

RESOLUTION NUMBER R-291817

ADOPTED ON JUNE 22, 1999

WHEREAS, JW McRoskey, Owner, and Lincoln Property Company, Permittee, filed an application with The City of San Diego for Planned Residential Development [PRD] Permit No. 98-0833 to construct a 251 multi-family apartment project to be called Lincoln La Jolla, located at the southeast corner of Nobel Drive and Regents Road, and legally described as Lot 1 of Lincoln La Jolla Unit No. 2, according to Map No. 11283, in the R-600 zone of the University Community Plan area; and

WHEREAS, after approval of the above referenced project by the City Council, JW McRoskey will transfer ownership of the property to Lincoln Property Company, thereby making Lincoln Property Company the Owner/Permittee of the Lincoln La Jolla project; and

WHEREAS, on April 22, 1999, the Planning Commission of The City of San Diego considered PRD Permit No. 98-0855, and pursuant to Resolution No. 2789-2-PC voted to recommend City Council approval of the permit; and

WHEREAS, the matter was set for public hearing on June 22, 1999, 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 PRD Permit No. 98-0855:

PLANNED RESIDENTIAL DEVELOPMENT PERMIT FINDINGS:

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

The Lincoln La Jolla project includes an amendment to the Progress Guide and General Plan and the University Community Plan to allow for the construction of 251 multi-family units, which is 43 more units than what is currently allowed under the community plan. There are very few remaining vacant sites in the University community area designated for residential development. Virtually all the residentially designated land has already been developed or is currently under construction.

The City of San Diego and the University Community are currently experiencing a shortage of multi-family housing. Recent surveys have shown vacancy rates of less than 1% for multi-family housing in the University/Golden Triangle area. This proposal to add 43 units on the subject property would help to provide needed multi-family housing stock in the community. The University Community Plan was adopted in 1987 when the housing needs of the City were not as acute as they are today and when projected traffic levels were anticipated to be more severe than those anticipated by the most recent traffic analysis.

The subject property provides an excellent location for a dense urban scale project because it is in close proximity to the commercial core of the University Community. The site is adjacent to a park and within walking distance of a grocery store and other commercial services. In addition, an approved traffic report concluded that the additional 43 units proposed by the Lincoln La Jolla project will not impact the community's circulation system.

B. The proposed use, because of conditions that have been applied to it, 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 Planned Residential Development Permit prepared for this project includes a number of conditions of approval relevant to achieving project compliance with the applicable regulations of the Municipal Code for the subject property to assure that the health, safety, and general welfare of persons residing or working in the area would not be adversely affected. These conditions include minimum requirements for a water pollution prevention plan and monitoring program, a paleontological monitoring program, as well as City wide requirements for parking, landscaping, open space, traffic improvement measures, lighting, and signage. Therefore, the proposed use, because of conditions that have been applied to it, 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.

C. The proposed use will comply with the relevant regulations of the San Diego Municipal Code.

The project design will be consistent with the relevant regulations for this site per the Municipal Code including design standards for Planned Residential Development Permits. The project will also comply, subject to approval of the amendments to the Progress Guide and General Plan and the University Community Plan, with the land use designation, densities, and design standards of the adopted University Community Plan. Finally, the Permit conditions assure compliance with the Municipal Code. Therefore, the proposed use will comply with the relevant regulations and the Municipal Code in effect for this site.

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 PRD Permit No. 98-0855 is granted to Lincoln Property Company, Owner/ Permittee, 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

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07/21/99
10/15/99 COR.COPY
Or.Dept:Clerk
R-2000-140
Form=permitr.frm
Reviewed by Mike Westlake

**RECORDING REQUESTED BY
CITY OF SAN DIEGO
PLANNING & DEVELOPMENT REVIEW**

**AND WHEN RECORDED MAIL TO
PERMIT INTAKE
MAIL STATION 501**

SPACE ABOVE THIS LINE FOR RECORDER'S USE

**PLANNED RESIDENTIAL DEVELOPMENT PERMIT NO. 98-0855
LINCOLN LA JOLLA
CITY COUNCIL**

This Permit is granted by the Council of The City of San Diego to Lincoln Property Company, Owner/Permittee, pursuant to the San Diego Municipal Code [SDMC]. The 3.7 acre site is located at the southeast corner of Nobel Drive and Regents Road in the R-600 Zone of the University Community Planning area. The project site is legally described as Lot 1 of Lincoln La Jolla Unit No. 2, according to Map No. 11283.

Subject to the terms and conditions set forth in this permit, permission is granted to Owner and Permittee to develop a 251 multi-family apartment project described as, and identified by size, dimension, quantity, type and location on the approved Exhibit "A," dated June 22, 1999 [Exhibit "A"], on file in the Office of Planning and Development Review. The facility shall include:

- a. The development of a 4-story, 251 multi-family apartment project; and
- b. Landscaping (planting, irrigation and landscape related improvements); and
- c. Off-street parking facilities; and
- d. Accessory improvements determined by the City Manager to be consistent with the land use and development standards in effect for this site per the adopted Community Plan, California Environmental Quality Act guidelines, public and private improvement requirements of the City Engineer, the underlying zone(s), conditions of this permit, and any other applicable regulations of the Municipal Code in effect for this site.

1. Construction, grading or demolition must commence and be pursued in a diligent manner within 36 months after the effective date of final approval by the City, following all appeals. Failure to utilize the permit within 36 months will automatically void the permit unless an Extension of Time has been granted. 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 appropriate decision maker.

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

- a. The Permittee signs and returns the Permit to the Planning and Development Review Department; and
 - b. The Permit is recorded in the office of the San Diego County Recorder.
3. Unless this permit has been revoked by The City of San Diego the property included by reference within this permit shall be used only for the purposes and under the terms and conditions set forth in this permit unless otherwise authorized by the City Manager.
 4. 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.
 5. The utilization and continued use of this permit shall be subject to the regulations of this and any other applicable governmental agencies.
 6. Issuance of this permit by The City of San Diego does not authorize the applicant for said permit to violate any Federal, State or City laws, ordinances, regulations or policies including, but not limited to, the Federal Endangered Species Act of 1973 and any amendments thereto (16 U.S.C. Section 1531 et seq.)
 7. The Owner/Permittee shall secure all necessary building permits. The applicant is informed that to secure these permits, substantial modifications to the building and/or site improvements to comply with applicable building, fire, mechanical and plumbing codes and State law requiring access for disabled people may be required.
 8. Before issuance of any building or grading permits, complete grading and working drawings shall be submitted to the City Manager for approval. Plans shall be in substantial conformity to Exhibit "A," dated June 22, 1999, on file in the Office of Planning and Development Review. No changes, modifications or alterations shall be made unless appropriate applications or amendment of this permit shall have been granted.
 9. 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 the 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 the Permit.

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. However, in such an event, the Owner/Permittee shall have the right, by paying applicable processing fees, to bring a request for a new permit without the "invalid" condition(s) back to the discretionary body which approved the Permit for a determination by that body as to

whether all of the findings necessary for the issuance of the new permit can still be made in the absence of the "invalid" condition(s). Such hearing shall be a hearing de novo and the discretionary body shall have the absolute right to approve, disapprove or modify the proposed permit and the condition(s) contained therein.

ENVIRONMENTAL/MITIGATION REQUIREMENTS:

10. The applicant shall comply with the Mitigation, Monitoring, and Reporting Program (MMRP) as specified in the Mitigated Negative Declaration, LDR No. 98-0855, satisfactory to the City Manager and the City Engineer.

ENGINEERING REQUIREMENTS:

11. Prior to the issuance of any building permits, the applicant shall obtain a grading permit from the City Engineer (referred to as an engineering permit) for the grading proposed for this project. All grading shall conform to requirements in accordance with the San Diego Municipal Code in a manner satisfactory to the City Engineer.

12. The drainage system proposed with this development is subject to approval by the City Engineer.

13. Prior to building occupancy, the applicant shall conform to those sections of the the Municipal Code regarding "Public Improvement Subject to Desuetude or Damage." If repair or replacement of such public improvements is required, the owner shall obtain the required permits for work in the public right-of-way, satisfactory to the permit-issuing authority.

14. Prior to the issuance of any building, public improvement or grading permit, the applicant shall obtain an encroachment removal agreement from the City Engineer, for any storm drain connection to the public storm drain system.

15. Prior to the issuance of any building, public improvement or grading permit, the applicant shall abandon all public easements located within the project site, for example the storm drain stand pipe located half way between the southwesterly corner and the driveway, satisfactory to the City Engineer.

PLANNING/DESIGN REQUIREMENTS:

16. No fewer than 430 off-street parking spaces shall be maintained on the property at all times in the approximate locations shown on the approved Exhibits "A," dated June 22, 1999, on file in the Office of Planning and Development Review. Parking spaces shall comply at all times with the Municipal Code and shall not be converted for any other use unless otherwise authorized by the City Manager.

17. There shall be compliance with the regulations of the underlying zone(s) unless a deviation or variance to a specific regulation(s) is approved or granted as condition of approval of this permit. Where there is a conflict between a condition (including exhibits) of this permit and a regulation of the underlying zone, the regulation shall prevail unless the condition provides for a deviation or variance from the regulations. Where a condition (including exhibits) of this permit establishes a provision which is more restrictive than the corresponding regulation of the underlying zone, then the condition shall prevail.

18. The height(s) of the building(s) or structure(s) shall not exceed those heights set forth in the conditions and the exhibits (including, but not limited to, elevations and cross sections) or the maximum permitted building height of the underlying zone, whichever is lower, unless a deviation or variance to the height limit has been granted as a specific condition of this permit.
19. Any future requested amendment to this permit shall be reviewed for compliance with the regulations of the underlying zone(s) which are in effect on the date of the submittal of the requested amendment.
20. All signage associated with this development shall be consistent with sign criteria established by either of the following:
 - a. Approved project sign plan (Exhibit "A," dated June 22, 1999, on file in the Office of Planning and Development Review); or
 - b. Citywide sign regulations.
21. All private outdoor lighting shall be shaded and adjusted to fall on the same premises where such lights are located.
22. The use of textured or enhanced paving shall meet applicable City standards as to location, noise and friction values.
23. The subject property and associated common areas on site shall be maintained in a neat and orderly fashion at all times.
24. All uses, except storage and loading, shall be conducted entirely within an enclosed building. Outdoor storage of merchandise, material and equipment is permitted in any required interior side or rear yard, provided the storage area is completely enclosed by walls, fences or a combination thereof. Walls or fences shall be solid and not less than six feet in height and, provided further, that no merchandise, material or equipment stored not higher than any adjacent wall.
25. No mechanical equipment, tank, duct, elevator enclosure, cooling tower or mechanical ventilator or air conditioner shall be erected, constructed, converted, established, altered, or enlarged on the roof of any building, unless all such equipment and appurtenances are contained within a completely enclosed structure whose top and sides may include grillwork, louvers and latticework.
26. No merchandise, material or equipment shall be stored on the roof of any building.
27. Prior to the issuance of building permits, construction documents shall fully illustrate compliance with the Citywide Storage Standards for Trash and Recyclable Materials to the satisfaction of the City Manager. All exterior storage enclosures for trash and recyclable materials shall be located in a manner that is convenient and accessible to all occupants of and service providers to the project, in substantial conformance with the conceptual site plan marked Exhibit "A."

LANDSCAPE REQUIREMENTS:

28. Prior to 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 June 22, 1999, on file in the Office of Planning and Development Review. No change, modification or alteration shall be made unless appropriate application or amendment of this Permit shall have been granted.

29. Prior to issuance of grading permits, interim landscape and erosion control measures, including hydroseeding of all disturbed land (all slopes and pads), shall be submitted to the satisfaction of the City Manager (including the Environmental Section) and City Engineer. All plans shall be in substantial conformance to Exhibit "A," dated June 22, 1999, on file in the Office of Planning and Development Review and all other applicable conditions of related permits.

30. The timely erosion control including planting and seeding of all slopes and pads consistent with the approved plans is considered to be in the public interest and the Permittee shall initiate such measures within 45 days from the date that the grading of the site is deemed to be complete. Such erosion control and the associated irrigation systems (temporary and/or permanent) and appurtenances shall be installed in accordance with the approved plans and the Landscape Technical Manual.

31. Prior to issuance of any Certificate of Occupancy it shall be the responsibility of the Permittee to install all required landscape and obtain all required landscape inspections and to obtain a No Fee Street Tree Permit for the installation, establishment and on-going maintenance of all street trees. Copies of these approved documents must be submitted to the City Manager.

32. All required 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 landscape improvements consistent with the standards of the Landscape Technical Manual.

33. If any required landscape (including existing or new plantings, hardscape, landscape features, etc.) indicated on the approved plans is damaged or removed during demolition, 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.

APPROVED by the Council of The City of San Diego on June 22, 1999, by Resolution No. R-291817.

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.

LINCOLN PROPERTY COMPANY
Owner/Permittee

By _____

By _____

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

10/15/99

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