

RESOLUTION NUMBER R- 301981

DATE OF FINAL PASSAGE OCTOBER 10, 2006

WHEREAS, Tierrasanta Christian Church and Shappell Industries, Inc., Owner/ Permittee, filed an application with the City of San Diego for a site development permit and conditional use permits and a multi-habitat planning area boundary adjustment to demolish the existing church building, YMCA daycare building and associated surface parking, and to construct sixty residential condominium units and one commercial condominium unit and relocate four existing wireless telecommunication facilities, for the project known as the Tierrasanta Townhomes project, located at 11445 Tierrasanta Boulevard, and legally described as a portion of Lot 301 of El Dorado Hills, Unit 13, Map No. 9151, in the Tierrasanta Community Plan area, in the RS-1-7 zone which is proposed to be rezoned to the RM-1-1 zone; and

WHEREAS, on May 25, 2006, the Planning Commission of the City of San Diego considered Site Development Permit [SDP] No. 330475, Conditional Use Permit [CUP] Nos. 287678, 287680, 287681, 287682, and Multi-Habitat Planning Area [MHPA] Boundary Adjustment, and pursuant to Resolution No. 4042-PC voted to recommend City Council approval of the Permits; and

WHEREAS, under Charter section 280(a)(2) this resolution is not subject to veto by the Mayor because this matter requires the City Council to act as a quasi-judicial body and where a public hearing was required by law implicating due process rights of individuals affected by the decision and where the Council was required by law to consider evidence at the hearing and to make legal findings based on the evidence presented; and

WHEREAS, after approval of the above referenced project by the City Council, Shappell Industries, Inc., part Owner, transferred the property to ISD Property Investments, LLC, thereby making ISD Property Investments, LLC the new part Owner of the Tierrasanta Townhomes project; and

WHEREAS, the matter was set for public hearing on October 10, 2006, 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 Site Development Permit No. 330475, Conditional Use Permit Nos. 287678, 2876680, 287681, 287682, and a MHPA Boundary Adjustment:

A. SITE DEVELOPMENT PERMIT – SAN DIEGO MUNICIPAL CODE [SDMC] SECTION 126.0504

1. Site Development Permits

a. The proposed development will not adversely affect the applicable land use plan. The project site is located at 11445 Tierrasanta Boulevard, within the Tierrasanta Community Plan area. The proposed development of sixty residential condominium units and one commercial condominium unit and related improvements will be consistent with the Tierrasanta Community Plan with the concurrent approval of the rezone associated with the permit. Approximately 2.5 acres of the 6.86-acre site is currently developed with a church building, YMCA daycare, and associated surface parking. The land use designation for this property is Open Space and will not be acquired by the City. The proposed sixty residential condominium unit project will implement the Land Use Plan which states that for open space which will not be acquired by the City should be allowed to be developed at the same residential density as adjacent properties. The proposed development is adjacent to the El Dorado Apartments which is a multifamily residential development, located to the north and west along Tierrasanta Boulevard. The community plan states that that a density between 5 and 10 dwelling units per acre [du/acre] is acceptable to the Planned Residential Development for El Dorado. The proposed project is designed to cluster the residential development in order to retain the maximum amount of open space and protect view corridors to the south, as recommended in the community plan. Therefore, the proposed density of 9 du/acre development is consistent with the Land Use Plan.

b. The proposed development will not be detrimental to the public health, safety, and welfare. The proposed development of sixty residential condominium units and one commercial condominium unit and related improvements will provide the necessary sewer and water facilities to serve the residents. Police and Fire currently serve the site. The project site is located in the Eastern Division which is located at 9225 Aero Drive. Average emergency response times (Priority E) in the Eastern Division are 8.52 minutes and Priority One response times are 13.42 minutes. The nearest fire station is Fire Station 38, located at La Cuenta and Tierrasanta Boulevard. The average response times to the project site is 3.3 minutes and are consistent with the City's General Plan Standards. The project will also employ the latest brush management requirements for fire safety. The development will also provide for the health, safety, and welfare of the residents by incorporating mitigation measures as contained in the Mitigation, Monitoring and Reporting Program [MMRP] and through the use of efficient building materials and techniques. The project will comply with all relevant regulations of the City of San Diego's Municipal Code including deviations requested through the sustainable expedite program, the California Building Code, Title 24 Electrical, Mechanical and Fire Codes addressing the public health, safety and general welfare. The conditions of approval for the project require continued compliance with these regulations during the construction and during the use of the site.

The permit prepared for the project includes various conditions and referenced exhibits of approval relevant to achieving project compliance with the applicable regulations of the San Diego Municipal Code in effect for this project. Such conditions have been determined by the decision-maker as necessary to avoid adverse impacts upon the health, safety and general welfare of persons residing or working in the surrounding area. As such the proposed development will not be detrimental to the public health, safety, and welfare

c. The proposed development will comply with the applicable regulations of the Land Development Code. With the exception of the deviations requested with this application, which are appropriate for this location, the proposed development of sixty residential condominium units with related improvements and one commercial condominium unit in all other respects complies with the Land Development Code. All other requirements including density, and parking requirements will comply with the regulations of the Land Development Code, reflecting the desired development patterns of the area and accommodating the need for future growth.

2. Environmentally Sensitive Lands

a. The site is physically suitable for the design and siting of the proposed development and the development will result in minimum disturbance to environmentally sensitive lands. Approximately 2.5 acres of the 6.86-acre site is currently developed with a church building, YMCA daycare, and associated surface parking. The proposed development will occupy approximately 2.93 acres with a majority of the proposed development remaining within the previously developed portion of the site. Permanent and temporary impacts on the undeveloped portions of the site would be limited to areas directly adjacent to the western and southern boundaries of the proposed development and along Tierrasanta Boulevard. Prior to April 2005, the [MHPA] boundary had extended across about half of the existing paved parking lot located onsite. Coordination with the City resulted in the removal of a 0.80-acre area from the

MHPA through an MHPA boundary correction. The proposed development would still encroach approximately 0.1-0.2 acres into the MHPA at the northern and northwestern portions of the project. This impact is minimal and will be fully mitigated by the proposed adjustment to the MHPA boundary. In addition, the applicant is proposing to exchange the 0.1 to 0.2-acre degraded area with an area of higher quality coastal sage scrub onsite and directly outside of the MHPA boundary. The project has been designed to comply with the land use adjacency guidelines and the Multiple Species Conservation Program [MSCP] general management directives. Therefore, the proposed development would be consistent with the City of San Diego's MSCP Subarea Plan and will result in a minimum disturbance to the Environmentally Sensitive Lands.

b. The proposed development will minimize the alteration of natural land forms and will not result in undue risk from geologic and erosional forces, flood hazards, or fire hazards. The proposed project will grade the site in a manner consistent with all relevant City of San Diego regulations and the Tierrasanta Community Plan, and will preserve the structural character of the natural landforms and open space while also allowing for sixty residential units and related improvements and one commercial condominium unit. The proposed project will preserve approximately 3.93 acres of the site and grade the remaining 2.93 acres, of which 2.5 acres are already developed, in a manner that results in minimal topographic alteration. The area proposed for grading is the least sensitive topographically and is the most suitable area for development since it has been previously developed and the general topographic character will be retained. All manufactured slopes will be planted with species capable of reducing and eventually preventing soil erosion from wind and rain. All slopes will be constructed in a manner consistent with current geotechnical and engineering standards. Therefore, the proposed development will not present undue risks to persons living or working in the area. The site is not located in an area prone to flooding and risks to persons or property from flooding is not present. A brush management plan will also be implemented to assure a reduction in the risks associated from wild fires to persons or property. In these ways the development will minimize the alteration of natural land forms; will not pose risks from geological and erosional forces and/or flood and fire hazards.

c. The proposed development will be sited and designed to prevent adverse impacts on any adjacent environmentally sensitive lands. The site is physically suitable for the design and siting of the proposed residential units and open space areas. The proposed development area is consistent with previous limits of disturbance associated with the existing church onsite and proposes only a minor encroachment into the MHPA at the northern and northwestern portions of the project. The project has been designed to comply with the land use adjacency guidelines and the MSCP general management directives.

The proposed project design is compatible with the surrounding land uses and will serve as an extension of the adjacent existing multi-family residential development while preserving the open space on-site and off-site as specified in the Tierrasanta Community Plan. Therefore, the design of the development prevents any adverse impacts to the adjacent Environmentally Sensitive Lands.

d. **The proposed development will be consistent with the City of San Diego's Multiple Species Conservation Program [MSCP] Subarea Plan.** The project's consistency with the City of San Diego's Multiple Species Conservation Program is addressed in the Biological Survey Report for the proposed project. The proposed development area is consistent with previous limits of disturbance associated with the existing church onsite and proposes only a minor encroachment into the MHPA area at the northern and northwestern portions of the project. An adjustment to the existing MHPA boundary is proposed to ensure a non-reduction in the biological value of the MHPA through the exchange of an area with higher biological value onsite than the degraded area.

According to the City's MSCP Plan, adjustments to the MHPA boundary may be made without amending the Subarea Plan or the MSCP in cases where the new MHPA boundary preserves an area with equivalent or greater biological value. Final determination regarding the biological value of a proposed boundary change will be made by the City per the MSCP Plan and with concurrence of the wildlife agencies. The net result of the proposed boundary adjustment would be an overall increase of higher quality habitat in the MHPA.

Therefore, the proposed development is consistent with the City of San Diego's MSCP Subarea Plan.

e. **The proposed development will not contribute to the erosion of public beaches or adversely impact local shoreline sand supply.** The proposed project located at 11445 Tierrasanta Boulevard is located approximately 10 miles inland and therefore would not contribute to the erosion of public beaches nor would it impact the local shoreline sand supply.

f. **The nature and extent of mitigation required as a condition of the permit is reasonably related to, and calculated to alleviate, negative impacts created by the proposed development.** An initial study has been conducted for the analysis of the proposed development of sixty residential units located at 11445 Tierrasanta Boulevard and concluded that a Mitigated Negative Declaration is the appropriate CEQA document for the project. Mitigation measures associated with the proposed development have been incorporated into the requirements of the Site Development Permit. Thus all mitigation reasonably related to and calculated to alleviate negative impacts created by the proposed development has been or will be incorporated into the development permit.

B. CONDITIONAL USE PERMIT – SDMC SECTION 126.0305:

1. Findings for all Conditional Use Permits

a. **The proposed development will not adversely affect the applicable land use plan.** The proposed development of sixty residential units and one commercial condominium unit located at 11445 Tierrasanta Boulevard also includes the relocation of a wireless collocation facility consisting of four carriers with a total of twenty-two antennas. The antennas are being relocated from the existing church facility so that they are completely integrated into the condominium project. Neither the City of San Diego General Plan nor the Tierrasanta Community Plan address wireless communication facilities as a specific land use. Pursuant to the San Diego Land Development Code, wireless communication facilities are

permitted in all zones citywide with the appropriate permit process. Wireless communication facilities are separately regulated uses, which have limitations or require compliance with conditions in order to minimize potential impacts. The intent of the regulations is to camouflage facilities from public view. In this case, the existing antennas are being incorporated into the redevelopment of the property from the existing church use to a multi-unit residential use. The existing exposed antenna facility will be removed and the antennas will be relocated into a cupola on top of Building 9 and will not be visible to future residents of the complex nor the surrounding community. The equipment will be located behind and 6 feet below Building 9 in an equipment yard. The proposal is part of an existing collocation that includes four providers. Each provider will maintain an equipment shelter in the designated portion of the property below the residential complex. Each shelter will be designed with similar architectural elements as the condominium complex and will be approximately 200 square feet in area. The shelters will be open on the top with lattice covers and will not require air conditioning units. Routine maintenance of the facility will be restricted to normal business hours Monday through Friday, thereby minimizing potential impact on the complex or the surrounding neighborhood. Therefore, the proposed development would not adversely affect the Tierrasanta Community Plan or the City of San Diego General Plan and Progress Guide.

b. The proposed development will not be detrimental to the public health, safety, and welfare. The Telecommunication Act of 1996 preempts local governments from regulating the “placement, construction and modification of wireless communication facilities on the basis of the environmental effects of Radio Frequency [RF] emissions to the extent that such facilities comply with the Federal Communication Commission’s [FCC] standards for such emissions.” To insure the proposed project would be consistent with the FCC’s regulations for wireless facilities, a condition has been added to the permit to require each carrier to perform a cumulative model RF test and submit the findings in a report to the City of San Diego prior to the issuance of building permits for the condominium development. Based on this, the project would not result in any significant health or safety risks to the surrounding area.

c. The proposed development will comply to the maximum extent feasible with the regulations of the Land Development Code. In an effort to relocate the existing wireless facilities and comply with Section 141.0405 of the Land Development Code in terms of fully integrating the facilities into the development, the cupola addition to Building 9 exceeds the 30 foot maximum height limit of the RM-1-1 zone. The overall height of Building 9 is proposed at 40 feet 7 inches. This increase allows the antennas of four wireless providers to be incorporated into a completely stealthed facility that will appear as an architectural element rather than a wireless facility. This proposal complies with Section 141.0405; however, a Site Development Permit is required since the project does not comply with the height limitation of the RM-1-1 zone. See Site Development Permit findings.

d. The proposed use is appropriate at the proposed location. Council Policy 600-43 sets forth locational categories that establish a hierarchy from most preferred locations to least preferred locations. Residential uses are the least preferred locations for telecommunication facilities; however this particular collocation project is part of an effort to redevelop the existing church site into condominiums. The four existing projects do not comply with Section 141.0405 of the Land Development Code, as they were developed individually over the past ten years when the requirements for integration and concealment did not exist. The

property owner currently has active leases with each of the carriers and each of the carriers have active permits with the City. Rather than terminate the leases, the applicant chose to integrate the facilities into the condominiums as a completely stealth site. The antennas will not be visibly apparent as they are located behind a fourth story screen wall on Building 9. The equipment shelters are located below Building 9 and will utilize similar building materials and colors as the condominiums. Additionally, they will be screened by Greenscreen and landscape materials. The collocation facility is appropriately located within the context of the proposed project.

2. Deviations for Sustainable Buildings

a. The proposed development will materially assist in reducing impacts associated with fossil fuel energy use by utilizing alternative energy resources, self-generation and other renewable technologies (e.g. photovoltaic, wind and/or fuel cells) to generate electricity needed by the building and its occupants. The project meets the requirement for the Sustainable Buildings definition as established by Council Policy 900-14. Each residential unit will be provided a photovoltaic system which will supply more than fifty percent of the project's total energy consumption with a 1590 watt dc solar photovoltaic system. This proposal offers a higher-end housing alternative and state of the art technology for energy savings. This system will aide in reducing the energy costs for each residential unit.

b. The development will not be inconsistent with the purpose or the underlying zone. The 6.86 acre site is currently zoned for single family residential RS-1-7. The Tierrasanta Community Plan designates the site for open space and is currently developed with a church building, YMCA daycare, and associated surface parking. The Plan recommends that for open space which will not be acquired by the City should be allowed to be developed at the same residential density as adjacent properties. This site is adjacent to the El Dorado Apartments which is a multifamily residential development, located to the north and west along Tierrasanta Boulevard. The community plan states that that a density between 5 and 10 du/acre is acceptable to the Planned Residential Development for El Dorado. The proposed project is designed to cluster the residential development in order to retain the maximum amount of open space and protect view corridors to the south, as recommended in the community plan. Therefore, staff found the proposed density of 9 du/acre acceptable for this development.

The site is currently zoned for single family residence, RS-1-7. The applicant is requesting a rezone to RM-1-1. This rezone would allow development on the site with a density consistent with the adjacent multi-family development as recommended by the community plan and is therefore consistent with the community plan.

The Tierrasanta Townhomes project proposes the demolition of the existing church and the consolidation of four existing wireless facilities into one architecturally integrated facility with the construction of sixty multi-family (for sale) residential units and one commercial condominium unit. The San Diego Municipal Code allows for flexibility in the application of development regulations for projects where strict application of the base zone development regulations would restrict design options and result in a less desirable project, through the processing of a Site Development Permit in conjunction with the Sustainable Buildings Program. The proposed development is in full compliance with the Land Development Code with the

exception of the height limit, the front and side yard setbacks, retaining wall regulations, refuse and recyclable storage, and private open space.

Height:

The applicant is requesting to deviate from the required height limit of 30 feet to a maximum height of 40'-7" for Building 9 in order to accommodate the architectural integration of four existing wireless facilities into the overall design of the project. The remaining eight buildings would not exceed 38 feet in height. The increase in height for the remaining buildings will not cause visual impacts.

Front Yard Setback:

The applicant is proposing to deviate from the required 15 foot minimum/20 foot standard front yard setback. A 5-foot minimum front yard setback is proposed along the portion of the lot adjacent to Tierrasanta Boulevard. Buildings 1, 2, 8, and 9 cannot be located any further away from the front property line due to constraints resulting from the existing MHPA boundary and open space easement. In addition, Buildings 1 and 2 cannot be moved any further away because access into the site would be affected. Losing units to address the setback deviation would not implement the Community Plan density for the site. Also, the ability to conform with the City's Brush Management regulations would be impacted the more the buildings are shifted towards the rear property line. The irregular shape of the lot also adds to the inability to conform to the front yard setback requirement.

Side Yard Setback:

The side yard zoning standard is 5 feet or 10 percent of the lot width (approximately 150 feet), whichever is greater. The applicant is proposing to deviate from the required side yard setback along the southeastern property line and is proposing a 140-foot side yard due to the existing MHPA boundary and open space easement.

Retaining Walls:

Retaining walls are required within the front and rear yards that exceed the height limits permitted within those areas. Given the existing topographic constraints of the project site, the necessary retaining walls are as follows:

- The maximum permitted retaining wall height within the required front yard setback is 3 feet. There is a retaining wall at the southeastern corner of the lot that projects into the required front yard setback. The wall within the front yard ranges in height from 3 to 15 feet and is 140 feet long.

- The maximum permitted retaining wall height outside of any setback is 12 feet. There are three walls that exceed this height. These walls do not exceed 16.5 feet in height as follows:

12-16-feet; 210-feet long; upper 3-feet of wall is transparent tubular steel.

12-16-feet; 40-feet long; upper 4.5-feet of wall is transparent tubular steel.

12-16.5-feet; 140 feet long; upper 4.5-feet of wall is transparent tubular steel.

- The maximum permitted retaining wall height within the required rear yard is 6 feet. There are two retaining walls along the southwestern portion of the lot that exceed the height limit:

6-20-feet high; 100 feet long (40-feet of the wall is 18-20-feet high);
upper 3 feet is tubular steel.

9-16-feet high; 40-feet long upper 4.5-feet of the wall is tubular steel.

Private Open Space:

Due to the site constraints on the property, the secondary balconies along the northeastern property line (front yard) cannot count towards the private open space because they are not at least 9 feet away from the property line. The required private open space for the project is 3,600 square feet; the project now provides 3,356 square feet (a shortage of 244 square feet). If the balconies were counted, the project would be providing 3,848 square feet of private open space. However, the project does provide over 17,000 square feet of common open space, when only 1,500 square feet is required. In addition, an enhanced landscaped area just off the front of the project would provide over 65,000 square feet of open space.

The buildings were shifted away from the front property line as much as possible, but buildings cannot be located any further away from the front property line due to constraints resulting from the existing MHPA boundary and open space easement. In addition, Buildings 1 and 2 cannot be moved any further away because access into the site would be affected. Losing units to address the setback deviation would not implement the community plan density for the site. Also, the ability to conform with the City's Brush Management regulations would be impacted the more the buildings are shifted towards the rear property line. The irregular shape of the lot also adds to the inability to conform with the stipulation that private open space be located at least 9 feet from the front property line.

Refuse and Recycling Storage:

The project does not meet the City's refuse and recycling materials storage requirements in that each structure is not provided with one exterior storage area with at least 288 square feet for the entire development. However, the storage areas that are provided for the entire project total 360 square feet. Due to site constraints (lot configuration, MHPA boundary, brush management, site access) it is not feasible to provide storage areas for each structure. In addition, providing a storage area per structure would impact the pedestrian orientation of the project. The project does

exceed the total requirement for refuse and recycling materials storage and it is located in the proximity of each building. Each of the requested deviations are appropriate for this location and would 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 development has otherwise been designed and conditioned to ensure conformance with the requirements of the City of San Diego Land Development Code. The project would be beneficial to the community by allowing for the provision of sixty multi-family residential units when the City is experiencing a shortage of housing units. Therefore, based on the above, the project would comply with the applicable regulations of the Land Development Code.

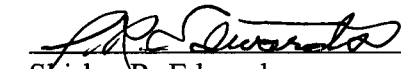
Any proposed deviations are appropriate for this location and will result in a more desirable project than would be achieved if designed in strict conformance with the development regulations of the applicable zone. Not allowing the requested deviations would limit the development potential of the property as well as the ability to meet the existing Community Plan designation of 10-15 dwelling units per acre (low-medium density). Under the existing zoning (RS-1-7), only twenty-six dwelling units could be developed, resulting in a density of four dwelling units per acre. The proposed rezone to RM-1-1 allows the site to be developed at the existing designation while utilizing a townhome product and the proposed deviations further ensure that the Community Plan density can be achieved. This project qualified for this program as each residential unit will provide a PV system supplying more than 50 percent of the project's total energy consumption with a 1590 watt dc solar PV system which will showcase state-of-the-art solar products. The project meets the requirement for the Sustainable Buildings definition as established by Council Policy 900-14. The applicant intends to exceed the 50 percent minimum with a goal of 100 percent of the total energy use for the new residential units. The photovoltaic system would be located on the roofs of the proposed structures.

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

BE IT FURTHER RESOLVED, that Site Development Permit No. 330475, Conditional Use Permit Nos. 287678, 287680, 287681, and 287682, are granted to Tierrasanta Christian Church and ISD Property Investments, LLC, Owner/Permittee, under the terms and conditions set forth in the permit attached hereto and made a part hereof.

BE IT FURTHER RESOLVED, that the MHPA boundary adjustment as shown on Site
Development Permit No. 330475 is approved.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By 
Shirley R. Edwards
Chief Deputy City Attorney

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07/22/06 COR.COPY
10/30/06 REV.COPY
01/16/07 REV.COPY.1
03/27/07 COR.COPY.2
10/16/07 COR.COPY 3
Or.Dept:DSD
R-2007-8
MMS#3454

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

WHEN RECORDED MAIL TO
CITY CLERK
MAIL STATION 2A

SPACE ABOVE THIS LINE FOR RECORDER'S USE

JOB ORDER NUMBER 42-3960

SITE DEVELOPMENT PERMIT NO. 330475
TIERRASANTA TOWNHOMES [MMRP]
CITY COUNCIL

This Site Development Permit [SDP] is granted by the Council of the City of San Diego to Tierrasanta Christian Church and ISD Property Investments, LLC, Owner/Permittee, pursuant to San Diego Municipal Code [SDMC] section 126.0502. The 6.86-acre site is located at 11445 Tierrasanta Boulevard in the RS-1-7 (proposed RM-1-1) zone of the Tierrasanta Community Plan area. The project site is legally described as a portion of Lot 301 of El Dorado Hills, Unit 13, Map No. 9151.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee to construct sixty residential condominium units and one commercial condominium unit on a 6.86-acre site at 11445 Tierrasanta Boulevard. The existing 1-story church building, YMCA daycare building, and associated surface parking would be demolished, as described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated October 10, 2006, on file in the Development Services Department. This Site Development Permit rescinds Conditional Use Permit No. 17951.

The project or facility shall include:

- a. Demolition of an existing church building, YMCA daycare building, and associated surface parking;
- b. Construction of sixty unit residential condominium development totaling approximately 88,796 square feet of gross floor area within nine buildings with attached 2-car garages for each unit and deviations to the development regulations;
- c. One commercial condominium for the purpose of housing telecommunications equipment.
- d. Landscaping (planting, irrigation and landscape related improvements);

- e. A roof mounted photovoltaic system sufficient to generate at least 50 percent of the projects projected energy consumption.
- f. 151 off-street parking spaces and facilities; and
- 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.

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. In accordance with authorization granted to the City of San Diego from the United States Fish and Wildlife Service [USFWS] pursuant to Section 10(a) of the ESA and by the California Department of Fish and Game [CDFG] pursuant to Fish and Game Code section 2835 as part of the Multiple Species Conservation Program [MSCP], the City of San Diego through the issuance of this Permit hereby confers upon Permittee the status of Third Party Beneficiary as provided for in Section 17 of the City of San Diego Implementing Agreement [IA], executed on July 16, 1997, and on file in the Office of the City Clerk as Document No. OO-18394. Third Party Beneficiary status is conferred upon Permittee by the City: (1) to grant Permittee the legal standing and legal right to utilize the take authorizations granted to the City pursuant to the MSCP within the context of those limitations imposed under this Permit and the IA, and (2) to assure Permittee that no existing mitigation obligation imposed by the City of San Diego pursuant to this Permit shall be altered in the future by the City of San Diego, USFWS, or CDFG, except in the limited circumstances described in Sections 9.6 and 9.7 of the IA. If mitigation lands are identified but not yet dedicated or preserved in perpetuity, maintenance and continued recognition of Third Party Beneficiary status by the City is contingent upon Permittee maintaining the biological values of any and all lands committed for mitigation pursuant to this Permit and of full satisfaction by Permittee of mitigation obligations required by this Permit, as described in accordance with Section 17.1D of the IA.

8. 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.

9. 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." No changes, modifications or alterations shall be made unless appropriate application(s) or amendment(s) to this Permit have been granted.

10. 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 be 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.

ENVIRONMENTAL/MITIGATION REQUIREMENTS:

11. 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.

12. As conditions of Site Development Permit No. 330475 and Vesting Tentative Map No. 334358 with an Open Space Easement Abandonment No. 184493, the mitigation measures specified in the MMRP, and outlined in Mitigated Negative Declaration No. 61500 shall be noted on the construction plans and specifications under the heading ENVIRONMENT/MITIGATION REQUIREMENTS.

13. The Owner/Permittee shall comply with the Mitigation, Monitoring, and Reporting Program [MMRP] as specified in Mitigated Negative Declaration No. 61500 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, to the satisfaction of the City Engineer. All mitigation measures as specifically outlined in the MMRP shall be implemented for the following issue areas:

- Biological Resources and Multi-Habitat Planning Area [MHPA]
- MHPA Land Use Adjacency
- Historical Resources (Archeology)
- Paleontological Resources

AFFORDABLE HOUSING REQUIREMENTS:

14. Prior to the issuance of any building permits, the developer shall comply with the Affordable Housing Requirements of the City's Inclusionary Housing Ordinance (Chapter 14, Article 2, Division 13 of the Land Development Code [LDC]).

BRUSH MANAGEMENT PROGRAM REQUIREMENTS:

15. Prior to issuance of any engineering permits for grading, landscape construction documents required for the engineering permit shall be submitted showing the brush management zones on the property in substantial conformance with Exhibit "A."

16. Prior to issuance of any building permits, a complete set of brush management construction documents shall be submitted for approval to the City Manager and the Fire Marshall. The construction documents shall be in substantial Conformance with Exhibit "A" and shall comply with the Uniform Fire Code, SDMC 55.0101, the Landscape Standards, and LDC section 142.0412 (Ordinance - 18451).

17. The Brush Management Program shall consist of one and two zones consistent with the Brush Management Regulations of LDC section 142.0412 as follows:

- North, West, and South portions of the property shall consist of a standard Zone One of 35-ft and standard Zone Two of 65-ft. A modified Zone One of 98-ft shall extend south of Bldg 1. East portions of the property shall

consist of a modified Zone One ranging from 60-ft at Bldg 2 to 72-ft at Bldg 4 to 55-ft at Bldg 7 to 58-ft at Bldg 8, with a modified Zone Two of 12-ft from Buildings 2 through 8. In addition, all structures shall be of 1-hr fire-rated construction.

All new construction within 300 feet of the boundary between Brush Management Zone One and Brush Management Zone Two shall comply with building standards and policy per 2001 California Building Code, San Diego Municipal Code Chapter 14, Article 5, Division 5 and Chapter 14, Article 2, Division. 4.

Within Zone One, combustible accessory structures (including, but not limited to decks, trellises, gazebos, etc.) are not permitted, while non-combustible accessory structures may be approved within the designated Zone One area subject to Fire Marshall and the City Manger's approval.

18. The following note shall be provided on the Brush Management Construction Documents: "It shall be the responsibility of the Owner/Permittee to schedule a pre-construction meeting on site with the contractor and the development Services Department to discuss and outline the implementation of the Brush Management Program."

19. In Zones One and Two, plant material shall be selected to visually blend with the existing hillside vegetation. No invasive plant material shall be permitted as jointly determined by the Landscape Section and the Environmental Analysis Section.

20. Prior to final inspection and Final Inspection for any building, the approved Brush Management Program shall be implemented.

21. The Brush Management Program shall be maintained at all times in accordance with the City of San Diego's Landscape Standards.

ENGINEERING REQUIREMENTS:

22. The subdivider shall pay a cash amount of at least \$250,000 and up to \$300,000 to the City and the City is to credit the proceeds to the Tierrasanta Lighting and Open Space Maintenance Assessment District for the installation of lighting at the Tierrasanta Community Park. These funds shall be provided prior to issuance of building permits for the Tierrasanta Townhomes Project. If the developer does not proceed with the project, any future developer will be similarly obligated to provide this community enhancement.

23. The subdivider shall obtain a 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.

24. The drainage system proposed for this subdivision, as shown on the approved tentative map, is private and subject to approval by the City Engineer.

25. This project proposes to export 13,000.00 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 onsite processing and sale of the export material unless the underlying zone allows a construction and demolition debris recycling facility with an approved Neighborhood Use Permit or Conditional Use Permit per LDC section 141.0620(i).

26. Prior to the issuance of any construction permit, the subdivider shall enter into a Maintenance Agreement for the ongoing permanent Best Management Practices [BMP's] maintenance.

27. Prior to the issuance of any construction permit, the subdivider shall incorporate any construction BMP's necessary to comply with Chapter 14, Article 2, Division 1 (Grading Regulations) of the San Diego Municipal Code, into the construction plans or specifications.

28. Prior to the issuance of any construction permit the subdivider shall incorporate and show the type and location of all post-construction BMP's on the final construction drawings, in accordance with the approved Water Quality Technical Report.

LANDSCAPE REQUIREMENTS:

29. 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.

30. Prior to issuance of any engineering permits for grading, construction documents for the revegetation and hydroseeding of all disturbed land shall be submitted in accordance with the Landscape Standards and to the satisfaction of the City Manager. All plans shall be in substantial conformance to this permit (including Environmental conditions) and Exhibit "A."

31. 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 take into account a 40 sq-ft 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.

32. 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 Development Plan. These landscape areas shall be clearly identified with a distinct symbol, noted with dimensions and labeled as "landscaping area."

33. 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. Construction plans shall take into account a 40 sq-ft area around each tree which is unencumbered by hardscape and utilities as set forth under LDC section 142.0403(b) 5.

34. Prior to issuance of any Certificate of Occupancy, it shall be the responsibility of the Owner/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.

35. 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.

36. The Owner/Permittee or subsequent owner shall be responsible for the maintenance of all landscape improvements in the right-of-way consistent with the Landscape Standards unless long-term maintenance of said 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 a Landscape Planner.

37. 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.

MULTI-HABITAT PLANNING AREA

38. The issuance of this permit by the City of San Diego does not authorize the Owner/Permittee for this permit to violate any Federal, State or City laws, ordinances, regulations or policies including, but not limited to, the Endangered Species Act of 1973 [EAS] and any amendments thereto (16 U.S.C. Section 1531 et seq.). In accordance with authorization granted to the City of San Diego from the USFWS pursuant to Sec. 10(a) of the ESA and by the CDFG pursuant to Fish & Game Code sec. 2835 as part of the MSCP, the City of San Diego through the issuance of this Permit hereby confers upon Permittee the status of Third Party Beneficiary as provided for in Section 17 of the City of San Diego Implementing Agreement (IA), executed on July 17, 1997 and on File in the Office of the City Clerk as Document No. 00-18394.

Third Party Beneficiary status is conferred upon Owner/Permittee by the City: (1) to grant Owner/Permittee the legal standing and legal right to utilize the take authorizations granted to the City pursuant to the MSCP within the context of those limitations imposed under this permit and the IA, and (2) to assure Owner/Permittee that no existing mitigation obligation imposed by the City of San Diego pursuant to this Permit shall be altered in the future by the City of San Diego, USFWS or CDFG, except in the limited circumstances described in Section 9.6 and 9.7 of the IA. For lands identified as mitigation but not yet dedicated, maintenance and continued recognition of Third Party Beneficiary status by the City is contingent upon Owner/Permittee maintaining the

biological values of any and all lands committed for mitigation pursuant to this Permit and of full satisfaction by Owner/Permittee of mitigation obligations required by this Permit, as described in accordance with Section 17.1D of the IA.

PLANNING/DESIGN REQUIREMENTS:

39. No fewer than 151 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.

40. Prior to issuance of first building permit, construction documents shall fully illustrate the incorporation of a roof-mounted photovoltaic system consisting of solar panels sufficient to generate at least 50 percent of the proposed projects energy consumption as established by Council Policy 900-14.

41. 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.

42. The following deviations have been approved by this permit:

- a.) Height-Where 30 feet is permitted a deviation no greater than 40-feet, 7-inches is permitted. Building height deviations shall be in accordance with the Exhibit "A."
- b.) Front Yard Setback-Where 15 feet minimum/20-foot standard setback is required a deviation to reduce the setback to no less than 5 feet is permitted. Setback deviations shall be in accordance with the Exhibit "A."
- c.) Side Yard Setback-Where 5-feet or 10 percent of the width whichever is greater is required a side yard setback of 140 feet is permitted as per the Exhibit "A."
- d.) Retaining Wall height in front and rear yards and outside of yards The maximum permitted retaining wall height outside of any setback is 12 feet. There are three walls that exceed this height. These walls do not exceed 16.5 feet in height as follows:

12-16-feet; 210-feet long; upper 3-feet of wall is transparent tubular steel.

12-16-feet; 40-feet long; upper 4.5-feet of wall is transparent tubular steel.

12-16.5-feet; 140 feet long; upper 4.5-feet of wall is transparent tubular steel.

The maximum permitted retaining wall height within the required rear yard is 6 feet. There are two retaining walls along the southwestern portion of the lot that exceed the height limit:

6-20-feet high; 100 feet long (40-feet of the wall is 18-20-feet high); upper 3 feet is tubular steel.

9-16-feet high; 40-feet long upper 4.5-feet of the wall is tubular steel.

- e.) Private Open Space-Where balconies and patios are not allowed a deviation to allow balconies and patios within 9-feet of the front property line and within 5-feet of the rear property line
- f.) Refuse and Recycling-Where the code requires each structure to provide one exterior storage area totaling at least 288 square feet for the entire development, storage areas may be located at 6 of the 9 structures and overall the entire development will provide a total of 360 square feet of storage.

43. 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.

44. 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.

45. Prior to the issuance of building permits, a signage plan, lighting plan, trash management plan and exterior color scheme shall be presented to the Tierrasanta Community Council and shall comply with all applicable regulations of the San Diego Municipal Code.

46. 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.

47. Prior to the issuance of any grading and/or building permits the owner/permittee shall place a note in the title block of all plans listing the approved discretionary permit(s) and their associated permit numbers.

48. Prior to recording of the Final Map, the project must comply with the Inclusionary Housing Regulations as determined by the San Diego Housing Commission.

49. The applicant shall post a copy of the approved discretionary permit or Tentative Map in the sales office for consideration by each prospective buyer
50. 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.
51. The use of textured or enhanced paving shall meet applicable City standards as to location, noise and friction values.
52. The subject property and associated common areas on site shall be maintained in a neat and orderly fashion at all times.
53. All uses, except storage and loading, 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.
54. 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.
55. Prior to the issuance of building permits, 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."

TRANSPORTATION:

56. Prior to the issuance of any building permit, the Owner/Permittee shall construct along the project's frontage 39 feet of pavement from curb to centerline, curb, gutter, and 5-foot sidewalk, within 49' of right-of-way, satisfactory to the City Engineer. However, the Owner/Permittee may request a Deferred Improvement Agreement for the construction of the Tierrasanta Boulevard along the project's frontage.
57. Prior to the issuance of any building permit, the Owner/Permittee shall construct a cul-de-sac at the end of the required extension of Tierrasanta Boulevard with a minimum pavement radius of 50' within 60' of right-of-way, satisfactory to the City Engineer. The Owner/Permittee may request a Deferred Improvement Agreement for the construction of the cul-de-sac at the end of Tierrasanta Boulevard extension along the project's frontage.

58. Prior to the issuance of any building permit, the Owner/Permittee shall reconstruct the existing cul-de-sac with a minimum pavement radius of 50-feet within 60-feet of right-of-way, satisfactory to the City Engineer. This condition would apply regardless if the Owner/Permittee decided to request a Deferred Improvement Agreement for the required extension of Tierrasanta Boulevard the construction of the cul-de-sac as described above.

59. The Owner/Permittee shall construct a maximum of 25-foot wide driveway for the project's main entrance, satisfactory to the City Engineer.

60. 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. This may require (but not be limited to) installation of new street light(s), upgrading light from low pressure to high pressure sodium vapor and/or upgrading wattage.

WASTEWATER REQUIREMENTS:

61. All onsite sewer facilities serving this development will be private.

62. Prior to the issuance of any engineering or building permits, the developer shall provide, satisfactory to the Metropolitan Wastewater Department Director, CC&R's for the operation and maintenance of on site private sewer mains that serve more than one ownership.

63. The developer shall design and construct any proposed public sewer facilities to the most current edition of the City of San Diego's Sewer Design Guide.

64. 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.

WATER REQUIREMENTS:

65. Prior to the issuance of any building permits, the Owner/Permittee shall assure, by permit and bond, the design and construction of a 12-inch diameter water main within the Tierrasanta Boulevard from Colina Dorada to the project's westerly driveway entrance in order to provide a redundant source of water supply, in a manner satisfactory to the Water Department Director and the City Engineer.

66. 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 driveway, and the removal of all existing unused services within the Tierrasanta Boulevard right-of-way adjacent to the project site, in a manner satisfactory to the Water Department Director and the City Engineer.

67. 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(s) on each water service (domestic, fire, and irrigation), in a manner satisfactory to the Water Department Director, the City Engineer, and the Cross Connection Supervisor in the Customer Support Division of the Water Department.

68. 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(s) on each water service (domestic, fire, and irrigation), in a manner satisfactory to the Water Department Director, the City Engineer, and the Cross Connection Supervisor in the Customer Support Division of the Water Department.

69. All on-site water facilities shall be private including domestic, fire and irrigation systems.

70. 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. Water facilities as shown on the approved Exhibit shall be modified at final engineering to comply with standards.

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 on October 10, 2006, by Resolution No. R-301981.

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.

TIERRASANTA CHRISTIAN CHURCH
Owner/Permittee

By _____

ISD PROPERTY INVESTMENTS, LLC
Owner/Permittee

By _____

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

PERMIT/OTHER – Permit Shell 11-01-04

*Revised 01/16/07

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

WHEN RECORDED MAIL TO
CITY CLERK
MAIL STATION 2A

SPACE ABOVE THIS LINE FOR RECORDER'S USE

JOB ORDER NUMBER 42-3960

CONDITIONAL USE PERMIT NO. 287678
CINGULAR - TIERRASANTA TOWNHOMES
PTS. NO. 89848
CITY COUNCIL

This Conditional Use Permit [CUP] is granted by the Council of the City of San Diego to Tierrasanta Christian Church and ISD Property Investments, LLC, Owner, and Cingular Wireless PCS, LLC, Permittee, pursuant to San Diego Municipal Code [SDMC] section 141.0405 and Chapter 13, Article 1, Division 4 and Chapter 14, Division 4, Article 3. The 6.86-acre site is located at 11445 Tierrasanta Boulevard in the RS-1-7 (proposed RM-1-1) zone of the Tierrasanta Community Plan area. The project site is legally described as a portion of Lot 301 of El Dorado Hills, Unit 13, Map No. 9151 filed in the Office of County Recorder of San Diego County, on March 16, 1979.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner and Permittee to remove the existing wireless facility approved under 99-0857-05 and construct a new wireless communication facility, described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated OCT 10 2006, on file in the Development Services Department.

The project or facility shall include:

- a. A new wireless communication facility consisting of six panel antennas fully enclosed within a fourth story architectural screen (overall height of 40' 7") located on Building 9 of the Tierrasanta Townhomes project. An additional sixteen antennas for three other wireless providers will also be located within the addition under separate permits. An equipment yard will be located behind and below Building 9 and Cingular Wireless PCS, LLC will occupy one of the four 200 square foot enclosures.
- b. A temporary power pole supporting six panel antennas and an associated ground-mounted equipment cabinet will be permitted during the demolition and construction phases of the condominium complex project.

The temporary facility must be completely removed prior to final inspection of Building 9.

- c. Landscaping (planting, irrigation and landscape related improvements);
- d. 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.

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. This Permit is valid only with the initial utilization of Site Development Permit [SDP] No. 330475 and is subject to all of the conditions contained within this Permit.
6. The utilization and continued use of this Permit shall be subject to the regulations of this and any other applicable governmental agency.
7. 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.).

8. 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.

9. 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." No changes, modifications or alterations shall be made unless appropriate application(s) or amendment(s) to this Permit have been granted.

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

11. Prior to issuance of any building permits for this project, all conditions of SDP No. 330475 related to entitlements and preconstruction requirements must be satisfied.

12. This CUP and corresponding use of this site shall expire on OCT 10, 2016. Upon expiration of this Permit, the facilities and improvements described herein shall be removed from this site and the property shall be restored to its original condition preceding approval of this Permit.

13. Prior to the expiration date of this CUP, the Owner/Permittee may submit a new CUP application to the City Manager for consideration with review and a decision by the appropriate decision maker at that time.

14. This Permit will be developed in phases. The first phase includes removal of the existing wireless support facility and the installation of a temporary power pole to act as a support structure while the residential project is under construction. The temporary power pole may remain as an interim facility for a period not to exceed one year from the date

of commencement of construction. The applicant shall notify the city if there is any change to this schedule.

LANDSCAPE REQUIREMENTS:

15. Prior to issuance of any construction permit, landscape construction documents shall be submitted in accordance with the Landscape Standards to the satisfaction of the City Manager. All plans shall be in substantial conformance to this permit and Exhibit "A."

16. Landscape installed as part of this project shall be maintained and irrigated for the life of the permit. All required landscape shall be maintained in a disease, weed and litter free condition at all times.

17. 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.

PLANNING/DESIGN REQUIREMENTS:

18. Prior to the issuance of a construction permit, the telecommunication provider shall provide certification describing evidence that the cumulative field measurements of radio frequency power densities for all antennas to be installed on the premises are below the federal standards.

19. All equipment, including transformers, emergency generators and air conditioners shall be designed and operated consistent with the City noise ordinance. Ventilation openings shall be baffled and directed away from residential areas. Vibration resonance of operating equipment in the equipment enclosures shall be eliminated.

20. Prior to obtaining a Construction Permit the following items must be illustrated on the construction drawings; coax cable tray, meters, telco, A/C units, generator receptacles, cable runs, bridges, dog houses and external ports. These appurtenances must be minimized visually so as to avoid the effect of changing the outward appearance of the project from what was approved on the exhibits.

21. The applicant of record is responsible for notifying the city prior to the sale or takeover of this site to any other provider.

22. The building materials and paint used for the cupola shall not result in any noticeable lines or edges in the transition from the main building.

23. 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).

24. 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.

25. 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.

26. 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.

27. All components of the wireless facility shall be maintained for the life of this permit.

28. All future residents of the condominium complex shall be notified of the wireless facility and shall be furnished with a copy of this permit.

29. Any lighting of the equipment area shall be shaded and adjusted to fall on the equipment shelter where the light is located and in accordance with the applicable regulations in the SDMC.

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.
- This development may be subject to impact fees at the time of building/engineering permit issuance.

APPROVED by the City Council of the City of San Diego on OCT 10, 2006, by Resolution No. R- 301981

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.

TIERRASANTA CHRISTIAN CHURCH
Owner

By _____

ISD PROPERTY INVESTMENTS, LLC
Owner

By _____

CINGULAR WIRELESS PCS, LLC
Permittee

By _____

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

PERMIT/OTHER – Permit Shell 11-01-04

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

WHEN RECORDED MAIL TO
CITY CLERK
MAIL STATION 2A

SPACE ABOVE THIS LINE FOR RECORDER'S USE

JOB ORDER NUMBER 42-3960

CONDITIONAL USE PERMIT NO. 287680
SPRINT NEXTEL - TIERRASANTA TOWNHOMES
PTS. NO. 89848
CITY COUNCIL

This Conditional Use Permit [CUP] is granted by the Council of the City of San Diego to Tierrasanta Christian Church and ISD Property Investments, LLC, Owner, and Cingular Sprint Nextel, Permittee, pursuant to San Diego Municipal Code [SDMC] section 141.0405 and Chapter 13, Article 1, Division 4 and Chapter 14, Division 4, Article 3. The 6.86-acre site is located at 11445 Tierrasanta Boulevard in the RS-1-7 (proposed RM-1-1) zone of the Tierrasanta Community Plan area. The project site is legally described as a portion of Lot 301 of El Dorado Hills, Unit 13, Map No. 9151 filed in the Office of County Recorder of San Diego County, on March 16, 1979.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner and Permittee to remove the existing wireless facility approved under 94-0330-046 and construct a new wireless communication facility, described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated OCT 10 2006, on file in the Development Services Department.

The project or facility shall include:

- a. A new wireless communication facility consisting of four panel antennas fully enclosed within a fourth story architectural screen (overall height of 40' 7") located on Building 9 of the Tierrasanta Townhomes project. An additional eighteen antennas for three other wireless providers will also be located within the addition under separate permits. An equipment yard will be located behind and below Building 9 and Cingular Wireless PCS, LLC will occupy one of the four 200 square foot enclosures.
- b. A temporary power pole supporting four panel antennas and an associated ground mounted equipment cabinet will be permitted during the demolition and construction phases of the condominium complex project.

R 301981

The temporary facility must be completely removed prior to final inspection of Building 9.

- c. Landscaping (planting, irrigation and landscape related improvements);
- d. 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.

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. This Permit is valid only with the initial utilization of Site Development Permit [SDP] No. 330475 and is subject to all of the conditions contained within this Permit.
6. The utilization and continued use of this Permit shall be subject to the regulations of this and any other applicable governmental agency.
7. 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.).

8. 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.

9. 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." No changes, modifications or alterations shall be made unless appropriate application(s) or amendment(s) to this Permit have been granted.

10. 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 be 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.

11. Prior to issuance of any building permits for this project, all conditions of SDP No. 330475 related to entitlements and preconstruction requirements must be satisfied.

12. This CUP and corresponding use of this site shall expire on OCT 10, 2016. Upon expiration of this Permit, the facilities and improvements described herein shall be removed from this site and the property shall be restored to its original condition preceding approval of this Permit.

13. Prior to the expiration date of this CUP, the Owner/Permittee may submit a new CUP application to the City Manager for consideration with review and a decision by the appropriate decision maker at that time.

14. This Permit will be developed in phases. The first phase includes removal of the existing wireless support facility and the installation of a temporary power pole to act as a support structure while the residential project is under construction. The temporary power pole may remain as an interim facility for a period not to exceed one year from the date of commencement of construction. The applicant shall notify the city if there is any change to this schedule.

LANDSCAPE REQUIREMENTS:

15. Prior to issuance of any construction permit, landscape construction documents shall be submitted in accordance with the Landscape Standards to the satisfaction of the City Manager. All plans shall be in substantial conformance to this permit and Exhibit "A."

16. Landscape installed as part of this project shall be maintained and irrigated for the life of the permit. All required landscape shall be maintained in a disease, weed and litter free condition at all times.

17. 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.

PLANNING/DESIGN REQUIREMENTS:

18. Prior to the issuance of a construction permit, the telecommunication provider shall provide certification describing evidence that the cumulative field measurements of radio frequency power densities for all antennas to be installed on the premises are below the federal standards.

19. All equipment, including transformers, emergency generators and air conditioners shall be designed and operated consistent with the City noise ordinance. Ventilation openings shall be baffled and directed away from residential areas. Vibration resonance of operating equipment in the equipment enclosures shall be eliminated.

20. Prior to obtaining a Construction Permit the following items must be illustrated on the construction drawings; coax cable tray, meters, telco, A/C units, generator receptacles, cable runs, bridges, dog houses and external ports. These appurtenances must be minimized visually so as to avoid the effect of changing the outward appearance of the project from what was approved on the exhibits.

21. The applicant of record is responsible for notifying the City prior to the sale or takeover of this site to any other provider.

22. The building materials and paint used for the cupola shall not result in any noticeable lines or edges in the transition from the main building.

23. 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).

24. 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.

25. 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.

26. 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.

27. All components of the wireless facility shall be maintained for the life of this permit.

28. All future residents of the condominium complex shall be notified of the wireless facility and shall be furnished with a copy of this permit.

29. Any lighting of the equipment area shall be shaded and adjusted to fall on the equipment shelter where the light is located and in accordance with the applicable regulations in the SDMC.

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.
- This development may be subject to impact fees at the time of building/engineering permit issuance.

APPROVED by the City Council of the City of San Diego on OCT 10, 2006, by Resolution No. R-301981

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.

TIERRASANTA CHRISTIAN CHURCH
Owner

By _____

ISD PROPERTY INVESTMENTS, LLC
Owner

By _____

SPRINT NEXTEL
Permittee

By _____

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

PERMIT/OTHER – Permit Shell 11-01-04

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

WHEN RECORDED MAIL TO
CITY CLERK
MAIL STATION 2A

SPACE ABOVE THIS LINE FOR RECORDER'S USE

JOB ORDER NUMBER 42-3960

CONDITIONAL USE PERMIT NO. 287681
T-MOBILE - TIERRASANTA TOWNHOMES
PTS. NO. 89848
CITY COUNCIL

This Conditional Use Permit [CUP] is granted by the Council of the City of San Diego to Tierrasanta Christian Church and Shappel Industries, Inc., Owner, and Omnipoint Communications DBA T-Mobile USA, Inc., Permittee, pursuant to San Diego Municipal Code [SDMC] section 141.0405 and Chapter 13, Article 1, Division 4 and Chapter 14, Division 4, Article 3. The 6.86-acre site is located at 11445 Tierrasanta Boulevard in the RS-1-7 (proposed RM-1-1) zone of the Tierrasanta Community Plan area. The project site is legally described as a portion of Lot 301 of El Dorado Hills, Unit 13, Map No. 9151 filed in the Office of County Recorder of San Diego County, on March 16, 1979.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner and Permittee to remove the existing wireless facility approved under 99-0350-05-106 and construct a new wireless communication facility, described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated OCT 10 2008, on file in the Development Services Department.

The project or facility shall include:

- a. A new wireless communication facility consisting of six panel antennas fully enclosed within a fourth story architectural screen (overall height of 40' 7") located on Building 9 of the Tierrasanta Townhomes project. An additional sixteen antennas for three other wireless providers will also be located within the addition under separate permits. An equipment yard will be located behind and below Building 9 and Omnipoint Communications, dba T-Mobile USA, Inc., will occupy one of the four 200 square foot enclosures.
- b. A temporary power pole supporting six panel antennas and an associated ground mounted equipment cabinet will be permitted during the demolition and construction phases of the condominium complex project.

The temporary facility must be completely removed prior to final inspection of Building 9.

- c. Landscaping (planting, irrigation and landscape related improvements);
- d. 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.

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. This Permit is valid only with the initial utilization of Site Development Permit [SDP] No. 330475 and is subject to all of the conditions contained within this Permit.
6. The utilization and continued use of this Permit shall be subject to the regulations of this and any other applicable governmental agency.
7. 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.).

8. 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.

9. 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." No changes, modifications or alterations shall be made unless appropriate application(s) or amendment(s) to this Permit have been granted.

10. 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 be 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.

11. Prior to issuance of any building permits for this project, all conditions of SDP No. 330475 related to entitlements and preconstruction requirements must be satisfied.

12. This CUP and corresponding use of this site shall expire on OCT 10, 2016. Upon expiration of this Permit, the facilities and improvements described herein shall be removed from this site and the property shall be restored to its original condition preceding approval of this Permit.

13. Prior to the expiration date of this CUP, the Owner/Permittee may submit a new CUP application to the City Manager for consideration with review and a decision by the appropriate decision maker at that time.

14. This Permit will be developed in phases. The first phase includes removal of the existing wireless support facility and the installation of a temporary power pole to act as a support structure while the residential project is under construction. The temporary power pole may remain as an interim facility for a period not to exceed one year from the date of commencement of construction. The applicant shall notify the city if there is any change to this schedule.

LANDSCAPE REQUIREMENTS:

15. Prior to issuance of any construction permit, landscape construction documents shall be submitted in accordance with the Landscape Standards to the satisfaction of the City Manager. All plans shall be in substantial conformance to this permit and Exhibit "A."

16. Landscape installed as part of this project shall be maintained and irrigated for the life of the permit. All required landscape shall be maintained in a disease, weed and litter free condition at all times.

17. 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.

PLANNING/DESIGN REQUIREMENTS:

18. Prior to the issuance of a construction permit, the telecommunication provider shall provide certification describing evidence that the cumulative field measurements of radio frequency power densities for all antennas to be installed on the premises are below the federal standards.

19. All equipment, including transformers, emergency generators and air conditioners shall be designed and operated consistent with the City noise ordinance. Ventilation openings shall be baffled and directed away from residential areas. Vibration resonance of operating equipment in the equipment enclosures shall be eliminated.

20. Prior to obtaining a Construction Permit the following items must be illustrated on the construction drawings; coax cable tray, meters, telco, A/C units, generator receptacles, cable runs, bridges, dog houses and external ports. These appurtenances must be minimized visually so as to avoid the effect of changing the outward appearance of the project from what was approved on the exhibits.

21. The applicant of record is responsible for notifying the City prior to the sale or takeover of this site to any other provider.

22. The building materials and paint used for the cupola shall not result in any noticeable lines or edges in the transition from the main building.

23. 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).

24. 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.

25. 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.

26. 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.

27. All components of the wireless facility shall be maintained for the life of this permit.

28. All future residents of the condominium complex shall be notified of the wireless facility and shall be furnished with a copy of this permit.

29. Any lighting of the equipment area shall be shaded and adjusted to fall on the equipment shelter where the light is located and in accordance with the applicable regulations in the SDMC.

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.
- This development may be subject to impact fees at the time of building/engineering permit issuance.

APPROVED by the City Council of the City of San Diego on OCT 10, 2006, by Resolution No. R-301981.

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.

TIERRASANTA CHRISTIAN CHURCH
Owner

By _____

SHAPPEL INDUSTRIES, INC.
Owner

By _____

**OMNIPOINT COMMUNICATIONS
DBA T-MOBILE USA, INC.**
Permittee

By _____

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

PERMIT/OTHER – Permit Shell 11-01-04

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

WHEN RECORDED MAIL TO
CITY CLERK
MAIL STATION 2A

SPACE ABOVE THIS LINE FOR RECORDER'S USE

JOB ORDER NUMBER 42-3960

CONDITIONAL USE PERMIT NO. 287682
VERIZON - TIERRASANTA TOWNHOMES
PTS. NO. 89848
CITY COUNCIL

This Conditional Use Permit [CUP] is granted by the Council of the City of San Diego to Tierrasanta Christian Church and Shappel Industries, Inc., Owner, and Verizon Wireless, Permittee, pursuant to San Diego Municipal Code [SDMC] section 141.0405 and Chapter 13, Article 1, Division 4 and Chapter 14, Division 4, Article 3. The 6.86-acre site is located at 11445 Tierrasanta Boulevard in the RS-1-7 (proposed RM-1-1) zone of the Tierrasanta Community Plan area. The project site is legally described as a portion of Lot 301 of El Dorado Hills, Unit 13, Map No. 9151 filed in the Office of County Recorder of San Diego County, on March 16, 1979.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner and Permittee to remove the existing wireless facility approved under 99-0960-04 and construct a new wireless communication facility, described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated ~~OCT 10 2006~~, on file in the Development Services Department.

The project or facility shall include:

- a. A new wireless communication facility consisting of six panel antennas fully enclosed within a fourth story architectural screen (overall height of 40' 7") located on Building 9 of the Tierrasanta Townhomes project. An additional sixteen antennas for three other wireless providers will also be located within the addition under separate permits. An equipment yard will be located behind and below Building 9 and Verizon Wireless will occupy one of the four 200 square foot enclosures.
- b. A temporary power pole supporting six panel antennas and an associated ground mounted equipment cabinet will be permitted during the demolition and construction phases of the condominium complex project.

The temporary facility must be completely removed prior to final inspection of Building 9.

- c. Landscaping (planting, irrigation and landscape related improvements);
- d. 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.

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. This Permit is valid only with the initial utilization of Site Development Permit [SDP] No. 330475 and is subject to all of the conditions contained within this Permit.

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

7. 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.).

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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.

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12. This CUP and corresponding use of this site shall expire on OCT 10, 2016. Upon expiration of this Permit, the facilities and improvements described herein shall be removed from this site and the property shall be restored to its original condition preceding approval of this Permit.

13. Prior to the expiration date of this CUP, the Owner/Permittee may submit a new CUP application to the City Manager for consideration with review and a decision by the appropriate decision maker at that time.

14. This Permit will be developed in phases. The first phase includes removal of the existing wireless support facility and the installation of a temporary power pole to act as a support structure while the residential project is under construction. The temporary power pole may remain as an interim facility for a period not to exceed one year from the date of commencement of construction. The applicant shall notify the City if there is any change to this schedule.

LANDSCAPE REQUIREMENTS:

15. Prior to issuance of any construction permit, landscape construction documents shall be submitted in accordance with the Landscape Standards to the satisfaction of the City Manager. All plans shall be in substantial conformance to this permit and Exhibit "A."
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17. 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.

PLANNING/DESIGN REQUIREMENTS:

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28. All future residents of the condominium complex shall be notified of the wireless facility and shall be furnished with a copy of this permit.

29. Any lighting of the equipment area shall be shaded and adjusted to fall on the equipment shelter where the light is located and in accordance with the applicable regulations in the SDMC.

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.
- This development may be subject to impact fees at the time of building/engineering permit issuance.

APPROVED by the City Council of the City of San Diego on OCT 10, 2006, by Resolution No. R-301981.

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.

TIERRASANTA CHRISTIAN CHURCH
Owner

By _____

SHAPPEL INDUSTRIES, INC.
Owner

By _____

VERIZON WIRELESS
Permittee

By _____

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

PERMIT/OTHER – Permit Shell 11-01-04

Passed by the Council of The City of San Diego on OCT 10 2006, by the following vote:

Council Members	Yeas	Nays	Not Present	Recused
Scott Peters	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Kevin Faulconer	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Toni Atkins	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Anthony Young	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Brian Maienschein	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Donna Frye	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jim Madaffer	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ben Hueso	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage OCT 10 2006

AUTHENTICATED BY:

JERRY SANDERS

Mayor of The City of San Diego, California.

ELIZABETH S. MALAND

City Clerk of The City of San Diego, California.

(Seal)

By Debbie Severson Cruz, Deputy

Office of the City Clerk, San Diego, California

Resolution Number R-301981

301981