

RESOLUTION NUMBER R-293137

ADOPTED ON MAY 16, 2000

WHEREAS, Mission Hills Investors, L.L.C., Applicant, and Algert Engineering, Engineer, submitted by an application to The City of San Diego to demolish the city block surrounded by West Washington Street, Eagle Street, Fort Stockton Drive, and Falcon Street, to transfer the allowed density of 14 residential units from a commercially zoned lot and 6 units from a residentially zoned lot to another residentially zoned lot, allowing the construction of a total of 65 residential units (50 apartments, 8 row homes, and 7 residential lofts), to construct 5,891 square feet of commercial space, and to consolidate 24 lots into three lots, on portions of a 1.38 acre site, located on the city block surrounded by West Washington Street, Eagle Street, Fort Stockton Drive, and Falcon Street, and located on the north side of Washington Street between Eagle Street and Falcon Street, and legally described as Lots 1 through 24 in Block 53 of Arnold and Choates Addition, Map No. 334, in the Uptown Community Plan area, in the CN-2A and MR-1000 zones; and

WHEREAS, on April 20, 2000, the Planning Commission of The City of San Diego considered and approved, pursuant to Resolution No. 2596-PC-1, Mid-City Communities Development [MCD] Permit No. 99-0731; and

WHEREAS, Richard Lepper, Les Sheppard and Sera Larkins, appealed the decision of the Planning Commission; and

WHEREAS, the matter was set for public hearing on May 16, 2000, 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 Mid-City Communities Development Permit No. 99-0731:

MID-CITY PLANNED DISTRICT ORDINANCE FINDINGS - SAN DIEGO MUNICIPAL CODE [SDMC] SECTION 103.1501

1. The proposed use and project design meet the purpose and intent of the Mid-City Communities Planned District (SDMC section 103.1501), and the Uptown Community Plan, and will not adversely affect the Uptown Community Plan or the City's Progress Guide and General Plan. The southern portion of the site, fronting on West Washington Street, is zoned CN-2A, a Commercial Node zone. The purpose and intent of the Commercial Node zones is to provide for pedestrian oriented commercial and mixed-use districts in selected higher activity areas. The standards are designed to create street frontage conditions conducive to rich, diverse, and pleasurable walking experience. Parking and vehicle access are located so as to minimize disruption of pedestrian continuity. Residential use above street level commercial use is encouraged to intensify development on major transportation corridors where transit and other services are generally available and to foster pedestrian activity.

The project proposes a mixed-use development on the commercially zoned portion of the site, along West Washington Street, a recognized transit corridor. The project proposes retail store fronts on the ground floor, facing West Washington Street, with residential lofts above. Public benches, enhanced sidewalk paving, pedestrian pop-outs, landscape planters, median improvements, and street trees are proposed for the West Washington Street frontage, to provide a rich, diverse, and pleasurable walking experience. Parking for the commercial portion of the project is located behind the development, with access coming off of Eagle and Falcon Streets, thus locating parking and vehicle access so as to minimize disruption of pedestrian continuity.

The northern portion of the site is zoned MR-1000, a multi-family residential zone. The development standards of the MR-1000 zone are intended to provide a variety of functional and affordable housing types and styles, compatible with the development pattern of the existing neighborhood.

Two different residential product types are proposed for the residentially zoned portion of the site, with varied architectural design and character. Fifty apartments on the northwest portion of the site are proposed, with eight rowhomes planned for the north east corner, facing Eagle Street. The apartment and rowhomes provide a variety of attractive, functional, and affordable housing types and styles, similar to the urban character of the surrounding development.

The proposed development is consistent with the purpose and intent of the Mid-City Communities Planned District Ordinance because it reflects the surrounding neighborhood of single-story, mixed-use development, with single- and multi-family residential to the north and east, across Fort Stockton Drive and Eagle Street, and commercial to the west and south across Falcon and West Washington Streets. The proposed project provides a variety of housing types which relate in scale and design to the surrounding neighborhood.

Therefore, the proposed use and project design meet the purpose and intent of the Mid-City Communities Planned District Ordinance (Section 103.1501), and the Uptown Community Plan, and will not adversely affect the Uptown Community Plan or the City's Progress Guide and General Plan.

2. The proposed development will be compatible with existing and planned land uses on adjoining properties and will not constitute a disruptive element to the surrounding neighborhood and community. Architectural harmony with the surrounding neighborhood and community will be achieved as far as practicable. The surrounding neighborhood and community consist of a mix of single- and multi-family residential to the north and east, across Fort Stockton Drive and Eagle Street, and commercial to the west and south across Falcon and West Washington Streets.

The project site is located along Washington Street, a recognized transit corridor, in the heart of the Mission Hills Community. The proposed development includes three residential product types, offering a variety of urban housing options available to residents desiring to live within a few miles of the City's downtown urban core. The mixed-use development, consisting of retail with rental lofts above, apartments, and rowhomes, provides a variety of functional and affordable housing types and styles, similar to the urban character of the surrounding development. The residential product types consist of both single- and multi-family units offered as rental units, and single family units (Rowhomes) being offered for sale. The proposed architecture includes materials and details consistent with the surrounding neighborhood.

Therefore, the proposed development will be compatible with existing and planned land uses on adjoining properties and will not constitute a disruptive element to the surrounding neighborhood and community. Architectural harmony with the surrounding neighborhood and community will be achieved as far as practicable.

3. 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 of the project site. Conditions have been applied to the project for noise, traffic, and public safety. All parking for the subject site will be provided on-site. No net loss of on-street parking will occur as a result of this development. The proposed development is also required to be constructed consistent with the Uniform Building Code and all applicable codes and regulations to ensure that the project is not 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.

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 of the project site.

4 The proposed use will comply with the relevant regulations of the San Diego Municipal Code in effect for this site. The project proposes deviations to the development standards of the Mid-City Planned District Ordinance for density, setbacks, parking, floor area ratio, minimal commercial area, diagonal plan dimension, off-setting planes, height, width, number of and distance between driveways, pedestrian access, street yard area, and coverage. The deviations reflect the Mid-City Community Planned District Ordinance requirements for individual lot development. The project proposes to develop the full block, and when viewed as a full block, one project development, is consistent with the requirements of the underlying zones of the Mid-City Communities Planned District Ordinance.

The project as designed provides a variety of urban residential housing types consist with the surrounding neighborhood character. The proposed development is consistent with the purpose and intent of the Mid-City Communities Planned District Ordinance because it reflects the surrounding neighborhood of single-story, mixed-use development, with single- and multi-family residential to the north and east, across Fort Stockton Drive and Eagle Street, and commercial to the west and south across Falcon and West Washington Streets. The proposed project provides a variety of housing types which relate in scale and design to the surrounding neighborhood.

Therefore, the proposed use will comply with the relevant regulations of the San Diego Municipal Code in effect for this site.

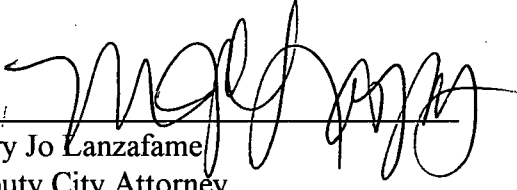
The above findings are supported by the minutes, maps and exhibits, all of which are herein incorporated by reference.

BE IT FURTHER RESOLVED, that the appeal of Richard Lepper, Les Sheppard and Sera Larkins, is denied; the decision of the Planning Commission is sustained, and Mid-City Communities Development Permit No. 99-0731 is hereby granted to Mission Hills Investors,

L.L.C., under the terms and conditions set forth in the permit attached hereto and made a part hereof.

APPROVED: CASEY GWINN, City Attorney

By



Mary Jo Lanzafame
Deputy City Attorney

MJL:pev

6/2/00

Or.Dept:Clerk

R-2000-1537

Form=permitr.frm

RECORDING REQUESTED BY
CITY OF SAN DIEGO
PLANNING AND DEVELOPMENT REVIEW
PERMIT INTAKE, MAIL STATION 501

AND WHEN RECORDED MAIL TO
CITY CLERK
MAIL STATION 2A

SPACE ABOVE THIS LINE FOR RECORDER'S USE

MID-CITY COMMUNITIES DEVELOPMENT PERMIT NO. 99-0731 (MMRP)
MISSION HILLS COMMONS

CITY COUNCIL

This permit is granted by the City Council of the City of San Diego to Mission Hills Investors, LLC, Owner and Permittee pursuant to San Diego Municipal Code [SDMC] sections 102.0307 and 103.1504. The 1.38 acre site is located on the city block surrounded by West Washington Street, Eagle Street, Fort Stockton Drive, and Falcon Street in the CN-2A and MR-1000 Zones of the Uptown Community Planning Area. The project site is legally described as:

Lots 1 to 24 inclusive of Block 53 of Arnold and Choate's Addition, in the City of San Diego, State of California, according to Map thereof No. 334.

Subject to the terms and conditions set forth in this permit, permission is granted to Mission Hills Investors LLC, Owner and Permittee, to demolish the city block surrounded by West Washington Street, Eagle Street, Fort Stockton Drive, and Falcon Street, to transfer the allowed density of 14 residential units from a commercially zoned lot and 6 units from a residentially zoned lot to another residentially zoned lot, allowing the construction of a total of 65 residential units (50 Apartments, 8 row homes, and 7 residential lofts), to construct 5,891 square feet of commercial space, and to consolidate 24 lots into three lots described as Lots 1 to 24 inclusive of Block 53 of Arnold & Choate's Addition, in the City of San Diego, State of California, according to Map thereof No. 334, identified by size, dimension, quantity, type and location on the approved Exhibits "A," dated May 16, 2000 on file in the Office of the Planning and Development Review Department. The facility shall include:

- a. Sixty-five residential units in four buildings, consisting of the following:
 - 1). Apartments, 25 one-bedroom units and 25 two-bedroom units, totaling 50 units,
 - 2). Rowhomes, a total of eight three-bedroom units, and
 - 3). Retail/Residential Lofts, a total of seven one-bedroom units; and
- b. 5,891 square feet of commercial space, with the seven residential lofts above; and
- c. Landscaping (planting, irrigation and landscape related improvements); and
- d. 136 Off-street parking facilities as follows:

- 1). Apartments - 84 spaces, 30 Compact, 34 Standard, and 20 Tandem;
 - 2). Rowhomes - 16 Standard spaces,
 - 3). Retail/Residential Lofts - 36 Standard shared spaces; and
- e. Deviations to the Mid-City Communities Planned District Ordinance as follows:

PROJECT DENSITY

Maximum Units Per Lot
Maximum Number of Dwelling Units

Discussed below are the requested deviations specific to each development type.

ROWHOMES (Lot 2)

Front Yard Setback
Rear Yard Setback
Floor Area Ratio
Diagonal Plan Dimension
Offsetting Planes
Driveways
Driveway Separation
Parking Spaces

APARTMENT HOUSE (Lot 3)

Maximum Coverage
Floor Area Ratio
Pedestrian Accesses
Front Yard Setback
Street Side Yard Setback
Front Yard Area
Diagonal Plan Dimension
Height Limit
Driveway Width

RETAIL/LOFTS (Lot 1)

Minimum Commercial Area
Minimum Coverage; and

- f. 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 May 16, 2000, on file in the Office of the Planning and Development Review Department. 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" conditions(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 new permit and the condition(s) contained therein.

10. This permit may be developed in phases. Each phase shall be constructed prior to sale or lease to individual owners or tenants to ensure that all development is consistent with the conditions and exhibits approved for each respective phase (per the approved Exhibits "A," dated May 16, 2000, on file in the Office of the Planning and Development Review Department).

TRANSPORTATION REQUIREMENTS:

11. Prior to issuance of the first building permit, the applicant shall provide an Existing Site Survey, Striping/Offsite Parking Plan that shows only Standard on-street parking spaces.

12. Prior to the issuance of the first building permit, the applicant shall insure by permit and bond, the installation of median improvements consistent with The Washington Street Beautification Plan, satisfactory to the City Engineer.

13. Prior to the issuance of the first building permit, the applicant shall work with the city staff to resolve allocation of cost for the traffic signal modifications needed to support median improvements along West Washington Street between Falcon and Eagle Streets.

14. Prior to the issuance of the first building permit, the applicant shall insure by permit and bond, the installation of street-scape improvements, including pedestrian pop-outs, consistent with The Washington Street Beautification Plan, and satisfactory to the City Engineer.

15. Prior to the recordation of the Final Map, the applicant shall provide an approved shared parking agreement for the 13 parking spaces located on Lot 3 which provide a portion of the required parking on Lot 1.

ENVIRONMENTAL/MITIGATION REQUIREMENTS:

16. The applicant shall comply with the Mitigation, Monitoring, and Reporting Program [MMRP] as specified in the Mitigated Negative Declaration, LDR No. 99-0731, satisfactory to the City Manager. Prior to issuance of the first building and/or grading permit, all mitigation measures as specifically outlined in the MMRP shall be implemented for the following issue areas: Noise and Human Health/Public Safety.

17. The MMRP shall require a deposit of \$450.00 to be collected prior to the issuance of the first grading permit to cover the City's costs associated with implementation of the MMRP.

ENGINEERING REQUIREMENTS:

18. All proposed development included within this permit shall be developed consistent with Tentative Map 99-0731.

19. Prior to the issuance of any building permits, the developer shall assure, by permit and bond, the design and construction certain portions of sewer facilities identified in the accepted sewer study to provide service to this development in a manner satisfactory to the Metropolitan Wastewater Department Director.

PLANNING/DESIGN REQUIREMENTS:

20. This permit allows a total of 65 residential units for the entire block. No units may be added to any lot on the block without first amending this permit to delete an equal number of residential units from one or both of the other lots, unless the block is rezoned to allow a higher density for the entire block.

21. No fewer than 136 off-street parking spaces shall be maintained on the property at all times in the approximate locations shown on the approved Exhibits "A," dated May 16, 2000, on file in the Office of the Planning and Development Review Department. Parking spaces shall comply at all times with the Land Development Code and shall not be converted for any other use unless otherwise authorized by the City Manager.

22. No increase in the number of units or bedrooms for any development on any lot shall be permitted unless an amendment to this permit is granted.

23. 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.

24. 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.

25. A topographical survey conforming to the provisions of SDMC section 101.0216 may be required if it is determined, during construction, that there may be a conflict between the building(s) under construction and a condition of this permit or a regulations of the underlying zone. The cost of any such survey shall be borne by the permittee.

26. 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.

27. No building additions, including patio covers, shall be permitted unless approved by the homeowners association and the Planning and Development Review Department Director. Patio covers may be permitted only if they are consistent with the architecture of the dwelling unit.

28. 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 May 16, 2000 on file in the Office of the Planning and Development Review Department) or;
 - b. Citywide sign regulations.
29. All private outdoor lighting shall be shaded and adjusted to fall on the same premises where such lights are located.
30. The use of textured or enhanced sidewalk paving shall meet applicable City standards as to location, noise and friction values.
31. The subject property and associated common areas on site shall be maintained in a neat and orderly fashion at all times.
32. 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.
33. 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.
34. No merchandise, material or equipment shall be stored on the roof of any building.
35. Prior to the issuance of building permits, construction documents shall fully illustrate compliance with the Citywide Storage Standards for Trash and Recyclable Materials (SDMC sec. 101.2001) 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:

36. No change, modification or alteration of all the conditions shall be made unless appropriate application or amendment of this permit shall have been granted by the City.
37. Prior to issuance of any building permit for structures, 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 May 16, 2000, on file in the Office of Planning and Development Review.
38. Prior to issuance of any engineering permits for grading, interim landscape and erosion control measures, including slope revegetation and hydroseeding of all disturbed land (all slopes and pads) in accordance with the Landscape Technical Manual, 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 May 16, 2000, on file in the Office of Planning and Development Review and all other applicable conditions of any related permits.

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

40. 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.

41. If any required landscape (including existing or new plantings, hardscape, landscape features, etc.) indicated on the approved construction documents is damaged or removed during demolition, it shall be repaired and/or replaced in kind and equivalent size per the approved documents 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.

42. Prior to the recordation of the tentative map, the applicant shall assure by permit and bond the construction of landscaping per the item 40 above.

43. 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.

44. Prior to the recordation of the tentative map the subdivider shall submit complete landscape construction documents, including plans, details and specifications (including a permanent automatic irrigation system unless otherwise approved), for the required street tree improvements. The landscape construction documents shall be in substantial conformance with Exhibit "A," dated May 16, 2000, Landscape Concept Plan, on file in the Office of Development Services.

45. Prior to the recordation of the tentative map, the Permittee or subsequent Owner/Developer shall submit for review a Landscape Maintenance Agreement for all landscape improvements within the public right-of-way area. The approved Landscape Maintenance Agreement shall be recorded and bonded prior to recordation of the final map.

Approved by the Council of the City of San Diego on May 16, 2000 by Resolution No. R-293137.

INFORMATION ONLY

"Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of this development permit/tentative map, may protest the imposition

within 90 days of the approval of this development permit/tentative map by filing a written protest with the City Clerk pursuant to California Government Code 66020."

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.

Mission Hills Investors, L.L.C.
Owner/Permittee

By _____

By _____

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

6/5/00

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