



THE CITY OF SAN DIEGO

REPORT TO THE PLANNING COMMISSION

DATE ISSUED: August 7, 2014 REPORT NO. PC-14-052

ATTENTION: Planning Commission, Agenda of August 14, 2014

SUBJECT: DEL SUR RETAIL CENTER - PROJECT NO. 344042. PROCESS 4.

OWNER/
APPLICANT: Black Mountain Ranch, LLC, Owner/Applicant (Attachment 19)

SUMMARY

Issue(s): Should the Planning Commission approve the Del Sur Retail Center located south of Camino Del Sur and west of Paseo Del Sur in the Black Mountain Ranch community?

Staff Recommendation(s):

1. Certify the Addendum to Environmental Impact Report No. 96-7902 and Adopt the Mitigation Monitoring and Reporting Program; and
2. Approve Planned Development Permit No. 1213793 and Site Development Permit No. 1213794.

Community Planning Group Recommendation - On June 4, 2014 the Rancho Penasquitos Planning Board voted 11:0:2 to support approval of the proposed project, subject to resolution of issues identified by city staff. All issues identified during the review process have been resolved.

Environmental Review - An Addendum to Environmental Impact Report No. 96-7902 has been prepared for the project in accordance with State of California Environmental Quality Act (CEQA) Guidelines. A Mitigation, Monitoring and Reporting Program has been prepared and will be implemented which will reduce, to below a level of significance, any potential impacts identified in the environmental review process.

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

Code Enforcement Impact - None.

Housing Impact Statement - The site has a land use designation of Mixed-Use Core and Employment Center, and would allow for residential development up to 25 dwelling units per acre. The site's mixed use designation could potentially allow for the development of 0 to 250 housing units. The project consists of commercial uses and would not result in the demolition of existing housing units or the creation of additional housing units in the Black Mountain Ranch community. While the development of the proposed project would decrease the number of sites available to provide residential as part of a mixed-use project, the capacity remains to achieve the Subarea Plan's maximum residential units allowed on surrounding sites within the community.

BACKGROUND

The Black Mountain Ranch Subarea Plan Land Use Map designates the site for Mixed-Use Core and Employment Center uses (Attachment 1). The site is located south of Camino Del Sur, west of Paseo del Sur, north of Del Sur Ridge Road and east of Garretson Street (Attachment 2). On May 19, 2009 the City Council approved the Black Mountain Ranch North Village project, PTS# 142244, by a vote of 7:1:0. The approval included a rezone, community plan amendment, public right-of-way and easement vacation, vesting tentative map, planned development permit, site development permit, community design guidelines and MHPA boundary line adjustment. The site is presently mass graded and grading of the surrounding streets has occurred yet no improvements have been constructed (Attachment 3). The site is zoned for development in accordance with the CC-3-5 and CC-4-5 Zones and the Urban Village Overlay Zone regulations. The surrounding parcels are zoned CC-4-5, CC-3-5, RM-1-3 and AR-1-1.

The Black Mountain Ranch Subarea Plan (Plan) identifies the site as being within the North Village (Attachment 4). The North Village is characterized as a vertical and horizontal mixed use area within the Plan. Land uses in the North Village core include business park, retail center, residential and public park (Attachment 5).

DISCUSSION

Project Description

The Del Sur Retail Center project (Project) would amend the Black Mountain Ranch North Village Community Design Guidelines (Attachment 6) and would develop approximately 171,437 square feet of retail space (Attachment 7). The development regulations allow buildings to be a maximum height of no greater than one hundred feet. All proposed buildings would be less than the maximum height. The proposed Major A - Anchor Retail building would be thirty-two feet high, the Shops buildings A, B and C and future pad buildings would all be twenty-six feet high.

The applicant is proposing two primary outdoor community spaces and one minor street level entry plaza. The first primary outdoor space would be located on the southwest corner of the intersection of Camino del Sur and Paseo del Sur between Shops A and B with pedestrian access from Paseo del Sur (Attachment 8). This plaza would include low walls and signage, outdoor

furniture, outdoor dining areas, potential water features, raised planters with trees, recreational amenities for children, benches and other forms of seating and a fire pit. The second primary outdoor space would include all of the same amenities and be located between Shops C and a retail kiosk near the primary vehicular entry from Paseo del Sur into the Project (Attachment 8). The minor street level entry plaza would occur on the southwest corner at the main project entry with Paseo del Sur on the northeastern corner of the Major A –Anchor Retail building (Attachment 9). A smaller community space would be located adjacent to the future Pad A building (Attachment 9).

The Project would also create two primary pedestrian routes through the main parking lot. These pedestrian routes would be physically separated from vehicular routes and protect pedestrians and vehicles from conflicts. Both sides of the two primary pedestrian routes would be landscaped with hedges and shade trees, pedestrian-scale pole lighting, and enhanced paving at pergolas (Attachment 10). Four pedestrian nodes along Paseo del Sur would occur in the public right-of-way and on private property (Attachment 10). The pedestrian nodes would include street trees, enhanced paving and seating, and would require the approval of an encroachment maintenance and removal agreement by the City Engineer.

The east-west street, south of Camino del Sur, between Paseo del Sur and Garretson Street, which is presently designated by the Plan as a circulation element roadway, would be developed as a private driveway. To facilitate the proposed development of the Del Sur Retail Center the owner will offer this area as an Irrevocable Offer to Dedicate (IOD) to the City for street purposes, yet will be developed as a private driveway. The driveway would include a pavement section with portions of enhanced paving, curb, gutter and sidewalk, street trees and landscaping to create the feeling of a public street. The two primary pedestrian routes through the main parking lot would terminate at cross-walks leading to the entrance of the Major A – Anchor Retail building. A third cross-walk would connect the outdoor community space between Shops C and a retail kiosk to the entrance of the Major A – Anchor Retail building (Attachment 11).

The proposed development requires 172 parking spaces, 16 accessible spaces, 3 motorcycle spaces and 18 bicycle spaces and one loading area. The Project would provide a minimum of 698 automobile spaces including five van accessible spaces, seventeen accessible spaces, sixteen carpool and zero emissions vehicle spaces, four motorcycle spaces, nine long term bicycle and twenty short term bicycle parking spaces and 2 loading areas.

Required Approvals

A Planned Development Permit (PDP) is required to amend the Black Mountain Ranch North Village Design Guidelines previously approved through PDP No. 497493. A Site Development Permit is required for development of large retail establishments exceeding 100,000 square feet. The Major A – Anchor Retail building proposes 142,987 square feet of gross floor area.

Deviations

The Project as proposed complies with applicable regulations of the CC-3-5 and the CC-4-5 zones and the Mixed-Use Core regulations of the Urban Village Overlay zone relative to land use, floor area, pedestrian paths, and building articulation. While the Project complies with the

majority of the development regulations of the applicable zones the applicant is requesting four deviations.

The first deviation would be from San Diego Municipal Code (SDMC) Section 131.0543(a)(2) which requires buildings to be sited no greater than ten feet from the property line. The deviation would allow building placements greater than ten feet from the property line along the Project's perimeter streets. The site is composed of four lots; Lots 4, 5, 10, and 11 of Map thereof No. 15919. Lot 4 is zoned CC-4-5 and Lots 5, 10, and 11 are zoned CC-3-5. With the originally approved Planned Development Permit No. 497493 (Attachment 13), which included this project site, various deviations were approved. One of the approved deviations eliminated the ten foot maximum street front and side yard setbacks within both zone categories. However, a deviation from the maximum street-side yard setback for properties within the CC-3-5 zone was not included with the prior approval. The North Village Core is situated along and south of Camino Del Sur and along and west of Paseo Del Sur.

The Project site has been previously graded with prior permit approvals. As a result there are existing topographical constraints including manufactured slopes between the public right-of-way and the retail development building pad which prohibit the placement of buildings along the streets right-of-way as originally envisioned. The North Village Core was geometrically designed as a Transit Oriented Development with a gridded street pattern whereby the streets radiate in an east-west and north-south pattern. The north-south oriented streets have grades in excess of five percent and to meet strict ADA accessibility requirements the siting of the proposed buildings have to be physically disconnected from the street. Throughout the site longitudinally the differential between the street grade and building pad elevation is separated by as much as fourteen feet vertically and as much as thirty-six feet horizontally. Of the seven buildings that make up the Project, only one building, the Major A - Anchor Retail building, cannot comply with the SDMC Section 131.0543(a)(2). To comply with the code requirement would first introduce a fourteen to eighteen foot high retaining wall to be incorporated into the structure of the Major A - Anchor Retail building in order to shift the building toward the street right-of-way, yet if this were proposed the building would still have no pedestrian connections from the street since the street grade is elevated above the building finish floor elevation and the Major A - Anchor Retail building has no second floor. The proposed deviation would create conformance for Lot 4 with the prior approval intended for this site. The proposed deviation occurs over approximately twenty-five percent of the street frontage of the Project.

The second deviation would be from SDMC Section 131.0552 and Section 132.1108(d) which requires a minimum of fifty percent of the street wall area between three and ten feet above the sidewalk be transparent, with clear glass visible into a commercial or residential use. The proposed deviation would remove the transparency requirement for the Major A - Anchor Retail building, the north elevation of the Shop A building and for future Pad A and B buildings. The North Village Core is situated along and south of Camino Del Sur and along and west of Paseo Del Sur. The transparency requirement cannot be satisfied due to the physical and operational constraints of the buildings, however the applicant proposes a pedestrian friendly street scene to create a more desirable project than would be achieved if designed in strict conformance with the applicable development regulations. The applicant would include these features:

- Additional architectural elements added to the exterior elevations.
- The landscape design along streets adjacent to the rear and sides of the Major A - Anchor Retail building would create a visually pleasing street scene.
- Within the parkways adjacent to the east side of the Major A - Anchor Retail building pedestrian nodes would be installed to incorporate various features such as bench seating, shade structures, and community art to enhance the pedestrian experience.

The third deviation would be from SDMC Section 132.1108(b) which requires commercial and mixed-use buildings to be oriented so that functional pedestrian entrances face the street and parking areas are located underground or to the rear or side of the building. The applicant proposes to allow the Major A - Anchor Retail building to omit functional pedestrian access along three sides of the building. The physical grade separation between the existing building pad elevation and the street elevation along three sides necessitates this deviation. The functionality of the Major A - Anchor Retail building would be substantially compromised if pedestrian access were provided to the interior of the building along these three sides. The conditions of approval in the draft PDP/SDP require the Major A - Anchor Retail building and Shops A, B and C buildings to include functional pedestrian entrances that relate to the public street and parking lot, yet do not face the street. The design drawings and Design Guidelines submitted by the applicant demonstrate this feature.

The fourth deviation would be from SDMC Section 142.1225(e)(2) which requires a wall sign extending above the roof line or a parapet wall to be mounted so the top of the wall sign is not greater than sixteen feet above the ground. The top of the proposed wall sign on the North Elevation of the Major A - Anchor Retail building is thirty-three feet four inches above the ground and the top of the proposed wall sign on the West Elevation is thirty-one feet four inches above the ground. The architectural embellishments of the Major A - Anchor Retail building, including the wall sign extending above the parapet wall, will result in a more attractive building than if it were designed in strict compliance with the regulations of the zone.

To create a more desirable development the Project includes additional architectural elements on the northern facade of the Major A - Anchor Retail building, expanded pedestrian connections along the primary access drive, public plazas adjacent to the public sidewalk into the retail center and separated and safe pedestrian circulation routes through the parking lot. Staff asserts the Project has been designed to meet the purpose and intent of the regulations. Therefore in consideration of the foregoing facts, the proposed development would comply with the regulations of the Land Development Code which allows the request for deviations through the Planned Development Permit process. Staff supports the requested deviations as appropriate for this location and has concluded the deviations would result in a more desirable project than would be achieved if designed in strict conformance with the development regulations.

General Plan/Community Plan Analysis

The proposed project is located south of Camino Del Sur, west of Paseo del Sur, north of Del Sur Ridge Road and east of Garretson Street in the Black Mountain Ranch Subarea (Plan). The approximately 15 acre site is designated for Mixed-Use Core and Employment Center and would allow residential development up to 250 dwelling units. The Mixed-Use Core designation allows for neighborhood and community-serving commercial to be integrated with residential units

vertically or horizontally. While the primary intent of the designation is the combination of multiple uses on a project site, single-use commercial or residential development is permitted. The proposed project's uses would be consistent with the Mixed-Use Core land use designation of the Plan.

The project site is located within the North Village, one of the two compact communities designated in the North City Future Urbanizing Area Framework Plan, and is the largest single area of proposed development in Black Mountain Ranch. The goal of the Plan Land Use Element is to create a pattern of land use that is clearly distinguishable from surrounding communities and that fosters appealing and enjoyable neighborhoods and business districts. The Plan calls for a mixed-use community core which will contain neighborhood retail shops and commercial services, facilities to encourage transit patronage, employment and higher residential densities. The Plan also promotes the creation of opportunities through a mix of uses and intensity of development to reduce the dependency on private automobiles and encourage alternative forms of transportation such as walking, bicycles, and mass transit.

The proposed project would provide for auto-oriented commercial services and neighborhood-serving retail shops adjacent to residential development and in close proximity to educational and employment-related uses. The project proposes two primary outdoor community spaces and one minor street level entry plaza. The community space to be located at the northwest intersection of Templeton Street and Paseo Del Sur and the plaza space located to the east side of Major A –Anchor Retail, would serve as the primary pedestrian nodes into the project. The plazas would incorporate various features such as bench seating, shade structures, dining areas, and community art to enhance the pedestrian experience. Paseo del Sur would incorporate non-contiguous sidewalks, as identified in the Plan and enhanced paving at the intersection with Templeton Street.

The Plan Circulation Element identifies the east-west street, south of Camino del Sur, between Paseo del Sur and Garretson Street as a two-lane collector. This street has yet to be dedicated to the City and is not constructed. The project proposes a private driveway in lieu of a public street, where the Circulation Element of the Plan requires the dedication and construction of a public street. To facilitate the proposed development of the Del Sur Retail Center the owner will offer this area as an Irrevocable Offer to Dedicate (IOD) to the City for street purposes. The owner would, subsequent to approval of the Project should that occur, process a Plan Amendment and Street Vacation to remove the east-west circulation element roadway from the community plan and to vacate the IOD.

The Community Design Element of the Plan identifies the commercial centers as the central focus of the community, contributing in large part to the character of the community. The Plan calls for the provision of a wide range of commercial, office and residential densities in a central location linked to adjacent residential neighborhoods, all organized around the open space system. The Plan states that development along Camino del Sur at the northern edge of the Village may be more “auto oriented” than the balance of the neighborhood. The proposed commercial uses would be consistent with this direction.

The Plan envisioned a generally level village core area. The site's current grading creates topographical constraints, manufactured slopes between the public right-of-way and building

pads, which discourage the placement of buildings along the streets right-of-way as directed in the Plan. Throughout the site longitudinally the differential between the street grade and building pad elevation is separated by as much as fourteen feet vertically and as much as thirty-six feet horizontally, making it difficult to achieve the pedestrian-oriented promenade identified in the Plan. This would require the incorporation of high retaining walls that were not envisioned in the development of the plan. As an alternative, the project proposes the incorporation of pedestrian nodes and plazas along Paseo Del Sur that incorporate various features such as bench seating, shade structures, and community art to enhance the pedestrian experience. Additionally, transparency along the rear and side building walls would not be able to meet the intent of the Subarea Plan's design standards due to the planned interior functions and layout of the Major A - Anchor Retail building. The project proposes additional architectural elements, including various colors, materials and texture changes to improve the façade of the Major A – Anchor Retail building. Within the community, the project represents less than twenty-five percent of the future development in the North Village Core and pedestrian-oriented mixed-use development could still be achieved within other areas of the Village Core.

Consistent with some of the Design Standards of the Community Design Element, the project proposes to include inviting outdoor spaces visible from the sidewalks and small-scale public open spaces such as pedestrian plazas and access points that provide areas for rest and social interaction. Additionally, the surface parking lot will be located to the interior portion of the development and screened with planted setbacks and landscaped non-contiguous sidewalks along the public street.

The Plan identifies a transit center located in the center of the proposed project site. The transit center is located in close proximity to high density residential, commercial development, office development, and the employment center - an intense mix of uses to attract transit service and users. While originally identified for this site, the proposal would relocate the transit center to the employment lands immediately west of the site. The relocation of the transit center would not adversely affect the transportation goals of the Plan; access to the transit center would still be conveniently located.

The General Plan, Economic Prosperity Element Policy EP-L.3, requires the preparation of a Market and Fiscal Analysis for large retail establishments over 100,000 square feet of gross floor area. The proposed Major A – Anchor Retail building would create 142,987 square feet of gross floor area. Planning Department staff reviewed a Market and Fiscal Analysis prepared by the London Group and concluded the report was prepared using conventional methodologies and sound analytical approaches (Attachment 12). The market area could support nearly 3.2 million square feet of additional retail space. In addition, the primary market area could support 2.1 million square feet of additional retail space and the proposed project would result in a net fiscal benefit to the City.

Conclusion

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

(Attachment 13 and 14) and draft conditions of approval (Attachment 15). Staff recommends the Planning Commission approve the project as proposed.

ALTERNATIVES

1. **Approve** Planned Development Permit No. 1213793 and Site Development Permit No. 1213794, **with modifications.**
2. **Deny** Planned Development Permit No. 1213793 and Site Development Permit No. 1213794, **if the findings required to approve the project cannot be affirmed.**

Respectfully submitted,



Mike Westlake
Assistant Deputy Director
Development Services Department



John S. Fisher
Development Project Manager
Development Services Department

VACCHI:JSF

Attachments:

1. Black Mountain Ranch Subarea Plan Land Use Map
2. Project Location Map
3. Aerial Photograph
4. North Village Organizing Concepts
5. North Village land uses
6. Black Mountain Ranch North Village Design Guidelines (under separate cover)
7. Project Site Plan - Sheet 17 of 23
8. Primary outdoor spaces - Sheet 23 of 23
9. Minor street level entry plaza – Sheet 20 of 23
10. Entrance of the Major A - Anchor Retail building - Sheet 17 of 23
11. Memorandum dated June 26, 2014; Fiscal Impact and Retail Market Analysis
12. Copy of Recorded Planned Development Permit No. 497493/Site Development Permit No. 497494
13. Draft Permit Resolution with Findings
14. Draft Environmental Resolution with MMRP
15. Draft Permit with Conditions
16. Remaining Project Plans (under separate cover)
17. Community Planning Group Recommendation
18. Ownership Disclosure Statement
19. Project Data Sheet
20. Project Chronology



Note: Streets shown represent Collector and above (North Village area)



May 2009

Black Mountain Ranch Subarea Plan

Google

SITE

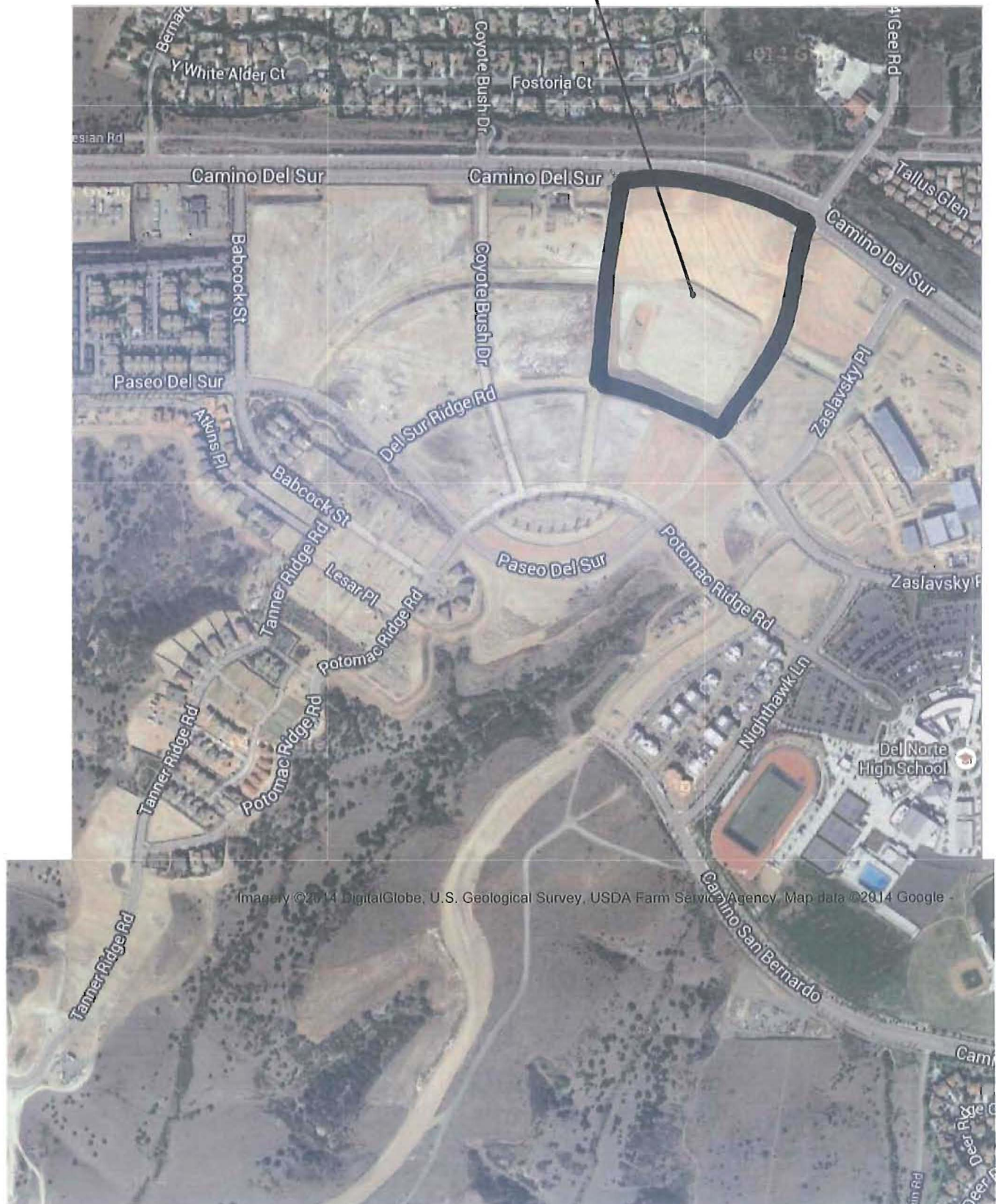
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To see all the details that are visible on the screen, use the "Print" link next to the map.

Google

SITE



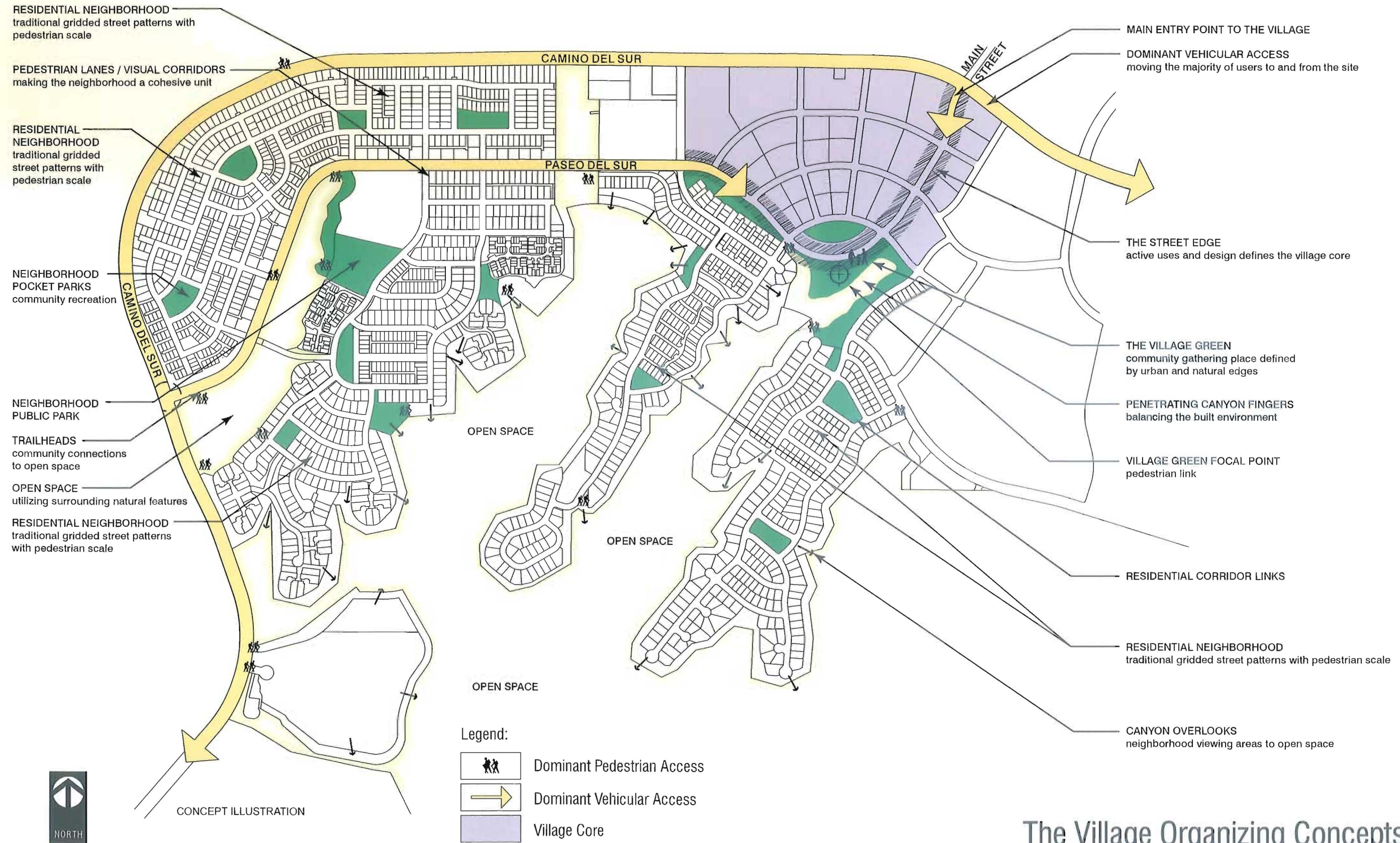
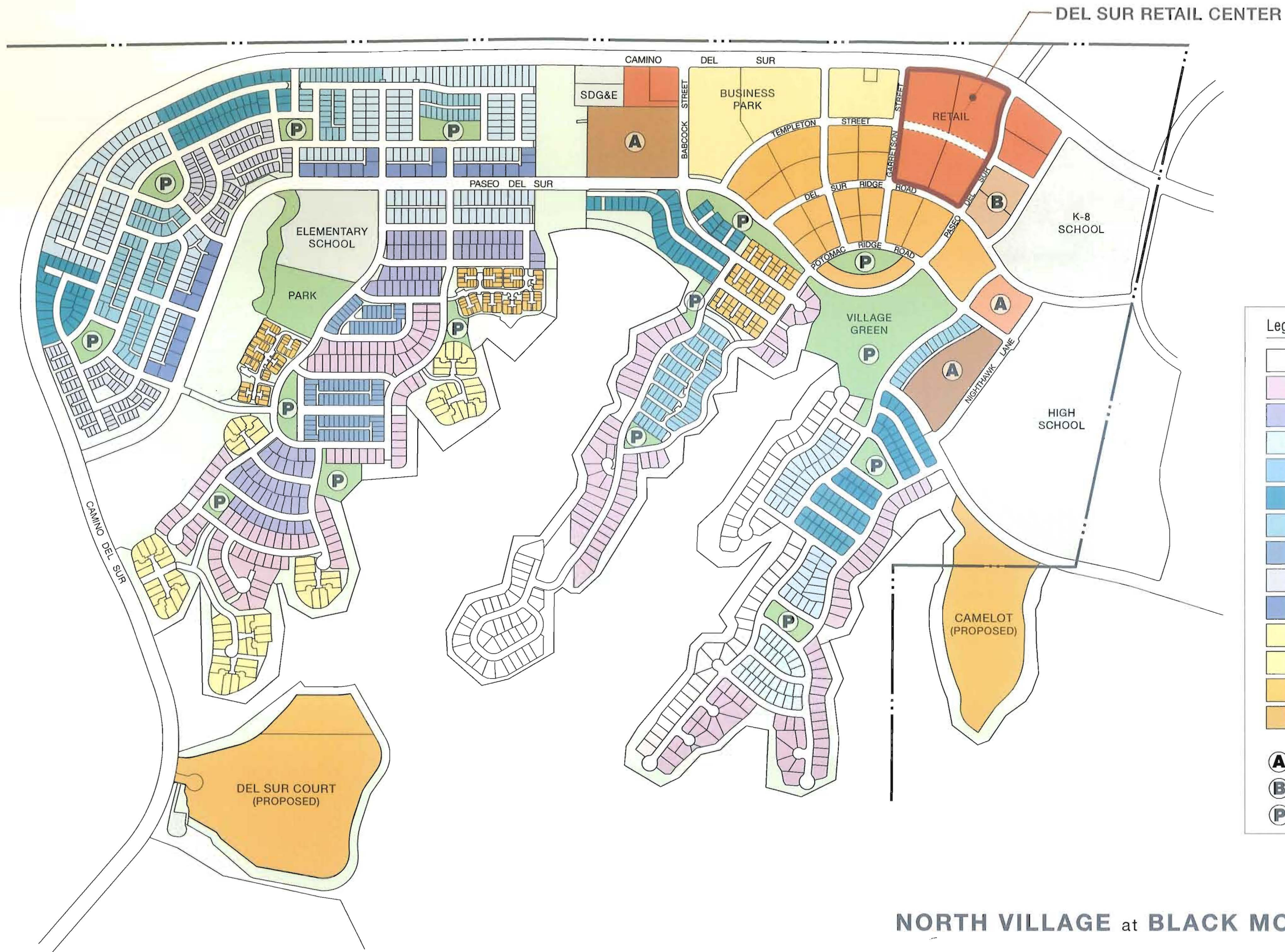


FIGURE 1 The Village Organizing Concepts Plan

INTRODUCTION



Legend:

[White Box]	Single Unit	7200 s.f. Lot
[Light Pink Box]	Single Unit	6000 s.f. Lot
[Light Blue Box]	Single Unit	5500 s.f. Lot
[Light Cyan Box]	Single Unit	5000 s.f. Lot
[Medium Blue Box]	Single Unit	4500 s.f. Lot
[Dark Blue Box]	Single Unit	4000 s.f. Lot
[Light Blue Box]	Single Unit	3650 s.f. Lot
[Medium Blue Box]	Single Unit	3150 s.f. Lot
[Light Blue Box]	Single Unit	2450 s.f. Lot
[Dark Blue Box]	Single Unit Attached	
[Yellow Box]	Single Unit	5 du/ac.
[Light Yellow Box]	Single Unit	10 du/ac.
[Orange Box]	Single Unit	15 du/ac.
[Dark Orange Box]	Multi-Unit	10-20 du/ac.
[A in Circle]	Existing Affordable Housing (469 du)	
[B in Circle]	Proposed Affordable Housing	
[P in Circle]	HOA Park	

Black Mountain Ranch North Village Community Design Guidelines

(under separate cover)



RETAIL
SENIOR LIVING
EDUCATION
MIXED-USE

SGA ARCHITECTURE AND PLANNING
SAN DIEGO, CALIFORNIA

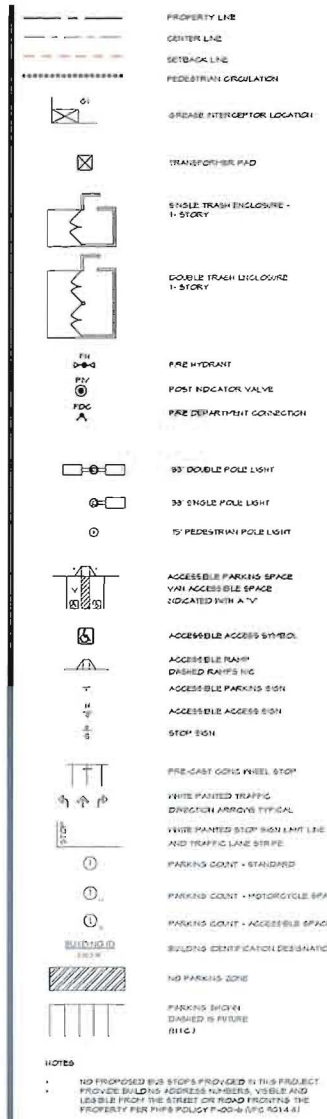
FOR PLAN REVIEW ONLY

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PROJECT NO. 21115-A-00

DEL SUR RETAIL CENTER
SAN DIEGO, CALIFORNIA

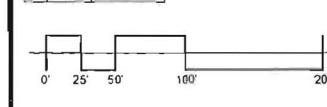
SHEA PROPERTIES
SAN DIEGO, CALIFORNIA

DATE 10/15/13



GENERAL NOTES

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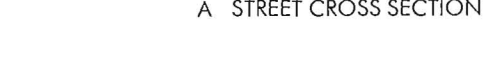
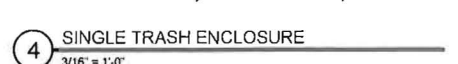
Project Resume - City of San Diego Parking Requirements

PHASE	REQUIREMENTS	PROVIDED	DEFICIENCY
PHASE 1
PHASE 2
PHASE 3
PHASE 4
PHASE 5
PHASE 6
PHASE 7
PHASE 8
PHASE 9
PHASE 10

REVISIONS:

NO.	DATE	DESCRIPTION
1	10/15/13	...
2
3
4
5
6
7
8
9
10

PROJECT NAME: ...
SHEET: 2 OF 3



7/11/2013 10:27:00 AM
C:\Users\sga\Documents\21115 - ASD - Del Sur - 2014.Dwg 16 CENTRAL
SGA ARCHITECTURE AND PLANNING

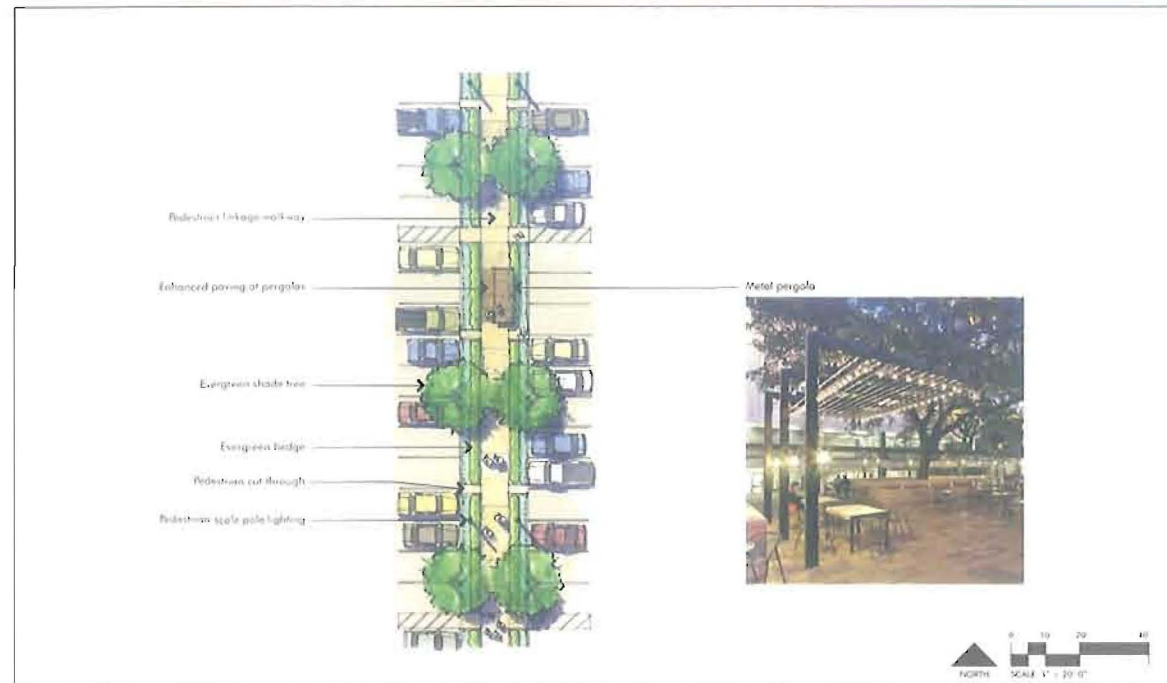
① OUTDOOR COMMUNITY SPACES BETWEEN SHOPS A & B



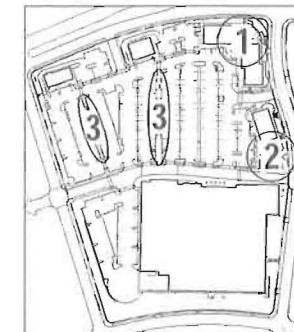
② OUTDOOR COMMUNITY SPACE BETWEEN MAJOR A & SHOPS C AND STREET LEVEL ENTRY PLAZA



③ PRIMARY PEDESTRIAN LINKAGES



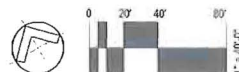
KEY MAP



NOWELL & ASSOCIATES
LANDSCAPE ARCHITECTURE
2605 STATE STREET, SAN DIEGO, CA 92103
TEL: 619.325.1990 FAX: 619.325.1997

PREPARED BY:	DATE:	REVISION 1.0
DESIGNER:	11/01/2013	REVISION 1.1
ADDRESS:	2605 STATE STREET	REVISION 1.2
CITY:	SAN DIEGO, CA 92102	REVISION 1.3
PHONE #:	(619) 325.1990	REVISION 1.4
FACSIMILE #:	(619) 325.1997	REVISION 1.5
PROJECT ADDRESS:	CAMINO DEL SUR & PASO DEL SUR	REVISION 1.6
CITY:	SAN DIEGO, CALIFORNIA	REVISION 1.7
ZIP:	92122	REVISION 1.8
PROJECT NAME:	San Diego Commercial Center	REVISION 1.9
DESIGNER:	Shea Properties	REVISION 2.0
DATE:	10/15/2013	REVISION 2.1
SHEET:	23 OF 23	REVISION 2.2
DATE:	10/15/2013	REVISION 2.3
DATE:	10/15/2013	REVISION 2.4
DATE:	10/15/2013	REVISION 2.5
DATE:	10/15/2013	REVISION 2.6
DATE:	10/15/2013	REVISION 2.7
DATE:	10/15/2013	REVISION 2.8
DATE:	10/15/2013	REVISION 2.9
DATE:	10/15/2013	REVISION 3.0

DETAILED ENLARGEMENTS OF COMMUNITY SPACES AND PEDESTRIAN LINKAGES



DEEP SEATING LOUNGE CHAIR



DEEP SEATING SOFA



DINING TABLE & CHAIRS



ADIRONDACK CHAIR & OTTOMAN



CANTILEVERED UMBRELLA



LINEAR FIRE PIT



LITTER RECEPTACLE



LARGE FLARED PLASTER



LARGE SQUARE TAPERED PLANTER



LARGE VASE-SHAPED PLASTER



SMALL ROYAL PLANTER



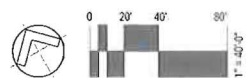
SMALL ROUND TAPERED PLASTEG

PREPARED BY		REVISION # 4	
(FIRM)	HOWELL & ASSOCIATES	REVISION 13	
		REVISION 17	
ADDRESS	2615 STATE STREET	REVISION 11	
	SUITE A	REVISION 10	
	SMITHFIELD, CA 95102	REVISION 9	
PHONE #	(415) 325-1920	REVISION 8	
FACSIMILE #	(415) 325-1937	REVISION 7	
PROJECT ADDRESS		REVISION 6	
CAMINO DEL MAR & PARKER BLVD.		REVISION 4	June 17, 2014
SMITHFIELD, CALIFORNIA		REVISION 3	May 12, 2014
52127		REVISION 2	February 20, 2014
		REVISION 1	December 16, 2013
PROJECT / DATE:		SUBMITAL DATE:	October 15, 2013
2nd Development Phase			
Draft for Public Review		SHEET	20 OF 22
Highway Design of Right-of-Way Boundary		DCP FILE	
		PFS FILE	14-00-02

Multiple pedestrian courtyard spaces have been designed to engage the public realm and serve as community gathering spaces and places for people watching. Each of these spaces will have enhanced paving, moveable furniture, potted plants, and a specimen tree. There are several pedestrian entries into these spaces from the public sidewalk along Paseo del Sur.

- 1 ALL TREES SHALL BE PROVIDED WITH AN SQUARE HOOT HOOD AND PLANTED IN AN IN-GRADE WATER PERMEABLE LANDSCAPE AREA. THE MINIMUM DRAINAGE QUANTITY OF THIS AREA SHALL BE 2 FEET.
- 2 TREE ROOT BARRIERS SHALL BE INSTALLED UNDER TREES THAT ARE PLACED WITHIN 10 FEET OF CURB IMPROVEMENTS INCLUDING CURBS, CURBS, OR STREET PAVEMENT ON BOTH SIDES. PUBLIC HOV REQUIREMENTS ARE PLACED ADJACENT TO EXISTING TREES. ROOT BARRIERS WILL NOT BE WASTED AROUND THE ROOTS. ROOT BARRIERS SHALL BE BLACK, MULTIDIRECTIONAL PANELS, OF 0.05" WALL THICKNESS IN MODULUS 24 INCHES (USED BY 24 INCHES DEEP), ANCHORED WITH A MINIMUM 50 LBS. POST CONSUMER RECYCLED POLYPROPYLENE PLASTIC WITH ANGE ULTRAVIOLET INHIBITORS. RECYCLABLE.
- 3 ALL LANDSCAPE AND IRRIGATION SHALL BE INSTALLED AND MAINTAINED IN ACCORDANCE WITH THE CITY LANDSCAPE REGULATIONS LANDSCAPE STANDARDS, AND ALL OTHER LANDSCAPE RELATED CITY AND REGIONAL STANDARDS.
- 4 TREES SHALL BE MAINTAINED SO THAT ALL BRANCHES OVER STREETLIGHTS HANGING 6 FEET ABOVE THE WALKWAY GRADE AND 10 FEET ABOVE THE VEHICULAR TRAVELWAYS ARE 14 FEET ABOVE THE GRADE OF THE TRAVELWAY.
- 5 ALL CRACKED, DISINTEGRATED OR EXPOSED AREAS THAT WILL NOT BE PERMANENTLY FAIRED OR COVERED BY STRUCTURES SHALL BE VEGETATED AND IRRIGATED.
- 6 ALL SHADE AREAS BY OR GREATER SHALL BE VEGETATED WITH STRAWBERRY (OR 150 MAINTAINED BY 1000) PLANTS WITHIN 10 FEET OF AREAS OR CITY APPROVED EQUIV.
- 7 ALL LANDSCAPED AREAS SHALL BE IRRIGATED WITH A PERMANENT TRIGGER SPRINKLER, PUBLIC UTILITY, OR VERIFICATION SYSTEM. THIS SYSTEM WILL BE CONTINGENT ON A CUMULATIVE IRRIGATION TIME CLOCK AND RESET CONTROL VALVES. POP UP THE HEADS WILL BE USED ADJACENT TO WALKWAYS AND ROADSIDES. IRRIGATION HEADS WILL BE USED ADJACENT TO LANDSCAPED AREAS THAT HAVE TREES. THE SYSTEM WILL BE INSTALLED AS SOON AS POSSIBLE AFTER CONSTRUCTION AND PRIOR TO PLANTING OF TREES. THE SYSTEM SHALL BE IN COMPLIANCE WITH CALIFORNIA'S 1992 100% WATER EFFICIENT CONSERVATION REQUIREMENT.
- 8 ALL REQUIRED URBAN TREES SHALL BE MAINTAINED BY THE OWNER. THE LANDSCAPE AREAS SHALL BE MAINTAINED IN A TREE OF TREES AND UTER AND ALL PLANT MATERIAL SHALL BE MAINTAINED IN A HEALTHY GROWING CONDITION. DISEASED OR DEAD PLANT MATERIAL SHALL BE SATISFACTORILY REMOVED OR REPLACED FOR THE CONDITIONS OF THE PLANT.
- 9 NO TREES OR SHRUBS EXCEEDING THREE (3) FEET IN HEIGHT AT INSTALLATION SHALL BE INSTALLED WITHIN FIVE (5) FEET OF ANY WATER AND TEN (10) FEET OF ANY SEWER FACILITIES.
- 10 ALL REQUIRED PLANTING AREAS AND ALL EXPOSED SOIL AREAS WITHOUT VEGETATION SHALL BE COVERED WITH MULCH TO A MINIMUM DEPTH OF 2 INCHES, EXCLUDING TREES REQUIRING REDUCED RATE FOR SOIL 142 001.
- 11 NO FENCE OR SHRUBS HIGHER THAN 36 INCHES SHALL BE LOCATED IN THE VISIBILITY AREAS OF THE PROPOSED DRIVEWAY AND STREET INTERSECTIONS. SEE SHEETS 11 AND 12 FOR LOCATIONS.

NOWELL & ASSOCIATES
LANDSCAPE ARCHITECTURE
2005 STATE STREET, SAN DIEGO, CA 92103
TEL: 619.325.1990 FAX: 619.325.1997

LANDSCAPE DEVELOPMENT PLAN



THE CITY OF SAN DIEGO

MEMORANDUM

DATE: June 25, 2014

TO: John Fisher, Development Project Manager III, Development Services Department

FROM: Toni Dillon, Economic Research Coordinator, Planning, Neighborhoods and Economic Development Department (PN&ED Department)

SUBJECT: PTS# 344042 Del Sur Retail Center – Review Fiscal Impact Analysis and Retail Market Analysis

Thank you for giving us the opportunity to review and comment on the report prepared by The London Group Realty Advisors, hereinafter, the London Group, for Shea Properties, in connection with the latter's proposal to obtain a Site Development Permit and an amendment to the North Village Design Guidelines for its Del Sur Retail Center.

Shea Properties is seeking discretionary permits for a 210,000 square foot (SF) retail center development which includes 143,000 (SF) for a Target store, 28,000 SF for another anchor retail tenant and 39,000 SF for community oriented retail and/or commercial establishments. Shea Properties was required to submit a Market and Fiscal Analysis under the Economic Prosperity Element Policy EP-L.3 of the General Plan. Policy EP-L.3 specifically, states the following:

Prepare a Market and Fiscal Analysis for discretionary permits involving *large retail establishments* over 100,000 sq. ft. of gross floor area (*General Plan*, Policy EP-L.3, page EP-36).

A large retail establishment refers to a single retail store over 100,000 SF, commonly referred to as a "big box" store. This Center's "big box" anchor tenant, Target, will sell general merchandise, other GAFO merchandise and groceries. Shea Properties states that no more than 6% of the Target store's square footage will be dedicated to grocery sales.

The PN&ED Department's initial review concludes that the London Group Report was prepared using conventional methodologies and sound analytical approaches. The input data appears to be accurate and reasonable, although we do not necessarily agree with several revenue and cost assumptions, which in turn has some bearing on the net fiscal analysis. The PN&ED Department

generally agrees with the conclusions reached by the London Group, and the public benefit which would result from the proposed Project, if it were to be approved constructed and occupied. However, the PN&ED Department also wants to make clear, at the outset, that the fiscal analysis does clearly demonstrate that the project would provide public benefits in terms of net new tax revenues which outweigh the service delivery costs to this Project.

After reviewing the London Group Report, the PN&ED Department determined the estimated new net recurring annual General Fund revenue, which the City could receive from the construction and use of the proposed Center, to be \$270,185. Furthermore, the London Group market analysis demonstrated the Market Area can support nearly 3.2 million square feet of additional retail space. In addition, the PN&ED Department agrees with the London Group Report assumption of 413 retail/commercial jobs could be created by the construction and use of the proposed Center.

MARKET ANALYSIS

Market Areas

The market analysis is well prepared and utilizes conventional methods to assess market demand in and around the proposed Center. This analysis demonstrates expected retail tenants at this Center could capture 8% of the market share.

The Center's market is divided into a "Primary Market Area" (PMA) and a "Secondary Market Area" (SMA). The PMA includes the following City of San Diego (City) community plan areas: Black Mountain Ranch; portions of Rancho Bernardo, Rancho Peñasquitos, and, a small portion of Torrey Highlands. In addition, the PMA includes the 4S Ranch community located in the jurisdiction of the County San Diego. The SMA includes: a portion of Rancho Bernardo, and, all of the Carmel Mountain Ranch community plan areas; a portion of the City of Poway. Attachment 1, Figure 1, Del Sur Shopping Center's PMA and SMA, shows the location of the PMA and SMA, the City's Community plan area boundaries, and jurisdictional boundaries.

The majority of the Market Area's estimated population and households fall within the City's boundaries. See Table 1, below for a breakout of the location of households and population.

TABLE 1 - PERCENTAGE OF THE PRIMARY MARKET AREA (PMA) AND SECONDARY MARKET AREA (SMA) LOCATED INSIDE OR OUTSIDE THE CITY OF SAN DIEGO'S BOUNDRIES				
Data	PMA		SMA	
	% Inside the City's Boundaries	% Outside City's Boundaries	% Inside the City's Boundaries	% Outside City's Boundaries
Estimated Households	76%	24%	75%	25%
Estimated Population	74%	26%	75%	25%
Source: Esri Community Analyst, 2013				

The London Group's Report included an SMA; however, all SMA data information detailed in this Report is related to the proposed project's Market Area and not to a standalone SMA. A Market Area is the aggregate of the PMA and SMA. Table 2, on the next page, summarizes this Report's data inputs.

One data input this Table denotes is the number of households in the PMA and Market Area. The number of households is a data input used to determine sales per SF when related to the area's household income and the expenditure share data for retail types.

TABLE 2 - THE PRIMARY MARKET AREA (PMA) AND SECONDARY MARKET AREA (SMA) DATA					
Data ¹	2014		2019		Growth in Market Area
	PMA	SMA ² = Market Area	PMA	SMA ² = Market Area	
Person Per Household	3.08	2.77			
Education Bachelors or Higher	0.6	0.57			
Median Household Income	\$ 107,569	\$ 94,956			
Average Household Income	\$ 131,750	\$ 119,611	\$ 145,463	\$ 132,060	
Owner - Occupied Housing	72%	72%			
Median Price - Owner Occupied Housing	\$ 578,364	\$ 523,140			
Estimated / Projected Population	76,563	132,782	83,739	142,067	9,285
Estimated / Projected Households	24,862	47,939	27,024	51,001	3,062

Note:

¹ Data is reprinted from The London Group Realty Advisor, Del Sur Town Center, Fiscal Impact Analysis and Retail Analysis, prepared for Shea Properties, May 2014.

² The above Report identified an SMA area; however, all data provided in this Report is for the Market Area and not specific to the SMA. The Market Area is the sum of the PMA and the SMA.

The estimated "Total Household Income" is determined by multiplying the estimated "Number of Households" by the "Estimated Average Household Income". In the London Group Report the "Average Household Income" of \$131,750.35 was used in calculation.

Competition

The London Group Report identified four competitive retail centers in the PMA and nine in the SMA, for a total of thirteen competitive retail centers in the Market Area. Of these centers, four are "Neighborhood Centers", seven are "Community Centers" and two are "Power Centers." Attachment 1, Figure 1, shows the approximate location of these retail centers on a map. For additional information about each competitive center, see, Attachment 2, Table - Competitive Retail Centers In the Primary Market Area (PMA) and Secondary Market Area (SMA). This Table summarizes CoStar¹, the London Group Report and City's information about these Centers.

The London Group completed a gap (surplus) expenditure analysis. This analysis summarizes the retail market potential for the PMA, and, Market Area. Specifically, a gap (surplus) analysis compares the "demand" generated by households' potential spending, and "supply" of existing/future known retail establishments' estimated sales dollars. The gap between estimated household spending on retail goods in the market area is used to determine potential sources of sales revenue growth for retail outlets in a market area. Sales revenue growth is then translated into sales per SF.

The London Group Report concludes nearly \$786 million in sales leakage from the PMA could support an additional 2,554,884 SF of retail space. From this 2,544,884 SF an additional 541,000 SF of less competitive retail space was subtracted.² After this adjustment, the Report demonstrated, in 2014, there is an estimated 2,014,000 SF of additional retail space that could be supported in the PMA.³ This methodology was also used to determine the additional square footage of retail space which could be supported by the SMA/Market Area in 2014, as well as, the PMA and SMA/Market Area in 2019. This leakage is currently being captured by competitive retail establishments within other submarkets located in the City that have not been studied, the County of San Diego and the City of Poway. A sales SWOT analysis of the PMA, SMA/Market Area, County of San Diego, the City of Poway and the City is beyond the scope of this Memorandum and beyond the scope of the required market analysis.⁴

Twelve of the thirteen competitive retail centers identified in the London Group Report are located within the City's boundaries. Twin Peaks is the one competitive retail center, which is located outside the City's boundaries, in the City of Poway. Twin Peaks' anchor tenant is a Target store. For more information about these competitive retail centers, see Attachment 2, Table - Competitive Retail Centers.

Please note, the PN&ED Department has never seen a market analysis which considered internet sales; however, it is possible that not all the spending from households in the PMA or SMA will be at retailers with a physical store presence.

FISCAL IMPACT ANALYSIS

Cost of Services

For its fiscal impact analysis, the London Group first calculated the estimated costs of General Fund core services based on the Adopted 2014 City Budget. To determine the average costs for each core General Fund service, the London Group divided the service costs by the City's "total effected population." As this proposed Center has no housing, the London Group did not include costs of City services for citywide programs, libraries and parks.

The "effected population" is the sum total of the City's most recent estimated population and the estimated number of civilian employees. The London Group Report applied a discount ratio to the "total civilian employment" prior to this summation. At the time this Report was written, the most recent City estimated population available was 1,326,238 persons.⁵ The most recent civilian employment, which includes workers who are self employed, was estimated at 780,252 workers.⁶ The London Group discounted the employees by a ratio of employees to population, which the PN&ED Department calculated as 0.5837.

This 0.5837 value differs slightly from the discount ratio used in the London Group Report. This ratio multiplied by the "Total Civilian Employment" resulted in an "effected civilian employment" number of 459,038 workers. The "Total Estimated Population" summed with the "effected civilian employment" number generated a City "Total Effected Population" of 1,785,276 residents and workers.

The PN&ED Department will accept the methodology used to calculate the London Group Report's "Total Effected Population." For future project's using per capita average costs estimates, the PN&ED Department will require when a discount ratio is used the reasoning behind this discount.

The London Group did not discuss the methodology of its fiscal impact analysis in its Report; however, London Group Report did include Tables which analyzed these costs and revenues. A discussion of the methodology and fiscal analysis table's is required for future projects.

The overall PN&ED Department calculations of the City's core service costs, to the proposed Center, differ slightly from the London Group Report's estimated costs. The differences between the London Group Report's calculated service costs and the City's review and reconciliation of these costs of services, to the proposed Center, are discussed below.

As workers do utilize park services, the PN&ED Department included "Park and Recreation" costs, which increased the "Core Service Costs" by \$8,027. The PN&ED Department also calculated a much lower "Public Works - Engineering & Capital Projects" costs, to the proposed Center. The PN&ED Department calculations decreased the service costs for "Public Works - Engineering & Capital Projects" by \$5,455.

The PN&ED Department calculated "Fire Rescue without Life Guards" service costs separately from "Life Guard" service costs. From the "Fire Rescue without Life Guards" service costs, the PN&ED Department subtracted this department's administrative overhead charges, as well as, charges for current services. The final step was to determine a per incident average costs for "Fire Rescue without Life Guards" services. The PN&ED Department calculations increased total cost for "Fire Rescue" services, to the proposed Center, by \$3,805.

To calculate the City's "Administrative Overhead" service costs associated with the proposed Center, the London Group Report used a 12.4% overhead rate and multiplied the total of the City's estimated "Core Service Costs" by this rate. The London Group Report estimated "Administrative Overhead Service Costs" to the City, for the proposed Center, at \$11,073. The PN&ED Department calculated these service costs for each department assumed to be included in the London Group Report's as administrative overhead. The PN&ED Department costs for these administrative department's services, to the proposed Center, was determined to be \$18,235, which is \$7,161 higher than estimated in the London Group Report.

The London Group Report's "Total General Fund Service Costs" to the City, for providing services to the proposed Center, was \$100,056. The PN&ED Department reconciliation of these costs determined the "Total General Fund Service Costs" at \$116,277. The PN&ED Department estimated "Total General Fund Service Costs" was \$16,221 higher than the London Group Report estimated. The "General Fund Service costs" detailed in the London Group Report, and, reviewed and reconciled by the PN&ED Department are shown in Table 3, found on the next page.

TABLE 3 - NEW ANNUAL RECURRING COSTS OF SERVICES TO THE CITY OF SAN DIEGO (CITY) FROM THE PROPOSED DLE SUR TOWN CENTER									
EFFECTED POPULATION ¹			1,785,276		2013 CITY POPULATION			1,326,238	
SUBJECT SITE EMPLOYEMNT ADJUSTED BY									
RATIO CALCULATION ^{2,3}			243		2012 TOTAL CIVILIAN EMPLOYMENT			780,252	
General Fund Department	LONDON GROUP REPORT		THE CITY, PLANNING, NEIGHBORHOODS & ECONOMIC DEVELOPMENT (PN&ED), REVIEW AND RECONCILIATION						
	Effective Population (\$/Capita)	Cost of City Services to the Subject Site ³	General Fund Expenditures by Department	Less Charges Current Services	Charges for City Services	Effective Population Rate (\$/Per Capita)	Cost of City Services to the Subject Site ³	Difference Cost of City Services (London Group - City)	
Citywide Program Expenditures			\$ 66,071,801	\$ -	\$ 66,071,801	37.01	\$ -	\$ -	
Development Services	\$ 8.37	\$ 1,540	\$ 15,048,760	\$ 980,216	\$ 14,068,544	7.88	\$ 1,915	\$ (375)	
Economic Development	\$ 7.20	\$ 1,294	\$ 12,944,622	\$ 4,192,638	\$ 8,751,984	4.90	\$ 1,191	\$ 103	
Environmental Services	\$ 20.11	\$ 3,615	\$ 36,169,845	\$ 939,829	\$ 35,230,016	19.73	\$ 4,795	\$ (1,180)	
Fire- Rescue (w/out Lifeguard) ⁴	\$ 123.83	\$ 22,255	\$ 222,679,306	\$ 50,382,625	\$ 172,296,681	96.51	\$ 23,450	\$ (1,194)	
Fire-Rescue Lifeguard			\$ 19,182,799	\$ -	\$ 19,182,799	10.75	\$ 2,611	\$ (2,611)	
Library	\$ 32.55	\$ -	\$ 43,811,917	\$ 1,395,500	\$ 42,416,417	23.76	\$ -	\$ -	
Park and Recreation ⁵	\$ 66.85	\$ -	\$ 89,967,980	\$ 30,990,656	\$ 58,977,324	33.04	\$ 8,027	\$ (8,027)	
Police ⁶	\$ 232.75	\$ 41,831	\$ 418,542,912	\$ 115,558,144	\$ 302,984,768	169.71	\$ 41,236	\$ 594	
Public Utilities	\$ 1.10	\$ 197	\$ 1,706,193	\$ 989,819	\$ 716,374	0.40	\$ 97	\$ 99	
Public Works - Contracting	\$ 1.17	\$ 211	\$ 2,107,234	\$ 1,053,393	\$ 1,053,841	0.59	\$ 143	\$ 67	
Public Works - Engineering & Capital Projects	\$ 34.43	\$ 6,187	\$ 61,907,263	\$ 56,527,343	\$ 5,379,920	3.01	\$ 732	\$ 5,455	
Public Works - General Services	\$ 9.36	\$ 1,682	\$ 16,830,075	\$ 3,881,596	\$ 12,948,479	7.25	\$ 1,762	\$ (80)	
Purchasing & Contracting	\$ 2.67	\$ 480	\$ 4,804,683	\$ 659,554	\$ 4,145,129	2.32	\$ 564	\$ (84)	
Real Estate Assets	\$ 2.70	\$ 485	\$ 4,852,350	\$ 1,010,713	\$ 3,841,637	2.15	\$ 523	\$ (38)	
Transportation & Storm Water	\$ 51.22	\$ 9,206	\$ 92,112,469	\$ 11,322,284	\$ 80,790,185	45.25	\$ 10,996	\$ (1,790)	
Subtotal Cost for Core City Services		\$ 88,982	\$ 1,108,740,209	\$ 279,884,310	\$ 828,855,899		\$ 98,042	\$ (9,060)	
Subtotal Cost for Administrative Overhead	12.4% ⁷	\$ 11,074					\$ 18,235 ⁸	\$ (7,161)	
Total Cost for General Fund Services		\$ 100,056	\$ 1,108,740,209				\$ 116,277	\$ (16,221)	
Note:									
¹ The "Effected Population" includes the sum of the City's 2013 population (1,326,238), plus, the sum of the City's civilian employment discounted by the ratio of the City's Civilian Employment" to the City's total									
² The discount ratio for employment discussed in Note 1, above was calculated as 0.58832. When the Subject Sites 413 projected workers are multiplied by this rate the calculated value is 243.									
³ The "Subject Site" is the proposed Del Sure Retail Center.									
⁴ The Adopted 2014 City Budget notes the Fire-Rescue Department's Total General Fund expenditure was \$222,679,306. From this total subtracting revenues and overhead expenses results in net Fire-Rescue expenditures of \$172,269,681. In 2013, the Fire-Rescue respond to 129,222 incidents. The Fire- Rescue net expenditures divided by the "Effected Population" is \$1,333.35. The Average Cost per incident is \$96.51.									
⁵ The London Group did not include the costs to the City for providing park services for persons working at the proposed Del Sur Center. The PN&ED calculated the costs for providing park services to the proposed Del Sur Town Center workers.									
⁶ The Adopted 2014 City Budget notes the Police Department's Total General Fund Expenditures was \$418,542,912. From this Total PN&ED subtract overhead expenses and revenue generated for services. The net Police Expenditures are \$302,984,768. These net Expenditures were then divided by the "Effected Population". The average cost for Police services for the effective population were \$169.71.									
⁷ The London Group used an Administrative Overhead rate of 12.4% and applied this to the "Subtotal of the Cost for Core City Services " to calculate the "Subtotal Cost of Administrative "Overhead" calculated at \$11,073.									
⁸ The PN&ED reviewed and reconciled the General Fund departments' cost that were assumed to be "Administrative Overhead" costs by the London Group. From the gross departments expenditures, the charge for current services were subtracted. The average cost was calculated by dividing the net expenditures by the "Effected Population". When the average cost for these departments were summed the total costs for these services was determined to be \$18,235.									

Revenue Generated

Claritas and Esri are two firms that provide market research information services. The London Group Report used Claritas for its Report information and the City used Esri's Community Analyst to review this Report. Claritas forecasted Market Area household growth from 2014 to 2019 at 3,062 households. Esri's forecast show household growth from 2013 to 2018 at 2,770 new households.

The London Group Report did not provide information for the PMA or SMA/Market Area households located inside and outside the City's jurisdiction. For more information about forecasted household growth see Table 4, Growth of the Market Area 2013 to 2018, found below.

TABLE 4 - GROWTH OF MARKET AREA 2013 to 2018 INSIDE AND OUTSIDE THE CITY OF SAN DIEGO'S JURISDICTION					
Data	Entire Market Area Number #	Growth inside the City Percent %	Growth Inside the City %	Growth Outside City #	Growth Outside City %
Projected Households	2,770	1,770	64%	1,000	36%
Projected Population	8,110	4,898	60%	3,212	40%
Source Esri - Community Analyst, 2013					

Sales Tax

Projects which are driven by local demand for goods and services are a function of the market, and in the case of retail sales, the physical location of the retail outlets has the overwhelming bearing on the net fiscal impacts. For any new retail project to be truly "revenue positive" to the City it must not shift or "cannibalize" all of its sales (and sales taxes) from other locations, and conversely, it must either prevent "leakage" of consumer spending into other cities' retail outlets, or capture sales from the residents of other cities. Accordingly, if this is not the case, the fiscal impact analysis is merely identifying a supposedly "new" source of revenues which are, or would be, coming into the City treasury from other retail outlets. Evaluated from that standpoint, it becomes clear that, in general, retail outlets are always "revenue positive" because the sum total of property, sales, and business license taxes will always exceed the service delivery costs created by the project.

The London Group Report estimated "New Recurring Annual Taxable Sale Revenue" generated from the proposed Center received by the City at \$392,265; whereas, the PN&ED Department estimated "New Recurring Annual Taxable Sales Revenue" the City could receive at \$255,481. The PN&ED Department changed the discount rate used to determine "New Recurring Annual Taxable Sales Revenue" the City could receive with the development of the proposed Center. The London Group Report estimated that 60% of the proposed Center's "New Recurring Annual Taxable Sales Revenue" generated would be new revenue to the City. The PN&ED Department estimated 40% of the proposed Center's "New Recurring Annual Taxable Sales Revenue" would be considered new revenue to the City.

The PN&ED Department considered the following when discounting further the "Total New Taxable Sales Revenue" to the City by 60%: 1) the London Group Report did not include a conversion from total sales to taxable sales; 2) anchor tenant "B" by the sales per SF and the size of the proposed development pad is likely a grocery store and food sales are not taxable⁷; 3) the portion of the market area that is currently inside the City (74%); 4) an estimate of City shoppers currently shopping at Target located in the City of Poway, which may change their shopping patterns and shop at the proposed Center; 5) the future anticipated growth in the Market Area; 6) the London Group

Report mentions on page 13, there are no movie theaters in the PMA-therefore it is a logical assumption to assume this proposed Center could add a theater could be part of this proposed development, and only concession sales at a movie theater⁸ generate sales tax; 7) not all of the proposed Center's tenants will be commercial retail establishments, some tenants will likely offer commercial services and generate no sales tax; 8) confidential sales tax information available exclusively to City staff from the California State Board of Equalization. The difference between the London Group reported new estimated sale tax revenue the City could receive from the proposed Center and the PN&ED Department reconciliation is \$135,600.

New Recurring Annual Taxable Sales Estimates:

\$392,265 (the London Group's estimate) – \$ 256,665 (the PN&ED Department estimate) = \$135,600 (Difference)

For more information and details of the PN&ED Department estimated new "Annual Taxable Sales Revenue" see Table 5, Sales per SF and Conversion to Taxable Sales, below.

TABLE 5 - SALES PER SQUARE FEET AND CONVERSION TO TAXABLE SALES					
Tenant	Annual Sales Volume			Sales Tax Calculations	
	Square Feet (SF)	Estimated Sales per SF	Total Estimated Sales	City's Allocation of Sales Tax @ 1% ¹	Discounted by 60% to Isolate New Retail Sales ²
Major A-Target	142,987	\$ 296.93	\$ 42,457,130	\$ 424,571	\$ 169,829
Major Tenant B	28,093	\$ 485.75	\$ 13,646,175	\$ 45,483 ³	\$ 18,193
Subtotal Anchor	171,080	\$ 327.94⁴	\$ 56,103,305	\$ 561,033	\$ 224,413
Pad A	3,243 ⁶	\$ 250.96	\$ 813,738	\$ 8,137	\$ 3,255
Pad B	4,243 ⁶	\$ 250.96	\$ 1,064,698	\$ 10,647	\$ 4,259
Shops A	6,743 ⁶	\$ 250.96	\$ 1,692,098	\$ 16,921	\$ 6,768
Shops B ⁵	8,000	\$ 87.00	\$ 696,000	\$ 6,960 ⁵	\$ 2,784
Shops C	5,193 ⁶	\$ 250.96	\$ 1,303,110	\$ 13,031	\$ 5,212
Shops D	4,743 ⁶	\$ 250.96	\$ 1,190,178	\$ 11,902	\$ 4,761
Shops E	5,193 ⁶	\$ 250.96	\$ 1,303,110	\$ 13,031	\$ 5,212
Subtotal Inline	37,355	\$ 215.85⁴	\$ 8,062,931	\$ 80,629	\$ 32,252
Total	208,435	\$ 307.85⁴	\$ 64,166,236	\$ 641,662	\$ 256,665
Retail, 5%	1,545				
Note: ¹ The City of San Diego receives 1% of the total 8% of sales tax established by the California Board of Equalization, which is equal to 1% of total taxable sales. ² Discounted to estimate new sales tax revenue to the City. Staff estimates that approximately 40% of sales tax may be new revenue to the City. ³ According to HdL, the City's tax consultant, 1/3 to 1/4 of totals sales are estimated to be taxable. ⁴ Weighted average. ⁵ Movie theaters' taxable sales are determined by the number of screens and the type of theater, luxury or traditional. The \$87 in sales per SF was taken from the London Group Reports, Table 2014 Expenditure 'Gap' & Supportable S.F., found on page 13 of this Report. As there are no movie theaters in the PMA, it is a logical assumption to locate a movie theater in this proposed Center. ⁶ The total Inline Retail vacancy rate, excluding the possible movie theater "Shops B", is 1545 SF. This amount was distributed to the applicable inline retail pads by dividing by 6. Inline Retail when summed with vacant space equals, 38,900 SF of retail space.					

Other Revenue

The PN&ED Department also removed the London Group Report's estimated \$18,000 for "Other Revenue" generated. The category of "Other Revenue" includes licenses and permit fees, fines,

forfeitures and penalties, franchise fees and other revenue. The London Group Report did not provide an explanation discussing why workers would generate these "Other Revenues".

Business License Fee

The PN&ED Department's reconciliation estimated the "Business License" fee revenue generated by the Center's 413 workers. At the current rate of \$125 for a business with over 12 employees, and the \$5 per each employee charge, the estimated "Business License" fee generated annually, by the PN&ED Department was \$2,190.

Property Tax and Property Transfer Tax

The PN&ED Department agrees with the London Group Report's estimated "Total Property Tax with VLF Revenue" of \$124,315. The London Group Report stated retail property, similar to the proposed Center, changes hands approximately every ten years. Although including the "Transfer Property Tax Revenue" on an annual basis appears questionable, the PN&ED Department did not remove this annual revenue amount of \$3,292.

Total New Recurring Annual General Fund Revenues

The London Group Report estimated the annual "New Recurring Annual Total General Fund Revenue" generated by the proposed Center at \$537,873. The PN&ED Department estimated the annual "Total General Fund Revenue" generated, if the proposed project is constructed and occupied, at \$386,829. The difference between the London Group estimated "Total General Fund Revenue" generated and the PN&ED Department reconciliation is \$151,043.

Total Annual General Fund Revenue Estimated:
\$537,873 (London Group estimate) - \$386,829 (the PN&ED Department) = \$151,043.

For more information, see the General Fund Revenue Reconciliation Table found below.

TABLE 4 - NEW RECURRING ANNUAL GENERAL FUND REVENUE TO THE CITY OF SAN DIEGO (CITY) GENERATED FROM THE PROPOSED DEL SUR TOWN CENTER			
SUBJECT SITE EMPLOYMENT ¹	413		
SUBJECT SITE EMPLOYMENT ADJUSTED BY RATIO CALCULATION ^{2,3}	243		
ANNUAL RECURRING GENERAL FUND REVENUE CATEGORIES	LONDON GROUP REPORT	CITY, PLANNING, NEIGHBORHOODS & ECONOMIC DEVELOPMENT (PN&ED), REVIEW AND RECONCILIATION	
		City - PN&ED	Difference City's GF Revenue (London Group - City)
Property Tax to the City (includes VLF)	\$ 124,315	\$ 124,315	\$ -
Property tax Transfer Tax	\$ 3,292	\$ 3,292	\$ -
Sales Tax	\$ 392,265 ⁴	\$ 256,665 ⁴	\$ 135,600
Other Revenues	\$ 18,000 ⁵	\$ - ⁵	\$ 18,000
Business License Fee	\$ - ⁶	\$ 2,190 ⁶	\$ (2,190)
TOTAL ANNUAL RECURRING REVENUE	\$ 537,872	\$ 386,462	\$ 151,410
Note			
¹ The "Effected Population" includes the sum of the City's 2013 population (1,326,238), plus, the sum of the City's civilian employment discounted by the ratio of the estimated "City's Civilian Employment" divided by the estimated "City's Total Population". The discount ratio the City calculated is 0.5883 (459,038 discounted from, 780,252).			
² The discount ratio for employment discussed in Note 1, above was calculated as 0.58832. When the Subject Sites 413 projected workers are multiplied by this rate the calculated value is 243.			
³ The "Subject Site" is the proposed Del Sure Retail Center.			
⁴ The City reduced sales tax for Anchor Tenant "B" as this appears to be a specialty grocery store. In addition, Shops "B" tenant was assumed to be a movie theater as no movie theaters exist in the PMA. It is reasonable to assume some of the Inline commercial will not attract commercial retail and will have tenants which offer commercial services. Furthermore, the City discount to calculate new sales is 60% of total sales tax revenue to estimate total new sales tax to the City.			
⁵ The "Other Revenue" category in the London Group report included General Fund categories of License, Fines, Forfeitures & Penalties, Franchise Fees and Other Revenue. As there is not a direct link to the project's Subject site for these specific categories, the City removed these revenues for the Reconciliation of "Annual Recurring General Fund Revenues."			
⁶ The London Group Report did not include the "Business License Tax" annual revenue. As this subject site is considered to generate 413 jobs, this annual revenue at current rate is \$125.00, plus, \$5.00 per employment.			

Net Fiscal Impact

The PN&ED Department reviewed and reconciled the estimated "New Recurring Annual General Fund Revenue." PN&ED Department determined with construction and use of the proposed Center up to \$386,642 new annual recurring sales tax may be generated. In addition, the City's "Total General Fund Service Costs" to the proposed Center was estimated by PN&ED Department as \$116,277.

By subtracting the "New Total General Fund Service Costs" from the "New Recurring Annual General Fund Revenue" the net fiscal impact to the General Fund is determined. The PN&ED Department estimated the net fiscal impact to the General Fund for the construction and use of this proposed Center to be \$270,185 in new General Fund revenue.⁹

PN&ED Department Estimates:

\$386,642 (New Annual Recurring General Fund Revenue) - \$116,277 (Total General Fund Service Costs) = \$270,185 (New Annual Recurring Revenue to the General Fund)

The London Group Report estimated the net fiscal impact to the General Fund for the construction and use of the proposed Center as \$437,853.¹⁰ When the City reviewed the “Core General Fund Service Costs” as stated in the London Group Report, it was noted that there is a rounding difference of \$37 in core service costs. Including this \$37 increases “Total General Fund Service Costs” to \$100,056. With this revision to “Total General Fund Service Costs” “New Recurring Annual General Fund Revenue” is decreased by \$37 to \$437,816.

London Group Estimates:

(New Annual Recurring General Fund Revenue) - (Total General Fund Service Costs) = \$437,816 (Revised - New Recurring Annual Revenue to the General Fund in 2014 dollars)

The difference between the PN&ED Department estimated “New Annual Recurring Revenue to the General Fund” and the London Group Report’s “revised New Annual Recurring Revenue to the General Fund” is \$167,631. In other words, the PN&ED Department estimated “New Annual Recurring Revenue to the General Fund” is \$167,631 less than estimated by the London Group Report.

Difference

\$270,185 (PN&ED Department’s estimate of New Annual Recurring Revenue to the General Fund) - \$437,816 (Revised - New Annual Recurring Revenue to the General Fund in 2014 dollars) = (\$167,631).

CONCLUSION

As stated in the introduction the methodology The London Group used for the market analysis was sound and conventional. The PN&ED Department review of the market analysis inputs and outputs used in the London Group Report confirms this Report’s conclusion, that the Market Area could support nearly 3.2 million SF of additional retail space. In addition, the Primary Market Area could support 1.2 million SF of additional retail space.¹¹

The Fiscal Impact section of this Memorandum discusses how PN&ED Department reviewed and reconciled the proposed Center’s service cost and the new General Fund revenue generated. The PN&ED Department discussion of each increase or reduction in service cost or new General Fund revenue begins on page 4 and continues to page 10.

For a line item review of the “Recurring Total Service Costs” reconciliations refer to Table 3 - Annual Recurring Cost of Services to the City of San Diego from The Proposed Del Sur Town Center, found on page 5 of this Memorandum. Refer to Table 4 – New Recurring Annual General Fund Revenue to the City Of San Diego (City) Generated from the Proposed Del Sur Town Center, found on page 6 of this Memorandum.

The majority of the PN&ED Department increased City service costs to the proposed Center are from the increased costs associated with what the London Group Report cited as “Administrative Overhead Costs.” The majority of the reduction in new General Fund revenue from the London group Report assumptions was due to the following: 1) PN&ED Department removed the revenue

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June 25, 2014

the London Group Report considered "Other Revenue;" 2) the PN&ED Department reduced the new sales tax generated from the proposed Center to 40%, from the London Group Report's assumption that 60% of the sales tax generated would be new revenue to the City.¹²

Provided there is no disagreement with Shea Properties or the London Group in accepting the PN&ED Department's finds no revisions to the London Group Report are required, and, no subsequent PN&ED Department reviews are required.

For any questions about this review you may have, please do not hesitate to contact me by phone at, 619.533.6339 or by email at, TDillon@sandiego.gov.

Toni Dillon

Toni Dillon
Economic Research Coordinator

TD

Attachments: 1- Figure 1, Del Sur Retail Center PMA and SMA
2- Table - Competitive Retail Centers in the Primary Market Area (PMA) and Secondary Market Area (SMA)

cc: Bill Fulton, Director, PN&ED Department
Nancy Bragado, Deputy Director, PN&ED Department
Michael Prinz, Senior Planner, PN&ED Department

¹ The CoStar Group is a real estate information service.

² The London Group Report stated CoStar Group identifies 1,067,165 of total retail space in the PM A. CoStar's retail space in competitive centers equals 526,165 SF, retail space in less competitive centers equals 541,000 SF.

³ Page 34, London Group Report, Table 3.

⁴ SWOT Sales Analysis

⁵ Population estimated for year 2013 can be found on the California Department of Finance webpage.

⁶ San Diego Association of Governments estimated the 2012 total civilian employment to be 780,252.

⁷ HdL, the City's sales tax consult, estimated $\frac{1}{3}$ to $\frac{1}{4}$ of total sales of a specialty market are taxable.

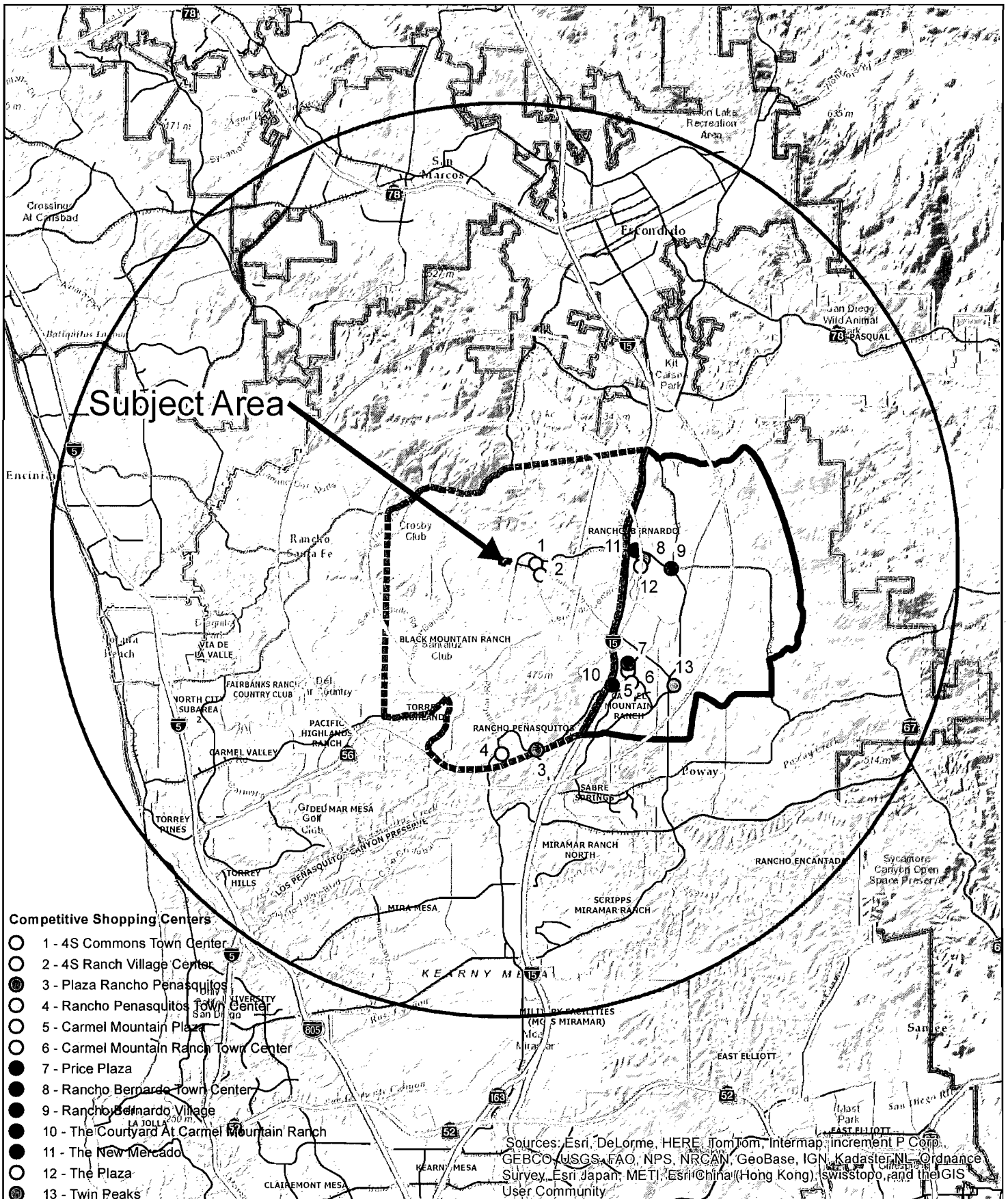
⁸ Theater sales are not calculated by SF. These sales are calculated by the type of theater, traditional or luxury and the number of screens. According to HdL a theater's taxable sales average \$650 to \$1,000 per screen.

⁹ This figure is in 2014 dollars.

¹⁰ Page 6, London Group Report

¹¹ Page 8, London Group Report

¹² See this Memorandum pages 7 and 8 for thorough discussion of why the PN&ED Department reduced the estimated new recurring sales tax to the General Fund.



The Del Sur Shopping Center's PMA and SMA

Buffer Distance

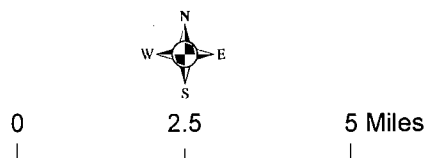
- 1 mile
- 3 mile
- 5 mile
- 10 mile

Primary Market Area

Secondary Market Area

Community Plan Area Boundary

Subject Area



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6/18/2014

John Fisher
June 25, 2014
Del Sur Town Center
PTS Number 344042
General Plan Policy, EP-L.3 – required a
Market and Fiscal Analysis review

Attachment 2

TABLE - COMPETITIVE RETAIL CENTERS IN THE PRIMARY MARKET AREA (PMA) AND SECONDARY MARKET AREA (SMA)

ID ¹	Center Name ¹	Market Location ¹	Center Type ²	City ²	Anchor Tenants ¹	Retail Gross Lease Area ¹	Submarket ²	Miles From Subject Project ¹
1	4S Commons Town Center	PMA	Community Center	San Diego	Ralphs, CVS Pharmacy, Ace Hardware, Jimbo's, Bed Bath & Beyond, Cost Plus	226,583	Rancho Bernardo Ret	0.7 E
2	4S Ranch Village Center	PMA	Neighborhood Center	San Diego	Fresh & Easy	40,500	Rancho Bernardo Ret	0.9 SE
3	Plaza Rancho Penasquitos	PMA	Neighborhood Center	San Diego	Stater Bros., 24 Hour Fitness	125,282	Rancho Peñasquitos	4.2 S
4	Rancho Penasquitos Town Center	PMA	Community Center	San Diego	Vons, Rite Aid	133,800	Rancho Peñasquitos	4.3S
5	Carmel Mountain Plaza	SMA	Power Center	San Diego	Marshalls, Michaels, Nordstrom Rack, Ross, Reading Cinemas,	513,974	Carmel Mountain Ranch Ret	3.8 SE
6	Carmel Mountain Ranch Town Center	SMA	Community Center	San Diego	Ralphs, Rite Aid, Trader Joe's	138,030	Carmel Mountain	3.9 SE
7	Price Plaza	SMA	Power Center ³	San Diego	Costco	164,405	Carmel Mountain	3.6 SE
8	Rancho Bernardo Town Center	SMA	Community Center	San Diego	Vons, Chuze Fitness	110,539	Carmel Mountain	3.0 E
9	Rancho Bernardo Village	SMA	Neighborhood Center ³	San Diego	Albertsons	61,463	Poway Ret	3.7 E
10	The Courtyard at Carmel Mountain Ranch	SMA	Community Center ³	San Diego	Best Buy, TJ Maxx	129,100	Poway Ret	3.7 SE
11	The New Mercado	SMA	Neighborhood Center ³	San Diego	Baron's Marketplace	39,063	Poway Ret	2.9 E
12	The Plaza	SMA	Community Center	San Diego	CVS Pharmacy, Big 5 Sporting	113,790	Carmel Mountain	3.0 E
13	Twin Peaks	SMA	Community Center	Poway	Target, Albertsons	197,209	Poway Ret	4.6 SE

Source:

¹ London Group Report
² CoStar Group
³ City of San Diego

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

THE ORIGINAL OF THIS DOCUMENT
WAS RECORDED ON SEP 23, 2009
DOCUMENT NUMBER 2009-0529772
DAVID L. BUTLER, COUNTY RECORDER
SAN DIEGO COUNTY RECORDER'S OFFICE
TIME: 11:39 AM

WHEN RECORDED MAIL TO
CITY CLERK
MAIL STATION 2A

SPACE ABOVE THIS LINE FOR RECORDER'S USE

JOB ORDER NUMBER 400528

PLANNED DEVELOPMENT PERMIT NO. 497493/
SITE DEVELOPMENT PERMIT NO. 497494
MULTIPLE HABITAT PLANNING AREA [MHPA]
BOUNDARY LINE ADJUSTMENT NO. 643464
BLACK MOUNTAIN RANCH NORTH VILLAGE [MMRP]
Amending Planned Development Permit/Site Development Permit No. 40-0528
CITY COUNCIL

This Planned Development Permit No. 497493/Site Development Permit No. 497494 and Multiple Habitat Planning Area [MHPA] Boundary Line Adjustment No. 643464 amending Planned Development Permit/Site Development Permit No. 40-0528 is granted by the Council of the City of San Diego to Black Mountain Ranch, LLC, a California Limited Liability Company, Owner/Permittee, pursuant to San Diego Municipal Code [SDMC] sections 126.0501 and 126.0601. The 967.50-acre site is located in the northern portion of the Black Mountain Ranch Subarea Plan in the existing OR-1-1, RX-1-2, RM-1-3, RM-2-6, CV-1-1, CC-3-5, CC-4-5, and AR-1-1 zones (proposed OR-1-1, RS-1-14, RX-1-2, RM-1-3, RM-2-6, CC-3-5 and CC-4-5 zones) of the Black Mountain Ranch Subarea Plan area. The project site is legally described as Parcels 4, 8, 16, 19, 21 and 23 of Parcel Map No. 18504, Parcel 2 of Parcel Map No. 19546, and Parcel 3 of Parcel Map No. 17995.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee to develop a mixed-use development combining affordable housing, community serving commercial and retail space, office space, market rate single-family and multi-family housing, property owners association owned parks, a village green park site, a proposed middle school site, restored open space and a fire station (Fire Station No. 48), and a MHPA Boundary Line Adjustment described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated May 19, 2009, on file in the Development Services Department.

The project or facility shall include:

- a. A mixed-use development combining affordable housing, community serving commercial and retail space, office space, market rate single-

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R- 304920

family and multi-family housing, property owners association owned parks, a village green park site, a proposed middle school site, restored open space and a fire station (Fire Station No. 48) and a MHPA Boundary Line Adjustment. The project includes 1,433 dwelling units which include: 564 single-family dwelling units and 869 multi-family dwelling units. Of the 869 multi-family units, 604 units would be market rate units and 265 would be affordable units. Of the 604 multi-family units, 304 would have no age restriction while 300 units would be for seniors. Of the 265 affordable units, 165 units would have no age restriction and 100 units would be for seniors. The project also includes a mixed-use core with a 515,000-square-foot employment/office center and 225,000 square feet of commercial/retail space; and other on- and off-site infrastructure on 967.50 acres;

- b. Deviations to the required building setbacks and height restrictions for the development of a limited number of single- and multi-family lots, see table below.

Type of Deviation	Required	Proposed	Zone Locations	No. of Lots
Front yard	15'	5'*	RX-1-2	123
Building Setback	15'	10'	RS-1-14	65
	15'	5'	RM-1-3 & RM-2-6	19
Rear yard Building Setback	15'	5'	RM-1-3 & RM-2-6	19
Street Side yard Building Setback	10'	5'	RM-1-3 & RM-2-6	19
Building Height	30'	35'	RX-1-2 & RM-2-6	134
	30'	40'	RM-1-3	8

* Requires five additional feet for porches resulting in a 10 foot deviation. All requested deviations are shown on Exhibit "A."

- c. Landscaping (planting, irrigation and landscape related improvements);
- d. The North Village Community Design Guidelines, Nov. '08 – Revised shall be used for the preparation, review and approval of all future development and construction as authorized under this permit;
- e. Off-street parking facilities; and
- f. Accessory improvements determined by the City Manager to be consistent with the land use and development standards in effect for this site per the adopted community plan, California Environmental Quality Act Guidelines, public and private improvement requirements of the City Engineer, the underlying zone(s), conditions of this Permit, and any other applicable regulations of the SDMC in effect for this site.

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STANDARD REQUIREMENTS:

1. This Permit must be utilized within thirty-six 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 or as otherwise provided by the First Amendment to Second Amended and Restated Development Agreement [Development Agreement] adopted by the City Council on August 9, 1988 and as amended on September 13, 1988 and on December 10, 2001 as Document No. 2002-0043111 recorded on January 17, 2002 of O.R.
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 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.
5. The continued use of this Permit shall be subject to the regulations of this and any other applicable governmental agency.
6. Issuance of this Permit by the City of San Diego does not authorize the Owner/Permittee for this permit to violate any Federal, State or City laws, ordinances, regulations or policies including, but not limited to, the Endangered Species Act of 1973 [ESA] and any amendments thereto (16 U.S.C. § 1531 et seq.).
7. 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.

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. 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.

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" condition(s) back to the discretionary body which approved the Permit for a determination by that body as to whether all of the findings necessary for the issuance of the proposed permit can still be made in the absence of the "invalid" condition(s). Such hearing shall be a hearing de novo and the discretionary body shall have the absolute right to approve, disapprove, or modify the proposed permit and the condition(s) contained therein.

11. 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 applicant 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

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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 as to the claims against the City. However, the Owner/Permittee shall not be required to pay or perform any settlement unless such settlement is approved by Owner/Permittee.

12. This Permit may be developed in phases; therefore, permit conditions referencing thresholds such as construction permits, building permits, occupancy permits or final maps shall apply on a phase by phase basis, satisfactory to the Development Services Department and the City Engineer.

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 MMRP, and outlined in Addendum No. 142244 to Environmental Impact Report No. 142244, 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 Addendum No. 142244 to Environmental Impact Report No. 142244, satisfactory to the City Manager and City Engineer. Prior to issuance of the first grading permit, all conditions of the MMRP shall be adhered to the satisfaction of the City Engineer. All mitigation measures as specifically outlined in the MMRP shall be implemented for the following issue areas:

Land Form Alteration/Visual Quality,
Paleontology, and
Geology

16. Prior to issuance of any construction permit, the Owner/Permittee shall pay the Long Term Monitoring Fee in accordance with the Development Services Fee Schedule to cover the City's costs associated with implementation of permit compliance monitoring.

ENGINEERING REQUIREMENTS:

17. Planned Development Permit No. 497493/Site Development Permit No. 497494 shall comply with the conditions of the Vesting Tentative Map No. 497492.

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LANDSCAPE REQUIREMENTS:

18. Prior to issuance of construction permits for grading, the Owner/Permittee shall submit landscape construction documents for the revegetation and hydro-seeding of all disturbed land in accordance with the Black Mountain Ranch Subarea Plan; Land Development Manual, Landscape Standards and to the satisfaction of the City Manager. All plans shall be in substantial conformance with Exhibit "A."
19. Prior to issuance of construction permits for public right-of-way improvements, the Owner/Permittee shall submit complete landscape construction documents for right-of-way improvements to the Development Services Department for approval. Improvement plans shall provide a minimum of forty square feet of permeable area around each tree which is unencumbered by utilities. Driveways, utilities, drains, water and sewer laterals shall be designed so as not to prohibit the placement of street trees.
20. Prior to issuance of any construction permits for buildings, the Owner/Permittee shall submit complete landscape and irrigation construction documents consistent with the Land Development Manual, Landscape Standards to the Development Services Department for approval. The construction documents shall be in substantial conformance with the Black Mountain Ranch Subarea Plan and Exhibit "A."
21. Prior to issuance of any Certificate of Occupancy, it shall be the responsibility of the Owner/Permittee to install all required landscape and obtain all required landscape inspections. A "No Fee" Street Tree Permit shall be obtained for the installation, establishment, and on-going maintenance of all street trees.
22. The Owner/Permittee shall maintain all required landscape 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.
23. The Owner/Permittee shall be responsible for the maintenance of all landscape improvements in the right-of-way consistent with the Land Development Manual, Landscape Standards unless long-term maintenance of said landscaping will be the responsibility of a Landscape Maintenance District or other approved entity. In this case, a Landscape Maintenance Agreement shall be submitted for review by a Landscape Planner.
24. If any required landscape, including existing or new plantings, hardscape, landscape features, indicated on the approved construction document plans is damaged or removed during demolition or construction, the Owner/Permittee is responsible to repair and/or replace any landscape in kind and equivalent size per the approved documents to the satisfaction of the Development Services Department within thirty days of damage or prior to a Certificate of Occupancy.
25. Prior to issuance of construction permits for grading, the Owner/Permittee shall ensure that all proposed landscaping, especially landscaping adjacent to native habitat and/or the Multiple Habitat Planning Area, shall not include exotic plant species that may

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be invasive to native habitats. Plant species found within the Black Mountain Ranch "North Village" Design Guidelines, 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.

26. Prior to issuance of construction permits for grading, the Owner/Permittee shall ensure all existing, invasive plant species, including all vegetative parts and root systems, identified in the Black Mountain Ranch "North Village" Design Guidelines shall be completely removed from the premises when the combination of species type, location, and surrounding environmental conditions provides a means for the species to invade other areas of native plant material that are on or off of the premises.

BRUSH MANAGEMENT PROGRAM REQUIREMENTS:

27. Within Zone One, combustible accessory structures, including, but not limited to decks, trellises, gazebos, 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.

28. The following note shall be provided on the Brush Management Construction Documents: "It shall be the responsibility of the Owner/Permittee to schedule a pre-construction meeting on-site with the contractor and the Development Services Department to discuss and outline the implementation of the Brush Management Program."

29. In Zone One, plant material shall be selected to visually blend with the existing hillside vegetation. No invasive plant material shall be permitted as jointly determined by the Landscape Analysis Section [LAS] and the Environmental Analysis Section [EAS].

30. 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 hydroseeded. If Zone Two is being revegetated, 50 percent of the planting area shall be seeded with material that does not grow taller than 24 inches.

31. Prior to final inspection and issuance of any Certificate of Occupancy, the approved Brush Management Program shall be implemented and maintained at all times in accordance with the City of San Diego's Land Development Manual, Landscape Standards and as shown on Exhibit "A."

PLANNING/DESIGN REQUIREMENTS:

32. 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.

33. Prior to the operation of any Residential Care Facility for the Elderly and or Housing for Senior Citizens, a subsequent Conditional Use Permit for any Residential Care Facility for the Elderly and or Housing for Senior Citizens, or any such uses as defined by the Land Development Code, shall be obtained by the Owner/Permittee.
34. All signs associated with this development shall be consistent with sign criteria established by the City-wide sign regulations.
35. The Owner/Permittee shall post a copy of the approved discretionary permit or Vesting Tentative Map in the sales office for consideration by each prospective buyer.
36. 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.
37. Prior to the issuance of any building permit, the Owner/Permittee shall submit for review and approval a Substantial Conformance Review for the purposes of determining consistency of the proposed construction plans with The North Village Community Design Guidelines. Projects deemed not in substantial conformance shall require an amendment to this permit.

TRANSPORTATION REQUIREMENTS

38. Prior to the issuance of any building permit, the project shall be in conformance with the Black Mountain Ranch Transportation Phasing Plan.

WASTEWATER REQUIREMENTS:

39. Prior to the issuance of any building permits, the applicant shall process and record a NOTICE & AGREEMENT for each ownership being served by a private pump station/sewer facilities which serves more than one ownership, which indemnifies the City and contains an agreement that the applicant, and successors in interest, will be responsible for the operation and maintenance of the private sewer systems.
40. The Owner/Permittee shall design and construct all proposed public sewer facilities in accordance with established criteria in the most current edition of the City of San Diego sewer design guide. Proposed facilities that do not meet the current standards shall be redesigned or private.
41. Prior to the issuance of any building permits, the Owner/Permittee shall assure, by permit and bond, the design and construction of all public sewer facilities necessary to serve this development.
42. Proposed private underground sewer facilities located within a single lot shall be designed to meet the requirements of the California Uniform Plumbing Code and shall be reviewed as part of the building permit plan check.

43. The Owner/Permittee shall provide evidence, satisfactory to the Metropolitan Wastewater Department Director, indicating that each lot will have its own sewer lateral or provide CC&R's for the operation and maintenance of on-site private sewer facilities that serve more than one lot.

WATER REQUIREMENTS:

44. Prior to the issuance of any building permits, the Owner/Permittee shall assure, by permit and bond, the design and construction of appropriate water facilities as identified in accepted water studies, necessary to serve this development in a manner satisfactory to the Director of Public Utilities and the City Engineer, maintaining a redundant potable water supply throughout the phasing of construction.

45. Prior to the issuance of any building permits, the Owner/Permittee shall assure, by permit and bond, the design and construction of recycled water facilities, identified in the "City of San Diego Beneficial Reuse Study" and accepted site specific studies, in a manner satisfactory to the Director of Public Utilities and the City Engineer.

46. Prior to the issuance of any building permits, the Owner/Permittee shall assure, by permit and bond, the design and construction of the necessary water facilities to provide water service to the existing affordable housing project located north of Camino Del Norte and adjacent to Four Gee Road, in a manner satisfactory to the Director of Public Utilities and the City Engineer.

47. 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) and or master water assemblies to serve multiple lots, in a manner satisfactory to the Director of Public Utilities and the City Engineer. All water services and meters shall be installed behind full height curbs and outside of any vehicular travel way including driveways.

48. Prior to the issuance of any building permits the Owner/Permittee shall provide CC&Rs for the operation and maintenance of any on-site private water facilities that serve or traverse more than a single dwelling unit or common area.

49. Prior to the issuance of any building permits the Owner/Permittee shall install fire hydrants at locations satisfactory to the Fire Department, the Director of Public Utilities, and the City Engineer. Fire hydrants within easements having no curbs or rolled curbs shall have protective posts.

50. Prior to the issuance of any construction permit, the Owner/Permittee shall grant adequate water easements, over all public water facilities that are not located within fully improved public rights-of-way, satisfactory to the Director of Public Utilities and City Engineer.

51. Prior to the issuance of any building permits, the Owner/Permittee shall process encroachment maintenance and removal agreements for all acceptable encroachments of structures or landscaping into any easement. No structures or landscaping of any kind shall be installed in or over any vehicular access roadway.

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52. If on site water facilities are to be public and if it is a gated community, then prior to the issuance of any building permits, the Owner/Permittee shall provide keyed access to the Water Operations Divisions of the Water Department in a manner satisfactory to the Water Department. The City will not be held responsible for any issues that may arise relative to the availability of keys.

53. 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. Water facilities, as shown on the approved vesting tentative map, shall be modified at final engineering to comply with standards.

GEOLOGY REQUIREMENTS:

54. Prior to the issuance of any construction permit, a geotechnical report shall be submitted and approved by the City Engineer in accordance with the City of San Diego's "Technical Guidelines for Geotechnical Reports."

MSCP REQUIREMENTS:

55. Prior to the issuance of any building permit or construction for Fire Station No. 48, the project plans shall indicate not less than a 100 foot buffer or other approved reduced wetland buffer, satisfactory to the Development Services Department. Should a 100 foot buffer not be indicated on the plans, then the following requirements shall apply:

1. Removal of all invasive plant species within the riparian corridor and the reduced buffer;
2. Planting of native species within the reduced buffer;
3. Twenty-five months monitoring to assure successful revegetation of the area;
4. Any proposed wall(s) shall be located outside of the reduced wetland buffer; 4. Shielding of all outdoor lighting to prevent direct lighting impacts to sensitive areas and reduction of incidental lighting of the reduced wetland buffer and the tributary to Lusardi Creek;
5. No Best Management Practices [BMPs] within the reduced wetland buffer;
6. No brush management within the reduced wetland buffer;
7. No active or passive uses within the reduced wetland buffer;
8. Installation of signage in appropriate locations to discourage people from entering the reduced wetland buffer, all satisfactory to the Development Services Department.

56. Multiple Habitat Planning Area Land Use Adjacency Guidelines:

- a. Prior to permit issuance, the ADD of Entitlements Division (Environmental Designee) and MSCP staff shall review and approve the landscape plan to ensure that no invasive non-native plant species shall be located in areas adjacent to the Multiple Habitat Planning Area [MHPA].

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- b. Prior to permit issuance, the ADD Entitlements Division (Environmental Designee) and MSCP staff shall review the site plan to assure that new development adjacent to the MHPA has provided barriers (e.g. non-invasive vegetation, rocks/boulders, fences, walls, and/or signage) along the MHPA boundary to direct public access to appropriate locations and reduce domestic animal intrusion.
- c. Prior to permit issuance, brush management plans shall be submitted and reviewed by the ADD Entitlements Division (Environmental Designee) and MSCP staff.
- d. Prior to permit issuance, the ADD of Entitlements Division (Environmental Designee) and MSCP staff shall verify the requirements for sedimentation basins and the use of Best Management Practices (desilting basins, extended detention, filter strips and source controls) is noted on development plans.
- e. Prior to the issuance of the building permit, it shall be verified that all permanent basins and all other drainage facilities shall be constructed and designed to minimize impacts to the MHPA.
- f. Prior to permit issuance, the following measures shall be depicted on appropriate construction plans to reduce levels of erosion, sedimentation, and runoff during and after construction activities:
 - i. Hydroseeding and landscaping of any cut/fill slopes disturbed or built during the construction phase of the project, with appropriate ground cover vegetation shall be performed within 30 days of completion of grading activities.
 - ii. Areas of native vegetation or adjoining slopes to the avoided during grading activities shall be delineated to minimize disturbance to existing vegetation and slopes
 - iii. Artificial ground cover, hay bales, and catch basins to retard the rate of runoff from manufactured slopes shall be installed if grading occurs during wet weather season November 1 through April 1.
 - iv. Fine particles in geologic materials used to construct the surficial layers of manufactured slopes shall not be specified unless a suitable alternative is not available.
 - v. Temporary sedimentation and desilting basins between graded areas and streams shall be provided during grading

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.

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

APPROVED by the Council of the City of San Diego on May 19, 2009, by Resolution No. R-304920.

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AUTHENTICATED BY THE CITY MANAGER, CITY OF SAN DIEGO

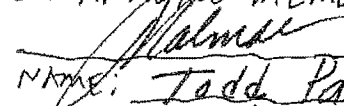
By 
MIKE WESTLAKE, PROGRAM MANAGER
 DEVELOPMENT SERVICES DEPARTMENT

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

BLACK MOUNTAIN RANCH, LLC,
 a California Limited Liability Company
 Owner/Permittee

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

PERMIT/OTHER - Permit Shell 11-01-04

By: BMR COMMUNITIES LLC
 A CALIFORNIA LIMITED LIABILITY COMPANY
 ITS MANAGING MEMBER
 By: STANDARD PACIFIC CORP.
 A DELAWARE CORPORATION
 ITS MANAGING MEMBER
 BY: 
 NAME: Todd Palmaer
 TITLE: Authorized Representative

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CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of OrangeOn 9-11-09

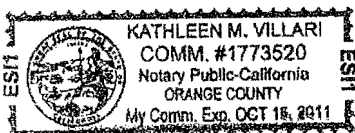
Date

before me, Kathleen M. Villari

Here Insert Name and Title of the Officer

personally appeared Todd Palmer

Name(s) of Signer(s)



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

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

WITNESS my hand and official seal.

Signature Kathleen M. Villari

Signature of Notary Public

Place Notary Seal Above

OPTIONAL

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

Description of Attached Document

Title or Type of Document: _____

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

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

Signer Is Representing: _____

**RIGHT THUMBPRINT
OF SIGNER**

Top of thumb here

Signer's Name: _____

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

Signer Is Representing: _____

**RIGHT THUMBPRINT
OF SIGNER**

Top of thumb here

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of San DiegoOn SEPTEMBER 22, 2009 before me, Phillip D. Hill, Notary Public

Here Insert Name and Title of the Officer

personally appeared

MIKE WESTLAKE

Name(s) of Signer(s)



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

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

WITNESS my hand and official seal.

Signature

Signature of Notary Public

Place Notary Seal Above

OPTIONAL

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

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OF SIGNER**
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☐ Other: _____

Signer Is Representing: _____

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OF SIGNER**
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RESOLUTION NUMBER R-304920

DATE OF FINAL PASSAGE MAY 19, 2009

A RESOLUTION GRANTING PLANNED DEVELOPMENT
PERMIT NO. 497493/SITE DEVELOPMENT PERMIT
NO. 497494, AMENDING PLANNED DEVELOPMENT
PERMIT/SITE DEVELOPMENT PERMIT NO. 40-0528 –
BLACK MOUNTAIN RANCH NORTH VILLAGE PROJECT,
PROJECT NO. 142244.

WHEREAS, Black Mountain Ranch, LLC, a California Limited Liability Company, Owner/Permittee, filed an application with the City of San Diego for Planned Development Permit No. 497493/Site Development Permit No. 497494 and Multiple Habitat Planning Area [MHPA] Boundary Line Adjustment No. 643464, amending Planned Development Permit/Site Development Permit No. 40-0528, to develop a mixed-use development combining affordable housing, community serving commercial and retail space, office space, market rate single-family and multi-family housing, property owners association owned parks, a village green park site, a proposed middle school site, and restored open space on a 967.50-acre site known as the Black Mountain Ranch North Village project, located in the northern portion of the Black Mountain Ranch Subarea Plan area, and legally described as Parcels 4, 8, 16, 19, 21 and 23 of Parcel Map No. 18504, Parcel 2 of Parcel Map No. 19546, and Parcel 3 of Parcel Map No. 17995, in the Black Mountain Ranch Community Plan area, in the OR-1-1, RS-1-14, RM-1-3, RM-2-6, RX-1-2, CC-3-5 and CC-4-5 zones; and

WHEREAS, on April 2, 2009, the Planning Commission of the City of San Diego considered Planned Development Permit [PDP]/Site Development Permit [SDP] No. 497494 and Multiple Habitat Planning Area [MHPA] Boundary Line Adjustment No. 643464, and pursuant to Resolution No. 4501-PC voted to recommend City Council approval of the Permit; and

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

WHEREAS, the matter was set for public hearing on May 19, 2009, testimony having been heard, evidence having been submitted, and the City Council having fully considered the matter and being fully advised concerning the same; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that it adopts the following findings with respect to Planned Development Permit No. 497493/Site Development Permit No. 497494 and Multiple Habitat Planning Area [MHPA] Boundary Line Adjustment No. 643464:

A. **PLANNED DEVELOPMENT PERMIT – SAN DIEGO MUNICIPAL CODE**
[SDMC] SECTION 126.0604

1. **The proposed development will not adversely affect the applicable land use plan.** The Black Mountain Ranch North Village project proposes a mixed-use development combining affordable housing, community serving commercial and retail space, office space, market rate single-family and multi-family housing, property owners association owned parks, a village green park site, adjusting the MHPA boundary, relocation Fire Station No. 48 and restoring open space.

The project site is situated within the master planned community of Black Mountain Ranch. The proposed project is a master planned, mixed-use residential/commercial development on a 967.50-acre site designated for Residential, Mixed-Use Community Commercial, Recreation and Open Space uses in the Black Mountain Ranch Subarea Plan. With the adoption of the amendment to the General Plan and Black Mountain Ranch Subarea Plan, the proposed project will allow a low medium density housing component and commercial development consistent with the policies and guidelines of the General Plan and Black Mountain Ranch Subarea Plan. Being determined the project is consistent with the General Plan and Black Mountain Ranch Subarea Plan, the proposed development will not adversely affect the General Plan and Black Mountain Ranch Subarea Plan.

2. The proposed development will not be detrimental to the public health, safety, and welfare. The Black Mountain Ranch North Village project is a master planned, mixed-use residential/commercial development on a 967.50-acre site designated for Residential, Mixed-Use Community Commercial, Recreation and Open Space. In addition to the proposed uses on site, the development will include enhanced plaza areas for public gathering, strong pedestrian connectivity throughout the site through implementation of a trail system, and convenient access to public transportation.

The proposed development will construct necessary sewer and water facilities to serve the users and residents of the development; will enter into a Maintenance Agreement for the ongoing permanent Best Management Practices [BMP] maintenance; will comply with all requirements of State Water Resources Control Board [SWRCB] Order No. 99-08 DWQ and the Municipal Storm Water Permit, Order No. 2001-01 (NPDES General Permit No. CAS000002 and CAS0108758), Waste Discharge Requirements for Discharges of Storm Water Runoff Associated With Construction Activity; and will provide a geotechnical report in accordance with the City of San Diego's Technical Guidelines for Geotechnical Reports for the review and approval by the City Engineer. All structures constructed will be reviewed by professional staff for compliance with all relevant and applicable building, electrical, mechanical and fire codes to assure the structures will meet or exceed the current regulations. As such the proposed development will not be detrimental to the public health, safety, and welfare.

3. The proposed development will comply with the regulations of the Land Development Code. The proposed development complies with the regulations of the OR-1-1, RM-1-3, RM-2-6, RX-1-2, CC-3-5 AND CC-4-5 zones and site specific development regulations for the property. The proposed development complies with all relevant regulations of the Land Development Code. Specific conditions of approval require the continued compliance with all relevant regulations of the City of San Diego effective for this site and have been written as such into Planned Development Permit No. 497493/Site Development Permit No. 497494 and Multiple Habitat Planning Boundary Line Adjustment No. 643464. The Black Mountain Ranch North Village project will develop 7.52 acres within the Black Mountain Ranch community with a total of 1,433 residential units; a mixed-use core with approximately 515,000 square feet of employment/office center uses, approximately 225,000 square feet of commercial/ retail uses; a 300 room hotel; a middle school site; a transit center; relocation of Fire Station No. 48; 277.5 acres of open space and five individual park areas; and other on- and off-site infrastructure improvements on a 967.5-acre site. Of the 1,431 dwelling units, 500 dwelling units would be specifically for seniors and 165 would be affordable units. The proposed project would revise a previously approved tentative map by changing the street and development pattern, by deleting a planned hotel and golf course replacing it with open space, by relocating a planned fire station from the North Village to the East Clusters area of Black Mountain Ranch, and by adjusting the Multiple Habitat Planning Area boundary to allow for the new location of Fire Station No. 48. The proposed development complies with the regulations of the OR-1-1, RS-1-14, RM-1-3, RM-2-6, RX-1-2, CC-3-5 AND CC-4-5 zones and site specific development regulations for the Black Mountain Ranch North Village parcels, as allowed through the approval of deviations with a Planned Development Permit. Specific conditions of approval require the continued compliance with all relevant regulations of the City of San Diego effective for this site and have been written as such into Planned Development Permit No. 497493/Site Development Permit No. 497494 and Multiple Habitat Planning Area Boundary Line Adjustment No. 643464. Development of the

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property will meet all requirements of all relevant regulations and will be complied with at all times for the life of the project. In these ways the proposed development will comply with the applicable and relevant regulations of the Land Development Code.

4. **The proposed development, when considered as a whole, will be beneficial to the community.** The project will provide several significant features, amenities and improvements in the community. The project will add a total of 1,433 residential units; a mixed-use core with approximately 515,000 square feet of employment/office center uses, approximately 225,000 square feet of commercial/retail uses; a 300-room hotel; a middle school site; a transit center; relocation of Fire Station No. 48; 277.5 acres of open space and five individual park areas; and other on- and off-site infrastructure improvements on a 967.5-acre site. Of the 1,431 dwelling units, 500 dwelling units would be specifically for seniors and 165 would be affordable units. The proposed project would revise a previously approved tentative map by changing the street and development pattern, by deleting a planned hotel and golf course replacing it with open space, by relocating a planned fire station from the North Village to the East Clusters area of Black Mountain Ranch, and by adjusting the Multiple Habitat Planning Area boundary to allow for the new location of Fire Station No. 48. The development of these housing units will increase the housing stock of the City of San Diego at a time in the history of the City when there is a housing shortage. Increasing the housing supply will be particularly beneficial in the Black Mountain Ranch Subarea Plan area because of the large and expanding employment base in the area. The project will help alleviate the shortage of housing opportunities. This project will also provide for affordable housing opportunities on-site. Housing near the many employment sites in Black Mountain Ranch will aid in reducing automobile congestion, particularly during peak travel hours. The project will also create public open spaces within the site to promote pedestrian activity and provide recreation. Pedestrian walkways, trails and parks have been provided throughout the project. The area previously approved for the golf course would be graded and improved with drainage features to address the water quality requirements of the Del Sur community. The area would also be re-vegetated to prevent erosion, aid in slope stability and improve aesthetics. This open space area would be designated as "Resource Open Space" in the Black Mountain Ranch Subarea Plan. The proposal will relocate a fire station from the North Village to a site in the eastern portion of Black Mountain Ranch to better serve the needs of the community. The new location will be more centrally located to serve the community when considering the other fire fighting facilities in the area and region. Thus the development of the project will materially benefit the City by providing both housing units during a shortage of supply, affordable housing to persons of special need, re-vegetated open space, improve fire protection in the community. Furthermore, the reduced street widths and front yard setbacks are encouraged and combined with the goal of providing greater articulations in the horizontal and vertical planes of buildings to promote a more urban character in the community. The resulting benefits of the project will be positive for the community and City of San Diego.

5. **Any proposed deviations pursuant to Section 126.0602(b)(1) are appropriate for this location and will result in a more desirable project than would be achieved if designed in strict conformance with the development regulations of the applicable zone.** Deviations to the required building setbacks and height restrictions for the development of a limited number of single- and multi-family lots will result in attainment of the urban design goals of the Black Mountain Ranch Subarea Plan. The front yard setback of sixty-five lots within the

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RS-1-14 zone would observe a ten foot setback rather than the required fifteen foot setback. The front yard setback and height limit of 123 lots within the RX-1-2 zone would observe a five foot setback rather than the required fifteen foot setback and a maximum height of thirty-five feet rather than the required thirty foot limit. The front and rear yard setback of eleven lots within the RM-2-6 zone would observe a five foot setback rather than the required fifteen foot setback, a five foot setback rather than the required ten foot setback along the street side yard and a maximum height of thirty-five feet rather than the required thirty foot limit. The front and rear yard setback of eight lots within the RM-1-3 zone would observe a five foot setback rather than the required fifteen foot setback, a five foot setback rather than the required ten foot setback along the street side yard and a maximum height of forty feet rather than the required thirty foot limit.

Deviations relating to reductions in building setbacks and increases in building heights are supported by staff primarily to achieve consistency with the previous deviations granted to the previously approved Black Mountain Ranch projects developed within the North Village. Staff further supports these deviations as they are consistent with the policy goals related to development within the adopted Black Mountain Ranch Subarea Plan. Reduced street widths and front yard setbacks are encouraged and combined with the goal of providing greater articulations in the horizontal and vertical planes of buildings to promote a more urban character in the community.

B. SITE DEVELOPMENT PERMIT – SDMC SECTION 126.0504

1. Findings for all Site Development Permits SDMC section 126.0504(a):

a. The proposed development will not adversely affect the applicable land use plan. With the adoption of the amendment to the General Plan and Black Mountain Ranch Subarea Plan, the proposed project will allow a low medium density housing component and commercial development consistent with the policies and guidelines of the General Plan and Black Mountain Ranch Subarea Plan. Being determined the project is consistent with the General Plan and Black Mountain Ranch Subarea Plan, the proposed development will not adversely affect the General Plan and Black Mountain Ranch Subarea Plan. See Planned Development Permit Finding No. 1 above for greater detail.

b. The proposed development will not be detrimental to the public health, safety, and welfare. All structures constructed will be reviewed by professional staff for compliance with all relevant and applicable building, electrical, mechanical and fire codes to assure the structures will meet or exceed the current regulations. As such the proposed development will not be detrimental to the public health, safety, and welfare. See Planned Development Permit Finding No. 2 above for greater detail.

c. The proposed development will comply with the applicable regulations of the Land Development Code. Specific conditions of approval require the continued compliance with all relevant regulations of the City of San Diego effective for this site and have been written as such into Planned Development Permit No. 497493/Site Development Permit No. 497494. Development of the property will meet all requirements of all relevant regulations and will be complied with at all times for the life of the project. In these ways the

proposed development will comply with the applicable and relevant regulations of the Land Development Code. See Planned Development Permit Finding No. 3 above for greater detail.

2. Supplemental Findings – Environmentally Sensitive Lands SDMC
section 126.0504(b)

a. 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 City of San Diego previously prepared a Final Environmental Impact Report which identified the project described above. Based upon a review of the current project, new significant environmental impacts not considered in the previous Environmental Impact Report will not result from the implementation of the project; no substantial changes have occurred with respect to the circumstances under which the project is undertaken; and there is no new information of substantial importance to the project which would determine the design and siting of the development will result in any disturbance to environmentally sensitive lands beyond the minimum necessary.

Evaluation of the technical reports required for the proposed project concluded the site is physically suitable for the proposed development and will result in the minimum disturbance to environmentally sensitive lands. An updated biological report was prepared for the proposed project. The revised North Village project does not change the project limits of grading or development, except at the new location of the proposed Fire Station No. 48. The impacts on the proposed fire station site will add an additional 1.77 acres of impact to non-native grassland and 0.33 acre of disturbed habitat to the impact total previously reported for the North Village. This 2.1 acre of additional impact is off-set by the addition of 2.5 acres of native habitat comprised of 1.7 acres of coastal sage scrub and 0.7 acre of native grassland on the trade parcel to be added to the Multiple Habitat Planning Area in the boundary adjustment. The incorporation of a 2.5 acre trade parcel into the Multiple Habitat Planning Area will serve as mitigation for these additional impacts. As part of the present project the Multiple Habitat Planning Area boundary will again be adjusted, therefore, the potential impacts associated with the proposed project will be adequately addressed. No new mitigation is required for the proposed project and the mitigation in the 1998 FEIR would serve to mitigate all biological impacts to below a level of significance.

The 1998 FEIR states that there was no significant soil or geologic conditions which were observed or known to exist within Subarea I which would preclude implementation of the project. However, potentially significant geologic conditions exist which will require mitigation as part of any future tentative maps. Implementation of the conclusions and recommendations in the geotechnical report would mitigate the potentially significant geological effects of the North Village development to below a level of significance. In addition, development of the North Village would include measures to reduce the erosion potential by balancing grading within the North Village and maintaining the drainage feature in the southern open space area. These impacts would be mitigated to a level below significance by incorporation of previous mitigation measures.

As stated in the 1998 FEIR, the northern portion of the North Village will impact areas of moderate to high paleontological sensitivity. Development will occur primarily within

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the Stadium Conglomerate formation with development in the eastern portion of the site within the Mission Valley and Friars formations. In addition, a portion of the southwest area of the project site will occur within the Delmar/Torrey Sandstone Formations. The residential development above the small finger canyons on the ridges extending southwesterly from the village core are sited such that they will impact areas of Santiago Peak metavolcanics, which are formations of moderate to high paleontological sensitivity. The proposed location for the 300-unit senior center is sited over formations of very low to low resource sensitivity. The proposed project will not change the overall project grading limits or development footprint, thus, there will be no new impacts to paleontological resources. Therefore, as there will be no new significant impacts, pursuant to the 1998 FEIR, monitoring will be required during grading which will mitigate project-level impacts to below a level of significance.

Approximately 1,915 acres of Multiple Habitat Planning Area occur within the Black Mountain Ranch open space system. Currently, 1,190-acres of non-native grassland Multiple Habitat Planning Area are conserved on-site. The applicant will convey the remaining on-site Multiple Habitat Planning Area to the City's Multiple Species Conservation Program [MSCP] preserve through either fee title to the City, or a conservation easement or covenant of easement granted in favor of the City and wildlife resource agencies. On November 9, 2007, a Multiple Habitat Planning Area boundary line adjustment was reviewed by City staff and the wildlife resource agencies. The Multiple Habitat Planning Area boundary line adjustment will accommodate a future fire station to be located on Parcel 4. This will result in the deletion of 1.77 acres of Tier IIIB non-native grasslands and 0.33 acres of Tier IV disturbed area. Additions to the Multiple Habitat Planning Area will include 0.70 acre of Tier I native grassland, 1.7 acres of Tier II coastal sage scrub, and 0.1 acre of disturbed land. Therefore, the incorporation of a 2.5 acre trade parcel into the Multiple Habitat Planning Area will be included in the project. Although a boundary line adjustment was approved for the proposed future fire station, the project will be required to adhere to the Multiple Habitat Planning Area Land Use Adjacency Guidelines.

Based upon all the information submitted and reviewed, the site has been determined to be physically suitable for the design and siting of the proposed development and the development will result in minimum disturbance to environmentally sensitive lands.

b. 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 project will create a development pattern based in form upon the existing landform patterns. Geologic evaluations performed to study the site concluded the site is physically suitable for the proposed development and the resultant development will not be at undue risk from geologic forces. Erosional forces in the form of wind and water effects upon the land will be minimized through requirements imposed in the conditions of approval. The site is not subject to inundation from flooding or flood hazards. Fire hazards will be reduced through requirements imposed in the conditions of approval which require brush management measures to reduce the risks associated from wild fires. The resultant development will not be at undue risk from erosional forces, flood hazards, or fire hazards.

c. The proposed development will be sited and designed to prevent adverse impacts on any adjacent environmentally sensitive lands. Based upon all the

information submitted and reviewed, the site has been determined to be physically suitable for the design and siting of the proposed development and the development will result in minimum disturbance to environmentally sensitive lands. See Environmentally Sensitive Lands Finding No. a above for greater detail.

d. **The proposed development will be consistent with the City of San Diego's Multiple Species Conservation Program (MSCP) Subarea Plan.** The proposed reconfiguration of the North Village development area is not within the Multiple Species Conservation Program Multiple Habitat Planning Area, nor does it encompass areas of sensitive hillsides or sensitive habitats or species, with the exception of the proposed location for Fire Station No. 48. The site of the proposed fire station is currently within the Multiple Habitat Planning Area, yet a boundary line adjustment is included with the approval of the project to remove this development area from the Multiple Habitat Planning Area in trade for another parcel to be added to the Multiple Habitat Planning Area nearby.

Land use adjacency guidelines are incorporated into the North Village Design Guidelines and Black Mountain Ranch Subarea design guidelines, including provisions for noise control, barrier fencing, and plantings for access control, lighting restrictions, drainage and toxics, invasive plant species, brush management, and appropriate landscaping. With the implementation of the Multiple Habitat Planning Area Land Use Adjacency Guidelines, no significant direct or indirect impacts to the Multiple Habitat Planning Area or covered species will result from development of the revised North Village.

e. **The proposed development will not contribute to the erosion of public beaches or adversely impact local shoreline sand supply.** Erosional forces in the form of wind and water effects upon the land will be minimized through requirements imposed in the conditions of approval. Specifically the imposition of water quality requirements will limit the erosion of lands within the development which if unchecked or controlled would negatively affect waterways downstream and potentially affect public beaches and local shoreline sand supplies downstream within the drainage basin at the confluence of streams with the ocean.

f. **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.** All mitigation required for the project is the result of technical and or scientific studies concluding the mitigation will reduce or avoid significant impacts to the environment as a result of implementation of the project and is required to achieve such avoidance or reduction. That 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 is supported by the technical and or scientific studies required through the review process to assure any potential negative impacts resulting from the implementation of the project will be minimized or avoided.

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

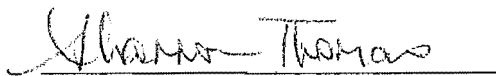
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BE IT FURTHER RESOLVED, that Planned Development Permit No. 497493/Site Development Permit No. 497494 and Multiple Habitat Planning Area [MHPA] Boundary Line Adjustment No. 643464 is granted to Black Mountain Ranch, LLC, Owner/Permittee, under the terms and conditions set forth in the attached permit which is made a part of this resolution.

BE IT FURTHER RESOLVED, that the Owner/Permittee is directed to work with City staff to ensure that the 5 acre public Community Park is maintained by the Homeowner's Association.

APPROVED: JAN I. GOLDSMITH, City Attorney

By



Shannon Thomas
Deputy City Attorney

ST:pev
04/23/09
06/12/09 Rev.
Or.Dept:DSD
R-2009-1080
MMS #8756

ORIGINAL

Passed by the Council of The City of San Diego on May 19, 2009, by the following vote:

YEAS: LIGHTNER, FAULCONER, GLORIA, YOUNG, DEMAIO,
 EMERALD, HUESO.

NAYS: FRYE.

NOT PRESENT: NONE.

RECUSED: NONE.

AUTHENTICATED BY:

JERRY SANDERS

Mayor of The City of San Diego, California

ELIZABETH S. MALAND

City Clerk of The City of San Diego, California

(Seal)

By: Sara Richardson, Deputy

I HEREBY CERTIFY that the above and foregoing is a full, true and correct copy of
RESOLUTION NO. R-304920 approved by the Council of the City of San Diego, California on
May 19, 2009.

ELIZABETH S. MALAND

City Clerk of The City of San Diego, California

(SEAL)

By: *Sara Richardson*, Deputy

ORIGINAL

PLANNING COMMISSION RESOLUTION NO. PC-XXX-CCC
PLANNED DEVELOPMENT PERMIT NO. 1213793 and
SITE DEVELOPMENT PERMIT NO. 1213794
Amending Planned Development Permit No. 497493 and
Site Development Permit No. 497494
DEL SUR RETAIL CENTER - PROJECT NO. 344042 MMRP

WHEREAS, BLACK MOUNTAIN RANCH, LLC, a California Limited Liability Company, Owner/Permittee, filed an application with the City of San Diego for a permit to amend the Black Mountain Ranch North Village Community Design Guidelines and to construct approximately 171,437 square feet of retail space (as described in and by reference to the approved Exhibits "A" and corresponding conditions of approval for the associated Permit Nos. 1213793 and 1213794), on portions of a 15.0 acre site;

WHEREAS, the project site is located south of Camino Del Sur in the CC-3-5 and CC-4-5 Zones and the Urban Village Overlay Zone of the Black Mountain Ranch Subarea Plan;

WHEREAS, the project site is legally described as Lots 4, 5, 10 and 11 of Black Mountain Ranch Del Sur Town Center, according to the Map thereof No. 15919, filed June 3, 2013;

WHEREAS, on V13 - DATE, the Planning Commission of the City of San Diego considered Planned Development Permit No. 1213793 and Site Development Permit No. 1213794 pursuant to the Land Development Code of the City of San Diego;

NOW, THEREFORE, 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 V19 - DATE.

FINDINGS:

Planned Development Permit - Section 126.0604

1. **The proposed development will not adversely affect the applicable land use plan.** The Del Sur Retail Center project (Project) will amend the Black Mountain Ranch North Village Community Design Guidelines and will construct approximately 171,437 square feet of retail space.

The City of San Diego's General Plan adopted in 2008 set forth a variety of goals and policies to implement the City of Villages Strategy. The village concept is defined as "the mixed-use heart of a community where residential, commercial, employment, and civic uses are all present and integrated". The Project contributes to fulfilling the concept of a village by providing a mix of uses in close proximity to both employment and residential uses.

The project implements the land use plan designation for the site and does not adversely affect the land use designations of surrounding properties. The subject 15.0 acre site is located in the Black Mountain Ranch Subarea I Plan area of the North City Future Urbanizing Area and is

designated Village Mixed Use Core and Employment. The implementation of the Planned Development Permit/Site Development Permit for the project will permit the construction of approximately 171,437 square feet of commercial buildings consistent with the Mixed Use Core land use designation and the CC-3-5 and CC-4-5 Zones and the Urban Village Overlay Zone. The Plan Circulation Element identifies the east-west street, south of Camino del Sur, between Paseo del Sur and Garretson Street as a two-lane collector. This street has yet to be dedicated to the city and is not constructed. The project proposes a private driveway in lieu of a public street, where the Circulation Element of the Plan requires the dedication and construction of a public street. To facilitate the proposed development of the Del Sur Retail Center the owner will offer this area as an Irrevocable Offer to Dedicate (IOD) to the City for street purposes. The proposed circulation system is in conformance with the approved circulation network, taking access off of Camino Del Sur, Paseo Del Sur and Garretson Street as previously approved with the Black Mountain Ranch Subarea Plan and Master Vesting Tentative Map 49-7492, and provides a clear, formalized, and inter-connected circulation system making destinations visible. Additionally the project will create a pedestrian-oriented environment by providing convenience retail opportunities that are within walking distance for nearby residents and others and incorporating the design features and pedestrian circulation improvements depicted on the approved Exhibits "A". Therefore in consideration of the foregoing facts, the Project will not adversely affect the applicable land use plan.

2. **The proposed development will not be detrimental to the public health, safety, and welfare.** The Del Sur Retail Center project (Project) will amend the Black Mountain Ranch North Village Community Design Guidelines and will construct approximately 171,437 square feet of retail space.

The Project will not be detrimental to public health, safety and welfare because the permit controlling the development and continued use of the proposed project for this site contains specific conditions addressing the project compliance with the City's codes, policies, regulations and other regional, state, and federal regulations to prevent detrimental impacts to the health, safety and general welfare of persons residing and/or working in the area. Conditions of approval require compliance with several operational constraints and development controls, the review of all construction plans by professional staff to determine construction will comply with all regulations and the inspection of construction to assure construction permits are implemented in accordance with the approved plans and the final construction will comply with all regulations, will assure the continued health, safety and general welfare of persons residing or working in the area.

The Plan Circulation Element identifies the east-west street, south of Camino del Sur, between Paseo del Sur and Garretson Street as a two-lane collector. This street has yet to be dedicated to the city and is not constructed. The project proposes a private driveway in lieu of a public street, where the Circulation Element of the Plan requires the dedication and construction of a public street. To facilitate the proposed development of the Del Sur Retail Center the owner will offer this area as an Irrevocable Offer to Dedicate (IOD) to the City for street purposes. Further, the proposed circulation system is in conformance with the approved circulation network taking access off of Camino Del Sur, Paseo Del Sur and Garretson Street as previously approved with the Black Mountain Ranch Subarea Plan and Master Vesting Tentative Map 49-7492. The entire circulation system accommodates appropriate fire and life-safety vehicular access. Therefore in

consideration of the foregoing facts, the Project will not be detrimental to the public health, safety, and welfare.

3. **The proposed development will comply with the regulations of the Land Development Code including any proposed deviations pursuant to Section 126.0602(b)(1) that are appropriate for this location and will result in a more desirable project than would be achieved if designed in strict conformance with the development regulations of the applicable zone; and any allowable deviations that are otherwise authorized pursuant to the Land Development Code.** The Del Sur Retail Center project (Project) will amend the Black Mountain Ranch North Village Community Design Guidelines and will construct approximately 171,437 square feet of retail space.

While the Project complies with the majority of the development regulations of the applicable zones there are requested deviations which will result in a more desirable project than would be achieved if designed in strict conformance with the development regulations of the applicable zone. The Project as proposed complies with applicable regulations of the CC-3-5 and the CC-4-5 zones and the Mixed-Use Core regulations of the Urban Village Overlay zone relative to land use, floor area, pedestrian paths, and building articulation.

The first deviation is from San Diego Municipal Code Section 131.0543(a)(2) and will allow building placements greater than ten feet from the public right-of-way along the Project's perimeter streets. The Project is comprised of four lots; Lots 4, 5, 10, and 11 of Map thereof No. 15919. Lot 4 is zoned CC-4-5 and Lots 5, 10, and 11 are zoned CC-3-5. With the originally approved Planned Development Permit No. 497493, which included this project site, various deviations were approved. One of which eliminated the ten foot maximum street front and side setbacks within both zone categories. However, a deviation from the maximum street side setback for properties within the CC-3-5 zone was not included with the prior approval. The North Village Core is situated along and south of Camino Del Sur and along and west of Paseo Del Sur. The Project site has been previously graded with prior permit approvals. As a result there are existing topographical constraints including manufactured slopes between the public right-of-way and the retail development building pad which prohibit the placement of buildings along the streets right-of-way as originally envisioned. The North Village Core was geometrically designed as a Transit Oriented Development with a gridded street pattern whereby the streets radiate in an east-west and north-south pattern. The north-south oriented streets have grades in excess of five percent and to meet strict ADA accessibility requirements the siting of the proposed buildings have to be physically disconnected from the street. Throughout the site longitudinally the differential between the street grade and building pad elevation is separated by as much as fourteen feet vertically and as much as thirty-six feet horizontally. Of the seven buildings that make up the Project, only one building, the Major A - Anchor Retail building, cannot comply with the San Diego Municipal Code Section 131.0543(a)(2). To comply with the code requirement would first introduce a fourteen to eighteen foot high retaining wall to be incorporated into the structure of the Major A - Anchor Retail building in order to shift the building toward the street right-of-way, yet if this were proposed the building would still have no pedestrian connections from the street since the street grade is elevated above the building finish floor elevation and the Major A - Anchor Retail building has no second floor. The proposed deviation will create conformance for Lot 4 with the prior approval intended for this site. The proposed deviation occurs over approximately twenty-five percent of the street frontage of the Project.

The second deviation is from San Diego Municipal Code Section 131.0552 and 132.1108(b) and will allow a deviation from the transparency requirement along predominately retail streets within a mixed-use core and along a street wall. The Project represents less than twenty-five percent of the North Village Core in the Black Mountain Ranch community. The North Village Village Core is situated along and south of Camino Del Sur and along and west of Paseo Del Sur. The Project site has been previously graded with prior permit approvals. As a result of this grading there are existing topographical constraints, manufactured slopes between the public right-of-way and the retail development building pad, which make the inclusion of transparent vision glass impractical. The North Village Core was geometrically designed as a Transit Oriented Development with a gridded street pattern whereby the streets radiate in an east-west and north-south pattern. The north-south oriented streets have grades in excess of five percent. Throughout the site longitudinally the differential between the street grade and building pad elevation is separated by as much as fourteen feet vertically. Of the seven buildings that make up the Project the Major A – Anchor Retail building, the north elevation of the Shop A building and for future Pad A and B buildings cannot comply with the San Diego Municipal Code Section 131.0552 and 132.1108(b). Transparency along the rear and side building planes of the Major A – Anchor Retail building would not be able to meet the intent of the regulations due to the planned interior functions, extensive storage areas for inventory and layout of the 142,987 square foot building. The applicant is requesting the deviation for the Major A – Anchor Retail building, the north elevation of the Shop A building and for future Pad A and B buildings. The transparency requirement cannot be satisfied due to the physical and operational constraints of the buildings, however the applicant proposes a pedestrian friendly street scene to create a more desirable project than would be achieved if designed in strict conformance with the development regulations of the applicable zone. The applicant will include the following features:

- Additional architectural elements are added to the exterior elevations.
- The plant palette and planting design along streets adjacent to the rear and sides of the Major A - Anchor Retail building will create a visually pleasing street scene.
- Within the parkways adjacent to the east side of the Major A - Anchor Retail building pedestrian nodes will be installed to incorporate various features such as bench seating, shade structures, and community art to enhance the pedestrian experience.

The third deviation is from San Diego Municipal Code Section 132.1108(b) to allow the Major A - Anchor Retail building to omit functional pedestrian access along three sides of the building. The physical grade separation between the Major A - Anchor Retail building pad elevation and the street along three sides together with the planned interior functions, extensive storage areas for inventory and layout of the 142,987 square foot Major A - Anchor Retail building, which would be substantially compromised if functional pedestrian access were provided to the interior of the building along these three sides, the project necessitates the deviation. The conditions of approval in the draft PDP/SDP require the Major A - Anchor Retail building and Shops A, B and C buildings to include functional pedestrian entrances that relate to the public street and parking lot, yet do not face the street. The design drawings and Design Guidelines submitted by the applicant demonstrate this feature. The remaining retail buildings and pads for future buildings will also be set back from the street due to the existing topography and/or are adjacent to a major roadway, making functional pedestrian access impractical. The Project will include additional architectural elements on the northern facade of the Major A - Anchor Retail building and expanded pedestrian connections along the primary access drive, public plazas adjacent to the

public sidewalk into the retail center and a separated and safe pedestrian circulation route through the parking lot. The Project has been designed to meet the purpose and intent of the regulations.

The fourth deviation is from San Diego Municipal Code Section 142.1225(e)(2) to allow a wall sign extending above the roof line or a parapet wall to be mounted so the top of the wall sign is greater than sixteen feet above the ground. The top of the proposed wall sign on the North Elevation of the Major A - Anchor Retail building will be thirty-three feet four inches above the ground. The top of the proposed wall sign on the West Elevation of the Major A - Anchor Retail building will be thirty-one feet four inches above the ground. The architectural embellishments of the Major A - Anchor Retail building, including the wall sign extending above the parapet wall, will result in a more attractive building than if it were designed in strict compliance with the regulations of the zone.

Therefore in consideration of the foregoing facts, the proposed development will comply with the regulations of the Land Development Code including any proposed deviations pursuant to Section 126.0602(b)(1) that are appropriate for this location and will result in a more desirable project than would be achieved if designed in strict conformance with the development regulations of the applicable zone; and any allowable deviations that are otherwise authorized pursuant to the Land Development Code.

Site Development Permit - Section 126.0504

1. **The proposed development will not adversely affect the applicable land use plan.** The Del Sur Retail Center project (Project) will amend the Black Mountain Ranch North Village Community Design Guidelines and will construct approximately 171,437 square feet of retail space.

The City of San Diego's General Plan adopted in 2008 set forth a variety of goals and policies to implement the City of Villages Strategy. The village concept is defined as "the mixed-use heart of a community where residential, commercial, employment, and civic uses are all present and integrated". The Project contributes to fulfilling the concept of a village by providing a mix of uses in close proximity to both office and residential uses. The project implements the land use plan designation for the site and does not adversely affect the land use designations of surrounding properties. The subject 15.0 acre site is located in the Black Mountain Ranch Subarea I Plan area of the North City Future Urbanizing Area and is designated Village Mixed Use Core and Employment. For additional information, refer to Planned Development Permit Finding #1 above. Therefore in consideration of the foregoing facts, the Project will not adversely affect the applicable land use plan.

2. **The proposed development will not be detrimental to the public health, safety, and welfare.** The Del Sur Retail Center project (Project) will amend the Black Mountain Ranch North Village Community Design Guidelines and will construct approximately 171,437 square feet of retail space.

The Project will not be detrimental to public health, safety and welfare because the permit controlling the development and continued use of the proposed project for this site contains specific conditions addressing the project compliance with the City's codes, policies, regulations and other regional, state, and federal regulations to prevent detrimental impacts to the health,

safety and general welfare of persons residing and/or working in the area. For additional information, refer to Planned Development Permit Finding #2 above. Therefore in consideration of the foregoing facts, the Project will not be detrimental to the public health, safety, and welfare.

2. **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 Del Sur Retail Center project (Project) will amend the Black Mountain Ranch North Village Community Design Guidelines and will construct approximately 171,437 square feet of retail space.

While the Project complies with the majority of the development regulations of the applicable zones there are requested deviations which will result in a more desirable project than would be achieved if designed in strict conformance with the development regulations of the applicable zone. The Project as proposed complies with applicable regulations of the CC-3-5 and the CC-4-5 zones and the Mixed-Use Core regulations of the Urban Village Overlay zone relative to land use, floor area, pedestrian paths, and building articulation. For additional information, refer to Planned Development Permit Finding #3 above. Therefore in consideration of the foregoing facts, the proposed development will comply with the applicable regulations of the Land Development Code, including any allowable deviations pursuant to the Land Development Code.

BE IT FURTHER RESOLVED that, based on the findings hereinbefore adopted by the Planning Commission, Planned Development Permit No. 1213793 and Site Development Permit No. 1213794 is hereby GRANTED by the Planning Commission to the referenced Owner/Permittee, in the form, exhibits, terms and conditions as set forth in Permit Nos. 1213793 and 1213794, a copy of which is attached hereto and made a part hereof.

John S. Fisher
Development Project Manager
Development Services

Adopted on: V27 - DATE OF APPROVAL

Job Order No. 24004083

PLANNING COMMISSION RESOLUTION NO. PC-(to be filled in)

ADOPTED ON (to be filled in)

WHEREAS, on November 25, 2013, BLACK MOUNTAIN RANCH, LLC, a California Limited Liability Company submitted an application to Development Services Department for a Planned Development Permit No. 1213793 and Site Development Permit No. 1213794 for the Del Sur Retail Center (Project); and

WHEREAS, on July 28, 1998, the City Council adopted Resolution No. R-290524, certifying that Environmental Impact Report No. 96-7902, a copy of which is on file in the Office of the City Clerk, in accordance 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.); and

WHEREAS, on November 25, 2013, BLACK MOUNTAIN RANCH, LLC, a California Limited Liability Company submitted an application to the Development Services Department for approval of minor technical changes or additions to the Project; and

WHEREAS, State CEQA Guidelines section 15164(a) allows a lead agency to prepare an Addendum to a final Environmental Impact Report No. 96-7902 if such Addendum meets the requirements of CEQA; and NOW, THEREFORE,

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

1. That the information contained in the final Environmental Impact Report No. 96-7902 along with the Addendum thereto, including any comments received during the public review process, has been reviewed and considered by this Planning Commission prior to making a decision on the Project.
2. That there are no substantial changes proposed to the Project and no substantial changes with respect to the circumstances under which the Project is to be undertaken that

would require major revisions in the Environmental Impact Report No. 96-7902 for the Project.

3. That no new information of substantial importance has become available showing that the Project would have any significant effects not discussed previously in the Environmental Impact Report No. 96-7902 or that any significant effects previously examined will be substantially more severe than shown in the Environmental Impact Report No. 96-7902.

4. That no new information of substantial importance has become available showing that mitigation measures or alternatives previously found not to be feasible are in fact feasible which would substantially reduce any significant effects, but that the Project proponents decline to adopt, or that there are any considerably different mitigation measures or alternatives not previously considered which would substantially reduce any significant effects, but that the Project proponents decline to adopt.

5. That pursuant to State CEQA Guidelines Section 15164, only minor technical changes or additions are necessary, and therefore, the Planning Commission adopts Addendum to Environmental Impact Report No. 96-7902 with respect to the Project, a copy of which is on file in the office of the Development Services Department.

6. That pursuant to CEQA Section 21081.6, the Planning Commission 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.

7. That Development Services staff is directed to file a Notice of Determination with the Clerk of the Board of Supervisors for the County of San Diego regarding the Project.

By:

John S. Fisher
Development Project Manager

EXHIBIT A**MITIGATION MONITORING AND REPORTING PROGRAM**

Planned Development Permit No. 1213793 and Site Development Permit No. 1213794

PROJECT NO. 344042

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 Addendum to Environmental Impact Report No. 96-7902 shall be made conditions of Planned Development Permit No. 1213793 and Site Development Permit No. 1213794 as may be further described below.

The Del Sur Retail Center project shall be required to comply with all mitigation measures outlined within the Mitigation, Monitoring and Reporting Program of the previously certified EIR No. 96-7902 and the project specific subsequent technical studies required. The following MMRP identifies measures which specifically apply to this project.

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

1. Prior to the issuance of a Notice To Proceed (NTP) for a subdivision, or any construction permits, such as Demolition, Grading or Building, or beginning any construction related activity on-site, the Development Services Department (DSD) Director's Environmental Designee (ED) shall review and approve all Construction Documents (CD), (plans, specification, details, etc.) to ensure the MMRP requirements are incorporated into the design.
2. In addition, the ED shall verify that the MMRP Conditions/Notes that apply ONLY to the construction phases of this project are included VERBATIM, under the heading, **"ENVIRONMENTAL/MITIGATION REQUIREMENTS."**
3. These notes must be shown within the first three (3) sheets of the construction documents in the format specified for engineering construction document templates as shown on the City website:

<http://www.sandiego.gov/development-services/industry/standtemp.shtml>
4. The **TITLE INDEX SHEET** must also show on which pages the "Environmental/Mitigation Requirements" notes are provided.

5. **SURETY AND COST RECOVERY** – The Development Services Director or City Manager may require appropriate surety instruments or bonds from private Permit Holders to ensure the long term performance or implementation of required mitigation measures or programs. The City is authorized to recover its cost to offset the salary, overhead, and expenses for City personnel and programs to monitor qualifying projects.

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

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

Qualified Paleontological Monitor

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, applicant t is also required to call **RE and MMC at 858-627-3360**
2. **MMRP COMPLIANCE:** This project, Project Tracking System (PTS) Number 344042 and /or Environmental Document Number 344042, shall conform to the mitigation requirements contained in the associated Environmental Document and implemented to the satisfaction of the DSD's Environmental Designee (MMC) and the City Engineer (RE). The requirements may not be reduced or changed but may be annotated (i.e. to explain when and how compliance is being met and location of verifying proof, etc.). Additional clarifying information may also be added to other relevant plan sheets and/or specifications as appropriate (i.e., specific locations, times of monitoring, methodology, etc.

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

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

NOT APPLICABLE**4. MONITORING EXHIBITS**

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

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

5. OTHER SUBMITTALS AND INSPECTIONS:

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

Document Submittal/Inspection Checklist

<u>Issue Area</u>	<u>Document submittal</u>	<u>Assoc Inspection/Approvals/Notes</u>
General	Consultant Qualification Letters	Prior to Pre-construction Meeting
General	Consultant Const. Monitoring Exhibits	Prior to or at the Pre-Construction meeting
Bond Release Bond	Request for Bond Release letter	Final MMRP inspections prior to Release Letter

C. SPECIFIC MMRP ISSUE AREA CONDITIONS/REQUIREMENTS**AIR QUALITY (CONSTRUCTION)**

In order to avoid potential construction-related air quality impacts, the following mitigation measures shall be implemented by the project applicant:

1. The area being graded at any one time would be minimized. Also, if possible, low pollutant-emitting construction equipment would be used and the equipment would be equipped with prechamber diesel engines or their equivalent. Electrical construction equipment would be used, if feasible.

2. In addition, dust control during construction and grading operations would be regulated in accordance with the rules of the San Diego APCD. The following measures would reduce fugitive dust impacts:
 - a. All unpaved construction areas would be sprinkled with water or other acceptable San Diego APCD dust control agents during dust-generating activities to reduce dust emissions. Additional watering or acceptable APCD dust control agents would be applied during dry weather or windy days until dust emissions are not visible.
 - b. Trucks hauling dirt and debris would be covered to reduce windblown dust and spills
 - c. On dry days, dirt and debris spilled onto paved surfaces would be swept up immediately to reduce resuspension of particulate matter caused by vehicle movement. Approach routes to construction sites would be cleaned daily of construction-related dirt in dry weather.
 - d. On-site stockpiles of excavated material would be covered or watered.
3. To reduce construction-related vehicle emissions, ride share opportunities would be encouraged and construction vehicle access would be limited to roads determined in a temporary traffic congestion management plan. In addition, construction staging areas would be as far away from existing or completed residences as possible. Construction activities would also be limited to the hours of 7AM to 7PM Monday through Saturday under San Diego's Noise Ordinance Section 36.410 for operating construction equipment.

PALEONTOLOGICAL RESOURCES

In order to avoid potential direct paleontological resources impacts, the following mitigation measures shall be implemented by the project applicant:

I. Prior to Permit Issuance

A. Entitlements Plan Check

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

B. Letters of Qualification have been submitted to ADD

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

II. Prior to Start of Construction

A. Verification of Records Search

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

B. PI Shall Attend Precon Meetings

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

III. During Construction

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

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

the area being monitored. In certain circumstances OSHA safety requirements may necessitate modification of the PME.

2. The PI may submit a detailed letter to MMC during construction requesting a modification to the monitoring program when a field condition such as trenching activities that do not encounter formational soils as previously assumed, and/or when unique/unusual fossils are encountered, which may reduce or increase the potential for resources to be present.
3. The monitor shall document field activity via the Consultant Site Visit Record (CSVR). The CSVR's shall be faxed by the CM to the RE the first day of monitoring, the last day of monitoring, monthly (**Notification of Monitoring Completion**), and in the case of ANY discoveries. The RE shall forward copies to MMC.

B. Discovery Notification Process

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

C. Determination of Significance

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

IV. Night and/or Weekend Work

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

2. The following procedures shall be followed.
 - a. No Discoveries
In the event that no discoveries were encountered during night and/or weekend work, The PI shall record the information on the CSV and submit to MMC via fax by 8AM on the next business day.
 - b. Discoveries
All discoveries shall be processed and documented using the existing procedures detailed in Sections III - During Construction.
 - c. Potentially Significant Discoveries
If the PI determines that a potentially significant discovery has been made, the procedures detailed under Section III - During Construction shall be followed.
 - d. The PI shall immediately contact MMC, or by 8AM on the next business day to report and discuss the findings as indicated in Section III-B, unless other specific arrangements have been made.
- B. If night work becomes necessary during the course of construction
 1. The Construction Manager shall notify the RE, or BI, as appropriate, a minimum of 24 hours before the work is to begin.
 2. The RE, or BI, as appropriate, shall notify MMC immediately.
- C. All other procedures described above shall apply, as appropriate.

V. Post Construction

- A. Preparation and Submittal of Draft Monitoring Report
 1. The PI shall submit two copies of the Draft Monitoring Report (even if negative), prepared in accordance with the Paleontological Guidelines which describes the results, analysis, and conclusions of all phases of the Paleontological Monitoring Program (with appropriate graphics) to MMC for review and approval within 90 days following the completion of monitoring.
 - a. For significant paleontological resources encountered during monitoring, the Paleontological Recovery Program shall be included in the Draft Monitoring Report.
 - 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.

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

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: 24004083

PLANNED DEVELOPMENT PERMIT NO. 1213793 and
SITE DEVELOPMENT PERMIT NO. 1213794
DEL SUR RETAIL CENTER - PROJECT NO. 344042 MMRP
Amending Planned Development Permit No. 497493 and
Site Development Permit No. 497494
PLANNING COMMISSION

This Planned Development Permit No. 1213793 and Site Development Permit No. 1213794, amending Planned Development Permit No. 497493 and Site Development Permit No. 497494, is granted by the Planning Commission of the City of San Diego to BLACK MOUNTAIN RANCH, LLC, a California Limited Liability Company, Owner/Permittee, pursuant to San Diego Municipal Code §126.0604 and §126.0504. The 15.0 acre site is located south of Camino Del Sur in the CC-3-5 and CC-4-5 Zones and the Urban Village Overlay Zone of the Black Mountain Ranch Subarea Plan. The project site is legally described as Lots 4, 5, 10 and 11 of Black Mountain Ranch Del Sur Town Center, according to the Map thereof No. 15919, filed June 3, 2013.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee to amend the Black Mountain Ranch North Village Community Design Guidelines and to construct approximately 171,437 square feet of retail described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated [INSERT Approval Date], on file in the Development Services Department.

The project shall include:

- a. An amendment of the Black Mountain Ranch North Village Community Design Guidelines and construction of approximately 171,437 square feet of retail space;
- b. Four deviations are approved with the project; 1. From SDMC §131.0543(a)(2) which requires buildings to be sited no greater than ten feet from the property line. The

deviation allows building placements greater than ten feet from the property line along the Project's perimeter streets for all buildings as shown on the Exhibit "A", 2. From SDMC §131.0552 and §132.1108(b) which requires a minimum of fifty percent of the street wall area between three and ten feet above the sidewalk be transparent, with clear glass visible into a commercial or residential use. The deviation removes the transparency requirement for the Major A – Anchor Retail building along both sides and the rear, the north elevation of the Shop A building and for future Pad A and B buildings, 3. From SDMC §132.1108(b) which requires commercial and mixed-use buildings be oriented so that functional pedestrian entrances face the street. The deviation allows the Major A - Anchor Retail building to omit functional pedestrian access along three sides of the building, and 4. From SDMC §142.1225(e)(2)(C) which requires a wall sign extending above the roof line or a parapet wall to be mounted so the top of the wall sign is not greater than sixteen feet above the ground. The top of the proposed wall sign on the North Elevation of the Major A - Anchor Retail building may be thirty-three feet four inches above the ground. The top of the proposed wall sign on the West Elevation of the Major A - Anchor Retail building may be thirty-one feet four inches above the ground.

- c. Landscaping (planting, irrigation and landscape related improvements);
- d. Off-street parking; 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 [ENTER DATE including the appeal time].
2. This Planned Development Permit No. 1213793 and Site Development Permit No. 1213794 is an amendment of Planned Development Permit No. 497493 and Site Development Permit No. 497494 to allow the development of the site as described herein and does not reduce, eliminate, nullify or void the approvals granted by Planned Development Permit No. 497493 and Site Development Permit No. 497494. The prior permits cited herein shall remain in full force and effect except as modified by this Planned Development Permit No. 1213793 and Site Development Permit No. 1213794 to allow the development described herein.

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

- a. The Owner/Permittee signs and returns the Permit to the Development Services Department; and
- b. The Permit is recorded in the Office of the San Diego County Recorder.

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

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

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

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

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

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

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

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

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

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

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

ENVIRONMENTAL/MITIGATION REQUIREMENTS:

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

15. The mitigation measures specified in the MMRP and outlined in Addendum to Environmental Impact Report No. 96-7902, shall be noted on the construction plans and specifications under the heading ENVIRONMENTAL MITIGATION REQUIREMENTS.

16. The Owner/Permittee shall comply with the MMRP as specified in Addendum to Environmental Impact Report No. 96-7902, 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:

Paleontological Resources

Air Quality

ENGINEERING REQUIREMENTS:

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

18. 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, satisfactory to the City Engineer.

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. All driveways and curb openings shall comply with City Standard Drawing SDG-163, except for the allowance of curb returns at the intersection of Paseo Del Sur and Templeton private driveway as shown on the approved Exhibit "A," satisfactory to the City Engineer.

22. This project does not propose to export material from the project site. However, any 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).

23. 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.

24. Development of this project shall comply with all requirements of State Water Resources Control Board (SWRCB) Order No. 2009-009 DWQ and the Municipal Storm Water Permit, Order No. 2009-009(NPDES General Permit No. CAS000002 and CAS0108758), Waste Discharge Requirements for Discharges of Storm Water Runoff Associated With Construction Activity. In accordance with said permit, a Storm Water Pollution Prevention Plan (SWPPP) and a Monitoring Program Plan shall be implemented concurrently with the commencement of grading activities, and a Notice of Intent (NOI) shall be filed with the SWRCB.

25. A copy of the acknowledgment from the SWRCB that an NOI has been received for this project shall be filed with the City of San Diego when received; further, a copy of the completed NOI from the SWRCB showing the permit number for this project shall be filed with the City of San Diego when received. In addition, the owner(s) and subsequent owner(s) of any portion of the property covered by this grading permit and by SWRCB Order No. 2009-009 DWQ, and any subsequent amendments thereto, shall comply with special provisions as set forth in SWRCB Order No. 2009-009 DWQ.

26. Whenever street rights-of-way are required to be dedicated, it is the responsibility of the applicant to provide the right-of-way free and clear of all encumbrances and prior easements. The Owner/Permittee must secure "subordination agreements" for minor distribution facilities and/or "joint-use agreements" for major transmission facilities.

27. Prior to the issuance of any construction permits, the Owner/Permittee shall assure by permit and bond the installation of curb ramps at all abutting street intersections to the project site, in accordance with City Standard Drawing SDG-132, satisfactory to the City Engineer.

28. Prior to the issuance of construction permits, the Owner/Permittee shall dedicate and improve additional right-of-way on Paseo del Sur at the intersections with Camino del Sur, Templeton Street, and Del Sur Ridge Road to ensure that the proposed curb ramps including their respective landings lie wholly in the public right-of-way, satisfactory to the City Engineer.

29. Prior to the issuance of construction permits, the Owner/Permittee shall dedicate and improve additional right-of-way on Garretson Street at the intersections with Camino del Sur, Templeton Street, and Del Sur Ridge Road, to ensure that the proposed curb ramps including their respective landings lie wholly in the public right-of-way, satisfactory to the City Engineer.

30. Prior to the issuance of any building permits, the Owner/Permittee shall obtain an Encroachment Maintenance and Removal Agreement, for enhanced pavement in the public right-of-way in the locations shown on the Exhibit "A", satisfactory to the City Engineer.

31. Prior to the issuance of any building permits, the Owner/Permittee shall obtain an Encroachment Maintenance and Removal Agreement, for walls or other structures in the public right-of-way in the locations shown on the Exhibit "A", satisfactory to the City Engineer, which walls and structures shall not be greater than three feet in height.

MAPPING REQUIREMENTS:

32. Prior to the issuance of any building permits, the Owner/Permittee shall provide a sixty foot wide Irrevocable Offer of Dedication between Paseo del Sur and Garretson Street, north of the curb line north of the Major A – Anchor Retail building, satisfactory to the City Engineer.

LANDSCAPE REQUIREMENTS:

33. Prior to issuance of any engineering permits for grading, the Owner/Permittee shall submit complete construction documents for the revegetation and hydroseeding of all disturbed land 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 and Exhibit "A."

34. In the event that a foundation only permit is requested, the Owner/Permittee shall submit a site plan or staking layout plan identifying all landscape areas consistent with Exhibit "A." These landscape areas shall be clearly identified with a distinct symbol, noted with dimensions and labeled as 'landscaping area.'

35. Prior to issuance of any construction permits for structures, the Owner/Permittee shall submit complete landscape and irrigation construction documents consistent with the Landscape Standards to the Development Services Department for approval. The construction documents shall be in substantial conformance with Exhibit "A." Construction plans shall show, label, and dimension a forty square foot area around each tree which is unencumbered by hardscape and utilities as set forth under LDC 142.0403(b)(5).

36. The Owner/Permittee shall be responsible for the maintenance of all landscape improvements shown on the approved plans, including in the right-of-way, consistent with the Landscape Standards unless long-term maintenance of said landscaping will be the responsibility of a Landscape Maintenance District or other approved entity. 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.

37. If any required landscape, including existing or new plantings, hardscape, landscape features, et cetera, indicated on the approved construction document plans is damaged or removed during demolition or construction, the Owner/Permittee shall repair and/or replace it in kind and equivalent size per the approved documents to the satisfaction of the Development Services Department within thirty days of damage.

38. The Owner/Permittee shall ensure that all proposed landscaping, especially landscaping adjacent to native habitat and/or MHPA, 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 City of San Diego's Land Development Manual, Landscape Standards are prohibited.

PLANNING/DESIGN REQUIREMENTS:

39. Prior to the issuance of building permits for the Shops A, B and C buildings, construction plans shall indicate functional pedestrian entrances and building transparency visible from the public right-of-way into the buildings along the east elevation of Shops A, the north elevation of Shops B, and the south elevation of Shops C, to the satisfaction of the Development Services Department.

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. All signs associated with this development shall be consistent with sign criteria established by either the approved Exhibit "A" or City-wide sign regulations or the adopted Design Guidelines.

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

TRANSPORTATION REQUIREMENTS

43. Prior to the issuance of the first construction permit, the Owner/Permittee shall assure by permit and bond the construction of the intersection of Garretson Street/Camino del Sur with a traffic signal, one left and two through lanes for westbound traffic, one through and one through/right lanes for eastbound traffic, one left and one right lanes for northbound traffic, satisfactory to the City Engineer. These improvements shall be completed and accepted by the City Engineer prior to the issuance of any occupancy permit.

44. Prior to the issuance of the first construction permit, the Owner/Permittee shall assure by permit and bond the modification of the existing traffic signal at Paseo del Sur/Camino del Sur/4 Gee Road intersection with one left, one through and one through/right lanes for westbound traffic, one left, one through and one through/right lanes for eastbound traffic, one left and one through/right lanes for northbound traffic, one left and one through/right lanes for southbound traffic, satisfactory to the City Engineer. These improvements shall be completed and accepted by the City Engineer prior to the issuance of any occupancy permit.

45. Prior to the issuance of the first construction permit, the Owner/Permittee shall assure by permit and bond the construction of the intersection of Zaslavsky Place/Camino del Sur with two through lanes for westbound traffic, one through and one through/right lanes for eastbound traffic and one right turn lane for northbound traffic, satisfactory to the City Engineer. These improvements shall be completed and accepted by the City Engineer prior to the issuance of any occupancy permit.

46. Prior to the issuance of the first construction permit, the Owner/Permittee shall assure by permit and bond the construction of the intersection of Garretson Street/Templeton Street with one left/through/right lane for westbound traffic, one left/through/right lane for eastbound traffic, one left/through/right lane for northbound traffic, one left/through/right lane for southbound traffic, satisfactory to the City Engineer. These improvements shall be completed and accepted by the City Engineer prior to the issuance of any occupancy permit.

47. Prior to the issuance of the first construction permit, the Owner/Permittee shall assure by permit and bond the construction of the intersection of Paseo del Sur/Templeton Street with a traffic signal, one left/through/right lane for westbound traffic, one left/through/right lane for eastbound traffic, one left and one through/right lane for northbound traffic, one left and one through/right lanes for southbound traffic, satisfactory to the City Engineer. These improvements shall be completed and accepted by the City Engineer prior to the issuance of any occupancy permit.

48. Prior to the issuance of the first construction permit, the Owner/Permittee shall assure by permit and bond the construction of the intersection of Zaslavsky Place/Templeton Street with one left/right lane for eastbound traffic, one left/through/right lane for northbound traffic, one left/through/right lane for southbound traffic, satisfactory to the City Engineer. These improvements shall be completed and accepted by the City Engineer prior to the issuance of any occupancy permit.

49. Prior to the issuance of the first construction permit, the Owner/Permittee shall assure by permit and bond the construction of the intersection of Garretson Street/Del Sur Ridge Rd with one left/through/right lane for westbound traffic, one left/through/right lane for eastbound traffic, one left/through/right lane for northbound traffic, one left/through/right lane for southbound traffic, satisfactory to the City Engineer. These improvements shall be completed and accepted by the City Engineer prior to the issuance of any occupancy permit.

50. Prior to the issuance of the first construction permit, the Owner/Permittee shall assure by permit and bond the construction of the intersection of Paseo del Sur/Del Sur Ridge Road with a traffic signal, one left/through/right lane for westbound traffic, one left/through/right lane for eastbound traffic, one left and one through/right lane for northbound traffic, one left and one through/right lane for southbound traffic, satisfactory to the City Engineer. These improvements shall be completed and accepted by the City Engineer prior to the issuance of any occupancy permit.

51. Prior to the issuance of the first building permit, the Owner/Permittee shall record reciprocal access easements in favor of all parcels within the project site, to the satisfaction of the City Engineer.

52. Prior to the issuance of any public improvement permits, the Owner/Permittee shall demonstrate adequate sight distances at all locations where site driveways intersect the public street system.

53. Prior to the issuance of any building permit, the Owner/Permittee shall record a shared parking agreement in favor of all parcels within the project site, to the satisfaction of the City Engineer.

54. A minimum of 698 automobile (172 required) including 5 van accessible (2 required), 17 accessible (14 required), 16 carpool and zero emissions vehicles, 4 motorcycle (3 required), 9 long term bicycle (9 required) and 20 short term bicycle parking spaces (9 required) and 2 loading areas (1 required) shall be permanently maintained on the property within 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.

PUBLIC UTILITIES DEPARTMENT REQUIREMENTS:

55. Prior to the issuance of any building permits, the Owner/Permittee shall assure, by permit and bond, the design and construction of any new water and sewer service(s) outside of any driveway, and the disconnection at the main of the existing unused water and sewer service adjacent to the project site, in a manner satisfactory to the Public Utilities Director and the City Engineer.

56. 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. Back flow prevention devices shall be located above ground on private property, in line with the service and immediately adjacent to the right-of-way.

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

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

59. The Owner/Permittee shall design and construct all proposed public water and sewer facilities, in accordance with established criteria in the current edition of the City of San Diego Water Facility Design Guidelines and City regulations, standards and practices.

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 **[INSERT Approval Date]** and **[Approved Resolution Number]**.

Permit Type/PTS Approval No.: PDP No. 1213793 and SDP No. 1213794

Date of Approval:

AUTHENTICATED BY THE CITY OF SAN DIEGO DEVELOPMENT SERVICES
DEPARTMENT

John S. Fisher
Development Project Manager

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

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

BLACK MOUNTAIN RANCH, LLC,
a California Limited Liability Company
Owner/Permittee

By _____
William Ostrem,
Authorized Representative

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

**Del Sur Retail Center
Remaining Project Plans**

(under separate cover)



City of San Diego
Development Services
1222 First Ave., MS-302
San Diego, CA 92101

Community Planning Committee Distribution Form Part 1

Project Name: Del Sur Retail Center		Project Number: 344042	Distribution Date: 5/15/2014
Project Scope/Location: Black Mtn Ranch SAP No. 24004156 (Process 4) Site Development Permit and amendment to BMR North Village Design Guidelines to construct 171,437 square feet of retail space within four buildings & two building pads totaling 8,000 square feet for future uses at Camino Del Sur and Paseo Del Sur at an undeveloped site currently without an address located in the CC-3-5 & CC-4-5 zones of the Black Mountain Ranch Community Plan area in Council District 5. Notice Cards=3.			
Applicant Name: William Dunka		Applicant Phone Number: (858) 618-4914	
Project Manager: John Fisher	Phone Number: (619) 446-5231	Fax Number: (619) 446-5245	E-mail Address:
Project Issues (To be completed by Community Planning Committee for initial review): JUNE 4, 2014 RPPB MEETING MOTION: TO APPROVE THE BMR RETAIL CENTER PROJECT #344042, SDP PERMIT #24004156 AND AMENDMENT TO THE BMR NORTH VILLAGE DESIGN GUIDELINES AS PRESENTED WITH ASSURANCE THAT ALL IDENTIFIED ISSUES IN CITY CYCLE REPORT #4 DATED MAY 15, 2014 BE RESOLVED AND RPPB BE NOTICED OF THOSE RESOLUTIONS. M/G/C - SUREBAN/POLITTE/APPROVED; 11 IN FAVOR; 0 AGAINST AND 2 RECUSALS (DUMKA, BECKER) <div style="display: flex; justify-content: space-between; margin-top: 20px;"> <div style="text-align: left;"> THOMAS CLARK CHAIR, RPPB </div> <div style="text-align: center;"> 6-7-2014 </div> </div>			
Attach Additional Pages If Necessary.		Please return to: Project Management Division City of San Diego Development Services Department 1222 First Avenue, MS 302 San Diego, CA 92101	
Printed on recycled paper. Visit our web site at www.sandiego.gov/development-services . Upon request, this information is available in alternative formats for persons with disabilities.			



THE CITY OF SAN DIEGO

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

Ownership Disclosure Statement

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

Project Title

Black Mountain Ranch North Village Design Guideline Amendment & Retail SDP

Project No. For City Use Only

344042

Project Address:

16010 Camino Del Sur, San Diego, CA 92127

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):

☐ 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:

Name of Individual (type or print):

☐ Owner ☐ Tenant/Lessee ☐ Redevelopment Agency

Street Address:

City/State/Zip:

Phone No:

Fax No:

Signature :

Date:

Black Mountain Ranch LLC, a California Limited Liability Company:

Black Mountain Ranch LLC has one member:

1. BMR Communities LLC, a California Limited Liability Company

BMR Communities LLC has one member:

Standard Pacific Investment Corp., a Delaware Corporation

Officers & Authorized Representatives:

Scott D. Stowell, Chief Executive Officer & President
 Jeffrey J. McCall, Principal Financial & Accounting Officer & Treasurer
 Peter J. Kiesecker, Senior Vice President - Mergers & Acquisitions
 Alan V. Vitug, Corporate Controller
 Bryan Kakimoto, Assistant Corporate Controller
 John P. Babel, Secretary
 David Vazquez, Assistant Treasurer
 Thomas Atkin, Authorized Representative
 Michael C. Battaglia, Authorized Representative
 Brian K. Bencz, Authorized Representative
 Kurt Bruskotter, Authorized Representative
 Jeffrey Buffington, Authorized Representative
 David J. Bulloch, Authorized Representative
 Douglas G. Campbell, Authorized Representative
 Salvador Carlos, Authorized Representative
 Cheryl DeLaCruz-McDonald, Authorized Representative
 William Dumka, Authorized Representative
 Suzanne Ek, Authorized Representative
 Leslie A. Goodale, Authorized Representative
 Kimberly Ann Hooper, Authorized Representative
 Gary A. Jones, Authorized Representative
 Martin P. Langpap, Authorized Representative
 Lorrie Leger, Authorized Representative
 Laura D. Massas, Authorized Representative
 Edward T. McKibbin, Authorized Representative
 Ken W. Melvin, Authorized Representative
 Sandra D. Mindt, Authorized Representative
 William Ostrem, Authorized Representative
 Todd J. Palmaer, Authorized Representative
 Connie Phillips, Authorized Representative
 Penny S. Roper, Authorized Representative
 Matthew S. Schemenauer, Authorized Representative
 Steven Seibert, Authorized Representative
 Brandon Sharp, Authorized Representative
 Jon Alan Willingham, Authorized Representative
 Rick M. Wood, Authorized Representative
 Stephanie Yee, Authorized Representative

**UNANIMOUS WRITTEN CONSENT OF
THE BOARD OF DIRECTORS OF
STANDARD PACIFIC INVESTMENT CORP.**

The undersigned, constituting all of the directors of Standard Pacific Investment Corp., a Delaware corporation (the "Corporation"), take the following action by written consent in lieu of a meeting of the Board of Directors pursuant to Section 141(f) of the General Corporation Law of the State of Delaware:

ELECTION OF OFFICERS

RESOLVED, that the following persons hereby are elected as officers of this Corporation, to such office as appears opposite their respective names, their terms of office to commence immediately and to continue until their successors shall be duly chosen and qualified or until their earlier resignation or removal:

Scott D. Stowell	Chief Executive Officer & President
Jeffrey J. McCall	Principal Financial & Accounting Officer & Treasurer
John P. Babel	Secretary
David Vazquez	Assistant Treasurer
Alan V. Vitug	Corporate Controller
Bryan Kakimoto	Assistant Corporate Controller

RESOLVED FURTHER, that the above-listed persons be, and each of them hereby is, authorized to negotiate, approve, execute and deliver, as designated officers of the Corporation, land purchase and option agreements, joint venture agreements, financing agreements, development, land use and other entitlement applications and agreements, and all other agreements and documents relating to the real estate development and construction business conducted by this Corporation (including in its capacity as a partner in a partnership or member of a limited liability company), and

RESOLVED FURTHER, that the foregoing persons and positions are the only officers of the Corporation at this time and any other officers of the Corporation are hereby removed from office.

AUTHORIZED REPRESENTATIVES

RESOLVED FURTHER, that the following persons are elected as authorized representatives of this Corporation for the limited purpose of executing real estate development and construction related documents.

Name	Title	Geographic Assignment
Todd J. Palmaer	Regional President	California & Southwest Regions
Edward T. McKibbin	President	Southern California Coastal
Michael C. Battaglia	Vice President - Project Development	Southern California Coastal
David J. Bulloch	Vice President - Operations	Southern California Coastal
Suzanne Ek	Vice President - Sales & Marketing	Southern California Coastal
Gary A. Jones	Vice President - Land Acquisition	Southern California Coastal
Ken W. Melvin	Vice President - Project Development	Southern California Coastal
Douglas G. Campbell	Director - Customer Care	Southern California Coastal
Laura D. Massas	Director of Sales	Southern California Coastal
Leslie A. Goodale	Escrow Manager	Southern California Coastal
Peter Hemphill	Project Manager	Southern California Coastal
Martin P. Langpap	Division Manager	Southern California Inland
Jeffrey Buffington	Vice President - Customer Service	Southern California Inland
Steven Seibert	Vice President - Construction	Southern California Inland

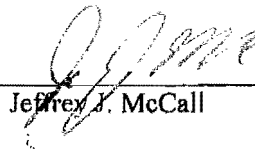
Name	Title	Geographic Assignment
Lorrie Yates Leger	Vice President - Sales & Marketing	Southern California Inland
Rick M. Wood	Vice President - Project Development	Southern California Inland
Matthew S. Schemenauer	Area Sales Manager	Southern California Inland
Penny S. Roper	Closing Manager	Southern California Inland
Brandon Sharp	Vice President - Finance	Southern California Region
Jon A. Willingham	Regional Vice President - Purchasing	Southern California Region
Brian K. Bencz	Vice President - Land Development	Southern California Region
Salvador Carlos	Regional Purchasing Agent	Southern California Region
Sandra D. Mindt	Regional Purchasing Agent	Southern California Region
Kimberly A. Hooper	Regional Purchasing Agent	Southern California Region
Cheryl DeLaCruz-McDonald	Regional Purchasing Agent	Southern California Region
Connie Phillips	Purchasing Agent	Southern California Region
Stephanie Yee	Offsite Purchasing Agent	Southern California Region
William Ostrem	President	Black Mountain Ranch
Thomas Atkin	VP of Finance	Black Mountain Ranch
William Dumka	VP of Forward Planning	Black Mountain Ranch
Kurt Bruskotter	VP of Construction	Black Mountain Ranch

RESOLVED FURTHER, that the above-listed persons be, and each of them hereby is, authorized to negotiate, approve, execute and deliver, as authorized representatives of the Corporation, deeds, development, land use and other entitlement applications and agreements, and all other agreements and documents relating to the real estate development and construction business conducted by this Corporation.

IN WITNESS WHEREOF, the undersigned have executed this Unanimous Written Consent as of the 14th day of August, 2013.



Scott D. Stowell



Jeffrey J. McCall

PROJECT DATA SHEET

PROJECT NAME:	Project No. 344042 – Del Sur Retail Center	
PROJECT DESCRIPTION:	Amend the Black Mountain Ranch North Village Community Design Guidelines and would develop approximately 171,437 square feet of retail space.	
COMMUNITY PLAN AREA:	Black Mountain Ranch	
DISCRETIONARY ACTIONS:	Planned Development Permit & Site Development Permit	
COMMUNITY PLAN LAND USE DESIGNATION:	Mixed-Use Core and Employment Center	
<u>ZONING INFORMATION:</u> ZONE: CC-3-5 and CC-4-5 Zones and the Urban Village Overlay Zone HEIGHT LIMIT: 100 feet max. LOT SIZE: 2,500 square feet min. LOT COVERAGE: minimum 35 percent FRONT SETBACK: maximum 10 feet SIDE SETBACK: minimum 10 feet REAR SETBACK: minimum 10 feet PARKING: 172 parking spaces, 16 accessible spaces, 3 motorcycle spaces and 18 bicycle spaces and one loading area required. 698 automobile spaces including five van accessible spaces, seventeen accessible spaces, sixteen carpool and zero emissions vehicle spaces, four motorcycle spaces, nine long term bicycle and twenty short term bicycle parking spaces and 2 loading areas provided.		
<u>ADJACENT PROPERTIES:</u>	LAND USE DESIGNATION & ZONE	EXISTING LAND USE
NORTH:	Residential / County of San Diego	Residential
SOUTH:	Village Mixed Use Center / CC-3-5	Undeveloped
EAST:	Village Mixed Use Center / CC-3-5	Residential
WEST:	Employment & Residential / CC-4-5 & RM-1-3	Undeveloped

DEVIATIONS OR VARIANCES REQUESTED:	SDMC Section 131.0543(a)(2), 131.0552 and 132.1108(d), 132.1108(b) and 142.1225(e)(2).
COMMUNITY PLANNING GROUP RECOMMENDATION:	On June 4, 2014 the Rancho Penasquitos Planning Board voted 11:0:2 to support approval of the proposed project, subject to resolution of issues identified by city staff. All issues identified during the review process have been resolved.

DEVELOPMENT SERVICES
Project Chronology
Del Sur Retail Center - PTS# 344042

Date	Action	Description	City Review Time	Applicant Response
11/25/13	First Submittal	Project Deemed Complete		
01/22/14	First Assessment Letter		42 days	
02/26/14	Second Submittal			25 days
04/02/14	Second Review Complete		25 days	
05/15/14	Third Submittal			31 days
06/09/14	Third Review Complete		17 days	
06/18/14	Fourth Submittal			7 days
07/01/14	Fourth Review Complete		9 days	
06/17/14	Fifth Submittal			7 days
07/28/14	Fifth Review Complete		29 days	
07/28/14	Issues Complete			
08/14/14	Public Hearing		23 days	
TOTAL STAFF TIME			145 days	
TOTAL APPLICANT TIME				70 days
TOTAL PROJECT RUNNING TIME		From Deemed Complete to Planning Commission	7 months and 5 days	