

001055

**REQUEST FOR COUNCIL ACTION**  
CITY OF SAN DIEGO

1. CERTIFICATE NUMBER (FOR AUDITOR'S USE)

01/08

TO: CITY ATTORNEY

2. FROM (ORIGINATING DEPARTMENT):  
Development Services

3. DATE:  
October 12, 2007

54

SUBJECT:

CUMM 22

5. PRIMARY CONTACT (NAME, PHONE, & MAIL STA.)

John S. Fisher, 446-5231

6. SECONDARY CONTACT (NAME, PHONE, & MAIL STA.)

Mike Westlake, 446-5220

7. CHECK BOX IF REPORT TO COUNCIL IS ATTACHED

**8. COMPLETE FOR ACCOUNTING PURPOSES**

| FUND | DEPT. | ORGANIZATION | OBJECT ACCOUNT | JOB ORDER | C.I.P. NUMBER | AMOUNT | 9. ADDITIONAL INFORMATION / ESTIMATED COST:   |
|------|-------|--------------|----------------|-----------|---------------|--------|---|
|      | 1317  |              | 1672           |           |               |        | No cost to the City. All costs are recovered through a deposit account funded by the applicant. |
|      |       |              | 4038           |           |               |        |   |
|      |       |              |                | 424564    |               |        |   |
|      |       |              |                |           |               |        |   |
|      |       |              |                |           |               |        |   |
|      |       |              |                |           |               |        |   |

**10. ROUTING AND APPROVALS**

| ROUTE (#) | APPROVING AUTHORITY               | APPROVAL SIGNATURE   | DATE SIGNED | ROUTE (#)                           | APPROVING AUTHORITY | APPROVAL SIGNATURE   | DATE SIGNED |
|-----------|-----------------------------------|----------------------|-------------|-------------------------------------|---------------------|--|-------------|
| 1         | ORIG. DEPT                        | <i>Patti Boenigk</i> | 10/10/07    | 8                                   | DEPUTY CHIEF        | <i>William Anderson</i>  | 10-10-07    |
| 2         | EAS                               | <i>Ken Teasley</i>   | 10-5-07     | 9                                   |                     |  |             |
| 3         | PLANNING                          | <i>Mary Wright</i>   | 10-12-07    | 10                                  | CITY ATTORNEY       | <i>[Signature]</i>   | 10-07-07    |
| 4         | ECCP EXEMPT PER MEMO DATED 5/9/96 |                      |             | 11                                  | ORIG. DEPT          | <i>Mike Westlake</i>   | 10/5/07     |
| 5         |                                   |                      |             |                                     | DOCKET COORD:       | COUNCIL LIAISON  |             |
|           |                                   |                      |             | <input checked="" type="checkbox"/> | COUNCIL PRESIDENT   | <input type="checkbox"/> SPOB <input type="checkbox"/> CONSENT <input type="checkbox"/> ADOPTION |             |
|           |                                   |                      |             |                                     |                     | <input type="checkbox"/> REFER TO: _____ COUNCIL DATE: _____                                     |             |

11. PREPARATION OF:

RESOLUTIONS

ORDINANCE(S)

AGREEMENT(S)

DEED(S)

- Council resolution certifying the information contained in LDR File No. 122002 has been completed in compliance with the California Environmental Quality Act and State CEQA Guidelines, and that said Mitigated Negative Declaration No. 122002 reflects the independent judgment of the City of San Diego as Lead Agency, stating for the record the final Mitigated Negative Declaration has been reviewed and considered prior to approving the project, adopting the Mitigation Monitoring and Reporting Program.
- Council ordinance rezoning 4.58 acres located on the southern side of Commercial Street between 21<sup>st</sup> Street and Harrison Avenue from I-1 and MF-3000 Zones to the CC-3-5 Zone.
- Council resolution approving Progress Guide and General Plan and Southeastern San Diego Community Plan Amendment No. 415854.
- Council resolution approving Public Right-of-Way Vacation No. 415855, Easement Vacation No. 454297 and Vesting Tentative Map No. 415852.
- Council resolution approving Planned Development Permit No. 454025, Site Development Permit No. 415853 and Conditional Use Permit No. 431367.

11A. STAFF RECOMMENDATIONS:

**Approve the Ordinance and Adopt the Resolutions**

12. SPECIAL CONDITIONS (REFER TO A.R. 3.20 FOR INFORMATION ON COMPLETING THIS SECTION.)

COUNCIL DISTRICT(S): 8

COMMUNITY AREA(S): SOUTHEAST SAN DIEGO

ENVIRONMENTAL IMPACT: THE CITY OF SAN DIEGO AS LEAD AGENCY UNDER CEQA HAS COMPLETED MITIGATED NEGATIVE DECLARATION NO. 122002, DATED SEPT. 19, 2007, *and Mitigation, Monitoring, and Reporting Program covering this activity.*

HOUSING IMPACT: THE PROPOSED PROJECT WOULD CREATE 252 NEW HOUSING UNITS ON A CURRENTLY VACANT SITE. OF THE 252 UNITS, 197 WOULD BE AFFORDABLE TO LOWER INCOME HOUSEHOLDS. MORE SPECIFICALLY, 70 SENIOR CITIZEN UNITS AND 127 FAMILY HOUSING UNITS WOULD BE PROVIDED AT 60 PERCENT OF AREA MEDIAN INCOME. THE FAMILY HOUSING UNITS WOULD INCLUDE 34 UNITS WITH THREE BEDROOMS FOR LARGER FAMILIES OR HOUSEHOLDS. ALL OF THE 197 AFFORDABLE UNITS WOULD BE RENTALS. THERE WOULD ALSO BE 55 MARKET-RATE UNITS WHICH WOULD INCLUDE 17 TOWNHOUSE CONDOMINIUM UNITS, 11 STUDIO UNITS AND 27 LIVE-WORK LOFTS.

INSTRUCTIONS TO THE CITY CLERK:

1. PUBLIC NOTICING IS REQUIRED.
2. RETURN COPIES OF EACH RESOLUTION TO JOHN S. FISHER, MS 302 AND A COPY OF THE PLAN AMENDMENT RESOLUTION TO ~~BETSY MCCULLOUGH AND MARY WRIGHT AT MS 5A AND 4A, RESPECTIVELY.~~
3. COUNCIL ACTION REQUIRES A MAJORITY VOTE.
4. THE PLAN AMENDMENT IS BEING PROCESSED IN ACCORDANCE WITH SDMC 122.0101, THE VTM IN ACCORDANCE WITH SDMC 125.0450, THE PDP IN ACCORDANCE WITH 126.0601, THE SDP IN ACCORDANCE WITH 126-0501, AND THE CUP IN ACCORDANCE WITH 126.0301.

RECEIVED  
 CITY CLERK'S OFFICE  
 07 NOV 13 PM 3:21  
 SAN DIEGO, CALIF.

CITY ATTORNEY  
 07 OCT 15 AM 11:51  
 CIVIL DIVISION

001057

RECOMMENDATIONS

COMMUNITY PLANNING GROUP/STAFF'S/PLANNING COMMISSION

CASE NO. PTS# 122002

STAFF RECOMMENDATION

Certify Mitigated Negative Declaration No. 122002, and Adopt the Mitigation Monitoring and Reporting Program; and Approve Rezone No. 415850, Progress Guide and General Plan and Southeastern San Diego Community Plan Amendment No. 415854, Public Right-of-way Vacation No. 415855, Easement Vacation No. 454297, Vesting Tentative Map No. 415852, Planned Development Permit No. 454025, Site Development Permit No. 415853 and Conditional Use Permit No. 431367

PLANNING COMMISSION

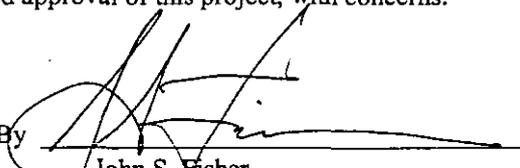
YEAS: 4; Garcia, Griswold, Smiley and Ontai  
NAYS: 0  
ABSTAINING:

TO: Adopt Staff's recommendation

COMMUNITY PLANNING GROUP

LIST NAME OF GROUP: Southeast San Diego Community Planning Committee

Community Planning Group has recommended approval of this project, with concerns.

By   
John S. Fisher  
Development Project Manager

01 001 10 10 10 10

TO: X Recorder/County Clerk  
P.O. Box 1750, MS A33  
1600 Pacific Hwy, Room 260  
San Diego, CA 92101-2422

FROM: City of San Diego  
Planning and Development Review Department  
1222 First Avenue, MS 501  
San Diego, CA 92101

Office of Planning and Research  
1400 Tenth Street, Room 121  
Sacramento, CA 95814

**Project Number:** 122002 **State Clearinghouse Number:** 2007081100  
**Permit Number:** Rezone No. 415850, CPA No. 415854I, ROW Vacation No. 415855, Easement Vacation No. 454297, VTM No. 415852, PDP No. 454025, SDP No. 415853, and CUP No. 431367.

**Project Title:** COMM 22

**Project Location:** The project is located on three sites along Commercial Street, between 21<sup>st</sup> Street and Harrison Avenue, within the Southeastern San Diego Community Plan and Transit Area.

**Project Description:** Community Plan Amendment to change the project site's land use designation as identified in the Southeastern San Diego Community Plan from Industrial and Residential to Community Commercial; a Rezone from SESDPD I-1 and SESDPD-MF-3000 to CC-3-5; Public Right of Way Vacation to vacate a portion of Irving Avenue and 22nd Street; Easement Vacation to vacate drainage, sewer, and utility easements; and Vesting Tentative Map, Planned Development Permit, Conditional Use Permit, and a Site Development Permit to construct and allow uses for senior housing; a childcare facility, retail space; live/work quarters; and residential apartments and condominiums.

Project Applicant: COMM 22, LLC, 9191 Towne Centre Drive, #310, San Diego, CA 92122. (858) 535-0552.

This is to advise that the City of San Diego City Council on \_\_\_\_\_, approved the above described project and made the following determinations:

- 1. The project in its approved form \_\_\_ will, X will not, have a significant effect on the environment.
- 2. \_\_\_ An Environmental Impact Report was prepared for this project and certified pursuant to the provisions of CEQA.  
X A Mitigated Negative Declaration was prepared for this project pursuant to the provisions of CEQA.  
\_\_\_ An addendum to Negative Declaration No./Mitigated Negative Declaration No./Environmental Impact Report No. was prepared for this project pursuant to the provisions of CEQA.

Record of project approval may be examined at the address above.

- 3. Mitigation measures X were, \_\_\_ were not, made a condition of the approval of the project.
- 4. (EIR only) Findings \_\_\_ were, \_\_\_ were not, made pursuant to CEQA Guidelines Section 15091.
- 5. (EIR only) A Statement of Overriding Considerations \_\_\_ was, \_\_\_ was not, adopted for this project.

It is hereby certified that the final environmental report, including comments and responses, is available to the general public at the office of the Land Development Review Division, Fifth Floor, City Operations Building, 1222 First Avenue, San Diego, CA 92101.

Analyst: JARQUE

Telephone: (619) 687-5961

Filed by: \_\_\_\_\_  
*Signature*

\_\_\_\_\_  
*Title*

Reference: California Public Resources Code, Sections 21108 and 21152.

**Legal Description****Exhibit "B"**

Real property in the City of San Diego, County of San Diego, State of California, described as follows:

**Parcel A:**

Lots 39 to 44 inclusive in Block 227 of Mannasse and Schiller's Addition, according to the Map thereof No. 209 filed in the Office of the Recorder of San Diego County, July 11th, 1870.

Together with those portions of Fractional Lots 45 to 48, in Block 227 of Mannasse and Schiller's Addition, being a Subdivision of Pueblo Lot 1157, in the City of San Diego, County of San Diego, State of California, according to the Map thereof No. 209 filed in the Office of the Recorder of said San Diego County, July 11, 1870.

Also together with those portions of Lots 1, 2 and 3 in Block 64 of Sherman's Addition, according to Map thereof No. 856 filed in the Office of the Recorder of San Diego County, February 18, 1899, lying South of the South line of Irving Avenue as conveyed to City of San Diego by John J. McCook by Deed dated June 15, 1893 and recorded in Book 222 Page 183 of Deeds in records of San Diego County, in the Office of the County Recorder of San Diego County.

**Parcel B:**

Fractional Lots eighteen (18) to twenty-two (22) inclusive in Block two hundred twenty-eight (228) of Mannasse and Schiller's Addition, according to Map thereof made by Chas A. Fox, No. 209, filed in the Office of the County Recorder of said San Diego County, July 11, 1870, excepting therefrom that portion of Lots eighteen (18) and nineteen (19) conveyed to the City of San Diego, and also excepting those portions of Lots eighteen (18), nineteen (19) and twenty (20), lying North of a line running parallel with and twelve (12) feet distant Southerly from the Northerly boundary line of said Mannasse and Schiller's Addition.

Together with Lots twenty-three and twenty-four in Block two hundred twenty-eight of Mannasse and Schiller's Subdivision of Pueblo Lot 1157, according to the Map thereof No. 209, filed in the Office of the Recorder of said San Diego County, July 11, 1870.

Also together with that portion of Beardsley St. vacated in Resolution No. 49206 dated February 25, 1929.

## Parcel C:

Lots eight, nine, ten and eleven in Block two hundred thirty-eight of the Subdivision of Pueblo Lot 1157, commonly known as Mannasse and Schiller's Addition, according to Map thereof No. 209, filed in the Office of the County Recorder of San Diego County, July 11, 1870.

Together with that portion of Lots three to eight inclusive lying Northeasterly of Irving Avenue as now extended in Block sixty-four of Sherman's Addition, according to Map thereof No. 856, filed in the Office of the County Recorder of San Diego County, February 18, 1899.

## Parcel D:

Fractional Lots 1 to 5 inclusive and Lots 6 to 8 inclusive in Block 237 of Lincoln Park, in the City of San Diego, County of San Diego, State of California, according to Map No. 478 filed in the Office of the Recorder of said San Diego County, January 4, 1888; also Fractional Lots 30 to 33 inclusive in Block 238 of San Diego Land and Town Company's Addition, in the City of San Diego, County of San Diego, State of California, according to Map No. 379 filed in the Office of the Recorder of said San Diego County, October 30, 1886.

Together with that portion of Lots nine, ten and eleven in Block two-hundred thirty-seven of Lincoln Park, according to Map thereof No. 478 filed in the Office of the Recorder of San Diego County, January 4, 1888, which lie within the Southwest Quarter of Pueblo Lot 1154.

## Parcel E:

Lots ten, eleven and twelve (10, 11 and 12) of Fractional Block sixty-five (65), heretofore conditionally deeded to the City of San Diego Board of School Trustees, of Sherman's Addition to San Diego as per official Map on file in County Recorder's Office of the County of San Diego and State of California.

Together with Lots one (1) and two (2) in Block sixty-five of Sherman's Addition, according to the Map thereof No. 856, filed in the Office of the Recorder of said San Diego County, February 18, 1899.

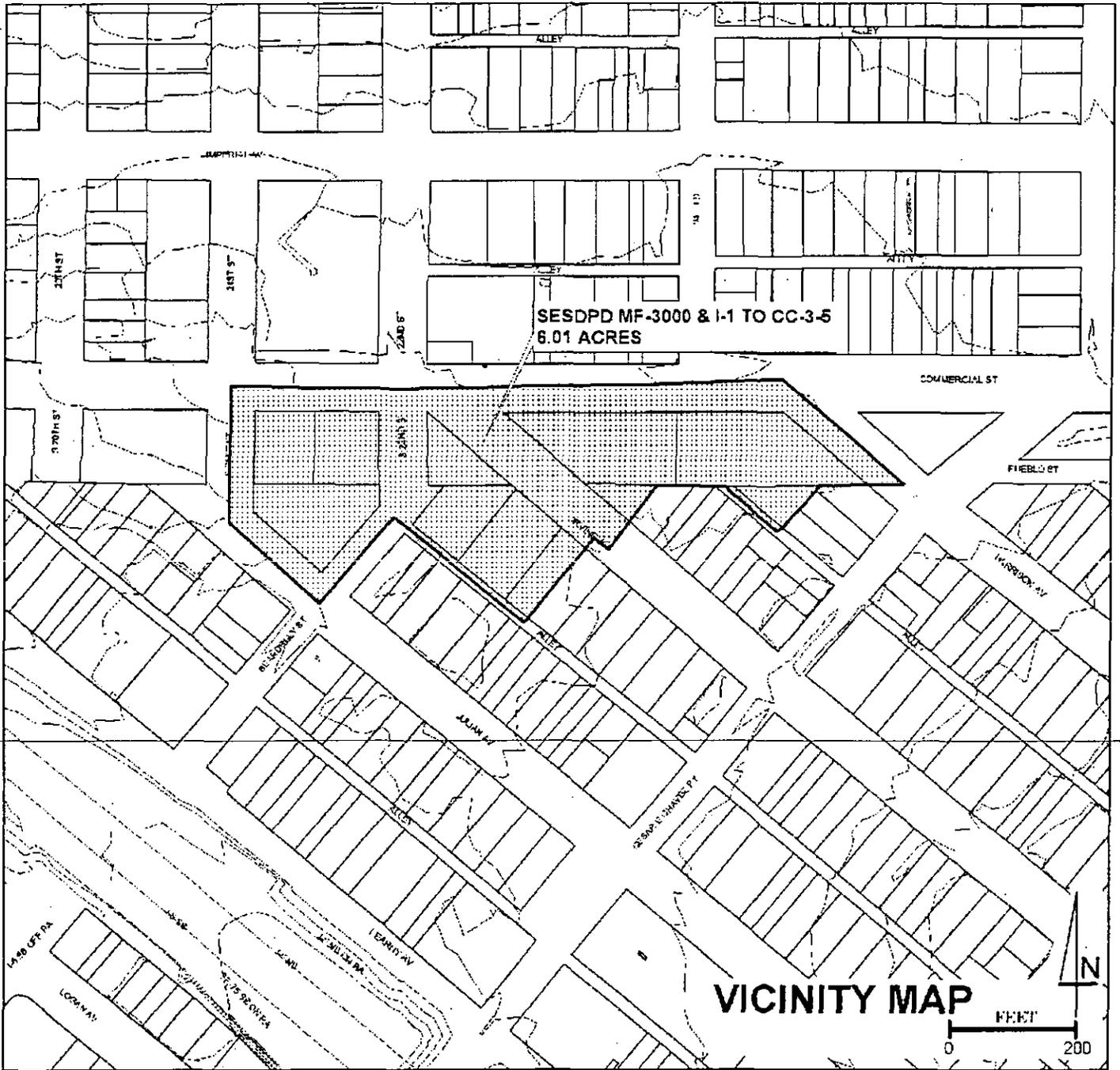
Also together with Lot three (3) in Block sixty-five (65) of Sherman's Addition, according to Map thereof No. 856, filed in the Office of the County Recorder of said San Diego County, February 18, 1899.

Also all those portions of Lots eighteen (18), nineteen (19) and twenty (20), in Block two hundred twenty-eight (228) of the Subdivision of Pueblo Lot 1157, commonly known as Mannasse and Schiller's Addition, according to Map thereof No. 209, filed in the Office of the County Recorder of said San Diego County July 11, 1870, that lie North of a line parallel with and 12 feet distant at right angles Southerly from the North boundary line of said Mannasse and Schiller's Addition. Excepting from said portion of Lot 16 that portion thereof that was conveyed to the City of San Diego by Deed from Celia Schiller recorded in Book 237, Page 75 of Deeds.

538-100-26, 27, 28 and 29; 538-120-01 and 17; 535-660-34; 535-640-13, 14, 15 and 16



# PROPOSED REZONING



BLK 64, LOT 1-8, BLK 65 LOTS 1-3,10-12 MAP 856, BLK 237, LOTS 1-11 MAP 478

|                        |   |
|------------------------|---|
| ORDINANCE NO. _____    | REQUEST CC-3-5                                |
| EFF. DATE ORD. _____   | PLANNING COMM. RECOMMENDATION <i>Adopt</i>    |
| ZONING SUBJ. TO _____  | CITY COUNCIL ACTION <i>03 OCT 18 VR 10:30</i> |
| BEFORE DATE _____      |   |
| EFF. DATE ZONING _____ |   |
| MAP NAME AND NO. _____ |   |

CASE NO. 42-4564

*[Signature]*  
DEVELOPMENT SERVICES MANAGER

**B-4254**

APN: 535-640-13-16, 535-660-34,  
538-100-26-29, 538-120-01 & 17

(196-1725) 4-30-07 kj

Portion of Map Per C-732H.3

CITY ATTORNEY DIGEST

ORDINANCE NUMBER O-\_\_\_\_\_ (NEW SERIES)

DATE OF FINAL PASSAGE \_\_\_\_\_

EFFECTIVE DATE \_\_\_\_\_

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SAN DIEGO CHANGING 4.58 ACRES, LOCATED BETWEEN COMMERCIAL STREET, BEARDSELY STREET AND IRVING AVENUE, AND BETWEEN 21ST STREET AND HARRISON AVENUE, WITHIN THE SOUTHEASTERN SAN DIEGO COMMUNITY PLAN AREA, IN THE CITY OF SAN DIEGO, CALIFORNIA, FROM THE SOUTHEAST SAN DIEGO PLANNED DISTRICT MF-3000 AND I-1 ZONES INTO THE COMMERCIAL CC-3-5 ZONE, AS DEFINED BY SAN DIEGO MUNICIPAL CODE SECTION 131.0507, AND REPEALING ORDINANCE NOS. O-17410 (NEW SERIES) ADOPTED JANUARY 8, 1990 AND O-18478 (NEW SERIES), ADOPTED APRIL 7, 1998, OF THE ORDINANCES OF THE CITY OF SAN DIEGO INSOFAR AS THE SAME CONFLICT HEREWITH.

This ordinance approves the rezoning of 4.58 acres from the Southeast San Diego Planned District MF-3000 and I-1 zones to the Commercial CC-3-5 zone, in connection with property located between Commercial and Beardsely Streets, between 21<sup>st</sup> Street and Harrison Avenue, in the Southeastern San Diego Community Plan, in the City of San Diego, California.

This ordinance contains a notice that a full reading of this ordinance is dispensed with prior to its final passage, since a written or printed copy will be available to the City Council and the public a day prior to its final passage.

This ordinance shall take effect and be in force on the thirtieth day from and after its final passage.

01 NOV 13 04 3:33

RECEIVED

A complete copy of the Ordinance is available for inspection in the Office of the City Clerk of the City of San Diego, 2nd Floor, City Administration Building, 202 C Street, San Diego, CA 92101.

SRE:pev  
10/16/2007  
Or.Dept:DSD  
O-200854

NOV 13 11 35 AM '07  
-PAGE 2 OF 2-

ORDINANCE NUMBER O-\_\_\_\_\_ (NEW SERIES)

DATE OF FINAL PASSAGE \_\_\_\_\_

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SAN DIEGO CHANGING 4.58 ACRES, LOCATED BETWEEN COMMERCIAL STREET, BEARDSLEY STREET AND IRVING AVENUE, AND BETWEEN 21<sup>ST</sup> STREET AND HARRISON AVENUE, WITHIN THE SOUTHEASTERN SAN DIEGO COMMUNITY PLAN AREA, IN THE CITY OF SAN DIEGO, CALIFORNIA, FROM THE SOUTHEAST SAN DIEGO PLANNED DISTRICT MF-3000 AND I-1 ZONES INTO THE COMMERCIAL CC-3-5 ZONE, AS DEFINED BY SAN DIEGO MUNICIPAL CODE SECTION 131.0507, AND REPEALING ORDINANCE NOS. O-17410 (NEW SERIES) ADOPTED JANUARY 8, 1990 AND O-18478 (NEW SERIES), ADOPTED APRIL 7, 1998, OF THE ORDINANCES OF THE CITY OF SAN DIEGO INSOFAR AS THE SAME CONFLICT HEREWITH.

WHEREAS, under Charter section 280(a)(2) this ordinance 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; NOW, THEREFORE,

BE IT ORDAINED, by the Council of the City of San Diego, as follows:

Section 1. That 4.58 acres, located between Commercial and Beardseley Streets, between 21<sup>st</sup> Street and Harrison Avenue, (see legal description attached as Exhibit "B"), in the Southeastern San Diego Community Plan area, in the City of San Diego, California, as shown on Zone Map Drawing No. B-4254, on file in the office of the City Clerk as Document No.

OO-\_\_\_\_\_, are rezoned from the Southeast San Diego Planned District MF-3000 and I-1 zones into the Commercial CC-3-5 zone, , as the zone is described and defined by San Diego Municipal Code Chapter 13, Article 1, Division 5. This action amends the Official Zoning Map

RECEIVED

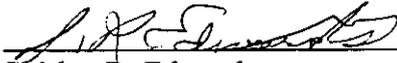
adopted by Resolution No. R-301263 on February 28, 2006, with final passage date of March 14, 2006.

Section 2. That Ordinance No. O-17410 (New Series) adopted January 8, 1990 and Ordinance No. O-18478 (New Series) adopted April 7, 1998, of the ordinances of the City of San Diego are repealed insofar as the same conflict with the rezoned uses of the land.

Section 3. That a full reading of this ordinance is dispensed with prior to passage, since a written copy was made available to the City Council and the public prior to the day of its passage.

Section 4. This ordinance shall take effect and be in force on the thirtieth day from and after its final passage, and no building permits for development inconsistent with the provisions of this ordinance shall be issued unless application therefor was made prior to the date of adoption of this ordinance.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By   
Shirley R. Edwards  
Chief Deputy City Attorney

SRE:pev  
10/16/07  
Or.Dept:DSD  
O-2008-54  
MMS #5477

2008 OCT 13 10:35  
CITY OF SAN DIEGO  
RECEIVED

RESOLUTION NUMBER R-\_\_\_\_\_

DATE OF FINAL PASSAGE \_\_\_\_\_

WHEREAS, on January 19, 2007, San Diego Unified School District, a school district organized and existing under the laws of the State of California, Owner, and COMM 22, LLC, a California limited liability corporation, Permittee, submitted an application to the City of San Diego for a rezone, Progress Guide and General Plan and Southeastern San Diego Community Plan Amendment, a vesting tentative map/public right-of-way vacation/easement vacation, and site development permit/planned development/conditional use permit for the COMM 22 project; and

WHEREAS, on October 11, 2007, the Planning Commission of the City of San Diego considered the issues discussed in Mitigated Negative Declaration No. 122002; and

WHEREAS, the matter was set for a public hearing to be conducted by the City Council of the City of San Diego; and

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

WHEREAS, the issue was heard by the City Council on \_\_\_\_\_; and

WHEREAS, the City Council considered the issues discussed in Mitigated Negative Declaration No. 122002; NOW, THEREFORE,

BE IT RESOLVED, by the City Council of the City of San Diego, that it is certified that Mitigated Negative Declaration No. 122002, on file in the office of the City Clerk, has been completed in compliance with the California Environmental Quality Act of 1970 (California Public Resources Code section 21000 et seq.), as amended, and the State guidelines thereto (California Code of Regulations section 15000 et seq.), that the declaration reflects the independent judgment of the City of San Diego as Lead Agency and that the information contained in the report, together with any comments received during the public review process, has been reviewed and considered by this City Council in connection with the approval of a rezone, Progress Guide and General Plan and Southeastern San Diego Community Plan Amendment, a vesting tentative map/public right-of-way vacation/easement vacation, and site development permit/planned development/conditional use permit for the COMM 22 project.

BE IT FURTHER RESOLVED, that the City Council finds that project revisions now mitigate potentially significant effects on the environment previously identified in the Initial Study and therefore, that the Mitigated Negative Declaration, a copy of which is on file in the office of the City Clerk and incorporated by reference, is approved.

BE IT FURTHER RESOLVED, that pursuant to California Public Resources Code section 21081.6, the City Council adopts the Mitigation Monitoring and Reporting Program, or alterations to implement the changes to the project as required by this body in order to mitigate or avoid significant effects on the environment, a copy of which is attached hereto, as Exhibit A, and incorporated herein by reference.

BE IT FURTHER RESOLVED, that the City Clerk is directed to file a Notice of Determination [NOD] with the Clerk of the Board of Supervisors for the County of San Diego regarding the above project.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By



Shirley R. Edwards  
Chief Deputy City Attorney

SRE:pev

10/16/07

Or.Dept:DSD

R-2008-336

MMS #5477

ENVIRONMENTAL - MND 11-01-04

## EXHIBIT A

## MITIGATION MONITORING AND REPORTING PROGRAM

REZONE, PROGRESS GUIDE AND GENERAL PLAN AND SOUTHEASTERN SAN DIEGO COMMUNITY PLAN AMENDMENT, PUBLIC RIGHT-OF-WAY VACATION, EASEMENT VACATION, VESTING TENTATIVE MAP, SITE DEVELOPMENT PERMIT, PLANNED DEVELOPMENT PERMIT; AND CONDITIONAL USE PERMIT

PROJECT NO. 122002

This Mitigation Monitoring and Reporting Program is designed to ensure compliance with Public Resources Code Section 21081.6 during implementation of mitigation measures. This program identifies at a minimum: the department responsible for the monitoring, what is to be monitored, how the monitoring shall be accomplished, the monitoring and reporting schedule, and completion requirements. A record of the Mitigation Monitoring and Reporting Program will be maintained at the offices of the Land Development Review Division, 1222 First Avenue, Fifth Floor, San Diego, CA 92101. All mitigation measures contained in the Mitigated Negative Declaration (Project No. 122002) shall be made conditions of Rezone, Progress Guide And General Plan And Southeastern Sand Diego Community Plan Amendment, Public Right-Of-Way Vacation, Easement Vacation, Vesting Tentative Map, Site Development Permit, Planned Development Permit; and Conditional Use Permit, as may be further described below.

**GENERAL**

1. Prior to the issuance of a Notice to Proceed (NTP) or any permits, including but not limited to, the first Grading Permit, Demolition Permits and Building Permits, the Assistant Deputy Director (ADD) of the City's Land Development Review Division (LDR) shall verify that the following statement is shown on the grading and/or construction plans as a note under the heading *Environmental Requirements*: "COMM 22 project is subject to a Mitigation, Monitoring and Reporting Program and shall conform to the mitigation conditions as contained in the Mitigated Negative Declaration."
2. The owner/permittee shall make arrangements to schedule a pre-construction meeting to ensure implementation of the MMRP. The meeting shall include the Resident Engineer, Paleontologist, Archaeologist, Historic Architect (when applicable), and the City's Mitigation Monitoring Coordination (MMC) Section.

**PALEONTOLOGICAL RESOURCES****I. Prior to Permit Issuance****A. Land Development Review (LDR) Plan Check**

1. Prior to Notice to Proceed (NTP) for any construction permits, including but not limited to, the first Grading Permit, Demolition Plans/Permits and Building Plans/Permits, but prior to the first preconstruction meeting, whichever is applicable, the Assistant Deputy Director (ADD) Environmental designee shall verify that the requirements for Paleontological Monitoring have been noted on the appropriate construction documents.

**B. Letters of Qualification have been submitted to ADD**

1. The applicant shall submit a letter of verification to Mitigation Monitoring Coordination (MMC) identifying the Principal Investigator (PI) for the project

and the names of all persons involved in the paleontological monitoring program, as defined in the City of San Diego Paleontology Guidelines.

2. MMC will provide a letter to the applicant confirming the qualifications of the PI and all persons involved in the paleontological monitoring of the project.
3. Prior to the start of work, the applicant shall obtain approval from MMC for any personnel changes associated with the monitoring program.

## II. Prior to Start of Construction

### A. Verification of Records Search

1. The PI shall provide verification to MMC that a site specific records search has been completed. Verification includes, but is not limited to a copy of a confirmation letter from San Diego Natural History Museum, other institution or, if the search was in-house, a letter of verification from the PI stating that the search was completed.
2. The letter shall introduce any pertinent information concerning expectations and probabilities of discovery during trenching and/or grading activities.

### B. PI Shall Attend Precon Meetings

1. Prior to beginning any work that requires monitoring, the Applicant shall arrange a Precon Meeting that shall include the PI, Construction Manager (CM) and/or Grading Contractor, Resident Engineer (RE), Building Inspector (BI), if appropriate, and MMC. The qualified paleontologist shall attend any grading/excavation related Precon Meetings to make comments and/or suggestions concerning the Paleontological Monitoring program with the Construction Manager and/or Grading Contractor.
  - a. If the PI is unable to attend the Precon Meeting, the Applicant shall schedule a focused Precon Meeting with MMC, the PI, RE, CM or BI, if appropriate, prior to the start of any work that requires monitoring.
2. Identify Areas to be Monitored  
 Prior to the start of any work that requires monitoring, the PI shall submit a Paleontological Monitoring Exhibit (PME) based on the appropriate construction documents (reduced to 11x17) to MMC identifying the areas to be monitored including the delineation of grading/excavation limits. The PME shall be based on the results of a site specific records search as well as information regarding existing known soil conditions (native or formation).
3. When Monitoring Will Occur
  - a. Prior to the start of any work, the PI shall also submit a construction schedule to MMC through the RE indicating when and where monitoring will occur.
  - b. The PI may submit a detailed letter to MMC prior to the start of work or during construction requesting a modification to the monitoring program. This request shall be based on relevant information such as review of final construction documents which indicate conditions such as depth of excavation and/or site graded to bedrock, presence or absence of fossil resources, etc., which may reduce or increase the potential for resources to be present.

### III. During Construction

#### A. Monitor Shall be Present During Grading/Excavation/Trenching

1. The monitor shall be present full-time during grading/excavation/trenching activities as identified on the PME that could result in impacts to formations with high and moderate resource sensitivity. **The Construction Manager is responsible for notifying the RE, PI, and MMC of changes to any construction activities.**
2. The monitor shall document field activity via the Consultant Site Visit Record (CSVSR). The CSVSR's shall be faxed by the CM to the RE the first day of monitoring, the last day of monitoring, monthly (**Notification of Monitoring Completion**), and in the case of ANY discoveries. The RE shall forward copies to MMC.
3. The PI may submit a detailed letter to MMC during construction requesting a modification to the monitoring program when a field condition such as trenching activities that do not encounter formational soils as previously assumed, and/or when unique/unusual fossils are encountered, which may reduce or increase the potential for resources to be present.

#### B. Discovery Notification Process

1. In the event of a discovery, the Paleontological Monitor shall direct the contractor to temporarily divert trenching activities in the area of discovery and immediately notify the RE or BI, as appropriate.
2. The Monitor shall immediately notify the PI (unless Monitor is the PI) of the discovery.
3. The PI shall immediately notify MMC by phone of the discovery, and shall also submit written documentation to MMC within 24 hours by fax or email with photos of the resource in context, if possible.

#### C. Determination of Significance

1. The PI shall evaluate the significance of the resource.
  - a. The PI shall immediately notify MMC by phone to discuss significance determination and shall also submit a letter to MMC indicating whether additional mitigation is required. The determination of significance for fossil discoveries shall be at the discretion of the PI.
  - b. If the resource is significant, the PI shall submit a Paleontological Recovery Program (PRP) and obtain written approval from MMC. Impacts to significant resources must be mitigated before ground disturbing activities in the area of discovery will be allowed to resume.
  - c. If resource is not significant (e.g., small pieces of broken common shell fragments or other scattered common fossils) the PI shall notify the RE, or BI as appropriate, that a non-significant discovery has been made. The Paleontologist shall continue to monitor the area without notification to MMC unless a significant resource is encountered.
  - d. The PI shall submit a letter to MMC indicating that fossil resources will be collected, curated, and documented in the Final Monitoring Report. The letter shall also indicate that no further work is required.

**IV. Night Work**

- A. If night work is included in the contract
1. When night work is included in the contract package, the extent and timing shall be presented and discussed at the precon meeting.
  2. The following procedures shall be followed.
    - a. No Discoveries  
In the event that no discoveries were encountered during night work, The PI shall record the information on the CSVR and submit to MMC via fax by 9am the following morning, if possible.
    - b. Discoveries  
All discoveries shall be processed and documented using the existing procedures detailed in Sections III - During Construction.
    - c. Potentially Significant Discoveries  
If the PI determines that a potentially significant discovery has been made, the procedures detailed under Section III - During Construction shall be followed.
    - d. The PI shall immediately contact MMC, or by 8AM the following morning to report and discuss the findings as indicated in Section III-B, unless other specific arrangements have been made.
- B. If night work becomes necessary during the course of construction
1. The Construction Manager shall notify the RE, or BI, as appropriate, a minimum of 24 hours before the work is to begin.
  2. The RE, or BI, as appropriate, shall notify MMC immediately.
- C. All other procedures described above shall apply, as appropriate.

**VI.V. Post Construction**

- A. Submittal of Draft Monitoring Report
1. The PI shall submit two copies of the Draft Monitoring Report (even if negative) which describes the results, analysis, and conclusions of all phases of the Paleontological Monitoring Program (with appropriate graphics) to MMC for review and approval within 90 days following the completion of monitoring,
    - a. For significant paleontological resources encountered during monitoring, the Paleontological Recovery Program shall be included in the Draft Monitoring Report.
    - b. Recording Sites with the San Diego Natural History Museum  
The PI shall be responsible for recording (on the appropriate forms) any significant or potentially significant fossil resources encountered during the Paleontological Monitoring Program in accordance with the City's Paleontological Guidelines, and submittal of such forms to the San Diego Natural History Museum with the Final Monitoring Report.
  2. MMC shall return the Draft Monitoring Report to the PI for revision or, for preparation of the Final Report.
  3. The PI shall submit revised Draft Monitoring Report to MMC for approval.
  4. MMC shall provide written verification to the PI of the approved report.
  5. MMC shall notify the RE or BI, as appropriate, of receipt of all Draft Monitoring Report submittals and approvals.
- B. Handling of Fossil Remains
1. The PI shall be responsible for ensuring that all fossil remains collected are cleaned and catalogued.

2. The PI shall be responsible for ensuring that all fossil remains are analyzed to identify function and chronology as they relate to the geologic history of the area; that faunal material is identified as to species; and that specialty studies are completed, as appropriate
- C. Curation of fossil remains: Deed of Gift and Acceptance Verification
1. The PI shall be responsible for ensuring that all fossil remains associated with the monitoring for this project are permanently curated with an appropriate institution.
  2. The PI shall include the Acceptance Verification from the curation institution in the Final Monitoring Report submitted to the RE or BI and MMC.
- D. Final Monitoring Report(s)
1. The PI shall submit two copies of the Final Monitoring Report to MMC (even if negative), within 90 days after notification from MMC that the draft report has been approved.
  2. The RE shall, in no case, issue the Notice of Completion until receiving a copy of the approved Final Monitoring Report from MMC which includes the Acceptance Verification from the curation institution.

## **HISTORICAL RESOURCES (ARCHAEOLOGY)**

### **I. Prior to Permit Issuance**

- A. Land Development Review (LDR) Plan Check
1. Prior to Notice to Proceed (NTP) for any construction permits, including but not limited to, the first Grading Permit, Demolition Plans/Permits and Building Plans/Permits, but prior to the first preconstruction meeting, whichever is applicable, the Assistant Deputy Director (ADD) Environmental designee shall verify that the requirements for Archaeological Monitoring and Native American monitoring, if applicable, have been noted on the appropriate construction documents.
- B. Letters of Qualification have been submitted to ADD
1. The applicant shall submit a letter of verification to Mitigation Monitoring Coordination (MMC) identifying the Principal Investigator (PI) for the project and the names of all persons involved in the archaeological monitoring program, as defined in the City of San Diego Historical Resources Guidelines (HRG). If applicable, individuals involved in the archaeological monitoring program must have completed the 40-hour HAZWOPER training with certification documentation.
  2. MMC will provide a letter to the applicant confirming the qualifications of the PI and all persons involved in the archaeological monitoring of the project.
  3. Prior to the start of work, the applicant must obtain approval from MMC for any personnel changes associated with the monitoring program.

### **II. Prior to Start of Construction**

- A. Verification of Records Search
1. The PI shall provide verification to MMC that a site specific records search (1/4 mile radius) has been completed. Verification includes, but is not limited to a copy of a confirmation letter from South Coast Information Center, or, if the

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search was in-house, a letter of verification from the PI stating that the search was completed.

2. The letter shall introduce any pertinent information concerning expectations and probabilities of discovery during trenching and/or grading activities.
3. The PI may submit a detailed letter to MMC requesting a reduction to the ¼ mile radius.

B. PI Shall Attend Precon Meetings

1. Prior to beginning any work that requires monitoring, the Applicant shall arrange a Precon Meeting that shall include the PI, Construction Manager (CM) and/or Grading Contractor, Resident Engineer (RE), Building Inspector (BI), if appropriate, and MMC. The qualified Archaeologist shall attend any grading/excavation related Precon Meetings to make comments and/or suggestions concerning the Archaeological Monitoring program with the Construction Manager and/or Grading Contractor.
  - a. If the PI is unable to attend the Precon Meeting, the Applicant shall schedule a focused Precon Meeting with MMC, the PI, RE, CM or BI, if appropriate, prior to the start of any work that requires monitoring.
2. Identify Areas to be Monitored
  - a. Prior to the start of any work that requires monitoring, the PI shall submit an Archaeological Monitoring Exhibit (AME) based on the appropriate construction documents (reduced to 11x17) to MMC identifying the areas to be monitored including the delineation of grading/excavation limits.
  - b. The AME shall be based on the results of a site specific records search as well as information regarding existing known soil conditions (native or formation).
3. When Monitoring Will Occur
  - a. Prior to the start of any work, the PI shall also submit a construction schedule to MMC through the RE indicating when and where monitoring will occur.
  - b. The PI may submit a detailed letter to MMC prior to the start of work or during construction requesting a modification to the monitoring program. This request shall be based on relevant information such as review of final construction documents which indicate site conditions such as depth of excavation and/or site graded to bedrock, etc., which may reduce or increase the potential for resources to be present.

III. During Construction

A. Monitor Shall be Present During Grading/Excavation/Trenching

1. The monitor shall be present full-time during grading/excavation/trenching activities which could result in impacts to archaeological resources as identified on the AME. **The Construction Manager is responsible for notifying the RE, PI, and MMC of changes to any construction activities.**
2. The monitor shall document field activity via the Consultant Site Visit Record (CSVSR). The CSVSR's shall be faxed by the CM to the RE the first day of monitoring, the last day of monitoring, monthly (**Notification of Monitoring Completion**), and in the case of ANY discoveries. The RE shall forward copies to MMC.
3. The PI may submit a detailed letter to MMC during construction requesting a modification to the monitoring program when a field condition such as modern

disturbance post-dating the previous grading/trenching activities, presence of fossil formations, or when native soils are encountered may reduce or increase the potential for resources to be present.

**B. Discovery Notification Process**

1. In the event of a discovery, the Archaeological Monitor shall direct the contractor to temporarily divert trenching activities in the area of discovery and immediately notify the RE or BI, as appropriate.
2. The Monitor shall immediately notify the PI (unless Monitor is the PI) of the discovery.
3. The PI shall immediately notify MMC by phone of the discovery, and shall also submit written documentation to MMC within 24 hours by fax or email with photos of the resource in context, if possible.

**C. Determination of Significance**

1. The PI and Native American representative, if applicable, shall evaluate the significance of the resource. If Human Remains are involved, follow protocol in Section IV below.
  - a. The PI shall immediately notify MMC by phone to discuss significance determination and shall also submit a letter to MMC indicating whether additional mitigation is required.
  - b. If the resource is significant, the PI shall submit an Archaeological Data Recovery Program (ADRP) and obtain written approval from MMC. Impacts to significant resources must be mitigated before ground disturbing activities in the area of discovery will be allowed to resume.
  - c. If resource is not significant, the PI shall submit a letter to MMC indicating that artifacts will be collected, curated, and documented in the Final Monitoring Report. The letter shall also indicate that that no further work is required.

**IV. Discovery of Human Remains**

If human remains are discovered, work shall halt in that area and the following procedures set forth in the California Public Resources Code (Sec. 5097.98) and State Health and Safety Code (Sec. 7050.5) shall be undertaken:

**A. Notification**

1. Archaeological Monitor shall notify the RE or BI as appropriate, MMC, and the PI, if the Monitor is not qualified as a PI. MMC will notify the appropriate Senior Planner in the Environmental Analysis Section (EAS).
2. The PI shall notify the Medical Examiner after consultation with the RE, either in person or via telephone.

**B. Isolate discovery site**

1. Work shall be directed away from the location of the discovery and any nearby area reasonably suspected to overlay adjacent human remains until a determination can be made by the Medical Examiner in consultation with the PI concerning the provenience of the remains.
2. The Medical Examiner, in consultation with the PI, shall determine the need for a field examination to determine the provenience.
3. If a field examination is not warranted, the Medical Examiner shall determine with input from the PI, if the remains are or are most likely to be of Native American origin.

- C. If Human Remains **ARE** determined to be Native American
1. The Medical Examiner shall notify the Native American Heritage Commission (NAHC). By law, **ONLY** the Medical Examiner can make this call.
  2. The NAHC shall contact the PI within 24 hours or sooner, after Medical Examiner has completed coordination.
  3. NAHC shall identify the person or persons determined to be the Most Likely Descendent (MLD) and provide contact information.
  4. The PI shall coordinate with the MLD for additional consultation.
  5. Disposition of Native American Human Remains shall be determined between the MLD and the PI, IF:
    - a. The NAHC is unable to identify the MLD, OR the MLD failed to make a recommendation within 24 hours after being notified by the Commission; OR;
    - b. The landowner or authorized representative rejects the recommendation of the MLD and mediation in accordance with PRC 5097.94 (k) by the NAHC fails to provide measures acceptable to the landowner.
- D. If Human Remains are **NOT** Native American
1. The PI shall contact the Medical Examiner and notify them of the historic era context of the burial.
  2. The Medical Examiner will determine the appropriate course of action with the PI and City staff (PRC 5097.98).
  3. If the remains are of historic origin, they shall be appropriately removed and conveyed to the Museum of Man for analysis. The decision for internment of the human remains shall be made in consultation with MMC, EAS, the applicant/landowner and the Museum of Man.

## V. Night Work

- A. If night work is included in the contract
1. When night work is included in the contract package, the extent and timing shall be presented and discussed at the precon meeting.
  2. The following procedures shall be followed.
    - a. No Discoveries  
In the event that no discoveries were encountered during night work, The PI shall record the information on the CSVN and submit to MMC via fax by 9am the following morning, if possible.
    - b. Discoveries  
All discoveries shall be processed and documented using the existing procedures detailed in Sections III - During Construction, and IV - Discovery of Human Remains.
    - c. Potentially Significant Discoveries  
If the PI determines that a potentially significant discovery has been made, the procedures detailed under Section III - During Construction shall be followed.
    - d. The PI shall immediately contact MMC, or by 8AM the following morning to report and discuss the findings as indicated in Section III-B, unless other specific arrangements have been made.
- B. If night work becomes necessary during the course of construction
1. The Construction Manager shall notify the RE, or BI, as appropriate, a minimum of 24 hours before the work is to begin.
  2. The RE, or BI, as appropriate, shall notify MMC immediately.

C. All other procedures described above shall apply, as appropriate.

## VI. Post Construction

### A. Submittal of Draft Monitoring Report

1. The PI shall submit two copies of the Draft Monitoring Report (even if negative) which describes the results, analysis, and conclusions of all phases of the Archaeological Monitoring Program (with appropriate graphics) to MMC for review and approval within 90 days following the completion of monitoring,
  - a. For significant archaeological resources encountered during monitoring, the Archaeological Data Recovery Program shall be included in the Draft Monitoring Report.
  - b. Recording Sites with State of California Department of Parks and Recreation  
The PI shall be responsible for recording (on the appropriate State of California Department of Park and Recreation forms-DPR 523 A/B) any significant or potentially significant resources encountered during the Archaeological Monitoring Program in accordance with the City's Historical Resources Guidelines, and submittal of such forms to the South Coastal Information Center with the Final Monitoring Report.
2. MMC shall return the Draft Monitoring Report to the PI for revision or, for preparation of the Final Report.
3. The PI shall submit revised Draft Monitoring Report to MMC for approval.
4. MMC shall provide written verification to the PI of the approved report.
5. MMC shall notify the RE or BI, as appropriate, of receipt of all Draft Monitoring Report submittals and approvals.

### B. Handling of Artifacts

1. The PI shall be responsible for ensuring that all cultural remains collected are cleaned and catalogued
2. The PI shall be responsible for ensuring that all artifacts are analyzed to identify function and chronology as they relate to the history of the area; that faunal material is identified as to species; and that specialty studies are completed, as appropriate.

### C. Curation of artifacts: Accession Agreement and Acceptance Verification

1. The PI shall be responsible for ensuring that all artifacts associated with the survey, testing and/or data recovery for this project are permanently curated with an appropriate institution. This shall be completed in consultation with MMC and the Native American representative, as applicable.
2. The PI shall include the Acceptance Verification from the curation institution in the Final Monitoring Report submitted to the RE or BI and MMC.

### D. Final Monitoring Report(s)

1. The PI shall submit one copy of the approved Final Monitoring Report to the RE or BI as appropriate, and one copy to MMC (even if negative), within 90 days after notification from MMC that the draft report has been approved.
2. The RE shall, in no case, issue the Notice of Completion until receiving a copy of the approved Final Monitoring Report from MMC which includes the Acceptance Verification from the curation institution.

**HISTORICAL (ARCHITECTURE)**

1. Prior to issuance of a demolition or building permit for Site A, as shown on the approved Exhibit A, the applicant/owner/permittee shall submit to the Assistant Deputy Director (ADD) of Land Development Review (LDR) Division detailed construction plans for Building 1A. The plans shall indicate and note that the building has been designed to be consistent with the Secretary of Interior Standards for the Treatment of Historic Properties and related Guidelines.
2. Prior to issuance of certificates of occupancy, the ADD of LDR or Environmental Analysis Section (EAS) staff shall verify through a site inspection that the exterior building rehabilitation is consistent with Exhibit A and complies with the Secretary of Interior Standards for the Treatment of Historic Properties and related Guidelines.

**HUMAN HEALTH AND PUBLIC SAFETY (Hazardous Materials)**

1. The Applicant/Owner/Permittee shall provide the Assistant Deputy Director (ADD)/Development Services Department (DSD), a copy of the Property Mitigation Plan (PMP), Health Risk Assessment (included in the PMP or may be a separate document), and any Monitoring reports provided to the County of San Diego Department of Environmental Health (DEH) in conjunction with the County's review through the Voluntary Assistance Program (VAP) and/or California Environmental Protection Agency (Cal EPA) Site Designation Process.
2. Prior to the foundation inspection approval for each building, or project phase, the Applicant/Owner/Permittee shall submit to the ADD of LDR, a Letter of Concurrence from the Administering Agency under the California EPA Site Designation Process confirming that the mitigation measures recommended in the PMP for the building(s), or project phase, have been implemented and that construction of the building(s), or project phase, can proceed. If further remedial action is required during construction activities, based on site assessment activities performed under the direction of the Administering Agency, specific measures shall be incorporated in the remedial action work plan to ensure human health and public safety issues are adequately addressed.
3. Prior to the final building inspection approval, the Applicant/Owner/Permittee shall submit to the ADD of LDR, the Property Closure Report (PCR) documenting environmental assessment and mitigation activities implemented under the PMP and a Letter of Concurrence from the Administering Agency under the California EPA Site Designation Process that the implementation of the PMP has been completed.

**TRANSPORTATION/CIRCULATION**

1. Prior to the issuance of any building permits, applicant shall assure by permit and bond restriping of Cesar Chavez Parkway with left turn pockets at each intersection from Commercial Street to Julian Avenue, satisfactory to the City Engineer.

The above mitigation monitoring and reporting program will require additional fees and/or deposits to be collected prior to the issuance of building permits, certificates of occupancy and/or final maps to ensure the successful completion of the monitoring program.

RESOLUTION NUMBER R-\_\_\_\_\_

DATE OF FINAL PASSAGE \_\_\_\_\_

WHEREAS, COMM 22, LLC, requested an amendment to the Southeastern San Diego Community Plan and an amendment to the Progress Guide and General Plan in order to redesignate land uses located at 2101 Commercial Street, from Industrial and Residential to Community Commercial, (see attached legal description, Exhibit "B"); and

WHEREAS, City Council Policy 600-7 provides that public hearings to consider revisions to the Progress Guide and General Plan for the City of San Diego may be scheduled concurrently with public hearings on proposed community plans in order to retain consistency between said plans and the Planning Commission has held such concurrent public hearings; and

WHEREAS, on October 11, 2007, the Planning Commission of the City of San Diego held a public hearing for the purpose of considering an amendment to the Southeastern San Diego Community Plan and the Progress Guide and General Plan; and

WHEREAS, the Planning Commission of the City of San Diego found the proposed amendment consistent with the Progress Guide and General Plan; 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, on \_\_\_\_\_, the City Council of the City of San Diego held a public hearing for the purpose of considering an amendment to the Progress Guide and General Plan and the Southeastern San Diego Community Plan; and

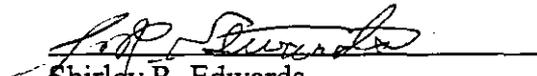
WHEREAS, the Council of the City of San Diego has considered all maps, exhibits, and written documents contained in the file for this project on record in the City of San Diego, and has considered the oral presentations given at the public hearing; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that the Council adopts the amendments to the Southeastern San Diego Community Plan, a copy of which is on file in the office of the City Clerk as Document No. RR-\_\_\_\_\_.

BE IT FURTHER RESOLVED, that the Council adopts the amendment to the Progress Guide and General Plan for the City of San Diego solely to incorporate the above amended plan.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By

  
Shirley R. Edwards  
Chief Deputy City Attorney

SRE:pev

10/16/07

Or.Dept:DSD

R-2008-337

MMS #5477

Community Plan Amend - Applicant Initiated Amendment 11-01-04

## Residential Objectives

1. Respect the housing character, scale, style and density of existing residential neighborhoods.
2. Preserve, restore and rehabilitate residences and/or neighborhoods with historical significance. (Information on historic structures and districts is detailed in the Neighborhood Element of the Plan.)
3. Encourage and accommodate orderly new development that is consistent with the community goals and objectives.
4. Require high quality developments in accordance with the design guidelines as established within the plan and as recommended by Project First Class.
5. Maintain or increase the level of owner occupancy in the community to increase maintenance of properties and to increase pride in individual neighborhoods.

## Residential Recommendations

### 1. Residential Density Designations

- a. To maintain the scale and spacing of development, approximately 30 percent of the community should be developed as "very low" (0-5 du/ac) or "low" (5-10 du/ac) density residential as shown on the community plan map (Figure 47) and Figure 7.
- b. Areas designated for 10-15 dwelling units per acre generally coincide with areas presently zoned R-3000. This density is recommended for a majority of the central and western subareas, where the existing land use is typically 12-15 units per acre. In order to maintain the low visual scale of the community, the 30-foot height limitation of the R3000 Zone should be adhered to.
- c. Provision of higher density residential use should not conflict with existing low scale, low density areas. Portions of the plan area are designated for densities of up to 30 dwelling units per acre with an additional area designated for densities between 30 and 74 dwelling units per acre. The areas designated for ~~these densities of up to 30 dwelling units per acre~~ include parts of Shelltown, and Southcrest, the northern portion of Lincoln Park, and along portions of Naranja Street, Imperial Avenue, National Avenue, and Market Street. This plan has designated areas for this density to reflect existing development, provide incentives for redevelopment and to take advantage of access to the trolley corridor. ~~The development of higher density residential development should be restricted to these areas.~~ The areas designated for densities of 30 to 74 dwelling units per acre include the southern portion of Commercial Street between 21<sup>st</sup> Street and Commercial Avenue (Figure 7).
- d. Preserve the existing low residential densities in areas where a low density residential development pattern already exists and where the existing zoning is R1-5000, R1-6000 R110000 or R1-20000.

The community plan designations for land use could result in a total of 29,000 to 31,000 dwelling units or a decrease of about 18 percent in the existing zoning capacity.

- b. Publicly sponsored redevelopment, with an emphasis on rehabilitating existing commercial buildings, is provided for in the Preliminary Dells Imperial Redevelopment Plan and the Central Imperial Redevelopment Plan. The community plan recommends that priority be given to redevelopment efforts along Imperial Avenue from 25<sup>th</sup> Street to State Highway 15.
- c. Logan-Euclid Professional Business Association. This area should be given priority for landscaping improvements and other assistance because of the owner's willingness to invest. This area could serve as a model for a joint public/private revitalization project. The traffic island here could be landscaped.
9. Public Parking. Public parking lots are needed in areas of higher density or more intense commercial activities, such as Imperial Avenue between 25<sup>th</sup> and 30<sup>th</sup>, and 63<sup>rd</sup> and 66<sup>th</sup> Streets. The funding of these parking areas and their maintenance could be obtained through Business Improvement Districts or Special Assessment Districts. These parking areas should be highly visible from the public streets to increase safety and should be well-lighted and landscaped. In addition, the Euclid Trolley Station should be expanded to the west if this additional area is determined to be needed by MTDB.
10. Alcohol Sales - Conditional Use Permit. The Alcohol Beverage Conditional Use Permit pilot program for new liquor licenses or a change in license should be continued. The number of commercial establishments selling alcoholic beverages in Southeastern San Diego should be reduced in neighborhoods experiencing high level of crime.
11. Multiple-Use. Areas designated for multiple use (commercial/residential) should be established along major streets near residential areas as illustrated in the Neighborhood Element of this plan (p. 157-315), and in redevelopment areas. Areas designated for multiple-use may be developed commercially or residentially. Careful site planning will be required to provide a buffer area between residential and commercial development. This blending of uses will act as a buffer between the commercial and residential zones, can aid in the preservation and re-use of historically significant structures and allows for development flexibility to create new opportunities for redevelopment. All other commercially designated areas should not be permitted to develop residentially to assure that needed commercial services are provided.
12. Urban Plazas and Landscaped Settings. Create urban plazas in park-like setting along Chollas Creek from Imperial Avenue near Interstate 805 on the north to National Avenue on the south which consist of landscaping, enhanced paving, and a location for public art.
13. Commercial Street Revitalization. The southern portion of Commercial Street, between 21<sup>st</sup> and Harrison Avenue is designated Community Commercial (see Figure 7). The Community Commercial Designation provides for mixed use areas with retail, service, civic, office and residential uses for the community along transit corridors. The residential density range associated with the Community Commercial Designation is 30 to 74 dwelling units per acre.

## Industrial Recommendations

1. Proposed Industrial Sites. The community plan land use map will provide for a slight increase in the total of industrial land use acreage allowed by existing zoning. Industrial sites in the community plan are designated in six consolidated industrial development centers. These include:

1. Commercial Street (Generally from Interstate 5 to approximately Bancroft Street);
2. National Avenue (33<sup>rd</sup> Street to State Highway 15);
3. Southcrest East (41<sup>st</sup> Street to 43<sup>rd</sup> Street);
4. Market Street East (Market Street generally from 49<sup>th</sup> Street to Merlin Drive, with the exception of the intersection Market Street and Euclid Avenue);
5. Gateway Center West (32<sup>nd</sup> Street to State Highway 15);
6. Gateway Center East (State Highway 15 to Boundary Street);
7. Market Street Industrial Park (Market Street from Boundary Street to 41<sup>st</sup> Street);
8. Federal Boulevard (just east of 60<sup>th</sup> Street to the City Limits);
9. Imperial Avenue (State Highway 15 to 36<sup>th</sup> Street).

Most of the industrial centers listed above lie within the Redevelopment Agency project areas. The Redevelopment Agency should provide assistance for the assembly of land parcels in these areas. The Redevelopment Agency involvement should also assist in the application of design review for industrial parks at these centers.

2. Lot Sizes. The industrial centers listed above should be designed to allow the assembly of large parcels for major industrial users.
3. Use Restrictions.
  - a. Industrially designated areas should be reserved for industrial and/or office park uses and should not be pre-empted by commercial or residential uses. This should be implemented through zoning or planned district regulations.
  - b. Auto dismantling, junk yards, outdoor open storage and recycling industries should be prohibited in the Southeastern San Diego community. Compliance with this restriction should be required within ten years of adoption of the applicable zoning regulations.

During preparation for the arrival of the San Diego Trolley, many of the industrial developments along Commercial Street participated in a revitalization program which resulted in a general cleanup of the area. However, many of the properties remain in a state of disrepair and are in need of redevelopment.

### Schools

The neighborhood has one elementary school, Burbank Elementary School, located on Evans Street between Irving Avenue and Julian Avenue. With an enrollment of over 600, the school has increased beyond district projections and now has plans for expansion. (See Public Facilities section.)

### **Logan Heights Objectives**

1. Revitalize the commercial uses along Imperial Avenue and Commercial Street, improving building facades and landscaping.
2. Improve the appearance of Imperial Avenue, Commercial Street, and Oceanview Boulevard.
3. Rehabilitate the industrial uses along Commercial Street and increase the amount and quality of screening of industrial uses.
4. Preserve this community's well-maintained and historically significant residential units. Allow redevelopment on underutilized or poorly maintained lots, but preserve the area's development pattern of small houses along the street with additional units towards the rear of lots.

### **Logan Heights Recommendations**

- A. Rezone both sides of Commercial Street to a light industrial zone that limits the range of uses permitted and requires aesthetic screening of all industrial uses, with the exception of the southern portion of Commercial Street between 21<sup>st</sup> Street and Harrison Avenue, which should be rezoned to CC-3-5.

Commercial Street is presently occupied with industrial uses including auto dismantling facilities, heavy manufacturing, boat building, and outdoor storage. Although these uses play an important role of the economy of Southeastern San Diego, it is important that these uses not be offensive or in conflict with surrounding land uses. This plan recommends that Commercial Street be rezoned from the existing M-2 and M-1 zones to a light industry and service zone for uses such as small and incubator businesses, wholesaling and office space. The alley system should be used as much as possible for service and parking access, reducing conflict with the trolley. Development regulations should ensure that industrial uses are screened by walls or berms.

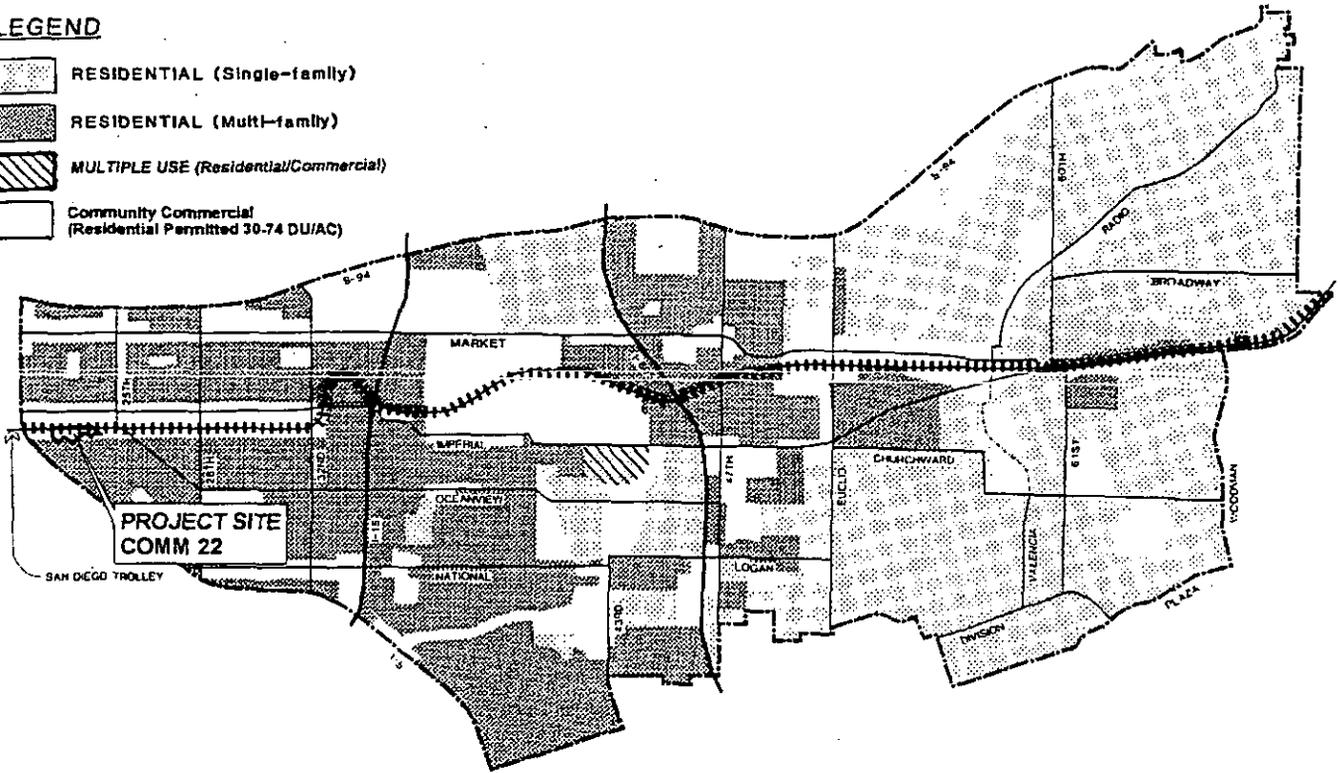
compatible private development. In the event that residential development is considered for the site, the density should be compatible with the density recommended in this plan (15-17 units per acre).

- F. The low-medium density (10-17 dwelling units per net acre, MF-2500 and MF-3000 zones) multi-family portions of the neighborhood should be identified as "Special Character Multi-Family Neighborhoods" that would be protected with development standards recommended by the Urban Design Element.
- G. Rezone the southern side of Commercial Street between 21<sup>st</sup> Street and Harrison Avenue to CC-3-5 to allow a mix of pedestrian-oriented, community serving commercial uses and high density residential uses. Revitalization efforts may incorporate mixed-use development with residential densities greater than 30 dwelling units per acre. Revitalization effort should also incorporate transit oriented design to maximize the use of the existing trolley system.

# RECOMMENDED RESIDENTIAL LAND USE

## LEGEND

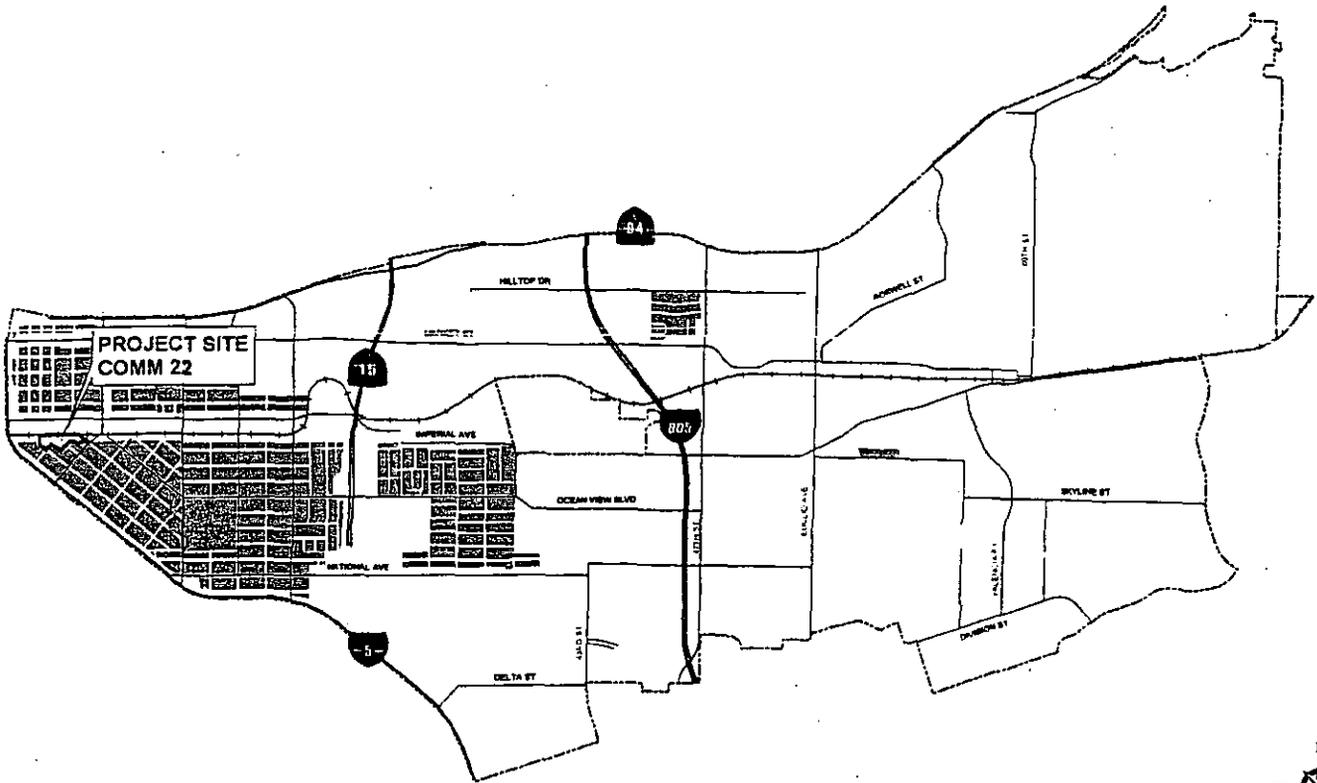
-  RESIDENTIAL (Single-family)
-  RESIDENTIAL (Multi-family)
-  MULTIPLE USE (Residential/Commercial)
-  Community Commercial (Residential Permitted 30.74 DU/AC)



SOUTHEAST SAN DIEGO  
CITY OF SAN DIEGO · PLANNING DEPARTMENT

PROPOSED  
FIGURE 7

# SPECIAL CHARACTER MULTI-FAMILY NEIGHBORHOODS

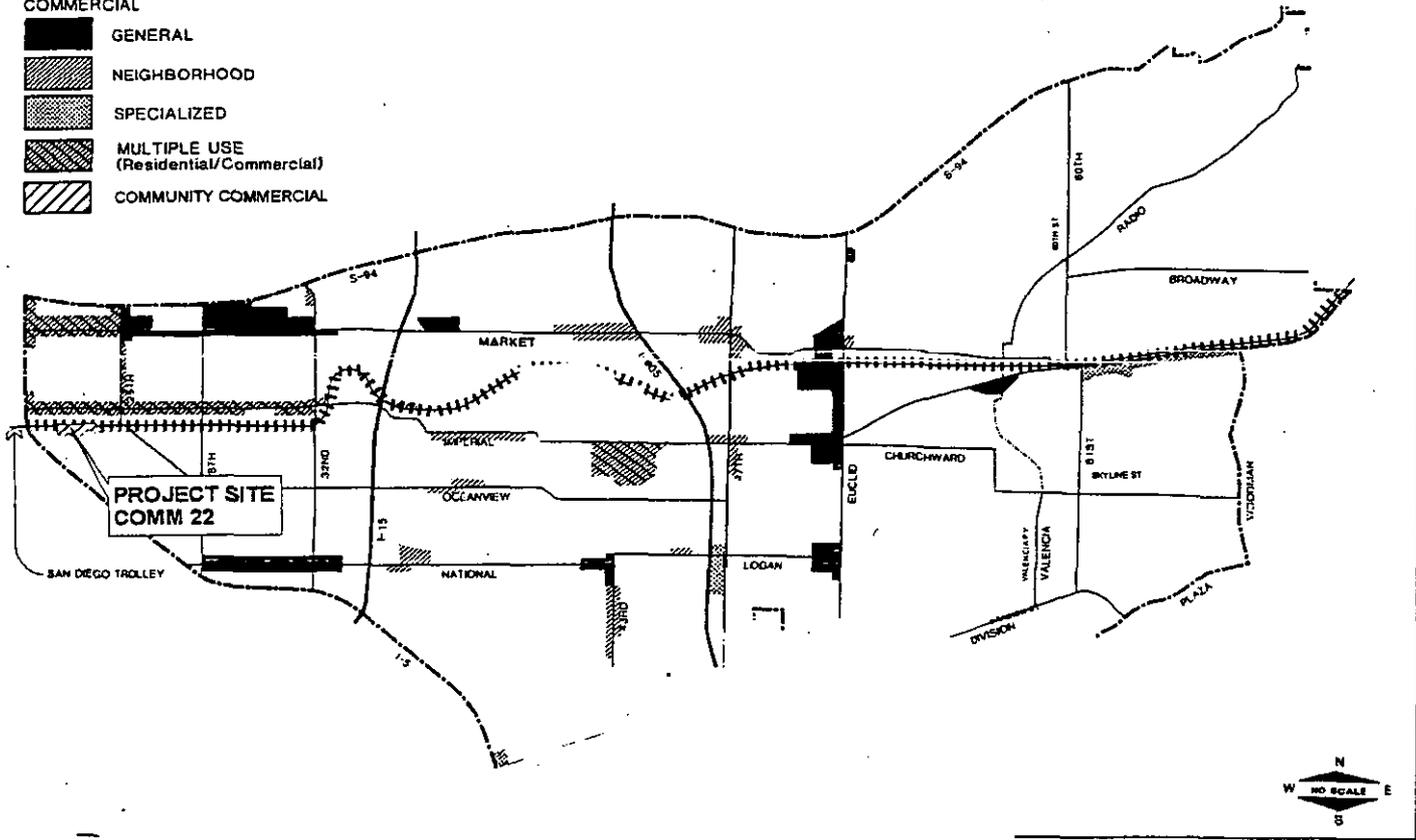


**SOUTHEASTERN SAN DIEGO**  
CITY OF SAN DIEGO · PLANNING DEPARTMENT

PROPOSED  
FIGURE 7B

# RECOMMENDED COMMERCIAL DESIGNATIONS

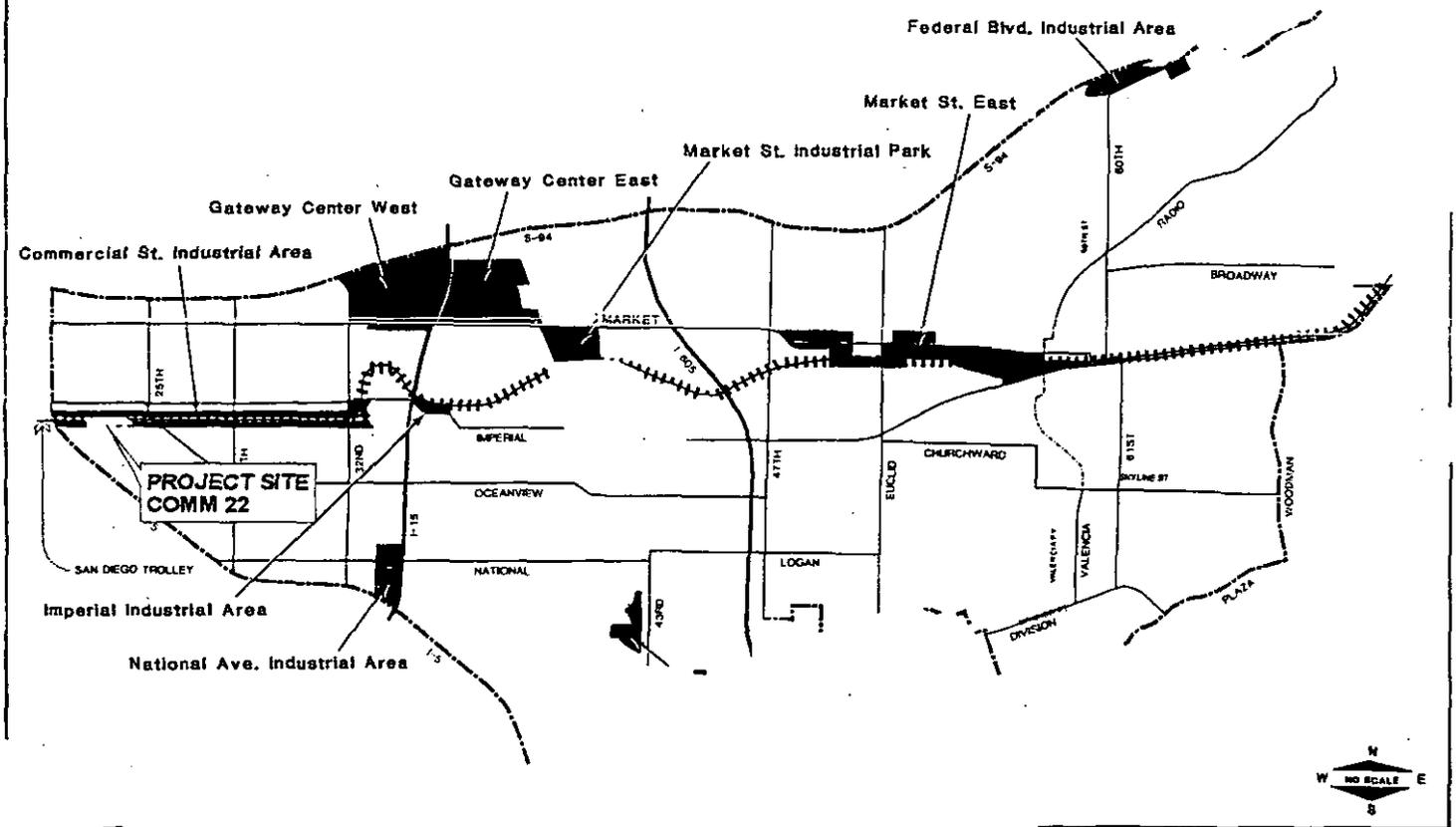
- COMMERCIAL
-  GENERAL
  -  NEIGHBORHOOD
  -  SPECIALIZED
  -  MULTIPLE USE  
(Residential/Commercial)
  -  COMMUNITY COMMERCIAL



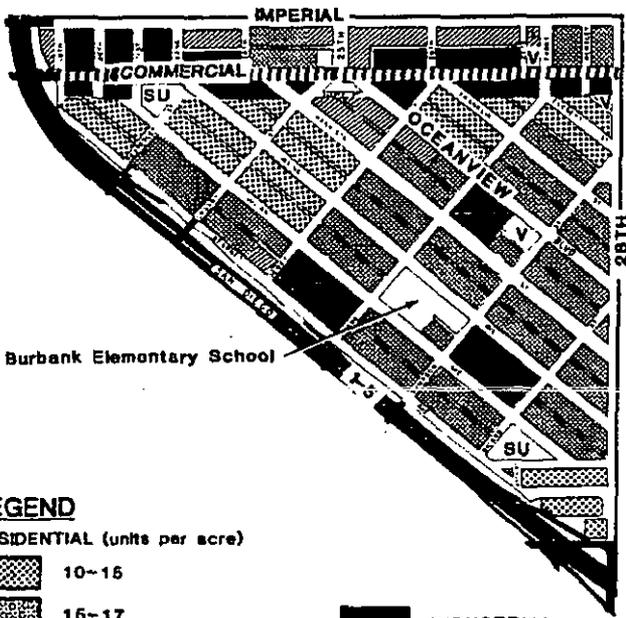
SOUTHEAST SAN DIEGO  
CITY OF SAN DIEGO · PLANNING DEPARTMENT

PROPOSED  
FIGURE 9

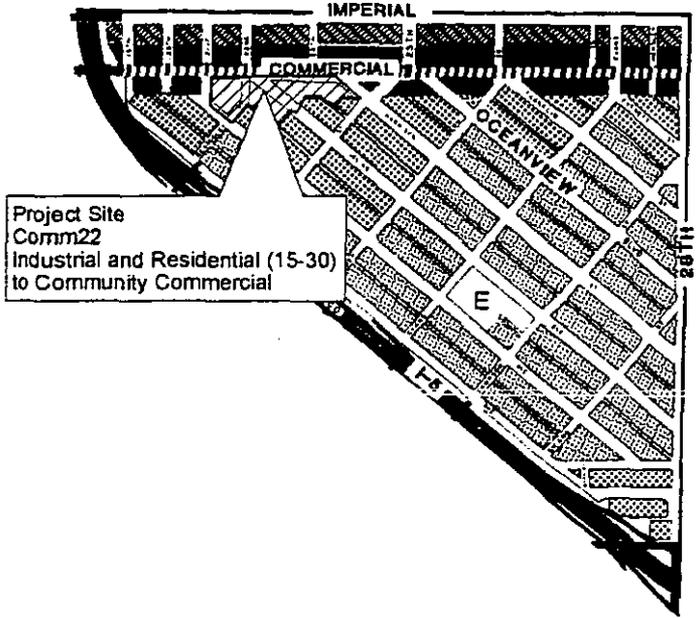
# RECOMMENDED INDUSTRIAL DESIGNATIONS



**EXISTING LAND USE**



**RECOMMENDED LAND USE**



**LEGEND**

RESIDENTIAL (units per acre)

- 10-15
- 15-17
- 30-45

MULTIPLE USE (Residential/Commercial)

- G-GENERAL
- N-NEIGHBORHOOD

COMMUNITY COMMERCIAL

INDUSTRIAL

INSTITUTIONAL

Schools

- E Elementary
- J Junior High
- S Senior High
- P Private
- SU School Use

VACANT



**LOGAN HEIGHTS**

**SOUTHEAST SAN DIEGO**

**CITY OF SAN DIEGO · PLANNING DEPARTMENT**

**PROPOSED  
FIGURE 28**



RESOLUTION NUMBER R-\_\_\_\_\_

DATE OF FINAL PASSAGE \_\_\_\_\_

WHEREAS, San Diego Unified School District, a school district organized and existing under the laws of the State of California, and COMM 22, LLC [collectively, the Applicant/Subdivider], and Robert C. Haynes, Engineer, submitted an application to the City of San Diego for a vesting tentative map, public right-of-way vacation, and easement vacation (Vesting Tentative Map No. 415852, Public Right-of-Way Vacation No. 415855 and Easement Vacation No. 454297) for the subdivision of existing lots into four lots for the COMM 22 project [Project], located at 2101, 2107, 2145 Commercial Street and 1826 Irving Avenue, (see attached legal description, Exhibit "B"), in the Southeastern San Diego Community Plan area, in the CC-3-5 zone; and

WHEREAS, the applicant seeks to waive the requirement to underground existing overhead utilities, pursuant to Council Policy 600-25; and

WHEREAS, California Streets and Highways Code section 8330 et seq. and San Diego Municipal Code section 125.0910, in conjunction with the findings of Section 125.0941, provide a procedure for the vacation of a public right-of-way by City Council resolution;

WHEREAS, the applicant/subdivider, as the affected property owner, has requested a vacation of public rights-of-way running along a portion of Irving Avenue and 22<sup>nd</sup> Street adjacent to the Applicant/Subdivider's property, as specifically described in Exhibit "A" as shown on Vesting Tentative Map No. 415852, specifically shown on Sheet 4 of 8;

WHEREAS, the Map proposes the subdivision of a 4.58-acre site into four lots; and

WHEREAS, on October 11, 2007, the Planning Commission of the City of San Diego considered Vesting Tentative Map No. 415852, Public Right-of-Way Vacation No. 415855, and Easement Vacation No. 454297, and pursuant to Resolution No. 4323-PC voted to recommend City Council approval; and

WHEREAS, the project complies with the requirements of a preliminary soils and/or geological reconnaissance report pursuant to the Subdivision Map Act and San Diego Municipal Code section 144.0220; and

WHEREAS, the subdivision of lot 7 is a condominium project as defined in Section 1350 et seq. of the Civil Code of the State of California and filed pursuant to the Subdivision Map Act. The total number of condominium units is seventeen; 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 \_\_\_\_\_, 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 Vesting Tentative Map No. 415852:

1. The proposed subdivision and its design or improvement are consistent with the policies, goals, and objectives of the applicable general plan, specific plans and other applicable land use plans (Land Development Code [LDC] section 125.0440(a) and Subdivision Map Act Sections 66473.5, 66474(a), and 66474(b));
2. The proposed subdivision complies with the applicable zoning and development regulations of the Land Development Code (LDC section 125.0440(b));
3. The site is physically suitable for the proposed type and density of development (LDC section 125.0440(c) and Subdivision Map Act Sections 66474(c) and 66474(d));
4. The design of the subdivision and the proposed improvements are not likely to cause substantial environmental damage or substantially and unavoidably injure fish or wildlife or their habitat or cause serious public health problems (LDC section 125.0440(d) and Subdivision Map Act Section 66474(e));
5. The design and types of subdivision improvements will not be detrimental to the public health, safety, and welfare (LDC section 125.0440(e) and Subdivision Map Act Section 66474(f));
6. The design and the types of subdivision improvements will not conflict with public easements for access through or use of property within the proposed subdivision (LDC section 125.0440(f) and Subdivision Map Act Section 66474(g));
7. The design of the proposed subdivision provides, to the extent feasible, for future passive or natural heating and cooling opportunities in the subdivision consistent with the requirements of the California Government Code Section 66473.1 (LDC section 125.0440(g) and Subdivision Map Act Section 66473.1);
8. The City Council has considered the effects of the proposed subdivision on the housing needs of the region and those needs are balanced against the needs for public services and the available fiscal and environmental resources (LDC section 125.0440(h) and Subdivision Map Act Section 66412.3); and,
9. Discharge of waste from the proposed subdivision would not violate existing requirements prescribed by the San Diego Regional Water Quality Control Board.

BE IT RESOLVED, by the Council of the City of San Diego, that it adopts the following findings with respect to Public Right-of-Way Vacation No. 415855:

1. The vacation of these drainage and sewer easements are made under the provisions and authority found in Section 8300 et seq. of the California Streets and Highways Code and Subdivision Map Act section 66499.20 1/2;
2. There is no present or prospective public use for the public right-of-way, either for the facility for which it was originally acquired or for any other public use of a like nature that can be anticipated;
3. The public will benefit from the action through improved use of the land made available by the vacation;
4. The vacation does not adversely affect any applicable land use plan; and,
5. The public facility for which the public right-of-way was originally acquired will not be detrimentally affected by the vacation.

BE IT RESOLVED, by the Council of the City of San Diego, that it adopts the following findings with respect to Easement Vacation No. 454297:

1. The vacation of these drainage and sewer easements are made under the provisions and authority found in Section 8300 et seq. of the California Streets and Highways Code and Subdivision Map Act section 66499.20 1/2;
2. There is no present or prospective use for the drainage and sewer easements for which the drainage and sewer easements were originally acquired, or for any other public use of a like nature that can be anticipated;
3. The public will benefit from the vacation through improved utilization of land made available by the abandonment;
4. The vacation of the drainage and sewer easements is consistent with any applicable land use plan; and
5. The drainage and sewer easements for which the easements were originally acquired will not be detrimentally affected by this abandonment, or the purpose for which the easements were acquired no longer exists.

BE IT FURTHER RESOLVED, that 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 City Council has considered the General Plan, the applicable Community Plan and all other applicable land use plans prior to granting these drainage and sewer easement vacations.

BE IT FURTHER RESOLVED, that as a condition of this approval, the Applicant/Subdivider shall ensure that any and all deeds or conveyances of title to or an interest in the property are subject to, and governed by, the reservations and exceptions recited in this resolution and the deed or conveyance shall contain a recital to that effect.

BE IT FURTHER RESOLVED, that Vesting Tentative Map No. 415852 is granted to the Applicant/Subdivider subject to all attached conditions which are made a part of this resolution by this reference.

BE IT FURTHER RESOLVED, That the public rights-of-way, as described and referenced herein, are ordered vacated, contingent upon the recordation of the approved final map for the project.

BE IT FURTHER RESOLVED, that pursuant to the California Government Code, the following public service easements, located within the project boundaries as shown in Vesting Tentative Map No. 415852, collectively referred to herein as Easement Vacation No. 454297 are ordered vacated, contingent upon the recordation of the approved final map for the project:

- a. A drainage easement granted to the City of San Diego, recorded May 2, 1930 in Book 1752 of Deeds, Page 469.
- b. A drainage easement granted to the City of San Diego, recorded December 14, 1948 in Book 3049, Page 107.
- c. A sewer easement granted to the City of San Diego, recorded January 10, 1949 in Book 3074, Page 359.
- d. A drainage easement granted to the City of San Diego, recorded May 24, 1949 in Book 3205, Page 383.

- e. A sewer easement granted to the City of San Diego, recorded May 24, 1949 in Book 3205, Page 386.

BE IT FURTHER RESOLVED, That the City Clerk shall cause a certified copy of this resolution, with attached exhibits, attested by him under seal, to be recorded in the office of the County Recorder consistent with the conditions and findings applicable herein.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By

  
\_\_\_\_\_  
Shirley R. Edwards  
Chief Deputy City Attorney

SRE:pev

10/16/07

11/29/07 COR.COPY

Cr.Dept:DSD

R-2008-338

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CONDITIONS FOR VESTING TENTATIVE MAP NO. 415852/  
PUBLIC RIGHT-OF-WAY VACATION NO. 415855/  
EASEMENT VACATION NO. 454297

COMM 22 PROJECT

ADOPTED BY RESOLUTION NO. R-\_\_\_\_\_ ON \_\_\_\_\_

GENERAL

1. This Vesting Tentative Map will expire \_\_\_\_\_.
2. Compliance with all of the following conditions shall be assured, to the satisfaction of the City Engineer, prior to the recordation of the Final Map, unless otherwise noted.
3. Prior to the Vesting Tentative Map expiration date, a Final Map to consolidate the existing lots into one lot shall be recorded in the Office of the County Recorder.
4. The Final Map shall conform to the provisions of Site Development Permit No. 415853/Planned Development Permit No. 454025/Conditional Use Permit No. 431367.
5. The Applicant/Subdivider shall defend, indemnify, and hold harmless the City, its agents, officers, and employees from any and all claims, actions, proceedings, damages, judgments, or costs, including attorney's fees, against the City or its agents, officers, or employees, including, but not limited to, any and all actions to attack, set aside, void, challenge, or annul this development approval and any environmental document or decision. The City, acting through the City Attorney, will promptly notify Applicant/Subdivider of any claim, action, or proceeding and, if the City should fail to cooperate fully in the defense, the Applicant/Subdivider shall not thereafter be responsible to defend, indemnify, and hold harmless the City or its agents, officers, and employees. The City, acting through the City Attorney, may elect to conduct its own defense, participate in its own defense, or obtain independent legal counsel in defense of any claim related to this indemnification. In the event of such election, Applicant/Subdivider shall pay all of the costs related thereto, including without limitation reasonable attorney's fees and costs. In the event of a disagreement between the City and applicant regarding litigation issues, the City, acting through the City Attorney, shall have the authority to control the litigation and make litigation related decisions, including, but not limited to, settlement or other disposition of the matter. However, the Applicant/Subdivider shall not be required to pay or perform any settlement unless such settlement is approved by Applicant/Subdivider.

6. The property contains a right-of-way and easements which must be vacated to implement the Final Map in accordance with San Diego Municipal Code section 125.0430.

### AFFORDABLE HOUSING

7. Prior to recording the Final Map, the Applicant/Subdivider shall enter into an Affordable Housing Agreement with the Housing Commission to provide affordable housing units in compliance with the Affordable Housing Requirements of the City's Inclusionary Housing Ordinance (Chapter 14, Article 2, Division 13 of the Land Development Code).

### STREETS DIVISION

8. Prior to the issuance of any improvement or grading permits the Applicant/Subdivider shall assure a drainage easement is granted over the 15 foot box culvert between Harrison Avenue and 22<sup>nd</sup> Street. The easement shall run parallel to Commercial Street and the width shall be from the northern property line to the parking structure wall.
9. Prior to the issuance of any construction, improvement or grading permits, the Applicant/Subdivider shall assure by permit and bond the installation of a cleanout on the box culvert at approximately station 18+00. The location of the cleanout shall be to the satisfaction of the City Engineer.
10. Prior to the issuance of any construction, improvement or grading permits the Applicant/Subdivider shall enter into an Encroachment and Maintenance Removal Agreement [EMRA] for all private landscaping, enhanced pavement, or other private improvements located within the drainage easement.

### ENGINEERING

11. The Applicant/Subdivider shall replace the existing curb, gutter, and sidewalk along the subdivisions public street frontages, maintaining the existing sidewalk scoring pattern and preserving all contractor's stamps, satisfactory to the City Engineer.
12. The Applicant/Subdivider shall obtain an EMRA, for proposed private or public improvements located in the public right-of-way including: the double box culvert storm drain located in the Commercial Street public right-of-way and the enhance paving located in the 22nd Street, Beardsley Street, and the proposed alley extension public right-of-way and for other proposed surface improvements located in the public right-of-way. The following language shall also be included in the Encroachment Maintenance and Removal Agreement:

At the owner's request, portions of the sewer main are being relocated to non-standard locations with surface improvements other than asphalt. In return, the owner agrees to replace any and all surface improvements (including landscaping and irrigation systems but excluding standard asphalt pavement) at the owner's sole cost and

expense, whenever the City of San Diego repairs or replaces all or a portion of the sewer mains fronting the property and located less than ten feet from or behind the curb. Such improvements will be installed by the owner to the City standards in effect at the time the work is performed.

13. The Applicant/Subdivider shall dedicate and improve an additional 5 feet of adjacent right-of-way along the projects Commercial Street and Beardsley Street frontages.
14. The Applicant/Subdivider shall dedicate and improve a City standard alley to extend the existing alley from Cesar Chavez Parkway to an intersection with Irving Avenue.
15. Whenever street rights-of-way are required to be dedicated, it is the responsibility of the Applicant/Subdivider to provide the right-of-way free and clear of all encumbrances and prior easements. The Applicant/Subdivider must secure "subordination agreements" for minor distribution facilities and/or "joint-use agreements" for major transmission facilities.
16. The Applicant/Subdivider shall reconstruct the existing curb ramp(s) adjacent to the project to meet current City standards.
17. The onsite drainage system proposed for this subdivision, as shown on the approved Vesting Tentative Map, is private and subject to approval by the City Engineer.
18. The Applicant/Subdivider shall obtain a 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
19. The Applicant/Subdivider shall underground existing and/or proposed public utility systems and service facilities in accordance with the San Diego Municipal Code.
20. 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 prior to and concurrently with the commencement of grading activities, and a Notice of Intent [NOI] shall be filed with the SWRCB.

A copy of the acknowledgment from the SWRCB that an NOI has been received for this project shall be filed with the City of San Diego when received and prior to commencement of any work; further, a copy of the completed NOI from the SWRCB showing the permit number for this project shall be filed with the City of San Diego when received. In addition, the owner(s) and subsequent owner(s) of any portion of the property covered by this grading permit and by SWRCB Order

No. 99-08 DWQ, and any subsequent amendments thereto, shall comply with special provisions as set forth in SWRCB Order No. 99-08 DWQ.

21. Prior to the issuance of any construction permit, the Applicant/Subdivider shall comply with and incorporate any construction Best Management Practices [BMP] necessary to comply with Chapter 14, Article 2, Division 1 (Grading Regulations) of the San Diego Municipal Code, into the construction plans or specifications.
22. The Applicant/Subdivider shall enter into a Maintenance Agreement with the City of San Diego for the ongoing permanent BMP maintenance.
23. Prior to the issuance of any construction permit, the Applicant/Subdivider shall incorporate and show the type and location of all post-construction BMP's on the final construction drawings, in accordance with the approved Water Quality Technical Report.
24. The Applicant/Subdivider shall obtain from the City of San Diego an encroachment maintenance and removal agreement for all nonstandard driveways shown on the approved Exhibit "A."
25. The Applicant/Subdivider shall underground any new service run to any new or proposed structures within the subdivision prior to final completion of project.
26. The Applicant/Subdivider shall ensure that all on-site utilities serving the subdivision shall be undergrounded with appropriate permits prior to final completion of project. The Applicant/Subdivider shall provide written confirmation from applicable utilities that the conversion has taken place, or provide other means to assure the undergrounding, satisfactory to the City Engineer prior to final completion of project and before any units are sold or leased.
27. The Applicant/Applicant/Subdivider shall comply with and conform the project to the "General Conditions for Tentative Subdivision Maps," filed in the Office of the City Clerk under Document No. 767688 on May 7, 1980, is required. Only those exceptions to the General Conditions which are shown on the vesting tentative map and covered in these special conditions shall be authorized by the City.

All public improvements and incidental facilities shall be designed in accordance with criteria established in the Street Design Manual, filed with the City Clerk as Document No. 769830.

#### MAPPING

28. "Basis of Bearings" means the source of uniform orientation of all measured bearings shown on the map. Unless otherwise approved, this source shall be the California Coordinate System, Zone 6, North American Datum of 1983 [NAD 83].
29. "California Coordinate System" means the coordinate system as defined in Section 8801 through 8819 of the California Public Resources Code. The

specified zone for San Diego County is "Zone 6," and the official datum is the "North American Datum of 1983."

30. The Final Map shall:
- a. Use the California Coordinate System for its "Basis of Bearing" and express all measured and calculated bearing values in terms of said system. The angle of grid divergence from a true median (theta or mapping angle) and the north point of said map shall appear on each sheet thereof. Establishment of said Basis of Bearings may be by use of existing Horizontal Control stations or astronomic observations.
  - b. Show two measured ties from the boundary of the map to existing Horizontal Control stations having California Coordinate values of Third Order accuracy or better. These tie lines to the existing control shall be shown in relation to the California Coordinate System (i.e., grid bearings and grid distances). All other distances shown on the map are to be shown as ground distances. A combined factor for conversion of grid-to-ground distances shall be shown on the map.

### WATER

31. Prior to the recordation of the right-of-way vacation, the Applicant/Subdivider shall provide proof of the Water Department's operational acceptance of the abandonment of the portion of water mains located within the vacated Irving Avenue right-of-way, in a manner satisfactory to the Water Department Director and the City Engineer.
32. The Applicant/Applicant/Subdivider shall prepare a City approved and accepted water study, and shall design and construct all public water facilities, as required in the accepted water study, necessary to serve this development. Water facilities, as shown on the approved tentative map, will require modification based on the accepted water study and to maintain redundancy throughout construction phasing, if any, at final engineering.
33. Prior to recording the Final Map, the Applicant/Subdivider, after obtaining City approval of work plans, shall cut, plug, and abandon the existing public water facilities, located within the proposed Irving Avenue right-of-way to be vacated traversing the project site, in a manner satisfactory to the Water Department Director and the City Engineer.
34. The Applicant/Subdivider, with prior written approval from the City's Fire Chief, shall install fire hydrants at locations satisfactory to the Fire Department and the City Engineer. If more than two fire hydrants or thirty dwelling units are located on a dead-end main then the Applicant/Subdivider shall install a redundant water system satisfactory to the Water Department Director and Fire Department.
35. The Applicant/Subdivider shall process an EMRA for all acceptable encroachments, including but not limited to, structures, enhanced paving, or landscaping, into any public right-of-way containing public water facilities. No

structures or landscaping of any kind shall be installed in or over any vehicular access roadway.

36. The Applicant/Subdivider shall provide CC&Rs for the operation and maintenance of any on-site private water facilities that serve or traverse more than a single dwelling unit or common area.
37. The Applicant/Subdivider agrees to design and construct all proposed public water facilities, including but not limited to services, meters and easements, in accordance with established criteria in the most current edition of the City of San Diego Water Facility Design Guidelines and City and state rules and regulations, standards and practices pertaining thereto. Water facilities shall be modified at final engineering to comply with standards.

### WASTEWATER

38. The Applicant/Subdivider shall relocate and install onsite public sewer mains, satisfactory to the Metropolitan Wastewater Department Director. All associated public easements shall be vacated, satisfactory to the Metropolitan Wastewater Department Director and in accordance with the San Diego Municipal Code.
39. The Applicant/Subdivider shall perform a City approved and accepted sewer study, and shall install all sewer facilities required by the accepted sewer study, necessary to serve this development. Sewer facilities as shown on the approved tentative map shall require modification based on the accepted sewer study.
40. The Applicant/Subdivider shall grant and record adequate sewer, and/or access easements, including vehicular access to each manhole, for all public sewer facilities that are not located within the public right of way, satisfactory to the Metropolitan Wastewater Department Director. The easements shall be located within single lots. Vehicular access roadbeds shall be surfaced with suitable approved material satisfactory to the Metropolitan Wastewater Department Director.
41. No structures or landscaping that would inhibit vehicular or City access shall be installed in or over any sewer access easement.
42. No improvements or landscaping, including private sewer facilities, grading and enhanced paving, shall be installed in or over any public easement prior to the applicant obtaining a City approved Encroachment Maintenance and Removal Agreement.
43. All onsite sewer facilities that serve only this development shall be private.
44. The Applicant/Subdivider shall provide evidence, satisfactory to the Metropolitan Wastewater Department Director, indicating that each condominium will have its own sewer lateral or provide CC&R's for the operation and maintenance of on site private sewer mains that serve more than one ownership.
45. The Applicant/Subdivider shall design and construct all proposed public sewer facilities in accordance with the most current edition of the City of San Diego's Sewer Design Guide and applicable local and state law.

**GEOLOGY**

46. Prior to the issuance of a grading permit, a geotechnical report shall be submitted and approved by the City Engineer in accordance with the City of San Diego's "Technical Guidelines for Geotechnical Reports."

**INFORMATION:**

- The approval of this Vesting Tentative Map by the Council of the City of San Diego does not authorize the Applicant/Subdivider to violate any Federal, State, or City laws, ordinances, regulations, or policies including but not limited to, the Federal Endangered Species Act of 1973 and any amendments thereto (16 USC Section 1531 et seq.).
- If the Applicant/Subdivider makes any request for new water and sewer facilities (including services, fire hydrants, and laterals), then the Applicant/Subdivider shall first obtain City approval and shall design and construct such facilities in accordance with established criteria in the most current editions of the City of San Diego water and sewer design guides and City and state regulations, standards and practices pertaining thereto. Off-site improvements may be required to provide adequate and acceptable levels of service and will be determined at final engineering.
- Subsequent applications related to this Vesting Tentative Map will be subject to fees and charges based on the rate and calculation method in effect at the time of payment.
- Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of the Vesting Tentative Map, may protest the imposition within ninety days of the approval of this Vesting Tentative Map by filing a written protest with the City Clerk pursuant to California Government Code Section 66020.
- Where in the course of development of private property, public facilities are damaged or removed, the Applicant/Applicant/Subdivider shall at no cost to the City obtain the required permits for work in the public right-of-way, and shall repair or replace the public facilities to the satisfaction of the City Engineer. San Diego Municipal Code section 142.0607.

RESOLUTION NUMBER R-\_\_\_\_\_

DATE OF FINAL PASSAGE \_\_\_\_\_

WHEREAS, San Diego Unified School District, a school district organized and existing under the laws of the State of California, Owner/COMM 22, LLC, a California limited liability corporation, Permittee, filed an application with the City of San Diego for a site development permit, planned development permit, and conditional use permit to construct 252 residential units with commercial-retail known as the COMM 22 project, located at 2101 Commercial Street, (see attached legal description, Exhibit "B"), in the Southeastern San Diego Community Plan area, in the MF-3000 and I-1 zones which are proposed to be rezoned to the CC-3-5 zone; and

WHEREAS, on October 11, 2007, the Planning Commission of the City of San Diego considered Site Development Permit [SDP] No. 415853, Planned Development Permit [PDP] No. 454025, and Conditional Use Permit [CUP] No. 431367, and pursuant to Resolution No. 4323-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 \_\_\_\_\_, 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 Site Development Permit No. 415853, Planned Development Permit No. 454025, and Conditional Use Permit No. 431367:

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

1. **Findings for all Site Development Permits**

a. **The proposed development will not adversely affect the applicable land use plan.** The COMM 22 project is a mixed-use, transit-oriented development combining affordable and senior housing with day care facilities, community serving commercial and retail space, office space, market rate live-work lofts, and for-sale town homes. The office space and live-work lofts will be housed in a rehabilitated warehouse building. The remainder of the development will consist of new construction. In addition to the proposed uses on site, the development will include enhanced plaza areas for public gathering, strong pedestrian connectivity throughout the site, and convenient access to public transportation.

The project site is situated on surplus San Diego City Schools property along the southern side of Commercial Street, between 21st Street and Harrison Avenue. The proposed project site is a mixed use commercial development on a 4.58-acre site that is proposed to be designated for Community Commercial uses in the Southeastern San Diego Community Plan. The community commercial designation of the CC-3-5 zone is intended to accommodate development with a high intensity, pedestrian orientation with a maximum of one dwelling unit per 1,500 square feet of lot area where the minimum lot coverage is 35 percent, the allowed floor area ratio [FAR] is 2.0 and the maximum height of the buildings may be 100 feet. With the adoption of the amendment to the Progress Guide and General Plan and Southeastern San Diego Community Plan, the proposed project would be designated from Industrial and Residential uses to Community Commercial uses therefore allowing a high density housing component and commercial development consistent with the policies and guidelines of the Progress Guide and General Plan and Southeastern San Diego Community Plan. Being determined the project is consistent with the Progress Guide and General Plan and Southeastern San Diego Community Plan, the proposed development will not adversely affect the Progress Guide and General Plan and Southeastern San Diego Community Plan.

b. **The proposed development will not be detrimental to the public health, safety, and welfare.** The COMM 22 project is a mixed-use, transit-oriented development combining affordable and senior housing with day care facilities, community serving commercial and retail space, office space, market rate live-work lofts, and for-sale town homes. The office space and live-work lofts will be housed in a rehabilitated warehouse building. The remainder of the development will consist of new construction. In addition to the proposed uses on site, the development will include enhanced plaza areas for public gathering, strong pedestrian connectivity throughout the site, and convenient access to public transportation.

The proposed development includes the vacation of right-of-way easements and contributes to its fair share cost towards construction of improvements in the Southeastern San Diego community. The proposed development will construct necessary sewer and water facilities to serve the users and residents of the development; will enter into a Maintenance Agreement for the ongoing permanent Best Management Practices [BMP] maintenance; will 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; and will provide a geotechnical report in accordance with the City of San Diego's Technical Guidelines for Geotechnical Reports for the review and approval by the City Engineer. All structures constructed will be reviewed by professional staff for compliance with all relevant and applicable building, electrical, mechanical and fire codes to assure the structures will meet or exceed the current regulations. As such the proposed development will not be detrimental to the public health, safety, and welfare.

**c. The proposed development will comply with the applicable regulations of the Land Development Code.** The COMM 22 project is a mixed-use, transit-oriented development combining affordable and senior housing with day care facilities, community serving commercial and retail space, office space, market rate live-work lofts, and for-sale town homes. The office space and live-work lofts will be housed in a rehabilitated warehouse building. The remainder of the development will consist of new construction. In addition to the proposed uses on site, the development will include enhanced plaza areas for public gathering, strong pedestrian connectivity throughout the site, and convenient access to public transportation.

In order to design the COMM 22 project in a manner which reflects the Southeastern San Diego Community Plan's intended development pattern, deviations from the regulations of the Land Development Code are required at this unique site. The Southeastern San Diego Community Plan goal of creating a synergistic environment facilitating economic and social health and vibrancy in the community in turn encourages the use of creative solutions to those regulations of the Land Development Code. The deviations are required due in large part as a response to the existing infrastructure at and adjacent to the site, the preservation of a significant historically important building in the community and to achieve a density and intensity of use at the site to create a vibrant dynamic development. This level of detail is consistent with the purpose and intent of the planned district and planned development regulations; however, in order to implement the site plan and architecture at this site; to preserve the existing significant structures; and to maximize the density and intensity of development at the site to contribute to the housing stock of the City of San Diego and commercial development in the community, the proposed deviations are granted.

**B. DEVIATIONS FOR AFFORDABLE/IN-FILL HOUSING PROJECTS AND SUSTAINABLE BUILDINGS**

**1. The proposed development will materially assist in accomplishing the goal of providing affordable housing opportunities in economically balanced communities throughout the City, and/or the proposed development will materially assist in reducing impacts associated with fossil fuel energy use by utilizing alternative energy resources, self-**

**generation and other renewable technologies (e.g. photovoltaic, wind, and/or fuel cells) to generate electricity needed by the building and its occupants.** The existing warehouse building will be renovated and expanded to accommodate approximately 62,180 square feet of office and live-work space. These spaces will be leased to local artist, small businesses, and professionals and will include the BRIDGE Southern California office as well as a 4,800 square foot community bank. Seventy dwelling units of affordable senior housing and a 5,447 square foot day care facility will be built above a single-level underground parking garage on the remainder of the lot. One hundred twenty-seven dwelling units of affordable family housing and 12,945 square feet of retail space will be developed on the former maintenance facility and storage yard sites. Family units will be constructed as stacked flats over retail and two levels of underground parking. Two levels of subterranean parking are possible due to native soil being as deep as 18 feet throughout the site. Seventeen for-sale town-homes will be developed on the remaining property. These project features and goals will provide needed housing and development in an area of the city replete with redevelopment opportunity. The provision of 127 dwelling units affordable to persons at the income range described as 30-50 percent average area median income will contribute in a real and meaningful way towards the goals of providing affordable housing in the City.

**2. The development will not be inconsistent with the purpose or the underlying zone.** The COMM 22 project is a mixed-use, transit-oriented development combining affordable and senior housing with day care facilities, community serving commercial and retail space, office space, market rate live-work lofts, and for-sale town homes. The office space and live-work lofts will be housed in a rehabilitated warehouse building. The remainder of the development will consist of new construction. In addition to the proposed uses on site, the development will include enhanced plaza areas for public gathering, strong pedestrian connectivity throughout the site, and convenient access to public transportation.

The project site is situated on surplus San Diego City Schools property along the southern side of Commercial Street, between 21st Street and Harrison Avenue. Other than the deviations approved for the project through the Planned Development and Site Development Permit process, the COMM 22 project meets all the relevant development regulations of the CC-3-5 zone and is an appropriate use of the property within the Southeastern San Diego community.

**3. 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 proposed development complies with the Southeastern San Diego Community Plan as amended. The proposed deviations are necessary to maximize the use of the land and to provide the highest quality affordable housing development. The deviations are required due in large part as a response to the existing infrastructure at and adjacent to the site, the preservation of a significant historically important building in the community and to achieve a density and intensity of use at the site to create a vibrant dynamic development. The proposed project includes architectural plans that have extensive articulation and fenestration. This level of detail is consistent with the purpose and intent of the planned district and planned development regulations; however, in order to implement the site plan and architecture at this site; to preserve the existing significant structures; and to maximize the density and intensity of development at the site to contribute to the housing stock of the City of

San Diego and commercial development in the community, the proposed deviations are granted. All other requirements comply with the regulations which apply to the project site in accordance with the Land Development Code. Many of the deviations are required in large part as a response to the existing infrastructure at and adjacent to the site, the preservation of a significant historically important building in the community and to achieve a density and intensity of use at the site to create a vibrant dynamic development.

Nine deviations are requested for the project from the Land Development Code sections, tables and one deviation each from the adopted Street Design Manual, Sewer Design Guide and Water Department Facility Design Guidelines. The deviations are to provide relief from the following Land Development Code regulations: 1) 131.0531 and Table 131-5E, 2) 131.0531 and Table 131-5E, 3) Section 131.0531 and Table 131-05E, 4) Section 131.0540(c), 5) Section 131.0552, 6) Section 131.0554 and Table 131-05F, 7) Section 132.0905, 142.0510, 142.0525, 142.0530 and 142.0560, 8) Landscape Regulations Table 142-04D and 9) Section 142.0409(a)1.

1) The project proposes to develop Site C at a residential density permitted by the land use plan, where the CC-3-5 zone allows one dwelling unit per 1,500 square feet of lot area or 16.34 units. The project density proposed is 63 units per acre, and the land use plan density range is 30-74 units per acre or 17 dwelling units on Site C. A deviation from the maximum residential density permitted under the CC-3-5 zone is necessary in order to provide an optimum number of affordable housing units over the total project site, Sites A, B and C;

2) The project proposes a maximum front setback of 15 feet where the CC-3-5 Zone allows a maximum front setback of 10 feet. A deviation from the maximum front setback is necessary in order to accommodate a drainage easement along the Commercial Street frontage;

3) The project proposes a side and rear setback of 5 feet where the structure on Site C would be required either be placed at the property line or shall be set back at least ten feet. A deviation from the minimum side and rear setbacks is necessary in order to provide public improvements such as sewer and drainage easements, while achieving maximum residential usage of the site;

4) The project proposes zero to four offsetting planes on building facades fronting the public right-of-way where a minimum of six offsetting planes are required per building façade. Without a deviation from the building articulation requirement for individual buildings, three bedroom family dwelling units would be reduced in floor area, to provide the necessary articulation, and would become two bedroom dwelling units. The articulation of the project has been viewed from a perspective of the whole development rather than individual buildings. The provision of articulation on a building by building basis rather than the view of the whole development is not favored over the loss of family oriented dwelling units. The provision of open spaces, courts, and building placement over the whole has been considered rather than a finite examination of the individual buildings. Articulation has been examined in a manner that would examine the sum of the entire development, not just the pieces making up the building units of the development. Staff supports the deviation to realize the greater benefits from implementing the project;

5) The project proposes less than 50 percent of the street wall between 3 and 10 feet above the sidewalk to be transparent where the CC-3-5 zone requires a minimum of 50 percent to be transparent. A deviation from the transparency requirement is necessary since garage areas are provided above the sidewalk in-lieu of commercial and residential areas. Garage areas were designed along the street frontage in order to meet parking requirements while maximizing use of the land;

6) The project proposes residential use and residential parking on the ground floor in the front 30 feet of the lot where these uses are prohibited. A deviation from the ground floor restriction necessary in order to maximize the use of the land and to produce an optimum number of units;

7) The project proposes to implement alternative parking standards. Four specific deviations are included in this request. The project will reduce the parking ratio for the senior housing component from 1.0 per unit to 0.60 spaces per unit and provide six total guest parking stalls. The project will provide all of the parking required for Building 1 on Site B. The parking ratio for the commercial retail uses will be 2.1 spaces per 1000 square feet. The project will count tandem parking spaces as two stalls where tandem spaces are normally counted as one space. The project will allow residential parking along the first 30 feet of the lot for Site C where the CC-3-5 zone prohibits parking in this area. The alternative parking standards are requested to facilitate the project's transit-oriented design and inconsideration of the site's irregular lot shapes and the unique site constraints presented by infill development in an older neighborhood which also serves as a telecommunications hub and transit corridor for the City of San Diego. The transit-oriented design focuses on pedestrian activity and use of the trolley system in an effort to alleviate the need to provide parking on each site at the standards presently in effect. The current parking design creates greater efficiencies in the garage plan and allows other uses on the property such as courtyards and open areas and the development of an affordable housing project;

8) The project proposes to allow less than one tree within 30 feet of each parking space along the alley on the southwestern side of Site B. A deviation from the tree planting requirement is necessary due to a SDG&E easement located in this area; and

9) The project proposes to allow unconventional tree spacing along the western portion of Commercial Street. A deviation from the tree spacing requirement is necessary in order to preserve the historic building characteristics, including preservation of the existing ramp, and the deviation is needed for emergency fire access requirements. In order to off-set the tree spacing deficiency, the applicant has incorporated enhanced planting in other areas of the project site.

The Street Design Manual deviation will result in greater utilization of the site for the provision of affordable housing and will not negatively impact the provision of public services or facilities. Commercial Street is a 2-Lane Collector as shown in the Southeastern San Diego Community Plan's Transportation element. The curb-to-property line distance in the current Street Design Manual for this street classification is 12 to 15 feet. In the case of a 12 foot parkway, a 5 foot general utility easement is required. The project will provide a 10 foot

parkway to allow the right-of-way to remain at the edge of the proposed drainage culvert and not reduce the area available for development of the site.

The Sewer Design Guide deviation will allow a new public improvement while preserving the existing trolley line without disruption to service and result in a safe facility. The project will install the new wastewater line on Commercial as close to the south curb line as possible. The ideal location would normally be beneath the parking lane within the right-of-way. To preserve the integrity of the trolley line, the new wastewater line will be located as far from the trolley tracks as possible to facilitate construction with the least impact on the tracks and the east bound driving lane of Commercial Street.

The Water Department Facility Design Guidelines deviation will locate a new water main in the 22<sup>nd</sup> Street right-of-way yet beneath the curb and sidewalk under the pedestrian pop-outs at the intersection of 22<sup>nd</sup> and Commercial Street. This will facilitate the reconnection of the water main to the existing 10-inch main at the vacated Irving and Commercial Streets. Locating the water main further into Commercial Street could require construction extremely close to the existing trolley tracks potentially resulting in an interruption of service.

Without the approval of the proposed deviations the applicant will not be able to provide the 197 affordable housing units. The existing site is extremely constrained by existing improvements in the right-of-way, the San Diego trolley in Commercial Street, several existing easements crossing the property and other infrastructure improvements necessary to construct the project. These existing conditions and required improvements impact the area of the site available to develop the project. If required to adhere to the strict requirements of the regulations the project site area will be reduced and result in a direct causal reduction of the number of affordable housing units provided in the project. The applicant is a non-profit organization dedicated to building affordable housing projects and no correlation exists between the quantity of dwelling units and any goal of achieving gross profit, as none exists. The deviations are absolutely necessary to provide the greatest number of affordable housing units in the project on a very constrained urban infill site. When considering the benefits the proposed project would bring to the community and City, staff supports these deviations. Other than the deviations listed above, the proposed project will comply with all other regulations of the Land Development Code and all Council policies relevant to the site.

**C. SOUTHEAST SAN DIEGO PLANNED DISTRICT – SDMC SECTION 103.1701**

**1. The proposed use and project design meet the general purpose and intent of this division of the Municipal Code, complies with the recommendations of the Southeast San Diego Planned District for this site, and will not adversely affect the Southeast San Diego Community Plan, the City's Progress Guide and General Plan or other applicable plans adopted by the City Council in effect for this site. With the adoption of the amendment to the Southeastern San Diego Community Plan the proposed project will be consistent with the land use plan, the Progress Guide and General Plan. The commercial project with a residential component will encourage community serving retail, civic and office uses at the site. The deviations granted through the Planned Development and Site Development Permit are required due in large part as a response to the existing infrastructure at and adjacent to the site, the preservation of a significant historically important building in the community and to achieve a**

density and intensity of use at the site to create a vibrant dynamic development. The balance of uses, design of the structures and use of proposed materials will result in a quality development consistent with the urban design standards contained in the Southeastern San Diego Planned District Ordinance. The site is zoned CC-3-5 and the project meets the criteria of the zoning regulations, as allowed through the approval of a Planned Development Permit.

**2. The proposed development shall be compatible with existing and planned land uses on adjoining properties and shall not constitute a disruptive element to the surrounding neighborhood and community. Architectural harmony with the surrounding neighborhood and community shall be achieved as far as practicable.** The project will be compatible with and not constitute a disruptive element to the surrounding neighborhood and community. The surrounding land uses include commercial and residential uses. The proposed project will provide both commercial and residential uses. Commercial uses exist to the west and north, residential uses exist to the east and south. Necessary parking will be provided on the site, all lighting will be shielded, trash bins will be enclosed and screened, fencing will be discreet and screened with landscaping, buildings will be articulated and constructed using quality materials and discreet colors, signage will be the minimum necessary and comply with the City-wide regulations, open space uses in patios and courtyards will include seating, urban art forms, landscaping and plaza water features.

The project will create long term value and offers flexibility in terms of architectural design, parking access and phasing in the community. Unique roof forms will provide an opportunity for creation of solar generated power while creating a new building typology in forms reinterpreting the historic character of the warehouse district. Diverse window patterns, contemporary materials of metals, glass and textures will be incorporated into the final design and construction. Building articulation and variety in colors will provide a dynamic urban aesthetic. Each of the buildings will present a unique architectural quality composing a sense of individuality. Convenient retail and commercial services will provide necessary neighborhood enterprise and social opportunity. The height of the proposed project will be consistent with other commercial buildings in the neighborhood. Direct and focused pedestrian connections from the public rights-of-way through the project will create an openness to the project and encourage pedestrian activity from existing adjacent uses. Massing, articulation, detailing, materials and colors will create a harmonious project in the community and will provide proper balance and contrast.

**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 permit granted for the project includes conditions to address health, safety and welfare of persons residing and or working in the area. The project will enhance other properties in the vicinity. The existing construction at the project site included BMP for the construction activity to address storm water runoff and is conditioned by Site Development Permit No. 415853, Planned Development Permit No. 454025 and Conditional Use Permit No. 431367 to continue the ongoing permanent Best Management Practices maintenance, will 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.**

All individual structures will be reviewed by professional staff for compliance with all relevant and applicable building, electrical, mechanical and fire codes to assure the structure will meet or exceed the current regulations. As such the proposed development will not be detrimental to the public health, safety, and welfare.

The permit controlling the development and continued use of the development proposed for this site contains conditions addressing the project compliance with the City's regulations and other regional, state and federal regulations to prevent detrimental impacts to the health, safety, and general welfare of persons residing and/or working in the area. Conditions of approval require compliance with several operational constraints and development controls intended to assure the continued health, safety and general welfare of persons residing or working in the area. All Building, Fire, Plumbing, Electrical, Mechanical Code and the City regulations governing the construction and continued operation of the development apply to this site to prevent adverse affects to those persons or other properties in the vicinity. The recent amendment of the Southeastern San Diego Community Plan includes provisions to facilitate the project. Therefore, the proposed development will not be detrimental to the public health, safety, and welfare.

**4. The proposed use will comply with the relevant regulations of the municipal code in effect for this site.** The project has been determined to comply with the Southeastern San Diego Community Plan and the CC-3-5 zone use and development regulations relevant to the COMM 22 parcel, except as specifically allowed through the approval of a Planned Development and Site Development Permit. Nine deviations are approved with this project from the Land Development Code sections, tables and one deviation each from the adopted Street Design Manual, Sewer Design Guide and Water Department Facility Design Guidelines, as allowed in the Planned Development and Site Development Permit regulations. All other regulations of the CC-3-5 zone will be complied with for the life of the development. No deviations are granted which will endanger or threaten the safety or health of any persons living or working in the neighborhood or community.

**D. PLANNED DEVELOPMENT PERMIT – SDMC SECTION 126.0604**

**1. The proposed development will not adversely affect the applicable land use plan.** The COMM 22 project is a mixed-use, transit-oriented development combining affordable and senior housing with day care facilities, community serving commercial and retail space, office space, market rate live-work lofts, and for-sale town homes. Refer to Site Development Permit Finding No. 1.a above for additional detail.

**2. The proposed development will not be detrimental to the public health, safety, and welfare.** The COMM 22 project is a mixed-use, transit-oriented development combining affordable and senior housing with day care facilities, community serving commercial and retail space, office space, market rate live-work lofts, and for-sale town homes. Refer to Site Development Permit Finding No. 1.b above for additional detail.

**3. The proposed development will comply with the regulations of the Land Development Code.** The COMM 22 project is a mixed-use, transit-oriented development combining affordable and senior housing with day care facilities, community serving commercial

and retail space, office space, market rate live-work lofts, and for-sale town homes. Refer to Site Development Permit Finding No. 1.c above for additional detail.

**4. The proposed development, when considered as a whole, will be beneficial to the community.** The existing warehouse building will be renovated and expanded to accommodate approximately 62,180 square feet of office and live work space. These spaces will be leased to local artists, small businesses and professionals and a 4,800 square foot bank in the community. Seventy dwelling units of affordable senior housing and a 5,447 square foot day care facility will be built above a single level underground parking garage on the remainder of the lot. One hundred twenty-seven dwelling units of affordable family housing and 12,945 square feet of retail space will be developed on the former maintenance facility and storage yard sites. Family units will be constructed as stacked flats over retail and two levels of underground parking. Two levels of subterranean parking are possible due to native soil being as deep as eighteen feet throughout the site. Seventeen for-sale town-homes will be developed on the remaining property. These project features and goals will provide needed housing and development in the community. The provision of 127 dwelling units affordable to persons at the income range described as 30-50 percent average median income will contribute in a real and meaningful way towards the goals of providing affordable housing in the City. Though the project will include several deviations to accommodate the design of the project, the resulting benefits of the project will be positive for the community and City of San Diego.

**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.** Granting the proposed deviations will result in the development of an affordable, senior and market rate housing and mixed commercial project at an urban infill site owned by the San Diego School District which has several utility and drainage easements transecting the site in addition to the adjacent San Diego Trolley line which is aligned down the center of Commercial Street. The project site is situated on San Diego School District property along the southern side of Commercial Street, between 21st Street and Harrison Avenue. The proposed development complies with the Southeastern San Diego Community Plan and site-specific development regulations for the COMM 22 parcels, except as allowed through the approval of a Planned Development and Site Development Permit. Refer to Supplemental Findings--Deviations for Affordable/In-Fill Housing Projects and Sustainable Buildings, Finding number B.3 for additional information.

The current site plan allows the project to achieve an optimal density and creates open space areas and courtyards rather than dedicating these spaces for parking uses. These deviations have been determined to result in a superior project which will amplify the positive effects emanating from the project without which the project would not be constructed. The deviations will result in a more desirable project and without these minor deviations the benefits of providing the project would not be realized.

**E. CONDITIONAL USE PERMIT – SDMC SECTION 126.0305**

**1. The proposed development will not adversely affect the applicable land use plan.** The COMM 22 project is a mixed-use, transit-oriented development combining affordable

and senior housing with day care facilities, community serving commercial and retail space, office space, market rate live-work lofts, and for-sale town homes. Refer to Site Development Permit Finding No. 1.a above for additional detail.

**2. The proposed development will not be detrimental to the public health, safety, and welfare.** The COMM 22 project is a mixed-use, transit-oriented development combining affordable and senior housing with day care facilities, community serving commercial and retail space, office space, market rate live-work lofts, and for-sale town homes. Refer to Site Development Permit Finding No. 1.b above for additional detail.

**3. The proposed development will comply to the maximum extent feasible with the regulations of the Land Development Code.** The COMM 22 project is a mixed-use, transit-oriented development combining affordable and senior housing with day care facilities, community serving commercial and retail space, office space, market rate live-work lofts, and for-sale town homes. Refer to Site Development Permit Finding No. 1.c above for additional detail.

**4. The proposed use is appropriate at the proposed location.** The COMM 22 project is a mixed-use, transit-oriented development combining affordable family and senior housing with day care facilities, community serving commercial and retail space, office space, market rate live-work lofts, and for-sale town homes. The office space and live-work lofts will be housed in a rehabilitated warehouse building. The remainder of the development will consist of new construction. In addition to the proposed uses on site, the development will include enhanced plaza areas for public gathering, strong pedestrian connectivity throughout the site, and convenient access to public transportation.

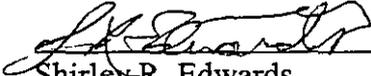
The project site is surplus San Diego City Schools property along the southern side of Commercial Street, between 21st Street and Harrison Avenue. The proposed mixed-use commercial development on 4.58 acres of a site is designated for Community Commercial uses in the Southeastern San Diego Community Plan. The community commercial designation and the application of the CC-3-5 zone to the site is intended to accommodate development with a high intensity, pedestrian orientation with a maximum of one dwelling unit per 1,500 square feet of lot area where the minimum lot coverage is 35 percent, the allowed FAR is 2.0 and the maximum height of the buildings may be one hundred feet. With the adoption of the amendment to the Southeastern San Diego Community Plan, the proposed project is consistent with the policies and guidelines of the Plan. The senior housing segment of the project will be located adjacent to a child care center, community serving retail uses and will have convenient access to public transportation and the San Diego Trolley line within Commercial Street. The proposed project is an excellent use for the unused site and will provide a substantial benefit to the community and City of San Diego. For additional supporting information refer to Southeast San Diego Planned District Finding No. D.2 above.

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

BE IT FURTHER RESOLVED, that Site Development Permit No. 415853/Planned Development Permit No. 454025/Conditional Use Permit No. 431367 is granted to San Diego Unified School District, Owner/COMM 22, LLC, Permittee, under the terms and conditions set forth in the attached permit which is made a part of this resolution.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By

  
Shirley R. Edwards  
Chief Deputy City Attorney

SRE:pev

10/16/07

Or.Dept:DSD

R-2008-339

MMS #5457

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

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

SPACE ABOVE THIS LINE FOR RECORDER'S USE

JOB ORDER NUMBER 424564

**SITE DEVELOPMENT PERMIT NO. 415853/  
 PLANNED DEVELOPMENT PERMIT NO. 454025/  
 CONDITIONAL USE PERMIT NO. 431367  
 COMM 22 [MMRP] PTS #122002**

**CITY COUNCIL**

This Site Development Permit [SDP] No. 415853/Planned Development Permit [PDP] No. 454025/Conditional Use Permit [CUP] No. 431367 is granted by the City Council of the City of San Diego to San Diego Unified School District, a school district organized and existing under the laws of the State of California, Owner, and COMM 22, LLC, a California limited liability corporation, Permittee, pursuant to San Diego Municipal Code [SDMC] sections 126.0501, 126.0601, and 126.0301. The 4.58-acre site is located at 2101, 2107, 2145 Commercial Street and 1826 Irving Avenue in the CC-3-5 zone of the Southeastern San Diego Community Plan area. The project site legal description is attached as Exhibit "B."

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee to develop a project with 252 dwelling units, 27,835 square feet of commercial retail and office space and a 5,447 square foot child day care facility for a maximum of seventy-four children and thirteen staff. Of the 252 dwelling units, the project would provide twenty-seven market rate live/work lofts, eleven studio apartments, 127 affordable family and seventy senior housing apartments, and seventeen for-sale market rate condominiums. The office space and live/work lofts will be housed in a rehabilitated warehouse building. The remainder of the development will consist of new construction, described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated \_\_\_\_\_, on file in the Development Services Department.

The project or facility shall include:

- a. A mixed use commercial and residential development with 252 dwelling units, 27,835 square feet of commercial retail and office space and a 5,447 square foot child day care facility for a maximum of seventy-four children

and thirteen staff. Of the 252 dwelling units, the project would provide twenty-seven market rate live/work lofts, eleven studio apartments, 127 affordable family and seventy senior housing apartments, and seventeen for-sale market rate condominiums. The office space and live/work lofts will be housed in a rehabilitated warehouse building. The remainder of the development will consist of new construction;

Nine deviations are approved with this project from the Land Development Code sections, tables and one deviation each from the adopted Street Design Manual, Sewer Design Guide and Water Department Facility Design Guidelines. The deviations are to provide relief from the following Land Development Code regulations:

- 1) Section 131.0531 and Table 131-5E; 2) Section 131.0531 and Table 131-5E; 3) Section 131.0531 and Table 131-05E;
- 4) Section 131.0540(c); 5) Section 131.0552; 6) Section 131.0554 and Table 131-05F; 7) Sections 132.0905, 142.0510, 142.0525, 142.0530 and 142.0560; 8) Landscape Regulations Table 142-04D; and
- 9) Section 142.0409(a)1. Specifically these deviations are:
  - 1) Develop Site C with seventeen dwelling units;
  - 2) *Maximum front setback of 15 feet where the CC-3-5 zone allows a maximum front setback of 10 feet;*
  - 3) Side and rear setback of 5 feet where the structure on Site C would be required either be placed at the property line or shall be set back at least 10 feet;
  - 4) Zero to four offsetting planes on building facades fronting the public right-of-way where a minimum of six offsetting planes are required per building façade;
  - 5) *Less than 50 percent of the street wall between 3 and 10 feet above the sidewalk to be transparent where the CC-3-5 zone requires a minimum of 50 percent to be transparent;*
  - 6) Residential use and residential parking on the ground floor in the front 30 feet of the lot where these uses are prohibited;
  - 7) Implement alternative parking standards. Four specific deviations are included in this request: reduce the parking ratio for the senior housing component from 1.0 per unit to 0.60 spaces per unit and provide six total guest parking stalls; provide all of the parking required for Building 1A on Site B; parking ratio for the commercial retail uses will be 2.1 spaces per 1000 square feet; count tandem parking spaces as two stalls where tandem spaces are normally counted as one space; and allow residential parking along

the first thirty feet of the lot for Site C where the CC-3-5 zone prohibits parking in this area.

- 8) Less than one tree within 30 feet of each parking space along the alley on the southwestern side of Site B; and
  - 9) Unconventional tree spacing along the western portion of Commercial Street.
  - 10) The Street Design Manual deviation allows for a ten foot parkway along Commercial Street; the Sewer Design Guide deviation allows installation of the new wastewater line on Commercial as close to the south curb line as possible; and the Water Department Facility Design Guidelines deviation allows a new water main in the 22nd. Street right-of-way yet beneath the curb and sidewalk under the pedestrian pop-outs at the intersection of 22nd. and Commercial Street and at Harrison Avenue and Commercial Street.;
- b. Landscaping (planting, irrigation and landscape related improvements);
  - c. Off-street parking facilities; and
  - d. Accessory improvements determined by the City Manager to be consistent with the land use and development standards in effect for this site per the adopted community plan, California Environmental Quality Act Guidelines, public and private improvement requirements of the City Engineer, the underlying zone(s), conditions of this Permit, and any other applicable regulations of the SDMC in effect for this site.

**STANDARD REQUIREMENTS:**

1. This permit must be utilized within thirty-six months after the date on which all rights of appeal have expired. Failure to utilize and maintain utilization of this permit as described in the SDMC will automatically void the permit unless an Extension of Time has been granted. Any such Extension of Time must meet all the SDMC requirements and applicable guidelines in effect at the time the extension is considered by the appropriate decision maker.

2. No permit for the construction, occupancy or operation of any facility or improvement described herein shall be granted, nor shall any activity authorized by this Permit be conducted on the premises until:

- a. The Owner/Permittee signs and returns the Permit to the Development Services Department; and
- b. The Permit is recorded in the Office of the San Diego County Recorder.

3. Unless this Permit has been revoked by the City of San Diego the property included by reference within this Permit shall be used only for the purposes and under the terms and conditions set forth in this Permit unless otherwise authorized by the City Manager.
4. This Permit is a covenant running with the subject property and shall be binding upon the Owner/Permittee and any successor or successors, and the interests of any successor shall be subject to each and every condition set out in this Permit and all referenced documents.
5. The utilization and continued use of this Permit shall be subject to the regulations of this and any other applicable governmental agency.
6. Issuance of this Permit by the City of San Diego does not authorize the Owner/Permittee for this permit to violate any Federal, State or City laws, ordinances, regulations or policies including, but not limited to, the Endangered Species Act of 1973 [ESA] and any amendments thereto (16 U.S.C. § 1531 et seq.).
7. The Owner/Permittee shall secure all necessary building permits. The Owner/Permittee is informed that to secure these permits, substantial modifications to the building and site improvements to comply with applicable building, fire, mechanical and plumbing codes and State law requiring access for disabled people may be required.
8. Construction plans shall be submitted to the City Manager for approval. Plans shall be in substantial conformity to Exhibit "A." No changes, modifications or alterations shall be made unless appropriate application(s) or amendment(s) to this Permit have been granted.
9. All of the conditions contained in this Permit have been considered and have been determined to be necessary in order to make the findings required for this Permit. It is the intent of the City that the holder of this Permit be required to comply with each and every condition in order to be afforded the special rights which the holder of the Permit is entitled as a result of obtaining this Permit.

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

10. The 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, 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.

11. This Permit may be developed in phases. Each phase shall be constructed prior to sale or lease to individual owners or tenants to ensure that all development is consistent with the conditions and exhibits approved for each respective phase per the approved Exhibit "A."

**ENVIRONMENTAL/MITIGATION REQUIREMENTS:**

12. 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.

13. The mitigation measures specified in the MMRP, and outlined in Mitigated Negative Declaration No. 122002 shall be noted on the construction plans and specifications under the heading ENVIRONMENTAL/MITIGATION REQUIREMENTS.

14. The Owner/Permittee shall comply with the MMRP as specified in Mitigated Negative Declaration No. 122002 satisfactory to the City Manager and the City Engineer. Prior to issuance of any construction permit, all conditions of the MMRP shall be adhered to the satisfaction of the City Engineer. All mitigation measures as specifically outlined in the MMRP shall be implemented for the following issue areas:

Paleontological Resources  
 Historical (Archaeological and Architecture)  
 Human Health and Public Safety (Hazardous Materials) and  
 Transportation/Circulation

15. 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.

16. Prior to foundation inspection, the Owner/Permittee shall submit a copy of the approval of the property mitigation plan from the lead agency under the California EPA Site Designation Program, to the satisfaction of the City Manager.

17. Prior to the final inspection, the Owner/Permittee shall submit evidence of the approval of the implementation of the property mitigation plan by the lead agency under the California EPA Site Designation Program, to the satisfaction of the City Manager.

**AFFORDABLE HOUSING REQUIREMENTS:**

18. The project is subject to the Affordable Housing Requirements of the City's Inclusionary Housing Ordinance, Chapter 14, Article 2, Division 13 of the Land Development Code). The Owner/Permittee will meet these requirements by providing at least 10 percent of project's units (twenty-six units) as affordable per SDMC section 142.1309. In addition, the Owner/Permittee has elected to provide an additional 171 affordable housing units on-site as detailed on the conceptual plans and in the project description. Prior to receiving the first residential building permit, the Owner/Permittee must enter into an agreement with the San Diego Housing Commission to assure that the affordable units are built and occupied by the appropriate households.

**LANDSCAPE REQUIREMENTS:**

19. Prior to issuance of any engineering permits for public improvements, the Owner/Permittee shall submit complete landscape construction documents for right-of-way improvements to the City Manager for approval. Improvement plans shall take into account a 40 square foot area around each tree which is unencumbered by utilities. Driveways, utilities, drains, water and sewer laterals shall be designed so as not to prohibit the placement of street trees.

20. 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 City Manager for approval. The construction documents shall be in substantial conformance with Exhibit "A."

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

22. The Owner/Permittee 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.

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

24. If any required landscape, including existing or new plantings, hardscape, landscape features, et cetera, 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 City Manager within thirty days of damage or prior to a Certificate of Occupancy.

**PLANNING/DESIGN REQUIREMENTS:**

25. No fewer than 485 off-street parking spaces (447 spaces required) of which thirteen spaces are accessible parking spaces, twenty-one motorcycle spaces, and seventy-eight bicycle spaces shall be maintained on the property at all times in the approximate locations shown on the approved Exhibit "A." Parking spaces shall comply at all times with requirements of the Land Development Code and shall not be converted for any other use unless otherwise authorized by the City Manager.

This will provide the project the flexibility to repond to necessary and unavoidable changes in design as long as the total number of parking spaces is between the required 447 and proposed 485 spaces.

26. 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.

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

28. The Owner/Permittee shall post a copy of the approved discretionary permit and Vesting Tentative Map in the sales office for consideration by each prospective buyer.

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

**TRANSPORTATION REQUIREMENTS**

30. The Owner/Permittee shall provide a shared parking agreement between Site A and Site B in order to provide 112 parking spaces in buildings 2 and 3 to be utilized by proposed uses in buildings 1 and 1 A as described on Exhibit A, satisfactory to the City Engineer.

31. Prior to the issuance of the first building permit, the Owner/Permittee shall revise floor plans of proposed units in buildings 4A and 4C to modify dimensions of tandem garages to a minimum clear parking area of 9.5' (width) x 37' (depth), satisfactory to the City Engineer.

32. Prior to the issuance of the first building permit, the Owner/Permittee shall provide enhanced vehicular paving within property boundaries only and not within the public right-of-way including public alleys and streets, satisfactory to the City Engineer.
33. Prior to the issuance of the first building permit, the Owner/Permittee shall provide a minimum of 12 feet from the edge line of the existing trolley line and where on-street parking is provided there shall be a minimum of 20 foot separation, satisfactory to the City Engineer.
34. This project shall comply with all current street lighting standards according to the City of San Diego Street Design Manual (Document No. 297376, filed November 25, 2002) and the amendment to Council Policy 200-18 approved by City Council on February 26, 2002 by Resolution R-296141, satisfactory to the City Engineer. This may require, yet not be limited to, installation of new street light(s), upgrading light from low pressure to high pressure sodium vapor and/or upgrading wattage.

**WASTEWATER REQUIREMENTS:**

35. Prior to the issuance of any grading permits, the Owner/Permittee shall relocate onsite public sewer mains, satisfactory to the Metropolitan Wastewater Department Director. All associated public easements shall be vacated, satisfactory to the Metropolitan Wastewater Department Director.
36. Prior to the issuance of any building permits, the Owner/Permittee shall assure, by permit and bond, the upgrade and construction of all public sewer facilities deemed necessary by the accepted sewer study, satisfactory to the Metropolitan Wastewater Department Director.
37. Prior to the issuance of any grading 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 the right of way, satisfactory to the Metropolitan Wastewater Department Director.
38. No structures or landscaping that would inhibit vehicular access shall be installed in or over any sewer access easement.
39. 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 and enhanced paving, installed in or over any sewer easement.
40. Prior to the issuance of any grading permits, the Owner/Permittee shall provide a letter of permission from each property owner whose private lateral will be relocated due to this development.
41. Prior to the issuance of any grading permits, the existing public sewer mains that are to be relocated shall be inspected using a closed-circuit television (CCTV) by a

California Licensed Plumbing Contractor to verify all laterals are reconnected to the proposed new public sewer main.

42. Prior to the issuance of any grading permits, the Owner/Permittee shall record a permanent Encroachment Removal and Maintenance Agreement [EMRA] for the curbs and surface improvements located within 10 feet of public sewer mains, satisfactory to the Metropolitan Wastewater Department Director.

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

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

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

#### **WATER REQUIREMENTS:**

46. Prior to the issuance of any building permits, the Owner/Permittee shall assure, by permit and bond, the design and construction of the public water facilities, as identified in the accepted water study, necessary to serve this development, in a manner satisfactory to the Water Department Director and the City Engineer, maintaining redundancy throughout the phasing of construction.

47. Prior to the issuance of any building permits, the Owner/Permittee shall cut, plug, and abandon the existing public water facilities, located within the portion of Irving Avenue right-of-way proposed to be vacated traversing the project site, in a manner satisfactory to the Water Department Director and the City Engineer.

48. 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), including domestic, fire and irrigation, in a manner satisfactory to the Water Department Director and the City Engineer.

49. 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) [BFPD] on each water service (domestic, fire, and irrigation), in a manner satisfactory to the Water Department Director and the City Engineer. The Water Department will not allow the BFPDs to be located below grade or within any proposed structure.

50. Prior to the issuance of any certificates of occupancy, the Owner/Permittee shall install fire hydrants at locations satisfactory to the Fire Department, the Water

Department Director, and the City Engineer. Any proposed fire hydrant installation not conforming to Water Department standards for public fire hydrants, shall be private.

51. Prior to the issuance of any building permits, the Owner/Permittee shall provide CC&Rs for the operation and maintenance of all private water facilities that serve or traverse more than a single unit or lot.

52. Prior to the issuance of any building permits, the Owner/Permittee shall process an EMRA for all acceptable encroachments of structures or landscaping into any easement containing public water facilities. No structures or landscaping of any kind shall be installed in or over any vehicular access roadway.

53. Prior to the issuance of any certificates of occupancy, public water facilities necessary to serve the development, including services, shall be complete and operational in a manner satisfactory to the Water Department Director and the City Engineer.

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

**MTS REQUIREMENTS:**

55. Before construction begins the Owner/Permittee must contact Tim Allison MTS right-of-way manager, at (619-699-4903) to determine if a right-of-entry permit will be required.

**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 \_\_\_\_\_ by Resolution No. R-\_\_\_\_\_.

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.

SAN DIEGO UNIFIED SCHOOL DISTRICT, a School District organized and existing under the laws of the State of California  
Owner

By \_\_\_\_\_  
Peter M. Iverson  
Interim Executive Director, Facilities  
San Diego Unified School District

COMM 22, LLC  
A California Limited Liability Corporation  
Permittee

By \_\_\_\_\_  
Arnulfo Manriquez  
COMM 22, LLC  
Chief Operating Officer  
Metropolitan Area Advisory Committee  
On Anti Poverty of San Diego County,  
Inc., a California nonprofit public benefit  
corporation

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