

RESOLUTION NUMBER R- 305583

DATE OF FINAL PASSAGE JAN 26 2010

A RESOLUTION APPROVING SITE DEVELOPMENT
PERMIT NO. 594945 FOR THE AZTEC COURT
APARTMENTS PROJECT.

WHEREAS, Aztec Court, LLC, a California limited liability company, Owner/Permittee, filed an application with the City of San Diego for Site Development Permit [SDP] No. 594945 to demolish three existing single-family structures and construct a twenty-four unit apartment building with a subterranean parking garage, site improvements, landscaping and minor improvements in the public right-of-way, including three deviations for reduced setbacks and two development incentives for increased building height and increased floor area ratio to provide two affordable housing units located at 6229, 6237 and 6245 Montezuma Road, and legally described as Lots 190, 191 and 192 of Collwood Park Unit No. 2, according to Map thereof No. 2495, filed August 12, 1948 together with that portion of the south six feet of Montezuma Road adjoining said Lots 190, 191 and 192 on the north as closed to public use by Resolution No. 184453, recorded August 6, 1965, as File No. 141427, Official Records, within the College Area Community Plan, in the RM-3-9 and RM-1-1 Zones, Community Plan Implementation Overlay Area B, Campus Impact Area of the Parking Impact Overlay Zone and College Community Redevelopment Project Area-Master Plan Project Plan-Core Sub Area, and which is proposed to be rezoned to the RM-3-9 Zone on Lot 191 and retaining the existing RM-3-9 Zone on Lot 190 and RM-1-1 Zone on Lot 192; 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, a public hearing is required by law implicating due process rights of individuals affected by the decision, and the Council is required by law to consider evidence at the hearing and to make legal findings based on the evidence presented; and

WHEREAS, on December 10, 2009, the Planning Commission of the City of San Diego considered SDP No. 594945, and pursuant to Resolution No. 4556-PC voted to recommend City Council approval of the permit; and

WHEREAS, the matter was set for public hearing on ~~JAN 26 2010~~ JAN 26 2010, 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 SDP No. 594945:

Site Development Permit - Section 126.0504

A. Findings for all Site Development Permits

1. The proposed development will not adversely affect the applicable land use plan. The proposed project site is located within the College Area Community Plan. The proposed project is a 24 apartment unit, multi-family residential development with subterranean parking structure on a 0.38 acre site. With the adoption of an amendment to the College Area Community Plan and General Plan, the proposed project will provide residential development at densities consistent with the policies and guidelines of the College Area Community Plan and General Plan. The project will also help satisfy a variety of goals of the applicable land use plans. The College Area Community Plan encourages multi-family residential projects near San Diego State University to allow an increase in student housing opportunities. The project will increase the supply of housing in the community within walking distance of the university, transit, shopping, and employment opportunities. Development of the property will not conflict with goals of the community plan relative to topography as the project site has been previously developed. Because the project is consistent with the General Plan and the College Area Community Plan, the proposed development will not adversely affect any applicable land use plan.

2. The proposed development will not be detrimental to the public health, safety, and welfare. The proposed project is a 24 apartment unit, multi-family residential development with subterranean parking structure on a 0.38 acre site. The proposed development will provide public benefits which would not have occurred otherwise. The proposed development will construct necessary sewer and water facilities to serve the residents of the development; will enter into a Maintenance Agreement for the ongoing permanent Best Management Practices [BMP's] maintenance; will 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. The development will also provide for the health, safety, and welfare of the residents by constructing all buildings in accordance with current construction standards and codes. All structures constructed will be reviewed by professional staff for compliance with all relevant and applicable building, electrical, mechanical and fire codes to assure the structures will meet or exceed the current regulations. As such, the proposed development will not be detrimental to the public health, safety, and welfare.

3. The proposed development will comply with the applicable regulations of the Land Development Code. The proposed project is a 24 apartment unit, multi-family residential development with a subterranean parking structure on a 0.38 acre site. The proposed development complies with the regulations of the RM-1-1 and RM-3-9 Zones and specific development regulations for the property, as allowed with the approval of a Site Development Permit. Deviations, as allowed by the approval of a Site Development Permit, are required to approve the proposed project. The project will include three deviations:

- a. A deviation from Land Development Code [LDC] section 131.0443(f)(1)(A) to reduce the depth of the entire required front yard setback to ten feet where up to 50 percent of the width of the building envelope may observe the minimum 10-foot front setback, provided the remaining percentage of the building envelope width observes the standard 20-foot setback.
- b. A deviation from LDC section 131.0443(f)(2)(A) to reduce the side yard setback to five feet where the minimum side setback is five feet or ten percent of the premises width, whichever is greater.
- c. A deviation from LDC section 131.0431(e) to reduce the minimum rear setback from fifteen feet to ten feet.

The three deviations approved with the project will result in a better project than through the strict application of the zoning requirements in that the City will benefit by the increase in housing opportunities in the City, and more specifically within the College Area community, by the increase in revenues acquired by the increase in property value, by greater efficient utilization of land in an urbanized community for housing purposes, and by the completion of a new housing structure which will comply with all current

relevant and applicable building, electrical, mechanical and fire codes assuring the structure will meet or exceed the current regulations. The proposed development complies with all other relevant regulations of the Land Development Code. Specific conditions of approval require the continued compliance with all relevant regulations of the City of San Diego effective for this site and have been written as such into Site Development Permit No. 594945. Development of the property will meet all other requirements of these regulations. Concept plans for the project identify all other development criteria in effect for the site. All relevant regulations shall be complied with at all times for the life of the project. In these ways the proposed development will comply with the applicable and relevant regulations of the Land Development Code, as allowed through the approval of a Site Development Permit.

B. Supplemental Findings--Deviations for Affordable/In-Fill Housing Projects and Sustainable Buildings

1. The proposed development will materially assist in accomplishing the goal of providing affordable housing opportunities in economically balanced communities throughout the City, and/or the proposed development will materially assist in reducing impacts associated 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 project will provide several significant features, amenities and improvements in the community. The project will provide 24 rental housing units to the housing stock of the City of San Diego at a time in the history of the City when there is a housing shortage and in a community with a very low vacancy rate. The City currently has a very limited supply of land designated and zoned for high-density, multi-family residential development at 45-75 dwelling units per net residential acre. Increasing the housing supply will be particularly beneficial in the College Area because of the large and expanding employment base and student population in the area. This proposal will help alleviate the shortage of multi-family and student housing opportunities. This project will also provide affordable housing opportunities within the project on site. Housing near the many employment sites in the College Area community will aid in reducing automobile congestion, particularly during peak travel hours. The developer will also provide much needed FBA funding for the completion of identified public improvements. Furthermore, of the 24 units, two dwelling units will be affordable to persons earning no more than fifty percent of the area median income. The project will provide water efficient landscaping and building fixtures and will be designed to achieve an equivalency of a LEED certified project for energy efficiency. Thus the development of the project will materially benefit the City by providing both housing units during a shortage of supply, by providing affordable housing and the equivalency of a LEED certified development.

The resulting benefits of the project will be positive for the community and City of San Diego and will materially assist in accomplishing the goal of providing affordable housing opportunities in economically balanced communities throughout the city.

2. The development will not be inconsistent with the purpose of the underlying Zone. The proposed project is a 24 apartment unit, multi-family residential development with a subterranean parking structure on a 0.38 acre site. The proposed development complies with the regulations of the RM-1-1 and RM-3-9 Zones and specific development regulations for the property, as allowed with the approval of a Site Development Permit. Deviations, as allowed by the approval of a Site Development Permit, are required to approve the proposed project. The project will include three deviations:

- a. A deviation from Land Development Code [LDC] section 131.0443(f)(1)(A) to reduce the depth of the entire required front yard setback to ten feet where up to 50 percent of the width of the building envelope may observe the minimum 10-foot front setback, provided the remaining percentage of the building envelope width observes the standard 20-foot setback.
- b. A deviation from LDC section 131.0443(f)(2)(A) to reduce the side yard setback to five feet where the minimum side setback is five feet or ten percent of the premises width, whichever is greater.
- c. A deviation from LDC section 131.0431(e) to reduce the minimum rear setback from fifteen feet to ten feet.

The three deviations approved with the project will result in a better project than through the strict application of the zoning requirements in that the City will benefit by the increase in housing opportunities in the City and more specifically within the College Area community, by the increase in revenues acquired by the increase in property value, by greater efficient utilization of land in an urbanized community for housing purposes, and by the completion of a new housing structure which will comply with all current relevant and applicable building, electrical, mechanical and fire codes assuring the structure will meet or exceed the current regulations. The proposed development complies with all other relevant regulations of the Land Development Code and is consistent with the purpose of the RM-1-1 and RM-3-9 Zones under Land Development Code section 131.0406(a) which states:

The purpose of the RM zones is to provide for multiple dwelling unit development at varying densities. The RM zones individually accommodate developments with similar densities and characteristics. Each of the RM zones is intended to establish development criteria that consolidates common development regulations, accommodates specific dwelling types, and responds to locational issues regarding adjacent land uses.

The project has been designed to complement and respect the adjacent land uses. Specific conditions of approval require the continued compliance with all relevant regulations of the City of San Diego effective for this site and have been written as such into Site Development Permit

No. 594945. Development of the property will meet all other requirements of these regulations. Concept plans for the project identify all other development criteria in effect for the site. All relevant regulations shall be complied with at all times for the life of the project. In these ways the proposed development will comply with the applicable and relevant regulations of the Land Development Code, as allowed through the approval of a Site Development Permit.

3. 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 proposed project is a 24 apartment unit, multi-family residential development with a subterranean parking structure on a 0.38 acre site. The proposed development complies with the regulations of the RM-1-1 and RM-3-9 Zones and specific development regulations for the property, as allowed with the approval of a Site Development Permit. Deviations, as allowed by the approval of a Site Development Permit, are required to approve the proposed project and to provide the affordable housing units which are granted through the density bonus regulations. Reducing the setbacks will allow the creation of a larger building with more spacious livable dwelling units. The more attractive livable dwelling units with the three deviations will create value for the property owner and supplement the provision of affordable housing units within the project without which the building would be smaller, less attractive or livable and would not provide two additional housing units affordable to persons earning no more than fifty percent of the area median income. As a result of the approved deviations and other design features of the project, the proposed project conforms to the overall policies, regulations and purpose and intent of the Site Development regulations. The design will result in a more desirable project for the City and the community than would be realized through the strict application of the development regulations at this location.

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 Site Development Permit No. 594945 is granted to Aztec Court, LLC, a California limited liability company, Owner/Permittee, under the terms and conditions set forth in the permit attached hereto and made a part hereof.

APPROVED: JAN I. GOLDSMITH, City Attorney

By 7-2
Nina M. Fain
Deputy City Attorney

NMF:js
12/23/2009
Or.Dept:DSD
R-2010-461
MMS#11233

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: 431637

SITE DEVELOPMENT PERMIT NO. 594945
AZTEC COURT APARTMENTS PROJECT NO. 165908 [MMRP]
CITY COUNCIL

This Site Development Permit No. 594945 is granted by the City Council of the City of San Diego to Aztec Court, LLC, a California limited liability company, Owner/Permittee, pursuant to San Diego Municipal Code [SDMC] section 126.0501 et seq. The 0.38 acre site is located at 6229, 6237 and 6245 Montezuma Road in the RM-1-1 and RM-3-9 Zones, Community Plan Implementation Overlay Area B, Campus Impact Area of the Parking Impact Overlay Zone, College Community Redevelopment Project Area-Master Plan Project Plan-Core Sub Area of the College Area Community Plan. The project site is legally described as Lots 190, 191 and 192 of Collwood Park Unit No. 2, according to Map thereof No. 2495, filed August 12, 1948 together with that portion of the south six feet of Montezuma Road adjoining said lots 190, 191 and 192 on the north as closed to public use by Resolution No. 184453, recorded August 6, 1965, as File No. 141427, Official Records.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee to demolish three existing single-family structures and construct a twenty-four unit apartment building with a subterranean parking garage, site improvements, landscaping and minor improvements in the public right-of-way, including three deviations for reduced setbacks and two development incentives to provide two affordable housing units for increased building height and increased floor area ratio described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated JAN 26, 2010, on file in the Development Services Department.

The project shall include:

- a. Demolition of three single-family structures and construction of a twenty-four unit apartment building with a subterranean parking garage, landscaping, site improvements and minor improvements in the public right-of-way;

- b. Deviations approved for this project, which shall include a reduced front yard setback to ten feet; a reduced side yard setback to five feet; and a reduced rear setback to ten feet;
- c. Development incentives approved for this project, which shall include an increase of the building height to a maximum height of forty-eight feet and an increase of the maximum floor area ratio on the site resulting in a building which measures 37,056 square feet;
- d. Landscaping (planting, irrigation and landscape related improvements);
- e. Off-street parking; and
- f. Public and private accessory improvements determined by the Development Services Department to be consistent with the land use and development standards for this site in accordance with the adopted community plan, the California Environmental Quality Act [CEQA] and the CEQA Guidelines, the City Engineer's requirements, zoning regulations, conditions of this Permit, and any other applicable regulations of the SDMC.

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. No permit for the construction, occupancy or operation of any facility or improvement described herein shall be granted, nor shall any activity authorized by this Permit be conducted on the premises until:
 - a. The Owner/Permittee signs and returns the Permit to the Development Services Department; and
 - b. The Permit is recorded in the Office of the San Diego County Recorder.
3. Unless this Permit has been revoked by the City of San Diego the property included by reference within this Permit shall be used only for the purposes and under the terms and conditions set forth in this Permit unless otherwise authorized by the Development Services Department.
4. This Permit is a covenant running with the subject property and shall be binding upon the Owner/Permittee and any successor or successors, and the interests of any successor shall be subject to each and every condition set out in this Permit and all referenced documents.
5. The continued use of this Permit shall be subject to the regulations of this and any other applicable governmental agency.

6. Issuance of this Permit by the City of San Diego does not authorize the Owner/Permittee for this permit to violate any Federal, State or City laws, ordinances, regulations or policies including, but not limited to, the Endangered Species Act of 1973 [ESA] and any amendments thereto (16 U.S.C. § 1531 et seq.).

7. 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 Owner/Permittee 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 Owner/Permittee of any claim, action, or proceeding and, if the City should fail to cooperate fully in the defense, the Owner/Permittee 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, Owner/Permittee 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 Owner/Permittee 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 Owner/Permittee shall not be required to pay or perform any settlement unless such settlement is approved by Owner/Permittee.

ENVIRONMENTAL/MITIGATION REQUIREMENTS:

11. Mitigation requirements in the the Mitigation, Monitoring, and Reporting Program (MMRP) shall apply to this Permit. These MMRP conditions are incorporated into the permit by reference.

12. The mitigation measures specified in the Mitigation Monitoring and Reporting Program, and outlined in Mitigated Negative Declaration No. 165908, shall be noted on the construction plans and specifications under the heading ENVIRONMENTAL/MITIGATION REQUIREMENTS.

13. The Owner/Permittee shall comply with the Mitigation, Monitoring, and Reporting Program (MMRP) as specified in Mitigated Negative Declaration No. 165908, satisfactory to the Development Services Department 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:

- General**
- Paleontological Resources**
- Noise**
- Public Utilities**
- Transportation**

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.

AFFORDABLE HOUSING REQUIREMENTS:

15. Prior to receiving the first residential building permit, the Owner/Permittee shall enter into an Affordable Housing Agreement with the San Diego Housing Commission to provide the affordable units in compliance with the Affordable Housing Requirements of the City's Inclusionary Housing Ordinance (Chapter 14, Article 2, Division 13 of the Land Development Code) and the Density Bonus Program (California Government Code Sections 65915-65918 and Chapter 14, Article 3, Division 7 of the Land Development Code).

ENGINEERING REQUIREMENTS:

16. Prior to the issuance of any construction permits, the Owner/Permittee shall enter into a Maintenance Agreement for the ongoing permanent BMP maintenance.

17. Prior to the issuance of any construction permits, the Owner/Permittee 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.

18. Prior to the issuance of any construction permits, the Owner/Permittee shall submit a Water Pollution Control Plan (WPCP). The WPCP shall be prepared in accordance with the guidelines in Appendix E of the City's Storm Water Standards, to the satisfaction of the City Engineer.

19. Prior to the issuance of any construction permits, the Owner/Permittee 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, satisfactory to the City Engineer.

20. Prior to the issuance of any building permits, the Owner/Permittee shall enter into an Encroachment Maintenance and Removal Agreement with the City for the sidewalk underdrains (D-25) within the Montezuma Road right-of-way, satisfactory to the City Engineer.

21. Prior to the issuance of any construction permits, the Owner/Permittee shall assure by permit and bond the construction of an additional five feet of sidewalk and replace damaged portions of the existing sidewalk, maintaining the existing sidewalk scoring pattern and preserving any contractor's stamp, adjacent to the site on Montezuma Road, satisfactory to the City Engineer.

22. Prior to the issuance of any construction permits, the Owner/Permittee shall assure by permit and bond the closure of all non-utilized driveways with full height curb, gutter, and sidewalk, adjacent to the site on Montezuma Road, satisfactory to the City Engineer.

23. This project proposes to export 7,400 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).

24. Prior to the issuance of any construction permits, the Owner/Permittee shall assure by permit and bond the relocation of the existing street light and provide any necessary upgrades to meet current City Street Lighting Standards, adjacent to the site on Montezuma Road, satisfactory to the City Engineer.

LANDSCAPE REQUIREMENTS:

25. Prior to issuance of construction permits for grading, the Owner/Permittee shall submit landscape construction documents for the re-vegetation and hydro-seeding 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 and Exhibit "A."

26. Prior to issuance of construction permits for public right-of-way improvements, the Owner/Permittee shall submit complete landscape construction documents for right-of-way improvements to the Development Services Department for approval. Improvement plans shall indicate an area equal to forty square feet 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.

27. Prior to issuance of any construction permits for buildings, Owner/Permittee 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.
28. Prior to issuance of any Certificate of Occupancy, it shall be the responsibility of the Owner/Permittee to install all required landscape and obtain all required landscape inspections. A "No Fee" Street Tree Permit shall be obtained for the installation, establishment, and on-going maintenance of all street trees.
29. The Owner/Permittee shall maintain all landscape in a disease, weed and litter free condition at all times. Severe pruning or "topping" of trees is not permitted. All trees shall be maintained in a safe manner to allow each tree to grow to its mature height and spread.
30. The Owner/Permittee shall maintain all landscape improvements in the right-of-way consistent with the Land Development Manual, Landscape Standards.
31. If any required landscape, including existing or new plantings, hardscape, landscape features, et cetera, indicated on the approved construction document plans is damaged or removed during demolition or construction, the Owner/Permittee shall 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 issuance of a Certificate of Occupancy.

PLANNING/DESIGN REQUIREMENTS:

32. No fewer than 54 parking spaces (54 required) shall be permanently maintained on the site within the approximate location shown on the approved Exhibit "A," which includes 4 disabled accessible spaces (1 required) per CBC Chapter 11A, Section 1118A. Additionally, a minimum of 6 motorcycle and 17 bicycle spaces shall be provided on site. 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.
33. 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.
34. All signs associated with this development shall be consistent with sign criteria established by City-wide sign regulations.
35. 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

36. The Owner/Permittee shall provide and maintain at least twenty feet clear of obstacles from the back of sidewalk to the roll-down gate serving the underground parking lot, satisfactory to the City Engineer.

37. The Owner/Permittee shall pay \$117,000.00 towards transportation improvements for the intersection of College Avenue and Montezuma Road and other improvements identified by the City Engineer. These monies shall be deposited into a separate interest bearing account, satisfactory to the City Engineer.

38. Prior to issuance of any building permit, the Owner/Permittee shall assure by permit and bond the improvement of the project frontage along Montezuma Road, with curb, gutter and five foot noncontiguous sidewalk, install one 24-foot wide driveway consistent with Regional Standards drawing SDG-114 serving the underground parking lot and close all unused driveways satisfactory to the City Engineer.

39. Prior to issuance of any building permit, the Owner/Permittee shall assure by permit and bond the signal modification of Montezuma Road and 63rd Street with left turn lanes and signal heads for traffic on Montezuma Road, satisfactory to the City Engineer.

40. Prior to issuance of any building permit, the Owner/Permittee shall assure by permit and bond the restriping of Montezuma Road from East Campus to Ewing Street with a cross section which includes a five foot wide bicycle lane in each direction, two eleven foot wide through lanes in each direction and an eleven foot wide two-way left turn lane, satisfactory to the City Engineer.

WASTEWATER REQUIREMENTS:

41. The Owner/Permittee shall design and construct all proposed public sewer facilities in accordance with established criteria in the most current edition of the City of San Diego Sewer Design Guide. Proposed facilities that do not meet the current standards shall be redesigned or private.

42. All proposed private sewer facilities that serve more than one lot are to be designed and constructed in accordance with established criteria in the most current City of San Diego Sewer Design Guide.

43. 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.

44. Trees or shrubs exceeding three feet in height at maturity shall not be installed within ten feet of any public sewer facilities.

45. All on-site sewer facilities shall be private.

46. No approved improvements or landscaping, including private sewer facilities, shall be installed in or over any easement prior to the applicant acquiring an Encroachment Maintenance and Removal Agreement.

47. No structures or landscaping that would inhibit vehicular access shall be installed in or over any sewer access easement.

WATER REQUIREMENTS:

48. Prior to the issuance of any building permits, the Owner/Permittee shall assure, by permit and bond, the design and construction of new water service(s) outside of any driveway, and the removal of all existing unused services, within the right-of-way adjacent to the project site, in a manner satisfactory to the Director of Public Utilities and the City Engineer.

49. 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 Director of Public Utilities and the City Engineer.

50. Prior to the issuance of any certificates of occupancy, all public water facilities shall be complete and operational in a manner satisfactory to the Director of Public Utilities and City Engineer.

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

APPROVED by the Council of the City of San Diego on JAN 26, 2010 by Resolution No. R- 303383.

AUTHENTICATED BY THE CITY MANAGER

By _____

The undersigned Owner/Permittee, by execution hereof, agrees to each and every condition of this Permit and promises to perform each and every obligation of Owner/Permittee hereunder.

AZTEC COURT, LLC
Owner/Permittee

By _____

By _____

**NOTE: Notary acknowledgments
must be attached per Civil Code
section 1189 et seq.**