

RESOLUTION NUMBER R- 301903
DATE OF FINAL PASSAGE SEP 12 2006

WHEREAS, La Jolla Pacific Development Group, Inc, Owner/Permittee, filed an application with the City of San Diego for a site development permit to develop portions of 0.81 acre site mixed-use project with 10,304 square-feet of commercial area and 96 condominium units within a 12-story building with two levels of subterranean parking known as the 301 University project [Project], located at 301 through 333 University Avenue, and legally described as Lots 1 through 6 and 30, 31 and 32, Block 2 of Map No. 628 within the Uptown Community Plan area, in the CN-1A and MR-800B zones; and

WHEREAS, on April 13, 2006, the Planning Commission of the City of San Diego considered Site Development Permit No. 23948, and pursuant to Resolution No. 4008-PC voted to recommend City Council approval of the Permit; 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 September 12, 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 directs the Owner/Permittee to mitigate the construction impacts on the community and adopts the following findings with respect to Site Development Permit No. 23948:

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 proposed development is a mixed-use project consisting of approximately 10,000 square-feet of ground floor commercial area, 96 residential units, 201 designated private parking spaces and 121 public parking spaces. The Uptown Community Plan designates the 0.81 acre site for commercial and mixed-use development with a high intensity residential component. The proposed commercial and residential development is consistent with the recommended land use. The project density, including the affordable housing density bonus, is consistent with the unit per acre calculation of the Uptown Community Plan. Further, the project proposes wall texture variations, façade off-sets, upper floor setbacks and varied roof forms. In addition, the project would provide widened sidewalks and other pedestrian orientation, off-street parking, and high-intensity, mixed-use development on University Avenue in the Hillcrest commercial core. By providing both commercial and residential components, architectural variety, off-street parking, pedestrian amenities, and high-intensity mixed-use development, the project would implement several objectives of the Residential Element and the Urban Design Element of the Uptown Community Plan. Therefore, the proposed development would not adversely affect the applicable land use plan.

b. The proposed development will not be detrimental to the public health, safety, and welfare. The proposed development is a mixed-use project consisting of approximately 10,000 square-feet of ground floor commercial area, 96 residential units, 201 private parking spaces and 121 public parking spaces. Mitigated Negative Declaration No. 11896 has been prepared pursuant to the California Environmental Quality Act and includes a Mitigation, Monitoring and Reporting Program to reduce identified potential adverse impacts to below a level of significance. The proposed development complies with the applicable development regulations of the Land Development Code and would be constructed in conformance with the Uniform Building Code. The proposed development includes the abandonment of a portion of an existing alley that would eliminate conflicts between vehicles and pedestrians by eliminating mid-block access onto University. In addition to closing the alley access, the project would maintain pedestrian access from the alley and provide safer wider sidewalks around the project frontages. Landscape treatments including street trees in the public rights-of-way would improve and delineate the separation between the street and the sidewalk as well as aesthetically enhance the neighborhood. Therefore, the proposed development would 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 proposed development is a mixed-use project consisting of approximately 10,000 square-feet of ground floor commercial area, 96 residential units, 201 private parking spaces and 121 public parking spaces. The project complies with the applicable development regulations of the underlying CN-1A and MR-800B zones and the minor requested deviations would be permitted with an approved Site Development Permit. The project would be consistent with the purpose and intent of the Mid-City Communities Planned District Ordinance by providing attractive, functional and affordable housing that is street friendly with active, accessible and surveillable streets. The project would also foster a pedestrian orientated commercial and mixed-use environment in a high activity area along the major intersections of Third Avenue and University Avenue and Fourth Avenue and University Avenue. Parking and vehicle access would be located to minimize disruption of pedestrian continuity and residential use above street level commercial use would intensify development on the major north/south transportation corridors. Therefore, the proposed development would comply with the applicable regulations of the Land Development Code.

MID-CITY (PDO) - MUNICIPAL CODE SECTION 103.1501

1. The proposed use and project design meet the purpose and intent of the Mid-City Communities Planned District (Section 103.1501), and the Uptown Community Plan, and will not adversely affect the Uptown Community Plan or the City's Progress Guide and General Plan. The Mid-City Communities Planned District Ordinance designates the premises with the CN-1A zone and the MR-800B zone. The CN-1A zone intends for commercial uses with a pedestrian orientation and a high density residential element; and the MR-800B zone intends for high density multi-family residential development. Similarly, the Uptown Community Plan designates the site for commercial mixed-use development with high intensity residential development in the CN-1A portion of the property and High Residential Use in the remaining MR-800B portion. The proposed development is a mixed-use project consisting of approximately 10,000 square-feet of ground floor commercial area, 96 residential units, 201 private parking spaces and 121 public parking spaces. Therefore the project would provide the recommended mixed-use land use at the appropriate residential densities established by both the Mid-City Communities Planned District Ordinance and the Uptown Community Plan. Further, the proposed development would meet the purpose and intent of the Mid-City Communities Planned District Ordinance by providing a distinctive node of high intensity, pedestrian-oriented development interspersed with linear areas of multiple commercial and residential uses with a pedestrian orientation and assisting in the implementation of the Progress Guide and General Plan and the Uptown Community Plan. Therefore, the proposed use and project design meet the purpose and intent of the Mid-City Communities Planned District (Section 103.1501), and the Uptown Community Plan, and will not adversely affect the Uptown Community Plan or the City's Progress Guide and General Plan.

2. The proposed development will be compatible with existing and planned land uses on adjoining properties and will not constitute a disruptive element to the surrounding neighborhood and community. Architectural harmony with the surrounding neighborhood and community will be achieved as far as practicable. The

proposed development is a mixed-use project consisting of approximately 10,000 square-feet of ground floor commercial area, 96 residential units, 201 private parking spaces and 121 public parking spaces. This type of mixed-use project is consistent with the existing land uses in the neighborhood which includes both mixed-use developments and stand alone commercial and residential projects. Currently, the area immediately surrounding the project site is characterized by low rise structures ranging from one to four stories. However, the Uptown community is experiencing a period of renewed growth that is characterized by similar mixed-use high rise developments along the major north/south transportation corridors including Third Avenue, Fourth Avenue, Fifth Avenue and Sixth Avenue. These developments range from eight to sixteen stories with medium high to very high residential densities and are consistent with the type of development the Uptown Community Plan recommends and the underlying zones allow. Therefore, the proposed development is compatible with existing and planned land uses on adjoining properties and would not constitute a disruptive element in the surrounding neighborhood or community. The project architecture will be compatible with the surrounding area and community by providing an interesting village type of ground floor façade emphasizing individual storefronts at a pedestrian scale as well as reducing the amount of glass on the upper floors to reflect a more residential design.

3. The proposed use, because of conditions that have been applied to it, will not be detrimental to the health, safety and general welfare of persons residing or working in the area, and will not adversely affect other property in the vicinity of the project site. The proposed development is a mixed-use development consisting of approximately 10,000 square-feet of ground floor commercial area, 96 residential units, 201 private parking spaces and 121 public parking spaces. Permit conditions and mitigation have been provided that will ensure the proposed development provides a safe and healthy environment for people working and residing in the area. Site Development Permit and Tentative Map conditions include the provision of new public improvements including curbs, gutters and sidewalks with street lighting and landscape elements. The University Avenue right-of-way will be widened and the mid-block alley will be closed to vehicle access. Off-street parking for the proposed uses would be provided on the site and an additional 121 public parking spaces would be provided to benefit the surrounding neighborhood businesses. Environmental mitigation includes monitoring and reporting programs for Historical (Archeological) and Paleontological Recourses and testing is required for the demolition of existing structures to determine if lead-based paint and asbestos-containing building materials (ACBM) exist within the structures. If testing shows the presence of asbestos or lead-based paints, then proper precautions would be made during the removal and disposal of asbestos or lead-based paint containing materials. In addition, prior to the preconstruction meeting, the applicant must submit written verification that the County of San Diego, Department of Environmental Health, has reviewed and approved the proposed work plan for treatment and disposal of hazardous materials or contaminated soils that are encountered onsite. Therefore, the proposed use, because of conditions that have been applied to it, will not be detrimental to the health, safety and general welfare of persons residing or working in the area, and will not adversely affect other property in the vicinity of the project site.

4. The proposed use will comply with the relevant regulations of the San Diego Municipal Code in effect for this site. The proposed development is a mixed-use project consisting of approximately 10,000 square-feet of ground floor commercial area, 96 residential

units, 201 private parking spaces and 121 public parking spaces. The project complies with the applicable development regulations of the underlying CN-1A and Mr-800B zones and the minor requested deviations would be permitted with an approved Site Development Permit. The project would be consistent with the purpose and intent of the Mid-City Communities Planned District Ordinance by providing attractive, functional and affordable housing that is street friendly with active, accessible and surveillable streets. The project would also foster a pedestrian orientated commercial and mixed-use environment in a high activity area along the major intersections of Third Avenue and University Avenue and Fourth Avenue and University Avenue. Parking and vehicle access would be located as to minimize disruption of pedestrian continuity, and residential use above street level commercial use would intensify development on the major north/south transportation corridors. Therefore, the proposed development would comply with the applicable regulations of the Land Development Code.

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. 23948 is granted to La Jolla Pacific Development Group, 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 Shannon Thomas
Shannon M. Thomas
Deputy City Attorney

SMT:als
09/21/06
Or.Dept:DSD
R-2007-317
MMS#3387

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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 42-1789

SITE DEVELOPMENT PERMIT NO.23948
301 and 333 UNIVERSITY
CITY COUNCIL

This Site Development Permit No. 23948 is granted by the Council of the City of San Diego to La Jolla Pacific Development Group, Inc., Owner/Permittee, pursuant to San Diego Municipal Code [SDMC] sections 103.1504(h); 126.0502 and 125.0440. The 0.81 acre site is located at 301 and 333 University Avenue in the CN-1A and MB-800B zones of the Mid-City Communities Planned District Ordinance within the Uptown Community Plan area. The project site is legally described as Lots 1 through 6 and 30, 31 and 32 of Block 2, Map No. 628.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee to demolish the existing structures and develop the site with a mixed-use residential and commercial project consisting of 96 condominium units, 10,304 square-feet of ground floor commercial, 201 designated private parking spaces and 121 public parking spaces, described and identified by size, dimension, quantity, type, and location on the approved exhibits, [Exhibit "A"] dated SEP 12 2006, on file in the Development Services Department

The project or facility shall include:

- a. A 12 story, 148 foot tall high rise with 10,304 square-feet of ground floor commercial space, 96 residential units and a combination of 322 private and public parking spaces;
- b. Landscaping (planting, irrigation and landscape related improvements);
- c. Off-street parking facilities as described herein; and
- d. Accessory improvements determined by the City Manager to be consistent with the land use and development standards in effect for this site per the adopted community plan, California Environmental Quality Act Guidelines, public and private improvement requirements of the City

Engineer, the underlying zone(s), conditions of this Permit, and any other applicable regulations of the SDMC in effect for this site.

STANDARD REQUIREMENTS:

1. Construction, grading or demolition must commence and be pursued in a diligent manner within thirty-six months after the effective date of final approval by the City, following all appeals. Failure to utilize the permit within thirty-six months will automatically void the permit unless an Extension of Time has been granted. Any such Extension of Time must meet all the SDMC requirements and applicable guidelines in effect at the time the extension is considered by the appropriate decision maker.
2. No permit for the construction, occupancy or operation of any facility or improvement described herein shall be granted, nor shall any activity authorized by this Permit be conducted on the premises until:
 - a. The Permittee signs and returns the Permit to the Development Services Department; and
 - b. The Permit is recorded in the Office of the San Diego County Recorder.
3. Unless this Permit has been revoked by the City of San Diego the property included by reference within this Permit shall be used only for the purposes and under the terms and conditions set forth in this Permit unless otherwise authorized by the City Manager.
4. This Permit is a covenant running with the subject property and shall be binding upon the Permittee and any successor or successors, and the interests of any successor shall be subject to each and every condition set out in this Permit and all referenced documents.
5. The utilization and continued use of this Permit shall be subject to the regulations of this and any other applicable governmental agency.
6. Issuance of this Permit by the City of San Diego does not authorize the Permittee for this permit to violate any Federal, State or City laws, ordinances, regulations or policies including, but not limited to, the Endangered Species Act of 1973 [ESA] and any amendments thereto (16 U.S.C. § 1531 et seq.).
7. The Owner/Permittee shall secure all necessary building permits. The applicant is informed that to secure these permits, substantial modifications to the building and site improvements to comply with applicable building, fire, mechanical and plumbing codes and State law requiring access for disabled people may be required.
8. Before issuance of any building or grading permits, complete grading and working drawings shall be submitted to the City Manager for approval. Plans shall be in substantial conformity to Exhibit "A." No changes, modifications or alterations shall be made unless appropriate application(s) or amendment(s) to this Permit have been granted.

9. All of the conditions contained in this Permit have been considered and have been determined to be necessary in order to make the findings required for this Permit. It is the intent of the City that the holder of this Permit be required to comply with each and every condition in order to be afforded the special rights which the holder of the Permit is entitled as a result of obtaining this Permit.

In the event that any condition of this Permit, on a legal challenge by the Owner/ Permittee of this Permit, is found or held by a court of competent jurisdiction to be invalid, unenforceable, or unreasonable, this Permit shall be void. However, in such an event, the Owner/Permittee shall have the right, by paying applicable processing fees, to bring a request for a new permit without the "invalid" condition(s) back to the discretionary body which approved the Permit for a determination by that body as to whether all of the findings necessary for the issuance of the proposed permit can still be made in the absence of the "invalid" condition(s). Such hearing shall be a hearing de novo and the discretionary body shall have the absolute right to approve, disapprove, or modify the proposed permit and the condition(s) contained therein.

10. Prior to issuance of any grading permits for this project, a final subdivision map shall be recorded on the subject property.

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

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

ENVIRONMENTAL/MITIGATION REQUIREMENTS:

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

14. As conditions of Site Development Permit No. 23948 and Tentative Map No. 323359, the mitigation measures specified in the MMRP, and outlined in the Mitigated Negative Declaration, LDR No. 11896, shall be noted on the construction plans and specifications under the heading ENVIRONMENTAL/MITIGATION REQUIREMENTS.

15. The Owner/Permittee shall comply with the Mitigation, Monitoring, and Reporting Program [MMRP] as specified in the Mitigated Negative Declaration, LDR No. 2956 satisfactory to the City Manager and City Engineer. Prior to issuance of the first grading permit, all conditions of the MMRP shall be adhered to the satisfaction of the City Engineer. All mitigation measures as specifically outlined in the MMRP shall be implemented for the following issue areas:

- Historical Resources
- Paleontological Resources
- Health and Human Safety

16. Prior to issuance of any construction permit, the applicant shall pay the Long Term Monitoring Fee in accordance with the Development Services Fee Schedule to cover the City's costs associated with implementation of permit compliance monitoring.

17. A Job Order number open to the Land Development Review Division of the Development Services Department shall be required to cover the Land Development Review Division's cost associated with the implementation of the MMRP.

AFFORDABLE HOUSING REQUIREMENTS:

18. Pursuant to the Affordable Housing conditions contained in Tentative Map No. 323359, and prior to the issuance of any grading or building permits, the subdivider shall enter into an affordable housing agreement with the Housing Commission to provide affordable housing units in compliance with the Affordable Housing Requirements of the City's Inclusionary Housing Ordinance (Chapter 14, Article 2, Division 13 of the Land Development Code). The subdivider shall restrict four units to very low-income households (households with income at or below 50 percent of area median income as adjusted for household size) at rents not to exceed 30 percent of 50 percent of area median income as adjusted for assumed household size. The units shall be rent and occupancy restricted for a minimum of 55 years. The four (4) affordable units shall be comparable to the market rate units in the development and dispersed throughout the project. Additionally, the project shall comply with the remainder of the Inclusionary Housing requirements by paying an in-lieu fee calculated at 50% of the total gross floor area of the 96 residential units pursuant to the dollar amount in effect at the time building permits are issued.

ENGINEERING REQUIREMENTS:

19. The project must comply with all conditions of Tentative Map No. 323359.

LANDSCAPE REQUIREMENTS:

20. No change, modification, or alteration shall be made to the project unless appropriate application or amendment of this Permit shall have been granted by the City.

21. 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.

22. 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 30 days of damage or Certificate of Occupancy.

23. 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 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.

24. Prior to issuance of any construction permits for structures, 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, on file in the Office of Development Services.

25. Prior to Final Inspection, it shall be the responsibility of the Permittee or subsequent Owner to install all required landscape and obtain all required landscape inspections. A No Fee Street Tree Permit shall be obtained for the installation, establishment and on-going maintenance of all street trees.

26. The Permittee or subsequent Owner(s) shall be responsible for the installation and maintenance of all landscape improvements consistent with the Landscape Regulations and Landscape Standards. 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.

PLANNING/DESIGN REQUIREMENTS:

27. No fewer than 322 off-street parking spaces shall be maintained on the property at all times in the approximate locations shown on the approved Exhibit "A," on file in the Development Services Department. 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. One hundred twenty-one of the parking spaces shall be for public use.

28. 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.

29. The project is permitted a deviation for a height of 72 feet in the MR-800B zoned portion of the site where a height limit of 60 feet is required.
30. The project is permitted a front setback that varies from 2 feet to 12 feet 8 inches with a slanted wall where a front setback of 10 feet is required in the MR-800B zoned portion of the site.
31. 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.
32. 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.
33. 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.
34. 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," on file in the Development Services Department); or
 - b. Citywide sign regulations
35. The applicant shall post a copy of the approved discretionary permit or Tentative Map in the sales office for consideration by each prospective buyer.
36. 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.
37. The use of textured or enhanced paving shall meet applicable City standards as to location, noise and friction values.
38. The subject property and associated common areas on site shall be maintained in a neat and orderly fashion at all times.
39. 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.

40. 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, architecturally integrated structure whose top and sides may include grillwork, louvers, and latticework.

41. 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," on file in the Development Services Department.

WASTEWATER REQUIREMENTS:

42. All on-site sewer facilities shall be private.

43. Prior to the issuance of any building permits, the developer shall assure, by permit and bond, the abandonment of 87' (+/-) of the sewer facilities in the alley between 301 University Avenue and 303 University Avenue and install the new manhole at termination of the abandonment.

44. The developer will be required to provide evidence, satisfactory to the Metropolitan Wastewater Department Director, indicating that each condominium will have its own sewer lateral or provide CC&R's for the operation and maintenance of on site private sewer facilities that serve more than one unit.

45. All proposed public sewer facilities shall be designed and constructed in accordance with established criteria in the most current City of San Diego sewer design guide. Proposed facilities that do not meet the current standards shall be private or re-designed.

46. All proposed private sewer facilities located within a single lot shall be designed to meet the requirements of the California Uniform Plumbing Code and will be reviewed as part of the building permit plan check.

WATER REQUIREMENTS:

47. The Subdivider shall provide CC&Rs for the operation and maintenance of any on-site private water facilities that serve or traverse more than a single dwelling unit or common area.

48. The Subdivider 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 tentative map, shall be modified at final engineering to comply with standards.

INDEMNIFICATION

49. That La Jolla Pacific Development Group, Inc. ("APPLICANT") shall protect, defend, indemnify, and hold the City of San Diego ("CITY"), its elected officials, officers, representatives, agents and employees, harmless from and against any and all claims asserted or liability established which arise out of or are in any manner directly or indirectly connected with the entitlement and/or development of the proposed project at 301 University Avenue, located in the Uptown Community of the CITY, and all costs and expenses of investigating, and defending against same, including without limitation attorney fees and costs, provided, however, that APPLICANT'S duty to indemnify and hold harmless shall not include any claims or liability arising from the established active negligence, sole negligence, or sole willful misconduct of CITY, its elected officials, officers, representatives, agents and employees. CITY may, at its election, conduct the defense or participate in the defense of any claim related in any way to this indemnification. If CITY chooses at its own election to conduct its own defense, participate in its own defense, or obtain independent legal counsel in defense of any claim related to this indemnification, APPLICANT shall pay all of the costs related thereto, including without limitation reasonable attorney fees and costs. However, APPLICANT'S responsibility to reimburse the CITY for reasonable fees and costs will be limited by the amount of fees usually charged by the Office of the City Attorney, and will not include any fees and costs incurred by independent counsel above and beyond that amount. Any fees and costs above the amount usually charged by the City Attorney shall be the sole responsibility of the CITY.

UNDERGROUNDING

50. That the underground overhead utilities in the alley up to the next utility pole south of the project be included and improve the alley.

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.
- This development may be subject to impact fees at the time of building/engineering permit issuance

APPROVED by the City Council of the City of San Diego on SEP 12, 2006,
by Resolution No. R-301903.

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.

**LA JOLLA PACIFIC DEVELOPMENT
GROUP, INC.**
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 SEP 12 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 type="checkbox"/>	<input checked="" 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 SEP 12 2006

AUTHENTICATED BY:

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

(Seal)

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

By , Deputy

Office of the City Clerk, San Diego, California
Resolution Number R- 301903