


City of Carmel-by-the-Sea
Planning & Building Dept.

1 of 2

I CERTIFY UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT:

DATED THIS 19th DAY OF June, ~~2018~~ 2019.


Signature of appellant Alexander Calovt


Pamela H. Silkwood
Horan Lloyd
Representing Alexander Calovt

Appeal fee received: (Staff Initial)

Receipt #:

ATTEST:

Tom Graves, City Clerk

**Article 9, Section 7, of the Constitution of the State of California authorizes a city to impose fees. Also see California government Code, Section 54344.*

IMPORTANT: Within 10 working days after receipt of a valid appeal the Community Planning & Building Department shall set a date for public hearing at which the Planning Commission shall consider the appeal. All appeals shall be heard within 60 days of the close of the appeal period. This matter is tentatively scheduled to be heard on:

Date of appeal hearing

Revised July 2018

City of Carmel-by-the-Sea
P.O. Box CC
Carmel-by-the-Sea, CA 93921
831.620.2000
www.ci.carmel.ca.us

Receipt No: 00004590
Date & Time: 06/19/2019, 09:40 AM
Station & Operator: PC-LFENTON, tmoulton
Batch No.: 00002

101-000-00-38020	
OTHER MISCELLANEOUS	675.00

Total: 675.00

Cash: 0.00
Check: 675.00 Check#2640
Credit Card: 0.00

Change: 0.00

Paid by: JMK INVESTMENT 19-251
Reference: 19-251 DOLORES, LLC
Project:

Thank you for doing business with the City.

RECEIVED

JUN 18 2019

City of Carmel-by-the-Sea
Planning & Building Dept

Attachment 1

Appeal of Denial of Business License

Dolores LLC (BL 19-101)

Dolores 3 SE 7th (APN: 010-411-003)

RECEIVED

JUN 18 2019

City of Carmel-by-the-Sea
Planning & Building Dept

I. Fact:

On or around January 3, 2019, Earl Y. Meyers II, a licensed real estate broker, contacted Marc Wiener on behalf of Dr. Alexander Cadoux to inquire about the condominium unit located at Dolores 3SE of 7th (APN 010-411-003; "Subject Property") in the City of Carmel-by-the-Sea ("City"). At that time, Dr. Cadoux was interested in purchasing the condominium unit for use primarily as transient rentals. Dr. Cadoux would not have purchased the condominium unit if there were any restrictions placed on the unit that prohibited its use as transient rentals.

Mr. Wiener responded in writing to the inquiry of Mr. Meyers as follows: "You are correct that transient rentals are allowed in the commercial districts." (See **Exhibit A.**) Dr. Cadoux purchased the unit on or around January 23, 2019, based on written and verbal affirmations made by the City Planning Department staff that the unit is allowed to be used for transient rentals under the City Code. The grant deed, Parcel Map, and Declaration of Covenants, Conditions and Restrictions recorded against the Subject Property as well as Coastal Development Permit 3-00-022 ("CDP") issued by the California Coastal Commission on May 11, 2000, for the condominium project are all silent as to any restriction on the Subject Property for transient use.

In March 2019, Dr. Cadoux submitted an application to the City for a transient use license. On March 20, 2019, Dr. Cadoux received tentative approval of the license from the City Planning Department. (See **Exhibit B.**) The tentative approval included three conditions that would need to be met in order to receive final approval of the license. The tentative approval also allowed for notice and appeal period. No appeal was filed and the three conditions were met, finalizing the approval of the license for transient use.

When Dr. Cadoux heard about a proposed urgency ordinance related to transient rentals, he contacted Marc Wiener in writing on March 27, 2019, to determine if the proposed ordinance would affect his license. Mr. Wiener responded, "The way the ordinance is currently drafted, if you have the business license approval/permit to operate as a transient rental, it will be 'grandfathered' in." (See **Exhibit C.**)

On or around June 12, 2019, Dr. Cadoux received a letter from the Planning Department stating that "the business license approval has been revoked and subsequently denied." The basis for the revocation is a condition imposed on the use permit for the

JUN 18 2019

subdivision project recommended for approval by the Planning Commission which prohibits transient use of the condominium unit.

II. The Coastal Commission's Issuance of the CDP Supplants the City Planning Commission's Use Permit for the Subdivision.

At the time the Planning Commission heard the use permit application for the subdivision project, the City did not have a certified local coastal program and thus, did not have original jurisdiction for issuing development permits in the Coastal Zone. The Subject Property is located in the Coastal Zone. Under the Coastal Act, a subdivision is considered development¹ requiring a CDP. The California Coastal Commission rightfully held a *de novo* hearing on the CDP application for the subdivision project. The subdivision approved by the Coastal Commission through its issuance of a CDP on May 11, 2000 supplants the use permit recommended for approval by the Planning Commission. The CDP is included as **Exhibit D**. The Planning Commission lacked jurisdiction to approve any development in the Coastal Zone; it simply acted as a recommended body in that instance. The CDP does not impose any condition restricting the Subject Property's use for transient rentals.

III. Dr. Cadoux Has a Vested Right to Continue with the License.

Dr. Cadoux, in good faith reliance of the representation made by the City staff, purchased the property, applied for a transient use license and met all of the conditions for final approval of the license. He has performed substantial work and incurred substantial liabilities in good faith reliance of the license issued by the City. Accordingly, Dr. Cadoux acquired a vested right to act consistent with the issued license. Vested rights are grounded upon the constitutional principle that property may not be taken without just compensation.

IV. The City's Negligent Misrepresentation is Not Protected Under Governmental Immunities.

If the use permit is found not to be supplanted by the CDP, the City Planning Department negligently misrepresented to Dr. Cadoux that allowable uses of the condominium unit under the City Code include transient rentals. The negligent misrepresentation was relied upon by Dr. Cadoux for purchasing the unit. Dr. Cadoux would

¹ Under Coastal Act section 30106, "Development" means, on land, in or under water, the placement or erection of any solid material or structure; discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of use of land, including, but not limited to, subdivision pursuant to the Subdivision Map Act (commencing with Section 66410 of the Government Code), and any other division of land, including lot splits, except where the land division is brought about in connection with the purchase of such land by a public agency for public recreational use; change in the intensity of use of water, or of access thereto; construction, reconstruction, demolition, or alteration of the size of any structure, including any facility of any private, public, or municipal utility; and the removal or harvesting of major vegetation other than for agricultural purposes, kelp harvesting, and timber operations which are in accordance with a timber harvesting plan submitted pursuant to the provisions of the Z'berg-Nejedly Forest Practice Act of 1973 (commencing with Section 4511).

JUN 18 2019

not have purchased, nor could he afford to purchase, the unit and make substantial improvements therein, but for his reliance of the City's representation that transient rentals are allowed; he was relying on the revenues generated from transient rentals to purchase the unit.

Providing gratuitous planning information on a property to a prospective purchaser is an administrative or ministerial activity outside the scope of governmental immunity. (See, e.g., *Connelly v. State* (1970) 3 Cal.App.3d 744, 751.) That is, careless dissemination of inaccurate information by a governmental employee is not a protected conduct. Accordingly, the negligent misrepresentation (if the CDP does not supplant the use permit) is not protected under governmental immunities.

V. Recommendation - Allow License to Continue Under the CDP

It is recommended that the license be allowed to continue under the CDP issued by the California Coastal Commission which had original jurisdiction over the subdivision project.

RECEIVED

JUN 18 2019

City of Carmel-by-the-Sea
Planning & Building Dept.

Exhibit A

Pamela Silkwood

From: alexander cadoux <acadoux@gmail.com>
Sent: Wednesday, June 12, 2019 12:13 PM
To: Pamela Silkwood
Subject: Fwd: rental codes for commercial district
Attachments: Transient Rental Information Handout.pdf

RECEIVED

JUN 18 2019

City of Carmel-by-the-Sea
Planning & Building Dept.

Begin forwarded message:

From: earl blissbythesea.com <earl@blissbythesea.com>
Subject: Fwd: rental codes for commercial district
Date: March 26, 2019 at 3:04:58 PM MST
To: Alexander Cadoux <acadoux@gmail.com>

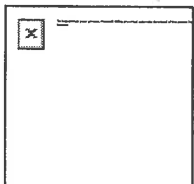
Begin forwarded message:

From: Marc Wiener <mwiener@ci.carmel.ca.us>
Subject: Re: rental codes for commercial district
Date: January 3, 2019 at 1:10:42 PM PT
To: "earl meyers II" <earl@blissbythesea.com>

Hello Earl,

You are correct that transient rentals are allowed in the commercial districts. The attached handout provides the information on it.

Marc Wiener, AICP
Community Planning and Building Director
Carmel-by-the-Sea, CA/93921/PO Drawer G
(831) 620-2024
mwiener@ci.carmel.ca.us



Help improve Community Planning & Building. Click [here](#) to take our survey!

On Thu, Jan 3, 2019 at 12:23 PM earl meyers II <earl@blissbythesea.com> wrote:

Dear Marc,

RE: Dolores 3 SE of 7th, Carmel by the Sea; APN 010-411-003

Please detail the City codes for rentals in the Commercial District. It is my understanding that short term rentals (transient - any time under 30 days) as well as long term rentals (30 days or more) are both allowed in the Cities commercial district. Further, please let me know the process the city requires for short term vacation rentals in the commercial district.

Thank you, Earl

Earl Y. Meyers II Broker/Owner

Bliss by the Sea Realty

831-601-9999

Earl@BlissbytheSea.com

www.BlissbytheSea.com

DRE # 00854147

Earl Meyers - Broker/Owner

Bliss by the Sea Realty

831-601-9999

Earl@BlissbytheSea.com

www.BlissbytheSea.com

DRE # 00854147





**City of Carmel-by-the-Sea
Community Planning and Building Department**

RECEIVED

JUN 18 2019

City of Carmel-by-the-Sea
Planning & Building Dept.

Transient Rentals in the Commercial District

Are transient rentals permitted in the City of Carmel-by-the-Sea?

Transient rentals are defined as being rented for a period of time less than 30 days (CMC 17.70.020). Transient rentals are prohibited in the Single-Family and Multi-Family Residential Districts. The Zoning Code is silent on transient rentals in the Commercial Zoning Districts and the City has determined that they are not prohibited.

How do I obtain a permit for a transient rental in the Commercial District?

An application for a business license must be submitted to the City in order to convert an apartment or dwelling unit into a transient rental. The City will issue a "Transient Occupancy Registration Certificate" to the operator, following approval of the business license. Transient rentals are subject to the Transient Occupancy Tax rate of 10% of the rent charged by the operator. Operators shall report on total rent received, and remit the taxes collected to the City on a bi-monthly basis. You may refer to City Municipal Code Chapter 3.32 for additional information on the tax rate and reporting process.

What are the building code requirements for a transient rental?

A building that contains 1 or more units, in which any of the units is being used as a transient rental, is defined by the California Building Code as a Hotel/Motel (R-1 occupancy). The California Building Code, in some ways, has differing requirements for apartment units (R-2 occupancy) where occupants are relatively permanent in nature, and hotels/motels (R-1 occupancy) where occupants are transient, residing in the unit for a short period of time. Converting an existing apartment building/unit to a transient rental unit often results in triggering a number of building code related changes due to this change in occupancy classification. The following list describes some of the general areas where building modifications may be required due to the change in occupancy classification from an apartment use to hotel/motel use.

- Installation of single or multiple station smoke alarms and CO alarms
- Installation of fire sprinkler protection with occupant notification
- Installation of mobility features (required for at least 1 guest unit per 25 units provided), including:
 - o Accessible toilet and shower room facilities including accessible fixtures, grab bars, and accessories
 - o Accessible doorway widths, thresholds, door swing, and door hardware
 - o Accessible counter heights
 - o Accessible route to and throughout the accessible unit
 - o Accessible sleeping areas including wheel chair turning space
 - o Accessible kitchen/kitchenette facilities (when provided)
 - o Accessible stairways including tread striping and handrails

For more information on specific code requirements related to a specific conversion project, consult a State licensed architect. For general information on the business license or Building Code requirements, contact the Community Planning and Building Department at (831) 620-2010.

RECEIVED

JUN 18 2019

City of Carmel-by-the-Sea
Planning & Building Dept.

Exhibit B

Pamela Silkwood

From: alexander cadoux <acadoux@gmail.com>
Sent: Wednesday, June 12, 2019 12:10 PM
To: Pamela Silkwood
Subject: Fwd: Business License Approval - BL 19-101
Attachments: BL 19-101 (Dolores LLC) Approval Packet.pdf

RECEIVED

JUN 18 2019

City of Carmel-by-the-Sea
Planning & Building Dept.

Begin forwarded message:

From: Evan Kort <ekort@ci.carmel.ca.us>
Subject: Business License Approval - BL 19-101
Date: March 20, 2019 at 1:18:57 PM MST
To: acadoux@gmail.com
Cc: Bo Grunde <bgrunde@ci.carmel.ca.us>

Mr. Cadoux,

Your Business License application, BL 19-101 has been given zoning approval by the Carmel Planning Department.

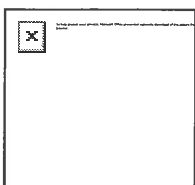
This approval is subject to a 5-business day noticing/appeal period; staff has posted the notice of approval at City Hall.

Attached is the approval letter and conditions of approval for your records.
After the 5-business day appeal period, please return the signed Conditions of Approval to City Hall.

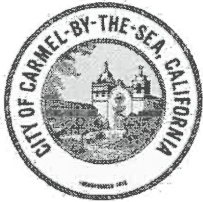
Final approval of the business license also requires clearance from the Building & Fire Departments. Please contact Mr. Bo Grunde at (831) 620-2026 to schedule an interior business license inspection. Your business license will not be issued until the business license inspection is completed.

If you have any questions, you may contact me at (831) 620-2023.

Best,
Evan Kort
Assistant Planner
Carmel-by-the-Sea
(831)620-2023
ekort@ci.carmel.ca.us



Please take our Customer Satisfaction Survey at:
<https://www.surveymonkey.com/r/3L9PWYB>



City of Carmel-by-the-Sea
COMMUNITY PLANNING AND BUILDING DEPARTMENT

POST OFFICE DRAWER CC
CARMEL-BY-THE-SEA, CA 93921
(831) 620-2010 OFFICE

March 20, 2019

Mr. Alexander P. Cadoux
3212 E. Blossom Dancer Lane
Tucson, AZ 85718

Via email: acadoux@gmail.com

Subject: Business License Approval
Dolores LLC (BL 19-101)
Dolores, 3 SE of 7th
Block: 91; Lot(s) 10; APN: 010-411-003

Dear Mr. Cadoux,

An initial review of your application is complete. The proposal to operate one residential unit as a transient rental unit (1 unit – second floor) complies with the City's zoning standards for the Service Commercial (SC) Zoning District. This Department has given an initial zoning clearance for your business license subject to the attached Conditions of Approval. Final approval of the business license is subject to:

- 1) The completion of the 5-day appeal period.
- 2) The completion of a business license inspection conducted by our Code Compliance Coordinator, Bo Grunde. Please contact Mr. Bo Grunde at (831) 620. 2026 to schedule an interior business license inspection. Your business license will not be issued until the business license inspection is completed.
- 3) The return the signed Conditions of Approval to the Community Planning and Building Department.

City Staff will post the appeal notice at City Hall.

If you have any questions, please do not hesitate to contact me directly at (831) 620-2023.

Sincerely,

Evan Kort
Assistant Planner

Encl: Business License Conditions of Approval

RECEIVED

JUN 18 2019

City of Carmel-by-the-Sea
Planning & Building Dept

BUSINESS LICENSE CONDITIONS OF APPROVAL

BUSINESS NAME: Dolores LLC
BUSINESS OWNER: Alexander P. Cadoux
PROPERTY OWNER: Alexander P. Cadoux
BLOCK: 91 LOT: 10
APN: 010-411-003
LOCATION: Dolores, 3 SE of 7th
DATE OF ACTION: March 20, 2019

RECEIVED

JUN 18 2019

City of Corner-cy-wo-See
Planning & Building Dept

APPROVAL AND CONDITIONS:

1. Primary Use: This business license is issued to the property owner(s) with a primary classification of NAICS 531110 (Lessor of Residential Dwellings and Buildings).
 - a. Other goods or services not directly related to the authorizations listed in conditions #1, and #2 are prohibited unless a separate business license application is submitted to the City.
2. This business license authorizes the use of 1 second floor unit as a transient (short-term) rental unit that may be rented for a period of time that is less than 30 days. The number of units shall not be increased unless a separate application is submitted to the City.

The following conditions shall apply:

 - a. Transient occupancy of residential units is permitted in the commercial districts.
 - b. The residential units are subject to the City's transient occupancy tax per CMC 3.32 which requires the property owner to collect and report transient occupancy and remit taxes on a bi-monthly basis on a reporting schedule. Forms shall be provided by the City.
3. The conditions of this approval apply to all tenant lease agreements, including subleases.
4. A Certificate of Occupancy is not required to be posted as this is a continuation of the previous use of the building and fewer than 2 units will be used as transient rentals.
5. All modifications made to the exterior of the building, including but not limited to paint, window treatments, awnings, paving and landscaping, shall first require written approval by the Department of Community Planning and Building. No notice-

RECEIVED

JUN 18 2019

City of Carmel-by-the-Sea
Planning & Building Dept.

Business License Approval
BL 19-101 (Dolores LLC)
March 20, 2019
Page 2

attracting features, such as banners, balloons, streamers, lights, additional signs, or flags shall be installed without written approval from the City.

6. Approval of this application does not permit an increase in water use on the project site.
7. This license approval shall become effective after the required five business-day appeal period. City Staff will post the appeal notice at City Hall.
8. Except as modified by the conditions of this approval, or by requirements of the Municipal Code, the business use shall be operated consistent with the representations made on the business license application. Any violation of these conditions of approval, or of any ordinance in the Carmel Municipal Code, shall be cause for the City to revoke the license
9. The applicant agrees, at its sole expense, to defend, indemnify, and hold harmless the City, its public officials, officers, employees, and assigns, from any liability; and shall reimburse the City for any expense incurred, resulting from, or in connection with any project approvals. This includes any appeal, claim, suit, or other legal proceeding, to attack, set aside, void, or annul any project approval. The City shall promptly notify the applicant of any legal proceeding, and shall cooperate fully in the defense. The City may, at its sole discretion, participate in any such legal action, but participation shall not relieve the applicant of any obligation under this condition. Should any party bring any legal action in connection with this project, the Superior Court of the County of Monterey, California, shall be the situs and have jurisdiction for the resolution of all such actions by the parties hereto.

Business Owner Signature

Date

Once signed, please return to the Community Planning and Building Department

RECEIVED

JUN 18 2019

City of Carmel-by-the-Sea
Planning & Building Dept

Exhibit C

Pamela Silkwood

From: alexander cadoux <acadoux@gmail.com>
Sent: Wednesday, June 12, 2019 12:25 PM
To: Pamela Silkwood
Subject: Fwd: rental codes for commercial district: Dolores 3 SE of 7th

RECEIVED

JUN 18 2019

City of Carmel-by-the-Sea
Planning & Building Dept

Begin forwarded message:

From: Marc Wiener <mwiener@ci.carmel.ca.us>
Subject: Re: rental codes for commercial district: Dolores 3 SE of 7th
Date: March 27, 2019 at 10:56:27 AM MST
To: alexander cadoux <acadoux@gmail.com>
Cc: "earl blissbythesea. com" <Earl@blissbythesea.com>

Hello Alexander,

The City Council will be considering an urgency ordinance at their meeting on Tuesday of next week. The way the ordinance is currently drafted, if you have the business license approval/permit to operate as a transient rental, it will be "grandfathered" in. The Council could change this, but it is highly unlikely based on the feedback they gave at the last meeting. Feel free to call me if you have any follow up questions.

Marc Wiener, AICP
Community Planning and Building Director
Carmel-by-the-Sea, CA/93921/PO Drawer G
(831) 620-2024
mwiener@ci.carmel.ca.us



Help improve Community Planning & Building. Click [here](#) to take our survey!

On Wed, Mar 27, 2019 at 9:49 AM alexander cadoux <acadoux@gmail.com> wrote:
Dear Mr. Wiener,

I bought Dolores 3 SE of 7th with the understanding that it was not subject to the 30 day minimum rental regulations since it is in the commercial district.

My Realtor, Earl Meyers, verified this with you (please see communications below) as this exemption from the 30 day minimum was the reason I bought the home.

I understand that this regulation may soon be changed and would like to be assured that this change to a 30 day minimum rental would not retroactively apply to my home.

I have already submitted the forms for the business license and the 5 notice days have passed.

I am currently undertaking significant upgrades to the unit, and Mr. Bo Grunde has informed me that it will not qualify for inspection until construction is completed and the unit is furnished and operational to code.

This inspection will not take place until the end of May.

Thank you,

Alex Cadoux

cell: 520 906 4067

RECEIVED

JUN 18 2019

City of Carmel-by-the-Sea
Planning & Building Dept.

On Mar 26, 2019, at 3:04 PM, earl blissbythesea.com <earl@blissbythesea.com> wrote:

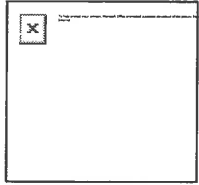
Begin forwarded message:

From: Marc Wiener <mwiener@ci.carmel.ca.us>
Subject: Re: rental codes for commercial district
Date: January 3, 2019 at 1:10:42 PM PT
To: "earl meyers II" <earl@blissbythesea.com>

Hello Earl,

You are correct that transient rentals are allowed in the commercial districts. The attached handout provides the information on it.

Marc Wiener, AICP
Community Planning and Building Director
Carmel-by-the-Sea, CA/93921/PO Drawer G
(831) 620-2024
mwiener@ci.carmel.ca.us



Help improve Community Planning & Building. Click [here](#) to take our survey!

RECEIVED

JUN 18 2019

City of Carmel-by-the-Sea
Planning & Building

On Thu, Jan 3, 2019 at 12:23 PM earl meyers II
<earl@blissbythesea.com> wrote:

Dear Marc,

RE: Dolores 3 SE of 7th, Carmel by the Sea; APN 010-411-003

Please detail the City codes for rentals in the Commercial District. It is my understanding that short term rentals (transient - any time under 30 days) as well as long term rentals (30 days or more) are both allowed in the Cities commercial district. Further, please let me know the process the city requires for short term vacation rentals in the commercial district.

Thank you, Earl

Earl Y. Meyers II Broker/Owner

Bliss by the Sea Realty

831-601-9999

Earl@BlissbytheSea.com

www.BlissbytheSea.com

DRE # 00854147

Earl Meyers - Broker/Owner

Bliss by the Sea Realty

831-601-9999

Earl@BlissbytheSea.com

www.BlissbytheSea.com

DRE # 00854147

RECEIVED

JUN 18 2019

City of Carmel-by-the-Sea
Planning & Building Dept.

Exhibit D

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060
427-4863

RECORD PACKET COPY **RECEIVED**

JUN 18 2019

Th12e

City of Carmel-by-the-Sea
Planning & Building Dept

Filed: 04/06/00
49th day: 05/25/00
180th day: 10/03/00
Staff: SG
Staff report: 04/17/00
Hearing date: 05/11/00

COASTAL DEVELOPMENT PERMIT APPLICATION REGULAR CALENDAR

Application number 3-00-022

Applicant Villas di Mare Investors, LLC

Agent John Mandurrago

Project location East side of Dolores Street between 7th and 8th Avenues, City of Carmel-by-the-Sea, Monterey County (APN 010-145-011)

Project description Subdivide an existing 5935 sq. ft. two story commercial building with 3145 sq. ft. of underground parking into two residential condominium units, one of 2630 sq. ft. on the first floor and one of 2279 sq. ft. on the second floor, maintaining the existing underground parking.

Approvals Received City of Carmel-by-the-Sea: Permit Number UP 99-31/DR 99-42/Condominium Subdivision

File documents Categorical Exclusion E-77-13 for City of Carmel-by-the-Sea

Staff recommendation... Approval with Conditions



California Coastal Commission
May 11, 2000 Meeting in Santa Rosa

Staff: S. Guiney, Approved by: *C.F.L. 4/19/00*

QA:Central CoastSTAFF REPORTS\1. Working Drafts\3-00-022 Villas di Mare 04.14.00.doc

JUN 18 2019

City of Carmel-by-the-Sea
Planning & Building Dept.

Staff Report Contents

I. Summary.....	2
II. Staff Recommendation On Coastal Development Permit.....	3
III. Conditions of Approval.....	3
A. Standard Conditions.....	3
B. Special Conditions	4
IV. Recommended Findings and Declarations.....	4
A. Project Location and Description.....	4
B. Standard of Review	4
C. Water.....	5
D. LCP Planning Process	6
E. California Environmental Quality Act (CEQA)	7
V. Exhibits	
1. Project Location	
2. Project Site Plan, Elevations	
3. Water Permits	

I. SUMMARY

The applicant proposes to convert an existing two story commercial building into two residential condominium units, one on each floor. In general, the main issue with new development in Carmel is availability of water. Here, there is an existing commercial building with a certain amount of water use. The proposed residential water fixtures have been sized to use no more water than is now being used. Therefore, the proposed change to residential use will not demand more water than is already being used in the building. Parking, which can be at premium in Carmel, especially in the downtown area where this project is located, is already provided for in an existing parking garage located in the basement of the existing commercial building. Exterior changes would be relatively minor and would include of a new terra cotta tile roof to replace the existing wood shingle roof, new exterior stairway to second floor, new wrought iron decorative features including railings and gates, and removal of part of the existing south wall to accommodate a light well. This last work will not be visible from public areas but only from adjoining buildings. Because the project would be consistent with the Coastal Act and their would be no adverse effect on coastal resources, staff is recommending approval.



JUN 18 2019

City of Carmel-by-the-Sea
Planning & Building Dept

II. STAFF RECOMMENDATION ON COASTAL DEVELOPMENT PERMIT

The staff recommends that the Commission, after public hearing, **approve** the proposed project subject to the standard and special conditions below. Staff recommends a **YES** vote on the motion below. A yes vote results in approval of the project as modified by the conditions below. The motion passes only by affirmative vote of a majority of the Commissioners present.

Motion: I move that the Commission approve Coastal Development Permit Number 3-00-022 subject to the conditions below and that the Commission adopt the following resolution:

Staff recommends a **YES** vote.

Approval with Conditions. The Commission hereby grants a permit for the proposed development on the grounds that the development as conditioned is consistent with the requirements of the California Coastal Act of 1976 (Coastal Act), will not prejudice the ability of the City of Carmel to prepare a local coastal program conforming to Chapter 3 of the Coastal Act, and will not have any significant adverse effects on the environment within the meaning of the California Environmental Quality Act (CEQA).

III. CONDITIONS OF APPROVAL

A. Standard Conditions

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. **Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. **Compliance.** All development must occur in strict compliance with the proposal as set forth in the application for permit, subject to any special conditions set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.
4. **Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
5. **Inspections.** The Commission staff shall be allowed to inspect the site and the project during its development, subject to 24-hour advance notice.



RECEIVED

JUN 18 2019

City of Carmel-by-the-Sea
Planning & Building Dept

6. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
7. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

B. Special Condition

1. Water

PRIOR TO OCCUPANCY, permittee shall submit to the Executive Director for review and approval written evidence of a final inspection and approval of water fixtures by the Monterey Peninsula Water Management District as required by permits 18169 and 18170 issued by that agency.

IV. RECOMMENDED FINDINGS AND DECLARATIONS

A. Project Location and Description

This project is located in the downtown area of Carmel, on Dolores Street one and one-half blocks south of Ocean Avenue (see **Exhibit I**). The site is in the Service Commercial (SC) zone district. The land use designation is Commercial. Residential uses are permitted in this zone district and land use designation.

The applicant proposes to subdivide an existing 5935 sq. ft. two story commercial building with 3145 sq. ft. of underground parking into two residential condominium units, one of 2630 sq. ft. on the first floor and one of 2279 sq. ft. on the second floor, maintaining the existing underground parking. There would be a number of changes to the exterior of the structure including a new terra cotta tile roof to replace the existing wood shingle roof, new stairway and second floor entrance, and decorative changes such as wrought iron gates and railings.

B. Standard of Review

The standard of review for projects requiring coastal development permits in the City of Carmel is the Coastal Act. The entire City of Carmel falls within the coastal zone, although most development is excluded from the requirement for a coastal development permit by Categorical Exclusion E-77-13. The Exclusion states that the type of development excluded in the applicable zone district is "service commercial uses on single or combined commercial parcels in the Service



JUN 18 2019

City of Carmel-by-the-Sea
Planning & Building Dept

Commercial (C-1-S) District.” (The City changed the zone district abbreviation from C-1-S to SC since adoption of the exclusion). Residential use is not a service commercial use. Therefore, the proposed development is not excluded from the requirement for a coastal development permit and, because there is no certified LCP, the standard of review is the Coastal Act.

In this case, the structure already exists in a developed urban area and the proposed changes are mostly interior. Neither coastal access nor recreation are issues because the site is not between the sea and the first public road, is not an oceanfront parcel and is not otherwise suitable for coastal recreational uses. Drainage from the site is via the City’s storm sewer system, which ultimately drains to the beach. Exterior changes are relatively minor and would not affect runoff or contribute material that would adversely affect the marine environment. The site does not contain any environmentally sensitive habitat, nor is any located nearby. Being in a fully developed urban area and with relatively minor exterior changes, no public views would be affected. Parking is not an issue because of the existing underground parking, which provides more than the required amount of parking.

C. Water

Coastal Act Section 30250 states in part that

[n]ew residential. . . development shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. . .

Water to support additional development is scarce throughout the entire Monterey Peninsula, including the City of Carmel. The Monterey Peninsula Water Management District (MPWMD) allocates water to all of the municipalities on the Monterey Peninsula. The actual water purveyor is the California American Water Company (Cal Am). Each municipality allocates its share of the water to various categories of development, such as residential, commercial, industrial, etc. According to City staff, there is no more water available from the City for a new use or one that increases demand.

Here, the MPWMD has issued water permits for the project indicating that installation of low flow fixtures will result in no increase in water demand (see Exhibit 3). Although no historic water use data has been provided to Commission staff, according to MPWMD staff, the District determines the water credit on a site by multiplying its square footage by a previously determined factor, based on the previous use. In this case, according to the District, there is 5935 square feet of floor space in the structure and the multiplier is 0.00007 acre feet. This results in a credit of 0.415 acre feet of water ($5935 \times 0.00007 = 0.415$). The proposed residences are projected to use 0.203 acre feet of



JUN 18 2019

City of Carmel-by-the-Sea
Planning & Building Dept

water each, for a total demand of 0.406 acre feet, 0.009 acre feet less than that with which the site is credited.

The water permits hold the property owner or owner's agent responsible for ensuring completion of a final inspection by MPWMD of the water fixtures. In order to ensure that the project does in fact not result in additional water demand, this permit is conditioned to require the permittee to submit to the Executive Director prior to occupancy written evidence of the MPWMD final inspection. With the installation of the appropriate fixtures, water demand will not be increased and the project can be found to be located in a developed area able to accommodate it, consistent with Coastal Act section 30250. Therefore, as conditioned, the project is consistent with Coastal Act Section 30250 regarding water supply.

D. LCP Planning Process

Section 30604 of the Coastal Act states in part that a coastal development permit shall be granted if the Commission finds that the development will not prejudice the local government's ability to prepare a Local Coastal Program (LCP) in conformity with the resource protection policies of the Coastal Act. The entire City of Carmel falls within the coastal zone, although most development is excluded from the requirement for a coastal development permit by Categorical Exclusion E-77-13. The proposal would occur within an existing building with only relatively minor changes visible from the street. None of the proposed changes are significant or out of character with the surrounding development.

On April 1, 1981, the Commission certified part of the LUP as submitted and part of the LUP with suggested modification regarding beach-fronting property. The City resubmitted an amended LUP which fixed the beach-fronting properties provisions, but which omitted the previously certified portion of the document protecting significant buildings within the City. On April 27, 1984, the Commission certified the amended LUP with suggested modifications to reinstate provisions for protecting significant structures. However, the City never accepted the Commission's suggested modifications. The result was that the City's entire LUP effectively became decertified. The City is currently working on a new LUP submittal.

The zoning or Implementation Plan (IP) was certified with suggested modifications on April 27, 1984. The City did not accept the suggested modifications and so the IP remains uncertified. The City is presently working on a new IP submittal.

As conditioned, the proposed development is consistent with the policies contained in Chapter 3 of the Coastal Act and will not prejudice the ability of the City of Carmel-by-the-Sea to prepare and implement a complete Local Coastal Program consistent with Coastal Act policies.



3-00-022
Villas di Mare
- 7 -

RECEIVED

JUN 18 2019

City of Carmel-by-the-Sea
Planning & Building Dept

E. California Environmental Quality Act (CEQA)

Section 13096 of the California Code of Regulations requires that a specific finding be made in conjunction with coastal development permit applications showing the application to be consistent with any applicable requirements of CEQA. Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effects which the activity may have on the environment. The City of Carmel-by-the-Sea determined that the proposal was categorically exempt from the requirements of CEQA. The Coastal Commission's review and analysis of land use proposals has been certified by the Secretary for Resources as being the functional equivalent of environmental review under CEQA. Accordingly, the Commission finds that with the City's required conditions and the conditions attached to this permit, the project will not have any adverse effects on the environment within the meaning of CEQA.



California Coastal Commission



RECEIVED
JUN 18 2019

City of Carmel-by-the-Sea
Planning & Building Dept.

PROJECT
SITE

EXHIBIT 1

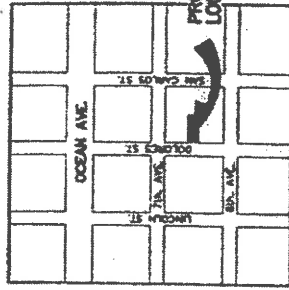
3-00-022

North

VILLAS di MARE BUILDING

Carmel-by-the-Sea

EXHIBIT 2
3-00-022



VICINITY MAP

SHEET INDEX

1. SITE PLAN
2. PARKING LEVEL PLAN
3. MAIN FLOOR PLAN
4. UPPER FLOOR PLAN
5. ELEVATIONS

RECEIVED

JUN 18 2019

City of Carmel-by-the-Sea
Planning & Building Dept

VILLA di MARE BLDG.
2 BUILDING 1/2 OF 80 ON LOTS 10-13
CARMEL-BY-THE-SEA, CALIFORNIA

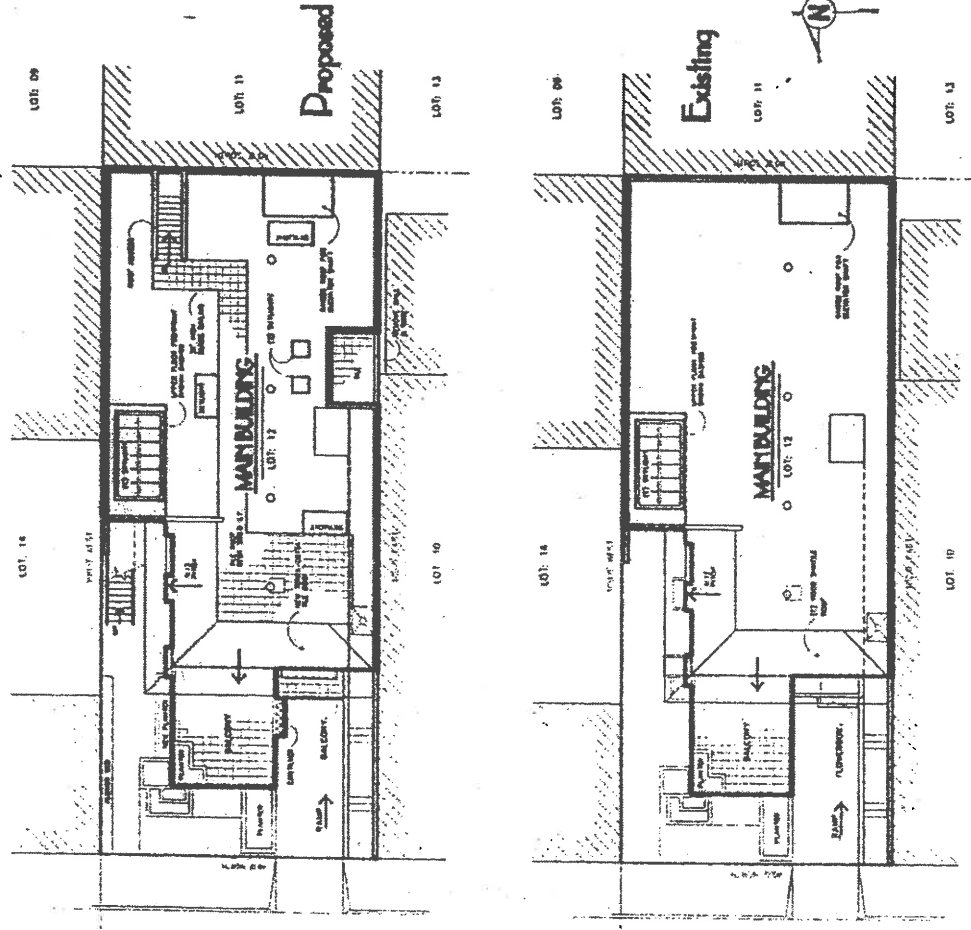
9941

1

APPROVED FOR
RECORDING &
BUILDING

SITE PLAN

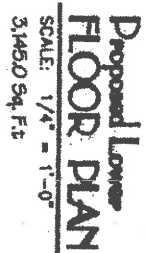
SCALE: 1/8" = 1'-0"



PROJECT INFORMATION

APN	800-101-011
SITE AREA	4,000.00 S.F.
LOT 12	LOT 12
ADDRESS	304 OCEAN AVE OF 80 ON LOTS 10-13 CARMEL-BY-THE-SEA, CA 95018
PERMITTING	
COVERAGE ALLOWED	70.0%
EXISTING	2,800.00 S.F.
PROPOSED	2,800.00 S.F.
FLOOR AREA	
FLOOR AREA ALLOWED	2,800.00 S.F.
EXISTING	2,800.00 S.F.
PROPOSED	2,800.00 S.F.
LANDSCAPE	
LANDSCAPE ALLOWED	120
EXISTING	120
PROPOSED	120
HEIGHT LIMIT	
MAXIMUM HEIGHT ALLOWED	28.00'
EXISTING HEIGHT	28.00'
PROPOSED HEIGHT	28.00'

JUN 18 2019

[illegible]

Architectural drawing of the Vella & Mare Building. The drawing shows a side elevation of a two-story building with a flat roof. A central entrance is marked with a small archway. To the right of the entrance, a sign reads "VELLA & MARE BLDG." and "2nd. FLOOR 8 1/2 x 5 1/2 ft. ON COLONN". The building is situated on a lot with a "10' WIDE" area to the left. A "10' WIDE" area is also indicated to the right of the building. The drawing is labeled "PLAN" and "1-0" at the top. A scale bar at the bottom indicates "1" = 10'.

EXHIBIT 2 2
3-00-022

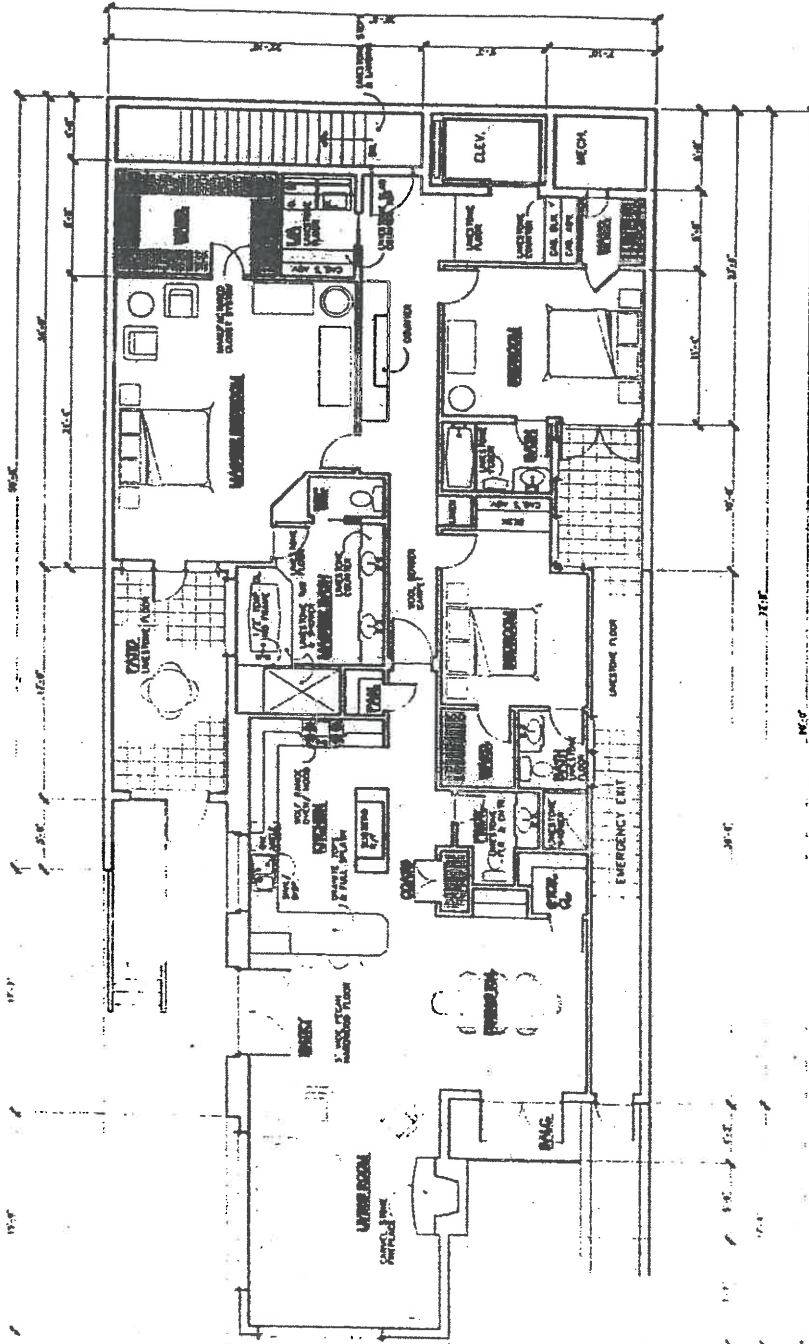
3-00-022

EXHIBIT 2

RECEIVED

JUN 18 2019

City of Carmel-by-the-Sea
Planning & Building Dept



Proposed Main FLOOR PLAN

SCALE: 1/4" = 1'-0"
2,630.10 Sq. Ft.



SPECIFICATIONS

- PLUMBING
- CABINETS
- WALLS & CEILINGS
- WINDOWS
- DOORS
- HARDWARE
- LIGHTING
- RAILING
- KOHLER
- PARTIAL BRICK
- THIN WALL PLASTER
- ANDERSON CASHERNT
- 1-3/4" SOLID CORR (PLANK)
- SOUTHWESTERN ANTIQUE
- LOW VOLTAGE RECESSED
- HANGERS & DISTRESSED
- ANTIQUE STEEL

VILLA MADE BLDG.
SHE. BUILDING W/ 1/2 OF BLDG. ON RECORD
CARMEL-BY-THE-SEA, CALIFORNIA

9841
3
REVISIONS
1. 1/2" = 1'-0" SCALE
2. 1/2" = 1'-0" SCALE
3. 1/2" = 1'-0" SCALE

RECEIVED

JUN 18 2019

City of Carmel-by-the-Sea
Planning & Building Dept

3-00-022

EXHIBIT 2

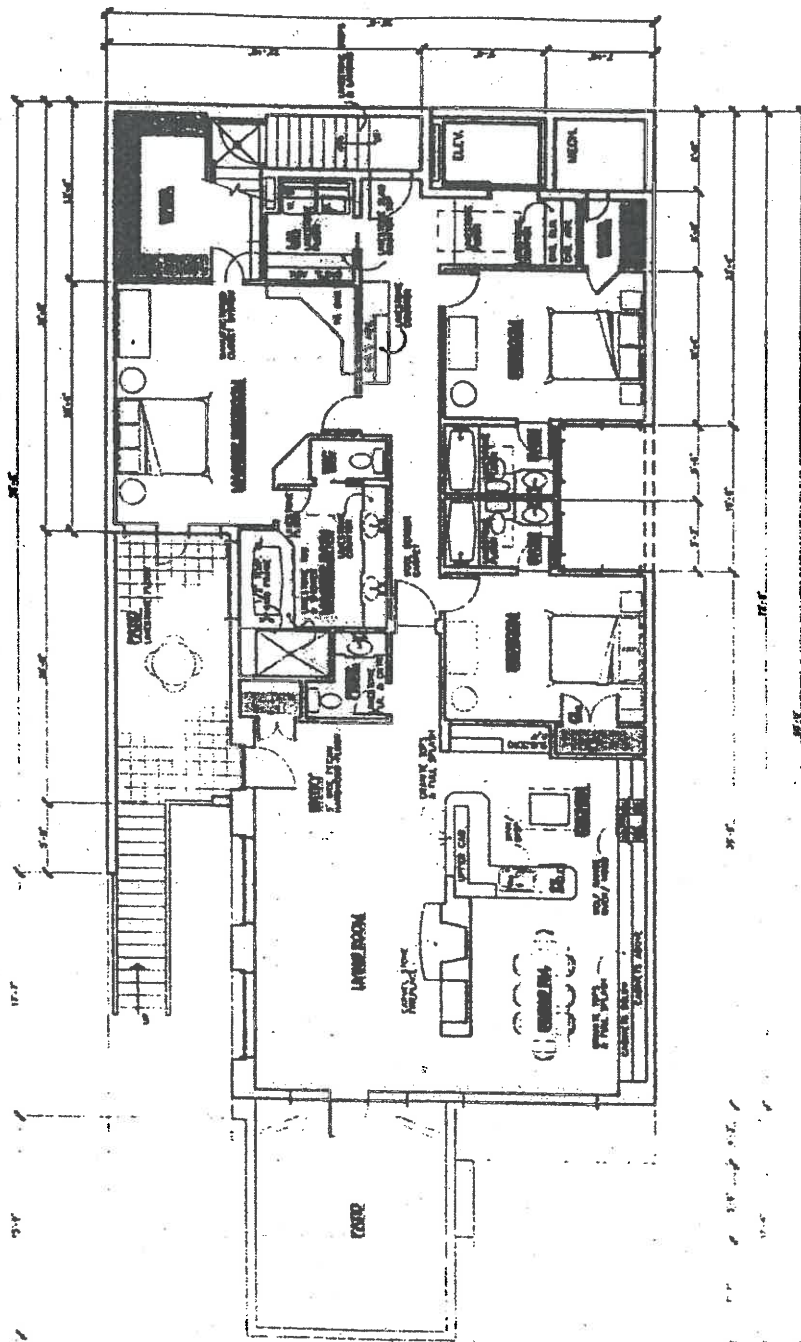
VILLA MAIRE BLDG.
3141 MARINA BLVD. # 200, CARMEL, CA 95006
CHARTERED BY THE CITY OF CARMEL, CALIFORNIA

9941

4

DESIGN EXHIBIT
1.0 SHEET 4 OF 4
DESIGNED BY: [Signature]
DATE: 6/18/19

Proposed Upper
FLOOR PLAN
SCALE: 1/4" = 1'-0"
2,279.0 Sq. Ft.



SPECIFICATIONS

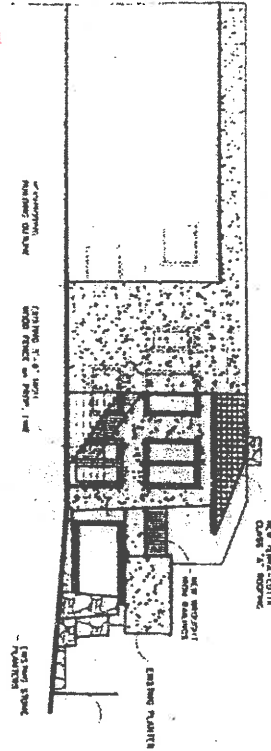
- ROBBER
 - PANTRY RICH
 - THIN WALL PLASTER
 - ANDERSON CASEMENT
 - 1-3/4" SOLID CORE (PLANK)
 - SOUTHWESTERN ANTIQUE
 - LOW VOLTAGE RECESSED
 - HAMMERED & DISTRESSED
 - ANTIQUA STEEL
- PLUMBING
 - CABINETS
 - WALLS & CEILINGS
 - WINDOWS
 - DOORS
 - HARDWARE
 - LIGHTING
 - RAILING

RECEIVED

JUN 18 2019

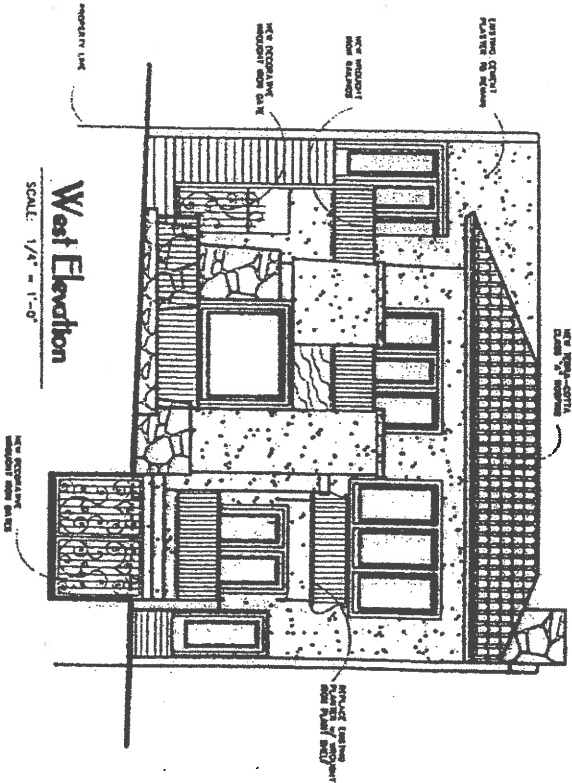
City of Carmel-by-the-Sea
Planning & Building Dept

North Elevation

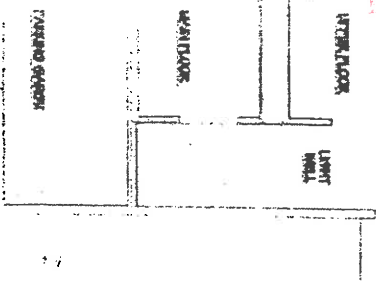


West Elevation

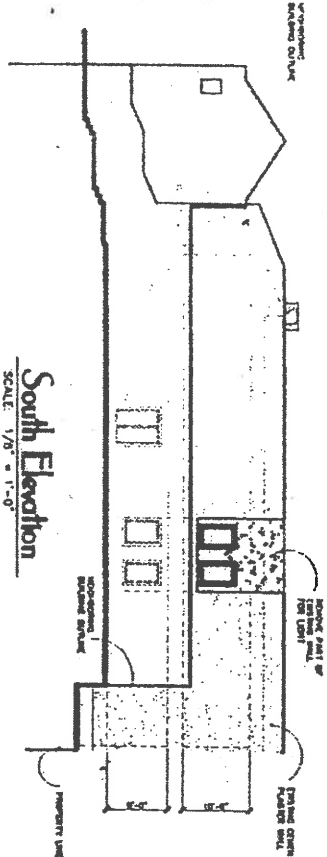
West Elevation
SCALE: 1/4" = 1'-0"



Light Wall Section



South Elevation
SCALE: 1/8" = 1'-0"



Proposed
ELEVATIONS

VILLAS & MORE BLDG.
2nd. BUILDING N/E of 2nd. on BOLANDER
CARMEL-BY-THE-SEA, CALIFORNIA

EXHIBIT 2 5
3-00-022

Page 2

RECEIVED

JUN 18 2019

City of Carmel-by-the-Sea
Planning & Building Dept.


MONTEREY PENINSULA
WATER MANAGEMENT DISTRICT
P.O. BOX 85 • Monterey, CA 93942-0085
(831) 649-2500 FAX (831) 649-4870

PERMIT: 18169

Date: 03/06/00

Final Inspection Required
by MPWMD

Phone: (831) 625-1553

Phone: (831) 625-1553

MPWMD WATER PERMIT

Applicant: Villas Di Mare Invest, LLC

Agent: Robert Mandurrage

Applicant Mailing Address: PO Box R
Carmel, CA 93921

Property Address: Dolores, 3 NE of 8th Avenue CARMEL, CA 93921

Water Company: CAL-AM

Allocation debited: 0.000 AF Lot: AF Number: 010-145-011

Permit Type: REMODEL (Residential) Number of Proposed Connections: 1 of 1

Existing Land Use OFFICE

Proposed Land Use MFD - UNIT 1

Water Account Number:

Remarks: ORD #60/80-ULF TOILETS, ULF WASHER-18GLS MAX, ULF DISHWASHER, HOT

WATER SYSTEM & DRIP IRRIGATION REQ*SEP. METER REQ*

F E E S

FIXTURES	NO. OF FIXTURES		FIXTURE UNIT VALUE		FIXTURE UNIT COUNT
Bathtub(may have shower above)	1.0	X	2.0	=	2.00
Shower-separate stall:	2.0	X	2.0	=	4.00
Wash Basin, each	5.0	X	1.0	=	5.00
Water Closet, ULF, 1.6 gal.	4.0	X	1.7	=	6.80
Large Bathtub (over 55 gal.)	1.0	X	3.0	=	3.00
KIT/ULF DISHWASHER	1.5	X	1.0	=	1.50
1BATH SHOWER	(2.0)	X	1.0	= (2.00)
ULF WASHER-18GLS MAX	1.0	X	1.0	=	1.00
1BATH 2ND-LAY	(1.0)	X	1.0	= (1.00)
Connect					0.00
Processing					300.00
					=====
Credits applied: 20,300 Fixture Units			TOTAL	--->	300.00

I declare under penalty of perjury that the information on this permit, the accompanying application, and any attachments is correct to the best of my knowledge and belief. I have had an opportunity to review the Rules and Regulations of the MPWMD. The undersigned, as property owner or agent thereof, hereby authorizes MPWMD staff to make on-site inspections as deemed necessary to insure the accuracy of this application and compliance with the permit.

Furthermore, by signing this water permit, the undersigned acknowledges the District's right to assess and collect fees and impose fines for added water fixtures or changes in use occurring without amendment of the water permit. Water fixtures added without amendment of the water permit may be subject to a requirement of removal. The current title-holder of the property and/or his agent is responsible to arrange for a final inspection by the MPWMD. Failure to arrange for a final inspection may result in a Notice of Violation recorded against the property, may subject a future property owner to fees and penalties, or may result in interruption of water service at the site.

Signature of Property Owner/Agent

Date

3-9-00

Monterey Water Management District issues a permit for the above project. This permit constitutes your receipt for the total fees shown. This permit may be revoked or other penalties imposed upon discovery of any substantial inaccuracy with respect to the above application.

EXHIBIT 3

3-00-022

Page 1



MONTEREY PENINSULA
WATER MANAGEMENT DISTRICT
P.O. BOX 85 • Monterey, CA 93942-0085
(831) 649-2500 FAX (831) 649-4870

RECEIVED

JUN 18 2019

City of Carmel-by-the-Sea
Planning & Building Dept

MPWMD WATER PERMIT
(continued)

Applicant: Villas Di Mare Invest, LLC

Agent: Robert Mandurrago

Applicant Mailing Address: PO Box R
Carmel, CA 93921

Property Address: Dolores, 3 NE of 8th Avenue CARMEL, CA 93921

PERMIT: 18169

Date: 03/06/00

Final Inspection Required
by MPWMD

Phone: (831)625-1553

Phone: (831)625-1553

A handwritten signature in black ink, appearing to be "SAH", written over a horizontal line.

MPWMD Delegated Agent

03/06/00

Issued

NOTE: This permit does not guarantee service by any water company, public utility, or municipal water agency.
This permit may be canceled at the request of the jurisdiction following notice to the property owner.

EXHIBIT 3

3-00-022

Page 2

MONTEREY PENINSULA
WATER MANAGEMENT DISTRICT
P.O. BOX 111111, CA 93921-1111
(831) 625-1553 FAX (831) 625-1570

RECEIVED

JUN 18 2019

City of Carmel-by-the-Sea
Planning & Building Dept

PERMIT: 18170

Date: 03/06/00

MPWMD WATER PERMIT

Final Inspection Required
by MPWMD

Phone: (831)625-1553

Applicant: Villas Di Mare Invest, LLC

Agent: Robert Mandurrage

Phone: (831)625-1553

Applicant Mailing Address: PO Box R
Carmel, CA 93921

Property Address: Dolores, 3 NE of 8th Avenue CARMEL, CA 93921

Water Company: CAL-AM

Allocation debited: 0.000 AF Lot:

AP Number: 010-145-011

Permit Type: REMODEL (Residential)

Number of Proposed Connections: 2 of 2

Existing Land Use OFFICE

Proposed Land Use MFD - UNIT 2

Water Account Number:

Remarks: ORD #60/80-ULF TOILETS, ULF WASHER-18GLS MAX, ULF DISHWASHER, HOT
WATER SYSTEM & DRIP IRRIGATION REQ*SEP. METER REQ*

F E E S

FIXTURES	NO. OF FIXTURES		FIXTURE UNIT VALUE	FIXTURE UNIT COUNT
Bathtub(may have shower above)	2.0	X	2.0 =	4.00
Shower-separate stall:	1.0	X	2.0 =	2.00
Wash Basin, each	5.0	X	1.0 =	5.00
Waper Closet, ULF, 1.6 gal.	4.0	X	1.7 =	6.80
Large Bathtub (over 55 gal.)	1.0	X	3.0 =	3.00
KIT/ULF DISHWASHER	1.5	X	1.0 =	1.50
MBATH SHOWER (2.0)	2.0	X	1.0 = (2.00)
ULF WASHER-18GLS MAX	1.0	X	1.0 =	1.00
MBATH 2ND-LAV (1.0)	1.0	X	1.0 = (1.00)
			Connect	0.00
			Processing	0.00
			=====	

Credits applied: 20.300 Fixture Units TOTAL ----> 0.00

I declare under penalty of perjury that the information on this permit, the accompanying application, and any attachments is correct to the best of my knowledge and belief. I have had an opportunity to review the Rules and Regulations of the MPWMD. The undersigned, as property owner or agent thereof, hereby authorizes MPWMD staff to make on-site inspections as deemed necessary to insure the accuracy of this application and compliance with the permit.

Furthermore, by signing this water permit, the undersigned acknowledges the District's right to assess and collect fees and impose fines or added water fixtures or changes in use occurring without amendment of the water permit. Water fixtures added without amendment of the water permit may be subject to a requirement of removal. The current title-holder of the property and/or his agent is responsible to insure completion of a final inspection by the MPWMD. Failure to arrange for a final inspection may result in a Notice of Violation recorded against the property, may subject a future property owner to fees and penalties, or may result in interruption of water service at the site.

Signature of Property Owner Agent

Date

3-9-00

The Monterey Water Management District issues a permit for the above project. This permit constitutes your receipt for the total fees shown. This permit may be revoked or other penalties imposed upon discovery of any substantial inaccuracy with respect to the above application.

EXHIBIT 3

3-00-022

RECEIVED

JUN 18 2019

City of Carmel-by-the-Sea
Planning & Building Dept

MONTEREY
WATER MAIN
P.O. BOX 15
(831) 646-2565

PERMIT: 18170

Date: 03/06/00

Final Inspection Required
by MPWMD

Phone: (831) 625-1553

MPWMD WATER PERMIT
(continued)

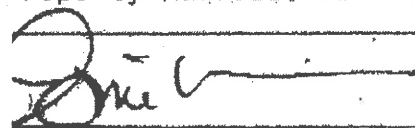
Applicant: Villas Di Mare Invest, LLC

Agent: Robert Mandurrago

Phone: (831) 625-1553

Applicant Mailing Address: PO Box R
Carmel, CA 93921

Property Address: Dolores, 3 NE of 8th Avenue CARMEL, CA 93921



MPWMD Delegated Agent

03/06/00

Issued

E: This permit does not guarantee service by any water company, public utility, or municipal water agency.
This permit may be canceled at the request of the jurisdiction following notice to the property owner.

EXHIBIT

3 4

3-00-022

**MONTEREY PENINSULA
WATER MANAGEMENT DISTRICT**

POST OFFICE BOX 85

MONTEREY, CA 93942-0085 • (831) 649-2500

FAX (831) 649-4870 • <http://www.mpwmd.dst.ca.us>

Recording Requested by:

And When Recorded Mail To:

Monterey Peninsula Water Management District

Post Office Box 85

Monterey, California 93942-0085

City of Carmel-by-the-Sea
Planning & Public Works Dept.

**NOTICE AND DEED RESTRICTION
REGARDING LIMITATION ON USE
OF WATER ON A PROPERTY**

NOTICE IS HEREBY GIVEN that the real property situated in the City of Carmel-by-the-Sea:

**DOLORES, 3 NE OF 8TH AVENUE {L12 B91/CARMEL BY THE SEA}
ASSESSORS PARCEL NUMBER 010-145-011,**

hereinafter referred to as the "subject property," is located within the jurisdiction of the Monterey Peninsula Water Management District, a public agency formed and operating within the provisions of law found at Statutes of 1977, Chapter 527, as amended found at West's California Water Code Appendix, Chapters 118-1 to 118-901. Villas Di Mare Investor, LLC, (hereinafter referred to as Owner(s)), is the record owner(s) of the subject property. Owner(s) and the Monterey Peninsula Water Management District each acknowledge that the installation and maintenance of two ultra low-flow washing machines, manufactured with no wash cycle capable of using greater than 18 gallons of water, two dishwashers with no complete wash cycle capable of using greater than 7.66 gallons of water, and an instant-access hot water system capable of supplying hot water at any access point within six seconds, are permanent requirements of the property. The permitted water use at the subject property is to supply the potable water requirements for a multi-family dwelling consisting of:

- 8 ultra low-flush toilets (1.6 gallons-per-flush maximum)
- 10 wash basins (2.2 gallons-per-minute maximum flow)
- 2 kitchen sinks (2.2 gallons-per-minute maximum flow) and two dishwashers (7.66 gallons maximum on all cycles)
- 2 washing machines (18 gallons maximum on all cycles)
- 3 standard bathtubs (under 55 gallon overflow capacity, may have showerhead above)
- 3 stall showers (2.5 gallons-per-minute maximum flow)
- 2 oversize bathtubs (over 55 gallon overflow capacity, may have showerhead above)
- Reasonable outdoor water use as needed and as allowed by District Rules.

Owner(s) acknowledges that the condition requiring the installation and maintenance of the ultra-low flow appliances referenced above has been voluntarily accepted as a condition of Water Permit Nos. 18169 and 18170, and is permanent and irrevocable, unless amended by the filing of a less restrictive deed restriction.

Page One of Three Pages

EXHIBIT 3

3-00-022

JUN 18 2019

City of Carmel-by-the-Sea

NOTICE IS FURTHER GIVEN that present and/or future use of water at the subject property site is restricted by Monterey Peninsula Water Management District Rules and Regulations to the water use requirements referenced above. Any intensification of water use on the subject property, as defined by District Rule 11, will require prior written authorization from the City of Carmel-by-the-Sea and prior written authorization and permits from the Monterey Peninsula Water Management District. Approval may be withheld by either the City or Water District, in accord with then applicable provisions of law. Present or future allocations of water may not be available to grant any permit to intensify water use at this site. If any request to intensify water use on subject property is approved, connection charges and other administrative fees may be required as a condition of approval. Rule 11 defines intensification of water use as any change in water use occurring on a parcel which, in a residential use, is evidenced by an increase in the number of fixture units serving that parcel.

NOTICE IS FURTHER GIVEN that in the event intensification of water use on subject property occurs without such an authorizing permit, all water use on this site may thereafter be revoked in accord with Water Management District Rule 23, which states, "Intensification of Water Use without a permit shall provide cause for revocation by the District of all water use by any person on that Site." Such revocation could cause the irrevocable extinction of any right or entitlement to water use, water use capacity, or water credit for the subject property.

NOTICE IS FURTHER GIVEN that intensification of water use on subject property without the advance written approval of the Monterey Peninsula Water Management District is a violation of District Rules and may result in a maximum penalty of \$250 for each offense as allowed by District Rule 148. Each separate day, or portion thereof, during which any violation occurs or continues without a good faith effort by the responsible party to correct the violation shall be deemed to constitute a separate offense. All water users within the jurisdiction of the Monterey Peninsula Water Management District are subject to the District Rules, including Rules 11, 23, and 148.

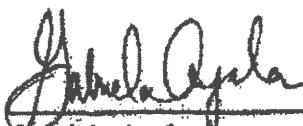
It is intended that this Notice and Deed Restriction act as a deed restriction upon the subject property, that it shall be irrevocable except upon the terms stated herein, and that its restrictions shall be enforceable independent of any other provision of law or ordinance. This Notice and Deed Restriction shall be enforceable by the Monterey Peninsula Water Management District or any public entity which is a successor to the District.

The Owner(s) elects and irrevocably covenants with the District to abide by the conditions of this Notice and Deed Restriction to enable issuance of Water Permit Nos. 18169 and 18170. But for the limitations and notices set forth herein, approval of this water permit would otherwise be withheld and found to be inconsistent with the Monterey Peninsula Water Management District Rules and Regulations.

This Notice and Deed Restriction is placed upon the subject property and any transfer of this property, or any interest therein, is subject to this deed restriction. This Notice and Deed Restriction shall have no termination date unless amended by the filing of a less restrictive deed restriction.

If any provision of this Notice and Deed Restriction is held to be invalid, or for any reason becomes unenforceable, no other provision shall thereby be affected or impaired.

OWNER(S) agrees to record this Notice and Deed Restriction in the Recorder's Office of the County of Monterey, and by such recordation accepts unconditionally the terms and conditions stated herein.

By: 
Gabriela Ayala
Conservation Representative
Monterey Peninsula Water Management District


Dated: 3/6/2000

RECEIVED

JUN 18 2019

City of Carmel-by-the-Sea
Planning & Building Dept

The undersigned Owner(s) request and consent to recordation of this Notice and Deed Restriction Regarding Limitation on Use of Water on a Property. (Signatures must be notarized).

By: 
Villas Di Mare Investors, LLC
JOHN MANDURRAGO

Dated: 3/8/00

EXHIBIT 3

3-00-022



RECEIVED

JUN 18 2019

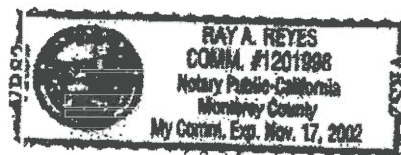
City of Carmel-by-the-Sea
Planning & Building Dept

STATE OF CALIFORNIA } ss.
COUNTY OF Monterey }

On 3/8/00 before me, Ray A. Reyes, personally
appeared John Mandarrago
personally known to me (or proved to me on the basis of satisfactory evidence) to be
the person(s) whose name(s) is/are subscribed to the within instrument and
acknowledged to me that he/she/they executed the same in his/her/their authorized
capacity(ies), and that by his/her/their signature(s) on the instrument the person(s) or
the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature



(This area for official notarial seal)

Title of Document: Htc and Deed Restriction
Date of Document: 3/6/00 No. of Pages: 3
Other signatures not acknowledged: None

EX-111 3 8

2008-SM (1/94)(General)
First American Title Insurance Company

3-00-022

RECEIVED

JUN 18 2019

City of Carmel-by-the-Sea
Planning & Building Dept.