

RESOLUTION NUMBER R- 311778

DATE OF FINAL PASSAGE MAY 22 2018

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO APPROVING VESTING TENTATIVE MAP NO. 1266780, EASEMENT VACATION NO. 2076453, AND PUBLIC RIGHT-OF-WAY VACATION NO. 2076458 FOR MERGE 56 - PROJECT NO. 360009. (AMENDMENT OF VESTING TENTATIVE MAP NO. 7938).

WHEREAS, SEA BREEZE 56, LLC, a Delaware Limited Liability Company, Subdivider, and Matthew J. Semic, Engineer, submitted an application to the City of San Diego for a Vesting Tentative Map No. 1266780, Easement Vacation No. 2076453, and Public Right-of-Way Vacation No. 2076458, (an amendment of Vesting Tentative Map No. 7938) for the development of a mixed-use development and construction of 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, the Vesting Tentative Map proposes the Subdivision of a 42.52-site (gross area) into 107 lots (84 Residential Small Lot zoned lots, 12 Community Commercial zoned lots, seven open space lots, and four lots for private drives); and

WHEREAS, the project complies with the requirements of a preliminary soils and/or geological reconnaissance report pursuant to Subdivision Map Act Sections 66490 and 66491(b)-(f) and San Diego Municipal Code (SDMC) Section 144.0220; and

WHEREAS, the subdivision is a condominium project as defined in Section 1350 et seq. of the Civil Code of the State of California and filed pursuant to the Subdivision Map Act. The total number of condominium dwelling units is 158 (Unit 4, Lot 1 has 55 units, Unit 4, Lot 2 has 56 units and Unit 10, Lot 1 has 47 units); and

WHEREAS, on February 22, 2018, the Planning Commission of the City of San Diego considered Vesting Tentative Map No. 1266780, Easement Vacation No. 2076453 and Public Right-of-Way Vacation No. 2076458, and pursuant to Resolution No. 4926-PC, the Planning Commission voted to recommend City Council approval; 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, on **MAY 22 2018** , the City Council of the City of San Diego considered Vesting Tentative Map No. 1266780, Easement Vacation No. 2076453 and Public Right-of-Way Vacation No. 2076458 and pursuant to SDMC Section(s) 125.0440, 125.0430, 125.0941, and 125.1040 and Subdivision Map Act Section 66428, received for its consideration written and oral presentations, evidence having been submitted, and testimony having been heard from all interested parties at the public hearing, and the City Council having fully considered the matter and being fully advised concerning the same; NOW, THEREFORE,

BE IT RESOLVED by the City Council of the City of San Diego, that it adopts the following findings with respect to Vesting Tentative Map No. 1266780:

1. The proposed subdivision and its design or improvement are consistent with the policies, goals, and objectives of 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 included 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 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 Project's subdivision map boundary area includes the 41.34-acre development site and the adjacent ROW to the centerline of the streets for a total of 42.52 gross acres. The Map for the Project proposes the subdivision of the property into a total of into 107 lots (84 Residential Small Lot zoned lots, 12 Community Commercial zoned lots, seven open space lots, and four lots for private drives). The public rights-of-way (ROW) have been previously dedicated per the Rhodes Crossing Vesting Tentative Map (VTM) No. 7938 (Project No. 3230) with the exception of the portion of Camino Del Sur-South where property acquisition would be required to implement the proposed road improvements.

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 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. Therefore, with the adoption of the GPA, CPA, and Rezone, the proposed subdivision and its design and improvement are consistent with the policies, goals, and objectives of the applicable land use plan.

2. The proposed subdivision complies with the applicable zoning and development regulations of the Land Development Code, including any allowable deviations 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 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. The following table is a matrix of the proposed deviations:

Deviations Summary			
Deviation Description	Deviation from LDC	Required	Proposed
CC Zone Front Yard Setback for Unit 10 Lots 1-5 and 7	<u>Section 131.0531</u> and <u>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</u> and <u>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</u> and <u>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</u> and <u>Table 131-05E</u>	Minimum 10 feet or 0 feet	Varies from 10-15 feet

Deviations Summary			
Deviation Description	Deviation from LDC	Required	Proposed
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</u> and <u>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</u> and <u>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 proposed subdivision 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.

3. The site is physically suitable for the type and density of development. The Project consists of two components, a mixed-use development and the public roads that adjoin the proposal. The development component of the project would consist of a LMXU containing commercial, office, hotel and residential uses on the triangular-shaped property. The project would allow for construction of 525,000 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 Project's subdivision map boundary area includes the 41.34-acre development site and the adjacent ROW to the centerline of the streets for a total of 42.52 gross acres. The Map

for the Project proposes the subdivision of the property into a total of into 107 lots (84 Residential Small Lot zoned lots, 12 Community Commercial zoned lots, seven open space lots, and four lots for private drives). The public ROW have been previously dedicated per the Rhodes Crossing VTM No. 7938 (Project No. 3230) with the exception of the portion of Camino Del Sur–South where property acquisition would be required to implement the proposed road improvements.

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.

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 areas are largely undeveloped, with several dirt roads and trails crossing them. Some signs of former agricultural activities occur in the central portion of the development site; an approved construction road/stockpile occurs there as well. Habitats found on both components of the project include non-native grassland, coastal sage scrub, southern mixed chaparral, chamise chaparral, vernal pools, other wetlands, disturbed land, developed areas and other vegetation communities. The Multiple Habitat Planning Area (MHPA) is situated within or west of the ROW for the Camino Del Sur road extensions but not within the proposed site.

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 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. 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. Therefore, the site is physically suitable for the type and density of development.

4. The design of the subdivision or the proposed improvements are not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat. 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 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 LDC Section 143.0142(a). All mitigating measures would comply with the City Biology Guidelines, in accordance with the Multiple Species Conservation Program (MSCP) Subarea Plan. Impacted wildlife habitat would be compensated for at ratios required by the City Biology Guidelines through preservation, acquisition or creation of appropriate habitats. The imposition of conditions of approval and compliance with the Merge 56 mitigation monitoring and reporting plan would ensure that no substantial environmental damage or injury would occur.

5. The design of the subdivision or the type of improvement will not be detrimental to the public health, safety, and welfare. 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 would construct necessary sewer and water facilities to serve the residents and occupants; will enter into a Maintenance Agreement for the ongoing permanent BMPs maintenance; and 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. All structures constructed will be reviewed for compliance with all relevant and applicable building, electrical, mechanical, and fire codes to assure the structures will meet or exceed the current regulations. The Project provides many benefits to the public health, safety and welfare to the surrounding community and to the City. The new urbanist influenced design promotes higher levels of pedestrianism by mixing residential, commercial and civic uses, incorporating higher densities and serving as the center of the community. Also, transit along both Carmel Mountain Road and Camino Del Sur will help minimize automobile trips outside of the community to reduce greenhouse gas emissions. The roadway extensions have also been redesigned from the previously-approved entitlements to provide additional traffic calming features such as roundabouts and reduced street widths.

The permit for the project includes various conditions and referenced exhibits relevant to achieving project compliance with the applicable regulations of the 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 VTM No. 1266780, Easement Vacation (EV) No. 2076453 and Public Right-of-Way Vacation (ROW Vac) No. 2076458, 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 design of the subdivision or the type of improvement would not be detrimental to the public health, safety and welfare.

6. The design of the subdivision or the type of improvements will not conflict with easements acquired by the public at large for access through or use of property within the proposed subdivision. An approximately 150-foot wide SDG&E utility easement crosses through the central portion of the project area in a northeast-southwest direction; no utility facilities are located within the easement. A 40-foot wide water and road easement also crosses through the project site. SR-56 is located along the northern boundary of the project area, and the constructed portion of Carmel Mountain Road extends along a portion of the eastern project boundary crossing over SR-56 via a two-lane bridge. The northern terminus of Camino Del Sur occurs in the southeastern portion of the project area, and the southern terminus of Camino Del Sur occurs in the northwestern corner of the project area. The public ROW have been previously dedicated per the Rhodes Crossing VTM No. 7938 (Project No. 3230) with the exception of the portion of Camino Del Sur–South where property acquisition would be required to implement the proposed road improvements.

The design of the subdivision and the type of improvements are such that they will not conflict with any easements to remain, acquired by the public at large, for access through or use

of property within the proposed subdivision as demonstrated by the City Engineer. All easements granted to the City over the property have been left in place or have been vacated or relocated and improved in a manner that allows for public access that is superior to the access formerly provided by the unimproved easements, as confirmed by the City Engineer and as reflected on the map.

7. The design of the proposed subdivision provides, to the extent feasible, for future passive or natural heating and cooling opportunities. The design and proposed improvements for the subdivision are consistent with California Government Code Section 66473.1 and SDMC Section 125.0440(g) regarding the design of the subdivision for future passive or natural heating and cooling opportunities. The proposed establishes appropriate setbacks and distances between buildings to allow for passive natural heating and cooling opportunities. The physical layout of the buildings onsite allows for the passage of air between buildings. The landscape plan proposes a high-quality design with many trees that will promote natural cooling onsite. The commercial portion of the Mixed-Use Development component is designed to provide an urban oriented central plaza with communal seating, outdoor dining opportunities and specialized retail shopping. Architecturally, the center would exhibit a contemporary appearance, with large glass openings, deep overhanging roof eaves and open trellises. The project would highlight natural materials and colors, usable outdoor spaces, and drought-tolerant landscaping. The two main office structures would feature a contemporary architectural style using a combination of materials that may include glass, concrete, steel, stucco, and natural stone. The proposed attached townhome and flat units would feature a contemporary architectural style, with more residentially-scaled doors and windows, building heights, and the use of warm natural materials at ground level to create a pedestrian-friendly façade. Ground floor unit entrances would front the streets with stoops, front porches, and landscaped buffers, while the garages would be located off private drives to the rear of the building. The units would feature upper floor terraces and balconies facing the street. The overall project design would incorporate sustainability features for energy and water efficiency, and to the extent feasible, for future passive or natural heating and cooling opportunities.

8. The decision maker has considered the effects of the proposed subdivision on the housing needs of the region and that those needs are balanced against the needs for public services and the available fiscal and environmental resources. The Project proposes to develop a multi-use urban village with 242 units including 47 affordable residential units. These additional dwelling units provided by the proposed project will make a significant contribution towards fulfilling the City's Regional Housing Needs Assessment allocation found in the City's Housing Element adopted in March of 2013. The introduction of quality market-rate and affordable housing units in Torrey Highlands brings diversity in housing options for the community and the City as a whole, at a time where the demand for this type of housing stock is increasing. Furthermore, the project implements the City's General Plan policies that encourage locating residential near transit and employment opportunities, thereby capturing automobile trips and allowing for increased pedestrian activity, bicycle and transit activity. All appropriate public services (including fire, police, medical, schools, public parks, and libraries) as well as necessary utilities such as electricity, water, and sewer, will be available to (or are in the process) and adequate for the proposed project.

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

BE IT FURTHER RESOLVED, that portions of a drainage, slope, and temporary public assess easement and portions of public ROW for Camino Del Sur and Carmel Mountain Road, located within the project boundaries as shown in Vesting Tentative Map No. 1266780, shall be vacated, contingent upon the recordation of the approved Final Map for the project, and that the following findings are supported by the minutes, maps, and exhibits, all of which are herein incorporated by reference:

9. There is no present or prospective public use for the easement, either for the facility or purpose for which it was originally acquired or for any other public use of a like nature that can be anticipated. (San Diego Municipal Code § 125.1040(a)). The Project site contains an approximately 5,750-square foot triangular-shaped drainage, slope, and temporary public service easement located in the northeastern corner. The easement was originally obtained to address storm water discharge and shall be vacated. The Project site and adjacent storm water BMPs have been incorporated within the adjacent ROW improvements. The Project would enter into a Maintenance Agreement for the ongoing permanent 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. Therefore, the easement is no longer needed for which it was originally acquired, or for any other public use of a like nature that can be anticipated.

10. The public will benefit from the action through improved utilization of the land made available by the vacation. (San Diego Municipal Code § 125.1040(b)). The Project site contains an approximately 5,750-square foot triangular-shaped drainage, slope, and temporary public service easement located in the northeastern corner. The easement was originally obtained to address storm water discharge and shall be vacated. As part of the Project, Camino Del Sur and Carmel Mountain Road will be extended, and the existing public service easement is located adjacent to the Carmel Mountain Road improvements. The Project site and adjacent storm water BMPs have been incorporated within the adjacent ROW improvements. Therefore, the public will benefit from the action through improved utilization of the land made available for the extension of the roadways, which includes a bus transit and bike lane that would provide local and regional access to the surrounding properties and local community.

11. The vacation is consistent with any applicable land use plan. (San Diego Municipal Code § 125.1040(c)). As outlined within Vesting Tentative Map Finding No. 1 listed above, with the adoption of the GPA, CPA, and Rezone, the proposed subdivision and its design and improvement are consistent with the policies, goals, and objectives of the applicable land use plan.

12. The public facility or purpose for which the easement was originally acquired will not be detrimentally affected by the vacation or the purpose for which the easement was acquired no longer exists. (San Diego Municipal Code § 125.1040(d)). The easement was acquired for drainage, slope, and temporary public access located in the northeastern corner. The easement was originally obtained to address storm water discharge and shall be vacated. As part of the Project, Camino Del Sur and Carmel Mountain Road will be extended, and the existing public service easement is located adjacent to the Carmel Mountain Road improvements. The Project site and adjacent storm water BMPs have been incorporated within the adjacent ROW improvements. The Project would enter into a Maintenance Agreement for the ongoing permanent 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. Therefore, the purpose for which the easement was originally acquired will not be detrimentally affected by this vacation.

13. There is no present or prospective public use for the public right-of-way either for the facility for which it was originally acquired or for any other public use of a like nature that can be anticipated. (San Diego Municipal Code § 125.0941(a)). Proposed extensions of Camino Del Sur and Carmel Mountain Road would be constructed as part of the Project; both are public roads planned in the Torrey Highlands and Rancho Peñasquitos communities. As part of its CPA, the project proposes a reclassification to downgrade the roads from four-lane majors to two-lane collectors as discussed below. ROW for both roads have been previously dedicated per the Rhodes Crossing VTM No. 7938 (Project No. 3230) with the exception of the portion of Camino Del Sur–South where property acquisition would be required to implement the proposed road improvements.

In addition, a ROW vacation across the previously dedicated portions of both public roads would be required due to modifications to the road dimensions in association with the downgraded classifications and realignment of an existing section of Carmel Mountain Road to avoid grading impacts to off-site vernal pool preserves. The roadway improvements would provide local and regional access to the Project, surrounding properties and local community, in accordance with the Circulation Elements of the Torrey Highlands Subarea Plan and Rancho Peñasquitos Community Plan. The reclassification is proposed for the segment of Camino Del Sur south of Carmel Mountain Road and north of Dormouse Road and the portion of Carmel Mountain Road between SR-56 and Camino Del Sur. The reclassification is driven by the fact that a four-lane major road is not required to carry currently projected buildout traffic volumes. Grading associated with the reconfigured roads would be reduced by approximately seven-acres under the Project.

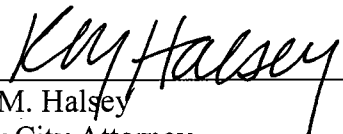
14. The public will benefit from the action through improved use of the land made available by the vacation. (San Diego Municipal Code § 125.0941(b)). The ROW vacation across the previously dedicated portions of both public roads would be required due to modifications to the road dimensions in association with the downgraded classifications and realignment of an existing section of Carmel Mountain Road to avoid grading impacts to off-site vernal pool preserves. The roadway improvements would provide local and regional access to the Project, surrounding properties and local community, while protecting ESL.

15. The vacation does not adversely affect any applicable land use plan. (San Diego Municipal Code § 125.0941(c)). As outlined within VTM Finding No. 1 listed above, with the adoption of the GPA, CPA, and Rezone, the proposed subdivision and its design and improvement are consistent with the policies, goals, and objectives of the applicable land use plan.

16. The public facility for which the public right-of-way was originally acquired will not be detrimentally affected by the vacation. (San Diego Municipal Code § 125.0941(d)). The ROW vacation across the previously dedicated portions of both public roads would be required due to modifications to the road dimensions in association with the downgraded classifications and realignment of an existing section of Carmel Mountain Road to avoid grading impacts to off-site vernal pool preserves. The roadway improvements would provide local and regional access to the Project, surrounding properties and local community, while protecting ESL. Camino Del Sur and Carmel Mountain Road would be constructed as part of the Project; both are public roads planned in the Torrey Highlands Subarea Plan and Rancho Peñasquitos Community Plan. Therefore, the public facility for which the right-of-way was originally acquired would not be detrimentally affected by this vacation.

BE IT FURTHER RESOLVED, that based on the findings hereinbefore adopted by the City Council, Vesting Tentative Map No. 1266780, Easement Vacation No. 2076453 and Public Right-of-Way Vacation No. 2076458, is hereby granted to SEA BREEZE 56, LLC, a Delaware Limited Liability Company, subject to the attached conditions which are made a part of this resolution by this reference.

APPROVED: MARA W. ELLIOTT, City Attorney

By 
Keely M. Halsey
Deputy City Attorney

KMH:als
05/02/18
Or.Dept:DSD
Doc. No.: 1684523

Attachment: Conditions for Vesting Tentative Map/Easement Vacation/Public Right-of-Way Vacation

CITY COUNCIL

CONDITIONS FOR VESTING TENTATIVE MAP NO. 1266780
EASEMENT VACATION NO. 2076453
PUBLIC RIGHT-OF-WAY VACATION NO. 2076458
MERGE 56 - PROJECT NO. 360009
(AMENDMENT OF VESTING TENTATIVE MAP NO. 7938)

ADOPTED BY RESOLUTION NO. R- ~~311778~~ ON MAY 22 2018

GENERAL

1. This Vesting Tentative Map will expire MAY 22 2021.
2. Compliance with all of the following conditions shall be completed and/or assured, to the satisfaction of the City Engineer, prior to the recordation of the Final Map, unless otherwise noted.
3. Prior to the recordation of the Final Map, taxes must be paid on this property pursuant to Subdivision Map Act section 66492. To satisfy this condition, a tax certificate stating that there are no unpaid lien conditions against the subdivision must be recorded in the Office of the San Diego County Recorder.
4. The Final Map shall conform to the provisions of Planned Development Permit No. 1266871, Site Development Permit No. 1266883, and Conditional Use Permit No. 1266881.
5. The Subdivider shall defend, indemnify, and hold the City (including its agents, officers, and employees [together, "Indemnified Parties"]) harmless from any claim, action, or proceeding, against the City and/or any Indemnified Parties to attack, set aside, void, or annul City's approval of this project, which action is brought within the time period provided for in Government Code section 66499.37. City shall promptly notify Subdivider of any claim, action, or proceeding and shall cooperate fully in the defense. If City fails to promptly notify Subdivider of any claim, action, or proceeding, or if City fails to cooperate fully in the defense, Subdivider shall not thereafter be responsible to defend, indemnify, or hold City and/or any Indemnified Parties harmless. City may participate in the defense of any claim, action, or proceeding if City both bears its own attorney's fees and costs, City defends the action in good faith, and Subdivider is not required to pay or perform any settlement unless such settlement is approved by the Subdivider.

AIRPORT

6. Prior to recordation of the Final Map, the Subdivider shall provide a valid "Determination of No Hazard to Air Navigation" issued by the Federal Aviation Administration (FAA).

ENGINEERING

7. Compliance with all conditions shall be assured, to the satisfaction of the City Engineer, prior to the recordation of the Final Map, unless otherwise noted.
8. Pursuant to City Council Policy 600-20, the Subdivider shall provide evidence to ensure that an affirmative marketing program is established.
9. The Subdivider shall underground existing and/or proposed public utility systems and service facilities in accordance with the San Diego Municipal Code.
10. The Subdivider shall comply with all street lighting standards according to the current City of San Diego Street Design Manual. This may require, but not be limited to, installation of new street light(s) and upgrading existing street lights, to the satisfaction of the City Engineer. The Subdivider shall underground any new service run to any new or proposed structures within the subdivision.
11. The Subdivider shall ensure that all existing onsite utilities serving the subdivision shall be undergrounded with the appropriate permits. The Subdivider shall provide written confirmation from applicable utilities that the conversion has taken place, or provide other means to assure the undergrounding, satisfactory to the City Engineer.
12. Conformance with the "General Conditions for Tentative Subdivision Maps," filed in the Office of the City Clerk under Document No. 767688 on May 7, 1980, is required. Only those exceptions to the General Conditions which are shown on the Vesting Tentative Map and covered in these special conditions will be authorized. All public improvements and incidental facilities shall be designed in accordance with criteria established in the Street Design Manual, filed with the City Clerk as Document No. RR-297376.

MAPPING

13. Prior to the expiration of the Vesting Tentative Map, if approved, a Final Map to subdivide the 41.34-acre development site into lots shall be recorded in the office of the County Recorder.
14. Prior to the recordation of the Final Map, taxes must be paid or bonded for this property pursuant to section 66492 of the Subdivision Map Act. A current original tax certificate, recorded in the office of the San Diego County Recorder, must be provided to satisfy this condition.

If a tax bond is required as indicated in the tax certificate, ensure that it is paid or posted at the County Clerk of the Board of Supervisors Office along with the associated \$34.00 compliance fee to avoid delaying the recordation of the Final Map.

15. The Final Map shall be based on field survey and all lot corners must be marked with durable survey monuments pursuant to Section 144.0311(d) of the City of San Diego Land Development Codes and Subdivision Map Act Section 66495.

All survey monuments shall be set prior to the recordation of the Final Map, unless the setting of monuments is deemed impractical due to the proposed improvements and/or grading associated with the project, in which case, delayed monumentation may be applied on the Final Map in accordance with Section 144.0130 of the City of San Diego Land Development Codes.

16. All subdivision maps in the City of San Diego are required to be tied to the California Coordinate System of 1983 (CCS83), Zone 6 pursuant to section 8801 through 8819 of the California Public Resources Code.
17. The Final Map shall:
 - a. Use the California Coordinate System for its "Basis of Bearing" and express all measured and calculated bearing values in terms of said system. The angle of grid divergence from a true meridian (theta or mapping angle) and the north point of said map shall appear on each sheet thereof. Establishment of said Basis of Bearings may be by use of existing Horizontal Control stations or astronomic observations.
 - b. Show two measured ties from the boundary of the map to existing Horizontal Control stations having California Coordinate values of First Order accuracy. These tie lines to the existing control shall be shown in relation to the California Coordinate System (i.e., grid bearings and grid distances). All other distances shown on the map are to be shown as ground distances. A combined factor for conversion of grid-to-ground distances shall be shown on the map.

PUBLIC UTILITIES

18. The Subdivider shall design and construct all public water and sewer facilities as required in the accepted water and sewer studies for this project, necessary to serve this development in a manner satisfactory to the Public Utilities Director and the City Engineer. Water and sewer facilities, as shown on the approved tentative map, may require modification based on the accepted water and sewer studies and final engineering.
19. All onsite water and sewer facilities will be private and shall meet the requirements of the California Uniform Plumbing Code and shall be reviewed as part of the building permit plan check.
20. No trees or shrubs exceeding three feet in height at maturity shall be installed within ten feet of any sewer facilities and five feet of any water facilities.
21. Prior to the recording of the Final Map, all public water and sewer facilities shall be complete and operational in a manner satisfactory to the Public Utilities Director and the City Engineer.

TRANSPORTATION

22. The Subdivider 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.

MULTIPLE SPECIES CONSERVATION PROGRAM (MSCP)

23. 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.

INFORMATION:

- The approval of this Vesting Tentative Map by the City Council of the City of San Diego does not authorize the Subdivider to violate any Federal, State, or City laws, ordinances, regulations, or policies including but not limited to, the Federal Endangered Species Act of 1973 and any amendments thereto (16 USC § 1531 et seq.).
- If the Subdivider makes any request for new water and sewer facilities (including services, fire hydrants, and laterals), the Subdivider shall design and construct such facilities in accordance with established criteria in the most current editions of the City of San Diego water and sewer design guides and City regulations, standards and practices pertaining thereto. Off-site improvements may be required to provide adequate and acceptable levels of service and will be determined at final engineering.
- Subsequent applications related to this Vesting Tentative Map will be subject to fees and charges based on the rate and calculation method in effect at the time of payment.
- Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of the Vesting Tentative Map, may protest the imposition within ninety days of the approval of this Vesting Tentative Map by filing a written protest with the San Diego City Clerk pursuant to Government Code sections 66020 and/or 66021.
- Where in the course of development of private property, public facilities are damaged or removed, the Subdivider shall at no cost to the City, obtain the required permits for work in the public right-of-way, and repair or replace the public facility to the satisfaction of the City Engineer (San Diego Municipal Code § 142.0607).

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"/>

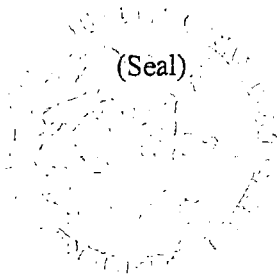
Date of final passage MAY 22 2018.

(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 Linda Bruen, Deputy

Office of the City Clerk, San Diego, California
Resolution Number R- 311778