

ORDINANCE NUMBER O- 21043 (NEW SERIES)

DATE OF FINAL PASSAGE JAN 29 2019

ITEM # 54  
1/29/19

AN ORDINANCE OF THE COUNCIL OF THE CITY OF  
SAN DIEGO GRANTING PLANNED DEVELOPMENT  
PERMIT NO. 1764075 AND CONDITIONAL USE PERMIT NO.  
1764072 FOR MONTEZUMA CUP/ PDP – PROJECT NO.  
501449.

WHEREAS, Chris Elsey Partners LLC., A Kansas Corporation, Owner/Permittee, filed an application with the City of San Diego for a Planned Development Permit and Conditional Use Permit to allow construction of a new student dormitory, which is proposed to be a 40,208-square-foot, five-story residential structure with 128 rooms over three levels of underground parking with 57 off-street parking spaces, where 78 off-street parking spaces are required, and requesting a project-specific ordinance to exempt compliance with San Diego Municipal Code (SDMC) section 141.0305(b), related to the provision of parking for the student dormitory and SDMC section 141.0305(d), official recognition by the college or university with which the student dormitory is affiliated (Project). The Project is also proposing to deviate from the side yard setback regulations, which require 10-feet, and the project proposes a side yard setback of five-feet where a 10-foot side yard setback is required. The 0.29-acre site is located at 6213 Montezuma Road within the RM-3-9 Zone of the Core Subarea of the College Community Redevelopment Project Master Project Plan, and the Parking Impact Overlay Zone, with in the College Area Community Plan area. The Project site is legally described as: Lot 188 and 189 of Collwood Park Unit No. 2, Map No 2495, County recorder, San Diego County; and

WHEREAS, on August 30, 2018, the Planning Commission of the City of San Diego considered Planned Development Permit No. 1764075 and Conditional Use Permit No. 1764072, and pursuant to Resolution No. 4953-PC voted to recommend approval of the permits; and

WHEREAS, under Charter section 280(a)(2) this ordinance is not subject to veto by the Mayor because this matter requires the City Council to act as a quasi-judicial body and where a public hearing was required by law implicating due process rights of individuals affected by the decision and where the Council was required by law to consider evidence at the hearing and to make legal findings based on the evidence presented; and

WHEREAS, the matter was set for public hearing on January 14, 2019, 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,

Section 1. BE IT ORDAINED, by the Council of the City of San Diego, that San Diego Municipal Code sections 141.0305(b) and 141.0305(d) do not apply to this project.

Section 2. BE IT FURTHER ORDAINED, by the Council of the City of San Diego, that it adopts the following findings with respect to Planned Development Permit No.1764075 and Conditional Use Permit No. 1764072:

**I. PLANNED DEVELOPMENT PERMIT – SAN DIEGO MUNICIPAL CODE (SDMC) SECTION 126.0605**

**A. Findings for all Planned Development Permits**

**1. The proposed development will not adversely affect the applicable land use plan.** The Project proposes the construction of a new five-story structure with 128 rooms over three levels of underground parking, totaling 40,208 square feet. Each floor would have cooking facilities to be used by the residents as shared joint use kitchens. Each bedroom would house one resident for a total of 128 residents and each room would contain bathroom facilities. A three level underground parking garage would be constructed; although the Project requires 78 parking spaces, the Project is proposing to only provide a total of 57 off-street parking spaces. The Project would also provide a total of six motorcycle parking stalls and bicycle parking racks to accommodate up to 108 bicycles. The College Area Community Plan designates the 0.29-acre site for High Residential 45-75 du/ac. The Project site is located within the Core Subarea and is within an area designated for fraternity and sorority housing development. According to the Housing Element and San Diego State University (SDSU) Element of the community plan, dormitories are allowed within these areas given their proximity to the San Diego State University Campus. While this Project does not meet the SDMC requirements for a dormitory as proposed, the Project would provide an opportunity for housing

near SDSU and therefore would meet recommendations in the community plan’s Housing Element for the creation of additional housing within proximity of the university campus and for encouraging pedestrian orientation to and from the university. Therefore, the proposed use and Project design meet the purpose and intent of the College Redevelopment Project; Core Sub-Area Design Manual and will not adversely affect the College Area Community Plan or the General Plan of the City of San Diego.

**2. The proposed development will not be detrimental to the public health safety and welfare.** A Negative Declaration was prepared for this Project in accordance with the State of California Environmentally Quality Act (CEQA) Guidelines and no mitigation for potential significant impacts were required. The permits for the Project includes conditions of approval and exhibits to achieve partial project compliance with the SDMC regulations applicable to this project. Compliance with the permit conditions would protect the health, safety and general welfare of persons residing or working in the surrounding area.

Ministerial building permits require compliance with the California Building Code, Plumbing Code, Mechanical Code, Electrical Code, Fire Code, seismic requirements and all adopted referenced standards, which also establish standards to safeguard public health, safety, and welfare. A Fire Access Plan for the proposed development has been prepared that demonstrates compliance with fire protection and life safety requirements regarding adequacy of hydrants, hose pull length, and emergency access. Therefore, the proposed development would not be detrimental to the public health, safety, and welfare.

**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 Project proposes the construction of a new five-story structure with 128 rooms over three levels of underground parking, totaling 40,208 square feet. Each floor will have cooking facilities to be used by the residents as shared joint use kitchens. Each bedroom would house one resident for a total of 128 residents and each room would contain bathroom facilities. A three level underground parking garage will be constructed; although the project requires 78 parking spaces, the project is proposing to only provide a total of 57 off-street parking spaces. The Project would provide a total of six motorcycle parking stalls and bicycle parking racks to accommodate up to 108 bicycles.

<b>Requested Deviation</b>			
<b>SDMC</b>	<b>Development Standard</b>	<b>Required</b>	<b>Proposed</b>
126.0605	Minimum Side Yard Set Back	10'	5'

The deviation proposed is to deviate from the side yard setback regulations, which require 10-feet of setback, where the Project proposes a side yard setback of five-feet. This

deviation is appropriate because the Residential District in the College Redevelopment Project; Core Sub-Area Design Manual (page 28) allows for minimum side yard setbacks of five-feet in the Residential District.

If approved, the Project would provide needed housing units and opportunities for residents to reside in close proximity to the university and public transit. The Project is providing increased private open space and the added benefit to the community of new housing, replacing a vacant site that has been used for dumping in previous years. The open spaces are provided via a ground level courtyard and a roof top deck.

The proposed development is consistent with the design standards of the Planned Development Permit Regulations, which allows an applicant to request greater flexibility from the strict application of the regulations than would be allowed through a deviation process. Per the Core Subarea Design Manual, the Residential District is structured on an urban streets concept that allows for development flexibility to create a finer scale, diverse urban residential neighborhood. Within this district, the minimum side yard setback of 5 feet is established to contribute to a more urban residential neighborhood and allow for more development flexibility given that parcel sizes within this area are smaller and the current ownership and building conditions are varied. The decreased 5-feet of side yard setback allows for additional development area and allows the Project to provide additional open space on the roof and on the entry level of the development making it a more desirable Project. The intent is to encourage imaginative and innovative planning and to assure that the development achieves the purpose and intent of the applicable land use plan and that it would be preferable to what would be achieved by strict conformance with the regulations.

## **II. CONDITIONAL USE PERMIT- SAN DIEGO MUNICIPAL CODE (SDMC) SECTION 126,0305**

### **B. Findings for all Conditional Use Permits**

**1. The proposed development will not adversely affect the applicable land use plan.** As described in Finding I.A.1 above, the proposed development will not adversely affect the College Area Community Plan or the General Plan of the City of San Diego.

**2. The proposed development will not be detrimental to the public health, safety, and welfare.** As described in Finding I.A.2 above, the proposed development will be detrimental to the public health, safety, and welfare.

**3. The proposed development will comply with the regulations of the Land Development Code including any allowable deviations pursuant to the Land Development Code.** The Project proposes the construction of a new five-story structure with 128 rooms over three levels of underground parking, totaling 40,208 square feet. Each floor will have cooking facilities to be used by the residents as shared joint use kitchens. Each bedroom would house one resident for a total of 128 residents and each room would contain bathroom facilities. The permit controlling the development and continued use of the development for this site contains conditions addressing the project compliance with the City's regulations and other regional, state

and federal regulations to prevent detrimental impacts to the health, safety, and general welfare of persons residing and/or working in this area. The project only proposes one deviation to deviate from the side yard setback regulations, which require 10-feet of setback, where the Project proposes a side yard setback of five-feet. This deviation is appropriate because the Residential District in the College Redevelopment Project; Core Sub-Area Design Manual (page 28) allows for minimum side yard setbacks of five-feet in the Residential District. Therefore, the proposed development will comply to the maximum extent feasible with the regulations of the Land Development Code, including the proposed deviation.

**4. The proposed use is appropriate at the proposed location.** The project is consistent with all relevant regulations of the San Diego Municipal Code that apply to the proposed use. All necessary utilities are available and provided to the site, including water, sewer, electricity and other common utilities. The project fronts on Montezuma Road and lies in close proximity to public transportation options. The nearest bus stop is located on the south side of Montezuma Road and 63<sup>rd</sup> Street, approximately 400-feet east of the project site. A second bus stop is located on the north side of Montezuma Road approximately 650-feet east of the project site. In addition, the SDSU transit center is located approximately 2,300-feet from the project site and can be used to access the San Diego Trolley Green Line. In addition, SDSU operates a free shuttle service Monday thru Thursday from 5:00p.m. - 10:00pm. The shuttle makes several stops on and near the SDSU campus, including one stop along southbound East Campus Drive located approximately 500-feet from the project site. The operation of a dormitory at this site furthers the goals of the Community Plan and General Plan related to the provision of available housing near institutions of higher learning and throughout the City of San Diego. The College Area Community Plan designates the 0.29-acre site for High Residential 45-75 du/ac. The project site is located within the Core Subarea and is within an area designated for fraternity and sorority housing development. According to the Housing Element and San Diego State University (SDSU) Element of the community plan, dormitories are allowed within these areas given their proximity to the San Diego State University Campus. The site is bordered by predominately residential areas to the north and south that would benefit from the provision of a student dormitory type of living as and additional option to traditional housing opportunities in the area. Therefore, the proposed use is appropriate at the proposed location.

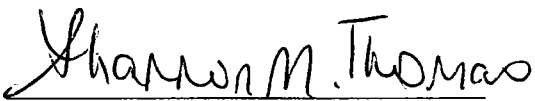
The above findings are supported by the minutes, maps and exhibits, all of which are incorporated herein by this reference.

Section 3. BE IT FURTHER ORDAINED, that Planned Development Permit No. 1764075 and Conditional Use Permit No.1764072 is granted.

Section 4. BE IT FURTHER ORDAINED, that a full reading of this ordinance is dispensed with prior to passage, a written copy having been made available to the Council and the public prior to the day of its passage.

Section 5. BE IT FURTHER ORDAINED, that this ordinance shall take effect and be in force on the thirtieth day from and after its final passage.

APPROVED: MARA W. ELLIOTT, City Attorney

By   
Shannon M. Thomas  
Senior Deputy City Attorney

SMT:als  
12/17/2018  
Or.Dept:DSD  
Doc. No.: 1892200\_2

Attachment: Planned Development Permit No. 1764075 and Conditional Use Permit  
No. 1764072

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

**WHEN RECORDED MAIL TO  
PROJECT MANAGEMENT  
PERMIT CLERK  
MAIL STATION 501**

INTERNAL ORDER NUMBER: 24006849

SPACE ABOVE THIS LINE FOR RECORDER'S USE

Planned Development Permit No. 1764075, Conditional Use Permit No. 1764072  
**MONTEZUMA PDP / CUP PROJECT NO. 501449**  
City Council

This Planned Development Permit No. 1764075, and Conditional Use Permit No. 1764072, is issued by the City Council of the City of San Diego to Elsey Partners LLC., Owner/Permittee, pursuant to San Diego Municipal Code (SDMC) sections 126.0602, 126.0502, and 141.0305. The 0.29-acre site is located at 6213 Montezuma Road, within the RM-3-9 Zone, of the Core Subarea of the College Community Redevelopment Project Master Project Plan, and the Parking Impact Overlay Zone, within the ColleAge Area Community Plan area. The project site is legally described as: Lot 188 and 189 of Collwood Park Unit No. 2, Map No 2495, County recorder, San Diego County;

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee to construct a new five-story residential structure with 128 bedrooms over three levels of underground parking garage, totaling 40,208 square feet. Each bedroom would house one student for a total of 128 student residents. A three-level underground parking garage will be constructed that will provide a total of 57 off-street parking spaces. The project will also provide a total of six motorcycle parking stalls and bicycle parking racks that will accommodate up to 108 bicycles, described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated January 14, 2019, on file in the Development Services Department.

The project shall include:

- a. The construction of a new five-story residential structure with 128 rooms over three levels of underground parking garage, totaling 40,208 square feet.
- b. Each bedroom would house one resident for a total of 128 residents.
- c. A three level underground parking garage will be constructed that will provide a total of 57 off-street parking spaces. The project will also provide a total of six motorcycle parking stalls and bicycle parking racks that will accommodate up to 108 bicycles.

- d. Landscaping (planting, irrigation and landscape related improvements);
- e. 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.

Deviation

- A. A deviation proposes to deviate from base zone side yard setback regulations requiring 10 feet by proposing a setback of 5 feet,

**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 January 14, 2022.
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 construction 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.

### **ENVIRONMENTAL/MITIGATION REQUIREMENTS:**

11. Prior to issuance of any construction permits, including but not limited to, the first Grading Permit, Demolition Plans/Permits and Building Plans/Permits or a Notice to Proceed for Subdivisions, but prior to the first preconstruction meeting, whichever is applicable, the Assistant Deputy Director (ADD) Environmental designee shall verify that the requirements for Paleontological Monitoring have been noted on the appropriate construction documents in “verbatim” as referenced in the City of San Diego Land Development Manual for Paleontological Resources.
12. The applicant shall submit a letter of verification to Mitigation Monitoring Coordination (MMC)/Environmental Designee (ED) identifying the Principal Investigator (PI) for the project and the names of all persons involved in the paleontological monitoring program, as identified in City of San Diego Land Development Manual for Paleontological Resources.
13. MMC/ED will provide a letter to the applicant confirming the qualifications of the PI and all persons involved in the paleontological monitoring of the project.
14. Prior to the start of work, the applicant shall obtain approval from MMC for any personnel changes associated with the monitoring program.

### **CLIMATE ACTION PLAN REQUIREMENTS:**

15. Owner/Permittee shall comply with the Climate Action Plan (CAP) Consistency Checklist stamped as Exhibit “A.” Prior to issuance of any construction permit, all CAP strategies shall be noted within the first three (3) sheets of the construction plans under the heading “Climate Action Plan Requirements” and shall be enforced and implemented to the satisfaction of the Development Services Department.

### **ENGINEERING REQUIREMENTS:**

16. The project proposes to export 11,600 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"), 2015 edition and Regional Supplement Amendments adopted by Regional Standards Committee.
17. The drainage system proposed for this development, as shown on the site plan, is private and subject to approval by the City Engineer.
18. Prior to the issuance of any construction permits, the Owner/Permittee shall obtain an Encroachment Maintenance Removal Agreement, from the City Engineer, for the curb outlet in the Montezuma Road Right-of-Way.
19. Prior to the issuance of any construction permit, per the City of San Diego Street Design Manual-Street Light Standards, and Council Policy 200-18, the Owner/Permittee shall assure, by

permit and bond, the removal of the existing street light and installation of a current City Standard street light adjacent to the site on Montezuma Road.

20. 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.

21. 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 SDMC, into the construction plans or specifications.

22. Prior to the issuance of any construction permit, the applicant shall submit a Technical Report that will be subject to final review and approval by the City Engineer, based on the Storm Water Standards in effect at the time of the construction permit issuance.

23. Prior to the issuance of any construction permit the Owner/Permittee shall submit a Water Pollution Control Plan (WPCP). The WPCP shall be prepared in accordance with the guidelines in Part 2 Construction BMP Standards Chapter 4 of the City's Storm Water Standards.

#### **LANDSCAPE REQUIREMENTS:**

24. Prior to issuance of any engineering permits for grading, the Owner/Permittee shall submit complete construction documents for the revegetation and hydroseeding of all disturbed land in accordance with the City of San Diego Landscape Standards, Stormwater Design Manual, and to the satisfaction of the Development Services Department. All plans shall be in substantial conformance to this permit (including Environmental conditions) and Exhibit "A," on file in the Development Services Department.

25. Prior to issuance of any engineering permits 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 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.

26. Prior to issuance of any construction permits for structures (including shell), the Owner/Permittee shall submit complete landscape and irrigation construction documents, which are consistent with the 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 Development Services Department. Construction plans shall provide a 40-sq.ft. area around each tree that is unencumbered by hardscape and utilities unless otherwise approved per §142.0403(b)(5).

27. In the event that a foundation only permit is requested by the Owner/Permittee, a site plan or staking layout plan, shall be submitted to the Development Services Department identifying all landscape areas consistent with Exhibit "A," Landscape Development Plan, on file in the

Development Services Department. These landscape areas shall be clearly identified with a distinct symbol, noted with dimensions, and labeled as 'landscaping area.

28. The Owner/Permittee shall be responsible for the maintenance of all landscape improvements shown on the approved plans, including in the right-of-way, 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 consistent with the Landscape Standards in a disease, weed, and litter free condition at all times. Severe pruning or "topping" of trees is not permitted.

29. If any required landscape (including existing or new plantings, hardscape, landscape features, etc.) indicated on the approved construction documents is damaged or removed during demolition or construction, the Owner/Permittee shall repair and/or replace in kind and equivalent size per the approved documents to the satisfaction of the Development Services Department within 30 days of damage or Certificate of Occupancy.

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

30. All residents of the dormitory must be enrolled full time, as defined by the institution where the resident is enrolled, in an "institution of higher education" (as defined in Title 20, Chapter 28, Subchapter I of the United States Code) located within a one-mile radius of the project.

31. Owner/Permittee shall maintain a minimum of 57 off-street parking spaces on the property at all times in the approximate locations shown on the approved Exhibit "A." Parking spaces shall comply at all times with the SDMC and shall not be converted for any other use unless otherwise authorized by the appropriate City decision maker in accordance with the SDMC.

32. 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.

33. Access to the rooftop terrace shall be prohibited from eight p.m. to eight a.m., seven days per week, 52 weeks per year, and this prohibition shall be strictly enforced by the onsite manager.

34. All music, except music accessed through headphones, shall be prohibited on the rooftop terrace at all times, and this prohibition shall be strictly enforced by the onsite manager

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

36. 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**

37. Prior to issuance of the first construction 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, and the construction of one 24-foot wide concrete driveway, adjacent to the site on Montezuma Road consistent with City standards, satisfactory to the City Engineer. All improvements shall be completed and accepted by the City Engineer prior to first occupancy.

38. Prior to issuance of the first occupancy permit, the Owner/Permittee shall implement a Transportation Demand Management (TDM) Plan that includes provision and maintenance of transit/carpool/vanpool information in a central location within the building, ridesharing promotional materials including iCommute, secure bicycle parking, and 75% subsidized transit passes for all tenants who do not have a car. Owner/Permittee will monitor the results of the TDM program annually for a period of five years and shall submit annual monitoring reports for review and approval by the City Engineer.

39. All automobile, motorcycle and bicycle parking spaces must be constructed in accordance with the requirements of the SDMC. 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 appropriate City decision maker in accordance with the SDMC.

## **PUBLIC UTILITIES DEPARTMENT REQUIREMENTS:**

40. Prior to the issuance of any Building Construction Permit, the Owner/Permittee must record a 3.5' addition to the width of the existing sewer easement.

41. Prior to the issuance of any Certificate of Occupancy, all public water and/or sewer facilities necessary to serve the development (including services and laterals) shall be complete and operational in a manner satisfactory to the Public Utilities Director and the City Engineer.

## **PLANNING LONG RANGE:**

42. The revised acoustical report indicates that future noise levels onsite are expected to exceed 60 CNEL. Prior to the issuance of building permits, the developer shall have an exterior-to-interior analysis performed by an acoustical consultant when building plans become available in order to demonstrate that the project will have interior noise levels that meet the noise standards of the City and State of California.

## **GEOLOGY:**

43. 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 the Development Services Department prior to issuance of any construction permits.

44. The Owner/Permittee shall submit an as-graded geotechnical report prepared in accordance with the City's "Guidelines for Geotechnical Reports" following completion of the grading. The as-graded geotechnical report shall be reviewed for adequacy by the Geology Section of the Development Services Department prior to exoneration of the bond and grading permit close-out.

**PLANNING-FACILITIES FINANCING:**

45. This development will be subject to impact fees. Calculation of the impact fees will be based on developing the number of equivalent dwelling units (EDU) for the project. The number of EDUs will be determined by using the total population generated by the occupants of the project (number of rooms); divided by the persons per household (PPH) multi-family rate for the College Community Planning area as published in the SANDAG American Community Survey. The calculation of the fee will also be based on the Average Daily Trip (ADT) rate for multi-family uses (over 20 Dwelling Units / Acre) as published in Table 7 of the City's Trip Generation Rate, or an adopted Vehicle Miles Traveled (VMT) metric, whichever is adopted and in effect at the time of building permit issuance.

**INFORMATION ONLY:**

- The issuance of this discretionary permit alone does not allow the immediate commencement or continued operation of the proposed use on site. Any operation allowed by this discretionary 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.

APPROVED by the City Council of the City of San Diego on \_\_\_\_\_, and by Ordinance No. \_\_\_\_\_.

Planned Development Permit No. 1764075, Conditional Use Permit No. 1764072  
Date of Approval: \_\_\_\_\_

AUTHENTICATED BY THE CITY OF SAN DIEGO DEVELOPMENT SERVICES  
DEPARTMENT

\_\_\_\_\_  
Derrick Johnson (D.J.)  
Development Project Manager

**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.**

**Elsey Partners LLC.,  
Owner/Permittee**

By \_\_\_\_\_  
Chris Elsey  
President

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

Passed by the Council of The City of San Diego on JAN 29 2019, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Barbara Bry	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jennifer Campbell	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Ward	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Monica Montgomery	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mark Kersey	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Cate	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Scott Sherman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Vivian Moreno	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Georgette Gómez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage JAN 29 2019.

AUTHENTICATED BY:

KEVIN L. FAULCONER

Mayor of The City of San Diego, California.

(Seal)

ELIZABETH S. MALAND

City Clerk of The City of San Diego, California.

By Connie Patterson, Deputy

I HEREBY CERTIFY that the foregoing ordinance was not finally passed until twelve calendar days had elapsed between the day of its introduction and the day of its final passage, to wit, on

JAN 14 2019

, and on JAN 29 2019.

I FURTHER CERTIFY that said ordinance was read in full prior to passage or that such reading was dispensed with by a vote of five members of the Council, and that a written copy of the ordinance was made available to each member of the Council and the public prior to the day of its passage.

(Seal)

ELIZABETH S. MALAND

City Clerk of The City of San Diego, California.

By Connie Patterson, Deputy

Office of the City Clerk, San Diego, California

Ordinance Number O- 21043