THE CITY OF SAN DIEGO

REPORT TO THE PLANNING COMMISSION

DATE ISSUED: January 10, 2013 **REPORT NO. PC-13-004**

ATTENTION: Planning Commission, Agenda of January 17, 2013

SUBJECT: ENCORE TRUST RESIDENCE - PROJECT NO. 237107. PROCESS 3

REFERENCE: REPORT TO HEARING OFFICER - REPORT NO. HO-12-090

OWNER/ APPLICANT: Armand Kessous and Alain Paris, Trustees of Encore Trust, Owner
Mr. Paul Metcalf, Consultant

SUMMARY

Issue: Should the Planning Commission approve or deny an appeal of the Hearing Officer's decision to approve a request to construct a two-story single family residence on a previously developed portion of a 66,256 square foot property in the La Jolla Community Plan area?

Staff Recommendation:

1. CERTIFY Mitigated Negative Declaration No. 237107 and ADOPT the Mitigation, Monitoring and Reporting Program (MMRP); and

2. DENY the appeal and APPROVE Coastal Development Permit No. 852026, an amendment to Coastal Development Permit No. 690317, and Site Development Permit No. 852027, an amendment to Site Development No. 690318.

Community Planning Group Recommendation: The La Jolla Community Planning Association voted 8-3-3 to recommend approval of the project at their meeting on March 1, 2012. Their recommendation did not include any additional conditions or comments (Attachment 14).

Environmental Review: Mitigated Negative Declaration No. 237107 has been prepared for the project in accordance with the State of California Environmental Quality Act (CEQA) Guidelines. A Mitigation, Monitoring and Reporting Program has been prepared and will be implemented, which will reduce the potential impacts to Biological Resources, Historical Resources (Archaeology) and Paleontological Resources to a level below significance.

DIVERSITY

Fiscal Impact Statement: None. The processing of this application is paid for through a deposit account established by the applicant.

Code Enforcement Impact: None.

Housing Impact Statement: The subject property being developed is an existing legal building site zoned for single-family residential use. The project proposes to construct a new single family residence. There will be no net gain or loss to the available housing stock within the La Jolla Community Planning Area. A prior approval allowed for the demolition of the previous residence on this site.

BACKGROUND

The project site is currently vacant. The surrounding properties are developed and form an established single-family residential neighborhood high on a coastal bluff region. The project site is located at 9872 La Jolla Farms Road, in the RS-1-2 Zone, Coastal Overlay Zone (appealable), Coastal Height Limitation Overlay Zone, Parking Impact Overlay Zone and the Residential Tandem Parking Overlay Zone within the La Jolla Community Plan area (ATTACHMENTS 1 – 3). A previous project on this site, the Katz Residence - Project No. 51529, to demolish an existing two-story, approximate 6,400 square foot single family residence, was approved by the Hearing Officer on October 4, 2005. That permit was vested and the existing improvements were demolished. On April 7, 2010, the Hearing Officer approved, the Isakow Residence - Project No. 180002, for the construction of a proposed two-story, 13,456 square foot single family residence with guest quarters. This project proposes to amend the Isakow approvals.

A Coastal Development Permit is required for the current proposal by the Land Development Code (Section 126.0702), for the proposed development on property within the Coastal Overlay Zone and to amend the previously approved Coastal Development Permit No 690317, Project No. 180002. A Site Development Permit is required by the Land Development Code (Section 143.0110), for the proposed development on a site containing Environmentally Sensitive Lands, which also amends the previous Site Development Permit No. 690318.

On November 14, 2012, the Hearing Officer approved the Encore Trust project with the elimination of draft Condition Number 44 as it was duplicative of (and less specific than) draft Condition Number 49 (ATTACHMENT 6). Both involved the dedication for an unimproved pedestrian access trail easement.

On November 16, 2012, the owner of a property located across La Jolla Farms Road to the east, Mr. Joshua Bruser, filed an appeal of the Hearing Officer decision. A copy of that Appeal is included as Attachment 11, and the issues raised in the Appeal are discussed at the end of this Staff Report.

DISCUSSION

Project Description:

The project requires no deviations or variances and it complies with all applicable City policies and regulations. The project proposes to construct an approximately 18,000 square foot (gross floor area), two-story, single-family residence with an attached garage (approximately 12,200 square feet of above ground livable area), and swimming pool on the previously disturbed portion of a 66,256 square-foot property. The applicant's original submission proposed approximately 24,000 square feet (gross floor area) of development. During the project's review with City Staff, the applicant modified the design to conform to all of the development regulations of the RS-1-2 Zone, the applicable Coastal Development Regulations, the Environmentally Sensitive Land Regulations and the Community Plan. Additionally, in response to input received during the community review process, the applicant substantially reduced the square footage, footprint and building envelop of the proposed development to create the design approved by the Hearing Officer.

The lot's eastern portion has been disturbed by the past development and is relatively level. The western portion of the lot slopes down toward the shore, containing a vegetated portion, which is mapped as sensitive vegetation and subject to the Environmentally Sensitive Lands Regulations (ESL). The proposed new residence is to be located within the disturbed portion of the site and includes a brush management plan, designed to protect the structure from fire hazard, yet minimize encroachment or impact on the Environmentally Sensitive Lands. The submitted slope analysis determined that there would be no further encroachment into steep slopes or sensitive vegetation. The western and undisturbed portion of the property will be preserved by the recordation of a Covenant of Easement as a condition of the draft permit (ATTACHMENT 6).

Visual Resources Analysis:

The proposed project is subject to the protected public view requirements established by the La Jolla Community Plan, the Local Coastal Program, the Land Development Code and the California Environmental Quality Act. City Staff and the Hearing Officer reviewed the project for compliance with those requirements and determined that the project will not obstruct the protected public view.

The project site is located between the ocean and the first public roadway in an area of La Jolla Farms which is identified on Exhibit "A" of Appendix G of the La Jolla Community Plan as the Black Gold Road Scenic Overlook as well as the La Jolla Farms Road Scenic Roadway (Attachment 14). A Scenic Overlook is defined in the La Jolla Community Plan as, "a view over private property from a public right-of-way." The Scenic Overlook designation is different from the Major Viewshed designation which is defined as an, "unobstructed panoramic view from a public vantage point" on the same Exhibit "A" of Appendix G of the Community Plan. The primary differences between these view designations are that the Scenic Overlook is defined as "over private property," while a Major Viewshed designation requires the preservation of an unobstructed view. The Scenic Roadways is defined as "Partially obstructed views over private properties and down public Right of Ways." This view designation generally provides public

views between homes along the side yard setbacks. Both of the applicable protected public views were evaluated for compliance with Exhibit "A" of Appendix G and Figure 9 of the La Jolla Community Plan and the project was found to be consistent and have no significant adverse environmental impact.

The project conforms to the protected public view regulations, goals, policies and public vantage point figures in the Land Development Code, La Jolla Community Plan and Local Coastal Program by: (i) conforming to the applicable side yard setbacks and height limitations; (ii) preserving the required 8' (approximately) wide view corridor within the southern side yard of the subject property; (iii) enhancing the northernmost view corridor established by the property to the south by proposing to dedicate along the subject property's southern property line an area that will generally add 6' to 11' of width to the required 8' (approximately) wide view corridor described above; (iv) preserving the 15-foot-wide, mid-lot view corridor easement that directly aligns with the designated Black Gold Road Scenic Overlook view corridor; and (v) preserving a horizon line view of the ocean across the subject property from the portion of Black Gold Road designated as a Scenic Overlook.

The project was also reviewed for consistency with relevant La Jolla Community Plan policies and goals for the protection of visual resources. The project complies with the requirements of the City's Land Development Code and conforms to the Community Plan and applicable implementing regulations. The proposed coastal development will not encroach upon any existing physical access way that is legally used by the public or any proposed public access way 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 contained within the existing legal lot area, which would not encroach upon any existing or proposed physical access to the coast. The Natural Resources and Open Space Element of the La Jolla Community Plan and Local Coastal Program (Figure 9 and Appendix G) designates a Scenic Overlook on the property from the public right-of-way to the ocean and designated public open space. The project has been sited and designed to ensure it does not restrict visual access from the public right-of-way to the ocean and designated public open space.

City Council Resolution R-298578 (Attachment 17) approving the La Jolla Community Plan provides specific direction from the City Council, which the California Coastal Commission ratified, as to the scope of the protected public view. Specifically, the term "yard", as it relates to view preservation, is intended to pertain only to those yards resulting from the zone required setback and increasing the height of a structure, up to the height allowed in the zone, is not prohibited within a visual access /public vantage point area.

In addition, the Land Development Code (LDC) at section 132.0403(a), Supplemental Regulations of the Coastal Overlay Zone, states that "if there is an existing or potential public view and the site is designated in the applicable land use plan as a public view to be protected, (1) the applicant shall design and site the coastal development in such a manner as to preserve, enhance or restore the designated public view, and (2) the decision maker shall condition the project to ensure that critical public views to the ocean and shoreline are maintained or enhanced."

As discussed below, the proposed project is consistent with the above noted policies of the Community Plan and regulations of the Land Development Code:

1. The designated Black Gold Road Scenic Overlook has been protected, in part, through an existing 15-foot-wide view easement that was dedicated across the north-central portion of the project property at the time of subdivision, through Parcel Map 16819. The Encore project's residence is located outside this view easement, as shown in figure 5 of the MND, and therefore no visual impacts will occur. Reservation of this view easement was implemented prior to the adoption of the current Community Plan. Condition 43 requires preservation of that existing view corridor easement and provides that it "shall not be removed or changed without a City approved amendment to this coastal development permit."

2. The proposed project will preserve and enhance designated public views. The applicant prepared a visual analysis of its original design which illustrated the proposed structure's compliance with the identified public view requirements. That initial design of the project was then modified to enhance the public views by expanding the required 8 ½ -foot wide view corridor along the south side yard setback area by an additional 6 to 11 feet. (See MND Exhibit 5). Consistent with LDC section 132.0403(a), a condition of the permit (Attachment 6) requires that a view corridor easement over this area be recorded on the property prior to building permit issuance, in order to preserve these identified public views. These easements are in addition to the existing public view easement that was recorded at subdivision through Parcel Map 16819, and therefore maintains, protects, and enhances the public views over and along the property.

3. The project maintains the public view by preserving a horizon line view of the ocean across the subject property from the portion of Black Gold Road designated as a Scenic Overlook in Exhibit "A" of Appendix G of the La Jolla Community Plan. This protection is afforded because the designated Black Gold Road Scenic Overlook terminates along Black Gold Road at an elevation above that of the project site. In addition, the project restricts the height of the building to below that allowed by the zoning and sets back the building at least 40-feet (with the closest two-story element located at least 70 feet) west of the curb of La Jolla Farms Road.

4. Consistent with City Council Resolution R-298578, public view protections are implemented through Land Development Code development regulations such as building envelope, height, setback, landscaping and fence transparency. The proposed structure complies with all of the development regulations for building envelope, setbacks and height limits that are required by the underlying zone and no variances or deviations have been requested. The project will have a floor area ratio (FAR) of 0.27, which is approximately 60% of the allowed 0.45 FAR. The project will comply with the maximum 30 foot height limit, with the tallest elements of the proposed residence approximately 24 feet above the adjacent street grade of La Jolla Farms Road. Project setbacks also exceed what is required by the Land Development Code as discussed above.

5. The elevation of La Jolla Farms Road adjacent to the project site is approximately 327 feet above Mean Sea Level (MSL). Condition 42 of the CDP/SDP requires that landscaping in the designated southerly view corridor be maintained so as not to exceed an elevation of 329 feet above MSL. All other structures in the designated southerly view corridor shall be open or transparent above MSL elevation 329'.

Staff reviewed the analysis of the visual impacts submitted by the applicant and others, photo simulations, visited the site, and worked with the applicant to document the above mentioned view protections on the site plan and within the permit conditions. The Hearing Officer concluded that the project provides the required public view corridor protections and determined that impacts to visual resources would be less than significant per the City's CEQA Significance Determination Thresholds.

Coastal Access:

The project site is contiguous to an off-site, existing public pedestrian trail access to Box Canyon and the shoreline along the northern border of the property. This pedestrian trail is identified in the La Jolla Community Plan and Local Coastal Land Use Plan. The project has been designed to preserve and enhance this public access area by offsetting the project's perimeter fence by four feet, as well as setting back the project residence by over 45 feet, from the existing trail. Currently there is a recorded access easement for the trail on the adjacent property to the northeast. The actual pedestrian path in reality does not always follow the exact location of the recorded access easement. Thus this applicant has agreed to project Condition Number 49, which requires an irrevocable offer of dedication of a new public, pedestrian trail easement at the northeastern corner of the project site to expand this access.

APPEAL OF THE HEARING OFFICER APPROVAL

On November 14, 2012, the Hearing Officer approved the project and adopted the project resolutions after hearing public testimony. The Appeal of that decision was filed on November 19, 2012 (Attachment 11). The Appeal focuses primarily on view impacts and the position that an Environmental Impact Report should be required. The following is a list of the appeal issues followed by the City Staff response.

Appeal Issues

1. **The project would substantially block a view through a designated public view corridor as shown in the adopted community plan.**

STAFF RESPONSE:

City Staff has applied the City's designated public view protections to determine that the project complies with the applicable requirements. The Appeal appears to treat this identified public view as if it were a public "Viewshed" (not over private property), and that this is to be an un-obstructed view. The Appeal essentially argues that the protected "public view" is any view of the ocean that a member of the public could currently see. However, the identified public view is a "Scenic View over private property" and anticipates the development of that private property within the applicable regulations. The public views that are protected are views outside of the building envelope, such as down side yard setbacks and over the allowed building height limitation. This project protects and enhances those public views as identified by the La Jolla Community Plan and implemented under City Council Resolution R-298578.

2. **The submitted public view analysis by the applicant is not accurate.**

STAFF RESPONSE:

In analyzing the project, City Staff reviewed the applicable City rules and regulations against the project plans, the view simulations prepared by the applicant and the materials (including photo simulations of this project and others) presented to the City by others throughout the permitting process. City Staff concluded that the applicant's materials accurately depict the location of the designated public view corridors and the project as proposed. Consistent with the requirements of the Land Development Code, the La Jolla Community Plan and Local Coastal Program, City Staff determined that all the relevant information demonstrates that the project complies with the applicable side yard setbacks and height limitations as required by the Land Development Code; implements the required 8 ½' (approximately) wide view corridor within the southern side yard of the subject property; enhances that required view corridor, and the northernmost view corridor established by the property to the south, by proposing to dedicate along the subject property's southern property line an area that will generally add 6' to 11' of view corridor width; preserves the 15-foot-wide, mid-lot view corridor easement that directly aligns with the Black Gold Road Scenic Overlook view corridor; and maintains a horizon line view of the ocean across the subject property from the portion of Black Gold Road designated as a Scenic Overlook.

The Appeal notes and City Staff acknowledges that the applicant presented photo simulations to the La Jolla Community Planning Association that highlight the fact that the existing vegetation on other properties is responsible for blocking ocean views and is therefore not an impact of the project. However, City Staff did not rely on any of those vegetation photos in analyzing the project. The amount of the horizon line ocean view over the proposed home is smaller if one relies on the location of Appellant's photo simulation because that photo was taken at an elevation that is lower than and west of the point where the Black Gold Road Scenic Overlook ends. Nonetheless, a horizon line view of the ocean remains even at the location of Appellant's photo and City Staff determined that the overall public view protections afforded by the project still conform to the manner in which the City applies the applicable rules and regulations.

The Appeal also refers to four examples of prior project approvals in La Jolla, 5950-5960 Camino De La Costa, 7210 Country Club Drive, 8440-8450 Whale Watch Way and 1828 Spindrift Drive. The applicable City public view protection requirements were applied to those four projects in the same manner as they have been to this project. Like the proposed project, those other examples enhance and protect public views through means such as landscaping and fencing restrictions, the applicable side yard setback view corridors and a horizon line view of the ocean over the structures. In addition, the City approved the Isakow Residence project on the same property. The Isakow project analysis of public view impacts is similar to the documents this project applicant has submitted.

3. **Certification of the Mitigated Negative Declaration by the decision maker is not supported by information provided to the decision maker and violates California law because there is substantial evidence in the record that supports a fair argument that the project will have significant effect on the public view from the public right-of-way that an Environmental Impact Report should be prepared.**

STAFF RESPONSE:

The City's CEQA Significance Determination Thresholds define a potentially significant adverse visual impact in terms of a project that "would substantially block a view through a designated public view corridor as shown in the adopted community plan." City Staff reviewed the project for compliance with the "designated public view corridor as shown in the adopted community plan" and the City's overall public view protection requirements. That analysis, which is based on how the City has applied the applicable public view protection rules and regulations, supports the determination of City Staff that the project will not have a potentially significant impact as the project will not encroach into any designated public view corridor.

The appellant has misinterpreted the definition of the Community Plan's identified public view, "Scenic Overlook over private property". The appellant appears to be treating it as if the area or space within an allowed building envelope on the private property should be viewed as obstructing the identified public view. Staff concurs with the applicant's public view analysis, that the Mitigated Negative Declaration properly analyzed the public view, that there is no visual impact under the City's Significance Determination Thresholds and that an Environmental Impact Report would not be required under the California Environmental Quality Act.

Community Plan Analysis:

The proposed project is located within the La Jolla Community Plan (LJCP) area and the subject site is designated for very low density residential development at 0-5 du/acre. The proposed project conforms to the LJCP designated land use. The LJCP recommends that steep hillsides be preserved and that encroachments be limited to what is necessary to provide a usable development area. The site currently has a usable development pad from the previous residence that was removed. Staff recommended that the proposed development footprint be adjusted to minimize the encroachment into the steep hillsides – Environmentally Sensitive Lands.

The property fronts on La Jolla Farms Road, which is in the vicinity of an identified Scenic Overlook on Figure 9 of the LJCP Identified Public Vantage Points map. One of the general community goals of the LJCP is to conserve and enhance views from the public vantage points as identified in Figure 9. The proposed project preserves and expands upon a Scenic Overlook to the ocean by providing a 19 foot setback on the southern portion of the lot. This will provide pedestrians a clear view to the ocean from the street. The proposed project does not impact the Scenic Overlook as identified in the plan (LJCP p. 8). Staff determined that a solution which incorporates ample side yards to be preferred. This would also allow the development to be concentrated in the middle of the site. The proposed height for the residence is under thirty feet which is consistent with the community plan and the thirty foot height limit.

The community plan also recommends maintaining the existing residential character of La Jolla's neighborhoods by encouraging build out of residential areas at the plan density. The neighborhood is one which is mainly made up of large estate type homes which are more grand in bulk, scale and height, and with the newer residences typically built to the city's standards. The proposed new residence is consistent with other newer residences in the neighborhood. The

proposed new residence also is consistent with the plan for landscaping and streetscape recommendations. Staff recommends approval of the proposed new residence as it is consistent with the community plan's policies for residential development.

Environmental Analysis:

The City of San Diego conducted an Initial Study and determined that the proposed project will not have a significant environmental effect and the preparation of an Environmental Impact Report will not be required. Therefore, a Mitigated Negative Declaration No. 237107 has been prepared for the project in accordance with the State of the California Environmental Quality Act (CEQA) Guidelines. The analysis from the Initial Study documents the reasons to support the determination as follows:

(Archaeology); and Paleontological Resources – No archaeological resources were identified during the cultural survey conducted by Brian F. Smith Associates (Cultural Resource Study, March 20, 2011), nor did the records search indicate the existence of any recorded sites on the property. There is low potential for encountering buried historical resources within the project site due to nearly complete removal of native topsoil and geologic formations from previous grading associated with construction of the prior residence; and due to prior use including ornamental landscaping, and subsequent demolition of the previous residence. Nevertheless, there is a potential for land disturbance activities to expose subsurface cultural resources. Therefore, grading/excavation for the proposed project could result in significant impacts to unknown buried archaeological resources. Implementation of the City's standard cultural resources monitoring requirements as outlined in section V of the Mitigated Negative Declaration , would reduce project impacts on archaeological resources to below a level of significance.

Visual Quality/Aesthetics- The project site is located in an identified scenic overlook in the La Jolla Community Plan, which is described as a scenic view over private properties from a public right-of-way. An existing 15-foot-wide View Corridor easement has been dedicated (through previous actions) across the north-central portion of the Encore property to preserve this Scenic Overlook. The proposed new residence as well as site walls would not create any obstruction of these identified viewsheds as the residence is situated much lower than the level of the right-of-way from where the view is observed. The existing view from this identified public viewing location toward the ocean would not result in any substantial changes. Therefore, no significant visual impacts would occur and no mitigation is required.

Biological Resources- A Biology Report was prepared by Brian F. Smith Associates for the 1.52 acre site. According to the report, the project site contains 0.92 acres of urban/disturbed land from previous single family development removed in 2005, and 0.60 acres of Tier 1 coastal bluff scrub. Direct impacts from development and brush management zone 1 for the project would include a total of 0.85 acres of urban/disturbed land. Due to native habitat within 100 feet of the proposed building, a brush management plan would be required for the site. The area for zone 1 would be entirely within the existing development pad area and would therefore not affect biological resources. Activities within zone 2 are considered "impact neutral", and would not result in a significant impact on biological resources. The project would therefore not have substantial adverse effect on any special-status species listed by the regulatory agencies or

identified as such in local or regional plans, policies, or regulations. Project impacts on sensitive species would be less than significant with required nesting bird mitigation and MSCP land use adjacency guideline mitigation outlined in the biology and land use portions of Section V of the Mitigated Negative Declaration.

Conclusion:

The Hearing Officer reviewed the proposed Coastal Development Permit and Site Development Permit and determined the project is consistent with the La Jolla Community Plan and Local Coastal Program Land Use Plan and the applicable Land Development Code regulations. Staff has provided draft findings supporting the Coastal Development Permit and Site Development Permit approval (ATTACHMENT 5) and the CEQA determination (ATTACHMENT 7). Staff recommends that the Planning Commission affirm the Hearing Officer's approval of the proposed Coastal Development Permit and Site Development Permit as proposed (ATTACHMENT 6).

ALTERNATIVES

1. Approve Coastal Development Permit No. 852026 and Site Development Permit No. 852027, with modifications.

2. Deny Coastal Development Permit No. 852026 and Site Development Permit No. 852027, if the findings required to approve the project cannot be affirmed.

Respectfully submitted,

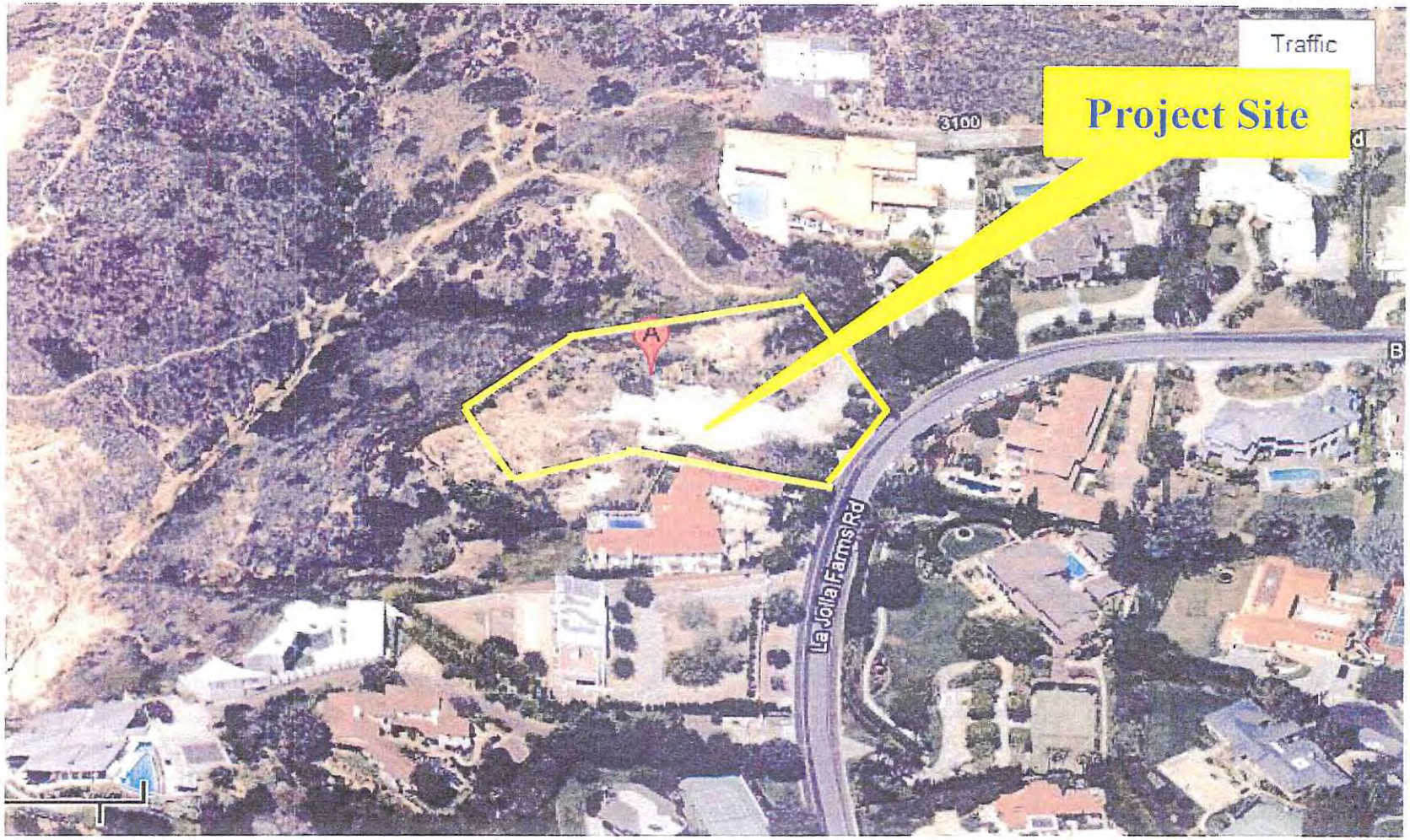
Mike Westlake
Assistant Deputy Director
Development Services Department

Glenn Gargas, Project Manager
Development Services Department

Attachments:

1. Aerial Photograph
2. Community Plan Land Use Map
3. Project Location Map
4. Project Data Sheet
5. Draft Permit Resolution with Findings
6. Draft Permit with Conditions
7. Draft Environmental Resolution with MMRP
8. Project Site Plan
9. Project Plans – Building Elevations
10. Project Plans – Landscape Plan

11. Copy of Appeal
12. Copy of Recorded Permit Isakow Residence (Project No. 180002)
13. Copy of Recorded Permit Katz Residence (Project No. 51529)
14. Community Planning Group Recommendation
15. Ownership Disclosure Statement
16. La Jolla Community Plan – Exhibit "A" to Appendix "G"
17. City Council Resolution No. R-298578
18. Project Chronology



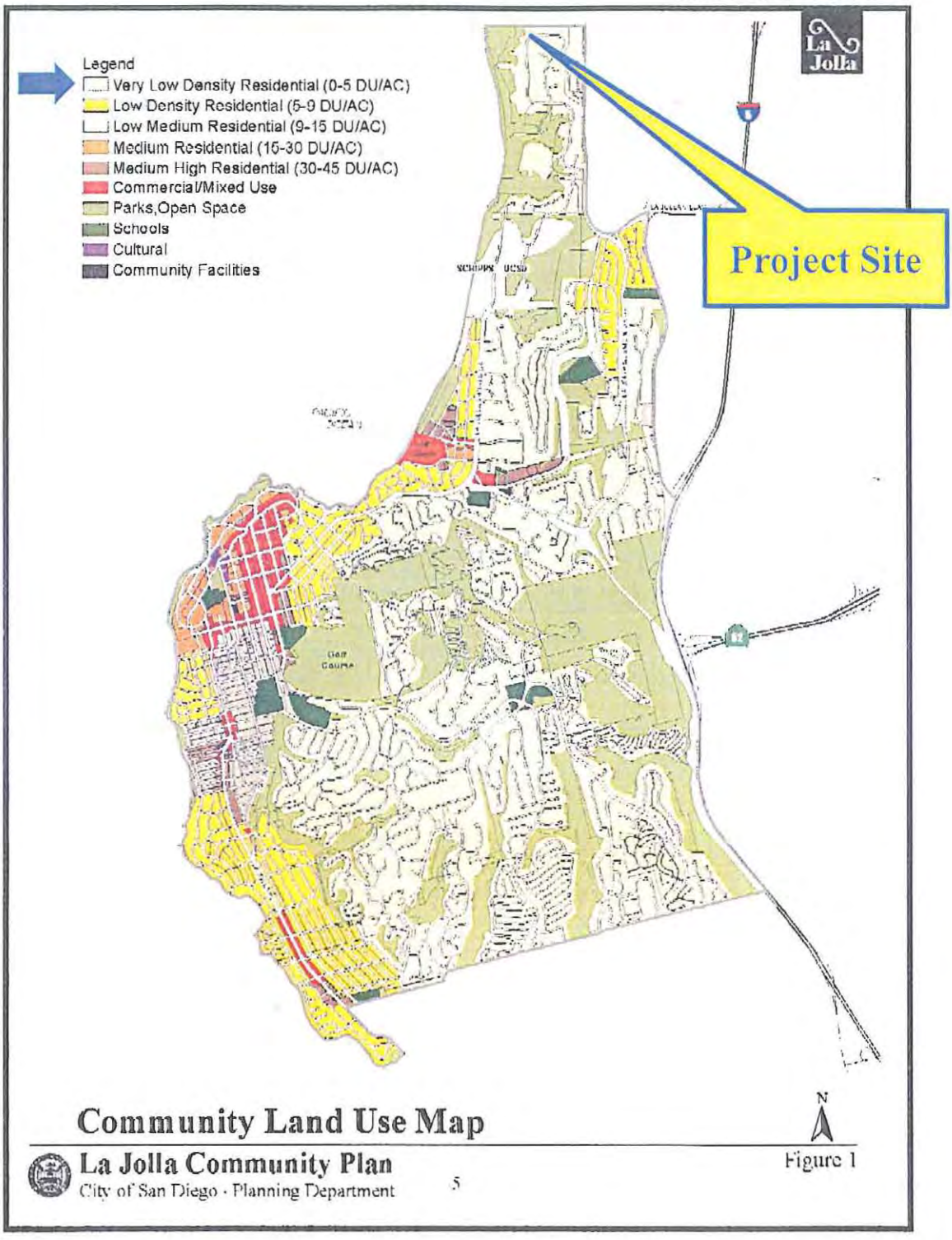
Aerial Photo

ENCORE TRUST RESIDENCE – 9872 LA JOLLA FARMS ROAD
PROJECT NO. 237107

North

ATTACHMENT 1

ATTACHMENT 2



Land Use Map

ENCORE TRUST RES. – 9872 LA JOLLA FARMS ROAD

PROJECT NO. 237107 La Jolla

North

Project Location Map

ENCORE TRUST RESIDENCE – 9872 LA JOLLA FARMS ROAD
PROJECT NO. 237107

ATTACHMENT 3

PROJECT DATA SHEET

PROJECT NAME:	Encore Trust Residence – Project No. 237107
PROJECT DESCRIPTION:	CDP/SDP to construct a new approximately 17,949 square foot single-family residence with a three car garage and swimming pool on a 66,256 square foot property.
COMMUNITY PLAN AREA:	La Jolla
DISCRETIONARY ACTIONS:	Coastal Development Permit & Site Development Permit.
COMMUNITY PLAN LAND USE DESIGNATION:	Very Low Density Residential (0-5 DUs per acre) & Open Space

ZONING INFORMATION:

ZONE: RS-1-2 Zone
HEIGHT LIMIT: 30-Foot maximum height limit.
LOT SIZE: 20,000 square-foot minimum lot size – existing lot 66,256 sq. ft.
FLOOR AREA RATIO: 0.45 max. allowed – 0.271 proposed
FRONT SETBACK: 25 feet required – 36 feet proposed
SIDE SETBACK: 8 feet 4 inches required – 11 feet & 47 feet proposed
STREETSIDE SETBACK: NA
REAR SETBACK: 44 feet required – 134 feet proposed
PARKING: 5 parking spaces required – 7 proposed.

ADJACENT PROPERTIES:	**LAND USE DESIGNATION & ZONE**	**EXISTING LAND USE**
NORTH:	Very Low Density Residential and Open Space; RS-1-2 Zone	Single Family Residence and Open Space
SOUTH:	Very Low Density Residential; RS-1-2 Zone	Single Family Residence
EAST:	Very Low Density Residential; RS-1-2 Zone	Single Family Residence
WEST:	Open Space; RS-1-1 Zone	Open Space
DEVIATIONS OR	None.	

VARIANCES REQUESTED:	
COMMUNITY PLANNING GROUP RECOMMENDATION:	The La Jolla Community Planning Association voted 8-3-3 to recommend approval of the proposed project at their meeting on March 1, 2012.

PLANNING COMMISSION RESOLUTION NO. ____
COASTAL DEVELOPMENT PERMIT NO. 852026 AND SITE DEVELOPMENT PERMIT NO. 852027
ENCORE TRUST RESIDENCE - PROJECT NO. 237107
AMENDMENT TO COASTAL DEVELOPMENT PERMIT NO. 690317 AND SITE DEVELOPMENT PERMIT NO. 690318

WHEREAS, Armand Kessous and Alain Paris, Trustees of the Encore Trust, Owner/Permittee, filed an application with the City of San Diego for a permit to construct a, two-story, single family residence (as described in and by reference to the approved Exhibits "A" and corresponding conditions of approval for the associated Permit Nos. 852026 and 852027), on portions of a 1.521-acre property;

WHEREAS, the project site is located at 9872 La Jolla Farms Road, in the RS-1-2 Zone, Coastal Overlay Zone (appealable), Coastal Height Limitation Overlay Zone, Parking Impact Overlay Zone, and Residential Tandem Parking Overlay Zone within the La Jolla Community Plan area;

WHEREAS, the project site is legally described as Parcel 2, Parcel Map No. 20573;

WHEREAS, on November 14, 2012, the Hearing Officer of the City of San Diego approved Coastal Development Permit No. 852026 and Site Development Permit No. 852027, pursuant to the Land Development Code of the City of San Diego;

WHEREAS, on November 19, 2012, an appeal of the Hearing Officer's decision was filed, pursuant to the Land Development Code of the City of San Diego;

WHEREAS, on January 17, 2013, on an appeal of the Hearing Officer's decision, the Planning Commission considered Coastal Development Permit No. 852026 and Site Development Permit No. 852027, pursuant to the Land Development Code of the City of San Diego;

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

That the Planning Commission adopts the following written Findings, dated January 17, 2013.

FINDINGS:

Coastal Development Permit - Section 126.0708

1. 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 66,253 square-foot project site is located within a mostly developed area of large scale single-family residences on large, approximately 1 to 3 acre sized lots. The development proposes to construct a new, two-story, single family residence on the previously disturbed portion of project site. The proposed development is located between the ocean and the first

public roadway, but the western edge of the project site is approximately 800 feet from the mapped mean high tide line. The project site is located adjacent to an identified public access path identified in the La Jolla Community Plan and Local Coastal Program [LCP] Land Use Plan. The development preserves the existing, recorded, off-site public accessway and maintains a buffer of at least 4 feet between the project site's easternmost fencing and the western edge of the dedicated public, pedestrian/recreation accessway. In addition, the project proposes to expand the existing accessway by offering for dedication additional land at the northeastern corner of the project site as more particularly depicted on Exhibit "A." The proposed residence is setback approximately 50 feet or greater from both the existing pedestrian accessway and the proposed expansion area. Therefore, the proposed project 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.

The Local Coastal Program land use plan identifies two protected public view corridors that relate to the proposed development of the project site: Black Gold Road Scenic Overlook and La Jolla Farms Road Scenic Roadway. The proposed development preserves, enhances or restores these designated public view corridors. The Black Gold Road Scenic Overlook defined as a view over private property from a public right of way. Consistent with prior City approvals for the project site, the proposed development preserves the existing 15-foot-wide, mid-project site view corridor easement that directly aligns with the Black Gold Road Scenic Overlook view corridor. In addition, consistent with the Local Coastal Program land use plan, the project preserves from the Black Gold Road Scenic Overlook an unobstructed view of the horizon line of the ocean above the residence. The project also enhances the Black Gold Road Scenic Overlook by including a larger than required view corridor along the project site's southern property line.

The Scenic Roadway designation, which is defined as partially obstructed views over private property and down public rights of way, commences at the western terminus of the Black Gold Road Scenic Overlook and continues south past the project site along La Jolla Farms Road. The project provides enhanced view corridor protections for the La Jolla Farms Road Scenic Roadway designation by establishing a southerly building setback between 6' to 9' which is greater than the required setback under applicable regulations. As a condition of approval, the public views down the southerly side yard setback area will be protected by the recording of a view easement that places limits on encroachments by buildings, landscaping and fencing. This proposed view corridor easement will enhance the existing, recorded view corridor easement that exists for the property to the south of the project.

In addition, the Local Coastal Plan land use plan, La Jolla Community Plan, and the Land Development Code include numerous other goals, policies or regulations regarding public views, including protections that apply to properties such as the project site that are located between the sea and the first public roadway. The project has been analyzed for consistency with all of those applicable public view protection provisions. Consistent with the City Council adopted Resolution No. R-298578, the proposed residence meets all of the RS-1-2 zone development regulations and enhances view corridor protections by establishing building setbacks greater than required under applicable regulations, policies and goals. The applicant also prepared a project specific visual and community plan consistency analysis that helps illustrate that the proposed structure does not encroach into the designated public views. The visual and community plan analysis submitted to the City was reviewed and it has been determined that the proposed project's design and public view protections are consistent with the Local Coastal Plan land use

plan, La Jolla Community Plan and the Land Development Code. As such, the proposed development would enhance and protect public views to and along the ocean and other scenic coastal areas as specified in the Local Coastal Plan land use plan.

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

The 66,253 square-foot project site includes approximately 0.92 acres of previously disturbed areas. That south eastern or front 0.92 acre portion of the project site has been previously disturbed by a single-family residence and accessory buildings which were demolished in 2005. The project site is located within a well established residential neighborhood and it is surrounded by large, estate style single family homes on the northeast, east and south. The north western portion of the project site, approximately 0.60-acres, contains areas of non-native invasive plants and Environmentally Sensitive Lands [ESL] in the form of sensitive vegetation. This portion of the project site will be retained and conserved within a building restricted easement/covenant of easement area.

The proposed two-story, single-family residence would be built in the previously disturbed south eastern portion of the property. The proposed residence will not encroach on the Environmentally Sensitive Lands. Furthermore, the project site is not located within the Multiple Habitat Planning Area [MHPA]. MHPA lands are areas set aside by the approved Multiple Species Conservation Program Subarea Plan for preservation. The project, as mitigated, has been evaluated against and determined to conform to the MSCP Land Use Adjacency Guidelines.

The environmental review determined that the project may have a significant environmental effect on the Biological, Historical (Archaeological) and Paleontological Resources and the City prepared a Mitigated Negative Declaration [MND], Project No. 237107, in accordance with the California Environmental Quality Act [CEQA]. The project includes mitigation measures for potential impacts to Biological, Historical (Archaeological) and Paleontological Resources, to reduce the potential impacts to a level below significance. The Mitigation Monitoring and Reporting Program [MMRP] incorporates measures necessary to meet the performance standards in the City's Biology Guidelines, the City's CEQA Threshold of Significance for biological resources (60dB(a) noise limit), and state and federal law prohibiting the take, capture or killing of such avian species, including, among other things, required mitigation for potential impacts to California gnatcatcher and other migratory birds, detailed monitoring and compliance requirements, limits on the time periods and circumstances when development may occur absent the imposition of additional protections, requirements for revegetation and specific measures relating to the MSCP Land Use Adjacency Guidelines. In addition, the project must comply with applicable LDC provisions that require preferential avoidance of native and sensitive habitat and species for Brush Management Zone 2 areas, revegetation requirements and construction related storm water best management practices [BMPs] with respect to potential drainage and water quality impacts. Thus, given the project design, with implementation of the Mitigation Monitoring and Reporting Program [MMRP] and with compliance with the Land Development Code, the proposed project 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 project proposes construction of a new, two-story, single-family residence. The project site has a Residential – Very Low Density (0-5 DU/AC) land use designation for the front portion and an Open Space land use designation on the rear or western portion, which allows for low density residential development. The surrounding neighborhood is almost entirely built out with an eclectic mix of architectural styles and sizes of residences. As described previously in these findings, the proposed residence will not encroach upon, negatively alter or reduce the existing publicly designated physical access or visual access to and along the coast nor will it adversely affect Environmentally Sensitive Lands. The project also complies with all applicable requirements of the Land Development Code, which is part of the certified Local Coastal Plan Implementation Program. The project proposes to set the first story of the residence approximately 40 feet, and the closest second story element approximately 70 feet, from the curb of La Jolla Farms Road when only a 25 foot setback from the property line is required. In addition, only a small portion of the residence is proposed to be at the project's maximum height of 351 feet above mean sea level, the proposed floor area ratio is 0.27 when 0.45 is allowed and the amount of livable area above grade is limited to approximately 12,200 square feet. As the project site slopes downward away from the street, and because the home is set back so far from the street, the highest point of the house is only 24 feet above the adjacent La Jolla Farms Road at centerline. The increased setbacks and other off-setting elements of the project depicted on Exhibit "A" minimize the bulk and scale of the project, help to preserve protected public views and ensure overall conformity with the adopted La Jolla Community Plan, the Land Development Code and the certified Local Coastal Plan land use plan 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 Local Coastal Plan land use plan and the Land Development Code identify the permitted use of the project site as single family residential. The south eastern 0.92 acre portion of the 66,253 square-foot project site was previously developed with a single family residence. The project site is currently vacant, and it is located within an existing residential neighborhood of larger, estate style single family homes. The project site is located between the first public road and the sea or shoreline, but the development will be fully within the private property. The western edge of the project site is approximately 400 feet east of the coastal bluff and it is approximately 800 feet from the mapped mean high tide line. The proposed development does not encroach onto or adversely affect any public accessway. As described previously in these findings, the project preserves and enhances the existing, off-site, dedicated, public pedestrian/recreation accessway located east of the project site. The project also proposes to grant an offer of dedication for an expanded, public, pedestrian/recreation accessway on the northeast corner of the project site as depicted in Exhibit "A." The above referenced public pedestrian accessway will also improve the ability of the public to physically access the coastal public recreation resources. Therefore, the project is in conformity with the public access and recreation policies of Chapter 3 of the California Coastal Act.

Although the issue is not addressed in the public access and public recreation policies of Chapter 3 of the California Coastal Act, the project is consistent with City's policies, goals and regulations regarding public view protections. The Natural Resources and Open Space Element

of the La Jolla Community Plan designates a Scenic Overlook and a Scenic Roadway public view corridor within the vicinity of the project site and adjacent properties. As described previously in these findings, and based on factors including the location of the proposed home relative to the designated view corridors, compliance with applicable Land Development Code requirements, the maintenance of the existing, 15 foot designated public view easement on the project site, the enhancement of setback based view corridor protections and the preservation of a horizon line view of the ocean above the proposed home from the designated Black Gold Road Scenic Overlook, the project will preserve, enhance or restore the protected public view corridors. The applicant prepared a visual and community plan analysis that helps illustrate that the proposed structure does not encroach into the designated public views. City Staff reviewed the applicant's visual analysis and determined that the proposed project's design and public view protections comply with the Local Coastal Plan land use plan, the Coastal Act, the La Jolla Community Plan and the Land Development Code.

Site Development Permit - Section 126.0504

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

The proposed development is located at 9872 La Jolla Farms Road within the La Jolla Community Plan area. The surrounding neighborhood is an almost entirely built out area with an eclectic mix of generally larger single family homes. Single family homes exist immediately to the northeast, east and south of project site. The properties to the west and northwest include canyons that ultimately lead to coastal bluffs and the Pacific Ocean.

The proposed project conforms with the City of San Diego General Plan, the La Jolla Community Plan, the Local Coastal Plan land use plan and the regulations of the certified Local Coastal Plan Implementation Program. The project site, as with the properties to the northeast, east and south, has a Residential – Very Low Density (0-5 DU/AC) land use designation that allows for low density single family residential development. The far western portion of the project site has an Open Space land use designation. The project proposes a new, two-story, single-family residence, on the previously developed portion, within the Residential - Very Low Density land use portion of the project site, consistent with that land use designation and the surrounding uses. The project also complies with all applicable requirements of the Land Development Code, which is part of the Local Coastal Plan Implementation Program. The project proposes to set the first story of the residence approximately 40 feet, and the closest second story element approximately 70 feet, from the curb of La Jolla Farms Road c when only a 25 foot front yard setback from the property line is required. The southern side yard setback is required to be approximately 8.5 feet and the project proposes a setback of up to approximately 14 feet to 19 feet. Further, only a small portion of the residence is proposed to be at the project's maximum height of 351 feet above mean sea level, the proposed floor area ratio is 0.27 when 0.45 is allowed and the amount of livable area above grade is limited to approximately 12,200 square feet. As the project site slopes downward away from the street, and because the home is set back so far from the street, the highest point of the house is only 24 feet above the adjacent La Jolla Farms Road at centerline. The greater setbacks and other elements of the project depicted on Exhibit "A" minimize the bulk and scale of the project, help to preserve the designated public views from the Black Gold Road Scenic Overlook and the Scenic Roadway area of La Jolla Farms Road and ensure overall conformity with the adopted La Jolla Community Plan, the Land Development Code and the certified Local

Coastal Plan land use plan and Implementation Program. The applicant also prepared a visual and community plan analysis of the proposed project. The visual and community plan analysis submitted to the City was reviewed and it has been determined that the proposed project is compatible with the surrounding neighborhood and the project's design and public view protection are consistent with the Local Coastal Plan, the Coastal Act, the La Jolla Community Plan and the Land Development Code. The project also preserves and enhances the existing, off-site pedestrian public access easement and will offer to dedicate a new public, pedestrian access easement as depicted on Exhibit "A" in order to improve public access to the coast. Therefore, the proposed development would not adversely affect the applicable land use plan.

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

The project site is located at 9872 La Jolla Farms Road within the La Jolla Community Plan. The south eastern or front approximately 0.92 acre portion of the project site was previously disturbed by a single family residence which was demolished in 2005. The north western portion of the project site, approximately 0.60-acres, contains areas of non-native invasive plants and Environmentally Sensitive Lands in the form of Sensitive Vegetation. This north western portion of the project site will be retained and conserved within a building restricted easement/covenant of easement area. The proposed development places the residence in the south eastern portion of the property and would not encroach on the Environmentally Sensitive Lands.

The proposed project complies with the La Jolla Community Plan's land use designation and all other applicable policies and goals, as well as the development regulations of the RS-1-2 zone and other applicable City and Coastal Act requirements. The City conducted a complete environmental review of this project. The environmental review determined that the project may have a significant environmental effect on the Biological, Historical (Archaeological) and Paleontological Resources and the City prepared a Mitigated Negative Declaration [MND], Project No. 237107, in accordance with the California Environmental Quality Act [CEQA]. The project includes mitigation measures for potential impacts to Biological, Historical (Archaeological) and Paleontological Resources, to reduce the potential impacts to a level below significance. The Mitigation Monitoring and Reporting Program [MMRP] incorporates measures necessary to meet the performance standards in the City's Biology Guidelines, the City's CEQA Threshold of Significance for biological resources (60dB(a) noise limit), and state and federal law prohibiting the take, capture or killing of such avian species, including, among other things, required mitigation for potential impacts to California gnatcatcher and other migratory birds, detailed monitoring and compliance requirements, limits on the time periods and circumstances when development may occur absent the imposition of additional protections, requirements for revegetation and specific measures relating to the MSCP Land Use Adjacency Guidelines. In addition, the project must comply with applicable Land Development Code provisions that require preferential avoidance of sensitive habitat and species for Brush Management Zone 2 areas, revegetation requirements and construction related storm water runoff best management practices. Applicable laws and/or the proposed conditions of approval also require compliance with Fire, Life, Health and Safety and Building Codes. Therefore, development of the proposed single family home on the previously developed project site would not be detrimental to public health, safety and welfare.

3. **The proposed development will comply with the applicable regulations of the Land Development Code, including any allowable deviations pursuant to the Land Development Code.**

The proposed development is located on the previously developed portion of a 66,253 square foot property at 9872 La Jolla Farms Road within the La Jolla Community Plan and the RS-1-2 zone. The project proposes the development of a single-family home of approximately 17,949 gross square feet, which equates to a livable area of approximately 14,687 square feet (12,183 square feet above ground and 2,504 square feet of basement level). The project does not propose any deviation from the Land Development Code. The project site and the proposed development has been studied for potential impacts on, among other things, traffic, noise, air quality, geotechnical, water quality, biology, cultural resources and hazardous substances. A Mitigated Negative Declaration has been prepared, in accordance with CEQA that requires mitigation measures in the form of a MMRP. The proposed development has been reviewed for and found to be consistent with the requirements imposed by the RS-1-2 zone, the Environmentally Sensitive Lands regulations and all other applicable Land Development Code requirements. The proposed development will be required to secure construction permits to demonstrate compliance with all applicable state and local laws. Therefore, the proposed project would comply with all applicable regulations of the Land Development Code.

B. **Supplemental Findings--Environmentally Sensitive Lands**

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

The proposed development places the residence entirely within the south eastern approximately 0.92 acre portion of the project site that was previously disturbed by the development of a single family home. The project proposes construction of a new, two-story, single-family residence with an attached garage for a total of approximately 17,949 square-feet of gross floor area comprised of about 12,183 square feet of above ground livable area and approximately 2,504 square feet of subterranean area with the remaining gross square footage dedicated to uses such as covered decks, garage and phantom floor area. Project specific studies, including the geotechnical report, coupled with compliance with the Land Development Code and applicable building and safety codes, demonstrate that the previously developed project site is physically suitable for the design and siting of the proposed project.

No portion of the proposed residence is located within Environmentally Sensitive Lands. The north western portion of the project site, approximately 0.60-acres, contains areas of non-native invasive plants and Environmentally Sensitive Lands in the form of sensitive vegetation. To avoid the disturbance of environmentally sensitive lands, that north western portion of the project site will be retained and conserved within a building restricted easement/covenant of easement area. No portion of the project site is located within the Multiple Habitat Planning Area [MHPA] and the project will conform to the MSCP Land Use Adjacency Guidelines.

The project's design includes a brush management plan, as the building would be located within 100 feet of native/naturalized vegetation, and removal of non-native invasive plants followed by the implementation of the revegetation plan specified in the Exhibit "A" drawings. The proposed landscaping along the development edge adjacent to the building restricted easement/covenant of

easement area, and revegetation of the non-native invasive plant removal areas, would include brush management compatible natives and naturalized species which are drought tolerant and comply with all City Landscape Requirements. During environmental review, it was determined that the project may have a significant environmental effect on Biological, Historical (Archaeological) and Paleontological Resources. The City prepared a Mitigated Negative Declaration, Project No. 237107, in accordance with CEQA that includes mitigation measures for potential impacts to Biological, Historical (Archaeological) and Paleontological Resources, to reduce the potential impacts to a level below significance. The Mitigation Monitoring and Reporting Program [MMRP] incorporates measures necessary to meet the performance standards in the City's Biology Guidelines, the City's CEQA Threshold of Significance for biological resources (60dB(a) noise limit), and state and federal law prohibiting the take, capture or killing of such avian species, including, among other things, required mitigation for potential impacts to gnatcatcher and other migratory birds, detailed monitoring and compliance requirements, limits on the time periods and circumstances when development may occur absent the imposition of additional protections, requirements for revegetation, specific measures relating to the MSCP Land Use Adjacency Guidelines and detailed programs for potential impacts to archaeological and paleontological resources. In addition, the project must comply with applicable Land Development Code provisions that require preferential avoidance of sensitive habitat and species for Brush Management Zone 2 areas, revegetation requirements and construction related storm water best management practices. As a result of the project design and compliance with the MMRP and project conditions, the proposed project will result in minimum disturbance to environmentally sensitive lands.

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

The proposed construction of a new, two-story, single family residence with an attached garage will occur entirely within the approximately 0.92 acre previously disturbed portion of the 1.52 acre project site. The project proposes grading of approximately 0.85 acres, or approximately 54% of the entire project site. Approximately 5,200 cubic yards of export would be required for the project, based on 5,700 cubic yards of excavation for the below-ground portions of the residence and a total of 500 cubic yards of fill for other portions of the proposed development pad. The cut and fill portions of proposed grading are mainly located within the proposed building footprint, with minimal change to the natural landform. The project area is classified as low to moderate risk for seismic activity according to the City of San Diego General Plan. A number of geology reports, the most recent prepared by Christian Wheeler Engineering, January 31, 2012, analyzed the project site and the project. That report indicates that no faults exist on the project site with the nearest Alquist-Priolo Earthquake Fault Zones are located within 1/8 mile of the project site and it makes project specific recommendations regarding geologic issues. Further construction related activities associated with the project would be required to comply with the seismic requirements of the California Building Code, City required engineering design measures, recommendations included in the City approved project geology reports and standard construction requirements that the City verifies at the construction permitting stage.

The project site is not located within a 100-year flood hazard area and it is located approximately 227 to 329 feet above mean sea level. The project's design includes construction-related best management practices (BMP's), such as diversion features (as determined by the grading contractor), and permanent low-impact development (LID) measures, such as permeable

pavement and detention/treatment features within the landscape areas, to ensure runoff from the site does not result in erosion and sedimentation off site. Through these project design features, runoff volumes from the developed portion of the site would be reduced to match pre-existing flows, and would therefore not contribute erosive discharge velocities at the existing storm drain outlets. As such, the project would avoid direct discharge of runoff into and erosion of the native habitat adjacent to the northern and western property boundaries and nearby MHPA. The proposed landscaping along the development edge adjacent to the building restricted easement/covenant of easement area, and revegetation of the non-native invasive plant removal areas, would include brush management compatible natives and naturalized species which are drought tolerant and comply with all City Landscape Requirements.

The project site is located in a largely built out single family neighborhood, but it is identified on the City's Fire Hazard Severity Zone Map as having a high risk for the potential for wildfire to occur. To minimize risks associated with potential wildfire events, the project complies with the City's fire emergency access requirements and the project would establish and maintain Brush Management Zones 1 and 2 on the project site. The project must also comply with all uniform building and fire code requirements including the requirement to install a residential fire sprinkler system. Thus, the proposed project will minimize the alteration of natural land forms and will not result in undue risk from geologic and erosional forces, flood hazards, or fire hazards.

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

The project site is located at 9872 La Jolla Farms Road within the La Jolla Community Plan. The south eastern or front approximately 0.92 acres of the project site has been previously disturbed by a previous single family residence which was demolished a few years ago. The north western portion of the project site, approximately 0.60-acres, contains areas of non-native invasive plants and Environmentally Sensitive Lands in the form of sensitive vegetation. This north western portion of the project site will be retained and conserved within a building restricted easement/covenant of easement area. The proposed development of a two story, single family residence will place the residence entirely within that previously disturbed, south eastern portion of the project site. The proposed residence will not disturb the Environmentally Sensitive Lands.

The project's design includes a brush management plan, as the building would be located within 100 feet of native/naturalized vegetation, and removal of non-native invasive plants followed by implementation of the revegetation plan specified on o Exhibit "A" The proposed landscaping along the development edge adjacent to the building restricted easement/covenant of easement area, and revegetation of the non-native invasive plant removal areas, would include brush management compatible natives and naturalized species which are drought tolerant and comply with all City Landscape Requirements. During environmental review it was determined that the project may have a significant environmental effect on Biological, Historical (Archaeological) and Paleontological Resources. The City prepared a Mitigated Negative Declaration, Project No. 237107, in accordance with CEQA. The MND includes mitigation measures for potential impacts to Biological, Historical (Archaeological) and Paleontological Resources, to reduce the potential impacts to a level below significance. The MMRP incorporates measures necessary to meet the performance standards in the City's Biology Guidelines, the City's CEQA Threshold of Significance for biological resources (60dB(a) noise limit), and state and federal law prohibiting the take, capture or killing of such avian species, including, among other things, required

mitigation for potential impacts to California gnatcatcher and other migratory birds, detailed monitoring and compliance requirements, limits on the time periods and circumstances when development may occur absent the imposition of additional protections, requirements for revegetation and specific measures relating to the MSCP Land Use Adjacency Guidelines and detailed programs for potential impacts to archaeological and paleontological resources. In addition, the project must comply with applicable Land Development Code provisions that require preferential avoidance of sensitive habitat and species for Brush Management Zone 2 areas, revegetation requirements and construction related storm water best management practices. Thus, based on the project design, and with implementation of the Mitigation Monitoring Reporting Program, other project conditions and applicable laws designed to minimize impacts to environmentally sensitive lands, the proposed project will prevent adverse impacts on any adjacent Environmentally Sensitive Lands.

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

The project site is located at 9872 La Jolla Farms Road within the La Jolla Community Plan. The south eastern or front approximately 0.92 acres of the project site has been previously disturbed by a single family residence which was demolished in 2005. The north western portion of the project site, approximately 0.60-acres, contains areas of non-native invasive plants and Environmentally Sensitive Lands in the form of sensitive vegetation. This north western portion of the project site will be retained and conserved within a building restricted easement/covenant of easement area. The proposed development places the residence in the south eastern portion of the property and would not encroach on the Environmentally Sensitive Lands.

The project site is located within the boundaries of the City of San Diego MSCP Subarea Plan in a developed community. However, the project site is not within the MHPA. The closest MHPA area is approximately 40 feet west of the project site's western boundary and approximately 165 feet west of the westernmost portion of the proposed development area. The project was analyzed for consistency with the MSCP Land Use Adjacency Guidelines and other components of the City's MSCP Subarea Plan. As documented in the MND, the biological technical reports and other project documentation, the project, as mitigated, would be consistent with the MSCP relative to potential impacts to areas such as drainage, toxics, lighting, noise, invasive plants, brush management and land development. Because of the project design, and with implementation of the MMRP, applicable laws and project conditions, the project will be consistent with the City's MSCP Subarea Plan.

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

The proposed, construction of a new, two-story, single-family residence with an attached garage, will occur entirely within the approximately 0.92 acre previously disturbed portion of the 1.52 acre project site. The project site is located on a high coastal bluff area approximately 227 feet or greater above the mean sea level and the western most edge of the property is approximately 800 feet from the mapped mean high tide line. The north western portion of the project site, approximately 0.60-acres, contains areas of non-native invasive plants and Environmentally Sensitive Lands in the form of sensitive vegetation. That north western portion of the project site will be retained and conserved within a building restricted easement/covenant of easement area.

Due to the presence of Environmentally Sensitive Lands within that 0.60 acre area, the proposed project requires a Site Development Permit.

The project's design includes construction-related storm water BMP's, such as diversion features (as determined by the grading contractor), and permanent LID measures, such as permeable pavement and detention/treatment features within the landscape areas, to ensure runoff from the site does not result in increased erosion and sedimentation off site. Through these project design features and the Mitigation Monitoring Reporting Program, runoff volumes from the developed portion of the site would be reduced to match pre-existing flows, and would therefore not contribute erosive discharge velocities at the existing storm drain outlets into Box Canyon or elsewhere. As such, the project would not contribute to the erosion of public beaches or adversely impact local shoreline sand supply.

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

The 66,253 square-foot project site is located within a mostly developed area of large scale single-family residences on large, approximately 1 to 3 acre sized lots. The development proposes to construct a new, two-story, single family residence on the previously disturbed, approximately 0.92 acre portion of the project site. During environmental review, it was determined that the project may have a significant environmental effect on Biological, Historical (Archaeological) and Paleontological Resources. The City prepared a Mitigated Negative Declaration, Project No. 237107, in accordance with CEQA. The Mitigated Negative Declaration includes mitigation measures for potential impacts to Biological, Historical (Archaeological) and Paleontological Resources, to reduce those potential impacts to a level below significance. The Mitigation, Monitoring and Reporting Program incorporates measures necessary to meet the performance standards in the City's Biology Guidelines, the City's CEQA Threshold of Significance for biological resources (60dB(a) noise limit), and state and federal law prohibiting the take, capture or killing of such avian species, including, among other things, required mitigation for potential impacts to California gnatcatcher and other migratory birds, detailed monitoring and compliance requirements, limits on the time periods and circumstances when development may occur absent the imposition of additional protections, requirements for revegetation and specific measures relating to the MSCP Land Use Adjacency Guidelines and detailed programs for potential impacts to archaeological and paleontological resources. In addition, the project must comply with applicable Land Development Code provisions that require preferential avoidance of sensitive habitat and species for Brush Management Zone 2 areas, revegetation requirements and construction related storm water best management practices with respect to potential drainage impacts. Further, through the project design and conditions requiring measures such as the dedication of building restricted and public view corridor easements, the project was determined to be in compliance with the La Jolla Community Plan and the Local Coastal Plan land use plan. As designed, and with the conditions imposed, the project also complies with or exceeds the requirements of all applicable Land Development Code regulations. Thus, the nature and extent of mitigation required of the project as a condition of the permit is reasonably related to, and calculated to alleviate, negative impacts created by the proposed development of the project site.

BE IT FURTHER RESOLVED that, based on the findings hereinbefore adopted by the Planning Commission, Coastal Development Permit No. 852026 and Site Development Permit No. 852027, are hereby GRANTED by the Planning Commission to the referenced Owner/Permittee, in the form, exhibits, terms and conditions as set forth in Permit Nos. 852026 and 852027, a copy of which is attached hereto and made a part hereof.

Glenn R. Gargas, AICP
Development Project Manager
Development Services

Adopted on: January 17, 2013.

Job Order No. 24001703

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

SPACE ABOVE THIS LINE FOR RECORDER'S USE

INTERNAL ORDER NUMBER: 24001703

COASTAL DEVELOPMENT PERMIT NO. 852026 AND SITE DEVELOPMENT PERMIT NO. 852027
ENCORE TRUST RESIDENCE - PROJECT NO. 237107
AMENDMENT TO COASTAL DEVELOPMENT PERMIT NO. 690317 AND SITE DEVELOPMENT PERMIT NO. 690318
PLANNING COMMISSION

This Coastal Development Permit No. 852026 and Site Development Permit No. 852027, Amendment to Coastal Development Permit No. 690317 and Site Development Permit No. 690318 are granted by the Planning Commission of the City of San Diego to Armand Kessous and Alain Paris, Trustees of the Encore Trust, Owner, and Permittee, pursuant to San Diego Municipal Code [SDMC] sections 126.0708 and 126.0504. The 1.521 -acre site is located at 9872 La Jolla Farms Road in the RS-1-2 Zone, Coastal (appealable) Overlay Zone, Parking Impact Overlay Zone, Coastal Height Limitation Overlay Zone and Residential Tandem Parking Overlay Zone of the La Jolla Community Plan area. The project site is legally described as: Parcel 2, Parcel Map No. 20573.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee to construct a single family residence described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated January 17, 2013, on file in the Development Services Department.

The project shall include:

a. Construction of a two-story, approximate 17,949 square foot, gross floor area, single-family residence with a three car garage and swimming pool on a 66,256 square-foot property;

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

c. Off-street parking;

d. Retaining and site walls; and

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

STANDARD REQUIREMENTS:

1. This permit must be utilized within thirty-six (36) months after the date on which all rights of appeal have expired. If this permit is not utilized in accordance with Chapter 12, Article 6, Division 1 of the SDMC within the 36 month period, this permit shall be void unless an Extension of Time has been granted. Any such Extension of Time must meet all SDMC requirements and applicable guidelines in effect at the time the extension is considered by the appropriate decision maker. This permit must be utilized by January ___, 2016.

2. Coastal Development Permit No. 852056 and Site Development Permit No. 852027 shall become effective on the later of the: (i) eleventh working day following receipt by the California Coastal Commission of the Notice of Final Action, or following all appeals; and (ii) the date those permits are signed by the Owner/Permittee, returned to the City and recorded as specified in Condition 3 below. Until the above referenced permits become effective as provided for in this condition, Coastal Development Permit No. 690317 and Site Development Permit No. 690318 shall remain effective.

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

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

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

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

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

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

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

8. In accordance with authorization granted to the City of San Diego from the United States Fish and Wildlife Service [USFWS] pursuant to Section 10(a) of the federal Endangered Species Act [ESA] and by the California Department of Fish and Game [CDFG] pursuant to California Fish and Game Code section 2835 as part of the Multiple Species Conservation Program [MSCP], the City of San Diego through the issuance of this Permit hereby confers upon Owner/Permittee the status of Third Party Beneficiary as provided for in Section 17 of the City of San Diego Implementing Agreement [IA], executed on July 16, 1997, and on file in the Office of the City Clerk as Document No. OO-18394. Third Party Beneficiary status is conferred upon Owner/Permittee by the City: (1) to grant Owner/Permittee the legal standing and legal right to utilize the take authorizations granted to the City pursuant to the MSCP within the context of those limitations imposed under this Permit and the IA, and (2) to assure Owner/Permittee that no existing mitigation obligation imposed by the City of San Diego pursuant to this Permit shall be altered in the future by the City of San Diego, USFWS, or CDFG, except in the limited circumstances described in Sections 9.6 and 9.7 of the IA. If mitigation lands are identified but not yet dedicated or preserved in perpetuity, maintenance and continued recognition of Third Party Beneficiary status by the City is contingent upon Owner/Permittee maintaining the biological values of any and all lands committed for mitigation pursuant to this Permit and of full satisfaction by Owner/Permittee of mitigation obligations required by this Permit, in accordance with Section 17.1D of the IA.

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

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

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

If any condition of this Permit, on a legal challenge by the Owner/Permittee of this Permit, is found or held by a court of competent jurisdiction to be invalid, unenforceable, or unreasonable, this Permit shall be void. However, in such an event, the Owner/Permittee shall have the right, by paying applicable processing fees, to bring a request for a new permit without the "invalid"

conditions(s) back to the discretionary body which approved the Permit for a determination by that body as to whether all of the findings necessary for the issuance of the 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.

ENVIRONMENTAL/MITIGATION REQUIREMENTS:

13. Mitigation requirements in the Mitigation, Monitoring, and Reporting Program [MMRP] as specified in Mitigated Negative Declaration No. 237107 shall apply to this Permit. These MMRP conditions are hereby incorporated into this Permit by reference.

14. The mitigation measures specified in the MMRP and outlined in Mitigated Negative Dec, NO. 237107, shall be noted on the construction plans and specifications under the heading ENVIRONMENTAL MITIGATION REQUIREMENTS.

15. The Owner/Permittee shall comply with the MMRP as specified in Mitigated Negative Declaration, No. 237107, to the satisfaction of the Development Services Department and the City Engineer. Prior to issuance of any construction permit, all conditions of the MMRP shall be adhered to, to the satisfaction of the City Engineer. All mitigation measures described in the MMRP shall be implemented for the following issue areas: BIOLOGICAL, HISTORIC (ARCHAEOLOGICAL) AND PALEONTOLOGICAL RESOURCES

ENGINEERING REQUIREMENTS:

16. Prior to the issuance of any construction permits, the Owner/Permittee shall assure by permit and bond the relocation of the telecommunications vault and construction of a City Standard 12' driveway, adjacent to the site on La Jolla Farms Road, satisfactory to the City Engineer.

17. This project proposes to export 5,200 cubic yards of material from the project site. All export material shall be discharged into a legal disposal site. The approval of this project does not allow the onsite processing and sale of the export material unless the underlying zone allows a construction and demolition debris recycling facility with an approved Neighborhood Use Permit or Conditional Use Permit per LDC Section 141.0620(i).
18. Prior to the issuance of any construction permits, the Owner/Permittee shall obtain an Encroachment Maintenance and Removal Agreement (EMRA) for the decorative pavement and private storm drain system, within the existing public easement and City's right-of-way.

19. Prior to the issuance of any construction permits, the Owner/Permittee shall grant the City additional easement sufficient to provide an 11 foot wide clearance centered on the existing 18" RCP storm drain pipe, satisfactory to the City Engineer.

20. The drainage system proposed for this development is private and subject to approval by the City Engineer.

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

22. Prior to the issuance of any construction permits, the Owner/Permittee shall enter into a Maintenance Agreement for the ongoing permanent BMP maintenance.

23. Prior to the issuance of any construction permits, the Owner/Permittee shall incorporate any construction Best Management Practices necessary to comply with Chapter 14, Article 2, Division 1 (Grading Regulations) of the San Diego Municipal Code, into the construction plans or specifications.

24. Prior to the issuance of any construction permit, the Owner/Permittee shall submit a Water Pollution Control Plan (WPCP). The WPCP shall be prepared in accordance with the guidelines in Appendix E of the City's Storm Water Standards.

25. Prior to the issuance of any construction permits, the Owner/Permittee shall incorporate and show the type and location of all post-construction Best Management Practices (BMP's) on the final construction drawings, in accordance with the approved Water Quality Technical Report, satisfactory to the City Engineer.

LANDSCAPE REQUIREMENTS:

26. Complete landscape and irrigation construction documents consistent with the Land Development Manual: 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. Construction plans shall take into account a 40 square foot area around each tree that is unencumbered by hardscape and utilities as set forth under LDC 142.0403(b)5.

27. If any required landscape (including existing or new plantings, hard cape, 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 of damage or a Final Landscape Inspection.

28. Any required planting that dies within 3 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.

29. Required shrubs or trees that die 3 years or more after installation shall be replaced with 15-gallon size or 60-inch box size /15 foot BTH material, respectively. Development Services may authorize adjustment of the size and quantity of replacement material.

30. Prior to issuance of construction permits for grading, the Owner/Permittee or Subsequent Owner/Permittee shall ensure that all proposed landscaping shall not include exotic plant species that may be invasive to native habitats. Plant species found within the California Invasive Plant Council's (Cal-IPC Invasive Plant Inventory and the prohibited plant species list found in Table 1 of the Landscape Standards shall not be permitted.

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

32. Prior to any disturbance to the site, excluding utility mark-outs and surveying, the contractor shall arrange for a pre-construction meeting with the City of San Diego Mitigation Monitoring.

33. Prior to issuance of any engineering permits for grading, construction documents for slope planting or revegetation including hydroseeding and irrigation shall be submitted in accordance with the Landscape Standards and to the satisfaction of the City Manager. All plans shall be in substantial conformance with Exhibit A (including Environmental conditions) on file in the Office of Development Service. The applicant shall provide the live seed germination percents in the Hydroseed Mix.

34. All required revegetation and erosion control shall be completed within 90 calendar days of the completion of grading or disturbance.

35. Temporary irrigated areas shall be maintained for a period not less than 25 months.

36. Temporary irrigation shall be removed from the revegetated areas upon establishment of the plant materials.

37. Prior to issuance of any construction permits for grading, the Owner/Permittee or subsequent Owner/Permittee shall submit a tree preservation and protection plan for the existing Pinus torreyanna in accordance with the Land Development Manual Landscape Standards and to the satisfaction of the Development Services Department.

38. Site Plan, Grading Plan and Landscape Construction Plans shall delineate the Building Restricted Easements, Covenant of Easement, and View Corridors that already exist or that are required to be dedicated by this Permit.

PLANNING/DESIGN REQUIREMENTS:

39. Owner/Permittee shall maintain a minimum of seven (7) off-street parking spaces on the property at all times in the approximate locations shown on the approved Exhibit "A." Parking spaces shall comply at all times with the SDMC and shall not be converted for any other use unless otherwise authorized by the appropriate City decision maker in accordance with the SDMC.

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

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

42. Prior to the issuance of a building permit, the applicant shall execute and record, in a form and content acceptable to the City of San Diego, a view corridor easement in favor of the City of San Diego over the area described in the approved Exhibit "A" as the Southern View Corridor. No structure or vegetation that exceeds 329 feet above mean sea level shall be permitted within that Southern View Corridor easement with the exception of perimeter walls, railings and fencing, which shall be 75% open where it exceeds 329 feet above mean sea level. The easement shall not be removed or changed without a City approved amendment to this permit.

43. The existing North Central View Corridor, a 15 ft. wide view corridor reserved as a Building Restriction Easement pursuant to Parcel Map 16819, shall be preserved. All landscaping within the easement shall be maintained so as not to exceed 36 inches above grade. No structure or vegetation that exceeds 36 inches above grade shall be permitted within the Limit of Work as defined on the approved Exhibit "A" of the North Central View Corridor Building Restriction Easement with the exception of perimeter walls, railings, stairs and fencing, which

shall be 75% open where they exceeds 36 inches above grade. This easement shall not be removed or changed without a City approved amendment to this permit.

44. 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.

45. No designated coastal bluffs presently exist on the project site at issue in this permit, nor are they in close proximity to the development authorized by this permit. By acceptance of this permit, the Owner/Permittee agrees, on behalf of themselves and all other successors and assigns, that to the extent circumstances change and coastal bluffs exist in the future on the project site, no bluff protective device(s) or shoreline protective device(s) shall ever be constructed to protect the development approved pursuant to this permit including, but not limited to, the residence and hardscape and any future improvements, in the event that the development is threatened with damage or destruction from coastal bluff instability due to erosion, landslides, sea level rise, wave uprush, storm conditions or other natural hazards in the future. By acceptance of this permit, the Owner/Permittee hereby waives, on behalf of themselves and all successors and assigns, any rights to construct such devices that may exist under Public Resources Code Section 30235, and/or the equivalent provisions in the City of San Diego LCP.

46. By acceptance of this permit, the Owner/Permittee further agrees, on behalf of themselves and all successors and assigns, that the owner shall remove the development authorized by this permit, including the residence and hardscape, if any government agency has ordered that the structure(s) is/are not to be occupied due to any of the hazards identified in the above condition of approval. In the event that portions of the development fall to the beach before they are removed, the owner shall remove all recoverable debris associated with the development from the beach and ocean and lawfully dispose of the material in an approved disposal site. Such removal shall require a coastal development permit.

47. In the event the principal residence authorized by this permit appears threatened by coastal bluff retreat but no government agency has ordered that the structures are not to be occupied, a geotechnical investigation shall be prepared by a licensed coastal engineer and geologist retained by the applicant, that addresses whether any portions of the residence are threatened by coastal bluff instability due to erosion, landslides or other natural hazards. The report shall identify all those immediate or potential future measures that could stabilize the principal residence without bluff protection, including but not limited to removal or relocation of portions of the residence. The report shall be submitted to the Director of Development Services or his/her designee. If the geotechnical report concludes that the residence or any portion of the residence is unsafe for occupancy, the Owner/Permittee shall, within 90 days of submitting the report, apply for a coastal development permit amendment to remedy the hazard which may include removal of the threatened portion of the structure.

48. Prior to the issuance of a building permit, the Owner/Permittee shall execute and record a grant to the City of San Diego, in a form and content acceptable to the City of San Diego, irrevocably offering to dedicate to a public agency an easement for an unimproved, pedestrian accessway for use by the public for recreational purposes over and across the portion of the

project site depicted in the approved Exhibit "A" as the Public Access Trail. The document shall provide that the offer of dedication shall not be used or construed to allow anyone to interfere with any rights of public access acquired through use which may exist on the property that is the subject of the irrevocable offer to dedicate. The grantee accepting the easement shall assume responsibility for maintenance of the easement and liability for public use of the easement. The recorded document shall include a legal description of both the entire project site and a metes and bounds legal description and corresponding plat prepared by a licensed surveyor of the easement area. The document shall be recorded free of prior liens and any other encumbrances which the City determines may affect the interest being conveyed. The offer shall run with the land in favor of the City of San Diego, binding all successors and assignees and shall be irrevocable for a period of 21 years, such period running from date of recordation. This easement shall not be removed or changed without a City approved amendment to this permit.

GEOLOGY REQUIREMENTS

49. The Owner/Permittee shall submit a geotechnical investigation report or update letter that specifically addresses the proposed construction plans. The geotechnical investigation report or update letter shall be reviewed for adequacy by the Geology Section of Development Services prior to the issuance of any construction permit.

50. The Owner/Permittee 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 shall be reviewed for adequacy by the Geology Section of Development Services prior to exoneration of the bond and grading permit close-out.

PUBLIC UTILITIES DEPARTMENT REQUIREMENTS:

51. Prior to the issuance of any building permits, the Owner/Permittee shall apply for a plumbing permit for the installation of appropriate private back flow prevention device(s), on each water service (domestic, fire and irrigation), in a manner satisfactory to the Director of Public Utilities and the City Engineer.

52. All proposed public water facilities, including services and meters, must be designed and constructed 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.

53. All proposed public sewer facilities are to be designed and constructed in accordance with established criteria in the most current City of San Diego sewer design guide.

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

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

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.

APPROVED by the Planning Commission of the City of San Diego on January 17, 2013, by Resolution No. _____.

RESOLUTION NUMBER R- _____

ADOPTED ON JANUARY 17, 2013

ENCORE TRUST RESIDENCE – PROJECT NO. 237107

WHEREAS, on May 5, 2011, PAUL METCALF submitted an application to Development Services Department for a COASTAL DEVELOPMENT PERMIT and a SITE DEVELOPMENT PERMIT (SDP), for the ENCORE TRUST RESIDENCE Project; and

WHEREAS, the matter was set for a Public Hearing to be conducted by the Hearing Officer of the City of San Diego; and

WHEREAS, the issue was heard by the Hearing Officer on November 14, 2012; and

WHEREAS, the Hearing Officer's decision was appealed, the matter was set for a Public Hearing to be conducted by the Planning Commission of the City of San Diego; and

WHEREAS, the issue was heard by the Planning Commission on January 17, 2013; and

WHEREAS, the Planning Commission considered the issues discussed in Mitigation Negative Declaration No. 237107 (Declaration) prepared for this Project; NOW THEREFORE,

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

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

BE IT FURTHER RESOLVED, that pursuant to CEQA Section 21081.6, the Planning Commission hereby adopts the Mitigation Monitoring and Reporting Program, or alterations to implement the changes to the Project as

required by this Planning Commission in order to mitigate or avoid significant effects on the environment, which is attached hereto as Exhibit A.

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

By: _____
Glenn R. Gargas, AICP

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

MND Resolution Form for Any Decision Maker

EXHIBIT A

MITIGATION MONITORING AND REPORTING PROGRAM

COASTAL DEVELOPMENT PERMIT and SITE DEVELOPMENT PERMIT (SDP)
PROJECT NO. 237107

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 Entitlements Division, 1222 First Avenue, Fifth Floor, San Diego, CA, 92101. All mitigation measures contained in the Mitigated Negative Declaration No.237107 shall be made conditions of COAST DEVELOPMENT PERMIT and SITE as may be further described below.

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

A. GENERAL REQUIREMENTS – PART I

Plan Check Phase (Prior to Permit Issuance)

1. ***Prior to the issuance of a Notice To Proceed (NTP) for a subdivision, or any construction permits, such as Demolition, Grading or Building, or beginning any construction related activity on-site, the Development Services Department (DSD) Director's Environmental Designee (ED) shall review and approve all Construction Documents (CD) (e.g., plans, specification, details, etc.) to ensure the MMRP requirements are incorporated.***

2. ***In addition, the ED shall verify that the MMRP Conditions/Notes that apply ONLY to the construction phases of this project are included VERBATIM, under the heading,*** *"ENVIRONMENTAL/MITIGATION REQUIREMENTS."*

3. ***These notes must be shown within the first three (3) sheets of the CD in the format specified for engineering CD templates as shown on the City website:***
   http://www.sandiego.gov/development-services/industry/standtemp.shtml

4. *The TITLE INDEX SHEET* ***must also show on which pages the "Environmental/Mitigation Requirements" notes are provided.***

5. *SURETY AND COST RECOVERY* – ***The DSD Director or City Manager may require appropriate surety instruments or bonds from private PERMIT HOLDERS to ensure the long term performance or implementation of required mitigation measures or programs. The City is***

authorized to recover its cost to offset the salary, overhead, and expenses for City personnel and programs to monitor qualifying projects.

B. GENERAL REQUIREMENTS – PART II

Post Plan Check (After Permit Issuance/Prior to Start of Construction)

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

Qualified Biologist
Qualified Archaeologist
Native American Monitor
Qualified Paleontologist

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

CONTACT INFORMATION:

a) ***The PRIMARY POINT OF CONTACT is the*** *RE at the Field Engineering Division – 858-627-3200.*
b) ***For clarification of ENVIRONMENTAL REQUIREMENTS, it is also required to call*** *RE and MMC at 858-627-3360.*

2. *MMRP COMPLIANCE:* ***This Project, Project Tracking System (PTS) 237107, shall conform to the mitigation requirements contained in the associated Environmental Document and implemented to the satisfaction of the RE and ED (MMC). The requirements may not be reduced or changed but may be annotated (i.e., to explain when and how compliance is being met and location of verifying proof, etc.). Additional clarifying information may also be added to other relevant plan sheets and/or specifications as appropriate (i.e., specific locations, times of monitoring, methodology, etc.).***

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

3. *OTHER AGENCY REQUIREMENTS:* ***Evidence of compliance with all other agency requirements or permits shall be submitted to the RE and MMC for review and acceptance prior to the beginning of work or within one week of the PERMIT HOLDER obtaining***

documentation of those permits or requirements. Evidence shall include copies of permits, letters of resolution, or other documentation issued by the responsible agency, if required.

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

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

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

Document Submittal/Inspection Checklist

[List all and only project specific required verification documents and related inspections table below]

Issue Area	*Document submittal*	*Assoc Inspection/Approvals/ Notes*
General	Consultant Qualification Letters	Prior to Pre-construction Meeting
General	Consultant Const. Monitoring Exhibits	Prior to or at the Pre-Construction Meeting
Archaeology	Archaeology Reports	Archaeology Site Observation
Biology	Biologist Limit of Work Verification	Limit of Work Inspection
Biology	Biology Report	Biology/Habitat Revegetation Inspection
Biology	Land Use Adjacency Guidelines	Land Use Adjacency Issue Site Observations
Geology	As Graded Soils Report	Geotechnical Inspection
Paleontology	Paleontology Reports	Paleontology Site Observation
Bond Release	Request for Bond Release Letter	Final MMRP Inspections prior to Bond Release Letter

C. SPECIFIC MMRP ISSUE AREA CONDITIONS/REQUIREMENTS

BIOLOGICAL RESOURCES

Requirements for Land in Proximity to Biological Resources

Preconstruction Measures

1. Prior to the issuance of any grading permits and/or the first pre-construction meeting, the owner/permittee shall submit evidence to the ADD of Entitlements verifying that a

qualified biologist has been retained to implement the biological resources mitigation program as detailed below (A through D):

A. Prior to the first pre-construction meeting, the applicant shall provide a letter of verification to the ADD of Entitlements stating that a qualified Biologist, as defined in the City of San Diego Biological Review References (BRR), has been retained to monitor construction operations.
B. At least thirty days prior to the pre-construction meeting, a second letter shall be submitted to the MMC section which includes the name and contact information of the Biologist names and of all persons involved in the Biological Monitoring of the project, if changed and/or not provided in the first letter.
C. At least thirty days prior to the pre-construction meeting, the qualified Biologist shall verify that any special reports, maps, plans and time lines, such as but not limited to, revegetation plans, plant salvage/ relocation requirements and timing (i.e. per coastal cactus wren requirements etc.), avian or other wildlife (including USFWS protocol) surveys, impact avoidance areas or other such information/plans are completed and are placed on the construction plans and approved by City MMC.
D. The qualified biologist (project biologist) shall attend the first preconstruction meeting and arrange to perform any measures site specific fauna/flora surveys/salvage.

Construction Measures

1. The project biologist shall meet with the owner/permittee or designee and the construction crew and conduct an on-site educational session regarding the need to avoid impacts outside of the approved construction area and to protect sensitive flora and fauna (i.e. explain flag system for removal or retention, limit vegetation removal/demolition areas to fall only outside of sensitive biological areas).

2. As determined at the Precon Meeting, the qualified project biologist shall supervise the installation of the limit of work fence (per approved Exhibit A) to protect biological resources and during construction be on-site to prevent/note any new disturbances to habitat, flora, and/or fauna onsite. The biologist shall perform pregrading bird surveys; flag biological resources such as plant specimens etc. for avoidance during access (as appropriate). In the event of a positive bird nest survey, the biologist shall delay construction and notify City MMC to accommodate additional mitigation as needed/required.

3. All construction (including staging areas) shall be restricted to areas previously developed as shown on the aerial photo above (bare earth areas and dirt roads). The project biologist shall monitor construction activities as needed to ensure that construction activities do not encroach into biologically sensitive areas, or cause other similar damage, and that the work plan has been amended to accommodate any sensitive species located during the pre-construction surveys.

Post Construction Measures

1. Prior to the release of the construction bond, the project biologist shall submit a letter report to the ADD of Entitlements that assesses any project impacts resulting from construction. In the event that impacts exceed the allowed amounts, the additional

impacts shall be mitigated in accordance with the City of San Diego Land Development Code, to the satisfaction of the City ADD.

2. The Principal Qualified Biologist (PQB) shall submit two copies of the Final Monitoring Report which describes the results, analysis, and conclusions of all phases of the Biological Monitoring and Reporting Program (with appropriate graphics) to MMC for review and approval within 30 days following the completion of monitoring.
3. The PQB shall submit any required revised Report to MMC (with a copy to the Resident Engineering (RE)) for approval within 30 days.
4. MMC will provide written acceptance to the PQB and RE of the approved report.

Nesting Bird Mitigation (General) – Ensure Prior to Permit Issuance (Entitlements Division Plan Check)

1. If project grading/brush management is proposed in or adjacent to native habitat during the typical bird breeding season (i.e. Feb. 1-Sept. 15), or an active nest is noted, the project biologist shall conduct a pregrading survey for active nests in the development area and within 300 feet of it, and submit a letter report to MMC prior to the preconstruction meeting.

   A. If active nests are detected, or considered likely, the report shall include mitigation in conformance with the City's Biology Guidelines and applicable State and Federal Law (i.e. appropriate follow up surveys, monitoring schedules, construction and noise barriers/buffers, etc.) to the satisfaction of the Assistant Deputy Director (ADD) of the Entitlements Division. Mitigation requirements determined by the project biologist and the ADD shall be incorporated into the project's Biological Construction Monitoring Exhibit (BCME) and monitoring results incorporated in to the final biological construction monitoring report.

   B. If no nesting birds are detected per "A" above, mitigation under "A" is not required.

Species Specific Mitigation (Required to meet MSCP Subarea Plan Conditions of Coverage) Mitigation for Potential Impacts to California Gnatcatcher

1. Prior to the issuance of any grading or construction permit and/or prior to the preconstruction meeting), the ADD (or appointed designee) shall verify that the Multi-Habitat Planning Area (MHPA) boundaries and the following project requirements regarding the coastal California gnatcatcher are shown on the construction plans:
   NO CLEARING, GRUBBING, GRADING, OR OTHER CONSTRUCTION ACTIVITIES SHALL OCCUR BETWEEN MARCH 1 AND AUGUST 15, WHICH EFFECT THE BREEDING SEASON OF THE COASTAL CALIFORNIA GNATCATCHER WHOSE TERRITORY IS WHOLLY WITHIN/OR PARTIALLY WITHIN A MHPA AREA, UNTIL THE FOLLOWING REQUIREMENTS HAVE BEEN MET TO THE SATISFACTION OF THE CITY MANAGER:
   A. A QUALIFIED BIOLOGIST (POSSESSING A VALID ENDANGERED SPECIES ACT SECTION 10(a)(1)(A) RECOVERY PERMIT) SHALL SURVEY THOSE HABITAT AREAS <u>WITHIN THE MHPA</u> THAT WOULD BE SUBJECT TO CONSTRUCTION NOISE LEVELS EXCEEDING 60 DECIBELS [dB(A)] HOURLY AVERAGE FOR THE PRESENCE OF THE COASTAL CALIFORNIA GNATCATCHER. SURVEYS FOR THE

COASTAL CALIFORNIA GNATCATCHER SHALL BE CONDUCTED PURSUANT TO THE PROTOCOL SURVEY GUIDELINES ESTABLISHED BY THE U.S. FISH AND WILDLIFE SERVICE WITHIN THE BREEDING SEASON PRIOR TO THE COMMENCEMENT OF ANY CONSTRUCTION.

IF GNATCATCHERS ARE PRESENT, THEN THE FOLLOWING CONDITIONS MUST BE MET:

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

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

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

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

B. IF COASTAL CALIFORNIA GNATCATCHERS ARE NOT DETECTED IN PROJECT AREA MHPA'S DURING THE PROTOCOL SURVEY, THE QUALIFIED BIOLOGIST SHALL SUBMIT SUBSTANTIAL EVIDENCE TO THE CITY MANAGER AND APPLICABLE RESOURCE AGENCIES WHICH DEMONSTRATES WHETHER OR NOT MITIGATION MEASURES SUCH AS NOISE WALLS ARE NECESSARY BETWEEN MARCH 1 AND AUGUST 15 AS FOLLOWS:

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

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

Revegetation-Ensure Prior to Permit Issuance (Entitlements Division Plan Check)

Prior to Permit Issuance the Permit Holder shall:

1. Direct the Qualified Project Biologist (QPB) to identify and adequately document all pertinent information from the approved conceptual revegetation plan including program goals and requirements shown on Exhibit A which include landscape construction documents (LCDs) and submit permit level construction plans to the City's Development Services Review Sections (Environmental, Landscape, Permits, etc.) Approval from MSCP Staff may also be required in this case. Information shall include but not be limited to: each type of habitat, specific species removal and replacement plant/seed palettes, timing of installation, plant installation specifications, method of watering, protection of adjacent habitat (show and identify existing vegetation to remain), erosion and sediment control, performance/success criteria, inspection schedule, document submittals, contingency bonding, reporting schedule, tables, graphics, notes, and conformance check with the approved "Exhibit A" documentation associated with the Discretionary permit.

2. Direct the QPB to provide, on the LCD, a table showing types of each habitat impacted and how it is to be restored and or enhanced along with the corresponding acreage and/or total number of plants being replaced as well as specific success criteria for each type of habitat and each reporting period

3. Direct the QPB to ensure the LCD includes comprehensive notes addressing the 120 day Plant Establishment Period (PEP) and the 24 Month Monitoring Revegetation Period (which occurs after PEP) is accepted by the City. Notes shall also address and provide recommendations for the ongoing maintenance requirements (after final acceptance of the LTMMP by the City).

4. Direct the QPB to ensure the LCD includes a note requiring the Permit Holder to enter into a bonded Biological Mitigation Agreement to assure success of the revegetation during the LTMMP. This may not be necessary when the construction permit that has an associated performance bond that is active and has included the revegetation and monitoring costs in their entirety within it and adequately assures success of the revegetation program to the satisfaction of MMC.

Prior to Start of Construction the Permit Holder shall hold a Preconstruction Meeting (Pre Con) and shall:

1. Direct the QPB to attend the Pre con Meeting (refer to Requirements for Land in Proximity to Biological Resources above for additional information)

During Construction the Permit Holder shall have a Project Biologist Present During Construction/Grading/Excavation/Planting/Irrigation and shall:

1. Direct the QPB to supervise the placement of the orange construction fence (refer to Requirements for Land in Proximity to Biological Resources above for additional information)

During Plant Installation the Permit Holder shall:

1. Direct the QPB to ensure that all clearing, grubbing, grading, contouring, excavation, trenching, installation of plant materials, and any necessary actions required during installation are done per the approved LCD.

2. Direct the QPB to review the mitigation area and assess completion of the installation and submit a letter report to Permit Holder who then submits it to RE/MMC requesting the Plant Installation Inspection. RE/MMC will review the report and schedule the inspection (walk thru). Upon completion of the Plant Installation Inspection, including all punch list items, MMC will provide written acceptance of plant installation to the RE and Permit Holder.

3. Direct the QPB to begin the 120 Plant Establishment Period (PEP) monitoring.

During the 120 Day Plant Establishment Period (PEP) the Permit Holder shall:

1. Direct the QPB to ensure that all maintenance and/ or remedial activities required during the 120 day PEP are done per approved LCD/BCME.

2. Direct the QPB to supervise the maintenance and be responsible for the monitoring of the revegetation mitigation area for a minimum of 120 Days. Maintenance visits shall be conducted on a weekly basis throughout the PEP, unless otherwise noted in the MMRP and/or LCD/BCME.

3. Direct the QPB to review the mitigation area and assess completion of the PEP and submit a report to the Permit Holder who will then submit the report to RE/MMC requesting the PEP inspection. RE/MMC will review the report and schedule the inspection (walk thru). Upon completion of the PEP inspection, including all punch list items, MMC will provide written acceptance of the PEP to the RE and PERMIT HOLDER.

4. Direct the QPB to begin the 25-Month, Long Term Maintenance and Monitoring Period (LTMMP).

During Post Construction the Permit Holder shall conduct a 25-Month, Long Term Maintenance and Monitoring Period (LTMMP) and shall:

1. Direct the QPB to ensure the required LTMMP activities and reporting shall include all items and performance standards described in the LCD/BCME.

2. Direct the QPB to evaluate the Revegetation effort both qualitatively and quantitatively to determine compliance with the performance standards identified on the LCD/BCME.

3. Direct the QPB to supervise the removal of the temporary irrigation system and construction BMPs and to verify this in writing on the final post-construction phase CSVR.

During Post Construction the Permit Holder shall submit Progress and Annual Monitoring Reports and shall:

1. Direct the QPB to submit Annual Reports summarizing the results of each progress report including quantitative monitoring results and photographs taken from permanent viewpoints shall be submitted to MMC for review and approval within 30 days following that phase of required monitoring. A request for inspection shall accompany each annual report. After reviewing each report, MMC will schedule the inspection.

During Post Construction the Permit Holder shall submit a Final Monitoring Report and shall:

1. Direct the QPB to evaluate success of the mitigation effort and prepare a Final Monitoring Report upon achievement of the 25 month performance/success criteria.

2. Direct the QPB to submit the Final Monitoring Report and any outside agency reports to the RE/MMC for review and approval. A request for a final inspection shall also be submitted at this time. After review of the report RE/MMC will schedule the Final Inspection.

3. Direct the QPB to coordinate the final acceptance of the Revegetation Project. If at the end of the 25-months any of the revegetated/restored area fails to meet the project's final success criteria, the Permit Holder must consult with RE/MMC to resolve the situation.

4. It is the responsibility of the Permit Holder to understand that failure of any significant portion of the revegetation area may result in implementation of the contingency/remediation requirements to replace or renegotiate for failing portion(s) of the site and/or extend the establishment/maintenance/monitoring period until all success criteria are met to the satisfaction of MMC Staff.

MSCP Subarea Plan Land Use Adjacency Guidelines Mitigation

1. Prior to the issuance of a Notice To Proceed (NTP) for a subdivision, or any construction permits, such as Demolition, Grading or Building, or beginning any construction related activity on-site, the City ADD (or designee) shall verify that the project is in compliance with the MSCP Subarea Plan's Land Use Adjacency Requirements and that the following

site specific requirements are noted on the grading plans under the heading Environmental Requirements:

A. Drainage - All new and proposed developed areas in and adjacent to the preserve must not drain directly into the MHPA. All developed and paved areas must prevent the release of toxins, chemicals, petroleum products, exotic plant materials and other elements that might degrade or harm the natural environment or ecosystem processes within the MHPA. This can be accomplished using a variety of methods including natural detention basins, grass swales or mechanical trapping devices. These systems shall be maintained approximately once a year, or as often as needed, to ensure proper functioning. Maintenance shall include dredging out sediments if needed, removing exotic plant materials, and adding chemical-neutralizing compounds (e.g., clay compounds) when necessary and appropriate. In general, any man-made storm drains draining into the MHPA shall employ dissipation and filtering devices. Compliance with City of San Diego Engineering Drainage Standards shall be ensured to the satisfaction of the ADD and City Engineer.

B. Toxics - Land uses, such as urban development, recreation and agriculture, that use chemicals or generate by-products such as pesticides, herbicides, and animal waste, that are potentially toxic or impactive to wildlife, sensitive species, habitat, or water quality shall incorporate measures to reduce impacts caused by the application and/or drainage of such materials into the MHPA. In addition, no trash, oil, parking, or other construction/development-related material/activities shall be allowed outside the established limits of disturbance (i.e. outside of the paved existing access roads). Measures shall include drainage/detention basins, swales, or holding areas with non-invasive grasses or wetland-type native vegetation to filter out the toxic materials. Regular maintenance shall be provided. Where applicable, this requirement shall be incorporated into leases on publicly owned property as leases come up for renewal.

C. Lighting- Lighting of all developed areas adjacent to the MHPA shall be directed away from the MHPA. Where necessary, development shall provide adequate shielding with non-invasive plant materials (preferably native), berming, and/or other methods to protect the MHPA and sensitive species from night lighting. All lighting shall also comply with City Outdoor Lighting Regulations LDC 142.0740

D. Noise -Uses in or adjacent to the MHPA shall be designed to minimize noise impacts. Berms or walls shall be constructed adjacent to commercial areas, recreational areas, and any other use that may introduce noises that could impact or interfere with wildlife utilization of the MHPA. Excessively noisy uses (i.e. construction) or activities adjacent to breeding areas must incorporate noise reduction measures to reduce noise below 60 dB and/or be curtailed during the general and sensitive bird breeding season (February 1-September 15) per the City and Wildlife Agency protocol. Adequate noise reduction measures shall also be incorporated for the remainder of the year.

E. Barriers- New development adjacent to the MHPA shall be required to provide barriers (e.g., non-invasive vegetation, rocks/boulders, fences, walls, and/or signage) along the

MHPA boundaries to direct public access to appropriate locations and reduce domestic animal predation.

F. Invasives - No invasive non-native plant species shall be introduced into areas adjacent to the MHPA. All plantings at the urban/natural edge shall be native, drought tolerant, and acceptable to the Fire Marshal. No invasive/non-native species shall be located on-site where they have the potential to invade on-site, or adjacent natural lands per LDC 142.045(b)(2). Prior to issuance of any notice to proceed, the ADD Environmental designee shall verify that the construction plans specify that areas within or adjacent to the MHPA shall be hydroseeded or planted with a native seed mix and or native container stock, as shown on Exhibit A. All revegetation within 100 feet of native habitat must be native chaparral or coastal sage scrub species. No deviations shall be made from the EAS approved Exhibit A without prior EAS approval.

G. Brush Management - New development located adjacent to and topographically above the MHPA (e.g., along canyon edges) must be set back from slope edges to incorporate Zone 1 brush management areas on the development pad and outside of the MHPA. Zones 2 may be located in the MHPA upon granting of an easement to the City (or other acceptable agency) except where narrow wildlife corridors require it to be located outside of the MHPA. Brush management zones will not be greater in size that is currently required by the City's regulations. The amount of woody vegetation clearing shall not exceed 50 percent of the vegetation existing when the initial clearing is done. Vegetation clearing shall be done consistent with City standards and shall avoid/minimize impacts to covered species to the maximum extent possible per LDC 142.0412(d) and (h)(4). For all new development, regardless of the ownership, the brush management in the Zone 2 area will be the responsibility of a homeowners association or other private party. For existing project and approved projects, the brush management zones, standards and locations, and clearing techniques will not change from those required under existing regulations.

H. Grading/Land Development- Manufactured slopes associated with site development shall be included within the development footprint for projects within or adjacent to the MHPA.

HISTORICAL RESOURCES (ARCHAEOLOGY)

Archaeological Construction Monitoring

1. Prior to Permit Issuance

A. Entitlements Plan Check

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

B. Letters of Qualification have been submitted to ADD

1. The applicant shall submit a letter of verification to Mitigation Monitoring Coordination (MMC) identifying the Principal Investigator (PI) for the project and the names of all persons involved in the archaeological monitoring program,

as defined in the City of San Diego Historical Resources Guidelines (HRG). If applicable, individuals involved in the archaeological monitoring program must have completed the 40-hour HAZWOPER training with certification documentation.

2. MMC will provide a letter to the applicant confirming the qualifications of the PI and all persons involved in the archaeological monitoring of the project meet the qualifications established in the HRG.
3. Prior to the start of work, the applicant must obtain written approval from MMC for any personnel changes associated with the monitoring program.

2. Prior to Start of Construction

A. Verification of Records Search

1. The PI shall provide verification to MMC that a site specific records search (1/4 mile radius) has been completed. Verification includes, but is not limited to a copy of a confirmation letter from South Coastal Information Center, or, if the search was in-house, a letter of verification from the PI stating that the search was completed.
2. The letter shall introduce any pertinent information concerning expectations and probabilities of discovery during trenching and/or grading activities.
3. The PI may submit a detailed letter to MMC requesting a reduction to the ¼ mile radius.

B. PI Shall Attend Precon Meetings

1. Prior to beginning any work that requires monitoring; the Applicant shall arrange a Precon Meeting that shall include the PI, Native American consultant/monitor (where Native American resources may be impacted), Construction Manager (CM) and/or Grading Contractor, Resident Engineer (RE), Building Inspector (BI), if appropriate, and MMC. The qualified Archaeologist and Native American Monitor shall attend any grading/excavation related Precon Meetings to make comments and/or suggestions concerning the Archaeological Monitoring program with the Construction Manager and/or Grading Contractor.
   a. If the PI is unable to attend the Precon Meeting, the Applicant shall schedule a focused Precon Meeting with MMC, the PI, RE, CM or BI, if appropriate, prior to the start of any work that requires monitoring.
2. Identify Areas to be Monitored
   a. Prior to the start of any work that requires monitoring, the PI shall submit an Archaeological Monitoring Exhibit (AME) (with verification that the AME has been reviewed and approved by the Native American consultant/monitor when Native American resources may be impacted) based on the appropriate construction documents (reduced to 11x17) to MMC identifying the areas to be monitored including the delineation of grading/excavation limits.
   b. The AME shall be based on the results of a site specific records search as well as information regarding existing known soil conditions (native or formation).

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

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

3. **During Construction**

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

1. The Archaeological Monitor shall be present full-time during all soil disturbing and grading/excavation/trenching activities which could result in impacts to archaeological resources as identified on the AME. **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 AME.**
2. The Native American consultant/monitor shall determine the extent of their presence during soil disturbing and grading/excavation/trenching activities based on the AME and provide that information to the PI and MMC. If prehistoric resources are encountered during the Native American consultant/monitor's absence, work shall stop and the Discovery Notification Process detailed in Section 3.B-C and 4.A-D shall commence.
3. The PI may submit a detailed letter to MMC during construction requesting a modification to the monitoring program when a field condition such as modern disturbance post-dating the previous grading/trenching activities, presence of fossil formations, or when native soils are encountered that may reduce or increase the potential for resources to be present.
4. The archaeological and Native American consultant/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 Archaeological Monitor shall direct the contractor to temporarily divert all soil disturbing activities, including but not limited to digging, trenching, excavating or grading activities in the area of discovery and in the area reasonably suspected to overlay adjacent resources 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.
4. No soil shall be exported off-site until a determination can be made regarding the significance of the resource specifically if Native American resources are encountered.

C. Determination of Significance

1. The PI and Native American consultant/monitor, where Native American resources are discovered shall evaluate the significance of the resource. If Human Remains are involved, follow protocol in Section 4 below.
   a. The PI shall immediately notify MMC by phone to discuss significance determination and shall also submit a letter to MMC indicating whether additional mitigation is required.
   b. If the resource is significant, the PI shall submit an Archaeological Data Recovery Program (ADRP) which has been reviewed by the Native American consultant/monitor, 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. **Note: If a unique archaeological site is also an historical resource as defined in CEQA, then the limits on the amount(s) that a project applicant may be required to pay to cover mitigation costs as indicated in CEQA Section 21083.2 shall not apply.**
   c. If the resource is not significant, the PI shall submit a letter to MMC indicating that artifacts will be collected, curated, and documented in the Final Monitoring Report. The letter shall also indicate that that no further work is required.

4. **Discovery of Human Remains**

If human remains are discovered, work shall halt in that area and no soil shall be exported off-site until a determination can be made regarding the provenance of the human remains; and the following procedures as set forth in CEQA Section 15064.5(e), the California Public Resources Code (Sec. 5097.98) and State Health and Safety Code (Sec. 7050.5) shall be undertaken:

A. Notification
   1. Archaeological Monitor shall notify the RE or BI as appropriate, MMC, and the PI, if the Monitor is not qualified as a PI. MMC will notify the appropriate Senior Planner in the Environmental Analysis Section (EAS) of the Development Services Department to assist with the discovery notification process.
   2. The PI shall notify the Medical Examiner after consultation with the RE, either in person or via telephone.

B. Isolate discovery site
   1. Work shall be directed away from the location of the discovery and any nearby area reasonably suspected to overlay adjacent human remains until a determination can be made by the Medical Examiner in consultation with the PI concerning the provenance of the remains.
   2. The Medical Examiner, in consultation with the PI, will determine the need for a field examination to determine the provenance.
   3. If a field examination is not warranted, the Medical Examiner will determine with input from the PI, if the remains are or are most likely to be of Native American origin.

C. If Human Remains **ARE** determined to be Native American
   1. The Medical Examiner will notify the Native American Heritage Commission (NAHC) within 24 hours. By law, **ONLY** the Medical Examiner can make this call.

2. NAHC will immediately identify the person or persons determined to be the Most Likely Descendent (MLD) and provide contact information.
3. The MLD will contact the PI within 24 hours or sooner after the Medical Examiner has completed coordination, to begin the consultation process in accordance with CEQA Section 15064.5(e), the California Public Resources and Health & Safety Codes.
4. The MLD will have 48 hours to make recommendations to the property owner or representative, for the treatment or disposition with proper dignity, of the human remains and associated grave goods.
5. Disposition of Native American Human Remains will be determined between the MLD and the PI, and, if:
   a. The NAHC is unable to identify the MLD, OR the MLD failed to make a recommendation within 48 hours after being notified by the Commission; OR;
   b. The landowner or authorized representative rejects the recommendation of the MLD and mediation in accordance with PRC 5097.94 (k) by the NAHC fails to provide measures acceptable to the landowner, THEN,
   c. In order to protect these sites, the Landowner shall do one or more of the following:
      (1) Record the site with the NAHC;
      (2) Record an open space or conservation easement on the site;
      (3) Record a document with the County.
   d. Upon the discovery of multiple Native American human remains during a ground disturbing land development activity, the landowner may agree that additional conferral with descendants is necessary to consider culturally appropriate treatment of multiple Native American human remains. Culturally appropriate treatment of such a discovery may be ascertained from review of the site utilizing cultural and archaeological standards. Where the parties are unable to agree on the appropriate treatment measures the human remains and items associated and buried with Native American human remains shall be reinterred with appropriate dignity, pursuant to Section 5.c., above.

D. If Human Remains are **NOT** Native American
   1. The PI shall contact the Medical Examiner and notify them of the historic era context of the burial.
   2. The Medical Examiner will determine the appropriate course of action with the PI and City staff (PRC 5097.98).
   3. If the remains are of historic origin, they shall be appropriately removed and conveyed to the San Diego Museum of Man for analysis. The decision for internment of the human remains shall be made in consultation with MMC, EAS, the applicant/landowner, any known descendant group, and the San Diego Museum of Man.

5. Night and/or Weekend Work

A. If night and/or weekend work is included in the contract
   1. When night and/or weekend work is included in the contract package, the extent and timing shall be presented and discussed at the precon meeting.
   2. The following procedures shall be followed.
      a. No Discoveries

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

b. Discoveries
All discoveries shall be processed and documented using the existing procedures detailed in Sections 3 - During Construction, and 4 – Discovery of Human Remains. Discovery of human remains shall always be treated as a significant discovery.

c. Potentially Significant Discoveries
If the PI determines that a potentially significant discovery has been made, the procedures detailed under Section 3 - During Construction and 4- Discovery of Human Remains shall be followed.

d. The PI shall immediately contact MMC, or by 8AM of the next business day to report and discuss the findings as indicated in Section 3-B, unless other specific arrangements have been made.

B. If night and/or weekend work becomes necessary during the course of construction
1. The Construction Manager shall notify the RE, or BI, as appropriate, a minimum of 24 hours before the work is to begin.
2. The RE, or BI, as appropriate, shall notify MMC immediately.

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

6. **Post Construction**

A. Preparation and Submittal of Draft Monitoring Report
1. The PI shall submit two copies of the Draft Monitoring Report (even if negative), prepared in accordance with the Historical Resources Guidelines (Appendix C/D) which describes the results, analysis, and conclusions of all phases of the Archaeological Monitoring Program (with appropriate graphics) to MMC for review and approval within 90 days following the completion of monitoring. **It should be noted that if the PI is unable to submit the Draft Monitoring Report within the allotted 90-day timeframe resulting from delays with analysis, special study results or other complex issues, a schedule shall be submitted to MMC establishing agreed due dates and the provision for submittal of monthly status reports until this measure can be met.**
   a. For significant archaeological resources encountered during monitoring, the Archaeological Data Recovery Program shall be included in the Draft Monitoring Report.
   b. Recording Sites with State of California Department of Parks and Recreation. The PI shall be responsible for recording (on the appropriate State of California Department of Park and Recreation forms-DPR 523 A/B) any significant or potentially significant resources encountered during the Archaeological Monitoring Program in accordance with the City's Historical Resources Guidelines, and submittal of such forms to the South Coastal Information Center with the Final Monitoring Report.
2. MMC shall return the Draft Monitoring Report to the PI for revision or, for preparation of the Final Report.
3. The PI shall submit revised Draft Monitoring Report to MMC for approval.
4. MMC shall provide written verification to the PI of the approved report.

5. MMC shall notify the RE or BI, as appropriate, of receipt of all Draft Monitoring Report submittals and approvals.

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

C. Curation of artifacts: Accession Agreement and Acceptance Verification
   1. The PI shall be responsible for ensuring that all artifacts associated with the survey, testing and/or data recovery for this project are permanently curated with an appropriate institution. This shall be completed in consultation with MMC and the Native American representative, as applicable.
   2. The PI shall include the Acceptance Verification from the curation institution in the Final Monitoring Report submitted to the RE or BI and MMC.
   3. When applicable to the situation, the PI shall include written verification from the Native American consultant/monitor indicating that Native American resources were treated in accordance with state law and/or applicable agreements. If the resources were reinterred, verification shall be provided to show what protective measures were taken to ensure no further disturbance occurs in accordance with Section 4 – Discovery of Human Remains, Subsection 5.

D. Final Monitoring Report(s)
   1. The PI shall submit one copy of the approved Final Monitoring Report to the RE or BI as appropriate, and one copy to MMC (even if negative), within 90 days after notification from MMC that the draft report has been approved.
   2. The RE shall, in no case, issue the Notice of Completion and/or release of the Performance Bond for grading until receiving a copy of the approved Final Monitoring Report from MMC which includes the Acceptance Verification from the curation institution.

PALEONTOLOGICAL RESOURCES

1. Prior to Permit Issuance

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

B. Letters of Qualification have been submitted to ADD
   1. The applicant shall submit a letter of verification to Mitigation Monitoring Coordination (MMC) identifying the Principal Investigator (PI) for the project and the names of all persons involved in the paleontological monitoring program, as defined in the City of San Diego Paleontology Guidelines.

2. MMC will provide a letter to the applicant confirming the qualifications of the PI and all persons involved in the paleontological monitoring of the project.
3. Prior to the start of work, the applicant shall obtain approval from MMC for any personnel changes associated with the monitoring program.

2. Prior to Start of Construction

A. Verification of Records Search

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

B. PI Shall Attend Precon Meetings

1. Prior to beginning any work that requires monitoring; the Applicant shall arrange a Precon Meeting that shall include the PI, Construction Manager (CM) and/or Grading Contractor, Resident Engineer (RE), Building Inspector (BI), if appropriate, and MMC. The qualified paleontologist shall attend any grading/excavation related Precon Meetings to make comments and/or suggestions concerning the Paleontological Monitoring program with the Construction Manager and/or Grading Contractor.
   a. If the PI is unable to attend the Precon Meeting, the Applicant shall schedule a focused Precon Meeting with MMC, the PI, RE, CM or BI, if appropriate, prior to the start of any work that requires monitoring.
2. Identify Areas to be Monitored
   Prior to the start of any work that requires monitoring, the PI shall submit a Paleontological Monitoring Exhibit (PME) based on the appropriate construction documents (reduced to 11x17) to MMC identifying the areas to be monitored including the delineation of grading/excavation limits. The PME shall be based on the results of a site specific records search as well as information regarding existing known soil conditions (native or formation).
3. When Monitoring Will Occur
   a. Prior to the start of any work, the PI shall also submit a construction schedule to MMC through the RE indicating when and where monitoring will occur.
   b. The PI may submit a detailed letter to MMC prior to the start of work or during construction requesting a modification to the monitoring program. This request shall be based on relevant information such as review of final construction documents which indicate conditions such as depth of excavation and/or site graded to bedrock, presence or absence of fossil resources, etc., which may reduce or increase the potential for resources to be present.

3. During Construction

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

1. The monitor shall be present full-time during grading/excavation/trenching activities as identified on the PME that could result in impacts to formations with high and moderate resource sensitivity. **The Construction Manager is responsible for notifying the RE, PI, and MMC of changes to any**

construction activities such as in the case of a potential safety concern within the area being monitored. In certain circumstances OSHA safety requirements may necessitate modification of the PME.

2. The PI may submit a detailed letter to MMC during construction requesting a modification to the monitoring program when a field condition such as trenching activities that do not encounter formational soils as previously assumed, and/or when unique/unusual fossils are encountered, which may reduce or increase the potential for resources to be present.
3. The monitor shall document field activity via the Consultant Site Visit Record (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.

4. Night and/or Weekend Work

A. If night and/or weekend work is included in the contract
1. When night and/or weekend work is included in the contract package, the extent and timing shall be presented and discussed at the precon meeting.
2. The following procedures shall be followed.
   a. No Discoveries

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

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

c. Potentially Significant Discoveries
If the PI determines that a potentially significant discovery has been made, the procedures detailed under Section 3 - During Construction shall be followed.

d. The PI shall immediately contact MMC, or by 8AM on the next business day to
report and discuss the findings as indicated in Section 3-B, unless other specific arrangements have been made.

B. If night work becomes necessary during the course of construction
1. The Construction Manager shall notify the RE, or BI, as appropriate, a minimum of 24 hours before the work is to begin.
2. The RE, or BI, as appropriate, shall notify MMC immediately.

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

5. Post Construction

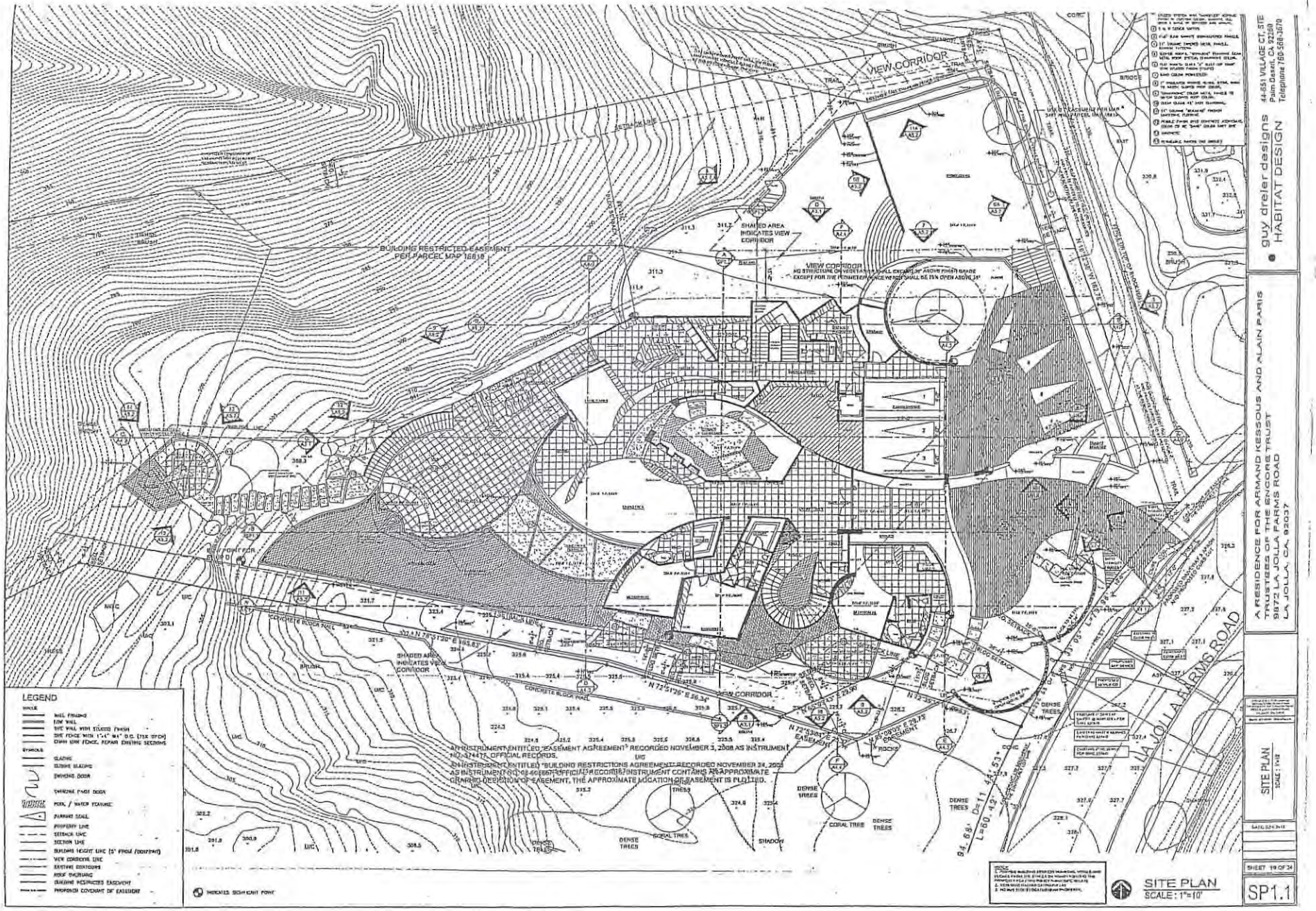
A. Preparation and Submittal of Draft Monitoring Report
1. The PI shall submit two copies of the Draft Monitoring Report (even if negative), prepared in accordance with the Paleontological Guidelines which describes the results, analysis, and conclusions of all phases of the Paleontological Monitoring Program (with appropriate graphics) to MMC for review and approval within 90 days following the completion of monitoring,
   a. For significant paleontological resources encountered during monitoring, the Paleontological Recovery Program shall be included in the Draft Monitoring Report.
   b. Recording Sites with the San Diego Natural History Museum
   The PI shall be responsible for recording (on the appropriate forms) any significant or potentially significant fossil resources encountered during the Paleontological Monitoring Program in accordance with the City's Paleontological Guidelines, and submittal of such forms to the San Diego Natural History Museum with the Final Monitoring Report.
2. MMC shall return the Draft Monitoring Report to the PI for revision or, for preparation of the Final Report.
3. The PI shall submit revised Draft Monitoring Report to MMC for approval.
4. MMC shall provide written verification to the PI of the approved report.
5. MMC shall notify the RE or BI, as appropriate, of receipt of all Draft Monitoring Report submittals and approvals.

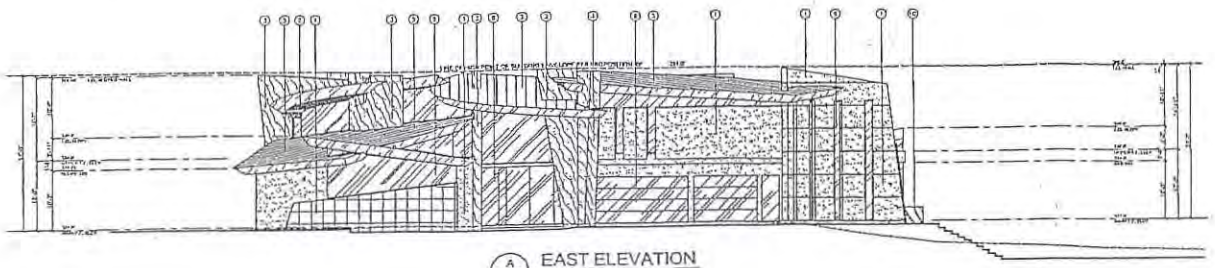
B. Handling of Fossil Remains
1. The PI shall be responsible for ensuring that all fossil remains collected are cleaned and catalogued.
2. The PI shall be responsible for ensuring that all fossil remains are analyzed to identify function and chronology as they relate to the geologic history of the area;

that faunal material is identified as to species; and that specialty studies are completed, as appropriate

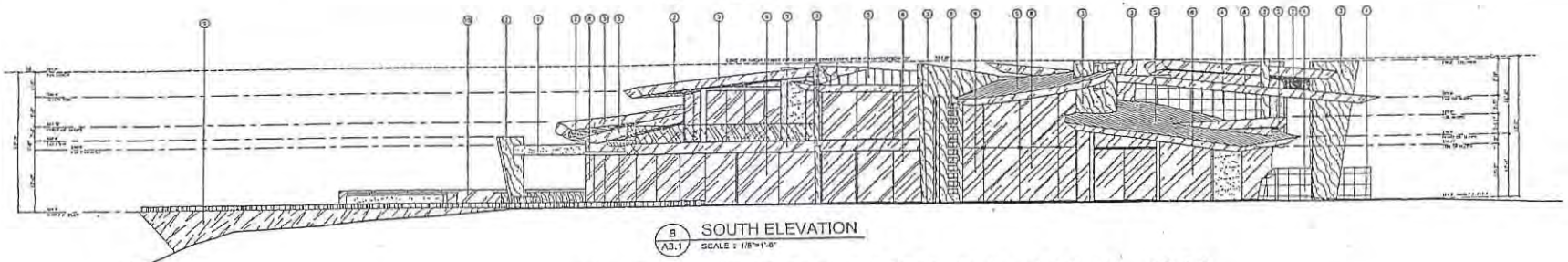
C. Curation of fossil remains: Deed of Gift and Acceptance Verification
   1. The PI shall be responsible for ensuring that all fossil remains associated with the monitoring for this project are permanently curated with an appropriate institution.
   2. The PI shall include the Acceptance Verification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

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

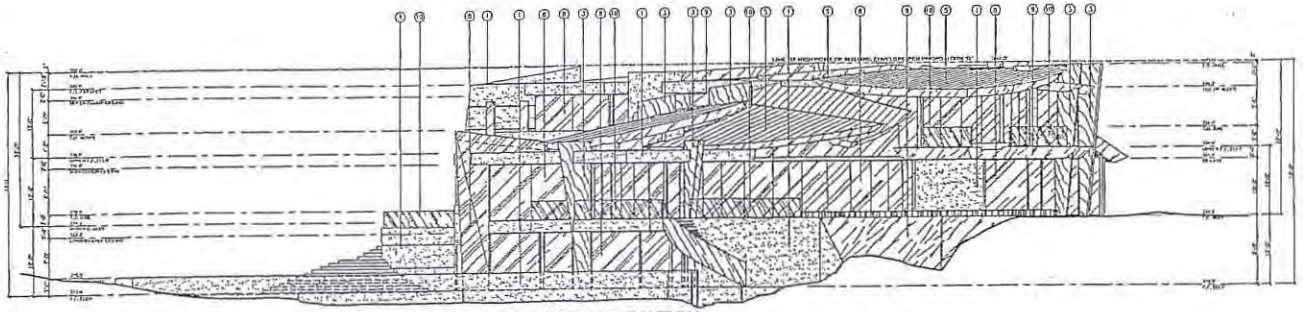

VIEW CORRIDOR
BUILDING RESTRICTED EASEMENT PER PARCEL MAP 16818
SHADED AREA INDICATES VIEW CORRIDOR
VIEW CORRIDOR
NO STRUCTURE OR VEGETATION SHALL EXCEED 39" ABOVE FINISH GRADE EXCEPT FOR THE PERIMETER FENCE WHICH SHALL BE 75% OPEN ABOVE 36"
LA JOLLA FARMS ROAD
SHADOW
DENSE TREES
CORAL TREE
LEGEND
SITE PLAN
SCALE: 1"=10'
guy dreier designs
HABITAT DESIGN
44-851 VILLAGE CT, STE
Palm Desert, CA 92260
Telephone 760-568-3670
A RESIDENCE FOR ARMAND KESSOUS AND ALAIN PARIS
TRUSTEES OF THE ENCORE TRUST
9872 LA JOLLA FARMS ROAD
LA JOLLA, CA. 92037
SITE PLAN
SCALE: 1"=10'
SHEET 19 OF 24
SP1.1



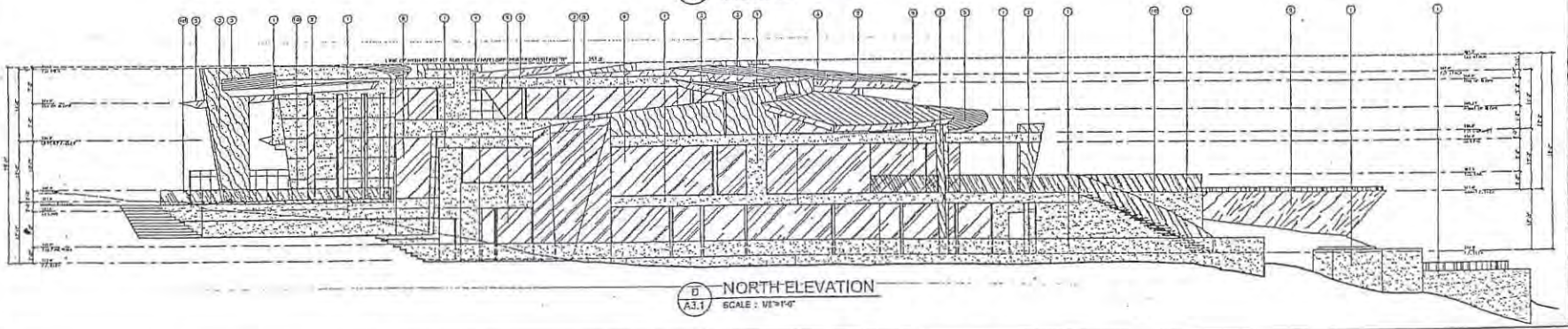
A EAST ELEVATION
A3.1 SCALE : 1/8"=1'-0"



B SOUTH ELEVATION
A3.1 SCALE : 1/8"=1'-0"



C WEST ELEVATION
A3.1 SCALE : 1/8"=1'-0"



D NORTH ELEVATION
A3.1 SCALE : 1/8"=1'-0"

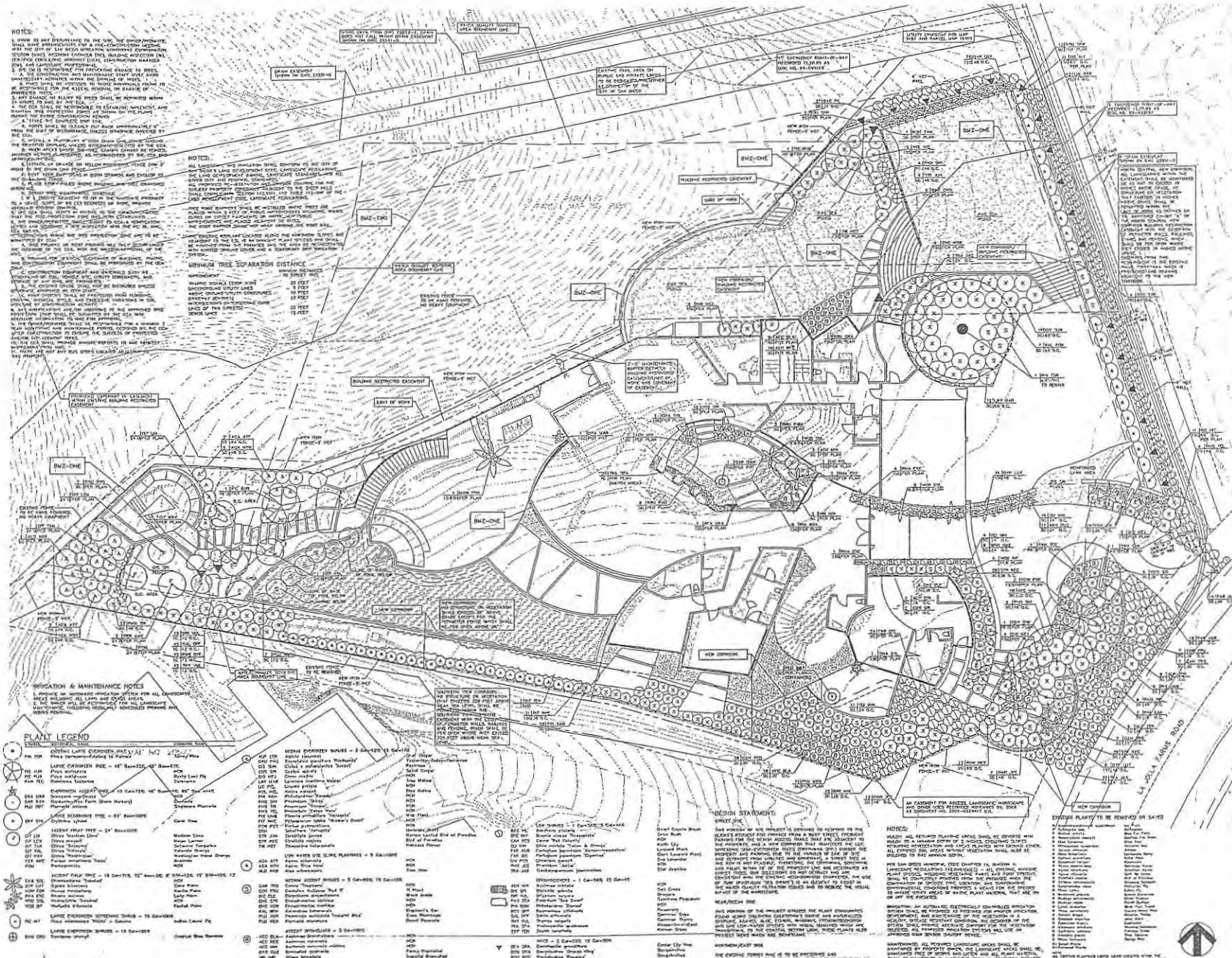
guy dreier designs
44-861 VILLAGE CT, STE 115
Palm Desert, CA 92260
Telephone 760-568-3570
HABITAT DESIGN

A RESIDENCE FOR ARMAND KESSOUS AND ALAIN PARIS
TRUSTEES OF THE ENCORE TRUST
9872 LA JOLLA FARMS ROAD
LA JOLLA, CA. 92037

ELEVATIONS
SCALE: 1/8"=1'-0"

SHEET 28 OF 34

A3.1



GA STUDIO
24702 Serpentaria Avenue
Capistrano Beach, CA 92624
phn 949.240.3464
fax 949.240.9795

Encore Trust Residence
9872 La Jolla Farms Road
La Jolla, CA 92037

Date: 10.26.12

Revisions:	Date:
Site Plan Revs	4.27.11
First SDP/CDP Submittal	5.2.11
Second SDP/CDP Submittal	8.9.11
Third SDP/CDP Submittal	10.20.11
Planting Revisions	2.14.12
CDP/SDP Comments	8.29.12
CDP/SDP Comments	9.1.12
CDP/SDP Comments	9.28.12

CDP #852026
SDP #852027

Job Number: 1108

Drawn By: JTC

Sheet Title:
Planting Plan
SDP/CDP Submittal Plan

Scale: 1"=10'-0"

Sheet Number: L-1
Sheet 10 of 34

City of San Diego
Development Services
1222 First Ave. 3rd Floor
San Diego, CA 92101
(619) 446-5210
THE CITY OF SAN DIEGO

Development Permit/ Environmental Determination Appeal Application

FORM DS-3031 MAY 2010

See Information Bulletin 505, "Development Permits Appeal Procedure," for information on the appeal procedure.

1. Type of Appeal:
- ☐ Process Two Decision - Appeal to Planning Commission
- ☑ Process Three Decision - Appeal to Planning Commission
- ☐ Process Four Decision - Appeal to City Council
- ☐ Environmental Determination - Appeal to City Council
- ☐ Appeal of a Hearing Officer Decision to revoke a permit

2. Appellant *Please check one* ☐ Applicant ☐ Officially recognized Planning Committee ☑ "Interested Person" (Per M.C. Sec. 113.0103)

Name: Joshua Bruser c/o Robyn R. Wicks, Coast Law Group LLP E-mail Address: rwicks@coastlawgroup.com

Address: 1140 South Coast Highway 101 City: Encinitas State: CA Zip Code: 92024 Telephone: (760) 942-0505

3. Applicant Name *(As shown on the Permit/Approval being appealed). Complete if different from appellant.*
Encore Trust

4. Project Information

Permit/Environmental Determination & Permit/Document No.:	Date of Decision/Determination:	City Project Manager:
PTS 237107; SAP 24001703; SCH 2012081046	Nov. 14, 2012	Glenn Gargas

Decision (describe the permit/approval decision):

Certify Mitigated Negative Declaration, Coastal Development Permit and Site Development Permit

5. Grounds for Appeal *(Please check all that apply)*
- ☐ Factual Error (Process Three and Four decisions only)
- ☐ Conflict with other matters (Process Three and Four decisions only)
- ☑ Findings Not Supported (Process Three and Four decisions only)
- ☐ New Information (Process Three and Four decisions only)
- ☐ City-wide Significance (Process Four decisions only)

Description of Grounds for Appeal (*Please relate your description to the allowable reasons for appeal as more fully described in Chapter 11, Article 2, Division 5 of the San Diego Municipal Code. Attach additional sheets if necessary.*)

See "Attachment - Description of Grounds for Appeal" attached, which is incorporated herein by reference

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

Signature: /s/ Robyn R. Wicks Date: Nov. 16, 2012

Note: Faxed appeals are not accepted. Appeal fees are non-refundable.

ATTACHMENT – DESCRIPTION OF GROUNDS FOR APPEAL

The interested person, Joshua Bruser, appeals the hearing officer's November 14, 2012, decision to certify the Final Mitigated Negative Declaration (MND), and to issue a Coastal Development Permit (CDP) and a Site Development Permit (SDP) for the Encore Trust Residence (PTS No. 237107; SAP No. 24001703; SCH. 201281048), pursuant to Municipal Code § 112.0506(c)(3), because the decision maker's stated findings to approve the MND, CDP and SDP are not supported by information provided to the decision maker:

One, the decision to certify the MND is not supported by information provided to the decision maker and violates California law because there is substantial evidence in the record that supports a fair argument that the Encore Trust Residence project will have a significant effect on the public view from the public view right-of-way at the intersection of La Jolla Farms Road and Blackgold Road (protected public view) established by the La Jolla Community Plan and Local Coastal Program (La Jolla LCP). (*American Coatings Association v. South Coast Air Quality Management Dist.* (2012) 54 Cal.4th 446, 472; *Quail Botanical Gardens Foundation, Inc. v. City of Encinitas* (1994) 29 Cal.App.4th 1597, 1602 (*Quail Botanical Gardens*); Cal. Code Regs., tit. 14 (CEQA Guidelines) § 15064(f)(1).) It is fundamental CEQA law that "(i)f there is disagreement among expert opinion supported by facts over the significance of an effect on the environment, the Lead Agency shall treat the effect as significant and shall prepare an EIR." (CEQA Guidelines § 15064(g); *Quail Botanical Gardens, supra*, 29 Cal.App.4th at p. 1607.) When there such a disagreement among experts, an "EIR is required precisely in order to resolve the dispute among experts." (Remy, Thomas, Moose and Manley, Guide To CEQA (11th ed. 2007), p. 262.) And, under CEQA, if there exist protected public views of the ocean, the developer proposes to develop a residence, story poles are placed depicting the heights of the

proposed residence, pictures are taken of the story poles and the ocean, the person expressing the opinion is an expert, the expert has laid a foundation by conducting studies to support the opinion, the expert concludes the construction of the residence will cause significant impacts to the protected public views of the ocean, then substantial evidence supports the "fair argument" and an EIR must be prepared. (*Quail Botanical Gardens, supra*, 29 Cal.App.4th at pp. 1599, 1604-1607.) For the Encore Trust Residence project, all of the substantial evidence discussed in *Quail Botanical Gardens* is in the record: there is in the record substantial evidence of the qualifications, work done, photosimulations and opinions of the expert architect, Tony Crisafi, AIA, LEED AP, that the proposed Encore Trust residence will cause significant impacts. Mr. Crisafi told the La Jolla Development Permit Review Committee (LJDPR):

> "... I think would be a big mistake and the fact that this proposal shows a 30 foot high build, or close to 30 foot high building in that public view I think is a mistake for us at the community level to approval. I don't think the findings can be made based on that obstruction and denigration of the public view."

Mr. Crisafi further told the LJDPR that the Encore Trust project would result in "too much degradation of public view."

And Mr. Crisafi's declaration states:

> "... (T)he revised design simulation resubmitted by the applicant at about the time of February 2012 would block the public view by 59%."

Further, it is Mr. Crisafi's opinion that Encore Trust's photosimulation of the project's impacts on the protected public view is not accurate: For Encore Trust's photosimulation, it's consultants used a photograph taken higher up the hill than Mr. Crisafi's photograph; at that location, 40 to 60 foot high trees block most of the protected public view; and Encore Trust's

consultants then used "Photoshop" computer software to doctor their photograph, to erase the view blocking impacts from the 40 to 60 foot trees. At the February 14, 2012, hearing of the LJDPR on the Encore Trust project, one of Encore Trust's consultant, Joe LaCava, told the LJDPR the following:

> ". . . (T)he next picture is, with a little help of Photo-shop, we are now taking it from the bottom, we are the bottom of the scenic overlook . . . you don't get to see a lot of ocean because you have got a bunch of trees here that are 40, 50, 60 feet tall. . . . So what we did was, we took it to the barber shop and we gave the trees some haircuts . . . What we did was we gave all of the trees down here a hair cut of 30 feet. . . . so all of these trees have been cut at 30 feet. . . . What we have done now is we have now dropped the house into that view. . . . If the trees were 30 feet that you would have this grand expansive view of the ocean . . ."

Joshua Bruser is informed by statements made by the Project Manager Glenn Gargas, that the City does not have the power to compel the owners of those 40 to 60 foot trees to trim the trees to thirty feet unless the owners of those properties apply to the City for a land development permit. It is therefore Mr. Crisafi's opinion that Encore Trust's photosimulation is not accurate, because it depicts a view of the ocean horizon that does not and will never exist.

Two, the decision to certify the MND is not supported by information provided to the decision maker and violates City law because the Encore Trust Residence project will not preserve and enhance the protected public view, but will substantially block it, in violation of:

(1) Municipal Code § 132.0403(a);

(2) Numerous provisions in the La Jolla LCP including "(t)he need to maintain the public views of the ocean . . . from public vantage points within the community" (page 7); the

"general community goal" to "(c)onserve and enhance the natural amenities of the community such as its views from identified public vantage points" (page 8); "the preservation of public views from public vantage point" (page 29); "(m)aintain the identified public views to and from" hillsides (page 39); "(p)ublic views from identified vantage points, to and from La Jolla's . . . scenic vistas of the ocean, . . . bluff areas, hillsides and canyons shall be retained and enhanced for public use" (page 50); "development occurs in a manner that . . . maximizes . . . visual public access to and along the shoreline" (page 50), "new development does not restrict or prevent . . . visual access . . . to the beach on property that lies between the shoreline and first public roadway" (page 52); "(d)o not obstruct public views . . . to and along the ocean" (pages 56-57); "(p)rotect public views to and along the shoreline . . from public vantage points" (*Id.*); "preserve public views . . . and maximize view opportunities" (*Id.*); "preserve and enhance the public view provided from the public vantage points to and along the ocean" (*Id.*); "do not allow any reduction in the public view provided to and along the ocean" (*Id.*); "(w)here new development is proposed on property that lies between the shoreline and the first public roadway, enhance or restore existing or potential view corridors" (*Id.*); and "(a)s viewed from identified scenic overlooks, minimize the impact of bulk and scale, rooflines and landscaping on the viewshed over the property" (*Id.*); and

(3) The City Development Service Department's Significance Determination Thresholds for "visual effects" which sets forth as a significance threshold that "(t)he project would substantially block a view through a designated public view corridor as shown in the adopted community plan."

As set forth above, the expert architect Crisafi's opinions establish that the Encore Trust project would cause significant impacts and substantially block to the protected public view.

Three, the decision to issue the CDP is not supported by information provided to the decision maker and violates City law because there are not facts in the record to make the findings required by Municipal Code § 126.0708 (A)(1) that the project "will enhance and protect public views to and along the ocean."

As set forth above, the expert architect Crisafi's opinions establish that the Encore Trust project would cause significant impacts and substantially block to the protected public view.

The interested person, Joshua Bruser, incorporates herein by reference as though set forth in full his September 28, 2012, letter commenting on the MND and all attached exhibits; Tony Crisafi's November 9, 2012, Declaration; and Tony Crisafi's final photosimulation of the impacts to the protected public view, a hard copy of which was lodged with the hearing officer at the November 14, 2012, hearing.

Further, the argument of Encore Trust, that it can construct an approximate thirty foot high residence directly in front of the protected public view, and substantially block the protected public view, and cause significant impacts to the protected public view, because when the San Diego City Council adopted the revised La Jolla LCP, the City Council's resolution stated that "(i)increasing the height of a structure, up to the height allowed in the zone, is not prohibited within a visual access/public vantage point area," has no merit for three reasons:

One, Public Resources Code § 21000, et. seq. (CEQA), CEQA Guidelines and Municipal Code §132.0403(a) have stronger legal effect than the cited language from the San Diego City Council's resolution. In other words, CEQA, CEQA Guidelines and Municipal Code §132.0403(a) "trump" the cited language from the San Diego City Council's resolution.

Two, Encore Trust's "interpretation" of the cited language from the San Diego City Council's resolution is directly contradicted by the past conduct of the City of San Diego. The

expert architect Tony Crisafi studied four recent similar La Jolla residential projects where the City required the developers, in order to preserve or enhance protected public views, to lower the building pad or limit the height of a remodel to the same height as the home being remodeled.

Three, Encore Trust can still build the exact same home "up to the (30 foot) height allowed in the zone" and not substantially block the protected public view, and not cause significant impacts to the protected public view, because there are two reasonable alternative: It is Mr. Crisafi's opinion, stated before the LJDPR and the La Jolla Community Planning Association, that Encore Trust can either lower the building pad, or move the building pad to the north, and these reasonable alternatives will not substantially block or significantly impact the protected public view.

THE ORIGINAL OF THIS DOCUMENT
WAS RECORDED ON SEP 24, 2010
DOCUMENT NUMBER 2010-0509555
DAVID L. BUTLER, COUNTY RECORDER
SAN DIEGO COUNTY RECORDER'S OFFICE
TIME: 8:29 AM

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

SPACE ABOVE THIS LINE FOR RECORDER'S USE

JOB ORDER NUMBER: 23432375

COASTAL DEVELOPMENT PERMIT NO. 690317
SITE DEVELOPMENT PERMIT NO. 690318
ISAKOW RESIDENCE, PROJECT NO. 180002 (MMRP)
HEARING OFFICER

This Coastal Development Permit No. 690317 and Site Development Permit No. 690318 is granted by the Hearing Officer of the City of San Diego to LJFR, LLC, a Nevada Limited Liability Company, Owner and Permittee, pursuant to San Diego Municipal Code [SDMC] sections 126.0708 and 126.0504. The 1.52-acre site is located at 9872 La Jolla Farms Road in the RS-1-2 Zone, the Coastal Overlay Zone (Appealable to the California Coastal Commission), the Coastal Height Limit Overlay Zone, lies between the First Public Roadway and the shoreline, the Beach Impact Area of the Parking Impact Overlay Zone, the Campus Impact Area of the Parking Impact Overlay Zone, the Residential Tandem Parking Overlay Zone, and the La Jolla Community Plan and Local Coastal Program areas. The project site is legally described as Parcel 2 of Parcel Map No. 20573, in the City of San Diego, County of San Diego, State of California, filed in the office of the County Recorder of the County of San Diego September 19, 2008 as instrument No. 2008-0497483 of the Official Records.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owners/Permittees to construct a single family residence with guest quarters totaling approximately 13,456 square feet, described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated April 7, 2010, on file in the Development Services Department.

The project shall include:

a. An approximately 8,136 square-foot, two-story single family residence with a 878 square-foot terrace/veranda area, a 1,774 square-foot pool house/mechanical room, and a three car garage;

b. An approximately 958 square-foot guest house with a one-story guest house with a 506 square-foot terrace area and one car garage;

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c. A roof-mounted photovoltaic system consisting of solar panels sufficient to generate at least 50 percent of the proposed project's projected energy consumption, as established by Council Policy 900-14;

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

e. Off-street parking; and

f. Accessory improvements determined by the Development Services Department to be consistent with the land use and development standards in effect for this site per the adopted community plan, California Environmental Quality Act Guidelines, public and private improvement requirements of the City Engineer, the underlying zone(s), conditions of this Permit, and any other applicable regulations of the SDMC in effect for this site.

STANDARD REQUIREMENTS:

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

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

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

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

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

4. Unless this Permit has been revoked by the City of San Diego the property included by reference within this Permit shall be used only for the purposes and under the terms and conditions set forth in this Permit unless otherwise authorized by the Development Services Department.

5. This Permit is a covenant running with the subject property and shall be binding upon the Owner/Permittee and any successor or successors, and the interests of any successor shall be subject to each and every condition set out in this Permit and all referenced documents.

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

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

8. In accordance with authorization granted to the City of San Diego from the United States Fish and Wildlife Service [USFWS] pursuant to Section 10(a) of the ESA and by the California Department of Fish and Game [CDFG] pursuant to Fish and Game Code section 2835 as part of the Multiple Species Conservation Program [MSCP], the City of San Diego through the issuance of this Permit hereby confers upon Owner/Permittee the status of Third Party Beneficiary as provided for in Section 17 of the City of San Diego Implementing Agreement [IA], executed on July 16, 1997, and on file in the Office of the City Clerk as Document No. OO-18394. Third Party Beneficiary status is conferred upon Owner/Permittee by the City: (1) to grant Owner/Permittee the legal standing and legal right to utilize the take authorizations granted to the City pursuant to the MSCP within the context of those limitations imposed under this Permit and the IA, and (2) to assure Owner/Permittee that no existing mitigation obligation imposed by the City of San Diego pursuant to this Permit shall be altered in the future by the City of San Diego, USFWS, or CDFG, except in the limited circumstances described in Sections 9.6 and 9.7 of the IA. If mitigation lands are identified but not yet dedicated or preserved in perpetuity, maintenance and continued recognition of Third Party Beneficiary status by the City is contingent upon Owner/Permittee maintaining the biological values of any and all lands committed for mitigation pursuant to this Permit and of full satisfaction by Owner/Permittee of mitigation obligations required by this Permit, as described in accordance with Section 17.1D of the IA.

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

10. Construction plans shall be in substantial conformity to Exhibit "A." No changes, modifications or alterations shall be made unless appropriate application(s) or amendment(s) to this Permit have been granted.

11. All of the conditions contained in this Permit have been considered and have been determined to be necessary in order to make the findings required for this Permit. It is the intent of the City that the holder of this Permit be required to comply with each and every condition in order to be afforded the special rights which the holder of the Permit is entitled as a result of obtaining this Permit.

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

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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.

ENVIRONMENTAL/MITIGATION REQUIREMENTS:

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

14. The mitigation measures specified in the Mitigation Monitoring and Reporting Program, and outlined in Mitigated Negative Declaration No.180002, shall be noted on the construction plans and specifications under the heading ENVIRONMENTAL/MITIGATION REQUIREMENTS.

15. The Owner/Permittee shall comply with the Mitigation, Monitoring, and Reporting Program (MMRP) as specified in Mitigated Negative Declaration No.180002, satisfactory to the Development Services Department and the City Engineer. All mitigation measures as specifically outlined in the MMRP shall be implemented for the following issue areas:

Land Use/Multiple Species Conservation Program (MSCP) and Paleontological Resources.

ENGINEERING REQUIREMENTS:

16. Prior to the issuance of any construction permits, the Owner/Permittee shall enter into a Maintenance Agreement for the ongoing permanent BMP maintenance.

17. Prior to the issuance of any construction permits, the Owner/Permittee shall incorporate any construction Best Management Practices necessary to comply with Chapter 14, Article 2, Division 1 (Grading Regulations) of the San Diego Municipal Code, into the construction plans or specifications.

18. Prior to the issuance of any construction permits, the Owner/Permittee shall submit a Water Pollution Control Plan (WPCP). The WPCP shall be prepared in accordance with the guidelines in Appendix E of the City's Storm Water Standards.

19. Prior to the issuance of any construction permits, the Owner/Permittee shall incorporate and show the type and location of all post-construction Best Management Practices (BMP's) on the final construction drawings, in accordance with the approved Water Quality Technical Report, satisfactory to the City Engineer.

20. The drainage system proposed for this development is private and subject to approval by the City Engineer.

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

22. Prior to the issuance of any construction permits, the Owner/Permittee shall assure by permit and bond the relocation of the telecommunications vault and riser and construction of a City Standard 12' driveway, adjacent to the site on La Jolla Farms Road, satisfactory to the City Engineer.

23. This project proposes to export 85 cubic yards of material from the project site. All export material shall be discharged into a legal disposal site. The approval of this project does not allow the onsite processing and sale of the export material unless the underlying zone allows a construction and demolition debris recycling facility with an approved Neighborhood Use Permit or Conditional Use Permit per LDC Section 141.0620(i).

24. Prior to the issuance of any construction permits, the Owner/Permittee shall obtain an Encroachment Maintenance and Removal Agreement (EMRA) for the decorative pavement and private storm drain system, within the La Jolla Farms Road right-of-way.

25. Prior to the issuance of any construction permits, the Owner/Permittee shall grant the City additional easement sufficient to provide an 11 foot wide clearance centered on the existing 18" RCP storm drain pipe, satisfactory to the City Engineer.

FIRE DEPARTMENT REQUIREMENTS:

26. The single family residence and garage shall be equipped with a residential fire sprinkler system, satisfactory to the Fire Marshal.

LANDSCAPE REQUIREMENTS:

27. Prior to issuance of any construction permits, landscape construction documents for the revegetation and hydro-seeding of all disturbed land shall be submitted in accordance with the Landscape Standards and to the satisfaction of the Development Services Department. All plans shall be in substantial conformance to this permit (including Environmental conditions) and Exhibit 'A,' on file in the Office of the Development Services Department.

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

29. Prior to issuance of any construction permits for buildings complete landscape and irrigation construction documents consistent with the Land Development Manual 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. Construction plans 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.

30. Prior to final inspection, it shall be the responsibility of the Owner/Permittee to install all required landscape. A No Fee Street Tree Permit shall be obtained for the installation, establishment and on-going maintenance of all street trees.

31. All required landscape shall be maintained in a disease, weed and litter free condition at all times. Severe pruning or "topping" of trees is not permitted. The trees shall be maintained in a safe manner to allow each tree to grow to its mature height and spread.

32. The existing pinus torreyana - Torrey Pine shall be protected and preserved in place, and proper tree protection measures taken to ensure no work activity occurs within the drip line of the tree prior to, during or after construction. The tree protection notes shown on Exhibit 'A' shall be shown on the landscape construction plans.

33. Prior to issuance of any grading permit, to include slope restoration or revegetation, the Owner/Permittee shall enter into a Landscape Establishment/Maintenance Agreement (LEMA) to assure long-term establishment and maintenance of the slope revegetation areas. The LEMA shall be approved by the Development Services Department.

34. Construction Documents for grading shall include the following note: "Installation of landscaping associated with these construction documents shall require a minimum short-term establishment period of 120 days for all native slope restoration/revegetation and a minimum long-term establishment/maintenance period of 25 months. Final approval of the required landscaping shall be to the satisfaction of the Mitigation Monitoring Coordination section of the Development Services Department.

35. 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 of damage and prior to a Final Landscape Inspection.

36. The Owner/Permittee shall be responsible for the installation and maintenance of all landscape improvements consistent with the Land Development Code Landscape Regulations and the Land Development Manual Landscape Standards. Invasive species are prohibited from being planted adjacent to any canyon, water course, wetland or native habitats within the city limits of San Diego. Invasive plants are those which rapidly self propagate by air born seeds or trailing as noted in section 1.3 of the Landscape Standards.

37. Prior to the release of the Landscape Maintenance Bond the slopes and revegetation shall be inspected and approved by a Landscape Inspector from the Mitigation Monitoring Coordination (MMC) Section.

MODIFIED BRUSH MANAGEMENT PROGRAM REQUIREMENTS:

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

39. Prior to issuance of any construction permits, Landscape Construction Documents required for the construction permits shall be submitted showing the brush management zones on the property in substantial conformance with Exhibit "A."

40. The Modified Brush Management Program shall consist of two zones consistent with the Brush Management Regulations of the Land Development Code Section 142.0412 as follows: a modified Zone One of 10 to 65 feet with a 6 foot high fire wall between portions of Zone One and Zone Two, and a Zone Two of 30 to 65 feet.

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

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

43. Prior to final inspection and issuance of any Certificate of Occupancy, the approved Modified Brush Management Program shall be implemented. The Brush Management Program shall be maintained at all times in accordance with the City of San Diego's Land Development Manual, Landscape Standards.

PLANNING/DESIGN REQUIREMENTS:

44. This permit authorizes development as outlined on the Exhibit "A" drawings, dated April 7, 2010, on file in the Development Services Department. All terms and conditions of Coastal Development Permit No. 148433, Site Development Permit No. 247145, and Coastal

Development Permit No. 541081 shall remain in full force and effect except as modified and amended by this project.

45. Prior to the issuance of any construction permits, the Owner/Permittee shall record a Deed Restriction preserving a visual corridor. The corridor shall be ten feet in width from the east side property line adjacent to the public footpath running the entire depth of the premises as shown on the Exhibit "A," in accordance with Land Development Code Section 132.0403(a).

46. Prior to the issuance of any construction permits, the Owner/Permittee shall execute and record a covenant of easement which ensures preservation of the environmentally sensitive lands on the premises, in accordance with Land Development Code Section 143.0152.

47. Prior to final inspection of the guest quarters, the primary dwelling unit must have received final inspection.

48. Prior to issuance of a building permit for a guest quarters, the property owner shall submit a signed agreement with the City that specifies that the guest quarters shall not be used as, or converted to a dwelling unit. The agreement shall include a stipulation that neither the primary dwelling unit nor the guest quarters shall be sold or conveyed separately.

49. No fewer than three off-street parking spaces shall be maintained on the property at all times in the approximate locations shown on the approved Exhibit "A." Parking spaces shall comply at all times with the SDMC and shall not be converted for any other use unless otherwise authorized by the Development Services Department.

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

51. Prior to the issuance of building permits, construction documents shall fully illustrate the incorporation of a roof-mounted photovoltaic system consisting of solar panels sufficient to generate at least 50 percent of the proposed project's projected energy consumption, as established by Council Policy 900-14.

52. 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.

GEOLOGY REQUIREMENTS:

53. The Owner/Permittee shall submit a geotechnical investigation report or update letter that specifically addresses the proposed grading or building plans. The geotechnical investigation report or update letter shall be reviewed for adequacy by the Geology Section of Development Services prior to the issuance of grading or building permits.

54. The Owner/Permittee 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 shall be reviewed for adequacy by the Geology Section of Development Services prior to exoneration of the bond and grading permit close-out.

WASTEWATER REQUIREMENTS:

55. The Owner/Permittee shall design and construct any proposed public sewer facilities to the most current edition of the City of San Diego's Sewer Design Guide.

56. 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 building permit plan check.

WATER REQUIREMENTS:

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

58. Prior to the issuance of any building permits, the Owner/Permittee shall apply for a plumbing permit for the installation of appropriate private back flow prevention device(s), on each water service (domestic, fire and irrigation), in a manner satisfactory to the Director of Public Utilities and the City Engineer.

59. Prior to the issuance of any certificates of occupancy, all public water facilities shall be complete and operational in a manner satisfactory to the Director of Public Utilities and the City Engineer.

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

INFORMATION ONLY:

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

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

APPROVED by the Hearing Officer of the City of San Diego on April 7, 2010 by Resolution No. HO-6301.

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ATTACHMENT 13

DOC # 2005-0872187

OCT 07, 2005 3:15 PM

OFFICIAL RECORDS
SAN DIEGO COUNTY RECORDER'S OFFICE
GREGORY J. SMITH, COUNTY RECORDER
FEES: 35.00
PAGES: 10

2005-0872187

P8
10p
10m

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

WHEN RECORDED MAIL TO
PERMIT INTAKE
MAIL STATION 501

SPACE ABOVE THIS LINE FOR RECORDER'S USE

JOB ORDER NUMBER: 42-3463

COASTAL DEVELOPMENT PERMIT NO. 148433,
SITE DEVELOPMENT PERMIT NO. 247415
KATZ RESIDENCE – PROJECT NO. 51529
HEARING OFFICER

This Coastal Development Permit, and Site Development Permit are granted by the Hearing Officer of the City of San Diego to JOAN KATZ, Owner/Permittee, pursuant to San Diego Municipal Code [SDMC] sections 126.0702 and 126.0502. The 3.06 acre site is located at 9862 La Jolla Farms Road in the RS-1-2 Zone, Coastal Overlay (appealable), Coastal Height Limitation Overlay, First Public Roadway, and Beach Parking Impact Overlay zones within the La Jolla Community Plan. The project site is legally described as Parcels 2 and 3 as shown on Parcel Map No. 16819, in the City of San Diego, County of San Diego, State of California, According to Map Thereof filed April 3, 1992 as File No. 1992-0192733 of Official Records.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner /Permittee to demolish all structures (no new construction proposed) including the main house, guest house, garage, and tool shed, described and identified by size, dimension, quantity, type, and location on the approved exhibits, dated August 17, 2005, on file in the Development Services Department.

The project or facility shall include:

a. Demolition of all structures (no new construction proposed) including the 6,800 square foot main house, 1,000 square foot guest house, 500 square foot garage, and 60 square foot tool shed on a 3.06 acre property; and

b. Removal of non-native landscaping as identified on the Exhibit A, with the exception of the Torrey Pines; and

c. Accessory improvements determined by the City Manager to be consistent with the land use and development standards in effect for this site per the adopted community plan,

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California Environmental Quality Act Guidelines, public and private improvement requirements of the City Engineer, the underlying zone(s), conditions of this Permit, and any other applicable regulations of the SDMC in effect for this site.

STANDARD REQUIREMENTS:

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

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

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

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

3. Unless this Permit has been revoked by the City of San Diego the property included by reference within this Permit shall be used only for the purposes and under the terms and conditions set forth in this Permit unless otherwise authorized by the City Manager.

4. This Permit is a covenant running with the subject property and shall be binding upon the Permittee and any successor or successors, and the interests of any successor shall be subject to each and every condition set out in this Permit and all referenced documents.

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

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

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

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

9. Before issuance of any building or grading permits, complete grading and working drawings shall be submitted to the City Manager for approval. Plans shall be in substantial conformity to Exhibit "A," on file in the Development Services Department. No changes, modifications or alterations shall be made unless appropriate application(s) or amendment(s) to this Permit have been granted.

10. All of the conditions contained in this Permit have been considered and have been determined to be necessary in order to make the findings required for this Permit. It is the intent of the City that the holder of this Permit be required to comply with each and every condition in order to be afforded the special rights which the holder of the Permit is entitled as a result of obtaining this Permit.

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

PLANNING REQUIREMENTS:

11. No impacts or encroachment into steep slopes or sensitive biological resources shall occur during or after demolition.

12. No grading shall occur as part of this project.

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

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

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15. Any proposals for development not expressly allowed by this permit shall require an amendment to the permit. Any amendment for proposed development may require additional Site Development Permit findings for Environmentally Sensitive Land.

LANDSCAPE REQUIREMENTS:

16. No change, modification or alteration shall be made to the project unless appropriate application or amendment of this Permit shall have been granted by the City.

17. Prior to issuance of any engineering permits for grading, construction documents for slope planting or revegetation including hydroseeding and irrigation shall be submitted in accordance with the Landscape Standards and to the satisfaction of the City Manager. All plans shall be in substantial conformance with Exhibit A (including Environmental conditions) on file in the Office of Development Service. The applicant shall provide the live seed germination percents in the Hydroseed Mix.

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

19. Prior to final inspection, it shall be the responsibility of the Permittee or subsequent Owner to install all required landscape. A No Fee Street Tree Permit, if applicable, shall be obtained for the installation, establishment and on-going maintenance of all street trees.

20. All required landscape shall be maintained in a disease, weed and litter free condition at all times. Severe pruning or "topping" of trees is not permitted unless specifically noted in this Permit. The trees shall be maintained in a safe manner to allow each tree to grow to its mature height and spread.

21. 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 City Manager within 30 days of damage or Certificate of Occupancy.

22. The Permittee or subsequent Owner(s) shall be responsible for the installation and maintenance of all landscape improvements consistent with the Landscape Regulation and Landscape Standards. Invasive species are prohibited from being planted adjacent to any canyon, water course, wet land or native habitats within the city limits of San Diego. Invasive plants are those which rapidly self propagate by air born seeds or trailing as noted in section 1.3 of the Landscape Standards.

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23. Prior to the issuance of a demolition permit, a certified Arborist shall survey all of the trees on the property - providing City staff with a report of their findings. All Pinus Torreyanna's shall be maintained in a healthy environment.

INFORMATION ONLY:

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

APPROVED by the Hearing Officer of the City of San Diego on August 17, 2005.

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LA JOLLA COMMUNITY PLANNING ASSOCIATION
P.O. Box 889 La Jolla CA 92038 Ph 858.456.7900
http://www.LaJollaCPA.org Email: Info@LaJollaCPA.org

Regular Meeting – 01 March 2012

Attention:	**Glenn Gargas, PM** **City of San Diego**	
Project:	**Encore Trust Residence** **9872 La Jolla Farms Road** **PN: 237107**	
Motion:	**Findings can be made for a CDP and SDP to construct a 17,949 SF single family residence (without guest quarters) on a vacant 1.52 acre site at 9872 La Jolla Farms Road. Project complies with the Scenic Overlook as defined as a view over private property from a public Right of Way.**	**Vote: 8-3-3**

Submitted by: **Rob Whittemore, Vice President**
La Jolla CPA

01 March 2012
Date

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

THE CITY OF SAN DIEGO

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
Encore Trust Residence

Project No. *For City Use Only*
237107

Project Address:
9872 La Jolla Farms Road, La Joll, CA 92037

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.

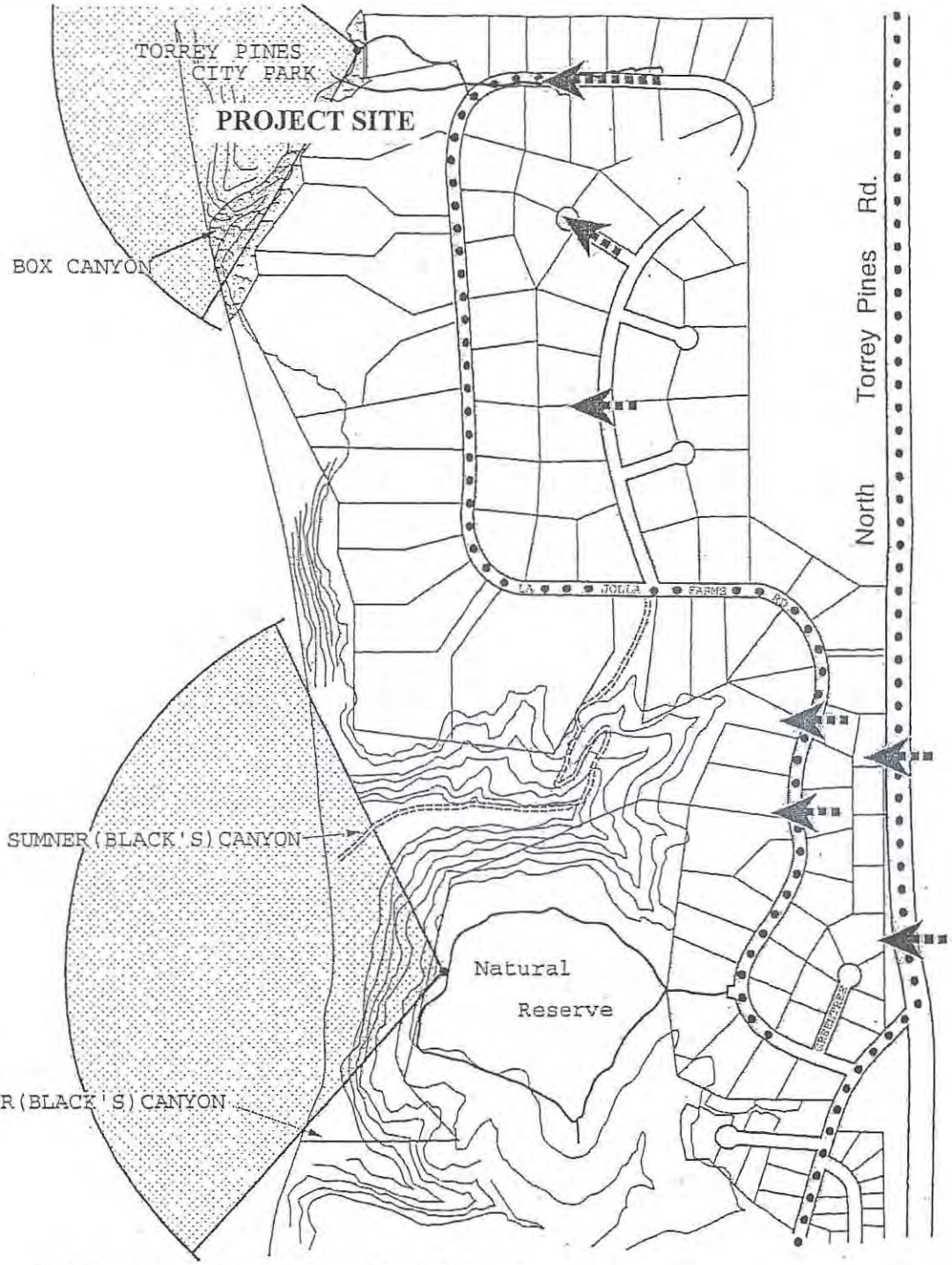
Additional pages attached ☐ Yes ☑ No

Name of Individual (type or print):
Encore Trust
☑ Owner ☐ Tenant/Lessee ☐ Redevelopment Agency
Street Address:
9872 La Jolla Farms Road
City/State/Zip:
La Jolla, CA 92037
Phone No:
(514) 862-7301
Fax No:
Signature:
Date:
April 6, 2011

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:



NOTE: All views are to a coastal body of water

MAJOR VIEWSHED: Unobstructed panoramic view from a public vantage point

SCENIC OVERLOOK: View over private properties from a public R.O.W.

SCENIC ROADWAY: Partially obstructed views over private property and down public R.O.W.s

N

Subarea A: La Jolla Farms - Visual Access

La Jolla Community Plan
City of San Diego · Planning Department

Figure A

(R-2004-449)(REV.)

RESOLUTION NUMBER R-298578

ADOPTED ON NOVEMBER 4, 2003

WHEREAS, the La Jolla Community Plan is the policy document for land use in the community of La Jolla; and

WHEREAS, the community plans for all communities are periodically updated; and

WHEREAS, the proposed La Jolla Community Plan is a comprehensive revision of the 1976 La Jolla Community Plan (in effect in the Coastal Zone) and the 1995 La Jolla Community Plan (in effect outside the Coastal Zone); and

WHEREAS, Council Policy 600-7 provides that public hearings to consider revisions to the Progress Guide and General Plan for the City of San Diego may be scheduled concurrently with public hearings on proposed community plans in order to retain consistency between said plans and the Planning Commission and the City Council have held such concurrent public hearings; and

WHEREAS, on May 21, 2002, and June 6, 2002, the Council of the City of San Diego held a public hearing to consider the approval of the June 2002 La Jolla Community Plan update, and repeal of the 1976 and 1995 La Jolla Community Plans, the 1972 La Jolla Shores Precise Plan, the 1983 La Jolla – La Jolla Shores Local Coastal Program, and the 1980 Fay Avenue Plan; and

WHEREAS, on June 6, 2002, the Council of the City of San Diego adopted and recommended certification to the California Coastal Commission of the June 2002 La Jolla Community Plan update, and repeal of the 1967 and 1995 La Jolla Community Plans, the 1972

La Jolla Shores Precise Plan, the 1983 La Jolla – La Jolla Shores Local Coastal Program, and the 1980 Fay Avenue Plan; and

WHEREAS, on January 13, 2003, California Coastal Commission staff issued their recommended findings and fifty-eight suggested modifications to support conditional certification of the June 2002 La Jolla Community Plan update and associated repeal of plans and programs; and

WHEREAS, on February 5, 2003, the California Coastal Commission held a public hearing to consider certification of the June 2002 La Jolla Community Plan update and associated repeal of plans and programs; and

WHEREAS, on February 5, 2003, the California Coastal Commission adopted the Coastal Commission staff proposed findings and conditionally certified the June 2002 La Jolla Community Plan update and associated repeal of plans and programs, subject to sixty-three suggested modifications; and

WHEREAS, on March 7, 2003, the California Coastal Commission transmitted, in writing, to the City of San Diego, the sixty-three suggested modifications for adoption by the Council of the City of San Diego; and

WHEREAS, on April 18, 2003, the California Coastal Commission transmitted, in writing, corrections to five of the sixty-three suggested modifications; and

WHEREAS, on August 8, 2003, the California Coastal Commission clarified its action of February 5, 2003, and adopted Revised Findings in support of the February 5, 2003, conditional certification of the 2002 La Jolla Community Plan and Local Coastal Program Land Use Plan, subject to the sixty-three proposed modifications; and

R-298578

WHEREAS, by letters dated August 26, 2003 and October 22, 2003, the District Manager of the California Coastal Commission, San Diego area, further clarified the actions of February 5, 2003 and August 8, 2003; and

WHEREAS, on November 4, 2003, the City Council considered the sixty-three California Coastal Commission suggested modifications; NOW, THEREFORE,

BE IT RESOLVED, the Council of the City of San Diego declares that:

1. The reference to Map C-720 does not and is not intended to designate properties as open space beyond those shown on Figure 7 in the 2002 La Jolla Community Plan and Local Coastal Program Land Use Plan.

2. Disturbed or manufactured slopes in areas designated as open space may be considered natural if the disturbance was unauthorized.

3. The term yard, as it relates to view preservation, is intended to pertain only to those yards resulting from the zone required setback and does not include any undeveloped area of a site between a structure and the required setback line where the structure is not built to the setback line.

4. Appendix L provides guidelines for determining the allowable development area and limiting encroachment into sensitive areas for properties designated open space.

5. The guidelines set forth in Appendix L allow for development in excess of the twenty-five percent development area where development could occur in the non-sensitive or disturbed portions of the site that are both inside and outside of the open space designation.

6. The 50% limitation (based on the floor area of the structure) on increases to previously conforming structures is applicable only to structures that are previously conforming with regard to bluff edge setback regulations.

7. Increasing the height of a structure, up to the height allowed in the zone, is not prohibited within a visual access /public vantage point area.

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

8. That this City Council approves the California Coastal Commission sixty-three suggested modifications to the Council-adopted June 2002 comprehensive update of the La Jolla Community Plan, a copy of which is on file in the office of the City Clerk as Document No. RR-298578.

9. That the Council hereby repeals the 1967 and 1995 La Jolla Community Plans, the 1972 La Jolla Shores Precise Plan, the 1983 La Jolla – La Jolla Shores Local Coastal Program, and the 1980 Fay Avenue Plan.

10. That the Council adopts associated amendments to City of San Diego Progress Guide and General Plan and the Local Coastal Program to incorporate the updated La Jolla Community Plan.

BE IT FURTHER RESOLVED, that the updated La Jolla Community Plan and Local Coastal Program Land Use Plan are not effective until unconditionally certified by the California Coastal Commission as a Local Coastal Program amendment, and shall not be applicable to applications for development permits, deemed complete (as defined and set forth in the San Diego Municipal Code) by the City of San Diego, on or before that date.

BE IT FURTHER RESOLVED, that the City Council's adoption of the California Coastal Commission's suggested modifications are expressly contingent upon the declarations one through ten stated herein.

APPROVED: CASEY GWINN, City Attorney

By _____
Mary Jo Lanzafame
Deputy City Attorney

MJL:cdk
10/21/03
11/18/03 REV.
Or.Dept:Planning
R-2004-449

R-298578

ATTACHMENT 18

ENCORE TRUST RESIDENCE
Project No. 237107
Project Chronology

Date	Action	Description	City Review Time	Applicant Response
5/05/11	**Applicant submits initial plans/Deemed Complete**	**Project plans distributed for City staff review.**	**1 day**	
6/21/11	First Assessment Letter	First Assessment Letter identifying required approvals and outstanding issues provided to applicant.	1 Month 13 Days	
8/09/11	Resubmitted revised plans	Distributed plans for staff review.		1 Month 18 Days
9/02/11	Second Assessment Letter	Letter identifying remaining issues.	23 Days	
10/21/11	Resubmitted revised plans	Distributed plans for staff review.		1 Month 19 Days
1/09/12	Third Assessment letter	Letter identifying remaining issues.	2 Months 18 Days	
2/15/12	Resubmitted revised plans	Distributed plans for staff review.		1 Month 6 Days
4/15/12	Four Assessment Letter	Letter identifying remaining issues.	2 Months	
5/15/12	Resubmitted revised plans	Distributed plans for staff review.		1 Month
11/14/12	Hearing Officer	Public Hearing	4 Months 29 Days	
1/17/13	Planning Commission Appeal Hearing	Public Hearing	2 Months 3 Days	
TOTAL STAFF TIME		Averaged at 30 days per month	**13 Months 26 Days**	
TOTAL APPLICANT TIME		Averaged at 30 days per month		**5Months 13 Days**
TOTAL PROJECT RUNNING TIME			**19 Months, 9 Days**	