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OFFICIAL RECORDS

Ernest J. Dronenburg, Jr.,

SAN DIEGO COUNTY RECORDER

FEES: \$0.00 (SB2 Atkins: \$0.00)

PAGES: 13

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: 24008209

SPACE ABOVE THIS LINE FOR RECORDER'S USE

COASTAL DEVELOPMENT PERMIT NO. 2273248
7760 HERSCHEL AVENUE CDP/TM - PROJECT NO. 632775 [MMRP]
HEARING OFFICER

This Coastal Development Permit No. 2273248 is granted by the Hearing Officer of the City of San Diego to Herschel Avenue Associates, LLC, a California Limited Liability Corporation, Owner/ Permittee, pursuant to San Diego Municipal Code [SDMC] section 126.0702. The 0.16-acre site is located at 7760 Herschel Avenue in the La Jolla Planned District Zone Two, Coastal (non-appealable) Overlay Zone, Coastal Height Limitation Overlay Zone, Residential Tandem Parking Overlay Zone, Transit Area Overlay Zone, and Transit Priority Area within the La Jolla Community Plan. The project site is legally described as Lots 35 and 36 in Block 29 in La Jolla Park, in the City of San Diego, County of San Diego, State of California, according to Map thereof No. 352, filed in the Office of the County Recorder of San Diego County, March 28, 1887.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee to construct a three-story, multi-family duplex dwelling unit structure with a total of four residential condominium dwelling units and a subterranean parking described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated December 16, 2020, on file in the Development Services Department.

The project shall include:

- a. Construction of a three-story, multi-family duplex dwelling unit structure with a total of four residential condominium dwelling units and a subterranean parking, approximately development total of 13,384 square feet;
- b. Landscaping (planting, irrigation and landscape related improvements);
- c. Off-street parking;
- d. Site walls, fences, walkways, balconies and exterior lighting; and
- e. Public and private accessory improvements determined by the Development Services Department to be consistent with the land use and development standards for this site in

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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 January 1, 2024.
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.

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. 632775, 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. 632775, to the satisfaction of the Development Services Department and the City Engineer. Prior to issuance of any construction permit, all conditions of the MMRP shall be adhered

to, to the satisfaction of the City Engineer. All mitigation measures described in the MMRP shall be implemented for the following issue areas:

Archaeological Resources and Paleontological Resources

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.

AFFORDABLE HOUSING REQUIREMENTS:

15. Prior to the issuance of any construction permits, the Owner/Permittee shall comply with the affordable housing requirements of the City's Inclusionary Affordable Housing Regulations (SDMC §142.1301 et seq.).

ENGINEERING REQUIREMENTS:

16. The Coastal Development Permit shall comply with the conditions of Tentative Map No. 2495174.

17. Prior to the issuance of any construction permit, the Owner/Permittee shall obtain an Encroachment Maintenance Removal Agreement for the sidewalk underdrains on Herschel Avenue, satisfactory to the City Engineer.

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19. Prior to the issuance of any construction permit, the Owner/Permittee shall enter into a Maintenance Agreement for the ongoing permanent BMP maintenance, satisfactory to the City Engineer.

20. 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.

LANDSCAPE REQUIREMENTS:

21. Prior to issuance of any construction 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 as not to prohibit the placement of street trees.

22. Prior to issuance of any construction permits for structures, the Owner/Permittee shall submit complete landscape and irrigation construction documents consistent with the Landscape Standards to the Development Services Department for approval. The construction documents shall be in substantial conformance with Exhibit "A," Landscape Concept Plan, on file in the Office of 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 LDC 142.0403(b)5.

23. 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 shall be the responsibility of a Landscape Maintenance District or other approved entity. All required landscape shall be maintained in a disease, weed and litter free condition at all times consistent with the City of San Diego Landscape Regulations and Standards.

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

PLANNING/DESIGN REQUIREMENTS:

25. 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.

26. 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.

27. Both the tandem spaces shall be assigned to the same dwelling unit.

28. The tandem parking spaces shall be assigned, and the use restrictions shall be enforced, by the Owner/Permittee of the premises or the Owner/Permittee's assigned representative.

29. The building's loading area shall be arranged so that all loading activities shall take place from the alley only.

30. Not more than 40 percent of any exterior buildings' elevation above the first story shall consist of glass or any other material that resembles glass.

31. 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.

PUBLIC UTILITIES DEPARTMENT REQUIREMENTS:

32. Prior to the issuance of any construction 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.

33. Owner/Permittee shall apply for a plumbing permit for the installation of appropriate private back flow prevention device (BFPD), on each water service (domestic, fire and irrigation), in a manner satisfactory to the Public Utilities Director 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.

34. 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.

35. 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 construction permit building structure plan check.

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 December 16, 2020, by Resolution No.-HO-7367-1.

AUTHENTICATED BY THE CITY OF SAN DIEGO DEVELOPMENT SERVICES DEPARTMENT



Tim Daly
Assistant Deputy Director

**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.

HERSCHEL ASSOCIATES LLC
Owner/Permittee

By 

George R. Sloan
Managing Member

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

CALIFORNIA ACKNOWLEDGMENT

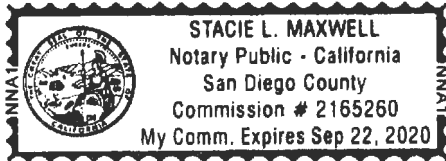
CIVIL CODE § 1189

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California }
County of San Diego }

On March 10, 2021 before me, Stacie L. Maxwell, Notary Public
Date Here Insert Name and Title of the Officer
personally appeared ---Tim Daly, Assistant Deputy Director---
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.



I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Notary Commission extended pursuant to Executive Order N-71-20

Place Notary Seal and/or Stamp Above

Signature *Stacie L. Maxwell*
Signature of Notary Public

OPTIONAL

Completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: 7760 Herschel Avenue CDP/TM - Project No. 632775

Document Date: December 16, 2020 Number of Pages: 7

Signer(s) Other Than Named Above: ---George R. Sloan---

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

Corporate Officer – Title(s): _____

Partner – Limited General

Individual Attorney in Fact

Trustee Guardian or Conservator

Other: _____

Signer is Representing: _____

Signer's Name: _____

Corporate Officer – Title(s): _____

Partner – Limited General

Individual Attorney in Fact

Trustee Guardian or Conservator

Other: _____

Signer is Representing: _____

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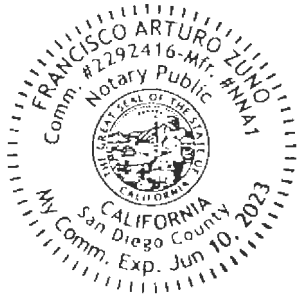
CALIFORNIA ACKNOWLEDGMENT

CIVIL CODE § 1189

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California }
County of SAN DIEGO }
On FEBRUARY 04, 2021 before me, FRANCISCO ARTURO ZUNO / NOTARY PUBLIC
Date Here Insert Name and Title of the Officer
personally appeared GEORGE R. SLOAN
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



Place Notary Seal and/or Stamp Above

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature

[Handwritten Signature]
Signature of Notary Public

OPTIONAL

Completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: COASTAL DEVELOPMENT PERMIT NO. 2273248

Document Date: _____ Number of Pages: 7

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

- Corporate Officer – Title(s): _____
- Partner – Limited General
- Individual Attorney in Fact
- Trustee Guardian or Conservator

Other: _____

Signer is Representing: _____

Signer's Name: _____

- Corporate Officer – Title(s): _____
- Partner – Limited General
- Individual Attorney in Fact
- Trustee Guardian or Conservator

Other: _____

Signer is Representing: _____

HEARING OFFICER RESOLUTION NO. HO-7367-1
COASTAL DEVELOPMENT PERMIT NO. 2273248
7760 HERSCHEL AVENUE CDP/TM - PROJECT NO. 632775 [MMRP]

WHEREAS, HERSCHEL AVENUE ASSOCIATES, LLC, a California Limited Liability Corporation, Owner/Permittee, filed an application with the City of San Diego for a permit to construct of a three-story, multi-family duplex dwelling unit structure with a total of four residential condominium dwelling units and a subterranean parking, approximately development total of 13,384 square feet (as described in and by reference to the approved Exhibits "A" and corresponding conditions of approval for the associated Permit No. 2255718), on portions of a 0.16-acre site;

WHEREAS, the project site is located at 7760 Herschel Avenue in the La Jolla Planned District Zone Two, Coastal (non-appealable) Overlay Zone, Coastal Height Limitation Overlay Zone, Residential Tandem Parking Overlay Zone, Transit Area Overlay Zone, and Transit Priority Area within the La Jolla Community Plan and Local Coastal Program Land Use Plan;

WHEREAS, the project site is legally described as Lots 35 and 36 in Block 29 in La Jolla Park, in the City of San Diego, County of San Diego, State of California, according to Map thereof No. 352, filed in the Office of the County Recorder of San Diego County, March 28, 1887;

WHEREAS, on December 16, 2020, the Hearing Officer of the City of San Diego considered Coastal Development Permit No. 2273248 pursuant to the Land Development Code of the City of San Diego; NOW, THEREFORE,

BE IT RESOLVED by the Hearing Officer of the City of San Diego, that it adopts the following findings with respect to Coastal Development Permit No. 2273248:

COASTAL DEVELOPMENT PERMIT [San Diego Municipal Code Section 126.0708]

a. Findings for all Coastal Development Permits:

(1) The proposed coastal development will not encroach upon any existing physical accessway 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 7760 Herschel Avenue within an urbanized and fully developed neighborhood in the La Jolla Planned District Zone 2 area of the La Jolla Community Plan and the Local Coastal Program. The site is not located on the ocean and does not include any existing physical access way or proposed access way to the coast. Likewise, due to the location of the project, the proposed development would not block any public view to the ocean or other scenic coastal areas as specified in the La Jolla Community Plan and the Local Coastal Program.

Therefore, the proposed coastal development will not encroach upon any existing physical accessway 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 protect public views to and along the ocean and other scenic coastal areas as specified 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 7760 Herschel Avenue in the La Jolla Planned District Zone 2 area of the La Jolla Community Plan and the Local Coastal Program within an urbanized and fully developed neighborhood in the La Jolla community and not located within environmentally sensitive lands; however, many areas of San Diego County, including mesas and the coast, are known for intense and diverse prehistoric occupation and important archaeological and historical resources. The region has been inhabited by various cultural groups spanning 10,000 years or more.

The project area is located within an area identified as sensitive on the City of San Diego's Historical Resources Sensitivity Maps. Therefore, a record search of the California Historic Resources Information System (CHRIS) digital database was reviewed to determine presence or absence of potential resources within the Project site by qualified archaeological City staff. The CHRIS search did not identify any resources within or adjacent to the site; however, based on the amount of grading proposed for the project and the sensitivity of the area there is a potential for the project to impact buried archaeological resources and mitigation measures related to Cultural Resources (Archaeology) are required. All potential impacts related to the presence of archeological resources at the site would be reduced and addressed through the monitoring of the construction by a qualified Archaeologist and Native American monitor. Monitoring would occur at all stages of ground-disturbing activities at the site, unless determined by both the archaeologist and Native American representative. Furthermore, a Mitigation, Monitoring, and Reporting Program (MMRP), as detailed within Section V of the project's Mitigated Negative Declaration (MND), would be

implemented to address this issue specifically. With implementation of the cultural resources monitoring program, potential impacts on historical resources would be reduced to less than significant. Therefore, the proposed coastal development will not adversely affect any 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 7760 Herschel Avenue in the La Jolla Planned District Zone 2 area of the La Jolla Community Plan and the Local Coastal Program (Community Plan) within an urbanized and fully developed "village area" neighborhood, designated Community Commercial in the Community Plan. Pursuant to San Diego Municipal Code (SDMC) sec. 159.0301(d), the La Jolla Planned District Zone 2 includes an area characterized by community serving office development intermixed with retail establishments. Development standards for this zone are designed to permit the limited grouping of community serving professional offices, and to encourage residential uses to provide a transition zone to the single-family residential areas to the east. The project site is one block west of the abutting designated residential neighborhood and is consistent with providing a transition from the village area to neighboring residential areas in the community.

The Project site is not requesting any deviations or variances from the applicable regulations and therefore, the redevelopment of the site with new multi-family dwelling units conforms with the certified Local Coastal Program land use plan and complies with all regulations of the certified Implementation Program.

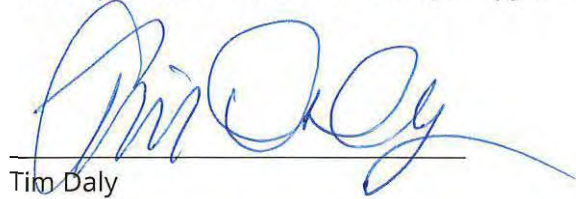
(4) For every Coastal Development Permit issued for any coastal development between the nearest public road and the sea or the shoreline of any body of water located within the Coastal Overlay Zone the coastal development is in conformity with the public access and public recreation policies of Chapter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

The proposed project is located at 7760 Herschel Avenue in the La Jolla Planned District Zone 2 area of the La Jolla Community Plan and the Local Coastal Program within an urbanized and fully developed neighborhood in the La Jolla community. The project is not located between the nearest public road and the shoreline and would have no impact on the public access or recreation policies of the California Coastal Act.

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

BE IT FURTHER RESOLVED that, based on the findings hereinbefore adopted by the Hearing Officer, Coastal Development Permit No. 2273248 is hereby GRANTED by the Hearing Officer to the

referenced Owner/Permittee, in the form, exhibits, terms and conditions as set forth in Coastal Development Permit No. 2273248, a copy of which is attached hereto and made a part hereof.



Tim Daly
Assistant Deputy Director
Development Services

Adopted on: December 16, 2020

IO#: 24008209