



THE CITY OF SAN DIEGO

M E M O R A N D U M

DATE: September 30, 2024 (Corrected October 1, 2024)
TO: Hearing Officer
FROM: Martin R. Mendez, Development Project Manager III, Development Services
SUBJECT: Item No. 1, 4811 Mount Etna Drive, Project No. PRJ-1059048 – Permit Edits

Staff has made the following corrections to the Draft Permit, Attachment No. 4 of Staff Report HO-24-038, pertaining to Item No. 1, 4811 Mount Etna Drive, Project No. PRJ-1059048, docketed for Wednesday, October 2, 2024.

Corrections:

1. Added condition NO. 12, under “Standard Requirements” to read as follows:
 12. This permit shall supersede Conditional Use Permit No. 8276.
2. Conditions following added condition No. 12 were renumbered.
3. Added condition NO. 46, under “Planning/Design Requirements” to read as follows:
 46. The rooming house consisting of four rooms for employees shall be limited to a maximum of eight employees with a maximum of two employees per room for a period not to exceed 10 months a year.

Martin R. Mendez
Development Project Manager III

Attachments: Revised Permit (Staff Report - Attachment 4) with additions UNDERLINED

cc: Project File
Reviewing Staff

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: 24009255

SPACE ABOVE THIS LINE FOR RECORDER'S USE

CONDITIONAL USE PERMIT NO. PMT-3158488
4811 MOUNT ETNA DRIVE - PROJECT NO. 1059048
AMENDMENT TO CONDITIONAL USE PERMIT NO. 8276
HEARING OFFICER

This Conditional Use Permit No. PMT-3158488 amendment to Conditional Use Permit No. 8276 is granted by the Hearing Officer of the City of San Diego to CALIFORNIA 21, INC. A CALIFORNIA CORPORATION, Owner/Permittee, pursuant to San Diego Municipal Code [SDMC] section 126.0304. The 1.2-acre site is located at 4811 Mount Etna Drive in the RS-1-7 (Residential-Single Unit) zone, the Airport Land Use Compatibility Overlay Zone (ALUCOZ) for Marine Corps Air Station (MCAS) Miramar and Montgomery Field, the Airport Land Use Compatibility Plan (ALUCP) Airport Influence Area (AIA) Review Area Two for MCAS Miramar and Montgomery Field, the Federal Aviation Administration (FAA) Part 77 Noticing Area, the Clairemont Mesa Height Limit Overlay Zone (CMHLOZ), and Transit Priority Area within the Clairemont Mesa Community Plan area. The project site is legally described as: LOT 1112 OF EAST CLAIREMONT UNIT NO. 11, ANNEX, RESUBDIVISION NO. 1, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO 4613, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, AUGUST 24, 1960.

Subject to the terms and conditions set forth in this Permit, permission is granted to CALIFORNIA 21, INC. A CALIFORNIA CORPORATION, Owner/Permittee for the phased demolition of an existing church facility and the phased construction of an educational facility. The development of the proposed project will occur in four phases. The educational facility would include three two-story buildings accommodating 12 classrooms for infant care to fifth grade, a rooming house for short-term stays for traveling teachers as an accessory use, and associated site improvements described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated October 2, 2024, on file in the Development Services Department.

The project shall include:

- a. The phased demolition of existing structures, to include a single story, 4,365-square-foot building, and existing on-site improvements; and
- b. Construction of three two-story buildings totaling 15,873 square feet to be developed in several phases to include the following:

- 1) Building 100 shall be a two-story 3,800-square-foot building with classrooms, employee facilities, an exterior deck and a rooming house on the second floor which will include a lounge, laundry room, restrooms, bathing facilities, a kitchen, associated support areas and an exterior balcony; and
 - 2) Building 200 shall be a two-story 3,500-square-foot building with a multi-purpose room, a kitchen, administrative offices, associated support areas and an exterior deck; and
 - 3) Building 300 shall be a two-story 9,700-square-foot building with classrooms, associated support areas, an outdoor deck, a green roof on the second floor and covered breezeways traversing the building on the first and second floors; and
- c. A playground area with a track and playground equipment on a synthetic playground surface; and
 - d. A covered masonry trash enclosure; and
 - e. A free-standing monument sign; and
 - f. Landscaping (planting, irrigation and landscape related improvements); and
 - g. Off-street parking for 16 parking spaces; and
 - h. 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 16, 2027.
2. No permit for the construction, occupancy, or operation of any facility or improvement described herein shall be granted, nor shall any activity authorized by this Permit be conducted on the premises until:
 - a. The Owner/Permittee signs and returns the Permit to the Development Services Department; and
 - b. The Permit is recorded in the Office of the San Diego County Recorder.

3. While this Permit is in effect, the subject property shall be used only for the purposes and under the terms and conditions set forth in this Permit unless otherwise authorized by the appropriate City decision maker.
4. This Permit is a covenant running with the subject property and all of the requirements and conditions of this Permit and related documents shall be binding upon the Owner/Permittee and any successor(s) in interest.
5. The continued use of this Permit shall be subject to the regulations of this and any other applicable governmental agency.
6. Issuance of this Permit by the City of San Diego does not authorize the Owner/Permittee for this Permit to violate any Federal, State or City laws, ordinances, regulations or policies including, but not limited to, the Endangered Species Act of 1973 [ESA] and any amendments thereto (16 U.S.C. § 1531 et seq.).
7. The Owner/Permittee shall secure all necessary building permits. The Owner/Permittee is informed that to secure these permits, substantial building modifications and site improvements may be required to comply with applicable building, fire, mechanical, and plumbing codes, and State and Federal disability access laws.
8. Construction plans shall be in substantial conformity to Exhibit "A." Changes, modifications, or alterations to the construction plans are prohibited unless appropriate application(s) or amendment(s) to this Permit have been granted.
9. All of the conditions contained in this Permit have been considered and were determined necessary to make the findings required for approval of this Permit. The Permit holder is required to comply with each and every condition in order to maintain the entitlements that are granted by this Permit.

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

10. The Owner/Permittee shall defend, indemnify, and hold harmless the City, its agents, officers, and employees from any and all claims, actions, proceedings, damages, judgments, or costs, including attorney's fees, against the City or its agents, officers, or employees, relating to the issuance of this permit including, but not limited to, any action to attack, set aside, void, challenge, or annul this development approval and any environmental document or decision. The City will

promptly notify Owner/Permittee of any claim, action, or proceeding and, if the City should fail to cooperate fully in the defense, the Owner/Permittee shall not thereafter be responsible to defend, indemnify, and hold harmless the City or its agents, officers, and employees. The City may elect to conduct its own defense, participate in its own defense, or obtain independent legal counsel in defense of any claim related to this indemnification. In the event of such election, Owner/Permittee shall pay all of the costs related thereto, including without limitation reasonable attorney's fees and costs. In the event of a disagreement between the City and Owner/Permittee regarding litigation issues, the City shall have the authority to control the litigation and make litigation related decisions, including, but not limited to, settlement or other disposition of the matter. However, the Owner/Permittee shall not be required to pay or perform any settlement unless such settlement is approved by Owner/Permittee.

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

12. This permit shall supersede Conditional Use Permit No. 8276.

AIRPORT REQUIREMENTS:

13. Prior to the issuance of any building permits, the Owner/Permittee shall provide a copy of the signed agreement [DS-503] and show certification on the building plans verifying that the structures do not require Federal Aviation Administration [FAA] notice for Determination of No Hazard to Air Navigation or provide an FAA Determination of No Hazard to Air Navigation as specified in Information Bulletin 520.

14. Prior to the issuance of any building permits, the Owner/Permittee shall grant an aviation easement to the City of San Diego as the operator of Montgomery - Gibbs Executive Municipal Airport for the purposes of aircraft operations, noise and other effects caused by the operation of aircraft, and for structure height if the same would interfere with the intended use of the easement. The Owner/Permittee shall use the aviation easement form provided by the City of San Diego.

15. Prior to the issuance of any building permits (for occupiable structures), the Owner/Permittee shall provide an Aircraft Hazard and Land Risk Assessment to understand the potential impacts with regard to noise and safety. Any occupiable structure shall be insulated with soundproofing and other noise-reducing materials so that maximum allowable interior noise level attributable to exterior noise shall be no greater than 45dBA.

16. Prior to the issuance of any building permits (for occupiable structures), the Owner/Permittee shall provide for review and approval, the letter or handout, to be posted on-site, provided to staff upon hire and provided to parents of children attending the school upon enrollment and prior to commencement of each school year, of fair disclosure of the location of the school in relation to nearby airports (MCAS Miramar and Montgomery Field), the traffic patterns of the airports, and the potential impact of single-event noise and safety.

17. Prior to the issuance of any building permits (for occupiable structures), the Owner/Permittee shall provide for review and approval, the letter or handout, to be posted on-site, provided to staff upon hire and provided to parents of children attending the school upon enrollment and prior to commencement of each school year, of fair disclosure of the average and single-event noise due to fixed-winged aircraft and helicopter overflight that may impact school staff and children while outdoors.

18. Prior to the issuance of any building permits, the Owner/Permittee shall file a Notice of Proposed Construction or Alteration (Form 7460) with the FAA and obtain a Notice of Determination for the school site and related construction activities.

19. Prior to issuance of any building permits, the Owner/Permittee shall place a note on all building plans indicating that an avigation easement has been granted across the property to the airport operator. The note shall include the County Recorder's recording number for the avigation easement.

CLIMATE ACTION PLAN REQUIREMENTS:

20. 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:

21. Prior to the issuance of any building permit, the Owner/Permittee shall obtain an Encroachment Maintenance Removal Agreement for the storm drain connection, landscape and irrigation located within the City's right-of-way, satisfactory to the City Engineer.

22. Prior to the issuance of any building permit, the Owner/Permittee shall obtain an approved Drainage Study including a full storm drain profile calculation downstream to the connection with the City storm drain system, satisfactory to the City Engineer.

23. Prior to the issuance of any Grading permit, the Owner/Permittee shall obtain an approved Drainage Study to determine the capacity and total contributing peak flows to the receiving downstream storm conveyance system. If insufficient capacity is determined, coordination will be required with the Engineering and Capital Projects Department and the Stormwater Department regarding potential timing and upgrades to the receiving storm drain conveyance system.

24. Prior to the issuance of any Grading permit, the Owner/Permittee shall obtain an approved Drainage Study to demonstrate that the proposed condition peak flows from the project site are less than pre-project condition peak flows from the project site, to the satisfaction of the City Engineer. The analysis should be run for the 10-year and 100-year, six-hour design rainfall events and both inflow and outflow hydrographs should be provided for the proposed detention facility. The analysis should follow regional conjunctive use guidelines. The Drainage Study shall demonstrate

attenuation of post-developed 100-year peak flows to or below the predeveloped 100-year peak flows to each discharge location from the project site.

25. The drainage system proposed for this development, as shown on the site plan, is private and subject to approval by the City Engineer.
26. The developer is responsible to ensure that all final design plans, grading plans, and building plans incorporate applicable best management practices (BMPs).
27. Prior to the issuance of any construction permit, the Owner/Permittee shall enter into a Maintenance Agreement (SWMDCMA) for the ongoing permanent BMP maintenance, satisfactory to the City Engineer.
28. Prior to the issuance of any construction permit, the Owner/Permittee shall incorporate any construction Best Management Practices necessary to comply with Chapter 14, Article 2, Division 1 (Grading Regulations) of the SDMC, into the construction plans or specifications.
29. Prior to the issuance of any construction permit, the Owner/Permittee shall submit a Technical Report (Stormwater Quality Management Plan) that will be subject to final review and approval by the City Engineer, based on the City's Stormwater Standards Manual in effect at the time of the construction permit issuance.
30. Development of this project shall comply with all permanent stormwater requirements of Municipal Stormwater Permit No. 2013-0001, or subsequent order, and the current version of the City of San Diego's Stormwater Standards Manual.
31. Development of this project shall comply with all stormwater construction requirements of the current version of the City of San Diego's Stormwater Standards Manual.
32. Prior to issuance of a grading or a construction permit, a copy of the Notice of Intent (NOI) with a valid Waste Discharge ID number (WDID#) shall be submitted to the City of San Diego as a proof of enrollment under the Construction General Permit. When ownership of the entire site or portions of the site changes prior to filing of the Notice of Termination (NOT), a revised NOI shall be submitted electronically to the State Water Resources Board in accordance with the provisions as set forth in Section II.C of Order No. 2022-0057-DWQ and a copy shall be submitted to the City.

GEOLOGY REQUIREMENTS:

33. Prior to the issuance of any construction permits (either grading or building), the Owner/Permittee shall submit a geotechnical investigation report or update letter prepared in accordance with the City's "Guidelines for Geotechnical Reports" that specifically addresses the proposed construction plans. The geotechnical investigation report or update letter shall be reviewed for adequacy by the Geology Section of the Development Services Department prior to issuance of any construction permits.

LANDSCAPE REQUIREMENTS:

34. Prior to issuance of any construction permit 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," on file in the Development Services Department.

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

36. Prior to issuance of any construction permit for building (including shell), the Owner/Permittee shall submit complete landscape and irrigation construction documents, which are consistent with the Landscape Standards, to the Development Services Department for approval. The construction documents shall be in substantial conformance with Exhibit "A," Landscape Development Plan, on file in the Development Services Department. Construction plans shall provide a 40-square-foot area around each tree that is unencumbered by hardscape and utilities unless otherwise approved per SDMC §142.0403(b)6.

37. In the event that a "Foundation Only" permit is requested by the Owner/Permittee, a site plan or staking layout plan, shall be submitted to the Development Services Department identifying all landscape areas consistent with Exhibit "A," Landscape Development Plan, on file in the Development Services Department. These landscape areas shall be clearly identified with a distinct symbol, noted with dimensions, and labeled as 'landscaping area.'

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

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

BRUSH MANAGEMENT PROGRAM REQUIREMENTS:

40. The Owner/Permittee shall implement the following requirements in accordance with the Brush Management Program shown on Exhibit "A" on file in the Development Services Department.

41. The Brush Management Program shall consist of a modified Zone One that ranges from 47 feet to 67 feet in width with no Zone Two required, and Alternative Compliance measures set forth in accordance with SDMC sections 142.0412(f), 142.0412(i), and 142.0412(j). Where the full brush management zones cannot be provided, openings along the brush side of the habitable structures shall be upgraded to dual-glazed, dual-tempered panes as alternative compliance for the reduced brush management zones.

PLANNING/DESIGN REQUIREMENTS:

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

43. A topographical survey conforming to the provisions of the SDMC may be required if it is determined, during construction, that there may be a conflict between the building(s) under construction and a condition of this Permit or a regulation of the underlying zone. The cost of any such survey shall be borne by the Owner/Permittee.

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

45. All private outdoor lighting shall be shaded and adjusted to fall on the same premises where such lights are located and in accordance with the applicable regulations in the SDMC.

46. The rooming house consisting of four rooms for employees shall be limited to a maximum of eight employees with a maximum of two employees per room for a period not to exceed 10 months a year.

PUBLIC UTILITIES DEPARTMENT REQUIREMENTS:

47. Prior to the issuance of any building permits, the Owner/Permittee shall assure, by permit and bond, the design and construction of new water and sewer service(s) outside of any driveway or drive aisle and the abandonment of any existing unused water and sewer services within the right-of-way adjacent to the project site, in a manner satisfactory to the Public Utilities Director and the City Engineer.

48. Prior to the issuance of any building permit Owner/Permittee shall apply for a plumbing permit for the installation of appropriate private backflow prevention device(s) (BFPDs), on each water service (domestic, fire and irrigation), in a manner satisfactory to the Public Utilities

Department and the City Engineer. BFPDs shall be located above ground on private property, in line with the service and immediately adjacent to the right-of-way.

49. The Owner/Permittee shall design and construct all proposed public water and sewer facilities, in accordance with established criteria in the current edition of the City of San Diego Water and Sewer Facility Design Guidelines and City regulations, standards and practices.

50. All proposed private water and sewer facilities 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.

51. No trees or shrubs exceeding three feet in height at maturity shall be installed within ten feet of any sewer facilities and five feet of any water facilities.

TRANSPORTATION REQUIREMENTS:

52. Prior to the issuance of any building permit, the Owner/Permittee shall dedicate four feet of right-of-way along the project frontage on Mount Etna Drive and assure by permit and bond the reconstruction of the existing contiguous sidewalk to a 14-foot-wide parkway with a five-foot wide non-contiguous sidewalk, curb, and gutter as shown on Exhibit 'A' per current City standards, satisfactory to the City Engineer. All improvements shall be completed and operational prior to first occupancy.

53. Prior to the issuance of any building permit, the Owner/Permittee shall assure by permit and bond the removal and closure of non-utilized driveways on Mount Etna Drive and installation of City standard full height curb and gutter, and non-contiguous sidewalk, and construction of two 20-foot wide (one-way) driveways along the project frontage on Mount Etna Drive as shown on Exhibit 'A' per current City standards, satisfactory to the City Engineer. All improvements shall be completed and operational prior to first occupancy.

54. Prior to first occupancy, the Owner/Permittee shall provide and maintain the following Vehicle Miles Traveled (VMT) reduction measures totaling at least 5 points, as shown on Exhibit A, satisfactory to the City Engineer:

- a. Short-term bicycle parking spaces available to the public, at least 10 percent beyond minimum requirements. The minimum required per the SDMC is two spaces and four spaces will be provided. (Three points).
- b. Long-term bicycle parking spaces at least 10 percent beyond minimum requirements. The minimum required per the SDMC is one space and three spaces will be provided. (Two points).

55. The Owner/Permittee shall manage student pick up and drop off times to be staggered, as shown on Exhibit 'A', and actively monitored to keep traffic queue operations on site.

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 Hearing Officer of the City of San Diego on October 2, 2024, and [Approved Resolution Number].

DRAFT

ATTACHMENT 4

Conditional Use Permit No. PMT-3158488
Date of Approval: October 2, 2024

AUTHENTICATED BY THE CITY OF SAN DIEGO DEVELOPMENT SERVICES DEPARTMENT

Martin R. Mendez
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.

CALIFORNIA 21, INC.
A California Corporation
Owner/Permittee

By _____
NAME
TITLE

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