

#2006
10/17/2022

(R-2023-173)

RESOLUTION NUMBER R- 314395

DATE OF FINAL PASSAGE OCT 17 2022

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO ADOPTING FINDINGS FOR PLANNED DEVELOPMENT PERMIT NUMBER 2600462 AND GRANT THAT PERMIT TO AAT LA JOLLA COMMONS 3, LLC, RELATING TO AMENDING PLANNED COMMERCIAL DEVELOPMENT PERMIT NO. 99-0762 TO RESTRICT THE TOTAL AMOUNT OF RESEARCH AND DEVELOPMENT (R&D) USES ON THE LA JOLLA COMMONS III SITE TO BE NO MORE THAN 735,000 SQUARE FEET.

WHEREAS, AAT LA JOLLA COMMONS 3, LLC, Owner/Permittee, filed an application with the City of San Diego for a Planned Development Permit (Permit) to amend Planned Commercial Development No. 99-0762 to restrict the total amount of Research and Development uses on the site to be no more than 735,000 square feet known as the LJ Commons Rezone project, located at 4707, 4727, 4747, 4750 and 4757 Executive Drive (Property), and legally described as Lots 1 through 5 of La Jolla Commons III, in the City of San Diego, County of San Diego, State of California, according to Map thereof No. 16247, filed in the office of the County Recorder for San Diego County on December 28, 2017 as File No. 2017-7000533 of Official Records, in the University Community Plan area; and

WHEREAS, the project also includes a rezone of the site from the CV-1-2 zone to the CO-3-1 zone; and

WHEREAS, on June 5, 2022, the City of San Diego, as Lead Agency, through the Development Services Department, determined the project is consistent with the original Environmental Impact Report No. 99-0762/SCH No. 2000031097, Addendum No. 79804 ,and Addendum No. 324553 per California Environmental Quality Act (CEQA) Guideline Section 15162; and

WHEREAS, on August 18, 2022, the Planning Commission of the City of San Diego considered Planned Development Permit No. 2600462, and pursuant to Resolution No. 5202 PC, the Planning Commission voted to recommend approval of the Permit; and

WHEREAS, the Office of the City Attorney has drafted this resolution based on the information provided by City staff, with the understanding that this information is complete, true, and accurate; and

WHEREAS, under San Diego 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 City 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 October 17, 2022, 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. 2600462.

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

1. Findings for all Planned Development Permits SDMC Section 126.0605:

a. The proposed development will not adversely affect the applicable land use plan. The proposed project (Project) will amend Planned Commercial Development Permit No. 99-0762 to restrict the total amount of Research and Development uses on the site to be no more than 735,000 square feet to ensure that total and peak hour trips do not exceed the trip levels in the original CEQA approvals and addenda. The Project proposes to rezone the property from CV-1-2 to CO-3-1. No additional construction is proposed with this amendment. The La Jolla Commons Project is currently developed as an office campus with two office buildings of 392,051 square feet and 317,277 square feet. The third La Jolla Commons III building is currently under construction and when completed will be 223,000 square feet. Upon

completion of La Jolla Commons III, the Project will include approximately 932,328 square feet of office development.

The University Community Plan ("Community Plan") designates the property as both Office (Figures 14 and 33) and Commercial (Figures 4 and 5). Therefore, the proposed amendment to restrict the Research and Development use and the rezone are consistent with the land use designations for the site. In addition, the University Community Plan Intensity Element at Table 3 designates the Property as Subarea 29, which allows for 1,000,000 square feet of office uses. At build out, the Property will include 932,328 square feet of office development. Therefore, the Project is consistent with the land use designation and development intensity contemplated in the Community Plan.

b. The proposed development will not be detrimental to the public health, safety, and welfare. The proposed development as currently designed will not be detrimental to the public health, safety, and welfare. The La Jolla Commons Project is currently developed as an office campus with two office buildings of 392,051 square feet and 317,277 square feet. The third La Jolla Commons III building is currently under construction and when completed will be 223,000 square feet. Upon completion of La Jolla Commons III, the Project will include a total of approximately 932,328 square feet of office development.

The proposed development has been reviewed by City staff and is consistent with the City's policies and requirements. The Development Services Department (DSD) has completed a California Environmental Quality Act (CEQA) Section 15162 consistency evaluation for the Project (PTS# 698279). This evaluation was performed to determine if conditions specified in CEQA Guidelines Sections 15162 would require preparation of additional CEQA review for the Project. As outlined in the evaluation, DSD determined that the proposed rezone and PCD amendment is consistent with the original Environmental Impact Report No. 99-0762/SCH No. 2000031097, Addendum No. 79804, and Addendum No. 324553. The original EIR 99-0762 being certified on November 14, 2000, by the San Diego City Council as Resolution Number R-94147 and Addendum No. 79804 adopted by the San Diego City Council on June 15, 2006, as Resolution Number R-294147 and Addendum No. 324553 adopted by the San Diego City Council on February 24, 2014, as Resolution Number R-308754. The Project would not result in new impacts.

No new development and no change to the physical environment is proposed. Additionally, the permit controlling the development contains conditions addressing the Project compliance with the City's regulations and policies, and other regional, state, and federal regulations to prevent detrimental impacts to the public health, safety, and welfare. Compliance with these regulations and project conditions would result in a development that 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. The Project includes a Planned Commercial Development Permit (PCD) amendment to restrict the total amount of Research and Development uses on the site to allow no more than 735,000 square feet to ensure that total and peak hour trips from the Project do not exceed the trip levels in the original CEQA approvals and addenda. A rezone of the property is also proposed. No new development and no change to the physical environment is proposed.

The Property is designated Commercial in Figures 4 and 5 of the University Community Plan ("Community Plan") and as Office in Figures 14 and 33 of the Community Plan. Therefore, the proposed rezone is consistent with the land use designations for the Property. In addition, the University Community Plan Intensity Element at Table 3 designates the Property as Subarea 29, which is allowed 1,000,000 square feet of office uses. At build out, the Property will include 932,328 square feet of office development.

No deviations are requested with the amendment to the PCD; therefore, the proposed development will comply with the regulations of the Land Development Code.

BE IT FURTHER RESOLVED, that Planned Development Permit No. 2600462 is granted to AAT LA JOLLA COMMONS 3, 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 /s/ Noah J. Brazier
Noah J. Brazier
Deputy City Attorney

NJB:nja
09/27/2022
Or. Dept: DSD
Doc. No. 3099821

Attachment: Planned Development Permit No. 2600462

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

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

INTERNAL ORDER NUMBER: 24009094

SPACE ABOVE THIS LINE FOR RECORDER'S USE

Planned Development Permit No. 2600462
LJ COMMONS REZONE PROJECT NO. 698279
Amendment To Planned Commercial Development No. 99-0762
City Council

This Planned Development Permit No. 2600462, an amendment to Planned Commercial Development No. 99-0762, San Diego County Recorder's Office Document Number 2001-0335065, dated May 24, 2001, is granted by the City Council of the City of San Diego to AAT LA JOLLA COMMONS, LLC 3, a Delaware limited liability company, Owner/Permittee, pursuant to San Diego Municipal Code [SDMC] section 126.0605. The 17-acre site is located at 4707, 4727, 4747, 4750 and 4757 Executive Drive in the CO-3-1 zone of the University Community Plan. The project site is legally described as: Lots 1 through 5 of La Jolla Commons III, in the City of San Diego, County of San Diego, State of California, according to Map thereof No. 16247, filed in the office of the County Recorder for San Diego County on December 28, 2017, as File No. 2017-7000533 of Official Records.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee to amend Planned Commercial Development and Resource Protection Ordinance Permit No. 99-0762 to restrict the total amount of Research and Development uses on the site to be no more than 735,000 square feet described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated October 17, 2022, on file in the Development Services Department.

The project shall include:

- a. An amendment to Planned Commercial Development and Resource Protection Ordinance Permit No. 99-0762 to restrict the total amount of Research and Development uses on the site to be no more than 735,000 square feet; and
- b. 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 October 17, 2025.
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. Planned Commercial Development No. 99-0762, San Diego County Recorder's Office Document Number 2001-0335065, dated May 24, 200, shall remain in force and effect except where amended by this Permit.

ENVIRONMENTAL/MITIGATION REQUIREMENTS:

11. 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.

12. The mitigation measures specified in the MMRP and outlined in Environmental Impact Report LDR No. 99-0762, October 5, 2000, (SCH No. 2000031097) and Addenda (Project No. 79804 and 324553), shall be noted on the construction plans and specifications under the heading ENVIRONMENTAL MITIGATION REQUIREMENTS.

13. The Owner/Permittee shall comply with the MMRP as specified in Environmental Impact Report LDR No. 99-0762, October 5, 2000, (SCH No. 2000031097) and Addenda (Project No. 79804 and 324553), 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.

CLIMATE ACTION PLAN REQUIREMENTS:

14. 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.

PLANNING/DESIGN REQUIREMENTS:

15. All laboratory equipment and related operations associated with Research & Development (R&D) uses shall comply with all applicable rules and regulations relating to emission standards and the use of any hazardous materials associated with such equipment or operations including, without limitation, San Diego County Air Pollution Control District (SDAPCD) Regulation II, Rule 11. Rule 11 generally exempts such equipment and operations from SDAPCD permitting requirements provided specified criteria are met. Any emission control devices or systems installed as necessary to meet SDAPCD standards for the exemption shall be shown on applicable plans.

16. In conjunction with any future Substantial Conformance Review (SCR) or amendments to this permit for new R&D buildings, the plans for such R&D buildings shall generally identify the proposed use and any hazardous materials or emissions that may be present and shall identify any emission control devices or systems that are installed to control or contain any potential hazards. An updated Exhibit "A" will be provided with any future SCR or amendment submittal, including the following information/ tables: development summary, unit acreage summary, parking, and unit construction type/occupancy summary.

17. 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.

18. 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.

19. 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.

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 October 17, 2022, and [Approved Resolution Number].

AUTHENTICATED BY THE CITY OF SAN DIEGO DEVELOPMENT SERVICES
DEPARTMENT

Oscar Galvez III
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.**

AAT LA JOLLA COMMONS 3, LLC
Owner/Permittee

By _____
Adam Wyll
President and Chief Operating Officer

AAT LA JOLLA COMMONS 3, LLC
Owner/Permittee

By _____
Jerry Gammieri
Senior Vice President of Construction
and Development

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

Passed by the Council of The City of San Diego on OCT 17 2022, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Joe LaCava	<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"/>
Stephen Whitburn	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Monica Montgomery Steppe	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Marni von Wilpert	<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"/>
Raul A. Campillo	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Vivian Moreno	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sean Elo-Rivera	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage OCT 17 2022.

(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:

TODD GLORIA
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- 314395