

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: 24007979

SPACE ABOVE THIS LINE FOR RECORDER'S USE

CONDITIONAL USE PERMIT NO. 2178872
VETERANS AFFAIRS HOSPITAL ANNEX – PROJECT NO. 614178
PLANNING COMMISSION

This Conditional Use Permit No. 2178872 is granted by the Planning Commission of the City of San Diego to PROTEA AERO DRIVE, LLC, a California limited liability company, Owner/Permittee, and pursuant to San Diego Municipal Code section 126.0305. The 5.70-acre site is located at 8825-8875 Aero Drive in the IP-2-1 zone, and within the Kearny Mesa Community Plan area. The project site is legally described as: Lots 7 and 8 of Research Park Subdivision Addition, in the City of San Diego, County of San Diego, State of California according to Map No. 6386, filed in the Office of the County Recorder of San Diego County, June 12, 1969;

The project shall include:

- a. A building renovation to include an approximately 25,000 square foot building addition, resulting in a two-story, 139,000 square-foot office building.
- b. The construction of a four-story, approximately 136,000 square-foot parking garage.
- c. The placement of new landscaping, including planting and related improvements.
- d. 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

ATTACHMENT 5

guidelines in effect at the time the extension is considered by the appropriate decision maker. This permit must be utilized by February 14, 2022.

2. No permit for the construction, occupancy, or operation of any facility or improvement described herein shall be granted, nor shall any activity authorized by this Permit be conducted on the premises until:
 - a. The Owner/Permittee signs and returns the Permit to the Development Services Department; and
 - b. The Permit is recorded in the Office of the San Diego County Recorder.
3. While this Permit is in effect, the subject property shall be used only for the purposes and under the terms and conditions set forth in this Permit unless otherwise authorized by the appropriate City decision maker.
4. This Permit is a covenant running with the subject property and all of the requirements and conditions of this Permit and related documents shall be binding upon the Owner/Permittee and any successor(s) in interest.
5. The continued use of this Permit shall be subject to the regulations of this and any other applicable governmental agency.
6. Issuance of this Permit by the City of San Diego does not authorize the Owner/Permittee for this Permit to violate any Federal, State or City laws, ordinances, regulations or policies including, but not limited to the Endangered Species Act of 1973 [ESA] and any amendments thereto (16 U.S.C. § 1531 et seq.).
7. The Owner/Permittee shall secure all necessary 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" conditions(s)

back to the discretionary body which approved the Permit for a determination by that body as to whether all of the findings necessary for the issuance of the proposed permit can still be made in the absence of the "invalid" condition(s). Such hearing shall be a hearing de novo, and the discretionary body shall have the absolute right to approve, disapprove, or modify the proposed permit and the condition(s) contained therein.

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

ENVIRONMENTAL/MITIGATION REQUIREMENTS:

11. 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 Mitigated Negative Declaration No. 614178 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 Mitigated Negative Declaration No. 614178 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 the satisfaction of the City Engineer. All mitigation measures described in the MMRP shall be implemented for the following issue areas:

Transportation/Traffic

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.

ENGINEERING REQUIREMENTS:

15. The project proposes to export 6,060 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 the Regional Supplement Amendments adopted by Regional Standards Committee.

16. The proposed drainage system for the project as shown on the site plan is private and subject to approval by the City Engineer.

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

18. Prior to the issuance of any building permits, the Owner/Permittee shall assure by permit and bond, the reconstruction of two current City Standard driveways that are adjacent to the site on Aero Drive per Exhibit "A." The reconstruction of the driveways shall be completed in a manner that is satisfactory to the City Engineer.

19. Prior to the issuance of any building permits, the Owner/Permittee shall assure by permit and bond the removal of the existing driveway per Exhibit "A", and replace the driveway with curb, gutter and sidewalk per City Standards. The improvements shall be completed in a manner that is satisfactory to the City Engineer.

20. Prior to issuance of any engineering permits, the Owner/Permittee shall obtain an Encroachment and Maintenance Removal Agreement (EMRA) for all existing and proposed improvements of any kind, including utilities, landscaping, and electrical conduits to be installed within the Aero Drive public right-of-way.

21. Prior to the issuance of any construction permit, the Owner/Permittee shall enter into a Maintenance Agreement for ongoing permanent Best Management Practices (BMP). The permanent BMPs shall be completed in a manner that is satisfactory to the City Engineer.

22. Prior to the issuance of any construction permit, the Owner/Permittee shall incorporate any construction BMPs into the construction plans or specifications that are necessary to comply with Chapter 14, Article 2, Division 1 (Grading Regulations) of the SDMC.

23. 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, and based on the Storm Water Standards that are in effect at the time of issuance of the construction permits.

24. 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.

25. 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 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.

26. Prior to Final Inspection, the Owner/Permittee shall obtain a Lot Line Adjustment Parcel Map.

GEOLOGY REQUIREMENTS:

27. The Owner/Permittee shall submit a geotechnical investigation report or update letter that specifically addresses the proposed construction plans. The geotechnical investigation report or update letter shall be reviewed for adequacy by the Geology Section of the Development Services Department prior to issuance of any construction permits.

28. 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.

LANDSCAPE REQUIREMENTS:

29. Prior to issuance of any engineering permits for grading, 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" that is on file in the Development Services Department.

30. Prior to issuance of any engineering permits for right-of-way improvements, the Owner/Permittee shall submit complete landscape construction documents for right-of-way improvements to the Development Services Department for approval. Improvement plans shall show, label, and dimension a 40-square foot area around each tree, which is unencumbered by utilities. Driveways, utilities, drains, water and sewer laterals shall be designed so not to prohibit the placement of street trees.

31. Prior to issuance of any construction permits for structures, the Owner/Permittee shall submit for approval complete landscape and irrigation construction documents, which are consistent with

the Landscape Standards. The construction documents shall be in substantial conformance with Exhibit "A" Landscape Development Plan that is 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.

32. The Owner/Permittee shall be responsible for the maintenance of all landscape improvements shown on the approved plans, including in the right-of-way, unless long-term maintenance of said landscaping will be the responsibility of a Landscape Maintenance District, or other approved entity. All required landscape shall be maintained consistent with the Landscape Standards in a disease, weed, and litter free condition at all times. Severe pruning or "topping" of trees is not permitted.

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

PLANNING/DESIGN REQUIREMENTS:

34. 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.

35. 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 DEVELOPMENT REQUIREMENTS:

36. All automobile, motorcycle and bicycle parking spaces must be constructed in accordance with the requirements of the SDMC. All on-site parking stalls and aisle widths shall be in compliance with requirements of the City's Land Development Code and shall not be converted and/or utilized for any other purpose, unless otherwise authorized in writing by the appropriate City decision maker in accordance with the SDMC.

37. Prior to issuance of any building permits, the Owner/Permittee shall assure by permit and bond the construction of a concrete raised median to allow left-turns in and prohibit left-turns out along the project frontage on Aero Drive. The construction of the concrete raised median shall be completed in a manner that is satisfactory to the City Engineer. All improvements shall be installed and operational prior to occupancy.

38. The Owner/Permittee shall assure by permit and bond the improvements to the Aero Drive/Sandrock Road intersection, including reconfiguring the northbound and southbound approaches, and providing protected left signal phasing. The northbound approach shall be restriped to provide two dedicated left-turn lanes and a shared thru/right-turn lane. Modifications to the southbound approach include replacing the existing nine-foot raised median with a four-foot

raised median, and restriping to provide a shared thru/right-turn lane, a ten-foot painted median with chevron markings, and a dedicated left-turn lane. The improvements shall be completed in a manner that is satisfactory to the City Engineer. All improvements shall be installed and operational prior to occupancy.

PUD-WATER & SEWER DEVELOPMENT REQUIREMENTS:

39. Prior to issuing any grading or building construction permits, all private sewer mains within the public right-of-way (i.e., private sewer laterals within a public right-of-way that conveys sewage from more than one lot) must be located and labeled on an approved City Construction Record Drawing so to clearly convey the sewer line's status as a private sewer main, its location relative to the nearest parallel property line, and its authorization to encroach (i.e., the approved Encroachment Maintenance and Removal Agreement).

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 Planning Commission of the City of San Diego on January 31, 2019, and Approved PC Resolution Number _____.

ATTACHMENT 5

CUP/PTS Approval No. 614178
Date of Approval: January 31, 2019

AUTHENTICATED BY THE CITY OF SAN DIEGO DEVELOPMENT SERVICES DEPARTMENT

Morris E. Dye
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.

PROTEA AERO DRIVE, LLC
Owner/Permittee

By _____
Jeffrey Essakow
Member

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