

RESOLUTION NUMBER R-296790

ADOPTED ON JULY 9, 2002

WHEREAS, City Heights Revitalization L.P.; San Diego Revitalization Corporation; the City of San Diego; Ron E. and Julie Perez, Anthony Stranieri and Cecelia M. Stranieri, Roxie L. Aldana, Bich-thuy Truong, Nghia Van Tran, Arnulfo H. Lopez and Margarita A. Lopez, Individuals; and Community Christian Church, a California Nonprofit Corporation, Owners and San Diego Revitalization Corporation, Permittee, submitted an application for a permit to construct a four-story office/retail/community/child care use building and a 120-unit affordable multi-family housing component. The career center would include approximately 81,500 square feet of office, retail and community use space, including 5,591 square feet of retail space, 2,262 square feet of community space, and a 6,200-square-foot childcare center. The multi-family housing complex would consist of nine, three- to four-story buildings, two tot lots, a single-story assembly and laundry building, and a single-story laundry and management office building. A five and one-half-story parking structure that would provide a total of 492 parking spaces is also proposed. The total gross floor area for the project is 313,368 square feet (as described in and by reference to the approved Exhibit "A," dated July 9, 2002, on file in the Development Services Department, and corresponding conditions of approval for the associated Permit Nos. 6527, 6573, 6574, Project No. 2425), on portions of a 4.8 acre site, located between 39th Street and 40th Street/Interstate-15, and University and Polk Avenues, legally described as lots 1 through 48, except the 21st foot of Lot 7, Block 39 of City Heights, Map No. 1007, in the Central

Urbanized Planned District of the Mid-City Communities Plan area Community Plan area, in the RM-2-5, CT-2-3 and CU-2-3 zones; and

WHEREAS, on June 20, 2002, the Planning Commission of the City of San Diego considered Planned Development Permit No. 6572/Site Development Permit No. 6573/Variance No. 6574, and pursuant to Resolution No. 3275-PC, voted to recommend City Council approval of the permit; and

WHEREAS, the matter was set for public hearing on July 9, 2002, 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 this Council adopts the following findings with respect to Planned Development Permit No. 6572/Site Development Permit No. 6573/Variance No. 6574:

**A. FINDINGS FOR PLANNED DEVELOPMENT PERMIT - SAN DIEGO  
MUNICIPAL CODE [SDMC] SECTION 126.0604**

**1. The proposed development will not adversely affect the applicable land use plan.** The proposed Metro Career Center mixed-use project is located in an area designated by the Mid-City Communities Plan as a Mixed-Use area in the Land Use Concept Plan, and therefore is consistent with the existing land use designation. The Community Plan more specifically designates this site, from the south side at University to the north side at Polk Avenue, as Commercial and Mixed Use (29 dwelling units/acre), Industrial (Light Manufacturing with Commercial) and Residential (26-30 dwelling units/acre), respectively. With 120 rental dwelling units proposed and a 81,500 square foot commercial and office space, including a childcare center and community room, the project is consistent with the varying designations.

The Mid-City Communities Plan designates the area surrounding the intersection of University Avenue and State Route 15 as a Transit-Oriented Town Center. The activities proposed in conjunction with the Metro Center development are consistent with the recommendation of the Mid-City Communities Plan, that commercial nodes surrounding the freeway interchanges concentrate medium and high intensity mixed-use commercial along the west side of Interstate 15. In addition, the project is located along University Avenue, an area recommended in the City Heights Neighborhood Plan for "high density residential and office uses, while encouraging retail commercial to serve the community." The development of the proposed

project site for mixed-use would also serve as a transitional area between the intensive commercial development on University Avenue, and the multi-family areas lying to the north and south of University Avenue. Such transition areas are recommended in the Commercial section of the Mid-City Communities Plan, Land Use Element, adopted by the San Diego City Council on August 4, 1998. This section further encourages mixed-use development along commercial corridors (such as University Avenue) by recommending the provision of incentives such as residential density or commercial floor area bonuses.

**2. The proposed development will not be detrimental to the public health, safety, and welfare.** The proposed Metro Career Center project would not be detrimental to the public health, safety and welfare. The project has been designed to conform with the City of San Diego's Municipal Code relating to health, safety, and welfare. The project is located in an existing developed commercial and residential area, and is consistent with the type and intensity of Land Use planned for the area. Therefore, no risks to police and fire protection service levels are anticipated. The proposed project site is not located within a designated floodplain area, earthquake fault line area, or water quality issue area. No undue risks from flooding or geologic activity are expected.

The project is not located within a designated open space area, although an open space area is nearby, surrounding the Highway 15 corridor. University Avenue is also designated for the preservation of public view points in the Visual Resource section of the Natural and Cultural Resource Element of the Mid City Communities Plan. The project has been designed to conform with all City of San Diego design and visual resource regulations to ensure the preservation of the public views.

The proposed project site, due to its location along University Avenue, falls within an area listed in the Mid City Communities Plan as having Noise and Air Quality issues. The majority of these problems are due to either motorized vehicles or closed service stations. The project site is not on, or adjacent to, a closed service station site, so no threat to future residents or commercial tenants is anticipated.

Residents of the housing portion of the project would be able to take advantage of the commercial retail and child care facilities provided onsite, as well as nearby commercial establishments, without requiring the use of a motorized vehicle. Further, visitors to the project would be able to accomplish a variety of tasks in the area with a single vehicle trip. The site is also accessible by existing public transit services, which run along University Avenue, and is within one-quarter mile of the Mid-City Transit Center. A Mitigated Negative Declaration has been prepared for the project and a Mitigation, Monitoring and Reporting Program would be implemented with this project that would reduce any impacts from Noise, Hydrology/Water Quality, Historical Resources (Archeology), and Transportation/Circulation to a level below significance.

**3. The proposed development will comply with the regulations of the Land Development Code.** The proposed project has been designed to comply with all development regulations of the San Diego Municipal Code and the City's Land Development Code, with the

exception of the project deviations discussed in Finding 5. Upon approval of these deviations for the project's height, personal storage space, exterior open space, landscaping, architectural features, and setbacks, the project would be in complete compliance with the regulations of the Land Development Code.

**4. The proposed development, when considered as a whole, will be beneficial to the community.** The proposed 81,500 square foot office building and approximately 237,512 square foot, 120 residential unit development would be beneficial to the community.

The proposed project would be part of a network of one-stop career centers created for the purpose of benefitting the community, as a result of a federal grant received by the City of San Diego from the U.S. Department of labor in 1991. The purpose of these centers is to provide cohesive employment information and job training services as a part of an overall workforce development strategy. This strategy includes upgrading the basic and occupational skills of those about to enter the workforce, and providing information on employment opportunities, thereby equipping participants to make informed choices and attain better jobs, wages, and quality of life. In addition, the proposed one-stop center would be customized to meet the specific types of employment needs faced by local neighborhood residents. Economically, the community as a whole may benefit from a more highly trained, motivated workforce, a major attraction for relocating or expanding firms. The proposed project implements the Residential Section of the Mid-City Communities Plan Land Use Element, which recommends the establishment of employment centers to provide jobs for residents.

The proposed project would provide 120 affordable residential dwelling units in the University Avenue corridor to assist in meeting the City of San Diego's affordable housing needs. The proposed mixed-use development implements the Mid-City Communities Plan Urban Design Element "Great Streets" goal for University Avenue "to create a pedestrian-oriented urban village accommodating commerce, cottage industry and higher density residential uses." Housing, training, and employment opportunities would be available within walking distance of existing and new commercial and residential development, thereby providing a benefit to the community.

The Metro Career Center apartments (Metro Village Apartments) would be made available as a relocation resource for the approximate fifty-six units that would be removed from the site. Moreover, the project would provide a net increase of approximately sixty-four new affordable dwelling units in the community.

In addition to providing the community benefits of the Career Center and new affordable housing, the Metro Career Center mixed use project would provide a new child care center and a community room that would be available for general community use.

**5. Any proposed deviations pursuant to SDMC section 126.0602(b)(1) are appropriate for this location and will result in a more desirable project than would be achieved if designed in strict conformance with the development regulations of the applicable zone.** The Metro Career Center project provides a mix of uses uniquely suited to the urban scale of the City Heights neighborhood. Providing the intensity and mix of uses on a single

consolidated block requires deviations from the development regulations in order to produce a pedestrian friendly streetscape and street-activating interaction between the project and the surrounding environment. The front and street side yard deviations allow the project to provide non-contiguous sidewalks with landscaped parkways along the residential frontages, and allow the rental apartment units facing the street to have front porches and walkways from the sidewalks.

The mix of architectural features provides an urban experience that reflects the urban village scene that is developing in the City Heights neighborhood, adjacent to major transit opportunities, parks, schools and commercial activity centers. The architectural features of the Metro Career Center and Metro Village apartments facilitate the project's compatibility and interface with existing adjacent residential and commercial development.

Minor deviations from the San Diego Municipal Code, landscape requirements along University Avenue are required to provide the spacing of trees necessary for emergency fire access to the Metro Career Center building. The provision of shade structures on the roof top level of the parking structure would equate the shading objective of the landscape ordinance requirement, allowing the project to provide significantly more ground level landscaping visible to the public and in the common areas of the site. With the exception of the number of street trees on University Avenue and no plant material on the parking structure roof deck, the project exceeds the landscape requirements in all areas. The total amount of area of landscaping is twice the amount required by the landscape ordinance, and the quantity and quality of plant material at the project exceeds the ordinance requirements by almost one third. This additional ground level landscaping would enhance the urban pedestrian and street level experience of neighbors and users of the site, consistent with the goals and objectives of the community plan.

All residential units would provide some personal storage space and private exterior open space. Although the amount of space for each individual unit is less than the amount required by the regulations, this deviation allows the Metro Village apartments to provide a significant number of affordable rental units. The residential portion of the project enjoys significantly more common area open space than is required by the development regulations. The 70,000 square feet of open space is over three times the 22,800 square feet required by the development regulations. This on-site area includes major usable open space, including two tot lots, two large greens that traverse the apartment areas, and a large outdoor play area for the child care center.

The building height deviations would allow prudent use of land to develop a mixed use project that would provide needed affordable housing and a major job training and employment center with an adequate on-site parking supply. The design of the project is compatible with the overall community character at this central community node on University Avenue, adjacent to Interstate 15. The intensity of use is well suited to the transit opportunities and pedestrian amenities of the location, and would in fact, facilitate continued redevelopment of this urban corridor.

**B. FINDINGS FOR SITE DEVELOPMENT PERMIT - SDMC SECTION 126.0504**

**1. The proposed development will not adversely affect the applicable land use plan.** The proposed Metro Career Center mixed-use project is located in an area designated by the Mid-City Communities Plan as a Mixed-Use area in the Land Use Concept Plan, and therefore is consistent with the existing land use designation. The Community Plan more specifically designates this site, from the south side at University to the north side at Polk Avenue, as Commercial and Mixed Use (29 dwelling units/acre), Industrial (Light Manufacturing with Commercial) and Residential (26-30 dwelling units/acre), respectively. With 120 dwelling units proposed and a 81,500 square foot commercial and office space, including a childcare center and community room, the project is consistent with the varying designations.

The Mid-City Communities Plan designates the area surrounding the intersection of University Avenue and State Route 15 as a Transit-Oriented Town Center. The activities proposed in conjunction with the Metro Center development are consistent with the recommendation of the Mid-City Communities Plan, that commercial nodes surrounding the freeway interchanges concentrate medium and high intensity mixed-use commercial along the west side of Interstate 15. In addition, the project is located along University Avenue, an area recommended in the City Heights Neighborhood Plan for "high density residential and office uses, while encouraging retail commercial to serve the community." The development of the proposed project site for mixed-use would also serve as a transitional area between the intensive commercial development on University Avenue, and the multi-family areas lying to the north and south of University Avenue. Such transition areas are recommended in the Commercial section of the Mid-City Communities Plan, Land Use Element, adopted by the San Diego City Council on August 4, 1998. This section further encourages mixed-use development along commercial corridors (such as University Avenue) by recommending the provision of incentives such as residential density or commercial floor area bonuses.

Per the Central Urbanized Planned District Ordinance section 151.0253(a), residential and mixed commercial-residential development in facility-deficient neighborhoods must obtain a Site Development Permit and provide 750 square feet of onsite usable (recreational) open space per dwelling unit unless the proposed development is within 600 feet of a public park, a public school with a joint use agreement with the City of San Diego for public recreational use, or a school that is open during non-school hours for public recreational use. The proposed Metro Center Project does fall within a facility-deficient neighborhood, however it complies with the requirement of providing usable (recreational) open space due to its proximity to and its inclusion within 600 feet of Teralta Park and Central Elementary School.

**2. The proposed development will not be detrimental to the public health, safety, and welfare.** The proposed Metro Career Center project would not be detrimental to the public health, safety and welfare. The project has been designed to conform with the City of San Diego's Municipal Code relating to health, safety, and welfare. The project is located in an existing developed commercial and residential area, and is consistent with the type and intensity of land use planned for the area. Therefore, no risks to police and fire protection service levels are anticipated. The proposed project site is not located within a designated floodplain area,

earthquake fault line area, or water quality issue area. No undue risks from flooding or geologic activity are expected.

The project is not located within a designated open space area, although an open space area is nearby, surrounding the Interstate 15 corridor. University Avenue is also designated for the preservation of public view points in the Visual Resource section of the Natural and Cultural Resource Element of the Mid-City Communities Plan. The project has been designed to conform with all City of San Diego design and visual resource regulations to ensure the preservation of the public views.

The proposed project site, due to its location along University Avenue, falls within an area listed in the Mid-City Communities Plan as having Noise and Air Quality issues. The majority of these problems are due to either motorized vehicles or closed service stations. The project site is not on, or adjacent to, a closed service station site, so no threat to future residents or commercial tenants is anticipated.

Residents of the housing portion of the project would be able to take advantage of the commercial retail and child care facilities provided onsite, as well as nearby commercial establishments, without requiring the use of a motorized vehicle. Further, visitors to the project would be able to accomplish a variety of tasks in the area with a single vehicle trip. The site is also accessible by existing public transit services, which run along University Avenue, and is within one-quarter mile of the Mid-City Transit Center. A Mitigated Negative Declaration has been prepared for the project and a Mitigation, Monitoring and Reporting Program would be implemented with this project that would reduce any impacts from Noise, Hydrology/Water Quality, Historical Resources (Archeology), and Transportation/Circulation to a level below significance.

Per the Central Urbanized Planned District Ordinance section 151.0253(a), residential and mixed commercial-residential development in facility-deficient neighborhoods must obtain a Site Development Permit and provide 750 square feet of onsite usable (recreational) open space per dwelling unit unless the proposed development is within 600 feet of a public park, a public school with a joint use agreement with the City of San Diego for public recreational use, or a school that is open during non-school hours for public recreational use. The proposed Metro Center Project does fall within a facility-deficient neighborhood; however, it complies with the requirement of providing usable (recreational) open space due to its proximity to and its inclusion within 600 feet of Teralta Park and Central Elementary School.

**3. The proposed development will comply with the applicable regulations of the Land Development Code.** The proposed project has been designed to comply with all development regulations of the San Diego Municipal Code and the City's Land Development Code, with the exception of the project deviations as permitted through a Planned Development Permit as discussed above. Upon approval of these deviations for the project's height, personal storage space, exterior open space, landscaping, architectural features, and setbacks, the project would be in complete compliance with the regulations of the Land Development Code.

Per the Central Urbanized Planned District Ordinance section 151.0253(a), residential and mixed commercial-residential development in facility-deficient neighborhoods must obtain a Site Development Permit and provide 750 square feet of onsite usable (recreational) open space per dwelling unit unless the proposed development is within 600 feet of a public park, a public school with a joint use agreement with the City of San Diego for public recreational use, or a school that is open during non-school hours for public recreational use. The proposed Metro Center Project does fall within a facility-deficient neighborhood; however, it complies with the requirement of providing usable (recreational) open space due to its proximity to and its inclusion within 600 feet of Teralta Park and Central Elementary School.

**C. FINDINGS FOR VARIANCE - SDMC SECTION 126.0805**

**1. There are special circumstances or conditions applying to the land or premises for which the variance is sought that are peculiar to the land or premises and do not apply generally to the land or premises in the neighborhood, and these conditions have not resulted from any act of the applicant after the adoption of the applicable zone regulations.** The proposed project would include a total of 313,368 square feet of gross floor area for a Floor Area Ratio (FAR) of 1.53, where 1.50 is permitted overall for the mixed use project. The 0.03 difference between the allowable FAR of 1.50, and the proposed FAR of 1.53 is necessary to develop the Metro Career Center program of affordable housing, an employment and job training center, retail space, and childcare facilities, designed in a mixed-use fashion consistent with the urban scale of the City Heights neighborhood. The special circumstances that warrant this Variance are related to the project's proximity to Interstate 15 and the State of California, Department of Transportation (Caltrans) retaining soundwall at the east of the site. The project applicant considered constructing a portion of the parking structure below grade to eliminate the gross floor area associated with the structure; however, the safety of the soundwall could be compromised with that alternative, which is unacceptable.

**2. The circumstances or conditions are such that the strict application of the regulations of the Land Development Code would deprive the applicant of reasonable use of the land or premises and the variance granted by the City is the minimum variance that will permit the reasonable use of the land or premises.** To provide the variety of community amenities proposed by this project, while still fostering a successful mixed-use development within limited space, a certain density of development is required. In addition to parking required for the 120 affordable housing units, provision of adequate parking and access to serve the 81,500 square foot career center and child care center would require more spaces than is required by the Land Development Code. This results in the need for the five and one-half-story parking structure. The career center and incorporated childcare facilities are intended to serve as community benefits, and as such, maximum access to these amenities is a priority. Maintaining maximum accessibility while complying with a strict application of the FAR regulations in the Land Development Code would require the elimination of either affordable housing units, space for the career center offices, or parking spaces. The project applicant considered constructing a portion of the parking structure below grade to eliminate the gross floor area associated with the structure; however, the safety of the adjacent Caltrans soundwall could be compromised with that alternative, which is unacceptable. Additionally, the site was designed with the parking structure



as close to the adjacent Interstate as possible to create a buffer between the residential uses and the freeway and to reduce any possible vagrant activity between the structure and the freeway. Therefore allowing an increase in the FAR by .03 is therefore the minimum variance that would permit reasonable use of the land.

**3. The granting of the variance will be in harmony with the general purpose and intent of the regulations and will not be detrimental to the public health, safety, or welfare.** The requested Variance to the allowable Floor Area Ratio (FAR) on the project site is in harmony with the general purpose and intent of the regulations, with no detrimental effects to public health, safety, or welfare. The proposed nominal FAR Variance is consistent with the overall intention of Planned Development Permits, to allow for greater flexibility in achieving the most desirable project for the community. The .03 difference between the allowable FAR of 1.50, and the proposed FAR of 1.53 would allow the proposed development to provide several additional affordable housing units, while creating little, if any, perceptible changes to the environment of the project site. The increased FAR would not affect the provision of a significant amount of shared outdoor open space, an amenity to both future tenants of the project.

**4. The granting of the variance will not adversely affect the applicable land use plan. If the variance is being sought in conjunction with any proposed coastal development, the required finding shall specify that granting of the variance conforms with, and is adequate to carry out, the provisions of the certified land use plan.** The requested Variance would allow for a more desirable project, consistent with the mixed-use designation for the site within the land use plan. Allowing a slight increase in the FAR would allow for several additional affordable housing units and sufficient parking spaces to provide easy access to the proposed career center services, office and retail uses. The proposed project would provide affordable housing, office space, retail space, community use, and childcare facilities designed in a mixed-use fashion consistent with the urban scale of the City Heights neighborhood. Therefore, the project would not adversely effect the applicable land use plan.

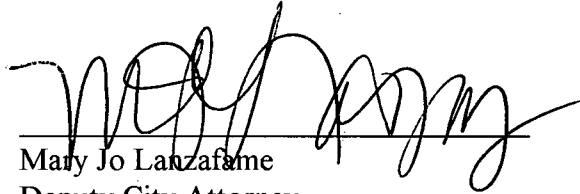
The above findings are supported by the minutes, maps and exhibits, all of which are herein incorporated by reference.

BE IT FURTHER RESOLVED, that the decision of the Planning Commission is sustained, and Planned Development Permit No. 6572/Site Development Permit No. 6573/ Variance No. 6574 is hereby granted to City Heights Revitalization L.P.; San Diego Revitalization Corporation; the City of San Diego; Ron E. and Julie Perez, Anthony Stranieri and Cecelia M. Stranieri, Roxie L. Aldana, Bich-thuy Truong, Nghia Van Tran, Arnulfo H. Lopez and Margarita A. Lopez, Individuals; and Community Christian Church, a California Nonprofit Corporation,

Owners and San Diego Revitalization Corporation, Permittee, under the terms and conditions set forth in the permit attached hereto and made a part hereof.

APPROVED: CASEY GWINN, City Attorney

By



Mary Jo Lanza  
Deputy City Attorney

MJL:pev  
7/11/02  
12/02/02 Cor. Copy  
Or. Dept: Clerk  
R-2003-119  
Form=permitr.frm

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

**AND WHEN RECORDED MAIL TO**  
**CITY CLERK**  
**MAIL STATION 2A**

SPACE ABOVE THIS LINE FOR RECORDER'S USE

**PROJECT NO. 2425**  
**PLANNED DEVELOPMENT PERMIT NO. 6572**  
**SITE DEVELOPMENT PERMIT NO. 6573**  
**VARIANCE NO. 6574**  
**METRO CAREER CENTER (MMRP)**  
**CITY COUNCIL**

After approval of the above-referenced project by the City Council and prior to recordation of this Permit, City Heights Revitalization, L.P.; San Diego Revitalization Corporation, the City of San Diego; Ron E. and Julie Perez, Anthony Stranieri and Cecelia M. Stranieri, Roxie L. Aldana, Bich-thuy Truong, Nghia Van Tran, Arnulfo H. Lopez and Margarita A. Lopez, Individuals; and Community Christian Church, a California Nonprofit Corporation, Owners, transferred the property to San Diego Revitalization Corporation, and the Redevelopment Agency of the City of San Diego, thereby making the San Diego Revitalization Corporation and the Redevelopment Agency of the City of San Diego the new Owners, therefore, this Permit is granted by the City Council of the City of San Diego to San Diego Revitalization Corporation, a California Corporation, and the Redevelopment Agency of the City of San Diego, Owners/Permittees, pursuant to the Land Development Code of the City of San Diego. The 4.8 acre site is located between 39th Street and 40th Street/Interstate-15, and University and Polk Avenues in the RM-2-5, CT-2-3 and CU-2-3 zones of the Central Urbanized Planned District of the Mid-City Communities Plan area. The project site is legally described as Lots 1 through 48, except the 21st foot of Lot 7, Block 39 of City Heights, Map 1007.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owners/Permittees to construct a four-story office/retail/community/child care use building and a 120-unit affordable multi-family housing component. The career center would include approximately 81,500 square feet of office and community use space, including 5,591 square feet of retail space, 2,262 square feet of community space, and a 6,200-square-foot childcare center. The multi-family housing complex would consist of nine, three- to four-story buildings, two tot lots, a

single-story assembly and laundry building, and a single-story laundry and management office building. A five and one-half-story parking structure that would provide a total of 492 parking spaces is also proposed, described as, and identified by size, dimension, quantity, type and location on the approved Exhibit "A," dated July 9, 2002, on file in the office of the Development Services Department. The facility shall include:

- a. The demolition of existing one and two-story, residential and commercial structures;
- b. The construction of an approximately 81,500 square feet, four-story commercial structure with office and community use space, including 5,591 square feet of retail space, a 2,262 square foot community use room, and a 6,200-square-foot childcare center;
- c. The construction of a 120-unit, multi-family housing complex consisting of nine, three-to four-story buildings, two tot lots, a single-story assembly and laundry building, and a single-story laundry and management office building;
- d. The construction of a five and one-half story parking structure to provide a total of 492 parking spaces;
- e. A Variance for Floor Area Ratio (FAR) to not exceed 1.53, where 1.5 maximum is permitted;
- f. Landscaping (planting, irrigation and landscape related improvements);
- g. Off-street parking facilities;
- h. The construction of various retaining and free-standing walls; and
- i. Accessory improvements determined by the City Manager 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 Land Development Code in effect for this site.

2. Construction, grading or demolition must commence and be pursued in a diligent manner within thirty-six months after the effective date of final approval by the City, following all appeals. Failure to utilize the permit within thirty-six months will automatically void the permit unless an Extension of Time has been granted. Any such Extension of Time must meet all the Municipal/Land Development Code requirements and applicable guidelines in effect at the time the extension is considered by the appropriate decision maker.

3. 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 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.

4. 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 City Manager.

5. This permit is a covenant running with the subject property and shall be binding upon the 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.

6. The utilization and continued use of this Permit shall be subject to the regulations of this and any other applicable governmental agencies.

7. The issuance of this permit by The City of San Diego does not authorize the applicant 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 U.S.C. § 1531 et seq.).

8. The Owners/Permittees shall secure all necessary building permits. The applicant is informed that to secure these permits, substantial modifications to the building and/or site improvements to comply with applicable building, fire, mechanical and plumbing codes and State law requiring access for disabled people may be required.

9. At all bus stops within the project area, if any, the applicant shall be responsible for installing sidewalk improvements where needed to comply with American with Disability Act [ADA] requirements and in accordance with standards contained in the City of San Diego Street Design Manual.

10. Before issuance of any building or grading permits, complete grading and working drawings shall be submitted to the City Manager for approval. Plans shall be in substantial conformity to Exhibit "A," dated July 9, 2002, on file in the office of the Development Services Department. No changes, modifications or alterations shall be made unless appropriate applications or amendment of this Permit shall have been granted.

11. 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 discretionary 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 special rights which the holder of the Permit is obtaining as a result of this Permit. It is the intent of the City that the Owners of the property which is the subject of this Permit either utilize the property for any use allowed under the zoning and other restrictions which apply to the property or, in the alternative, that the Owners of the property be allowed the special and extraordinary rights conveyed by this Permit, but only if the Owners comply with all the conditions of the Permit.

In the event that any condition of this Permit, on a legal challenge by the Owners/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 Owners/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 new 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 new Permit and the condition(s) contained therein.

12. 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," dated July 9, 2002, on file in the office of the Development Services Department).

**ENVIRONMENTAL/MITIGATION REQUIREMENTS:**

13. The applicant shall comply with the Mitigation, Monitoring and Reporting Program [MMRP] as specified in Mitigated Negative Declaration No. 41-1089, Project No. 2425, satisfactory to the City Manager and the City Engineer. Prior to issuance of any grading permits and/or building permits, mitigation measures as specifically outlined in the MMRP shall be implemented for the following issue areas:

Noise  
Hydrology/Water Quality  
Historical Resources (Archeology)  
Transportation/Circulation

**PLANNING/DESIGN REQUIREMENTS:**

14. No fewer than 366 off-street parking spaces shall be maintained on the property at all times in the approximate locations shown on the approved Exhibit "A," dated July 9, 2002, on file in the

office of the Development Services Department. Parking spaces shall comply at all times with requirements of the Municipal/Land Development Code and shall not be converted for any other use unless otherwise authorized by the City Manager.

15. Deviations to development regulations are permitted as follows:

- a. Height of the mixed-use, commercial structure, shall not exceed 75'-0" where 50'-0" is permitted;
- b. Height of the parking garage shall not exceed 58'-0" where 40'-0" and 50'-0" is permitted;
- c. Personal Storage Space and Private Exterior Space shall be provided per Exhibit "A," dated July 9, 2002, on file in the office of the Development Services Department.
- d. Landscaping shall be provided per Exhibit "A," dated July 9, 2002, on file in the office of the Development Services Department.
- e. A mix of architectural features within the development as provided per Exhibit "A," dated July 9, 2002, on file in the office of the Development Services Department.
- f. Front and Street Side Yard Setbacks as provided per Exhibit "A," dated July 9, 2002, on file in the office of the Development Services Department.

16. 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. Where a condition (including exhibits) of this Permit establishes a provision which is more restrictive than the corresponding regulation of the underlying zone, then the condition shall prevail.

17. 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, unless a deviation or variance to the height limit has been granted as a specific condition of this Permit.

18. 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 Permittee.

19. The Child Care Center shall comply with all San Diego Municipal Code requirements for such use.
20. For commercial development within commercial zones that permit retail uses, at least 50% of all gross ground floor area or principal pedestrian level area shall be used for retail sales and commercial services.
21. Each commercial tenant space shall be accessible from the an abutting public street by a pedestrian path that is at least four-feet wide. The path shall be continuous, clear of obstructions, easily identifiable as a pedestrian path, and visually distinguishable from other hardscape.
22. As per Land Development Code section 143.0473, all development shall be constructed and maintained in accordance with the approved plans and conditions contained within the approved Planned Development Permit [PDP]. If a proposed development includes open areas or recreational facilities to be used by the residents or employees of the development, the approved permit shall include a plan for the preservation of the common elements of the property that is acceptable to the City Manager.
23. Any future requested amendment to this permit shall be reviewed for compliance with the regulations of the underlying zone(s) which are in effect on the date of the submittal of the requested amendment.
24. No building additions, including patio covers, shall be permitted unless approved by the Development Services Department Director.
25. All signage associated with this development shall be consistent with sign criteria established by the citywide sign regulations contained in the San Diego Municipal Code.
26. All fences and walls associated with this development shall be consistent with the San Diego Municipal Code.
27. All private outdoor lighting shall be shaded and adjusted to fall on the same premises where such lights are located.
28. Lighting within the parking garage shall be shielded such that exposed light fixtures are not visible from the adjacent development.
29. Prior to the issuance of any building permits, complete outdoor lighting information shall be submitted to the Development Services Department, Land Development Review Division for review and approval. Complete lighting information shall include a plan view photometric analysis indicating an isofoot candle plot and a point by point plot to include all areas within the private property and to extend a minimum of fifty feet beyond the property line, construction



details as necessary to direct installation of the outdoor lighting system, manufacturers name, visors, prisms, lenses and reflectors and a lighting plan locating each fixture in plan view and a legend. The outdoor lighting system shall be designed, manufactured and installed to allow shading, adjusting, and shielding of the light source so all outdoor lighting is directed to fall only onto the same premises as light sources are located.

Prior to the issuance of any occupancy permit, a night inspection shall be required to verify compliance of the outdoor lighting system. No light shall be directed to fall outside the property line. Light levels along the perimeter of the property shall be measured no higher than three footcandles. Light levels throughout the development shall be the least practical level necessary to effectively illuminate the operation. Sky glow or light halo shall be reduced to the greatest extent practical and in no case shall initial light levels be measured exceeding fourteen footcandles anywhere within the site. The Owners/Permittees, or an authorized representative, shall provide an illuminance meter to measure light levels as required to establish conformance with the conditions of this permit during the night inspection. Night inspections may be required additional fees as determined by the Development Services Department.

30. The use of textured or enhanced paving shall meet applicable City standards as to location, noise and friction values.

31. The subject property and associated common areas on site shall be maintained in a neat and orderly fashion at all times.

32. No mechanical equipment, tank, duct, elevator enclosure, cooling tower or mechanical ventilator or air conditioner shall be erected, constructed, converted, established, altered, or enlarged on the roof of any building, unless all such equipment and appurtenances are contained within a completely enclosed structure whose top and sides may include grillwork, louvers and latticework.

33. No mechanical equipment shall be erected, constructed, or enlarged on the roof of any building on this site, unless all such equipment is contained within a completely enclosed architecturally integrated structure.

34. Prior to the issuance of building permits, construction documents shall fully illustrate compliance with the Citywide Storage Standards for Trash and Recyclable Materials, contained in the San Diego Municipal Code to the satisfaction of the City Manager. All exterior storage enclosures for trash and recyclable materials shall be located in a manner that is convenient and accessible to all occupants of and service providers to the project, in substantial conformance with the conceptual site plan marked Exhibit "A," date July 9, 2002, on file in the office of the Development Services Department

**LANDSCAPE REQUIREMENTS:**

35. No change, modification or alteration shall be made to the project unless appropriate application or amendment of this Permit shall have been granted by the City.
36. In the event that a foundation only permit is requested by the Permittee or subsequent Owner, a site plan or staking layout plan shall be submitted identifying all landscape areas consistent with Exhibit "A," Landscape Concept Plan, dated July 9, 2002, on file in the office Development Services Department. These landscape areas shall be clearly identified with a distinct symbol, noted with dimensions and labeled as landscaping area.
37. Prior to issuance of any construction permits for structures, including shell, complete landscape and irrigation construction documents consistent with the Landscape Standards shall be submitted to the City Manager for approval. The construction documents shall be in substantial conformance with Exhibit "A," Landscape Concept Plan, dated July 9, 2002, on file in the office of Development Services Department.
38. Prior to issuance of any construction permit for parking structures, the Permittee shall submit on the planting and irrigation plans a signed statement by a Registered Structural Engineer indicating that supporting structures are designed to accommodate the necessary structural loads and associated planting and irrigation.
39. Prior to issuance of any engineering permits for right-of-way improvements, complete landscape construction documents for right-of-way improvements shall be submitted to the City Manager for approval. Improvement plans shall identify a station point for each street tree location. Each street tree location must take into account a forty square feet 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.
40. Location of street trees shall be identified and reserved during improvement activities and on all site plans prepared for subsequent building permit applications with actual installation taking place prior to issuance of a certificate of occupancy for a specific building permit. The construction documents shall be in substantial conformance with Exhibit "A," Landscape Concept Plan, dated July 9, 2002, on file in the office of Development Services Department.
41. Prior to issuance of any Certificate of Occupancy, it shall be the responsibility of the Permittee or subsequent Owner to install all required landscape and obtain all required landscape inspections. A No Fee Street Tree Permit shall be obtained for the installation, establishment and on-going maintenance of all street trees.

42. All required landscape shall be maintained in a disease, weed and litter free condition at all times. Severe pruning or "topping" of trees is not permitted unless specifically noted in this Permit.

43. The Permittee or subsequent Owner shall be responsible for the maintenance of all street trees and landscape improvements (right-of-way landscaping) consistent with the Landscape Standards contained in the San Diego Municipal Code, unless long-term maintenance of street trees and right-of-way 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 the City Manager.

44. 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, it shall be repaired and/or replaced in kind and equivalent size per the approved documents to the satisfaction of the City Manager within thirty days of damage or Certificate of Occupancy.

#### **TRANSPORTATION REQUIREMENTS:**

45. Prior to the issuance of any building permits the applicant shall assure by permit and bond the installation of a traffic signal at the 39th Street/University Avenue intersection (with interconnection to the adjacent signals), with a dedicated westbound 11-foot through, 11-foot right turn, and 10-foot left turn lane. The north leg of this intersection (39th Street) up to the project driveway (approximately 140 feet) shall include a southbound 10-foot left turn and a 19-foot through/right turn lane, and a northbound 12-foot through and 10-foot right turn lane, satisfactory to the City Engineer.

46. Prior to the issuance of any building permits the applicant shall assure by permit and bond re-striping and signage of westbound lanes on University Avenue fronting the project to provide two through lanes with the curb lane striped as a dedicated right turn lane for a 100 feet prior to the 39th Street intersection. Also 39th Street, north of project driveway to Polk Avenue, shall be striped for one lane in each direction with a sixty foot southbound left turn pocket at project driveway, satisfactory to the City Engineer.

47. Prior to the issuance of any building permits the applicant shall assure by permit and bond, the dedication and widening of one foot on Polk Avenue on the project frontage (to provide twenty-eight feet of pavement) between 39th Street and 40th Street with any needed modifications to the signage, and pavement marking (including red cubing the south side of Polk Avenue on the project frontage) to reorient Polk Avenue into a two-way traffic, satisfactory to the City Engineer.

48. Prior to the issuance of any building permits the applicant shall provide a fair share contribution of twenty-five percent of total cost of a future traffic signal installation at the 39th Street/Orange Avenue intersection, satisfactory to the City Engineer.

49. Prior to the issuance of any building permits, this project shall comply with all current street lighting standards according to the City of San Diego Street Design Manual (Document No. 769830, filed January 30, 1997) and the amendment to Council Policy 200-18 approved by City Council on January 10, 2000, satisfactory to the City Engineer.

50. No fewer than 195 parking spaces for the residential portion, and 171 parking spaces for the non-residential portion of this project for a total of 366 parking spaces shall be maintained on the property at all times in the approximate locations shown on Exhibit "A," dated July 9, 2002, on file in the office of the Development Services Department. Parking spaces shall comply at all times with the San Diego Municipal Code and shall not be converted for any other use.

**ENGINEERING REQUIREMENTS:**

51. Prior to the issuance of any building permits, the applicant shall assure by permit and bond the closure of all non-utilized driveways and alley openings with City standard curb, gutter and sidewalk, on University Avenue, Polk Avenue and 39th Street, per Standard Drawings G-2, G-7, G-9 and SDG-100, satisfactory to the City Engineer.

52. Prior to the issuance of any building permits, the applicant shall assure by permit and bond the installation of City standard curb, gutter, sidewalk and pavement, adjacent to the project frontage on Polk Avenue and 39th Street and sidewalk on University Avenue, satisfactory to the City Engineer.

53. Prior to the issuance of any building permits, the applicant shall assure by permit the bond the installation of two City standard pedestrian ramps, at the northeast corner of University Avenue and 39th Street, at the northwest corner of University Avenue and I-15 and at the southeast corner of Polk Avenue and 39th Street and one additional pedestrian ramp at the intersection of Polk Avenue and 40th Street, per Standard Drawings G-27, G-32, satisfactory to the City Engineer.

54. Prior to the issuance of any building permits, the applicant shall assure by permit and bond the installation of City standard twenty-six foot wide driveway on 39th Street and a twenty-four foot wide driveway on Polk Avenue, per Standard Drawings G-14A, G-16 and SDG-100, satisfactory to the City Engineer.

55. Prior to building occupancy, the applicant shall dedicate additional right-of-way, on 39th Street and on Polk Avenue, to provide a minimum of ten foot curb-to-property line distance, satisfactory to the City Engineer.

56. The drainage system proposed with this development is subject to approval by the City Engineer.

57. Prior to the issuance of any building permits, the applicant shall obtain a bonded grading permit for the grading proposed for this project. All grading shall conform to requirements in accordance with the City of San Diego Municipal Code in a manner satisfactory to the City Engineer.

58. Development of this project shall comply with all requirements of State Water Resources Control Board (SWRCB) Order No. 99-08-DWQ and the Municipal Storm Water Permit, Order No. 2001-01(NPDES General Permit No. CAS000002 and CAS0108758), Waste Discharge Requirements for Discharges of Storm Water Runoff Associated With Construction Activity. In accordance with said permit, a Storm Water Pollution Prevention Plan (SWPPP) and a Monitoring Program Plan shall be implemented concurrently with the commencement of grading activities, and a Notice of Intent (NOI) shall be filed with the SWRCB.

A copy of the acknowledgment from the SWRCB that an NOI has been received for this project shall be filed with the City of San Diego when received; further, a copy of the completed NOI from the SWRCB showing the permit number for this project shall be filed with the City of San Diego when received. In addition, the owner(s) and subsequent owner(s) of any portion of the property covered by this grading permit and by SWRCB Order No. 99-08-DWQ, and any subsequent amendments thereto, shall comply with special provisions as set forth in SWRCB Order No. 99-08-DWQ.

59. Prior to building occupancy, the applicant shall conform to Section 62.0203 of the Municipal Code, "Public Improvement Subject to Desuetude or Damage." If repair or replacement of such public improvements is required, the owners shall obtain the required permits for work in the public right-of-way, satisfactory to the permit-issuing authority.

**WATER REQUIREMENTS:**

60. Prior to the recordation of the street vacation of 40th Street and alley rights-of-way, between 39th and 40th Streets from University Avenue to Polk Avenue or the issuance of any building permits of any kind, the Owners/Permittees shall abandon (cut, plug and remove) all existing public water facilities within the rights-of-way to be vacated in a manner satisfactory to the Water Department Director and the City Engineer. All on-site water facilities shall be private.

61. Prior to the issuance of any building permits, the Owners/Permittees shall assure, by permit and bond, the design and construction of 16-inch public water facilities within the 39th Street right-of-way, connecting to existing water facilities located in the Polk and University Avenue

rights-of-way, in a manner satisfactory to the Water Department Director and the City Engineer. Actual connection points, grade and alignment shall be determined at final engineering.

62. Prior to the issuance of any building permits, the Owners/Permittees shall assure, by permit and bond, the design and construction of new water service(s), connecting to public water facilities within adjacent improved rights-of-way, and the removal of all existing water services within or adjacent to the project site, in a manner satisfactory to the Water Department Director and the City Engineer.

63. The Owners/Permittees agrees to the sole responsibility for the mitigation of any damage caused to or by the public water facilities traversing or adjacent to the project site due to construction activities associated with this development.

64. Prior to the issuance of any certificates of occupancy, all public water facilities necessary to serve this development shall be complete and operational in a manner satisfactory to the Water Department Director and the City Engineer.

65. Prior to the issuance of any certificates of occupancy, the Owners/Permittees shall assure, by permit and bond, additional connections of public water facilities as required necessary to maintain service in the adjacent rights-of-way in a manner satisfactory to the Water Department Director and the City Engineer. Actual connection points shall be determined at final engineering.

66. Prior to the issuance of any certificates of occupancy, the Owners/Permittees shall install fire hydrants at locations satisfactory to the Fire Department, the Water Department Director, and the City Engineer.

67. The Owners/Permittees shall install all water services behind full height curb and outside of any vehicular travel way including driveways.

68. The Owners/Permittees agree to design and construct all proposed public water facilities in accordance with established criteria in the most current editions of the City of San Diego Water Facility Design Guidelines and City regulations, standards and practices pertaining thereto. Public water mains shall be located a minimum of 5-feet from face of curb. Facilities, as shown on approved Exhibit "A," dated July 9, 2002, on file in the office of the Development Services Department will require modification based on standards and final engineering.

**WASTEWATER REQUIREMENTS:**

69. Prior to the issuance of any building permits, the developer shall install all sewer facilities required by the accepted sewer study, necessary to serve this development. Sewer facilities as shown on the approved Site Development Permit drawings will require modification based on the accepted sewer study.

70. The developer shall design and construct all proposed public sewer facilities to the most current edition of the City of San Diego's sewer design guide. Proposed facilities that do not meet the current standards shall be private or redesigned.

71. Prior to the issuance of any building permits, the developer shall provide evidence, satisfactory to the Metropolitan Wastewater Department Director, indicating that each lot/condominium will have its own sewer lateral or provide CC&R's for the operation and maintenance of on-site private sewer mains that serve more than one lot/condominium.

72. Prior to the issuance of any building permits, the developer shall assure, by permit and bond, the design and construction of all public sewer facilities necessary to serve this development.

73. Proposed private underground sewer facilities located within a single lot shall be designed to meet the requirements of the California Uniform Plumbing Code and shall be reviewed as part of the building permit plan check.

74. Prior to the approval of improvement plans (including grading plans) or issuance of building permits, the existing sewer facilities shall be abandoned and the alley vacated satisfactory to the Metropolitan Wastewater Department Director.

#### **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 section 66020.

APPROVED by the City Council of the City of San Diego by Resolution No. R-296790, adopted July 9, 2002.

AUTHENTICATED BY THE CITY MANAGER

By \_\_\_\_\_

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**The undersigned Permittee**, by execution hereof, agrees to each and every condition of this Permit and promises to perform each and every obligation of Permittee hereunder.


SAN DIEGO REVITALIZATION CORPORATION  
A California Corporation  
Owner/Permittee

By \_\_\_\_\_

REDEVELOPMENT AGENCY OF THE CITY OF SAN  
DIEGO  
Owner/Permittee

By \_\_\_\_\_

**NOTE: Notary acknowledgments  
must be attached per Civil Code  
section 1180 et seq.**

 296790