

RESOLUTION NUMBER R-291085

ADOPTED ON DECEMBER 8, 1998

WHEREAS, Marlin Development, Owner, and K. Hovnanian at Carmel Village, Permittee, filed an application with The City of San Diego for a Carmel Valley Planned District [CVPD] Development Plan Permit amending CVPD Development Plan Permit No. 89-1305 to develop 50 single-family detached residential units including public and private improvements for the Carmel Del Mar Neighborhood 4-South, Unit 17, project, located north of State Route 56 and Carmel Country Road, and southeast of Carmel Canyon Road, and legally described as Lot 48 of Carmel Del Mar Neighborhood 4, Unit No. 13, Map No. 13118, in the Carmel Del Mar Neighborhoods 4, 5 and 6 Precise Plan and the Carmel Valley Community Plan area, in the NC zone (proposed SF-3 zone); and

WHEREAS, on November 19, 1998, the Planning Commission of The City of San Diego considered CVPD Development Plan Permit No. 96-7824, and pursuant to Resolution No. 2733-PC voted to recommend City Council approval of the permit; and

WHEREAS, after approval of the above referenced project by the Council of The City of San Diego, Marlin Development will transfer ownership of the property to K. Hovnanian at Carmel Village, thereby becoming the Owner/Permittee of the Carmel Del Mar Neighborhood 4-South, Unit 17, project; and

WHEREAS, the matter was set for public hearing on December 8, 1998, testimony having been heard, evidence having been submitted, and the City Council having fully considered the matter and being fully advised concerning the same; NOW, THEREFORE,

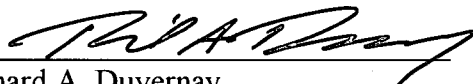
BE IT RESOLVED, by the Council of The City of San Diego, that this Council adopts the following findings with respect to CVPD Permit No. 96-7824, amending CVPD Permit No. 89-1305:

1. The proposed residential project would comply with all applicable development regulations of the proposed SF-3 zone including the Carmel Valley Planned District Ordinance, and the associated Carmel Del Mar Neighborhoods 4, 5 and 6 Precise Plan "Development Guidelines." This project would amend, and supercede, Carmel Valley Planned District Development Plan Permit No. 89-1305.
2. The proposed project site is surrounded on three sides by single-family homes and the existing neighborhood commercial designation is not compatible with the adjacent residential uses.
3. The proposed single-family residential zone will lessen the project's impact on adjacent residents through reductions in traffic congestion, noise and light pollution compared to the existing neighborhood commercial designation.
4. The proposed single-family detached designation creates a gradient of planned residential uses with decreasing intensity as the homes are located further from the SR-56 interchange. This proposed hierarchy of planned residential land uses will minimize conflicts and maximize compatibility between adjoining uses.

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

BE IT FURTHER RESOLVED, that the recommendation of the Planning Commission is sustained, and Carmel Valley Planned District Development Plan Permit No. 96-7824 is hereby granted to K. Hovnanian at Carmel Village, Owner/Permittee, under the terms and conditions set forth in the permit attached hereto and made a part hereof.

APPROVED: CASEY GWINN, City Attorney

By 
Richard A. Duvernay
Deputy City Attorney

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03/18/99; 05/06/99 COR. COPY
Or.Dept:Clerk
R-99-752
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Reviewed by Patricia J. Fitzgerald

**RECORDING REQUESTED BY
CITY OF SAN DIEGO
DEVELOPMENT SERVICES**

**AND WHEN RECORDED MAIL TO
PERMIT INTAKE
MAIL STATION 501**

SPACE ABOVE THIS LINE FOR RECORDER'S USE

**CARMEL VALLEY PLANNED DISTRICT DEVELOPMENT PLAN NO. 96-7824
CARMEL DEL MAR NEIGHBORHOOD 4-SOUTH, UNIT 17
(AMENDMENT TO CVPD DEVELOPMENT PLAN 89-1305)
CITY COUNCIL**

This Carmel Valley Planned District [CVPD] Development Permit No. 96-7824 (Amending CVPD Permit No. 89-1305) is granted by the Council of The City of San Diego to K. Hovnanian at Carmel Village, Owner/Permittee, pursuant to San Diego Municipal Code [SDMC] section 103.0600. The 6.72 gross acre site is located north of State Route 56 and Carmel Country Road, and southeast of Carmel Canyon Road, in the Carmel Del Mar Neighborhoods 4, 5 and 6 Precise Plan and the Carmel Valley Community Plan. The project site is legally described as Lot 48 of Carmel Del Mar Neighborhood 4, Unit No. 13, Map No. 13118.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner and/or Permittee to subdivide and develop 50 single-family detached residential units described as, and identified by size, dimension, quantity, type and location on the approved Exhibit "A," dated December 8, 1998 [Exhibit "A"], on file in the Office of Development Services. The facility shall include:

- a. Fifty (50) single-family detached residential units; and
- b. A landscaped open play area with bench seating, trees and open lawn for residents totaling 0.186-acre as shown on Exhibit "A"; and
- c. Landscaping (planting, irrigation and landscape related improvements); and
- d. Off-street parking facilities; and
- e. Accessory improvements determined by the City Manager to be consistent with the land use and development standards in effect for this site per the adopted Community Plan, California Environmental Quality Act guidelines, public and private improvement requirements of the City Engineer, the underlying zone(s), conditions of this permit, and any other applicable regulations of the Municipal Code in effect for this site.

1. Construction, grading or demolition must commence and be pursued in a diligent manner within 36 months after the effective date of final approval by the City, following all appeals. Failure to utilize the permit within 36 months will automatically void the permit unless an Extension of Time has been granted. Any such Extension of Time must meet all the Municipal Code requirements and applicable guidelines in effect at the time the extension is considered by the appropriate decision maker.
2. No permit for the construction, occupancy or operation of any facility or improvement described herein shall be granted, nor shall any activity authorized by this Permit be conducted on the premises until:
 - a. The Permittee signs and returns the Permit to Development Services; and
 - b. The Permit is recorded in the office of the San Diego County Recorder.
3. Unless this Permit has been revoked by The City of San Diego the property included by reference within this Permit shall be used only for the purposes and under the terms and conditions set forth in this Permit unless otherwise authorized by the City Manager.
4. This Permit is a covenant running with the subject property and shall be binding upon the Permittee and any successor or successors, and the interests of any successor shall be subject to each and every condition set out in this Permit and all referenced documents.
5. The utilization and continued use of this Permit shall be subject to the regulations of this and any other applicable governmental agencies.
6. Issuance of this Permit by The City of San Diego does not authorize the applicant for said permit to violate any Federal, State or City laws, ordinances, regulations or policies including, but not limited to, the Federal Endangered Species Act of 1973 and any amendments thereto (16 U.S.C. § 1531 et seq.)
7. The Owner/Permittee shall secure all necessary building permits. The applicant is informed that to secure these permits, substantial modifications to the building and/or site improvements to comply with applicable building, fire, mechanical and plumbing codes and State law requiring access for disabled people may be required.
8. Before issuance of any building or grading permits, complete grading and working drawings shall be submitted to the City Manager for approval. Plans shall be in substantial conformity to Exhibit "A." No changes, modifications or alterations shall be made unless appropriate applications or amendment of this Permit shall have been granted.
9. All of the conditions contained in this Permit have been considered and have been determined to be necessary in order to make the findings required for this discretionary permit. It is the intent of the City that the holder of this Permit be required to comply with each and every condition in order to be afforded special rights which the holder of the Permit is obtaining as a result of this Permit. It is the intent of the City that the Owner of the property which is the subject of this Permit either utilize the property for any use allowed under the zoning and other restrictions which apply to the property or,

in the alternative, that the Owner of the property be allowed the special and extraordinary rights conveyed by this Permit, but only if the Owner complies with all the conditions of the Permit.

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

11. Rezoning of the subject property shall become effective with recordation of the corresponding final subdivision map for the project site.

12. All projects submitted for plan check for the purpose of obtaining building permits shall concurrently submit building plans which meet the submittal requirements of the "Applicant's Guide to Project/Permit Applications," items 11 through 29, as applicable; together with appropriate plan check fees.

13. All projects shall be in compliance with SDMC section 101.0101.25 (Gross Floor Area) and all appropriate related definitions.

MITIGATION MONITORING AND REPORTING PROGRAM:

14. This Mitigation Monitoring and Reporting Program (MMRP) has been prepared for the Carmel Del Mar Neighborhood 4-South, Unit 17 project (LDR No. 96-7824) to comply with the mitigation monitoring statute (*Public Resource Code* § 21081.6) which requires public agencies to adopt such programs to ensure effective implementation of the mitigation measures. This program shall be a requirement of the discretionary actions associated with the Carmel Del Mar Neighborhood 4-South, Unit 17 project.

15. The following text includes a summary of the potentially significant project impacts, a list of mitigation measures identified in the environmental impact report, and the monitoring efforts necessary to ensure that the mitigation measures are properly implemented. Mitigation measures, monitoring and reporting requirements shall be as defined in the environmental impact report and may require further detail prior to construction and/or following project implementation.

The following MMRP will require additional fees and/or deposits in the amount of \$450 to be collected prior to the issuance of building permits, certificates of occupancy, grading permits and/or recordation of final maps to ensure the successful completion of the monitoring program.

PALEONTOLOGICAL RESOURCES

- i. Prior to issuance of a grading permit, the applicant shall provide a letter of verification to the Environmental Review Manager of Land Development Review (LDR) stating that a qualified paleontologist and/or paleontological monitor has been retained to implement the monitoring program. The requirement for paleontological monitoring shall be noted on the grading plans. **ALL PERSONS INVOLVED IN THE PALEONTOLOGICAL MONITORING OF THE PROJECT SHALL BE APPROVED BY LDR PRIOR TO THE START OF MONITORING.**
- ii. The qualified paleontologist shall attend any preconstruction meeting to discuss grading plans with the grading and excavation contractor.
- iii. The paleontologist or paleontological monitor shall be on site full time during the initial cutting of previously undisturbed areas. Monitoring may be increased or decreased at the discretion of the qualified paleontologist, in consultation with LDR, and will depend on the rate of excavation, the materials excavated and the abundance of fossils.
- iv. The paleontologist shall have the authority to divert, direct, or temporarily halt construction activities in the area of discovery to allow recovery of fossil remains. **THE PALEONTOLOGIST SHALL IMMEDIATELY NOTIFY LDR STAFF OF SUCH FINDING AT THE TIME OF DISCOVERY.** LDR shall approve salvaging procedures to be performed before construction activities are allowed to resume.
- v. The qualified paleontologist shall be responsible for preparation of fossils to a point of identification as defined in the City of San Diego Paleontological Guidelines and submitting a letter of acceptance from a local qualified curation facility. Any discovered fossil sites shall be recorded by the paleontologist at the San Diego Natural History Museum.
- vi. Prior to the issuance of a certificate of occupancy, a monitoring results report, with appropriate graphics, summarizing the results, analysis and conclusions of the paleontological monitoring program shall be submitted to LDR for approval.

CULTURAL RESOURCES

- vii. A cultural resources survey prepared in 1985 for Neighborhoods 4, 5, and 6 Precise Plan identified eight archaeological sites on the tentative map site. A subsequent 1989 investigation found that all sites on the subject property had been destroyed without correct surveying for archaeological resource significance. The project applicant acknowledged that appropriate mitigation was not completed for the site and agreed to compensate for the loss of these resource through a monetary contribution to the City's archaeological preservation fund. The amount of monetary damages has been determined to be \$40,000 for the entire Precise Plan area of 822 acres. The proposed project

share would therefore equal \$327 ($\$40,000/822 \text{ acres} = \$48.67/\text{acre} \times 6.72 \text{ acres}$), to be paid prior to issuance of grading permits.

GEOLOGY

- viii. Prior to issuance of grading permits, special measures, as described in the "Geotechnical Update Report for Lot 48 of the Carmel Del Mar Neighborhood 4, Unit 13 Project" (Pacific Soils Engineering, Inc., February 25, 1998), needed to mitigate the localized area of left-in-place alluvium shall be submitted by the geotechnical consultant for review and approval by the Development Services, Land Development Review Geology Section.

FIRE & LIFE SAFETY REQUIREMENTS:

16. Prior to the issuance of any building permits, the applicant shall:
- a. Provide building address numbers, visible and legible from the street or road fronting the property (UFC § 901.4.4);
 - b. Show location of all existing hydrants, within 600', on site plan (UFC § 903.2);
 - c. Provide fire access roadway signs or red curbs in accordance with BLS Policy A-96-1;
 - d. Provide a lighted directory, satisfactory to the Fire Marshal, at all vehicle entry access points.

TRANSPORTATION DESIGN REQUIREMENTS:

17. No fewer than 189 off-street parking spaces shall be maintained on the property at all times in the approximate locations shown on the approved Exhibit "A." Parking spaces shall comply at all times with the Municipal Code and shall not be converted for any other use unless otherwise authorized by the City Manager.

PLANNING/DESIGN REQUIREMENTS:

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

19. The height(s) of the building(s) or structure(s) shall not exceed those heights set forth in the conditions and the exhibits (including, but not limited to, elevations and cross sections) or the maximum permitted building height of the underlying zone,

whichever is lower, unless a deviation or variance to the height limit has been granted as a specific condition of this permit.

20. A topographical survey conforming to the provisions of SDMC section 101.0216 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 regulations of the underlying zone. The cost of any such survey shall be borne by the permittee.

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

22. All signage associated with this development shall be consistent with sign criteria established by the City sign regulations.

- a. Carmel Valley Signage Guidelines and Criteria; and
- b. Carmel Del Mar Neighborhoods 4, 5 and 6 Precise Plan.

23. All private outdoor lighting shall be shaded and adjusted to fall on the same premises where such lights are located.

24. The use of textured or enhanced paving shall meet applicable City standards as to location, noise and friction values.

25. The subject property and associated common areas on site shall be maintained in a neat and orderly fashion at all times.

26. No merchandise, material or equipment shall be stored on the roof of any building.

27. No mechanical equipment shall be erected, constructed, or enlarged on the roof of any building on this site, unless all such equipment is contained within a completely enclosed architecturally integrated structure.

LANDSCAPE REQUIREMENTS:

28. Prior to issuance of any grading, or building permits, complete landscape construction documents, including plans, details and specifications (including a permanent automatic irrigation system unless otherwise approved), shall be submitted to the City Manager for approval. The construction documents shall be in substantial conformance with Exhibit "A," Landscape Concept Plan. No change, modification or alteration shall be made unless appropriate application or amendment of this Permit shall have been granted.

29. Prior to issuance of any grading, or building permits it shall be the responsibility of the Permittee to obtain a No Fee Street Tree Permit for the installation, establishment and on-going maintenance of all street trees shall be submitted to the City Manager for approval.

30. Prior to issuance of grading permits, interim landscape and erosion control measures, including hydroseeding of all disturbed land (all slopes and pads), shall be submitted to the satisfaction of the City Manager (including the Environmental Section) and City Engineer. All plans shall be in substantial conformance to Exhibit "A," and all other applicable conditions of related permits.

31. The timely erosion control including planting and seeding of all slopes and pads consistent with the approved plans is considered to be in the public interest and the Permittee shall initiate such measures within 45 days from the date that the grading of the site is deemed to be complete. Such erosion control and the associated irrigation systems (temporary and/or permanent) and appurtenances shall be installed in accordance with the approved plans and the Landscape Technical Manual.

32. Prior to issuance of any Certificate of Occupancy it shall be the responsibility of the Permittee to install all required landscape and obtain all required landscape inspections.

33. All required landscape shall be maintained in a disease, weed and litter free condition at all times and shall not be modified or altered unless this Permit has been amended. Modifications such as severe pruning or "topping" of trees is not permitted unless specifically noted in this Permit. The Permittee, or subsequent Owner shall be responsible to maintain all street trees and landscape improvements consistent with the standards of the Landscape Technical Manual.

34. If any required landscape (including existing or new plantings, hardscape, landscape features, etc.) indicated on the approved plans is damaged or removed during demolition, it shall be repaired and/or replaced in kind and equivalent size per the approved plans within 30 days of completion of construction by the Permittee. The replacement size of plant material after three years shall be the equivalent size of that plant at the time of removal (the largest size commercially available and/or an increased number) to the satisfaction of the City Manager.

APPROVED by the Council of The City of San Diego on December 8, 1998, by Resolution No. R-291085.

03/19/99

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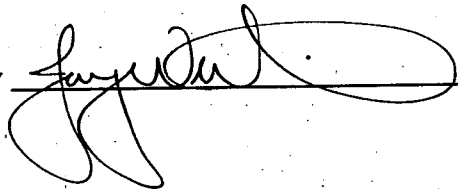
AUTHENTICATED BY THE CITY MANAGER

By _____

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

K. HOVNANIAN AT CARMEL VILLAGE
Owner/Permittee

By _____



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

4/26/99

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CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of San Diego

On April 27, 1999 before me, Teri Hayes, Notary Public
Date Name and Title of Officer (e.g., "Jane Doe, Notary Public")

personally appeared Jay Wertin
Name(s) of Signer(s)

personally known to me - OR - ~~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.



WITNESS my hand and official seal.

Teri Hayes
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: Amendment to CVPD Development Plan 89-1305

Document Date: - Number of Pages: 11

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: Jay Wertin

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

Signer Is Representing:

RIGHT THUMBPRINT
OF SIGNER
Top of thumb here

Signer's Name: _____

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

Signer Is Representing:

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