

RESOLUTION NUMBER R- 306732

DATE OF FINAL PASSAGE MAR 29 2011

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO ADOPTING PLANNED DEVELOPMENT PERMIT/SITE DEVELOPMENT PERMIT/COASTAL DEVELOPMENT PERMIT AND MHPA BOUNDARY LINE ADJUSTMENT FOR GABLES CARMEL VALLEY PROJECT.

WHEREAS, Marvin Del Carmel, a General Partnership, Robert L. Blosser and June C. Hudson, Husband and Wife as community property, Owner and Lion Gables Realty Limited Partnership, a Delaware Limited Partnership, Permittee, filed an application with the City of San Diego for a Planned Development Permit [PDP] No. 601111, Site Development Permit [SDP] No. 601110, Coastal Development Permit [CDP] No. 652351 and MHPA Boundary Line Adjustment [BLA] No. 830190 to construct a 92 dwelling unit apartment project known as the Gables Carmel Valley project (Project); and

WHEREAS, the project site is located at the southeast corner of Tang Drive and Carmel Creek Road, and legally described as a portion of the east half of the southwest quarter of the southeast quarter of Section 19, Township 14 South, Range 3 West, San Bernardino Meridian, according to U.S. Government Survey approved May 20, 1884, in the City of San Diego, County of San Diego, State of California, as described in deed to Marvin Del Carmel, a General Partnership, filed in the Office of the County Recorder of San Diego County on May 26, 1983 as File No. 83-175453 of Official Records, in the Carmel Valley Neighborhood 8 Precise Plan area, in the Carmel Valley Planned District MF-1 Zone which is proposed to be rezoned to the Carmel Valley Planned District MF-3 Zone; and

WHEREAS, on February 10, 2011, the Planning Commission of the City of San Diego considered PDP No. 601111, SDP No. 601110, CDP No. 652351 and MHPA BLA No. 830190,

and pursuant to Resolution No. 4670-PC voted to recommend City Council approval of the permit; and

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

WHEREAS, the matter was set for public hearing on MAR 29 2010, testimony having been heard, evidence having been submitted, and the City Council having fully considered the matter and being fully advised concerning the same; and

WHEREAS, after the approvals for the above referenced project were given by the City Council, Marvin Del Carmel, a General Partnership, Robert L. Blosser and June C. Hudson, Husband and Wife as community property, Owner transferred ownership of the property to MKSRV Solana Carmel Creek LLC, a Delaware limited liability company, making that entity the Permittee for the property; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that it adopts the following findings with respect to PDP No. 601111, SDP No. 601110, CDP No. 652351 and BLA No. 830190:

A. PLANNED DEVELOPMENT PERMIT – SAN DIEGO MUNICIPAL CODE (SDMC) SECTION 126.0604

1. Findings for all Planned Development Permits

a. The proposed development will not adversely affect the applicable land use plan. The proposed Gables Carmel Valley project will develop 92 apartment units and is consistent with the Carmel Valley Neighborhood 8 Precise Plan. The Carmel Valley Neighborhood 8 Precise Plan designates the proposed project area for medium density residential development. The Gables Carmel Valley project will develop the least

biologically sensitive and most disturbed portion of the site; will preserve the most biologically sensitive area of the site identified as being within the Multiple Habitat Planning Area; and will add 92 rental housing units to the housing supply of the City of San Diego at a time in the history of the city when there is a housing shortage and in a community with a very low vacancy rate. The City will benefit by the increase in housing opportunities in the City and more specifically within the Carmel Valley community, by the increase in revenues as a result in greater property taxes paid by the owners of the site as a result of the increase in property value, by the greater efficient utilization of land in an urbanized community for housing purposes, and by the completion of a new housing project which will comply with all current relevant and applicable building, electrical, mechanical and fire codes assuring the structure will meet or exceed the current regulations. Therefore, the proposed development implements the Carmel Valley Neighborhood 8 Precise Plan community design guidelines, as well as goals and objectives of the General Plan, and will not adversely affect the applicable land use plan.

b. The proposed development will not be detrimental to the public health, safety, and welfare. The Gables Carmel Valley project will develop 92 residential units in the least biologically sensitive and most disturbed portion of the site while preserving the most biologically sensitive area of the site identified as being within the Multiple Habitat Planning Area. The proposed project will support the provision of public services; such as, police, fire, medical, schools, public parks and libraries through the payment of fees, assessments and property taxes. The proposed project will provide the necessary sewer and water facilities to serve the residents within the development. Carmel Valley Neighborhood 8 is served by police and fire services with response times consistent with the City's General Plan Standards.

The proposed project will incorporate energy and water efficient materials and efficiency strategies, and has been planned and designed to conform with the wide variety of the City of San Diego's codes, policies, and regulations, whose primary focus is the protection of the public's health, safety, and welfare. The proposed design of the project respects the biological sensitivities of the site and view opportunities surrounding the project and is designed to provide a quality development that will not be detrimental to the public health, safety, and welfare.

The proposed development will provide public benefits which would not have occurred otherwise. The proposed project will provide all necessary sewer and water facilities to serve the residents within the development; will enter into a Maintenance Agreement for the ongoing permanent Best Management Practices [BMP's] maintenance; will comply with all requirements of State Water Resources Control Board [SWRCB] Order No. 99-08 DWQ and the Municipal Storm Water Permit, Order No. 2001-01 (NPDES General Permit No. CAS000002 and CAS0108758), Waste Discharge Requirements for Discharges of Storm Water Runoff Associated With Construction Activity.

The conditions of approval for the project will require compliance with several operational constraints and development controls intended to assure the continued public

health, safety, and welfare. The development will also provide for the health, safety, and welfare of the residents by constructing all buildings in accordance with current construction standards and codes. All of the construction plans associated with the project will be reviewed prior to issuance of a construction permit and inspected during construction to assure the project will meet or exceed all relevant and applicable building, electrical, mechanical, plumbing and fire codes. The 92 apartment units will decrease the existing City-wide housing emergency. As such the Gables Carmel Valley project will not be detrimental to the public health, safety, and welfare.

3. The proposed development will comply with the regulations of the Land Development Code. The Gables Carmel Valley project will develop 92 residential units in the least biologically sensitive and most disturbed portion of the site while preserving the most biologically sensitive area of the site identified as being within the Multiple Habitat Planning Area. The proposed development complies with the regulations of the Carmel Valley Planned District MF-3 Zone 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 Carmel Valley Neighborhood 8 Precise Plan, the three deviations requested are appropriate for the location and for this development. The requested deviations are necessary for the minimum front yard setback, maximum retaining wall height, and to allow 35 parking spaces to be counted towards meeting the required parking where these 35 spaces measure 17 feet in length and 18 parking spaces to be counted towards meeting the required parking where these 18 spaces measure 15 feet in length where the minimum length is 18 feet. The proposed development will comply with all other applicable requirements, including yet not limited to residential density, floor area ratio, street design, grading and landscaping, of the Carmel Valley Planned District MF-3 Zone, as allowed through a Planned Development Permit. The project will reflect the desired objectives and goals for the site as described in the Carmel Valley Neighborhood 8 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.

4. The proposed development, when considered as a whole, will be beneficial to the community. The Gables Carmel Valley project will develop 92 residential units in the least biologically sensitive and most disturbed portion of the site while preserving the most biologically sensitive area of the site identified as being within the Multiple Habitat Planning Area. The proposed development complies with the regulations of the Carmel Valley Planned District MF-3 Zone and site-specific development regulations for the property, as allowed with the approval of a Planned Development Permit. The development will contribute needed market rate housing. The proposed design is consistent with the objectives and goals described and identified in the Carmel Valley Neighborhood 8 Precise Plan for this site. When considered as a whole, the proposed development will be beneficial to the community.

5. Any proposed deviations pursuant to Section 126.0602(b)(1) are appropriate for this location and will result in a more desirable project than would

be achieved if designed in strict conformance with the development regulations of the applicable zone. The Gables Carmel Valley project will develop 92 residential units in the least biologically sensitive and most disturbed portion of the site while preserving the most biologically sensitive area of the site identified as being within the Multiple Habitat Planning Area. The proposed development complies with the regulations of the Carmel Valley Planned District MF-3 Zone 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 Carmel Valley Neighborhood 8 Precise Plan, the deviations requested are appropriate for this location and for the proposed development. The requested deviations necessary for the project address front yard setback, maximum retaining wall height, and to allow thirty-five parking spaces to be counted towards meeting the required parking where these thirty-five spaces measure seventeen feet in length and eighteen parking spaces to be counted towards meeting the required parking where these eighteen spaces measure fifteen feet in length where the minimum length is eighteen feet to be counted towards the required total parking. Deviations, as allowed by the approval of a Planned Development Permit, are required to approve the proposed project. The project will include three deviations:

- a. Land Development Code section 131.0443(d)(1)(A); Front Yard Setback

As required by the Carmel Valley Planned District MF-3 Zone, the minimum front yard setback is fifteen to twenty feet. The Gables Carmel Valley design will provide architectural elements to enhance the buildings and the overall aesthetic appearance of the project. A setback deviation is necessary for a finite length of the frontage along Carmel Creek Road to implement the conceptual design and allow a variable front yard setback. Approximately 209 linear feet of the approximately 656 linear feet of frontage, or approximately thirty-one percent, would be no less than ten feet where the variable front yard setback is required to be from fifteen to twenty feet. Consistent with the Carmel Valley Neighborhood 8 Precise Plan, the proposed project will develop in the least biologically sensitive areas of the site and preserve the most biologically sensitive areas of the site. The deviation to allow a reduced front yard setback for approximately thirty-one percent of the linear distance of fronting property will contribute to preserving sensitive habitat on the site. By placing development closer to the street greater efficiency is achieved on the site and more of the site may be devoted to providing both market rate dwelling units. As the reduced front yard setback occurs along a specified length of the frontage and the architectural site plan indicates the building wall varies in setback over the length of the building wall from ten to forty feet and the areas where the front setback is reduced to ten feet is intermittent rather than all along one length of building wall, the deviation will contribute to creating a creative site design with variety, contrast and harmony consistent with the goals of the Carmel Valley Neighborhood 8 Precise Plan. If the deviation were denied and the project observed the full front yard setback along the entire length of the building wall, less land area would be available for development and by extension to provide dwelling units at this site. The front yard setback deviation is the minimum deviation necessary in this specific case to provide relief from the regulation. For these reasons above the deviation is reasonable and is justified.

b. Land Development Code section 142.0340(d); Maximum Retaining Wall Height

The Gables Carmel Valley design will provide architectural elements to enhance the buildings and the overall aesthetic appearance of the project. The site has a unique geometry, topography, and was significantly disturbed from decades of use as part of a mining operation and later as a commercial equestrian operation. The proposed retaining walls will be located between the proposed four story building and an approved three story building on the adjoining Creekside Villas property at the southeast corner of the site and away from the public right-of-way. As such the retaining walls will not be visible from any public vantage point except from along a narrow corridor which is the emergency access driveway along the southerly property line. The base of the retaining wall will be planted with climbing vines which will eventually cover the wall and improve its appearance from this narrow vantage point. The deviation to allow a thirteen foot retaining wall where a maximum wall height of six feet is allowed by the regulations is appropriate given the significant benefits the project would provide to the city. The deviation to allow an over height retaining wall will contribute to preserving sensitive habitat. By reducing the area of grading on the site by constructing retaining walls where appropriate and feasible, more developable area may be created for the creation of dwelling units on this site. Additionally by reducing the area of grading on the site by constructing retaining walls where appropriate and feasible, less area as measured in acres is graded which directly reduces the impacts to sensitive habitat. Since the over height retaining walls reduce the area necessary for graded slopes more land area becomes available for the development of dwelling units. Should the project design observe the maximum retaining wall height allowed, less land area will be available for development and fewer dwelling units would be provided on this site. In this way the over height retaining walls contribute to the provision of housing at this site and is the minimum deviation necessary in this specific case to provide relief from the regulation. For the reasons above the deviation is reasonable and is justified.

c. Land Development Code section 142.0560(b) and Table 142-05J;
Minimum depth of parking spaces

Allowing a deviation granting thirty-five parking spaces to be counted towards meeting the required parking where these thirty-five spaces measure seventeen feet in length and eighteen parking spaces to be counted towards meeting the required parking where these eighteen spaces measure fifteen feet in length where the minimum length required by the regulations is eighteen feet to be counted towards the total required parking is reasonable and will not negatively affect the functionality of the parking structure. The detail of the deviation is these fifty-three spaces will measure twenty-one or nineteen feet in length as measured on the ground with private storage lockers hung from the ceiling of the garage to no closer than five feet above the garage floor. Thus these fifty-three spaces may not be functionally available to all vehicle designs and vehicle types. Therefore the strict application of the law requires a deviation to allow these fifty-three spaces to be counted towards the total required parking. The development permit issued for this project includes a condition to require the

Owner/Permittee to make all parking spaces available to their tenants and assure the parking space assigned to each tenant accommodates their vehicle. In this way the deviation will not result in any fewer parking spaces than without the deviation. The deviation is supported by an offsetting benefit. The deviation to allow these parking spaces with storage lockers hung from the garage ceiling over a portion of the parking space will contribute to realizing the maximum housing density on this site. A very real constraint of residential property development is the ability to provide the required parking. The parking requirements may effectively reduce the maximum number of dwelling units provided on the site by the need to provide the required number of parking spaces for those units.

Creating efficiencies in the use of all space directly relates to the land area available for development of dwelling units. The project will add 92 rental housing units to the housing stock of the City of San Diego at a time in the history of the city when there is a housing shortage and in a community with a very low vacancy rate. In this way the deviation to allow these fifty-three spaces to be counted towards the total required parking will contribute to the provision of housing at this site. Since providing parking is a real consideration for any residential development, more dwelling units will be provided by utilizing greater efficiencies of space in the parking garage by allowing this deviation. If the deviation were disallowed fewer dwelling units may be realized on this site. In this way allowing a greater efficiency of parking and storage unit design in the parking garage contribute to the provision of housing at this site and is the minimum deviation necessary in this specific case to provide relief from the regulation. For the reasons above the deviation is reasonable and is justified.

**B. SITE DEVELOPMENT PERMIT – SAN DIEGO MUNICIPAL CODE (SDMC)
SECTION 126.0504**

1. Findings for all Site Development Permits

a. **The proposed development will not adversely affect the applicable land use plan.** The Gables Carmel Valley project will develop 92 residential units in the least biologically sensitive and most disturbed portion of the site while preserving the most biologically sensitive area of the site identified as being within the Multiple Habitat Planning Area. For additional information, see Planned Development Permit Finding No. a above.

b. **The proposed development will not be detrimental to the public health, safety, and welfare.** The Gables Carmel Valley project will develop 92 residential units in the least biologically sensitive and most disturbed portion of the site while preserving the most biologically sensitive area of the site identified as being within the Multiple Habitat Planning Area. For additional information, see Planned Development Permit Finding No. b above.

c. **The proposed development will comply with the applicable regulations of the Land Development Code.** The Gables Carmel Valley project will

develop 92 residential units in the least biologically sensitive and most disturbed portion of the site while preserving the most biologically sensitive area of the site identified as being within the Multiple Habitat Planning Area. For additional information, see Planned Development Permit Finding No. c:above.

2. Supplemental Findings--Environmentally Biologically Sensitive Lands

a. **The site is physically suitable for the design and siting of the proposed development and the development will result in minimum disturbance to environmentally biologically sensitive lands.** The Gables Carmel Valley project will develop 92 residential units in the least biologically sensitive and most disturbed portion of the site while preserving the most biologically sensitive area of the site identified as being within the Multiple Habitat Planning Area. The area of the site which will be developed was originally used for decades as a portion of a sand and gravel mining operation and since 1977 was used as an equestrian operation until 2008. The portion of the site now proposed for development has been graded and most native vegetation removed by these previous uses. During and as a result of the equestrian operation manufactured slopes were created, pipe bar corrals were installed, temporary buildings located on the site and other improvements to facilitate the equestrian operation were erected. The Gables Carmel Valley project will be developed in these disturbed areas of the site. The remaining and more sensitive areas of the site will be preserved by a covenant of easement and is located within the Multiple Habitat Planning Area.

The technical reports submitted by the applicant to the City for review indicate the site is suitable for the intended design. These reports address such subject matter as Geology, Transportation, Soils, Hydrology, Storm Water Runoff and Water Quality, Noise, Cultural Resources, Biology and Visual Analysis. In addition, the requirements placed on the development of the site include the submission of further technical reports prior to the approval of construction permits. All technical reports received and reviewed by the city staff indicates the site is suitable for the intended design and will result in the minimum disturbance to environmentally biologically sensitive lands.

b. **The proposed development will minimize the alteration of natural land forms and will not result in undue risk from geologic and erosional forces, flood hazards, or fire hazards.** The Gables Carmel Valley project will develop 92 residential units in the least biologically sensitive and most disturbed portion of the site while preserving the most biologically sensitive area of the site identified as being within the Multiple Habitat Planning Area. The area of the site which will be developed was originally used for decades as a portion of a sand and gravel mining operation and since 1977 was used as an equestrian operation until 2008. The portion of the site now proposed for development has been graded and most native vegetation removed by these previous uses. During and as a result of the equestrian operation manufactured slopes were created, pipe bar corrals were installed, temporary buildings located on the site and other improvements to facilitate the equestrian operation. The Gables Carmel Valley project will be developed in these disturbed areas of the site. The alteration of the remaining natural land forms on the site will not occur with the development of the

project as this undeveloped area will be protected by a covenant of easement in favor of the city of San Diego, the U.S. Fish and Wildlife Service and California Department of Fish and Game and is located within the Multiple Habitat Planning Area.

The approved Exhibit "A" conceptual plans include a Brush Management Plan and Fire Access Plan to address the risks posed by wildland fires and safety issues of the site design as it relates to providing safety services access to the site. City staff have reviewed the Brush Management Plan and Fire Access Plan and concluded based on that review the proposed project will not result in undue risk from fire hazards. Landscape plans and Revegetation and Restoration Plans will be required prior to approving construction plans. These Landscape plans and Revegetation and Restoration Plans will indicate areas of the site where prior historic uses resulted in the removal of vegetation which would exacerbate the risks associated from erosion will be planted and restored and thus undue risks associated from erosion will not occur. All manufactured slopes will be revegetated to prevent soil erosion and stabilize manufactured slopes. Undue risk from flood hazards will not result as the site is outside of the 100 year flood plain and not within a flood prone area.

City staff has reviewed geotechnical information submitted by professional consultants for the applicant and the Site Plan, Grading and Utilities plans prepared by RBF Consulting and have concluded based on that review the proposed project will not result in undue risk from geologic forces. All technical reports received and reviewed by the city staff indicate the site is suitable for the intended design. The proposed development will not result in undue risk from geologic and erosional forces, flood hazards, or fire hazards.

c. The proposed development will be sited and designed to prevent adverse impacts on any adjacent environmentally biologically sensitive lands. The Gables Carmel Valley project will develop 92 residential units in the least biologically sensitive and most disturbed portion of the site while preserving the most biologically sensitive area of the site identified as being within the Multiple Habitat Planning Area. The area of the site which will be developed was originally used for decades as a portion of a sand and gravel mining operation and since 1977 was used as an equestrian operation until 2008. The portion of the site now proposed for development has been graded and most native vegetation removed by these previous uses. During and as a result of the equestrian operation manufactured slopes were created, pipe bar corrals were installed, temporary buildings located on the site and other improvements to facilitate the equestrian operation. The Gables Carmel Valley project will be developed in these disturbed areas of the site. The proposed development is sited and designed to prevent adverse impacts on any adjacent environmentally biologically sensitive lands. Furthermore, compliance with all local, state and federal regulations pertaining to the protection of environmentally biologically sensitive lands will be required of the applicant so that adverse impacts on any adjacent environmentally biologically sensitive lands will not occur.

d. **The proposed development will be consistent with the City of San Diego's Multiple Species Conservation Program (MSCP) Subarea Plan.** The Gables Carmel Valley project will develop 92 residential units in the least biologically sensitive and most disturbed portion of the site while preserving the most biologically sensitive area of the site identified as being within the Multiple Habitat Planning Area. The approval of the proposed project includes a Multiple Habitat Planning Area Boundary Line Adjustment. The United States Fish and Wildlife Service, the California Department of Fish and Game and the City's Multiple Species Conservation Program staff have reviewed the proposed boundary line adjustment and concluded the adjustment will benefit the Multiple Species Conservation Program and the Multiple Habitat Planning Area by developing in the least biologically sensitive and most disturbed portion of the site while preserving the most biologically sensitive area of the site. The area of the site which will be developed was originally used for decades as a portion of a sand and gravel mining operation and since 1977 was used as an equestrian operation until 2008. The portion of the site now proposed for development has been graded and most native vegetation removed by these previous uses. During and as a result of the equestrian operation manufactured slopes were created, pipe bar corrals were installed, temporary buildings located on the site and other improvements to facilitate the equestrian operation were erected. The Gables Carmel Valley project will be developed in these disturbed areas of the site. The remaining and most sensitive areas of the site will be preserved by a covenant of easement and is located within the Multiple Habitat Planning Area. With the Multiple Habitat Planning Area Boundary Line Adjustment approved the project will be consistent with the City of San Diego's Multiple Species Conservation Program Subarea Plan.

e. **The proposed development will not contribute to the erosion of public beaches or adversely impact local shoreline sand supply.** The Gables Carmel Valley project will develop 92 residential units in the least biologically sensitive and most disturbed portion of the site while preserving the most biologically sensitive area of the site identified as being within the Multiple Habitat Planning Area. The site does not contain any drainage channels or jurisdictional waters of the United States. All storm water runoff generated on the project site will comply with all requirements of State Water Resources Control Board (SWRCB) Order No. 99-08 DWQ and the Municipal Storm Water Permit, Order No. 2001-01 (NPDES General Permit No. CAS000002 and CAS0108758), Waste Discharge Requirements for Discharges of Storm Water Runoff Associated With Construction Activity. In accordance with said permit, a Storm Water Pollution Prevention Plan (SWPPP) and a Monitoring Program Plan will be implemented concurrently with the commencement of grading activities, and a Notice of Intent (NOI) will be filed with the SWRCB. The site is approximately two miles in a straight line from the Pacific Ocean, is not located adjacent to the shoreline or to a public beach. The hydrologic watershed which the proposed project site is located within will not be adversely affected by the proposed project and by logical extension the proposed development will not contribute to the erosion of public beaches or adversely impact the local shoreline sand supply.

f. **The nature and extent of mitigation required as a condition of the permit is reasonably related to, and calculated to alleviate, negative impacts created by the proposed development.** The Gables Carmel Valley project will develop 92 residential units in the least biologically sensitive and most disturbed portion of the site while preserving the most biologically sensitive area of the site identified as being within the Multiple Habitat Planning Area. To the greatest extent possible the proposed project will be sited on the least sensitive portions of the site and will not encroach into slopes steeper than twenty-five percent. The project will comply with the relevant regulations applicable to the site, with the exception of the approved deviations, and has been designed to minimize impacts to biologically sensitive lands adjacent to the area of development on the site. To the greatest extent possible all development will be confined to areas of the site which have been and are already disturbed by the previous equestrian and quarry use of the site. The conditions of approval required for the project include mitigation to address potential impacts to Biology and Paleontological Resources and are directly related to the potential impacts which may be probable and a result of implementation of the project. As such these mitigation requirements are calculated to alleviate potential negative impacts resulting from the implementation of the project.

C. **COASTAL DEVELOPMENT PERMIT – SAN DIEGO MUNICIPAL CODE (SDMC) SECTION 126.0708**

1. **Findings for all Coastal Development Permits**

a. **The proposed coastal development will not encroach upon any existing physical access way that is legally used by the public or any proposed public accessway identified in a Local Coastal Program land use plan; and the proposed coastal development will enhance and protect public views to and along the ocean and other scenic coastal areas as specified in the Local Coastal Program land use plan.** The proposed project is located at the southeast corner of Tang Drive and Carmel Creek Road on a 5.22 acre site in the Carmel Valley Planned District MF-3 zone of the Carmel Valley Neighborhood 8 Precise Plan. The project proposes to develop and construct a 92 unit apartment project. The proposed project will be developed entirely within the private property and will not encroach upon any existing physical access way legally used by the public or any proposed public accessway identified in a Local Coastal Program land use plan in as much as there are no legally used by the public or any proposed public accessways located on the private property. The proposed development will be constructed completely within the boundaries of the private property and will observe all required yard setbacks, except as allowed by the approved deviation for the front yard setback to allow a ten foot front yard setback for approximately 209 linear feet where a variable front yard setback of fifteen to twenty feet is required. The Carmel Valley Neighborhood 8 Precise Plan identifies the location of all public view corridors within the community and does not identify any such corridor within or along Tang Drive or Carmel Creek Road. From the property location at the southeast corner of Tang Drive and Carmel Creek Road there are no views to the ocean or other scenic coastal areas. As such the proposed project will have no effect upon any existing physical access way legally used by the public or any proposed public accessway and will have no effect upon

public views to and along the ocean and other scenic coastal areas as identified in the Local Coastal Program land use plan.

b. The proposed coastal development will not adversely affect environmentally sensitive lands. The proposed project is located at the southeast corner of Tang Drive and Carmel Creek Road on a 5.22 acre site in the Carmel Valley Planned District MF-3 zone of the Carmel Valley Neighborhood 8 Precise Plan. The project proposes to develop and construct a 92 unit apartment project. All impacts to environmentally sensitive lands will be mitigated to below a level of significance in accordance with the adopted Mitigation Monitoring and Reporting Program and as such no adverse affects will result from the project to environmentally sensitive lands. For additional information, see Site Development Permit Supplemental Findings B.2 (a)-(f) above.

c. The proposed coastal development is in conformity with the certified Local Coastal Program land use plan and complies with all regulations of the certified Implementation Program. The proposed project is located at the southeast corner of Tang Drive and Carmel Creek Road on a 5.22 acre site in the Carmel Valley Planned District MF-3 zone of the Carmel Valley Neighborhood 8 Precise Plan. The project proposes to develop and construct a 92 unit apartment project. The proposed density is consistent with the land use designation. The project would adhere to policies and objectives established by the Carmel Valley Neighborhood 8 Precise Plan in that the design of the proposed structures do not affect any existing physical access way that is legally used by the public or any proposed public accessway identified in a Local Coastal Program land use plan. Furthermore the proposed project will have a harmonious physical and aesthetic relationship with other existing structures and land forms in the neighborhood. Being determined the proposed project will be consistent with the Carmel Valley Neighborhood 8 Precise Plan policies and goals; the project is in conformity with the certified Local Coastal Program land use plan and complies with all regulations of the certified Implementation Program.

d. For every Coastal Development Permit issued for any coastal development between the nearest public road and the sea or the shoreline of any body of water located within the Coastal Overlay Zone the coastal development is in conformity with the public access and public recreation policies of Chapter 3 of the California Coastal Act. The proposed project is located at the southeast corner of Tang Drive and Carmel Creek Road on a 5.22 acre site in the Carmel Valley Planned District MF-3 zone of the Carmel Valley Neighborhood 8 Precise Plan. The project proposes to develop and construct a 92 unit apartment project. The project site is not located between the nearest public road and the sea or the shoreline of any body of water located within the Coastal Overlay Zone, yet is approximately two miles in a straight line from the shoreline of the Pacific Ocean and approximately 0.75 miles from the shoreline of the Los Peñasquitos Lagoon, the closest bodies of water located within the Coastal Overlay Zone. Several public roads exist between the site and these bodies of water. Therefore, the proposed project to construct a 92 unit apartment project will have no affect upon

public access and the recreation policies of Chapter 3 of the California Coastal Act and therefore as such will be in conformance with such Act.

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 Planned Development Permit No. 601111, Site Development Permit [SDP] No. 601110, Coastal Development Permit [CDP] No. 652351 and MHPA Boundary Line Adjustment [BLA] No. 830190 is granted to Marvin Del Carmel, a General Partnership, Robert L. Blosser and June C. Hudson, Husband and Wife as community property, Owner and Lion Gables Realty Limited Partnership, a Delaware Limited Partnership, Permittee, under the terms and conditions set forth in the permit attached hereto and made a part hereof.

APPROVED: JAN I. GOLDSMITH, City Attorney

By Shannon M. Thomas
Shannon M. Thomas
Deputy City Attorney

SMT:als
3/07/2011
3/12/2014 Cor.Copy
Or.Dept:DSD
Doc. No. 139507_2

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

WHEN RECORDED MAIL TO
CITY CLERK
MAIL STATION 2A

SPACE ABOVE THIS LINE FOR RECORDER'S USE

JOB ORDER NUMBER: 23431730

**PLANNED DEVELOPMENT PERMIT NO. 601111, SITE DEVELOPMENT PERMIT
NO. 601110, COASTAL DEVELOPMENT PERMIT NO. 652351 AND MHPA
BOUNDARY LINE ADJUSTMENT NO. 830190
GABLES CARMEL VALLEY PROJECT NO. 167252 [MMRP]
CITY COUNCIL**

This Planned Development Permit No. 601111, Site Development Permit No. 601110, Coastal Development Permit No. 652351 and MHPA Boundary Line Adjustment No. 830190 is granted by the City Council of the City of San Diego to MKSRV SOLANA CARMEL CREEK, LLC, a Delaware limited liability company, Owner/Permittee, pursuant to San Diego Municipal Code [SDMC] sections 126.0601, 126.0501 and 126.0701. The 5.22 acre site is located at the southeast corner of Tang Drive and Carmel Creek Road in the Carmel Valley Planned District MF3 zone of the Carmel Valley Neighborhood 8 Precise Plan. The project site is legally described as a portion of the east half of the southwest quarter of the southeast quarter of Section 19, Township 14 South, Range 3 West, San Bernardino Meridian, according to U.S. Government Survey approved May 20, 1884, in the City of San Diego, County of San Diego, State of California, as described in deed to Marvin Del Carmel, a General Partnership, filed in the Office of the County Recorder of San Diego County on May 26, 1983 as File No. 83-175453 of Official Records.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee to develop and construct a 92 unit apartment project, described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated March 29, 2011, on file in the Development Services Department.

The project shall include:

- a. Development and construction of a 92 unit apartment project with a MHPA Boundary Line Adjustment;

- b. Three deviations are approved; 1) from LDC Section 131.0443(d)(1)(A) to allow a ten foot front yard setback for approximately 212 linear feet where a variable front yard setback of fifteen to twenty feet is required, 2) from LDC Section 142.0340(d) to allow a retaining wall system of two tiers with heights up to nineteen feet where each retaining wall is allowed to be a maximum of six feet high in the side yard setback, and 3) from LDC Section 142.0560 Table 142-05J which requires automobile parking spaces to be a minimum of 18 feet long to allow 35 spaces to be 17 feet long and 18 spaces to be 15 feet long due to the proposed storage lockers above these spaces;
- c. Landscaping (planting, irrigation and landscape related improvements);
- d. Off-street parking;
- 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.
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. The Planned Development Permit, Site Development Permit and Coastal Development Permit shall comply with all Conditions of the Vesting Tentative Map No. 601114.
4. While this Permit is in effect, the subject property shall be used only for the purposes and under the terms and conditions set forth in this Permit unless otherwise authorized by the appropriate City decision maker.

5. This Permit is a covenant running with the subject property and all of the requirements and conditions of this Permit and related documents shall be binding upon the Owner/Permittee and any successor(s) in interest.
6. The continued use of this Permit shall be subject to the regulations of this and any other applicable governmental agency.
7. Issuance of this Permit by the City of San Diego does not authorize the Owner/Permittee for this Permit to violate any Federal, State or City laws, ordinances, regulations or policies including, but not limited to, the Endangered Species Act of 1973 [ESA] and any amendments thereto (16 U.S.C. § 1531 et seq.).
8. In accordance with authorization granted to the City of San Diego from the United States Fish and Wildlife Service [USFWS] pursuant to Section 10(a) of the federal Endangered Species Act [ESA] and by the California Department of Fish and Game [CDFG] pursuant to California Fish and Game Code section 2835 as part of the Multiple Species Conservation Program [MSCP], the City of San Diego through the issuance of this Permit hereby confers upon Owner/Permittee the status of Third Party Beneficiary as provided for in Section 17 of the City of San Diego Implementing Agreement [IA], executed on July 16, 1997, and on file in the Office of the City Clerk as Document No. OO-18394. Third Party Beneficiary status is conferred upon Owner/Permittee by the City: (1) to grant Owner/Permittee the legal standing and legal right to utilize the take authorizations granted to the City pursuant to the MSCP within the context of those limitations imposed under this Permit and the IA, and (2) to assure Owner/Permittee that no existing mitigation obligation imposed by the City of San Diego pursuant to this Permit shall be altered in the future by the City of San Diego, USFWS, or CDFG, except in the limited circumstances described in Sections 9.6 and 9.7 of the IA. If mitigation lands are identified but not yet dedicated or preserved in perpetuity, maintenance and continued recognition of Third Party Beneficiary status by the City is contingent upon Owner/Permittee maintaining the biological values of any and all lands committed for mitigation pursuant to this Permit and of full satisfaction by Owner/Permittee of mitigation obligations required by this Permit, in accordance with Section 17.1D of the IA.
9. The Owner/Permittee shall secure all necessary building permits. The Owner/Permittee is informed that to secure these permits, substantial building modifications and site improvements may be required to comply with applicable building, fire, mechanical, and plumbing codes, and State and Federal disability access laws.
10. Construction plans shall be in substantial conformity to Exhibit "A." Changes, modifications, or alterations to the construction plans are prohibited unless appropriate application(s) or amendment(s) to this Permit have been granted.
11. All of the conditions contained in this Permit have been considered and were determined necessary to make the findings required for approval of this Permit. The Permit holder is required to comply with each and every condition in order to maintain the entitlements that are granted by this Permit.

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

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

ENVIRONMENTAL/MITIGATION REQUIREMENTS:

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

14. The mitigation measures specified in the MMRP, and outlined in Mitigated Negative Declaration No. 167252, 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 Mitigated Negative Declaration No. 167252, to the satisfaction of the Development Services Department and the City Engineer. Prior to issuance of any construction permit, all conditions of the MMRP shall be adhered to, to the satisfaction of the City Engineer. All mitigation measures described in the MMRP shall be implemented for the following issue areas:

Biological Resources
Land Use (MHPA Adjacency)
Noise
Paleontological Resources

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

AFFORDABLE HOUSING REQUIREMENTS:

17. The Owner/Permittee shall comply with the affordable housing requirements of the City's Inclusionary Housing Ordinance (Chapter 14, Article 2, Division 13 of the Land Development Code). Prior to the issuance of the first Residential Building Permit, the Owner/Permittee shall pay the inclusionary affordable housing fee as invoiced by the City of San Diego, at the rate in effect at the time the application for the building permit is deemed complete.

MULTIPLE SPECIES CONSERVATION PROGRAM REQUIREMENTS:

18. Prior to the issuance of any construction permits, the Owner/Permittee shall grant the on-site Multiple Habitat Planning Area [MHPA] to the City's Multiple Species Conservation Program [MSCP] preserve through a covenant of easement granted in favor of the City and the U.S. Fish and Wildlife Service [USEWS] and the California Department of Fish and Game [CDFG], as shown on Exhibit "A," to the satisfaction of the Development Services Department. The Owner/Permittee shall maintain in perpetuity any MHPA lands granted by covenant of easement. The language of the covenant of easement shall allow for the restoration and revegetation of the area.

ENGINEERING REQUIREMENTS:

19. Prior to the issuance of a building permit, 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.

20. This project proposes to export 15,300 cubic yards of material from the project site. All export material shall be discharged into a legal disposal site. The approval of this project does not allow the onsite processing and sale of the export material unless the underlying zone allows a construction and demolition debris recycling facility with an approved Neighborhood Use Permit or Conditional Use Permit per LDC Section 141.0620(i).

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

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

23. Prior to the issuance of any construction permits, the Owner/Permittee shall incorporate and show the type and location of all post-construction Best Management Practices (BMP's) on the final construction drawings, in accordance with the approved Water Quality Technical Report, satisfactory to the City Engineer.

24. The drainage system proposed for this development is private and subject to approval by the City Engineer.

25. Development of this project shall comply with all requirements of State Water Resources Control Board (SWRCB) Order No. 99-08 DWQ and the Municipal Storm Water Permit, Order No. 2001-01 (NPDES General Permit No. CAS000002 and CAS0108758), Waste Discharge Requirements for Discharges of Storm Water Runoff Associated With Construction Activity. In accordance with said permit, a Storm Water Pollution Prevention Plan (SWPPP) and a Monitoring Program Plan shall be implemented concurrently with the commencement of grading activities, and a Notice of Intent (NOI) shall be filed with the SWRCB.

26. 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. 99 08 DWQ, and any subsequent amendments thereto, shall comply with special provisions as set forth in SWRCB Order No. 99 08 DWQ.

27. Prior to the issuance of any permits, the Owner/Permittee shall obtain a letter of concurrence from the adjacent property owner for the off site grading and other associated work, satisfactory to the City Engineer.

LANDSCAPE REQUIREMENTS:

28. Prior to issuance of any engineering permits for grading, the Owner/Permittee shall submit complete landscape construction documents, including plans, details, and specifications (including a permanent automatic irrigation system unless otherwise approved), for the required right-of-way, revegetation and hydro-seeding of all disturbed land in accordance with the Landscape Standards, to the satisfaction of the Development Services Department. The Owner/Permittee shall assure by permit and bond the installation of landscaping per landscape construction documents. All plans shall be in substantial conformance to this permit and Exhibit "A."

29. Prior to issuance of any engineering permits for grading, the Owner/Permittee shall enter into a Landscape Establishment and Maintenance Agreement (LEMA) to assure long-term

establishment and maintenance of all habitat restoration areas and brush management zone two revegetation areas. Revegetation plans shall be consistent with Exhibit A, "Conceptual Habitat Restoration/ Revegetation and Monitoring Plan for the Gables Carmel Valley Project", dated September 2010. The revegetation plan requires a minimum 36 month monitoring term and the attainment of specific revegetation success criteria. The LEMA shall be approved by the Landscape Section of Development Services Department. The LEMA shall commence prior to release of the performance bond with Owner/Permitted posting a new bond to cover the terms of the Landscape Establishment and Maintenance Agreement.

30. Prior to issuance of any engineering permits for right-of-way improvements, complete landscape construction documents for right-of-way improvements shall be submitted to the Development Services Department for approval. Improvement plans shall take into account 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.

31. In the event a foundation only permit is requested by the Owner/Permittee, a site plan or staking layout plan shall be submitted 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 'landscape area.'

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

33. Prior to issuance of any construction permits for buildings, a water budget shall be provided in accordance with the Water Conservation Requirements-Section 142.0413, Table 142-04I. An irrigation audit shall be submitted consistent with Section 2.7 of the Landscape Standards of the Land Development Manual. The Irrigation audit shall certify that all plants, irrigation systems, and landscape features will be installed and operated as approved by the Development Services Department prior to occupancy of use.

34. Prior to issuance of any Certificate of Occupancy, it shall be the responsibility of the Owner/Permittee to install all required landscape and obtain all required landscape inspections. A "No Fee" Street Tree Permit shall be obtained for the installation, establishment, and on-going maintenance of all street trees.

35. 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.

36. Construction documents for grading shall include the following note: "Installation of landscaping associated with these construction documents shall require a minimum short-term

establishment period of 120 days for all native/naturalized slope restoration and a minimum long-term establishment/maintenance period of 36 months. Final approval of the required landscaping shall be to the satisfaction of the Mitigation Monitoring Coordination section of the Development Services Department.”

37. The Owner/Permittee shall be responsible for the installation and maintenance of all landscape improvements consistent with the Land Development Code: Landscape Regulations and the Land Development Manual: Landscape Standards. Invasive species are prohibited from being planted adjacent to any canyon, water course, wet land or native habitats within the city limits of San Diego. Invasive plants are those which rapidly self propagate by air born seeds or trailing as noted in section 1.3 of the Landscape Standards.

38. The Owner/Permittee shall be responsible to ensure that irrigation run off shall be directed away from the Multiple Habitat Preserve Area or from the transitional areas to ensure no impacts occur from irrigation runoff into any of these areas.

39. The Owner/Permittee shall be responsible for the maintenance of all landscape improvements 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. In this case, a Landscape Maintenance Agreement shall be submitted for review by a Landscape Planner.

40. 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, it shall be repaired and/or replaced 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.

BRUSH MANAGEMENT PROGRAM REQUIREMENTS:

41. The Owner/Permittee shall implement the Brush Management Program as shown on the approved Exhibit “A.”

42. The Brush Management Program shall consist of two zones consistent with the Brush Management regulations of the Land Development Code section 142.0412 as follows:

- Lot 1 shall have a modified Zone One ranging from 35 feet to 85 feet and a modified Zone Two ranging from 30 feet to 0 feet as shown on the Brush Management Plan of Exhibit “A.”
- Where Brush Management Zone modification is applied to the project, the modification shall conform to Section 142.0412(i).

43. Prior to issuance of any engineering permits for grading, landscape construction documents required for the engineering permit shall be submitted showing the brush management zones on the property in substantial conformance with Exhibit “A.”

44. Prior to issuance of any building permits, a complete set of brush management construction documents shall be submitted for approval to the Development Services Department and the Fire Marshall. The construction documents shall be in substantial conformance with Exhibit "A" and shall comply with SDMC 55.0101, Land Development Code section 142.0412, and the Land Development Manual - Landscape Standards.

45. Prior to issuance of any construction permits for grading, a temporary easement shall be granted from adjacent property owner(s) of parcel APN 307-023-3800 for offsite Brush Management as shown on the Exhibit "A." The required easement shall be used to maintain the required Brush Management Zone Two on the adjacent property until such time that a building permit is issued and construction is underway for the adjacent property APN 307-023-3800.

46. Within Zone One, combustible accessory structures, including, but not limited to decks, trellises, gazebos, et cetera, are not permitted, while non-combustible accessory structures may be approved within the designated Zone One area subject to Fire Marshall and the Development Services Department approval.

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

48. In Zones One and Two, plant material shall be selected to visually blend with the existing hillside vegetation. No invasive plant material shall be permitted as jointly determined by the Landscape Section and the MSCP staff.

49. Prior to final inspection for any building, the approved Brush Management Program shall be implemented.

50. The Brush Management Program shall be maintained at all times in accordance with the City of San Diego's Landscape Standards.

PLANNING/DESIGN REQUIREMENTS:

51. 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.

52. Prior to the issuance of any grading or building permits, a fee shall be deposited with the Development Services Department for the Los Peñasquitos Watershed Restoration and Enhancement Program. The enhancement fee shall be computed on the basis of site grading at a rate of \$0.005 per square foot for all areas graded, with an additional rate of \$0.03 per square foot for all impervious surfaces created by the development. The enhancement fee shall be computed by the Owner/Permittee and verified by the Development Services Department.

53. All signs associated with this development shall be consistent with sign criteria established by the City-wide sign regulations.

54. 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.

CITY PLANNING & COMMUNITY INVESTMENT REQUIREMENTS:

55. Site planning and building design shall conform to the guidelines for multi-family residential development of the Carmel Valley Neighborhood 8 Precise Plan.

56. Buildings and landscaping shall be designed and constructed to incorporate measures to implement the water and energy conservation guidelines of the Carmel Valley Neighborhood 8 Precise Plan Conservation Element.

57. All development shall utilize materials that blend with the natural landscape and specify neutral, earth tone, muted colors as specified on the Exhibit "A."

58. Required fencing between designated private use areas and common brush management and/or MHPA/open space lots shall not be altered, removed or relocated without City of San Diego approval. Signs shall be installed along the fence boundary and at other strategic access points to avoid circumventing authorized access to the CVREP trail through the MHPA preserve.

GEOLOGY REQUIREMENTS

59. 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 prior to the issuance of any construction permit.

60. 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 prior to exoneration of the bond and grading permit close-out.

TRANSPORTATION REQUIREMENTS

61. Prior to the issuance of the first building permit, the Owner/Permittee shall assure by permit and bond the construction of a raised median and raised stamped concrete traffic circle with a radius of 28 feet at the southern end of Carmel Creek Road as shown on Exhibit "A," satisfactory to the City Engineer.

62. Prior to the issuance of the first building permit, the Owner/Permittee shall assure by permit and bond the removal of the existing road humps on Carmel Creek Road between Tang Drive and Carmel Creek Road's southerly terminus in conjunction with the installation of a

raised traffic circle and raised median referred to in the condition above, satisfactory to the City Engineer.

63. The Owner/Permittee shall install and maintain bollards at the entrance of the southern project driveway along Carmel Creek Road in the approximate location shown on Exhibit "A," satisfactory to the City Engineer, to ensure this driveway shall be used for emergency access only.

64. The Owner/Permittee shall maintain a minimum of 164 automobile spaces (including 2 van accessible parking spaces, 3 standard accessible parking spaces, and 33 common area parking spaces), 9 motorcycle spaces, 42 bicycle spaces with rack(s), and one loading area shall be provided as required by the Land Development Code. One hundred sixty nine (169) automobile spaces (including 2 van accessible parking spaces, 3 standard accessible parking spaces, and 33 common area parking spaces), 9 motorcycle spaces, and 42 bicycle spaces with rack(s) will be provided as shown on Exhibit "A."

65. All on-site parking stalls and aisle widths shall be in compliance with requirements of the City's Land Development Code, except as allowed by the deviation approved for this project, and shall not be converted and/or utilized for any other purpose, unless otherwise authorized in writing by the Development Services Director.

66. Parking spaces shall be assigned and the Owner/Permittee shall ensure each assigned parking space accommodates the tenant's vehicles.

67. A minimum of one loading zone with minimum length of 35 feet, minimum width of 12 feet, and a minimum vertical clearance of 14 feet shall be provided in the approximate location as shown on Exhibit "A."

PUBLIC UTILITIES REQUIREMENTS:

68. All onsite sewer facilities serving this site shall be private.

69. The Owner/Permittee shall design and construct any proposed public sewer facilities to the most current edition of the City of San Diego's Sewer Design Guide.

70. Proposed private underground sewer facilities located within a single lot shall be designed to meet the requirements of the California Plumbing Code and shall be reviewed as part of the building permit plan check.

71. No trees or shrubs exceeding three feet in height at maturity shall be located within ten feet of any public sewer mains or laterals.

72. All proposed sewer laterals shall connect to public mains and not manholes.

73. Prior to the issuance of any building permits, the Owner/Permittee shall assure, by permit and bond, the design and construction of any new water service(s) outside of any driveway, and

the disconnection at the water main of the existing unused water service adjacent to the project site, in a manner satisfactory to the Director of Public Utilities and the City Engineer.

74. 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, including domestic, fire and irrigation, in a manner satisfactory to the Director of Public Utilities and the City Engineer.

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

INFORMATION ONLY:

- Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of this Permit, may protest the imposition within ninety days of the approval of this development permit by filing a written protest with the City Clerk pursuant to California Government Code section 66020.
- This development may be subject to impact fees at the time of construction permit issuance.

APPROVED by the Council of the City of San Diego on March 29, 2011.

Permit Type/PTS Approval No.: PDP No. 601111,
SDP No. 601110, CDP No. 652351 & MHPA BLA
No. 830190

Date of Approval: March 29, 2011

AUTHENTICATED BY THE DEVELOPMENT SERVICES DEPARTMENT

Mike Westlake
Assistant Deputy Director
Development Services

**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.

MKSRV SOLANA CARMEL CREEK, LLC,
a Delaware limited liability company
Owner/Permittee

By: _____
Eric Shwisberg, its Manager

By: _____
G.A. Ranglas, its Manager

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