



EAST ELEVATION



NORTH ELEVATION



SOUTH ELEVATION



WEST ELEVATION

RESOLUTION NUMBER R- _____

DATE OF FINAL PASSAGE _____

VACATION OF DRAINAGE EASEMENT AT 7452 AND
7460 HERSCHEL AVENUE

WHEREAS, California Streets and Highways Code section 8320 *et seq.* San Diego Municipal Code section 125.1001 *et seq.* provide a procedure for the summary vacation of public easements by City Council resolution; and

WHEREAS, it is proposed that Drainage Easement No. 652678 be vacated; 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, a public hearing was required by law implicating due process rights of individuals affected by the decision, and 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 _____, 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 with respect to six foot drainage easement between Pearl Street and approximately parallel to Herschel Avenue, the Council finds that:

(a) **There is no present or prospective use for the easement, either for the facility or purpose for which it was originally acquired, or for any other public use of a like nature that can be anticipated.**

In that the twenty-four inch storm drain pipe will be relocated within the public right-of-way of Herschel Avenue and Pearl Street, the existing easement and abandoned existing storm drain pipe will have no prospective use. The new twenty-four inch storm drain pipe will serve the drainage needs which necessitated the original pipe and easement. There is no other use of a like nature for this specific easement which can be reasonably anticipated.

(b) The public will benefit from the abandonment through improved utilization of the land made available by the abandonment.

Presently the properties which have the drainage easement over them are limited by the existence of the easement in that the properties may not redevelop or place new buildings over the area of the existing easement. The adopted La Jolla Community Plan designates these sites for a recommended density greater than the existing development. Without the vacation or abandonment of the existing easement new buildings may not be placed over the area of the easement and thus without the vacation of the easement the recommended density of the adopted La Jolla Community Plan may not be realized. Without the redevelopment of the property three new dwelling units would not be available to add to the housing stock of the City. The public will benefit by the vacation of the easement through the addition of new housing opportunities, the increase in property tax revenue, the improved utilization of urban land and the development of new housing units designed and constructed to current state and local code requirements.

(c) The abandonment is consistent with any applicable land use plan.

The adopted La Jolla Community Plan identifies this property for Medium High Residential density development. The abandonment of the drainage easement will facilitate the redevelopment of the site at the density recommended by the adopted La Jolla Community Plan and without the abandonment of the easement the recommended density for this site as identified

by the La Jolla Community Plan would not be realized. For these reasons the proposed easement abandonment is consistent with the policies and goals of the adopted La Jolla Community Plan.

(d) The public facility or purpose for which the easement was originally acquired will not be detrimentally affected by this abandonment or the purpose for which the easement was acquired no longer exists.

The easement was acquired for the purposes of placing and maintaining a public storm drain pipe of twenty-four inches in diameter to serve the drainage needs of the neighborhood. With the relocation of a new twenty-four inch storm drain pipe to the public right-of-way of Herschel Avenue, the easement will no longer be necessary. With the relocation of a new twenty-four inch storm drain pipe to the public right-of-way of Herschel Avenue the drainage needs of the neighborhood will continue to be served and the purpose for which the drainage easement was acquired will cease its material necessity to meet the drainage needs of the neighborhood.

BE IT FURTHER RESOLVED, that the drainage easement located within 7452 and 7460 Herschel Avenue in connection with Coastal Development Permit No. 472934 and Tentative Map Waiver No. 477793, as more particularly described in the legal description marked as Exhibit "A," and shown on Drawing No. 21055-B, marked as Exhibit "B," which are by this reference incorporated herein and made a part hereof, is ordered vacated.

BE IT FURTHER RESOLVED, that said easement abandonment is conditioned upon the relocation of the existing twenty-four inch storm drain to the satisfaction of the City Engineer, including the City Engineer's inspection and acceptance of all related work. In the event this condition is not completed within three years following the adoption of this resolution, then this resolution shall become void and be of no further force or effect.

BE IT FURTHER RESOLVED, that the Development Services Department shall record a certified copy of this resolution with attached exhibits, attested by the City Clerk under seal, in the office of the County Recorder.

APPROVED: JAN I. GOLDSMITH, City Attorney

By _____
[Attorney]
Deputy City Attorney

[Initials]:[Initials]
[Month]/[Day]/[Year]
Or.Dept:[Dept]
JO: 438154
Drawing No. [INSERT Drawing No.]
R-Error! Reference source not found.
General Formal Easement Abandonment 4-13-09 Form.doc

(R-INSERT)

RESOLUTION NUMBER R-_____.

DATE OF FINAL PASSAGE_____.

A RESOLUTION GRANTING MAP WAIVER
NO. 477793 FOR THE HABITERRA PROJECT,
PROJECT NO. 136041

WHEREAS, Marco Sanchez and Enrique Salcedo, Applicant/Subdivider, and Richard E. Matter, Engineer, submitted an application with the City of San Diego for Map Waiver No. 477793 to waive the requirement for a Tentative Map to demolish existing improvements and construct a four unit condominium and to waive the requirement to underground existing overhead utilities. The project site is located 7460 Herschel Avenue within the La Jolla Community Plan area, and legally described as portions of Lots 30, 31, and 32, Block 16, Center Addition to La Jolla Park, Map No. 915, filed August 4, 1904, in the La Jolla Community Plan area, in the RM-3-7, Coastal Overlay, Coastal Height Limit, Parking Impact, and Residential Tandem Parking Overlay Zones; and

WHEREAS the map proposes the subdivision of a 0.11 acre site into one (1) lot for a four unit residential condominium; and

WHEREAS, the project is exempt from environmental review pursuant to Section 15332 of the California Environmental Quality Act (CEQA) on the basis that the facilities are existing; and

WHEREAS, a preliminary soils and geological reconnaissance report are waived by the City Engineer pursuant to the Subdivision Map Act and Section 144.0220 of the Municipal Code of the City of San Diego; and

WHEREAS, the subdivision is a condominium project as defined in Section 1350 et seq. of the Civil Code of the State of California and filed pursuant to the Subdivision Map Act. The total number of condominium dwelling units is four; and

WHEREAS, the requested underground waiver of the existing overhead facilities, qualifies under the guidelines of Council Policy No. 600 25-Underground Conversion of Utility Lines at Developers Expense in that:

The conversion involves a short span of overhead facility, less than a full block in length, and it has been determined that such conversion is not a part of a continuing effort to accomplish a total undergrounding within a specific street or area.

WHEREAS, on **V13** – HEARING DATE, the Council of the City of San Diego considered Tentative Map Waiver No. 477793 including the waiver of the requirement to underground existing overhead utilities, and pursuant to Sections 125.0122 and 144.0240 of the Municipal Code of the City of San Diego and Subdivision Map Act Section 66428, received for its consideration written and oral presentations, evidence having been submitted, and heard testimony from all interested parties at the public hearing, 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 Tentative Map Waiver No. 477793:

1. **The proposed subdivision and its design or improvement are consistent with the policies, goals, and objectives of the applicable land use plan (Land Development Code Section 125.0440.a and State Map Act Sections 66473.5, 66474(a), and 66474(b)).** The proposed project is a subdivision of the property to create four condominium ownership interests, and complies with the development regulations of the RM-3-7 Zone in the La Jolla Community Plan which identifies the site for medium high residential development at a density range of 30-45 dwelling units per acre. The proposed subdivision complies with the policies, goals, and objectives of the applicable land use plan.
2. **The proposed subdivision complies with the applicable zoning and development regulations of the Land Development Code (Land Development Code Section 125.0440. (b)).** The proposed project is a subdivision of the property to create four condominium ownership interests, and complies with the development regulations of the RM-3-7 Zone in the La Jolla Community Plan which identifies the site for medium high residential development at a density range of 30-45 dwelling units per acre. Development of the property will meet all requirements of these regulations. In these ways the proposed development will comply with the applicable and relevant regulations of the Land Development Code.
3. **The site is physically suitable for the type and density of development (Land Development Code Section 125.0440.(c) and State Map Act Sections 66474(c) and 66474(d)).** The proposed project is a subdivision of the property to create four condominium ownership interests, and complies with the development regulations of the RM-3-7 Zone in the La Jolla Community Plan which identifies the site for medium high residential development at a density range of 30-45 dwelling units per acre. Development of the property will meet all requirements of these regulations. Therefore, the site is physically suitable for the type and density of development.
4. **The design of the subdivision or the proposed improvements are not likely to cause substantial environmental damage or substantially and avoidable injure fish or wildlife or their habitat (Land Development Code Section**

125.0440.d and State Map Act Section 66474(e). The proposed subdivision is exempt from environmental review pursuant to Article 19, Section 15332, In-Fill Development, of the California Environmental Quality Act (CEQA). The proposed project is a subdivision of the property to create four condominium ownership interests and would not likely to cause substantial environmental damage or substantially and avoidable injure fish or wildlife or their habitat.

5. **The design of the subdivision or the type of improvements will not be detrimental to the public health, safety, and welfare (Land Development Code Section 125.0440.e and State Map Act Section 66474(f)).** The proposed project is a subdivision of the property to create four condominium ownership interests, and would not be detrimental to the public health, safety, and welfare.
6. **The design of the subdivision or the type of improvements will not conflict with easements acquired by the public at large for access through or use of property within the proposed subdivision (Land Development Code Section 125.0440.f and State Map Act Section 66474(g)).** An existing drainage easement will be vacated and existing facilities relocated from within the project boundaries as shown on Map Waiver No. 655907 to the public right-of-way. As such no conflict will occur with the recording of the subdivision and therefore no conflict will result which would negatively affect the public at large.
7. **The design of the proposed subdivision provides, to the extent feasible, for future passive or natural heating and cooling opportunities (Land Development Code Section 125.0440.g and State Map Act Section 66473.1).** The proposed project is a subdivision of the property to create four condominium ownership interests, and would not be impact future passive or natural heating and cooling opportunities.
8. **The decision maker has considered the effects of the proposed subdivision on the housing needs of the region and that those needs are balanced against the needs for public services and the available fiscal and environmental resources (Land Development Code Section 125.0440.h and State Map Act Section 66412.3).** The proposed project is a subdivision of the property to create four condominium ownership interests, and would not impact the housing within the region, public services, or the available fiscal and environmental resources.
9. **The requested underground waiver of the existing overhead facilities, qualifies under the guidelines of Council Policy No. 600-25 *Underground Conversion of Utility Lines at Developers Expense* in that:**

The conversion involves a short span of overhead facility of less than a full block in length and it has been determined that such conversion is not a part of a continuing effort to accomplish a total undergrounding within a specific street or area.

That said Findings are supported by the minutes, maps, and exhibits, all of which are herein incorporated by reference.

BE IT FURTHER RESOLVED that, based on the Findings hereinbefore adopted by the City Council, Tentative Map Waiver No. 477793 including the waiver of the requirement to underground existing overhead utilities, is hereby granted to Marco Sanchez and Enrique Salcedo, Applicant/Subdivider, subject to the following conditions:

PASSED AND ADOPTED BY THE COUNCIL OF THE CITY OF SAN DIEGO,
CALIFORNIA, ON V13 – HEARING DATE [IN CAPS].

APPROVED: JAN I. GOLDSMITH, City Attorney

By _____
NAME
Deputy City Attorney

CONDITIONS FOR MAP WAIVER NO. 477793

HABITERRA PROJECT
PROJECT NO. 136041

ADOPTED BY RESOLUTION NO. R-_____ ON _____.

GENERAL

1. This Tentative Map Waiver will expire INSERT DATE - 3 YEARS FROM DECISION DATE.
2. Compliance with all of the following conditions shall be assured, to the satisfaction of the City Engineer, prior to the recordation of the Parcel Map unless otherwise noted.
3. Prior to the Tentative Map Waiver expiration date, a Parcel Map to consolidate the existing lots into one lot shall be recorded in the Office of the County Recorder.
4. Prior to recording of the Parcel Map taxes must be paid on this property pursuant to section 66492 of the Subdivision Map Act. A tax certificate, recorded in the office of the County Recorder, must be provided to satisfy this condition.
5. The Parcel Map shall conform to the provisions of Coastal Development Permit No. 472934.
6. The Subdivider shall defend, indemnify, and hold the City (including its agents, officers, and employees [together, "Indemnified Parties"]) harmless from any claim, action, or proceeding, against any Indemnified Party to attack, set aside, void, or annul City's approval of this project, which action is brought within the time period provided for in Government Code section 66499.37. City shall promptly notify Subdivider of any claim, action, or proceeding and shall cooperate fully in the defense. If City fails to cooperate fully in the defense, Subdivider shall not thereafter be responsible to defend, indemnify, or hold City harmless. City may participate in the defense of any claim, action, or proceeding if City both bears its own attorney's fees and costs, and defends the action in good faith. Subdivider shall not be required to pay or perform any settlement unless such settlement is approved by the Subdivider.

ENGINEERING

7. The Subdivider shall relocate the existing public drain, which currently crosses the site, to public right-of-way, satisfactory to the City Engineer.

8. The Subdivider shall vacate the existing drainage easement which is on the site.
9. The Subdivider shall remove the red bricks from the right-of-way of Herschel Avenue.
10. The Subdivider shall replace the existing curb with City standard curb and gutter, along the entire project frontage on Pearl Street, per Standard Drawing G-2 and SDG-100.
11. The Subdivider shall replace the existing curb ramp with City standard curb ramp with truncated domes, at the southwest corner of Pearl and Herschel Avenue.
12. The Subdivider shall close all non-utilized driveways with City standard curb, gutter and sidewalk.
13. The Subdivider shall replace the existing grate inlet with City standard type B curb inlet, on Pearl Street, per Standard Drawing D-2, SDD-100 and SDG-110.
14. The Subdivider shall obtain an Encroachment Maintenance and Removal Agreement for sidewalk under-drain/curb-outlet, landscape and irrigation located within the City's right-of-way.
15. The Subdivider shall comply with all current street lighting standards according to the City of San Diego Street Design Manual (Document No. 297376, filed November 25, 2002) and the amendment to Council Policy 200-18 approved by City Council on February 26, 2002 (Resolution R-296141) satisfactory to the City Engineer. This may require, but not be limited to, installation of new street light(s), upgrading light from low pressure to high pressure sodium vapor and/or upgrading wattage.
16. The Subdivider shall ensure that all existing onsite utilities serving the subdivision shall be undergrounded with the appropriate permits. The Subdivider shall provide written confirmation from applicable utilities that the conversion has taken place, or provide other means to assure the undergrounding, satisfactory to the City Engineer.
17. Prior to the issuance of any construction permits, the Subdivider shall incorporate any construction Best Management Practices necessary to comply with Chapter 14, Article 2, Division 1 (Grading Regulations) of the San Diego Municipal Code, into the construction plans or specifications.
18. Prior to the issuance of any construction permits, the Subdivider shall submit a Water Pollution Control Plan (WPCP). The WPCP shall be prepared in accordance with the guidelines in Appendix E of the City's Storm Water Standards.

19. The Subdivider shall underground any new service run to any new or proposed structures within the subdivision.
20. The Subdivider shall ensure that all existing onsite utilities serving the subdivision shall be undergrounded with the appropriate permits. The Subdivider shall provide written confirmation from applicable utilities that the conversion has taken place, or provide other means to assure the undergrounding, satisfactory to the City Engineer.
21. Conformance with the "General Conditions for Tentative Subdivision Maps," filed in the Office of the City Clerk under Document No. 767688 on May 7, 1980, is required. Only those exceptions to the General Conditions which are shown on the Map Waiver and covered in these special conditions will be authorized.
22. All public improvements and incidental facilities shall be designed in accordance with criteria established in the Street Design Manual, filed with the City Clerk as Document No. 769830.

MAPPING

23. "Basis of Bearings" means the source of uniform orientation of all measured bearings shown on the map. Unless otherwise approved, this source will be the California Coordinate System, Zone 6, North American Datum of 1983 (NAD 83).
24. "California Coordinate System means the coordinate system as defined in Section 8801 through 8819 of the California Public Resources Code. The specified zone for San Diego County is "Zone 6," and the official datum is the "North American Datum of 1983."
25. Every Parcel Map shall:
 - a. Use the California Coordinate System for its "Basis of Bearing" and express all measured and calculated bearing values in terms of said system. The angle of grid divergence from a true median (theta or mapping angle) and the north point of said map shall appear on each sheet thereof. Establishment of said Basis of Bearings may be by use of existing Horizontal Control stations or astronomic observations.
 - b. Show two measured ties from the boundary of the map to existing Horizontal Control stations having California Coordinate values of Third Order accuracy or better. These tie lines to the existing control shall be shown in relation to the California Coordinate System (i.e., grid bearings and grid distances). All other distances shown on the map are to be shown

as ground distances. A combined factor for conversion of grid-to-ground distances shall be shown on the map.

26. The design of the subdivision shall include private easements, if any, serving parcels of land outside the subdivision boundary or such easements must be removed from the title of the subdivided lands prior to filing any parcel or final map encumbered by these easements.

SEWER AND WATER

27. The Subdivider agrees to design and construct all proposed public water facilities in accordance with established criteria in the most current edition of the City of San Diego Water Facility Design Guidelines and City regulations, standards and practices pertaining thereto. Water facilities as shown on the approved tentative map shall be modified at final engineering to comply with standards.

INFORMATION:

- The approval of this Tentative Map Waiver by the Council of the City of San Diego does not authorize the Subdivider to violate any Federal, State, or City laws, ordinances, regulations, or policies including but not limited to, the Federal Endangered Species Act of 1973 and any amendments thereto (16 USC Section 1531 et seq.).
- If the Subdivider makes any request for new water and sewer facilities (including services, fire hydrants, and laterals), then the Subdivider shall design and construct such facilities in accordance with established criteria in the most current editions of the City of San Diego water and sewer design guides and City regulations, standards and practices pertaining thereto. Off-site improvements may be required to provide adequate and acceptable levels of service and will be determined at final engineering.
- Subsequent applications related to this Tentative Map Waiver will be subject to fees and charges based on the rate and calculation method in effect at the time of payment.
- Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of the Tentative Map Waiver, may protest the imposition within 90 days of the approval of this Tentative Map Waiver by filing a written protest with the City Clerk pursuant to California Government Code Section 66020.
- Where in the course of development of private property, public facilities are damaged or removed the property owner shall at no cost to the City obtain the required permits for work in the public right-of-way, and repair or replace the

public facility to the satisfaction of the City Engineer. Municipal Code Section 142.0607.

- This development may be subject to impact fees, as established by the City Council, at the time of issuance of building permits.
- This development may be subject to payment of School Impact Fees at the time of issuance of building permits, as provided by Education Code Section 17620, in accordance with procedures established by the Director of Building Inspection.

(R-INSERT)

RESOLUTION NUMBER R-NUMBER

ADOPTED ON DATE

Tb(@3Tb)

WHEREAS, Marco Sanchez and Enrique Salcedo, Owner/Permittee, filed an application with the City of San Diego for a Coastal Development Permit No. 472934 to demolish the existing building and construct four residential condominium units known as the Habiterra project, located at 7460 Herschel Avenue, and legally described as portions of Lots 30, 31, and 32, Block 16, Center Addition to La Jolla Park, Map No. 915, filed August 4, 1904, in the La Jolla Community Plan area, in the RM-3-7, Coastal Overlay, Coastal Height Limit, Parking Impact, and Residential Tandem Parking Overlay Zones; and

WHEREAS, on INSERT DATE, the Planning Commission of the City of San Diego considered Coastal Development Permit [CDP] No. 472934, and pursuant to Resolution No. PCReso#-PC voted to recommend City Council approval of the permit; and

WHEREAS, the matter was set for public hearing on DATE, 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 CDP Permit No. 472934:

Coastal Development Permit - Section 126.0708

1. The proposed coastal development will not encroach upon any existing physical access way that is legally used by the public or any proposed public accessway identified in a Local Coastal Program land use plan; and the proposed coastal development will enhance and protect public views to and along the ocean and other scenic coastal areas as specified in the Local Coastal Program land use plan.

The proposed project is located at 7460 Herschel Avenue on a 0.11 acre site in the RM-3-7, Coastal Overlay, Coastal Height Limit, Parking Impact, and Residential Tandem Parking Overlay

Zones within the La Jolla Community Plan. The project proposes to demolish an existing building and construct a four unit condominium project. The proposed condominium project will be developed entirely within the private property and will not encroach upon any existing physical access way legally used by the public or any proposed public accessway identified in a Local Coastal Program land use plan in as much as there are no legally used by the public or any proposed public accessways located on the private property. The proposed development will be constructed completely within the boundaries of the private property and will observe all required yard setbacks. The La Jolla Community Plan and Local Coastal Program identify the location of all public view corridors within the community and do not identify any such corridor within or along Herschel Avenue. From the property at 7460 Herschel Avenue there are no views to the ocean or other scenic coastal areas. As such the proposed project will have no effect upon the public views to and along the ocean and other scenic coastal areas as identified in the Local Coastal Program land use plan.

2. The proposed coastal development will not adversely affect environmentally sensitive lands.

The proposed project is located at 7460 Herschel Avenue on a 0.11 acre site in the RM-3-7, Coastal Overlay, Coastal Height Limit, Parking Impact, and Residential Tandem Parking Overlay Zones within the La Jolla Community Plan. The project proposes to demolish an existing building and construct a four unit condominium project. The site has been previously developed with a single family structure, landscaping and other minor site improvements. There are no sensitive habitats or species located on the site nor is the site adjacent to the City of San Diego's Multi-Habitat Planning Area. The proposed project will have no significant environmental effect and is categorically exempt under the California Environmental Quality Act. In the absence of any environmentally sensitive lands present on the site the proposed development will have no adverse affect to or upon environmentally sensitive lands.

3. The proposed coastal development is in conformity with the certified Local Coastal Program land use plan and complies with all regulations of the certified Implementation Program.

The proposed project is located at 7460 Herschel Avenue on a 0.11 acre site in the RM-3-7, Coastal Overlay, Coastal Height Limit, Parking Impact, and Residential Tandem Parking Overlay Zones within the La Jolla Community Plan. The project proposes to demolish an existing building and construct a four unit condominium project. The proposed project is located within the La Jolla Community Plan area on a parcel designated for Medium High residential use which would provide for a density range of thirty to forty dwelling units per acre. The site measures 0.11 acres and would be allowed a maximum density of three to four dwelling units. The proposed density is consistent with the land use designation. The project would adhere to policies and objectives established by the community plan in that the design of the proposed structure does not affect any existing physical access way that is legally used by the public or any proposed public accessway identified in a Local Coastal Program land use plan. Furthermore the proposed project will have a harmonious physical and aesthetic relationship with other existing structures in the neighborhood. Being determined the proposed project will be consistent with the La Jolla Community Plan policies and objectives the project is in conformity with the

certified Local Coastal Program land use plan and complies with all regulations of the certified Implementation Program.

4. For every Coastal Development Permit issued for any coastal development between the nearest public road and the sea or the shoreline of any body of water located within the Coastal Overlay Zone the coastal development is in conformity with the public access and public recreation policies of Chapter 3 of the California Coastal Act.

The proposed project is located at 7460 Herschel Avenue on a 0.11 acre site in the RM-3-7, Coastal Overlay, Coastal Height Limit, Parking Impact, and Residential Tandem Parking Overlay Zones within the La Jolla Community Plan. The project proposes to demolish an existing building and construct a four unit condominium project. The project site is not located between the nearest public road and the sea or the shoreline of any body of water located within the Coastal Overlay Zone. Therefore, the proposed project to demolish an existing building and construct a four unit condominium project will have no affect upon public access and the recreation policies of Chapter 3 of the California Coastal Act and therefore be in conformance with such Act.

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

BE IT FURTHER RESOLVED, that the recommendation of the Planning Commission is sustained, and Coastal Development Permit No. 472934 is granted to Marco Sanchez and Enrique Salcedo, Owner/Permittee, under the terms and conditions set forth in the permit attached hereto and made a part hereof.

APPROVED: JAN I. GOLDSMITH, City Attorney

By _____
NAME
Deputy City Attorney

ATTY/SEC. INITIALS
DATE
Or.Dept:Clerk
R-INSERT
Form=permitr.frm(61203wct)
Reviewed by John S. Fisher

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

JOB ORDER NUMBER: 42-8154

COASTAL DEVELOPMENT PERMIT NO. 472934
HABITERRA - PROJECT NO. 136041
CITY COUNCIL

This Coastal Development Permit No. 472934 is granted by the Council of the City of San Diego to MARCO SANCHEZ and ENRIQUE SALCEDO, Owner/Permittee, pursuant to San Diego Municipal Code [SDMC] section 126.0708. The 0.11 acre site is located at 7460 Herschel Avenue in the RM-3-7, Coastal Overlay, Coastal Height Limit, Parking Impact, and Residential Tandem Parking Overlay Zones within the La Jolla Community Plan. The project site is legally described as portions of Lots 30, 31, and 32, Block 16, Center Addition to La Jolla Park, Map No. 915, filed August 4, 1904.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee to demolish the existing building and construct four residential condominium units, described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated [INSERT Approval Date], on file in the Development Services Department.

The project shall include:

- a. Demolition of the existing building and other site improvements and construction of a four unit residential condominium development;
- b. Landscaping (planting, irrigation and landscape related improvements);
- c. Off-street parking;
- d. Accessory improvements determined by the Development Services Department to be consistent with the land use and development standards in effect for this site per the adopted community plan, California Environmental Quality Act Guidelines, public and private improvement requirements of the City Engineer, the underlying zone(s), conditions of this Permit, and any other applicable regulations of the SDMC in effect for this site.

STANDARD REQUIREMENTS:

1. This permit must be utilized within thirty-six (36) months after the date on which all rights of appeal have expired. Failure to utilize and maintain utilization of this permit as described in the SDMC will automatically void the permit unless an Extension of Time has been granted. Any such Extension of Time must meet all SDMC requirements and applicable guidelines in affect at the time the extension is considered by the appropriate decision maker.
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. Unless this Permit has been revoked by the City of San Diego the property included by reference within this Permit shall be used only for the purposes and under the terms and conditions set forth in this Permit unless otherwise authorized by the Development Services Department.
4. This Permit is a covenant running with the subject property and shall be binding upon the Owner/Permittee and any successor or successors, and the interests of any successor shall be subject to each and every condition set out in this Permit and all referenced documents.
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 modifications to the building and site improvements to comply with applicable building, fire, mechanical and plumbing codes and State law requiring access for disabled people may be required.
8. Construction plans shall be in substantial conformity to Exhibit "A." No changes, modifications or alterations shall be made 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 have been determined to be necessary in order to make the findings required for this Permit. It is the intent

of the City that the holder of this Permit be required to comply with each and every condition in order to be afforded the special rights which the holder of the Permit is entitled as a result of obtaining this Permit.

In the event that any condition of this Permit, on a legal challenge by the Owner/Permittee of this Permit, is found or held by a court of competent jurisdiction to be invalid, unenforceable, or unreasonable, this Permit shall be void. However, in such an event, the Owner/Permittee shall have the right, by paying applicable processing fees, to bring a request for a new permit without the "invalid" condition(s) back to the discretionary body which approved the Permit for a determination by that body as to whether all of the findings necessary for the issuance of the proposed permit can still be made in the absence of the "invalid" condition(s). Such hearing shall be a hearing de novo and the discretionary body shall have the absolute right to approve, disapprove, or modify the proposed permit and the condition(s) contained therein.

10. The Owner/Permittee shall defend, indemnify, and hold harmless the City, its agents, officers, and employees from any and all claims, actions, proceedings, damages, judgments, or costs, including attorney's fees, against the City or its agents, officers, or employees, relating to the issuance of this permit including, but not limited to, any action to attack, set aside, void, challenge, or annul this development approval and any environmental document or decision. The City will promptly notify Owner/Permittee of any claim, action, or proceeding and, if the City should fail to cooperate fully in the defense, the Owner/Permittee shall not thereafter be responsible to defend, indemnify, and hold harmless the City or its agents, officers, and employees. The City may elect to conduct its own defense, participate in its own defense, or obtain independent legal counsel in defense of any claim related to this indemnification. In the event of such election, Owner/Permittee shall pay all of the costs related thereto, including without limitation reasonable attorney's fees and costs. In the event of a disagreement between the City and Owner/Permittee regarding litigation issues, the City shall have the authority to control the litigation and make litigation related decisions, including, but not limited to, settlement or other disposition of the matter. However, the Owner/Permittee shall not be required to pay or perform any settlement unless such settlement is approved by Owner/Permittee.

AFFORDABLE HOUSING REQUIREMENTS:

11. Prior to the issuance of the first residential building permit, the Owner/Permittee shall comply with the affordable housing requirements of the City's Inclusionary Housing Ordinance (Chapter 14, Article 2, Division 13 of the Land Development Code) by payment of the Inclusionary Housing In-Lieu Fee.

ENGINEERING REQUIREMENTS:

12. The Coastal Development Permit shall comply with all conditions of the Tentative Map Waiver 477793.

13. Prior to foundation inspection, the Owner/Permittee shall submit a building pad certification signed by a Registered Civil Engineer or a Licensed Land Surveyor, certifying that the pad elevation based on USGS datum is in accordance with the approved plans.

14. Prior to the issuance of the first residential building permit, the Owner/Permittee shall assure by permit and bond the relocation of the existing twenty-four inch storm drain to the satisfaction of the City Engineer, including the City Engineer's inspection and acceptance of all related work.

LANDSCAPE REQUIREMENTS:

15. Prior to issuance of construction permits for public 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 provide for a forty square foot area around each tree which is unencumbered by utilities. Driveways, utilities, drains, water and sewer laterals shall be designed so as not to prohibit the placement of street trees.

16. In the event that a foundation only permit is requested by the Owner/Permittee, a site plan or staking layout plan shall be submitted identifying all landscape areas consistent with Exhibit "A." These landscape areas shall be clearly identified with a distinct symbol, noted with dimensions and labeled as 'landscaping area.'

17. Prior to issuance of any construction permits for buildings; the Owner/Permittee shall submit complete landscape and irrigation construction documents consistent with the Land Development Manual, Landscape Standards to the Development Services Department for approval. The construction documents shall be in substantial conformance with Exhibit "A."

18. Prior to Final Inspection, it shall be the responsibility of the Owner/Permittee to install all required landscape. A "No Fee" Street Tree Permit, if applicable, shall be obtained for the installation, establishment, and on-going maintenance of all street trees.

19. The Owner/Permittee shall maintain all landscape in a disease, weed and litter free condition at all times. Severe pruning or "topping" of trees is not permitted. The trees shall be maintained in a safe manner to allow each tree to grow to its mature height and spread.

20. The Owner/Permittee shall be responsible for the maintenance of all landscape improvements in the right-of-way consistent with the Land Development Manual, Landscape Standards unless long-term maintenance of said landscaping will be the responsibility of a Landscape Maintenance District or other approved entity. In this case, a Landscape Maintenance Agreement shall be submitted for review by a Landscape Planner.

21. If any required landscape, including existing or new plantings, hardscape, landscape features, or other improvements, indicated on the approved construction document plans is damaged or removed during demolition or construction, the Owner/Permittee shall be required to repair and/or replace any landscape in kind and equivalent size per the approved documents to the satisfaction of the Development Services Department within 30 days of damage or prior to a Final Landscape Inspection.

PLANNING/DESIGN REQUIREMENTS:

22. No fewer than six off-street parking spaces [seven provided] shall be maintained on the property at all times in the approximate locations shown on the approved Exhibit "A." Parking spaces shall comply at all times with the SDMC and shall not be converted for any other use unless otherwise authorized by the Development Services Department.

23. 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.

24. There shall be compliance with the regulations of the underlying zone(s) unless a deviation or variance to a specific regulation(s) is approved or granted as condition of approval of this permit. Where there is a conflict between a condition (including exhibits) of this permit and a regulation of the underlying zone, the regulation shall prevail unless the condition provides for a deviation or variance from the regulations.

25. The height(s) of the building(s) or structure(s) shall not exceed those heights set forth in the conditions and the exhibits including, but not limited to, elevations and cross sections, or the maximum permitted building height of the underlying zone, whichever is lower.

26. A topographical survey conforming to the provisions of the Municipal/Land Development Code 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 regulations of the underlying zone. The cost of any such survey shall be borne by the Owner/Permittee.

27. All signs shall comply with the San Diego Municipal Code Chapter 14, Article 2, Division 12, Sign Regulations.

28. All fences and retaining walls shall comply with the San Diego Municipal Code Section 142.0301.

29. No structures or other encroachments over three feet in height are permitted within the visibility triangle.

TRANSPORTATION REQUIREMENTS

30. Prior to the issuance of the first building permit, the Owner/Permittee shall assure by permit and bond the closure of all under-utilized driveways along the project's frontage and replace with curb, gutter and sidewalk, satisfactory to the City Engineer.

31. Prior to the issuance of the first building permit, the Owner/Permittee shall assure by permit and bond the construction of a twenty foot wide driveway along the project's frontage on Pearl Street, satisfactory to the City Engineer.

32. Prior to the issuance of the first building permit, the Owner/Permittee shall assure by permit and bond the construction of a maximum of twenty-five foot wide driveway along the project's frontage on Herschel Avenue, satisfactory to the City Engineer.

33. The Owner/Permittee shall provide and maintain adequate visibility area on both sides of the two proposed driveways along the setback lines of Pearl Street and Herschel Avenue. No obstacles higher than thirty-six inches shall be located within this area, including yet not limited to walls, landscaping, or other improvements.

34. The "study" area as shown on the Exhibit "A" shall not be converted to any other use including a bedroom at any time. The restriction on the change of use for "Study" area shall be reflected and disclosed on any future lease and/or sale agreement(s) of the dwelling units on this property.

WASTEWATER REQUIREMENTS:

35. Prior to the issuance of any building permits, the Owner/Permittee shall provide an Encroachment Maintenance Removal Agreement for the private shared lateral in the public right-of-way.

36. All on-site wastewater systems shall be private.

37. All proposed public sewer facilities are to be designed and constructed in accordance with established criteria in the most current City of San Diego Sewer Design Guide.

38. All proposed private sewer facilities located within a single lot are to be designed to meet the requirements of the California Uniform Plumbing Code and will be reviewed as part of the building permit plan check.

39. No trees shall be installed within ten feet of any sewer facilities or in any sewer access easement. No shrubs exceeding three feet in height at maturity shall be installed within ten feet of any public sewer main or within access easements.

WATER REQUIREMENTS:

40. Prior to the issuance of any building permits, the Owner/Permittee shall assure, by permit and bond, the design and construction of new water service(s) as needed, and the removal of all existing unused services, within the Herschel Avenue and Pearl Street rights-of-way adjacent to the project site in a manner satisfactory to the Director of Public Utilities and the City Engineer.

41. Prior to the issuance of any certificates of occupancy, public water facilities necessary to serve the development, including services, shall be complete and operational in a manner satisfactory to the Director of Public Utilities and the City Engineer.

INFORMATION ONLY:

- Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of this development 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 §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 [date and resolution number] .

Coastal Development Permit No. 472934
Date of Approval:

AUTHENTICATED BY THE DEVELOPMENT SERVICES DEPARTMENT

Kelly Broughton
Director
Development Services

**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.

MARCO SANCHEZ
Owner/Permittee

By _____
NAME
TITLE

ENRIQUE SALCEDO Owner/Permittee

By _____
NAME
TITLE

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



City of San Diego
 Development Services
 1222 First Ave., MS-302
 San Diego, CA 92101
 (619) 446-5000

Ownership Disclosure Statement

Approval Type: Check appropriate box for type of approval (s) requested: Neighborhood Use Permit Coastal Development Permit
 Neighborhood Development Permit Site Development Permit Planned Development Permit Conditional Use Permit
 Variance Tentative Map Vesting Tentative Map Map Waiver Land Use Plan Amendment • Other _____

Project Title HABITERRA **Project No. For City Use Only** 136041

Project Address:
7460 HERSCHEL LA JOLVA. 92037

Part I - To be completed when property is held by individual(s)

By signing the Ownership Disclosure Statement, the owner(s) acknowledge that an application for a permit, map or other matter, as identified above, will be filed with the City of San Diego on the subject property, with the intent to record an encumbrance against the property. Please list below the owner(s) and tenant(s) (if applicable) of the above referenced property. The list must include the names and addresses of all persons who have an interest in the property, recorded or otherwise, and state the type of property interest (e.g., tenants who will benefit from the permit, all individuals who own the property). A signature is required of at least one of the property owners. Attach additional pages if needed. A signature from the Assistant Executive Director of the San Diego Redevelopment Agency shall be required for all project parcels for which a Disposition and Development Agreement (DDA) has been approved / executed by the City Council. Note: The applicant is responsible for notifying the Project Manager of any changes in ownership during the time the application is being processed or considered. Changes in ownership are to be given to the Project Manager at least thirty days prior to any public hearing on the subject property. Failure to provide accurate and current ownership information could result in a delay in the hearing process.

Additional pages attached Yes No

Name of Individual (type or print):
MARCO SANCHEZ
 Owner Tenant/Lessee Redevelopment Agency
 Street Address:
1587 Kettner Blvd.
 City/State/Zip:
San Diego CA.
 Phone No: (858) 967 5761 Fax No:
 Signature: [Signature] Date: 07/31/07

Name of Individual (type or print):
ENRIQUE SALCEDO
 Owner Tenant/Lessee Redevelopment Agency
 Street Address:
1587 Kettner Blvd.
 City/State/Zip:
San Diego CA
 Phone No: 619 370 7133 Fax No:
 Signature: [Signature] Date: 07/31/07

Name of Individual (type or print):
 Owner Tenant/Lessee Redevelopment Agency
 Street Address:
 City/State/Zip:
 Phone No: Fax No:
 Signature: Date:

Name of Individual (type or print):
 Owner Tenant/Lessee Redevelopment Agency
 Street Address:
 City/State/Zip:
 Phone No: Fax No:
 Signature: Date:

**La Jolla Community Planning Association
CDP CONSENT AGENDA
April 2008**

Attention: Jeff Robles , Project manager

4-7-08 CDP FINAL

Project Name: **HABITERRA** Permits: CDP
7460 Herchel ave
Project Number: JO 42-8154 / PTS 136041 DPM: Jeff Robles 619 446-5225
jrobles@sandiego.gov
Zone: RM-3-7 Applicant: Jorge Ozorno 858-967-5761

Scope of Work: (PROCESS 2) Coastal Development Permit to demolish existing building and construct 4 residential for rent units on a 0.08 acre site at 7460 Herschel Avenue in the RM-3-7 Zone within the la Jolla Community Plan, Coastal Overlay (non-appealable), Coastal Ht Limit, Parking Impact, Residential Tandem Parking Transit area Council District 1. Notice Cards= 2.

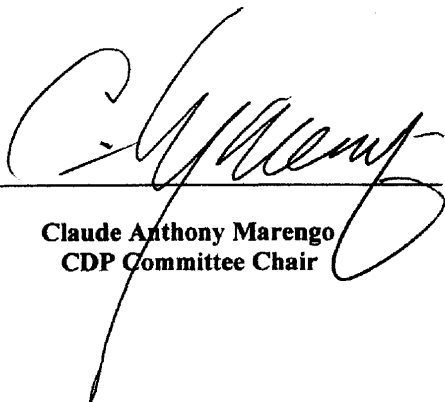
MOTION: Findings can be made with the condition that the F.A.R. is under 8,640 sq ft.
(Merten/Collins 5-0-0)

MOTION: To have Tim Golba contact the city and look into the project at 5956 La Jolla Mesa and refer to Phil Merten's research to setbacks (Merten/Lyon 5-0-0)

C.P.A VOTE: Approved motion: To accept the recommendation of the CDP committee to approve the Habiterrra residences and the Entenmann Residence and forward the recommendation to the City. (Hayes/Morton 8-0-0)

~~Affirmative votes: Abrams, Ashley, Hayes, McGee, Metcalf, Morton, Perricone, Thiele~~
Out of the room: Lightner, Peto, Whittemore

Signature



**Claude Anthony Marengo
CDP Committee Chair**

Date:

April 7th 2008

PROJECT DATA SHEET		
PROJECT NAME:	Habiterra, Project 136041	
PROJECT DESCRIPTION:	Demolition of an existing building and construction of 4 condominium units on a 0.08 acre site located at 7460 Herschel Avenue.	
COMMUNITY PLAN AREA:	La Jolla	
DISCRETIONARY ACTIONS:	Coastal Development Permit, Easement Abandonment and Tentative Map Wavier	
COMMUNITY PLAN LAND USE DESIGNATION:	Medium High Residential (30-45 DU/AC)	
<u>ZONING INFORMATION:</u>		
ZONE: RM-3-7		
HEIGHT LIMIT: 40 feet		
LOT SIZE: 7,000 square feet		
FLOOR AREA RATIO: 1.80		
FRONT SETBACK: 10-feet/20-feet		
SIDE SETBACK: 5-feet		
STREETSIDE SETBACK: 10 feet		
REAR SETBACK: 5 feet		
PARKING:		
<u>ADJACENT PROPERTIES:</u>	LAND USE DESIGNATION & ZONE	EXISTING LAND USE
NORTH:	Medium High Density Residential & RM-3-7	Commercial office
SOUTH:	Medium High Density Residential & RM-3-7	Single Family Residential
EAST:	Medium High Density Residential & RM-3-7	Multi-Family Residential
WEST:	Medium High Density Residential & RM-3-7	Multi-Family Residential
DEVIATIONS OR VARIANCES REQUESTED:	None requested or required.	
COMMUNITY PLANNING GROUP RECOMMENDATION:	On April 7, 2008 the La Jolla Community Planning Association voted 8:0:0 to recommend approval of the proposed project.	

DEVELOPMENT SERVICES
Project Chronology
Habiterra - PTS# 136041

Date	Action	Description	City Review Time	Applicant Response
08/28/07	First Submittal	Project Deemed Complete		
10/30/07	First Assessment Letter		45 days	
03/26/08	Second Submittal			106 days
04/24/08	Second Review Complete		21 days	
08/11/08	Third Submittal			77 days
09/09/08	Third Review Complete		21 days	
11/21/08	Fourth Submittal			53 days
12/16/08	Fourth Review Complete		17 days	
04/29/09	Fifth Submittal			91 days
05/29/09	Fifth Review Complete		22 days	
07/09/09	Sixth Submittal	(Concurrent with Cycle Seven)		29 days
07/29/09	Sixth Review Complete		14 days	
07/13/09	Seventh Submittal	(Concurrent with Cycle Six)		
07/20/09	Seventh Review Complete			
07/27/09	Eighth Submittal			5 days
07/31/09	Eighth Review Complete		4 days	
08/06/09	Ninth Submittal			4 days
08/12/09	Ninth Review Complete		12 days	
08/12/09	Issues Complete			
09/17/09	Public Hearing		26 days	
TOTAL STAFF TIME			182 days	

TOTAL APPLICANT TIME			365 days
TOTAL PROJECT RUNNING TIME	From Deemed Complete to Planning Commission		18 months and 7 days