

RESOLUTION NUMBER R-297433

ADOPTED ON DECEMBER 3, 2002

WHEREAS, Michael Kootchick, Owner/Permittee, filed an application with the City of San Diego for a site development permit to construct thirteen residential multi-family units known as the "A" Street Townhomes project, located at 2761-2771 A Street, and legally described as a portion of Lot 8 and Lots 9-13, Block 59, H.M. Higgins Addition, Map No. 309, in the Golden Hill Planned District Ordinance within the Greater Golden Hill Community Plan area, in the GH-1500 zone; and

WHEREAS, on October 31, 2002, the Planning Commission of the City of San Diego considered Site Development Permit [SDP] No. 8457, and pursuant to Resolution No. 3319-PC voted to recommend City Council approval of the permit; and

WHEREAS, the matter was set for public hearing on December 3, 2002, 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 it adopts the following findings with respect to SDP No. 8457:

SITE DEVELOPMENT PERMIT APPROVAL - SAN DIEGO MUNICIPAL CODE [SDMC] SECTION 126.0504

1. The proposed development will not adversely affect the applicable land use plan. The Golden Hill Community Plan designates the site for medium density residential development ranging from fifteen to twenty-nine dwelling units per acre. The proposed project complies with the land use designation by providing multi-family housing within the prescribed density range. The proposed project is consistent with the goals and recommendations established in the Residential Element of the Community Plan. The design of the project is sensitive to the established 50-foot lot pattern of the older community neighborhoods by breaking up the mass of

the units into five detached structures. The project enhances the quality of housing opportunities within the community by providing infill units with a distinctive architectural character compatible with the scale of the surrounding neighborhood. The proposed development is consistent with the implementation program of the Community Plan by providing numerous design features including offsetting planes, textured finishes and underground parking.

2. The proposed development will not be detrimental to the public health, safety, and welfare. Site Development Permit No. 8457 has been conditioned to ensure that the proposed development will not be detrimental to the public health, safety and welfare of persons residing or working in the Greater Golden Hill community. Permit conditions include a Mitigation, Monitoring and Reporting Program [MMRP] established for the project during the environmental review process. The MMRP includes specific measures to mitigate impacts to water quality, noise and potential historical and cultural resources. The project will utilize Best Management Practices [BMPs] both during and after construction to minimize runoff of contaminants into the storm drain system. The Site Development Permit includes conditions to maintain the required off-street parking spaces, provide for trash enclosures and recycling facilities.

3. The proposed development will comply with the applicable regulations of the Land Development Code [LDC]. The proposed project complies with all of the applicable regulations of the LDC and the Golden Hill Planned District Ordinance with the one exception of the 30-foot height limit. The project meets or exceeds the design criteria of the Planned District and the Urban Design Element of the Community Plan. The deviation to the height limit is requested by the applicant due to the extreme topographical variation of the site. Development Services Department supports the deviation because it would allow the project to have a street level presence compatible in height and scale to adjacent structures, allow for the underground parking while minimize the need for excessive grading.

FINDINGS FOR EASEMENT ABANDONMENT APPROVAL - SDMC SECTION 125.1040

4. There is no present or prospective public use for the easement, either for the facility or purpose for which it was originally acquired or for any other public use of a like nature that can be anticipated. The easement abandonment is a part of a relocation effort that will allow for the proposed development of the property. The proposed relocation of the storm drainage and sewer easement will maintain the current level of public use while improving the easement width to current city engineering standards for public improvements.

5. The public will benefit from the action through improved utilization of the land made available by the abandonment. The proposed abandonment and relocation of the existing easements will allow for the reasonable development of the property and provide thirteen additional dwelling units in the Golden Hill Community. Additionally, the proposed project will provide a public benefit by enhancing and revitalizing the surrounding neighborhood character by providing infill development on an unsightly vacant lot.

6. **The abandonment is consistent with any applicable land use plan.** The proposed easement abandonment and relocation would allow for the construction of medium density residential development that is consistent with the land use designation and design guidelines of the Golden Hills Community Plan and the Golden Hills Planned District Ordinance. Additionally, the new dedicated easement widths would be consistent with current City engineering standards for public improvements.

7.. **The public facility or purpose for which the easement was originally acquired will not be detrimentally effected by the abandonment or the purpose for which the easement was acquired no longer exists.** The proposed easement abandonment is part of a relocation effort to allow for the reasonable development of the site. The new location and dedication of the sewer and storm drain easements would maintain and improve the public facility and purpose for which the easement was originally acquired.

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 recommendation of the Planning Commission is sustained, and Site Development Permit No. 8457 is granted to Michael Kootchick, 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


Mary Jo Lanzafame
Deputy City Attorney

MJL:pev
12/09/02
Or.Dept:Clerk
R-2003-784
Form=permitr frm
Reviewed by Patrick Hooper

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

SITE DEVELOPMENT PERMIT NO. 8457
A STREET TOWNHOMES - PROJECT NO. 2403
CITY COUNCIL

This Site Development Permit No. 8457, is granted by the City Council of the City of San Diego to Michael Kootchick, Owner/Permittee, pursuant to San Diego Municipal Code section 126.0504. The 0.45 site is located at 2761 through 2771 in the GH-1500 zone within the Golden Hill Planned Community Plan Area. The project site is legally described as a portion of Lot 8 and Lots 9 -13, Block 59, H.M. Higgins Addition, Map No. 309.

Subject to the terms and conditions set forth in this permit, permission is granted to the Owner to develop the site with a thirteen-unit apartment complex described as, and identified by size, dimension, quantity, type and location on the approved Exhibit "A," dated December 3, 2002, on file in the Office of the Development Services Department. The facility shall include:

- a. Five two-story, two and three unit townhome buildings totaling 19,024 square-feet including a deviation from the maximum 30-foot height limit allowing for 38 feet ;
- b. Landscaping (planting, irrigation and landscape related improvements);
- c. Off-street parking facilities;
- d. The abandonment and relocation and dedication of an existing drainage easement; and
- e. 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 or grading 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. 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 agency.
6. Issuance of this Permit by the City of San Diego does not authorize the Permittee for this Permit to violate any Federal, State or City laws, ordinances, regulations or policies including, but not limited to, the Endangered Species Act of 1973 [ESA] 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 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 December 3, 2002, on file in the Office of the Development Services

Department. No changes, modifications or alterations shall be made unless appropriate application(s) or amendment(s) 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 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 the special rights which the holder of the Permit is entitled as a result of obtaining this Permit. It is the intent of the City that the Owner/Permittee 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/Permittee of the property be allowed the special and extraordinary rights conveyed by this Permit, but only if the Owner/Permittee complies with all the conditions of this 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 applicant shall comply with the Mitigation, Monitoring and Reporting Program [MMRP] as specified in Environmental Impact Report or Mitigated Negative Declaration, Project No. 42-0015, satisfactory to the City Manager and the City Engineer. Prior to issuance of any grading permits and/or building permits, mitigation measures as specifically outlined in the MMRP shall be implemented for the following issue areas:

- Noise
- Cultural Resources
- Paleontological Resources
- Hydrology/Water Quality

PLANNING/DESIGN REQUIREMENTS:

11. No fewer than twenty-eight off-street parking spaces shall be maintained on the property at all times in the approximate locations shown on the approved Exhibit "A," dated December 3, 2002, on file in the Office of Development Services Department. Parking spaces shall comply at

all times with requirements of the SDMC and shall not be converted for any other use unless otherwise authorized by the City Manager.

12. 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.

13. The heights of the buildings shall not exceed those heights set forth in the conditions and the exhibits (including, but not limited to, elevations and cross sections). A height deviation has been granted with this Site Development Permit to allow the building heights to be a maximum of 38-feet.

14. 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 Permittee.

15. 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.

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

17. The project shall comply with all current street lighting standards according to the City of San Diego Street Design Manual (Document No. 769830, filed January 30, 1997) and the amendment to Council Policy 200-18 approved by City Council on January 10, 2000.

18. Prior to the issuance of any building permits, the developer shall assure, by permit and bond, the design and construction of all public sewer facilities necessary to serve this development.

19. The developer shall design and construct all proposed public sewer facilities to the most current edition of the City of San Diego's sewer design guide. Proposed facilities that do not meet the current standards shall be re-designed.

20. The developer shall grant adequate sewer, and/or access easements, including vehicular access to each manhole, for all public sewer facilities that are not located within public

rights-of-way, satisfactory to the Director of the Metropolitan Wastewater Department. Minimum easement width for sewer mains with manholes - 20 feet. The easements shall be located within single lots.

21. Vehicular access roadbeds shall be a minimum of 20 feet wide and surfaced with suitable approved material satisfactory to the Director of the Metropolitan Wastewater Department. Vehicular access roadbeds to sewer mains with laterals shall be a minimum 24 foot wide and paved full width.

22. No structures or landscaping that would inhibit vehicular access shall be installed in or over any sewer access easement.

23. No structures or landscaping, including private sewer facilities and enhanced paving, shall be installed in or over any easement prior to the applicant obtaining an Encroachment Maintenance and Removal Agreement.

24. No trees or shrubs exceeding three feet in height at maturity shall be installed within ten feet of any public sewer facilities.

25. Proposed private underground sewer facilities located within a single lot shall be designed to meet the requirements of the California Uniform Plumbing Code and shall be reviewed as part of the building permit plan check.

26. If the units are proposed to be converted to private ownership at a later date, the developer shall provide evidence, satisfactory to the Director of the Metropolitan Wastewater Department, indicating that each condominium will have its own sewer lateral or provide CC&R's for the operation and maintenance of on-site private sewer mains that serve more than one ownership.

27. Prior to the issuance of any building permits, the Owner/Permittee shall assure, by permit and bond, the design and construction of new water service(s) and the removal of all existing unused services within the A Street right-of-way adjacent to the project site, as needed, in a manner satisfactory to the Director of the Water Department Director and the City Engineer. No water meters shall be located within any vehicular use area.

28. Prior to the issuance of any building permits, the Owner/Permittee shall apply for a plumbing permit for the installation of private back flow prevention device(s), as required, in a manner satisfactory to the Director of the Water Department and the City Engineer.

29. All on-site water facilities shall be private including irrigation systems. Prior to the issuance of any building permits, the Owner/Permittee shall obtain encroachment maintenance and removal agreements for all private water facilities within the public right-of-way.

30. The Owner/Permittee agrees to design and construct all proposed public water facilities in accordance with established criteria in the most current edition of the City of San Diego Water Facility Design Guidelines and City regulations, standards and practices pertaining thereto. Public water facilities as shown on approved Exhibit "A," dated December 3, 2002, on file in the Office of the Development Services Department shall be modified at final engineering to comply with standards.
31. A Development Impact Fee [DIF] of \$23,660 is required for this project and is due at the time of building permit issuance. This fee is based upon the number of dwelling units being built (thirteen), times the total DIF per unit (\$1,820).
32. Prior to the recording of this Permit, the Owner/Permittee shall grant to the San Diego Unified Port District an avigation easement for the purpose of maintaining all aircraft approach paths to Lindbergh Field. This easement shall permit the unconditioned right of flight of aircraft in the federally controlled airspace above the subject property. This easement shall identify the easement's elevation above the property and shall include prohibitions regarding use of and activity on the property that would interfere with the intended use of the easement. This easement may require the grantor of the easement to waive any right of action arising out of noise associated with the flight of aircraft within the easement. A copy of the avigation easement shall be attached to this Permit when the permit has been signed and notarized and is returned to the Office of the Development Services Department for recording with the Office of the San Diego County Recorder.
33. Prior to submitting building plans to the City for review, the Owner/Permittee shall place a note on all building plans indicating that an avigation easement has been granted across the property. The note shall include the Office of the San Diego County Recorder's recording number for the avigation easement.
34. All private outdoor lighting shall be shaded and adjusted to fall on the same premises where such lights are located.
35. The use of textured or enhanced paving shall meet applicable City standards as to location, noise and friction values.
36. The subject property and associated common areas on site shall be maintained in a neat and orderly fashion at all times.
37. 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 6 feet in height and, provided further, that no merchandise, material or equipment stored not higher than any adjacent wall.

38. No mechanical equipment shall be erected, constructed, or enlarged on the roof of any building on this site, unless all such equipment is contained within a completely enclosed architecturally integrated structure.

39. Prior to the issuance of building permits, construction documents shall fully illustrate compliance with the Citywide Refuse and Recyclable Materials Storage Regulations (SDMC section 142.0801) 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 December 3, 2002, on file in the Office of the Development Services Department.

LANDSCAPE REQUIREMENTS:

40. Prior to building occupancy complete landscape and irrigation shall be installed on the property in conformance to the approved Exhibit A, dated December 3, 2002, on file in the Office of the Development Services Department.

41. No change, modification or alteration shall be made to the project unless appropriate application or amendment of this Permit shall have been granted by the City.

42. In the event that a foundation only permit is requested by the Owner/Permittee, a site plan or staking layout plan shall be submitted identifying all landscape areas consistent with Exhibit "A," Landscape Concept Plan, dated December 3, 2002, on file in the Office of the Development Services Department. These landscape areas shall be clearly identified with a distinct symbol, noted with dimensions and labeled as "landscaping area."

43. Prior to issuance of any construction permits for structures (including shell), complete landscape and irrigation construction documents (including planting and irrigation plans, details and specifications) consistent with the Landscape Standards Manual shall be submitted to the City Manager for approval. The construction documents shall be in substantial conformance with Exhibit "A," Landscape Concept Plan, dated December 3, 2002, on file in the Office of the Development Services Department.

44. Prior to issuance of any engineering permits for right-of-way improvements, complete landscape construction documents for right-of-way improvements shall be submitted to the City Manager for approval. Improvement plans shall identify a station point for each street tree location. Each street tree location must take into account a 40 square feet area around each tree which is unencumbered by utilities. Driveways, utilities, drains, water and sewer laterals shall be designed so as not to prohibit the placement of street trees.

45. Location of street trees shall be identified and reserved during improvement activities and on all site plans prepared for subsequent building permit applications with actual installation taking place prior to issuance of a certificate of occupancy for a specific building permit. The construction documents shall be in substantial conformance with Exhibit "A," Landscape Concept Plan, dated December 3, 2002, on file in the Office of the Development Services Department.

46. 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.

47. All required landscape shall be maintained free of disease, weeds and litter at all times. Severe pruning or "topping" of trees is not permitted unless specifically noted in this Permit.

48. The Permittee or subsequent Owner shall be responsible for the maintenance of all street trees and landscape improvements (right-of-way landscaping) consistent with the Landscape Standards Manual.

49. 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.

ENGINEERING REQUIREMENTS:

50. Prior to the issuance of any building permits, the applicant shall assure by permit and bond the closure of the non-utilized driveway with City standard curb, gutter and sidewalk, on A Street, per Standard Drawings G-2, G-7, G-9 and SDG-100, satisfactory to the City Engineer.

51. Prior to the issuance of any building permits, the applicant shall assure by permit and bond the replacement on the existing curb with City standard curb and gutter, along the project frontage on A Street, per Standard Drawings G-2 and SDG-100, satisfactory to the City Engineer.

52. Prior to the issuance of any building permits, the applicant shall assure by permit and bond the replacement of damaged sidewalk with City standard sidewalk, along the project frontage on A Street, per Standard Drawings G-7 and G-9, satisfactory to the City Engineer.

53. Prior to the issuance of any building permits, the applicant shall assure by permit and bond the installation of a City standard full width alley, approximately 100 foot in length measured from the westerly property line, per Standard Drawing G-21, satisfactory to the City Engineer.

54. Prior to the issuance of any building permits, the applicant shall obtain an encroachment removal agreement from the City Engineer for the private storm drains, landscaping, irrigation and appurtenances in the City right-of-way.

55. The drainage system proposed with this development is subject to approval by the City Engineer.

56. Prior to the issuance of any building permits, the applicant shall obtain a bonded grading permit for the grading proposed for this project. All grading shall conform to requirements in accordance with the SDMC in a manner satisfactory to the City Engineer.

57. Prior to building occupancy, the applicant 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 owner shall obtain the required permits for work in the public right-of-way, satisfactory to the permit-issuing authority.

58. 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 Permit by filing a written protest with the City Clerk pursuant to California Government Code section 66020.

59. Prior to recording the Site Development Permit a subordination agreement will be required for the dedication of the drainage easement.

INFORMATION ONLY

Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of this Permit, may protest the imposition within ninety days of the approval of this Permit by filing a written protest with the City Clerk pursuant to California Government Code section 66020.

APPROVED by the City Council of the City of San Diego, by Resolution No. R-297433, on December 3, 2002.

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.

MICHAEL KOOTCHICK
Owner/Permittee

By _____

By _____

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

1/14/03
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