

(R-90-1682)

RESOLUTION NUMBER R-275348

ADOPTED ON MARCH 20, 1990

WHEREAS, T&S Development, Inc., by Matthew A. Peterson, Attorney, appealed the decision of the Planning Commission in denying Planned Commercial Development Permit No. 89-0404 (Amendment to PCD No. 84-0305) submitted by CAPE LA JOLLA HOMEOWNER'S ASSOCIATION, Owner/Permittee, for the purpose of removing 8.8 acres from the Cape La Jolla residential project thereby reducing this project from a maximum of 240 units to 52 units (presently developed), and proposing to resubdivide a 39.1 acre site into 18 parcels, located east of Villa Mallorca, west of Interstate 5 and north of Via Alicante, and is more particularly described as Lots 1 through 5 inclusive of Cape La Jolla, Map No. 11190, in the University Community Plan area, in the CA zone; and

WHEREAS, the matter was set for public hearing on March 20, 1990, testimony having been heard, evidence having been submitted, and the City Council having fully considered the matter and being fully advised concerning the same; NOW, THEREFORE,

BE IT RESOLVED, by the Council of The City of San Diego, that this Council adopts the following findings with respect to Planned Commercial Development Permit No. 89-0404:

1. The proposed use will fulfill an individual and/or community need and will not adversely affect the General Plan,

the community plan or the existing neighborhood. The University Community Plan designates the subject property for regional commercial use. As part of an accompanying planned commercial development (No. 89-0366), development rights for 188 units would be transferred to property to the north concurrent with the deletion of 8.8 acres from the original Cape La Jolla PCD (84-0305). This deletion would allow the proposed expansion of the La Jolla Village Square Shopping Center by 652,000 square feet. This proposed addition would require an amendment to the University Community Plan. The approval of this amendment will implement the General Plan and community plan by allowing the expansion of the adjacent commercial center.

2. The proposed use will not be detrimental to the health, safety, and general welfare of persons residing or working in the area and will not adversely affect other property in the vicinity. The Cape at La Jolla Planned Commercial Development Permit amendment proposes the deletion of 8.8 acres from the previous 12.1-acre site and the deletion of 188 units from the original 240-unit project. Fifty-two of the units have been constructed. The area being deleted from this project would be joined to the La Jolla Village Square project to the north accommodating a future 652,000-square-foot expansion of this facility. The approval of this amendment would result in the expansion of the adjacent commercial center thereby developing a site that has remained vacant and semi-developed for the previous

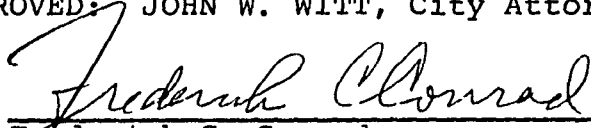
four years. This construction would not be detrimental to the existing units presently adjacent to this site or the community as a whole.

3. The proposed use will comply with the relevant regulations in the Municipal Code. The original Cape La Jolla project proposed the construction of 240 units on 12.1-acres. Fifty-two of those units have been presently constructed. Parking, open space and amenities, presently in this first phase to serve the existing 52 units, meet and/or exceed all requirements of the Municipal Code.

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

BE IT FURTHER RESOLVED, that the appeal of T&S Development, Inc., by Matthew A. Peterson, Attorney, is granted; the decision of the Planning Commission is overruled, and Planned Commercial Development Permit No. 89-0404 is hereby granted to CAPE LA JOLLA HOMEOWNER'S ASSOCIATION, under the terms and conditions set forth in the permit attached hereto and made a part hereof.

APPROVED: JOHN W. WITT, City Attorney

By   
Frederick C. Conrad  
Chief Deputy City Attorney

FCC:lc  
05/02/90  
Or.Dept:Clerk  
R-90-1682  
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PLANNED COMMERCIAL DEVELOPMENT PERMIT NO. 89-0404  
AMENDMENT TO PCD NO. 84-0305

CITY COUNCIL

This Planned Commercial Development Permit Amendment is granted by the Council of The City of San Diego to CAPE LA JOLLA HOMEOWNER'S ASSOCIATION, a private corporation, Owner/Permittee, pursuant to Section 101.0910 of the Municipal Code of The City of San Diego.

1. Permission is granted to Owner/Permittee to delete 8.8 acres from the existing 12.1-acre site additionally relinquishing rights to the development of 188 units associated with this 8.8 acres as part of PCD No. 84-0305, located east of Via Mallorca, north of Via Alicante and west of Interstate 5, described as Lots 1 through 5 inclusive of Cape La Jolla, Map No. 11190, in the CA zone.
2. The facility shall consist of the following:
  - a. Fifty-two existing multi-family residential units;
  - b. Pool, spa and cabana as presently located on the site;
  - c. Off-street parking;
  - d. Accessory uses as may be determined incidental and approved by the Planning Director.
3. Prior to the issuance of any building permits, a final subdivision map shall be recorded on the subject property.
4. No fewer than 135 off-street parking spaces shall be maintained on the property in the approximate location shown on Exhibit "A," dated March 20, 1990, on file in the office of the Planning Department. Parking spaces shall be consistent with Chapter X, Article 1, Division 8 of the Municipal Code and shall be permanently maintained and not converted for any other use. Parking spaces and aisles shall conform to Planning Department standards. Parking areas shall be marked.
5. No permit for construction on any portion of the 8.8 acres being deleted from PCD 84-0305 shall be issued until:
  - a. The Permittee signs and returns the permit to the Planning Department;

- b. The Planned Commercial Development Permit is recorded in the office of the County Recorder.
6. Before issuance of any improvement plan permits, complete grading and landscape plans for areas to be constructed along the northerly boundary of this property (parking and landscaping) shall be submitted to the Planning Director for approval. Plans shall be in substantial conformity to Exhibit "A," dated March 20, 1990, on file in the office of the Planning Department. No change, modifications or alterations shall be made unless appropriate applications, findings of substantial conformance or amendment of this permit shall have been granted.
  7. Before issuance of any grading or improvement plan permits, a complete landscape plan, including a permanent irrigation system, shall be submitted to the Planning Director for approval. The plans shall be in substantial conformity to Exhibit "A," dated March 20, 1990, on file in the office of the Planning Department.
  8. All outdoor lighting shall be so shaded and adjusted that the light is directed to fall only on the same premises as light sources are located.
  9. The effective date of this permit shall be the date of final action following all appeal dates and proceedings or the effective date of a concurrent rezoning case. The permit must be utilized within 36 months after the effective date. Failure to utilize the permit within 36 months will automatically void the permit unless an extension of time has been granted by the Planning Director, as set forth in Section 101.0910.M. of the Municipal Code. Any such extension of time must meet all the Municipal Code requirements and applicable guidelines in effect at the time the extension is considered by the Planning Director.
  10. Construction and operation of the approved use shall comply at all times with the regulations of this or any other governmental agencies.
  11. After establishment of the project, the property shall not be used for any other purposes unless:
    - a. Authorized by the Planning Director; or
    - b. The proposed use meets every requirement of the zone existing for the property at the time of conversion;
    - c. The permit has been revoked by the City.

The property included within this planned commercial development shall be used only for the purposes and under the terms and conditions set forth in this permit unless authorized by the Planning Director or the permit has been revoked by The City of San Diego.

12. This Planned Commercial Development Permit may be cancelled or revoked if there is any material breach or default in any of the conditions of this permit. Cancellation or revocation may be instituted by the City of San Diego or Permittee.
13. This Planned Commercial Development Permit is a covenant running with the subject property and shall be binding upon the Permittee and any successor or successors, and the interests of any successor shall be subject to each and every condition set out.
14. Permanent and/or temporary signs shall comply with City Wide Sign Regulations and be administered by the Sign Code Administration Division of the Planning Department.
15. This planned commercial development may be developed in phases as set out in Exhibit 1 attached hereto. Each phase shall be constructed prior to the sale or lease to individual owners or tenants to ensure that all development is consistent with conditions and exhibits submitted to and approved by the Planning Director.
16. The use of textured or enhanced paving shall be permitted only with the approval of the City Engineer and Planning Director, and shall meet standards of these departments as to location, noise and friction values, and any other applicable criteria.
17. If any existing hardscape or landscape indicated on the approved plans is damaged or removed during demolition or construction, it shall be repaired and/or replaced in kind per the approved plans.
18. This permit shall supersede PCD No. 84-0305. Development rights for the remaining 188 units shown under PCD 84-0305 shall be relinquished at the time of the issuance of the first building permit associated with PCD No. 89-0366, La Jolla Village Square expansion.
19. Prior to the issuance of any occupancy permits proposed in conjunction with PCD No. 89-0366, landscaping, berming, parking and access shall be installed on property covered by this permit to mitigate potential noise and visual impacts.

20. Approval of this project is contingent upon the subsequent approval, by City Council, of an amendment to the University Community Plan and the approval of PCD No. 89-0366. Subsequent cancellation of this planned commercial development will void PCD No. 89-0366.

21. In the event that any condition of this Permit, on a legal challenge by the Owner/Permittee of this Permit, is found or held by a court of competent jurisdiction to be invalid, unenforceable or unreasonable, this Permit shall be void.

APPROVED by the Council of The City of San Diego on March 20, 1990.

FCC:lc  
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EXHIBIT 1

PHASING PLAN  
LA JOLLA VILLAGE SQUARE, PCD 89-0366

Phase I

The following transportation improvements shall be assured to the satisfaction of the City Engineer and completed by the applicant prior to issuance of a certificate of occupancy for any expansion of the shopping center beyond the current 350,000 square feet level, up to a maximum of 737,250 square feet:

- installation of a traffic signal at the major entrance on Villa La Jolla Drive including dual left-turn lanes;
- construction of an auxiliary lane from the secondary entrance easterly to I-5;
- widening major entrance on Nobel Drive to allow for six lanes in and out including: one right-turn only lane out of the center onto Nobel Drive, one left-turn lane and a middle lane which would accommodate all traffic movements;
- restriction on left turns out of the shopping center at non-signalized entrances with no left turns onto Via Mallorca; and
- develop plans and drawings and bond, post a certificate of deposit, or a letter of credit for the construction of a transit stop at a location approved by MTDB to accommodate the proposed North University City Loop Shuttle. With the approval of MTDB, reroute the Loop Shuttle through the center in order to optimize the convenience to future riders. Upgrade bus stops at Villa La Jolla Drive and Nobel Drive to shelters. Applicant shall not oppose the formation of an assessment district to finance the Loop Shuttle.

Phase II

Prior to issuance of a building permit for any expansion of the shopping center beyond a total of 737,250 square feet, a Project Study Report shall be approved by CalTrans and the construction of the southbound off-ramp to Nobel Drive and associated freeway improvements shall be assured to the satisfaction of the City Engineer. The project application shall construct a southbound off-ramp to Nobel Drive to Gilman Drive. Construction of the proposed southbound ramp and associated freeway improvements shall be completed prior to issuance of a certificate of occupancy for any expansion of the shopping center which would result in more than a total of 737,250 square feet.

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If the northbound on-ramp from Nobel Drive to I-5 is ultimately required by CalTrans and Federal Highway, even though not necessitated by this project, then:

- (a) The identification of the financing for this improvement will be a condition of the project approval;
- (b) T & S Development and the City will be responsible for determining how the remaining cost of the northbound on-ramp will be funded;
- (c) The northbound freeway ramp must be open before any certificates of occupancy are issued for construction which exceeds 737,250 square feet;
- (d) A possible funding source identified at this time is an amendment to the FBA. Additionally, an allocation of the incremental FBA fees that accrue with the expansion of the project above the Community Plan level of 737,250 square feet to 1,002,000 square feet could be set aside to apply directly toward offsetting the cost of the northbound on-ramp.

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AUTHENTICATED BY:

MAUREEN O'CONNOR, Mayor  
The City of San Diego

CHARLES G. ABDELNOUR, City Clerk  
The City of San Diego

STATE OF CALIFORNIA    )  
                                  ) ss.  
COUNTY OF SAN DIEGO    )

On this \_\_\_\_\_ day of \_\_\_\_\_, before me, the undersigned, a notary public in and for said County and State, residing therein, duly commissioned and sworn, personally appeared CHARLES G. ABDELNOUR, known to me to be the City Clerk of The City of San Diego, the municipal corporation that executed the within instrument, and known to me to be the person whose name is subscribed to the within instrument, as a witness thereto, who being by me duly sworn, deposes and says that he was present and saw MAUREEN O'CONNOR, known to him to be the Mayor of The City of San Diego, and known to him to be the person who executed the within instrument on behalf of the municipal corporation therein named, and acknowledged to me that such municipal corporation executed the same, and that said affiant subscribed his name to the within instrument as a witness.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal in the County of San Diego, State of California, the day and year in this certificate first above written.

\_\_\_\_\_  
Notary Public in and for the County  
of San Diego, State of California

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

CAPE LA JOLLA HOMEOWNER'S ASSOCIATION  
Owner/Permittee

By \_\_\_\_\_

By \_\_\_\_\_

NOTE: Notary acknowledgments  
must be attached per Civil  
Code Section 1180, et seq.  
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R 275348

MAR 20 1990

Passed and adopted by the Council of The City of San Diego on.....  
by the following vote:

Council Members	Yeas	Nays	Not Present	Ineligible
Abbe Wolfsheimer	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ron Roberts	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
John Hartley	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
H. Wes Pratt	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Linda Bernhardt	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
J. Bruce Henderson	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Judy McCarty	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Bob Filner	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mayor Maureen O'Connor	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

AUTHENTICATED BY:

MAUREEN O'CONNOR  
Mayor of The City of San Diego, California.

(Seal)

CHARLES G. ABDELNOUR  
City Clerk of The City of San Diego, California.

By *Ellen Board*, Deputy.

Office of the City Clerk, San Diego, California

Resolution Number **R-275348** Adopted **MAR 20 1990**