

RESOLUTION NUMBER R- 302285
DATE OF FINAL PASSAGE JAN 09 2007

WHEREAS, Rainier Place, L.P., a California Limited Partnership, Owner/Permittee, filed an application with the City of San Diego for a planned development permit to demolish the existing structures and construct twenty-two residential condominium units on a 0.688-acre site known as the Rainier Place project, [Project] located at 4535-4549 Rainier Avenue, and legally described as Lots 9 through 16 in Block 16 of Grantville and Out Lots, in the City of San Diego, County of San Diego, State of California, according to the Map No. 776, filed in the office of the County Recorder of San Diego County, February 16, 1894 in the Navajo Community Plan area, in the RM-1-1 zone (proposed to be rezoned to the RM-3-7 zone); and

WHEREAS, on October 5, 2006, the Planning Commission of the City of San Diego considered Planned Development Permit [PDP] No. 278782, and pursuant to Resolution No. 4152-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 JAN 09 2007, 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. 278782:

PLANNED DEVELOPMENT PERMIT – SAN DIEGO MUNICIPAL CODE [SDMC]
SECTION 126.0604

1. The proposed development will not adversely affect the applicable land use plan. The Rainier Place project proposes to create twenty-two residential condominium units on a 0.643-acre site (0.688 including vacation), rezone from RM-1-1 to RM-3-7 and public right-of-way vacation to vacate a portion of Rainier Avenue, and a Planned Development Permit [PDP], for setbacks, within the Navajo Community Plan. Rainier Place would include the demolition of four existing single-family homes and the construction of twenty-two attached town-home style units in four buildings, ranging between five and six units per building.

The site is designated as Multi-family residential, RM-1-1 allows up to 10 dwelling units per acre [du/ac], RM-3-7 allows up to 30 du/ac. As part of this application, the applicant is proposing to amend the land use designation to Low-Medium Density Residential, 10 to 15 du/ac to allow for the proposed twenty-two units.

The proposed project is located in the Navajo Community Plan and is currently designated for multi-family residential use. The categories for multi-family residential uses can range as high as 30-43 du/ac. The requested density of RM-3-7 would be consistent with the allowed higher residential density request. As such, the proposed development will not adversely affect the applicable Land Use Plan.

2. The proposed development will not be detrimental to the public health, safety, and welfare. The Rainier Place project proposes to create twenty-two residential condominium units on a 0.643-acre site (0.688 including vacation), rezone from RM-1-1 to RM-3-7 and public right-of-way vacation to vacate a portion of Rainier Avenue, and a PDP, for setbacks, within the Navajo Community Plan. Rainier Place would include the demolition of four existing single-family homes and the construction of twenty-two attached town-home style units in four buildings, ranging between five and six units per building.

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The proposed development of twenty-two residential units will provide necessary sewer and water facilities to serve the residents.

The permit prepared for the project includes various conditions and referenced exhibits of approval relevant to achieving project compliance with the applicable regulations of the San Diego Municipal Code 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. As such 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 Rainier Place project proposes to create twenty-two residential condominium units on a 0.643-acre site (0.688 including vacation), rezone from RM-1-1 to RM-3-7 and public right-of-way vacation to vacate a portion of Rainier Avenue, and a PDP, for setbacks, within the Navajo Community Plan. Rainier Place would include the demolition of four existing single-family homes and the construction of twenty-two attached town-home style units in four buildings, ranging between five and six units per building.

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With the exception of the deviations requested with this application, the proposed development of twenty-two residential units complies with the Land Development Code. All other requirements including density, and parking requirements will comply with the regulations of the Land Development Code, and development criteria of the RM-3-7 zone.

4. The proposed development, when considered as a whole, will be beneficial to the community. The Rainier Place project proposes to create twenty-two residential condominium units on a 0.643-acre site (0.688 including vacation), rezone from RM-1-1 to RM-3-7 and public right-of-way vacation to vacate a portion of Rainier Avenue, and a PDP, for setbacks, within the Navajo Community Plan. Rainier Place would include the demolition of four existing single-family homes and the construction of twenty attached town-home style units in four buildings, ranging between five and six units per building.

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On the existing site are four single-family dwelling units, one of the units sustained fire damage and are currently uninhabited. The remaining units require substantial repairs. The categories for multi-family residential uses can be as high as 43 du/ac. The requested density of the RM-3-7 zone would be consistent with the allowed higher residential density and conform to the Navajo Community Plan. Residential housing is particularly needed in areas located close to jobs, retail, and educational centers, such as the Navajo Community Plan area. The project assists the City in its goals to accommodate the City's fair share of the region's growth by designating adequate residential land, at appropriate densities and locations, and to stabilize and, where possible, reduce housing prices and occupancy costs.

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 Rainier Place project proposes to create twenty-two residential condominium units on a 0.643-acre site (0.688 including vacation), rezone from RM-1-1 to RM-3-7 and public right-of-way vacation to vacate a portion of Rainier Avenue, and a PDP, for setbacks, within the Navajo Community Plan. Rainier Place would include the demolition of four existing single-family homes and the construction of twenty-two attached town-home style units in four buildings, ranging between five and six units per building.

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The proposed development has been designed to be in conformance with all of the underlying zone regulations and development criteria of the RM-3-7 zone, except as specifically allowed and modified by the Planned Development Permit to deviate from the required side yard setbacks.

The Land Development Code requires that minimum side-yard setbacks in the applicable zone be a minimum of 5 feet or 10 percent of the premises width, whichever is greater. The proposed project design covers six lots with a width of just over 200-feet thus requiring a 20-foot side-yard setback. If the lots were developed individually, a 5-foot side-yard setback would be required. The applicant is requesting a deviation for a 6 feet 9 inches side-yard setback on the first floor stepping back to 9 feet 9 inches for the 2nd and 3rd stories. The existing multi-family structures surrounding the subject property are built with minimum side-yard setbacks of 6-feet or less. The request for a deviation for the side-yard set-back would make the project similar to the existing surrounding neighborhood development.

Therefore, the proposed deviations are appropriate for this location and will result in a more desirable project than would be achieved if designed in strict conformance with the development regulations of the applicable zone.

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

BE IT FURTHER RESOLVED, that Planned Development Permit No. 278782 is granted to Rainier Place, L.P., a California Limited Partnership, 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 M. Thomas
Shannon M. Thomas
Deputy City Attorney

SMT:als
11/27/06
Or.Dept:DSD
R-2007-541
MMS#4020

FORMS\PERMITS\Permit Resolution 09-20-05.doc

(D)

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 42-4723

PLANNED DEVELOPMENT PERMIT NO. 278782
RAINIER PLACE-PROJECT NO. 75711
CITY COUNCIL

This Planned Development Permit No. 278782 is granted by the Council of the City of San Diego to Rainier Place, L.P, a California Limited Partnership, Owner/Permittee, pursuant to San Diego Municipal Code [SDMC] section 143.0402. The 0.688-acre site is located at 4535-4549 Rainier Avenue in the RM-1-1 zone (proposed to be rezoned to the RM-3-7 zone) within the Navajo Community Plan. The project site is legally described as Lots 9 through 16 in Block 16 of Grantville and Out Lots, in the City of San Diego, County of San Diego, State of California, according to the Map No. 776, February 16, 1894.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee to demolish the existing structures and construct twenty-two residential condominium units, described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated JAN 09 2007, on file in the Development Services Department.

The project or facility shall include:

- a. Demolition of four existing residential structures;
- b. Construction of a residential condominium development with twenty-two units totaling approximately 42,056 square-feet of gross floor area within four 3-story buildings with attached 2-car garages for each unit and approved deviations to the development regulations;
- c. Landscaping (planting, irrigation and landscape related improvements);
- d. Off-street parking 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. Construction, grading or demolition must commence and be pursued in a diligent manner within thirty-six months after the effective date of final approval by the City, following all appeals. Failure to utilize the permit within thirty-six months will automatically void the permit unless an Extension of Time has been granted. Any such Extension of Time must meet all the SDMC requirements and applicable guidelines in effect at the time the extension is considered by the appropriate decision maker.
2. No permit for the construction, occupancy or operation of any facility or improvement described herein shall be granted, nor shall any activity authorized by this Permit be conducted on the premises until:
 - a. The Permittee signs and returns the Permit to the Development Services Department; and
 - b. The Permit is recorded in the Office of the San Diego County Recorder.
3. Unless this Permit has been revoked by the City of San Diego the property included by reference within this Permit shall be used only for the purposes and under the terms and conditions set forth in this Permit unless otherwise authorized by the City Manager.
4. This Permit is a covenant running with the subject property and shall be binding upon the Permittee and any successor or successors, and the interests of any successor shall be subject to each and every condition set out in this Permit and all referenced documents.
5. The utilization and continued use of this Permit shall be subject to the regulations of this and any other applicable governmental agency.
6. Issuance of this Permit by the City of San Diego does not authorize the Permittee for this permit to violate any Federal, State or City laws, ordinances, regulations or policies including, but not limited to, the Endangered Species Act of 1973 [ESA] and any amendments thereto (16 U.S.C. § 1531 et seq.).
7. The Owner/Permittee shall secure all necessary building permits. The applicant is informed that to secure these permits, substantial modifications to the building and site improvements to comply with applicable building, fire, mechanical and plumbing codes and State law requiring access for disabled people may be required.
8. Before issuance of any building or grading permits, complete grading and working drawings shall be submitted to the City Manager for approval. Plans shall be in

substantial conformity to Exhibit "A." No changes, modifications or alterations shall be made unless appropriate application(s) or amendment(s) to this Permit have been granted.

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

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

10. 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.

AFFORDABLE HOUSING REQUIREMENTS:

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

ENGINEERING REQUIREMENTS:

13. This Permit shall comply with the conditions of Tentative Map No. 323037.

LANDSCAPE REQUIREMENTS:

14. In the event that a foundation only permit is requested by the Permittee or subsequent Owner, a site plan or staking layout plan shall be submitted identifying all landscape areas consistent with Exhibit "A," Landscape Development Plan. These landscape areas shall be clearly identified with a distinct symbol, noted with dimensions and labeled as "landscaping area."

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

Development Plan. Construction plans shall take into account a 40 square-foot area around each tree which is unencumbered by hardscape and utilities as set forth under LDC section 142.0403(b)(5).

16. Prior to issuance of any Certificate of Occupancy, it shall be the responsibility of the Permittee or subsequent Owner to install all required landscaping and obtains 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.

17. All required landscape shall be maintained in a disease, weed and litter free condition at all times. Severe pruning or "topping" of trees is not permitted unless specifically noted in this Permit.

18. The Permittee or subsequent owner shall be responsible for the maintenance of all landscape improvements in the right-of-way consistent with the Landscape Standards unless long-term maintenance of said landscaping will be the responsibility of a Landscape Maintenance District or other approved entity. In this case, a Landscape Maintenance Agreement shall be submitted for review by a Landscape Planner.

19. 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:

20. No fewer than forty-six off-street parking spaces shall be maintained on the property at all times in the approximate locations shown on the approved Exhibit "A." Parking spaces shall comply at all times with the SDMC and shall not be converted for any other use unless otherwise authorized by the City Manager.

21. 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.

22. 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.

23. 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.

24. 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.

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

26. 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.

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

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

29. 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 lattice work.

30. 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."

WATER REQUIREMENTS:

31. Prior to the issuance of any building permits, the Owner/Permittee shall assure, by permit and bond, the design and construction of new water service(s) outside of any driveway, and the disconnection at the water main of the existing unused water service adjacent to the project site, in a manner satisfactory to the Water Department Director and the City Engineer.

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

33. 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.

34. The Owner/Permittee agrees to design and construct all proposed public water facilities in accordance with established criteria in the most current edition of the City of San Diego Water Facility Design Guidelines and City regulations, standards and practices pertaining thereto. Public water facilities, as shown on approved Exhibit "A," shall be modified at final engineering to comply with standards.

INFORMATION ONLY:

- Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of this development permit, may protest the imposition within ninety days of the approval of this development permit by filing a written protest with the City Clerk pursuant to California Government Code section 66020.
- 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 JAN 09 2007,
by Resolution No. R-302285.

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.

RAINIER PLACE, L.P.
A California Limited Partnership
Owner/Permittee

By _____

By _____

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

PERMIT/OTHER – Permit Shell 11-01-04