

RESOLUTION NUMBER R-294252

ADOPTED ON NOVEMBER 21, 2000

WHEREAS, Daniel K. Liewer, a single man as to an undivided 50 percent interest, and Agnes C. Downing and Todd O. Downing, Co-Trustees of the Agnes C. Downing Trust, as to an undivided 50 percent interest, as Tenants in Common, Owners/Permittees, filed an application with the City of San Diego for a Mid-City Development [MCD] Permit to construct a 34-unit apartment complex known as the Centre Court Apartments project, located at 3974-92 Centre Street, between University and Lincoln Avenues, and legally described as Lots 42-47, Block 191, University Heights, Amended Map by G.A. D'Hemecourt, Book 8, Page 36 *et seq.* of Lis Pendens, in the Mid-City Communities Planned District, Uptown Community Plan area, in the MR-800(B) zone; and

WHEREAS, on September 21, 2000, the Planning Commission of the City of San Diego considered MCD Permit No. 99-1228, and pursuant to Resolution No. 3012-PC voted to approve the permit; and

WHEREAS, Gregory Dimitri Senoff appealed the Planning Commission decision to the Council of the City of San Diego; and

WHEREAS, the matter was set for public hearing on November 21, 2000, testimony having been heard, evidence having been submitted, and the 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 Development Permit No. 99-1228:

I. MID-CITY COMMUNITIES PLANNED DISTRICT DEVELOPMENT PERMIT FINDINGS (PDO), SAN DIEGO MUNICIPAL CODE SECTION 103.1501

A. The proposed use and project design meet the purpose and intent of the Mid-City Communities Planned District [San Diego Municipal Code section 103.1501], and the Uptown Community Plan, and will not adversely affect the Uptown Community Plan or the Progress Guide and General Plan of the City of San Diego.

The proposed use and project design meet the purpose and intent of the Mid-City Planned District Ordinance which is to assist in implementing the goals and objectives of the adopted Uptown Community Plan and the Progress Guide and General Plan of the City of San Diego, and also to encourage development of quality multiple residential structures which relate in scale and design to the surrounding neighborhood, and provide an attractive street environment. Further, the MR Zones of the Mid-City Communities Planned District are designed to provide opportunities for development compatible with the pattern of existing neighborhoods. The standards are tailored to the density of individual zones and are intended to provide a variety of attractive, functional and affordable housing types and styles.

The project is consistent with the land use element of the Uptown Community Plan which designates the site for high-density residential development. The project has been reviewed and determined to be in compliance with all applicable regulations of the MR-800(B) Zone and applicable provisions of the San Diego Municipal Code [SDMC]. Design features, such as trellises, balconies and tall windows, and varying wall treatments and roof lines have been effectively used to minimize the mass of this project and provide an interesting building facade. An interior courtyard is included in the project, which provides an opportunity for views into the courtyard from the street. Landscaping as noted on the approved landscape plan will help provide an attractive street environment for the neighborhood.

The proposed project is compatible with the planned land use for the neighborhood. The Uptown Community Plan designates this area for high-density residential development (44-73 dwelling units per acre) due to its proximity to transit corridors along University Avenue and Park Boulevard. The project proposes 34 units on a 0.48-acre site, in conformance with the Uptown Community Plan designation. The project also meets an important goal of both the Uptown Community Plan and the Mid-City Communities Planned District by providing an enclosed parking garage, which reduces the number of cars parking on the street.

B. The proposed development will be compatible with existing and planned land use on adjoining properties and will not constitute a disruptive element to the neighborhood and community. In addition, architectural harmony with the surrounding neighborhood and community will be achieved as far as practicable.

The proposed development will be compatible with existing and planned land uses on adjoining properties and will not constitute a disruptive element to the neighborhood and community. The neighborhood includes single-family development and multi-family development of varying densities. Commercial development exists to the south and west along University

Avenue and Park Boulevard. The proposal is to develop the property to the intensity and scale of the underlying zone. The structures in the surrounding neighborhood pre-date the application of the existing zoning and are not developed to the underlying zone intensity or scale. However, the project proposes an intensity and scale that reflects the planned future development for this area. The surrounding neighborhood is eclectic. Architectural harmony with the surrounding neighborhood has been achieved as far as practicable. The applicant has redesigned the proposal to address several architectural details and overall appearance issues raised by the community planning group and staff pertaining to bulk, mass, and scale. The applicant has redesigned the project to comply with the 9-foot setback for the third and fourth floors, which the PDO requires.

A deviation is acceptable to allow a maximum dimension of 170 feet where 120 feet would otherwise be permitted in order to allow an interior courtyard to be included in the project, with views into the courtyard available from the street. Other design features, such as trellises, balconies and tall windows, and varying wall treatments and roof lines have been effectively used to minimize the mass of this project and provide an interesting building facade.

C. 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 project conforms to the Uptown Community Plan and the regulations of the zoning designation for the site. Based on conditions included in the permit, adverse impacts to the health, safety and general welfare of persons residing or working in the area are not anticipated, nor are adverse impacts to other properties in the vicinity. Adequate parking and landscaping will be provided.

D. The proposed use will comply with the relevant regulations in the San Diego Municipal Code.

The project has been reviewed and determined to be in compliance with the relevant provisions 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.

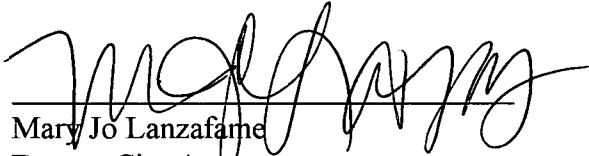
BE IT FURTHER RESOLVED, that appeal of Gregory Dimitri Senoff is denied, the decision of the Planning Commission is modified solely regarding density.

BE IT FURTHER RESOLVED, that Mid-City Development Permit No. 99-1228 is granted to Daniel K. Liewer, a single man as to an undivided 50 percent interest, and Agnes C. Downing and Todd O. Downing, Co-Trustees of the Agnes C. Downing Trust, as to an undivided

50 percent interest, as Tenants in Common, Owners/Permittees, 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:mdw:lc

05/16/01

Or.Dept:Clerk

R-2001-1298

Form=permitr.frm

Reviewed by William Tripp

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 DEVELOPMENT PERMIT NO. 99-1228
CENTRE COURT APARTMENTS
CITY COUNCIL

This Permit is granted by the Council of the City of San Diego to Daniel K. Liewer, a single man as to an undivided 50 percent interest, and Agnes C. Downing and Todd O. Downing, Co-Trustees of the Agnes C. Downing Trust, as to an undivided 50 percent interest, as Tenants in Common, Owners/Permittees, pursuant to San Diego Municipal Code [SDMC] section 103.1501. The 0.48 acre (21,000 sq. ft.) site is located at 3974-3992 Centre Street, in the MR-800(B) Zone of the Mid-City Communities Planned District and the Uptown Community Plan Area. The project site is legally described as Lots 42-47, Block 191, University Heights, Amended Map by G.A. D'Hemecourt, Book 8, Page 36 *et seq.* of Lis Pendens.

Subject to the terms and conditions set forth in this permit, permission is granted to Owners/Permittees to demolish five existing residential structures containing nine rental units, and construct a 34-unit apartment building with underground parking and associated site landscaping, described and identified by size, dimension, quantity, type and location on the approved Exhibits "A," dated November 21, 2000, on file in the Development Services Department. The project shall include:

- a. Thirty-four apartment units (each two-bedroom, two-bath, providing approximately 1,250 square feet of floor area) within a 4-story building over underground parking (providing a total enclosed or gross floor area of approximately 57,372 sq. ft.). Entries to the four first-floor units facing Centre Street shall be revised to reflect direct access to and from Centre Street. This approval reflects removal of two units from the north and south elevations of the fourth floor adjacent to residentially developed properties, and the conversion of a first-floor recreation room into a dwelling unit for a total of thirty-four units;
- 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

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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.

Note: All development shall be implemented according to the colored renderings and revised plans as presented to and approved by the City Council on November 21, 2000.

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 SDMC 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 Owners/Permittees sign and return the Permit to the Development Services 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 Owners/Permittees 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 Endangered Species Act of 1973 and any amendments thereto (16 U.S.C. §§ 1531 *et seq.*)
7. The Owners/Permittees 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 November 21, 2000, on file in the Development Services Department. No changes, modifications or alterations shall be made unless appropriate applications or amendment to this permit 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 entitled as a result of this Permit. It is the intent of the City that the Owner(s) 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(s) of the property be allowed the special and extraordinary rights conveyed by this Permit, but only if the Owner(s) comply with all the conditions of the Permit.

In the event that any condition of this Permit, on a legal challenge by the Owners/Permittees 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 Owners/Permittees 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.

10. All projects submitted for plan check for the purpose of obtaining building permits shall concurrently submit building plans which meet the submittal requirements of the "Applicant's Guide to Project/Permit Applications," items 11 through 29, as applicable; together with appropriate plan check fees.

11. All projects shall be in compliance with Gross Floor Area requirements of the SDMC and all appropriate related definitions.

12. All projects shall be in compliance with SDMC requirements pertaining to the Maximum Height of a Building or Structure and Procedural Requirements for Determination of Structure Height.

13. All projects shall be in compliance with Topographical Survey Requirements of the SDMC and all building plans shall be predicated upon said concurrently submitted topographical survey. Said topographical survey (and accompanying grading plan) shall accurately depict both pre-existing grade and finished grade as set forth in the SDMC.

ENGINEERING RELATED CONDITIONS:

14. Prior to issuance of a Certificate of Occupancy, Owners/Permittees shall conform to SDMC section 62.0203, "Public Improvement Subject to Desuetude or Damage." If repair or replacement of such public improvements is required, the Owners shall obtain the required permits for work in the public right-of-way, satisfactory to the permit-issuing authority.

15. Prior to the issuance of any building permits, Owners/Permittees shall obtain an Encroachment Removal Agreement, from the City Engineer, for landscaping within the public right-of-way adjacent to Centre Street.

16. Prior to the issuance of any building permits, Owners/Permittees shall assure, by permit and bond, the closure of the existing driveway on Centre Street and replacement with full-height curb,

gutter and sidewalk, the replacement of the existing curb and sidewalk with new curb, gutter and sidewalk, and the replacement of approximately twenty linear feet of alley which is currently asphalt, all satisfactory to the City Engineer.

17. All grading shall conform to requirements in accordance of the SDMC in a manner satisfactory to the City Engineer.

PLANNING/DESIGN RELATED CONDITIONS:

18. No fewer than sixty-two off-street vehicle parking spaces; three motorcycle spaces; and sixteen bicycle parking spaces shall be maintained on the subject property at all times in the approximate locations shown on the approved Exhibit "A," dated November 21, 2000, on file in the Development Services Department. Parking spaces shall comply at all times with the SDMC requirements and shall not be converted for any other use unless otherwise authorized by the City Manager.

19. A color palette (exterior color chart) has been reviewed and is included as a project feature. This palette indicates that the following color scheme (or similar) will be utilized:

- a. Shingle roofing - "Elk" Prestique, Antique Slate;
- b. Wood trim, metal railings and window frames - Architectural White (#397)
- c. Stucco color No. 1 - Expo Peach Cream (#50)
- d. Stucco color No. 2 - Expo Panama Ivory (#51)
- e. Stucco color No. 3 - Expo Desert Mauve (475)

20. Prior to issuance of any building permits revised plans and a materials board shall be submitted which indicate that the building will incorporate variations of more than one color to enhance articulation, and reduce the appearance of bulk and scale.

21. Prior to issuance of any building permits revised plans shall be submitted indicating the relocation of all required bicycle parking spaces from the alley to the interior of the courtyard area.

22. There shall be compliance with the regulations of the underlying zones unless a deviation or variance to a specific regulations is approved or granted as a 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.

23. The heights of the buildings or structures 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.

24. A topographical survey conforming to the provisions of the SDMC 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 Permittees.

25. 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.
26. All signage associated with this development shall be consistent with sign criteria established by the Citywide sign regulations.
27. All private outdoor lighting shall be shaded and adjusted to fall on the same premises where such lights are located.
28. The use of textured or enhanced paving shall meet applicable City standards as to location, noise and friction values.
29. 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.
30. No merchandise, material or equipment shall be stored on the roof of any building.
31. 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," dated November 21, 2000, on file in the Development Services Department.

LANDSCAPE RELATED CONDITIONS:

32. Prior to issuance of any construction permits for structures (including shell), complete landscape and irrigation construction documents consistent with the Landscape Technical Manual (including planting and irrigation plans, details and specifications) shall be submitted to the City Manager for approval. The construction documents shall be in substantial conformance with Exhibit "A," Landscape Concept Plan, dated November 21, 2000, on file in the Development Services Department.
33. 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, if applicable, shall be obtained for the installation, establishment and on-going maintenance of all street trees.
34. All required landscape shall be maintained in a disease, weed and litter free condition at all times. Severe pruning or "topping" of trees is not permitted unless specifically noted in this Permit.
35. The Permittee, or subsequent owner, shall be responsible for the maintenance of all street trees and landscape improvements (right-of-way and median landscaping) consistent with the standards of the Landscape Technical Manual unless long-term maintenance of street trees has been established by the owner.

36. If any required landscape (including existing or new plantings, hardscape, landscape features, etc.) indicated on the approved construction document plans is damaged or removed during demolition or construction, it shall be repaired and/or replaced in kind and equivalent size per the approved documents to the satisfaction of the City Manager within thirty days of damage or Certificate of Occupancy.

37. In the event that a foundation only permit is requested by the Permittee, or subsequent owner, a site plan or staking layout plan shall be submitted identifying all landscape areas consistent with Exhibit "A," Landscape Concept Plan, dated November 21, 2000, on file in the Development Services Department. These landscape areas shall be clearly identified with a distinct symbol, noted with dimensions and labeled as "landscaping area."

FIRE SAFETY RELATED CONDITIONS - UNIFORM BUILDING/FIRE CODES:

38. Prior to issuance of any building permits, the Site Plan shall be revised to indicate the following:

- a. Building address numbers, visible and legible from the street or road fronting the property. (Uniform Fire Code section 901.4.4.)
- b. The location of all existing hydrants within 600 feet. (Uniform Fire Code section 903.2.)

39. The building is required to be sprinklered for the following reason: R-1 occupancy, four stories in height.

40. Post indicator valves, fire department connections, and alarm bell are to be located on the address/access side of the structure. (Uniform Fire Code section 1001.4.)

TRANSPORTATION DEVELOPMENT RELATED CONDITIONS:

41. All tandem spaces shall be assigned to the same residential unit.

APPROVED by the Council of the City of San Diego on November 21, 2000, by Resolution No. R-294252.

5/16/01

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AUTHENTICATED BY THE CITY MANAGER

By _____

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

OWNERS/PERMITTEES:

DANIEL K. LIEWER

AGNES C. DOWNING

TODD O. DOWNING

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

5/16/01

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