

RESOLUTION NUMBER R-301983

DATE OF FINAL PASSAGE OCTOBER 10, 2006

WHEREAS, Voltaire Partners, LLC, Owner/Permittee, filed an application with the City of San Diego for a planned development permit/site development permit to construct twenty-eight for-sale residential units and six commercial units known as the Upper Voltaire Mixed Use project, located at 4104-64 Voltaire and 4105-07 Whittier Street, and legally described as Parcel A: Lots 13 and 14, Block 6, Loma Alta No. 1, City of San Diego, County of San Diego, State of California, according to map thereof No. 1078, filed in the office of the County Recorder of San Diego County, August 28, 1907; and Parcel B: Parcel 1 of Parcel Map No. 18318, City of San Diego, County of San Diego, State of California, filed in the office of the County Recorder of San Diego County, August 6, 1999; and Parcel C: Lot 12 in Block 6 of Loma Alta Unit No. 1, in the City of San Diego, County of San Diego, State of California, according to the partition map thereof No. 1078, filed in the office of the County Recorder of San Diego County, August 8, 1907, in the Peninsula Community Plan area, in the CC-3-5 and RM-2-5 zones; and

WHEREAS, on July 13, 2006, the Planning Commission of the City of San Diego considered Planned Development Permit [PDP] No. 254753/Site Development Permit [SDP] No. 172879, and pursuant to Resolution No. 4104-PC voted to approve the Permit; and

WHEREAS, Cynthia Conger, Chair for the Peninsula Community Planning Board appealed the Planning Commission decision to the Council of the City of San Diego; 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, 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 Planned Development Permit No. 254753/Site Development Permit No. 172879:

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

1. The proposed development will not adversely affect the applicable land use plan. The proposed mixed use residential/commercial project would construct twenty-eight multi-family for-sale condominiums with six commercial condominiums on a 0.97-acre site with parking exceeding the requirements of the Land Development Code.

The Peninsula Community Plan designates this location as an area in transition from single-family to multi-family development, as an area that should be upgraded to a viable community commercial center, as an area within the Community Plan Implementation Overlay Zone, as within the North Bay Redevelopment Project Area, and specifically not within an area that is protected as single-family neighborhood. The Community Plan recommends 15-29 dwelling units per acre (du/ac). The project proposes twenty-eight new residential units on a 0.97-acre site for a density of 28.8 du/ac and therefore aligns with the density recommendations of the community plan.

The project location is central to the Peninsula Community at the junction of several neighborhood areas: Loma Palisades, Loma Alta, Loma Portal, Point Loma Highlands, and Ocean Beach Highlands. Due to this central location, the project is well-suited to provide pedestrian-oriented development opportunities. An analysis has been completed to study the walking distance from the project site to near-by amenities. The analysis finds approximately 114 local amenities within a five to ten minute walk from the project site. Amenities within walking distance include local commercial/business, recreation, restaurants, fire station, schools, and grocery stores.

The Peninsula Community Plan makes the following specific recommendations to which the project complies:

- Redevelop the stagnant Voltaire commercial strip allowing residential units on upper floors with densities up to 20 du/ac.
- Promote multi-family in-fill in areas proximate to transit lines.
- Promote sensitive redevelopment and neighborhood commercial uses in the Voltaire commercial district upgrading it to form a viable community commercial center.
- Encourage the evolution of the Voltaire strip into a more concentrated and compact neighborhood commercial district to encourage community-based and related recreational shopping and pedestrian interaction.
- Restrict new commercial uses to blocks between Venice and Worden Streets to encourage a concentrated and compact pattern of commercial development.
- Design parking facilities to be compatible with pedestrian circulation and screened from public view.
- Encourage pedestrian orientation and include pedestrian pathways.
- Control bulk and scale through use of vertical and horizontal offsets and architectural features which serve to break up building façades.
- Use interest nodes such as a chain of shops or plaza space, at reasonable walking distance can help entice pedestrian movement.

The Land Development Code (SDMC § 131.0554) and the Peninsula Community Land Use Plan (Figure 28, pg 105) describes desired building height, scale, bulk and rhythm. The proposed development provides articulated and textured surfaces of the multifamily residential buildings which reduces their apparent size and reflects the pattern of the surrounding development. Building bulk is reduced by offsetting vertical and horizontal planes with street friendly articulation provided by balconies and windows. The mass along the building length is regulated by the reflection of the rhythm of the unit plan spacing, providing a similar rhythm to the existing surrounding buildings.

The subject site is part of a larger area identified as “blighted” by The North Bay Redevelopment Plan. This proposal creates an opportunity to “enhance the physical conditions of the existing neighborhood through rehabilitation and/or development” and an improvement needed to eliminate both physical and economical conditions of blight, one of the main objectives of the North Bay Redevelopment Plan. The project site is the location of a former junk yard, billboards (since removed), an auto storage yard (since removed) and transient camps. Providing twenty-eight opportunities for the home ownership combined with mixed-use development along a transit line will provide a pedestrian orientation and “eyes on the street” to enhance the neighborhood character.

Goals of the Redevelopment Project Area include promoting and enhancing diverse housing opportunities by improving housing stock and improving the growth and vitality of the Redevelopment Project Area's business environment. Housing goals included in the Second Implementation Plan, call for a 987 net increase in residential units within the Project Area between 2004 and 2008. Furthermore, the Second Implementation Plan encourages the construction of sidewalk improvements to enhance the Project Area for residents. The proposed project would construct new sidewalks and lighting. The project would also generate additional tax increment revenues that could be used to assist in funding future public and private improvements and development projects within the Redevelopment Project Area.

The project provides six new ground-floor commercial spaces in an area identified as "stagnant" and provides more than the required parking (thirteen surfaces spaces where seven are required) to serve the commercial area.

In addition, the proposed project would not adversely affect the Peninsula Community Plan because it would implement policies and recommendations of the community plan related to incorporating defensible space techniques into the design of multifamily projects by providing architectural detailing and individual unit features which will promote pride of ownership and delineate public, semiprivate, and private space. The proposal features a landscaped courtyard with a meandering path through the interior of the project site fronting the units and providing surveillance over a common area. Visual and spatial orientation of recreational and open space areas is linked to the residential units within the project. The proposal would improve the neighborhood streetscape by providing pedestrian connectivity and landscaped buffers and paths to the residents of this project and future residents.

The proposed project would also not adversely affect the Progress Guide and General Plan as one of the goals in the General Plan encourages in-fill development and revitalization. The proposed project would accommodate in-fill development by allowing additional housing in the community. The plan also discusses the importance of improving the neighborhood environment to increase personal safety, comfort, pride and opportunity. The proposed project would develop much needed multi-family housing to help improve the neighborhood and its surroundings. The proposed project is within the North Bay Redevelopment Area, an area identified as blighted. The proposed project would also not adversely affect the Housing Element of the Progress Guide and General Plan, as the proposed use would be ensuring the development of new housing to help meet the City's housing needs.

The project scope includes public improvements of sidewalk upgrades, and removal of existing curb cuts along Voltaire. Double Acorn style street lights would be provided along Voltaire Street consistent with the Community Plan. The existing bus stop along Voltaire Street would be relocated to the westerly end of the Voltaire right-of-way adjacent to the project site and configured to Americans With Disabilities Act [ADA] specifications.

The traffic improvements that would be implemented by the project includes replacing the signal at the intersection of Voltaire Street and Wabaska Drive with a stop sign on Wabaska Drive and uncontrolled approaches on Voltaire Street, removing the existing portions of raised median on Voltaire Street between Wabaska Drive and Catalina Boulevard and striping a center turn lane along the entire stretch to provide full access for both the project driveway and

San Clemente Street as well as other abutting properties. Create (restripe) a 10-foot center turn lane along Famosa Boulevard between Whittier Street and Nimitz Boulevard to provide for storage for vehicles waiting to turn left from Famosa Boulevard onto Whittier Street.

This project also provides for traffic signal interconnect and central communications to thirty-five traffic signals in the Point Loma and Ocean Beach areas as part of the Point Loma/Ocean Beach Traffic Signal Interconnect System. Completion of this broader Interconnect project will result in improved Level of Service [LOS] during peak periods.

Therefore, for the above-listed reasons, the proposed development would not adversely affect the applicable land use plan.

2. The proposed development will not be detrimental to the public health, safety, and welfare. The proposed mixed use residential/commercial project would construct twenty-eight multi-family for-sale condominiums with six commercial condominiums on a 0.97-acre site with parking exceeding the requirements of the Land Development Code.

A Mitigated Negative Declaration [MND] has been prepared pursuant to the California Environmental Quality Act [CEQA] and found the site to be acceptable for residential use considering, among other issues, land use consistency, adequate removal of previous environmental contamination, and geologically suitable substrate.

The MND specifies mitigation for noise impacts due to the project's location in proximity to Nimitz Boulevard and Voltaire Street. Future cumulative noise impacts along the Voltaire Street frontage were calculated to be at 70 decibel [dB] Community Noise Equivalent Level [CNEL]. Therefore, noise walls for balconies for all residential units that face either Voltaire Street or Nimitz Boulevard would be required noise mitigation to bring the noise level to 65 dB CNEL.

The project is subject to the Airport Environs Overlay Zone in accordance with SDMC section 132.0302(a). Per Section 132.0306(b)(1), "the applicant must demonstrate that indoor noise levels that are attributable to airport operations shall not exceed 45db. . . . The applicant will be required to spend no more than 10 percent of construction costs to meet noise attenuation requirements."

Public concern has been raised about the safety of children who play in Whittier Street which is a dead-end street. The project would not open Whittier Street for through access. Residents on Whittier Street have the existing option to use the Cleator Park tot lot and public recreation amenities afforded therein rather than use of a public right-of-way for recreation.

The permit prepared for the project would include 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, as determined by the decision-maker, are intended to avoid adverse impacts upon the health, safety and general welfare of persons residing or working in the surrounding area.

The project would comply with the development regulations in effect for the subject property as described in Planned Development Permit No. 254753/Site Development

Permit 172879, and other regulations and guidelines pertaining to the subject property per the San Diego Municipal Code. The proposed development would be required to obtain Building Permits to show that all construction will comply with all applicable Building, Fire Code, and American with Disabilities Act requirements.

The project would be constructed with a fire alarm system in each building and in accordance with fire code. For Fire Department response time, the first in engine company (Engine 15), is able to reach the project site within the national standard of five minutes, and is not over capacity for yearly incidents by national standard.

Therefore, for these reasons, the proposed development will not be detrimental to the public health, safety, and welfare.

3. The proposed development will comply with the applicable regulations of the Land Development Code. The proposed mixed use residential/commercial project would construct twenty-eight multi-family for-sale condominiums with six commercial condominiums on a 0.97-acre site with parking exceeding the requirements of the Land Development Code.

The project site is regulated by two zones: CC-3-5 and RM-2-5. The CC-3-5 zone covers 26,866 square feet (64 percent) of the project site along the Voltaire Street frontage in the Community Plan Implementation Overlay Zone. The RM-2-5 zone covers 15,287 square feet (36 percent) of the project site along the Whittier Street frontage. The CC-3-5 zone is a Commercial Community designation to accommodate community-serving commercial services intended for high-intensity, pedestrian orientation. Residential use and residential parking are allowed within this zone only as part of a mixed-use development. Residential development within the CC zone is governed by the RM zone (SDMC § 131.0540(d)). As such, the CC zone portion of the site (as governed by the RM-2-5 zone) would allow one unit for each 1,500 square feet of lot area. At 26,866 square feet, the CC portion of the project site could have up to eighteen residential units per the zone where twenty-two are proposed. The RM-2-5 zone permits medium-density multiple dwelling units at one dwelling unit for each 1,500 square feet of lot area. At 15,287 square feet, this portion of the project site could have ten units, whereas six are proposed within this zone. However, density re-allocation is permitted as part of the Planned Development Permit [PDP] per SDMC section 143.0410(b)(2) without regard to zone boundaries. This is allowed by the Municipal Code and is not a deviation.

The project proposes a total of 63,312 Gross Floor Area [GFA] on a 42,153 square foot (0.97 acre) site. The Floor Area Ratio [FAR] is therefore calculated as 1.5. The allowable FAR is 1.76 calculated as $(1.35 \text{ FAR RM-2-5} \times 15,286 \text{ sf} + 2.0 \text{ FAR CC-3-5} \times 26,866 \text{ sf}) / 42,153$. The FAR therefore complies with the Municipal Code requirement of 1.76 allowed, and 1.5 proposed.

The project is located within the Coastal Height Overlay Zone and therefore must comply with the 30 foot coastal height limit. For the purpose of measuring height, building clusters A, B, and C, are all considered as one structure. The finish grade would be approximately 77 feet above mean sea level with the top of parapet at 106 feet above mean sea level (29 feet) changing gradually to a finish grade of approximately 78 feet above mean sea level with the top of parapet at 108 feet above mean sea level (30 feet).

The proposed development has otherwise been designed and conditioned to ensure conformance to the requirements of the City of San Diego Land Development Code. Therefore, the proposed use will comply with the applicable regulations of the San Diego Municipal Code in effect for this site.

4. The proposed development, when considered as a whole, will be beneficial to the community. The proposed mixed use residential/commercial project would construct twenty-eight multi-family for-sale condominiums with six commercial condominiums on a 0.97-acre site with parking exceeding the requirements of the Land Development Code.

The development will provide for public health, safety and welfare of the residents by stabilizing the eroding slope along the Nimitz Blvd. Visible in the eroding slope along Nimitz Blvd. are remnants of deteriorating retaining walls and illegal dumping which will all be removed during stabilization of the slope. In its place, native plant material mimicking the native plant garden to the north will be planted along the Nimitz Blvd slope.

The project exceeds private exterior open space and common open space requirements functional to residents (per Table 143-04B). There are two common open spaces available to residents and guest with a barbeque area and picnic tables.

This mixed-use project reaches out to the public in several ways. The development will provide a pedestrian path that connects Whittier Street residents to Voltaire Street through the project site. There will be public outdoor courtyard spaces and outdoor café seating on Voltaire Street.

The western property edge from Voltaire to Whittier Street proposes to have flowering vines along the wall. The project exceeds the landscape requirements of the Municipal Code.

Private exterior spaces overlooking Voltaire Street and balconies overlooking the courtyard provide security in the neighborhood. It will allow for neighborly watch and “eyes on the street” over activities along Voltaire.

The subject site is part of a larger area identified as “blighted” by The North Bay Redevelopment Plan. This proposal creates an opportunity to “enhance the physical conditions of the existing neighborhood through rehabilitation and/or development” and an improvement needed to eliminate both physical and economical conditions of blight, one of the main objectives of the North Bay Redevelopment Plan.

The project scope includes public improvements of sidewalk upgrades, and removal of existing curb cuts along Voltaire. Double Acorn style street lights would be provided along Voltaire Street consistent with the Community Plan. The existing bus stop along Voltaire Street would be relocated to the westerly end of the Voltaire right-of-way adjacent to the project site and configured to ADA specifications.

The traffic improvements that would be implemented by the project includes replacing the signal at the intersection of Voltaire Street and Wabaska Drive with a stop sign on Wabaska Drive and uncontrolled approaches on Voltaire Street, removing the existing portions

of raised median on Voltaire Street between Wabaska Drive and Catalina Boulevard and striping a center turn lane along the entire stretch to provide full access for both the project driveway and San Clemente Street as well as other abutting properties. Create (restripe) a 10-foot center turn lane along Famosa Boulevard between Whittier Street and Nimitz Boulevard to provide for storage for vehicles waiting to turn left from Famosa Boulevard onto Whittier Street.

This project also provides for traffic signal interconnect and central communications to thirty-five traffic signals in the Point Loma and Ocean Beach areas as part of the Point Loma/Ocean Beach Traffic Signal Interconnect System. Completion of this broader Interconnect project will result in improved LOS during peak periods.

For these reasons, the project, as a whole, is considered to be beneficial to the community.

5. Any proposed deviations pursuant to Section 126.0602(b)(1) are appropriate for this location and will result in a more desirable project than would be achieved if designed in strict conformance with the development regulations of the applicable zone. The proposed mixed use residential/commercial project would construct twenty-eight multi-family for-sale condominiums with six commercial condominiums on a 0.97-acre site with parking exceeding the requirements of the Land Development Code.

The project requests the following deviations from the requirements of the SDMC:

- Maximum allowable wall height (SDMC § 142.0340) to construct a 15 foot high retaining wall within the Street Side Yard setback adjacent to Nimitz Boulevard;
- A reduction in the front yard setback off Whittier Street, from the required 20 feet to 15 feet;
- A reduction in the interior side yard setback for the RM-2-5 zone to allow five feet versus 10 percent of the premises width (SDMC sections 131.0443(e)(2)(A) and 113.0243(b));
- Deck encroachment into the front yard setback along Whittier Street frontage in the RM-2-5 zone;
- Private exterior open space to observe no setback from the property line along Voltaire Street where nine feet is required.

While the applicant desired a project with no deviations, multiple staff reviews and project revisions were unable to produce the desired project without these deviations. The wall height is allowed due to the placement of the driveway and the Nimitz slope. The wall height is a structural issue to support the driveway on the slope. The steepness of the site poses hardship for development and will request a deviation for a 12 foot high retaining wall in the Nimitz Street side yard setback, but the retaining wall as well as slope along Nimitz Blvd. will be

concealed behind planting. Staff is therefore able to support this deviation. The reduction of and encroachments into the setbacks in the RM zone is supported by staff due to accommodate the density as allowed by the zone. The project is proposing six units in this zone where ten are allowed. Staff supports the setbacks due to site restrictions with the required overhead SDG&E easement to remain. The reduction of private exterior open space along Voltaire is supported to bring the project/pedestrian interface as close as possible to the street front. Staff supports this variation to encourage pedestrian interaction with the storefronts and to keep "eyes on the street" from the balconies above. Staff therefore is able to support these requests for deviation.

For these reasons, the project will result in a more desirable project than would be achieved if designed in strict conformance with the development regulations of the applicable zone.

B. SITE DEVELOPMENT PERMIT –SDMC SECTION 126.00504

1. Findings for all Site Development Permits:

a. The proposed development will not adversely affect the applicable land use plan. The proposed mixed use residential/commercial project would construct twenty-eight multi-family for-sale condominiums with six commercial condominiums on a 0.97-acre site with parking exceeding the requirements of the Land Development Code.

The Peninsula Community Plan designates this location as an area in transition from single-family to multi-family development, as an area that should be upgraded to a viable community commercial center, as an area within the Community Plan Implementation Overlay Zone, as within the North Bay Redevelopment Project Area, and specifically not within an area that is protected as single-family neighborhood. The Community Plan recommends 15-29 du/ac. The project proposes twenty-eight new residential units on a 0.97 acre site for a density of 28.8 du/ac and therefore aligns with the density recommendations of the community plan.

The project location is central to the Peninsula Community at the junction of several neighborhood areas: Loma Palisades, Loma Alta, Loma Portal, Point Loma Highlands, and Ocean Beach Highlands. Due to this central location, the project is well-suited to provide pedestrian-oriented development opportunities. An analysis has been completed to study the walking distance from the project site to near-by amenities. The analysis finds approximately 114 local amenities within a five to ten minute walk from the project site. Amenities within walking distance include local commercial/business, recreation, restaurants, fire station, schools, and grocery stores.

The Peninsula Community Plan makes the following specific recommendations to which the project complies:

- Redevelop the stagnant Voltaire commercial strip allowing residential units on upper floors with densities up to 20 du/ac.
- Promote multi-family in-fill in areas proximate to transit lines.

- Promote sensitive redevelopment and neighborhood commercial uses in the Voltaire commercial district upgrading it to form a viable community commercial center.
- Encourage the evolution of the Voltaire strip into a more concentrated and compact neighborhood commercial district to encourage community-based and related recreational shopping and pedestrian interaction.
- Restrict new commercial uses to blocks between Venice and Worden Streets to encourage a concentrated and compact pattern of commercial development.
- Design parking facilities to be compatible with pedestrian circulation and screened from public view.
- Encourage pedestrian orientation and include pedestrian pathways.
- Control bulk and scale through use of vertical and horizontal offsets and architectural features which serve to break up building façades.
- Use interest nodes such as a chain of shops or plaza space, at reasonable walking distance can help entice pedestrian movement.

The Land Development Code (SDMC § 131.0554) and the Peninsula Community Land Use Plan (Figure 28, pg 105) describes desired building height, scale, bulk and rhythm. The proposed development provides articulated and textured surfaces of the multifamily residential buildings which reduces their apparent size and reflects the pattern of the surrounding development. Building bulk is reduced by offsetting vertical and horizontal planes with street friendly articulation provided by balconies and windows. The mass along the building length is regulated by the reflection of the rhythm of the unit plan spacing, providing a similar rhythm to the existing surrounding buildings.

The subject site is part of a larger area identified as “blighted” by The North Bay Redevelopment Plan. This proposal creates an opportunity to “enhance the physical conditions of the existing neighborhood through rehabilitation and/or development” and an improvement needed to eliminate both physical and economical conditions of blight, one of the main objectives of the North Bay Redevelopment Plan. The project site is the location of a former junk yard, billboards (since removed), an auto storage yard (since removed) and transient camps. Providing twenty-eight opportunities for the home ownership combined with mixed-use development along a transit line will provide a pedestrian orientation and “eyes on the street” to enhance the neighborhood character.

Goals of the Redevelopment Project Area include promoting and enhancing diverse housing opportunities by improving housing stock and improving the growth and vitality of the Redevelopment Project Area’s business environment. Housing goals included

in the Second Implementation Plan, call for a 987 net increase in residential units within the Project Area between 2004 and 2008. Furthermore, the Second Implementation Plan encourages the construction of sidewalk improvements to enhance the Project Area for residents. The proposed project would construct new sidewalks and lighting. The project would also generate additional tax increment revenues that could be used to assist in funding future public and private improvements and development projects within the Redevelopment Project Area.

The project provides six new ground-floor commercial spaces in an area identified as "stagnant" and provides more than the required parking (thirteen surfaces spaces where seven are required) to serve the commercial area.

In addition, the proposed project would not adversely affect the Peninsula Community Plan because it would implement policies and recommendations of the community plan related to incorporating defensible space techniques into the design of multifamily projects by providing architectural detailing and individual unit features which will promote pride of ownership and delineate public, semiprivate, and private space. The proposal features a landscaped courtyard with a meandering path through the interior of the project site fronting the units and providing surveillance over a common area. Visual and spatial orientation of recreational and open space areas is linked to the residential units within the project. The proposal would improve the neighborhood streetscape by providing pedestrian connectivity and landscaped buffers and paths to the residents of this project and future residents.

The proposed project would also not adversely affect the Progress Guide and General Plan as one of the goals in the General Plan encourages in-fill development and revitalization. The proposed project would accommodate in-fill development by allowing additional housing in the community. The plan also discusses the importance of improving the neighborhood environment to increase personal safety, comfort, pride and opportunity. The proposed project would develop much needed multi-family housing to help improve the neighborhood and its surroundings. The proposed project is within the North Bay Redevelopment Area, an area identified as blighted. The proposed project would also not adversely affect the Housing Element of the Progress Guide and General Plan, as the proposed use would be ensuring the development of new housing to help meet the City's housing needs.

The project scope includes public improvements of sidewalk upgrades, and removal of existing curb cuts along Voltaire. Double Acorn style street lights would be provided along Voltaire Street consistent with the Community Plan. The existing bus stop along Voltaire Street would be relocated to the westerly end of the Voltaire right-of-way adjacent to the project site and configured to ADA specifications.

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This project also provides for traffic signal interconnect and central communications to thirty-five traffic signals in the Point Loma and Ocean Beach areas as part of the Point Loma/Ocean Beach Traffic Signal Interconnect System. Completion of this broader Interconnect project will result in improved LOS during peak periods.

Therefore, for the above-listed reasons, the proposed development would not adversely affect the applicable land use plan.

b. The proposed development will not be detrimental to the public health, safety, and welfare. The proposed mixed use residential/commercial project would construct twenty-eight multi-family for-sale condominiums with six commercial condominiums on a 0.97-acre site with parking exceeding the requirements of the Land Development Code.

A MND has been prepared pursuant to CEQA and found the site to be acceptable for residential use considering, among other issues, land use consistency, adequate removal of previous environmental contamination, and geologically suitable substrate.

The MND specifies mitigation for noise impacts due to the project's location in proximity to Nimitz Boulevard and Voltaire Street. Future cumulative noise impacts along the Voltaire Street frontage were calculated to be at 70 dB CNEL. Therefore, noise walls for balconies for all residential units that face either Voltaire Street or Nimitz Boulevard would be required noise mitigation to bring the noise level to 65 dB CNEL.

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The permit prepared for the project would include 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, as determined by the decision-maker, are intended to avoid adverse impacts upon the health, safety and general welfare of persons residing or working in the surrounding area.

The project would comply with the development regulations in effect for the subject property as described in Planned Development Permit No. 254753, and Site Development Permit 172879, and other regulations and guidelines pertaining to the subject property per the San Diego Municipal Code. The proposed development would be required to obtain Building Permits to show that all construction will comply with all applicable Building, Fire Code, and ADA requirements.

The project would be constructed with a fire alarm system in each building and in accordance with fire code. For Fire Department response time, the first in engine company (Engine 15), is able to reach the project site within the national standard of five minutes, and is not over capacity for yearly incidents by national standard.

Therefore, 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. The proposed mixed use residential/commercial project would construct twenty-eight multi-family for-sale condominiums with six commercial condominiums on a 0.97-acre site with parking exceeding the requirements of the Land Development Code.

The project site is regulated by two zones: CC-3-5 and RM-2-5. The CC-3-5 zone covers 26,866 square feet (64 percent) of the project site along the Voltaire Street frontage in the Community Plan Implementation Overlay Zone. The RM-2-5 zone covers 15,287 square feet (36 percent) of the project site along the Whittier Street frontage. The CC-3-5 zone is a Commercial Community designation to accommodate community-serving commercial services intended for high-intensity, pedestrian orientation. Residential use and residential parking are allowed within this zone only as part of a mixed-use development. Residential development within the CC zone is governed by the RM zone (Section 131.0540(d)). As such, the CC zone portion of the site (as governed by the RM-2-5 zone) would allow one unit for each 1,500 square feet of lot area. At 26,866 square feet, the CC portion of the project site could have up to eighteen residential units per the zone where twenty-two are proposed. The RM-2-5 zone permits medium-density multiple dwelling units at one dwelling unit for each 1,500 square feet of lot area. At 15,287 square feet, this portion of the project site could have ten units, whereas six are proposed within this zone. However, density re-allocation is permitted as part of the PDP per SDMC section 143.0410 (b)(2) without regard to zone boundaries. This is allowed by the Municipal Code and is not a deviation.

The project proposes a total of 63,312 GFA on a 42,153 square foot (0.97 acre) site. The FAR is therefore calculated as 1.5. The allowable FAR is 1.76 calculated as $(1.35 \text{ FAR RM-2-5} \times 15,286 \text{ sf} + 2.0 \text{ FAR CC-3-5} \times 26,866 \text{ sf}) / 42,153$. The FAR therefore complies with the Municipal Code requirement of 1.76 allowed, and 1.5 proposed.

The project is located within the Coastal Height Overlay Zone and therefore must comply with the 30 foot coastal height limit. For the purpose of measuring height, building clusters A, B, and C, are all considered as one structure. The finish grade would be approximately 77 feet above mean sea level with the top of parapet at 106 feet above mean sea level (29 feet) changing gradually to a finish grade of approximately 78 feet above mean sea level with the top of parapet at 108 feet above mean sea level (30 feet).

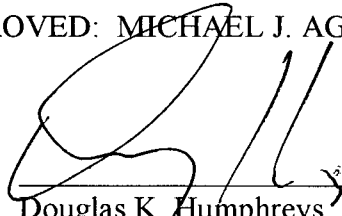
The proposed development has otherwise been designed and conditioned to ensure conformance to the requirements of the City of San Diego Land Development Code. Therefore, the proposed use will comply with the applicable regulations of the San Diego Municipal Code in effect for this site.

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 the appeal of Cynthia Conger, Chair for the Peninsula Community Planning Board is denied; the decision of the Planning Commission is sustained; and Planned Development Permit No. 254753/Site Development Permit No. 172879 is granted to Voltaire Partners, LLC, Owner/Permittee, under the terms and conditions set forth in the attached permit which is made a part of this resolution.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By



Douglas K. Humphreys
Deputy City Attorney

DKH:pev

10/17/06

Or.Dept:Clerk

R-2007-431

MMS #3923

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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 42-3804

PLANNED DEVELOPMENT PERMIT NO. 254753
SITE DEVELOPMENT PERMIT NO. 172879
UPPER VOLTAIRE MIXED USE [MMRP]
CITY COUNCIL

This Planned Development Permit No. 254753/Site Development Permit No. 172879 is granted by the City Council of the City of San Diego to Voltaire Partners, LLC, Owner/Permittee, pursuant to San Diego Municipal Code [SDMC] sections 126.0604 and 126.0504. The 0.97-acre site is located between Whittier and Voltaire Streets at the Nimitz Boulevard overcrossing where Wabaska Drive and San Clement Streets join Voltaire Street. The project includes the following locations: 4105-4107 Whittier Street, 4104-4164 Voltaire Street in the CC-3-5 and RM-2-5 zones of the Peninsula Community Planning Area. The project site is legally described as: Parcel A: Lots 13 and 14, Block 6, Loma Alta No. 1, City of San Diego, County of San Diego, State of California, according to map thereof No. 1078, filed in the office of the County Recorder of San Diego County, August 28, 1907; Parcel B: Parcel 1 of Parcel Map No. 18318, City of San Diego, County of San Diego, State of California, filed in the office of the County Recorder of San Diego County, August 6, 1999; Parcel C: Lot 12 in Block 6 of Loma Alta Unit No. 1, in the City of San Diego, County of San Diego, State of California, according to the partition map thereof No. 1078, filed in the office of the County Recorder of San Diego County, August 28, 1907.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee to construct twenty-eight residential condominiums and six commercial condominium units, 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.

The project or facility shall include:

- a. Twenty-three 2-bedroom units, and five 3-bedroom units over underground parking, totaling 40,355 square feet gross floor area [GFA];
- b. Landscaping (planting, irrigation and landscape related improvements);

- c. Off-street parking facilities; including sixty-four automobile, four accessible; and six motorcycle spaces;
- d. As a component of this project, deviations to allow
 - 1. a 15 foot crib wall within the street side yard setback,
 - 2. balcony encroachments at 15 feet within the standard 20 foot front yard setback off of Whittier Street,
 - 3. a reduction in the side yard setback for the portion of the residential structures to observe a 5 foot setback where 10 percent of the lot width would be required in the RM-2-5 zone of the project site, and
 - 4. the private exterior open space to observe no setback from the property line off Voltaire Street where 9 feet would be required.; and
- e. 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. The Owner/Permittee shall secure all necessary building permits. The applicant is informed that to secure these permits, substantial modifications to the building and site improvements to comply with applicable building, fire, mechanical and plumbing codes and State law requiring access for disabled people may be required.
8. Before issuance of 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.
9. All of the conditions contained in this Permit have been considered and have been determined to be necessary in order to make the findings required for this Permit. It is the intent of the City that the holder of this Permit 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.

10. This Permit shall become effective with recordation of the corresponding final subdivision map for and approval of the project site.
11. At all bus stops within the project area, the applicant shall be responsible for installing sidewalk improvements where needed to comply with Americans with Disability Act [ADA] requirements and in accordance with standards contained in the City of San Diego Street Design Manual.

ENVIRONMENTAL/MITIGATION REQUIREMENTS:

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

13. As conditions of Site Development Permit No. 172879, the mitigation measures specified in the MMRP, and outlined in Mitigated Negative Declaration No. 58800 shall be noted on the construction plans and specifications under the heading ENVIRONMENTAL/MITIGATION REQUIREMENTS.

14. The Owner/Permittee shall comply with the Mitigation, Monitoring, and Reporting Program [MMRP] as specified in Mitigated Negative Declaration No. 58800 satisfactory to the City Manager and City Engineer. Prior to issuance of the first grading permit, all conditions of the MMRP shall be adhered to the satisfaction of the City Engineer. All mitigation measures as specifically outlined in the MMRP shall be implemented for the following issue areas:

- Noise
- Historical Resources (Archaeological)
- Paleontological

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

16. Prior to demolition of the existing building, the applicant shall obtain approval from the Air Pollution Control District.

AFFORDABLE HOUSING REQUIREMENTS:

17. Prior to receiving the first residential building permit, the applicant shall comply with the Affordable Housing Requirements of the City's Inclusionary Housing Ordinance (Chapter 14, Article 2, Division 13 of the Land Development Code). The applicant has elected to meet these requirements by paying an in-lieu fee. Prior to receiving the first residential building permit, the applicant must enter into an agreement with the San Diego Housing Commission to assure that the restricted units are built and occupied.

ENGINEERING REQUIREMENTS:

18. Prior to the issuance of a certificate of occupancy, the applicant shall enter into a Maintenance Agreement for the ongoing permanent Best Management Practices [BMP's] maintenance.

19. Prior to the issuance of any construction permit, the applicant 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.

20. Prior to the issuance of any construction permit the applicant shall submit a Water Pollution Control Plan [WPCP]. The WPCP shall be prepared in accordance with the guidelines in Appendix E of the City's Storm Water Standards.

21. Prior to the issuance of any construction permits the applicant 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.

22. The Planned Development Permit shall comply with the conditions of the final map for Vesting Tentative Map No. 341372.

23. The drainage system proposed for this development is private and subject to approval by the City Engineer.

24. This project proposes to export 10,830 cubic yards of material from the project site. All export material shall be discharged into a legal disposal site. The approval of this project does not allow the processing and sale of the export material. All such activities require a separate Conditional Use Permit.

LANDSCAPE REQUIREMENTS:

25. 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.

26. In the event that the Landscape Plan and the Site Plan conflict, the Site Plan shall be revised to be consistent with the Landscape Plan such that landscape areas are consistent with the Exhibit "A," Landscape Development Plan.

27. 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.

28. Prior to issuance of any grading permits, complete landscape construction documents, including an automatic permanent irrigation system, shall be submitted to the City Manager for approval. The plans shall be in substantial conformance to Exhibit "A."

29. Installation of slope planting and erosion control including seeding of all disturbed land consistent with the approved landscape and grading plans is considered to be in the public interest. The Permittee shall initiate such measures as soon as the grading has been accomplished. Such erosion control/slope planting and the associated irrigation systems (temporary and/or permanent) and appurtenances shall be installed in accordance with the approved plans and the Landscape Standards.

30. Prior to issuance of any construction permits for structures, complete landscape and irrigation construction documents consistent with the Landscape Standards (including planting and irrigation plans, details and specifications) shall be submitted to

the City Manager for approval. The construction documents shall be in substantial conformance with Exhibit "A," Landscape Development Plan.

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 square foot area around each tree which is unencumbered by utilities. Driveways, utilities, drains, water and sewer laterals shall be designed so as not to prohibit the placement of street trees.

32. Prior to issuance of any Certificate of Occupancy, it shall be the responsibility of the Permittee or subsequent Owner to install all required landscape and obtain all required landscape inspections. A No Fee Street Tree Permit shall be obtained for the installation, establishment, and on-going maintenance of all street trees.

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

34. The Permittee or subsequent Owner(s) shall be responsible for the installation and maintenance of all landscape improvements consistent with the Landscape Regulations and Landscape Standards. Invasive species are prohibited from being planted adjacent to any canyon or native habitats within the city limits of San Diego. Invasive plants are those which rapidly self propagate by air born seeds or trailing as noted in section 1.3 of the Landscape Standards.

PLANNING/DESIGN REQUIREMENTS:

35. No fewer than seventy off-street parking spaces, of which four spaces are accessible parking spaces, six motorcycle spaces and sixteen bicycle 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 requirements of the Land Development Code and shall not be converted for any other use unless otherwise authorized by the City Manager.

36. 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.

37. 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.

38. 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.

39. 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.

40. No building additions, including patio covers, shall be permitted unless approved by the City Manager. Patio covers may be permitted only if they are consistent with the architecture of the dwelling unit.

41. The applicant shall post a copy of the approved Site Development Permit/Planned Development Permit and Tentative Map in the sales office for consideration by each prospective buyer.

42. Public pedestrian access shall be maintained through the project site at all times to grant pedestrians and members of the public access through the project. Such access shall be compliant with Title 24 requirements.

43. Any subsequent conversion of uses outside of those permitted by right in the CC-4-2 zones shall require an amendment to this permit. At least 50 percent of the principal pedestrian level shall be used for retail sales and commercial services.

44. The project shall provide and maintain on-site a barbecue area with picnic tables and a shade structure. Trees may function as a shade structure.

45. Prior to the issuance of any building permits, the applicant shall grant to the San Diego County Regional Airport Authority an avigation easement for the purpose of maintaining all aircraft approach paths to the San Diego International Airport. This easement shall permit the unconditioned right of flight of aircraft in the federally controlled airspace above the subject property. This easement shall identify the easement's elevation above the property and shall include prohibitions regarding use of and activity on the property that would interfere with the intended use of the easement. This easement may require the grantor of the easement to waive any right of action arising out of noise associated with the flight of aircraft within the easement.

46. Prior to submitting building plans to the City for review, the applicant shall place a note on all building plans indicating that an avigation easement has been granted across the property. The note shall include the County Recorder's recording number for the avigation easement.

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

48. 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.
49. The use of textured or enhanced paving shall meet applicable City standards as to location, noise and friction values.
50. The subject property and associated common areas on site shall be maintained in a neat and orderly fashion at all times.
51. 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.
52. 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.
53. 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 REQUIREMENTS:

54. 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.
55. The project shall maintain seventy required parking spaces at all times in the approximate locations as shown on Exhibit "A."
56. The project shall replace all abandoned driveways with full curb, gutter and sidewalk, satisfactory to the City Engineer.
57. Prior to the issuance of the first building permit the applicant shall assure by permit and bond the installation of a 10 foot wide 2-way center turn lane along Famosa

Boulevard between Whittier Street and Nimitz Boulevard, satisfactory to the City Engineer.

58. Prior to the issuance of the first building permit the applicant shall assure by permit and bond the removal of the signal and the channelizing island, and the installation of a stop sign on Wabaska Drive at the intersection with Voltaire Street, satisfactory to the City Engineer.

59. Prior to the issuance of the first building permit the applicant shall assure by permit and bond the removal of any median, and the striping of a center turn lane along Voltaire Street from Catalina Boulevard to Wabaska Drive, satisfactory to the City Engineer.

60. The traffic control plan for the project shall minimize construction traffic impacts to the adjacent residential neighborhood, satisfactory to the City Engineer.

FIRE REQUIREMENTS:

61. All buildings on site shall be equipped with a fire alarm system satisfactory to the Fire Marshal.

62. Provide a new fire hydrant on Whittier Street at a location satisfactory to the Fire Marshal roughly mid-block on Whittier Street between Catalina Boulevard/Famosa Boulevard and the project's entry on Whittier Street.

WASTEWATER REQUIREMENTS:

63. All on-site sewer facilities shall be private.

64. Prior to the issuance of any certificate of occupancy, the developer shall abandon onsite public sewer mains or they shall be converted to private, satisfactory to the Metropolitan Wastewater Department Director. All associated public easements shall be vacated, satisfactory to the Metropolitan Wastewater Department Director.

65. Prior to the issuance of any certificate of occupancy, the applicant shall obtain an Encroachment Maintenance and Removal Agreement for all private sewer utilities located in the public right of way.

66. Prior to the issuance of any engineering or building permits, the developer shall provide evidence, satisfactory to the Metropolitan Wastewater Department Director, indicating that each condominium shall have its own sewer lateral or provide CC&Rs for the operation and maintenance of on site private sewer mains that serve more than one ownership.

67. 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.

68. 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:

69. 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 disconnection at the water main of the existing water service adjacent to the project site, in a manner satisfactory to the Water Department Director and the City Engineer.

70. 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 serving the project, in a manner satisfactory to the Water Department Director and the City Engineer.

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

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

The proposed twenty-eight residential dwelling units are subject to Development Impact Fees [DIF] of \$84,560. The proposed 6,646 square feet of retail space is subject to a Development Impact Fee of \$39,595 and a Housing Trust Fund Fee [HTF] of \$4,254, based on usage and square footage. These fees are payable at issuance of building permit.

APPROVED by the Council of the City of San Diego on October 10, 2006 by Resolution No. R-301983.

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.

VOLTAIRE PARTNERS, LLC
Owner/Permittee

By _____

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	Ineligible
Scott Peters	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input 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 type="checkbox"/>	<input type="checkbox"/>	<input checked="" 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"/>

OCT 10 2006

Date of final passage _____

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 *Devenson Cruz*, Deputy

Office of the City Clerk, San Diego, California

Resolution Number R-301983