

RESOLUTION NUMBER R-301013

ADOPTED ON NOVEMBER 1, 2005

WHEREAS, the Del Cerro Heights Homeowner's Association, a California General Corporation, Don Warfield, President, Owner/Permittee, filed an application with the City of San Diego for a Planned Development Permit to amend Planned Residential Permit No. 15 to allow controlled access of the "Upper Gate" to provide ingress and egress to residents of Del Cerro Heights, and controlled access to emergency services for the project known as the Del Cerro Heights Upper Gate project, located west of Pasatiempo Avenue, between Rockhurst Court and Camino Rico, easterly of College Avenue, and legally described as Del Cerro Heights, Units 1-4, Map Nos. 7586, 7923, 7924, and 7925, in the Navajo Community Plan area, in the RS-1-7 (Single-Family Residential) zone; and

WHEREAS, on February 3, 2005, the Planning Commission of the City of San Diego considered Planned Development Permit [PDP] No. 9812, and pursuant to Resolution No. 3650-PC voted to deny the Permit; and

WHEREAS, the Del Cerro Heights Homeowner's Association and Lisa Worley appealed the Planning Commission decision to the Council of the City of San Diego; and

WHEREAS, the matter was set for public hearing on November 1, 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 Planned Development Permit No. 9812:

A. PLANNED DEVELOPMENT PERMIT – SAN DIEGO MUNICIPAL CODE/LAND DEVELOPMENT CODE [SDMC/LDC] SECTION 126.0604

1. The proposed development will not adversely affect the applicable land use plan. Staff has reviewed the application for consistency with the adopted Navajo Community Plan which designates this area for single-family residential land use at three to eight dwelling units per net acre. The Community Facilities Element of the Navajo Community Plan acknowledges that the effectiveness of emergency services is diminished in the Navajo Community due to a fragmented street pattern requiring longer response times. In addition, one of the policies of the Mobility Element of the adopted Strategic Framework Element is to promote an interconnected street/trail network. The proposed opening of the Upper Gate for emergency and residential use would conform to the cited policies. Opening of the Upper Gate would also help facilitate access to Madra Avenue and Murray Park Drive, streets identified as two-lane collectors in the Navajo Community Plan. The project shall be conditioned to provide appropriate mechanical means of facilitating ingress and egress for residents and emergency personnel. Therefore, it is determined that with these provisions, the proposed modification of the Upper Gate to maintain access for residents and emergency personnel will not adversely affect the Community Plan.

2. The proposed development will not be detrimental to the public health, safety, and welfare. Staff has reviewed the proposed modification to allow controlled access to the existing gate for residents and emergency personnel. Staff has determined that the principal reasoning to maintain controlled access to and from the development is to enhance the public health, safety and welfare for residents of the 169 units of the 179-unit development that could be expected to benefit. Based on a traffic analysis, staff has determined that there will be no significant detrimental impacts to neighboring streets that might be detrimental to the health, safety or welfare of other residents in the community. Further, the modification will bring the property into compliance with adopted Fire Department Policy which requires two operational access points for developments which exceed 100 residential units, thereby enhancing public health, safety and welfare.

3. The proposed development will comply with the regulations of the San Diego Municipal Code/Land Development Code. Staff has determined that the proposed development will remain unchanged and that approved conditions of PRD 15 will remain in effect, with the exception of the Upper Gate being allowed for controlled access. Mechanical means to provide controlled access is required to be installed in accordance with regulations of the San Diego Municipal Code/Land Development Code and adopted Uniform Codes, and will therefore comply with said Codes.

4. The proposed development, when considered as a whole, will be beneficial to the community. Staff has reviewed the request and determined that the provision of controlled access for residents of the development will be beneficial to the community by providing an alternative means of access and will utilize an established circulation component of the PRD. The alternate access will also benefit the community by reducing the number of vehicle trips which may use the existing Lower Gate onto Camino Rico.

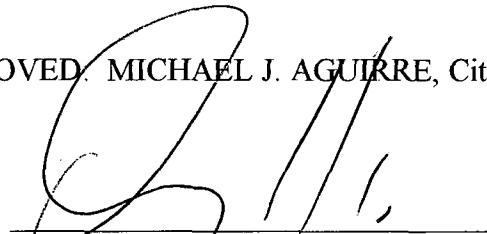
5. Any proposed deviations pursuant to SDMC/LDC section 126.0602(b)(1) are appropriate for this location and will result in a more desirable project than would be achieved if designed in strict conformance with the development regulations of the applicable zone. Staff has reviewed the request and determined that no deviations are being requested and that no modifications are being made to the existing developed PRD. The utilization of an existing access point developed with the original PRD will utilize an existing access point.

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 the appeal of the Del Cerro Heights Homeowner's Association is granted; the decision of the Planning Commission is overruled; and Planned Development Permit No. 9812 is granted to the Del Cerro Heights Homeowner's Association, a California General Corporation, Don Warfield, President, 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



Douglas K. Humphreys
Deputy City Attorney

DKH:pev
11/08/05
Or.Dept:Clerk
R-2006-472
MMS #2686

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 42-1254

PLANNED DEVELOPMENT PERMIT NO. 9812
DEL CERRO HEIGHTS UPPER GATE
AMENDMENT TO PLANNED RESIDENTIAL DEVELOPMENT PERMIT NO. 15
CITY COUNCIL

This Planned Development Permit [PDP] No. 9812, amending Planned Residential Permit No. 15, is granted by the City Council of the City of San Diego to the Del Cerro Heights Homeowner's Association, a California General Corporation and Don Warfield, President, Owner/Permittee, pursuant to San Diego Municipal Code [SDMC] section 126.0601. The 52-acre site is generally located west of Pasatiempo Avenue, between Rockhurst Court and Camino Rico, easterly of College Avenue in the RS-1-7 (Single-Family Residential) zone of the Navajo Community Plan Area. The project site is legally described as Del Cerro Heights, Units 1-4, Map Nos. 7586, 7923, 7924 and 7925.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee to amend PRD 15 to allow controlled access of the "Upper Gate" to provide ingress and egress to residents of Del Cerro Heights, and emergency services, described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated November 1, 2005, on file in the Development Services Department.

The project or facility shall include:

- a. An existing PRD No. 15, as approved by the City Council on October 14, 1971, developed with a total of 179 single-family residential dwelling units;
- b. Landscaping (planting, irrigation and landscape related improvements);
- c. Off-street parking facilities;
- d. Accessory improvements including fences and recreational facilities; 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. Implementation of this approved amendment including modifications to the existing upper gate to facilitate controlled access, 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 modification 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 permits. The applicant is informed that to secure these permits, substantial modifications to the 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 permits, complete 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.

PLANNING/DESIGN REQUIREMENTS:

10. The Upper Gate shall be available to residents of Del Cerro Heights Planned Residential Development No. 15 and emergency services personnel only. Deliveries, guests and all other persons and vehicles shall be required to access PRD 15 from the existing Lower Gate via Camino Rico.

11. All other conditions of Planned Residential Development No. 15, as approved by the City Council on October 14, 1971, are incorporated into this Permit by reference and shall remain in full force and effect.

12. 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.

INFORMATION ONLY:

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

APPROVED by the City Council of the City of San Diego on November 1, 2005 by Resolution No. R-301013.

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.

DEL CERRO HEIGHTS HOMEOWNER'S
ASSOCIATION,
a California General Corporation
Owner/Permittee

By _____
Don Warfield, President

By _____

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

PERMIT/OTHER – Permit Shell 11-01-04

R - 301013