

(R-2008-703) 336
MEET (B)
3/11

RESOLUTION NUMBER R- 303498
DATE OF FINAL PASSAGE MAR 11 2008

WHEREAS, Pearl & Herschel, LLC, Owner/Permittee, filed an application with the City of San Diego for a coastal development to demolish an existing office building and six residential apartments and construct twenty-four residential condominium units to be known as the Pearl Street Townhomes project, located at 1030 Pearl Street and 7522-32 Herschel Avenue, and legally described as Lots 20, 21, 22, and 23, Block 1, Center Addition to La Jolla Park, Map No. 915, and Parcel 1, Map No. 18804, in the La Jolla Community Plan area, in the RM-3-7 zone, Coastal Overlay Zone (non-appealable), Coastal Height Limit Overlay Zone, Parking Impact Overlay Zone, Residential Tandem Parking Overlay Zone and Transit Area Overlay Zone; and

WHEREAS, on February 7, 2008, the Planning Commission of the City of San Diego considered Coastal Development Permit [CDP] No. 431859, and pursuant to Resolution No. 4367-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 MAR 11 2008, 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. 431859:

**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 0.636-acre site is located at 1030 Pearl Street and 7522-32 Herschel Avenue. The project proposes to demolish an existing office building and six residential apartments and construct twenty-four residential condominiums units. The proposed development will not encroach upon any existing physical accessway that is legally used by the public or any proposed public accessway identified in the La Jolla Local Coastal Program land use plan. The proposed development conforms to all the requirements of the RM-3-7 zone and is consistent with the community land use designation.

2. **The proposed coastal development will not adversely affect environmentally sensitive lands.** The 0.636-acre site is located at 1030 Pearl Street and 7522-32 Herschel Avenue. The project proposes to demolish an existing office building six residential apartments and construct twenty-four residential condominiums units. Mitigated Negative Declaration No. 125935 has been prepared for this project in accordance with the State of California Environmental Quality Act [CEQA] Guidelines which identified potential impacts to Archaeological Resources. A Mitigation, Monitoring and Reporting Program has been prepared and will be implemented to reduce, to a level below significance, any potential impacts identified in the environmental review process.

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 0.636-acre site is located at 1030 Pearl Street and 7522-32 Herschel Avenue. The project proposes to demolish an existing office building and six residential apartments and construct twenty-four residential condominiums units. The project is located on a parcel that is designated for Medium High Residential Density (30-45 dwelling units per acre) in the La Jolla Community Plan area. The proposed twenty-four units are consistent with this land use designation and are under the twenty-eight unit maximum for this site area. The proposed development conforms to all the requirements of the RM-3-7 zone and would adhere to community goals since the proposed residential condominium units were designed in a manner that do not intrude into any of the physical access ways used by the public.

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 0.636-acre site is located at 1030 Pearl Street and 7522-32 Herschel Avenue. The project proposes to demolish an existing office building and six residential apartments and construct twenty-four

residential condominiums units. The proposed coastal development is less than one mile from the Pacific Ocean. The first public roadway adjacent to this property is Coast Boulevard. There will be no impact to public beach parking since the proposed residential condominiums were developed with private garages and will have an additional ten parking spaces for guests. All of the proposed development will be contained within the legal lot. The project conforms to the public access and public recreation policies of Chapter 3 of the California Coastal Act.

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 Coastal Development Permit No. 431859 is granted to Pearl & Herschel, LLC, 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 Marianne Greene
Marianne Greene
Deputy City Attorney

MG:pev
02/20/08
Or.Dept:DSD
R-2008-703
MMS #5930

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 427589

COASTAL DEVELOPMENT PERMIT NO. 431859
PEARL STREET TOWNHOMES (MMRP) PTS #125935
CITY COUNCIL

This Coastal Development Permit No. 431859 is granted by the City Council of the City of San Diego to Pearl & Herschel, LLC, Owner/Permittee, pursuant to San Diego Municipal Code [SDMC] section 126.0701. The 0.636-acre site is located at 1030 Pearl Street and 7522-32 Herschel Avenue in the RM-3-7 zone, Coastal Overlay Zone (non-appealable), Coastal Height Limit Zone, Parking Impact Overlay Zone, Residential Tandem Parking Overlay Zone, and Transit Area Overlay Zone of the La Jolla Community Plan area. The project site is legally described as Lots 20, 21, 22, and 23, Block 1, Center Addition to La Jolla Park, Map No. 915 and Parcel 1, Map No. 18804.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee to demolish an existing office building and six residential apartments, and construct twenty-four residential condominium units, described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated MAR 11 2008, on file in the Development Services Department.

The project or facility shall include:

- a. Demolition of an existing office building located at 1030 Pearl Street and demolition of six residential apartments located at 7522-32 Herschel Avenue;
- b. Construction of twenty-four residential condominium units with attached garages;
- c. Landscaping (planting, irrigation and landscape related improvements);
- d. Off-street parking; 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. This Permit must be utilized within thirty-six months after the date on which all rights of appeal have expired. Failure to utilize and maintain utilization of this permit as described in the SDMC 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 Owner/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 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 Owner/Permittee 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. Construction 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. The applicant shall defend, indemnify, and hold harmless the City, its agents, officers, and employees from any and all claims, actions, proceedings, damages, judgments, or costs, including attorney's fees, against the City or its agents, officers, or employees, including, but not limited to, any to any action to attack, set aside, void, challenge, or annul this development approval and any environmental document or decision. The City will promptly notify applicant of any claim, action, or proceeding and, if the City should fail to cooperate fully in the defense, the applicant shall not thereafter be responsible to defend, indemnify, and hold harmless the City or its agents, officers, and employees. The City may elect to conduct its own defense, participate in its own defense, or obtain independent legal counsel in defense of any claim related to this indemnification. In the event of such election, applicant shall pay all of the costs related thereto, including without limitation reasonable attorney's fees and costs. In the event of a disagreement between the City and applicant regarding litigation issues, the City shall have the authority to control the litigation and make litigation related decisions, including, but not limited to, settlement or other disposition of the matter. However, the applicant shall not be required to pay or perform any settlement unless such settlement is approved by applicant.

AFFORDABLE HOUSING REQUIREMENTS:

11. Prior to receiving a final map, the Owner/Permittee 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). The applicant has elected to pay an in-lieu fee to meet these requirements. Prior to receiving a final map/certificate of compliance, the applicant must either pay the entire in-lieu fee amount or enter into an agreement with the San Diego Housing Commission to assure the payment of the in-lieu fee.

ENGINEERING REQUIREMENTS:

12. A Final Map shall be recorded in the Office of the County Recorder, prior to the Vesting Tentative Map expiration date.

13. 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, satisfactory to the City Engineer.

14. 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 Municipal Code, into the construction plans or specifications.

15. 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.

16. 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, consistent with the approved Water Quality Technical Report.

17. 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 tentative map.

SEWER AND WATER REQUIREMENTS:

18. No trees or shrubs exceeding 3'-0" in height at maturity shall be installed within 10'-0" of any public sewer facilities.

19. 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 any existing unused water services

adjacent to the project site, in a manner satisfactory to the Water Department Director and the City Engineer.

20. 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.

21. 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.

PLANNING/DESIGN REQUIREMENTS:

22. No fewer than forty-five (fifty-five are provided) 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.

23. 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.

24. 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.

25. 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 Owner/Permittee.

26. 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.

27. 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.

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

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

LANDSCAPE REQUIREMENTS:

30. Prior to issuance of any construction permits for grading, the Owner/Permittee shall submit landscape construction documents for the revegetation and hydroseeding of all disturbed land in accordance with the Land Development Manual Landscape Standards and to the satisfaction of the City Manager. All plans shall be in substantial conformance to this permit (including Environmental conditions) and Exhibit "A."

31. Prior to issuance of any construction permits for public right-of-way improvements, the Owner/Permittee shall submit complete landscape construction documents for right-of-way improvements 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.

32. Prior to issuance of any construction permits for buildings, the Owner/Permittee shall submit complete landscape and irrigation construction documents consistent with the Land Development Manual Landscape Standards to the City Manager for approval. The construction documents shall be in substantial conformance with Exhibit "A," Landscape Development Plan.

33. Prior to issuance of any Certificate of Occupancy, it shall be the responsibility of the Owner/Permittee 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.

34. The Owner/Permittee shall maintain all landscape 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.

35. The Owner/Permittee shall be responsible for the maintenance of all landscape improvements in the right-of-way consistent with the Land Development Manual 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.

36. 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, the Owner/Permittee is responsible to repair and/or replace any landscape in kind and equivalent size per the

approved documents to the satisfaction of the City Manager within thirty days of damage or prior to a Certificate of Occupancy.

TRANSPORTATION REQUIREMENTS:

37. The Owner/Permittee shall close all under-utilized driveways along the project's frontage on Herschel Avenue and replace with full height curb, gutter and sidewalk, satisfactory to the City Engineer.

38. The Owner/Permittee shall remove all damaged curb, gutter and sidewalk along the project's frontage on Pearl Street and Herschel Avenue and replace with standard curb, gutter and sidewalk, satisfactory to the City Engineer.

39. The Owner/Permittee shall remove all damaged asphalt pavement along the project's frontage in the alley and replace with standard concrete pavement, satisfactory to the City Engineer.

40. The Owner/Permittee shall provide and maintain adequate visibility area along the front setback. No obstacles higher than 36" shall be located within this area.

41. The Owner/Permittee shall construct new pedestrian ramps at the northwest corner of Pearl Street and Herschel Avenue and at both sides of the Alley that intersects with Pearl Street, satisfactory to the City Engineer.

ENVIRONMENTAL REQUIREMENTS:

42. 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.

43. The mitigation measures specified in the MMRP, and outlined in Mitigated Negative Declaration No. 125935, shall be noted on the construction plans and specifications under the heading ENVIRONMENTAL/MITIGATION REQUIREMENTS.

44. The Subdivider shall comply with the MMRP as specified in Mitigated Negative Declaration No. 125935, satisfactory to the City Manager and the City Engineer. All mitigation measures as specifically outlined in the MMRP shall be implemented for Archaeological Resources.

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

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 MAR 11 2008, by
Resolution No. R- 303498

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.

Pearl & Herschel, LLC
Owner/Permittee

By _____
Gerald M. Rudick
Managing Member

By _____

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

PERMIT/OTHER - Permit Shell 11-01-04

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REC
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