



THE CITY OF SAN DIEGO

Report to the Hearing Officer

DATE ISSUED: August 16, 2017 REPORT NO. HO-17-054

HEARING DATE: August 23, 2017

SUBJECT: San Andres – TM Waiver/CDP. Process Three Decision.

PROJECT NUMBER: [508618](#)

OWNER/APPLICANT: Protea Flower Hill Mall, Owner/Fusco Engineering, Applicant.

SUMMARY

Issue: Should the Hearing Officer approve the subdivision of parcel with commercial development into two parcels located at 15760-15770 San Andres Drive and 2636-2750 Villa De La Valle adjacent to the Villa De La Valle and Carmel Valley Community Plan areas?

Staff Recommendations:

1. Approve Tentative Map Waiver No. 1812540;
2. Approve Coastal Development Permit No. 1812507, amending Coastal Development Permit No. 619980.

Community Planning Group Recommendation: The subject site is not within a Community Plan area. The nearest, adjacent Community Planning area is the Via de la Valle Specific Plan area and the Carmel Valley Community Planning Board serves as the recommendation body until such time as the site is included within a Community Plan area. On June 23, 2017, the Carmel Valley Community Planning Board voted unanimously 11-0-0 to recommend approval of the proposed project without conditions/recommendations.

Environmental Review: The project was determined to be exempt pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15305 (Minor Alterations in Land Use Limitations). This project is not pending an appeal of the environmental determination. The environmental exemption determination for this project was made on June 19, 2017 and the opportunity to appeal that determination ended July 3, 2017.

BACKGROUND

The 9.92-acre site is located northeast of the intersection of Interstate 5 and Via de La Valle, in the CC-1-3 and Coastal Overlay (Non-Appealable Area 2) Zones. The site is located at the northernmost edge of the City of San Diego limits, and is bordered by the City of Solana Beach and City of Del Mar. The site is adjacent to the Via de la Valle Specific Plan and Carmel Valley Community Plan area, but not located within a specific community plan area. The site is designated for Commercial uses in the San Diego General Plan and the North City Local Coastal Program Land Use Plan areas and is subject to the goals and policies of these plans (Attachments 1 – 3).

On April 19, 2011, commercial development on a portion of the property was approved by City Council pursuant Coastal Development Permit No. 619980. The subject action will amend the permit to include the subdivision of land. No additional development is proposed with this action and all existing conditions of approval (Attachment 10) will remain in full force and effect.

DISCUSSION

Project Description: The project is requesting a Tentative Map Waiver to waive the requirements to file a Tentative Map pursuant the Subdivision Map Act for the subdivision of one, 9.92-acre parcel into two parcels – one 0.95-acre parcel and one 8.97-acre parcel. As the project is located in the Coastal Zone, a Coastal Development Permit is required. No structures are proposed, however, existing driveways will be upgraded to City-standard and new street lights will be constructed as conditions of approval. Subsequent to these improvements, a Parcel Map will be filed to subdivide the land.

Community/General Plan Analysis: The project site is located within the City of San Diego's General Plan and the North City Local Coastal Program (North City LCP) Land Use Plan area and is subject to the goals and policies of these plans. The site is not located within a specific community plan. The General Plan identifies the project site for Commercial Employment, Retail and Services land use. The project site is designated for Commercial Use in the North City LCP Land Use Plan. The proposed project is consistent with the land use designations and all applicable goals and policies of the City of San Diego General Plan and North City LCP Land Use Plan.

The primary purpose of the North City LCP is to help implement the goals of the California Coastal Act. The Coastal Act assigns authority for local agencies to issue coastal development permits through adoption of Local Coastal Plans. The City adopted, and the Coastal Commission subsequently approved, the North City LCP in 1981.

In general, the North City LCP applies to the various community plans that comprise the northern portion of the City of San Diego. As indicated earlier, the subject property does not lie within the boundaries of a community plan. However, the property was included in the North City LCP in order to allow the City to issue coastal development permits to areas in the North City that lay outside of formal community plans. As a result of not being associated with a community plan, the North City LCP does not contain any goals, objectives or policies that apply directly to the property other than the land use designation, which is consistent with the commercial land use designation applied by the City's General Plan. As the proposed project would not change the land use on the site, the project would be consistent with the North City LCP.

Waiver of the Requirement to Underground Utilities: There are existing off-site overhead utilities abutting the project site. Pursuant to SDMC Section 144.0240(b)(5), the applicant has requested a waiver of the requirement to underground these utilities. The project qualifies for the waiver in accordance to SDMC Section 144.0242(c)(1)(A), as undergrounding of the utilities are already scheduled to occur in the near term as part of the City's utility underground program.

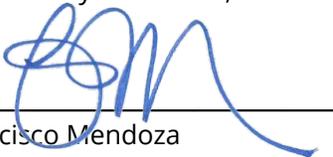
CONCLUSION

Staff has reviewed the application for the Coastal Development Permit and Tentative Map Waiver and has determined that the project complies with all prior approved entitlements and all applicable regulations and policy documents. Staff has provided the decision maker with draft findings and draft conditions of approval for the subdivision. Staff recommends approving the subdivision as proposed.

ALTERNATIVES

1. Approve Tentative Map Waiver No. 1812540 and Coastal Development Permit No. 1812507, with modifications.
2. Deny Tentative Map Waiver No. 1812540 and Coastal Development Permit No. 1812507, if the findings required to approve the project cannot be affirmed.

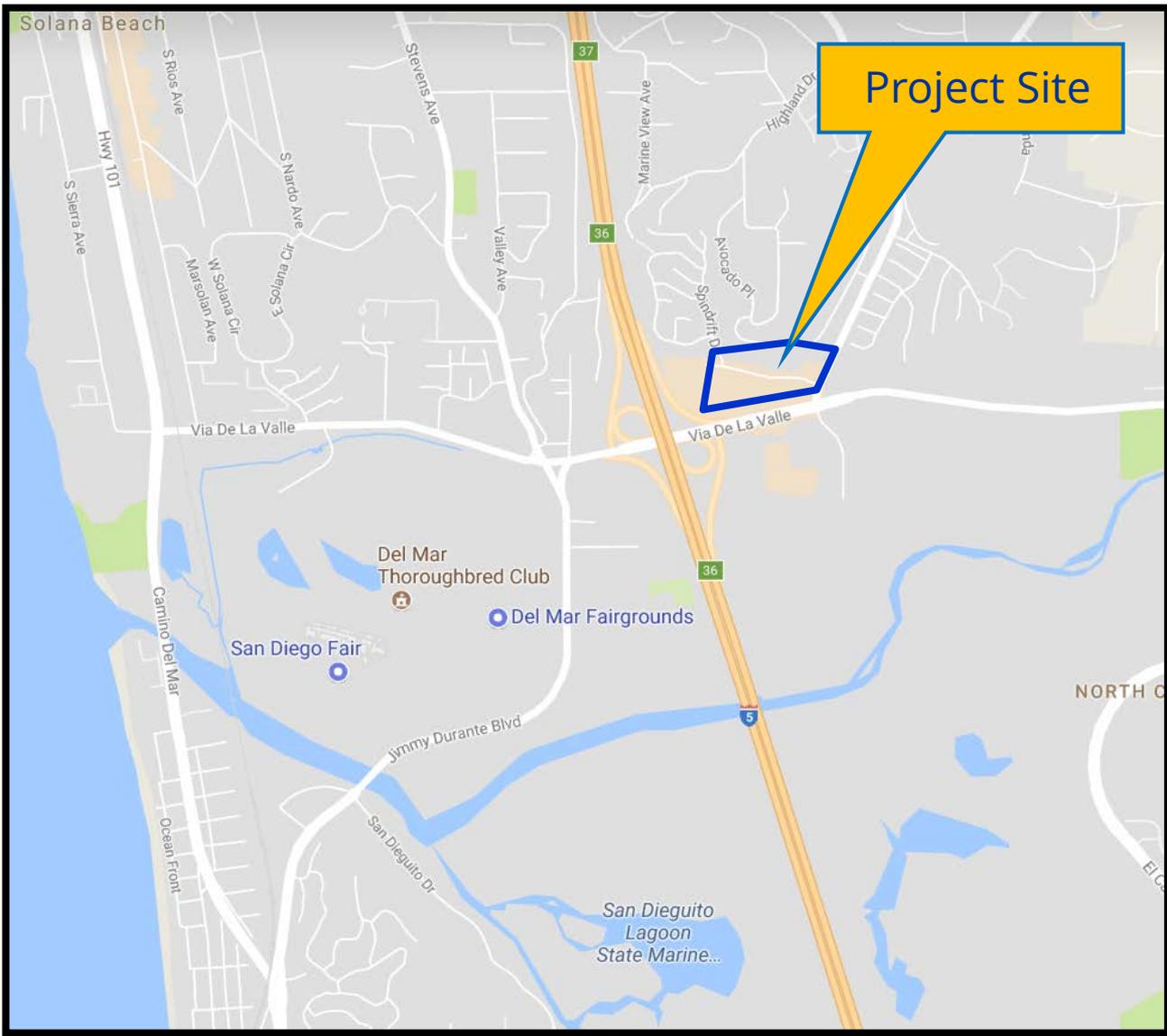
Respectfully submitted,



Francisco Mendoza
Development Project Manager

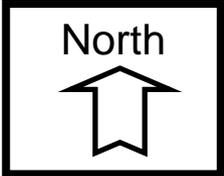
Attachments:

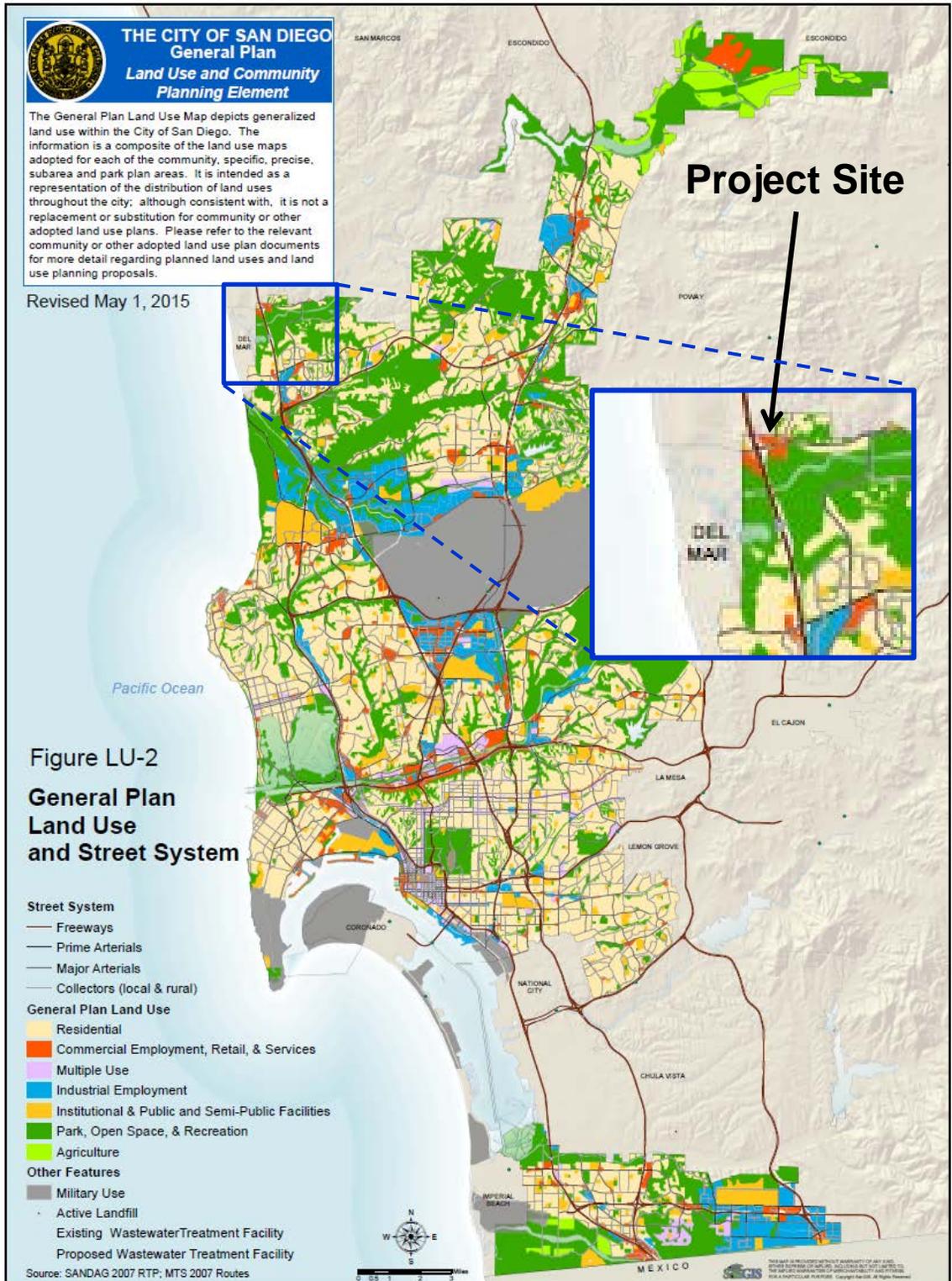
1. Project Location Map
2. General Plan Land Use Map
3. Aerial Photograph
4. Project Data Sheet
5. Draft Map Resolution
6. Draft Map Conditions
7. Draft Resolution with Findings
8. Draft Permit with Conditions
9. Environmental Exemption
10. Copy of Recorded Permit
11. Community Planning Group Recommendation
12. Ownership Disclosure Statement
13. Map Exhibit- Tentative Map Waiver



Project Location Map

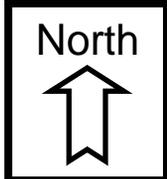
San Andres - TM/CDP / 2636 Via De La Valle - 15770 San Andres Drive
PROJECT NO. 508618

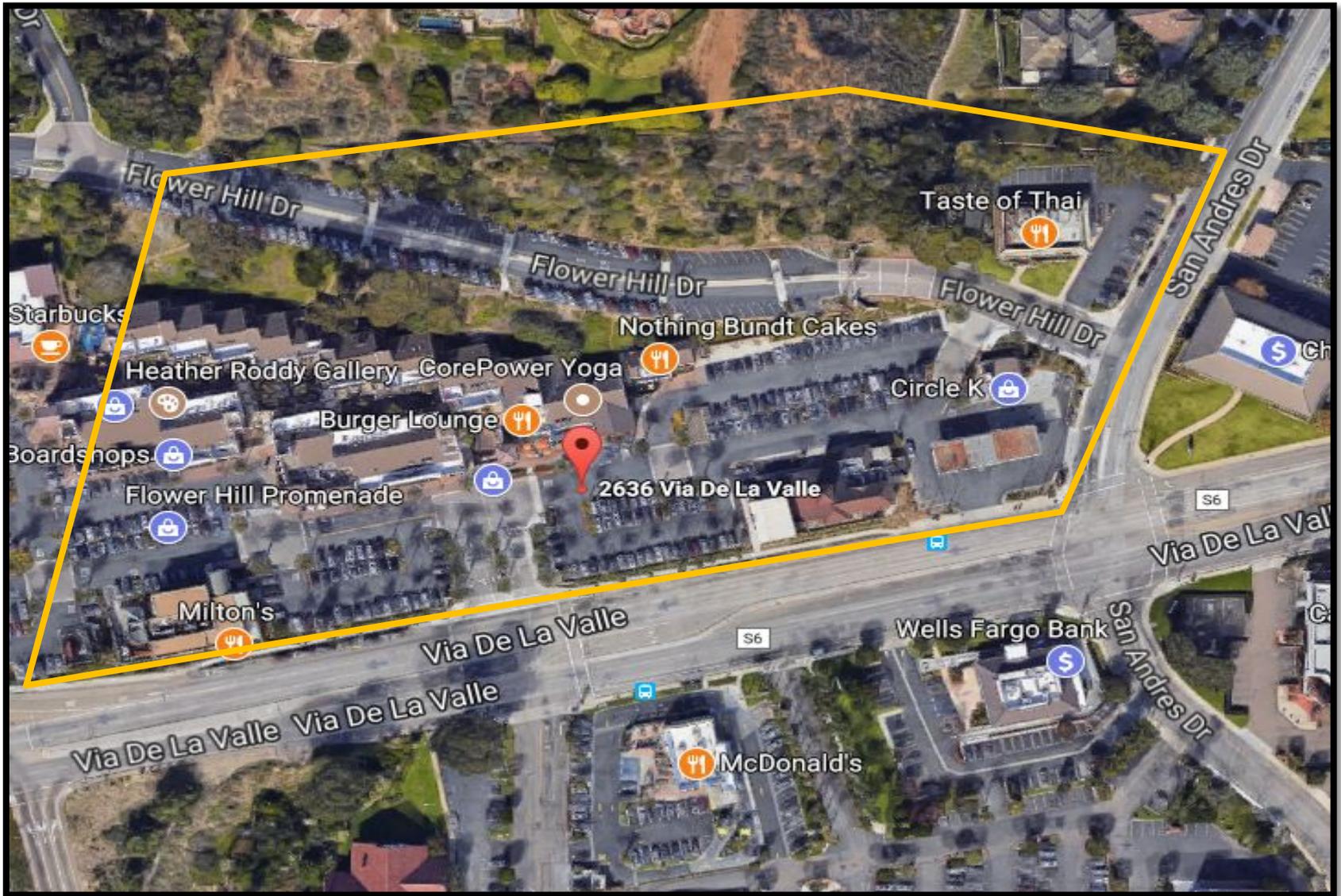




Land Use Map

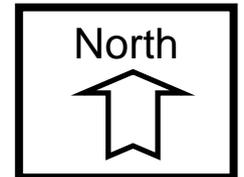
San Andres – TM/CDP
 PROJECT NO. 508618





Aerial Photo

San Andres - TM/CDP / 15770 San Andres Drive & 2636 Via De La Valle
PROJECT NO. 508618



PROJECT DATA SHEET

PROJECT NAME:	San Andres – TM Waiver/CDP	
PROJECT DESCRIPTION:	Subdivide 1 parcel into 2 parcels.	
COMMUNITY PLAN AREA:	None. (Adjacent to Via de la Valley/Carmel Valley)	
DISCRETIONARY ACTIONS:	Tentative Map Waiver/Coastal Development Permit	
COMMUNITY PLAN LAND USE DESIGNATION:	Commercial Uses	
ZONING INFORMATION:		
ZONE:	CC-1-3	
HEIGHT LIMIT:	45'	
LOT SIZE:	5,000 min (approx. 41,400 sf and 390,800 sf proposed)	
FLOOR AREA RATIO:	0.75	
FRONT SETBACK:	n/a	
SIDE SETBACK:	n/a	
MIN LOT WIDTH:	100 feet (170 and 434 proposed)	
MIN STREET FRONTAGE:	100 feet (170 and 434 proposed)	
PARKING:	n/a	
ADJACENT PROPERTIES:	LAND USE DESIGNATION & ZONE	EXISTING LAND USE
NORTH:	Residential; RS-1-13 and City of Solana	Residential
SOUTH:	Commercial; CC-1-3	Commercial Retail; Auto Service
EAST:	Commercial; CC-1-3	Commercial Retail
WEST:	I-5 Freeway	n/a
DEVIATION REQUESTED:	None.	
COMMUNITY PLANNING GROUP RECOMMENDATION:	On June 23, 2017, the Carmel Valley Community Planning Board voted unanimously 11-0-0 to recommend approval of the proposed project without conditions/recommendations. Note: The subject site is not within a Community Plan area. The nearest, adjacent Community Planning area is the Via de la Valle Specific Plan area and the Carmel Valley Community Planning Board serves as the recommendation body until such time as the site is included within a Community Plan area.	

RESOLUTION NO. _____
DATE OF FINAL PASSAGE _____

A RESOLUTION OF THE HEARING OFFICER ADOPTING THE FINDINGS
AND APPROVING TENTATIVE MAP WAIVER NO. 1812540 FOR SAN
ANDRES TM WAIVER/CDP – PROJECT NO. 508631.

WHEREAS, PROTEA FLOWER HILL MALL, LLC, Subdivider, and NICHOLAS PSYHOGIOS, Engineer, submitted an application with the City of San Diego for Tentative Map Waiver No. 1812540, to waive the requirement for a Tentative Map for the subdivision of one parcel into two parcels, and to waive the requirement to underground existing offsite overhead utilities. The project site is located at 15760-15770 San Andres Drive and 2636-2750 Villa De La Valle in the CC-1-3 Zone in the San Diego General Plan and the North City Local Coastal Program areas. The property is legally described as Parcel 2 of Parcel Map No. 21027, in the City of San Diego, County of San Diego, State of California, filed in the Office of the County Recorder of San Diego County, California on January 28, 2013 as Instrument No. 2013-0058006 of Official Records; and

WHEREAS, the Tentative Map Waiver proposes the subdivision of a 9.923-acre site into two lots; and

WHEREAS, on June 19, 2017, the City of San Diego, as Lead Agency, made and issued an Environmental Determination that the project is exempt from the California Environmental Quality Act (CEQA) (Public Resources Code section 21000 *et. seq.*) under CEQA Guidelines Section 15305 (Minor Alterations in Land Use Limitations); and there was no appeal of the Environmental Determination filed within the time period provided by San Diego Municipal Code section 112.0520; and

WHEREAS, the subdivision complies with the requirements of a preliminary soils and/or geological reconnaissance report pursuant to Subdivision Map Act sections 66490 and 66491(b)-(f) and San Diego Municipal Code section 144.0220; and

WHEREAS, on August 23, 2017, the Hearing Officer of the City of San Diego considered Tentative Map Waiver No. 1812540, including the waiver of the requirement to underground existing offsite overhead utilities, and pursuant to sections 125.0122 and 144.0240 of the San Diego Municipal Code and Subdivision Map Act section 66428, received for its consideration written and oral presentations, evidence having been submitted, and testimony having been heard from all interested parties at the public hearing, and the Hearing Officer having fully considered the matter and being fully advised concerning the same; NOW THEREFORE,

BE IT RESOLVED by the Hearing Officer of the City of San Diego, that it adopts the following findings with respect to Tentative Map Waiver No. 1812540:

1. The proposed subdivision and its design or improvement are consistent with the policies, goals, and objectives of the applicable land use plan.

The project site is located within the San Diego General Plan and the North City Local Coastal Program (LCP) designated for commercial uses. No community plan exists for the area. As a result of not being associated with a community plan, the North City LCP does not contain any goals, objectives or policies that apply directly to the property other than the land use designation, which is consistent with the commercial land use designation applied by the City's General Plan. The proposed subdivision of one parcel containing commercial development into two parcels maintains commercial development on a site with a commercial land use designation. Therefore the proposed subdivision and its design or improvement are consistent with the policies, goals, and objectives of the applicable land use plan.

2. The proposed subdivision complies with the applicable zoning and development regulations of the Land Development Code including any allowable deviations pursuant to the Land Development Code.

The proposal subdivides the existing commercial development on one parcel into two parcels. The proposed parcels comply with the development regulations of the applicable CC-1-3 Zone, including, but not limited to, minimum lot size, setbacks, floor area ratio, and parking requirements of the existing development. No deviations are requested. The

undergrounding of utilities are scheduled to occur in the near future, as part of the City's utility underground program, and therefore, the request to waive the requirement to underground utilities can be granted. Therefore, the proposed subdivision complies with the applicable zoning and development regulations of the land development code, including any allowable deviations pursuant to the Land Development Code.

3. The site is physically suitable for the type and density of development.

The existing commercial development of the 9.923-acre site was constructed and graded pursuant to Coastal Development Permit No. 619980, approved by the City Council on April 19, 2011. The proposed subdivision of one parcel into two parcels does not affect the physical site or the density of the existing commercial development. Public improvements required by the permit will be provided for each lot. Therefore, the site is suitable for the type of built development and the current density of development.

4. The design of the subdivision or the proposed improvements are not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.

The proposed subdivision is located approximately one mile from the ocean on land that does not contain environmentally sensitive lands as defined by the San Diego Municipal Code. The project site is currently developed with an existing shopping center. The development area is not located within a floodway and on the flatter portions of the property not subject to flooding. The proposed project would subdivide the land into two parcels and no new development is proposed. Therefore, the design of the subdivision or the proposed improvements are not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.

5. The design of the subdivision or the type of improvements will not be detrimental to the public health, safety, and welfare.

Public improvements required with this permit, including upgrading driveways and constructing street lights, will improve the public safety. The subdivision, together with the existing surrounding development has been designed to conform with the City of San Diego's codes, policies, and regulations whose primary focus is the protection of the public's health, safety, and welfare. Therefore, the design of the subdivision or the type of improvements will not be detrimental to the public health, safety, and welfare.

6. The design of the subdivision or the type of improvements will not conflict with easements acquired by the public at large for access through or use of property within the proposed subdivision.

The proposed parcels are designed not to conflict with a private access easement, Flower Hill Drive, that serves the residential neighborhood to the north of the project site. Because of this design, the proposed subdivision will not impact access to any of the surrounding neighborhoods. Therefore, the design of the subdivision or the type of improvements will not conflict with easements acquired by the public at large for access through or use of property within the proposed subdivision.

7. The design of the proposed subdivision provides, to the extent feasible, for future passive or natural heating and cooling opportunities.

The design and required improvements for the subdivision are consistent with California Government Code Section 66473.1 and San Diego Municipal Code Section 125.0440(g) regarding the design of the subdivision for future passive or natural heating and cooling opportunities. The design of the subdivision has taken into account existing roadways and existing development to delineate the borders of the subdivision, allowing future development options for either additions or remodels. Therefore, the design of the proposed division provides the opportunity through building materials, site orientation, architectural treatments, and placement and selection of plant materials, to the extent feasible, for future passive or natural heating and cooling opportunities.

8. The decision maker has considered the effects of the proposed subdivision on the housing needs of the region and that those needs are balanced against the needs for public services and the available fiscal and environmental resources.

The proposed subdivision implements the City's General Plan policies that encourage locating employment opportunities near transit and residential neighborhoods. All appropriate public services (including fire, police, medical, schools, public parks, and libraries) as well as necessary utilities such as electricity, water, and sewer, exist and are adequate for the proposed development.

The decision maker has reviewed the administrative record, including the project plans and environmental documentation, and heard public testimony to determine the effects of the proposed subdivision on the housing needs of the region and; that those needs are balanced against the needs for public services and the available fiscal and environmental resources and found that the subdivision will continue to provide needed commercial services for the housing needs of the region.

That said Findings are supported by the minutes, maps, and exhibits, all of which are herein incorporated by reference.

BE IT FURTHER RESOLVED, that based on the Findings hereinbefore adopted by the Hearing Officer, Tentative Map Waiver No. 1812540, including the waiver of the requirement to underground existing offsite overhead utilities, is hereby granted to PROTEA FLOWER HILL MALL, LLC, subject to the attached conditions which are made a part of this resolution by this reference.

By _____
Francisco Mendoza
Development Project Manager
Development Services Department

ATTACHMENT: Tentative Map Waiver Conditions
Internal Order No. 24006939

ATTACHMENT 6

HEARING OFFICER
CONDITIONS FOR TENTATIVE MAP WAIVER NO. 1812540
SAN ANDRES TM/CDP - PROJECT NO. 508618
ADOPTED BY RESOLUTION NO. HO-_____ ON AUGUST 23, 2017

GENERAL

1. This Tentative Map Waiver will expire September 7, 2020.
2. Compliance with all of the following conditions shall be completed and/or assured, to the satisfaction of the City Engineer, prior to the recordation of the Parcel Map, unless otherwise noted.
3. Prior to the Tentative Map Waiver expiration date, a Parcel Map shall be recorded in the Office of the San Diego County Recorder.
4. Prior to the recordation of the Parcel Map, taxes must be paid on this property pursuant to Subdivision Map Act section 66492. To satisfy this condition, a tax certificate stating that there are no unpaid lien conditions against the subdivision must be recorded in the Office of the San Diego County Recorder.
5. The Parcel Map shall conform to the provisions of Coastal Development Permit No. 1812507.
6. The Subdivider shall defend, indemnify, and hold the City (including its agents, officers, and employees [together, "Indemnified Parties"]) harmless from any claim, action, or proceeding, against the City and/or any Indemnified Parties to attack, set aside, void, or annul City's approval of this project, which action is brought within the time period provided for in Government Code section 66499.37. City shall promptly notify Subdivider of any claim, action, or proceeding and shall cooperate fully in the defense. If City fails to promptly notify the Subdivider of any claim, action, or proceeding, or if the City fails to cooperate fully in the defense, Subdivider shall not thereafter be responsible to defend, indemnify, or hold City and/or any Indemnified Parties harmless. City may participate in the defense of any claim, action, or proceeding if City bears its own attorney's fees and costs, City defends the action in good faith, and Subdivider is not be required to pay or perform any settlement unless such settlement is approved by the Subdivider.

ENGINEERING

7. The Subdivider shall reconstruct existing driveway adjacent to the site on Via De La Valle to current City Standard 35-foot-wide driveway, satisfactory to the City Engineer.
8. The Subdivider shall reconstruct two existing driveways adjacent to the site on San Andres Drive, to current City Standard 35- and 24-foot-wide driveways, satisfactory to the City Engineer.
9. The Subdivider shall obtain an Encroachment Maintenance Removal Agreement, from the City Engineer, for the existing curb outlet and private parking lot lights adjacent to the site on San Andres Drive.

ATTACHMENT 6

10. Per the City of San Diego Street Design Manual-Street Light Standards, and Council Policy 200-18, the Subdivider shall install new street lights adjacent to the site on Via De La Valle and San Andres Drive.
11. The Subdivider shall provide a letter, agreeing to prepare CC&Rs for the operation and maintenance of all private water and sewer facilities that serve or traverse more than a single lot.
12. The Subdivider shall underground any new service run to any new or proposed structures within the subdivision.
13. The Subdivider shall ensure that all existing onsite utilities serving the subdivision shall be undergrounded with the appropriate permits. The Subdivider shall provide written confirmation from applicable utilities that the conversion has taken place, or provide other means to assure the undergrounding, satisfactory to the City Engineer.
14. The Subdivider shall comply with the "General Conditions for Tentative Subdivision Maps," filed in the Office of the City Clerk under Document No. 767688 on May 7, 1980. Only those exceptions to the General Conditions which are shown on the Map Waiver and covered in these special conditions will be authorized. All public improvements and incidental facilities shall be designed in accordance with criteria established in the Street Design Manual, filed with the City Clerk as Document No. RR-297376.

MAPPING

15. "Basis of Bearings" means the source of uniform orientation of all measured bearings shown on the map. Unless otherwise approved, this source shall be the California Coordinate System, Zone 6, North American Datum of 1983 (NAD 83).
16. "California Coordinate System" means the coordinate system as defined in Section 8801 through 8819 of the California Public Resources Code. The specified zone for San Diego County is "Zone 6," and the official datum is the "North American Datum of 1983."
17. Every Parcel Map shall:
 - a. Use the California Coordinate System for its "Basis of Bearing" and express all measured and calculated bearing values in terms of said system. The angle of grid divergence from a true median (theta or mapping angle) and the north point of said map shall appear on each sheet thereof. Establishment of said Basis of Bearings may be by use of existing Horizontal Control stations or astronomic observations.

ATTACHMENT 6

- b. Show two measured ties from the boundary of the map to existing Horizontal Control stations having California Coordinate values of First Order accuracy. These tie lines to the existing control shall be shown in relation to the California Coordinate System (i.e., grid bearings and grid distances). All other distances shown on the map are to be shown as ground distances. A combined factor for conversion of grid-to-ground distances shall be shown on the map

INFORMATION:

- The approval of this Tentative Map Waiver by the Hearing Officer of the City of San Diego does not authorize the Subdivider to violate any Federal, State, or City laws, ordinances, regulations, or policies including but not limited to, the Federal Endangered Species Act of 1973 and any amendments thereto (16 U.S.C. § 1531 *et seq.*).
- If the Subdivider makes any request for new water and sewer facilities (including services, fire hydrants, and laterals), the Subdivider shall design and construct such facilities in accordance with established criteria in the most current editions of the City of San Diego water and sewer design guides and City regulations, standards and practices pertaining thereto. Off-site improvements may be required to provide adequate and acceptable levels of service and will be determined at final engineering.
- Subsequent applications related to this Tentative Map Waiver will be subject to fees and charges based on the rate and calculation method in effect at the time of payment.
- Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of the Tentative Map Waiver, may protest the imposition within 90 days of the approval of this Map Waiver by filing a written protest with the San Diego City Clerk pursuant to Government Code Sections 66020 and/or 66021.
- Where in the course of development of private property, public facilities are damaged or removed, the Subdivider shall at no cost to the City, obtain the required permits for work in the public right-of-way, and repair or replace the public facility to the satisfaction of the City Engineer (San Diego Municipal Code § 142.0607).

Internal Order No. 24006939

HEARING OFFICER RESOLUTION NO. HO-_____
COASTAL DEVELOPMENT PERMIT NO. 1812507
SAN ANDRES TM WAIVER/CDP - PROJECT NO. 508618
(AMENDMENT TO COASTAL DEVELOPMENT PERMIT NO. 619980)

WHEREAS, PROTEA FLOWER HILL MALL, LLC, a California limited liability company, Owner/Permittee, filed an application with the City of San Diego for a permit to subdivide one parcel into two parcels for commercial development (as described in and by reference to the approved Exhibits "A" and corresponding conditions of approval for the associated Permit No. 1812507), on portions of a 9.923-acre site;

WHEREAS, the project site is located at 5760-15770 San Andres Drive and 2636-2750 Villa De La Valle in the CC-1-3 Zone in the San Diego General Plan area and the North City Local Coastal Program;

WHEREAS, the project site is legally described as Parcel 2 of Parcel Map No. 21027, in the City of San Diego, County of San Diego, State of California, filed in the Office of the County Recorder of San Diego County, California on January 28, 2013 as Instrument No. 2013-0058006 of Official Records;

WHEREAS, on June 19, 2017, the City of San Diego, as Lead Agency, made and issued an Environmental Determination that the project is exempt from the California Environmental Quality Act (CEQA) (Public Resources Code Section 21000 et seq.) under CEQA Guideline Section 15305 (Minor Alterations in Land Use Limitations); and there was no appeal of the Environmental Determination filed within the time period provided by San Diego Municipal Code Section 112.0520;

WHEREAS, on August 23, 2017, the Hearing Officer of the City of San Diego considered Coastal Development Permit No. 1812507, pursuant to the Land Development Code of the City of San Diego; NOW, THEREFORE,

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

That the Hearing Officer adopts the following written Findings, dated August 23, 2017.

A. COASTAL DEVELOPMENT PERMIT [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 proposed development is located approximately one mile from the ocean, therefore, it does not encroach upon any existing or proposed physical accessway used by the public to reach the shore. There are no views on or adjacent to the project site. The project site is currently developed with an existing shopping center. The proposed project would subdivide the land into two parcels and would not affect or modify the existing shopping center, therefore, the project will have no effect on enhancing or protecting public views to the and along the ocean and other scenic coastal areas as specified in the Local Coastal Program land use plan.

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

The proposed development is located approximately one mile from the ocean on developed land that does not contain environmentally sensitive lands as defined by the San Diego Municipal Code. The project site is currently developed with an existing shopping center. The proposed project would subdivide the land into two parcels and would not affect or modify the existing development, therefore, the project 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 project site is located within the San Diego General Plan and the North City Local Coastal Program (LCP) designated for commercial uses. No community plan exists for the area. As a result of not being associated with a community plan, the North City LCP does not contain any goals, objectives or policies that apply directly to the property other than the land use designation, which is consistent with the commercial land use designation applied by the City's General Plan. The proposed subdivision of one parcel containing commercial development into two parcels maintains commercial development on a site with a commercial land use designation. Therefore, the project development is in conformity with the 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 not between the nearest public road and the sea or the shoreline of any body of water, therefore, the not subject to the public access and public recreation policies of Chapter 3 of the California Coastal Act.

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

ATTACHMENT 7

BE IT FURTHER RESOLVED that, based on the findings hereinbefore adopted by the Hearing Officer, Coastal Development Permit No. 1812507, is hereby GRANTED by the Hearing Officer to the referenced Owner/Permittee, in the form, exhibits, terms and conditions as set forth in Permit No. 1812507, a copy of which is attached hereto and made a part hereof.

Francisco Mendoza
Development Project Manager
Development Services

Adopted on: August 23, 2017

Internal Order No.: 24006939

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: 24006939

SPACE ABOVE THIS LINE FOR RECORDER'S USE

COASTAL DEVELOPMENT PERMIT NO. 1812507
SAN ANDRES TM WAIVER/CDP - PROJECT NO. 508618
(AMENDMENT TO COASTAL DEVELOPMENT PERMIT NO. 619980 – PROJECT NO. 172026)
HEARING OFFICER

This Coastal Development Permit No. 1812507, amendment to Coastal Development Permit No. 619980, is granted by the Hearing Officer of the City of San Diego to PROTEA FLOWER HILL MALL, LLC, a California limited liability company, Owner/Permittee, pursuant to San Diego Municipal Code [SDMC] section 126.0504. The 9.923-acre site is located at 2636-2750 Via De La Valle and 15760-15770 San Andres Drive, in the CC-1-3 Zone of the San Diego General Plan and the North City Local Coastal Program. The project site is legally described as: Parcel 2 of Parcel Map No. 21027, in the City of San Diego, County of San Diego, State of California, filed in the Office of the County Recorder of San Diego County, California on January 28, 2013 as Instrument No. 2013-0058006 of Official Records.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee to subdivide one parcel into two parcels, described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated August 23, 2017, on file in the Development Services Department.

The project shall include:

- a. The subdivision of one parcel into two parcels;
- b. 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 7, 2020.

2. This Coastal Development Permit No. 1812507 amends Coastal Development Permit No. 619980 (Project No. 172026), all conditions of which shall remain in full force and effect.

3. This Coastal Development Permit No. 1812507 shall conform to the provisions of Tentative Map Waiver No. 1812540.

4. 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.

5. 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.

6. 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.

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

8. 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.).

9. The Owner/Permittee shall secure all necessary construction 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.

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 August 23, 2017 and HO-_____.

ATTACHMENT 8

Coastal Development Permit No. 1812507
Date of Approval: August 23, 2017

AUTHENTICATED BY THE CITY OF SAN DIEGO DEVELOPMENT SERVICES DEPARTMENT

Francisco Mendoza
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.

PROTEA FLOWER HILL MALL LLC
Owner/Permittee

By _____
Howard Schachat
Vice President

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



THE CITY OF SAN DIEGO

DATE OF NOTICE: June 19, 2017

NOTICE OF RIGHT TO APPEAL ENVIRONMENTAL DETERMINATION

DEVELOPMENT SERVICES DEPARTMENT

SAP No. 24006939

PROJECT NO: 508618
PROJECT NAME: San Andres TM Waiver and CDP
COMMUNITY PLAN AREA: Carmel Valley
COUNCIL DISTRICT: 1
LOCATION: 2636-2750 Via De La Valle and 15760-15770 San Andres Drive, San Diego, California 92014

PROJECT DESCRIPTION: This project proposes a Tentative Map Waiver and Coastal Development Permit for the subdivision of one existing parcel into two parcels. The project site is currently developed and there are no proposed improvements. The 9.923 acre site is located at 2636-2750 Via De La Valle and 15760-15770 San Andres Drive in the CC-1-3 zone within the Via De La Valle Specific Plan. Additionally the project is located within the Coastal Zone Boundary, Coastal Overlay Zone (Non-appealable 2), Very High Fire Hazard Severity Zone, and Parking Impact Overlay Zone (Coastal). (LEGAL DESCRIPTION: Parcel 2 of Parcel Map 21027 in the City of San Diego, County of San Diego, state of California # 2013-0058006 of official records.)

ENTITY CONSIDERING PROJECT APPROVAL: City of San Diego Staff (Process 3)

ENVIRONMENTAL DETERMINATION: Categorically exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA State Guidelines, Section 15305 (Minor Alterations in Land Use Limitations)

ENTITY MAKING ENVIRONMENTAL DETERMINATION: City of San Diego

STATEMENT SUPPORTING REASON FOR ENVIRONMENTAL DETERMINATION: The City of San Diego conducted an environmental review which determined the project would not have the potential for causing a significant effect on the environment in that the project is consistent with the community plan and the applicable zone. The project would not result in any significant environmental impacts. The project meets the criteria set forth in CEQA Section 15305 (Minor Alterations in Land Use Limitation) which allows for minor alterations in land use limitations in areas with an average slope of less than 20% which do not result in any changes in land use or density, including but not limited to minor lot line adjustments, side yard, and setback variances not resulting in the creation of any new parcel. Furthermore, the exceptions listed in 15300.2 would not apply.

CITY PROJECT MANAGER: Gaetano Martedi
MAILING ADDRESS: 1222 First Avenue, MS 301, San Diego, California 92101-4153
PHONE NUMBER/E-MAIL: (619) 446-5329/ gmartedi@sandiego.gov

On June 19, 2017 the City of San Diego made the above-referenced environmental determination pursuant to the California Environmental Quality Act (CEQA). This determination is appealable to the City Council. If you have any questions about this determination, contact the City Development Project Manager listed above.

Applications to appeal CEQA determination made by staff (including the City Manager) to the City Council must be filed in the office of the City Clerk within 10 business days from the date of the posting of this Notice (July 3, 2017). The appeal application can be obtained from the City Clerk, 202 'C' Street, Second Floor, San Diego, CA 92101.

This information will be made available in alternative formats upon request.



MAY 27, 2011 11:12 AM

OFFICIAL RECORDS
SAN DIEGO COUNTY RECORDER'S OFFICE
Ernest J. Dronenburg, Jr., COUNTY RECORDER
FEES: 192.00

9286

PAGES: 60



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

WHEN RECORDED MAIL TO
CITY CLERK
MAIL STATION 2A

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SPACE ABOVE THIS LINE FOR RECORDER'S USE

INTERNAL ORDER NUMBER: 23432020

COASTAL DEVELOPMENT PERMIT NO. 619980
FLOWER HILL PROMENADE PROJECT NO. 172026; MMRP
CITY COUNCIL

This Coastal Development Permit No. 619980 is granted by the City Council of the City of San Diego to Protea Flower Hill Mall, L.L.C. and Protea Flower Hill West, L.L.C., both California Limited Liability Companies, Owners and Permittees, pursuant to San Diego Municipal Code [SDMC] section 126.0701. The 15.14-acre site is located at 2720 Via de la Valle in the CC-1-3 and Coastal Overlay (non-appealable) Zones of the City of San Diego General Plan and North City Local Coastal Program Land Use Plan areas. The project site is legally described as Parcel 1 and 2 of Parcel Map No. 20470 in the City of San Diego, County of San Diego, State of California, filed in the Office of the County Recorder of San Diego County, April 17, 2008.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owners and Permittees to demolish the existing 14,000 square-foot theater, and to construct approximately 74,995 square feet of new building area for commercial, office, and storage space, and a new 82,739 square-foot, gross floor area parking structure at an existing commercial development, described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated April 19, 2011, on file in the Development Services Department.

The project shall include:

- a. Demolition of the existing 14,000 square-foot theatre building;
- b. Construction of a two-story, approximately 72,695 square-foot commercial and office building structure;
- c. Construction of an approximate 144,792 square-foot parking structure with 397 spaces and consisting of approximately 82,739 square-foot, three-story portion above ground and approximately 62,053 square-foot below ground, which includes a 2,300 square-foot storage area in the structure;

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- b. Landscaping (planting, irrigation and landscape related improvements);
- c. Off-street parking;
- d. A stepped retaining wall structure of approximately 220 linear feet and 47 feet in height at the highest point; 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.
2. No permit for the construction, occupancy, or operation of any facility or improvement described herein shall be granted, nor shall any activity authorized by this Permit be conducted on the premises until:
 - a. The Owners/Permittees signs and returns the Permit to the Development Services Department; and
 - b. The Permit is recorded in the Office of the San Diego County Recorder.
3. While this Permit is in effect, the subject property shall be used only for the purposes and under the terms and conditions set forth in this Permit unless otherwise authorized by the appropriate City decision maker.
4. This Permit is a covenant running with the subject property and all of the requirements and conditions of this Permit and related documents shall be binding upon the Owners/Permittees and any successor(s) in interest.
5. The continued use of this Permit shall be subject to the regulations of this and any other applicable governmental agency.
6. Issuance of this Permit by the City of San Diego does not authorize the Owners/Permittees for this Permit to violate any Federal, State or City laws, ordinances, regulations or policies

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including, but not limited to, the Endangered Species Act of 1973 [ESA] and any amendments thereto (16 U.S.C. § 1531 et seq.).

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

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

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

If any condition of this Permit, on a legal challenge by the Owners/Permittees 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 Owners/Permittees shall have the right, by paying applicable processing fees, to bring a request for a new permit without the "invalid" condition(s) back to the discretionary body which approved the Permit for a determination by that body as to whether all of the findings necessary for the issuance of the proposed permit can still be made in the absence of the "invalid" condition(s). Such hearing shall be a hearing de novo, and the discretionary body shall have the absolute right to approve, disapprove, or modify the proposed permit and the condition(s) contained therein.

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

ENVIRONMENTAL/MITIGATION REQUIREMENTS:

11. Mitigation requirements in the Mitigation, Monitoring, and Reporting Program [MMRP] shall apply to this Permit. These MMRP conditions are hereby incorporated into this Permit by reference.
12. The mitigation measures specified in the MMRP and outlined in Environmental Impact Report No. 172026, shall be noted on the construction plans and specifications under the heading ENVIRONMENTAL MITIGATION REQUIREMENTS.
13. The Owners/Permittees shall comply with the MMRP as specified in Environmental Impact Report No. 172026, 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:

Transportation and Circulation;
Biological Resources;
Paleontological Resources; and
Public Utilities (Solid Waste)

ENGINEERING REQUIREMENTS:

14. Prior to the issuance of any construction permit for a building, excluding a permit for the retaining wall, the Owners/Permittees shall execute and obtain City approval of an Encroachment Maintenance and Removal Agreement for the private storm drains, landscape, irrigation and their appurtenances located within the City's right-of-way.
15. Prior to the issuance of any construction permit for buildings, the Owners/Permittees shall enter into a Maintenance Agreement for the ongoing permanent Storm Water Best Management Practices [BMP] maintenance, to the satisfaction of the City Engineer.
16. Prior to the issuance of any construction permit, the Owners/Permittees shall incorporate any construction BMP's necessary to comply with Chapter 14, Article 2, Division 1 (Grading Regulations) of the Municipal Code, into the construction plans or specifications.
17. Prior to the issuance of any construction permit, the Owners/Permittees shall incorporate and show the type and location of all post construction BMP's on the final construction drawings, consistent with the approved Water Quality Technical Report.
18. The drainage system for this project shall be private and will be subject to approval by the City Engineer.
19. Prior to the issuance of any construction permits, the Owners/Permittees shall obtain a bonded grading permit for the grading proposed for this project. All grading shall conform to

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requirements in accordance with the City of San Diego Municipal Code to the satisfaction of the City Engineer.

20. Development of this project shall comply with all requirements of State Water Resources Control Board (SWRCB) Order No. 99 08 and the Municipal Storm Water Permit, Order No. 2001-01 (NPDES General Permit No. CAS000002 and CA S0108758), Waste Discharge Requirements for Discharges of Storm Water Runoff Associated With Construction Activity. In accordance with said permit, a Storm Water Pollution Prevention Plan (SWPPP) and a Monitoring Program Plan shall be implemented concurrently with the commencement of grading activities, and a Notice of Intent (NOI) shall be filed with the SWRCB.

A copy of the acknowledgment from the SWRCB that an NOI has been received for this project shall be filed with the City of San Diego when received; further, a copy of the completed NOI from the SWRCB showing the permit number for this project shall be filed with the City of San Diego when received. In addition, the owner(s) and subsequent owner(s) of any portion of the property covered by this Permit and by SWRCB Order No. 99 08 DWQ, and any subsequent amendments thereto, shall comply with special provisions as set forth in Section C.7 of SWRCB Order No. 99 08 DWQ.

21. Prior to the issuance of any construction permit for a building, excluding a permit for the retaining wall, the Owners/Permittees shall assure by permit and bond the replacement of the existing driveway on San Andres Drive to provide adequate sidewalk transitions, per Standard Drawing G-14B, G-16 and SDG-100, to the satisfaction of the City Engineer.

22. Prior to the issuance of any construction permit for a building, excluding a permit for the retaining wall, the Owners/Permittees shall assure by permit and bond the installation of City standard curb ramps with truncated domes, on both sides of the project entrances on Via De La Valle and San Andres Drive, to the satisfaction of the City Engineer.

GEOLOGY REQUIREMENTS:

23. Prior to issuance of any construction permits, the Owners/Permittees shall submit a geotechnical investigation report or update letter that specifically addresses the proposed construction plans. The geotechnical investigation report or update letter will be reviewed for adequacy to the satisfaction of the Geology Section of the Development Services Department and the City Engineer.

24. The Owners/Permittees shall submit an as-graded geotechnical report prepared in accordance with the City's "Guidelines for Geotechnical Reports" following completion of the grading. The as-graded geotechnical report will be reviewed for adequacy to the satisfaction of the Geology Section of the Development Services Department and the City Engineer prior to exoneration of the bond and grading permit close-out.

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LANDSCAPE REQUIREMENTS:

25. In the event that the Landscape Plan and the Site Plan conflict, the Site Plan shall be revised to be consistent with the Landscape Plan such that landscape areas are consistent with the Exhibit "A," Landscape Development Plan.

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

27. New landscape planting materials, including trees, shrubs and specimen plants shall exceed the City's minimum standards and provide the height, width and coverage needed that will provide significant screening of buildings and structures at the time of installation.

28. Construction plans within the public right of way shall take into account a 40 square-foot area around each tree which is unencumbered by hardscape and utilities as set forth under LDC 142.0403(b)(5).

29. Prior to issuance of any Certificate of Occupancy, it shall be the responsibility of the Owners/Permittees to install all required landscape and obtain all required landscape inspections. A "No Fee" Street Tree Permit shall be obtained for the installation, establishment, and on-going maintenance of all street trees.

30. If any required landscape (including existing or new plantings, hardscape, landscape features, etc.) indicated on the approved construction document plans is damaged or removed during demolition or construction, it shall be repaired and/or replaced in kind and equivalent size per the approved documents to the satisfaction of the Development Services Department within 30 days after the date of damage, issuance of Certificate of Occupancy, or Final Landscape Inspection.

31. Any required planting that dies within three years of installation shall be replaced within 30 calendar days of plant death with the same size and species of plant material shown on the approved plan. Required shrubs or trees that die three years or more after installation shall be replaced with 15-gallon size or 60-inch box size material, respectively. Development Services may authorize adjustment of the size and quantity of replacement material where material replacement would occur in inaccessible areas or where the existing plant being replaced is larger than a 15-gallon shrub or 60-inch box tree.

PLANNING/DESIGN REQUIREMENTS:

32. Upon completion of the development, the Owners/Permittees shall maintain a minimum of 866 off-street parking spaces (including 9 carpool spaces, 15 standard accessible spaces and 3 van accessible spaces), 10 motorcycle spaces, and 8 bicycle spaces with rack(s) shall be provided on the property at all times in the approximate locations shown on the approved Exhibit "A" and

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as required by the Land Development Code. All on-site parking stalls and aisle widths shall be in compliance with requirements of the City's Land Development Code and shall not be converted and/or utilized for any other purpose, unless otherwise authorized in writing by the Development Services Director.

33. 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 Owners/Permittees.

34. Prior to the issuance of construction permits for buildings, pedestrian paths shall be shown on the construction documents consistent with Exhibit "A." The paths shall be continuous, clear of obstructions, easily identifiable as pedestrian paths, and visually distinguishable from other hardscaping. Pedestrian paths shall be separated from vehicular access areas by wheelstops, curbs, landscaping, or other physical barriers, except when crossing driveways or aisles.

35. Prior to the issuance of construction permits for buildings, construction documents shall fully illustrate the incorporation of the following sustainable design features on the new structures and on the site and landscape plans:

- The installation of energy-efficient lighting and lighting control systems;
- The installation of energy-efficient heating and cooling systems, appliances and equipment, and control systems;
- Limiting the hours of operation of outdoor lighting;
- The use of thermal-efficient glazing/fenestration systems;
- The use of "cool" roof material;
- The creation of water-efficient landscapes; and
- The installation of water-efficient irrigation systems and devices, such as soil moisture-based irrigation controls.

36. All signs associated with this development shall be consistent with sign criteria established by either the approved development's Comprehensive Sign Plan No. 1, dated February 6, 1976 or the City-wide sign regulations.

37. 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:

38. Prior to issuance of any construction permit for a building, excluding a permit for the retaining wall, the Owners/Permittees shall assure by permit and bond the construction of a minimum 5-foot wide non-contiguous sidewalk along the project's frontage along Via de la Valle as shown on the project's Exhibit "A," to the satisfaction of the City Engineer.

39. Prior to issuance of any construction permit for a building, excluding a permit for the retaining wall, the Owners/Permittees shall assure by permit and bond the construction of a minimum 5-foot wide non-contiguous sidewalk along the project's frontage along San Andres Drive as shown on the project's Exhibit "A," to the satisfaction of the City Engineer.

40. Prior to issuance of any construction permit for a building, excluding a permit for the retaining wall, the Owners/Permittees shall assure by permit and bond the installation of a "Keep Clear" marking on the pavement on-site, where the project driveway on Via de la Valle meets the east/west circulation aisle, approximately 100 feet north of Via de la Valle. Additionally, stop signs shall not be placed facing northbound traffic at the location where the main project driveway meets the east/west circulation aisle.

41. Prior to issuance of any construction permit for a building, excluding a permit for the retaining wall, the Owners/Permittees shall dedicate 5 feet along the project frontage on San Andres Drive to provide a minimum 10-foot curb to property line distance, to the satisfaction of the City Engineer.

42. Prior to issuance of the construction permit for buildings, the Owners/Permittees shall provide evidence of a recorded Shared Parking Agreement that allows Assessor Parcel No. 298-490-44 the right to use 528 automobile parking spaces on Assessor Parcel No. 298-490-43, to the satisfaction of the City Engineer.

43. Prior to issuance of a Certificate of Occupancy, Owner/Permittee shall provide a Letter of Credit, cash payment, or bond equal to 7.7 percent of the Black Mountain Ranch Facilities Financing Plan Fiscal Year 2006 cost estimate to complete the planned improvements identified in the Black Mountain ranch Public Facilities Financing Plan as Project No. T-32.1 for the widening of Via de la Valle between San Andres Drive to El Camino Real (West), from a two lane to a four lane roadway. Prior to the issuance of the first building permit for a structure, Owner/Permittee shall pay the estimated cost, approved by the City Engineer, to form a cost reimbursement district to collect any funds necessary to complete Black Mountain Ranch Facilities Financing Plan Project T-32.1.

Prior to issuance of any construction permit, the Owner/Permittee shall pay 25% of the estimated cost, approved by the City Engineer, to establish a funding bank for processing any possible future Cost Reimbursement District application by others, to assist in collection of any funds necessary to complete Black Mountain Ranch Public Facilities Financing Plan Project T-32.1. The balance shall be paid prior to issuance of any construction permit for a building.

44. Prior to issuance of any construction permit for a building, excluding a permit for the retaining wall, the Owners/Permittees shall assure by permit and bond the widening of the project driveway on Via de la Valle to provide one southbound left, one southbound through/right, and one southbound right lane, to the satisfaction of the City Engineer.

WASTEWATER REQUIREMENTS:

45. All onsite sewer facilities that serve only this lot shall be private.
46. Prior to the issuance of any Certificate of Occupancy, the Owners/Permittees shall install all sewer facilities required by the accepted sewer study necessary to serve this development. Sewer facilities as shown on the approved plans may require modification based on the accepted sewer study, to the satisfaction of the Director of Public Utilities and the City Engineer.
47. Prior to the issuance of any construction permits for public improvements, the Owners/Permittees shall grant adequate sewer, and/or access easements for all public sewer facilities that are not located within public rights of way, to the satisfaction of the Director of Public Utilities. Easements shall be surfaced with suitable approved material, to the satisfaction of the Director of Public Utilities and the City Engineer.
48. Prior to the issuance of any construction permits for public improvements, the Owners/Permittees shall execute and obtain City approval of an Encroachment, Maintenance, and Removal Agreement for all proposed improvements, including grading, utilities, landscaping, and enhanced paving located in or over any public sewer access easement, to the satisfaction of the Director of Public Utilities and the City Engineer.
49. Structures or landscaping shall not be installed in or over any sewer easement that would inhibit access to replace a section of main or provide access to any manhole or isolated section of main.
50. Trees shall not be installed within ten feet of any sewer facilities or in any sewer access easement. Shrubs exceeding three feet in height at maturity shall not be installed within ten feet of any public sewer main or within access easements.
51. Other utilities, including gas, electric, telephone and fiber optic cable, shall not be located within ten feet of any public sewer main when these utilities are installed parallel to the sewer main. General Utility Easements (GUE) in private roads and driveways shall be sized with sufficient width to provide for other agencies facilities. In side yards or other non-street areas, a GUE must be dedicated for the exclusive use of the City of San Diego Public Utilities Department, to the satisfaction of the Director of Public Utilities and the City Engineer. Any other agencies will require separate easements.
52. The Owners/Permittees shall design and construct all proposed public sewer facilities to the most current edition of the City of San Diego's Sewer Design Guide, to the satisfaction of the Director of Public Utilities and the City Engineer.
53. The proposed private underground sewer facilities located within a single lot shall be designed to meet the requirements of the California Plumbing Code and shall be reviewed as part of the construction permit building plan check, to the satisfaction of the Director of Public Utilities and the City Engineer.

54. Prior to the issuance of any construction permits, excluding permits for demolition and/or retaining wall activities, the Owners/Permittees shall provide written verification to the City of San Diego from the City of Solana Beach indicating this site is authorized to discharge sewer flows into the City of Solana Beach wastewater system, to the satisfaction of the Director of Public Utilities and the City Engineer.

55. The Owners/Permittees shall design, obtain permits, and construct all proposed (private and public) sewer facilities to the most current laws, ordinances, and regulations of the City of Solana Beach, to the satisfaction of the City Engineer of the City of Solana Beach. The type of sewage discharged into the sewer system shall meet the requirements and restrictions of the San Elijo Joint Powers Authority.

56. Prior to the issuance of any construction permit, excluding permits for demolition and/or retaining wall activities, the Owners/Permittees shall provide a copy of a final report, prepared for the City of Solana Beach, conducting an existing conditions flow measurement on the existing 12-inch diameter vitrified clay pipe (VCP) in Via de la Valle, west of the project site. The flow measurements shall occur during both the AM and PM peak hours for three days, including a weekend, to the satisfaction of the Director of Public Utilities and the City Engineer.

57. Prior to the issuance of any construction permit, excluding permits for demolition and/or retaining wall activities, the Owners/Permittees shall provide evidence that an agreement has been fully executed between the City of Solana Beach and the Owners/Permittees. The agreement shall require the Owners/Permittees to perform a flow measurement survey of the existing 12-inch diameter vitrified clay pipe (VCP) in Via De La Valle within one month after full occupancy of the new shopping center. The flow measurements shall occur during both the AM and PM peak hours for three days, including a weekend. If it is determined, by the City Engineer of the City of Solana Beach, that the existing system is inadequate to convey the additional flow due to this project expansion, the agreement shall require the Owners/Permittees to improve the existing wastewater distribution system to the satisfaction of the City Engineer of the City of Solana Beach.

WATER REQUIREMENTS:

58. Prior to the issuance of any construction permits for public improvements, the Owners/Permittees shall assure by permit and bond the design and construction of two 12-inch diameter water mains within a 24-foot wide minimum water easement. The water mains must be connected with 20-inch x 20-inch x 20-inch tee and three valves to the existing 20-inch diameter water main in Via De La Valle right-of-way adjacent to the project site, to the satisfaction of the Director of Public Utilities and the City Engineer.

59. The Owners/Permittees shall execute and obtain City approval of an Encroachment, Maintenance, and Removal Agreement(s), for all acceptable encroachments into the water easement, including but not limited to structures, enhanced paving, or landscaping. No structures or landscaping of any kind shall be installed in or over any vehicular access roadway.

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ORIGINAL

60. Prior to the issuance of any construction permits for public improvements, the Owners/Permittees shall assure by permit and bond the design and construction of any new water service(s) outside of any driveway, and the disconnection at the water main of the existing unused water service adjacent to the project site, to the satisfaction of the Director of Public Utilities and the City Engineer.

61. Prior to the issuance of any construction permits for buildings, the Owners/Permittees shall apply for a plumbing permit for the installation of appropriate private back flow prevention device, on irrigation water service, to the satisfaction of the Director of Public Utilities and the City Engineer.

62. Prior to the issuance of any Certificates of Occupancy for buildings, all public water facilities shall be complete and operational to the satisfaction of the Director of Public Utilities and the City Engineer.

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

INFORMATION ONLY:

- The issuance of this discretionary use permit alone does not allow the immediate commencement or continued operation of the proposed use on site. The operation allowed by this discretionary use permit may only begin or recommence after all conditions listed 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.
- The top level of the parking structure shall include landscaped trellis structures and additional landscape features as exhibited and agreed upon by the Owner/Permittee during the City's public hearing.

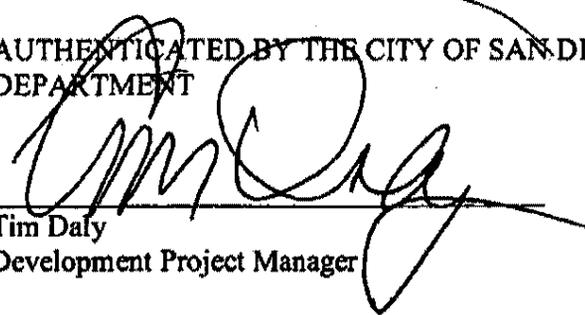
APPROVED by the City Council of the City of San Diego on April 19, 2011 and Approved Resolution Number R- 306773.

REV. 04/25/11

ORIGINAL

Permit Type/PTS Approval No.: CDP No. 619980
Date of Approval: April 19, 2011

AUTHENTICATED BY THE CITY OF SAN DIEGO DEVELOPMENT SERVICES
DEPARTMENT

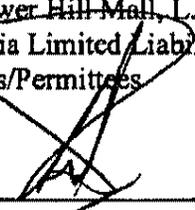


Tim Daly
Development Project Manager

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

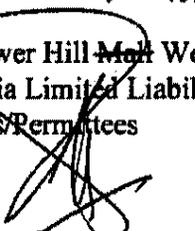
**The undersigned Owners/Permittees, by execution hereof, agrees to each and every condition
of this Permit and promises to perform each and every obligation of Owners/Permittees
hereunder.**

Protea Flower Hill Mall, L.L.C.,
A California Limited Liability Company
Owners/Permittees

By 

NAME *JEFFREY BRADLOW*
TITLE *MANAGING MEMBER*

Protea Flower Hill Mall West, L.L.C.,
A California Limited Liability Company
Owners/Permittees

By 

NAME *JEFFREY BRADLOW*
TITLE *MANAGING MEMBER*

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

ORIGINAL

REV. 04/25/11

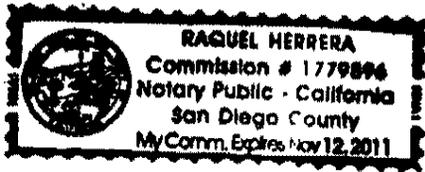
CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of San Diego

On May 25, 2011 before me, Raquel Herrera, Notary Public

personally appeared Tim Daly



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

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

WITNESS my hand and official seal.

Signature Raquel Herrera

Place Notary Seal Above

OPTIONAL

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

Description of Attached Document

Title or Type of Document: FLOWER HILL PROMENADE - PROJECT NO. 172026

Document Date: April 19, 2011 Number of Pages: 12

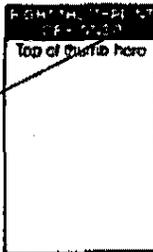
Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

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

Signer Is Representing: _____



Signer's Name: _____

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

Signer Is Representing: _____



CALIFORNIA ALL-PURPOSE CERTIFICATE OF ACKNOWLEDGMENT

9299

State of California

County of San Diego

On 5/10/11 before me, ARASH NASSERI, a Notary Public
(Here insert name and title of the officer)

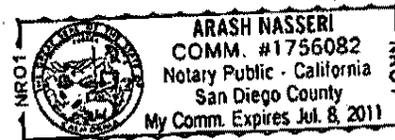
personally appeared Jeffrey S. ESSAKOW

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

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

WITNESS my hand and official seal.

Arash Nasser
Signature of Notary Public



(Notary Seal)

ADDITIONAL OPTIONAL INFORMATION

DESCRIPTION OF THE ATTACHED DOCUMENT

A Resolution Approving Cashier Assignment

(Title or description of attached document)

Amend no. 61998. for the

(Title or description of attached document continued)

Flaminio's Payment

Number of Pages _____ Document Date _____

(Additional information)

CAPACITY CLAIMED BY THE SIGNER

- Individual (s)
- Corporate Officer

(Title)

- Partner(s)
- Attorney-in-Fact
- Trustee(s)

Other Managing Member

INSTRUCTIONS FOR COMPLETING THIS FORM

Any acknowledgment completed in California must contain verbiage exactly as appears above in the notary section or a separate acknowledgment form must be properly completed and attached to that document. The only exception is if a document is to be recorded outside of California. In such instances, any alternative acknowledgment verbiage as may be printed on such a document so long as the verbiage does not require the notary to do something that is illegal for a notary in California (i.e. certifying the authorized capacity of the signer). Please check the document carefully for proper notarial wording and attach this form if required.

- State and County information must be the State and County where the document signer(s) personally appeared before the notary public for acknowledgment.
- Date of notarization must be the date that the signer(s) personally appeared which must also be the same date the acknowledgment is completed.
- The notary public must print his or her name as it appears within his or her commission followed by a comma and then your title (notary public).
- Print the name(s) of document signer(s) who personally appear at the time of notarization.
- Indicate the correct singular or plural forms by crossing off incorrect forms (i.e. ~~he/she/they~~ is /are) or circling the correct forms. Failure to correctly indicate this information may lead to rejection of document recording.
- The notary seal impression must be clear and photographically reproducible. Impression must not cover text or lines. If seal impression smudges, re-seal if a sufficient area permits, otherwise complete a different acknowledgment form.
- Signature of the notary public must match the signature on file with the office of the county clerk.
 - ❖ Additional information is not required but could help to ensure this acknowledgment is not misused or attached to a different document.
 - ❖ Indicate title or type of attached document, number of pages and date.
 - ❖ Indicate the capacity claimed by the signer. If the claimed capacity is a corporate officer, indicate the title (i.e. CEO, CFO, Secretary).
- Securely attach this document to the signed document

Passed by the Council of The City of San Diego on APR 19 2011, by the following vote:

9300

Councilmembers	Yeas	Nays	Not Present	Recused
Sherri Lightner	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Kevin Faulconer	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Todd Gloria	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Anthony Young	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Carl DeMaio	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lorie Zapf	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Marti Emerald	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
David Alvarez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage APR 19 2011

AUTHENTICATED BY:

JERRY SANDERS
Mayor of The City of San Diego, California.

ELIZABETH S. MALAND
City Clerk of The City of San Diego, California.

(Seal)

By *Devenon Cruz*, Deputy

Office of the City Clerk, San Diego, California

Resolution Number R- 300773

ORIGINAL

Passed by the Council of The City of San Diego April 19, 2011, by the following vote:

YEAS: LIGHTNER, FAULCONER, GLORIA, YOUNG, DEMAIO, ZAPF,
EMERALD; ALVAREZ.
NAYS: NONE.
NOT PRESENT: NONE.
RECUSED: NONE.

AUTHENTICATED BY:

JERRY SANDERS

Mayor of The City of San Diego, California

ELIZABETH S. MALAND

City Clerk of The City of San Diego, California

(Seal)

By: Debbie Levenson-Cruz, Deputy

I HEREBY CERTIFY that the above and foregoing is a full, true and correct copy of
RESOLUTION NO. R-306773 approved by the Mayor of the City of San Diego, California on
April 19, 2011.

ELIZABETH S. MALAND

City Clerk of The City of San Diego, California

(SEAL)

By: *Debbie Levenson-Cruz*, Deputy

ORIGINAL

RESOLUTION NUMBER R- 306773DATE OF FINAL PASSAGE APR 19 2011A RESOLUTION APPROVING COASTAL DEVELOPMENT
PERMIT NO. 619980 FOR THE FLOWER HILL PROMENADE
PROJECT NO. 172026

WHEREAS, Protea Flower Hill Mall, L.L.C. and Protea Flower Hill West, L.L.C., both California Limited Liability Companies, Owners/Permittees, filed an application with the City of San Diego for Coastal Development Permit [CDP] No. 619980 to demolish the existing 14,000 square-foot theater, construct approximately 74,995 square feet of new building area for commercial, office, and storage space area, and a new 82,739 square-foot parking structure at an existing commercial development known as the Flower Hill Promenade Project [Project], at 2720 Via de la Valle, and legally described as Parcel 1 and 2 of Parcel Map No. 20470 in the City of San Diego, County of San Diego, State of California, filed in the Office of the County Recorder of San Diego County, April 17, 2008, in the City of San Diego General Plan and North City Local Coastal Program Land Use Plan areas, in the CC-1-3 and Coastal Overlay (non-appealable) zones; and

WHEREAS, on March 10, 2011, the Planning Commission of the City of San Diego considered CDP No. 619980, and pursuant to Resolution No. 4682-PC voted to recommend City Council approval of the permit with certain conditions; and

WHEREAS, under Charter section 280(a)(2) this resolution is not subject to veto by the Mayor because this matter requires the City Council to act as a quasi-judicial body, a public hearing was required by law implicating due process rights of individuals affected by the

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(R-2011-760 REV.)

decision, and the Council was required by law to consider evidence at the hearing and to make legal findings based on the evidence presented; and

WHEREAS, the matter was set for public hearing on April 19, 2011, testimony having been heard, evidence having been submitted, and the City Council having fully considered the matter and being fully advised concerning the same; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that it adopts the following findings with respect to Coastal Development Permit No. 619980:

A. COASTAL DEVELOPMENT PERMIT - SECTION 126.0708

1. **The proposed coastal development will not encroach upon any existing physical access way 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 proposed development is located approximately one mile from the ocean. Therefore, it does not encroach upon any existing or proposed physical accessway used by the public to reach the shore. The project site is currently developed with an existing shopping center. The proposed project would expand and reconfigure the shopping center to include 74,995 square feet of new building area for commercial, office, and storage space area, and a new 82,739 square-foot multi-level parking structure. The ocean is currently not visible from the project site. The project site is visible from the northbound lanes of Interstate 5, the Del Mar Shopping Center, and San Dieguito Lagoon to the south. The site is minimally visible from Interstate 5 southbound lanes due to the raised portion of the freeway and the proximity of the development to the vegetated slope. The visual stature and bulk of the proposed buildings will be partly offset by their proximity and placement below the slope on the north and west sides of the project. The project will not be substantially more visible from public spaces than the existing development. The market building will be closer to Via del la Valle and farther from the slope than the current cinema building, making it more prominent from roadways. However, the structures proposed on site would not obstruct any public viewing areas since the site sits lower than topographical features immediately to the north. The project is near the San Dieguito Lagoon; however, the Del Mar Shopping Center is situated between the Lagoon and the proposed project and currently obstructs views nearest to the site. For these reasons, the proposed project would not result in any impacts to public views to and along the ocean.

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(R-2011-760 REV.)

2. **The proposed coastal development will not adversely affect environmentally sensitive lands.** The project site is currently developed and there are no environmentally sensitive habitats on the site, nor is the site adjacent to the City of San Diego's Multi Habitat Planning Area. The existing slopes on the site are manufactured and do not meet the definition of environmentally sensitive lands. The nearest environmentally sensitive lands are associated with the San Dieguito Lagoon which lies approximately 1,000 feet south of the project. The project site is separated from the lagoon by Via de la Valle and the Del Mar Shopping Center. The separation of the project from the lagoon will avoid direct impacts and reduce indirect impacts on this environmentally sensitive resource. In addition to the spatial separation, impacts to environmentally sensitive lands will be minimized by implementation of water quality control measures mandated by City's Municipal Storm Water Permit and water quality regulations. Additionally, the project proposes to implement several green building standards including a water filtration system for storm drains. Therefore, the proposed development will not adversely affect environmentally sensitive lands.

3. **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 certified Local Coastal Program land use plan is consistent with the City of San Diego General Plan (General Plan) and North City Local Coastal Program (LCP) Land Use Plan land use designations. The project proposes uses consistent with the General Plan land use designation (commercial employment, retail, and services) and implementing zone (CC-1-3). It is covered by the City's Local Coastal Program, which is included in the Coastal Resources section of the Conservation Element of the General Plan. The Conservation Element of the General Plan includes several policies to implement the Local Coastal Program. The proposed project complies with the relevant policies of the program. The Conservation Element includes policies to reduce runoff and improve the quality of runoff discharged into coastal waters, encourage conservation measures and water recycling programs that eliminate or discourage wasteful uses of water, develop and expand water-efficient landscaping, and improve urban runoff water quality through implementation of storm water protection measures. The Flower Hill project proposes several sustainable techniques which will implement these policies such as using landscaping with low water requirements, using water-efficient irrigation control systems and devices, such as soil-moisture based irrigation controls, retaining storm water runoff within landscaped areas where possible, and installing a water filtration system for storm drains. Therefore, the project is in conformance with the regulations of the certified Local Coastal Program and Implementation Program.

4. **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 proposed coastal development does not lie between the nearest public road and the sea or the shoreline of any body of water located within the Coastal Overlay Zone. The development will have no affect upon public access and the recreation policies

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(R-2011-760 REV.)

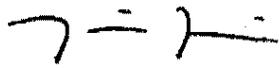
of Chapter 3 of the California Coastal Act and therefore be in conformance with such Act.

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

BE IT FURTHER RESOLVED, that Coastal Development Permit No. 619980 is granted to Protea Flower Hill Mall, L.L.C. and Protea Flower Hill West, L.L.C., both California Limited Liability Companies, Owners/Permittees, under the terms and conditions set forth in the permit attached hereto and made a part hereof.

APPROVED: JAN GOLDSMITH, City Attorney

By



Nina Fain
Deputy City Attorney

NF:js
03/07/11
04/25/11 Revised
Or.Dept: DSD
R-2011-760
PL#2010-00941

ORIGINAL
R- 300773

9306

(R-2011-788 REV.)

RESOLUTION NUMBER R- 300772DATE OF FINAL PASSAGE APR 19 2011

CERTIFYING ENVIRONMENTAL IMPACT REPORT NO.
172026 AND ADOPTING THE MITIGATION MONITORING
AND REPORTING PROGRAM FOR THE FLOWER HILL
PROMENADE PROJECT.

WHEREAS, on January 28, 2009, Protea Flower Hill Mall, L.L.C. and Protea Flower Hill West, L.L.C., both California Limited Liability Companies, Owners/Permittees, submitted an application to the City of San Diego Development Services Department for a coastal development permit, lot line adjustment, and easement abandonment for the Flower Hill Promenade Project;

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

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

WHEREAS, the issue was heard by the City Council on April 19, 2011; and

WHEREAS, the City Council of the City of San Diego considered the issues discussed in Environmental Impact Report No. 172026; NOW THEREFORE,

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BE IT RESOLVED, by the City Council of the City of San Diego, that it is certified that Environmental Impact Report No. 172026, on file in the office of the City Clerk, has been completed in compliance with the California Environmental Quality Act of 1970 (California Public Resources Code section 21000 *et seq.*), as amended, and the State Guidelines thereto (California Administrative Code Section 15000 *et seq.*), that the declaration reflects the independent judgment of the City of San Diego as Lead Agency and that the information contained in the report, together with any comments received during the public review process, has been reviewed and considered by this City Council in connection with the approval of the Coastal Development Permit No. 619980, Lot Line Adjustment No. 826904, and Easement Abandonment No. 826905 for the Flower Hill Promenade Project;

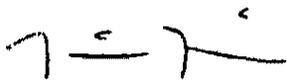
BE IT FURTHER RESOLVED, that pursuant to California Public Resources Code Section 21081 and State Guidelines Section 15091, the City Council hereby adopts the applicant's proposed findings dated March 2011 as the findings made with respect to the project, a copy of which is attached hereto and incorporated herein by reference.

BE IT FURTHER RESOLVED, that pursuant to California State Guidelines Section 15093, the City Council hereby adopts the applicant's proposed Statement of Overriding Considerations dated March 2011 and as revised on page 19, paragraph B to mirror the third paragraph of the written motion regarding modified permit condition number 43 with respect to the project, a copy of which is attached hereto and incorporated herein by reference.

BE IT FURTHER RESOLVED, that pursuant to California Public Resources Code, Section 21081.6, the City Council hereby adopts the Mitigation Monitoring and Reporting Program with the elimination of mitigation measures 5.2-2 and 5.2-3, or alterations to implement the changes to the project as required by this body in order to mitigate or avoid significant effects on the environment, a copy of which is attached hereto and incorporated herein by reference.

BE IT FURTHER RESOLVED, that the City Clerk is directed to file a Notice of Determination [NOD] with the Clerk of the Board of Supervisors for the County of San Diego regarding above project.

APPROVED: Jan Goldsmith, City Attorney

By: 

Nina M. Fain
Deputy City Attorney

NMF: js
03/18/11
04/25/11 Revised
Or.Dept:DSD
R-2011-788
PL#2010-00941

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R- 306772

EXHIBIT A

MITIGATION MONITORING AND REPORTING PROGRAM

PROJECT NO. 172026

This Mitigation Monitoring and Reporting Program is designed to ensure compliance with Public Resources Code Section 21081.6 during implementation of mitigation measures. This program identifies at a minimum: the department responsible for the monitoring, what is to be monitored, how the monitoring shall be accomplished, the monitoring and reporting schedule, and completion requirements. A record of the Mitigation Monitoring and Reporting Program will be maintained at the offices of the Land Development Review Division, 1222 First Avenue, Fifth Floor, San Diego, CA, 92101. All mitigation measures contained in the Environmental Impact Report (No. 172026) shall be made part of the covenant and recorded with the San Diego County Recorder's Office. The MMRP is further described below.

MITIGATION, MONITORING AND REPORTING PROGRAM:

General

As Lead Agency for the proposed project under CEQA, the City of San Diego will administer the Mitigation Monitoring and Reporting Program (MMRP) for the following environmental issue areas as identified in the Flower Hill Promenade Project EIR: traffic/circulation; biological resources; paleontological resources; and public utilities (solid waste). The mitigation measures identified below include all applicable measures from the Flower Hill Promenade Project EIR (Project No. 172026; SCH No. 2009021078). This MMRP shall be made a requirement of project approval.

Section 21081.6 to the State of California Public Resources Code requires a Lead or Responsible Agency that approves or carries out a project where an EIR has identified significant environmental effects to adopt a "reporting or monitoring program for adopted or required changes to mitigate or avoid significant environmental effects." The City of San Diego is the Lead Agency for the Flower Hill Promenade Project EIR, and therefore must ensure the enforceability of the MMRP. An EIR has been prepared for this project that addresses potential environmental impacts and, where appropriate, recommends measures to mitigate these impacts. As such, an MMRP is required to ensure that adopted mitigation measures are implemented. Therefore the following general measures are included in this MMRP:

1. Prior to the commencement of work, a Pre-construction meeting (Pre-con) shall be conducted and include City of San Diego's Mitigation Monitoring and Coordination (MMC) staff, Resident Engineer, Applicant, Project Acoustician, Biologist, Project Paleontologist and other parties of interest.
2. Prior to Notice to Proceed (NTP) for any construction permits, including but not limited to, the first Grading Permit, Demolition Plans/Permits and Building Plans/Permits, the Assistant Deputy Director (ADD) of the City's Land Development Review Division (LDR) shall verify that the following statement is

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shown on the grading and/or construction plans as a note under the heading **ENVIRONMENTAL MITIGATION REQUIREMENTS**: "*The Flower Hill Promenade project is subject to a Mitigation Monitoring and Reporting Program and shall conform to the mitigation conditions as contained in Environmental Impact Report No. 172026.*"

TRAFFIC AND CIRCULATION

Mitigation Measure 5.2-1: Prior to issuance of a Certificate of Occupancy, Owner/Permittee shall provide a Letter of Credit, cash payment, or bond equal to 7.7 percent of the Black Mountain Ranch Facilities Financing Plan fiscal Year 2006 cost estimate to complete the planned improvements identified in the Black Mountain Ranch Public Facilities Financing Plan as Project No. T-32.1 for the widening of Via de la Valle between San Andres Drive to El Camino Real (West), from a two lane to a four lane roadway. Prior to the issuance of the first building permit for a structure, Owner/Permittee shall pay the estimated cost, approved by the City Engineer, to form a cost reimbursement district to collect any funds necessary to complete Black Mountain Ranch Facilities Financing Plan Project T-32.1.

Mitigation Measure 5.2-4: Prior to issuance of the first building occupancy permit, a "Keep Clear" marking shall be painted on the pavement on-site where the driveway meets the east/west circulation aisle approximately 100 feet north of Via de la Valle. Additionally, no stop signs shall be placed facing northbound traffic at the location where the main project driveway meets the east/west circulation aisle.

BIOLOGICAL RESOURCES

Mitigation Measure 5.6-1: Prior to the issuance of any authorization to proceed the Assistant Deputy Director (ADD) Environmental designee shall ensure that the following measures are included as notes in the construction plans and grading plans:

If project grading or other construction activities are proposed during the raptor breeding season (Jan. 1-Sept. 15), the project biologist shall conduct a pregrading survey for active raptor nests within 500 feet of the development area and submit a letter report to the Mitigation Monitoring Coordinator (MMC) prior to the preconstruction meeting.

1. If active raptor nests are detected, the report shall include mitigation in conformance with the City's Biology Guidelines (i.e. appropriate buffers, monitoring schedules, etc.) to the satisfaction of the ADD Environmental designee. Mitigation requirements determined by the project biologist and the ADD Environmental designee shall be incorporated into the project's Biological Construction Monitoring Exhibit (BCME) and monitoring results incorporated in to the final biological construction monitoring report.
2. If no nesting raptors are detected during the pregrading survey, no mitigation is required.

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PALEONTOLOGICAL RESOURCES

Mitigation Measure 5.9-1: The following shall be implemented:

I. Prior to Permit Issuance**A. Entitlements Plan Check**

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

B. Letters of Qualification have been submitted to ADD

1. The applicant shall submit a letter of verification to Mitigation Monitoring Coordination (MMC) identifying the Principal Investigator (PI) for the project and the names of all persons involved in the paleontological monitoring program, as defined in the City of San Diego Paleontology Guidelines.
2. MMC will provide a letter to the applicant confirming the qualifications of the PI and all persons involved in the paleontological monitoring of the project.
3. Prior to the start of work, the applicant shall obtain approval from MMC for any personnel changes associated with the monitoring program.

II. Prior to Start of Construction**A. Verification of Records Search**

1. The PI shall provide verification to MMC that a site specific records search has been completed. Verification includes, but is not limited to a copy of a confirmation letter from San Diego Natural History Museum, other institution or, if the search was in-house, a letter of verification from the PI stating that the search was completed.
2. The letter shall introduce any pertinent information concerning expectations and probabilities of discovery during trenching and/or grading activities.

B. PI Shall Attend Precon Meetings

1. Prior to beginning any work that requires monitoring, the Applicant shall arrange a Precon Meeting that shall include the PI, Construction Manager (CM) and/or Grading Contractor, Resident Engineer (RE), Building Inspector (BI), if

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appropriate, and MMC. The qualified paleontologist shall attend any grading/excavation related Precon Meetings to make comments and/or suggestions concerning the Paleontological Monitoring program with the Construction Manager and/or Grading Contractor.

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

2. Identify Areas to be Monitored

Prior to the start of any work that requires monitoring, the PI shall submit a Paleontological Monitoring Exhibit (PME) based on the appropriate construction documents (reduced to 11x17) to MMC identifying the areas to be monitored including the delineation of grading/excavation limits. The PME shall be based on the results of a site specific records search as well as information regarding existing known soil conditions (native or formation).

3. When Monitoring Will Occur

- a. Prior to the start of any work, the PI shall also submit a construction schedule to MMC through the RE indicating when and where monitoring will occur.
- b. The PI may submit a detailed letter to MMC prior to the start of work or during construction requesting a modification to the monitoring program. This request shall be based on relevant information such as review of final construction documents which indicate conditions such as depth of excavation and/or site graded to bedrock, presence or absence of fossil resources, etc., which may reduce or increase the potential for resources to be present.

III. During Construction

A. Monitor Shall be Present During Grading/Excavation/Trenching

1. The monitor shall be present full-time during grading/excavation/trenching activities as identified on the PME that could result in impacts to formations with high and moderate resource sensitivity. **The Construction Manager is responsible for notifying the RE, PI, and MMC of changes to any construction activities such as in the case of a potential safety concern within the area being monitored. In certain circumstances OSHA safety requirements may necessitate modification of the PME.**
2. The PI may submit a detailed letter to MMC during construction requesting a modification to the monitoring program when a field condition such as trenching activities that do not encounter formational soils as previously assumed, and/or when unique/unusual fossils are encountered, which may reduce or increase the potential for resources to be present.

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3. The monitor shall document field activity via the Consultant Site Visit Record (CSVR). The CSVR's shall be faxed by the CM to the RE the first day of monitoring, the last day of monitoring, monthly (**Notification of Monitoring Completion**), and in the case of ANY discoveries. The RE shall forward copies to MMC.

B. Discovery Notification Process

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

C. Determination of Significance

1. The PI shall evaluate the significance of the resource.
 - a. The PI shall immediately notify MMC by phone to discuss significance determination and shall also submit a letter to MMC indicating whether additional mitigation is required. The determination of significance for fossil discoveries shall be at the discretion of the PI.
 - b. If the resource is significant, the PI shall submit a Paleontological Recovery Program (PRP) and obtain written approval from MMC. Impacts to significant resources must be mitigated before ground disturbing activities in the area of discovery will be allowed to resume.
 - c. If resource is not significant (e.g., small pieces of broken common shell fragments or other scattered common fossils) the PI shall notify the RE, or BI as appropriate, that a non-significant discovery has been made. The Paleontologist shall continue to monitor the area without notification to MMC unless a significant resource is encountered.
 - d. The PI shall submit a letter to MMC indicating that fossil resources will be collected, curated, and documented in the Final Monitoring Report. The letter shall also indicate that no further work is required.

IV. Night and/or Weekend Work

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

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1. When night and/or weekend work is included in the contract package, the extent and timing shall be presented and discussed at the precon meeting.

2. The following procedures shall be followed.

a. No Discoveries

In the event that no discoveries were encountered during night and/or weekend work, The PI shall record the information on the CSV and submit to MMC via fax by 8AM on the next business day.

b. Discoveries

All discoveries shall be processed and documented using the existing procedures detailed in Sections III - During Construction.

c. Potentially Significant Discoveries

If the PI determines that a potentially significant discovery has been made, the procedures detailed under Section III - During Construction shall be followed.

d. The PI shall immediately contact MMC, or by 8AM on the next business day to report and discuss the findings as indicated in Section III-B, unless other specific arrangements have been made.

B. If night work becomes necessary during the course of construction

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

2. The RE, or BI, as appropriate, shall notify MMC immediately.

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

V. Post Construction

A. Preparation and Submittal of Draft Monitoring Report

1. The PI shall submit two copies of the Draft Monitoring Report (even if negative), prepared in accordance with the Paleontological Guidelines which describes the results, analysis, and conclusions of all phases of the Paleontological Monitoring Program (with appropriate graphics) to MMC for review and approval within 90 days following the completion of monitoring,

a. For significant paleontological resources encountered during monitoring, the Paleontological Recovery Program shall be included in the Draft Monitoring Report.

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b. Recording Sites with the San Diego Natural History Museum

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

2. MMC shall return the Draft Monitoring Report to the PI for revision or, for preparation of the Final Report.
3. The PI shall submit revised Draft Monitoring Report to MMC for approval.
4. MMC shall provide written verification to the PI of the approved report.
5. MMC shall notify the RE or BI, as appropriate, of receipt of all Draft Monitoring Report submittals and approvals.

B. Handling of Fossil Remains

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

C. Curation of fossil remains: Deed of Gift and Acceptance Verification

1. The PI shall be responsible for ensuring that all fossil remains associated with the monitoring for this project are permanently curated with an appropriate institution.
2. The PI shall include the Acceptance Verification from the curation institution in the Final Monitoring Report submitted to the RE or BI and MMC.

D. Final Monitoring Report(s)

1. The PI shall submit two copies of the Final Monitoring Report to MMC (even if negative), within 90 days after notification from MMC that the draft report has been approved.
2. The RE shall, in no case, issue the Notice of Completion until receiving a copy of the approved Final Monitoring Report from MMC which includes the Acceptance Verification from the curation institution.

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PUBLIC UTILITIES (SOLID WASTE)

Mitigation Measure 9.1-1: The following shall be implemented:

I. Prior to Preconstruction (Precon) Meeting

Land Development Review (LDR) Plan Check - Prior to issuance of any permit, including but is not limited to, any grading or any other construction permit, the ADD shall verify that all the requirements of the Refuse and Recyclable Materials Storage Regulations, Construction and Demolition Debris Diversion Deposit Program and all of the requirements of the waste management plan have been shown and/or noted on the Grading Plans (construction documents).

- A. Prior to issuance of a demolition or grading permit, the permittee shall be responsible to arrange a Precon Meeting. This meeting shall be coordinated with MMC to verify that implementation of the waste management plan shall be performed in compliance with the plan approved by LDR and the ESD, to ensure that impacts to solid waste facilities are mitigated to below a level of significance.
- B. The plan (construction documents) shall include the following elements for grading, construction and occupancy phases of the project as applicable:
1. Tons of waste anticipated to be generated
 2. Material type of waste to be generated
 3. How materials will be reused on site
 4. Name and location of recycling, reuse or landfill facilities where waste will be taken if not reused on site
 5. How C&D waste will be source separated if a mixed C&D facility is not used for recycling
 6. A "buy recycled" program
 7. How the project will aim to reduce the generation of construction/demolition debris
 8. A plan of how waste reduction and recycling goals will be communicated to subcontractors
 9. A timeline for each of the three main phases of the project (demolition, construction and occupancy)
 10. How the Refuse and Recyclable Materials Storage Regulations (Land Development Manual Chapter 14, Article 2 Division 8) will be incorporated into design of building's waste storage area

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11. How compliance with the Recycling Ordinance (Municipal Code Chapter 6, Article 6, Division 7) will be incorporated in the operational phase
12. International Standards of Operation (ISO)¹, or other certification, if any
- C. The plan shall require a 75 percent diversion rate for construction and demolition debris, consistent with the requirements of Chapter 6, Article 6, Division 6 of the Municipal Code (the Construction and Demolition Debris Diversion Deposit Program).
- D. The plan shall include specific performance measures based on the Waste Management Form (required as part of the Construction and Demolition Debris Diversion Deposit Program) which provides a general estimate of the total waste generated by the project including how much will be recycled for each material type. The performance measures shall be assessed upon the completion of the project to measure success in achieving waste minimization goals discussed in No. 3 above. The permittee shall notify MMC and ESD when: (1) a construction permit is issued; and (2) construction begins.

The permittee shall arrange for progress inspections and a final inspection, as specified in the plan and shall contact both MMC and ESD to perform these periodic site visits during construction to inspect the process of the project's waste diversion efforts. Notification shall be sent to:

Mitigation Monitoring
Coordination
9601 Ridgehaven Court
Suite 320, MS 1102B
San Diego, CA 92123-1636
(619) 980-7122

Environmental Services
Department
9601 Ridgehaven Court
Suite 320, MS 1103B
San Diego, CA 92123-1636
(858) 492-5010

- E. Prior to the issuance of a demolition or grading permit, the applicant shall receive approval from the ADD that the waste management plan has been prepared, approved and implemented. Also prior to the issuance of the grading permit, the applicant shall submit evidence to the ADD that the final construction report has been approved by MMC and ESD. This report shall summarize the results of implementing the above waste management plan elements, including: the actual waste generated and diverted from the project, the waste reduction percentage achieved, how that goal was achieved, etc.

II. Precon Meeting

- A. At least 10 days prior to beginning any work on the site, for the implementation of the Mitigation Monitoring and Reporting Program (MMRP), the permittee is responsible to arrange a Precon Meeting that shall include: the Construction Manager or Grading

¹ ISO certification means there has been a commitment to reduce ongoing waste.

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Contractor, MMC and ESD, as well as the Resident Engineer (RE), if there is an engineering permit.

- B. At the Precon Meeting, the permittee shall submit reduced copies (11" x 17") of the approved waste management plan to MMC (two copies) and ESD (one copy).
- C. Prior to the start of construction, the permittee or Construction Manager shall submit a construction schedule to MMC and ESD.

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

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**APPLICANT'S PROPOSED
CANDIDATE FINDINGS OF FACT
AND
STATEMENT OF OVERRIDING CONSIDERATIONS
REGARDING THE
FINAL ENVIRONMENTAL IMPACT REPORT
FOR THE
FLOWER HILL PROMENADE PROJECT**

STATE CLEARINGHOUSE NO. 2009021078

March 2011

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**FINDINGS
AND
STATEMENT OF OVERRIDING CONSIDERATIONS**

The California Environmental Quality Act (CEQA) (California Public Resources Code §§21000 et. seq. and the State CEQA Guidelines (Title 14, California Code of Regulations, §§15000 et. seq.) require that no public agency shall approve or carry out a project which identifies one or more significant environmental effects of a project unless the public agency makes one or more written findings for each of those significant effects, accompanied by a brief explanation of the rationale for each finding. The possible findings are:

- (1) Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant environmental effects on the environment.
- (2) Those changes or alterations are within the responsibility and jurisdiction of another public agency and have been or can or should be adopted by that other agency.
- (3) Specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or alternatives identified in the EIR.

(CEQA, §21081(a); Guidelines, §15091(a).)

CEQA also requires that the findings made pursuant to Section 15091 be supported by substantial evidence in the record (Section 15091(b) of the State CEQA Guidelines). Under CEQA, substantial evidence means enough relevant information has been provided (and reasonable inferences from this information may be made) that a fair argument can be made to support a conclusion, even though other conclusions might also be reached. Substantial evidence must include facts, reasonable assumptions predicated upon facts, and expert opinion supported by facts (Section 15384 of the State CEQA Guidelines).

CEQA further requires the decision-making agency to balance, as applicable, the economic, legal, social, technological, or other benefits of a proposed project against its unavoidable environmental effects when determining whether to approve a project. If the specific economic, legal, social, technological, or other benefits of a proposed project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered "acceptable" (Section 15093(a) of the State CEQA Guidelines). When the lead agency approves a project which will result in the occurrence of significant effects which are identified in the final EIR but are not avoided or substantially lessened, the agency shall state in writing the specific reasons to support its actions based on the final EIR and/or other information in the record. This statement of overriding considerations shall be supported by substantial evidence in the record and does not substitute for, and shall be in addition to, the findings required pursuant to Section 15091 (Sections 15093(b) and (c) of the State CEQA Guidelines).

The following Findings and Statement of Overriding Considerations have been submitted by the project applicant as candidate findings to be made by the decision-making body. The, Environmental Analysis Section of the Entitlements Division, does not recommend that the discretionary body either adopt or reject these findings. They are attached to allow readers of this report an opportunity to review potential reasons for approving the project despite the significant unmitigated effects identified in the EIR.

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I. INTRODUCTION

A. Findings of Fact and Statement of Overriding Considerations

The California Environmental Quality Act (CEQA) (Pub. Res. Code §§ 21000, et seq.) and the State CEQA Guidelines (Guidelines) (14 Cal. Code Regs. §§ 15000, et seq.) promulgated thereunder, require that the environmental impacts of a project be examined before a project is approved. Specifically, regarding findings, Guidelines Section 15091 provides:

- (a) No public agency shall approve or carry out a project for which an EIR has been certified which identifies one or more significant environmental effects of the project unless the public agency makes one or more written findings for each of those significant effects, accompanied by a brief explanation of the rationale for each finding. The possible findings are:
 - 1. Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.
 - 2. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency.
 - 3. Specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the final EIR.
- (b) The findings required by subdivision (a) shall be supported by substantial evidence in the record.
- (c) The finding in subdivision (a)(2) shall not be made if the agency making the finding has concurrent jurisdiction with another agency to deal with identified feasible mitigation measures or alternatives. The finding in subdivision (a)(3) shall describe the specific reasons for rejecting identified mitigation measures and project alternatives.
- (d) When making the findings required in subdivision (a)(1), the agency shall also adopt a program for reporting on or monitoring the changes which it has either required in the project or made a condition of approval to avoid or substantially lessen significant environmental effects. These measures must be fully enforceable through permit conditions, agreements, or other measures.
- (e) The public agency shall specify the location and custodian of the documents or other materials which constitute the record of the proceedings upon which its decision is based.

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- (f) A statement made pursuant to Section 15093 does not substitute for the findings required by this section.

The "changes or alterations" referred to in Section 15091(a)(1) above, that are required in, or incorporated into, the project which mitigate or avoid the significant environmental effects of the project, may include a wide variety of measures or actions as set forth in Guidelines Section 15370, including:

- (a) Avoiding the impact altogether by not taking a certain action or parts of an action.
- (b) Minimizing impacts by limiting the degree or magnitude of the action and its implementation.
- (c) Rectifying the impact by repairing, rehabilitating, or restoring the impacted environment.
- (d) Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action.
- (e) Compensating for the impact by replacing or providing substitute resources or environments.

Regarding a Statement of Overriding Considerations, Guidelines Section 15093 provides:

- (a) CEQA requires the decision-making agency to balance, as applicable, the economic, legal, social, technological, or other benefits of a proposed project against its unmitigated environmental risks when determining whether to approve the project. If the specific economic, legal, social, technological, or other benefits of a proposed project outweigh the unmitigated adverse environmental effects, the adverse environmental effects may be considered "acceptable."
- (b) When the lead agency approves a project which will result in the occurrence of significant effects which are identified in the final EIR but are not avoided or substantially lessened, the agency shall state in writing the specific reasons to support its action based on the final EIR and/or other information in the record. The statement of overriding considerations shall be supported by substantial evidence in the record.
- (c) If an agency makes a statement of overriding considerations, the statement should be included in the record of the project approval and should be mentioned in the notice of determination. This statement does not substitute for, and shall be in addition to, findings required pursuant to Section 15091.

Having received, reviewed and considered the Final Environmental Impact Report (FEIR) for the Coastal Development Permit, Lot Line Adjustment, and Easement Vacation for the Flower Hill Promenade Project, State Clearinghouse No. 2009021078, as well as all other information in the record of proceedings on this matter, the following Findings of Fact and Statement of Overriding Considerations (Findings) are hereby adopted by the City of San Diego (City) in its capacity as the CEQA Lead Agency. These Findings set forth the environmental basis for current and

subsequent discretionary actions to be undertaken by the City and responsible agencies for the implementation of the proposed project.

B. Record of Proceedings

For purposes of CEQA and these Findings, the Record of Proceedings for the proposed project consists of the following documents and other evidence, at a minimum:

- The Notice of Preparation (NOP), dated February 18, 2009, and all other public notices issued by the City in conjunction with the proposed project;
- The FEIR for the proposed project;
- The original Draft EIR circulated for public review between March 10, 2010 to April 23, 2010;
- The Recirculated Draft EIR circulated for public review between November 24, 2010 and January 11, 2011;
- All written comments submitted by agencies or members of the public during both public review comment periods on the original Draft EIR and Recirculated Draft EIR;
- All responses to written comments submitted by agencies or members of the public during the public review comment periods on the original Draft EIR and Recirculated Draft EIR;
- All written and verbal public testimony presented during a noticed public hearing for the proposed project at which such testimony was taken;
- The Mitigation Monitoring and Reporting Program (MMRP);
- The reports and technical memoranda included or referenced in Responses to Comments in the FEIR;
- All documents, studies, EIRs, or other materials incorporated by reference in the original and Recirculated Draft EIR, and the FEIR;
- Matters of common knowledge to the City, including but not limited to federal, state and local laws and regulations;
- Any documents expressly cited in these Findings; and
- Any other relevant materials required to be in the record of proceedings by Public Resources Code Section 21167.6(e).

C. Custodian and Location of Records

The documents and other materials which constitute the administrative record for the City's actions related to the project are located at the City of San Diego, Development Services Center,

1222 First Avenue, Fifth Floor, San Diego, CA 92101. The City Development Services Center is the custodian of the administrative record for the project. Copies of these documents, which constitute the record of proceedings, are and at all relevant times have been and will be available upon request at the offices of the City Development Services Center. This information is provided in compliance with Public Resources Code Section 21081.6(a)(2) and Guidelines Section 15091(e).

II. PROJECT SUMMARY

A. Project Location

The approximately 15-acre Flower Hill Promenade project site is located in the northern portion of the City of San Diego (City), but not within a specific community plan area. The site is within the coastal zone, as designated by the California Coastal Commission (FEIR Figures 2.1-1, Regional Location Map, and 2.1-2, Project Vicinity Map), within the City's jurisdiction under the City's approved Local Coastal Program. The trade area for the Flower Hill Promenade shopping center extends from Carlsbad to Mission Valley and from the coast to inland North County communities (FEIR Figure 2-3, Primary Trade Area Map). The project site is developed with the existing shopping center, which features specialty retail shops, restaurants, a movie theater, surface parking lots and ancillary services. (FEIR Figure 3.2-1, Existing Site Plan). The property is flanked by a number of public roads, including Interstate 5 to the west, Via de la Valle to the south and San Andres Drive to the east. Vehicular access to the site occurs from two separate driveways on Via de la Valle and San Andres Drive. Pedestrian access is available from sidewalks within the public rights-of-way fronting the site.

B. Project Background

The Flower Hill Promenade (proposed project) is the proposed redevelopment and renovation of a shopping center that was originally constructed in the City of San Diego in the late 1974. The existing open-air center features specialty retail shops, restaurants, a movie theater, parking and ancillary services, with a total center size of 112,116 square feet (sf) within approximately 15 developed acres.

For more than two decades, Flower Hill Promenade has served as community retail center for the City of San Diego, Encinitas, Solana Beach, Del Mar and unincorporated areas of the County of San Diego. Only minor renovations have occurred since Flower Hill first opened and the center is in need of revitalization to enhance the community services and maintain economic stability for the shopping center, while maintaining the existing community character.

C. Project Description

The proposed project will upgrade the existing commercial center by providing a specialty food market, office space and additional parking conveniently located to serve an unmet need in the local community. The upgrade will also support the existing merchants and provide economic stability for the shopping center. The proposed project includes demolition of the existing movie theater building, construction of new commercial office space and a parking structure. The proposed project also includes site renovation improvements, driveway improvements, re-striping of Via de la Valle, surface parking re-striping, signage, grading, landscaping, utility improvements and sustainable design features.

The proposed project is situated in the northern portion of the City, but not within any specific community plan area. The site is bordered by the following public roads: Interstate 5, Via de la Valle and San Andres Drive. The project site is surrounded by urban development, including multi-family residential, single-family residential, retail commercial, and major transportation corridors.

To accomplish the project, the project applicant is requesting approval of a Coastal Development Permit (CDP), Lot Line Adjustment, and Easement Vacation. The requested approvals are discussed in detail in Section 3.0 of the FEIR.

The proposed project would allow for the development of an additional 43,754 square feet of retail stores including a 35,000 square-foot major food market and 8,754 square feet of new retail space. A total of 28,941 square feet of office space is also proposed. The new retail space would be located in two, two-story buildings connected by a covered breezeway. The new buildings would be located at the west end of the existing center. A three-story, four-level parking structure, comprised of 94,275 square feet and containing 397 parking spaces would be constructed north of the proposed new retail and office buildings. To accommodate the new development, the existing movie theater would be demolished. The revitalization project includes site improvements, grading, circulation improvements, driveway improvements and landscaping. The proposed project is illustrated in Figure 3.2-1 of the FEIR.

D. Discretionary Actions

The applicant has submitted applications for a CDP, Lot Line Adjustment, and Easement Vacation.

To approve the project, the City must take the following actions, as discussed in Section 3.0 of the FEIR:

- (1) Certify the FEIR;
- (2) Approve of these Findings and Statement of Overriding Considerations;
- (3) Adopt the MMRP;
- (4) Approve the CDP;
- (5) Approve the Lot Line Adjustment; and
- (6) Approve the Easement Vacation.

In addition, the City may use the FEIR to approve other discretionary actions, including but not limited to: an amendment to the municipal service agreements, a development agreement, subdivision maps, master plans, park plans, an affordable housing plan, grading permits, conditional use permits, reimbursement agreement and approval of assessment districts. The FEIR may also be used by responsible and trustee agencies in connection with project-related approvals, including without limitations the utility service permits, connections and improvements, as necessary from the City of Solana Beach, and a National Pollutant Discharge Elimination System (NDPES) General Construction permit approval from the Regional Water Quality Control Board (RWQCB).

E. Statement of Objectives

As described in Section 3.1 of the FEIR, the objectives sought by the project include:

- (1) Provide a conveniently located, high-end/specialty food market to serve an unmet need in the local community, to support the existing merchants, and provide economic stability for the shopping center;
- (2) Provide office space opportunities for residents of the local community to work close to where they live and provide services for the community;
- (3) Expand and enhance the variety of goods and services offered to the community by increasing retail shops and allowing residents to shop closer to home;
- (4) Improve parking by providing additional parking spaces to make it easier for customers to use the shopping center;
- (5) Maintain the existing Flower Hill Drive access for the residents of Spindrift Condominiums located immediately north of the project site.

III. ENVIRONMENTAL REVIEW AND PUBLIC PARTICIPATION

The City prepared an Initial Study (IS) for the proposed project and, based on that IS, determined that the proposed project may have a significant effect on the environment and that an EIR should be prepared to analyze the potential impacts associated with approval and implementation of the proposed project.

On February 18, 2009, in accordance with Guidelines Section 15082, the City distributed a Notice of Preparation (NOP) of an Environmental Impact Report to the State Clearinghouse, local and regional responsible agencies, and other interested parties. Various agencies and other interested parties responded to the NOP. The NOP, NOP distribution list, and NOP comments received during the 30-day public review period are contained in Appendix A to the FEIR. On March 9, 2009, the City held an advertised public scoping meeting to provide: (i) information regarding the proposed project, and (ii) an opportunity for public input regarding project issues that should be addressed in the Draft EIR. Comments received during the public involvement process and the IS/NOP scoping period were considered in the preparation of the Draft EIR.

The original Draft EIR for the proposed project was then prepared and circulated for review and comment by the public, agencies and organizations for a public review period that began on March 10, 2010 and concluded on April 23, 2010. During this public review period, a number of nearby residents expressed major concerns about the proposal to realign the Flower Hill Drive/San Andres Drive intersection approximately 160 feet to the north. These concerns came primarily from the Spindrift Homeowner's Association whose residents' only access is from Flower Hill Drive. Their concerns were related to traffic safety and increased traffic noise on nearby residences. In addition, the Carmel Valley Community Planning Group indicated that it would only support the project if the alignment of Flower Hill Drive was unchanged. In response to these concerns, the project applicant modified the project to retain Flower Hill Drive in its present location.

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The original Draft EIR was revised to modify the proposed project to maintain the current alignment of Flower Hill Drive. The "No Realignment" alternative was replaced by an alternative that would include realignment of Flower Hill Drive. In addition to revisions related to Flower Hill Drive, the original Draft EIR was revised to include additional information in response to other public comments. In particular, the discussion of visual and greenhouse gas impacts as well as police and fire protection were expanded.

The revised Draft EIR was recirculated for public review from November 24, 2010 to January 11, 2011 to allow government agencies and the public an opportunity to review and comment on the revised project which proposes leaving Flower Hill Drive in its present location.

Notices of Completion for the original and Recirculated Draft EIRs were sent to the State Clearinghouse and the Draft EIRs were circulated to State agencies for review through the State Clearinghouse, Office of Planning and Research (SCH No. 2009021078). Separate public notices of the availability of the two Draft EIRs were sent to governmental agencies and interested parties, as identified in the respective public notices. The public notices of availability were also filed with the City Clerk.

As noted, the public comment period on the Recirculated Draft EIR concluded on January 11, 2011. The City received numerous comments on the proposed project. The City completed responses to those comments in February 2011. Those responses have been incorporated into the FEIR.

On [DATE], the City of San Diego Planning Commission held a public hearing and recommended approval of the project and certification of the FEIR, adoption of the MMRP, and approval of these Findings and the accompanying Statement of Overriding Considerations. On [DATE], the City Council held a public hearing to consider the project and voted to certify the FEIR, approve these Findings of Fact and the accompanying Statement of Overriding Considerations, adopt the MMRP, and approve the project.

IV. GENERAL FINDINGS

The City hereby finds as follows:

- The City is the "Lead Agency" for the proposed project evaluated in the FEIR;
- The original and Recirculated Draft EIRs and Final EIR were prepared in compliance with CEQA and the Guidelines;
- The City has independently reviewed and analyzed the original and Recirculated Draft EIRs and the FEIR, and these documents reflect the independent judgment of the City Council and the City of San Diego;
- The City of San Diego's review of the original and Recirculated Draft EIR and the FEIR is based upon CEQA, the CEQA Guidelines, and the City's January 2007 Significance Determination Thresholds.
- An MMRP has been prepared for the proposed project, which the City has adopted or made a condition of approval of the proposed project. That MMRP is incorporated

herein by reference and is considered part of the record of proceedings for the proposed project;

- The MMRP designates responsibility and anticipated timing for the implementation of mitigation. The City will serve as the MMRP Coordinator;
- In determining whether the proposed project has a significant impact on the environment, and in adopting these Findings pursuant to Section 21081 of CEQA, the City has complied with CEQA Sections 21081.5 and 21082.2;
- The impacts of the proposed project have been analyzed to the extent feasible at the time of certification of the FEIR;
- The City reviewed the comments received on the original Draft EIR, Recirculated Draft EIR and FEIR and the responses thereto, and has determined that neither the comments received nor the responses to such comments add significant new information regarding environmental impacts to the Recirculated Draft EIR or FEIR. The City has based its actions on full appraisal of all view points, including all comments received up to the date of adoption of these Findings concerning the environmental impacts identified and analyzed in the FEIR;
- The responses to the comments on the Recirculated Draft EIR, which are contained in the FEIR, clarify and amplify the analysis in the Recirculated Draft EIR;
- The City has made no decisions that constitute an irretrievable commitment of resources toward the proposed project prior to certification of the FEIR, nor has the City previously committed to a definite course of action with respect to the proposed project;
- Copies of all the documents incorporated by reference in the FEIR are and have been available upon request at all times at the offices of the City, custodian of record for such documents or other materials; and
- Having received, reviewed, and considered all information and documents in the record, the City hereby conditions the proposed project and finds as stated in these Findings.

V. SUMMARY OF IMPACTS

The FEIR concludes that the proposed project will have no significant direct and/or cumulative impacts with respect to the following issues:

- Air Quality(Direct and Cumulative);
- Biological Resources (Cumulative);
- Greenhouse Gases(Direct and Cumulative);
- Hydrology(Direct and Cumulative);

- Land Use (Direct and Cumulative);
- Noise (Direct and Cumulative);
- Paleontological Resources (Cumulative);
- Parking (Direct and Cumulative);
- Public Services;
- Visual Effects and Neighborhood Character(Direct and Cumulative); and
- Water Quality (Direct and Cumulative).

As described in Section VI. of these Findings, potentially significant and/or cumulative impacts could occur with respect to the following issues:

- Biological Resources (Raptors) (Direct);
- Paleontological Resources (Direct);
- Public Services (Solid Waste) (Cumulative); and
- Transportation/Circulation (Direct and Cumulative).

Direct impacts from the proposed project on the biological and paleontological resources will be mitigated to below a level of significance by existing regulations/standard conditions, project design features/special development requirements, and/or mitigation measures that will be made conditions of project approval. Some, but not all, of the direct and cumulative impacts of the project on transportation/circulation/parking would be reduced to below a level of significance by mitigation measures identified in Section VI. Potentially significant cumulative impacts related to public services (solid waste) would be mitigated to below a level of significance by existing regulations/standard conditions, project design features/special development requirements.

VI. FINDINGS REGARDING SIGNIFICANT IMPACTS

In making each of the findings below, the City has considered the project design features (PDFs), plans, programs and policies (PPPs) and mitigation measures listed in the FEIR. The PDFs described in the FEIR are part of the Project that the City has considered, and are explicitly made conditions of Project approval. The PPPs discussed in the FEIR are existing regulatory plans and programs the Project is subject to, and, likewise, are explicitly made conditions of Project approval. The mitigation measures will be made conditions of project approval and included in the MMRP.

A. Findings Regarding Impacts that can be Mitigated to Below a Level of Significance (Public Resources Code §21081(a)(1))

The City, having reviewed and considered the information contained in the Final EIR, finds pursuant to CEQA §21081(a)(1) and CEQA Guidelines §15091(a)(1) that changes or alterations have been required in, or incorporated into, the project which would mitigate, avoid, or substantially lessen to below a level of significance the following potential significant environmental effects identified in the EIR:

- Transportation/Circulation (Direct increase in queuing at the Via de la Valle and Flower Hill Promenade main driveway intersection and cumulative impact on Via de la Valle between San Andres Drive and El Camino Real [West]);
- Biological resources (Indirect impact on raptors);
- Paleontological resources (Direct impact on paleontological resources); and
- Public services (Cumulative impact on landfill capacity).

The basis for this conclusion follows.

1. Transportation/Circulation (Direct increase in queuing at the Via de la Valle and Flower Hill Promenade main driveway intersection)

Significant Impact: Increased queuing could lead to a significant direct and cumulative traffic safety impact at the Via de la Valle/Flower Hill Promenade driveway intersection. A post-expansion queuing analysis was completed for the southbound approach at the traffic signal to determine on-site queues expected during the AM and PM peak hours in both the direct and cumulative conditions (EIR Table 5.2-14). This analysis found that sufficient lane lengths exist to "store" vehicles under the near-term and horizon year scenarios with the project except at the southbound left-turn lane. This potential access impact is considered significant.

Finding: Significant but mitigated.

Facts in Support of Finding: Mitigation Measure 5.2-4 would ensure that increased queuing related to the proposed project would not impact the Via de la Valle/Flower Hill Promenade driveway. This measure would require "Keep Clear" pavement signage on-site where the driveway meets the east/west circulation aisle approximately 100 feet north of Via de la Valle. Additionally, no stop signs would be allowed to northbound traffic at the location where the main project driveway meets the east/west circulation aisle. Inclusion of these mitigation measures in the Project would reduce impacts on the Via de la Valle/Flower Hill Promenade Driveway intersection to below a level of significance.

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2. Transportation/Circulation (Cumulative increase in traffic on Via de la Valle between San Andres Drive and Via de la Valle [West] and at the Via de la Valle/El Camino Real [West] intersection)

Significant Impact: Project traffic would have a significant cumulative impact on the level of service on Via de la Valle between San Andres Drive and El Camino Real (West) as well as the Via de la Valle/El Camino Real (West) intersection, when combined with other planned projects. This potential increase impact is considered cumulatively significant. A horizon-year segment level of service analysis was completed as a part of the traffic analysis (EIR Table 5.2-11). This analysis found that the volume would exceed the capacity on the Via de la Valle segment between San Andres Drive and El Camino Real (West) and the LOS would be unacceptable LOS F in the cumulative condition. Since the project would contribute over 0.1 to the volume to capacity ratio at this segment operating at LOS F in the horizon year, the project contribution was considered a significant cumulative impact.

The analysis also found that the intersection of Via de la Valle and El Camino Real (West) would operate at unacceptable LOS F, and traffic would experience a significant delay at this intersection under the cumulative condition. Since the project would contribute over a one second of delay to this intersection that would operate at LOS F in the horizon year, the project traffic contribution was considered to result in a significant cumulative impact at the Via de la Valle and El Camino Real (West) intersection.

Finding: Significant but mitigated.

Facts in Support of Finding: Mitigation Measure 5.2-1 would require the project applicant to make a financial contribution sufficient to cover the unfunded cost of planned improvements to Via de la Valle between San Andres Drive and El Camino Real (West). This contribution would also cover the unfunded cost of planned improvements to the Via de la Valle/El Camino Real (West) intersection. The City has adopted the Black Mountain Ranch Public Facilities Financing Plan (PFFP) and Facilities Benefit Assessment, Fiscal Year 2006, which includes PFFP Project No. T-32.1 for the widening of Via de la Valle between San Andres Drive to El Camino Real (West). In addition to advance funding from the Black Mountain Ranch development, additional funding implementing Project No. T-32.1 is expected to be borne by the fronting property owners or others with development contributing to transportation impacts to Via de la Valle as conditions of those projects' approval. However, no additional funds have been obtained. With the payment of up to \$3.8 million required by Mitigation Measure 5.2-1, the project applicant would be providing the other funding source for PFFP Project No. T-32.1.

3. Biological Resources (Indirect impact on raptors)

Significant Impact: The proposed project could potentially indirectly impact nesting raptors. Two sensitive animal species have potential to occur (nest) onsite: Cooper's hawk and the white-tailed kite. The site contains eucalyptus trees that provide suitable nesting habitat for these two sensitive raptor species. Nesting raptors are protected by California Fish and Game Code 3503.5 and the Migratory Bird Treaty Act. The project would remove some of the eucalyptus trees onsite, which could potentially cause a significant, direct impact to nesting raptors. The construction activities would generate noise and could indirectly impact nesting raptors in the

remaining eucalyptus trees. These potential indirect impacts to nesting raptors are considered significant.

Finding: Significant but mitigated.

Facts in Support of Finding: Mitigation Measure 5.6-1 would avoid potential significant indirect impacts to nesting raptors by requiring either: (1) avoidance of tree removal and construction during the raptor breeding season or (2) completion of a preconstruction raptor nest survey prior to construction within the breeding season to confirm that no raptors could be adversely impacted by construction activities. If a nest is located within the direct or indirect impact area of the project, mitigation in conformance with the City's Biology Guidelines will be completed to avoid impacts. Inclusion of this mitigation measure in the Project would reduce potential impacts to raptors to below a level of significance.

4. Paleontological Resources (Direct impact on paleontological resources)

Significant Impact: The proposed Project grading and excavation could have a potentially significant impact on paleontological resources. The proposed Project grading would excavate into Delmar-Torrey Sandstone and potentially Bay Point Formation, which have high potential to possess significant fossils. Considering that the project grading would involve 27,700 cubic yards (cy) of cut to a maximum depths of 42.1 feet, the City's Significance Determination Thresholds (2007) for paleontological resources would be exceeded. Thus, the project could have a direct significant impact to paleontological resources.

Finding: Significant but mitigated.

Facts in Support of Finding: Mitigation Measure 5.9-1 would assure that any significant paleontological resources encountered during site grading would be detected and salvaged. This measure requires a qualified paleontological monitor to observe grading activities and to provide the appropriate documentation. If paleontological resources are located, the resources will be required to be recorded by the paleontologist at the San Diego Natural History museum to ensure no significant paleontological information is lost. Inclusion of this mitigation measure in the Project would reduce impacts on the paleontological resources to below a level of significance.

5. Public Services (Cumulative impact on landfill capacity)

Significant Impact: The project would have a significant cumulative impact to solid waste. As solid waste generated by the expanded project would exceed 60 tons per year, the proposed project was determined to have a potentially significant cumulative impact to landfill capacity.

Finding: Significant but mitigated.

Facts in Support of Finding: Mitigation Measure 9.1-1 requires that the project construction plans include a waste management plan. The waste management plan will require 50 percent of the construction and demolition debris to be diverted away from the landfill. It is noted that the project would also include several design features to reduce waste and promote recycling during the operation of the project. Implementation of the waste management plan would reduce the project's cumulative impact on solid landfill capacity to below a level of significance.

B. Findings Regarding Mitigation Measures Which are the Responsibility of Another Agency (CEQA §21081(A)(2))

The City, having reviewed and considered the information contained in the Final EIR, finds pursuant to CEQA §21081(a)(2) and CEQA Guidelines §15091(a)(2), no changes or alterations which could reduce significant impacts that are within the responsibility and jurisdiction of another public agency.

C. Findings Regarding Infeasible Mitigation Measures and Alternatives (CEQA §21081(A)(3))

The City, having reviewed and considered the information contained in the Final EIR, finds pursuant to CEQA §21081(a)(3) and CEQA Guidelines §15091(a)(3) that (i) the EIR considers a reasonable range of project alternatives, and (ii) specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible specific mitigation measures and project alternatives identified in the Final EIR which could reduce the following significant transportation/circulation impacts:

- Via de la Valle between San Andres Drive and El Camino Real (West) (Direct); and
- San Andres Drive between Via de la Valle and Highland Drive (Direct and Cumulative).

The basis for this conclusion follows.

1. Infeasibility of Mitigation for Significant Unmitigated Impacts

a. Transportation/circulation (Direct increase in traffic volume on Via de la Valle between San Andres Drive and El Camino Real (West))

Significant Impact: The proposed project would have a significant direct traffic impact along the segment of Via de la Valle, between San Andres Drive and El Camino Real (West). A near-term segment level of service analysis was completed as a part of the traffic analysis (EIR Table 5.2-7). This analysis found that the volume would exceed the capacity on the Via de la Valle segment between San Andres Drive and El Camino Real (West) and the LOS would be unacceptable LOS F in the near-term condition. Since the project would contribute over 0.1 to the volume to capacity ratio at this segment operating at LOS F, the project was considered to have a significant direct impact.

Finding: Significant not mitigated.

Facts in Support of Finding: In order to avoid the direct impact on Via de la Valle, implementation of the project would need to be delayed until the planned improvements Via de la Valle have been initiated. This requirement is reflected in Mitigation Measure 5.2-2. The applicant's project is conditioned to provide a contribution of up to \$3.8 million for the unfunded portion of Public Facilities Financing Plan (PFFP) Project No. T-32.1 for the widening of Via de la Valle between San Andres Drive to El Camino Real (West); however, the start of construction

is not controlled of the applicant. As a result, the project applicant could be forced to delay the start of construction for an unknown period of time. A prolonged delay in construction could represent an economic hardship on the project applicant. Such a delay could create an economic burden because the applicant's contract for the specialty grocery store requires an occupancy permit by June 1, 2012. In order to meet this deadline, project construction must begin by mid-2011. The applicant could be left without a specialty grocer and with an un-leasable space if the Via de la Valle widening did not move forward in a timely manner. As a result, there is potential for this direct impact to remain significant and unmitigated.

b. Transportation/Circulation (Direct and cumulative increase in traffic on the segment of San Andres Drive between Via de la Valle and Highland Drive)

Significant Impact: Increased traffic would lead to a significant direct and cumulative capacity impact to the San Andres Drive segment between Via de la Valle and Highland Drive. A near-term and horizon-year segment level of service analysis was completed as a part of the traffic analysis (EIR Tables 5.2-7 and 5.2-11). This analysis found that the traffic volumes would exceed the capacity at the San Andres Drive segment and the level of service (LOS) would be an unacceptable LOS F in both the near-term and horizon-year conditions. Since the project would contribute over 0.1 to the volume to capacity ratio at this segment operating at LOS F in both the near-term and horizon-year condition, the project contribution was considered a significant direct and cumulative impact.

Finding: Significant not mitigated.

Facts in Support of Finding: Mitigation Measure 5.2-3 would alleviate the congestion created by new left turns from the northbound side of San Andres Drive into the shopping center at Flower Hill Drive. This mitigation would add a northbound, left-turn lane on San Andres Drive to allow northbound motorists wishing to enter the shopping center to move out of the main travel lane before turning onto Flower Hill Drive to access the center. The installation of the northbound, left-turn lane will allow San Andres Drive to carry the anticipated project traffic increase and would reduce the project's segment capacity impact to below a level of significance. However, in order to construct the left-turn lane, five of the additional 10 feet of right-of-way required to install the new left-turn lane is anticipated to be required to be obtained from the adjacent property owner.

This mitigation is infeasible because the adjacent property owner has indicated an unwillingness to make the required five feet of right of way available. The applicant has reached out to the adjacent owner on numerous occasions in an effort to resolve this issue, but the adjacent owner continues to refuse access to her property. This is consistent with the adjacent owner's testimony before the Carmel Valley Community Planning Board and City of San Diego Planning Commission, both of which voted in support of the project with the condition that no right of way be taken from the east side of San Andres Drive without the owner's consent. Moreover, the use of eminent domain in this instance would have negative economic, legal and social impacts for the City and the community. The City would likely incur substantial legal costs, as well as the cost of the condemned property, at a time when it is facing a budget deficit of nearly \$57 million. Pursuing eminent domain would also set a negative precedent of seizing private property for the benefit of private developers. The minor public benefit of constructing a

substandard left turn lane to mitigate just 11 peak hour trips does not outweigh the significant social, legal and economic costs of condemnation.

Due to the costs associated with condemnation, the applicant explored the possibility of taking all of the additional right of way needed to construct a left turn lane from the project site. Among these options is an eight-foot widening proposed by the adjacent property owner, as well as a 10-foot widening. The applicant's traffic engineer conducted an extensive analysis and concluded that the taper lengths would be too short, based on speeds on San Andres Drive, and a 50-foot, two-way left turn lane would be short and awkward. Placing all of the additional right-of-way on the subject property would also prevent the southbound lanes on San Andres Drive from aligning property with the receiving lanes. However, in an effort to mitigate the project's impacts while avoiding eminent domain, the applicant met with the City to discuss the possibility of taking the needed right of way from the left side. City staff rejected this option as technically infeasible and determined that there is no way to construct a left turn lane on San Andres Drive without condemnation, which has negative social, legal and economic costs as noted above. As a result, the potential direct and cumulative impact of the project on San Andres Drive between Via de la Valle and Highland Drive may be considered unmitigated.

2. Infeasibility of Project Alternatives to Reduce or Avoid Significant Impacts

The Final EIR for the project examines project alternatives in terms of their ability to meet the primary objectives of the project and eliminate or further reduce significant environmental effects. In addition, an alternative was developed to accommodate a longer left-turn lane on San Andres Drive. Based on these parameters, the following alternatives were considered:

- No Project;
- No Market;
- Reduced Market/No Retail/No Office;
- Market Only; and
- Flower Hill Drive Realignment.

The Final EIR concludes that the No Project Alternative would be the environmentally preferred alternative because it would eliminate all project-related impacts. However, State CEQA Guidelines Section 15126.6(e)(2) states that "if the environmentally superior alternative is the "No Project" alternative, the EIR shall also identify an environmentally superior alternative among the other alternatives". In this case, the environmentally superior alternative is the No Market Alternative since it would reduce several impacts (traffic and solid waste) to the greatest degree. The basis for these conclusions follows.

a. No Project

The No Project Alternative assumes that the Flower Hill Promenade remains in its current configuration. No improvements would occur onsite and the site would remain in its current condition.

Findings

Although this alternative would have no impacts, it was rejected because it would not fulfill the basic objective to redevelop the existing Flower Hill Promenade center.

b. No MarketProject Description

The No Market alternative would eliminate the 30,000 sf of proposed market uses. With the elimination of the market, it is assumed that the office uses would occupy a single-story building. All other features of this alternative would remain the same generally the same as the proposed project.

Findings

This alternative would reduce segment and intersection traffic impacts to less than significant levels; and reduce cumulative solid waste impacts, but not to less than significant levels. Biological and paleontological resource impacts would remain the same as the proposed project. The potential queuing impact at the main project driveway may also still occur under this alternative. This alternative was rejected because it would not fulfill the basic objective to provide a market and would significantly reduce the project's economic benefits. A study conducted by the National University System Institute for Policy Research (NUSIPR) in May 2010 found that the market is expected to have sales of \$31.6 million in 2012, with approximately 30.8 percent of sales being subject to California sales and use tax. As such, the market alone could generate more than \$170,000 annually for the City's General Fund and nearly \$73,000 for regional transportation. That represents more than 40 percent of the new sales tax revenues generated by the project. The market will also create numerous jobs that would not be realized under this alternative. In addition, the market will meet an unmet need and enhance the variety of goods offered to the community, allowing residents to shop closer to home and keeping the shopping center viable.

c. Reduced Market/No Retail/No OfficeProject Description

The Reduced Market/No Retail/No Office Alternative would reduce the market to 17,000 sf and eliminate the retail and office uses. All other features of this alternative would remain the same as the proposed project.

Findings

This alternative would reduce the Via de la Valle segment impact to less than significant, but the other traffic impacts would remain significant. The cumulative solid waste impacts would also be reduced, but not to less than significant levels. The biological and paleontological resource impacts would remain the same as the proposed project. This alternative was rejected because the market would be too small to attract a high end/specialty foods market tenant. The NUSIPR

economic study found that, without the specialty market, new sales tax revenues allocated toward the City's General Fund would be reduced by more than \$170,000 annually. Eliminating the additional retail would further reduce sales tax revenues for the City of San Diego by \$190,000 annually. The market and retail are also needed to create more than 200 new permanent, full-time jobs at the center. With regard to office space, this alternative would not meet the basic objective to provide opportunities for residents of the local community to work close to where they live and provide services for the community. Placing jobs and housing in proximity to one another would help to address the City's jobs/housing balance, as outlined in the City of San Diego General Plan's Strategic Framework.

d. Market Only

Project Description

The Market Only Alternative would eliminate the retail and office uses, but would retain the market at 30,000 sf in a single-story structure. All other features of this alternative would remain the same as the proposed project.

Findings

This alternative would reduce traffic impacts and reduce cumulative solid waste impacts of the proposed project, but not to less than significant levels. Biological and paleontological resource impacts would remain the same as the proposed project under this alternative. This alternative was rejected because it would not fulfill the basic objective to provide office uses and it would not avoid any significant project impacts.

e. Flower Hill Drive Realignment

Project Description

This alternative would move the current intersection of Flower Hill Drive and San Andres Drive approximately 160 feet of its current location in order to accommodate a longer northbound, left-turn lane. There would be no need to acquire additional right of way. The land uses associated with the Flower Hill Drive Realignment Alternative would be the same as the proposed project. Grading would be greater with this alternative, as additional grading into the hillside would be required to accommodate the realignment of Flower Hill Drive.

Findings

This alternative would eliminate the direct and cumulative impact of the proposed project on San Andres Drive by including a northbound left-turn lane. Traffic impacts on Via de la Valle, solid waste, biological resource, and paleontological resources would remain the same as the proposed project under this alternative. Although traffic noise along Flower Hill Drive would remain within allowable levels, traffic noise impacts near the realignment area would be greater than the proposed project since less noise attenuation would be provided through topography.

This alternative was rejected because of concerns expressed by the residents to the north of the project which currently use Flower Hill Drive for access. These residents and others have stated concerns about perceived safety issues related to moving Flower Hill Drive due to higher southbound speeds characteristic of the roadway to the north of the relocated roadway which result from the steepened grade to the north.

VII. STATEMENT OF OVERRIDING CONSIDERATIONS

Pursuant to Public Resources Code Section 21081(b) and Guidelines Section 15093, the City has balanced the benefits of the proposed project against unmitigated adverse impacts to Aesthetics/Visual Quality, Transportation/Circulation, Air Quality, and Public Utilities (Solid Waste) associated with the proposed project, and has adopted all feasible mitigation measures with respect to these significant and unmitigable impacts. The City also has examined alternatives to the proposed project, none of which is both environmentally preferable to the proposed project and meets the basic project objectives.

The City, after balancing the specific economic, legal, social, technological, and other benefits of the proposed project, has determined that the unmitigated adverse transportation/circulation impacts identified above are considered "acceptable" due to the following specific considerations which outweigh the unmitigated adverse environmental impacts of the proposed project. Each of the separate benefits of the proposed project, as stated herein, is determined to be, unto itself and independent of the other project benefits, a basis for overriding all unmitigated adverse environmental impacts identified in these Findings.

A. The Project Complies with the Community's Desire to Maintain the Alignment of Flower Hill Drive

The project originally called for relocating Flower Hill Drive to the north of Taste of Thai restaurant at the request of City staff. The project applicant amended the plans to eliminate the realignment of Flower Hill Drive in response to the community's wishes. Numerous members of the community, including homeowners associations, nearby property owners and the Carmel Valley Community Planning Board, expressed opposition to the relocation of Flower Hill Drive at public meetings and presentations. The Spindrift Homeowners Association particularly opposed the realignment due to perceived safety concerns and worked closely with the applicant to reach a resolution. Spindrift is a community of 144 homes located north of Flower Hill Promenade. Flower Hill Drive serves as Spindrift's only point of access through an existing easement. These factors support the decision to approve the project despite the significant unmitigated impacts to transportation/circulation.

Reference: Spindrift Del Mar Homeowners Association Presentation to City of San Diego Development Services, March 2010.

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B. The Project's Contribution to Planned Public Improvements to Via de la Valle

Prior to issuance of a Certificate of Occupancy, Owner/Permittee shall provide a Letter of Credit, cash payment, or bond equal to 7.7 percent of the Black Mountain Ranch Facilities Financing Plan fiscal Year 2006 cost estimate to complete the planned improvements identified in the Black Mountain Ranch Public Facilities Financing Plan as Project No. T-32.1 for the widening of Via de la Valle between San Andres Drive to El Camino Real (West), from a two lane to a four lane roadway. Prior to the issuance of the first building permit for a structure, Owner/Permittee shall pay the estimated cost, approved by the City Engineer, to form a cost reimbursement district to collect any funds necessary to complete Black Mountain Ranch Facilities Financing Plan Project T-32.1.

This specific factor supports the decision to approve the project despite the significant unmitigated impacts to transportation/circulation.

Reference: Recirculated DEIR §§ ES-6, 5.2-19.

C. The Project Will Create New Jobs for San Diegans

The proposed project is projected to add 206 permanent jobs, bringing full-time employment at the center to 526. There would be an estimated 304 full-time equivalent (FTE) jobs created during construction, with average annual wages of \$43,700. In addition, the proposed project is estimated to create 103 indirect and induced full-time positions. The jobs created by the proposed project would contribute to a reduction in San Diego County's unemployment rate, which was 10.1 percent in December 2010.

These specific factors support the decision to approve the project despite the significant unmitigated impacts to Transportation/Circulation.

Reference: *Economic Impact of Flower Hill Promenade*, National University System Institute for Policy Research, May 2010. California Employment Development Department.

D. The Project Addresses the City's Jobs/Housing Balance

The City of San Diego General Plan's Strategic Framework seeks to reduce traffic and increase livability by placing jobs and housing in proximity to one another, while encouraging the use of public transit. The proposed project would increase the amount of retail and office jobs available within close proximity to residential areas, thereby enhancing the jobs/housing balance in the City of San Diego.

These specific factors support the decision to approve the project despite the significant unmitigated impacts to Transportation/Circulation.

Reference: Recirculated DEIR §§ 3-1.

E. The Project Will Increase Economic Output for the Regional Economy

The proposed project is projected to have a significant impact on the regional economy. The annual direct economic output from the proposed project is expected to grow from the current

\$14.9 million to \$28.7 million, an increase of \$13.8 million, after the completion of the proposed renovation. Adding direct and induced economic impacts, the project is projected to provide a total economic impact of \$54.9 million annually.

These specific factors support the decision to approve the project despite the significant unmitigated impacts to Transportation/Circulation.

Reference: *Economic Impact of Flower Hill Promenade*, National University System Institute for Policy Research, May 2010.

F. The Project Will Generate Substantial New Tax Revenues for the City

The proposed project is estimated to generate a total of \$5.2 million per year in revenue from sales taxes, up 55 % from the current \$3.4 million. A significant portion of the total sales tax revenue, \$450,000 annually, is estimated to go toward transportation projects through the TransNet program. The project is estimated to contribute additional property tax revenue of \$366,000 annually. The provision of the aforementioned revenue streams for the City General Fund will help the City to maintain police and fire protection, parks, roads, and other infrastructure around the City. The project's revenue generation will positively impact the entire City and not just the area around the project site.

These specific factors support the decision to approve the project despite the significant unmitigated impacts to Transportation/Circulation.

Reference: *Economic Impact of Flower Hill Promenade*, National University System Institute for Policy Research, May 2010.

G. The Project Will Revitalize the Shopping Center and Create Community Space

Flower Hill Promenade has not received a significant renovation since it was built in 1976. The proposed project would serve to refresh and revitalize the shopping center to prevent it from deteriorating to a level that negatively impacts the surrounding community. Expanded entrances, new landscaping, improved facades, enhanced paving and improved signage proposed for the project would serve to restore the shopping center. The proposed project would be completed in the North County Coastal architectural style. Additionally, the proposed restoration of Flower Hill Promenade would add community gathering areas including, a public courtyard with a fountain and seating.

These specific factors support the decision to approve the project despite the significant unmitigated impacts to Transportation/Circulation.

Reference: Recirculated DEIR §§ 3-2.

H. The Project Will Incorporate Environmentally Sustainable Building Features to Reduce Greenhouse Gas Emissions

Numerous environmentally sustainable building features have been incorporated into the proposed project to reduce greenhouse gas emissions. The proposed renovation of Flower Hill Promenade will include the installation of efficient lighting and lighting control systems. Energy-efficient heating and cooling systems, appliances, equipment and controls will be

installed. The hours of operation of outdoor lighting will be limited to conserve energy. Thermal-efficient glazing/fenestration systems will be used, as will "cool roof" materials. Filters will be installed on drain inlets to prevent pollution from runoff. The proposed project's use of "green" building and operational standards will enhance sustainability of San Diego development and serve as a model for future projects.

These specific factors support the decision to approve the project despite the significant unmitigated impacts to Transportation/Circulation.

Reference: Recirculated DEIR §§ 3-6

I. Water Conservation Measures Will be Utilized in the Project

The proposed project would adhere to water-conservation building standards for plumbing and landscaping. Water-conservation design features such as the use of water-efficient landscaping would be incorporated into the proposed project. Water-efficient irrigation systems and devices, such as soil moisture-based irrigation controls, would be installed. The use of turf would also be minimized. These efforts will help the City comply with the Long Term Water Resource Plan, which calls for 11% of demand to be met through conservation.

These specific factors support the decision to approve the project despite the significant unmitigated impacts to Transportation/Circulation.

Reference: Recirculated DEIR §§ 5.10-9

J. The Project Will Include Recycling Benefits

A comprehensive recycling program for construction waste and tenants and shoppers would reduce waste sent to area landfills. The Integrated Waste Management Act of 1989 (AB 939) was enacted by the California Legislature to reduce the landfilling of solid waste, and to ensure an effective and integrated approach to the safe management of all solid waste generated within the state. One of the largest contributors of land fill waste is construction and demolition waste material.

The Flower Hill Promenade project will implement a comprehensive recycling program that will divert 50% of construction and demolition waste from the project away from local landfills and help the City to meet its AB 939 mandates. Reusable building materials will also be salvaged and recycled before demolition. Participation in this program will provide a significant benefit to the City and help prolong land fill capacity.

The proposed project will provide interior and exterior storage areas for recyclables. Recycling containers will be placed in public areas. Tenants and consumers will also be provided education regarding the necessity of recycling. Landscape companies will be mandated to recycle or mulch green waste to the greatest extent possible.

These specific factors support the decision to approve the project despite the significant unmitigated impacts to Transportation/Circulation.

Reference: Recirculated DEIR §§ ES-21, 3-6

K. The Project Will Expand Retail Shopping Opportunities for Residents in North City, Solana Beach and Del Mar

The proposed revitalization of Flower Hill Promenade will offer expanded and enhanced retail shopping opportunities for nearby residents with the addition of a 35,000 square foot specialty grocery store. Additionally the proposed project will provide space for boutique retail outlets and dining opportunities. The additional retail square footage will create added opportunities for customers to find the goods they are looking for while creating a competitive marketplace to keep prices reasonable.

These specific factors support the decision to approve the project despite the significant unmitigated impacts to Transportation/Circulation.

Reference: Recirculated DEIR §§ 3-1, 3-2

For the foregoing reasons, the City of San Diego concludes that the proposed Flower Hill Promenade project will result in numerous public benefits beyond those required to mitigate project impacts, each of which individually is sufficient to outweigh the unmitigated environmental impacts of the proposed project. Therefore, the City of San Diego has adopted this Statement of Overriding Considerations.

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CARMEL VALLEY COMMUNITY PLANNING BOARD

**Attn: Allen Kashani, CVCPB Secretary
13400 Sabre Springs Pkwy, Ste. 200
San Diego CA 92128
858-794-2571 / Fax: 858-794-2599**

June 27, 2017

Craig Watson
Fusco Engineering

Re: Flower Hill Mall Tentative Map Waiver

Dear Craig:

The Carmel Valley Community Planning Board considered your request to support the Tentative Map Waiver to subdivide Parcel 2 into two lots strictly for mapping purposes. No new onsite improvements, such as building expansions are a part of this TM waiver.

The Board considered the abovementioned project on June 22, 2017 and supported the waiver by a vote of 11-0.

Sincerely,
Carmel Valley Community Planning Board



Frisco White, AIA
Chair



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

Ownership Disclosure Statement

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

Project Title

Flower Hill Mall

Project No. For City Use Only

508618

Project Address:

15770 San Andres Dr., Del Mar, CA 92014

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

By signing the Ownership Disclosure Statement, the owner(s) acknowledge that an application for a permit, map or other matter, as identified above, will be filed with the City of San Diego on the subject property, with the intent to record an encumbrance against the property. Please list below the owner(s) and tenant(s) (if applicable) of the above referenced property. The list must include the names and addresses of all persons who have an interest in the property, recorded or otherwise, and state the type of property interest (e.g., tenants who will benefit from the permit, all individuals who own the property). A signature is required of at least one of the property owners. Attach additional pages if needed. A signature from the Assistant Executive Director of the San Diego Redevelopment Agency shall be required for all project parcels for which a Disposition and Development Agreement (DDA) has been approved / executed by the City Council. Note: The applicant is responsible for notifying the Project Manager of any changes in ownership during the time the application is being processed or considered. Changes in ownership are to be given to the Project Manager at least thirty days prior to any public hearing on the subject property. Failure to provide accurate and current ownership information could result in a delay in the hearing process.

Additional pages attached Yes No

Name of Individual (type or print):
 Protea Flower Hill Mall, LLC

Owner Tenant/Lessee Redevelopment Agency

Street Address:
 3262 Holiday Court, Suite 100

City/State/Zip:
 La Jolla, CA 92037

Phone No: (858) 457-5593 Fax No: (858) 457-5689

Signature:  Date: 08/18/2016

Name of Individual (type or print):

Owner Tenant/Lessee Redevelopment Agency

Street Address:

City/State/Zip:

Phone No: Fax No:

Signature : Date:

Name of Individual (type or print):

Owner Tenant/Lessee Redevelopment Agency

Street Address:

City/State/Zip:

Phone No: Fax No:

Signature : Date:

Name of Individual (type or print):

Owner Tenant/Lessee Redevelopment Agency

Street Address:

City/State/Zip:

Phone No: Fax No:

Signature : Date:

Project Title: Flower Hill Mall	Project No. (For City Use Only)
---	--

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

Legal Status (please check):

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

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

Corporate/Partnership Name (type or print):
 Protea Flower Hill Mall, LLC

Owner
 Tenant/Lessee

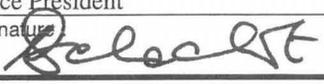
Street Address:
 3262 Holiday Court, Ste. 100

City/State/Zip:
 La Jolla/ CA/ 92037

Phone No: 858-457-5593 Fax No: (858) 457-5689

Name of Corporate Officer/Partner (type or print):
 Howard Schachat

Title (type or print):
 Vice President

Signature:  Date: 08/18/16

Corporate/Partnership Name (type or print):

Owner
 Tenant/Lessee

Street Address:

City/State/Zip:

Phone No: Fax No:

Name of Corporate Officer/Partner (type or print):

Title (type or print):

Signature : Date:

Corporate/Partnership Name (type or print):

Owner
 Tenant/Lessee

Street Address:

City/State/Zip:

Phone No: Fax No:

Name of Corporate Officer/Partner (type or print):

Title (type or print):

Signature : Date:

Corporate/Partnership Name (type or print):

Owner
 Tenant/Lessee

Street Address:

City/State/Zip:

Phone No: Fax No:

Name of Corporate Officer/Partner (type or print):

Title (type or print):

Signature : Date:

Corporate/Partnership Name (type or print):

Owner
 Tenant/Lessee

Street Address:

City/State/Zip:

Phone No: Fax No:

Name of Corporate Officer/Partner (type or print):

Title (type or print):

Signature : Date:

Corporate/Partnership Name (type or print):

Owner
 Tenant/Lessee

Street Address:

City/State/Zip:

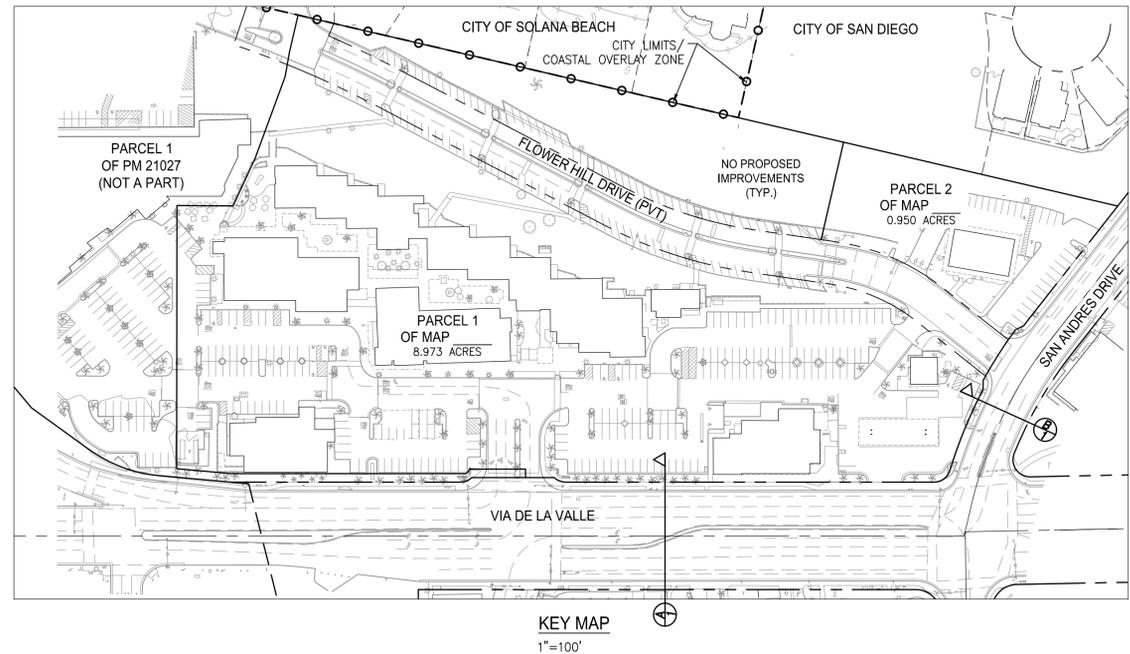
Phone No: Fax No:

Name of Corporate Officer/Partner (type or print):

Title (type or print):

Signature : Date:

TENTATIVE MAP WAIVER NO.1812540



DEVELOPMENT SUMMARY

EXISTING CONDITIONS
COMMERCIAL RETAIL

PROPOSED DEVELOPMENT
N/A

PROJECT AREA
TOTAL SITE AREA: 9.923 AC.
TOTAL NUMBER OF PARCELS = 1 (EXISTING)
TOTAL NUMBER OF PARCELS = 2 (PROPOSED)

PROJECT TEAM
CIVIL ENGINEER: FUSCOE ENGINEERING
(858) 554-1500

PROJECT ADDRESS
15770 SAN ANDRES DR., DEL MAR CA 92014

LEGAL DESCRIPTION
PARCEL 2 OF PARCEL MAP No 21027, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, FILED IN THE OFFICE OF THE COUNTY RECORDER ON JANUARY 28, 2013 AS INSTR. # 2013-0058006 OF OFFICIAL RECORDS

ASSESSOR PARCEL NUMBER
298-490-50-00

OWNER/APPLICANT
PROTEA FLOWER HILL MALL LLC/ HOWARD SCHACHAT

EXISTING ZONING DESIGNATION
COMMERCIAL-COMMUNITY CC-1-3

BENCHMARK
CITY OF SAN DIEGO BENCHMARK BEING A BRASS PLUG AT NORTHWEST CORNER OF VIA DE LA VALLE AND DEL MAR DOWNS
ELEV = 29.678' M.S.L. (NGVD29 1970 CITY OF SAN DIEGO ADJUSTMENT)

TOPOGRAPHY SOURCE
THE TOPOGRAPHY SHOWN WAS FROM AERIAL SURVEY DATED JUNE 13, 2016 BY AEROTECH MAPPING INC.

MAPPING AND MONUMENTATION
ALL PROPERTY CORNERS WILL BE SET AND A PARCEL MAP WILL BE FILED UPON APPROVAL OF THE MAP WAIVER. A DETAILED PROCEDURE OF SURVEY WILL BE SHOWN ON THE PARCEL MAP.

BASIS OF BEARINGS
THE BEARING OF N89°09'50"W ALONG THE NORTH LINE OF PARCELS 1 AND 2 OF PARCEL MAP NUMBER 21027, IN THE COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, WAS USED AS THE BASIS OF BEARINGS FOR THIS MAP WAIVER.

TITLE REPORT
PREPARED BY:
STEWART TITLE OF CALIFORNIA, INC.
7676 HAZARD CENTER DR., 14TH FLOOR
SAN DIEGO, CA 92108
(619) 398-8035
ORDER NO: 01180-259526
DATED: FEBRUARY 15, 2017

EXISTING EASEMENTS*

- *THE FOLLOWING EASEMENTS COULD NOT BE PLOTTED FROM RECORD INFORMATION
- AN EASEMENT AFFECTING SAID LAND FOR THE PURPOSES STATED HEREIN AND INCIDENTAL PURPOSES IN FAVOR OF: SAN DIEGO GAS AND ELECTRIC COMPANY
FOR: ACCESS AND UTILITIES
RECORDED: NOVEMBER 18, 1975 AS INSTR. # 75-323358 OF OFFICIAL RECORDS
LOCATION OF SAID EASEMENT CANNOT BE PLOTTED FROM RECORD.
 - AN EASEMENT AFFECTING SAID LAND FOR THE PURPOSES STATED HEREIN AND INCIDENTAL PURPOSES IN FAVOR OF: SAN DIEGO GAS AND ELECTRIC COMPANY
FOR: ACCESS AND UTILITIES
RECORDED: NOVEMBER 1, 1976 AS INSTR. # 76-363527 OF OFFICIAL RECORDS
SAID MATTER AFFECTS A PORTION OF SAID LAND AS MORE PARTICULARLY DESCRIBED IN SAID DOCUMENT.
 - AN EASEMENT AFFECTING SAID LAND FOR THE PURPOSES STATED HEREIN AND INCIDENTAL PURPOSES IN FAVOR OF: SAN DIEGO GAS AND ELECTRIC COMPANY
FOR: ACCESS AND UTILITIES
RECORDED: SEPTEMBER 20, 1977 AS INSTR. # 77-384876, OF OFFICIAL RECORDS
SAID MATTER AFFECTS A PORTION OF SAID LAND AS MORE PARTICULARLY DESCRIBED IN SAID DOCUMENT.
 - AN EASEMENT AFFECTING SAID LAND FOR THE PURPOSES STATED HEREIN AND INCIDENTAL PURPOSES IN FAVOR OF: SAN DIEGO GAS AND ELECTRIC COMPANY
FOR: ACCESS AND UTILITIES
RECORDED: JANUARY 11, 1984 AS INSTR. # 84-011311, OF OFFICIAL RECORDS
LOCATION OF SAID EASEMENT CANNOT BE PLOTTED FROM RECORD.
 - A DOCUMENT ENTITLED "EASEMENT MAINTENANCE AGREEMENT", DATED NOVEMBER 7, 1984 EXECUTED BY TERRAL INVESTMENT COMPANY, A CALIFORNIA CORPORATION, AND INVESTORS LEASING CORPORATION, A CALIFORNIA CORPORATION, AND PELICAN BAY DEVELOPMENT COMPANY, INC., A CALIFORNIA CORPORATION, SUBJECT TO ALL THE TERMS, PROVISIONS AND CONDITIONS THEREIN CONTAINED, RECORDED JANUARY 14, 1985 AS INSTR. # 85-010905, OFFICIAL RECORDS.
 - AN AGREEMENT TO WHICH REFERENCE IS MADE FOR FULL PARTICULARS DATED MAY 2, 2008, BY AND BETWEEN PROTEA FLOWER HILL MALL, LLC AND THE CITY OF SAN DIEGO, REGARDING "SHARED PARKING AGREEMENT", RECORDED MAY 2, 2008, AS INSTR. # 2008-0236821 OF OFFICIAL RECORDS.
 - AN AGREEMENT TO WHICH REFERENCE IS MADE FOR FULL PARTICULARS DATED JULY 2, 2008, BY AND BETWEEN PROTEA FLOWER HILL MALL, LLC, A CALIFORNIA LIMITED LIABILITY COMPANY, REGARDING "DECLARATION OF RECIPROCAL EASEMENTS FOR PARKING AND MAINTENANCE AGREEMENT", RECORDED JULY 2, 2008, AS INSTR. NO. 2008-0354924, OF OFFICIAL RECORDS.
 - AN EASEMENT FOR PUBLIC UTILITIES, APPURTENANCES, INGRESS, EGRESS AND RIGHTS INCIDENTAL THERETO IN FAVOR OF THE SAN DIEGO GAS AND ELECTRIC COMPANY AS SET FORTH IN A DOCUMENT RECORDED OCTOBER 7, 2011 AS INSTR. # 2011-0527151, OF OFFICIAL RECORDS, AFFECTS A PORTION OF THE HEREIN DESCRIBED LAND. THE EXACT LOCATION OF THE EASEMENT IS NOT DISCLOSED BY THE INSTRUMENT.
 - AN EASEMENT FOR PUBLIC UTILITIES, APPURTENANCES, INGRESS, EGRESS AND RIGHTS INCIDENTAL THERETO IN FAVOR OF THE SAN DIEGO GAS AND ELECTRIC COMPANY AS SET FORTH IN A DOCUMENT RECORDED MARCH 2, 2012 AS INSTR. # 2012-0122788, AFFECTS A PORTION OF THE HEREIN DESCRIBED LAND. THE EXACT LOCATION OF THE EASEMENT IS NOT DISCLOSED BY THE INSTRUMENT.
 - AN AGREEMENT BETWEEN THE CITY OF SAN DIEGO AND THE OWNER, RECORDED FEBRUARY 14, 2014 AS INSTR. # 2014-0062982, OF OFFICIAL RECORDS, RELATING TO THE INSTALLATION, MAINTENANCE AND REMOVAL OF 12" AND 30" STORM DRAIN, AND EXISTING BUILDING, LANDSCAPE AND IRRIGATION.
 - THE MATTERS CONTAINED IN AN INSTRUMENT ENTITLED "STORM WATER MANAGEMENT AND DISCHARGE CONTROL MAINTENANCE AGREEMENT", BY AND BETWEEN THE CITY OF SAN DIEGO, A MUNICIPAL CORPORATION AND PROTEA FLOWER HILL MALL, LLC UPON THE TERMS THEREIN PROVIDED RECORDED FEBRUARY 14, 2014 AS INSTR. NO. 2014-0062985, OF OFFICIAL RECORDS.

ENGINEER OF WORK

FUSCOE ENGINEERING
6390 GREENWICH DRIVE, SUITE 170
SAN DIEGO, CA 92122
TELEPHONE: (858) 554-1500

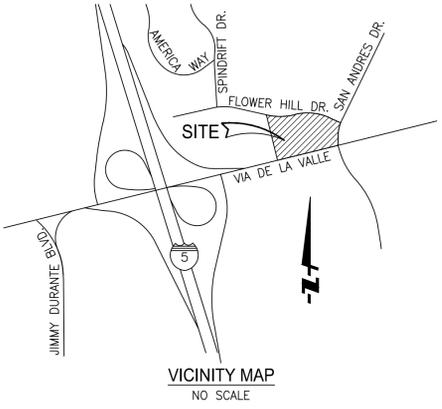
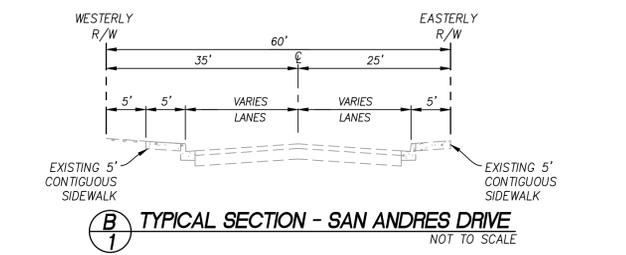
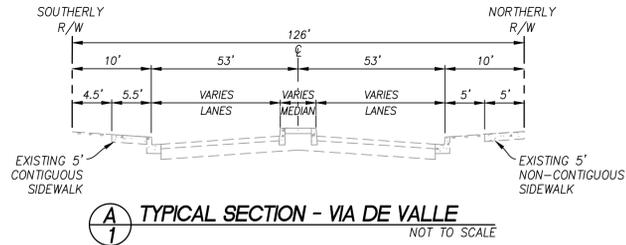
BY: _____ DATE: _____

OWNER'S CERTIFICATE

PROTEA FLOWER HILL MALL LLC
BY: _____
NAME: _____
TITLE: _____

SHEET INDEX

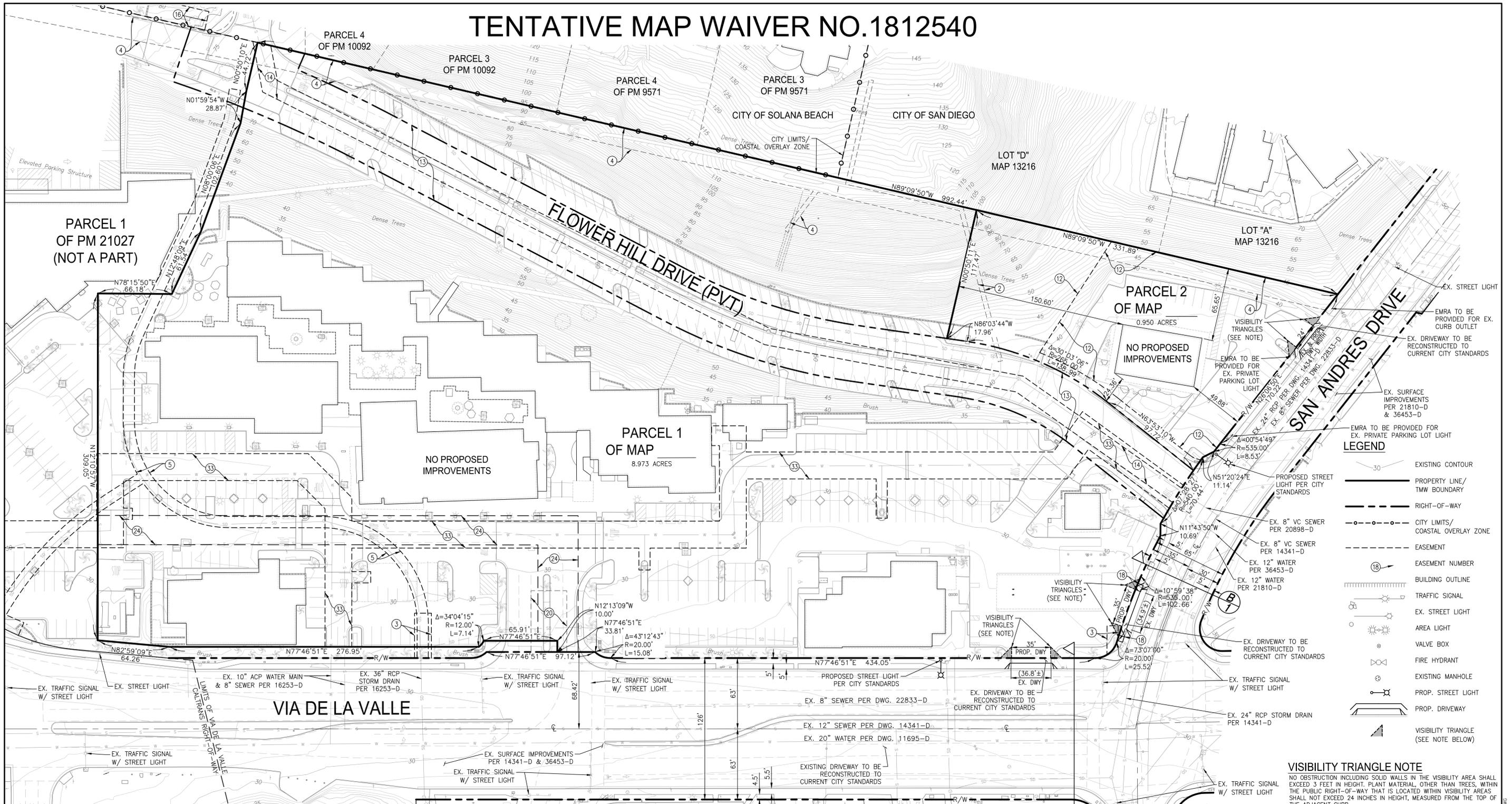
TITLE SHEET.....SHEET 1
EXISTING CONDITIONS.....SHEET 2
PROPOSED CONDITIONS.....SHEET 3



TENTATIVE MAP WAIVER FOR:			
FLOWER HILL MALL			
TITLE SHEET			
SHEET 1 OF 3 SHEETS			
DESCRIPTION	BY	DATE	I.O. NO. 24006939
REVISED PROP. LOT ACREAGE	FEI	6/28/17	PTS. NO. 508618
			V.T.M. --
			1936-6253
			NAD83 COORDINATES
			296-1693
			LAMBERT COORDINATES

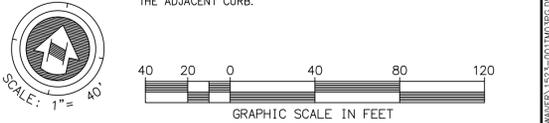
PROJECT: 1523-0070-0000-ENTIREMENTS-VIA MAPWAIVER1523-0070-0000-0000

TENTATIVE MAP WAIVER NO. 1812540



- LEGEND**
- EXISTING CONTOUR
 - PROPERTY LINE/TMWB BOUNDARY
 - RIGHT-OF-WAY
 - CITY LIMITS/COASTAL OVERLAY ZONE
 - EASEMENT
 - EASEMENT NUMBER
 - BUILDING OUTLINE
 - TRAFFIC SIGNAL
 - EX. STREET LIGHT
 - AREA LIGHT
 - VALVE BOX
 - FIRE HYDRANT
 - EXISTING MANHOLE
 - PROP. STREET LIGHT
 - PROP. DRIVEWAY
 - VISIBILITY TRIANGLE (SEE NOTE BELOW)

VISIBILITY TRIANGLE NOTE
 NO OBSTRUCTION INCLUDING SOLID WALLS IN THE VISIBILITY AREA SHALL EXCEED 3 FEET IN HEIGHT. PLANT MATERIAL, OTHER THAN TREES, WITHIN THE PUBLIC RIGHT-OF-WAY THAT IS LOCATED WITHIN VISIBILITY AREAS SHALL NOT EXCEED 24 INCHES IN HEIGHT, MEASURED FROM THE TOP OF THE ADJACENT CURB.



EXISTING EASEMENTS

- 2 AN EASEMENT FOR PUBLIC UTILITIES, APPURTENANCES, INGRESS, EGRESS AND RIGHTS INCIDENTAL THERETO IN FAVOR OF THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY AS SET FORTH IN A DOCUMENT RECORDED NOVEMBER 9, 1961 AS INSTRUMENT NO. 195159, OF OFFICIAL RECORDS, AFFECTS A PORTION OF THE HEREIN DESCRIBED LAND.
- 3 AN EASEMENT AFFECTING THE PORTION OF SAID LAND AND FOR THE PURPOSES STATED HEREIN AND INCIDENTAL PURPOSES, SHOWN OR DEDICATED BY MAP NO.: 6736 FOR: DRAINAGE AFFECTS: AS SHOWN ON MAP 6736 AND ON PARCEL MAP 7413
- 4 AN EASEMENT AFFECTING SAID LAND FOR THE PURPOSES STATED HEREIN AND INCIDENTAL PURPOSES IN FAVOR OF: SAN DIEGO GAS AND ELECTRIC COMPANY FOR: ACCESS AND UTILITIES RECORDED: OCTOBER 12, 1972 AS INSTR. # 273584 OF OFFICIAL RECORDS SAID MATTER AFFECTS A PORTION OF SAID LAND AS MORE PARTICULARLY DESCRIBED IN SAID DOCUMENT.
- 5 AN EASEMENT AFFECTING SAID LAND FOR THE PURPOSES STATED HEREIN AND INCIDENTAL PURPOSES IN FAVOR OF: THE CITY OF SAN DIEGO, A MUNICIPAL CORPORATION FOR: A STORM DRAIN OR DRAINS AND A WATER MAIN OR MAINS RECORDED: OCTOBER 23, 1975 AS INSTR. # 293687 OF OFFICIAL RECORDS SAID MATTER AFFECTS A PORTION OF SAID LAND AS MORE PARTICULARLY DESCRIBED IN SAID DOCUMENT. THE PORTION HEREOF FOR WATER WAS VACATED BY PARCEL MAP NO. 21027
- 12 AN EASEMENT FOR PUBLIC UTILITIES, APPURTENANCES, INGRESS, EGRESS AND RIGHTS INCIDENTAL THERETO IN FAVOR OF THE SAN DIEGO GAS AND ELECTRIC COMPANY AS SET FORTH IN A DOCUMENT RECORDED OCTOBER 18, 1977 AS INSTRUMENT NO. 77-427493, OF OFFICIAL RECORDS, AFFECTS A PORTION OF THE HEREIN DESCRIBED LAND.
- 13 AN EASEMENT AFFECTING SAID LAND FOR THE PURPOSES STATED HEREIN AND INCIDENTAL PURPOSES IN FAVOR OF: TERRAL INVESTMENT COMPANY, A CALIFORNIA CORPORATION, AND INVESTORS LEASING CORPORATION, A CALIFORNIA CORPORATION, EACH AS TO AN UNDIVIDED ONE-HALF INTEREST FOR: ROAD, SEWER, WATER, GAS LINE, TELEPHONE LINES AND OTHER UTILITIES RECORDED: SEPTEMBER 30, 1983 AS INSTR. # 83-352043, OF OFFICIAL RECORDS SAID MATTER AFFECTS A PORTION OF SAID LAND AS MORE PARTICULARLY DESCRIBED IN SAID DOCUMENT. AND AMENDED JANUARY 14, 1985 AS INSTRUMENT NO. 85-010905, OF OFFICIAL RECORDS.
- 14 AN EASEMENT FOR SEWER LINE AND RIGHTS INCIDENTAL THERETO IN FAVOR OF THE CITY OF SAN DIEGO AS SET FORTH IN A DOCUMENT RECORDED DECEMBER 23, 1983 AS INSTR. # 83-469674, OF OFFICIAL RECORDS, AFFECTS A PORTION OF THE HEREIN DESCRIBED LAND.
- 16 A DOCUMENT ENTITLED "DEED OF EASEMENT AND AGREEMENT", DATED (NOT SHOWN) EXECUTED BY PELICAN BAY DEVELOPMENT COMPANY, INC., A CALIFORNIA CORPORATION, TERRAL INVESTMENT COMPANY, A CALIFORNIA CORPORATION, AND INVESTORS LEASING CORPORATION, A CALIFORNIA CORPORATION, SUBJECT TO ALL THE TERMS, PROVISIONS AND CONDITIONS THEREIN CONTAINED, RECORDED DECEMBER 17, 1984 AS INSTR. # 84-469357 OF OFFICIAL RECORDS.
- 18 AN EASEMENT FOR WATER FACILITIES AND RIGHTS INCIDENTAL THERETO IN FAVOR OF THE CITY OF SAN DIEGO AS SET FORTH IN A DOCUMENT RECORDED FEBRUARY 12, 1996 AS INSTRUMENT NO. 96-057553, OF OFFICIAL RECORDS SAID MATTER AFFECTS A PORTION OF SAID LAND AS MORE PARTICULARLY DESCRIBED IN SAID DOCUMENT.
- 20 AN EASEMENT AFFECTING SAID LAND FOR THE PURPOSES STATED HEREIN AND INCIDENTAL PURPOSES IN FAVOR OF: THE CITY OF SAN DIEGO FOR: ELECTRICAL FACILITIES RECORDED: NOVEMBER 21, 1991 AS INSTR. # 1991-060290, OF OFFICIAL RECORDS SAID MATTER AFFECTS A PORTION OF SAID LAND AS MORE PARTICULARLY DESCRIBED IN SAID DOCUMENT.
- 24 AN EASEMENT OR OTHER PROVISIONS FOR THE PURPOSE OF ACCESS AND RIGHTS INCIDENTAL THERETO AS SHOWN ON THE RECORDED PARCEL MAP NO. 20470, WHICH AFFECTS AS SHOWN ON SAID PARCEL MAP.
- 33 AN EASEMENT WITH THE RIGHT OF INGRESS AND EGRESS FOR THE CONSTRUCTION AND MAINTENANCE OF WATER FACILITIES, OVER, UPON, AND ACROSS ALL THOSE PORTIONS OF THE SUBJECT PROPERTY AS GRANTED ON PARCEL MAP NO. 21027 RECORDED JANUARY 28, 2013 AS INSTRUMENT NO. 2013-0058006 OF OFFICIAL RECORDS.



FUSCOE ENGINEERING
 6390 Greenwich Drive, Suite 170
 San Diego, California 92122
 tel 858.554.1500 • fax 858.597.0335
 www.fuscoe.com

TENTATIVE MAP WAIVER FOR:
FLOWER HILL MALL
 PROPOSED CONDITIONS
 SHEET 3 OF 3 SHEETS

DESCRIPTION	BY	DATE	I.O. NO.
REVISED PROP. LOT ACREAGE	FEI	6/28/17	24006939
			PTS NO. 508618
			V.T.M. ---
			1936-6253
			NAD83 COORDINATES
			296-1693
			LAMBERT COORDINATES