

(R-97-1296)

RESOLUTION NUMBER R-288596

ADOPTED ON APRIL 29, 1997

WHEREAS, Joe Jeter, Owner/Permittee, submitted an application to Development Services for a Conditional Use Permit for the Thackery Gallery Building to rehabilitate and convert an existing 11,028 square-foot historic structure to six dwelling units with on-site parking on a 6,750 square foot property located at 321 Robinson Avenue, more particularly described as Parcel A of Parcel Map 607, in the City of San Diego, County of San Diego, State of California, filed in the Office of the County Recorder of San Diego County, August 27, 1971 as File No. 194261 of the Official Records, in the Uptown Community Plan area, in the CN-3 (CPIOZ) zone of the Mid-City Community Planned District; and

WHEREAS, on February 6, 1997, the Planning Commission of The City of San Diego considered Conditional Use Permit No. 96-0590 pursuant to San Diego Municipal Code section 101.0510 and recommended that the City Council adopt the written findings and approve the permit; and

WHEREAS, the matter was set for public hearing on April 29, 1997, 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 Conditional Use Permit No. 96-0590:

A. THE PROPOSED USE WILL NOT ADVERSELY AFFECT THE NEIGHBORHOOD, THE GENERAL PLAN, OR THE UPTOWN COMMUNITY PLAN, AND, IF CONDUCTED IN CONFORMITY WITH THE CONDITIONS PROVIDED BY THE PERMIT, WILL NOT BE DETRIMENTAL TO THE HEALTH, SAFETY AND GENERAL WELFARE OF PERSONS RESIDING OR WORKING IN THE AREA.

The Uptown Community Plan designation for the area is "High Density Residential" with a recommended density of 44 to 73 dwelling units per acre. However, the project site is specifically called out in the Community Plan for retail uses only within the existing building. The intent of this was to encourage the retention and preservation of the building without allowing a use that would increase the need for parking and negatively impact the neighborhood. The project proposes a residential use which has a lower parking requirement than the allowed retail use would. The proposed density is less than the range recommended in the Community Plan but will not adversely affect the Community Plan.

The proposed use is similar in character to existing uses in the vicinity and the project otherwise meets the purpose and intent of Uptown Community Plan and the Mid-City Communities Planned District by preserving an historic structure in its original location and in its historic context. The proposed rehabilitation will restore and preserve the exceptional architecture of the historic building which fits in well with and enhances the mixed architectural character of the surrounding neighborhood. The historic building has contributed to and enhanced the character of the neighborhood since 1912.

B. THE PROPOSED USE WILL COMPLY WITH ALL THE RELEVANT REGULATIONS IN THE SAN DIEGO MUNICIPAL CODE.

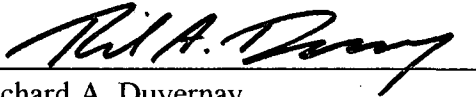
The project complies with all Municipal Code regulations in that a Conditional Use Permit allows deviations from the strict application of development regulations to tailor the development to the specific circumstances of the site. The project will provide only six parking spaces where eleven parking spaces are required, however, six spaces is the maximum number that can be provided on site without adversely impacting the integrity of the historic resource. The preservation of the historic resource for the benefit of the community at large and the fact that the project reduces the need for parking in the area by changing the use from retail to six dwelling units will offset any negative impacts to the neighborhood from allowing the use of the site without the required number of parking spaces.

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

BE IT FURTHER RESOLVED, that the recommendation of the Planning Commission is sustained, and Conditional Use Permit No. 96-0590 is hereby granted to Joe Jeter, under the terms and conditions set forth in the permit attached hereto and made a part hereof.

APPROVED: CASEY GWINN, City Attorney

By


Richard A. Duvernay
Deputy City Attorney

RAD:lc
06/03/97
Or.Dept:Clerk
R-97-1296
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RECORDING REQUESTED BY
CITY OF SAN DIEGO
DEVELOPMENT SERVICES

AND WHEN RECORDED MAIL TO
PERMIT INTAKE
MAIL STATION 501

SPACE ABOVE THIS LINE FOR RECORDER'S USE

CONDITIONAL USE PERMIT NO. 96-0590
THACKERY GALLERY BUILDING
CITY COUNCIL

This Conditional Use Permit is granted by the City Council of the City of San Diego to JOE JETER, an individual, Owner/Permittee, under the conditions contained in Section 101.0510 of the Municipal Code of the City of San Diego.

1. Permission is granted to Owner/Permittee to rehabilitate and convert an existing 11,028 square-foot historic structure to six dwelling units with on-site parking on a 6,750 square foot property located at 321 Robinson Avenue, also described as Parcel A of Parcel Map 607, in the City of San Diego, County of San Diego, State of California, filed in the Office of the County Recorder of San Diego County, August 27, 1971 as File No. 194261 of Official Records. The project is located in the CN-3(CPIOZ) Zone of the Mid-City Communities Planned District in the Uptown Community Plan area.

2. The Conditional Use Permit shall include the total of the following facilities:

- a. An 11,028 square-foot residential building with six (6) dwelling units; and
- b. Six (6) off-street parking spaces; and
- c. Incidental accessory uses as may be determined and approved by the City Manager.

3. No fewer than six (6) off-street parking spaces are required and shall be maintained on the property in the approximate location shown on Exhibit "A," dated April 29, 1997, on file in the office of Development Services. Parking spaces and aisles shall be consistent

with Chapter X, Article I, Division 8 of the Municipal Code and shall be permanently maintained and not converted for any other use.

4. Prior to the issuance of building permits, complete building/construction plans shall be submitted to the City Manager for approval. All plans shall be in substantial conformity to Exhibit "A," dated April 29, 1997, on file in Development Services. Subsequent to the approval of this project, no changes shall be made to the project or plans unless a finding of substantial conformity or an amendment to this permit shall have been granted.

5. The construction and continued use of this permit shall be subject to the regulation of this and any other governmental agencies.

6. Prior to the issuance of any building permits, complete lighting information for all outdoor lighting fixtures shall be submitted to the City Manager for review and approval. Complete lighting information shall include construction details as necessary to direct installation of the outdoor lighting system, including: manufacturers name, fixture model name and number, all necessary shields, visors, prisms, lenses and reflectors. The outdoor lighting system for the entire property shall be designed, manufactured and installed to allow shading, adjusting, and shielding of the light source so that all outdoor lighting is directed to fall only on the same premises as light sources are located.

7. The effective date of this permit shall be the eleventh working day after the date of final action by the City Council. 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 City Council, as set forth in Section 111.1122 of the Municipal Code. Any such Extension of Time must meet all the Municipal Code requirements and applicable guidelines in effect at the time of approval of an Extension of Time.

8. No development shall commence, nor shall any permit for construction be issued, until:

- a. The Permittee signs and returns the permit to Development Services;
- b. The Permit is recorded by Development Services in the Office of the County Recorder.

9. After establishment of the project, the property included within this Conditional Use Permit shall be used only for the purposes and under the terms and conditions set forth in this permit unless:

- a. The proposed use meets every requirement of the zone existing for the property at the time of conversion; and

b. The permit has been revoked by the City of San Diego.

10. This Permit may be canceled 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 or Permittee.

11. This 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 in this permit and all referenced documents.

12. Prior to the issuance of building permits, the Permittee shall ensure that building address numbers are visible and legible from the street. (UFC 10.208) satisfactory to the Fire Department.

13. Prior to the issuance of any building permits, the Permittee shall assure, by permit and bond, the dedication and improvement of 2.5 feet of additional alley right-of-way along the eastern property line (maintaining a new centerline to property line distance of 10 feet) satisfactory to the City Manager.

14. Prior to the issuance of any building permits, the Permittee shall assure by permit and bond the installation of two pedestrian ramps: one at the southeast corner of Robinson Avenue and Third Avenue and one at the southwest corner of the intersection of Robinson Avenue and the alley in a manner satisfactory to the City Manager.

15. Prior to the issuance of any building permits, the Permittee shall obtain an Encroachment Removal Agreement from the City Engineer for the fence and landscaping proposed to be located in the public right-of-way. This condition does not constitute approval of the Encroachment Removal Agreement, which requires separate application.

16. This property may be subject to a building permit park fee in accordance with San Diego Municipal Code Section 96.0401 et seq.

17. Prior to building occupancy, the Permittee shall conform to Section 62.0203 of the Municipal Code, "Public Improvement Subject to Desuetude or Damage." If repair or replacement of such public improvements is required, the Permittee shall obtain the required permits for work in the public right-of-way, satisfactory to the permit issuing authority.

18. The exterior of the building shall be rehabilitated according to the "Secretary of Interior's Standards for the Rehabilitation of Historical Buildings" including the retention of all original doors, windows, exterior fixtures and architectural features where possible.

19. All of the conditions contained in this Permit have been considered and have been determined to be necessary in order to make the findings required for this discretionary permit. It is the intent of the City that the holder of this permit be required to comply with

each and every condition in order to be afforded special rights which the holder of this Permit is obtaining as a result of this permit. It is the intent of the City that the owner of the property which is the subject of this permit either utilize the property for any use allowed under the zoning and other restrictions which apply to the property or, in the alternative, that the owner of the property be allowed the special and extraordinary rights conveyed by this permit, but only if the owner complies with all the conditions of this permit.

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

LANDSCAPE CONDITIONS

20. Prior to the issuance of any grading, or building permits, complete landscape construction documents, including plans, details and specifications (including a permanent automatic irrigation system unless otherwise approved), shall be submitted to the City Manager for approval. The construction documents shall be in substantial conformance with Exhibit "A," Landscape Concept Plan, dated April 29, 1997, on file in the office of Development Services. Subsequent to the approval of this project, no changes shall be made to the project or plans unless a finding of substantial conformity or an amendment to this permit shall have been granted.

21. Prior to the issuance of any Certificate of Occupancy it shall be the responsibility of the Permittee to install all approved landscape and obtain all required landscape inspections and to obtain a NO FEE STREET TREE PERMIT for all street trees. All conditions of the no fee street tree permit 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 in this permit and all referenced documents. Copies of these approved documents must be submitted to the City Manager.

22. All approved landscape shall be maintained in a disease, weed and litter free condition at all times and shall not be modified or altered unless this Permit has been amended. Modifications such as severe pruning or "topping" of trees is not permitted unless specifically noted in this permit. The Permittee, or subsequent owner shall be responsible to maintain all street trees and related

landscape improvements consistent with the standards of the Landscape Technical Manual.

23. If any existing or installed landscape (including hardscape, landscape features, etc.) indicated on the approved plans is damaged or removed during demolition, construction or at any time after issuance of any permit or Certificate of Occupancy, it shall be repaired and/or replaced in kind and equivalent size per the approved plans within 30 days of completion of construction by the Permittee. The replacement size of plant material after three years shall be the equivalent size of that plant at the time of removal (the largest size commercially available and/or an increased number) to the satisfaction of the City Manager.

ENVIRONMENTAL MITIGATION MEASURES

24. Prior to issuance of building permits, the Permittee shall submit complete construction plans to the City Manager. These plans shall show compliance with the Secretary of Interior's Standards for the Rehabilitation of Historical Buildings for the exterior of the building.

25. Prior to issuance of a Certificate of Occupancy, the City Manager shall confirm that the exterior building rehabilitation complies with the Secretary of Interior's Standards.

The above mitigation monitoring and reporting program will require additional fees and/or deposits to be collected prior to the issuance of building permits, certificates of occupancy and/or final maps to ensure the successful completion of the monitoring program.

APPROVED by the Council of The City of San Diego on April 29, 1997, by Resolution No. R-288596.

AUTHENTICATED BY THE CITY MANAGER

By _____

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.

JOE JETER
Owner/Permittee

By _____

**NOTE: Notary acknowledgments
must be attached per Civil Code
section 1180 et seq.
06/03/97**

R- 288596