

RESOLUTION NUMBER R-301817

DATE OF FINAL PASSAGE AUGUST 7, 2006

WHEREAS, Pacific Beach Investment Trust, Owner/Permittee, filed an application with the City of San Diego for a coastal development permit/planned development permit to demolish an existing commercial building on site for the construction of a mixed-use development containing eighteen residential units and seven commercial retail spaces on portions of a 0.503-acre site known as the Mission at PB Drive project, located at 4105 and 4135 Mission Boulevard on the northeast corner of Mission Boulevard and Pacific Beach Drive, and legally described as Parcel 1 and 2 of Parcel Map No. 2124, in the Pacific Beach Community Plan area, in the CV-1-2 zone, Coastal Overlay Zone (Non-Appealable Area 2), Coastal Height Limitation Overlay Zone, Parking Impact Overlay Zone and Transit Area Overlay zone; and

WHEREAS, on June 22, 2006, the Planning Commission of the City of San Diego considered Coastal Development Permit [CDP] Permit No. 116352/Planned Development Permit [PDP] No. 116353, and pursuant to Resolution No. 4074-PC voted to approve the Permit; and

WHEREAS, the Pacific Beach Community Planning Committee and Richard S. Pearson appealed the Planning Commission decision to the Council of the City of San Diego; and

WHEREAS, under Charter section 280(a)(2) this resolution is not subject to veto by the Mayor because this matter requires the City Council to act as a quasi-judicial body and where a public hearing was required by law implicating due process rights of individuals affected by the

decision and where the Council was required by law to consider evidence at the hearing and to make legal findings based on the evidence presented; and

WHEREAS, the matter was set for public hearing on August 7, 2006, 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. 116352/Planned Development Permit No. 116353:

**A. COASTAL DEVELOPMENT PERMIT SAN DIEGO MUNICIPAL CODE
[SDMC] 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 project proposes to demolish the existing single-story commercial retail building and the commercial parking lot for the construction of a mixed-use development containing eighteen residential units and seven commercial retail spaces. The project site is located at 4105 and 4135 Mission Boulevard on the northeast corner of Mission Boulevard and Pacific Beach Drive. The Pacific Beach Community Plan [PBCP] designates the proposed project site as Commercial-Visitor and allows a residential density of up to 43 dwelling units per acre [du/ac] for projects designed as a transit oriented development.

The project site, occupying 0.503-acres, could accommodate fifteen dwelling units based on the underling CV-1-2 zone and twenty-two dwelling units based on the density bonus provided by the community plan. The applicant has chosen to utilize the density bonus provision in the community plan, which would allow three additional units above the density allowed by the underlying zone. Mission Boulevard and Pacific Beach Drive are not designated as a physical accessway or as a visual corridor to the local beaches within the adopted PBCP and Local Coastal Program Land Use Plan, and the proposed project would not affect these resources. The proposed development would occur on private property.

2. The proposed coastal development will not adversely affect environmentally sensitive lands. The project proposes to demolish the existing single-story commercial retail building and the commercial parking lot for the construction of a mixed-use development

containing eighteen residential units and seven commercial retail spaces. The project site is located at 4105 and 4135 Mission Boulevard on the northeast corner of Mission Boulevard and Pacific Beach Drive. The project site is located within an urbanized area of the Pacific Beach community and does not contain environmentally sensitive lands; therefore, the proposed mixed-use development would not adversely affect these resources.

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 project site is located at 4105 and 4135 Mission Boulevard on the northeast corner of Mission Boulevard and Pacific Beach Drive. The PBCP designates the proposed project site as Commercial-Visitor and allows a residential density of up to 43 du/ac for projects designed as a transit oriented development. The project site, occupying 0.503-acres, could accommodate fifteen dwelling units based on the underlying CV-1-2 zone and twenty-two dwelling units based on the density bonus provided by the community plan. The applicant has chosen to utilize the density bonus provision in the community plan, which would allow three additional units above the density allowed by the underlying zone.

The proposed project would implement the Residential and Commercial Element goals and recommendations of the community plan of providing additional housing opportunities, promoting a mixture of commercial uses and services within the community, actively encouraging mixed-use development in conjunction with transit corridors such as Mission Boulevard, and providing Transit Oriented Development; therefore, the project as proposed would conform to the goals and recommendations of the PBCP. The project is in conformance with the underlying CV-1-2 zone regulations (except for the conditions and/or deviations imposed on the project by the Planning Commission), the Local Coastal Program Land Use Plan, the Progress Guide and General Plan, the Strategic Framework Element, and the Housing Element.

The project proposes to utilize renewable energy technology, self-generating at least 50 percent of the projected total energy consumption on site through photovoltaic technology (solar panels), thus meeting the requirements of Council Policy 900-14, the City Council's Sustainable Building Policy.

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 project site is located at 4105 and 4135 Mission Boulevard on the northeast corner of Mission Boulevard and Pacific Beach Drive. The project site is not located between the nearest public road and the sea or the shoreline of any body of water located within the Coastal Overlay Zone and is not required to demonstrate conformance with the public access and recreation policies of the California Coastal Act as required by this finding.

B. PLANNED DEVELOPMENT PERMIT SDMC SECTION 126.0604

1. The proposed development will not adversely affect the applicable land use plan. The project proposes to demolish the existing single-story commercial retail building and

the commercial parking lot for the construction of a mixed-use development containing eighteen residential units and seven commercial retail spaces. The project site is located at 4105 and 4135 Mission Boulevard on the northeast corner of Mission Boulevard and Pacific Beach Drive. The PBCP designates the proposed project site as Commercial-Visitor and allows a residential density of up to 43 du/ac for projects designed as a transit oriented development.

The project site, occupying 0.503-acres, could accommodate fifteen dwelling units based on the underlying CV-1-2 zone and twenty-two dwelling units based on the density bonus provided by the community plan. The applicant has chosen to utilize the density bonus provision in the community plan, which would allow three additional units above the density allowed by the underlying zone.

The proposed project would implement the Residential and Commercial Element goals and recommendations of the community plan of providing additional housing opportunities, promoting a mixture of commercial uses and services within the community, actively encouraging mixed-use development in conjunction with transit corridors such as Mission Boulevard, and providing Transit Oriented Development; therefore, the project as proposed would conform to the goals and recommendations of the PBCP. The project is in conformance with the underlying CV-1-2 zone regulations (except for the conditions and/or deviations imposed on the project by the Planning Commission), the Local Coastal Program Land Use Plan, the Progress Guide and General Plan, the Strategic Framework Element, and the Housing Element.

The project proposes to utilize renewable energy technology, self-generating at least 50 percent of the projected total energy consumption on site through photovoltaic technology (solar panels), thus meeting the requirements of Council Policy 900-14, the City Council's Sustainable Building Policy.

2. The proposed development will not be detrimental to the public health, safety, and welfare. The project proposes to demolish the existing single-story commercial retail building and the commercial parking lot for the construction of a mixed-use development containing eighteen residential units and seven commercial retail spaces. The project site is located at 4105 and 4135 Mission Boulevard on the northeast corner of Mission Boulevard and Pacific Beach Drive. The project required the preparation of an Initial Study to identify the potential for significant environmental impacts which could be associated with the project pursuant to Section 15063 of the State of California Environmental Quality Act [CEQA] Guidelines. Analysis concluded that a Mitigated Negative Declaration would be required with mitigation measures for reducing a potentially adverse impact from Human Health/Public Safety/Hazardous to below a level of significance.

The permits for the project will include various conditions and referenced exhibits of approval relevant to achieving project compliance with the applicable regulations of the Land Development Code [LDC] in effect for this project. Such conditions have been determined by the decision-maker as necessary to avoid adverse impacts upon the health, safety and general welfare of persons residing or working in the surrounding area. The project will comply with the development conditions in effect for the subject property as described in Coastal Development Permit No. 116352 and Planned Development Permit No. 116353, and other regulations and

guidelines pertaining to the subject property per the LDC. 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 project proposes to demolish the existing single-story commercial retail building and the commercial parking lot for the construction of a mixed-use development containing eighteen residential units and seven commercial retail spaces. The project site is located at 4105 and 4135 Mission Boulevard on the northeast corner of Mission Boulevard and Pacific Beach Drive. The PBCP designates the proposed project site as Commercial-Visitor and allows a residential density of up to 43 du/ac for projects designed as a transit oriented development.

The project site, occupying 0.503-acres, could accommodate fifteen dwelling units based on the underlying CV-1-2 zone and twenty-two dwelling units based on the density bonus provided by the community plan. The applicant has chosen to utilize the density bonus provision in the community plan, which would allow three additional units above the density allowed by the underlying zone. The project complies with the applicable regulations of the underlying CV-1-2 zone regulations; however, the Planning Commission added three conditions and/or deviations as follows: 1. the proposed access from the site to the alley shall be omitted. This is a deviation to SDMC section 142.0560(j)(7) which requires off-street parking spaces for new developments located within a Beach Impact Area of the Parking Impact Overlay Zone shall be accessible from the abutting alley. 2. The proposed project shall maintain a minimum of forty-eight on-site parking spaces. This condition will invalidate the original proposed shared parking provision. 3. The maximum building height shall be 30-feet, which includes the roof mounted solar panels.

On appeal, the City Council upheld the Planning Commission decision for approval with additional conditions that the proposed eighteen units shall each contain a maximum of three-bedrooms and one home office; the parking spaces shall comply with the Land Development Code; and the installation of no left turn signage to be installed on Pacific Beach Drive.

4. The proposed development, when considered as a whole, will be beneficial to the community. The proposed project would implement the Residential and Commercial Element goals and recommendations of the community plan of providing additional housing opportunities, promoting a mixture of commercial uses and services within the community, actively encouraging mixed-use development in conjunction with transit corridors such as Mission Boulevard, and providing Transit Oriented Development. The mixed-use proposal would serve the employees and employers of the area through adding housing supply in the immediate area of employment opportunities and expanding the commercial space available for businesses. The mixed-use development would contribute to a reduction in vehicle trips and vehicle emissions through an increase in the area's job/housing balance. The housing is also located in an area of recreational opportunities and would reduce vehicle trips from more distant residential areas to activities in Pacific Beach. The proposed project would also make an in-lieu contribution towards the cost of affordable housing, upgrade improvements in the public right-of-way, as well as pay all applicable public facilities financing and school fees. In addition, the project proposes to utilize renewable energy technology, self-generating at least 50 percent of the

projected total energy consumption on site through photovoltaic technology (solar panels), thus meeting the requirements of Council Policy 900-14, the City Council's Sustainable Building Policy. Therefore, the proposed mixed-use development, when considered as a whole, would be beneficial to the community.

5. Any proposed deviations pursuant to SDMC 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 project proposes to demolish the existing single-story commercial retail building and the commercial parking lot for the construction of a mixed-use development containing eighteen residential units and seven commercial retail spaces. The project site is located at 4105 and 4135 Mission Boulevard on the northeast corner of Mission Boulevard and Pacific Beach Drive. The PBCP designates the proposed project site as Commercial-Visitor and allows a residential density of up to 43 du/ac for projects designed as a transit oriented development.

The project site, occupying 0.503-acres, could accommodate fifteen dwelling units based on the underlying CV-1-2 zone and twenty-two dwelling units based on the density bonus provided by the community plan. The applicant has chosen to utilize the density bonus provision in the community plan, which would allow three additional units above the density allowed by the underlying zone. The project complies with the applicable regulations of the underlying CV-1-2 zone regulations; however, the Planning Commission added three conditions and/or deviations as follows: 1. the proposed access from the site to the alley shall be omitted. This is a deviation to SDMC section 142.0560(j)(7) which requires off-street parking spaces for new developments located within a Beach Impact Area of the Parking Impact Overlay Zone shall be accessible from the abutting alley. 2. The proposed project shall maintain a minimum of forty-eight on-site parking spaces. This condition will invalidate the original proposed shared parking provision. 3. The maximum building height shall be 30-feet, which includes the roof mounted solar panels.

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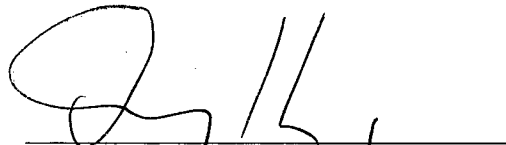
The above findings are supported by the minutes, maps and exhibits, all of which are incorporated herein by this reference.

BE IT FURTHER RESOLVED, that the appeal of the Pacific Beach Community Planning Committee and Richard S. Pearson is denied; the decision of the Planning Commission is sustained; and Coastal Development Permit No. 116352/Planned Development Permit

No. 116353 is granted to Pacific Beach Investment Trust, 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
08/17/06
Or.Dept:Clerk
R-2007-142
MMS #3604

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 42-2721

COASTAL DEVELOPMENT PERMIT NO. 116352
PLANNED DEVELOPMENT PERMIT NO. 116353
MISSION @ PB DRIVE – PROJECT NO. 41256
CITY COUNCIL

This Coastal Development Permit No. 116352/Planned Development Permit No. 116353 is granted by the City Council of the City of San Diego to Pacific Beach Investment Trust, Owner/Permittee, pursuant to San Diego Municipal Code [SDMC] sections 126.0604 and 126.0708. The 0.503-acre site is located at 4105 and 4135 Mission Boulevard on the northeast corner of Mission Boulevard and Pacific Beach Drive in the CV-1-2 zone(s) within the Pacific Beach Community Plan area, Coastal Overlay Zone (Non-appealable Area 2), Coastal Height Limitation Overlay Zone, Parking Impact Overlay Zone, and Transit Area Overlay Zone. The project site is legally described as Parcel 1 and 2 of Parcel Map No. 2124.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee to demolish an existing commercial building on site for the construction of a mixed-use development containing eighteen residential units and seven commercial retail spaces, described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated August 7, 2006, on file in the Development Services Department.

The project or facility shall include:

- a. The project proposes to demolish an existing single-story commercial retail building and the commercial parking lot for the construction of a mixed-use development containing eighteen residential units and seven commercial retail spaces. The proposed first floor (ground level) would consist of seven retail units totaling approximately 3,350 square feet, utility rooms, entry court, landscaping, motorcycle parking, bicycle parking, and on-site parking spaces. Eighteen residential units would be located on the second and third floors consisting of seven floor plan types ranging from approximately 1,506 to 2,015 square feet, with each unit containing a maximum of three bedrooms and one home office. The

second and third floor levels have an approximate combined total of 28,811 square feet;

- b. The project includes a deviation from the regulations for access from the site to the alley, which is a deviation to SDMC section 142.0560(j)(7).
- c. The project shall maintain a minimum of forty-eight on-site parking spaces. This condition will invalidate the original proposed shared parking provision;
- d. The maximum building height shall be 30-feet, which includes the roof mounted solar panels;
- e. 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;
- f. Landscaping (planting, irrigation and landscape related improvements);
- g. Off-street parking facilities; and
- h. 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 Owner/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" condition(s) back to the discretionary body which approved the Permit for a determination by that body as to whether all of the findings necessary for the issuance of the proposed permit can still be made in the absence of the "invalid" condition(s). Such hearing shall be a hearing de novo and the discretionary body shall have the absolute right to approve, disapprove, or modify the proposed permit and the condition(s) contained therein.

ENVIRONMENTAL/MITIGATION REQUIREMENTS:

10. Mitigation requirements are tied to the environmental document, and conditions are incorporated into the permit by reference or authorization for the project.

11. As conditions of Coastal Development Permit No. 116352/Planned Development Permit No. 116353, the mitigation measures specified in Mitigated Negative Declaration, LDR No. 41256 shall be noted on the construction plans and specifications under the heading ENVIRONMENTAL/MITIGATION REQUIREMENTS. The Owner/Permittee shall comply with the mitigation measures as specified in Mitigated Negative Declaration LDR No. 41256 satisfactory to the City Manager and City Engineer.

12. Prior to foundation inspection, the Owner/Permittee shall provide to the Environmental Analysis Section documentation from the County Department of Environmental Health [DEH] indicating they inspected the Liquid Boot vapor barrier and it was properly and satisfactorily installed, and has been approved by DEH.

AFFORDABLE HOUSING REQUIREMENTS:

13. Prior to the issuance of any building permits, the Owner/Permittee shall pay an Inclusionary Affordable Housing In-Lieu Fee, pursuant to the Affordable Housing Requirements of the City's Inclusionary Housing Ordinance (Chapter 14, Article 2, Division 13 of the Land Development Code).

14. The Owner/Permittee shall assure by the building permits, the installation 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:

15. Prior to the issuance of any construction permit, the Owner/Permittee shall enter into a Maintenance Agreement for the ongoing permanent Best Management Practices [BMP's] maintenance.

16. Prior to the issuance of any construction permit, the Owner/Permittee shall incorporate any construction BMP's necessary to comply with Chapter 14, Article 2, Division 1 (Grading Regulations) of the San Diego Municipal Code, into the construction plans or specifications.

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

18. Prior to the issuance of any construction permit, the Owner/Permittee 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.

19. Prior to building occupancy, the Owner/Permittee shall assure by permit and bond the replacement of the curb with City standard curb and gutter, adjacent to the site on Mission Boulevard and Pacific Beach Drive, satisfactory to the City Engineer.

20. The drainage system proposed for this development is private and subject to approval by the City Engineer.
21. Prior to the issuance of any building permits, the Owner/Permittee shall obtain an Encroachment Maintenance and Removal Agreement, for enhanced sidewalk paving.
22. Prior to foundation inspection, the Owner/Permittee shall submit a building pad certification signed by a Registered Civil Engineer or a Licensed Land Surveyor, certifying the pad elevation based on USGS datum is in accordance with the approved plans.
23. Prior to building occupancy, the Owner/Permittee shall assure by permit and bond the replacement of sidewalk adjacent to the site, satisfactory to the City Engineer.
24. All driveways and curb openings shall comply with City Standard Drawings G14A, G-16 and SDG-100 as appropriate, satisfactory to the City Engineer.

LANDSCAPE REQUIREMENTS:

25. 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."
26. Prior to issuance of any engineer permits for grading, construction documents for temporary erosion control including hydroseeding shall be submitted in accordance with the Landscaping Standards and to the satisfaction of the City Manager. All plans shall be in substantial conformance with Exhibit "A" (including Environmental conditions.
27. Prior to issuance of any engineering permits for right-of-way improvements, complete landscape construction documents for right-of-way improvements shall be submitted to the City Manager for approval. Improvement plans shall take into account the 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.
28. Prior to issuance of any Certificate of Occupancy, it shall be the responsibility of the Owner/Permittee or subsequent owner to install all required landscape and obtain all required landscape inspections. A No Fee Street Tree Permit, if applicable, shall be obtained for the installation, establishment, and on-going maintenance of all street trees.
29. 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. The trees shall be maintained in a safe manner to allow each tree to grow to its mature height and spread.

30. 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.

PLANNING/DESIGN REQUIREMENTS:

31. 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.

32. The maximum building height shall be 30-feet, which includes the roof mounted solar panels.

33. 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.

34. 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.

35. 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.

36. 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.

37. The Owner/Permittee shall post a copy of the approved discretionary permit in the sales office for consideration by each prospective buyer.

38. 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.

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

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

41. 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.

42. 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.

43. 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."

TRANSPORTATION REQUIREMENTS:

44. No fewer than forty-eight off-street parking spaces (of which one space is an accessible parking space), four motorcycle spaces and thirteen bicycle 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 requirements of the Land Development Code with minimum parking stall dimension of 8-foot wide (8-foot 3-inches for retail sales uses and eating and drinking establishments) by 18-foot long, 9-foot wide by 18-foot long for spaces with one side abutting an obstacle and 9-foot 6-inches wide by 18-foot long for spaces with two sides abutting obstacle. 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.

45. Prior to the issuance of any building permits, applicant shall assure by permit and bond the construction of a 20-foot wide driveway on Pacific Beach Drive with the associated signage to restrict left turn in and out at that location including on-site "No Left Turn" sign and 36-inch high orange delineators (glued down) along property frontage on Pacific Beach Drive, satisfactory to the City Engineer.

46. The Owner/Permittee 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.

WASTEWATER REQUIREMENTS:

- 47. The Owner/Permittee shall design and construct all proposed public sewer facilities to the most current edition of the City of San Diego's Sewer Design Guide.
- 48. 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.
- 49. Prior to the issuance of any engineering or building permits, the Owner/Permittee shall provide evidence, satisfactory to the Metropolitan Wastewater Department Director, indicating that each unit will have its own sewer lateral or provide CC&R's for the operation and maintenance of on site private sewer facilities that serve more than one ownership.

WATER REQUIREMENTS:

- 50. 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 or drive aisle and the removal of any existing unused water services within all rights-of-way adjacent to the project site, in a manner satisfactory to the Water Department Director and the City Engineer.
- 51. Prior to the issuance of any building permits, the Owner/Permittee shall apply for a plumbing permit for the installation of the appropriate private backflow prevention device(s) on each water service (domestic, fire and irrigation), in a manner satisfactory to the Water Department Director, the City Engineer and the Cross-Connection Supervisor in the Customer Support Division of the Water Department.
- 52. 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 Water Department Director and the City Engineer.
- 53. All on-site water facilities shall be private including domestic, fire and irrigation systems.
- 54. 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. Water facilities as shown on the approved plans shall be modified at final engineering to comply with standards..

FACILITIES FINANCING REQUIREMENTS:

55. Prior to building permit issuance, the Owner/Permittee shall be required to pay a Development Impact Fee [DIF]. The Owner/Permittee will be subject to the fees in effect at the time of the building permit issuance.

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 August 7, 2006 by Resolution No. R-301817.

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.

PACIFIC BEACH INVESTMENT TRUST
Owner/Permittee

By _____

By _____

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

PERMIT/OTHER – Permit Shell 11-01-04

Passed by the Council of The City of San Diego on AUG 07 2006, by the following vote:

Council Members	Yeas	Nays	Not Present	Ineligible
Scott Peters	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Kevin Faulconer	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Toni Atkins	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Anthony Young	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Brian Maienschein	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Donna Frye	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jim Madaffer	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ben Hueso	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage AUG 07 2006.

AUTHENTICATED BY:

(Seal)

JERRY SANDERS
Mayor of The City of San Diego, California.

ELIZABETH S. MALAND
City Clerk of The City of San Diego, California.

By Manuel E. Ketchikan, Deputy

Office of the City Clerk, San Diego, California
Resolution Number R-301817