

RESOLUTION NUMBER R- 311777DATE OF FINAL PASSAGE MAY 22 2018

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO ADOPTING PLANNED DEVELOPMENT PERMIT NO. 1266871, SITE DEVELOPMENT PERMIT NO. 1266883, AND CONDITIONAL USE PERMIT NO. 1266881 FOR MERGE 56 – PROJECT NO. 360009. (AMENDING PLANNED DEVELOPMENT PERMIT NO. 53203, SITE DEVELOPMENT PERMIT NOS. 53204, 3278 AND 40-0386, CONDITIONAL USE PERMIT NO. 53205).

WHEREAS, SEA BREEZE 56, LLC, a Delaware Limited Liability Company, Owner/Permittee, filed an application with the City of San Diego for a Planned Development Permit, Site Development Permit and Conditional Use Permit to develop a mixed-use development and construct public roadway improvements known as the Merge 56 project. The combined 72.34-acre site is located south of State Route 56, between Camino Del Sur and Black Mountain Road in the CR-2-1 (Commercial-Regional) and RM-3-9 (Residential-Multiple Unit) zones which are proposed to be rezoned to the CC-3-5 (Commercial-Community) and RX-1-2 (Residential-Small Lot) zones of the Torrey Highlands Subarea Plan area. The project site is legally described as Lots 4, 5 and 10 of Rhodes Crossing, in the City of San Diego, County of San Diego, State of California, according to Map thereof No. 15578, filed in the Office of the County Recorder of San Diego County, July 11, 2007; and

WHEREAS, on February 22, 2018, the Planning Commission of the City of San Diego considered Planned Development Permit No. 1266871, Site Development Permit No. 1266883, and Conditional Use Permit No. 1266881, and pursuant to Resolution No. 4926-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 and where a public hearing was required by law implicating due process rights of individuals affected by the decision and where the Council was required by law to consider evidence at the hearing and to make legal findings based on the evidence presented; and

WHEREAS, the matter was set for public hearing on MAY 22 2018, 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 it adopts the following findings with respect to Planned Development Permit No. 1266871, Site Development Permit No. 1266883, and Conditional Use Permit No. 1266881:

A. PLANNED DEVELOPMENT PERMIT – SAN DIEGO MUNICIPAL CODE (SDMC) SECTION 126.0605

1. Findings for all Planned Development Permits:

a. The proposed development will not adversely affect the applicable land use plan. The Merge 56 development site is located in the north-central portion of the City. The property is situated in the communities of Del Mar Mesa, Torrey Highlands, and Rancho Peñasquitos, immediately adjacent to the State Route 56 (SR-56) right-of-way. The Merge 56 development project (Project) consists of two components, a mixed-use development and the public roads that adjoin the proposal. The Project would implement a General Plan Amendment (GPA) to redesignate portions the development site to a Multiple Use designation, and a Community Plan Amendment (CPA) to redesignate portions the development site to a local mixed-use center (LMXU) designation. The Project includes a Rezone for portions of the development site to Community Commercial (CC-3-5) and Residential Small Lot (RX-1-2) to make the project site consistent with its proposed land use designation.

The development component of the project would consist of a LMXU containing commercial, office, hotel and residential uses on the 41.34-acre, triangular-shaped property. The project would allow for construction of 525,000 square feet (sf) of commercial, office, theater/cinema, and hotel uses and 242 residences (i.e., 158 multi-family and 84 single-family). According to the Torrey Highlands Subarea Plan, the LMXU designation is intended for major grocery and drug stores, and pedestrian-oriented shops and stores including restaurants and civic uses.

The residential component of this project provides a portion of the housing needs within the community with 242 multi-family units concentrated in the heart of the LMXU center. The higher density units situated in the core of the community, and combined with the commercial retail and office uses, form a mixed-use and pedestrian-oriented development located along the regional transit system. The project utilizes design components that facilitate pedestrian orientation, such as a modified grid system, diagonal and parallel street-side parking, a pedestrian village green and market square.

Multi-family housing and mixed-use residential units shall be interspersed with ground floor commercial as envisioned in the Torrey Highlands Subarea Plan. Residential density should decrease as the distance from the commercial center increases. Trails and pedestrian links to residential areas are required to be integrated with the commercial center. Although located near the freeway, the LMXU is not intended to be a freeway-oriented commercial development with dedicated freeway access. The existing LMXU in the Torrey Highlands Subarea Planning area, Torrey Highlands Village Center, is situated northwest of the SR-56/Camino Del Sur interchange and the project site. The Merge 56 Development Project would create a second mixed use center in the vicinity of SR-56.

Furthermore, the project includes two important major roadway elements which will serve the area. Camino Del Sur and Carmel Mountain Road will be extended as planned with the approval of this Project. Design of the roadways include a bus transit and bike lane that would provide local and regional access to the surrounding properties and local community.

The Project has been designed to comply with the regulations of the Land Development Code (LDC); however, to implement the Project will require deviations. The deviations are necessary to allow the site to be developed with commercial, townhomes, and single-family dwelling units consistent with the intent of the Torrey Highlands Subarea Plan as outlined within Planned Development Permit Finding (A)(1)(c), listed below. Each of the requested deviations has been reviewed as they relate to the proposed design of the project, the property configuration, and the surrounding development. The deviations are appropriate and will result in a more desirable project that efficiently utilizes the site, provide a more cohesive community appearance, allow for adequate site circulation and overall functionality of the project, avoid impacts to federal jurisdictional waters while providing adequate conveyance and discharge of stormwater runoff from the public roadways. Other than the requested deviations, the project meets all applicable regulations and policy documents, and is consistent with the recommended land use, design guidelines, and development standards in effect for this site per the LDC. Therefore, with the adoption of the GPA, CPA, and Rezone, the proposed development will not adversely affect the applicable land use plan.

b. The proposed development will not be detrimental to the public health, safety, and welfare. An Environmental Impact Report (EIR) No. 360009/SCH No. 2014071065, has been prepared for the project in accordance with State of California Environmental Quality Act (CEQA) Guidelines. A Mitigation, Monitoring, and Reporting Program (MMRP) would be implemented with this project, which would reduce some of the potential impacts to below a level of significance. The applicant has provided Draft Candidate Findings and Statement of Overriding Considerations to allow the decision-maker to approve the project with significant and unmitigated direct impacts related to Visual Effects/Neighborhood

Character (Landform Alteration) and cumulative impacts which would be significant and unmitigated related to Transportation/Circulation.

The Project has been designed to comply with the regulations of the LDC; however, to implement the Project will require deviations. The deviations are necessary to allow the site to be developed with commercial, townhomes, and single-family dwelling units consistent with the intent of the Torrey Highlands Subarea Plan as outlined within Planned Development Permit Finding (A)(1)(c), listed below. Each of the requested deviations has been reviewed as they relate to the proposed design of the project, the property configuration, and the surrounding development. The deviations are appropriate and would not be detrimental to the public health, safety, and welfare.

The permit for the Project includes various conditions and referenced exhibits relevant to achieving project compliance with the applicable regulations of the San Diego Municipal Code (SDMC) in effect for this project. Such conditions are necessary to avoid adverse impacts to the health, safety and general welfare of persons residing or working in the surrounding area. The project will comply with the development conditions in effect for the subject property as described in Planned Development Permit No. 1266871, Site Development Permit No. 1266883, and Conditional Use Permit No. 1266881 amendment to Planned Development Permit No. 53203 Site Development Permit Nos. 53204, 3278 and 40-0386, and Conditional Use Permit No. 53205, and other regulations and guidelines pertaining to the subject property per the SDMC. Prior to issuance of any building permits for the proposed development, the plans will be reviewed for compliance with all Building, Electrical, Mechanical, Plumbing and Fire Code requirements, and the Owner/Permittee will be required to obtain a grading and public improvement permit. Therefore, the proposed development would not be detrimental to the public health, safety and welfare.

c. The proposed development will comply with the regulations of the Land Development Code including any proposed deviations pursuant to Section 126.0602(b)(1) that are appropriate for this location and will result in a more desirable project than would be achieved if designed in strict conformance with the development regulations of the applicable zone, and any allowable deviations that are otherwise authorized pursuant to the Land Development Code. The Project consists of two components, a mixed-use development and the public roads that adjoin the proposal. The Project would implement a GPA to redesignate portions the development site to a Multiple Use designation, and a CPA to redesignate portions the development site to a LMXU designation. The Project includes a Rezone for portions of the development site to Community Commercial (CC-3-5) and Residential Small Lot (RX-1-2) to make the project site consistent with its proposed land use designation.

The Project has been designed to comply with the regulations of the LDC; however, to implement the Project will require deviations. The deviations are necessary to allow the site to be developed with commercial, townhomes, and single-family dwelling units consistent with the intent of the Torrey Highlands Subarea Plan. The following table is a matrix of the proposed deviations:

Deviations Summary			
Deviation Description	Deviation from SDMC	Required	Proposed
CC Zone Front Yard Setback for Unit 10 Lots 1-5 and 7	<u>Section 131.0531 and Table 131-05E</u>	Maximum 10 feet	Varies from 11-25 feet
CC Zone Front Yard Setback for Unit 4 Lots 1, 2 and 5	<u>Section 131.0531 and Table 131-05E</u>	Maximum 10 feet	Varies from 15-29 feet
CC Zone Side Yard Setback for Unit 10 Lot 1-5 and 7	<u>Section 131.0531 and Table 131-05E</u>	Minimum 10 feet or 0 feet	Varies from 6.5-35 feet
CC Zone Side Yard Setback for Unit 4 Lots 1, 2 and 5	<u>Section 131.0531 and Table 131-05E</u>	Minimum 10 feet or 0 feet	Varies from 10-15 feet
RX Zone Front Yard Setback for Unit 5 Lots 27, 32, 33, 35, 36, 38, 42, 43, 48, 49, 54, 55, 61	<u>Section 131.0431 and Table 131-04E</u>	Minimum 15 feet	Varies from 7-26 feet
RX Zone Rear Yard Setback for Unit 5 Lots 8, 9, 14, 15, 20, 21, 26, 27, 32, 33, 38, 42, 43, 48, 49, 54, 55, 61	<u>Section 131.0431 and Table 131-04E</u>	Minimum 10 feet	Varies from 4-21 feet
Ground Floor Restriction for Unit 4 Lots 2, 4 and 5 and Unit 10 Lot 7	<u>Section 131.0540(c)</u>	Residential uses and residential parking not allowed within the front 30-feet	Allow residential uses and residential parking within the front 30-feet
Retaining Wall Height Outside of Required Yards for Retaining Wall No. 21, 22, 27, 31, and 32	<u>Section 142.0340(e)</u>	Maximum 12-foot retaining wall allowed	Varies from 14-25 feet

Each of the requested deviations has been reviewed as they relate to the proposed design of the project, the property configuration, and the surrounding development. The deviations are appropriate and will result in a more desirable project that efficiently utilizes the site, provide a more cohesive community appearance, allow for adequate site circulation and overall functionality of the project, avoid impacts to federal jurisdictional waters while providing adequate conveyance and discharge of stormwater runoff from the public roadways. Other than the requested deviations, the project meets all applicable regulations and policy documents, and is consistent with the recommended land use, design guidelines, and development standards in effect for this site per the LDC.

**B. SITE DEVELOPMENT PERMIT – SAN DIEGO MUNICIPAL CODE (SDMC)
SECTION 126.0505**

1. Findings for all Site Development Permits:

a. The proposed development will not adversely affect the applicable land use plan. As outlined within Planned Development Permit Finding (A)(1)(a), listed above, with the adoption of the GPA, CPA, and Rezone, the proposed development, including any potential impacts to environmentally sensitive lands (ESL) as outlined in Site Development Permit (SDP) Findings (B)(2)(a-f) below, would not adversely affect the applicable land use plan.

b. The proposed development will not be detrimental to the public health, safety, and welfare. As outlined within Planned Development Permit Finding (A)(1)(b), listed above, the proposed development, including any potential impacts to ESL as outlined in SDP Findings (B)(2)(a-f) below, would not be detrimental to the public health, safety and welfare.

c. The proposed development will comply with the regulations of the Land Development Code including any allowable deviations pursuant to the Land Development Code. As outlined within Planned Development Permit Finding (A)(1)(c), listed above, with the approval of the requested deviations, the proposed development, including any potential impacts to ESL as outlined in SDP Findings (B)(2)(a-f) below, is in conformance with the applicable regulations of the LDC.

2. Supplemental Findings--Environmentally 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 sensitive lands. The Project site, including the rights-of-way (ROW) for two Circulation Element roads, contains ESL in the form of sensitive biological resources and steep slopes (only along the Camino Del Sur ROW). No coastal beaches, sensitive coastal bluffs, or 100-year floodplains exist or will be affected by the project. In accordance with the ESL Regulations, an Site Development Permit is required due to project impacts to sensitive biological resources and steep slopes.

EIR No. 360009/SCH No. 2014071065, has been prepared for the project in accordance with CEQA Guidelines. An MMRP would be implemented with this project, which would reduce some of the potential impacts to below a level of significance. The applicant has provided Draft Candidate Findings and Statement of Overriding Considerations to allow the decision-maker to approve the project with significant and unmitigated direct impacts related to Visual Effects/Neighborhood Character (Landform Alteration) and cumulative impacts which would be significant and unmitigated related to Transportation/Circulation.

Regarding sensitive biological resources, the Project will provide mitigation for any indirect or direct impacts to ESL. The Project involves wetland impacts that would be mitigated in-kind and achieve a no net loss of wetland function and value, as required in the City Biology

Guidelines. The Project further will comply with the following mitigation ratios from the Biology Guidelines: Tier I: mitigation ratios range from 1:1 to 2:1; Tier II: (1:1 to 1.5:1); Tier IIIA: (0.5:1 to 1:1); Tier IIIB: (0.5:1 to 1:1); Tier IV: Disturbed, agricultural, and eucalyptus (0:1) Mitigation for direct impacts to upland vegetation communities shall be accomplished through acquisition of suitable habitat, purchase of mitigation credits in an approved mitigation bank, or a combination thereof.

Deviations from the ESL Regulations are required due to unavoidable impacts to wetlands. The project will qualify for deviations under the Biologically Superior Option (BSO) for the Mixed-Use Development component and under the Essential Public Project (EPP) Option for the public roads component of the project. The Mixed-Use Development component of the project will qualify for ESL deviations under the BSO because it would result in a biologically superior resource once mitigation is complete. The public roads component will qualify for deviations under the EPP Option because all direct and indirect impacts will be minimized, to the extent feasible, through project design features, compliance with City regulations and/or mitigated through measures.

Within the Project area, the public ROW area consists of approximately 8.7-acres that contains slopes that have a gradient of 25 percent or more. To minimize grading, retaining walls will be used throughout the project site to reduce hillside grading and the horizontal extent of manufactured slopes; however, the construction of Camino Del Sur will encroach into 100 percent of the steep slopes contained on site and would change the elevation of the existing steep hillsides by more than five feet. This encroachment would be greater than the encroachment allowance outlined in the ESL Regulations for projects outside the Multiple Habitat Planning Area (MHPA) and Coastal Zone. However, as a Circulation Element road, this encroachment is exempted under SDMC Section 143.0142(a). Therefore, the site is physically suitable for the design and siting of the proposed development and the development will result in minimum disturbance to ESL.

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 Torrey Highlands Subarea and Rancho Penasquitos Community Plans were designed to minimize alterations to natural landforms. Overall, the project would result in substantially more than 2,000 cubic yards (cy) of cut or fill per graded acre and will exceed the 10-foot high significance threshold for manufactured slopes. The public roads component of the project will also result in the disturbance of steep slopes by changing the elevation of steep hillsides by more than five feet. These impacts will be reduced to the extent feasible through the construction of a series of retaining walls. Even with these minimization measures, the impact on existing natural landforms would be considered significant and unavoidable due to the Camino Del Sur extension through hillside terrain along the planned alignment for the road. However, as a Circulation Element road, this encroachment is exempted under SDMC Section 143.0142(a).

The Project's development footprints have been located to minimize erosion, flood, and fire hazards. No floodplains exist on site and proper design features have been incorporated into the site plan, including observance of required setbacks and integration of brush management, to

prevent fire hazards. Development will comply with the region-wide erosion control plan, which requires pre- and post-construction measures to prevent erosion and sedimentation of downstream areas. The project will enter into a Maintenance Agreement for the ongoing permanent Best Management Practices (BMPs) maintenance; will comply with all requirements of the State Water Resources Control Board and Municipal Storm Water Permit, Waste Discharge Requirements for Discharges of Storm Water Runoff Associate with Construction Activity. Therefore, the Project has been designed to minimize the alteration of natural land forms and 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 sensitive lands. Approximately 2.2 acres of the western edge of the Camino Del Sur ROW occur within the MHPA and will be impacted by the road ROW. ESL outside the MHPA occur adjacent to other elements of the project. The Project contains design features, such as the use of non-invasive plants, water quality BMPs, shielded architectural/overhead lighting, fencing and signage, to protect the adjacent environmentally sensitive lands and will be required through conditions of approval to comply with all MHPA Land Use Adjacency Guidelines as identified in the approved Biological Technical Report and EIR No. 360009/SCH No. 2014071065. No utility lines will intrude upon the MHPA or adjacent ESL; all lines will be within the proposed roadway improvements. In addition, the project is a compatible use within the MHPA as an essential public facility designed in accordance with the roads and utilities guidelines in the Multiple Species Conservation Program (MSCP) Subarea Plan.

d. The proposed development will be consistent with the City of San Diego's Multiple Species Conservation Program (MSCP) Subarea Plan. Approximately 2.2 acres of the western edge of the Camino Del Sur ROW occur within the MHPA and will be impacted by the road ROW, and impacts to the biological resources within the MHPA. Camino Del Sur has a defined alignment for which no feasible alternative exists to avoid the MHPA because of the fixed end points of the roadway and engineering safety standards. However, this project component avoids canyon bottoms in the MHPA and does not substantially interfere with wildlife movement. Section 1.4.2 of the City's MSCP Subarea Plan includes general planning policies and design guidelines that have been applied in the review and approval of development projects within or adjacent to the MHPA. In this case, Camino Del Sur is the only project component within or adjacent to the MHPA and is considered a compatible use within the MHPA. Mitigation will comply with the ratios specified in the City's Biology Guidelines for impacts to sensitive biological resources in the MHPA. The proposed project will be required through conditions of approval to comply with all MHPA Land Use Adjacency Guidelines as identified in the approved Biological Technical Report and EIR No. 360009/SCH No. 2014071065. Therefore, the project is consistent with the MSCP Subarea Plan.

e. The proposed development will not contribute to the erosion of public beaches or adversely impact local shoreline sand supply. The Project site is located nine miles away from the public beaches and local shoreline, and includes Best Management Practices (BMPs) appropriate for the site. A Storm Water Quality Management Plan would be implemented with the project. EIR No. 360009/SCH No. 2014071065, has been prepared for the

project in accordance with CEQA Guidelines. An MMRP would be implemented with this project, which would reduce some of the potential impacts to below a level of significance. The applicant has provided Draft Candidate Findings and Statement of Overriding Considerations to allow the decision-maker to approve the project with significant and unmitigated direct impacts related to Visual Effects/Neighborhood Character (Landform Alteration) and cumulative impacts which would be significant and unmitigated related to Transportation/Circulation. Therefore, the project would not contribute to the erosion of public beaches or adversely impact 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. EIR No. 360009/SCH No. 2014071065, has been prepared for the project in accordance with CEQA Guidelines. An MMRP would be implemented with this project, which would reduce some of the potential impacts to below a level of significance. The applicant has provided Draft Candidate Findings and Statement of Overriding Considerations to allow the decision-maker to approve the project with significant and unmitigated direct impacts related to Visual Effects/Neighborhood Character (Landform Alteration) and cumulative impacts which would be significant and unmitigated related to Transportation/Circulation.

The Project will provide mitigation for any indirect or direct impacts to sensitive biological resources considered environmentally sensitive lands. The proposed project proposed wetland impacts mitigated in-kind and achieve a no net loss of wetland function and value. The project further will comply with the following mitigation ratios (as specified in the City Biology Guidelines): Tier I: mitigation ratios range from 1:1 to 2:1; Tier II: (1:1 to 1.5:1); Tier IIIA: (0.5:1 to 1:1); Tier IIIB: (0.5:1 to 1:1); Tier IV: Disturbed, agricultural, and eucalyptus (0:1). Mitigation for direct impacts to upland vegetation communities shall be accomplished through preservation of suitable habit, purchase of mitigation credits in an approved mitigation bank, or a combination thereof. To minimize grading, retaining walls will be used throughout the project site to reduce steep hillside grading and the horizontal extent of manufactured slopes; however, Camino Del Sur will encroach into 100 percent of the steep hillsides contained on site and change the elevation of the existing steep hillsides by more than five feet. This encroachment will be greater than the encroachment allowance outlined in the ESL Regulations for projects outside the MHPA and Coastal Zone. However, as a Circulation Element road, this encroachment is exempted under SDMC Section 143.0142(a). Therefore, 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.

3. Supplemental Findings--Environmentally Sensitive Lands Deviations

a. There are no feasible measures that can further minimize the potential adverse effects on environmentally sensitive lands. The proposed alignment of Camino Del Sur is pre-determined by the existing terminal points on the north and south ends of the site and consistent with the planned alignment in the Torrey Highlands Subarea Plan and Rancho Penaquitos Community Plan, making it infeasible to shift the alignment to avoid impacts to ESL. The width of the roadway has been reduced from the previously approved design and is the minimum necessary to ensure successful construction and operation of the Circulation

Element roadway. In addition, the alignment for the extension of Carmel Mountain Road has been shifted in the project design to avoid existing vernal pool complexes located on the Rhodes Crossing project site.

The Project's mixed use component is located between SR-56 and the proposed Camino Del Sur and Carmel Mountain Road extensions. Impacts to ELS (with the exception of two vernal pools) were addressed in the certified EIR No. 3230/SCH No. 2002121089 for Rhodes Crossing. A change between the Rhodes Crossing project and the current project is that the two vernal pools would now be impacted. If they remained, these pools would be completely surrounded by development (e.g., residential buildings, roads, and commercial development) and would have minimal buffers. Additionally, the City's Vernal Pool Habitat Conservation Plan has not included these isolated pools within its proposed preserve area as it has been recognized by the City and the USFWS that these pools, if preserved, would provide little biological value. Given the small size of the pools and their minimal biological value if preserved within a larger development project. The Project incorporates all feasible mitigation, and avoidance in the current plan would not significantly protect ESL.

b. The proposed deviation is the minimum necessary to afford relief from special circumstances or conditions of the land, not of the applicant's making. The project would impact wetlands and would, therefore, require deviations from the ESL Regulations. The project qualifies under two of the three options: the Essential Public Projects Option for the Public Roads (i.e., Camino Del Sur) and the Biologically Superior Option for the Mixed-Use Development. The project qualifies for deviations under two of the options in the ESL Regulations: the Essential Public Projects Option for the Public Roads and the Biologically Superior Option for the private, Mixed-Use Development. The Project would qualify for deviations under the Essential Public Projects Option because it meets the criteria specified in the ESL Regulations, and all direct and indirect impacts would be minimized, to the extent feasible, through project design features, compliance with City regulations, and/or mitigated through measures identified in EIR No. 360009/SCH No. 2014071065.

The public roads improvements would implement the City Circulation Elements that have fixed endpoints and must comply with standard road design requirements in the City Street Design Manual; the improvements would create connections between existing road termini where they do not presently exist. The roadways have been designed to meet vehicular demand and community plan road capacity requirements and current engineering safety standards (e.g., vertical elevation, minimum curve radii and roadway slopes), while providing the minimum road capacity necessary to handle future projected traffic. The road footprints have been designed to avoid direct impacts to off-site vernal pool resources and have been minimized, to the extent feasible, by narrowing the roads to two lanes.

C. CONDITIONAL USE PERMIT- SAN DIEGO MUNICIPAL CODE (SDMC) SECTION 126.0305

1. Findings for all Conditional Use Permits:

a. The proposed development will not adversely affect the applicable land use plan. As outlined within Planned Development Permit Finding (A)(1)(a), listed above,

with the adoption of the GPA, CPA, and Rezone, the proposed development will not adversely affect the applicable land use plan. The proposed cinema/theater is over 5,000 sf and requires approval of a Conditional Use Permit. The Conditional Use Permit approval process analyzed the project's consistency with the goals, policies and objectives of the City's General Plan and Torrey Highlands Subarea Plan and it would not adversely affect the applicable land use plan.

b. The proposed development will not be detrimental to the public health, safety, and welfare. As outlined within Planned Development Permit Finding (A)(1)(b), listed above, the proposed cinema/theater as part of the development would not be detrimental to the public health, safety and welfare.

c. The proposed development will comply with the regulations of the Land Development Code including any allowable deviations pursuant to the Land Development Code. As outlined within Planned Development Permit Finding (A)(1)(c), listed above, with the approval of the requested deviations, the proposed cinema/theater as part of the development is in conformance with the applicable regulations of the LDC.

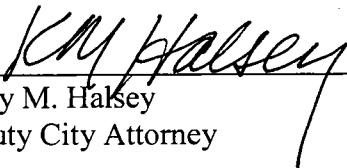
d. The proposed use is appropriate at the proposed location. The Project has been designated as a pedestrian oriented residential, commercial center with office, retail, and restaurant where it is appropriate to locate a cinema in such a location that is freeway and neighborhood close. In addition, Camino Del Sur and Carmel Mountain Road extensions would provide new regional access to the cinema which would allow the existing community to utilize the new cinema, in addition to the new residents. According to the Torrey Highlands Subarea Plan, the LMXU designation is intended for major grocery and drug stores, and pedestrian-oriented shops and stores including restaurants and civic uses, which includes the proposed cinema; therefore, the use is appropriate at the proposed location.

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

BE IT FURTHER RESOLVED, that Planned Development Permit No. 1266871, Site Development Permit No. 1266883, and Conditional Use Permit No. 1266881 is granted to SEA

BREEZE 56, LLC, a Delaware Limited Liability Company, Owner/Permittee, under the terms and conditions set forth in the attached permit which is made a part of this resolution.

APPROVED: MARA W. ELLIOTT, City Attorney

By 
Keely M. Halsey
Deputy City Attorney

KMH:als
05/02/18
Or.Dept:DSD
Doc. No.: 1683258

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

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

INTERNAL ORDER NUMBER: 24004023 SPACE ABOVE THIS LINE FOR RECORDER'S USE

**PLANNED DEVELOPMENT PERMIT NO. 1266871
SITE DEVELOPMENT PERMIT NO. 1266883
CONDITIONAL USE PERMIT NO. 1266881
MERGE 56 PROJECT NO. 360009 [MMRP]
(AMENDING PLANNED DEVELOPMENT PERMIT NO. 53203, SITE
DEVELOPMENT PERMIT NOS. 53204, 3278 AND 40-0386, CONDITIONAL
USE PERMIT NO. 53205)
CITY COUNCIL**

This Planned Development Permit No. 1266871, Site Development Permit No. 1266883, and Conditional Use Permit No. 1266881, amendment to Planned Development Permit No. 53203 Site Development Permit Nos. 53204, 3278 and 40-0386, and Conditional Use Permit No. 53205, is granted by the City Council of the City of San Diego to SEA BREEZE 56, LLC, a Delaware Limited Liability Company, Owner/Permittee, pursuant to San Diego Municipal Code (SDMC) sections 126.0604, 126.0504 and 126.0305. The combined 72.34-acre site is located south of State Route 56, between Camino Del Sur and Black Mountain Road in the CR-2-1 (Commercial-Regional) and RM-3-9 (Residential-Multiple Unit) zones which are proposed to be rezoned to the CC-3-5 (Commercial-Community) and RX-1-2 (Residential-Small Lot) zones of the Torrey Highlands Subarea Plan area. The project site is legally described as Lots 4, 5 and 10 of Rhodes Crossing, in the City of San Diego, County of San Diego, State of California, according to Map thereof No. 15578, filed in the Office of the County Recorder of San Diego County, July 11, 2007.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee to construct a mixed-use development and public roadway improvements as further described below and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated MAY 22 2018, on file in the Development Services Department.

The project shall include:

- a. Construction of a mixed-use development comprised of approximately 525,000 square feet of commercial, office, theater, hotel uses and 242 residential units, as follows:

- 47 affordable apartment units
 - 19 market rate apartment units
 - 92 townhomes
 - 84 single-family dwelling units
- b. Public roadway improvements for Camino Del Sur and Carmel Mountain Road, and the extension of Camino Del Sur Road;
- c. Construction of associated site improvements including storm drains/detention basins, internal private streets, hardscape, site walls, landscaped common areas, private alleys accessible from internal private drives, and common area; and
- d. Deviations from San Diego Municipal Code (SDMC):
- 1) CC Zone Front Yard Setback: A deviation from San Diego Municipal Code (SDMC) Section 131.0531 Table 131-05E (Development Regulations of CC Zones) for front yard setbacks. Unit 10 Lots 1-5 and 7 front yard setback varies from 11-25 feet where a maximum front 10-foot setback is allowed. Unit 4 Lots 1, 2 and 5 front yard setback varies from 15–29 feet where a maximum 10 foot setback is allowed.
 - 2) CC Zone Side Yard Setback: A deviation from SDMC Section 131.0531 Table 131-05E (Development Regulations of CC Zones) for side yard setbacks. Unit 10 Lot 1-5 and 7 side yard setback varies from 6.5-35 feet where a minimum 10 foot or 0 foot side setback is required. Unit 4 Lots 1, 2 and 5 side yard setback varies from 10–15 feet where a minimum 10 foot or 0 foot side setback is required.
 - 3) RX Zone Front Yard Setback: A deviation from SDMC Section 131.0431 Table 131-04E (Development Regulations of RX Zones) for front yard setbacks. Unit 5 Lots 27, 32, 33, 35, 36, 38, 42, 43, 48, 49, 54, 55, 61 front yard setback varies from 7–26 feet where a minimum 15 foot setback is required.
 - 4) RX Zone Rear Yard Setback: A deviation from SDMC Section 131.0431 Table 131-04E (Development Regulations of RX Zones) for rear yard setbacks. Unit 5 Lots 8, 9, 14, 15, 20, 21, 26, 27, 32, 33, 38, 42, 43, 48, 49, 54, 55, 61 rear yard setback varies from 4 to 21 feet where a minimum 10 foot setback is required.
 - 5) Ground Floor Restriction: A deviation request from SDMC Section 131.0540(c) Ground Floor Restriction for Unit 4 Lots 2, 4 and 5 and Unit 10 Lot 7 to allow residential uses and residential parking within the front 30-feet, where the regulation residential uses and residential parking are prohibited on the ground floor in the front 30 feet of the lot is requested.

- 6) Retaining Wall Height: A deviation request from SDMC Section 142.0340(e) Retaining Wall Height Outside of Required Yards for Retaining Wall No. 21, 22, 27, 31, and 32 that varies from 14-25 feet, where a maximum 12-foot retaining wall is allowed.
- e. Landscaping (planting, irrigation and landscape related improvements);
- f. Off-street parking;
- g. Sustainable development features, including solar canopies installed on all parking decks; Centralized parking structures and walkable streets and plazas to encourage a “park once” strategy; Neighborhood-serving retail placed in close proximity to residences; Mixed-use live/work/play concept incorporated into site planning; Pedestrian-oriented development with multiple walkways linking commercial and residential areas; Bike racks provided in commercial and residential areas; electrical vehicle charging stations, Trail connections and bike lanes provided along public roads; Sustainable building design, including use of local building materials, low-flow fixtures (toilets and showers), and porous surfaces; Recycling receptacles placed throughout the site; Low-water use, native landscaping materials installed to minimize turf and irrigation demands; and State-of-the-art, low precipitation sprinkler equipment used in the mixed-use development, and utilization of reclaimed water;
- h. Public and private accessory improvements determined by the Development Services Department to be consistent with the land use and development standards for this site in accordance with the adopted community plan, the California Environmental Quality Act (CEQA) and the CEQA Guidelines, the City Engineer’s requirements, zoning regulations, conditions of this Permit, and any other applicable regulations of the SDMC.

STANDARD REQUIREMENTS:

1. This permit must be utilized within thirty-six (36) months after the date on which all rights of appeal have expired. If this permit is not utilized in accordance with Chapter 12, Article 6, Division 1 of the SDMC within the 36 month period, this permit shall be void unless an Extension of Time has been granted. Any such Extension of Time must meet all SDMC requirements and applicable guidelines in effect at the time the extension is considered by the appropriate decision maker. This permit must be utilized by MAY 22 2021.

2. No permit for the construction, occupancy, or operation of any facility or improvement described herein shall be granted, nor shall any activity authorized by this Permit be conducted on the premises until:

- a. The Owner/Permittee signs and returns the Permit to the Development Services Department; and

- b. The Permit is recorded in the Office of the San Diego County Recorder.
3. While this Permit is in effect, the subject property shall be used only for the purposes and under the terms and conditions set forth in this Permit unless otherwise authorized by the appropriate City decision maker.
4. This Permit is a covenant running with the subject property and all of the requirements and conditions of this Permit and related documents shall be binding upon the Owner/Permittee and any successor(s) in interest.
5. The continued use of this Permit shall be subject to the regulations of this and any other applicable governmental agency.
6. Issuance of this Permit by the City of San Diego does not authorize the Owner/Permittee for this Permit to violate any Federal, State or City laws, ordinances, regulations or policies including, but not limited to, the Endangered Species Act of 1973 (ESA) and any amendments thereto (16 U.S.C. § 1531 et seq.).
7. 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 Wildlife (CDFW) pursuant to California Fish and Wildlife 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 CDFW, 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.
8. 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.
9. 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.

10. 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.

11. 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.

12. Planned Development Permit No. 53203 Site Development Permit Nos. 53204, 3278 and 40-0386, and Conditional Use Permit No. 53205 shall remain in force and effect except where amended by this Permit.

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 Environmental Impact Report No. 360009, 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 Environmental Impact Report No. 360009, 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:

- Land Use
- Transportation/Circulation
- Biological Resources
- Historical Resources (Archaeology)
- Paleontological Resources

CLIMATE ACTION PLAN REQUIREMENTS:

16. Owner/Permittee shall comply with the Climate Action Plan (CAP) Consistency Checklist stamped as Exhibit "A." Prior to issuance of any construction permit, all CAP strategies shall be noted within the first three (3) sheets of the construction plans under the heading "Climate Action Plan Requirements" and shall be enforced and implemented to the satisfaction of the Development Services Department.

WASTE MANAGEMENT PLAN REQUIREMENTS:

17. Owner/Permittee shall comply with the Waste Management Plan dated March 2015, and shall be enforced and implemented to the satisfaction of the Environmental Services Department.

AFFORDABLE HOUSING REQUIREMENTS:

18. Prior to the issuance of any building permits, the Owner/Permittee shall enter into an affordable housing agreement with the San Diego Housing Commission to provide affordable housing units in compliance with the City's Inclusionary Affordable Housing Regulations (SDMC § 142.1301 et seq.).

19. The Project is subject to the Rhodes Crossing Project Affordable Housing Program, as conditioned within Planned Development Permit No. 53203, Site Development Permit Nos. 53204, and Conditional Use Permit No. 53205, to provide 20-percent of the 242 housing units as affordable housing units (47 pre-density bonus units) at 65-percent Area Median Income (AMI).

AIRPORT REQUIREMENTS:

20. Prior to issuance of any construction permit, the Owner/Permittee shall provide a valid "Determination of No Hazard to Air Navigation" issued by the Federal Aviation Administration (FAA).

ENGINEERING REQUIREMENTS:

21. This Planned Development Permit No. 1266871, Site Development Permit No. 1266883, and Conditional Use Permit No. 1266881 shall comply with all Conditions of the Final Map for the Vesting Tentative Map No. 1266780.
22. Prior to the issuance of any building permits, the Owner/Permittee shall obtain a bonded grading permit for the grading proposed for this project. All grading shall conform to requirements in accordance with the City of San Diego Municipal Code in a manner satisfactory to the City Engineer.
23. Prior to the issuance of any construction permits, the Owner/Permittee shall assure, by permit and bond, full improvement of the deceleration lane on Camino Del Sur adjacent to Lot 3 of Map 15578, per current City Standards, satisfactory to the City Engineer.
24. The drainage system for this project will be subject to approval by the City Engineer.
25. Prior to the issuance of any building permit, the Owner/Permittee shall enter into an agreement to indemnify, protect and hold harmless the City, its officials and employees from any and all claims, demands, causes or action, liability or loss because of, or arising out of surface drainage entering into the property from the Right-of-Way.
26. Prior to the issuance of any construction permit, the Owner/Permittee shall grant to the City of San Diego Public Storm Drain Easements for all public storm drains located on private properties satisfactory to the City Engineer.
27. Prior to the issuance of any building permits, the Owner/Permittee shall obtain an Encroachment Maintenance Removal Agreement, from the City Engineer, for all private connections to public storm drain systems.
28. Prior to the issuance of any construction permit, the applicant shall incorporate any construction Best Management Practices (BMP) necessary to comply with Chapter 14, Article 2, Division 1 (Grading Regulations) of the Municipal Code, into the construction plans or specifications.
29. Prior to the issuance of any construction permit, the applicant shall submit a Technical report that will be subject to final review and approval by the City Engineer, based on the Storm Water Standards in effect at the time of the construction permit issuance.
30. Prior to the issuance of any construction permit, the applicant shall enter into a Maintenance Agreement for the ongoing permanent BMP maintenance, satisfactory to the City Engineer.
31. Development of this project shall comply with all storm water construction requirements of the State Construction General Permit, Order No. 2009-0009DWQ, or subsequent order, and the Municipal Storm Water Permit, Order No. R9-2013-0001, or subsequent order. In accordance

with Order No. 2009-0009DWQ, or subsequent order, a Risk Level Determination shall be calculated for the site and a Storm Water Pollution Prevention Plan (SWPPP) shall be implemented concurrently with the commencement of grading activities.

32. Prior to issuance of a grading or a construction permit, a copy of the Notice of Intent (NOI) with a valid Waste Discharge ID number (WDID#) shall be submitted to the City of San Diego as a proof of enrollment under the Construction General Permit. When ownership of the entire site or portions of the site changes prior to filing of the Notice of Termination (NOT), a revised NOI shall be submitted electronically to the State Water Resources Board in accordance with the provisions as set forth in Section II.C of Order No. 2009-0009-DWQ and a copy shall be submitted to the City.

LANDSCAPE REQUIREMENTS:

33. Prior to issuance of any engineering permits for grading, the Owner/Permittee shall submit complete construction documents for the revegetation and hydroseeding of all disturbed land in accordance with the City of San Diego Landscape Standards, Stormwater Design Manual, and to the satisfaction of the Development Services Department. All plans shall be in substantial conformance to this permit and Exhibit "A."

34. Prior to issuance of any engineering permits for right-of-way improvements, the Owner/Permittee shall submit complete landscape construction documents for right-of-way improvements to the Development Services Department for approval. Improvement plans shall show, label, and dimension 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.

35. Prior to issuance of any construction permits for structures (including shell), the Owner/Permittee shall submit complete landscape and irrigation construction documents consistent with the Landscape Standards to the Development Services Department for approval. The construction documents shall be in substantial conformance with Exhibit "A." Construction plans shall provide a forty square foot area around each tree that is unencumbered by hardscape and utilities unless otherwise approved per LDC 142.0403(b)(5).

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

37. The Owner/Permittee shall be responsible for the maintenance of all landscape improvements shown on the approved plans, including in the right-of-way, consistent with the Landscape Standards unless long-term maintenance of said landscaping will be the responsibility of a Landscape Maintenance District or other approved entity.

38. 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.

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

MULTIPLE SPECIES CONSERVATION PROGRAM:

40. Prior to the issuance of any grading permit, the Owner/Permittee shall record a Covenant of Easement over Lot “Z” as shown on the Vesting Tentative Map.

PLANNING/DESIGN REQUIREMENTS:

41. 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.

42. All signs associated with this development shall be consistent with sign criteria established by either the approved Exhibit “A” or City-wide sign regulations.

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

TRANSPORTATION REQUIREMENTS:

44. Prior to the issuance of the first building permit, the Owner/Permittee shall dedicate and shall assure by permit and bond the construction of Camino del Sur along the project frontage as a four-lane major with 78 to 100 feet of pavement curb to curb with a 4- to 24-foot raised median in 113- to 135-foot right-of-way including 15- and 20-foot parkways with noncontiguous sidewalks, DG path, curb and gutter, satisfactory to the City Engineer. These improvements shall be completed and accepted by the City Engineer prior to the first occupancy.

45. Prior to the issuance of the first building permit, the Owner/Permittee shall dedicate and shall assure by permit and bond the construction of Camino del Sur from the project site south to the existing Camino del Sur as a two-lane mod collector with 50 to 78 feet of pavement curb to curb with a 10- to 16-foot raised median in 75- to 103-foot right-of-way including 10- to 17-foot parkways with noncontiguous sidewalks, DG path, curb and gutter, satisfactory to the City Engineer. These improvements shall be completed and accepted by the City Engineer prior to the first occupancy.

46. Prior to the issuance of the first building permit, the Owner/Permittee shall dedicate and shall assure by permit and bond the construction of Carmel Mountain Road along the project site frontage as a two-lane modified collector with 40 to 54 feet of pavement curb to curb with up to 14-foot raised median in 52- to 78-foot right-of-way including 10- and 14-foot parkways with noncontiguous sidewalks, DG path, curb and gutter, satisfactory to the City Engineer. These improvements shall be completed and accepted by the City Engineer prior to the first occupancy.

47. Prior to the issuance of the first building permit, the Owner/Permittee shall assure by permit and bond the restriping of Carmel Mountain Road over SR-56 as a two-lane modified collector with two 11-foot lanes, two 5-foot bike lanes and the construction of a raised 5-foot sidewalk on the west side of the bridge satisfactory to the City Engineer. These improvements shall be completed and accepted by the City Engineer prior to the first occupancy.

48. Prior to the issuance of the first building permit, the Owner/Permittee shall dedicate and shall assure by permit and bond the construction of a one-lane roundabout on Carmel Mountain Rd at Private Drive "M"/Via Panacea with noncontiguous sidewalks, curb and gutter, satisfactory to the City Engineer. These improvements shall be completed and accepted by the City Engineer prior to the first occupancy.

49. Prior to the issuance of the first building permit, the Owner/Permittee shall assure by permit and bond the construction of a City standard 26-foot wide driveway on Camino del Sur at Private Drive "T" restricted to right in/right out only, satisfactory to the City Engineer. These improvements shall be completed and accepted by the City Engineer prior to the first occupancy.

50. Prior to the issuance of the first building permit, the Owner/Permittee shall assure by permit and bond the construction of Camino del Sur/Private Drive "M" intersection with one bike lane, three through lanes and two left turn lanes southbound, one left, one through, one through/right turn and one bike lane northbound, one left, one through/right and one right turn lane westbound and install a traffic signal, to the satisfaction of the City Engineer. This work shall be completed and accepted by the City prior to the first occupancy.

51. Prior to the issuance of the first building permit, the Owner/Permittee shall assure by permit and bond the construction of a 30-foot wide City Standard driveway on Camino del Sur at Private Drive "N" restricted to right in/right out only by the raised median on Camino Del Sur, satisfactory to the City Engineer. These improvements shall be completed and accepted by the City Engineer prior to the first occupancy.

52. Prior to the issuance of the first building permit, the Owner/Permittee shall assure by permit and bond the construction of Camino del Sur/Carmel Mountain Road intersection with one bike lane, two through lane and one left turn lanes southbound, one left, one through, one through/right turn and one bike lane northbound, one left, one through/right westbound, a 20-foot wide driveway with bollards and install a traffic signal, to the satisfaction of the City Engineer. This work shall be completed and accepted by the City prior to the first occupancy.

53. Prior to the issuance of the first building permit, the Owner/Permittee shall assure by permit and bond the construction of a 20-foot wide City standard driveway on Camino del Sur at

Basin 'C' Maintenance Access Driveway Entrance with bollards restricted to right in/right out only, satisfactory to the City Engineer. These improvements shall be completed and accepted by the City Engineer prior to the first occupancy.

54. The Owner/Permittee shall relinquish abutter's rights onto State Route 56, Camino del Sur and Carmel Mountain Road except at approved intersections as shown on Exhibit "A" to the satisfaction of the City Engineer.

55. Prior to the issuing of any building permit, the Owner/Permittee shall record a shared parking agreement in favor of all appropriate parcels within the project site, to the satisfaction of the City Engineer.

56. All automobile, motorcycle and bicycle parking spaces must be constructed in accordance with the requirements of the SDMC. The minimum required parking must be provided on site at all times during the construction and phasing of this project. All on-site parking stalls and aisle widths shall be in compliance with requirements of the City's Land Development Code and shall not be converted and/or utilized for any other purpose, unless otherwise authorized in writing by the appropriate City decision maker in accordance with the SDMC.

57. Prior to the issuance of any building permit, the Owner/Permittee shall provide a copy of a recorded mutual access agreement between all parcels/lots affected, satisfactory to the City Engineer.

58. Prior to issuance of the first certificate of occupancy, to the satisfaction of the City Engineer the Owner/Permittee shall provide and maintain all elements of the Transportation Demand Management (TDM) Plan listed in the CAP checklist including:

- Partially subsidized transit passes;
- Transportation information kiosks;
- Program to encourage office tenants to provide and maintain a telework program and flexible or alternative work schedules;
- Bicycle parking spaces in excess of Code minimum requirements;
- Lockers and on-site shower facilities for office and commercial employees;
- Electric vehicle charging stations in excess of Code minimum requirements;
- Preferential carpool/vanpool parking for office employees.

In order to ensure the proposed TDM strategies are implemented and maintained, the Owner/Permittee shall conduct a TDM Monitoring and Reporting Program to include parking occupancy counts each year for a five year period. The TDM Monitoring Report must be prepared and submitted to the City Engineer on the first anniversary of the issuance of a certificate of occupancy for the project and on such date each year thereafter during the five year monitoring period.

59. Prior to the issuance of the first building permit, the Owner/Permittee shall assure by permit and bond the construction of a traffic signal or equivalent (such as a roundabout) at the intersection of Camino del Sur/Dormouse Road, to the satisfaction of the City Engineer.

Owner/Permittee shall also install median fencing on Camino del Sur between Dormouse Road and Park Village Drive. These improvements shall be completed and accepted by the City Engineer prior to the first occupancy.

PUBLIC UTILITIES DEPARTMENT REQUIREMENTS:

60. Prior to the issuance of any engineering permits for right-of-way improvements or building permits, the Owner/Permittee shall assure, by permit and bond the design and construction of all public water and sewer facilities as shown on the approved Exhibit "A," in a manner satisfactory to the Public Utilities Director and the City Engineer.

61. Prior to the issuance of any building permits, the Owner/Permittee shall assure, by permit and bond, the design and construction of new water and sewer services outside of any driveway or drive aisle, in a manner satisfactory to the Public Utilities Director and the City Engineer.

62. Prior to the issuance of any building permits, the Owner/Permittee shall obtain a plumbing permit for the installation of appropriate private back flow prevention device(s), on each water service (domestic, fire and irrigation), in a manner satisfactory to the Public Utilities Director and the City Engineer. Back flow prevention device(s) shall be located above ground on private property, in line with the service and immediately adjacent to the right-of-way.

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

64. The Owner/Permittee shall design and construct all proposed public water and sewer facilities in accordance with established criteria in the current edition of the City of San Diego Water and Sewer Facility Design Guidelines and City regulations, standards and practices.

GEOLOGY REQUIREMENTS:

65. Prior to the issuance of any construction permit, the Owner/ Permittee shall submit a geotechnical investigation report or update letter, including additional percolation field testing as recommended by the project' geotechnical consultant, that specifically addresses the proposed construction plans. The geotechnical investigation report or update letter shall be reviewed for adequacy by the Geology Section of the Development Services Department prior to issuance of any construction permits.

PARK AND RECREATION DEPARTMENT REQUIREMENTS:

66. Prior to the issuance of any engineering permit for public improvements for road construction, public improvement plans, grading, irrigation and planting plans shall submitted for review and approval, to the satisfaction of the Park and Recreation Department.

67. The Owner/Permittee shall ensure that there will be separate irrigation control clocks and meters for each MAD and City fee-owned property.

68. Maintenance and repair of all retaining walls within Maintenance Assessment District maintained slopes shall be responsibility of the adjacent private property owner.

69. The Owner/Permittee shall ensure that all downhill slopes within City fee-owned open space shall be landscaped with native vegetation endemic to the area and on a temporary irrigation system for establishment of plant material and such irrigation system shall be removed upon plant establishment, to the satisfaction of the Park and Recreation Department.

70. The Owner/Permittee shall provide access from the existing open space east of Camino del Sur Road to the Camino del Sur public right-of-way, to the satisfaction of the Park & Recreation Department, Open Space Division.

71. The Owner/Permittee shall provide access from the existing open space west of Camino del Sur Road to the Camino del Sur public right-of-way, to the satisfaction of the Park & Recreation Department, Open Space Division.

72. The Owner/Permittee shall ensure that all trails are built to City standards identified in City of San Diego Park & Recreation Department Consultant's Guide to Park Design and Development, to the satisfaction of the Park & Recreation Department, Open Space Division.

INFORMATION ONLY:

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

APPROVED by the City Council of the City of San Diego on MAY 22 2018 by
Resolution No. R-311777

Permit Type/PTS Approval No.: PDP No. 1266871, SDP No. 1266883, and CUP No. 1266881
Date of Approval: MAY 22 2018

AUTHENTICATED BY THE CITY OF SAN DIEGO DEVELOPMENT SERVICES
DEPARTMENT

Jeffrey A. Peterson
Development Project Manager

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

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

SEA BREEZE 56, LLC,
A Delaware Limited Liability Company
Owner/Permittee

By _____
Name:
Title:

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

Passed by the Council of The City of San Diego on MAY 22 2018, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Barbara Bry	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lorie Zapf	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Ward	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Myrtle Cole	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mark Kersey	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Cate	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Scott Sherman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
David Alvarez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Georgette Gomez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage MAY 22 2018

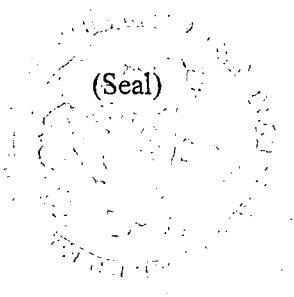
(Please note: When a resolution is approved by the Mayor, the date of final passage is the date the approved resolution was returned to the Office of the City Clerk.)

AUTHENTICATED BY:

KEVIN L. FAULCONER
Mayor of The City of San Diego, California.

ELIZABETH S. MALAND
City Clerk of The City of San Diego, California.

By *Gynda Irwin*, Deputy



Office of the City Clerk, San Diego, California
Resolution Number R- 311777