



THE CITY OF SAN DIEGO

## Report to the Planning Commission

DATE ISSUED: December 7, 2016 REPORT NO. PC-16-098

HEARING DATE: December 15, 2016

SUBJECT: APPEAL OF THE HERSCHEL TRIPLEX PROJECT. PROCESS THREE DECISION.

PROJECT NUMBER: [483102](#)

REFERENCE: [HO-16-057](#)

OWNER/APPLICANT: Hershey Boys, LLC/Leppert Engineering

### SUMMARY:

Issue: Should the Planning Commission grant or deny an appeal of the Hearing Officer's decision to approve a Tentative Map and Coastal Development Permit for the creation of three condominiums located at 7569-7571 Herschel Avenue within the La Jolla Community Plan Area?

Staff Recommendation: Deny the appeal and approve Tentative Map No. 1692366 and Coastal Development Permit No. 1692367.

Community Planning Group Recommendation: On August 4, 2016 the La Jolla Community Planning Association voted 15-0-1 to recommend approval of the proposed project without recommendations.

Environmental Review: The project was determined to be exempt pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15301(k) (Existing Facilities). This project is not pending an appeal of the environmental determination. The environmental exemption determination for this project was made on May 25, 2016, and the opportunity to appeal that determination ended June 9, 2016.

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

Housing Impact Statement: With approval of this subdivision three additional for sale housing units would be added into the regional housing supply. All units would be market rate.

## BACKGROUND

The 0.145-acre-site is located at 7569-7571 Herschel Avenue in the RM-3-7 Zone, the Coastal Height Limitation Overlay Zone, the Coastal Overlay Zone (Non-Appealable, Area 2), the Residential Tandem Parking Overlay Zone, the Transit Area Overlay Zone, and the La Jolla Community Plan and Local Coastal Program area within the La Jolla Community Plan and Local Coastal Program Land Use Plan.

The proposed project requires a Tentative Map per San Diego Municipal Code (SDMC) Section 125.0430, to create three residential condominium units. The proposed project also requires a Coastal Development Permit for development located within the Coastal Overlay Zone per San Diego Municipal Code (SDMC) Section 126.0707(b).

## DISCUSSION

### Project Description:

The project proposes to subdivide the property into three condominium interests, including a waiver to the requirement to underground existing off-site overhead utilities. A new 3-unit multi-family residential building is currently under construction at the site, previously approved under Coastal Development Permit (CDP) No.1391420. No change is proposed to the approved site design, and no construction is proposed with this application.

### Undergrounding Requirement:

SDMC Section 144.0240 allows the subdivider to apply for a waiver from the requirement to underground the existing overhead utilities within the boundary of the subdivision or within the abutting public rights-of-way. City staff has determined the undergrounding waiver request qualifies in that the conversion involves a short span of overhead facility (less than a full block in length) and it has been determined that such conversion is not a part of a continuing effort to accomplish a total undergrounding within a specific street or area.

### Community Plan Analysis:

The project proposes to subdivide the property into three condominium ownerships. This would allow the three "for rent" units currently under construction to be sold as individual residential condominium units and is consistent with the residential land use designation of the La Jolla Community Plan.

### Appeal:

On October 12, 2016 the proposed subdivision to create three (3) residential condominium units was approved by the Hearing Officer. On October 26, 2016 the decision was appealed by Mr. Kevin Haley (Attachment 10). The following are concerns raised in Mr. Haley's appeal, and staff responses:

Appeal Issue (1) Factual Error: The appellant states that *"the project has not been built to the design guidelines and development standard in effect for the site (attachment 5, p 3). The building is over 30' tall. There are additional factual errors that will be distributed to Planning Commission prior to hearing and presented at hearing."*

Staff Response: The appellant appears to be referring to Attachment five, finding number three, of the Hearing Officer Report of October 12, 2016 which is now Attachment five of this Planning Commission report. The project before the Planning Commission is a proposed subdivision for a Tentative Map to create three (3) residential condominium units from a for-rent, multi-family building that is currently under construction. The building was previously approved under Coastal Development Permit (CDP) No.1391420. The height of the building has been field verified to be within the 30-foot height limitation as required under Proposition D. No change is proposed to the approved site design, and no construction is proposed with this application. Staff has not been provided with any additional information regarding additional factual errors to be presented to Planning Commission hearing, and therefore, has no further response.

Appeal Issue (2) Conflict: The appellant states that *"Former Planning Commission Chairman and Architect of Record, Tim Golba's actions will be reported to Planning Commission."*

Staff Response: Leppert Engineering is the applicant for this subdivision project before the Planning Commission.

Appeal Issue (3) Findings: The appellant states that *"the findings cannot be made for the Coastal Development Permit."*

Staff Response: No additional information was provided by the appellant to support this statement. Draft findings to support approval of the Coastal Development Permit are provided in Attachment No. 5 to this report.

Appeal Issue (4) New Information: The appellant states *"New information will be presented to Planning Commission."*

Staff Response: No information was provided to staff to respond to this statement. Staff therefore has no response.

Conclusion:

The proposed subdivision of the property into three residential condominium units complies with all applicable development regulations and the Subdivision Map Act. Staff has reviewed the project and determined that the proposed design, form, and siting of the proposed subdivision will be in conformity with the land use plan and complies with all regulations of the RM-3-7 Zone. Staff recommends the Planning Commission deny the appeal and approve the project as proposed.

## ALTERNATIVES

1. Deny the appeal and approve Tentative Map No. 1692366 and Coastal Development Permit No. 1692367, with modifications.
2. Grant the appeal and deny Tentative Map No. 1692366 and Coastal Development Permit No. 1692367 if the findings required to approve the project cannot be affirmed.

Respectfully submitted,



Elyse W. Lowe  
Deputy Director  
Development Services Department



Gaetano Martedi  
Development Project Manager  
Development Services Department

## Attachments:

1. Aerial Photograph
2. Community Plan Land Use Map
3. Project Location Map
4. Project Data Sheet
5. Draft Permit Resolution with Findings
6. Draft Permit with Conditions
7. Draft Map Resolution with Findings
8. Draft Map Conditions
9. Environmental Exemption
10. Copy of Appeal
11. Copy of Recorded CDP No. 1391420
12. Tentative Map
13. Community Planning Group Recommendation
14. Ownership Disclosure Statement
15. Hearing Officer Report, October 12, 2016





## Location Aerial Photo

HERSCHEL TRIPLEX TM/CDP - 7569-7571 HERSCHEL AVENUE  
PROJECT NO. 483102







Legend

- Very Low Density Residential (0-5 DU/AC)
- Low Density Residential (5-9 DU/AC)
- Low Medium Residential (9-15 DU/AC)
- Medium Residential (15-30 DU/AC)
- Medium High Residential (30-45 DU/AC)
- Commercial/Mixed Use
- Parks, Open Space
- Schools
- Cultural
- Community Facilities
- Elementary School
- Junior High School
- High School
- School
- Library
- Fire Station
- Post Office

Project Site

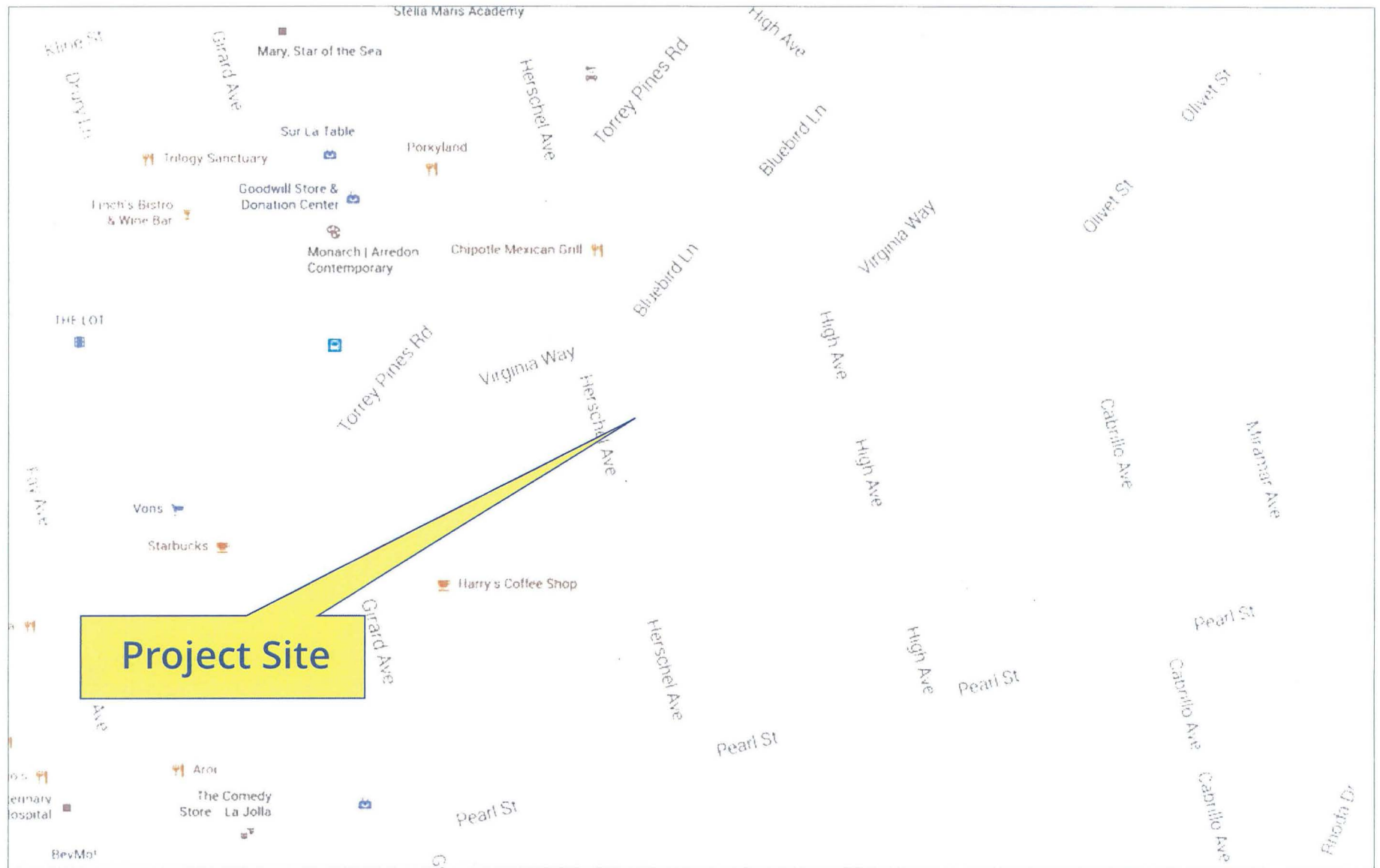


## Land Use Map

**HERSCHEL TRIPLEX TM/CDP - 7569-7571 HERSCHEL AVENUE PROJECT NO. 483102**

North





## Project Location Map

**HERSCHEL TRIPLEX TM/CDP - 7569-7571 HERSCHEL AVENUE**  
**PROJECT NO. 483102**



<b>PROJECT DATA SHEET</b>		
<b>PROJECT NAME:</b>	HERSCHEL TRIPLEX; Project No. 483102	
<b>PROJECT DESCRIPTION:</b>	The creation of three residential condominium units (under construction) and to waive the requirements to underground existing off-site overhead utilities at 7569-7571 Herschel Avenue.	
<b>COMMUNITY PLAN AREA:</b>	La Jolla	
<b>DISCRETIONARY ACTIONS:</b>	Tentative Map and Coastal Development Process 4	
<b>COMMUNITY PLAN LAND USE DESIGNATION:</b>	Medium High Residential, 30-45 dwelling unit per acre (du/ac) in the La Jolla Community Plan and Local Coastal Program.	
<p align="center"><b>ZONING INFORMATION:</b></p> <p><b>ZONE:</b> RM-3-7 Zone</p> <p><b>HEIGHT LIMIT:</b> 30 feet</p> <p><b>LOT SIZE:</b> 0.145 acres</p> <p><b>FLOOR AREA RATIO:</b> N/A</p> <p><b>FRONT SETBACK:</b> 10 Feet</p> <p><b>SIDE SETBACK:</b> 5 Feet</p> <p><b>STREETSIDE SETBACK:</b> N/A</p> <p><b>REAR SETBACK:</b> 5 Feet</p> <p><b>PARKING:</b> 6 parking spaces</p>		
<b>ADJACENT PROPERTIES:</b>	<b>LAND USE DESIGNATION &amp; ZONE</b>	<b>EXISTING LAND USE</b>
<b>NORTH:</b>	RM-3-7	Residential Multiple
<b>SOUTH:</b>	RM-3-7 Zone	Residential Multiple
<b>EAST:</b>	RS-1-7 Zone	Residential Single Family
<b>WEST:</b>	LJPD-2 Zone	Commercial
<b>DEVIATION REQUESTED:</b>	None	
<b>COMMUNITY PLANNING GROUP RECOMMENDATION:</b>	On July 12, 2016, the Development Permit Review Committee voted 4-0-1 to recommend approval of the project without recommendations. On August 4, 2016 the La Jolla Community Planning Association voted 15-0-1 to recommend approval of the proposed project without recommendations.	



PLANNING COMMISSION  
RESOLUTION NO. PC- 16-098  
COASTAL DEVELOPMENT PERMIT NO. 1692367  
**HERSCHEL TRIPLEX PROJECT NO. 483102**  
AMENDMENT TO COASTAL DEVELOPMENT PERMIT NO. 1391420

WHEREAS, HERSHEY BOYS, LLC, Owner/Permittee, filed an application with the City of San Diego for a permit for the creation of three residential condominium units (under construction) and to waive the requirements to underground existing offsite overhead utilities (as described in and by reference to the approved Exhibits "A" and corresponding conditions of approval for the associated Permit No. 1692367), on portions of a 0.145-acre site; and

WHEREAS, the project site is located at 7569-7571 Herschel Avenue in the RM-3-7 Zone, the Coastal Height Limitation Overlay Zone, the Coastal Overlay Zone (Non-Appealable 2 Area), the Residential Tandem Parking Overlay Zone, the Transit Area Overlay Zone, and Local Coastal Program area, of the La Jolla Community Plan; and

WHEREAS, the project site is legally described as Lots 3 and 4 in block 2 of center addition to La Jolla Park, in the City of San Diego County of San Diego, State of California according to map thereof No. 915, filed in the office of the County Recorder of San Diego County August 4, 1904; and

WHEREAS, on October 12, 2016, the Hearing Officer of the City of San Diego approved Coastal Development Permit No. 1692367 pursuant to the Land Development Code of the City of San Diego and on October 26, 2016 an appeal of the Hearing Officer's decision was filed by Mr. Kevin Haley; and

WHEREAS, on December 15, 2016, the Planning Commission of the City of San Diego considered Coastal Development Permit No. 1692367 pursuant to the Land Development Code of the City of San Diego; and

WHEREAS, on May 25, 2016, the City of San Diego, as Lead Agency, through the Development Services Department, made and issued an Environmental Determination that the project is exempt from the California Environmental Quality Act (CEQA) (Public Resources Code Section 21000 et seq.) under CEQA Guideline Section 15301 (k) (Existing Facilities) - Division of existing multi-family residences into common interest ownership; and there was no appeal of the Environmental Determination filed within the time period provided by San Diego Municipal Code Section 112.0520; 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 December 15, 2016.

FINDINGS:

**Coastal Development Permit - Section 126.0708**

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

The 0.145-acre-site is located at 7569-7571 Herschel Avenue. The property is an interior lot and is located approximately 3,325 feet from the Pacific Ocean. The property is not located between the sea and the first public roadway paralleling the sea. Herschel Avenue at this location is not designated as a view corridor with views toward the Pacific Ocean and is not identified as containing intermittent or partial vistas along the property. The property is not designated as a viewshed or scenic overlook, and does not contain any public accessways as identified within the adopted La Jolla Community Plan (LJCP) and Local Coastal Program Land Use Plan.

As the project is a subdivision of land, and due to its location, the project will not encroach upon any existing physical accessway that is legally used by the public or any proposed public accessway identified in a Local Coastal Program land use plan. Therefore, the project will enhance and protect public views to and along the ocean and other scenic coastal areas as specified in the La Jolla Community Plan and Local Coastal Program land use plan.

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

The property is not within or adjacent to the Multiple Species Conservation Program (MSCP) Multiple Habitat Planning Area (MHPA) and does not contain any other type of Environmentally Sensitive Lands (ESL) as defined in San Diego Municipal Code (SDMC) Section 113.0103. The project site is located in a built urbanized neighborhood.

The City of San Diego conducted an environmental review of this site in accordance with State of California Environmental Quality Act (CEQA) guidelines. The project was determined to be exempt pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15301(k) existing facilities division of existing single-family into common interest ownership. Therefore, the proposed coastal development will not adversely affect environmentally sensitive lands.

**3. The proposed coastal development is in conformity with the certified Local Coastal Program land use plan and complies with all regulations of the certified Implementation Program.**

The project site is located at 7569-7571 Herschel Avenue, in the RM-3-7 Zone within the LJCP and Local Coastal Program Land Use Plan. The LJCP designates the proposed project site for multi-family residential development.

The site is immediately adjacent to a two-story multi-family dwelling unit complex to the south, a two-story multi-family dwelling unit building, a one-story single family dwelling unit to the north, a one-story auto-repair facility to the west, and a one-story single family dwelling unit to the east. The proposed subdivision complies with all applicable development regulations of the RM-3-7 Zone and the La Jolla Community Plan (LJCP), including height, setback, landscaping, and parking, and no deviations are requested.

The project is not requesting nor does it require any deviations or variances from the applicable regulations and policy documents, and is consistent with the recommended land use designation, design guidelines, and development standards in effect for this site. Therefore, the development is in conformity with the certified Local Coastal Program land use plan and complies with all regulations of the certified Implementation Program.

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

The property is not located between the sea and the first public roadway paralleling the sea. Herschel Avenue at this location is not designated as a view corridor with views toward the Pacific Ocean and is not identified as containing intermittent or partial vistas along the property. The property is not designated as a viewshed or scenic overlook, and does not contain any public accessways as identified within the adopted LJCP and Local Coastal Program Land Use Plan.

Therefore, the proposed development is in conformity with the public access and recreation policies of Chapter 3 of the California Coastal Act.

BE IT FURTHER RESOLVED that based on the findings hereinbefore adopted by the Planning Commission, Coastal Development Permit No. 1692367, is hereby GRANTED by the Planning Commission to the referenced Owner/Permittee, in the form, exhibits, terms and conditions as set forth in Permit No. 1692367, a copy of which is attached hereto and made a part hereof.

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Gaetano Martedi  
Development Project Manager  
Development Services

Adopted on: December 15, 2016

IO#: 24006609

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

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

INTERNAL ORDER NUMBER: 24006609

SPACE ABOVE THIS LINE FOR RECORDER'S USE

COASTAL DEVELOPMENT PERMIT NO.1692367  
**HERSCHEL TRIPLEX PROJECT NO. 483102**  
AMENDMENT TO COASTAL DEVELOPMENT PERMIT NO. 1391420  
PLANNING COMMISSION

This Coastal Development Permit No. 1692367 is granted by the Planning Commission of the City of San Diego to Hershey Boys, LLC, Owner, pursuant to San Diego Municipal Code [SDMC] Section 126.0702. The 0.145-acre site is located at 7569-7571 Herschel Avenue in the RM-3-7 Zone, the Coastal Height Limitation Overlay Zone, the Coastal Overlay Zone (Non-Appealable 2 Area), the Residential Tandem Parking Overlay Zone, the Transit Area Overlay Zone, and Local Coastal Program area, of the La Jolla Community Plan. The project site is legally described as: Lots 3 and 4 in block 2 of center addition to La Jolla Park, in the City of San Diego County of San Diego, State of California according to map thereof No. 915, filed in the office of the County Recorder of San Diego County August 4, 1904.

The project shall include:

- a. The creation of three (3) residential condominium units (under construction) and to waive the requirements to underground existing overhead utilities.
- b. Landscaping (planting, irrigation and landscape related improvements);
- c. Off-street parking;
- d. 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 December 30, 2019.

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

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

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

6. Issuance of this Permit by the City of San Diego does not authorize the 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. 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.

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

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

If any condition of this Permit, on a legal challenge by the Owner/Permittee of this Permit, is found or held by a court of competent jurisdiction to be invalid, unenforceable, or unreasonable, this

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

10. 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.

**ENGINEERING REQUIREMENTS:**

11. The Subdivider shall construct the required Public Improvements per approved Right-of-Way Permit No. 1626687 including driveway closure on Herschel Avenue and replacing existing asphalt pavement per City Standard along alley frontage per the satisfaction of the City Engineer.

12. The Subdivider shall provide a letter, agreeing to prepare CC&Rs for the operation and maintenance of all private water and sewer facilities that serve or traverse more than a single condominium unit or lot per the satisfaction of the City Engineer.

**TRANSPORTATION REQUIREMENTS:**

13. No fewer than six (6) parking spaces shall be maintained on the property at all times in the approximate locations shown on Exhibit "A." All on-site parking stalls and aisle widths shall be in compliance with requirements of the City's Land Development Code and shall not be converted and/or utilized for any other purpose, unless otherwise authorized in writing by the Development Services Department.

**PLANNING/DESIGN REQUIREMENTS:**

14. Owner/Permittee shall maintain a minimum of six (6) off-street parking spaces on the property at all times in the approximate locations shown on the approved Exhibit "A." Parking spaces shall comply at all times with the SDMC and shall not be converted for any other use unless otherwise authorized by the appropriate City decision maker in accordance with the SDMC.

15. 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.

16. 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.

**LANDSCAPING REQUIREMENTS:**

17. 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.

18. If any required landscaping (including existing or new plantings, hardscape, landscape features, etc.) 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 30 days of damage.

**PUBLIC UTILITIES DEPARTMENT REQUIREMENTS:**

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

20. 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 and Sewer 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

## ATTACHMENT 6

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 December 15, 2016 and PC- 16-098 .



ATTACHMENT 6

Permit Type/PTS Approval No.: Coastal Development Permit No. 1692367  
Date of Approval: December 15, 2016

AUTHENTICATED BY THE CITY OF SAN DIEGO DEVELOPMENT SERVICES DEPARTMENT

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Gaetano Martedi  
Development Project Manager

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

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**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.

**HERSHEY BOYS, LLC**  
Owner/Permittee

By \_\_\_\_\_  
Brian Sorokin  
Managing Member

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

PLANNING COMMISSION  
RESOLUTION NUMBER PC-16-098  
TENTATIVE MAP NO. 1692366,  
HERSCHEL TRIPLEX - PROJECT NO. 483102.

WHEREAS, Hershey Boys, LLC., Subdivider, and Leppert Engineering, Engineer, submitted an application to the City of San Diego for a Tentative Map No. 1692366 to create three (3) condominium units and to waive the requirement to underground existing offsite overhead utilities. The project site is located at 7569-7571 Herschel Avenue, in the RM-3-7 Zone within the La Jolla Community Plan Area. The property is legally described as Lots 3 and 4 in block 2 of center addition to La Jolla Park, in the City of San Diego County of San Diego, State of California according to map thereof No. 915, filed in the office of the County Recorder of San Diego County August 4, 1904; and

WHEREAS, the Tentative Map proposes the Subdivision of a 0.145-acre-site into one (1) lot with three (3) proposed condominium units; and

WHEREAS, on May 25, 2016, the City of San Diego, as Lead Agency, through the Development Services Department, made and issued an Environmental Determination that the project is exempt from the California Environmental Quality Act [CEQA] (Public Resources Code section 21000 et. seq.) under CEQA Guideline Section 15301 (k); and there was no appeal of the Environmental Determination filed within the time period provided by San Diego Municipal Code Section 112.0520; and

WHEREAS, a preliminary soils and geological reconnaissance report are waived by the City Engineer pursuant to Subdivision Map Act section 66491(a) and San Diego Municipal Code sections 144.0220(a) and 144.0220(b); and

WHEREAS, the subdivision is a condominium project as defined in California Civil Code section 4125 and filed pursuant to the Subdivision Map Act. The total number of condominium dwelling units is three (3); and

WHEREAS, the request to waive the undergrounding of existing overhead utilities has been determined to be appropriate pursuant to San Diego Municipal Code section 144.0242(c) based on the fact that the conversion involves a short span of overhead facilities (less than a full block in length) and would not represent a logical extension to an underground facility; and

WHEREAS, on October 12, 2016, the Hearing Officer of the City of San Diego approved Tentative Map No. 1692366 pursuant to the Land Development Code of the City of San Diego and on October 26, 2016 an appeal of the Hearing Officer's decision was filed by Mr. Kevin Haley; and

WHEREAS, on December 15, 2016, the Planning Commission of the City of San Diego considered Tentative Map No. 1692366, and pursuant to San Diego Municipal Code sections 125.0440, and 144.0240, and Subdivision Map Act section 66428, received for its consideration written and oral presentations, evidence having been submitted, and testimony having been heard from all interested parties at the public hearing, and the Planning Commission having fully considered the matter and being fully advised concerning the same; NOW THEREFORE,

BE IT RESOLVED by the Planning Commission of the City of San Diego, that it adopts the following findings with respect to Tentative Map No. 1692366:

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

The proposed subdivision would create three (3) condominium units from a for-rent, multi-family dwelling unit building that is currently under construction, and previously approved under Coastal Development Permit (CDP) No.1391420. The proposed subdivision is in conformance with the Residential Land Use designation of the RM-3-7 Zone (residential-multiple unit) in the La Jolla Community Planning Area.

The community plan contains a policy to maintain the existing residential character of neighborhoods, and policies and recommendations related to community character. The site is immediately adjacent to a two-story multi-family dwelling unit complex to the south, a two-story multi-family dwelling unit building, a one-story single family dwelling unit to the north, a one-story auto-repair facility to the west, and a one-story single family dwelling unit to the east. The project complies with the maximum allowable height of the zone, and complies with the required setbacks.

No change is proposed to the approved site design, the existing land use designations, or zone for the project site. Therefore, the proposed subdivision and its design and improvements are consistent with the policies, goals, and objectives of the adopted La Jolla Community Plan and the Local Coastal Program Land Use Plan.

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

The proposed subdivision would create three (3) condominium units, currently under construction from a for-rent, multi-family dwelling unit building, previously approved under Coastal Development Permit (CDP) No.1391420. The project site is located at 7569-7571 Herschel Avenue in the RM-3-7 (residential-multiple unit) zone within the La Jolla Community Plan. The site is immediately adjacent to a two-story multi-family dwelling unit complex to the south, a two-story multi-family dwelling unit building, a one-story single family dwelling unit to the north, a one-story auto-repair facility to the west, and a one-story single family dwelling unit to the east. The project complies with the maximum allowable height of the zone, and complies with the required setbacks.

The request to waive the undergrounding of existing overhead utilities has been determined to be appropriate pursuant to San Diego Municipal Code (SDMC) Section 144.0242(c) as the conversion involves a short span of overhead facility (less than a full block in length), and would not represent a logical extension to an underground facility. The applicant is required to underground any new service run to any new or proposed structures within the subdivision.

No change is proposed to the approved site design, and no additional construction is proposed with this subdivision. The subdivision is consistent with the recommended land use designation, design guidelines, and zoning and development regulations in effect for this site.

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

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

The subdivision site is located at 7569-7571 Herschel Avenue in the RM-3-7 Zone within the La Jolla Community Plan, which designates the site for Medium High Residential, 30-45 dwelling unit per acre (du/ac), and allows for Multiple-Residential development. The proposed subdivision would create three (3) condominium units, from a for-rent, multi-family dwelling unit building that is currently under construction.



This is a mid-block site located in an urban, developed multi-family neighborhood and is surrounded on all sides by similar development. Other than the subdivision to allow condominium creation, no additional development or intensification of use is requested.

The graded developed site is currently under construction and is served by existing overhead and underground utilities. The project fronts on Herschel Avenue. The frontage is developed with existing curb, gutter and sidewalk which would remain.

Since the project incorporates public improvements, and creates no additional development or intensification of use, the site is physically suitable for the type and density of development.

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

The proposed subdivision would create three (3) condominium units, from a for-rent, multi-family dwelling unit building that is currently under construction. The project site is located within an urbanized area of the La Jolla community. All development was previously approved and permitted pursuant to Coastal Development Permit No. 1391420. The property is not located between the sea and the first public roadway paralleling the sea, is not within or adjacent to the Multiple Species Conservation Program (MSCP) Multiple Habitat Planning Area (MHPA), and does not contain Environmentally Sensitive Lands (ESL).

The City of San Diego conducted an environmental review of this site in accordance with State of California Environmental Quality Act (CEQA) guidelines. The project was determined to be categorically exempt from CEQA pursuant to Guidelines Section 15301(k) existing facilities division of existing single-family into common interest ownership. Therefore, the design of the subdivision or the proposed improvements is not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.

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

The proposed subdivision would create three (3) condominium units, from a for-rent, multi-family dwelling unit building that is currently under construction. The project site is located within an urbanized area of the La Jolla community. All development was previously approved and permitted pursuant to Coastal Development Permit No. 1391420. The project has been designed in conformance with all applicable development regulations.

The construction of the building includes various conditions and referenced exhibits of approval relevant to achieving project compliance with the applicable regulations of the San Diego Municipal Code (SDMC) in effect for this project. Such conditions within the permit include constructing the required Public Improvements. These Public Improvements include installing three one-inch water services, sidewalk underdrains, closing existing driveway and replacing with standard sidewalk, curb & gutter, replacing existing asphalt pavement per City Standard along alley frontage per the satisfaction of the City Engineer, entering into a Maintenance Agreement for any ongoing permanent Best Management Practices (BMP), and undergrounding any new service run to any new or proposed structures within the subdivision. Incorporating these conditions into the permit will avoid

adverse impacts upon the health, safety and general welfare of persons residing or working in the surrounding area.

Therefore, the design of the subdivision will not be detrimental to the public health, safety, and welfare.

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

The proposed project would create three (3) condominium units, from a for-rent, multi-family dwelling unit building that is currently under construction. All development was previously approved and permitted pursuant to Coastal Development Permit No. 1391420. There are no existing or proposed easements acquired by the public at large for access through or use of property within the proposed subdivision. Therefore, the design of the subdivision will not conflict with any easements within the proposed subdivision.

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

The proposed project would create three (3) condominium units, from a for-rent, multi-family dwelling unit building that is currently under construction. The building associated with the subdivision provides windows on all elevations, allowing for ample natural light at all times of the year. The units have exterior private decks or patios that will have direct sunlight for portions of the day. The proposed subdivision will utilize renewable energy technology, self-generating at least 50-percent of the projected total energy consumption on site through photovoltaic technology (solar panels). The design of the subdivision has taken into account the best use of the land to minimize grading, building materials, site orientation, architectural treatments, placement and selection of plant materials to provide to the extent feasible, for passive or natural heating and cooling opportunities.

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

The subdivision would create three (3) condominium units, from a for-rent, multi-family dwelling unit building that is currently under construction. The project site is located within an urbanized area of the La Jolla community. Balanced needs for public facilities were taken into consideration with the development of the La Jolla land use plan, and the projected build-out with the applicable zone designations. Existing infrastructure including sidewalks, streets, schools, public transit, small businesses, shopping, and other multi-family residences in the surrounding area supports the proposed subdivision of this parcel into three residential condominium units.

The decision maker has reviewed the administrative record including the project plans, the environmental determination, and has considered the effects of the proposed subdivision on the housing needs of the region and; that those needs are balanced against the needs of public services and the available fiscal and environmental resources, and found the addition of three (3) residential condominium units on the 0.145-acre-site is consistent with the housing needs anticipated for the La Jolla Community Plan area.

## ATTACHMENT 7

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

BE IT FURTHER RESOLVED, that based on the Findings hereinbefore adopted by the Planning Commission, Tentative Map No.1692336; including the waiver of the requirement to underground existing offsite overhead utilities, is hereby granted to Hershey Boys, LLC. subject to the attached conditions which are made a part of this resolution by this reference.

By \_\_\_\_\_  
Gaetano Martedi  
Development Project Manager  
Development Services Department

ATTACHMENT: Tentative Map Conditions

Internal Order No. 24006609

PLANNING COMMISSION  
CONDITIONS FOR TENTATIVE MAP NO. 1692366,  
HERSCHEL TRIPLEX - PROJECT NO. 483102  
ADOPTED BY RESOLUTION NO. PC-16-098 ON DECEMBER 15, 2016.

**GENERAL**

1. This Tentative Map will expire December 30, 2019.
2. Compliance with all of the following conditions shall be completed and/or assured, to the satisfaction of the City Engineer, prior to the recordation of the Parcel Map, unless otherwise noted.
3. Prior to the Tentative Map expiration date, a Parcel Map to consolidate the existing lots into one lot shall be recorded in the Office of the San Diego County Recorder.
4. Prior to the recordation of the Parcel Map, taxes must be paid on this property pursuant to Subdivision Map Act section 66492. To satisfy this condition, a tax certificate stating that there are no unpaid lien conditions against the subdivision must be recorded in the Office of the San Diego County Recorder.
5. The Tentative Map shall conform to the provisions of Coastal Development Permit No. 1692367.
6. The Subdivider shall defend, indemnify, and hold the City (including its agents, officers, and employees [together, "Indemnified Parties"]) harmless from any claim, action, or proceeding, against the City and/or any Indemnified Parties to attack, set aside, void, or annul City's approval of this project, which action is brought within the time period provided for in Government Code section 66499.37. City shall promptly notify Subdivider of any claim, action, or proceeding and shall cooperate fully in the defense. If City fails to promptly notify Subdivider of any claim, action, or proceeding, or if City fails to cooperate fully in the defense, Subdivider shall not thereafter be responsible to defend, indemnify, or hold City and/or any Indemnified Parties harmless. City may participate in the defense of any claim, action, or proceeding if City both bears its own attorney's fees and costs, City defends the action in good faith, and Subdivider is not required to pay or perform any settlement unless such settlement is approved by the Subdivider.

**ENGINEERING**

7. The Subdivider shall underground any new service run to any new or proposed structures within the subdivision.
8. The Subdivider shall ensure that all existing onsite utilities serving the subdivision shall be undergrounded with the appropriate permits. The Subdivider shall provide written confirmation from applicable utilities that the conversion has taken place, or provide other means to assure the undergrounding, satisfactory to the City Engineer.



9. Conformance with the "General Conditions for Tentative Subdivision Maps," filed in the Office of the City Clerk under Document No. 767688 on May 7, 1980, is required. Only those exceptions to the General Conditions which are shown on the Tentative Map and covered in these special conditions will be authorized. All public improvements and incidental facilities shall be designed in accordance with criteria established in the Street Design Manual, filed with the City Clerk as Document No. RR-297376.

**MAPPING**

10. "Basis of Bearings" means the source of uniform orientation of all measured bearings shown on the map. Unless otherwise approved, this source shall be the California Coordinate System, Zone 6, North American Datum of 1983 [NAD 83].
11. "California Coordinate System" means the coordinate system as defined in Section 8801 through 8819 of the California Public Resources Code. The specified zone for San Diego County is "Zone 6," and the official datum is the "North American Datum of 1983."
12. The Parcel Map shall:
  - a. Use the California Coordinate System for its "Basis of Bearing" and express all measured and calculated bearing values in terms of said system. The angle of grid divergence from a true median (theta or mapping angle) and the north point of said map shall appear on each sheet thereof. Establishment of said Basis of Bearings may be by use of existing Horizontal Control stations or astronomic observations.
  - b. Show two measured ties from the boundary of the map to existing Horizontal Control stations having California Coordinate values of First Order accuracy. These tie lines to the existing control shall be shown in relation to the California Coordinate System (i.e., grid bearings and grid distances). All other distances shown on the map are to be shown as ground distances. A combined factor for conversion of grid-to-ground distances shall be shown on the map.

**INFORMATION:**

- The approval of this Tentative Map by the Planning Commission of the City of San Diego does not authorize the subdivider to violate any Federal, State, or City laws, ordinances, regulations, or policies including but not limited to, the Federal Endangered Species Act of 1973 and any amendments thereto (16 USC § 1531 et seq.).
- If the Subdivider makes any request for new water and sewer facilities (including services, fire hydrants, and laterals), the Subdivider shall design and construct such facilities in accordance with established criteria in the most current editions of the City of San Diego water and sewer design guides and City regulations, standards and practices pertaining thereto. Off-site improvements may be required to provide adequate and acceptable levels of service and will be determined at final engineering.

## ATTACHMENT 8

- Subsequent applications related to this Tentative Map will be subject to fees and charges based on the rate and calculation method in effect at the time of payment.
- Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of the Tentative Map, may protest the imposition within ninety days of the approval of this Tentative Map by filing a written protest with the San Diego City Clerk pursuant to Government Code sections 66020 and/or 66021.
- Where in the course of development of private property, public facilities are damaged or removed, the Subdivider shall at no cost to the City, obtain the required permits for work in the public right-of-way, and repair or replace the public facility to the satisfaction of the City Engineer (San Diego Municipal Code § 142.0607).

Internal Order No. 24006609

## NOTICE OF EXEMPTION

(Check one or both)

TO: ☒ Recorder/County Clerk  
P.O. Box 1750, MS A-33  
1600 Pacific Hwy, Room 260  
San Diego, CA 92101-2400

FROM: City of San Diego  
Development Services Department  
1222 First Avenue, MS 501  
San Diego, CA 92101

☐ Office of Planning and Research  
1400 Tenth Street, Room 121  
Sacramento, CA 95814

Project No.: **483102**Project Title: **Herschel Triplex**

Project Location-Specific: The project site is located at 7567, 7569, and 7571 Herschel Avenue, (Eastern side of Herschel Avenue, between Pearl Street and Virginia Way), San Diego, CA, within the La Jolla Community Planning Area.

Project Location-City/County: San Diego/San Diego

Description of nature and purpose of the Project:

Coastal Development Permit #1692367 and Tentative Parcel Map#1692366 for the conversion of three existing multi-family residential units to condominiums and to waive the requirements to underground existing utilities at 7567, 7569, and 7571 Herschel Avenue. The 0.145 acre site is designated medium-high density residential (30-45 dwelling units per acre) and is located within the RM-3-7 Zone (Residential -Multiple Unit), allows a maximum of one dwelling unit per 1,000 square feet of lot area), Coastal Overlay (Non-Appealable 2), Coastal Height Limit Overlay Zone, Residential Tandem Parking Overlay Zone, Transit Area Overlay, Parking Impact Overlay Zone (Coastal and Beach), La Jolla Community Plan and Local Coastal Program, and Council District 1. (LEGAL DESCRIPTION: Lots 3 and 4, Block 2, Center Addition to La Jolla Park, Map 915)

Name of Public Agency Approving Project: City of San Diego

Name of Person or Agency Carrying Out Project: Katja Santoro  
5190 Governor Drive, Suite #205  
San Diego, CA 92122  
(858) 597-2009

Exempt Status: (CHECK ONE)

- ☐ Ministerial (Sec. 21080(b)(1); 15268);
- ☐ Declared Emergency (Sec. 21080(b)(3); 15269(a));
- ☐ Emergency Project (Sec. 21080(b)(4); 15269 (b)(c))
- ☒ Categorical Exemption: 15301 (k) existing facilities division of existing multi-family residential into common interest ownership.
- ☐ Statutory Exemptions:

Reasons why project is exempt: The City of San Diego conducted an environmental review that determined that the proposed map waiver would not have the potential for causing a significant effect on the environment in that the project is consistent with the community plan and the applicable zone. The proposed Map Waiver proposes no construction. No construction would occur with this Map Waiver, and therefore, no environmental affects would occur. Therefore the activity meets the criteria set forth in sections 15301 (k) existing facilities division of

existing single-family into common interest ownership; and the exceptions listed in CEQA section 15300.2 would not apply.

Lead Agency Contact Person: Chris Tracy, AICP

Telephone: (619) 446-5381

If filed by applicant:

1. Attach certified document of exemption finding.
2. Has a notice of exemption been filed by the public agency approving the project? ( ) Yes ( ) No

It is hereby certified that the City of San Diego has determined the above activity to be exempt from CEQA

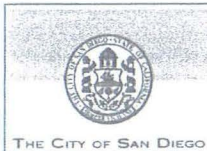
Mark Roth SENIOR PLANNER  
Signature/Title

MAY 18, 2016  
Date

Check One:

- (X) Signed By Lead Agency  
( ) Signed by Applicant

Date Received for Filing with County Clerk or OPR:



City of San Diego  
Development Services  
1222 First Ave. 3rd Floor  
San Diego, CA 92101

# Development Permit/ Environmental Determination Appeal Application

FORM  
**DS-3031**  
AUGUST 2015

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

## 1. Type of Appeal:

- ☒ Appeal of the Project  
☒ Appeal of the Environmental Determination

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

Name: Kevin Haley E-mail Address: kmh8@aol.com  
Address: 1121 Virginia Way City: La Jolla State: CA Zip Code: 92037 Telephone: (619) 384-0426

## 3. Project Name:

Herschel Triplex, Project No. 483102

## 4. Project Information

Permit/Environmental Determination & Permit/Document No.:	Date of Decision/Determination: 10/12/16	City Project Manager: Gaetano Martedi
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Decision: (Describe the permit/approval decision)

Approve Tentative Map No.1692366 and Coastal Development Permit No. 1692367, and the waiver to the requirements to underground existing offsite overhead utilities, with modifications.

## 5. Grounds for Appeal: (Please check all that apply)

- |   |   |
|---|---|
| <input checked="" type="checkbox"/> Factual Error               | <input checked="" type="checkbox"/> New Information                           |
| <input checked="" type="checkbox"/> Conflict with other matters | <input type="checkbox"/> City-wide Significance (Process Four decisions only) |
| <input checked="" type="checkbox"/> Findings Not Supported      |   |

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

1) Factual Error - the Project has not been built to the design guidelines and development standard in effect for this site (attachment 5, p 3). The building is over 30' tall. There are additional factual errors that will distributed to Planning Commission prior to hearing and presented at hearing.

2) Conflict - Former Planning Commission Chairman and Architect of Record, Tim Golba's, actions will be reported to Planning Commission

3) Findings - the findings can not be make for the Coastal Development Permit.

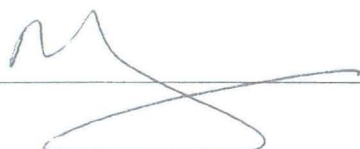
4) New Information will be presented to Planning Commission

RECEIVED

OCT 26 2016

DEVELOPMENT SERVICES

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

Signature: 

Date: OCT 26, 2016

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

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Upon request, this information is available in alternative format for persons with disabilities.

DOC# 2015-0298935



Jun 10, 2015 11:15 AM

OFFICIAL RECORDS

Ernest J. Dronenburg, Jr.,

SAN DIEGO COUNTY RECORDER

FEES: \$77.00

PAGES: 13

**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**

139  
10

SPACE ABOVE THIS LINE FOR RECORDER'S USE

INTERNAL ORDER NUMBER: 24005346

**COASTAL DEVELOPMENT PERMIT NO. 1391420**  
**HERSCHEL TRIPLEX - PROJECT NO. 398346**  
**DEVELOPMENT SERVICES DEPARTMENT**

This Coastal Development Permit No. 1391420 is granted by the Development Services Department of the City of San Diego to the HERSHEY BOYS, LLC, a California Limited Liability Company, Owner and Permittee, pursuant to San Diego Municipal Code [SDMC] Section 126.0708. The 0.14-acre site is located at 7569 Herschel Avenue in the RM-3-7 Zone in the La Jolla Community Plan and Local Coastal Program Area, the Coastal Overlay Zone (Non-Appealable Area 2), the Coastal Height Limitation Overlay Zone, Residential Tandem Parking Overlay Zone, Transit Area Overlay Zone, and Council District 1. The project site is legally described as: Lots 3 and 4 in Block 2 of Center Addition to La Jolla Park, in the City of San Diego, State of California, according to Map thereof No. 915, filed in the Office of the County Recorder of San Diego County, August 4, 1904.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee for the demolition of two single family dwelling units and to construct a three-story building containing three 'for rent' multi-family dwelling units, described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated May 13, 2015, on file in the Development Services Department.

The project shall include:

- a. Demolition two single family dwelling units and to construct a three-story, 7,361 square foot residential building containing three 'for rent' multi-family dwelling units with attached parking garages, and associated site improvements on a 0.14-acre site;
- b. Landscaping (planting, irrigation and landscape related improvements);
- c. Off-street parking;

ORIGINAL

- d. Construction of associated site improvements (i.e. hardscape and site walls).
- e. A roof-mounted photovoltaic system consisting of solar panels sufficient to generate at least 50 percent of the project's projected energy consumption; and
- f. 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 **June 1, 2018**.
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. While this Permit is in effect, the subject property shall be used only for the purposes and under the terms and conditions set forth in this Permit unless otherwise authorized by the appropriate City decision maker.
4. This Permit is a covenant running with the subject property and all of the requirements and conditions of this Permit and related documents shall be binding upon the Owner/Permittee and any successor(s) in interest.
5. The continued use of this Permit shall be subject to the regulations of this and any other applicable governmental agency.
6. Issuance of this Permit by the City of San Diego does not authorize the 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. 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.

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

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

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

10. 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.

#### **AFFORDABLE HOUSING REQUIREMENTS:**

11. Prior to the issuance of any building permits, the Owner/Permittee shall comply with the affordable housing requirements of the City's Inclusionary Affordable Housing Regulations (SDMC § 142.1301 et seq.).

**ENGINEERING REQUIREMENTS:**

12. Prior to the issuance of any construction permit, the Owner/Permittee shall assure by permit and bond the closure of the existing driveway with City standard curb and gutter, on Herschel Avenue, satisfactory to the City Engineer.
13. Prior to the issuance of any construction permit, the Owner/Permittee shall assure by permit and bond the replacement of the existing asphalt alley with full width City standard concrete alley, along the entire project alley frontage, satisfactory to the City Engineer.
14. Prior to the issuance of any construction permit, the Owner/Permittee shall obtain an Encroachment Maintenance and Removal Agreement for private sidewalk underdrain located within Herschel Avenue right-of-way, satisfactory to the City Engineer.
15. Prior to the issuance of any construction permit, the Owner/Permittee shall enter into a Maintenance Agreement for the ongoing permanent Best Management Practice (BMP) maintenance, satisfactory to the City Engineer.
16. Prior to the issuance of any construction permit, the Owner/Permittee shall incorporate any construction Best Management Practices (BMPs) necessary to comply with Chapter 14, Article 2, Division 1 (Grading Regulations) of the Municipal Code, into the construction plans or specifications.
17. Prior to the issuance of any construction permit, the Owner/Permittee shall submit a Water Pollution Control Plan (WPCP). The WPCP shall be prepared in accordance with the guidelines in Appendix E of the City's Storm Water Standards.
18. Prior to the issuance of any foundation inspection, the Owner/Permittee shall submit an building pad certification signed by a Registered Civil Engineer or a Licensed Land Surveyor, certifying the pad elevation based on USGS datum is consistent with Exhibit "A," satisfactory to the City Engineer.

**TRANSPORTATION REQUIREMENTS:**

19. No fewer than 6 parking spaces shall be maintained on the property at all times in the approximate locations shown on Exhibit "A." All on-site parking stalls and aisle widths shall be in compliance with requirements of the City's land Development Code and shall not be converted and/or utilized for any other purpose, unless otherwise authorized in writing by the Development Services Department.

**PLANNING/DESIGN REQUIREMENTS:**

20. Prior to the issuance of building permits, construction documents shall fully illustrate the incorporation of a roof-mounted photovoltaic system consisting of solar panels sufficient to generate at least 50 percent of the project's projected energy consumption, in conformance with the criteria of the Affordable/In-Fill Housing and Sustainable Buildings Expedite Program.

21. 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.

22. 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.

**LANDSCAPE REQUIREMENTS:**

23. 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," Landscape Development Plan, on file in the Development Services Department. Construction plans shall show, label, and dimension a 40 sq-ft area around each tree which is unencumbered by hardscape and utilities as set forth under LDC 142.0403(b)(5).

24. Prior to issuance of any construction permits for structures, the Owner/Permittee shall submit a water budget in accordance with the Water Conservation Requirements per SDMC 142.0413, Table 142-04I, to be included with the construction documents. An irrigation audit shall be submitted consistent with Section 2.7 of the Landscape Standards of the Land Development Manual at final inspection. The irrigation audit shall certify that all irrigation systems have been installed and operate as approved by the Development Services Department.

25. 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.

26. If any required landscape (including existing or new plantings, hardscape, landscape features, etc.) indicated on the approved construction document plans is damaged or removed during demolition or construction, 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 30 days of damage.

**PUBLIC UTILITIES DEPARTMENT REQUIREMENTS:**

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

28. 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 Public Utilities Director and the City Engineer. BFPDs shall be located above ground on private property, in line with the service and immediately adjacent to the right-of-way.

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

30. 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 and Sewer Facility Design Guidelines and City regulations, standards and practices.

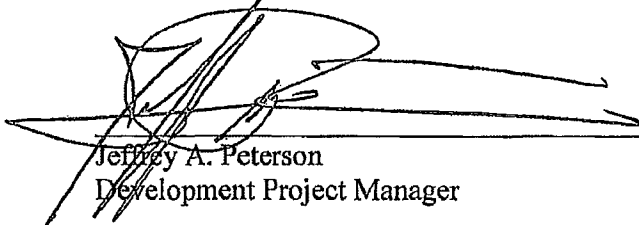
**INFORMATION ONLY:**

- 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 Development Services Department of the City of San Diego on May 13, 2015, and Resolution No. CM-6505.

Permit Type/PTS Approval No.: CDP No. 1391420  
Date of Approval: May 13, 2015

AUTHENTICATED BY THE CITY OF SAN DIEGO DEVELOPMENT SERVICES  
DEPARTMENT



Jeffrey A. Peterson  
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.

HERSHEY BOYS, LLC, a California Limited Liability Company,  
Owner/Permittee

By



Brian Sorokin, Manager of the LLC

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

**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

CIVIL CODE § 1189

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California )  
 County of San Diego )  
 On June 5, 2015 before me, Vivian M. Gies, Notary Public  
 Date Here Insert Name and Title of the Officer  
 personally appeared ~~~~~Jeffrey A. Peterson, Brian Sorokin~~~~~  
 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 Vivian M. Gies  
 Signature of Notary Public

Place Notary Seal Above

**OPTIONAL**

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

**Description of Attached Document** PTS #398346/Herschel Triplex/CDP #1391420

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: \_\_\_\_\_  
☐ Corporate Officer — Title(s): \_\_\_\_\_  
☐ Partner — ☐ Limited ☐ General  
☐ Individual ☐ Attorney in Fact  
☐ Trustee ☐ Guardian or Conservator  
☐ Other: \_\_\_\_\_  
 Signer Is Representing: \_\_\_\_\_

Signer's Name: \_\_\_\_\_  
☐ Corporate Officer — Title(s): \_\_\_\_\_  
☐ Partner — ☐ Limited ☐ General  
☐ Individual ☐ Attorney in Fact  
☐ Trustee ☐ Guardian or Conservator  
☐ Other: \_\_\_\_\_  
 Signer Is Representing: \_\_\_\_\_

ORIGINAL

DEVELOPMENT SERVICES DEPARTMENT  
RESOLUTION NO. CM-6505  
COASTAL DEVELOPMENT PERMIT NO. 1391420  
**HERSCHEL TRIPLEX - PROJECT NO. 398346**

WHEREAS, the HERSHEY BOYS, LLC, a California Limited Liability Company, Owner and Permittee, filed an application with the City of San Diego for a permit to demolish two single family dwelling units and to construct a three-story, 7,361 square foot residential building containing three 'for rent' multi-family dwelling units with attached parking garages, and associated site improvements (as described in and by reference to the approved Exhibits "A" and corresponding conditions of approval for the associated Permit No. 1391420), on portions of a 0.14-acre site;

WHEREAS, the project site is located at 7569 Herschel Avenue in the RM-3-7 Zone in the La Jolla Community Plan and Local Coastal Program Area, the Coastal Overlay Zone (Non-Appealable Area 2), the Coastal Height Limitation Overlay Zone, Residential Tandem Parking Overlay Zone, Transit Area Overlay Zone, and Council District 1;

WHEREAS, the project site is legally described as: Lots 3 and 4 in Block 2 of Center Addition to La Jolla Park, in the City of San Diego, State of California, according to Map thereof No. 915, filed in the Office of the County Recorder of San Diego County, August 4, 1904;

WHEREAS, on May 13, 2015, the Development Services Department of the City of San Diego considered Coastal Development Permit No. 1391420 pursuant to the Land Development Code of the City of San Diego;

WHEREAS, on April 1, 2015, the City of San Diego, as Lead Agency, through the Development Services Department, made and issued an Environmental Determination that the project is exempt from the California Environmental Quality Act (CEQA) (Public Resources Code section 21000 et seq.) under CEQA Guideline Article 19, Section 15332 (Infill Development Projects); and there was no appeal of the Environmental Determination filed within the time period provided by San Diego Municipal Code Section 112.0520; NOW, THEREFORE,

BE IT RESOLVED by the Development Services Department of the City of San Diego as follows:

That the Development Services Department adopts the following written Findings, dated May 13, 2015.

FINDINGS:

**I. Coastal Development Permit - Section 126.0708(a)**

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



The 0.14-acre site is located at 7569 Herschel Avenue, south of Virginia Way. The project proposes the demolition of two existing single family dwelling units and to construct a three-story, 7,361 square foot residential building containing three 'for rent' multi-family dwelling units with attached parking garages, and associated site improvements. The residential units would consist of living room, dining room, kitchen, three bedrooms, den/office, three and a half bathrooms, and an attached two-car garage. As a component of the proposed project, the structure incorporates a roof-mounted photovoltaic system consisting of solar panels sufficient to generate at least 50 percent of the project's projected energy consumption, in conformance with the criteria of the Affordable/In-Fill Housing and Sustainable Buildings Expedite Program.

The property is an interior lot and is located approximately 3,325 feet from the Pacific Ocean. The property is not located between the sea and the first public roadway paralleling the sea. Herschel Avenue at this location is not designated as a view corridor with views toward the Pacific Ocean and is not identified as containing intermittent or partial vistas along the property. The property is not designated as a viewshed or scenic overlook, and does not contain any public accessways as identified within the adopted La Jolla Community Plan (LJCP) and Local Coastal Program Land Use Plan.

The project proposes a maximum building height of 30 feet, so the building and any projections will not exceed the maximum 30 foot height limit allowed by the Coastal Height Limitation Overlay Zone (CHLOZ). The project is not requesting nor does it require any deviations or variances from the applicable regulations and policy documents, and is consistent with the recommended land use designation, design guidelines, and development standards in effect for this site. Therefore, the development has been designed to meet the development regulations of the underline zone, which shall enhance and protect public views to and along the ocean and other scenic coastal areas as specified in the Local Coastal Program Land Use Plan.

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

The 0.14-acre site is located at 7569 Herschel Avenue, south of Virginia Way. The project proposes the demolition of two existing single family dwelling units and to construct a three-story, 7,361 square foot residential building containing three 'for rent' multi-family dwelling units with attached parking garages, and associated site improvements. The residential units would consist of living room, dining room, kitchen, three bedrooms, den/office, three and a half bathrooms, and an attached two-car garage. As a component of the proposed project, the structure incorporates a roof-mounted photovoltaic system consisting of solar panels sufficient to generate at least 50 percent of the project's projected energy consumption, in conformance with the criteria of the Affordable/In-Fill Housing and Sustainable Buildings Expedite Program.

The property is an interior lot and is located approximately 3,325 feet from the Pacific Ocean. The property is not located between the sea and the first public roadway paralleling the sea. The property is approximately 110 feet above Mean Sea Level (MSL) and is located above the 100-year floodplain. The property is not within or adjacent to the Multiple Species

Conservation Program (MSCP) Multiple Habitat Planning Area (MHPA) and does not contain any other type of Environmental Sensitive Lands (ESL) as defined in San Diego Municipal Code (SDMC) Section 113.0103.

The City of San Diego conducted an environmental review of this site in accordance with State of California Environmental Quality Act (CEQA) guidelines. The project was determined to be categorically exempt from CEQA pursuant to Article 19, Section 15332 (Infill Development Projects). Therefore, it has been determined that the project does not contain environmentally sensitive lands and would not adversely affect these resources.

**3. The proposed coastal development is in conformity with the certified Local Coastal Program land use plan and complies with all regulations of the certified Implementation Program; and**

The project proposes the demolition of two existing single family dwelling units and to construct a three-story, 7,361 square foot residential building containing three 'for rent' multi-family dwelling units with attached parking garages, and associated site improvements. The residential units would consist of living room, dining room, kitchen, three bedrooms, den/office, three and a half bathrooms, and an attached two-car garage. As a component of the proposed project, the structure incorporates a roof-mounted photovoltaic system consisting of solar panels sufficient to generate at least 50 percent of the project's projected energy consumption, in conformance with the criteria of the Affordable/In-Fill Housing and Sustainable Buildings Expedite Program.

The project site is located at 7569 Herschel Avenue, south of Virginia Way, in the RM-3-7 Zone within the LJCP and Local Coastal Program Land Use Plan. The zoning designation is a multi-family residential zone which allows one residential unit per 1,000 square foot of lot areas. The LJCP designates the proposed project site for Medium High Residential land use at 30-45 dwelling units per acre (DU/AC). The project site, occupying 0.14-acres, could accommodate six dwelling unit based on the underlying zone and four-six dwelling unit based on the community plan. The project falls short of the minimum density prescribed by the community plan and General Plan policy LU-C.4 requires that redevelopment of land meet the density minimums as designated by the community plan. However, the community plan also contains a policy to maintain the existing residential character of neighborhoods, and policies and recommendations related to community character. The site is immediately adjacent to a two-story multi-family dwelling unit complex to the south, a two-story multi-family dwelling unit building and one-story single family dwelling unit to the north, a one-story auto-repair facility to the west and a one-story single family dwelling unit to the east.

In addition, the Residential Element of the LJCP contains policies for new development in order to avoid extreme and intrusive changes to the residential scale of the neighborhood, especially between new and older structures. The plan recommends that bulk and scale be controlled through the application of development regulations, such as setbacks and building height. The plan also recommends that visual relief, such as offsetting planes, articulation, and variations in front setbacks, be applied to provide a transition in scale between surrounding development. The project complies with the maximum allowable height of the zone, and complies with the required setbacks. In addition, the project provides articulation along the

facades, architectural projections, and uses both stucco and wood siding. These features aid in reducing perceived bulk and scale and are an adequate transition between the proposed development and the existing surrounding development. The additional rear setback and building articulation provides an additional buffer from the one-story residence across the alley, which is located in a different zone. The use of multiple materials along the façade is consistent with other buildings along the street and assists in breaking up perceived bulk.

The property is an interior lot and is located approximately 3,325 feet from the Pacific Ocean. The property is not located between the sea and the first public roadway paralleling the sea. Herschel Avenue at this location is not designated as a view corridor with views toward the Pacific Ocean and is not identified as containing intermittent or partial vistas along the property. The property is not designated as a viewshed or scenic overlook, and does not contain any public accessways as identified within the adopted LJCP and Local Coastal Program Land Use Plan.

The site is approximately 110 feet above MSL and is located above the 100-year floodplain. The site is not within or adjacent to the MHPA and does not contain any other type of ESL as defined in SDMC Section 113.0103. The project proposes a maximum building height of 30 feet, so the building and any projections will not exceed the maximum 30 foot height limit allowed by the CHLOZ.

The project is not requesting nor does it require any deviations or variances from the applicable regulations and policy documents, and is consistent with the recommended land use designation, design guidelines, and development standards in effect for this site. Therefore, the development is in conformity with the certified Local Coastal Program land use plan and complies with all regulations of the certified Implementation Program.

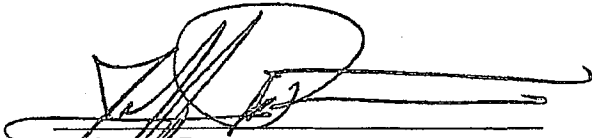
**4. For every Coastal Development Permit issued for any coastal development between the nearest public road and the sea or the shoreline of any body of water located within the Coastal Overlay Zone the coastal development is in conformity with the public access and public recreation policies of Chapter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

The 0.14-acre site is located at 7569 Herschel Avenue, south of Virginia Way. The project proposes the demolition of two existing single family dwelling units and to construct a three-story, 7,361 square foot residential building containing three 'for rent' multi-family dwelling units with attached parking garages, and associated site improvements. The residential units would consist of three bedrooms, den/office, three and a half bathrooms, main entrance, and an attached two-car garage. As a component of the proposed project, the structure incorporates a roof-mounted photovoltaic system consisting of solar panels sufficient to generate at least 50 percent of the project's projected energy consumption, in conformance with the criteria of the Affordable/In-Fill Housing and Sustainable Buildings Expedite Program.

The project is not requesting nor does it require any deviations or variances from the applicable regulations and policy documents, and is consistent with the recommended land use designation, design guidelines, and development standards in effect for this site. The property is an interior lot and is located approximately 3,325 feet from the Pacific Ocean. The property is not located between the sea and the first public roadway paralleling the sea. Therefore, the

proposed development does not have to comply with the public access and recreation policies of Chapter 3 of the California Coastal Act.

BE IT FURTHER RESOLVED that, based on the findings hereinbefore adopted by the Development Services Department, Coastal Development Permit No. 1391420 is hereby GRANTED by the Development Services Department to the referenced Owner/Permittee, in the form, exhibits, terms and conditions as set forth in Permit No. 1391420, a copy of which is attached hereto and made a part hereof.

  
Jeffrey A. Peterson  
Development Project Manager  
Development Services

Adopted on: May 13, 2015

Internal Order No. 24005346

**EXISTING LEGAL DESCRIPTION:**

LOT 3 AND LOT 4, IN BLOCK 2 OF CENTER ADDITION TO LA JOLLA PARK, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 915, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, AUGUST 4, 1904.

**ASSESSOR'S PARCEL NO.:**

350-622-03-00

**OWNER/APPLICANT:**

HERSHY BOYS LLC  
C/O BRIAN SOROKIN  
247 KOLMAR STREET  
LA JOLLA, CA 92037

**SITE ADDRESS:**

7567, 7569 AND 7571  
HERSCHEL AVENUE

**DEVELOPMENT SUMMARY AND NOTES:**

1. **COMMUNITY PLAN:** THE PROPERTY IS WITHIN THE LA JOLLA COMMUNITY PLAN, WITH A LAND USE DESIGNATION OF MEDIUM HIGH RESIDENTIAL (30-45 DU/AC).

2. **ZONING:** RM 3-7

SETBACK REQUIREMENTS FOR RM 3-7

MINIMUM FRONT SETBACK: 10 FEET  
(UP TO 50% OF THE WIDTH OF THE BUILDING ENVELOPE)

STD FRONT SETBACK: 20 FEET

MINIMUM SIDE SETBACK: 5 FEET  
(OR 10% OF THE PREMISES WIDTH, WHICHEVER IS GREATER)  
(UP TO 50% OF THE LENGTH OF THE BUILDING ADJACENT TO THE SIDE YARD MAY ABUT THE P/L)

MINIMUM REAR SETBACK: 5 FEET

3. **LOTS:** THE SUBJECT PROPERTY CONSISTS OF TWO LEGAL LOTS PER SDMC 113.0237(c) WHICH ARE REQUIRED TO BE MAPPED AND MONUMENTED IN A MANNER SATISFACTORY TO THE CITY ENGINEER PER SUBDIVISION MAP ACT SECTION 66428(b).  
PROPOSED NUMBER OF LOTS: 1

4. **ACREAGE:** THE SUBJECT PROPERTY CONTAINS 0.145 GROSS, AND 0.145 NET ACRES.

**5. OVERLAY ZONES:**

THE PROPERTY IS IN THE FOLLOWING OVERLAY ZONES:

- TRANSIT AREA
- COASTAL HEIGHT LIMIT
- PARKING IMPACT
- RESIDENTIAL TANDEM PARKING
- TRANSIT AREA
- GEOLOGIC HAZARD CATEGORY: 52

6. **CONDOMINIUM DEVELOPMENT:** THIS IS A MAP OF A CONDOMINIUM PROJECT, AS DEFINED IN SECTION 4125 OF THE CIVIL CODE OF THE STATE OF CALIFORNIA AND IS FILED PURSUANT TO THE SUBDIVISION MAP ACT. THE TOTAL NUMBER OF RESIDENTIAL CONDOMINIUM UNITS PROPOSED IS 3.

**EXISTING FLOOR AREAS:**

UNIT	FIRST FLOOR	SECOND FLOOR	THIRD FLOOR	TOTAL
A	1,256 SF	1,308 SF	-	2,564 SF
B	1,041 SF	1,373 SF	-	2,414 SF
C	155 SF	-	2,228 SF	2,383 SF
TOTAL	2,452 SF	2,681 SF	2,228 SF	7,361 SF

**EXISTING GARAGE AREAS:**

UNIT	FIRST FLOOR
A	438 SF
B	362 SF
C	448 SF
TOTAL	1,293 SF

**PARKING REQUIREMENT:**

PURSUANT TO SECTION 142.0525 OF THE MUNICIPAL CODE, THE PROJECT IS REQUIRED TO PROVIDE A MINIMUM OF 6 SPACES.

UNIT	TYPE	NO. OF UNITS	RATE	SUBTOTAL
A	3 BEDROOMS	1	2.0	2.0
B	3 BEDROOMS	1	2.0	2.0
C	3 BEDROOMS	1	2.0	2.0

**REFERENCE DRAWINGS:**

31845-12-D FOR 6" SEWER AND SEWER LATERAL  
7129-L FOR 21" CONCRETE SD PIPE  
16283-B-D FOR 6" A.C. WATER MAIN  
3609-L FOR 6" WATER MAIN  
7218-L FOR SURFACE IMPROVEMENTS  
CONSTRUCTION PLAN PERMIT NO. 1626687

**ENGINEER:**

LEPPERT ENGINEERING CORPORATION  
5190 GOVERNOR DRIVE, SUITE 205  
SAN DIEGO, CA 92122

BY: JOHN D. LEPPERT RCE 26283 DATE: \_\_\_\_\_

**LEGEND:**

PROJECT BOUNDARY

STREET CENTERLINE

LOT LINE

EXISTING CONTOUR

EXISTING STORM DRAIN

EXISTING SEWER

EXISTING WATER

EXISTING FIRE HYDRANT

EXISTING DRIVEWAY

EXISTING SPOT ELEVATIONS

EXISTING PRIVATE AREA DRAINS D-27

DIRECTION OF DRAINAGE

EXISTING 2" SERVICE WITH 1 1/2" METER

EXISTING SEWER LATERAL

**SYMBOL:**

PROJECT BOUNDARY

STREET CENTERLINE

LOT LINE

EXISTING CONTOUR

EXISTING STORM DRAIN

EXISTING SEWER

EXISTING WATER

EXISTING FIRE HYDRANT

EXISTING DRIVEWAY

EXISTING SPOT ELEVATIONS

EXISTING PRIVATE AREA DRAINS D-27

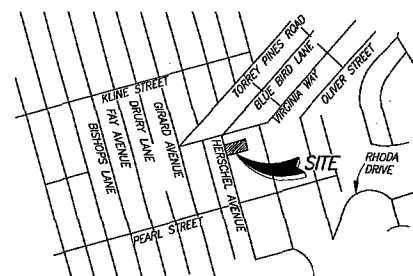
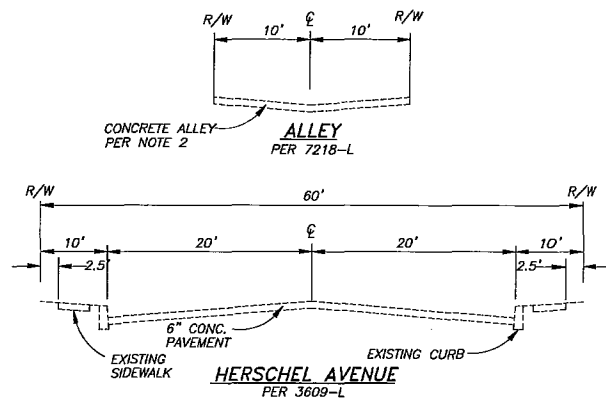
DIRECTION OF DRAINAGE

EXISTING 2" SERVICE WITH 1 1/2" METER

EXISTING SEWER LATERAL

**MONUMENTATION LEGEND**

INDICATES LEAD AND TACK



**VICINITY MAP**  
NO SCALE

**PREPARED BY:**

NAME: LEPPERT ENGINEERING CORPORATION

ADDRESS: 5190 GOVERNOR DRIVE, SUITE 205  
SAN DIEGO, CALIFORNIA 92122-2848

PHONE #: (858) 597-2001

**PROJECT ADDRESS:**

7567, 7569 AND 7571 HERSCHEL AVENUE  
LA JOLLA, CA 92037

**PROJECT NAME:**

HERSCHEL TRIPLEX

**SHEET TITLE:**

TENTATIVE MAP (TM) NO. 1692366

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

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

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

REVISION 11: \_\_\_\_\_

REVISION 10: \_\_\_\_\_

REVISION 9: \_\_\_\_\_

REVISION 8: \_\_\_\_\_

REVISION 7: \_\_\_\_\_

REVISION 6: \_\_\_\_\_

REVISION 5: \_\_\_\_\_

REVISION 4: \_\_\_\_\_

REVISION 3: \_\_\_\_\_

REVISION 2: \_\_\_\_\_

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

ORIGINAL DATE: 04-07-16

SHEET 1 OF 1

PTS# 483102



La Jolla Community Planning Association  
PO Box 889  
La Jolla, CA 92038

**Project: 483102**

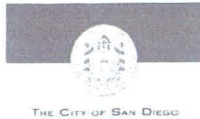
**HERSCHEL TRIPLEX TPM** 7569-7571 Herschel Avenue CDP & TM Waiver La Jolla (Process 3) Tentative Map and Coastal Development Permit for the creation of three residential condominium units (under construction) and to waive the requirements to underground existing utilities at 7569-7571 Herschel Ave. The 0.145 acre site is in the RM-3-7 zone, Coastal (Non-appealable) overlay zone within the La Jolla Community Plan Area. **DPR RECOMMENDATION:** Findings can be made to approve a Process 3 Tentative Map and Coastal Development Permit for the creation of three residential condominium units (under construction) and to waive the requirements to underground existing utilities at 7569-7571 Herschel Ave. 4-0-1.

**Approved La Jolla Community Planning Association Motion: To ratify the action of the DPR committee that findings CAN be made to approve 7569-7571 Herschel Avenue.** Findings can be made to approve a Process 3 Tentative Map and Coastal Development Permit for the creation of three residential condominium units (under construction) and to waive the requirements to underground existing utilities at 7569-7571 Herschel Ave. **Motion carries: 15-0-1.**

Thank you,

Cindy Greatrex

Chair



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

## Ownership Disclosure Statement

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

**Project Title**

Herschel Avenue Triplex Tentative Parcel Map

Project No. For City Use Only

483102

**Project Address:**

7569 Herschel Avenue, La Jolla, CA 92037

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

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

Additional pages attached ☐ Yes ☐ No

Name of Individual (type or print):

☐ 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:



Project Title:	Project No. (For City Use Only)
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**Part II - To be completed when property is held by a corporation or partnership**

**Legal Status (please check):**

☐ Corporation   
 ☒ Limited Liability -or-   
 ☐ General) What State? \_\_\_\_\_ Corporate Identification No. \_\_\_\_\_  
☐ Partnership

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

Corporate/Partnership Name (type or print): Hershey Boys, LLC <input checked="" type="checkbox"/> Owner <input type="checkbox"/> Tenant/Lessee Street Address: 247 Kolmar Street City/State/Zip: La Jolla, CA 92037 Phone No: _____ Fax No: _____ (858)692-1524 Name of Corporate Officer/Partner (type or print): Brian Sorokin Title (type or print): <i>Managing Partner</i> Signature: <i>[Signature]</i> Date: <i>3/16/16</i>	Corporate/Partnership Name (type or print):  <input type="checkbox"/> Owner <input type="checkbox"/> Tenant/Lessee Street Address:  City/State/Zip:  Phone No: _____ Fax No: _____  Name of Corporate Officer/Partner (type or print):  Title (type or print):  Signature : _____ Date: _____
Corporate/Partnership Name (type or print):  <input type="checkbox"/> Owner <input type="checkbox"/> Tenant/Lessee Street Address:  City/State/Zip:  Phone No: _____ Fax No: _____  Name of Corporate Officer/Partner (type or print):  Title (type or print):  Signature : _____ Date: _____	Corporate/Partnership Name (type or print):  <input type="checkbox"/> Owner <input type="checkbox"/> Tenant/Lessee Street Address:  City/State/Zip:  Phone No: _____ Fax No: _____  Name of Corporate Officer/Partner (type or print):  Title (type or print):  Signature : _____ Date: _____
Corporate/Partnership Name (type or print):  <input type="checkbox"/> Owner <input type="checkbox"/> Tenant/Lessee Street Address:  City/State/Zip:  Phone No: _____ Fax No: _____  Name of Corporate Officer/Partner (type or print):  Title (type or print):  Signature : _____ Date: _____	Corporate/Partnership Name (type or print):  <input type="checkbox"/> Owner <input type="checkbox"/> Tenant/Lessee Street Address:  City/State/Zip:  Phone No: _____ Fax No: _____  Name of Corporate Officer/Partner (type or print):  Title (type or print):  Signature : _____ Date: _____



THE CITY OF SAN DIEGO

## Report to the Hearing Officer

DATE ISSUED: October 5, 2016 REPORT NO. HO-16-057

HEARING DATE: October 12, 2016

SUBJECT: HERSCHEL TRIPLEX TENTATIVE MAP/COASTAL DEVELOPMENT PERMIT,  
Process Three Decision.

PROJECT NUMBER: [483102](#)

OWNER/APPLICANT: Hershey Boys, LLC/Leppert Engineering

### SUMMARY:

Issue: Should the Hearing Officer approve the subdivision of a three-unit residential condominium project located at 7569-7571 Herschel Avenue within the La Jolla Community Plan Area?

### Staff Recommendations:

1. Approve Tentative Map No. 1692366, including a waiver of the requirements to underground existing offsite overhead facilities.
2. Approve Coastal Development Permit No. 1692367; and

Community Planning Group Recommendation: On July 12, 2016, the Development Permit Review Committee voted 4-0-1 to recommend approval of the project without recommendations. On August 4, 2016 the La Jolla Community Planning Association voted 15-0-1 to recommend approval of the proposed project without recommendations.

Environmental Review: The project was determined to be exempt pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15301(k) existing facilities division of existing single-family into common interest ownership. This project is not pending an appeal of the environmental determination. The environmental exemption determination for this project was made on May 25, 2016, and the opportunity to appeal that determination ended June 9, 2016.

## BACKGROUND

The 0.145-acre-site is located at 7569-7571 Herschel Avenue in the RM-3-7 Zone, the Coastal Height Limitation Overlay Zone, the Coastal Overlay Zone (Non-Appealable, Area 2), the Residential Tandem Parking Overlay Zone, the Transit Area Overlay Zone, and the La Jolla Community Plan and Local Coastal Program area within the La Jolla Community Plan and Local Coastal Program Land Use Plan.

The proposed project requires a Tentative Map per [San Diego Municipal Code \(SDMC\) Section 125.0430](#), to create three residential condominium units. The proposed project also requires a Coastal Development Permit for development located within the Coastal Overlay Zone per [SDMC Section 126.0707\(b\)](#).

Public improvements include installation of three one-inch water services, sidewalk underdrains, driveway closure, sidewalk and curb & gutter replacement, replacing existing asphalt pavement per City Standard along alley frontage per the satisfaction of the City Engineer, entering into a maintenance agreement for any ongoing permanent Best Management Practices (BMP), and undergrounding any new service run to any new or proposed structures within the subdivision.

## DISCUSSION

### Project Description:

The proposed subdivision is a Tentative Map to create three (3) residential condominium units from a for-rent, multi-family building that is currently under construction, and previously approved under Coastal Development Permit (CDP) No.1391420. No change is proposed to the approved site design, and no additional construction is proposed with this application.

### Undergrounding Requirement:

The project site is located within Council District One. San Diego Municipal Code (SDMC) Section 144.0240 allows the subdivider to apply for a waiver from the requirement to underground the existing overhead utilities within the boundary of the subdivision or within the abutting public rights-of-way. City staff has determined the undergrounding waiver request qualifies in that the conversion involves a short span of overhead facility (less than a full block in length) and it has been determined that such conversion is not a part of a continuing effort to accomplish a total undergrounding within a specific street or area.

### Community Plan Analysis:

The project site is located at 7569-7571 Herschel Avenue in the RM-3-7 Zone within the La Jolla Community Plan (LJCP), which designates the site for multi-family residential units. The project site is located within an urbanized area of the La Jolla community. The site is immediately adjacent to a two-story multi-family dwelling unit complex to the south, a two-story multi-family dwelling unit building, a one-story single family dwelling unit to the north, a one-story auto-repair facility to the west, and a one-story single family dwelling unit to the east.



The proposed subdivision and required public improvements are consistent with the policies, goals, and objectives of the applicable land use plan. The proposed subdivision complies with all applicable development regulations of the RM-3-7 Zone and the La Jolla Community Plan (LJCP), including height, setback, density, landscaping, and parking. No change is proposed to the approved site design, and no additional construction is proposed with this application.

The La Jolla Community Plan does not identify an existing or proposed public accessway on or adjacent to the site, nor, a view corridor on or adjacent to the site. The project will observe all setbacks and will be built entirely on private property.

Conclusion:

The proposed subdivision of three residential condominium units complies with all applicable development regulations. Staff has reviewed the project and determined that the proposed design, form, and citing of the proposed subdivision will be in conformity with the land use plan and complies with all regulations of the RM-3-7 Zone. Staff recommends the Hearing Officer approve the project as proposed.

ALTERNATIVES

1. Approve Tentative Map No. 1692366 and Coastal Development Permit No. 1692367, and the waiver to the requirements to underground existing offsite overhead utilities, with modifications.
2. Deny Tentative Map No. 1692366 and Coastal Development Permit No. 1692367, and the waiver to the requirements to underground existing offsite overhead utilities, if the findings required to approve the project cannot be affirmed.

Respectfully submitted,



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Gaetano Martedi, Development Project Manager

Attachments:

1. Project Location Map
2. Community Plan Land Use Map
3. Aerial Photograph
4. Project Data Sheet
5. Draft Resolution with Findings
6. Draft Permit with Conditions
7. Draft Map Resolution
8. Draft Map Conditions
9. Environmental Exemption

Page 4

10. Community Planning Group Recommendation
11. Ownership Disclosure Statement
12. Tentative Map