

RESOLUTION NUMBER R- 309551

DATE OF FINAL PASSAGE MAR 16 2015

A RESOLUTION OF THE COUNCIL OF THE CITY OF  
SAN DIEGO APPROVING CONDITIONAL USE PERMIT AND  
NEIGHBORHOOD USE PERMIT FOR BAYVIEW SENIOR  
LIVING PROJECT.

WHEREAS, 12<sup>TH</sup> & A Hotel Partners, LP., Owner/Permittee, filed an application with the City of San Diego for a Conditional Use Permit (CUP) and Neighborhood Use Permit (NUP), to allow a 41,026 square foot senior housing facility consisting of a total of 69 senior units with common areas and rooftop amenity space; allow residential units along the Park Boulevard street frontage in lieu of the minimum 60 percent active commercial uses required under the Commercial Street Overlay of the Centre City Planned District Ordinance (CCPDO); and the expansion of a previously conforming use including reconstruction of two original towers (400 square feet total), reconstruction of a third floor section of the building (1,875 square feet) and construction of a 2,652 square foot addition and 534 square foot sunroom for Historic Bayview Hotel located at 509 Park Boulevard in the East Village neighborhood of the Downtown Community Plan (DCP) area in the City of San Diego, State of California, and more particularly described as Parcel 2 of Parcel Map 18771, in the City of San Diego, County of San Diego, State of California, filed in the office of the San Diego County recorder on August 10, 2001, and

WHEREAS, the matter was set for public hearing on March 16, 2015, 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 CUP/NUP No. 2013-25:

**Neighborhood Use Permit – Section 126.0205**

**1. The proposed use or development will not adversely affect the applicable land use plan.** The proposed rehabilitation and expansion of the building will not adversely affect the applicable land-use plan as the DCP encourages the rehabilitation and reuse of historical resources as well as promotes the retention of significant elements as a cultural and sustainability goal. The proposed rehabilitation and expansion is consistent with the goals and policies of the DCP for historical resources and is allowed under the CCPDO with approval of an NUP.

**2. The proposed use or development will not be detrimental to the public health, safety, and welfare.** The proposed rehabilitation of the Bay View Hotel includes the reconstruction of two towers and a third-floor section original to the building and includes a new rooftop addition and sunroom. The proposed modifications are consistent with the Secretary of the Interior Standards (Standards) and will restore an important building in downtown San Diego's history. A variety of life and safety upgrades are also being completed as part of the rehabilitation and expansion, therefore, the proposed development will not be detrimental to the public health, safety, and welfare.

**3. The proposed use or development will comply to the maximum extent feasible with the regulations of the Land Development Code.** The CCPDO and Land Development Code (LDC) specifically contain regulations to allow the reconstruction and expansion of a previously conforming structure with approval of an NUP. The proposed rehabilitation and new construction comply with the City's Historical Resource Regulations and are consistent with the Standards. With approval of an NUP, the Project will meet all applicable regulations.

**4. The proposed use is appropriate at the proposed location.** The Project site is located within the RE District, which allows the proposed use with approval of a CUP/NUP. The proposed Project will rehabilitate a designated historical building for uses consistent with the DCP and CCPDO. Therefore, the proposed rehabilitation and expansion of the Bay View Hotel is appropriate at the proposed location.

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 CUP/NUP No. 2013-25:

**Neighborhood Use Permit – Section 126.0205**

**1. The proposed use or development will not adversely affect the applicable land use plan.** The proposed rehabilitation and expansion of the building will not adversely affect the applicable land-use plan as the DCP encourages the rehabilitation and reuse of historical resources as well as promotes the retention of significant elements as a cultural and sustainability goal. The proposed rehabilitation and expansion is consistent with the goals and policies of the DCP for historical resources and is allowed under the CCPDO with approval of an NUP.

**2. The proposed use or development will not be detrimental to the public health, safety, and welfare.** The proposed rehabilitation of the Bay View Hotel includes the reconstruction of two towers and a third-floor section original to the building and includes a new rooftop addition and sunroom. The proposed modifications are consistent with the Secretary of the Interior Standards (Standards) and will restore an important building in downtown San Diego's history. A variety of life and safety upgrades are also being completed as part of the rehabilitation and expansion, therefore, the proposed development will not be detrimental to the public health, safety, and welfare.

**3. The proposed use or development will comply to the maximum extent feasible with the regulations of the Land Development Code.** The CCPDO and Land Development Code (LDC) specifically contain regulations to allow the reconstruction and expansion of a previously conforming structure with approval of an NUP. The proposed rehabilitation and new construction comply with the City's Historical Resource Regulations and are consistent with the Standards. With approval of an NUP, the Project will meet all applicable regulations.

**4. The proposed use is appropriate at the proposed location.** The Project site is located within the RE District, which allows the proposed use with approval of a CUP/NUP. The proposed Project will rehabilitate a designated historical building for uses consistent with the DCP and CCPDO. Therefore, the proposed rehabilitation and expansion of the Bay View Hotel is appropriate at the proposed location.

**Conditional Use Permit – Section 126.0305**

**1. The proposed use or development will not adversely affect the applicable land use plan.** The proposed Project includes the rehabilitation of an existing designated historical resource into a comprehensive senior housing facility with a total of 69 units and a total of 97 beds providing independent living, assisted living, and memory care. The facility will also include a variety of on-site services for seniors including health and exercise programs, computer classes, and social and recreational activities. Parking requirements for the Project are established as part of the CUP review process. Due to the historical nature of the existing building, parking cannot be accommodated on site. Therefore, the facility will not be required to provide off-street parking for the Project. The facility will provide much needed senior housing within the DCP area. The DCP encourages the creation of a range of housing opportunities suitable for urban environments and accommodating a diverse population. In addition, the Project proposes to retain and rehabilitate an important historical resource for downtown San Diego. The DCP encourages the rehabilitation and reuse of historical resources as a cultural and sustainability goal. Therefore, the Project as proposed does not adversely affect the applicable land use plan.

**2. The proposed use or development will not be detrimental to the public health, safety, and welfare.** The senior housing facility will provide much needed housing for a growing senior population within the downtown area. The proposed development will include the rehabilitation of a historical resource and will include a variety of accessibility upgrades and improvements consistent with the California Building Code, Life Safety Requirements. Therefore, the proposed senior housing facility will not be detrimental to the public health, safety, and welfare.

**3. The proposed use or development will comply to the maximum extent feasible with the regulations of the Land Development Code.** The proposed senior housing facility is located within the RE District, which accommodates primarily residential development with small scale businesses, offices, services, and ground-floor active commercial uses subject to size and area limitations. Senior housing facilities are permitted with approval of a CUP, subject to reasonable conditions of approval. The facility is also located within the CS overlay zone, which requires a minimum of 60 percent active commercial uses along the Park Boulevard street frontage; however, the CCPDO allows historical resources to be occupied by uses otherwise not allowed by the underlying zoning, subject to specific conditions as outlined later in the report. The facility as proposed will comply with these conditions and will operate in conformance with the regulations of the Land Development Code (LDC), the DCP, and the CCPDO to the maximum extent feasible.

**4. The proposed use is appropriate at the proposed location.** The Project site is located within the RE District, which allows the proposed use with approval of a CUP/NUP. The location for the proposed senior housing facility is appropriate as it is surrounded by primarily residential uses, a variety of commercial uses within walking distance and within close proximity to transit.

**Conditional Use Permit (Historical Buildings Occupied by Uses Otherwise Not Allowed) – Section 156.0315(h)**

**1. The building must be designated as a historical resource by the City of San Diego Historical Resources Board before approval of the Conditional Use Permit.** The property at 509 Park Boulevard is locally designated as HRB Site #1132 – Bay View Hotel. It was built in 1869 as a wood-sided hotel and was the second and largest hotel built in the initial phase of Alonzo Horton's New San Diego. The building's design is primarily in the Victorian style and is located prominently at the corner of Island Avenue and Park Boulevard. The building is three stories high and features wood and brick exterior walls with a flat roof. The building features a number of multi-level bay windows at both street frontages. The building was designated by the Historic Resources Board on February 27, 2014 under Criterion A – exemplifies or reflects special elements of the City, a community's or a neighborhood's historical, archaeological, cultural, social, economic, political, aesthetic, engineering, landscaping or architectural development and under Criterion C- embodies distinctive characteristics of a style, type, period or method of construction, or is a valuable example of the use of natural materials or craftsmanship. The Bay View Hotel has also been identified as eligible for National Register designation as an individual property through survey evaluation.

**2. The use of the building shall be compatible with the uses in the surrounding area or shall be consistent with the purpose for which the building was originally designed.** The area surrounding the Bay View Hotel is primarily mixed-use residential. The site is currently occupied by 27 apartment units and 74 SRO units and is being converted into 69 senior housing units. The areas surrounding the Bay View Hotel are primarily mixed-use residential and senior housing is a compatible land use. The Bay View Hotel was originally constructed and designed as one of the first hotel buildings downtown and subsequently housed the Rockwood Home for the Aged. While not originally designed as a senior housing facility, the building was utilized and has accommodated similar land uses over the years, which have become an important part of the building's history. With the approval of the appropriate discretionary permits including the CUP and NUP, as well as with the applicable conditions of approval, the proposed use will be compatible with the surrounding uses and consistent with the purpose for which the building was originally designed.

**3. The site shall be maintained in, or restored to, its original or historical appearance, in accordance with Chapter 14, Article 3, Division 2 (Historical Resources Regulations).** As part of this Project, the Applicant proposes to rehabilitate the building in accordance with the Standards. The proposed rehabilitation has been reviewed by HRB staff and considers the proposed rehabilitation to be a minor alteration or improvement consistent with Chapter 14, Article 3, Division 2 of the City's Historical Resources Regulations and the Standards. The proposed repairs and alterations will preserve a historical resource, allow a contemporary use, and will not damage or destroy materials, features or finishes that are important in defining the building's historic character.

**4. Any facilities that are constructed as part of the new use shall be designed to be similar in scale and style with the historical use, and cause no more than a minor alteration to the *historical resource* in accordance with Historical Resources Regulations**

**Conditional Use Permit (Historical Buildings Occupied by Uses Otherwise Not Allowed) – Section 156.0315(h)**

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**2. The use of the building shall be compatible with the uses in the surrounding area or shall be consistent with the purpose for which the building was originally designed.** The area surrounding the Bay View Hotel is primarily mixed-use residential. The site is currently occupied by 27 apartment units and 74 SRO units and is being converted into 69 senior housing units. The areas surrounding the Bay View Hotel are primarily mixed-use residential and senior housing is a compatible land use. The Bay View Hotel was originally constructed and designed as one of the first hotel buildings downtown and subsequently housed the Rockwood Home for the Aged. While not originally designed as a senior housing facility, the building was utilized and has accommodated similar land uses over the years, which have become an important part of the building's history. With the approval of the appropriate discretionary permits including the CUP and NUP, as well as with the applicable conditions of approval, the proposed use will be compatible with the surrounding uses and consistent with the purpose for which the building was originally designed.

**3. The site shall be maintained in, or restored to, its original or historical appearance, in accordance with Chapter 14, Article 3, Division 2 (Historical Resources Regulations).** As part of this Project, the Applicant proposes to rehabilitate the building in accordance with the Standards. The proposed rehabilitation has been reviewed by HRB staff and considers the proposed rehabilitation to be a minor alteration or improvement consistent with Chapter 14, Article 3, Division 2 of the City's Historical Resources Regulations and the Standards. The proposed repairs and alterations will preserve a historical resource, allow a contemporary use, and will not damage or destroy materials, features or finishes that are important in defining the building's historic character.

**4. Any facilities that are constructed as part of the new use shall be designed to be similar in scale and style with the historical use, and cause no more than a minor alteration to the *historical resource* in accordance with Historical Resources Regulations**

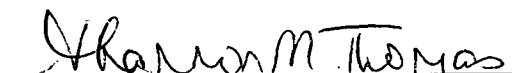
**unless the *development* is approved through a Site Development Permit or Neighborhood Development Permit in accordance with Chapters 11 through 14 of this Code.** The proposed Project includes rehabilitation of the historical building in accordance with the Standards. The rehabilitation scope includes replication of two original towers and rear third-floor area, as well as a roof-top addition of approximately 2,652 square feet. The rehabilitation also includes repair and restoration of ornamental features, historical material and restored color scheme. The proposed scope of work brings the building closer to its original design and is considered to be no more than a minor alteration consistent with the Historical Resource Regulations. The proposed modifications do not require approval of a Site Development or Neighborhood Development Permit under Chapters 11 through 14 of the San Diego Municipal Code.

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

BE IT FURTHER RESOLVED, that Conditional Use Permit/ Neighborhood Use Permit No. 2013-25 is granted to 12<sup>th</sup> & A Hotel Partner, L.P. Owner/Permittee, under the terms and conditions set forth in the permit attached hereto and made a part hereof.

BE IT FURTHER RESOLVED, that the project is exempt from the Single Room Occupancy housing replacement requirement pursuant to San Diego Municipal Code §143.0520(b), based on the information provided on the record at the hearing and the backup documents. In addition, the project will include 10% of the units to be occupied by and affordable to individuals earning at or below 60% AMI.

APPROVED: JAN I. GOLDSMITH, City Attorney

By   
Shannon M. Thomas  
Deputy City Attorney

SMT:als  
2/20/2015  
4/06/2015 Rev.Copy  
Or.Dept: Civic San Diego  
Doc. No. 959961\_3

**RECORDING REQUESTED BY:**

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

**AND 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 ON USE OR DEVELOPMENT OF REAL PROPERTY AFFECTING THE TITLE TO OR POSSESSION THEREOF*

**CONDITIONAL USE PERMIT/ NEIGHBORHOOD USE PERMIT NO. 2013-25**

**BAYVIEW SENIOR LIVING PROJECT**

**509 PARK BOULEVARD**

**APN# 535-151-11**

**CITY COUNCIL**

This Conditional Use Permit/Neighborhood Use Permit No. 2013-25 is granted by the City of San Diego City Council to 12<sup>th</sup> & A Hotel Partners, LP. Owner/Permittee, pursuant to San Diego Municipal Code (SDMC) Section 156.0308 and 156.0315. The site is located at 509 Park Boulevard in the East Village neighborhood of the Downtown Community Planning (DCP) Area. The project site is further described as Parcel 2 of Parcel Map 18771, in the City of San Diego, County of San Diego, State of California, filed in the office of the San Diego County recorder on August 10, 2001.

On March 16, 2015 the City of San Diego City Council held a duly noticed public hearing and considered CUP/NUP No. 2013-25, including a staff report and recommendation and public testimony, pursuant to Sections 141.0621, 156.0304, 156.0308 and 156.0315 of the Municipal Code of the City of San Diego.

Subject to the terms and conditions set forth in this Permit, permission is granted to the Owner/Permittee to operate uses as described and identified by size, dimension, quantity, type and location as follows and on the approved exhibits on file in the offices of the CivicSD Planning Department dated October 16, 2013.



1. Conditional Use Permit

The City of San Diego City Council hereby grants a Conditional Use Permit (CUP) to allow a 69 unit; 41,026 square foot senior housing development as defined in State of California Civil Code Section 51.3. The senior housing development shall be comprised of the following:

- a. Ground level – 17 memory care units, dining and common areas
- b. Second and third floor – 51 assisted living units
- c. Rooftop – Common areas and one guest suite

The Parking requirements for senior housing are established through the CUP review and approval process under CCPDO Section 156.0313, Table 156.0313A. No parking is required under the CUP for the senior housing development.

2. Conditional Use Permit for Historical Buildings Occupied by Uses Otherwise Not Allowed

The City of San Diego City Council grants a CUP to allow residential units along the Park Boulevard street frontage in lieu of the minimum of 60% active commercial uses required under the Commercial Street Overlay of the CCPDO.

3. Historical Resources Board Site No. 1132 – Bayview Hotel

The building shall be rehabilitated according to the Secretary of Interior Standards for the Treatment of Historic Properties and guidelines for Preserving, Rehabilitating, Restoring and Reconstructing Historic Buildings and the City of San Diego's Regulations for Historical Resources. All rehabilitation work shall be approved by the City of San Diego Historical Resources Staff prior to issuance of any building permits.

4. Neighborhood Use Permit

The City of San Diego City Council hereby grants a Neighborhood Use Permit (NUP) allowing the expansion of a previously conforming use as follows:

- a. Reconstruction of two original towers (400 square feet each)
- b. Reconstruction of a third floor section of the building (1,875 square feet)
- c. Construction of a 2,652 square foot rooftop addition and 534 square foot sunroom.

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2. Conditional Use Permit for Historical Buildings Occupied by Uses Otherwise Not Allowed

The City of San Diego City Council grants a CUP to allow residential units along the Park Boulevard street frontage in lieu of the minimum of 60% active commercial uses required under the Commercial Street Overlay of the CCPDO.

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- c. Construction of a 2,652 square foot rooftop addition and 534 square foot sunroom.

5. Single Room Occupancy (SRO) Hotel Ordinance

As required by SDMC Chapter 14, Article 3, Division 5, the Owner/Permittee shall comply with the tenant relocation provisions of the City of San Diego's SRO Hotel regulations and enter into such agreements and perform such tasks as are required to comply with such SRO relocation requirements, as approved by the San Diego Housing Commission. The Owner/Permittee shall provide documentation of such compliance to CivicSD prior to the issuance of any building permits. The Owner/Permittee is exempt from the housing replacement requirements of the City of San Diego's SRO Hotel regulations.

6. Affordable Housing

The Owner/Permittee shall provide 10% of the units, not less than 6, to be affordable to and occupied by individuals earning at or below 60% AMI. An agreement with the San Diego Housing Commission shall be executed to enforce and monitor the affordability restrictions prior to issuance of any building permits.

**STANDARD REQUIREMENTS**

7. The Permittee shall comply with the following conditions:

- a. The facility shall provide adequately sized laundry facilities on the ground level to serve the needs of the residents.
- b. The facility shall provide a recreation/social room at a minimum size of 400 square feet and shall have toilet facilities available on the ground floor.
- c. The facility shall provide elevator service to all four levels of the building.
- d. The facility shall provide accessibility to an on-site manager or provide a visible posted phone number for the project owner or off-site manager for emergencies or maintenance problems.
- e. Areas housing trash, storage, or other utility services shall be completely concealed 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 project 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 project shall implement a recycling program to provide for the separation of recyclable materials from the non-recyclable trash materials.

- f. 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 developer shall locate all mailboxes and parcel lockers outside of the public right-of-way, either within the building or recessed into a building wall. Individual commercial spaces shall utilize a centralized delivery stations within the building or recessed into a building wall.
- g. 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.
- h. 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 from surrounding views.
- i. All mechanical equipment, including but not limited to, air conditioning, heating and exhaust systems, shall comply with the City of San Diego Noise Ordinance and California Noise Insulation Standards as set forth in Title 24 of the California Code of Regulations. All mechanical equipment shall be located to mitigate noise and exhaust impacts on adjoining development, particularly residential. Developer shall provide evidence of compliance at 100% Construction Drawings.

## **PUBLIC IMPROVEMENTS, LANDSCAPING AND UTILITY REQUIREMENTS**

### 8. Off-Site Improvements

If any public improvements are to be installed, they shall be in accordance with the Centre City Streetscape Manual. The Manual is currently being updated and the developer shall install the appropriate improvements according to the latest requirements at the time of Building Permit issuance.

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.

The Owner/Permittee will be responsible for evaluating, with consultation with CivicSD, whether any existing trees within the right-of-way shall be maintained and preserved. No trees shall be removed prior to obtaining a Tree Removal Permit from the City Streets Division per City Council Policy 200-05.

- f. 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 developer shall locate all mailboxes and parcel lockers outside of the public right-of-way, either within the building or recessed into a building wall. Individual commercial spaces shall utilize a centralized delivery stations within the building or recessed into a building wall.
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- i. All mechanical equipment, including but not limited to, air conditioning, heating and exhaust systems, shall comply with the City of San Diego Noise Ordinance and California Noise Insulation Standards as set forth in Title 24 of the California Code of Regulations. All mechanical equipment shall be located to mitigate noise and exhaust impacts on adjoining development, particularly residential. Developer shall provide evidence of compliance at 100% Construction Drawings.

## **PUBLIC IMPROVEMENTS, LANDSCAPING AND UTILITY REQUIREMENTS**

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The Owner/Permittee will be responsible for evaluating, with consultation with CivicSD, whether any existing trees within the right-of-way shall be maintained and preserved. No trees shall be removed prior to obtaining a Tree Removal Permit from the City Streets Division per City Council Policy 200-05.

- 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. Public Utilities (sewer, water and storm drain) - 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 Developer may use existing laterals if acceptable to the City, and if not, Developer shall cut and plug existing laterals at such places and in the manner required by the City, and install new laterals. Private sewer laterals require an Encroachment Maintenance and Removal Agreement.

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 project 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.

- d. 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 project 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.
- e. Fire Hydrants – If required, the Owner/Permittee shall install fire hydrants at locations satisfactory to the Fire Department and City of San Diego Development Services Department.
- f. Water Meters and Backflow Preventors – The Owner/Permittee shall locate all water meters and backflow preventors in locations satisfactory to the Water Utilities Department and CivicSD. Backflow preventors shall be located outside of the public right-of-way adjacent to the project'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 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.

9. 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 Developer is to install) as necessary to comply with applicable governmental standards and requirements.
- b. Design and construct all improvements on the Site in a manner in 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 bodies, 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.

10. Environmental Impact Mitigation and Monitoring Reporting Program (MMRP)

As required by the SDMC Section 156.0304 (f), the development shall comply with all applicable MMRP measures from the 2006 Final Environmental Impact Report (FEIR) for the Downtown Community Plan as applicable.

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 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.

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- 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 Developer is to install) as necessary to comply with applicable governmental standards and requirements.
- b. Design and construct all improvements on the Site in a manner in 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 bodies, 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.

10. Environmental Impact Mitigation and Monitoring Reporting Program (MMRP)

As required by the SDMC Section 156.0304 (f), the development shall comply with all applicable MMRP measures from the 2006 Final Environmental Impact Report (FEIR) for the Downtown Community Plan as applicable.



11. Construction Fence

The 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 project'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.

12. Development Identification Signs

Prior to commencement of construction on the Site, the Developer shall prepare and install, at its cost and expense, one sign 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 \_\_\_\_\_.

The sign shall also contain the CivicSD "Paradise in Progress" logo and the Downtown Construction Hotline phone number. Additional project 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.

13. This CUP/NUP 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 the extension is considered by the appropriate decision maker.
14. 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 successors(s) in interest.

15. 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 conducted on the premises until this Permit is recorded in the Office of the San Diego County Recorder.
16. The Owner/Permittee shall defend, indemnify, and hold harmless the City, its agents, officers, and employees from any and all claims, actions, proceedings, damages, judgments, or costs, including attorney's fees, against the City or its agents, officers, or employees, 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 any environmental document or decision. The City will promptly notify Owner/Permittee of any claim, action, or proceeding and, if the City should fail to cooperate fully in the defense, the Owner/Permittee shall not thereafter be responsible to defend, indemnify, and hold harmless the City or its agents, officers, and employees. The City may elect to conduct its own defense, participate in its own defense, or obtain independent legal counsel in defense of any claim related to this indemnification. In the event of such election, Owner/Permittee shall pay all of the costs related thereto, including without limitation reasonable attorney's fees and costs. In the event of a disagreement between the City and Owner/Permittee regarding litigation issues, the City shall have the authority to control the litigation and make litigation related decisions, including, but not limited to, settlement or other disposition of the matter. However, the Owner/Permittee shall not be required to pay or perform any settlement unless such settlement is approved by Owner/Permittee.
17. This Permit may be revoked if there is a material breach or default in any of the conditions of this permit. If the business creates a nuisance to the surrounding neighborhood, based on a determination of the President of CivicSD, this permit may be revoked after the holding of a public hearing.
18. This Permit shall not become effective until:
  - a. The Permittee signs and returns the Permit to CivicSD;
  - b. The Permit is recorded in the Office of the County Recorder; and,
  - c. This Permit must be used within 36 months after the date of approval or the Permit shall become void.
19. After establishment of the subject property, the property shall not be used for other uses unless:
  - a. Authorized by CivicSD; or,
  - b. The uses are consistent with all zoning and development regulations of the CCPDO; or,
  - c. This Permit has been revoked by CivicSD.

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20. The Owner/Permittee shall adhere to all Federal, State and Local laws, ordinances and regulations at all times.

This CUP/NUP is granted by the City of San Diego City Council on MAR 16 2015.

**CIVIC SAN DIEGO**

**OWNER/PERMITTEE SIGNATURE**

\_\_\_\_\_/\_\_\_\_\_  
Aida L. Contreras      Date  
Senior Planner

\_\_\_\_\_/\_\_\_\_\_  
12<sup>th</sup> & A Hotel Partner L.P.      Date  
Sandor Shapery, Managing Member

Passed by the Council of The City of San Diego on MAR 16 2015, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Sherri Lightner	<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"/>
Todd Gloria	<input type="checkbox"/>	<input checked="" 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"/>
Chris Cate	<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 MAR 16 2015.

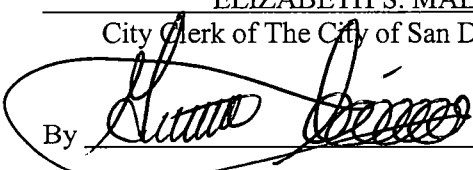
(Please note: When a resolution is approved by the Mayor, the date of final passage is the date the approved resolution was returned to the Office of the City Clerk.)

AUTHENTICATED BY:

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

(Seal)

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

By , Deputy

Office of the City Clerk, San Diego, California

Resolution Number R-

**309551**