

RESOLUTION NUMBER R- 312294

DATE OF FINAL PASSAGE APR 08 2019

ITEM # 204C
4/8/19

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO APPROVING SITE DEVELOPMENT PERMIT NO. 1769787 AND PLANNED DEVELOPMENT PERMIT NO, 2102933 FOR UNIVERSITY MANOR MIXED USE – PROJECT NO. 503848.

WHEREAS, University Avenue Manor, LLC, Owner, and Permittee, filed an application with the City of San Diego for a Site Development Permit and Planned Development Permit to demolish existing structures and construct a mixed-use development consisting of 63 for rent multi-family dwelling units and two commercial buildings known as the University Manor Mixed Use project, located at 5556-5592 University Avenue in the Mid-City Communities Plan area, in the CC-5-3 zone, and legally described as Parcel 1: The westerly 50 feet of the easterly 150 feet that portion of Lot 29 of Lemon Villa, Map No. 734, lying northerly of the northerly line of University Avenue as said Avenue was conveyed to the City of East San Diego by Deed recorded August 16, 1918 in Book 761, Page 57, said Distance being measured at right angles from easterly line of said Lot 29; Parcel 2: The westerly 100 feet of the easterly 250 feet of that portion of Lot 29, Lemon Villa Map No. 734, lying north of the north line of University Avenue, as said Avenue was conveyed to the City of East San Diego by Deed recorded August 16, 1918 in Book 761, Page 57, said distance being measured at right angles from easterly line of said Lot 29; Parcel 3: The westerly 50 feet of the easterly 300 feet of that portion of Lot 29, Lemon Villa Map No. 734, lying north of the north line of University Avenue, as said Avenue was conveyed to the City of East San Diego by Deed recorded August 16, 1918 in Book 761, Page 57, said distance being measured at right angles from easterly line of said Lot 29; and

WHEREAS, on February 21, 2019, the Planning Commission of the City of San Diego considered Planned Development Permit No. 2102933 and Site Development Permit No. 1769787, and pursuant to Resolution No. 4987-PC voted to recommend approval of the Permit; and

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

WHEREAS, the matter was set for public hearing on April 8, 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,

BE IT RESOLVED, by the Council of the City of San Diego, that it adopts the following findings with respect to Planned Development Permit No. 2102933 and Site Development Permit No. 1769787:

A. SITE DEVELOPMENT PERMIT- SAN DIEGO MUNICIPAL CODE (SDMC) SECTION 126.0505(a)

1. Findings for all Site Development Permits:

a. The proposed development will not adversely affect the applicable land use plan. The project proposes the demolition of nine structures for the construction of 63 multi-family residential dwelling units located in the rear of the property and two commercial buildings totaling 5,048 square feet with 2,170 square feet of common area located in the front of the property. The 1.47-acre site is located at 5556-5592 University Avenue, within the El Cerrito Heights sub-community area of the Eastern Neighborhood of the Mid-City Communities Plan area. The site is within the CC-5-3 (Commercial-Community Service) zone in the Central Urbanized Planned District. The project site is also within the Residential Tandem Parking Overlay Zone, the Transit Area Overlay Zone, and Transit Priority Area Overlay Zone.

The Mid-City Communities Plan designates the site as Commercial and Mixed-Use. Per the community plan, the permitted residential density is 29 dwelling units per acre, with a mixed-use bonus allowing for an increase in residential density up to 43 dwelling units per acre as identified page 54, Figure 13 (Eastern Area Community Plan Map) of the Mid-City Communities Plan. The proposed Project is consistent with the land use designation and, at a proposed density of approximately 43 dwelling units per acre, is consistent with the permitted residential density including mixed-use bonus. The underlying CC-5-3 allows 43 dwelling units for the site.

The project furthers the goal of the General Plan's City of Villages Strategy to realize mixed-use villages located throughout the City connected by high-quality transit. University Avenue is a major transit corridor with local and rapid bus services, and the project site is located along a Mixed-Use Transit Corridor and adjacent to a Smart Growth Town Center as designated on the San Diego Association of Governments (SANDAG) Smart Growth Opportunity Areas map. Additionally, 54th Street, located approximately 0.2 miles west of the project site, is a transit corridor.

The Mid-City Communities Plan policy guidance for buildings along University Avenue east of 54th Street suggests buildings be two-stories in height. The Project complies by incorporating two-story commercial buildings adjacent to University Avenue, with the taller residential buildings located behind the commercial buildings, adjacent to an existing hillside. The Project is also consistent with General Plan policy guidance to create street frontages that provide visual appeal to the streetscape and enhance the pedestrian experience. The commercial portion of the Project, adjacent to the public right-of-way, is designed to be pedestrian-oriented by incorporating prominent, visible, and well-located pedestrian entrances; ground-floor transparency; and space for public art on blank walls near the street frontage to enhance visual appeal.

The residential portion of the Project also meets General Plan policy guidance to provide architectural features that establish and define a building's appeal and enhance the pedestrian experience. To enhance the pedestrian experience, residential and commercial parking areas are screened from the public right-of-way by structures and by screening that is consistent with the site's architectural style. Within the project site, parking areas are also screened by landscaping. The proposed residential structures provide visual appeal by incorporating varied and complementary exterior materials, finishes, and colors.

The Project proposes to vacate a portion of the existing right-of-way of University Avenue along the project frontage. The proposed right-of-way vacation will not adversely affect the Mid-City Communities Plan, which identifies University Avenue at the project site as a Four-Lane Major street. At the project site, University Avenue currently features four lanes, a center left turn lane, and on-street parking on the north side of the street. The proposed Project will provide new, non-contiguous sidewalks with tree wells along University Avenue replacing existing contiguous sidewalks, construct a concrete raised median to allow eastbound left turn into the site at the commercial driveway, and on-street parking. As such, the proposed vacated portion of University Avenue is excess public right-of-way and is not needed. The Project meets General Plan policy guidance to improve walkability through the pedestrian oriented design of projects in areas where higher level of pedestrian activity is present or desired, and to encourage

the use of non-contiguous sidewalk design where appropriate to help separate pedestrians from auto traffic. Therefore, the proposed development will not adversely affect the applicable land use.

b. The proposed development will not be detrimental to the public health, safety, and welfare. The proposed project, including review of grading, drainage, architecture, landscape, environmental analysis and provisions of new driveways, has been designed to conform with the City of San Diego's codes, policies, and regulations with the primary focus of protecting the public's health, safety and welfare. The conditions of approval of the project require compliance with several operational constraints and development controls intended to assure the continued public health, safety, and welfare for those who would work at the site and within the community. Conditions of approval address driveway, public improvements including a new center median within University Avenue, landscaping and grading. Storm water impacts from the project will be mitigated through the implementation and installation of Low Impact Development site design features, such as source control and treatment control Best Management Practices.

Negative Declaration No. 503848 has been prepared for the project in accordance with state of California Environmental Quality Act (CEQA) guidelines. Based on the Initial Study, it was determined that the proposed project will not have a significant effect on the environment.

The permit for the project includes various conditions and referenced exhibits of approval relevant to achieving project compliance with the applicable regulations of the San Diego Municipal Code (SDMC) in effect for this project. Such conditions within the permit have been determined as necessary to avoid adverse impacts upon the health, safety and general welfare of persons residing or working in the surrounding area. The project will comply with the development conditions in effect for the subject property as described in Site Development Permit (SDP) No. 1769787 and Planned Development Permit (PDP) No. 2102933, and other regulations and guidelines pertaining to the subject property per the SDMC for the project site. Prior to issuance of any building permits for the proposed development, the plans will be reviewed for compliance with all Building, Electrical, Mechanical, Plumbing and Fire Code requirements, and the Owner/Permittee will be required to obtain a grading and public improvement permit. Therefore, the proposed development will not be detrimental to the public health, safety, and welfare.

c. 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 demolition of nine structures for the construction of 63 multi-family residential dwelling units located in the rear of the property and two commercial buildings totaling 5,048 square feet with 2,170 square feet of common area located in the front of the property.

Three deviations are being requested as part of the project design: (1) retaining wall height (up to 16-feet) within the rear and side yard where two six-foot retaining walls with separation is allowed; (2) balcony encroachment into the side yard setback; (3) Proposed

structure height of 50 feet where 45 feet is allowed. The following outlines the deviations and justifications:

Retaining Wall: SDMC section 142.0340(d)(1) allows two retaining walls with a maximum height of six feet each separated by a minimum horizontal distance equal to the height of the upper wall within the rear and side yards in commercially zoned properties. The deviation is to allow an increase in the retaining wall heights up to 16 feet for a single wall in the rear and side yard without separation

The project site has an elevation differential of approximately 51 feet spanning over 300 feet from University Avenue to the rear property line. The over height retaining walls will be located in the rear of the property. The proposed development will minimize the alteration of land forms and will not result in undue risk from geologic and erosional forces with the construction of a retaining wall of up to 16 feet. The proposal for over height retaining walls in the rear yard will allow for an open space area for the residence and to maximize the number of residential dwelling units. The scale and mass of the proposed retaining walls would be diminished by the planting of landscape screening along all proposed retaining walls, five feet or greater in height. Additionally, the walls would be located behind the proposed residential development and screened from the public-right-of-way. Partially imbedding the development into the hillside would allow the placement of a usable open space area with bar-b-que, passive landscape, and picnic tables and keeping the project building from protruding in height above the surrounding developments.

Balcony Encroachment: SDMC Table 131.05E requires a 10-foot side yard setback for the project. The balcony deviation is requested to allow required balconies to encroach three feet into the east side yard setback

All the structures on the project site are oriented towards and related to the topographic features of the site and the narrow width of the lot. Due to the restricted width of the lot/site, compliance with San Diego Fire Department fire access width requirements, and the need to meet minimum private open space requirements, the Project's balconies are proposed to encroach three feet into the east side yard setback (Figure 4). The encroachment into the side yard setback will allow each unit to maintain a minimum of 60 square feet of private open space and allow adequate access for emergency vehicles.

Building Height: The City of San Diego building height requirements, per SDMC Section 131.0530, Table 131-05E, limits building height to 45 feet for the CC-5-3 zone. Residential Building "A" within the mixed-use development proposes an overall building height of 57 feet, six-inches when the height measurement includes the commercial structure's height.

The project site slopes up to 51 feet in elevation differential, spanning 300 feet from University Avenue to the rear property line. Residential Building "A" is based on grade 14 feet higher than the adjacent Commercial Building "A." Because the Project is providing pedestrian and accessible connectivity between Commercial Building "A" and Residential Building "A" from the public right-of-way, the connected commercial and residential buildings include a common staircase, an elevator and an accessible ramp from the public right-of-way creating an

overall height of 57 feet, six inches. When viewed separately, the overall Residential Building “A” height is 43 feet, six inches and the Commercial Building “A” height is 14 feet. When viewed from the public right-of-way, both buildings appear separate as Commercial Building “A” is position along University Avenue at a height of 14 feet and Residential Building “A” is set back 40 feet from the front of Commercial Building “A.” Allowing Building “A” to exceed the height limit will provide access between the residential units and the commercial area

The above three deviations have been analyzed by staff and determined to be consistent with the goals and recommendations of the General Plan, Mid-City Communities Community Plan, the Central Urbanized Planned District, and the purpose and intent of the CC-5-3 zone. The Project has been designed to address the physical environment and would not adversely impact the public’s health or safety. Apart from the above deviations, the proposed project provides a mixed residential/commercial development in accordance with development standards of the CC-5-3 zone and Mid-City Communities Community Plan. The proposed development will assist in providing affordable housing units and market-rate housing opportunities in transit-friendly areas near employment centers.

The project deviations are allowed by a Site Development Permit for projects utilizing the Affordable/In-Fill Housing and Sustainable Buildings Regulations from SDMC section 143.0915. Therefore, the proposed development will comply with the applicable regulations of the Land Development Code, including any allowable deviations pursuant to the Land Development Code.

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

a. 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 proposed project qualifies for the Affordable Housing/Infill and Sustainable Buildings Expedite Program by providing ten percent of the units as affordable units to households with rents at 65-percent area median income for a period of 55 years. Prior to the issuance of the first residential building permit, the Owner/Permittee must enter into a written Agreement with the San Diego Housing Commission which shall be drafted and approved by the San Diego Housing Commission, executed by the Owner/Permittee, and secured by a deed of trust which incorporates applicable affordability conditions consistent with the San Diego Municipal Code to secure the affordable units.

Therefore, the proposed development will materially assist in accomplishing the goal of providing affordable housing opportunities in economically balanced communities throughout the City.

b. The development will not be inconsistent with the purpose of the underlying zone. The project proposes the demolition of nine structures for the construction of 63 multi-family residential dwelling units located in the rear of the property and two commercial buildings totaling 5,048 square feet with 2,170 square feet of common area located in the front of the property. The 1.47-acre site is located at 5556-5592 University Avenue within the El Cerrito Heights sub-community area of the Eastern Neighborhood of the Mid-City Communities Plan area. The site is within the CC-5-3 (Commercial-Community Service) zone in the Central Urbanized Planned District, which allows for Commercial-Community Service and Residential Multi-Family uses. The project site is also within the Residential Tandem Parking Overlay Zone, the Transit Area Overlay Zone, and Transit Priority Area Overlay Zone.

The Mid-City Communities Plan designates the site as Commercial and Mixed-Use. Per the community plan, the permitted residential density is 29 dwelling units per acre, with a mixed-use bonus allowing for an increase in residential density up to 43 dwelling units per acre as identified page 54, Figure 13 (Eastern Area Community Plan Map) of the Mid-City Communities Plan. The 1.47-acre site would allow up to 63 residential dwelling units for the site. The proposed Project is consistent with the land use designation and, at a proposed density of approximately 43 dwelling units per acre, is consistent with the permitted residential density including mixed-use bonus. The underlying CC-5-3 allows 43 dwelling units for the site.

SDMC Section 143.0920 allows an applicant to request deviations from the regulations for Affordable/In-Fill Housing and Sustainable Buildings in accordance with Section 143.0915 pursuant to a Site Development Permit, as long as the decision maker makes the findings in Section 126.0505(a) and the supplemental findings in Section 126.0505(m).

As noted and described previously in Site Development Permit Finding No. 1(c), three deviations are being requested as part of the project design. The purpose and intent of the Central Urbanized Planned District says, “the goals and objectives include the development of quality single and multiple dwelling units that are compatible in scale and character with existing neighborhoods.” The project will consist of a mixed-use development with a residential/commercial component consistent with the surrounding area and in accordance with the CC-5-3 zone. Therefore, the development will not be inconsistent with the purpose of the underlying zone.

c. Any proposed deviations are appropriate for this location and will result in a more desirable project than would be achieved if designed in strict conformance with the development regulations of the applicable zone. As outlined in Site Development Permit Finding No. 1(c) listed above, 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.

B. PLANNED DEVELOPMENT PERMIT SAN DIEGO MUNICIPAL CODE (SDMC) SECTION 126.0605

1. Findings for all Planned Development Permits:

a. The proposed development will not adversely affect the applicable land use plan. As outlined in Site Development Permit Finding No. 1(a) listed above, the proposed development will not adversely affect the applicable land use plan.


b. The proposed development will not be detrimental to the public health, safety, and welfare. As outlined in Site Development Permit Finding No. 1(b) listed above, the proposed development will not be detrimental to the public health, safety, and welfare.

c. 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. As outlined in Site Development Permit Finding No. 1(c) listed above, 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 above findings are supported by the minutes, maps and exhibits, all of which are incorporated herein by this reference.

BE IT FURTHER RESOLVED, that Planned Development Permit No. 2102933 and Site Development Permit No. 1769787 is granted to University Avenue Manor, LLC, Owner/ Permittee, under the terms and conditions set forth in the attached permit which is made a part of this resolution.

APPROVED: MARA W. ELLIOTT, City Attorney

By 
Lindsey Joy Herana Sebastian
Deputy City Attorney

LJS:als
03/18/2019
Or.Dept:DSD
Doc. No.: 1958804

Attachment: Site Development Permit and Planned Development Permit

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: 24006884

SITE DEVELOPMENT PERMIT NO. 1769787
PLANNED DEVELOPMENT PERMIT NO. 2102933
UNIVERSITY MANOR MIXED USE PROJECT NO. 503848
CITY COUNCIL

This Site Development Permit No. 1769787 and Planned Development Permit No. 2102933 is granted by the City Council of the City of San Diego to University Avenue Manor, LLC, Owner, and Permittee, pursuant to San Diego Municipal Code (SDMC) Section 126.0502, 126.0602, and 143.0915. The 1.47-acre site is located at 5556-5592 University Avenue in the CC-5-3 zone of the Mid-City Communities Plan. The project site is legally described as: Parcel 1: The westerly 50 feet of the easterly 150 feet that portion of Lot 29 of Lemon Villa, Map No. 734, lying northerly of the northerly line of University Avenue as said Avenue was conveyed to the City of East San Diego by Deed recorded August 16, 1918 in Book 761, Page 57, said Distance being measured at right angles from easterly line of said Lot 29; Parcel 2: The westerly 100 feet of the easterly 250 feet of that portion of Lot 29, Lemon Villa Map No. 734, lying north of the north line of University Avenue, as said Avenue was conveyed to the City of East San Diego by Deed recorded August 16, 1918 in Book 761, Page 57, said distance being measured at right angles from easterly line of said Lot 29; Parcel 3: The westerly 50 feet of the easterly 300 feet of that portion of Lot 29, Lemon Villa Map No. 734, lying north of the north line of University Avenue, as said Avenue was conveyed to the City of East San Diego by Deed recorded August 16, 1918 in Book 761, Page 57, said distance being measured at right angles from easterly line of said Lot 29;

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee to demolish existing structures and to construct a mixed-use development consisting of 63 for rent multi-family dwelling units and two commercial buildings described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated April 8, 2019, on file in the Development Services Department.

The project shall include:

- a. The construction of a mixed-use project consisting of 63 multi-family dwelling units (55,951 square feet) with 10 percent affordable (seven units) in two, four-story residential buildings and two commercial buildings totaling 7,218 square feet of gross building area, inclusive of 2,170 square feet of common area (5,048 square feet, net rentable area);
- b. Deviations:
 - i. A deviation from SDMC Section 142.0340(d)(1) allowing an increase in retaining wall height up to 16 feet without separation in the rear and side yard where two retaining walls are allowed a maximum height of six feet each separated by a minimum horizontal distance equal to the height of the upper wall;
 - ii. A deviation from SDMC Table 131.05E, Balcony Encroachment, to allow required balconies to encroach three feet into the 10-foot side yard setback;
 - iii. A deviation from SDMC Section 131.0530, Table 131-05E Building Height, limits building height to 45 feet. Residential Building "A" proposes an overall building height of 57 feet, six-inches.
- c. Demolition of existing structures;
- 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. 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 April 8, 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.
- c. Exception: Prior to the recordation of this Permit, the issuance for a demolition permit for existing hazardous structures identified in the Notice of Abatement Vacant and Unsecure Structures notice dated August 11, 2017 may be granted.

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 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 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.

CLIMATE ACTION PLAN REQUIREMENTS:

11. 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.

AFFORDABLE HOUSING REQUIREMENTS:

12. Prior to the issuance of any building permits, the Owner/Permittee shall enter into an affordable housing agreement with the San Diego Housing Commission to provide affordable housing units in compliance with the City's Inclusionary Affordable Housing Regulations (SDMC § 142.1301 et seq.).

ENGINEERING REQUIREMENTS:

13. The Site Development Permit No. 1769787 and Planned Development Permit No. 2102933 shall comply with all Conditions of the Final Map for the Tentative Map No. 2125994.

14. Prior to the issuance of any building permits, the Owner/Permittee shall assure, by permit and bond, to construction of a new five-foot sidewalk, curb and gutter per current City Standard, adjacent to the site on University Avenue, satisfactory to the City Engineer.

15. Prior to the issuance of any building permits, the Owner/Permittee shall obtain an Encroachment Maintenance Removal Agreement, from the City Engineer, for the private connection to the public storm drain system and the private storm drain system in the right of way adjacent to site on University Avenue.

16. Prior to the issuance of any building permits, the Owner/Permittee shall obtain an Encroachment Maintenance Removal Agreement, from the City Engineer, for any private landscaping and irrigation in the University Avenue Right-of-Way.

17. The project proposes to export 7,276.72 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.

18. Prior to the issuance of any building permits, the Owner/Permittee shall obtain a bonded grading permit for the grading proposed for this project. All grading shall conform to the requirements of the City of San Diego Municipal Code in a manner satisfactory to the City Engineer.

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

20. Prior to the issuance of any construction permit, the Owner/Permittee 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.

21. 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.

22. Development of this project shall comply with all storm water construction requirements of the State Construction General Permit, Order No. 2009-0009DWQ, or subsequent order, and the Municipal Storm Water Permit, Order No. R9-2013-0001, or subsequent order. In accordance with Order No. 2009-0009DWQ, or subsequent order, a Risk Level Determination shall be calculated for the site and a Storm Water Pollution Prevention Plan (SWPPP) shall be implemented concurrently with the commencement of grading activities.

23. Prior to issuance of a grading or a construction permit, a copy of the Notice of Intent (NOI) with a valid Waste Discharge ID number (WDID#) shall be submitted to the City of San Diego as a proof of enrollment under the Construction General Permit. When ownership of the entire site or portions of the site changes prior to filing of the Notice of Termination (NOT), a revised NOI shall be submitted electronically to the State Water Resources Board in accordance

with the provisions as set forth in Section II.C of Order No. 2009-0009-DWQ and a copy shall be submitted to the City.

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, Storm water 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-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.

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-square-foot 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. 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 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:

32. The 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.
33. Prior to the issuance of any building permits, the Owner/Permittee shall assure, by permit and bond, the construction of a concrete raised median along the project's frontage on University Avenue to allow eastbound left turn in into the site at the commercial driveway and to prohibit left turn out at both driveways, satisfactory to the City Engineer.
34. The Owner/Permittee shall provide and maintain a 10-foot by 10-foot visibility triangle area on both sides of the 25-foot wide residential driveway measured along the project's property line on University Avenue. No obstacles higher than 36 inches shall be located within this area.
35. The Owner/Permittee shall provide and maintain 10-foot by 10-foot visibility triangle area on both sides of the 24-foot wide commercial driveway measured along the project's property line on University Avenue. No obstacles higher than 36 inches shall be located within this area.
36. Prior to the issuance of any building permits, the Owner/Permittee shall assure, by permit and bond, the construction of a 24-foot wide commercial driveway along the project's frontage on University Avenue, satisfactory to the City Engineer.
37. Prior to the issuance of any building permits, the Owner/Permittee shall assure, by permit and bond, the construction of a 25-foot wide residential driveway along the project's frontage on University Avenue, satisfactory to the City Engineer.

GEOLOGY REQUIREMENTS:

38. Prior to the issuance of any construction permits, the Owner/Permittee shall submit an addendum geotechnical investigation report that provides a design-level infiltration investigation per the Storm Water Standards that includes geotechnical hazard analyses, discussion of mitigation measures, and design recommendations, as well as an updated and fully completed

Worksheet C.4-1. The addendum geotechnical investigation report shall be reviewed for adequacy to the Geotechnical Evaluation, University Avenue Mixed Use Residential/ Commercial San Diego, California compiled by Ninyo & Morre dated May 11, 2017 by the Geology Section of Development Services.

PUBLIC UTILITIES DEPARTMENT REQUIREMENTS:

39. Prior to issuance of any engineering permits for right-of-way improvements, any pre-existing public sewer lateral to be reused by the development must be inspected by a California Licensed Plumbing Contractor using closed-circuit television (CCTV) to verify that the lateral is in good condition, free of all debris, and properly connected to a public sewer main.

40. Prior to issuance of any engineering permits for right-of-way improvements, all water services to the site (including domestic, irrigation and fire) are required to pass through a private above ground back flow prevention device (BFPD). BFPDs are typically located just outside the public ROW in-line with the water service. The Public Utilities Department does not allow BFPDs to be located below grade or within any structure.

41. Prior to issuance of any Building Construction Permit, the Owner/Permittee shall construct, or assure construction of (via permit and bond), all required public water and sewer facilities in accordance with Exhibit "A."

42. Prior to issuance of any Building Construction Permit, the proposed private sewer main must be located and labeled on an approved City Construction Record Drawing (D-sheet) to clearly convey all the following information:

- i. The sewer line's identity as a PRIVATE SEWER MAIN; and
- ii. Its point of entry into the Public Right-of-Way relative to the nearest property line; and
- iii. The official document authorizing it to encroach into the Public Right-of-Way; and
- iv. Its point of connection to the public sewer collection system relative to the nearest Man Hole.

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.
- 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 April 8, 2019, and by Resolution No. R-312294.

SDP No. 1769787/PDP No. 2102933
Date of Approval: _____

AUTHENTICATED BY THE CITY OF SAN DIEGO DEVELOPMENT SERVICES
DEPARTMENT

William Zounes
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.**

UNIVERSITY AVENUE MANOR, LLC
Owner/Permittee

By _____
Lutfi Bastami

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

Passed by the Council of The City of San Diego on APR 08 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 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"/>
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 APR 08 2019.

(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.

(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
Resolution Number R- 312294