

RESOLUTION NUMBER R-298409

ADOPTED ON SEPTEMBER 23, 2003

WHEREAS, Sylmar La Jolla I, L.P., Owner/Permittee, filed an application with the City of San Diego for a permit to demolish an existing one-story duplex; construction of a new 2,480 square-foot, two-story single family residence with an attached 406 square-foot, two-car garage, and construction of a new 3,964 square-foot, two story duplex with two attached 400 square-foot, two-car garages and a deviation for a curb cut on Westbourne Street, on portions of a 10,199 square-foot site, known as the Marazul Townhomes project, located at 605/607 Westbourne Street, and legally described as Lot 6, Block B, Starkey's Prospect Park, Map No. 1729; in the La Jolla Community Planning area, in the City of San Diego, California, in the RM-1-1 Zone, Coastal Overlay, and Coastal Height Limitation Overlay zones; and

WHEREAS, on August 14, 2003, the Planning Commission of the City of San Diego considered Coastal Development Permit No. 10706 and Planned Development Permit No. 10707, and pursuant to Resolution No. 3411-PC voted to approve the Coastal Development Permit and to deny the Planned Development Permit; and

WHEREAS, Maury Liwerant appealed the Planning Commission's decision to the City Council of the City of San Diego; and

WHEREAS, the matter was set for public hearing on September 23, 2003, 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 Coastal Development Permit No. 10706 and Planned Development Permit No. 10707:

A. COASTAL DEVELOPMENT PERMIT

1. The proposed coastal development will not encroach upon any existing physical access way that is legally used by the public or any proposed public accessway identified in a Local Coastal Program land use plan; and the proposed coastal development will enhance and protect public views to and along the ocean and other scenic coastal areas as specified in the Local Coastal Program land use plan. The highest point of the proposed roof or any other proposed projection would not exceed 30 feet above grade as required by La Jolla/La Jolla Shores Local Coastal Program land use plan. The proposed coastal development is not within a view corridor and would not encroach upon any existing physical access way that is legally used or proposed by the public as identified in the La Jolla/La Jolla Shores Local Coastal Program land use plan.

2. The proposed coastal development will not adversely affect environmentally sensitive lands. There are no sensitive habitats on the site, nor is it adjacent to the City of San Diego's Multi Habitat Planning Area. The proposed project would not adversely affect environmentally sensitive lands and it has been determined not to have a significant environmental effect per Negative Declaration No. 1815 final report, dated May 30, 2003.

3. The proposed coastal development is in conformity with the certified Local Coastal Program land use plan and complies with all regulations of the certified Implementation Program. The proposed project is located in an area identified as low medium density (8-14 DU/acre) residential in the La Jolla Community Plan and is consistent with that land use designation. With the exception of the curb cut on Westbourne Street, the proposed coastal development would adhere to community goals for good building design, permanent control of height and building bulk so that structures in La Jolla would be in conformity with the adopted La Jolla Community Plan and La Jolla/La Jolla Shores Local Coastal Program land use plan.

4. For every Coastal Development Permit issued for any coastal development between the nearest public road and the sea or the shoreline of any body of water located within the Coastal Overlay Zone the coastal development is in conformity with the public access and public recreation policies of Chapter 3 of the California Coastal Act. The proposed coastal development does not lie between the nearest public road and the sea or the shoreline of any body of water located within the Coastal Overlay Zone and is not required to demonstrate conformance with the public access and



recreation policies of the California Coastal Act.

B. PLANNED DEVELOPMENT PERMIT

1. The proposed development will not adversely affect the applicable land use plan. The proposed project is located in an area identified as low medium density (8-14 DU/acre) residential in the La Jolla Community Plan and is consistent with that land use designation. The proposed development would adhere to community goals for good building design, permanent control of height and building bulk so that structures in La Jolla would be in conformity with the adopted La Jolla Community Plan and La Jolla/La Jolla Shores Local Coastal Program land use plan.

2. The proposed development will not be detrimental to the public health, safety, and welfare. The proposed new three residential units with six required parking spaces accessible from the alley would not be detrimental to the public health, safety, and welfare. Nor would the granting of the proposed deviation allowing a curb cut on Westbourne Street be injurious to the neighborhood based upon the pattern of development within the surrounding area. Further, the deviation will allow the owner reasonable use of the property by providing the development of a more desirable design site layout and configuration.

Therefore, the proposed development will not be detrimental to the public health, safety, and welfare.

3. The proposed development will comply with the regulations of the Land Development Code. With the exception of the proposed curb cut on Westbourne Street, the proposed development would comply with applicable regulations for parking, density, height, setbacks, floor area ratio, and landscaping for the RM-1-1 Zone of the Land Development Code. The proposed project would meet all parking requirements (accessible by the alley) as required by the San Diego Municipal Code Section [SDMC] 142.0525 and Section 142.0560 without the proposed driveway from Westbourne Street. However, the proposed development would comply with the regulations of the SDMC pursuant to the deviations as authorized by section 126.0602(b)(1). In that the project as proposed would provide for a more desirable project design and configuration than that which could be achieved by strict compliance to the regulations.

4. The proposed development, when considered as a whole, will be beneficial to the community. When the proposed development is considered as a whole, it would be beneficial to the community. The new construction for the three residential units would adhere to the La Jolla community goals for good building design, permanent control of height and building bulk. The incorporation of the curb cut and a setting back of the garage of the front unit would provide for offsets, articulation, and a better design. The buildings as laid out with setbacks, articulation and offsets provides for a compatible and

consistent pattern of development within the neighborhood. Therefore, the proposed development would be beneficial to the neighborhood and the community as a whole.

5. Any proposed deviations pursuant to Section 126.0602(b)(1) are appropriate for this location and will result in a more desirable project than would be achieved if designed in strict conformance with the development regulations of the applicable zone. Although one on-street parking space would be lost as a result of the curb cut, this project is not located within the Beach Impact Area. In addition, the project as designed would provide for nine off-street parking spaces where only six are required by the Code. The relationship of this structure to the adjacent structures provides for a transition to more intense development around the neighborhood and would provide a zone equivalent project. By designing the project to place a detached single family unit facing Westbourne Street, the actual, and apparent, bulk and scale of the project have been significantly reduced. The project also incorporates pitched roof design and encompasses exterior treatment and other architectural techniques to maintain the single family appearance as viewed from Westbourne Street of this multi-family neighborhood.

Therefore, the proposed deviation pursuant to Section 126.0602(b)(1) is appropriate for this location and would result in a more desirable project than that which would be achieved if designed in strict conformance with the development regulations of the applicable zone.

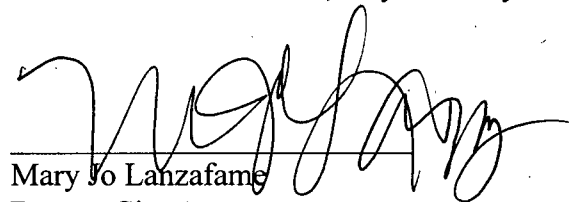
The above findings are supported by the minutes, maps and exhibits, all of which are herein incorporated by reference.

BE IT FURTHER RESOLVED that the appeal of Maury Liwerant is granted; the decision of the Planning Commission is overturned; and Coastal Development Permit No. 10706 and Planned Development Permit No. 10707 are granted to Sylmar La Jolla I, L.P.,

Owner/Permittee, under the terms and conditions set forth in the permit attached hereto and made part hereof.

APPROVED: CASEY GWINN, City Attorney

By



Mary Jo Lanzafame
Deputy City Attorney

MJL:cdk

09/26/03

Orig.Dept.:DSD

Job No. 410876

R-2004- 359

Reviewed by Vena Lewis



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

WHEN RECORDED MAIL TO
CITY CLERK
MAIL STATION 2A

SPACE ABOVE THIS LINE FOR RECORDER'S USE

COASTAL DEVELOPMENT PERMIT NO. 10706
PLANNED DEVELOPMENT PERMIT NO. 10707
MARAZUL TOWNHOMES - PROJECT NO. 1815
CITY COUNCIL

This Permit is granted by the City Council of the City of San Diego to Sylmar La Jolla I, L.P., Owner and Permittee, pursuant to San Diego Municipal Code [SDMC] sections 126.0708 and 126.0604. The 10,199 square-foot site is located at 605/607 Westbourne Street in the RM-1-1 Zone, Coastal Overlay, and Coastal Height Limitation Overlay zones of the La Jolla Community Plan. The project site is legally described as Lot 6, Block B, Starkey's Prospect Park, Map No. 1729.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner and Permittee to demolish an existing one-story duplex; construction of a new 2,480 square-foot, two-story single family residence with an attached 406 square-foot, two-car garage, and construction of a new 3,964 square-foot, two-story duplex with two attached 400 square-foot, two-car garages, and a deviation for a curb cut on Westbourne Street, described and identified by size, dimension, quantity, type, and location on the approved exhibits, dated September 23, 2003, on file in the Development Services Department. The exhibits are identified as follows:

- A-1: Landscape Concept Plan
- A-2: Development Plan
- A-3: Topography Plan

The project or facility shall include:

- a. Demolition of the existing duplex;
- b. Construction of a 2,480 square-foot two-story single family residence with an attached 406 square-foot two-car garage;



- c. Construction of a 3, 964 square-foot, two-story duplex with two attached 400 square-foot each, two-car garages;
- d. Installation of a 16-foot (16') wide driveway on Westbourne Street;
- e. Landscaping (planting, irrigation and landscape related improvements);
- f. Off-street parking spaces accessible from the adjacent alley; and
- g. 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.

STANDARD REQUIREMENTS:

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. 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 Owner/Permittee 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 permits, complete working drawings shall be submitted to the City Manager for approval. Plans shall be in substantial conformity to Exhibit A-2. 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.

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.

ENGINEERING REQUIREMENTS:

10. Prior to building occupancy, the Owner/Permittee shall conform to Section 62.0203 of the Municipal Code, "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.



11. Prior to the issuance of any building permits, the Owner/Permittee shall submit an elevation certificate signed by a Registered Civil Engineer or a Licensed Land Surveyor, certifying the pad elevation based on United States Geodetic Survey (USGS) datum, satisfactory to the City Engineer.

12. Prior to the issuance of any building permits, the Owner/Permittee shall obtain an encroachment removal agreement, from the City Engineer, for landscaping and two (2) private walkways in Westbourne Street.

13. Prior to the issuance of any construction permits, the Owner/Permittee shall enter into a Maintenance Agreement for the ongoing permanent BMP maintenance, satisfactory to the City Engineer.

14. Prior to the issuance of any construction permits, the Owner/Permittee shall incorporate and show the type and location of all post-construction Best Management Practices [BMPs] on the final construction drawings, consistent with the approved Water Quality Technical Report.

15. Prior to the issuance of any construction permits, the Owner/Permittee shall submit a Water Pollution Control Plan [WPCP]. The WPCP shall be prepared in accordance with the guidelines in Appendix E of the City's Storm Water Standards.

16. A corner record shall be recorded with the county recorder prior to the issuance of the Certificate of Compliance. The lead and tacks need to be reset with identification of the Land Surveyor.

17. Prior to the issuance of any building permits, the Owner/Permittee shall assure, by permit and bond, the installation of an 16-foot driveway on Westbourne Street, the installation of a D-27 sidewalk underdrain in Westbourne Street and the replacement of the existing curb with new curb and gutter, all satisfactory to the City Engineer.

LANDSCAPE REQUIREMENTS:

18. No change, modification or alteration shall be made to the project unless appropriate application or amendment of this Permit has been granted by the City. All plan specifications and notes mentioned in the conditions below shall be consistent with SDMC 142.0401 and Landscape Standards, Exhibit "A-1" Landscape Development Plan, Details and Notes on file in the Office of the Development Services Department.

19. All required landscape plant materials shall be maintained in a disease, weed, and litter free condition at all times. Severe pruning or "topping" of trees is not permitted. The trees shall be maintained in a safe manner to allow each tree to grow to it's mature height and spread.
20. The Permittee or subsequent Owner shall be responsible for the maintenance of all street trees and landscape improvements consistent with the Landscape Standards.
21. If any required landscape improvements (including existing or new planting, hardscape, landscape features, etc.) are damaged or removed during demolition or construction, they 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 and prior to final inspection.
22. Prior to issuance of a grading permit, complete landscape and irrigation plans, details and specifications (including maintenance specifications), shall be submitted to the City Manager for approval.
23. Prior to issuance of any construction permits for structures, complete landscape and irrigation plans, details and specifications (including maintenance specifications), shall be submitted to the City Manager for approval.
24. Prior to final inspection, it shall be the responsibility of the Permittee or subsequent Owner to install all required landscape. A No Fee Street Tree Permit shall be obtained for the installation, establishment, and on-going maintenance of all street trees.

PLANNING/DESIGN REQUIREMENTS:

25. No fewer than six off-street parking spaces shall be maintained on the property at all times in the approximate locations shown on the approved Exhibit "A-2." 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.
26. 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 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.
27. 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.

28. 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 regulation of the underlying zone. The cost of any such survey shall be borne by the Permittee.

29. 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.

30. All private outdoor lighting shall be shaded and adjusted to fall on the same premises where such lights are located.

31. The use of textured or enhanced paving shall meet applicable City standards as to location, noise and friction values.

32. The subject property and associated common areas on site shall be maintained in a neat and orderly fashion at all times.

33. Prior to the issuance of building permits, construction documents shall fully illustrate compliance with the Citywide Storage Standards for Trash and Recyclable Materials (SDMC) 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-2."

WASTEWATER REQUIREMENTS:

34. 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 Conditions, Covenants and Restrictions [CC&Rs] for the operation and maintenance of on-site private sewer mains that serve more than one ownership.

35. 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.



WATER REQUIREMENTS:

36. Prior to the issuance of any building permits, the Owner/Permittee shall assure, by permit and bond, the design and construction of three (3) new water service outside of any driveways, and the removal of all existing services within the Westbourne Street right-of-way adjacent to the project site, in a manner satisfactory to the Director of the Water Department and the City Engineer.

37. Prior to the issuance of any certificates of occupancy, public water facilities necessary to serve the development, including services, shall be complete and operational in a manner satisfactory to the Director of the Water Department and the City Engineer. All on-site water facilities shall be private including domestic, fire and irrigation systems.

38. The Owners/Permittees agrees to design and construct all proposed public water facilities in accordance with these conditions and 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. Water facilities, as shown on approved Exhibit "A-2," shall be modified at final engineering to comply with standards.

INFORMATION ONLY:

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 development 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-298409 on September 23, 2003.



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.

Sylmar La Jolla 1, L.P.
Owner/Permittee

By _____

By _____

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

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