

RESOLUTION NUMBER R-294571

ADOPTED ON FEBRUARY 20, 2001

A RESOLUTION OF THE COUNCIL OF THE CITY OF
SAN DIEGO APPROVING CONDITIONAL USE PERMIT
NO. 40-0925 FOR THE PALM VILLAGE LIVING UNITS
PROJECT.

WHEREAS, on January 9, 2001, Palm Village, LLC, Owner/Permittee, filed an application for a conditional use permit to construct a 280-unit Living Unit project on the approximately 46,000 square foot site located within the block bounded by Market and 13th streets, 12th and Island avenues, which is located within the Palm Village District of the Centre City Community Plan Area; and

WHEREAS, the matter was set for public hearing on February 20, 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 Conditional Use Permit No. 40-0925:

1. The proposed use or development will not adversely affect the applicable land use plan.
2. The proposed use or development will not be detrimental to the public health, safety, or welfare.
3. The proposed use or development will comply to the maximum extent feasible with the regulations of the Land Development Code and Centre City Planned District Ordinance.

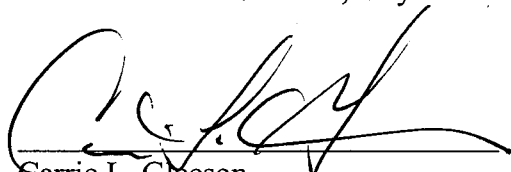
4. The proposed use is appropriate at the proposed location.
5. The project will contribute to the health, safety, and welfare and that its contribution will exceed any negative impact caused by implementation of the project.
6. The provision of 56 parking spaces is adequate to meet the parking demand of the project due to the size of the units, the restricted incomes of the tenants, and the project's location at a transit node.

The above findings are supported by the minutes, reports, maps, and exhibits, all of which are incorporated in these findings by this reference.

BE IT FURTHER RESOLVED, that the Conditional Use Permit No. 40-0925 is granted to Palm Village, LLC, Owner/Permittee, under the terms and conditions set forth in the permit attached and made a part of this resolution on file in the Office of the City Clerk as Document No. RR- 294571.

APPROVED: CASEY GWINN, City Attorney

By


Carrie L. Gleeson
Deputy City Attorney

CLG:jc:db
02/21/01
09/02/04
Or.Dept:CCDC
R-2001-1179

RECORDING REQUESTED BY:

Centre City Development Corporation
225 Broadway, #1100
San Diego, CA 92101

AND WHEN RECORDED MAIL TO:

Centre City Development Corporation
Architecture and Planning Division
225 Broadway, #1100
San Diego, CA 92101

DOC 2001-0900335

DEC 07, 2001 3:34 PM

OFFICIAL RECORDS
SAN DIEGO COUNTY RECORDER'S OFFICE
GREGORY J. SMITH, COUNTY RECORDER
FEES: 41.00

015068



THIS SPACE

2001-0900335

NOTE: COUNTY RECORDER, PLEASE RECORD AS
RESTRICTION ON USE OR DEVELOPMENT OF
REAL PROPERTY AFFECTING THE TITLE TO OR
POSSESSION THEREOF

CONDITIONAL USE PERMIT NO. 40-0925

(ISLAND VILLAGE LIVING UNITS)

R-294571

CONDITIONAL USE PERMIT NO. 40-0925**ISLAND VILLAGE LIVING UNITS**

Pursuant to the regulations of the Centre City Planned District Ordinance (PDO), an application by Island Palms Apartments, LP, Owner/Permittee, to construct a Living Unit project located on an approximately 45,150 square foot site, and more particularly described in Exhibit A, located on the block bounded by 12th and Island avenues, 13th and Market streets, in the East Village District of the Centre City Community Planning Area, was reviewed by the Centre City Development Corporation (CCDC) and City of San Diego City Council.

A Conditional Use Permit is granted by the City Council to Island Palms Apartments, LP, Owner/Permittee.

1. General

The Developer is permitted to construct, or cause to be constructed on the Site, a Living Unit project containing approximately 280 living units and 3,000 square feet of retail commercial space. The total floor area ratio of the development for all uses above ground is approximately 2.7 and the buildings shall not exceed a height of approximately 50 feet measured to the top of the parapet.

2. Living Unit Regulations

The project shall comply with all development standards provided for in Section 103.1959 of the City of San Diego Municipal Code.

3. Tenant and Rent Restrictions

Twenty-eight (28) of the Units shall provide housing exclusively for occupancy by persons or families (two persons maximum per Unit) whose income does not exceed fifty percent (50%) of the area median income, adjusted for family size appropriate for the unit ("the 50% units"). The remaining two hundred fifty-two (252) of the Units shall provide housing exclusively for occupancy by persons or families whose income does not exceed sixty percent (60%) of the area median income, adjusted for family size appropriate for the unit ("the 60% units"). The maximum incomes of residential tenants eligible to rent the Units shall be determined on the basis of the area median income for San Diego, published approximately annually by the United States Department of Housing and Urban Development.

The maximum rent that may be charged to tenants (including utilities and including a parking space on a first come/first serve basis up to 56 spaces), shall not exceed the lower of the following:

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- (a) The maximum rent permitted by applicable federal or state Low Income Housing Tax Credit requirements, during the time that the Units are subject to such requirements, which shall included such utility allowances or other utility payments as may be required by the generally applicable rules of the Low Income Housing Tax Credit program; or
- (b) For the 50% Units, an "affordable rent" for a Very Low Income household, as defined in California Health and Safety Code Section 50053 (b) (1), which provides that affordable rent for a household whose income does not exceed fifty percent (50%) of the area median income shall mean rent that does not exceed 30% times 50% of the area median income, adjusted for family size appropriate for the Unit;

For the 60% Units, an "affordable rent" for a Low Income household, as defined in California Health and Safety Code Section 50053 (b) (2), which provides that affordable rent for a household whose income does not exceed sixty percent (60%) of the area median income shall mean rent that does not exceed 30% times 60% of the area median income, adjusted for family size appropriate for the Unit;

Except to the extent paragraph (a) is in effect, "affordable rent" shall include such utility allowances or other utility payments as may be required by the generally applicable rules of the City of San Diego Housing Commission.

- (c) The City of San Diego ("City") and the City of San Diego Housing Commission (the "Housing Commission"), and their respective successors and assigns, shall have the right, but not the obligations, to monitor and enforce the covenants contained in this Conditional Use Permit. Developer covenants that it shall comply with program required by the California Tax Credit Allocation Committee ("TCAC") to certify and monitor compliance with applicable rent and income restrictions, including the TCAC Compliance Monitoring Procedure. Provided TCAC compliance monitoring programs are in effect and apply to the Site, and provided Developer is complying with such programs and TCAC transmits copies of all compliance reports to the City and/or Housing Commission, as appropriate, Developer shall not be subject to additional compliance monitoring and reporting requirements of the City and/or Housing Commission, except as provided in California Health and Safety Code Section 33418. Otherwise, Developer covenants that it shall comply with any program required by the City and/or Housing Commission to enforce said covenants. The Developer shall enter into an Agreement to be Recorded with the Redevelopment Agency of the City of San Diego providing for the rent and occupancy restrictions required by this Conditional Use Permit No. 40-0925.

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4. Parking

The development shall include a minimum of 56 parking stalls which shall be available to tenants of the Living Unit project without charge on a first come, first serve basis.

5. Refinements

- a. The windows shall be recessed into, not flush with, the exterior walls.
- b. Balconies shall be maintained in a minimum of 15 units as shown on the Basic Concept/Schematic Drawings.
- c. The common room provided on the first floor shall contain a minimum of 840 square feet.

6. Urban Design Standards

The proposed development, including its architectural design concepts, landscape features and off-site improvements, shall be consistent with the Centre City PDO and Centre City Streetscape Manual. These standards, together with the following specific conditions, will be used as a basis for evaluating the development through all stages of the design review process.

- a. Architectural Standards - The architecture of the development shall establish a high quality of design and complement the design and character of the East Village District.
- b. Form and Scale - The building shall contain 4 stories and all building elements shall be complimentary in form, scale, and architectural style.
- c. Building Materials - All building materials shall be of a high quality. Reflectivity of the glass shall be the minimum reflectivity required by Title 24. A final materials board which illustrates the location, color, quality and texture of proposed exterior materials shall be submitted with 100% Construction Drawings.
- d. Street Level Design - Street level windows shall be clear glass and may be lightly tinted. Architectural features such as awnings and other design features which add human scale to the streetscape are encouraged where they are consistent with the design theme of the structure. Commercial units at street level shall contain individual entrances to the units. All exit doors from the Living Unit project shall contain upgraded doors and windows to appear as entry lobbies, including clear glass.

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- e. Access - Vehicular access to the Site shall be limited to 13th Avenue. The curb cut may not exceed 30 feet in width. All entry doors shall be of high quality, and shall be designed as attractive architectural features of the proposed development.
- f. Utilitarian areas - Areas housing trash, storage, or other utility services shall be located in the garage or otherwise completely concealed from view of the public right-of-way and adjoining developments, except for utilities required to be exposed by the City or utility company.
- g. Circulation and Parking - Subterranean parking shall meet the requirements of the Building Inspection Department, Fire Department and City Engineer. All parking shall be mechanically ventilated. The exhaust system for mechanically ventilated structures shall be located to mitigate noise and exhaust impacts on the residential units or adjoining developments.

The Developer shall prepare a plan which identifies the location of curbside parking control zones, parking meters, fire hydrants, trees, and street lights. Such plan shall be submitted in conjunction with 100% Construction Drawings.
- h. Open Space/Project Amenities - A landscape plan that illustrates the relationship of the proposed on- and off-site improvements and the location of seating, water and electrical hookups shall be submitted with 100% Construction Drawings.
- i. Roof Tops - A rooftop equipment and appurtenance location and screening plan shall be prepared and submitted with 100% Construction Drawings. Any roof-top mechanical equipment shall be enclosed and screened from views. Individual condenser units may be exposed but may not be located above the elevation of the top of any building parapet and must be painted out to match the roof surface. Decorative roof treatments shall be incorporated into the flat roof surfaces.
- j. Signing - All signs shall comply with the City of San Diego Municipal Code.
- k. Lighting - A lighting plan which highlights the architectural qualities of the proposed project and also enhances the lighting of the public right-of-way shall be submitted with 100% Construction Drawings. All lighting shall be designed to avoid illumination of adjoining properties.
- l. Noise Control - All mechanical equipment, including but not limited to, air conditioning, heating and exhaust systems, shall comply with the City of San Diego Noise Ordinance and California Noise Insulation Standards as set

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forth in Title 24 of the California Code of Regulations. All mechanical equipment shall be located to mitigate noise and exhaust impacts on adjoining development, particularly residential. Developer shall provide evidence of compliance at 100% Construction Drawings.

- m. Energy Considerations - The design of the improvements shall include, where feasible, energy conservation construction techniques and design, including cogeneration facilities, and active and passive solar energy design. The Developer shall demonstrate consideration of such energy features during the review of the 100% Construction Drawings.
- n. Street Address - Building address numbers shall be provided that are visible and legible from the public right-of-way.
- o. Air Conditioners - Through-wall air conditioners shall be architecturally incorporated into the facade, be flush mounted, and provide for condensation drainage to avoid staining of the walls.

7. On-Site Improvements

All off-site and on-site improvements shall be designed as part of an integral site development. An on-site improvement plan shall be submitted with the 100% Construction Drawings. The on-site landscaping shall establish a high quality of design and be sensitive to landscape materials and design planned for the adjoining public rights-of-way.

8. Off-Site Improvements

The following public improvements shall be installed in accordance with the Centre City Streetscape Manual; however, if the Streetscape Manual is updated prior to approval of the public improvement drawings the design shall match the updated Manual:

- a. Street Trees - Liquidambar trees shall be provided on Market Street. Evergreen Elm trees shall be provided on 13th Street and Island Avenue. All trees shall be planted at minimum 36-inch box size. Tree grates (minimum size 5 by 5 feet as approved by CCDC) that meet the requirements of Title 24 shall be used. Tree spacing to be accommodated after street lights have been sited, and generally spaced 22 feet on center. All landscaping shall be irrigated with private water service from the subject property.
- b. Sidewalk Paving - Special paving shall be provided on Market Street and Island Avenue, with Ballpark paving provided on 13th Street. Any specialized paving materials shall be subject to CCDC approval and approved through

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the execution of an Encroachment Removal Agreement. Island Avenue shall contain corner bulb-outs.

- c. Street Lighting - Gateway street lights shall be provided on Market Street, with Standard street lights provided on 13th Street and Island Avenue.
- d. Litter Containers - Five public trash receptacles shall be provided.
- e. Public Utilities (sewer, water and storm drain) - The Developer shall be responsible for the connection of on-site sewer, water and storm drain systems from the development to the City Utilities located in the public right-of-way. Sewer, water and roof drain laterals shall be connected to the appropriate utility mains within the street and beneath the sidewalk. The Developer may use existing laterals if acceptable to the City, and if not, Developer shall cut and plug existing laterals at such places and in the manner required by the City, and install new laterals.
- f. Franchise Public Utilities - The Developer shall be responsible for the installation or relocation of franchise utility connections including, but not limited to, gas, electric, telephone and cable, to the project and all extensions of those utilities in public streets. Existing franchised utilities located above grade and in the sidewalk right-of-way shall be removed and incorporated into the adjoining development where feasible.

Electrical transformer vaults shall be installed in a subterranean location accessible to the franchise utility from the public right-of-way where feasible. Covers to utility vaults located in the public right-of-way shall be designed as a pan which allows the lid to be in filled with the same paving materials used in the adjoining right-of-way where feasible.

- g. Fire Hydrants - If required, the Permittee shall install fire hydrants at locations satisfactory to the Fire Department and Development Services Department.
- h. Backflow preventers - The developer shall locate all water meters and backflow preventers in locations satisfactory to the Water Utilities Department and CCDC. Backflow preventers shall be located outside of the public right-of-way adjacent to the project's water meters, either within the building, a recessed alcove area, or within a plaza or landscaping area.
- i. 12th Avenue Improvements - the City, City of San Diego Redevelopment Agency, or others plan on installing the off-site improvements along 12th Avenue as part of the Bay-to-Park Link improvements if the development is completed and ready for off-sites prior to January 2003 (which is the date

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when public funding sources for the 12th Avenue improvements will expire). If these public funding sources expire, the Developer will then be responsible for installation of the 12th Avenue improvements including curb, gutter, sidewalks, street trees, and other improvements (similar to the other three street frontages of the development) as designed in the Improvement Drawings for 12th Avenue.

All items of improvement shall be performed in accordance with the technical specifications, standards, and practices of the City of San Diego's Engineering and Building Inspection Departments and shall be subject to their review and approval. Improvements shall meet the requirements of Title 24 of the State Building Code.

Off-site improvement drawings (D sheets), including dimensional plans for all street frontages which illustrate proposed paving, street trees, lighting fixtures shall be submitted with 100% Construction Drawings. Such off-site plan shall be coordinated to complement and be comparable in quality to the adjoining on-site and off-site plazas, open space and sidewalk materials.

If, during construction, any improved portion of the public right-of-way is damaged or destroyed, the Developer shall be responsible for the replacement or repair of those improvements.

9. Removal and/or Remedy of Soil and/or Water Contamination

The Developer shall (at its own cost and expense) remove and/or otherwise remedy as provided by law and implementing rules and regulations, and as required by appropriate governmental authorities, any contaminated or hazardous soil and/or water conditions on the Site.

Such work may include without limitation the following:

- a. Remove (and dispose of) and/or treat any contaminated soil and/or water on the Site (and in the immediate area of work if encountered during installation of improvements in the adjacent public rights-of-way which the Developer is install) as necessary to comply with applicable governmental standards and requirements.
- b. Design and construct all improvements on the Site in a manner which will assure protection of occupants and all improvements from any contamination, whether in vapor or other form, and/or from the direct and indirect effects thereof.
- c. Prepare a site safety plan and submit it to the appropriate governmental authorities for approval in connection with obtaining a building permit for the

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construction of improvements on the Site. Such site safety plan shall assure workers and other visitors to the Site of protection from any health and safety hazards during development and construction of the improvements. Such site safety plan shall include monitoring and appropriate protective action against vapors and/or the effect thereof if required by a governmental authority having jurisdiction over the site.

- d. Obtain from the County of San Diego and/or California Regional Water Quality Control Board and/or any other authorities required by law any permits or other approvals required in connection with the removal and/or remedy of soil and/or water contamination, in connection with the development and construction on the site.
- e. If required by a governmental authority having jurisdiction over the site and due to the presence of contamination, an impermeable membrane or other acceptable construction alternative shall be installed beneath the foundation of the building. Drawings and specifications for such vapor barrier system shall be submitted for review and approval to the Corporation. The Corporation shall have the right, but not the obligation, to observe installation of such vapor barrier system and to require adjustments to such installation if deemed appropriate by Corporation consultants.

10. Environmental Impact Mitigation and Archaeological Protection

The Developer shall implement mitigation measures and/or mitigation monitoring requirements as identified in the Secondary Environmental Study for the project prior to the issuance of a building permit.

A qualified archaeological monitor shall be retained to carefully monitor the excavation and grading activities while the project is underway. The responsible firm shall be identified to CCDC prior to issuance of a building and/or grading permit. If resources are encountered in the course of ground disturbance, the monitor shall be empowered to halt grading and to initiate a testing program and a report shall be prepared and submitted to CCDC.

11. Model

Model - Prior to obtaining a building permit, the Permittee shall provide a one-inch (1") to fifty-foot (50') scale block building model which illustrates the true scale of the buildings on the site based on the building facade and the floor plate of the structure from the ground floor to and including the rooftop. No base is required. Landscaping at the ground level shall also be shown. Architectural detail such as windows, door and balconies shall not be shown. Other building elements and articulation less than three feet in scaled dimension need not be shown.

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The model shall be made of solid acrylic plastic (e.g., Lucite, Plexiglas), be colored solid white and be compatible with the scale and contours of the model of downtown on display at the Centre City Development Corporation's Downtown Information Center. Upon acceptance by CCDC, the model shall be installed by the developer or his designated representative on the model of downtown, and the model shall become the property of the Centre City Development Corporation for its use.

12. Construction Fence

Developer shall install a construction fence pursuant to specifications of, and a permit from, the City Engineer. The fence shall be solid plywood with wood framing, painted a consistent color with the project's design, and shall contain a pedestrian passageway, signs and lighting as required by the City Engineer.

If approved by the City Engineer, a chain-link fence with screening material may be used along 13th Street and Island Avenue.

13. Development Identification Signs

Prior to commencement of construction on the Site, the Developer shall prepare and install, at its cost and expense, a sign on the barricade around the Site which identifies the development. The sign shall be at least four (4) feet by six (6) feet and be visible to passing pedestrian and vehicular traffic. The sign shall at a minimum include:

- Illustration of the development
- Development name
- Developer

The sign shall also contain the CCDC "Paradise in Progress" logo and the Downtown Construction Hotline phone number.

Additional project signs may be provided around the perimeter of the site. All signs shall be limited to a maximum of 160 square feet per street frontage. Graphics may also be painted on any barricades surrounding the site. All signs and graphics shall be submitted to CCDC for approval prior to installation.

14. This Conditional Use Permit shall be conditioned upon obtaining a building permit within three (3) years from the date of issuance. If a building permit has not been obtained in three years and the project is to proceed, the permittee must reapply for a Conditional Use Permit or obtain an extension under legislation that exists at that time.

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- 15. Construction and operation of the approved use shall comply at all times with the regulations of this or any other governmental agencies.
- 16. This permit is a covenant running with the lands and shall be binding upon the Permittee and any successor or successors, and the interest of any successor shall be subject to each and every condition set out.
- 17. This project shall comply with the standards, policies, and requirements in effect at the time of approval of this project, including any successor or new policies, financing mechanisms, phasing schedules, plans and ordinances adopted by the City of San Diego.
- 18. No permit for construction, operation or occupancy of any facility shall be granted nor shall any activity authorized by this permit be conducted on the premises until this Permit is recorded in the OFFICE OF THE COUNTY RECORDER.

This Conditional Use Permit is granted by the City Council of the City of San Diego on January 20, 2001.

CENTRE CITY DEVELOPMENT CORPORATION

PERMITTEE(S) SIGNATURE
Island Palms Apartments, LP.
a California Limited Partnership by
Barone Galasso & Associates, Inc.,
General Partner

Brad Richter 12/5/01
 Brad Richter Date
 Principal Planner

Michael B. Galasso 12.07.01
 Michael B. Galasso, President Date

State of California

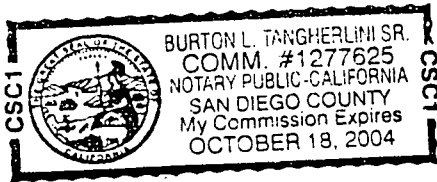
County of San Diego

On 12-07-2001 before me, Burton L. Tangherlini Sr. ^{Notary} _{Public}
Date Name, Title of Officer

personally appeared Michael B. Galasso
Name(s) of Signer(s)

personally known to me - OR -

proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies); and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



WITNESS my hand and official seal.

Burton L. Tangherlini Sr.
Signature of Notary