

RESOLUTION NUMBER R-291479

ADOPTED ON APRIL 13, 1999

WHEREAS, Thomas D. Mauriello, Attorney for Save Our Heritage Organization (SOHO), appealed the decision of the Planning Commission of The City of San Diego [Planning Commission] adopted by Resolution No. 2740-PC on December 17, 1998, granting Resource Protection Ordinance [RPO] Permit No. 98-0344 submitted by Forest City Residential West, Inc. (FCRW), Owner/Permittee, for relocating the Ginty Residence, a historic building designated as a local landmark by the San Diego Historical Site Board [HSB] on June 12, 1991, currently located at 1543 Seventh Avenue, and legally described as Lot 3 and north 5 feet of Lot 4 of Block 10, in the City of San Diego, County of San Diego, State of California, according to Map thereof No. 856, in the Cortez Sub Area of the Centre City Redevelopment Project; and

WHEREAS, the matter was set for public hearing on April 13, 1999, testimony having been heard, evidence having been submitted, and the City Council having fully considered the matter and being fully advised concerning the same; NOW, THEREFORE,

BE IT RESOLVED, by the Council of The City of San Diego, that this Council adopts the following findings with respect to Resource Protection Ordinance Permit No. 98-0344:

- 1. The proposed development will not adversely affect the City of San Diego's Progress Guide and General Plan.***

The 1992 Redevelopment Plan for the Centre City Redevelopment Project area found that the proposed redevelopment of the expansion area, which included the subject property, was in

conformity with the Progress Guide and General Plan for the City of San Diego. (Redevelopment Plan, Section 100.6.)

Within the expansion area, the objectives of the Redevelopment Plan include elimination of blighting influences caused by obsolete and deficient structures, the elimination of environmental deficiencies including the inadequate utilization of land, and the redevelopment of areas that are stagnant or improperly utilized. (Redevelopment Plan, Section 110.4.)

Another objective of the Redevelopment Plan is to encourage the rehabilitation and upgrading of properties, including historical and architecturally significant structures and sites. (Redevelopment Plan, Section 110.4.)

The proposed development is therefore consistent with the Redevelopment Plan and will not adversely affect the Progress Guide and General Plan.

2. *The proposed development will conform to the community plan for the area and any other applicable plans, policies and ordinances.*

(a) Centre City Community Plan

The Urban Conservation section of the Community Plan recommends that every effort should be taken to renovate, rehabilitate and reuse Grade One (National Register) sites and that reasonable effort should be taken to renovate, rehabilitate, and reuse Grade Two (locally designated) sites which provide an opportunity to add to the character and diversity of downtown. An incentive approach should be used to encourage their adaptive reuse and conversion, but their designation should not preclude redevelopment which implements the goals of this Plan. (Community Plan, page 62.)

(b) Centre City Planned District Ordinance (San Diego Municipal Code [SDMC] Chapter X, Article 3, Division 19)

The President of Centre City Development Corporation [CCDC] is authorized to approve alteration, relocation and demolition permits for all buildings or structures, including historic buildings or structures, after considering the recommendation of the Historical Site Board as to whether such permit should be approved, modified or denied. (SDMC section 103.1904(F).) The HSB approved the relocation of this structure, under conditions which have been incorporated into this Resource Protection Ordinance Permit, on October 28, 1998.

(c) Mitigation, Monitoring and Reporting Program [MMRP] for the Centre City Redevelopment Project

Any development that proposes to remove a locally designated historical structure shall comply with the MMRP as part of the requirements of the Redevelopment Agency of The City of San Diego [the Agency] environmental documents:

- 1) prepare an analysis to the satisfaction of the Agency that retention of the historic structure or substantial portions of the historic structure, such as its facade, and incorporation into the proposed development is infeasible. Such analysis shall be reviewed and commented upon by the HSB staff. The HSB staff shall determine if the project shall be sent to the HSB for review;
- 2) provide for relocation and preservation of the historic structure at a site and in a manner acceptable to the Agency, unless such relocation and preservation are proven infeasible to the satisfaction of the Agency, upon consideration of the HSB staff's review and comments on the issue which may

include further review and action by the HSB. Any improvements, renovation, rehabilitation and/or adaptive reuse of a locally designated historic structure shall ensure its preservation according to applicable guidelines.

An analysis that the retention of the historic structure or substantial portions of it (such as its facade) and incorporation into the proposed development has been prepared to the satisfaction of the Agency and has been reviewed and commented on by the HSB. The proposed manner of relocating and preserving the historic structure at a new site is acceptable to the Agency and has been approved by the HSB. The proposed project therefore complies with the MMRP.

3. ***The proposed development will be sited, designed, constructed and maintained to minimize, if not preclude, adverse impacts on environmentally sensitive lands.***

No environmentally sensitive lands, as defined by the RPO, are present. Instead, the property contains a significant historic resource, as that term is defined in the RPO, and the findings pursuant thereto are found below in Finding 6.

4. ***The proposed development will not impact environmentally sensitive lands and resources located in adjacent parks and open-space areas.***

The proposed development will protect the environmentally sensitive lands represented by the historic Ginty Residence as described above and is not otherwise located near or adjacent to environmentally sensitive lands, resources, parks or open-space areas.

5. ***The proposed development will minimize the alterations of natural land forms and will not result in undue risks from geological and erosional forces and/or floods and fire hazards.***

The proposed development will not alter natural landforms as the project site is in a fully developed area of the City, nor will it result in undue risks from geological and erosional forces and/or floods and fire hazards.

6. Feasible measures, as defined in the RPO, to protect and preserve the special character or the special historical, architectural or cultural value of the affected significant historic resource have been provided by the applicant.

The Ginty Residence will not be moved until building permits for the Cortez Hill Apartment Project have been obtained. It will be moved in one piece to a new site at the southwest corner of Ninth Avenue and Cedar Street, in the Cortez Sub Area of the Centre City Redevelopment Project area. The Fairhead Stone, concrete sidewalk and impression piece that the stone sits in will be relocated together with the structure by qualified professionals. The relocated structure will, to whatever extent feasible, recreate the historic concrete walls and stem foundation. The structure will be rehabilitated in accordance with the Secretary of the Interior's Standards for the Treatment of Historic Properties under the supervision of the City's HSB as it will retain its status as a local historical site. The relocation plan has been found, by the State Office of Historic Preservation, to enable the structure to retain its National Register eligibility. The Ginty Residence will not be moved until the required permits pursuant to SDMC section 91.8501 et seq. have been acquired. The Building Official may require a performance bond to insure the timely completion of the rehabilitation if he or she determines that one is required.

The Certificate of Occupancy for the Cortez Hill Apartment Project will not be issued until the rehabilitation of the Ginty House at the new site is completed; provided, however, that any delay in the issuance of the Certificate of Occupancy will not conflict with the Disposition and

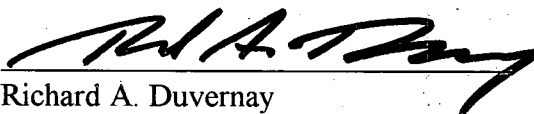
Development Agreement in such a way as to cause the Agency to be in default or breach of that agreement.

The above described conditions, which are a part of RPO Permit No. 98-0344, are the "feasible" measures required to protect and preserve the special character or the special historical, architectural or cultural value of the affected significant historic resource.

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

BE IT FURTHER RESOLVED, that the appeal of Thomas D. Mauriella, Attorney for Save Our Heritage Organization, is denied; the decision of the Planning Commission is sustained; and Resource Protection Ordinance Permit No. 98-0344 is granted to Forest City Residential West, Inc., under the terms and conditions set forth in the permit attached hereto and made a part hereof.

APPROVED: CASEY GWINN, City Attorney

By 
Richard A. Duvernay
Deputy City Attorney

RAD:js:lc:pev
12/14/99
Or.Dept:Clerk
R-99-1423
Form=perapplr.frm
Reviewed by Beverly Schroeder

RECORDING REQUESTED BY
CENTRE CITY DEVELOPMENT CORPORATION
MS 51D

AND WHEN RECORDED MAIL TO
CITY CLERK
MAIL STATION 2A

SPACE ABOVE THIS LINE FOR RECORDER'S USE

RESOURCE PROTECTION ORDINANCE PERMIT NO. 98-0344

GINTY RESIDENCE

CITY COUNCIL

This Permit is granted by the Council of The City of San Diego to Forest City Residential West, Inc. (FCRW), Owner and Permittee, pursuant to San Diego Municipal Code [SDMC] section 101.0462.0011 and sections 103.1901 through 103.1906. The site is located at 1543 Seventh Avenue in the Cortez Sub Area of the Centre City Redevelopment Project area and the Centre City Community Plan area. The project site is legally described as Lot 3 and north 5 feet of Lot 4 of Block 10, in the City of San Diego, County of San Diego, State of California, according to Map thereof No. 856, filed in the Office of the County Recorder of San Diego County.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee to move the Ginty Residence, Historic Site No. 305, from 1543 Seventh Avenue to the Southwest corner of Ninth Avenue and Cedar Street in the Cortez Sub Area of the Centre City Redevelopment Project area.

1. The Ginty Residence shall not be moved until building permits for the Cortez Hill Apartment Project have been issued.
2. The Ginty Residence shall be moved in one piece to a site at the southwest corner of Ninth Avenue and Cedar Street in the Cortez Sub Area of the Centre City Redevelopment Project area.
3. The Fairhead Stone, concrete sidewalk and impression piece that the stone sits in are to be relocated together with the structure by qualified professionals.
4. The relocated structure, to whatever extent feasible, is to recreate the historic concrete walls and stem foundation.
5. The Ginty Residence shall be rehabilitated in accordance with the Secretary of the Interior's Standards for the Treatment of Historic Properties.
6. The Ginty Residence shall not be moved until the required permits for the removal, relocation and transportation of the structure, pursuant to SDMC sections 91.8501 et seq., have been obtained.

7. The Building Official for The City of San Diego shall not issue a Certificate of Occupancy for the Cortez Hill Apartment Project until and unless the rehabilitation of the Ginty House at the new site is completed; provided, however, that any delay in the issuance of the Certificate of Occupancy will not conflict with the Disposition and Development Agreement in such away as to cause the Redevelopment Agency of The City of San Diego to be in default or breach of that agreement.
8. The Permittee shall install and maintain, within the Kroenert Residence at 1471 Eighth Avenue, a permanent photo interpretive exhibit containing historical and current photographs and other relevant materials for the purpose of informing the public and Cortez Hill residents about the history of Cortez Hill in general and the Ginty and Kroenert Residences in particular.
9. No activity authorized by this Permit shall be conducted until:
 - a. The Permittee signs and returns this Permit to the Centre City Development Corporation;
 - b. The Resource Protection Ordinance Permit is recorded in the Office of the County Recorder.
10. The activity authorized by this Permit shall comply at all times with the regulations of this or any other governmental agency.
11. The issuance of this Permit by The City of San Diego does not authorize the applicant 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 U.S.C. § 1531 et seq.).
12. This Permit may be revoked by the Council, after a noticed public hearing, if there is a material breach or default in any of the conditions of this Permit.
13. This Permit is a covenant running with the subject property and shall be binding upon the Permittee and any successor or successors, and the interests of any successor shall be subject to each and every condition set out in this Permit and all referenced documents.
14. In the event that any condition of this Permit, on a legal challenge by the Permittee of this Permit, is found or held by a court of competent jurisdiction to be invalid, unenforceable or unreasonable, this Permit shall be subject to revocation.

Approved by the Council of The City of San Diego on April 13, 1999, by Resolution No. R-291479.



AUTHENTICATED BY THE CITY MANAGER

By _____

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

FOREST CITY RESIDENTIAL WEST, INC.
Owner/Permittee

By _____

By _____

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

12/14/99

R 291479