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(R-2006-631 COR.COPY)

RESOLUTION NUMBER R- 301319

DATE OF FINAL PASSAGE MAR 21 2006

WHEREAS, Constellation Property Group (Hancock), LP, a Delaware Limited Partnership, Owner/Marchese Partners International, LP, a Delaware Partnership, Permittee, filed an application with the City of San Diego for a site development permit to demolish an existing and vacant warehouse and construct eighty-five multi-family condominium units (including nine affordable, for-sale units) known as the Stella project, located at 2015 Hancock Street, and legally described as Parcel 1 of Parcel Map No. 17813 in Block 208 of Middletown, in the City of San Diego, County of San Diego, State of California, filed in the Office of the County Recorder of San Diego County, January 16, 1996 as instrument no. 96-002fourteen00 of official records. Excepting all oil, gas and other hydrocarbon and mineral substances (except water) lying not less than 100 feet below the surface of said real property, provided that Santa Fe, it's successors and/or assigns, shall not have the right to go upon the surface of said real property for the purpose of extracting said oil, gas or other hydrocarbon and mineral substances, nor for any purpose in connection therewith, but shall have the right to extract and remove said oil, gas or other hydrocarbon and mineral substances together with that portion of Wright Street adjoining said land on the west as vacated and closed by resolution recorded November 3, 1983 as File No. 83-399390 of official records, in the Midway-Pacific Highway Community Plan area, in the IS-1-1 zone (previously referred to as the M-SI zone) which is proposed to be rezoned to the RM-4-10 zone (previously referred to as the R-400 zone); and

WHEREAS, on October 27, 2005, the Planning Commission of the City of San Diego considered Site Development Permit [SDP] No. 240731, and pursuant to Resolution No. 3869-PC voted to recommend City Council approval of the Permit; and

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

WHEREAS, the matter was set for public hearing on MAR 21 2006, testimony having been heard, evidence having been submitted, and the City Council having fully considered the matter and being fully advised concerning the same; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that it adopts the following findings with respect to Site Development Permit No. 240731:

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

1. Findings for all Site Development Permits:

a. The proposed development will not adversely affect the applicable land use plan. The proposed Stella residential project would include the demolition of an existing vacant warehouse and the construction of an eighty-five-unit, multi-family development (for sale condominiums) on a 0.89-acre infill site. The development would exceed the City of San Diego Inclusionary Housing Ordinance by setting aside 11 percent of the units (nine units) as affordable to families earning no more than 100 percent of the Area Median Income [AMI]. The project would also meet the parking requirements of the San Diego Municipal Code/Land Development Code [SDMC] by proposing 142 covered vehicle parking spaces, including two disabled parking spaces, forty-one bicycle parking spaces, and nine motorcycle parking spaces. Access to and from the site would be located on the northwest side of the site, in the previously vacated Wright Street access, on land currently owned by the Metropolitan Transit System, allowing the property to the southeast sole access to the previously vacated Estudillo Street.

Of the eighty-five for sale condominiums proposed, nine would be affordable to families earning no more than 100 percent of the AMI, or \$63,400 of annual income for a family

of four. The eighty-five units would consist of fourteen single story 1-bedroom units and seventy-one 2-story 2-bedroom town home units. The project would also include an approximately 8,000 square-foot landscaped courtyard including a paved seating area with BBQ facilities, security entry gates, and decorative lighting.

The project has been designed such that no opening windows, doors or balconies would be facing Estudillo Street. Sound Transmission Class [STC] 49 soundproof construction would be incorporated on the corner units, which includes triple glazing, to ensure train, truck, and airplane noise is mitigated.

Similarly, the project's design does not include any balconies facing Hancock Street to avoid conflict from surrounding uses. All units have access to, and include a living area facing, the internal courtyard, which is buffered from noise from the surrounding uses by the actual building forms. In addition, a minimum STC 35 soundproof construction would be incorporated on the main external walls.

In addition, the applicant has agreed (and the permit has been conditioned) to record a Covenant and Agreement on the trust deed of each real property transaction for both the sale and resale of the units. This Covenant and Agreement would legally advise potential buyers of condominiums in the project of the potential impacts of the surrounding and existing land uses. While such an easement is no guarantee that an individual will not seek other remedies against the lawful activities of the surrounding developments, it is more difficult for the property owner to assert claims of ignorance of non-disclosure of activities that could adversely impact the purchase of residential property.

The 0.89-acre site is currently designated as Light Industrial in the Midway/Pacific Highway Corridor Community Plan. As part of this application the applicant is proposing to amend the land use designation to Very-High Residential to allow for eighty-five residential condominium units.

The Midway - Pacific Highway Corridor Community Plan states that residential development has the following objectives:

- Provide a variety of housing opportunities for persons of all ages and income levels, and retain and enhance the physical conditions of existing neighborhoods through rehabilitation and/or redevelopment.
- Promote the development of housing which will help meet the special needs of people such as the elderly, the handicapped, those requiring nursing care needs, low-income persons and the homeless.

The proposed development would not adversely affect the Midway-Pacific Communities land use plan because it satisfies the above objectives in the following way;

- The proposal includes 11 percent affordable housing at 100 percent AMI, satisfying the objective of “providing a variety of housing opportunities for all ages and income levels...” and also addresses the objective of “promoting the development of housing which will help meet the special needs of...low-income persons....”

The subject site is part of a larger area identified as “blighted” by The North Bay Redevelopment Plan. Blighted areas constitute physical, social, or economic liabilities requiring redevelopment in the interest of health, safety, and general welfare of the people of the community and the state according to the California Redevelopment law. This proposal creates an opportunity to “enhance the physical conditions of the existing neighborhood through rehabilitation and/or development” and an improvement needed to eliminate both physical and economical conditions of blight, one of the main objectives of the North Bay Redevelopment Plan.

The project also proposes to enhance a parcel of land owned by the Metropolitan Transit System (MTS, formally MTDB), providing a landscape buffer for the project from the trolley and heavy rail lines, and generally improving the visual environment of the neighborhood.

In addition, the proposed request for construction of eighty-five residential units and on-site open space areas would not adversely affect the Midway/Pacific Highway Corridor Community Plan because it would implement policies and recommendations of the community plan related to incorporating defensible space techniques into the design of multifamily projects by providing architectural detailing and individual unit features which will promote pride of ownership and delineate public, semiprivate, and private space. The Stella proposal features a landscaped courtyard with a meandering path through the interior of the project site fronting the units and providing surveillance over a common area. Visual and spatial orientation of recreational and open-space areas is linked to the residential units within the project; the MTS easement/passive recreation area on the southwestern edge of the subject site (featuring tables and chairs and landscaping) is located in such a way that twenty-two ground level units would have direct physical access to this area while twenty-seven upper level units would have direct views of the passive recreation area. The project would provide adequate lighting in all areas, including the underground parking and along the MTS right-of-way.

The proposal would improve the neighborhood streetscape by providing a pedestrian path down Hancock Street that would connect to the other proposals along Hancock (Mission Brewery Villas - eighty-nine units with commercial retail space at 1875 Hancock Street, and the Hancock Brickworks - fifty-three units where twenty-one of these would be live/work units at 1895 Hancock Street). An alternating pattern of Jacarandas and palm species are planned as the street tree theme along Hancock Street. In addition to the above, the proposed project would also meet other policy objectives in the residential element of the community plan by: increasing home ownership opportunities; promoting the availability of low and moderate-income housing units within market rate residential projects; and providing recreational facilities specifically designed for the residents of the project (e.g.: benches, barbecue areas, passive recreational areas).

The City is facing a shortage of affordable housing during a time when the City Council has determined that the City of San Diego is in a Housing State of Emergency. The location of the project site close to downtown and near the Washington Street trolley station provides an ideal opportunity for additional residential development. The subject proposal would also help address the need for affordable housing by providing nine restricted affordable housing units on site. The existing industrial structures located in the corridor area are generally older and lack the size features necessary for modern industrial operations. In addition, several institutional and retail uses have located in the area, which have resulted in higher land prices. These factors have made the area less attractive to warehouse and distribution-type industrial users who may otherwise have been attracted to the area due to its proximity to the airport.

The proposed project would also not adversely affect the Progress Guide and General Plan as one of the goals in the General Plan encourages in-fill development and revitalization. The proposed project would accommodate in-fill development by allowing additional housing in the community. The plan also discusses the importance of improving the neighborhood environment to increase personal safety, comfort, pride and opportunity. The proposed project would develop much needed multi-family housing to help improve the neighborhood and its surroundings. The proposed project is within the North Bay Redevelopment Area, an area identified as blighted. The proposed project would also not adversely affect the Housing Element of the Progress Guide and General Plan, as the proposed use would be ensuring the development of new housing to help meet the City's housing needs. Moreover, the project would address the goal of the Housing Element of increasing affordable housing opportunities through the inclusion of nine restricted affordable housing units on the site for households with an income at or below 100 percent of the area median income (\$63,400 for a household of four persons). Therefore the proposed development would not adversely affect the applicable land use plan.

b. The proposed development will not be detrimental to the public health, safety, and welfare. The proposed Stella residential project would include the demolition of an existing vacant warehouse and the construction of an eighty-five-unit, multi-family development (for sale condominiums) on an infill site. The development would exceed the City of San Diego Inclusionary Housing Ordinance by setting aside 11 percent of the units (nine units) as affordable to families earning no more than 100 percent of the AMI or \$63,400 of annual income for a family of four. The project would also meet the parking requirements of the Land Development Code by proposing fourteen 2-covered vehicle parking spaces, including two disabled parking spaces, forty-one bicycle parking spaces, and nine motorcycle parking spaces.

The eighty-five units would consist of fourteen single story 1-bedroom units and seventy-one 2-story 2-bedroom town home units. The project would also include approximately an 8,000 square-foot landscaped courtyard including a paved seating area with BBQ facilities, security entry gates, and decorative lighting.

The project has been designed such that no opening windows, doors or balconies would be facing Estudillo Street, thus creating a buffer between the proposed development and the existing light industrial development to the southeast. STC 49 soundproof construction would be incorporated on the corner units, which includes triple glazing, to ensure train, truck, and airplane noise is mitigated.

Similarly, the project's design does not include any balconies facing Hancock Street to avoid conflicts from and with the surrounding uses. All units have access to, and include a living area facing, the internal courtyard, which is buffered from noise from the surrounding uses by the actual building forms. In addition, a minimum STC 35 soundproof construction would be incorporated on the main external walls.

In addition, the applicant has agreed (and the permit has been conditioned) to record a Covenant and Agreement on the trust deed of each real property transaction for both the sale and resale of the units. This Covenant and Agreement would legally advise potential buyers of condominiums in the project of the potential impacts of the surrounding and existing land uses. While such an easement is no guarantee that an individual will not seek other remedies against the lawful activities of the surrounding developments, it is more difficult for the property owner to assert claims of ignorance of non-disclosure of activities that could adversely impact the purchase of residential property.

Police service for the Stella Project would be provided by officers and support personnel from Western Division, located at 5215 Gaines Street. Western Division is currently comprised of 170 sworn personnel, three civilian professional staff and six Police Service Officers.

The project is located in the Midway District, which is within the boundaries of police beat 611. The 2005 (February 15 to June 30, 2005) average response time for priority one calls on beat 611 was 9.64 minutes. The citywide average response time for that same time period was 14.11 minutes.

Fire Station 8 located at 3974 Goldfinch Street would serve the project. Station 8 houses one engine. The station covers 2.51 square miles, and the national standard is 9 square miles per fire station. The station has four firefighters on duty each shift.

Response time to the 2015 Hancock Street project for engine 8 is 3.1 minutes, which is within the national standard of 5 minutes. All first alarm units for an effective fire force arrive within the 5.0 minutes, which is within the 9-minute national standard. Other stations, trucks, and Battalion Chiefs and their response times would be:

- Engine 3 from Fire Station 3 at State and West Laurel Streets = 3.8 minutes.
- Engine 5 from Fire Station 5 at 09th & University = 4.7 minutes.
- Truck 20 from Fire Station 20 at Kemper & Midway = 5.0 minutes
- Battalion 2 Chief from Fire Station 5 at 09th & University = 4.7 minutes.

The permit prepared for the project would include various conditions and referenced exhibits of approval relevant to achieving project compliance with the applicable regulations of the San Diego Municipal Code in effect for this project. Such conditions, as determined by the decision-maker, are intended to avoid adverse impacts upon the health, safety

and general welfare of persons residing or working in the surrounding area. Further, a Mitigated Negative Declaration was prepared for the project, which found no environmental impacts were associated with the proposed development.

The project would comply with the development regulations in effect for the subject property as described in Site Development Permit No. 240731 and other regulations and guidelines pertaining to the subject property per the San Diego Municipal Code. The proposed development would be required to obtain Building Permits to show that all construction will comply with all applicable Building, Fire Code, and American with Disabilities Act requirements. The development will also be a certified LEED building. Therefore, the proposed development will not be detrimental to the public health, safety, and welfare.

c. The proposed development will comply with the applicable regulations of the Land Development Code. The development would consist of the demolition of an existing warehouse and the construction of eighty-five for-sale condominiums (nine affordable and seventy-six market rate condominiums); two levels of underground parking, housing 142 off-street parking spaces, of which two spaces are accessible, nine motorcycle spaces and forty-one bicycle spaces. All proposed construction complies with the state and local codes and regulations for construction.

The SDMC allows flexibility in the application of development regulations (deviations) for affordable developments where strict application of the base zone development regulations would restrict design options and result in a less desirable project, through the processing of a Site Development Permit. The purpose of these regulations is to provide flexibility in the application of development regulations for projects providing affordable shelter and a balance of housing opportunities for all economic segments of the community. The intent is to provide an additional incentive to facilitate the development of affordable/in-fill housing while assuring that the development achieves the purpose and intent of the applicable land use plan. Staff believes that the Decision Maker can make the appropriate Planned Development Permit findings based on the following information.

Setback - The project proposes a 2-foot, 6-inch front yard setback along the northerly elevation (Hancock Street), and a 12-foot, 5-inch side yard setback along the easterly (Estudillo Street) when the SDMC requires that two contiguous yards must observe at least 15 feet on the northerly and easterly elevations.

The project proposes the setback deviations to maximize the site's available and usable land so that the project can materially assist in providing housing opportunities in economically balanced communities throughout the city, and to allow for the provision of individual, private recreation space that complies with the City's outdoor noise requirement. The Setback deviation is also requested to provide site design flexibility and a central courtyard while maintaining the overall community goals for improving architecture and landscaping while providing a pedestrian friendly development. Strict conformance with the setback regulations would limit optimal use of the somewhat narrow and constricted shape of the property as well as the reducing the number of affordable for-sale units, minimizing the positive impact on the City's shortage of affordable housing. In addition, strict requirement to the 15-foot setback requirement would create an inactive frontage while denying the addition of usable,

private/semi-private outdoor spaces. Building to the property line would create an active, safe pedestrian friendly environment with increased street presence and surveillance. The building design has appropriate massing and articulation and would provide an enhancement to the urban fabric; therefore, staff supports the requested setback deviations.

Drive Aisle Turnaround - The project proposes the elimination of the required turnaround at the end of a parking area drive aisle. The SDMC requires “driveway aisles that do not provide through circulation shall provide a turnaround area at the end of the aisle that is clearly marked to prohibit parking and that has a minimum area equivalent to a parking space.” The applicant has requested the deviation due to the constrained nature of the site and to allow the development to provide the required number of parking spaces as nominated in the San Diego Municipal code, while meeting the standard maneuvering requirements stated in the *Geometric Design of Highways and Streets 2004*.

Drive aisle turnarounds are typically provided in commercial parking structures where there are no designated parking stalls and all parking spaces provided are accessible for visitors. The Stella project is providing parking stalls that are designated for the units proposed where tenants accessing the parking structure are familiar with the parking area configuration and know the exact location of the parking stalls assigned to them. This will eliminate wandering vehicles looking for an open parking stall to park and; therefore, eliminate the need for turnaround areas at the end of the drive aisles.

Due to the constrained nature of the site and to allow the development to provide the required number of parking spaces per the San Diego Municipal code, staff believes that the Decision Maker can make the appropriate Site Development Permit findings based on the information provided above.

Each of the requested deviations are appropriate for this location and would result in a more desirable project than would be achieved if designed in strict conformance with the development regulations of the applicable zone. The proposed development has otherwise been designed and conditioned to ensure conformance to the requirements of the City of San Diego Land Development Code. Therefore, the proposed use will comply with the applicable regulations of the San Diego Municipal Code in effect for this site.

2. Supplemental Findings – Affordable/Infill Housing Projects – SDMC
Section 126.0504(m)

a. **The proposed development will materially assist in the accomplishing the goal of providing affordable housing opportunities in economically balanced communities throughout the City.** The proposed Stella residential project would include the demolition of an existing vacant warehouse and the construction of an 85- unit, multi-family development (for sale condominiums) on an infill site. The development would exceed the City of San Diego Inclusionary Housing Ordinance by setting aside 11 percent of the units (nine units) as affordable to families earning no more than 100 percent of the AMI or \$63,400 of annual income for a family of four. The project would also meet the parking requirements of the Land Development Code by proposing 142 covered vehicle parking spaces, including two disabled parking spaces, forty-one bicycle parking spaces, and nine motorcycle parking spaces.

The eighty-five units would consist of fourteen single story 1-bedroom units and seventy-one 2-story 2-bedroom town home units. The project would also include approximately an 8,000 square-foot landscaped courtyard including a paved seating area with BBQ facilities, security entry gates, and decorative lighting. By providing a total of nine affordable units with a mix of both 1- and 2-bedroom units, the proposed development will materially assist in the accomplishing the goal of providing affordable housing opportunities in economically balanced communities throughout the City.

b. The development will not be inconsistent with the purpose of the underlying zone. The development would consist of the demolition of an existing warehouse and the construction of eighty-five for-sale condominiums (nine affordable and seventy-six market rate condominiums); two levels of underground parking, housing 142 off-street parking spaces, of which two spaces are accessible, nine motorcycle spaces and forty-one bicycle spaces. All proposed construction complies with the state and local codes and regulations for construction.

The applicant has requested a Rezone of the property from the existing IS-1-1 zone an Industrial Small Lot Zone, to RM-4-10, a Multi-Family Residential Zone. The purpose of the residential zones is to provide for areas of residential development at various specified densities throughout the City. The purpose of the RM zones is to provide for multiple dwelling unit development at varying densities. The residential zones are intended to accommodate a variety of housing types and to encourage the provision of housing for all citizens of San Diego. It is also intended that the residential zones reflect desired development patterns in existing neighborhoods while accommodating the need for future growth.

The SDMC allows flexibility in the application of development regulations (deviations) for affordable developments where strict application of the base zone development regulations would restrict design options and result in a less desirable project, through the processing of a Site Development Permit. The purpose of these regulations is to provide flexibility in the application of development regulations for projects providing affordable shelter and a balance of housing opportunities for all economic segments of the community. The intent is to provide an additional incentive to facilitate the development of affordable/in-fill housing while assuring that the development achieves the purpose and intent of the applicable land use plan. Staff believes that the Decision Maker can make the appropriate Planned Development Permit findings based on the following information.

Setback - The project proposes a 2-foot, 6-inch front yard setback along the northerly elevation (Hancock Street), and a 12-foot, 5-inch side yard setback along the easterly (Estudillo Street) when the San Diego Municipal Code requires that two contiguous yards must observe at least 15 feet on the northerly and easterly elevations.

The project proposes the setback deviations to maximize the site's available and usable land so that the project can materially assist in providing housing opportunities in economically balanced communities throughout the city, and to allow for the provision of individual, private recreation space that complies with the City's outdoor noise requirement. The Setback deviation is also requested to provide site design flexibility and a central courtyard while maintaining the overall community goals for improving architecture and landscaping while

providing a pedestrian friendly development. Strict conformance with the setback regulations would limit optimal use of the somewhat narrow and constricted shape of the property as well as the reducing the number of affordable for-sale units, minimizing the positive impact on the City's shortage of affordable housing. In addition, strict requirement to the 15-foot setback requirement would create an inactive frontage while denying the addition of usable, private/semi-private outdoor spaces. Building to the property line would create an active, safe pedestrian friendly environment with increased street presence and surveillance. The building design has appropriate massing and articulation and would provide an enhancement to the urban fabric; therefore, staff supports the requested setback deviations.

Drive Aisle Turnaround - The project proposes the elimination of the required turnaround at the end of a parking area drive aisle. The San Diego Municipal Code requires "driveway aisles that do not provide through circulation shall provide a turnaround area at the end of the aisle that is clearly marked to prohibit parking and that has a minimum area equivalent to a parking space." The applicant has requested the deviation due to the constrained nature of the site and to allow the development to provide the required number of parking spaces as nominated in the San Diego Municipal code, while meeting the standard maneuvering requirements stated in the *Geometric Design of Highways and Streets 2004*.

Drive aisle turnarounds are typically provided in commercial parking structures where there are no designated parking stalls and all parking spaces provided are accessible for visitors. The Stella project is providing parking stalls that are designated for the units proposed where tenants accessing the parking structure are familiar with the parking area configuration and know the exact location of the parking stalls assigned to them. This will eliminate wandering vehicles looking for an open parking stall to park and; therefore, eliminate the need for turnaround areas at the end of the drive aisles.

Due to the constrained nature of the site and to allow the development to provide the required number of parking spaces per the San Diego Municipal code, staff believes that the Decision Maker can make the appropriate Site Development Permit findings based on the information provided above.

Each of the requested deviations are appropriate for this location and would result in a more desirable project than would be achieved if designed in strict conformance with the development regulations of the applicable zone. The proposed development has otherwise been designed and conditioned to ensure conformance to the requirements of the City of San Diego Land Development Code. Therefore, the development will not be inconsistent with the purpose of the underlying zone.

c. Any proposed deviations are appropriate for this location and will result in a more desirable project than would be achieved if designed in strict conformance with the development regulations of the applicable zone. The development would consist of the demolition of an existing warehouse and the construction of eighty-five for-sale condominiums (nine affordable and seventy-six market rate condominiums); two levels of underground parking, housing 142 off-street parking spaces, of which two spaces are accessible, nine motorcycle spaces and forty-one bicycle spaces. All proposed construction complies with the state and local codes and regulations for construction.

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The project proposes the setback deviations to maximize the site's available and usable land so that the project can materially assist in providing housing opportunities in economically balanced communities throughout the city, and to allow for the provision of individual, private recreation space that complies with the City's outdoor noise requirement. The Setback deviation is also requested to provide site design flexibility and a central courtyard while maintaining the overall community goals for improving architecture and landscaping while providing a pedestrian friendly development. Strict conformance with the setback regulations would limit optimal use of the somewhat narrow and constricted shape of the property as well as the reducing the number of affordable for-sale units, minimizing the positive impact on the City's shortage of affordable housing. In addition, strict requirement to the 15-foot setback requirement would create an inactive frontage while denying the addition of usable, private/semi-private outdoor spaces. Building to the property line would create an active, safe pedestrian friendly environment with increased street presence and surveillance. The building design has appropriate massing and articulation and would provide an enhancement to the urban fabric.

Drive Aisle Turnaround - The project proposes the elimination of the required turnaround at the end of a parking area drive aisle. The San Diego Municipal Code requires "driveway aisles that do not provide through circulation shall provide a turnaround area at the end of the aisle that is clearly marked to prohibit parking and that has a minimum area equivalent to a parking space." The applicant has requested the deviation due to the constrained nature of the site and to allow the development to provide the required number of parking spaces as nominated in the San Diego Municipal code, while meeting the standard maneuvering requirements stated in the *Geometric Design of Highways and Streets 2004*.

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vehicles looking for an open parking stall to park and; therefore, eliminate the need for turnaround areas at the end of the drive aisles.

Due to the constrained nature of the site and to allow the development to provide the required number of parking spaces per the San Diego Municipal code, staff believes that the Decision Maker can make the appropriate Site Development Permit findings based on the information provided above.

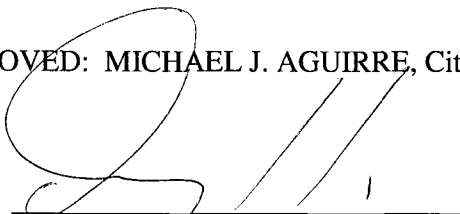
Each of the requested deviations are appropriate for this location and would result in a more desirable project than would be achieved if designed in strict conformance with the development regulations of the applicable zone. The proposed development has otherwise been designed and conditioned to ensure conformance to the requirements of the City of San Diego Land Development Code. Therefore, the proposed deviations are appropriate for this location and will result in a more desirable project than would be achieved if designed in strict conformance with the development regulations of the applicable zone.

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

BE IT FURTHER RESOLVED, that Site Development Permit No. 240731 is granted to Constellation Property Group (Hancock), a Delaware Limited Partnership, Owner/ Marchese Partners International, LP, a Delaware Limited Partnership, Permittee, under the terms and conditions set forth in the attached permit which is made a part of this resolution.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By



Douglas K. Humphreys
Deputy City Attorney

DKH:pev
01/31/06
02/27/06 COR.COPY
Or.Dept:DSD
R-2006-631
MMS #2735

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

WHEN RECORDED MAIL TO
CITY CLERK
MAIL STATION 2A

SPACE ABOVE THIS LINE FOR RECORDER'S USE

JOB ORDER NUMBER 42-4143

SITE DEVELOPMENT PERMIT NO. 240731
STELLA FIVE POINTS [MMRP]
CITY COUNCIL

This Site Development Permit No. 240731 is granted by the City Council of the City of San Diego to Constellation Property Group (Hancock), a Delaware Limited Partnership, Owner, and Marchese Partners International, Permittee, pursuant to San Diego Municipal Code [SDMC] section 126.0504. The 0.89-acre site is located at 2015 Hancock Street in the IS-1-1 zone (proposed to be rezoned to RM-4-10) within the Midway-Pacific Highway Community Planning Area. The project site is legally described as Parcel 1 of Parcel Map No. 17813 in Block 208 of Middletown, in the City of San Diego, County of San Diego, State of California, filed in the Office of the County Recorder of San Diego County, January 16, 1996 as instrument no. 96-0021400 of official records. Excepting all oil, gas and other hydrocarbon and mineral substances (except water) lying not less than 100 feet below the surface of said real property, provided that Santa Fe, its successors and/or assigns, shall not have the right to go upon the surface of said real property for the purpose of extracting said oil, gas or other hydrocarbon and mineral substances, nor for any purpose in connection therewith, but shall have the right to extract and remove said oil, gas or other hydrocarbon and mineral substances together with that portion of Wright Street adjoining said land on the west as vacated and closed by resolution recorded November 3, 1983 as File No. 83-399390 of official records.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner and Permittee to demolish an existing 35,650 square-foot warehouse and to construct eighty-five residential condominium units (nine of which will be affordable to families earning no more than 100 percent of the Area Median Income [AMI], consisting of fourteen single-level condominiums and seventy-one attached townhouses, described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated MAR 21 2006, on file in the Development Services Department.

The project or facility shall include:

R-301319

- a. Two residential condominium buildings totaling 113,584 square-feet of floor area, and housing eighty-five residential condominium units (nine of which will be affordable to families earning no more than 100 percent of the AMI), consisting of fourteen single-level, 1-bedroom condominiums and seventy-one 2-story, 2-bedroom attached townhouses;
- b. Landscaping (planting, irrigation and landscape related improvements);
- c. Off-street parking facilities including 142 automobile, two accessible, nine motorcycle, and forty-one bicycle parking spaces;
- d. 8,000 square-foot landscaped courtyard, paved seating area with BBQ facilities, security entry gates, and decorative lighting; and
- e. Accessory improvements determined by the City Manager to be consistent with the land use and development standards in effect for this site per the adopted community plan, California Environmental Quality Act Guidelines, public and private improvement requirements of the City Engineer, the underlying zone(s), conditions of this Permit, and any other applicable regulations of the SDMC in effect for this site.

STANDARD REQUIREMENTS:

1. Construction, grading or demolition must commence and be pursued in a diligent manner within thirty-six months after the effective date of final approval by the City, following all appeals. Failure to utilize the permit within thirty-six months will automatically void the permit unless an Extension of Time has been granted. Any such Extension of Time must meet all the SDMC requirements and applicable guidelines in effect at the time the extension is considered by the appropriate decision maker.
2. No permit for the construction, occupancy or operation of any facility or improvement described herein shall be granted, nor shall any activity authorized by this Permit be conducted on the premises until:
 - a. The Permittee signs and returns the Permit to the Development Services Department; and
 - b. The Permit is recorded in the Office of the San Diego County Recorder.
3. Unless this Permit has been revoked by the City of San Diego the property included by reference within this Permit shall be used only for the purposes and under the terms and conditions set forth in this Permit unless otherwise authorized by the City Manager.
4. This Permit is a covenant running with the subject property and shall be binding upon the Permittee and any successor or successors, and the interests of any successor shall be subject to each and every condition set out in this Permit and all referenced documents.

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

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

7. The Owner/Permittee shall secure all necessary building permits. The applicant is informed that to secure these permits, substantial modifications to the building and site improvements to comply with applicable building, fire, mechanical and plumbing codes and State law requiring access for disabled people may be required.

8. Before issuance of any building or grading permits, complete grading and working drawings shall be submitted to the City Manager for approval. Plans shall be in substantial conformity to Exhibit "A." No changes, modifications or alterations shall be made unless appropriate application(s) or amendment(s) to this Permit have been granted.

9. All of the conditions contained in this Permit have been considered and have been determined to be necessary in order to make the findings required for this Permit. It is the intent of the City that the holder of this Permit be required to comply with each and every condition in order to be afforded the special rights which the holder of the Permit is entitled as a result of obtaining this Permit.

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

10. This Permit shall become effective with recordation of the corresponding final subdivision map for and approval of the project site.

ENVIRONMENTAL/MITIGATION REQUIREMENTS:

11. Mitigation requirements are tied to the environmental document, specifically the Mitigation, Monitoring, and Reporting Program [MMRP]. These MMRP conditions are incorporated into the permit by reference or authorization for the project.

12. As conditions of Site Development Permit No. 240731, the mitigation measures specified in the MMRP, and outlined in Mitigated Negative Declaration No. 65484 shall be noted on the construction plans and specifications under the heading ENVIRONMENTAL/MITIGATION REQUIREMENTS.

13. The Owner/Permittee shall comply with the MMRP as specified in Mitigated Negative Declaration No. 65484 satisfactory to the City Manager and City Engineer. Prior to issuance of the first grading permit, all conditions of the MMRP shall be adhered to the satisfaction of the City Engineer. All mitigation measures as specifically outlined in the MMRP shall be implemented for Historical Resources (Archaeological).

14. Prior to issuance of any construction permit, the applicant shall pay the Long Term Monitoring Fee in accordance with the Development Services Fee Schedule to cover the City's costs associated with implementation of permit compliance monitoring.

15. Prior to the issuance of the first building permit, the owner/permitted shall provide a letter to the Assistant Deputy Director of Land Development Review verifying that the County of San Diego Department of Environmental Health concurs that human health, water resources, and the environment are adequately protected from any contamination that may have been or be present on the project site.

AFFORDABLE HOUSING REQUIREMENTS:

16. Prior to receiving the first residential building permit, the applicant shall comply with the Affordable Housing Requirements of the City's Inclusionary Housing Ordinance (Chapter 14, Article 2, Division 13 of the Land Development Code. The applicant has elected to meet these requirements by selling at least 10 percent of the units to, and at prices affordable to, households earning no more than 100 percent AMI.

17. The applicant has agreed to set aside nine units (three 2-bedroom, three 1-bedroom plus den, and three 1-bedroom), or 11 percent of the units proposed, for households earning no more than 100 percent AMI. Prior to receiving the first residential building permit, the applicant must enter into an agreement with the San Diego Housing Commission to assure that the restricted units are built and occupied.

ENGINEERING REQUIREMENTS:

18. Prior to the issuance of a certificate of occupancy, the applicant shall enter into a Maintenance Agreement for the ongoing permanent Best Management Practices [BMP's] maintenance.

19. Prior to the issuance of any construction permit, the applicant shall incorporate any construction BMP's necessary to comply with Chapter 14, Article 2, Division 1 (Grading Regulations) of the San Diego Municipal Code, into the construction plans or specifications.

20. Prior to the issuance of any construction permit the applicant shall submit a Water Pollution Control Plan [WPCP]. The WPCP shall be prepared in accordance with the guidelines in Appendix E of the City's Storm Water Standards.

21. Prior to the issuance of any construction permits the applicant shall incorporate and show the type and location of all post-construction BMP's on the final construction drawings, in accordance with the approved Water Quality Technical Report.

22. The Site Development Permit shall comply with the conditions of the Final Map for Vesting Tentative Map No. 240730.

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

24. This project proposes to export 18,000 cubic yards of material from the project site. All export material shall be discharged into a legal disposal site. The approval of this project does not allow the processing and sale of the export material. All such activities require a separate Conditional Use Permit.

25. Prior to the issuance of a certificate of occupancy, the applicant shall dedicate 2.5 feet of right-of-way along Hancock Street adjacent to the project site and construct sidewalk in the Hancock Street right-of-way to the satisfaction of the City Engineer.

26. Whenever street rights-of-way are required to be dedicated, it is the responsibility of the applicant to provide the right-of-way free and clear of all encumbrances and prior easements. The subdivider must secure "subordination agreements" for minor distribution facilities and/or "joint-use agreements" for major transmission facilities.

GEOLOGY REQUIREMENTS:

27. Although the submitted geotechnical report/s have been reviewed and approved, the information provided is considered limited and does not rule out the possibility of active or potentially active faulting at the site. It is our understanding that access was difficult and gathering of additional information at this time would pose an unreasonable financial hardship. As such, the owner has opted to provide the additional required information at a later time, when the site will be more accessible, but prior to construction.

28. Therefore, an as-built geologic report must be submitted and approved as part of the building permit process, at the completion of the foundation excavation. The report must be signed by a California Registered Geologist and stipulate that the excavation was observed and that the site is free of faulting or other geologic hazards. Should such hazards be observed, the report shall describe their effects upon the proposed development and provide any required mitigation or set-backs.

29. The owner should be aware that discovery of an active fault or other significant geologic hazard during construction could halt the project.

LANDSCAPE REQUIREMENTS:

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

31. In the event that a foundation only permit is requested by the Permittee or subsequent Owner, a site plan or staking layout plan shall be submitted identifying all landscape areas consistent with Exhibit "A," Landscape Development Plan. These landscape areas shall be clearly identified with a distinct symbol, noted with dimensions and labeled as "landscaping area."

32. Prior to issuance of any construction permits for structures, complete Landscape Planting and Irrigation Construction documents consistent with the Landscape Standards shall be submitted to the City Manager for approval. The Landscape Construction documents shall be in substantial conformance with Exhibit "A," Landscape Development Plan. Construction plans shall take into account a 40 sq-ft area around each tree which is unencumbered by hardscape and utilities as set forth under SDMC/LDC section 142.0403(b)5.

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

34. All required landscape shall be maintained in a disease, weed, and litter free condition at all times. Severe pruning or "topping" of trees is not permitted.

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

36. If any required landscape (including existing or new plantings, hardscape, landscape features, etc.) indicated on the approved construction document plans is damaged or removed during demolition or construction, it shall be repaired and/or replaced in kind and equivalent size per the approved documents to the satisfaction of the City Manager within thirty days of damage and prior to issuance of Certificate of Occupancy.

PLANNING/DESIGN REQUIREMENTS:

37. No fewer than 142 off-street parking spaces (of which two spaces are accessible spaces), nine motorcycle spaces and forty-one bicycle spaces) shall be maintained on the property at all times in the approximate locations shown on the approved Exhibit "A." Parking spaces shall comply at all times with requirements of the SDMC/LDC and shall not be converted for any other use unless otherwise authorized by the City Manager.

38. There shall be compliance with the regulations of the underlying zone(s) unless a deviation or variance to a specific regulation(s) is approved or granted as a condition of approval of this Permit. Where there is a conflict between a condition (including exhibits) of this Permit and a regulation of the underlying zone, the regulation shall

prevail unless the condition provides for a deviation or variance from the regulations. Where a condition (including exhibits) of this Permit establishes a provision which is more restrictive than the corresponding regulation of the underlying zone, then the condition shall prevail.

39. The height(s) of the building(s) or structure(s) shall not exceed those heights set forth in the conditions and the exhibits (including, but not limited to, elevations and cross sections) or the maximum permitted building height of the underlying zone, whichever is lower, unless a deviation or variance to the height limit has been granted as a specific condition of this Permit.

40. A topographical survey conforming to the provisions of the SDMC may be required if it is determined, during construction, that there may be a conflict between the building(s) under construction and a condition of this Permit or a regulation of the underlying zone. The cost of any such survey shall be borne by the Permittee.

41. Any future requested amendment to this Permit shall be reviewed for compliance with the regulations of the underlying zone(s) which are in effect on the date of the submittal of the requested amendment.

42. No building additions, including patio covers, shall be permitted unless approved by the homeowners association and the City Manager. Patio covers may be permitted only if they are consistent with the architecture of the dwelling unit.

43. All signs associated with this development shall be consistent with sign criteria established by either of the following:

- a. Approved project sign plan (Exhibit "A"); or
- b. Citywide sign regulations.

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

45. The applicant shall post a copy of the approved Site Development Permit or Vesting Tentative Map in the sales office for consideration by each prospective buyer.

46. Prior to the issuance of any building permits, complete outdoor lighting information shall be submitted to the Development Services Department, Land Development Review Division, for review and approval. Complete lighting information shall include a plan view photometric analysis indicating an isofoot candle plot and a point by point plot to include all areas within the private property and to extend a minimum of 50 feet beyond the property line, construction details as necessary to direct installation of the outdoor lighting system, manufacturers name, visors, prisms, lenses and reflectors and a lighting plan locating each fixture in plan view and a legend. The outdoor lighting system shall be designed, manufactured and installed to allow shading,

adjusting, and shielding of the light source so all outdoor lighting is directed to fall only onto the same premises as light sources are located.

47. Prior to the issuance of any occupancy permit, a night inspection shall be required to verify compliance of the outdoor lighting system. No light shall be directed to fall outside the property line. Light levels along the perimeter of the property shall be measured no higher than three footcandles. Light levels throughout the development shall be the least practical level necessary to effectively illuminate the operation. Sky glow or light halo shall be reduced to the greatest extent practical and in no case shall initial light levels be measured exceeding eight footcandles anywhere within the site. The Owner/Permittee, or an authorized representative, shall provide an illuminance meter to measure light levels as required to establish conformance with the conditions of this Permit during the night inspection. Night inspections may be required additional fees as determined by the City Manager.

48. The use of textured or enhanced paving shall meet applicable City standards as to location, noise and friction values.

49. The subject property and associated common areas on site shall be maintained in a neat and orderly fashion at all times.

50. No mechanical equipment, tank, duct, elevator enclosure, cooling tower, mechanical ventilator, or air conditioner shall be erected, constructed, converted, established, altered, or enlarged on the roof of any building, unless all such equipment and appurtenances are contained within a completely enclosed, architecturally integrated structure whose top and sides may include grillwork, louvers, and latticework.

51. Prior to the issuance of building permits, construction documents shall fully illustrate compliance with the Citywide Storage Standards for Trash and Recyclable Materials (SDMC) to the satisfaction of the City Manager. All exterior storage enclosures for trash and recyclable materials shall be located in a manner that is convenient and accessible to all occupants of and service providers to the project, in substantial conformance with the conceptual site plan marked Exhibit "A."

52. Prior to the issuance of building permits, the applicant shall demonstrate that past soil contamination levels are acceptable for residential use to the satisfaction of the County Department of Environmental Health [DEH]. The Applicant must provide to the Assistant Deputy Director of Land Development Review a "No Further Action" letter or other certification from the County DEH verifying DEH approval that the site meets the criteria for residential use.

53. Prior to the final Certificate of Occupancy, the applicant shall make sidewalk repairs and extend the proposed street tree plantings, to include the adjacent multi-tenant industrial property (1929 Hancock Street).

TRANSPORTATION REQUIREMENTS:

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

WASTEWATER REQUIREMENTS:

55. The developer shall design and construct all proposed public sewer facilities in accordance with established criteria in the most current edition of the City of San Diego sewer design guide. Proposed facilities that do not meet the current standards shall be redesigned or private.

56. Prior to the issuance of any building permits, the developer shall assure, by permit and bond, the design and construction of all public sewer facilities necessary to serve this development.

57. Proposed private underground sewer facilities located within a single lot shall be designed to meet the requirements of the California Uniform Plumbing Code and shall be reviewed as part of the building permit plan check. In addition, the developer shall submit calculations, satisfactory to the Metropolitan Wastewater Department Director, for sizing of the proposed sewer lateral from the property line to its connection with the public sewer main.

WATER REQUIREMENTS:

58. Prior to the issuance of any building permits, the Owner/Permittee shall assure, by permit and bond, the design and construction of new 12-inch water facilities, including fire hydrants, in Hancock Street right-of-way from Coutts Street to Noell Street, in a manner satisfactory to the Water Department Director and the City Engineer.

59. Prior to the issuance of any building permits, the Owner/Permittee shall assure, by permit and bond, the design and construction of new 12-inch public water facilities, including fire hydrants, in Noell Street right-of-way from Hancock Street to Kurtz Street, in a manner satisfactory to the Water Department Director and the City Engineer.

60. Prior to the issuance of any building permits, the Owner/Permittee shall cut, plug, and abandon the existing public water facilities, located within the easement to be vacated in Wright Street, from Hancock Street to Kurtz Street, in a manner satisfactory to the Water Department Director and the City Engineer.

61. Prior to the issuance of any building permits, the Owner/Permittee shall assure, by permit and bond, the design and construction of new water service(s) outside of any vehicular use area, and the disconnection at the water main of any existing unused water

service adjacent to the project site, in a manner satisfactory to the Water Department Director and the City Engineer.

62. Prior to the issuance of any building permits, the Owner/Permittee shall apply for a plumbing permit for the installation of appropriate private back flow prevention device on each water service, existing or proposed, in a manner satisfactory to the Water Department Director and the City Engineer.

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

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

INFORMATION ONLY:

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

A Development Impact Fee [DIF] of \$383,249 will be required for this project and will be due at the time of building permit issuance. This fee is based upon the determination that the project will result in an increase of eighty-five dwelling units over what currently exists on the site. DIF was originally calculated at \$6,526 per dwelling unit, or \$554,710; however, demolition of a 35,650 square foot warehouse building resulted in a credit of approximately \$171,461.

MAR 21 2006

APPROVED by the City Council of the City of San Diego on _____,
by Resolution No. R- 301319.

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.

CONSTELLATION PROPERTY GROUP
(HANCOCK), a Delaware Limited
Partnership, Owner

By _____

MARCHESE PARTNERS
INTERNATIONAL, Permittee

By _____

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

PERMIT/OTHER – Permit Shell 11-01-04

Passed by the Council of The City of San Diego on MAR 21 2006, by the following vote:

Council Members	Yeas	Nays	Not Present	Ineligible
Scott Peters	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Kevin Faulconer	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Toni Atkins	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Anthony Young	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Brian Maienschein	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Donna Frye	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jim Madaffer	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ben Hueso	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage MAR 21 2006.

AUTHENTICATED BY:

JERRY SANDERS
Mayor of The City of San Diego, California.

(Seal)

ELIZABETH S. MALAND
City Clerk of The City of San Diego, California.

By *Mary Cepeda* Deputy

Office of the City Clerk, San Diego, California

Resolution Number R-301319