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RESOLUTION NUMBER R- 303271

DATE OF FINAL PASSAGE DEC - 4 2007

WHEREAS, San Diego Unified School District, a school district organized and existing under the laws of the State of California, Owner/COMM 22, LLC, a California limited liability corporation, Permittee, filed an application with the City of San Diego for a site development permit, planned development permit, and conditional use permit to construct 252 residential units with commercial-retail known as the COMM 22 project, located at 2101 Commercial Street, (see attached legal description, Exhibit "B"), in the Southeastern San Diego Community Plan area, in the MF-3000 and I-1 zones which are proposed to be rezoned to the CC-3-5 zone; and

WHEREAS, on October 11, 2007, the Planning Commission of the City of San Diego considered Site Development Permit [SDP] No. 415853, Planned Development Permit [PDP] No. 454025, and Conditional Use Permit [CUP] No. 431367, and pursuant to Resolution No. 4323-PC voted to recommend City Council approval of the Permit; 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 DEC - 4 2007, 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,

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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. 415853, Planned Development Permit No. 454025, and Conditional Use Permit No. 431367:

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

1. Findings for all Site Development Permits

a. The proposed development will not adversely affect the applicable land use plan. The COMM 22 project is a mixed-use, transit-oriented development combining affordable and senior housing with day care facilities, community serving commercial and retail space, office space, market rate live-work lofts, and for-sale town homes. The office space and live-work lofts will be housed in a rehabilitated warehouse building. The remainder of the development will consist of new construction. In addition to the proposed uses on site, the development will include enhanced plaza areas for public gathering, strong pedestrian connectivity throughout the site, and convenient access to public transportation.

The project site is situated on surplus San Diego City Schools property along the southern side of Commercial Street, between 21st Street and Harrison Avenue. The proposed project site is a mixed use commercial development on a 4.58-acre site that is proposed to be designated for Community Commercial uses in the Southeastern San Diego Community Plan. The community commercial designation of the CC-3-5 zone is intended to accommodate development with a high intensity, pedestrian orientation with a maximum of one dwelling unit per 1,500 square feet of lot area where the minimum lot coverage is 35 percent, the allowed floor area ratio [FAR] is 2.0 and the maximum height of the buildings may be 100 feet. With the adoption of the amendment to the Progress Guide and General Plan and Southeastern San Diego Community Plan, the proposed project would be designated from Industrial and Residential uses to Community Commercial uses therefore allowing a high density housing component and commercial development consistent with the policies and guidelines of the Progress Guide and General Plan and Southeastern San Diego Community Plan. Being determined the project is consistent with the Progress Guide and General Plan and Southeastern San Diego Community Plan, the proposed development will not adversely affect the Progress Guide and General Plan and Southeastern San Diego Community Plan.

b. The proposed development will not be detrimental to the public health, safety, and welfare. The COMM 22 project is a mixed-use, transit-oriented development combining affordable and senior housing with day care facilities, community serving commercial and retail space, office space, market rate live-work lofts, and for-sale town homes. The office space and live-work lofts will be housed in a rehabilitated warehouse building. The remainder of the development will consist of new construction. In addition to the proposed uses on site, the development will include enhanced plaza areas for public gathering, strong pedestrian connectivity throughout the site, and convenient access to public transportation.

The proposed development includes the vacation of right-of-way easements and contributes to its fair share cost towards construction of improvements in the Southeastern San Diego community. The proposed development will construct necessary sewer and water facilities to serve the users and residents of the development; will enter into a Maintenance Agreement for the ongoing permanent Best Management Practices [BMP] maintenance; will comply with all requirements of State Water Resources Control Board [SWRCB] Order No. 99-08 DWQ and the Municipal Storm Water Permit, Order No. 2001-01 (NPDES General Permit No. CAS000002 and CAS0108758), Waste Discharge Requirements for Discharges of Storm Water Runoff Associated With Construction Activity; and will provide a geotechnical report in accordance with the City of San Diego's Technical Guidelines for Geotechnical Reports for the review and approval by the City Engineer. All structures constructed will be reviewed by professional staff for compliance with all relevant and applicable building, electrical, mechanical and fire codes to assure the structures will meet or exceed the current regulations. 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. The COMM 22 project is a mixed-use, transit-oriented development combining affordable and senior housing with day care facilities, community serving commercial and retail space, office space, market rate live-work lofts, and for-sale town homes. The office space and live-work lofts will be housed in a rehabilitated warehouse building. The remainder of the development will consist of new construction. In addition to the proposed uses on site, the development will include enhanced plaza areas for public gathering, strong pedestrian connectivity throughout the site, and convenient access to public transportation.

In order to design the COMM 22 project in a manner which reflects the Southeastern San Diego Community Plan's intended development pattern, deviations from the regulations of the Land Development Code are required at this unique site. The Southeastern San Diego Community Plan goal of creating a synergistic environment facilitating economic and social health and vibrancy in the community in turn encourages the use of creative solutions to those regulations of the Land Development Code. The deviations are required due in large part as a response to the existing infrastructure at and adjacent to the site, the preservation of a significant historically important building in the community and to achieve a density and intensity of use at the site to create a vibrant dynamic development. This level of detail is consistent with the purpose and intent of the planned district and planned development regulations; however, in order to implement the site plan and architecture at this site; to preserve the existing significant structures; and to maximize the density and intensity of development at the site to contribute to the housing stock of the City of San Diego and commercial development in the community, the proposed deviations are granted.

B. DEVIATIONS FOR AFFORDABLE/IN-FILL HOUSING PROJECTS AND SUSTAINABLE BUILDINGS

1. The proposed development will materially assist in accomplishing the goal of providing affordable housing opportunities in economically balanced communities throughout the City, and/or 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 existing warehouse building will be renovated and expanded to accommodate approximately 62,180 square feet of office and live-work space. These spaces will be leased to local artist, small businesses, and professionals and will include the BRIDGE Southern California office as well as a 4,800 square foot community bank. Seventy dwelling units of affordable senior housing and a 5,447 square foot day care facility will be built above a single-level underground parking garage on the remainder of the lot. One hundred twenty-seven dwelling units of affordable family housing and 12,945 square feet of retail space will be developed on the former maintenance facility and storage yard sites. Family units will be constructed as stacked flats over retail and two levels of underground parking. Two levels of subterranean parking are possible due to native soil being as deep as 18 feet throughout the site. Seventeen for-sale town-homes will be developed on the remaining property. These project features and goals will provide needed housing and development in an area of the city replete with redevelopment opportunity. The provision of 127 dwelling units affordable to persons at the income range described as 30-50 percent average area median income will contribute in a real and meaningful way towards the goals of providing affordable housing in the City.

2. The development will not be inconsistent with the purpose or the underlying zone. The COMM 22 project is a mixed-use, transit-oriented development combining affordable and senior housing with day care facilities, community serving commercial and retail space, office space, market rate live-work lofts, and for-sale town homes. The office space and live-work lofts will be housed in a rehabilitated warehouse building. The remainder of the development will consist of new construction. In addition to the proposed uses on site, the development will include enhanced plaza areas for public gathering, strong pedestrian connectivity throughout the site, and convenient access to public transportation.

The project site is situated on surplus San Diego City Schools property along the southern side of Commercial Street, between 21st Street and Harrison Avenue. Other than the deviations approved for the project through the Planned Development and Site Development Permit process, the COMM 22 project meets all the relevant development regulations of the CC-3-5 zone and is an appropriate use of the property within the Southeastern San Diego community.

3. 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. The proposed development complies with the Southeastern San Diego Community Plan as amended. The proposed deviations are necessary to maximize the use of the land and to provide the highest quality affordable housing development. The deviations are required due in large part as a response to the existing infrastructure at and adjacent to the site, the preservation of a significant historically important building in the community and to achieve a density and intensity of use at the site to create a vibrant dynamic development. The proposed project includes architectural plans that have extensive articulation and fenestration. This level of detail is consistent with the purpose and intent of the planned district and planned development regulations; however, in order to implement the site plan and architecture at this site; to preserve the existing significant structures; and to maximize the density and intensity of development at the site to contribute to the housing stock of the City of

San Diego and commercial development in the community, the proposed deviations are granted. All other requirements comply with the regulations which apply to the project site in accordance with the Land Development Code. Many of the deviations are required in large part as a response to the existing infrastructure at and adjacent to the site, the preservation of a significant historically important building in the community and to achieve a density and intensity of use at the site to create a vibrant dynamic development.

Nine deviations are requested for the project from the Land Development Code sections, tables and one deviation each from the adopted Street Design Manual, Sewer Design Guide and Water Department Facility Design Guidelines. The deviations are to provide relief from the following Land Development Code regulations: 1) 131.0531 and Table 131-5E, 2) 131.0531 and Table 131-5E, 3) Section 131.0531 and Table 131-05E, 4) Section 131.0540(c), 5) Section 131.0552, 6) Section 131.0554 and Table 131-05F, 7) Section 132.0905, 142.0510, 142.0525, 142.0530 and 142.0560, 8) Landscape Regulations Table 142-04D and 9) Section 142.0409(a)1.

1) The project proposes to develop Site C at a residential density permitted by the land use plan, where the CC-3-5 zone allows one dwelling unit per 1,500 square feet of lot area or 16.34 units. The project density proposed is 63 units per acre, and the land use plan density range is 30-74 units per acre or 17 dwelling units on Site C. A deviation from the maximum residential density permitted under the CC-3-5 zone is necessary in order to provide an optimum number of affordable housing units over the total project site, Sites A, B and C;

2) The project proposes a maximum front setback of 15 feet where the CC-3-5 Zone allows a maximum front setback of 10 feet. A deviation from the maximum front setback is necessary in order to accommodate a drainage easement along the Commercial Street frontage;

3) The project proposes a side and rear setback of 5 feet where the structure on Site C would be required either be placed at the property line or shall be set back at least ten feet. A deviation from the minimum side and rear setbacks is necessary in order to provide public improvements such as sewer and drainage easements, while achieving maximum residential usage of the site;

4) The project proposes zero to four offsetting planes on building facades fronting the public right-of-way where a minimum of six offsetting planes are required per building façade. Without a deviation from the building articulation requirement for individual buildings, three bedroom family dwelling units would be reduced in floor area, to provide the necessary articulation, and would become two bedroom dwelling units. The articulation of the project has been viewed from a perspective of the whole development rather than individual buildings. The provision of articulation on a building by building basis rather than the view of the whole development is not favored over the loss of family oriented dwelling units. The provision of open spaces, courts, and building placement over the whole has been considered rather than a finite examination of the individual buildings. Articulation has been examined in a manner that would examine the sum of the entire development, not just the pieces making up the building units of the development. Staff supports the deviation to realize the greater benefits from implementing the project;

5) The project proposes less than 50 percent of the street wall between 3 and 10 feet above the sidewalk to be transparent where the CC-3-5 zone requires a minimum of 50 percent to be transparent. A deviation from the transparency requirement is necessary since garage areas are provided above the sidewalk in-lieu of commercial and residential areas. Garage areas were designed along the street frontage in order to meet parking requirements while maximizing use of the land;

6) The project proposes residential use and residential parking on the ground floor in the front 30 feet of the lot where these uses are prohibited. A deviation from the ground floor restriction necessary in order to maximize the use of the land and to produce an optimum number of units;

7) The project proposes to implement alternative parking standards. Four specific deviations are included in this request. The project will reduce the parking ratio for the senior housing component from 1.0 per unit to 0.60 spaces per unit and provide six total guest parking stalls. The project will provide all of the parking required for Building 1 on Site B. The parking ratio for the commercial retail uses will be 2.1 spaces per 1000 square feet. The project will count tandem parking spaces as two stalls where tandem spaces are normally counted as one space. The project will allow residential parking along the first 30 feet of the lot for Site C where the CC-3-5 zone prohibits parking in this area. The alternative parking standards are requested to facilitate the project's transit-oriented design and inconsideration of the site's irregular lot shapes and the unique site constraints presented by infill development in an older neighborhood which also serves as a telecommunications hub and transit corridor for the City of San Diego. The transit-oriented design focuses on pedestrian activity and use of the trolley system in an effort to alleviate the need to provide parking on each site at the standards presently in effect. The current parking design creates greater efficiencies in the garage plan and allows other uses on the property such as courtyards and open areas and the development of an affordable housing project;

8) The project proposes to allow less than one tree within 30 feet of each parking space along the alley on the southwestern side of Site B. A deviation from the tree planting requirement is necessary due to a SDG&E easement located in this area; and

9) The project proposes to allow unconventional tree spacing along the western portion of Commercial Street. A deviation from the tree spacing requirement is necessary in order to preserve the historic building characteristics, including preservation of the existing ramp, and the deviation is needed for emergency fire access requirements. In order to off-set the tree spacing deficiency, the applicant has incorporated enhanced planting in other areas of the project site.

The Street Design Manual deviation will result in greater utilization of the site for the provision of affordable housing and will not negatively impact the provision of public services or facilities. Commercial Street is a 2-Lane Collector as shown in the Southeastern San Diego Community Plan's Transportation element. The curb-to-property line distance in the current Street Design Manual for this street classification is 12 to 15 feet. In the case of a 12 foot parkway, a 5 foot general utility easement is required. The project will provide a 10 foot

parkway to allow the right-of-way to remain at the edge of the proposed drainage culvert and not reduce the area available for development of the site.

The Sewer Design Guide deviation will allow a new public improvement while preserving the existing trolley line without disruption to service and result in a safe facility. The project will install the new wastewater line on Commercial as close to the south curb line as possible. The ideal location would normally be beneath the parking lane within the right-of-way. To preserve the integrity of the trolley line, the new wastewater line will be located as far from the trolley tracks as possible to facilitate construction with the least impact on the tracks and the east bound driving lane of Commercial Street.

The Water Department Facility Design Guidelines deviation will locate a new water main in the 22nd Street right-of-way yet beneath the curb and sidewalk under the pedestrian pop-outs at the intersection of 22nd and Commercial Street. This will facilitate the reconnection of the water main to the existing 10-inch main at the vacated Irving and Commercial Streets. Locating the water main further into Commercial Street could require construction extremely close to the existing trolley tracks potentially resulting in an interruption of service.

Without the approval of the proposed deviations the applicant will not be able to provide the 197 affordable housing units. The existing site is extremely constrained by existing improvements in the right-of-way, the San Diego trolley in Commercial Street, several existing easements crossing the property and other infrastructure improvements necessary to construct the project. These existing conditions and required improvements impact the area of the site available to develop the project. If required to adhere to the strict requirements of the regulations the project site area will be reduced and result in a direct causal reduction of the number of affordable housing units provided in the project. The applicant is a non-profit organization dedicated to building affordable housing projects and no correlation exists between the quantity of dwelling units and any goal of achieving gross profit, as none exists. The deviations are absolutely necessary to provide the greatest number of affordable housing units in the project on a very constrained urban infill site. When considering the benefits the proposed project would bring to the community and City, staff supports these deviations. Other than the deviations listed above, the proposed project will comply with all other regulations of the Land Development Code and all Council policies relevant to the site.

C. SOUTHEAST SAN DIEGO PLANNED DISTRICT – SDMC SECTION 103.1701

1. The proposed use and project design meet the general purpose and intent of this division of the Municipal Code, complies with the recommendations of the Southeast San Diego Planned District for this site, and will not adversely affect the Southeast San Diego Community Plan, the City's Progress Guide and General Plan or other applicable plans adopted by the City Council in effect for this site. With the adoption of the amendment to the Southeastern San Diego Community Plan the proposed project will be consistent with the land use plan, the Progress Guide and General Plan. The commercial project with a residential component will encourage community serving retail, civic and office uses at the site. The deviations granted through the Planned Development and Site Development Permit are required due in large part as a response to the existing infrastructure at and adjacent to the site, the preservation of a significant historically important building in the community and to achieve a

density and intensity of use at the site to create a vibrant dynamic development. The balance of uses, design of the structures and use of proposed materials will result in a quality development consistent with the urban design standards contained in the Southeastern San Diego Planned District Ordinance. The site is zoned CC-3-5 and the project meets the criteria of the zoning regulations, as allowed through the approval of a Planned Development Permit.

2. The proposed development shall be compatible with existing and planned land uses on adjoining properties and shall not constitute a disruptive element to the surrounding neighborhood and community. Architectural harmony with the surrounding neighborhood and community shall be achieved as far as practicable. The project will be compatible with and not constitute a disruptive element to the surrounding neighborhood and community. The surrounding land uses include commercial and residential uses. The proposed project will provide both commercial and residential uses. Commercial uses exist to the west and north, residential uses exist to the east and south. Necessary parking will be provided on the site, all lighting will be shielded, trash bins will be enclosed and screened, fencing will be discreet and screened with landscaping, buildings will be articulated and constructed using quality materials and discreet colors, signage will be the minimum necessary and comply with the City-wide regulations, open space uses in patios and courtyards will include seating, urban art forms, landscaping and plaza water features.

The project will create long term value and offers flexibility in terms of architectural design, parking access and phasing in the community. Unique roof forms will provide an opportunity for creation of solar generated power while creating a new building typology in forms reinterpreting the historic character of the warehouse district. Diverse window patterns, contemporary materials of metals, glass and textures will be incorporated into the final design and construction. Building articulation and variety in colors will provide a dynamic urban aesthetic. Each of the buildings will present a unique architectural quality composing a sense of individuality. Convenient retail and commercial services will provide necessary neighborhood enterprise and social opportunity. The height of the proposed project will be consistent with other commercial buildings in the neighborhood. Direct and focused pedestrian connections from the public rights-of-way through the project will create an openness to the project and encourage pedestrian activity from existing adjacent uses. Massing, articulation, detailing, materials and colors will create a harmonious project in the community and will provide proper balance and contrast.

3. The proposed use, because of conditions that have been applied to it, will not be detrimental to the health, safety and general welfare of persons residing or working in the area, and will not adversely affect other property in the vicinity. The permit granted for the project includes conditions to address health, safety and welfare of persons residing and or working in the area. The project will enhance other properties in the vicinity. The existing construction at the project site included BMP for the construction activity to address storm water runoff and is conditioned by Site Development Permit No. 415853, Planned Development Permit No. 454025 and Conditional Use Permit No. 431367 to continue the ongoing permanent Best Management Practices maintenance, will comply with all requirements of State Water Resources Control Board [SWRCB] Order No. 99-08 DWQ and the Municipal Storm Water Permit, Order No. 2001-01 (NPDES General Permit No. CAS000002 and CAS0108758), Waste Discharge Requirements for Discharges of Storm Water Runoff Associated With Construction Activity.

All individual structures will be reviewed by professional staff for compliance with all relevant and applicable building, electrical, mechanical and fire codes to assure the structure will meet or exceed the current regulations. As such the proposed development will not be detrimental to the public health, safety, and welfare.

The permit controlling the development and continued use of the development proposed for this site contains conditions addressing the project compliance with the City's regulations and other regional, state and federal regulations to prevent detrimental impacts to the health, safety, and general welfare of persons residing and/or working in the area. Conditions of approval require compliance with several operational constraints and development controls intended to assure the continued health, safety and general welfare of persons residing or working in the area. All Building, Fire, Plumbing, Electrical, Mechanical Code and the City regulations governing the construction and continued operation of the development apply to this site to prevent adverse affects to those persons or other properties in the vicinity. The recent amendment of the Southeastern San Diego Community Plan includes provisions to facilitate the project. Therefore, the proposed development will not be detrimental to the public health, safety, and welfare.

4. The proposed use will comply with the relevant regulations of the municipal code in effect for this site. The project has been determined to comply with the Southeastern San Diego Community Plan and the CC-3-5 zone use and development regulations relevant to the COMM 22 parcel, except as specifically allowed through the approval of a Planned Development and Site Development Permit. Nine deviations are approved with this project from the Land Development Code sections, tables and one deviation each from the adopted Street Design Manual, Sewer Design Guide and Water Department Facility Design Guidelines, as allowed in the Planned Development and Site Development Permit regulations. All other regulations of the CC-3-5 zone will be complied with for the life of the development. No deviations are granted which will endanger or threaten the safety or health of any persons living or working in the neighborhood or community.

D. PLANNED DEVELOPMENT PERMIT – SDMC SECTION 126.0604

1. The proposed development will not adversely affect the applicable land use plan. The COMM 22 project is a mixed-use, transit-oriented development combining affordable and senior housing with day care facilities, community serving commercial and retail space, office space, market rate live-work lofts, and for-sale town homes. Refer to Site Development Permit Finding No. 1.a above for additional detail.

2. The proposed development will not be detrimental to the public health, safety, and welfare. The COMM 22 project is a mixed-use, transit-oriented development combining affordable and senior housing with day care facilities, community serving commercial and retail space, office space, market rate live-work lofts, and for-sale town homes. Refer to Site Development Permit Finding No. 1.b above for additional detail.

3. The proposed development will comply with the regulations of the Land Development Code. The COMM 22 project is a mixed-use, transit-oriented development combining affordable and senior housing with day care facilities, community serving commercial

and retail space, office space, market rate live-work lofts, and for-sale town homes. Refer to Site Development Permit Finding No. 1.c above for additional detail.

4. The proposed development, when considered as a whole, will be beneficial to the community. The existing warehouse building will be renovated and expanded to accommodate approximately 62,180 square feet of office and live work space. These spaces will be leased to local artists, small businesses and professionals and a 4,800 square foot bank in the community. Seventy dwelling units of affordable senior housing and a 5,447 square foot day care facility will be built above a single level underground parking garage on the remainder of the lot. One hundred twenty-seven dwelling units of affordable family housing and 12,945 square feet of retail space will be developed on the former maintenance facility and storage yard sites. Family units will be constructed as stacked flats over retail and two levels of underground parking. Two levels of subterranean parking are possible due to native soil being as deep as eighteen feet throughout the site. Seventeen for-sale town-homes will be developed on the remaining property. These project features and goals will provide needed housing and development in the community. The provision of 127 dwelling units affordable to persons at the income range described as 30-50 percent average median income will contribute in a real and meaningful way towards the goals of providing affordable housing in the City. Though the project will include several deviations to accommodate the design of the project, the resulting benefits of the project will be positive for the community and City of San Diego.

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. Granting the proposed deviations will result in the development of an affordable, senior and market rate housing and mixed commercial project at an urban infill site owned by the San Diego School District which has several utility and drainage easements transecting the site in addition to the adjacent San Diego Trolley line which is aligned down the center of Commercial Street. The project site is situated on San Diego School District property along the southern side of Commercial Street, between 21st Street and Harrison Avenue. The proposed development complies with the Southeastern San Diego Community Plan and site-specific development regulations for the COMM 22 parcels, except as allowed through the approval of a Planned Development and Site Development Permit. Refer to Supplemental Findings--Deviations for Affordable/In-Fill Housing Projects and Sustainable Buildings, Finding number B.3 for additional information.

The current site plan allows the project to achieve an optimal density and creates open space areas and courtyards rather than dedicating these spaces for parking uses. These deviations have been determined to result in a superior project which will amplify the positive effects emanating from the project without which the project would not be constructed. The deviations will result in a more desirable project and without these minor deviations the benefits of providing the project would not be realized.

E. CONDITIONAL USE PERMIT – SDMC SECTION 126.0305

1. The proposed development will not adversely affect the applicable land use plan. The COMM 22 project is a mixed-use, transit-oriented development combining affordable

and senior housing with day care facilities, community serving commercial and retail space, office space, market rate live-work lofts, and for-sale town homes. Refer to Site Development Permit Finding No. 1.a above for additional detail.

2. The proposed development will not be detrimental to the public health, safety, and welfare. The COMM 22 project is a mixed-use, transit-oriented development combining affordable and senior housing with day care facilities, community serving commercial and retail space, office space, market rate live-work lofts, and for-sale town homes. Refer to Site Development Permit Finding No. 1.b above for additional detail.

3. The proposed development will comply to the maximum extent feasible with the regulations of the Land Development Code. The COMM 22 project is a mixed-use, transit-oriented development combining affordable and senior housing with day care facilities, community serving commercial and retail space, office space, market rate live-work lofts, and for-sale town homes. Refer to Site Development Permit Finding No. 1.c above for additional detail.


4. The proposed use is appropriate at the proposed location. The COMM 22 project is a mixed-use, transit-oriented development combining affordable family and senior housing with day care facilities, community serving commercial and retail space, office space, market rate live-work lofts, and for-sale town homes. The office space and live-work lofts will be housed in a rehabilitated warehouse building. The remainder of the development will consist of new construction. In addition to the proposed uses on site, the development will include enhanced plaza areas for public gathering, strong pedestrian connectivity throughout the site, and convenient access to public transportation.

The project site is surplus San Diego City Schools property along the southern side of Commercial Street, between 21st Street and Harrison Avenue. The proposed mixed-use commercial development on 4.58 acres of a site is designated for Community Commercial uses in the Southeastern San Diego Community Plan. The community commercial designation and the application of the CC-3-5 zone to the site is intended to accommodate development with a high intensity, pedestrian orientation with a maximum of one dwelling unit per 1,500 square feet of lot area where the minimum lot coverage is 35 percent, the allowed FAR is 2.0 and the maximum height of the buildings may be one hundred feet. With the adoption of the amendment to the Southeastern San Diego Community Plan, the proposed project is consistent with the policies and guidelines of the Plan. The senior housing segment of the project will be located adjacent to a child care center, community serving retail uses and will have convenient access to public transportation and the San Diego Trolley line within Commercial Street. The proposed project is an excellent use for the unused site and will provide a substantial benefit to the community and City of San Diego. For additional supporting information refer to Southeast San Diego Planned District Finding No. D.2 above.

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. 415853/Planned Development Permit No. 454025/Conditional Use Permit No. 431367 is granted to San Diego Unified School District, Owner/COMM 22, LLC, 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 
Shirley R. Edwards
Chief Deputy City Attorney

SRE:pev
10/16/07
Or.Dept:DSD
R-2008-339
MMS #5457
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Legal Description

Exhibit "B"

Real property in the City of San Diego, County of San Diego, State of California, described as follows:

Parcel A:

Lots 39 to 44 inclusive in Block 227 of Mannasse and Schiller's Addition, according to the Map thereof No. 209 filed in the Office of the Recorder of San Diego County, July 11th, 1870.

Together with those portions of Fractional Lots 45 to 48, in Block 227 of Mannasse and Schiller's Addition, being a Subdivision of Pueblo Lot 1157, in the City of San Diego, County of San Diego, State of California, according to the Map thereof No. 209 filed in the Office of the Recorder of said San Diego County, July 11, 1870.

Also together with those portions of Lots 1, 2 and 3 in Block 64 of Sherman's Addition, according to Map thereof No. 856 filed in the Office of the Recorder of San Diego County, February 18, 1899, lying South of the South line of Irving Avenue as conveyed to City of San Diego by John J. McCook by Deed dated June 15, 1893 and recorded in Book 222 Page 183 of Deeds in records of San Diego County, in the Office of the County Recorder of San Diego County.

Parcel B:

Fractional Lots eighteen (18) to twenty-two (22) inclusive in Block two hundred twenty-eight (228) of Mannasse and Schiller's Addition, according to Map thereof made by Chas A. Fox, No. 209, filed in the Office of the County Recorder of said San Diego County, July 11, 1870, excepting therefrom that portion of Lots eighteen (18) and nineteen (19) conveyed to the City of San Diego, and also excepting those portions of Lots eighteen (18), nineteen (19) and twenty (20), lying North of a line running parallel with and twelve (12) feet distant Southerly from the Northerly boundary line of said Mannasse and Schiller's Addition.

Together with Lots twenty-three and twenty-four in Block two hundred twenty-eight of Mannasse and Schiller's Subdivision of Pueblo Lot 1157, according to the Map thereof No. 209, filed in the Office of the Recorder of said San Diego County, July 11, 1870.

Also together with that portion of Beardsley St. vacated in Resolution No. 49206 dated February 25, 1929.

R-303271

Parcel C:

Lots eight, nine, ten and eleven in Block two hundred thirty-eight of the Subdivision of Pueblo Lot 1157, commonly known as Mannasse and Schiller's Addition, according to Map thereof No. 209, filed in the Office of the County Recorder of San Diego County, July 11, 1870.

Together with that portion of Lots three to eight inclusive lying Northeasterly of Irving Avenue as now extended in Block sixty-four of Sherman's Addition, according to Map thereof No. 856, filed in the Office of the County Recorder of San Diego County, February 18, 1899.

Parcel D:

Fractional Lots 1 to 5 inclusive and Lots 6 to 8 inclusive in Block 237 of Lincoln Park, in the City of San Diego, County of San Diego, State of California, according to Map No. 478 filed in the Office of the Recorder of said San Diego County, January 4, 1888; also Fractional Lots 30 to 33 inclusive in Block 238 of San Diego Land and Town Company's Addition, in the City of San Diego, County of San Diego, State of California, according to Map No. 379 filed in the Office of the Recorder of said San Diego County, October 30, 1886.

Together with that portion of Lots nine, ten and eleven in Block two-hundred thirty-seven of Lincoln Park, according to Map thereof No. 478 filed in the Office of the Recorder of San Diego County, January 4, 1888, which lie within the Southwest Quarter of Pueblo Lot 1154.

Parcel E:

Lots ten, eleven and twelve (10, 11 and 12) of Fractional Block sixty-five (65), heretofore conditionally deeded to the City of San Diego Board of School Trustees, of Sherman's Addition to San Diego as per official Map on file in County Recorder's Office of the County of San Diego and State of California.

Together with Lots one (1) and two (2) in Block sixty-five of Sherman's Addition, according to the Map thereof No. 856, filed in the Office of the Recorder of said San Diego County, February 18, 1899.

Also together with Lot three (3) in Block sixty-five (65) of Sherman's Addition, according to Map thereof No. 856, filed in the Office of the County Recorder of said San Diego County, February 18, 1899.

Also all those portions of Lots eighteen (18), nineteen (19) and twenty (20), in Block two hundred twenty-eight (228) of the Subdivision of Pueblo Lot 1157, commonly known as Mannasse and Schiller's Addition, according to Map thereof No. 209, filed in the Office of the County Recorder of said San Diego County July 11, 1870, that lie North of a line parallel with and 12 feet distant at right angles Southerly from the North boundary line of said Mannasse and Schiller's Addition. Excepting from said portion of Lot 16 that portion thereof that was conveyed to the City of San Diego by Deed from Celia Schiller recorded in Book 237, Page 75 of Deeds.

538-100-26, 27, 28 and 29; 538-120-01 and 17; 535-660-34; 535-640-13, 14, 15 and 16

P-303271

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 424564

SITE DEVELOPMENT PERMIT NO. 415853/
PLANNED DEVELOPMENT PERMIT NO. 454025/
CONDITIONAL USE PERMIT NO. 431367
COMM 22 [MMRP] PTS #122002

CITY COUNCIL

This Site Development Permit [SDP] No. 415853/Planned Development Permit [PDP] No. 454025/Conditional Use Permit [CUP] No. 431367 is granted by the City Council of the City of San Diego to San Diego Unified School District, a school district organized and existing under the laws of the State of California, Owner, and COMM 22, LLC, a California limited liability corporation, Permittee, pursuant to San Diego Municipal Code [SDMC] sections 126.0501, 126.0601, and 126.0301. The 4.58-acre site is located at 2101, 2107, 2145 Commercial Street and 1826 Irving Avenue in the CC-3-5 zone of the Southeastern San Diego Community Plan area. The project site legal description is attached as Exhibit "B."

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee to develop a project with 252 dwelling units, 27,835 square feet of commercial retail and office space and a 5,447 square foot child day care facility for a maximum of seventy-four children and thirteen staff. Of the 252 dwelling units, the project would provide twenty-seven market rate live/work lofts, eleven studio apartments, 127 affordable family and seventy senior housing apartments, and seventeen for-sale market rate condominiums. The office space and live/work lofts will be housed in a rehabilitated warehouse building. The remainder of the development will consist of new construction, described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated DEC - 4 2007, on file in the Development Services Department.

The project or facility shall include:

- a. A mixed use commercial and residential development with 252 dwelling units, 27,835 square feet of commercial retail and office space and a 5,447 square foot child day care facility for a maximum of seventy-four children

and thirteen staff. Of the 252 dwelling units, the project would provide twenty-seven market rate live/work lofts, eleven studio apartments, 127 affordable family and seventy senior housing apartments, and seventeen for-sale market rate condominiums. The office space and live/work lofts will be housed in a rehabilitated warehouse building. The remainder of the development will consist of new construction;

Nine deviations are approved with this project from the Land Development Code sections, tables and one deviation each from the adopted Street Design Manual, Sewer Design Guide and Water Department Facility Design Guidelines. The deviations are to provide relief from the following Land Development Code regulations:

1) Section 131.0531 and Table 131-5E; 2) Section 131.0531 and Table 131-5E; 3) Section 131.0531 and Table 131-05E; 4) Section 131.0540(c); 5) Section 131.0552; 6) Section 131.0554 and Table 131-05F; 7) Sections 132.0905, 142.0510, 142.0525, 142.0530 and 142.0560; 8) Landscape Regulations Table 142-04D; and 9) Section 142.0409(a)1. Specifically these deviations are:

- 1) Develop Site C with seventeen dwelling units;
- 2) Maximum front setback of 15 feet where the CC-3-5 zone allows a maximum front setback of 10 feet;
- 3) Side and rear setback of 5 feet where the structure on Site C would be required either be placed at the property line or shall be set back at least 10 feet;
- 4) Zero to four offsetting planes on building facades fronting the public right-of-way where a minimum of six offsetting planes are required per building façade;
- 5) Less than 50 percent of the street wall between 3 and 10 feet above the sidewalk to be transparent where the CC-3-5 zone requires a minimum of 50 percent to be transparent;
- 6) Residential use and residential parking on the ground floor in the front 30 feet of the lot where these uses are prohibited;
- 7) Implement alternative parking standards. Four specific deviations are included in this request: reduce the parking ratio for the senior housing component from 1.0 per unit to 0.60 spaces per unit and provide six total guest parking stalls; provide all of the parking required for Building 1A on Site B; parking ratio for the commercial retail uses will be 2.1 spaces per 1000 square feet; count tandem parking spaces as two stalls where tandem spaces are normally counted as one space; and allow residential parking along

the first thirty feet of the lot for Site C where the CC-3-5 zone prohibits parking in this area.

- 8) Less than one tree within 30 feet of each parking space along the alley on the southwestern side of Site B; and
- 9) Unconventional tree spacing along the western portion of Commercial Street.
- 10) The Street Design Manual deviation allows for a ten foot parkway along Commercial Street; the Sewer Design Guide deviation allows installation of the new wastewater line on Commercial as close to the south curb line as possible; and the Water Department Facility Design Guidelines deviation allows a new water main in the 22nd. Street right-of-way yet beneath the curb and sidewalk under the pedestrian pop-outs at the intersection of 22nd. and Commercial Street and at Harrison Avenue and Commercial Street.;

- b. Landscaping (planting, irrigation and landscape related improvements);
- c. Off-street parking facilities; and
- 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. This permit must be utilized within thirty-six months after the date on which all rights of appeal have expired. Failure to utilize and maintain utilization of this permit as described in the SDMC 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 Owner/Permittee signs and returns the Permit to the Development Services Department; and
- b. The Permit is recorded in the Office of the San Diego County Recorder.

3. 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 Owner/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 Owner/Permittee for this permit to violate any Federal, State or City laws, ordinances, regulations or policies including, but not limited to, the Endangered Species Act of 1973 [ESA] and any amendments thereto (16 U.S.C. § 1531 et seq.).

7. The Owner/Permittee shall secure all necessary building permits. The Owner/Permittee is informed that to secure these permits, substantial 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. Construction plans 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. The Owner/Permittee shall defend, indemnify, and hold harmless the City, its agents, officers, and employees from any and all claims, actions, proceedings, damages, judgments, or costs, including attorney's fees, against the City or its agents, officers, or

employees, including, but not limited to, any action to attack, set aside, void, challenge, or annul this development approval and any environmental document or decision. The City will promptly notify Owner/Permittee of any claim, action, or proceeding and, if the City should fail to cooperate fully in the defense, the Owner/Permittee shall not thereafter be responsible to defend, indemnify, and hold harmless the City or its agents, officers, and employees. The City may elect to conduct its own defense, participate in its own defense, or obtain independent legal counsel in defense of any claim related to this indemnification. In the event of such election, Owner/Permittee shall pay all of the costs related thereto, including without limitation reasonable attorney's fees and costs. In the event of a disagreement between the City and Owner/Permittee regarding litigation issues, the City shall have the authority to control the litigation and make litigation related decisions, including, but not limited to, settlement or other disposition of the matter. However, the Owner/Permittee shall not be required to pay or perform any settlement unless such settlement is approved by Owner/Permittee.

11. This Permit may be developed in phases. Each phase shall be constructed prior to sale or lease to individual owners or tenants to ensure that all development is consistent with the conditions and exhibits approved for each respective phase per the approved Exhibit "A."

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. The mitigation measures specified in the MMRP, and outlined in Mitigated Negative Declaration No. 122002 shall be noted on the construction plans and specifications under the heading ENVIRONMENTAL/MITIGATION REQUIREMENTS.

14. The Owner/Permittee shall comply with the MMRP as specified in Mitigated Negative Declaration No. 122002 satisfactory to the City Manager and the City Engineer. Prior to issuance of any construction 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:

- Paleontological Resources
- Historical (Archaeological and Architecture)
- Human Health and Public Safety (Hazardous Materials) and
- Transportation/Circulation

15. Prior to issuance of any construction permit, the Owner/Permittee 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 foundation inspection, the Owner/Permittee shall submit a copy of the approval of the property mitigation plan from the lead agency under the California EPA Site Designation Program, to the satisfaction of the City Manager.

17. Prior to the final inspection, the Owner/Permittee shall submit evidence of the approval of the implementation of the property mitigation plan by the lead agency under the California EPA Site Designation Program, to the satisfaction of the City Manager.

AFFORDABLE HOUSING REQUIREMENTS:

18. The project is subject to the Affordable Housing Requirements of the City's Inclusionary Housing Ordinance, Chapter 14, Article 2, Division 13 of the Land Development Code). The Owner/Permittee will meet these requirements by providing at least 10 percent of project's units (twenty-six units) as affordable per SDMC section 142.1309. In addition, the Owner/Permittee has elected to provide an additional 171 affordable housing units on-site as detailed on the conceptual plans and in the project description. Prior to receiving the first residential building permit, the Owner/Permittee must enter into an agreement with the San Diego Housing Commission to assure that the affordable units are built and occupied by the appropriate households.

LANDSCAPE REQUIREMENTS:

19. Prior to issuance of any engineering permits for public improvements, the Owner/Permittee shall submit complete landscape construction documents for right-of-way improvements 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.

20. Prior to issuance of any construction permits for buildings, the Owner/Permittee shall submit complete landscape and irrigation construction documents consistent with the Land Development Manual, Landscape Standards to the City Manager for approval. The construction documents shall be in substantial conformance with Exhibit "A."

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

22. The Owner/Permittee shall maintain all landscape 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.

23. The Owner/Permittee shall be responsible for the maintenance of all landscape improvements in the right-of-way consistent with the Land Development Manual, Landscape Standards.

24. If any required landscape, including existing or new plantings, hardscape, landscape features, et cetera, indicated on the approved construction document plans is damaged or removed during demolition or construction, the Owner/Permittee is responsible to repair and/or replace any landscape in kind and equivalent size per the approved documents to the satisfaction of the City Manager within thirty days of damage or prior to a Certificate of Occupancy.

PLANNING/DESIGN REQUIREMENTS:

25. No fewer than 485 off-street parking spaces (447 spaces required) of which thirteen spaces are accessible parking spaces, twenty-one motorcycle spaces, and seventy-eight 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.

This will provide the project the flexibility to repond to necessary and unavoidable changes in design as long as the total number of parking spaces is between the required 447 and proposed 485 spaces.

26. A topographical survey conforming to the provisions of the SDMC may be required if it is determined, during construction, that there may be a conflict between the building(s) under construction and a condition of this Permit or a regulation of the underlying zone. The cost of any such survey shall be borne by the Owner/Permittee.

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

28. The Owner/Permittee shall post a copy of the approved discretionary permit and Vesting Tentative Map in the sales office for consideration by each prospective buyer.

29. 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.

TRANSPORTATION REQUIREMENTS

30. The Owner/Permittee shall provide a shared parking agreement between Site A and Site B in order to provide 112 parking spaces in buildings 2 and 3 to be utilized by proposed uses in buildings 1 and 1 A as described on Exhibit A, satisfactory to the City Engineer.

31. Prior to the issuance of the first building permit, the Owner/Permittee shall revise floor plans of proposed units in buildings 4A and 4C to modify dimensions of tandem garages to a minimum clear parking area of 9.5' (width) x 37' (depth), satisfactory to the City Engineer.

32. Prior to the issuance of the first building permit, the Owner/Permittee shall provide enhanced vehicular paving within property boundaries only and not within the public right-of-way including public alleys and streets, satisfactory to the City Engineer.

33. Prior to the issuance of the first building permit, the Owner/Permittee shall provide a minimum of 12 feet from the edge line of the existing trolley line and where on-street parking is provided there shall be a minimum of 20 foot separation, satisfactory to the City Engineer.

34. 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 by Resolution R-296141, satisfactory to the City Engineer. This may require, yet 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:

35. Prior to the issuance of any grading permits, the Owner/Permittee shall relocate onsite public sewer mains, satisfactory to the Metropolitan Wastewater Department Director. All associated public easements shall be vacated, satisfactory to the Metropolitan Wastewater Department Director.

36. Prior to the issuance of any building permits, the Owner/Permittee shall assure, by permit and bond, the upgrade and construction of all public sewer facilities deemed necessary by the accepted sewer study, satisfactory to the Metropolitan Wastewater Department Director.

37. Prior to the issuance of any grading permits, the Owner/Permittee shall grant adequate sewer, and/or access easements, including vehicular access to each manhole, for all public sewer facilities that are not located within public the right of way, satisfactory to the Metropolitan Wastewater Department Director.

38. No structures or landscaping that would inhibit vehicular access shall be installed in or over any sewer access easement.

39. Prior to the issuance of any public improvement or building permits, the Owner/Permittee shall obtain an Encroachment Maintenance and Removal Agreement for all approved structures or landscaping, including private sewer facilities and enhanced paving, installed in or over any sewer easement.

40. Prior to the issuance of any grading permits, the Owner/Permittee shall provide a letter of permission from each property owner whose private lateral will be relocated due to this development.

41. Prior to the issuance of any grading permits, the existing public sewer mains that are to be relocated shall be inspected using a closed-circuit television (CCTV) by a

California Licensed Plumbing Contractor to verify all laterals are reconnected to the proposed new public sewer main.

42. Prior to the issuance of any grading permits, the Owner/Permittee shall record a permanent Encroachment Removal and Maintenance Agreement [EMRA] for the curbs and surface improvements located within 10 feet of public sewer mains, satisfactory to the Metropolitan Wastewater Department Director.

43. Prior to the issuance of any engineering or building permits, the Owner/Permittee shall provide evidence, satisfactory to the Metropolitan Wastewater Department Director, indicating that each condominium will have its own sewer lateral or provide CC&R's for the operation and maintenance of onsite private sewer mains that serve more than one ownership.

44. The Owner/Permittee shall design and construct all proposed public sewer facilities to the most current edition of the City of San Diego's Sewer Design Guide.

45. 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:

46. Prior to the issuance of any building permits, the Owner/Permittee shall assure, by permit and bond, the design and construction of the public water facilities, as identified in the accepted water study, necessary to serve this development, in a manner satisfactory to the Water Department Director and the City Engineer, maintaining redundancy throughout the phasing of construction.

47. Prior to the issuance of any building permits, the Owner/Permittee shall cut, plug, and abandon the existing public water facilities, located within the portion of Irving Avenue right-of-way proposed to be vacated traversing the project site, in a manner satisfactory to the Water Department Director and the City Engineer.

48. 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), including domestic, fire and irrigation, in a manner satisfactory to the Water Department Director and the City Engineer.

49. 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) [BFPD] on each water service (domestic, fire, and irrigation), in a manner satisfactory to the Water Department Director and the City Engineer. The Water Department will not allow the BFPDs to be located below grade or within any proposed structure.

50. Prior to the issuance of any certificates of occupancy, the Owner/Permittee shall install fire hydrants at locations satisfactory to the Fire Department, the Water

Department Director, and the City Engineer. Any proposed fire hydrant installation not conforming to Water Department standards for public fire hydrants, shall be private.

51. Prior to the issuance of any building permits, the Owner/Permittee shall provide CC&Rs for the operation and maintenance of all private water facilities that serve or traverse more than a single unit or lot.

52. Prior to the issuance of any building permits, the Owner/Permittee shall process an EMRA for all acceptable encroachments of structures or landscaping into any easement containing public water facilities. No structures or landscaping of any kind shall be installed in or over any vehicular access roadway.

53. 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.

54. 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.

MTS REQUIREMENTS:

55. Before construction begins the Owner/Permittee must contact Tim Allison MTS right-of-way manager, at (619-699-4903) to determine if a right-of-entry permit will be required.

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 construction permit issuance

APPROVED by the City Council of the City of San Diego on DEC - 4 2007 by
Resolution No. R- 303271

AUTHENTICATED BY THE CITY MANAGER

By _____

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

SAN DIEGO UNIFIED SCHOOL
DISTRICT, a School District organized and
existing under the laws of the State of
California
Owner

By _____
Peter M. Iverson
Interim Executive Director, Facilities
San Diego Unified School District

COMM 22, LLC
A California Limited Liability Corporation
Permittee

By _____
Arnulfo Manriquez
COMM 22, LLC
Chief Operating Officer
Metropolitan Area Advisory Committee
On Anti Poverty of San Diego County,
Inc., a California nonprofit public benefit
corporation

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