

RESOLUTION NUMBER R- 312185
DATE OF FINAL PASSAGE JAN 28 2019

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO DENYING THE APPEAL AND AFFIRMING THE PLANNING COMMISSION'S DECISION TO APPROVE SITE DEVELOPMENT PERMIT NO. 2078814 AND NEIGHBORHOOD DEVELOPMENT PERMIT NO. 2078816, WITH A MODIFICATION TO THE PERMIT CONDITION RELATED TO SOLID WASTE MANAGEMENT FOR 6TH & OLIVE – PROJECT NO. 591198.

WHEREAS, Nutmeg and Olive, a Delaware Limited Liability Company, the Cathedral Church of St. Paul, a California Nonprofit Religious Corporation, Vue on 5th Owners Association; and CR Fifth & Nutmeg, a Delaware Limited Liability Company, Owners, and Greystar GP II, a Delaware Limited Liability Corporation, Permittee, filed an application with the City of San Diego for a Site Development Permit (SDP) and Neighborhood Development Permit (NDP) to amend SDP and NDP for the previous St. Paul's Cathedral and Residences project (Project No. 96101) to increase overall residential density to 249 dwelling units and modify the proposed development on portions of the 1.76-acre site; and

WHEREAS the project proposes to demolish a sixteen-unit apartment complex, cathedral administrative offices and surface parking lot, and construct a 20-story mixed-use condominium tower with associated site improvements, as described in and by reference to the approved Exhibits "A" and corresponding conditions of approval for the associated Permit Nos. 2078814 and 2078816, on a 0.62-acre portion of the 1.76-acre site (Project); and

WHEREAS, the Project site is located within one full block surrounded by Olive Street, Nutmeg Street, 5th Avenue and 6th Avenue, and a 0.46-acre site located on the southeast corner of Nutmeg Street and 5th Avenue, in the RM-4-10 zone (eastern portion), CC-3-9 zone (western portion), Community Plan Implementation Overlay Zone (CPIOZ Type A), the Residential

Tandem Parking Overlay Zone, the Transit Area Overlay Zone, the Transit Priority Area, the Airport Influence Area for San Diego International Airport (SDIA) - Review Area 2, the Federal Aviation Administration (FAA) Part 77 Notification Area for SDIA and North Island NAS, and partially within the Airport Approach Overlay Zone, within the Uptown Community Plan area; and

WHEREAS, the project site is legally described as Lots A, B, E, F, G, H, K and L in Block 306 of Horton's Addition, according to map thereof made by L.L. Locking, Parcels 1 and 2 of Parcel Map No. 21586, filed on May 16, 2018, and Lot 1, Map No. 16016, entitled "5th & Nutmeg" filed March 25, 2015; and

WHEREAS, under San Diego 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 City Council was required by law to consider evidence at the hearing and to make legal findings based on the evidence presented; and

WHEREAS, on November 8, 2018, the Planning Commission adopted Addendum No. 591198 to Environmental Impact Report No. 96101/SCH No. 2009101036 and adopted the Mitigation, Monitoring, and Reporting Program for the Project; and

WHEREAS, on November 8, 2018, the Planning Commission considered and approved Vesting Tentative Map No. 2078817, Site Development Permit No. 2078814 and Neighborhood Development Permit No. 2078816 with a modification to Permit Condition No. 46 to require the provision of trash compactors within the development; and

WHEREAS, on November 21, 2018, the Uptown Planners submitted an appeal of the Planning Commission's approval of Vesting Tentative Map No. 2078817, Site Development Permit No. 2078814 and Neighborhood Development Permit No. 2078816 (Appeal); and

WHEREAS, on January 28, 2019, the City Council of the City of San Diego considered the Appeal and Site Development Permit No. 2078814 and Neighborhood Development Permit No. 2078816, pursuant to the Land Development Code of the City of San Diego, received for its consideration written and oral presentations, evidence having been submitted, and testimony having been heard from all interested parties at the public hearing, and the City Council having fully considered the matter and being fully advised concerning the same; NOW, THEREFORE,

BE IT RESOLVED, by the City Council of the City of San Diego, that it denies the Appeal and adopts the following findings with respect to Site Development Permit No. 2078814 and Neighborhood Development Permit No. 2078816:

A. NEIBORHOOD DEVELOPMENT PERMIT – SAN DIEGO MUNICIPAL CODE (SDMC) SECTION 126.0404

1. Findings for all Neighborhood Development Permits-SDMC Section 126.0404(a):

a. The proposed development will not adversely affect the applicable land use plan. The proposed 6th and Olive project is an amendment to the 1.76-acre St. Paul's Cathedral and Residences project to modify the proposed development on the 0.62-acre Olive Site and increase overall density to 249 dwelling units in accordance with the City's Affordable Housing Regulations. The project site is located south of Olive Street, north of Nutmeg Street, between 5th and 6th Avenues, and includes a 0.46-acre site south of Nutmeg Street, within the Uptown Community Plan (UCP) area. The project would demolish a 16-unit market rate apartment complex, Cathedral office building and surface parking lot, and construct a mixed-use condominium tower above a five-level subterranean parking garage. The 20-story tower would be approximately 223 feet tall and contain 204 residential condominiums encompassing 262,500 square feet, including eighteen very low-income restricted units, and Cathedral office spaces within four commercial condominiums encompassing 16,190 square feet. The project also proposes private recreational amenities including a fitness center, pool, terraces and lounge areas within the mixed-use building, a 10,600-square-foot courtyard with landscaping and benches shared with St. Paul's Cathedral, and additional associated site improvements including relocation of a transformer, replacement of a staircase, hardscape, landscaping, and public

improvements. The project requests three development incentives in accordance with the provisions of the Affordable Housing Regulations for deviations to setback, loading space, and personal storage area requirements. The project also requests deviations from the recycle and refuse storage area and driveway width requirements pursuant to SDMC Section 143.0920.

The proposed project is consistent with the goals and policies of the General Plan and UCP. The project site has a land use designation of Residential Very High (74-109 du/ac) and Community Commercial (0-109 du/ac) in the UCP, and is located within the Community Plan's Mixed-Use Corridor, which promotes very-high residential densities along major commercial transit corridors, including 5th and 6th Avenues. The St. Paul's Cathedral and Residences total site acreage of 1.76 acres consists of three sites (0.62-acre Olive, 0.68-acre Cathedral, and 0.46-acre Nutmeg), and would allow for a maximum of 192 dwelling units. The Nutmeg site is approved for 45 multi-family dwelling units, allowing for a maximum of 147 dwelling units on the Olive and Cathedral sites. The proposed project includes 18 very-low income affordable housing units and would utilize the Affordable Housing Density Bonus program to allow for an additional 39 market-rate units on the project site, resulting in a total of 204 residential units with a density of 157 du/ac. The project proposes a very high-density mixed-use development along a transit corridor with high frequency bus service consistent with the General Plan City of Villages strategy. The project incorporates ground floor office uses along 5th Avenue and Olive Street consistent with the uses allowed in the Community Commercial land use designation, and residential uses along 6th Avenue and Olive Street consistent with the Residential land use designation. The proposed project would help implement the policies of the Community Plan and Housing Element by providing both affordable and market rate housing integrated with commercial development.

The proposed project would help implement the goals and policies of the UCP Urban Design Element by providing a mixed-use development with pedestrian-oriented building frontages that contribute to a vibrant public realm. Consistent with the Streetscape and Public Realm policies of the Urban Design Element, the proposed project would include non-contiguous sidewalks with landscaped parkways on 6th Avenue and Olive Street to provide a buffer between pedestrians and the street edge. The proposed project implements the Street Tree Plan by incorporating the Chinese Elm within the parkway to provide shade and add visual interest to the public realm. Additionally, some of the existing mature palm trees along 6th Avenue would be retained consistent with the Urban Forestry policies of the Urban Design Element. To maintain a clear path of travel along 6th Avenue, the project proposes to locate the electrical utilities outside of the sidewalk pedestrian zone consistent with the Public Utilities policies.

The proposed project's design would help implement the Development Form policies of the Urban Design Element. The ground level uses combine changes in depth with a change in material, including stone and glass, which contribute to a pedestrian scale environment. The project maintains a consistent street wall along the commercial corridor of 5th Avenue and provides building entrances that are level with the adjacent public sidewalk. The project incorporates façade articulation using balconies and upper-story setbacks along Sixth Avenue to minimize view obstructions to Balboa Park and provide a transition in scale from St. Paul's Cathedral. The project incorporates windows along all walls visible from the public realm and

includes balconies with glass railings that add visual variety and interest to the building façade. Additionally, the project incorporates an outdoor terrace on the building façade stepback to provide on-site amenities and commons space.

The proposed project site is located within the Community Plan Implementation Overlay Zone (CPIOZ) Type A - Building Heights (UCP, Figure 4-12). The CPIOZ identifies areas within the community where ministerial approval is granted for proposed development projects with buildings or structures that do not exceed 65 feet in Hillcrest and Bankers Hill/Park West. Proposed development projects that exceed the height limitations require a Site Development Permit (SDP), and may be approved to the maximum allowed floor area of the base zone for zones without a maximum height limit if they comply with the applicable regulations of the Municipal Code and are consistent with the applicable policies in the General Plan and Uptown Community Plan. The project's proposed floor area of 311,730 square feet is less than the maximum 365,001 square-foot floor area allowed in the CC-3-9 and RM-4-10 zones on the combined Cathedral and Olive sites. The project proposes a 20-story residential tower approximately 223 feet in height within a zone that does not have a maximum height limit. The proposed project incorporates a combination of upper-story stepbacks, varied roof lines, and articulated sub-volumes are employed to provide a transition in scale with St. Paul's Cathedral consistent with the Community Plan Urban Design Element. Additionally, the building height is concentrated in the northern portion of the site, resulting in an overall narrower mass than similar buildings along 5th and 6th Avenues. Based on the above, the proposed development will not adversely affect the applicable land use plan.

b. The proposed development will not be detrimental to the public health, safety, and welfare. The proposed development is consistent with the relevant City of San Diego's codes, policies, and regulations whose primary focus is the protection of the public's health, safety, and welfare. The permit for the project includes various conditions and referenced exhibits of approval relevant to achieving project compliance with the applicable regulations of the San Diego Municipal Code (SDMC) in effect for this project. Such conditions within the permit have been determined necessary to avoid adverse impact upon the public health, safety, and general welfare of persons residing or working in the surrounding area. The project shall comply with the development conditions in effect for the subject property and other regulations and guidelines pertaining to the subject property per the SDMC.

Prior to issuance of any building permit for the proposed development, the plans shall be reviewed for compliance with all building, electrical, mechanical, plumbing and fire Code requirements, and the owner/permittee shall be required to obtain grading and public improvement permits. Compliance with these regulations during and after construction will be enforced through building inspections completed by the City's building inspectors.

The project is located with the Airport Influence Area for SDIA (Review Area 2), FAA Part 77 Notification Area for SDIA and North Island NAS, and is partially within the Airport Approach Overlay Zone. The Olive site is not within the Airport Approach Overlay Zone. On July 25, 2017, the FAA issued a determination of no hazard to air navigation (Aeronautical Studies No. 2017-AWP-3548-OE, 2017-AWP-3549-OE, 2017-AWP-3550-OE, 2017-AWP-3551-OE,) for the structure, and a determination of no hazard to air navigation for temporary

structure (crane) on August 22, 2018 (Aeronautical Study No. 2018-AWP-11003-OE) with the condition that the structures be marked/lighted in accordance with FAA requirements. The project has also been reviewed for consistency with the Airport Land Use Compatibility Plan for SDIA by the San Diego County Regional Airport Authority acting as the Airport Land Use Commission (ALUC), and on September 21, 2018, the project was determined to be conditionally consistent with the SDIA ALUCP, and compatible with the ALUCP airspace protection surface, provided the structure is marked and lighted in accordance with the FAA's determination of no hazard, and that an aviation easement for height is recorded with the County Recorder. The project has been conditioned accordingly.

Furthermore, the project has been reviewed pursuant to the California Environmental Quality Act, and the environmental analysis did not find any significant impacts to the public health and safety. Therefore, the proposed development will not be detrimental to the public health, safety, and welfare.

c. The proposed development will comply with the applicable regulations of the Land Development Code, including any allowable deviations pursuant to the Land Development Code. The proposed 6th and Olive project is an amendment to the 1.76-acre St. Paul's Cathedral and Residences project to modify the proposed development on the 0.62-acre Olive Site and increase overall density to 249 dwelling units in accordance with the City's Affordable Housing Regulations. The project proposes to demolish a 16-unit market rate apartment complex, Cathedral office building and surface parking lot, and construct a mixed-use condominium tower above a five-level subterranean parking garage consisting of 204 residential condominiums, including eighteen very low-income restricted units, and Cathedral office spaces within four commercial condominiums encompassing 16,190 square feet. The project also proposes private recreational amenities, a 10,600-square-foot courtyard with landscaping and benches shared with St. Paul's Cathedral, and additional associated site improvements including relocation of a transformer, replacement of a staircase, hardscape, landscaping, and public improvements.

The Project complies with the regulations of the Land Development Code (LDC), including requirements for floor area ratio, parking, landscaping, and all other requirements of the development criteria for its zoning, except where deviations are allowed as development incentives in accordance with the Affordable Housing Regulations, and through the Neighborhood Development Permit process pursuant to SDMC Section 143.0920. The project includes three development incentives and two deviations. The requested incentive to allow a reduced setback of zero feet on the portion of Olive Street (northly side) located within the RM-4-10 Zone, where a 15-foot setback is required is supported as it allows the project to maximize site efficiency and accommodate a courtyard between the mixed-use tower and St. Paul's Cathedral. Furthermore, the strict compliance with underlying zones' setback requirements would result in a building that is partially on the north property line and partially 15 feet in from the north property line affecting overall design, unit layout, interior circulation and density potential. The requested incentive to allow one loading space within the public right-of-way of Olive Street where two on-site loading spaces are required, is supported as the St. Paul's Cathedral and Residences Project as approved was granted a deviation to have one loading space off-site on Olive Street. This amendment requires a second loading space, and an incentive is

being used to have only one loading space for the overall project. The third incentive requested is to allow the provision of fully enclosed personal storage area of minimum 240 cubic feet for half of the dwelling units. The project as designed provides the required storage space for half of the units in the garage. Providing the storage for all dwelling units would require project design modifications and additional level of underground parking making the project financially unfeasible per the applicant. The above incentives are supported for the aforementioned reasons and because the project is consistent with the community plan policies, is designed to address the physical environment, would not adversely impact the public's health and safety. Furthermore, the development incentives request is consistent with the intent of the State's Density Bonus Law and there is no substantial evidence pursuant to the SDMC or State law to deny the applicant's request for the incentives.

The project also requests two deviations through the Neighborhood Development Permit process. The project proposes a 20.5-foot driveway width on Olive Street, where a minimum width of 24 feet is required for a mixed-use development. The requested deviation is supported as the 20.5-foot driveway leads to a 20.5-foot wide parking garage ramp allowing for an appropriate transition from the driveway into the garage. The project also requests a deviation to provide 470 square feet of exterior refuse and recyclable material storage area where a total of 960 square feet (864 square feet for the residential component and 96 square feet for the non-residential component) is required. Although the project falls short of meeting the minimum required storage space for trash and recyclables, the deviation is supported as the project does provide a functional refuse and recyclable materials storage area and proposes to contract with a waste management company to ensure waste and recyclable materials are collected from the site with enough frequency to ensure the capacity of the storage bins are not exceeded.

The requested incentives and deviations are consistent with the intent of the State's Density Bonus Law, the City's Affordable Housing Regulations and the Affordable Housing, In-fill Projects, and Sustainable Buildings Development Regulations. The project provides high density residential development at a prime infill location and would benefit the community by providing additional market rate and affordable housing opportunities in the Uptown community near transit and higher volume traffic corridors. Therefore, the proposed development will comply with the applicable regulations of the Land Development Code, including any allowable deviations pursuant to the LDC.

2. Supplemental Findings-Affordable Housing, In-Fill Projects, Sustainable Buildings Deviation- SDMC Section 126.0404 (f)

a. The development will materially assist in accomplishing the goal of providing affordable housing, in-fill projects, or sustainable buildings opportunities. The proposed 6th and Olive project is an amendment to the 1.76-acre St. Paul's Cathedral and Residences project to modify the proposed development on the 0.62-acre Olive Site and increase overall density to 249 dwelling units in accordance with the City's Affordable Housing Regulations. The project is an infill development located in a portion of the Uptown community with a variety of building types and densities and consistent with the goals and policies of the General Plan and UCP. The project site has a land use designation of Residential Very High (74-109 du/ac) and Community Commercial (0-109 du/ac) in the UCP, and is located within the

Community Plan's Mixed-Use Corridor, which promotes very-high residential densities along major commercial transit corridors, including 5th and 6th Avenues. The St. Paul's Cathedral and Residences total site acreage of 1.76 acres consists of three sites (0.62-acre Olive, 0.68-acre Cathedral, and 0.46-acre Nutmeg), and would allow for a maximum of 192 dwelling units. The Nutmeg site was approved and has been constructed with 45 multi-family dwelling units, allowing for a maximum of 147 dwelling units on the Olive and Cathedral sites. The proposed project includes 18 dwelling units affordable to very low-income households with a combined annual gross income at or below 50 percent of the Area Median Income (AMI), and utilizes the Affordable Housing Density Bonus program to maximize density and allow for an additional 39 market-rate units on the project site, resulting in a total of 204 residential units with a density of 157 du/ac. The project proposes a very high-density mixed-use development along a transit corridor with high frequency bus service consistent with the General Plan City of Villages strategy. The proposed project would help implement the policies of the Community Plan and Housing Element by providing both affordable and market rate housing integrated with commercial development.

The project employs smart growth techniques by providing sustainable features consistent with or exceeding the requirements in the City of San Diego Climate Action Plan (CAP) checklist. The project provides 13 electric vehicle charging spaces of which 50 percent will be ready to use for the non-residential use in accordance with the CAP. The project also includes a mix of 6 low-emitting, fuel-efficient, and carpool/vanpool spaces. The project will also include roofing materials with a minimum of 3-year aged solar reflection and thermal emittance or solar reflection index equal to or greater than the values specified in the voluntary measures under California Green Building Standards Code (CGBSC). Based on the above, the development will materially assist in accomplishing the goal of providing affordable housing, in-fill development, and sustainable buildings.

b. Any proposed deviations are appropriate for the proposed location.

The project requests two deviations through the Neighborhood Development Permit process. The project proposes a 20.5-foot driveway width on Olive Street, where a minimum width of 24 feet is required for a mixed-use development. The requested deviation is supported as the 20.5-foot driveway leads to a 20.5-foot wide parking garage ramp allowing for an appropriate transition from the driveway into the garage. The project also requests a deviation to provide 470 square feet of exterior refuse and recyclable material storage area where a total of 960 square feet (864 square feet for the residential component and 96 square feet for the non-residential component) is required. The purpose of the refuse and recyclable materials regulations is to provide permanent, adequate, and convenient space for the storage and collection of refuse and recyclable material. The intent of these regulations is to encourage recycling of solid waste to reduce the amount of waste material entering landfills and to meet the recycling goals established by the City Council and mandated by the State of California. Although the project falls short of meeting the minimum required storage space for trash and recyclables, the deviation is supported as the project does provide a functional refuse and recyclable materials storage area and proposes to contract with a waste management company to ensure waste and recyclable materials are collected from the site with enough frequency to ensure the capacity of the storage bins are not exceeded. The proposed deviations provide a design that is suitable for the proposed

development and its location in the high intensity area of the Uptown Community. Therefore, the proposed deviations are appropriate for this location.

B. SITE DEVELOPMENT PERMIT FINDINGS – SDMC SECTION 126.0505

1. Findings for all Site Development Permit- SDMC Section 126.0505(a) [per SDMC Section 143.0920(a)]

a. The proposed development will not adversely affect the applicable land use plan. As outlined in NDP Finding (A)(1)(a) listed above, the project is consistent with the goals, objectives, and proposals of the UCP and the General Plan. Therefore, the proposed development will not adversely affect the applicable land use plan.

b. The proposed development will not be detrimental to the public health, safety, and welfare. As outlined in NDP Findings (A)(1)(b) listed above, the proposed development will not be detrimental to the public health, safety, and welfare.


c. The proposed development will comply with the applicable regulations of the Land Development Code, including any allowable deviations pursuant to the Land Development Code. As outlined in NDP Findings (A)(1)(c) listed above, the requested incentives and deviations are consistent with the intent of the State's Density Bonus Law, the City's Affordable Housing Regulations and the Affordable Housing, In-fill Projects, and Sustainable Buildings Development Regulations. The project provides high density residential development at a prime infill location and would benefit the community by providing additional market rate and affordable housing opportunities in the Uptown community near transit and higher volume traffic corridors. Therefore, the proposed development will comply with the applicable regulations of the land Development Code, including any allowable deviations pursuant to the LDC.

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

BE IT FURTHER RESOLVED, that the Appeal of Uptown Planners is denied, the decision of the Planning Commission is affirmed with a modification that the following condition be added to the permits: Prior to issuance of any construction permits for grading, the Owner/Permittee shall comply with the requirements of the Refuse and Recyclable Materials Storage Regulations and the Waste Management Plan, except for any deviations granted as part of this Permit, and shall be identified and noted on the appropriate construction documents to the satisfaction of the Environmental Services and Development Services Departments.

BE IT FURTHER RESOLVED, that, based on the findings hereinbefore adopted by the City Council, Site Development Permit No. 2078814 and Neighborhood Development Permit No. 2078816 is hereby granted by the City Council to the referenced Owners/Permittee, in the form, exhibits, terms and conditions as set forth in Permit No. 2078814 and 2078816, a copy of which is attached hereto and made a part hereof.

APPROVED: MARA W. ELLIOTT, City Attorney

By 

Corrine L. Neuffer
Deputy City Attorney

CLN:als
01/31/2019
Or.Dept:DSD
Doc. No.: 1919862

Attachment: Site Development Permit No. 2078814 and Neighborhood Development Permit
No. 2078816

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

**WHEN RECORDED MAIL
TO
CITY CLERK
MAIL STATION 2A**

INTERNAL ORDER NUMBER: 24007668

SPACE ABOVE THIS LINE FOR RECORDER'S USE

**SITE DEVELOPMENT PERMIT NO. 2078814
NEIGHBORHOOD DEVELOPMENT PERMIT NO. 2078816
6TH & OLIVE - PROJECT NO. 591198
AMENDMENT TO SITE DEVELOPMENT PERMIT NO. 312733
AMENDMENT TO NEIGHBORHOOD DEVELOPMENT PERMIT NO. 534371
CITY COUNCIL**

This Site Development Permit No. 2078814 and Neighborhood Development Permit No. 2078816, an amendment to Site Development Permit No. 312733 and Neighborhood Development Permit No. 534371, is granted by the City Council of the City of San Diego to Nutmeg and Olive, a Delaware Limited Liability Company, the Cathedral Church of St. Paul, a California Nonprofit Religious Corporation, Vue on 5th Owners Association, and CR Fifth & Nutmeg, a Delaware Limited Liability Company, Owners, and Greystar GP II, a Delaware Limited Liability Corporation, Permittee, pursuant to San Diego Municipal Code (SDMC) sections 126.0505 and 126.0404. The approximately 1.76-acre site is located within one full block surrounded by Olive Street, Nutmeg Street, 5th Avenue and 6th Avenue (Olive and Cathedral Sites), and property along 5th Avenue, between Nutmeg Street and Maple Street (Nutmeg Site), in the RM-4-10 and CC-3-9 zones of the Uptown Community Plan area. In addition, the site is located in the Community Plan Implementation Overlay Zone (CPIOZ A), Residential Tandem Parking Overlay Zone, Transit Priority Area, Airport influence Area for San Diego International Airport (SDIA) – Review Area 2, and Federal Aviation Administration (FAA) Part 77 Notification Area for SDIA and North Island Naval Air Station (NAS). The project site is legally described as: Lots A, B, E, F, G, H, K and L in Block 306 of Horton's Addition, according to map thereof made by L.L. Locking, Parcels 1 and 2 of Parcel Map No. 21586, filed on May 16, 2018, and Lot 1, Map No. 16016, entitled "5th & Nutmeg" filed March 25, 2015.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owners and Permittee for an amendment to previous entitlements and allow the demolition of an existing apartment building, cathedral administrative offices and cathedral surface parking lot on the Olive Site, and the construction of a high-rise mixed-use condominium tower on the Olive Site, described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated January 28, 2019, (Olive Site), on file in the Development Services Department.

The project shall include:

- a. An amendment to Site Development Permit No. 312733 and Neighborhood Development Permit No. 534371 to modify proposed development to allow for a total of 249 residential condominiums on the 1.76-acre site, which includes an addition of 204 residential condominiums on the 0.62-acre Olive Site;
- b. The relocation of the transformer and replacement of the existing staircase on the Cathedral Site;
- c. Demolition of an existing 16-unit apartment building, the St. Paul Cathedrals administrative offices (4,973 square feet) and a 20-space surface parking lot;
- d. Construction of a new 20-story, approximately 223-foot tall mixed-use building containing approximately 262,500 square feet of above-grade gross floor area with 204 residential units (including 18 units affordable to very low-income households), 16,190 square feet of office space within four commercial condominiums to serve St. Paul's Cathedral, and five levels of underground parking;
- e. Approval of the following three development incentives:
 1. Allow zero-foot setback on Olive Street where 15-foot setback required per SDMC Section 131.0443(g);
 2. Allow one off-site loading space within the public right-of-way of Olive Street where two on-site loading spaces are required per SDMC Section 142.1010; and
 3. Allow 50 percent of units to have a private storage area where in the RM zone, each unit is required to have a fully enclosed personal storage area of minimum 240 cubic feet per SDMC Section 131.0454.
- f. Approval of the following two deviations:
 1. Allow a 20.5-foot driveway width on Olive Street, where a minimum width of 24 feet is required for a mixed-use development per SDMC Section 142.0560(j)(1); and
 2. Allow a total of 470 square feet of exterior refuse and recyclable material storage area where a total of 960 square feet (864 square feet for the residential component and 96 square feet for the non-residential component) is required per SDMC Section 142.0820 (a) and (b).
- g. A 10,600-square foot courtyard with landscaping and benches, shared with St. Paul's Cathedral benches;
- h. Landscaping (planting, irrigation and landscape related improvements);

- i. Off-street parking; and
- j. Public and private accessory improvements determined by the Development Services Department to be consistent with the land use and development standards for this site in accordance with the adopted community plan, the California Environmental Quality Act (CEQA) and the CEQA Guidelines, the City Engineer's requirements, zoning regulations, conditions of this Permit, and any other applicable regulations of the SDMC.

STANDARD REQUIREMENTS:

1. This permit must be utilized within thirty-six (36) months after the date on which all rights of appeal have expired. If this permit is not utilized in accordance with Chapter 12, Article 6, Division 1 of the SDMC within the 36-month period, this permit shall be void unless an Extension of Time has been granted. Any such Extension of Time must meet all SDMC requirements and applicable guidelines in effect at the time the extension is considered by the appropriate decision maker. This permit must be utilized by January 28, 2022.
2. This amendment to Site Development Permit No. 312733 and Neighborhood Development Permit No. 534371 is only for the proposed development of the Olive Site. All the conditions contained in Site Development Permit No. 312733 and Neighborhood Development Permit No. 534371 shall remain in effect and applicable to the Nutmeg and Cathedral Sites.
3. This Site Development Permit and Neighborhood Development Permit is subject to conditions of Vesting Tentative Map No. 2078817.
4. No permit for the construction, occupancy, or operation of any facility or improvement described herein shall be granted, nor shall any activity authorized by this Permit be conducted on the premises until:
 - a. The Owners/Permittee signs and returns the Permit to the Development Services Department; and
 - b. The Permit is recorded in the Office of the San Diego County Recorder.
5. While this Permit is in effect, the subject property shall be used only for the purposes and under the terms and conditions set forth in this Permit unless otherwise authorized by the appropriate City decision maker.
6. 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 Owners/Permittee and any successor(s) in interest.
7. The continued use of this Permit shall be subject to the regulations of this and any other applicable governmental agency.

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

9. The Owners/Permittee shall secure all necessary building permits. The Owners/Permittee is informed that to secure these permits, substantial building modifications and site improvements may be required to comply with applicable building, fire, mechanical, and plumbing codes, and State and Federal disability access laws.

10. Construction plans shall be in substantial conformity to Exhibit "A." Changes, modifications, or alterations to the construction plans are prohibited unless appropriate application(s) or amendment(s) to this Permit have been granted.

11. All the conditions contained in this Permit have been considered and were determined necessary to make the findings required for approval of this Permit. The Permit holder is required to comply with each and every condition in order to maintain the entitlements that are granted by this Permit.

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

12. The Owners/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 Owners/Permittee of any claim, action, or proceeding and, if the City should fail to cooperate fully in the defense, the Owners/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, Owners/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 Owners/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 Owners/Permittee shall not be required to pay or perform any settlement unless such settlement is approved by Owners/Permittee.

ENVIRONMENTAL/MITIGATION REQUIREMENTS:

13. Mitigation requirements in the Mitigation, Monitoring, and Reporting Program (MMRP) shall apply to this Permit. These MMRP conditions are hereby incorporated into this Permit by reference.

14. The mitigation measures specified in the MMRP and outlined in Addendum No. 591198 to Environmental Impact Report No. 96101/SCH No. 2009101036, shall be noted on the construction plans and specifications under the heading ENVIRONMENTAL MITIGATION REQUIREMENTS.

15. The Owners/Permittee shall comply with the MMRP as specified Addendum No. 591198 to Environmental Impact Report No. 96101/SCH No. 2009101036, to the satisfaction of the Development Services Department and the City Engineer. Prior to issuance of any construction permit, all conditions of the MMRP shall be adhered to, to the satisfaction of the City Engineer. All mitigation measures described in the MMRP shall be implemented for the following issue areas:

- Transportation, Circulation
- Historical Resources
- Paleontological Resources
- Noise

CLIMATE ACTION PLAN REQUIREMENTS:

16. Owners/Permittee shall comply with the Climate Action Plan (CAP) Consistency Checklist stamped as Exhibit "A." Prior to issuance of any construction permit, all CAP strategies shall be noted within the first three (3) sheets of the construction plans under the heading "Climate Action Plan Requirements" and shall be enforced and implemented to the satisfaction of the Development Services Department.

AFFORDABLE HOUSING REQUIREMENTS:

17. Prior to issuance of any building permit associated with this Project the Owners/Permittee shall demonstrate compliance with the provisions of the Affordable Housing Density Bonus Regulations of Chapter 14, Article 3, Division 7 of the San Diego Municipal Code. The Owners/Permittee shall enter into a written Agreement with the San Diego Housing Commission which shall be drafted and approved by the San Diego Housing Commission, executed by the Owners/Permittee, and secured by a deed of trust which incorporates applicable affordability conditions consistent with the San Diego Municipal Code. The Agreement will specify that in exchange for the City's approval of the Project, which contains a 38.75-percent density bonus (57 units in addition to what is permitted by the underlying zoning regulations), alone or in conjunction with any incentives or concessions granted as part of Project approval, the Owners/Permittee shall provide only density bonus units with rents of no more than 30-percent of 50-percent of Area Median Income (AMI) for no fewer than 55 years.

18. The Agreement referenced in the preceding paragraph will satisfy the requirements of San Diego Municipal Code section 142.1303(g) and therefore, exempt the Project from the Inclusionary Affordable Housing Regulations in Chapter 14, Article 2, Division 13 of the San Diego Municipal Code.

AIRPORT REQUIREMENTS:

19. Prior to issuance of any building permits, the Owners/Permittee shall provide a valid "Determinations of No Hazard to Air Navigation" issued by the Federal Aviation Administration (FAA), for the building and temporary construction crane.

20. Prior to the issuance of any construction permit for the building, Owners/Permittee shall assure the structure is marked and lighted in accordance with Determinations of No Hazard to Air Navigation for the building and a Determination of No Hazard to Air Navigation for temporary crane structure.

21. Prior to the issuance of any construction permit for the building, Owners/Permittee shall grant and record an avigation easement to the San Diego County Regional Airport Authority as the operator of the San Diego International Airport (SDIA) for the purposes of aircraft operations, noise and other effects caused by the operation of aircraft, and for structure height if the same would interfere with the intended use of the easement. The Owners/Permittee shall use the avigation easement form provided by the San Diego County Regional Airport Authority.

22. Prior to submitting building plans to the City for review, Owners/Permittee shall place a note on all building plans indicating that an avigation easement has been granted across the property to the airport operator. The note shall include the County Recorder's recording number for the avigation easement.

ENGINEERING REQUIREMENTS:

23. The project proposes to export 58,500 cubic yards of material from the project site. All excavated material listed to be exported, shall be exported to a legal disposal site in accordance with the Standard Specifications for Public Works Construction (the "Green Book"), 2015 edition and Regional Supplement Amendments adopted by Regional Standards Committee.

24. The drainage system proposed for this development, as shown on the site plan, is private and subject to approval by the City Engineer.

25. Prior to the issuance of any construction permit for the building, Owners/Permittee shall obtain a bonded grading permit for the grading proposed for this project. All grading shall conform to the requirements of the City of San Diego Municipal Code in a manner satisfactory to the City Engineer.

26. Prior to the issuance of any construction permit for the building, Owners/Permittee shall obtain an Encroachment Maintenance Removal Agreement, from the City Engineer, for the trash

receptacles, enhanced sidewalks, trees with grates and landscaping/irrigation along 6th & 5th Avenues and Olive Street public right-of-way.

27. Prior to issuance of any construction permit for the building, Owners/Permittee shall obtain an Encroachment Maintenance Removal Agreement from the City Engineer for sidewalk underdrains/ curb outlets on 5th and 6th Avenues public right-of-way.

28. Prior to the issuance of any construction permit for the building, Owners/Permittee shall obtain an Encroachment Maintenance Agreement, from the City Engineer, for subterranean parking structure encroaching in public right-of-way on 6th Avenue and Olive Street public right-of-way.

29. Prior to the issuance of any construction permit for the building, the Owners/Permittee shall obtain an Encroachment Maintenance Agreement, from the City Engineer, for all above ground encroachments within the public right-of-way.

30. Prior to the issuance of any construction permit for the building, Owners/Permittee shall assure, by permit and bond, the construction of a 20.5-foot wide driveway adjacent to the site on Olive Street to current City Standards, satisfactory to the City Engineer.

31. Prior to the issuance of any construction permit for the building, Owners/Permittee shall assure, by permit and bond, to remove existing curb and replace it with new curb and gutter along site frontages on 6th Avenue, Olive Street, and 5th Avenue per current City Standards to the satisfaction of the City Engineer.

32. Prior to the issuance of any construction permit for the building, Owners/Permittee shall assure, by permit and bond, the construction of new sidewalks along the site frontage on 5th Avenue, 6th Avenue, and Olive Street, to current City standards satisfactory to the City Engineer.

33. Prior to the issuance of any construction permit for the building, the Owners/Permittee shall assure, by permit and bond, the construction of new curb ramps at the corner of 6th Avenue and Olive Street, and the corner of 5th Avenue and Olive Street, per current City Standard Drawing SDG-130 and SDG-132 with truncated domes, satisfactory to the City Engineer.

34. Prior to the issuance of any construction permit, the Owners/Permittee shall assure by permit and bond, to install a new street light on 5th Avenue, in accordance with the City of San Diego Street Design Manual-Street Light Standards.

35. Prior to the issuance of any construction permit, the Owners/Permittee shall enter into a Maintenance Agreement for the ongoing permanent Best Management Practices (BMP) maintenance, satisfactory to the City Engineer.

36. Prior to the issuance of any construction permit, the Owners/Permittee shall submit a Technical Report that will be subject to final review and approval by the City Engineer, based on the Storm Water Standards in effect at the time of the construction permit issuance.

37. Prior to the issuance of any construction permit, Owners/Permittee shall submit a Water Pollution Control Plan (WPCP). The WPCP shall be prepared in accordance with the guidelines in Part 2 Construction BMP Standards Chapter 4 of the City's Storm Water Standards.

GEOLOGY REQUIREMENTS:

38. Prior to the issuance of any construction permits (either grading or building permits), the Owners/Permittee shall submit a geotechnical investigation report or update letter that specifically addressed the proposed construction plans. The geotechnical investigation report or update letter shall be reviewed for adequacy by the Geology Section of Development services prior to the issuance of any construction permit.

LANDSCAPE REQUIREMENTS:

39. Prior to issuance of any construction permits for grading, the Owners/Permittee shall submit complete construction documents for the revegetation and hydroseeding of all disturbed land in accordance with the City of San Diego Landscape Standards, Storm water Design Manual, and to the satisfaction of the Development Services Department. All plans shall be in substantial conformance to this permit (including Environmental conditions) and Exhibit "A," on file in the Development Services Department.

40. Prior to issuance of any construction permits for right-of-way improvements, the Owners/Permittee shall submit complete landscape construction documents for right-of-way improvements to the Development Services Department for approval. Improvement plans shall show, label, and dimension a 40-square-foot area around each tree which is unencumbered by utilities. Driveways, utilities, drains, water and sewer laterals shall be designed so as not to prohibit the placement of street trees.

41. Prior to issuance of any construction permits for structures (including shell), the Owners/Permittee shall submit complete landscape and irrigation construction documents, which are consistent with the Landscape Standards, to the Development Services Department for approval. The construction documents shall be in substantial conformance with Exhibit "A," Landscape Development Plan, on file in the Development Services Department. Construction plans shall provide a 40-square-foot area around each tree that is unencumbered by hardscape and utilities unless otherwise approved per §142.0403(b)(5).

42. In the event that a foundation only permit is requested by the Owners/Permittee, a site plan or staking layout plan, shall be submitted to the Development Services Department identifying all landscape areas consistent with Exhibit "A," Landscape Development Plan, on file in the Development Services Department. These landscape areas shall be clearly identified with a distinct symbol, noted with dimensions, and labeled as "landscaping area."

43. The Owners/Permittee shall be responsible for the maintenance of all landscape improvements shown on the approved plans, including in the right-of-way, unless long-term maintenance of said landscaping will be the responsibility of a Landscape Maintenance District or other approved entity. All required landscape shall be maintained consistent with the Landscape

Standards in a disease, weed, and litter free condition at all times. Severe pruning or “topping” of trees is not permitted.

44. If any required landscape (including existing or new plantings, hardscape, landscape features, etc.) indicated on the approved construction documents is damaged, or removed during demolition or construction, the Owners/Permittee shall repair and/or replace in kind and equivalent size per the approved documents to the satisfaction of the Development Services Department within 30 days of damage or Certificate of Occupancy.

PLANNING/DESIGN REQUIREMENTS:

45. All automobile, motorcycle and bicycle parking spaces must be constructed in accordance with the requirements of the SDMC. All on-site parking stalls and aisle widths shall be in compliance with requirements of the City's Land Development Code and shall not be converted and/or utilized for any other purpose, unless otherwise authorized in writing by the appropriate City decision maker in accordance with the SDMC.

46. The Owners/Permittee shall provide trash compactors within the development, and contract with a waste management company to ensure waste and recyclable materials are collected from the site with enough frequency to ensure the capacity of the storage bins are not exceeded.

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

48. All signs associated with this development shall be consistent with sign criteria established by either the approved Exhibit “A” or City-wide sign regulations.

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

TRANSPORTATION REQUIREMENTS:

50. Prior to the issuance of the first building permit, the Owners/Permittee shall contribute a fair share of 22.4-percent towards the construction of a traffic signal at the intersection of Nutmeg Street and 5th Avenue, satisfactory to the City Engineer.

51. Prior to first occupancy, Owners/Permittee shall implement the commercial loading zone and passenger loading zone on Olive Street and associated striping changes per Exhibit “A” to the satisfaction of the City Engineer.

PUBLIC UTILITIES DEPARTMENT REQUIREMENTS:

52. Prior to the issuance of any construction permit for a structure, a geotechnical report must be developed to the satisfaction of the Public Utilities Director per SDG 2.1.b to address the potential

risks to the public water and sewer infrastructure poised by the tie-backs into the public right-of-way associated with the proposed underground parking garage.

53. Prior to the issuance of any construction permit for a structure, the Owners/Permittee must obtain approval from the Public Utilities Director for the proposed backflow preventers located within building footprint.

54. Prior to, or concurrently with, any Construction Plans being submitted for ministerial review, the Owners/Permittee is required to submit to the City for approval a Sewer Planning Study developed in accordance with the City of San Diego's current Sewer Design Guidelines. The Sewer Planning Study shall evaluate all downstream public sewer facilities that would be impacted ($\Delta Q > 5\%$) by the proposed development; and, if the available design capacity in these existing facilities would be exceeded, the planning study shall recommend appropriate mitigation measures.

55. Prior to the issuance of any construction permit for a structure, the Owners/Permittee is required to obtain City approval for the Sewer Planning Study developed in accordance with the City of San Diego's current Sewer Design Guidelines.

56. Prior to the issuance of any construction permit for a structure, all public improvements recommended by the approved sewer study must be permitted and bonded or constructed.

57. Prior to the issuance of any Certificate of Occupancy, all public improvements recommended by the sewer study must be constructed and accepted by the City.

SOLID WASTE MANAGEMENT REQUIREMENTS:

58. Prior to issuance of any construction permits for grading, the Owner/Permittee shall comply with the requirements of the Refuse and Recyclable Materials Storage Regulations and the Waste Management Plan, except for any deviations granted as part of this Permit, and shall be identified and noted on the appropriate construction documents to the satisfaction of the Environmental Services and Development Services Departments.

INFORMATION ONLY:

- The issuance of this discretionary permit alone does not allow the immediate commencement or continued operation of the proposed use on site. Any operation allowed by this discretionary permit may only begin or recommence after all conditions listed on this permit are fully completed and all required ministerial permits have been issued and received final inspection.
- Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of this Permit, may protest the imposition within ninety days of the approval of this development permit by filing a written protest with the City Clerk pursuant to California Government Code-section 66020.

- This development may be subject to impact fees at the time of construction permit issuance.

APPROVED by the City Council of the City of San Diego on January 28, 2019, and by Resolution No. ~~R-312185~~.

Permit Type/PTS Approval No.: SDP No. 2078814 AND NDP No. 2078816
Date of Approval: January 28, 2019

AUTHENTICATED BY THE CITY OF SAN DIEGO DEVELOPMENT SERVICES
DEPARTMENT

Firouzeh Tirandazi
Development Project Manager

**NOTE: Notary acknowledgment
must be attached per Civil Code
section 1189 et seq.**

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

NUTMEG AND OLIVE, LLC
a Delaware Limited Liability Company
Owner

By _____
Ken Tranbarger
President

**NOTE: Notary acknowledgments
must be attached per Civil Code
section 1189 et seq.**

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

THE CATHEDRAL CHURCH OF ST. PAUL
a California nonprofit religious corporation
Owner

By _____
The Very Reverend Penelope Bridges
Dean

**NOTE: Notary acknowledgments
must be attached per Civil Code
section 1189 et seq.**

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

VUE ON 5TH OWNERS ASSOCIATION
a California non-profit mutual benefit corporation
Owner

By _____
Briar Belair
Director

**NOTE: Notary acknowledgments
must be attached per Civil Code
section 1189 et seq.**

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

CR FIFTH & NUTMEG, LLC
a Delaware Limited Liability Company
Owner

By: CR Fifth & Nutmeg Associates, LLC,
A Delaware Limited Liability Company,
its managing member

By: Colrich California, LLC,
a California Limited Liability Company,
its managing member

By _____
NAME
TITLE

**NOTE: Notary acknowledgments
must be attached per Civil Code
section 1189 et seq.**

R-312185

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

GREYSTAR GP II, LLC
a Delaware Limited Liability Company
Permittee

By _____
Robert LaFever
Vice President

**NOTE: Notary acknowledgments
must be attached per Civil Code
section 1189 et seq.**

Passed by the Council of The City of San Diego on JAN 28 2019, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Bárbara Bry	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jennifer Campbell	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Ward	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Monica Montgomery	<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 type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Scott Sherman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Vivian Moreno	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Georgette Gómez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage JAN 28 2019

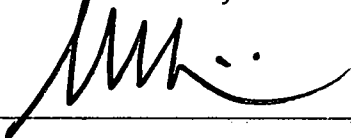
(Please note: When a resolution is approved by the Mayor, the date of final passage is the date the approved resolution was returned to the Office of the City Clerk.)

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- <u>312185</u>