

RESOLUTION NUMBER R- 309116

ADOPTED ON JUL 14 2014

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO APPROVING CENTRE CITY DEVELOPMENT PERMIT, PLANNED DEVELOPMENT PERMIT, NEIGHBORHOOD USE PERMIT, AND SITE DEVELOPMENT PERMIT FOR INDIA AND DATE STREETS PROJECT.

ITEM # 5400
SUB-B
7/14/14

WHEREAS, H.G. Fenton Development Company, LLC., Owner/Permittee, filed an application with the City of San Diego for a Centre City Development Permit (CCDP), Planned Development Permit (PDP), Neighborhood Use Permit (NUP), and Site Development Permit (SDP) to allow the construction of a seven-story (approximately 88-foot tall), residential mixed use building located on a 24,611 site on the north side of Date Street between India and Columbia streets; the construction of a five-story (approximately 69-foot tall) residential mixed-use building located on a 10,000 square foot site on the south side of Date Street between India and Columbia streets; the construction of an underground parking structure under both buildings and underneath Date Street; construction of an 11, 200 square foot public plaza on the vacated portion of Date Street; relocation of Historical Resources Board Site No. 1036, the Antonio and Josephine Giacalone House, and the provision of outdoor dining areas along the north and south side of Date Street, known as the India and Date Project, in the Little Italy neighborhood of the Downtown Community Plan (DCP) area in the City of San Diego, State of California, and more particularly described in "Exhibit A;" and

WHEREAS, on June 12, 2014, the Planning Commission of the City of San Diego considered CCDP/PDP/NUP/SDP No. 2013-10, and pursuant to Resolution No. 4611-PC voted to recommend City Council approval of the permits; and

WHEREAS, the matter was set for public hearing on July 14, 2014, testimony having been heard, evidence having been submitted, and the City Council having fully considered the matter and being fully advised concerning the same; and

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

BE IT RESOLVED, by the Council of the City of San Diego, that it adopts the following findings with respect to CCDP/PDP/NUP/SDP No. 2013 -10:

Centre City Development Permit – Section 156.0304(e)(1)(D)

1. **The proposed development is consistent with the DCP, Centre City Planned District Ordinance (CCPDO), San Diego Land Development Code (LDC), and all other adopted plans or policies of the City of San Diego pertaining to the Centre City Planned District.** The proposed development will be consistent with the DCP and CCPDO with the approval of deviations associated with the PDP, the approval of outdoor dining areas associated with the NUP, and the approval of historical resource deviations associated with the SDP. All other aspects of the development including project design, development intensity and uses, are consistent with the LDC and land use plans adopted by the City of San Diego.

Planned Development Permit – Section 156.0304(f)

1. **The proposed development will not adversely affect the applicable land use plan.** The proposed Project is a mixed-use development and plaza consistent with the goals and objectives of the Downtown Community Plan (DCP) and the CCPDO. The DCP and CCPDO encourage innovation in the design of building and spaces as proposed and provides for flexibility in the application of development regulations for projects where the strict application of the development regulations would restrict design options and result in a less desirable project through the approval of a PDP. As part of the Project, the applicant is seeking deviations to the development regulations of the CCPDO related to ground floor height, LISA Overlay, oriel windows and off-street loading. The requested deviations will provide relief from the strict application of the development standards in order to allow for flexibility in design and more efficient use of the site. The requested deviations meet the intent of the regulations and will have a negligible impact, if any, on the surrounding neighborhood.

2. **The proposed development will not be detrimental to the public health, safety, and welfare.** The granting of the deviations and approval of the Project will not negatively impact the public health, safety, and general welfare. Overall, the proposed development is consistent with the plans for this neighborhood and will contribute to its vitality by providing an attractive streetscape and appropriately massed development.

3. **The proposed development will comply to the maximum extent feasible with the regulations of the CCPDO; except for any proposed deviations which are appropriate for this location and will result in a more desirable project than would be achieved if designed in conformance with the strict regulations of the CCPDO.** The proposed development will meet all the requirements of the Land Development Code (LDC) and CCPDO with approval of the deviations to the ground floor heights, LISA Overlay, oriel windows and off-street loading requirements, which are allowable under a CCPDP. The proposed deviations are relatively minor and result in appropriately massed buildings consistent with the surrounding neighborhood.

4. **The proposed deviations will result in a development exhibiting superior architectural design.** The project complies with the Downtown Design Guidelines and consists of two well-designed residential mixed-use developments consistent with the surrounding area. The two buildings use upgraded materials at the street level, interesting massing and well-designed facades. The deviations will result in an overall project design that provides for a simple and sophisticated architectural design enhanced by upgraded building materials that are consistent with, and complement, the surrounding neighborhood. The superior architecture achieved by the Project includes the provision of an 11, 200 square foot public plaza along the vacated portion of Date Street that will add value and further provide identity and economic benefit to downtown and the Little Italy neighborhood.

Neighborhood Use Permit – Section 126.0205

1. **The proposed use or development will not adversely affect the applicable land use plan.** The proposed uses will not adversely affect the applicable land use plan as they are consistent with the CCPDO and DCP. The DCP and CCPDO encourage the use of open seating areas wherever appropriate as a way to enliven the urban streetscape. Outdoor use areas and sidewalk cafés are permitted within downtown with approval of an NUP. Shopping, dining, and gathering in the neighborhood are part of the overall vision of the DCP for the Little Italy neighborhood. Therefore, the proposed outdoor use areas are consistent with that vision.

2. **The proposed use or development will not be detrimental to the public health, safety, and welfare.** The proposed uses for outdoor dining, as conditioned, will not be detrimental to the public health, safety, and welfare. Conditions of approval, including hours of operation for the outdoor dining areas will ensure that the proposed outdoor dining will not become a nuisance to the surrounding neighborhood.

3. **The proposed use or development will comply to the maximum extent feasible with the regulations of the LDC.** The operator of the sidewalk cafes will be required to obtain all the necessary permits and approvals, as required by CivicSD, the City, San Diego

Police Department and the State Department of Alcohol Beverage Control associated with the outdoor dining areas.

Site Development Permit – Section 126.0504 (a)

1. The proposed development will not adversely affect the applicable land use plan. The Downtown Community Plan lists the following goals and policies in regards to historical resources:

- a) For locally designated historical resources, “Whenever possible, retain resource on-site. Partial retention, relocation or demolition of a resource shall only be permitted through applicable City procedures.”
- b) Protect historical resources to communicate downtown’s heritage.
- c) Encourage the rehabilitation and reuse of historical resources.
- d) Allow development adjacent to historical resources respectful of context and heritage, while permitting contemporary design solutions that do not adversely impact historical resources.
- e) Encourage the retention of historical resources on-site with new development. If retention of the historical resource on-site is found to be infeasible under appropriate City review procedures, the potential relocation of the historical resource to another location within downtown shall be explored, and if feasible, adopted as a condition of an SDP.

The India and Date project meets all of the design goals of the Downtown Community Plan and CCPDO for new developments in this area. The project will add to the vitality of the neighborhood, and provide 125 new residential units, residential and public parking and a new piazza open to the general public as well as rehabilitate a historical building. While the Downtown Community Plan allows relocation of a historical resource when retention on-site is infeasible, the relocation of the Antonio and Josephine Giacalone House is a practical means of protecting the threatened resource and preserves its architectural heritage within the neighborhood. In addition, the FEIR for the Downtown Community Plan recognized that not all historical resources may be preserved in the downtown area due to conflicting housing and employment goals; however, the project retains and rehabilitates the Antonio and Josephine Giacalone House.

2. The proposed development will not be detrimental to the public health, safety and welfare. The proposed development will consist of the construction of a mixed-use development on the north and south sides of Date Street between India and Columbia streets, including the relocation and rehabilitation of a designated historical resource and the construction of public piazza on the vacated portion of the Date Street Right-of-Way. The proposed project will be consistent with the Downtown Community Plan and CCPDO with approval of a CCDP/PDP/NUP/SDP. The project will be compatible with the nearby residential and commercial buildings and other new developments in the area without harming the public health, safety and welfare.

3. The proposed development will comply to the maximum extent feasible with the applicable regulations of the Land Development Code. The proposed project will meet the development standards of the CCPDO with approval of a CCDP/PDP/NUP/SDP. Under the SDMC, the proposed relocation of the designated building is considered a substantial alteration to a historical resource requiring an SDP, consistent with Municipal Code Section 143.0251. The proposed rehabilitation work on the building will be consistent with the U.S Secretary of the Interior Standards (“Standards”) for the rehabilitation of historical structures and will not create any adverse impacts to the designated building. Impacts related to the proposed relocation would be reduced through implementation of the required mitigation measures found in the Sixth Addendum to the Downtown FEIR for the project and additional permit conditions including the completion of HABS Level III documentation, a permanent plaque located on the exterior wall of the historical building and the requirements for a qualified historical architectural monitor.

Supplemental Findings for Relocation of a Historical Resource – Section 126.0504(h)

1. There are no feasible measures, including maintaining the resource on site, that can further minimize the potential adverse effects on historical resources. The project proposes relocation, rehabilitation and reuse of the Antonio and Josephine Giacalone House from its current location at 519 West Date Street in the Little Italy neighborhood of the Downtown Community Plan Area to Amici Park in Little Italy or to 1792 National Avenue in Barrio Logan. Relocation of the house would allow development of underground parking, in addition to the above grade development that will stretch from the north side of West Date Street, under the vacated right of way of West Date Street and under the parcel where the historic resource is located. Three options were evaluated, which included retention of the building on site maintaining required setbacks, incorporating the existing building into the new development, or relocation the house to another parcel. The house currently occupies 22% of a 5,000 square foot lot. If the house was maintained on the site, the amount of developable land would be significantly reduced, deeming this option infeasible. If the historical resource were incorporated into the existing design, significant portions of the resource would be lost, because the new development would be constructed around the resource.

2. The proposed relocation will not destroy the historical, cultural or architectural values of the historical resource and the relocation is part of a definitive series of actions that will assure the preservation of the designated historical resource. Compliance with measures identified in the FEIR Mitigation, Monitoring and Reporting Program pertaining to the relocation, rehabilitation and reuse of designated historical resource #1036, the Antonio and Josephine Giacalone House are a required permit condition. These include identification of a primary relocation site and a secondary site should the San Diego Unified School Board fail to approve relocation of the primary site. The relocation sites meet the requirements of the National Park Service’s Criterion Consideration B for Moved Properties and the City’s Historical Resources Regulations on the same subject. After relocation and stabilization of the resource, it is required to be rehabilitated in accordance with the Secretary of the Interior’s Standards for Rehabilitation. A qualified historical architect monitor is required to supervise the relocation and rehabilitation project. The property’s status as a designated historical resource will be transferred to the relocation site and the property will remain a designated resource under the jurisdiction of the San Diego Historical Resources Board. These

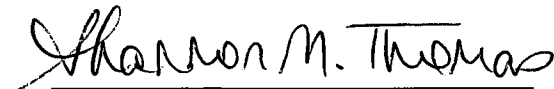
measures ensure that the proposed relocation, rehabilitation and reuse will not destroy the historical, cultural, or architectural values of the historical resource and the relocation will be part of a definitive series of actions to assure the preservation of the designated historical resource.

3. There are special circumstances or conditions apart from the existence of the historical resource, applying to the land that are peculiar to the land and are not of the applicants making, whereby the strict application of the provisions of the historical resources regulations would deprive the property owner of reasonable use of the land. The Downtown Community Plan's goals for the surrounding neighborhood calls for greater development, especially on vacant land and underdeveloped sites. Consistent with these goals, the area surrounding the site has seen an increase in density and larger scale development in the last several years. Included in this growth are multi-story development projects which are located directly south and northeast from the Antonio and Josephine Giacalone House. The existing site constraints, land development factors and overall setting and context of the neighborhood constitute special circumstances and conditions which exist apart from the presence of the historical resource. These special circumstances applying to the land are peculiar to the land and are not of the developer's making. Therefore, the strict application of the provisions of the Historical Resources Regulations would deprive the property owner of reasonable use of the land.

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

BE IT FURTHER RESOLVED, that Centre City Development Permit/Planned Development Permit/Neighborhood Use Permit/Site Development Permit No. 2013-10 is granted to H.G. Fenton Development Company, LLC. Owner/Permittee, under the terms and conditions set forth in the permit attached hereto and made a part hereof.

APPROVED: JAN GOLDSMITH, CITY ATTORNEY

By: 
Shannon M. Thomas
Deputy City Attorney

SMT:als
07/01/14
07/15/14 Cor.Copy
Or.Dept:Civic San Diego
Doc. No. 810113_4

RECORDING REQUESTED BY:

Civic San Diego
Planning Department
401 B Street, Suite 400
San Diego, CA 92101

WHEN RECORDED MAIL TO:

Civic San Diego
401 B Street, Suite 400
San Diego, CA 92101

THIS SPACE FOR RECORDER'S USE ONLY

NOTE: COUNTY RECORDER, PLEASE RECORD AS RESTRICTION USE OR DEVELOPMENT OF REAL PROPERTY AFFECTING THE TITLE TO OR POSSESSION THEREOF

**CENTRE CITY DEVELOPMENT PERMIT/
PLANNED DEVELOPMENT PERMIT/SITE DEVELOPMENT
PERMIT/NEIGHBORHOOD USE PERMIT No. 2013-10**

**INDIA AND DATE PROJECT
(APN#533-233-09 through 12 &
533-351-01 and 08)**

This Centre City Development Permit/Planned Development Permit/Site Development Permit/Neighborhood Use Permit (CCDP/PDP/SDP/NUP) No. 2013-10 ("Permit") is granted by the City of San Diego to H.G. Fenton Development Company (Owner/Permittee), pursuant to San Diego Municipal Code (SDMC) Sections 125.0901, 126.0502, 143.0201, 143.0260, 156.0304 and 156.0308, for the India and Date project ("Project") located on an approximately 50,611 square foot site consisting of a) an approximately 24,611 site on the north of Date Street between India and Columbia streets; b) an approximately 10,000 square foot site on the south side of Date Street between India and Columbia streets; and, c) a 16,000 square foot public right-of-way to be vacated along Date Street ("Site") in the Little Italy neighborhood of the Downtown Community Plan (DCP) area in the City of San Diego, State of California, and more particularly described in "Exhibit A;" and,

Subject to the terms and conditions set forth in this Permit, permission is granted to the Owner/Permittee to construct and operate uses as described and identified by size, dimension, quantity, type and location as follows and on the approved exhibits dated May 12, 2014, on file in the Civic San Diego (CivicSD) Planning Department.

1. Centre City Development Permit

The Owner/Permittee shall construct, or cause to be constructed on the site, a project containing the following elements:

- a) A seven-story, approximately 88-foot tall mixed use building containing 97 residential units and ground floor retail space located on the north side of Date Street between India and Columbia streets;
- b) A five-story, approximately 69-foot tall mixed use building containing 28 residential units (11 affordable units) and ground floor retail space located on the south side of Date Street between India and Columbia streets;
- c) A 222-space underground parking structure under both the north and south buildings and across Date Street;
- d) An 11,200 square-foot public plaza on the vacated portion of Date Street; and,
- e) Outdoor dining areas along the north and south side of Date Street.

The total Floor Area Ratio of (FAR) for the Project is a 4.18.

2. Centre City Planned Development Permit

The City of San Diego City Council hereby grants a Centre City Planned Development Permit for deviations to the following development regulations of the Centre City Planned District Ordinance (CCPDO):

North Building

- a. Reduction of the minimum ground floor height for ground floor active commercial uses from an average height of 15 feet to an average height of 11 feet along the Columbia Street frontage;
- b. Encroachment into the Little Italy Sun Access (LISA) Overlay as shown in the Basic Concept/Schematic Drawings dated May 12, 2014 and,
- c. Allowance for an increase in the maximum width of an oriel window from 12 feet to 17 feet wide on the three-story element located at the eastern corner of the Date Street elevation.

South Building

- d. Encroachment into the LISA Overlay as shown in the Basic Concept/Schematic Drawings dated May 12, 2014.

Overall Development

- e. Allowance for the development to not provide an off-street loading bay.

3. Site Development Permit

The City of San Diego City Council hereby grants a Site Development Permit allowing the Relocation of a Designated Historical Resource as follows:

- a. City of San Diego Historical Resources Board (HRB) Site No. 1036, Antonio and Josephine Giacalone Residence, located at 519 W. Date Street will be relocated to one of the following two locations:
 - i. Amici Park located at Date Street and Union in the Downtown Community Plan Area as outlined in the Treatment Plan prepared by Martin Architecture dated April 24, 2014.
 - ii. 1792 National Avenue located at the northeast corner of National Avenue and Beardsley Street in the Barrio Logan Community Plan Areas as outlined in the Treatment Plan dated April 24, 2014.

- b. All modifications to (including relocation as stated above), and rehabilitation of, the Antonio and Josephine Giacalone Residence shall be completed prior to issuance of certificate of occupancy and performed in accordance with the National Park Service Standards for Relocation, U.S. Secretary of the Interior Standards (“Standards”) for rehabilitation of historical structures, City of San Diego Historical Resources Guidelines and the Treatment Plan required under the Sixth Addendum to the 2006 FEIR for the Downtown Community Plan Mitigation, Monitoring and Reporting Program (MMRP) Measures HIST A.1-1 and HIST A.1-2. In addition, the following conditions apply:
 - i. HABS Level III documentation shall be completed for the structure prior to issuance of building permits.
 - ii. A qualified historical architectural monitor (approved by the City of San Diego Plan-Historic Staff) will supervise the relocation, rehabilitation, and re-use of the building.
 - iii. A permanent plaque shall be provided on the exterior wall of the historic building describing the buildings original address/location. The design shall be approved by the City of San Diego Plan-Historic staff prior to issuance of building permits and installation.
 - iv. If any of the materials (exterior walls, window frames, roof and architectural details) are deteriorated and cannot be rehabilitated, and/or not permitted to be reinstalled by City of San Diego building officials, they may be recreated of new materials with the prior approval of the materials and execution methods of the City of San Diego Plan-Historic staff.

4. Neighborhood Use Permit

The City of San Diego City Council hereby grants a Neighborhood Use Permit pursuant to SDMC Chapter 12, Article 7, Division 1 and Section 156.0308 for the establishment of sidewalk cafés for private use by the ground-level eating and drinking establishments located on the north and south side of Date Street adjacent to the public plaza as shown in Exhibit B. The sidewalk cafés shall be subject to the following conditions:

- a. The sidewalk café use shall be limited to an area extending out a maximum of 12 feet from the face of the adjacent buildings as shown in the approved plans dated May 12, 2014 on file in the CivicSD Planning Department.
- b. The sidewalk cafés shall be designed with consistent with the materials utilized for the adjacent public plaza area and shall be generally open to pedestrian traffic except where there is an established sidewalk café associated with the operations of an eating and drinking establishment.
- c. No alcohol, food or beverages shall be served or permitted within the sidewalk café area past 11:00 p.m. Sunday through Thursday and 12:00 p.m. (Midnight), Friday and Saturday.
- d. The Owner/Permittee shall be responsible for maintaining the sidewalk within, and adjacent to, the café enclosure clean and free of litter at all times.
- e. The café shall meet all applicable disabled accessibility codes.
- f. The restaurant located at the southeast corner of India and Date streets is a previously conforming sidewalk café and is exempt from the hours prescribed above until such a time as the site no longer holds its previously conforming status in accordance Ch.12, article 7, division 1.
- g. Smoking shall not be permitted within the sidewalk cafes at any time.

5. Historic DeFalco's Grocery Building

The Project includes a designated historical resource; the DeFalco's Grocery/Zolezzi Commercial Building (Historical Resources Board (HRB) Site No. 261) located at 1703 India Street. The original west façade along India Street, excluding the two-story portion at the north end, and the westernmost bay on the south façade shall be retained on site and rehabilitated in accordance with the Secretary of the Interior Standards as shown in the approved Basic/Concept Schematic Drawings. A Historical Treatment Plan, including a Historical Monitoring Plan, for the resources shall be provided to, and approved by, the City of San Diego Historical Resources Department prior to issuance of Building Permits.

6. Public Plaza

The Owner/Permittee shall construct an 11,200 square foot public plaza within a 56-foot wide recreation easement located within the vacated Date Street.

- a. Design: The public plaza shall be designed consistent with the approved General Development Plan (GDP) and shall contain the following key design elements:
 - Enhanced paving with chalk squares for yearly art exhibits
 - Multi-purpose light fixtures to allow tivoli lights and banners
 - Signature water feature
 - Space for moveable mercato stalls and stage for events
 - Flexible seating (minimum 25 tables, 25 umbrellas and 100 chairs)
 - In-ground street trees and moveable planters

- Christmas tree relocated from the northeast corner to the southeast corner of India and Date Street.
- b. Park Development Agreement (PDA): A PDA shall be executed between the City and the Owner/Permittee that provides the specific development criteria and specifications of the plaza improvements, project schedule, maintenance specifications, and other provisions as approved as approved by the City staff, prior to the commencement of the plaza improvements as outlined in 6a above. The PDA shall be executed and plaza improvements completed prior to the Project receiving final inspection.
 - c. Reimbursement Agreement: The City and Owner/Permittee shall negotiate a reimbursement agreement that provides up to \$1,000,000 in development impact fees collected pursuant to the applicable public facilities financing plan for the Downtown Community Plan area. The reimbursement agreement shall be presented to City Council for consideration prior to the Owner/Permittee commencing construction of the plaza improvements as outlined in 6a above. Owner/Permittee shall construct the plaza improvements even if a reimbursement agreement is not approved by the City.
 - d. Maintenance Agreement: The City intends to execute a maintenance agreement for the plaza improvements with an appropriate entity, such as the Little Italy Association, which will be responsible for the maintenance of the plaza improvements at no cost to the City. The Owner/Permittee shall provide a \$250,000 Letter of Credit, the amount estimated to cover maintenance costs for five years, in favor of the City. Such Letter of Credit shall be available to the City for a maximum of ten years from completion of the plaza improvements in case the maintenance entity fails to perform to the City's satisfaction under the maintenance agreement and the City assumes maintenance responsibilities for the plaza improvements. The maintenance agreement shall be executed in a manner acceptable to the City prior to the Owner/Permittee receiving final inspection of the Project. In the event that the aforementioned maintenance agreement is not executed with an appropriate entity, the Owner/Permittee shall provide the aforementioned \$250,000 Letter of Credit in favor of the City, which will provide the City \$50,000 annually for the maintenance costs of the plaza improvements for the first five years after completion of the plaza improvements, prior to Owner/Permittee receiving final inspection of the Project.

7. Parking

The Project includes approximately 222 parking spaces in two-and-a-half levels of subterranean parking on the site and extending beneath the vacated Date Street. The subterranean parking shall be subject to the following:

- a. A minimum of 130 parking spaces (125 for use by the residential units and 5 for visitors/guests) shall be provided. In addition, a minimum of 6 motorcycle

- parking spaces and secured storage for a minimum of 25 bicycles shall be provided.
- b. A minimum of an additional 50 parking spaces shall be provided and be available for general public use for a minimum of five years from the date of issuance of final Certificate of Occupancy for the Project. The Owner/Permittee shall determine operations and rates for these spaces.
 - c. All parking spaces shall be designed to meet City Standards.

AIRPORT REQUIREMENTS

8. Airport Approach Overlay Zone

The Owner/Permittee shall comply with the procedures established by the City of San Diego Airport Approach Overlay Zone (and any successor or amendment thereto) for structures that exceed 30 feet in height (Chapter 13, Article 2, Division 2 of the San Diego Municipal Code).

PLANNING AND DESIGN REQUIREMENTS

9. Residential Development Requirements

The development shall provide the following residential amenities and facilities which shall be required to be maintained by the Owner/Permittee in perpetuity:

- a. Pet Open Space – A minimum of 100 square feet of area for use by pets and clearly marked for such exclusive use. The pet open space must contain permeable surface of gravel, sand, grass or similar, or a concrete surface connected to a drain in proximity to an outside faucet for washing down the surface. The Owner/Permittee shall be responsible for daily cleaning and regular maintenance of this space.
- b. Common Outdoor Open Space – A minimum of 6,900 square feet of common outdoor open space shall be provided. A minimum of 10 percent of each common outdoor open space area must be planted area and each area must be accessible to all residents of the project through a common corridor.
- c. Common Indoor Open Space – A minimum of 500 square feet of common indoor space shall be provided for use by all residents of the development. This area should be located adjacent to, and be accessible from, common outdoor open space areas. These spaces may contain active or passive recreational facilities, meeting space, computer terminals, or other activity space and must be accessible through a common corridor.
- d. Storage – The development shall provide personal storage areas for each dwelling unit in accordance with Chapter 13, Article 2, Division 4 of the SDMC.

10. Urban Design Standards

The proposed development, including its architectural design concepts and off-site improvements, shall be consistent with the CCPDO, Downtown Design Guidelines 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 development process.

- a. Architectural Standards – The architecture of the development shall establish a high quality of design and complement the design and character of the Little Italy neighborhood as shown in the approved Basic Concept/Schematic Drawings on file with CivicSD. The development shall utilize a coordinated color scheme consistent with the approved Basic Concept/Schematic Drawings.
- b. Form and Scale – The development shall consist of a five-story (69 foot tall) residential mixed use building on the south side of Date Street between India and Columbia Streets and a seven-story (88 foot tall) residential mixed use building on the north side of Date Street between India and Columbia streets. Roof equipment enclosures, elevator penthouses, and mechanical screening shall be permitted above these heights as permitted under the CCPDO and the FAA. All building elements shall be complementary in form, scale, and architectural style.
- c. Building Materials – All building materials shall be of a high quality as shown in the Basic Concept/Schematic Drawings and approved materials board. All materials and installation shall exhibit high-quality design, detailing, and construction execution to create a durable and high quality finish. The base of the buildings shall be clad in upgraded materials and carry down to within 1 (one) inch of finish sidewalk grade, as illustrated in the approved Basic Concept/Schematic Drawings. Any graffiti coatings shall be extended the full height of the upgraded base materials or up to a natural design break such as a cornice line. All down-spouts, exhaust caps, and other additive elements shall be superior grade for urban locations, carefully composed to reinforce the architectural design. Reflectivity of the glass shall be the minimum reflectivity required by Title 24.

All construction details shall be high quality and executed to minimize weathering, eliminate staining, and not cause deterioration of materials on adjacent properties or the public right of way. No substitutions of materials or colors shall be permitted without the prior written consent of the CivicSD. A final materials board which illustrates the location, color, quality, and texture of proposed exterior materials shall be submitted with 100% Construction Drawings and shall be consistent with the materials board approved with the Basic Concept/Schematic Drawings.

- d. Street Level Design – Street level windows shall be clear glass and may be lightly tinted. Architectural features such as awnings and other design features that add

human scale to the streetscape are encouraged where they are consistent with the design theme of the structure. Exit corridors including garage/motor-court entrances shall provide a finished appearance to the street with street level exterior finishes wrapping into any exposed openings a minimum of ten feet.

All exhaust caps, lighting, sprinkler heads, and other elements on the undersides of all balconies and projection surfaces shall be logically composed and placed to minimize their visibility, while meeting code requirements. All soffit materials shall be high quality and consistent with adjacent elevation materials and incorporate drip edges and other details to minimize staining and ensure long-term durability.

- e. Columbia Street Retail Space (North Building) – The retail space along Columbia Street shall maintain a minimum of 60 percent transparency between 3 and 12 feet above the sidewalk and shall be built out such that no back-of-house functions or any other obstructions reduce the minimum transparency requirements allowing views into the space.
- f. Utilitarian Areas – Areas housing trash, storage, or other utility services shall be located in the garages and shielded from view of the public right-of-way and adjoining developments, except for utilities required to be exposed by the City or utility company. The development shall provide trash and recyclable material storage areas per Municipal Code Sections 142.0810 and 142.0820. Such areas shall be provided within an enclosed building/garage area and shall be kept clean and orderly at all times. The development shall implement a recycling program to provide for the separation of recyclable materials from the non-recyclable trash materials.
- g. Mail/Delivery Locations – It is the Owner/Permittee’s responsibility to coordinate mail service and mailbox locations with the United States Postal Service and to minimize curb spaces devoted to postal/loading use. The Owner/Permittee shall locate all mailboxes and parcel lockers outside of the public right-of-way, either within the building or recessed into a building wall. A single, centralized interior mail area in a common lobby area is encouraged for all residential units within a development, including associated townhouses with individual street entrances. Individual commercial spaces shall utilize a centralized delivery stations within the building or recessed into a building wall, which may be shared with residential uses sharing a common street frontage address.
- h. Access – Vehicular access to the mixed-use building shall be the minimum driveway width permitted by the City.
- i. Circulation and Parking – The Owner/Permittee shall prepare a plan which identifies the location of curbside parking control zones, parking meters, fire hydrants, trees, and street lights. Such plan shall be submitted in conjunction with 100% Construction Drawings. The Owner/Permittee shall provide a 30-foot long

on-street commercial loading zone in its curb utilization plan, subject to approval by the City Engineer.

All subterranean parking shall meet the requirements of the Building Department, Fire Department and City Engineer. All parking shall be mechanically ventilated. The exhaust system for mechanically ventilated structures shall be located to mitigate noise and exhaust impacts on the public right-of-way.

- j. Open Space/Development Amenities – A landscape plan that illustrates the relationship of the proposed on and off-site improvements and the location of water, and electrical hookups shall be submitted with 100% Construction Drawings.
- k. Roof Tops – A rooftop equipment and appurtenance location and screening plan shall be prepared and submitted with 100% Construction Drawings. Any roof-top mechanical equipment must be grouped, enclosed, and screened to the extent feasible from surrounding views.
- l. Signage – All signs shall comply with the City of San Diego Sign Regulations and the CCPDO.
- m. Lighting – A lighting plan that highlights the architectural qualities of the proposed development and also enhances the lighting of the public right-of-way shall be submitted with 100% Construction Drawings. All lighting shall be designed to avoid illumination of adjoining properties.
- n. 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. Owner/Permittee shall provide evidence of compliance at 100% Construction Drawings.
- o. Energy Considerations – The design of the improvements should include, where feasible, energy conservation construction techniques and design, including cogeneration facilities, and active and passive solar energy design.
- p. Street Address – Building address numbers shall be visible and legible from the public right-of-way.

11. 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 100% Construction Drawings. Any on-site landscaping shall establish a high quality of design

and be sensitive to landscape materials and design planned for the adjoining public rights-of-way.

PUBLIC IMPROVEMENTS, LANDSCAPING AND UTILITY REQUIREMENTS

12. Off-Site Improvements

The following public improvements shall be installed in accordance with the Centre City Streetscape Manual (“Manual”). The Manual is currently being updated and the Permittee shall install the appropriate improvements according to the latest requirements at the time of Building Permit issuance:

	India Street	Columbia Street
Paving	Little Italy Paving (See Figure T-12 of the CCSM)	Little Italy Paving
Street Trees	Chinese Tallow	Raywood Ash
Street Lights	Little Italy Enhanced Standard Light (See Figure T-26 of the CCSM)	Little Italy Enhanced Standard Light

All trees shall be planted at a minimum 36-inch box size with tree grates provided as specified in the Centre City Streetscape Manual, and shall meet the requirements of Title 24. Tree spacing shall be accommodated after street lights have been sited, and generally spaced 20 to 25 feet on center. All landscaping shall be irrigated with private water service from the subject property.

- a. Street Lights – All existing lights shall be evaluated to determine if they meet current CivicSD and City requirements, and shall be modified or replaced if necessary.
- b. Sidewalk Paving – Any specialized paving materials shall be approved through the execution of an Encroachment Removal and Maintenance Agreement with the City.
- c. Litter Containers – A minimum of four (4) Little Italy public trash receptacles shall be provided (one at each corner of the block) along India and Columbia streets.
- d. On-Street Parking – The Owner/Permittee shall maximize the amount of on-street parking wherever feasible, on India and Columbia streets.
- e. Public Utilities – The Owner/Permittee 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, water, and roof drain laterals shall be connected to the appropriate utility mains within the street and beneath the sidewalk. The Owner/Permittee may use existing laterals if acceptable to the City, and if not, Owner/Permittee shall cut and plug existing laterals at such places and in the manner required by the City, and install new laterals. Private sewer laterals require an Encroachment Maintenance and Removal Agreement with the City of San Diego.

All proposed public sewer facilities are to be designed and constructed in accordance with established criteria in the most current City of San Diego Sewer Design Guide. If it is determined that existing water and sewer services are not of adequate size to serve the proposed development, the Owner/Permittee will be required to abandon (kill) any unused water and sewer services and install new services and meters. Service kills require an engineering permit and must be shown on a public improvement plan. All proposed public water and sewer facilities, including services and meters, must be designed and constructed in accordance with established criteria in the most current edition of City of San Diego Water and Sewer Facility Design Guidelines and City regulations standards and practices pertaining thereto.

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.

All roof drainage and sump drainage, if any, shall be connected to the storm drain system in the public street, or if no system exists, to the street gutters through sidewalk underdrains. Such underdrains shall be approved through an Encroachment Removal Agreement with the City. The Owner/Permittee shall comply with the City of San Diego Storm Water Management and Discharge Control Ordinance and the storm water pollution prevention requirements of Chapter 14, Article 2, Division 1 and Chapter 14, Article 2, Division 2 of the Land Development Code.

- f. Franchise Public Utilities - The Owner/Permittee shall be responsible for the installation or relocation of franchise utility connections including, but not limited to, gas, electric, telephone and cable, to the development and all extensions of those utilities in public streets. Existing franchised utilities located above grade serving the property and in the sidewalk right-of-way shall be removed and incorporated into the adjoining development where feasible.
- g. Fire Hydrants - If required, the Owner/Permittee shall install fire hydrants at locations satisfactory to the City of San Diego Fire Department and Development Services Department.
- h. Water Meters and Backflow Preventers - The Owner/Permittee shall locate all water meters and backflow preventers in locations satisfactory to the Public

Utilities Department and CivicSD. Backflow preventers shall be located outside of the public right-of-way adjacent to the development's water meters, either within the building, a recessed alcove area, or within a plaza or landscaping area. The devices shall be screened from view from the public right-of-way.

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

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

The Owner/Permittee 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. Such work may include without limitation the following:

- a. Remove (and dispose of) and/or treat any contaminated soil and/or water on the site (and encountered during installation of improvements in the adjacent public rights-of-way which the Owner/Permittee is to install) as necessary to comply with applicable governmental standards and requirements.
- b. Design construct all improvements on the site in a manner which will assure protection of occupants and all improvements from any contamination, whether in vapor or other form, and/or from the direct and indirect effects thereof.
- c. Prepare a site safety plan and submit it to the appropriate governmental agency, CivicSD, and other authorities for approval in connection with obtaining a building permit for the construction of improvements on the site. Such site safety plan shall assure workers and other visitors to the site of protection from any health and safety hazards during development and construction of the improvements. Such site safety plan shall include monitoring and appropriate protective action against vapors and/or the effect thereof.
- d. Obtain from the County of San Diego and/or California Regional Water Quality Control Board and/or any other authorities required by law any permits or other approvals required in connection with the removal and/or remedy of soil and/or water contamination, in connection with the development and construction on the site.
- e. If required due to the presence of contamination, an impermeable membrane or other acceptable construction alternative shall be installed beneath the foundation of the building. Drawings and specifications for such vapor barrier system shall be submitted for review and approval by the appropriate governmental authorities.

STANDARD REQUIREMENTS14. Environmental Impact Mitigation Monitoring and Reporting Program (MMRP)

The development shall comply with all applicable MMRP measures from the Sixth Addendum to the 2006 Final Environmental Impact Report (FEIR) for the Downtown Community Plan as applicable:

- a. Air Quality – Mitigation Measure AQ-B.1
- b. Historical Resources – Mitigation Measures HIST-A.1 and HIST-B.1
- c. Paleontological Resources – Mitigation Measure PAL-A.1

15. Development Impact Fees

The development will be subject to Centre City Development Impact Fees. For developments containing commercial space(s) the Owner/Permittee shall provide to the City's Facilities Financing Department the following information at the time of application for building permit plan check: 1) total square footage for commercial lease spaces and all areas within the building dedicated to support those commercial spaces including, but not limited to: loading areas, service areas and corridors, utility rooms, and commercial parking areas; and 2) applicable floor plans showing those areas outlined for verification. In addition, it shall be responsibility of the Owner/Permittee to provide all necessary documentation for receiving any "credit" for existing buildings to be removed.

16. Inclusionary Housing Ordinance

As required by SDMC Chapter 14, Article 2, Division 13, the development shall comply with all applicable regulations of the City of San Diego's Inclusionary Housing Ordinance.

17. Construction Fence

Owner/Permittee shall install a construction fence pursuant to specifications of, and a permit from, the City Engineer. The fence shall be solid plywood with wood framing, painted a consistent color with the development's design, and shall contain a pedestrian passageway, signs, and lighting as required by the City Engineer. The fencing shall be maintained in good condition and free of graffiti at all times.

18. Development Identification Signs

Prior to commencement of construction on the Site, the Owner/Permittee shall prepare and install, at its cost and expense, two signs on the barricade around the site which identifies the development. The sign shall be at least four (4) feet by six (6) feet and be visible to passing pedestrian and vehicular traffic. The signs shall at a minimum include:

- Color rendering of the development
- Development name
- Developer
- Completion Date
- For information call _____.

Additional development signs may be provided around the perimeter of the site. All signs shall be limited to a maximum of 160 square feet per street frontage. Graphics may also be painted on any barricades surrounding the site. All signs and graphics shall be submitted to CivicSD for approval prior to installation.

19. Tentative Map

The Owner/Permittee shall be responsible for obtaining all map approvals required by the City of San Diego prior to any proposal for residential units to be offered for sale.

20. This Permit must be utilized within thirty-six (36) months after the date on which all rights of appeal have expired. If this Permit is not utilized in accordance with Chapter 12, Article 6, Division 1 of the SDMC within the 36 month period, this permit shall be void unless an Extension of Time (EOT) has been granted. Any such EOT must meet all SDMC and CCPDO requirements in effect at the time of extension are considered by the appropriate decision maker.
21. Issuance of this Permit by the City of San Diego does not authorize the Owner/Permittee of this Permit to violate any Federal, State or City laws, ordinances, regulations or policies.
22. This Permit is a covenant running with the subject property and all of the requirements and conditions of this Permit and related documents shall be binding upon the Owner/Permittee and any successor(s) in interest.
23. This development shall comply with the standards, policies, and requirements in effect at the time of approval of this development, including any successor(s) or new policies, financing mechanisms, phasing schedules, plans and ordinances adopted by the City of San Diego.
24. No permit for construction, operation, or occupancy of any facility or improvement described herein 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 San Diego County Recorder.
25. The Owner/Permittee shall defend, indemnify, and hold harmless the City/CivicSD, its agents, officers, and employees from any and all claims, actions, proceedings, damages, judgments, or costs, including attorney's fees, against the City/CivicSD or its agents, officers, or employees, relating to the issuance of this permit including, but not limited to, any action to attack, set aside, void, challenge, or annul this development approval and

EXHIBIT A
LEGAL DESCRIPTION

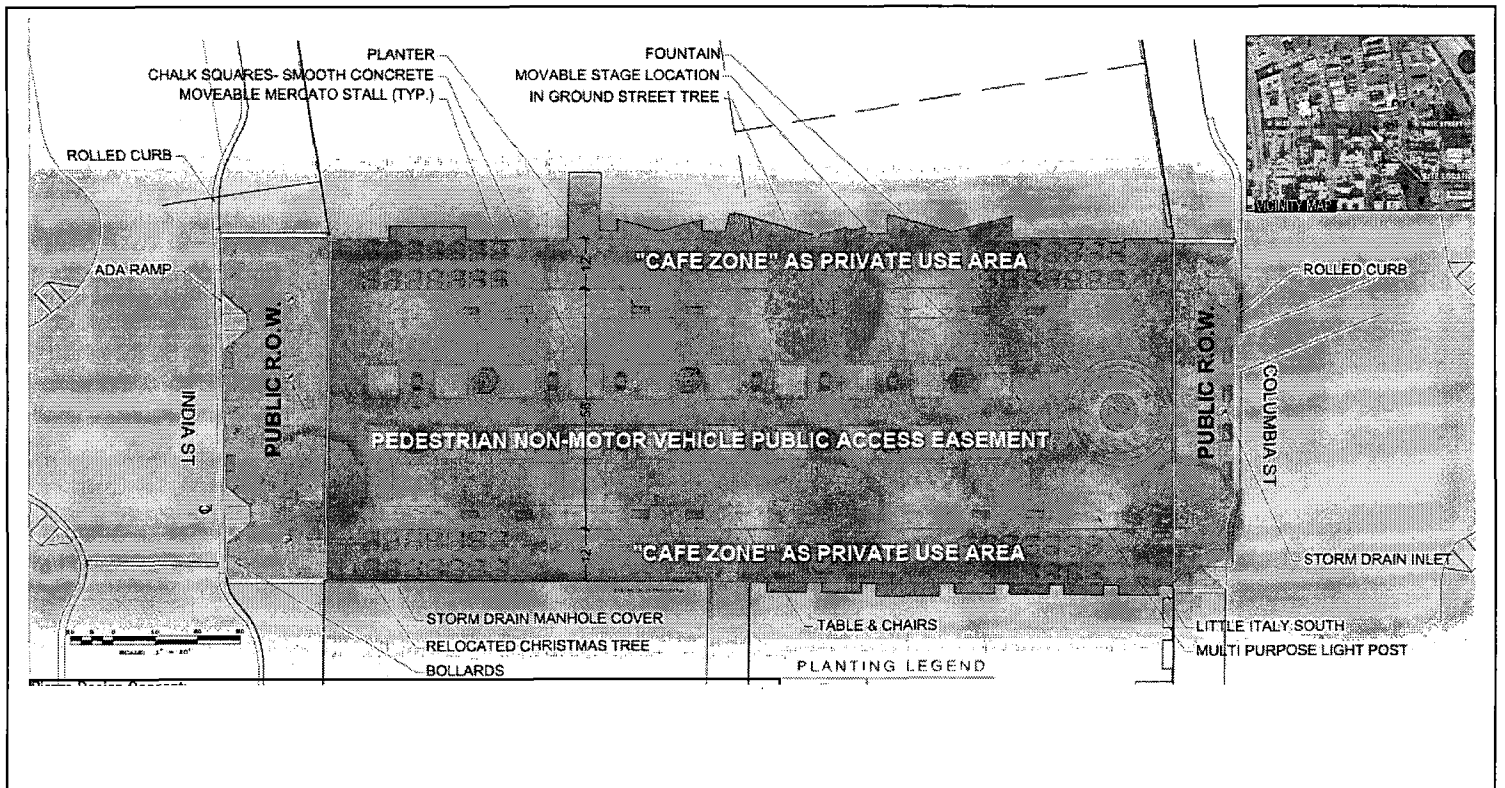
North Site

Parcel A: Lots 8 through 12 in Block 38 of Middletown, in the City of San Diego, County of San Diego, State of California, According to the Map thereof by J.E. Jackson on file in the Office of the Clerk of San Diego County.

South Site

Lots 1 and 12 in Block 31 of Middletown, in the City of San Diego, County of San Diego, State of California, According to the Map thereof by J.E. Jackson on file in the Office of the Clerk of San Diego County.

EXHIBIT "B"



Passed by the Council of The City of San Diego on JUL 14 2014, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Sherrri Lightner	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ed Harris	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Todd Gloria	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Myrtle Cole	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mark Kersey	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lorie Zapf	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Scott Sherman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
David Alvarez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Marti Emerald	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage JUL 14 2014

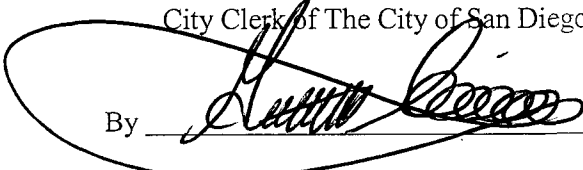
(Please note: When a resolution is approved by the Mayor, the date of final passage is the date the approved resolution was returned to the Office of the City Clerk.)

AUTHENTICATED BY:

KEVIN L. FAULCONER
Mayor of The City of San Diego, California.

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

(Seal)

By  Deputy

Office of the City Clerk, San Diego, California

Resolution Number R- 309116