

RESOLUTION NUMBER R- 291108

ADOPTED ON DEC 08 1998

A RESOLUTION OF THE COUNCIL OF THE CITY OF
SAN DIEGO APPROVING CENTRE CITY DEVELOPMENT
PERMIT 98-0357 (MUSIC VILLAGE) WITHIN THE CENTRE
CITY REDEVELOPMENT PROJECT AREA.

WHEREAS, Music Village, LLC (the "Developer"), has submitted to the Centre City Development Corporation an application for Conditional Use Permit 98-0357 to permit the Music Village Project (the "Development"), a mixed-use project addressed as 1041-49 Fifth Avenue/1040-60 Sixth Avenue within the block bounded by Broadway, 5th Avenue, C Street and 6th Avenue within the Centre City Redevelopment Project Area; and

WHEREAS, the application, including Basic Concept/Schematic Drawings, has been reviewed by the Centre City Redevelopment Project Area Committee; and

WHEREAS, the Centre City Development Corporation, Inc., and the City Council have held public hearings to consider the proposed project, having duly published and mailed notice of such public hearings and permitted interested citizens and area residents to review and comment on the proposed development; NOW, THEREFORE,

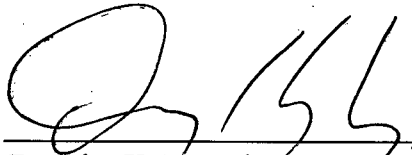
BE IT RESOLVED, by the Council of The City of San Diego, as follows:

1. That the proposed use will not adversely affect the neighborhood, the General Plan, or the Community Plan, and, if conducted in conformity with the conditions provided by the Permit, will not be detrimental to the health, safety, and general welfare of persons residing or working in the area.

2. That the proposed use will comply with all the relevant regulations in the San Diego Municipal Code.

3. That Conditional Use Permit 98-0357, including the Basic Concept/Schematic Drawings, is hereby granted to Music Village, LLC, subject to the conditions stated in Exhibit A attached hereto and incorporated herein by this reference.

APPROVED: CASEY GWINN, City Attorney

By 

Douglas K. Humphreys
Deputy City Attorney

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11/187/98
Or.Dept:CCDC
Aud.Cert:N/A
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CENTRE CITY DEVELOPMENT CORPORATION
CENTRE CITY DEVELOPMENT PERMIT NO. 98-0357

Pursuant to the regulations of the Centre City Planned District Ordinance No. 0-17533, an application from Music Village, LLC, to construct a mixed-use project located on a 20,000 square foot site located at 1041-1049 Fifth Avenue/1040-1060 Sixth Avenue was reviewed by the Centre City Development Corporation. The site, described as Lots "B", "C", "J", and "K" of Block 35 of Horton's Addition in the City of San Diego, County of San Diego, State of California, according to the map thereof on file in the Office of the County Recorder of San Diego County, is located in the Commercial/Office District of the Centre City Community Plan Area.

A Centre City Development Permit is granted by the Redevelopment Agency to Music Village, LLC, Owner/Permittee.

1. General

The Developer shall construct, or cause to be constructed on the Site, a mixed-use project consisting of approximately 40,000 square feet of retail/restaurant/entertainment use, 400 parking spaces, and 48 live/work units. The total floor area ratio of the development for all uses above ground shall not exceed a floor area ratio of 10.0, not including the ground level consisting of street level uses, and a maximum height of 125 feet, excepting certain architectural roof projections and mechanical equipment screening.

2. Refinements

The following refinements to the design of the structure shall be submitted by the Developer with the Design and Development stage:

- a. Four flat awnings, consistent with the historic architecture of the building, shall be provided above the four Jessop's storefront bays, including the garage driveway entrance.
- b. The garage facade shall be stepped back from the Jessop's facade by a minimum of five feet.
- c. Each garage level shall provide a solid building wall at least three and one half feet high above the parking surface to screen the view of vehicles.
- d. All lighting, unfinished surfaces, and mechanical equipment shall be screened from views from the sidewalk grades on both sides of Fifth and Sixth Avenues.
- e. Exterior lighting along Fifth Avenue shall emphasize the historic Jessop's facade.

- f. A final materials/color board shall be provided for approval with the 100% construction drawings. All patio railing/fencing utilized in front of the restaurant shall be decorative.

3. Design and Development and 100% Construction Drawings

The Developer shall submit for approval to Centre City Development Corporation (CCDC) Design and Development and 100% Construction Drawings which implement the design intent of the Basic Concept/Schematic Drawings and any refinements/requirements listed in the Conditions.

4. Urban Design Standards

The proposed development, including its architectural design concepts, landscape features and off-site improvements, shall be consistent with the Centre City Community Plan, Centre City Planned District Ordinance, and Centre City Streetscape Manual. These standards, together with the following specific conditions, will be used as a basis for evaluating the development through all stages of the design review process.

- a. Architectural Standards - The architecture of the development shall establish a high quality of design and complement the design and character of adjacent buildings.
- b. Form and Scale - All building elements shall be internally consistent in form, scale, and architectural style.
- c. Building Materials - All building materials shall be of a high quality. Reflectivity of the glass shall be the minimum reflectivity required by Title 24. A materials board which illustrates the location, color, quality and texture of proposed exterior materials shall be submitted with Design and Development Drawings.
- d. Street Level Design - Street level windows shall be clear glass and may be lightly tinted.
- e. Access - Vehicular access to the Site shall be provided on 5th and 6th Avenues. The curb cuts may not exceed 30 feet in width. Doors shall be provided for all vehicular and service delivery entrance ways. Such doors shall conceal views of unfinished construction and shall be of high quality, and shall be designed as attractive architectural features of the proposed development.
- f. Utilitarian areas - Areas housing trash, storage, or other utility services shall

be located in the building and be completely concealed from view of the public right-of-way and adjoining developments.

- g. Circulation and Parking - The parking structure shall meet the requirements of the Building Inspection Department, Fire Department and City Engineer and meet all required air ventilation codes. The exhaust system for mechanically ventilated structures shall be located to mitigate noise and exhaust impacts on adjoining development, particularly residential.
- h. Roof Tops - A rooftop equipment and appurtenance location and screening plan shall be prepared and submitted with Design and Development and 100% Construction Drawings. All equipment shall be completely enclosed or screened from views from nearby developments.
- i. Signing - All signs shall comply with the City of San Diego Municipal Code.
- j. Lighting - A lighting plan which highlights the architectural qualities of the proposed project and also enhances the lighting of the public right-of-way shall be submitted with Design and Development and 100% Construction Drawings. All lighting shall be designed to avoid illumination of adjoining properties.
- k. Noise Control - All mechanical equipment, including but not limited to, air conditioning, heating and exhaust systems, shall comply with the City of San Diego Noise Ordinance and California Noise Insulation Standards as set forth in Title 24 of the California Code of Regulations. All mechanical equipment shall be located to mitigate noise and exhaust impacts on adjoining development, particularly residential. Developer shall provide evidence of compliance at 100% Construction Drawings.
- l. Energy Considerations - The design of the improvements shall include, where feasible, energy conservation construction techniques and design, including cogeneration facilities, and active and passive solar energy design. The Developer shall demonstrate consideration of such energy features during the review of the Design and Development Drawings.
- m. Street Address - Building address numbers shall be provided that are visible and legible from the public right-of-way.

5. On-Site Improvements

All off-site and on-site improvements shall be designed as part of an integral site development. An on-site improvement plan shall be submitted with the Design and Development Drawings.

6. Off-Site Improvements

The following public improvements shall be installed in accordance with the Centre City Streetscape Manual:

- a. City Utilities (sewer, water and storm drain) - The Developer shall be responsible for the connection of on-site sewer, water and storm drain systems from the development to the City Utilities located in the public right-of-way. Sewer and water shall be connected to the appropriate utility mains within the street and beneath the sidewalk. The Developer may use existing laterals if acceptable to the City, and if not, Developer shall cut and plug existing laterals at such places and in the manner required by the City, and install new laterals.
- b. Franchise Public Utilities - The Developer shall be responsible for the installation or relocation of franchise utility connections including, but not limited to, gas, electric, telephone and cable, to the project and all extensions of those utilities in public streets. Existing franchised utilities located above grade and in the sidewalk right-of-way shall be removed and incorporated into the adjoining development where feasible.

Electrical transformer vaults shall be installed in a subterranean location accessible to the franchise utility from the public right-of-way where feasible. Covers to utility vaults located in the public right-of-way shall be designed as a pan which allows the lid to be in filled with the same paving materials used in the adjoining right-of-way.

- c. Fire Hydrants - If required, the Permittee shall install fire hydrants at locations satisfactory to the Fire Department and Development Services Department.
- d. Backflow preventers - The developer shall locate all water meters and backflow preventers in locations satisfactory to the Water Utilities Department and CCDC. Backflow preventers shall be located outside of the public sidewalk area where feasible in an unobtrusive location.

All items of improvement shall be performed in accordance with the technical specifications, standards, and practices of the City of San Diego's Development Services Department and shall be subject to their review and approval. Improvements shall meet the requirements of Title 24 of the State Building Code.

If, during construction, any improved portion of the public right-of-way is damaged or destroyed, the Developer shall be responsible for the replacement or repair of those improvements.

7. Removal and/or Remedy of Soil and/or Water Contamination

The Developer shall (at its own cost and expense) remove and/or otherwise remedy as provided by law and implementing rules and regulations, and as required by appropriate governmental authorities, any contaminated or hazardous soil and/or water conditions on the Site.

8. Environmental Impact Mitigation and Archaeological Protection

The Developer shall implement mitigation measures and/or mitigation monitoring requirements as identified in the Master Environmental Impact Report for the Centre City Redevelopment Project prior to the issuance of a building permit.

9. Centre City Assessment Districts

Developer shall agree to participate in the formation of one or more assessment districts or other similar financing mechanisms. Such district(s) shall be for the purpose of providing or maintaining landscape enhancement, park, open space or similar improvements in the downtown area of the City of San Diego.

The Developer reserves the right to be heard and present evidence regarding the amount of any assessment payment proposed to be levied on the Developer.

Notwithstanding any Provisions to the contrary hereinabove, Developer does not waive any legal right as may exist at law or in equity, whether established by statute or otherwise, to appear and/or protest the mechanism for, the fairness of, or the amount of, any fee, tax, levy, assessment or exaction proposed to be imposed upon Developer's development of the Site, or any portion thereof.

10. Historic Resource Protection

The project shall also obtain a Resource Protection Permit from the City for the project's modifications to the Jessop's building.

11. Model

On or before submission of Design and Development Drawings to the Agency, the Developer shall provide a one (1) inch to fifty (50) foot scale block building model which illustrates the true scale of the buildings on the Site based on the building facade and the floor plate of the structure from the ground floor to and including the rooftop. Landscaping at the ground level, intermediate level terraces and at the roof level shall also be shown. Architectural detail such as windows, doors and balconies shall not be shown. The model shall be painted white and be compatible with the model of downtown on display at the Centre City Development

Corporation's Downtown Information Center. Upon acceptance by the Agency, the model shall be installed by the Developer or his designated representative on the model of downtown, and the model shall become the property of the Centre City Development Corporation for its use.

12. Construction Fence

Developer shall install a construction fence pursuant to specifications of, and a permit from, the City Engineer. The fence shall be solid plywood, painted in a manner which is consistent with the project's design, and shall contain a pedestrian passageway, signs and lighting, if required by the City Engineer. The construction fence shall be maintained free of litter and in good repair.

13. Development Identification Signs

Prior to commencement of construction on the Site, the Developer shall prepare and install, at its cost and expense, two signs on the barricades around the Site which identify the development. Each sign shall be at least four (4) feet by six (6) feet and be visible to passing pedestrian and vehicular traffic. The design of all signs as well as their proposed location shall be submitted to the Agency for review and approval prior to installation. All signs shall at a minimum include:

- Color rendering of the development
- Development name
- Developer
- The phrase:

A project of the Redevelopment Agency of the City of San Diego
Mayor Susan Golding

- Council Members Harry Mathis
- Byron Wear
- Christine Kehoe
- George Stevens
- Barbara Warden
- Valerie Stallings
- Judy McCarty
- Juan Vargas

and
Centre City Development Corporation

- Completion Date _____
- For information call _____

The Developer shall obtain a current roster of Redevelopment Agency members before signs are manufactured.

14. This permit shall be conditioned upon obtaining a building permit within three (3) years from the date of issuance. If a building permit has not been obtained in three years and the project is to proceed, the permittee must reapply for a Centre City Development Permit under legislation that exists at that time.
15. Construction and operation of the approved use shall comply at all times with the regulations of this or any other governmental agencies.
16. This permit is a covenant running with the lands and shall be binding upon the Permittee and any successor or successors, and the interest of any successor shall be subject to each and every condition set out.
17. This project shall comply with the standards, policies, and requirements in effect at the time of approval of this project, including any successor or new policies, financing mechanisms, phasing schedules, plans and ordinances adopted by the City of San Diego.
18. No permit for construction, operation or occupancy of any facility shall be granted nor shall any activity authorized by this permit be conducted on the premises until this Permit is recorded in the OFFICE OF THE COUNTY RECORDER.

This Centre City Development Permit is granted by the Centre City Development Corporation on _____, 1998.

CENTRE CITY DEVELOPMENT
CORPORATION

PERMITTEE(S) SIGNATURE
