

RESOLUTION NUMBER R-305136

DATE OF FINAL PASSAGE JULY 21, 2009

GRANTING SITE DEVELOPMENT PERMIT NO. 507598 –  
SUMMIT AT MISSION BAY – PROJECT NO. 14436.

WHEREAS, United Dominion Realty, L.P., a Delaware Limited Partnership, Owner/Permittee, filed an application with the City of San Diego for a site development permit to demolish 323 existing apartments and to construct 499 residential condominiums to be known as the Summit at Mission Bay Project, located on a 15.7-acre site (the area east of Clairemont Drive, south of Calle Neil, west of Cowley Way and north of Iroquois Avenue), and legally described as,

Parcel A: Lots 1 and 2, Block 1 of Clairemont Gardens, in the City of San Diego, County of San Diego, State of California, according to Map thereof No. 2947 files in the Office of the County Recorder of San Diego County, January 14, 1953. Excepting therefrom all of Villamar Unit No. 1, in the City of San Diego, County of San Diego, State of California, according to Map thereof No. 11004, filed in the Office of the County Recorder of San Diego County, July 27, 1984 as File No. 84-285529 of Official Records.

Parcel B: Lots 1 and 2 of Reversionary Map of Villamar Unit No. 1, in the City of San Diego, County of San Diego, State of California, according to Map thereof No. 12851 filed in the Office of the County Recorder of San Diego County, August 9, 1991.

Parcel C: Non-Exclusive easements for ingress, egress, access and use, in, on, over, across, and through those certain walkways, pathways, open spaces, and other exterior common areas, excluding parking areas, of the “recreational facilities parcel,” together with ingress, egress, and access to the recreational facilities, as granted and conveyed in that certain amended and restated declaration and easements and covenants concerning recreational facilities, subject to the terms, covenants and provisions contained therein, recorded June 8, 1993 as File No. 1993-0361954 of official records,

in the Clairemont Mesa Community Plan area, in the RM-3-7 zone, Clairemont Mesa Height Limit Overlay Zone, and the Community Plan Implementation Overlay Zone Area B zone; and

WHEREAS, on April 16, 2009, the Planning Commission of the City of San Diego considered Site Development Permit [SDP] No. 507598, and pursuant to Resolution No. 4506-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 JUL 21 2009, 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 Site Development Permit No. 507598:

**A. SITE DEVELOPMENT PERMIT – SAN DIEGO MUNICIPAL CODE [SDMC] SECTION 126.0504**

**1. Findings for all Site Development Permits:**

**a. The proposed development will not adversely affect the applicable land use plan.** The Summit at Mission Bay Project consists of an application for a site development permit, vesting tentative map, easement abandonment, and public right of way vacation to demolish 323 existing apartments and construct 499 residential condominiums on a 15.7-acre site (12.1-net acres), and has been reviewed in accordance with all applicable development regulations of the San Diego Municipal Code, the Clairemont Mesa Community Plan, the City's General Plan, and the California Environmental Quality Act [CEQA]. The site is designated for Residential Land Use with a density range of 30-45 dwelling units per acre. Based on this land use designation, the project site could accommodate 471 to 707 (505 net) dwelling units. The proposal to demolish 323 existing residential units and construct 499 new

residential units is in conformance with that land use designation and density. Further, the Community Plan specifically identifies the site of the proposed project as having the Community Plan Implementation Overlay Zone [CPIOZ] Type B applied to it, and provides several recommendations relating to landscaping and site design. The goal of the CPIOZ recommendations is to establish a site design which: includes a significant parkway streetscape environment that includes the preservation of large mature trees; provides for breaks in building design; and parking garages which are concealed from the public right-of-way. The proposed project is in conformance with the CPIOZ recommendations as it would provide for a project design which promotes a lively streetscape that preserves most of the existing mature trees, provides varying levels of architectural styles with large courtyards to break up the building façade, and includes internal parking structures which screen all resident parking from public view. Therefore, the proposed development will not adversely affect the applicable land use plan.

**b. The proposed development will not be detrimental to the public health, safety, and welfare.** The Summit at Mission Bay Project consists of an application for a site development permit, vesting tentative map, easement abandonment, and public right-of-way vacation to demolish 323 existing apartments and construct 499 residential condominiums on a 15.7-acre site, and has been reviewed in accordance with all applicable development regulations of the San Diego Municipal Code, the Clairemont Mesa Community Plan, the City's General Plan, and CEQA.

The proposed residential development would result in a net increase in housing supply in a location with proximity to community services. The project would meet the intent of City Council Policy 900-14 criteria for the Affordable/In-Fill Housing and Sustainable Buildings Expedite Program by installing a roof-mounted photovoltaic system consisting of solar panels sufficient to generate at least 30 percent of the project's projected energy consumption, and by obtaining (at minimum) a Leadership in Energy and Environmental Design [LEED] Silver Certification. Project features include solar powered hot water systems, high efficiency irrigation system, and a construction waste management plan that would recycle 50 percent of all construction debris.

The permit prepared for the project includes various conditions and referenced exhibits of approval relevant to achieving project compliance with the applicable regulations of the San Diego Municipal Code in effect for this project. Such conditions are intended to avoid adverse impacts upon the health, safety and general welfare of persons residing or working in the surrounding area.

The City of San Diego conducted an Initial Study, which determined that the proposed project construction could potentially result in significant but mitigable impacts in the areas of Paleontological Resources and Traffic. Mitigated Negative Declaration Number 144836 was prepared for the project in accordance with the State of CEQA Guidelines. A Mitigation, Monitoring, and Reporting Program [MMRP] would be implemented which would reduce, to below a level of significance, the potential environmental impacts identified from the environmental review process for Paleontological Resources and Traffic.

The project would comply with the development regulations in effect for the subject property as described in Site Development Permit No. 144836, and other regulations and guidelines pertaining to the subject property per the San Diego Municipal Code. The proposed development would be required to obtain building permits to show that all construction would comply with all applicable building and fire code requirements. Therefore, the proposed development will not be detrimental to the public health, safety, and welfare.

**c. The proposed development will comply with the applicable regulations of the Land Development Code.** The Summit at Mission Bay Project consists of an application for a site development permit, vesting tentative map, easement abandonment, and public right of way vacation to demolish 323 existing apartments and construct 499 residential condominiums on a 15.7-acre site, and has been reviewed in accordance with all applicable development regulations of the San Diego Municipal Code, the Clairemont Mesa Community Plan, the City's General Plan, and CEQA. Staff has determined the project complies with the applicable development regulations and would be consistent with the purpose and intent of the underlying zone. The project is consistent with the Community Plan land use designation and would implement several goals and recommendations contained in the Clairemont Mesa Community Plan and the City's General Plan.

The project would meet the intent of City Council Policy 900-14 criteria for the Affordable/In-Fill Housing and Sustainable Buildings Expedite Program by installing a roof-mounted photovoltaic system consisting of solar panels sufficient to generate at least 30 percent of the project's projected energy consumption, and by obtaining (at minimum) a LEED Silver Certification. Project features include solar powered hot water systems, high efficiency irrigation system, and a construction waste management plan that would recycle 50 percent of all construction debris.

As an incentive for providing sustainable development, the San Diego Municipal Code (section 143.0920 governing Deviation Requirements for Affordable/In-Fill Housing and Sustainable Buildings Development) allows a developer of a Sustainable development project to request deviations from the applicable development regulations of the underlying zone pursuant to a Site Development Permit decided in accordance with a Process 4, provided that the required findings can be made. The project proposes to deviate from the SDMC requirements for floor area ratio reserved for required parking, landscape requirements for vehicular use areas, street side setback, and is requesting an exception to the Clairemont Mesa Height Limit Overlay Zone.

- Floor area reserved for required parking – SDMC section 131.0446(f) requires that a minimum of one-third of the permitted floor area ratio [FAR] be reserved for required parking. The RM-3-7 zone provides for a maximum of 1.8 FAR or 948,737 square feet on the 15.7-acre (12.1 net) site. Of this total, 66.7 percent, or 632,808 square feet may be used for non-parking uses and 33.3 percent or 315,929 square feet may be used for parking floor area. The project reserves 275,524 square feet for required parking where 315,929 square feet is required to be reserved; requesting a reduction in the required parking reservation by 40,405 square feet. San Diego Municipal Code section 131.0446(f) allows projects providing underground parking to add the gross floor area [GFA] of the underground parking space provided to the maximum GFA permitted for non-

parking uses. In addition, the Community Plan Implementation Overlay Zone requires that project parking garages be concealed from public view, which is being met by the project design. Although the applicant is not providing underground parking, the proposed wrap-style project design, which wraps the residential units around an interior parking structure, serves the same result of an underground parking structure, in eliminating the parking from view, therefore meeting the intent of the code section. The applicant is reallocating the 40,405 square feet from required parking to non-parking uses, which also meets the intent of the code section. Therefore, staff supports the requested deviation.

- Landscape for vehicular use areas - SDMC sections 142.0560(k)(1) and 142.0406 require that the top floor of parking structures that are open to the sky meet the landscape requirements for vehicular use areas. The intent of these code sections is to conserve energy by the provision of shade trees over parking areas and reducing the heat island effect. The project does not propose landscaping on the upper level of the parking structure, but proposes to shade portions of the vehicular use area with solar panels, for the purpose of generating energy on-site, and reducing the project's dependence on outside energy sources. Although the project design does not meet the letter of the landscape regulations, it does meet the intent, as the solar array provides 2.5 to 3 times the amount of shading of the parking areas than the required landscaping. Therefore, staff supports the requested deviation.
- Street side setback – SDMC section 131.0443(f)(3) requires a street side setback of 10 percent of the lot width. The project proposes a minimum street side yard setback of 11 feet where the SDMC requires a setback of 46 feet 6 inches. The project site covers an entire city block, having street frontage on all four sides. As designed, the project complies with the front yard setback requirements along the street frontages of Iroquois Avenue and Calle Neil, yet does not meet the strict interpretation of the code for the street side setback requirements for Cowley Way and Clairemont Drive.

The average overall street side setback is in excess of 35 feet. The project design incorporates multiple (11) themed courtyards which alternate with the apartment structure to create areas which greatly exceed and deviate from the street side setback requirements, and breaks up the building façade, meeting one of the recommendations of the Community Plan Implementation Overlay Zone. The themed courtyards include two separate swimming pools & two spas within large deck terraces with plush landscaping; 5,000 square feet of open grass area; two BBQ & community dining courtyards; three courtyards with water fountains; two private & secure tot lots; and meandering walkways throughout complex with existing mature trees and enhanced paving & landscaping. Each of the courtyards adds light, air, and views of the landscaped areas to a greater number of apartment units than would otherwise be allowed. Without the requested deviation to the street side setback requirements, the courtyard configuration would not be possible. In addition, the deviation for the reduced street side setbacks is consistent with the Strategic Framework Element's goal of creating more vibrant

urban spaces that enhance the pedestrian experience by stimulating visual interest through direct pedestrian access from the sidewalk to residential buildings, and does not adversely impact any Community Plan policies. Therefore, staff supports the requested deviation.

- Exception to the Clairemont Mesa Height Limit Overlay Zone [CMHLOZ] - The project proposes a maximum height of 53 feet 6 inches and five-story parking structure where the height limit is 40 feet and three-stories. The purpose of the CMHLOZ is to provide supplemental height regulations for western Clairemont Mesa. The intent of these regulations is to ensure that the existing low profile development in Clairemont Mesa will be maintained and that public views from western Clairemont Mesa to Mission Bay and the Pacific Ocean are protected. The San Diego Municipal Code allows an applicant to request an exception from the Clairemont Mesa Height Limit by applying for a Site Development Permit in accordance with Process Five, with the City Council as decision maker. Exceptions may be made to the height limit if the City Council can make the supplemental Site Development Permit findings governing the CMHLOZ.

An exception to the height limit is requested in order to provide energy generating photovoltaic panels over the upper deck of the parking structures, which are located in the center of the project site. An exception to the number of stories, allows for the parking requirements to be met, while meeting a key recommendation of the Community Plan Implementation Overlay Zone including internal parking structures which screen all resident parking from public view.

The exception would permit a solar panel canopy over a portion of the upper level parking area while not increasing the floor area of the project's habitable space. The exception would also permit limited penetrations of the height limit for small elevator shaft and stairwells. In total, approximately 35,800 square feet of surface area penetrates the 40 foot height limit (See Attachment 11). This area constitutes less than seven percent of the site area, and less than eleven percent of the overall proposed building coverage.

The subject property is situated at the summit of the mesa and sits at a higher elevation than the surrounding properties in all directions, and allowing the deviation would not interfere with public views from western Clairemont Mesa to Mission Bay and the Pacific Ocean within the surrounding area. For the reasons described above, staff supports the height exception request and believes that the required supplemental findings can be made. For the reasons described above, staff supports the height exception request and believes that the required supplemental findings can be made. Therefore, the proposed development will comply with the applicable regulations of the Land Development Code.

2. **Supplemental Findings – Deviations for Sustainable Development SDMC section 126.0504(m)**

a. **The proposed development will materially assist in reducing impacts associates with fossil fuel energy use by utilizing alternative energy resources, self-generation and other renewable technologies (e.g. photovoltaic, wind and/or fuel cells) to generate electricity needed by the building and its occupants.** The Summit at Mission Bay Project consists of an application for a site development permit, vesting tentative map, easement abandonment, and public right of way vacation to demolish 323 existing apartments and construct 499 residential condominiums on a 15.7-acre site, and has been reviewed in accordance with all applicable development regulations of the San Diego Municipal Code, the Clairemont Mesa Community Plan, the City's General Plan, and CEQA. The development would obtain, at minimum, a LEED Silver Certification. LEED Silver Certification would assure that the project would materially reduce its dependence on conventional fossil fuel energy sources and utilize sustainable energy resources. In addition to the project's commitment to sustainable design, material, and construction practices, the project would incorporate photovoltaic panels to provide electricity for common areas and solar hot water heating for all individual residential units. These two renewable elements would provide for at least 30 percent of the project's estimated energy requirements on-site. Therefore, the proposed development will materially assist in reducing impacts associates with fossil fuel energy use by utilizing alternative energy resources, self-generation and other renewable technologies (e.g. photovoltaic, wind and/or fuel cells) to generate electricity needed by the building and its occupants.

b. **The development will not be inconsistent with the purpose of the underlying zone.** The Summit at Mission Bay Project consists of an application for a site development permit, vesting tentative map, easement abandonment, and public right of way vacation to demolish 323 existing apartments and construct 499 residential condominiums on a 15.7-acre site, and has been reviewed in accordance with all applicable development regulations of the San Diego Municipal Code, the Clairemont Mesa Community Plan, the City's General Plan, and CEQA. The site is zoned RM-3-7 and falls within the Clairemont Mesa Height Limit Overlay Zone, and the Community Plan Implementation Overlay Zone, Type B. The RM-3-7 zone is a medium density multi-unit residential zone. The purpose of the RM zones is to provide for multiple dwelling unit development at varying densities. The purpose of the Clairemont Mesa Height Limit Overlay Zone is to provide supplemental height regulations for western Clairemont Mesa. The intent of these regulations is to ensure that the existing low profile development in Clairemont Mesa will be maintained and that public views from western Clairemont Mesa to Mission Bay and the Pacific Ocean are protected. The purpose of the Community Plan Implementation Overlay Zone, Type B is to provide supplemental development regulations that are tailored to specific sites within community plan areas of the City.

The proposed development would comply with the applicable regulations of the RM-3-7 zone for density, minimum lot area, lot dimensions, lot coverage, storage requirements, private exterior open space, common open space, and parking and loading requirements. As an incentive for providing sustainable development, the San Diego Municipal Code (section 143.0920 governing Deviation Requirements for Affordable/In-Fill Housing and Sustainable Buildings Development) allows a developer of a Sustainable development project to request deviations from the applicable development regulations of the underlying zone pursuant

to a Site Development Permit decided in accordance with a Process 4, provided that the required findings can be made. The project proposes to deviate from the SDMC requirements for floor area ratio reserved for required parking, landscape requirements for vehicular use areas, street side setback, and is requesting an exception to the Clairemont Mesa Height Limit Overlay Zone.

- Floor area reserved for required parking – SDMC Section 131.0446(f) requires that a minimum of one-third of the permitted FAR be reserved for required parking. The RM-3-7 zone provides for a maximum of 1.8 FAR or 948,737 square feet on the 15.7-acre (12.1 net) site. Of this total, 66.7 percent, or 632,808 square feet may be used for non-parking uses and 33.3 percent or 315,929 square feet may be used for parking floor area. The project reserves 275,524 square feet for required parking where 315,929 square feet is required to be reserved; requesting a reduction in the required parking reservation by 40,405 square feet. San Diego Municipal Code section 131.0446(f) allows projects providing underground parking to add the GFA of the underground parking space provided to the maximum GFA permitted for non-parking uses. In addition, the Community Plan Implementation Overlay Zone requires that project parking garages be concealed from public view, which is being met by the project design. Although the applicant is not providing underground parking, the proposed wrap-style project design, which wraps the residential units around an interior parking structure, serves the same result of an underground parking structure, in eliminating the parking from view, therefore meeting the intent of the code section. The applicant is reallocating the 40,405 square feet from required parking to non-parking uses, which also meets the intent of the code section. Therefore, staff supports the requested deviation.
- Landscape for vehicular use areas - SDMC Sections 142.0560(k)(1) and 142.0406 require that the top floor of parking structures that are open to the sky meet the landscape requirements for vehicular use areas. The intent of these code sections is to conserve energy by the provision of shade trees over parking areas and reducing the heat island effect. The project does not propose landscaping on the upper level of the parking structure, but proposes to shade portions of the vehicular use area with solar panels, for the purpose of generating energy on-site, and reducing the project's dependence on outside energy sources. Although the project design does not meet the letter of the landscape regulations, it does meet the intent, as the solar array provides 2.5 to 3 times the amount of shading of the parking areas than the required landscaping. Therefore, staff supports the requested deviation.
- Street side setback – SDMC section 131.0443(f)(3) requires a street side setback of 10 percent of the lot width. The project proposes a minimum street side yard setback of 11 feet where the SDMC requires a setback of 46 feet 6 inches. The project site covers an entire city block, having street frontage on all four sides. As designed, the project complies with the front yard setback requirements along the street frontages of Iroquois Avenue and Calle Neil, yet does not meet the strict interpretation of the code for the street side setback requirements for Cowley Way and Clairemont Drive.



The average overall street side setback is in excess of 35 feet. The project design incorporates multiple (11) themed courtyards which alternate with the apartment structure to create areas which greatly exceed and deviate from the street side setback requirements, and breaks up the building façade, meeting one of the recommendations of the Community Plan Implementation Overlay Zone. The themed courtyards include two separate swimming pools & two spas within large deck terraces with plush landscaping; 5,000 square feet of open grass area; two BBQ & community dining courtyards; three courtyards with water fountains; two private & secure tot lots; and meandering walkways throughout complex with existing mature trees and enhanced paving & landscaping. Each of the courtyards adds light, air, and views of the landscaped areas to a greater number of apartment units than would otherwise be allowed. Without the requested deviation to the street side setback requirements, the courtyard configuration would not be possible. In addition, the deviation for the reduced street side setbacks is consistent with the Strategic Framework Element's goal of creating more vibrant urban spaces that enhance the pedestrian experience by stimulating visual interest through direct pedestrian access from the sidewalk to residential buildings, and does not adversely impact any Community Plan policies. Therefore, staff supports the requested deviation.

- Exception to the Clairemont Mesa Height Limit Overlay Zone [CMHLOZ] - The project proposes a maximum height of 53 feet 6 inches and five-story parking structure where the height limit is 40 feet and three-stories. The purpose of the CMHLOZ is to provide supplemental height regulations for western Clairemont Mesa. The intent of these regulations is to ensure that the existing low profile development in Clairemont Mesa will be maintained and that public views from western Clairemont Mesa to Mission Bay and the Pacific Ocean are protected. The San Diego Municipal Code allows an applicant to request an exception from the Clairemont Mesa Height Limit by applying for a Site Development Permit in accordance with Process Five, with the City Council as decision maker. Exceptions may be made to the height limit if the City Council can make the supplemental Site Development Permit findings governing the CMHLOZ.

An exception to the height limit is requested in order to provide energy generating photovoltaic panels over the upper deck of the parking structures, which are located in the center of the project site. An exception to the number of stories, allows for the parking requirements to be met, while meeting a key recommendation of the Community Plan Implementation Overlay Zone including internal parking structures which screen all resident parking from public view.

The exception would permit a solar panel canopy over a portion of the upper level parking area while not increasing the floor area of the project's habitable space. The exception would also permit limited penetrations of the height limit for small elevator shaft and stairwells. In total, approximately 35,800 square feet of surface area penetrates the 40 foot height limit (See Attachment 11). This area constitutes less than seven percent of the site area, and less than eleven percent of the overall proposed building coverage.

The subject property is situated at the summit of the mesa and sits at a higher elevation than the surrounding properties in all directions, and allowing the deviation would not interfere with public views from western Clairemont Mesa to Mission Bay and the Pacific Ocean within the surrounding area. For the reasons described above, staff supports the height exception request and believes that the required supplemental findings can be made. For the reasons described above, staff supports the height exception request and believes that the required supplemental findings can be made. Therefore, the development will not be inconsistent with the purpose of the underlying zone.

**c. Any proposed deviations are appropriate for this location and will result in a more desirable project than would be achieved if designed in strict conformance with the development regulations of the applicable zone.** The Summit at Mission Bay Project consists of an application for a site development permit, vesting tentative map, easement abandonment, and public right of way vacation to demolish 323 existing apartments and construct 499 residential condominiums on a 15.7-acre site, and has been reviewed in accordance with all applicable development regulations of the San Diego Municipal Code, the Clairemont Mesa Community Plan, the City's General Plan, and CEQA.

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• Exception to the Clairemont Mesa Height Limit Overlay Zone [CMHLOZ] - The project proposes a maximum height of 53 feet 6 inches and 5-story parking structure where the height limit is 40 feet and three-stories. The purpose of the CMHLOZ is to provide supplemental height regulations for western Clairemont Mesa. The intent of these regulations is to ensure that the existing low profile development in Clairemont Mesa will be maintained and that public views from western Clairemont Mesa to Mission Bay and the Pacific Ocean are protected. The San Diego Municipal Code allows an applicant to request an exception from the Clairemont Mesa Height Limit by applying for a Site Development Permit in accordance with Process Five, with the City Council as decision maker. Exceptions may be made to the height limit if the City Council can make the supplemental Site Development Permit findings governing the CMHLOZ.

An exception to the height limit is requested in order to provide energy generating photovoltaic panels over the upper deck of the parking structures, which are located in the center of the project site. An exception to the number of stories, allows for the parking requirements to be met, while meeting a key recommendation of the Community Plan Implementation Overlay Zone including internal parking structures which screen all resident parking from public view.

The exception would permit a solar panel canopy over a portion of the upper level parking area while not increasing the floor area of the project's habitable space. The exception would also permit limited penetrations of the height limit for small elevator shaft and stairwells. In total, approximately 35,800 square feet of surface area penetrates the 40 foot height limit (See Attachment 11). This area constitutes less than seven percent of the site area, and less than eleven percent of the overall proposed building coverage.

The subject property is situated at the summit of the mesa and sits at a higher elevation than the surrounding properties in all directions, and allowing the deviation would not interfere with public views from western Clairemont Mesa to Mission Bay and the Pacific Ocean within the surrounding area. For the reasons described above, staff supports the height exception request and believes that the required supplemental findings can be made. For the reasons described above, staff supports the height exception request and believes that the required supplemental findings can be made. Therefore, the proposed deviations are appropriate for this location and will result in a more desirable project than would be achieved if designed in strict conformance with the development regulations of the applicable zone

3. **Supplemental Findings--Clairemont Mesa Height Limit – (SDMC section 126.0504(j) - A Site Development Permit required in accordance with Section 132.1306 because an exception from the Clairemont Mesa height limit is requested may be approved or conditionally approved only if the decision maker makes the following supplemental findings in addition to the findings in Section 126.0504(a):**

a. **The granting of an exception will not significantly interfere with public views from western Clairemont Mesa to Mission Bay and the Pacific Ocean within the surrounding area.** The Summit at Mission Bay Project consists of an application for a Site Development Permit, Vesting Tentative Map, Easement Abandonment, and Public Right of Way Vacation to demolish 323 existing apartments and construct 499 residential condominiums on a 15.7-acre site, and has been reviewed in accordance with all applicable development regulations of the San Diego Municipal Code, the Clairemont Mesa Community Plan, the City's General Plan, and the California Environmental Quality Act. The project proposes a maximum height of 53 feet 6 inches with a five-story parking structure where the maximum allowed structure height is 40 feet and is not to exceed three stories. The subject property is situated at the summit of the mesa and enjoys a topographic elevation advantage over surrounding neighboring properties in all directions. As such, public views, of Mission Bay and the Pacific Ocean, to the extent that they currently exist, would be unaffected by the granting of this exception. Therefore, the granting of an exception will not significantly interfere with public views from western Clairemont Mesa to Mission Bay and the Pacific Ocean within the surrounding area

b. **The granting of an exception is appropriate because there are existing structures over 30 feet in height and the proposed development will be compatible with surrounding one, two, or three-story structures; or the granting of an exception is appropriate because there are topographic constraints peculiar to the land; or the granting of the exception is needed to permit roofline and facade variations, accents, tower elements, and other similar elements and the elements will not increase the floor area of the structure.** The Summit at Mission Bay Project consists of an application for a site development permit, vesting tentative map, easement abandonment, and public right of way vacation to demolish 323 existing apartments and construct 499 residential condominiums on a 15.7-acre site, and has been reviewed in accordance with all applicable development regulations of the San Diego Municipal Code, the Clairemont Mesa Community Plan, the City's General Plan, and CEQA.

The project proposes a maximum height of 53 feet 6 inches and 5-story parking structure where the height limit is 40 feet and three-stories. The purpose of the CMHLOZ is to provide supplemental height regulations for western Clairemont Mesa. The intent of these regulations is to ensure that the existing low profile development in Clairemont Mesa will be maintained and that public views from western Clairemont Mesa to Mission Bay and the Pacific Ocean are protected.

An exception to the height limit is requested in order to provide energy generating photovoltaic panels over the upper deck of the park structures, which are located in the center of the project site. An exception to the number of stories, allows for the parking requirements to be

met, while meeting a key recommendation of the Community Plan Implementation Overlay Zone including internal parking structures which screen all resident parking from public view.

The exception would permit a solar panel canopy over a portion of the upper level parking area while not increasing proposed living space height of floor area. The exception would also permit limited penetrations of the height limit for small elevator shaft and stairwells. In total, approximately 35,800 square feet of surface area penetrates the 40 foot height limit (See Attachment 11). This area constitutes less than seven percent of the site area, and less than eleven percent of the overall proposed building coverage.

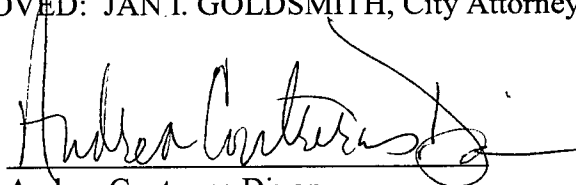
The subject property is situated at the summit of the mesa and sits at a higher elevation than the surrounding properties in all directions, and allowing the deviation would not interfere with public views from western Clairemont Mesa to Mission Bay and the Pacific Ocean within the surrounding area. For the reasons described above, staff supports the height exception request and believes that the required supplemental findings can be made. Therefore, granting of an exception is appropriate because the granting of the exception is needed to permit roofline and facade variations, accents, tower elements, and other similar elements and the elements will not increase the floor area of the structure.

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

BE IT FURTHER RESOLVED, that Site Development Permit No. 507598 is granted to United Dominion Realty, L.P., a Delaware Limited Partnership, Owner/Permittee, under the terms and conditions set forth in the attached permit which is made a part of this resolution.

APPROVED: JAN I. GOLDSMITH, City Attorney

By



Andrea Contreras Dixon  
Deputy City Attorney

ACD:cw  
07/06/09  
08/26/09 REV.COPY  
Or.Dept:DSD  
R-2009-1324  
MMS #8690

**RECORDING REQUESTED BY**  
CITY OF SAN DIEGO  
DEVELOPMENT SERVICES  
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: 42-8934

**SITE DEVELOPMENT PERMIT NO. 507598**  
**SUMMIT AT MISSION BAY - PROJECT NO. 144836**  
**CITY COUNCIL DRAFT**

This Site Development Permit No. 507598 is granted by the City Council of the City of San Diego to United Dominion Realty, L. P., a Delaware limited partnership, Owner/Permittee, pursuant to San Diego Municipal Code [SDMC] section 126.0504. The 15.7-acre site is located within the block east of Clairemont Drive, south of Calle Neil, west of Cowley Way, and north of Iroquois Avenue in the RM-3-7 zone, Clairemont Mesa Height Limit Overlay Zone, and Community Plan Implementation Overlay Zone Area B, within the Clairemont Mesa Community Plan.

The project site is legally described as,

Parcel A: Lots 1 and 2, Block 1 of Clairemont Gardens, in the City of San Diego, County of San Diego, State of California, according to Map thereof No. 2947 files in the Office of the County Recorder of San Diego County, January 14, 1953. Excepting therefrom all of Villamar Unit No. 1, in the City of San Diego, County of San Diego, State of California, according to Map thereof No. 11004, filed in the Office of the County Recorder of San Diego County, July 27, 1984 as File No. 84-285529 of Official Records.

Parcel B: Lots 1 and 2 of Reversionary Map of Villamar Unit No. 1, in the City of San Diego, County of San Diego, State of California, according to Map thereof No. 12851 filed in the Office of the County Recorder of San Diego County, August 9, 1991.

Parcel C: Non-Exclusive easements for ingress, egress, access and use, in, on, over, across, and through those certain walkways, pathways, open spaces, and other exterior common areas, excluding parking areas, of the "recreational facilities parcel," together with ingress, egress, and access to the recreational facilities, as granted and conveyed in that certain amended and restated declaration and easements and covenants concerning recreational facilities, subject to the terms, covenants and provisions contained therein, recorded June 8, 1993 as File No. 1993-0361954 of official records.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee to demolish 323 existing apartments and construct 499 residential condominiums described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated July 21, 2009, on file in the Development Services Department.

The project shall include:

- a. Demolition of the existing structures and construction of a single, 3-story, 672,707 square-foot structure and two, five-level parking structures housing 905 parking spaces where 882 automobile parking spaces are required;
- b. A deviation from SDMC section 131.0446(f) which requires that a minimum of one-third of the permitted floor area ratio be reserved for required parking. The project reserves 275,524 square feet for required parking where 315,929 square feet is required to be reserved.
- c. A deviation from SDMC sections 142.0560(k)(1) and 142.0406 which require that the top floor of parking structures that are open to the sky meet the landscape requirements for vehicular use areas. The project does not propose landscaping on the upper level of the parking structure, but proposes to shade portions of the vehicular use area with solar panels.
- d. An exception to the Clairemont Mesa Height Limit Overlay Zone. The project proposes a maximum height of 53 feet 6 inches with a 5-story parking structure where the maximum structure height is 40 feet and the structure shall not exceed three stories.
- e. A deviation from SDMC section 131.0443(f)(3) which requires a street side setback of 10 percent of the lot width. The project proposes a minimum street side yard setback of 11 feet where 46 feet 6 inches is required.



- f. Site amenities. Eleven themed courtyards including: two separate swimming pools & two spas within large deck terraces with plush landscaping; 5,000 square feet of open grass area; two community dining courtyards including BBQ Grills; three courtyards with water fountains; two private & secure tot lots; four enclosed private courtyards; meandering walkways throughout complex with existing mature trees and new landscaping; decorative perimeter fencing; two vehicular entry courts with enhanced paving & landscaping.
- g. Apartment Building Amenities: A dedicated solar hot water heater for each apartment; a two-level clubhouse with leasing offices, business center, conference room, mailrooms, billiards room, media room, kitchen & dining area, cyber café, clubroom lounge, aerobics/yoga room, and exercise/fitness facility. Every unit will have energy efficient appliances; water efficient plumbing fixtures; and private balconies.
- h. Landscaping (planting, irrigation and landscape related improvements);
- i. Off-street parking (492 garaged, eleven open bay, and four loading zone spaces);
- j. A roof-mounted photovoltaic system consisting of solar panels sufficient to generate at least 30 percent of the proposed project's projected energy consumption, as established by Council Policy 900-14, and at minimum, obtaining the points necessary for Leadership in Energy and Environmental Design [LEED] Silver Certification; and
- k. 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 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 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 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. 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, 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:**

11. 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.

12. The mitigation measures specified in the MMRP, and outlined in Mitigated Negative Declaration No. 144836, shall be noted on the construction plans and specifications under the heading ENVIRONMENTAL/MITIGATION REQUIREMENTS.

13. The Owner/Permittee shall comply with the MMRP as specified in Mitigated Negative Declaration No. 144836, satisfactory to the City Manager and the City Engineer. Prior to issuance of the first grading permit, all conditions of the MMRP shall be adhered to, to the satisfaction of the City Engineer. All mitigation measures as specifically outlined in the MMRP shall be implemented for the following issue areas: Paleontological Resources and Traffic.

14. 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.

5

**AFFORDABLE HOUSING REQUIREMENTS:**

15. Prior to the issuance of the first Residential Building Permit, the Applicant shall comply with the affordable housing requirements of the City's Inclusionary Affordable Housing Regulations (Chapter 14, Article 2, Division 13 of the San Diego Municipal Code).

**GEOLOGY REQUIREMENTS:**

16. An updated geotechnical report will be required as grading plans are developed for the project. The geotechnical consultant must review, sign and stamp the grading plans as part of the plan review and grading permit issuance process. A Final As-Built Report is required within fifteen days of completion of grading operations.

17. Prior to the issuance of building permits, additional geotechnical information such as verification of as-graded or existing soil conditions needed for design of structure foundations will be subject to approval by the Building and Safety Division of the Development Services Department.

**ENGINEERING REQUIREMENTS:**

18. Prior to the building occupancy, the applicant shall enter into a Maintenance Agreement for the ongoing permanent Best Management Practices [BMP's] maintenance.

19. Prior to the issuance of any construction permits, the applicant shall incorporate any construction BMP's necessary to comply with Chapter 14, Article 2, Division 1 (Grading Regulations) of the San Diego Municipal Code, into the construction plans or specifications.

20. Prior to the issuance of any construction permits, the applicant shall incorporate and show the type and location of all post-construction BMP's on the final construction drawings, in accordance with the approved Water Quality Technical Report.

21. The Site Development Permit shall comply with the conditions of the Vesting Tentative Map No. 507600.

22. The drainage system proposed for this development is private and subject to approval by the City Engineer.

23. All driveways and curb openings shall comply with City Standard Drawings G-4B, G-16 and SDG-100.

24. Prior to building occupancy, the applicant shall obtain an Encroachment Maintenance and Removal Agreement for sidewalk underdrains.

25. Prior to the issuance of a building permit, the applicant shall obtain a grading permit for the grading proposed for this project. All grading shall conform to requirements in accordance with the City of San Diego Municipal Code in a manner satisfactory to the City Engineer.

26. 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 (National Pollutant Discharge Elimination System [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.

27. 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.

28. Prior to the issuance of any construction permits, the applicant shall assure by permit and bond construction of noncontiguous sidewalk, adjacent to the site, satisfactory to the City Engineer.

29. Prior to the issuance of any construction permits, the applicant shall assure by permit and bond the replacement of curb ramps adjacent to the site with to the current standard, satisfactory to the City Engineer.

30. Prior to the issuance of any construction permits, the applicant shall assure by permit and bond the installation of four street lights adjacent to the site on Clairemont Drive, satisfactory to the City Engineer.

31. Prior to the issuance of the first residential building permit, the applicant shall pay for the purchase and installation of two V Calm speed signs along Clairemont Drive between Edison Street and Burgener Boulevard. The physical installation and maintenance of the V Calm speed signs shall be performed by the City of San Diego. The applicant shall be responsible for a cost not to exceed \$25,000 based on the purchase and installation cost estimate provided by the City's Traffic Operations Division.

32. Prior to the issuance of the first residential building permit, the building construction documents shall demonstrate sub-metering through the installation of a water meter for each residential unit and water meters for the common areas, to the satisfaction of the City's Chief Building Official.

33. Prior to the issuance of any demolition permit, the owner shall arrange for a payment of \$500 to be made at the time of move-out, to any resident whose lease is terminated prior to the lease expiration. The owner shall provide written notification of this benefit to all current and future tenants.

34. Prior to the issuance of any demolition permit, the owner shall arrange for the 100 percent return of a resident's security deposit, to be paid at the time of move-out to any resident whose lease is terminated prior to the lease expiration. The vacating tenant will be responsible for any storage fees associated with any personal property left in the unit. The owner shall provide written notification of this benefit to all current and future tenants.

#### **LANDSCAPE REQUIREMENTS:**

35. Prior to issuance of construction permits for public right-of-way improvements, including the proposed raised median along Clairemont Drive; 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.

36. 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.

37. 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 any proposed street trees.

38. 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.

39. 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.

40. 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 thirty days of damage or prior to a Certificate of Occupancy.

41. Prior to the issuance of occupancy permits, the applicant shall have completed construction of the landscaped median improvements along Clairemont Drive, as shown on Sheet L-3. 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.

42. Prior to issuance of construction permits for grading, the Permittee or Subsequent Owner shall submit landscape construction documents for the permanent and/or temporary re-vegetation, including irrigation and hydro-seeding, 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."

43. All landscape irrigation construction plans, details and notes shall demonstrate the installation of an acceptable reclaimed water irrigation system and the installation of all purple pipe connections for future reclaimed water irrigation service. At the time that reclaimed water service becomes available at the site, the Permittee or Subsequent Owner shall demonstrate that the reclaimed water (i.e. purple pipes) for landscaping is consistent with the City of San Diego's Reclaimed Water Program and the Land Development Manual, Landscape Standards which are in effect at the time of installation of purple pipe. The Permittee or Subsequent Owner shall be responsible for obtaining all required approvals and inspections necessary for connecting the irrigation system to the future reclaimed water supply with one year of the reclaimed water service becoming available at the site.

#### **PLANNING/DESIGN REQUIREMENTS:**

44. 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.

45. Prior to the issuance of building permits, construction documents shall fully illustrate the incorporation of a roof-mounted photovoltaic system consisting of solar panels sufficient to generate at least 30 percent of the proposed project's projected energy consumption, as established by Council Policy 900-14, and the applicant shall obtain the points necessary for LEED Silver Certification.

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

47. 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.

#### **TRANSPORTATION REQUIREMENTS**

48. No fewer than 905 (882 required) off-street parking spaces shall be permanently maintained on the property within the approximate location shown on the project's Exhibit "A," including eighteen disabled/accessible spaces. Additionally, a minimum of fifty-two motorcycle (fifty required) and 240 bicycle spaces (228 required) shall be provided on site.

49. A minimum of four Off-street Loading spaces shall be provided on site.

50. All on-site parking stalls and aisle widths shall be in compliance with requirements of the City's Land Development Code, and shall not be converted and/or utilized for any other purpose, unless otherwise authorized in writing by the Director of Development Services Department.

#### **WASTEWATER REQUIREMENTS:**

51. All proposed sewer facilities serving this lot shall be private.

52. Prior to the issuance of any engineering or building permits, the developer shall provide evidence, satisfactory to the Director of Public Utilities, indicating that each condominium will have its own sewer lateral or provide CC&R's for the operation and maintenance of private sewer facilities that serve more than one ownership.

53. Prior to the issuance of any engineering permits, the developer shall obtain an Encroachment Maintenance and Removal Agreement for private sewer facilities installed in or over the public right of way.

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

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

56. No trees or shrubs exceeding 3 feet in height at maturity shall be located within 10 feet of any public sewer mains or laterals.



57. No medians shall be installed within 5 feet of any public sewer facilities.

**WATER REQUIREMENTS:**

58. 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) as needed, and the removal of any existing unused services, within the rights-of-way adjacent to the project site, in a manner satisfactory to the Director of Public Utilities and the City Engineer.

59. 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 within the development, in a manner satisfactory to the Director of Public Utilities and the City Engineer.

60. Prior to the issuance of any certificates of occupancy, the public water facilities, necessary to serve this development, shall be complete and operational in a manner satisfactory to the Director of Public Utilities and the City Engineer.

61. The Owner/Permittee agrees to design and construct all proposed public water facilities in accordance with established criteria in the most current editions 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 in accordance with accepted studies and standards.

**INFORMATION ONLY:**

- Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of this development permit, may protest the imposition within ninety days of the approval of this development permit by filing a written protest with the City Clerk pursuant to California Government Code section 66020.
- This development may be subject to impact fees at the time of construction permit issuance.

APPROVED by the City Council of the City of San Diego on July 21, 2009, by Resolution No. R-305136.

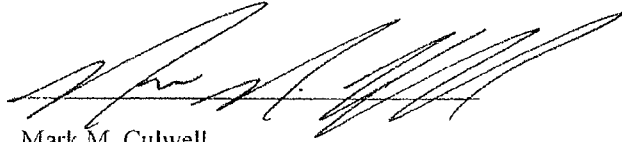
AUTHENTICATED BY THE CITY MANAGER

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.

UNITED DOMINION REALTY, L.P.,  
a Delaware limited partnership

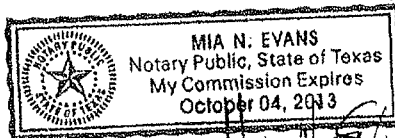
By: UDR, INC.,  
a Maryland corporation, its General Partner



Mark M. Culwell

Senior Vice-President - Development

Note: Notary acknowledgements  
must be attached per Civil Code  
section 1180 et seq.



*Mia N. Evans* 11/16/09