

337 (A)

(R-2011-161) 9/14

RESOLUTION NUMBER R- 306137

DATE OF FINAL PASSAGE SEP 14 2010

A RESOLUTION GRANTING PLANNED DEVELOPMENT PERMIT NO. 730154/CONDITIONAL USE PERMIT NO. 523208/SITE DEVELOPMENT PERMIT NO. 523210/ NEIGHBORHOOD DEVELOPMENT PERMIT NO. 730122 – NATIVITY PREP ACADEMY PROJECT NO. 148350

WHEREAS, David Rivera, Owner/Permittee, filed an application with the City of San Diego for a Planned Development Permit, Site Development Permit, Conditional Use Permit and Neighborhood Development Permit to demolish existing structures and to construct a new school with associated on-grade parking, hardscape and landscape throughout the site (as described in and by reference to the approved Exhibit "A" and corresponding conditions of approval for the associated Permit No's. 730122, 523208, 523210, and 730154), on portions of a 0.79-acre site; and

WHEREAS, the project site is located at 3229-3233 Market Street, 3236 Island Avenue, and 3238 Island Avenue in the CSF-2 and MF-3000 zones of the Southeastern San Diego Planned District within the Southeastern San Diego Community Plan; and

WHEREAS, the project site is legally described as the east half of lot 7 and all of lots 8 through 13 and the west seven feet of lot 36 and all of lot 37 in block 129 of Reed and Swayne's Central Park Addition according to Map No. 982 filed in the office of the County recorder of San Diego, March 28, 1906; 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 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, on June 3, 2010, the Planning Commission of the City of San Diego considered Neighborhood Development Permit No. 730122, Conditional Use Permit No. 523208, Site Development Permit No. 523210, and Planned Development Permit No. 730154, and pursuant to Resolution No. 4595-PC voted 6-0-1 to recommend City Council approval of the Permit; and

WHEREAS, on SEP 14 2010 the City Council of the City of San Diego considered Neighborhood Development Permit No. 730122, Conditional Use Permit No. 523208, Site Development Permit No. 523210, and Planned Development Permit No. 730154 pursuant to the Land Development Code of the City of San Diego; NOW THEREFORE,

BE IT RESOLVED by the Council of the City of San Diego, that it adopts the following findings with respect to Planned Development Permit No. 730154, Conditional Use Permit No. 523208, Site Development Permit No. 523210, and Neighborhood Development Permit No. 730122 as follows:

A. **NEIGHBORHOOD DEVELOPMENT PERMIT SAN DIEGO MUNICIPAL CODE [SDMC] SECTION 126.0404**

**1. The proposed development will not adversely affect the applicable land use plan.** The project proposes a 13,127 square-foot, two-story private middle school ranging in grades from sixth through eighth with a 5,517 square-foot loggia area (roofed open gallery area) and accessory improvements including off-street parking, sports court, enhanced paving, public improvements, and landscaping. The site is located at 3229-3233 Market Street and 3236-3638 Island Avenue within the Southeastern San Diego planning area designated Residential and Commercial and zoned CSF-2/MF-3000 within the Southeastern San Diego Planned District.

The project also proposes a Southeastern San Diego Planned District Ordinance amendment to allow schools within the Southeastern San Diego Planned District commercial

zones under a Special Permit (SP). The Southeastern San Diego Community Plan includes an Institutional and School land use designation which includes public and private schools, colleges and universities. The proposed project site is designated commercial and residential but will be considered through the processing of a Special Permit and reviewed in accordance with the purpose and intent of the Southeastern San Diego community plan land use recommendations.

The proposed project is located in the Stockton neighborhood within the Southeastern San Diego community plan. To the south and west of the site are single family homes while east of the site are a mixture of single family homes a non-profit social service organization. To the north are light industrial, commercial uses, and an educational center. The project site is separated by two zones where CSF-1 covers the premises adjacent to Market Street and MF-3000 covers the site fronting Island Avenue.

The Southeastern San Diego Community Plan does not specifically call out recommendations for private schools but the Urban Design Element of the plan recommends a visual and character improvement of the community. In addition the Stockton Neighborhood objective is to improve the appearance of Market Street through added landscaping. The design of the proposed facility has incorporated numerous architectural elements to diminish the bulk and scale and add rhythm to the building. These elements include offsetting planes with an assortment of material to include a loggia (roofed open gallery area) and Spanish tile roof to match the architecture of the California Missions. Landscaping along Market Street will include a variety of trees, shrubs, and ground covers in accordance with Project First Class and hardscape to include a statute and decorative wrought iron fence. In the rear of the development will be a courtyard with fountain, stone pavers, and lunch area with grass. Therefore, the proposed development will not adversely affect the applicable land use plan.

**2. The proposed development will not be detrimental to the public health, safety, and welfare.** The project proposes a 13,127 square-foot, two-story private middle school ranging in grades from sixth through eighth with a 5,517 square-foot loggia area (roofed open gallery area) and accessory improvements including off-street parking, sports court, enhanced paving, public improvements, and landscaping. The site is located at 3229-3233 Market Street and 3236-3638 Island Avenue within the Southeastern San Diego planning area designated Residential and Commercial and zoned CSF-2/MF-3000 within the Southeastern San Diego Planned District.

A Mitigated Negative Declaration was prepared from the project as it was determined that the proposed development could have a significant impact following areas:

- Noise, due to vehicular traffic along Market Street during school hours;
- Paleontological Resources, due to the grading of 2,800 cubic yards on site within an area defined as having a high paleontological resources.

Because mitigation measures are required to be applied to the project in accordance with Section V of the associated Mitigation, Monitoring, and Reporting Program (MMRP), the project

now avoids or mitigates any potentially significant environmental impacts to noise and paleontological resources related issues in accordance with the California Environmental Quality Act.

The permit controlling this development contains conditions addressing compliance with the City's regulations and other regional, State and Federal regulations to prevent detrimental impacts to the health, safety, and welfare of persons residing in the area. These conditions address requirements relating to fence and walls, storm water runoff, runoff during construction, landscaping, public improvements, signs, lighting, parking, water, and sewer requirements. All Uniform Building, Fire, Plumbing, Electrical, and Mechanical Codes governing the construction and continued operation of the development will apply to this site to prevent adverse affects to those persons or other properties in the vicinity. Therefore, the proposed development will 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 project proposes a 13,127 square-foot, two-story private middle school ranging in grades from sixth through eighth with a 5,517 square-foot loggia area (roofed open gallery area) and accessory improvements including off-street parking, sports court, enhanced paving, public improvements, and landscaping. The site is located at 3229-3233 Market Street and 3236-3638 Island Avenue within the Southeastern San Diego planning area designated Residential and Commercial and zoned CSF-2/MF-3000 within the Southeastern San Diego Planned District.

All proposed buildings will comply with all of the development regulations with respect to coverage, floor area ratio, height, landscaping, and setback requirements. The parking lot conforms to city standards regarding ingress and egress, surfacing and landscape requirements. The project proposes two deviations, one being over-height wall and fence within the street sideyard setback and two, driveway separation. The deviation for wall height is a result of a 5-foot, 6-inch retaining wall (maximum height) along the eastern property line fronting Bancroft Street (paper street) where three feet is the maximum allowed within a street yard and street side yard. The deviation for wall height is a result of providing a level pad for the school and parking lot/sports court. The deviation for the fence includes a nine-foot wrought iron fence along the sideyard setback fronting Bancroft Street positioned on top of the wall. A deviation for driveway separation is being proposed for the site along Island Avenue where driveways are not permitted when the parcel has less than 150 feet of street frontage and has access to the an alley.

Currently, Bancroft Street, between Market Street and Island Avenue is an undeveloped paper street with two manholes and a drainage culvert. A maximum six-foot fence and three-foot retaining wall are allowed within the street sideyard setback. The paper street has a width of 26 feet, which is substandard from a current required width of 48 feet for a two lane residential street. Given the street dimension discrepancy it is unlikely the extension of Bancroft Street between Island Avenue and Market Street will ever be completed due to the substandard street width. Because of Bancroft Street existing condition, the projects property line abutting Bancroft has been reviewed by City staff in the same manner as a traditional sideyard setback where a nine-foot fence and walls above three feet are allowed. The wall and fence will be

screened by landscaping and the project will be providing a new concrete path to the existing manholes to aid accessing the drains in case of emergencies.

The proposed driveway along Island Avenue will allow the ingress and egress of school traffic and emergency vehicles accessed through the alley instead of Market Street. The San Diego Fire Department and Development Services Department Transportation Division has reviewed the proposed driveway and prefers that access for emergency vehicles utilize the alley on the south side of the proposed building, continues south thru the parking lot adjacent to Island Avenue and exits onto Island Avenue via the proposed 24-foot driveway. Therefore, the proposed development will comply to the maximum extent feasible with the regulations the Land Development Code.

**B. CONDITIONAL USE PERMIT SAN DIEGO MUNICIPAL CODE [SDMC]  
SECTION 126.0305**

**1. The proposed development will not adversely affect the applicable land use Plan.** The project proposes a 13,127 square-foot, two-story private middle school ranging in grades from sixth through eighth with a 5,517 square-foot loggia area (roofed open gallery area) and accessory improvements including off-street parking, sports court, enhanced paving, public improvements, and landscaping. The site is located at 3229-3233 Market Street and 3236-3638 Island Avenue within the Southeastern San Diego planning area designated Residential and Commercial and zoned CSF-2/MF-3000 within the Southeastern San Diego Planned District.

The project also proposes a Southeastern San Diego Planned District Ordinance amendment to allow schools within the Southeastern San Diego Planned District commercial zones under a Special Permit (SP). The Southeastern San Diego Community Plan includes an Institutional and School land use designation which includes public and private schools, colleges and universities. The proposed project site is designated commercial and residential but is will be considered through the processing of a Special Permit and reviewed in accordance with the purpose and intent of the Southeastern San Diego community plan land use recommendations.

The proposed project is located in the Stockton neighborhood within the Southeastern San Diego community plan. To the south and west of the site are single family homes while east of the site are a mixture of single family homes a non-profit social service organization. To the north are light industrial, commercial uses, and an educational center. The project site is separated by two zones where CSF-1 covers the premises adjacent to Market Street and MF-3000 covers the site fronting Island Avenue.

The Southeastern San Diego Community Plan does not specifically call out recommendations for private schools but the Urban Design Element of the plan recommends a visual and character improvement of the community. In addition the Stockton Neighborhood objective is to improve the appearance of Market Street through added landscaping. The design of the proposed facility has incorporated numerous architectural elements to diminish the bulk and scale and add rhythm to the building. These elements include offsetting planes with an assortment of material to include a loggia (roofed open gallery area) and Spanish tile roof to

match the architecture of the California Missions. Landscaping along Market Street will include a variety of trees, shrubs, and ground covers in accordance with Project First Class and hardscape to include a statute and decorative wrought iron fence. In the rear of the development will be a courtyard with fountain, stone pavers, and lunch area with grass.

As an elementary school exist to the south and trade school to the northeast, the proposed development will not adversely affect the applicable land use plan.

**2. The proposed development will not be detrimental to the public health, safety, and welfare.** The project proposes a 13,127 square-foot, two-story private middle school ranging in grades from sixth through eighth with a 5,517 square-foot loggia area (roofed open gallery area) and accessory improvements including off-street parking, sports court, enhanced paving, public improvements, and landscaping. The site is located at 3229-3233 Market Street and 3236-3638 Island Avenue within the Southeastern San Diego planning area designated Residential and Commercial and zoned CSF-2/MF-3000 within the Southeastern San Diego Planned District.

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- Paleontological Resources, due to the grading of 2,800 cubic yards on site within an area defined as having a high paleontological resources.

Because mitigation measures are required to be applied to the project in accordance with Section V of the associated Mitigation, Monitoring, and Reporting Program (MMRP), the project now avoids or mitigates any potentially significant environmental impacts to noise and paleontological resources related issues in accordance with the California Environmental Quality Act.

The permit controlling this development contains conditions addressing compliance with the City's regulations and other regional, State and Federal regulations to prevent detrimental impacts to the health, safety, and welfare of persons residing in the area. These conditions address requirements relating to fence and walls, storm water runoff, runoff during construction, landscaping, public improvements, signs, lighting, parking, water, and sewer requirements. All Uniform Building, Fire, Plumbing, Electrical, and Mechanical Codes governing the construction and continued operation of the development will apply to this site to prevent adverse affects to those persons or other properties in the vicinity. Therefore, the proposed development will not be detrimental to the public health, safety and welfare.

**3. The proposed development will comply to the maximum extent feasible with the regulations of the Land Development Code.** The project proposes a 13,127 square-foot, two-story private middle school ranging in grades from sixth through eighth with a 5,517 square-foot loggia area (roofed open gallery area) and accessory improvements including off-street parking, sports court, enhanced paving, public improvements, and landscaping. The site is

located at 3229-3233 Market Street and 3236-3638 Island Avenue within the Southeastern San Diego planning area designated Residential and Commercial and zoned CSF-2/MF-3000 within the Southeastern San Diego Planned District.

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The proposed driveway along Island Avenue will allow the ingress and egress of school traffic and emergency vehicles accessed through the alley instead of Market Street. The San Diego Fire Department and Development Services Department Transportation Division has reviewed the proposed driveway and prefers that access for emergency vehicles utilize the alley on the south side of the proposed building, continues south thru the parking lot adjacent to Island Avenue and exits onto Island Avenue via the proposed 24-foot driveway. Therefore, the proposed development will comply to the maximum extent feasible with the regulations the Land Development Code.

**4. The proposed use is appropriate at the proposed location.** The project proposes a 13,127 square-foot, two-story private middle school ranging in grades from sixth through eighth with a 5,517 square-foot loggia area (roofed open gallery area) and accessory improvements including off-street parking, sports court, enhanced paving, public improvements, and landscaping. The site is located at 3229-3233 Market Street and 3236-3638 Island Avenue within the Southeastern San Diego planning area designated Residential and Commercial and zoned CSF-2/MF-3000 within the Southeastern San Diego Planned District.

As of 2001 the Nativity School has existed on the site. The school began with 20 students and has grown to 60 students as of 2008. The school operates out of six buildings. Nativity Prep Academy's Mission is to provide college prep, middle school education to underserved children from the community of Southeastern San Diego. The school's expectation is that students succeed in high school and college and become role models and leaders in their communities. As much as the school has expanded since its inception, the school received a Notice of Violation from the City of San Diego in 2006 for operating a school and associated administration offices without a Conditional Use Permit. In addition, schools are not allowed within commercial zones of the Southeastern San Diego Planned District, which a majority of the site lies on. Because of the code violation Nativity conducted a new site search by contacting over 25 commercial real estate brokers and scanned the community for a suitable site to remain in the community so that it can continue to provide high school and college preparation to underserved children. As a result with the search and current location review, it was concluded that the current location could be constructed into a suitable middle prep school with the processing of a Conditional Use Permit and Southeastern San Diego Planned District amendment to allow schools within commercial zones. The location is conducive to the area as King Chavez Art Academy is located approximately 600 feet and across the street is the Career College of San Diego which is a technical trade school for adults. The location is accommodating to provide up to 90 students with six class rooms, administration offices, courtyard, playground, and public improvements. Automobile access to the site will be from the alley alleviating traffic on Market Street, however, pedestrian access can be taken from Market Street and the back alley. As mentioned above, following this Conditional Use Permit application is an amendment to the Southeastern San Diego Planned District Ordinance to allow schools within its commercial CSF-1 and CSF-2 zones. The amendment would not allow schools to be permitted by right but rather through the processing of a Southeastern San Diego Special Permit Process 3. This will give the opportunity for the community to review each school on a case by case basis. Therefore, the proposed use is appropriate at the proposed location.

**C. SITE DEVELOPMENT PERMIT SAN DIEGO MUNICIPAL CODE [SDMC]  
SECTION 126.0504**

**1. The proposed development will not adversely affect the applicable land use plan.** The project proposes a 13,127 square-foot, two-story private middle school ranging in grades from sixth through eighth with a 5,517 square-foot loggia area (roofed open gallery area) and accessory improvements including off-street parking, sports court, enhanced paving, public improvements, and landscaping. The site is located at 3229-3233 Market Street and 3236-3638 Island Avenue within the Southeastern San Diego planning area designated Residential and Commercial and zoned CSF-2/MF-3000 within the Southeastern San Diego Planned District.

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The proposed project is located in the Stockton neighborhood within the Southeastern San Diego community plan. To the south and west of the site are single family homes while east of the site are a mixture of single family homes a non-profit social service organization. To the north are light industrial, commercial uses, and an educational center. The project site is separated by two zones where CSF-1 covers the premises adjacent to Market Street and MF-3000 covers the site fronting Island Avenue.

The Southeastern San Diego Community Plan does not specifically call out recommendations for private schools but the Urban Design Element of the plan recommends a visual and character improvement of the community. In addition the Stockton Neighborhood objective is to improve the appearance of Market Street through added landscaping. The design of the proposed facility has incorporated numerous architectural elements to diminish the bulk and scale and add rhythm to the building. These elements include offsetting planes with an assortment of material to include a loggia (roofed open gallery area) and Spanish tile roof to match the architecture of the California Missions. Landscaping along Market Street will include a variety of trees, shrubs, and ground covers in accordance with Project First Class and hardscape to include a statute and decorative wrought iron fence. In the rear of the development will be a courtyard with fountain, stone pavers, and lunch area with grass.

As an elementary school exist to the south and trade school to the northeast, the proposed development will not adversely affect the applicable land use plan.

**2. The proposed development will not be detrimental to the public health, safety, and welfare.** The project proposes a 13,127 square-foot, two-story private middle school ranging in grades from sixth through eighth with a 5,517 square-foot loggia area (roofed open gallery area) and accessory improvements including off-street parking, sports court, enhanced paving, public improvements, and landscaping. The site is located at 3229-3233 Market Street and 3236-3638 Island Avenue within the Southeastern San Diego planning area designated Residential and Commercial and zoned CSF-2/MF-3000 within the Southeastern San Diego Planned District.

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**3. The proposed development will comply with the applicable regulations of the Land Development Code.** The project proposes a 13,127 square-foot, two-story private middle school ranging in grades from sixth through eighth with a 5,517 square-foot loggia area (roofed open gallery area) and accessory improvements including off-street parking, sports court, enhanced paving, public improvements, and landscaping. The site is located at 3229-3233 Market Street and 3236-3638 Island Avenue within the Southeastern San Diego planning area designated Residential and Commercial and zoned CSF-2/MF-3000 within the Southeastern San Diego Planned District.

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The proposed driveway along Island Avenue will allow the ingress and egress of school traffic and emergency vehicles accessed through the alley instead of Market Street. The San Diego Fire Department and Development Services Department Transportation Division has reviewed the proposed driveway and prefers that access for emergency vehicles utilize the alley on the south side of the proposed building, continues south thru the parking lot adjacent to Island Avenue and exits onto Island Avenue via the proposed 24-foot driveway. Therefore, the proposed development will comply to the maximum extent feasible with the regulations the Land Development Code.

**D. PLANNED DEVELOPMENT PERMIT SAN DIEGO MUNICIPAL CODE  
[SDMC] SECTION 126.0604**

**1. The proposed development will not adversely affect the applicable land use plan.** The project proposes a 13,127 square-foot, two-story private middle school ranging in grades from sixth through eighth with a 5,517 square-foot loggia area (roofed open gallery area) and accessory improvements including off-street parking, sports court, enhanced paving, public improvements, and landscaping. The site is located at 3229-3233 Market Street and 3236-3638 Island Avenue within the Southeastern San Diego planning area designated Residential and Commercial and zoned CSF-2/MF-3000 within the Southeastern San Diego Planned District.

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**2. The proposed development will not be detrimental to the public health, safety, and welfare.** The project proposes a 13,127 square-foot, two-story private middle school ranging in grades from sixth through eighth with a 5,517 square-foot loggia area (roofed open gallery area) and accessory improvements including off-street parking, sports court, enhanced paving, public improvements, and landscaping. The site is located at 3229-3233 Market Street and 3236-3638 Island Avenue within the Southeastern San Diego planning area designated Residential and Commercial and zoned CSF-2/MF-3000 within the Southeastern San Diego Planned District.

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**3. The proposed development will comply with the regulations of the Land Development Code.** The project proposes a 13,127 square-foot, two-story private middle school ranging in grades from sixth through eighth with a 5,517 square-foot loggia area (roofed open gallery area) and accessory improvements including off-street parking, sports court, enhanced paving, public improvements, and landscaping. The site is located at 3229-3233 Market Street and 3236-3638 Island Avenue within the Southeastern San Diego planning area designated

Residential and Commercial and zoned CSF-2/MF-3000 within the Southeastern San Diego Planned District.

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Currently, Bancroft Street, between Market Street and Island Avenue is an undeveloped paper street with two manholes and a drainage culvert. A maximum six-foot fence and three-foot retaining wall are allowed within the street sideyard setback. The paper street has a width of 26 feet, which is substandard from a current required width of 48 feet for a two lane residential street. Given the street dimension discrepancy it is unlikely the extension of Bancroft Street between Island Avenue and Market Street will ever be completed due to the substandard street width. Because of Bancroft Street existing condition, the projects property line abutting Bancroft has been review by City staff in the same manner as a traditional sideyard setback where a nine-foot fence and walls above three feet are allowed. The wall and fence will additional be screened by landscaping and the project will be providing a new concrete path to the existing manholes to aid accessing the drains in case of emergencies.

The proposed driveway along Island Avenue will allow the ingress and egress of school traffic and emergency vehicles accessed through the alley instead of Market Street. The San Diego Fire Department and Development Services Department Transportation Division has reviewed the proposed driveway and prefers that access for emergency vehicles utilize the alley on the south side of the proposed building, continues south thru the parking lot adjacent to Island Avenue and exits onto Island Avenue via the proposed 24-foot driveway. Therefore, the proposed development will comply to the maximum extent feasible with the regulations the Land Development Code.

**4. The proposed development, when considered as a whole, will be beneficial to the community.** The project proposes a 13,127 square-foot, two-story private middle school ranging in grades from sixth through eighth with a 5,517 square-foot loggia area (roofed open gallery area) and accessory improvements including off-street parking, sports court, enhanced paving, public improvements, and landscaping. The site is located at 3229-3233 Market Street and 3236-3638 Island Avenue within the Southeastern San Diego planning area designated Residential and Commercial and zoned CSF-2/MF-3000 within the Southeastern San Diego Planned District.

As of 2001 the Nativity School has existed on the site. The school began with 20 students and has grown to 60 students as of 2008. In 2005 the scholastic preparation of Nativity Prep Academy earned 100 percent of its student's acceptance into top San Diego High schools. Nativity Prep Academy's Mission is to provide high school and college preparation to middle school to underserved middle school children from the community of Southeastern San Diego. The school's expectation is that students succeed in high school and college and become role models and leaders in their communities. The school is part of a national network of more than 50 Nativity schools that are attempting to alleviate the cycle of poverty through education. Many students come from families below the poverty level where home lives can be troubled. Nativity accepts students who show that they have potential to excel academically but require focused attention. The location is conducive to the area as King Chavez Art Academy is located approximately 600 feet to the southwest and across Market Street is the Career College of San Diego which is a technical trade school. The school's location is accommodating to provide up to 90 students and 15 teachers and staff with six class rooms, administration offices, courtyard, playground, and public improvements. Automobile access to the site will be from the alley alleviating traffic on Market Street, however, pedestrian access can be taken from Market Street and the back alley. The applicant has stated that its demand for a school facility continues to expand, so must its facilities. The proposed school will accommodate existing and incoming families within the community and provide new community facilities. Two of the objectives in the Commercial Element of the Southeastern San Diego Community Plan states that new commercial facilities shall provide attractive quality community and neighborhood commercial uses offering a variety of goods and services to meet community needs and to increase job opportunities and resources within the immediate community. The proposed school and increase employment to operate provides a needed service to the area and promotes job opportunities. Therefore, the proposed development, when considered as a whole, will be beneficial to the community.

**5. Any proposed deviations pursuant to Section 126.0602(b)(1) are appropriate for this location and will result in a more desirable project than would be achieved if designed in strict conformance with the development regulations of the applicable zone.** The project proposes a 13,127 square-foot, two-story private middle school ranging in grades from sixth through eighth with a 5,517 square-foot loggia area (roofed open gallery area) and accessory improvements including off-street parking, sports court, enhanced paving, public improvements, and landscaping. The site is located at 3229-3233 Market Street and 3236-3638 Island Avenue within the Southeastern San Diego planning area designated Residential and Commercial and zoned CSF-2/MF-3000 within the Southeastern San Diego Planned District.

The proposed project will comply with all land development regulations with respect to coverage, floor area ratio, height, interior side and rear setback requirements. The parking lot conforms to city standards regarding ingress and egress, surfacing and landscape requirements. The project proposes a deviation to the maximum wall and fence height within the street sideyard setback fronting Bancroft Street (paper street) and driveway separation along Island

Avenue. The deviation for wall height is a result of a 5-foot, 6-inch retaining wall (maximum height) along the property line fronting Bancroft Street where three feet is the maximum allowed within a street yard and street side yard setback. . The deviation for the fence includes a nine-foot wrought iron fence along the street side yard setback fronting Bancroft Street where six feet is allowed. A deviation for driveway separation is being proposed for the site along Island Avenue where driveways are not permitted when the parcel has less than 150 feet of street frontage and access to the an alley.

Currently, Bancroft Street, between Market Street and Island Avenue is an undeveloped paper street with two manholes and a drainage culvert. A maximum six-foot fence and three-foot retaining wall are allowed within the street sideyard setback. The paper street has a width of 26 feet, which is substandard from a current required width of 48 feet for a two lane residential street. Given the street dimension discrepancy it is unlikely the extension of Bancroft Street between Island Avenue and Market Street will ever be completed due to the substandard street width. Because of Bancroft Street existing condition, the projects property line abutting Bancroft has been review by City staff in the same manner as a traditional sideyard setback where a nine-foot fence and walls above three feet are allowed. The wall and fence will additional be screened by landscaping and the project will be providing a new concrete path to the existing manholes to aid accessing the drains in case of emergencies.

The proposed driveway along Island Avenue will allow the ingress and egress of school traffic and emergency vehicles access through the alley instead of Market Street. The San Diego Fire Department and the Development Services Transportation Division have reviewed the proposed driveway and prefers that access for emergency and non-emergency vehicles, which utilizes the alley on the south side of the proposed building, continues south thru the parking lot adjacent to Island Avenue and exits onto Island Avenue via the proposed 24-foot driveway.

Allowing the east retaining wall to exceed the maximum height by two and a half feet will provide a suitable sports court for the students to conduct extracurricular activities such as basketball. This area will also be used as a parking lot during non-sports activities. The nine-foot wrought iron fence is consistent in height with the entire site except within the front yard setback along Market Street where the height will be a maximum of six feet. The allowance of a driveway along Island Avenue is preferred from the San Diego Fire Department and Development Services Department Transportation division since ingress and egress of automobile traffic will flow efficiently from the alley to Island Avenue without having to perform a three point turn at the end of an alley. Additionally, if the Island Avenue driveway was not supported then, an automobile turn-around area would need to be constructed which would require substantial school area and in effect impacting the school. Therefore, Any proposed deviations pursuant to Section 126.0602(b)(1) are appropriate for this location and will result in a more desirable project than would be achieved if designed in strict conformance with the development regulations of the applicable zone.

**E. SOUTHEASTERN SAN DIEGO DEVELOPMENT PERMIT FINDINGS SAN DIEGO MUNICIPAL CODE [SDMC] SECTION 1519.0202**

**1. The proposed use and project design meet the purpose and intent of the Southeastern San Diego Planned District Ordinance, comply with the recommendations of the Southeastern San Diego Community Plan, and will not adversely affect the General Plan or other applicable plans adopted by the City Council.** The project proposes a 13,127 square-foot, two-story private middle school ranging in grades from sixth through eighth with a 5,517 square-foot loggia area (roofed open gallery area) and accessory improvements including off-street parking, sports court, enhanced paving, public improvements, and landscaping. The site is located at 3229-3233 Market Street and 3236-3638 Island Avenue within the Southeastern San Diego planning area designated Residential and Commercial and zoned CSF-2/MF-3000 within the Southeastern San Diego Planned District.

The project also proposes a Southeastern San Diego Planned District Ordinance amendment to allow schools within the Southeastern San Diego Planned District commercial zones under a Special Permit (SP). The propose project is designated commercial and residential but is will be considered through the processing of a Special Permit and reviewed in accordance with the purpose and intent of the Southeastern San Diego community plan land use recommendations.

The proposed project is located in the Stockton neighborhood within the Southeastern San Diego community plan. To the south and west of the site are single family homes while east of the site are a mixture of single family homes a non-profit social service organization. To the north are light industrial, commercial uses, and an educational center. The project site is separated by two zones where CSF-1 covers the premises adjacent to Market Street and MF-3000 covers the site fronting Island Avenue.

The Southeastern San Diego Community Plan does not specifically call out recommendations for private schools but the Urban Design Element of the plan recommends a visual and character improvement of the community. In addition the Stockton Neighborhood objective is to improve the appearance of Market Street through added landscaping. The design of the proposed facility has incorporated numerous architectural elements to diminish the bulk and scale and add rhythm to the building. These elements include offsetting planes with an assortment of material to include a loggia (roofed open gallery area) and Spanish tile roof to match the architecture of the California Missions. Landscaping along Market Street will include a variety of trees, shrubs, and ground covers in accordance with Project First Class and hardscape to include a statute and decorative wrought iron fence. In the rear of the development will be a courtyard with fountain, stone pavers, and lunch area with grass.

The proposed middle school meets the purpose and intent of the Southeastern San Diego Planned District Ordinance by providing a quality development through the implementation of commercial urban design elements identified within the Southeastern San Diego Community Plan. These elements include offsetting planes with an assortment of decorative building materials, setbacks consistent with the existing street pattern, and landscaping between the sidewalk and buildings. A General Plan policy is to recognize the important role that schools



play in neighborhood life and look for opportunities to form closer partnerships among local schools, residents, neighborhood groups, and the City with the goal of improving public education. The proposed middle school provides high school and college preparation to underserved middle school children from the community of Southeastern San Diego. The school's expectation is that students succeed in high school and college and become role models and leaders in their communities. The school is part of a national network of more than 50 Nativity schools that are attempting to alleviate the cycle of poverty through education. Many students come from families below the poverty level with troubled homes lives. Nativity accepts students who show that they have potential to excel academically but require focused attention.

Therefore, the proposed use and project design meet the purpose and intent of the Southeastern San Diego Planned District Ordinance, comply with the recommendations of the Southeastern San Diego Community Plan, and will not adversely affect the General Plan or other applicable plans adopted by the City Council.

**2. The proposed development shall be compatible with existing and planned land use on adjoining properties and shall not constitute a disruptive element to the neighborhood and community. In addition, architectural harmony with the surrounding neighborhood and community shall be achieved as far as practicable.** The project proposes a 13,127 square-foot, two-story private middle school ranging in grades from sixth through eighth with a 5,517 square-foot loggia area (roofed open gallery area) and accessory improvements including off-street parking, sports court, enhanced paving, public improvements, and landscaping. The site is located at 3229-3233 Market Street and 3236-3638 Island Avenue within the Southeastern San Diego planning area designated Residential and Commercial and zoned CSF-2/MF-3000 within the Southeastern San Diego Planned District.

The facility will include one building where the first floor will be comprised of administration offices, library, computer lab, bathrooms and classrooms for a total square footage of 6,513 square feet. The second floor will include classrooms, counseling rooms, and bathrooms for a total of 6,614 square feet. Improvements to the site includes new landscaping in accordance with the Citywide Landscape Ordinance, lunch area, court yard, sport court, replacement of existing chain link fence with wrought iron, a new pedestrian walkway on Market Street and access to existing manholes within unimproved Bancroft Street.

The proposed school will be compatible with existing land use on adjoining properties as another educational facility is located across Market Street to the north and 600 feet to the west along Island Avenue. The project has been reviewed in accordance with the Southeastern San Diego Community Plan, the General Plan, and the San Diego Municipal Code SF-5000 zone and CSF-1 zone to ensure the project is in compliance with the recommendations and requirements of the policies and codes. In addition the school use will not create a disruptive element to the neighborhood but rather improve the site by allowing improvements and maintenance to the property on a regular basis. The Southeastern San Diego Community Plan does not specifically call out recommendations for private schools but the Urban Design Element of the plan recommends a visual and character improvement of the community. In addition the Stockton Neighborhood objective is to improve the appearance of Market Street through added landscaping. The design of the proposed

facility has incorporated numerous architectural elements to diminish the bulk and scale and add rhythm to the building. These elements include offsetting planes with an assortment of material to include a loggia (roofed open gallery area) and Spanish tile roof to match the architecture of the California Missions. Landscaping along Market Street will include a variety of trees, shrubs, and ground covers in accordance with Project First Class and hardscape to include a statute and decorative wrought iron fence. In the rear of the development will be a courtyard with fountain, stone pavers, and lunch area with grass. Therefore, the proposed development shall be compatible with existing and planned land use on adjoining properties and shall not constitute a disruptive element to the neighborhood and community. In addition, architectural harmony with the surrounding neighborhood and community shall be achieved as far as practicable.

**3. The proposed use, because of conditions that have been applied to it, will not be detrimental to the health, safety and general welfare of persons residing or working in the area, and will not adversely affect other property in the vicinity.** The project proposes a 13,127 square-foot, two-story private middle school ranging in grades from sixth through eighth with a 5,517 square-foot loggia area (roofed open gallery area) and accessory improvements including off-street parking, sports court, enhanced paving, public improvements, and landscaping. The site is located at 3229-3233 Market Street and 3236-3638 Island Avenue within the Southeastern San Diego planning area designated Residential and Commercial and zoned CSF-2/MF-3000 within the Southeastern San Diego Planned District.

A Mitigated Negative Declaration was prepared from the project as it was determined that the proposed development could have a significant impact following areas:

- Noise, due to vehicular traffic along Market Street during school hours;
- Paleontological Resources, due to the grading of 2,800 cubic yards on site within an area defined as having a high paleontological resources.

Because mitigation measures are required to be applied to the project in accordance with Section V of the associated Mitigation, Monitoring, and Reporting Program (MMRP), the project now avoids or mitigates any potentially significant environmental impacts to noise and paleontological resources related issues in accordance with the California Environmental Quality Act.

The permit controlling this development contains conditions addressing compliance with the City's regulations and other regional, State and Federal regulations to prevent detrimental impacts to the health, safety, and welfare of persons residing in the area. These conditions address requirements relating to fence and walls, storm water runoff, runoff during construction, landscaping, public improvements, signs, lighting, parking, water, and sewer requirements. All Uniform Building, Fire, Plumbing, Electrical, and Mechanical Codes governing the construction and continued operation of the development will apply to this site to prevent adverse affects to those persons or other properties in the vicinity. Therefore, the use, because of conditions that have been applied to it, will not be detrimental to the health, safety and general welfare of

persons residing or working in the area, and will not adversely affect other property in the vicinity.

**4. The proposed use will comply with the relevant regulations of the Municipal Code.** The project proposes a 13,127 square-foot, two-story private middle school ranging in grades from sixth through eighth with a 5,517 square-foot loggia area (roofed open gallery area) and accessory improvements including off-street parking, sports court, enhanced paving, public improvements, and landscaping. The site is located at 3229-3233 Market Street and 3236-3638 Island Avenue within the Southeastern San Diego planning area designated Residential and Commercial and zoned CSF-2/MF-3000 within the Southeastern San Diego Planned District.

All proposed buildings will comply with all of the development regulations with respect to coverage, floor area ratio, height, landscaping, and setback requirements. The parking lot conforms to city standards regarding ingress and egress, surfacing and landscape requirements. The project proposes two deviations, one being over-height wall and fence within the street sideyard setback and two, driveway separation. The deviation for wall height is a result of a 5-foot, 6-inch retaining wall (maximum height) along the eastern property line fronting Bancroft Street (paper street) where three feet is the maximum allowed within a street yard and street side yard. The deviation for wall height is a result of providing a level pad for the school and parking lot/sports court. The deviation for the fence includes a nine-foot wrought iron fence along the sideyard setback fronting Bancroft Street positioned on top of the wall. A deviation for driveway separation is being proposed for the site along Island Avenue where driveways are not permitted when the parcel has less than 150 feet of street frontage and has access to the an alley.

Currently, Bancroft Street, between Market Street and Island Avenue is an undeveloped paper street with two manholes and a drainage culvert. A maximum six-foot fence and three-foot retaining wall are allowed within the street sideyard setback. The paper street has a width of 26 feet, which is substandard from a current required width of 48 feet for a two lane residential street. Given the street dimension discrepancy it is unlikely the extension of Bancroft Street between Island Avenue and Market Street will ever be completed due to the substandard street width. Because of Bancroft Street existing condition, the projects property line abutting Bancroft has been review by City staff in the same manner as a traditional sideyard setback where a nine-foot fence and walls above three feet are allowed. The wall and fence will additional be screened by landscaping and the project will be providing a new concrete path to the existing manholes to aid accessing the drains in case of emergencies.

The proposed driveway along Island Avenue will allow the ingress and egress of school traffic and emergency vehicles accessed through the alley instead of Market Street. The San Diego Fire Department and Development Services Department Transportation Division has reviewed the proposed driveway and prefers that access for emergency vehicles utilize the alley on the south side of the proposed building, continues south thru the parking lot adjacent to Island Avenue and exits onto Island Avenue via the proposed 24-foot driveway. Therefore, the proposed development will comply to the maximum extent feasible with the regulations the Land Development Code.


(R-2011-161)

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

BE IT FURTHER RESOLVED that, Planned Development Permit No. 730154, Conditional Use Permit No. 523208, Site Development Permit No. 523210, and Neighborhood Development Permit No. 730122, is granted to David Rivera, Owner/Permittee under the terms and condition set forth in the attached permit which is made a part of this resolution.

APPROVED: JAN I. GOLDSMITH, City Attorney

By: \_\_\_\_\_

  
Keith Bauerle  
Deputy City Attorney

KGB/hm  
08/30/10  
Or.Dept:DSD  
R-2011-161  
PL #2010-00661

(A)

**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: 23430221

**PLANNED DEVELOPMENT PERMIT NO. 730154  
SITE DEVELOPMENT PERMIT NO. 523210  
CONDITIONAL USE PERMIT NO. 523208  
NEIGHBORHOOD DEVELOPMENT PERMIT NO. 730122**

**NATIVITY PREP ACADEMY PROJECT NO. 148350  
CITY COUNCIL**

This Planned Development Permit No. 730154, Site Development Permit No. 523210, Conditional Use Permit No. 523208, Neighborhood Development Permit No. 730122 is granted by the City Council of the City of San Diego to DAVID RIVERA, Owner/Permittee, pursuant to San Diego Municipal Code [SDMC] sections 126.0402, 126.0303, 1519.0202, 126.0602. The 0.79-acre site is located at 3229-3233 Market Street and 3236-3238 Island Avenue in the CSF-2 and MF-3000 zones of the Southeastern San Diego Planned District within the Southeastern San Diego Community Plan. The project site is legally described as the east half of lot 7, lots 8 through 13, the west seven feet of lot 36 and all of lot 37 in block 129 of Reed and Swayne's Central Park Addition according to Map No. 982 filed in the office of the County recorder of San Diego, March 28, 1906;

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee to construct a private middle school with associated parking, hardscape and landscape described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated June 3, 2010, on file in the Development Services Department.

The project shall include:

- a. The demolition of 8 existing structures for the construction of a new, two-story 13,127-square-foot private school ranging in grades from sixth through eighth with library, offices, classrooms, court yard, lunch area, and recreation area;

- b. Hours of operation: Monday – Friday 7:30 a.m. - 6:00 p.m.; Saturdays (athletic activity only) 8:00 a.m.-5:00 p.m.; Summer School, Monday – Friday, 7:30 a.m. - 1:00 p.m.
- c. 5,517 square feet of loggia area;
- d. Deviations as follows:
  - 1) A 14'- 6" high combination fence and retaining wall (5'- 6" high retaining wall with 9'- 0" wrought iron fence on top) within the front yard setback on unimproved Bancroft Street where a 3'- 0" high retaining wall and a 6'-0" high free standing fence would be allowed;
  - 2) One driveway on Island Avenue where driveways are not permitted for lots with less than 150 feet of street frontage with alley access;
- e. Landscaping (planting and landscape related improvements);
- f. Off-street parking;
- g. Enhanced concrete and stone pavers within courtyard and;
- h. Public and private accessory improvements determined by the Development Services Department to be consistent with the land use and development standards for this site in accordance with the adopted community plan, the California Environmental Quality Act [CEQA] and the CEQA Guidelines, the City Engineer's requirements, zoning regulations, conditions of this Permit, and any other applicable regulations of the SDMC.

**STANDARD REQUIREMENTS:**

1. This permit must be utilized within thirty-six (36) months after the date on which all rights of appeal have expired. If this permit is not utilized in accordance with Chapter 12, Article 6, Division 1 of the SDMC within the 36 month period, this permit shall be void unless an Extension of Time has been granted. Any such Extension of Time must meet all SDMC requirements and applicable guidelines in effect at the time the extension is considered by the appropriate decision maker.
2. No permit for the construction, occupancy, or operation of any facility or improvement described herein shall be granted, nor shall any activity authorized by this Permit be conducted on the premises until:
  - a. The Owner/Permittee signs and returns the Permit to the Development Services Department; and
  - b. The Permit is recorded in the Office of the San Diego County Recorder.

3. While this Permit is in effect, the subject property shall be used only for the purposes and under the terms and conditions set forth in this Permit unless otherwise authorized by the appropriate City decision maker.

4. This Permit is a covenant running with the subject property and all of the requirements and conditions of this Permit and related documents shall be binding upon the Owner/Permittee and any successor(s) in interest.

5. The continued use of this Permit shall be subject to the regulations of this and any other applicable governmental agency.

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

7. The Owner/Permittee shall secure all necessary building permits. The Owner/Permittee is informed that to secure these permits, substantial building modifications and site improvements may be required to comply with applicable building, fire, mechanical, and plumbing codes, and State and Federal disability access laws.

8. Construction plans shall be in substantial conformity to Exhibit "A." Changes, modifications, or alterations to the construction plans are prohibited unless appropriate application(s) or amendment(s) to this Permit have been granted.

9. All of the conditions contained in this Permit have been considered and were determined necessary to make the findings required for approval of this Permit. The Permit holder is required to comply with each and every condition in order to maintain the entitlements that are granted by this Permit.

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

10. The Owner/Permittee shall defend, indemnify, and hold harmless the City, its agents, officers, and employees from any and all claims, actions, proceedings, damages, judgments, or costs, including attorney's fees, against the City or its agents, officers, or employees, 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.

**ENVIRONMENTAL/MITIGATION REQUIREMENTS:**

11. Mitigation requirements in the Mitigation, Monitoring, and Reporting Program [MMRP] shall apply to this Permit. These MMRP conditions are hereby incorporated into this Permit by reference.
12. The mitigation measures specified in the MMRP and outlined in Mitigated Negative Declaration, No. 148350 shall be noted on the construction plans and specifications under the heading ENVIRONMENTAL MITIGATION REQUIREMENTS.
13. The Owner/Permittee shall comply with the MMRP as specified in Mitigated Negative Declaration, NO. 148350 to the satisfaction of the Development Services Department and the City Engineer. Prior to issuance of any construction permit, all conditions of the MMRP shall be adhered to, to the satisfaction of the City Engineer. All mitigation measures described in the MMRP shall be implemented for Noise and Paleontology.

**ENGINEERING REQUIREMENTS:**

14. Prior to the issuance of the building permit, the Owner/Permittee shall assure by permit and bond the full width pavement of the adjacent alley along the entire school frontage with City Standard pavement G-21 satisfactory to the City Engineer.
15. Prior to the issuance of a construction permit, the owner/permittee shall obtain a bonded grading permit for the grading proposed for this project. All grading shall conform to requirements in accordance with the City of San Diego Municipal Code in a manner satisfactory to the City Engineer.
16. Prior to the issuance of any construction permits, the owner/permittee shall incorporate any construction Best Management Practices necessary to comply with Chapter 14, Article 2, Division 1 (Grading Regulations) of the San Diego Municipal Code, into the construction plans or specifications, satisfactory to the City Engineer.
17. Prior to the issuance of any construction permits, the owner/permittee shall incorporate any construction Best Management Practices necessary to comply with Chapter 14, Article 2,



Division 1 (Grading Regulations) of the San Diego Municipal Code, into the construction plans or specifications, satisfactory to the City Engineer.

18. Prior to the issuance of any construction permits, the owner/permittee shall submit a Water Pollution Control Plan (WPCP). The WPCP shall be prepared in accordance with the guidelines in Appendix E of the City's Storm Water Standards, satisfactory to the City Engineer.

19. Prior to the issuance of any construction permits, the owner/permittee shall incorporate and show the type and location of all post-construction Best Management Practices [BMP's] on the final construction drawings, in accordance with the approved Water Quality Technical Report, satisfactory to the City Engineer.

20. The drainage system proposed for this development is private and subject to approval by the City Engineer.

21. The drainage system proposed for this development is private and subject to approval by the City Engineer.

22. This project proposes to export 2,800 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 on-site 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).

23. Prior to the issuance of any construction permits, the Owner/Permittee shall obtain an Encroachment Maintenance and Removal Agreement [EMRA], for at the terminus of the alley and a portion of the private drainage pipe at the alley, satisfactory to the City Engineer.

#### **LANDSCAPE REQUIREMENTS:**

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

25. Prior to issuance of any Certificate of Occupancy, it shall be the responsibility of the Permittee or Subsequent Owner to install all required landscape and obtain all required landscape inspections. A "No Fee" Street Tree Permit shall be obtained for the installation, establishment, and on-going maintenance of all street trees.

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

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

28. If any required landscape (including existing or new plantings, hardscape, landscape features, etc.) indicated on the approved construction document plans is damaged or removed during demolition or construction, the Permittee or Subsequent Owner is responsible to repair and/or replace any landscape in kind and equivalent size per the approved documents to the satisfaction of the Development Services Department within 30 days of damage or prior to issuance of a Certificate of Occupancy.

### **PLANNING/DESIGN REQUIREMENTS:**

29. 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.

30. All fences constructed on-site shall be of wrought iron, wood, concrete or other masonry materials.

31. The project shall comply with the fence and wall regulations of the San Diego Municipal Code except where a deviation has been approved as part of this permit.

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

33. All private outdoor lighting shall be shaded and adjusted to fall on the same premises where such lights are located and in accordance with the applicable regulations in the SDMC.

### **TRANSPORTATION REQUIREMENTS**

34. No fewer than 6 off-street parking spaces within the school site, and 12 off-street parking spaces within the school owned lot located south of the school site across the alley, for a total of 18 off-street parking spaces on the property shall be maintained at all times in the approximate locations shown on the approved Exhibit "A." Parking spaces shall comply at all times with the SDMC and shall not be converted for any other use unless otherwise authorized by the Development Services Department.

35. Prior to the issuance of the first construction permit, the applicant shall execute and record a Shared Parking Agreement for the proposed 12 parking spaces within the school owned lot located south of the school site across the alley for the school uses satisfactory to the City Engineer.

36. The project shall comply with all current street lighting standards according to the City of San Diego Street Design Manual (Document No. 297376, filed November 25, 2002) and the amendment to Council Policy 200-18 approved by City Council on February 26, 2002 (Resolution R-296141) satisfactory to the City Engineer. This may require (but not be limited to) installation of new street light(s), upgrading light from low pressure to high pressure sodium vapor and/or upgrading wattage.

37. The school owned lot located south of alley, north of Island Avenue, and west of Bancroft Street and legally described as lots 36 and 37 in block 129 of Reed and Swayne's Central Park Addition Map No. 982, shall provide a minimum of 12 parking spaces for the school use during school hours of operation. Recreational activity will only be allowed on this lot after school hours.

**WASTEWATER REQUIREMENTS:**

38. The owner/permittee shall design and construct any proposed public sewer facilities to the most current edition of the City of San Diego's Sewer Design Guide.

39. 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.

40. No permanent structures, substructures, trees or shrubs exceeding three feet in height at maturity shall be installed within ten feet of any public sewer facilities.

41. Prior to the issuance of any certificate of occupancy, the owner/permittee shall provide the Wastewater Collection Divisions with keyed access, satisfactory to the City of San Diego Director of Public Utilities, for all fences or gates that block access to public sewer facilities. The City will not be held responsible for any issues that may arise relative to possession of the keys.

42. Prior to the issuance of any certificate of occupancy, the owner/permittee shall provide access stairs and ramp to the two existing public manholes in Bancroft Street, satisfactory to the City of San Diego Director of Public Utilities.

43. No approved improvements or landscaping, including grading, walls, stairs and enhanced paving, shall be installed in or over any sewer easement prior to the owner/permittee obtaining an Encroachment Maintenance and Removal Agreement.

**WATER REQUIREMENTS:**

44. Prior to the issuance of any construction permits, the Owner/Permittee shall assure, by permit and bond, the design and construction of new water service(s) outside of any driveway, and the removal of all existing unused services, within the right-of-way adjacent to the project site, in a manner satisfactory to the Director of Public Utilities and the City Engineer.

45. Prior to the issuance of any construction permits, the Owner/Permittee shall apply for a plumbing permit for the installation of appropriate private back flow prevention device(s), on each water service (domestic, fire and irrigation), in a manner satisfactory to the Director of Public Utilities and the City Engineer.

46. Prior to the issuance of any certificates of occupancy, all public water facilities shall be complete and operational in a manner satisfactory to the Director of Public Utilities and the City Engineer.

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

#### **GEOLOGY REQUIREMENTS:**

48. The Owner/Permittee shall submit a geotechnical investigation report or update letter that specifically addresses the proposed construction plans. The geotechnical investigation report or update letter shall be reviewed for adequacy by the Geology Section of the Development Services Department prior to issuance of any construction permits.

49. The Owner/Permittee shall submit an as-graded geotechnical report prepared in accordance with the City's "Guidelines for Geotechnical Reports" following completion of the grading. The as-graded geotechnical report shall be reviewed for adequacy by the Geology Section of the Development Services Department prior to exoneration of the bond and grading permit close-out.

#### **INFORMATION ONLY:**

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

APPROVED by the Council of the City of San Diego on SEP 14 2010 by  
Resolution No. R-306137.

AUTHENTICATED BY THE CITY MANAGER

By: \_\_\_\_\_

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

By \_\_\_\_\_  
DAVID RIVERA  
Owne/Permittee

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