ATTACHMENT 2

The City of San Diego

Staff Report

DATE ISSUED:	July 14, 2025	
TO:	City Council	
FROM:	Development Services Department	
SUBJECT:	Appeal of the Environmental Determination 11011 Torreyana Road Project No. PRJ-1058759	
Primary Contact:	Hector Rios Development Project Manager II	Phone: (619) 533-6733
Secondary Contact:	Benjamin Hafertepe Development Project Manager III	Phone: (619) 446-5086
Council District(s):	1	

OVERVIEW:

Appeal of the Hearing Officer's environmental determination adopting the Subsequent Mitigated Negative Declaration for a Coastal Development Permit and Site Development Permit to demolish an existing 76,694-square-foot research and development building and construct a new 152,080-square-foot research and development building and a four-level subterranean parking garage.

In accordance with Section 21151(c) of the California Environmental Quality Act (CEQA), *if a non-elected decision-making body of a local lead agency certifies an environmental impact report, approves a negative declaration or mitigated declaration, or determines that a project is not subject to this division, that certification, approval, or determination may be appealed to the agency's elected decision-making body*. In accordance with San Diego Municipal Code (SDMC) Section 112.0520(a), Environmental Determination Appeals, any person may appeal an environmental determination not made by the City Council.

The City determined that a Subsequent Mitigated Negative Declaration was the appropriate environmental document, which was prepared in accordance with CEQA. The Subsequent Mitigated Negative Declaration No. 1058759/SCH No. 2019060003 was adopted by the Hearing Officer on April 9, 2025. An appeal of the environmental determination was filed by Supporters Alliance for Environmental Responsibility (SAFER) on April 16, 2025. The scope of the appeal hearing only includes the environmental determination and not the project.

PROPOSED ACTIONS:

1. Deny the appeal and approve the environmental determination adopting Subsequent Mitigated Negative Declaration PRJ-1058759 / SCH No. 2019060003 and the Mitigation Monitoring and Reporting Program; or

2. Grant the appeal and set aside the environmental determination, in accordance with SDMC Section 112.0520(f).

DISCUSSION OF ITEM:

Description

The project is an application for a Coastal Development Permit and Site Development Permit to demolish the existing 76,694-square-foot onsite research and development building and associated infrastructure, and construct a 152,080-square-foot, three-story research and development building with supporting infrastructure.

Environmental Setting

The 10.2-acre site is located at 11011 Torreyana Road, northeast of the intersection of Torreyana Road and Callan Road. The site is subject to an existing 6.8-acre open space easement. Surrounding land uses include research and development to the north, south and west, and open space areas to the east.

The General Plan designates the western portion of the project site (approximately 3.4 acres) as Industrial Employment and Prime Industrial and the eastern portion (approximately 6.8 acres) as Open Space. The University Community Plan designates the western portion of the project site as Industrial-Scientific Research and the eastern portion as Open Space. The site is zoned IP-1-1 within the University Community Plan area. Additionally, the site is within the Airport Land Use Compatibility Overlay Zone (MCAS Miramar), the Airport Influence Area (MCAS Miramar-Review Area 1), the Airport Safety Zone MCAS Miramar (Accident Potential Zone 2), the Coastal Height Limitation Overlay Zone, the Coastal Overlay Zone (Appealable), the Community Plan Implementation Overlay Zone (CPIOZ-B), the Transit Priority Area, the Multiple Habitat Planning Area, the Very High Fire Severity Zone, the Parking Impact Overlay Zone (Coastal), Coastal Overlay Zone First Public Roadway, and Prime Industrial Lands.

Environmental Review

The project environmental document is a Subsequent Mitigated Negative Declaration tiered from the Complete Communities: Housing Solutions and Mobility Choices Program Environmental Impact Report (EIR; SCH 2019060003) (Complete Communities EIR). The Complete Communities: Housing Solutions and Mobility Choices Program was approved on November 9, 2020. The Mobility Choices Ordinance became effective outside of the Coastal Overlay Zone on January 8, 2021, and inside of the Coastal Overlay Zone on September 7, 2022. While the project was deemed complete June 7, 2022, prior to the Mobility Choice Ordinance becoming effective in the Coastal Overlay Zone, the project is participating in, and therefore analyzed under, the Mobility Choices Program as described in the Complete Communities EIR and implementing regulations (SDMC Chapter 14, Article 3,

Division 11) for mitigation of Vehicle Miles Traveled (VMT) impacts to the extent feasible. The activity was determined to be within the scope of the Mobility Choices Program and the Complete Communities EIR. Accordingly, pursuant to CEQA Public Resources Code Section 21094 and Sections 15152 and 15168 of the State CEQA Guidelines, the project Subsequent Initial Study and Subsequent Mitigated Negative Declaration may tier from the Complete Communities EIR.

The CEQA concept of "tiering" refers to the evaluation of general environmental matters in a broad program-level EIR, such as the Complete Communities EIR, with subsequent focused environmental documents for individual projects that implement the program. The Subsequent Mitigated Negative Declaration incorporates by reference the discussions in the Complete Communities EIR and concentrates on project-specific issues. CEQA and the CEQA Guidelines encourage the use of tiered environmental documents to reduce delays and excessive paperwork in the environmental review process. This is accomplished in tiered documents by eliminating repetitive analyses of issues that were adequately addressed in the Program EIR and by incorporating those analyses by reference. Project-specific impacts not addressed in the Complete Communities EIR are evaluated in detail in the Subsequent Mitigated Negative Declaration, and project-specific mitigation provided where required.

The City of San Diego's Complete Communities, Mobility Choices Program requires VMT-reducing amenities or payment of an in-lieu fee depending on a project's location. Compliance with the Mobility Choices Program can be used as mitigation to the extent feasible for significant VMT transportation impacts. The Complete Communities EIR disclosed that even with the implementation of the Mobility Choices Program regulations, there would still be significant and unavoidable VMT impacts. Projects that utilize the Mobility Choices Program to provide mitigation for VMT transportation impacts are able to rely upon the findings and Statement of Overriding Considerations from the Complete Communities EIR, which was certified on November 9, 2020, by the City Council.

The Environmental Analysis Section staff conducted an environmental review that included an evaluation of various site-specific technical studies, including a biological technical report based on a comprehensive literature review and multiple site surveys, and coordinated with applicable reviewing disciplines from the Development Services and City Planning Departments. The Initial Study identified that the proposed project could have a significant environmental effect in the following issue area(s): Historical Resources/Archaeological Resources/Tribal Cultural Resources (archaeological), and Transportation/Circulation. Therefore, staff determined that a Subsequent Mitigated Negative Declaration was the appropriate tiered document under CEQA Guidelines section 15152(f) and 15070. The Subsequent Mitigated Negative Declaration was prepared pursuant to Public Resources Code Section 21094 and CEQA Guidelines Section 15152 and 15168 and included the development of a Mitigation, Monitoring and Reporting Program to provide Biological Resources impact avoidance measures and address project impacts in the areas of Historical Resources/Archaeological Resources/Tribal Cultural Resources (archaeological), and Transportation/Circulation.

The Subsequent Mitigated Negative Declaration was distributed for a 30-day public review period consistent with the requirements of CEQA Guidelines Section 15073. Public Review began on August 1, 2024, and concluded on August 30, 2024. The Public Notice and draft Subsequent Mitigated Negative Declaration were placed on the City of San Diego's CEQA website at https://www.sandiego.gov/ceqa/draft, under the "Draft Documents for Public Comment" tab. In

addition, the Public Notice was posted at the County of San Diego's Assessors/Recorder/County Clerk Department and was published in the San Diego Daily Transcript Newspaper. The following agencies and organizations provided comment letters during the public review period: California Department of Transportation, California Department of Toxic Substances Control, San Diego County Archaeological Society, Inc., and the San Pasqual Band of Mission Indians. The comment letters received during the public review period were responded to and incorporated into the final Subsequent Mitigated Negative Declaration, which was posted on the City's CEQA website at https://www.sandiego.gov/ceqa/final, under the "Final Environmental Documents" tab and distributed on December 4, 2024.

While appellant SAFER, represented by law firm Lozeau Drury LLP, did not submit a comment letter on the draft Subsequent Mitigated Negative Declaration, they submitted a January 6, 2025, opposition letter to the City prior to the Hearing Officer hearing and Hayley Ono of Lozeau Drury, LLP, virtually appeared at the April 9, 2025 hearing. The Hearing Officer had clarifying questions regarding the specific issues brought up in the letter and Ms. Ono's comments, which City staff and the project consultant biologist responded to verbally during the hearing. The Hearing Officer noted that the opposition letter evaluated another site and not the project site, the project footprint is generally the same as the existing development on the site, impacts have been mitigated, and that staff's explanation of why a Subsequent Mitigated Negative Declaration was the appropriate environmental document was sufficient. The Hearing Officer considered and adopted the Subsequent Mitigated Negative Declaration and the Mitigation Monitoring and Reporting Program at the public hearing.

Pursuant to SDMC Section 112.0520, an environmental determination can be appealed to the City Council subject to the following requirements:

a) *Persons Who Can Appeal.*
Notwithstanding other provisions of this Code, any person may appeal an environmental determination not made by the City Council.

b) *Time for Filing an Appeal*
An application to appeal an environmental determination shall be filed with the City Clerk as follows:
(2) Within 10 business days from the date of a decision by a Hearing Officer or the Planning Commission to adopt or certify an environmental document.

Lozeau Drury LLP, on behalf of SAFER, filed an appeal of the environmental determination on April 16, 2025, within the 10-business-day appeal period, which ended on April 23, 2025. The appeal issues raised by appellant SAFER and staff responses are provided below.

Appeal Issues and Staff Responses

Appeal Issue 1

Appellant States:

Hearing Officer's decision to approve the project and adopt the final subsequent MND and MMRP constituted an abuse of discretion because the City failed to adequately analyze and mitigate the project's

significant environmental impacts under CEQA. SAFER states there is substantial evidence of a fair argument that the project would result in significant adverse impacts to biological resources and requests that the City prepare an EIR before approving the project to analyze and mitigate these impacts in accordance with CEQA.

Staff Response:

The Hearing Officer's decision to approve the project and adopt the final Subsequent Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program was informed by technical studies prepared by qualified consultants. Further, the site-specific biological technical report was prepared by a qualified biologist in accordance with the City's Biology Guidelines, Multiple Species Conservation Program (MSCP), and CEQA requirements. The biological resource impacts of the project were adequately analyzed in accordance with these requirements. No substantial evidence has been provided that demonstrates a significant impact on biological resources may result from the project. A Subsequent Mitigated Negative Declaration is the appropriate CEQA document for the project, as previously explained and as authorized under CEQA Guidelines section 15152(f) and 15070, and an Environmental Impact Report is not required per CEQA.

Appeal Issue 2

Appellant States:

There is a fair argument that the Project may have significant adverse impacts on biological resources.

Staff Response:

CEQA requires the preparation of an EIR when a lead agency determines that a project may result in significant effect(s) on the environment (CEQA Guidelines Section 15064(a). A mitigated negative declaration shall be prepared if the lead agency determines that revisions in the project would avoid or mitigate project effects to the point where no significant effect on the environment would occur and there is no substantial evidence in light of the record before the public agency that the project as revised may have a significant effect on the environment (CEQA Guidelines Section 15064(f)(2)). The decision as to whether a project may have one or more significant effects shall be based on substantial evidence in the record of the lead agency. Substantial evidence includes "facts, reasonable assumptions predicated upon facts, and expert opinion supported by facts." It does not include "argument, speculation, unsubstantiated opinion or narrative, evidence which is clearly inaccurate or erroneous, or evidence of social or economic impacts which do not contribute to, or are not caused by, physical impacts on the environment."

The Appellant has not provided substantial evidence supporting a fair argument that the project will significantly adversely impact biological resources. In fact, the Appellant's biologist surveyed a different site, not the project site. The appellant's biologist notes at p. 1 of his letter (Appeal Exhibit A) that his colleague "visited a site adjacent to the project site", "[t]he project site was not accessible from a public road", and the alternate survey site was "intended to be interpreted as a surrogate to the site, as it can be assumed that the species detected are likewise present on the project site." Therefore, the survey information provided by Appellant is not based on a survey of the project site and is therefore speculative, unsubstantiated, and based on assumptions. The information from

another site does not constitute substantial evidence that the project may have one or more significant effects on biological resources present at the project site.

Appeal Issue 3

Appellant States:

The MND did not fully account for the diversity of species present on the Project site, including several special-status species (Dr. Smallwood identified 37 species vs. Helix identifying 11 species).

Staff Response:
The Appellant's biologist surveyed a different site. Further, the survey and analysis provided do not meet the required components as outlined in the City's Biology Guidelines. The Appellant's biologist surveyed a site located 250 meters or roughly 825 feet east of the site, which has substantially different biological conditions than the proposed project site. The property surveyed by the Appellant is on the valley floor adjacent to Peñasquitos Creek, which is a large riparian corridor that supports a greater diversity of wildlife than the project site. The project site is developed with an existing 76,694 square foot building, parking structure, and auxiliary buildings, and located at the top of a ridge. In addition, Appellant's analysis incorrectly identifies some species as sensitive. Species that are considered sensitive biological resources consist of those listed as rare, endangered, or threatened under Section 670.2 or 670.5, Title 14, California Code of Regulations or the Federal Endangered Species Act, Title 50, Code of Federal Regulations, Section 17.11 or 17.12, or candidate species under the California Code of Regulations; narrow endemic species as listed in the Biology Guidelines; or covered species as listed in the City's Multiple Species Conservation Plan Subarea.

A site-specific biological resources technical study (Helix Environmental Planning [HELIX], July 2024) was prepared in accordance with the City's Biology Guidelines, MSCP, and CEQA requirements. As a part of the biological analysis, five biological surveys were conducted at the project site by a qualified biologist between 2021 and 2024. No sensitive species were observed during these surveys. Nonetheless, the qualified biologist completed a sensitive species potential to occur analysis based on a literature review and site conditions. The analysis identified six special status species with a high potential to occur that were assumed to be present in the undeveloped hillside area of the site, where no development is proposed.

The Appellant's claim that the report failed to identify special-status species on the project site is not supported by substantial evidence considering the Appellant's biologist surveyed the incorrect site, incorrectly identified species as sensitive, and the project biological technical report did identify that there are six sensitive species as potentially present on the undeveloped portion of the project site. Overall, the Appellant's comments related to the diversity of species on the project site, based on a different site on the valley floor, and assertions that the Mitigated Negative Declaration did not account for sensitive species, are inaccurate. The Subsequent Mitigated Negative Declaration analysis is supported by a biological technical report completed by a qualified biologist in accordance with the Biology Guidelines.

The Appellant claims the Subsequent Mitigated Negative Declaration does not identify the environmental setting. However, the environmental document describes the general environmental setting in Section 3.1 of the Subsequent Initial Study Checklist, consistent with CEQA Guidelines

Section 15063(d)(2). In addition, the biological technical report includes a setting description specific to biological resources.

Appeal Issue 4

Appellant States:

MND relied on an inadequate biological report.

Staff Response:

As detailed above, the biological resources technical study that informed the Subsequent Mitigated Negative Declaration was prepared by a qualified biologist in accordance with the City's Biology Guidelines, MSCP, and CEQA requirements. The methodologies included both a comprehensive literature review and field survey components in accordance with the City's Biology Guidelines. The field surveys included five site visits at different times of the year during 2021, 2022, 2023, and 2024. Habitat boundaries were defined by the qualified biologist, and the Appellant provides no evidence or first-hand observation supporting the claim that the boundaries between vegetation communities on the project site are more defined. The Crotch's bumble bee habitat assessment survey was conducted in accordance with the Survey Considerations for California Endangered Species Act Candidate Bumble Bee Species, as specified in the report. The Appellant fails to provide any support or evidence that the bumble bee habitat assessment did not meet the California Department of Fish and Wildlife (CDFW) guidelines.

The biological technical report literature review meets the requirements of the City's Biology Guidelines. The database search not only included the California Natural Diversity Database (CNDDB) as the Appellant references, but also records from the United States Fish and Wildlife Service (USFWS), SanBIOS, iNaturalist, eBird, HELIX's own records, and other regional sources. The analysis for species' potential to occur is highly dependent on whether those species' habitat associations and requirements occur on or in the immediate vicinity of the project site, and whether those species have the potential to utilize the habitat on or in the immediate vicinity of the project site for breeding, foraging, dispersal, or other life history requirements. The analysis of species' potential to occur would not include those species that are unlikely to use the habitat present on or in the immediate vicinity of the project site. Therefore, the literature review and methodologies implemented for the biological resources technical study satisfy the requirements of the City's Biology Guidelines as well as the CDFW guidelines related to the Crotch's bumble bee. The Mitigated Negative Declaration's reliance on the applicant's biological technical reporting prepared by a qualified biologist in accordance with the City's Biology Guidelines, MSCP, and CEQA requirements was appropriate.

Appeal Issue 5

Appellant States:

The Project will have a significant impact on reproductive capacity as a result of habitat loss, fragmentation, and alteration.

Staff Response:

The Appellant does not provide sufficient information to support this claim. As mentioned above, the Appellant's biological survey and analysis were conducted on the wrong site. The 10.2-acre project site is developed with existing buildings, and the proposed development would be located primarily in the 3.6-acre existing development footprint. The remaining acreage is subject to an open space easement. The project would impact 0.07 acres of Tier I southern maritime chaparral, as analyzed in the Subsequent Mitigated Negative Declaration. Pursuant to the City's CEQA Significance Determination Thresholds, impacts to Tier I habitat totaling less than 0.1 acre are not considered significant and do not require mitigation. In addition, the project was conditioned to comply with the City's MSCP Multi-Habitat Planning Area (MHPA) Land Use Adjacency Guidelines, which prevent significant indirect impacts.

As detailed in the Subsequent Mitigated Negative Declaration and biological resources technical Report, the project would comply with the City's Biology Guidelines, MSCP, and CEQA requirements, which would avoid any significant habitat loss, fragmentation, or alteration. In addition, the direct loss of 0.07 acre of habitat would not constitute a significant impact on reproductive capacity as a result of habitat loss or alteration. The impacts would not result in habitat fragmentation as the impact areas are restricted to areas of existing development.

Appeal Issue 6

Appellant States:

The project will have significant impacts on wildlife as a result of collisions with additional traffic generated by the project.

Staff Response:

The roadway wildlife collision analysis provided by the Appellant represents a significantly different condition from the proposed project and does not provide an accurate representation of project effects. The appellant's analysis does not consider that the project consists of redeveloping existing Research and Development uses with similar uses. The roadways already exist, and the project does not propose any roadway construction through a wildlife corridor area that would introduce a wildlife collision issue. In addition, the roadway conditions assumed in the Appellant's analysis are not accurate or reflective of the project roadway conditions. The roadway wildlife collision rate utilized by the Appellant is based on the conditions of Vasco Road in Contra Costa County, which is a major rural arterial with a 50-55 mile per hour speed limit, heavily traveled by commuters through an undeveloped area. The roadways primarily utilized by the traffic generated by the project (Torreyana Road, to Callan Road, south along N. Torrey Pines Road to Genesee Avenue to Interstate 5) are located within urban areas, not surrounded by vast open spaces, as assumed in the Appellant's analysis. The calculations provided by the Appellant regarding wildlife collisions are therefore incorrect and unsubstantiated. In addition to the wildlife collision numbers being inaccurate, Appellant's comment incorrectly assumes that impacts to all wildlife species would be considered significant. Impacts to common species would be less than significant and do not require mitigation. No substantial evidence was provided that the project may result in significant impacts. A redevelopment project located in an urbanized area at this project site is not anticipated to result in

a significant impact on wildlife due to traffic collisions. The biological resources technical study provided a complete and adequate analysis of potential impacts on special status wildlife, wildlife corridors and nursery sites, and nesting birds, among other topics required pursuant to the City's Biology Guidelines, MSCP, and CEQA and concluded that no significant impacts would occur.

Appeal Issue 7

Appellant States:

The project will have a significant impact on birds as a result of window collisions.

Staff Response:

The project permit has been conditioned to incorporate bird-safe glass into the design to reduce potential window collisions by birds. The methods to be utilized would be consistent with the guidance provided in the USFWS publication Low-Cost Methods to Reduce Bird Collisions with Glass, prepared June 4, 2021 (https://www.fws.gov/media/low-cost-methods-reduce-bird-collisions-glass). Per the permit conditions, bird-safe glass shall include the use of glass with ultraviolet reflective patterns visible to birds but transparent to the human eye (such as GlasPro Bird Safe Ultraviolet Reflective Glass), or etched or patterned glass that provides a visual barrier. Patterned or etched glass shall have vertical stripes at least ¼ inch wide with a maximum spacing of four inches, or horizontal stripes that are at least ¼ inch wide with a maximum spacing of two inches. Window collision impacts would be less than significant. As impacts would be less than significant, the preparation of an EIR is not warranted.

Appeal Issue 8

Appellant States:

The project is incompatible with the MSCP Subarea Plan and Existing Easement Agreement

Staff Response:

The project was found to be compatible and consistent with the MSCP Subarea Plan and existing Easement Agreement. The project is located outside of the MHPA per the City's MSCP. The closest MHPA to the project is approximately 280 feet to the east. The biological resources technical study provided a complete analysis of project consistency with the City's MSCP, including covered and non-covered species, tier habitat types, wetlands, MHPA, Land Use Adjacency Guidelines, general management directives, general planning policies and design guidelines, conditions of coverage for sensitive species, and other consistency items. The Appellant speculates that the existing development may include the use of rodenticides that could introduce toxins into the MHPA, in conflict with the Land Use Adjacency Guidelines. The Biological Technical Report refers to the use of rodent traps (not rodenticide), and the requested project permit includes a standard condition requiring compliance with the Land Use Adjacency Guidelines, which address the application and/or drainage of chemicals into the MHPA. Project impacts are primarily restricted to existing 3.6-acre disturbed and developed portions of the property that occur outside of the existing open space

easement. The proposed open parking area improvements are allowed on the project site (Lot 7) per the express terms of the easement as indicated on Sheet 1 of Map No. 8434 filed in the Office of the County Recorder of San Diego County on December 10, 1976. As indicated above, no significant impact on wildlife related to window collisions or project traffic was identified, and no mitigation is required. Pursuant to the City's Environmentally Sensitive Lands Regulations, a new Covenant of Easement would be recorded over all remaining sensitive habitat and steep slopes onsite as a condition of project approval. The project complies with the MSCP and the existing open space easement, and the preparation of an EIR is not warranted.

Appeal Issue 9

Appellant States:

Cumulative Impacts: CEQA documents, such as the MND, must discuss cumulative biological impacts and mitigate significant cumulative impacts.

Staff Response:

The project consists of a redevelopment project within a similar existing development footprint and would not substantially contribute to cumulative significant impacts to habitat or sensitive species. As addressed above, Appellant's claims regarding wildlife collisions with windows or project-generated traffic, or pest control are unsubstantiated and inaccurate. Cumulative impacts on biological resources in the City are addressed through project consistency with the City's MSCP Subarea Plan. The project was found to be consistent with the City's MSCP as well as local, state, and federal regulations. The Mitigated Negative Declaration's conclusion that cumulative impacts would be less than significant is supported by substantial evidence.

Appeal Issue 10

Appellant States:

MND proposed mitigation measures are insufficient to reduce the project's biological impacts (deferred mitigation).

Staff Response:

As detailed in the responses above, the project does not result in direct or indirect impacts to sensitive biological resources; therefore, mitigation is not required. The subsequent Mitigated Negative Declaration and supporting biological resources technical study fully analyzed project impacts in accordance with the City's Biology Guidelines, MSCP, and CEQA requirements.

Conclusion

The environmental determination before the City Council was appropriately determined to be a Subsequent Mitigated Negative Declaration that was prepared in accordance with CEQA. The project is within the scope of and consistent with the Mobility Choices Program as described in the Complete Communities: Housing Solutions and Mobility Choices Program EIR. Accordingly, pursuant to Section 15152 of the State CEQA Guidelines, it is appropriate to tier the Initial Study from the

Complete Communities: Housing Solutions and Mobility Choices Program EIR. The Initial Study identified that the proposed project could have a significant environmental effect on Historical Resources/Archaeological Resources/Tribal Cultural Resources (archaeology), and Transportation/ Circulation. Therefore, a Subsequent Mitigated Negative Declaration with associated Mitigation Monitoring and Reporting Program was determined to be the appropriate environmental document to address these effects.

The administrative record demonstrates that the project would mitigate its impacts to below a level of significance through implementation of the adopted Mitigation Monitoring and Reporting Program. The appellant's assertion that an EIR is required is not supported. Staff, therefore, recommends that the City Council deny the appeal of the environmental determination based on the information in the record and as stated above and approve the environmental determination adopting the Subsequent Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program.

City of San Diego Strategic Plan:
This action relates to the Strategic Plan's Priority Area: Regional Prosperity by increasing research and development opportunities, which support a strong local economy and well-paying jobs.

This action relates to the Strategic Plan's Priority Area: Advance Mobility & Infrastructure by providing employment opportunities within a Transit Priority Area which provides the opportunity for a transition from vehicle trips to transit trips.

Fiscal Considerations:
No fiscal impact. All costs associated with the processing of the application are recovered through a deposit account funded by the applicant.

Charter Section 225 Disclosure of Business Interests:
N/A (no contract associated with the action)

Environmental Impact:
A Subsequent Mitigated Negative Declaration No. 1058759/SCH No. 201960003 was prepared for the project in accordance with the CEQA Statute and Guidelines.

Climate Action Plan Implementation:
The proposed project contains features that demonstrate compliance with the City's Climate Action Plan (CAP). The Project was designed to comply with the energy conservation requirements in Title 24 of the California Administrative Code. The Project is consistent with the CAP based on the Project's energy-efficient design and amenities. The Project will implement the following CAP strategies:

Strategy 1: Energy and Water Efficient Buildings

- The project includes roofing materials with a minimum 3-year aged solar reflection and thermal emittance or solar reflection index equal to or greater than the values specified in the voluntary measures under California Green Building Standards Code.
- Plumbing fixtures and fittings will not exceed the maximum flow rate specified in Table A5.303.2.3.1 (voluntary measures) of the California Green Building Standards Code.

- Appliances and fixtures for commercial applications will meet the provisions of Section A5.303.3 (voluntary measures) of the California Green Building Standards Code.

Strategy 3: Bicycling, Walking, Transit and Land Use

- There will be 98 electric vehicle (EV) parking spaces, 50 of which will be supplied with EV charging stations.
- Short-term and long-term bicycle parking has been proposed on site. Long-term bicycle storage is located on the first level of the parking garage. There are 24 long-term spaces provided. A total of 3 short-term bicycle parking spaces have been provided in close proximity to the entry.
- Shower facilities will include 3 Showers and 11 two-tier lockers.
- The project will provide 44 clean-air vehicle-designated parking spaces for a combination of low-emitting, fuel-efficient carpool/vanpool vehicles.
- To ensure compliance as a part of the City of San Diego Climate Action Plan requirements to reduce Single Occupant Vehicle (SOV) travel and associated parking demand, the project will implement a parking cash-out program to incentivize employees to carpool, vanpool, or use public transit. The parking cash-out program will include discounts or subsidies to be used at on-site amenities up to $30 a month.
- Commitment to maintaining an employer network in the SANDAG iCommute program and promoting its ridematcher service to tenants/employees.
- On site bike sharing will be made possible and is located directly adjacent to the main entry of the building.
- The project will provide an on-site gym available only to employees.
- The MTS bus stop is located on the southwest corner of the property.

Equal Opportunity Contracting Information (if applicable):
N/A

Previous Council and/or Committee Actions:
N/A

Hearing Officer Action:
Hearing Officer heard the item on April 9, 2025, and adopted the Resolution adopting the Subsequent Mitigated Negative Declaration PRJ-1058759 / SCH No. 2019060003 and the Mitigation Monitoring and Reporting Program; and approved Coastal Development Permit No. PMT-3158584 and approved Site Development Permit No. PMT-3158586.

Key Stakeholders and Community Outreach Efforts:
On May 9, 2023, the University Community Planning Group voted 5-4 to recommend approval of the proposed project with a non-binding recommendation to consider comments from Biologist Isabelle Kay and Friends of Rose Canyon Executive Director Deborah Knight regarding landscape revisions, to consider bird-safety in the design, to include minimal exterior nighttime lighting with proper shields, and to evaluate the ability to add landscaping between parking spaces and the canyon if possible.

The permit includes a condition to ensure the installation of bird-safe glass to prevent bird collisions. Additionally, the Biological Technical Report prepared by Helix Environmental Planning Inc. dated July 2024 includes an analysis of the City's MHPA Land Use Adjacency Guidelines and concludes

proposed project lighting will be shielded and directed away from the MHPA to protect resources in the MHPA from artificial night lighting. The project contains 752 square feet of building perimeter planting between parking lots and the canyon (See Landscape Sheet L-5) and contains 2,303 square feet of screen planting between the parking lot and the canyon. Per the Biology report and the landscape plans, several existing Torrey Pine trees (measuring 30-40 feet tall) and existing Nuttall's Scrub Oaks (measuring 10 feet tall) will be protected in place.

Elyse Lowe	Casey Smith
Department Director	Deputy Chief Operating Officer

RESOLUTION NUMBER R- 316352

DATE OF FINAL PASSAGE JUL 21 2025

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO DENYING ENVIRONMENTAL APPEAL – 11011 TORREYANA ROAD PROJECT NO. PRJ-1058759.

RECITALS

The Council of the City of San Diego (Council) adopts this Resolution based on the following:

A. Alliance Diversified Holdings, LLC/Bridgewest Group, submitted an application to the City of San Diego for a Coastal Development Permit and Site Development Permit to demolish an existing 76,694 square-foot research and development building and construct a new 152,080 square-foot research and development building with a four-level subterranean parking garage and surface parking located at 11011 Torreyana Road within the University Community Plan Area, for the 11011 Torreyana Road Project (Project).

B. On June 7, 2022, the City of San Diego, through the Development Services Department, determined that the application for Project Number PRJ-1058759 was complete and the Project was deemed complete.

C. On April 9, 2025, the Hearing Officer of the City of San Diego approved the Project, and adopted Subsequent Mitigated Negative Declaration No. 1058759/State Clearinghouse No. 2019060003 and the Mitigation Monitoring and Reporting Program for the Project (Environmental Determination).

D. On April 16, 2025, Supporters Alliance for Environmental Responsibility (Appellant) appealed the Environmental Determination for the 11011 Torreyana Road Project to the Council.

E. On July 21, 2025, the Council heard the environmental appeal of the Project. The Council considered, in light of the whole record, the Environmental Determination to, the potential environmental impacts associated with the 11011 Torreyana Road Project, and the issues raised on appeal and brought up at the hearing through testimony and public participation.

F. The Office of the City Attorney prepared this Resolution based on the information provided by City staff including information provided by affected third parties and verified by City staff, with the understanding that this information is complete and accurate.

G. Under San Diego Charter section 280(a)(2), this Resolution is not subject to veto by the Mayor because this matter requires the 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.

ACTION ITEMS

Be it resolved by the Council of the City of San Diego:

1. The Council finds, based upon the representations of City staff, public testimony and the whole record before it, the following:

A. The Environmental Determination has been completed in compliance with CEQA and the CEQA Guidelines. The Environmental Determination reflects the independent judgment of the City of San Diego as Lead Agency. The information contained in the Subsequent Initial Study, Subsequent Mitigated Negative Declaration No. 1058759/State Clearinghouse No. 2019060003, Development Services Department staff report, and testimony and comments received during the public testimony process, have been reviewed and considered by the Council in connection with the appeal of the Environmental Determination.

B. There is substantial evidence, in light of the whole record, supporting the Environmental Determination to adopt Subsequent Mitigated Negative Declaration No. 1058759/State Clearinghouse No. 2019060003 and the Mitigation Monitoring and Reporting Program for the Project under the provisions of CEQA Guidelines sections 15070 and 15152(f).

C. A fair argument, based upon evidence found in the whole record, has not been established demonstrating that the Project may have significant environmental impacts and project revisions now mitigate potentially significant effects on the environment previously identified in the Subsequent Initial Study.

D. Based upon substantial evidence in light of the whole record, the 11011 Torreyana Road Project would not result in any significant or potentially significant impacts or effects on the environment.

2. The Environmental Determination of the Hearing Officer adopting Subsequent Mitigated Negative Declaration No. 1058759/State Clearinghouse No. 2019060003 and the Mitigation Monitoring and Reporting Program for the Project is approved, and the appeal of Supporters Alliance for Environmental Responsibility is denied.

APPROVED: HEATHER FERBERT, City Attorney

By 
Jeanne L. MacKinnon
Deputy City Attorney

JLM:amt
July 22, 2025
Or.Dept: DSD
Doc. No. 4134133

I certify that the Council of the City of San Diego adopted this Resolution at a meeting held on JUL 21 2025.

DIANA J.S. FUENTES
City Clerk

By Krystell Medina
Deputy City Clerk

ATTACHMENT 3

Passed by the Council of The City of San Diego on JUL 21 2025, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Joe LaCava	☑	☐	☐	☐
Jennifer Campbell	☑	☐	☐	☐
Stephen Whitburn	☑	☐	☐	☐
Henry L. Foster III	☑	☐	☐	☐
Marni von Wilpert	☑	☐	☐	☐
Kent Lee	☑	☐	☐	☐
Raul A. Campillo	☑	☐	☐	☐
Vivian Moreno	☑	☐	☐	☐
Sean Elo-Rivera	☑	☐	☐	☐

Date of final passage JUL 21 2025.

(Please note: When a resolution is approved by the Mayor, the date of final passage is the date the approved resolution was returned to the Office of the City Clerk.)

AUTHENTICATED BY:

TODD GLORIA
Mayor of The City of San Diego, California.

(Seal)

DIANA J.S. FUENTES
City Clerk of The City of San Diego, California.

By Krystell Medina, Deputy

Office of the City Clerk, San Diego, California

Resolution Number R- 316352

ATTACHMENT 4

THE CITY OF SAN DIEGO

M E M O R A N D U M

DATE: April 8, 2025

TO: Antoinette Gibbs, Hearing Officer, Development Services Department

FROM: Hector Rios, Development Project Manager II, Development Services Department

SUBJECT: Hearing Officer meeting on April 9, 2025 – Item #2

Please note that Environmental Mitigation Requirements: condition No. 17, which is listed below, was added to Coastal Development Permit NO. PMT-3158584 and Site Development Permit NO. PMT-3158586:

> **#17** Where walls with glass panes are proposed adjacent to open space, the Owner/Permittee shall ensure the installation of bird safe glass to prevent bird collisions to the satisfaction of the Multiple Species Conservation Program (MSCP), and City Engineer. Bird safe glass shall include the use of glass with ultraviolet reflective patterns visible to birds but transparent to the human eye (such as GlasPro Bird Safe Ultraviolet Reflective Glass), or etched or patterned glass that provide a visual barrier. Patterned or etched glass shall have vertical stripes at least ¼ inch wide with a maximum spacing of 4 inches, or horizontal stripes that are at least ¼ inch wide with a maximum spacing of 2 inches in accordance with the guidance provided in the U.S. Fish and Wildlife Service (USFWS) publication Low-Cost Methods to Reduce Bird Collisions with Glass prepared June 4, 2021 (USFWS 2021; https://www.fws.gov/media/low-cost-methods-reduce-bird-collisions-glass).

This change is reflected in the attached pages within this memorandum. Should you have any questions, please contact me at (619) 533-6733 or email me at hrios@sandiego.gov

Sincerely,

Hector Rios

Hector Rios
Development Project Manager

Attachment:
1. Environmental Mitigation Requirements – Condition No. 17 added

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

WHEN RECORDED MAIL TO
PROJECT MANAGEMENT
PERMIT CLERK
MAIL STATION 501

INTERNAL ORDER NUMBER: 24009237 SPACE ABOVE THIS LINE FOR RECORDER'S USE

COASTAL DEVELOPMENT PERMIT NO. PMT-3158584
SITE DEVELOPMENT PERMIT NO. PMT-3158586
11011 TORREYANA-PROJECT NO. PRJ-1058759 [MMRP]
HEARING OFFICER

This Coastal Development Permit No. PMT-3158584 and Site Development Permit No. PMT-3158586 are granted by the Hearing Officer of the City of San Diego to ALLIANCE DIVERSIFIED HOLDINGS LLC, a DELAWARE LIMITED LIABILITY COMPANY, Owner/Permittee, pursuant to San Diego Municipal Code [SDMC] sections 126.0708 and 126.0505. The 10.2-acre site is located at 11011 Torreyana Road in the IP-1-1 zone, Airport Land Use Compatibility Overlay Zone (MCAS Miramar), the Airport Influence Area (MCAS Miramar-Review Area 1), the Airport Safety Zone MCAS Miramar (Accident Potential Zone 2), the Coastal Height Limitation Overlay Zone, the Coastal Overlay Zone (Appealable Area), the Community Plan Implementation Overlay Zone – Type B (CPIOZ-B), Transit Priority Area (TPA), the Multiple Habitat Planning Area (MHPA), the Very High Fire Hazard Severity Zone, the Parking Impact Overlay Zone (Coastal), Prime Industrial, and designated Industrial-Scientific Research within the University Community Plan area. The project site is legally described as: Lot 7 of Torrey Pines Science Park Unit No. 2, in the City of San Diego, County of San Diego, State of California, according to Map thereof No. 8434, filed in the Office of the County Recorder of San Diego County, December 10, 1976. Excepting all oil, gas and other hydrocarbons, geothermal resources, as defined in Section 6903 of the California Public Resources Code, and all other minerals, whether similar to those herein specified or not, within or that may be produced from said property, as contained in Deed recorded January 12, 1989, as Instrument No. 89-017959 of Official Records.

Subject to the terms and conditions set forth in this Permit, permission is granted to the Owner/Permittee to demolish an existing 76,694-square-foot building and construct a 152,080-square-foot building and a four-level subterranean parking garage described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated April 9, 2025, on file in the Development Services Department.

The project shall include:

a. Demolition of a 76,694-square-foot building;

b. Construction of a new 152,080-square-foot research and development building and a four-level subterranean parking garage;

c. Landscaping (planting, irrigation and landscape-related improvements);

d. Off-street parking including a four-level subterranean parking garage with approximately 440 parking spaces and 44 surface parking spaces;

e. Public and private accessory improvements determined by the Development Services Department to be consistent with the land use and development standards for this site in accordance with the adopted community plan, the California Environmental Quality Act [CEQA] and the CEQA Guidelines, the City Engineer's requirements, zoning regulations, conditions of this Permit, and any other applicable regulations of the SDMC.

STANDARD REQUIREMENTS:

1. This permit must be utilized within thirty-six (36) months after the date on which all rights of appeal have expired. If this permit is not utilized in accordance with Chapter 12, Article 6, Division 1 of the SDMC within the 36-month period, this permit shall be void unless an Extension of Time has been granted. Any such Extension of Time must meet all SDMC requirements and applicable guidelines in effect at the time the extension is considered by the appropriate decision-maker. This permit must be utilized by April 24, 2028.

2. This Coastal Development Permit shall become effective on the eleventh working day following receipt by the California Coastal Commission of the Notice of Final Action, or following all appeals.

3. No permit for the construction, occupancy, or operation of any facility or improvement described herein shall be granted, nor shall any activity authorized by this Permit be conducted on the premises until:

a. The Owner/Permittee signs and returns the Permit to the Development Services Department; and

b. The Permit is recorded in the Office of the San Diego County Recorder.

4. While this Permit is in effect, the subject property shall be used only for the purposes and under the terms and conditions set forth in this Permit unless otherwise authorized by the appropriate City decision-maker.

5. This Permit is a covenant running with the subject property and all of the requirements and conditions of this Permit and related documents shall be binding upon the Owner/Permittee and any successor(s) in interest.

6. The continued use of this Permit shall be subject to the regulations of this and any other applicable governmental agency.

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

8. 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 federal Endangered Species Act [ESA] and by the California Department of Fish and Wildlife [CDFW] pursuant to California Fish and Wildlife 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 Owner/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 16, 1997, and on file in the Office of the City Clerk as Document No. OO-18394. Third Party Beneficiary status is conferred upon Owner/Permittee by the City: (1) to grant Owner/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 Owner/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 CDFW, 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 Owner/Permittee maintaining the biological values of any and all lands committed for mitigation pursuant to this Permit and of full satisfaction by Owner/Permittee of mitigation obligations required by this Permit, in accordance with Section 17.1D of the IA.

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

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

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

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

discretionary body shall have the absolute right to approve, disapprove, or modify the proposed permit and the condition(s) contained therein.

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

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

ENVIRONMENTAL/MITIGATION REQUIREMENTS:

14. Mitigation requirements in the Mitigation, Monitoring, and Reporting Program [MMRP] No. 1058759, SCH 2019060003 shall apply to this Permit. These MMRP conditions are hereby incorporated into this Permit by reference.

15. The mitigation measures specified in the MMRP and outlined in Mitigated Negative Declaration, Project No. 1058759, SCH 2019060003 shall be noted on the construction plans and specifications under the heading ENVIRONMENTAL MITIGATION REQUIREMENTS.

16. The Owner/Permittee shall comply with the MMRP as specified in the Mitigated Negative Declaration, Project No. 1058759, SCH 2019060003, to the satisfaction of the Development Services Department and the City Engineer. Prior to issuance of any construction permit, all conditions of the MMRP shall be adhered to, to the satisfaction of the City Engineer. All mitigation measures described in the MMRP shall be implemented for the following issue areas:

Biological Resources
Historical/Archaeological/Tribal Cultural Resources
Transportation/Circulation

17. Where walls with glass panes are proposed adjacent to open space, the Owner/Permittee shall ensure the installation of bird safe glass to prevent bird collisions to the satisfaction of the Multiple Species Conservation Program (MSCP), and City Engineer. Bird safe glass shall include the use of glass with ultraviolet reflective patterns visible to birds but transparent to the human eye (such as GlasPro Bird Safe Ultraviolet Reflective Glass), or etched or patterned glass that provide a visual barrier. Patterned or etched glass shall have vertical stripes at least ¼ inch wide with a maximum spacing of 4 inches, or horizontal stripes that are at least ¼ inch wide with a maximum spacing of 2 inches in accordance with the guidance provided in the U.S. Fish and Wildlife Service (USFWS) publication Low-Cost Methods to Reduce Bird Collisions with Glass prepared June 4, 2021 (USFWS 2021; https://www.fws.gov/media/low-cost-methods-reduce-bird-collisions-glass).

MULTI-HABITAT PLANNING AREA (MHPA) LAND USE ADJACENCY REQUIREMENTS

18. Prior to issuance of any construction permits, including but not limited to, the first Grading Permit, Demolition Plans/Permits and Building Plans/Permits, the owner/permittee shall depict the following requirements on the construction documents and plans for Project Site under the heading "Environmental Requirements"

- **Grading/Land Development/MHPA Boundaries -**Within or adjacent to the MHPA, all manufactured slopes associated with site development shall be included within the development footprint.

- **Drainage -** All staging and developed/paved areas must prevent the release of toxins, chemicals, petroleum products, exotic plant materials prior to release by incorporating the use of filtration devices, planted swales and/or planted detention/desiltation basins, or other approved temporary and permanent methods that are designed to minimize negative impacts, such as excessive water and toxins into the ecosystems of the MHPA.

- **Toxics/Project Staging Areas/Equipment Storage -** Projects that use chemicals or generate by-products such as pesticides, herbicides, and animal waste, and other substances that are potentially toxic or impactive to native habitats/flora/fauna (including water) shall incorporate measures to reduce impacts caused by the application and/or drainage of such materials into the MHPA. No trash, oil, parking, or other construction/development-related material/activities shall be allowed outside any approved construction limits. Provide a note in/on the CD's that states: "All construction related activity that may have potential for leakage or intrusion shall be monitored by the Qualified Biologist/Owners Representative or Resident Engineer to ensure there is no impact to the MHPA."

- **Lighting -**All lighting within or adjacent to the MHPA is directed away/shielded from the MHPA, or limited to the immediate area and is in compliance with City Outdoor Lighting Regulations per LDC Section 142.0740.

- **Barriers** –Existing fences/walls; and/or signage along the MHPA boundaries shall remain and or be added to direct public access to appropriate locations, reduce domestic animal predation, protect wildlife in the preserve, and provide adequate noise reduction where needed.

- **Invasives** - No invasive, non-native plant species shall be introduced into areas within or adjacent to the MHPA.

- **Brush Management -**Brush management zones will not be greater in size that is currently required by the City's regulations (this includes use of approved alternative compliance). Within Zone 2 the amount of woody vegetation clearing shall not exceed 50 percent of the vegetation existing when the initial clearing is done. Vegetation clearing shall be done consistent with City standards and shall avoid/minimize impacts to covered species to the maximum extent possible. For all new development, regardless of the ownership, the brush management in the Zone 2 area will be the responsibility of a home-owner's association or other private party.

- **Noise** - Construction noise that exceeds the maximum levels allowed (60 dB or greater at the beginning edge of the habitat) shall be avoided during the breeding seasons for the following: CA gnatcatcher (3/1-8/15). If construction is proposed during the breeding season for the species the following measures are required:,-

COASTAL CALIFORNIA GNATCATCHER (Federally Threatened)

19. Prior to the issuance of any grading permit, the City Manager (or appointed designee) shall verify that the Multi-Habitat Planning Area (MHPA) boundaries and the following project requirements regarding the coastal California gnatcatcher are shown on the construction plans:

NO CLEARING, GRUBBING, GRADING, OR OTHER CONSTRUCTION ACTIVITIES SHALL OCCUR BETWEEN MARCH 1 AND AUGUST 15, THE BREEDING SEASON OF THE COASTAL CALIFORNIA GNATCATCHER, UNTIL THE FOLLOWING REQUIREMENTS HAVE BEEN MET TO THE SATISFACTION OF THE CITY MANAGER:

A. A QUALIFIED BIOLOGIST (POSSESSING A VALID ENDANGERED SPECIES ACT SECTION 10(a)(1)(A) RECOVERY PERMIT) SHALL SURVEY THOSE HABITAT AREAS WITHIN THE MHPA THAT WOULD BE SUBJECT TO CONSTRUCTION NOISE LEVELS EXCEEDING 60 DECIBELS [dB(A)] HOURLY AVERAGE FOR THE PRESENCE OF THE COASTAL CALIFORNIA GNATCATCHER. SURVEYS FOR THE COASTAL CALIFORNIA GNATCATCHER SHALL BE CONDUCTED PURSUANT TO THE PROTOCOL SURVEY GUIDELINES ESTABLISHED BY THE U.S. FISH AND WILDLIFE SERVICE WITHIN THE BREEDING SEASON PRIOR TO THE COMMENCEMENT OF ANY CONSTRUCTION. IF GNATCATCHERS ARE PRESENT, THEN THE FOLLOWING CONDITIONS MUST BE MET:

I. BETWEEN MARCH 1 AND AUGUST 15, NO CLEARING, GRUBBING, OR GRADING OF OCCUPIED GNATCATCHER HABITAT SHALL BE PERMITTED.

AREAS RESTRICTED FROM SUCH ACTIVITIES SHALL BE STAKED OR FENCED UNDER THE SUPERVISION OF A QUALIFIED BIOLOGIST; AND

II. BETWEEN MARCH 1 AND AUGUST 15, NO CONSTRUCTION ACTIVITIES SHALL OCCUR WITHIN ANY PORTION OF THE SITE WHERE CONSTRUCTION ACTIVITIES WOULD RESULT IN NOISE LEVELS EXCEEDING 60 dB (A) HOURLY AVERAGE AT THE EDGE OF OCCUPIED GNATCATCHER HABITAT. AN ANALYSIS SHOWING THAT NOISE GENERATED BY CONSTRUCTION ACTIVITIES WOULD NOT EXCEED 60 dB (A) HOURLY AVERAGE AT THE EDGE OF OCCUPIED HABITAT MUST BE COMPLETED BY A QUALIFIED ACOUSTICIAN (POSSESSING CURRENT NOISE ENGINEER LICENSE OR REGISTRATION WITH MONITORING NOISE LEVEL EXPERIENCE WITH LISTED ANIMAL SPECIES) AND APPROVED BY THE CITY MANAGER AT LEAST TWO WEEKS PRIOR TO THE COMMENCEMENT OF CONSTRUCTION ACTIVITIES. PRIOR TO THE COMMENCEMENT OF CONSTRUCTION ACTIVITIES DURING THE BREEDING SEASON, AREAS RESTRICTED FROM SUCH ACTIVITIES SHALL BE STAKED OR FENCED UNDER THE SUPERVISION OF A QUALIFIED BIOLOGIST; OR

III. AT LEAST TWO WEEKS PRIOR TO THE COMMENCEMENT OF CONSTRUCTION ACTIVITIES, UNDER THE DIRECTION OF A QUALIFIED ACOUSTICIAN, NOISE ATTENUATION MEASURES (e.g., BERMS, WALLS) SHALL BE IMPLEMENTED TO ENSURE THAT NOISE LEVELS RESULTING FROM CONSTRUCTION ACTIVITIES WILL NOT EXCEED 60 dB(A) HOURLY AVERAGE AT THE EDGE OF HABITAT OCCUPIED BY THE COASTAL CALIFORNIA GNATCATCHER. CONCURRENT WITH THE COMMENCEMENT OF CONSTRUCTION ACTIVITIES AND THE CONSTRUCTION OF NECESSARY NOISE ATTENUATION FACILITIES, NOISE MONITORING* SHALL BE CONDUCTED AT THE EDGE OF THE OCCUPIED HABITAT AREA TO ENSURE THAT NOISE LEVELS DO NOT EXCEED 60 dB (A) HOURLY AVERAGE. IF THE NOISE ATTENUATION TECHNIQUES IMPLEMENTED ARE DETERMINED TO BE INADEQUATE BY THE QUALIFIED ACOUSTICIAN OR BIOLOGIST, THEN THE ASSOCIATED CONSTRUCTION ACTIVITIES SHALL CEASE UNTIL SUCH TIME THAT ADEQUATE NOISE ATTENUATION IS ACHIEVED OR UNTIL THE END OF THE BREEDING SEASON (AUGUST 16).

* Construction noise monitoring shall continue to be monitored at least twice weekly on varying days, or more frequently depending on the construction activity, to verify that noise levels at the edge of occupied habitat are maintained below 60 dB (A) hourly average or to the ambient noise level if it already exceeds 60 dB (A) hourly average. If not, other measures shall be implemented in consultation with the biologist and the 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.

B. IF COASTAL CALIFORNIA GNATCATCHERS ARE 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 AS FOLLOWS:

I. IF THIS EVIDENCE INDICATES THE POTENTIAL IS HIGH FOR COASTAL CALIFORNIA GNATCATCHER TO BE PRESENT BASED ON HISTORICAL RECORDS OR SITE CONDITIONS, THEN CONDITION A.III SHALL BE ADHERED TO AS SPECIFIED ABOVE.

II. IF THIS EVIDENCE CONCLUDES THAT NO IMPACTS TO THIS SPECIES ARE ANTICIPATED, NO MITIGATION MEASURES WOULD BE NECESSARY.

CLIMATE ACTION PLAN REQUIREMENTS:

20. Owner/Permittee shall comply with the Climate Action Plan (CAP) Consistency Checklist stamped as Exhibit "A." Prior to issuance of any construction permit, all CAP strategies shall be noted within the first three (3) sheets of the construction plans under the heading “Climate Action Plan Requirements” and shall be enforced and implemented to the satisfaction of the Development Services Department.

GEOLOGY REQUIREMENTS:

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

ENGINEERING REQUIREMENTS:

22. Prior to the issuance of any building permit the Owner/Permittee shall assure, by permit and bond, the construction of two new 25 feet driveways per current City Standards, adjacent to the site on Torreyana Road.

23. Prior to the issuance of any building permit the Owner/Permittee shall assure, by permit and bond, to replace existing sidewalk with current City Standard maintaining the existing sidewalk scoring pattern adjacent to the site on Torreyana Road.

24. Prior to the issuance of any building permit the Owner/Permittee shall assure by permit and bond, to reconstruct both existing curb ramps, with current City Standard curb ramp adjacent to the site on Torreyana Road, satisfactory to the City Engineer.

25. Prior to the issuance of any building permit the Owner/Permittee shall obtain a bonded grading permit for the grading proposed for this project. All grading shall conform to the requirements of the City of San Diego Municipal Code in a manner satisfactory to the City Engineer.

26. The drainage system proposed for this development, as shown on the site plan, is private and subject to approval by the City Engineer.

27. Prior to the issuance of any construction permit, the Owner/Permittee shall incorporate any construction Best Management Practices necessary to comply with Chapter 14, Article 2, Division 1 (Grading Regulations) of the SDMC, into the construction plans or specifications.

28. Prior to the issuance of any construction permit, the applicant shall submit a Technical Report that will be subject to final review and approval by the City Engineer, based on the Storm Water Standards in effect at the time of the construction permit issuance.

29. Development of this project shall comply with all storm water construction requirements of the State Construction General Permit, Order No. 2009-0009DWQ, or subsequent order, and the Municipal Storm Water Permit, Order No. R9-2013-0001, or subsequent order. In accordance with Order No. 2009-0009DWQ, or subsequent order, a Risk Level Determination shall be calculated for the site and a Storm Water Pollution Prevention Plan (SWPPPJ shall be implemented concurrently with the commencement of grading activities.

30. Prior to issuance of a grading or a construction permit, a copy of the Notice of Intent (NOI) with a valid Waste Discharge ID number (WD/0#) shall be submitted to the City of San Diego as a proof of enrollment under the Construction General Permit. When ownership of the entire site or portions of the site changes prior to filing of the Notice of Termination (NOT), a revised NOI shall be submitted electronically to the State Water Resources Board in accordance with the provisions as set forth in Section 11.C of Order No. 2009-0009-DWQ and a copy shall be submitted to the City.

31. Prior to the issuance of any construction permit, the Owner/Permittee shall enter into a Maintenance Agreement for the ongoing permanent BMP maintenance, satisfactory to the City Engineer.

LANDSCAPE REQUIREMENTS:

32. Prior to issuance of any construction permit for grading, the Owner/Permittee shall submit complete construction documents for the revegetation and hydro-seeding of all disturbed land in accordance with the City of San Diego Landscape Standards, Storm Water Design Manual, and to the satisfaction of the Development Services Department. All plans shall be in substantial conformance to this permit (including Environmental conditions) and Exhibit "A," on file in the Development Services Department.

33. Prior to issuance of any public improvement permit, the Owner/Permittee shall submit complete landscape construction documents for right-of-way improvements to the Development Services Department for approval. Improvement plans shall show, label, and dimension a 40-square-foot area around each tree which is unencumbered by utilities. Driveways, utilities, drains, water and sewer laterals shall be designed so as not to prohibit the placement of street trees.

34. Prior to issuance of any construction permit for building (including shell), the Owner/Permittee shall submit complete landscape and irrigation construction documents, which are consistent with

the Landscape Standards, to the Development Services Department for approval. The construction documents shall be in substantial conformance with Exhibit "A," Landscape Development Plan, on file in the Development Services Department. Construction plans shall provide a 40-square-foot area around each tree that is unencumbered by hardscape and utilities unless otherwise approved per §142.0403(b)(6).

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

36. The Owner/Permittee shall be responsible for the maintenance of all landscape improvements shown on the approved plans, including in the right-of-way unless long-term maintenance of said landscaping will be the responsibility of another entity approved by the Development Services Department. All required landscapes shall be maintained consistent with the Landscape Standards in a disease, weed, and litter-free condition at all times. Severe pruning or “topping” of trees is not permitted.

37. If any required landscape (including existing or new plantings, hardscape, landscape features, etc.) indicated on the approved construction documents is damaged or removed during demolition or construction, the Owner/Permittee shall repair and/or replace in kind and equivalent size per the approved documents to the satisfaction of the Development Services Department within 30 days of damage Final Inspection.

38. The Owner/Permittee shall implement the following requirements in accordance with the Brush Management Program shown on Exhibit 'A' on file in the Development Services Department.

39. The Brush Management Program shall be based on a standard Zone One of 35-ft. in width and a Zone Two of 65-ft. in width, extending out from the structure towards the native/naturalized vegetation, consistent with SDMC §142.0412. Zone One shall range from 35-ft. to 100-ft. in width with a corresponding Zone Two of 65-ft. to 0-ft. in width, exercising Zone Two reduction options under SDMC §142.0412(f).

40. Prior to issuance of any Engineering Permits for grading, landscape construction documents required for the engineering permit shall be submitted showing the brush management zones on the property in substantial conformance with Exhibit 'A.'

41. Prior to issuance of any construction permit for building, a complete Brush Management Program shall be submitted for approval to the Development Services Department and shall be in substantial conformance with Exhibit “A” on file in the Development Services Department. The Brush Management Program shall comply with the City of San Diego’s Landscape Regulations and the Landscape Standards.

42. Within Zone One, combustible accessory structures (including, but not limited to decks, trellises, gazebos, etc.) shall not be permitted while accessory structures of non-combustible, one-

hour fire-rated, and/or heavy timber construction may be approved within the designated Zone One area subject to Fire Marshal's approval.

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

WATER AND SEWER REQUIREMENTS:

44. Prior to the issuance of any building permits, the Owner/Permittee shall assure, by permit and bond, the design and construction of new water and sewer service(s) outside of any driveway or drive aisle and the abandonment of any existing unused water and sewer services within the right-of-way adjacent to the project site, in a manner satisfactory to the Public Utilities Department and the City Engineer.

45. Owner/Permittee shall apply for a plumbing permit for the installation of appropriate private backflow prevention device(s), on each water service (domestic, fire and irrigation), in a manner satisfactory to the Public Utilities Department and the City Engineer. BFPDs shall be located above ground on private property, in line with the service and immediately adjacent to the right-of-way.

46. All proposed private water and sewer facilities are to be designed to meet the requirements of the California Uniform Plumbing Code and will be reviewed as part of the building permit plan check.

47. No trees or shrubs exceeding three feet in height at maturity shall be installed within ten feet of any sewer facilities and five feet of any water facilities.

48. Prior to the issuance of any building permits, the Owner/Permittee shall obtain an Encroachment Maintenance Removal Agreement, from the City Engineer, for the private sewer lateral encroaching into the Public Right-of-Way.

49. The Owner/Permittee shall grant sewer easements as shown on the approved Exhibit "A" satisfactory to the Public Utilities Department and the City Engineer.

PLANNING/DESIGN REQUIREMENTS:

50. The automobile, motorcycle and bicycle parking spaces must be constructed in accordance with the requirements of the SDMC. All on-site parking stalls and aisle widths shall be in compliance with requirements of the City's Land Development Code and shall not be converted and/or utilized for any other purpose, unless otherwise authorized in writing authorized by the appropriate City decision maker in accordance with the SDMC.

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

52. Prior to the issuance of any construction permits, the Owner/Permittee shall execute and record a Covenant of Easement which ensures preservation of the Environmentally Sensitive Lands that are outside the allowable development area on the premises as shown on Exhibit "A" for: Sensitive Biological Resources and Steep Hillsides, in accordance with SDMC section 143.0152. The Covenant of Easement shall include a legal description and an illustration of the premises showing the development area and the Environmentally Sensitive Lands as shown on Exhibit "A."

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

54. All private outdoor lighting shall be shaded and adjusted to fall on the same premises where such lights are located and in accordance with the applicable regulations in the SDMC.

TRANSPORTATION REQUIREMENTS

55. All automobile, motorcycle and bicycle parking spaces must be constructed in accordance with the requirements of the SDMC. All on-site parking stalls and aisle widths shall be in compliance with requirements of the City's Land Development Code and shall not be converted and/or utilized for any other purpose, unless otherwise authorized in writing by the appropriate City decision maker in accordance with the SDMC.

56. Prior to issuance of any building permit, the Owner/Permittee shall assure by permit and bond the reconstruction of an existing northerly driveway as a 25 ft wide driveway along Torreyana Road, as shown on Exhibit 'A' per current City standards, satisfactory to the City Engineer. All improvements shall be completed and operational prior to first occupancy.

57. Prior to issuance of any building permit, the Owner/Permittee shall assure by permit and bond the construction of a 25 ft wide southerly driveway opposite Callan Road (as the fourth leg to the intersection of Torreyana Road/Callan Road) along Torreyana Road, as shown on Exhibit 'A' per current City standards, satisfactory to the City Engineer. All improvements shall be completed and operational prior to first occupancy.

58. Prior to issuance of any building permit, the Owner/Permittee shall assure by permit and bond the removal of an existing southerly driveway and replacement with full height curb, gutter, and sidewalk along Torreyana Road, as shown on Exhibit 'A' per current City standards, satisfactory to the City Engineer.

59. Prior to first occupancy, the Owner/Permittee shall provide and maintain the following Transportation Demand Management Program, satisfactory to the City Engineer:

- The Owner/Permittee will implement a parking cash out program for all employees to incentivize employees to carpool, vanpool, bike to work, or use public transit. The parking cash out program will include discounts or subsidies to be used at on-site amenities at least $30 per month.

- The Owner/Permittee shall maintain an employer network in the SANDAG iCommute program and promote its RideMatcher service to tenants/employees.

- The Owner/Permittee will provide on-site bike sharing that will be located directly adjacent to the main entry of the building.

- The Owner/Permitee will provide an on-site gym available only to employees which will reduce the need to drive.

60. Prior to first occupancy, the Owner/Permittee shall provide and maintain the following Vehicle Miles Traveled (VMT) reduction measures totaling at least 8 points as shown on Exhibit 'A' satisfactory to the City Engineer. All VMT Reduction Measures shall be provided prior to first occupancy.

- An on-site bicycle repair station (1.5 points)

- A minimum of five (5) electric bicycle charging stations/micro mobility stations that are available to the public (2 points)

- Short-term bicycle parking spaces available to the public, at least 10% beyond minimum requirements. The minimum required per the SDMC is zero (O) spaces and three (3) spaces will be provided. (Each multiple of 10% beyond the minimum is = 1.5 points) (4.5 points)

- Long-term bicycle parking spaces at least 10% beyond minimum requirements. The minimum required per the SDMC is twenty-one (21) spaces and twenty-four (24) spaces will be provided. (Each multiple of 10% beyond the minimum = 2 points) (2 points)

- On-site multi-modal information kiosks (2 points)

INFORMATION ONLY:

- The issuance of this discretionary permit alone does not allow the immediate commencement or continued operation of the proposed use on site. Any operation allowed by this discretionary permit may only begin or recommence after all conditions listed on this permit are fully completed and all required ministerial permits have been issued and received final inspection.

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

- This development may be subject to impact fees at the time of construction permit issuance.

APPROVED by the Hearing Officer of the City of San Diego on April 9, 2025 and [Approved Resolution Number].

COASTAL DEVELOPMENT PERMIT NO. PMT-3158584
SITE DEVELOPMENT PERMIT NO. PMT-3158586
April 9, 2025

AUTHENTICATED BY THE CITY OF SAN DIEGO DEVELOPMENT SERVICES DEPARTMENT

_____
Hector Rios
Development Project Manager

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

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

ALLIANCE DIVERSIFIED HOLDINGS LLC, a DELAWARE LIMITED LIABILITY COMPANY
Owner/Permittee

By _____
NAME
TITLE

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

Development Services

THE CITY OF SAN DIEGO

FORM
DS-3031
November 2022

Development Permit/ Environmental Determination Appeal Application

In order to ensure your appeal application is successfully accepted and processed, you must read and understand Information Bulletin (IB) 505, "Development Permits/Environmental Determination Appeal Procedure."

1. Type of Appeal: ☑ Appeal of the Project
   ☐ Appeal of the Environmental Determination
2. Appellant: Please check one ☐ Applicant ☐ Officially recognized Planning Committee
   ☑ "Interested Person"
   (Per San Diego Municipal Code (SDMC) § 113.0103)

Name:
Supporters Alliance for Environmental Responsibility "SAFER"

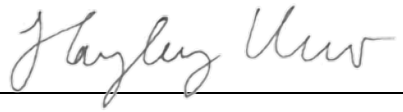
E-mail:
hayley@lozeaudrury.com

Address:	City:	State:	Zip Code:	Telephone:
1939 Harrison St. Ste. 150	Oakland	CA	94612	510-836-4200

3. Project Name:
   11011 TORREYANA ROAD
4. Project Information:
   Construct a new 152,080-square-foot research and development building and parking.
   Permit/Environmental Information Determination and Permit/Document No:
   PRJ-1058759 SCH - 2019060003
   Date of Decision/Determination:
   4/9/25
   City Project Manager:
   Hector Rios
   Decision (Describe the permit/approval decision):
   COASTAL DEVELOPMENT PERMIT, SITE DEVELOPMENT PERMIT,MITIGATED NEGATIVE DECLARATION,
5. Ground for Appeal (Please check all that apply):
   ☑ Factual Error
   ☑ New Information
   ☐ Conflict with other Matters
   ☐ City-wide Significance (Process four decisions only)
   ☑ Findings Not Supported

Description of Grounds for Appeal (Please relate your description to the allowable reasons for appeal as more fully described in the SDMC § 112.0501. Attach additional sheets if necessary.)

6. Applicant's Signature: I certify under penalty of perjury that the foregoing, including all names and addresses, is true and correct.

Signature:  Date: 4/16/25

Note: Faxed appeals are not accepted.

Reference Table

- San Diego Municipal Code (SDMC)
- Development Permits/Environmental Determination Appeal Procedure (IB-505)

Description of Grounds for Appeal

11011 Torreyana Road– Project No. PRJ-1058759

The Hearing Officer's April 9, 2025 decision to approve Coastal Development Permit No. PMT-2579784, Site Development Permit No. PMT-2579785, and adopt the Final Subsequent Mitigated Negative Declaration ("MND") and Mitigation Monitoring and Reporting Program ("MMRP") prepared for the 11011 Torreyana Road Project, ("Project") constituted an abuse of discretion because the City failed to adequately analyze and mitigate the Project's significant environmental impacts under the California Environmental Quality Act ("CEQA").

As discussed in the January 6, 2025 comment letter submitted by Supporters Alliance for Environmental Responsibility ("SAFER"), there is substantial evidence of a fair argument that the Project may result in significant adverse biological impacts. Therefore, SAFER respectfully requests that the City of San Diego Planning Commission require the City to prepare an environmental impact report instead of an MND to analyze and mitigate these impacts in accordance with the California Environmental Quality Act.

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VIA EMAIL & WEBFORM

January 6, 2025

Kelly Modén, Chairperson
And Honorable Commissioners
Planning Commission, City of San Diego
1222 First Avenue, 5th Floor
San Diego, CA 92101
c/o Lara Gates, Deputy Director
Project Management Division, City of San Diego
lngates@sandiego.gov

Morgan Dresser, Planner
Development Services Department
City of San Diego
1222 First Avenue, MS 501
San Diego, CA 92101
dsdeas@sandiego.gov

Re: Opposition Comment on the Final Mitigated Negative Declaration for the 11011 Torreyana Road Project (Project No. PRJ-1058759; SCH No. 2019060003)

Dear Honorable Members of the City of San Diego Planning Commission and Ms. Dresser:

This comment is submitted on behalf of Supporters Alliance for Environmental Responsibility ("SAFER") regarding the Final Mitigated Negative Declaration ("MND") prepared for the 11011 Torreyana Road Project (Project No. PRJ-1058759; SCH No. 2019060003) located at 11011 Torreyana Road in San Diego ("Project").

As discussed below, there is a fair argument that the Project may result in significant biological impacts. Therefore, SAFER respectfully requests that the City of San Diego ("City") prepare an environmental impact report ("EIR") before approving the Project to analyze and mitigate these impacts in accordance with the California Environmental Quality Act ("CEQA").

SAFER's review of the MND was assisted by expert wildlife biologist Dr. Shawn Smallwood, Ph.D. Dr. Smallwood's written comments and CV are attached hereto as Exhibit A and are incorporated herein by reference in their entirety.

PROJECT DESCRIPTION

The Project involves the demolition of all existing structures on the Project site to construct a 152,080-square-foot, three-story life science building, including two above-grade levels and one basement level, with a maximum building height of 30 feet. The Project will have 44 surface parking spaces and 440 parking spaces in a four-level subterranean parking garage, totaling to 484 parking spaces. The site is currently developed with a 76,684-square-foot research and development building, an above-ground parking structure, and auxiliary buildings.

The Project site occupies 10.2 acres total, with approximately 3.4 acres of buildable lot area. There is currently a 6.8-acre open space easement with the State of California on the eastern portion of the site. The Project would retain these remaining 6.8 acres of the site as open space. A new covenant of easement will be placed over 6.3 acres of the existing easement.

The site is located at 11011 Torreyana Road in the City of San Diego, northeast of the intersection of Torreyana Road and Callan Road and west of Interstate 5. The site is zoned Industrial-Park (IP-1-1) and is designated as Industrial-Scientific Research within the University Community Plan and Industrial Employment within the General Plan. Surrounding land uses include commercial development to the north, south, and west, and undeveloped land and open space areas to the east. Recreational development is located west of the site.

LEGAL STANDARD

As the California Supreme Court held, "[i]f no EIR has been prepared for a nonexempt project, but substantial evidence in the record supports a fair argument that the project may result in significant adverse impacts, the proper remedy is to order preparation of an EIR." (*Communities for a Better Env't v. South Coast Air Quality Mgmt. Dist.* (2010) 48 Cal.4th 310, 319-20.) "Significant environmental effect" is defined very broadly as "a substantial or potentially substantial adverse change in the environment." (Pub. Res. Code ["PRC"] § 21068; see also 14 California Code of Regulations ["CCR"] § 15382.) An effect on the environment need not be "momentous" to meet the CEQA test for significance; it is enough that the impacts are "not trivial." (*No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal.3d 68, 83.) "The 'foremost principle' in interpreting CEQA is that the Legislature intended the act to be read so as to afford the fullest possible protection to the environment within the reasonable scope of the statutory language." (*Communities for a Better Env't v. Cal. Res. Agency* (2002) 103 Cal.App.4th 98, 109.)

The EIR is the very heart of CEQA. (*Bakersfield Citizens for Local Control v. City of Bakersfield* (2004) 124 Cal.App.4th 1184, 1214; *Pocket Protectors v. City of Sacramento* (2004) 124 Cal.App.4th 903, 927.) The EIR is an "environmental 'alarm bell' whose purpose is to alert the public and its responsible officials to environmental changes before they have reached the ecological points of no return." (*Bakersfield Citizens*, *supra*, 124 Cal.App.4th at 1220.) The EIR also functions as a "document of accountability," intended to "demonstrate to an apprehensive citizenry that the agency has, in fact, analyzed and considered the ecological implications of its action." (*Laurel Heights Improvements Assn. v. Regents of Univ. of Cal.* (1988) 47 Cal.3d 376, 392.) The EIR process "protects not only the environment but also informed self-government." (*Pocket Protectors*, 124 Cal.App.4th 903, 927.)

An EIR is required if "there is substantial evidence, in light of the whole record before the lead agency, that the project may have a significant effect on the environment." (PRC § 21080(d); see also *Pocket Protectors*, supra, 124 Cal.App.4th at 927.) An MND instead of an EIR is proper only if project revisions would avoid or mitigate the potentially significant effects identified in the initial study "to a point where clearly no significant effect on the environment

would occur, and . . . there is no substantial evidence in light of the whole record before the public agency that the project, as revised, may have a significant effect on the environment." (*Mejia v. City of Los Angeles* (2005) 130 Cal.App.4th 322, 331 [quoting PRC §§ 21064.5, 21080(c)(2)].) In that context, "may" means a reasonable possibility of a significant effect on the environment. (PRC §§ 21082.2(a), 21100, 21151(a); *Pocket Protectors*, *supra*, 124 Cal.App.4th at 927; *League for Protection of Oakland's etc. Historic Res. v. City of Oakland* (1997) 52 Cal.App.4th 896, 904-05.)

An EIR must be prepared rather than an MND "whenever it can be fairly argued on the basis of substantial evidence that the project may have a significant environmental impact." (*No Oil, Inc. v City of Los Angeles* (1974) 13 Cal.3d 68, 75.) Under this "fair argument" standard, an EIR is required if any substantial evidence in the record indicates that a project may have an adverse environmental effect—even if contrary evidence exists to support the agency's decision. (14 CCR § 15064(f)(1); *Pocket Protectors*, *supra*, 124 Cal.App.4th at 931; *Stanislaus Audubon Society v. County of Stanislaus* (1995) 33 Cal.App.4th 144, 150-51; *Quail Botanical Gardens Found., Inc. v. City of Encinitas* (1994) 29 Cal.App.4th 1597, 1602.) The "fair argument" standard creates a "low threshold" favoring environmental review through an EIR rather than through issuance of negative declarations or notices of exemption from CEQA. (*Pocket Protectors*, supra, 124 Cal.App.4th at 928.)

The "fair argument" standard is virtually the opposite of the typical deferential standard accorded to agencies. As a leading CEQA treatise explains:

> This 'fair argument' standard is very different from the standard normally followed by public agencies in making administrative determinations. Ordinarily, public agencies weigh the evidence in the record before them and reach a decision based on a preponderance of the evidence. [Citations]. The fair argument standard, by contrast, prevents the lead agency from weighing competing evidence to determine who has a better argument concerning the likelihood or extent of a potential environmental impact. The lead agency's decision is thus largely legal rather than factual; it does not resolve conflicts in the evidence but determines only whether substantial evidence exists in the record to support the prescribed fair argument.

(Kostka & Zischke, *Practice Under CEQA*, § 6.29, pp. 273-74.) The Courts have explained that "it is a question of law, not fact, whether a fair argument exists, and the courts owe no deference to the lead agency's determination. Review is de novo, with a preference for resolving doubts in favor of environmental review." (*Pocket Protectors*, supra, 124 Cal.App.4th at 928.)

DISCUSSION

I. There is a fair argument that the Project may have significant adverse impacts on biological resources.

Expert wildlife ecologist, Shawn Smallwood, Ph.D., has reviewed the Project's MND, its

biological report, and other relevant documents regarding the Project's biological impacts. As discussed below, Dr. Smallwood found that the Project will adversely affect biological resources because (1) the MND underestimated the diversity of species present on the Project site, including several special-status species; (2) the MND relied on an inadequate biological report; (3) the MND inadequately analyzed the Project's adverse impacts on wildlife; and (4) the MND's proposed mitigation measures are insufficient to reduce the Project's biological impacts.

A. The MND did not fully account for the diversity of species present on the Project site, including several special-status species.

Dr. Smallwood's associate, biologist Noriko Smallwood, M.S., conducted a Project site visit on September 7, 2024, for 3.2 hours. (Ex. A at 1.) During her visit, Ms. Smallwood detected 37 species of vertebrate wildlife at or adjacent to the Project site, including eight special-status bird species, including the California gnatcatcher, a species listed as threatened under the Endangered Species Act. Ms. Smallwood also observed the Western gull, the wrentit, the Rufous hummingbird, the Allen's hummingbird, and the Nuttall's woodpecker, which are all listed as Birds of Conservation Concern by the U.S. Fish & Wildlife Service, the yellow-breasted chat, a California Species of Special Concern and a Group 1 Species on the San Diego County Sensitive Animal List ("CSD1"), and a red-shouldered hawk, another CSD1 and a Bird of Prey. (*Id.* at 3, 11.)

The Biological Technical Report prepared for the MND by Helix Environmental Planning, Inc. ("Helix Report") identified 11 species of vertebrate wildlife at the Project site, only one of which Ms. Smallwood did not detect during her survey. (*Id.* at 15.) Of the 37 vertebrate wildlife species that Ms. Smallwood did detect, the Helix Report failed to identify 27 and reported finding no special-status wildlife species during its surveys. (*Id.* at 15-16.) As a result of these inadequacies, the MND's conclusions about the Project's impacts to biological resources are not supported by substantial evidence. The failure of the Helix Report to account for the eight special-status species that Ms. Smallwood detected and an abundance of other wildlife at the Project site underscores the inadequacy of the MND's biological analysis and the need for an EIR.

CEQA requires government agencies to describe the "environmental setting" of the Project. (CEQA Guidelines § 15063(d)(2); *Mejia v. City of Los Angeles* (2005) 130 Cal.App.4th 322.) The "environmental setting" is defined as "the physical conditions which exist within the area which will be affected by a proposed project including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance." (Guidelines § 15360; *see* Guidelines § 21060.5; *Lighthouse Field Beach Rescue v. City of Santa Cruz* (2005) 131 Cal.App.4th 1170, 1192.) By failing to disclose the fact that the Project site contains at least eight special-status species, the MND inadequately describes the Project's "environmental setting" and thereby insufficiently analyzes the Project's biological impacts.

B. The MND relied on an inadequate biological report.

As well as the Helix Report's failure to adequately disclose the diversity of species, including special-status species, that would be affected by the Project, Dr. Smallwood found multiple other deficiencies in the Helix Report. For example, the Helix Report fails to provide essential methodological details that would help readers understand and assess its findings, such as the survey start time and duration and a checklist of habitat elements that the biologists might have used. (Ex. A at 15.) Additionally, the Helix Report depicted the boundaries between vegetation communities on the Project site as much more defined than they actually are. (*Id.*) The Helix Report's surveys for rare plants and the Crotch's bumble bee also did not meet the minimum standards or follow the guidelines set by the California Department of Fish & Wildlife ("CDFW"). (*Id.* at 16.)

Moreover, Dr. Smallwood found that the Helix Report's review of available literature and databases was incomplete because it only relied on one database, the California Natural Diversity Data Base ("CNDDB") and failed to consult other available databases, such as eBird and iNaturalist, to inform its field surveys and augment the interpretation of its findings. (*Id.* at 18.) Dr. Smallwood further noted that, by relying only on the CNDDB, the Helix Report screened out many special-status species from further consideration in characterizing the Project site's wildlife community, the CNDDB is a "positive sighting database" that "does not predict where something may be found." (*Id.*) From his evaluation based on review of other available databases and site visits, Dr. Smallwood estimates that 145 special-status species are known to occur close enough to the Project site to warrant analysis of their occurrence potential. (*Id.*) He concludes that "the site is far richer in special-status species than is characterized in Helix (2024)," and "on the whole, Helix's (2024) analyses of occurrence likelihoods are insufficiently accurate." (*Id.* at 18, 25.)

C. There is substantial evidence that the Project will have significant impact on biological resources that the MND fails to analyze and mitigate.

Dr. Smallwood concluded that the Project will have significant impacts on biological resources, including: (1) habitat loss; (2) traffic mortality; (3) bird-window collision mortality; (4) inconsistency with the City's Multiple Species Conservation Program ("MSCP") Subarea Plan and existing easement agreement; and (5) cumulative impacts.

1. <u>The Project will have a significant impact on reproductive capacity as a result of habitat loss, fragmentation, and alteration.</u>

Dr. Smallwood calculates that the Project's habitat destruction, fragmentation of the vegetative cover, and interference with wildlife movement, as well as the its increased size and high amount of light-emitting external glass, would cause the loss of 54.5 bird nesting sites and 76 nesting attempts per year, a loss that "would qualify as significant impacts that have not been analyzed by the City." (*Id.* at 26.) However, these impacts would not end with this immediate numerical loss of nesting sites, for the reproductive capacity of the Project site would also be

permanently lost. (*Id.*) Dr. Smallwood estimates that the Project would prevent the production of 242 birds per year. He concludes that "the loss of 242 birds per year would be substantial, and highly significant." However, he found that the Helix Report made no attempt to measure this lost capacity. (*Id.*) This is a potentially significant impact that must be analyzed and mitigated in the EIR.

2. <u>The Project will have significant impacts on wildlife as a result of collisions with additional traffic generated by the Project.</u>

Dr. Smallwood found that the MND does not analyze the Project's potential impacts to wildlife from road collision mortality as a result of increased traffic generated by the Project. (*Id.* at 29.) As Dr. Smallwood explains, vehicle collisions have accounted for the deaths of many thousands of amphibian, reptile, mammal, bird, and arthropod fauna, and the impacts have often been found to be significant at the population level. (*Id.*) Dr. Smallwood provides several studies demonstrating significant animal deaths due to collisions in the thousands annually per 100 km of road. (*Id.* at 27) The MND fails to analyze whether increased traffic generated by the Project would result in significant impacts to wildlife.

Based on the MND's trip estimates and estimates of VMTs for employees, Dr. Smallwood calculates that the Project would generate about 14,887,438 annual VMT. Based on this estimate, Dr. Smallwood calculated that the Project would cause approximately 8,158 vertebrate wildlife fatalities per year due to collisions with project-generated traffic. (*Id.* at 29.) He therefore concluded that "the project-generated traffic would cause substantial, significant impacts to wildlife," a potential impact that the MND does not analyze. (*Id.*) Dr. Smallwood's comments constitute substantial evidence supporting a fair argument that the Project's traffic will have a significant impact on special status species of wildlife. An EIR is required to analyze and mitigate this impact.

3. <u>The Project will have a significant impact on birds as a result of window collisions.</u>

According to wildlife expert Dr. Shawn Smallwood, the Project will have a significant impact on birds as a result of window collisions. The City has not analyzed or mitigated these potential impacts to special-species birds. Analyzing the potential impact on wildlife of window collisions is especially important because "[w]indow collisions are often characterized as either the second or third largest source of human-caused bird mortality." (*Id.* at 29.)

The Project would expand the size of the existing building on the site and add exterior glass windows to open airspace that is currently an essential bird habitat. The MND does not report the extent to exterior glass in the Project or offer any renderings of the proposed building. (*Id.* at 31.) However, Dr. Smallwood predicts 3.544 square meters of exterior glass on the project building. (*Id.* at 31-32.) Based on this amount of exterior glass, Dr. Smallwood estimates that the Project will cause 259 bird deaths per year from window collisions. (*Id.* at 32.) Dr. Smallwood's database review and Ms. Smallwood's site visit indicate that there are about 101 special-status

bird species with the potential to use the airspace around the Project site. (*Id.* at 29.) Most of the predicted bird deaths would be of birds protected under the federal Migratory Bird Treaty Act and the California Migratory Bird Protection Act, "thus causing significant unmitigated impacts." (*Id.* at 32.) Given the estimated level of bird-window collision mortality, Dr. Smallwood found that "the proposed project would result in potentially significant adverse biological impacts, including the unmitigated take of both terrestrial and aerial habitat of birds and other sensitive species." (*Id.*) The City must prepare an EIR to analyze and mitigate the Project's impact on special-status birds resulting from window collisions.

4. The Project is Incompatible with the City's MSCP Subarea Plan and Existing Easement Agreement

Dr. Smallwood concluded that the Project is potentially inconsistent with the City of San Diego's Multiple Species Conservation Program ("MSCP") Subarea Plan. Although the Helix Report claims that, consistent with the MSCP Subarea Plan's Land Use Agency Guidelines, the Project does not involve any introduction of new toxins or chemicals within the Project's multi-habitat planning area, the Helix Report also stated that there is ongoing rodent control around the existing Project site. (*Id.* at 32.) If this rodent control involves rodenticides, then it would violate the toxin prohibition of the Land Use Agency Guidelines. (*Id.*)

Furthermore, since the MND determined that the Project would not result in any significant direct impacts to sensitive vegetation communities or special-status species, it also concluded that no compensatory mitigation is needed. (*Id.*) However, Dr. Smallwood found that mitigation is warranted for the wildlife losses resulting from window collisions and project-generated traffic. (*Id.*) Without this mitigation, the Project "would interfere with the MSCP Subarea Plan's conservation goals and objectives."

Likewise, Dr. Smallwood concluded that the Project is incompatible with the open-space easement agreement on the Project site. The City filed a quitclaim to the existing easement, turning the easement over to the State of California to support the State's development of the Torrey Pines State Park ("Park"). (*Id.*) As currently planned, the Project would encroach on land under the State's easement and interfere with the Park's mission to preserve biodiversity and natural resources by destroying valuable habitat, blocking wildlife movement, and causing loss of wildlife from window collisions and project-generated traffic. (*Id.*)

Where a local or regional policy of general applicability is adopted in order to avoid or mitigate environmental effects, a conflict with that policy in itself indicates a potentially significant impact on the environment. (*Pocket Protectors v. Sacramento* (2005) 124 Cal.App.4th 903.) Indeed, any inconsistencies between a proposed project and applicable plans must be discussed in an EIR. (14 CCR § 15125(d); *City of Long Beach v. Los Angeles Unif. School Dist.* (2009) 176 Cal. App. 4th 889, 918; *Friends of the Eel River v. Sonoma County Water Agency* (2003) 108 Cal. App. 4th 859, 874 (An EIR is inadequate when the Lead Agency failed to identify the relationship of the project to relevant local plans).) A Project's inconsistencies with local plans and policies constitute significant impacts under CEQA.

(*Endangered Habitats League, Inc. v. County of Orange* (2005) 131 Cal.App.4th 777, 783-4.) The recent *Georgetown Preservation Society v. County of El Dorado* (2018) 30 Cal.App.5th 358 holds that the fair argument standard applies to a potential inconsistency with a plan adopted for environmental protection. (See also, *Protect the Historic Amador Waterways v. Amador Water Agency* (2004) 116 Cal.App.4th 1099.)

Since the Project fails to comply with the MSHCP and the open space easement, there is a fair argument that it will have significant biological impacts that must be analyzed in an EIR.

5. Cumulative Impacts

CEQA documents, such as the MND, must discuss cumulative impacts and mitigate significant cumulative impacts. (14 CCR § 15130(a).) This requirement flows from CEQA Section 21083, which requires a finding that a project may have a significant effect on the environment if:

> The possible effects of a project are individually limited but cumulatively considerable. . . . 'Cumulatively considerable' means that the incremental effects of an individual project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.

A legally adequate cumulative impacts analysis views a particular project over time and in conjunction with other related past, present, and reasonably foreseeable probable future projects whose impacts might compound or interrelate with those of the project at hand.

While acknowledging new Project-related biological impacts, the MND fails to analyze the Project's potentially significant cumulative biological impacts. Instead, the MND dismisses, without evidence, the potential for cumulative impacts stemming from the Project because "impacts would be specific to the site and would not contribute to cumulative impacts." (MND at 62.) The problem with this analysis as it applies to biological resources is that the MND itself acknowledges that the Project's biological impacts are new, so they could not have possibly been analyzed cumulatively.

The question that CEQA requires the City to address, and that the MND fails to address, is whether the Project's impacts will be significant when combined with other past, current, and probable future projects. By failing to provide this basic information, the MND's cumulative biological impact analysis is not supported by substantial evidence.

Dr. Smallwood found that the MND's analysis of the Project's cumulative impacts is "fundamentally flawed," stating that "[a]mple evidence refutes Helix's stated expectation that adherence to an existing large-area plan shields a project from contributing to cumulative impacts." (Ex. A at 33.) Dr. Smallwood calculated that the Project's incremental effects would include 242 birds per year denied to California due to habitat loss, 259 annual bird fatalities from

window collisions, 8,158 annual vertebrate wildlife fatalities due to collisions with project-generated traffic, and an unknown number of rodents killed by pest control. (*Id.* at 34.)

D. The MND's proposed mitigation measures are insufficient to reduce the Project's biological impacts.

The MND offers mitigation measures to reduce the Project's adverse impacts on biological resources. One proposed mitigation measure is retaining a biologist to develop restoration, revegetation, and avoidance plans before the issuance of any construction permits. (*Id.* at 34.) However, this constitutes deferred mitigation, which CEQA prohibits.

CEQA disallows deferring the formulation of mitigation measures to post-approval studies. (CEQA Guidelines § 15126.4(a)(1)(B); *Sundstrom v. County of Mendocino* (1988) 202 Cal.App.3d 296, 308-309.) An agency may only defer the formulation of mitigation measures when it possesses "'meaningful information' reasonably justifying an expectation of compliance." (*Sundstrom* at 308; *see also Sacramento Old City Association v. City Council of Sacramento* (1991) 229 Cal.App.3d 1011, 1028-29 (mitigation measures may be deferred only "for kinds of impacts for which mitigation is known to be feasible").) A lead agency is precluded from making the required CEQA findings unless the record shows that all uncertainties regarding the mitigation of impacts have been resolved; an agency may not rely on mitigation measures of uncertain efficacy or feasibility (*Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692, 727 (finding groundwater purchase agreement inadequate mitigation because there was no evidence that replacement water was available).) This approach helps "insure the integrity of the process of decisionmaking by precluding stubborn problems or serious criticism from being swept under the rug." (*Concerned Citizens of Costa Mesa, Inc. v. 32nd Dist. Agricultural Assn.* (1986) 42 Cal.3d 929, 935.)

While specific details of mitigation measure may be deferred, an agency is required to (1) commit itself to mitigation, (2) adopt specific performance standards the mitigation will achieve, and (3) identify the type(s) of potential action(s) that can feasibly achieve that performance standard and that will be considered, analyzed, and potentially incorporated in the mitigation measure. See *Preserve Wild Santee v. City of Santee* (2012) 210 Cal.App.4th 260, 281; *San Joaquin Raptor Rescue Center v. County of Merced* (2007) 149 Cal.App.4th 645, 671.

Moreover, "mitigation measure[s] [that do] no more than require a report be prepared and followed" do not provide adequate information for informed decisionmaking under CEQA. *Endangered Habitats League, Inc. v. County of Orange* (2005) 131 Cal.App.4th 777, 794; Guidelines § 15126.4(a)(1)(B). By deferring the development of specific mitigation measures, the City has effectively precluded public input into the development of those measures. CEQA prohibits this approach. As explained by the court in *Communities for a Better Env't v. Richmond* (2010) 184 Cal.App.4th 70, 92:

> [R]eliance on tentative plans for future mitigation after completion of the CEQA process significantly undermines CEQA's goals of full disclosure and informed

> decisionmaking; and[,] consequently, these mitigation plans have been overturned on judicial review as constituting improper deferral of environmental assessment.

Mitigation Measure BIO-1, Preconstruction Avoidance Measures, Measures A-D, G, and H, constitute deferred mitigation because they entail retaining a biologist to develop restoration, revegetation, and avoidance plans in the future before the issuance of any construction permits. (Ex. A at 34.) Moreover, here the City has not committed itself to mitigation, adopted specific performance standards the mitigation will achieve, or identified the types of potential actions that can feasibly achieve the performance standards.

The City cannot rely on the development of mitigation measures in the future because there is no way to ensure that the mitigation will be adequate. For example, here, before Project approval, the public has no way to ensure that the plans to be developed by a biologist will adequately reduce the Project's adverse biological impacts to less than significant. Dr. Smallwood instead recommends that the plans be developed and presented in an EIR. (*Id*.)

The deferred mitigation is invalid under CEQA, and the Project's impacts on biological resources remain significant. An EIR is required to develop clear, enforceable mitigation measures to address the Project's significant adverse biological impacts.

Additionally, the MND proposes other mitigation measures, such as preconstruction surveys and heightened monitoring of construction activities. (*Id*. at 34-35.) However, Dr. Smallwood concludes that these measures would not avoid the long-term significant biological impacts caused by permanent habitat destruction and increased wildlife mortality from project-generated traffic and window collisions. (*Id.* at 34-35.) Dr. Smallwood's comments are substantial evidence that the Project's impacts on biological resources would remain significant, necessitating preparation of an EIR.

Dr. Smallwood instead offers numerous other mitigation measures that the City should implement to reduce the Project's significant adverse impacts on biological resources, should the Project proceed. Potential mitigation measures include monitoring and reporting of construction impacts on wildlife, commitment to no use of rodenticide and avicide for pest control, use of bird-safe glass and window treatments, compensatory mitigation for road mortality, funding of wildlife rehabilitation facilities, and native plant landscaping. (*Id.* at 35-37.)

CONCLUSION

As discussed above, there is substantial evidence supporting a fair argument that the Project may have significant adverse impacts on biological resources. An EIR is therefore required to analyze and mitigate the Project's potentially significant effects. Thus, SAFER respectfully requests that the City not rely on the MND and instead prepare and circulate an EIR before further consideration of the Project.

Sincerely,

Hayley Uno
LOZEAU DRURY LLP

EXHIBIT A

Shawn Smallwood, PhD
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3 October 2024

RE: 11011 Torreyana Road Project

Dear Ms. Uno,

I write to comment on potential impacts to biological resources from the proposed 11011 Torreyana Road Project, which I understand would redevelop an existing 76,694 square-foot building into a 203,096 square-foot scientific research building on 10 acres at 11011 Torreyana Road in Torrey Pines, California. I comment on the analyses of impacts to biological resources in Helix Environmental Planning (Helix 2024) and the Subsequent Mitigated Negative Declaration (SMND). I am concerned that the SMND mischaracterizes the wildlife community, inadequately analyzes potential impacts to wildlife, and provides insufficient mitigation.

My qualifications for preparing expert comments are the following. I hold a Ph.D. degree in Ecology from University of California at Davis, where I also worked as a post-graduate researcher in the Department of Agronomy and Range Sciences. My research has been on animal density and distribution, habitat selection, wildlife interactions with the anthrosphere, and conservation of rare and endangered species. I authored many papers on these and other topics. I served as Chair of the Conservation Affairs Committee for The Wildlife Society – Western Section. I am a member of The Wildlife Society and Raptor Research Foundation, and I've lectured part-time at California State University, Sacramento. I was Associate Editor of wildlife biology's premier scientific journal, The Journal of Wildlife Management, as well as of Biological Conservation, and I was on the Editorial Board of Environmental Management. I have performed wildlife surveys in California for thirty-seven years. My CV is attached.

SITE VISIT

On my behalf, Noriko Smallwood, a wildlife biologist with a Master's Degree from California State University Los Angeles, visited a site adjacent to the project site for 3.2 hours from 06:28 to 09:40 hours on 7 September 2024. The project site was not accessible from a public road, thus Noriko surveyed from Flintkote Ave, which is about 250 m east of the project site, but surrounded by similar vegetation as the project site. Noriko's survey site is intended to be interpreted as a surrogate to the site, as it can be assumed that the species Noriko detected are likewise present on the project site. She walked Flintkote Ave, stopping to scan for wildlife with use of binoculars. Noriko recorded all species of vertebrate wildlife she detected, including those whose members

flew over the site or were seen nearby, off the site. Animals of uncertain species identity were either omitted or, if possible, recorded to the Genus or higher taxonomic level.

Conditions were partly cloudy with 3 MPH south wind and temperatures of 70-80° F. The vegetation surrounding Flintkote Ave included sage scrub, chaparral, and riparian (Photos 1, 2, and 3).

Photos 1, 2, and 3. *Views of the project site, 7 September 2024. Photos by Noriko Smallwood.*

Noriko saw rufous hummingbird (Photo 4), wrentit and California gnatcatcher (Photos 5 and 6), downy woodpecker (Photo 7), yellow-breasted chat and bushtit (Photos 8 and 9), house wren and house finch (Photos 10 and 11), great egret (Photo 12), white-throated swift and western gull (Photos 13 and 14), California towhee and spotted towhee (Photos 15 and 16), lesser goldfinch and blue-gray gnatcatcher (Photos 17 and 18), song sparrow and California scrub-jay (Photos 19 and 20), scaly-breasted munia and black phoebe (Photos 21 and 22), orange-crowned warbler and common yellowthroat (Photos 23 and 24), painted lady butterfly and mourning dove (Photos 25 and 26), California ground-squirrel and desert cottontail (Photos 27 and 28), Great Basin fence lizard (Photo 29), among the other species listed in Table 1. Noriko detected 37 species of vertebrate wildlife at or adjacent to the project site, including eight species with special status (Table 1).

Noriko Smallwood certifies that the foregoing and following survey results are true and accurately reported.

Noriko Smallwood

Photo 4. *Rufous hummingbird on the survey site, 7 September 2024. Photo by Noriko Smallwood.*

Photos 5 and 6. *Wrentit (left) and California gnatcatcher (right) on the survey site, 7 September 2024. Photos by Noriko Smallwood.*

Photo 7. *Downy woodpecker on the survey site, 7 September 2024. Photo by Noriko Smallwood.*

Photos 8 and 9. *Yellow-breasted chat (left) and bushtit (right) on the survey site, 7 September 2024. Photos by Noriko Smallwood.*

Photos 10 and 11. *House wren (left), and house finch (right) on the survey site, 7 September 2024. Photos by Noriko Smallwood.*

Photo 12. *Great egret flying over the survey site, 7 September 2024. Photo by Noriko Smallwood.*

Photos 13 and 14. *White-throated swift (left), and western gull (right) flying over the survey site, 7 September 2024. Photos by Noriko Smallwood.*

Photos 15 and 16. *California towhee (left), and spotted towhee (right) on the survey site, 7 September 2024. Photos by Noriko Smallwood.*

Photos 17 and 18. *Lesser goldfinch (left), and blue-gray gnatcatcher (right) on the survey site, 7 September 2024. Photos by Noriko Smallwood.*

Photos 19 and 20. *Song sparrow (left), and California scrub-jay (right) on the survey site, 7 September 2024. Photos by Noriko Smallwood.*

Photos 21 and 22. *Scaly-breasted munia (left), and black phoebe (right) on the survey site, 7 September 2024. Photos by Noriko Smallwood.*

Photos 23 and 24. *Orange-crowned warbler (left), and common yellowthroat (right) on the survey site, 7 September 2024. Photos by Noriko Smallwood.*

Photos 25 and 26. *Painted lady (left), and mourning dove (right) on the survey site, 7 September 2024. Photos by Noriko Smallwood.*

Photos 27 and 28. *California ground squirrel (left), and desert cottontail (right) on the survey site, 7 September 2024. Photos by Noriko Smallwood.*

Photo 29. *Great Basin fence lizard on the survey site, 7 September 2024. Photo by Noriko Smallwood.*

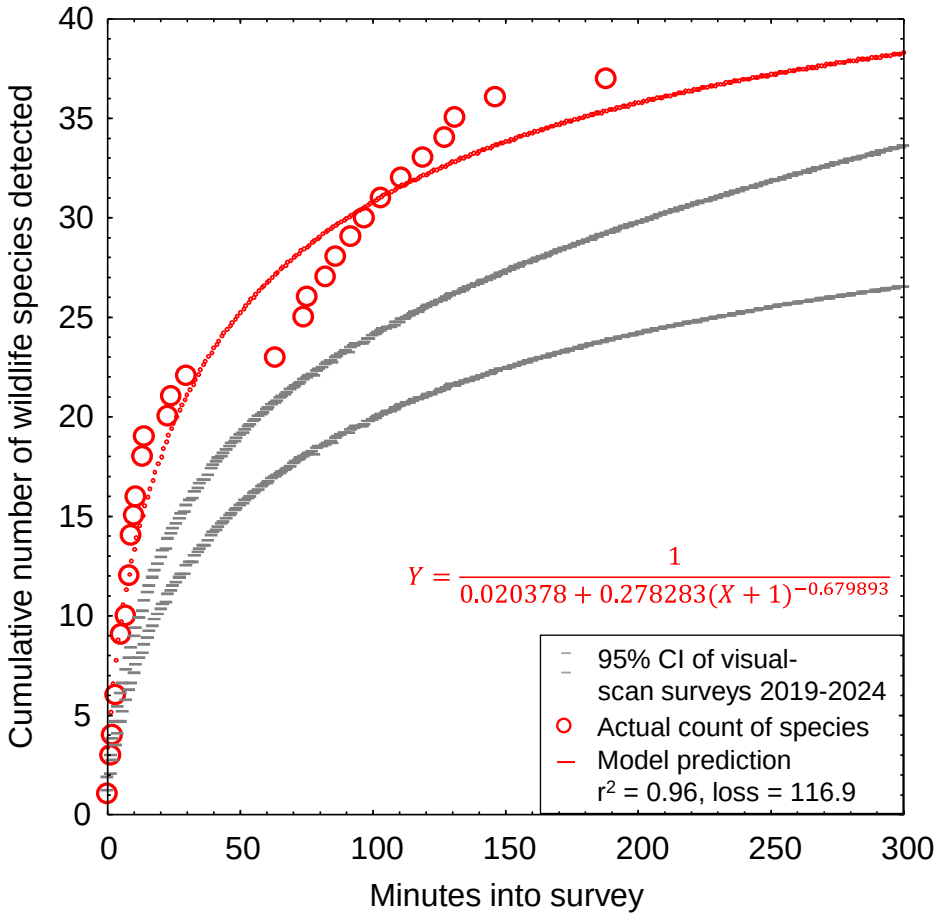
Table 1. *Species of wildlife Noriko observed during 3.2 hours of survey on 7 September 2024.*

Common name	***Species name***	**Status**[1]	**Notes**
Great Basin fence lizard	*Sceloporus occidentalis longipes*		
Mourning dove	*Zenaida macroura*		
White-throated swift	*Aeronautes saxatalis*		Foraged
Anna's hummingbird	*Calypte anna*		
Rufous hummingbird	*Selasphorus rufus*	BCC	Territorial
Allen's hummingbird	*Selasphorus sasin*	BCC	Territorial
Western gull	*Larus occidentalis*	BCC	Flew over
Great blue heron	*Ardea herodias*		
Great egret	*Ardea alba*		Flew into Penasquitos Creek
Red-shouldered hawk	*Buteo lineatus*	BOP, CSD1	
Downy woodpecker	*Dryobates pubescens*		
Nuttall's woodpecker	*Picoides nuttallii*	BCC	
Black phoebe	*Sayornis nigricans*		Foraged
California scrub-jay	*Aphelocoma californica*		
American crow	*Corvus brachyrhynchos*		
Common raven	*Corvus corax*		
Bushtit	*Psaltriparus minimus*		Foraged
Wrentit	*Chamaea fasciata*	BCC	
Blue-gray gnatcatcher	*Polioptila caerulea*		Sang, called, foraged
California gnatcatcher	*Polioptila c. californica*	FT, SSC2	Sang, called, foraged
Bewick's wren	*Thryomanes bewickii*		
House wren	*Troglodytes aedon*		
Northern mockingbird	*Mimus polyglottos*		
Scaly-breasted munia	*Lonchura punctulata*	Non-native	Small flock
House finch	*Haemorphous mexicanus*		
Lesser goldfinch	*Spinus psaltria*		Foraged
Dark-eyed junco	*Junco hyemalis*		Foraged
Song sparrow	*Melospiza melodia*		
California towhee	*Melozone crissalis*		Foraged
Spotted towhee	*Pipilo maculatus*		Foraged
Yellow-breasted chat	*Icteria virens*	SSC3, CSD1	In riparian vegetation
Orange-crowned warbler	*Oreothlypis celata*		
Common yellowthroat	*Geothlypis trichas*		
Desert cottontail	*Sylvilagus audubonii*		
California ground squirrel	*Otospermophilus beecheyi*		
Coyote	*Canis latrans*		Scat
Botta's pocket gopher	*Thomomys bottae*		Burrows

[1] Listed as FT = federal threatened, SSC = California Species of Special Concern, BCC = U.S. Fish and Wildlife Service Bird of Conservation Concern, TWL = Taxa to Watch List (Shuford and Gardali 2008), BOP = Birds of Prey (California Fish and Game Code 3503.5), and CSD1 = Group 1 species on County of San Diego Sensitive Animal List (County of San Diego 2010).

The species of wildlife Noriko detected at the project site comprised only a sampling of the species that were present during her survey. To demonstrate this, I fit a nonlinear regression model to Noriko's cumulative number of vertebrate species detected with time into her survey to predict the number of species that she would have detected with a longer survey or perhaps with additional biologists available to assist her. The model is a logistic growth model which reaches an asymptote that corresponds with the maximum number of vertebrate wildlife species that could have been detected during the survey. In this case, the model predicts 49 species of vertebrate wildlife were available to be detected on the morning of the 7th, which left 12 species undetected during her survey (Figure 1).

Figure 1. *Actual and predicted relationships between the number of vertebrate wildlife species detected and the elapsed survey time based on Noriko's visual-scan survey on 7 September 2024.*



Unknown are the identities of those twelve species Noriko missed, but the pattern in her data indicates relatively high use of the project site compared to 34 surveys at other sites she and I have completed in the region. Compared to models fit to data Noriko and I collected from 34 other sites in the region between 2019 and 2024, the data from the project site exceeded the upper bound of the 95% confidence interval of the rate of accumulated species detections with time into the survey (Figure 1). Importantly, however, the species Noriko did and did not detect on 7 September composed only a fraction of the species that would occur at the project site over the period of a year or longer. This is because many species are seasonal in their occurrence.

At least a year's worth of surveys would be needed to more accurately report the number of vertebrate species that occur at the project site, but I only have Noriko's one survey. However, by use of an analytical bridge, a modeling effort applied to a large, robust data set from a research site can predict the number of vertebrate wildlife species that likely make use of the site over the longer term. As part of my research, I completed a much larger survey effort across 167 km² of annual grasslands of the Altamont Pass Wind Resource Area, where from 2015 through 2019 I performed 721 1-hour visual-scan surveys, or 721 hours of surveys, at 46 stations. I used binoculars and otherwise the methods were the same as the methods I and other consulting biologists use for surveys at proposed project sites. At each of the 46 survey stations, I tallied new species detected with each sequential survey at that station, and then related the cumulative species detected to the hours (number of surveys, as each survey lasted 1 hour) used to accumulate my counts of species detected. I used combined quadratic and simplex methods of estimation in Statistica to estimate least-squares, best-fit nonlinear models of the number of cumulative species detected regressed on hours of survey (number of surveys) at the station: $\hat{R} = \frac{1}{1/a+b\times(Hours)^c}$, where $\hat{R}$ represented cumulative species richness detected. The coefficients of determination, r^2, of the models ranged 0.88 to 1.00, with a mean of 0.97 (95% CI: 0.96, 0.98); or in other words, the models were excellent fits to the data.

I projected the predictions of each model to thousands of hours to find predicted asymptotes of wildlife species richness. The mean model-predicted asymptote of species richness was 57 after 11,857 hours of visual-scan surveys among the 46 stations of my research site. I also averaged model predictions of species richness at each incremental increase of number of surveys, i.e., number of hours (Figure 2). On average I would have detected 13.2 species over my first 3.2 hours of surveys at my research site in the Altamont Pass (3.2 hours to match the 3.2 hours Noriko surveyed at the project site), which composed 23.2% of the predicted total number of species I would detect with a much larger survey effort at the research site. Given the example illustrated in Figure 2, the 37 species Noriko detected after her 3.2 hours of survey at the project site likely represented 23.2% of the species to be detected after many more visual-scan surveys over another year or longer. With many more repeat surveys through the year, Noriko would likely detect $37/0.232 = 159$ species of vertebrate wildlife at the site. Assuming Noriko's ratio of special-status to non-special-status species was to hold through the detections of all 159 predicted species, then continued surveys would eventually detect 34 special-status species of vertebrate wildlife.

Because my prediction of 159 species of vertebrate wildlife, including 34 special-status species of vertebrate wildlife, is derived from daytime visual-scan surveys, and would detect few nocturnal mammals such as bats, the true number of species composing the wildlife community of the site must be larger. Noriko's reconnaissance survey should serve only as a starting point toward characterization of the site's wildlife community, but it certainly cannot alone inform of the inventory of species that use the site. More surveys are needed than her one survey to inventory use of the project site by wildlife. Nevertheless, the large number of species I predict at the project site is indicative of a relatively species-rich wildlife community that warrants a serious survey effort.

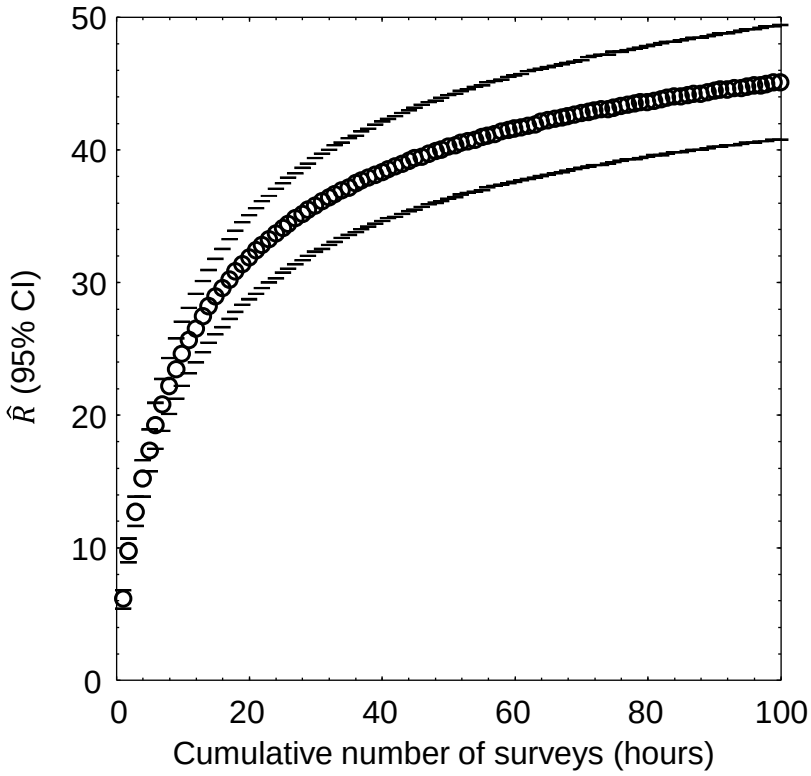


Figure 2. *Mean (95% CI) predicted wildlife species richness, $\hat{R}$, as a nonlinear function of hour-long survey increments across 46 visual-scan survey stations across the Altamont Pass Wind Resource Area, Alameda and Contra Costa Counties, 2015–2019. Note that the location of the study is largely irrelevant to the utility of the graph to the interpretation of survey outcomes at the project site. It is the pattern in the data that is relevant, because the pattern is typical of the pattern seen elsewhere.*

EXISTING ENVIRONMENTAL SETTING

The first step in analysis of potential project impacts to biological resources is to accurately characterize the existing environmental setting, including the biological species that use the site, their relative abundances, how they use the site, key ecological relationships, and known and ongoing threats to those species with special status. A reasonably accurate characterization of the environmental setting can provide the basis for determining whether the site holds habitat value to wildlife, as well as a baseline against which to analyze potential project impacts. For these reasons, characterization of the environmental setting, including the project site's regional setting, is one of CEQA's essential analytical steps. Methods to achieve this first step typically include (1) surveys of the site for biological resources, and (2) reviews of literature, databases and local experts for documented occurrences of special-status species. In the case of the proposed project, these required steps remain incomplete and misleading.

Environmental Setting informed by Field Surveys

To CEQA's primary objective to disclose potential environmental impacts of a proposed project, the analysis should be informed of which biological species are known to occur at the proposed project site, which special-status species are likely to occur, as well as the limitations of the survey effort directed to the site. Analysts need this information to characterize the environmental setting as a basis for opining on, or predicting, potential project impacts to biological resources.

Biologists from Helix (2024) performed surveys on the project site five separate times from January 2021 to February 2024, including a General Biological Survey (i.e., reconnaissance survey), Potentially Jurisdictional Drainage Feature Mapping, Scrub Oak Sample Collection and Identification, Torry Pine Tree Identification and Mapping, and Crotch's Bumble Bee Habitat Assessment. On the one day – 15 January 2021 – when the reconnaissance survey was performed, it was performed to detect species of plants and wildlife, map vegetation, assess habitat, and search for wetlands. Pursuing four objectives in a single survey probably inhibited success toward each.

Regarding the reconnaissance survey, Helix (2024) fails to report essential methodological details that would help the reader interpret the findings, such as the survey start time and survey duration. Both of these survey attributes affect which species are detected and the number of species detected (e.g., see Figures 1 and 2). No checklist is shared of habitat elements that the biologists might have used during their survey to assess likelihoods of occurrence of special-status species. It is therefore difficult to assess survey outcomes relative to survey effort and methods.

Helix (2024) reports having detected 11 species of vertebrate wildlife, only one of which Noriko did not detect during her survey. On the other hand, Noriko detected 37 species of vertebrate wildlife, 27 of which Helix failed to detect. It is surprising that Helix detected so few species, despite visiting the site five times with multiple biologists. It is possible that Helix started its surveys too late in the day to observe peak wildlife activity. It is also possible that Helix's biologists committed insufficient time to their surveys. Whatever the reason, Helix's detection of fewer than a third of the species detected by Noriko indicates poor sampling of the existing wildlife community.

The 38 combined species of vertebrate wildlife detected by both Helix and Noriko number fewer than a quarter of the species my analytical bridge between Noriko's findings and mine from a research site predicts. Even with Noriko's contribution, the project site remains under-surveyed, and more surveys are warranted.

Helix (2024) presents Developed as a mapped vegetation community, which it is not. Developed is a ground cover classification composed of anthropogenic structures or impervious surfaces. The vegetation communities on the project site consist of southern maritime chaparral and Diegan coastal sage scrub, both of which are sensitive vegetation communities with ranks S2 and S3, respectively, and landscaped vegetation surrounding the existing building and parking lot. In reality, the boundaries between these communities are not as hard as depicted by Helix (2024), but rather graded from one to the other. The landscaped vegetation, which is simply vegetation propagated since ground disturbance to construct the existing building, is habitat to many species of wildlife, and can be just as important to wildlife as are southern maritime chaparral and Diegan coastal sage scrub. In this case, nearly half (17) of the mapped Torrey Pines and all of the mapped Nuttall's Scrub Oak are located on the open space easement, all of which is covered by vegetation important to wildlife.

Helix (2024) did not follow the CDFW (2018) survey guidelines for rare plants. The survey of 15 January 2021, which was the survey identified by Helix as the general biological survey dedicated to finding and identifying plants, was outside the blooming season of most of the special-status species of plants likely to grow in the area. Furthermore, Helix did not space surveys through the blooming season because with only one survey there were not enough surveys to space. Also, there was no use of reference sites to observe plants to ensure that the site surveys corresponded with the period of blooming. Multiple reporting standards were also unmet.

Helix (2024) reports finding no special-status species of wildlife during its surveys. However, only 250 m to the east, Noriko found eight special-status species of wildlife, including California gnatcatcher and yellow-breasted chat, and she detected these eight special-status species in only 3.2 hours. That Helix found none suggests that Helix's biologists spent very little time on the site, were distracted by other objectives, or should have been accompanied by one or more experienced biologists.

The Crotch's bumble bee surveys failed to meet the minimum standards of the CDFW (2023) protocol. Only a habitat assessment survey was performed on 20 February 2024. According to Helix (2024:3), "The survey was conducted in accordance with the Survey Considerations for CESA Candidate Bumble Bee Species …" and "A full survey was not warranted considering the habitat assessment of the impact area demonstrated a lack of suitable habitat." However, the habitat assessment did not demonstrate a lack of habitat. (The term "suitable habitat" is redundant, as by definition habitat is suitable and there is no such thing as unsuitable habitat.) Whereas an absence determination naturally follows from the negative findings of properly performed detection surveys, the following questions must be answered negatively to determine absence based on the habitat assessment:

A) Are there occurrence records nearby the project site?
B) Is the site's vegetation cover typical of where the species can find foraging, nesting, and/or overwintering resources?
C) Is the surrounding area's vegetation cover typical of where the species can find foraging, nesting, and/or overwintering resources?

Furthermore, the habitat assessment needs to have been performed during the Colony Active Season.

If the answers to these questions are compellingly negative, then detection surveys are not necessary, but they could be implemented to make certain the site is absent of Crotch's bumble bee. If the answers to these questions are affirmative or not compellingly negative, then it should be assumed that Crotch's bumble bee habitat exists on the site until detection surveys prove otherwise.

Summarized in Table 2, the habitat assessment performed by Helix (2024) largely fell short of the minimum standards of CDFW's (2023) guidelines. The field survey portion of the habitat assessment was completed outside the Colony Active Season. Helix (2024) does not report having submitted its findings to CDFW, nor is there quantification of

foraging resources. There is no examination of resources important to Crotch's bumble bee outside what Helix defines as the "impact area," which is inconsistent with the guidelines. Evidence is lacking of a lack of resources on the project site.

Table 2. *Crosscheck between the standards of the CDFW (2023) survey guidelines for Crotch's bumble bee and what was accomplished at the project site.*

Habitat Assessment Standard in CDFW (2023)	**Assessment of surveys completed**	**Was the standard met?**
Submitted to CDFW	No report of submission	No
Include historical and current species occurrences as well as proximity to the last known sighting	Sightings very close to the site are noted	Yes
Include data from site visits to observe and document potential habitat including potential foraging, nesting, and/or overwintering resources	Summary description, but no data per se	Maybe
Should quantify foraging resources across multiple site visits, corresponding with the Colony Active Season: April to August	Only one survey, which was completed outside the active season	No
Record all flowering plants including non-natives and invasives as foraging plants	Focused on "impact area"	No
Record nesting resources such as bare ground, rodent burrows, and other potential nesting sites that may support bumble bee colonies	Focused on "impact area"	No
Record presence of Leaf litter and woody forest edge that could provide overwintering habitat	Focused on "impact area"	No
Survey surrounding areas	Only surveyed the "impact area"	No

To question A, Helix (2024) reports multiple Crotch's bumble bee occurrence records very near the project site, several of which are within 2.1 miles of the site (one was 1.2 miles from the site, and another was 1.3 miles from the site). The answer to question A is affirmative.

To question B, the ground cover of the site typifies ground cover where Crotch's bumble bees have been found. Helix (2024) also reports the presence of at least one plant that provides forage to Crotch's bumble bees. The answer to question B is affirmative.

To question C, although Helix (2024) did not survey the surrounding area let alone the entirety of the project site, Google Earth imagery reveals the vegetation around the occurrence records to be similar to that of the project site and its surrounding area. The answer to question C is affirmative.

The answers to all three habitat assessment questions are affirmative. Detection surveys for Crotch's bumble bee are warranted, but have yet to be completed.

Environmental Setting informed by Desktop Review

The purpose of literature and database review and of consulting with local experts is to inform the field survey, and to augment interpretation of its outcome. Analysts need this information to identify which species are known to have occurred at or near the project site, and to identify which other special-status species could conceivably occur at the site due to geographic range overlap and migration flight paths.

There is no indication that Helix (2024) reviewed eBird (https://eBird.org) or iNaturalist (https://www.inaturalist.org) for documented occurrence records of vertebrate wildlife at or near the project site. Helix (2024) queried the California Natural Diversity Data Base (CNDDB) for documented occurrences of special-status species within some unreported distance from the project site. By doing so, Helix (2024) screened out many special-status species from further consideration in the characterization of the wildlife community as part of the existing environmental setting. CNDDB is not designed to support absence determinations or to screen out species from characterization of a site's wildlife community. As noted by the CNDDB, "*The CNDDB is a positive sighting database. It does not predict where something may be found. We map occurrences only where we have documentation that the species was found at the site. There are many areas of the state where no surveys have been conducted and therefore there is nothing on the map. That does not mean that there are no special status species present.*" Helix (2024) misuses CNDDB.

The CNDDB relies entirely on volunteer reporting from biologists who were allowed access to whatever properties they report from. Many properties have never been surveyed by biologists. Many properties have been surveyed, but the survey outcomes never reported to the CNDDB. Many properties have been surveyed multiple times, but not all survey outcomes reported to the CNDDB. Furthermore, the CNDDB is interested only in the findings of special-status species, which means that species more recently assigned special status will have been reported many fewer times to CNDDB than were species assigned special status since the inception of the CNDDB. The lack of many CNDDB records for species recently assigned special status had nothing to do with whether the species' geographic ranges overlapped the project site, but rather more to do with the brief time for records to have accumulated since the species were assigned special status. And because negative findings are not reported to the CNDDB, the CNDDB cannot provide the basis for estimating occurrence likelihoods, either.

In my assessment based on database reviews and site visits, 145 special-status species of wildlife are known to occur near enough to the site to warrant analysis of occurrence potential (Table 3). Of these 145 species, 3 were recorded on the project site, and another 77 (53%) species have been documented within 1.5 miles of the site ('Very close'), another 25 (17%) within 1.5 and 4 miles ('Nearby'), and another 31 (21%) within 4 to 30 miles ('In region'). Nearly three fourths (72%) of the species in Table 3 have been reportedly seen within 4 miles of the project site. The site therefore supports multiple special-status species of wildlife and carries the potential for supporting many more special-status species of wildlife based on proximity of recorded occurrences. The site is far richer in special-status species than is characterized in Helix (2024).

Table 3. *Occurrence likelihoods of special-status bird species at or near the proposed project site, according to eBird/iNaturalist records (https://eBird.org, https://www.inaturalist.org) and on-site survey findings, where 'Very close' indicates within 1.5 miles of the site, "nearby" indicates within 1.5 and 4 miles, and "in region" indicates within 4 and 30 miles, and 'in range' means the species' geographic range overlaps the site. MSCP cover refers to whether incidental take of the specie is covered by the San Diego Multiple Species Conservation Program. Entries in bold font identify species Noriko detected.*

Common name	***Species name***	**Status[1]**	**MSCP cover**	**SMND occurrence likelihood**	**Database records, Site visits**
Wandering skipper	*Panoquina errans*	CSD1	Yes		Very close
Quino checkerspot butterfly	*Euphydryas editha quino*	FE, CSD1	Yes	Not expected	In region
Monarch butterfly	*Danaus plexippus*	FC, CSD2			Very close
Hermes copper	*Lycaena hermes*	FT, CSD1			In region
Crotch's bumble bee	*Bombus crotchii*	CCE		Low	Very close
Western spadefoot	*Spea hammondii*	SSC, CSD2		Low	Nearby
Arroyo toad	*Anaxyrus californicus*	FE, SSC	Yes		In region
Western pond turtle	*Emys marmorata*	SSC	Yes	None	In region
San Diego Banded gecko	*Coleonyx variegatus abbotti*	SSC, CSD1			In region
Coast horned lizard	*Phrynosoma blainvillii*	SSC, CSD2	Yes	Low	Nearby
Coronado skink	*Plestiodon skiltonianus interparietalis*	WL, CSD2		Low	In region
Orange-throated whiptail	*Aspidoscelis hyperythra*	WL, CSD2	Yes	High	Very close
San Diegan tiger whiptail	*Aspidoscelis tigris stejnegeri*	SSC, CSD2		High	Very close
San Diegan legless lizard	*Anniella stebbinsi*	SSC		Low	Very close
Coastal rosy boa	*Lichanura trivirgata*	FSC [1993] , CSD2			Nearby
California glossy snake	*Arizona elegans occidentalis*	SSC, CSD2		Low	In region
Baja California coachwhip	*Masticophis fuliginosus*	SSC			In region
San Diego ringneck snake	*Diadophis punctatus similis*	CSD2			Nearby
Coast patchnose snake	*Salvadora hexalepis virgultea*	SSC, CSD2		Low	In region
Two-striped gartersnake	*Thamnophis hammondii*	SSC, CSD1		None	Nearby
South coast garter snake	*Thamnophis sirtalis pop. 1*	SSC, CSD2			In range
Red diamond rattlesnake	*Crotalus ruber*	SSC, CSD2		Moderate	Very close
Brant	*Branta bernicla*	SSC2			Very close
Cackling goose (Aleutian)	*Branta hutchinsii leucopareia*	WL			Nearby

Common name	***Species name***	**Status[1]**	**MSCP cover**	**SMND occurrence likelihood**	**Database records, Site visits**
Moffitt's Canada goose	*Branta canadensis moffitti*	CSD2	Yes		Nearby
Redhead	*Aythya americana*	SSC2, CSD2			Very close
Western grebe	*Aechmophorus occidentalis*	BCC, CSD1			Very close
Clark's grebe	*Aechmophorus clarkii*	BCC			Very close
Western yellow-billed cuckoo	*Coccyzus americanus occidentalis*	FT, CE, BCC, CSD1			Nearby
Black swift	*Cypseloides niger*	SSC3, BCC, CSD2			Nearby
Vaux's swift	*Chaetura vauxi*	SSC2, BCC			Very close
Costa's hummingbird	*Calypte costae*	BCC			Very close
Rufous hummingbird	*Selasphorus rufus*	BCC			**Very close**
Allen's hummingbird	*Selasphorus sasin*	BCC			**Very close and on site**
Light-footed Ridgway's rail	*Rallus obsoletus levipes*	FE, CE, CFP	Yes		Very close
Yellow rail	*Coturnicops noveboracensis*	SSC, BCC			In region
Mountain plover	*Charadrius montanus*	SSC2, BCC, CSD2	Yes		In region
Snowy plover	*Charadrius nivosus*	BCC	Yes		Very close
Western snowy plover	*Charadrius nivosus nivosus*	FT, SSC, BCC	Yes	None	In region
Whimbrel	*Numenius phaeopus*	BCC			Very close
Long-billed curlew	*Numenius americanus*	WL, CSD2	Yes		Very close
Marbled godwit	*Limosa fedoa*	BCC			Very close
Red knot (Pacific)	*Calidris canutus*	BCC			Very close
Short-billed dowitcher	*Limnodromus griseus*	BCC			Very close
Willet	*Tringa semipalmata*	BCC			Very close
Laughing gull	*Leucophaeus atricilla*	WL, CSD2			Nearby
Heermann's gull	*Larus heermanni*	BCC			Very close
Western gull	*Larus occidentalis*	BCC			**Very close**
California gull	*Larus californicus*	BCC, WL, CSD2			Very close
California least tern	*Sternula antillarum browni*	FE, CE, FP, CSD1	Yes	None	Very close
Gull-billed tern	*Gelochelidon nilotica*	BCC, SSC3			Nearby
Black tern	*Chlidonias niger*	SSC2, BCC, CSD2			In region
Elegant tern	*Thalasseus elegans*	BCC, WL, CSD1	Yes		Very close

Common name	***Species name***	**Status[1]**	**MSCP cover**	**SMND occurrence likelihood**	**Database records, Site visits**
Black skimmer	*Rynchops niger*	BCC, SSC3, CSD1			Very close
Common loon	*Gavia immer*	SSC, CSD2			Very close
Wood stork	*Mycteria americana*	SSC1, CSD2			Very close
Brandt's cormorant	*Urile penicillatus*	BCC			Very close
Double-crested cormorant	*Phalacrocorax auritus*	WL, CSD2			Very close
American white pelican	*Pelacanus erythrorhynchos*	SSC1, BCC, CSD2			Very close
California brown pelican	*Pelecanus occidentalis californicus*	CFP, CSD2	Yes		Very close
Least bittern	*Ixobrychus exilis*	SSC2, CSD2			Very close
Great blue heron	*Ardea herodias*	CSD2			Very close
Reddish egret	*Egretta rufescens*	CSD2			Very close
Green heron	*Butorides striatus*	CSD2			Very close
White-faced ibis	*Plegadis chihi*	WL, CSD1	Yes		Very close
Turkey vulture	*Cathartes aura*	BOP, CSD1			Very close
Osprey	*Pandion haliaetus*	WL, BOP, CSD1	Yes	None	Very close
White-tailed kite	*Elanus leucurus*	CFP, BOP, CSD1		Low	Very close
Golden eagle	*Aquila chrysaetos*	BGEPA, BOP, TWL, CFP, CSD1	Yes		Nearby
Northern harrier	*Circus cyaneus*	SSC3, BCC, BOP, CSD1	Yes	Low	Very close
Sharp-shinned hawk	*Accipiter striatus*	WL, BOP, CSD1			Very close
Cooper's hawk	*Accipiter cooperi*	WL, BOP, CSD1	Yes	High	Very close
Bald eagle	*Haliaeetus leucocephalus*	CE, BGEPA, BOP CSD1	Yes		Very close
Red-shouldered hawk	*Buteo lineatus*	BOP, CSD1			**Very close and on site**
Swainson's hawk	Buteo swainsoni	CT, BOP, CSD1	Yes		Very close
Zone-tailed hawk	*Buteo albonotatus*	BOP			Very close
Red-tailed hawk	*Buteo jamaicensis*	BOP			Very close
Ferruginous hawk	*Buteo regalis*	BOP, WL, CSD1	Yes		Nearby
Barn owl	*Tyto alba*	BOP, CSD2			Very close
Western screech-owl	*Megascops kennicotti*	BOP			Very close
Great-horned owl	*Bubo virginianus*	BOP			Very close

Common name	***Species name***	**Status[1]**	**MSCP cover**	**SMND occurrence likelihood**	**Database records, Site visits**
Burrowing owl	*Athene cunicularia*	BCC, SSC2, BOP, CSD1	Yes		Very close
Long-eared owl	*Asio otus*	BCC, BOP, SSC3, CSD1			In region
Short-eared owl	*Asia flammeus*	BCC, SSC3, BOP, CSD2			In region
Lewis's woodpecker	*Melanerpes lewis*	BCC, CSD1			Nearby
Nuttall's woodpecker	*Picoides nuttallii*	BCC			**Very close**
American kestrel	*Falco sparverius*	BOP			Very close
Merlin	*Falco columbarius*	WL, BOP, CSD2			Very close
Peregrine falcon	*Falco peregrinus*	BOP, CSD1	Yes	Low	Very close
Prairie falcon	Falco mexicanus	WL, BOP, CSD1			Nearby
Olive-sided flycatcher	*Contopus cooperi*	BCC, SSC2, CSD2			Very close
Willow flycatcher	*Empidonax traillii*	CE			Very close
Southwestern willow flycatcher	*Empidonax traillii extimus*	FE, CE			In range
Vermilion flycatcher	*Pyrocephalus rubinus*	SSC2, CSD1			Very close
Least Bell's vireo	*Vireo belli pusillus*	FE, CE, CSD1	Yes	None	Very close
Loggerhead shrike	*Lanius ludovicianus*	SSC2, CSD1			Very close
Oak titmouse	*Baeolophus inornatus*	BCC			Nearby
California horned lark	*Eremophila alpestris actia*	WL, CSD2			Very close
Bank swallow	*Riparia riparia*	CT, CSD1			Very close
Purple martin	*Progne subis*	SSC2, CSD1			Nearby
Wrentit	*Chamaea fasciata*	BCC			**Very close and on site**
California gnatcatcher	*Polioptila c. californica*	FT, SSC2, CSD1	Yes	High	**Very close**
Clark's marsh wren	*Cistothorus palustris clarkae*	SSC2			In range
San Diego cactus wren	*Campylorhynchs brunneicapillus sandiegensis*	BCC, SSC1, CSD1	Yes	Low	In range
California thrasher	*Toxostoma redivivum*	BCC			Very close
Western bluebird	*Sialia mexicana*	CSD2	Yes		Very close
Cassin's finch	*Haemorhous cassinii*	BCC			In region
Lawrence's goldfinch	*Spinus lawrencei*	BCC			Very close

Common name	***Species name***	**Status[1]**	**MSCP cover**	**SMND occurrence likelihood**	**Database records, Site visits**
Grasshopper sparrow	*Ammodramus savannarum*	SSC2, CSD1		None	Very close
Black-chinned sparrow	*Spizella atrogularis*	BCC			Nearby
Bell's sage sparrow	*Amphispiza b. belli*	WL, CSD1		Moderate	In region
Oregon vesper sparrow	*Pooecetes gramineus affinis*	SSC2, BCC			In range
Belding's savannah sparrow	*Passerculus sandwichensis beldingi*	CE, BCC, CSD1	Yes	None	Very close
Large-billed savannah sparrow	*Passerculus sandwichensis rostratus*	SSC2, CSD2	Yes		Nearby
Southern California rufous-crowned sparrow	*Aimophila ruficeps canescens*	WL, CSD1	Yes	High	Very close
Yellow-breasted chat	*Icteria virens*	SSC3, CSD1			**Very close**
Yellow-headed blackbird	*Xanthocephalus xanthocephalus*	SSC3			Very close
Bullock's oriole	*Icterus bullockii*	BCC			Very close
Tricolored blackbird	*Agelaius tricolor*	CT, BCC, SSC1, CSD1	Yes		Very close
Lucy's warbler	*Leiothlypis luciae*	SSC3, BCC, CSD1			Nearby
Virginia's warbler	*Leiothlypis virginiae*	WL, BCC			Nearby
Yellow warbler	*Setophaga petechia*	SSC2, CSD2			Very close
Summer tanager	*Piranga rubra*	SSC1, CSD2			Very close
Pallid bat	*Antrozous pallidus*	SSC, WBWG H, CSD2			In region
Townsend's big-eared bat	*Corynorhinus townsendii*	SSC, WBWG:H, CSD2			In region
Spotted bat	*Euderma maculatum*	SSC, WBWG H, CSD2		Low	In region
California leaf nosed bat	*Macrotus californicus*	SSC, WBWG H, CSD2			In region
Western red bat	*Lasiurus blossevillii*	SSC, WBWG H, CSD2		Low	Nearby
Hoary bat	*Lasiurus cinereus*	WBWG M			Nearby
Western yellow bat	*Lasiurus xanthinus*	SSC, WBWG H			In region
Small-footed myotis	*Myotis cililabrum*	WBWG M, CSD2			In region
Miller's myotis	*Myotis evotis*	WBWG M, CSD2			In region
Fringed myotis	*Myotis thysanodes*	WBWG H, CSD2			In range
Long-legged myotis	*Myotis volans*	WBWG H, CSD2			In region
Yuma myotis	Myotis yumanensis	WBWG LM, CSD2			Nearby
Western mastiff bat	*Eumops perotis*	SSC, WBWG H, CSD2		Low	In region

Common name	***Species name***	**Status[1]**	**MSCP cover**	**SMND occurrence likelihood**	**Database records, Site visits**
Pocketed free-tailed bat	*Nyctinomops femorosaccus*	SSC, WBWG M, CSD2		Low	In region
Big free-tailed bat	*Nyctinomops macrotis*	SSC, WBWG MH, CSD2			In region
American badger	*Taxidea taxus*	SSC, CSD2	Yes	Low	In region
Dulzura pocket mouse	*Chaetodipus californicus femoralis*	SSC, CSD2			In range
Northwestern San Diego pocket mouse	*Chaetodipus fallax fallax*	SSC, CSD2		Low	In region
Los Angeles pocket mouse	*Perognathus longimembris brevinasus*	SSC, CSD2			In range
Pacific pocket mouse	*Perognathus longimembris pacificus*	FE, SSC, CSD1		Low	In range
San Diego desert woodrat	*Neotoma lepida intermedia*	SSC, CSD2		High	Nearby
San Diego black-tailed jackrabbit	*Lepus californicus bennettii*	SSC, CSD2		Low	In region

[1] Listed as FT or FE = federal threatened or endangered, FC = federal candidate for listing, BCC = U.S. Fish and Wildlife Service Bird of Conservation Concern, CT or CE = California threatened or endangered, CCT or CCE = Candidate California threatened or endangered, CFP = California Fully Protected (California Fish and Game Code 3511), SSC = California Species of Special Concern (not threatened with extinction, but rare, very restricted in range, declining throughout range, peripheral portion of species' range, associated with habitat that is declining in extent), SSC1, SSC2 and SSC3 = California Bird Species of Special Concern priorities 1, 2 and 3, respectively (Shuford and Gardali 2008), WL = Taxa to Watch List (Shuford and Gardali 2008), and BOP = Birds of Prey (CFG Code 3503.5), and WBWG = Western Bat Working Group with priority rankings, of low (L), moderate (M), and high (H), CSD1 and CSD2 = Group 1 and Group 2 species on County of San Diego Sensitive Animal List (County of San Diego 2010).

Only 36 (25%) of the species in Table 3 are analyzed for occurrence potential in Helix (2024), having omitted from its analysis 109 (75%) of the species in Table 2. Of the species omitted from Helix's analysis, 61 have been recorded within 1.5 miles of the site, 20 have been recorded within four miles of the site, and 18 have been recorded between 4 and 30 miles of the site. Of the species analyzed for occurrence likelihood by Helix (2024), only 28 are determined to have potential to occur. Of the eight species that Helix (2024) assessed and determined absent, occurrence records place five within 1.5 miles, one within 4 miles, and two between 4 and 30 miles from the site. On the whole, Helix's (2024) analyses of occurrence likelihoods are insufficiently accurate. Found on the survey site by Noriko were multiple special-status species left out of Helix's analysis, as well as a species Helix determines absent from the site.

POTENTIAL BIOLOGICAL IMPACTS

An impacts analysis should consider whether and how a proposed project would affect members of a species, larger demographic units of the species, the whole of a species, and ecological communities. The accuracy of this analysis depends on an accurate characterization of the existing environmental setting. In the case of the proposed project, the existing environmental setting has not been accurately characterized, and several important types of potential project impacts have been inadequately analyzed. These types of impacts include habitat loss, interference with wildlife movement, bird-window collision and wildlife-automobile collision mortality.

VEGETATION COMMUNITIES

Helix (2024) concludes that impacts to sensitive vegetation communities would be less than significant due to minimal incursion of project construction across the boundaries of these communities. A problem with this conclusion is that Helix (2024) adds confusion over what is the project site versus what Helix refers to as" onsite." Helix (2024) depicts a project boundary that encompasses 3.4 acres of an existing building, parking lot and landscaping, and 6.7 acres of Southern Maritime Chapparal and Diegan Coastal Sage Scrub, but frequently refers to onsite as only that portion of the project site where construction would take place. The confusion seems to arise from the fact that what Helix refers to as onsite happens to overlap an existing open space easement that extends to the eastern boundary of the project site. Actions taken that conflict with the intended purpose of the open space easement affects the integrity of the vegetation communities of the easement.

Another problem with Helix's conclusion is the ongoing and presumably future efforts to control "pests" around the project site. The only type of animal Helix identifies as pests is rodents, but rodents are important members of the vegetation communities at issue. California ground squirrels and pocket gophers are rodents, and both are ecological keystone species due to the disproportionate effects they have on soils, the plant community, and on other species of wildlife. Other rodents are pocket mice and kangaroo rats, multiple species of which are special-status species in the project area. None of these rodents would recognize the boundaries Helix (2024) depicts between

landscaped areas and sensitive natural communities, which means that ongoing pest control is taking animals that are supposed to be conserved by the open space easement.

HABITAT LOSS

Habitat loss results in a reduced productive capacity of affected wildlife species, and habitat fragmentation multiplies the effects of habitat loss but impeding movement of wildlife among remaining habitat patches. Helix (2024) makes no attempt to estimate this lost capacity for any of the wildlife species potentially affected, presumably because Helix assumes the sensitive vegetation communities and their wildlife adjacent to the project footprint would not be affected by the project. However, the project would more than double the size of the existing building, facing much more external glass to the natural areas and emitting much more light. The effects of these changes could include abandonment of nest sites by birds.

In the case of birds, two methods exist for estimating the loss of productive capacity that would be caused by the project. One method would involve surveys to count the number of bird nests and chicks produced. The alternative method would be to infer productive capacity from estimates of total nest density elsewhere. Several studies have estimated total avian nest density at locations that had likewise been highly fragmented. Two study sites in grassland/wetland/woodland complexes within agricultural matrices had total bird nesting densities of 32.8 and 35.8 nests per acre (Young 1948, Yahner 1982) for an average 34.3 nests per acre. To acquire a total nest density closer to conditions in California, Noriko and I surveyed various patches of vegetation cover in northern and southern California throughout the breeding seasons of 2023 and 2024. The most relevant study sites to the vegetation covers on the project site consist of a 1.23-acre patch of sage-scrub, a 2-acre patch of mixed oak woodland and sage-scrub, and a 0.55-acre patch of oak woodland, all in Murrieta, CA, where Noriko estimated an average of 5.45 nests/acre. Applying the mean of these estimates to the 10 acres of sage-scrub and chaparral would predict 54.5 nest sites on the project site. Assuming 1.39 broods per nest site, which is the average among 322 North American bird species I asked Noriko to review, then I predict the project would cost California 76 nest attempts/year if birds would indeed abandon the project area in the face of the proposed new building.

The loss of 54.5 nest sites and 76 nest attempts per year would qualify as significant impacts that have not been analyzed by the City. But the impacts would not end with the immediate loss of nest sites. The reproductive capacity of the site would be lost. The average number of fledglings per nest in Young's (1948) study was 2.9. Assuming Young's (1948) study site typifies bird productivity, the project would prevent the production of 220 fledglings per year. Assuming an average bird generation time of 5 years, the lost capacity of both breeders and annual fledgling production can be estimated from an equation in Smallwood (2022): {(nests/year × chicks/nest × number of years) + (2 adults/nest × nests/year) × (number of years ÷ years/generation)} ÷ (number of years) = 242 birds per year denied to California. The loss of 242 birds per year would be substantial, and highly significant.

INTERFERENCE WITH WILDLIFE MOVEMENT

One of CEQA's principal concerns regarding potential project impacts is whether a proposed project would interfere with wildlife movement in the region. Helix appropriately reports that the vegetation community of the project site is contiguous with the same vegetation community extending north, south and east of the project site. According to Helix (2024:16), "As such, habitat within the eastern portion of the site may facilitate wildlife access and usage of the site, and contributes to the larger wildlife movement linkage and corridor within the local area and northern San Diego region." I concur with Helix. The project site is important to wildlife movement in the region.

TRAFFIC IMPACTS TO WILDLIFE

Project-generated traffic would endanger wildlife that must, for various reasons, cross roads used by the project's traffic to get to and from the project site (Photos 30—32), including along roads far from the project footprint. Vehicle collisions have accounted for the deaths of many thousands of amphibian, reptile, mammal, bird, and arthropod fauna, and the impacts have often been found to be significant at the population level (Forman et al. 2003). Across North America traffic impacts have taken devastating tolls on wildlife (Forman et al. 2003). In Canada, 3,562 birds were estimated killed per 100 km of road per year (Bishop and Brogan 2013), and the US estimate of avian mortality on roads is 2,200 to 8,405 deaths per 100 km per year, or 89 million to 340 million total per year (Loss et al. 2014). Local impacts can be more intense than nationally.

Photo 30. *A Gambel's quail dashes across a road* on *3 April 2021. Such road crossings are usually successful, but too often prove fatal to the animal. Photo by Noriko Smallwood.*

Photo 31. *Mourning dove killed by vehicle on a California road. Photo by Noriko Smallwood, 21 June 2020.*

Photo 32. *Raccoon killed on Road 31 just east of Highway 505 in Solano County. Photo taken on 10 November 2018.*

The nearest study of traffic-caused wildlife mortality was performed along a 2.5-mile stretch of Vasco Road in Contra Costa County, California. Fatality searches in this study found 1,275 carcasses of 49 species of mammals, birds, amphibians and reptiles over 15 months of searches (Mendelsohn et al. 2009). This fatality number needs to be adjusted for the proportion of fatalities that were not found due to scavenger removal and searcher error. This adjustment is typically made by placing carcasses for searchers to find (or not find) during their routine periodic fatality searches. This step was not taken at Vasco Road (Mendelsohn et al. 2009), but it was taken as part of another study next to Vasco Road (Brown et al. 2016). Brown et al.'s (2016) adjustment factors for carcass persistence resembled those of Santos et al. (2011). Also applying searcher detection rates from Brown et al. (2016), the adjusted total number of fatalities was estimated at 12,187 animals killed by traffic on the road. This fatality number over 1.25 years and 2.5 miles of road translates to 3,900 wild animals per mile per year. In terms comparable to the national estimates, the estimates from the Mendelsohn et al. (2009) study would translate to 243,740 animals killed per 100 km of road per year, or 29 times that of Loss et al.'s (2014) upper bound estimate and 68 times the Canadian estimate. An analysis is needed of whether increased traffic generated by the project site would similarly result in local impacts on wildlife.

For wildlife vulnerable to front-end collisions and crushing under tires, road mortality can be predicted from the study of Mendelsohn et al. (2009) as a basis, although it would be helpful to have the availability of more studies like that of Mendelsohn et al. (2009) at additional locations. My analysis of the Mendelsohn et al. (2009) data resulted in an estimated 3,900 animals killed per mile along a county road in Contra Costa County. Two percent of the estimated number of fatalities were birds, and the balance was composed of 34% mammals (many mice and pocket mice, but also ground squirrels, desert cottontails, striped skunks, American badgers, raccoons, and others), 52.3% amphibians (large numbers of California tiger salamanders and California red-legged frogs, but also Sierran treefrogs, western toads, arboreal salamanders, slender salamanders and others), and 11.7% reptiles (many western fence lizards, but also skinks, alligator lizards, and snakes of various species). VMT is useful for predicting wildlife mortality because I was able to quantify miles traveled along the studied reach of Vasco Road during the time period of the Mendelsohn et al. (2009), hence enabling a rate of fatalities per VMT that can be projected to other sites, assuming similar collision fatality rates.

Predicting project-generated traffic impacts to wildlife

The SMND does not predict annual VMT, but it does report an average 25.1 miles per employee per day and 1,625 employee trips per day. Assuming these predictions apply 265 days per year, I predict 14,887,438 annual VMT. During the Mendelsohn et al. (2009) study, 19,500 cars traveled Vasco Road daily, so the vehicle miles that contributed to my estimate of non-volant fatalities was 19,500 cars and trucks × 2.5 miles × 365 days/year × 1.25 years = 22,242,187.5 vehicle miles per 12,187 wildlife fatalities, or 1,825 vehicle miles per fatality. This rate divided into the predicted annual VMT would predict 8,158 vertebrate wildlife fatalities per year.

Based on my analysis, the project-generated traffic would cause substantial, significant impacts to wildlife. The City does not analyze this potential impact, nor does it propose to mitigate it. Mitigation measures to improve wildlife safety along roads are available and are feasible, and they need exploration for their suitability with the proposed project. Given the predicted level of project-generated, traffic-caused mortality, and the lack of any proposed mitigation, it is my opinion that the proposed project would result in potentially significant adverse biological impacts.

BIRD-WINDOW COLLISIONS

Many special-status species of birds have been recorded at or near the aerosphere of the project site. My database review and Noriko's and Helix's site visits indicate there are 101 special-status species of birds with potential to use the site's aerosphere (Table 3). All of the birds represented in Table 3 can quickly fly from wherever they have been documented to the project site, so they would all be within brief flights to the proposed project's windows. At the California Academy of Sciences, the glass facades facing adjacent gardens killed 0.077 and 0.086 birds per m^2 of glass per year (Kahle et al. 2016), which might not look like large numbers at first read, but which translate to large numbers of dead birds when projected to the extent of glass on the project (see below). This study also documented many Allen's hummingbird collisions as well, which is significant to the project because Noriko observed Allen's hummingbird near the site.

Window collisions are often characterized as either the second or third largest source or human-caused bird mortality. The numbers behind these characterizations are often attributed to Klem's (1990) and Dunn's (1993) estimates of about 100 million to 1 billion bird fatalities in the USA, or more recently by Loss et al.'s (2014) estimate of 365-988 million bird fatalities in the USA or Calvert et al.'s (2013) and Machtans et al.'s (2013) estimates of 22.4 million and 25 million bird fatalities in Canada, respectively. The proposed project would impose windows in the airspace normally used by birds.

Glass-façades of buildings intercept and kill many birds, but are differentially hazardous to birds based on spatial extent, contiguity, orientation, and other factors. At Washington State University, Johnson and Hudson (1976) found 266 bird fatalities of 41 species within 73 months of monitoring of a three-story glass walkway (no fatality adjustments attempted). Prior to marking the windows to warn birds of the collision hazard, the collision rate was 84.7 per year. At that rate, and not attempting to adjust

the fatality estimate for the proportion of fatalities not found, 4,574 birds were likely killed over the 54 years since the start of their study, and that's at a relatively small building façade. Accounting for the proportion of fatalities not found, the number of birds killed by this walkway over the last 54 years would have been about 14,270. And this is just for one 3-story, glass-sided walkway between two college campus buildings.

Klem's (1990) estimate was based on speculation that 1 to 10 birds are killed per building per year, and this speculated range was extended to the number of buildings estimated by the US Census Bureau in 1986. Klem's speculation was supported by fatality monitoring at only two houses, one in Illinois and the other in New York. Also, the basis of his fatality rate extension has changed greatly since 1986. Whereas his estimate served the need to alert the public of the possible magnitude of the bird-window collision issue, it was highly uncertain at the time and undoubtedly outdated more than three decades hence. Indeed, by 2010 Klem (2010) characterized the upper end of his estimated range – 1 billion bird fatalities – as conservative. Furthermore, the estimate lumped species together as if all birds are the same and the loss of all birds to windows has the same level of impact.

By the time Loss et al. (2014) performed their effort to estimate annual USA bird-window fatalities, many more fatality monitoring studies had been reported or were underway. Loss et al. (2014) incorporated many more fatality rates based on scientific monitoring, and they were more careful about which fatality rates to include. However, they included estimates based on fatality monitoring by homeowners, which in one study were found to detect only 38% of the available window fatalities (Bracey et al. 2016). Loss et al. (2014) excluded all fatality records lacking a dead bird in hand, such as injured birds or feather or blood spots on windows. Loss et al.'s (2014) fatality metric was the number of fatalities per building (where in this context a building can include a house, low-rise, or high-rise structure), but they assumed that this metric was based on window collisions. Because most of the bird-window collision studies were limited to migration seasons, Loss et al. (2014) developed an admittedly assumption-laden correction factor for making annual estimates. Also, only 2 of the studies included adjustments for carcass persistence and searcher detection error, and it was unclear how and to what degree fatality rates were adjusted for these factors. Although Loss et al. (2014) attempted to account for some biases as well as for large sources of uncertainty mostly resulting from an opportunistic rather than systematic sampling data source, their estimated annual fatality rate across the USA was highly uncertain and vulnerable to multiple biases, most of which would have resulted in fatality estimates biased low.

In my review of bird-window collision monitoring, I found that the search radius around homes and buildings was very narrow, usually 2 meters. Based on my experience with bird collisions in other contexts, I would expect that a large portion of bird-window collision victims would end up farther than 2 m from the windows, especially when the windows are higher up on tall buildings. In my experience, searcher detection rates tend to be low for small birds deposited on ground with vegetation cover or woodchips or other types of organic matter. Also, vertebrate scavengers entrain on anthropogenic sources of mortality and quickly remove many of the carcasses, thereby preventing the fatality searcher from detecting these fatalities. Adjusting fatality rates for these factors

– search radius bias, searcher detection error, and carcass persistence rates – would greatly increase nationwide estimates of bird-window collision fatalities.

Buildings can intercept many nocturnal migrants as well as birds flying in daylight. As mentioned above, Johnson and Hudson (1976) found 266 bird fatalities of 41 species within 73 months of monitoring of a four-story glass walkway at Washington State University (no adjustments attempted for undetected fatalities). Somerlot (2003) found 21 bird fatalities among 13 buildings on a university campus within only 61 days. Monitoring twice per week, Hager at al. (2008) found 215 bird fatalities of 48 species, or 55 birds/building/year, and at another site they found 142 bird fatalities of 37 species for 24 birds/building/year. Gelb and Delacretaz (2009) recorded 5,400 bird fatalities under buildings in New York City, based on a decade of monitoring only during migration periods, and some of the high-rises were associated with hundreds of fatalities each. Klem et al. (2009) monitored 73 building façades in New York City during 114 days of two migratory periods, tallying 549 collision victims, nearly 5 birds per day. Borden et al. (2010) surveyed a 1.8 km route 3 times per week during 12-month period and found 271 bird fatalities of 50 species. Parkins et al. (2015) found 35 bird fatalities of 16 species within only 45 days of monitoring under 4 building façades. From 24 days of survey over a 48-day span, Porter and Huang (2015) found 47 fatalities under 8 buildings on a university campus. Sabo et al. (2016) found 27 bird fatalities over 61 days of searches under 31 windows. In San Francisco, Kahle et al. (2016) found 355 collision victims within 1,762 days under a 5-story building. Ocampo-Peñuela et al. (2016) searched the perimeters of 6 buildings on a university campus, finding 86 fatalities after 63 days of surveys. One of these buildings produced 61 of the 86 fatalities, and another building with collision-deterrent glass caused only 2 of the fatalities, thereby indicating a wide range in impacts likely influenced by various factors. There is ample evidence available to support my prediction that the proposed project would result in many collision fatalities of birds.

Project Impact Prediction

By the time of these comments, I had reviewed and processed results of bird collision monitoring at 213 buildings and façades for which bird collisions per m^2 of glass per year could be calculated and averaged (Johnson and Hudson 1976, O'Connell 2001, Somerlot 2003, Hager et al. 2008, Borden et al. 2010, Hager et al. 2013, Porter and Huang 2015, Parkins et al. 2015, Kahle et al. 2016, Ocampo-Peñuela et al. 2016, Sabo et al. 2016, Barton et al. 2017, Gomez-Moreno et al. 2018, Schneider et al. 2018, Loss et al. 2019, Brown et al. 2020, City of Portland Bureau of Environmental Services and Portland Audubon 2020, Riding et al. 2020). These study results averaged 0.073 bird deaths per m^2 of glass per year (95% CI: 0.042-0.102). This average and its 95% confidence interval provide a robust basis for predicting fatality rates at a proposed new project.

The SMND does not report the extent of exterior glass in the project, nor does it depict any schematics or renderings of the proposed building. Based on a mean 0.0233 m^2 of exterior glass/sf of five office buildings multiplied against 152,080 sf project floor space

in the project, I predict 3,544 m² of exterior glass on the project building. Based on this amount of glass on the building, I predict 259 (95% CI: 154–364) bird deaths per year.

The vast majority of these predicted deaths would be of birds protected under the Migratory Bird Treaty Act and under the California Migratory Bird Protection Act, thus causing significant unmitigated impacts. Given the predicted level of bird-window collision mortality, and the lack of any proposed mitigation, it is my opinion that the proposed project would result in potentially significant adverse biological impacts, including the unmitigated take of both terrestrial and aerial habitat of birds and other sensitive species. Not only would the project take habitat of rare and sensitive species of birds, but it would transform the building's airspace into a lethal collision trap to birds.

MSCP SUBAREA PLAN CONSISTENCY

In its response to Land Use Adjacency Guidelines to the City's MSCP Subarea Plan, Helix (2024) writes, "The proposed project does not involve agriculture or the creation of recreational areas, such as playing fields, or any other uses that would introduce new toxins, chemicals, or by-products within the MHPA." However, Helix (2024) earlier reported ongoing rodent control around the existing project area. If the rodent control is making use of rodenticides, then this activity is a violation of the Land Use Adjacency Guidelines involving toxins.

Because the SMND determines that the project would not result in significant direct impacts to sensitive vegetation communities or special status species, it also determines that no compensatory mitigation is warranted. However, as noted above many birds would collide with the building's windows, and many animals would be killed by project-generated traffic. Some of the animals killed by windows and automobiles would be special-status species. Mitigation for these losses is warranted. Without this mitigation, the project would interfere with the MSCP Subarea Plan's conservation goals and objectives.

INCOMPATIBILITY WITH EXISTING EASEMENT AGREEMENT

The City filed a quitclaim to its easement agreement, turning over the easement to the State of California in support of the State's development of the Torry Pines State Park. The Mission Statement of California State Parks is "T[t]o provide for the health, inspiration and education of the people of California by helping to preserve the state's extraordinary biological diversity, protecting its most valued natural and cultural resources, and creating opportunities for high-quality outdoor recreation." (https://www.parks.ca.gov/). The project, as currently planned, would encroach on land under the State's easement, and it would interfere with the mission statement of State Parks. It would undermine the protection of California's extraordinary biological diversity and the protection of California's most valued natural resources by taking valuable habitat and exposing many species to collision mortality with windows and project-generated traffic. It would also undermine the mission statement by interfering with wildlife movement to and from Torrey Pines State Park.

CUMULATIVE IMPACTS

The SMND (p. 62) concludes that although project construction would potentially cause significant impacts to biological resources, "impacts would be specific to the site and would not contribute to cumulative impacts." The SMND's conclusion essentially rejects CEQA's premise that a project's impact can be individually limited but cumulatively considerable when considered incrementally to other impacts or in combination with the impacts of other projects. The SMND's analysis is fundamentally flawed.

Helix (2024:28) concludes "Projects which adhere to the City's MSCP Subarea Plan (City 1997) are not expected to have significant cumulative impacts to resources regulated and covered by these plans." And, "Adverse cumulative impacts are not expected from the implementation of the proposed project." According to CEQA Guidelines §15064(h)(3), "When relying on a plan, regulation or program, the lead agency should explain how implementing the particular requirements in the plan, regulation or program ensure that the project's incremental contribution to the cumulative effect is not cumulatively considerable." Neither Helix (2024) nor the SMND does this.

Ample evidence refutes Helix's stated expectation that adherence to an existing large-area plan shields a project from contributing to cumulative impacts. Even with a plethora of General Plans, Habitat Conservation Plans, and Natural Communities Conservation Plans, California's wildlife have continued to decline. Breeding Bird Survey trends are mostly negative. eBird trends are mostly negative. Emergency listings are made for an increasing number of species, and listing petitions are being submitted. To measure the impacts of habitat loss to wildlife caused by development projects, Noriko Smallwood and I revisited 80 sites of proposed projects that we had originally surveyed in support of comments on CEQA review documents (Smallwood and Smallwood 2023). We revisited the sites to repeat the survey methods at the same time of year, the same start time in the day, and the same methods and survey duration in order to measure the effects of mitigated development on wildlife. We structured the experiment in a before-after, control-impact experimental design, as some of the sites had been developed since our initial survey and some had remained undeveloped. All of the developed sites had included mitigation measures to avoid, minimize or compensate for impacts to wildlife. Nevertheless, we found that mitigated development resulted in a 66% loss of species on site, and 48% loss of species in the project area. Counts of vertebrate animals declined 90%. We reported that "Development impacts measured by the mean number of species detected per survey were greatest for amphibians (-100%), followed by mammals (-86%), grassland birds (-75%), raptors (-53%), special-status species (-49%), all birds as a group (-48%), non-native birds (-44%), and synanthropic birds (-28%). Our results indicated that urban development substantially reduced vertebrate species richness and numerical abundance, even after richness and abundance had likely already been depleted by the cumulative effects of loss, fragmentation, and degradation of habitat in the urbanizing environment," and despite all of the mitigation measures and existing policies and regulations.

The project's incremental effects would include 242 birds per year denied to California due to habitat loss, 8,158 vertebrate wildlife fatalities per year due to collisions with project-generated auto traffic, 259 bird fatalities per year due to collisions with the building's windows, and an unknown number of rodents killed by pest control.

MITIGATION

The SMND characterizes the mitigation measures as part of a Mitigation, Monitoring and Reporting Program, of which most of the details are to be developed by a biologist and presented to the City prior to the issuance of any construction permits.

BIO-1 Preconstruction Avoidance Measures

A–D and G, H *Retain a biologist who will develop restoration, revegetation and avoidance plans and ensure necessary permits are obtained. The biologist will flag the boundaries of disturbance, and to provide buffers around sensitive plants or wildlife. Biologist will educate construction workers to improve avoidance of impacts.*

While I concur with these measures, I suggest that they be planned out ahead of the environmental review. The public and decision-makers ought to have the opportunity to comment on them. I suggest that these plans be developed and presented in an EIR.

I must point out, however, that these measures would not avoid the long-term impacts caused by habitat destruction and wildlife collision mortality caused by project-generated traffic and the building's windows.

E *Either avoid construction in avian breeding season or perform preconstruction survey "to determine the presence or absence of Cooper's Hawk and California Gnatcatcher … within 10 calendar days prior to the start of construction*"

Preconstruction surveys cannot determine the absence of Cooper's hawk, California gnatcatcher or any other species of wildlife. Preconstruction surveys are not intended for this purpose. Only the completion of protocol-level detection surveys can support absence determinations. Detection surveys are performed at the time of year and in a manner intended to maximize the likelihood of detection, whereas a preconstruction survey is timed according to the construction schedule which might not be ideal from a biological perspective, and the preconstruction survey would lack the methods of a detection survey to maximize detection probability.

Preconstruction, take-avoidance surveys consist of two steps, both of which are very difficult because birds are highly adept at concealing their nests. First, the biologist(s) performing the survey must identify birds that are breeding. Second, the biologist(s) must locate the breeding birds' nests. The first step is typically completed by observing bird behaviors such as food deliveries and nest territory defense. These types of observations typically require many surveys on many dates spread throughout the breeding season. To identify the birds of all species nesting on a site requires a much greater survey effort than a single survey only days prior to the start of construction. The

biologists conducting the preconstruction survey would be very lucky to find any of the bird nests that are available to be found at the time of the survey.

Even if nests are found in a preconstruction survey, the nests might be salvaged, but the nest sites cannot be protected. Many birds demonstrate considerable fidelity to nest sites by returning to use them year after year. Whereas a nest might be salvaged, the nest site would not survive project construction. The impacts to nesting birds are not avoided merely with salvage.

F *Preconstruction survey for special-status species of plants*

As with birds, the timing of a preconstruction survey would be dictated by the construction schedule rather than the biologically ideal time to maximize detection probability. Performing a preconstruction survey at the wrong time of year can easily result in plants being missed and then destroyed by construction. The CDFW (2018) survey guidelines for rare plants needs to be implemented prior to the certification of the environmental review document.

BIO-1 Measures During Construction

A and B are more construction monitoring measures such as ensuring that construction activities do not encroach on areas to be protected, and implementation of construction delays as needed to protect Cooper's hawk nests.

I concur with the proposed measures, but I have to point out that the conservation benefits they bring are trivial compared to the impacts. The nest sites destroyed by construction would be permanently lost, resulting in a net loss of Cooper's hawks and other birds.

BIO-1 Post-Construction: "*In the event that impacts exceed previously allowed amounts, additional impacts shall be mitigated in accordance with City Biology Guidelines…*"

The only way that this measure can prove effective is by performing sufficient surveys before construction to establish baselines of distribution and abundance of each of the species at issue, and then performing sufficient surveys after construction to compare the distribution and abundance of each of the species following construction. See Smallwood and Smallwood (2023) for an example of a cursory survey effort to measure the impacts of projects. Much more survey effort would b needed to successfully implement the BIO-1 post-construction mitigation measure.

RECOMMENDED MEASURES

Construction Monitoring: Should the project go forward, qualified biologists should be required to monitor construction impacts to wildlife. However, it should also be required that the monitor completes a report of the findings of construction monitoring. All cases of potential construction harm to wildlife should be reported to US Fish and Wildlife/California Department of Fish and Wildlife, and to the City, along with what

was done to prevent or minimize or rectify injuries. All injuries and fatalities should be reported to the same parties, along with the disposition of any remains. The report be made available to the public.

Pest Control: The Project should commit to no use of rodenticides and avicides. It should commit to no placement of poison bait stations or traps outside the building. The ongoing pest control practices should stop.

Guidelines on Building Design to Minimize Bird-Window Collisions: If the Project goes forward, it should adhere to available Bird-Safe Guidelines, such as those prepared by American Bird Conservancy and New York and San Francisco. The American Bird Conservancy (ABC) produced an excellent set of guidelines recommending actions to: (1) Minimize use of glass; (2) Placing glass behind some type of screening (grilles, shutters, exterior shades); (3) Using glass with inherent properties to reduce collisions, such as patterns, window films, decals or tape; and (4) Turning off lights during migration seasons (Sheppard and Phillips 2015). The City of San Francisco (San Francisco Planning Department 2011) also has a set of building design guidelines, based on the excellent guidelines produced by the New York City Audubon Society (Orff et al. 2007). The ABC document and both the New York and San Francisco documents provide excellent alerting of potential bird-collision hazards as well as many visual examples.

New research results inform of the efficacy of marking windows. Whereas Klem (1990) found no deterrent effect from decals on windows, Johnson and Hudson (1976) reported a fatality reduction of about 69% after placing decals on windows. In an experiment of opportunity, Ocampo-Peñuela et al. (2016) found only 2 of 86 fatalities at one of 6 buildings – the only building with windows treated with a bird deterrent film. At the building with fritted glass, bird collisions were 82% lower than at other buildings with untreated windows. Kahle et al. (2016) added external window shades to some windowed façades to reduce fatalities 82% and 95%. Brown et al. (2020) reported an 84% lower collision probability among fritted glass windows and windows treated with ORNILUX R UV. City of Portland Bureau of Environmental Services and Portland Audubon (2020) reduced bird collision fatalities 94% by affixing marked Solyx window film to existing glass panels of Portland's Columbia Building. Many external and internal glass markers have been tested experimentally, some showing no effect and some showing strong deterrent effects (Klem 1989, 1990, 2009, 2011; Klem and Saenger 2013; Rössler et al. 2015). For example, Feather Friendly® circular adhesive markers applied in a grid pattern across all windows reduced bird-window collision mortality by 95% in one study (Riggs et al. 2023) and by 95% in another (de Groot et al. 2021). Another study tested the efficacy of two filmshades to be applied exteriorly to windows prior to installations: BirdShades increased bird-window avoidance by 47% and Haverkamp increased avoidance by 39% (Swaddle et al. 2023).

Monitoring and the use of compensatory mitigation should be incorporated at any new building project because the measures recommended in the available guidelines remain of uncertain efficacy, and even if these measures are effective, they will not reduce collision fatalities to zero. The only way to assess mitigation efficacy and to quantify

post-construction fatalities is to monitor newly constructed buildings or homes for fatalities.

Road Mortality: Compensatory mitigation is needed for the increased wildlife mortality that would be caused by project-generated road traffic in the region. I suggest that this mitigation be directed toward funding research to identify fatality patterns and effective impact reduction measures such as reduced speed limits and wildlife under-crossings or overcrossings of particularly dangerous road segments. Compensatory mitigation can also be provided in the form of donations to wildlife rehabilitation facilities (see below).

Fund Wildlife Rehabilitation Facilities: Compensatory mitigation ought also to include funding contributions to wildlife rehabilitation facilities to cover the costs of injured animals that will be delivered to these facilities for care. Many animals would likely be injured by collisions with automobiles and windows.

Landscaping: If the Project goes forward, California native plant landscaping (i.e., grassland and locally appropriate scrub plants) should be considered to be used as opposed to landscaping with lawn and exotic shrubs and trees. Native plants offer more structure, cover, food resources, and nesting substrate for wildlife than landscaping with lawn and ornamental trees. Native plant landscaping has been shown to increase the abundance of arthropods which act as importance sources of food for wildlife and are crucial for pollination and plant reproduction (Narango et al. 2017, Adams et al. 2020, Smallwood and Wood 2022.). Further, many endangered and threated insects require native host plants for reproduction and migration, e.g., monarch butterfly. Around the world, landscaping with native plants over exotic plants increases the abundance and diversity of birds, and is particularly valuable to native birds (Lerman and Warren 2011, Burghardt et al. 2008, Berthon et al. 2021, Smallwood and Wood 2022). Landscaping with native plants is a way to maintain or to bring back some of the natural habitat and lessen the footprint of urbanization by acting as interconnected patches of habitat for wildlife (Goddard et al. 2009, Tallamy 2020). Lastly, not only does native plant landscaping benefit wildlife, it requires less water and maintenance than traditional landscaping with lawn and hedges.

Thank you for your consideration,

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Shawn Smallwood, Ph.D.

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ATTACHMENT 6

MAP No. 8434

SHEET 1 OF 7 SHEETS.

TORREY PINES SCIENCE PARK UNIT 2

BEING A SUBDIVISION OF PORTIONS OF PUEBLO LOTS 1326, 1327, 1329, 1330 AND 1334 OF THE PUEBLO LANDS OF SAN DIEGO, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO THE MAP THEREOF MADE BY JAMES PASCOE IN 1870, A COPY OF WHICH SAID MAP WAS FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, AND KNOWN AS MISCELLANEOUS MAP NO.36.

THE CITY OF SAN DIEGO, A MUNICIPAL CORPORATION, HEREBY CERTIFIES THAT IT IS THE OWNER IN FEE SIMPLE OF THE AREA WITHIN THIS SUBDIVISION TO BE KNOWN AS TORREY PINES SCIENCE PARK UNIT 2 AND HEREBY CONSENTS TO THE PREPARATION AND RECORDATION OF THIS MAP CONSISTING OF 7 SHEETS AND DESCRIBED IN THE CAPTION THEREOF.

WE HEREBY DEDICATE TO PUBLIC USE SCIENCE PARK ROAD, TORREYANA ROAD, CALLAN ROAD, NORTH TORREY PINES PLACE, A PORTION OF NORTH TORREY PINES ROAD AND A PATH, TOGETHER WITH THOSE PORTIONS OF LOTS 8,9,10 AND 11 MARKED "RESERVED FOR FUTURE STREET", ALL AS SHOWN ON THIS MAP WITHIN THIS SUBDIVISION, TOGETHER WITH ANY AND ALL ABUTTERS' RIGHTS OF ACCESS IN AND TO THAT PORTION OF NORTH TORREY PINES ROAD DEDICATED HEREINABOVE, ADJACENT AND CONTIGUOUS TO THE SOUTHERLY AND SOUTHWESTERLY LINE OF LOT 11; TOGETHER WITH THE EASEMENTS WITH THE RIGHT OF INGRESS AND EGRESS FOR THE CONSTRUCTION AND MAINTENANCE OF SEWER AND DRAINAGE FACILITIES ALL AS SHOWN ON THIS MAP WITHIN THIS SUBDIVISION AND IDENTIFIED AS DRAINAGE AND SEWER EASEMENT "DEDICATED HEREON", RESERVING, HOWEVER, TO THE OWNER OF THE FEE UNDERLYING ANY EASEMENT HEREIN DEDICATED THE CONTINUED USE OF THE SURFACE OF SAID REAL PROPERTY; AND SUBJECT TO THE FOLLOWING CONDITIONS: THE ERECTING OF BUILDINGS, MASONRY WALLS, MASONRY FENCES AND OTHER STRUCTURES; OR THE PLANTING OR GROWING OF TREES OR SHRUBS; OR CHANGING THE SURFACE GRADE; OR THE INSTALLATION OF PRIVATELY OWNED PIPELINES SHALL BE PROHIBITED UNLESS AN ENCROACHMENT PERMIT IS FIRST OBTAINED FROM THE CITY ENGINEER PURSUANT TO THE MUNICIPAL CODE, TOGETHER WITH OPEN SPACE EASEMENTS OVER, UNDER, UPON AND ACROSS PORTIONS OF LOTS 5,6,7 AND 8 AS SHOWN ON THIS MAP WITHIN THIS SUBDIVISION. CONDITIONS SHALL BE THAT NO PART OF SAID OPEN SPACE EASEMENTS SHALL BE USED EXCEPT FOR THE PURPOSE OF INSTALLING, ERECTING, CONSTRUCTING, MAINTAINING, PLANTING AND GROWING THEREON THE FOLLOWING: (1) GRASS, FLOWERS, SHRUBS, TREES AND IRRIGATION AND OTHER LANDSCAPING APPURTENANCES; (2) FENCES AND RETAINING WALLS; (3) RECREATION FACILITIES PROVIDED THE SAME SHALL NOT INCLUDE ANY BUILDING; (4) UTILITY DISTRIBUTION FACILITIES PROVIDED THEY ARE INSTALLED UNDERGROUND, EXCEPT THAT TRANSFORMER BOXES AND SIMILAR EQUIPMENT MAY BE INSTALLED ABOVE GROUND BUT NOT ON POLES, DERRICKS OR SIMILAR SUPPORTS; (5) OPEN PARKING AREAS; (6) SIDEWALKS, PATHS AND STEPS; (7) DIRECTIONAL SIGNS; (8) OUTDOOR LIGHTING FACILITIES AND COMMUNITY TELEVISION ANTENNA FACILITIES, PROVIDED, HOWEVER, THAT EACH AND EVERY FACILITY AND APPURTENANCE INSTALLED, ERECTED, CONSTRUCTED OR MAINTAINED PURSUANT TO ANY OF CLAUSES (1) THROUGH (8) MUST BE HERETOFOR AND HEREAFTER APPROVED BY THE CITY OF SAN DIEGO.

THE CITY OF SAN DIEGO, A MUNICIPAL CORPORATION.

BY: Pete Wilson MAYOR ATTEST: Edwin M. Wilson CITY CLERK.

I, CITY ENGINEER OF THE CITY OF SAN DIEGO, CALIFORNIA HEREBY CERTIFY THAT I HAVE EXAMINED THIS MAP, AND HAVE FOUND THAT THE DESIGN IS SUBSTANTIALLY THE SAME AS IT APPEARED ON THE TENTATIVE MAP AND ANY APPROVED ALTERATIONS THEREOF; THAT ALL THE PROVISIONS OF THE SUBDIVISION MAP ACT OF THE STATE OF CALIFORNIA, AS AMENDED, AND OF ANY LOCAL ORDINANCE OF SAID CITY APPLICABLE AT THE TIME OF THE APPROVAL OF THE TENTATIVE MAP HAVE BEEN COMPLIED WITH, AND I AM SATISFIED THAT THIS MAP IS TECHNICALLY CORRECT. I HEREBY APPROVE THIS MAP.

J.P. FOWLER
CITY ENGINEER

BY: A Southland DEPUTY

DATED: 12-1-76

APPROVED THIS 6th DAY OF December, 1976, AFTER EXAMINATION OF MAP AND CERTIFICATES THEREON.

JOHN W. WITT
CITY ATTORNEY

BY: Frederick Conrad DEPUTY

SUBDIVISION GUARANTEE PREPARED BY TITLE INSURANCE AND TRUST COMPANY. ORDER NUMBER 976948.

I, EDWARD NIELSEN, CITY CLERK OF THE CITY OF SAN DIEGO, CALIFORNIA, HEREBY CERTIFY THAT, BY RESOLUTION NO. 217254, THE COUNCIL OF SAID CITY HAS APPROVED THIS MAP OF TORREY PINES SCIENCE PARK UNIT 2 CONSISTING OF 7 SHEETS AND DESCRIBED IN THE CAPTION THEREOF; AND HAS ACCEPTED THOSE ITEMS LISTED IN THE CERTIFICATE SIGNED BY THE OWNERS UNDER THE CONDITIONS EXPRESSED THEREIN, EXCEPT THAT SAID COUNCIL HAS REJECTED ON BEHALF OF THE PUBLIC, PORTIONS OF LOTS 8,9, 10 AND 11 MARKED "RESERVED FOR FUTURE STREET" SHOWN ON THIS MAP WITHIN THIS SUBDIVISION, NOTING THAT SECTION 66477.2 OF THE SUBDIVISION MAP ACT OF THE STATE OF CALIFORNIA PROVIDES THAT AN OFFER OF DEDICATION SHALL REMAIN OPEN AND SUBJECT TO FUTURE ACCEPTANCE BY THE CITY.

IN WITNESS WHEREOF, SAID COUNCIL HAS CAUSED THESE PRESENTS TO BE EXECUTED BY THE CITY CLERK AND ATTESTED BY ITS SEAL THIS 8th DAY OF December, 1976.

EDWARD NIELSEN
CITY CLERK

BY: Louise Blea DEPUTY

APPROVED AND RECOMMENDED THIS 2ND DAY OF December 1976, AFTER EXAMINATION OF THIS MAP BY THE PLANNING DIRECTOR.

JAMES L. GOFF
PLANNING DIRECTOR

James L. Goff

ATTEST: CHARLOTTE L. HUNTER
SECRETARY

Charlotte L. Hunter

I, DON NASLAND, A LICENSED LAND SURVEYOR OF THE STATE OF CALIFORNIA, HEREBY CERTIFY THAT THE SURVEY OF THIS SUBDIVISION WAS MADE BY ME OR UNDER MY DIRECTION BETWEEN NOVEMBER 10, 1976 AND NOVEMBER 29, 1976, AND THAT SAID SURVEY IS TRUE AND COMPLETE AS SHOWN. THAT ALL STAKES, MONUMENTS, AND MARKS FOUND TOGETHER WITH THOSE SET ARE OF CHARACTER INDICATED AND OCCUPY THE POSITIONS SHOWN THEREON. I WILL SET ALL OTHER MONUMENTS OF CHARACTER, AND AT POSITIONS INDICATED BY THE LEGEND IN THIS MAP WITHIN 30 DAYS AFTER THE COMPLETION OF THE REQUIRED IMPROVEMENTS AND THEIR ACCEPTANCE BY THE CITY OF SAN DIEGO, AND ALL SUCH MONUMENTS ARE OR WILL BE SUFFICIENT TO ENABLE THE SURVEY TO BE RETRACED. SEE LEGEND ON SHEET NO. 2.

BY: D. Nasland DON NASLAND
LAND SURVEYOR NO.2976

DATE: 11-22-76

WE, COUNTY TREASURER, COUNTY ENGINEER AND COUNTY DIRECTOR OF THE DEPARTMENT OF SANITATION AND FLOOD CONTROL OF THE COUNTY OF SAN DIEGO, CALIFORNIA, HEREBY CERTIFY THAT THERE ARE NO UNPAID SPECIAL ASSESSMENTS OR BONDS WHICH MAY BE PAID IN FULL SHOWN BY THE BOOKS OF OUR OFFICES AGAINST THE TRACT OR SUBDIVISION, OR ANY PART THEREOF, SHOWN ON THE ANNEXED MAP AND DESCRIBED IN THE CAPTION THEREOF.

D.J.DICKSON
COUNTY TREASURER

Edna M. Sieling DEPUTY 11-22-76 DATED

R.J. MASSMAN
COUNTY ENGINEER

A. H. Kris DEPUTY 11-22-76 DATED

C.J. HOUSON
COUNTY DIRECTOR OF DEPARTMENT OF SANITATION & FLOOD CONTROL

W U Roell DEPUTY 11-22-76 DATED

WE, EUNICE E. WINSTON, CITY TREASURER, AND J.F. MC LAUGHLIN, STREET SUPERINTENDENT, BOTH OF THE CITY OF SAN DIEGO, CALIFORNIA, HEREBY CERTIFY THAT THERE ARE NO UNPAID BONDS ISSUED UNDER THE STREET IMPROVEMENT ACTS OF THE STATE OF CALIFORNIA AGAINST THE TRACT, OR SUBDIVISION, OR ANY PART THEREOF, AS SHOWN ON THE ANNEXED MAP CONSISTING OF 7 SHEETS AND DESCRIBED IN THE CAPTION THEREOF.

EUNICE E.WINSTON
CITY TREASURER

BY: Wanda Baker DEPUTY DATED: 11-22-76

J.F. MC LAUGHLIN
STREET SUPERINTENDENT

J.F. McLaughlin DATED: Dec. 1, 1976

I, PORTER D. CREMANS, CLERK OF THE BOARD OF SUPERVISOR OF THE COUNTY OF SAN DIEGO, CALIFORNIA, HEREBY CERTIFY THAT THE PROVISIONS OF DIVISION 2, TITLE 7 OF THE GOVERNMENT CODE OF THE STATE OF CALIFORNIA, AS AMENDED, HAVE BEEN COMPLIED WITH REGARDING DEPOSITS FOR TAXES ON THE PROPERTY WITHIN THIS SUBDIVISION.

PORTER D. CREMANS
CLERK OF THE BOARD OF SUPERVISORS

BY: Stella Wonderland DEPUTY

DATED: 12-13-76

WE, THE UNDERSIGNED, THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY, A CORPORATION, HEREBY CERTIFY THAT WE ARE INTERESTED IN THE LAND EMBRACED WITHIN THE SUBDIVISION TO BE KNOWN AS TORREY PINES SCIENCE PARK UNIT 2 BY VIRTUE OF AN EASEMENT RECORDED AT FILE/PAGE NO. 78267, SERIES 7, BOOK 1966 OF OFFICIAL RECORDS ON THE 10TH DAY OF MAY, 1966 IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, STATE OF CALIFORNIA, AND WE HEREBY CONSENT TO THE PREPARATION AND RECORDATION OF THIS MAP CONSISTING OF 7 SHEETS AND DESCRIBED IN THE CAPTION THEREOF, SUBJECT TO SAID EASEMENT AND ALL RIGHTS ENJOYED THEREUNDER, INCLUDING, BUT NOT LIMITED TO THE RIGHT TO REPAIR, RECONSTRUCT, REPLACE, OPERATE AND MAINTAIN WITHOUT DISTURBANCE, THIS COMPANY'S FACILITIES AT THEIR PRESENT LOCATIONS AND ELEVATIONS WITHIN SAID EASEMENT AND WE HEREBY DEDICATE TO PUBLIC USE NORTH TORREY PINES ROAD AND CALLAN ROAD SHOWN HEREON AND NO OTHERS.

THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY, A CORPORATION

BY: R.W. Grigg R. W. GRIGG DEPARTMENT MANAGER.

PRECISION

DEC 23 1976

MICROFILMED

STATE OF CALIFORNIA) SS. COUNTY OF SAN DIEGO)

ON THIS 10th DAY OF December 1976, BEFORE ME, THE UNDERSIGNED, A NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED Pete Wilson, KNOWN TO ME TO BE THE MAYOR AND Edward Nielsen, KNOWN TO ME TO BE THE CITY CLERK OF THE CITY OF SAN DIEGO, A MUNICIPAL CORPORATION, THE MUNICIPAL CORPORATION THAT EXECUTED THE WITHIN INSTRUMENT, AND KNOWN TO ME TO BE THE PERSONS WHO EXECUTED THE SAME ON BEHALF OF SAID MUNICIPAL CORPORATION, AND ACKNOWLEDGED TO ME THAT SAID MUNICIPAL CORPORATION EXECUTED THE SAME.

IN WITNESS WHEREOF, I HAVE HEREUNTO SET MY HAND AND AFFIXED MY NOTARIAL SEAL, THE DAY AND YEAR IN THIS CERTIFICATE FIRST ABOVE WRITTEN.

Ruth E. Flauer
NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE

MY COMMISSION EXPIRES May 23, 1977

STATE OF CALIFORNIA) SS. COUNTY OF SAN DIEGO)

ON THIS 23 DAY OF NOVEMBER 1976, BEFORE ME, DIANNA J. HARPER, A NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE PERSONALLY APPEARED R.W. GRIGG KNOWN TO ME TO BE THE DEPARTMENT MANAGER OF THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY, A CORPORATION, THE CORPORATION THAT EXECUTED THE WITHIN INSTRUMENT, AND KNOWN TO ME TO BE THE PERSON WHO EXECUTED THE SAME ON BEHALF OF SAID CORPORATION AND ACKNOWLEDGED TO ME THAT SAID CORPORATION EXECUTED THE SAME PURSUANT TO ITS BY-LAWS OR A RESOLUTION OF ITS BOARD OF DIRECTORS. IN WITNESS WHEREOF, I HAVE HEREUNTO SET MY HAND AND AFFIXED MY NOTARIAL SEAL IN SAID COUNTY AND STATE, THE DAY AND YEAR IN THIS CERTIFICATE FIRST ABOVE WRITTEN.

Dianna J. Harper
NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE

MY COMMISSION EXPIRES 6-30-78

I, HARLEY F. BLOOM, COUNTY RECORDER OF THE COUNTY OF SAN DIEGO, CALIFORNIA, HEREBY APPROVE THE NAME TORREY PINES SCIENCE PARK UNIT 2 FOR THE SUBDIVISION SHOWN ON THE ANNEXED MAP CONSISTING OF 7 SHEETS AND DESCRIBED IN THE CAPTION THEREOF.

HARLEY F. BLOOM
COUNTY RECORDER

G.L. Rousseau DEPUTY 11-22-76 DATED

FILE NO. 76-415027

I, HARLEY F. BLOOM, COUNTY RECORDER OF THE COUNTY OF SAN DIEGO, CALIFORNIA, HEREBY CERTIFY THAT I HAVE ACCEPTED FOR RECORDATION THIS MAP FILED AT THE REQUEST OF THE CITY OF SAN DIEGO THIS 10 DAY OF DEC, 1976 AT 3:37 O'CLOCK P M.

FEES: NONE

HARLEY F. BLOOM
COUNTY RECORDER

G.L. Rousseau DEPUTY DATED

N.E. JOB No. 76-1061.

T.M. 76-137 REV.
W.O. 117237
L.C. 266-1697.

SHT 1 OF 7

ATTACHMENT 4

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

WHEN RECORDED MAIL TO
PROJECT MANAGEMENT
PERMIT CLERK
MAIL STATION 501

INTERNAL ORDER NUMBER: 24009237 SPACE ABOVE THIS LINE FOR RECORDER'S USE

COASTAL DEVELOPMENT PERMIT NO. PMT-3158584
SITE DEVELOPMENT PERMIT NO. PMT-3158586
11011 TORREYANA ROAD - PROJECT NO. PRJ-1058759 [MMRP]
PLANNING COMMISSION

This Coastal Development Permit No. PMT-3158584 and Site Development Permit No. PMT-3158586 are granted by the Planning Commission of the City of San Diego to ALLIANCE DIVERSIFIED HOLDINGS LLC, a DELAWARE LIMITED LIABILITY COMPANY, Owner/Permittee, pursuant to San Diego Municipal Code [SDMC] sections 126.0708 and 126.0505. The 10.2-acre site is located at 11011 Torreyana Road in the IP-1-1 zone, Airport Land Use Compatibility Overlay Zone (MCAS Miramar), the Airport Influence Area (MCAS Miramar-Review Area 1), the Airport Safety Zone MCAS Miramar (Accident Potential Zone 2), the Coastal Height Limitation Overlay Zone, the Coastal Overlay Zone (Appealable Area), the Community Plan Implementation Overlay Zone – Type B (CPIOZ-B), Transit Priority Area (TPA), the Multiple Habitat Planning Area (MHPA), the Very High Fire Hazard Severity Zone, the Parking Impact Overlay Zone (Coastal), Prime Industrial, and designated Industrial-Scientific Research within the University Community Plan area. The project site is legally described as: Lot 7 of Torrey Pines Science Park Unit No. 2, in the City of San Diego, County of San Diego, State of California, according to Map thereof No. 8434, filed in the Office of the County Recorder of San Diego County, December 10, 1976. Excepting all oil, gas and other hydrocarbons, geothermal resources, as defined in Section 6903 of the California Public Resources Code, and all other minerals, whether similar to those herein specified or not, within or that may be produced from said property, as contained in Deed recorded January 12, 1989, as Instrument No. 89-017959 of Official Records.

Subject to the terms and conditions set forth in this Permit, permission is granted to the Owner/Permittee to demolish an existing 76,694-square-foot building and construct a 152,080-square-foot building and a four-level subterranean parking garage described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated September 11, 2025, on file in the Development Services Department.

The project shall include:

a. Demolition of a 76,694-square-foot building;

b. Construction of a new 152,080-square-foot research and development building and a four-level subterranean parking garage;

c. Landscaping (planting, irrigation and landscape-related improvements);

d. Off-street parking including a four-level subterranean parking garage with approximately 440 parking spaces and 44 surface parking spaces; and

e. Public and private accessory improvements determined by the Development Services Department to be consistent with the land use and development standards for this site in accordance with the adopted community plan, the California Environmental Quality Act [CEQA] and the CEQA Guidelines, the City Engineer's requirements, zoning regulations, conditions of this Permit, and any other applicable regulations of the SDMC.

STANDARD REQUIREMENTS:

1. This permit must be utilized within thirty-six (36) months after the date on which all rights of appeal have expired. If this permit is not utilized in accordance with Chapter 12, Article 6, Division 1 of the SDMC within the 36-month period, this permit shall be void unless an Extension of Time has been granted. Any such Extension of Time must meet all SDMC requirements and applicable guidelines in effect at the time the extension is considered by the appropriate decision-maker. This permit must be utilized by September 11, 2028.

2. This Coastal Development Permit shall become effective on the eleventh working day following receipt by the California Coastal Commission of the Notice of Final Action, or following all appeals.

3. No permit for the construction, occupancy, or operation of any facility or improvement described herein shall be granted, nor shall any activity authorized by this Permit be conducted on the premises until:

a. The Owner/Permittee signs and returns the Permit to the Development Services Department; and

b. The Permit is recorded in the Office of the San Diego County Recorder.

4. While this Permit is in effect, the subject property shall be used only for the purposes and under the terms and conditions set forth in this Permit unless otherwise authorized by the appropriate City decision-maker.

5. This Permit is a covenant running with the subject property and all of the requirements and conditions of this Permit and related documents shall be binding upon the Owner/Permittee and any successor(s) in interest.

6. The continued use of this Permit shall be subject to the regulations of this and any other applicable governmental agency.

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

8. 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 federal Endangered Species Act [ESA] and by the California Department of Fish and Wildlife [CDFW] pursuant to California Fish and Wildlife 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 Owner/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 16, 1997, and on file in the Office of the City Clerk as Document No. OO-18394. Third Party Beneficiary status is conferred upon Owner/Permittee by the City: (1) to grant Owner/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 Owner/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 CDFW, 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 Owner/Permittee maintaining the biological values of any and all lands committed for mitigation pursuant to this Permit and of full satisfaction by Owner/Permittee of mitigation obligations required by this Permit, in accordance with Section 17.1D of the IA.

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

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

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

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

discretionary body shall have the absolute right to approve, disapprove, or modify the proposed permit and the condition(s) contained therein.

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

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

ENVIRONMENTAL/MITIGATION REQUIREMENTS:

14. Mitigation requirements in the Mitigation, Monitoring, and Reporting Program [MMRP] No. 1058759, SCH 2019060003 shall apply to this Permit. These MMRP conditions are hereby incorporated into this Permit by reference.

15. The mitigation measures specified in the MMRP and outlined in Mitigated Negative Declaration, Project No. 1058759, SCH 2019060003 shall be noted on the construction plans and specifications under the heading ENVIRONMENTAL MITIGATION REQUIREMENTS.

16. The Owner/Permittee shall comply with the MMRP as specified in the Mitigated Negative Declaration, Project No. 1058759, SCH 2019060003, to the satisfaction of the Development Services Department and the City Engineer. Prior to issuance of any construction permit, all conditions of the MMRP shall be adhered to, to the satisfaction of the City Engineer. All mitigation measures described in the MMRP shall be implemented for the following issue areas:

Biological Resources
Historical/Archaeological/Tribal Cultural Resources
Transportation/Circulation

17. Where walls with glass panes are proposed adjacent to open space, the Owner/Permittee shall ensure the installation of bird safe glass to prevent bird collisions to the satisfaction of the Multiple Species Conservation Program (MSCP), and City Engineer. Bird safe glass shall include the use of glass with ultraviolet reflective patterns visible to birds but transparent to the human eye (such as GlasPro Bird Safe Ultraviolet Reflective Glass), or etched or patterned glass that provide a visual barrier. Patterned or etched glass shall have vertical stripes at least ¼ inch wide with a maximum spacing of 4 inches, or horizontal stripes that are at least ¼ inch wide with a maximum spacing of 2 inches in accordance with the guidance provided in the U.S. Fish and Wildlife Service (USFWS) publication Low-Cost Methods to Reduce Bird Collisions with Glass prepared June 4, 2021 (USFWS 2021; https://www.fws.gov/media/low-cost-methods-reduce-bird-collisions-glass).

MULTI-HABITAT PLANNING AREA (MHPA) LAND USE ADJACENCY REQUIREMENTS

18. Prior to issuance of any construction permits, including but not limited to, the first Grading Permit, Demolition Plans/Permits and Building Plans/Permits, the owner/permittee shall depict the following requirements on the construction documents and plans for Project Site under the heading "Environmental Requirements"

- **Grading/Land Development/MHPA Boundaries -**Within or adjacent to the MHPA, all manufactured slopes associated with site development shall be included within the development footprint.

- **Drainage -** All staging and developed/paved areas must prevent the release of toxins, chemicals, petroleum products, exotic plant materials prior to release by incorporating the use of filtration devices, planted swales and/or planted detention/desiltation basins, or other approved temporary and permanent methods that are designed to minimize negative impacts, such as excessive water and toxins into the ecosystems of the MHPA.

- **Toxics/Project Staging Areas/Equipment Storage -** Projects that use chemicals or generate by-products such as pesticides, herbicides, and animal waste, and other substances that are potentially toxic or impactive to native habitats/flora/fauna (including water) shall incorporate measures to reduce impacts caused by the application and/or drainage of such materials into the MHPA. No trash, oil, parking, or other construction/development-related material/activities shall be allowed outside any approved construction limits. Provide a note in/on the CD's that states: "All construction related activity that may have potential for leakage or intrusion shall be monitored by the Qualified Biologist/Owners Representative or Resident Engineer to ensure there is no impact to the MHPA."

- **Lighting -**All lighting within or adjacent to the MHPA is directed away/shielded from the MHPA, or limited to the immediate area and is in compliance with City Outdoor Lighting Regulations per LDC Section 142.0740.

- **Barriers** –Existing fences/walls; and/or signage along the MHPA boundaries shall remain and or be added to direct public access to appropriate locations, reduce

domestic animal predation, protect wildlife in the preserve, and provide adequate noise reduction where needed.

- **Invasives** - No invasive, non-native plant species shall be introduced into areas within or adjacent to the MHPA.

- **Brush Management -**Brush management zones will not be greater in size that is currently required by the City's regulations (this includes use of approved alternative compliance). Within Zone 2 the amount of woody vegetation clearing shall not exceed 50 percent of the vegetation existing when the initial clearing is done. Vegetation clearing shall be done consistent with City standards and shall avoid/minimize impacts to covered species to the maximum extent possible. For all new development, regardless of the ownership, the brush management in the Zone 2 area will be the responsibility of a home-owner's association or other private party.

- **Noise** - Construction noise that exceeds the maximum levels allowed (60 dB or greater at the beginning edge of the habitat) shall be avoided during the breeding seasons for the following: CA gnatcatcher (3/1-8/15). If construction is proposed during the breeding season for the species the following measures are required:,-

COASTAL CALIFORNIA GNATCATCHER (Federally Threatened)

19. Prior to the issuance of any grading permit, the City Manager (or appointed designee) shall verify that the Multi-Habitat Planning Area (MHPA) boundaries and the following project requirements regarding the coastal California gnatcatcher are shown on the construction plans:

NO CLEARING, GRUBBING, GRADING, OR OTHER CONSTRUCTION ACTIVITIES SHALL OCCUR BETWEEN MARCH 1 AND AUGUST 15, THE BREEDING SEASON OF THE COASTAL CALIFORNIA GNATCATCHER, UNTIL THE FOLLOWING REQUIREMENTS HAVE BEEN MET TO THE SATISFACTION OF THE CITY MANAGER:

A. A QUALIFIED BIOLOGIST (POSSESSING A VALID ENDANGERED SPECIES ACT SECTION 10(a)(1)(A) RECOVERY PERMIT) SHALL SURVEY THOSE HABITAT AREAS WITHIN THE MHPA THAT WOULD BE SUBJECT TO CONSTRUCTION NOISE LEVELS EXCEEDING 60 DECIBELS [dB(A)] HOURLY AVERAGE FOR THE PRESENCE OF THE COASTAL CALIFORNIA GNATCATCHER. SURVEYS FOR THE COASTAL CALIFORNIA GNATCATCHER SHALL BE CONDUCTED PURSUANT TO THE PROTOCOL SURVEY GUIDELINES ESTABLISHED BY THE U.S. FISH AND WILDLIFE SERVICE WITHIN THE BREEDING SEASON PRIOR TO THE COMMENCEMENT OF ANY CONSTRUCTION. IF GNATCATCHERS ARE PRESENT, THEN THE FOLLOWING CONDITIONS MUST BE MET:

I. BETWEEN MARCH 1 AND AUGUST 15, NO CLEARING, GRUBBING, OR GRADING OF OCCUPIED GNATCATCHER HABITAT SHALL BE PERMITTED. AREAS RESTRICTED FROM SUCH ACTIVITIES SHALL BE STAKED OR FENCED UNDER THE SUPERVISION OF A QUALIFIED BIOLOGIST; AND

II. BETWEEN MARCH 1 AND AUGUST 15, NO CONSTRUCTION ACTIVITIES SHALL OCCUR WITHIN ANY PORTION OF THE SITE WHERE CONSTRUCTION ACTIVITIES WOULD RESULT IN NOISE LEVELS EXCEEDING 60 dB (A) HOURLY AVERAGE AT THE EDGE OF OCCUPIED GNATCATCHER HABITAT. AN ANALYSIS SHOWING THAT NOISE GENERATED BY CONSTRUCTION ACTIVITIES WOULD NOT EXCEED 60 dB (A) HOURLY AVERAGE AT THE EDGE OF OCCUPIED HABITAT MUST BE COMPLETED BY A QUALIFIED ACOUSTICIAN (POSSESSING CURRENT NOISE ENGINEER LICENSE OR REGISTRATION WITH MONITORING NOISE LEVEL EXPERIENCE WITH LISTED ANIMAL SPECIES) AND APPROVED BY THE CITY MANAGER AT LEAST TWO WEEKS PRIOR TO THE COMMENCEMENT OF CONSTRUCTION ACTIVITIES. PRIOR TO THE COMMENCEMENT OF CONSTRUCTION ACTIVITIES DURING THE BREEDING SEASON, AREAS RESTRICTED FROM SUCH ACTIVITIES SHALL BE STAKED OR FENCED UNDER THE SUPERVISION OF A QUALIFIED BIOLOGIST; OR

III. AT LEAST TWO WEEKS PRIOR TO THE COMMENCEMENT OF CONSTRUCTION ACTIVITIES, UNDER THE DIRECTION OF A QUALIFIED ACOUSTICIAN, NOISE ATTENUATION MEASURES (e.g., BERMS, WALLS) SHALL BE IMPLEMENTED TO ENSURE THAT NOISE LEVELS RESULTING FROM CONSTRUCTION ACTIVITIES WILL NOT EXCEED 60 dB(A) HOURLY AVERAGE AT THE EDGE OF HABITAT OCCUPIED BY THE COASTAL CALIFORNIA GNATCATCHER. CONCURRENT WITH THE COMMENCEMENT OF CONSTRUCTION ACTIVITIES AND THE CONSTRUCTION OF NECESSARY NOISE ATTENUATION FACILITIES, NOISE MONITORING* SHALL BE CONDUCTED AT THE EDGE OF THE OCCUPIED HABITAT AREA TO ENSURE THAT NOISE LEVELS DO NOT EXCEED 60 dB (A) HOURLY AVERAGE. IF THE NOISE ATTENUATION TECHNIQUES IMPLEMENTED ARE DETERMINED TO BE INADEQUATE BY THE QUALIFIED ACOUSTICIAN OR BIOLOGIST, THEN THE ASSOCIATED CONSTRUCTION ACTIVITIES SHALL CEASE UNTIL SUCH TIME THAT ADEQUATE NOISE ATTENUATION IS ACHIEVED OR UNTIL THE END OF THE BREEDING SEASON (AUGUST 16).

* Construction noise monitoring shall continue to be monitored at least twice weekly on varying days, or more frequently depending on the construction activity, to verify that noise levels at the edge of occupied habitat are maintained below 60 dB (A) hourly average or to the ambient noise level if it already exceeds 60 dB (A) hourly average. If not, other measures shall be implemented in consultation with the biologist and the 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.

B. IF COASTAL CALIFORNIA GNATCATCHERS ARE 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 AS FOLLOWS:

I. IF THIS EVIDENCE INDICATES THE POTENTIAL IS HIGH FOR COASTAL CALIFORNIA GNATCATCHER TO BE PRESENT BASED ON HISTORICAL RECORDS OR SITE CONDITIONS, THEN CONDITION A.III SHALL BE ADHERED TO AS SPECIFIED ABOVE.

II. IF THIS EVIDENCE CONCLUDES THAT NO IMPACTS TO THIS SPECIES ARE ANTICIPATED, NO MITIGATION MEASURES WOULD BE NECESSARY.

CLIMATE ACTION PLAN REQUIREMENTS:

20. Owner/Permittee shall comply with the Climate Action Plan (CAP) Consistency Checklist stamped as Exhibit "A." Prior to issuance of any construction permit, all CAP strategies shall be noted within the first three (3) sheets of the construction plans under the heading “Climate Action Plan Requirements” and shall be enforced and implemented to the satisfaction of the Development Services Department.

GEOLOGY REQUIREMENTS:

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

ENGINEERING REQUIREMENTS:

22. Prior to the issuance of any building permit the Owner/Permittee shall assure, by permit and bond, the construction of two new 25 feet driveways per current City Standards, adjacent to the site on Torreyana Road.

23. Prior to the issuance of any building permit the Owner/Permittee shall assure, by permit and bond, to replace existing sidewalk with current City Standard maintaining the existing sidewalk scoring pattern adjacent to the site on Torreyana Road.

24. Prior to the issuance of any building permit the Owner/Permittee shall assure by permit and bond, to reconstruct both existing curb ramps, with current City Standard curb ramp adjacent to the site on Torreyana Road, satisfactory to the City Engineer.

25. Prior to the issuance of any building permit the Owner/Permittee shall obtain a bonded grading permit for the grading proposed for this project. All grading shall conform to the requirements of the City of San Diego Municipal Code in a manner satisfactory to the City Engineer.

26. The drainage system proposed for this development, as shown on the site plan, is private and subject to approval by the City Engineer.

27. Prior to the issuance of any construction permit, the Owner/Permittee shall incorporate any construction Best Management Practices necessary to comply with Chapter 14, Article 2, Division 1 (Grading Regulations) of the SDMC, into the construction plans or specifications.

28. Prior to the issuance of any construction permit, the applicant shall submit a Technical Report that will be subject to final review and approval by the City Engineer, based on the Storm Water Standards in effect at the time of the construction permit issuance.

29. Development of this project shall comply with all storm water construction requirements of the State Construction General Permit, Order No. 2009-0009DWQ, or subsequent order, and the Municipal Storm Water Permit, Order No. R9-2013-0001, or subsequent order. In accordance with Order No. 2009-0009DWQ, or subsequent order, a Risk Level Determination shall be calculated for the site and a Storm Water Pollution Prevention Plan (SWPPPJ shall be implemented concurrently with the commencement of grading activities.

30. Prior to issuance of a grading or a construction permit, a copy of the Notice of Intent (NOI) with a valid Waste Discharge ID number (WD/0#) shall be submitted to the City of San Diego as a proof of enrollment under the Construction General Permit. When ownership of the entire site or portions of the site changes prior to filing of the Notice of Termination (NOT), a revised NOI shall be submitted electronically to the State Water Resources Board in accordance with the provisions as set forth in Section 11.C of Order No. 2009-0009-DWQ and a copy shall be submitted to the City.

31. Prior to the issuance of any construction permit, the Owner/Permittee shall enter into a Maintenance Agreement for the ongoing permanent BMP maintenance, satisfactory to the City Engineer.

LANDSCAPE REQUIREMENTS:

32. Prior to issuance of any construction permit for grading, the Owner/Permittee shall submit complete construction documents for the revegetation and hydro-seeding of all disturbed land in accordance with the City of San Diego Landscape Standards, Storm Water Design Manual, and to the satisfaction of the Development Services Department. All plans shall be in substantial conformance to this permit (including Environmental conditions) and Exhibit "A," on file in the Development Services Department.

33. Prior to issuance of any public improvement permit, the Owner/Permittee shall submit complete landscape construction documents for right-of-way improvements to the Development Services Department for approval. Improvement plans shall show, label, and dimension a 40-square-foot area around each tree which is unencumbered by utilities. Driveways, utilities, drains, water and sewer laterals shall be designed so as not to prohibit the placement of street trees.

34. Prior to issuance of any construction permit for building (including shell), the Owner/Permittee shall submit complete landscape and irrigation construction documents, which are consistent with

the Landscape Standards, to the Development Services Department for approval. The construction documents shall be in substantial conformance with Exhibit "A," Landscape Development Plan, on file in the Development Services Department. Construction plans shall provide a 40-square-foot area around each tree that is unencumbered by hardscape and utilities unless otherwise approved per §142.0403(b)(6).

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

36. The Owner/Permittee shall be responsible for the maintenance of all landscape improvements shown on the approved plans, including in the right-of-way unless long-term maintenance of said landscaping will be the responsibility of another entity approved by the Development Services Department. All required landscapes shall be maintained consistent with the Landscape Standards in a disease, weed, and litter-free condition at all times. Severe pruning or “topping” of trees is not permitted.

37. If any required landscape (including existing or new plantings, hardscape, landscape features, etc.) indicated on the approved construction documents is damaged or removed during demolition or construction, the Owner/Permittee shall repair and/or replace in kind and equivalent size per the approved documents to the satisfaction of the Development Services Department within 30 days of damage Final Inspection.

38. The Owner/Permittee shall implement the following requirements in accordance with the Brush Management Program shown on Exhibit 'A' on file in the Development Services Department.

39. The Brush Management Program shall be based on a standard Zone One of 35-ft. in width and a Zone Two of 65-ft. in width, extending out from the structure towards the native/naturalized vegetation, consistent with SDMC §142.0412. Zone One shall range from 35-ft. to 100-ft. in width with a corresponding Zone Two of 65-ft. to 0-ft. in width, exercising Zone Two reduction options under SDMC §142.0412(f).

40. Prior to issuance of any Engineering Permits for grading, landscape construction documents required for the engineering permit shall be submitted showing the brush management zones on the property in substantial conformance with Exhibit 'A.'

41. Prior to issuance of any construction permit for building, a complete Brush Management Program shall be submitted for approval to the Development Services Department and shall be in substantial conformance with Exhibit “A” on file in the Development Services Department. The Brush Management Program shall comply with the City of San Diego’s Landscape Regulations and the Landscape Standards.

42. Within Zone One, combustible accessory structures (including, but not limited to decks, trellises, gazebos, etc.) shall not be permitted while accessory structures of non-combustible, one-

hour fire-rated, and/or heavy timber construction may be approved within the designated Zone One area subject to Fire Marshal's approval.

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

WATER AND SEWER REQUIREMENTS:

44. Prior to the issuance of any building permits, the Owner/Permittee shall assure, by permit and bond, the design and construction of new water and sewer service(s) outside of any driveway or drive aisle and the abandonment of any existing unused water and sewer services within the right-of-way adjacent to the project site, in a manner satisfactory to the Public Utilities Department and the City Engineer.

45. Owner/Permittee shall apply for a plumbing permit for the installation of appropriate private backflow prevention device(s), on each water service (domestic, fire and irrigation), in a manner satisfactory to the Public Utilities Department and the City Engineer. BFPDs shall be located above ground on private property, in line with the service and immediately adjacent to the right-of-way.

46. All proposed private water and sewer facilities are to be designed to meet the requirements of the California Uniform Plumbing Code and will be reviewed as part of the building permit plan check.

47. No trees or shrubs exceeding three feet in height at maturity shall be installed within ten feet of any sewer facilities and five feet of any water facilities.

48. Prior to the issuance of any building permits, the Owner/Permittee shall obtain an Encroachment Maintenance Removal Agreement, from the City Engineer, for the private sewer lateral encroaching into the Public Right-of-Way.

49. The Owner/Permittee shall grant sewer easements as shown on the approved Exhibit "A" satisfactory to the Public Utilities Department and the City Engineer.

PLANNING/DESIGN REQUIREMENTS:

50. The automobile, motorcycle and bicycle parking spaces must be constructed in accordance with the requirements of the SDMC. All on-site parking stalls and aisle widths shall be in compliance with requirements of the City's Land Development Code and shall not be converted and/or utilized for any other purpose, unless otherwise authorized in writing authorized by the appropriate City decision maker in accordance with the SDMC.

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

52. Prior to the issuance of any construction permits, the Owner/Permittee shall execute and record a Covenant of Easement which ensures preservation of the Environmentally Sensitive Lands that are outside the allowable development area on the premises as shown on Exhibit "A" for: Sensitive Biological Resources and Steep Hillsides, in accordance with SDMC section 143.0152. The Covenant of Easement shall include a legal description and an illustration of the premises showing the development area and the Environmentally Sensitive Lands as shown on Exhibit "A."

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

54. All private outdoor lighting shall be shaded and adjusted to fall on the same premises where such lights are located and in accordance with the applicable regulations in the SDMC.

TRANSPORTATION REQUIREMENTS

55. All automobile, motorcycle and bicycle parking spaces must be constructed in accordance with the requirements of the SDMC. All on-site parking stalls and aisle widths shall be in compliance with requirements of the City's Land Development Code and shall not be converted and/or utilized for any other purpose, unless otherwise authorized in writing by the appropriate City decision maker in accordance with the SDMC.

56. Prior to issuance of any building permit, the Owner/Permittee shall assure by permit and bond the reconstruction of an existing northerly driveway as a 25 ft wide driveway along Torreyana Road, as shown on Exhibit 'A' per current City standards, satisfactory to the City Engineer. All improvements shall be completed and operational prior to first occupancy.

57. Prior to issuance of any building permit, the Owner/Permittee shall assure by permit and bond the construction of a 25 ft wide southerly driveway opposite Callan Road (as the fourth leg to the intersection of Torreyana Road/Callan Road) along Torreyana Road, as shown on Exhibit 'A' per current City standards, satisfactory to the City Engineer. All improvements shall be completed and operational prior to first occupancy.

58. Prior to issuance of any building permit, the Owner/Permittee shall assure by permit and bond the removal of an existing southerly driveway and replacement with full height curb, gutter, and sidewalk along Torreyana Road, as shown on Exhibit 'A' per current City standards, satisfactory to the City Engineer.

59. Prior to first occupancy, the Owner/Permittee shall provide and maintain the following Transportation Demand Management Program, satisfactory to the City Engineer:

- The Owner/Permittee will implement a parking cash out program for all employees to incentivize employees to carpool, vanpool, bike to work, or use public transit. The parking cash out program will include discounts or subsidies to be used at on-site amenities at least $30 per month.

- The Owner/Permittee shall maintain an employer network in the SANDAG iCommute program and promote its RideMatcher service to tenants/employees.

- The Owner/Permittee will provide on-site bike sharing that will be located directly adjacent to the main entry of the building.

- The Owner/Permitee will provide an on-site gym available only to employees which will reduce the need to drive.

60. Prior to first occupancy, the Owner/Permittee shall provide and maintain the following Vehicle Miles Traveled (VMT) reduction measures totaling at least 8 points as shown on Exhibit 'A' satisfactory to the City Engineer. All VMT Reduction Measures shall be provided prior to first occupancy.

- An on-site bicycle repair station (1.5 points)

- A minimum of five (5) electric bicycle charging stations/micro mobility stations that are available to the public (2 points)

- Short-term bicycle parking spaces available to the public, at least 10% beyond minimum requirements. The minimum required per the SDMC is zero (O) spaces and three (3) spaces will be provided. (Each multiple of 10% beyond the minimum is = 1.5 points) (4.5 points)

- Long-term bicycle parking spaces at least 10% beyond minimum requirements. The minimum required per the SDMC is twenty-one (21) spaces and twenty-four (24) spaces will be provided. (Each multiple of 10% beyond the minimum = 2 points) (2 points)

- On-site multi-modal information kiosks (2 points)

INFORMATION ONLY:

- The issuance of this discretionary permit alone does not allow the immediate commencement or continued operation of the proposed use on site. Any operation allowed by this discretionary permit may only begin or recommence after all conditions listed on this permit are fully completed and all required ministerial permits have been issued and received final inspection.

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

- This development may be subject to impact fees at the time of construction permit issuance.

APPROVED by the Planning Commission of the City of San Diego on September 11,2025 and [Approved Resolution Number].

COASTAL DEVELOPMENT PERMIT NO. PMT-3158584
SITE DEVELOPMENT PERMIT NO. PMT-3158586
September 11, 2025

AUTHENTICATED BY THE CITY OF SAN DIEGO DEVELOPMENT SERVICES DEPARTMENT

_____
Hector Rios
Development Project Manager

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

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

ALLIANCE DIVERSIFIED HOLDINGS LLC, a DELAWARE LIMITED LIABILITY COMPANY
Owner/Permittee

By _____
NAME
TITLE

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

PLANNING COMMISSION RESOLUTION NO. _____
COASTAL DEVELOPMENT PERMIT NO. PMT-3158584
SITE DEVELOPMENT PERMIT NO. PMT-3158586
11011 TORREYANA ROAD - PROJECT NO. PRJ-1058759 [MMRP]

WHEREAS, ALLIANCE DIVERSIFIED HOLDINGS LLC, a DELAWARE LIMITED LIABILITY COMPANY, Owner/Permittee, filed an application with the City of San Diego for a permit to demolish an existing 76,694-square-foot research and development building and construct a new 152,080-square-foot research and development building and a four-level subterranean parking garage with approximately 440 parking spaces and 44 surface parking spaces (as described in and by reference to the approved Exhibits "A" and corresponding conditions of approval for the associated Coastal Development Permit No. 3158584 and Site Development Permit No. 3158586), on portions of a 10.2-acre site;

WHEREAS, the project site is located at 11011 Torreyana Road in the IP-1-1 zone, Airport Land Use Compatibility Overlay Zone (MCAS Miramar), the Airport Influence Area (MCAS Miramar-Review Area 1), the Airport Safety Zone MCAS Miramar (Accident Potential Zone 2), the Coastal Height Limitation Overlay Zone, the Coastal Overlay Zone (Appealable Area), the Community Plan Implementation Overlay Zone – Type B (CPIOZ-B), Transit Priority Area (TPA), the Multiple Habitat Planning Area (MHPA), the Very High Fire Hazard Severity Zone, the Parking Impact Overlay Zone (Coastal), Prime Industrial, and designated Industrial-Scientific Research within the University Community Plan.

WHEREAS, the project site is legally described as Lot 7 of Torrey Pines Science Park Unit No. 2, in the City of San Diego, County of San Diego, State of California, according to Map thereof No. 8434, filed in the Office of the County Recorder of San Diego County, December 10, 1976. Excepting all oil, gas and other hydrocarbons, geothermal resources, as defined in Section 6903 of the California Public Resources Code, and all other minerals, whether similar to those herein specified or

not, within or that may be produced from said property, as contained in Deed recorded January 12, 1989, as Instrument No. 89-017959 of Official Records;

WHEREAS, on September 11, 2025, the Planning Commission of the City of San Diego considered Coastal Development Permit No. 3158584 and Site Development Permit No. 3158586 pursuant to the Land Development Code of the City of San Diego;

BE IT RESOLVED by the Planning Commission of the City of San Diego, that it adopts the following findings with respect to Coastal Development Permit No. 3158584 and Site Development Permit No. 3158586:

A. Coastal Development Permit [San Diego Municipal Code (SDMC) Section 126.0708]

1. Findings for all Coastal Development Permits:

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

The project site is located at 11011 Torreyana Road. The 10.2-acre site is zoned IP-1-1 (Industrial-Park) base zone which allows for Industrial-scientific research in the University Community Plan (UCP) Generalized Land Use figure 4 and Scientific Research and Resources Based Park in the Torrey Pines Subarea #1 figure 13. The project proposes to demolish a 76,694-square-foot research and development building and construct a new 152,080-square-foot research and development building and a four-level subterranean parking garage and would adhere to the 30-foot height limit associated with the Coastal Height Limit Overlay Zone. The site is approximately 0.5 miles east of North Torrey Pines Road and approximately 1 mile from the Pacific Ocean.

The project site is currently occupied by research and development uses, and Torreyana Road does not include protected public views along the ocean and other scenic coastal areas. In addition, there are no physical accessways on or adjacent to the site that are used for coastal access. The eastern portion of the project site contains a 6.8-acre open space easement. The easement was quitclaimed by the City to the State of California according to a Quitclaim Deed recorded in 1984. The easement does not currently provide public access or provide public views. The project would not block views or remove scenic vistas at the site. Therefore, the

project will not encroach upon any existing physical accessway that is legally used by the public or any proposed public accessway or impact any public views identified in the University Community Plan and Local Coastal Program Land Use Plan.

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

The development footprint is within 3.4 acres of the 10.2-acre site. The eastern portion of the project site contains a 6.8-acre open space easement that is inside and outside the MHPA. The easement was recorded in 1976 against a portion of the property with the subdivision of the Torrey Pines Science Park Unit 2 (City 1976). Based on a review of a Quitclaim Deed recorded in 1984, the open space easement was previously recorded over the hillside in the eastern portion of the property but was quitclaimed to the State of California in 1984. The current topography and vegetation within the open space easement appear to have remained mostly undisturbed throughout the site's original commercial development, with the exception of the western portion of the easement. This area was disturbed during the development of the property in the early 1980s and is currently characterized by ornamental landscaping. The easement, while intended to preserve open space, does allow the area to be used for, among other things, "open parking areas" and "sidewalks, paths, and steps." A portion (0.11 acre) of the surface parking area would be located within the existing open space easement which is an allowable use within this easement.

A portion of the property toward the rear is within the City's Multiple Habitat Planning Area (MHPA). The MHPA areas contain Environmental Sensitive Lands (ESL), as defined in SDMC Section 113.0103 and will not be impacted by the project. The project proposes no deviations or variances from the applicable environmental regulations and development standards in effect for this site. The project would be required to comply with the MHPA Land Use Adjacency Guidelines (LUAG), which address potential indirect impacts on the MHPA and include incorporating measures addressing 1) drainage, 2) toxics, 3) lighting, 4) noise, 5) barriers, 6) invasive species, 7) brush management and 8) grading/land development.

Additionally, Environmentally Sensitive Lands (ESL) are present on the property both inside and outside the MHPA in the form of sensitive biological resources and steep hillsides, The project proposes no additional impacts to steep hillsides within the project site; however, the proposed project would result in direct impacts to less than 0.1 acres (0.07 acre) of Tier I southern maritime chaparral, a sensitive habitat. Pursuant to the City's Significance Determination Thresholds (City 2022), impacts to Tier I through IIIB habitats totaling less than an acre are not considered significant and do not require mitigation. As such, impacts to 0.07 acres of southern maritime chaparral are not considered significant, and mitigation is not required. As stated above, the project would result in a direct impact on 0.07 acres of sensitive habitat, and while mitigation is not required, the project is preserving 6.3 acres of sensitive

habitat through a Covenant of Easement to assure the continued preservation of the remaining portion of the site in its natural state. This COE will protect the ESL that is within the existing 6.8 acre open space easement which permits "open parking areas" and "sidewalks, paths, and steps". The proposed Covenant of Easement is a condition of the SDP and will be recorded prior to Grading Permit issuance.

Construction activities would occur adjacent to the canyon and appropriate best management practices and the MHPA LUAG would be implemented to reduce indirect impacts to the adjacent ESL. Therefore, the proposed coastal development will not adversely affect environmentally sensitive lands.

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

The Community Plan Land Use Designation for the project site is Industrial and Open Space use in the University Community Plan (UCP) Generalized Land Use Figure 4 and Scientific Research and Resources Based Park in the Torrey Pines Subarea #1 Figure 13 within the University Community Plan and zoned IP-1-1. The UCP Industrial Goals encourage the location of scientific research uses in the North University City area because of its proximity to the University of California San Diego (UCSD) and provision of support services to the University and community.

The site is within the Community Planning Implementation Overlay Zone, Type-B (CPIOZ-B) Chevron Area and is further subject to development guidelines. The CPIOZ includes a recommendation that emphasis should be placed on expanding the support of the UCSD campus, Salk Institute, Scripps Clinic and Research Foundation. As UCSD and the community build out, additional institutions and research facilities may be attracted to this location because of the direct connection between scientific research uses and UCSD campuses. According to the UCP the area's importance as a major center for scientific research will continue to grow, distinguishing the University community from the other major urban centers in the region: downtown and Mission Valley.

The CPIOZ-B architectural recommendations include the use of balconies, terraces, atriums, landscaped courtyards, light colors and earthy materials. Sun and view enjoyment will continue to be a prime design consideration. The proposed project incorporates several of these recommendations in its design, including maintaining the open space of the canyon, a plaza-level courtyard on the canyon side of the property, a center lobby with lots of natural light, and multiple exterior balcony areas for a meeting or eating space. In addition, the project is located in the Torrey Pines subarea of the UCP and this designation requires that the project take advantage of the site's topography and unique natural vegetation. The project is consistent with this objective by maintaining the existing disturbed footprint and protecting the canyon landscape. A second objective of the Torrey Pines Subarea is to minimize the total amount of impervious surfaces such as parking, driveways, terraces, patios, tennis courts and other similar facilities. The project is consistent with this objective

by staying within the previously disturbed area as much as possible, keeping 90 percent of the parking below grade and outside of the view from the street, as well as using a Grass-create paving system for the required fire lane. Pursuant to the City Land Development Code ESL regulations and the MSCP implementing agreement, a new covenant of easement shall be placed over 6.3 acres of the existing 6.8-acre open space easement to protect the ESL that is within the more permissible existing 6.8 acre open space easement.

The project promotes the goals, recommendations and objectives of the UCP by ensuring that redevelopment protects natural features and preserves existing streetscape themes. The staff has determined that the project fits into the established theme of the surrounding area and is consistent with the UCP goals, policies, and land use designation. Therefore, the proposed coastal development is in conformity with the certified Local Coastal Program land use plan and complies with all regulations of the Certified Implementation Program.

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

The project site is located approximately one mile east of the Pacific Ocean and within the First Public Roadway, Sorrento Valley Road. Although the project is located within the First Public Roadway, the proposed development will be contained within the private property and there is no existing physical access used by the public or any public access identified in the Local Coastal Program on or through the site. As such, the project will not encroach upon any existing or proposed physical accessway legally utilized by the public. Therefore, the Coastal Development Permit for this project would be in conformity with the public access and public recreation policies of Chapter 3 of the California Coastal Act.

The project is in conformity with Article 2, Public Access, within Chapter 3 of the Coastal Act. As stated in Finding A(1)(a) herein incorporated by reference, the project meets the Community Plan guidelines for public access. In addition, the project meets the following sections of the Coastal Act Article 2 applicable to the site:

Public Resources Code Section 30211 Development not to interfere with access.

- *Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.*

The proposed development will not interfere with the public's right of access. The project site does not have direct access to the sea and does not encroach on the access points to the north of the project site.

Public Resources Code Section 30212 New development projects provides in pertinent part:

- *Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where:*
- *It is inconsistent with public safety, military security needs, or the protection of fragile coastal resources.*
- *Adequate access exists nearby.*
- *Agriculture would be adversely affected.*

As previously stated, the project does not have direct access to the sea, access to the sea from the project site would be unsafe and inadequate to meet the needs of the public, there is an existing public access point to the sea just northwest of the project site, and the project will not encroach into this access. Public access to the water, public recreation facilities, or public parking facilities would not be adversely affected by the approval of this development.

The project will not adversely affect agricultural uses as there is no agricultural land nearby. The project is a new development on an existing developed site which does not interfere with public access and protects coastal resources of environmentally sensitive lands.

Public Resources Code Section 30222 Private lands; priority of development purposes.

- *The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry.*

The project site is designated for Industrial-Scientific Research use and does not contain private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation. The project is redeveloping an existing industrial land use and is surrounded by existing industrial development.

As demonstrated above, the proposed project is within the first public roadway and meets all the criteria of Coastal Act Chapter 3, Article 2 and Article 3, and therefore, the coastal development is in conformity with the public access and public recreation policies of Chapter 3 of the California Coastal Act.

B. Site Development Permit [SDMC Section 126.0505(a)]

1. Findings for all Site Development Permits

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

Refer to Finding A(1)(c) above incorporated here by reference. The UCP Industrial Goals are to encourage the location of scientific research in the North University City

area because of its proximity to UCSD and to provide support services to the University and community. A goal in the Industrial Element is to ensure industrial land needs, as required for a balanced economy and balanced land use, are met consistent with environmental considerations. The proposed project would implement this goal by increasing the size of the building and providing additional space for research and development while keeping within the existing building footprint to the extent possible and protecting environmentally sensitive lands on site through a 6.3 acre conservation easement.

The University Community Plan includes a Development Intensity Element that allocates residential density and non-residential intensity throughout the community which is implemented by the Community Plan Implementation Overlay Zone Type-B (CPIOZ-B). The project is located within Subarea 9 of the Development Intensity Element. Community Plan Table 2, the Land Use and Development Intensity Table, identifies the allowed development intensity within each subarea. The existing non-residential built development capacity for Subarea 9 is 5,758,170 square feet, the Land Use and Development Intensity Table Buildout is 6,670,042 square feet, and the remaining non-residential unbuilt development capacity is of 911,873 square feet. The project proposes to demolish an existing 76,694 square-foot building and construct a new 152,080 square-foot research facility which would result in a net increase of 75,386 square feet of new development, and 836,487 square feet of remaining non-residential unbuilt development capacity. Furthermore, the Community Plan Implementation Overlay Zone Type- B has been applied to the site to ensure that the development intensity element of the community plan is not exceeded.

An Industrial Element goal encourages the development of industrial land uses that are compatible with adjacent non-industrial uses and match the skill of the local labor force. The proposed project supports this goal by providing additional research and development space within the area that supports UCSD and surrounding medical facilities. The project proposes a new 152,080-square-foot Research and Development building replacing the existing 76,694-square-foot research building and limiting the increase in impervious area to approximately 4 percent. The project is consistent with the UCP, IP1-1 zone and development regulations. Therefore, the proposed development will not adversely affect the applicable land use plan.

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

The permit for the project includes various conditions and referenced exhibits of approval relevant to achieving project compliance with the applicable regulations of the SDMC. Such conditions include the reconstruction of an existing northerly driveway as a 25-foot-wide driveway; the removal of the existing southerly driveway and replacement with a city standard curb, gutter and sidewalk; a new loading dock and fire lane driveway which will run east to west connecting from Callan Road which will also include new curb, gutters, sidewalks, and curb ramps along the project

frontage; and compliance with storm water standards. Additionally, the proposed project will conform with the Airport Land Use Compatibility Plan (ALUCP) of Marine Corps Air Station (MCAS) Miramar. The project is conditioned to implement a Brush Management Program, and a Mitigation, Monitoring and Reporting Program has been prepared as part of the final environmental document, which will reduce the potential impacts. A Mitigation, Monitoring, and Reporting Program (MMRP) has been prepared as part of the final environmental document, which will includes measures to mitigate the project impacts to Biological Resources, Historical/Archaeological/Tribal Cultural Resources, and Transportation/Circulation. Additionally, the project shall be required to comply with applicable mitigation measures outlined within the MMRP throughout the following phases: pre-construction, during construction, and post-construction. The mitigation measures include requirements to mitigate potential impacts on Biological Resources, Historical/Archaeological/Tribal Cultural Resources, Transportation/Circulation
The project construction activities will potentially impact nesting Cooper's hawk and coastal California gnatcatcher. To mitigate potential impacts on coastal California gnatcatchers to below a level of significance, the project will be required to implement mitigation. As a condition of project approval, pre-construction surveys for California gnatcatcher will be required to determine species presence/absence if construction were to occur during the gnatcatcher breeding season. If surveys are not conducted, the presence of the species would be assumed, and the implementation of noise attenuation and biological monitoring would be required during the gnatcatcher breeding season if construction would generate noise levels higher than 60 dBA or ambient (whichever is higher). Therefore, required mitigation is reasonably related to, and calculated to alleviate. potential indirect impacts to coastal California gnatcatcher will be alleviated.

To mitigate potential impacts to Cooper's hawk to below a level of significance, the project will be required to implement mitigation. As a condition of project approval, pre-construction surveys for Cooper's hawk will be required prior to the removal of habitat with the potential to support active nests during the breeding season (generally February 1 to September 15). As such, potential direct impacts on nesting Cooper's hawk would be avoided. Potential indirect impacts to nesting Cooper's hawk would be avoided through the implementation of conditions of coverage for this species, which require a 300-foot avoidance setback to nesting Cooper's hawk. Therefore, required mitigation is reasonably related to, and calculated to alleviate. potential indirect impacts on Cooper's hawk will be alleviated.

The proposed project grading activities have the potential to result in inadvertent impacts to tribal cultural resources. To mitigate for this impact, the project will be required to implement an archaeological monitoring program with a Native American monitor during grading. The inclusion of an archaeological monitoring program is reasonably related to, and calculated to will alleviate, the negative project impacts to tribal cultural resources.

Due to the location of the project in an area where the average vehicle miles traveled (VMT) per employee exceeds 85% of the regional mean, the project would result in a

potentially significant VMT impact. The project will be consistent with the findings in the Complete Communities Program Environmental Impact Report (SCH No. 2019060003; Resolution No. R-313279) and would implement VMT reduction measures in accordance with the Mobility Choices Regulations (San Diego Municipal Code Chapter 14, Article 3, Division 11), Appendix T Mobility Choices Regulations: Implementation Guidelines. This mitigation is reasonably related to, and calculated to will alleviate the negative project impacts to VMT.

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

The project is required to obtain construction permits and a public improvement permit prior to the start of construction of the development. The construction plans and public improvement plans shall be reviewed, permitted, and inspected by the City for compliance with all applicable building, mechanical, electrical, fire code requirements, and development regulations.

These conditions and measures have been determined as necessary to avoid adverse impacts upon the health, safety and general welfare of persons residing or working in the surrounding area. Therefore, the proposed development will not be detrimental to public health, safety, and welfare.

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

The proposed project was reviewed for compliance with the implementing Industrial-Park (IP-1-1) Zone implementing regulations, which include but are not limited to height, setbacks, landscape, parking, and floor area ratio. The Industrial-Park zone has an unlimited height allowance; however, the site is within the Coastal Height Limitation Overlay Zone with a maximum height limit of 30 feet above the finished grade. The proposed project height is 30-feet in conformance with Coastal Height Limitation Overlay Zone. No deviations have been requested and the project shall observe the setbacks, landscape requirements, parking ratio and allowable Floor Area Ratio of the zone. The project also complies with the CPIOZ-B of the UCP requirements to improve accessibility by emphasizing pedestrian access and public street orientation. Secondly, the project will provide a friendlier pedestrian approach retrofitted to be more comfortable and inviting for pedestrians. Thirdly, the building provides a strong visual identity of balconies, terraces, landscaped courtyards, light colors and earthy materials.

The University Community Plan includes a Development Intensity Element that allocates residential density and non-residential intensity throughout the community which is implemented by the Community Plan Implementation Overlay Zone Type-B (CPIOZ-B). The project is located within Subarea 9 of the Development Intensity Element. Community Plan Table 2, the Land Use and Development Intensity Table, identifies the allowed development intensity within each subarea. The existing non-

residential built development capacity for Subarea 9 is 5,758,170 square feet, the Land Use and Development Intensity Table Buildout is 6,670,042 square feet, and the remaining non-residential unbuilt development capacity is of 911,873 square feet. The project proposes to demolish an existing 76,694 square-foot building and construct a new 152,080 square-foot research facility which would result in a net increase of 75,386 square feet of new development, and 836,487 square feet of remaining non-residential unbuilt development capacity.

The proposed project complies with the relevant regulations of the Land Development Code, including intensity, grading, landscaping and other regulations. The project has also been designed to address height, bulk and scale, materials, colors, sustainable features and signs as required through application of CPIOZ-B regulations. The project does not require any deviations or variances and therefore, the project will comply with the applicable regulations of the Land Development Code.

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

1. The site is physically suitable for the design and siting of the proposed development and the development will result in minimum disturbance to environmentally sensitive lands.

The new construction would primarily be limited to 3.4 acres of the site, which is already a disturbed area (existing building and associated hardscape and landscape). The remaining 6.8 acres of the 10.2-acre site would be within an existing open space easement. In addition, pursuant to the City Land Development Code ESL regulations and the MSCP implementing agreement, a new covenant of easement shall be placed over 6.3 acres of the open space, further protecting the steep hillsides and sensitive biological resources. By concentrating development on the area of the site that is already disturbed, the development will minimize disturbance to ESL on site. In addition, the site is developed; therefore, the site is suitable for the proposed redevelopment, with new structures that will comply with all applicable building regulations and are consistent with the surrounding development.

The project would provide protection of sensitive habitats within and outside of the MHPA and would not conflict with the community plan and local coastal program. Pursuant to the City Land Development Code, ESL regulations and MSCP implementing agreement, a new covenant of easement shall be placed over 6.3 acres of the existing easement to further protect the remaining open space, ESL, and MHPA. The easement shall include the remaining biological resources and natural steep hillsides.

The project site contains southern maritime chaparral, which is a sensitive biological resource. The southern maritime chaparral is entirely within the existing open space easement. One sensitive species, Nuttall's scrub oak, occurs within this community. Southern maritime chaparral is considered rare habitat, and this community is easily disturbed/degraded by human activities. The project would result in direct impacts

to 0.07 acre in the form of southern maritime chaparral. As stated in the City's Biology Guidelines, impacts to less than 0.1 acres of sensitive upland habitats would not be significant and do not require mitigation.

The 6.8 acres would remain as an existing open space easement and 6.3 acres of the open space would be protected in a new Covenant of Easement as a condition of approval. Therefore, the site is physically suitable for the design and siting of the proposed development and the development will result in minimum disturbance to environmentally sensitive lands.

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

The Project proposes development within previously developed areas adjacent to open space. The proposed site design takes advantage of the existing site contours and landforms. The project proposes no additional impacts to steep hillsides within the project site. The existing site is already developed within the maximum of 25 percent of steep hillsides and the project proposes to stay within the developed footprint; therefore, the project would not conflict with the Steep Hillsides regulations in the SDMC. Furthermore, any increase in runoff resulting from the site's development shall be directed away from any steep hillside areas and either into an existing or newly improved public storm drain system or onto a street developed with a gutter system or public right-of-way designated to carry surface drainage runoff.

The Geotechnical Investigation prepared for the project, reviewed, and accepted by staff, did not observe evidence of previous or recent slope instability at the project site or on the descending slopes adjacent to the project site. Implementation of the project would not expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving rupture of a known earthquake fault, strong seismic ground shaking, seismic-related ground failure, including liquefaction, or landslides. The project would be required to comply with the seismic requirements of the California Building Code (CBC), utilize proper engineering design and standard construction practices, to be verified at the building permit stage in order to ensure that it would reduce impacts to people or structures to an acceptable level of risk. The project site and the majority of the surrounding area are located within a Local Responsibility Area (Very High Fire Hazard Severity Zone CAL FIRE 2009) for fire. However, implementation of the project would not increase wildland fire risk at the site over existing conditions. The project would replace the existing building with a new research and development building that is consistent with the site's zoning of IP-1-1 and land use designation of Industrial-Scientific Research. The project would comply with the City's Brush Management Program regulations, install standard fire safety features, and construct buildings in compliance with the fire regulations in the CBC. Therefore, the project would not

expose people or structures to a significant risk of loss, injury, or death involving wildland fires.

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

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

The project would provide protection to the sensitive habitat and steep hillsides within the MHPA and open space area through a new covenant of easement and would not conflict with the City's Land Development Code ESL regulations (City 2018) and MSCP implementing agreement (City 1997). Additionally, the new covenant of easement shall be placed over the existing easement to further protect the remaining open space, ESL, and MHPA. The easement shall include only the remaining biological resources and natural steep hillsides. Please see Coastal Development Permit Finding (A)(1)(b) and SDP Findings (B)(1)(b) and (B)(2)(a) as well incorporated here by reference.

4. **The proposed development will be consistent with the City of San Diego's Multiple Species Conservation Program (MSCP) Subarea Plan and Vernal Pool Habitat Conservation Plan (VPHCP).**

The Multiple Species Conservation Program (MSCP) was designed to mitigate the cumulative loss of biological resources throughout the San Diego region. The Vernal Pool Habitat Conservation Plan (VPHCP) was designed to compensate for the analogous losses of vernal pools. A small section of the rear of the property is located in the MHPA, however there are no impacts to ESL within the MHPA. The project footprint will not encroach within the MHPA and only minimally encroach into ESL. As established by the MND, impacts to ESL are outside of the MHPA, and the amount impacted is below the significance level. The site contains no vernal pools.

The proposed project will be consistent with the ESL regulations and the MSCP implementing agreement. To further protect ESL, a new covenant of easement shall be placed over 6.3 acres of the existing 6.8-acre open space easement.

Two special status plant species were observed in the project site during the general biological survey: Nuttall's scrub oak and Torrey pine. Neither of these species are federally listed, state listed, or City narrow endemic plant species. Nuttall's scrub oak is listed as California Rare Plant Rank
(CRPR) 1B.1. Torrey pine is listed as CRPR 1B.2 and is covered under the Multiple Species Conservation Plan (MSCP). Generally, impacts to plant species with a CRPR of 1 or 2 are considered potentially significant, whereas CRPR 3 and 4 species are relatively widespread, and impacts to such

species would not substantially reduce their populations in the region and are not typically significant. The proposed project is primarily limited to existing developed and disturbed areas and impacts to native habitats with the potential to support these species would be minimal (0.07 acre of southern maritime chaparral). No special status plant species were documented within the impact footprint, and direct impacts are unlikely to occur based on the small amount of habitat to be impacted. Therefore, no significant impact on Nuttall's scrub oak or other special status plant species would occur. Cultivated, i.e., not naturally occurring, Torrey pine trees that would be removed by the project would be replaced on-site with a minimum 15-gallon size replacement Torrey pine trees in accordance with the project's landscape plans. The project would not have an impact on naturally occurring Torrey pine.

Construction activities would occur adjacent to the canyon and appropriate best management practices and the MHPA LUAG would be implemented to reduce indirect impacts to the adjacent ESL. Therefore, the proposed coastal development will not adversely affect environmentally sensitive lands.

The project has been specifically designed to minimize impacts to biological resources addressed in the City's MSCP Subarea Plan (1997) and Land Development Code (2018). The project would be consistent with the MSCP and impacts to 0.07 acre of southern maritime chaparral are not considered significant in accordance with Land Development Code requirements, as detailed in Sections 6.3 of the MSCP. The project would not conflict with the local, regional, or state conservation plans; therefore, the project is consistent with the MSCP and the VPHCP.

5. **The proposed development will not contribute to the erosion of public beaches or adversely impact local shoreline sand supply.**

   The project is located within one mile of the ocean. Thus, soil exposed to construction activities, such as grading, could be subject to erosion if exposed to heavy rain, winds, or other storm events. Construction of the proposed project would involve a variety of heavy equipment associated with intensive earthwork, structural, and paving phases. The project would be required to comply with the City's Storm Water Standards, which require the implementation of appropriate best management practices (BMPs). Grading activities would be required to comply with the City of San Diego Grading Ordinance as well as the Storm Water Standards and the project's Stormwater Pollution Prevention Plan (SWPPP) and Stormwater Quality Management Plan (SWQMP), which would ensure soil erosion and topsoil loss is minimized to less than significant levels. Furthermore, permanent stormwater BMPs are conditions of the permit which would also be required post-construction, consistent with the City's regulations. Therefore, the project would not result in substantial soil erosion or loss of topsoil; therefore, impacts would be less than significant.

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

Conditions of approval as part of the CDP and SDP permit, as well as environmental mitigation measures alleviate the negative impacts created by the proposed development. The Mitigated Negative Declaration PRJ-1058759, SCH 2019060003, has been prepared for the project in accordance with CEQA and the CEQA Guidelines. A Mitigation, Monitoring, and Reporting Program (MMRP) has been prepared as part of the final environmental document, which l includes measures to mitigate project impacts to Biological Resources, Historical/Archaeological/Tribal Cultural Resources, and Transportation/Circulation. Additionally, the project shall be required to comply with applicable mitigation measures outlined within the MMRP throughout the following phases: pre-construction, during construction, and post-construction.

The project construction activities will potentially impact nesting Cooper's hawk and coastal California gnatcatcher. To mitigate potential impacts on coastal California gnatcatchers to below a level of significance, the project will be required to implement mitigation. As a condition of project approval, pre-construction surveys for California gnatcatcher will be required to determine species presence/absence if construction were to occur during the gnatcatcher breeding season. If surveys are not conducted, the presence of the species would be assumed, and the implementation of noise attenuation and biological monitoring would be required during the gnatcatcher breeding season if construction would generate noise levels higher than 60 dBA or ambient (whichever is higher). Therefore, required mitigation is reasonably related to, and calculated to alleviate. potential indirect impacts to coastal California gnatcatcher.

To mitigate potential impacts to Cooper's hawk to below a level of significance, the project will be required to implement mitigation. As a condition of project approval, pre-construction surveys for Cooper's hawk will be required prior to the removal of habitat with the potential to support active nests during the breeding season (generally February 1 to September 15). As such, potential direct impacts on nesting Cooper's hawk would be avoided. Potential indirect impacts to nesting Cooper's hawk would be avoided through the implementation of conditions of coverage for this species, which require a 300-foot avoidance setback to nesting Cooper's hawk. Therefore, required mitigation is reasonably related to, and calculated to alleviate. potential impacts on Cooper's hawk.

The proposed project grading activities have the potential to result in inadvertent impacts to tribal cultural resources. To mitigate for this impact, the project will be required to implement an archaeological monitoring program with a Native American monitor during grading. The inclusion of an archaeological monitoring program is reasonably related to, and calculated to alleviate, the negative project impacts to tribal cultural resources.

Due to the location of the project in an area where the average vehicle miles traveled (VMT) per employee exceeds 85% of the regional mean, the project would result in a

potentially significant VMT impact. The project will be consistent with the findings in the Complete Communities Program Environmental Impact Report (SCH No. 2019060003; Resolution No. R-313279) and would implement VMT reduction measures in accordance with the Mobility Choices Regulations (San Diego Municipal Code Chapter 14, Article 3, Division 11), Appendix T Mobility Choices Regulations: Implementation Guidelines. This mitigation is reasonably related to, and calculated to alleviate the negative project impacts to VMT.

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

BE IT FURTHER RESOLVED that, based on these findings adopted by the Planning Commission, Coastal Development Permit No. PMT-3158584 and Site Development Permit No. PMT-3158586 is hereby GRANTED by the Planning Commission to the referenced Owner/Permittee, in the form, exhibits, terms and conditions as set forth in Permit No. PMT-3158584 and PMT-3158586, a copy of which is attached hereto and made a part hereof.

Hector Rios
Development Project Manager
Development Services

Adopted on: September 11, 2025

IO#: 24009237

ATTACHMENT 9

From:	Belen-Gonzalez, Melissa@Coastal
To:	Rios, Hector
Cc:	Lilly, Diana@Coastal; Llerandi, Alexander@Coastal; Ross, Toni@Coastal; Hafertepe, Benjamin; Clatterbuck, Corey@Coastal
Subject:	[EXTERNAL] 11011 Torreyana Rd. Comment Letter
Date:	Wednesday, July 30, 2025 4:24:07 PM
Attachments:	Outlook-yh1xlnm4.png

Dear Hector Rios,

I am reaching out to raise some issues with the proposed project located at 11011 Torreyana Rd., San Diego. The proposed project consists of the demolition of a 76,694 square foot existing building, above-ground parking structure, and auxiliary buildings to construct a 152,080 square-foot industrial building and four levels of subterranean parking garage with approximately 440 parking spaces and 44 surface parking spaces. Various site improvements would also be constructed that include associated surface parking, hardscape, and landscaping on a 10.4 acre lot.

The project site includes an open space easement on the undeveloped eastern side of the lot. It is our understanding that this easement was placed on the property by the City when the lot was created. The restriction prohibits any development within the open space easement.

The project area is located within Subarea 1: Torrey Pines in the existing certified University Community Plan, which serves as a segment of the City's Land Use Plan. The University Community Plan was recently updated by the City, and the new Plan is currently being reviewed by Commission staff. Thus, at this time, the previously certified plan is still the standard of review for coastal development permits. As we have previously noted, the site is with the City's coastal development permit jurisdiction, in an area appealable to the Coastal Commission. Staff has concerns with both how the environmental review was done and with the impacts to sensitive habitat proposed with the project.

The existing University Community Plan includes the following relevant issues, objectives, and proposals:

> A major urban design issue in Subarea 1 relates to the protection of natural topography and vegetation. Also, there is a need to enhance public access to unique panoramic vistas of the coastal bluffs, the campus, Golden Triangle and Sorrento Valley. It is important that plans for future development be sensitive to the natural setting and provide for public access to these vistas.
>
> Protect and take maximum advantage of the Torrey Pines Subarea's topography

and unique natural vegetation.

Ensuring that developments do not intrude into the designated open space areas. Requiring clustering of buildings and surface parking areas to avoid intrusion into areas of scenic or biological value. Developments should convey a park-like, open character to be achieved by limiting man-made construction, alterations and intrusions into natural terrain. 30 to 40 percent of the total land area within a project site located in the Torrey Pines Subarea should remain in open space uses in order to maintain the open character of this subarea. (Surface parking does not qualify as an open space use). A discretionary encroachment onto slopes 25 percent or over may be allowed, utilizing the criteria (site-specific mapping, slope analysis and sliding scale of allowable encroachments) established in the certified Hillside Review Ordinance, if consistent with the protection of sensitive environmental lands and subarea character. In addition, development within Subarea 1 is subject to the Coastal Zone regulations.

Avoid destruction of native vegetation, wildlife habitats, geologic landmarks, or known archaeological resources.

Consolidating auto access to developments adjoining North Torrey Pines Road and Genesee Avenue to minimize removal of existing trees and other significant natural vegetation.

Native vegetation should be retained where possible. Graded slopes should be revegetated with native or drought-tolerant species to restore pre-development drainage conditions.

Protect biological resources through the wise management and use of community's natural open space and parks.

Many of the community's biological resources are proposed for preservation in natural parks, as specifically addressed in the **Open Space and Recreation Element**. In other areas, native vegetation should be retained wherever feasible to reduce erosion, to preserve native species and representative habitats and to buffer open space parks and canyons from urban encroachment. Disturbed areas should be revegetated with native flora.

The Commission's ecologist has reviewed the Biological Report provided by the City by Helix Environmental dated July 2024 and has identified several inadequate survey methods. First, the Helix biologists performed a bumble bee survey outside of the peak

detection months for bumble bees –Crotch's bumble bee should be surveyed between April – August, and their survey was conducted on February 20, 2024. This species has been repeatedly sighted within 1-3 miles of the project according to open sources such as iNaturalist. Since this is an open space habitat that has had previous sightings, the biologist should provide a map of where the bumble bee surveys were conducted. The qualifications of the biologist to conduct sensitive bumble bee surveys should also be provided. While Commission staff would like to review this map and qualifications, it appears that the survey performed was not adequate, and a new survey should be performed for Crotch's bumble bee at peak detection times and conditions. The survey should be performed within the project footprint, the fuel modification zone, and within 100 ft buffer from the fuel mod zone. The Biological Report also notes the biologists performed a general survey on January 15, 2021, but no rare plant survey was performed. Given that the biological report identifies the presence of coastal sage scrub and southern maritime chaparral on the site, with potential for annual and perennial rare plants, a rare plant survey should be performed in the appropriate season (Spring). The survey should take place within the project footprint, the fuel modification zone, and the 100 ft. buffer from the fuel modification zone as well.

With regard to the project itself, construction would result in direct impacts to 0.07 acres of Southern maritime chaparral vegetation by for construction of a loading zone for service vehicles. Given the presence of Southern maritime chaparral, the Commission's ecologist has determined this vegetation is Environmentally Sensitive Habitat area (ESHA). Figure of in the Biological Report indicates that the proposed development will encroach into the open space easement.

The proposed brush management associated with the project is unclear and it appears to also potentially impact sensitive habitat. Figure 8 depicts the proposed Zone 1 brush management; please clarify on the figure where Zone 2 would be proposed; it appears as though the Zone 2 brush management would impact the existing Southern maritime chaparral vegetation and further encroach into the open space easement. Per the City's Zone 2 requirements, cutting Southern maritime chaparral vegetation to ground level would not be considered a neutral impact. Also, per the City's §142.0412 (c)(2), it states:

> Zone Two is not permitted in City owned open space for new development proposals.

This project is considered new development since the existing building will be demolished. Although the City's Land Development Manual for Biology Guidelines (which is included in the City's certified Implementation Plan) states that impacts to less than 0.1 acre of sensitive upland habitats would not be significant and would not require mitigation, removal and impacts to southern maritime chapparal should be avoided wherever feasible, as it is a particularly rare community within San Diego's Coastal Zone, and chapparal is difficult to restore. Staff recommends the project be redesigned to

eliminate the clearing or planting of any vegetation in this area and that Zone 2 brush management be properly identified. Lastly, the project proposes to plant one Torrey pine tree in a vegetated area which currently consists of southern maritime chapparal. No new trees should be planted in existing sensitive habitat, as new landscaping can impact existing sensitive habitat.

Thank you very much for your time,
Melissa

Melissa Belen-Gonzalez (she/her)
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ATTACHMENT 10

11011 Torreyana Road PRJ-1058759 Responses to California Coastal Commission Comment Letter		
Comment		Response
1	I am reaching out to raise some issues with the proposed project located at 11011 Torreyana Rd., San Diego. The proposed project consists of the demolition of a 76,694 square foot existing building, above-ground parking structure, and auxiliary buildings to construct a 152,080 square-foot industrial building and four levels of subterranean parking garage with approximately 440 parking spaces and 44 surface parking spaces. Various site improvements would also be constructed that include associated surface parking, hardscape, and landscaping on a 10.4-acre lot.	This comment accurately summarizes the proposed project as described throughout the Subsequent IS/MND.
2	The project site includes an open space easement on the undeveloped eastern side of the lot. It is our understanding that this easement was placed on the property by the City when the lot was created. The restriction prohibits any development within the open space easement.	The commenter is correct that an easement exists on the property and that the easement area has largely been undeveloped. However, it is not correct to state that the entire area is undeveloped or restricted from any development. The western portion of the easement area was previously disturbed during the development of the property in the early 1980s and currently contains ornamental landscaping that is actively maintained, active irrigation systems, debris piles, and other human-derived disturbances. See Photos 1 through 12, Appendix A to the Biological Study. The open space easement granted to the City, was approved and established by the recordation of Torrey Pines Science Park Unit 2 Map No. 8434 on December 10th,1976. The easement expressly permits open parking areas, fences, retaining walls, utility distribution facilities, sidewalks, paths, and steps within the easement area.

		Additional information on the existing easement, allowed uses, and how the project is compatible with the easement are provided in Section 4.1 of the Biological Report, and Section 3 of the Subsequent IS/MND. In summary, the grant of the open space easement in Torrey Pines Science Park Unit 2 Map No. 8434 states: "We hereby dedicate to the public use Science Park Road, Torreyana Road, Callan Road, North Torrey Pines Place, a portion of North Torrey Pines Road and a path, together with [other appurtenances and easements] "Dedicated Hereon", reserving, however, to the owner of the fee underlying any easement herein dedicated the continued use of the surface of said real property; and subject to the following conditions: the erecting of buildings, masonry walls, masonry fences and other structures; or the planting or growing of trees or shrubs; or changing the surface grade or the installation of privately owned pipelines shall be prohibited unless an encroachment permit is first obtained from the City Engineer pursuant to the Municipal Code, together with open space easements over, under, upon and across portions of Lots 5, 6, 7 and 8 as shown on this map within this subdivision. Conditions shall be that no part of said of open space easements shall be used except for the purpose of installing, erecting, constructing, maintaining, planting and growing thereon the following: (1) grass, flowers, shrubs, trees and irrigation and other landscaping appurtenances; (2) fences and retaining walls; (3) recreation facilities provided the same shall not include and building; (4) utility distribution facilities provided they are installed underground, except that transformer boxes and similar equipment may be installed above ground but not on poles, derricks or similar support; (5) open parking areas; (6) sidewalks, paths and steps; (7) directional signs; (8) outdoor lighting facilities and community television antenna facilities, provided, however, that each and every facility and appurtenance, installed, erected,

		constructed or maintained pursuant to any of clause (1) through (8) must be heretofor and hereafter approved by the City of San Diego." A subsequent quitclaim deed was recorded as Document No. 85-037108 on February 4, 1985, in the San Diego County Recorder's Office that provided the State of California the right to enforce the easement; however, this quitclaim deed did not eliminate any of the permitted use exceptions to the easement or the City's authority to approve those uses. Moreover, there is no other encumbrance identified in the recent Title Report prepared for the Property that further reduces the ability to use the easement for the identified uses (SMRH 2022).
3	The project area is located within Subarea 1: Torrey Pines in the existing certified University Community Plan, which serves as a segment of the City's Land Use Plan. The University Community Plan was recently updated by the City, and the new Plan is currently being reviewed by Commission staff. Thus, at this time, the previously certified plan is still the standard of review for coastal development permits. As we have previously noted, the site is with the City's coastal development permit jurisdiction, in an area appealable to the Coastal Commission. Staff has concerns with both how the environmental review was done and with the impacts to sensitive habitat proposed with the project.	Comment noted. The project was reviewed for consistency with the existing certified University Community Plan and is consistent with the plan issues, objectives, and proposals as indicated in responses 4 through 11.
4	The existing University Community Plan includes the following relevant issues, objectives, and proposals: A major urban design issue in Subarea 1 relates to the protection of natural topography and vegetation. Also, there is a need to enhance public access to unique panoramic vistas of the coastal bluffs, the campus, Golden Triangle and Sorrento Valley. It is important that plans for future development be sensitive to the natural setting and provide for public access to these vistas.	Comment noted. The Subsequent IS/MND included a consistency assessment with the University Community Plan, including the Project's impacts to scenic vistas. The project site is currently occupied by private office land uses and does not include public viewing areas. The easement also does not require public access or provide public views. Implementation of the project would replace the existing research and development facility with research and development and supporting amenities. The project site is located within the Coastal Height Limit Overlay Zone. The project would be limited to

		30 feet, which would be of similar height to neighboring research and development uses. The project would not block public views or remove scenic vistas at the site because none are present or impacted by the project.
5	Protect and take maximum advantage of the Torrey Pines Subarea's topography and unique natural vegetation.	Section 6.3 and Section 6.16, Issue 4 of the Subsequent IS/MND discuss the project's potential impacts to native vegetation and landforms. The project was designed to primarily occur within existing developed and disturbed areas associated with previous development. The project would not substantially impact native vegetation, habitat, species, or landforms and is therefore consistent with the goal mentioned in this comment.
6	Ensuring that developments do not intrude into the designated open space areas. Requiring clustering of buildings and surface parking areas to avoid intrusion into areas of scenic or biological value. Developments should convey a park-like, open character to be achieved by limiting man-made construction, alterations and intrusions into natural terrain. 30 to 40 percent of the total land area within a project site located in the Torrey Pines Subarea should remain in open space uses in order to maintain the open character of this subarea. (Surface parking does not qualify as an open space use). A discretionary encroachment onto slopes 25 percent or over may be allowed, utilizing the criteria (site-specific mapping, slope analysis and sliding scale of allowable encroachments) established in the certified Hillside Review Ordinance, if consistent with the protection of sensitive environmental lands and subarea character. In addition, development within Subarea 1 is subject to the Coastal Zone regulations.	2.9 acres of the 10.2-acre site is already developed, which is 28% of the site. As discussed in Section 3.2 of the Subsequent IS/MND, the project would redevelop the site. With the implementation of the project, approximately 3.4 acres (33%, of the project site) would be developed. The remaining 6.8 acres (67% of the site) would remain open space, exceeding the goal mentioned in this comment. The project was designed to primarily occur within existing developed and disturbed areas associated with previous development, and the proposed building will be situated in the western developed portion of the property, away from the adjacent open space. The project requires a Coastal Development Permit (CDP) and has been designed to comply with the Coastal Zone regulations. Additionally, the project has been designed so that a majority of the parking spaces (approximately 440 stalls) are located below grade. An approximately 44-space surface parking lot is proposed that includes accessible spaces to serve the project; it is consistent with the terms of the existing and proposed easements described below. The grant of the Open Space easement in Torrey Pines Science Park Unit 2 Map No. 8434 under Lot 7 (project site) includes a

		condition which states no part of said of open space easements shall be used except for the purpose of installing, erecting, constructing, maintaining, planting and growing thereon the following: (5) open parking areas. A new Covenant of Easement will be placed over 6.3 acres of the existing 6.8-acre open space easement to ensure preservation of the Environmentally Sensitive Lands that are outside the allowable development area of the premises for Sensitive Biological Resources and Steep Hillsides. The project would be consistent with the goals mentioned in this comment.
u	Avoid destruction of native vegetation, wildlife habitats, geologic landmarks, or known archaeological resources.	As detailed in response to comment 5 above, significant impacts to native vegetation and wildlife habitats would be avoided. No geologic landmarks are located on the site or would be destroyed by the project. The project would avoid significant impacts to archaeological resources via the implementation of an archaeological monitoring program with a Native American monitor during ground-disturbing activities, as detailed in Mitigation Measure CUL-1 in Section IV of the Subsequent IS/MND. The project would be consistent with this goal, as demonstrated in the Subsequent IS/MND.
8	Consolidating auto access to developments adjoining North Torrey Pines Road and Genesee Avenue to minimize removal of existing trees and other significant natural vegetation.	The proposed project does not adjoin North Torrey Pines Road or Genesee Avenue, so this goal does not apply to the project.
9	Native vegetation should be retained where possible. Graded slopes should be revegetated with native or drought-tolerant species to restore pre-development drainage conditions.	Comment noted. As discussed in response to comment 5 above, impacts to native vegetation would be less than significant. Sloped areas adjacent to the project site's open space would be vegetated with native species. The project would be consistent with the goal mentioned in this comment.
10	Protect biological resources through the wise management and use of the community's natural open space and parks.	Comment noted. The site is privately owned and is not community open space or a park. See response to comment 5 above. The project has been designed to occur primarily within the existing development footprint of the site and would have a less-than-significant impact on biological

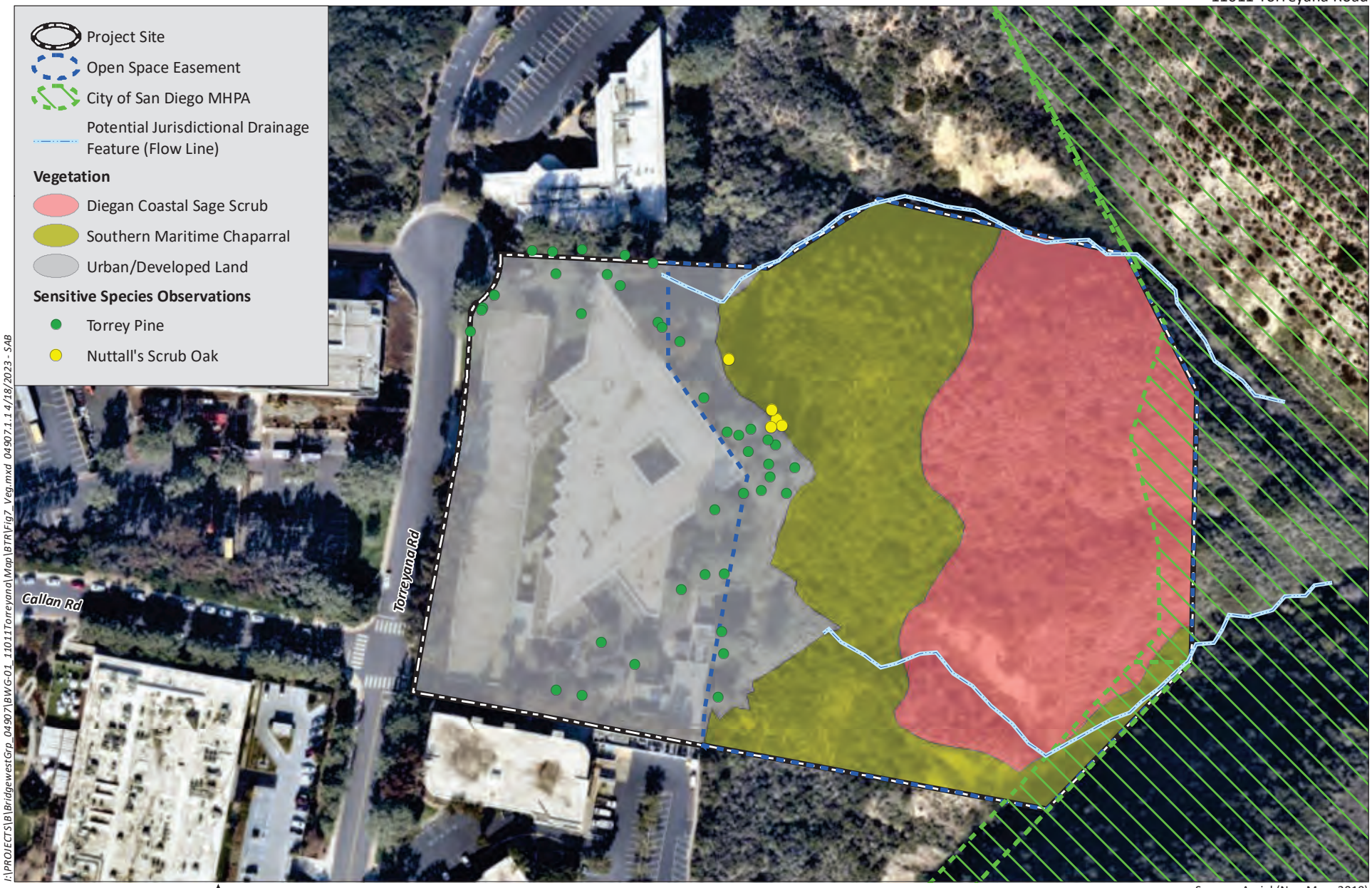
		resources, as discussed in Section 6.3 of the Subsequent IS/MND. The project would be consistent with this goal.
11	Many of the community's biological resources are proposed for preservation in natural parks, as specifically addressed in the **Open Space and Recreation Element**. In other areas, native vegetation should be retained wherever feasible to reduce erosion, to preserve native species and representative habitats and to buffer open space parks and canyons from urban encroachment. Disturbed areas should be revegetated with native flora.	Comment noted. Refer to responses to comments 5 and 9 above. The project has been designed to occur primarily within the existing development footprint of the site and would have a less-than-significant impact on biological resources, as discussed in Section 6.3 of the Subsequent IS/MND. Native vegetation would provide a buffer between the project site's proposed development and the adjacent open space. The project would be consistent with this goal.
12	The Commission's ecologist has reviewed the Biological Report provided by the City by Helix Environmental dated July 2024 and has identified several inadequate survey methods. First, the Helix biologists performed a bumble bee survey outside of the peak detection months for bumble bees –Crotch's bumble bee should be surveyed between April – August, and their survey was conducted on February 20, 2024. This species has been repeatedly sighted within 1-3 miles of the project according to open sources such as iNaturalist. Since this is an open space habitat that has had previous sightings, the biologist should provide a map of where the bumble bee surveys were conducted.	As stated in the Biological Report prepared by HELIX Environmental Planning, Inc. (HELIX) dated July 2024, a Crotch's bumble bee (CBB) focused habitat assessment in accordance with the California Department of Fish and Wildlife (CDFW) June 6, 2023 survey protocol was completed that combined various data and field survey observations from multiple biological surveys. The purpose of the habitat assessment survey is to determine if potential CBB nesting, overwintering, and/or foraging habitat are present to warrant protocol surveys during the Colony Flight Season (April through August) in accordance with CDFW protocol. The habitat assessment survey confirmed that CBB would not be expected to nest, forage, or overwinter within the project impact area and immediate vicinity. Specifically, while the eastern edge of the project site contains some potentially suitable habitat (sage scrub habitat), the portion of the project site that would be impacted by the project, *i.e.*, where construction would occur, is highly disturbed and actively maintained, thereby lacking suitable habitat that would support CBB nesting, foraging, and/or overwintering. Surveys to inform the habitat assessment were conducted to span the Queen Flight Season, Colony Active Period, and Gyne Flight Season periods in January 2021, March and September 2022, April 2023, and February 2024. As stated in the Biological Report,

		the biologists surveyed the project impact area and the immediate vicinity (approximately 100 feet beyond the impact area) within safely accessible portions of the property. Very steep slopes and areas of impenetrable vegetation could not be safely walked but were surveyed with binoculars. In addition, the Biological Report addresses the comment regarding the iNaturalist records. As stated in the Biological Report, the closest recorded occurrences of this species are two iNaturalist reports from 2024, which were approximately 1.2 and 2.1 miles away from the project site. It should be clarified that the project site does not include "open space habitat that has had previous sightings" as the commenter states. Aside from the two iNaturalist reports, recorded over a mile away from the project site, the species has not been recorded within the surrounding vicinity in over 40 years, when there was a recorded sighting 1.3 miles northwest of the project site. The surrounding land uses are dominated by developed land and dense chaparral habitat, rendering surrounding lands equally unlikely to support suitable nesting habitat.
13	The qualifications of the biologist to conduct sensitive bumble bee surveys should also be provided. While Commission staff would like to review this map and qualifications, it appears that the survey performed was not adequate, and a new survey should be performed for Crotch's bumble bee at peak detection times and conditions. The survey should be performed within the project footprint, the fuel modification zone, and within 100 ft buffer from the fuel mod zone.	HELIX's biologists have received extensive training on the species (Dr. Douglas Yanega/UCR, San Diego Natural History Museum, Xerces Society) and have experience completing many invertebrate surveys in the region in accordance with CDFW protocol. The habitat assessment survey performed is adequate and consistent with CDFW protocol as discussed further in response to comment 12 above.
14	The Biological Report also notes the biologists performed a general survey on January 15, 2021, but no rare plant survey was performed. Given that the biological report identifies the presence of coastal sage scrub and southern maritime chaparral on the site, with potential for annual and perennial rare plants, a rare plant survey should be performed in the appropriate season (Spring).	The City's Biology Guidelines provide Biological Survey Requirements in Table 1. The sensitive plant species not observed but with high potential to occur on site outside of the project footprint (Del Mar manzanita, wart-stemmed ceanothus, and San Diego barrel cactus) are all MSCP-covered, and, consistent with the Biology Guidelines and the MSCP Subarea Plan conditions of

	The survey should take place within the project footprint, the fuel modification zone, and the 100 ft. buffer from the fuel modification zone as well.	coverage, focused surveys for these species are not required. The biology report addresses the conditions of coverage for these species in more detail. Additionally, all three of these species are evergreen and would not require a springtime survey to be observed. The project footprint is primarily within the existing fully developed footprint of the site. As indicated in response to comment 12 above, biologists surveyed the project impact area and the immediate vicinity (approximately 100 feet beyond the impact area) within safely accessible portions of the property.
15	With regard to the project itself, construction would result in direct impacts to 0.07 acres of Southern maritime chaparral vegetation for construction of a loading zone for service vehicles. Given the presence of Southern maritime chaparral, the Commission's ecologist has determined this vegetation is Environmentally Sensitive Habitat area (ESHA). Figure 8 of in the Biological Report indicates that the proposed development will encroach into the open space easement.	The Biology Report identifies that 0.07 acre of southern maritime chaparral would be impacted, which would be less than significant per the City's Biology Guidelines. The proposed development, including the designated loading zones for service vehicles, is permitted under the allowed uses outlined in the open space easement as shown on Map No. 8434. The City of San Diego retains authority as the permitting agency.
16	The proposed brush management associated with the project is unclear and it appears to also potentially impact sensitive habitat. Figure 8 depicts the proposed Zone 1 brush management; please clarify on the figure where Zone 2 would be proposed; it appears as though the Zone 2 brush management would impact the existing Southern maritime chaparral vegetation and further encroach into the open space easement. Per the City's Zone 2 requirements, cutting Southern maritime chaparral vegetation to ground level would not be considered a neutral impact.	Please refer to the site development plan, sheet L-6.00 for the full Brush Management plan. Per SDMC 142.0402(b)(1) BMZ1 is defined as the area adjacent to the structure, the least flammable typically consisting of pavement and permanently irrigated ornamental planting. This project provides 35 feet or more of BMZ1 and does not encroach into the ESL. BMZ2 is the area between zone one and any area of native or naturalized vegetation and typically consists of thinned, native or naturalized non-irrigated vegetation. This site has provided up to 65 feet of BMZ2. The City's SDMC §142.0412 (c)(2) refers to adjacent city owned property not private property. Please also note, Zone two is considered impact neutral and shall be maintained in accordance with SDMC 142.0412(h)(3) and the Land Development Manual Landscape Standards. Per the Landscape Standards 50% of the plants that are over 24 inches in height shall be cut to a

		height of six inches, non-native plants shall be trimmed and cleared before native plans.
17	Also, per the City's §142.0412 (c)(2), it states: Zone Two is not permitted in City owned open space for new development proposals.	The open space is not City-owned, and this provided section is not applicable.
18	This project is considered new development since the existing building will be demolished. Although the City's Land Development Manual for Biology Guidelines (which is included in the City's certified Implementation Plan) states that impacts to less than 0.1 acre of sensitive upland habitats would not be significant and would not require mitigation, removal and impacts to southern maritime chapparal should be avoided wherever feasible, as it is a particularly rare community within San Diego's Coastal Zone, and chapparal is difficult to restore. Staff recommends the project be redesigned to eliminate the clearing or planting of any vegetation in this area and that Zone 2 brush management be properly identified.	The project consists of a tear-down and rebuild of a Research and Development facility. Regardless of the project type, the Biology Guidelines are applicable to all development projects under the City's jurisdiction. Page 73 of the Biology Guidelines states "Total upland impacts (Tiers I- IIIB) less than 0.1 acre are not considered significant and do not require mitigation." The biology report was prepared in accordance with the Biology Guidelines, and the biology report (Section 7.2, page 23) appropriately stated "impacts to 0.07 acre of southern maritime chaparral are not considered significant, and mitigation is not required." As previously stated, Zone 2 impacts are also less than significant. As impacts would be less than significant, no mitigation is required. There is no requisite nexus between mitigation or avoidance proposed by Commission staff and project impacts for the City to require or request avoidance or restoration.
19	Lastly, the project proposes to plant one Torrey pine tree in a vegetated area which currently consists of southern maritime chapparal. No new trees should be planted in existing sensitive habitat, as new landscaping can impact existing sensitive habitat.	The proposed Torrey Pine Tree is within the Urban Developed Land per the Biology Report Figure 8. Please also review Site Development sheet C2.0 that shows the previous limit of grading. This area has been previously graded and does not contain existing southern maritime chapparal, the biology report also confirms this.

11011 Torreyana Road



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Source: Aerial (NearMap, 2019)

HELIX Environmental Planning

Vegetation Communities and Sensitive Resources

Figure 7