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(R-2009-341)

9/09/08

RESOLUTION NUMBER R-304164

DATE OF FINAL PASSAGE SEP 09 2008

COASTAL DEVELOPMENT PERMIT NO. 288562 FOR  
4933 SARATOGA TENTATIVE MAP - PROJECT NO. 89835

WHEREAS, Saxony Villas, L.P, Owner/Permittee, filed an application with the City of San Diego for a permit to allow the conversion 12 existing residential units into condominiums, including a request to waive the requirement to underground the existing overhead utilities (as described in and by reference to the approved Exhibits "A" and corresponding conditions of approval for the associated Permit No. 288562, on portions of a 0.24-acre site; and

WHEREAS, the project site is located at 4933 Saratoga Avenue, between Bacon Street and Cable Street, in the RM-2-4 Zone, Ocean Beach Precise Plan, Airport Approach and Environs Overlay Zone, Coastal Overlay Zone (non-appeable), Coastal Height Overlay Zone, Parking Impact Overlay Zone, Ocean Beach Historic District and within the University Community Plan area; and

WHEREAS, the project site is legally described as Lots 32, 33 and 34 of Ocean Beach, according to Map thereof No. 279; and

WHEREAS, on June 5, 2008, the Planning Commission of the City of San Diego considered Coastal Development Permit No. 288562, and voted 4-2 to deny the project, by Resolution No. 4405-PC-1; and

WHEREAS, an appeal of the Planning Commission's decision was filed by DGB Survey and Mapping and Richard Speare, filed on behalf of the property owner, Saxony Villas, L.P.; and

WHEREAS, under Charter section 280(a)(2) this resolution/ordinance 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, on September 9, 2008, the City Council of the City of San Diego considered Coastal Development Permit No. 288562 pursuant to the Land Development Code of the City of San Diego; NOW, THEREFORE,

BE IT RESOLVED by the City Council of the City of San Diego, that it adopts the following written findings, dated September 9, 2008.

**FINDINGS:**

**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 0.24-acre project site is located at 4933 Saratoga Avenue and is developed with an existing 12-unit, two-story apartment building and is surrounded by similar multi-family development. The project would allow the conversion of the 12 existing units into condominiums and no additional development or density increase is proposed with the project. The project site is not adjacent to nor does it contain any public accessways identified in the Local Coastal Program, therefore, the proposed condominium conversion would not result in such encroachments. The conversion of these existing units would not alter any public views to and along the ocean nor does the developed site affect any designated view corridors.

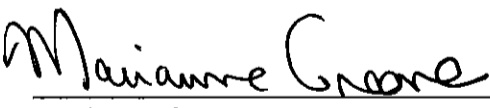
**2. The proposed coastal development will not adversely affect environmentally sensitive lands.** The 0.24-acre project site is located at 4933 Saratoga Avenue and is developed with an existing 12-unit, two-story apartment building and is surrounded by similar multi-family development. The project would allow the conversion of the 12 existing units into condominiums and no additional development or density increase is proposed with the project. The project is located on a developed project site within an established neighborhood and no sensitive biological resources are located on the site. The project was determined to be categorically exempt from the California Environmental Quality Act (CEQA). Therefore, the proposed condominium conversion project would not adversely affect environmentally sensitive lands.

**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 0.24-acre project site is located at 4933 Saratoga Avenue and is developed with an existing 12-unit, two-story apartment building and is surrounded by similar multi-family development. The project would allow the conversion of the 12 existing units into condominiums and no additional development or density increase is proposed with the project. The site is designated for multi-family development by the Local Coastal Program and Ocean Beach Community Land Use Plans for multi-family development. No additional development or density increase is proposed with this condominium conversion. Therefore, the proposed condominium conversion project would conform with the certified Local Coastal Program land use plan.

**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 0.24-acre project site is located at 4933 Saratoga Avenue and is developed with an existing 12-unit, two-story apartment building and is surrounded by similar multi-family development. The project would allow the conversion of the 12 existing units into condominiums and no additional development or density increase is proposed with the project. The project site is not located between the nearest public road and the sea or shoreline of any body of water. Therefore, the conversion of these existing units into condominiums would not interfere with public coastal access and the project would conform with the public access and public recreation policies of the California Coastal Act.

BE IT FURTHER RESOLVED that, based on the findings hereinbefore adopted by the City Council, Coastal Development Permit No. 288562 is hereby GRANTED by the City Council to the referenced Owner/Permittee, in the form, exhibits, terms and conditions as set forth in Permit No. 288562, a copy of which is attached hereto and made a part hereof.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By   
Marianne Greene  
Deputy City Attorney

MR:als  
09/19/08  
Or.Dept:DSD  
R-2009-341

**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 42-5633

**COASTAL DEVELOPMENT PERMIT NO. 288562**  
**4933 SARATOGA TENTATIVE MAP – PROJECT NO. 113625**  
**CITY COUNCIL**

This Coastal Development Permit No. 288562 is granted by the City Council of the City of San Diego to Saxony Villas, L.P., Owner, and DGB Survey and Mapping, Permittee, pursuant to San Diego Municipal Code [SDMC] section 126.0701. The 0.24-acre site is located at 4933 Saratoga Avenue, between Bacon Street and Cable Street, in the RM-2-4 Zone, Ocean Beach Precise Plan, Airport Approach and Environs Overlay Zone, Coastal Overlay Zone, Coastal Height Overlay Zone, Parking Impact Overlay Zone, Ocean Beach Historic District and within the University Community Plan area. The project site is legally described as Lots 32, 33 and 34 of Ocean Beach, according to Map thereof No. 279.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner and Permittee to convert four existing residential units to condominiums, described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated September 9, 2008, on file in the Development Services Department.

The project shall include:

- a. The subdivision of a 0.24-acre site to convert 12 existing residential rental units located in an existing two-story structure to condominiums;
- b. Provision of 12 off-street parking spaces; and
- c. No additional development rights are granted as a result of this subdivision of land.

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**STANDARD REQUIREMENTS:**

1. This Coastal Development Permit to allow the conversion of the 12 existing residential units into condominiums must be utilized within thirty-six (36) 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 SDMC requirements and applicable guidelines in affect 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 Development Services Department.
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 Owner/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. 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.
8. 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.

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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.

9. 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, relating to the issuance of this permit including, but not limited 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.

10. This Coastal Development Permit shall become effective with recordation of the corresponding Parcel Map, as required in the associated Tentative Map Resolution, Project No. 89835.

11. This Coastal Development Permit shall conform to the provisions of Tentative Map No. 287633, Project No. 89835.

**AFFORDABLE HOUSING REQUIREMENTS:**

12. Prior to recordation of the Final Map, the Subdivider 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) by paying an in-lieu fee of \$24,150 (\$2.50 x 9,660 sq/ft) OR by entering into an Agreement with the San Diego Housing Commission, to ensure payment of the in-lieu fee.

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13. Prior to the recordation of the Final Map, the Subdivider shall demonstrate conformance with the Municipal Code provisions for Coastal Overlay Zone Affordable Housing Replacement Regulations (Chapter 14, Article 3, Division 8), to the satisfaction of the Development Services Department and the Housing Commission.

14. Prior to the recordation of the Final Map, the Subdivider shall demonstrate conformance with the Municipal Code provisions for Tenant Relocation Benefits (Chapter 14, Article 4, Division 5), to the satisfaction of the Development Services Department and the Housing Commission.

15. The Subdivider will give each tenant a notice of termination of tenancy 60 days prior to being required to vacate the property. (Land Development Code Section 125.0431(a)(4)).

**ENGINEERING REQUIREMENTS:**

16. This Coastal Development Permit shall conform to Tentative Map No. 287633, Project No. 89835.

**PLANNING/DESIGN REQUIREMENTS:**

17. No fewer than 12 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 Development Services Department.

**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 §66020.
- This development may be subject to impact fees at the time of construction permit issuance

APPROVED by the City Council of the City of San Diego on SEP 09 2008, 2008,  
by Resolution No. R-304164.

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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.

**SAXONY VILLAS, L.P.**

Owner

By \_\_\_\_\_

**DGB SURVEY AND MAPPING**

Permittee

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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