

Item-336 8/4/2015
Subitem-C
(R-2016-41)

RESOLUTION NUMBER R- 309957

DATE OF FINAL PASSAGE AUG 04 2015

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO
GRANTING PLANNED DEVELOPMENT PERMIT NO. 1175450,
AMENDING PLANNED RESIDENTIAL DEVELOPMENT PERMIT
NO. 84-0314, FOR THE UNIVERSITY TERRACE EAST PROJECT,
PROJECT NO. 334934

WHEREAS, UNIVERSITY TERRACE EAST, a California Limited Partnership,
Owner/Permittee, filed an application with the City of San Diego for a permit to amend Planned
Residential Development Permit No. 84-0314 to construct 18 additional residential apartments
on a site containing 75 apartments for a total of 93 apartments (as described in and by reference
to the approved Exhibits "A" and corresponding conditions of approval for the associated Permit
No. 1175450), as well as to vacate water and sewer easements and a public right-of-way, on
portions of a 3.76 acre site (Project);

WHEREAS, the Project site is located at 5210-5245 Genesee Cove in the RM-2-5 Zone
of the University Community Plan area;

WHEREAS, the Project site is legally described as Parcel 1 of Parcel Map No. 13877, in
the City of San Diego, County of San Diego, State of California, recorded in the Office of the
County Recorder for San Diego County on July 25, 1985 as File No. 85-265701 of Official
Records;

WHEREAS, on June 11, 2015, the Planning Commission of the City of San Diego
considered Planned Development Permit No. 1175450, and pursuant to Resolution No. PC-4700
voted 7:0:0 to recommend approval of Planned Development Permit No. 1175450; 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 AUG 04, 2015 testimony having been heard, evidence having been submitted, and the City Council having fully considered the matter and being fully advised concerning the same; and NOW, THEREFORE,

BE IT RESOLVED, by the City Council of the City of San Diego, that the following written findings are adopted:

Planned Development Permit – San Diego Municipal Code Section 126.0604

1. The proposed development will not adversely affect the applicable land use plan. The University Terrace East project proposes to amend the prior Planned Residential Development Permit No. 84-0314 to allow demolition of on-site surface parking and construction of eighteen additional apartment units in a two story building over one level of parking.

The Project site is designated Medium Density Residential by the University Community Plan for development at a density range of 15-30 dwelling units per acre. The proposed addition of 18 dwelling units on the 3.76 acre site, for a total of 93 dwelling units, would result in a density of 25 dwelling units per acre. The proposed Project's density is consistent with the Community Plan's residential land use designation for this site.

The Urban Design Element of the University Community Plan divides the planning area into four major subareas. The Project site is located within the South University Subarea. The major objective for development in the subarea is to guide the development of remaining vacant land and the redevelopment of urbanized properties in a manner that enhances the residential quality of South University. This would be accomplished through insuring that the massing, height and form of new infill projects are similar in character and reflect the massing, scale, height and form of existing surrounding development. Additionally, the color and building materials should blend harmoniously with surrounding developments.

The proposed Project has been designed to be similar in scale, height and form of the existing surrounding multi-dwelling unit development and incorporates similar color and building materials so as to blend with existing development. As designed, the proposed Project would be consistent with the main objective for infill development within the South University Subarea. The proposed development will not adversely affect the applicable land use plan.

2. The proposed development will not be detrimental to the public health, safety, and welfare. The University Terrace East project proposes to amend the prior PRD 84-0314 to allow demolition of on-site surface parking and construction of eighteen additional apartment units in a two story building over one level of parking.

The Project will not be detrimental to public health, safety and welfare in that the permit controlling the development and continued use of the Project for this site contains specific conditions addressing compliance with the City's codes, policies, and regulations, as well as other regional, state, and federal regulations to prevent detrimental impacts to the health, safety and general welfare of persons residing and/or working in the area. Conditions of approval require compliance with several operational constraints and development controls, the review of all construction plans by professional staff to determine construction will comply with all regulations, and the inspection of construction to assure construction permits are implemented in accordance with the approved plans, and that the final construction will comply with all regulations. The proposed development will not be detrimental to the health, safety, or general welfare of persons residing or working in the area.

3. The proposed development will comply with the regulations of the Land Development Code including any proposed deviations pursuant to Section 126.0602(b)(1) that 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; and any allowable deviations that are otherwise authorized pursuant to the Land Development Code. The University Terrace East project proposes to amend the prior PRD 84-0314 to allow demolition of on-site surface parking and construction of eighteen additional apartment units in a two story building over one level of parking.

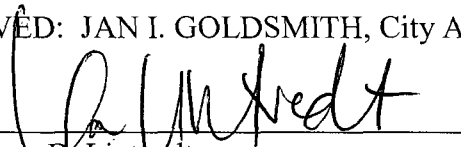
The Project requires three actions for approval: a Public Right-of-Way Vacation; an Easement Vacation; and a Planned Development Permit. The existing public right-of-way of Genesee Cove does not serve the public transportation needs and is required to be vacated. The proposed new building would be located over an existing water and sewer easement and requires vacation of the easement and relocation of the water and sewer lines. A Planned Development Permit is required to amend the prior PRD 84-0314 to allow construction of eighteen additional apartments on the site. The Project is consistent with all relevant development regulations of the RM-2-5 Zone and any supplemental regulations, and no deviations or variances are required to approve the project. The development will therefore comply with the regulations of the Land Development Code,

and will result in a more desirable project than would be achieved if designed in strict conformance with the development regulations of the RM-2-5 Zone.

BE IT FURTHER RESOLVED, that based on the findings hereinbefore adopted by the City Council, Planned Development Permit No. 1175450 is hereby granted by the City Council to the Owner/Permittee, in the form, exhibits, terms and conditions as set forth in Permit No. 1175450, a copy of which is attached hereto and made a part hereof.

APPROVED: JAN I. GOLDSMITH, City Attorney

By



Inga B. Lintvedt
Deputy City Attorney

IBL: mm
July 17, 2015
Or.Dept: DSD
Doc. No.: 1064995

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

INTERNAL ORDER NUMBER: 24004006

PLANNED DEVELOPMENT PERMIT NO. 1175450
UNIVERSITY TERRACE EAST PROJECT NO. 334934
Amending Planned Residential Development Permit No. 84-0314
City Council

This Planned Development Permit No. 1175450, amending Planned Residential Development Permit No. 84-0314, is granted by the City Council of the City of San Diego to UNIVERSITY TERRACE EAST, a California limited partnership, Owner/Permittee, pursuant to San Diego Municipal Code section 126.0604. The 3.76 acre site is located at 5210-5245 Genesee Cove in the RM-2-5 Zone of the University Community Plan area. The project site is legally described as Parcel 1 of Parcel Map No. 13877, in the City of San Diego, County of San Diego, State of California, recorded in the Office of the County Recorder for San Diego County on July 25, 1985 as File No. 85-265701 of Official Records.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee to demolish existing surface parking and construct eighteen additional residential apartments on a site containing seventy-five apartments for a total of 93 apartments described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated AUG 04 2015, on file in the Development Services Department.

The project shall include:

- a. Demolish existing surface parking and construct eighteen additional residential apartments on a site containing seventy-five apartments for a total of 93 apartments on the property;
- b. Landscaping (planting, irrigation and landscape related improvements);
- c. Off-street parking; and

- d. 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. If this permit is not utilized in accordance with Chapter 12, Article 6, Division 1 of the SDMC within the 36 month period, this permit shall be void unless an Extension of Time has been granted. Any such Extension of Time must meet all SDMC requirements and applicable guidelines in effect at the time the extension is considered by the appropriate decision maker. This permit must be utilized by AUG 04 2018.
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. While this Permit is in effect, the subject property shall be used only for the purposes and under the terms and conditions set forth in this Permit unless otherwise authorized by the appropriate City decision maker.
4. This Permit is a covenant running with the subject property and all of the requirements and conditions of this Permit and related documents shall be binding upon the Owner/Permittee and any successor(s) in interest.
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 building modifications and site improvements may be required to comply with applicable building, fire, mechanical, and plumbing codes, and State and Federal disability access laws.

8. Construction plans shall be in substantial conformity to Exhibit "A." Changes, modifications, or alterations to the construction plans are prohibited 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 were determined necessary to make the findings required for approval of this Permit. The Permit holder is required to comply with each and every condition in order to maintain the entitlements that are granted by this Permit.

If 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.

AFFORDABLE HOUSING REQUIREMENTS:

11. Prior to the issuance of any building permits, the Owner/Permittee shall comply with the affordable housing requirements of the City's Inclusionary Affordable Housing Regulations (SDMC§ 142.1301, et seq.).

ENGINEERING REQUIREMENTS:

12. The project proposes to export 6,380 cubic yards of material from the project site. All excavated material listed to be exported, shall be exported to a legal disposal site in accordance with the Standard Specifications for Public Works Construction (the "Green Book"), 2009 edition and Regional Supplement Amendments adopted by Regional Standards Committee.
13. The drainage system proposed for this development, as shown on the site plan, is private and subject to approval by the City Engineer.
14. Prior to the issuance of any building permits, the Owner/Permittee shall vacate the sewer and water easement in a portion of Parcel 1 of Parcel Map 13877, satisfactory to the City Engineer.
15. Prior to the issuance of any building permits, the Owner/Permittee shall vacate the Genesee Cove Right-of-Way in a portion of Parcel 1 of parcel Map 13877, satisfactory to the City Engineer.
16. Prior to the issuance of any building permits, the Owner/Permittee shall assure, by permit and bond, to close the non-utilized portions of the vacated Genesee Cove Right-of-Way with current City Standard curb, gutter and sidewalk, satisfactory to the City Engineer.
17. Prior to the issuance of any building permits, the Owner/Permittee shall assure, by permit and bond, the construction of two current City Standard twenty-six foot wide concrete driveways, adjacent to the site on Genesee Avenue, satisfactory to the City Engineer.
18. Prior to the issuance of any building permits, the Owner/Permittee shall grant to the City an irrevocable offer of dedication for Right-of-Way purposes to provide a sixty foot centerline-to-property line distance, adjacent to the site on Genesee Avenue, satisfactory to the City Engineer.
19. Prior to the issuance of any construction permit, the Owner/Permittee shall enter into a Maintenance Agreement for the ongoing permanent BMP maintenance, satisfactory to the City Engineer.
20. Prior to the issuance of any construction permit, 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.
21. Prior to the issuance of any construction permit 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, consistent with the approved Water Quality Technical Report.

LANDSCAPE REQUIREMENTS:

22. Prior to issuance of any engineering permit for grading, the Owner/Permittee shall submit complete construction documents for the revegetation and hydroseeding of all disturbed land in accordance with the Landscape Standards, to the satisfaction of the Development Services Department. All plans shall be in substantial conformance to the Exhibit "A."
23. Prior to issuance of any engineering permit for 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 show, label, and dimension a forty square foot area around each tree which is unencumbered by utilities. Driveways, utilities, drains, water and sewer laterals shall be designed so as not to prohibit the placement of street trees.
24. In the event a foundation-only permit is requested, the Owner/Permittee shall submit a site plan or staking layout plan identifying all landscape areas consistent with Exhibit "A." All landscape areas shall be clearly identified with a distinct symbol, noted with dimensions and labeled as 'landscaping area.'
25. Prior to issuance of any building permit, the Owner/Permittee shall submit complete landscape and irrigation construction documents consistent with the Landscape Standards to the Development Services Department for approval. The construction documents shall be in substantial conformance with Exhibit "A." Construction plans shall show, label, and dimension a forty square foot area around each tree which is unencumbered by hardscape and utilities as set forth under LDC 142.0403(b)(5).
26. Prior to issuance of any building permit, the Owner/Permittee shall submit a water budget in accordance with the Water Conservation Requirements per SDMC 142.0413, Table 142-04I, to be included with the construction documents. An irrigation audit shall be submitted consistent with Section 2.7 of the Landscape Standards of the Land Development Manual prior to final inspection. The irrigation audit shall certify all irrigation systems have been installed and operate as approved by the Development Services Department.
27. The Owner/Permittee shall be responsible for the maintenance of all landscape improvements shown on the approved plans, including in the right-of-way, consistent with the Landscape Standards unless long-term maintenance of said landscaping will be the responsibility of a Landscape Maintenance District or other approved entity. All required landscape shall be maintained in a disease, weed and litter free condition at all times. Severe pruning or "topping" of trees is not permitted unless specifically noted in this Permit.
28. 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 the required landscape in kind and equivalent size per the approved documents to the satisfaction of the Development Services Department within thirty days of damage.

GEOLOGY REQUIREMENTS:

29. The Owner/Permittee shall submit a geotechnical investigation report or update letter that specifically addresses the proposed construction plans. The geotechnical investigation report or update letter shall be reviewed for adequacy by the Geology Section of Development Services prior to the issuance of any construction permit.

PLANNING/DESIGN REQUIREMENTS:

30. 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.

31. All signs associated with this development shall be consistent with sign criteria established by either the City-wide sign regulations.

32. 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

33. Prior to the issuance of any building permits, the Owner/Permittee shall grant to the City an Irrevocable Offer of Dedication of 6 feet to 9 feet for right-of-way purposes for Genesee Avenue, satisfactory to the City Engineer. The additional right of way is to ensure a 60 foot property line to centerline along the entire project frontage.

34. No fewer than 180 off-street parking spaces shall be permanently maintained on the multi-family site within the approximate location shown on the Exhibit "A," including 3 standard accessible and 1 van accessible. Additionally, a minimum of 9 motorcycle and 44 bicycle spaces shall be provided on site. All on-site parking spaces 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 DSD.

35. The existing northern driveway shall be gated and used for emergency access only, satisfactory to the City Engineer.

PUBLIC UTILITIES DEPARTMENT REQUIREMENTS:

36. Prior to the issuance of any building permit, the Owner/Permittee shall assure, by permit and bond the design and construction of all public water and sewer facilities as shown on the approved Exhibit "A," in a manner satisfactory to the Public Utilities Director and the City Engineer.

37. Prior to the issuance of any building permits, the Owner/Permittee shall assure, by permit and bond the design and construction of a sewer water main as shown on approved Exhibit "A," in a manner satisfactory to the Public Utilities Director and the City Engineer.
38. The Owner/Permittee must grant water and sewer easements and vacate portions of the existing water and sewer easements, as shown on the approved Exhibit "A," satisfactory to the Public Utilities Director and the City Engineer.
39. The Owner/Permittee shall process encroachment maintenance and removal agreements for all acceptable encroachments into the water and sewer easement including, but not limited to, structures, enhanced paving, and landscaping. No structures or landscaping of any kind shall be installed in or over any vehicular access roadway.
40. All proposed private plumbing facilities located outside of the public right-of-way or public easements must be designed and constructed in accordance with the California Plumbing Code. These facilities will be reviewed for California Plumbing Code compliance during the building permit plan check process.
41. No tree or shrub expected to exceed three (3) feet in height at maturity shall be planted or retained within five (5) feet of any public water facility, or within ten (10) feet of any public sewer facility.

INFORMATION ONLY:

- The issuance of this discretionary use permit alone does not allow the immediate commencement or continued operation of the proposed use on site. The operation allowed by this discretionary use permit may only begin or recommence after all conditions listed on this permit are fully completed and all required ministerial permits have been issued and received final inspection.
- Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of this 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
AUG 04 2015 by R- 309957

Permit Type/PTS Approval No.: PDP No. 1175450
Date of Approval:

AUTHENTICATED BY THE CITY OF SAN DIEGO DEVELOPMENT SERVICES
DEPARTMENT

John S. Fisher
Development Project Manager
Development Services Department

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

**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.**

**UNIVERSITY TERRACE EAST,
a California Limited Partnership
Owner/Permittee**

By _____
Luigi Angelucci
Managing Partner

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

Passed by the Council of The City of San Diego on AUG 04 2015, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Sherri Lightner	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lorie Zapf	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Todd Gloria	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Myrtle Cole	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mark Kersey	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Chris Cate	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Scott Sherman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
David Alvarez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Marti Emerald	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage AUG 04 2015.

(Please note: When a resolution is approved by the Mayor, the date of final passage is the date the approved resolution was returned to the Office of the City Clerk.)

AUTHENTICATED BY:

KEVIN L. FAULCONER
Mayor of The City of San Diego, California.

ELIZABETH S. MALAND
City Clerk of The City of San Diego, California.

(Seal)

By  Deputy

Office of the City Clerk, San Diego, California

Resolution Number R- 309957