

(R-2008-677) 339B
MEET 2/05/08

RESOLUTION NUMBER R-303404

DATE OF FINAL PASSAGE FEBRUARY 5, 2008

WHEREAS, Terrace Partners, L.P., a California Limited Partnership, Owner/Permittee, filed an application with the City of San Diego for a planned development permit to demolish the existing structures and construct a mixed-use development consisting of 16,255 square feet of office, 16,550 square feet of retail, and 19,614 square feet of residential development in nine residential units on portions of a 0.78-acre site, to be known as the Kensington Terrace project, located at 4142, 4166, and 4178 Adams Avenue and 4708 Edgeware Road, and legally described as Lots 9, 10, 11, 12, and 13 in Block 15 of Kensington Park, in the City of San Diego, County of San Diego, State of California, According to Map Thereof No. 1245 filed in the Office of the County Recorder of San Diego County, April 8, 1910, in the CN-1-3 and CU-3-3 zones of the Central Urbanized Planned District within the Kensington-Talmadge Neighborhood of the Mid-City Communities Plan area; and

WHEREAS, on November 15, 2007, the Planning Commission of the City of San Diego considered Planned Development Permit [PDP] No. 360181, and pursuant to Resolution No. 4333-PC-3 voted to approve the Permit; and

WHEREAS, Margaret B. McCann 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 February 5, 2008, 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. 360181:

**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 Kensington Terrace project would consist of the demolition of the existing structures and construction of a 3-story mixed-use development consisting of 16,255 square feet of office, 16,550 square feet of retail, and 19,614 square feet of residential (six 3-bedroom, 3-bath Penthouse units and three 3-bedroom, 3-bath Townhome units, totaling nine for sale units) on a 0.78-acre site.

The project site is located in the Kensington-Talmadge community of the Mid-City Communities Planning Area. The Mid-City Communities Plan designates the proposed site for Commercial and Mixed-Use at a maximum density of 29 dwelling units per acre [du/ac]. The community plan does not provide a minimum density. Additionally, the community plan provides a density bonus of 43 du/ac for mixed-use projects. Based on the existing land use designation, twenty-three dwelling units would be allowed on site and ultimately thirty-four would be allowed through the mixed-use density bonus.

The proposed project would implement several goals and recommendations contained in the Urban Design, Transportation, Land Use, and Natural & Cultural Resources Elements in the Mid-City Communities Plan. The project as proposed would implement the goal of reinforcing and enhancing the historic, pedestrian-oriented character of Adams Avenue with thriving neighborhood serving and specialty businesses. This recommendation would be implemented through the creation of a 16-foot wide sidewalk that would include tree wells for street trees along Adams Avenue, as well as incorporate a plaza at the corner of Marlborough Drive and Adams Avenue and an internal courtyard. Additionally, bike racks would be provided at street level along Marlborough Drive and Edgeware Road. Other bicycle storage facilities would be provided within the underground 2-story parking structure to accommodate both patrons and workers of the proposed commercial-retail and office building.

To further implement the goals of fostering a pedestrian environment, the project would also involve the removal of an existing gas service station and its associated curb-cuts along Adams Avenue and Marlborough Drive. The result would create a better and safer pedestrian connection to other existing commercial and mixed-use developments along the north side of Adams Avenue. Additionally, parking for the proposed project would be taken from the alley north of Adams Avenue.

The proposed project would implement the recommendation in the Land Use Element of the community plan of encouraging new market-rate housing construction in a variety of types, sizes, and costs to meet the needs of all residents in all socio-economic brackets. The project would include six penthouse units above commercial-retail and three craftsman-style townhomes at ground level along Edgeware Road. The proposed project would also meet the goal of providing a full range of commercial goods and services to the Mid-City population. The proposed project, which is located in close proximity to State Route 15, would provide additional commercial-retail space within the Kensington-Talmadge community and provide opportunities for more goods and services to be offered to residents. The addition of office space would also provide an opportunity to create additional employment within the community.

Although the Mid-City Communities Plan does not contain specific policies related to the incorporation sustainable development measures within new development projects, it does refer to a vision in the Natural & Cultural Resources Element of the Community Plan of having development contribute to the environmental quality of the area. The project would meet this vision by incorporating a "green roof" feature that would reduce surface run-off. This "green roof" feature would be planted with drought tolerant grasses and herbaceous and succulent plant species. Additionally, the proposed project would self-generate at least 50 percent of the project's projected energy consumption for the residential portion of the project and 30 percent of the project's projected energy consumption for the commercial portion of the project through the incorporation of photovoltaic panels.

The project proposes to seek a deviation to exceed the height limit of the eastern portion of the project by 8 feet where the maximum height limit is 30 feet. Although the community plan does not regulate building heights it does encourage lower scale, 2- to 3-story mixed-use developments with residential units above retail along Adams Avenue. The project would implement this recommendation and maintain the existing character along Adams Avenue by constructing a 3-story, mixed-use structure that would contain six units above commercial-retail and office space.

Additionally, in order to meet the recommendation of ensuring that new development reflects neighborhood character in such characteristics such as height, setbacks, massing, landscaping, roofs, windows, front porches, street façade and other architectural details, the proposed project would incorporate setbacks at the third story and landscaping, as well as trellises and arched features similar to adjacent commercial buildings. The three

townhomes proposed along Edgeware Road would include a Craftsman architectural style that would be compatible with similar residences along the street. Further, the proposed mixed-use building would utilize various materials and textures to further articulate the street façade and reduce the scale of the building. The rear of the proposed project would also incorporate an articulated façade with windows, varying setbacks, and landscaping to offset the bulk and scale of the proposed three-story building from neighboring residences to the north.

Based on the proposed features that would be utilized throughout the proposed project, the proposed deviation would not have an adverse impact on the goals and recommendations of the community plan. As proposed, the project implements many of the overall goals and recommendations of the Urban Design, Land Use, Transportation, Transportation, and Natural & Cultural Resources of the Mid-City Communities Plan; and therefore, the proposed development will not adversely affect the applicable land use plan.

2. The proposed development will not be detrimental to the public health, safety, and welfare. The Kensington Terrace project would consist of the demolition of the existing structures and construction of a 3-story mixed-use development consisting of 16,255 square feet of office, 16,550 square feet of retail, and 19,614 square feet of residential (six 3-bedroom, 3-bath Penthouse units and three 3-bedroom, 3-bath Townhome units, totaling nine for sale units) on a 0.78-acre site.

The proposed development includes minor improvements within the public right-of-way within the Mid-City community. The proposed development would construct necessary sewer and water facilities to serve the occupants of the development; would incorporate construction Best Management Practices [BMP's] necessary to comply with Chapter 14, Article 2, Division 1 of the San Diego Municipal Code; would prepare and implement a Water Pollution Control Plan in accordance with the guidelines in Appendix E of the City's Storm Water Standards; would enter into a Maintenance Agreement for the ongoing permanent BMP maintenance; and would 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.

Mitigated Negative Declaration No. 105244 has been prepared for the project in accordance with State of California Environmental Quality Act [CEQA] Guidelines. A Mitigation, Monitoring and Reporting Program has been prepared and will be implemented which will reduce, to a level of insignificance, any potential impacts identified in the environmental review process.

Prior to issuance of any demolition or construction permit, the permit has been conditioned to require that the Owner/Permittee provide the Development Services Department [DSD] with a copy of the Work Plan and Health Risk Assessment for the removal of the underground storage tanks existing onsite and site remediation provided to the County of San Diego Department of Environmental Health [DEH] in conjunction with the County's review through the Voluntary Assistance Program and/or Underground Storage Tank Removal Program or permit requirements.

Prior to the foundation inspection for each project phase, the permit has been conditioned to require the Owner/Permittee to submit a copy of a Letter of Concurrence/ Approval from the County of San Diego DEH to DSD confirming that the mitigation measures and site remediation recommended in the Work Plan and Health Risk Assessment have been implemented and that construction of the development can proceed. If further remedial action is required during construction activities based on site assessment activities performed under the direction of the County DEH or administrating agency, specific measures shall be incorporated in the remedial action work plan to ensure human health and public safety issues are adequately addressed.

Prior to final building inspection approval or Issuance of Occupancy, the permit has been conditioned to require the Owner/Permittee to submit a Letter of No Further Action or a similar Letter of Approval from the County of San Diego DEH to DSD documenting the environmental assessment and mitigation activities implemented under the Work Plan and Health Risk Assessment has been completed.

All structures constructed will be reviewed prior to construction by professional staff for compliance with all relevant and applicable building, electrical, plumbing, mechanical and fire codes to assure the structures would meet or exceed the current regulations. The project includes various conditions and referenced exhibits of approval relevant to achieving project compliance with the applicable regulations of the San Diego Municipal Code in effect for this project. Such conditions have been determined to be necessary to avoid adverse impacts upon health, safety and general welfare of persons residing or working in the surrounding area. Further, the construction will be monitored and inspected in the field by certified inspectors. As a result of this process the proposed development will not be detrimental to the public health, safety, and welfare.

3. The proposed development will comply with the regulations of the Land Development Code. The Kensington Terrace project would consist of the demolition of the existing structures and construction of a 3-story mixed-use development consisting of 16,255 square feet of office, 16,550 square feet of retail, and 19,614 square feet of residential (six 3-bedroom, 3-bath Penthouse units and three 3-bedroom, 3-bath Townhome units, totaling nine for sale units) on a 0.78-acre site.

As allowed through the approval of a Planned Development Permit, the applicant is requesting a deviation to the height regulations of the CN-1-3 zone. The western portion of the site adjacent to Marlborough Avenue (0.31-acre) is zoned CU-3-3 and the eastern portion of the site adjacent to Edgeware Road (0.47-acre) is zoned CN-1-3. The CU-3-3 zone allows a maximum height of 50 feet, and the project proposes a maximum height of 40 feet, 8 inches for this portion of the project, which is well under the allowable height limit. The CN-1-3 zone allows a maximum height of 30 feet and applicant is requesting a height of 38 feet for this portion of the site.

The applicant is proposing the deviation to the height of the CN-1-3 zone to comply with community character and public concerns regarding excessive height in the neighborhood. The project design proposes to terrace back from the intersection of Adams Avenue and Marlborough Drive to mitigate the visual impact of a potential 50 feet building

height at the corner. The project proposes a lowered and terraced building in the western portion of the site, with an eight-foot increase above the zone's height limit in the eastern portion of the site, thereby balancing the overall height to match the existing building on the west side of Marlborough Drive, which varies in height between 35 feet and 49 feet.

The consistent height avoids inefficient additional stair and elevator access, makes all the residential units top-floor rather than stacked in the CU-3-3 zone, and provides unfettered and level surface for green rooftop technology and photo-voltaic collection. Without the deviation, the allowable 50-foot tower would potentially shadow the remaining rooftop as well as neighboring properties. In addition to terracing the project at both corners of Adams Avenue with Marlborough Drive and Edgeware Road, the design has a stepped-back third floor along 80 percent of the building, which creates a perception with the façade that the majority of the building is a 2-story structure. Further, the proposed mixed-use building would utilize various materials and textures to further articulate the street façade and reduce the scale of the building. The rear of the proposed project would also incorporate an articulated façade with windows, varying setbacks, and landscaping to offset the bulk and scale of the proposed three-story building from neighboring residences to the north.

Other than the proposed deviation described and as allowed through approval of a Planned Development Permit, the proposed development would comply with the applicable regulations of the San Diego Municipal Code and be consistent with the recommended land-use, design guidelines, and development standards in effect for this site.

Based upon substantial evidence documented for the proposal, which includes the Mitigated Negative Declaration No. 105244 prepared for the project, staff has determined the height deviation would pose no adverse impacts upon the health and safety of the public or detriments to the physical environment. Therefore, proposed development will comply with the regulations of the Land Development Code.

4. The proposed development, when considered as a whole, will be beneficial to the community. The Kensington Terrace project would consist of the demolition of the existing structures and construction of a 3-story mixed-use development consisting of 16,255 square feet of office, 16,550 square feet of retail, and 19,614 square feet of residential (six 3-bedroom, 3-bath Penthouse units and three 3-bedroom, 3-bath Townhome units, totaling nine for sale units) on a 0.78-acre site.

The project site is located in the Kensington-Talmadge community of the Mid-City Communities Planning Area. The Mid-City Communities Plan designates the proposed site for Commercial and Mixed-Use at a maximum density of 29 du/ac. The community plan does not provide a minimum density. Additionally, the community plan provides a density bonus of 43 du/ac for mixed-use projects. Based on the existing land use designation, twenty-three dwelling units would be allowed on site and ultimately thirty-four would be allowed through the mixed-use density bonus.

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of reinforcing and enhancing the historic, pedestrian-oriented character of Adams Avenue with thriving neighborhood serving and specialty businesses. This recommendation would be implemented through the creation of a 16-foot wide sidewalk that would include tree wells for street trees along Adams Avenue, as well as incorporate a plaza at the corner of Marlborough Drive and Adams Avenue and an internal courtyard. Additionally, bike racks would be provided at street level along Marlborough Drive and Edgeware Road. Other bicycle storage facilities would be provided within the underground 2-story parking structure to accommodate both patrons and workers of the proposed commercial-retail and office building.

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Although the Mid-City Communities Plan does not contain specific policies related to the incorporation sustainable development measures within new development projects, it does refer to a vision in the Natural & Cultural Resources Element of the Community Plan of having development contribute to the environmental quality of the area. The project design incorporates a roof-mounted photovoltaic system consisting of solar panels sufficient to generate at least 50 percent of the project's projected energy consumption for the residential portion, and 30 percent of the project's projected energy consumption for the commercial portion of the project. The project also proposes the installation of approximately 10,000 square feet of Green Roof technology, fire-sprinklers throughout the development; residential private open space areas totaling approximately 5,000 square feet, and public and private commercial and office open space totaling approximately 6,000 square feet in plazas, courtyards, and terraces. Therefore, proposed development, when considered as a whole, will 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 Kensington Terrace project would consist of the demolition of the existing structures and construction of a 3-story mixed-use development consisting of 16,255 square feet of office,

16,550 square feet of retail, and 19,614 square feet of residential (six 3-bedroom, 3-bath Penthouse units and three 3-bedroom, 3-bath Townhome units, totaling nine for sale units) on a 0.78-acre site.

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The applicant is proposing the deviation to the height of the CN-1-3 zone to comply with community character and public concerns regarding excessive height in the neighborhood. The project design proposes to terrace back from the intersection of Adams Avenue and Marlborough Drive to mitigate the visual impact of a potential 50 feet building height at the corner. The project proposes a lowered and terraced building in the western portion of the site, with an 8-foot increase above the zone's height limit in the eastern portion of the site, thereby balancing the overall height to match the existing building on the west side of Marlborough Drive, which varies in height between 35 feet and 49 feet.

The consistent height avoids inefficient additional stair and elevator access, makes all the residential units top-floor rather than stacked in the CU-3-3 zone, and provides unfettered and level surface for green rooftop technology and photo-voltaic collection. Without the deviation, the allowable 50-foot tower would potentially shadow the remaining rooftop as well as neighboring properties. In addition to terracing the project at both corners of Adams Avenue with Marlborough Drive and Edgeware Road, the design has a stepped-back third floor along 80 percent of the building, which creates a perception with the façade that the majority of the building is a 2-story structure. Further, the proposed mixed-use building would utilize various materials and textures to further articulate the street façade and reduce the scale of the building. The rear of the proposed project would also incorporate an articulated façade with windows, varying setbacks, and landscaping to offset the bulk and scale of the proposed three-story building from neighboring residences to the north. Therefore, the proposed deviations are appropriate for this location and will result in a more desirable project than would be achieved if designed in strict conformance with the development regulations of the applicable zone.

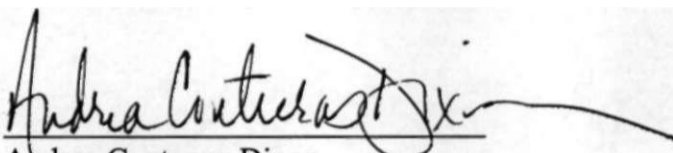
The above findings are supported by the minutes, maps and exhibits, all of which are incorporated herein by this reference.

BE IT FURTHER RESOLVED, that the appeal of Margaret B. McCann is denied; the decision of the Planning Commission is sustained; and Planned Development Permit No. 360181

(R-2008-677)

is granted to Terrace Partners, L.P., 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 
Andrea Contreras Dixon
Deputy City Attorney

ACD:pev
02/28/08
Or.Dept:Clerk
R-2008-677
MMS #5675

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 42-6557

PLANNED DEVELOPMENT PERMIT NO. 360181
KENSINGTON TERRACE – PROJECT NO. 105244 - MMRP
CITY COUNCIL

This Planned Development Permit No. 360181 is granted by the Council of the City of San Diego to Terrace Partners, L.P., a California Limited Partnership, Owner/Permittee, pursuant to San Diego Municipal Code [SDMC] section 126.0604. The 0.78-acre site is located at 4142, 4166, and 4178 Adams Avenue and 4708 Edgeware Road, in the CU-3-3 and CN-1-3 zones of the Central Urbanized Planned District and within the Kensington-Talmadge Neighborhood of the Mid-City Communities Plan area. The project site is legally described as Lots 9, 10, 11, 12, and 13 in Block 15 of Kensington Park, in the City of San Diego, County of San Diego, State of California, According to Map Thereof No. 1245 filed in the Office of the County Recorder of San Diego County, April 8, 1910.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee to demolish the existing structures and construct a mixed-use development consisting of 16,255 square feet of office, 16,550 square feet of retail, and 19,614 square feet of residential in nine residential units, described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated February 5, 2008, on file in the Development Services Department.

The project or facility shall include:

- a. Demolition of the existing gas station, convenience store, and seven residences and the construction of a 56,643 square-foot, 3-story mixed-use development. The development would include approximately 16,550 square feet of retail space, 16,255 square feet of office space, 19,614 square feet of residential use, and 4,224 square feet of ancillary uses. The residential component would include six 3-bedroom, 3-bath penthouses and three 3-bedroom, 3-bath townhome units that would be sold for private ownership.

- b. A deviation to the maximum height permitted by the CN-1-3 zone. The project proposes a height of 38 feet, where the San Diego Municipal Code allows for a maximum height of 30 feet in the CN-1-3 zone;
- c. Drought tolerant landscaping (planting, irrigation and landscape related improvements);
- d. Off-street parking;
- e. Approximately 10,000 square feet of Green Roof technology, fire-sprinklers throughout the development, residential private open space areas totaling approximately 5,000 square feet, and public and private commercial and office open space totaling approximately 6,000 square feet in plazas, courtyards, and terraces;
- f. A roof-mounted photovoltaic system consisting of solar panels sufficient to generate at least 50 percent of the project's projected energy consumption for the residential portion of the project and 30 percent of the project's projected energy consumption for the commercial portion of the project, as established by Council Policy 900-14; and
- g. Accessory improvements determined by the City Manager to be consistent with the land use and development standards in effect for this site per the adopted community plan, California Environmental Quality Act Guidelines, public and private improvement requirements of the City Engineer, the underlying zone(s), conditions of this Permit, and any other applicable regulations of the SDMC in effect for this site.

STANDARD REQUIREMENTS:

1. This Permit must be utilized within thirty-six months after the date on which all rights of appeal have expired. Failure to utilize the Permit 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 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 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 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 applicant 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 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 applicant of any claim, action, or proceeding and,

if the City should fail to cooperate fully in the defense, the applicant 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, applicant 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 applicant 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 applicant shall not be required to pay or perform any settlement unless such settlement is approved by applicant.

ENVIRONMENTAL/MITIGATION REQUIREMENTS:

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

12. The mitigation measures specified in the MMRP, and outlined in Mitigated Negative Declaration No. 105244 shall be noted on the construction plans and specifications under the heading ENVIRONMENTAL/MITIGATION REQUIREMENTS.

13. The Owner/Permittee shall comply with the MMRP as specified in Mitigated Negative Declaration No. 105244 satisfactory to the City Manager and the 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:

Paleontological Resources
Human Health and Public Safety
Transportation Circulation

14. 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.

AFFORDABLE HOUSING REQUIREMENTS:

15. Prior to issuance of the first residential building permit, the applicant shall comply with the affordable housing requirements of the City's Inclusionary Affordable Housing Regulations (Chapter 14, Article 2, Division 13 of the Land Development Code

ENGINEERING REQUIREMENTS:

16. Planned Development Permit No. 360181 shall comply with the conditions of Vesting Tentative Map No. 360180.

LANDSCAPE REQUIREMENTS:

17. Prior to issuance of any construction permits for public 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-ft area around each tree which is unencumbered by utilities. Driveways, utilities, drains, water and sewer laterals shall be designed so as not to prohibit the placement of street trees.

18. In the event that a foundation only permit is requested by the Permittee or subsequent Owner, a site plan or staking layout plan shall be submitted identifying all landscape areas consistent with Exhibit "A," Landscape Development Plan. These landscape areas shall be clearly identified with a distinct symbol, noted with dimensions and labeled as "landscaping area."

19. The Permittee or subsequent owner shall be responsible for the maintenance of all landscape improvements in the right-of-way consistent with the Land Development Manual Landscape Standards unless long-term maintenance of said landscaping will be the responsibility of a Landscape Maintenance District or other approved entity. In this case, a Landscape Maintenance Agreement shall be submitted for review by a Landscape Planner.

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

21. 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.

22. 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.

23. 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, the Permittee or Subsequent Owner 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:

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

25. Prior to the issuance of building permits, construction documents shall fully illustrate the incorporation of a roof-mounted photovoltaic system consisting of solar panels sufficient to generate at least 50 percent of the project's projected energy consumption for the residential portion of the project and 30 percent of the project's projected energy consumption for the commercial portion of the project, as established by Council Policy 900-14.

26. All signs associated with this development shall be consistent with sign criteria established by either the approved Exhibit "A" or Citywide sign regulations.

27. Prior to the erection of any permanent signage on any use authorized under this Permit, Permittee shall obtain the approval of a comprehensive signage program by the Kensington-Talmadge Planning Group or other governmental or quasi-governmental body so designated by the City Manager.

28. The Owner/Permittee shall post a copy of the approved discretionary permit or 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.

30. No commercial cell towers or antennas shall be placed on the building.

31. All dumpsters shall be concealed in designated areas.

32. Applicant shall work with the Kensington-Talmadge Planning Committee to establish acceptable times of construction operation on Saturdays.

33. All grocery store uses established under this Permit shall not exceed 5,000 gross square feet.

34. The uses allowed under this permit shall be those allowed in the CN-1-3 zone of the Central Urbanized Planned District upon the date of approval of this Permit by the City Council except that the following uses shall not be permitted under this Permit:

- a. "Big Box" retail business such as Wal-Mart
- b. Lease space dedicated to a money service business (check-cashing service)

- c. Adult content retail stores
- d. Drive-through restaurants
- e. Pawnshops
- f. Bail Bondsmen

TRANSPORTATION REQUIREMENTS:

35. No fewer than 112 parking spaces (ninety spaces required), three motorcycle spaces and seven bicycle spaces) shall be maintained on the property at all times in the approximate locations shown on the approved Exhibits "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. Prior to the issuance of any building permits, applicant shall assure by permit and bond, construction of a traffic signal at the intersection of Adams Avenue and Kensington Drive, satisfactory to the City Engineer.
37. Prior to the issuance of the first building permit, applicant shall assure by permit and bond, full width improvements along project frontage on Marlborough Drive including 36 feet of pavement, curb, gutter and sidewalk as shown on exhibit "A," satisfactory to the City Engineer.
38. Prior to the issuance of the first building permit, applicant shall assure by permit and bond, half width improvements along project frontage on Edgeware Road including 16 feet of pavement, curb, gutter and sidewalk as shown on Exhibit "A," satisfactory to the City Engineer.
39. Prior to the issuance of the first building permit, applicant shall assure by permit and bond, restriping of Adams Avenue from I-15 east to Aldine Drive as a 3-lane facility including a class III bicycle facility, one westbound lane, one eastbound lane and a two-way left turn center lane as shown in the Kensington Terrace traffic study, satisfactory to the City Engineer.
40. Prior to the issuance of the first building permit, applicant shall assure by permit and bond, the construction of a raised center median on Adams Avenue between I-15 northbound ramp and mid-block between Terrace Drive and Kensington Drive, satisfactory to the City Engineer.
41. Prior to the construction phase of the project, the applicant shall work with City staff to ensure the following:
- a. No heavy vehicles shall be permitted on residential streets north or south of Adams Avenue.

- b. Heavy construction equipment shall be limited to travel via SR-15 and Adams Avenue to access the project site.
- c. The installation of appropriate signage to prevent heavy traffic on adjacent residential streets.
- d. The establishment of a designated off-site parking area for construction employees.
- e. The establishment of delivery schedules which avoid the peak traffic times between 7:00 a.m. to 9:00 a.m. and 3:30 p.m. to 5:30 p.m.

WASTEWATER REQUIREMENTS:

42. 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 will have its own sewer lateral or provide CC&R's for the operation and maintenance of on site private sewer mains that serve more than one ownership.

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

44. 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:

45. 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 any existing unused water service adjacent to the project site, in a manner satisfactory to the Water Department Director and the City Engineer. If water, fire or irrigation services are proposed in Marlborough Drive, then the Owner/Permittee will be required to do a cut-in connection and pay a special cost which will be determined during final engineering plan check.

46. 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.

47. 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.

48. 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.
- 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 February 5, 2008 by Resolution No. R-303404.

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.

By: Gorvan, LLC
a California limited liability
company
Its: General Partner

By _____
Name: Richard D. Vann
Title: Manager

By _____
Name: Sonomon Gorshtein
Title: Manager

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