

(D) 336
(R-2009-198) 10/07

RESOLUTION NUMBER R- 304225

DATE OF FINAL PASSAGE OCT 07 2008

WHEREAS, Dean Wilson, Trustee Of The Dean Wilson Living Trust And Axiom Shelter Island LLC, Owners/Permittees, filed an application with the City of San Diego for a Coastal Development Permit (CDP) No. 388140, Site Development Permit (SDP) No. 388141, and Planned Development Permit (PDP) No. 561515 to demolish an existing three (3) two-story structures and associated accessory structures, and construct a new four (4) two-story and one (1) three-story buildings consisting of 47 residential condominium units, three commercial condominium units and one level of subsurface parking, known as the Point Loma Townhomes project, located at 1275 Scott Street in the CC-4-2 Zone of the Peninsula Community Plan and Local Coastal Program Land Use Plan Area; and

WHEREAS, the project site is legally described as Parcel A: Lot 1, Block 29 of Roseville, in the City of San Diego, County of San Diego, State of California, according to Map thereof No. 165, filed in the office of the County Recorder of San Diego County. Excepting therefrom that portion, if any, heretofore or now lying below the mean high tide line of the Bay of San Diego; and Parcel B: That portion of Lot 1 in Block 28 and Lots 2 to 11 inclusive in Block 29 of Roseville, in the City of San Diego, County of San Diego, State of California, according to Map thereof No. 165, filed in the office of the County Recorder of San Diego County lying above the mean high tide line of the Bay of San Diego, as said mean high tide line was established by that certain Superior Court action numbered 35473, and on file in the office of the County Recorder of San Diego County as Miscellaneous Map No. 42; and Together with that portion of Shafter Street as closed to public use lying between said Blocks 28 and 29 and

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lying above said mean high tide line; and Parcel C: Lot 12, Block 29 of Roseville, in the City of San Diego, County of San Diego, State of California, according to Map thereof No. 165, filed in the office of the County Recorder of Said San Diego County; Excepting therefrom any portion thereof now or heretofore lying below the mean high tide line of the Bay of San Diego; and

WHEREAS, on August 7, 2008, the Planning Commission of the City of San Diego considered CDP No. 388140, SDP No. 388141, PDP No. 561515, and TM No. 388142, and pursuant to Resolution No. 4444-PC voted to recommend City Council approval of the permit" OR "approved/denied the permit"; and

OCT 07 2008

WHEREAS, the matter was set for public hearing on _____, 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 CDP No. Permit No. 388140, SDP No. 388141, and PDP No. 561515:

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 Peninsula Community Plan identifies a public coastal view extending easterly from Rosecrans Street to San Diego Bay from Garrison Street to Shelter Island Drive. This view is available to pedestrian and vehicular passengers from Rosecrans Street at every intersection starting from Shelter Island Drive to Garrison Street. However, the coastal view from Rosecrans Street directly east has been obstructed by multi-story development along Scott Street. The proposed project would not impact these coastal views from Rosecrans Street identified in the community plan and would not further deteriorate the public view that has been previously compromised.

The proposed project also enhances the public coastal access that will be created with the adjacent Kettenburg Landing proposal on Port Tideland by providing an enhanced public right

The proposed project also enhances the public coastal access that will be created with the adjacent Kettenburg Landing proposal on Port Tidelands by providing an enhanced public right of way and pedestrian interest through the commercial component of the planned mixed-use development.

Accordingly, the proposed project will not impact any public views to and along the ocean and other scenic coastal areas as specified in the Peninsula Community Plan and Local Coastal Program (LCP) Land Use Plan.

2. The proposed coastal development will not adversely affect environmentally sensitive lands. The proposed project would demolish all existing structures on the site and construct 47 townhomes and three commercial units in five buildings meeting the setback and height regulations of the zone. A Mitigated Negative Declaration has been prepared for the project and no Environmentally Sensitive Lands have been identified on the project site. In addition, the project is located within an existing urbanized area, surrounded by a fully developed neighborhood; therefore there are no environmental sensitive resources in the immediate vicinity. The project is not within or adjacent to the Multiple Species Conservation Program, Multiple Habitat Planning Area. The proposed construction will not conflict with the Multiple Species Conservation Plan, and will not adversely affect any 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. With the adoption of the proposed Community Plan amendment and Local Coastal Program amendment, the proposed development would be consistent with the Peninsula Community Plan/LCP as the site would then be identified for commercial development. The Peninsula Community Plan identifies this area as a "transitional area", where gradual commercial development/redevelopment is underway. The proposal on the subject site, for a mixed-use project with residential and commercial would be compatible with the existing commercial, marine-related and residential uses, both adjacent to the subject site and in the immediate neighborhood. The development would meet the goals of the Peninsula Community Plan/LCP by providing sensitive infill residential development in an area where support commercial and retail services are convenient to the project site within the Point Loma Village area and the Shelter Island vicinity.

The proposed project would provide a corridor to the neighboring Tidelands project, helping to increase opportunities for public access to the water front, implementing the California Coastal Act goals regarding "protection and expansion of public access to the shoreline and recreational opportunities and resources; including commercial visitor-serving facilities. " Also, the neighboring Tidelands project will feature a public plaza where previously none existed, public shoreline pedestrian promenade and include inventory display by tenant boat dealers, enhancing shoreline access and commercial visitor-serving uses.

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. Public access to the waterfront is not provided by this proposal, but rather by the neighboring Kettenburg Landing project on Port Tidelands. There is to be a public promenade between the Kettenburg Landing project and San Diego Bay running the width of the subject site and through the neighboring Driscoll boatyard to the east, eventually connecting with Shelter Island Drive. The only public open space along a continuum running from Point Loma Seafoods to the north of the site and Shelter Island Drive would be represented by the Kettenburg Landing site. Public access across the Driscoll site may be interrupted by the occasional transfer of boats as they are pulled from the water and across site for repairs and maintenance work.

Though the subject site does not directly affect coastal access, it enhances it through pedestrian amenities in the right-of-way along both Carleton and Dickens Streets in the form of street trees and transparent commercial street frontage providing interest to the pedestrian. Without the development of the subject site, there would be no opportunity for pedestrian interaction on-site with the planned commercial component. However, public access, and thereby coastal access, is potentially increased and enhanced by directing pedestrians along Carleton and Dickens Streets into the Kettenburg Landing site.

SITE DEVELOPMENT PERMIT – SDMC SECTION 126.0504(A):

1. The proposed development will not adversely affect the applicable land use plan. The Point Loma Townhomes project proposes an amendment to the Peninsula Community Plan and Local Coastal Program to redesignate the subject site from industrial (fishing/marine-related) to commercial which would include the demolition of three (3) two-story commercial structures and associated accessory structures, and the construction of four (4) two-story and one (1) three-story buildings consisting of 47 residential town homes (condominium units), three street-level commercial condominium units above one level of subsurface parking.

The subject site is part of a larger area identified as “blighted” by The North Bay Redevelopment Plan. This proposal creates an opportunity to “enhance the physical conditions of the existing neighborhood through rehabilitation and/or development” and an improvement needed to eliminate both physical and economical conditions of blight, one of the main objectives of the North Bay Redevelopment Plan.

With the adoption of the proposed Community Plan amendment and Local Coastal Program amendment, the proposed development would not adversely affect the Peninsula Community Plan/LCP, as the site would then be identified for commercial development.

The City of San Diego General Plan update adopted March 2008 is guided by the City of Villages strategy to focus future housing, retail, employment, educational, and civic uses in mixed-use village centers of different scales that are pedestrian-friendly, centers of community, and linked to the regional transit system. Implementation of the City of Villages strategy is an important component of the City’s strategy to reduce local contributions to greenhouse gas emissions, because the strategy makes it possible for larger numbers of people to make fewer and shorter auto trips. The project implements the policies of the City of Villages strategy. The

proposed project would include several sustainable building practices consistent with goals for Sustainable Development and Urban Forestry in the General Plan, thereby providing environmental, economic and health benefits for building owners and occupants, as well as helping the broader community by conserving resources and reducing pollution.

If approved, this proposed project would be consistent with the revised land use designation of the Community Plan by providing 47 residential dwelling units and three commercial units. This residential density is within the 15-29 du/ac range identified for multi-family development in the community plan which is consistent with the maximum density allowed by the underlying CC-4-2 zone. The development would meet the goals of the Peninsula Community Plan/LCP by providing sensitive infill residential development in an area where support commercial and retail services are convenient to the project site within the Point Loma Village area and the Shelter Island vicinity.

2. The proposed development will not be detrimental to the public health, safety, and welfare. The proposed development is to demolish an existing three (3) two-story commercial structures and associated accessory structures, and construct a new four (4) two-story and one (1) three-story buildings consisting of 47 residential town homes (condominium units), three street-level commercial condominium units above one level of subsurface parking, hardscape, and landscape on a 72,027 square-foot site. The proposed project includes a left turn pocket lane from south bound Scott Street onto eastbound Carleton Street and provides visibility triangles at street corners and subterranean parking garage driveway to insure enhanced pedestrian safety. The project has been designed and conditioned to protect the health, safety, and welfare of the future residents.

The new residential construction occurs in or near areas historically used for industry; agriculture, commerce or solid waste, contaminated soils and groundwater can be found. As part of the environmental review process steps must be taken to disclose and address the safe removal, disposal and/or remediation of hazardous materials.

An Environmental Assessment was prepared for the project site that revealed a leaking Underground Storage Tank (UST) at 2810 Carleton Street. The Subsurface testing revealed a number of contaminants present on the site, with gasoline impacted soil present at levels that will require remediation to develop the site for residential use. Therefore, compliance with the requirements of the County of San Diego Department of Environmental Health (DEH) would reduce impacts to below a level of significance. As such, this project is subject to a Mitigation, Monitoring and Reporting Program (MMRP) and shall conform to the mitigation conditions as contained in the Mitigated Negative Declaration No. 115083 which would mitigate potentially significant impact to Hazardous Materials/Public Safety to below a level of significance.

The proposed project drainage improvement system layout has been designed to discharge through the curb into four different discharging points onto adjacent streets, which ultimately are conveyed to the Bay. In addition, the proposal would include several sustainable building practices consistent with goals for Sustainable Development and Urban Forestry in the General Plan, thereby providing environmental, economic and health benefits for building owners and occupants, as well as helping the broader community by conserving resources and reducing pollution.

3. The proposed development will comply with the regulations of the Land Development Code. The proposed Point Loma Townhomes project and the request for an amendment to the Peninsula Community Plan and Local Coastal Program from industrial (fishing/marine-related) to commercial is in conformance with all applicable sections of the San Diego Municipal Code regarding the CC-4-2 Zone, as allowed through the Planned Development Permit.

As a component of this project, a deviation from the ground floor restriction of the CC-4-2 zone is requested. SDMC 131.0540(c) prohibits residential use and residential parking on the ground floor in the front half of the lot. Also, within the Coastal Overlay Zone, residential uses are not permitted on the ground floor per SDMC 131.0540(f). The proposed partially submerged garage is considered the ground floor and provides residential parking in the front half of the lot. The project therefore deviates from the ground floor restriction outlined in SDMC.

The intent of the regulations is to avoid visible asphalt vehicle parking fields and street scenes that appear dormant during daylight hours and to further enhance opportunities for public enjoyment of the coastal zone. The Point Loma Townhomes eliminates the undesirable visual elements by proposing an alternative design with street level commercial development as both commercial and residential parking is below grade and not visible from public street.

Notwithstanding these requested deviations, the proposed residential development would fully comply with the development regulations in effect for the subject property as described in Coastal Development Permit No. 388140, Site Development Permit No. 388141 and Planned Development Permit No. 561515, and the regulations/guidelines pertaining to the subject property per the San Diego Municipal Code.

Supplemental Findings--Historical Resources Deviation for in Substantial Alteration of a Designated Historical Resource or Within a Historical District(i);

1. There are no feasible measures, including a less environmentally damaging alternative, that can further minimize the potential adverse effects on the designated historical resource or historical district. The Kettenburg Boat Works site was designated as HRB Site #855 on February 28, 2008. The site was designated as a special element of San Diego's maritime history for its former use in the Kettenburg boat design and manufacturing operations and for its former association with the Kettenburg family and partners for that purpose. The designation excluded all structures on the property, as they had a limited association with the Kettenburg Boat Works operation. Although the structures were not included in the designation, they do provide a context for the Kettenburg Boat Works site. Therefore, their removal will adversely impact the setting, feeling and association of the site. However, the continued use of this site as a boatyard is not a feasible alternative, as the site is not capable of supporting its historic boatyard use or any other water-dependent marine-related use. In 1996 the site lost the access to the water that it enjoyed during its period of significance. Driscoll Inc. purchased Kettenburg Marine from receivership, consolidated operations onto the adjacent Port tidelands leasehold, and erected an asphalt curb and chain link fence along the property's mean high tide line eastern boundary with the Port tidelands. The subject site has no easement or any other rights of access over the Port tidelands property to the water, and therefore can no longer operate as it did historically. While the use of this site for purposes other than its

historic maritime use will result in a loss of historic context; the proposed project will mitigate this impact to the historic setting, feeling and association of the site through the incorporation of an historic plaque and interpretive story board on-site which will detail the history and significance of the Kettenburg Boat works site for the benefit of the public.

2. The deviation is the minimum necessary to afford relief and accommodate the development and all feasible measures to mitigate for the loss of any portion of the historical resource have been provided by the applicant. The continued use of this site as a boatyard is not a feasible alternative, as the site is not capable of supporting its historic boatyard use or any other water-dependent marine-related use. In 1996 the site lost the access to the water that it enjoyed during its period of significance. Driscoll Inc. purchased Kettenburg Marine from receivership, consolidated operations onto the adjacent Port tidelands leasehold, and erected an asphalt curb and chain link fence along the property's mean high tide line eastern boundary with the Port tidelands. The subject site has no easement or any other rights of access over the Port's tidelands property to the water, and therefore can no longer operate as it did historically. While the use of this site for any other purpose other than its historic maritime use will result in a loss of historic context; the proposed project will mitigate this impact to the historic setting, feeling and association of the site. Historical Resource mitigation measures have been developed and adopted within the Project's Final Mitigated Negative Declaration - conditioning issuance of building permits upon prior submittal of a plan showing the design and location of a Kettenburg interpretive story board to be placed proximate to the eastern terminus of Dickens Street and conditioning any Certificate of Occupancy upon prior installation of the approved Kettenburg interpretive story board to preserve the history of the site in the public realm.

3. The denial of the proposed development would result in economic hardship to the owner. For purposes of this finding, "economic hardship" means there is no reasonable beneficial use of a property and it is not feasible to derive a reasonable economic return from the property. The denial of the proposed development would result in economic hardship to the owner. The continued use of this site as a boatyard is not a feasible alternative, as the site is not capable of supporting its historic boatyard use or any other water-dependent marine-related use. Furthermore, any level of redevelopment inconsistent with the historic marine use would impact the historic site and affect aspects of integrity related to setting, feeling and association. There is no reasonable beneficial use of the property that does not require complete redevelopment in order to derive a reasonable economic return from the property.

PLANNED DEVELOPMENT PERMIT – SDMC SECTION 126.0604(A):

1. The proposed development will not adversely affect the applicable land use plan. The Point Loma Townhomes project proposes an amendment to the Peninsula Community Plan and Local Coastal Program from industrial (fishing/marine-related) to commercial which would include the demolition of three (3) two-story commercial structures and associated accessory structures, and the construction of four (4) two-story and one (1) three-story buildings consisting of 47 residential town homes (condominium units), three street-level commercial condominium units above one level of subsurface parking.

The subject site is part of a larger area identified as "blighted" by The North Bay Redevelopment Plan. This proposal creates an opportunity to "enhance the physical conditions of the existing neighborhood through rehabilitation and/or development" and an improvement needed to eliminate both physical and economical conditions of blight, one of the main objectives of the North Bay Redevelopment Plan.

With the adoption of the proposed Community Plan amendment and Local Coastal Program amendment, the proposed development would not adversely affect the Peninsula Community Plan/LCP, as the site would then be identified for commercial development.

The City of San Diego General Plan update adopted March 2008 is guided by the City of Villages strategy to focus future housing, retail, employment, educational, and civic uses in mixed-use village centers of different scales that are pedestrian-friendly, centers of community, and linked to the regional transit system. Implementation of the City of Villages strategy is an important component of the City's strategy to reduce local contributions to greenhouse gas emissions, because the strategy makes it possible for larger numbers of people to make fewer and shorter auto trips. The project implements the policies of the City of Villages strategy. The proposed project would include several sustainable building practices consistent with goals for Sustainable Development and Urban Forestry in the General Plan, thereby providing environmental, economic and health benefits for building owners and occupants, as well as helping the broader community by conserving resources and reducing pollution.

If approved, the proposed project would be consistent with the revised land use designation of the Community Plan by providing 47 residential dwelling units and three commercial units. This residential density is within the 15-29 du/ac range identified for multi-family development in the community plan which is consistent with the maximum density allowed by the underlying CC-4-2 zone. The development would meet the goals of the Peninsula Community Plan/LCP by providing sensitive infill residential development in an area where support commercial and retail services are convenient to the project site within the Point Loma Village area and the Shelter Island vicinity.

2. The proposed development will not be detrimental to the public health, safety, and welfare. The proposed development is to demolish an existing three (3) two-story commercial structures and associated accessory structures, and construct a new four (4) two-story and one (1) three-story buildings consisting of 47 residential town homes (condominium units), three street-level commercial condominium units above one level of subsurface parking, hardscape, and landscape on a 72,027 square-foot site. The proposed project includes a left turn pocket lane from south bound Scott Street onto eastbound Carleton Street and provides visibility triangles at street corners and subterranean parking garage driveway to insure enhanced pedestrian safety. The project has been designed and conditioned to protect the health, safety, and welfare of the future residents.

The new residential construction occurs in or near areas historically used for industry; agriculture, commerce or solid waste, contaminated soils and groundwater can be found. As part of the environmental review process steps must be taken to disclose and address the safe removal, disposal and/or remediation of hazardous materials.

An Environmental Assessment was prepared for the project site that revealed a leaking Underground Storage Tank (UST) at 2810 Carleton Street. The Subsurface testing revealed a number of contaminants present on the site, with gasoline impacted soil present at levels that will require remediation to develop the site for residential use. Therefore, compliance with the requirements of the County of San Diego Department of Environmental Health (DEH) would reduce impacts to below a level of significance. As such, this project is subject to a Mitigation, Monitoring and Reporting Program (MMRP) and shall conform to the mitigation conditions as contained in the Mitigated Negative Declaration No. 115083 which would mitigate potentially significant impact to Hazardous Materials/Public Safety to below a level of significance.

The proposed project drainage improvement system layout has been designed to discharge through the curb into four different discharging points onto adjacent streets, which ultimately are conveyed to the Bay. In addition, the proposal would include several sustainable building practices consistent with goals for Sustainable Development and Urban Forestry in the General Plan, thereby providing environmental, economic and health benefits for building owners and occupants, as well as helping the broader community by conserving resources and reducing pollution.

3. The proposed development will comply with the regulations of the Land Development Code. The proposed Point Loma Townhomes project and the request for an amendment to the Peninsula Community Plan and Local Coastal Program from industrial (fishing/marine-related) to commercial is in conformance with all applicable sections of the San Diego Municipal Code regarding the CC-4-2 Zone, as allowed through the Planned Development Permit.

As a component of this project, a deviation from the ground floor restriction of the CC-4-2 zone is requested. SDMC 131.0540(c) prohibits residential use and residential parking on the ground floor in the front half of the lot. Also, within the Coastal Overlay Zone, residential uses are not permitted on the ground floor per SDMC 131.0540(f). The proposed partially submerged garage is considered the ground floor and provides residential parking in the front half of the lot. The project therefore deviates from the ground floor restriction outlined in SDMC.

The intent of the regulations is to avoid visible asphalt vehicle parking fields and street scenes that appear dormant during daylight hours and to further enhance opportunities for public enjoyment of the coastal zone. The Point Loma Townhomes eliminates the undesirable visual elements by proposing an alternative design with street level commercial development as both commercial and residential parking is below grade and not visible from public street.

Notwithstanding these requested deviations, the proposed residential development would fully comply with the development regulations in effect for the subject property as described in Coastal Development Permit No. 388140, Site Development Permit No. 388141 and Planned Development Permit No. 561515, and the regulations/guidelines pertaining to the subject property per the San Diego Municipal Code.

4. The proposed development, when considered as a whole, will be beneficial to the community. The City of San Diego encourages infill residential projects as necessary to meet future housing needs for the region based on population forecasts. In particular, infill residential projects in developed communities have been identified as a key strategy in addressing the housing shortage in San Diego. The proposed re-designation would facilitate the construction of a mixed-use project in a commercial area where a high level of activity already exists, and provide a compact, efficient and environmentally sensitive pattern of development. Also, the project would provide a high level of architectural articulation, connectivity to public spaces and coastal resources, and increased pedestrian orientation.

The proposed residential development, when considered as a whole, will be beneficial to the community in that it will meet and promote the policy recommendations stated in the Peninsula Community Plan by constructing a multi-family infill development in an area proximate to transit; exhibiting design compatible with existing residential development, and enhancing the aesthetic quality and character of the neighborhood in which the project will be located.

In addition, the proposal on the subject site is to feature pedestrian enhancements including, outdoor patios, furniture, water features, enhanced paving, barbeque counters as well as street trees along the public rights-of-way (Dickens St. and Carleton St.) to increase pedestrian activity and accessibility in this area. The proposed development, in coordination with the adjacent Kettenburg Landing project shall open up public access and view corridors at the foot of both Dickens and Carleton; provide a new, open public plaza with an artistic water feature, and the creation of pedestrian promenade at the water's edge and establishment of a sense of entry through street design. This will act to direct pedestrians toward the waterfront and thereby increase both physical and visual access, consistent with California Coastal Act policy. For these reasons, the proposal on the subject site could also be compatible with planned development.

5. Any proposed deviations pursuant to 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 proposed Point Loma Townhomes project and the request for an amendment to the Peninsula Community Plan and Local Coastal Program from industrial (fishing/marine-related) to commercial is in conformance with all applicable sections of the San Diego Municipal Code regarding the CC-4-2 Zone, as allowed through the Planned Development Permit.

As a component of this project, a deviation from the ground floor restriction of the CC-4-2 zone is requested. SDMC 131.0540(c) prohibits residential use and residential parking on the ground floor in the front half of the lot. Also, within the Coastal Overlay Zone, residential uses are not permitted on the ground floor per SDMC 131.0540(f). The proposed partially submerged garage is considered the ground floor and provides residential parking in the front half of the lot. The project therefore deviates from the ground floor restriction outlined in SDMC.

The project proposes to deviate from the interpreted standard by permitting residential parking use in what could be construed as the ground floor of the premises, although only commercial space is located at or proximate to grade and no residential use occupies the same horizontal plane as the sidewalk level commercial floor area.

The intent of the regulations is to avoid visible asphalt vehicle parking fields and street scenes that appear dormant during daylight hours and to further enhance opportunities for public enjoyment of the coastal zone. The Point Loma Townhomes eliminates the undesirable visual elements by proposing an alternative design with street level commercial development as both commercial and residential parking is below grade and not visible from public street.

The requested deviation is appropriate for this location and would result in a more desirable project than would be achieved if designed in strict conformance with the development regulations of the applicable zone. It allows the achievement of an imaginative and innovative combined project with the immediately contiguous Kettenburg Landing redevelopment and its substantial public benefit. In addition, the proposed development has otherwise been designed and conditioned to ensure conformance to the requirements of the City of San Diego Land Development Code. Therefore, the proposed use will comply with the relevant regulations of the Municipal Code.

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

BE IT FURTHER RESOLVED, that the recommendation of the Planning Commission is sustained, and Coastal Development Permit (CDP) No. 388140, Site Development Permit (SDP) No. 388141 and Planned Development Permit (PDP) No. 561515 are granted to Dean Wilson, Trustee Of The Dean Wilson Living Trust And Axiom Shelter Island LLC, Owners/Permittees, under the terms and conditions set forth in the permit attached hereto and made a part hereof.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By Marianne Greene
Marianne Greene
Deputy City Attorney

MR:als
08/25/08
Or.Dept:DSD
R-2009-198
MMS#6683

RECORDING REQUESTED BY
CITY OF SAN DIEGO
DEVELOPMENT SERVICES
PERMIT INTAKE, MAIL STATION 501

WHEN RECORDED MAIL TO
PROJECT MANAGEMENT
PERMIT CLERK
MAIL STATION 501

SPACE ABOVE THIS LINE FOR RECORDER'S USE

JOB ORDER NUMBER: 42-7038

COASTAL DEVELOPMENT PERMIT NO. 388140
SITE DEVELOPMENT PERMIT NO. 388144
PLANNED DEVELOPMENT PERMIT NO. 561515
POINT LOMA TOWNHOMES [MMRP] - PROJECT NO. 115083
CITY COUNCIL

This Coastal Development Permit No. 388140, Site Development Permit No. 388144, and Planned Development Permit No. 561515 are granted by the City Council of the City of San Diego to Dean Wilson, Trustee Of The Dean Wilson Living Trust And Axiom Shelter Island LLC, Owners/Permittees, pursuant to San Diego Municipal Code [SDMC] sections 126.0708, 126.0504, and 126.0604. The 01.65-acre project site is located at 1275 Scott Street in the CC-4-2 Zone, Coastal Overlay Zone (appealable-area), Coastal Height Limit Overlay Zone, First Public Roadway, Beach Parking Impact Overlay Zone, the North Bay Redevelopment Project Area, and the Community Plan Implementation Overlay Zone within the Roseville/Shelter Island area of the Peninsula Community Plan and Local Coastal Program Land Use Plan Area. The project site is a designated historic resource, identified as HRB Site #855 and designated by the Historical Resources Board on February 28, 2008.

The project site is legally described as Parcel A: Lot 1, Block 29 of Roseville, in the City of San Diego, County of San Diego, State of California, according to Map thereof No. 165, filed in the office of the County Recorder of San Diego County. Excepting therefrom that portion, if any, heretofore or now lying below the mean high tide line of the Bay of San Diego; and Parcel B: That portion of Lot 1 in Block 28 and Lots 2 to 11 inclusive in Block 29 of Roseville, in the City of San Diego, County of San Diego, State of California, according to Map thereof No. 165, filed in the office of the County Recorder of San Diego County lying above the mean high tide line of the Bay of San Diego, as said mean high tide line was established by that certain Superior Court action numbered 35473, and on file in the office of the County Recorder of San Diego County as Miscellaneous Map No. 42; and Together with that portion of Shafter Street as closed to public use lying between said Blocks 28 and 29 and lying above said mean high tide line; and Parcel C: Lot 12, Block 29 of Roseville, in the City of San Diego, County of San Diego, State of California, according to Map thereof No. 165, filed in the office of the County Recorder of Said

San Diego County; Excepting therefrom any portion thereof now or heretofore lying below the mean high tide line of the Bay of San Diego.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owners/Permittees to demolish an existing three (3) two-story structures and associated accessory structures, and construct a new four (4) two-story and one (1) three-story buildings consisting of 47 residential condominium units, three commercial condominium units and one level of subsurface parking, described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated September 23, 2008, on file in the Development Services Department.

The project shall include:

- a. Demolition of an existing two, two story commercial structures and associated accessory structures;
- b. Construction of four, two-story and one, three-story buildings consisting of 47 residential town homes (condominium units), three street-level commercial condominium units above one level of subsurface parking consisting of;
 - 1) Two, one-bedroom units, 14, two-bedroom units and 31, three-bedroom units totaling of 80,044-square-feet of habitable living area.
 - 2) 3,219 square feet GFA new commercial / retail
 - 3) 141 partially below grade parking spaces and miscellaneous areas totaling 60,747 square feet.
- c. Off-street parking facilities including 141 automobile, three accessible, seven motorcycles, and twenty-eight bicycle parking spaces;
- d. Deviations to the ground floor restriction of the CC-4-2 zone and development within the Coastal Zone as follows:
 - Allow development of the residential parking in the front half of the lot.
 - Allow development of the residential use on the ground floor.
- e. Landscaping (planting, irrigation and landscape related improvements);
- f. Historic plaque and interpretive story board detailing the history of the Kettenburg Boat Works site and operation, as approved by HRB staff for the Designated Historic Site; and
- g. Accessory improvements determined by the Development Services Department 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 (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. This Coastal Development Permit shall become effective on the eleventh working day following receipt by the California Coastal Commission of the Notice of Final Action, or following all appeals.
3. 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.
4. 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.
5. 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.
6. The continued use of this Permit shall be subject to the regulations of this and any other applicable governmental agency.
7. 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.).
8. 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.

9. 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.

10. 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.

11. 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.

ENVIRONMENTAL/MITIGATION REQUIREMENTS:

12. 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

13. The mitigation measures specified in the Mitigation Monitoring and Reporting Program, and outlined in MITIGATED NEGATIVE DECLARATION, NO. 115083, shall be noted on the construction plans and specifications under the heading ENVIRONMENTAL/MITIGATION REQUIREMENTS.

14. The Owner/Permittee shall comply with the Mitigation, Monitoring and Reporting Program (MMRP) as specified in MITIGATED NEGATIVE DECLARATION, NO. 115083, satisfactory to the Development Services Department and the City Engineer. All mitigation measures as specifically outlined in the MMRP shall be implemented for the following issue areas: **Historical Resources (Archaeology), Public Health and Safety, and Historical Resources-Designated site.**

15. 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.

AFFORDABLE HOUSING REQUIREMENTS:

16. Prior to the issuance of any building permit, the applicant 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:

17. The subdivider shall enter into a Maintenance Agreement for the ongoing permanent BMP maintenance.

18. Prior to the issuance of any construction permit, the subdivider shall incorporate any construction Best Management Practices necessary to comply with Chapter 14, Article 2, Division 1 (Grading Regulations) of the San Diego Municipal Code, into the construction plans or specifications.

19. Prior to the issuance of any construction permit the subdivider shall incorporate and show the type and location of all post-construction Best Management Practices (BMP's) on the final construction drawings, in accordance with the approved Water Quality Technical Report.

20. The subdivider shall replace the curb, gutter, and sidewalk with City standard curb, gutter and sidewalk, adjacent to the site on Carleton Street, Scott Street, and Dickens Street.

21. The subdivider shall obtain an Encroachment Maintenance and Removal Agreement, for private improvements located in the public right of way including; enhanced paving, sidewalk underdrains, landscaping, and irrigation.

22. This project proposes to export 3,438 cubic yards of material from the project site. All export material shall be discharged into a legal disposal site. The approval of this project does not allow the onsite processing and sale of the export material unless the underlying zone allows a construction and demolition debris recycling facility with an approved Neighborhood Use Permit or Conditional Use Permit per LDC Section 141.0620(i).

23. Development of this project shall comply with all requirements of State Water Resources Control Board (SWRCB) Order No. 99-08 DWQ and the Municipal Storm Water Permit, Order No. 2001-01(NPDES General Permit No. CAS000002 and CAS0108758), Waste Discharge

Requirements for Discharges of Storm Water Runoff Associated With Construction Activity. In accordance with said permit, a Storm Water Pollution Prevention Plan (SWPPP) and a Monitoring Program Plan shall be implemented concurrently with the commencement of grading activities, and a Notice of Intent (NOI) shall be filed with the SWRCB.

24. A copy of the acknowledgment from the SWRCB that an NOI has been received for this project shall be filed with the City of San Diego when received; further, a copy of the completed NOI from the SWRCB showing the permit number for this project shall be filed with the City of San Diego when received. In addition, the owner(s) and subsequent owner(s) of any portion of the property covered by this grading permit and by SWRCB Order No. 99 08 DWQ, and any subsequent amendments thereto, shall comply with special provisions as set forth in SWRCB Order No. 99 08 DWQ.

25. Prior to foundation inspection, the subdivider 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.

26. The subdivider shall reconstruct the existing curb ramp(s) adjacent to the project to meet current City standards.

27. Prior to building occupancy, the applicant shall conform to Section 62.0203 of the Municipal Code, "Public Improvement Subject to Desuetude or Damage." If repair or replacement of such public improvements is required, the owner shall obtain the required permits for work in the public right-of-way, satisfactory to the permit-issuing authority.

LANDSCAPE REQUIREMENTS:

28. Prior to issuance of any construction permits for grading, the Permittee or Subsequent Owner 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 Development Services Department. All plans shall be in substantial conformance to this permit (including Environmental conditions) and Exhibit 'A,' on file in the Office of the Development Services Department.

29. Prior to issuance of any construction permits for public right-of-way improvements, the Permittee or Subsequent Owner shall submit complete landscape construction documents for right-of-way improvements to the Development Services Department for approval. Improvement plans shall take into account a 40 sq-ft 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.

30. Prior to issuance of any construction permits for buildings, the Permittee or Subsequent Owner shall submit complete landscape and irrigation construction documents consistent with the Land Development Manual Landscape Standards to the Development Services Department for approval. The construction documents shall be in substantial conformance with Exhibit 'A,' Landscape Development Plan, on file in the Office of the Development Services Department. Construction plans shall take into account a 40 sq-ft area around each tree.

31. Prior to issuance of any Certificate of Occupancy, 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.

32. The Permittee or Subsequent Owner 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.

33. The Permittee or Subsequent Owner 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.

34. 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 Permittee or Subsequent Owner is responsible to repair and/or replace any landscape in kind and equivalent size per the approved documents to the satisfaction of the Development Services Department within 30 days of damage or prior to a Certificate of Occupancy.

PLANNING/DESIGN REQUIREMENTS:

35. No fewer than 141 off-street parking spaces, of which three spaces are accessible parking spaces, seven motorcycle spaces and twenty-eight bicycle spaces, shall be maintained on the property at all times in the approximate locations shown on the approved Exhibit "A." Parking spaces shall comply at all times with the SDMC and shall not be converted for any other use unless otherwise authorized by the Development Services Department.

36. 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.

37. All signs associated with this development shall be consistent with sign criteria established by either the approved Exhibit "A" or City-wide sign regulations.

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

39. 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.

HISTORICAL RESOURCES:

40. The historic plaque and interpretive story board and their placement on site shall be reviewed and approved by Historic Resources Board staff and the Design Assistance Subcommittee prior to construction and installation.

TRANSPORTATION REQUIREMENTS

41. Prior to the issuance of any building permits, applicant shall assure by permit and bond restriping of Scott Street to provide a westbound left turn lane at the intersection of Scott Street and Carleton Street as shown on Exhibit "A," satisfactory to the City Engineer.

WASTEWATER REQUIREMENTS:

42. Prior to the issuance of any engineering or building permits, the developer shall 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 mains that serve more than one ownership.

43. The developer shall design and construct all proposed public sewer facilities to the most current edition of the City of San Diego's Sewer Design Guide.

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

WATER REQUIREMENTS:

45. Prior to the issuance of any building permits, the Owner/Permittee shall assure, by permit and bond, the design and construction of a new 12-inch diameter water main in Scott Street from Carleton Street to Dickens Street, in a manner satisfactory to the Water Department Director and the City Engineer.

46. Prior to the issuance of any building permits, the Owner/Permittee shall assure, by permit and bond, the design and construction of a 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.

47. 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 (domestic, fire and irrigation), in a manner satisfactory to the Water Department Director and the City Engineer.

48. Prior to the issuance of any certificates of occupancy, all public water facilities shall be complete and operational in a manner the Water Department Director and the City Engineer.

49. 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, and associated easements, 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 §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 August 7, 2008, by Resolution No.

R-304225

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.

DEAN WILSON
Owner/Permittee

By _____

AXIOM SHELTER ISLAND LLC
Owner/Permittee

By _____

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

PERMIT/OTHER – Permit Shell 11-01-04