

RESOLUTION NUMBER R-294497

ADOPTED ON JANUARY 30, 2001

WHEREAS, Terry and Susan Weller, Owner/Permittee, filed an application with the City of San Diego for a Conditional Use Permit [CUP] to construct a 576 square foot companion unit to an existing single-family residence known as the Weller Companion Unit project, located at 6459 Celia Vista Drive, and legally described as Lot 88, Cosgrove Heights Annex No. 1, Map 2645, in the Mid-City Eastern Area Community Plan, in the RS-1-14 zone (previously referred to as the R1-5000 zone); and

WHEREAS, on September 28, 2000, the Planning Commission of the City of San Diego considered CUP No. 99-1317, and pursuant to Resolution No. 3021-PC voted to recommend City Council approval of the permit; and

WHEREAS, the Eastern Area Community Planning Committee appealed the Planning Commission decision to the Council of the City of San Diego; and

WHEREAS, the matter was set for public hearing on January 30, 2001, 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 CUP No. 99-1317:

A. That the property is located in a developed neighborhood in the RS-1-14 zone.

The project is located in a mature single-family developed neighborhood. The neighborhood is zoned RS-1-14 (previously referred to as R1-5000) where the lots are primarily occupied with single-family residences.

B. That the companion unit would be compatible with the primary dwelling unit in architectural style and materials.

The companion unit is existing and is located on the second floor of the single-family residence. This portion of the house was built under approved Building Permit No. C47896 in 1962. The addition was built to be compatible with the architectural features of the existing single-family residence which have been maintained.

C. That the companion unit would be located in a neighborhood and community plan area where it has been determined that public facilities and services are adequate.

The proposed companion unit is located in the Mid-City Eastern Community Plan where vacant lots are almost non-existent. The public facilities that exist in the neighborhood are adequately serving the needs for this type of development.

D. That the addition of the companion unit will not cause the total number of companion units within the affected community plan area to exceed 5 percent of the detached primary dwellings located in the RS-1-14 zone in that community plan area.

The proposed companion unit will not increase the total number of companion units to exceed the 5 percent maximum for the Mid-City Eastern Area Community Plan. There were no records found for this community plan area that identified approved Conditional Use Permits for companion units.

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

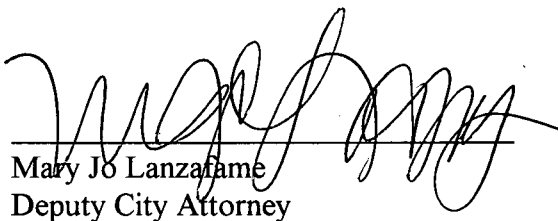
BE IT FURTHER RESOLVED, that the appeal of the Eastern Area Community Planning Committee is denied, the decision of the Planning Commission is sustained, and Conditional Use Permit No. 99-1317 is granted to Terry and Susan Weller, Owner/Permittee, under the terms and

conditions set forth in the permit attached hereto and made a part hereof and subject to the following changes to condition No. 3:

The Permittee in five years shall submit to an inspection by the City Manager to determine compliance with the CUP. If the City Manager determines that the Permittee is in compliance with the terms of the CUP, it shall automatically be renewed for an additional five years. If the City Manager determines that it is not in compliance with the conditions of the CUP, the City Manager shall initiate revocation proceedings.

APPROVED: CASEY GWINN, City Attorney

By


Mary Jo Lanzafame
Deputy City Attorney

MJL:mdw:lc
06/26/01
Or.Dept:Clerk
R-2001-1518
Form=permitr.frm
Reviewed by Linda French

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

CONDITIONAL USE PERMIT NO. 99-1317

WELLER COMPANION UNIT

City Council

This Conditional Use Permit [CUP] is granted by the Council of the City of San Diego to Terry and Susan Weller, Owner/Permittee, pursuant to San Diego Municipal Code [SDMC] section 101.0512. The 7,700 square-foot lot is located at 6459 Celia Vista Drive in the RS-1-14 zone (previously referred to as the R1-5000 zone) of the Mid-City Eastern Area Community Plan. The project site is legally described as Lot 88, Cosgrove Heights Annex No. 1, Map 2645.

Subject to the terms and conditions set forth in this permit, permission is granted to Owner/Permittee, Terry and Susan Weller, to maintain an approximate 576 square-foot second-story companion unit containing a kitchen with a wet bar, bedroom/living room area with a 3/4 bath to an existing single-family residence where such a development requires a conditional use permit for a companion unit described and identified by size, dimension, quantity, type and location on the approved Exhibit "A," dated January 30, 2001, on file in the Development Services Department. The project shall include:

- a. The maintenance of a second-story, 576 square-foot companion unit to an existing single-family residence;
 - 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 SDMC 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 Development Services Department; and
- b. The Permit is recorded in the office of the San Diego County Recorder.

3. The Permittee in five years shall submit to an inspection by the City Manager to determine compliance with the CUP. If the City Manager determines that the Permittee is in compliance with the terms of the CUP, it shall automatically be renewed for an additional five years. If the City Manager determines that it is not in compliance with the conditions of the CUP, the City Manager shall initiate revocation proceedings.

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 Endangered Species Act of 1973 and any amendments thereto (16 U.S.C. § 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 January 30, 2001, 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 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 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. Prior to issuance of any grading permits for this project, a final subdivision map shall be recorded on the subject property.

ENGINEERING REQUIREMENTS:

11. Prior to the issuance of any building permits, the property owner shall enter into an agreement with the City waiving the right to oppose special assessment proceedings initiated for curb, gutter, and sidewalk improvements for Celia Vista Drive.

PLANNING/DESIGN REQUIREMENTS:

12. No fewer than three off-street parking spaces shall be maintained on the property at all times in the approximate locations shown on the approved Exhibit "A," dated January 30, 2001, on file in the Development Services Department. Parking spaces shall comply at all times with the SDMC and shall not be converted for any other use unless otherwise authorized by the City Manager.

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

18. Only one companion unit shall be located on each lot or premises.

19. Not less than one off-street parking space shall be permanently maintained for the exclusive use of the companion unit occupants.
20. Either the primary unit or companion unit shall be occupied by the owner at all times if either unit is held out for rent.
21. The companion unit shall be regularly occupied by a maximum of two persons at least one of whom shall be a member of the owner's family, or 60 years of age or older, or handicapped.
22. The companion unit shall be an accessory or incidental use to the primary unit and may be either held out for rent or occupied by the owner, but may not be sold or conveyed independently.
23. All private outdoor lighting shall be shaded and adjusted to fall on the same premises where such lights are located.
24. The use of textured or enhanced paving shall meet applicable City standards as to location, noise and friction values.
25. The subject property and associated common areas on site shall be maintained in a neat and orderly fashion at all times.
26. 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.
27. No merchandise, material or equipment shall be stored on the roof of any building.
28. 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.
29. The establishment of the companion unit shall not create a second front entrance or other street-side modifications which would indicate the presence of a second unit or otherwise alter the single-family appearance of the property.
30. Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of this development permit, may protest the imposition within ninety days of the approval of this conditional use permit by filing a written protest with the City Clerk pursuant to California Government Code section 66020.

APPROVED by the Council of the City of San Diego on January 30, 2001, by Resolution No. R-294497

6/20/01

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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.

TERRY WELLER
Owner/Permittee

By _____

SUSAN WELLER
Owner/Permittee

By _____

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

6/20/01

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