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(R-2024-636)

RESOLUTION NUMBER R- 315588

DATE OF FINAL PASSAGE JUN 04 2024

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO DENYING THE APPEAL AND AFFIRMING THE DEVELOPMENT SERVICES DEPARTMENT'S DECISION TO APPROVE NEIGHBORHOOD DEVELOPMENT PERMIT NO. PMT-3155118 FOR 4620 PACIFIC VIEWPOINT-PROJECT NO. PRJ-1056469.

WHEREAS, GEORGAKOPOULOS FAMILY, LLC, Owner, and Viewpoint Development, LLC, Permittee, filed an application with the City of San Diego for a permit to construct a new 223-dwelling-unit seven-story building on portions of a 1.74-acre site; and

WHEREAS, the project site is located at 4620 Pacific Highway in the OTMCR-1-3 zone, the Airport Approach Overlay Zone, the Airport Land Use Compatibility Overlay Zones for San Diego International Airport (SDIA) and Naval Air Station (NAS) North Island, ALUCP Airport Influence Area (SDIA-80 AMSL, North Island NAS 191 AMSL), the Parking Standards Transit Priority Area, the Transit Area Overlay Zone and the Transit Priority Area zone within the Old Town Community Plan area; and

WHEREAS, the project site is legally described as PARCEL 1: LOTS 1 AND 2 OF JENNINGS TRACT, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 5632, FILED IN THE OFFICE OF THE COUNTY RECORDER OCTOBER 06, 1965. PARCEL 2: THOSE PORTIONS OF LOTS 16 AND 17 OF SONNICHSEN'S SUBDIVISION, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 1574, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, DESCRIBED AS FOLLOWS: BEGINNING AT A POINT IN THE SOUTHEASTERLY LINE

OF SAID LOT 16 DISTANT THEREON SOUTH 39°11'52" WEST (RECORD SOUTH 36°06' WEST) (DEED SOUTH 36°38'54" WEST) 74.24 FEET FROM THE MOST EASTERLY CORNER OF LOT 18 OF SAID MAP NO. 1574; THENCE NORTH 39°11'52" EAST ALONG SAID SOUTHEASTERLY LINE 23.47 FEET; THENCE NORTH 35°27'02" WEST 32.83 FEET (DEED NORTH 38° WEST) TO A POINT ON THE ARC OF A 31 FOOT RADIUS CURVE CONCAVE WESTERLY, A RADIAL LINE OF SAID CURVE BEARS NORTH 54°32'58" EAST (DEED NORTH 52° EAST) TO SAID POINT; THENCE SOUTHERLY AND SOUTHWESTERLY ALONG SAID CURVE 40.39 FEET THROUGH AN ANGLE OF 74°38'54"; THENCE SOUTH 36°27'17" EAST 9.15 FEET (DEED SOUTH 39°00'15" EAST) TO THE POINT OF BEGINNING. PARCEL 3: THOSE PARTS OF LOTS 1 THROUGH 5, BLOCK 376, OF CORRECTED PLAT OF SUBDIVISION OF BLOCKS 368, 369, 374, 375 AND 376 OF OLD SAN DIEGO ACCORDING TO MAP THEREOF NO. 420 FILED NOVEMBER 25, 1887 IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY AND "PLAN OF OLD SAN DIEGO" MADE BY JAMES PASCOE IN 1870, A COPY OF WHICH WAS FILED AS MISCELLANEOUS MAP NO. 40 IN THE OFFICE OF SAID COUNTY RECORDER; THOSE PARTS OF LOTS 6 THROUGH 8, AND OF LOT 19, BLOCK 366, AND OF LOTS 12 THROUGH 17, BLOCK 367 AS SHOWN ON E. O. ROGERS SUBDIVISION OF BLOCKS 370, 373, 366 AND 367 OF OLD SAN DIEGO FILED ON OCTOBER 11, 1887 IN THE OFFICE OF SAID COUNTY RECORDER AS MAP NO. 429 AND AS SHOWN ON SAID "PLAN OF OLD SAN DIEGO" LYING WITHIN A STRIP OF LAND 15 FEET WIDE, WESTERLY AND NORTHWESTERLY OF THE FOLLOWING DESCRIBED LINE: BEGINNING AT THE SOUTHERLY TERMINUS OF COURSE (4) AS DESCRIBED IN DEED TO THE STATE OF CALIFORNIA RECORDED MAY 17, 1965 AS

INSTRUMENT NO. 87802 OF OFFICIAL RECORDS IN THE OFFICE OF SAID COUNTY RECORDER; THENCE ALONG THE FOLLOWING NUMBERED COURSES: (1) NORTHERLY FROM A RADIAL BEARING SOUTH 64°32'48" WEST, ALONG A NON-TANGENT CURVE CONCAVE TO THE EAST, HAVING A RADIUS OF 650 FEET THROUGH CENTRAL ANGLE OF 26°30'13" A DISTANCE OF 300.68 FEET TO A POINT OF COMPOUND CURVATURE; (2) NORTHERLY FROM A RADIAL BEARING NORTH 88°56'59" WEST, ALONG A CURVE CONCAVE TO THE EAST, HAVING A RADIUS OF 850 FEET THROUGH A CENTRAL ANGLE OF 18°28'54", A DISTANCE OF 274.18 FEET TO A POINT ON THE WESTERLY LINE OF THAT PARCEL OF LAND CONVEYED TO THE STATE OF CALIFORNIA BY DEED RECORDED JUNE 20, 1942 IN BOOK 1350, PAGE 442 OF OFFICIAL RECORDS. TOGETHER WITH THE UNDERLYING FEE INTEREST, IF ANY, APPURTENANT TO THE ABOVE DESCRIBED PROPERTY IN AND TO THE ADJOINING PUBLIC WAYS. THE SOUTHERLY TERMINUS OF THE WESTERLY LINE OF THE HEREINABOVE DESCRIBED 15 FOOT STRIP OF LAND SHALL BE EXTENDED TO MEET A LINE WHICH BEARS SOUTH 36°38'58" WEST, FROM THE SAID POINT OF BEGINNING; THENCE NORTHERLY TERMINUS OF SAID WESTERLY LINE SHALL BE EXTENDED TO MEET A NON-TANGENT CURVE, WHICH BEARS NORTHERLY FROM A RADIAL BEARING NORTH 70°28'05" WEST, CONCAVE TO THE EAST, HAVING A RADIUS OF 4.94 FEET THROUGH A CENTRAL ANGLE OF 1°27'12", A DISTANCE OF 125.31 FEET, THE POINT OF BEGINNING OF LAST SAID CURVE BEING THE NORTHERLY TERMINUS POINT OF COURSE (2) HEREINABOVE DESCRIBED. THE BEARINGS AND DISTANCES USED IN THE ABOVE DESCRIPTION ARE ON THE CALIFORNIA COORDINATE SYSTEM ZONE 6 GRID DISTANCES EQUAL

GROUND LEVEL DISTANCES. PARCEL 4: THAT PART OF THAT PORTION OF BLOCK 366 OF E. O. ROGER'S SUBDIVISION OF BLOCK 370, 373, 366 AND 367 OF OLD SAN DIEGO, ACCORDING TO MAP NO. 429 FILED IN THE OFFICE OF THE RECORDER OF SAN DIEGO COUNTY, OCTOBER 11, 1887 AS SAID PORTION WAS CONVEYED TO THE STATE OF CALIFORNIA BY DEED RECORDED SEPTEMBER 02, 1964 AS INSTRUMENT NO. 160494 OF OFFICIAL RECORDS OF SAID COUNTY, SAID PART HEREBY CONVEYED LYING SOUTHEASTERLY OF AND CONTIGUOUS TO THE SOUTHERLY SIDELINE OF THAT FIFTEEN FOOT WIDE STRIP OF LAND CONVEYED TO SAN DIEGO TRUST AND SAVINGS BANK, AS TRUSTEE, RECORDED AUGUST 01, 1969 AS INSTRUMENT NO. 140370 OF OFFICIAL RECORDS. EXCEPT THEREFROM THAT PORTION LYING WITHIN THE BOUNDARIES OF PARCEL 1 DESCRIBED ABOVE; and

WHEREAS, the project site was previously analyzed within the certified Program Environmental Impact Report (PEIR) No. 561630/SCH No. 2018011022 for the Old Town Community Plan. An evaluation was prepared to determine if conditions specified in the California Environmental Quality Act (CEQA) Statute and Guidelines, including Guidelines Sections 15162, 15164, and 15168, would require the preparation of additional CEQA review. As addressed in the Addendum prepared for the project and the separate CEQA resolution, the project is a later activity within the scope of the PEIR that will not result in new significant environmental effects or a substantial increase in the severity of previously identified significant effects; and

WHEREAS, the Mitigation Monitoring and Reporting Program included in the Addendum incorporates the feasible mitigation measures the project must implement as a

condition of this approval consistent with the PEIR Mitigation Framework. Based on the CEQA Sections 15162, 15164 and 15168 evaluation, the project would not require any additional environmental review; and

WHEREAS, on March 4, 2024, the Development Services Department of the City of San Diego approved Neighborhood Development Permit No. PMT-3155118 and adopted the Addendum pursuant to the Land Development Code of the City of San Diego; and

WHEREAS, on March 18, 2024, the Supporter's Alliance for Environmental Responsibility submitted an appeal of the Development Services Department's approval of Neighborhood Development Permit No. PMT-3155118 (Appeal); and

WHEREAS, on June 4, 2024, the City Council of the City of San Diego (City Council) considered the Appeal of Neighborhood Development Permit No. PMT-3155118, 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; and

WHEREAS, the Office of the City Attorney has drafted this resolution based on the information provided by City staff, including information provided by affected third parties and verified by City staff, with the understanding that this information is complete, true, and accurate; 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; 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 Neighborhood Development Permit No. PMT-3155118:

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

1. Findings for all Neighborhood Development Permits:

a. The proposed development will not adversely affect the applicable land use plan. The project site is located on a 1.7-acre site at 4620 Pacific Highway. It proposes 223 dwelling units, of which 20 will be very low-income, and 13 will be moderate-income units. It is located south of Interstate 8, north of Taylor and Rosecrans Streets, and east of Interstate 5 within the Old Town Community Plan area. The Old Town Community Plan identifies the site as mixed commercial residential within the Taylor Sub-District. The Taylor Sub District serves as the northern gateway to the community and primarily contains institutional uses including the Old Town Transit Center and the Caltrans District 11 headquarters. Within the Taylor Sub District, the Community Plan envisions a mix of residential, hotel, commercial, and institutional uses in proximity to the transit center. The project complies with that vision by providing residential uses, and by providing affordable housing furthers other Community Plan goals and policies including Policy LU-2.3, which encourages the inclusion of onsite affordable housing units in residential developments.

The existing structure on site is Perry's Diner built in 1966. The property is not an individually designated historic resource and is not located within a designated historic district. Staff has determined the existing structure to be potentially historic; therefore, the project will retain and renovate a portion of the existing structure with demolition limited to areas where there are no character-defining features.

The project site has a base zone density of one dwelling unit per 600 square feet. The site is 76,154 square feet allowing for a base density of 127 dwelling units. The project will utilize the Affordable Housing Regulations Density Bonus program to allow for a total of 223 dwelling units. As previously stated, the project will provide 33 affordable units, of which 20 will be very low-income, and 13 will be moderate-income units. The project will construct a 7-story building with a mezzanine level. The building consists of five stories of residential units over a two-story podium with above-grade parking, including a partial level of below-grade parking.

As detailed on the project's Exhibit A plans, the project requires six development incentives and/or waivers in accordance with the provisions of the Affordable Housing Regulations related to height, the number of building stories, building footprint, street wall

transparency, percentage of common open space and balcony setbacks from the right of way pursuant to SDMC Section 143.0740.

The site meets Community Plan Policy LU-8.1 by encouraging transit-oriented residential development within the area along Pacific Highway north of Taylor Street. The site is located less than 0.2 miles from the Old Town Transit Center, one of San Diego's major multi-modal transit hubs, with connections to two light rail lines (Blue and Green), ten bus routes (Nos. 8, 9, 10, 28, 30, 35, 44, 83, 88, and 105), the regional commuter rail line Coaster, the national passenger train operator Amtrak, and with connections to the San Diego International Airport via the Airport Shuttle. The development reinforces Old Town San Diego's character as a pedestrian-oriented community by placing an emphasis on walking, bicycling, and transit as modes of transportation for residents. 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. 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 include various conditions and referenced exhibits of approval relevant to achieving project compliance with the applicable regulations of the San Diego Municipal code (SMC) in effect for this project. Such conditions within the permit have been determined necessary to avoid adverse impacts 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 and the project approvals. Prior to the 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.

Furthermore, the project has been reviewed pursuant to the California Environmental Quality Act, and the environmental analysis did not find any significant, unmitigated impacts to public health and 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 development on a 1.7-acre site is for a new 223-dwelling unit seven-story building with a mezzanine. The building is to consist of five stories of residential units over a two-story podium with above-grade parking, including a partial level of below-grade parking. The project complies with the regulations of the San Diego Municipal Code (SDMC), including requirements for floor area ratio, parking, landscaping, and all other requirements of the development criteria for its zoning, except where incentives and/or waivers are required in accordance with the Affordable Housing Regulations, pursuant to the SDMC Section 143.0740. The project requests the following six development incentives and/or waivers in accordance with the provisions of the Affordable Housing Regulations related to height, the number of building stories, building footprint, setbacks from the right of way, building footprint,

street wall transparency, percentage of common open space and balcony setbacks from the right of way pursuant to SDMC Section 143.0740:

1. A maximum building height of 85 feet where 45 feet is allowed per the SDMC Section 1516.0119 Table 1516-01E.

The project will be providing 33 units of affordable housing, of which 20 are deed-restricted, very low-income affordable housing units and 13 are moderate-income units. The project is utilizing the affordable density bonus program to allow for a total of 223 dwelling units and a building height of 85 feet. The requested incentive is consistent with the intent of the state's density bonus law and the City's affordable housing regulations.

2. Construction of a seven-story structure where a four-story structure is allowed per the SDMC Section 1516.0119 Table 1516-01E.

The project is utilizing the affordable density bonus program to allow a seven-story structure for the 223 dwelling units. The additional number of stories at seven with a mezzanine in conjunction with the height deviation will not adversely affect the Old Town land use plan and will benefit the community by providing additional market rate and affordable housing opportunities.

3. A 56,304 square foot building footprint for a seven-story building is proposed where a maximum 12,000 square foot footprint for buildings three stories and taller is allowed per the SDMC Section 1516.0119 Table 1516-01E.

The proposed multi-family residential transit-oriented development will be preserving and restoring most of the existing structure (Perry's Café) on-site in its current location, while providing affordable housing units with corresponding density bonus units, the deviation from the 12,000 square foot maximum structure footprint for three-stories and taller is required in order to build around the existing structure as it will remain in-place on-site. This requires the structure's footprint to surround the existing structure on three-sides except for the front side along Pacific Highway. In order to meet the following design, the project is using the following incentive to deviate from the allowable building footprint pursuant to the Affordable Housing Regulations, per the SDMC Section 143.0740.

4. A minimum of 12 percent transparency of the street wall is proposed where a maximum of 20 percent transparency is otherwise allowed per SDMC 1516.1027(b)(1) Table 156-01E.

The proposed multi-dwelling unit transit-oriented development is providing two levels of structured parking above-grade and one-level of subterranean, along with preserving most of the existing Perry's Cafe structure on-site in its current location. The proposed development is utilizing the affordable density bonus program to deviate from the 20 percent minimum transparency requirement for street walls consisting of clear visible glass.

The reduced transparency along the street wall will not adversely affect Old Town Community Plan's land use, nor be detrimental to public health, safety or welfare as the street frontage will be activated and ground floor residential uses, as well as the existing structure on-site is being converted into the proposed development's primary entrance and leasing lobby. The deviation is consistent with the intent of the Affordable Housing Regulations, per the SDMC Section 143.0740.

5. A minimum of 17.7 percent common open space is proposed where 20 percent is required on lot areas greater than 30,000 square feet per SDMC 1516.0127(c)(3) Table 1516-01G.

The project proposes to reduce the required common open space from 20 percent or 15,231 square feet to 17.7 percent or 13,076 square feet in order to preserve most of the existing Perry's Cafe structure on-site in its current location. The proposed deviation to 17.17 percent of common opens space is consistent with the intent of the Affordable Housing Regulations, per the SDMC Section 143.0740.

6. The allowance of private resident balconies beginning at 20 feet above the right-of-way to encroach is proposed where the balconies are currently restricted per SDMC 1516.0128 (b)(4).

Each of the incentives and waivers has been reviewed as they relate to the project and the Land Development Code. The project will be 223 units of housing, including 33 units of affordable housing, of which 20 are deed-restricted, very low-income affordable housing units and 13 are moderate-income units, in accordance with the Affordable Housing Regulations.

The above-requested waivers and incentives are authorized by and consistent with the intent of the state's density bonus law and the Affordable Housing Regulations. The regulations subject to the requested waivers would physically preclude the construction of the project as proposed at the densities and with the incentives authorized by the Affordable Housing Regulations.

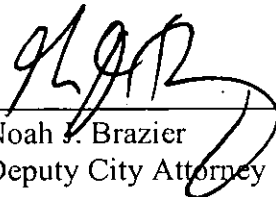
The requested incentives must be granted as substantial evidence does not support a finding that they do not result in identifiable and actual cost reductions to provide for affordable housing, would have specific, adverse impacts upon public health and safety, are on a property listed in the California Register of Historical Resources, or would be contrary to state or federal law. Thus, the waivers and incentives are consistent with the intent of the Affordable Housing Regulations, per the SDMC Section 143.0740. The requested incentives and waivers are appropriate and will result in a project that efficiently utilizes the project site and provides housing for a diverse and mixed population, affordable housing near major transit stops and stations, and qualifies as a resource-efficient development located near employment, shopping, schools, recreation, and walking/bicycling infrastructure, in conformance with the goals and policies of the Community Plan and the General Plan's Housing Element. Therefore, the proposed project would comply with the applicable regulations of the Land Development Code, including any allowable deviations.

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

BE IT FURTHER RESOLVED, that the Appeal of the Supporter's Alliance for Environmental Responsibility is denied and the decision of the Development Services Department is affirmed; and.

BE IT FURTHER RESOLVED, that the that, based on the findings hereinbefore adopted by the City Council, Neighborhood Development Permit No. PMT-3155118 is hereby granted by the City Council to the referenced Owner/Permittee, in the form, exhibits, terms and conditions as set forth in Permit No. PMT-3155118, a copy of which is attached hereto and made a part hereof.

APPROVED: MARA W. ELLIOTT, City Attorney

By  _____
Noah J. Brazier
Deputy City Attorney

NJB:nja
06/05/2024
Or. Dept: Development Services
Doc. No. 3671859

Attachment: Neighborhood Development Permit No. PMT-3155118

**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: 24009204

SPACE ABOVE THIS LINE FOR RECORDER'S USE

**NEIGHBORHOOD DEVELOPMENT PERMIT NO. PMT-3155118
4620 PACIFIC VIEWPOINT PROJECT NO. PRJ-1056469
CITY COUNCIL**

This Neighborhood Development Permit No. PMT-3155118 is granted by the Development Services Department of the City of San Diego to GEORGAKOPULOS FAMILY, LLC, and VIEWPOINT DEVELOPMENT, LLC, Permittee, pursuant to San Diego Municipal Code [SDMC] sections 126.0404 and 143.0720. The 1.74-acre site is located at 4620 Pacific Highway in the Old Town Mixed Commercial Residential-1-3 (OTMCR-1-3) zone, the Airport Approach Overlay Zone, the Airport Land Use Compatibility Overlay Zones for San Diego International Airport (SDIA) and Naval Air Station (NAS) North Island, ALUCP Airport Influence Area (SDIA-80 AMSL, North Island NAS 191 AMSL), the Parking Standards Transit Priority Area, the Transit Area Overlay Zone and the Transit Priority Area zone within the Old Town Community Plan area.

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THAT PORTION LYING WITHIN THE BOUNDARIES OF PARCEL 1 DESCRIBED ABOVE.

Subject to the terms and conditions set forth in this Permit, and the density bonus incentives and waivers, permission is granted to Owner/Permittee to construct a new seven-story building with a mezzanine, described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] March 4, 2024, on file in the Development Services Department.

The project shall include:

- a. Construction of a new, 223-dwelling-unit, seven-story building with a mezzanine level, of which 33 units will be affordable (20 will be very low-income and 13 will be moderate-income units). The building will consist of five stories of residential units over a two-story podium with above-grade parking and one partial level of below-grade parking. A portion of the existing structure (Perry's Café) will remain and will be repurposed as part of the project.
- b. Off-street parking;
- c. 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 March 18, 2027.
2. No permit for the construction, occupancy, or operation of any facility or improvement described herein shall be granted, nor shall any activity authorized by this Permit be conducted on the premises until:
 - a. The Owner/Permittee signs and returns the Permit to the Development Services Department; and
 - b. The Permit is recorded in the Office of the San Diego County Recorder.

3. 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.
4. This Permit is a covenant running with the subject property and all of the requirements and conditions of this Permit and related documents shall be binding upon the Owner/Permittee and any successor(s) in interest.
5. The continued use of this Permit shall be subject to the regulations of this and any other applicable governmental agency.
6. Issuance of this Permit by the City of San Diego does not authorize the Owner/Permittee for this Permit to violate any Federal, State or City laws, ordinances, regulations or policies including, but not limited to, the Endangered Species Act of 1973 [ESA] and any amendments thereto (16 U.S.C. § 1531 et seq.).
7. The Owner/Permittee shall secure all necessary building permits. The Owner/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.
8. 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.
9. All of 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.
10. If any condition of this Permit, on a legal challenge by the Owner/Permittee of this Permit, is found or held by a court of competent jurisdiction to be invalid, unenforceable, or unreasonable, this Permit shall be void. However, in such an event, the Owner/Permittee shall have the right, by paying applicable processing fees, to bring a request for a new permit without the "invalid" condition(s) back to the discretionary body which approved the Permit for a determination by that body as to whether all of the findings necessary for the issuance of the proposed permit can still be made in the absence of the "invalid" condition(s). Such hearing shall be a hearing de novo, and the discretionary body shall have the absolute right to approve, disapprove, or modify the proposed permit and the condition(s) contained therein.
11. This Permit may be developed in phases. Each phase shall be constructed prior to sale or lease to individual owners or tenants to ensure that all development is consistent with the conditions and exhibits approved for each respective phase per the approved Exhibit "A."

CLIMATE ACTION PLAN REQUIREMENTS:

12. Owner/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.

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. 1056469, shall be noted on the construction plans and specifications under the heading ENVIRONMENTAL MITIGATION REQUIREMENTS. The Owner/Permittee shall comply with the MMRP as specified in ADDENDUM NO. 1056469 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: HISTORICAL RESOURCES AND TRIBAL CULTURAL RESOURCES.

AIRPORT REQUIREMENTS:

15. Prior to issuance of any building permits the Owner/Permittee shall provide a valid "Determination of No Hazard to Air Navigation" issued by the Federal Aviation Administration [FAA].

ENGINEERING REQUIREMENTS:

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

17. Prior to the issuance of any building permits, the Owner/Permittee shall assure, by permit and bond, to reconstruct the existing curb ramp at the northwest corner of Rosecrans Street and Pacific Highway, with current City Standard dual curb ramps, satisfactory to the City Engineer.

18. Prior to the issuance of any building permits, the Owner/Permittee shall assure, by permit and bond the construction of a current City Standard 20-foot driveway, adjacent to the site on Pacific Highway, satisfactory to the City Engineer.

19. Prior to the issuance of any building permits, the Owner/Permittee shall assure, by permit and bond, the construction of a current City Standard 12-foot driveway, adjacent to the site on Pacific Highway, satisfactory to the City Engineer.
20. Prior to the issuance of any building permits, the Owner/Permittee shall assure, by permit and bond, the construction of a current City Standard 12-foot driveway, adjacent to the site on Rosecrans Street, satisfactory to the City Engineer.
21. Prior to the issuance of any building permits, the Owner/Permittee shall assure, by permit and bond, to reconstruct the existing curb and gutter with City standard along the property frontage on Rosecrans St and Pacific Highway, satisfactory to the City Engineer.
22. Prior to the issuance of any building permits, the Owner/Permittee shall assure, by permit and bond, to reconstruct the existing sidewalk with City standard non-contiguous sidewalk along the property frontage on Rosecrans St and Pacific Highway, satisfactory to the City Engineer.
23. Prior to the issuance of any building permits, the Owner/Permittee shall obtain an Encroachment Maintenance Removal Agreement, from the City Engineer, for the private storm drain, enhanced paving, sidewalk underdrains, landscape and irrigation, driveway above water main, adjacent to the site on Rosecrans Street and Pacific Highway.
24. Prior to the issuance of a building permit, the Owner/Permittee shall obtain a grading permit for the grading proposed for this project. All grading shall conform to requirements in accordance with the City of San Diego Municipal Code in a manner satisfactory to the City Engineer.
25. The drainage system proposed for this development is private and subject to approval by the City Engineer.
26. Prior to the issuance of any construction permit, the Owner/Permittee shall enter into a Maintenance Agreement for ongoing permanent (Best Management Practices) BMP maintenance, satisfactory to the City Engineer.
27. Prior to the issuance of any construction permit, the Owner/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.
28. Prior to the issuance of any construction permit, the Owner/Permittee shall incorporate any construction Best Management Practices necessary to comply with Chapter 14, Article 2, Division 1 (Grading Regulations) of the SDMC, into the construction plans or specifications.
29. Development of this project shall comply with all storm water construction requirements of the State Construction General Permit, Order No. 2009-0009DWQ, or subsequent order, and the Municipal Storm Water Permit, Order No. R9-2013-0001, or subsequent order. In accordance with Order No. 2009-0009DWQ, or subsequent order, a Risk Level Determination shall be

calculated for the site and a Storm Water Pollution Prevention Plan (SWPPP) shall be implemented concurrently with the commencement of grading activities.

30. Prior to issuance of a grading or a construction permit, a copy of the Notice of Intent (NOI) with a valid Waste Discharge ID number (WDID#) shall be submitted to the City of San Diego as a proof of enrollment under the Construction General Permit. When ownership of the entire site or portions of the site changes prior to filing of the Notice of Termination (NOT), a revised NOI shall be submitted electronically to the State Water Resources Board in accordance with the provisions as set forth in Section II.C of Order No. 2009-0009-DWQ and a copy shall be submitted to the City.

31. Prior to the issuance of any building permits, the Owner/Permittee shall obtain an Encroachment Maintenance Agreement, from the City Engineer, for the private above ground encroachments adjacent to the site on Rosecrans Street and Pacific Highway.

LANDSCAPE REQUIREMENTS:

32. Prior to issuance of any construction permit for grading, the Owner/Permittee shall submit complete construction documents for the revegetation and hydro-seeding 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.

33. Prior to issuance of any construction permit for public improvements, the Owner/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.

34. Prior to issuance of any construction permit for building (including shell), the Owner/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)(6).

35. In the event that a foundation only, permit is requested by the Owner/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.'

36. The Owner/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 another entity approved by the Development Services Department. 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.

37. If any required landscape (including existing or new plantings, hardscape, landscape features, etc.) indicated on the approved Exhibit "A"s is damaged or removed, the Owner/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:

38. 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 Owner/Permittee.

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.

GEOLOGY REQUIREMENTS

39. Prior to the issuance of any construction permits (either grading or building), the Owner/Permittee shall submit a geotechnical investigation report or update letter prepared in accordance with the City's "Guidelines for Geotechnical Reports" that specifically addresses the proposed construction plans. The geotechnical investigation report or update letter shall be reviewed for adequacy by the Geology Section of the Development Services Department prior to issuance of any construction permits. The Owner/Permittee shall submit an as-graded geotechnical report prepared in accordance with the City's "Guidelines for Geotechnical Reports" following completion of the grading. The as-graded geotechnical report shall be reviewed for adequacy by the Geology Section of the

TRANSPORTATION REQUIREMENTS

40. 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.

41. Prior to the issuance of any building permit, the Owner/Permittee shall dedicate 1.6 to 2.6 feet for public right-of-way purposes along the project's Pacific Highway frontage and assure by

permit and bond the construction of a 14-foot parkway (with an 8-foot landscape buffer and non-contiguous 6-foot-wide sidewalk), per Exhibit "A", satisfactory to the City Engineer.

42. Prior to the issuance of any building permit, the Owner/Permittee shall dedicate 13 feet for public right-of-way purposes along the project's Rosecrans Street frontage and assure by permit and bond the construction of a 22-foot parkway (including a non-contiguous 6-foot-wide sidewalk with a landscape buffer on both sides), per Exhibit "A", satisfactory to the City Engineer.

43. Prior to the issuance of any building permit, the Owner/Permittee shall re-stripe the southbound right-turn lane on Pacific Highway at the intersection of Rosecrans Street and Taylor Street from 60 feet to 110 feet in length, per Exhibit "A", satisfactory to the City Engineer.

44. Prior to the issuance of any building permit, the Owner/Permittee shall remove the existing Class II Bicycle Lane and implement a Class IV Cycle Track along the project's frontage on Pacific Highway per Exhibit "A", satisfactory to the City Engineer.

PUBLIC UTILITIES DEPARTMENT REQUIREMENTS:

45. All proposed private water and sewer facilities located within a single lot are to be designed to meet the requirements of the California Plumbing Code and will be reviewed as part of the building permit plan check.

46. Prior to the initial ministerial review, the Owner/Permittee shall obtain approval from Caltrans for the proposed public sewer main within the Caltrans public right-of-way.

47. Prior to the issuance of any building permits, the Owner/Permittee shall assure, by permit and bond, to abandon the existing public sewer main as shown on the approved Exhibit "A", in a manner satisfactory to the Public Utilities Department and the City Engineer.

48. Prior to the issuance of any building construction permits, the Owner/Permittee is required to vacate sewer easements as shown on the approved Exhibit "A," in a manner satisfactory to the Public Utilities Department and City Engineer.

49. Prior to the issuance of any building permits, the Owner/Permittee shall assure, by permit and bond, the design and construction of new water and sewer service(s) outside of any driveway or drive aisle and the abandonment of any existing unused water and sewer services within the public right-of-way adjacent to the project site, in a manner satisfactory to the Public Utilities Department and the City Engineer.

50. During the ministerial review the Owner/Permittee shall obtain final approval for the design and footprint of the wet utility room in a manner satisfactory to the Public Utilities Department.

51. Prior to the issuance of any building permits, the Owner/Permittee shall obtain approval from Public Utilities Department Cross-Connection Control for location and installation of all BFPD's.
52. Prior to the issuance of any building permits, the Owner/Permittee shall apply for a plumbing permit for the installation of appropriate private back flow prevention device(s) [BFPDs], on each water service (domestic, fire and irrigation), in a manner satisfactory to the Public Utilities Department and the City Engineer. BFPDs 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.
53. The Owner/Permittee shall be responsible for any damage caused to City of San Diego water and sewer facilities within the vicinity of the project site, due to the construction activities associated with this project, in accordance with Municipal Code section 142.0607. In the event that any such facility loses integrity then, the Owner/Permittee shall repair or reconstruct any damaged public water and sewer facility in a manner satisfactory to the Public Utilities Department and the City Engineer.
54. Prior to the issuance of any building permits, the Owner/Permittee shall obtain an Encroachment Maintenance Removal Agreement, from the City Engineer, for the private sewer facilities encroaching into the public right-of-way.
55. Prior to final inspection, all public water and sewer facilities shall be complete and operational in a manner satisfactory to the Public Utilities Department and the City Engineer.
56. The Owner/Permittee shall design and construct all proposed public water and sewer facilities, in accordance with established criteria in the current edition of the City of San Diego Water and Sewer Facility Design Guidelines and City regulations, standards and practices.
57. No trees or shrubs exceeding three feet in height at maturity shall be installed within ten feet of any sewer facilities and five feet of any water facilities.
58. During the ministerial approval of the grading and public improvement plan, the Owner/Permittee shall submit an addendum to the accepted water study which will analyze the upsized 12-inch water main in Pacific Highway as shown in the approved Exhibit "A", in a manner satisfactory to the Public Utilities Department and in accordance with the City of San Diego's current Design Guide.
59. Prior to the issuance of any building permits, the Owner/Permittee shall assure, by permit and bond, to abandon the existing public 8-inch water main in Pacific Highway as shown in the approved Exhibit "A", in a manner satisfactory to the Public Utilities Department and the City Engineer.
60. Prior to the issuance of any construction permit, the Owner/Permittee shall assure, by permit and bond the design and construction of a 12-inch public water main within Pacific

Highway right-of-way as shown on the approved Exhibit "A", in a manner satisfactory to the Public Utilities Department and the City Engineer.

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 Development Services Department of the City of San Diego on March 4, 2024, and CM-7307.

AUTHENTICATED BY THE CITY OF SAN DIEGO DEVELOPMENT SERVICES
DEPARTMENT

Christian Hoppe
Development Project Manager

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

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

GEORGAKOPOULOS FAMILY, LLC
Owner

By _____
Petroula Eulmi
Manager

Viewpoint Development, LLC
Permittee

By _____
Rosemary Cooper
Partner

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

Passed by the Council of The City of San Diego on JUN 04 2024, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Joe LaCava	<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"/>
Stephen Whitburn	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Henry L. Foster III	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Marni von Wilpert	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Kent Lee	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Raul A. Campillo	<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"/>
Sean Elo-Rivera	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage JUN 04 2024.

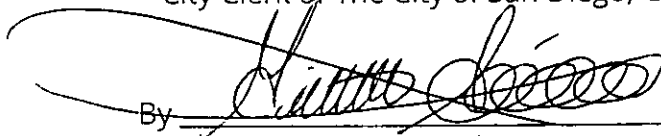
(Please note: When a resolution is approved by the Mayor, the date of final passage is the date the approved resolution was returned to the Office of the City Clerk.)

AUTHENTICATED BY:

TODD GLORIA
Mayor of The City of San Diego, California.

(Seal)

DIANA J.S. FUENTES
City Clerk of The City of San Diego, California.

By , Deputy

Office of the City Clerk, San Diego, California
Resolution Number R- 315588