



THE CITY OF SAN DIEGO

REPORT TO THE PLANNING COMMISSION

DATE ISSUED: January 14, 2016 **REPORT NO.** PC-16-003

ATTENTION: Planning Commission, Agenda of January 21, 2016

SUBJECT: MERGE PDP AMENDMENT - PROJECT NO. 442226. PROCESS 4.

**OWNER/
APPLICANT:** SEA BREEZE INVESTMENTS III, LLC, Owner (Attachment 7)

SUMMARY

Issue: Should the Planning Commission approve the sale of distilled spirits within an eating and drinking establishment located at 5550 Carmel Mountain Road within the Carmel Valley Community Planning area?

Staff Recommendation: APPROVE Planned Development Permit No. 1546576.

Community Planning Group Recommendation – On September 25, 2015, the Carmel Valley Community Planning Board voted 8-0-0 to recommend approval of the project. The nine votes required for a quorum vote was not obtained due to early board member departures. The Chair of the Carmel Valley Planning Board communicated that a 9-0-0 vote would have been obtained had the members remained (Attachment 4).

Environmental Review - This project is within the scope of Final Addendum to Environmental Impact Report (EIR) No. 91-0834 and Subsequent EIR No. 96-0736/96-0737, certified by the Planning Commission on September 4, 2007. This report adequately describes the activity for the purposes of CEQA.

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

Code Enforcement Impact - None with this action.

Housing Impact Statement – None with this action.

BACKGROUND

The project site is located at 5550 Carmel Mountain Road, zoned Neighborhood Commercial

(NC) within the Carmel Valley Planned District, is designated for Neighborhood Commercial Use by the Carmel Valley Neighborhood 10 Precise Plan (N10 Precise Plan) and is one of the neighborhood commercial centers identified in the 1975 Carmel Valley Community Plan (Attachment 1). Neighborhood centers are intended to create focal points within each neighborhood. Each neighborhood center is to be pedestrian-oriented and planned comprehensively. The site is located at the northwest corner of Carmel Mountain Road and Carmel Country Road (Attachments 2 and 3). The proposed project site is the last site to develop within the Precise Plan area. Planned Development Permit (PDP) No. 1090744 was approved by the Planning Commission on May 22, 2014 and allowed the 4.11-acre property to be subdivided into seven lots and develop a mixed-use project with 22 multi-family dwelling units. The PDP also allowed approximately 32,355 square feet of neighborhood serving retail and office, with three deviations to height, residential uses on the ground floor and tree separation distance. The PDP approval included a restaurant, which is currently under construction. All applicable conditions from PDP No. 1090744 are unchanged and remain in effect.

DISCUSSION

Project Description

The project includes a request to add the sale of distilled spirits to a restaurant. Table 131-05B of Section 131.0522, Land Use Regulation Table for Commercial Zones of the Land Development Code (LDC) indicates eating and drinking establishments are allowed to serve beer and wine by right. However, an eating and drinking establishment or restaurant may add intoxicating beverages other than beer and wine (distilled spirits) with the approval of a Planned Development Permit.

Required Approvals and Process

As the project proposes to add distilled spirits to the proposed eating and drinking establishment, and deviates from the development regulation allowing only beer and wine, the applicant has applied for a Planned Development Permit to allow the deviation.

Staff supports the deviation because the resulting eating and drinking establishment would provide a full service restaurant in the community. The General Plan Economic Prosperity Element sets forth a policy for Neighborhood Commercial Areas to retain the City's existing neighborhood commercial activities and develop new commercial activities within walking distance of residential areas, unless proven infeasible (Policy EP-B.8). In addition, the General Plan Mobility Element sets forth a Walkable Community Goal where walking is a viable travel choice, particularly for trips of less than one-half mile, and a policy that encourages a mix of uses in villages, commercial centers, transit corridors, employment centers and other areas identified in community plans so that it is possible for a greater number of short trips to be made by walking (Policy ME-A.8). The N10 Precise Plan describes Neighborhood Commercial centers as responding to the daily convenience needs of the residents within the neighborhood, and identifies restaurants as a typical Neighborhood Commercial use. As strict adherence to the development regulations may cause potential restaurant patrons to drive outside the Neighborhood Commercial center in search of a full service restaurant, approval of the PDP would result in a better project. The deviation would also be consistent with N10 Precise Plan

policy to respond to convenience needs of neighborhood residents as an additional product type to be sold for on-site consumption. Staff has provided draft findings to support the requested deviation.

General Plan/Community Plan Analysis

The project site is designated as the Neighborhood Commercial Center by the Carmel Valley Neighborhood 10 Precise Plan (Precise Plan, Attachment 1). The N10 Precise Plan is implemented through the Carmel Valley Planned District Ordinance (CVPDO). Per the CVPDO, the project site is zoned CVPD-NC (Carmel Valley Planned District – Neighborhood Commercial), which follows the use and development regulations of the CN-1-2 zone (Commercial-Neighborhood). The Neighborhood Commercial Center is intended to accommodate shopping facilities that would provide convenience goods and services for the surrounding residential neighborhood. The Precise Plan states that permitted uses within the Neighborhood Center must co-exist with the neighborhood in an atmosphere of compatibility and restraint. The project proposes the addition of distilled spirits to the proposed eating and drinking establishment. The hours of sale of these spirits would be restricted to the same hours as the sale of beer and wine or 6:00 AM to 12:00 AM (midnight).

Community Planning Group Recommendation

The Carmel Valley Community Planning Board (Board) voted to recommend approval of the project, 8-0-0 (not a quorum) with no recommended conditions. (Attachment 4).

Conclusion

Staff has reviewed the proposed project and all issues identified through the review process have been resolved in conformance with adopted City Council policies and regulations of the Land Development Code. Staff has provided draft findings to support approval of the project (Attachment 6) and draft conditions of approval (Attachment 5). Staff recommends the Planning Commission approve the project as proposed.

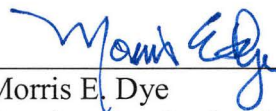
ALTERNATIVES

1. **Approve** Planned Development Permit No. 1546576, **with modifications.**
2. **Deny** Planned Development Permit No. 1546576, **if the findings required to approve the project cannot be affirmed.**

Respectfully submitted,



Mike Westlake
Assistant Deputy Director
Development Services Department

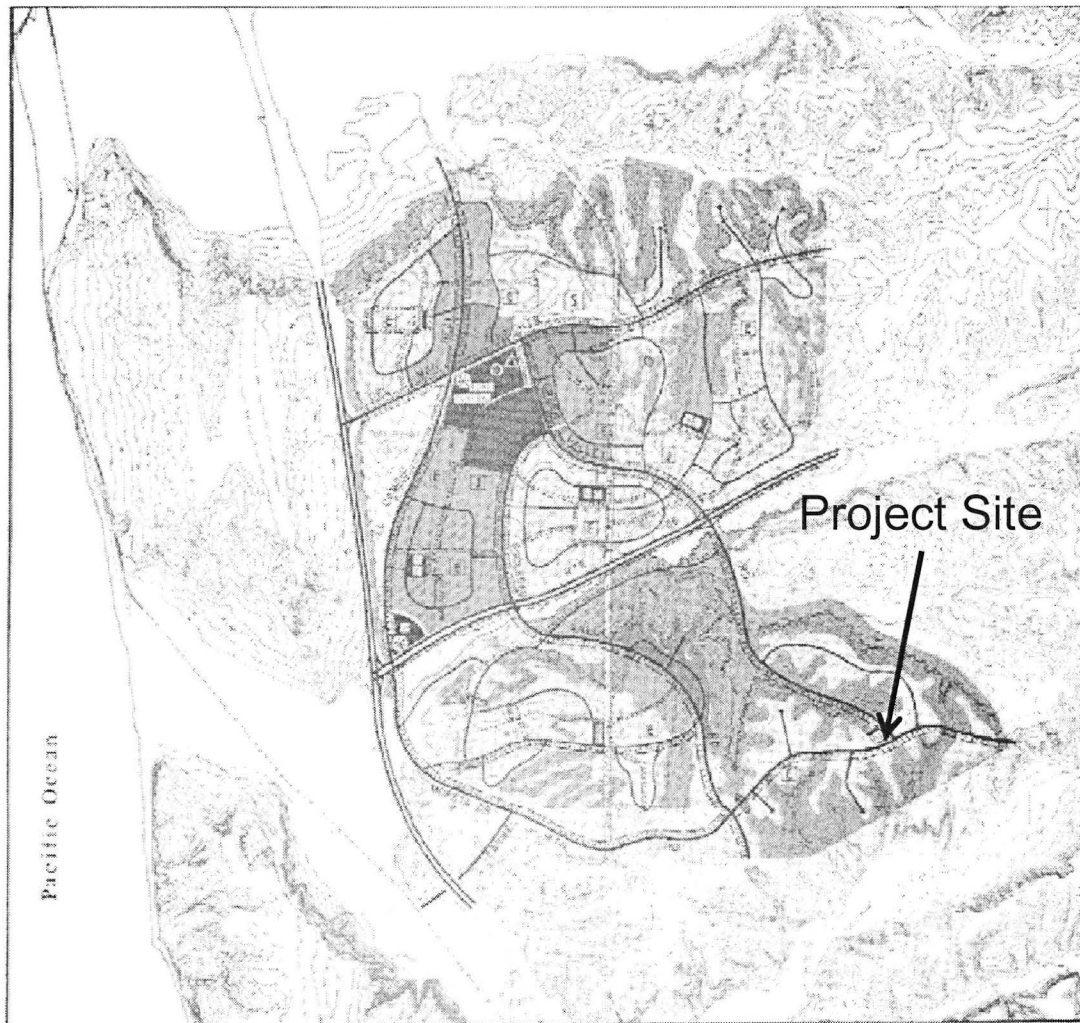


Morris E. Dye
Development Project Manager
Development Services Department

VACCHI/MED

Attachments:

1. Carmel Valley Neighborhood 10 Precise Plan Land Use Map
2. Aerial Photograph
3. Project Location Map
4. Community Planning Group Recommendation
5. Draft Permit with Conditions
6. Draft Permit Resolution with Findings
7. Ownership Disclosure Statement
8. Project Data Sheet
9. PDP No. 1090744
10. Site Plan



NORTH CITY WEST

RESIDENTIAL

- VERY LOW DEN. 5 DU/AC.
- LOW DEN. 10 DU/AC.
- LOW MED. DEN. 20 DU/AC.
- MEDIUM DEN. 40 DU/AC.

COMMERCIAL

- ALL CATEGORIES N-
- NEIGHBORHOOD V-VISITOR

PUBLIC FACILITIES

- SCHOOLS E-ELEM. J-JR. S-SR.
- P-PARK N-NEIGHBORHOOD C-COMM.
- LIBRARY FIRE STATION

TRANSPORTATION

- FREEWAY
- MAJOR STREET
- COLLECTOR STREET

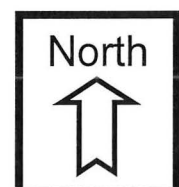
- BICYCLE PATH
- PEDESTRIAN
- TRANSPORTATION TERMINAL
- OPEN SPACE
- FLOOD PLAIN

0 1,000 2,000 4,000 FEET



Land Use Map

Merge PDP, 5550 Carmel Mountain
PROJECT NO. 442226





Location Aerial Photo

Merge PDP- 5550 Carmel Mountain Road
PROJECT NO. 442226





Project Location Map

Merge PDP- 5550 Carmel Mountain Road
PROJECT NO. 442226



CARMEL VALLEY COMMUNITY PLANNING BOARD

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

September 25, 2015

Gary Levitt, Principal
Sea Breeze Properties
3525 Del Mar Heights Rd., Ste. 246
San Diego, CA 92130

Re: Merge CV

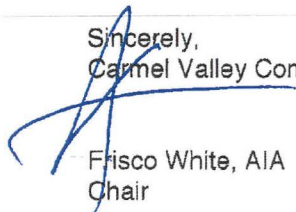
Dear Gary:

The Carmel Valley Community Planning Board (CVCPB) reviewed your request to consider a Planned Development Permit for the sale of distilled spirits in association with a restaurant at Merge CV. We discussed not only your request but for you to consider the noise impact of restaurants near residential homes and that you would address same in lease agreements with the tenants.

The CVCPB considered the abovementioned project on September 24, 2015 and approved the project by a vote of 8-0.

It is important to note that due to two (2) board members needing to leave the meeting early the required 9 votes in the affirmative was not met. Nevertheless, the vote of 8-0 shows that the community is in support of the sale of distilled spirits at Merge CV. I am confident that you would have received the minimum 9 affirmative votes had the board members not needed to leave early.

Sincerely,
Carmel Valley Community Planning Board



Frisco White, AIA
Chair

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

WHEN RECORDED MAIL TO
PROJECT MANAGEMENT
PERMIT CLERK
MAIL STATION 501

SPACE ABOVE THIS LINE FOR RECORDER'S USE

INTERNAL ORDER NUMBER: 244006159

PLANNED DEVELOPMENT PERMIT NO. 1546576
MERGE PDP AMENDMENT PROJECT NO. 442226
(AMENDMENT TO PLANNED DEVELOPMENT PERMIT NO. 1090744)
PLANNING COMMISSION

This Planned Development Permit No.1546576, amending Planned Development Permit No. 1090744 is granted by the Planning Commission of the City of San Diego to Sea Breeze Investments III, LLC Owner/Permittee, pursuant to San Diego Municipal Code (SDMC) section 126.0602(b)(1). The 4.11-acre site is located at 5550 Carmel Mountain Road in the NC zone of the Carmel Valley Plan area. The project site is legally described as: Lot 1 of Carmel Highlands Village, according to Map thereof No. 15714, filed September 19, 2008.

Subject to the terms and conditions set forth in this Permit, permission is granted to Sea Breeze Investments III, LLC Owner/Permittee to allow the sale of distilled spirits in association with an eating and drinking establishment as described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated January 21, 2016, on file in the Development Services Department.

The project shall include:

- a. A deviation to allow the sale of intoxicating beverages other than beer and wine (distilled spirits);
- b. Public and private accessory improvements determined by the Development Services Department to be consistent with the land use and development standards for this site in accordance with the adopted community plan, the California Environmental Quality Act [CEQA] and the CEQA Guidelines, the City Engineer's requirements, zoning regulations, conditions of this Permit, and any other applicable regulations of the SDMC.

STANDARD REQUIREMENTS:

1. This permit must be utilized within thirty-six (36) months after the date on which all rights of appeal have expired. If this permit is not utilized in accordance with Chapter 12, Article 6, Division 1 of the SDMC within the 36 month period, this permit shall be void unless an Extension of Time has been granted. Any such Extension of Time must meet all SDMC requirements and applicable guidelines in effect at the time the extension is considered by the appropriate decision maker. This permit must be utilized by February 5, 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.

INFORMATION ONLY:

- The issuance of this discretionary use permit alone does not allow the immediate commencement or continued operation of the proposed use on site. The operation allowed by this discretionary use permit may only begin or recommence after all conditions listed on this permit are fully completed and all required ministerial permits have been issued and received final inspection.
- Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of this Permit, may protest the imposition within ninety days of the approval of this development permit by filing a written protest with the City Clerk pursuant to California Government Code-section 66020.
- This development may be subject to impact fees at the time of construction permit issuance.

APPROVED by the Planning Commission of the City of San Diego on January 21, 2016 and [Approved Resolution Number].

Planned Development Permit No. 1546576
Date of Approval: January 21, 2016

AUTHENTICATED BY THE CITY OF SAN DIEGO DEVELOPMENT SERVICES
DEPARTMENT

Morris E. Dye
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.

Sea Breeze Investments III, LLC
Owner/Permittee

By _____
Gary Levitt
Manager

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

PLANNING COMMISSION
RESOLUTION NO.
PLANNED DEVELOPMENT PERMIT NO. 1546576
AMENDMENT TO PLANNED DEVELOPMENT PERMIT NO. 1090744
MERGE PDP PROJECT NO. 442226

WHEREAS, Sea Breeze Investments III, LLC, Owner/Permittee, filed an application with the City of San Diego for a permit to allow distilled spirits in association with an eating and drinking establishment (as described in and by reference to the approved Exhibits "A" and corresponding conditions of approval for the associated Planned Development Permit No. 1546576) on portions of a 4.11-acre site; and

WHEREAS, the project site is located at 5550 Carmel Mountain Road in the NC (Neighborhood Commercial) zone of the Carmel Valley Planned District within the Carmel Valley Community Plan area; and

WHEREAS, the project site is legally described as: Lot 1 of Carmel Highlands Village, according to Map thereof No. 15714, filed September 19, 2008; and

WHEREAS, on January 21, 2016, the Planning Commission of the City of San Diego considered Planned Development Permit No. 1546576, pursuant to the Land Development Code of the City of San Diego;

NOW, THEREFORE,

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

That the Planning Commission adopts the following written Findings, dated January 21, 2016:

FINDINGS:

Planned Development Permit - Section 126.0604

A. Findings for all Planned Development Permits

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

The proposed Planned Development Permit (PDP) amendment would allow the sale of distilled spirits in association with an eating and drinking establishment, currently under construction. An eating and drinking establishment may also sell distilled spirits in the NC Zone with the approval of a PDP.

The City of San Diego General Plan designates the site for Commercial Retail and Services and the Carmel Valley Community Plan/Carmel Valley Neighborhood 10 Precise Plan (N10 Precise Plan) designates the site for Neighborhood Commercial development. The N10 Precise Plan is implemented through the Carmel Valley Planned District Ordinance (CVPDO). Per the CVPDO, the project site is zoned CVPD-NC (Carmel Valley Planned District – Neighborhood Commercial), which follows the use and development regulations of the CN-1-2 zone (Commercial-Neighborhood). A Commercial Land Use Goal of the General Plan is to provide economically healthy neighborhoods and community commercial areas that are easily accessible to residents. The General Plan Economic Prosperity (EP) Element sets forth a policy for Neighborhood Commercial Areas to retain the City's existing

neighborhood commercial activities and develop new commercial activities within walking distance of residential areas, unless proven infeasible (Policy EP-B.8). The General Plan Mobility Element (ME) sets forth a Walkable Community Goal where walking is a viable travel choice, particularly for trips of less than one-half mile. The ME also includes a policy that encourages a mix of uses in villages, commercial centers, transit corridors, employment centers and other areas identified in community plans so that it is possible for a greater number of short trips to be made by walking (Policy ME-A.8). The N10 Precise Plan describes Neighborhood Commercial centers as responding to the daily convenience needs of the residents within the neighborhood, and identifies restaurants as a typical Neighborhood Commercial use.

Currently, there are no restaurants with full bar provisions in Neighborhood 10. Within the 92130 zip code, there are full-bar restaurants in the Town Center (Neighborhood 9), in Neighborhood 2, in Del Mar Mesa and in Torrey Hills. Granting the PDP would provide a restaurant with full-bar provisions within the neighborhood it serves, which would be consistent with the General Plan goals and policies for commercial activities and services within walking distance of residential areas. The proposed deviation to include distilled spirits would also be consistent with the N10 Precise Plan policy to respond to convenience needs of neighborhood residents as an additional product type may be sold for on-site consumption. As the proposal is consistent with General Plan, the Carmel Valley Community Plan goals, and existing neighborhood commercial land uses and zoning, the proposed development will not adversely affect the applicable land use plan.

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

The proposed Planned Development Permit (PDP) amendment would allow the sale of distilled spirits in association with an eating and drinking establishment, currently under construction. An eating and drinking establishment may also sell distilled spirits in the NC Zone with the approval of a PDP.

The project is part of the approved Merge mixed-use development, located at the northwest corner of two fully improved major streets (Carmel Mountain Road and Carmel Country Road) in Neighborhood 10, a well-developed and established neighborhood of the Carmel Valley community. The project site is located in a built urban environment with associated public improvements. All utilities required to serve the project are existing and available to serve the use. The project site meets all emergency access requirements and the associated permits controlling development and operation ensure project compliance with applicable local, regional, state, and federal regulations. These regulations prevent detrimental impacts to health, safety, and welfare of persons working in and around the project, including all applicable Building, Fire, Plumbing, Mechanical Code requirements, and California Department of Alcoholic Beverages Control regulations. Per zoning regulations, the eating and drinking establishment may operate only between 6:00 AM and 12:00 AM midnight (Footnotes 1 and 16 to SDMC Table 131-05B). As the project would be consistent with all building, fire, plumbing and mechanical code requirements and the California Department of Alcoholic Beverages Control regulations, the proposed development will not be detrimental to public health, safety, and welfare.

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

The proposed Planned Development Permit (PDP) amendment would allow the sale of distilled spirits in association with an eating and drinking establishment, currently under construction. An eating and drinking establishment may also sell distilled spirits in the NC Zone with the approval of a PDP.

The project proposes the PDP amendment to permit a neighborhood-serving restaurant with full bar (beer, wine, and distilled spirits). Restaurants which sell beer and wine are a permitted use by-right in the CN zones and also may sell distilled spirits with the approval of a PDP. No other deviations are required to allow the sale of distilled spirits. Granting the PDP would provide a restaurant with full-bar provisions within the neighborhood it serves. The project would be consistent with the General Plan goals and policies for commercial activities and services within walking distance of residential areas, and the N10 Precise Plan for designated neighborhood commercial centers to respond to convenience needs of neighborhood residents. Approving the PDP would make the project more desirable by adding a new product type, facilitating full services, which implements Carmel Valley Plan policies. As strict adherence to the development regulations would cause potential restaurant patrons to drive outside the Neighborhood Commercial center in search of a full service restaurant, approval of the PDP would result in a better project.

BE IT FURTHER RESOLVED that, based on the findings hereinbefore adopted by the Planning Commission, Planned Development Permit No. 1546576 is hereby GRANTED by the Planning Commission to the referenced Owner/Permittee, in the form, exhibits, terms and conditions as set forth in Planned Development Permit No. 1546576, a copy of which is attached hereto and made a part hereof.

Morris E. Dye
Development Project Manager
Development Services

Adopted on: January 21, 2016

SAP or WBS Number: 24006159



THE CITY OF SAN DIEGO

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

Ownership Disclosure Statement

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

Project Title

MERGE PDP Amendment

Project No. For City Use Only

442226

Project Address:

5550 Carmel Mountain Road - Carmel Valley Neighborhood 10

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 See reverse side

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:
MERGE PDP Amendment

Project No. (For City Use Only)

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

Legal Status (please check):

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

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

Corporate/Partnership Name (type or print):

Sea Breeze Investments III, LLC

☒ Owner ☐ Tenant/Lessee

Street Address:

3525 Del Mar Heights Road #246

City/State/Zip:

San Diego, CA 92130

Phone No:

(858) 361-8555

Fax No:

(858) 755-1209

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

Gary Levitt

Title (type or print):

Manager

Signature :

Date:

Corporate/Partnership Name (type or print):

☐ Owner ☐ Tenant/Lessee

Street Address:

City/State/Zip:

Phone No:

Fax No:

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

Title (type or print):

Signature :

Date:

Corporate/Partnership Name (type or print):

☐ Owner ☐ Tenant/Lessee

Street Address:

City/State/Zip:

Phone No:

Fax No:

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

Title (type or print):

Signature :

Date:

Corporate/Partnership Name (type or print):

☐ Owner ☐ Tenant/Lessee

Street Address:

City/State/Zip:

Phone No:

Fax No:

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

Title (type or print):

Signature :

Date:

Corporate/Partnership Name (type or print):

☐ Owner ☐ Tenant/Lessee

Street Address:

City/State/Zip:

Phone No:

Fax No:

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

Title (type or print):

Signature :

Date:

Corporate/Partnership Name (type or print):

☐ Owner ☐ Tenant/Lessee

Street Address:

City/State/Zip:

Phone No:

Fax No:

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

Title (type or print):

Signature :

Date:

PROJECT DATA SHEET

PROJECT NAME:	Merge	
PROJECT DESCRIPTION:	Mixed-use development	
COMMUNITY PLAN AREA:	Carmel Valley	
DISCRETIONARY ACTIONS:	Easement Vacation, VTM, PDP & SDP	
COMMUNITY PLAN LAND USE DESIGNATION:	Neighborhood Commercial	
<u>ZONING INFORMATION:</u> ZONE: CVPD-NC Zone HEIGHT LIMIT: 30 foot maximum height limit. LOT SIZE: 5,000 minimum lot size FLOOR AREA RATIO: 1.0 maximum FRONT SETBACK: N/A SIDE SETBACK: 10/0 (Minimum/Optional) feet. STREETSIDE SETBACK: N/A REAR SETBACK: 10/0 (Minimum/Optional) feet. PARKING: 168 parking spaces required – 195 parking spaces provided		
<u>ADJACENT PROPERTIES:</u>	LAND USE DESIGNATION & ZONE	EXISTING LAND USE
NORTH:	Multi-family/MF1	Multi-family
SOUTH:	Single family/SF2	Single family
EAST:	Single family/SF3	Single family
WEST:	Multi-family/MF1	Multi-family
DEVIATIONS OR VARIANCES REQUESTED:	Table 131-05B Section 131.0522, Land Use regulation Table for Commercial Zones of the Land Development Code.	
COMMUNITY PLANNING GROUP RECOMMENDATION:	Carmel Valley Community Planning Board, on September 25, 2015, voted 8-0-0 to recommend approval of the project.	

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

WHEN RECORDED MAIL TO
CITY CLERK
MAIL STATION 2A

THE ORIGINAL OF THIS DOCUMENT
WAS RECORDED ON JUN 13, 2014
DOCUMENT NUMBER 2014-0245386
Ernest J. Dronenburg, Jr., COUNTY RECORDER
SAN DIEGO COUNTY RECORDER'S OFFICE
TIME: 10:27 AM

SPACE ABOVE THIS LINE FOR RECORDER'S USE

INTERNAL ORDER NUMBER: 24003541

PLANNED DEVELOPMENT PERMIT NO. 1090744 and
SITE DEVELOPMENT PERMIT NO. 1090742
Amending Site Development Permit No. 423678
MERGE PROJECT NO. 311061 - [MMRP]
PLANNING COMMISSION

This Planned Development Permit No. 1090744 and Site Development Permit No. 1090742, amending Site Development Permit No. 423678, is granted by the Planning Commission of the City of San Diego to, CR CARMEL VALLEY, LLC, a Delaware limited liability company, Owner/Permittee, pursuant to San Diego Municipal Code [SDMC] section 126.0600 and 126.0500. The 4.11 acre site is located at the northwest corner of Carmel Mountain Road and Carmel Country Road in the Neighborhood Commercial Zone of the Carmel Valley Planned District of the Neighborhood 10 Precise Plan. The project site is legally described as Lot 1 of Carmel Highlands Village, according to Map thereof No. 15714, filed September 19, 2008.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee to subdivide the 4.11 acre property into seven lots and develop the site with a mixed-use project of twenty-two multi-family units and approximately 32,355 square feet of neighborhood serving retail and office uses with a height deviation, residential on the ground floor in the front half of the lot and shade tree distribution adjacent to rather than within the vehicular use area described and identified by size, dimension, quantity, type, and location on the approved Exhibit "A" dated May 22, 2014, on file in the Development Services Department.

The project shall include:

- a. Subdivide of the 4.11-acre property into seven lots and develop a mixed-use project with twenty-two multi-family dwelling units and approximately 32,355 square feet of neighborhood serving retail and office uses, with three deviations;

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- b. Three deviations are approved for the project: 1. A deviation from Municipal Code section 131.0531 to allow three of five buildings to be up to three feet six inches higher in specific locations than the maximum thirty feet allowed, 2. A deviation from Municipal Code section 131.0540(c) to allow residential uses on the ground floor of Building 4 and Building 5 in the front half of the lot, and 3. A deviation from the Land Development Code section 142.0406 to allow trees, distributed twenty-four feet on center, along the edge of the vehicular use area within Lot 2 rather than within the vehicular use area;
- c. Landscaping (planting, irrigation and landscape related improvements);
- d. Off-street parking; and
- e. Public and private accessory improvements determined by the Development Services Department to be consistent with the land use and development standards for this site in accordance with the adopted community plan, the California Environmental Quality Act [CEQA] and the CEQA Guidelines, the City Engineer's requirements, zoning regulations, conditions of this Permit, and any other applicable regulations of the SDMC.

STANDARD REQUIREMENTS:

1. This permit must be utilized within thirty-six (36) months after the date on which all rights of appeal have expired. If this permit is not utilized in accordance with Chapter 12, Article 6, Division 1 of the SDMC within the 36 month period, this permit shall be void unless an Extension of Time has been granted. Any such Extension of Time must meet all SDMC requirements and applicable guidelines in effect at the time the extension is considered by the appropriate decision maker. This permit must be utilized by June 6, 2017.
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.

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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.

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

12. Uses allowed by this permit shall not begin operating before 6:00 a.m. or continue operating later than 12:00 midnight. All delivery trucks and any other commercial trucks shall be limited to the hours of 6:00 a.m. to 10:00 p.m. daily.

ENVIRONMENTAL/MITIGATION REQUIREMENTS:

13. Mitigation requirements in the Mitigation, Monitoring, and Reporting Program [MMRP] for Final Addendum to Environmental Impact Report (EIR) 91-0834 and Subsequent EIR No. 96-0736/96-0737 (Project No. 72522) shall apply to this Permit. These MMRP conditions are hereby incorporated into this Permit by reference.

14. The mitigation measures specified in the MMRP and outlined in Final Addendum to Environmental Impact Report (EIR) 91-0834 and Subsequent EIR No. No. 96-0736/96-0737 (Project No. 72522) shall be noted on the construction plans and specifications under the heading ENVIRONMENTAL MITIGATION REQUIREMENTS.

15. The Owner/Permittee shall comply with the MMRP as specified in Final Addendum to Environmental Impact Report (EIR) 91-0834 and Subsequent EIR No. 96-0736/96-0737 (Project No. 72522) to the satisfaction of the Development Services Department and the City Engineer. Prior to issuance of any construction permit, all conditions of the MMRP shall be adhered to, to the satisfaction of the City Engineer.

ENGINEERING REQUIREMENTS:

16. Prior to the issuance of any building permit, the Owner/Permittee shall assure by permit and bond the replacement of the existing curb ramp with City standard curb ramp with truncated domes, located at the northwest corner of Carmel Mountain Road and Carmel Country Road, per Standard Drawing SDG-132, satisfactory to the City Engineer.

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

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

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19. Prior to the issuance of any construction permit, the Water Quality Technical Report will be subject to final review and approval by the City Engineer.
20. The drainage system for this project shall be private and will be subject to approval by the City Engineer.
21. Prior to the issuance of any building permits, the Owner/Permittee shall obtain a bonded grading permit for the grading proposed for this project. All grading shall conform to requirements in accordance with the City of San Diego Municipal Code in a manner satisfactory to the City Engineer.
22. Development of this project shall comply with all storm water construction requirements of the State Construction General Permit, Order No. 2009-0009-DWQ and the Municipal Storm Water Permit, Order No. R9-2007-0001. In accordance with Order No. 2009-0009DWQ, a Risk Level Determination shall be calculated for the site and a Storm Water Pollution Prevention Plan (SWPPP) shall be implemented concurrently with the commencement of grading activities.
23. Prior to issuance of a grading or a construction permit, a copy of the Notice of Intent (NOI) with a valid Waste Discharge ID number (WDID#) shall be submitted to the City of San Diego as a proof of enrollment under the Construction General Permit. When ownership of the entire site or portions of the site changes prior to filing of the Notice of Termination (NOT), a revised NOI shall be submitted electronically to the State Water Resources Board in accordance with the provisions as set forth in Section II.C of Order No. 2009-0009-DWQ and a copy shall be submitted to the City.

LANDSCAPE REQUIREMENTS:

24. Prior to issuance of any engineering permits for grading, the Owner/Permittee shall submit complete construction documents for the revegetation and hydroseeding of all disturbed land in accordance with the Landscape Standards, the San Diego Low Impact Development Design Manual, to the satisfaction of the Development Services Department. All plans shall be in substantial conformance to this permit and Exhibit "A."
25. Prior to issuance of any engineering permits for right-of-way improvements, the Owner/Permittee shall submit complete landscape construction documents for right-of-way improvements to the Development Services Department for approval. Improvement plans shall provide a forty square foot area around each tree which is unencumbered by utilities. Driveways, utilities, drains, water and sewer laterals shall be designed so as not to prohibit the placement of street trees.
26. Prior to issuance of any construction permits for structures (including shell), the Owner/Permittee shall submit complete landscape and irrigation construction documents consistent with the Landscape Standards to the Development Services Department for approval. The construction documents shall be in substantial conformance with Exhibit "A." Construction plans shall provide a forty square foot area around each tree unencumbered by hardscape and utilities unless otherwise approved per LDC 142.0403(b)5.

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

28. 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.

29. 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.

30. If any required landscape, including existing or new plantings, hardscape, landscape features, et cetera, indicated on the approved construction document plans is damaged or removed during demolition or construction, the Owner/Permittee shall repair and/or replace in kind and equivalent size per the approved documents to the satisfaction of the Development Services Department within 30 days of damage or Certificate of Occupancy.

PLANNING/DESIGN REQUIREMENTS:

31. 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.

32. All signs associated with this development shall be consistent with sign criteria established by the approved Sign Plan.

33. The Owner/Permittee shall post a copy of each approved discretionary Permit and Vesting Tentative Map in its sales office for consideration by each prospective buyer.

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

TRANSPORTATION REQUIREMENTS

35. No fewer than 195 off-street parking spaces (61 parking spaces in underground structure, 44 parking spaces in private townhome garages, 77 onsite surface parking spaces, and 13 onsite surface parking spaces within Corum Court and Drycliff Trail); shall be permanently maintained within the approximate location shown on the project's Exhibit "A", including 6 disabled accessible (one van accessible), 4 motorcycle, 22 bicycle and one loading zone. Further, 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 Director of Development Services.

PUBLIC UTILITIES DEPARTMENT REQUIREMENTS:

36. 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.

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

38. 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.

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

40. 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.

GEOLOGY REQUIREMENTS:

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

42. Prior to exoneration of the bond and grading permit close-out, the Owner/Permittee shall submit an as-graded geotechnical report prepared in accordance with the City's "Guidelines for Geotechnical Reports" following completion of the grading. The as-graded geotechnical report shall be reviewed for adequacy by the Geology Section of Development Services.

INFORMATION ONLY:

- The issuance of this discretionary use permit alone does not allow the immediate commencement or continued operation of the proposed use on site. The operation allowed by this discretionary use permit may only begin or recommence after all conditions listed

on this permit are fully completed and all required ministerial permits have been issued and received final inspection.

- Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of this Permit, may protest the imposition within ninety days of the approval of this development permit by filing a written protest with the City Clerk pursuant to California Government Code-section 66020.
- This development may be subject to impact fees at the time of construction permit issuance.
- This development may be subject to payment of School Impact Fees at the time of issuance of building permits, as provided by Education Code Section 17620, in accordance with procedures established by the Building Official.
- In accordance with Chapter 14, Article 2, Division 13, the Inclusionary Housing Ordinance, the project is not required to provide any affordable housing. The ordinance states all projects with an approved Vesting Tentative Map or an approved Development Agreement prior to July 3, 2003 are exempt from the City's Inclusionary Housing Ordinance. The prior Development Agreement, in effect on the subject property, was negotiated and executed in 1998 before the ordinance was adopted by the City Council, and through the provisions of the Inclusionary Housing Ordinance this project is exempt from the requirements Inclusionary Housing Ordinance.

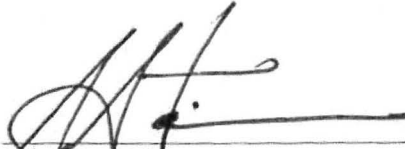
APPROVED by the Planning Commission of the City of San Diego on May 22, 2014 by Planning Commission Resolution No. 4603-PC-3.

ORIGINAL

Permit Type/PTS Approval No.: PDP No. 1090744 and
SDP No. 1090742

Date of Approval: May 22, 2014

AUTHENTICATED BY THE CITY OF SAN DIEGO DEVELOPMENT SERVICES
DEPARTMENT

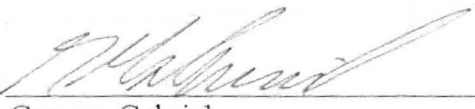


John S. Fisher
Development Project Manager
Development Services Department

**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.

CR CARMEL VALLEY, LLC,
a Delaware limited liability company
Owner/Permittee

By 
Graeme Gabriel
Managing Member

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

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT
CIVIL CODE § 1189

State of California

County of SAN DIEGOOn June 12, 2014
Date

before me,

VIVIAN M. GIES, Notary Public
Here Insert Name and Title of the Officer

personally appeared

JOHN S. FISHER

Name(s) of Signer(s)



Place Notary Seal Above

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

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 DocumentTitle or Type of Document: PTS 3/1061 / MERGE

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's Name: _____

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

Signer Is Representing: _____

Signer Is Representing: _____

ORIGINAL

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

State of California

County of San DiegoOn June 11, 2014
Date

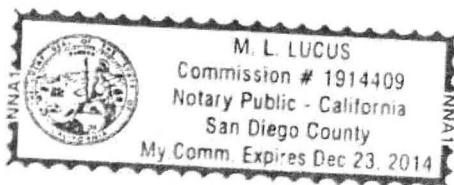
before me,

M. L. Lucus, Notary Public

Here Insert Name and Title of the Officer

personally appeared Greene Gabriel

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.

Place Notary Seal Above

Signature: M. L. Lucus

Signature of Notary Public

OPTIONAL

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

Description of Attached Document

Title or Type of Document: _____

Document Date: _____

Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

Signer's Name: _____

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

Signer Is Representing: _____

Signer Is Representing: _____

ORIGINAL

PLANNING COMMISSION RESOLUTION NO. 4603-PC-3
PLANNED DEVELOPMENT PERMIT NO. 1090744 and
SITE DEVELOPMENT PERMIT NO. 1090742
Amending Site Development Permit No. 423678
MERGE PROJECT NO. 311061

WHEREAS, CR CARMEL VALLEY, LLC, a Delaware limited liability company, Owner/Permittee, filed an application with the City of San Diego for a permit to amend Site Development Permit No. 423678 to develop the site with a mixed-use development of twenty-two multi-family units and approximately 32,355 square feet of neighborhood serving retail and office uses on seven lots with a deviation to allow buildings to observe a maximum height greater than that allowed by the Neighborhood Commercial Zone of the Carmel Valley Planned District and a deviation to allow residential uses on the ground floor in the front half of lots (as described in and by reference to the approved Exhibits "A" and corresponding conditions of approval for the associated Permit Nos. 1090744 and 1090742), on portions of a 4.11 acre site;

WHEREAS, the project site is located at the northwest corner of Carmel Mountain Road and Carmel Country Road in the Neighborhood Commercial Zone of the Carmel Valley Planned District of the Carmel Valley Neighborhood 10 Precise Plan;

WHEREAS, the project site is legally described as Lot 1 of Carmel Highlands Village, according to Map thereof No. 15714, filed September 19, 2008;

WHEREAS, on May 22, 2014, the Planning Commission of the City of San Diego considered Planned Development Permit No. 1090744 and Site Development Permit No. 1090742, amending Site Development Permit No. 423678, pursuant to the Land Development Code of the City of San Diego;

WHEREAS, on March 19, 2014, the City of San Diego, as Lead Agency, through the Development Services Department, made and issued an Environmental Determination the project is within the scope of Final Addendum to Environmental Impact Report No. 91-0834 and Subsequent EIR No. 96-0736/96-0737, certified on September 4, 2007 and this report adequately describes the activity for the purposes of CEQA;

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 May 22, 2014.

FINDINGS:

Planned Development Permit - Section 126.0604

1. **The proposed development will not adversely affect the applicable land use plan.** The Merge project will develop the site with a mixed-use development of twenty-two multi-family units and approximately 32,355 square feet of neighborhood serving retail and office uses on seven lots with a deviation to allow buildings to observe a maximum height greater than that allowed by the Neighborhood Commercial Zone of the Carmel Valley Planned District, a

deviation to allow residential uses on the ground floor in the front half of lots and a deviation to allow an alternative to the requirement of providing trees within the vehicular use area. The site is designated Commercial Employment, Retail, and Services in the General Plan and is designated Neighborhood Commercial in the Carmel Valley Neighborhood 10 Precise Plan. Consistent with the Precise Plan the site is zoned Neighborhood Commercial in the Carmel Valley Planned District, which allows retail, commercial services, office and residential uses. The proposed mixed-use development consisting of commercial retail and office uses and twenty-two multi-family dwelling units will not adversely affect the General Plan or the Carmel Valley Neighborhood 10 Precise Plan.

2. The proposed development will not be detrimental to the public health, safety, and welfare. The Merge project will develop the site with a mixed-use development of twenty-two multi-family units and approximately 32,355 square feet of neighborhood serving retail and office uses on seven lots with a deviation to allow buildings to observe a maximum height greater than that allowed by the Neighborhood Commercial Zone of the Carmel Valley Planned District, a deviation to allow residential uses on the ground floor in the front half of lots and a deviation to allow an alternative to the requirement of providing trees within the vehicular use area. The Merge project will not be detrimental to public health, safety and welfare because the permit controlling the development and continued use of the proposed project for this site contains specific conditions addressing the project compliance with the City's codes, policies, regulations and other regional, state, and federal regulations to prevent detrimental impacts to the health, safety and general welfare of persons residing and/or working in the area. Conditions of approval require compliance with several operational constraints and development controls, the review of all construction plans by professional staff to determine construction will comply with all regulations and the inspection of construction to assure construction permits are implemented in accordance with the approved plans and the final construction will comply with all regulations, will assure the continued health, safety and general welfare of persons residing or working in the area.

3. The proposed development will comply with the regulations of the Land Development Code including any proposed deviations pursuant to Section 126.0602(b)(1) that are appropriate for this location and will result in a more desirable project than would be achieved if designed in strict conformance with the development regulations of the applicable zone; and any allowable deviations that are otherwise authorized pursuant to the Land Development Code. The Merge project will develop the site with a mixed-use development of twenty-two multi-family units and approximately 32,355 square feet of neighborhood serving retail and office uses on seven lots with a deviation to allow buildings to observe a maximum height greater than that allowed by the Neighborhood Commercial Zone of the Carmel Valley Planned District, a deviation to allow residential uses on the ground floor in the front half of lots and a deviation to allow an alternative to the requirement of providing trees within the vehicular use area. The proposed development complies with the regulations of the Neighborhood Commercial Zone of the Carmel Valley Planned District and site-specific development regulations for the property, as allowed with the approval of a Planned Development Permit.

In order to create a more desirable project, implement the goals of the Neighborhood Commercial Zone of the Carmel Valley Planned District and not adversely affect the General Plan, three deviations are necessary to allow three buildings exceed the maximum height of thirty feet,

restrictions that prohibit residential uses on the ground floor in the front half of lots in the Neighborhood Commercial Zone of the Carmel Valley Planned District and an alternative to the requirement of providing trees within the vehicular use area. The proposed building will exceed the maximum height in limited specific locations as described on the approved Exhibit "A" drawings. The height limit of the Neighborhood Commercial Zone of the Carmel Valley Planned District is thirty feet, the proposed project will have portions of the buildings 1, 2 and 3 observing a maximum height of thirty-five feet. The deviation will allow a pitched roof design and will be consistent with the existing character of the neighborhood. The additional height will also distinguish the development from the surrounding residential developments which will assist in creating a unique and distinct identity of the project.

The second deviation will allow residential uses on the ground floor in the front half of lots. Allowing residential uses on the ground floor in the front half of lots supports providing residential dwelling units to be provided on the site which will have private patios enclosed by low fences facing the street. This design will enliven the pedestrian streetscape and will provide another market rate housing product type in the neighborhood. Each of the two deviations will result in a more desirable project than would be achieved if designed in strict conformance with the development regulations of the Neighborhood Commercial Zone of the Carmel Valley Planned District. The proposed development will comply with all other applicable requirements including density, floor area ratio, street design, grading and landscaping of the Neighborhood Commercial Zone of the Carmel Valley Planned District, as allowed through a Planned Development Permit reflecting the desired goals and objectives for the site as described in the Carmel Valley Neighborhood 10 Precise Plan. The proposed project has been determined to not interfere with the airspace regulated by the Federal Aviation Administration and Marine Corps Air Station Miramar or local airport land use regulations.

The third deviation will allow trees, distributed twenty-four feet on center, along the edge of the vehicular use area within Lot 2, rather than within the vehicular use area as required by the Land Development Code section 142.0406. The proposed trees are within three feet of the vehicular use area and will provide substantial shade coverage, consistent with the purpose of the requirement to provide shade trees over parking areas. The location of the trees adjacent to, yet outside of, the vehicular use area provides shade to the vehicular use area and also to the pedestrian walkway serving the commercial buildings. Placing the trees within the vehicular use area would reduce the parking provided by the project by four spaces where the project proposes to maximize parking through shared parking arrangement based on updated Urban Land Institute parking ratios. The shared parking strategy is consistent with Parking Management policies of the General Plan to provide parking that is reasonably available when and where it is needed for multiple users, and to reduce the amount of land devoted to parking, specifically referenced in the General Plan, Mobility Element, Goals, Table ME-3-Parking Strategies Toolbox, and Policies ME-C.8 b; ME-E6; and ME-G2 (a and b). Meeting the tree location and spacing requirement for the vehicular use area would compromise the parking provided by the project, in particular the retail portion of the mixed-use development, without a substantial increase in providing shade or enhancement of the project landscape aesthetics and allowing the deviation will meet the purpose and intent of the landscape vehicular use area requirement.

Site Development Permit - Section 126.0504

A. Findings for all Site Development Permits

1. The proposed development will not adversely affect the applicable land use plan. The Merge project will develop the site with a mixed-use development of twenty-two multi-family units and approximately 32,355 square feet of neighborhood serving retail and office uses on seven lots with a deviation to allow buildings to observe a maximum height greater than that allowed by the Neighborhood Commercial Zone of the Carmel Valley Planned District, a deviation to allow residential uses on the ground floor in the front half of lots and a deviation to allow an alternative to the requirement of providing trees within the vehicular use area. The site is designated Commercial Employment, Retail, and Services in the General Plan and is designated Neighborhood Commercial in the Carmel Valley Neighborhood 10 Precise Plan. Consistent with the Precise Plan the site is zoned Neighborhood Commercial in the Carmel Valley Planned District, which allows retail, commercial services, office and residential uses. The proposed mixed-use development consisting of commercial retail and office uses and twenty-two multi-family dwelling units will not adversely affect the General Plan or the Carmel Valley Neighborhood 10 Precise Plan.

2. The proposed development will not be detrimental to the public health, safety, and welfare. The Merge project will develop the site with a mixed-use development of twenty-two multi-family units and approximately 32,355 square feet of neighborhood serving retail and office uses on seven lots with a deviation to allow buildings to observe a maximum height greater than that allowed by the Neighborhood Commercial Zone of the Carmel Valley Planned District, a deviation to allow residential uses on the ground floor in the front half of lots and a deviation to allow an alternative to the requirement of providing trees within the vehicular use area. The Merge project will not be detrimental to public health, safety and welfare because the permit controlling the development and continued use of the proposed project for this site contains specific conditions addressing the project compliance with the City's codes, policies, regulations and other regional, state, and federal regulations to prevent detrimental impacts to the health, safety and general welfare of persons residing and/or working in the area. For additional information, see Planned Development Permit Finding 2 above.

3. The proposed development will comply with the applicable regulations of the Land Development Code, including any allowable deviations pursuant to the Land Development Code. The Merge project will develop the site with a mixed-use development of twenty-two multi-family units and approximately 32,355 square feet of neighborhood serving retail and office uses on seven lots with a deviation to allow buildings to observe a maximum height greater than that allowed by the Neighborhood Commercial Zone of the Carmel Valley Planned District, a deviation to allow residential uses on the ground floor in the front half of lots and a deviation to allow an alternative to the requirement of providing trees within the vehicular use area. In order to create a more desirable project, implement the goals of the Neighborhood Commercial Zone of the Carmel Valley Planned District and not adversely affect the General Plan, three deviations are necessary to allow three buildings exceed the maximum height of thirty feet, restrictions that prohibit residential uses on the ground floor in the front half of lots in the Neighborhood Commercial Zone of the Carmel Valley Planned District and an alternative to the requirement of providing trees within the vehicular use area. For additional information, see Planned Development Permit Finding 3 above.

BE IT FURTHER RESOLVED that, based on the findings hereinbefore adopted by the Planning Commission, Planned Development Permit No. 1090744 and Site Development Permit No. 1090742 is hereby GRANTED by the Planning Commission to the referenced Owner/Permittee, in the form, exhibits, terms and conditions as set forth in Permit Nos. 1090744 and 1090742, a copy of which is attached hereto and made a part hereof.

By

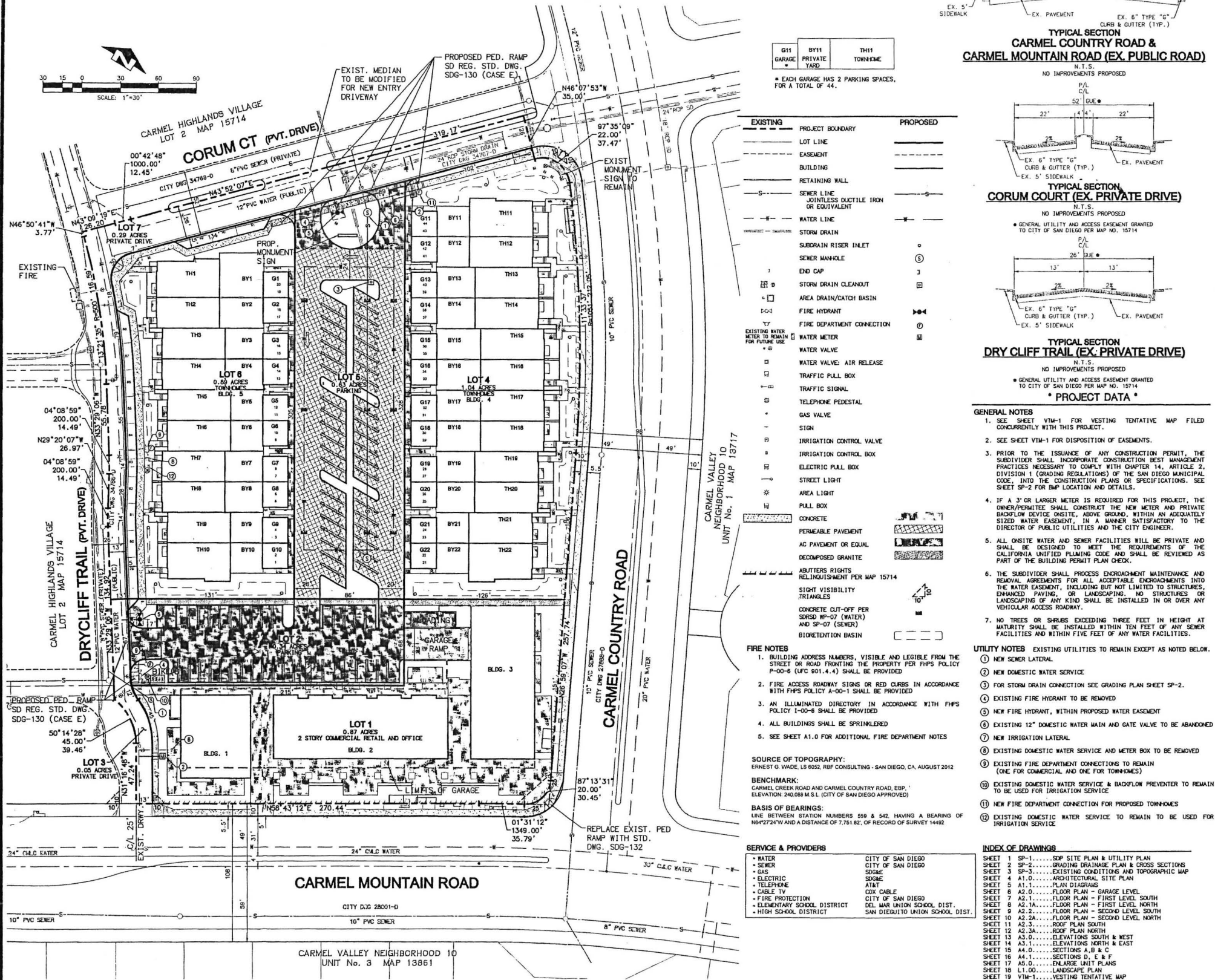


John S. Fisher
Development Project Manager
Development Services Department

MERGE

SITE DEVELOPMENT PERMIT / PLANNED DEVELOPMENT PERMIT / VESTING TENTATIVE MAP

(AMENDS SDP NO. 423678)



DEVELOPMENT SUMMARY

PROPOSED USE - MIXED USE
PROJECT PROPOSES 4.11-ACRE MIXED-USE DEVELOPMENT CONSISTING OF:
22 MAXI-FAMILY CONDOMINIUM TOWNHOME UNITS
32,355 SF OF COMMERCIAL RETAIL AND OFFICE
(2) TWO-CAR DETACHED GARAGES (SERVING THE TOWNHOMES)
SUBTERRANEAN AND SURFACE PARKING
EXISTING USE - VACANT
SITE WAS PREVIOUSLY GRADED AND PARTIALLY IMPROVED AS PART OF THE CARMEL HIGHLANDS VILLAGE PROJECT (PROJECT NO. 12552, SITE DEVELOPMENT PERMIT NO. 423678, GRADING PLAN 34767-D), AND IS VACANT EXCEPT FOR A TEMPORARY PARKING AREA IN THE SOUTHWEST PORTION THAT WAS USED FOR THE CONSTRUCTION OF THE ADJACENT CONDOMINIUM DEVELOPMENT. A TEMPORARY DRAINAGE BASIN, CONSTRUCTED AS PART OF GRADING PLAN 34767-D, IN THE NORTHERN PORTION OF THE SITE WILL BE REPLACED BY A PERMANENT ON-SITE DRAINAGE SYSTEM, AS SHOWN ON PROJECT PLANS.

REQUIRED PERMITS/APPROVALS:
• SITE DEVELOPMENT PERMIT/CARMEL VALLEY PLANNED DISTRICT (AMENDS SITE DEVELOPMENT PERMIT NO. 423678)
• PLANNED DEVELOPMENT PERMIT
• VESTING TENTATIVE MAP
• CITY OF SAN DIEGO EASEMENT TO BE OUTCLAIMED (MUN. CODE SEC. 125-101(a), 125-103(b))
REQUESTED DEVIATIONS PER PDP:
• DEVIATION FROM MUNICIPAL CODE SECTION 131.054(C) TO ALLOW RESIDENTIAL ON GROUND FLOOR WITHIN PORTION OF THE FRONT HALF OF LOT
• DEVIATION FROM MUNICIPAL CODE SECTION 142.0406, TABLE 142.040 AND 142.0407(B) TO ALLOW SHADE-OVER PARKING (PARKING REQUIREMENT IN LOT 7 TO BE PARTIALLY MET BY A SERIES OF CANOPY TREES LOCATED OUTSIDE OF, BUT ADJACENT TO SOUTH PERIMETER OF, VEHICULAR USE AREA, AS SHOWN ON SHEET L1.00)

LEGAL DESCRIPTION:
LOT 1 OF CARMEL HIGHLANDS VILLAGE, MAP 15714 FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, SEPTEMBER 8, 2008
ASSESSOR PARCEL NUMBER:
368-030-55
TYPE OF CONSTRUCTION:
Type A (Garage and Commercial/Office); Type VA (Townhomes)
OCCUPANCY GROUP:
B (Office/Mail), M (Manufacturing), R-2 (Housing)
EXISTING ZONING:
COMMERCIAL, CARMEL VALLEY PLANNED DISTRICT - NEIGHBORHOOD COMMERCIAL - NO CHANGE PROPOSED (USE AND DEVELOPMENT REGULATIONS OF CA-12 APPLY)
GENERAL PLAN DESIGNATION:
COMMERCIAL EMPLOYMENT, RETAIL AND SERVICES - NO CHANGE PROPOSED
COMMUNITY PLAN DESIGNATION:
(N) NEIGHBORHOOD COMMERCIAL, CARMEL VALLEY NEIGHBORHOOD 10 PRECISE PLAN - NO CHANGE PROPOSED
SITE AREA:
4.11 ACRES (GROSS AND NET)
GROSS FLOOR AREA:
118,265 SF - SEE SHEET A1.1 FOR GFA CALCULATIONS
ALLOWED FLOOR AREA RATIO:
1.0 STANDARD FAR WITH 75 BONUS FAR FOR MIXED USE (50% OF BONUS FAR MUST BE RESIDENTIAL)
PROPOSED FLOOR AREA RATIO:
0.87
GEOLOGIC HAZARD CATEGORY:
3
LANDSCAPE SQUARE FOOTAGE:
SEE SHEET L1 FOR LANDSCAPE CALCULATIONS
ALLOWED RESIDENTIAL DENSITY:
PER CA-12 ZONE 1 DENSITY 100 SF
4.11 ACRES X 42,000 SF = 172,620 SF DIVIDED BY 1,500 SF = 115.08, OR 115 UNITS
PER PRECISE PLAN AND DEVELOPMENT AGREEMENT 00-18571 (RECORDED DOCUMENT NO. 1999-0541670) 31 AVAILABLE
PROPOSED RESIDENTIAL UNITS: 22
TOTAL NUMBER OF LOTS: 2
EXISTING 1 LOT
PROPOSED: 7 LOTS TOTAL
LOT 1: COMMERCIAL RETAIL AND OFFICE
LOT 2: PRIVATE DRIVEWAY
LOT 3: 12 RESIDENTIAL CONDOMINIUM TOWNHOMES
LOT 4: 10 RESIDENTIAL CONDOMINIUM TOWNHOMES
LOT 5: 10 RESIDENTIAL CONDOMINIUM TOWNHOMES
LOT 6: 10 RESIDENTIAL CONDOMINIUM TOWNHOMES
LOT 7: PRIVATE DRIVEWAY
CONDOMINIUM STATEMENT:
THIS SUBDIVISION IS A CONDOMINIUM PROJECT AS DEFINED IN SECTION 1350 ET. SEQ. OF THE CIVIL CODE OF THE STATE OF CALIFORNIA AND IS FILED PURSUANT TO THE SUBDIVISION MAP ACT. THE TOTAL NUMBER OF RESIDENTIAL UNITS IS 22 (12 RESIDENTIAL CONDOMINIUM UNITS IN LOT 4 AND 10 RESIDENTIAL CONDOMINIUM UNITS IN LOTS 6). THERE ARE NO COMMERCIAL CONDOMINIUM UNITS.
MAXIMUM HEIGHT:
30' REQUIRED AND PROPOSED EXCEPT AS ALLOWED BY DEVIATION. SEE SHEET A3.1 FOR HEIGHT DEVIATION DETAILS
PARKING:
SEE SHEET A1.0 FOR PARKING CALCULATION AND DETAILS
OPEN SPACE:
SEE SHEET A1.1 FOR OPEN SPACE CALCULATION AND DETAILS
PRIVATE EXTERIOR OPEN SPACE REQUIRED: 22 UNITS X 600 S.F./UNIT = 13,200 S.F.
PROPOSED: 32,355 S.F.
COMMON AREA OPEN SPACE REQUIRED: 22 UNITS X 25 S.F./UNIT = 550 S.F.
PROPOSED: 37,250 S.F.
EXISTING STRUCTURES:
NO PERMANENT AND/OR HISTORIC STRUCTURES ON-SITE. SITE IS VACANT EXCEPT FOR A TEMPORARY DRAINAGE BASIN CONSTRUCTED UNDER GRADING PLAN 34767-D, WHICH WILL BE REPLACED BY A PERMANENT, ON-SITE DRAINAGE SYSTEM.
PEDESTRIAN PATH OF TRAVEL:
SEE SHEET A1.1
NEAREST BUS STOP:
CAMINO DEL MAR AND DEL MAR HEIGHTS ROAD/TH STREET (NCTD ROUTE 167)
APPROVED EXHIBIT "A"
PROJECT NO. 311061
APPROVAL NO. (S) 311061-001
APPROVED BY: HEARING OFFICER, PLANNING COMMISSION, CITY OF SAN DIEGO ON 5-22-14
SIGNATURE: [Signature]

PROJECT TEAM

APPLICANT
SEA BREEZE INVESTMENTS III, LLC
CONTACT: GARY LEVITT, MANAGER
3525 DEL MAR HEIGHTS RD #246
SAN DIEGO, CA 92130
TEL: (858) 361-8555

OWNER
CR CARMEL VALLEY, LLC
CONTACT: RITA MAHONEY
440 WEST BEECH STREET,
STE 300
SAN DIEGO, CA 92101
TEL: (619) 490-2343

ARCHITECT
BARDIE RABINOV ARCHITECTS
CONTACT: SCOTT MAAS
925 FORT STOCKTON STREET,
SAN DIEGO, CA 92103
TEL: (619) 297-6153

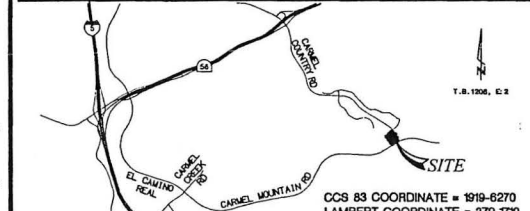
PLANNER/CIVIL ENGINEER

RBF CONSULTING
CONTACT: CAROL CHASE
9755 CLAREMONT MESA BLVD., #100
SAN DIEGO, CA 92124
TEL: (619) 614-5028
FAX: (619) 614-1450

LANDSCAPE ARCHITECT

THE OFFICE OF JAMES BURNETT
CONTACT: KYLE FIDELLE
550 LOMAS SANTA FE, STE. A
SOLANA BEACH, CA 92075
TEL: (858) 793-6970

PROJECT LOCATION



Prepared By:

RBF CONSULTING
CONTACT PERSON: CAROL CHASE
9755 CLAREMONT MESA BLVD., #100
SAN DIEGO, CA 92124
TEL: (619) 614-5028
FAX: (619) 614-1450

Project Address:

NORTHWEST CORNER OF CARMEL MOUNTAIN
AND CARMEL COUNTRY ROAD,
SAN DIEGO, CA 92130

Project Name:

MERGE
SDP SITE PLAN & UTILITY PLAN

SHEET SP-1

PLANNING & DESIGN & CONSULTING

9755 CLAREMONT MESA BOULEVARD, SUITE 100
SAN DIEGO, CALIFORNIA 92124
TEL: 619.614.5028 FAX: 619.614.1450

Revision 0: _____
Revision 1: _____
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Revision 3: _____
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