

(R-2021-201) #334B
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RESOLUTION NUMBER R- 313305

DATE OF FINAL PASSAGE NOV 10 2020

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO APPROVING SITE DEVELOPMENT PERMIT NO. 2413426, PLANNED DEVELOPMENT PERMIT NO. 1677936, AND NEIGHBORHOOD DEVELOPMENT PERMIT NO. 2411303 FOR THE COSTA VERDE REVITALIZATION PROJECT - PROJECT NO. 477943.

WHEREAS, Regency Shopping Centers, Limited Partnership, a California Limited Partnership, Owner/Permittee, filed an application with the City of San Diego for a Site Development Permit, Planned Development Permit, and Neighborhood Development Permit to reconfigure and expand an existing commercial shopping center known as the Costa Verde Revitalization project (Project), located at the northwest corner of Genesee Avenue and Nobel Drive in the RS-1-14 zone and the Community Plan Implementation Overlay Zone (CPIOZ) Type A within the Urban Node of the Central Subarea of the University Community Plan. The Planned Development Permit is also required to amend Planned Development Permit No. 90-1109 and Planned Commercial Development Permit (PCD Permit No. 85-0783) as the City of San Diego no longer utilizes PCD Permits. The project site is legally described as: Lots 13 – 14 inclusive of Costa Verde, City of San Diego, County of San Diego, State of California, According to Map thereof No. 12045, filed in the office of the County Recorder of San Diego County, April 18, 1988; and

WHEREAS, on September 24, 2020, the Planning Commission of the City of San Diego considered, Site Development Permit No. 2413426 (SDP), Planned Development Permit No. 1677936 (PDP), and Neighborhood Development Permit No. 2411303 (NDP), and pursuant to Resolution No. 5108-PC voted to recommend approval of the Permits with recommendations; 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 November 10, 2020, 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 City Council, that it adopts the following findings with respect to Site Development Permit No. 2413426 (SDP), Planned Development Permit No. 1677936 (PDP), and Neighborhood Development Permit No. 2411303 (NDP):

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

1. Findings for all Site Development Permits:

a. **The proposed development will not adversely affect the applicable land use plan.** The approximately 14-acre site of the Costa Verde Center, which is located at the northwest corner of Nobel Drive and Genesee Avenue, is designated by the University Community Plan as Neighborhood Commercial and Community Commercial. To implement the Project, the following land use plan amendments would be required:

- Re-designate approximately 1.0 acre from a Neighborhood Commercial to a Visitor Commercial land use designation in the community plan to allow a 200-room hotel and associated ancillary uses.

- Amend the Development Intensity Element-Table 3 of the community plan. The table currently allows development of 178,000 square feet of Community/Neighborhood Commercial Uses. Approval of an amendment would permit the addition of a 200-room hotel and 400,000 square feet of Research & Development/Office Uses.

- Technical implementing amendments to the Costa Verde Specific Plan (CVSP) that are necessary to address permitted uses, zoning regulations, design guidelines or policies.

- The proposal would also amend the General Plan as all changes to community plans are considered amendments to the citywide document.

The Project, with the concurrent approval of amendments to the General Plan, University Community Plan and Costa Verde Specific Plan, will not adversely affect any of the long-range planning documents.

- The Strategic Framework, Land Use & Community Planning Element, Economic Prosperity Element and Urban Design Element of the General Plan provide a series of goals and policies that guide the revitalization of Costa Verde Center. The elements promote redevelopment that efficiently combines a diversity of land uses; fosters mobility options particularly near transit stations and improves the local economy by expanding employment opportunities in the visitor industry, commercial retail services and technology sectors.

- As evaluated in the Final Project EIR, Table 5.1.1, the proposed changes to Costa Verde Center are in conformance with the University Community Plan with approval of the amendments. The site is within the Urban Node of the Central Subarea, one of four subareas identified by the community plan. The Central Subarea is "one of the major residential, commercial and office nodes in the City".

The amendment, which provides for a hotel, restores the original vision of the 1986 Specific Plan, which included a hotel within the planning area until 2007. In the last several decades, the growth of visitor-serving accommodations in the University Community has not kept pace with the demand. The five hotels in the University Town Center (UTC) submarket have consistently out-performed the national annual occupancy for the United States during the last six years, despite the newest hotel in the area opening in 1989. A new hotel at Costa Verde Center would support visitors to the surrounding community, University of California San Diego (UCSD), Scripps Research, the Birch Aquarium, the expanding bio-tech/research & development sector, and the Veterans Affairs (VA) Medical Center.

- The CVSP implemented many of the Smart Growth concepts that decades later became the cornerstone of the Strategic Framework Element. The proposed Project represents an update of the underlying concepts of the plan. One which reflects current conditions including the soon to be opened Mid-Coast Trolley Terminus Station immediately next to the site above Genesee Avenue; the growing demand in the technology/bio-technology service sector for clustered space and the changing nature of retailing. Although an expansion of commercial retail uses is not being proposed, the re-configuration of the center allows for a revised mix of existing and new community/ neighborhood tenants. Approval of the proposal furthers the CVSP goal to: "Provide a complete range of goods and services for the residents of the University community."

In accordance with Municipal Code Section 126.0502 (e) (4), a Site Development Permit is required if development within the Airport Land Use Compatibility Overlay Zone requests a rezone or land use approval. The application for the Costa Verde Center Revitalization requires amending several land use plans (General Plan, University Community Plan, and Costa Verde Specific Plan) in order to implement the project as proposed.

The purpose of the Airport Land Use Compatibility Overlay Zone is to implement adopted Airport Land Use Compatibility Plans (ALUCP), in accordance with state law, as applicable to property within the City. The intent of these supplemental regulations is to ensure that new development or expansion of existing development located within an Airport Influence Area (AIA) is compatible with respect to airport-related noise, public safety, airspace protection, and aircraft overflight areas. This overlay zone applies to properties such as the project site that are located within an AIA as identified in an adopted ALUCP for a public use or military airport.

The Marine Corps Air Station (MCAS) Miramar airfield is approximately two miles from the project site and located within the AIA for MCAS Miramar. The Project area is within "Review Area 2", which consists of locations that are within the airspace protection and/or overflight areas on the associated maps in the MCAS Miramar Airport Land Use Compatibility Plan (ALUCP). Since the site is within the overflight area for MCAS Miramar, the Project would be subject to review under FAA Part 77 Noticing Area requirements. Building height and obstruction restrictions apply around the installation to ensure that no object would interfere with the safe operation of aircraft or impact the air installation operations. The ALUCP contains criteria for determining airspace obstruction compatibility. The FAA issued a Determination of No Hazard to Air Navigation on March 26, 2020.

Issues in Review Area 2 include projects that create objects in a High Terrain Zone, projects that create electrical or visual hazards to airplanes in flight, and projects that have the potential to cause an increase in birds or wildlife. The Project site is not located within a High Terrain Zone. The Project also does not propose uses that would create electrical hazards to aircraft, and it does not propose the use of neon lights that could be mistaken for airport lighting or interfere with night vision goggles used by military pilots. The Project does not include large water features or propose uses that would attract wildlife such as birds that would interfere with aircraft operations. Based on mandatory compliance with FAA regulatory criteria, potential impacts from aircraft-related hazards were concluded to be less than significant.

The Project site is located outside of the 60 CNEL noise contour as shown on the Compatibility Policy Map: Noise of the MCAS Miramar ALUCP. Noise levels from the airport were incorporated into transportation noise levels for on-site noise-sensitive land uses and impacts were evaluated as to being less than significant.

On April 30, 2020, The San Diego Regional Airport Authority, which oversees the preparation of the MCAS Airport Land Use Compatibility Plan (ALUCP), completed their evaluation of the application and supplemental information provided by the City of San Diego. The Airport Land Use Commission notified the City of San Diego that the application did not meet the criteria for their review as the City of San Diego is implementing the requirements of the ALUCP.

b. The proposed development will not be detrimental to the public health, safety, and welfare. The Project will not be detrimental to the public health, safety, and welfare because the permits controlling the development and use of the site requires compliance with City codes, policies, regulations and other regional, state and federal regulations. Construction plans will be reviewed by City Staff to ensure compliance with all building code regulations. All Uniform Building, Fire, Plumbing, Electrical and Mechanical Code regulations

and permitting requirements governing the construction and continued operation of the development apply to this Project. The Project will be inspected by certified building and engineering inspectors to assure construction is in accordance with approved plans and regulations.

The Project is required to comply with seismic requirements of the California Building Code. Implementation of proper engineering design and utilization of standard construction practices (including recommendations contained with the Geotechnical Investigation) verified at the building permit stage would ensure that the potential for impacts from regional geologic hazards, including fault rupture would be less than significant.

The Project Environmental Impact Report (EIR) identified that the project could result in significant impacts to both noise and traffic. Mitigation measures have been identified and will be implemented with the project to avoid (noise) or reduce (traffic) impacts.

The Project is subject to the Federal Aviation Regulation, Part 77 which requires that projects submit applications to the Federal Aviation Administration to determine if the proposed buildings would be a hazard to air navigation. The FAA issued a Determination of No Hazard to Air Navigation on March 26, 2020.

For the above cited reasons, the 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 proposed development is governed by several long-range planning documents (the General Plan, University Community Plan and Costa Verde Specific Plan), the Land Development Code, several implementing discretionary permits (Planned Development Permit, Site Development Permit, Neighborhood Use Permit), a Vesting Tentative Parcel Map and Public Right-of-Way Easement Vacation.

The Costa Verde Specific Plan has regulatory controls and development guidelines for the site and surrounding residential community, beginning with the earliest site approvals in 1986. The existing mixed-used community could not have been achieved in strict conformance with the existing base zone which is intended for single-family homes.

The existing base zone for the site (Residential-Single Unit Zone, RS-1-14) and overlay zones (Airport Land Use Compatibility Overlay Zone, the Community Plan Implementation Overlay Zone (CPIOZ-A), the Parking Impact Overlay Zone and the Residential Tandem Parking Overlay Zone) are part of the Land Development Code. These regulations are further supplemented by the Costa Verde Specific Plan which allows for a more tailored approach to the proposed Project.

The Specific Plan notes that "Should any inconsistency arise between the development regulations of the base zone or the general regulations of the Municipal Code and the development guidelines of the Costa Verde Specific Plan and/or any implementing Planned

Development Permit, the guidelines of the Specific Plan and/or Planned Development Permits shall govern over those of the base zone, the General Regulations of the Municipal Code (Chapter 14) or Land Development Procedures (Chapter 11).”

A Planned Development Permit is required to implement the development standards contained in the proposed CVSP amendment. The Project has been reviewed by City Staff for conformance with the Land Development Code including the Landscape Regulations and Parking Regulations and complies with both portions of the Municipal Code. Implementation of the design standards of the Specific Plan are subject to conformance with the CPIOZ-A. As the project would conform to the applicable policies and standards of the CVSP (as amended) and Municipal Code, no variances or deviations from the Land Development Code are required. As amended, the Specific Plan provides design guidelines which can be implemented by a Planned Development Permit, without any deviations.

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.**

See above for Site Development Permit Finding A.1.a.

b. **The proposed development will not be detrimental to the public health, safety, and welfare.**

See above for Site Development Permit Finding A.1.b.

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.**

See above for Site Development Permit Finding A.1.c.

C. NEIGHBORHOOD DEVELOPMENT PERMIT- SAN DIEGO MUNICIPAL CODE (SDMC) SECTION 126.0404

1. Findings for all Neighborhood Development Permits:

a. **The proposed development will not adversely affect the applicable land use plan.**

See above for Site Development Permit Finding A.1.a.

b. The proposed development will not be detrimental to the public health, safety, and welfare.

See above for Site Development Permit Finding A.1.b.

c. The proposed development will comply with the regulations of the Land Development Code including any allowable deviations pursuant to the Land Development Code.

See above for Site Development Permit Finding A.1.c.

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

BE IT FURTHER RESOLVED, that Site Development Permit No. 2413426 (SDP), Planned Development Permit No. 1677936 (PDP), and Neighborhood Development Permit No. 2411303 (NDP), is granted to Regency Shopping Centers, Limited Partnership, a California Limited Partnership, Owner/Permittee, under the terms and conditions set forth in the attached permit which is made a part of this resolution, and contingent upon final passage of Resolution No. **R313307** approving amendments to the General Plan, University Community Plan, and Costa Verde Specific Plan.

APPROVED: MARA W. ELLIOTT, City Attorney.

By /s/ Lindsey H. Sebastian
Lindsey H. Sebastian
Deputy City Attorney

LJS:als
10/22/2020
Or.Dept:DSD
Doc. No.: 2495532

Attachment: Site Development Permit No. 2413426, Planned Development Permit No. 1677936, and Neighborhood Development Permit No. 2411303

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

**WHEN RECORDED MAIL TO
CITY CLERK
MAIL STATION 2A**

INTERNAL ORDER NUMBER: 24006554 SPACE ABOVE THIS LINE FOR RECORDER'S USE

**SITE DEVELOPMENT PERMIT NO. 2413426, PLANNED DEVELOPMENT PERMIT
NO. 1677936, AND NEIGHBORHOOD DEVELOPMENT PERMIT NO. 2411303 to AMEND
PLANNED DEVELOPMENT PERMIT NO. 90-1109 and PLANNED COMMERCIAL
DEVELOPMENT PERMIT NO. 85-0783**

**COSTA VERDE REVITALIZATION - PROJECT NO. 477943 MMRP
CITY COUNCIL**

This Site Development Permit No. 2413426, Planned Development Permit No. 1677936, and Neighborhood Development Permit No. 2411303 amending Planned Development Permit No. 90-1109 and Planned Commercial Development Permit 85-0783 is granted by the Council of the City of San Diego to Regency Centers, Limited Partnership, a California Limited Partnership, Owner/Permittee, pursuant to San Diego Municipal Code (SDMC) sections 126.0502, 126.0602 and 126.0402. The 13.9-acre site is located on the north west corner of Nobel Drive and Genesee Avenue, in the RS-1-14 Zone within the Costa Verde Specific Plan area of the University Community Plan. The project site is legally described as: Lots 13 – 14 inclusive of Costa Verde, City of San Diego, County of San Diego, State of California, According to Map thereof No. 12045, filed in the office of the County Recorder of San Diego County, April 18, 1988.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee to remodel an existing neighborhood commercial shopping center described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated November 10, 2020, on file in the Development Services Department.

The project shall include:

- a. Reconfiguration and expansion of an existing 178,000-square foot commercial shopping center. Expansion to include the addition of approximately 40,000 square feet of commercial office, 360,000 square feet of research and development uses, and the addition of a 10-story, 200-room hotel, comprised of approximately 125,000-square feet on the 13.9acre property;
- b. Landscaping (planting, irrigation and landscape related improvements);
- c. Off-street parking;

Doc. No. 2495595

- d. Site walls, fences, walkways, and exterior lighting; and
- 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, Costa Verde Specific 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 November 25, 2023.
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.

11. This Permit may be developed in phases. Each phase shall be constructed prior to sale or lease to individual owners or tenants to ensure that all development is consistent with the conditions and exhibits approved for each respective phase per the approved Exhibit "A."

ENVIRONMENTAL/MITIGATION REQUIREMENTS:

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

13. The mitigation measures specified in the MMRP and outlined in Environmental Impact Report, No. 477943 / SCH No. 2016071031, shall be noted on the construction plans and specifications under the heading ENVIRONMENTAL MITIGATION REQUIREMENTS.

14. The Owner/Permittee shall comply with the MMRP as specified in Environmental Impact Report, No. 477943 / SCH No. 2016071031, to the satisfaction of the Development Services Department and the City Engineer. Prior to issuance of any construction permit, all conditions of the MMRP shall be adhered to, to the satisfaction of the City Engineer. All mitigation measures described in the MMRP shall be implemented for the following issue areas:

Noise, Transportation/Circulation

AIR QUALITY – CONSTRUCTION

15. The Project shall comply with applicable San Diego SDAPCD rules intended to reduce air pollution during construction, including dust control measures through implementation of Rule 55; use of a construction fleet equipped with diesel catalytic converters, diesel oxidation catalysts, and/or diesel particulate filters; and use of CARB/USEPA Engine Certification Final Tier 4, or equivalent methods approved by CARB.

WASTE MANAGEMENT PLAN REQUIREMENTS:

16. The Owner/Permittee shall comply with the Waste Management Plan dated January 2020 and shall be enforced and implemented to the satisfaction of the Environmental Services Department.

CLIMATE ACTION PLAN REQUIREMENTS:

17. 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.

AIRPORT REQUIREMENTS:

18. Prior to issuance of construction permit, the Owner/Permittee shall provide a valid "Determination of No Hazard to Air Navigation" issued by the Federal Aviation Administration (FAA).

ENGINEERING REQUIREMENTS:

19. Prior to issuance of the Certificate of Occupancy, the Owner/Permittee shall dedicate an additional Right-of-Way, east of the existing driveway, to provide a 14-foot curb-to-property-line distance, adjacent to the site on Nobel Drive and Genesee Avenue, satisfactory to the City Engineer.
20. Prior to the issuance of any building permit, the Owner/Permittee shall assure by permit and bond the construction of a new City standard 26-foot driveway, adjacent to the site on Nobel Drive, satisfactory to the City Engineer.
21. Prior to the issuance of any building permit, the Owner/Permittee shall assure by permit and bond the construction of a new City standard 30-foot driveway, adjacent to the site on Genesee Avenue, satisfactory to the City Engineer.
22. Prior to the issuance of any building permit, the Owner/Permittee shall assure by permit and bond the construction of a new City standard 24-foot driveway, adjacent to the site on Genesee Avenue, satisfactory to the City Engineer.
23. Prior to the issuance of any building permit, the Owner/Permittee shall assure by permit and bond to reconstruct the existing curb with City Standard curb and gutter, adjacent to the site on Genesee Avenue at the right-turn pocket only, satisfactory to City Engineer.
24. Prior to the issuance of any building permits, the Owner/Permittee shall assure by permit and bond the replacement of the existing sidewalk with current City Standard 12 foot wide sidewalk, maintaining the existing sidewalk scoring pattern and preserving the contractor's stamp, adjacent to the site on Nobel Drive and Genesee Avenue, satisfactory to the City Engineer.
25. Prior to the issuance of any building permits, the Owner/Permittee shall assure, by permit and bond, to reconstruct two existing curb ramps, per exhibit "A," with current City Standard directional curb ramps Standard Drawing SDG-130 and SDG-132 with Detectable/Tactile Warning Tile, on Genesee Avenue, satisfactory to the City Engineer.
26. Prior to the issuance of any building permit, the Owner/Permittee shall obtain an Encroachment Maintenance Removal Agreement for all enhanced pavers, street trees, landscape and irrigation located in the City's right-of-way, satisfactory to the City Engineer.
27. The drainage system proposed for this development, as shown on the site plan, is subject to approval by the City Engineer.
28. Prior to the issuance of any building permit, the Owner/Permittee shall privatize public storm drainpipes on Esplanade Court, satisfactory to the City Engineer.
29. 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.

30. The project proposes to export 198,014 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.
31. 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.
32. 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.
33. Prior to the issuance of any building permit, the Owner/Permittee shall enter into a Maintenance Agreement for the ongoing permanent BMP maintenance, satisfactory to the City Engineer.
34. 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.
35. 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:

36. Prior to issuance of any grading permit, the Owner/Permittee shall submit complete construction documents for the revegetation and hydro seeding 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.

37. Prior to issuance of any public improvement permit, 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.

38. Prior to issuance of any construction permit (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.

39. 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."

40. 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 another entity approved by the Development Services Department. 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.

41. If any required landscape (including existing or new plantings, hardscape, landscape features, etc.) indicated on the approved construction documents is damaged or removed, 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:

42. 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 authorized by the appropriate City decision maker in accordance with the SDMC.

43. 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.

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

45. 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

46. Prior to any conversion of research and development designated land use into multi-tenant office space or any other use authorized by the Costa Verde Specific Plan, the Owner/Permittee shall demonstrate to the satisfaction of Transportation Development Staff that the overall project ADT and peak hour trip (AM In, AM Out, PM In, and PM Out) do not exceed those analyzed in the project EIR.

47. Prior to the issuance of the first building permit, the Owner/Permittee shall assure by permit and bond the construction of a one-way cycle track along Nobel Drive from Genesee Avenue to Regents Road as shown on Exhibit "A," satisfactory to the City Engineer.

48. Prior to the issuance of the first building permit, the Owner/Permittee shall assure by permit and bond the reconfiguration of the eastbound approach of the Genesee Avenue/Esplanade Court intersection to provide two dedicated left-turn lanes, a through lane, and a dedicated right-turn lane; install an eastbound right-turn overlap phase; and modification of the traffic signal in conjunction with the changed lane designations, satisfactory to the City Engineer. These improvements shall be completed and operational prior to first occupancy.

49. Prior to the issuance of the first building permit, the Owner/Permittee shall assure by permit and bond the upgrade and/or repair of the signal interconnect communications, detection, and controller equipment on Genesee Avenue between Esplanade Court and Governor Drive, satisfactory to the City Engineer. These improvements shall be completed and operational prior to first occupancy.

50. Prior to the issuance of the first building permit, the Owner/Permittee shall assure by permit and bond the installation of a traffic signal to allow for protected northbound left turns at the Genesee Avenue/State Route 52 westbound ramps intersection, satisfactory to Caltrans and the City Engineer.

51. Prior to the issuance of the first building permit, the Owner/Permittee shall assure by permit and bond the installation at the Genesee Avenue/SR 52 eastbound ramps intersection of a right-turn overlap phasing on the westbound approach and associated traffic signal modification, satisfactory to Caltrans and the City Engineer.

52. Prior to the issuance of the first building permit, Owner/Permittee shall prepare a Transportation Demand Management Program for the site, to include at a minimum the following measures:

- To encourage the use of transit, the project will provide a 25% transit subsidy to hourly employees working on the property. The subsidy value will be limited to the equivalent value of 25% of the cost of an MTS "Regional Adult Monthly/30-Day Pass" (currently \$72 for a subsidy value of \$18 per month). Subsidies will be available to 75% of the hourly employees. The subsidy will be offered at the Opening Day of the project and will be provided for a period of three (3) years.
- Charge salaried employees' market-rate for single-occupancy vehicle parking and provide reserved, discounted, or free spaces for registered carpools or vanpools
- Provide carpool/vanpool parking spaces as part of the overall project parking requirements at the project site. These spaces will be signed and striped "carpool/vanpool only."
- Provide showers and locker facilities located within the parking structure adjacent to the security office, as shown on Exhibit "A."
- Maintain an employer network in the SANDAG iCommute program for all tenants/employees
- Provide on-site carsharing and/or bike sharing.
- Provide transit pass sales at the site's concierge.
- Provide a shuttle for workers in the research and development and office buildings to access other properties within the community that are owned by the same entity. If a public zero-emission shuttle is established in the community in the future, provide a stop within the project site.
- Implement smart parking technologies to provide real-time space availability, carpool/vanpool priority, and the option to reserve spaces in advance.
- Install micromobility parking to accommodate a variety of micromobility forms, near the elevators to the trolley.
- Provide additional bicycle and micromobility amenities, such as tire pump/repair stands as well as electric bike and scooter charging stations.
- Consider enhanced wayfinding investments as part of the final design process.

The Transportation Demand Management Program shall state that all measures will be implemented at first occupancy. These measures will be monitored by Owner/Permittee for a period of no less than 5 years with surveys and traffic counts taken annually with a report provided to the City Engineer.

53. Prior to the issuance of the first building permit, the Owner/Permittee shall assure by permit and bond to restripe the westbound approach at the Genesee Avenue/Decoro Street intersection to include a shared through left-turn lane and an exclusive right-turn lane, along with associated traffic signal modifications, satisfactory to the City Engineer. These improvements must be completed and operational prior to first occupancy.

54. Prior to the issuance of the first building permit, the Owner/Permittee shall assure by permit and bond to widen the westbound approach to provide a dedicated left-turn lane and restripe the northbound approach to provide a dedicated right-turn at the Costa Verde Boulevard/Loop Road (South) intersection, satisfactory to the City Engineer. These improvements must be completed and operational prior to first occupancy.

55. Prior to the issuance of the first building permit, the Owner/Permittee shall assure by permit and bond to restripe the southbound approach to provide a dedicated right-turn lane, with associated signal modification at the intersection of Nobel Drive/Costa Verde Boulevard, satisfactory to the City Engineer. These improvements must be completed and operational prior to first occupancy.

GEOLOGY REQUIREMENTS:

56. Prior to the issuance of any construction permits (either grading or building), the Owner/Permittee shall submit a geotechnical investigation report or update letter prepared in accordance with the City's "Guidelines for Geotechnical Reports" 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.

57. 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.

PALEONTOLOGY REQUIREMENTS:

58. 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.

59. The applicant shall submit a letter of verification to Mitigation Monitoring Coordination (MMC)/Environmental Designee (ED) identifying the Principal Investigator (PI), Monitors, and all persons 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.

60. MMC/ED will provide a letter to the applicant confirming the qualifications of the PI, Monitors, and all persons involved in the paleontological monitoring of the project. Professional Qualifications shall meet the following standards:

- a) The Principal Investigator (PI) should have a Ph.D. or M.S. in a field related to paleontology, such as geology or biology with an emphasis in paleobiology. Four cumulative years of full-time professional field, research, and museum experience

in working with the geological formations of Southern California is required. Two of the four years must be in a supervisory capacity (crew chief or above).

- b) Paleontological Monitors should have a B.S. in a field related to paleontology, such as geology or biology with an emphasis in paleobiology. Two cumulative years of full-time professional field, research, and museum experience in working with the geological formations of Southern California is required.

61. Prior to the start of work, the applicant shall obtain approval from MMC for any personnel changes associated with the monitoring program.

PUBLIC UTILITIES DEPARTMENT REQUIREMENTS:

62. Prior to issuance of any Construction Permit, any private improvements within the public ROW (including but not limited to: landscaping, enhanced paving, private non-irrigation utilities, or structures of any kind) that could inhibit the City's right to access, maintain, repair, or replace its public water and sewer utilities must be removed unless the Owner/Permittee has a City approved County Recorded Encroachment and Maintenance Removal Agreement (EMRA) which authorizes that specific private improvement to be placed in that specific location.

63. Prior to issuance of the first Construction Permit, any damages caused to the City of San Diego's public water and sewer facilities, which are due to the activities associated with this project, shall be repaired or reconstructed by the Owner/Permittee in a manner satisfactory to the Public Utilities Director and the City Engineer in accordance with Municipal Code section 142.0607.

64. Prior to the issuance of any Construction Permit, the Owner/Permittee shall ensure that all associated easements have been dedicated or vacated as provided for in Exhibit "A".

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 Council of the City of San Diego on NOV 10, 2020, by Resolution
No. 313305.

**AUTHENTICATED BY THE CITY OF SAN DIEGO DEVELOPMENT SERVICES
DEPARTMENT**

Martha Blake
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.**

Regency Centers, Limited Partnership
Owner/Permittee

By _____
John Murphy
Managing Member

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

Passed by the Council of The City of San Diego on NOV 10 2020, 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 NOV 10 2020

(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 *Stacy Bracy*, Deputy

Office of the City Clerk, San Diego, California
Resolution Number R- 313305