

(R-99-823)

RESOLUTION NUMBER R-291153

ADOPTED ON JANUARY 11, 1999

WHEREAS, Phil Layton and interested Crest Del Mar residents appealed the decision of the Planning Commission of The City of San Diego [Planning Commission] adopted by Resolution No. 2724-1-PC on November 5, 1998, granting Carmel Valley Planned District [CVPD]/Resource Protection Ordinance [PRO] Permit No. 98-0417 submitted by William C. Fisher, et al., Owner, and Skandia Real Estate Group and North Reidy Partners, Ltd., a California Limited Partnership, Permittee, to construct 200 residential dwelling units in nine, 3-story structures with enclosed and underground parking, detached garages, a club house and recreation area, a public walkway with access to the adjoining park and school site and guest parking; and

WHEREAS, the project is located at the east terminus of Elijah Court east of El Camino Real and south of Townsgate Drive, and legally described as Lot 6, Becroft/Fisher Condominiums, Unit No. 1, Map 13125, in the Carmel Valley Community Plan area, in the MF-3 zone; and

WHEREAS, upon approval of the above referenced project by the Council of The City of San Diego, William C. Fisher will transfer ownership of the property to Carmel Pointe Development Co., LLC, c/o The Zures Co., thereby becoming the Owner/Permittee for the Carmel Pointe Apartments; and

WHEREAS, the matter was set for public hearing on January 11, 1999, 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/RPO Permit No. 98-0417:

**RESOURCE PROTECTION ORDINANCE FINDINGS (San Diego Municipal Code Section 101.0462)**

**A. The proposed development will be sited, designed, and constructed to minimize, if not preclude, adverse impacts upon sensitive natural resources and environmentally sensitive areas.**

The 7.092 acre site, planned for the construction of 200 residential dwelling units and accessory structures and uses, contains 4.7 acres of Southern maritime chaparral and 1.1 acres of Coastal sage scrub which is proposed to be lost in the development of the site. Mitigation requirements for this loss are contained as conditions in the accompanying permit and involve the payment of monies to the City of San Diego's Habitat Acquisition Fund that will be utilized to purchase sensitive habitat within the Multiple Habitat Planning Area (MHPA) of the Multiple Species Conservation Program (MSCP) areas of the City of San Diego. The subject site is designated for development in the applicable adopted plans for the area and is an undeveloped lot within a previously approved development permit, Tentative Map and Carmel Valley Planned District Permit No. 89-1255, which showed portions of this site with an approved site plan, required a site specific plan for the remaining portion of the site and required this RPO Permit if encroachment was proposed into the remaining sensitive areas of the site. The project site is surrounded by urban development with 377 apartments and condominiums of Permit No. 89-1255 developed to the immediate west, residential development adjoining the south and a community park and junior high school adjoining to the north. The site is an isolated undeveloped lot.

**B. The proposed development will be sited and designed to prevent adverse impacts to environmentally sensitive habitats and resources located in adjacent parks and recreation areas and will provide adequate buffer areas to protect such resources.**

All environmentally sensitive habitats and resources located in adjacent parks and recreation areas, as well as all residentially developed adjacent areas, have been, or are being, developed on land that at one time contained the same sensitive habitat existing on the subject 7.092 acre site proposed for the development of the 200-unit apartment project. These adjacent sites have preserved little or none of this habitat and approval of those projects mitigated for the loss of sensitive habitat as required at the time of the approval of those projects. No buffer areas are required or proposed as a part of this project. The permit for the Carmel Pointe Apartments requires the applicant to mitigate for the loss of this habitat through the payment of monies to be applied to the off-site purchase of sensitive habitat in the City of San Diego's MHPA.

**C. The proposed development will minimize the alterations of natural landforms and will not result in undue risks from geological and erosional forces and/or flood and fire hazards.**

The City of San Diego Geologist has reviewed the documents related to this site and the proposed development plan and finds that the site can be developed so that there are no undue risks from geological and erosional forces and/or flood and fire hazards. The Fire Marshal has required and the project is satisfying requirements for emergency vehicle access and circulation.

**D. The proposed development will be visually compatible with the character of surrounding areas, and where feasible, will restore and enhance visual quality in visually degraded areas.**

The development of the 7.092 acre site for the construction of 200 apartment units and associated improvements has been reviewed for conformity to design criteria of the Carmel Valley Planned District Ordinance. Carmel Valley Community Plan and Neighborhood 9 Precise Plan site development requirements are being implemented through this project. A pedestrian pathway system through this site connects the existing path to the south to the community park and junior high school to the north. Usable open space and structural design criteria are satisfied. Adequate parking and access are provided and the construction of a traffic signal at the intersection of Elijah Court and El Camino Real is required. The project is being developed for the planned use, density and general relationship to surrounding land uses.

**E. The proposed development will conform with the City's Progress Guide and General Plan, the applicable community plan, the Local Coastal Program, or any other applicable adopted plans and programs in effect for this site.**

The development of 200 residential dwelling units on this 7.092 acre site will conform to the City of San Diego General Plan and the Carmel Valley Community Plan, Neighborhood 9 Precise Plan and the Carmel valley Planned District Ordinance. The previously approved project for this undeveloped portion required that a Resource Protection Ordinance Permit be obtained if more than 1/2 acre of area is proposed for development and the loss of any additional biologically sensitive habitat be mitigated. The subject project proposes to develop the entire remaining 7.092 acre site and conditions are in the accompanying permit for this mitigation as well as additional conditions for other environmental concerns as specified in Mitigated Negative Declaration No. 98-0417.

**CARMEL VALLEY FINDINGS (PDO) (San Diego Municipal Code Section 103.0600)**

**A. The proposed use will fulfill a community need and will not adversely affect the City's Progress Guide and General Plan or the adopted planned district ordinance.**

The subject 7.092 acre site is designated in the Neighborhood 9 Precise Plan of the Carmel Valley Community Plan area for Low-Medium Residential Density of 15-29 dwelling units per acre. This site is an undeveloped portion of the previously approved Tentative Map and Planned District Permit No. 89-1255, titled "Beecroft/Fisher Condominiums" which was approved for 577 dwelling units on the entire 23.4 acre site. Through agreements between the owners of the Beecroft/Fisher property, lot lines were adjusted on the final map and 377 dwelling units have been constructed to date. The proposed 200 dwelling units will comply with the underlying MF-3

zone and the maximum density designated in the previously approved permit and the Neighborhood 9 Precise Plan. The property is located within the core area of the community which is designated for development of the major commercial center, community park, junior high school, library and higher density residential areas consisting of medium density (30-44 du/ac) and high density (30-59 du/ac).

**B. The proposed use will not be detrimental to the health, safety and general welfare of persons residing or working in the area and will not adversely affect other properties in the vicinity.**

The 25.4-acre properties comprising the area designated Low-Medium Residential Density in the Neighborhood 9 Precise Plan of the Carmel Valley Community Plan area were originally made up of eight different ownerships, some of which were landlocked. The precise plan proposed a cul-de-sac street bisecting a share of each ownership to access the property farthest removed from El Camino Real. Approval of the Beecroft/Fisher Condominiums, Tentative Map and Planned District Permit No. 89-1255 consolidated these eight ownerships into one development package with primary access through the site being Elijah Court. Development consistent with the approved permit has been completed on the westerly portion of the site adjacent to El Camino Real with the construction of 377 dwelling units in two product types. The rear 7.092 acres are undeveloped and accessed by the easterly terminus of Elijah Court. The 200 apartment units requested are consistent with the precise plan designation of 577 dwelling units for the combined ownerships and the 29 dwelling units per acre density designation.

The site contains sensitive biological resources which must be mitigated due to the request to grade and develop the entire site. This 7.092 acre site is the remnant of an originally much larger area of sensitive habitat which has been developed according to adopted plans. The site is an isolated biological community surrounded by similar residential development and the community park and junior high school site.

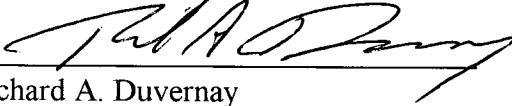
**C. The proposed use will fully comply with the relevant regulations of the San Diego Municipal Code in effect for this site.**

The General Plan of the City of San Diego and the adopted Carmel Valley Community Plan, Neighborhood 9 Precise Plan and the Carmel Valley Planned District all designate this site for residential use for development at the Low-Medium Density range of 15-29 Du/Ac for a maximum development of 577 dwelling units on the combined 25.4 acre site. The specific project titled "Carmel Pointe Apartments" fulfills the requirement of previously approved Tentative Map and Planned District Permit No. 89-1255 to obtain a site specific permit prior to development of this remaining 7.092 acres. The project approval will satisfy design criteria of the Carmel Valley Planned District Ordinance, meeting total and usable open space requirements and parking requirements. A pedestrian pathway designated in the precise plan will link the Neighborhood 6 area to the south and this residential area with the school and park sites to the north.

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 appeal of Phil Layton and interested Crest Del Mar residents is denied, the decision of the Planning Commission is sustained, and Carmel Valley Planned District/Resource Protection Ordinance Permit No. 98-0417 is granted to Carmel Pointe Development Co., LLC, c/o The Zures Co., a California Corporation, and North Reidy Partners, Ltd., a California Limited Partnership, 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

RAD:lc  
02/03/99  
Or.Dept:Clerk  
R-99-823  
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Reviewed by Robert Korch

**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  
AND RESOURCE PROTECTION ORDINANCE PERMIT NO. 98-0417  
CARMEL POINTE APARTMENTS  
CITY COUNCIL**

This Permit is granted by the Council of The City of San Diego to Carmel Pointe Development Co., LLC, c/o The Zures Co., a California Corporation, and North Reidy Partners, Ltd., a California Limited Partnership, Owner/Permittee, pursuant to San Diego Municipal Code [SDMC] sections 101.0462, 103.0601 and 111.0508. The 7.092 acre site is located at the easterly terminus of Elijah Court east of El Camino Real and south of Townsgate Drive in the MF-3 zone of the Carmel Valley Community Plan area and the Carmel Valley Planned District. The project site is legally described as Lot 6, Beecroft/Fisher Condominiums, Unit No. 1, Map No. 13125.

Subject to the terms and conditions set forth in this permit, permission is granted to Owner and/or Permittee to construct 200 residential dwelling units in nine, 3-story structures with enclosed and underground parking, detached garages, a club house and recreation area, a public walkway with access to the adjoining park and school site and guest parking, described as, and identified by size, dimension, quantity, type and location on the approved Exhibits "A," dated January 11, 1999, on file in the Office of Development Services. The facility shall include:

- a. 200 residential dwelling units contained within nine, 3-story structures (two of which have underground parking), containing 1-3 bedrooms; and
- b. Landscaping (planting, irrigation and landscape related improvements); and
- c. 375 off-street parking spaces for residents and guests in enclosed parking facilities within the residential structures, detached garages, open parking and underground parking, additional parking for 15 motorcycles; and
- d. A 3,950 square-foot club house with offices and additional recreation area consisting of a swimming pool and spa with deck areas, retaining walls and fencing not exceeding six-feet in height within required yards and a public pathway from the existing path in Neighborhood 6 to the south and the adjoining park and school sites to the north; 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 Owner/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 Owner/Permittee and any successor or successors, and the interests of any successor shall be subject to each and every condition set out in this permit and all referenced documents.
5. The 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," dated January 11, 1999, on file in the Office of Development Services. 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/Permittee 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/Permittee of the property be allowed the special and extraordinary rights conveyed by this Permit, but only if the Owner/Permittee 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. 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.

11. All projects shall be in compliance with Gross Floor Area requirements of the Municipal Code and all appropriate related definitions.

12. All projects shall be in compliance with Maximum Height of a Building or Structure and Procedural Requirements for Determination of Structure Height as provided in the Municipal Code.

13. All projects shall be in compliance with Topographical Survey Requirements of the Municipal Code and all building plans shall be predicated upon said concurrently submitted topographical survey. Said topographical survey (and accompanying grading plan) shall accurately depict both pre-existing grade and finished grade as set forth in the Municipal Code.

#### **ENVIRONMENTAL/MITIGATION REQUIREMENTS:**

14. Prior to issuance of grading permits, impacts to approximately 4.7 acres of Southern maritime chaparral and 1.1 acres of Coastal sage scrub shall be mitigated to the satisfaction of the City Manager, through the payment of fees.

- (a) Mitigation monies will be deposited in the City of San Diego's Habitat Acquisition Fund (Fund #10571), as established by City Council Resolution R-275129, adopted on February 12, 1990. The process for determining the amount of mitigation monies deposited will be as follows:

Staff members from the Development Services Department will provide an estimate of the average cost of habitat land in the focused MHPA Habitat



Acquisition Area closest to the project site, the Del Mar Mesa. The estimate will be based on previous appraisals and comparable land costs within the focused acquisition area. The applicant will be required to contribute the estimated average per acre land cost multiplied by the required mitigation acreage plus an additional 10 percent to cover administrative costs.

Based on today's approximate land value of \$27,500 per acre, the project applicant would be required to contribute \$175,450 [(\$27,500 X 5.8 acres) + 10% Admin. fee]. The actual payment amount would be determined 60 days prior to the issuance of a grading permit based upon the general land values at that time.

15. Prior to issuance of building permits, the applicant shall assure by permit and bond, the installation of a traffic signal at Elijah Court East and El Camino Real, satisfactory to the City Engineer. This signal shall be completed by the applicant and accepted by the City prior to issuance of a certificate of occupancy for the first dwelling unit.

16. Prior to the recordation of the first final map and/or issuance of grading permits, the applicant shall submit a Notice of Intent (NOI) with the State Water Resources Control Board (SWRCB) for the application of a National Pollutant Discharge Elimination System (NPDES) permit. A Notice of Receipt from the SWRCB, Storm Water Pollution Prevention Plan (SWPPP) shall be submitted and deemed satisfactory to the City Engineer.

17. The SWPPP shall be incorporated into the grading and drainage design plans, and shall provide for implementation of construction and post-construction Best Management Practices (BMPs) on-site to reduce the amount of pollutants and sediments in construction and post-construction surface runoff before it is discharged into the natural drainage. The grading plans shall note the condition requiring a SWPPP and Monitoring Program Plan. No grading shall be performed during the rainy season (November 15 through February 15) without special erosion control measures approved by the City Engineer.

18. Prior to the issuance of building permits, a site inspection of the drainage system by the City Engineer shall occur as part of the MMRP. Existing runoff catchment basins or temporary erosion control devices shall not cease operations until the SWPPP and drainage system are approved by the City Engineer.

19. The drainage system shall be cleaned and maintained every four months, or as necessary, to ensure the system functions properly. An annual letter report prepared by the applicant identifying the quarterly clean-out dates, system conditions and required maintenance shall be provided to the City Engineer. Spot checks of the drainage system may be made by the City Engineer to ensure proper clean-out and maintenance.

20. 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 have 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.**

21. The qualified paleontologist shall attend any preconstruction meeting to discuss grading plans with the grading and excavation contractor.

22. 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.

23. 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.

24. 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.

25. 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.

26. This mitigation monitoring and reporting program will require an additional deposit of \$3,200 to be collected prior to the issuance of grading permits to ensure the successful completion of the program.

**ENGINEERING REQUIREMENTS:**

27. The geotechnical consultant must review and sign the grading plans. A final "as-built" geotechnical report must be submitted within 15 days after the completion of grading operations.

28. Elijah Court is currently a private drive. If the applicant intends to dedicate Elijah Court as a public right-of-way, the applicant shall complete the improvement and as-built plans to the satisfaction of the City Engineer. Additionally, the applicant shall grant enough right-of-way and construct a cul-de-sac with a curb radius of 35 feet and a right-of-way radius of 45 feet to the satisfaction of the City Engineer.

29. Prior to the issuance of any building permits, the applicant shall obtain a grading permit from the City Engineer (referred to as an engineering permit) for the grading proposed for this project. All grading shall conform to requirements of the San Diego Municipal Code in a manner satisfactory to the City Engineer.

30. The drainage system proposed with this development is subject to approval by the City Engineer.

31. Prior to building occupancy, the applicant shall conform to the Municipal Code section regarding, "Public Improvement Subject to Desuetude or Damage." If repair or replacement of such public improvements is required, the Owner shall obtain the required permits for work in the public right-of-way, satisfactory to the permit-issuing authority.

32. Development of this project shall comply with all requirements of State Water Resources Control Board (SWRCB) Order No.92-08-DWQ (NPDES General Permit No. CAS000002), Waste Discharge Requirements for Discharges of Storm Water Runoff Associated With Construction Activity. In accordance with said permit, a Storm Water Pollution Prevention Plan (SWPPP) and a Monitoring Program Plan shall be developed and implemented concurrently with the commencement of grading activities, and a complete and accurate Notice of Intent (NOI) shall be filed with the SWRCB. A copy of the acknowledgment from the SWRCB that an NOI has been received for this project shall be filed with the City of San Diego when received; further, a copy of the completed NOI from the SWRCB showing the permit number for this project shall be filed with The City of San Diego when received.

In addition, the Owner(s) and subsequent owner(s) of any portion of the property covered by this grading permit and by SWRCB Order No. 92-08-DWQ, and any subsequent amendments thereto, shall comply with special provisions as set forth in Section C.7 of SWRCB Order No. 92-08-DWQ.

33. The minimum driveway module width with perpendicular compact parking on both sides shall be 55 feet or 40 feet if parking is on one side only. With parallel parking, the minimum driveway width is 34 feet with parking on both sides or 28 feet if parking is on one side only.

34. All parallel parking spaces shall be 22 feet in length.

**PLANNING/DESIGN REQUIREMENTS:**

35. No fewer than 375 off-street parking spaces shall be maintained on the property at all times in the approximate locations shown on the approved Exhibits "A," dated January 11, 1999, on file in the Office of Development Services. Parking spaces shall comply at all times with SDMC Chapter X, Article 1, Division 8, and shall not be converted for any other use unless otherwise authorized by the City Manager.

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

37. The height(s) of the building(s) or structure(s) shall not exceed the height(s) 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.

38. 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.

39. 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.

40. No building additions, including patio covers, shall be permitted unless approved by the City Manager.

41. All signage associated with this development shall be consistent with sign criteria established by the Master Carmel Valley Planned District Sign Plan.

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

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

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

45. Prior to the issuance of building permits, construction documents shall fully illustrate compliance with the Citywide Storage Standards for Trash and Recyclable Materials (SDMC section 101.2001) to the satisfaction of the City Manager. All exterior storage enclosures for trash and recyclable materials shall be located in a manner that is convenient and accessible to all occupants of and service providers to the project, in substantial conformance with the conceptual site plan marked Exhibit "A."

#### **PARK AND RECREATION REQUIREMENTS:**

46. The Permittee shall enter into an agreement acceptable to the City Manager for the design, construction and maintenance of all public access amenities located within said development and improvements within the existing Carmel Valley North Community Park. Said agreement shall be entered into prior to the pulling of the first building permit of this development and address the following issues and concerns:

- a. Permittee shall identify a minimum ten foot wide public access easement adjacent to the western property line from the southwest corner of said property northerly to the community park in an alignment acceptable to the Park Planning Section of the Northern Parks Division prior to the pulling of any building permits for this project.

- b. Permittee shall provide evidence acceptable to the Park Planning Section of the Northern Parks Division that the access meets or exceeds the Federal Americans with Disability Act for accessibility.
- c. Permittee shall provide funding, in the form of cash or bond, for the construction of improvements over, across and through the Community Park in accordance with the direction of the Park Planning Section of the Northern Parks Division and the Carmel Valley Recreation Council.
- d. Permittee shall work with the consultant and the contractor of the Carmel Valley Community Park to insure that the improvements within the Community Park, required by this developer, can and are satisfactorily built to Park and Recreation direction and all applicable City Standards.
- e. Permittee shall design, construct and maintain, in perpetuity, all amenities within the public access easement located within the Carmel Pointe Apartment complex in accordance with Park and Recreation Department recommendations.

**WATER AND SEWER REQUIREMENTS:**

47. Prior to the issuance of any building permits, the developer shall assure by permit and bond the easterly extension of two 12-inch water mains in the driveway, connecting to existing 12-inch water mains in Elijah Court, satisfactory to the Water Department Manager.

48. Prior to the issuance of any building permits, the developer shall install fire hydrants at locations satisfactory to the Fire Department and the City Engineer.

49. The developer shall grant adequate water, sewer, and/or access easements, including vehicular access to each appurtenance (meters, blow offs, air valves, manholes, etc.), for all public water and sewer facilities that are not located within dedicated public rights-of-way, satisfactory to the Water and Metropolitan Wastewater Departments' Managers. Vehicular access roadbeds shall be a minimum of 20 feet wide and surfaced with suitable approved material satisfactory to the appropriate Department Manager. Minimum easement widths: water mains with services or fire hydrants - 24 feet, sewer mains with manholes - 20 feet. No structures of any kind shall be installed in or over any easement prior to the applicant obtaining an encroachment removal agreement.

50. The developer shall design all public water and sewer facilities to the most current edition of the "City of San Diego Water & Sewer Design Guide." Facilities that do not meet the current standards shall be private.

51. Providing water and sewer facilities for this development is dependent upon prior construction of certain water and sewer facilities in previously approved Tentative Map No. 89-1255 in this area. If facilities have not been constructed when required for this development, then the construction of certain portions of these previously approved water and sewer facilities, as required by the City Engineer, will become off-site improvements required for this development.

## **LANDSCAPE REQUIREMENTS:**

52. 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, dated January 11, 1999, on file in the Office of Development Services. No change, modification or alteration shall be made unless appropriate application or amendment of this Permit shall have been granted.

53. 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," dated January 11, 1999, on file in the Office of Development Services, and all other applicable conditions of related permits.

54. 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.

55. 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 and to obtain a No Fee Street Tree Permit for the installation, establishment and on-going maintenance of all street trees. Copies of these approved documents must be submitted to the City Manager.

56. 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.

57. 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.

58. The underground parking garages shall be designed and engineered to support any landscaped areas for portions of the garage projecting beyond the exterior structural building walls of the dwelling units above. The garage must be engineered to support the earth, landscape materials and irrigation of the plantings.

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

APPROVED by the Council of The City of San Diego on January 11, 1999, by Resolution No. R-291153.

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AUTHENTICATED BY THE CITY MANAGER

By \_\_\_\_\_

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**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.

**CARMEL POINTE  
DEVELOPMENT CO., LLC**  
Owner/Permittee

**The Zures Companies**  
A California Corporation (member)

By \_\_\_\_\_  
William J. Zures, CEO

**NORTH REIDY PARTNERS, LTD.**  
A California Limited Partnership (member)

By \_\_\_\_\_  
Craig Gustafson, General Partner

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

1/27/99

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