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RESOLUTION NUMBER R- 305858

DATE OF FINAL PASSAGE MAY 18 2010

A RESOLUTION GRANTING SITE DEVELOPMENT PERMIT
NO. 515727 AND PLANNED DEVELOPMENT PERMIT
NO. 515728, FOR THE HAZARD CENTER
REDEVELOPMENT PROJECT - PROJECT NO. 146803.

WHEREAS, 7510 Hazard, LLC, a Delaware limited liability company, Owner, and Oliver McMillan, LLC, a California limited liability company, Permittee, filed an application with the City of San Diego for a site development permit/planned development permit to demolish a portion of existing commercial space and construct up to 473 residential units and approximately 4,205 square feet of commercial uses on a 14.5-acre site known as the Hazard Center Redevelopment project, located at 7510 Hazard Center Drive, 1370 Frazee Road, and 7676 Hazard Center Drive in the OF-1-1 (Open Space--Floodplain) Zone and MV-M/SP (Multiple Use) Zone within an adopted Specific Plan of the Mission Valley Planned District [MVPD] within the Mission Valley Community Planning area. The site is within the First San Diego River Improvement Project [FSDRIP] Specific Plan, and the Federal Aviation Administration Part 77 Noticing Area for the San Diego International Airport-Lindbergh Field and Montgomery Field, the Residential Tandem Parking Overlay Zone, and the Transit Area Overlay Zone. The project site is legally described as Parcel 1 of Parcel Map No. 15912 in the City of San Diego, State of California, filed in the Office of the County Recorder of San Diego County, December 19, 1989; Lot 3 of Hazard Center Map No. 11949, in the City of San Diego, State of California, filed in the Office of the County Recorder of San Diego County, December 10, 1987; and Lot 4 of Hazard Center Map No. 11949, in the City of San Diego, State of California, filed in the Office of the County Recorder of San Diego County, December 10, 1987; and

WHEREAS, on March 25, 2010, the Planning Commission of the City of San Diego considered Site Development Permit [SDP] No. 515727 and Planned Development Permit No. 15728, and pursuant to Resolution No. 4280-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 MAY 18, 2010 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 SDP No. 515727 and PDP No. 515728:

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

1. Findings for all Site Development Permits SDMC section 126.0504(a).

a. The proposed development will not adversely affect the applicable land use plan. The Hazard Center Redevelopment Project proposes to demolish a portion of the existing commercial space (movie theater, restaurant and parking spaces) and construct up to 473 residential units (including 10 percent, or up to 48 affordable units), approximately 4,205 square feet of commercial retail/restaurant space, and to create approximately 450 net additional parking spaces on the 14.5-acre project site. The project includes a proposed amendment to the to the Transportation Element of the Mission Valley Community Plan to reclassify Hazard Center Drive west of Frazee Road from a four-lane collector street to a two-lane collector street with enhancements. On July 12, 2007, the Planning Commission initiated an amendment to the FSDRIP Specific Plan and the Mission Valley Community Plan, a component of the General Plan, to allow for an increase in the number of permitted residential dwelling units, a decrease in commercial square footage, and to allow for an increase in building heights. Specifically, the Amendment to the FSDRIP Specific Plan is limited to the Hazard Center

Development Area. In addition to the amendments identified at the Planning Commission Initiation hearing described above, the proposed project includes an amendment to the Transportation Element of the Mission Valley Community Plan to reclassify Hazard Center Drive from a four-lane collector street to a two-lane collector street.

The proposed project includes two deviation requests: 1) the elimination of the setbacks from all lot lines to allow for the establishment of an urban street wall, and 2) a proposal for a tensile shade structure in lieu of a portion of the landscape requirements on the top level of the existing parking structure. The proposed reduction in setbacks is a deviation from a regulatory requirement and it does not adversely impact any Community Plan policies. Rather, this proposed deviation contributes to the provision of architectural interest at the street level to promote pedestrian activity and allows residential uses to be added adjacent to existing light rail transit, which is in conformance with both the Mission Valley Community Plan and the General Plan. The second proposed deviation, from the SDMC parking structure landscape requirement, would not adversely impact any Community Plan policies as in lieu of this requirement, a tensile shade structure is proposed which would meet the intent of the SDMC by shading and screening parking uses.

General Plan Conformance - The General Plan identifies Mission Valley as a Regional Subdistrict, meaning it constitutes a concentration of employment and housing and is appropriate to provide higher intensity development. This area is also identified as having a High Propensity to develop as a village area on the General Plan's Village Propensity Map. One of the primary goals of the General Plan's Land Use and Community Planning Element is to achieve balanced communities and equitable development. The proposed project would provide a diversity of unit types and densities including the provision of affordable on-site housing within a sub-regional employment center.

The General Plan's Mobility Element promotes walkability and multi-modal transportation in order to reduce dependency on the automobile. The proposed project addresses the walkability community goals by an interconnected system of pedestrian pathways, sidewalks, public spaces and street design, with an overall design concept that provides for a series of functional connections to the existing San Diego Trolley station located on the south side of Hazard Center Drive. The proposed project, along with the accompanying Hazard Center Drive Extension and San Diego River Pathway projects, promotes a transportation system that emphasizes walkability and bicycling and improved accessibility to transit, as well as supports the improvement of traffic circulation.

The Urban Design Element of the General Plan includes the principle to build a compact, efficient, and environmentally sensitive pattern of development. The proposed project includes both horizontal and vertical mixed-use components with a mix of housing types. The design proposes to place ground floor retail to activate and attract pedestrian activity, with plazas, courtyards and paseos to create focal points for public gathering adjacent to the existing Hazard Center Trolley Station.

The General Plan's Recreation Element provides that the appropriate quality and quantity of parks, recreation facilities and infrastructure is provided citywide. The project

proposes to meet its population based neighborhood park requirements both on-site, with the construction of a 0.63-acre park, as well as through the payment of an ad-hoc fee, in-lieu of the park portion of the development impact fees, for the remaining park requirements.

The Conservation Element of the General Plan contains numerous policies aimed at promoting the City of San Diego as an international model of sustainable development and conservation. The project proposes to address a variety of conservation needs by utilizing the design goals of the United States Green Building Council Leadership in Energy and Environmental Design, including green roofs. The design of the proposed project would meet or exceed Title 24 Energy Efficiency Requirements to reduce energy use. The siting of the proposed project within an existing development would result in no increase to impervious surfaces, and in the preservation of greenfields and nature resources.

The Housing Element, provided under separate cover from the rest of the General Plan, includes objectives, policies and programs intended to address the City's housing needs. Included as one of its five major goals, is the provision of affordable housing opportunities. The proposed project includes plans to set aside up to 10 percent of the 473 units as low-income/moderate-income housing. The provision of up to 48 low-income/moderate-income units on-site meets the City's Inclusionary Affordable Housing requirements and would serve to further diversify the housing stock within the Mission Valley community.

Community Plan Conformance - The Land Use Element of the Mission Valley Community Plan contains proposals to guide the long-range residential, commercial and industrial development of the Mission Valley Community. Several key objectives of this element include: to provide a variety of housing types and densities within the community; to encourage development which combines and integrates residential uses with commercial and service uses; to encourage imaginative land development techniques and varied building site layouts; and to provide amenities for residents such as recreation, shopping, employment and cultural opportunities within, or adjacent to, residential development. The proposed project addresses these objectives by providing a diversity of for-sale and for-rent units in a mixed-use, infill setting, while preserving existing shopping and employment uses, and providing on-site active and passive open space areas and recreation facilities.

The Transportation Element of the Mission Valley Community Plan includes objectives to establish and maintain a balanced transportation system throughout Mission Valley, encourage the use of public transit modes to reduce dependency on the automobile, and provide opportunities for individual property owners to achieve a higher use of their property through support of more efficient transportation modes. The proposed project would help advance a strategy to promote transit, bicycling, and walking as viable transportation choices through traffic calming measures, streetscape amenities, and an overall site design that would provide greater vehicular, bicycle and pedestrian safety, and would enhance bicycle and pedestrian connectivity to nearby transit and San Diego River recreational trails. The project site is located within less than one-quarter mile of an existing light rail trolley station, as well as several high-frequency public bus lines.

The proposed reclassification of Hazard Center Drive is a result of comments received from City staff's memorandum distributed on July 18, 2008, soliciting public and staff comments on the proposed amendments. City staff supports the reclassification as the two-lane designation provides a number of safety benefits. The road reclassification would allow for a more pedestrian-friendly design with wider sidewalks, bicycle paths, a pedestrian plaza, and a safe crossing between the proposed development and the existing trolley station. Further, the road extension presents several engineering challenges with respect to design speed for vertical curves, vehicular and pedestrian safety, and clearance considerations. These engineering challenges require design exceptions and traffic calming measures in order to reduce the design speed and justify design exceptions relating to the vertical alignment of the road extension. Due to the location of a major trunk sewer line, the design includes a steep descent under SR-163 that requires a design speed of 25 miles per hour. Because of this design speed requirement and the associated traffic calming necessary to support it, staff's recommendation is that a two-lane road is a more appropriate designation. No significant impacts to the level of service for Hazard Center Drive would result from this reclassification.

FSDRIP Conformance - The First San Diego River Improvement Project Specific Plan was approved by City Council in 1982 with three goals: to improve and protect the San Diego River floodway and wetlands; to direct the private development of existing industrial lands (then used for sand and gravel operations and, in the case of the Hazard land, a brickyard); and to reduce automobile dependency by implementing transit-oriented development guidelines consistent with the Progress Guide and General Plan. The proposed amendments to the Specific Plan support the most recent General Plan update and its City of Villages strategy and are, therefore, consistent with the original basis of FSDRIP.

Hazard Center was originally envisioned in FSDRIP as a progressive mixed-use project combining shops and restaurants, a hotel, office tower, and a multifamily residential neighborhood. No change is proposed to these use designations. FSDRIP defines density by two methods: an overall ADT allocation and a listing of area and height by use, according to the intended development at the time when the Plan was written. The proposed project does not exceed the ADT allocation with the 10% bonus for light-rail transit established in the Specific Plan.

The Specific Plan encouraged Center employees "to live in nearby residential units and to patronize shops, restaurants and entertainment facilities." These residences were described in FSDRIP as 145 units of 2-4 stories. Nevertheless, the proposed increase in the quantity and height of dwelling units is consistent with the FSDRIP goals of transit-oriented mixed-use development and helps attain the residential ratio and integration necessary to achieve these goals.

The proposed project is also consistent with FSDRIP's primary purpose of improving and protecting the San Diego River channel and wetlands. The Hazard Center Redevelopment will significantly advance the restoration of the river's health. The existing project site has large areas of surface and deck parking and flat roofs, but no existing water quality devices to treat the run-off from these surfaces. The proposed redevelopment will add fossil filters throughout the site, including at existing drainage outlets from these parking areas.

The proposed additions will not increase impervious area or run-off from the site. Furthermore, landscaping and irrigation improvements throughout the site and vegetated roofs proposed over much of the existing retail buildings will decrease the peak run-off volumes that can damage the river's health. The project will adhere to the City's Model Standard Urban Storm Water Mitigation Plan (SUSMP) and will implement all required construction and permanent Best Management Practices (BMPs) contained in the 2008 Storm Water Standards Manual. These standards and practices are more stringent than those in effect when the site was previously developed and will significantly raise the level of protection against pollutants entering the river drainage.

FSDRIP intended to create a natural park and passive recreation area along the river floodway, to include publicly accessible pedestrian and bicycle paths, nature trails, picnic areas and rest or view areas. The proposed public park at the southwest corner of the project site contributes toward this plan. It creates a unique open space that will have access to the river trail system and will beautify existing infrastructure near the river in an area that is now subject to vagrancy and littering. Non-native species currently in the drainage channel adjacent to the park will also be removed to beautify the area and improve hydrological function.

In addition to the park, the project will contribute in-lieu fees for population-based parks that will be used in the Mission Valley community. Through many meetings with River Park stakeholders and the community, several opportunities for application of the fees have been identified that will help create a sequence of unique places and experiences along the river, particularly the multimodal path extension under SR-163.

FSDRIP gives special attention to the preservation of views of the river from the hillside edges and freeway entrances to Mission Valley. The relationship of the residential high-rise structures to the proposed 5-story mid-rise structures preserves views of the river valley. The center tower's narrow side orientation to the river maintains views and is consistent with FSDRIP guidelines, while the tower at the corner of Friars and Frazee Roads aligns with the existing office tower to avoid further infringement on sight lines toward the river.

The project would implement many of the goals and policies of the City's newly adopted General Plan [General Plan], the Mission Valley Community Plan [MVCP] and the FSDRIP. Therefore, the proposed development would not adversely affect the applicable land use plan.

b. The proposed development will not be detrimental to the public health, safety, and welfare. The Hazard Center Redevelopment Project proposes to demolish a portion of the existing commercial space (movie theater, restaurant and parking spaces) and construct up to 473 residential units (including 10 percent, or up to 48 affordable units), approximately 4,205 square feet of commercial retail/restaurant space, and to create approximately 450 net additional parking spaces on the 14.5-acre project site. The project includes a proposed amendment to the to the Transportation Element of the Mission Valley Community Plan to reclassify Hazard Center Drive west of Frazee Road from a four-lane collector street to a two-lane collector street with enhancements.

The project proposes construction of 473 multi-family dwelling units to complement the existing mixed-use office, commercial and hotel center in Mission Valley. The proposed development is on an existing developed site. The site has been studied for potential traffic, noise, air quality, geotechnical, water quality, and hazardous material impacts. Environmental Impact Report No. 146803 has been prepared for the project in accordance with the State of California Environmental Quality Act. A Mitigation, Monitoring and Reporting Program has been prepared and would be implemented which would reduce, to a level below significance, some of the potential impacts identified in the environmental review process. Draft Candidate Findings of Fact and Statement of Overriding Considerations have been provided to allow the decisionmaker to adopt the project with significant and unmitigated impacts. The Project's drainage system discharges into an existing drainage channel that is within 200 feet of the San Diego River. The onsite drainage system will utilize Best Management Practices [BMP's] to meet construction and post-construction related water quality requirements.

The project would comply with the development regulations in effect for the subject property as described in Site Development Permit No. 515727 and Planned Development Permit No. 515728, and other regulations and guidelines pertaining to the subject property per the SDMC. The proposed development would be required to obtain building permits to show that all construction would comply with all applicable building and fire code requirements.

The Project proposes to incorporate sustainable design practices and has applied for Leadership in Energy and Environmental Design certification under the United States Green Building Council's criteria. The siting of residential infill adjacent to existing transit access and commercial infrastructure encourages walking and reduces the automobile trips that are detrimental to public health and safety. The proposed infill development on a previously disturbed site protects greenfields and natural resources.

In addition, the Project would help to provide affordable housing opportunities that would promote an economically balanced community. A minimum of 10 percent (up to 48) of the proposed dwelling units would be affordable per the City's Inclusionary Affordable Housing Regulations. A mix of studio, one-, and two-bedroom dwelling units would provide a variety of housing options and costs in close proximity to employment and transportation options. Therefore, proposed development would 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 Hazard Center Redevelopment Project proposes to demolish a portion of the existing commercial space (movie theater, restaurant and parking spaces) and construct up to 473 residential units (including 10 percent, or up to 48 affordable units), approximately 4,205 square feet of commercial retail/restaurant space, and to create approximately 450 net additional parking spaces on the 14.5-acre project site. The project includes a proposed amendment to the to the Transportation Element of the Mission Valley Community Plan to reclassify Hazard Center Drive west of Frazee Road from a four-lane collector street to a two-lane collector street with enhancements.

The proposed redevelopment would comply with the applicable regulations of the Mission Valley Planned District Multi-Use Zone where the Specific Plan is in effect [MVPD-M/SP] for permitted use, density, minimum lot area, lot width and depth, architectural design, storage requirements, private exterior open space, common open space, and loading requirements. Parking requirements are satisfied under an approved, updated shared parking analysis with the integrated uses on site.

The proposed redevelopment is consistent with the purpose of the MVPD-M/SP Zone to provide at least three land uses, one of which must be residential, in certain prescribed proportions based on Average Daily Trips allocated to the project. The integration of additional dwelling units would bring the existing development up to the current zoning criteria.

The proposed redevelopment is also consistent with the overall intent of the Mission Valley Planned District to ensure that development in Mission Valley will be accomplished in a manner that enhances and preserves sensitive resource areas; improves the vehicular, bicycle, pedestrian, and public transit circulation network; provides reasonable use of property; and contributes to the aesthetic and functional well being of the community. The proposed redevelopment is on an existing fully-developed site, so that undisturbed and environmentally sensitive lands are preserved from other potential development. The project proposes to add residential uses next to existing public transit and existing employment, restaurant and retail uses, reducing reliance on vehicular transportation and promoting pedestrian and transit alternatives. The added resident population would also contribute to the customer base of the existing commercial uses.

The proposed project design and massing are consistent with the Architectural Design guidelines contained in the SDMC section 1514.0305(g) including a slim tower design to preserve maximize view corridors, public plazas, varied roof forms and “green” roofs, architectural detail at a human scale, and offsetting façade planes.

The proposed reclassification of Hazard Center Drive would comply with all applicable regulations of the Land Development Code [LDC]. Further, the narrowing of this road from four lanes to two lanes would allow space for wider sidewalks, landscaping, sitting areas and a larger public plaza contiguous to these sidewalks, as outlined in the Guidelines for Discretionary Review in SDMC section 1514.0408(m).

The project proposes to deviate from the SDMC requirements for setback and vehicle use area planting requirements. Through the processing of a Planned Development Permit, the SDMC allows applicants to propose development that requires flexibility from the strict application of the regulations. The intent of Planned Development Permit regulations is to encourage imaginative and innovative planning, to assure the development achieves the purpose and intent of the applicable land use plan, and that the design would be preferable to what would be achieved by strict conformance with the regulations. Staff believes that the Planning Commission can make the appropriate findings based on the following information.

1. The project proposes a deviation from the setback requirements of SDMC section 1514.0304(e) which requires minimum yard and

building setback requirements. The project proposes to eliminate setbacks from all lot lines.

The deviation would allow the required fire separation distance as required by the California Building Code between the existing commercial buildings and the proposed mid-rise residences along Hazard Center Drive. It would also allow the existing service drives to be maintained between the commercial and residential buildings. These service drives are necessary to the continued function of the commercial spaces. The requested deviation would also allow for the future widening of Friars Road relative to the space requirements of the existing and proposed parking structures. The deviation is tied aesthetically to the streetscape improvement which would be allowed by the reclassification of Hazard Center Drive, particularly wider sidewalks and the creation of an urban street wall with offsetting planes, entry stoops, and planters.

The proposed deviation would also permit residential uses to be added to the remaining space adjacent to and above existing commercial structures, to implement a true mixed-use development in conformance with the multiple-use ratio guidelines of the MVRP-M zone designation and the City of Villages policies of the General Plan. The recently adopted General Plan identifies the Hazard Center site as having a high propensity for Urban Village development. The project proposal would achieve the Community Plan's goal for redevelopment, infill, and new growth to be focused adjacent to transit stops in compact, mixed-use centers.

2. The project proposes a deviation from the vehicle use area planting requirements of SDMC section 142.0406(a) to allow the use of shade structures on the top level of the parking structure in lieu of one tree within 30 feet of each parking space. The Project proposes a tensile shade structure in lieu of additional trees in most areas of the existing deck parking.

Due to site topography, the existing center is multi-level, with the main level for "surface" parking situated one story above Hazard Center Drive on a two-story parking garage structure. The parking garage is an existing structure that was not designed to support the weight of the quantity of trees required. Furthermore, trees without sufficient planter size and soil volume typically do not thrive on concrete parking decks. Current landscape standards require 40 square feet of planting area per tree. The tree planters that are present on the existing deck are supported by columns specifically designed for those loads and locations. Any increase in point loads would require replacement or retrofitting of the existing vertical structure through two lower parking levels and the footings below. Planters of adequate size would also eliminate existing parking spaces that are required for the retail and restaurant uses that are to remain.

The proposed tensile shade structures meet the intent of the LDC by shading and screening parking from view from above. They would be lighter than tree planters and the structural supports would fit within the existing parking field. The tensile shade structures would also reduce water consumption below that required for trees, and would reduce the heat island effect of the existing surface parking area.

The proposed deviations are appropriate to this location because they would allow affordable residential units to be added to an existing mixed-use center near existing transit infrastructure and would be consistent with the Mission Valley Planned District Ordinance, Community Plan and General Plan. The deviations would keep existing parking and retail activities in place, resulting in a more desirable and sustainable project.

Deviations from development regulations for projects offering affordable housing are consistent with the LDC portions of the SDMC. The Project proposes that a minimum of 10 percent (up to 48) of the proposed dwelling units would be affordable per the Inclusionary Housing Ordinance. Strict application of the setback regulation would restrict the ability to fit residential units on this site. Strict application of the landscape regulations would restrict the ability of the project to provide adequate parking as required for the proposed inclusionary units. Therefore, the proposed development would comply with the applicable regulations of the LDC.

2. Supplemental Site Development Permit Findings - Environmentally Sensitive Lands, SDMC Section 126.0504(b)

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. The Hazard Center Redevelopment Project proposes to demolish a portion of the existing commercial space (movie theater, restaurant and parking spaces) and construct up to 473 residential units (including 10 percent, or up to 48 affordable units), approximately 4,205 square feet of commercial retail/restaurant space, and to create approximately 450 net additional parking spaces on the 14.5-acre project site. The project includes a proposed amendment to the to the Transportation Element of the Mission Valley Community Plan to reclassify Hazard Center Drive west of Frazee Road from a four-lane collector street to a two-lane collector street with enhancements.

The Hazard Center site is well suited for the addition of higher density multifamily housing, due to its proximity to existing light rail public transit and established employment, shopping, dining and entertainment opportunities. The recently adopted General Plan identifies the Hazard Center site as having a high propensity for Urban Village development. The proposed construction of up to 473 multi-family dwelling units would complement the existing mixed-use office, commercial and hotel center in Mission Valley. The General Plan calls for redevelopment, infill and new growth to be focused adjacent to transit stops in compact, mixed-use centers. This project proposal achieves this goal by adding high density, multi-family housing to an existing employment center, connected to transit and recreation.

The southwest corner of the project site is identified as a restricted building area in FSDRIP. This portion of the site is approximately 1.2 acres in area and is not contiguous to the main, development body of the site. A separately owned parcel containing an existing hotel effectively separates the two portions. The restricted building area portion of the site contains an open, man-made drainage channel that is considered environmentally sensitive. Both the upstream and downstream sections of the drainage channel are enclosed in underground culverts, but the section on the project site is open with a soft bottom and rip-rap banks. The drainage

flows to the San Diego River, approximately 180 feet from the property at the downstream headwall. The closest proposed structures associated with this project lie 242 feet from the drainage channel. The upstream headwall and a small area of the drainage channel intersect the north property line of the main portion of the project site near the eastbound off-ramp of SR-163. This section lies approximately 45 feet from an existing parking garage on the project site. However, no modifications or new construction are proposed in this section of the site beyond replacement of existing grass with drought-tolerant landscaping.

Toward fulfillment of associated population-based park requirements, the project proposes to dedicate approximately 0.63 acres of the restricted building area near the drainage channel to the City of San Diego as a public park. The future park area is on previously disturbed, non-native grassland. Final design of the park must be vetted through a public process and approved by the Park and Recreation Board, pursuant to Council Policy 600-33. However, no buildings are anticipated and all landscaping will be in conformance with FSDRIP.

The project would result in minimum disturbance to environmentally sensitive lands, because all new or modified structures are on previously developed portions of the site, significantly distant from environmentally sensitive areas. Development near environmentally sensitive areas would be for passive recreational uses. There would be no removal, filling, or hydrological interruption to the drainage channel. Impacts to non-native grassland would not be considered significant because the area is less than one acre, occurs in an isolated patch due to urbanization, and has limited habitat values for wildlife. Therefore, site is physically suitable for the design and siting of the proposed development and the development would result in minimum disturbance to environmentally sensitive lands.

b. The proposed development will minimize the alteration of natural land forms and will not result in undue risk from geological and erosional forces, flood hazards, or fire hazards. The Hazard Center Redevelopment Project proposes to demolish a portion of the existing commercial space (movie theater, restaurant and parking spaces) and construct up to 473 residential units (including 10 percent, or up to 48 affordable units), approximately 4,205 square feet of commercial retail/restaurant space, and to create approximately 450 net additional parking spaces on the 14.5-acre project site. The project includes a proposed amendment to the to the Transportation Element of the Mission Valley Community Plan to reclassify Hazard Center Drive west of Frazee Road from a four-lane collector street to a two-lane collector street with enhancements.

The location of the proposed project is a developed site currently housing a three-level commercial-retail center, a 15-story office building and three levels of structured parking. The majority of the site is covered by buildings or pavement. The entire site was previously disturbed, including the restricted building area and drainage channel that were created by FSDRIP. Prior to development of the existing mixed-use center, the site was used as a quarry and brick yard. The proposed development will not affect natural land forms. The project adds housing to an existing development, thereby preserving existing greenfields in the region.

The southwest corner of the project site is identified as a restricted building area in FSDRIP. This portion of the site is approximately 1.2 acres in area and is not contiguous to

the main, development body of the site. A separately owned parcel containing an existing hotel effectively separates the two portions. The restricted building area portion of the site contains an open, man-made drainage channel that is considered environmentally sensitive. Both the upstream and downstream sections of the drainage channel are enclosed in underground culverts, but the section on the project site is open with a soft bottom and rip-rap banks. The drainage flows to the San Diego River, approximately 180 feet from the property at the downstream headwall. The closest proposed structures associated with this Project lie 242 feet from the drainage channel. The upstream headwall and a small area of the drainage channel intersect the north property line of the main portion of the Project site near the eastbound off-ramp of SR-163. This section lies approximately 45 feet from an existing parking garage on the Project site. However, no modifications or new construction are proposed in this section of the site beyond replacement of existing grass with drought-tolerant landscaping.

Toward fulfillment of associated population-based park requirements, the Project proposes to dedicate approximately 0.63 acres of the restricted building area near the drainage channel to the City of San Diego as a public park. The future park area is on previously disturbed, non-native grassland. Final design of the park must be vetted through a public process and approved by the Park and Recreation Board, pursuant to Council Policy 600-33. However, no buildings are anticipated and all landscaping will be in conformance with FSDRIP. The fire hazard potential of this area will be considerably reduced by the conversion of existing isolated grassland into a thoughtfully landscaped and maintained public park and the removal of congestive non-native plants.

No natural land forms will be altered by the proposed project, because it would be entirely constructed on previously disturbed land. Furthermore, only minimal alteration of existing grades is proposed, so there will be no undue risk from geological or erosional forces. No changes are proposed to the hydrology of the drainage channel or the remainder of the project site and there will be no increase in impervious surfaces, as the existing site is predominantly paved or covered. Rather, green roofs are planned for portions of the existing commercial buildings to reduce run-off and Best Management Practices would be established to reduce erosion and ensure water quality. Therefore, proposed development would minimize the alteration of natural land forms and would not result in undue risk from geological 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. The Hazard Center Redevelopment Project proposes to demolish a portion of the existing commercial space (movie theater, restaurant and parking spaces) and construct up to 473 residential units (including 10 percent, or up to 48 affordable units), approximately 4,205 square feet of commercial retail/restaurant space, and to create approximately 450 net additional parking spaces on the 14.5-acre project site. The project includes a proposed amendment to the to the Transportation Element of the Mission Valley Community Plan to reclassify Hazard Center Drive west of Frazee Road from a four-lane collector street to a two-lane collector street with enhancements.

The location of the proposed project is a developed site currently housing a three-level commercial-retail center, a 15-story office building and three levels of structured parking.

The majority of the site is covered by buildings or pavement. The entire site was previously disturbed, including the restricted building area and drainage channel that were created by FSDRIP. The proposed new development is carefully sited in areas of the property that already contain structures or pavement and that are distant from environmentally sensitive lands. The project adds housing to an existing development, thus preserving existing greenfields in the region.

The southwest corner of the project site is identified as a restricted building area in FSDRIP. This portion of the site is approximately 1.2 acres in area and is not contiguous to the main, development body of the site. A separately owned parcel containing an existing hotel effectively separates the two portions. The restricted building area portion of the site contains an open, man-made drainage channel that is considered environmentally sensitive. Both the upstream and downstream sections of the drainage channel are enclosed in underground culverts, but the section on the project site is open with a soft bottom and rip-rap banks. The drainage flows to the San Diego River, approximately 180 feet from the property at the downstream headwall. The closest proposed structures associated with this project lie 242 feet from the drainage channel. The upstream headwall and a small area of the drainage channel intersect the north property line of the main portion of the project site near the eastbound off-ramp of SR-163. This section lies approximately 45 feet from an existing parking garage on the project site. However, no modifications or new construction are proposed in this section of the site beyond replacement of existing grass with drought-tolerant landscaping.

Toward fulfillment of associated population-based park requirements, the project proposes to dedicate approximately 0.63 acres of the restricted building area near the drainage channel to the City of San Diego as a public park. The future park area is on previously disturbed, non-native grassland. Final design of the park must be vetted through a public process and approved by the Park and Recreation Board, pursuant to Council Policy 600-33. However, no buildings are anticipated and all landscaping will be in conformance with FSDRIP.

The project would result in minimum disturbance to environmentally sensitive lands, because all new or modified structures are on previously developed portions of the site, significantly distant from environmentally sensitive areas. Development near environmentally sensitive areas would be for passive recreational uses. There would be no removal, filling, or hydrological interruption to the drainage channel. Impacts to non-native grassland would not be considered significant because the area is less than one acre, occurs in an isolated patch due to urbanization, and has limited habitat values for wildlife. Therefore, proposed development will be sited and designed to prevent adverse impacts on any adjacent environmentally sensitive lands.

d. The proposed development will be consistent with the City of San Diego's Multiple Species Conservation Program (MSCP) Subarea Plan. The Hazard Center Redevelopment Project proposes to demolish a portion of the existing commercial space (movie theater, restaurant and parking spaces) and construct up to 473 residential units (including 10 percent, or up to 48 affordable units), approximately 4,205 square feet of commercial retail/restaurant space, and to create approximately 450 net additional parking spaces on the 14.5-acre project site. The project includes a proposed amendment to the to the Transportation

Element of the Mission Valley Community Plan to reclassify Hazard Center Drive west of Frazee Road from a four-lane collector street to a two-lane collector street with enhancements.

The primary goal of the MSCP Subarea Plan is to protect sensitive species and to maintain regional biodiversity while allowing for reasonable economic growth. The proposed infill development is fundamentally consistent with the MSCP Plan because it only affects previously disturbed land. The mixed-use nature of the project further supports the MSCP Plan because the proximity of uses and existing public transit reduces the need for new transportation and utility infrastructure that might stress or endanger the region's biological resources. The project adds housing to an existing development, thus preserving existing greenfields in the region.

The southwest corner of the project site is identified as a restricted building area in FSDRIP. This portion of the site is approximately 1.2 acres in area and is not contiguous to the main, development body of the site. A separately owned parcel containing an existing hotel effectively separates the two portions. The restricted building area portion of the site contains an open, man-made drainage channel that is considered environmentally sensitive. Both the upstream and downstream sections of the drainage channel are enclosed in underground culverts, but the section on the project site is open with a soft bottom and rip-rap banks. The drainage flows to the San Diego River, approximately 180 feet from the property at the downstream headwall. The closest proposed structures associated with this project lie 242 feet from the drainage channel. The upstream headwall and a small area of the drainage channel intersect the north property line of the main portion of the project site near the eastbound off-ramp of SR-163. This section lies approximately 45 feet from an existing parking garage on the project site. However, no modifications or new construction are proposed in this section of the site beyond replacement of existing grass with drought-tolerant landscaping.

Toward fulfillment of associated population-based park requirements, the project proposes to dedicate approximately 0.63 acres of the restricted building area near the drainage channel to the City of San Diego as a public park. The future park area is on previously disturbed, non-native grassland. Final design of the park must be vetted through a public process and approved by the Park and Recreation Board, pursuant to Council Policy 600-33. However, no buildings are anticipated and all landscaping will be in conformance with FSDRIP.

The Multi-Habitat Planning Area [MHPA] associated with the San Diego River is approximately 140 feet from the southwest restricted building area portion of the site, where no structures are proposed, and approximately 450 feet from the central and east portions of the site, where most of the redevelopment is proposed. Hazard Center Drive and the existing condominium community of Union Square lie between the project site and the MHPA.

The proposed development is on an existing developed site. The site has been studied for potential traffic, noise, air quality, geotechnical, water quality, and hazardous material impacts. Environmental Impact Report [EIR] No. 146803 has been prepared for the project in accordance with the State of California Environmental Quality Act. A Mitigation, Monitoring and Reporting Program has been prepared and would be implemented which would reduce, to a level below significance, some of the potential impacts identified in the

environmental review process. Draft Candidate Findings of Fact and Statement of Overriding Considerations have been provided to allow the decisionmaker to adopt the project with significant and unmitigated impacts. The project's drainage system discharges into an existing drainage channel that is within 200 feet of the San Diego River. The EIR found no sensitive plant species or sensitive wildlife on the project site that could be impacted by the proposed redevelopment. Mitigation measures are described in this report and will be employed to avoid or reduce construction period impacts to sensitive wildlife in the MHPA to less than significant levels. The project would adhere to the MHPA Land Use Agency Guidelines contained in the MSCP Subarea Plan. The onsite drainage system will utilize BMP's to meet construction and post-construction related water quality requirements. Through sustainable siting, infill development and an efficient mix of uses the proposed project is consistent with the City's MSCP Subarea Plan. Therefore, the proposed development would be consistent with the City of San Diego's Multiple Species Conservation Program Subarea Plan.

e. The proposed development will not contribute to the erosion of public beaches or adversely impact local shoreline sand supply. The Hazard Center Redevelopment Project proposes to demolish a portion of the existing commercial space (movie theater, restaurant and parking spaces) and construct up to 473 residential units (including 10 percent, or up to 48 affordable units), approximately 4,205 square feet of commercial retail/restaurant space, and to create approximately 450 net additional parking spaces on the 14.5-acre project site. The project includes a proposed amendment to the to the Transportation Element of the Mission Valley Community Plan to reclassify Hazard Center Drive west of Frazee Road from a four-lane collector street to a two-lane collector street with enhancements. The proposed development is remote from public beaches and will have no effect on beach erosion or shoreline sand supply. The project site is located approximately 5.5 miles east of the nearest shoreline at Mission Beach and approximately 3 miles from the closest point at Mission Bay. The closest proposed new structure is approximately 410 feet from the 100-year flood line of the San Diego River, and will not affect the River's flow to the Pacific Ocean south of Mission Beach. Therefore, the proposed development would 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 Hazard Center Redevelopment Project proposes to demolish a portion of the existing commercial space (movie theater, restaurant and parking spaces) and construct up to 473 residential units (including 10 percent, or up to 48 affordable units), approximately 4,205 square feet of commercial retail/restaurant space, and to create approximately 450 net additional parking spaces on the 14.5-acre project site. The project includes a proposed amendment to the to the Transportation Element of the Mission Valley Community Plan to reclassify Hazard Center Drive west of Frazee Road from a four-lane collector street to a two-lane collector street with enhancements.

The proposed development is on an existing developed site. The site has been studied for potential traffic, noise, air quality, geotechnical, water quality, and hazardous material impacts. EIR No. 146803 has been prepared for the project in accordance with the State of California Environmental Quality Act. A Mitigation, Monitoring and Reporting Program has

been prepared and would be implemented which would reduce, to a level below significance, some of the potential impacts identified in the environmental review process. Draft Candidate Findings of Fact and Statement of Overriding Considerations have been provided to allow the decisionmaker to adopt the project with significant and unmitigated impacts. The project's drainage system discharges into an existing drainage channel that is within 200 feet of the San Diego River. The EIR found no sensitive plant species or sensitive wildlife on the project site that could be impacted by the proposed redevelopment. Therefore, 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.

B. PLANNED DEVELOPMENT PERMIT APPROVAL – SAN DIEGO MUNICIPAL CODE [SDMC] SECTION 126.0604(a)

1. The proposed development will not adversely affect the applicable land use plan. The Hazard Center Redevelopment Project proposes to demolish a portion of the existing commercial space (movie theater, restaurant and parking spaces) and construct up to 473 residential units (including 10 percent, or up to 48 affordable units), approximately 4,205 square feet of commercial retail/restaurant space, and to create approximately 450 net additional parking spaces on the 14.5-acre project site. The project includes a proposed amendment to the to the Transportation Element of the Mission Valley Community Plan to reclassify Hazard Center Drive west of Frazee Road from a four-lane collector street to a two-lane collector street with enhancements.

On July 12, 2007, the Planning Commission initiated an amendment to the FSDRIP Specific Plan and the Mission Valley Community Plan, a component of the General Plan, to allow for an increase in the number of permitted residential dwelling units, a decrease in commercial square footage, and to allow for an increase in building heights. Specifically, the Amendment to the FSDRIP Specific Plan is limited to the Hazard Center Development Area. In addition to the amendments identified at the Planning Commission Initiation hearing described above, the proposed project includes an amendment to the Transportation Element of the Mission Valley Community Plan to reclassify Hazard Center Drive from a four-lane collector street to a two-lane collector street.

The proposed project includes two deviation requests: 1) the elimination of the setbacks from all lot lines to allow for the establishment of an urban street wall, and 2) a proposal for a tensile shade structure in lieu of a portion of the landscape requirements on the top level of the existing parking structure. The proposed reduction in setbacks is a deviation from a regulatory requirement and it does not adversely impact any Community Plan policies. Rather, this proposed deviation contributes to the provision of architectural interest at the street level to promote pedestrian activity and allows residential uses to be added adjacent to existing light rail transit, which is in conformance with both the Mission Valley Community Plan and the General Plan. The second proposed deviation, from the SDMC parking structure landscape requirement, would not adversely impact any Community Plan policies as in lieu of this requirement, a tensile shade structure is proposed which would meet the intent of the SDMC by shading and screening parking uses.

General Plan Conformance - The General Plan identifies Mission Valley as a Regional Subdistrict, meaning it constitutes a concentration of employment and housing and is appropriate to provide higher intensity development. This area is also identified as having a High Propensity to develop as a village area on the General Plan's Village Propensity Map. One of the primary goals of the General Plan's Land Use and Community Planning Element is to achieve balanced communities and equitable development. The proposed project would provide a diversity of unit types and densities including the provision of affordable on-site housing within a sub-regional employment center.

The General Plan's Mobility Element promotes walkability and multi-modal transportation in order to reduce dependency on the automobile. The proposed project addresses the walkability community goals by an interconnected system of pedestrian pathways, sidewalks, public spaces and street design, with an overall design concept that provides for a series of functional connections to the existing San Diego Trolley station located on the south side of Hazard Center Drive. The proposed project, along with the accompanying Hazard Center Drive Extension and San Diego River Pathway project, promotes a transportation system that emphasizes walkability and bicycling and improved accessibility to transit, as well as supports the improvement of traffic circulation.

The Urban Design Element of the General Plan includes the principle to build a compact, efficient, and environmentally sensitive pattern of development. The proposed project includes both horizontal and vertical mixed-use components with a mix of housing types. The design proposes to place ground floor retail to activate and attract pedestrian activity, with plazas, courtyards and paseos to create focal points for public gathering adjacent to the existing Hazard Center Trolley Station.

The General Plan's Recreation Element provides that the appropriate quality and quantity of parks, recreation facilities and infrastructure is provided citywide. The project proposes to meet its population based neighborhood park requirements both on-site, with the construction of a 0.63-acre park, as well as through the payment of an ad-hoc fee, in-lieu of the park portion of the development impact fees, for the remaining park requirements.

The Conservation Element of the General Plan contains numerous policies aimed at promoting the City of San Diego as an international model of sustainable development and conservation. The project proposes to address a variety of conservation needs by utilizing the design goals of the United States Green Building Council Leadership in Energy and Environmental Design, including green roofs. The design of the proposed project would meet or exceed Title 24 Energy Efficiency Requirements to reduce energy use. The siting of the proposed project within an existing development would result in no increase to impervious surfaces, and in the preservation of greenfields and nature resources.

The Housing Element, provided under separate cover from the rest of the General Plan, includes objectives, policies and programs intended to address the City's housing needs. Included as one of its five major goals, is the provision of affordable housing opportunities. The proposed project includes plans to set aside up to 10 percent of the 473 units as low-income/moderate-income housing. The provision of up to 48 low-income/moderate-income

units on-site meets the City's Inclusionary Affordable Housing requirements and would serve to further diversify the housing stock within the Mission Valley community.

Community Plan Conformance - The Land Use Element of the Mission Valley Community Plan contains proposals to guide the long-range residential, commercial and industrial development of the Mission Valley Community. Several key objectives of this element include: to provide a variety of housing types and densities within the community; to encourage development which combines and integrates residential uses with commercial and service uses; to encourage imaginative land development techniques and varied building site layouts; and to provide amenities for residents such as recreation, shopping, employment and cultural opportunities within, or adjacent to, residential development. The proposed project addresses these objectives by providing a diversity of for-sale and for-rent units in a mixed-use, infill setting, while preserving existing shopping and employment uses, and providing on-site active and passive open space areas and recreation facilities.

The Transportation Element of the Mission Valley Community Plan includes objectives to establish and maintain a balanced transportation system throughout Mission Valley, encourage the use of public transit modes to reduce dependency on the automobile, and provide opportunities for individual property owners to achieve a higher use of their property through support of more efficient transportation modes. The proposed project would help advance a strategy to promote transit, bicycling, and walking as viable transportation choices through traffic calming measures, streetscape amenities, and an overall site design that would provide greater vehicular, bicycle and pedestrian safety, and would enhance bicycle and pedestrian connectivity to nearby transit and San Diego River recreational trails. The project site is located within less than one-quarter mile of an existing light rail trolley station, as well as several high-frequency public bus lines.

The proposed reclassification of Hazard Center Drive is a result of comments received from City staff's memorandum distributed on July 18, 2008, soliciting public and staff comments on the proposed amendments. City staff supports the reclassification as the two-lane designation provides a number of safety benefits. The road reclassification would allow for a more pedestrian-friendly design with wider sidewalks, bicycle paths, a pedestrian plaza, and a safe crossing between the proposed development and the existing trolley station. Further, the road extension presents several engineering challenges with respect to design speed for vertical curves, vehicular and pedestrian safety, and clearance considerations. These engineering challenges require design exceptions and traffic calming measures in order to reduce the design speed and justify design exceptions relating to the vertical alignment of the road extension. Due to the location of a major trunk sewer line, the design includes a steep descent under SR-163 that requires a design speed of 25 miles per hour. Because of this design speed requirement and the associated traffic calming necessary to support it, staff's recommendation is that a two-lane road is a more appropriate designation. No significant impacts to the level of service for Hazard Center Drive would result from this reclassification.

FSDRIP Conformance - The First San Diego River Improvement Project Specific Plan was approved by City Council in 1982 with three goals: to improve and protect the San Diego River floodway and wetlands; to direct the private development of existing industrial

lands (then used for sand and gravel operations and, in the case of the Hazard land, a brickyard); and to reduce automobile dependency by implementing transit-oriented development guidelines consistent with the Progress Guide and General Plan. The proposed amendments to the Specific Plan support the most recent General Plan update and its City of Villages strategy and are, therefore, consistent with the original basis of FSDRIP.

Hazard Center was originally envisioned in FSDRIP as a progressive mixed-use project combining shops and restaurants, a hotel, office tower, and a multifamily residential neighborhood. No change is proposed to these use designations. FSDRIP defines density by two methods: an overall ADT allocation and a listing of area and height by use, according to the intended development at the time when the Plan was written. The proposed project does not exceed the ADT allocation with the 10% bonus for light-rail transit established in the Specific Plan.

The Specific Plan encouraged Center employees “to live in nearby residential units and to patronize shops, restaurants and entertainment facilities.” These residences were described in FSDRIP as 145 units of 2-4 stories. Nevertheless, the proposed increase in the quantity and height of dwelling units is consistent with the FSDRIP goals of transit-oriented mixed-use development and helps attain the residential ratio and integration necessary to achieve these goals.

The proposed project is also consistent with FSDRIP’s primary purpose of improving and protecting the San Diego River channel and wetlands. The Hazard Center Redevelopment will significantly advance the restoration of the river’s health. The existing project site has large areas of surface and deck parking and flat roofs, but no existing water quality devices to treat the run-off from these surfaces. The proposed redevelopment will add fossil filters throughout the site, including at existing drainage outlets from these parking areas. The proposed additions will not increase impervious area or run-off from the site. Furthermore, landscaping and irrigation improvements throughout the site and vegetated roofs proposed over much of the existing retail buildings will decrease the peak run-off volumes that can damage the river’s health. The project will adhere to the City’s Model Standard Urban Storm Water Mitigation Plan (SUSMP) and will implement all required construction and permanent Best Management Practices (BMPs) contained in the 2008 Storm Water Standards Manual. These standards and practices are more stringent than those in effect when the site was previously developed and will significantly raise the level of protection against pollutants entering the river drainage.

FSDRIP intended to create a natural park and passive recreation area along the river floodway, to include publicly accessible pedestrian and bicycle paths, nature trails, picnic areas and rest or view areas. The proposed public park at the southwest corner of the project site contributes toward this plan. It creates a unique open space that will have access to the river trail system and will beautify existing infrastructure near the river in an area that is now subject to vagrancy and littering. Non-native species currently in the drainage channel adjacent to the park will also be removed to beautify the area and improve hydrological function.

In addition to the park, the project will contribute in-lieu fees for population-based parks that will be used in the Mission Valley community. Through many meetings with

River Park stakeholders and the community, several opportunities for application of the fees have been identified that will help create a sequence of unique places and experiences along the river, particularly the multimodal path extension under SR-163.

FSDRIP gives special attention to the preservation of views of the river from the hillside edges and freeway entrances to Mission Valley. The relationship of the residential high-rise structures to the proposed 5-story mid-rise structures preserves views of the river valley. The center tower's narrow side orientation to the river maintains views and is consistent with FSDRIP guidelines, while the tower at the corner of Friars and Frazee Roads aligns with the existing office tower to avoid further infringement on sight lines toward the river.

The project would implement many of the goals and policies of the City's newly adopted General Plan [General Plan], the Mission Valley Community Plan [MVCP] and the FSDRIP. Therefore, the proposed development would not adversely affect the applicable land use plan.

2. The proposed development will not be detrimental to the public health, safety, and welfare. The Hazard Center Redevelopment Project proposes to demolish a portion of the existing commercial space (movie theater, restaurant and parking spaces) and construct up to 473 residential units (including 10 percent, or up to 48 affordable units), approximately 4,205 square feet of commercial retail/restaurant space, and to create approximately 450 net additional parking spaces on the 14.5-acre project site. The project includes a proposed amendment to the to the Transportation Element of the Mission Valley Community Plan to reclassify Hazard Center Drive west of Frazee Road from a four-lane collector street to a two-lane collector street with enhancements.

The project proposes construction of 473 multi-family dwelling units to complement the existing mixed-use office, commercial and hotel center in Mission Valley. The proposed development is on an existing developed site. The site has been studied for potential traffic, noise, air quality, geotechnical, water quality, and hazardous material impacts. Environmental Impact Report No. 146803 has been prepared for the project in accordance with the State of California Environmental Quality Act. A Mitigation, Monitoring and Reporting Program has been prepared and would be implemented which would reduce, to a level below significance, some of the potential impacts identified in the environmental review process. Draft Candidate Findings of Fact and Statement of Overriding Considerations have been provided to allow the decisionmaker to adopt the project with significant and unmitigated impacts. The project's drainage system discharges into an existing drainage channel that is within 200 feet of the San Diego River. The onsite drainage system will utilize BMP's to meet construction and post-construction related water quality requirements.

The project would comply with the development regulations in effect for the subject property as described in Site Development Permit No. 515727 and Planned Development Permit No. 515728, and other regulations and guidelines pertaining to the subject property per the SDMC. The proposed development would be required to obtain building permits to show that all construction would comply with all applicable building and fire code requirements.

The project proposes to incorporate sustainable design practices and has applied for Leadership in Energy and Environmental Design certification under the United States Green Building Council's criteria. The siting of residential infill adjacent to existing transit access and commercial infrastructure encourages walking and reduces the automobile trips that are detrimental to public health and safety. The proposed infill development on a previously disturbed site protects greenfields and natural resources.

In addition, the project would help to provide affordable housing opportunities that would promote an economically balanced community. A minimum of 10 percent (up to 48) of the proposed dwelling units would be affordable per the Inclusionary Housing Ordinance. A mix of studio, one-, and two-bedroom dwelling units would provide a variety of housing options and costs in close proximity to employment and transportation options. Therefore, proposed development would not be detrimental to the public health, safety, and welfare.

3. The proposed development will comply with the applicable regulations of the Land Development Code. The Hazard Center Redevelopment Project proposes to demolish a portion of the existing commercial space (movie theater, restaurant and parking spaces) and construct up to 473 residential units (including 10 percent, or up to 48 affordable units), approximately 4,205 square feet of commercial retail/restaurant space, and to create approximately 450 net additional parking spaces on the 14.5-acre project site. The project includes a proposed amendment to the to the Transportation Element of the Mission Valley Community Plan to reclassify Hazard Center Drive west of Frazee Road from a four-lane collector street to a two-lane collector street with enhancements.

The proposed redevelopment would comply with the applicable regulations of the Mission Valley Planned District Multi-Use Zone where the Specific Plan is in effect MVPD-M/SP for permitted use, density, minimum lot area, lot width and depth, architectural design, storage requirements, private exterior open space, common open space, and loading requirements. Parking requirements are satisfied under an approved, updated shared parking analysis with the integrated uses on site.

The proposed redevelopment is consistent with the purpose of the MVPD-M/SP Zone to provide at least three land uses, one of which must be residential in certain prescribed proportions based on Average Daily Trip allocated to the project. The integration of additional dwelling units would bring the existing development up to the current zoning criteria.

The proposed redevelopment is also consistent with the overall intent of the Mission Valley Planned District to ensure that development in Mission Valley will be accomplished in a manner that enhances and preserves sensitive resource areas; improves the vehicular, bicycle, pedestrian, and public transit circulation network; provides reasonable use of property; and contributes to the aesthetic and functional well being of the community. The proposed redevelopment is on an existing fully-developed site, so that undisturbed and environmentally sensitive lands are preserved from other potential development. The project proposes to add residential uses next to existing public transit and existing employment, restaurant and retail uses, reducing reliance on vehicular transportation and promoting pedestrian

and transit alternatives. The added resident population would also contribute to the customer base of the existing commercial uses.

The proposed project design and massing are consistent with the Architectural Design guidelines contained in the SDMC section 1514.0305(g) including a slim tower design to preserve maximize view corridors, public plazas, varied roof forms and “green” roofs, architectural detail at a human scale, and offsetting façade planes.

The proposed reclassification of Hazard Center Drive would comply with all applicable regulations of the LDC. Further, the narrowing of this road from four lanes to two lanes would allow space for wider sidewalks, landscaping, sitting areas and a larger public plaza contiguous to these sidewalks, as outlined in the Guidelines for Discretionary Review in SDMC section 1514.0408(m).

The project proposes to deviate from the SDMC requirements for setback and vehicle use area requirements. Through the processing of a Planned Development Permit, the SDMC allows applicants to propose development that requires flexibility from the strict application of the regulations. The intent of Planned Development Permit regulations is to encourage imaginative and innovative planning, to assure the development achieves the purpose and intent of the applicable land use plan, and that the design would be preferable to what would be achieved by strict conformance with the regulations. Staff believes that the Planning Commission can make the appropriate findings based on the following information.

- a. The project proposes a deviation from the setback requirements of SDMC section 1514.0304(e) which requires minimum yard and building setback requirements. The project proposes to eliminate setbacks from all lot lines.

The deviation would allow the required fire separation distance as required by the California Building Code between the existing commercial buildings and the proposed mid-rise residences along Hazard Center Drive. It would also allow the existing service drives to be maintained between the commercial and residential buildings. These service drives are necessary to the continued function of the commercial spaces. The requested deviation would also allow for the future widening of Friars Road relative to the space requirements of the existing and proposed parking structures. The deviation is tied aesthetically to the streetscape improvement which would be allowed by the reclassification of Hazard Center Drive, particularly wider sidewalks and the creation of an urban street wall with offsetting planes, entry stoops, and planters.

The proposed deviation would also permit residential uses to be added to the remaining space adjacent to and above existing commercial structures, to implement a true mixed-use development in conformance with the multiple-use ratio guidelines of the MVPD-M zone designation and the City of Villages policies of the General Plan. The recently adopted General Plan identifies the Hazard Center site as having a high propensity for Urban Village development. The project proposal would achieve the Community Plan’s goal for

redevelopment, infill, and new growth to be focused adjacent to transit stops in compact, mixed-use centers.

- b. The project proposes a deviation from the vehicle use area planting requirements of SDMC section 142.0406(a) to allow the use of shade structures on the top level of the parking structure in lieu of one tree within 30 feet of each parking space. The project proposes a tensile shade structure in lieu of additional trees in most areas of the existing deck parking.

Due to site topography, the existing center is multi-level, with the main level for “surface” parking situated one story above Hazard Center Drive on a two-story parking garage structure. The parking garage is an existing structure that was not designed to support the weight of the quantity of trees required. Furthermore, trees without sufficient planter size and soil volume typically do not thrive on concrete parking decks. Current landscape standards require 40 square feet of planting area per tree. The tree planters that are present on the existing deck are supported by columns specifically designed for those loads and locations. Any increase in point loads would require replacement or retrofitting of the existing vertical structure through two lower parking levels and the footings below. Planters of adequate size would also eliminate existing parking spaces that are required for the retail and restaurant uses that are to remain.

The proposed tensile shade structures meet the intent of the LDC by shading and screening parking from view from above. They would be lighter than tree planters and the structural supports would fit within the existing parking field. The tensile shade structures would also reduce water consumption below that required for trees, and would reduce the heat island effect of the existing surface parking area.

The proposed deviations are appropriate to this location because they would allow affordable residential units to be added to an existing mixed-use center near existing transit infrastructure and would be consistent with the Mission Valley Planned District Ordinance, Community Plan and General Plan. The deviations would keep existing parking and retail activities in place, resulting in a more desirable and sustainable project.

Deviations from development regulations for projects offering affordable housing are consistent with the LDC portions of the SDMC. The project proposes a minimum of 10 percent (up to 48) of the proposed dwelling units would be affordable per the Inclusionary Housing Ordinance. Strict application of the setback regulation would restrict the ability to fit residential units on this site. Strict application of the landscape regulations would restrict the ability of the project to provide adequate parking as required for the proposed inclusionary units. Therefore, proposed development would comply with the applicable regulations of the LDC.

4. The proposed development, when considered as a whole, will be beneficial to the community. The Hazard Center Redevelopment Project proposes to demolish a portion of the existing commercial space (movie theater, restaurant and parking spaces) and construct up to 473 residential units (including 10 percent, or up to 48 affordable units), approximately 4,205 square feet of commercial retail/restaurant space, and to create approximately 450 net

additional parking spaces on the 14.5-acre project site. The project includes a proposed amendment to the to the Transportation Element of the Mission Valley Community Plan to reclassify Hazard Center Drive west of Frazee Road from a four-lane collector street to a two-lane collector street with enhancements. The Hazard Center site is well suited for the addition of higher density multifamily housing, due to its proximity to existing light rail public transit and established employment, shopping, dining, and entertainment opportunities. The recently adopted General Plan identifies the Hazard Center site as having a high propensity for Urban Village development. The proposed construction of up to 473 multi-family dwelling units would complement the existing mixed-use office, commercial and hotel center in Mission Valley. The General Plan calls for redevelopment, infill and new growth to be focused adjacent to transit stops in compact, mixed-use centers. This project proposal achieves this goal by adding high density, multi-family housing to an existing employment center, connected to transit and recreation.

The proposed redevelopment would comply with the applicable regulations of the Mission Valley Planned District Multi-Use Zone where the Specific Plan is in effect MVPD-M/SP for permitted use, density, minimum lot area, lot width and depth, architectural design, storage requirements, private exterior open space, common open space, and loading requirements. Parking requirements are satisfied under an approved, updated shared parking analysis.

Both the recently adopted General Plan for the City of San Diego and the Regional Comprehensive Plan [RCP] adopted by the San Diego Association of Governments [SANDAG] recognize the need to focus future growth and infill development close to jobs, services, and public facilities to maximize the use of existing infrastructure and preserve open space and natural resources. These documents respond to realization that San Diego cannot sustain continued sprawl into outlying communities, but at the same time must provide needed housing that is affordable to all of its citizens.

The proposed Hazard Center Redevelopment exemplifies sustainable urban design and the smart growth concepts of the General Plan and the RCP. The project would add multifamily housing, including affordable housing, to an existing center that already provides established employment, shopping, dining, and entertainment. The project will add housing adjacent to existing light rail transit, increasing ridership on public transportation and decreasing the ratio of single-passenger vehicular trips on local freeways and arterials. The proposal would provide these features on previously disturbed land, thus preserving existing green fields in the region.

The proposed development would support infrastructure improvements in the community by providing public open space and park improvements through in-lieu fees, public services through development impact fees, and street front improvements. The additional customer base supplied by the residential units would ensure the continued viability of the existing retail center, contributing taxes and economic stability to the community. Therefore, proposed development, when considered as a whole, will be beneficial to the community.

5. Any proposed deviations are appropriate for this location and will result in a more desirable project than would be achieved if designed in strict conformance with the development regulations of the applicable zone. The Hazard Center Redevelopment Project proposes to demolish a portion of the existing commercial space (movie theater, restaurant and parking spaces) and construct up to 473 residential units (including 10 percent, or up to 48 affordable units), approximately 4,205 square feet of commercial retail/restaurant space, and to create approximately 450 net additional parking spaces on the 14.5-acre project site. The project includes a proposed amendment to the to the Transportation Element of the Mission Valley Community Plan to reclassify Hazard Center Drive west of Frazee Road from a four-lane collector street to a two-lane collector street with enhancements. The Hazard Center site is well suited for the addition of higher density multifamily housing, due to its proximity to existing light rail public transit and established employment, shopping, dining, and entertainment opportunities. The recently adopted General Plan identifies the Hazard Center site as having a high propensity for Urban Village development. The proposed construction of up to 473 multi-family dwelling units would complement the existing mixed-use office, commercial and hotel center in Mission Valley. The General Plan calls for redevelopment, infill and new growth to be focused adjacent to transit stops in compact, mixed-use centers. This project proposal achieves this goal by adding high density, multi-family housing to an existing employment center, connected to transit and recreation.

The proposed redevelopment would comply with the applicable regulations of the Mission Valley Planned District Multi-Use Zone where the Specific Plan is in effect MVPD-M/SP for permitted use, density, minimum lot area, lot width and depth, architectural design, storage requirements, private exterior open space, common open space, and loading requirements. Parking requirements are satisfied under an approved, updated shared parking analysis with the integrated uses on site.

The proposed redevelopment is also consistent with the overall intent of the Mission Valley Planned District to ensure that development in Mission Valley will be accomplished in a manner that enhances and preserves sensitive resource areas; improves the vehicular, bicycle, pedestrian, and public transit circulation network; provides reasonable use of property; and contributes to the aesthetic and functional well being of the community. The proposed redevelopment is on an existing fully-developed site, so that undisturbed and environmentally sensitive lands are preserved from other potential development. The project proposes to add residential uses next to existing public transit and existing employment, restaurant and retail uses, reducing reliance on vehicular transportation and promoting pedestrian and transit alternatives. The added resident population would also contribute to the customer base of the existing commercial uses.

The proposed project design and massing are consistent with the Architectural Design guidelines contained in SDMC section 1514.0305(g) including a slim tower design to preserve maximize view corridors, public plazas, varied roof forms and “green” roofs, architectural detail at a human scale, and offsetting façade planes.

The proposed reclassification of Hazard Center Drive would comply with all applicable regulations of the LDC. Further, the narrowing of this road from four lanes to two

lanes would allow space for wider sidewalks, landscaping, sitting areas and a larger public plaza contiguous to these sidewalks, as outlined in the Guidelines for Discretionary Review in SDMC section 1514.0408(m).

The project proposes to deviate from the SDMC requirements for setback and vehicle use area requirements. Through the processing of a Planned Development Permit, the SDMC allows applicants to propose development that requires flexibility from the strict application of the regulations. The intent of Planned Development Permit regulations is to encourage imaginative and innovative planning, to assure the development achieves the purpose and intent of the applicable land use plan, and that the design would be preferable to what would be achieved by strict conformance with the regulations. Staff believes that the Planning Commission can make the appropriate findings based on the following information.

- a. The project proposes a deviation from the setback requirements of SDMC section 1514.0304(e) which requires minimum yard and building setback requirements. The project proposes to eliminate setbacks from all lot lines.

The deviation would allow the required fire separation distance as required by the California Building Code between the existing commercial buildings and the proposed mid-rise residences along Hazard Center Drive. It would also allow the existing service drives to be maintained between the commercial and residential buildings. These service drives are necessary to the continued function of the commercial spaces. The requested deviation would also allow for the future widening of Friars Road relative to the space requirements of the existing and proposed parking structures. The deviation is tied aesthetically to the streetscape improvement which would be allowed by the reclassification of Hazard Center Drive, particularly wider sidewalks and the creation of an urban street wall with offsetting places, entry stoops, and planters.

The proposed deviation would also permit residential uses to be added to the remaining space adjacent to and above existing commercial structures, to implement a true mixed-use development in conformance with the multiple use ratio guidelines of the MVPD-M zone designation and the City of Villages policies of the General Plan. The recently adopted General Plan identifies the Hazard Center site as having a high propensity for Urban Village development. The project proposal would achieve the Community Plan's goal for redevelopment, infill, and new growth to be focused adjacent to transit stops in compact, mixed-use centers.

- b. The project proposes a deviation from the vehicle use area planting requirements of SDMC section 142.0406(a) to allow the use of shade structures on the top level of the parking structure in lieu of one tree within 30 feet of each parking space. The project proposes a tensile shade structure in lieu of additional trees in most areas of the existing deck parking.

Due to site topography, the existing center is multi-level, with the main level for “surface” parking situated one story above Hazard Center Drive on a two-story parking garage structure. The parking garage is an existing structure that was not designed to support the weight of the quantity of trees required. Furthermore, trees without sufficient planter size and soil volume typically do not thrive on concrete parking decks. Current landscape standards require 40 square feet of planting area per tree. The tree planters that are present on the existing deck are supported by columns specifically designed for those loads and locations. Any increase in point loads would require replacement or retrofitting of the existing vertical structure through two lower parking levels and the footings below. Planters of adequate size would also eliminate existing parking spaces that are required for the retail and restaurant uses that are to remain.

The proposed tensile shade structures meet the intent of the LDC by shading and screening parking from view from above. They would be lighter than tree planters and the structural supports would fit within the existing parking field. The tensile shade structures would also reduce water consumption below that required for trees.

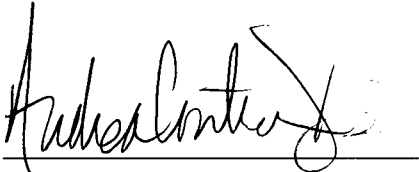
The proposed deviations are appropriate to this location because they would allow affordable residential units to be added to an existing mixed-use center near existing transit infrastructure and would be consistent with the Mission Valley Planned District Ordinance, Community Plan and General Plan. The deviations would keep existing parking and retail activities in place, resulting in a more desirable and sustainable project.

Deviations from development regulations for projects offering affordable housing are consistent with the LDC portions of the SDMC. The project proposes a minimum of 10 percent (up to 48) of the proposed dwelling units would be affordable per the Inclusionary Housing Ordinance. Strict application of the setback regulation would restrict the ability to fit residential units on this site. Strict application of the landscape regulations would restrict the ability of the project to provide adequate parking as required for the proposed inclusionary units. Therefore, proposed deviations are appropriate for this location and will result in a more desirable project than would be achieved if designed in strict conformance with the development regulations of the applicable zone.

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

BE IT FURTHER RESOLVED, that the recommendation of the Planning Commission is sustained, and Site Development Permit No. 515727 and Planned Development Permit No. 515728 are granted to 7510 Hazard LLC, Owner/Permittee, under the terms and conditions set forth in the permit attached hereto and made a part hereof.

APPROVED: JAN I. GOLDSMITH, City Attorney

By: 
Andrea Contreras Dixon
Deputy City Attorney

ACD:cw
04/22/10
Or.Dept:DSD
R-2010-775
MMS: #11219

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

WHEN RECORDED MAIL TO
CITY CLERK
MAIL STATION 2A

SPACE ABOVE THIS LINE FOR RECORDER'S USE

INTERNAL ORDER NUMBER: 43-0081

SITE DEVELOPMENT PERMIT NO. 515727
PLANNED DEVELOPMENT PERMIT NO. 515728
HAZARD CENTER REDEVELOPMENT, PROJECT NO. 146803 – MMRP
CITY COUNCIL

This Site Development Permit [SDP] Approval No. 515727 and Planned Development Permit [PDP] Approval No. 515728 is granted by the City Council of the City of San Diego to 7510 Hazard LLC, a Delaware limited liability company, Owner/Permittee, pursuant to San Diego Municipal Code [SDMC] sections 126.0504 and 126.0604. The 14.5-acre site is located at 7510 Hazard Center Drive, 1370 Frazee Road, and 7676 Hazard Center Drive in the OF-1-1 (Open Space-Floodplain) Zone and MV-M/SP (Multiple Use) Zone within an adopted Specific Plan of the Mission Valley Planned District [MVPD] within the Mission Valley Community Planning Area. The site is within the First San Diego River Improvement Project [FSDRIP] Specific Plan, and also within the Federal Aviation Administration [FAA] Part 77 Noticing Area for the San Diego International Airport-Lindbergh Field and Montgomery Field, the Residential Tandem Parking Overlay Zone, and the Transit Area Overlay Zone. The project site is legally described as Parcel 1 of Parcel Map No. 15912 in the City of San Diego, State of California, filed in the Office of the County Recorder of San Diego County December 19, 1989; Lot 3 of Hazard Center Map No. 11949 in the City of San Diego, State of California, filed in the Office of the County Recorder of San Diego County December 10, 1987; and Lot 4 of Hazard Center Map No. 11949 in the City of San Diego, State of California, filed in the Office of the County Recorder of San Diego County December 10, 1987.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee to demolish a portion of existing commercial space and construct up to 473 residential units and approximately 4,205 square feet of commercial space on a 14.52-acre site, described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated MAY 18 2010, on file in the Development Services Department [DSD].

The project shall include:

- a. The demolition of a portion of existing commercial space (movie theater, restaurant and parking spaces) and construction of up to 473 residential units (including 10 percent, or up to 48 affordable units) and approximately 4,205 square feet of commercial retail/restaurant space. The 473 residential units would be constructed in three locations on the site and consist of 73 midrise residential units (55 single-story flats above 18 two-story townhouses) along Hazard Center Drive adjacent to commercial; 202 residential units in a 21-story tower near the intersection of Friars Road and Frazee Road; and 198 residential units in a 22-story tower at the midpoint of the Center on Hazard Center Drive, directly across the street from the existing Hazard Center Trolley Station.
- b. A deviation from the setback requirements of SDMC section 1514.0304(e) which requires minimum yard and building setback requirements. The project proposes to eliminate the setbacks from all lot lines.
- c. A deviation from the vehicle use area planting requirements of SDMC section 142.0406(a) to allow the use of shade structures on the top level of the parking structure in lieu of one tree within 30 feet of each parking space.
- d. Landscaping (drought tolerant planting, irrigation and landscape related improvements);
- e. Off-street parking;
- f. A 0.63-acre public park to be dedicated to the City;
- g. Three plazas totaling 0.5-acre to include enhanced paving, outdoor group seating, fire pits (or similar feature) and raised planters with decorative, drought tolerant landscaping; street frontage improvements along Hazard Center Drive to include wider sidewalks, street trees, a new sidewalk adjacent to the trolley station platform where none currently exists, dedicated turn lanes, diagonal parking, traffic calming measures, two bus stops (if desired by the Metropolitan Transit System [MTS], and a shorter and wider crosswalk to the trolley station with enhanced paving.
- h. Common outdoor terraces for residents with outdoor furnishings, exercise areas; indoor bike storage and exercise facilities. Each unit will have energy efficient appliances and water efficient plumbing fixtures.
- i. Accessory improvements determined by the DSD to be consistent with the land use and development standards in effect for this site per the adopted community plan, California Environmental Quality Act [CEQA] 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 [EOT] has been granted. Any such EOT must meet all SDMC requirements and applicable guidelines in affect 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 DSD; 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 [City] 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 DSD.
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 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 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 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 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 pursuant to this Permit shall be altered in the future by the City, 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 Exhibit "A." 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" 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.

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

12. This Permit may be developed in phases. All development for each phase shall be consistent with the conditions and exhibits approved for each phase per the approved Exhibit "A" prior to the issuance of occupancy permits for that phase.

ENVIRONMENTAL/MITIGATION REQUIREMENTS:

13. 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.

14. The mitigation measures specified in the MMRP, and outlined in Environmental Impact Report [EIR] No. 146803 shall be noted on the construction plans and specifications under the heading ENVIRONMENTAL/MITIGATION REQUIREMENTS.

15. The Owner/Permittee shall comply with the MMRP as specified in EIR No. 146803 satisfactory to the DSD 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:

- Land Use**
- Traffic/Circulation**
- Noise**
- Air Quality**
- Biological Resources**
- Cultural Resources**
- Geology and Soils**
- Solid Waste Public Utilities**

16. 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:

17. Prior to issuance of the first residential building permit, the Owner shall enter into an Agreement with the San Diego Housing Commission to ensure compliance with the inclusionary housing requirements (Land Development Code [LDC] Chapter 14, Article 2, Division 13). The Owner is required to set aside at least 10 percent of the dwelling units on-site (up to 48 units) as either rental units for households with an income at or below 65 percent of the area median income for a period of 55 years, or as for-sale units for households with an income at or below 100 percent of the area median income.

AIRPORT REQUIREMENTS:

18. Prior to issuance of the first building permit the applicant shall provide a valid “Determination of No Hazard to Air Navigation” issued by the FAA.

ENGINEERING REQUIREMENTS:

19. The Owner/Permittee shall enter into a Maintenance Agreement for the ongoing permanent Best Management Practice [BMP] maintenance.

20. Prior to the issuance of any construction permit, the Owner/Permittee shall incorporate any construction BMPs necessary to comply with Chapter 14, Article 2, Division 1 (Grading Regulations) of the SDMC, into the construction plans or specifications.

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

22. The drainage system proposed for this subdivision, as shown on the approved vesting tentative map, is private and subject to approval by the City Engineer.

23. If the engineering analysis shows that the development will alter the floodway or floodplain boundaries of the Special Flood Hazard Area, the developer must obtain a Conditional Letter of Map Revision from the Federal Emergency Management Agency [FEMA] prior to issuance of any grading, engineering, or building permits. The developer must provide all documentation, engineering calculations, and fees which are required by FEMA.

24. The Owner/Permittee shall obtain a grading permit for the grading proposed for this project. All grading shall conform to requirements in accordance with the City Municipal Code in a manner satisfactory to the City Engineer.

25. 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.

26. A copy of the acknowledgment from the SWRCB that an NOI has been received for this project shall be filed with the City 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 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.

27. This project proposes to export 29,610 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).

PARK AND RECREATION REQUIREMENTS:

28. Prior to issuance of any Certificate of Occupancy for residential units, the Owner/Permittee shall grant in fee 0.63 acres identified on Vesting Tentative Map [VTM] No. 515726 as Lot 21 to the City as Public Park.

29. The Owner/Permittee shall ensure that Lot 21 is free and clear of all private easements, private encroachments, private agreements and/or liens, to the satisfaction of the Park & Recreation Director and the City Engineer.

30. Prior to recordation of the first Final Map for residential units, the Owner/Permittee shall enter into a park development agreement for the acquisition, design, and construction of a 0.63-acre population based park.

31. To receive population-based park credit for 0.63 acres, the Owner/Permittee shall ensure that the design of Lot 21 complies with Council Policy 600-33, Community Notification and Input for City-Wide Park Development Projects.

32. To satisfy the project's remaining 1.66 acres of population-based park requirements and fees toward a future recreation center and swimming pool per the Facilities Financing Plan, prior to issuance of the first residential building permit the Owner/Permittee shall pay an ad-hoc fee of \$7,235.41 per residential unit equal to the number of units included in that building permit. This ad-hoc fee is in-lieu of the park portion of the Mission Valley Development Impact Fee [DIF]. The total population-based park fees at build-out shall not exceed \$3,422,350, in addition to the provisions of the on-site park. This fee shall be deposited into the Private & Other Contributions Trust Fund AMRIS Fund 63022/SAP Fund 400264, to be used for design and construction of public park improvements to serve the increased population generated by this development within the Mission Valley Community.

LANDSCAPE REQUIREMENTS:

33. Prior to issuance of construction permits for public right-of-way improvements, the Owner/Permittee shall submit complete landscape construction documents for right-of-way improvements to the DSD 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 any proposed street trees.

34. In the event that a foundation only permit is requested by the Owner/Permittee 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 DSD. These landscape areas shall be clearly identified with a distinct symbol, noted with dimensions and labeled as "landscaping area."

35. Prior to issuance of any construction permits for buildings; the Owner/Permittee shall submit complete landscape and irrigation construction documents consistent with the Land Development Manual, Landscape Standards to the DSD for approval. The construction documents shall be in substantial conformance with Exhibit "A," Landscape Development Plan, on file in the Office of the DSD.

36. Prior to issuance of any Certificate of Occupancy, it shall be the responsibility of the Owner/Permittee to install all required landscape related to that phase and obtain all required landscape inspections. A "No Fee" Street Tree Permit shall be obtained for the installation, establishment, and on-going maintenance of all street trees (existing and proposed).

37. The Owner/Permittee shall maintain all existing and proposed landscape in a disease, weed and litter free condition at all times. Severe pruning or "topping" of trees is not permitted. The trees shall be maintained in a safe manner to allow each tree to grow to its mature height and spread.

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

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

PLANNING/DESIGN REQUIREMENTS:

40. 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.

41. All signs associated with this development shall be consistent with sign criteria established by either the approved Exhibit "A," or City-wide sign regulations.

42. The Owner/Permittee shall post a copy of the approved discretionary permit or VTM in the sales office for consideration by each prospective buyer.

43. 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.

COMMUNITY PLANNING REQUIREMENTS:

44. Prior to the issuance of residential occupancy permits, the two public plaza areas identified immediately to the north and south of Tower 1 on the Landscape Development Plan, dated January 13, 2010, including outdoor site furnishings, shall be completed. Prior to the issuance of occupancy permits for Tower 2, the public plaza located immediately west of the

existing office building on the Landscape Development Plan dated January 13, 2010, and including outdoor site furnishings, shall be completed.

45. Prior to the issuance of occupancy permits, all streetscape improvements along Hazard Center Drive, identified on Landscape Development Plan, dated January 13, 2010, shall be completed.

46. The materials shown on "Exterior Elevations - Tower 2" Sheet A-30, dated January 13, 2010 or substantially similar quality materials shall be used in construction.

47. The Level 6 outdoor lounge/room improvements 7-18, as shown on sheet L7, dated January 13, 2010, or substantially similar improvements shall be constructed as part of Tower 2.

48. Prior to the issuance of any residential occupancy permits, the construction of the 0.63-acre public park shall be completed.

49. No Certificate of Occupancy permits shall be issued for Tower 1 until the mid-rise residential units are constructed.

50. The Owner/Permittee has agreed not to oppose the formation of a Community Facilities District [CFD] within the Mission Valley Community Plan. The Owner/Permittee shall be allowed to offset or seek reimbursement on any portions of the DIF with the implementation of the specific CFD projects, subject to the satisfaction of City Planning and Community Investment Department/Facilities Financing and the City Manager/Mayor.

TRANSPORTATION REQUIREMENTS:

51. Tandem parking spaces shall be assigned to the same dwelling unit.

52. Prior to the issuance of any building permits, the Owner/Permittee shall assure by permit and bond the construction of an additional southbound left turn lane at the intersection of Frazee Road/Hazard Center Drive, satisfactory to the City Engineer.

53. Prior to the issuance of any building permit, the extension of Hazard Center Drive shall be completed as a two lane collector, between the current terminus at the west end of the project site to a public street at the Fashion Valley Shopping Center, satisfactory to the City Engineer.

54. Prior to the issuance of any building permit for lots that utilize shared parking, a Shared Parking Agreement shall be recorded on each affected lot, satisfactory to the City Engineer.

55. Owner/Permittee shall provide full before and after driveway counts for all project driveways, with the after-counts to be taken and provided to the DSD between six and eighteen months after project completion and occupancy, to the satisfaction of the City Engineer. The 24-hour hourly counts should be taken for one seven day week outside the December holiday shopping season.

56. At full build-out, up to 2,510 but no fewer than 2376 off-street automobile spaces (including 37 standard accessible spaces and 6 van accessible spaces), 90 motorcycle spaces,

256 bicycle spaces with rack(s), and 11 loading zones shall be maintained on the property in the approximate locations shown on the approved Exhibit "A," as required by the LDC, and using Shared Parking provisions of the LDC section 142.0545. If the project is built in phases, each phase shall comply with the minimum parking requirements of the LDC, satisfactory to the City Engineer. All on-site parking stalls and aisle widths shall be in compliance with requirements of the City's LDC and shall not be converted and/or utilized for any other purpose, unless otherwise authorized in writing by the Development Services Director.

57. Prior to the issuance of any building permits, the Owner/Permittee shall provide a fair share contribution of one-hundred forty nine thousand four-hundred ninety-two dollars (\$149,492.00) for the SR-163/Friars Road Interchange Improvement Project, satisfactory to the City Engineer. This contribution shall be deposited in a separate interest bearing account, satisfactory to the City Engineer.

58. Prior to the issuance of any building permits, the Owner/Permittee shall develop a comprehensive Transportation Demand Management Plan that includes information kiosks in central locations, bike lockers, priority parking spaces for carpools, designated carpool spaces for office uses, and subsidized transit passes per Condition No. 60 satisfactory to the City Engineer.

59. The Owner/Permittee shall provide an incentive program to encourage transit use for the project. For each residential unit with a lease greater than nine months or with the sale of a residential unit, 75 percent subsidized monthly transit passes will be offered to the unit occupant for the first year after the unit is occupied.

60. Prior to issuance of the first building permit, the applicant shall provide an Irrevocable Offer of Dedication for addition of a second eastbound right turn lane and associated improvements at the intersection of Friars Road/Frazer Road, satisfactory to the City Engineer. Dedication shall occur when needed by the City's SR-163/Friars Road interchange capital improvement project, satisfactory to the City Engineer.

WASTEWATER REQUIREMENTS:

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

62. Prior to the issuance of any engineering or building permits, the Owner/Permittee shall provide evidence, satisfactory to the City Director of Public Utilities, indicating that each condominium 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.

63. Prior to the issuance of any building permits, the Owner/Permittee shall grant adequate sewer, and/or access easements, including vehicular access to each manhole, for all public sewer facilities that are not located within public rights-of-way, satisfactory to the City Director of Public Utilities. Vehicular access roadbeds shall be a minimum of 20 feet wide and surfaced with suitable approved material, satisfactory to the City Director of Public Utilities.

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

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

66. Proposed private underground sewer facilities located within a single lot shall be designed to meet the requirements of the California Plumbing Code and shall be reviewed as part of the building permit plan check.

67. Prior to the issuance of any Certificate of Occupancy, the Owner/Permittee shall provide the Wastewater Collection Divisions with keyed access to public onsite sewer facilities located within a gated area, satisfactory to the City Director of Public Utilities. The City will not be held responsible for any issues that may arise relative to possession of the keys.

68. No permanent structures, substructures, trees or shrubs exceeding 3 feet in height at maturity shall be installed within 10 feet of any public sewer facilities or in any sewer access easement.

WATER REQUIREMENTS:

69. Prior to the issuance of any building permits, the Owner/Permittee shall assure, by permit and bond, the design and construction of new water service(s) necessary to serve the Project, and the (kill) abandonment of any existing unused services within the Frazee Road and Hazard Center Drive rights-of-way adjacent to the project site, in a manner satisfactory to the Director of Public Utilities and the City Engineer.

70. Prior to the issuance of building permits for Tower 2, the Owner/Permittee shall assure, by permit and bond, the design and construction of relocation of the existing 12-inch diameter water main adjacent to the proposed Tower 2, in a manner satisfactory to the Director of Public Utilities and the City Engineer.

71. Prior to the issuance of any building permits, the Owner/Permittee shall grant adequate water easements, including vehicular access to each appurtenances (meters, blow offs, valves, fire-hydrants, etc.) for all public water facilities that are not located within fully improved public right-of-ways, satisfactory to the Director of Public Utilities. Easements shall be located within singles lots, when possible, and not split longitudinally. Vehicular access roadways shall be a minimum of 24 feet wide and surfaced with suitable approved material.

72. Prior to the issuance of any building permits, the developer shall process encroachment maintenance and removal agreements for all acceptable encroachments of structures or landscaping into any easement. No structures or landscaping of any kind shall be installed in or over any vehicular access roadway.

73. Prior to the issuance of any building permits, the Owner/Permittee shall apply for a plumbing permit for the installation of appropriate private back flow prevention device(s) on

each water service within the development, in a manner satisfactory to the Director of Public Utilities and the City Engineer.

74. Prior to the issuance of any Certificates of Occupancy, the public water facilities, necessary to serve the phase of the development receiving the Certificate of Occupancy, shall be complete and operational in a manner satisfactory to the Director of Public Utilities and the City Engineer.

75. The Owner/Permittee agrees to design and construct all proposed public water facilities in accordance with established criteria in the most current editions of the City Water Facility Design Guidelines and City regulations, standards and practices pertaining thereto. Public water facilities and associated easements, as shown on approved Exhibit "A," shall be modified at final engineering in accordance with accepted studies and standards.

76. Prior to the issuance of the first residential building permit, the building construction documents shall demonstrate sub-metering through the installation of a third-party water sub-meter for each residential unit and the common areas, to the satisfaction of the city's chief building official.

INFORMATION ONLY:

- Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of this development permit, may protest the imposition within ninety days of the approval of this development permit by filing a written protest with the City Clerk pursuant to California Government Code section 66020.
- This development may be subject to impact fees at the time of construction permit issuance

APPROVED by the City Council of the City of San Diego on MAY 18 2010 by
Resolution No. R- 305858.

Site Development Permit No. 515727,
Planned Development Permit No. 515728
Date of Approval: _____

AUTHENTICATED BY THE DEVELOPMENT SERVICES DEPARTMENT

Daniel Stricker
Development Project Manager

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

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

**7510 Hazard LLC, a Delaware Limited
Liability Company
Owner/Permittee**

By _____

By _____

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