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RESOLUTION NUMBER R-304025

DATE OF FINAL PASSAGE JULY 29, 2008

RESOLUTION GRANTING MASTER PLANNED  
DEVELOPMENT PERMIT NO. 4103/SITE DEVELOPMENT  
PERMIT NO. 293783, AN AMENDMENT TO PLANNED  
COMMERCIAL DEVELOPMENT PERMIT NO. 83-0117, FOR  
THE UNIVERSITY TOWNE CENTER PROJECT.

WHEREAS, University Towne Center Venture L.L.C., a Delaware Limited Liability Company; Nordstrom Incorporated, a Washington Corporation; Sears and Roebuck and Company, a New York Corporation; CMF University Towne Center South, L.L.C., a Delaware Limited Liability Company; and CMF University Towne Center North, L.L.C., a Delaware Limited Liability Company, Owners/Westfield Corporation, Incorporated, Permittee, filed an application with the City of San Diego for a Master Planned Development Permit [MPDP] No. 4103/Site Development Permit [SDP] No. 293783, an amendment to Planned Commercial Development Permit [PCDP] No. 83-0117 for the redevelopment and renovation of the existing 1,061,400-square-foot Westfield University Towne Center [UTC] regional shopping center. The proposed project includes the renovation and expansion of retail uses by up to 750,000 square feet and the development of a maximum of 300 multi-family residential units. The project also includes on-site parking facilities and local region transportation improvements; the expanded development of a regional transit center for bus, and light rail services; a new pedestrian bridge crossing La Jolla Village Drive, west of Town Center Drive; and park facilities in support of the residential development, known as the University Towne Center project, located south of La Jolla Village Drive, west of Towne Center Drive, east of Genesee Avenue, and north of Nobel Drive, and legally described as those portions of Parcels 1 and 2 of Parcel Map 12903 and Parcels 1, 3, and 4 of Parcel Map 6481 all in the City of San Diego, County of San Diego, State

of California, in the University Community Plan area, in the CC-1-3 and RS-1-14 zones (previously referred to as the CA and R-1 zones, respectively) of which a portion of the CC-1-3 zone is proposed to be rezoned to the CR-1-1 zone (previously referred to as the CBD zone), Community Plan Implementation Overlay Area "A" Zone, Airport Environs Overlay Zone, and Airport Influence Area Zone; and

WHEREAS, on June 12, 2008, the Planning Commission of the City of San Diego considered Master Planned Development Permit No. 4103/Site Development Permit No. 293783, an amendment to Planned Commercial Development Permit No. 83-0117, and pursuant to Resolution No. 4412-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 July 29, 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 Master Planned Development Permit No. 4103/Site Development Permit No. 293783:

**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 Westfield UTC Project, with the approval of the proposed amendment to the University City Community Plan [Community Plan], will not adversely affect the land use and density designations for the site. UTC was originally developed in the late 1970's, opened in 1977 and expanded in 1984. The existing, open air center features department stores, specialty retail shops, automotive service shops, entertainment venues, multiple dining venues, community meeting facilities, a bus transit center and parking. The size of the existing center is 1,061,000 square feet on approximately 75 acres. UTC "...functions as a major regional commercial center as well as a social center for the community" (Community Plan, page 10). An amendment to the Community Plan is proposed in order to increase the development intensity for the site from 1,061,000 square feet to a traffic envelope, not to exceed 17,800 Average Daily Trips [ADT]. Approval of the MPDP includes different project scenarios which could be developed within the ADT envelope. The proposed project would add up to 750,000 square feet of retail and a maximum of 300 residential units. Ten percent of the residential units will be affordable pursuant to the City's Inclusionary Housing Ordinance. The UTC Project also includes a Transit Center which will accommodate buses and any future light rail or bus rapid transit.

The UTC Project will implement many of the goals and policies of the City's General Plan [General Plan], the Community Plan and the San Diego Association of Governments' [SANDAG] Regional Comprehensive Plan [RCP]. The UTC Project is consistent with the General Plan Strategic Framework Element policies to create smart growth, mixed use developments. To that end, UTC will increase the supply of housing, including on-site affordable housing, connected to local and regional transit systems. Furthermore, UTC will accomplish the Community Plan objective to improve the urban node pedestrian network by providing non-contiguous sidewalks around the perimeter of the site and enhancing the walkability within the site and through connections to surrounding land uses.

The UTC Project will further many of the goals and policies of the City's Progress Guide and General Plan which are identified in the Community Plan as follows:

- Residential Growth – Management of the growth of the region through appropriate population assimilation without artificial constraints or limitations on growth increases (Community Plan, page 14);
- Fiscal – Economic – Reduction in costs of development – particularly public capital and operational costs and stabilizing the tax structure of the City by discouraging urban sprawl (Community Plan, page 14);
- Balancing Social and Community Characteristics in All Areas – Balanced housing for all communities and income levels; Proximity of place of employment and residence; Recognition of community and individual economic, social and physical values; Improving the range of goods and

services for the residents of University City and accommodating communities activities, retail services, recreational and entertainment within UTC (Community Plan, page 14).

In the same way that the General Plan goals establish useful criteria for evaluating community plan alternatives in light of regional needs, the following goals from the Community Plan are particularly suited to University City:

- Develop the University area as a self-sufficient community offering a balance of housing, employment, business, cultural, educational and recreational opportunities (Community Plan, page 16);
- Create an "urban node" with two relatively high density mixed-use core areas located in the University Towne Center (Community Plan, page 16);
- Development an equitable allocation of development intensity among properties, based on the concept of the "urban node" (Community Plan, page 16);
- Locate higher density housing nearest the Towne Centre core (Community Plan, page 17);
- Encourage a mixture of residential, commercial, and professional office uses (Community Plan, page 17);
- Concentrate community activities such as retail, professional, cultural, recreational and entertainment within the Towne Centre (Community Plan, page 17);
- Develop a transportation system designed to move people and goods safely and efficiently within the community, including linkages to other communities, and with due consideration for energy conservation (Community Plan, page 18);
- Encourage the adequate provision of public transit between major activity areas such as the University, Towne Centre, and La Jolla Village Square (Community Plan, page 18);
- Provide pedestrian paths, and bikeways to accommodate the community and complement the City-wide systems (Community Plan, page 18);
- Encourage alternative modes of transportation by requiring developer participation in transit facility improvements (Community Plan, page 18);
- Ensure implementation of City Council Policy 600-34, Transit Planning and Development (Community Plan, page 18).

In addition to furthering the goals and policies of the City's Progress Guide and General Plan and the Community Plan, the UTC Project implements many of the goals and policies of the newly adopted General Plan as follows:

- The City of Villages strategy focuses growth into mixed-use activity centers that are pedestrian-friendly districts linked to an improved regional transit system (General Plan, SF-2, LU-6);
- A "village" is defined as the mixed-use heart of a community where residential, commercial, employment, and civic uses are all present and integrated (General Plan, SF-2, LU-6);
- Implementation of the City of Villages growth strategy is dependent upon close coordination of land use and transportation planning. The strategy calls for redevelopment, infill, and new growth to be targeted into compact, mixed-use, and walkable villages that are connected to a regional transit system. Villages should increase personal transportation choices and minimize transportation impacts through design that pays attention to the needs of people traveling by transit, foot, and bicycle, as well as the automobile. Focused development and density adjacent to transit stops that link where people live to where people work, shop and recreate, helps make transit convenient for more people. It allows for a more cost-effective expansion of transit services (General Plan, SF-3, ME-5);
- New policies have been created to support changes in development patterns to emphasize combining housing, shopping, employment uses, schools, and civic uses, at different scales, in village centers (General Plan, SF-4);
- The City of Villages Strategy strives to increase housing supply and diversity through the development of compact, mixed-use villages in specified areas. This strategy also helps to achieve some of the jobs/housing benefits of balanced communities at a broader scale by encouraging better links from homes to jobs and services throughout the region (General Plan, SF-6).

The UTC Project is consistent with SANDAG's RCP and Smart Growth Concept Map [Smart Growth Map]. The site is identified in the RCP and the Smart Growth Map as an Urban Center/Node designated for higher density, mixed-use and transit oriented development.

The project will have no substantial adverse effect regarding the Airport Land Use Compatibility Plan [ALUCP] for Marine Corps Air Station [MCAS] Miramar. The project would be compatible with the land use restrictions identified within the ALUCP for MCAS Miramar relative to public safety and noise issues. Using the Airport Noise/Land Use Compatibility Matrix in the MCAS Miramar ALUCP, the proposed retail and residential uses are compatible land uses with the exterior noise thresholds shown in the matrix. The project site is located entirely outside of the accident potential zones identified for the air station and the tallest

proposed commercial structures would be less than the height restrictions imposed upon the project site. The proposed project would not generate other obstructions, emit or reflect light at levels that could interfere with air crew vision, produce emissions that would interfere with aircraft communication systems or other electrical systems, or attract birds. The project, therefore, would not present a significant land use conflict with regard to aircraft operations at MCAS Miramar.

The UTC Project includes the construction of a pedestrian bridge over La Jolla Village Drive, west of Towne Center Drive, identified in the adopted University Community Plan (See Community Plan, Figure 11, page 78 and page 142). The following objectives and recommendations regarding pedestrian bridge overcrossings from the University Community Plan will be implemented by the UTC Project:

- Urban Design Element – A Vision of the Future. Pedestrian overpasses will be part of the network spanning wide, heavily traveled streets, and connecting superblocks, buildings and uses in a safe environment (Community Plan, page 37);
- Urban Design Element – Linkages. With the exception of the pedestrian overpass linking the University Towne Centre and "The Plaza" project, existing overpasses seem to go from nowhere to nowhere. They solely provide a safe means of crossing wide streets. The connection from the overpass to the sidewalk is often an unsightly and space-consuming ramp paralleling the street. Design solutions must address the needs of the handicapped while contributing to the aesthetic quality of the community (Community Plan, page 72);
- Urban Design Element – Linkages. An objective of the University Community Plan is to designate and clearly define a primary pedestrian network linking superblocks, major activity centers and resource areas utilizing the public sidewalk, street level crossings, overpasses, meandering paths through private developments, and trails through natural open space areas (Community Plan, page 73);
- Urban Design Element – Linkages. Another objective is to ensure that the location of new pedestrian overpasses and street level crossings reinforce the pedestrian network and that their design reflects safety, uniqueness and community pride. This is accomplished by designing overpasses as integral parts of projects not as "afterthoughts." Overpasses should connect buildings, plazas, major entrances and the most active and interesting areas on both sides of the street. Detached and isolated overpasses landing on parking lots, or dead space should be avoided (Community Plan, page 76);
- Transportation Element – Pedestrian Facilities. Pedestrian facilities in the University Community have been provided as a condition of the approvals of many development projects. These facilities include sidewalks

constructed in conjunction with City streets, interior private walkways included in planned commercial developments, and special facilities such as the pedestrian overpasses which have been constructed over La Jolla Village Drive near Villa La Jolla and from University Towne Center to the Plaza, and over Genesee Avenue from the Plaza to Regents Park.

- Transportation Element – Pedestrian Pathway System. A pedestrian linkage system should be developed connecting residential areas to all activity areas of the community. An emphasis should be placed on separating pedestrian activity from other modes of transportation. In high-volume traffic areas, especially along La Jolla Village Drive and Nobel Drive and near the two regional shopping centers, pedestrian movement should be facilitated by pedestrian bridges (Community Plan, page 159).

Consistent with the objectives and recommendations of the Community Plan, the pedestrian bridge over La Jolla Village Drive, west of Towne Center Drive will be constructed when new development occurs within the boundaries of the La Jolla Terrace district, in a manner satisfactory to the City Engineer. That will ensure that the pedestrian bridge will provide the meaningful connection to contribute to the pedestrian linkage goals outlined in the Community Plan, and avoid detached and isolated overpasses landing on parking lots or dead space.

For all of these reasons, the UTC Project will not adversely affect the applicable land use plan.

**b. The proposed development will not be detrimental to the public health, safety, and welfare.** The UTC Project will not be detrimental to the public health, safety and welfare. UTC proposes significant public improvements within the University Community including enhanced pedestrian access, non-contiguous sidewalks, walkways, new pedestrian bridge across La Jolla Village Drive, west of Towne Center Drive, and connections to the existing elevated pedestrian bridges over Genesee Avenue and La Jolla Village Drive. Roadway improvements, freeway improvements and bikeways are also proposed. The UTC Project has an existing community center which will be relocated and doubled in size to accommodate a variety of community activities.

The proposed pedestrian bridge implements the pedestrian safety objectives of the Community Plan. Furthermore, subsequent design review will ensure public health, safety, and welfare is protected through conditions of approval and issuance of a public right-of-way encroachment permit as outlined in San Diego Municipal Code section 129.0701 et seq.

The UTC Project also incorporates many sustainable design features and has been accepted as a pilot project in the United States Green Building Council's Leadership in Energy Efficiency and Design [LEED] Neighborhood Development program. The LEED for Neighborhood Development Rating System integrates the principles of smart growth, urbanism, and green building into the first national standard for neighborhood design. LEED certification provides independent, third-party verification that a development's location and design meet accepted high standards for environmentally responsible, sustainable development.

The UTC Revitalization Project would be compatible with the land use restrictions identified within the ALUCP for MCAS Miramar relative to public safety and noise issues. According to the noise contours in the ALUCP, the 60 dB contours occur east of the project site. Using the Airport Noise/Land Use Compatibility Matrix in the MCAS Miramar ALUCP, the proposed retail and residential uses are compatible land uses with the exterior noise thresholds shown in the matrix. The project site is located entirely outside of the accident potential zones identified for the air station and the tallest proposed commercial structures would be less than the height restrictions imposed upon the project site. The proposed project would not generate other obstructions, emit or reflect light at levels that could interfere with air crew vision, produce emissions that would interfere with aircraft communication systems or other electrical systems, or attract birds. The project, therefore, would not present a significant hazard with regard to aircraft operations at MCAS Miramar.

The project would not involve the development of a hazardous waste facility or require the routine transport, storage or treatment of hazardous materials. The project site is not located within or adjacent to any areas that have high public safety risk, such as airport accident potential zones, and permanent buildings are not proposed in a floodway. Therefore, impacts relating to hazards and hazardous materials associated with the project would not occur.

The UTC site will continue to be served by the Police Department's Northern Division and Fire Station 35. The Police Department's goal is for a ratio of officers to population of 1.5 officers per 1,000 persons. The department's goal for responding to emergency priority calls is seven minutes. Response times on average for the Northern Division are 8.9 minutes for emergency calls and 18.4 minutes for Priority One calls. The Northern Division response time exceeds the City's average response time of 7.3 minutes for emergency calls and 13.1 for Priority One calls. At a ratio of 1.5 officers per 1,000 residents, the maximum residential scenario at UTC would generate a demand equivalent to 0.9 officers. Fire Station 35's response time to the UTC site is approximately 2 minutes as the station is located about one and one half blocks (1/4 mile) from the site. However, the project site does not have the ability of a full first alarm assignment, which consists of three engines and two trucks to reach the site in a prescribed time. In addition, the engine company at Station 35 exceeds workload capacity in a number of incidents per year which requires response from outlying fire stations. Additional stations that provide backup include Fire Stations 27, 28 and 41. The response time to the UTC site from Station 27 is approximately 7 minutes, 10 minutes from Station 28 and 5 minutes from Station 41.

The Project will facilitate the construction of necessary sewer, water and road infrastructure to serve the development and the community at large. The improvements will incorporate Best Management Practices [BMP's] in compliance with Chapter 14, Article 2, Division 1 of the San Diego Municipal Code, including stormwater compliance standards. These improvements are conditions of approval of the permit as requirements necessary to avoid adverse impacts upon the health, safety and welfare of people living and/or working in the surrounding area.

Subsequent development proposals will be evaluated for consistency with the MPDP for Westfield Design Guidelines in accordance with the City's substantial conformance review process. All structures constructed will be reviewed by professional staff for compliance



with all relevant and applicable building, electrical, plumbing, mechanical and fire codes to assure the structures will meet or exceed the current regulations. Further, the construction will be monitored and inspected in the field by certified inspectors. 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 San Diego Municipal Code Chapter 12, Article 6, Division 6 (Land Development Code) sets forth the City's procedures for the issuance of Planned Development Permits, including an MPDP. Chapter 12, Article 6, Division 5 sets forth the procedures for obtaining a SDP. The Zoning Ordinance provides specific development regulations for MPDPs and SDPs, as well as specific site development regulations for the applicable zones. The project currently operates under Planned Commercial Development Permit No. 83-0117. The Planned Commercial Development permit would be amended by the MPDP.

San Diego Municipal Code section 129.0702(a)(1) provides that a public right-of-way permit is required for private construction of public improvements. Sections 126.0502(d)(7) and 129.0710(b) provide that if the proposed encroachment is erected, placed, constructed, established or maintained in the public right-of-way when the applicant is not the record owner of the property on which the encroachment will be located, a Site Development Permit is required. Consistent with those regulations, construction of the approved pedestrian bridge over La Jolla Village Drive, west of Towne Center Drive will comply with the applicable regulations of the Land Development Code.

The MPDP for the UTC Project allows flexibility in the strict adherence to development requirements of the underlying zone. Deviations are contemplated in the MPDP review process in order to create a more creative and desirable project which will benefit the community. The MPDP guidelines provide a conceptual framework for subsequent review by professional City staff in accordance with the substantial conformance review process to ensure consistent compliance with the purpose and intent of the regulations of the Land Development Code.

A majority of the project site shall be rezoned from the CC-1-3 zone (Community Commercial) to the CR-1-1 zone (Commercial Regional) to more accurately reflect the regional nature of the UTC shopping center. The proposed uses would be permissible in both the CC-1-3 and CR-1-1 zones. The zone change would have no impact upon the use or land use designation of the project site.

The tallest retail buildings and architectural appurtenances (such as towers and identity signs) would be a maximum of 100 feet. Residential structures would be no more than 293 feet in height, as outlined in the Design Guidelines. Because these buildings and architectural features would be taller than the 60-foot limit established in the CR-1-1 zone, the project requests a deviation from the height limit of the zone. Other than the requested deviation to a minimum of 5 feet setback along the Genesee Avenue frontage to accommodate future light rail and transit center development, all other structures would be set back at least 10 feet from the site boundary. The structures closest to the existing single-family residential uses to the south of the project site would be set back a minimum of 15 feet and up to 30 feet from the property line,

and would be stepped back in accordance with the Design Guidelines and the development regulations in the CR-1-1 zone. The proposed project would comply with all requirements of the base zone for the provision of pedestrian pathways.

Under the proposed project, substantial amounts of surface and garage parking facilities would remain located along the street frontage. The amount of parking along the street frontage would exceed the requirements of the CR-1-1 zone (i.e., 50 percent) and a deviation is proposed. Compliance of all project structures with the specific requirements regarding provision of offsetting planes for building articulation in the MPDP and other architectural and landscaping treatments would be ensured as part of the building permit process.

Development of the property shall meet all requirements of the regulations and development criteria of the applicable zones, except as specifically allowed and modified by the MPDP No. 4103 which allows specific deviations. All relevant regulations shall be complied with at all times for the life of the project, except as allowed through specific deviations.

**2. Supplemental Findings – Environmentally Sensitive Lands**

**a. The site is physically suitable for the design and siting of the proposed development and the development will result in minimum disturbance to environmentally sensitive lands.** Torrey Trail is approximately eight acres of land on the southeast portion of the site. Although it is developed open space, it is under-utilized. Torrey Trail was graded when UTC was originally constructed. As such, it is mostly disturbed. However, there are a few remnant areas which contain steep slopes and sensitive biological resources. The UTC Project proposes park-like improvements within the boundary of Torrey Trail, but there will be no encroachment into the steep slopes or the sensitive biology. A conservation easement will be granted over those areas to ensure there will be no encroachment. For these reasons, the site is physically suitable for the design and siting of the proposed development and the development will result in no disturbance to the environmentally sensitive lands.

**b. The proposed development will minimize the alteration of natural land forms and will not result in undue risk from geologic and erosional forces, flood hazards, or fire hazards.** All of the proposed grading will occur on previously graded land. There will be no encroachment into environmentally sensitive lands. In addition to obtaining all necessary state and federal permits, construction techniques such as locating staging and storage areas outside drainage areas, storing excavated soils outside of all drainage areas, and re-compacting soils to pre-construction or greater compaction density will be utilized to ensure minimal disturbance to natural land forms and will therefore not result in undue risk from geologic and erosional forces, flood hazards or fire hazards.

**c. The proposed development will be sited and designed to prevent adverse impacts on any adjacent environmentally sensitive lands.** Although Torrey Trail contains environmentally sensitive lands, they are remnant, unconnected areas left over from the original development of the adjacent residential subdivisions and UTC. The sensitive biology is disturbed and contains a large quantity of non-native invasive exotic plant species. In addition, these areas are isolated by urban development from other environmentally sensitive lands.

Therefore, Torrey Trail lacks the quantity, quality and connectivity necessary to support or contribute to the value of the environmentally sensitive lands.

The proposed improvements in the Torrey Trail will not impact or encroach into the environmentally sensitive lands. The Torrey Trail improvements may include pedestrian lighting, a tot lot, benches, picnic tables, new landscaping and/or other park-like amenities; the balance of the area will remain landscaped open space. A 7 to 10 foot buffer from the environmentally sensitive lands is proposed and secured by a covenant of easement to ensure no encroachment.

**d. The proposed development will be consistent with the City of San Diego's Multiple Species Conservation Program [MSCP] Subarea Plan.** The Project site, including Torrey Trail, is within the Urban Areas of the City's MSCP Subarea Plan. The site is not within or near a Multi-Habitat Planning Area [MHPA]. The MHPA delineates core biological resource areas and corridors targeted for conservation. Because UTC is outside the MHPA and there will be no encroachment into the remnant environmentally sensitive areas, the proposed development is consistent with the MSCP Subarea Plan.

**e. The proposed development will not contribute to the erosion of public beaches or adversely impact local shoreline sand supply.** The proposed development is located approximately two and a half miles east of the Pacific Ocean's beaches and local shoreline. The on-site development will not contribute to erosion of public beaches or adversely impact shoreline sand supply in that all current water quality and erosion control measures will be required of the project during construction and post-construction. All drainage will be directed to the existing public storm drain system and to the extent possible will substantially decrease the potential for downstream siltation. The proposed development will not contribute to the erosion of public beaches or adversely impact local shoreline sand supply.

**f. The nature and extent of mitigation required as a condition of the permit is reasonably related to, and calculated to alleviate, negative impacts created by the proposed development.** The UTC Project's Torrey Trail District contains approximately 1.92 acres of naturally occurring steep and sensitive biological resources that occur between the existing developed land in the southern-most reaches of the district and surrounding residential development. Pursuant to and SDMC Chapter 14, Article 3, Division 1 of the Environmentally Sensitive Lands [ESL] Regulations, any portion of the premises that contains, among others, steep hillsides and sensitive biological resources would be subject to ESL regulations to the entire premises. Other than proposed park improvements as noted in the Design Guidelines, the project does not propose any commercial or residential development in the vicinity of the ESL nor would any development encroach into the ESL. Consistent with SDMC section 143.0140(a), the permit has been conditioned requiring the applicant to grant a covenant easement across the portion of the premises containing ESL to restrict any encroachment.

**3. Supplemental Findings—Public Right-of-way Encroachments**

**a. The proposed encroachment is reasonably related to public travel, or benefits a public purpose, or all record owners have given the applicant written permission to maintain the encroachment on their property.** The UTC Project includes future

construction of an already approved pedestrian bridge over La Jolla Village Drive, west of Towne Center Drive, connecting to Embassy Suites. (See Community Plan, Figure 11, page 78 and page 142). The purpose of this pedestrian bridge in the Community Plan is to implement the following objectives and recommendations related to public travel through pedestrian linkages:

- Urban Design Element – A Vision of the Future. Pedestrian overpasses will be part of the network spanning wide, heavily traveled streets, and connecting superblocks, buildings and uses in a safe environment (Community Plan, page 37);
- Urban Design Element – Linkages. With the exception of the pedestrian overpass linking the University Towne Centre and "The Plaza" project, existing overpasses seem to go from nowhere to nowhere. They solely provide a safe means of crossing wide streets. The connection from the overpass to the sidewalk is often an unsightly and space-consuming ramp paralleling the street. Design solutions must address the needs of the handicapped while contributing to the aesthetic quality of the community (Community Plan, page 72);
- Urban Design Element – Linkages. An objective of the University Community Plan is to designate and clearly define a primary pedestrian network linking superblocks, major activity centers and resource areas utilizing the public sidewalk, street level crossings, overpasses, meandering paths through private developments, and trails through natural open space areas (Community Plan, page 73);
- Urban Design Element – Linkages. Another objective is to ensure that the location of new pedestrian overpasses and street level crossings reinforce the pedestrian network and that their design reflects safety, uniqueness and community pride. This is accomplished by designing overpasses as integral parts of projects not as "afterthoughts." Overpasses should connect buildings, plazas, major entrances and the most active and interesting areas on both sides of the street. Detached and isolated overpasses landing on parking lots, or dead space should be avoided (Community Plan, page 76);
- Transportation Element – Pedestrian Facilities. Pedestrian facilities in the University Community have been provided as a condition of the approvals of many development projects. These facilities include sidewalks constructed in conjunction with City streets, interior private walkways included in planned commercial developments, and special facilities such as the pedestrian overpasses which have been constructed over La Jolla Village Drive near Villa La Jolla and from University Towne Center to the Plaza, and over Genesee Avenue from the Plaza to Regents Park.
- Transportation Element – Pedestrian Pathway System. A pedestrian linkage system should be developed connecting residential areas to all

activity areas of the community. An emphasis should be placed on separating pedestrian activity from other modes of transportation. In high-volume traffic areas, especially along La Jolla Village Drive and Nobel Drive and near the two regional shopping centers, pedestrian movement should be facilitated by pedestrian bridges (Community Plan, page 159).

Consistent with the objectives and recommendations of the Community Plan, the north to south pedestrian bridge over La Jolla Village Drive, west of Towne Center Drive will be constructed when new development occurs within the boundaries of the La Jolla Terrace district as shown on the approved Exhibit "A" plans, University Towne Center Master Plan and Design Guidelines, and the University Towne Center Revitalization plans, in a manner satisfactory to the City Engineer. That will ensure that the pedestrian bridge will provide the meaningful connection to contribute to the pedestrian linkage goals outlined in the Community Plan, and avoid detached and isolated overpasses landing on parking lots or dead space.

The landing area for the pedestrian bridge on the Embassy Suites property, north side of La Jolla Village Drive was already dedicated pursuant to Map No. 11506 recorded in the office of the San Diego County Recorder as File Number 86-181364 on May 7, 1986. As such, the proposed encroachment is related to public travel, benefits a public purpose, and all record owners have given permission to maintain the encroachment on their property.

**b. The proposed encroachment does not interfere with the free and unobstructed use of the public right-of-way for public travel.** The purpose of constructing the pedestrian overpass is to prevent conflicts between different modes of transportation (i.e., pedestrian, bicycle, transit and/or vehicular). Construction of the pedestrian bridge will provide safe connections as part of the pedestrian linkage system outlined in the Community Plan. As such, the proposed encroachment will not interfere with the free and unobstructed use of the public right-of-way for public travel. In fact, the pedestrian bridge when it is constructed, will enhance public travel.

**c. The proposed encroachment will not adversely affect the aesthetic character of the community.** Consistent with the objectives and recommendations of the Community Plan, the north to south pedestrian bridge over La Jolla Village Drive, west of Towne Center Drive will be constructed when new development occurs within the boundaries of the La Jolla Terrace district. as shown on the approved Exhibit "A" plans, University Towne Center Master Plan and Design Guidelines, and the University Towne Center Revitalization plans, in a manner satisfactory to the City Engineer. That will ensure that the pedestrian bridge will provide the meaningful connection to contribute to the pedestrian linkage goals outlined in the Community Plan, and avoid detached and isolated overpasses landing on parking lots or dead space. Furthermore, the pedestrian bridge will be designed in accordance with the objectives and recommendations of the Community Plan Urban Design Element. cited in the above Findings.

**d. The proposed encroachment does not violate any other Municipal Code provisions or other local, state or federal law.** See responses to all Findings above. The proposed encroachment will comply with the conditions of approval for the UTC Project to ensure there will be no violations of the Municipal Code or other local, state or federal law.

**B. PLANNED DEVELOPMENT PERMIT SDMC SECTION 126.0604**

**1. The proposed development will not adversely affect the applicable land use plan.** The Westfield UTC Project, with the approval of the proposed amendment to the Community Plan, will not adversely affect the land use and density designations for the site. UTC was originally developed in the late 1970's, opened in 1977 and expanded in 1984. The existing, open air center features department stores, specialty retail shops, automotive service shops, entertainment venues, multiple dining venues, community meeting facilities, a bus transit center and parking. The size of the existing center is 1,061,000 square feet on approximately 75 acres. UTC "...functions as a major regional commercial center as well as a social center for the community" (Community Plan, page 10). An amendment to the Community Plan is proposed in order to increase the development intensity for the site from 1,061,000 square feet to a traffic envelope, not to exceed 17,800 ADTs. Approval of the MPDP includes different project scenarios which could be developed within the ADT envelope. The proposed project would add up to 750,000 square feet of retail and a maximum of 300 residential units. Ten percent of the residential units will be affordable pursuant to the City's Inclusionary Housing Ordinance. The UTC Project also includes a Transit Center which will accommodate buses and any future light rail or bus rapid transit.

The UTC Project will implement many of the goals and policies of the General Plan, the Community Plan and SANDAG's RCP. The UTC Project is consistent with the General Plan Strategic Framework Element policies to create smart growth, mixed use developments. To that end, UTC will increase the supply of housing, including on-site affordable housing, connected to local and regional transit systems. Furthermore, UTC will accomplish the Community Plan objective to improve the urban node pedestrian network by providing non-contiguous sidewalks around the perimeter of the site and enhancing the walkability within the site and through connections to surrounding land uses.

The UTC Project will further many of the goals and policies of the City's Progress Guide and General Plan which are identified in the Community Plan as follows:

- Residential Growth – Management of the growth of the region through appropriate population assimilation without artificial constraints or limitations on growth increases (Community Plan, page 14);
- Fiscal – Economic – Reduction in costs of development – particularly public capital and operational costs and stabilizing the tax structure of the City by discouraging urban sprawl (Community Plan, page 14);
- Balancing Social and Community Characteristics in All Areas – Balanced housing for all communities and income levels; Proximity of place of employment and residence; Recognition of community and individual economic, social and physical values; Improving the range of goods and services for the residents of University City and accommodating communities activities, retail services, recreational and entertainment within UTC (Community Plan, page 14).

In the same way that the General Plan goals establish useful criteria for evaluating community plan alternatives in light of regional needs, the following goals from the Community Plan are particularly suited to University City:

- Develop the University area as a self-sufficient community offering a balance of housing, employment, business, cultural, educational and recreational opportunities (Community Plan, page 16);
- Create an "urban node" with two relatively high density mixed-use core areas located in the University Towne Center (Community Plan, page 16);
- Develop an equitable allocation of development intensity among properties, based on the concept of the "urban node" (Community Plan, page 16);
- Locate higher density housing nearest the Towne Centre core (Community Plan, page 17);
- Encourage a mixture of residential, commercial, and professional office uses (Community Plan, page 17);
- Concentrate community activities such as retail, professional, cultural, recreational and entertainment within the Towne Centre (Community Plan, page 17);
- Develop a transportation system designed to move people and goods safely and efficiently within the community, including linkages to other communities, and with due consideration for energy conservation (Community Plan, page 18);
- Encourage the adequate provision of public transit between major activity areas such as the University, Towne Centre, and La Jolla Village Square (Community Plan, page 18);
- Provide pedestrian paths, and bikeways to accommodate the community and complement the City-wide systems (Community Plan, page 18);
- Encourage alternative modes of transportation by requiring developer participation in transit facility improvements (Community Plan, page 18);
- Ensure implementation of City Council Policy 600-34, Transit Planning and Development (Community Plan, page 18).

In addition to furthering the goals and policies of the City's Progress Guide and General Plan and the Community Plan, the UTC Project implements many of the goals and policies of the newly adopted General Plan as follows:

- The City of Villages strategy focuses growth into mixed-use activity centers that are pedestrian-friendly districts linked to an improved regional transit system (General Plan, SF-2, LU-6);
- A "village" is defined as the mixed-use heart of a community where residential, commercial, employment, and civic uses are all present and integrated (General Plan, SF-2, LU-6);
- Implementation of the City of Villages growth strategy is dependent upon close coordination of land use and transportation planning. The strategy calls for redevelopment, infill, and new growth to be targeted into compact, mixed-use, and walkable villages that are connected to a regional transit system. Villages should increase personal transportation choices and minimize transportation impacts through design that pays attention to the needs of people traveling by transit, foot, and bicycle, as well as the automobile. Focused development and density adjacent to transit stops that link where people live to where people work, shop and recreate, helps make transit convenient for more people. It allows for a more cost-effective expansion of transit services (General Plan, SF-3, ME-5);
- New policies have been created to support changes in development patterns to emphasize combining housing, shopping, employment uses, schools, and civic uses, at different scales, in village centers (General Plan, SF-4);
- The City of Villages Strategy strives to increase housing supply and diversity through the development of compact, mixed-use villages in specified areas. This strategy also helps to achieve some of the jobs/housing benefits of balanced communities at a broader scale by encouraging better links from homes to jobs and services throughout the region (General Plan, SF-6).

The UTC Project is consistent with SANDAG's RCP and Smart Growth Map. The site is identified in the RCP and the Smart Growth Map as an Urban Center/Node designated for higher density, mixed-use and transit oriented development.

The project will have no substantial adverse effect regarding the ALUCP for MCAS Miramar. The project would be compatible with the land use restrictions identified within the ALUCP for MCAS Miramar relative to public safety and noise issues. Using the Airport Noise/Land Use Compatibility Matrix in the MCAS Miramar ALUCP, the proposed retail and residential uses are compatible land uses with the exterior noise thresholds shown in the matrix. The project site is located entirely outside of the accident potential zones identified for the air station and the tallest proposed commercial structures would be less than the height restrictions imposed upon the project site. The proposed project would not generate other obstructions, emit or reflect light at levels that could interfere with air crew vision, produce emissions that would interfere with aircraft communication systems or other electrical systems,



or attract birds. The project, therefore, would not present a significant land use conflict with regard to aircraft operations at MCAS Miramar.

The UTC Project includes the construction of a pedestrian bridge over La Jolla Village Drive, west of Towne Center Drive, identified in the adopted University Community Plan (See Community Plan, Figure 11, page 78 and page 142). The following objectives and recommendations regarding pedestrian bridge overcrossings from the University Community Plan will be implemented by the UTC Project:

- Urban Design Element – A Vision of the Future. Pedestrian overpasses will be part of the network spanning wide, heavily traveled streets, and connecting superblocks, buildings and uses in a safe environment (Community Plan, page 37);
- Urban Design Element – Linkages. With the exception of the pedestrian overpass linking the University Towne Centre and "The Plaza" project, existing overpasses seem to go from nowhere to nowhere. They solely provide a safe means of crossing wide streets. The connection from the overpass to the sidewalk is often an unsightly and space-consuming ramp paralleling the street. Design solutions must address the needs of the handicapped while contributing to the aesthetic quality of the community (Community Plan, page 72);
- Urban Design Element – Linkages. An objective of the University Community Plan is to designate and clearly define a primary pedestrian network linking superblocks, major activity centers and resource areas utilizing the public sidewalk, street level crossings, overpasses, meandering paths through private developments, and trails through natural open space areas (Community Plan, page 73);
- Urban Design Element – Linkages. Another objective is to ensure that the location of new pedestrian overpasses and street level crossings reinforce the pedestrian network and that their design reflects safety, uniqueness and community pride. This is accomplished by designing overpasses as integral parts of projects not as "afterthoughts." Overpasses should connect buildings, plazas, major entrances and the most active and interesting areas on both sides of the street. Detached and isolated overpasses landing on parking lots, or dead space should be avoided (Community Plan, page 76);
- Transportation Element – Pedestrian Facilities. Pedestrian facilities in the University Community have been provided as a condition of the approvals of many development projects. These facilities include sidewalks constructed in conjunction with City streets, interior private walkways included in planned commercial developments, and special facilities such as the pedestrian overpasses which have been constructed over La Jolla Village Drive near Villa La Jolla and from University Towne Center to the

Plaza, and over Genesee Avenue from the Plaza to Regents Park. Approved, but not yet constructed pedestrian overpasses include facilities over Genesee Avenue from University Towne Center

- Transportation Element – Pedestrian Pathway System. A pedestrian linkage system should be developed connecting residential areas to all activity areas of the community. An emphasis should be placed on separating pedestrian activity from other modes of transportation. In high-volume traffic areas, especially along La Jolla Village Drive and Nobel Drive and near the two regional shopping centers, pedestrian movement should be facilitated by pedestrian bridges (Community Plan, page 159).

Consistent with the objectives and recommendations of the Community Plan, the pedestrian bridge over La Jolla Village Drive, west of Towne Center Drive will be constructed when new development occurs within the boundaries of the La Jolla Terrace district, in a manner satisfactory to the City Engineer. That will ensure that the pedestrian bridge will provide the meaningful connection to contribute to the pedestrian linkage goals outlined in the Community Plan, and avoid detached and isolated overpasses landing on parking lots or dead space.

For all of these reasons, the UTC Project 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 UTC Project will not be detrimental to the public health, safety and welfare. UTC proposes significant public improvements within the University Community including enhanced pedestrian access, non-contiguous sidewalks, walkways, new pedestrian bridge across La Jolla Village Drive, west of Towne Center Drive, and connections to the existing elevated pedestrian bridges over Genesee Avenue and La Jolla Village Drive. Roadway improvements, freeway improvements and bikeways are also proposed. The UTC Project has an existing community center which will be relocated and doubled in size to accommodate a variety of community activities.

The proposed pedestrian bridge implements the pedestrian safety objectives of the Community Plan. Furthermore, subsequent design review will ensure public health, safety, and welfare is protected through conditions of approval and issuance of a public right-of-way encroachment permit as outlined in San Diego Municipal Code section 129.0701 et seq.

The UTC Project also incorporates many sustainable design features and has been accepted as a pilot project in the United States Green Building Council's LEED Neighborhood Development program. The LEED for Neighborhood Development Rating System integrates the principles of smart growth, urbanism, and green building into the first national standard for neighborhood design. LEED certification provides independent, third-party verification that a development's location and design meet accepted high standards for environmentally responsible, sustainable development.

The UTC Revitalization Project would be compatible with the land use restrictions identified within the ALUCP for MCAS Miramar relative to public safety and noise

issues. According to the noise contours in the ALUCP, the 60 dB contours occur east of the project site. Using the Airport Noise/Land Use Compatibility Matrix in the MCAS Miramar ALUCP, the proposed retail and residential uses are compatible land uses with the exterior noise thresholds shown in the matrix. The project site is located entirely outside of the accident potential zones identified for the air station and the tallest proposed commercial structures would be less than the height restrictions imposed upon the project site. The proposed project would not generate other obstructions, emit or reflect light at levels that could interfere with air crew vision, produce emissions that would interfere with aircraft communication systems or other electrical systems, or attract birds. The project, therefore, would not present a significant hazard with regard to aircraft operations at MCAS Miramar.

The project would not involve the development of a hazardous waste facility or require the routine transport, storage or treatment of hazardous materials. The project site is not located within or adjacent to any areas that have high public safety risk, such as airport accident potential zones, and permanent buildings are not proposed in a floodway. Therefore, impacts relating to hazards and hazardous materials associated with the project would not occur.

The UTC site will continue to be served by the Police Department's Northern Division and Fire Station 35. The Police Department's goal is for a ratio of officers to population of 1.5 officers per 1,000 persons. The department's goal for responding to emergency priority calls is seven minutes. Response times on average for the Northern Division are 8.9 minutes for emergency calls and 18.4 minutes for Priority One calls. The Northern Division response time exceeds the City's average response time of 7.3 minutes for emergency calls and 13.1 for Priority One calls. At a ratio of 1.5 officers per 1,000 residents, the maximum residential scenario at UTC would generate a demand equivalent to 0.9 officers. Fire Station 35's response time to the UTC site is approximately 2 minutes as the station is located about one and one half blocks (1/4 mile) from the site. However, the project site does not have the ability of a full first alarm assignment, which consists of three engines and two trucks to reach the site in a prescribed time. In addition, the engine company at Station 35 exceeds workload capacity in a number of incidents per year which requires response from outlying fire stations. Additional stations that provide backup include Fire Stations 27, 28 and 41. The response time to the UTC site from Station 27 is approximately 7 minutes, 10 minutes from Station 28 and 5 minutes from Station 41.

The Project will facilitate the construction of necessary sewer, water and road infrastructure to serve the development and the community at large. The improvements will incorporate BMP's in compliance with Chapter 14, Article 2, Division 1 of the San Diego Municipal Code, including stormwater compliance standards. These improvements are conditions of approval of the permit as requirements necessary to avoid adverse impacts upon the health, safety and welfare of people living and/or working in the surrounding area.

Subsequent development proposals will be evaluated for consistency with the MPDP for Westfield Design Guidelines in accordance with the City's substantial conformance review process. All structures constructed will be reviewed by professional staff for compliance with all relevant and applicable building, electrical, plumbing, mechanical and fire codes to assure the structures will meet or exceed the current regulations. Further, the construction will be

monitored and inspected in the field by certified inspectors. As such 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 San Diego Municipal Code Chapter 12, Article 6, Division 6 (Land Development Code) sets forth the City's procedures for the issuance of Planned Development Permits, including an MPDP. Chapter 12, Article 6, Division 5 sets forth the procedures for obtaining a SDP. The Zoning Ordinance within the Code provides specific development regulations for MPDPs and SDPs, as well as specific site development regulations for the applicable zones. The project currently operates under Planned Commercial Development Permit No. 83-0117. The Planned Commercial Development permit would be amended by the MPDP.

San Diego Municipal Code section 129.0702(a)(1) provides that a public right-of-way permit is required for private construction of public improvements. Sections 126.0502(d)(7) and 129.0710(b) provide that if the proposed encroachment is erected, placed, constructed, established or maintained in the public right-of-way when the applicant is not the record owner of the property on which the encroachment will be located, a SDP is required. Consistent with those regulations, construction of the approved pedestrian bridge over La Jolla Village Drive, west of Towne Center Drive will comply with the applicable regulations of the Land Development Code.

The MPDP for the UTC Project allows flexibility in the strict adherence to development requirements of the underlying zone. Deviations are contemplated in the MPDP review process in order to create a more creative and desirable project which will benefit the community. The MPDP guidelines provide a conceptual framework for subsequent review by professional City staff in accordance with the substantial conformance review process to ensure consistent compliance with the purpose and intent of the regulations of the Land Development Code.

A majority of the project site shall be rezoned from the Commercial, CC-1-3 zone (Community Commercial) to the CR-1-1 zone (Commercial Regional) to more accurately reflect the regional nature of the UTC shopping center. The proposed uses would be permissible in both the CC-1-3 and CR-1-1 zones. The zone change would have no impact upon the use or land use designation of the project site.

The tallest retail buildings and architectural appurtenances (such as towers and identity signs) would be a maximum of 100 feet. Residential structures would be no more than 293 feet in height, as outlined in the Design Guidelines. Because these buildings and architectural features would be taller than the 60-foot limit established in the CR-1-1 zone, the project requests a deviation from the height limit of the zone. Other than the requested deviation to a minimum of 5 feet setback along the Genesee Avenue frontage to accommodate future light rail and transit center development, all other structures would be set back at least 10 feet from the site boundary. The structures closest to the existing single-family residential uses to the south of the project site would be set back a minimum of 15 feet and up to 30 feet from the property line, and would be stepped back in accordance with the Design Guidelines and the development

regulations in the CR-1-1 zone. The proposed project would comply with all requirements of the base zone for the provision of pedestrian pathways.

The tallest retail buildings and architectural appurtenances (such as towers and identity signs) would be a maximum of 100 feet. Residential structures would be no more than 293 feet in height, as outlined in the Design Guidelines. Because these buildings and architectural features would be taller than the 60-foot limit established in the CR-1-1 zone, the project requests a deviation from the height limit of the zone. All structures would be set back at least 10 feet from the site boundary. The structures closest to the existing single-family residential uses to the south of the project site would be set back a minimum of 15 feet and up to 30 feet from the property line, and would be stepped back in accordance with the MPDP Design Guidelines and the development regulations in the CR-1-1 zone. Thus, the project would comply with all applicable setback and density requirements of the base zone. The proposed project would comply with all requirements of the base zone for the provision of pedestrian pathways.

Under the proposed project, substantial amounts of surface and garage parking facilities would remain located along the street frontage. The amount of parking along the street frontage would exceed the requirements of the CR-1-1 zone (i.e., 50 percent) and a deviation is proposed. Compliance of all project structures with the specific requirements regarding provision of offsetting planes for building articulation in the MPDP and other architectural and landscaping treatments would be ensured as part of the building permit process.

Development of the property shall meet all requirements of the regulations and development criteria of the applicable zones, except as specifically allowed and modified by MPDP No. 4103 which allows specific deviations. All relevant regulations shall be complied with at all times for the life of the project, except as allowed through specific deviations.

**4. The proposed development, when considered as a whole, will be beneficial to the community.** The proposed project would revitalize an existing regional shopping center, balancing the functional needs of the existing center in a way that better serves the surrounding University City service area, which has expanded substantially through population growth and urban development over the last 15 to 20 years. The proposed project would provide for improved and expanded community facilities at the shopping center. The proposed project would offer a broader range of goods and services to the community by providing updated and expanded retail, dining and entertainment options within the University City community that promote extended stays at the center and serve as a means to reduce peak hour commute trips in the project area.

The project design concept described in the MPDP Design Guidelines addresses the current inadequacies of the existing department stores, specialty retail shops, dining and entertainment options onsite, as well as the isolated nature of the center from the surrounding community. The proposed project includes renovation of the existing regional shopping center through demolition of about half of the existing center and construction of new and expanded department stores, and retail shops, and the addition of a mix of uses including residential, and possible office uses onsite.

Utility improvements are proposed that would consist of removing a portion of the onsite sewer and water mains and replacing them with private mains that would be covered by a private utility easement. In addition, the project site would be connected to the City's reclaimed water system.

As discussed in Finding 2 above, the Project has been accepted into the United States Green Building Council's LEED Neighborhood Development Pilot Program and is seeking LEED certification, which is the nationally accepted benchmark for the design, construction and operation of high performance green buildings. LEED-ND pilot program integrates the principles of smart growth, new urbanism and green building. The project applicant has generated sustainability strategies for the redevelopment of the UTC shopping center, including those associated with landscape, lighting, electrical, structural, and HVAC systems.

The proposed project also addresses the regional transportation agencies' goal of expanding public transportation opportunities to ease traffic congestion within the University and Golden Triangle area by providing opportunities for mid- and long-range public transportation improvements that are currently being contemplated for the project area. Specifically, the project applicant, in cooperation with SANDAG, would relocate and expand the existing onsite bus transit center. The expanded transit center would be constructed by the applicant. The proposed project would also reserve right-of-way for the proposed transit center and planned extension of a light rail transit line through the University and Golden Triangle area with a stop proposed at a new station along Genesee Avenue near UTC.

**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.** Deviations are proposed in accordance with Section 126.0602(b)(1) of the Municipal Code. Due to the conceptual nature of the MPDP, deviations are addressed on a planning area basis rather than attributed to a specific aspect of a subsequent development project. The requested deviations may include:

- Retail buildings within 20 feet of the public right-of-way shall be limited to 80 feet in height where the maximum structure height of the CR-1-1 zone is 60 feet;
- The maximum structure height for all other retail buildings and parking decks shall be 100 feet. In addition, the total cumulative area of any retail floors, which are 80 feet or higher above grade, shall not exceed more than 10 percent of the total amount of square feet allocated to regional commercial use permitted within the MPDP;
- The maximum building height for non-retail uses in all the planning areas where they are permitted shall be 293 feet above grade;
- Residential uses and parking will be permitted on the ground floor in the front half of the lot where it is not normally allowed in the CR-1-1 zone;

- All building elevations, within 20 feet of the property line, fronting a public right-of-way will include offsetting planes as described in the MPDP, rather than based on the length of the building façade as required in the Municipal Code;
- Street trees may be placed 4 feet from the face of curb rather than 7 feet as required in the Municipal Code if a non-contiguous sidewalk is proposed as part of a street classified in the Community Plan as a major street, primary arterial, or expressway;
- The proposed private on-site sewer may require a depth of more than 15 feet as is the maximum depth in the Municipal Code. Should a depth of more than 15 feet be necessary, UTC shall design the utility corridor and nearby structure to provide adequate width and clearance for any possible future repair or replacement of the sewer line;
- Deviations from the minimum lot standards for the interior lots may include street frontage, lot area, lot dimensions, setbacks and lot coverage. The site will be treated as single premises with respect to the development regulations; the frontage and setback standards only apply to the portions of any exterior lot which are adjacent to the public right-of-way; and
- Deviation from the required minimum 10-foot setback to a minimum of 5 feet setback along the Genesee Avenue frontage only, and only where required to accommodate the future light rail service and/or the relocated and expanded transit center.

The deviation from the height restriction would allow for architectural and landscape treatments at the street level to engage the pedestrian network (including limitation of the base height of structures, changes in colors and textures, protrusions and recessions, etc.), which would contribute to street vitality and a pedestrian-friendly atmosphere. In addition, although the amount of parking along the street frontage would exceed the requirements of the CR-1-1 zone, it will improve upon the existing condition in which surface parking is located around the entire perimeter of the center. The proposed project would bring department stores and other retail uses closer to the street right-of-way. These buildings would replace some of the existing surface parking and divide the remaining surface parking into smaller units. A portion of the parking would be below the retail proposed near the corner of La Jolla Village Drive and Genesee Avenue. Parking structures would be screened by tall and large flowering trees and trellised vines and would feature architectural treatments to enhance the pedestrian experience. The proposed project would, therefore, substantially improve the building/parking orientation of the site to the adjacent roadways.

The Planned Development Permit regulations allow for deviations to the minimum requirements of the CR-1-1 zoning regulations affecting the site if the proposed design is demonstrated to be an imaginative and creative design solution which would not result from the strict application of the regulations. The development proposes the revitalization and expansion of a regional commercial center along with new residential development within a

“live, work and play” environment which is sensitive to adjacent properties and avoids environmentally sensitive lands. The proposed layout of the project site, with the noted deviations above, will be such a creative and imaginative design. The deviations are therefore allowable through the Planned Development Permit regulations. The development’s Design Guidelines and concept plans for the project identify compliance with all other development criteria in effect for the site. All relevant regulations shall be complied with at all times for the life of the project, except as allowed through the specific deviation listed 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 based on the evidence presented, in addition to the CEQA and other findings adopted for the UTC Revitalization Project, the City Council hereby finds and declares:

1. That the intent of Condition 93 of the proposed Master PDP was to incorporate carpool and vanpool incentives. At the Applicant’s request, Condition 93 has been amended to add to the condition the following additional language:

The plan shall also include a ride-sharing service, such as carpool and vanpool incentives, customized ride-sharing services, a guaranteed Ride Home program (offering a limited number of emergency taxi rides home per employee) and an active marketing program to advertise the services to employees and residents.

2. That “universal transit passes,” the Applicant and City staff have stated on the record that Condition 93 of the Master PDP was intended to require the Permittee to provide a transit subsidy of at least 50 percent for every employee and resident of the University Towne Center project. Pursuant to Public Resources Code Section 21081(b) that specific overriding legal, social, and public policy considerations make infeasible the requirement that a 100 percent transit subsidy be provided by the Permittee to every employee or resident.

- The Council believes that the economic burden of transit costs should be borne equally by employees and the project owner, rather than placed solely on the project owner.
- Placement of 100 percent of the cost, or greater than the cost provided under Condition 93 will put an unfair burden on one project or employer to the exclusion of others in the City of San Diego.
- As a matter of public policy, the merits of such a requirement should be considered by the Council only as a city-wide requirement applicable to all employers.



- Additionally, providing completely free or extremely reduced cost transit passes will reduce the economic commitment of persons given these passes, such that they may continue vehicle trips to the site because they have not expended any of their own money for the transit passes.
- The mitigation measure proposed would not be consistent with these identified public policies.

3. Regarding reducing parking below the level proposed by the project, or requiring the Applicant to charge a fee for parking, the Council also finds that specific environmental, legal, social and public policy considerations make infeasible the adoption of this mitigation measure.

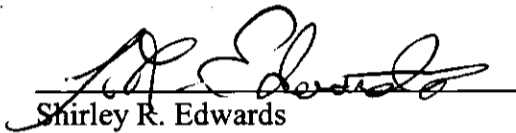
- The current project already includes a substantial reduction in available parking below the parking ratios normally required by the City, and the amount of parking provided will not be sufficient for the demand for parking during peak shopping periods as set forth in the parking study prepared for the project.
- To further reduce parking would have several adverse effects, and would be contrary to good public policy. With reduced parking, there could be spillover effects on surrounding business and homes, and persons seeking nearby offsite parking and using the extensive pedestrian network to access the site, leading to parking shortages, congestion and land use conflicts.
- In addition, the current transit network has not been fully expanded to the project site, though extensions are planned, and it would be unfair to restrict parking until a broader range of transit options are available.
- As a third reason why this mitigation measure is not feasible, the City Council believes as a matter of public policy that it is most appropriate to provide incentives to persuade persons to voluntarily utilize transit, rather than imposing sanctions, charges, shortages or other forms of coercion on those persons who would prefer to drive to the project site.
- Finally, the City believes that any extensive parking restriction or charge should be considered on a City-wide basis for all retail establishments, rather than singling out an individual project with a restriction which has not been applied to other similar projects.

BE IT FURTHER RESOLVED, that Master Planned Development Permit No. 4103/Site Development Permit No. 293783 is granted to University Towne Center Venture L.L.C., a Delaware Limited Liability Company; Nordstrom Incorporated, a Washington Corporation;

Sears and Roebuck and Company, a New York Corporation; CMF University Towne Center South, L.L.C., a Delaware Limited Liability Company; and CMF University Towne Center North, L.L.C., a Delaware Limited Liability Company, Owners/Westfield Corporation, Incorporated, 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

ACD:SRE:pev:cw

07/14/08

08/12/08 REV.

Or.Dept:DSD

R-2008-1214

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

**WHEN RECORDED MAIL TO**  
**CITY CLERK**  
**MAIL STATION 2A**

SPACE ABOVE THIS LINE FOR RECORDER'S USE

JOB ORDER NUMBER 41-1059

**MASTER PLANNED DEVELOPMENT PERMIT NO. 4103/  
SITE DEVELOPMENT PERMIT NO. 293783  
UNIVERSITY TOWNE CENTER MMRP**  
Amendment to Planned Commercial Development Permit No. 83-0117  
CITY COUNCIL

This Master Planned Development Permit [MPDP] No. 4103/Site Development Permit [SDP] No. 293783, an amendment to Planned Commercial Development Permit [PCD] No. 83-0117 is granted by the City Council of the City of San Diego to University Towne Center Venture L.L.C., a Delaware Limited Liability Company; Nordstrom Incorporated, a Washington Corporation; Sears and Roebuck and Company, a New York Corporation; CMF University Towne Center South, L.L.C., a Delaware Limited Liability Company; and CMF University Towne Center North, L.L.C., a Delaware Limited Liability Company, Owners/Westfield Corporation, Incorporated, Permittee, pursuant to San Diego Municipal Code [SDMC] sections 126.0501 and 126.0601. The 75.86-acre site is located south of La Jolla Village Drive, west of Towne Center Drive, east of Genesee Avenue, and north of Nobel Drive in the CR-1-1 zone, CC-1-3 zone, RS-1-14 zone, Community Plan Implementation Overlay Area "A" Zone, Airport Environs Overlay Zone, and Airport Influence Area Zone of the University Community Plan area. The project site is legally described as those portions of Parcels 1 and 2 of Parcel Map 12903 and Parcels 1, 3, and 4 of Parcel Map 6481 all in the City of San Diego, County of San Diego, State of California.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owners/Permittee for the phased redevelopment and renovation of the existing Westfield University Towne Center [UTC] regional shopping center, described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"], Master Planned Development Permit and Design Guidelines for Westfield UTC, and the University Towne Center Revitalization plans, dated July 29, 2008, on file in the Development Services Department [DSD].

The project or facility shall include:

- a. The redevelopment and renovation of the existing 1,061,400-square-foot Westfield UTC regional shopping center. The proposed project would be the renovation and expansion of retail uses by up to 750,000 square feet for a maximum total of 1,811,400 square feet of new retail, and the development of a maximum of 300 multi-family residential units. The land use scenarios in the MPDP would be restricted to a mixture of retail and an option for residential uses that would not exceed 17,800 cumulative Average Daily Trips [ADTs] and 256 in-bound AM peak hour/778 out-bound PM peak hour trips. On-site parking facilities and local regional transportation improvements; the relocation and expansion of the transit center for bus and future light rail services; a new pedestrian bridge crossing La Jolla Village Drive, west of Town Center Drive; and park facilities in support of the residential component all consistent with the approved Exhibit "A," Master Planned Development Permit and Design Guidelines for Westfield UTC [Design Guidelines], and the University Towne Center Revitalization plans.
- b. Allowable deviations:
  - Deviations from the minimum lot standards for the interior lots may include street frontage, lot area, lot dimensions, setbacks and lot coverage. The site will be treated as a single premises with respect to the development regulations; the frontage and setback standards only apply to the portions of any exterior lot which are adjacent to the public right-of-way;
  - Retail buildings within 20 feet of the public right-of-way shall be limited to 80 feet in height where the maximum structure height of the CR-1-1 zone is 60 feet;
  - The maximum structure height for all other retail buildings and parking decks shall be 100 feet. In addition, the total cumulative area of any retail floors, which are 80 feet or higher above grade, shall not exceed more than 10 percent of the total amount of square feet allocated to regional commercial use permitted within the MPDP;
  - The maximum building height for non-retail uses in the planning areas where they are permitted shall not exceed 293 feet above existing grade for residential buildings;
  - Residential uses and parking will be permitted on the ground floor in the front half of the lot where it is not normally allowed in the CR-1-1 zone;

- All building elevations, within 20 feet of the property line, fronting a public right-of-way will include offsetting planes as described in the MPDP, rather than based on the length of the building façade as required in the Municipal Code;
  - Street trees may be placed 4 feet from the face of curb rather than 7 feet as required in the Municipal Code if a non-contiguous sidewalk is proposed as part of a street classified in the Community Plan as a major street, primary arterial, or expressway;
  - The proposed private on-site sewer may require a depth of more than 15 feet as is the maximum depth in the Municipal Code. Should a depth of more than 15 feet be necessary, UTC shall design the utility corridor and nearby structure to provide adequate width and clearance for any possible future repair or replacement of the sewer line; and
  - Deviation from the required minimum 10-foot setback to a minimum of 5 feet setback along the Genesee Avenue frontage only, and only where required to accommodate the future light rail service and/or the relocated and expanded transit center.
- c. Landscaping (planting, irrigation and landscape related improvements); 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 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. In accordance with authorization granted to the City of San Diego from the United States Fish and Wildlife Service [USFWS] pursuant to Section 10(a) of the ESA and by the California Department of Fish and Game [CDFG] pursuant to Fish and Game Code section 2835 as part of the Multiple Species Conservation Program [MSCP], the City of San Diego through the issuance of this Permit hereby confers upon Owner/Permittee the status of Third Party Beneficiary as provided for in Section 17 of the City of San Diego Implementing Agreement [IA], executed on July 16, 1997, and on file in the Office of the City Clerk as Document No. OO-18394. Third Party Beneficiary status is conferred upon Owner/Permittee by the City: (1) to grant Owner/Permittee the legal standing and legal right to utilize the take authorizations granted to the City pursuant to the MSCP within the context of those limitations imposed under this Permit and the IA, and (2) to assure Owner/Permittee that no existing mitigation obligation imposed by the City of San Diego pursuant to this Permit shall be altered in the future by the City of San Diego, USFWS, or CDFG, except in the limited circumstances described in Sections 9.6 and 9.7 of the IA. If mitigation lands are identified but not yet dedicated or preserved in perpetuity, maintenance and continued recognition of Third Party Beneficiary status by the City is contingent upon Owner/Permittee maintaining the biological values of any and all lands committed for mitigation pursuant to this Permit and of full satisfaction by Owner/Permittee of mitigation obligations required by this Permit, as described in accordance with Section 17.1D of the IA.
8. 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.

9. Construction plans shall be in substantial conformity to the Exhibits "A," University Towne Center Master Plan and Design Guidelines, and the University Towne Center Revitalization plans. No changes, modifications or alterations shall be made unless appropriate application(s) or amendment(s) to this Permit have been granted.

10. All of the conditions contained in this Permit have been considered and have been determined to be necessary in order to make the findings required for this Permit. It is the intent of the City that the holder of this Permit be required to comply with each and every condition in order to be afforded the special rights which the holder of the Permit is entitled as a result of obtaining this Permit.

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

11. The Owner/Permittee shall defend, indemnify, and hold the City, including its agents, officers, and employees [collectively Indemnified Parties] harmless from any claim, action, or proceeding against any Indemnified Party to attack, set aside, void, or annul City's approval of this project, which action is brought within the applicable statute of limitation. City shall promptly notify Owner/Permittee of any claim, action, or proceeding and City shall cooperate fully in the defense. If City fails to cooperate fully in the defense, Owner/Permittee shall not thereafter be responsible to defend, indemnify, or hold City harmless. City may participate in the defense of any claim, action, or proceeding if City both bears its own attorney's fees and costs, and defends the action in good faith. Owner/Permittee shall not be required to pay or perform any settlement unless the settlement is approved by the Owner/Permittee.

12. Planned Commercial Development Permit No. 83-0117 includes conditions of approval for 300 residential units constructed within Unit 2, Parcel Map 8333; Unit 3, Parcel Map 8679; and Unit 4, Parcel Map 8502. Unless herein amended by conditions of this permit, the Owner/Permittee and subsequent residential Owners within the aforementioned Parcel Map areas shall be subject to the conditions of approval to Planned Commercial Development Permit No. 83-0117.

13. Prior to issuance of any construction permits the applicant shall provide a valid "Determination of No Hazard to Air Navigation" issued by the Federal Aviation Administration [FAA].

14. 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."

15. The Owner/Permittee shall support and not oppose the formation of a Community Facilities District [CFD] within the University Community Plan area. The Owner/Permittee shall be allowed to offset or seek reimbursement on any portions of FBA fees with the implementation of specific CFD projects, subject to the satisfaction of the CPCI Facilities Financing and the City Manager.

**ENVIRONMENTAL/MITIGATION REQUIREMENTS:**

16. 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.

17. The mitigation measures specified in the MMRP, and outlined in Environmental Impact Report, Project No. 2214 shall be noted on the construction plans and specifications under the heading ENVIRONMENTAL/MITIGATION REQUIREMENTS.

18. The Owner/Permittee shall comply with the MMRP as specified in Environmental Impact Report, Project No. 2214 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 to the satisfaction of the City Engineer. All mitigation measures as specifically outlined in the MMRP shall be implemented for the following issue areas:

- Aesthetics/Visual Quality
- Transportation/Circulation
- Air Quality
- Public Utilities (Solid Waste/Sewer)
- Paleontological Resources
- Construction Effects

19. 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:**

20. Prior to the issuance of any construction permits for residential development, the Owner/Permittee shall comply with the Affordable Housing Requirements of the City's Inclusionary Housing Ordinance (Chapter 14, Article 2, Division 13 of the Land Development Code [LDC]), by setting aside ten percent of the units as affordable pursuant to an agreement with the San Diego Housing Commission.



21. Prior to the issuance of any construction permit for the first residential building, the Owner/Permittee shall enter into an Affordable Housing Agreement with the San Diego Housing Commission.

**ENGINEERING REQUIREMENTS:**

22. This Permit shall comply with the conditions of the Vesting Tentative Map No. 293788.

23. Prior to the building occupancy, the Owner/Permittee shall enter into a Maintenance Agreement for the ongoing permanent Best Management Practices [BMP's] maintenance.

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

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

26. The drainage system outside of the public right-of-way proposed for this development is private and shall be privately maintained is subject to approval by the City Engineer.

27. The proposed driveway approximately 380 feet south of the La Jolla Village Drive and Genesee Avenue intersection, fronting the project boundary, shall comply with City Standard Drawings G-14A, G-14B, G-16 and SDG-100 and be satisfactory to the City Engineer.

28. This project proposes to export 592,000 cubic yards of material from the project site. All export material shall be discharged into a legal disposal site. The approval of this project does not allow the onsite processing and sale of the export material unless the underlying zone allows a construction and demolition debris recycling facility with an approved Neighborhood Use Permit or Conditional Use Permit per LDC section 141.0620(i).

29. Prior to the issuance of any construction permit the Owner/Permittee shall obtain a bonded grading permit for the grading proposed for this project. All grading shall conform to requirements in accordance with the City of San Diego Municipal Code in a manner satisfactory to the City Engineer.

30. Development of this project shall comply with all requirements of State Water Resources Control Board [SWRCB] Order No. 99-08 DWQ and the Municipal Storm Water Permit, Order No. 2001-01 (NPDES General Permit No. CAS000002 and CAS0108758), Waste Discharge Requirements for Discharges of Storm Water Runoff Associated With Construction Activity. In accordance with said permit, a Storm Water

Pollution Prevention Plan [SWPPP] and a Monitoring Program Plan shall be implemented concurrently with the commencement of grading activities, and a Notice of Intent [NOI] shall be filed with the SWRCB.

A copy of the acknowledgment from the SWRCB that an NOI has been received for this project shall be filed with the City of San Diego when received; further, a copy of the completed NOI from the SWRCB showing the permit number for this project shall be filed with the City of San Diego when received. In addition, the owner(s) and subsequent owner(s) of any portion of the property covered by this grading permit and by SWRCB Order No. 99-08 DWQ, and any subsequent amendments thereto, shall comply with special provisions as set forth in SWRCB Order No. 99-08 DWQ.

31. Whenever street rights-of-way are required to be dedicated, it is the responsibility of the Owner/Permittee to provide the right-of-way free and clear of all encumbrances and prior easements. The Owner/Permittee must secure "subordination agreements" for minor distribution facilities and/or "joint-use agreements" for major transmission facilities.

32. Prior to any building occupancy, the Owner/Permittee shall conform to the Municipal Code, "Public Improvement Subject to Desuetude or Damage." If repair or replacement of such public improvements is required, the owner shall obtain the required permits for work in the public right-of-way, satisfactory to the permit-issuing authority.

33. Prior to the issuance of any construction permit for grading, a geotechnical investigation report shall be required that specifically addresses the proposed grading plans and cites the City's Job Order No. and Drawing No.. The geotechnical investigation shall provide specific geotechnical grading recommendations and include geotechnical maps, using the grading plan as a base, that depict recommended location of subdrains, location of outlet headwalls, anticipated removal depth, anticipated over-excavation depth, and limits of remedial grading.

34. Prior to issuance of any construction permit for any development within the boundaries of the La Jolla Terrace district as shown on the approved Exhibit "A," University Towne Center Master Plan and Design Guidelines, and the University Towne Center Revitalization plans, the Owner/Permittee shall enter into a Deferred Improvement Agreement and post a bond for the design and construction of a pedestrian bridge across La Jolla Village Drive between Towne Center Drive and Executive Way in a manner satisfactory to CPCI Facilities Financing and the City Engineer. Prior to the design and construction of any alternate pedestrian project as recommended by the future mobility strategy, the Owner/Permittee shall provide appropriate application(s), including Substantial Conformance Review, or amendment(s) to this Permit.

35. Design of the pedestrian bridge or the design of another pedestrian project as recommended by the future mobility strategy study shall be consistent with the adopted University Community Plan Urban Design-Linkages and Transportation Elements and satisfactory to the City Engineer.

36. The Owner/Permittee shall not place any above-grade private utilities within the sidewalk throughway.

**LANDSCAPE REQUIREMENTS:**

37. Landscape Development Plans shall be submitted to DSD during the Substantial Conformance Review [SCR] process. All portions of the site shall comply with the City's Landscape Regulations, which include planting area and plant point requirements. Compliance shall be demonstrated by providing Landscape Calculations on the plans which will be evaluated and approved by DSD.

38. When trees with a caliper of 2 inches or greater are proposed to be removed, the Landscape Development Plan shall identify the common name, botanical name, height, spread, and caliper size of the trees proposed for removal or relocation. This shall be reviewed during the SCR process. Replacement trees shall be of a comparable caliper size. Replacement trees shall, at maturity, provide a similar tree shade canopy to those trees removed. A Certified Arborist shall submit a report with the Landscape Development Plan when trees are proposed to be removed or relocated.

39. Street trees shall be provided, at a minimum 36-inch box size at a rate of one canopy tree per 30 feet of street frontage. A minimum 5 foot-wide planting area dimension shall be provided for trees, as measured from the inside face of curb. During the SCR process, approved street tree species will be those that are listed on the City's Street Tree Selection Guide, developed by the City's Urban Forester.

40. In the event that the Landscape Plan or Regulations and the Site Plan conflict, the Site Plan shall be revised to be consistent with the Landscape Plan/Landscape Regulations such that landscape areas are consistent with Exhibit "A" and the City's Landscape Regulations.

41. 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 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.

42. Prior to issuance of any construction permits for buildings (including shell), complete landscape and irrigation construction documents consistent with the Land Development Manual: Landscape Standards shall be submitted to the City Manager for approval. The construction documents shall be in substantial conformance with Exhibit "A," Landscape Development Plan. Construction plans shall take into account a 40 square foot area around each tree which is unencumbered by hardscape and utilities as set forth under LDC sections 142.0403(b)5.

43. Prior to issuance of any Certificate of Occupancy, it shall be the responsibility of the Owner/Permittee to install all required landscape. A "No Fee" Street Tree Permit

shall be obtained for the installation, establishment, and on-going maintenance of all street trees.

44. 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.

45. 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 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 Establishment & Maintenance Agreement shall be submitted for review by a Landscape Planner.

46. If any required landscape (including existing or new plantings, hardscape, landscape features, etc.) indicated on the approved construction document plans is damaged or removed during demolition or construction, it shall be repaired and/or replaced in kind and equivalent size per the approved documents to the satisfaction of the City Manager within thirty days of damage or Certificate of Occupancy or a Final Landscape Inspection.

47. Prior to issuance of any construction permit for parking structures, the Owner/Permittee shall submit on the planting and irrigation plans a signed statement by a Registered Structural Engineer indicating that supporting structures are designed to accommodate the necessary structural loads and associated planting and irrigation.

48. When alternatives to the Landscape Requirements for the top floor of Parking Structures open to the sky are proposed, the alternatives shall provide greater shade and landscape screening than one tree within 30 feet of each parking space. Alternatives shall be reviewed during the SCR process. Alternatives will be evaluated and approved to the satisfaction of the City Manager.

49. Any required planting that dies within three years of installation shall be replaced within thirty calendar days of plant death with the same size and species of plant material shown on the approved plan. Required shrubs or trees that die three years or more after installation shall be replaced with 15 gallon size or 60-inch box size material, respectively. Development Services may authorize adjustment of the size and quantity of replacement material where material replacement would occur in inaccessible areas or where the existing plant being replaced is larger than a 15 gallon shrub or 60-inch box tree.

50. All landscaping for the Light Rail and/or Transit Station shall comply with the Landscape Regulations. Compliance will be demonstrated with Landscape Development Plans submitted with Landscape Calculations during the SCR process.

**PARK AND RECREATION REQUIREMENTS:**

51. Any park or recreation development, including Torrey Trail, shall meet General Plan Standards for park acreage and facilities standards to be considered for population-based park credit and shall be privately owned and maintained with a recreation easement to allow for general public use.

52. Any recreation areas to be considered for meeting the City's population-based park requirements must be contiguous to a public right-of-way and in-close proximity to the residents creating the need.

53. Along with any residential dwelling unit development plans submitted for SCR, the Owner/Permittee shall also provide required information, plans, and exhibits for any recreation areas to be considered for meeting the City's population-based park requirements.

54. All recreation areas to receive population-based park credit shall be no smaller than 0.75 acres and shall be constructed and approved prior to the issuance of any Certificate of Occupancy for the residential development.

55. The Owner/Permittee shall ensure that all residential development satisfy the City's population-based park requirements within the University Towne Center project boundary.

56. The Owner/Permittee shall ensure that all parks that are to receive population-based park credit be developed consistent with Park and Recreation Department standards/guidelines.

57. Prior to the issuance of any construction permit for any residential unit development, the Owner/Permittee shall obtain approval of any population-based park from the Park and Recreation Department and through the public input process as stated in City of San Diego Council Policy 600-33, Community Notification and Input for City-Wide Park Development Projects. The Owner/Permittee shall provide the required information, plans, and exhibits for any recreation areas to be considered for meeting the City's population-based park requirements to the satisfaction of the Parks and Recreation Director.

58. Prior to the issuance of a Certificate of Occupancy of the first residential unit, the Owner/Permittee shall have completed the construction of the population-based park pursuant to the approved park plans prepared in accordance with Council Policy 600-33, to the satisfaction of the Parks and Recreation Director and the City Engineer.

**PLANNING/DESIGN REQUIREMENTS:**

59. Upon completion of all phases of development no fewer than 7,163 off-street parking spaces shall be maintained on the property at all times in the approximate locations shown on the approved Exhibit "A." Parking spaces shall comply at all times with the SDMC and shall not be converted for any other use unless otherwise authorized by the City Manager.

60. The project may be developed in phases. In order to allow for appropriate review of each phase and to determine consistency with this permit, all development plans shall be submitted for SCR, Process Two, consistent with the approved Exhibit "A," University Towne Center Master Plan and Design Guidelines, and the University Towne Center Revitalization plans.

61. The Owner/Permittee shall apply to the City of San Diego for a Process Two, SCR for all new development. The SCR application's Notice of Future Decision, Notice of Public Hearing, or other mailed notice, shall be postage prepaid and addressed to the persons identified in SDMC section 112.0302(b). Alternatives to mailed notices shall not be allowed.

62. Any retail or commercial service tenant improvements that will not increase gross floor area shall not require processing a SCR application with the City of San Diego.

63. Any SCR within the MPDP's designated University Central or Palm Passage areas shall require review and approvals from SANDAG and MTS for transit facility and/or the light rail station purposes.

64. The Owner/Permittee shall provide the development's current and proposed building square footage in a table format on all construction plans and plans submitted for Substantial Conformance Review. The table shall also include the current ADTs and proposed ADTs with the development.

65. Office uses, other than in support of onsite commercial and residential uses or in activated street frontage locations identified in Exhibit "A," Master Planned Development Permit and Design Guidelines for Westfield UTC, pages, 4:15, and hotel uses shall not be allowed on the University Towne Center site.

66. Prior to issuance of any construction permits, the Owner/Permittee shall execute a covenant of easement to be recorded against title to the affected premises, identified as the Torrey Trails area as shown on the approved Exhibit "A," University Towne Center Master Plan and Design Guidelines, and the University Towne Center Revitalization plans, and executed in favor of the City.

The covenant shall contain information regarding the legal description of the premises affected by the permit with a description of the development area and the environmentally sensitive lands that will be preserved; notice to all persons to the extent afforded by the recording laws of the state regarding the restrictions affecting use of the environmentally sensitive lands covered by the permit; to ensure that the burdens of the covenant shall be binding upon, and the benefits of the covenant shall inure to, all successors in interest to the affected premises; and to ensure enforceability of the covenant of easement by the City.

67. 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.

68. All signs associated with this development shall be consistent with sign criteria established by either the approved Exhibit "A" or Citywide sign regulations.
69. 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.
70. 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.
71. The Owner/Permittee shall obtain approval from the U.S. Green Building Council under the Leadership in Energy and Environmental Design [LEED] for Neighborhood Development pilot program at the "Silver" or better rating level.
72. The Owner/Permittee shall incorporate water-conserving features into the project. These features shall include dual flush toilets, waterless urinals and metered and/or aerated lavatory faucets in the mall common area restrooms and in the tenant criteria manual for tenant build-outs. Any residential dwelling units shall include dual flush toilets, aerated faucets, and low-flow showerheads. All these fixture requirements shall be met to the satisfaction of the City Engineer.
73. The Owner/Permittee shall use reclaimed water for all landscape irrigation on the site, in a manner satisfactory to the Water Department Director and the City Engineer.
74. The Owner/Permittee shall use a combination of native and region adapted, drought-tolerant plants for a minimum of 90 percent of all new landscape areas in the project, and all landscape on site shall be non-invasive species, satisfactory to the City Engineer.
75. The Owner/Permittee shall design all commercial and residential building systems to increase energy efficiency by a minimum of 10 percent above the requirements of California Title 24 regulations, satisfactory to the City Engineer.
76. The Owner/Permittee shall incorporate renewable energy into the project, including at least one solar power project on-site with a minimum capacity of 100 kilowatts [kW], satisfactory to the City Engineer.
77. The Owner/Permittee shall include "cool roof" technology in the project by using roofing materials with a Solar Reflective Index [SRI] equal to or greater than 78 (for roofs with slopes less than or equal to 2:12) and/or green roofs for a combined minimum of 75 percent of the roof area for all new buildings, satisfactory to the City Engineer.
78. The Owner/Permittee shall utilize recycled content in infrastructure for roadways, parking lots, sidewalks and curbs, including minimum 90 percent recycled aggregate materials for any aggregate base and aggregate subbase, and minimum 15 percent recycled asphalt pavement for any asphalt base, satisfactory to the City Engineer.

79. The Owner/Permittee shall use materials with post-consumer recycled content such that the total amount of post-consumer content constitutes a minimum of 15 percent of the material in the project. Post-consumer material is defined as waste material generated by households or by commercial, industrial and institutional facilities in their role as end-users of the product, which can no longer be used for its intended purpose. Mechanical, electrical and plumbing components and specialty items such as elevators are not included in this calculation, but other materials permanently installed in the project shall be included. This requirement shall be met to the satisfaction of the City Engineer.

80. Consistent with SDMC section 66.0606, the Owner/Permittee shall recycle and/or salvage at least 65 percent of non-hazardous construction and demolition debris during construction of the project, satisfactory to the City Engineer. Recycling materials shall be sorted by material type and taken to specific recycling facilities, a list of which can be found in the City of San Diego's Recycling Guide.

81. The Owner/Permittee shall develop and implement a construction waste management plan for the construction of the project. The waste management plan shall address waste generated both during construction and post-construction satisfactory to the City Engineer and include the following elements:

- a. The type and quantity of solid waste to be generated;
- b. Identification of materials being diverted from disposal;
- c. Description of recycled materials, if separated or commingled, and where they are going;
- d. Onsite reuse of construction demolition materials; and
- e. Projected use of recycled materials.

82. The Owner/Permittee shall use fly ash to replace cement content for a minimum of 12 percent of the cement volume used in the project's new building structures, calculated as an average across all new buildings and parking structures in the project, satisfactory to the City Engineer.

83. The Owner/Permittee shall provide recycling receptacles alongside with litter receptacles for the public to use within the commercial and retail areas. The containers should be specifically designed for recycling to discourage contamination and have clearly visible signs that indicate pictorially and in words that all paper and beverage containers are recyclable. An annual report shall be provided to the City of San Diego Environmental Service Department Director, attention to Waste Reduction Section, on the quantity of recycling containers in use and the frequency of service.

84. The Owner/Permittee shall include at least one recycling or reuse station on the project site dedicated to the collection and storage of materials generated at the project



site for recycling including, at a minimum, paper, corrugated cardboard, glass, plastics and metals, satisfactory to the City Engineer.

85. The Owner/Permittee shall include at least one drop-off point on the project site for office or household potentially hazardous wastes generated at the project site such as paints, solvents, oil and/or batteries, and establish and implement a plan for post-collection disposal or use, satisfactory to the City Engineer.

86. The Owner/Permittee shall implement an educational program on-site to raise awareness of the green building initiatives incorporated into the design and operations of the project and to promote green building practices among the general public, interested organizations and educational establishments, to the satisfaction of the City Engineer.

87. The Owner/Permittee shall provide recycling chutes within all residential buildings equivalent to any trash chutes, or shall provide other comparable means to assure that recycling is equally convenient for residents as trash disposal, satisfactory to the City Engineer.

88. The Owner/Permittee shall design, construct, and operate safety and security measures including but not limited to 24-hour security, security cameras, call boxes, adequate lighting, Automated External Defibrillators [AEDs], and neutral host antennae in the parking structures if necessary to ensure cellular phone service.

89. The Owner/Permittee shall install, operate, and maintain emergency call boxes readily accessible to the public in all parking area structures.

90. The Owner/Permittee shall cover and enclose all trash dumpster areas to be hidden from external public view.

91. The Owner/Permittee shall design and construct at least 50 percent of the street frontage of La Jolla Village Drive and Genessee Avenue with active areas, including but not limited to transparent storefronts, transparent display windows, transit center frontage, retail store entries, or entryways into the project site.

**FACILITIES FINANCING REQUIREMENTS:**

92. The Owner/Permittee shall pay the Facilities Benefit Assessment [FBA] rate or Development Impact Fee in effect at the time construction permits are issued.

93. The North University City Public Facilities Financing Plan and FBA shall be amended to include the relocation and expansion of the transit center. Prior to issuance of any construction permits within the University Central, Palm Passage, or Nobel Heights districts, the Owner/Permittee shall enter into a reimbursement agreement with the City for a value to be determined in the agreement.

**FIRE AND LIFE SAFETY REQUIREMENTS:**

94. Prior to the issuance of any construction permit for buildings, the Owner/Permittee shall submit Fire Access plans to the Fire Marshal for the Fire Department's review during any SCR application process for each proposed phase of the development. The Fire Access plans submitted during the SCR process shall provide access during each phase of construction in accordance with the current City of San Diego design standards, to the satisfaction of the Fire Marshal. Any proposed means of alternative compliance shall be subject to the approval of the Fire Marshal.

**SAN DIEGO COUNTY REGIONAL AIRPORT AUTHORITY, AIRPORT LAND USE COMMISSION [ALUC] REQUIREMENTS:**

95. For all proposed noise sensitive uses listed as conditionally compatible located in areas in the 60 dB - 65 dB CNEL noise contour as shown in the adopted ALUCP, the Owner/Permittee shall demonstrate with an acoustical study that adequate noise attenuation will be provided to ensure an interior noise level of 45 dB CNEL for all habitable rooms as required by the ALUCP.

96. For all proposed residential uses located in areas in the 60 - 65 dB CNEL noise contour as shown in the adopted ALUCP, the Owner/Permittee, as required by the ALUCP, shall provide appropriate legal notice to purchasers, lessee, and renters of properties in the 60 dB - 65 dB CNEL noise contour as shown in the adopted ALUCP that clearly describes the potential for impacts from aircraft noise associated with airport operations at MCAS Miramar.

97. The "Airport Environs Overlay Zone" implements the ALUCP requirements and criteria. The ALUCP addresses the FAA Part 77 (Objects Affecting Navigable Airspace) requirements. Any project determined to be a "Hazard to Air Navigation" by the FAA would be inconsistent with the ALUCP. The Owner/Permittee's implementation of the MPDP will not result in any building that the FAA would determine to be a Hazard to Air Navigation.

**TRANSPORTATION REQUIREMENTS:**

98. The Owner/Permittee shall relocate and expand the existing bus center and plan for the future Light Rail Transit Station (or other high capacity transit system) at the southeast corner of La Jolla Village Drive/Genesee Avenue or Esplanade Court/Genesee Avenue, satisfactory to the City Engineer.

99. The Owner/Permittee shall provide a Transportation Demand Management Plan to include the provision of a 50 percent subsidy for universal transit passes for UTC employees and UTC residents, bicycle parking spaces and lockers, on-site child care, cafeteria, deli, gym and/or fitness facilities for employees, off-site employee parking program during holidays and special events, carpool/vanpool reserved parking spaces, transit/charpool/vanpool information kiosks, and appointed ridership coordination. The Owner/Permittee shall also provide ride-sharing services a guaranteed Ride Home

Program, and an active Marketing Program to advertise the services to employees and residents, satisfactory to the City Engineer and the Executive Director of SANDAG.

100. Prior to the issuance of any construction permit for a retail, commercial, or residential structure, the Owner/Permittee shall assure by permit and bond the installation of a westbound right-turn lane at the intersection of La Jolla Village Drive and Regents Road, satisfactory to the City Engineer.

101. Prior to the issuance of any construction permit for a retail, commercial, or residential structure, the Owner/Permittee shall assure by permit and bond the installation of a northbound right-turn lane at the intersection of La Jolla Village Drive and Genesee Avenue, satisfactory to the City Engineer.

102. Prior to the issuance of any construction permit for a retail, commercial, or residential structure, the Owner/Permittee shall assure by permit and bond the installation of a second northbound through lane at the intersection of La Jolla Village Drive and Towne Centre Drive, satisfactory to the City Engineer.

103. Prior to the issuance of any construction permit for a retail, commercial, or residential structure, the Owner/Permittee shall assure by permit and bond the installation of a raised center median along Towne Centre Drive from La Jolla Village Drive to the South Project Driveway, satisfactory to the City Engineer.

104. Prior to the issuance of any construction permit for a retail, commercial, or residential structure, the Owner/Permittee shall assure by permit and bond the installation of a traffic signal and appropriate interconnect at the intersection of Nobel Drive and Lombard Place, satisfactory to the City Engineer.

105. Prior to the issuance of any construction permit for a retail, commercial, or residential structure, the Owner/Permittee shall assure by permit and bond the modification of the traffic signal and appropriate interconnect at the intersection of Towne Centre Drive and the South UTC Project Driveway, satisfactory to the City Engineer.

106. Prior to the issuance of any construction permit for a retail, commercial, or residential structure, the Owner/Permittee shall assure by permit and bond the installation of a westbound right-turn lane at the intersection of Governor Drive and Genesee Avenue, satisfactory to the City Engineer.

107. Prior to the issuance of any construction permit for a retail, commercial, or residential structure, the Owner/Permittee shall assure by permit and bond the re-striping of the four-lane southbound approach to include a left, right-left, and dual right-turn lane at the intersection of La Jolla Village Drive and Interstate 805 Southbound Ramps, satisfactory to the City Engineer.

108. Prior to the issuance of any construction permit for a retail, commercial, or residential structure, the Owner/Permittee shall assure by permit and bond the installation

of a second northbound right-turn lane at the intersection of La Jolla Village Drive and Executive Way, satisfactory to the City Engineer.

109. Prior to the issuance of any construction permit for a retail, commercial, or residential structure, the Owner/Permittee shall assure by permit and bond the installation of a westbound right-turn lane at the intersection of Nobel Drive and Genesee Avenue, satisfactory to the City Engineer.

110. Prior to the issuance of any construction permit for a retail, commercial, or residential structure, the Owner/Permittee shall assure by permit and bond the re-striping of the eastbound approach to provide left-thru-right and right-turn lanes at the intersection of Decoro Street and Genesee Avenue, satisfactory to the City Engineer.

111. Prior to the issuance of any construction permit for a retail, commercial, or residential structure, the Owner/Permittee shall assure by permit and bond the re-striping of La Jolla Village Drive from Towne Centre Drive to Interstate 805 to provide an additional eastbound lane, satisfactory to the City Engineer.

112. Prior to the issuance of any construction permit for a retail, commercial, or residential structure, the Owner/Permittee shall assure by permit and bond the widening of Nobel Drive, with right-of-way acquisition from the north side of Nobel Drive, satisfactory to the City Engineer.

113. Prior to the issuance of any construction permit for a retail, commercial, or residential structure, the Owner/Permittee shall assure by permit and bond the extension of the existing number one westbound left-turn lane approximately 500 feet east of the intersection of the Interstate 805 off-ramp and Nobel Drive, satisfactory to the City Engineer.

114. Prior to the issuance of any construction permit for a retail, commercial, or residential structure, the Owner/Permittee shall assure by permit and bond the widening of the westbound Interstate 5 northbound on-ramp at La Jolla Village Drive to provide an HOV lane, satisfactory to the City Engineer.

115. Prior to the issuance of any construction permit for a retail, commercial, or residential structure, the Owner/Permittee shall assure by permit and bond the extension of the existing number one westbound left turn lane on Nobel Drive for the Southbound Interstate 5 on-ramp, approximately 300 feet east of University Center Lane, satisfactory to the City Engineer.

116. Prior to the issuance of any construction permit for a retail, commercial, or residential structure, the Owner/Permittee shall assure by permit and bond the extension of the eastbound Interstate 805 southbound on-ramp on La Jolla Village Drive, to the Judicial Drive under crossing, satisfactory to the City Engineer.

117. Prior to the issuance of any construction permit for a retail, commercial, or residential structure, the Owner/Permittee shall assure by a letter of credit their contribution of 3.38 million dollars towards the study, design, or implementation of

traffic operational improvements (i.e., auxiliary lanes) on Interstate 805 between La Jolla Village Drive and State Route 52, satisfactory to the City Engineer.

118. Prior to the issuance of any construction permit for a retail, commercial, or residential structure, the Owner/Permittee shall contribute \$500,000 to the City of San Diego towards the preparation of a mobility plan for the University Community area, satisfactory to the City Engineer.

119. The Owner/Permittee shall provide and maintain a current Parking Management Plan and perform an annual parking study satisfactory to the City Engineer. The updated Parking Management Plan and annual parking study shall provide additional parking opportunities in the event that the parking demand exceeds the parking supply. In the event that the parking demand exceeds the parking supply, the Owner/Permittee shall provide adequate parking for the site, and implement these alternatives prior to the next annual parking study, satisfactory to the City Engineer. In addition, no later than October 31 of each year, the Owner/Permittee shall provide evidence of a shared parking agreement for holiday overflow parking, satisfactory to the City Engineer.

120. The Owner/Permittee shall, within two years after the final occupancy of the last retail building, provide a trip generation study to show any trip reduction in daily and AM/PM peak hour to the satisfaction of the City Engineer.

**SAN DIEGO ASSOCIATION OF GOVERNMENTS AND METROPOLITAN  
TRANSIT SYSTEM REQUIREMENTS:**

121. The Owner/Permittee shall design and construct the bus transit center and related improvements. The bus transit center shall be designed and constructed consistent with the guidelines in SANDAG's Designing for Transit Manual and as described and conditioned herein to the satisfaction of SANDAG, MTS, and the City Engineer.

122. Prior to the issuance of any construction permits in the University Central, Palm Passage, and Nobel Heights districts, the Owner/Permittee shall receive written confirmation from SANDAG and MTS (in the form of a memo from the Executive Director or their designee) that the bus transit center and related improvements have been designed to MTS standards. Development plans shall contain the following to the satisfaction of SANDAG, MTS, and the City Engineer:

- a. A centralized bus island platform design substantially conforming to the conceptual design shown on the approved Exhibit "A," Master Planned Development Permit and Design Guidelines for Westfield UTC, page 4:58. With this design concept, the waiting area would be ringed by bus bays and the bus circulation system. The dimensions for the full facility shall be approved by MTS and would be based on a design that accommodates eleven bays around the center of the platform (two of which are articulated bus bays).
- b. The central waiting area shall minimize walking distance for transferring passengers. This area shall be designed to buffer patrons from bus noises

and exhaust fumes to create a pleasant waiting environment. The waiting area shall include visibility so buses can be seen from the waiting areas, and include space for information kiosks and small retail facilities.

- c. Public restrooms available for transit operators in the bus transit center. These restrooms shall remain open during the entire time there is transit service to the Mid Coast Light Rail Transit [MCLRT] station and bus transit center.
- d. A plan for how pedestrians will safely, comfortably, and efficiently access the bus transit center both horizontally and vertically and how security for passengers waiting on the platform will be factored into the design. This pedestrian circulation plan should be shown on a separate page of the plans. The central waiting area must be connected by stairs/escalators and elevators to the shopping center and show how connections would be made to the proposed Light Rail Transit [LRT] platform along Genesee Avenue.
- e. Amenities, including sufficient lighting (with as much natural light as possible), sufficient HVAC (including heating, ventilation, and air conditioning if required with the open-air design) to meet standards for comfort and health, adequate seating, transit information signage, enhanced flooring and ceiling treatments, architectural details, vending machines and/or a concession stand, and security cameras.

123. Prior to the issuance of any construction permits in the University Central, Palm Passage, and Nobel Heights districts, the final project plans shall demonstrate a design that allows for the future construction of a direct elevated pedestrian connection (to be constructed by SANDAG as a part of the future MCLRT project) between a possible future elevated light rail station platform and level one of the shopping center in a manner satisfactory to SANDAG, MTS, and the City Engineer.

124. Upon completion, the bus transit center shall be clearly identifiable from the public-right-of-way along Genesee Avenue and from areas inside the Project to the satisfaction of SANDAG, MTS, and the City Engineer.

125. Prior to the issuance of any construction permits in the University Central, Palm Passage, and Nobel Heights districts, final project plans shall show a bus-only traffic signal at the bus driveway entrance for the bus transit center to the satisfaction of SANDAG, MTS, and the City Engineer.

126. Prior to the issuance of any construction permits in the University Central, Palm Passage, and Nobel Heights districts, bike lockers within or immediately adjacent to the bus transit center, and short-term bicycle parking through bike racks placed near building entrances, out of the path of pedestrians must be provided in accordance with Regional Bicycle Parking Guidelines.

127. Prior to the issuance of any construction permits in the University Central, Palm Passage, and Nobel Heights districts, the Owner/Permittee shall consult with MTS to accommodate any bus operations during construction to the satisfaction of MTS.

128. The Owner/Permittee shall work with the City of San Diego and SANDAG for connections or access to an underground light rail transit station for the Mid-Coast Light Rail project should the light rail alignment be located in a tunnel in the area under their property.

**WASTEWATER REQUIREMENTS:**

129. All onsite sewer facilities shall be private.

130. Prior to the issuance of any construction permits, the Owner/Permittee shall assure, by permit and bond, the design and construction of all public sewer facilities necessary to serve this development.

131. Prior to the issuance of any construction permits, the Owner/Permittee shall abandon the existing onsite public sewer mains in this site or they will be converted to private, satisfactory to the Metropolitan Wastewater Department Director. All associated public sewer easements shall be vacated, satisfactory to the Metropolitan Wastewater Department Director.

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

133. 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.

134. 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:**

135. Prior to the recordation of any easement vacation, the Owner/Permittee shall abandon all unused water mains, water services and appurtenances within the easement area to be vacated. The abandonment shall be in a manner which will receive operational acceptance from the Water Department Director and City Engineer.

136. Prior to the issuance of any construction permits for each phase of construction, the Owner/Permittee shall assure, by permit and bond, the design and construction of a new water services necessary for that phase within the rights-of-way adjacent to the project site and or in the remaining water or new easements within the project site, in a manner satisfactory to the Water Department Director and the City Engineer.

137. The Owner/Permittee and the Water Department shall continue to work together to create a list of projects that would be used as offsets, and also consider artificial turf projects using no water.
138. Prior to the issuance of any construction permits, the Owner/Permittee shall apply for a plumbing permit for the installation of appropriate private back flow prevention device(s) on each water service (domestic, fire, and irrigation), in a manner satisfactory to the Water Department Director, the City Engineer, and the Cross Connection Supervisor in the Customer Support Division of the Water Department.
139. The Owner/Permittee agrees not to construct structures or landscaping in or over any public water facilities and appurtenances located within water easements that would inhibit vehicular access and the ability of the Water Department to operate and maintain its water facilities.
140. Prior to the issuance of any certificates of occupancy, the Owner/Permittee shall install fire hydrants at locations satisfactory to the Fire Department and the City Engineer.
141. Prior to the issuance of any certificates of occupancy, all public water facilities shall be complete and operational in a manner satisfactory to the Water Department Director and the City Engineer.
142. The Owner/Permittee agrees to design and construct all proposed public water facilities in accordance with established criteria in the most current edition of the City of San Diego Water Facility Design Guidelines and City regulations, standards and practices pertaining thereto. Water facilities as shown on the approved Exhibit "A" shall be modified at final engineering to comply with standards.
143. Prior to the issuance of any construction permits, the Owner/Permittee shall have an executed agreement which requires the Owner/Permittee to off-set the potable water demand of the project, above the existing water use as indicated in the Water Supply Assessment, with the use of recycled water, in a manner satisfactory to the Water Department Director and the City Engineer.
144. Prior to the issuance of any construction permits for each phase of construction, the Owner/Permittee shall assure, by permit and bond, the design and construction of the recycled water facilities necessary for the irrigation needs of that phase, in a manner satisfactory to the Water Department Director and the City Engineer.
145. Prior to the issuance of any construction 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, which must also include water conservation measures in accordance with the Owner/Permittee's LEED application.
146. The Owner/Permittee agrees to design and construct all proposed and rebuilt/renovated buildings to utilize water conservation measures in accordance with established criteria in the most current edition of the City of San Diego Water Facility



Design Guidelines and City regulations, specifically designed to meet the requirements for acquiring 3 points under LEED-ND Credit 3: Reduced Water Use, namely Option 1 (Indoor, Category 1) and Option 2 (Outdoor), and standards and practices pertaining thereto.

147. The Owner/Permittee agrees to provide a semi-annual water report. The report shall be prepared by an independent third party, subject to the approval by the City, to account for the project's potable water demands beginning from the issuance of the first building permit to a period of three years beyond the project's completion and acceptance, in a manner satisfactory to the Water Department Director and the City Engineer.

**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 Council of the City of San Diego on July 29, 2008, by Resolution No. R-304025.

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.

UNIVERSITY TOWNE CENTER  
VENTURE, LLC, a Delaware Limited  
Liability Company  
Owner

By \_\_\_\_\_

By \_\_\_\_\_

NORDSTROM INCORPORATED, a  
Washington Corporation  
Owner

By \_\_\_\_\_

By \_\_\_\_\_

SEARS AND ROEBUCK AND  
COMPANY, a New York Corporation  
Owner

By \_\_\_\_\_

By \_\_\_\_\_

CMF UNIVERSITY TOWNE CENTER  
SOUTH, LLC, a Delaware Limited Liability  
Company  
Owner

By \_\_\_\_\_

By \_\_\_\_\_

CMF UNIVERSITY TOWNE CENTER  
NORTH, LLC, a Delaware Limited Liability  
Company  
Owner

By \_\_\_\_\_

By \_\_\_\_\_

WESTFIELD CORPORATION,  
INCORPORATED  
Permittee

By \_\_\_\_\_

By \_\_\_\_\_

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

PERMIT/OTHER - Permit Shell 11-01-04