

RESOLUTION NUMBER R-293622

ADOPTED ON AUGUST 1, 2000

WHEREAS, Andy Hsu/ALH, LLC., Owner/Permittee, filed an application with the City of San Diego for a Planned Commercial Development [PCD] Permit to construct eight townhouse condominium units for the Regents Townhomes project, located at 3209 Governor Drive, and legally described as Lot 3, University Hills Unit No. 1, Map No. 4826, in the University Community Plan area, in the CN-1-2 zone (previously referred to as CN zone); and

WHEREAS, on June 8, 2000, the Planning Commission of the City of San Diego considered PCD Permit No. 99-1231, and pursuant to Resolution No. 2971-PC voted to recommend City Council approval of the permit; and

WHEREAS, George Copelin appealed the Planning Commission decision to the Council of the City of San Diego; and

WHEREAS, the matter was set for public hearing on August 1, 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 PCD Permit No. 99-1231:

A. The proposed use will fulfill a community need and will not adversely affect the City's Progress Guide and General Plan or the adopted community plan.

The Regents Townhomes project consists of eight townhouse condominium units within two, three-story buildings on a vacant site. The City of San Diego is currently experiencing a shortage of multi-family housing, and the Regents Townhomes project will add eight units which will help to provide needed multi-family housing stock in the city/community.

The University Community Plan designates the project site for commercial land use and the site is zoned Neighborhood Commercial [CN], which allows for multi-family residential development at a density of 29 units per acre. The proposed density of the Regents Townhomes project is consistent with 29 units per acre density.

B. 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 properties in the vicinity.

The environmental document for this project, Mitigated Negative Declaration LDR No. 99-1231, has determined that the proposed project, because of project revisions and conditions that have been applied to it, would not be detrimental to the health, safety, and general welfare of persons residing or working in the area.

C. The proposed use will fully comply with the relevant regulations of the San Diego Municipal Code in effect for this site.

The project design will be consistent with the relevant regulations for this site per the San Diego Municipal Code [SDMC] including density, design standards, and development regulations required under the Planned Commercial Development Permit regulations set forth in the SDMC. The project complies with the land use designation and density of the adopted University Community Plan. Additionally, the permit conditions assure compliance with the SDMC, therefore, the proposed use will comply with the relevant regulations in effect for the site as contained in it.

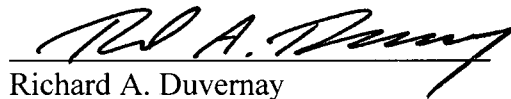
The above findings are supported by the minutes, maps and exhibits, all of which are herein incorporated by reference.

BE IT FURTHER RESOLVED, that the appeal of George Copelin is denied, the recommendation of the Planning Commission is sustained, and Planned Commercial

Development Permit No. 99-1231 is granted to Andy Hsu/ALH, LLC., 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

RAD:mdw:lc

05/14/01

Or.Dept:Clerk

R-2001-1466

Form=permitr.frm

Reviewed by Patricia Grabski

RECORDING REQUESTED BY
CITY OF SAN DIEGO
DEVELOPMENT SERVICES DEPARTMENT
PERMIT INTAKE, MAIL STATION 501

AND WHEN RECORDED MAIL TO
CITY CLERK
MAIL STATION 2A

SPACE ABOVE THIS LINE FOR RECORDER'S USE

PLANNED COMMERCIAL DEVELOPMENT
PERMIT NO. 99-1231 (MMRP)
REGENTS TOWNHOMES
CITY COUNCIL

This Planned Commercial Development [PCD] Permit is granted by the Council of the City of San Diego to Andy HSU/ALH, LLC, Owner/Permittee, pursuant to San Diego Municipal Code [SDMC] section 101.0902. The 15,987 square foot site is located at 3209 Governor Drive in the CN-1-2 zone (previously referred to as CN zone) in the University Community Plan area. The project site is legally described as Lot 3, University Hills Unit No. 1, Map No. 4826.

Subject to the terms and conditions set forth in this permit, permission is granted to Owner/Permittee to construct eight townhouse condominium units, consisting of two three-story buildings on a vacant site described and identified by size, dimension, quantity, type and location on the approved Exhibits "A," dated August 1, 2000, on file in the Office of the Development Services Department. The project shall include:

- a. Eight townhouse condominium units consisting of two three-story buildings;
- b. Landscaping (planting, irrigation and landscape related improvements);
- 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 SDMC in effect for this site.

1. Construction, grading or demolition must commence and be pursued in a diligent manner within thirty-six months after the effective date of final approval by the City, following all appeals. Failure to utilize the permit within thirty-six 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 decisionmaker.

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 Development Services Department; and
- a. The Permit is recorded in the office of the San Diego County Recorder.

1. 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.
2. 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.
3. The utilization and continued use of this permit shall be subject to the regulations of this and any other applicable governmental agencies.
4. 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. §§ 1531 *et seq.*).
5. 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.
6. 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 August 1, 2000, on file in the Office of the Development Services Department. No changes, modifications or alterations shall be made unless appropriate applications or amendment of this permit have been granted.
7. 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 proposed 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 Owner/Permittee shall comply with the Mitigation, Monitoring, and Reporting Program [MMRP] as specified in Mitigated Negative Declaration, LDR No. 99-1231, satisfactory to the City Manager and the City Engineer.

11. Prior to the issuance of the first grading permit and/or the first building permit, all mitigation measures as specifically outlined in the MMRP shall be implemented for noise and human health/public safety.

ENGINEERING REQUIREMENTS:

12. The Planned Commercial Development Permit shall comply with the conditions of the Final Map for Tentative Map No. 99-1231.

PLANNING/DESIGN REQUIREMENTS:

13. 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.

14. 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.

15. 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 regulation of the underlying zone. The cost of any such survey shall be borne by the permittee.

16. 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.

17. All signage associated with this development shall be consistent with sign criteria established by either of the following:

1. Approved project sign plan (Exhibit "A," dated August 1, 2000, on file in the Office of the Development Services Department); or
2. Citywide sign regulations.

18. All private outdoor lighting shall be shaded and adjusted to fall on the same premises where such lights are located.
19. The use of textured or enhanced paving shall meet applicable City standards as to location, noise and friction values.
20. The subject property and associated common areas on site shall be maintained in a neat and orderly fashion at all times.
21. 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.
22. 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.
23. Prior to the issuance of building permits, construction documents shall fully illustrate compliance with the Citywide Storage Standards for Trash and Recyclable Materials (SDMC § 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," dated August 1, 2000, and on file in the Development Services Department.
24. Prior to the issuance of building permits the developer shall install fire hydrants at locations to the satisfaction of the Fire Department and City Engineer.

LANDSCAPE REQUIREMENTS:

25. 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 August 1, 2000, on file in the Office of the Development Services Department. No change, modification or alteration shall be made unless appropriate application or amendment of this Permit has been granted.
26. 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 August 1, 2000, filed in the Development Services Department, and all other applicable conditions of related permits.

27. 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 forty-five 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.

28. 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.

29. 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.

30. 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 thirty 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 August 1, 2000, by Resolution No. R-293622.

5/14/01

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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.

ANDY HSU/ALH, LLC
Owner/Permittee

By _____

By _____

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

5/14/01

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