

RESOLUTION NUMBER R-300881

ADOPTED ON SEPTEMBER 27, 2005

WHEREAS, David J. Kahn, Trustee of the David J. Kahn Trust, U.D.T., Owner/William Lyon Homes, Inc., Permittee, filed an application with the City of San Diego for a site development permit and a planned development permit to demolish an existing bowling center and construct seventy-seven multi-family condominium units known as the Madera project, located south of Iroquois Avenue and west of Cowley Way, at 3093 Clairemont Drive, and legally described as Parcel 1 of Parcel Map No. 10896, in the City of San Diego, Country of San Diego, State of California, according to map thereof, filed in the Office of the County Recorder of San Diego County, January 18, 1981 as file no. 81-015311 of Official Records, in the Clairemont Mesa Community Plan area, in the CC-1-3 zone (previously referred to as the CA-S zone) which is proposed to be rezoned to the RM-3-7 zone (previously referred to as the R-1000 zone); and

WHEREAS, on August 25, 2005, the Planning Commission of the City of San Diego considered Site Development Permit [SDP] No. 174389/Planned Development Permit [PDP] No. 169110, and pursuant to Resolution No. 3833-PC voted to recommend City Council approval of the Permits; and

WHEREAS, the matter was set for public hearing on September 27, 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; and

WHEREAS, after approval of the above referenced project by the City Council, David J. Kahn, Trustee of the David J. Kahn Trust, U.D.T., Owner, transferred the property to William

Lyon Homes, Inc., thereby making William Lyon Homes, Inc. the new Owner of the Madera project; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that it adopts the following findings with respect to Site Development Permit No. 174389/Planned Development Permit No. 169110:

**A. SITE DEVELOPMENT PERMIT – SAN DIEGO MUNICIPAL CODE [SDMC] SECTION 126.0504**

**1. Findings for all Site Development Permits:**

**a. The proposed development will not adversely affect the applicable land use plan.** The 3.7-acre site is currently designated for Community Center Commercial use in the Clairemont Mesa Community Plan. This designation has been acceptable for the bowling center because the center has not required proximity to Clairemont Drive for storefront visibility, access and parking, which is typically preferred for most commercial businesses. The location of the project site reduces its viability for a commercial development. The change in land use designation of this relatively small site area would not significantly affect the balance of commercial and residential land uses in the community.

The Clairemont Mesa Community Plan recommends that a range of residential densities be maintained in order to provide a variety of housing types for both ownership and rental at varying costs. The proposed multi-family residential use is an appropriate land use transition between commercial development and the surrounding residential neighborhoods. The proposed Medium Density Residential land use designation would allow a density range of 15 to 30 dwelling units per acre, or 56 to 111 residential units. The proposed 77-unit project has a density of 21 units per acre. This density is similar and compatible with adjacent existing residential development.

The Community Center Commercial land use designation works well for the existing bowling center; as the center does not rely heavily on storefront visibility and does not require immediate adjacency to Clairemont Drive, the nearby major street. It is likely that such a location would not work for other types of commercial uses, which typically require a more prominent storefront visibility. Located at the rear of the Clairemont Village Shopping Center, the subject site does not currently relate to either the shopping center or Clairemont Drive, from either a pedestrian or automobile orientation. Redesignation to residential development would provide for the subject site to relate to the adjacent residential neighborhood. The proposed project would provide for pedestrian connections to both the adjacent residential land uses along Iroquois Avenue and Cowley Way and to the commercial land uses which front directly on Clairemont Drive.

The project site is identified as a potential Neighborhood Village Center within the Strategic Framework Element of the General Plan. The Neighborhood Village Center indicates that the site could focus on more intense, efficient development with improved pedestrian and public transit connections. The proposed plan amendment would enable the land use changes necessary to implement additional residential development at this key location convenient to existing services, public transit, parks, schools and a library.

The proposed project provides energy-efficient building and landscaping techniques and energy-generating photovoltaic roofs throughout the development. The proposed project meets the guidelines of the LEED "Silver" Level Certification per Council Policy 900-14. The proposed project meets the goals and objectives of the Clairemont Community Plan and the City's Progress Guide and General Plan. Therefore, the proposed development would not adversely affect the applicable land use plans.

**b. The proposed development will not be detrimental to the public health, safety, and welfare.** The proposed residential development contributes to the housing supply in a location with proximity to community services. This location is expected to contribute to a reduction in vehicle trips and vehicle emissions through an increase in the area's jobs/housing balance. The proposed project is "sustainable" in that it provides energy and water conservation building and landscaping techniques and energy-generating photovoltaic roofs throughout the development. The sustainable features of the project would reduce dependence on fossil fuels and help improve air quality.

The permit prepared for the project will include various conditions and referenced exhibits of approval relevant to achieving project compliance with the applicable regulations of the SDMC in effect for this project. Such conditions, as determined by the decisionmaker, are intended to avoid adverse impacts upon the health, safety and general welfare of persons residing or working in the surrounding area. Further, a Negative Declaration was prepared for the project, which found no environmental impacts were associated with the proposed development.

The project will comply with the development regulations in effect for the subject property as described in Site Development Permit No. 174389 and Planned Development Permit No. 169110, and other regulations and guidelines pertaining to the subject property per the San Diego Municipal Code. The proposed development would be required to obtain Building Permits to show that all construction will comply with all applicable Building and Fire Code requirements. Therefore, the proposed development will not be detrimental to the public health, safety, and welfare.

**c. The proposed development will comply with the applicable regulations of the Land Development Code.** The Madera residential project proposes the demolition of an existing bowling center (Sunset Bowl) and the construction of a 77-unit, multi-family development (for sale condominiums) on an approximately 3.7-acre infill site. The proposed development would meet the purpose and intent of the Clairemont Mesa Community Plan by adding to a variety of housing types for both ownership and rental at varying costs. The project proposes deviations to the development standards of the City of San Diego Land Development Code [LDC] for minimum lot standards, interior side yard setback, and off-street

loading. In addition, the applicant has requested an exception from the Clairemont Mesa Height Limit.

Deviations - The SDMC allows flexibility in the application of development regulations (deviations) for projects where strict application of the base zone development regulations would restrict design options and result in a less desirable project, through the processing of a Planned Development Permit. Staff believes that the decisionmaker can make the appropriate Planned Development Permit findings based on the following information.

Lot 2 – The project proposes to deviate from the SDMC requirements for minimum lot area, lot width, and street frontage requirements for Lot 2 of the proposed project. The proposed lot area is 4,543 square feet where the minimum lot size is 7,000 square feet; the proposed lot width is 34 feet where 70 feet is the minimum; and the proposed street frontage is 34 feet where 100 feet is the minimum required. The permit has been conditioned to require the applicant to record a covenant over Lot 2 that shall restrict development of Lot 2 unless and until Lot 2 is consolidated with one or both of the adjacent, commercially zoned parcels along Clairemont Drive. The recorded covenant shall reserve in perpetuity for the benefit of Lot 1, a private sewer easement as well as a pedestrian access easement over Lot 2 and shall expressly provide that no development within Lot 2 shall impede access to the sewer line for maintenance and repair or prevent pedestrian access to the commercial areas. Therefore, staff supports the temporary deviations.

Side Yard Setback - The project proposes a 10- to 26-foot interior side yard setback, when the SDMC requires the setback to be the greater of 5 feet, or 10 percent of the lot width, which calculates to 28 feet

The Setback deviation is requested to provide site design flexibility while maintaining the overall community goals for improving architecture and landscaping, and providing a pedestrian friendly development. Strict conformance with the setback regulations would limit optimal use of the somewhat narrow and constricted shape of the property.

The requested setback deviations would be beneficial to the community by allowing for a pedestrian-oriented and friendly environment, increased street presence, appropriate massing, and a more articulated building; therefore, staff supports the requested setback deviations.

Off-Street Loading Space - The SDMC requires that one 12-foot by 35-foot, off-street loading space be provided for the Madera Project. The project design does not propose to include an off-street loading space for the following reasons:

The proposed deviation is requested due to the limited area within the project area, and is based upon the practicality of the use of the required loading zone. Assuming that sufficient space was available within the project site, one

centrally located loading zone for deliveries and/or moving vans in a residential project would not likely be utilized. Nearly one-third of the project units have frontage on one of two public streets, and multiple pedestrian accesses on those frontages into the project site, which would provide a closer and/or more convenient access location. Moreover, the subject condominium project is likely to have a lower resident turnover rate than an apartment project, and is therefore less likely to utilize the loading space, since the proposed drive aisles will provide an acceptable loading area. In addition, the project contains no commercial or recreational elements that could necessitate such a facility.

The requested deviation would be beneficial to the community by allowing for the provision of larger living areas within the units, and ensuring the development of the seventy-seven multi-family residential units when the City is experiencing a housing shortage. Therefore, staff supports the requested off-street loading area deviation.

Height Exception – The SDMC allows an applicant to request an exception from the Clairemont Mesa Height Limit by applying for a Site Development Permit in accordance with Process Five, with the City Council as decisionmaker. Exceptions may be made to the height limit if the City Council can make the supplemental Site Development Permit findings governing the Clairemont Mesa Height Limit Overlay Zone [CMHLOZ].

The Maximum height allowed in the proposed RM-3-7 zone is 40 feet; however, the project site is within the CMHLOZ which has a height limit of 30 feet. The applicant is requesting a maximum building height of 33.5 feet, and a maximum structure height (considering proposed grade) of 38.5 feet.

The purpose of the CMHLOZ is to provide supplemental height regulations for western Clairemont Mesa. The intent of these regulations is to ensure that the existing low profile development in Clairemont Mesa will be maintained and that public views from western Clairemont Mesa to Mission Bay and the Pacific Ocean are protected.

An exception to the height limit is requested in order to enhance the project architecture and provide energy-generating photovoltaic roofs throughout the development. The exception would permit roofline and façade variations while not increasing proposed floor area. The varied roofline would provide for more interesting interior spaces while, more importantly, allowing for increased efficiency of roof-tile solar panels. The building roofs would be constructed with energy-generating photovoltaic materials that optimize solar access with pitched roof forms.

Currently, a 40-foot building Height Limit Overlay Zone is located immediately north of the project site. In addition, the elevation of the project site is higher than that of the developments to the east and south; therefore, allowing the deviation would not significantly interfere with public views from western Clairemont Mesa to Mission Bay and the Pacific Ocean within the surrounding area. For the reasons described above, staff supports the height exception request and believes that the required supplemental findings can be made.

Each of the requested deviations and the height exception are appropriate for this location and would result in a more desirable project than would be achieved if designed in strict conformance with the development regulations of the applicable zone. The proposed development has otherwise been designed and conditioned to ensure conformance to the requirements of the LDC. Therefore, the proposed use will comply with the applicable regulations of the SDMC in effect for this site.

**2. Supplemental Findings – Clairemont Mesa Height Limit SDMC section 126.0504 (j)**

**a. The granting of an exception will not significantly interfere with public views from western Clairemont Mesa to Mission Bay and the Pacific Ocean within the surrounding area.** An exception to the height limit is requested in order to enhance the project architecture and provide energy-generating photovoltaic roofs throughout the development. The exception would permit roofline and façade variations while not increasing proposed floor area. The varied roofline would provide for more interesting interior spaces while, more importantly, allowing for increased efficiency of roof-tile solar panels. The building roofs would be constructed with energy-generating photovoltaic materials that optimize solar access with pitched roof forms.

Currently, a 40-foot building Height Limit Overlay Zone is located immediately north of the project site. The elevation of the project site is higher than that of the developments to the east and south; therefore, allowing the deviation will not significantly interfere with public views from western Clairemont Mesa to Mission Bay and the Pacific Ocean within the surrounding area.

**b. The granting of an exception is appropriate because there are existing structures over 30 feet in height and the proposed development will be compatible with surrounding 1-, 2-, or 3-story structures; or the granting of an exception is appropriate because there are topographic constraints peculiar to the land; or the granting of the exception is needed to permit roofline and facade variations, accents, tower elements, and other similar elements and the elements will not increase the floor area of the structure.** An exception to the height limit is requested in order to enhance the project architecture and provide energy-generating photovoltaic roofs throughout the development. The exception would permit roofline and façade variations while not increasing proposed floor area. The varied roofline would provide for more interesting interior spaces while, more importantly, allowing for increased efficiency of roof-tile solar panels. The building roofs would be constructed with energy-generating photovoltaic materials that optimize solar access with pitched roof forms.

Currently, a 40-foot building Height Limit Overlay Zone is located immediately north of the project site. In addition, the elevation of the project site is higher than that of the developments to the east and south; therefore, allowing the deviation would not significantly interfere with public views from western Clairemont Mesa to Mission Bay and the Pacific Ocean within the surrounding area. For the reasons described above, staff supports the height exception request and believes that the required supplemental findings can be made. Therefore, the granting of an exception is appropriate because the granting of the exception is needed to permit

roofline and facade variations, accents, and other similar elements and the elements will not increase the floor area of the structure.

**B. PLANNED DEVELOPMENT PERMIT - SDMC SECTION 126.0604**

**1. The proposed development will not adversely affect the applicable land use plan.** The 3.7-acre site is currently designated for Community Center Commercial use in the Clairemont Mesa Community Plan. This designation was acceptable for the Sunset Bowl because that use did not require proximity to Clairemont Drive for storefront visibility, access and parking, which is typically preferred for most commercial businesses. The location of the project site reduces its viability for a commercial development. The change in land use designation of this relatively small site area would not significantly affect the balance of commercial and residential land uses in the community. The proposed multi-family residential use is an appropriate land use transition between commercial development and the surrounding residential neighborhoods. The proposed Medium Density Residential land use designation would allow a density range of 15 to 30 dwelling units per acre, or 56 to 111 residential units. The proposed 77-unit project has a density of 21 units per acre. This density is similar and compatible with adjacent existing residential development.

The Clairemont Mesa Community Plan recommends that a range of residential densities be maintained in order to provide a variety of housing types for both ownership and rental at varying costs. Properties surrounding the project site include densities of 15-30 dwelling units per net residential acre, 30-45 dwelling units per net residential acre, and 10-15 dwelling units per net residential acre. The proposed density range of 15-30 dwelling units per net residential acre is in the middle-range of adjacent existing residential development. The project is proposing seventy-seven residential units, a density of 21 units per acre. This density is similar and compatible with adjacent existing residential development.

The existing land use designation for the subject site is Community Center Commercial. While this designation worked well for a use such as a bowling center, which does not rely heavily on storefront visibility, it may not work as well for other types of commercial uses as the location of the project site is significantly setback from the major street, Clairemont Drive. Located at the rear of the Clairemont Village Shopping Center, the subject site does not currently relate to either the shopping center or Clairemont Drive, from either a pedestrian or automobile orientation. Redesignation to residential development would provide for the subject site to relate to the adjacent residential neighborhood. The proposed project would provide for pedestrian connections to both the adjacent residential land uses along Iroquois Avenue and Cowley Way and to the commercial land uses which front directly on Clairemont Drive.

The project site is identified as a potential Neighborhood Village Center within the Strategic Framework Element of the General Plan. The Neighborhood Village Center indicates that the site could focus on more intense, efficient development with improved pedestrian and public transit connections. The proposed plan amendment would enable the land use changes necessary to implement additional residential development at this key location convenient to existing services, public transit, parks, schools and a library.

The proposed project provides energy-efficient building and landscaping techniques and energy-generating photovoltaic roofs throughout the development. The proposed project meets the guidelines of the LEED "Silver" Level Certification per Council Policy 900-14. The proposed project is in conformance with the Clairemont Community Plan goals for improvements in transportation, housing, and aesthetics and the City's General Plan. Therefore, no adverse impacts to the applicable land use plan would occur as a result of project implementation.

**2. The proposed development will not be detrimental to the public health, safety, and welfare.** The proposed residential development contributes to the housing supply in a location with proximity to community services. This location is expected to contribute to a reduction in vehicle trips and vehicle emissions through an increase in the area's jobs/housing balance. The proposed project is "sustainable" in that it provides energy and water conservation building and landscaping techniques and energy-generating photovoltaic roofs throughout the development. The sustainable features of the project would reduce dependence on fossil fuels and help improve air quality.

The permit prepared for the project will include various conditions and referenced exhibits of approval relevant to achieving project compliance with the applicable regulations of the SDMC in effect for this project. Such conditions, as determined by the decisionmaker, are intended to avoid adverse impacts upon the health, safety and general welfare of persons residing or working in the surrounding area. Further, a Negative Declaration was prepared for the project, which found no environmental impacts were associated with the proposed development.

The project will comply with the development regulations in effect for the subject property as described in Site Development Permit No. 174389/Planned Development Permit No. 169110, and other regulations and guidelines pertaining to the subject property per the SDMC. The proposed development will be required to obtain Building Permits to show that all construction will comply with all applicable Building and Fire Code requirements. 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.** The Madera residential project proposes the demolition of an existing bowling center (Sunset Bowl) and the construction of a 77-unit, multi-family development (for sale condominiums) on an approximately 3.7-acre infill site. The proposed development would meet the purpose and intent of the Clairemont Mesa Community Plan by adding to a variety of housing types for both ownership and rental at varying costs. The project proposes deviations to the development standards of the LDC for minimum lot standards, interior side yard setback, and off-street loading. In addition, the applicant has requested an exception from the Clairemont Mesa Height Limit.

Deviations - The SDMC allows flexibility in the application of development regulations (deviations) for projects where strict application of the base zone development regulations would restrict design options and result in a less desirable project, through the processing of a Planned Development Permit. Staff believes that the decisionmaker can make the appropriate Planned Development Permit findings based on the following information.



Lot 2 – The project proposes to deviate from the SDMC requirements for minimum lot area, lot width, and street frontage requirements for Lot 2 of the proposed project. The proposed lot area is 4,543 square feet where the minimum lot size is 7,000 square feet; the proposed lot width is 34 feet where 70 feet is the minimum; and the proposed street frontage is 34 feet where 100 feet is the minimum required. The permit has been conditioned to require the applicant to record a covenant over Lot 2 that shall restrict development of Lot 2 unless and until Lot 2 is consolidated with one or both of the adjacent, commercially zoned parcels along Clairemont Drive. The recorded covenant shall reserve in perpetuity for the benefit of Lot 1, a private sewer easement as well as a pedestrian access easement over Lot 2 and shall expressly provide that no development within Lot 2 shall impede access to the sewer line for maintenance and repair or prevent pedestrian access to the commercial areas. Therefore, staff supports the temporary deviations.

Side Yard Setback - The project proposes a 10- to 26-foot interior side yard setback, when the SDMC requires the setback to be the greater of 5 feet, or 10 percent of the lot width, which calculates to 28 feet

The Setback deviation is requested to provide site design flexibility while maintaining the overall community goals for improving architecture and landscaping, and providing a pedestrian friendly development. Strict conformance with the setback regulations would limit optimal use of the somewhat narrow and constricted shape of the property.

The requested setback deviations would be beneficial to the community by allowing for a pedestrian-oriented and friendly environment, increased street presence, appropriate massing, and a more articulated building; therefore, staff supports the requested setback deviations.

Off-Street Loading Space - The SDMC requires that one 12-foot by 35-foot, off-street loading space be provided for the Madera Project. The project design does not propose to include an off-street loading space for the following reasons.

The proposed deviation is requested due to the limited area within the project area, and is based upon the practicality of the use of the required loading zone. Assuming that sufficient space was available within the project site, one centrally located loading zone for deliveries and/or moving vans in a residential project would not likely be utilized. Nearly one-third of the project units have frontage on one of two public streets, and multiple pedestrian accesses on those frontages into the project site, which would provide a closer and/or more convenient access location. Moreover, the subject condominium project is likely to have a lower resident turnover rate than an apartment project, and is therefore less likely to utilize the loading space, since the proposed drive aisles will provide an acceptable loading area. In addition, the project contains no commercial or recreational elements that could necessitate such a facility.

The requested deviation would be beneficial to the community by allowing for the provision of larger living areas within the units, and ensuring the development of the seventy-seven multi-family residential units when the City is experiencing a housing shortage. Therefore, staff supports the requested off-street loading area deviation.

Height Exception – The SDMC allows an applicant to request an exception from the Clairemont Mesa Height Limit by applying for a Site Development Permit in accordance with Process Five, with the City Council as decisionmaker. Exceptions may be made to the height limit if the City Council can make the supplemental Site Development Permit findings governing the CMHLOZ.

The Maximum height allowed in the proposed RM-3-7 zone is 40 feet; however, the project site is within the CMHLOZ which has a height limit of 30 feet. The applicant is requesting a maximum building height of 33.5 feet, and a maximum structure height (considering proposed grade) of 38.5 feet.

The purpose of the Clairemont Mesa Height Limit Overlay Zone is to provide supplemental height regulations for western Clairemont Mesa. The intent of these regulations is to ensure that the existing low profile development in Clairemont Mesa will be maintained and that public views from western Clairemont Mesa to Mission Bay and the Pacific Ocean are protected.

An exception to the height limit is requested in order to enhance the project architecture and provide energy-generating photovoltaic roofs throughout the development. The exception would permit roofline and façade variations while not increasing proposed floor area. The varied roofline would provide for more interesting interior spaces while, more importantly, allowing for increased efficiency of roof-tile solar panels. The building roofs would be constructed with energy-generating photovoltaic materials that optimize solar access with pitched roof forms.

Currently, a 40-foot building Height Limit Overlay Zone is located immediately north of the project site. In addition, the elevation of the project site is higher than that of the developments to the east and south; therefore, allowing the deviation would not significantly interfere with public views from western Clairemont Mesa to Mission Bay and the Pacific Ocean within the surrounding area. For the reasons described above, staff supports the height exception request and believes that the required supplemental findings can be made.

Each of the requested deviations and the height exception are appropriate for this location and would result in a more desirable project than would be achieved if designed in strict conformance with the development regulations of the applicable zone. The proposed development has otherwise been designed and conditioned to ensure conformance to the requirements of the LDC. Therefore, the proposed use will comply with the applicable regulations of the SDMC in effect for this site.

**4. The proposed development, when considered as a whole, will be beneficial to the community.** The proposed residential development contributes to the housing

supply in a location with proximity to community services. This location is expected to contribute to a reduction in vehicle trips and vehicle emissions through an increase in the area's jobs/housing balance. The proposed project is "sustainable" in that it provides energy and water conservation building and landscaping techniques and energy-generating photovoltaic roofs throughout the development. The sustainable features of the project reduce the dependence on fossil fuels and help improve air quality.

The project site is identified as a potential Neighborhood Village Center within the Strategic Framework Element of the General Plan. The Neighborhood Village Center indicates that the site could focus on more intense, efficient development with improved pedestrian and public transit connections. The proposed plan amendment would enable the land use changes necessary to implement additional residential development at this key location convenient to existing services, public transit, parks, schools and a library.

The proposed multi-family residential use is an appropriate land use transition between commercial development and the surrounding residential neighborhoods. The proposed Medium Density Residential land use designation would allow a density range of 15 to 30 dwelling units per acre, or 56 to 111 residential units. The proposed 77-unit project has a density of 21 units per acre. This density is similar and compatible with adjacent existing residential development.

The proposed residential development contributes to the housing supply in a location with proximity to community services. This location is expected to contribute to a reduction in vehicle trips and vehicle emissions through an increase in the area's jobs/housing balance. The proposed project is "sustainable" in that it provides energy and water conservation building and landscaping techniques and energy-generating photovoltaic roofs throughout the development. The sustainable features of the project would reduce dependence on fossil fuels and help improve air quality. The proposed project is in conformance with the Clairemont Community Plan goals for improvements in transportation, housing, and aesthetics and the City's General Plan. Therefore, the proposed development, when considered as a whole, will be beneficial to the community.

**5. Any proposed deviations pursuant to SDMC/LDC 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.** The Madera residential project proposes the demolition of an existing bowling center (Sunset Bowl) and the construction of a 77-unit, multi-family development (for sale condominiums) on an approximately 3.7-acre infill site. The proposed development would meet the purpose and intent of the Clairemont Mesa Community Plan by adding to a variety of housing types for both ownership and rental at varying costs. The proposed project is designed to enhance and blend into the surrounding residential neighborhood.

The project proposes deviations to the development standards of the LDC for minimum lot standards, interior side yard setback, and off-street loading. In addition, the applicant has requested an exception from the Clairemont Mesa Height Limit.

Deviations - The SDMC allows flexibility in the application of development regulations (deviations) for projects where strict application of the base zone development regulations would restrict design options and result in a less desirable project, through the processing of a Planned Development Permit. Staff believes that the decisionmaker can make the appropriate Planned Development Permit findings based on the following information.

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Off-Street Loading Space - The SDMC requires that one 12-foot by 35-foot, off-street loading space be provided for the Madera Project. The project design does not propose to include an off-street loading space for the following reasons.

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frontages into the project site, which would provide a closer and/or more convenient access location. Moreover, the subject condominium project is likely to have a lower resident turnover rate than an apartment project, and is therefore less likely to utilize the loading space, since the proposed drive aisles will provide an acceptable loading area. In addition, the project contains no commercial or recreational elements that could necessitate such a facility.

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The purpose of the CMHLOZ is to provide supplemental height regulations for western Clairemont Mesa. The intent of these regulations is to ensure that the existing low profile development in Clairemont Mesa will be maintained and that public views from western Clairemont Mesa to Mission Bay and the Pacific Ocean are protected.

An exception to the height limit is requested in order to enhance the project architecture and provide energy-generating photovoltaic roofs throughout the development. The exception would permit roofline and façade variations while not increasing proposed floor area. The varied roofline would provide for more interesting interior spaces while, more importantly, allowing for increased efficiency of roof-tile solar panels. The building roofs would be constructed with energy-generating photovoltaic materials that optimize solar access with pitched roof forms.

Currently, a 40-foot building Height Limit Overlay Zone is located immediately north of the project site. In addition, the elevation of the project site is higher than that of the developments to the east and south; therefore, allowing the deviation would not significantly interfere with public views from western Clairemont Mesa to Mission Bay and the Pacific Ocean within the surrounding area. For the reasons described above, staff supports the height exception request and believes that the required supplemental findings can be made.

Each of the requested deviations and the height exception are appropriate for this location and would result in a more desirable project than would be achieved if designed in strict conformance with the development regulations of the applicable zone. The proposed

development has otherwise been designed and conditioned to ensure conformance to the requirements of the LDC. Therefore, the proposed deviations 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.

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

BE IT FURTHER RESOLVED, that Site Development Permit No. 174389/Planned Development Permit No. 169110 is granted to William Lyons Homes, Inc., 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



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Douglas K. Humphreys  
Deputy City Attorney

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12/01/05 Cor.Copy  
Or.Dept:Clerks  
R-2006-345  
MMS #2422  
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**RECORDING REQUESTED BY**

CITY OF SAN DIEGO  
DEVELOPMENT SERVICES  
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 42-3734

SITE DEVELOPMENT PERMIT NO. 174389  
PLANNED DEVELOPMENT PERMIT NO. 169110  
**MADERA – PROJECT NO. 57744**  
CITY COUNCIL

This site development permit/planned development permit is granted by the Council of the City of San Diego to William Lyon Homes, Inc., Owner/Permittee, pursuant to San Diego Municipal Code [SDMC] sections 126.0504 and 126.0604. The approximately 3.7-acre site is located at 3093 Clairemont Drive in the CC-1-3 zone (proposed RM-3-7 zone), the Clairemont Mesa Height Limit Overlay Zone and the Clairemont Mesa Community Plan Implementation Zone (Type B), within the Clairemont Mesa Community Plan. The project site is legally described as Parcel 1 of Parcel Map No. 10896, in the City of San Diego, County of San Diego, State of California, according to map thereof, filed in the Office of the County Recorder of San Diego County, January 18, 1981 as file no. 81-015311 of Official Records.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner and Permittee to demolish the bowling center and construct seventy-seven multi-family condominium units, described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated September 27, 2005, on file in the Development Services Department.

The project or facility shall include:

- a. Seventeen individual buildings, three stories in height, with four distinct layouts (Buildings "A," "B," "C," and "D"): Building "A" would have six units per building, and there would be three Building "A"s on the project site for a total of eighteen units. Building "B" would house five units per building, with six Building "B"s proposed for a total of thirty units. Building "C" would consist of four units per building, with five Building "C"s proposed for a total of twenty units. Building "D" would consist of three units per buildings, with three Building "D"s proposed for a total of nine units;

- b. Landscaping (planting, irrigation and landscape related improvements);
- c. Off-street parking facilities;
- d. Over 12,700 square-feet of usable open space, a swimming pool, and recreation area; 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.

**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 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" conditions(s) back to the discretionary body which approved the Permit for a determination by that body as to whether all of the findings necessary for the issuance of the proposed permit can still be made in the absence of the "invalid" condition(s). Such hearing shall be a hearing de novo and the discretionary body shall have the absolute right to approve, disapprove, or modify the proposed permit and the condition(s) contained therein.

10. This Permit shall become effective with recordation of the corresponding final subdivision map for and approval of the project site.

**AFFORDABLE HOUSING REQUIREMENTS:**

11. 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).

**SUSTAINABLE ENERGY REQUIREMENT:**

12. Prior to the issuance of the first building permit, construction documents shall fully illustrate the incorporation of a roof-mounted photovoltaic system consisting of solar panels sufficient to generate at least 50 percent of the proposed project's projected energy consumption, as established by Council Policy 900-14.

**ENGINEERING REQUIREMENTS:**

13. Prior to the issuance of any construction permit, the applicant shall enter into a Maintenance Agreement for the ongoing permanent Best Management Practices [BMP's] maintenance.
14. Prior to the issuance of any construction permit, the subdivider shall incorporate any construction BMP's necessary to comply with Chapter 14, Article 2, Division 1 (Grading Regulations) of the SDMC, into the construction plans or specifications.
15. Prior to the issuance of any construction permit the applicant shall incorporate and show the type and location of all post-construction BMP's on the final construction drawings, in accordance with the approved Water Quality Technical Report.
16. The subdivider shall obtain an Encroachment Maintenance and Removal Agreement for proposed sidewalk underdrains on Cowley Way.
17. The subdivider shall obtain a 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.
18. Development of this project shall comply with all requirements of State Water Resources Control Board [SWRCB] Order No. 99-08 DWQ and the Municipal Storm Water Permit, Order No. 2001-01 (NPDES General Permit No. CAS000002 and CAS0108758), Waste Discharge Requirements for Discharges of Storm Water Runoff Associated With Construction Activity. In accordance with said permit, a Storm Water Pollution Prevention Plan [SWPPP] and a Monitoring Program Plan shall be implemented concurrently with the commencement of grading activities, and a Notice of Intent [NOI] shall be filed with the SWRCB.
19. A copy of the acknowledgment from the SWRCB that an NOI has been received for this project shall be filed with the City of San Diego when received; further, a copy of the completed NOI from the SWRCB showing the permit number for this project shall be filed with the City of San Diego when received. In addition, the owner(s) and subsequent owner(s) of any portion of the property covered by this grading permit and by SWRCB Order No. 99 08 DWQ, and any subsequent amendments thereto, shall comply with special provisions as set forth in SWRCB Order No. 99 08 DWQ.
20. Prior to building occupancy, the applicant shall construct curb ramps at the corner of Cowley Way and Iroquois Avenue to the satisfaction of the City Engineer.
21. All driveways and curb openings shall comply with City Standard Drawings G-14A , G-16 and SDG-100 to the satisfaction of the City Engineer. The sidewalk transitions shall be constructed behind the driveway apron.
22. Prior to issuance of a building permit, applicant shall record a covenant over Lot 2 that shall restrict development of Lot 2 unless and until Lot 2 is consolidated with one or both of the adjacent, commercially zoned parcels along Clairemont Drive. The recorded

covenant shall reserve in perpetuity for the benefit of Lot 1, a private sewer easement as well as a pedestrian access easement over Lot 2 and shall expressly provide that no development within Lot 2 shall impede access to the sewer line for maintenance and repair or prevent pedestrian access to the commercial areas. Satisfaction of this condition satisfies the requirements of the grant of deviation for minimum lot area, lot width, and street frontage requirements for Lot 2.

23. This project shall comply with all current street lighting standards according to the City of San Diego Street Design Manual (Document No. 297376, filed November 25, 2002) and the amendment to Council Policy 200-18 approved by City Council on February 26, 2002 (Resolution R-296141) satisfactory to the City Engineer. This may require (but not be limited to) installation of new street light(s), upgrading light from low pressure to high pressure sodium vapor and/or upgrading wattage.

**LANDSCAPE REQUIREMENTS:**

24. Prior to final inspection and/or certificate of occupancy, it shall be the responsibility of the Permittee or subsequent Owner to install all required landscape. Phased occupancy may be permitted as approved by the Landscape Review staff upon submittal of the building permits. A No Fee Street Tree Permit, if applicable, shall be obtained for the installation, establishment and on-going maintenance of all street trees.

25. In the event that the Landscape Plan and the Site Plan conflict, the Site Plan shall be revised to be consistent with the Landscape Plan such that landscape areas are consistent with the Exhibit "A," Landscape Development Plan.

26. If any existing hardscape or landscape indicated on the approved plans is damaged or removed during demolition or construction, it shall be the responsibility of the Permittee/Owner, to assure that it shall be repaired and/or replaced in kind and equivalent size per the approved plans within fifteen days.

27. Prior to issuance of any grading permits, complete landscape construction documents, including an automatic permanent irrigation system, shall be submitted to the City Manager for approval. The plans shall be in substantial conformance to Exhibit "A." No change, modification, or alteration shall be made unless appropriate application or amendment of this Permit shall have been granted.

28. Prior to issuance of any construction permits for structures (including shell), complete landscape and irrigation construction documents consistent with the Landscape Standards (including planting and irrigation plans, details and specifications) shall be submitted to the City Manager for approval. The construction documents shall be in substantial conformance with Exhibit "A," Landscape Development Plan.

29. Prior to issuance of any engineering permits for right-of-way improvements, complete landscape construction documents for right-of-way and median (if applicable) improvements shall be submitted to the City Manager for approval. Right-of-Way improvement plans shall take into account a 40 square foot 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.

30. Prior to issuance of engineering permits for grading, construction documents for slope planting or revegetation, including hydroseeding and irrigation shall be submitted in accordance with the Landscape Standards and to the satisfaction of the City Manager. All plans shall be in substantial conformance with Exhibit "A" (including Environmental conditions).

31. Installation of slope planting and erosion control including seeding of all disturbed lands (slopes and pads) consistent with the approved landscape and grading plans is considered to be in the public interest. The Permittee shall initiate such measures as soon as the grading has been accomplished. Such erosion control/slope planting and the associated irrigation systems (temporary and/or permanent) and appurtenances shall be installed in accordance with the approved plans and the Landscape Standards.

32. All required landscape shall be maintained in a disease, weed, and litter free condition at all times. Severe pruning or "topping" of trees is not permitted unless specifically noted in this Permit. The trees shall be maintained in a safe manner to allow each tree to grow to its mature height and spread.

33. 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.

34. The Permittee or subsequent Owner(s) shall be responsible for the installation and maintenance of all landscape improvements consistent with the Landscape Regulation and Landscape Standards. Invasive species are prohibited from being planted adjacent to any canyon, water course, wet land or native habitats within the city limits of San Diego. Invasive plants are those which rapidly self propagate by air born seeds or trailing as noted in section 1.3 of the Landscape Standards.

**FACILITIES FINANCING REQUIREMENTS:**

35. Prior to building permit issuance, the Owner/Permittee shall be required to pay a Residential Development Impact Fee. The Owner/Permittee shall be subject to the fees in effect at the time of the building permit issuance.

**PLANNING/DESIGN REQUIREMENTS:**

36. No fewer than 173 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.

37. 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, or approved as shown on Exhibit "A." Where there is a conflict between a condition 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 of this Permit establishes a provision which is more restrictive than the corresponding regulation of the underlying zone, then the condition shall prevail.

38. 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 or approved as shown on Exhibit "A."

39. 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.

40. 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.

41. No building additions, including patio covers, shall be permitted unless approved by the homeowners association and the City Manager. Patio covers may be permitted only if they are consistent with the architecture of the dwelling unit.

42. All signs associated with this development shall be consistent with sign criteria established by either of the following:

- a. Approved project sign plan (Exhibit "A"); or
- b. Citywide sign regulations.

43. The applicant shall post a copy of the approved discretionary permit or Vesting Tentative Map in the sales office for consideration by each prospective buyer

44. All private outdoor lighting shall be shaded and adjusted to fall on the same premises where such lights are located and in accordance with the applicable regulations in the SDMC.

45. 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. Complete lighting information shall include a plan view photometric analysis indicating an isofoot candle plot and a point by point plot to include all areas within the private property and to extend a minimum of 50 feet beyond the property line, construction details as necessary to direct

installation of the outdoor lighting system, manufacturers name, visors, prisms, lenses and reflectors and a lighting plan locating each fixture in plan view and a legend. 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.

46. Prior to the issuance of any occupancy permit, a night inspection shall be required to verify compliance of the outdoor lighting system. No light shall be directed to fall outside the property line. Light levels along the perimeter of the property shall be measured no higher than three footcandles. Light levels throughout the development shall be the least practical level necessary to effectively illuminate the operation. Sky glow or light halo shall be reduced to the greatest extent practical and in no case shall initial light levels be measured exceeding eight footcandles anywhere within the site. The Owner/Permittee, or an authorized representative, shall provide an illuminance meter to measure light levels as required to establish conformance with the conditions of this Permit during the night inspection. Night inspections may be required additional fees as determined by the City Manager.

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

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

49. 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 six feet in height and, provided further, that no merchandise, material or equipment stored not higher than any adjacent wall.

50. 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.

51. 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."

52. Prior to occupancy of the first residential unit, the applicant shall install a pedestrian connection (e.g. landscaping, enhanced paving, etc.) along Lot 2, between the project and Clairemont Drive, to the satisfaction of the City Manager.

**WASTEWATER REQUIREMENTS:**

53. 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.

54. Prior to the issuance of any engineering or building permits, 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 private sewer facilities that serve more than one ownership.

55. Prior to the issuance of any engineering permits, the developer shall obtain an Encroachment Maintenance and Removal Agreement for private sewer facilities installed in or over the public right of way.

56. The developer shall design and construct any proposed public sewer facilities to the most current edition of the City of San Diego's Sewer Design Guide.

57. 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:**

58. 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.

59. 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 Water Department, the City Engineer, and the Cross Connection Supervisor in the Customer Support Division of the Water Department.

60. 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.

61. 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 September 27, 2005 by Resolution No. R-300881.



AUTHENTICATED BY THE CITY MANAGER

By \_\_\_\_\_

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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.

WILLIAM LYON HOMES, INC.,  
Owner/Permittee

By \_\_\_\_\_

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

PERMIT/OTHER – Permit Shell 11-01-04