base and Meridian, in the County of San Diego, State of California, according to the official plat thereof and the West Quarter of the Northwest Quarter of Section 32, Township 18 South, Range 1 West, San Bernardino Base and Meridian, in the County of San Diego, in the Otay Mesa Community Plan area, in the City of San Diego, California, from the AR-1-1 Zones (previously referred to as the A-1-10 Zone) to the OMDD-C Zone, as shown on Zone Map Drawing No. C-919, filed in the office of the City Clerk as Document No. OO- 19216 the property is subdivided and a map or maps thereof duly submitted to the City, approved by the City, shall become applicable to the subdivided land, and the subdivided land shall be

incorporated into the OMDD-C Zone, as described and defined by San Diego Municipal Code section 103.1103(a), the boundary of such zone to be as indicated on Zone Map Drawing No. C-919. The zoning shall attach only to those areas included in the map as provided in this section.


Section 2. That Ordinance No.10862 (New Series), adopted July 29, 1972, of the ordinances of the City of San Diego, is repealed insofar as it conflicts with the rezoned use of the land.

Section 3. That a full reading of this ordinance is dispensed with prior to its final passage, a written or printed copy having been available to the City Council and the public a day prior to its final passage.

Section 4. This ordinance shall take effect and be in force on the thirtieth day from and after its passage, and no building permits for development inconsistent with the provisions of this ordinance shall be issued unless application therefor was made prior to the date of adoption of this ordinance.

APPROVED: CASEY GWINN, City Attorney

By

  
Mary Jo Lanzafame  
Deputy City Attorney

MJL:cdk

08/28/03

Or.Dept: DSD

Job No.: 99-0555/PTS 3159

O-2004-23

Form=insubo.frm

October 16, 2006

CITY COUNCIL RESOLUTION NO. \_\_\_\_\_  
 VESTING TENTATIVE MAP NO. 362532  
**OTAY MESA EAST EOT - PROJECT NO. 108628(MMRP)**  
**DRAFT**

 Attachment 15  
 PC Report No. P-06-0279

WHEREAS, DR. GERALD HANDLER, Applicant/Subdivider, and KIMLEY-HORN AND ASSOCIATES, INC., Engineer, submitted an application with the City of San Diego for a Vesting Tentative Map, No. 362532, an extension of time to Vesting Tentative Map No. 8182 pursuant to Project No. 3159, for a Vesting Tentative Map, located on the south side of Otay Mesa road west of Corporate Center Drive, and legally described as the northeast quarter of the northwest quarter of Section 32, Township 18 South, Range 1 West, San Bernardino base and meridian, in the County of San Diego, State of California, according to the official plat thereof and the west quarter of the northwest quarter of Section 32, Township 18 South, Range 1 West, San Bernardino base and meridian, in the County of San Diego, State of California, according to the official plat thereof, in the AR-1-1, which is proposed to be rezoned to the OMDD-C Zone; and

WHEREAS, the Map proposes the subdivision of a 45.5-acre site into 14 lots for commercial and open space (nine commercial lots, three open space lots, private underground sewer pump station on 0.4-acre, and private driveway on 1.9-acres); and

WHEREAS, the activity is covered under the Otay Mesa East Mitigated Negative Declaration, Project No. 3159. The activity is adequately addressed in the environmental document and there is no change in circumstance, additional information, or project changes to warrant additional environmental review. The prior environmental documents adequately covered this activity as part of the previously approved project and the activity in not a separate project for the purpose of California Environmental Quality Act (CEQA) review pursuant to CEQA Guidelines Section 15060(c)(3); and

WHEREAS, the project complies with the requirements of a preliminary soils and/or geological reconnaissance report pursuant to the Subdivision Map Act and Section 144.0220 of the Municipal Code of the City of San Diego; and

WHEREAS, on September 16, 2003, the City Council of the City of San Diego made the Findings for Vesting Tentative Map No. 8182 pursuant to Resolution No. R-298379; and

WHEREAS, on November 9, 2006, the Planning Commission of the City of San Diego considered Vesting Tentative Map, No. 362532, an extension of time to Vesting Tentative Map No. 8182, and pursuant to Resolution No. \_\_\_\_\_ voted to recommend City Council approval of the Vesting Tentative Map; and

WHEREAS, on \_\_\_\_\_, 2006, the City Council of the City of San Diego considered



Vesting Tentative Map, No. 362532, an extension of time to Vesting Tentative Map No. 8182, pursuant to the Municipal Code Sections 125.0430 of the City of San Diego, and received for its consideration written and oral presentations, and heard from all interested parties present at the public hearing;

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of San Diego makes one of the following Findings for the extension of time, pursuant to the Municipal Code Sections 125.0461 of the City of San Diego:

1. The failure to conditionally approve or deny the request would place the residents of the subdivision or the immediate community in a condition dangerous to their health of safety; or
2. The condition or denial is required to comply with state or federal law.

BE IT FURTHER RESOLVED that, based on the Findings hereinbefore adopted by the City Council, Vesting Tentative Map No. 362532, an extension of time to Vesting Tentative Map No. 8182 pursuant to Project No. 3159, is hereby APPROVED, subject to the following conditions:

1. This tentative map will become effective on the effective date of the associated rezone and expire three years thereafter. Should the rezone be denied then this tentative map shall be deemed denied.
2. Compliance with all of the following conditions shall be assured, to the satisfaction of the City Engineer, prior to the recordation of the final map, unless otherwise noted.
3. Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of this tentative map, may protest the imposition within ninety days of the approval of this tentative map by filing a written protest with the City Clerk pursuant to California Government Code section 66020.
4. The final map shall conform to the provisions of Site Development Permit No. 388242, an Extension of Time to Resource Protection Ordinance Permit No. 8163.
5. The "General Conditions for Tentative Subdivision Maps," filed in the Office of the City Clerk under Document No. 767688 on May 7, 1980, shall be made a condition of map approval. Only those exceptions to the General Conditions which are shown on the tentative map and covered in these special conditions will be authorized.

All public improvements and incidental facilities shall be designed in accordance with criteria established in the Street Design Manual, filed with the City Clerk as Document No. 769830.

6. "Basis of Bearings" means the source of uniform orientation of all measured bearings

shown on the map. Unless otherwise approved, this source will be the California Coordinate System, Zone 6, North American Datum of 1983 (NAD 83).

7. "California Coordinate System" means the coordinate system as defined in Sections 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."
8. The final map 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.
  - b. Show two measured ties from the boundary of the map to existing Horizontal Control stations having California Coordinate values of Third Order accuracy or better. These tie lines to the existing control shall be shown in relation to the California Coordinate System (i.e., grid bearings and grid distances). All other distances shown on the map are to be shown as ground distances. A combined factor for conversion of grid-to-ground distances shall be shown on the map.
9. The approval of this tentative map by 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 Endangered Species Act of 1973 and any amendments thereto (16 U.S.C. § 1531 et seq.).
10. Prior to recordation of the final subdivision map by the City Council, the Subdivider shall provide evidence to ensure that an affirmative marketing program is established.
11. The Subdivider must provide a geologic reconnaissance report on the subject property to discover and address potential geological hazards. The report must be prepared in accordance with the most recent edition of the City of San Diego "Technical Guidelines for Geotechnical Reports." All slopes shall be constructed in accordance with the provisions of San Diego Municipal Code.
12. Undergrounding of existing and proposed public utility systems and service facilities is required according to San Diego Municipal Code Section 102.0404, Subsection 2.
13. Prior to building occupancy, the applicant shall conform to Section 62.0203 of the Municipal Code, "Public Improvement Subject to Desuetude or Damage." If repair or replacement of such public improvements is required, the owner shall obtain the required permits for work in the public right-of-way, satisfactory to the permit-issuing authority.

14. The drainage system proposed for this development, as shown on the approved tentative map, is subject to approval by the City Engineer.
15. The Subdivider shall obtain a bonded grading permit from the City Engineer for the grading proposed for this project. All grading shall conform to the requirements of the City of San Diego Municipal Code in a manner satisfactory to the City Engineer.
16. The applicant shall construct drainage detention basins, the design, location, and size of which are subject to approval by the City Engineer. The design shall be such that the discharge from the improved area will be no more than the discharge would have been from the land in the unimproved state. The applicant shall provide for the maintenance of the drainage detention facilities within a storage easement, satisfactory to the City Engineer.
17. The City Engineer is making a drainage study of the Otay Mesa border area. The study will propose a method to control runoff across the U.S./Mexico border. A method of financing the design, construction, and maintenance of these facilities will be established. This applicant may be required to contribute money for this purpose through a development agreement or other means determined by the City Engineer. Prior to the issuance of any building permits, the applicant shall enter into an agreement with the City waiving the right to oppose a special assessment initiated for these improvements.
18. Development of this project shall comply with all requirements of State Water Resources Control Board (SWRCB) Order No. 99-08 and the Municipal Storm Water Permit, Order No. 2001-01 (NPDES General Permit No. CAS000002 and CA S0108758), Waste Discharge Requirements for Discharges of Storm Water Runoff Associated With Construction Activity. In accordance with said permit, a Storm Water Pollution Prevention Plan (SWPPP) and a Monitoring Program Plan shall be implemented concurrently with the commencement of grading activities, and a Notice of Intent (NOI) shall be filed with the SWRCB.
19. A copy of the acknowledgment from the SWRCB that an NOI has been received for this project shall be filed with the City of San Diego when received; further, a copy of the completed NOI from the SWRCB showing the permit number for this project shall be filed with the City of San Diego when received. In addition, the owner(s) and subsequent owner(s) of any portion of the property covered by this grading permit and by SWRCB Order No. 99-08-DWQ, and any subsequent amendments thereto, shall comply with special provisions as set forth in Section C.7 of SWRCB Order No. 99-08-DWQ.
20. The Subdivider shall enter into a Maintenance Agreement for the ongoing permanent BMP maintenance, satisfactory to the City Engineer.

21. Prior to the issuance of any construction permits, the applicant shall incorporate and show the type and location of all post-construction Best Management Practices (BMP's) on the final construction drawings, consistent with the approved Water Quality Technical Report.
22. Street B is classified as a commercial local street. The Subdivider shall dedicate 84 feet of right-of-way and shall construct 64 feet of pavement, curb gutter and a five (5)-foot-wide sidewalk. The Subdivider shall also dedicate 92 feet of right-of-way for a portion of Street B and shall construct, within 200 feet of the intersection with Otay Mesa Road, 72 feet of pavement (an 18-foot southbound lane, a four (4)-foot raised center median, two (2) 12-foot northbound left turn lanes, a 12-foot northbound through lane, a 14-foot northbound through lane and a 14-foot northbound right turn lane, with curb, gutter and a five (5)-foot-wide sidewalk transitioning to the aforementioned 84-foot right-of-way. Finally, the Subdivider shall construct, at the southern terminus of Street B, a 55-foot curb radius cul-de-sac within 65 feet of right-of-way, including curb, gutter and a five (5) -foot sidewalk.
23. Street C is classified as a commercial local street. The Subdivider shall dedicate 40 feet of right-of-way along with right-of-way for a 65-foot right-of-way radius for a cul-de-sac, and shall construct the half width of Street "C" including 30 feet of pavement, curb, gutter and a five (5)-foot sidewalk within a 10-foot curb.
24. Environmental
- Prior to issuance of a grading or pre-grading permit from the City of San Diego for any portion of the project site, proof of an incidental take permit under Section 7 or Section 10(a) of the Federal Endangered Species Act relative to the California gnatcatcher shall be provided to the City Manager. If such permit is not required, written verification to that effect from the U.S. Fish and Wildlife Service shall be provided. Any project redesign required in obtaining a Section 7 or 10a permit will require reconsideration by the appropriate City decision making body.
25. The applicant shall comply with the Mitigation, Monitoring and Reporting Program (MMRP) as specified in Environmental Impact Report or Mitigated Negative Declaration, Project No. 3159, satisfactory to the City Manager and the City Engineer. Prior to issuance of any grading permits and/or building permits, mitigation measures as specifically outlined in the MMRP shall be implemented for Land Use/Biological Resources/Historical Resources (Archaeology)/Water Quality
26. Landscaping:
- a. No change, modification or alteration shall be made to the project unless

appropriate application or amendment of this Permit has been granted by the City.

All plan specifications and notes mentioned in the conditions below shall be consistent with the Land Development Code, Section 142.0401 and Landscape Standards, Exhibit "A," Landscape Development Plan, Brush Management Plan, details and notes on file in the Office of the Development Services.

- b. All required landscape plant materials shall be maintained 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.
- c. The Permittee or subsequent owner shall be responsible for the maintenance of all street trees and landscape improvements (right-of-way and median landscaping) consistent with the Landscape Standards.
- d. The Permittee or subsequent owner shall be responsible for the maintenance of all street trees and landscape improvements (right-of-way and median landscaping) consistent with the Landscape Standards. A Landscape Maintenance Agreement and bond shall be entered into prior to issuance of any grading or construction permit. The agreement and bond shall be renewed each year until such time that another approved entity assumes responsibility such as a home owners association or a Landscape Maintenance District.
- e. If any required landscape improvements (including existing or new planting, hardscape, landscape features, etc.) are damaged or removed during demolition or construction, they shall be repaired and/or replaced in kind and equivalent size per the approved documents to the satisfaction of the City Manager, within 30 days of damage and prior to any Certificate of Occupancy.
- f. Prior to the issuance of any engineering permits for grading or improvement the Permittee shall complete a Maintenance Assessment District Agreement form for early confirmation.
- g. In the event that a foundation only permit is requested by the Permittee or subsequent owner, a site plan or staking layout plan shall be submitted identifying all landscape areas consistent with Exhibit "A," Landscape Development Plan, on file in the Office of Development Services. These landscape areas shall be clearly identified with a distinct symbol, noted with dimensions and labeled as landscaping area.
- h. In the event that any mass grading permit is requested by the Permittee or subsequent owner, complete landscape construction documents for revegetation

and erosion control, including an automatic permanent irrigation system, shall be submitted to the Development Services Department, Land Development Review Section for approval. The plans shall be in substantial conformance to Exhibit "A," on file in the office of the Development Services Department.

- i. Prior to issuance of any construction permits for structures (including shell), complete landscape and irrigation construction documents consistent with the Landscape Standards (including planting and irrigation plans, details and specifications) shall be submitted to the City Manager for approval. The construction documents shall be in substantial conformance with Exhibit "A," Landscape Development Plan, on file in the Office of Development Services Department.
- j. In the event that any construction permit for parking structures is requested, the Permittee or subsequent owner shall submit on the planting and irrigation plans a signed statement by a Registered Structural Engineer indicating that supporting structures are designed to accommodate the necessary structural loads and associated planting and irrigation.
- k. Prior to issuance of any engineering permits for right-of-way improvements, complete landscape construction documents for right-of-way improvements shall be submitted to the City Manager for approval. Improvement plans shall take into account a 40 square feet 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.
- l. Prior to issuance of any engineering permits for private drive improvements, complete landscape construction documents for private drive improvements shall be submitted to the City Manager for approval. Improvement plans shall take into account a 40 square feet 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.
- m. Prior to issuance of any engineering permits for grading, construction documents for slope planting (if applicable) or revegetation including hydroseeding and irrigation shall be submitted in accordance with the Landscape Standards and to the satisfaction of the City Manager. All plans shall be in substantial conformance with Exhibit "A," (including Environmental conditions) on file in the Office of Development Service Department.
- n. Installation of slope planting and erosion control including seeding of all disturbed land (slopes and pads) consistent with the approved landscape and

grading plans is considered to be in the public interest. The Permittee shall initiate such measures as soon as the grading has been accomplished. Such erosion control/slope planting and the associated irrigation systems (temporary and/or permanent) and appurtenances shall be installed in accordance with the approved plans and the Landscape Standards.

- o. Prior to issuance of any Certificate of Occupancy, it shall be the responsibility of the Permittee or subsequent owner to install all required landscape and obtain all required landscape inspections. A No Fee Street Tree Permit, if applicable, shall be obtained for the installation, establishment and on-going maintenance of all street trees.
- p. Prior to the recording of the (parcel/final map), the Permittee or subsequent owner/developer shall submit for review, a Landscape Maintenance Agreement for all landscape improvements within and visible from the public right-of-way. The approved Landscape Maintenance Agreement shall be recorded and bonded prior to recording of the (parcel/final map).
- q. The Permittee or subsequent owner(s) shall be responsible for the installation and maintenance of all landscape improvements consistent with the Landscape Regulation and Landscape Standards. Invasive species are prohibited from being planted adjacent to any canyon, water course, wet land or native habitats within the city limits of San Diego as noted in Section 1.3 of the Landscape Standards.

#### 27. Brush Management Requirements

- a. The Permittee shall implement the following requirements in accordance with the Brush Management Program shown on Exhibit "A," Brush Management Program/Landscape Development Plan, on file in the Office of the Development Services Department.
- b. Prior to issuance of permits or recording of final maps, all easements or right of entry permits for the purpose of Brush Management shall be obtained.
- c. Prior to issuance of any engineering permits for grading, complete Brush Management, planting and irrigation plans, details and specifications (including maintenance specifications), shall be submitted to the City Manager for approval. All plans shall indicate the brush management zones depths by dimension.
- d. Prior to final inspection and issuance of any Certificate of Occupancy for any building, the approved Brush Management Program shall be implemented.

- e. In all brush management zones the plant material shall be selected to visually blend with the existing vegetation. No invasive plant material shall be permitted as determined by the Landscape Section of Development Services Department.
  - f. The Brush Management Maintenance Program as noted on Exhibit "A," shall be performed annually by the Permittee or subsequent owner or until such time that another approved entity such as a project association or a Landscape Maintenance District assumes annual responsibility.
  - g. Provide Brush Management plants that are visually and horticulturally compatible with the native vegetation.
28. The Site Development Permit No. 388242, an Extension of Time to Resource Protection Ordinance Permit No. 8163, shall comply with the conditions of the Final Map for Vesting Tentative Map No. 362532.
29. Transportation Requirements
- a. The Subdivider shall relinquish access rights along project frontage on Otay Mesa Road.
  - b. The Subdivider shall construct a second left turn lane on Otay Mesa Road at its intersection with Street "B."
  - c. The Subdivider shall assure by permit and bond, construction of an eastbound exclusive right turn lane with 500-feet of storage and proper transition on Otay Mesa Road at its intersections with "B" Street, satisfactory to the City Engineer.
  - d. The Subdivider shall assure by permit and bond, construction of private driveway "A" between Street "B" and Street "C" with 50 feet of pavement within 70 feet of private general utility easement with curb, gutter and 5-foot sidewalk on both sides of the street and raised center median at both ends of the streets within 200 feet of the intersections with Street "B" and Street "C."
  - e. The Subdivider shall construct half width improvements for Street "C" including 30 feet of pavement, curb, gutter and 5-foot sidewalk within a 10-foot curb to property line distance with 55-foot curb radius cul-de-sac turnaround at the southern end.
  - f. The Subdivider shall construct an eastbound exclusive right turn lane with 200 feet of storage and a proper transition on Otay Mesa Road at its intersection with Street "C."



- g. The Subdivider shall construct a second eastbound left turn lane and one exclusive westbound right turn lane at the intersection of Otay Mesa Road and Ocean View Hills Parkway, satisfactory to the City Engineer.
- h. The Subdivider shall construct a second westbound left turn lane at the intersection of Otay Mesa Road and Ocean View Hills Parkway. The Subdivider may enter into a deferred improvement agreement with City of San Diego for this improvement.
- i. The Subdivider shall construct the second half (western half) of Street "C" to provide 60 feet of pavement, curb, gutter and 5-foot sidewalk within a 10-foot typical curb-to-property-line distance on the west side. The Subdivider may enter into a deferred improvement agreement with City of San Diego for this improvement.
- j. The Subdivider shall construct a westbound left turn lane at the intersection of Otay Mesa Road/Street "C." The Subdivider may enter into a deferred improvement agreement with City of San Diego for this improvement.
- k. The Subdivider shall construct a traffic signal at the intersection of Otay Mesa Road and Street "C." The Subdivider may enter into a deferred improvement agreement with City of San Diego for this improvement.
- l. The Subdivider shall provide an Irrevocable Offer of Dedication (IOD) for half of the cul-de-sac on Lot 12 at the western end of Camino Maquiladora with a 55-foot curb radius turnaround within 65 feet of right-of-way.

### 30. Wastewater Requirements

- a. The developer shall construct the Otay Mesa Trunk Sewer Phase II or enter into a development agreement to pay their fair share cost of the trunk sewer in proportion to the ultimate zoned use of the property being developed, in accordance with the City's Sewer Design Guide.
- b. The developer shall install all sewer facilities required by the accepted sewer study, necessary to serve this development. Sewer facilities as shown on the approved tentative map will require modification based on the accepted sewer study.
- c. The developer shall design and construct all proposed public sewer facilities to the most current edition of the City of San Diego's sewer design guide. Proposed

facilities that do not meet the current standards shall be re-designed.

- d. The developer shall design and construct all proposed private sewer facilities serving more than one lot to the most current edition of the City of San Diego's sewer design guide. Improvement drawings are required for private sewer facilities serving more than one lot.
- e. Prior to the issuance of any building permits, the applicant shall process and record a NOTICE & AGREEMENT for each ownership being served by a private pump station/sewer facilities which serves more than one ownership, which indemnifies the City and contains an agreement that the applicant, and successors in interest, will be responsible for the operation and maintenance of the private sewer systems.
- f. The developer shall obtain a building permit for any private pump station serving a condominium project or more than one lot.
- g. The developer shall provide, satisfactory to the Metropolitan Wastewater Department Director, CC&R's for the operation and maintenance of on-site private sewer facilities that serve more than one lot.
- h. No structures or landscaping, including private sewer facilities and enhanced paving, shall be installed in or over any easement or street right-of-way prior to the applicant obtaining an Encroachment Maintenance and Removal Agreement.
- i. Providing sewer for this development is dependent upon prior construction of certain portions of the Otay Mesa Trunk Sewer Phase II. If they have not been constructed when required for this development, then the construction of certain portions of these sewer facilities, as required by the City Engineer, will become off-site improvements required for this development.

### 31. Water Requirements

- a. The Subdivider shall design and construct a system of public 16-inch water facilities within Street "B," Street "C," and Private Driveway "A," with two points of connection to the Otay Mesa Pipeline, in a manner satisfactory to the Water Department Director and the City Engineer.
- b. The Subdivider shall design and construct a public 16-inch water main extension within Otay Mesa Road, east of Street "B," to serve Lot 12 if Camino Maquiladora is not fully improved with public water facilities, in a manner satisfactory to the Water Department Director and the City Engineer.

- c. The Subdivider shall install fire hydrants at locations satisfactory to the Water Department, the Fire Department and the City Engineer.
- d. The Subdivider shall grant adequate water easements, including vehicular access to each appurtenance (meters, blow offs, valves, fire hydrants, etc.), over the entire Lot A, satisfactory to the Water Department Director.
- e. Grants of water easements shall be of sufficient width to accommodate a minimum 24-foot wide fully paved vehicular access road with full height curbs, and 4-feet behind curb or sidewalk. Easements shall accommodate two-way traffic. Easements or lack thereof, as shown on the approved tentative map, will require modification based on standards at final engineering.
- f. The Subdivider shall design and construct all irrigations systems to utilize reclaimed water in a manner satisfactory to the Water Department Director.
- g. The Subdivider agrees to design and construct all proposed public water facilities, including services, meters, and easements, 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. Water facilities, as shown on the approved tentative map, shall be modified at final engineering to comply with standards.

### 32. Open Space Requirements

- a. Lots 9 and 10 shall be deeded, at no cost, to the city for open space; said lots shall be free and clear of all private encroachments, private easements, private agreements and/or liens.
- b. An open space easement is required on the 40-foot deep Zone 2 for brush management across Lots 6, 7 and 8.
- c. The brush management zones adjacent to Lots 6 through 8 shall be made into a separate lot and have an open space easement over Zone Two.
- d. Brush management Zones 1, 2 and 3 or modified Zones 1 and 2 must be provided between Lot 8 and Lot 9 and Zone Two must have an open space easement. This will require a new lot and it is understood that Lot 9 will be reduced in size.

### 33. Multiple Species Conservation Program (MSCP) Requirements

- a. In accordance with authorization granted to the City of San Diego from the United States Fish and Wildlife Service (USFWS) pursuant to Section 10(a) of the ESA and by the California Department of Fish and Game (CDFG) pursuant to Fish and Game Code section 2835 as part of the Multiple Species Conservation Program (MSCP), the City of San Diego through the issuance of this Permit hereby confers upon Permittee the status of Third Party Beneficiary as provided for in Section 17 of the City of San Diego Implementing Agreement (IA), executed on July 17, 1997 and on File in the Office of the City Clerk as Document No. 00-18394. Third Party Beneficiary status is conferred upon Permittee by the City: (1) to grant Permittee the legal standing and legal right to utilize the take authorizations granted to the City pursuant to the MSCP within the context of those limitations imposed under this Permit and the IA, and (2) to assure Permittee that no existing mitigation obligation imposed by the City of San Diego pursuant to this Permit shall be altered in the future by the City of San Diego, USFWS or CDFG, except in the limited circumstances described in Sections 9.6 and 9.7 of the IA.
- b. If mitigation lands are identified but not yet dedicated or preserved in perpetuity, maintenance and continued recognition of Third Party Beneficiary status by the City is contingent upon Permittee maintaining the biological values of any and all lands committed for mitigation pursuant to this Permit and of full satisfaction by Permittee of mitigation obligations required by this Permit, as described in accordance with Section 17.1D of the IA.
- c. The applicant shall comply with the Mitigation, Monitoring and Reporting Program (MMRP) as specified in the Environmental Documentation for the "Otay Mesa East Project" (Project No. 3159, SCH No. 2003051060), satisfactory to the City Manager and the City Engineer, for the following issues areas to ensure compliance with the MSCP and MHPA Land Use Adjacency Guidelines: Land Use, Biological Resources and Water Quality.
- d. In addition, the following conditions shall apply: Operational Noise: Prior to issuance of any building occupancy permits, the sewer pump station proposed adjacent to the existing Otay Mesa Road wildlife under crossing shall be constructed, to the satisfaction of the City Manager and City Engineer, to ensure that operational noise does not impact wildlife movement, including: 1) designing the facility below-ground; 2) encasing it in concrete; 3) providing perimeter berms and native screening vegetation; and, 4) shielding/directing all necessary lighting away from the MHPA.
- e. Edge Treatment: Prior to issuance of any building occupancy permits, the applicant shall construct a six-foot-high black vinyl-coated chain link fence along areas adjacent to the MHPA, including the rear of proposed Lots 6, 7 and 8,

satisfactory to the City Manager and the City Engineer. The fencing shall be appropriately maintained at all times by the owner/Permittee/trustee. Any necessary future fence repairs shall be conducted in a manner which does not result in impacts to sensitive biology resource or wildlife movement.

- f. **Brush Management:** Prior to recordation of the first final map and/or issuance of any grading permits, the City Manager shall verify that all brush management zone 2 is located outside the limits of the on-site vernal pool watershed areas and retained within the proposed lots.
- g. **Drainage:** Prior to recordation of the first final map and/or issuance of any grading permits, the City Manager and City Engineer shall verify that on-site drainage for all lots, including proposed lot no. 8, is designed to avoid discharging into the on-site vernal pool watershed areas.
- h. Prior to recordation of the first final map and/or issuance of any grading permits, the on-site MHPA shall be conserved and conveyed to the City's MHPA through either dedication in fee to the City, OR placement in a conservation easement OR covenant of easement, which is then recorded on the property. For brush management zone two and any proposed revegetation areas within the MHPA, a conservation easement would be appropriate. All other areas could be conveyed through any of the three above methods. Management of the on-site preserved MHPA shall be the responsibility of the owner/Permittee/trustee in perpetuity, unless the City accepts responsibility through dedication in fee title. Note: Any proposed dedication of land in-fee to the City outside the MHPA will require approval from the Park and Recreation Department.

#### FOR INFORMATION:

- This development may be subject to payment of a park fee prior to the filing of the final subdivision map in accordance with San Diego Municipal Code section 102.0406 et seq. This property is also subject to a building permit park fee in accordance with San Diego Municipal Code Section 96.0401 et seq.
- This development may be subject to payment of School Impact Fees at the time of issuance of building permits, as provided by California Government Code Section 53080(b) (Statutes of 1986, Chapter 887), in accordance with procedures established by the Director of Building Inspection.
- This tentative map will be subject to fees and charges based on the rate and calculation method in effect at the time of payment.

- This development will be subject to impact fees, as established by the City Council at the time of issuance of building permits.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF SAN DIEGO,  
CALIFORNIA, ON \_\_\_\_\_, 2006.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By \_\_\_\_\_

NAME

Deputy City Attorney

ATTY/SEC. INITIALS

DATE

R- INSERT

Reviewed by Jeffrey A. Peterson, Development Project Manger

(R-XXXXXXX)

RESOLUTION NUMBER R-XXXX

ADOPTED ON \_\_\_\_\_, 2006

Attachment 15  
PC Report No. P-06-0279

WHEREAS, GERALD HANDLER, Owner/Permittee, filed an application with the City of San Diego for a Extension of Time to Resource Protection Ordinance Permit No. 8163 to redevelop a vacant 45.5-acre site into 14 lots for commercial and open space (as described in and by reference to the approved Exhibits "A" and corresponding conditions of approval for the associated Site Development Permit No. 388242), and legally described as the northeast quarter of the northwest quarter of Section 32, Township 18 South, Range 1 West, San Bernardino base and meridian, in the County of San Diego, State of California, according to the official plat thereof and the west quarter of the northwest quarter of Section 32, Township 18 South, Range 1 West, San Bernardino base and meridian, in the County of San Diego, State of California, according to the official plat thereof; and

WHEREAS, on November 9, 2006, the Planning Commission of the City of San Diego considered Site Development Permit No. 388242, an Extension of Time to Resource Protection Ordinance Permit No. 8163, and pursuant to Resolution No. \_\_\_\_\_ voted to recommend City Council approval of the permit; and

WHEREAS, the matter was set for public hearing on \_\_\_\_\_, 2006, testimony having been heard, evidence having been submitted, and the City Council having fully considered the matter and being fully advised concerning the same; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that it adopts the following findings with respect to Site Development Permit No. 388242:

**Extension of Time of a Development Permit - Section 126.0111**

1. **The project as originally approved and without any new conditions would not place the occupants of the proposed development or the immediate community in a condition dangerous to their health or safety.**

The Owner/Permittee requested an Extension of Time prior to the expiration of the Resource Protection Ordinance Permit (RPO) for the proposed Otay Mesa East project. The property owner has not obtained any construction permits or processed a final map for the proposed development site and does not request any changes to the proposed development layout, approved by City Council on September 16, 2003, by Resolution No. R-298380.

The original Otay Mesa East application was submitted and deemed complete on June 9, 1999, prior to the new code update that became effective on January 1, 2000. The project was approved based on the old zoning code regulations that were in affect; however, the project did incorporate the new storm water requirements prior to its approval and has been designed in accordance with the City's Storm Water Standards. Therefore, no additional permit conditions are necessary to protect the health and safety of the local community served by this development.

2. **New conditions are necessary to comply with applicable state or federal law.**

The original Otay Mesa East application was submitted and deemed complete on June 9, 1999, prior to the new code update that became effective on January 1, 2000. The project was approved based on the old zoning code regulations that were in affect; however, the project did incorporate the new storm water requirements prior to its approval and has been designed in accordance with the City's Storm Water Standards. Therefore, no additional permit conditions are necessary to comply with applicable state or federal law.

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. 388242 is granted to GERALD HANDLER, Owner/Permittee, under the terms and conditions set forth in the permit attached hereto and made a part hereof.



APPROVED: MICHAEL AGUIRRE, City Attorney

By \_\_\_\_\_  
NAME  
Deputy City Attorney

ATTY/SEC. INITIALS

DATE

Or.Dept:Clerk

R-XXXXX

Form=permitr.frm(61203wct)

Reviewed by Jeffrey A. Peterson, Development Project Manger

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

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

SPACE ABOVE THIS LINE FOR RECORDER'S USE

JOB ORDER NUMBER: 42-6720

**SIDE DEVELOPMENT PERMIT NO. 388242 (MMRP)**  
**OTAY MESA EAST – PROJECT NO. 108628**  
EXTENSION OF TIME TO RESOURCE PROTECTION ORDINANCE  
PERMIT NO. 8163  
CITY COUNCIL

This Site Development Permit No. 388242, an Extension of Time to Resource Protection Ordinance Permit No. 8163, is granted by the City Council of the City of San Diego to GERALD HANDLER, Owner/Permittee pursuant to San Diego Municipal Code [SDMC] section 126.0111. The site is located in the 6600 block of Otay Mesa Road in the Otay Mesa Community Planning area. The project site is legally described as the northeast quarter of the northwest quarter of Section 32, Township 18 South, Range 1 West, San Bernardino base and meridian, in the County of San Diego, State of California, according to the official plat thereof and the west quarter of the northwest quarter of Section 32, Township 18 South, Range 1 West, San Bernardino base and meridian, in the County of San Diego, State of California, according to the official plat thereof.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner /Permittee to develop a 45.5-acre, vacant site with commercial development consistent with the OMDD-C Zone for commercial lots, described as, and identified by size, dimension, quantity, type and location on the approved Exhibits "A," dated \_\_\_\_\_, 2006 on file in the Office of the Development Services Department.

The project or facility shall include:

- a. Nine commercial lots (Lots 1-8 and 12);
- b. Three open space lots (Lots 9-10 and 13);
- c. Construction of a private underground sewer pump station on 0.4-acre located at the northeast corner of the site (Lot 11);

- d. Preservation of 1.3-acres wild of corridor;
- e. Preservation of Multiple Habitat Planning Area (MHPA) in the northeast corner of the site adjacent to the existing six-foot wildlife underground tunnel at Otay Mesa Road and Corporate Center Drive;
- f. Four acres to be designated as open space to protect the MHPA on the southern boundary of the site;
- g. Six acres on the eastern boundary of the project site to be designated as open space, including a fenced preserve for 22 existing vernal pools and one (1) road pool located in the southeast corner of the property;
- h. Landscaping (planting, irrigation and landscape related improvements); and
- i. Accessory improvements determined by the City Manager 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 Municipal Code in effect for this site.

**STANDARD REQUIREMENTS:**

1. Construction, grading or demolition must commence and be pursued in a diligent manner within thirty-six months after the effective date of final approval by the City, following all appeals. Failure to utilize the permit within thirty-six months will automatically void the permit unless an Extension of Time has been granted. Any such Extension of Time must meet all the SDMC requirements and applicable guidelines in effect 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 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. 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 City Manager.
4. This permit is a covenant running with the subject property and shall be binding upon the 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 utilization and continued use of this permit shall be subject to the regulations of this and any other applicable governmental agencies.

6. Issuance of this permit by the City of San Diego does not authorize the applicant for said permit 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 U.S.C. Section 1531 et seq.)

7. The Owner/Permittee shall secure all necessary building permits. The applicant is informed that to secure these permits, substantial modifications to the building and/or site improvements to comply with applicable building, fire, mechanical and plumbing codes and State law requiring access for disabled people may be required.

8. Before issuance of any building or grading permits, complete grading and working drawings shall be submitted to the City Manager for approval. Plans shall be in substantial conformity to Exhibit "A," on file in the Office of the Development Services Department. No change, modifications or alterations shall be made unless appropriate applications or amendment of this permit shall 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 discretionary 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 special rights which the holder of the Permit is obtaining as a result of this Permit. It is the intent of the City that the Owner of the property which is the subject of this Permit either utilize the property for any use allowed under the zoning and other restrictions which apply to the property or, in the alternative, that the Owner of the property be allowed the special and extraordinary rights conveyed by this Permit, but only if the Owner complies with all the conditions of the 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 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. Prior to issuance of any grading permits for this project, a final subdivision map shall be recorded on the subject property.

11. Rezoning of the subject property shall become effective with recordation of the corresponding final subdivision map for the project site.

12. 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 Exhibits "A," on file in the Office of the Development Services Department).

**ENVIRONMENTAL/MITIGATION REQUIREMENTS:**

13. The applicant shall comply with the Mitigation, Monitoring and Reporting Program (MMRP) as specified in Environmental Impact Report or Mitigated Negative Declaration, Project No. 3159, satisfactory to the City Manager and the City Engineer. Prior to issuance of any grading permits and/or building permits, mitigation measures as specifically outlined in the MMRP shall be implemented for Land Use/Biological Resources/Historical Resources (Archaeology)/Water Quality

**PLANNING/DESIGN REQUIREMENTS:**

14. Hillsides and environmentally sensitive lands that are undisturbed or restored as a result of the development must be conserved through a deed restriction, open space easement or other restriction that will preclude any future development or grading of such lands. The restriction must be acceptable to the City Attorney and to the Development Services Director.

15. There shall be compliance with the regulations of the underlying zone(s) unless a deviation or variance to a specific regulation(s) is approved or granted as condition of approval of this permit. Where there is a conflict between a condition (including exhibits) of this permit and a regulation of the underlying zone, the regulation shall prevail unless the condition provides for a deviation or variance from the regulations. Where a condition (including exhibits) of this permit establishes a provision which is more restrictive than the corresponding regulation of the underlying zone, then the condition shall prevail.

16. The height(s) of the building(s) or structure(s) shall not exceed those heights set forth in the conditions and the exhibits (including, but not limited to, elevations and cross sections) or the maximum permitted building height of the underlying zone, whichever is lower, unless a deviation or variance to the height limit has been granted as a specific condition of this Permit.

17. A topographical survey conforming to the provisions of the Land Development Code 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 Permittee.

18. Any future requested amendment to this permit shall be reviewed for compliance with the regulations of the underlying zone(s) which are in effect on the date of the submittal of the requested amendment.

19. All signage associated with this development shall be consistent with sign criteria established by either of the following:

- a. Approved project sign plan (Exhibit "A," on file in the Office of the Development Services Department); or
- b. Citywide sign regulations.

20. 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.

21. The use of textured or enhanced paving shall meet applicable City standards as to location, noise and friction values.
22. The subject property and associated common areas on site shall be maintained in a neat and orderly fashion at all times.
23. All uses, except storage and loading, shall be conducted entirely within an enclosed building. Outdoor storage of merchandise, material and equipment is permitted in any required interior side or rear yard, provided the storage area is completely enclosed by walls, fences or a combination thereof. Walls or fences shall be solid and not less than six feet in height and, provided further, that no merchandise, material or equipment stored not higher than any adjacent wall.
24. No merchandise, material or equipment shall be stored on the roof of any building.
25. No mechanical equipment shall be erected, constructed, or enlarged on the roof of any building on this site, unless all such equipment is contained within a completely enclosed architecturally integrated structure.
26. Prior to the issuance of building permits, construction documents shall fully illustrate compliance with the Citywide Refuse and Recyclable Materials Storage Regulations (Land Development Code Section 142.0801) to the satisfaction of the City Manager. All exterior storage enclosures for trash and recyclable materials shall be located in a manner that is convenient and accessible to all occupants of and service providers to the project, in substantial conformance with the conceptual site plan marked Exhibit(s) "A," on file in the Office of the Development Services Department.

#### **LANDSCAPE REQUIREMENTS:**

27. No change, modification or alteration shall be made to the project unless appropriate application or amendment of this Permit has been granted by the City. All plan specifications and notes mentioned in the conditions below shall be consistent with the Land Development Code, Section 142.0401 and Landscape Standards, Exhibit "A," Landscape Development Plan, Brush Management Plan, Details and Notes on file in the Office of the Development Services Department.
28. All required landscape plant materials shall be maintained 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.
29. The Permittee or subsequent Owner shall be responsible for the maintenance of all street trees and landscape improvements (right-of-way and median landscaping) consistent with the Landscape Standards.
30. The Permittee or subsequent Owner shall be responsible for the maintenance of all street trees and landscape improvements (right-of-way and median landscaping) consistent with the Landscape Standards. A Landscape Maintenance Agreement and bond shall be entered into prior to issuance of any grading or construction permit. The agreement and bond shall be renewed each year until such time that another approved entity assumes responsibility such as a home owners association or a Landscape Maintenance District.

31. If any required landscape improvements (including existing or new planting, hardscape, landscape features, etc.) are damaged or removed during demolition or construction, they shall be repaired and/or replaced in kind and equivalent size per the approved documents to the satisfaction of the City Manager, within 30 days of damage and prior to any Certificate of Occupancy.
32. Prior to the issuance of any engineering permits for grading or improvement the Permittee shall complete a Maintenance Assessment District Agreement form for early confirmation.
33. In the event that a foundation only permit is requested by the Permittee or subsequent Owner, a site plan or staking layout plan shall be submitted identifying all landscape areas consistent with Exhibit "A," Landscape Development Plan, on file in the Office of Development Services Department. These landscape areas shall be clearly identified with a distinct symbol, noted with dimensions and labeled as landscaping area.
34. In the event that any mass grading permit is requested by the Permittee or subsequent Owner, complete landscape construction documents for revegetation and erosion control, including an automatic permanent irrigation system, shall be submitted to the Development Services Department, Land Development Review Section for approval. The plans shall be in substantial conformance to Exhibit "A," on file in the office of the Development Services Department.
35. Prior to issuance of any construction permits for structures (including shell), complete landscape and irrigation construction documents consistent with the Landscape Standards (including planting and irrigation plans, details and specifications) shall be submitted to the City Manager for approval. The construction documents shall be in substantial conformance with Exhibit "A," Landscape Development Plan, on file in the Office of Development Services Department.
36. In the event that any construction permit for parking structures is requested, the Permittee or subsequent Owner shall submit on the planting and irrigation plans a signed statement by a Registered Structural Engineer indicating that supporting structures are designed to accommodate the necessary structural loads and associated planting and irrigation.
37. Prior to issuance of any engineering permits for right-of-way improvements, complete landscape construction documents for right-of-way improvements shall be submitted to the City Manager for approval. Improvement plans shall take into account a 40 square feet 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.
38. Prior to issuance of any engineering permits for private drive improvements, complete landscape construction documents for private drive improvements shall be submitted to the City Manager for approval. Improvement plans shall take into account a 40 square feet 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.
39. Prior to issuance of any engineering permits for grading, construction documents for slope planting (if applicable) or revegetation including hydroseeding and irrigation shall be submitted in accordance with the Landscape Standards and to the satisfaction of the City Manager. All

plans shall be in substantial conformance with Exhibit "A," (including Environmental conditions) on file in the Office of Development Service Department.

40. Installation of slope planting and erosion control including seeding of all disturbed land (slopes and pads) consistent with the approved landscape and grading plans is considered to be in the public interest. The Permittee shall initiate such measures as soon as the grading has been accomplished. Such erosion control/slope planting and the associated irrigation systems (temporary and/or permanent) and appurtenances shall be installed in accordance with the approved plans and the Landscape Standards.

41. Prior to issuance of any Certificate of Occupancy, it shall be the responsibility of the Permittee or subsequent Owner to install all required landscape and obtain all required landscape inspections. A No Fee Street Tree Permit, if applicable, shall be obtained for the installation, establishment and on-going maintenance of all street trees.

42. Prior to the recording of the (parcel/final map), the Permittee or subsequent Owner/Developer shall submit for review, a Landscape Maintenance Agreement for all landscape improvements within and visible from the public right-of-way. The approved Landscape Maintenance Agreement shall be recorded and bonded prior to recording of the (parcel/final map).

43. The Permittee or subsequent Owner(s) shall be responsible for the installation and maintenance of all landscape improvements consistent with the Landscape Regulation and Landscape Standards. Invasive species are prohibited from being planted adjacent to any canyon, water course, wet land or native habitats within the city limits of San Diego as noted in Section 1.3 of the Landscape Standards.

#### **BRUSH MANAGEMENT REQUIREMENTS:**

44. The Permittee shall implement the following requirements in accordance with the Brush Management Program shown on Exhibit "A," Brush Management Program/Landscape Development Plan, on file in the Office of the Development Services Department.

45. Prior to issuance of permits or recording of final maps, all easements or right of entry permits for the purpose of Brush Management shall be obtained.

46. Prior to issuance of any engineering permits for grading, complete Brush Management, planting and irrigation plans, details and specifications (including maintenance specifications), shall be submitted to the City Manager for approval. All plans shall indicate the brush management zones depths by dimension.

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

48. In all brush management zones the plant material shall be selected to visually blend with the existing vegetation. No invasive plant material shall be permitted as determined by the Landscape Section of Development Services Department.



49. The Brush Management Maintenance Program as noted on Exhibit "A," shall be performed annually by the Permittee or subsequent Owner or until such time that another approved entity such as a project association or a Landscape Maintenance District assumes annual responsibility.
50. Provide Brush Management plants that are visually and horticulturally compatible with the native vegetation.

**ENGINEERING REQUIREMENTS:**

51. Grading permit, post-construction BMP's based on the Water Quality Technical Report, improvements to the right-of-way for tow (2) streets, detention basins, flood water storage easements, NPDES Permit, 1911 waiver for future Otay-Mesa-wide drainage improvements, inter alia.
52. The Site Development Permit No. 388242 shall comply with the conditions of the Final Map for Vesting Tentative Map No. 362532.

**TRANSPORTATION REQUIREMENTS:**

53. Prior to the recordation of first final map, Subdivider shall relinquish access rights along project frontage on Otay Mesa Road, satisfactory to the City Engineer.
54. Prior to the recordation of the first final map, Subdivider shall assure by permit and bond, construction of Street "B" with 64 feet curb to curb within 84 feet right-of-way including curb, gutter and 5-foot sidewalk within 10-foot curb to property line distance on both sides of the street with 55-foot curb radius cul-de-sac turnaround at the southern end, satisfactory to the city Engineer.
55. Prior to the recordation of the first final map, Subdivider shall assure by permit and bond, construction of Street "B" within 200 feet of its intersection with Otay Mesa Road with 72 feet of curb to curb pavement (18-foot southbound lane, 4-foot raised center median, two 12-foot northbound left turn lanes, 12-foot northbound through lane, 14-foot northbound right turn lane) within 92 feet of right-of-way including curb, gutter and 5-foot sidewalk within 10-foot curb to property line distance on both sides of the street transiting to a 64 feet curb to curb width within 84 feet right-of-way with 55-foot curb radius cul-de-sac turnaround at the southern end within 65 feet right-of-way, satisfactory to the City Engineer.
56. Prior to the recordation of the first final map, Subdivider shall assure by permit and bond, construction of a second left turn lane on Otay Mesa Road at its intersection with Street "B," satisfactory to the City Engineer.
57. Prior to the recordation of the first final map, Subdivider shall assure by permit and bond, construction of an eastbound exclusive right turn lane with 500-feet of storage and proper transition on Otay Mesa Road at its intersections with Street "B," satisfactory to the City Engineer.
58. Prior to the recordation of the first final map, Subdivider shall assure by permit and bond, construction of private Street "A" between Street "B" and Street "C" with 50 feet of pavement within 70 feet of private general utility easement with curb, gutter and 5-foot sidewalk on both

sides of the street and raised center median at both ends of the streets within 200 feet of intersection with Street "B" and Street "C," satisfactory to the City Engineer.

59. Prior to the recordation of the first final map, Subdivider shall assure by permit and bond, construction of half width of Street "C" including 30 feet of pavement, curb, gutter and 5-foot sidewalk within 10-foot curb to property line distance with 55-foot curb radius cul-de-sac turnaround at the southern end, satisfactory to the City Engineer.

60. Prior to the recordation of the first final map, Subdivider shall assure by permit and bond construction of a eastbound exclusive right turn lane with 200 feet of storage and proper transition on Otay Mesa Road at its intersection with Street "C," satisfactory to the City Engineer.

61. Prior to the recordation of the first final map, Subdivider shall assure by permit and bond, construction of second eastbound left turn lane and one exclusive westbound right turn lane at the intersection of Otay Mesa Road/Ocean View Hills Parkway, satisfactory to the City Engineer.

62. Prior to the recordation of the first final map, Subdivider shall assure by permit and bond, construction of second westbound left turn lane at the intersection of Otay Mesa Road/Ocean View Hills Parkway, satisfactory to the City Engineer. Subdivider may enter into a deferred improvement agreement with City of San Diego for this improvement.

63. Prior to the recordation of the first final map, Subdivider shall assure by permit and bond, construction of the second half (western half) of Street "C" to provide 60 feet of pavement, curb, gutter and 5-foot sidewalk within 10-foot curb to property line distance on the west side, satisfactory to the City Engineer. Subdivider may enter into a deferred improvement agreement with City of San Diego for this improvement.

64. Prior to the recordation of the first final map, Subdivider shall assure by permit and bond, construction of a westbound left turn lane at the intersection of Otay Mesa Road/Street "C," satisfactory to the City Engineer. Subdivider may enter into a deferred improvement agreement with City of San Diego for this improvement.

65. Prior to the recordation of the first final map, Subdivider shall assure by permit and bond, construction of a traffic signal at the intersection of Otay Mesa Road / Street "C," satisfactory to the City Engineer. Subdivider may enter into a deferred improvement agreement with City of San Diego for this improvement.

66. Prior to the recordation of the first final map, Subdivider shall provide an Irrevocable Offer of Dedication (IOD) for half of the cul-de-sac on Lot 12 at the western end of Camino Maquiladora with 55-foot curb radius turn around within 65 feet of right-of-way, satisfactory to the City Engineer.

#### **WASTEWATER REQUIREMENTS:**

67. The developer shall construct the Otay Mesa Trunk Sewer Phase II or enter into a development agreement to pay their fair share cost of the trunk sewer in proportion to the ultimate zoned use of the property being developed, in accordance with the City's Sewer Design Guide.

68. The developer shall install all sewer facilities required by the accepted sewer study, necessary to serve this development. Sewer facilities as shown on the approved tentative map will require modification based on the accepted sewer study.
69. The developer shall design and construct all proposed public sewer facilities to the most current edition of the City of San Diego's sewer design guide. Proposed facilities that do not meet the current standards shall be re-designed.
70. The developer shall design and construct all proposed private sewer facilities serving more than one lot to the most current edition of the City of San Diego's sewer design guide. Improvement drawings are required for private sewer facilities serving more than one lot.
71. Prior to the issuance of any building permits, the applicant shall process and record a NOTICE & AGREEMENT for each ownership being served by a private pump station/sewer facilities which serves more than one ownership, which indemnifies the City and contains an agreement that the applicant, and successors in interest, will be responsible for the operation and maintenance of the private sewer systems.
72. The developer shall obtain a building permit for any private pump station serving a condominium project or more than one lot.
73. The developer shall provide, satisfactory to the Metropolitan Wastewater Department Director, CC&R's for the operation and maintenance of on-site private sewer facilities that serve more than one lot.
74. No structures or landscaping, including private sewer facilities and enhanced paving, shall be installed in or over any easement or street right-of-way prior to the applicant obtaining an Encroachment Maintenance and Removal Agreement.
75. Providing sewer for this development is dependent upon prior construction of certain portions of the Otay Mesa Trunk Sewer Phase II. If they have not been constructed when required for this development, then the construction of certain portions of these sewer facilities, as required by the City Engineer, will become off-site improvements required for this development.

**OPEN SPACE REQUIREMENTS:**

76. Lots 9 and 10 shall be deeded, at no cost, to the city for open space. said lots shall be free and clear of all private encroachments, private easements, private agreements and/or liens.
77. An open space easement is required on the 40-foot deep Zone 2 for brush management across Lots 6, 7 and 8.
78. The brush management zones adjacent to Lots 6 through 8 shall be made into a separate lot and have an open space easement over Zone Two.
79. Brush management Zones 1, 2 and 3 or modified Zones 1 and 2 must be provided between Lot 8 and Lot 9 and Zone Two must have an open space easement. This will require a new lot and it is understood that Lot 9 will be reduced in size.

**MULTIPLE SPECIES CONSERVATION PROGRAM (MSCP) REQUIREMENTS:**

80. In accordance with authorization granted to the City of San Diego from the United States Fish and Wildlife Service (USFWS) pursuant to Section 10(a) of the ESA and by the California Department of Fish and Game (CDFG) pursuant to Fish and Game Code section 2835 as part of the Multiple Species Conservation Program (MSCP), the City of San Diego through the issuance of this Permit hereby confers upon Permittee the status of Third Party Beneficiary as provided for in Section 17 of the City of San Diego Implementing Agreement (IA), executed on July 17, 1997 and on File in the Office of the City Clerk as Document No. 00-18394. Third Party Beneficiary status is conferred upon Permittee by the City: (1) to grant Permittee the legal standing and legal right to utilize the take authorizations granted to the City pursuant to the MSCP within the context of those limitations imposed under this Permit and the IA, and (2) to assure Permittee that no existing mitigation obligation imposed by the City of San Diego pursuant to this Permit shall be altered in the future by the City of San Diego, USFWS or CDFG, except in the limited circumstances described in Sections 9.6 and 9.7 of the IA.

If mitigation lands are identified but not yet dedicated or preserved in perpetuity, maintenance and continued recognition of Third Party Beneficiary status by the City is contingent upon Permittee maintaining the biological values of any and all lands committed for mitigation pursuant to this Permit and of full satisfaction by Permittee of mitigation obligations required by this Permit, as described in accordance with Section 17.1D of the IA.

81. The applicant shall comply with the Mitigation, Monitoring and Reporting Program (MMRP) as specified in the Environmental Documentation for the "Otay Mesa East Project" (Project No. 3159, SCH No. 2003051060), satisfactory to the City Manager and the City Engineer, for the following issues areas to ensure compliance with the MSCP and MHPA Land Use Adjacency Guidelines: Land Use, Biological Resources and Water Quality.

In addition, the following conditions shall apply:

**Operational Noise:** Prior to issuance of any building occupancy permits, the sewer pump station proposed adjacent to the existing Otay Mesa Road wildlife under crossing shall be constructed, to the satisfaction of the City Manager and City Engineer, to ensure that operational noise does not impact wildlife movement, including: 1) designing the facility below-ground; 2) encasing it in concrete; 3) providing perimeter berms and native screening vegetation; and, 4) shielding/directing all necessary lighting away from the MHPA.

**Edge Treatment:** Prior to issuance of any building occupancy permits, the applicant shall construct a six-foot-high black vinyl-coated chain link fence along areas adjacent to the MHPA, including the rear of proposed Lots 6, 7 and 8, satisfactory to the City Manager and the City Engineer. The fencing shall be appropriately maintained at all times by the owner/Permittee/trustee. Any necessary future fence repairs shall be conducted in a manner which does not result in impacts to sensitive biology resource or wildlife movement.

**Brush Management:** Prior to recordation of the first final map and/or issuance of any grading permits, the City Manager shall verify that all brush management zone 2 is located outside the limits of the on-site vernal pool watershed areas and retained within the proposed lots.

ATTACHMENT 15

Drainage: Prior to recordation of the first final map and/or issuance of any grading permits, the City Manager and City Engineer shall verify that on-site drainage for all lots, including proposed lot no. 8, is designed to avoid discharging into the on-site vernal pool watershed areas.

82. Prior to recordation of the first final map and/or issuance of any grading permits, the on-site MHPA shall be conserved and conveyed to the City's MHPA through either dedication in fee to the City, OR placement in a conservation easement OR covenant of easement, which is then recorded on the property. For brush management zone two and any proposed revegetation areas within the MHPA, a conservation easement would be appropriate. All other areas could be conveyed through any of the three above methods. Management of the on-site preserved MHPA shall be the responsibility of the owner/Permittee/trustee in perpetuity, unless the City accepts responsibility through dedication in fee title. \*Note: Any proposed dedication of land in-fee to the City outside the MHPA would require approval from the Park and Recreation Department.

**INFORMATION ONLY:**

Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of this development permit/vesting tentative map, may protest the decision within 90 days of the approval of this development permit/vesting tentative map by filing a written protest with the City Clerk pursuant to California Government Code 66020.

APPROVED by the City Council of the City of San Diego on \_\_\_\_\_, 2006 and Resolution Number XXXXX.

AUTHENTICATED BY THE CITY MANAGER

By \_\_\_\_\_

---

**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.**

**[NAME OF COMPANY]**  
Owner/Permittee

By \_\_\_\_\_

By \_\_\_\_\_

**NOTE: Notary acknowledgments  
must be attached per Civil Code  
section 1180 et seq.**

Rezone Ordinance

(O-INSERT~)

ORDINANCE NUMBER O-\_\_\_\_\_ (NEW SERIES)

ADOPTED ON

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SAN DIEGO CHANGING PROPERTY LOCATED IN THE 6600 BLOCK OF OTAY MESA ROAD IN THE OTAY MESA COMMUNITY PLAN AREA, IN THE CITY OF SAN DIEGO, CALIFORNIA, FROM THE AR-1-1 ZONE (PREVIOUSLY REFERRED TO AS THE A-1-10 ZONE INTO THE OMDD-C ZONE, AS DEFINED BY SAN DIEGO MUNICIPAL CODE SECTION 103.1103(a); AND REPEALING ORDINANCE NO. 10862 (NEW SERIES), ADOPTED JULY 29, 1972, AND REPEALING ORDINANCE NO. 19216 (NEW SERIES), ADOPTED ON SEPTEMBER 29, 2003, OF THE ORDINANCES OF THE CITY OF SAN DIEGO INSOFAR AS THE SAME CONFLICTS HEREWITH.

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

Section 1. The 45.5-acres, located in the 6600 block of Otay Mesa Road and legally described as the northeast quarter of the northwest quarter of Section 32, Township 18 South, Range 1 West, San Bernardino base and meridian, in the County of San Diego, State of California, according to the official plat thereof and the west quarter of the northwest quarter of Section 32, Township 18 South, Range 1 West, San Bernardino base and meridian, in the County of San Diego, in the Otay Mesa Community Plan area, in the City of San Diego, California, from the AR-1-1 Zones (previously referred to as the A-1-10 Zone) to the Otay Mesa Development District (OMDD)-C Zone, as shown on Zone Map Drawing No. C-919, the property is subdivided and a map or maps thereof duly submitted to the City, approved by the City, shall become applicable to the subdivided land, and the subdivided land shall be incorporated into the OMDD-C Zone, as described and defined by Section 103.1103(a) the boundary of such zone to

Attachment 15  
PC Report No. P-06-0279

be as indicated on Zone Map Drawing No. B-4246 (portion of C-919), filed in the office of the City Clerk as Document No. OO-\_\_\_\_\_. The zoning shall attach only to those areas included in the map as provided in this section.

Section 2. That in the event the zoning restrictions shall attach to the said land described in Section 1 of this ordinance, Ordinance No. 10862 (New Series), adopted July 29, 1972, and repealing Ordinance No. 19216 (New Series), adopted on September 29, 2003, are repealed insofar as it conflicts with the rezoned use of the land.

Section 3. That a full reading of this ordinance is dispensed with prior to its final passage, a written or printed copy having been available to the City Council and the public a day prior to its final passage.

Section 4. This ordinance shall take effect and be in force on the thirtieth day from and after its passage, and no building permits for development inconsistent with the provisions of this ordinance shall be issued unless application therefore was made prior to the date of adoption of this ordinance.

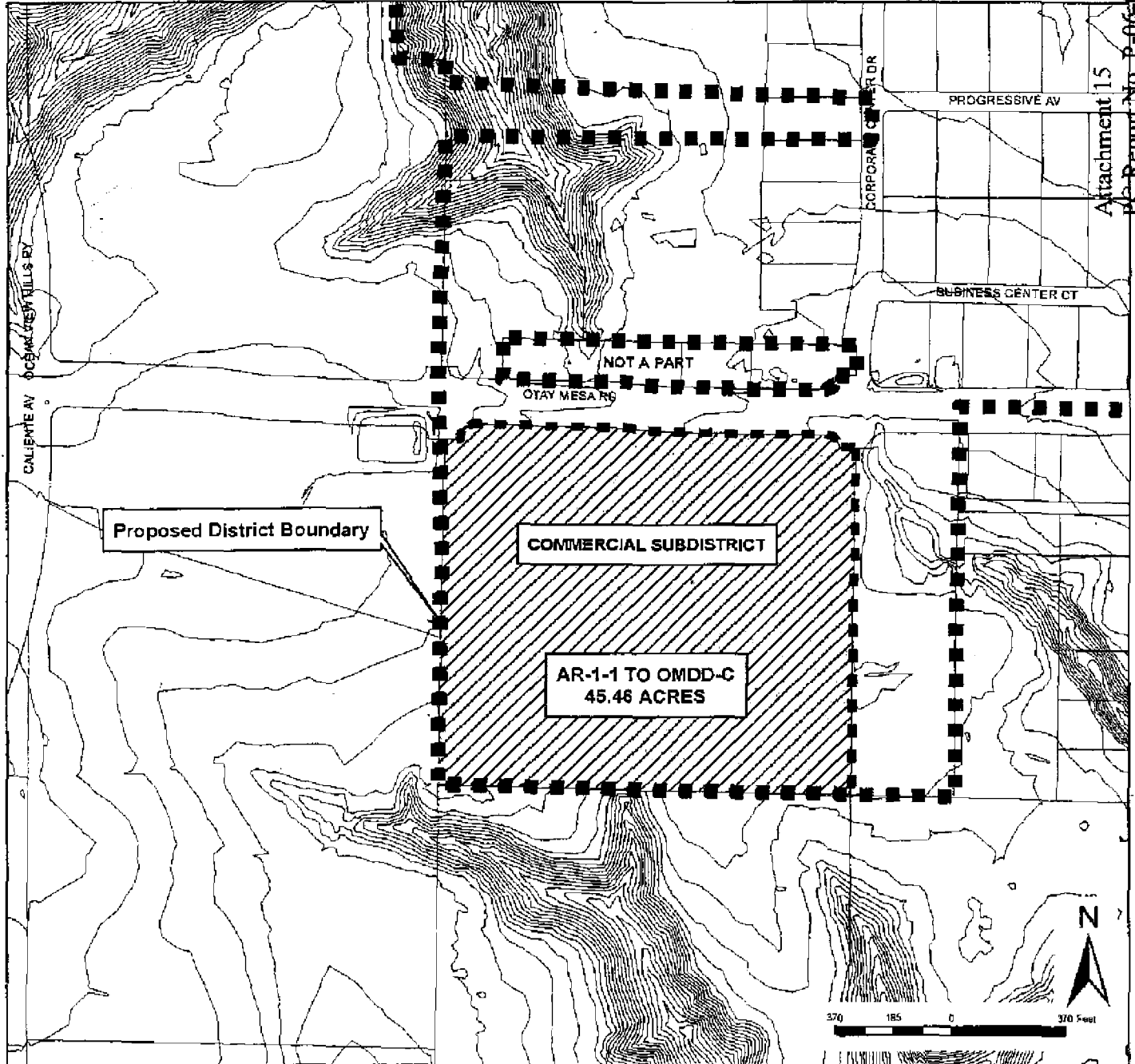
APPROVED: MICHAEL AGUIRRE, City Attorney

By \_\_\_\_\_  
Attorney name  
Deputy City Attorney

Initials~  
Date~  
Or.Dept: INSERT~  
Case No.INSERT PROJECT NUMBER~  
O-INSERT~  
Form=inloto.frm(61203wct)



CITY OF SAN DIEGO • DEVELOPMENT SERVICES  
**PROPOSED REZONING**



Attachment 15  
 PC Report No. P-06-0279

<b>Otay Mesa Development District REZONE &amp; Boundary Amendment</b>		<b>CASE NO. 42-6720</b>
ORDINANCE NO. _____	<b>REQUEST OMDD-C / Boundary Change</b>	DEVELOPMENT SERVICES MANAGER
EFF. DATE ORD. _____	<b>PLANNING COMM. RECOMMENDATION</b>	
ZONING SUBJ. TO _____	<b>CITY COUNCIL ACTION</b>	<b>B-4246</b> portion of C-919
BEFORE DATE _____		APN: 645-080-13 & 090-36
EFF. DATE ZONING _____		(145-1766) 10-12-06 LDJ
MAP NAME AND NO. _____		

PLANNING COMMISSION RESOLUTION NO. XXXX-PC  
RECOMMENDATION TO THE CITY COUNCIL APPROVAL OF VESTING  
TENTATIVE MAP NO. 362532, SITE DEVELOPMENT PERMIT NO. 388242,  
AND REZONE NO. 388241

DRAFT

WHEREAS, on November 9, 2006, the Planning Commission of the City of San Diego held a public hearing for the purpose of considering and recommending of to the City Council of the City of San Diego approval of Vesting Tentative Map No. 362532, Site Development Permit No. 388242, and Rezone No. 388241; and

WHEREAS, GERALD HANDLER, Owner/Permittee, submitted an application with the City of San Diego for a Vesting Tentative Map, No. 362532, an extension of time to Vesting Tentative Map No. 8182 pursuant to Project No. 3159; Site Development Permit No. 388242, an extension of time to Resource Protection Ordinance Permit No. 8163; and Rezone No. 388241 to replace Rezone Ordinance No. O-19216 (New Series) which contained a three year time limit and since has expired.

WHEREAS, the 45.5-acre site is located in the 6600 block of Otay Mesa Road, on the south side of Otay Mesa road west of Corporate Center Drive, and is legally described as the northeast quarter of the northwest quarter of Section 32, Township 18 South, Range 1 West, San Bernardino base and meridian, in the County of San Diego, State of California, according to the official plat thereof and the west quarter of the northwest quarter of Section 32, Township 18 South, Range 1 West, San Bernardino base and meridian, in the County of San Diego, State of California, according to the official plat thereof, in the AR-1-1, which is proposed to be rezoned to the OMDD-C Zone; and

WHEREAS, the Planning Commission of the City of San Diego has considered all maps, exhibits, and written documents contained in the file for this project on record in the City of San Diego, and has considered the oral presentations given at the public hearing;  
NOW THEREFORE,

BE IT RESOLVED, by the Planning Commission of the City of San Diego, that it hereby recommends to the City Council approval of Otay Mesa East Extension of Time for Vesting Tentative Map No. 362532, Site Development Permit No. 388242, and Rezone No. 388241.

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Jeffrey A. Peterson  
Development Project Manager  
Development Services Department

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Sabrina Curtin  
Legislative Recorder  
to the Planning Commission

Dated November 9, 2006  
By a vote of X:X:X

# Otay Mesa Planning Group

C/o 427 C Street, Suite 308  
San Diego, CA 92101

September 26, 2006

Mr. Jeffrey Peterson  
Development Project Manager  
Development Services Department  
1222 First Avenue, MS 501  
City of San Diego, CA 92101-4155

RE: Otay Mesa Planning Group position on Otay Mesa East Extension of Time for Vesting Tentative Map (PTS#: 108628)

Dear Mr. Peterson:

On Wednesday, September 20, 2006, a presentation was made by Danielle Putnam (RBF Consulting) to the Otay Mesa Planning Group regarding an Extension of Time for a Vesting Tentative Map for Dr. Gerald Handler's property on Corporate Center Drive. The planning group voted 15-0-0 to support the approval of the Extension of Time for the Vesting Tentative Map.

Should you have any questions, please call Susanne Bankhead at (619) 239-9877x10.

Thank you for your consideration.

Sincerely,



Rob Hixson  
Chair

cc: Ms. Danielle Putnam, RBF Consulting (via email)



City of San Diego  
Development Services  
1222 First Ave., MS-302  
San Diego, CA 92101  
(619) 446-5000

# Ownership Disclosure Statement

Approval Type: Check appropriate box for type of approval (s) requested:  Neighborhood Use Permit  Coastal Development Permit  
 Neighborhood Development Permit  Site Development Permit  Planned Development Permit  Conditional Use Permit  
 Variance  Tentative Map  Vesting Tentative Map  Map Waiver  Land Use Plan Amendment  Other Extension of Time

Project Title

Otay Mesa East

Project No. For City Use Only

108628

Project Address:

Otay Mesa Road APN: 645-080-13 & 645-090-36

### Part I - To be completed when property is held by individual(s)

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 owner(s) and tenant(s) (if applicable) of the above referenced property. The list must include the names 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 individuals who own the property). A signature is required of at least one of the property owners. Attach additional pages if needed. A signature from the Assistant Executive Director of the San Diego Redevelopment Agency shall be required for all project parcels for which a Disposition and Development Agreement (DDA) has been approved / executed by the City Council. 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

Name of Individual (type or print):

Dr. Gerald Handler

Owner  Tenant/Lessee  Redevelopment Agency

Street Address:

9523 La Jolla Farms

City/State/Zip:

La Jolla, CA 92037

Phone No:  
(858) 452-2250

Fax No:  
(858) 452-1527

Signature:

Name of Individual (type or print):

Owner  Tenant/Lessee  Redevelopment Agency

Street Address:

City/State/Zip:

Phone No:

Fax No:

Signature:

Date:

Name of Individual (type or print):

Owner  Tenant/Lessee  Redevelopment Agency

Street Address:

City/State/Zip:

Phone No:

Fax No:

Signature:

Date:

Name of Individual (type or print):

Owner  Tenant/Lessee  Redevelopment Agency

Street Address:

City/State/Zip:

Phone No:

Fax No:

Signature:

Date:

Attachment 15  
PC Report No. P-06-0279

**DEVELOPMENT SERVICES**  
**Project Chronology**  
**OTAY MESA EAST EOT - PROJECT NO. 108628**

<b>Date</b>	<b>Action</b>	<b>Description</b>	<b>City Review Time (Working Days)</b>	<b>Applicant Response</b>
7/21/06	First Submittal	Project Deemed Complete		
8/28/06	First Assessment Letter		26 days	
9/20/06	Issues Resolved	Applicant resolved outstanding issues		16 days
11/9/06	Public Hearing	First available date	36 days	
<b>TOTAL STAFF TIME</b>		(Does not include City Holidays)	<b>62 days</b>	
<b>TOTAL APPLICANT TIME</b>		(Does not include City Holidays)		<b>16 days</b>
<b>TOTAL PROJECT RUNNING TIME</b>		From Deemed Complete to Planning Commission Hearing	<b>78 working days (107 calendar days)</b>	