

RESOLUTION NUMBER R- 310219

DATE OF FINAL PASSAGE JAN 25 2016

A RESOLUTION OF THE COUNCIL OF THE CITY OF
SAN DIEGO GRANTING MARINA PLANNED DISTRICT
PERMIT/NEIGHBORHOOD DEVELOPMENT PERMIT
NO. 2015-25.

WHEREAS, James H. Williams and D.L. Williams as Trustees of the Williams Family Trust and Elisabeth W. McQuaide as Trustee of the Elisabeth W. Awes Separate Property Trust, Owners, and Legacy Gas Lamp, LLC, Permittee ("Owners/Permittee"), filed an application with Civic San Diego to allow the construction of a mixed-use development containing six stories (up to 85 feet tall) comprised in total of approximately 168 residential dwelling units (DU) including indoor and outdoor amenity spaces, approximately 1,230 square feet (SF) of commercial space, and approximately 175 automobile parking spaces, commonly referred to as 4th & J ("Project"); and

WHEREAS, the project site is located on a 30,071 square foot premises located along the south side of J Street between Third and Fourth avenues in the Marina Planned District Zone within the Downtown Community Plan; and

WHEREAS, the property is legally described as: Lots A, B, C, J, K and L, in Block 120 of Horton's Addition, in the City of San Diego, County of County, State of California, as shown on the map thereof made by L.L. Lockling on file in the Office of the County Recorder of San Diego. Together with those portions of the east half of Third Avenue (formerly Third Street), the south half of J Street and the west half Fourth Avenue (formerly Fourth Street), adjoining said

land on the west, north and east, respectively, which upon vacation would revert to said land by operation of law; and

WHEREAS, Civic San Diego approves Marina Planned District Permits unless a project requires exceptions to the Marina Planned District Ordinance provisions, in which case Civic San Diego provides a recommendation and the City Council approves the permit (San Diego Municipal Code § 1511.0202(c)(2)); and

WHEREAS, the Project contains four exceptions from the general requirements of the Marina Planned District Ordinance: increase in building height from 50 feet to 90 feet; increase in floor area ratio (FAR) from 3.5 to 4.0; increase in streetwall height from 50 feet to 85 feet; and a decrease in open space from 30% of the site occurring at grade or podium levels, to 23% of the site at grade or podium levels plus 11% on the roof (San Diego Municipal Code §§ 1511.0204(b), 1511.0302(b), 1511.0302(c)); and

WHEREAS, on October 28, 2015, the Civic San Diego Board of Directors considered Marina Planned District Permit / Neighborhood Development Permit No. 2015-25 and voted 9-0 to grant Design Review Approval and recommend approval of Permit No. 2015-25; and

WHEREAS, Development within the Downtown Community Plan is covered under the FEIR for the San Diego Downtown Community Plan, Centre City Planned District Ordinance, and 10th Amendment to the Centre City Redevelopment Plan, certified by the Former Redevelopment Agency (“Former Agency”) and City Council (“Council”) on March 14, 2006 (Resolutions R-04001 and R-301265, respectively) and subsequent addenda to the FEIR certified by the Former Agency on August 3, 2007 (Former Agency Resolution R-04193), April 21, 2010 (Former Agency Resolutions R-04508 and R-04510), August 3, 2010 (Former Agency Resolution R-04544) and certified by Council on February 12, 2014 (Resolution R-308724) and

July 14, 2014 (Resolution R-309115). The FEIR is a "Program EIR" prepared in compliance with California Environmental Quality Act (CEQA) Guidelines Section 15168. An FEIR Consistency Evaluation ("Evaluation") was prepared in accordance with suggested best practices outlined in CEQA Guidelines Section 15168. The Evaluation concluded that the environmental impacts of the project were adequately addressed in the FEIR and that the project is within the scope of the development program described in the FEIR. Therefore, no further environmental documentation is required under CEQA; and

WHEREAS, the matter was set for public hearing on January 25, 2016, testimony having been heard, evidence having been submitted, and the City Council having fully considered the matter and being fully advised concerning the same;

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 and where a public hearing was required by law implicating due process rights of individuals affected by the decision and where the Council was required by law to consider evidence at the hearing and to make legal findings based on the evidence presented; NOW, THEREFORE,

BE IT RESOLVED, by the City Council of the City of San Diego, that it adopts the following findings with respect to Marina Planned District Permit/Neighborhood Development Permit No. 2015-25:

MARINA PLANNED DISTRICT PERMIT

Building Height - SDMC § 1511.0302(b)(2)

- i. Applicant shall provide one or more parks, setback areas, or widened and enhanced public right-of-way. Such areas shall be landscaped by the applicant. Their location shall complement the adjoining public right-of-way and while either public or private in nature, shall be

designed to be visually or physically enjoyed by residents, residents of adjoining structures and the general public.

The Project provides a corner plaza at the corner of Fourth Avenue and J Street. The plaza contains a water feature, raised planters, and opportunities for fixed and moveable seating. The intent is to have the plaza generally open during the daytime hours.

- ii. Applicant's project shall increase non-residential or residential activity at the street level of the development from 50% of the total frontage to all of the remaining street frontage with the exception of vehicular access and truck service delivery to serve the site. Such activity shall be directly accessible to the public right-of-way. Entrances to activity shall be provided at intervals which are approximately 50 feet or less in distance apart.

The Project provides residential units with stoop entrances, the Project lobby and commercial space along the entire street frontage, except for vehicle access and required utilities.

- iii. Applicant's project shall accommodate all or a substantial amount of all parking needed to serve the proposed development below grade.

The Project is proposing to provide 89% of the parking in the subterranean garage.

- iv. Applicant shall mitigate the mass and scale of the project by reducing the size of the floor plate and creating a more slender tower which enhances view corridors or reduces the effect of shadow on adjoining developments.

The Project is not a high-rise project and therefore this standard is not applicable.

Floor Area Ratio – SDMC § 1511.0302(b)(4)

- i. Development is infilled on sites or blocks which contain historic or architecturally significant structures or where historic or architecturally significant buildings are rehabilitated and integrated into the proposed new development.

Not applicable.

- ii. The average size of 25% of all DU exceeds 1,000 SF.

Not applicable.

- iii. That a minimum of 10% of all units contain 3 bedrooms.

Not applicable.

- iv. The required ground floor activity increases from 50% to 60% of the street frontage. Such increase in activity shall be consumer-oriented commercial or residential land use.

The Project complies with this condition as 100% of the street frontage, except for vehicular access and required utilities, is devoted to residential use and consumer-oriented commercial.

- v. At least one full level of underground parking is provided.

The Project provides two levels of underground parking.

- vi. The site is a receiver of a major public amenity including park, plaza, public art and sculpture or other equivalent amenity designed primarily for public use.

While the Project provides a plaza at the corner of Fourth Avenue and J Street, it is not a public plaza.

- vii. No financial assistance involving Community Redevelopment Law funds, excluding off-site public improvements, is required for the Project.

This Project is entirely privately funded. Therefore, three of the seven criteria are met for the Project to allow for the increase in floor area ratio.

All Requested Exceptions: Building Height, Floor Area Ratio, Streetwall Height, and Open Space - SDMC §§ 1511.0204(b)

- i. Demonstration that the proposed exceptions implement the intent of the Marina Planned District Ordinance, comply with the objectives of the Marina Urban Design Plan and Development Guidelines, and are design solutions which enhance the livability of the Marina Planned District.

The Project meets the goals and objectives of the Marina Planned District (MPD) by encouraging new housing, permitting mixed-use development, providing contextual building massing and scale, and by establishing a strong sense of pedestrian orientation at the street level.

The proposed exceptions meet the intent of the Marina Planned District Ordinance (MPDO) for encouraging new housing by allowing additional FAR, building and streetwall height that allows a greater number of dwelling units than would otherwise be allowed. Moving part of the required common outdoor open space to the roof increases the building footprint, which in-turn creates a greater building area that may be utilized for the creation of dwelling units. Additionally, the rooftop location of the open space creates a higher-quality open space based on the existing built environment, thereby enhancing the livability of the Project. The requested exceptions are also common exceptions granted to other developments in the MPD, such as the adjacent Crown Bay and Pacific Terrace projects. Providing development that is contextual with existing developments that received similar exceptions in an urban environment would make the Project consistent with the intent of the MPDO and the Marina Urban Design Plan and Development Guidelines. Furthermore, providing additional residential dwelling units at an infill site would increase the housing supply in the MPD, which would create additional housing opportunities for residents in the MPD, thus increasing the livability of the MPD. The exceptions additionally support the Downtown Community Plan goals for: providing a range of housing opportunities suitable for urban environments and accommodating a diverse population; achieving a mix of housing types and forms, consistent with FAR and urban design policies; and, maintaining the neighborhood's existing character and development patterns, while promoting compatible waterfront development opportunities. The project would provide a unit mix and unit sizes that would accommodate workforce housing consistent with FAR and urban design policies. As such, the Project would help accommodate a diverse population while maintaining the neighborhood's existing urban character and development patterns

- ii. The granting of exceptions to the Marina Planned District Ordinance does not adversely affect the development of the residential community.

The proposed exceptions are consistent with those approved for residential developments in the neighborhood in terms of floor area ratio, building height, open space and streetwall height, such as the Crown Bay, 235 on Market, and Citywalk projects. The exception for location of the common open space is supported by providing additional open space in the form of roof deck that in total exceeds the minimum required in the MPDO. The Project responds to the existing built environment by providing development that responds in scale and dimensions to the existing built environment. By providing new housing that is contextual with the existing built environment, the

Project would not adversely affect the development of the residential community.

- iii. The granting of an exception will have a beneficial impact on the residential community.

Granting the proposed exceptions will maintain a consistency of building form and height within the neighborhood and provide additional housing for downtown residents. The exception to the common open space requirement would allow the Project to provide additional dwelling units by providing a larger building envelope that is consistent with the existing development in the area. Additionally, the rooftop common open space would be a higher-quality open space as compared to locating the open space on the ground-level based on the largely built-out surrounding urban context.

- iv. The granting of an exception will not establish an adverse precedent for the consideration of future requests for exception.

Granting the proposed exceptions will maintain consistency within the neighborhood as most previous developments in the district have benefitted from the same exceptions; thus maintaining continuity of building height, streetwall height, and massing. Because the Marina neighborhood is almost built-out, and because the proposed exceptions are the same as utilized by previous developments, there would be no adverse precedent set with the approval of this Project. Projects in the Marina neighborhood that have received similar exceptions include 235 on Market, Olson Citywalk, Crown Bay, Pacific Terrace, and the Pinnacle Museum Tower.

- v. The design of the proposed development is distinctively San Diegan and architecturally superior. Such distinction will be evaluated against the objectives of the Marina Urban Design Plan and Development Guidelines and one or more of the following: (A) The degree to which the architecture characterizes the historical context of San Diego as contrasted with any other location; (B) Incorporation or adoption of design elements from San Diego's architectural past into the proposed development; and (C) Innovation or creativity of the project design.

The projecting box balconies along Third and Fourth avenues with translucent glass surrounds are intended to resemble lanterns of Asian influence, which honors the Project's proximity to the adjacent Asian Pacific Thematic Historic District. The ground floor brick-clad facades reflect the context of the adjacent Gaslamp Quarter Historic District and are also reminiscent of the warehouses that once

populated the MPD. Carving away the corner of the building Fourth Avenue and J Street creates a unique opportunity for a small pedestrian-oriented plaza serving both the Project's residents as an entry forecourt and as a respite from the busy sidewalks along the border of the Gaslamp Quarter and Marina District. The incorporation of the roof-top common space allows Project residents to enjoy San Diego's weather and views.

NEIGHBORHOOD DEVELOPMENT PERMIT - SDMC § 126.0404

- i. The proposed development will not adversely affect the applicable land use plan.

Subterranean and above-grade encroachments into the public right-of-way are anticipated in the MPDO. The encroachments will not adversely affect the Downtown Community Plan (DCP) but instead will help achieve its goals. The goals and policies of the DCP encourage a range of housing opportunities accommodating a diverse population, while maintaining the neighborhood's existing character and development patterns. The encroachments would support development of new housing for a diverse population suitable for urban environments. The encroachments would allow the Project to promote a compatible waterfront opportunity, while maintaining the neighborhood's existing character and development patterns. Furthermore, the encroachments allowed by the California Building Code (CBC). The encroachments would encroach only within the dedicated public right-of-way of Third Avenue and J Street.

- ii. The proposed development will not be detrimental to the public health, safety, and welfare.

Compliance with CBC regulations for subterranean and overhead projecting balcony encroachments into the public right-of-way will assure such encroachments are not detrimental to the health, safety, and welfare of the public.

- iii. The proposed development will comply with the applicable regulations of the San Diego Municipal Code including any allowable deviations pursuant to the San Diego Municipal Code.

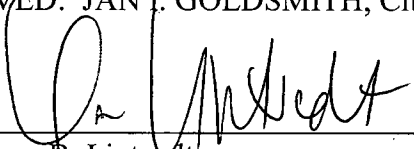
The San Diego Municipal Code stipulates that a Neighborhood Development Permit is required for construction of a privately owned structure in the PROW dedicated for a street or an alley, where the applicant is the record owner of the underlying fee title. The Project Applicant is not currently the record owner of the underlying fee title to all of the existing public right-of-way where the encroaching

subterranean garage and above grade balconies are proposed. Condition No. 3 stipulates that all underlying fee title of the adjacent public right-of-way must be transferred to the Project Applicant prior to recordation of the Marina Planned District Development Permit / Neighborhood Development Permit No. 2015-25. Some is owned by the heirs of Alonzo Horton which are now approved by the State of California Department of Finance for transfer to the City of San Diego resulting from the global condemnation of such lands to the Redevelopment Agency (now Successor Agency to the Redevelopment Agency) in 2003.

BE IT FURTHER RESOLVED, that based on the findings hereinbefore adopted by the City Council, Marina District Development Permit/Neighborhood Development Permit No. 2015-25 is hereby granted to the referenced Owner/Permittee, in the form, exhibits, terms, and conditions set forth in Permit No. 2015-25, a copy of which is attached hereto and made a part hereof.

APPROVED: JAN I. GOLDSMITH, City Attorney

By



Inga B. Lintvedt
Deputy City Attorney

IBL:mm
January 7, 2016
February 8, 2016 Corr. Copy
Or.Dept: Civic San Diego
Doc. No.: 1200580_4

RECORDING REQUESTED BY:

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

AND WHEN RECORDED MAIL TO:

Civic San Diego
Planning Department
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*

**MARINA PLANNED DISTRICT PERMIT
MARINA PLANNED DISTRICT
NEIGHBORHOOD DEVELOPMENT PERMIT
NO. 2015-25**

**4TH & J
ASSESSOR PARCEL NUMBER
535-341-01-00**

**MARINA PLANNED DISTRICT PERMIT
MARINA PLANNED DISTRICT
NEIGHBORHOOD DEVELOPMENT PERMIT
NO. 2015-06**

**4TH & J
ASSESSOR PARCEL NUMBER
535-341-01-00**

This Marina Planned District Permit / Neighborhood Development Permit (MPDP/NDP) No. 2015-06 is granted by Civic San Diego ("CivicSD") to James H. Williams and D.L. Williams as Trustees of the Williams Family Trust and Elisabeth W. McQuaide as Trustee of the Elisabeth W. Awes Separate Property Trust, Owners, and Legacy Gas Lamp, LLC, Permittee, to allow the construction of a mixed-use development containing six stories (approximately 85 feet tall) comprised in total of approximately 168 residential dwelling units (DU) including indoor and outdoor amenity spaces, approximately 1,230 square feet (SF) of commercial space, and approximately 175 automobile parking spaces, on a 30,071 SF premises located along the south side of J Street between Third and Fourth avenues in the Marina neighborhood of the Downtown Community Plan (DCP) area and within the Marina Planned District (MPD); and more particularly described in "Exhibit A".

Subject to the terms and conditions set forth in this Permit, permission is granted to the Owner and/or Permittee to construct and operate a development and uses as described and identified by size, dimension, quantity, type, and location as follows and on the approved Basic Concept / Schematic Drawings and associated Color and Materials Boards dated October 22, 2015, on file at CivicSD.

1. General

The Owner and/or Permittee shall construct, or cause to be constructed on the site, a development consisting of a mixed-use development containing six stories (approximately 85 feet tall) comprised in total of approximately 168 residential dwelling units (DU) including indoor and outdoor amenity spaces, approximately 1,230 square feet (SF) of commercial space, and approximately 175 automobile parking spaces. The development shall not exceed a height of 85 feet above average grade level, measured to the top of the parapet of the uppermost floor, with roof equipment enclosures, elevator penthouses, mechanical screening, and architectural elements above this height permitted per the Marina Planned District Ordinance (MPDO).

2. Marina Planned District Permit

The City Council Board hereby grants a Marina Planned Development Permit (MPDP) pursuant to Section 1511.0204 of the MPDO for exceptions to the following development regulations within the MPDO and San Diego Municipal Code (SDMC):

- a. MPDO 1511.0302(b)(2) Permitted Heights – Allowing the Project to extend above the base height limit of 50 feet to 85 feet.
- b. MPDO 1511.0302(b)(4) Conditions for Exceptions to FAR – Allowing an increase in the Project FAR in the amount 0.5 above the base FAR of 3.5 for a total Project FAR of 4.0.
- c. MPDO 1511.0302(c)(5) Streetwall – Allowing the Project’s Streetwall to extend above the maximum Streetwall height of 50 feet to 85 feet.
- d. MPDO 1511.0302(c)(8) Open Space Common Outdoor Open Space – allowing the required common outdoor open space (30% of the site) of the site to be located on roof-top areas in addition to the typical at-grade or podium levels.

3. Neighborhood Development Permit

The City Council hereby grants a Neighborhood Development Permit (NDP) pursuant to SDMC Section 126.0402(j) for the construction of privately owned structures in the public right-of-way (“ROW”) dedicated for a street or an alley, where the applicant is the record owner of the underlying fee title. Such encroachments shall include a subterranean garage, transformer vault and overhead projections including awnings, canopies, balconies, and other architectural appendages as permitted by the Uniform Building Code. All underlying fee title of the adjacent ROW (to the centerline of the adjacent streets) must be transferred to the Owner prior to recordation of the MPDP and the NDP.

4. Parking

The development includes approximately 175 automobile parking spaces. A minimum of 174 spaces (or an equivalent number based on the exact number of DU) shall be dedicated to the development’s residential component and 6 spaces (or an equivalent number based on the exact number of DU) shall be dedicated to visitors and guests of the residents; and all shall be designed to meet City Standards. These automobile parking spaces shall be allocated for exclusive use by the development’s residential units. All guest parking should be located near the garage entrance. If any additional parking spaces are designed with dimensions less than the City Standards, future buyers (if converted to condominium) of the residential units shall be informed of the dimensional size of their parking spaces prior to the sale of such units. Additional parking spaces above the minimum requirements for the project may be made available to the public. In addition, a minimum of four motorcycle parking spaces and secured storage space for a minimum of 34 bicycles shall be provided. Any subterranean parking facilities encroaching into the ROW shall be located a minimum of six feet back from the face of curb to a depth of eight feet below sidewalk grade, measured to the outside of any shoring. Transformer access vaults may be located closer to the street curb as permitted by the SDMC, but the vault’s width shall be the minimum required by SDG&E to ensure minimal impact on street tree plantings. An Encroachment Maintenance Agreement (EMA) shall be obtained from the City to allow any encroachment of a subterranean garage into the ROW.

PLANNING AND DESIGN REQUIREMENTS

5. Residential Amenities and Facilities

The development includes the following residential amenities and facilities as illustrated on the approved Basic Concept/Schematic Drawings on file at CivicSD, which shall be required to be maintained within the development in perpetuity:

- a. Common Outdoor Open Space – Approximately 8,800 SF of common outdoor space shall be provided. The dimensions of the common outdoor open space(s) must not be reduced for the life of the development. A minimum of 10% of each common outdoor open space area must be planted area and each area must be accessible to all residents of the development through a common accessway.

6. Urban Design Standards

The proposed development, including its architectural design concepts and off-site improvements, shall be consistent with the MPDO and Centre City Streetscape Manual (CCSM). 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 Marina 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 mixed-use development containing six stories (approximately 85 feet tall) measured to the top of the roofline, with roof equipment enclosures, elevator penthouses, and mechanical screening above this height permitted per the MPDO and the Federal Aviation Administration (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 one inch of finish sidewalk grade, as illustrated in the approved Basic Concept/Schematic Drawings on file with CivicSD. Any plaster materials shall consist of a hard troweled, or equivalent, smooth finish. Any stone materials shall employ larger modules and full-corner profiles to create a substantial and non-veneer appearance. Any graffiti coatings shall be extended the full height of the upgraded base materials or up to a natural design break such a cornice line. All downspouts, 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 of the California Code of Regulations ("Title 24").

All construction details shall be of the highest standard 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 – Architectural features such as awnings and other design features which 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 the openings a minimum of 10 feet. The garage door shall provide an upgraded architectural design and/or finish and have openings no greater than 20% of the surface area. All fencing shall be of an upgraded design.

All exhaust caps, lighting, sprinkler heads, and other elements on the undersides of all balconies and 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 (no stucco or other inconsistent material), and incorporate drip edges and other details to minimize staining and ensure long-term durability.

- e. Utilitarian Areas – Areas housing trash, storage, or other utility services shall be located in the garage or otherwise completely concealed from view of the ROW 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 SDMC Sections 142.0810 and 142.0820; unless otherwise approved as a deviation by this Permit. 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.
- f. Mail and Delivery Locations – It is the Owner's and/or 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 and/or Permittee shall locate all mailboxes and parcel lockers outside of the ROW, 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.

- g. Access – Vehicular access to the development's parking shall be limited to one driveway on 4th Avenue with a curb cut not exceeding 25 feet in width.
- h. Circulation and Parking – The Owner and/or 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.

All on-site parking shall meet the requirements of the City Building Official, Fire Department, and Engineer. All parking shall be mechanically ventilated. The exhaust system for mechanically ventilated structures shall be located to mitigate noise and exhaust impacts on residential units, adjoining properties, and the ROW

- i. Open Space and 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.
- j. 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 from surrounding views (including views from above). Individual condenser units are exempted from overhead screening when grouped in an orderly fashion.
- k. Signage – All signs shall comply with the City Sign Regulations and the MPDO.
- l. Lighting – A lighting plan which highlights the architectural qualities of the proposed development and also enhances the lighting of the ROW shall be submitted with 100% Construction Drawings. All lighting shall be designed to avoid illumination of adjoining properties.
- m. Noise Control – All mechanical equipment, including but not limited to, air conditioning, heating and exhaust systems, shall comply with the City Noise Ordinance and California Noise Insulation Standards as set forth in Title 24. All mechanical equipment shall be located to mitigate noise and exhaust impacts on adjoining development, particularly residential. Owner and/or Permittee shall provide evidence of compliance at 100% Construction Drawings.
- n. Energy Considerations – The design of the improvements shall include, where feasible, energy conservation construction techniques and design, including cogeneration facilities, and active and passive solar energy design. The Owner and/or Permittee shall demonstrate consideration of such energy features during the review of the 100% Construction Drawings.
- o. Street Address – Building address numbers shall be provided that are visible and legible from the ROW.

7. 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 ROW.

PUBLIC IMPROVEMENTS, LANDSCAPING AND UTILITY REQUIREMENTS

8. Off-Site Improvements

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

Off-Site Improvements	J Street	3rd Avenue	4th Avenue
Paving	Marina Standard	Marina Standard	Marina Standard
Street Trees	Redwood Ash	Redwood Ash	Redwood Ash
Street Lights	Centre City Standard	Centre City Standard	Centre City Standard

- a. Street Trees – Street tree selections shall be made according to the CCSM. All trees shall be planted at a minimum 36-inch box size with tree grates provided as specified in the CCSM, 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 development.

The Owner and/or Permittee will be responsible for evaluating, with consultation with the CivicSD, whether any existing trees within the ROW shall be maintained and preserved. No trees shall be removed prior to obtaining a Tree Removal Permit from the City's Development Services Department (DSD) per City Council Policy 200-05.

- b. 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.
- c. Sidewalk Paving – Any specialized paving materials shall be approved through the execution of an Encroachment Removal and Maintenance Agreement (EMRA) with the City.
- d. Litter Containers – The development shall provide a minimum of three litter receptacles and shall be located as specified in the CCSM.

- e. Landscaping – All required landscaping shall be maintained in a disease, weed and litter free condition at all times. If any required landscaping (including existing or new plantings, hardscape, landscape features, etc.) indicated on the approved construction documents is damaged or removed during demolition or construction, it shall be repaired and/or replaced in kind and equivalent in size per the approved documents and to the satisfaction of the CivicSD within 30 days of damage or Certificate of Occupancy.
- f. Planters – Planters shall be permitted to encroach into the ROW a maximum of two feet for sidewalk areas measuring at least twelve feet and less than fourteen feet in width. For sidewalk areas fourteen feet or wider, the maximum permitted planter encroachment shall be three feet. The planter encroachment shall be measured from the property line to the face of the curb to the wall surrounding the planter. A minimum five foot clear path shall be maintained between the face of the planter and the edge of any tree grate or other obstruction in the ROW.
- g. On-Street Parking – The Owner and/or Permittee shall maximize the on-street parking wherever feasible.
- h. Public Utilities – The Owner and/or 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 ROW. Sewer, water, and roof drain laterals shall be connected to the appropriate utility mains within the street and beneath the sidewalk. The Owner and/or Permittee may use existing laterals if acceptable to the City, and if not, Owner and/or 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 EMA.

If it is determined that existing water and sewer services are not of adequate size to serve the proposed development, the Owner and/or Permittee will be required to abandon any unused water and sewer services and install new services and meters. Service abandonments 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's 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. If and when the Owner and/or Permittee submits for a tentative map or tentative map waiver, the Water Department will require Covenants, Conditions, and Restrictions ("CC&Rs") to address the operation and maintenance of the private on-site water system serving the development. No structures or landscaping of any kind shall be installed within ten feet of water facilities.

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 and/or Permittee shall comply with the City's 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 SDMC.

- i. Franchise Public Utilities – The Owner and/or 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 franchise utilities located above grade serving the property and in the sidewalk ROW shall be removed and incorporated into the adjoining development where feasible. All franchise utilities shall be installed as identified in the Basic Concept Drawings. Any above grade devices shall be screened from view from the ROW.
- j. Fire Hydrants – If required, the Owner and/or Permittee shall install fire hydrants at locations satisfactory to the City's Fire Department and DSD.
- k. Water Meters and Backflow Preventers – The Owner and/or 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 ROW 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 ROW. All items of improvement shall be performed in accordance with the technical specifications, standards, and practices of the City'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.

9. Storm Water Compliance

- a. Prior to issuance of any construction permit, the Owner and/or Permittee shall enter into a Maintenance Agreement for the on-going permanent Best Management Practices (BMP) maintenance, satisfactory to the City Engineer.
- b. Prior to the issuance of any Construction Permit, the Owner and/or Permittee shall incorporate any construction BMP necessary to comply with Chapter 14, Article 2, Division 1 (Grading Regulations) of the SDMC, into the construction plans or specifications.
- c. Prior to issuance of any construction permits, the Owner and/or Permittee shall submit a Water Pollution Control Plan (WPCP). The WPCP shall be prepared in accordance with the guidelines in Appendix E of the City's Storm Water Standards.
- d. Prior to the issuance of any construction permit, the Water Quality Technical Report will be subject to final review and approval by the City Engineer.

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

- a. The Owner and/or 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:
 - i. 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 ROW which the Owner and/or Permittee is to install) as necessary to comply with applicable governmental standards and requirements.
 - ii. 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.
 - iii. 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.
 - iv. 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.
 - v. 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 REQUIREMENTS

11. Environmental Impact Mitigation Monitoring and Reporting Program

The development shall comply with all applicable Mitigation Monitoring and Reporting Program (MMRP) measures from the 2006 Final Environmental Impact Report (FEIR) for the DCP.

12. Development Impact Fees

The development will be subject to Development Impact Fees. For developments containing commercial space(s) the Owner and/or 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 and/or Permittee to provide all necessary documentation for receiving any "credit" for existing buildings to be removed.

13. Inclusionary Affordable Housing Ordinance

As required by SDMC Chapter 14, Article 2, Division 13, the development shall comply with all applicable regulations of the City's Inclusionary Housing Ordinance. The Owner and/or Permittee shall provide documentation of such compliance to CivicSD prior to issuance of any Building Permits.

14. Construction Fence

Owner and/or 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.

15. Development Identification Signs

Prior to commencement of construction on the site, the Owner and/or Permittee 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 feet by six 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 SF per street frontage. Graphics may also be painted on any barricades surrounding the site. All signs and graphics shall be submitted to the CivicSD for approval prior to installation.

16. Tentative Map

The Owner and/or Permittee shall be responsible for obtaining all map approvals required by the City prior to any future conversion of the residential units and/or commercial spaces to condominium units for individual sale.

17. 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 Section 126.0108 of the SDMC within the 36 month period, this permit shall be void unless an Extension of Time (EOT) has been granted pursuant to Section 126.0111 of the SDMC.
18. Issuance of this Permit by CivicSD does not authorize the Owner and/or Permittee for this Permit to violate any Federal, State or City laws, ordinances, regulations or policies.
19. 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 and/or Permittee and any successor(s) in interest.
20. 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.
21. 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.
22. The Owner and/or Permittee shall defend, indemnify, and hold harmless the CivicSD and 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 CivicSD will promptly notify the Owner and/or Permittee of any claim, action, or proceeding and, if CivicSD should fail to cooperate fully in the defense, the Owner and/or Permittee shall not thereafter be responsible to defend, indemnify, and hold harmless the City or its agents, officers, and employees. CivicSD 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, the Owner and/or 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 CivicSD and the Owner and/or Permittee regarding litigation issues, the CivicSD 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 and/or Permittee shall not be required to pay or perform any settlement unless such settlement is approved by Owner and/or Permittee.

This MPDP/NDP is granted by the City Council on October 28, 2015.

CIVIC SAN DIEGO:

Aaron Hollister Date
Senior Planner

OWNER:

James H. Williams/D.L. Williams Date
Williams Family Trust

OWNER:

Elisabeth W. Awes Date
Elisabeth W. Awes Separate Property Trust

**Note: Notary acknowledgment
must be attached per Civil Code
Section 1189 et seq**

PERMITTEE:

Tim O'Brien Date
Legacy Gas Lamp, LLC

Passed by the Council of The City of San Diego on JAN 25 2016, 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 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"/>
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 JAN 25 2016

(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- 310219