

RESOLUTION NUMBER R-304531

DATE OF FINAL PASSAGE DECEMBER 2, 2008

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO GRANTING PLANNED DEVELOPMENT PERMIT NO. 514696, NEIGHBORHOOD USE PERMIT NO. 518933, CONDITIONAL USE PERMIT NO. 518932, AND SITE DEVELOPMENT PERMIT NO. 519775 AS AMENDMENTS TO PLANNED DEVELOPMENT PERMIT NO. 308092, NEIGHBORHOOD USE PERMIT NO. 327436, CONDITIONAL USE PERMIT NO. 308101, AND SITE DEVELOPMENT PERMIT NO. 308102, RESPECTIVELY.

WHEREAS, City Heights Realty, LLC, a California nonprofit corporation, and the City of San Diego Redevelopment Agency, Owners/Permittees, filed an application with the City of San Diego for a permit to demolish existing structures and construct a mixed-use development on portions of a 2.78-acre site, as described in Exhibit "A," and the corresponding conditions of approval for the associated Permit Nos. 514696, 518933, 518932 and 519775, and by this reference thereto made a part hereof; and

WHEREAS, the project site is located on the general block bounded by Fairmount Avenue, University Avenue, 43rd Street, and Polk Avenue in the CT-2-3 and the CU-2-3 zones (proposed CU-2-4 zone) of the Central Urbanized Planned District [CUPD] within the City Heights neighborhood of the Mid-City Communities Plan [MCCP] area; and

WHEREAS, the project site is legally described as Lots 1 through 8, inclusive, and 25 through 28, inclusive, in Block 46 of City Heights, Map No. 1007; Lot 1 of Fairmount Commercial Tract, Map No. 6740; Parcel 1 of Parcel Map No. 15205; together with the easterly 10 feet of the vacated unnamed alley adjacent to said Lots 25 through 28; and

WHEREAS, on November 6, 2008, the Planning Commission of the City of San Diego considered Planned Development Permit [PDP] No. 514696, Neighborhood Use Permit [NUP] No. 518933, Conditional Use Permit [CUP] No. 518932, and Site Development Permit [SDP] No. 519775, and pursuant to Resolution No. 4472-PC, voted to recommend City Council approval of the permits; and

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

WHEREAS, the matter was set for public hearing on December 2, 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 City Council of the City of San Diego as follows:

That the City Council adopts the following written Findings, dated December 2, 2008.

A. PLANNED DEVELOPMENT PERMIT FINDINGS – SAN DIEGO MUNICIPAL CODE [SDMC] SECTION 126.0604:

1. The proposed development will not adversely affect the applicable land use plan. The project site lies within the City Heights neighborhood of the MCCP and is within the City Heights Redevelopment Project area and is consistent with the overall goals of these documents. The proposed City Heights Square is a mixed-use project designed to provide commercial, medical and residential services, thereby implementing the goals of the CUPD and the MCCP to develop higher-density commercial/residential mixed-use development in an urban node at the project location, and that is consistent with the character of the existing neighborhood. The project was intended to provide design consistency among the individual components.

The project implements the MCCP recommendations for the provision of housing needs for seniors in the community and the provision of market-rate housing. The residential component of the project provides 150 needed housing units affordable to very low-income

seniors and one on-site property manager's unit, as well as seventy-eight market-rate residential units.

The MCCP envisions City Heights as a pedestrian-friendly community with urban plazas at key crossroads, including the intersections of 43rd Street and Fairmount Avenue with University Avenue. The proposed project would provide an additional sidewalk setback and plaza space at the corner of University and Fairmount Avenues to be used for seating, eating and people watching. The plaza would be designed with enhanced paving to accentuate this important community node.

The proposed uses are consistent with the applicable zoning regulations, as allowed through the PDP, NUP, CUP and SDP processes. Therefore, the project would not result in a conflict with the relevant goals, objectives, and recommendations of the MCCP.

2. The proposed development will not be detrimental to the public health, safety, and welfare. The project's appearance will enhance the City Heights area and the surrounding neighborhoods benefiting the community as a whole.

As discussed within the Mitigated Negative Declaration, a Phase I Environmental Site Assessment for the project site was prepared for this project. This document indicated the site previously developed with a gasoline service station and a dry cleaning operation in the vicinity. Due to these historic uses, the assessment identified the potential that the site may be contaminated with hazardous materials/wastes or petroleum products. The assessment also recommended a geophysical survey be conducted to identify the possible presence of underground storage tanks. Based on these possibilities, the Mitigation, Monitoring and Reporting Program [MMRP] requires confirmation from the San Diego County Department of Environmental Health that adequate protection of human health, water resources, and the environment are provided as mitigation measures prior to project implementation.

All Uniform Building, Fire, Plumbing, Electrical, Mechanical Code and City regulations governing the construction and continued operation of the development apply to this project to prevent adverse affects to those persons or properties in the vicinity of the project.

3. The proposed development will comply with the regulations of the Land Development Code. The applicable zoning for the project is CU-2-4 of the CUPD. The CU-2-4 zoning allows for commercial uses, senior housing with a CUP and a medical clinic with a NUP. These uses are consistent with the Land Development Code [LDC] and the project design will conform with the purpose and intent of the development regulations, with deviations allowed through the PDP and SDP processes. The design of the structures proposed for the project incorporate architectural elements that help to diminish building bulk and blend into the surrounding community. The project will provide 470 (with 410 required) off-street, primarily subterranean parking spaces, increasing the supply of available parking in the area and reducing the impact on street parking in the surrounding neighborhoods.

4. The proposed development, when considered as a whole, will be beneficial to the community. The proposed mixed-use development is permitted at this location, as discussed

within the applicable MCCP and City Heights Redevelopment Plan. The proposed senior residential facility and retail/residential building will provide much needed housing that exceeds the requirements of the City's Inclusionary Housing Ordinance and Density Bonus Program by setting aside more than 30 percent of the proposed units (150 affordable senior units, fourteen affordable units, seventy-eight market-rate units, and one manager's unit) to very low-income seniors (at/below 62 years of age) with incomes at or below 50 percent of AMI [AMI] and other low-income tenants. The affordable units would consist of seventy-five studio units and seventy-five one bedroom units that would be affordable in perpetuity, as well as fourteen affordable units that would be affordable for 55 years.

The project is located within a facility deficient neighborhood. The recent adoption of the San Diego General Plan Update and its Recreation Element provided updated direction on addressing existing parks deficiency in the urbanized communities involving the acquisition of additional park acreage, improving recreational facilities, partnering with other agencies for joint use facilities or public-private partnerships, and looking at alternatives to additional park acreage that may increase the capacity of existing park facilities or provide new, non-traditional park and recreation amenities. The project provides a 5,432-square-foot recreational area that will be open to the public. Additionally, the senior residence will also provide a central courtyard area and a 10,000-square-foot activity area. Currently, the proposed project is located northwest, within a 320-foot walking distance, of the joint-use facilities/recreation center located adjacent to Rosa Parks Elementary School. Finally, the proposed multi-family residential use (Building 1) contains approximately 1,380 square feet of interior passive and recreation area.

The outpatient medical clinic will meet community needs by providing non-profit medical, dental and social service agency uses in this redevelopment area. The retail office buildings at the crossroads of University and Fairmount Avenues will provide quality uses within the area. Senior housing, employment opportunities and medical services, with more than adequate on-site parking, would be available in the same street block, thereby providing a benefit to the community as a whole. The overall appearance of new structures would be compatible with the architectural detail and appearance of the newer redevelopment project to the south, while still maintaining a sufficient transition to adjacent older uses.

5. Any proposed deviations pursuant to Section 126.0602(b)(1) are appropriate for this location and will result in a more desirable project than would be achieved if designed in strict conformance with the development regulations of the applicable zone. The proposed deviations are appropriate for this location and will result in a more desirable project than would be achieved if designed in strict conformance with the proposed CU-2-4 zone of the CUPD. The side and rear setback deviations are minimal, and with the large scale of the project crossing various property lines and zones, result in a clearer, more consistent building design. The transparency deviation is necessary for the senior residential facility since it is generally a development regulation appropriate for commercial uses, and not the proposed residential use. The size of the interior courtyard for Building 3 was designed to provide the largest assembly space in the building and such large planters would and take up space necessary for proposed senior activities such as exercise classes, arts and crafts, concerts and mixers. The reduced landscape area allows accommodation of a scale more appropriate to

this narrower courtyard and the new trees specified were selected for their ability to grow beyond the minimum height and spread of 15 feet (without compromising the root zone) when planted in a 22 square-foot planter. While the parking is reduced for the senior facility in Building 3, the spaces are provided in Building 1 via a shared parking agreement. Furthermore, the entire development provides a total of 470 parking spaces, which exceeds the total requirement of 410 spaces. Due to the density, use and expected frequency, staff supports the deviation to reduce the number of off-street loading spaces from two spaces to one space. Based on the strict application of the CU-2-4 zone, these deviations are necessary in order to accommodate the anticipated mixed-use development use at this location.

B. NEIGHBORHOOD USE PERMIT FINDINGS – SDMC SECTION 126.0205:

1. The proposed development will not adversely affect the applicable land use plan. The project site lies within the City Heights neighborhood of the MCCP and is within the City Heights Redevelopment Project area and is consistent with the overall goals of these documents. The proposed City Heights Square is a mixed-use project designed to provide commercial, medical and residential services, thereby implementing the goals of the CUPD and the MCCP to develop higher-density commercial/residential mixed-use development in an urban node at the project location, and that is consistent with the character of the existing neighborhood. The project was intended to provide design consistency among the individual components.

The proposed medical clinic which necessitates the NUP complements the mixed-use nature of the project and provides much needed medical services for the project area population and implements the MCCP and CUPD goals of providing a full complement of goods and services to meet the economic development needs of the community.

The proposed uses are consistent with the applicable zoning regulations, as allowed through the PDP, NUP, CUP and SDP processes. Therefore, the project would not result in a conflict with the relevant goals, objectives, and recommendations of the MCCP.

2. The proposed development will not be detrimental to the public health, safety, and welfare. The project's appearance will enhance the City Heights area and the surrounding neighborhoods benefiting the community as a whole.

As discussed within the Mitigated Negative Declaration, a Phase I Environmental Site Assessment for the project site was prepared for this project. This document indicated the site previously developed with a gasoline service station and a dry cleaning operation in the vicinity. Due to these historic uses, the assessment identified the potential that the site may be contaminated with hazardous materials/wastes or petroleum products. The assessment also recommended a geophysical survey be conducted to identify the possible presence of underground storage tanks. Based on these possibilities, the MMRP requires confirmation from the San Diego County Department of Environmental Health that adequate protection of human health, water resources, and the environment are provided as mitigation measures prior to project implementation.

All Uniform Building, Fire, Plumbing, Electrical, Mechanical Code and City regulations governing the construction and continued operation of the development apply to this project to prevent adverse affects to those persons or properties in the vicinity of the project.

3. The proposed development will comply with the applicable regulations of the Land Development Code. The applicable zoning for the project is CU-2-4 of the CUPD. The CU-2-4 zoning allows for commercial uses, senior housing with a CUP and a medical clinic with a NUP. These uses are consistent with the LDC and the project design will conform with the purpose and intent of the development regulations, with deviations allowed through the PDP and SDP processes. The design of the structures proposed for the project incorporate architectural elements that help to diminish building bulk and blend into the surrounding community. The project will provide 470 (with 410 required) off-street, primarily subterranean parking spaces, increasing the supply of available parking in the area and reducing the impact on street parking in the surrounding neighborhoods.

C. CONDITIONAL USE PERMIT FINDINGS – SDMC SECTION 126.0305:

1. The proposed development will not adversely affect the applicable land use plan. The project site lies within the MCCP and the City Heights Redevelopment Plan area and is consistent with the overall goals of these documents. The proposed City Heights Square is a mixed-use project designed to provide commercial, medical and residential services, thereby implementing the goals of the CUPD and the MCCP to develop higher-density commercial/residential mixed-use development in an urban node at the project location, and that is consistent with the character of the existing neighborhood. The project was intended to provide design consistency among the individual components.

The proposed senior housing which necessitates the CUP complements the mixed-use nature of the project and implements the MCCP recommendation for the provision of housing needs for seniors in the community. The senior residential component of the project provides 150 needed housing units affordable to very low-income seniors and one, on-site property manager's unit.

The proposed uses are consistent with the applicable zoning regulations, as allowed through the PDP, NUP, CUP and SDP processes. Therefore, the project would not result in a conflict with the relevant goals, objectives, and recommendations of the MCCP.

2. The proposed development will not be detrimental to the public health, safety, and welfare. The project's appearance will enhance the City Heights area and the surrounding neighborhoods benefiting the community as a whole.

As discussed within the Mitigated Negative Declaration, a Phase I Environmental Site Assessment for the project site was prepared for this project. This document indicated the site previously developed with a gasoline service station and a dry cleaning operation in the vicinity. Due to these historic uses, the assessment identified the potential that the site may be contaminated with hazardous materials/wastes or petroleum products. The assessment also recommended a geophysical survey be conducted to identify the possible presence of

underground storage tanks. Based on these possibilities, the MMRP requires confirmation from the San Diego County Department of Environmental Health that adequate protection of human health, water resources, and the environment are provided as mitigation measures prior to project implementation.

All Uniform Building, Fire, Plumbing, Electrical, Mechanical Code and City regulations governing the construction and continued operation of the development apply to this project to prevent adverse affects to those persons or properties in the vicinity of the project.

3. The proposed development will comply to the maximum extent feasible with the regulations of the Land Development Code. The permit prepared for this development includes a variety of conditions of approval relevant to achieving project compliance with the regulations of the LDC in effect for this site. The proposed site improvements are consistent with the general purpose and intent of the M CCP, the City Heights Redevelopment Plan, and the CU-2-4 zone of the CUPD, as allowed through the PDP, NUP, CUP and SDP processes.

4. The proposed use is appropriate at the proposed location. The proposed mixed-use project, including the senior residential development, is appropriate at this location. According to the M CCP, the 2.78-acre project site is currently designated for Residential, Commercial, and Mixed-Use development and could accommodate 209 residential dwelling units, absent any density bonus for projects providing affordable housing units. With the proposed 35 percent affordable housing density bonus (for providing more than 30 percent low-income units, per the City's Inclusionary Housing Ordinance and Density Bonus Program), 261 dwelling units could be built on the project site. The project proposes to build a total of 243 units (ninety-two units in Building 1 and 151 units in Building 3, which have already been constructed per the original permit). The Residential Element of the community plan recommends new housing be constructed in a variety of types and sizes in order to meet the needs of future residents in all socio-economic brackets. The project's proposal for 151 housing units (150 affordable units and one manager's unit, which have already been constructed per the original permit) meets the Plan's recommendation of providing for the housing needs of seniors in the community.

D. SITE DEVELOPMENT PERMIT FINDINGS – SDMC SECTION 126.0504(a):

1. Findings for all Site Development Permits:

a. The proposed development will not adversely affect the applicable land use plan. The project site lies within the City Heights neighborhood of the M CCP and is within the City Heights Redevelopment Project area and is consistent with the overall goals of these documents. The proposed City Heights Square is a mixed-use project designed to provide commercial, medical and residential services, thereby implementing the goals of the CUPD and the M CCP to develop higher-density commercial/residential mixed-use development in an urban node at the project location, and that is consistent with the character of the existing neighborhood. The project was intended to provide design consistency among the individual components.

The project implements the MCCP recommendations for the provision of housing needs for seniors in the community and the provision of market-rate housing. The residential component of the project provides 150 needed housing units affordable to very low-income seniors and one on-site property manager's unit, as well as seventy-eight market-rate residential units.

The MCCP envisions City Heights as a pedestrian-friendly community with urban plazas at key crossroads, including the intersections of 43rd Street and Fairmount Avenue with University Avenue. The proposed project would provide an additional sidewalk setback and plaza space at the corner of University and Fairmount Avenues to be used for seating, eating and people watching. The plaza would be designed with enhanced paving to accentuate this important community node.

The MCCP envisions City Heights as a pedestrian-friendly community of urban plazas. The proposed project would provide an additional sidewalk setback and plaza space at the corner of University and Fairmount Avenues to be used for seating, eating and people watching. The plaza would be designed with enhanced paving to accentuate this important community node.

The project is located within a facility deficient neighborhood. The recent adoption of the San Diego General Plan Update and its Recreation Element provided updated direction on addressing existing parks deficiency in the urbanized communities involving the acquisition of additional park acreage, improving recreational facilities, partnering with other agencies for joint use facilities or public-private partnerships, and looking at alternatives to additional park acreage that may increase the capacity of existing park facilities or provide new, non-traditional park and recreation amenities. The project provides a 5,432-square-foot recreational area that will be open to the public. Additionally, the senior residence will also provide a central courtyard area and a 10,000-square-foot activity area. Currently, the proposed project is located northwest, within a 320-foot walking distance, of the joint-use facilities/recreation center located adjacent to Rosa Parks Elementary School. Finally, the proposed multi-family residential use (Building 1) contains approximately 1,380 square feet of interior passive and recreation area.

The proposed uses are consistent with the applicable zoning regulations, as allowed through the PDP, NUP, CUP and SDP processes. Therefore, the project would not result in a conflict with the relevant goals, objectives, and recommendations of the MCCP.

b. The proposed development will not be detrimental to the public health, safety, and welfare. The project's appearance will enhance the City Heights area and the surrounding neighborhoods benefiting the community as a whole.

As discussed within the Mitigated Negative Declaration, a Phase I Environmental Site Assessment for the project site was prepared for this project. This document indicated the site previously developed with a gasoline service station and a dry cleaning operation in the vicinity. Due to these historic uses, the assessment identified the potential that the site may be contaminated with hazardous materials/wastes or petroleum products. The assessment also

recommended a geophysical survey be conducted to identify the possible presence of underground storage tanks. Based on these possibilities, the MMRP requires confirmation from the San Diego County Department of Environmental Health that adequate protection of human health, water resources, and the environment are provided as mitigation measures prior to project implementation.

All Uniform Building, Fire, Plumbing, Electrical, Mechanical Code and City regulations governing the construction and continued operation of the development apply to this project to prevent adverse affects to those persons or properties in the vicinity of the project.

c. The proposed development will comply with the applicable regulations of the Land Development Code. The applicable zoning for the project is CU-2-4 of the CUPD. The CU-2-4 zoning allows for commercial uses, senior housing with a CUP and a medical clinic with a NUP. These uses are consistent with the LDC and the project design will conform with the purpose and intent of the development regulations, with deviations allowed through the PDP and SDP processes. The design of the structures proposed for the project incorporate architectural elements that help to diminish building bulk and blend into the surrounding community. The project will provide 470 (with 410 required) off-street, primarily subterranean parking spaces, increasing the supply of available parking in the area and reducing the impact on street parking in the surrounding neighborhoods.

2. Findings for Deviation for Affordable Housing:

a. The proposed development will materially assist in accomplishing the goal of providing affordable housing opportunities in economically balanced communities throughout the City. The City Heights Square project implements the goal of providing affordable housing opportunities for seniors in the community. The Residential Element of the community plan recommends new housing be constructed in a variety of types and sizes in order to meet the needs of future residents in all socio-economic brackets. The project exceeds the requirements of the City's Inclusionary Housing Ordinance and Density Bonus Program by setting aside more than 30% of the proposed units (150 senior units, fourteen affordable units, seventy-eight market-rate units, and one manager's unit) to very low-income seniors (at/below 62 years of age) with incomes at or below 50 percent of the AMI in perpetuity, and other low-income tenants for 55 years.

b. The development will not be inconsistent with the purpose of the underlying zone. The proposed mixed-use project, including the senior residential development, is appropriate at this location. According to the MCCP, the 2.78-acre project site is currently designated for Residential, Commercial, and Mixed-Use development and could accommodate 209 residential dwelling units, absent any density bonus for projects providing affordable housing units. With the proposed 35 percent affordable housing density bonus (for providing more than 30 percent low-income units, per the City's Inclusionary Housing Ordinance and Density Bonus Program), 261 dwelling units could be built on the project site. The project proposes to build a total of 243 units (ninety-two units in Building 1 and 151 units in Building 3, which have already been constructed per the original permit). The Residential Element of the community plan recommends new housing be constructed in a variety of types and sizes in order

to meet the needs of future residents in all socio-economic brackets. The project's proposal for 151 housing units (150 affordable units and one manager's unit, which have already been constructed per the original permit) meets the Plan's recommendation of providing for the housing needs of seniors in the community.

c. The deviations are necessary to make it economically feasible for the applicant to utilize a density bonus authorized for the development pursuant to Section 143.0730. The increased residential density at this site is based on the critical need for affordable housing to very low-income seniors in San Diego and the appropriateness and cost efficiencies of developing such housing at the density proposed.

BE IT FURTHER RESOLVED, by the City Council that PDP No. 514696/ NUP No. 518933/CUP No. 518932/SDP No. 519775 is hereby Granted to City Heights Realty, LLC, a California Nonprofit Corporation and the City of San Diego Redevelopment Agency, Owners/Permittees, and conditions as set forth in the attached referenced Permit which is made a part of this resolution.

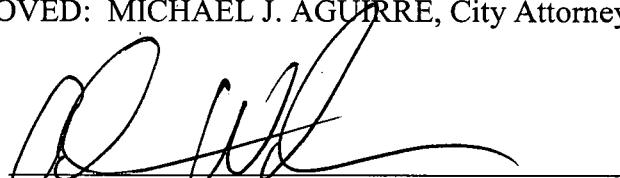
BE IT FURTHER RESOLVED, It is the intent of the City Council that the improvements discussed in Condition 43 of this permit shall be reviewed in light of existing right-of-way constraints at this intersection (University/Euclid). Improvements at this intersection would be accomplished only if full environmental analysis and public review pursuant to CEQA supports such measures, such analysis shall include alternatives not including any expansion beyond the existing right-of-way; and this direction should be reflected in the next public facilities financing plan for the Mid-City Communities and the next Mid-City Communities Plan Update to occur as soon as funds become available.

BE IT FURTHER RESOLVED, To support, as best we can in light of the Mitigated Negative Declaration, that we support historic structures and the constraints that exist in the

right-of-way at this time and to include any funds to go to bicycle and pedestrian improvements as well as for turn lanes as part of condition 43.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By:


Adam Wander
Deputy City Attorney

ARW:cw
11/17/08
12/18/08 REV.
Or.Dept:DSD
R-2009-646
MMS#7055

RECORDING REQUESTED BY
CITY OF SAN DIEGO
DEVELOPMENT SERVICES

WHEN RECORDED MAIL TO
PERMIT INTAKE
MAIL STATION 501

SPACE ABOVE THIS LINE FOR RECORDER'S USE

JOB ORDER NUMBER: 42-5990

PLANNED DEVELOPMENT PERMIT NO. 514696
NEIGHBORHOOD USE PERMIT NO. 518933
CONDITIONAL USE PERMIT NO. 518932
SITE DEVELOPMENT PERMIT NO. 519775

AMENDMENT TO

PLANNED DEVELOPMENT PERMIT NO. 308092
NEIGHBORHOOD USE PERMIT NO. 327436
CONDITIONAL USE PERMIT NO. 308101
SITE DEVELOPMENT PERMIT NO. 308102

CITY HEIGHTS SQUARE AMENDMENT – PROJECT NO. 146605 [MMRP]

CITY COUNCIL

This Planned Development Permit (PDP)/Neighborhood Use Permit (NUP)/Conditional Use Permit (CUP)/Site Development Permit (SDP) is granted by the City Council of the City of San Diego to the CITY HEIGHTS REALTY, LLC, A CALIFORNIA NOT-FOR-PROFIT CORPORATION, AND THE CITY OF SAN DIEGO REDEVELOPMENT AGENCY, Owners/Permittees, pursuant to San Diego Municipal Code [SDMC] Sections 126.0602, 126.0203, 126.0303, and 126.0502. The 2.78-acre site is located between Fairmount Avenue, University Avenue, 43rd Street, and Polk Avenue, in the CT-2-3 and the CU-2-3 Zones (proposed CU-2-4 Zone) of the Central Urbanized Planned District, within the City Heights neighborhood of the Mid-City Communities Plan. The project site is legally described as Lots 1 through 8, inclusive, and 25 through 28, inclusive, in Block 46 of City Heights, Map No. 1007; Lot 1 of Fairmount Commercial Tract, Map No. 6740; Parcel 1 of Parcel Map No. 15205; together with the easterly 10 feet of the vacated unnamed alley adjacent to said Lots 25 through 28.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owners/Permittees to demolish existing structures and construct a mixed-use development, described and identified by size, dimension, quantity, type, and location on the approved exhibits, dated December 2, 2008, on file in the Development Services Department.

The project or facility shall include:

- a. The construction of an approximately 302,497-square-foot, mixed-use development consisting of 151 senior residential units, a medical clinic, and retail/office/multi-family residential apartments in three buildings, parking, and an approximately 5,432-square-foot recreational area;
- b. Landscaping (planting, irrigation and landscape related improvements);
- c. Off-street parking facilities;
- d. Deviations for side setback; street side setback, rear yard, transparency requirements, parking, off-street loading requirements, and landscape planter size requirements;
- e. The encroachment of the subterranean parking structure for Building 2 into the alley right-of-way;
- f. 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.

This project consists of four distinct building projects on separate legal parcels, described and identified by size, dimension, quantity, type, and location on the approved exhibits, dated December 2, 2008, on file in the Development Services Department. This project has been previously-approved on June 28, 2005 and subsequently amended on April 20, 2006; accordingly, components of this project have been accomplished. This Permit acknowledges that each individual project may be constructed in phases, with separate and not necessarily concurrent schedules. Where permit conditions apply to site specific development conditions, fulfillment of the condition requirements shall apply to the individual project seeking a building permit or occupancy, as identified in the following requirements and conditions. The required satisfaction of conditions for any phase of the project shall be at the sole discretion of the City Manager.

STANDARD REQUIREMENTS:

1. Construction, grading or demolition must commence and be pursued in a diligent manner within thirty-six months after the effective date of final approval by the City, following all appeals. Failure to utilize the permit within thirty-six months will automatically void the permit unless an Extension of Time has been granted. Any such Extension of Time must meet all the SDMC requirements and applicable guidelines in effect at the time the extension is considered by the appropriate decision maker.
2. No permit for the construction, occupancy or operation of any facility or improvement described herein shall be granted, nor shall any activity authorized by this Permit be conducted on the premises until:

- a. The Permittee signs and returns the Permit to the Development Services Department;
and
 - b. The Permit is recorded in the Office of the San Diego County Recorder
3. Unless this Permit has been revoked by the City of San Diego the property included by reference within this Permit shall be used only for the purposes and under the terms and conditions set forth in this Permit unless otherwise authorized by the City Manager.
 4. This Permit is a covenant running with the subject property and shall be binding upon the Permittee and any successor or successors, and the interests of any successor shall be subject to each and every condition set out in this Permit and all referenced documents.
 5. The utilization and continued use of this Permit shall be subject to the regulations of this and any other applicable governmental agency.
 6. Issuance of this Permit by the City of San Diego does not authorize the Permittee for this permit to violate any Federal, State or City laws, ordinances, regulations or policies including, but not limited to, the Endangered Species Act of 1973 [ESA] and any amendments thereto (16 U.S.C. § 1531 et seq.).
 7. The Owners/Permittees shall secure all necessary building permits. The applicant is informed that to secure these permits, substantial modifications to the building and site improvements to comply with applicable building, fire, mechanical and plumbing codes and State law requiring access for disabled people may be required.
 8. Before issuance of each building or grading permit, complete grading and working drawings shall be submitted to the City Manager for approval. Plans shall be in substantial conformity to Exhibit "A," on file in the Development Services Department. No changes, modifications or alterations shall be made unless appropriate application(s) or amendment(s) to this Permit have been granted.
 9. All relevant conditions of Planned Development Permit No. 308092, Neighborhood Use Permit No. 327436, Conditional Use Permit No. 308101, and Site Development Permit No. 308102 (Project No. 95232) shall remain in full effect unless otherwise conditioned in this permit (Project No. 146605).
 10. This project shall conform with the provisions of Community Plan Amendment No. 518922 and Rezone No. 518921.
 11. 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 Owners/Permittees 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 Owners/Permittees shall have the right, by paying applicable processing fees, to bring a request for a new permit without the "invalid" condition(s) back to the discretionary body which approved the Permit for a determination by that body as to whether all of the findings necessary for the issuance of the proposed permit can still be made in the absence of the "invalid" condition(s). Such hearing shall be a hearing de novo and the discretionary body shall have the absolute right to approve, disapprove, or modify the proposed permit and the condition(s) contained therein.

12. At all bus stops within the project area, if any, the applicant shall be responsible for installing sidewalk improvements where needed to comply with Americans with Disability Act (ADA) requirements and in accordance with standards contained in the City of San Diego Street Design Manual.

13. This project shall conform with the provisions of Easement Vacation No. 116930. No building permits shall be issued prior to the recordation of Easement Vacation No. 116930.

ENVIRONMENTAL/MITIGATION REQUIREMENTS:

14. 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.

15. As conditions of Planned Development Permit No. 514696, Neighborhood Use Permit No. 518933, Conditional Use Permit No. 518932, and Site Development Permit No. 519775 (An Amendment to Planned Development Permit No. 308092, Neighborhood Use Permit No. 327436, Conditional Use Permit No. 308101, and Site Development Permit No. 308102), the mitigation measures specified in the MMRP, and outlined in MITIGATED NEGATIVE DECLARATION NO. 146605, shall be noted on the construction plans and specifications under the heading ENVIRONMENTAL/MITIGATION REQUIREMENTS.

16. The Owners/Permittees shall comply with the Mitigation, Monitoring, and Reporting Program (MMRP) as specified in the SUBSEQUENT ADDENDUM TO A MITIGATED NEGATIVE DECLARATION NO. 146605 satisfactory to the City Manager and City Engineer. Prior to issuance of the first grading permit, all conditions of the MMRP shall be adhered to to the satisfaction of the City Engineer. All mitigation measures as specifically outlined in the MMRP shall be implemented for the following issue areas:

- Health and Safety
- Paleontology
- Transportation/Circulation/Parking
- Waste Management

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

18. A Job Order number open to the Land Development Review Division of the Development Services Department shall be required to cover the Land Development Review Division's cost associated with the implementation of the MMRP.

AFFORDABLE HOUSING REQUIREMENTS:

19. Prior to receiving the first residential building permit for each residential structure, the applicant shall comply with the Affordable Housing Requirements of the City's Density Bonus Affordable Housing Requirements pursuant to California Government Code Sections 65915-65918 and San Diego Municipal Code Chapter 14, Article 3, Division 7.

20. The project is subject to the Affordable Housing Requirements of the City's Inclusionary Housing Ordinance (Chapter 14, Article 2, Division 13 of the Land Development Code). The project will also be subject to an Agreement with the City of San Diego Redevelopment Agency, which includes deed restrictions equivalent or more stringent than the Inclusionary Housing restrictions. The inclusionary ordinance is not cumulative to (or in addition to) the Agreement with the City of San Diego Redevelopment Agency. In the event that the project does not fulfill the terms of the Redevelopment Agency restrictions due to default, foreclosure, or cancellation/dissolution of the Redevelopment Agency participation or for any other reason(s) prior to their satisfaction, the inclusionary requirements will apply to the project. In such event, the project owner will be required to enter into an affordable housing agreement with the San Diego Housing Commission to provide 10% of the units as affordable on-site; an in-lieu fee option will not be available.

ENGINEERING REQUIREMENTS:

21. Prior to building occupancy, the applicant shall dedicate 3.5 feet of right-of-way along Polk Avenue to the satisfaction of the City Engineer.

22. Prior to building occupancy, a dedication of 2 feet will be required along the property frontage on University Avenue, as necessary, to provide for a 10-foot curb-to-property line distance along this frontage, to the satisfaction of the City Engineer.

23. Whenever street rights-of-way are required to be dedicated, it is the responsibility of the applicant to provide the right-of-way free and clear of all encumbrances and prior easements, to the satisfaction of the City Engineer. Generally, the Applicant must secure "subordination agreements" for minor distribution facilities and/or "joint-use agreements" for major transmission facilities.

24. Prior to the issuance of a building permit for each individual building site, the applicant shall obtain a grading permit for the grading proposed for that site, to the satisfaction of the City Engineer. All grading shall conform to requirements in accordance with the City of San Diego Municipal Code in a manner satisfactory to the City Engineer.

25. This project proposes to export approximately 79,500 cubic yards of material from the project site. All export material shall be discharged into a legal disposal site. The approval of this project does not allow the processing and sale of the export material. All such activities require a separate Conditional Use Permit.

26. Prior to the issuance of grading permits, 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.

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

28. 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.

29. 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.

30. Prior to the issuance of each construction permit the Applicant shall incorporate and show the type and location of all post-construction Best Management Practices (BMPs) on the final construction drawings, in accordance with the approved Water Quality Technical Report, to the satisfaction of the City Engineer.

31. Prior to occupancy of each building, the Applicant shall enter into a Maintenance Agreement for the ongoing permanent BMP maintenance, to the satisfaction of the City Engineer.

32. Prior to occupancy of Building 1, the Applicant shall construct concrete bus pads in accordance with MTDB Design Guidelines and City of San Diego Standard Drawing SDG-102 at the stops near the corner of Fairmount and University Avenues and the corner of 43rd Street and University Avenue, to the satisfaction of the City Engineer.

33. Prior to occupancy of each building, the Applicant shall reconstruct curb ramps in the abutting right-of-way in accordance with City Standard Drawing SDG-132 to the satisfaction of the City Engineer.

34. Prior to occupancy of each building, the Applicant shall reconstruct the alleys abutting the project site, to the satisfaction of the City Engineer.

35. Prior to occupancy for Building 2, the Applicant shall construct curb ramps at the alley intersection with Fairmount Avenue, and prior to occupancy for Building 3, the applicant shall

construct curb ramps at the alley intersection at Polk Avenue, to the satisfaction of the City Engineer. Construction of curb ramps will be required for both sides of the alley.

36. Prior to occupancy of each building, the Applicant shall replace the curb along the project frontage with City standard curb and gutter, satisfactory to the City Engineer.

37. Prior to occupancy of each building, the Applicant shall replace damaged sidewalks adjacent to the site, to the satisfaction of the City Engineer.

38. All driveways and curb openings shall comply with City Standard Drawings G-14A, G-16 and SDG-100.

39. Prior to the issuance of any building permits, the applicant shall obtain an Encroachment Maintenance and Removal Agreement for private drainage facilities in the public right-of-way, to the satisfaction of the City Engineer.

40. Prior to the issuance of building permits for Building 1 or Building 2, the applicant shall obtain an Encroachment Maintenance and Removal Agreement for the proposed encroachments of subterranean parking structures within the alley right-of-way for Building 2, and into the public rights-of-way at the corner of 43rd Street and University Avenue, and the corner of Fairmount Avenue and University Avenue for Building 1, to the satisfaction of the City Engineer.

41. This project shall comply with all current street lighting standards according to the City of San Diego Street Design Manual (Document No. 297376, filed November 25, 2002) and the amendment to Council Policy 200-18 approved by City Council on February 26, 2002 (Resolution R-296141) satisfactory to the City Engineer.

42. Prior to the issuance of any building permit for Building 1 or Building 2, the applicant shall provide an exclusive northbound left-turn lane on Fairmount Avenue for the garage ramp between Building 1 and 2, to the satisfaction of the City Engineer.

43. Prior to the issuance of any building permit, the applicant shall provide a fairshare contribution towards the construction of an additional northbound right-turn lane, eastbound right-turn lane, eastbound left-turn lane and westbound left-turn lane at University/Euclid intersection to the satisfaction of the City Engineer.

44. Prior to the issuance of any building permit for Building 1 or Building 3, the applicant shall provide a shared parking agreement for three (3) parking spaces for the senior housing units in Building 3 to be provided in Building 1, to the satisfaction of the City Manager. A Shared Parking Agreement should be provided for these spaces within the Building 1 parking structure. In the event that the Building 1 parking structure is not complete when Building 3 is ready to be occupied, the applicant shall submit an interim parking plan that provides for the three (3) spaces until the Building 1 parking structure is complete, to the satisfaction of the City Manager.

45. Prior to the issuance of any building permit for Building 1 or Building 2, the applicant shall provide a mutual access agreement between the property owners of Building 1 and Building 2 for the use of the garage ramp (located on Building 1) to Building 2, to the satisfaction of the City Manager.

LANDSCAPE REQUIREMENTS:

46. In the event the Landscape Plan and the Site Plan conflict, the Site Plan shall be revised to meet the Landscape Regulations.
47. Prior to issuance of any construction permits for each structure (including shell), complete landscape and irrigation construction documents consistent with the Landscape Standards (including planting and irrigation plans, details and specifications) for each building shall be submitted to the City Manager for approval. The construction documents shall be in substantial conformance with Exhibit A, Landscape Development Plan, on file in the Office of Development Services.
48. Prior to issuance of construction permits for grading, the Permittee or Subsequent Owner shall submit landscape construction documents for the revegetation and hydro-seeding of all disturbed land in accordance with the Land Development Manual, Landscape Standards and to the satisfaction of the Development Services Department. All plans shall be in substantial conformance to this permit (including Environmental conditions) and Exhibit 'A,' on file in the Office of the Development Services Department.
49. Prior to issuance of any construction permit for each parking structure, the Permittee shall submit on the planting and irrigation plans for each structure 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.
50. Prior to issuance of each engineering permit for right-of-way improvements, except water and sewer relocation improvement plans, complete landscape construction documents for right-of-way and median (if applicable) 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.
51. Prior to the issuance of engineering permits for water and sewer relocation improvement plans, plans shall be approved by the City Manager for landscape purposes. 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.
52. No change, modification or alteration shall be made to the project unless appropriate application or amendment of this Permit shall have been granted by the City.
53. Prior to issuance of a Certificate of Occupancy for each building, it shall be the responsibility of the Permittee or subsequent Owner to install all required landscape and obtain all required landscape inspections, to the satisfaction of the City Manager. A No Fee Street Tree Permit, if applicable, shall be obtained for the installation, establishment and on-going maintenance of all street trees.
54. All required landscape shall be maintained in a disease, weed and litter free condition at all times. Severe pruning or "topping" of trees is not permitted unless specifically noted in this

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

55. 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 30 days of damage or Certificate of Occupancy.

56. In the event that a foundation only permit is requested by the Permittee or Subsequent Owner, a site plan or staking layout plan shall be submitted identifying all landscape areas consistent with Exhibit 'A,' Landscape Development Plan, on file in the Office of the Development Services Department. These landscape areas shall be clearly identified with a distinct symbol, noted with dimensions and labeled as 'landscaping area.'

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

58. Prior to issuance of any Certificate of Occupancy, it shall be the responsibility of the Permittee or subsequent Owner to install and establish permanent erosion control in the future park area in the event construction of the park has not started.

PLANNING/DESIGN REQUIREMENTS:

59. No fewer than a total of 410 off-street parking spaces shall be maintained on the property at all times in the approximate locations shown on the approved Exhibit "A," on file in the Development Services Department. 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. There shall be compliance with the regulations of the underlying zone(s) unless a deviation or variance to a specific regulation(s) is approved or granted as a condition of approval of this Permit. Where there is a conflict between a condition (including exhibits) of this Permit and a regulation of the underlying zone, the regulation shall prevail unless the condition provides for a deviation or variance from the regulations. Where a condition (including exhibits) of this Permit establishes a provision which is more restrictive than the corresponding regulation of the underlying zone, then the condition shall prevail.

61. The height(s) of the building(s) or structure(s) shall not exceed those heights set forth in the conditions and the exhibits (including, but not limited to, elevations and cross sections) or the maximum permitted building height of the underlying zone, whichever is lower, unless a deviation or variance to the height limit has been granted as a specific condition of this Permit.

62. Deviations approved:

- a. A 2'-3" side yard setback for Building 3 where up to 10 feet is required, per SDMC Section 151.0242, Table 151-02D;

- b. A 6'-8" rear yard setback for Building 2 where up to 10 feet is required, per SDMC Section 151.0242, Table 151-02D;
- c. A deviation from the transparency requirements where 50 percent of the building wall between 3 feet and 10 feet above grade for Building 3 shall be transparent into a commercial or residential use, per SDMC Section 131.0552;
- d. A reduction of the required number of parking spaces (78 spaces provided where 81 spaces are required) for Building 3, per SDMC Section 142.0530; and
- e. A reduction in the planter size from the required 40 square feet to approximately 22 square feet in the interior courtyard of Building 3, per SDMC Section 142.0403.

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

64. Any future requested amendment to this Permit shall be reviewed for compliance with the regulations of the underlying zone(s) which are in effect on the date of the submittal of the requested amendment.

65. Housing for senior citizens (Building 3) shall meet the requirements of one of the following:

- a. "Housing for older person" as defined in 42 United States Code Section 3607(b) of the Fair Housing Act Amendments of 1988 and 24 code of Federal Regulations, section 100.304; or
- b. "Senior citizen housing development" as defined in Section 51.3 of the California Civil Code.

66. The senior housing is to remain affordable (as defined by the Housing Commission) to very-low income seniors in perpetuity. Prior to issuance of the building permit, the applicant is required to provide a copy of the agreement between all parties.

67. Overnight patients are not permitted at the Outpatient Medical Clinic (Building 2).

68. The Outpatient Medical Clinic shall remain closed between the hours of 12:00 midnight and 6:00 a.m.

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

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. Parking areas shall be lighted for the safety of tenants. Lighting shall be of a design that deters vandalism. Prior to the issuance of the building permits, the location, type and size of the proposed lighting fixtures shall be specified on the construction plans.

72. The use of textured or enhanced paving shall meet applicable City standards as to location, noise and friction values.

73. The subject property and associated common areas on site shall be maintained in a neat and orderly fashion at all times.

74. All uses, except storage and loading and activities at the park, shall be conducted entirely within an enclosed building. Outdoor storage of merchandise, material and equipment is permitted in any required interior side or rear yard, provided the storage area is completely enclosed by walls, fences, or a combination thereof. Walls or fences shall be solid and not less than six feet in height and, provided further, that no merchandise, material or equipment stored not higher than any adjacent wall.

75. No mechanical equipment, tank, duct, elevator enclosure, cooling tower, mechanical ventilator, or air conditioner shall be erected, constructed, converted, established, altered, or enlarged on the roof of any building, unless all such equipment and appurtenances are contained within a completely enclosed, architecturally integrated structure whose top and sides may include grillwork, louvers, and latticework.

76. Prior to the issuance each building permit, construction documents shall fully illustrate compliance with the Citywide Storage Standards for Trash and Recyclable Materials (SDMC) to the satisfaction of the City Manager. All exterior storage enclosures for trash and recyclable materials shall be located in a manner that is convenient and accessible to all occupants of and service providers to the project, in substantial conformance with the conceptual site plan marked Exhibit "A," on file in the Development Services Department.

PARK AND RECREATION REQUIREMENTS:

77. Prior to issuance of Certificate of Occupancy for Building 3 (the senior housing facility), the applicant shall convey the deed to the park property to the Redevelopment Agency pursuant to the Disposition and Development Agreements and purchase agreements approved by the Redevelopment Agency on May 3, 2005, by Resolution Nos. R-03900, R-03901, R-03905 and R-03906.

78. The applicant shall enter into an agreement with the City of San Diego to provide maintenance and operations for the 5,432-square-foot public park in perpetuity pursuant to the Disposition and Development Agreements on May 3, 2005, by Resolution Nos. R-03900 and R-03905, and shall run with the land in case of change of property ownership.

79. Prior to issuance of any building permits, for the 92-unit mixed-use development (Building 1), the Owners/Permittees shall make a contribution in-lieu of the park portion of the Mid-City Development Impact Fee (DIF), in the amount of \$807,484 to satisfy the project's population-based park requirement. These funds shall be placed into an interest bearing account for parks in the City Heights area. This payment shall constitute the park portion of the DIF.

WASTEWATER REQUIREMENTS:

80. Prior to the issuance of any building permits, the developer shall assure, by permit and bond, the design and construction of all public sewer facilities necessary to serve this development.
81. Prior to the issuance of any grading or building permits, the developer shall relocate on-site public sewer mains, satisfactory to the Director of Public Utilities. All associated public easements shall be vacated, satisfactory to the Director of Public Utilities.
82. The developer shall design and construct all proposed public sewer facilities to the most current edition of the City of San Diego's Sewer Design Guide.
83. 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.
84. No trees or shrubs exceeding three feet in height at maturity shall be installed within ten feet of any public sewer facilities.

WATER REQUIREMENTS:

85. Prior to the issuance of any building permits, including foundation, the Owners/Permittees shall assure, by permit and bond, the design and construction of new 12-inch public water facilities in Fairmount Avenue from University Avenue to Polk Avenue, in a manner satisfactory to the Water Department Director and the City Engineer.
86. Prior to the issuance of any building permits, including foundation, the Owners/Permittees shall cut, plug, and abandon the existing public water facilities, located within the easement to be vacated traversing the project site, in a manner satisfactory to the Water Department Director and the City Engineer.
87. Prior to the issuance of any building permits, the Owners/Permittees shall assure, by permit and bond, the design and construction of new water service(s) outside of any vehicular use area, in a manner satisfactory to the Water Department Director and the City Engineer.
88. Prior to the issuance of any building permits, the Owners/Permittees shall apply for a plumbing permit for the installation of appropriate private back flow prevention device on each water service, existing or proposed, in a manner satisfactory to the Water Department Director and the City Engineer.
89. Prior to the issuance of any certificates of occupancy, public water facilities necessary to serve the development, including services, shall be complete and operational in a manner satisfactory to the Water Department Director and the City Engineer.
90. The Owners/Permittees agrees to design and construct all proposed public water facilities in accordance with established criteria in the most current edition of the City of San Diego Water Facility Design Guidelines and City regulations, standards and practices pertaining thereto.

Public water facilities, as shown on the approved Exhibit "A," shall be modified at final engineering to conform to standards.

REDEVELOPMENT AGENCY REQUIREMENTS:

91. The developer shall comply with the requirements of the Disposition and Development Agreement between the Redevelopment Agency of the City of San Diego and City Heights Square LP and the Disposition and Development Agreement between the Redevelopment Agency of the City of San Diego and San Diego Revitalization Corporation, approved by the City Council and Redevelopment Agency on May 3, 2005, as long as these agreements are in effect, or as amended, including any attachments thereto.

92. The developer shall reserve the park parcel for the exclusive use as a public park, in accordance with a Purchase and Sale Agreement between San Diego Revitalization Corporation and the Redevelopment Agency, approved on May 3, 2005, the Redevelopment Agency shall acquire the park site from San Diego Revitalization Corporation for the purpose of conveying the site to the City for a public park.

INFORMATION ONLY:

- This Development is subject to Development Impact Fees (DIF), the Mid-City Special Park Fee (SPF), and a Housing Trust Fund (HTF) fee. The fees in effect at the time building permits are issued will be the effective rate.
- 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.
- It is the intent of the City Council that the improvements discussed in Condition 43 of this permit shall be reviewed in light of existing right-of-way constraints at this intersection (University/Euclid). Improvements at this intersection would be accomplished only if full environmental analysis and public review pursuant to CEQA supports such measures, such analysis shall include alternatives not including any expansion beyond the existing right-of-way; and this direction should be reflected in the next public facilities financing plan for the Mid-City Communities and the next Mid-City Communities Plan Update to occur as soon as funds become available.
- To support, as best we can in light of the Mitigated Negative Declaration, that we support historic structures and the constraints that exist in the right-of-way at this time and to include any funds to go to bicycle and pedestrian improvements as well as for turn lanes as part of condition 43.

APPROVED by the City Council of the City of San Diego on December 2, 2008 by Resolution No. R-304531.

AUTHENTICATED BY THE CITY MANAGER

By _____

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

CITY HEIGHTS REALTY, LLC, a
California Not-for-Profit Corporation
Owners/Permittees

By _____

By _____

CITY OF SAN DIEGO
REDEVELOPMENT AGENCY
Owners/Permittees

By _____

By _____

**NOTE: Notary acknowledgments
must be attached per Civil Code
section 1189 et seq.**