

RESOLUTION NUMBER R-300248

ADOPTED ON MARCH 15, 2005

WHEREAS, Soghra Baker and Dr. Bruce B. Baker, Individuals, Owner/Permittee, filed an application with the City of San Diego for a coastal development permit and a site development permit to demolish two residences and one commercial building and construct a 3-story, six residential condominium dwelling units project known as the Oyster Shell project, located at 430, 432, and 440 Pearl Street, on the north side of Pearl Street, east of La Jolla Boulevard and east of Olivetas Street, and legally described as Lot 1, Frisbee's Subdivision, Map No. 6324, along with the southerly 100 feet of Lot 4, La Jolla Park, Map No. 352, in the La Jolla Community Plan area, in Zones 4 and 5 (which are proposed to be rezoned for the entire site to be Zone 5), of the La Jolla Planned District, Coastal Overlay zone, Coastal Height Limitation Overlay zone; and

WHEREAS, on January 13, 2005, the Planning Commission of the City of San Diego considered Coastal Development Permit [CDP] No. 10076, Site Development Permit [SDP] No. 10078, and Local Coastal Plan Amendment [LCPA] No. 10080, and pursuant to Resolution No. 3828-2-PC voted to recommend City Council approval of the Permit; and

WHEREAS, the matter was set for public hearing on March 15, 2005, 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. 10076, Site Development Permit No. 10078 and Local Coastal Plan Amendment No. 10080:

**A. COASTAL DEVELOPMENT PERMIT – SAN DIEGO MUNICIPAL CODE
[SDMCI SECTION 126.0708]**

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 9,982 square foot project site, currently containing three buildings to be demolished, is being developed with a 3-story, six residential condominium dwelling units project, and is located approximately two blocks from the coastline. The project features and overall development of the site will not encroach upon any existing or proposed physical access to the coast, nor will it obstruct ocean or other scenic views from public vantage points. The project site is located along a local collector street with a fairly moderate to high volume of vehicular and pedestrian traffic toward the adjacent coastal areas. This project will be developed fully within the private property of the project site, access for all off-street parking will be taken from the street and the development will maintain and improve the existing sidewalk system adjacent to the property.

2. The proposed coastal development will not adversely affect environmentally sensitive lands. The 9,982 square foot project site is currently occupied by three buildings to be demolished, with a proposal for a 4-story, project containing six residential condominiums, with a subterranean garage. The environmental review, Mitigated Negative Declaration No. 5397, determined that the project site was previously disturbed as part of the previous development. The site does not contain any sensitive coastal resources such as beaches, sensitive biology, or coastal bluffs. However, the project was revised to include mitigation measures for historical resources (archeological) and paleontological. Mitigation measures were incorporated into the project which reduces the potential impact to these resources to a level below significant. Surrounding properties have been fully developed.

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 3-story, six dwelling unit condominium project is located on property designated Medium Density Residential (15 – 30 du/acre) by the La Jolla Community Plan, the proposed project is at a density of 26 du/acre and is in compliance with the City of San Diego adopted La Jolla Community Plan and the Progress Guide and General Plan. In addition, the development of this site for six dwelling unit condominium project was determined to be in conformity with the land use, goals and objectives of the Certified Local Coastal Program and the Implementation Program as the policies designate this site for Medium Density Residential Land use. As recommended by the plan, the scale of the proposed project is compatible with existing commercial development to the east and existing multi-story residential

development to the north, west, and south. The subject property is located within walking distance of beaches, parks, retail services, transit, and cultural amenities. The front elevation of the proposed project is well articulated, and exhibits numerous windows, balconies, and other features which contribute to the pedestrian-oriented character of the area. As recommended by the plan, the project is designed to encourage walking and transit usage, reducing reliance on private automobiles. The density and design of the project conform to the policies of the La Jolla Community 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 9,982 square foot site, to be developed with a six dwelling unit condominium project, is not located between the first public road and the sea or coastline. The proposed development will be fully within private property of the project site. Public access to the sea and public recreation areas would not be impaired by the development of this site. The proposed project is designed to take access off the existing adjacent public street to the site and the pedestrian and vehicular traffic pattern would remain unaltered or in the case of the pedestrian sidewalk system will be improved.

B. SITE DEVELOPMENT PERMIT – SDMC SECTION 126.0504

1. The proposed development will not adversely affect the applicable land use plan. The proposed 6-unit condominium project is located on a site which is designated Medium Residential Land (15 – 30 du/acre) use by the La Jolla Community Plan. This project will match the existing land use and the current development pattern in the area. During the project's review, it was found to be consistent with the La Jolla Community Plan. The multi-story residential project will match the existing multi-story residential development to the north, west, and south. The proposed scale of the project is compatible with the existing commercial development to the east.

2. The proposed development will not be detrimental to the public health, safety, and welfare. The proposed 6-unit condominium project was reviewed by the City's Environmental Analysis Section. A Mitigated Negative Declaration Project No. 5397 was prepared which identified impacts to Historical Resources (Archeological), Paleontological Resources, and Geology. Mitigation measures were incorporated into the project which reduces the potential impact to a level below significant. No further adverse impacts to public health, safety, and welfare were identified by the environment document.

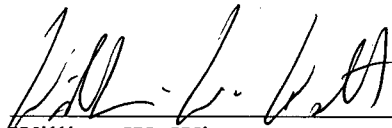
3. The proposed development will comply with the applicable regulations of the Land Development Code. The proposed 6-unit condominium project was found to comply with all of the development regulations, specifically Zone 5 of the La Jolla Planned District. The proposed design includes subterranean parking which is internal to the project, urban in design intended to meet the Transit-Oriented Development Standards and the development regulations of Zone 5 of the La Jolla Planned District. The subject property is located within walking distance of beaches, parks, retail services, transit, and cultural amenities. The front elevation of the proposed project is well articulated, and exhibits numerous windows, balconies, and other

features which contribute to the pedestrian-oriented character of the area, amenities which are encouraged by the development regulations of Zone 5 of the La Jolla Planned District.

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 Coastal Development Permit No. 10076, Site Development Permit No. 10078, and Local Coastal Plan Amendment No. 10080 is granted to Soghra Baker and Dr. Bruce B. Baker, Individual, Owner/Permittee, under the terms and conditions set forth in the attached permit which is made a part of this resolution.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By 
William W. Witt
Deputy City Attorney

WWW:pev
04/28/05
Or.Dept:Clerks
R-2005-1074
MMS #:1562
PERMIT - Permit Resolution 11-01-04

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

JOB ORDER NUMBER: 42-1355

COASTAL DEVELOPMENT PERMIT NO. 10076,
SITE DEVELOPMENT PERMIT NO. 10078,
AND LOCAL COASTAL PLAN AMENDMENT NO. 10080
OYSTER SHELL – PROJECT NO. 5397 [MMRP]

CITY COUNCIL

This Coastal Development Permit No. 10076, Site Development Permit No. 10078, and Local Coastal Plan Amendment No. 10080 is granted by the Council of the City of San Diego to Soghra Baker and Dr. Bruce B. Baker, Individuals, Owner/Permittee, pursuant to San Diego Municipal Code [SDMC] sections 126.0701, 126.0501, and 123.0102. The 9,982 square-foot site is located at 430, 432, and 440 Pearl Street, on the north side of Pearl Street, west of La Jolla Boulevard and east of Olivetas Street, in the Zone 4 and 5 (pending rezone, entire property to be Zone 5) of the La Jolla Planned District, Coastal Overlay zone (non-appealable), Coastal Height Limit Overlay zone of the La Jolla Community Plan Area. The project site is legally described as Lot 1, Frisbee's Subdivision, Map No. 6324, along with the southerly 100 feet of Lot 4, La Jolla Park, Map No. 352.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee to demolish two existing residences and a commercial building and construct a 3-story, 6-unit condominium building with subterranean garage, described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"], dated March 15, 2005, on file in the Development Services Department.

The project or facility shall include:


- a. One, 3-story, 6-unit condominium building to total 14,300 square feet of gross floor area, with a subterranean garage on a 9,982 square-foot property;
- b. Landscaping (planting, irrigation and landscape related improvements);

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- c. Off-street parking facilities – Subterranean garage with a minimum of fourteen parking spaces;
- 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.

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 applicant is informed that to secure these permits, substantial modifications to the building and site

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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." 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.


10. At all bus stops within the project area, if any, the applicant shall be responsible for installing sidewalk improvements where needed to comply with Americans with Disability Act [ADA] requirements and in accordance with standards contained in the City of San Diego Street Design Manual.

ENVIRONMENTAL/MITIGATION REQUIREMENTS:

11. Mitigation requirements are tied to the environmental document, specifically the Mitigation, Monitoring, and Reporting Program [MMRP]. These MMRP conditions are incorporated into the permit by reference or authorization for the project.

12. As conditions of Coastal Development Permit No. 10076, Site Development Permit No. 10078, the mitigation measures specified in the MMRP, and outlined in the Mitigated Negative Declaration No. 5397 shall be noted on the construction plans and specifications under the heading ENVIRONMENTAL/MITIGATION REQUIREMENTS.

13. The Owner/Permittee shall comply with the MMRP as specified in the Mitigated Negative Declaration No. 5397, satisfactory to the City Manager and City Engineer. Prior to issuance of the first grading permit, all conditions of the MMRP shall be adhered to the satisfaction of the City Engineer. All mitigation measures as specifically outlined in the MMRP shall be implemented for the following issue areas:

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Historical Resources (archaeology)
Paleontological Resources
Geology

AFFORDABLE HOUSING REQUIREMENTS:

14. Prior to the issuance of any building permits, the developer shall comply with the Affordable Housing Requirements of the City's Inclusionary Housing Ordinance (Chapter 14, Article 2, Division 13 of the Land Development Code).

ENGINEERING REQUIREMENTS:

15. This project shall comply with the conditions of the associated Tentative Map No. 10079.

16. Prior to issuance of the first building permit or grading permit, the pending sewer Easement Abandonment, Project No. 34691, needs to be completed to the satisfaction of the City Engineer.

LANDSCAPE REQUIREMENTS:

17. Prior to issuance of any building permits, complete landscape construction documents, including plans, details and specifications (including a permanent automatic irrigation system unless otherwise approved), shall be submitted to the City Manager for approval. The construction documents shall be in substantial conformance with Exhibit "A." No change, modification, or alteration shall be made unless appropriate application or amendment of this Permit shall have been granted.

18. Prior to issuance of building permits, interim landscape and erosion control measures, including hydro seeding of all disturbed land (all slopes and pads), shall be submitted to the satisfaction of the City Manager (including the City's Environmental Analysis Section) and City Engineer. All plans shall be in substantial conformance to Exhibit "A," and all other applicable conditions of related permits.

19. Prior to issuance of any Certificate of Occupancy, it shall be the responsibility of the Owner/Permittee to install all required landscape and obtain all required landscape inspections and to obtain a No Fee Street Tree Permit for the installation, establishment, and on-going maintenance of all street trees. Copies of these approved documents must be submitted to the City Manager.

20. 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 Owner/Permittee shall be responsible to maintain all street trees and landscape improvements consistent with the standards of the Land Development Manual.

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21. If any required landscape (including, but not limited to, existing or new plantings, hardscape, landscape features) indicated on the approved plans is damaged or removed during demolition, it shall be repaired or replaced in kind and equivalent size per the approved plans within thirty days of completion of construction by the Permittee. The replacement size of plant material after three years shall be the equivalent size of that plant at the time of removal (the largest size commercially available or an increased number) to the satisfaction of the City Manager.

22. A minimum of 50 percent of all paved surfaces used for pedestrian activity shall be composed of textured materials such as brick, stone, or tile consistent with Exhibit 'A' Landscape Concept Plan and SDMC section 103.1206(e)(9).

23. The sidewalk surface treatment within the public right-of-way shall be consistent with Exhibit "A" Landscape Concept Plan and the material specifications outlined in SDMC sections 103.1209(c)(3)(A), (B), (C), and (D).

PLANNING/DESIGN REQUIREMENTS:

24. No fewer than fourteen off-street parking spaces shall be maintained on the property at all times in the approximate locations shown on the approved Exhibit "A." 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.

25. 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.

26. 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.

27. 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.

28. 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.

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29. No building additions, including patio covers, shall be permitted unless approved by the City Manager. Patio covers may be permitted only if they are consistent with the architecture of the dwelling unit.
30. All signs associated with this development shall be consistent with sign criteria established by the Citywide sign regulations.
31. Prior to the issuance of any building permits, complete outdoor lighting information shall be submitted to the Development Services Department, Land Development Review Division, for review and approval. The outdoor lighting system shall be designed, manufactured and installed to allow shading, adjusting, and shielding of the light source so all outdoor lighting is directed to fall only onto the same premises as light sources are located, to the satisfaction of the City Manager.
32. The use of textured or enhanced paving shall meet applicable City standards as to location, noise and friction values.
33. The subject property and associated common areas on site shall be maintained in a neat and orderly fashion at all times.
34. No mechanical equipment, tank, duct, elevator enclosure, cooling tower, 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.
35. No merchandise, material, or equipment shall be stored on the roof of any building.
36. 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.
37. 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."

WASTEWATER REQUIREMENTS:

38. Prior to the issuance of any building or grading permits, the developer shall abandon any on-site public sewer mains, satisfactory to the Director of the Metropolitan Wastewater Department. Any associated public easements shall be vacated, satisfactory to the Director of the Metropolitan Wastewater Department.

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39. 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 condominium.

40. 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.

41. 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:

42. 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) outside of any driveway, and the disconnection at the water main of all existing unused services adjacent to the site, in a manner satisfactory to the Director of the Water Department and the City Engineer.

43. Prior to the issuance of any building permits, the Owner/Permittee shall apply for a plumbing permit for the installation of appropriate private back flow prevention device(s) on each water service (domestic, fire, and irrigation), in a manner satisfactory to the Director of the Water Department and the City Engineer.

44. 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.

45. 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 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 Council of the City of San Diego on March 15, 2005 by Resolution No. R-300248.

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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.

SOGHRA BAKER
Owner/Permittee

By _____

DR. BRUCE B. BAKER
Owner/Permittee

By _____

By _____

**NOTE: Notary acknowledgments
must be attached per Civil Code
section 1180 et seq.
MMS #1562**

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