

RESOLUTION NUMBER R- 300622

ADOPTED ON JUN 28 2005

WHEREAS, San Diego Revitalization Corporation and the City Of San Diego Redevelopment Agency, Owner/Permittee, filed an application with the City of San Diego for a Planned Development Permit No. 116927, Neighborhood Use Permit No. 116928, Conditional Use Permit No. 116929 and Site Development Permit No. 228858 to demolish existing structures and construct a mixed-use development known as the City Heights Square project, on the general block bounded by Fairmount Avenue, University Avenue, 43rd Street, and Polk Avenue, and legally described as Lots 1 through 8, inclusive, and 25 through 28, inclusive, in Block 46 of City Heights, Map No. 1007; Lot 1 of Fairmount Commercial Tract, Map No. 6740; Parcel 1 of Parcel Map No. 15205; together with the easterly 10 feet of the vacated unnamed alley adjacent to said Lots 25 through 28, in the City Heights neighborhood of the Mid-City Communities Plan area, in the CU-2-3 and CT-2-3 Zones of the Central Urbanized Planned District; and

WHEREAS, on June 23, 2005, the Planning Commission of the City of San Diego considered PDP No. 116927, NUP No. 116928, CUP No. 116929 and SDP No. 228858, and pursuant to Resolution No. 3794-PC voted to recommend City Council approval of the permit; and

WHEREAS, the matter was set for public hearing on June 28, 2005, testimony having been heard, evidence having been submitted, and the City Council having fully considered the matter and being fully advised concerning the same; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that it adopts the following findings with respect to PDP No. 116927, NUP No. 116928, CUP No. 116929 and SDP No.

228858:

A. PLANNED DEVELOPMENT PERMIT FINDINGS – SAN DIEGO MUNICIPAL CODE [SDMC] SECTION 126.0604:

1. The proposed development will not adversely affect the applicable land use plan. The project site lies within the City Heights neighborhood of the Mid-City Communities Plan and is within the City Heights Redevelopment Project area and is consistent with the overall goals of these documents. The proposed City Heights Square is a mixed-use project designed to provide commercial, medical and residential services, thereby implementing the goals of the CUPD and the MCCP to develop commercial/residential mixed-use development that is consistent with the character of the existing neighborhood. The project was intended to provide design consistency among the individual components.

The project implements the MCCP recommendation for the provision of housing needs for seniors in the community. The residential component of the project provides 150 needed housing units affordable to very low-income seniors and one on-site property manager's unit.

The MCCP envisions City Heights as a pedestrian-friendly community of urban plazas. The proposed project would provide an additional sidewalk setback and plaza space at the corner of University and Fairmount Avenues to be used for seating, eating and people watching. The plaza would be designed with enhanced paving to accentuate this important community node.

The proposed uses are consistent with the applicable zoning regulations, as allowed through the Planned Development Permit, Neighborhood Use Permit, Conditional Use Permit and Site Development Permit processes. Therefore, the project would not result in a conflict with the relevant goals, objectives, and recommendations of the Mid-City Communities Plan.

2. The proposed development will not be detrimental to the public health, safety, and welfare. The project's appearance will enhance the City Heights area and the surrounding neighborhoods benefiting the community as a whole. As discussed within the Mitigated Negative Declaration, a Phase I Environmental Site Assessment for the project site was prepared for this project. This document indicated the site previously developed with a gasoline service station and a dry cleaning operation in the vicinity. Due to these historic uses, the assessment identified the potential that the site may be contaminated with hazardous materials/wastes or petroleum products. The assessment also recommended a geophysical survey be conducted to identify the possible presence of underground storage tanks. Based on these possibilities, the Mitigation, Monitoring and Reporting Program requires confirmation from the San Diego County Department of Environmental Health that adequate protection of human health, water resources, and the environment are provided as mitigation measures prior to project implementation.

All Uniform Building, Fire, Plumbing, Electrical, Mechanical Code and City regulations governing the construction and continued operation of the development apply to this project to prevent adverse affects to those persons or properties in the vicinity of the project.

3. The proposed development will comply with the regulations of the Land Development Code. The applicable zoning for the project is CU-2-3 and CT-2-3 of the Central Urbanized Planned District. The zoning allows for commercial uses, senior housing with a conditional use permit and a medical clinic with a neighborhood use permit. These uses are consistent with the Land Development Code [LDC] and the project design will conform with the purpose and intent of the development regulations, with deviations allowed through the Planned Development Permit and Site Development Permit processes. The design of the structures proposed for the project incorporate architectural elements that help to diminish building bulk and blend into the surrounding community. The project will provide 451 (with 404 required) off-street, primarily subterranean parking spaces, increasing the supply of available parking in the area and reducing the impact on street parking in the surrounding neighborhoods.

4. The proposed development, when considered as a whole, will be beneficial to the community. The proposed mixed-use development is permitted at this location, as discussed within the applicable Mid-City Communities Plan and City Heights Redevelopment Plan. The proposed senior residential facility will provide much needed housing that exceeds the requirements of the City's Inclusionary Housing Ordinance and Density Bonus Program by setting aside 99 percent of the proposed units (150 affordable units and one manager's unit) to very low-income seniors (at/below sixty-two years of age) with incomes at or below 50 percent of Area Median Income [AMI]. The affordable units would consist of seventy-five studio units and seventy-five one bedroom units and would be affordable in perpetuity.

The project is located within a facility deficient neighborhood. For Facility Deficient Neighborhoods located in the Central Urbanized Planned District, 750 square feet of on-site recreational open space is required for residential and Mixed-Use projects proposing three or more units that are not located within 600 feet of a public park, a public school with joint use agreement with the City of San Diego, or a school that is open during non-school hours for public recreational use. Since the project does not meet this requirement, a Site Development Permit is required and supported for this requirement as the proposed project will utilize a density bonus to develop additional affordable housing units for very low-income seniors (at/below sixty-two years of age) with incomes at or below 50 percent of AMI. While the additional density precludes compliance with the useable open space requirements, the project does provide a 5,348- square-foot recreational area that will be open to the public. Additionally, the senior residence will also provide a central courtyard area and a 1,000 square foot activity room. Currently, the proposed project is located northwest, within a 320-foot walking distance, of the joint-use facilities/recreation center located adjacent to Rosa Parks Elementary School.

The outpatient medical clinic will meet community needs by providing non-profit medical, dental and social service agency uses in this redevelopment area. The retail office buildings at the crossroads of University and Fairmount Avenues will provide quality uses within the area. Senior housing, employment opportunities and medical services, with more than adequate on-site parking, would be available in the same street block, thereby providing a benefit to the community as a whole. The overall appearance of new structures would be compatible

with the architectural detail and appearance of the newer redevelopment project to the south, while still maintaining a sufficient transition to adjacent older uses.

5. Any proposed deviations pursuant to 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 proposed deviations are appropriate for this location and will result in a more desirable project than would be achieved if designed in strict conformance with the CU-2-3 and CT-2-3 Zones of the Central Urbanized Planned District. The deviations for height were the result of input from the community, which desired a tower element and articulated buildings. The side and rear setback deviations are minimal, and with the large scale of the project crossing various property lines and zones, result in a clearer, more consistent building design. The transparency deviation is necessary for the senior residential facility since it is generally a development regulation appropriate for commercial uses, and not the proposed residential use. The applicant is proposing a public park immediately adjacent to the senior residential facility, which provides more community-wide value than open space specifically for the senior units, while a relatively large open space area is still provided on the grade level of the senior facility. Staff supports the increased floor area ratio as an additional incentive to the provision of affordable housing and the additional square feet allows the proposed development to be consistent with the bulk and scale of adjacent properties within the area. While the parking is reduced for the senior facility in Building 3, the spaces are provided in Building 1 via a shared parking agreement. Furthermore, the entire development provides a total of 451 parking spaces, which exceeds the total requirement of 404 spaces. Due to the density, use and expected frequency, staff supports the deviation to reduce the number of off-street loading spaces from two spaces to one space. Based on the strict application of the CU-2-3 and CT-2-3 Zone, these deviations are necessary in order to accommodate the anticipated mixed-use development use at this location.

B. NEIGHBORHOOD USE PERMIT FINDINGS – SDMC SECTION 126.0205:

1. The proposed development will not adversely affect the applicable land use plan. The project site lies within the City Heights neighborhood of the Mid-City Communities Plan and is within the City Heights Redevelopment Project area and is consistent with the overall goals of these documents. The proposed City Heights Square is a mixed-use project designed to provide commercial, medical and residential services, thereby implementing the goals of the CUPD and the MCCP to develop commercial/residential mixed-use development that is consistent with the character of the existing neighborhood. The project was intended to provide design consistency among the individual components.

The proposed medical clinic which necessitates the Neighborhood Use Permit complements the mixed-use nature of the project and provides much needed medical services for the project area population and implements the MCCP and CUPD goals of providing a full complement of goods and services to meet the economic development needs of the community.

The proposed uses are consistent with the applicable zoning regulations, as allowed through the Planned Development Permit, Neighborhood Use Permit, Conditional Use Permit and Site Development Permit processes. Therefore, the project would not result in a conflict with the relevant goals, objectives, and recommendations of the Mid-City Communities Plan.

2. The proposed development will not be detrimental to the public health, safety and welfare. The project's appearance will enhance the City Heights area and the surrounding neighborhoods benefiting the community as a whole.

As discussed within the Mitigated Negative Declaration, a Phase I Environmental Site Assessment for the project site was prepared for this project. This document indicated the site previously developed with a gasoline service station and a dry cleaning operation in the vicinity. Due to these historic uses, the assessment identified the potential that the site may be contaminated with hazardous materials/wastes or petroleum products. The assessment also recommended a geophysical survey be conducted to identify the possible presence of underground storage tanks. Based on these possibilities, the Mitigation, Monitoring and Reporting Program requires confirmation from the San Diego County Department of Environmental Health that adequate protection of human health, water resources, and the environment are provided as mitigation measures prior to project implementation.

All Uniform Building, Fire, Plumbing, Electrical, Mechanical Code and City regulations governing the construction and continued operation of the development apply to this project to prevent adverse affects to those persons or properties in the vicinity of the project.

3. The proposed development will comply with the applicable regulations of the LDC. The applicable zoning for the project is CU-2-3 and CT-2-3 of the Central Urbanized Planned District. The zoning allows for commercial uses, senior housing with a conditional use permit and a medical clinic with a neighborhood use permit. These uses are consistent with the LDC and the project design will conform with the purpose and intent of the development regulations, with deviations allowed through the Planned Development Permit process. The design of the structures proposed for the project incorporate architectural elements that help to diminish building bulk and blend into the surrounding community. The project will provide 451 (with 404 required) off-street, primarily subterranean parking spaces, increasing the supply of available parking in the area and reducing the impact on street parking in the surrounding neighborhoods.

C. CONDITIONAL USE PERMIT FINDINGS – SDMC SECTION 126.0305:

1. The proposed development will not adversely affect the applicable land use plan. The project site lies within the Mid-City Communities Plan and the City Heights Redevelopment Plan area and is consistent with the overall goals of these documents. The proposed City Heights Square is a mixed-use project designed to provide commercial, medical

and residential services, thereby implementing the goals of the CUPD and the MCCP to develop commercial/residential mixed-use development that is consistent with the character of the existing neighborhood. The project was intended to provide design consistency among the individual components.

The proposed senior housing which necessitates the Conditional Use Permit complements the mixed-use nature of the project and implements the MCCP recommendation for the provision of housing needs for seniors in the community. The residential component of the project provides 150 needed housing units affordable to very low-income seniors and one, on-site property manager's unit.

The proposed uses are consistent with the applicable zoning regulations, as allowed through the Planned Development Permit, Neighborhood Use Permit, Conditional Use Permit and Site Development Permit processes. Therefore, the project would not result in a conflict with the relevant goals, objectives, and recommendations of the Mid-City Communities Plan.

2. The proposed development will not be detrimental to the public health, safety and welfare. The project's appearance will enhance the City Heights area and the surrounding neighborhoods benefiting the community as a whole. As discussed within the Mitigated Negative Declaration, a Phase I Environmental Site Assessment for the project site was prepared for this project. This document indicated the site previously developed with a gasoline service station and a dry cleaning operation in the vicinity. Due to these historic uses, the assessment identified the potential that the site may be contaminated with hazardous materials/wastes or petroleum products. The assessment also recommended a geophysical survey be conducted to identify the possible presence of underground storage tanks. Based on these possibilities, the Mitigation, Monitoring and Reporting Program requires confirmation from the San Diego County Department of Environmental Health that adequate protection of human health, water resources, and the environment are provided as mitigation measures prior to project implementation.

All Uniform Building, Fire, Plumbing, Electrical, Mechanical Code and City regulations governing the construction and continued operation of the development apply to this project to prevent adverse affects to those persons or properties in the vicinity of the project.

3. The proposed development will comply to the maximum extent feasible with the regulations of the LDC. The proposed site improvements are consistent with the general purpose and intent of the Mid-City Communities Plan, the City Heights Redevelopment Plan, and the CU-2-3 and CT-2-3 Zones of the Central Urbanized Planned District, as allowed through the Planned Development Permit, Neighborhood Use Permit, Conditional Use Permit and Site Development Permit processes.

4. The Proposed Use Is Appropriate At The Proposed Location. According to the Mid-City Communities Plan, the 2.857-acre project site is currently designated for Residential, Commercial, and Mixed-Use development and could accommodate 120 residential dwelling units. Additionally, the applicant is requesting a 21 percent affordable housing density bonus based on the maximum dwelling units allowed by the CU-2-3 and CT-2-3 Zones in order to allow a total of 151 total housing units. The Residential Element of the community plan

recommends new housing be constructed in a variety of types and sizes in order to meet the needs of future residents in all socio-economic brackets. The project's proposal for 151 housing units (150 affordable units and one manager's unit) meets the Plan's recommendation of providing for the housing needs of seniors in the community.

D. SITE DEVELOPMENT PERMIT FINDINGS – SDMC SECTION 126.0504.A:

1. The proposed development will not adversely affect the applicable land use plan. The project site lies within the City Heights neighborhood of the Mid-City Communities Plan and is within the City Heights Redevelopment Project area and is consistent with the overall goals of these documents. The proposed City Heights Square is a mixed-use project designed to provide commercial, medical and residential services, thereby implementing the goals of the CUPD and the MCCP to develop commercial/residential mixed-use development that is consistent with the character of the existing neighborhood. The project was intended to provide design consistency among the individual components.

The project implements the MCCP recommendation for the provision of housing needs for seniors in the community. The residential component of the project provides 150 needed housing units affordable to very low-income seniors and one, on-site property manager's unit.

The MCCP envisions City Heights as a pedestrian-friendly community of urban plazas. The proposed project would provide an additional sidewalk setback and plaza space at the corner of University and Fairmount Avenues to be used for seating, eating and people watching. The plaza would be designed with enhanced paving to accentuate this important community node.

The project is located within a facility deficient neighborhood. For Facility Deficient Neighborhoods located in the Central Urbanized Planned District, 750 square feet of on-site recreational open space is required for residential and Mixed-Use projects proposing three or more units that are not located within 600 feet of a public park, a public school with joint use agreement with the City of San Diego, or a school that is open during non-school hours for public recreational use. Since the project does not meet this requirement, a Site Development Permit is required and supported for this requirement as the proposed project will utilize a density bonus to develop additional affordable housing units for very low-income seniors (at/below sixty-two years of age) with incomes at or below 50 percent of AMI. While the additional density precludes compliance with the useable open space requirements, the project does provide a 5,348- square-foot recreational area that will be open to the public. Additionally, the senior residence will also provide a central courtyard area and a 1,000 square foot activity room. Currently, the proposed project is located northwest, within a 320-foot walking distance, of the joint-use facilities/recreation center located adjacent to Rosa Parks Elementary School.

The proposed uses are consistent with the applicable zoning regulations, as allowed through the Planned Development Permit, Neighborhood Use Permit, Conditional Use Permit and Site Development Permit processes. Therefore, the project would not result in a conflict with the relevant goals, objectives, and recommendations of the Mid-City Communities Plan.

2. The proposed development will not be detrimental to the public health, safety, and welfare. The project's appearance will enhance the City Heights area and the surrounding neighborhoods benefiting the community as a whole.

As discussed within the Mitigated Negative Declaration, a Phase I Environmental Site Assessment for the project site was prepared for this project. This document indicated the site previously developed with a gasoline service station and a dry cleaning operation in the vicinity. Due to these historic uses, the assessment identified the potential that the site may be contaminated with hazardous materials/wastes or petroleum products. The assessment also recommended a geophysical survey be conducted to identify the possible presence of underground storage tanks. Based on these possibilities, the Mitigation, Monitoring and Reporting Program requires confirmation from the San Diego County Department of Environmental Health that adequate protection of human health, water resources, and the environment are provided as mitigation measures prior to project implementation.

All Uniform Building, Fire, Plumbing, Electrical, Mechanical Code and City regulations governing the construction and continued operation of the development apply to this project to prevent adverse affects to those persons or properties in the vicinity of the project.

3. The proposed development will comply with the applicable regulations of the LDC. The applicable zoning for the project is CU-2-3 and CT-2-3 of the Central Urbanized Planned District. The zoning allows for commercial uses, senior housing with a conditional use permit and a medical clinic with a neighborhood use permit. These uses are consistent with the LDC and the project design will conform with the purpose and intent of the development regulations, with deviations allowed through the Planned Development Permit process. The design of the structures proposed for the project incorporate architectural elements that help to diminish building bulk and blend into the surrounding community. The project will provide 451 (with 404 required) off-street, primarily subterranean parking spaces, increasing the supply of available parking in the area and reducing the impact on street parking in the surrounding neighborhoods.

4. The proposed development will materially assist in accomplishing the goal of providing affordable housing opportunities in economically balanced communities throughout the city. The City Heights Square project implements the goal of providing affordable housing opportunities for seniors in the community. The Residential Element of the community plan recommends new housing be constructed in a variety of types and sizes in order to meet the needs of future residents in all socio-economic brackets. The project exceeds the requirements of the City's Inclusionary Housing Ordinance and Density Bonus Program by setting aside 99 percent of the proposed units (150 affordable units and 1 manager's unit) to very low-income seniors (at/below sixty-two years of age) with incomes at or below 50 percent of the AMI in perpetuity.

5. The development will not be inconsistent with the purpose of the underlying zone. The proposed mixed-use project, including the senior residential development, is not inconsistent with the underlying zones. According to the Mid-City Communities Plan, the 2.857-acre project site is currently designated for Residential, Commercial, and Mixed-Use development and could accommodate 120 residential dwelling units. Additionally, in accordance

with LDC requirements, the applicant is requesting a 21 percent affordable housing density bonus based on the maximum dwelling units allowed by the CU-2-3 and CT-2-3 Zones in order to allow a total of 151 total housing units (150 affordable units and one manager's unit).

6. The deviations are necessary to make it economically feasible for the applicant to utilize a density bonus authorized for the development pursuant to section 143.0730. The increased residential density at this site is based on the critical need for affordable housing to very low-income seniors in San Diego and the appropriateness and cost efficiencies of developing such housing at the density proposed.

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

BE IT FURTHER RESOLVED, that the recommendation of the Planning Commission is sustained, and City Heights Square, PDP No. 116927, NUP No. 116928, CUP No. 116929 and SDP No. 228858 are granted to San Diego Revitalization Corporation and the City of San Diego Redevelopment Agency, Owner/Permittee, under the terms and conditions set forth in the permit attached hereto and made a part hereof.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By



Douglas K. Humphreys
Deputy City Attorney

DKH:ai
07/20/05
Or.Dept:DSD
R-2006-73

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

WHEN RECORDED MAIL TO
CITY CLERK
MAIL STATION 2A

JOB ORDER NUMBER: 42-2983

SPACE ABOVE THIS LINE FOR RECORDER'S USE

PLANNED DEVELOPMENT PERMIT NO. 116927
NEIGHBORHOOD USE PERMIT NO. 116928
CONDITIONAL USE PERMIT NO. 116929
SITE DEVELOPMENT PERMIT NO. 228858
CITY HEIGHTS SQUARE – PROJECT NO. 40960 [MMRP]
CITY COUNCIL

This Planned Development Permit [PDP]/Neighborhood Use Permit [NUP]/Conditional Use Permit [CUP]/Site Development Permit [SDP] [collectively the Permit] is granted by the City Council of the City of San Diego to the San Diego Revitalization Corporation, a California Not-For-Profit Corporation, and the City Of San Diego Redevelopment Agency, Owners/Permittees, pursuant to San Diego Municipal Code [SDMC] sections 126.0602, 126.0203, 126.0303, and 126.0502. The 2.857-acre site is located between Fairmount Avenue, University Avenue, 43rd Street, and Polk Avenue, in the CT-2-3 and the CU-2-3 Zones of the Central Urbanized Planned District, within the City Heights neighborhood of the Mid-City Communities Plan. The project site is legally described as Lots 1 through 8, inclusive, and 25 through 28, inclusive, in Block 46 of City Heights, Map No. 1007; Lot 1 of Fairmount Commercial Tract, Map No. 6740; Parcel 1 of Parcel Map No. 15205; together with the easterly 10 feet of the vacated unnamed alley adjacent to said Lots 25 through 28.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee to demolish existing structures and construct a mixed-use development, described and identified by size, dimension, quantity, type, and location on the approved Exhibit A, dated June 23, 2005, on file in the Development Services Department.

The project or facility shall include:

- a. The demolition of five single-family residences and a drive-through restaurant;
- b. The construction of an approximately 212,289-square-foot, mixed-use development consisting of 151 senior residential units, a medical clinic, retail

and office space in three buildings, parking, and an approximately 5,348-square-foot recreational area;

- c. Landscaping (planting, irrigation and landscape related improvements);
- d. Off-street parking facilities;
- e. Deviations for height; side setback; street side setback, rear yard, transparency requirements, open space requirement, floor area ratio, parking, and off-street loading requirements;
- f. The encroachment of the subterranean parking structure for Building 2 into the alley right-of-way and Building 1 into the street rights-of-way;
- g. 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 SDMC in effect for this site.

This project consists of four distinct building projects on separate legal parcels, described and identified by size, dimension, quantity, type, and location on the approved Exhibit A. This Permit acknowledges that each individual project may be constructed in phases, with separate and not necessarily concurrent schedules. Where permit conditions apply to site specific development conditions, fulfillment of the condition requirements shall apply to the individual project seeking a building permit or occupancy, as identified in the following requirements and conditions. The required satisfaction of conditions for any phase of the project shall be at the sole discretion of the City Manager.

STANDARD REQUIREMENTS:

- 1. 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 SDMC requirements and applicable guidelines in effect at the time the extension is considered by the appropriate decision maker.
- 2. No permit for the construction, occupancy or operation of any facility or improvement described herein shall be granted, nor shall any activity authorized by this Permit be conducted on the premises until:
 - a. The Permittee signs and returns the Permit to the Development Services Department; and

- b. The Permit is recorded in the office of the San Diego County Recorder
3. Unless this Permit has been revoked by the City of San Diego the property included by reference within this Permit shall be used only for the purposes and under the terms and conditions set forth in this Permit unless otherwise authorized by the City Manager.
 4. 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.
 5. The utilization and 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 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 applicant is informed that to secure these permits, substantial modifications to the building and site improvements to comply with applicable building, fire, mechanical and plumbing codes and State law requiring access for disabled people may be required.
 8. Before issuance of each building or grading permit, complete grading and working drawings shall be submitted to the City Manager for approval. Plans shall be in substantial conformity to Exhibit A. No changes, modifications or alterations shall be made unless appropriate application(s) or amendment(s) to this Permit have been granted.
 9. All of the conditions contained in this Permit have been considered and have been determined to be necessary in order to make the findings required for this Permit. It is the intent of the City that the holder of this Permit is required to comply with each and every condition in order to be afforded the special rights which the holder of the Permit is entitled as a result of obtaining this Permit.

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

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

11. This project shall conform to the provisions of Easement Vacation No. 116930. No building permits shall be issued prior to the recordation of Easement Vacation No. 116930.

ENVIRONMENTAL/MITIGATION REQUIREMENTS:

12. Mitigation requirements are tied to the environmental document, specifically the Mitigation, Monitoring, and Reporting Program [MMRP]. These MMRP conditions are incorporated into the permit by reference or authorization for the project.

13. As conditions of Planned Development Permit No. 116927, Neighborhood Use Permit No. 116928, Conditional Use Permit No. 116929 and Site Development Permit No. 228858, the mitigation measures specified in the MMRP, and outlined in Mitigated Negative Declaration No. 40960, shall be noted on the construction plans and specifications under the heading Environmental/Mitigation Requirements.

14. The Owner/Permittee shall comply with the MMRP as specified in the Mitigated Negative Declaration No. 40960 satisfactory to the City Manager and City Engineer. Prior to issuance of the first grading permit, all conditions of the MMRP shall be adhered to the satisfaction of the City Engineer. All mitigation measures as specifically outlined in the MMRP shall be implemented for the following issue areas: Health and Safety; Paleontology; transportation/Circulation/Parking; and Waste Management.

15. Prior to issuance of any construction permit, the applicant shall pay the Long Term Monitoring Fee in accordance with the Development Services Fee Schedule to cover the City's costs associated with implementation of permit compliance monitoring.

16. A Job Order number open to the Land Development Review Division of the Development Services Department shall be required to cover the Land Development Review Division's cost associated with the implementation of the MMRP.

AFFORDABLE HOUSING REQUIREMENTS:

17. Prior to receiving the first residential building permit, the applicant shall comply with the Affordable Housing Requirements of the City's Density Bonus Affordable Housing Requirements pursuant to California Government Code sections 65915-65918 and SDMC Chapter 14, Article 3, Division 7.

18. Prior to receiving the first residential building permit, the applicant must enter into an agreement with the San Diego Housing Commission to assure that the restricted units are provided and occupied by the appropriate households.

ENGINEERING REQUIREMENTS:

19. Prior to building occupancy, the applicant shall dedicate three and one-half feet of right-of-way along Polk Avenue to the satisfaction of the City Engineer.
20. Prior to building occupancy, a dedication of two feet will be required along the property frontage on University Avenue, as necessary, to provide for a ten-foot curb-to-property line distance along this frontage, to the satisfaction of the City Engineer.
21. Whenever street rights-of-way are required to be dedicated, it is the responsibility of the applicant to provide the right-of-way free and clear of all encumbrances and prior easements, to the satisfaction of the City Engineer. Generally, the Applicant must secure "subordination agreements" for minor distribution facilities and/or "joint-use agreements" for major transmission facilities.
22. Prior to the issuance of a building permit for each individual building site, the applicant shall obtain a grading permit for the grading proposed for that site, to the satisfaction of the City Engineer. All grading shall conform to requirements in accordance with the SDMC in a manner satisfactory to the City Engineer.
23. This project proposes to export 79,500 cubic yards of material from the project site. All export material shall be discharged into a legal disposal site. The approval of this project does not allow the processing and sale of the export material. All such activities require a separate Conditional Use Permit.
24. Prior to the issuance of grading permits, a geotechnical investigation report shall be required that specifically addresses the proposed grading plans and cites the City's Job Order No. and Drawing No. The geotechnical investigation shall provide specific geotechnical grading recommendations and include geotechnical maps, using the grading plan as a base, that depict recommended location of subdrains, location of outlet headwalls, anticipated removal depth, anticipated over-excavation depth, and limits of remedial grading.
25. Prior to the issuance of any construction permit, the Applicant 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.
26. 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.

27. 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.

28. Prior to the issuance of each construction permit the Applicant shall incorporate and show the type and location of all post-construction Best Management Practices [BMPs] on the final construction drawings, in accordance with the approved Water Quality Technical Report, to the satisfaction of the City Engineer.

29. Prior to occupancy of each building, the Applicant shall enter into a Maintenance Agreement for the ongoing permanent BMP maintenance, to the satisfaction of the City Engineer.

30. Prior to occupancy of Building 1, the Applicant shall construct concrete bus pads in accordance with MTDB Design Guidelines and City of San Diego Standard Drawing SDG-102 at the stops near the corner of Fairmount and University Avenues and the corner of 43rd Street and University Avenue, to the satisfaction of the City Engineer.

31. Prior to occupancy of each building, the Applicant shall reconstruct curb ramps in the abutting right-of-way in accordance with City Standard Drawing SDG-132 to the satisfaction of the City Engineer.

32. Prior to occupancy of each building, the Applicant shall reconstruct the alleys abutting the project site, to the satisfaction of the City Engineer.

33. Prior to occupancy for Building 2, the Applicant shall construct curb ramps at the alley intersection with Fairmount Avenue, and prior to occupancy for Building 3, the applicant shall construct curb ramps at the alley intersection at Polk Avenue, to the satisfaction of the City Engineer. Construction of curb ramps will be required for both sides of the alley.

34. Prior to occupancy of each building, the Applicant shall replace the curb along the project frontage with City standard curb and gutter, satisfactory to the City Engineer.

35. Prior to occupancy of each building, the Applicant shall replace damaged sidewalks adjacent to the site, to the satisfaction of the City Engineer.

36. All driveways and curb openings shall comply with City Standard Drawings G-14A, G-16 and SDG-100.

37. Prior to the issuance of any building permits, the applicant shall obtain an Encroachment Maintenance and Removal Agreement for private drainage facilities in the public right-of-way, to the satisfaction of the City Engineer.

38. Prior to the issuance of building permits for Building 1 or Building 2, the applicant shall obtain an Encroachment Maintenance and Removal Agreement for the proposed encroachments of subterranean parking structures within the alley right-of-way for Building 2, and into the public rights-of-way at the corner of 43rd Street and University Avenue, and the corner of Fairmount Avenue and University Avenue for Building 1, to the satisfaction of the City Engineer.

39. This project shall comply with all current street lighting standards according to the City of San Diego Street Design Manual (Document No. 297376, filed November 25, 2002) and the amendment to Council Policy 200-18 approved by City Council on February 26, 2002 (Resolution R-296141), satisfactory to the City Engineer.

40. Prior to the issuance of any building permit for Building 1 or Building 2, the applicant shall provide an exclusive northbound left-turn lane on Fairmount Avenue for the garage ramp between Building 1 and 2, to the satisfaction of the City Engineer.

41. Prior to the issuance of any building permit, the applicant shall provide a fairshare contribution towards the construction of an additional northbound right-turn lane, eastbound right-turn lane, eastbound left-turn lane and westbound left-turn lane at University/Euclid intersection to the satisfaction of the City Engineer.

42. Prior to the issuance of any building permit for Building 1 or Building 3, the applicant shall provide a shared parking agreement for 31 parking spaces for the senior housing units in Building 3 to be provided in Building 1, to the satisfaction of the City Manager. A Shared Parking Agreement should be provided for these spaces within the Building 1 parking structure.

43. Prior to the issuance of any building permit for Building 1 or Building 2, the applicant shall provide a mutual access agreement between the property owners of Building 1 and Building 2 for the use of the garage ramp (located on Building 1) to Building 2, to the satisfaction of the City Manager.

LANDSCAPE REQUIREMENTS:

44. In the event the Landscape Plan and the Site Plan conflict, the Site Plan shall be revised to meet the Landscape Regulations.

45. Prior to issuance of any construction permits for each structure (including shell), complete landscape and irrigation construction documents consistent with the Landscape Standards (including planting and irrigation plans, details and specifications) for each building shall be submitted to the City Manager for approval. The construction

documents shall be in substantial conformance with Exhibit A, Landscape Development Plan.

46. Prior to issuance of any construction permit for each parking structure, the Permittee shall submit on the planting and irrigation plans for each structure 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.

47. Prior to issuance of each engineering permit for right-of-way improvements, except water and sewer relocation improvement plans, complete landscape construction documents for right-of-way and median (if applicable) improvements shall be submitted to the City Manager for approval. Improvement plans shall take into account a forty-square foot area around each tree which is unencumbered by utilities. Driveways, utilities, drains, water and sewer laterals shall be designed so as not to prohibit the placement of street trees.

48. Prior to the issuance of engineering permits for water and sewer relocation improvement plans, plans shall be approved by the City Manager for landscape purposes. Improvement plans shall take into account a forty-square foot area around each tree which is unencumbered by utilities. Driveways, utilities, drains, water and sewer laterals shall be designed so as not to prohibit the placement of street trees.

49. 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.

50. Prior to issuance of a Certificate of Occupancy for each building, it shall be the responsibility of the Permittee or subsequent Owner to install all required landscape and obtain all required landscape inspections, to the satisfaction of the City Manager. A No Fee Street Tree Permit, if applicable, shall be obtained for the installation, establishment and on-going maintenance of all street trees.

51. 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. The trees shall be maintained in a safe manner to allow each tree to grow to its mature height and spread.

52. 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.

53. Prior to issuance of any Certificate of Occupancy, it shall be the responsibility of the Permittee or subsequent Owner to install and establish permanent erosion control in the future park area in the event construction of the park has not started.

PLANNING/DESIGN REQUIREMENTS:

54. No fewer than a total of 404 off-street parking spaces shall be maintained on the property at all times in the approximate locations shown on the approved Exhibit A. Parking spaces shall comply at all times with the SDMC and shall not be converted for any other use unless otherwise authorized by the City Manager.

55. 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 a 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.

56. 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.

57. Deviations approved:

- a. A maximum structure height of 87'-2" where 50'-0" is the maximum permitted, per SDMC section 151.0242, Table 151-02D;
- b. A 2'-6" side yard setback for Building 3 where up to 10 feet is required, per SDMC section 151.0242, Table 151-02D;
- c. A 15'-0" street side yard setback along 43rd Street for Building 1 where a maximum of ten feet is required for 30 percent of the street side yard, per SDMC section 151.0242, Table 151-02D;
- d. A 6'-8" rear yard setback for Building 2 where up to ten feet is required, per SDMC section 151.0242, Table 151-02D;
- e. A deviation from the transparency requirements where 50 percent of the building wall between three feet and ten feet above grade for Building 3 shall be transparent into a commercial or residential use, per SDMC Section 131.0552;
- f. A deviation from the open space requirement where 750 square feet of open space is required per dwelling unit for Building 3, per SDMC Section 151.0253(a)(3)(A);

- g. A floor area ratio of 1.75 where 1.50 is the maximum permitted for Buildings 1, 2 and 3, per SDMC Section 151.0242, Table 151-02D;
- h. A reduction of the required number of parking spaces (79 spaces provided where 110 spaces are required) for Building 3, per SDMC Section 142.0530; and
- i. A deviation from the off-street loading requirement for Building 2 to one space, where two spaces are required, per SDMC Section 142.1010(a).

58. 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 Permittee.

59. 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.

60. Housing for senior citizens shall meet the requirements of one of the following:

- a. "Housing for older person" as defined in 42 United States Code section 3607(b) of the Fair Housing Act Amendments of 1988 and 24 code of Federal Regulations, section 100.304; or
- b. "Senior citizen housing development" as defined in section 51.3 of the California Civil Code.

61. The senior housing is to remain affordable (as defined by the Housing Commission) to very-low income seniors in perpetuity. Prior to issuance of the building permit, the applicant is required to provide a copy of the agreement between all parties.

62. Overnight patients are not permitted at the Outpatient Medical Clinic (Building 2).

63. The Outpatient Medical Clinic shall remain closed between the hours of 12:00 midnight and 6:00 a.m.

64. All signs associated with this development shall be consistent with sign criteria established by the Citywide sign regulations.

65. 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.

66. Parking areas shall be lighted for the safety of tenants. Lighting shall be of a design that deters vandalism. Prior to the issuance of the building permits, the location, type and size of the proposed lighting fixtures shall be specified on the construction plans.

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

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

69. All uses, except storage and loading and activities at the park, shall be conducted entirely within an enclosed building. Outdoor storage of merchandise, material and equipment is permitted in any required interior side or rear yard, provided the storage area is completely enclosed by walls, fences, or a combination thereof. Walls or fences shall be solid and not less than six feet in height and, provided further, that no merchandise, material or equipment stored not higher than any adjacent wall.

70. No mechanical equipment, tank, duct, elevator enclosure, cooling tower, 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, architecturally integrated structure whose top and sides may include grillwork, louvers, and latticework.

71. Prior to the issuance each building permit, construction documents shall fully illustrate compliance with the Citywide Storage Standards for Trash and Recyclable Materials (SDMC) 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.

PARK AND RECREATION REQUIREMENTS:

72. Prior to issuance of Certificate of Occupancy for Building 3 (the senior housing facility), the applicant shall convey the deed to the park property to the Redevelopment Agency pursuant to the Disposition and Development Agreements and purchase agreements approved by the Redevelopment Agency on May 3, 2005, by Resolution Nos. R-03900, R-03901, R-03905 and R-03906.

73. Prior to issuance of Certificate of Occupancy for Building 3 (the senior housing facility), the applicant shall enter into an agreement with the City of San Diego to provide maintenance and operations for the park in perpetuity pursuant to the Disposition and Development Agreements on May 3, 2005, by Resolution Nos. R-03900 and R-03905, and shall run with the land in case of change of property ownership.

74. Prior to issuance of the Certificate of Occupancy for the final building, the applicant shall enter into an agreement with the City of San Diego to provide a General

Development Plan and construction drawings for the park and associated recreational facilities. The General Development Plan shall be in substantial conformance with the most current edition of the City Park and Recreation Department's "Consultants Guide to Park Design and Development," and be in accordance with Council Policy 600-33, Community Notification And Input For City-Wide Park Development Projects.

75. The construction drawings for the approved General Development Plan shall be in substantial conformance with the most current editions of the City of San Diego Standard Drawings, Standard Specifications for Public Works Construction (Greenbook), California Building Code and all federal, state and local codes and regulations.

WASTEWATER REQUIREMENTS:

76. 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.

77. Prior to the issuance of any grading or building permits, the developer shall relocate on-site public sewer mains, satisfactory to the Metropolitan Wastewater Department Director. All associated public easements shall be vacated, satisfactory to the Metropolitan Wastewater Department Director.

78. 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.

79. 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.

80. No trees or shrubs exceeding three feet in height at maturity shall be installed within ten feet of any public sewer facilities.

WATER REQUIREMENTS:

81. Prior to the issuance of any building permits, including foundation, the Owner/Permittee shall assure, by permit and bond, the design and construction of new 12-inch public water facilities in Fairmount Avenue from University Avenue to Polk Avenue, in a manner satisfactory to the Water Department Director and the City Engineer.

82. Prior to the issuance of any building permits, including foundation, the Owner/Permittee shall cut, plug, and abandon the existing public water facilities, located within the easement to be vacated traversing the project site, in a manner satisfactory to the Water Department Director and the City Engineer.

83. Prior to the issuance of any building permits, the Owner/Permittee shall assure, by permit and bond, the design and construction of new water service(s) outside of any vehicular use area, in a manner satisfactory to the Water Department Director and the City Engineer.

84. Prior to the issuance of any building permits, the Owner/Permittee shall apply for a plumbing permit for the installation of appropriate private back flow prevention device on each water service, existing or proposed, in a manner satisfactory to the Water Department Director and the City Engineer.

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

86. The Owner/Permittee agrees to design and construct all proposed public water facilities in accordance with established criteria in the most current edition of the City of San Diego Water Facility Design Guidelines and City regulations, standards and practices pertaining thereto. Public water facilities, as shown on the approved Exhibit A, shall be modified at final engineering to conform to standards.

REDEVELOPMENT AGENCY REQUIREMENTS:

87. The developer shall comply with the requirements of the Disposition and Development Agreement between the Redevelopment Agency of the City of San Diego and City Heights Square LP and the Disposition and Development Agreement between the Redevelopment Agency of the City of San Diego and San Diego Revitalization Corporation, approved by the City Council and Redevelopment Agency on May 3, 2005, as long as these agreements are in effect.

88. The developer shall reserve the park parcel for the exclusive use as a public park, in accordance with a Purchase and Sale Agreement between San Diego Revitalization Corporation and the Redevelopment Agency, approved on May 3, 2005, the Redevelopment Agency shall acquire the park site from San Diego Revitalization Corporation for the purpose of conveying the site to the City for a public park.

INFORMATION ONLY:

- This Development is subject to Development Impact Fees [DIF], the Mid-City Special Park Fee [SPF], and a Housing Trust Fund [HTF] fee. The fees in effect at the time building permits are issued will be the effective rate.
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- 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 on June 28, 2005, by
Resolution No. R-300623

AUTHENTICATED BY THE CITY MANAGER

By _____

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
Owner/Permittee

By _____

By _____

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

PERMIT/OTHER – Permit Shell 11-01-04