



City of San Diego  
 Office of the City Clerk  
 202 C Street  
 Second Floor  
 San Diego, CA 92101  
 (619) 533-4000

335  
 01/13

**Recommendations**  
 Community Planning Group/  
 Staff's/Planning Commission

CC0661

Project Manager **must** complete the following information for the Council docket:

CASE NUMBER: Promenade @ Rio Vista TM – Project No. 105158

**Staff's:**

Please indicate the recommended action for each item (i.e. Resolution/Ordinance):

Resolution denying the appeal and upholding Planning Commissions approval of Tentative Map No. 348629.

**Planning Commission:**

(List names of Commissioners voting yea or nay)

YEAS: Shultz, Nasland, Ontai, Otsuji, Golba, Griswold

NAYS: \_\_\_\_\_

ABSENT: Smiley

Recommended Action: Approving Tentative Map No. 348629

**Community Planning Group:**

Choose one:

LIST NAME OF GROUP:

- No officially recognized community planning group for this area.
- Community Planning Group has been notified of this project and has not submitted a recommendation.
- Community Planning Group has been notified of this project and has not taken a position.
- Community Planning Group has recommended approval of this project.
- Community Planning Group has recommended denial of this project.
- This is a matter of City-wide effect. The following community group(s) have taken a position on the item:

In favor:

Opposed:

By: *Jonathan Temple*  
 Project Manager

*This information is available in alternative formats for persons with disabilities.  
 To request this information in alternative format, call (619)446-5446 or (800)735-2929 (TDD)*



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THE CITY OF SAN DIEGO

## REPORT TO THE PLANNING COMMISSION

**DATE ISSUED:** September 26, 2008      **REPORT NO.** PC-08-103

**ATTENTION:** Planning Commission, Agenda of October 2, 2008

**SUBJECT:** PROMENADE @ RIO VISTA TM – PROJECT NO. 105158  
PROCESS FOUR

**OWNERS:** Promenade Acquisition, LLC (Attachment 8)

**APPLICANT:** Rick Engineering Company, Engineer

### SUMMARY

**Issue:** Should the Planning Commission approve a Tentative Map to convert 970 residential units to condominiums and create 17 commercial condominium units on a 15.68 acre site within the Mission Valley Community Plan area?

**Staff Recommendation:** Approve Tentative Map No. 348629.

**Community Planning Group Recommendation:** On July 11, 2007, the Mission Valley Unified Planning Committee voted 20-0-0 to recommend approval with no conditions (Attachment 7).

**Environmental Review:** This project is exempt from environmental review pursuant to Article 19, Section 15301(k), Existing Facilities, of the California Environmental Quality Act (CEQA). The environmental exemption determination for this project was made on February 5, 2007. An appeal of the CEQA determination was previously made and the City Council denied the CEQA appeal on June 12, 2007.

**Fiscal Impact Statement:** None with this action. All costs associated with the processing of this project are paid by the applicant.

**Code Enforcement Impact:** None with this action.

**Housing Impact Statement:** With the proposed conversion of 970 existing apartments to condominiums, there would be a loss of 970 rental units and a gain of 970 for-sale



000664 units. This condominium conversion project was deemed complete on January 23, 2007, and is therefore subject to the regulations regarding Inclusionary housing and tenant relocation assistance. This project is required to set aside 10% of the units for households earning 100% of the Area Median Income or less.

## **BACKGROUND**

This Tentative Map project is subject to the condominium conversion regulations effective June 13, 2006. At the June 13, 2006, hearing, the City Council adopted regulations for additional requirements for landscaping, a building conditions report, onsite inclusionary housing, noticing and parking. Based on the adopted language and project timing, all of these new regulations apply to this project. Accordingly, this project has been reviewed against the new regulations, and this project can proceed to its discretionary hearing.

The 15.68-acre project site is located at 8405-8715 Rio San Diego Drive, 8555 Station Village Lane, 2185-2195 Station Village Way and 2173 Camino Del Este in the MV-M/SP Zone of Mission Valley Planned District within the Mission Valley Community Plan area and is part of the First San Diego River Improvement Project (FSDRIP) and Rio Vista West Specific Plans (Attachments 1-3). The site is presently developed with six five-story structures over two partial basement garages containing 970 residential units, 17,354 square feet of commercial space, 1,844 off-street parking spaces and numerous resident amenities including two pools and fitness centers. The site is bounded on the west by multi-family residential uses, to the north with a retail center, hotel/commercial offices to the east and the San Diego Trolley Rio Vista Station and San Diego River to the south.

The existing improvements were constructed in 2003 and 2004. The development complies with current zoning and development regulations and no Building or Zoning code violations have been recorded against the property. The site has no overhead utilities on or adjacent to the development.

## **DISCUSSION**

### **Project Description:**

The project proposes a Tentative Map for the subdivision of a 15.68-acre site into one (1) lot for a 970 unit residential condominium conversion and the creation of 17 commercial condominiums (Attachment 5). Section 125.0410 of the San Diego Municipal Code (SDMC) requires that a Tentative Map be processed for the subdivision of land. According to SDMC Sections 125.0440 and 125.0444, *Findings for Tentative Maps and for Condominium Conversions*, the decisionmaker may approve a Tentative Map for the purposes of the conversion of residential property into a condominium project if the decisionmaker finds that the proposed conversion complies with the requirements of the Subdivision Map Act and the San Diego Municipal Code. Staff has reviewed the proposed condominium conversion and creation and determined that it complies with both the Subdivision Map Act and the San Diego Municipal Code.

## Community Planning Group:

On July 11, 2007, the Mission Valley Unified Planning Committee voted 20-0-0 to recommend approval with no conditions (Attachment 7).

### Project-Related Issues:

#### Inclusionary Housing Ordinance and Tenant Relocation Benefits Conformance:

The requested conversion of these residential units to condominiums represents primarily a change in ownership. The applicant has certified that the 970 unit complex has been served the 60-day Notice of Intent to Convert to Condominiums on July 18, 2008 (Attachment 10).

All condominium conversion projects Deemed Complete on or after February 7, 2004, must conform with the regulations regarding Inclusionary housing and tenant relocation benefits adopted by the City Council on March 15, 2004. This proposed project was Deemed Complete on January 23, 2007, and is therefore subject to these new regulations. The project has been conditioned to require the subdivider conform with the City's Inclusionary Housing Ordinance (Chapter 14, Article 2, Division 13 of the Land Development Code) to the satisfaction of the City Manager and the Housing Commission, prior to the recordation of the Final Map. The applicant will have to adhere to the Municipal Code provisions for Tenant Relocation Benefits (Chapter 14, Article 4, Division 5). If prospective tenants move into the premises prior to the recording of the Final Map, the Subdivider shall provide each tenant, and each person applying for the rental of a unit in such residential real property, all applicable notices and rights required by the State Map Act and Land Development Code.

On June 13, 2006, the City Council adopted regulations for additional requirements for landscaping, a building conditions report, onsite inclusionary housing, noticing and parking. Based on the adopted language and project timing, all of these new regulations apply to this project. The applicant will be required to enter into an agreement with the San Diego Housing Commission to provide the on-site affordable units prior to recordation of the Final Map, pursuant to the Affordable Housing Requirements of the City's Inclusionary Housing Ordinance (Chapter 14, Article 2, Division 13 of the Land Development Code).

#### Building Conditions Report and Landscape Requirements

In accordance with the current regulations, the applicant provided a Building Conditions Report and Landscape Concept Plan. Both of these documents have been reviewed for conformance with the applicable regulations within Land Development Code (Chapter 14, Article 4, Division 5) and have been accepted by staff as conforming with the regulations.

#### Noticing

The proposed project has been conditioned to conform with all new noticing requirements for condominium conversions.

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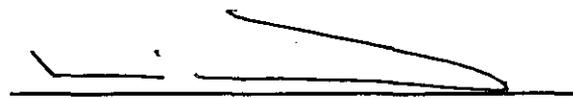
**Conclusion:**

Staff has reviewed the request for a Tentative Map for the conversion of 970 residential units into condominiums and the creation of 17 commercial condominium units and has found the project to be in conformance with the applicable sections of the San Diego Municipal Code regulating Tentative Maps. Staff believes the required findings can be supported and recommends the Planning Commission approve the project as proposed.

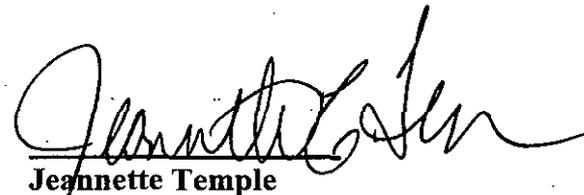
**ALTERNATIVES**

1. **Approve Tentative Map No. 348629, with modifications.**
2. **Deny Tentative Map No. 348629, if the findings required to approve the project cannot be affirmed.**

Respectfully submitted,



**Mike Westlake  
Program Manager  
Development Services Department**



**Jeannette Temple  
Development Project Manager  
Development Services Department**

WESTLAKE/JT

Attachments:

1. Aerial Photograph
2. Community Plan Land Use Map
3. Project Location Map
4. Project Data Sheet
5. Tentative Map
6. Draft Map Conditions and Subdivision Resolution
7. Community Planning Group Recommendation
8. Project Chronology
9. Ownership Disclosure Statement
10. 60-Day Notices of Intent to Convert
11. Photos of Existing Front and Rear Elevations
12. Building Conditions Report



Project Site



### Aerial Photo

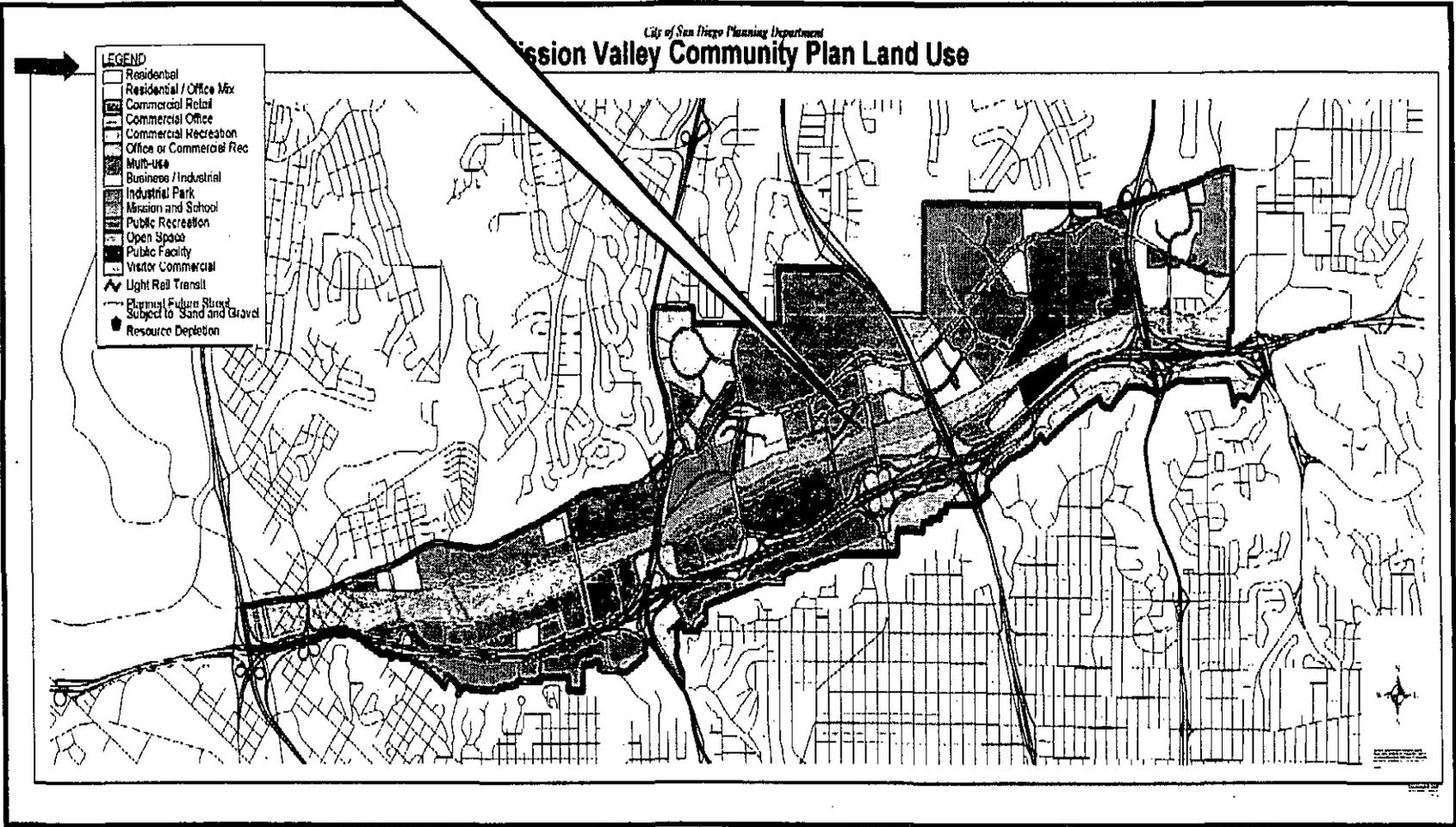
PROMENADE @ RIO VISTA TENTATIVE MAP - PROJECT NO.105158

8405-8715 RIO SAN DIEGO DRIVE-8555 STATION VILLAGE LANE

2185-2195 STATION VILLAGE WAY-2173 CAMINO DEL ESTE



**Project Site**



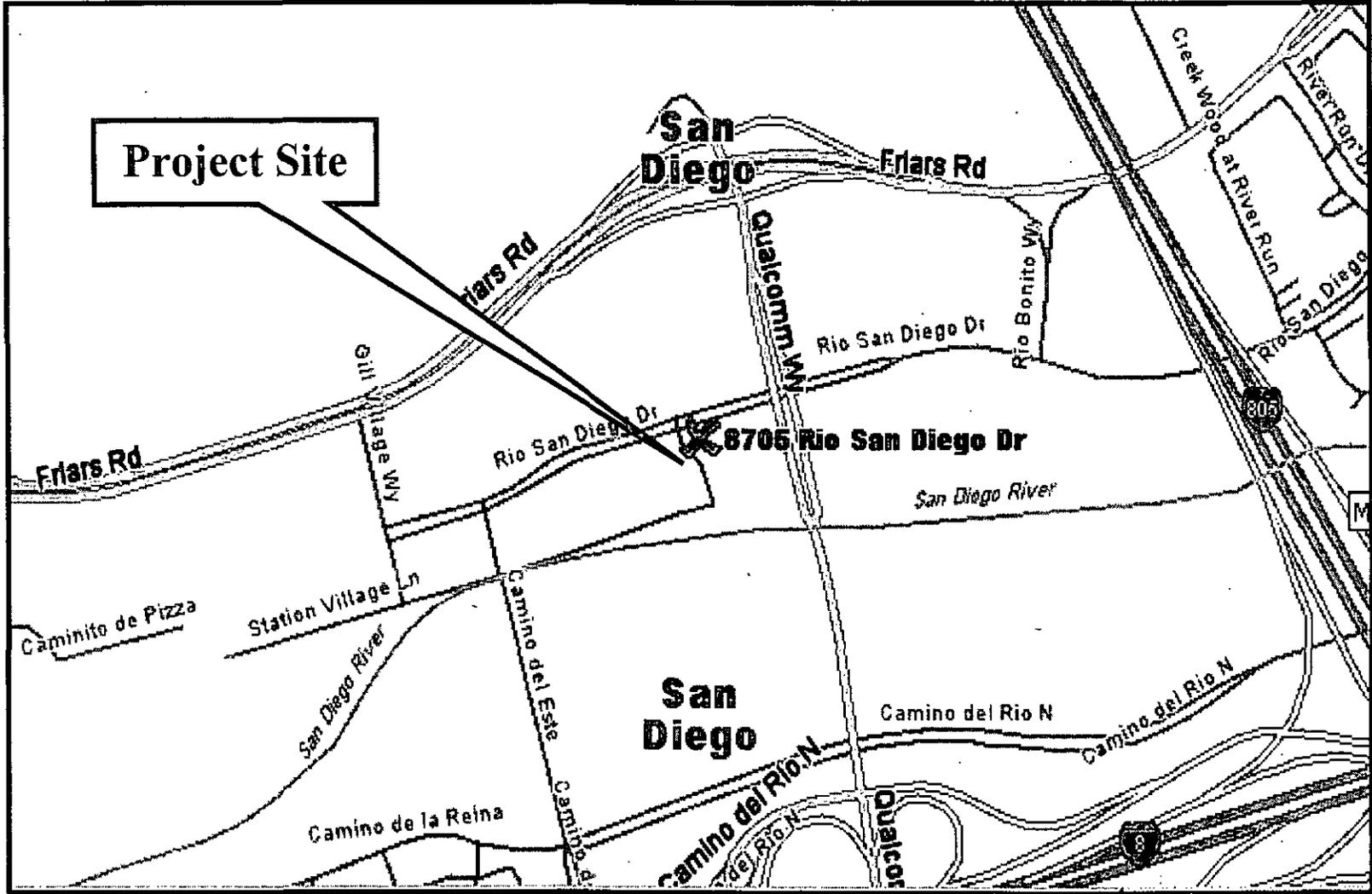
### Land Use Map

**PROMENADE @ RIO VISTA TENTATIVE MAP – PROJECT NO. 105158**

**8405-8715 RIO SAN DIEGO DRIVE-8555 STATION VILLAGE LANE**

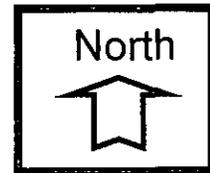
**2185-2195 STATION VILLAGE WAY – 2173 CAMINO DEL ESTE**





### Project Location Map

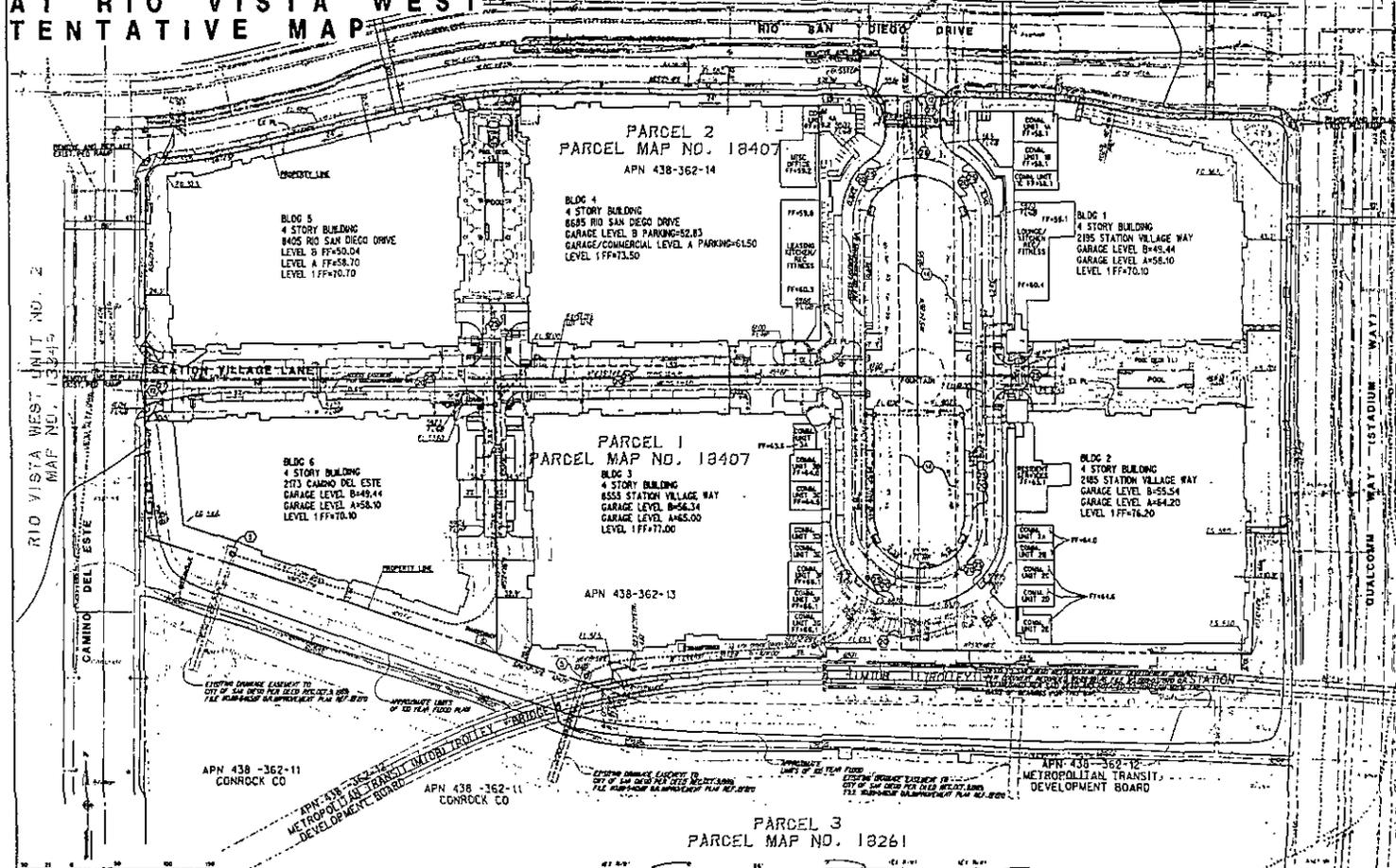
**PROMENADE AT RIO VISTA TM - PROJECT NO. 105158**  
**8405-8715 RIO SAN DIEGO DRIVE – 8555 STATION VILLAGE LANE**  
**2185-2195 STATION VILLAGE WAY – 2173 CAMINO DEL ESTE**



090670 PROJECT DATA SHEET		
<b>PROJECT NAME:</b>	Promenade @ Rio Vista TM	
<b>PROJECT DESCRIPTION:</b>	Conversion of 970 existing apartments into condominiums and the creation of 17 commercial condominiums.	
<b>COMMUNITY PLAN AREA:</b>	Mission Valley	
<b>DISCRETIONARY ACTIONS:</b>	Tentative Map	
<b>COMMUNITY PLAN LAND USE DESIGNATION:</b>	Multi-Use	
<b>CURRENT ZONING INFORMATION:</b>		<b>CONSTRUCTED</b>
<b>ZONE:</b> MV-M/SP		MV-M/SP
<b>DENSITY:</b> medium-high density		970 units, 17,354 commercial sf
<b>HEIGHT LIMIT:</b> 75 ft max		Approx 73 ft
<b>LOT SIZE:</b> na		15.68 acres
<b>FLOOR AREA RATIO:</b> na		na
<b>FRONT SETBACK:</b> various with arcades and stepbacks		various with arcades and stepbacks
<b>SIDE SETBACK:</b> saa		saa
<b>STREETSIDE SETBACK:</b> saa		saa
<b>REAR SETBACK:</b> saa		saa
<b>PARKING:</b> 1677		1844 spaces
<b>ADJACENT PROPERTIES:</b>	<b>LAND USE DESIGNATION &amp; ZONE</b>	<b>EXISTING LAND USE</b>
<b>NORTH:</b>	Commercial; MV-M/SP	Retail Center
<b>SOUTH:</b>	Open Space	University
<b>EAST:</b>	Commercial; MV-CV	Hotel/Conference Center
<b>WEST:</b>	Urban Residential; MV-M/SP	Multi-family
<b>DEVIATIONS OR VARIANCES REQUESTED:</b>	None	
<b>COMMUNITY PLANNING GROUP RECOMMENDATION:</b>	On July 11, 2007, the Mission Valley Unified Planning Committee voted 20-0-0 to recommend approval with no conditions	

# THE PROMENADE AT RIO VISTA WEST TENTATIVE MAP NO. 13149

RIO VISTA UNIT NO. 1  
MAP NO. 13149



### DEVELOPMENT SUMMARY

1. SUMMARY OF PROJECT: THIS TENTATIVE MAP IS REQUESTING THE CONVERSION OF EXISTING APARTMENTS TO 170 UNIT RESIDENTIAL CONDOMINIUM UNITS AND 170 UNIT COMMERCIAL UNITS TO 170 UNIT COMMERCIAL UNITS.
2. STREET ADDRESS: 54' CORNER OF CALLEON WAY AND RED SAN DIEGO DRIVE BETWEEN CALLEON WAY AND STATION VILLAGE LANE.
3. SITE AREA: 1.00 AC (APPROXIMATE) 10,437.50 SQ. FT. NET SITE AREA 10,437.50 SQ. FT.
4. COVERAGE DATA: TOTAL BUILDING AREA INCLUDING TERRACE 170,000 SQ. FT. TOTAL LANDSCAPE/PARKING SPACE AREA 271,000 SQ. FT. TOTAL DEVELOPABLE AREA 441,000 SQ. FT.
5. FLOOD ZONE DESIGNATION: EXISTING PROPOSED FLOODING IS 100-YEAR FLOOD ZONE. PROPERTY LIES WITHIN ZONE 1, WHITE AREA OF THE FEMA MAP AREA DETERMINED TO BE OUTSIDE 500 YEAR FLOOD PLAIN FOR FLOOD INSURANCE RATE MAP NO. 06012C SAN DIEGO COUNTY, CALIFORNIA, DATED JUNE 16, 1997. A PORTION OF THE PROPERTY LIES IN ZONE 1, SHADY AREA OF THE FEMA MAP AREA OF 100 YEAR FLOOD PLAIN AVERAGE DEPTH OF LESS THAN 1 FOOT ON RIV. SPANACE AREA LESS THAN 1 SQUARE MILE AND AREA PROTECTED BY LEVES FROM 100 YEAR FLOOD.
6. LANDMARK COORDINATED ZONING: PARCEL 1: COMMERCIAL - C-100; PARCEL 2: COMMERCIAL - C-100; PARCEL 3: COMMERCIAL - C-100; PARCEL 6: COMMERCIAL - C-100.
7. TOPOGRAPHY: TOPOGRAPHIC SURVEY IS FROM AN AERIAL SURVEY DONE BY THE ENGINEERING & SURVEYING COMPANY. THE TOPOGRAPHY DATA HAS BEEN DELIVERED AT A HORIZONTAL RESOLUTION OF 1:10' AT 1' CONTOUR INTERVAL.
8. SEWER AND WATER MAINS: FACILITIES SERVING THIS PROJECT ARE PROVIDED. THE MAINTENANCE OF THE PRIVATE SEWER AND WATER FACILITIES ARE GOVERNED BY PRIVATE COVENANTS, CONDITIONS AND RESERVATIONS.
9. CONDOMINIUM ACT: THIS DEVELOPMENT IS A CONDOMINIUM PROJECT AS DEFINED IN SECTION 4100.01, 4100.02 OF THE CIVIL CODE OF THE STATE OF CALIFORNIA AND IS FILED PURSUANT TO THE SUBDIVISION MAP ACT. THE TOTAL NUMBER OF CONDOMINIUM UNITS IS 170. THE TOTAL NUMBER OF COMMERCIAL CONDOMINIUM UNITS IS 170.
10. UNIT STATISTICS:

UNIT TYPE	NO. OF UNITS	TOTAL AREA (SQ. FT.)	AVERAGE AREA (SQ. FT.)
RESIDENTIAL	170	170,000	1,000
COMMERCIAL	170	170,000	1,000
<b>TOTAL</b>	<b>340</b>	<b>340,000</b>	<b>1,000</b>
11. PROVIDED PARKING SUMMARY:

TYPE	NO. OF SPACES	TOTAL
RESIDENTIAL	170	170
COMMERCIAL	170	170
<b>TOTAL</b>	<b>340</b>	<b>340</b>
12. REQUIRED PARKING PER ZONING CODE: 99-0663 COMMERCE C-100/4
13. NECESSARY PLANS: SUBDIVISION MAP, 30000-0-13149-0, 13149-0, 13149-0, 13149-0.
14. LOTS SURVEYED: EXISTING LOTS 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000.

### GENERAL NOTES

1. TOTAL NUMBER OF EXISTING PARKING SPACES: 170
2. PARKING SUMMARY:

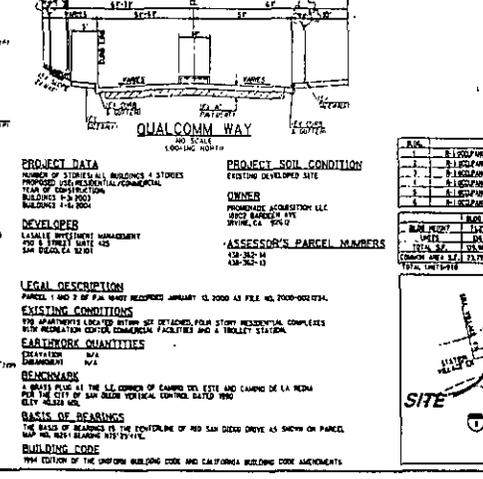
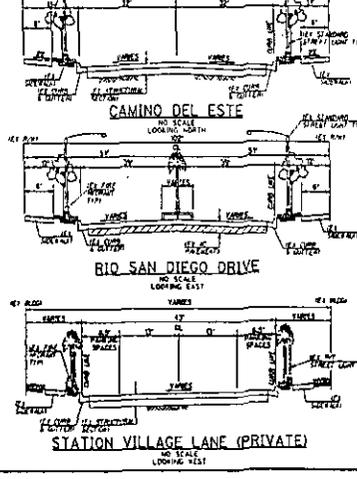
TYPE	NO. OF SPACES	TOTAL
RESIDENTIAL	170	170
COMMERCIAL	170	170
<b>TOTAL</b>	<b>340</b>	<b>340</b>
3. UTILITIES: WATER CITY OF SAN DIEGO; SEWER CITY OF SAN DIEGO; GAS CITY OF SAN DIEGO; FIBER OPTIC CABLE CITY OF SAN DIEGO; CABLE TV CITY OF SAN DIEGO.
4. NOTES: ALL EXISTING ELECTRICAL TELEPHONE AND CABLE TELEVISION SERVICES ARE PROVIDED UNDERGROUND. CABLE TV COE COMMUNICATIONS.
5. DRAINAGE: DRAINAGE FACILITIES ARE CONSTRUCTED PER CITY OF SAN DIEGO STANDARDS.
6. SIGNAGE: SIGNAGE SHALL BE INSTALLED PER CITY OF SAN DIEGO STANDARDS.
7. CALIFORNIA BUILDING CODE: TYPE OF CONSTRUCTION: RESIDENTIAL CONDOMINIUMS - 4 STORY WOOD FRAMED STRUCTURES BUILDING CODE YEAR: 1994.
8. FOR INFORMATION: SEE AND SURVEY DATA SEE RECORDED PARCEL MAP 18407.
9. CHANGING AND PUBLIC IMPROVEMENTS SHALL BE ACCEPTED BY THE CITY ENGINEER PRIOR TO RECOGNITION OF THE PARCEL MAP.
10. THE BUILDING CONSTRUCTION AND SITE IMPROVEMENTS SHALL BE CONSTRUCTED AS PERMITTED UNDER 30000-0-13149-0, 13149-0, 13149-0, 13149-0.

### EASEMENTS

FOR TITLE REPORT BY CHICAGO TITLE COMPANY DATED MAY 18, 2006 UNDER NO. 00028415-0151

1. AN EASEMENT GRANTED TO CITY OF SAN DIEGO FOR STORM DRAIN AND IMPROVEMENTS TOGETHER WITH THE RIGHT OF WAY AND EASEMENTS FOR DOCUMENT RECORDED OCTOBER 8, 1988 AS FILE NO. 89-144384 OF OFFICIAL RECORDS.
2. AN EASEMENT GRANTED TO SOUTHWESTERN FIBER TV FOR UNDERGROUND STRUCTURES PER DOCUMENT RECORDED JUNE 10, 1994 AS FILE NO. 94-119111 OF OFFICIAL RECORDS. THE EXACT LOCATION AND EXTENT OF SAID EASEMENT IS NOT DISCLOSED OF RECORD.
3. AN EASEMENT GRANTED TO SAN DIEGO GAS AND ELECTRIC COMPANY PER DOCUMENT RECORDED JUNE 29, 1995 AS FILE NO. 95-103416 OF OFFICIAL RECORDS.
4. AN EASEMENT AS OFFERED FOR INDICATION ON THE RECORDED MAP OF PARCEL MAP 18407 FOR ELECTRICAL, DRAINAGE, WATER OR SEWER PURPOSES.
5. AN EASEMENT GRANTED TO SAN DIEGO METROPOLITAN TRANSIT DEVELOPMENT BOARD FOR PUBLIC PROTECTION AND IMPROVEMENTS TOGETHER WITH THE RIGHT OF WAY AND EASEMENTS FOR DOCUMENT RECORDED MAY 28, 1994 AS FILE NO. 94-18123171 AND JUNE 2, 1994 AS FILE NO. 94-18123172 OF OFFICIAL RECORDS.
6. A DOCUMENT ENTITLED "RECIPROCAL EASEMENT AGREEMENT" RECORDED AUGUST 8, 2000 AS FILE NO. 2000-0-02925 OF OFFICIAL RECORDS.
7. AN EASEMENT GRANTED TO SAN DIEGO GAS AND ELECTRIC COMPANY FOR 10 INCH DRAINAGE FACILITIES PER DOCUMENT RECORDED OCTOBER 8, 1988 AS FILE NO. 88-144384 OF OFFICIAL RECORDS.
8. AN EASEMENT GRANTED TO CITY OF SAN DIEGO A MUNICIPAL CORPORATION FOR WATER FACILITIES RECORDED UNDER 30000-0-13149-0 AS FILE NO. 2002-0-049171 OF OFFICIAL RECORDS.
9. AN EASEMENT GRANTED TO CITY OF SAN DIEGO A MUNICIPAL CORPORATION FOR PUBLIC PROTECTION AND IMPROVEMENTS TOGETHER WITH THE RIGHT OF WAY AND EASEMENTS RECORDED OCTOBER 8, 2002 AS FILE NO. 2002-0-049172 OF OFFICIAL RECORDS.
10. AN EASEMENT GRANTED TO CITY OF SAN DIEGO A MUNICIPAL CORPORATION FOR OFFGATE AND REPLENISHING FACILITIES RECORDED NOVEMBER 5, 2002 AS FILE NO. 2002-0-049173 OF OFFICIAL RECORDS.

○ INDICATES EASEMENT PLOTTED HEREON



### ENGINEER OF WORK

MVA ENGINEERING COMPANY  
 200 S. CALLEON WAY  
 SAN DIEGO, CA 92101  
 619-591-1111

DATE: 01/13/2006

PROJECT ADDRESS: 200 S. CALLEON WAY, CITY OF SAN DIEGO, CA 92101

PROJECT NAME: THE PROMENADE AT RIO VISTA WEST

DESIGNER: MVA ENGINEERING, INC.

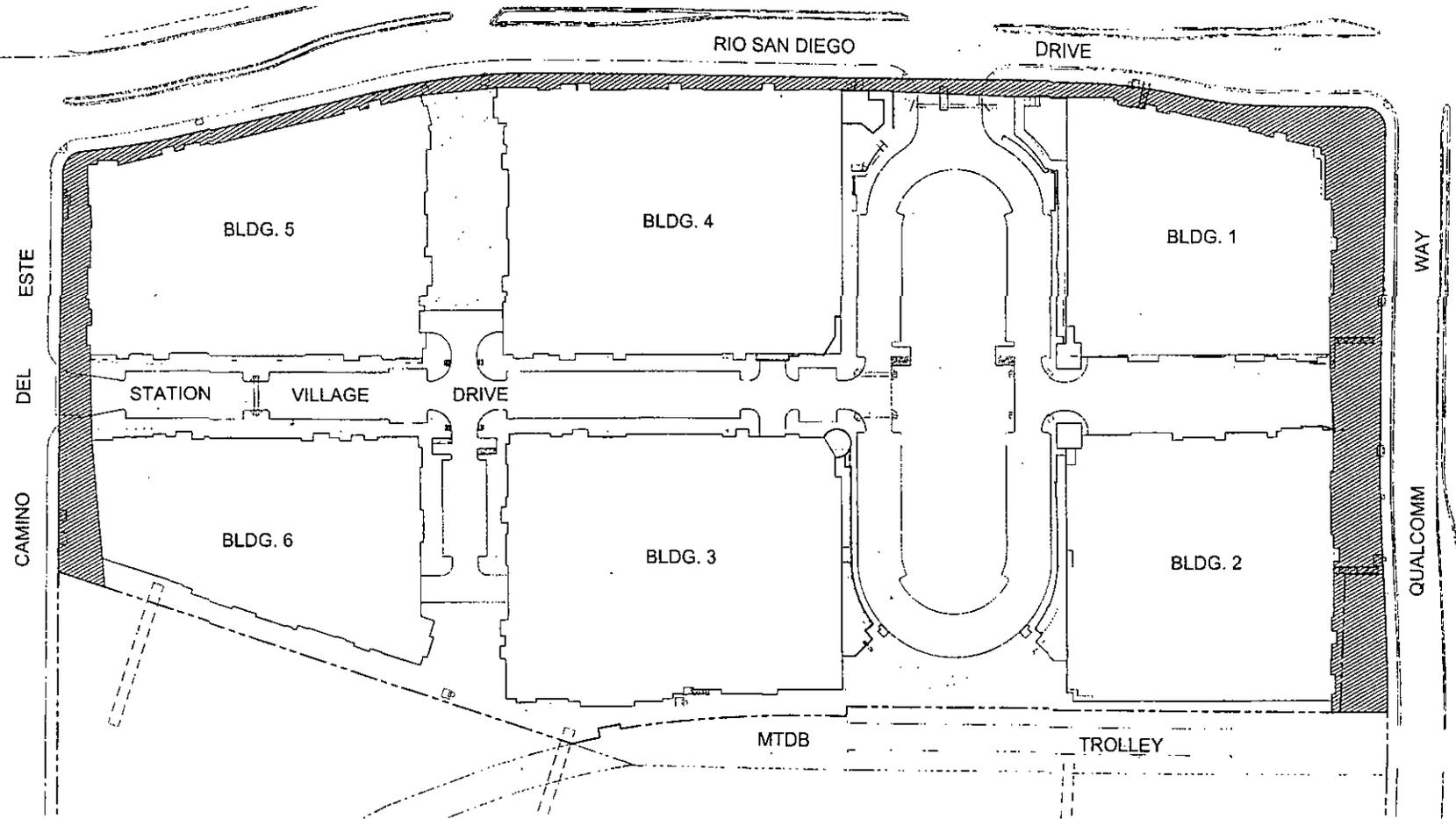
DATE: 01/13/2006

PROJECT NO.: 02-0001

SCALE: AS SHOWN

ATTACHMENT 5

000672



**ORDINANCE EXHIBIT**

STREET YARD:		
PLANTING AREA REQUIRED	PLANTING AREA PROVIDED	EXCESS AREA PROVIDED
TOTAL AREA: 85,222 SF ±	43,878 SF	41,344 SF
PLANTING POINTS REQUIRED	PLANTING POINTS PROVIDED	EXCESS POINTS PROVIDED
TOTAL AREA: 85,222 SF ± @ 1" = 1 POINT	22,890 POINTS	21,314 POINTS
POINTS ACHIEVED WITH TREES		21,860 POINTS
STREET TREE REQUIREMENT:		
STREET FRONTAGE LINEAR FEET	2081	
TREES IN PARKWAY	24	
TREES 10 FEET FROM PROPERTY LINE	48	
<b>TOTAL</b>	<b>74</b>	<b>54</b>

- NOTES:**
1. ALL LANDSCAPE AND IRRIGATION SHALL CONFORM TO THE CITY OF SAN DIEGO LANDSCAPE AND IRRIGATION, THE LAND DEVELOPMENT MANUAL, LANDSCAPE STANDARDS, THE LAMSON VALLEY PLANNING DISTRICT, AND ALL OTHER CITY AND REGIONAL STANDARDS.
  2. ALL PROPOSED IRRIGATION SYSTEMS SHALL USE AN APPROVED RAIN SENSOR SHUTOFF DEVICE (R12.240).
  3. IRRIGATION AN AUTOMATIC ELECTRICALLY CONTROLLED IRRIGATION SYSTEM SHALL BE PROVIDED AS REQUIRED FOR PROPER IRRIGATION, DEVELOPMENT, AND MAINTENANCE OF THE VEGETATION IN A HEALTHY, DISEASE-RESISTANT CONDITION. THE DESIGN OF THE SYSTEM SHALL PROVIDE ADEQUATE SUPPORT FOR THE VEGETATION SELECTED.
  4. MAINTENANCE: ALL IRRIGATED LANDSCAPE AREAS SHALL BE MAINTAINED BY THE OWNER. THE LANDSCAPE DESIGN SHALL BE MAINTAINED FREE OF DEBRIS AND LITTER AND ALL PLANT MATERIAL SHALL BE MAINTAINED IN A HEALTHY GROWING CONDITION. DISEASED OR DEAD PLANT MATERIAL SHALL BE SATISFACTORILY TREATED OR REPLACED PER THE CONDITIONS OF THE PERMIT.

**STREET YARD DIAGRAM AREA AND CALCULATION**

PREPARED BY:	REVISION 10
NAME: DEC. LANDSCAPE COMPANY	REVISION 9
ADDRESS: 1425 PINE STREET	REVISION 8
SAN DIEGO, CA 92108	REVISION 7
PHONE NO: (619) 291-2001	REVISION 6
FAX NO: (619) 291-2001	REVISION 5
PROJECT ADDRESS:	REVISION 4
	REVISION 3
	REVISION 2
	REVISION 1

PROJECT NAME:  
THE PROMENADE AT 110

ORIGINAL DATE: 3/24/04

SHEET TITLE: LANDSCAPE CONCEPT PLAN

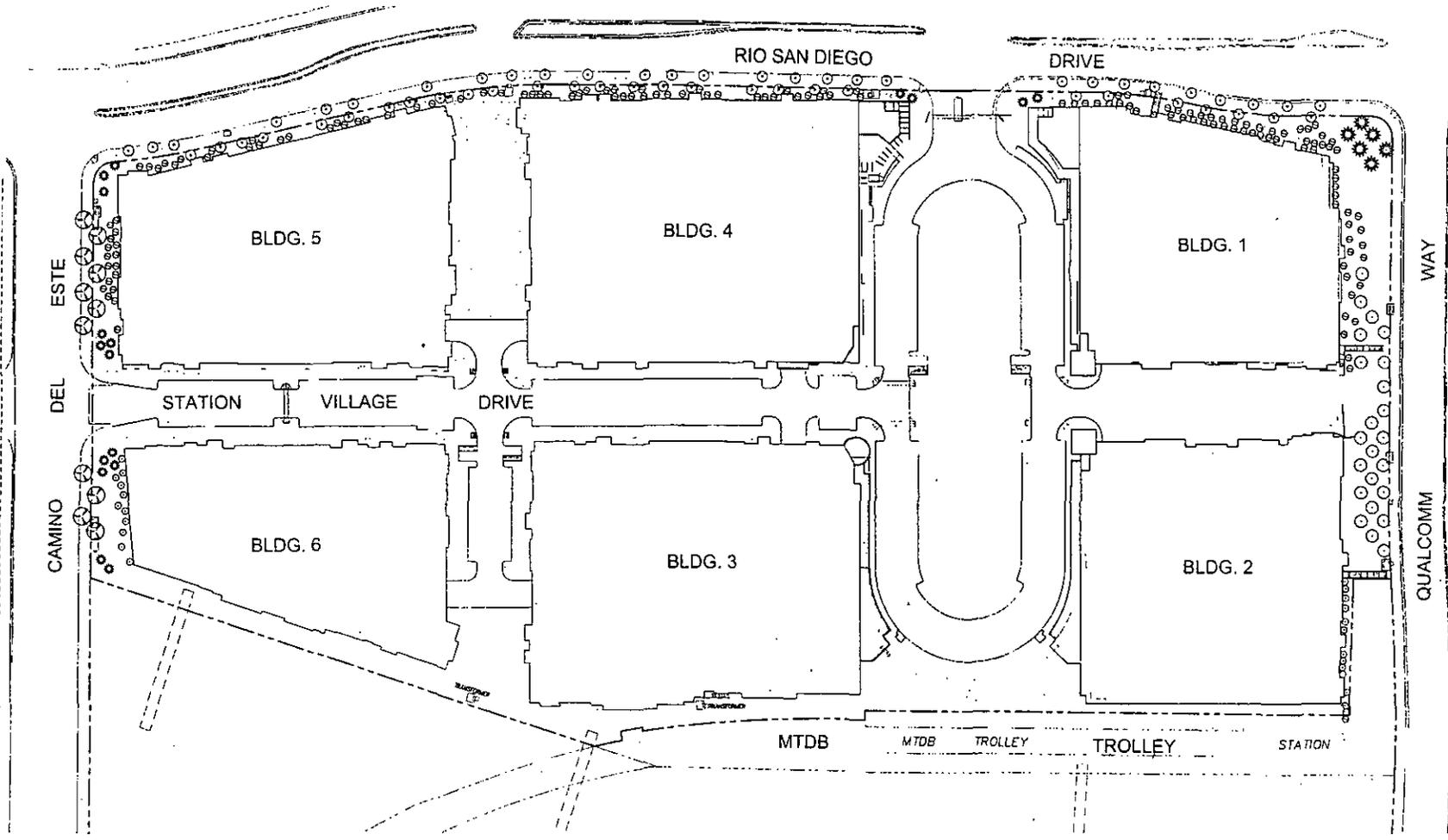
DEPT. NO. / DRAW. PERM. NO. / DATE:

**RICK**  
ENGINEERING CONSULTANTS  
1425 PINE STREET  
SAN DIEGO, CA 92108  
619.291.8702  
619.291.2911



ATTACHMENT 5

000673



**EXISTING PLANT LEGEND- STREETYARD**

SYMBOL	BOTANICAL NAME/COMMON NAME	AVERAGE SIZE	QUANTITY	POINTS
☀	PHOENIX CACTUS/REDBUD	10' HEIGHT	23	1380
☀	CANARY ISLAND DATE PALM			
☀	EUCALYPTUS SPECIES	17' CALIPER	23	8,900
☀	EUCALYPTUS			
☀	BRACHYDONTIUM POPALUS/US	4" CALIPER	142	14,200
☀	BOTTLE TREE			
☀	TRISTANIA CONFERTA	4" CALIPER	16	1,500
☀	BRIBRANE BOX			
TOTAL			203	23,980

**EXISTING PLANT LEGEND- STREET TREES**

SYMBOL	BOTANICAL NAME/COMMON NAME	AVERAGE SIZE	QUANTITY
☀	PODOCARPUS ORACLOU	4" CALIPER	11
☀	TRISTANIA CONFERTA	4" CALIPER	63
☀	BRIBRANE BOX		

NOTE: ALL PLANT MATERIAL SHOWN IS EXISTING TO REMAIN. NO PLANT MATERIAL IS TO BE REMOVED.

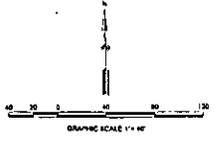
**NOTES:**

1. ALL LANDSCAPE AND IRRIGATION SHALL COMPLY TO THE CITY OF SAN DIEGO LANDSCAPE REGULATIONS, THE LAND DEVELOPMENT MANUAL, LANDSCAPE STANDARDS, THE MESSERS VALLEY PLANNED DISTRICT, AND ALL OTHER CITY AND REGIONAL STANDARDS.
2. ALL PROPOSED IRRIGATION SYSTEMS WILL USE AN APPROVED PLAN MASONRY SERVICE SYSTEM.
3. IRRIGATION AN AUTOMATIC, ELECTRICALLY CONTROLLED IRRIGATION SYSTEM SHALL BE PROVIDED AS REQUIRED FOR PROPER REGULATION, DEVELOPMENT, AND MAINTENANCE OF THE IRRIGATION IN A HEALTHY, DROUGHT RESISTANT CONDITION. THE DESIGN OF THE SYSTEM SHALL PROVIDE ADEQUATE SUPPORT FOR THE VEGETATION SELECTED.
4. MAINTENANCE: ALL REQUIRED LANDSCAPE AREAS SHALL BE MAINTAINED BY THE OWNER. THE LANDSCAPE AREAS SHALL BE MAINTAINED FREE OF DEBRIS AND LITTER AND ALL PLANT MATERIAL SHALL BE MAINTAINED IN A HEALTHY GROWING CONDITION. DEBRIS OR DEAD PLANT MATERIAL SHALL BE STRUCTURE TREATED OR REPLACED PER THE CONDITIONS OF THE PERMIT.

**EXISTING CONDITIONS LANDSCAPE PLAN**

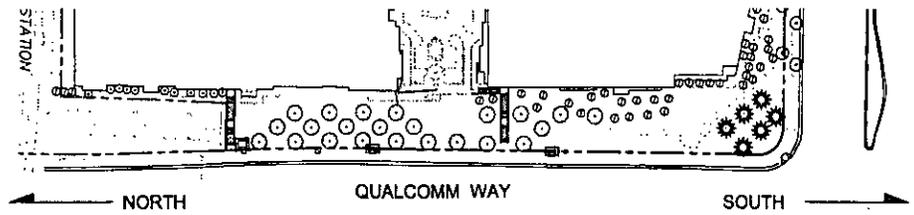
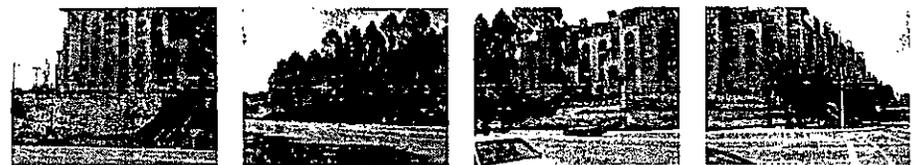
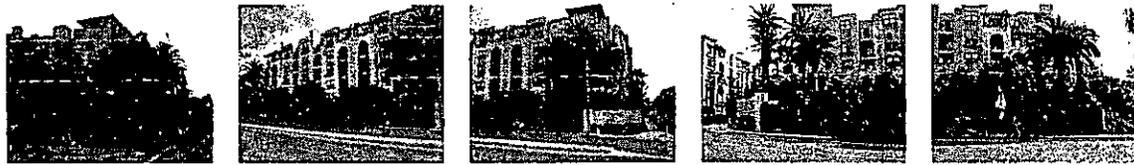
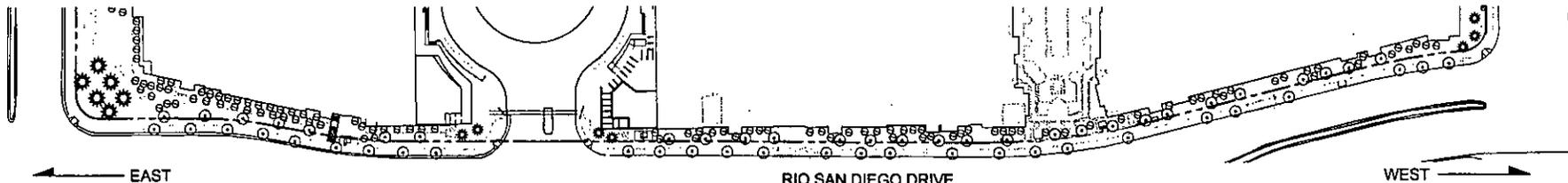
PREPARED BY: NAME: RICK ENGINEERING COMPANY	REVISION 10
ADDRESS: 3425 TRINITY STREET SAN DIEGO, CA 92108	REVISION 9
PHONE NO. (619) 731-8000	REVISION 8
FAX NO. (619) 731-8000	REVISION 7
PROJECT ADDRESS:	REVISION 6
	REVISION 5
	REVISION 4
	REVISION 3
	REVISION 2
	REVISION 1
PROJECT NAME:	DATE: 10/20/08
THE PROMENADE AT RUC	
SHEET TITLE:	SHEET 3 OF 19
EXISTING CONDITIONS LANDSCAPE PLAN	DEPT. NO. EXIST. COND. L.P. 00-0002
DATE: 10/20/08	

**RICK ENGINEERING COMPANY**  
 3425 TRINITY STREET  
 SAN DIEGO, CA 92108  
 619 731 8000  
 619 731 8000  
 rickeng.com



ATTACHMENT 5

000001



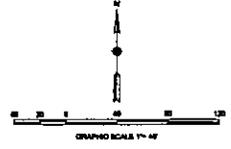
**NOTES:**

1. ALL LANDSCAPE AND IRRIGATION SHALL CONFORM TO THE CITY OF SAN DIEGO LANDSCAPE REGULATIONS, THE LANDSCAPE PLANT MATERIALS, LANDSCAPE IRRIGATION, THE IRRIGATION PLANNING MANUAL, AND ALL OTHER CITY AND REGIONAL STANDARDS.
2. ALL PROPOSED IRRIGATION SYSTEMS WILL USE AN APPROVED MAIN SOURCE IRRIGATION SOURCE, SEE SHEET.
3. IRRIGATION FOR AN AUTOMATIC, ELECTRICALLY CONTROLLED IRRIGATION SYSTEM SHALL BE PROVIDED AS REQUIRED FOR PROPER IRRIGATION DEVELOPMENT, AND MAINTENANCE OF THE IRRIGATION IN A HEALTHY, DISEASE RESISTANT CONDITION. THE DESIGN OF THE SYSTEM SHALL PROVIDE ADEQUATE SUPPORT FOR THE IRRIGATION SYSTEMS.
4. MAINTENANCE: ALL REDUCED LANDSCAPE AREAS SHALL BE MAINTAINED BY THE OWNER. THE LANDSCAPE AREAS SHALL BE MAINTAINED FREE OF WEEDS AND LITTER AND ALL PLANT MATERIALS SHALL BE MAINTAINED IN A HEALTHY GROWING CONDITION. DAMAGED OR DEAD PLANT MATERIAL SHALL BE SATISFACTORILY DETAILED OR REPLACED PER THE CONDITIONS OF THE PERMIT.

**EXISTING CONDITIONS PHOTO BOARD**

PREPARED BY:	RICK ENGINEERING COMPANY	REVISION 10:	
NAME:		REVISION 9:	
ADDRESS:	3420 FRENCH ROAD SAN DIEGO, CA 92110	REVISION 8:	
PHONE NO. (619) 291-0307		REVISION 7:	
FAX NO. (619) 298-3581		REVISION 6:	
PROJECT ADDRESS:		REVISION 5:	
		REVISION 4:	
		REVISION 3:	3/13/08
		REVISION 2:	3/11/08

PROJECT NAME:		ORIGINAL DATE:	3/13/08
THE PREMISES AT PID:			
SHEET TITLE:	LANDSCAPE CONDITIONS PLAN	SHEET:	4
EXISTING CONDITIONS PHOTO BOARD:		DEPT. NO. (Landscape)	100-001
VLM-JAM/ELN		P/S-105138	



**RICK ENGINEERING COMPANY**  
 3430 PEARS ROAD  
 SAN DIEGO, CA 92110  
 (619) 291-0307  
 (619) 291-4165  
 rickeng.com  
 San Diego • Irvine • Orange • San Luis Obispo • Ashland • Sacramento • Pleasanton

ATTACHMENT 5

000675

PLANNING COMMISSION RESOLUTION NO. PC-XXXX  
TENTATIVE MAP NO. 348629  
**PROMENADE @ RIO VISTA TM - PROJECT NO. 105158**  
**DRAFT**

WHEREAS, Promenade Acquisition, LLC, Applicant/Subdivider, Rick Engineering Company, Engineer, submitted an application with the City of San Diego for a Tentative Map, No. 348629. The project site is located at 8405-8715 Rio San Diego Drive, 8555 Station Village Lane, 2185-2195 Station Village Way and 2173 Camino Del Este in the MV-M/SP Zone of Mission Valley Planned District within the Mission Valley Community Plan area and is part of the First San Diego River Improvement Project (FSDRIP) and Rio Vista West Specific Plans. It is legally described as Parcels 1 and 2 of Parcel Map No. 18407; and

WHEREAS, the Map proposes the subdivision of a 15.68 acre site into for a 970 unit residential condominium and 17 commercial condominium creation; and

WHEREAS, the project is exempt from environmental review pursuant to Section 15301(k) of the California Environmental Quality Act (CEQA) on the basis that the facilities are existing; and

WHEREAS, a preliminary soils and geological reconnaissance report are waived by the City Engineer pursuant to the Subdivision Map Act and Section 144.0220 of the Municipal Code of the City of San Diego; and

WHEREAS, the subdivision 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 dwelling units is 970 and the commercial units is 17; and

WHEREAS, on October 2, 2008, the Planning Commission of the City of San Diego considered Tentative Map No. 348629, and pursuant to Sections 125.0440 (tentative map), and 125.0444 (condo conversion), of the Municipal Code of the City of San Diego and Subdivision Map Act Section 66428, received for its consideration written and oral presentations, evidence having been submitted, and heard testimony from all interested parties at the public hearing, and the Planning Commission having fully considered the matter and being fully advised concerning the same; NOW THEREFORE,

BE IT RESOLVED by the Planning Commission of the City of San Diego, that it adopts the following findings with respect to Tentative Map No. 348629:

1. The proposed subdivision and its design or improvement are consistent with the policies, goals, and objectives of the applicable land use plan (Land Development Code Section 125.0440.a and State Map Action Sections 66473.5, 66474(a), and 66474(b)).

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2. The proposed subdivision complies with the applicable zoning and development regulations of the Land Development Code (Land Development Code Section 125.0440.b).
3. The site is physically suitable for the type and density of development (Land Development Code Section 125.0440.c and State Map Act Sections 66474(c) and 66474(d)).
4. The design of the subdivision or the proposed improvements are not likely to cause substantial environmental damage or substantially and avoidable injure fish or wildlife or their habitat (Land Development Code Section 125.0440.d and State Map Act Section 66474(e)).
5. The design of the subdivision or the type of improvements will not be detrimental to the public health, safety, and welfare (Land Development Code Section 125.0440.e and State Map Act Section 66474(f)).
6. The design of the subdivision or the type of improvements will not conflict with easements acquired by the public at large for access through or use of property within the proposed subdivision (Land Development Code Section 125.0440.f and State 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 (Land Development Code Section 125.0440.g and State Map Act Section 66473.1).
8. The decision maker has considered the effects of the proposed subdivision on the housing needs of the region and that those needs are balanced against the needs for public services and the available fiscal and environmental resources (Land Development Code Section 125.0440.h and State Map Act Section 66412.3).
9. Each of the tenants of the proposed condominium project has received, pursuant to State Map Action Section 66452.11, written notification of intention to convert at least 180 days prior to the termination of tenancy.
10. Each of the tenants of the proposed condominium project has received a notice 60 days prior to the filing of a tentative map (Land Development Code 125.0444 and State Map Act Section 66452.9
11. The project has been conditioned that the Subdivider will give each tenant, and each person applying for the rental of a unit in such residential real property, all applicable notices and rights now or hereafter required by the State Map Act (Land Development Code Section 125.0444 and State Map Act Section 66427.1(a)).

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12. The project has been conditioned that the Subdivider will give each tenant 10 days' written notification that an application for a public report will be, or has been, submitted to the Department of Real Estate, that the period for each tenant's right to purchase begins with the issuance of the final public report, and that the report will be available on request (Land Development Code Section 125.0444 and State Map Act Section 66427.1 (a)(2)(B)).
13. The project has been conditioned that the Subdivider will give each tenant of the proposed condominium project written notification within 10 days after approval of a final map for the proposed conversion, and written notification within five days of receiving the public report from the Department of Real Estate (Land Development Code Section 125.0444 and State Map Act Section 66427.1(a)(2)). If the subdivider chooses to provide affordable housing units, the subdivider shall enter into an affordable housing agreement with the Housing Commission, prior to recordation of the Final Map.
14. The project has been conditioned that the Subdivider will give each of the tenants of the proposed condominium project 180 days' written notice of intention to convert prior to termination of tenancy due to the conversion or proposed conversion, but not before the approval of the tentative map for the conversion. (Land Development Code Section 125.0444 and State Map Act Section 66427.1(a)(2)(E)).
15. The project has been conditioned that the Subdivider will give each of the tenants of the proposed condominium project notice of an exclusive right to contract for the purchase of his or her respective unit upon the same terms and conditions that such unit will be initially offered to the general public or terms more favorable to the tenant. The right shall run for a period of not less than 90 days from the date of issuance of the subdivision public report pursuant to Section 11018.2 of the Business and Professions Code, unless the tenant gives prior written notice of his or her intention not to exercise the right (Land Development Code Section 125.0444 and State Map Act Section 66427.1(a)(2)(F)).
16. The project was not financed by funds obtained from a governmental agency to provide for elderly, disabled, or low income housing (Land Development Code Section 125.0444.b).
17. Each of the tenants of the proposed condominium project has received written notification of the project application for the condominium conversion within 10 days after the application was deemed complete (Land Development Code 125.0431(a)(3)).
18. The project has been conditioned that the subdivider will give each person applying for the rental of a unit in such residential real property written

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notification that the project application for the condominium conversion was deemed complete (Land Development Code 125.0431(a)(3)).

19. The project has been conditioned that the subdivider will give each tenant a notice of termination of tenancy 60 days prior to being required to vacate the property. (Land Development Code Section 125.0431(a)(4)).
20. A Building Conditions Report has been prepared in accordance with the Land Development Manual by a registered architect or engineer licensed by the State of California, and the City has accepted the report as complete (Land Development Code Section 144.0504(b)).
21. The project has been conditioned that the subdivider will provide to a prospective purchaser a copy of the Building Conditions Report prior to the opening of an escrow account. (Land Development Code Section 144.0504(c)).
22. The project has been conditioned that the subdivider will provide a relocation assistance payment, as and when required by the Land Development Code, to all tenants of the project whose tenancy has terminated due to the condominium conversion. (Land Development Code Section 144.0505).
23. The project has been conditioned for the subdivider to complete the physical improvements as outlined in Land Development Code Section 144.0507, to the satisfaction of the City Engineer prior to final map approval.
24. The project has been conditioned for the subdivider to satisfy the inclusionary housing requirements on-site in accordance with Land Development Code Section 142.1306. (Land Development Code Section 144.0508).
25. The proposed subdivision complies with the parking regulations of the Land Development Code (Land Development Code Section 142.0505).
26. That said Findings are supported by the minutes, maps, and exhibits, all of which are herein incorporated by reference.

BE IT FURTHER RESOLVED, that, based on the Findings hereinbefore adopted by the Planning Commission, Tentative Map No348629, is hereby granted to PROMENADE ACQUISITION, LLC, Applicant/Subdivider, subject to the following conditions:

**GENERAL**

1. This Tentative Map will expire October 2, 2011

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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 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. Prior to the issuance of the Final Map taxes must be paid on this property pursuant to section 66492 of the Subdivision Map Act. A tax certificate, recorded in the office of the County Recorder, must be provided to satisfy this condition
5. The applicant 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 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 applicant of any claim, action, or proceeding and, if the City should fail to cooperate fully in the defense, the applicant 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, applicant 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 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 shall not be required to pay or perform any settlement unless such settlement is approved by applicant
6. The subdivider shall provide a Notice of Tenants Rights and Notices for Condominium Conversion, consistent with the Land Development Manual to be provided as follows:
  - a. For existing tenants, within 10 days of the project application for the *condominium conversion* being deemed complete; or
  - b. For prospective tenants, upon application for the rental of a unit in the proposed *condominium conversion*.
7. The Subdivider shall provide each tenant, and each person applying for the rental of a unit in such residential real property, all applicable notices and rights now or hereafter required by the State Map Act.

000680. 8. The Subdivider shall provide the tenants a Notice of Application for a Public Report at least 10 days prior to the submittal to the Department of Real Estate (DRE), pursuant to Section 66427.1(a)(2)(B) of the Subdivision Map Act.
9. The Subdivider shall provide each of the tenants of the proposed condominiums written notice of intention to convert at least 180 days prior to termination of tenancy due to the conversion or proposed conversion in conformance with Section 66427.1(a)(2)(E) of the Subdivision Map Act. The provisions of this subdivision shall not alter nor abridge the rights or obligations of the parties in performance of their covenants, including, but not limited to, the provision of services, payment of rent, or the obligations imposed by Sections 1941, 1941.1 and 1941.2 of the Civil Code.
10. The Subdivider shall provide each of the tenants of the proposed condominiums notification of their exclusive right to contract for the purchase of his or her respective unit upon the same terms and conditions that such unit will be initially offered to the general public or terms more favorable to the tenant, in conformance with Section 66427.1(a)(2)(F) of the State Map Act. The right shall run for a period of not less than 90 days from the date of issuance of the subdivision public report, pursuant to Section 11018.2 of the Business and Professions Code, unless the tenant gives prior written notice of his or her intention not to exercise the right.
11. The Subdivider shall provide the tenants of the proposed condominiums with written notification within 10 days of approval of a Final Map for the proposed conversion, in conformance with Section 66427.1(a)(2)(D) of the Subdivision Map Act.

#### **AFFORDABLE HOUSING**

12. Prior to the recordation of the Final Map, the subdivider shall enter into an affordable housing agreement with the Housing Commission to provide at least ninety-seven (97) 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).
13. Prior to the recordation of the Final Map, the subdivider shall demonstrate conformance with the Municipal Code provisions for Tenant Relocation Benefits (Chapter 14, Article 4, Division 5), to the satisfaction of the Development Services Department and the Housing Commission.
14. The subdivider will give each tenant a notice of termination of tenancy 60 days prior to being required to vacate the property. (Land Development Code Section 125.0431(a)(4)).

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15. The subdivider will provide to a prospective purchaser a copy of the Building Conditions Report prior to the opening of an escrow account. (Land Development Code Section 144.0504(c)).

## ENGINEERING

16. Prior to recordation of the Final Map, The subdivider shall replace all existing curb ramps, adjacent to the project site, with City standard curb ramps with truncated domes.
17. The Subdivider shall underground any new service run to any new or proposed structures within the subdivision.
18. Prior to the recordation of the Final Map, the subdivider shall demonstrate conformance with the Municipal Code provisions for building and landscape improvements (Land Development Code Sections 144.0507), to the satisfaction of the City Engineer.
19. Water and Sewer Requirements:
  - a. The Subdivider shall install appropriate private back flow prevention devices on all existing and proposed water services (domestic, irrigation, and fire) adjacent to the project site in a manner satisfactory to the Water Department Director.
  - b. The Subdivider shall provide a letter, agreeing to prepare CC&Rs for the operation and maintenance of all private water and sewer facilities that serve or traverse more than a single condominium unit or lot.
20. Conformance with 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 tentative map and covered in these special conditions will be authorized.

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. RR-297376.

## MAPPING

21. "Basis of Bearings" means the source of uniform orientation of all measured bearings shown on the map. Unless otherwise approved, this source will be the California Coordinate System, Zone 6, North American Datum of 1983 (NAD 83).

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22. "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."
23. 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.

#### LANDSCAPE

24. Prior to recordation of the Final Map, complete irrigation construction documents consistent with the Landscape Standards shall be submitted to the Development Services Department for approval. The construction documents shall be in substantial conformance with the Exhibit 'A,' Landscape Development Plan, on file in the Office of the Development Services Department.
25. All existing landscape shall be maintained in a disease, weed and litter free condition at all times. Severe pruning or "topping" of trees is not permitted. The trees shall be maintained in a safe manner to allow each tree to grow to its mature height and spread.
26. The Permittee or Subsequent Owner shall be responsible for the maintenance of all existing landscape in the right-of-way consistent with the Land Development Manual Landscape Standards.
27. If any existing landscape (including existing plantings, hardscape, landscape features, etc.) indicated on the approved construction document plans is damaged or removed during demolition or construction, it shall be repaired and/or replaced in kind and equivalent size per the approved documents to the satisfaction of the Development Services Department within 30 days of damage or prior to a Certificate of Occupancy or a Final Landscape Inspection.

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**INFORMATION:**

- The approval of this Tentative Map by the Planning Commission of the City of San Diego does not authorize the 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 subdivider makes any request for new water and sewer facilities (including services, fire hydrants, and laterals), then the subdivider 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 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 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 Tentative Map, may protest the imposition within 90 days of the approval of this Tentative Map by filing a written protest with the City Clerk pursuant to California Government Code Section 66020.

PASSED AND ADOPTED BY THE PLANNING COMMISSION OF THE CITY OF SAN DIEGO, CALIFORNIA, ON October 2, 2008.

By

\_\_\_\_\_  
Jeannette Temple  
Development Project Manager  
Development Services Department

Job Order No. 426548

000684

**MINUTES OF THE REGULAR MEETING OF THE  
MISSION VALLEY UNIFIED PLANNING COMMITTEE**

July 11, 2007

**MEMBERS PRESENT**

Jason Broad  
Paul Brown  
Nat Cohen  
Gina Cord  
Randall Dolph  
Emmett Durnan  
Christine Evans  
Pat Grant  
Ronald Grant  
Lisa Gualco  
Hank Hoxie  
Linda Kaufman  
Lynn Mulholland  
Alex Kacur  
Alison Prager  
Karen Ruggels  
Tom Sudberry  
Mark Silverman  
John Tessier  
Gail Thompson  
Jennifer White

**MEMBERS ABSENT****MEMBERS EXCUSED**

Paul Dugas  
Eve Hager  
Bruce Warren

**CITY STAFF**

Lisa Gonzales

**GUESTS**

Marco Sessa  
Rob Hutzel  
Jay Taranton, Westfield  
Mary Grant Frederickson  
Kevin Simonson  
Christina Burhans

Linda Kaufman, Chair, called the regular meeting of the Mission Valley Unified Planning Committee (MVUPC) to order at 12:10 p.m. at the Mission Valley Library located at 2123 Fenton Parkway.

**A. CALL TO ORDER**

Verify Quorum – 20 members were present, a quorum. Ron Grant moved to elect Karen Ruggels, Secretary Pro Tem. Christine Evans seconded the motion. Motion passed 20-0-0.

**B. PLEDGE OF ALLEGIANCE** – Christine Evans led The Pledge of Allegiance.

**C. INTRODUCTIONS** – Guests and members introduced themselves.

**D. MEMBERSHIP BUSINESS** – Lisa Gualco, no report.

**E. PUBLIC INPUT** – none

**F. TREASURER'S REPORT** – Alison Prager reported that the bank account balance is \$1,028.00.

**G. PUBLIC SAFETY REPORTS**

1. Police Department – Christina Burhans, Community Relations Officer introduced the new captain of the Eastern Division. She reported that the crime statistics between June 10<sup>th</sup> – 23<sup>rd</sup> were one robbery, and several car break-ins. She also requested that

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anyone who wanted a copy of "Enforcement Responsibilities" could email her at [cburhans@pd.sandiego.gov](mailto:cburhans@pd.sandiego.gov).

2. Fire Department – no report.

#### H. NEW BUSINESS –

1. American Tower – Brian Cook

Brian is the applicant representative for American Tower which is seeking renewal of a ten-year conditional use/neighborhood use permit for a telecommunications facility located within the SDG&E transformer area on Friars Road in Mission Valley. The tower was built in 1980 and services both mobile phone companies and 911 emergency services.

Brian Schoenfisch said City Staff recommends denial of the project so the tower can be redesigned and rebuilt to fit more attractively into the community.

Brian Cook stated he didn't believe the City's recommendation should have been given before his presentation was finished. He said that if the tower is rebuilt the height needs to remain or coverage of emergency 911 services will be lost. He said the need for this tower has increased due to the infrastructure growth in Mission Valley since the 1980's when the tower was originally built. He stated that American Tower is in litigation with the City regarding this issue.

Emmett Durnan said the concern is with esthetics and technology, not whether or not the tower is a necessity. Brian Cook said to decommission the tower there would be a coverage gap of 2-3 years for the permittal/improvement process. It would take that amount of time from acquisition to on-air.

He was asked if there are any other technological issues for instance earthquakes and whether or not there was any way to add a facade to the tower. Brian stated that landscaping improvements would need to be below the antennas. Gail Thompson asked for an estimate of how much it would cost to redesign and rebuild the tower and Brian Cook said he couldn't fathom the amount.

There was discussion regarding whether the conditional use permit (CUP) could be extended for 2-3 years until the permitting/redesign process was completed. Brian Cook said that American Tower is all for improving the esthetics, but there are practicalities involved and other planning groups are dealing with the same issue. He said that the new technologies are for only one facility or telecommunication's company. He said that height is the key to this tower and it is loaded with antennas.

Lisa Gualco said she didn't feel she had enough information to say "yes" or "no" to extending the CUP. She wondered if the footprint is large enough for a new tower and stated she didn't think anyone wanted the emergency services going down.

Randy Dolph said that he lives in the area and mobile phone coverage is problematic. He asked about piggy-backing on the SDG&E tower and Brian Cook explained why that it wasn't a possibility because the land is owned by the City.

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Brian Schoenfisch again stated that the Development Services Department is recommending denial of the permit. Brian Cook said that the permit is now technically expired and American Tower had tried to extend the CUP, but the City denied it because it wants certain design standards met.

There was further discussion about the fact that it is now actually a "neighborhood use permit," not a "conditional use permit."

Karen Ruggels moved that due to a lack of information for different approaches not to support the neighborhood use permit. Pat Grant seconded the motion. Motion failed 9-12-0.

Further discussion followed and Alison Prager asked if the MVUPC could request the City continue applicant's meeting with the Hearing Officer scheduled for August 1<sup>st</sup> to a later date. She moved that the applicant or City Staff postpone the hearing for one week, until after August 1<sup>st</sup> to allow the applicant to answer questions regarding redesign, service and decommissioning. Tom Sudberry seconded the motion. Motion passed 19-2-0.

2. Mission Valley Mall Amended Sign Plan – Jay Taranton

Emmett Durnan recused himself.

Jay Taranton, Westfield Development Director, gave a summary of the signage plan and Westfield's intention to make the new building subject to the citywide ordinance. The Design Advisory Board (DAB) approved the plan with one individual voting no. Randy Dolph moved that the DAB vote be accepted and support for the plan be based on knowledge given by the applicant and that the signage be confined within the facade of the building with no additional monument sign. Tom Sudberry seconded the motion. The motion passed 19-0-1.

3. Promenade at Rio Vista – Tentative Map for Condo Conversion – Kathy Pippen

Kathy recapped her presentation from the previous month's MVUPC meeting. She stated the Promenade has 970 units with 17,000 square feet of retail/office space. She said the owner plans no changes to the property. She stated there are 1,844 parking spaces and 1,619 are required by the City. Tom Sudberry asked whether the Flex-Car idea was being considered. Kathy said she thought it was a great idea based on the property's location and that she had passed that suggestion on to the owners.

Randy Dolph moved to approve a tentative map for condo conversion as presented, contingent upon bringing the building up to code and correction of any construction defects and based on it being a high quality, well-maintained building with the best fountain in Mission Valley. Ron Grant seconded the motion. Motion passed 20-0-0.

I. **OLD BUSINESS –**

1. Request Additional Changes to May 2, 2007 Minutes:

- a. Under Item G, Number 2, add bullet point two, "Gail Thompson said to Michael McDade, on September 26, 2006, the City Council voted for you to *"review the alternatives and to reduce the impacts."* Gail also said that

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development above 150 foot elevation is prohibited in that area, and that some of the proposed development is in designated open space. Gail asked Michael what is planned to reduce the impact. Michael replied, different plans are proposed and brush management will be reduced.”

- b. Under “City Staff” change last letter on Lisa Gonzalez from “z” to “s”.

Lynn Mulholland asked to make additional changes to the May Minutes and it was determined that her changes would need to be reviewed and voted on at the August 1<sup>st</sup> MVUPC meeting. It was also recommended by Brian Schoenfisch that previous minutes be revised from this point forth. Gail Thompson made a motion to approve the May 2, 2007 minutes subject to the changes listed above. Tom Sudberry seconded the motion. Motion passed 13-0-6.

2. Approval of June 6, 2007 Minutes:  
With the following modifications:

Under Item I, Number 3, letter f, change the first sentence to read, “Rob Hutsel, reporting for Nat Cohen, said the expansion of the River Trail will be discussed at the next meeting and eventually it will connect the whole area.”

Emmett Durman made a motion to approve the June 6, 2007 minutes subject to the changes listed above. Jason Broad seconded the motion. Motion passed 14-0-4.

3. Community Plan Update – Brian Schoenfisch reported that Hazard Center Redevelopment project is going to the Planning Committee on July 12, 2007. He also said that regarding the Community Plan Update, there are meetings going on internally with staff in-house and community workshops will then be scheduled. He is working on a timeline and also seeking funding from SANDAG for studies.

Lynn Mulholland suggested that various times/days be set for the planned meetings.

4. Subcommittee Reports:

- a. Design Advisory Board – Bruce Warren was absent, but Linda Kaufman read from an email he sent that the Mission Valley mixed-use project was postponed.
- b. By-Laws Subcommittee – Linda Kaufman said a meeting will be scheduled soon and members notified.
- c. Transportation and Zoning/Community Plan Update – Karen Ruggels – no report.
- d. Stadium Committee – Randall Dolph, summarized three articles in the San Diego Union Tribune. The first one, dated June 18<sup>th</sup>, outlined the gas cleanup by Kidder Morgan at Qualcomm Stadium. The second report, dated June 27<sup>th</sup>, dealt with a C-3 panel discussion on the future of the River and how to integrate landscaping. The third article, dated July 1<sup>st</sup>, detailed that the cost to build a new stadium has now doubled to \$800 million dollars.

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- e. PAC Committee – Paul Dugas – no report.
  - f. Mission Valley Community Council – Lynn Mulholland reported that Rob Hutsel will be the speaker at their next meeting on Wednesday, July 18<sup>th</sup> at 6:30 p.m. She stated that she and Debbie Creasey are Co-Chairs of the MVCC.
  - g. San Diego River Coalition – Rob Hutsel, reported that they had a great meeting about expanding the River Trail and the ideas were brought to the River Conservancy to partner completing the Trail from Fashion Valley to the stadium. Lisa Gonzales said the Mayor is on board and the City wants to make this a priority and to make sure safety is emphasized along with design. It is 60% designed and almost fully funded.
  - h. Community Planning Chairs – Linda Kaufman & Karen Ruggels – no report.
  - i. Parks Subcommittee – Jason Broad said their next meeting will be Thursday, August 2<sup>nd</sup>. A meeting reminder will be emailed.
5. Miscellaneous Mail – none

**J. GOVERNMENTAL STAFF REPORTS –**

- 1. Senate Member's Office – no report.
- 2. City Council Office – Lisa Gonzales said 1.7 million has been allocated for construction of a bike path from Ocean Beach to Hotel Circle. She wanted to alert everyone to the Fifth Anniversary of the Mission Valley Library on Saturday, July 21<sup>st</sup>. With a \$5 donation you can be entered to win a \$500 shopping spree at Westfield Shopping Center. Lisa also gave thanks for sponsorship of the Harry Potter event at the library. It attracted 2,000 kids.

Lisa noted that Avalon Bay has purchased Fashion Walk and they plan to give one million dollars toward traffic improvements at Adrich and Friars.

- K. ADJOURNMENT** – There being no further business to be brought before the Committee, the meeting was adjourned at 2:04 PM. The next meeting will be August 1, 2007 at 12:00 p.m. at the Mission Valley Library, Community Room.

Respectfully Submitted,

Karen Ruggels  
Secretary Pro Tem



Project Title: Promenade at Rio Vista	Project No. (For City Use Only)
--	---------------------------------

**Part II - To be completed when property is held by a corporation or partnership**

Legal Status (please check):

Corporation   
  Limited Liability -or-   
  General) What State? \_\_\_\_\_ Corporate Identification No. \_\_\_\_\_  
 Partnership

By signing the Ownership Disclosure Statement, the owner(s) acknowledge that an application for a permit, map or other matter, as identified above, will be filed with the City of San Diego on the subject property with the intent to record an encumbrance against the property. Please list below the names, titles and addresses of all persons who have an interest in the property, recorded or otherwise, and state the type of property interest (e.g., tenants who will benefit from the permit, all corporate officers, and all partners in a partnership who own the property). A signature is required of at least one of the corporate officers or partners who own the property. Attach additional pages if needed. Note: The applicant is responsible for notifying the Project Manager of any changes in ownership during the time the application is being processed or considered. Changes in ownership are to be given to the Project Manager at least thirty days prior to any public hearing on the subject property. Failure to provide accurate and current ownership information could result in a delay in the hearing process. Additional pages attached  Yes  No

Corporate/Partnership Name (type or print):  
 Promenade Acquisition LLC

Owner     Tenant/Lessee

Street Address:  
 2185 Station Village Way

City/State/Zip:  
 San Diego, CA 92108

Phone No: (619) 688-7900    Fax No: 293-3898 - Renee Nelson

Name of Corporate Officer/Partner (type or print):  
 51% PROMENADE MEMBER LLC

Title (type or print):  
 SPM Investment

Signature: *[Signature]*    Date: 5/22/06

Corporate/Partnership Name (type or print):

Owner     Tenant/Lessee

Street Address:

City/State/Zip:

Phone No:    Fax No:

Name of Corporate Officer/Partner (type or print):  
 925% PROMENADE APARTMENTS LLC.

Title (type or print):  
 LA SALLE INVESTMENT MGT. LLC AGENT

Signature: *[Signature]*    Date: 5/22/06

Corporate/Partnership Name (type or print):

Owner     Tenant/Lessee

Street Address:

City/State/Zip:

Phone No:    Fax No:

Name of Corporate Officer/Partner (type or print):

Title (type or print):

Signature:    Date:

Corporate/Partnership Name (type or print):

Owner     Tenant/Lessee

Street Address:

City/State/Zip:

Phone No:    Fax No:

Name of Corporate Officer/Partner (type or print):

Title (type or print):

Signature:    Date:

Corporate/Partnership Name (type or print):

Owner     Tenant/Lessee

Street Address:

City/State/Zip:

Phone No:    Fax No:

Name of Corporate Officer/Partner (type or print):

Title (type or print):

Signature:    Date:

Corporate/Partnership Name (type or print):

Owner     Tenant/Lessee

Street Address:

City/State/Zip:

Phone No:    Fax No:

Name of Corporate Officer/Partner (type or print):

Title (type or print):

Signature:    Date:

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## LaSalle Investment Management Officers List

Title	Name
Executive Vice President	Adam Caskey
Senior Vice President	Allan Marques
Senior Vice President	Allison McFaul
Senior Vice President	Andrew Figus
Executive Vice President	Anthony O'Malley
Senior Vice President	Benjamin Lentz
Assistant Secretary	Bernadette Wertheimer
Vice President	Beth Linn
Senior Vice President	Brian Gorz
Vice President and Treasurer	Brian P. Hake
Senior Vice President	Brian Tague
Senior Vice President	Brian Trahan
Executive Vice President	Bruce Grant
Executive Vice President	C. Allan Swaringen
Vice President	Charles Weatherford
Vice President	Chris Langstaff
Vice President	Christe Cavaness
Senior Vice President	Christina POLITO
Senior Vice President	Christine Akins
Vice President	Christopher Coleman
Executive Vice President	Christopher Wilson
Senior Vice President	Colin MacKellar
Senior Vice President	Colleen Coleman
Vice President	Cynthia Helms
Executive Vice President	Cynthia Parker
Executive Vice President	Daniel Reynolds
Executive Vice President	Daniel Witte
Executive Vice President	Dann Thomasson
Senior Vice President	Darline Scelzo
Vice President	David Schreiber
Executive Vice President	David Craine
Vice President and Compliance Officer	David Doherty
Senior Vice President and Assistant Treasurer	Demetri Rackos
Vice President	Denise Organt
Vice President	Derek Lopez
Vice President	Diane Blum
Vice President	Diane Wild
Vice President	Edmund Lee
Senior Vice President	Edward Brickley
Vice President	Edwin Siddons
Executive Vice President	Erick Paulson
Senior Vice President	Ernest Fiorante
Vice President	G. Smith
Executive Vice President	George Duke
Senior Vice President	George Noon
Vice President	George Psaras jr.
Secretary	Gordon G. Repp
Secretary	Gordon G. Repp
Vice President	Greg Spafford
Senior Vice President	Gregory Falk
Executive Vice President	Harlan Stanley

Title	Name
Vice President	Henry Feibusch
Senior Vice President	Jacques Gordon
Senior Vice President	James Garvey
Senior Vice President	James Hutchinson
Vice President and Assistant Treasurer	James Jasionowski
Senior Vice President	James Ulmer
Senior Vice President	James Strezewski
Vice President	Janet Healy
Vice President	Jeany Lee
Vice President	Jeffrey Boehning
Vice President	Jeffrey Zaleon
Vice President	Jennifer Nelson
Vice President & Treasurer	Joseph J. Romenesko
Senior Vice President	Julie Manning
Senior Vice President	Karen Brennan
Senior Vice President	Kathryn Spritzer
Senior Vice President	Keith Pauley
Vice President	Kelly Laws
Vice President	Kim Palmbush
Executive Vice President and Chief Operating Officer	Kimball C. Woodrow
Senior Vice President	Kristin Schneider
Vice President	Laurence Harris
Executive Vice President	Leo E. Owens
Executive Vice President	Lisa Kaufman
Vice President	Lorraine Hoogewerf
Senior Vice President	Margaret Burns
Vice President	Marguerite McCready
Vice President	Marin Maydon
Vice President	Mark McGruder
Assistant Secretary	Mark J. Ohringer
Senior Vice President	Matthew Reed
Executive Vice President	Matthew Walley
Vice President	Meredith Witucki
Executive Vice President, Chief Financial Officer & Assistant Treasurer	Michael Ricketts
Senior Vice President	Michelle McNear
Vice President	Nathan Kane
Vice President	Nathan Zinn
Senior Vice President	Nick Firth
Executive Vice President	Paul J. Donovan
Executive Vice President	Paul White
Senior Vice President	Peter H. Schaff
Executive Vice President	Rebecca Smith
Vice President	Richard Jacobs
Vice President	Richard Kleinman
Executive Vice President	Richard Reese Jr.
Executive Vice President	Richard Van Wert
Vice President	Rita Brannon
Assistant Secretary	Robert K. Hagan
Senior Vice President	Russell Blackwell
Vice President	Scott Mowbray
Vice President	Stacey Fanale

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LaSalle Investment Management Officers List

ATTACHMENT 9

Title	Name
Vice President	Stefanie Murphy
Executive Vice President	Stephen Inglis
Senior Vice President	Stephen Adams
Senior Vice President	Stephen Robertson
Executive Vice President	Steve Bolen
Vice President	Steven Schnur
Executive Vice President	Terry Wilson
Senior Vice President	Todd Canter
Senior Vice President	Ty Spearing
Senior Vice President	Wade Judge
Senior Vice President	William Maher
Vice President	William Robb
Vice President	William Swiderski
Executive Vice President	Zelick Altman

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## JP MORGAN

PROMENADE LIST OF OFFICERS

<u>TITLE</u>	<u>NAME</u>
President	Benjamin G. Gifford
Vice President and Assistant Secretary	M. Douglas Bisset
Vice President and Assistant Secretary	Kevin J. Faxon
Vice President and Assistant Secretary	Christopher W. Graham
Vice President and Assistant Secretary	Steven M. Greenspan
Vice President and Assistant Secretary	Michael R. Kairis
Vice President and Assistant Secretary	James F. Kennedy
Vice President and Assistant Secretary	Anne S. Pfeiffer
Vice President and Assistant Secretary	David C. Sears
Vice President and Assistant Secretary	Douglas A. Schwartz
Vice President and Assistant Secretary	James M. Walsh

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## THE PROMENADE

*Rio Vista*NOTICE PER GOVERNMENT CODE §66452.9/MUNICIPAL CODE §125.0431

July 18, 2008

To the occupant(s) of  
2173 Camino Del Este, San Diego, CA 92108:  
(address)

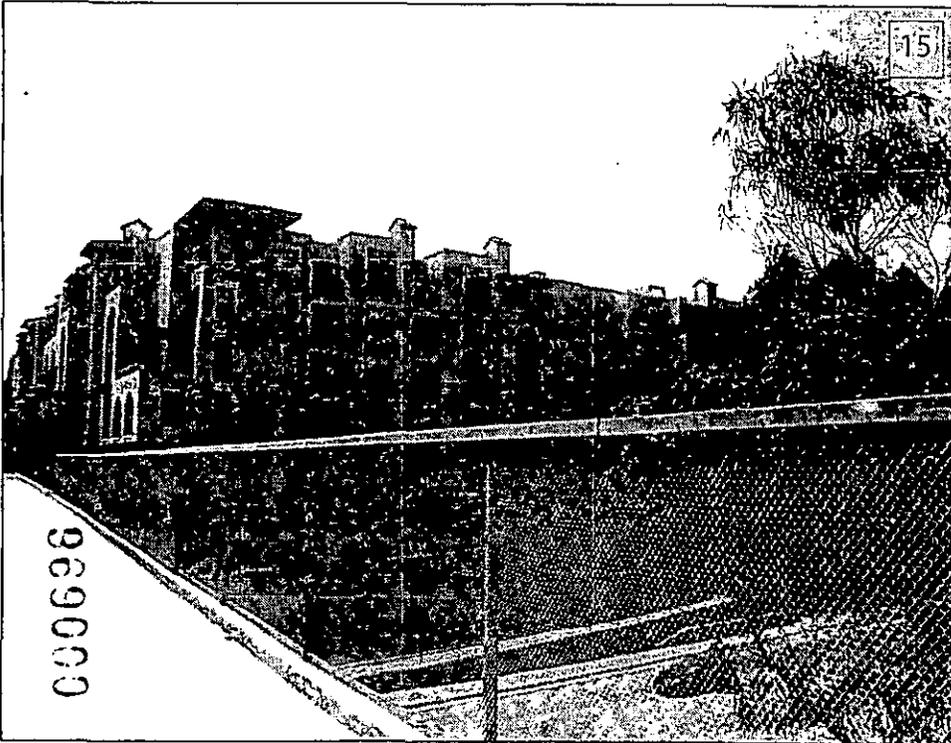
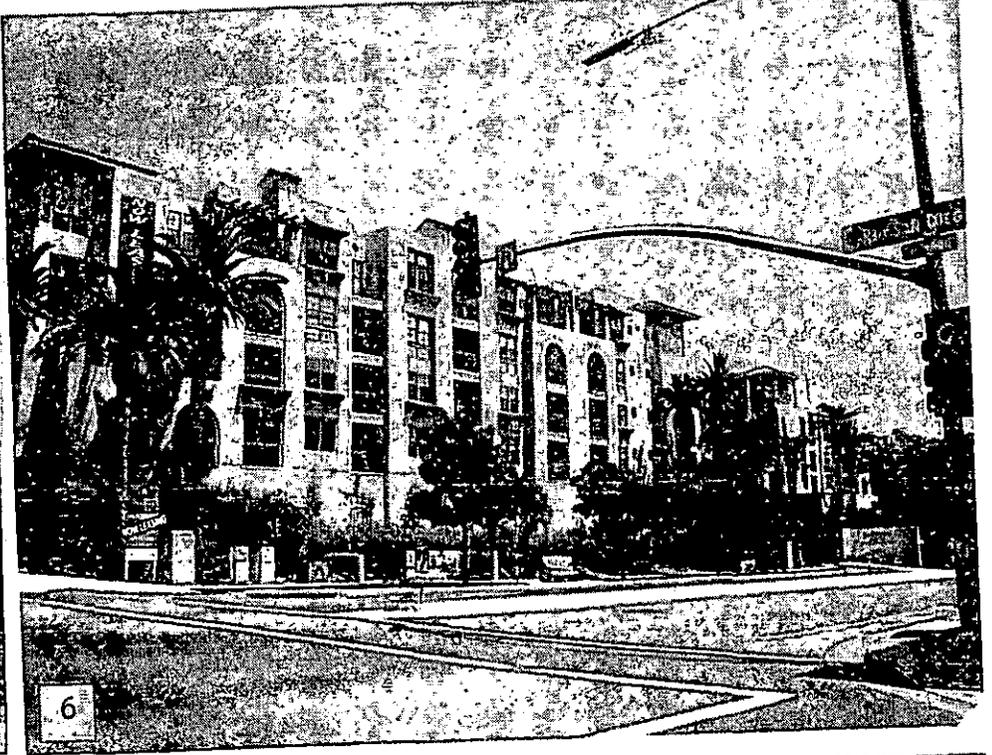
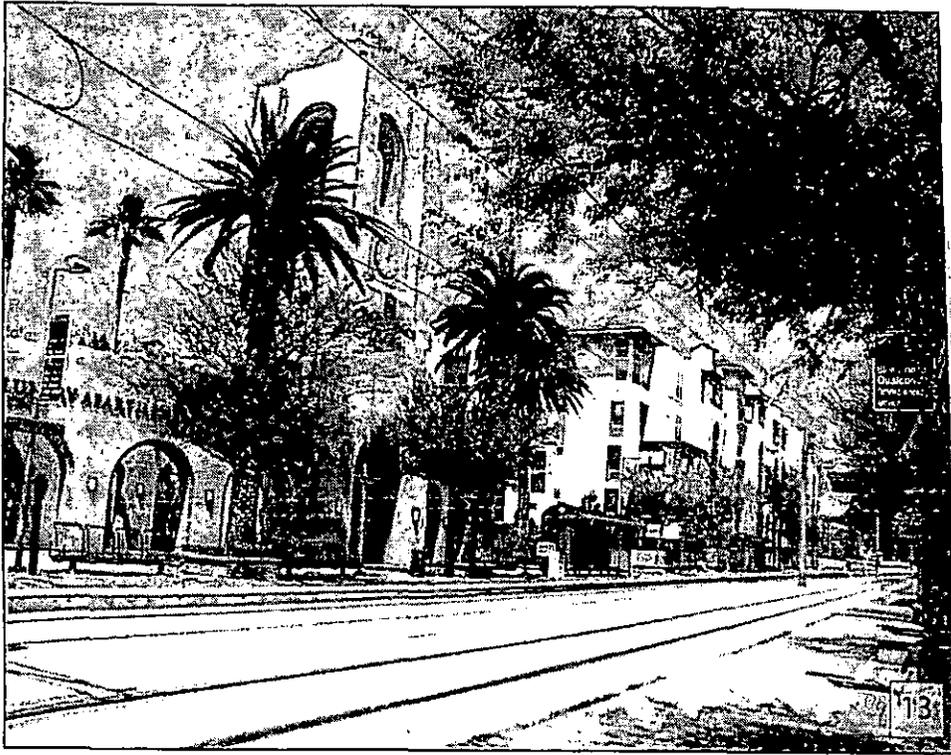
The owner of this building, at (address), plans to file a tentative map with the city of San Diego to convert this building to a condominium. You shall be given notice of each hearing for which notice is required pursuant to Sections 66451.3 and 66452.5 of the Government Code, and you have the right to appear and the right to be heard at any such hearing.

If the City approves the conversion, tenants may be required to vacate the premises following any payment of benefits due pursuant to San Diego Municipal Code section 144.0505.

We will be in further communication with you as the mapping and conversion process continues. In the meantime, please feel free to contact me in the leasing office at (619) 293-3888 with any questions.

Thank you,

Todd Kerr  
General Manager



The Promenade at Rio Vista

Condo Conversion / Tentative Map  
Page 2

Photographic Survey

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# PROPERTY CONDITION ASSESSMENT

*Prepared for*

## LaSalle Investment Management



### Property Condition Assessment

*MR*

Promenade at Rio Vista  
 2185 Station Way  
 San Diego, California 92108  
 February 22, 2008

*Prepared by*

### ***AES Due Diligence, Inc.***

Architectural/Environmental/Seismic Due Diligence Consultants  
 4909 Murphy Canyon Road, Suite 301  
 San Diego, California 92123

(858) 569-0211 - Tel  
 (858) 569-0275 - Fax

### *AES Regional Offices*

*Chicago, IL*  
 (847) 498-4780

*Denver, CO*  
 (303) 648-9897

*Los Angeles, CA*  
 (949) 955-0413

*Portland, OR*  
 (503) 296-0711

*Dallas, TX*  
 (972) 298-241

*San Francisco, CA*  
 (707) 996-5529

*Houston, TX*  
 (858) 761-1821

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Property Condition Assessment  
Promenade at Rio Vista  
San Diego, California 92108

February 22, 2008  
Project No. 80052001  
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*Zoning Map*  
*Certificate of Occupancy*



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**EXECUTIVE SUMMARY****PROPERTY DESCRIPTION**

The property has six four-story, wood-framed apartment buildings, each with two levels of parking under the building. The plans reviewed indicate that there is a total of 195,512.4 square feet (sf) of gross floor area. The project is situated on a tract of land, indicated to be approximately 15.678 acres. The subject site is located on Station Way which joins Rio San Diego Drive to the north. A San Diego Trolley Station adjoins the site to the south with the San Diego River immediately south of the station. The project is located in the Mission Valley area of the City of San Diego, California. The original improvements were completed in 2002-2004. The structures were built under the 1994 Edition of the Uniform Building code according to the drawings provided for review. The construction documents were completed by McLarand Vasquez & Partners, Inc. The City of San Diego approved occupancy of the buildings as they were completed between 2002 and 2004. This would indicate that the level of compliance with applicable codes and regulations was achieved and the project was approved by City reviewers and inspectors. Copies of the executed Certificates of Occupancy are appended to this assessment.

**PROPERTY ISSUES**

The improvements are considered to be in good condition and in general compliance with government regulations. Physical deficiencies or other issues requiring repairs identified at the property are noted below.

<b>Physical Deficiencies and Issues</b>					
Category	Checkmark indicates Issue of Concern	Needs Repair	Acceptable	Cost	Page
Site			✓	\$0	17
Building Envelope			✓	\$0	17
Interior Walls, Doors and Finishes			✓	\$0	17
Equipment and Appliances			✓	\$0	17
Mechanical, Electrical and Plumbing			✓	\$0	18
Fire Protection/Life Safety Systems			✓	\$0	18
<b>Total Probable Repair Costs</b>				<b>\$ 0</b>	18
ADA Compliance				-	16
Annual Replacement Reserve Amount (Un-inflated)				N/A	19
Annual Replacement Reserve Amount per sf (Un-inflated)				N/A	19

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Property Condition Assessment  
Promenade at Rio Vista  
San Diego, California 92108

February 22, 2008  
Project No. 80052001  
Page 3

The improvements are considered to be built of good-quality materials and systems that are common to similar properties of comparable age. If the recommended remedial actions are performed, proper preventive maintenance is routinely performed, and defective items are promptly repaired or replaced, we would expect the remaining useful life of the improvements to be at least 35 years.

### **MAINTENANCE**

Based upon our on-site observations and our discussions with the Property Manager, it is our opinion that the routine and preventative maintenance procedures are considered to be above average for a property of this size, type and age. Continuation of the current routine maintenance procedures and execution of enhanced maintenance procedures are considered to be necessary to preserve the integrity of the property components as the development continues to age.

### **CODE COMPLIANCE**

We reviewed the building records at the San Diego Building and Fire Departments requesting information on any outstanding code violations. No open code violations were noted. At the time of our site visit we noted no conditions that could be considered code compliance or life safety issues.

### **ADA TITLE III COMPLIANCE**

*The improvements were designed and constructed subsequent to the implementation of the Americans with Disabilities Act (ADA). The project currently provides barrier free features such as site and building access and restrooms that are considered to be in general compliance with ADA requirements. A parking count provided by the Owner indicates a total of 1,852 parking spaces, with 52 spaces designated for handicapped usage, including seven van-accessible spaces. Currently, 29 spaces would be required for ADA compliance.*

### **CONCLUSIONS**

Based upon our on-site observations, our review of the available project documents, and our discussions with the on-site personnel, it is our opinion (except as noted otherwise) that the project is in good condition. The building systems and property components have benefited from good engineering practices and the routine and preventative maintenance procedures have generally preserved the integrity of the property and, in some cases, extended the useful service life of several building components. No further action is recommended.

000701

Property Condition Assessment  
Promenade at Rio Vista  
San Diego, California 92108

February 22, 2008  
Project No. 80052001  
Page 4

**I IDENTIFICATION**

**Subject Site:** Promenade at Rio Vista

**Location:** 2185 Station Way  
San Diego, California 92108

**Observation Date:** February 19, 2008

**Weather:** On the day of our site visit, it was raining lightly. The sky was overcast. The temperature was approximately 60 degrees F, with measurable rainfall within the prior 72 hours.

**Observed By:** Robert Presta, Licensed Architect

**Assessment Prepared By:** Robert Presta, Licensed Architect



**Assessment Reviewed By:** Richard E. Darwicki, P.E.  
Registered Professional Engineer

**Site Contact:** Mr. Doug Gardner, Maintenance Supervisor  
619-688-7900

**Client:** LaSalle Investment Management

**Reliance:** This Report is for the exclusive use of LaSalle Investment Management. No other party shall have the right to rely on any service provided by AES Due Diligence, Inc. without prior written consent.

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Property Condition Assessment  
Promenade at Rio Vista  
San Diego, California 92108

February 22, 2008  
Project No. 80052001  
Page 5

## **II OBJECTIVE**

### **Objective**

The purpose of this Assessment is to provide a description of the property improvements and an evaluation of their general physical condition for the Lender. The Assessment identifies physical deficiencies and, for each, provides a recommended action and a corresponding estimate of probable cost. Our professional opinion of the property's compliance with applicable building codes and federal accessibility regulations is also included. This Assessment has been prepared according to the accepted Proposal for Professional Services between LaSalle Investment Management (Client) and AES Due Diligence, Inc. (AES). This Assessment is based on observations made during a walk-through survey of the property, readily available documents and public records pertaining to the property, information provided by interested parties, and interviews.

### **Interviews**

- Mr. Doug Gardner, Maintenance Supervisor
- Ms. Julie Lumpkin, Area Supervisor

### **Readily Available Documents**

Architectural and Structural drawings were provided for review. The Architect of Record is McLarand, Vasquez & Partners.

### **Public Records**

Inquiries were made to determine the existence of the following public records and their availability:

- Recorded violations of the San Diego Building and Fire Codes.
- The most current Certificate of Occupancy for the property.
- The FEMA Flood Insurance Rate Map covering the property.

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### III PROPERTY DESCRIPTION

The property has six four-story, wood-framed apartment buildings, each with two levels of parking under the building. The plans reviewed indicate that there is a total of 195,512.4 square feet (sf) of gross floor area. The project is situated on a tract of land, indicated to be approximately 15.678 acres. The subject site is located on Station Way which joins Rio San Diego Drive to the north. A San Diego Trolley Station adjoins the site to the south with the San Diego River immediately south of the station. The project is located in the Mission Valley area of the City of San Diego, California. The original improvements were completed in 2002-2004.

The improvements are considered to be constructed of systems, components and materials that are common to many similar quality properties. The principal systems, components and materials are briefly described in this section.

A discussion of deficiencies can be found in Section VI of this Assessment.

#### SITE

<b>Area</b>	The site size is indicated to be approximately 15.678 acres. AES considers the provided area to be reasonably accurate. A current as-built survey is recommended to verify the site size and identify easements, encroachments and encumbrances, if any exist.
<b>Access</b>	Vehicular access to the site is provided by three driveways, from Rio San Diego Drive and Camino Del Este. Surface parking is provided in the central portion of the site and under the structure of the buildings.
<b>Pavement/Parking</b>	The parking area is paved with asphaltic concrete. A parking count provided indicates that there are a total of 1,852 parking spaces on site with 52 spaces reserved for the disabled, including seven van-accessible spaces.
<b>Walks</b>	Sidewalks are concrete.
<b>Retaining Walls</b>	No retaining walls were identified.
<b>Landscape/Irrigation</b>	Landscaping is provided on site, including lawns, trees, shrubs, and groundcover. A landscape irrigation system with an automatic timing device is provided.  The automatic sprinkler system could not be observed in operation. The improvements are occupied and it is known that this system has been properly maintained.

<b>Drainage/Flood Plain</b>	<p>The project is provided with a storm drainage system with inlets located throughout the property. The site is provided with surface drainage to on-site catch basins or curb inlets, with flow to a network of underground drainage pipes in city streets. The day of our site visit it was raining and, after traversing the site, AES did not notice any areas of water ponding or any other indications of insufficient drainage.</p> <p>The property is located within Flood Zone X (Former Zones B, C, and D). Data supplied to AES in the FEMA Flood Insurance Rate Map, Community and Panel number 060295-1619F, dated June 19, 1997. AES has obtained this information from Factual Data Flood, a company that is deemed to be reliable. However, AES recommends that the Owner consult with the local governing agency, their insurance company, and counsel to verify if Flood Hazard Insurance is required.</p>
<b>Seismicity</b>	<p>The property is located in Seismic Zone 4. A Seismic Evaluation has not been requested.</p>
<b>Lighting</b>	<p>Exterior lighting is provided by Pole-mounted and building-mounted photo cell activated high-intensity discharge (HID) lighting fixtures.</p> <p>The subject site was not observed at night. The observed arrangement of area lighting fixtures appeared to be adequate.</p>
<b>Fences</b>	<p>Metal fencing on a concrete base is provided on site adjacent to the trolley tracks.</p>
<b>Signs</b>	<p>Monument-type lighted signage identifying the name of the property is provided.</p>
<b>Utilities</b>	<p>Water – City of San Diego Sewer – City of San Diego Electricity – San Diego Gas and Electric Company Gas – San Diego Gas and Electric Company</p>
<b>Site Amenities</b>	<p>Recreation facilities within the project consist of two resort style swimming pools with spas, barbeques and social areas; two fitness centers with top quality workout equipment, two clubrooms with full kitchens, wide screen televisions and billiard tables and a private movie theater. With the San Diego Trolley having a stop directly at the subject site, there is access to many of San Diego's attractions without using a personal vehicle.</p>

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## BUILDING ENVELOPE

### Area

The total gross floor area of the buildings is indicated by the Owner to be 195,512.4 square feet. AES considers the reported areas to be reasonably accurate.

479 One-bedroom Apartments  
491 Two-bedroom Apartments  
Total: 970 Apartments

The addresses for the buildings on site are as follows: 2195 Station Way, Building 1, completed October 29, 2002; 2185 Station Way, Building 2, completed May 9, 2003; 8555 Station Building Lane, Building 3, completed November 17, 2003; 2173 Camino Del Este, completed August 30, 2004; 8405 Rio San Diego Drive, completed August 30, 2004 and 8685 Rio San Diego Drive, completed April 14, 2004. Copies of the C of Os are appended to this Report.

### Foundation

Concrete grade beams and interior pad footings are typically provided for these types of buildings. Perimeter footings are continuous reinforced concrete.

We did not observe any evidence indicating that the foundations were not performing adequately, and no foundation problems were reported.

### Structural Frame

The basic structures consist of load-bearing wood frame construction on 16" or 24" centers, conventional wood-framed upper floor and dimensional lumber materials used to form a roof framing system, with a plywood sheathing. The upper floor levels are supported conventional wood joists, plywood sheathing with a gypsum concrete underlayment. Lateral force resisting systems within the structure typically consist of plywood shear walls from the top floor to the foundation level.

According to Mr. Gardner there were no problems with the structural framing systems. Based on our observation of the limited portions of the structural framing members that were exposed to view, there were no apparent indications of inadequacy in the structural framing systems.

Based on no apparent signs of detrimental movement in the structural framing systems, and that no deficiencies in the structural systems were reported, AES considers the structural systems to be adequately performing.

<b>Floors</b>	A reinforced concrete first-floor structural slab is provided over the semi-subterranean parking garage. The floor slab thickness is not known. Wood framed floors with lightweight concrete slabs are used at upper levels.
<b>Exterior Walls</b>	The exterior walls of the buildings are wood framed with stucco utilized as a surfacing material. There were no reports of leakage through the walls or roofs and none was noted during our walk-thru of the project. Regarding the building skin, windows and entrances, the sealants and details intended to keep the interior weather proof and in efficient operating condition appear to be adequate for the task.
<b>Roofs</b>	<p>The roofing consists of gradient sloped, built-up bituminous roofing systems with a mineralized capsheet as a surfacing material. The roofing materials at the pitched portions of the roofs consist of overlapping concrete tiles mechanically fastened to the roof over an underlayment of tar impregnated roofing felt. Entries are recessed from the exterior planes of the buildings.</p> <p>Roof drainage is provided by internal roof drains and overflow drains.</p> <p>The roofing systems were reported by Mr. Gardner to have been originally installed between 2002 and 2004 as the project was constructed. The roofing appeared to be in good condition. Mr. Gardner indicated that there are no active roof leaks.</p> <p>With proper maintenance, AES estimates approximately 14 years of remaining useful life for the roof systems.</p>
<b>Windows</b>	Windows at the project are typically tinted, dual-glazed aluminum framed, sliding units.
<b>Roof Access</b>	Access is provided to the roof by an interior ladder to roof hatches.

## **INTERIOR WALLS, DOORS AND FINISHES**

<b>Walls/Ceilings</b>	<p>Demising walls constructed of wood studs and gypsum board from the floor of the tenant space to the floor above or roof structure.</p> <p>Lease space partitions are constructed of wood studs and gypsum board.</p>
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Typical wall finishes within the lease spaces consist of paint or vinyl wall coverings. Typical wall finishes in the restroom areas consist of paint or vinyl wall coverings.

Ceiling heights are estimated to be nine feet in the bedrooms and as high as 14 feet in the living rooms.

Ceilings are composed of gypsum board and are typically finished with a painted textured surface. Painted gypsum board ceilings are provided at mechanical and toilet rooms.

#### **Doors**

The main entry doors to the units consist of solid core wood doors in wood frames that are provided with appropriate weather stripping and thresholds. The interior doors of the units are typically from hollow core wood with a painted surface in wood frames.

#### **Balconies/Patios**

There are exterior balconies provided at the buildings. The balcony railings are comprised primarily of welded steel or aluminum members with a painted surface. The balcony flooring is exposed concrete, sloped to drain. There are patios provided for each unit at the lower level of the building. The patios are from exposed slab-on-grade concrete, sloped to drain away from the structure.

#### **Floor Covering**

The floors in the living areas of the units are typically from residential grade carpeting and pad. The kitchen areas are provided with vinyl floor covering. The floors in the kitchen areas of the units are typically from residential grade sheet vinyl, or vinyl squares. Sealed or unfinished concrete is provided in mechanical and storage areas.

#### **Stairs**

Stairs within the building interiors are steel framed with concrete treads.

### **EQUIPMENT**

#### **Conveyance Systems**

There are a total of 19 elevators within the building complex that serve all levels of the residential portions of the building and both levels of parking. The hydraulic elevators are for passenger service. The Dover elevators are rated at 3,500 pounds capacity and have six stops. The hoistway entrance is equipped with a side-opening door. Cab finishes consist of stainless steel wall panels, vinyl tile flooring and suspended ceilings with light fixtures. Current elevator permit are posted in some of the cabs. Mr.

Gardner indicated that applications have already been made for the elevators that have posted permits that are out of date. The inspection process for the elevators has been historically behind the due date in San Diego (and other parts of the state) because of the work loads of the inspecting agencies. The elevators we utilized in each building during the site visit appeared to be working properly.

## MECHANICAL, ELECTRICAL AND PLUMBING SYSTEMS

### Heating, Ventilation and Air Conditioning

The HVAC systems in the buildings consist of an hydronic heat source (boiler units at each building with storage tanks) and an electric air conditioner unit to provide heating and cooling through a fan coil unit in each apartment, with both hot and cold coils that can be used as needed and distributed through each apartment. A time demand meter is installed on each boiler unit allowing for more efficient operation when the demand for hot water is low. Each apartment is separately metered for electricity, with the *potential for separate water meters in each unit*. Piping is present in a closet in each unit to accomplish that, but not the actual meters. There is a maintenance contract to maintain the boilers and HVAC units on a regularly scheduled basis. The HVAC units range from four to six years of age and were in compliance with energy savings standards in effect at the time of manufacture.

The buildings have air distribution devices integrated with the ceilings and sheet metal supply/return plenums. The ducts are typically of sheet metal or flexible fiberglass. Temperature control is provided by wall mounted electric thermostats. The HVAC equipment is generally considered to be in good condition with no immediate replacements deemed necessary.

Mr. Gardner represented the age of the HVAC equipment to be varying between approximately 4-6 years old.

The current building code requires that flexible natural gas line connections be provided to roof mounted gas-fueled HVAC units. Older units may still have rigid connections and are not required by code to be retrofitted (unless the unit is replaced). The Owner as part of an ongoing preventative maintenance program may want to consider replacement of the rigid lines with flexible lines as time and finances allow, although not required by code.

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Although it is not a requirement to provide hold-downs or straps on older units, we consider that it would be prudent as time and finances allow, to update restraints on older units, especially in seismically active areas such as Southern California.

Seismic restraints for HVAC equipment are difficult if not impossible to detect unless they are the types with visible straps or bolts exposed on the exterior of the unit cabinet. There are other types of seismic restraints that are visible only by disassembling the units. We recommend that during the normal maintenance cycle of the units when they are partially disassembled, the HVAC maintenance company clarify if the current units are seismically restrained.

Recirculating type exhaust fans ventilate the toilet rooms and kitchens.

### Plumbing Systems

Underground utilities are typically provided from adjacent streets. The property has a central water meter. Piping is within the individual units to allow for separate meters. Sanitary sewer lines are provided on site. The property has a central gas meter. Earthquake safety valves are provided. The fire service lines are provided with detector check assemblies set above grade. The visible water piping in the parking garages we observed was of copper tubing. The main services to the buildings are equipped with a backflow protection device. The water pressure at the highest fixture appears adequate. The visible sewer piping in the parking garages is of hubless cast iron pipe with metal-banded fittings.

There are 24 commercial quality natural gas boiler units for domestic water heating noted on the roofs of the buildings. Each two boilers are equipped with a storage tank with a capacity of 350 gallons. The boiler units are provided and maintained by the Owner.

The water closets, urinals, and lavatories are typically residential quality fixtures. No toilet partitions are installed in the restrooms. Metal tubs with ceramic tile surrounds are provided in each standard unit. The larger units come with fiberglass Roman Style tubs. Shower heads are provided above the tubs. The water closets are low flush tank type units with china bowls and tanks. The lavatories are typically mounted in cabinet countertops and have single lever faucets. The water closets and lavatories are typically residential quality fixtures. The plumbing fixtures are generally considered to be in good condition with no immediate replacements deemed necessary.

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## Electrical

Utility-company-owned transformers provide 120/208-volt, 3-phase, 4-wire, electrical service. The main switchgear and meter is located in the main electrical room at the ground floor of each building. Proper exit provisions are provided. The areas were free of debris. Interior dry-type transformers are not installed as power is provided to the main electrical panel from an exterior transformer at 120/208-volts. Exterior wet-type electrical transformers are utilized to convert service line voltage to 120/208-volts. Power provided typically was from 2,000 and 3000-ampere switchboards.

Electrical power is distributed from main switchboards through *wiring in conduits to various panel-boards of circuit breakers* for the power and lighting circuits. Copper wiring is typical for these types of buildings.

The typical apartment unit lighting consists mainly of surface mounted fluorescent fixtures with standard lamps and ballasts in the kitchen areas. The general lighting is controlled by wall switches or timers. The toilet room lighting consists mainly of surface mounted 120-volt fixtures with standard lamps and ballasts and incandescent make-up lighting. The fluorescent fixtures have plastic diffusers and appear to provide adequate illumination. The duplex outlets at the countertops have GFCI protection as required. The living areas and bedrooms do not have permanent lighting fixtures. The dining areas, kitchens and bathrooms have fixtures that appear to provide adequate illumination. Some ceiling fans, table lamps and recessed incandescent or fluorescent downlights were also noted in parts of the buildings. The duplex outlets at the bathroom sinks have GFCI protection as required.

## FIRE PROTECTION AND LIFE SAFETY

### Alarms

A central fire alarm system is provided. The system includes elevator recall, horns, strobes, flow switches, tamper switches, and an exterior alarm bell and an alarm panel with a back-up battery. No on-site monitoring of the alarm system was evident. The alarm system is monitored by an off-site agency that calls the local fire department on a level one alarm.

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## **Standpipes and Fire Sprinklers**

The buildings are completely fire sprinklered with a wet system. The system utilizes street pressure for operation. There is a double check valve installed on the main fire water supply line. No post indicator valves were noted. There is a fire department pumper connection provided at the detector check assembly. There are fire department hose connections in the stairwells.

Fire extinguishers are installed within the improvements. The inspection tags are current. There are lighted exit signs installed within the building. The exit signs have battery back-up packs. There is a system of on-site fire hydrants that serves the property. The buildings are not equipped with emergency generators.

Our investigation noted the presence of fire suppression sprinklers within the building structures. There has been a national recall of various sprinkler heads due to a degradation failure of the O-rings. Central Sprinkler Company (CSC), the manufacturer of the sprinkler heads that have been known to fail, is providing free of charge, replacement sprinkler heads and the labor to replace the defective heads.

Because of this recall, we recommend that Owners contact the company that inspects and services their fire sprinkler system to confirm the type of heads used to protect their property and to determine if the installed sprinkler heads are part of this voluntary recall. Additional information on the recall, including the model numbers of the heads recalled and the procedure for filing a claim can be obtained at <http://www.sprinklerreplacement.com/>, or by calling 1-800-871-3492.

## **Emergency Systems**

As the buildings are equipped with an audible alarm system, the addition of visual alarms are required under ADA regulations. The necessary audio alarms and strobe lights have been installed in the buildings corridors. There are emergency lights with battery packs installed within the improvements. The buildings are not equipped with emergency generators.

**Sound Transmission Class** According to the drawings reviewed the sound transmission ratings for the apartments range from an STC of 55 to 59, which are in compliance with the California Building Code Section 1208 which states that "All such separation walls and floor-ceiling assemblies shall provide and airborne sound insulation equal to that required to meet a sound transmission class (STC) of 50 (45 if field tested).

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## **IV LOCAL REGULATORY COMPLIANCE**

The property is within the jurisdiction of the City of San Diego. Based on our inquiries with administrative departments, we have ascertained the following regarding compliance with applicable local government regulations:

### **Building Code Violations**

The available government records do not indicate current citations for violation of the building or fire codes. The improvements are typically inspected by the local fire department when renovations are completed. The 1994 California Building Code with amendments by the City of San Diego was in effect at the time of the construction drawings.

### **Certificate of Occupancy**

The Certificates of Occupancy for the buildings and completion dates are as follows: 2195 Station Way, Building 1, October 29, 2002; 2185 Station Way, Building 2, May 9, 2003; 8555 Station Building Lane, Building 3, November 17, 2003; 2173 Camino Del Este, August 30, 2004; 8405 Rio San Diego Drive, August 30, 2004 and 8685 Rio San Diego Drive, April 14, 2004. Copies of the C of Os are appended to this Report.

### **Zoning**

The property was originally designated as Zone Mission Valley Planned District MV-M/SP. Its current designation is Mission Valley Planned District MV-M/SP for Commercial and residential use. The current land use appears to be Commercial and residential, which conforms to those permitted uses for this Zone designation. There are a total of 1,852 parking spaces on site. The parking appeared to be adequate the day of our site visit and appears to have met the off-street parking requirements in effect at the time of construction.

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## V ADA/FHAA COMPLIANCE

Title III of the Americans with Disabilities Act (ADA) covers privately owned facilities defined as being either a Place of Public Accommodation or a Commercial Facility. Title III requires the removal of architectural and communication barriers from Places of Public Accommodation constructed and occupied prior to January 26, 1993. It further requires that all nonresidential buildings designed or constructed for first occupancy after that date be readily accessible according to the ADA Accessibility Guidelines.

Regarding applicability of Title III to the subject property, it is AES's opinion that the property is considered to be a place of public accommodation or commercial facility (or contains areas defined as a place of public accommodation or commercial facility) and, therefore, compliance with the ADA is required when it is readily achievable.

The improvements and site elements were summarily reviewed by visual observation only. Observations were made to identify high priority barriers to accessibility such as parking, building and restroom access. A comprehensive ADA study would be considered prudent if knowledge of all barriers to accessibility is required.

The buildings were constructed subsequent to the ADA and FHAA and appear to be in general compliance with both. Access is provided to all residential floors and each level of the parking garage in every building. Disabled accessible parking is provided in each parking garage and on the surface in the commercial areas of the site. Compliance with the requirements of the FHAA is required for all housing constructed for first occupancy after March 13, 1991 and applies to all multifamily housing of 4 or more units. The buildings appear to be in general compliance with the FHAA and ADA.

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## **VI PROBABLE REPAIR COSTS**

We observed the site improvements, the exterior construction materials, major building equipment, common-use areas and representative interior areas. The following spaces were entered to observe a representative sampling of typical conditions: mechanical rooms, toilet rooms, and office areas. AES visited Units 1411, 1412, 2303, 2316, 3227, 3305, 4307, 4308, 5306, 5336, 6220 and 6228..

Based on our observations and discussions with the property's management, we consider the materials and the building systems to be appropriate for the improvements, functioning adequately, and to be in good condition, except for the following physical deficiencies. Deficiencies that are considered to cost less than \$2,000 and those that may be remedied by routine maintenance, miscellaneous minor repairs, or normal operating maintenance are excluded from the list.

Life safety and code issues are included regardless of the probable cost. Minimal conditions that *do not present a significant physical deficiency are also excluded. A general listing of observed conditions that have been excluded is provided at the end of this section. The total probable costs indicated have been rounded off to the nearest hundred dollars.*

### **Site**

Deficiencies: None

**Subtotal - Site** **\$0**

### **Building Envelope**

Deficiencies: None

**Subtotal - Building Envelope** **\$0**

### **Interior Walls, Doors and Finishes**

Deficiencies: None

**Subtotal - Interior Walls, Doors and Finishes** **\$0**

### **Equipment and Appliances**

Deficiencies: None

**Subtotal - Equipment and Appliances** **\$0**

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**Mechanical, Electrical and Plumbing Systems**

Deficiencies: None

**Subtotal - Mechanical, Electrical and Plumbing Systems** **\$0**

**Fire Protection/Life Safety Systems**

Deficiencies: None

**Subtotal - Fire Protection/Life Safety Systems** **\$0**

**Total Probable Repair Cost** **\$ 0**

**Other Items:** A general listing of observed conditions that have been excluded above and are considered to be minimal conditions that did not present a significant physical deficiency are as follows:

- The project is currently in the process of repairing or replacing the decorative boxes built from foam on the buildings exteriors. The cost is being absorbed by the original contractor.

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## **VII REPLACEMENT RESERVE ANALYSIS**

The Replacement Reserve table included in this Section is an analysis of the probable cost for normally anticipated replacement for the major components of the improvements during the term shown in the table. The expenditures in the Replacement Reserve are considered to be capital expenses and do not include damage-related, routine or minor operating maintenance expenses. Items that have an indeterminable remaining useful life but have reasonable potential for failure during the forecast period of the Replacement Reserve Analysis may be included. The analysis excludes the costs for replacement of components or systems estimated to expire after the forecast period and costs that may be incurred due to accidents, fire and natural events such as floods, wind storms or seismic activity.

A Reserve Analysis has not been requested as there is no new loan in process.

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## VIII SCOPE AND LIMITATIONS

### Procedures

This document is a Property Condition Assessment for the improvements located at 2185 Station Way, San Diego, California 92108, performed in general accordance with ASTM Designation E 2018-01, *Standard Guide for Property Condition Assessments: Baseline Property Condition Assessment Process* and following the Scope of Work outlined in AES Due Diligence Inc.'s proposal AES performed a walk-through survey of the subject property to make representative observations of the general condition of the various components of the improvements. The walk-through survey consisted of non-intrusive visual observations (unless otherwise noted) of readily accessible and easily visible components and systems. During our site visit, we did not gain access to or observe all areas, operate any specific equipment, inspect specific structural connections, perform any tests or measure the improvements. Representative observations (typical sampling) were made of repetitive systems, components and areas. Our observations were limited to items and conditions that could be clearly seen from the ground or safely accessible surfaces and were made without the use of visual aids or removal of materials.

The representations regarding compliance with government laws, codes or regulations are based on normal inquiries with government agencies or departments having reasonably ascertainable information that is readily available.

### Limitations

The information and opinions contained in this Assessment are not based on a comprehensive engineering study or an exhaustive technical review. AES did not remove any materials to inspect concealed materials or conditions.

AES's professional services and this resultant Assessment represent our professional experience and judgment regarding the condition of the subject property and are not intended, and should not be construed, to warrant or guarantee the present or future performance of any building components, systems or other property conditions.

The scope of services provided by AES for the development of this Assessment does not include designing or preparing specifications for the systems, components, materials or procedures necessary for performing the repairs or modifications that may be recommended in this Assessment. AES's probable repair costs are based on approximate quantities and costs, or furnished information that is presumed to be accurate. A detailed survey of quantities for developing the probable costs was not included in the scope of AES's services. The probable costs stated to repair physical deficiencies or correct issues identified in this Assessment are average amounts that we consider to be probable for the marketplace as performed by contracted services.

The stated probable costs do not constitute a warranty or a representation that all items that may need repair or other attention are included. The actual cost of repairs may vary from the probable costs provided by AES.

## 000718 Environmental Issues

This document is not an Environmental Site Assessment and does not identify or confirm the presence or absence of asbestos-containing materials, polychlorinated biphenyls, lead-based paints, toxic soils, recognized environmental conditions or other environmental concerns that may exist on or affect the subject property.

### Mold

AES observed portions of the exposed exterior and interior material surfaces of the improvements for signs of mold and/or mildew and none was observed. Based on the condition of these surfaces, the general quality of the exterior details to keep moisture out of the building and the general interior air quality observed in the improvements without the assistance of specialized testing equipment, mold and/or mildew were not an environmental concern to the subject property at the time of our site visit.

Please note that AES did not perform any probes behind surface materials, use moisture meters to test materials or use specialized equipment to test air quality for signs of existing mold and/or mildew. If further confirmation is required for determining if mold and/or mildew is present in the subject improvements AES recommends that a qualified Industrial Hygienist be retained to perform the necessary industry standard tests and provide a report of their findings.

### Intended Use

AES Due Diligence, Inc., is not affiliated with the client or any other parties to this transaction. This Assessment is intended to be used in its entirety. No portion of it may be deleted or used out of context without the written consent of AES. The opinions and information contained in this Assessment are time sensitive and are intended to be relied upon in accordance with ASTM Standard E 2018-01. This Assessment was prepared for the limited use of consideration of a single financial loan transaction by the authorized users. The use of this Assessment for any other purpose is prohibited without the written consent of AES Due Diligence, Inc.

### Proprietary Information

All information and data including notes collected in the field, and other data and documents assembled by AES to produce this Assessment represent the work product of AES's training, experience and professional skill. This information belongs to and remains the property of AES Due Diligence, Inc.

### Documents

Documents and data provided by the Client, designated representatives of the Client, the Client's consultants or contractors, or other interested parties have been reviewed and may be referenced herein, with the understanding that AES Due Diligence, Inc. assumes no responsibility or liability for their accuracy or for the omission by any of the involved parties of any reports or other information that could affect the transaction.

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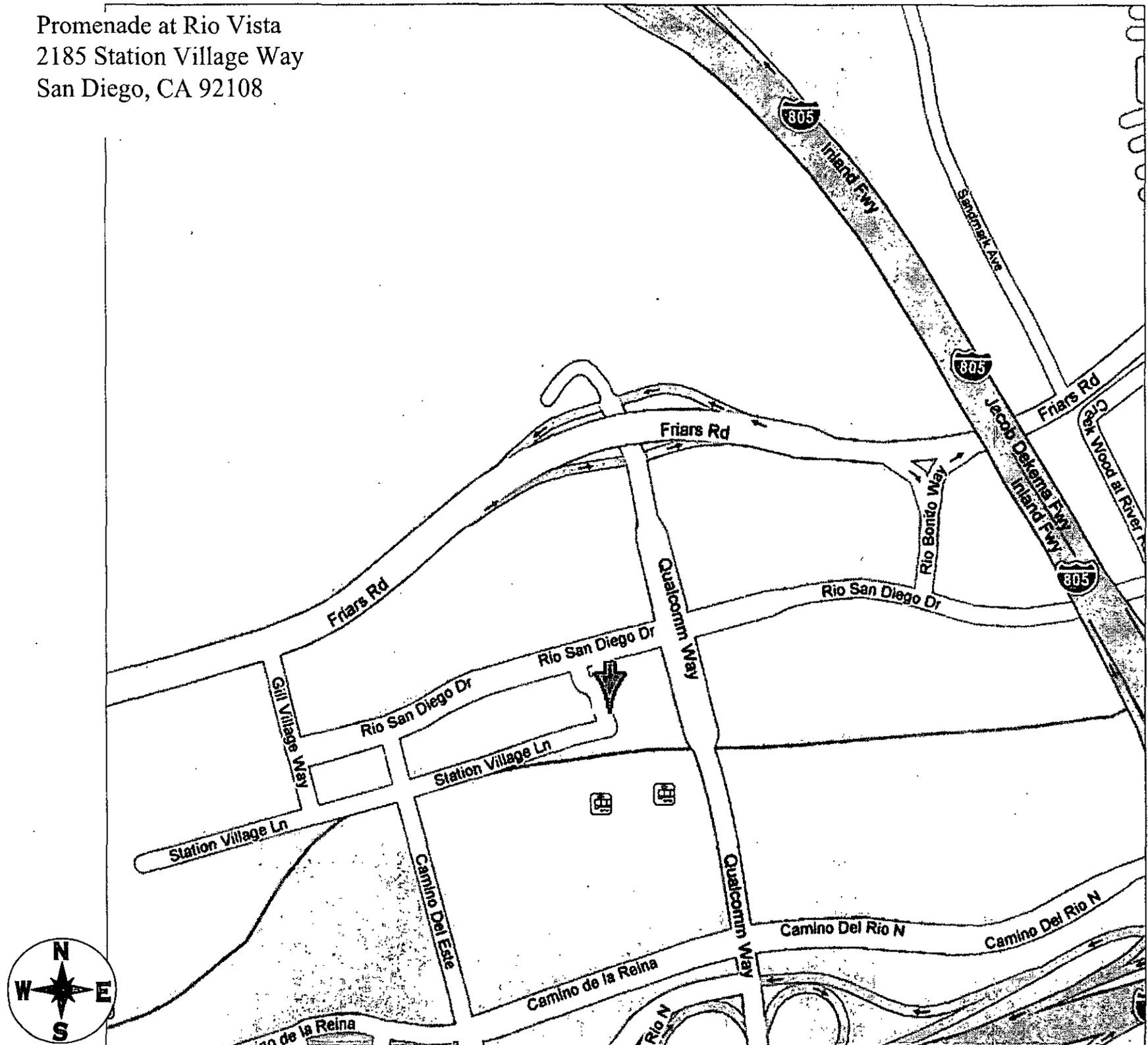
# ATTACHMENTS

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# SITE VICINITY MAP

Promenade at Rio Vista  
2185 Station Village Way  
San Diego, CA 92108

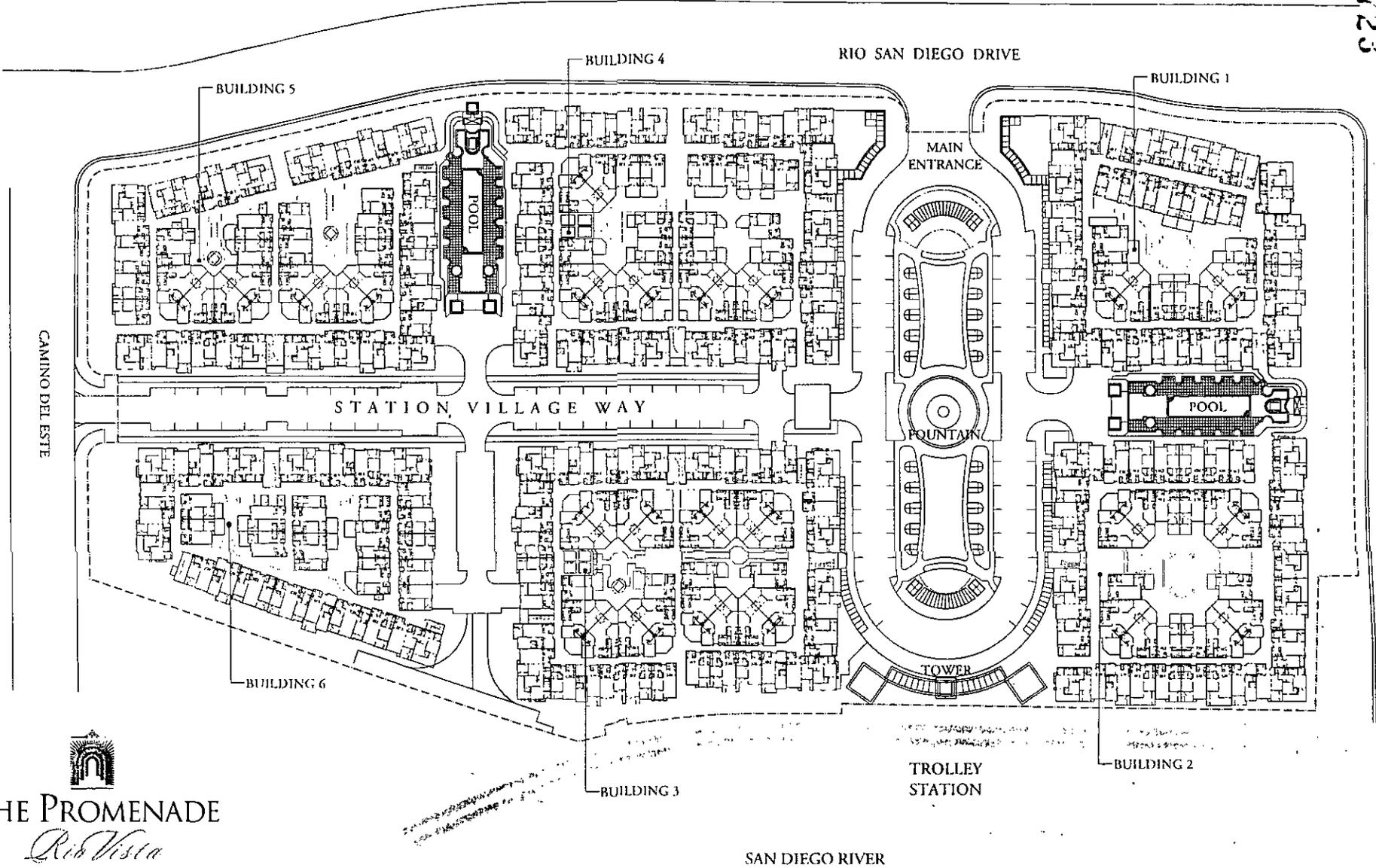
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# SITE PLAN

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THE PROMENADE

*Rivista*

CIVILIZED LIVING.

SAN DIEGO RIVER

TROLLEY  
STATION

BUILDING 2

BUILDING 3

BUILDING 6

STATION VILLAGE WAY

CAMINO DEL ESTE

QUALCOMM WAY

RIO SAN DIEGO DRIVE

BUILDING 1

BUILDING 4

BUILDING 5

POOL

MAIN  
ENTRANCE

FOUNTAIN

POOL

TOWER

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# SITE PHOTOGRAPHS

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**AES**

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1) Typical of exterior finishes at Building 4.



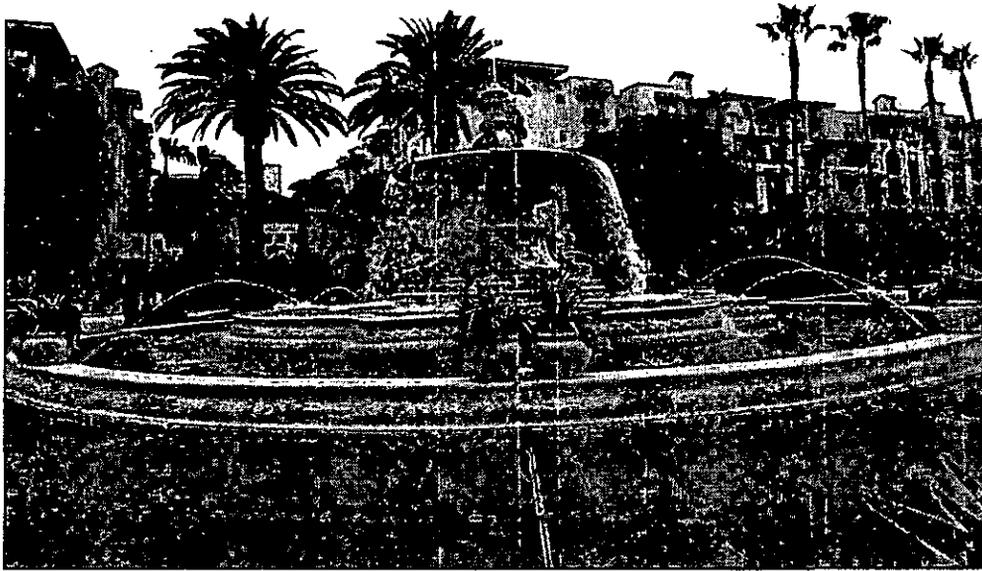
2) Looking west between Buildings 3, 4, 5 and 6.

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3) View of fountain at main entry drive on site.



4) Typical of exterior finishes at commercial portions of buildings.

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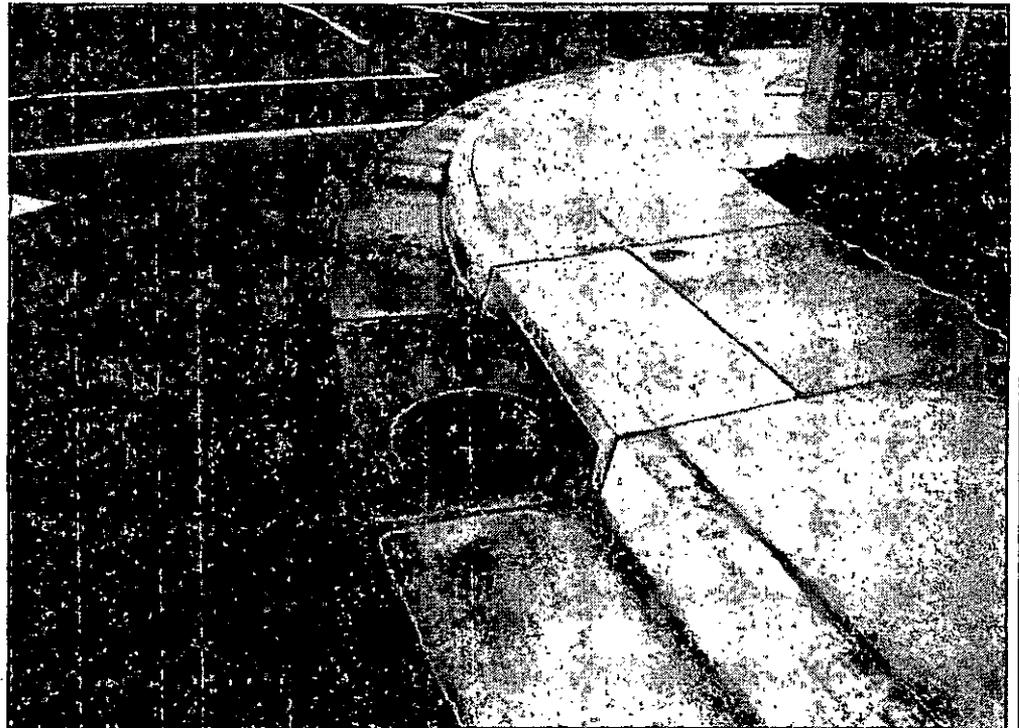


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5) View of buildings from  
main entrance drive.



6) View of storm drain  
inlet.

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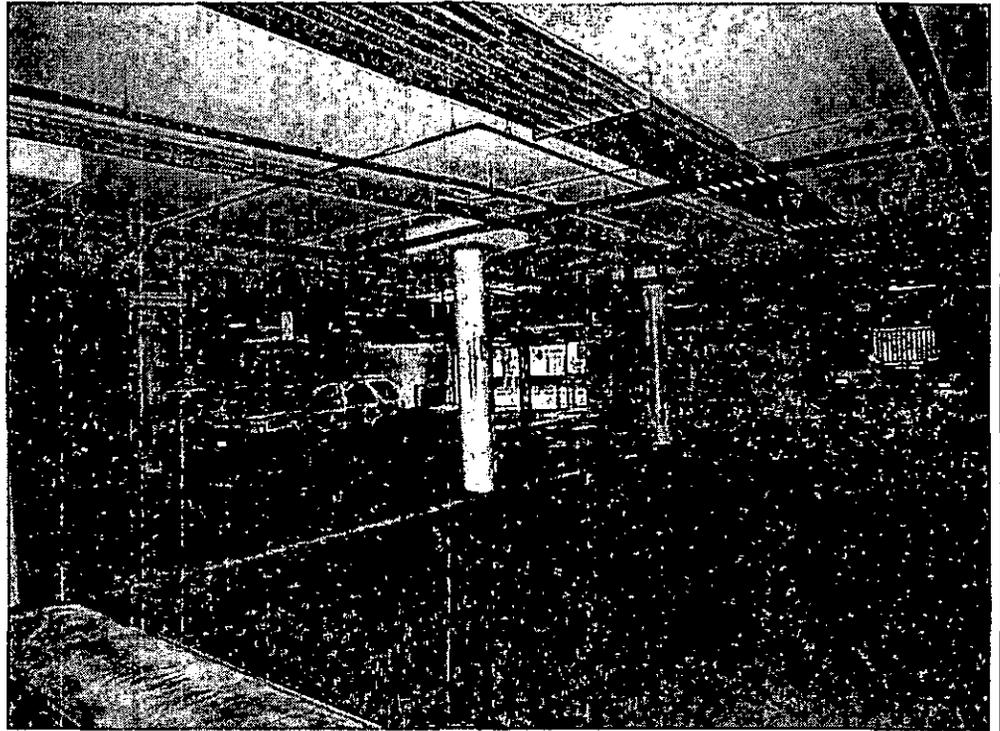


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7) View of signage at entry to site.



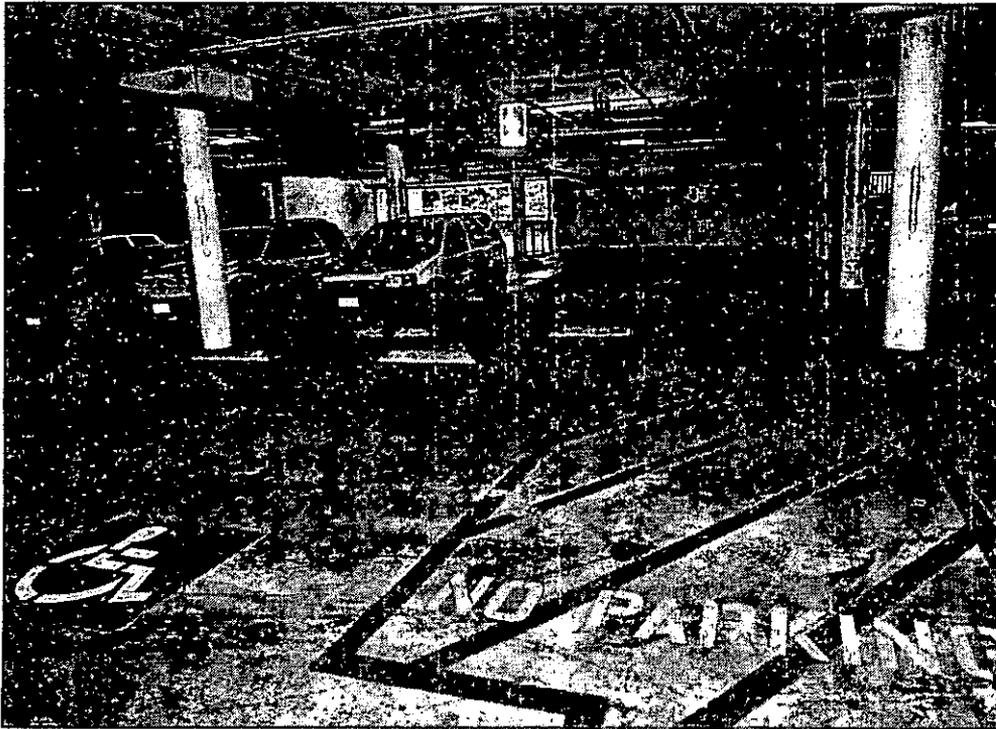
8) Typical of parking garage finishes.

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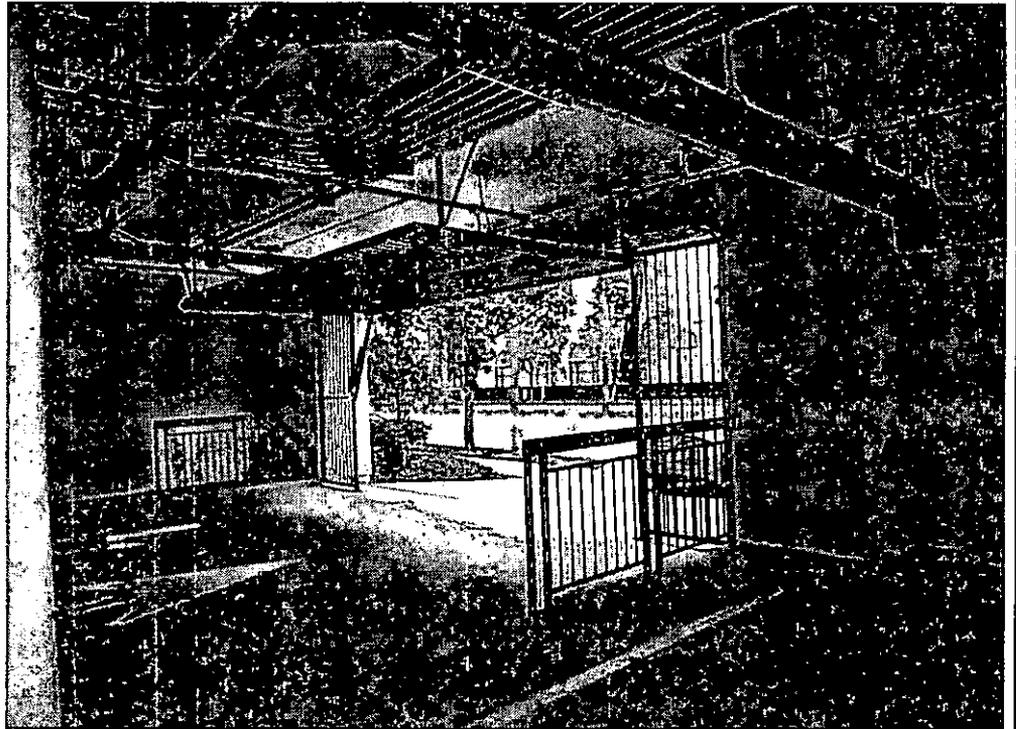


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9) Typical of disabled accessible parking spaces.



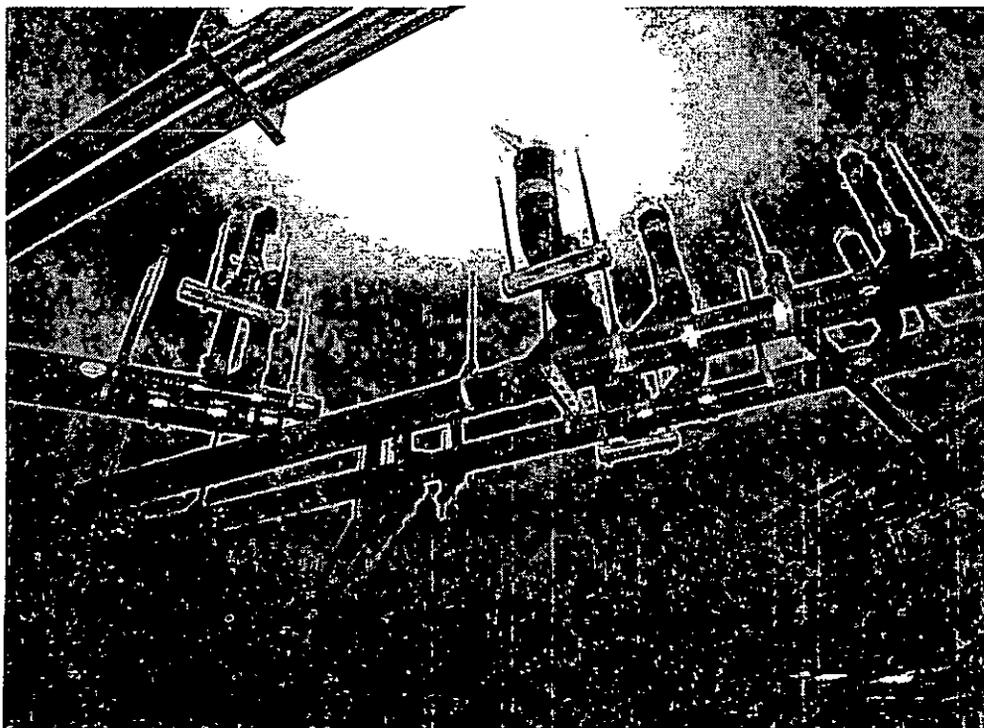
10) Typical of parking garage exits

000730

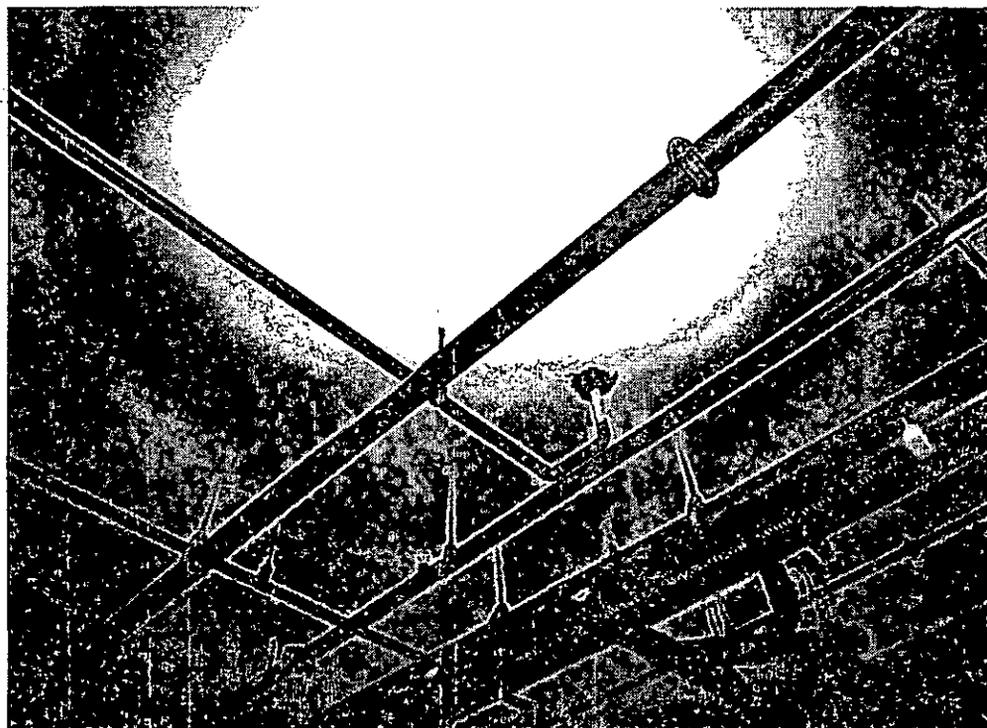


Property Condition Assessment  
Promenade at Rio Vista  
San Diego, California

Photos taken February 19, 2008  
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11) Typical of cast iron sewer waste piping visible in parking garage.



12) Typical of copper water piping visible in parking garage.

000731



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Promenade at Rio Vista  
San Diego, California

Photos taken February 19, 2008  
AES Project No. 80052001  
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13) View of site trolley station.



14) View of trolley tracks looking east from station on site.

000732

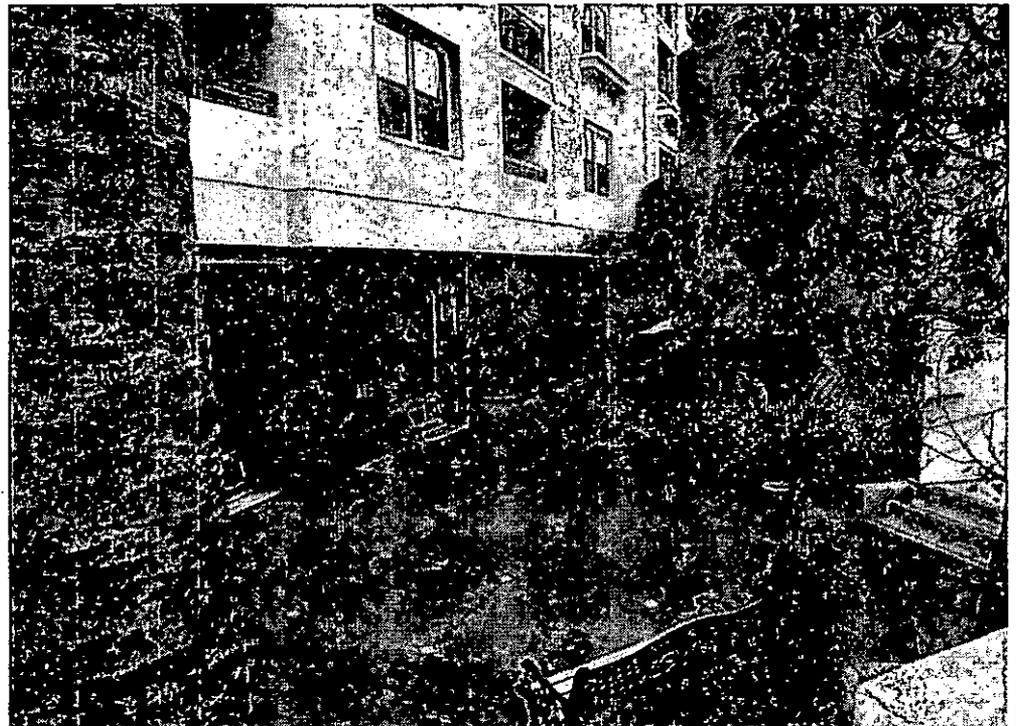


Property Condition Assessment  
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San Diego, California

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15) View of commercial spaces on site.



16) View of courtyard at commercial spaces on site.

000733

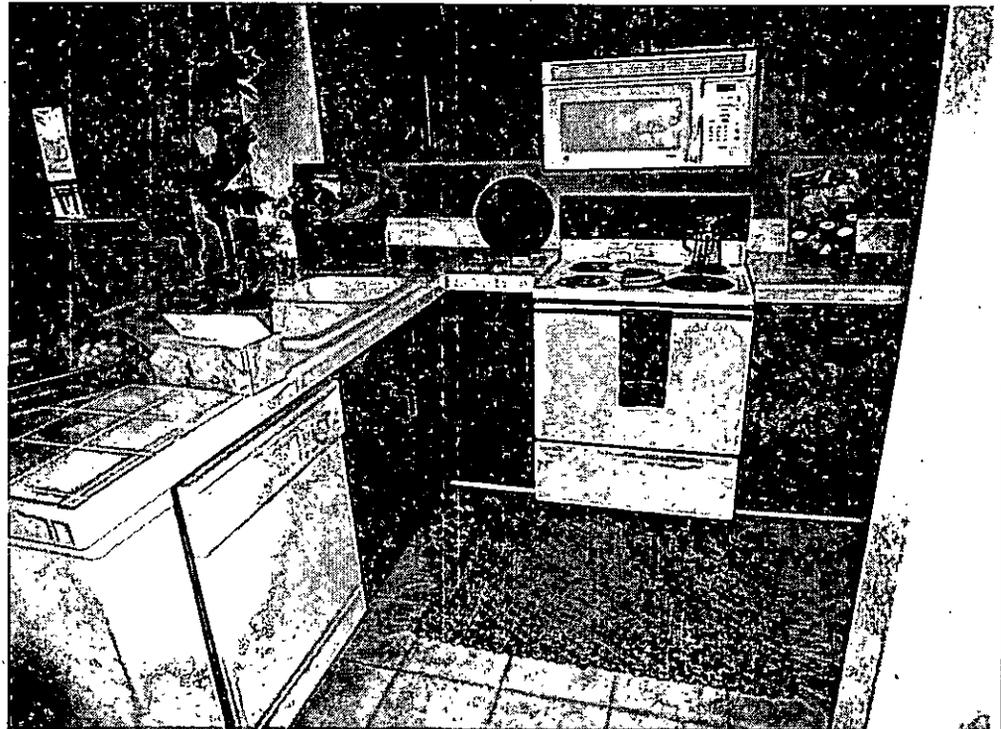


Property Condition Assessment  
Promenade at Rio Vista  
San Diego, California

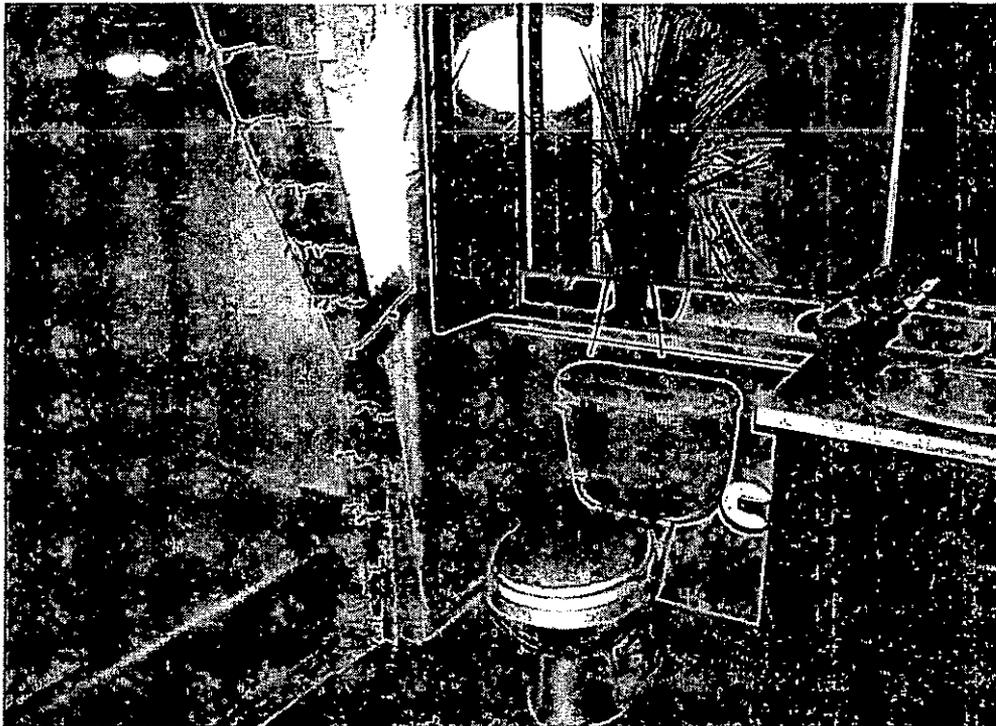
Photos taken February 19, 2008  
AES Project No. 80052001  
Page 9



17) Typical of apartment living rooms.



18) Typical of apartment kitchens and appliances.



19) Typical of apartment  
bathrooms.



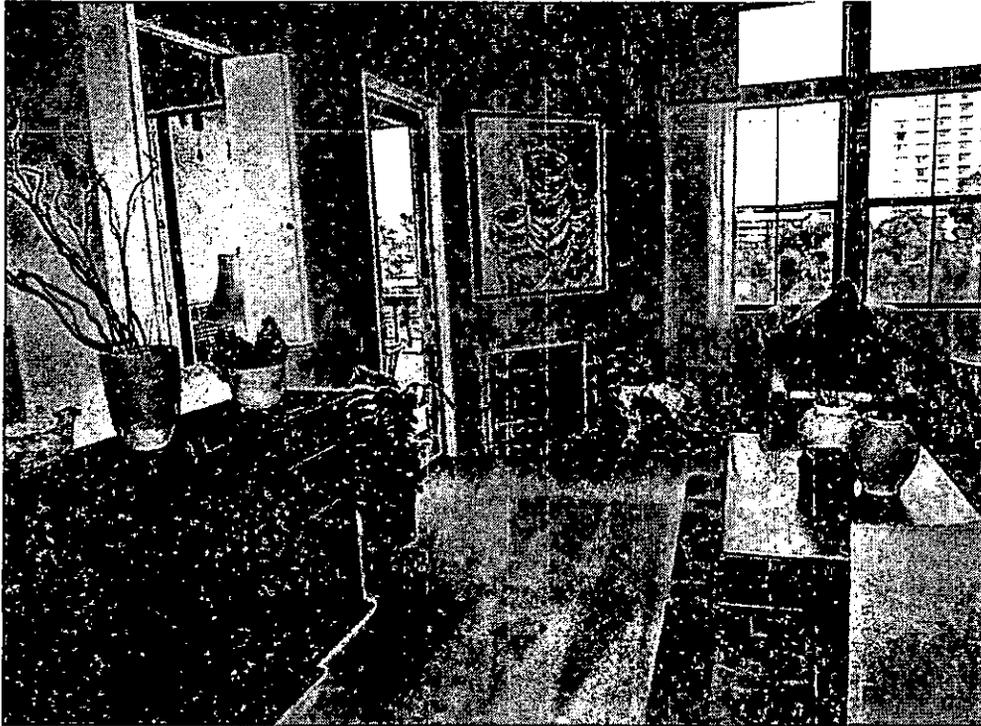
20) Typical of apartment  
bedrooms.

000735

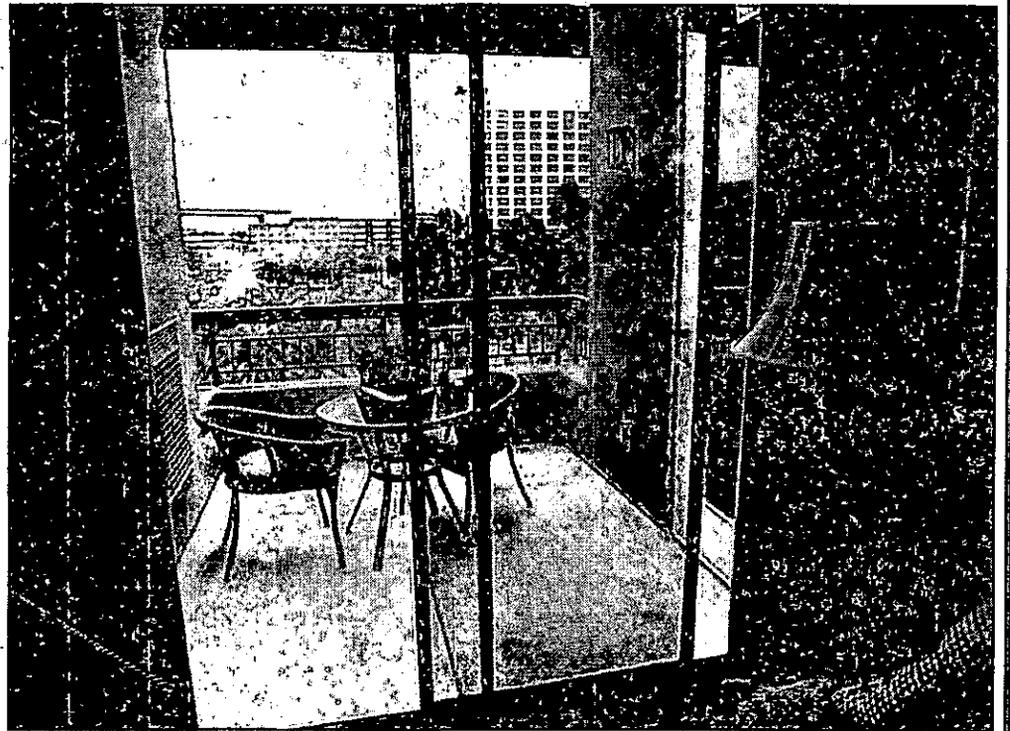


Property Condition Assessment  
Promenade at Rio Vista  
San Diego, California

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21) Typical of apartment units with fireplaces.



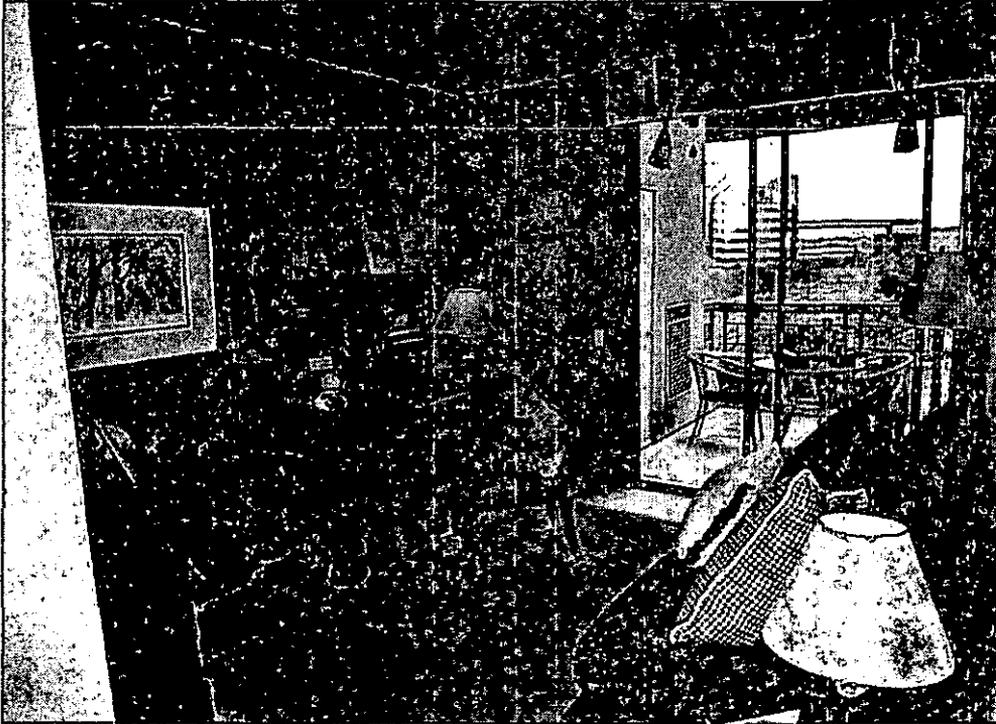
22) Typical of balcony and patio finishes.

C00736

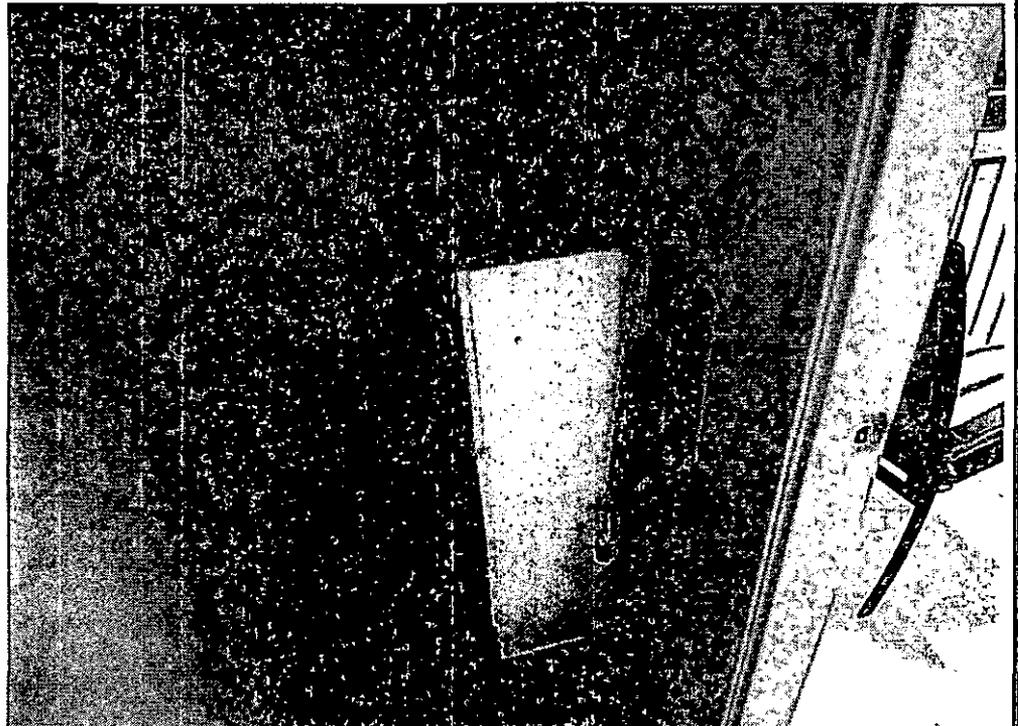


Property Condition Assessment  
Promenade at Rio Vista  
San Diego, California

Photos taken February 19, 2008  
AES Project No. 80052001  
Page 12



23) Typical of apartment finishes.



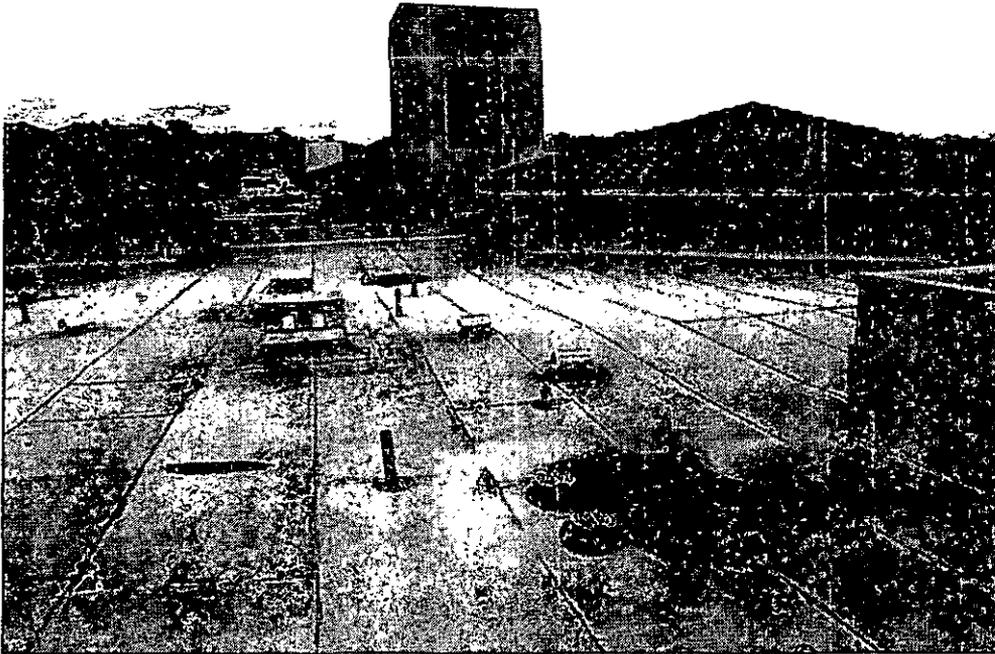
24) Typical of air conditioner units mounted in exterior closets.

000737

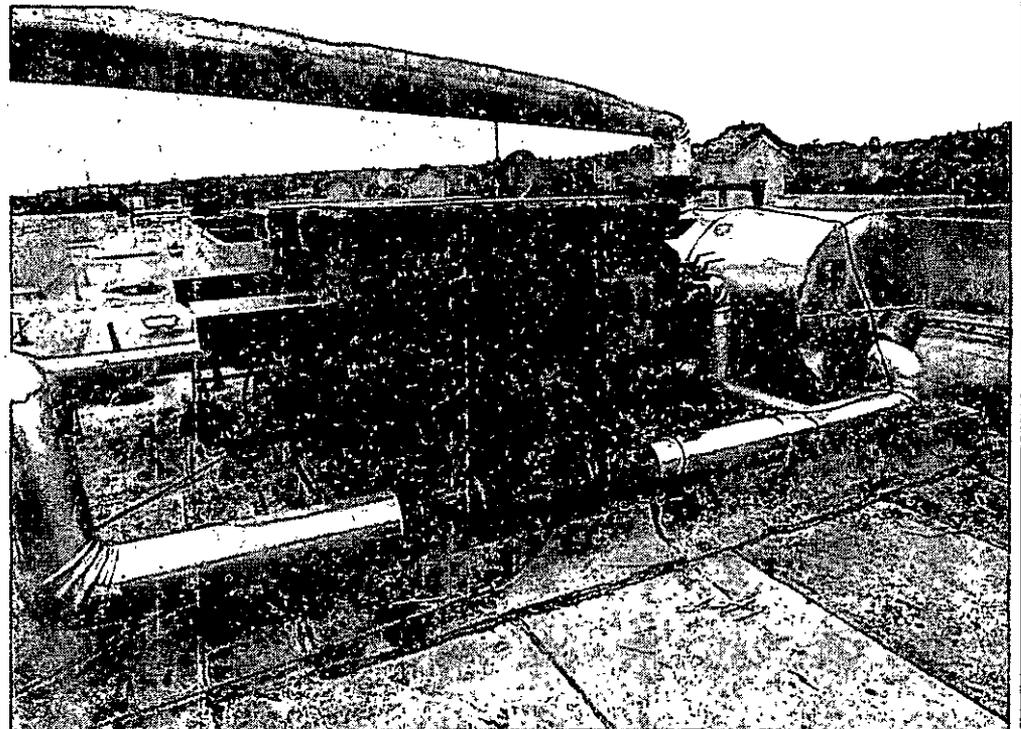


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25) Typical of roofing materials.



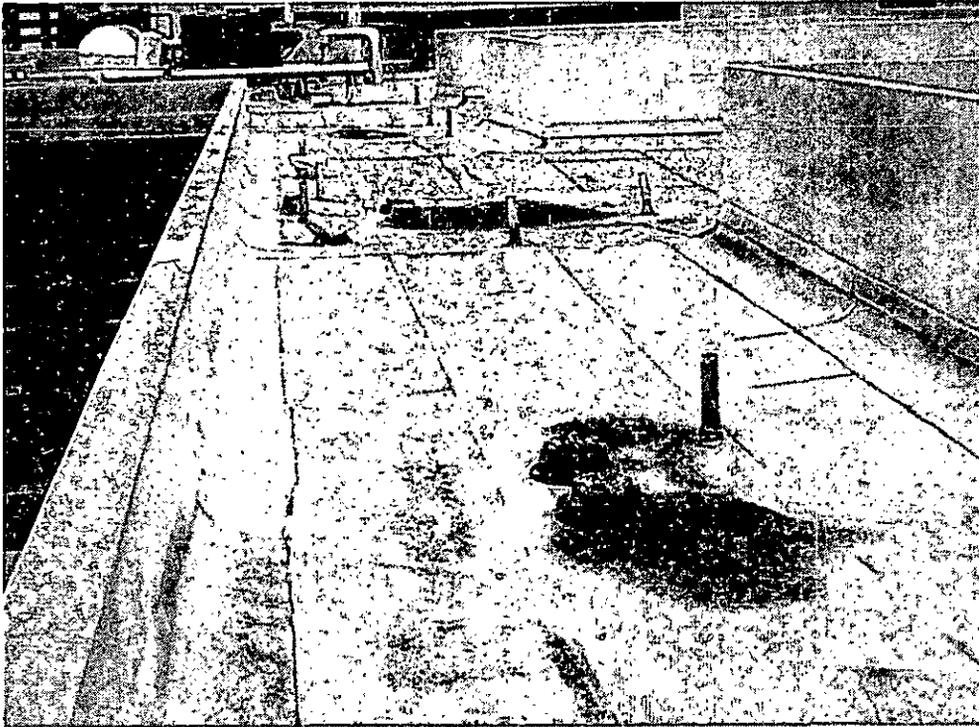
26) Typical of roof-mounted boiler units and storage tanks with circulation pumps.

000738



Property Condition Assessment  
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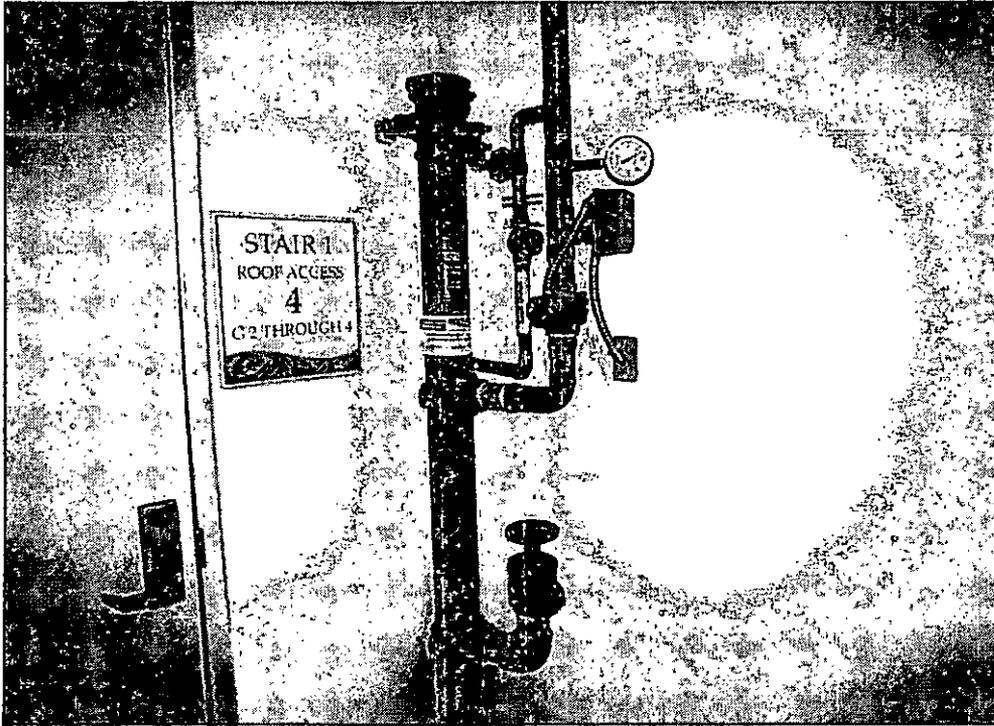
Photos taken February 19, 2008  
AES Project No. 80052001  
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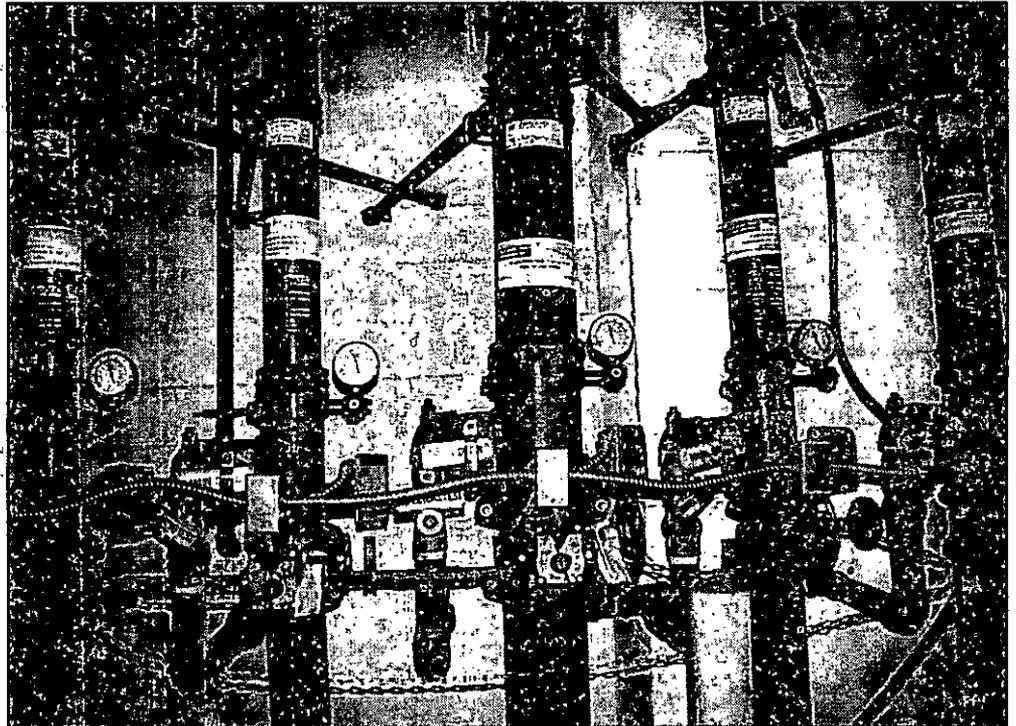
27) Typical of roof drains and overflow drains.



28) Typical of interior emergency stairs.



29) Typical of fire risers and fire department connections in stairwells.



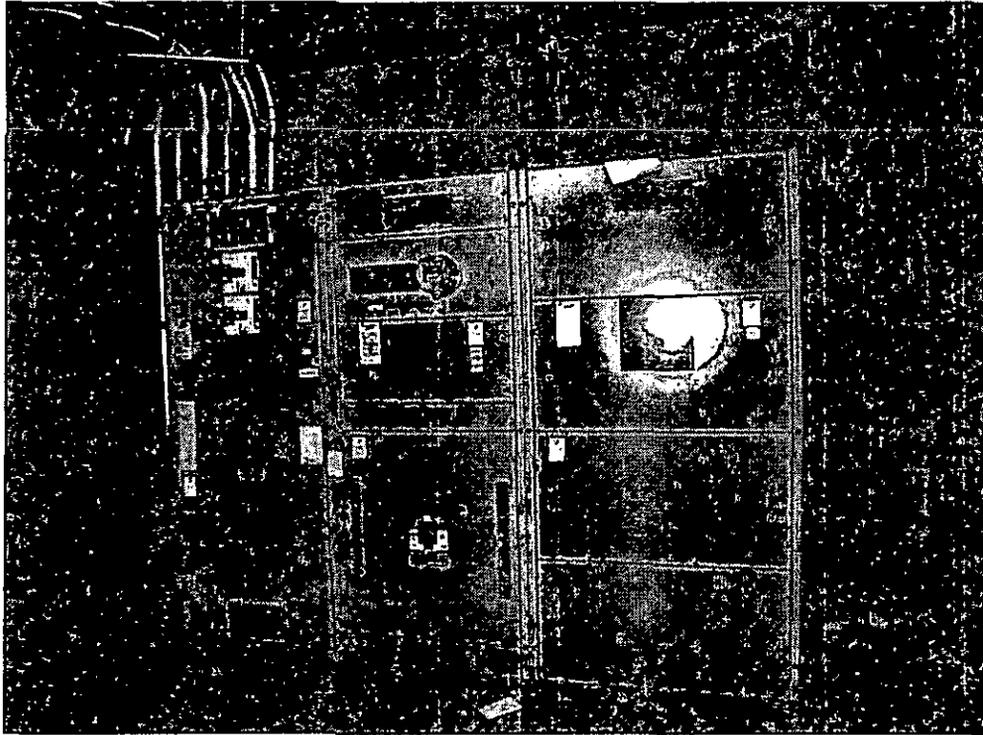
30) Typical of main fire risers in garage areas.

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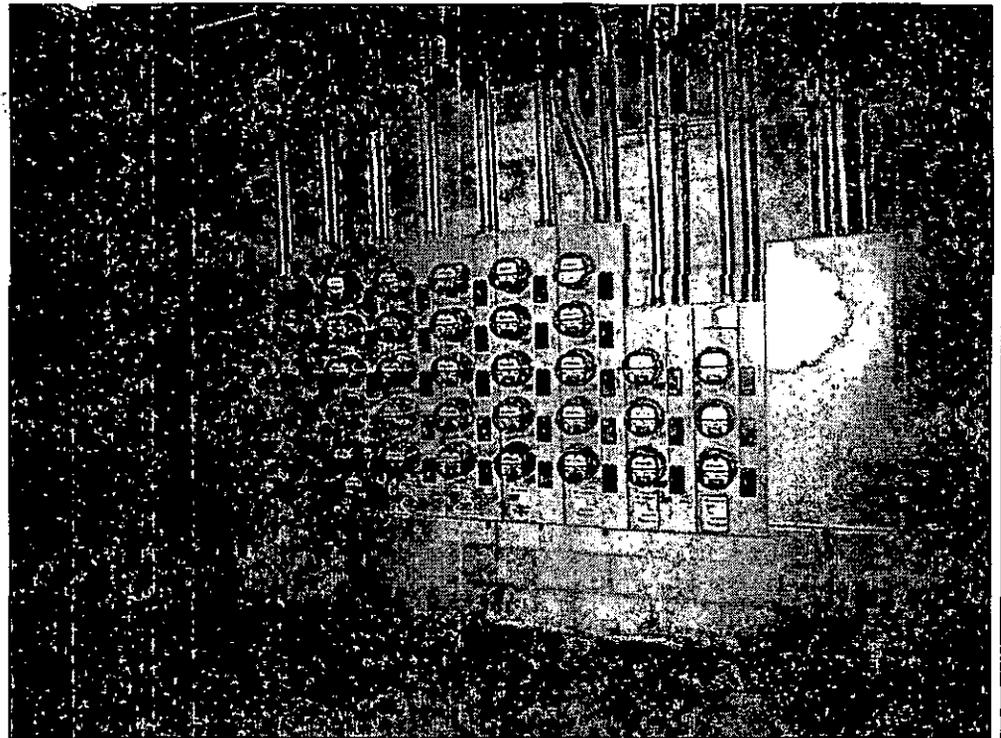
Property Condition Assessment  
Promenade at Rio Vista  
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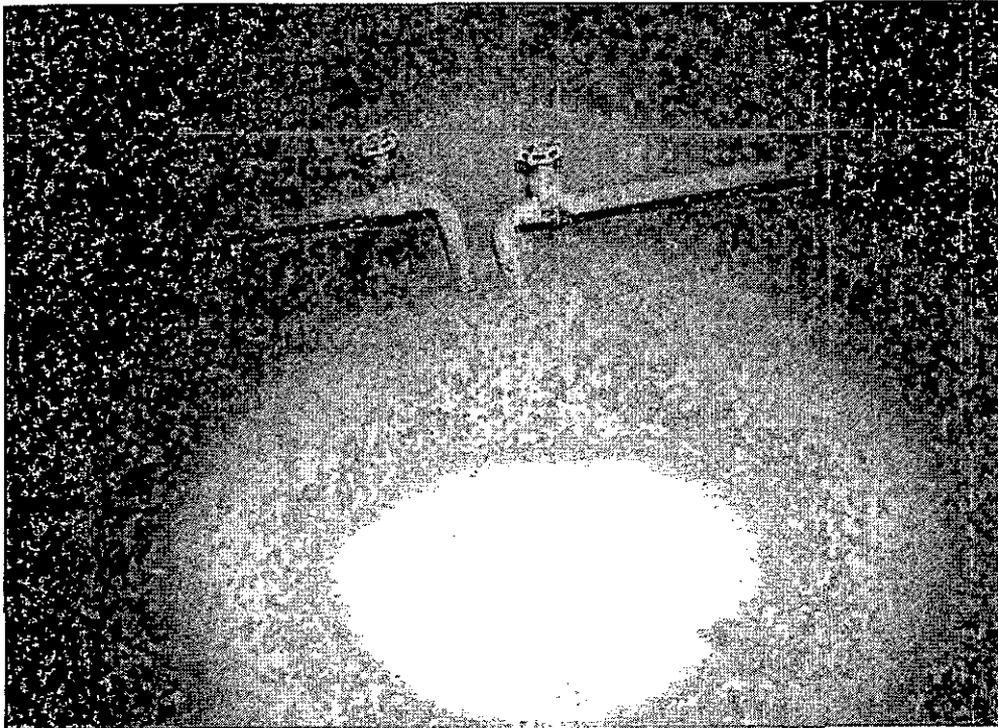
Photos taken February 19, 2008  
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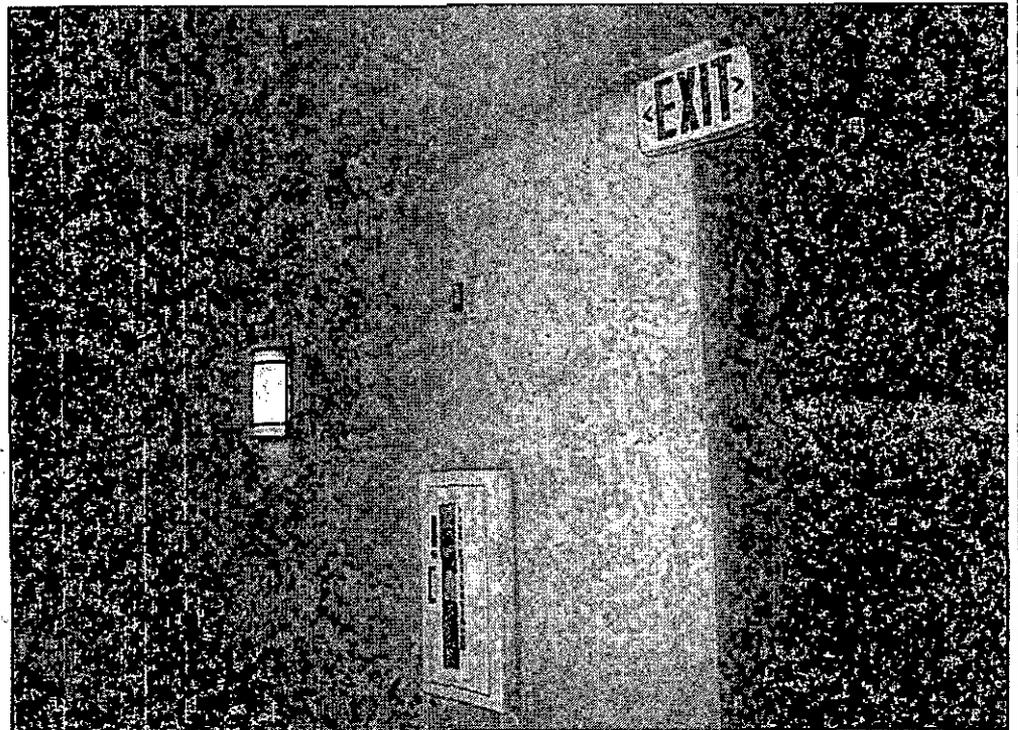
31) Typical of main electrical panels.

32) Typical of individual electric meters at buildings.





33) Typical piping to be used for future individual water meter connections in unit closets.



34) Typical of lighted exit signage, fire extinguishers and audible/visual alarms with strobe light.

080742

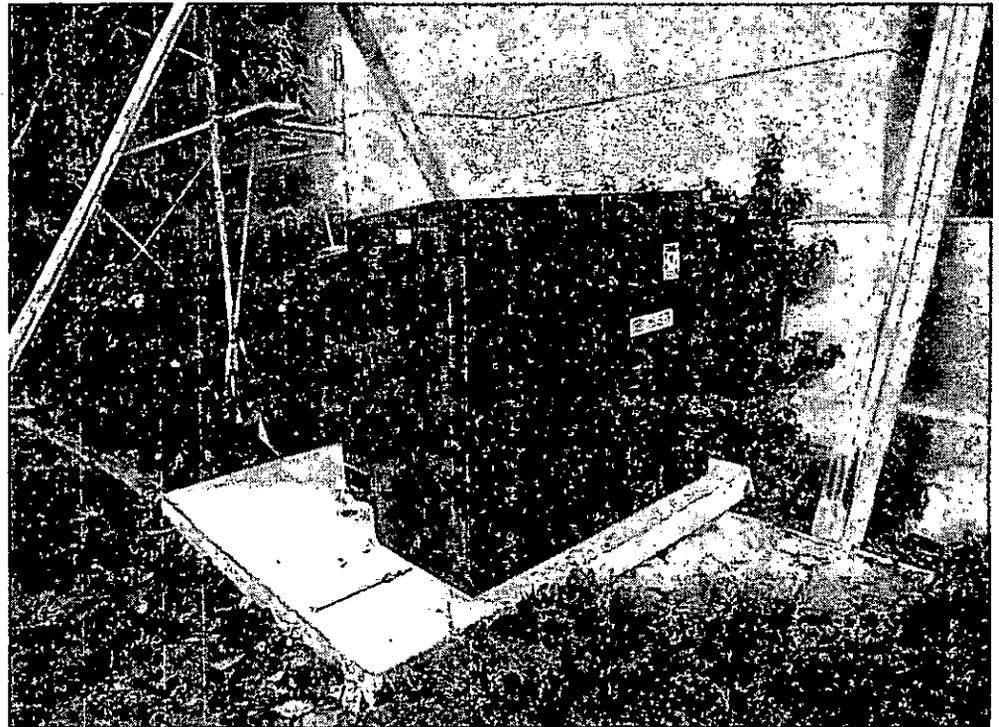


Property Condition Assessment  
Promenade at Rio Vista  
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Photos taken February 19, 2008  
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35) View of double check valve assembly for the fire water system.



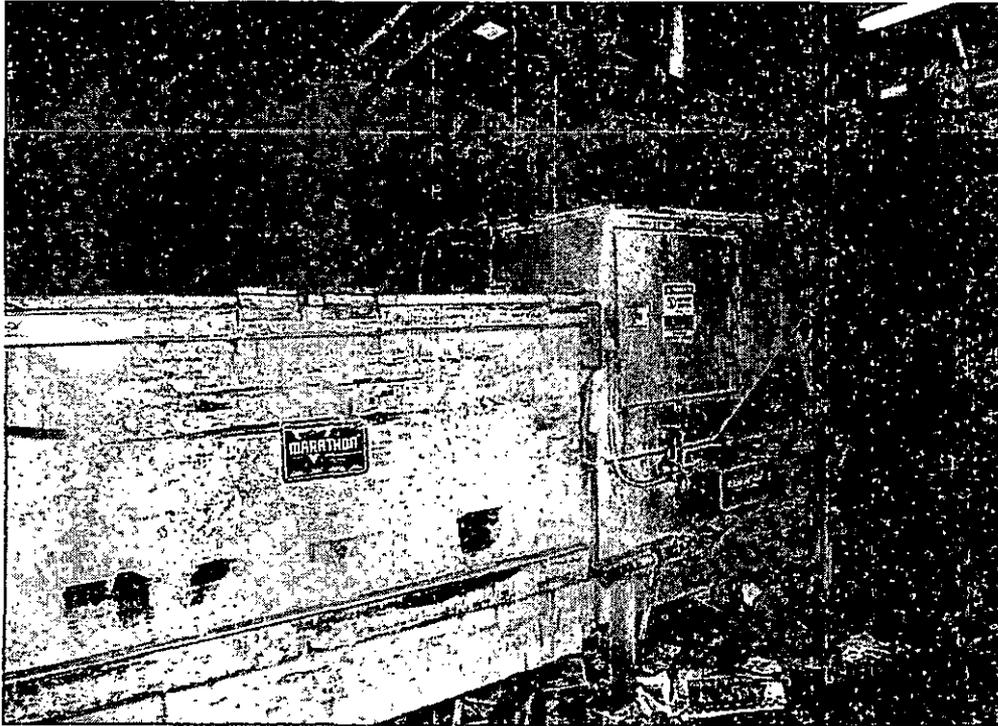
36) Typical of main electrical transformers on site.

000743



Property Condition Assessment  
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San Diego, California

Photos taken February 19, 2008  
AES Project No. 80052001  
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37) View of trash compactor and bin located beneath garbage chute



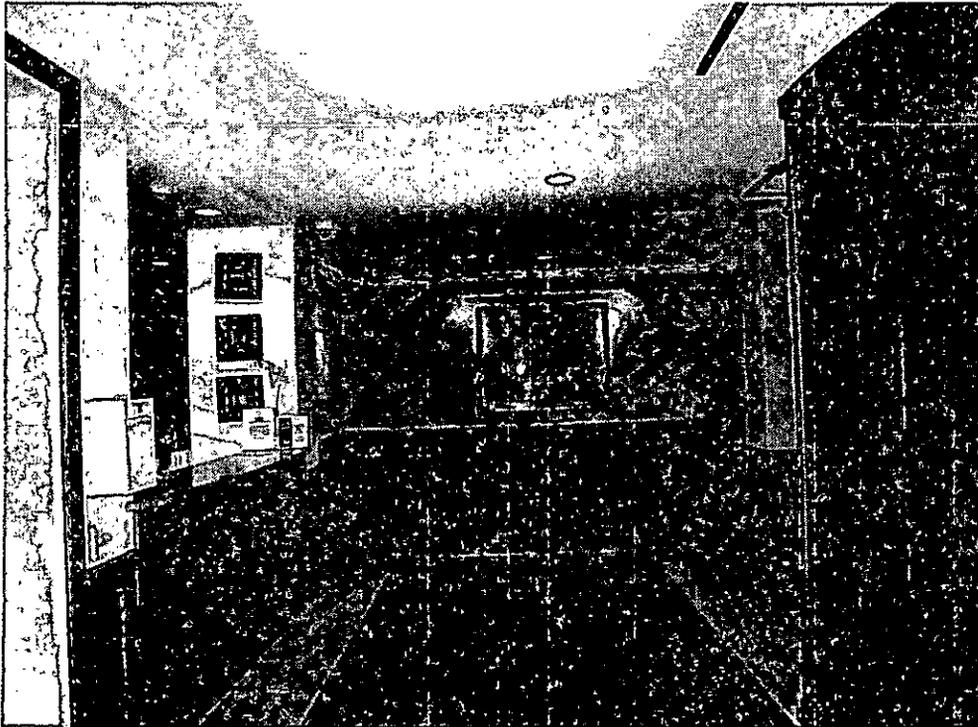
38) Typical of elevator equipment.

000744



Property Condition Assessment  
Promenade at Rio Vista  
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Photos taken February 19, 2008  
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39) View of reception area  
at management office.



40) View of work area  
at management office.

000745

# FLOOD ZONE DETERMINATION

000746

DEPARTMENT OF HOMELAND SECURITY  
FEDERAL EMERGENCY MANAGEMENT AGENCY  
STANDARD FLOOD HAZARD DETERMINATION

See The Attached  
Instructions

O.M.B. No. 1660-0040  
Expires October 31, 2008

SECTION I - LOAN INFORMATION

1. LENDER NAME AND ADDRESS <b>AES DUE DILIGENCE INC</b> 4909 MURPHY CANYON ROAD, SUITE SAN DIEGO, CA 92123 Requestor: Install Default Fax # 8585690275 Phone # 8585690211		2. COLLATERAL (Building/Mobile Home/Personal Property) PROPERTY ADDRESS <b>Promenade At Rio Vista</b> 2185 STATION VILLAGE WAY SAN DIEGO, CA 921086521 LOT: BLOCK: SUBDIVISION: TAX#: SECTION: TWP: RANGE: DESCRIPTION:	
3. LENDER ID. NO.	4. LOAN IDENTIFIER 80052001	5. AMOUNT OF FLOOD INSURANCE REQUIRED	

SECTION II

A. NATIONAL FLOOD INSURANCE PROGRAM (NFIP) COMMUNITY JURISDICTION			
1. NFIP Community Name <b>SAN DIEGO, CITY OF</b>	2. County (ies) <b>SAN DIEGO COUNTY</b>	3. State <b>CA</b>	4. NFIP Community Number <b>060295</b>

B. NATIONAL FLOOD INSURANCE PROGRAM (NFIP) DATA AFFECTING BUILDING/MOBILE HOME				
1. NFIP Map Number or Community Panel Number (Community name, if not the same as "A") <b>060295 1619 F</b>	2. NFIP Map Panel Effective/Revised Date <b>06/19/1997</b>	3. LOMA/LOMR <input checked="" type="checkbox"/> Yes Date	4. Flood Zone <b>X</b> Elev.	5. No NFIP Map

C. FEDERAL FLOOD INSURANCE AVAILABILITY (Check all that apply)

1.  Federal Flood insurance is available (community participates in nfip).  Regular Program  Emergency Program of NFIP

2.  Federal Flood insurance is NOT available because community is not participating in the NFIP.

3.  Building/Mobile Home is in a Coastal Barrier Resource Area (CBRA) or Otherwise Protected Area (OPA), Federal Flood Insurance may not be available.  
CBRA/OPA designated date: \_\_\_\_\_

D. DETERMINATION

**IS BUILDING/MOBILE HOME IN SPECIAL FLOOD HAZARD AREA (ZONES CONTAINING THE LETTERS "A" OR "V")?**  Yes  No

If yes, flood insurance is required by the Flood Disaster Protection Act of 1973.  
If no, flood insurance is not required by the Flood Disaster Protection Act of 1973.

E. COMMENTS (Optional)

Reference#: 80506FL00001918

E1a. SUBMITTED ADDRESS FOR CERTIFICATION  
**2185 Station Village Way**  
**San Diego, CA 92108**

CERTIFY TO:	TYPE OF COVERAGE: <b>Life of Loan</b>	RUSH:
HMDA INFO: ST: CO: SMSA: CT:		

This determination is based on examining the NFIP map, any Federal Emergency Management Agency revisions, and any other information needed to locate the building/mobile home on the NFIP map. This flood determination is only for determining the flood status of the listed property. It is not to be used to decide whether to purchase a property or determining the value of a property. Use of determination deems acceptance of conditions.

F. PREPARER'S INFORMATION

NAME, ADDRESS TELEPHONE NUMBER (if other than Lender)  <b>Factual Data Flood</b> <b>5200 Hahns Peak Drive</b> <b>Loveland, CO 80538</b>	<b>1-800-730-6374</b> <b>FAX 1-800-216-5663</b> <b>www.nfrflood.com</b>	DATE OF DETERMINATION: <b>02/14/2008</b> CERTIFIED BY: <b>999B</b> NFR#: <b>3130842-4898458</b>
---	---	---



000748

# ZONING



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**CERTIFICATE OF  
OCCUPANCY**

THE CITY OF SAN DIEGO

# Certificate of Occupancy



ADDRESS: 2195 STATION VILLAGE WY BLD 1

Date Issued: 10/29/02  
Building Permit No.: B200210-01  
Building Description:

136 UNITS  
APT. BLDG

Occupancy:

Owner: RIO VISTA WEST APARTMENTS LLC  
26 CORPORATE PL  
NEWPORT BEACH CA 92660

This certifies that, so far as ascertained by or made known to the undersigned, the building at the above address complies with Chapter IX, Article 1, of the Municipal Code and applicable requirements of the State Building Regulations for the occupancies listed.

TINA P. CHRISTIANSEN, DIRECTOR  
DEVELOPMENT SERVICES DEPARTMENT

*Tina P. Christiansen*

NOTE: Any change of use of occupancy must be approved by the Development Services Department.

OSHA Form 3031  
This information is available in alternative formats upon request.

POST IN A CONSPICUOUS PLACE

THE CITY OF SAN DIEGO

# Certificate of Occupancy



ADDRESS: 2185 STATION VILLAGE WY BLD 2

Date issued: 05/09/03

Building Permit No.: B200211-01

Building Description: UNITS 157  
APT. BLDG

Occupancy:

Owner: RIO VISTA WEST APARTMENTS LLC  
26 CORPORATE PL  
NEWPORT BEACH 92660

This certifies that, so far as ascertained by or made known to the undersigned, the building at the above address complies with Chapter IX, Article 1, of the Municipal Code and applicable requirements of the State Building Regulations for the occupancies listed.

TINA P. CHRISTIANSEN, DIRECTOR  
DEVELOPMENT SERVICES DEPARTMENT

NOTE: Any change of use or occupancy must be approved by the Development Services Department.

CS-3 (Rev. 2/91)  
This information is available in electronic format upon request.

POST IN A CONSPICUOUS PLACE

THE CITY OF SAN DIEGO

# Certificate of Occupancy



ADDRESS: 6555 Station Village Ln Bldg 3

Date issued: 11/17/03  
 Building Permit No.: R202326-03  
 Building Description: 1/SPK 3 Stories  
 Occupancy: S/M Tenant Improvement

This certifies that, so far as ascertained by or made known to the undersigned, the building at the above address complies with Chapter IX, Article 1, of the Municipal Code and applicable requirements of the State Building Regulations for the occupancies listed.

TINA P. CHRISTIANSEN, DIRECTOR  
DEVELOPMENT SERVICES DEPARTMENT

BY *Tina P. Christiansen*

Owner: M/C Land Co  
19 Corporate Plaza Dr  
Newport Beach CA 92660

NOTE: Any change of use of occupancy must be approved by the Development Services Department.

DS-2 (Rev. 2011)

This information is available in alternative formats upon request.

POST IN A CONSPICUOUS PLACE

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02/25/2008

05:41

16192933838

PROMENADE

PAGE 05

THE CITY OF SAN DIEGO

# Certificate of Occupancy



ADDRESS: 2173 CAMINO DEL ESTE

Date Issued: 08/30/04  
Building Permit No.: B200215-01  
Building Description:

Occupancy: APARTMENT BUILDING  
122 UNITS

Owner: HLD VISTA WEST APARTMENTS LLC  
26 CORPORATE BEACH CA 92660

This certifies that, so far as ascertained by or made known to the undersigned, the building at the above address complies with Chapter IX, Article 1, of the Municipal Code and applicable requirements of the State Building Regulations for the occupancies listed.

TINA F. CHRISTIANSEN, DIRECTOR  
DEVELOPMENT SERVICES DEPARTMENT

*Tina F. Christiansen*

NOTE: Any change of use of occupancy must be approved by the Development Services Department.

03-9 (Rev. 101)  
This information is available in alternative formats upon request.

POST IN A CONSPICUOUS PLACE

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02/25/2008

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PROMENADE

PAGE 06

THE CITY OF SAN DIEGO

# Certificate of Occupancy



**ADDRESS:** 8405 RIO SAN DIEGO DR

**Date issued:** 08/30/04  
**Building Permit No.:** B200214-01  
**Building Description:**

**Occupancy:** APARTMENT BUILDING  
160 UNITS

**OWNER:** RIO VISTA WEST APARTMENTS LLC  
26 CORPORATE PL  
NEWPORT BEACH CA 92660

This certifies that, so far as ascertained by or made known to the undersigned, the building at the above address complies with Chapter IX, Article 1, of the Municipal Code and applicable requirements of the State Building Regulations for the occupancies listed.

TINA P. CHRISTIANSEN, DIRECTOR  
DEVELOPMENT SERVICES DEPARTMENT

BY: *Tina P. Christiansen*

NOTE: Any change of use of occupancy must be approved by the Development Services Department.

POST IN A CONSPICUOUS PLACE

DS-2 (Rev. 1/01)  
This information is available to attend the format copy request

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02/25/2008

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PROMENADE

PAGE 07

THE CITY OF SAN DIEGO

# Certificate of Occupancy



ADDRESS: 8685 RIO SAN DIEGO DR

Date Issued: 04/14/04  
Building Permit No.: B200233-01  
Building Description:

This certifies that, so far as ascertained by or made known to the undersigned, the building at the above address complies with Chapter IX, Article 1, of the Municipal Code and applicable requirements of the State Building Regulations for the occupancies listed.

Occupancy: APARTMENT BUILDING  
198 UNITS

TINA P. CHRISTIANSEN, DIRECTOR  
DEVELOPMENT SERVICES DEPARTMENT

Owner: RIO VISTA WEST APARTMENTS LLC  
26 CORPORATE PL.  
NEWPORT BEACH CA 92660

BY: *Tina P. Christiansen*

NOTE: Any change of use of occupancy must be approved by the Development Services Department.

03-2 (Rev. 2011)  
This information is available to other city agencies upon request.

POST IN A CONSPICUOUS PLACE

PROMENADE

16192933838

02/25/2008 05:41

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THE CITY OF SAN DIEGO

# Certificate of Occupancy



ADDRESS: 2173 Camino Del Este

Date issued: 8/30/04  
Building Permit No.: B200215-01  
Building Description: V-K--1HR/SPR

Occupancy: RI/SI 122 Units/Bldg. 6

Owner: Rio Vista West Apartments LLC  
26 Corporate Place  
Newport Beach, CA 92660

This certifies that, so far as established by or made known to the undersigned, the building at the above address complies with Chapter IX, Article 1, of the Municipal Code and applicable requirements of the State Building Regulations for the occupancy listed.

TINA P. CHRISTIANSEN, DIRECTOR  
DEVELOPMENT SERVICES DEPARTMENT

BY: *[Signature]*

NOTE: Any change of use of occupancy must be approved by the Development Services Department.

DS-2 (Rev. 2003)  
This information is available in alternative formats upon request.

POST IN A CONSPICUOUS PLACE

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01/13



City of San Diego  
Development Services  
1222 First Ave. • 3rd Floor  
San Diego, CA 92101-4154  
(619) 446-5210  
www.sandiego.gov/development-services

RECEIVED  
CLERK'S OFFICE

# Development Permit Appeal Application

08 OCT 10 AM 10:01

See Information Bulletin 505, "Development Permits Appeal Procedure," for information on the appeal procedure.

**1. Type of Appeal:**

- Process Two Decision - Appeal to Planning Commission
- Process Three Decision - Appeal to Planning Commission
- Process Three Decision - Appeal to Board of Zoning Appeals

- Appeal of a Hearing Officer Decision to revoke a permit
- Process Four Decision - Appeal to City Council

**2. Appellant Name** Please check one  Applicant  Officially recognized Planning Committee  "Interested Person" (Per M.C. Sec. 113.0103)  
Affordable Housing Coalition of San Diego County and Citizens for Responsible Equitable Environmental Development,  
c/o Cory J. Briggs, Briggs Law Corporation

Address: 99 East "C" Street, Suite 111, Upland, CA 91786  
City: Upland State: CA Zip Code: 91786 Telephone: 909-949-7115

**3. Project Name** (As shown on the Permit/Approval being appealed). Complete if different from appellant.

Unknown

**4. Project Information**

Permit/Approval Being Appealed & Permit/Approval No.:

Date of Decision:

City Project Manager:

1051 58-Promenade @ Rio Vista T.M

10/9/08

Jeanette Temple

Decision (describe the permit/approval decision):

The Planning Commission approved the application for a tentative map to convert residential units to condominiums without

preparing an initial study or performing other study under the California Environmental Quality Act and in violation of

other applicable laws, including the Subdivision Map Act.

**5. Reason for Appeal**

- Factual Error
- Conflict with other matters
- Findings Not Supported
- New Information
- City-wide Significance (Process Four decisions only)

Description of Reasons for Appeal (Please relate your description to the allowable reasons for appeal noted above. Attach additional sheets if necessary.)

The Planning Commission erred in approving the project without first preparing an initial study or performing any other study

under the California Environmental Quality Act and in violation of San Diego Municipal Code §§ 125.0440(a)-(h), 142.1304, and

142.1305 and Government Code § 66412.3. The project does not qualify for exemption under section 15301 of the CEQA

Guidelines. Furthermore, the project does not qualify for exemption due to the cumulative and other potential adverse

environmental impacts of converting apartments to condominiums, especially in light of the numerous proposed conversions

and the serious decline in affordable housing that the City of San Diego is facing. The City also has an independent obligation

to conduct this environmental review under CEQA and the Subdivision Map Act (§ 66474). The opposition letter submitted by

Briggs Law Corporation prior to approval of the project provides additional information that supports this appeal, including but

not limited to the City's inability to make the finding required by Government Code § 66473.5 because the housing element has

become invalid due to the City's failure to revise it lawfully and in a timely manner under Government Code § 65588(e).

Evidence of cumulative impacts and other potential adverse environmental impacts of the conversions may not have been available

to the person(s) on staff who made the determination of exemption or to the public until after the appeal period for the

determination expired.

**6. Appellant's Signature:** I certify under penalty of perjury that the foregoing, including all names and addresses, is true and correct.

Signature: Cory J. Briggs

Date: October 10, 2008

Note: Faxed appeals are not accepted.

DATE REPORT ISSUED: September 26, 2008      REPORT NO.: PC-08-103  
ATTENTION: Council President and City Council  
ORIGINATING DEPARTMENT: Development Services Department  
SUBJECT: **PROJECT APPEAL BY CREED (BRIGGS LAW CORPORATION) FOR  
PROMENADE @ RIO VISTA TM – PROJECT NO. 105158**  
COUNCIL DISTRICT: 6  
STAFF CONTACT: Jeannette Temple, (619) 557-7908, [jtemple@sandiego.gov](mailto:jtemple@sandiego.gov)

REQUESTED ACTION:

Appeal of the Planning Commission's decision to approve the Promenade @ Rio Vista condominium conversion project located within the Mission Valley Community Plan area.

STAFF RECOMMENDATION: DENY the appeal and APPROVE Tentative Map No. 348629.

EXECUTIVE SUMMARY:

This condominium conversion project was approved by the Planning Commission on October 9, 2008, and subsequently appealed by Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation. The appeal language is the same as past appeals on condominium conversions filed by the same entity. This is a project appeal not an environmental appeal, therefore the environmental issues raised are not relevant. The project was determined to be exempt from review under the California Environmental Quality Act (CEQA) and an appeal of the CEQA exemption was heard and rejected by the City Council on June 12, 2007.

Although the majority of the concerns raised in the Appeal Application are environmental issues that have been previously addressed, there are references to several San Diego Municipal Code (SDMC) and California Government Code sections which are not CEQA-related and may be addressed through this project appeal. These codes sections and staff's responses are contained below:

**SDMC Sections 125.0440(a)-(h):** These sections describe the required findings for a Tentative Map. The State Map Act (SMA) restricts the scope of the City's review and limits the findings that apply to the conversion of existing buildings into condominiums. SMA Section 66427 precludes the City from reviewing the building design and the division of the airspace, and SMA Section 66427.2 exempts condo conversions from six of the eight standard Tentative Map findings. Based on the above, only findings 125.0440 (b) and (h) apply to condominium conversion projects, and the appellant's assertion that all of the findings listed in 125.0440 (a)-(h) apply is incorrect. The two findings that do apply are described below.

**SDMC Section 125.0440(b):** *"The proposed subdivision complies with the applicable zoning and development regulations of the Land Development Code."* This condominium project has been reviewed by staff and determined to be in compliance with the applicable zoning and development regulations, including the new condominium conversion regulations. The development was constructed in 2003-2004 and meets all regulations in place at that time for the project.

**SDMC Section 125.0440(h) and California Government Code Section 66412.3:** *"The decisionmaker has considered the effects of the proposed subdivision on the housing needs of*

000762

*the region and that those needs are balanced against the needs for public services and the available fiscal and environmental resources.*” This condominium project has been approved by the Planning Commission, who was the decisionmaker required to make this finding. Staff believes the intent of this required finding is to respond to “leapfrog” development and to provide necessary public facilities for additional housing in communities. In this instance there is no net loss or gain of housing units, therefore, staff believes this appeal point is not valid.

**SDMC Sections 142.1304 and 142.1305:** These sections describe the requirements for approving a variance or waiver from the City’s inclusionary housing requirements. This project meets the inclusionary housing requirement by providing ninety-seven onsite affordable housing units. The project does not request a variance or waiver from the inclusionary housing requirements, therefore, these code sections are not relevant.

The appeal also asserts that the Housing Element of the City’s General Plan has become invalid due to the City’s failure to revise it lawfully and in a timely manner. The current Housing Element was adopted by the City Council on December 5, 2006, and certified by the U.S. Department of Housing and Urban Development on February 5, 2007. The project was approved after the certification of the most recent Housing Element update. A 2007 California appeals court case addressed the question about whether a housing element updated beyond time periods identified in Government Code Section 65588 is invalid and determined that it was not. Therefore, the City’s Housing Element has never been considered invalid and would not be grounds for denial of this project.

FISCAL CONSIDERATIONS:

None. All costs associated with the processing of this project are paid by the applicant.

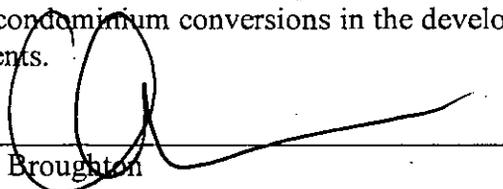
COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

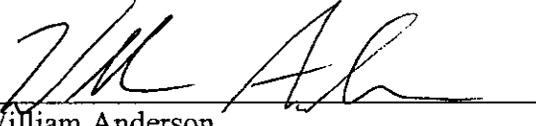
On October 9, 2008, the Planning Commission approved the project by a vote of 6-0-1.

On July 11, 2007, the Mission Valley Unified Planning Committee voted 20-0-0 to recommend approval of the project with no conditions.

KEY STAKEHOLDERS & PROJECTED IMPACTS (if applicable):

Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation. Promenade Acquisition, LLC. Other key stakeholders include those associated with condominium conversions in the development industry, the housing industry, and residents.

  
Kelly Broughton  
Director, Development Services Department

  
William Anderson  
Deputy Chief Operating Officer:  
Executive Director of City Planning and  
Development

ATTACHMENTS:

1. Briggs appeal application
2. Briggs project opposition letter to Planning Commission
3. Draft City Council Tentative Map Resolution
4. Environmental Exemption for project
5. City Council Resolution denying prior CEQA Appeal

000763



City of San Diego  
 Development Services  
 1222 First Ave. • 3rd Floor  
 San Diego, CA 92101-4154  
 (619) 446-5210  
 www.sandiego.gov/development-services

RECEIVED  
 CLERK'S OFFICE  
**Development Permit  
 Appeal Application**

08 OCT 10 AM 10:01

See Information Bulletin 505, "Development Permits Appeal Procedure," for information on the appeal procedure.

1. Type of Appeal:

- Process Two Decision - Appeal to Planning Commission
- Process Three Decision - Appeal to Planning Commission
- Process Three Decision - Appeal to Board of Zoning Appeals
- Appeal of a Hearing Officer Decision to revoke a permit
- Process Four Decision - Appeal to City Council

2. Appellant Name Please check one  Applicant  Officially recognized Planning Committee  "Interested Person" (Per M.C. Sec. 113.0103)  
 Affordable Housing Coalition of San Diego County and Citizens for Responsible Equitable Environmental Development,  
 c/o Cory J. Briggs, Briggs Law Corporation

Address City State Zip Code Telephone  
 99 East "C" Street, Suite 111, Upland, CA 91786 909-949-7115

3. Applicant Name (As shown on the Permit/Approval being appealed). Complete if different from appellant.

Unknown

4. Project Information

Permit/Approval Being Appealed & Permit/Approval No.:	Date of Decision:	City Project Manager:
1051 58-Promenade @ Rio Vista T.M.	10/9/08	Jeanette Temple

Decision (describe the permit/approval decision):  
 The Planning Commission approved the application for a tentative map to convert residential units to condominiums without preparing an initial study or performing other study under the California Environmental Quality Act and in violation of other applicable laws, including the Subdivision Map Act.

5. Reason for Appeal

- Factual Error
- Conflict with other matters
- Findings Not Supported
- New Information
- City-wide Significance (Process Four decisions only)

Description of Reasons for Appeal (Please relate your description to the allowable reasons for appeal noted above. Attach additional sheets if necessary.)

The Planning Commission erred in approving the project without first preparing an initial study or performing any other study under the California Environmental Quality Act and in violation of San Diego Municipal Code §§ 125.0440(a)-(h), 142.1304, and 142.1305 and Government Code § 66412.3. The project does not qualify for exemption under section 15301 of the CEQA Guidelines. Furthermore, the project does not qualify for exemption due to the cumulative and other potential adverse environmental impacts of converting apartments to condominiums, especially in light of the numerous proposed conversions and the serious decline in affordable housing that the City of San Diego is facing. The City also has an independent obligation to conduct this environmental review under CEQA and the Subdivision Map Act (§ 66474). The opposition letter submitted by Briggs Law Corporation prior to approval of the project provides additional information that supports this appeal, including but not limited to the City's inability to make the finding required by Government Code § 66473.5 because the housing element has become invalid due to the City's failure to revise it lawfully and in a timely manner under Government Code § 65588(e). Evidence of cumulative impacts and other potential adverse environmental impacts of the conversions may not have been available to the person(s) on staff who made the determination of exemption or to the public until after the appeal period for the determination expired.

6. Appellant's Signature: I certify under penalty of perjury that the foregoing, including all names and addresses, is true and correct.

Signature Cory J. Briggs Date October 10, 2008

Note: Faxed appeals are not accepted.

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**BRIGGS LAW CORPORATION**

ATTACHMENT 2

San Diego Office:  
5663 Balboa Avenue, No. 376  
San Diego, CA 92111-2705

Telephone: 858-495-9082  
Facsimile: 858-495-9136

Please respond to: Inland Empire Office

Inland Empire Office:  
99 East "C" Street, Suite 111  
Upland, CA 91766

Telephone: 909-949-7115  
Facsimile: 909-949-7121

BLC File(s) 1007.08

Planning Commission  
City of San Diego  
202 C Street  
San Diego, CA 92101

October 6, 2008

Re: Project Number: 105158  
Project Name: Promenade @ Rio Vista TM  
Commission Meeting Date: October 9, 2008

Dear Planning Commission:

On behalf of Citizens for Responsible Equitable Environmental Development and the Affordable Housing Coalition of San Diego County, I am writing to express my clients' opposition to approval of the above-referenced project, which is scheduled to be considered by the Planning Commission on the above-identified date.

My clients oppose approval of the project on the grounds that converting apartments to condominiums is subject to environmental review under the California Environmental Quality Act. The exemptions set forth in Section 15301 of the CEQA Guidelines do not apply to the project. Furthermore, the cumulative and other potential significant impacts of converting apartments to condominiums make the exemption inapplicable. Evidence of the project's cumulative adverse impacts is contained in, among other sources, (i) the City Attorney's memorandum dated November 10, 2005, regarding the applicability of CEQA to condominium conversions; (ii) the City Manager's report no. 05-060; (iii) the City Manager's report no. 05-060 rev.; (iv) the City Manager's report no. 05-106; (v) the City Manager's report no. 05-163; (vi) the City Council's prior resolutions declaring a state of emergency over the lack of affordable housing; and (vii) the City's current housing element (e.g., its comments about the environmental effects of condo conversions and the loss of affordable housing). Additionally, the project should be denied because your action in approving it would violate San Diego Municipal Code §§ 125.0440(a)-(h), 142.1304, and 142.1305 and Government Code §§ 66412.3 and 66474 (by not proceeding in the manner prescribed by law, not making all necessary findings, and not supporting the findings with sufficient evidence). Lastly, the project should not be approved because it is inconsistent with the housing element, thus precluding the necessary finding under Government Code § 66473.5; the housing element has not been lawfully revised as required by Government Code § 65588(e)(5) and therefore is invalid. My clients therefore urge the City of San Diego to comply with all applicable laws before approving the project or to deny approval.

Thank you for giving this matter the attention that it deserves.

Sincerely,

BRIGGS LAW CORPORATION

*Cory J. Briggs*  
Cory Briggs

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CITY COUNCIL RESOLUTION NO. XXXX  
TENTATIVE MAP NO. 348629  
**PROMENADE @ RIO VISTA TM - PROJECT NO. 105158**

WHEREAS, Promenade Acquisition, LLC, Applicant/Subdivider, Rick Engineering Company, Engineer, submitted an application with the City of San Diego for a Tentative Map, No. 348629. The project site is located at 8405-8715 Rio San Diego Drive, 8555 Station Village Lane, 2185-2195 Station Village Way and 2173 Camino Del Este in the MV-M/SP Zone of Mission Valley Planned District within the Mission Valley Community Plan area and is part of the First San Diego River Improvement Project (FSDRIP) and Rio Vista West Specific Plans. It is legally described as Parcels 1 and 2 of Parcel Map No. 18407; and

WHEREAS, the Map proposes the subdivision of a 15.68 acre site into for a 970 unit residential condominium and 17 commercial condominium creation; and

WHEREAS, the project is exempt from environmental review pursuant to Section 15301(k) of the California Environmental Quality Act (CEQA) on the basis that the facilities are existing; and

WHEREAS, a preliminary soils and geological reconnaissance report are waived by the City Engineer pursuant to the Subdivision Map Act and Section 144.0220 of the Municipal Code of the City of San Diego; and

WHEREAS, the subdivision 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 dwelling units is 970 and the commercial units is 17; and

WHEREAS, on October 9, 2008, the Planning Commission of the City of San Diego considered Tentative Map No. 348629, and voted 6-0-1 to approve the project, by Resolution No. 4462-PC; and

WHEREAS, an appeal of the Planning Commission's decision was filed by Affordable Housing Coalition of San Diego County and Citizens for Responsible Equitable Environmental Development c/o Cory J. Briggs, Briggs Law Corporation; and

WHEREAS, on December 8, 2008, the City Council of the City of San Diego considered Tentative Map No. 348629, and pursuant to Sections 125.0440 (tentative map), and 125.0444 (condo conversion), of the Municipal Code of the City of San Diego and Subdivision Map Act Section 66428, received for its consideration written and oral presentations, evidence having been submitted, and heard testimony from all interested parties at the public hearing, and the Planning Commission having fully considered the matter and being fully advised concerning the same; NOW THEREFORE,

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BE IT RESOLVED by the City Council of the City of San Diego, that it upholds the *Planning Commission approval and adopts the following findings with respect to Tentative Map No. 348629:*

1. The proposed subdivision and its design or improvement are consistent with the policies, goals, and objectives of the applicable land use plan (Land Development Code Section 125.0440.a and State Map Action 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 (Land Development Code Section 125.0440.b).
3. The site is physically suitable for the type and density of development (Land Development Code Section 125.0440.c and State Map Act Sections 66474(c) and 66474(d)).
4. The design of the subdivision or the proposed improvements are not likely to cause substantial environmental damage or substantially and avoidable injure fish or wildlife or their habitat (Land Development Code Section 125.0440.d and State Map Act Section 66474(e)).
5. The design of the subdivision or the type of improvements will not be detrimental to the public health, safety, and welfare (Land Development Code Section 125.0440.e and State Map Act Section 66474(f)).
6. The design of the subdivision or the type of improvements will not conflict with easements acquired by the public at large for access through or use of property within the proposed subdivision (Land Development Code Section 125.0440.f and State 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 (Land Development Code Section 125.0440.g and State Map Act Section 66473.1).
8. The decision maker has considered the effects of the proposed subdivision on the housing needs of the region and that those needs are balanced against the needs for public services and the available fiscal and environmental resources (Land Development Code Section 125.0440.h and State Map Act Section 66412.3).
9. Each of the tenants of the proposed condominium project has received, pursuant to State Map Action Section 66452.11, written notification of intention to convert at least 180 days prior to the termination of tenancy.

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10. Each of the tenants of the proposed condominium project has received a notice 60 days prior to the filing of a tentative map (Land Development Code 125.0444 and State Map Act Section 66452.9)
11. The project has been conditioned that the Subdivider will give each tenant, and each person applying for the rental of a unit in such residential real property, all applicable notices and rights now or hereafter required by the State Map Act (Land Development Code Section 125.0444 and State Map Act Section 66427.1(a)).
12. The project has been conditioned that the Subdivider will give each tenant 10 days' written notification that an application for a public report will be, or has been, submitted to the Department of Real Estate, that the period for each tenant's right to purchase begins with the issuance of the final public report, and that the report will be available on request (Land Development Code Section 125.0444 and State Map Act Section 66427.1 (a)(2)(B)).
13. The project has been conditioned that the Subdivider will give each tenant of the proposed condominium project written notification within 10 days after approval of a final map for the proposed conversion, and written notification within five days of receiving the public report from the Department of Real Estate (Land Development Code Section 125.0444 and State Map Act Section 66427.1(a)(2)). If the subdivider chooses to provide affordable housing units, the subdivider shall enter into an affordable housing agreement with the Housing Commission, prior to recordation of the Final Map.
14. The project has been conditioned that the Subdivider will give each of the tenants of the proposed condominium project 180 days' written notice of intention to convert prior to termination of tenancy due to the conversion or proposed conversion, but not before the approval of the tentative map for the conversion. (Land Development Code Section 125.0444 and State Map Act Section 66427.1(a)(2)(E)).
15. The project has been conditioned that the Subdivider will give each of the tenants of the proposed condominium project notice of an exclusive right to contract for the purchase of his or her respective unit upon the same terms and conditions that such unit will be initially offered to the general public or terms more favorable to the tenant. The right shall run for a period of not less than 90 days from the date of issuance of the subdivision public report pursuant to Section 11018.2 of the Business and Professions Code, unless the tenant gives prior written notice of his or her intention not to exercise the right (Land Development Code Section 125.0444 and State Map Act Section 66427.1(a)(2)(F)).

16. The project was not financed by funds obtained from a governmental agency to provide for elderly, disabled, or low income housing (Land Development Code Section 125.0444.b).
17. Each of the tenants of the proposed condominium project has received written notification of the project application for the condominium conversion within 10 days after the application was deemed complete (Land Development Code 125.0431(a)(3)).
18. The project has been conditioned that the subdivider will give each person applying for the rental of a unit in such residential real property written notification that the project application for the condominium conversion was deemed complete (Land Development Code 125.0431(a)(3)).
19. The project has been conditioned that the subdivider will give each tenant a notice of termination of tenancy 60 days prior to being required to vacate the property. (Land Development Code Section 125.0431(a)(4)).
20. A Building Conditions Report has been prepared in accordance with the Land Development Manual by a registered architect or engineer licensed by the State of California, and the City has accepted the report as complete (Land Development Code Section 144.0504(b)).
21. The project has been conditioned that the subdivider will provide to a prospective purchaser a copy of the Building Conditions Report prior to the opening of an escrow account. (Land Development Code Section 144.0504(c)).
22. The project has been conditioned that the subdivider will provide a relocation assistance payment, as and when required by the Land Development Code, to all tenants of the project whose tenancy has terminated due to the condominium conversion. (Land Development Code Section 144.0505).
23. The project has been conditioned for the subdivider to complete the physical improvements as outlined in Land Development Code Section 144.0507, to the satisfaction of the City Engineer prior to final map approval.
24. The project has been conditioned for the subdivider to satisfy the inclusionary housing requirements on-site in accordance with Land Development Code Section 142.1306. (Land Development Code Section 144.0508).
25. The proposed subdivision complies with the parking regulations of the Land Development Code (Land Development Code Section 142.0505).
26. That said Findings are supported by the minutes, maps, and exhibits, all of which are herein incorporated by reference.

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BE IT FURTHER RESOLVED, that, based on the Findings hereinbefore adopted by the City Council, Tentative Map No348629, is hereby granted to PROMENADE ACQUISITION, LLC, Applicant/Subdivider, subject to the following conditions:

**GENERAL**

1. This Tentative Map will expire December 8, 2011
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 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. Prior to the issuance of the Final Map taxes must be paid on this property pursuant to section 66492 of the Subdivision Map Act. A tax certificate, recorded in the office of the County Recorder, must be provided to satisfy this condition
5. The applicant 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 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 applicant of any claim, action, or proceeding and, if the City should fail to cooperate fully in the defense, the applicant 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, applicant 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 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 shall not be required to pay or perform any settlement unless such settlement is approved by applicant
6. The subdivider shall provide a Notice of Tenants Rights and Notices for Condominium Conversion, consistent with the Land Development Manual to be provided as follows:
  - a. For existing tenants, within 10 days of the project application for the *condominium conversion* being deemed complete; or

- b. For prospective tenants, upon application for the rental of a unit in the proposed *condominium conversion*.
7. The Subdivider shall provide each tenant, and each person applying for the rental of a unit in such residential real property, all applicable notices and rights now or hereafter required by the State Map Act.
8. The Subdivider shall provide the tenants a Notice of Application for a Public Report at least 10 days prior to the submittal to the Department of Real Estate (DRE), pursuant to Section 66427.1(a)(2)(B) of the Subdivision Map Act.
9. The Subdivider shall provide each of the tenants of the proposed condominiums written notice of intention to convert at least 180 days prior to termination of tenancy due to the conversion or proposed conversion in conformance with Section 66427.1(a)(2)(E) of the Subdivision Map Act. The provisions of this subdivision shall not alter nor abridge the rights or obligations of the parties in performance of their covenants, including, but not limited to, the provision of services, payment of rent, or the obligations imposed by Sections 1941, 1941.1 and 1941.2 of the Civil Code.
10. The Subdivider shall provide each of the tenants of the proposed condominiums notification of their exclusive right to contract for the purchase of his or her respective unit upon the same terms and conditions that such unit will be initially offered to the general public or terms more favorable to the tenant, in conformance with Section 66427.1(a)(2)(F) of the State Map Act. The right shall run for a period of not less than 90 days from the date of issuance of the subdivision public report, pursuant to Section 11018.2 of the Business and Professions Code, unless the tenant gives prior written notice of his or her intention not to exercise the right.
11. The Subdivider shall provide the tenants of the proposed condominiums with written notification within 10 days of approval of a Final Map for the proposed conversion, in conformance with Section 66427.1(a)(2)(D) of the Subdivision Map Act.

#### **AFFORDABLE HOUSING**

12. Prior to the recordation of the Final Map, the subdivider shall enter into an affordable housing agreement with the Housing Commission to provide at least ninety-seven (97) 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).

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13. Prior to the recordation of the Final Map, the subdivider shall demonstrate conformance with the Municipal Code provisions for Tenant Relocation Benefits (Chapter 14, Article 4, Division 5), to the satisfaction of the Development Services Department and the Housing Commission.
14. The subdivider will give each tenant a notice of termination of tenancy 60 days prior to being required to vacate the property. (Land Development Code Section 125.0431(a)(4)).
15. The subdivider will provide to a prospective purchaser a copy of the Building Conditions Report prior to the opening of an escrow account. (Land Development Code Section 144.0504(c)).

### ENGINEERING

16. Prior to recordation of the Final Map, The subdivider shall replace all existing curb ramps, adjacent to the project site, with City standard curb ramps with truncated domes.
17. The Subdivider shall underground any new service run to any new or proposed structures within the subdivision.
18. Prior to the recordation of the Final Map, the subdivider shall demonstrate conformance with the Municipal Code provisions for building and landscape improvements (Land Development Code Sections 144.0507), to the satisfaction of the City Engineer.
19. Water and Sewer Requirements:
  - a. The Subdivider shall install appropriate private back flow prevention devices on all existing and proposed water services (domestic, irrigation, and fire) adjacent to the project site in a manner satisfactory to the Water Department Director.
  - b. The Subdivider shall provide a letter, agreeing to prepare CC&Rs for the operation and maintenance of all private water and sewer facilities that serve or traverse more than a single condominium unit or lot.
20. Conformance with 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 tentative map and covered in these special conditions will be authorized.

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. RR-297376.

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**MAPPING**

21. "Basis of Bearings" means the source of uniform orientation of all measured bearings shown on the map. Unless otherwise approved, this source will be the California Coordinate System, Zone 6, North American Datum of 1983 (NAD 83).
22. "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."
23. 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.

**LANDSCAPE**

24. Prior to recordation of the Final Map, complete irrigation construction documents consistent with the Landscape Standards shall be submitted to the Development Services Department for approval. The construction documents shall be in substantial conformance with the Exhibit 'A,' Landscape Development Plan, on file in the Office of the Development Services Department.
25. All existing landscape shall be maintained in a disease, weed and litter free condition at all times. Severe pruning or "topping" of trees is not permitted. The trees shall be maintained in a safe manner to allow each tree to grow to its mature height and spread.

26. The Permittee or Subsequent Owner shall be responsible for the maintenance of all existing landscape in the right-of-way consistent with the Land Development Manual Landscape Standards.

If any existing landscape (including existing plantings, hardscape, landscape features, etc.) indicated on the approved construction document plans is damaged or removed during demolition or construction, it shall be repaired and/or replaced in kind and equivalent size per the approved documents to the satisfaction of the Development Services Department within 30 days of damage or prior to a Certificate of Occupancy or a Final Landscape Inspection.

**INFORMATION:**

- The approval of this Tentative Map by the City Council of the City of San Diego does not authorize the 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 subdivider makes any request for new water and sewer facilities (including services, fire hydrants, and laterals), then the subdivider 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 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 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 Tentative Map, may protest the imposition within 90 days of the approval of this Tentative Map by filing a written protest with the City Clerk pursuant to California Government Code Section 66020.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF SAN DIEGO,  
CALIFORNIA, ON DECEMBER 8, 2008

By \_\_\_\_\_  
Keith Bauerle, Deputy City Attorney

DETERMINATION OF  
**ENVIRONMENTAL EXEMPTION**

ATTACHMENT 4

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Pursuant to the California Environmental Quality Act (CEQA) and State CEQA Guidelines

Agency: CITY OF SAN DIEGO

Project No.: 105158

Date: February 5, 2007

Action/Permit(s): Tentative Map

Description of Activity: Tentative Map to convert 970 residential units to condominiums on a 15.67 acre site at 8405 Rio San Diego Drive in the MV-M/SP Zone within the Mission Valley Community Plan area.

Location of Activity: 8405 Rio San Diego Drive, within the MV-M/SP zone, within the Mission Valley Community Plan area, in Council District 6.

(CHECK BOXES BELOW)

1.  This activity is EXEMPT FROM CEQA pursuant to:
- Section 15061(b) (3) of the State CEQA Guidelines (the activity is not a project as defined in Section 15378).
2.  This project is EXEMPT FROM CEQA pursuant to State CEQA Guidelines Section checked below:

**ARTICLE 19 of GUIDELINES  
CATEGORICAL EXEMPTIONS**  
(Incomplete list)

Section	Short Name
<input checked="" type="checkbox"/> 15301(k)	Existing Facilities
<input type="checkbox"/> 15302	Replacement or Reconstruction
<input type="checkbox"/> 15303	New Construction or Conversion of Small Structures
<input type="checkbox"/> 15304	Minor Alterations to Land
<input type="checkbox"/> 15305	Minor Alteration in Land Use
<input type="checkbox"/> 15306	Information Collection
<input type="checkbox"/> 15311	Accessory Structures
<input type="checkbox"/> 15312	Surplus Government Property Sales
<input type="checkbox"/> 15315	Minor Land Divisions
<input type="checkbox"/> 15317	Open Space Contracts or Easements
<input type="checkbox"/> 15319	Annexation of Existing Facilities and Lots for Exempt Facilities
<input type="checkbox"/> 15325	Transfer of Ownership of Interest in Land to Preserve Open Space
<input type="checkbox"/> Other	<u>15332: In-Fill Development Project</u>

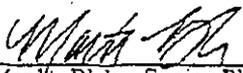
**ARTICLE 18 of GUIDELINES  
STATUTORY EXEMPTIONS**  
(Incomplete list)

Section	Short Name
<input type="checkbox"/> 15261	Ongoing Project
<input type="checkbox"/> 15262	Feasibility and Planning Studies
<input type="checkbox"/> 15265	Adoption of Coastal Plans and Programs
<input type="checkbox"/> 15268	Ministerial Projects
<input type="checkbox"/> 15269	Emergency Projects
<input type="checkbox"/> Other	

It is hereby certified that the City of San Diego has determined the above activity to be exempt:

Distribution:

Exemption or Project file  
Jeff Robles, DPM

  
Martha Blake, Senior Planner  
Environmental Analysis Section

## RESOLUTION NUMBER R-302739

DATE OF FINAL PASSAGE JUNE 12, 2007

WHEREAS, on January 23, 2007, Promenade Acquisition, LLC, (75 percent ownership) and Promenade Apartments, LLC, (25 percent ownership) submitted an application to the City of San Diego for approval of a Tentative Map to convert 970 existing residential dwelling units located at 8405 Rio San Diego Drive into individually owned condominium units (hereinafter referred to as the Promenade at Rio Vista Tentative Map Project); and

WHEREAS, said Promenade at Rio Vista Tentative Map Project was assigned Project Number 105158 by the City of San Diego Development Services Department; and

WHEREAS, on January 23, 2007, the City of San Diego, through the Development Services Department, determined that the application for Project Number 105158 was complete and, therefore, was deemed complete on said date; and

WHEREAS, on February 5, 2007, the City of San Diego, as Lead Agency, through the Development Services Department, made and issued an Environmental Determination that the Promenade at Rio Vista Tentative Map Project is a Class 1, Existing Facilities Project, Categorically Exempt from the California Environmental Quality Act [CEQA] (Public Resources Code section 21000 et. seq.) under CEQA Guideline section 15301(k) (California Code of Regulations section 15000, 15301(k)); and

WHEREAS, in accordance with CEQA (Public Resources Code section 21151(c)), and Section 112.0520 of the San Diego Municipal Code, Citizens for Responsible Equitable Environmental Development, care of Cory J. Briggs, Briggs Law Corporation (hereinafter,

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Appellant) appealed the Environmental Determination for the Promenade at Rio Vista Tentative Map Project to the Council of the City of San Diego (hereinafter, City Council); and

WHEREAS, the appeal was set for a public hearing to be conducted by the City Council on June 12, 2007; and

WHEREAS, the issues on appeal were heard, and evidence in the form of testimony and other evidence were accepted into the record, by the City Council on June 12, 2007; and

WHEREAS, the City Council considered, in light of the whole record, the Environmental Determination to Categorically Exempt the Promenade at Rio Vista Tentative Map Project, the potential environmental impacts associated with the Promenade at Rio Vista Tentative Map Project, the issues raised on appeal and the issues brought up at the hearing through testimony and public participation; 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; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, upon consideration of the whole record before it, that it is determined that the Environmental Determination has been completed in compliance with CEQA and the CEQA Guidelines, that the declaration reflects the independent judgment of the City of San Diego as Lead Agency, and that the information contained in the Development Services Department staff report and testimony and comments received during the public testimony process have been reviewed and considered by this City Council in connection with the appeal of the Environmental Determination.

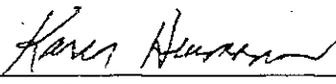
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BE IT FURTHER RESOLVED, that the City Council finds, based upon the representations of City staff, public testimony and the whole record before it, the following:

1. There is substantial evidence, in light of the whole record, supporting the Environmental Determination to Categorical Exempt the Promenade at Rio Vista Tentative Map Project under the provisions of CEQA Guidelines section 15301(k);
2. A fair argument, based upon evidence found in the whole record, has not been established demonstrating that exceptions to the Categorical Exemption, within the meaning of CEQA and the CEQA Guidelines (California Code of Regulations section 15300.2), exist with respect to the Promenade at Rio Vista Tentative Map Project; and
3. Based upon substantial evidence in light of the whole record, the Promenade at Rio Vista Tentative Map Project would not result in any significant or potentially significant impacts or effects on the environment.

BE IT FURTHER RESOLVED, that the Environmental Determination of the Development Services Department is sustained, and the appeal of Citizens for Responsible Equitable Environmental Development, care of Cory J. Briggs, Briggs Law Corporation, is denied.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By   
Karen Heumann  
Assistant City Attorney

KH:jb:  
06/15/06  
Or. Dept: Clerk  
R-2007-1249

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NOTICE OF EXEMPTION

(Check one or both)

TO:  X  RECORDER/COUNTY CLERK  
P.O. BOX 1750, MS A-33  
1600 PACIFIC HWY, ROOM 260  
SAN DIEGO, CA 92101-2422

FROM: CITY OF SAN DIEGO  
DEVELOPMENT SERVICES DEPARTMENT  
1222 FIRST AVENUE, MS 501  
SAN DIEGO, CA 92101

                     OFFICE OF PLANNING AND RESEARCH  
1400 TENTH STREET, ROOM 121  
SACRAMENTO, CA 95814

PROJECT No.: 105158

PROJECT TITLE: PROMENADE @ RIO VISTA

PROJECT LOCATION-SPECIFIC: 8405 Rio San Diego Drive, San Diego, CA

PROJECT LOCATION-CITY/COUNTY: San Diego/San Diego

DESCRIPTION OF PROJECT: Map Tentative Map to convert 970 residential units to condominiums on a 15.67 acre site, in the MV-M/SP Zone in the Mission Valley Community Plan Area.

NAME OF PUBLIC AGENCY APPROVING PROJECT: City of San Diego

NAME OF PERSON OR AGENCY CARRYING OUT PROJECT: Ronald Borromeo  
5620 Friars Road  
San Diego, CA 92110  
619-291-0707

EXEMPT STATUS: (CHECK ONE)

- MINISTERIAL (SEC. 15268)
- DECLARED EMERGENCY [SEC. 15269 (A)]
- EMERGENCY PROJECT [SEC. 15269 (B) AND (C)]
- CATEGORICAL EXEMPTION: SECTION 15301(K), EXISTING FACILITIES
- OTHER:

REASONS WHY PROJECT IS EXEMPT: The exemption allows for the division of existing multiple or single-family residences into common-interest ownership where no physical changes occur which are not otherwise exempt; the project is allowing a division of two existing residences into condominiums.

CONTACT PERSON: (M. Blake)

TELEPHONE: (619) 446-5375

IF FILED BY APPLICANT:

1. ATTACH CERTIFIED DOCUMENT OF EXEMPTION FINDING.
2. HAS A NOTICE OF EXEMPTION BEEN FILED BY THE PUBLIC AGENCY APPROVING THE PROJECT?  
 YES       NO

*M. Blake* / Senior Planner  
SIGNATURE/TITLE

\_\_\_\_\_  
DATE

CHECK ONE:

- SIGNED BY LEAD AGENCY
- SIGNED BY APPLICANT

DATE RECEIVED FOR FILING: \_\_\_\_\_  
(PROJECT APPROVAL DATE)

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# DETERMINATION OF ENVIRONMENTAL EXEMPTION

Pursuant to the California Environmental Quality Act (CEQA) and State CEQA Guidelines

Agency: CITY OF SAN DIEGO

Project No.: 105158

Date: February 5, 2007

Action/Permit(s): Tentative Map

Description of Activity: Tentative Map to convert 970 residential units to condominiums on a 15.67 acre site at 8405 Rio San Diego Drive in the MV-M/SP Zone within the Mission Valley Community Plan area.

Location of Activity: 8405 Rio San Diego Drive, within the MV-M/SP zone, within the Mission Valley Community Plan area, in Council District 6.

(CHECK BOXES BELOW)

- 1.  This activity is EXEMPT FROM CEQA pursuant to:
  - Section 15061(b) (3) of the State CEQA Guidelines (the activity is not a project as defined in Section 15378).
- 2.  This project is EXEMPT FROM CEQA pursuant to State CEQA Guidelines Section checked below:

**ARTICLE 19 of GUIDELINES  
CATEGORICAL EXEMPTIONS**  
(Incomplete list)

- | Section                                      | Short Name   |
|--|--|
| <input checked="" type="checkbox"/> 15301(k) | Existing Facilities  |
| <input type="checkbox"/> 15302               | Replacement or Reconstruction                                    |
| <input type="checkbox"/> 15303               | New Construction or Conversion of Small Structures               |
| <input type="checkbox"/> 15304               | Minor Alterations to Land  |
| <input type="checkbox"/> 15305               | Minor Alteration in Land Use                                     |
| <input type="checkbox"/> 15306               | Information Collection   |
| <input type="checkbox"/> 15311               | Accessory Structures   |
| <input type="checkbox"/> 15312               | Surplus Government Property Sales                                |
| <input type="checkbox"/> 15315               | Minor Land Divisions   |
| <input type="checkbox"/> 15317               | Open Space Contracts or Easements                                |
| <input type="checkbox"/> 15319               | Annexation of Existing Facilities and Lots for Exempt Facilities |
| <input type="checkbox"/> 15325               | Transfer of Ownership of Interest in Land to Preserve Open Space |
| <input type="checkbox"/> Other               | <u>15332: In-Fill Development Project</u>                        |

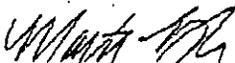
**ARTICLE 18 of GUIDELINES  
STATUTORY EXEMPTIONS**  
(Incomplete list)

- | Section                        | Short Name                             |
|--------------------------------|--|
| <input type="checkbox"/> 15261 | Ongoing Project                        |
| <input type="checkbox"/> 15262 | Feasibility and Planning Studies       |
| <input type="checkbox"/> 15265 | Adoption of Coastal Plans and Programs |
| <input type="checkbox"/> 15268 | Ministerial Projects                   |
| <input type="checkbox"/> 15269 | Emergency Projects                     |
| <input type="checkbox"/> Other |  |

It is hereby certified that the City of San Diego has determined the above activity to be exempt:

Distribution:

Exemption or Project file  
Jeff Robles, DPM

  
 Marika Blake, Senior Planner  
 Environmental Analysis Section

October 9, 2008

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PLANNING COMMISSION RESOLUTION NO. 4462-PC  
TENTATIVE MAP NO. 348629  
**PROMENADE @ RIO VISTA TM - PROJECT NO. 105158**

WHEREAS, Promenade Acquisition, LLC, Applicant/Subdivider, Rick Engineering Company, Engineer, submitted an application with the City of San Diego for a Tentative Map, No. 348629. The project site is located at 8405-8715 Rio San Diego Drive, 8555 Station Village Lane, 2185-2195 Station Village Way and 2173 Camino Del Este in the MV-M/SP Zone of Mission Valley Planned District within the Mission Valley Community Plan area and is part of the First San Diego River Improvement Project (FSDRIP) and Rio Vista West Specific Plans. It is legally described as Parcels 1 and 2 of Parcel Map No. 18407; and

WHEREAS, the Map proposes the subdivision of a 15.68 acre site into for a 970 unit residential condominium and 17 commercial condominium creation; and

WHEREAS, the project is exempt from environmental review pursuant to Section 15301(k) of the California Environmental Quality Act (CEQA) on the basis that the facilities are existing; and

WHEREAS, a preliminary soils and geological reconnaissance report are waived by the City Engineer pursuant to the Subdivision Map Act and Section 144.0220 of the Municipal Code of the City of San Diego; and

WHEREAS, the subdivision 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 dwelling units is 970 and the commercial units is 17; and

WHEREAS, on October 9, 2008, the Planning Commission of the City of San Diego considered Tentative Map No. 348629, and pursuant to Sections 125.0440 (tentative map), and 125.0444 (condo conversion), of the Municipal Code of the City of San Diego and Subdivision Map Act Section 66428, received for its consideration written and oral presentations, evidence having been submitted, and heard testimony from all interested parties at the public hearing, and the Planning Commission having fully considered the matter and being fully advised concerning the same; NOW THEREFORE,

BE IT RESOLVED by the Planning Commission of the City of San Diego, that it adopts the following findings with respect to Tentative Map No. 348629:

1. The proposed subdivision and its design or improvement are consistent with the policies, goals, and objectives of the applicable land use plan (Land Development Code Section 125.0440.a and State Map Action Sections 66473.5, 66474(a), and 66474(b)).

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2. The proposed subdivision complies with the applicable zoning and development regulations of the Land Development Code (Land Development Code Section 125.0440.b).
3. The site is physically suitable for the type and density of development (Land Development Code Section 125.0440.c and State Map Act Sections 66474(c) and 66474(d)).
4. The design of the subdivision or the proposed improvements are not likely to cause substantial environmental damage or substantially and avoidable injure fish or wildlife or their habitat (Land Development Code Section 125.0440.d and State Map Act Section 66474(e)).
5. The design of the subdivision or the type of improvements will not be detrimental to the public health, safety, and welfare (Land Development Code Section 125.0440.e and State Map Act Section 66474(f)).
6. The design of the subdivision or the type of improvements will not conflict with easements acquired by the public at large for access through or use of property within the proposed subdivision (Land Development Code Section 125.0440.f and State 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 (Land Development Code Section 125.0440.g and State Map Act Section 66473.1).
8. The decision maker has considered the effects of the proposed subdivision on the housing needs of the region and that those needs are balanced against the needs for public services and the available fiscal and environmental resources (Land Development Code Section 125.0440.h and State Map Act Section 66412.3).
9. Each of the tenants of the proposed condominium project has received, pursuant to State Map Action Section 66452.11, written notification of intention to convert at least 180 days prior to the termination of tenancy.
10. Each of the tenants of the proposed condominium project has received a notice 60 days prior to the filing of a tentative map (Land Development Code 125.0444 and State Map Act Section 66452.9
11. The project has been conditioned that the Subdivider will give each tenant, and each person applying for the rental of a unit in such residential real property, all applicable notices and rights now or hereafter required by the State Map Act (Land Development Code Section 125.0444 and State Map Act Section 66427.1(a)).

12. The project has been conditioned that the Subdivider will give each tenant 10 days' written notification that an application for a public report will be, or has been, submitted to the Department of Real Estate, that the period for each tenant's right to purchase begins with the issuance of the final public report, and that the report will be available on request (Land Development Code Section 125.0444 and State Map Act Section 66427.1 (a)(2)(B)).
13. The project has been conditioned that the Subdivider will give each tenant of the proposed condominium project written notification within 10 days after approval of a final map for the proposed conversion, and written notification within five days of receiving the public report from the Department of Real Estate (Land Development Code Section 125.0444 and State Map Act Section 66427.1(a)(2)). If the subdivider chooses to provide affordable housing units, the subdivider shall enter into an affordable housing agreement with the Housing Commission, prior to recordation of the Final Map.
14. The project has been conditioned that the Subdivider will give each of the tenants of the proposed condominium project 180 days' written notice of intention to convert prior to termination of tenancy due to the conversion or proposed conversion, but not before the approval of the tentative map for the conversion. (Land Development Code Section 125.0444 and State Map Act Section 66427.1(a)(2)(E)).
15. The project has been conditioned that the Subdivider will give each of the tenants of the proposed condominium project notice of an exclusive right to contract for the purchase of his or her respective unit upon the same terms and conditions that such unit will be initially offered to the general public or terms more favorable to the tenant. The right shall run for a period of not less than 90 days from the date of issuance of the subdivision public report pursuant to Section 11018.2 of the Business and Professions Code, unless the tenant gives prior written notice of his or her intention not to exercise the right (Land Development Code Section 125.0444 and State Map Act Section 66427.1(a)(2)(F)).
16. The project was not financed by funds obtained from a governmental agency to provide for elderly, disabled, or low income housing (Land Development Code Section 125.0444.b).
17. Each of the tenants of the proposed condominium project has received written notification of the project application for the condominium conversion within 10 days after the application was deemed complete (Land Development Code 125.0431(a)(3)).
18. The project has been conditioned that the subdivider will give each person applying for the rental of a unit in such residential real property written

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notification that the project application for the condominium conversion was deemed complete (Land Development Code 125.0431(a)(3)).

19. The project has been conditioned that the subdivider will give each tenant a notice of termination of tenancy 60 days prior to being required to vacate the property. (Land Development Code Section 125.0431(a)(4)).
20. A Building Conditions Report has been prepared in accordance with the Land Development Manual by a registered architect or engineer licensed by the State of California, and the City has accepted the report as complete (Land Development Code Section 144.0504(b)).
21. The project has been conditioned that the subdivider will provide to a prospective purchaser a copy of the Building Conditions Report prior to the opening of an escrow account. (Land Development Code Section 144.0504(c)).
22. The project has been conditioned that the subdivider will provide a relocation assistance payment, as and when required by the Land Development Code, to all tenants of the project whose tenancy has terminated due to the condominium conversion. (Land Development Code Section 144.0505).
23. The project has been conditioned for the subdivider to complete the physical improvements as outlined in Land Development Code Section 144.0507, to the satisfaction of the City Engineer prior to final map approval.
24. The project has been conditioned for the subdivider to satisfy the inclusionary housing requirements on-site in accordance with Land Development Code Section 142.1306. (Land Development Code Section 144.0508).
25. The proposed subdivision complies with the parking regulations of the Land Development Code (Land Development Code Section 142.0505).
26. That said Findings are supported by the minutes, maps, and exhibits, all of which are herein incorporated by reference.

BE IT FURTHER RESOLVED, that, based on the Findings hereinbefore adopted by the Planning Commission, Tentative Map No348629, is hereby granted to PROMENADE ACQUISITION, LLC, Applicant/Subdivider, subject to the following conditions:

**GENERAL**

1. This Tentative Map will expire October 9, 2011

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 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. Prior to the issuance of the Final Map taxes must be paid on this property pursuant to section 66492 of the Subdivision Map Act. A tax certificate, recorded in the office of the County Recorder, must be provided to satisfy this condition
5. The applicant 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 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 applicant of any claim, action, or proceeding and, if the City should fail to cooperate fully in the defense, the applicant 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, applicant 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 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 shall not be required to pay or perform any settlement unless such settlement is approved by applicant
6. The subdivider shall provide a Notice of Tenants Rights and Notices for Condominium Conversion, consistent with the Land Development Manual to be provided as follows:
  - a. For existing tenants, within 10 days of the project application for the *condominium conversion* being deemed complete; or
  - b. For prospective tenants, upon application for the rental of a unit in the proposed *condominium conversion*.
7. The Subdivider shall provide each tenant, and each person applying for the rental of a unit in such residential real property, all applicable notices and rights now or hereafter required by the State Map Act.

8. The Subdivider shall provide the tenants a Notice of Application for a Public Report at least 10 days prior to the submittal to the Department of Real Estate (DRE), pursuant to Section 66427.1(a)(2)(B) of the Subdivision Map Act.
9. The Subdivider shall provide each of the tenants of the proposed condominiums written notice of intention to convert at least 180 days prior to termination of tenancy due to the conversion or proposed conversion in conformance with Section 66427.1(a)(2)(E) of the Subdivision Map Act. The provisions of this subdivision shall not alter nor abridge the rights or obligations of the parties in performance of their covenants, including, but not limited to, the provision of services, payment of rent, or the obligations imposed by Sections 1941, 1941.1 and 1941.2 of the Civil Code.
10. The Subdivider shall provide each of the tenants of the proposed condominiums notification of their exclusive right to contract for the purchase of his or her respective unit upon the same terms and conditions that such unit will be initially offered to the general public or terms more favorable to the tenant, in conformance with Section 66427.1(a)(2)(F) of the State Map Act. The right shall run for a period of not less than 90 days from the date of issuance of the subdivision public report, pursuant to Section 11018.2 of the Business and Professions Code, *unless the tenant gives prior written notice of his or her intention not to exercise the right.*
11. The Subdivider shall provide the tenants of the proposed condominiums with written notification within 10 days of approval of a Final Map for the proposed conversion, in conformance with Section 66427.1(a)(2)(D) of the Subdivision Map Act.

#### **AFFORDABLE HOUSING**

12. Prior to the recordation of the Final Map, the subdivider shall enter into an affordable housing agreement with the Housing Commission to provide at least ninety-seven (97) 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).
13. Prior to the recordation of the Final Map, the subdivider shall demonstrate conformance with the Municipal Code provisions for Tenant Relocation Benefits (Chapter 14, Article 4, Division 5), to the satisfaction of the Development Services Department and the Housing Commission.
14. The subdivider will give each tenant a notice of termination of tenancy 60 days prior to being required to vacate the property. (Land Development Code Section 125.0431(a)(4)).

15. The subdivider will provide to a prospective purchaser a copy of the Building Conditions Report prior to the opening of an escrow account. (Land Development Code Section 144.0504(c)).

## **ENGINEERING**

16. Prior to recordation of the Final Map, The subdivider shall replace all existing curb ramps, adjacent to the project site, with City standard curb ramps with truncated domes.
17. The Subdivider shall underground any new service run to any new or proposed structures within the subdivision.
18. Prior to the recordation of the Final Map, the subdivider shall demonstrate conformance with the Municipal Code provisions for building and landscape improvements (Land Development Code Sections 144.0507), to the satisfaction of the City Engineer.
19. Water and Sewer Requirements:
  - a. The Subdivider shall install appropriate private back flow prevention devices on all existing and proposed water services (domestic, irrigation, and fire) adjacent to the project site in a manner satisfactory to the Water Department Director.
  - b. The Subdivider shall provide a letter, agreeing to prepare CC&Rs for the operation and maintenance of all private water and sewer facilities that serve or traverse more than a single condominium unit or lot.
20. Conformance with 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 tentative map and covered in these special conditions will be authorized.

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. RR-297376.

## **MAPPING**

21. "Basis of Bearings" means the source of uniform orientation of all measured bearings shown on the map. Unless otherwise approved, this source will be the California Coordinate System, Zone 6, North American Datum of 1983 (NAD 83).

22. "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."
23. 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.

#### LANDSCAPE

24. Prior to recordation of the Final Map, complete irrigation construction documents consistent with the Landscape Standards shall be submitted to the Development Services Department for approval. The construction documents shall be in substantial conformance with the Exhibit 'A,' Landscape Development Plan, on file in the Office of the Development Services Department.
25. All existing landscape shall be maintained in a disease, weed and litter free condition at all times. Severe pruning or "topping" of trees is not permitted. The trees shall be maintained in a safe manner to allow each tree to grow to its mature height and spread.
26. The Permittee or Subsequent Owner shall be responsible for the maintenance of all existing landscape in the right-of-way consistent with the Land Development Manual Landscape Standards.
27. If any existing landscape (including existing plantings, hardscape, landscape features, etc.) indicated on the approved construction document plans is damaged or removed during demolition or construction, it shall be repaired and/or replaced in kind and equivalent size per the approved documents to the satisfaction of the Development Services Department within 30 days of damage or prior to a Certificate of Occupancy or a Final Landscape Inspection.

**INFORMATION:**

- The approval of this Tentative Map by the Planning Commission of the City of San Diego does not authorize the 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 subdivider makes any request for new water and sewer facilities (including services, fire hydrants, and laterals), then the subdivider 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 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 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 Tentative Map, may protest the imposition within 90 days of the approval of this Tentative Map by filing a written protest with the City Clerk pursuant to California Government Code Section 66020.

PASSED AND ADOPTED BY THE PLANNING COMMISSION OF THE CITY OF SAN DIEGO, CALIFORNIA, ON OCTOBER 9, 2008.

By

\_\_\_\_\_  
Jeannette Temple  
Development Project Manager  
Development Services Department

Job Order No. 426548

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Item 20

**PLANNING COMMISSION OF THE CITY OF SAN DIEGO  
MINUTES OF REGULAR SCHEDULED MEETING OF  
OCTOBER 9, 2008  
IN CITY COUNCIL CHAMBERS - 12<sup>TH</sup> FLOOR  
CITY ADMINISTRATION BUILDING**

**CHRONOLOGY OF THE MEETING:**

Chairperson Schultz called the meeting to order at 9:16 a.m. Chairperson Schultz adjourned the meeting at 7:00 p.m.

**ATTENDANCE DURING THE MEETING:**

Chairperson Barry Schultz –present (left @ 6:00pm)  
Vice-Chairperson - Eric Naslund –present  
Commissioner Robert Griswold – present  
Commissioner Gil Ontai –present  
Commissioner Dennis Otsuji – present  
Commissioner Mike Smiley – not present  
Commissioner Tim Golba - Present

Staff

Shirley Edwards, City Attorney - present  
Mary Wright, Planning Department – present  
Mike Westlake, Development Services Department – present  
Brenda Clark, Legislative Recorder - present  
Elisa Contreras, Recorder – present

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ALL APPROPRIATE PERMITS ARE REQUIRED FOR THE REMOVAL OF THE HOUSES.

PRIOR TO ISSUANCE OF THE CERTIFICATE OF OCCUPANCY FOR THE CLASSROOM BUILDING, THE RESIDENCE AT 2544 COLLIER AVENUE SHALL BE RELOCATED, WITH PROPER PERMITS, TO A SITE WITHIN THE CITY OF SAN DIEGO.

PRIOR TO FINAL CLEARANCE OF THE BUILDING PERMIT FOR THE PARKING STRUCTURE, THE RESIDENCE AT 2746 COPLEY AVENUE SHALL BE RELOCATED, WITH PROPER PERMITS, TO A SITE WITHIN THE CITY OF SAN DIEGO.

BECAUSE THE EXISTING HOUSES LOCATED AT 2544 COLLIER AVENUE AND 2746 COPLEY AVENUE ARE NOT HISTORICALLY DESIGNATED, A SITE DEVELOPMENT PERMIT FOR THEIR REMOVAL IS NOT REQUIRED IN CONJUNCTION WITH THIS PERMIT. FURTHER, ALL APPROPRIATE PERMITS MUST BE OBTAINED FOR ANY RECEIVER SITE.

ITEM-19: *Continued from September 18, 2008:*

**VERIZON-KENSINGTON-PTS 136385**

City Council District: 3; Plan Area: Normal Heights

Staff: Karen Lynch-Ashcraft

Speaker slip submitted in favor of project by Shelly Kilbourn.

No speaker slip submitted opposed to project.

**COMMISSION ACTION:**

CONSENT MOTION BY COMMISSIONER OTSUJI TO APPROVE CONDITIONAL USE PERMIT NO. 474370; AND APPROVE PLANNED DEVELOPMENT PERMIT NO. 587336 AS PRESENTED IN REPORT NO. PC-08-118. Second by Commissioner Ontai. Passed by a vote of 5-0-2 with Commissioner Griswold recusing and Commissioner Smiley not present. Resolution No. 4468-PC

ITEM-20: *Continued from October 2, 2008:*

**PROMENADE @ RIO VISTA TENTATIVE MAP- PROJECT NO. 105158**

City Council District: 6; Plan Area: Mission Valley

Staff: Jeannette Temple

Speaker slip submitted in favor of project by Tony Dieli

Speaker slip submitted opposed of the project by Joy Sunyata

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**COMMISSION ACTION:**

MOTION BY COMMISSIONER GRISWOLD TO APPROVE TENTATIVE MAP NO. 348629 AS PRESENTED IN REPORT NO. PC-08-103. Second by Commissioner Golba. Passed by a vote of 6-0-1 with Commissioner Smiley not present. Resolution No. 4462-PC

**ITEM- 21: ARCHSTONE MISSION GORGE – PROJECT NO. 142570**

City Council District: 7; Plan Area: Navajo

Staff: Jeff Peterson

Speaker slips submitted in favor of project by Lovelyn Layug, Maureen O'Connor, David Machsk, Dee Dee Tscherch, Alan Pentico, Richard Barker, Sott Cadam, Al Udwin, Gary London, Jason King, Karen Franz, Mark Rawlins, Kimberly Heald, Michael MacSweeney, Bo Dean Matheson, Brittany Erin Ruggers, Karen Ruggers, Mark Alpert, Sanjay Kattri, Charlene Marsh, Steve Marquez, Andrew Lopez, John A. Paez, James Lane, John Page, Ken Everhart, Wendy Lee, Ron Ward, Diane Young, Brian Kilbore, Clarke Bowen, Susana Lino, Deanna Mantz, Kali Goglanian, Dana Coy, Cynthia Eppeldauer, Rancall Moss, Dana Sonovich, Tracy Toscano, Michael Burton, Steve McPartland, Melissa Mcleod, Cherri Klueck, John Paez, Fario Dost, Ester Limawan, Tobin Symmank, R.C. Auey, Carisa Hammons, Jamie Mcpherson, Gina Hundky, Tim Scheg, Brad Thornton, Ian Montenegro, Daniel Fitzgerald, Michael Walsh

Speaker slips submitted opposed to project by Rick Fahmie, Lynn Eldred, Teresa Higgins, Len Berman, John Hopper, Homer Barrs, Ginny Barrs, Donna Fenter, Sam Williams, Pauline Johnstone, Jane Dale, Marg Peterman, Nancy Walson, Albert Najera, Kazuko Yamate-Fischer, Harry Bindon, Susan Seeley, Chuck McColl, Alberta M. Bast, Gloria Monsalve, Anna Zasueta, Arlene Wise, Margaret Fitzsimmons, Joy Sunyata, Earl Baughman, Carolyn J. Mulgrew, Heather Maniles, Ginia Hanson, Ann Garrison, Carol Huntsman

**COMMISSION ACTION:**

MOTION BY COMMISSIONER GOLBA TO TRAILED ITEM TO OCTOBER 16, 2008. Second to Commissioner Ontai. Passed by a vote of 4-0-3 with Commissioner's Smiley, Schultz and Griswold not present. Report No. PC-08-084

**ITEM- 22: EMERALD STREET – PROJECT NO. 25879**

City Council District: 2; Plan Area: Pacific Beach

Staff: Glenn Gargas

Speaker slip submitted in favor of project by J. Scarlati

Speaker slip submitted oppose of the project by Joy Sunyata