

RESOLUTION NUMBER R- 315772DATE OF FINAL PASSAGE SEP 17 2024

A RESOLUTION OF THE COUNCIL OF THE CITY OF
SAN DIEGO APPROVING THE SITE DEVELOPMENT PERMIT
FOR THE PROJECT PROPOSED AT 2345 KETTNER
BOULEVARD.

RECITALS

The Council of the City of San Diego (Council) adopts this Resolution based on the following:

A. INSIDE VOICE VENTURES, LLC, Owner/Permittee, requested a Site Development Permit No. 3260729 to propose a hotel with 60 guestrooms and supporting offices totaling 24,238 square feet, a wellness center of 6,721 square feet with a locker room of 1,694 square feet, offices totaling 5,300 square feet, two restaurants totaling 6,831 square feet, and a rooftop garden and underground parking for a total of 43,090 square feet (as described in and by reference to the approved Exhibits "A" and corresponding conditions of approval for the associated Permit No. 3260729) on portions of a 0.57 acre project site located at 2345 Kettner Boulevard in the Mixed-Commercial land use district of the Centre City Planned District (CCPD-MC).

B. The project site is legally described as Lot 3 In Block 66 of Middletown, in the City Of San Diego, County Of San Diego, State Of California, According to Partition Map thereof made by J.E. Jackson, on file in the Office of the County Clerk; 2311 Kettner Boulevard, and legally described as Lot 6 In Block 66 of Middletown, in the City of San Diego, County of San Diego, State Of California, According to Partition Map made by J.E. Jackson, filed in the Office of the County Recorder of said San Diego County, October 19, 1874.; 2321 Kettner Boulevard, and legally described as Lot 5 In Block 66 of Middletown, in the City of San Diego, County of San Diego, State of California, According to the Map thereof made by J. E. Jackson

on file In the Office of the Clerk of said County; 2327 Kettner Boulevard, and legally described as Lot 4 In Block 66 of Middletown, in the City of San Diego, County of San Diego, State of California, According to the Map therefore made By J. E. Jackson on file in the Office of the Clerk of said County; and 2328 India Street, and legally described as Lot 10 In Block 66 of Middletown, in the City Of San Diego, County of San Diego, State of California, According to the Map thereof made By J. E. Jackson on File in the Office of the Clerk of said County.

C. On December 15, 2023, the Airport Land Use Commission (ALUC) Determination Application was submitted to the San Diego County Regional Airport Authority (SDCRAA), serving as the ALUC, for a determination of consistency with the Airport Land Use Compatibility Plan (ALUCP) because the proposed use deviates from intensity thresholds for uses identified as “limited” within the Safety Zone 2E Centre City - Little Italy of the Airport Land Use Compatibility Plan.

D. On January 5, 2024, the SDCRAA, acting in its capacity as the ALUC, reviewed the ALUC Determination Application and determined it is not consistent with the ALUCP because it exceeds the ALUCP’s allowable intensity for Visitor Accommodation use, specifically the limitation of having no more than 56 rooms/acre and cannot have other uses unless the use is ancillary.

E. An application was filed with the City of San Diego for a Site Development Permit to request the Council propose a decision to overrule the determination of inconsistency with the San Diego International Airport (SDIA) Land Use Compatibility Plan by the SDCRAA, acting as the ALUC for SDIA, to allow a land use deviation from the maximum land use intensity limit (Overrule).

F. City staff determined the proposed use and intensity exceed the maximum intensity established by the ALUCP for a Visitor Accommodation use, and a Council overrule of this inconsistency determination is required pursuant to San Diego Municipal Code (Municipal Code) section 132.1555.

G. The overrule requires a Site Development Permit for the Council to overrule the determination of inconsistency within Safety Zone 2E of the ALUCP in accordance with Municipal Code sections 132.1555 and 132.1550(c)(2).

H. On July 16, 2024, pursuant to the California Public Utilities (CPUC) and the Municipal Code, the Council voted 9-0 to propose to overrule the SDCRAA's determination of inconsistency and direct staff to send the Notice of Proposed Decision to Overrule to ALUC, Caltrans Division of Aeronautics, and SDCRAA as the Airport Operator (Council Resolution R-315687).

I. On August 29, 2024, the Planning Commission of the City of San Diego considered Site Development Permit No. 3260729, and pursuant to Resolution No. 5303-PC, the Planning Commission voted to recommend approval of the Permit.

J. On April 24, 2024, the City determined that the Project is consistent with the previously certified Downtown Final Environmental Impact Report (Downtown FEIR) (SCH# 2003041001).

K. The proposed development within the Downtown Community Planning area is covered under the following documents, referred to collectively as the "Downtown FEIR":
(1) Final Environmental Impact Report (FEIR) for the San Diego Downtown Community Plan (DCP), Centre City Planned District Ordinance, and 10th Amendment to the Centre City Redevelopment Plan, certified by the former Redevelopment Agency ("Former Agency") and the

Council on March 14, 2006 (Council Resolutions R-04001 and R-301265); (2) subsequent addenda to the FEIR certified by the Former Agency and Council on: August 3, 2007 (Former Agency Resolution R-04193 and Council Resolution R-302932); April 13, 2010 (Council Resolution R-305759); April 21, 2010 (Former Agency Resolutions R-04509 and R-04510); August 3, 2010 (Former Agency Resolution R-04544 and Council Resolution R-30614), February 12, 2014 (Council Resolution R-308724); July 14, 2014 (Council Resolution R-309115); and (3) Final Supplemental Environmental Impact Report for the Downtown San Diego Mobility Plan certified by the Council on June 21, 2016 (Council Resolution R-310561).

L. The proposed development within the DCP area is also covered under the following documents, referred to collectively as the “CAP FEIR”: FEIR for the City’s Climate Action Plan (CAP), certified by the Council on December 15, 2015 (Council Resolution R-310176), and the Addendum to the CAP, certified by the Council on July 12, 2016 (Council Resolution R-310595).

M. The Downtown FEIR and CAP FEIR are “Program EIRs” prepared in compliance with California Environmental Quality Act (CEQA) Guidelines section 15168; the information contained in the Downtown FEIR and CAP FEIR reflects the independent judgment of the City as the Lead Agency; the environmental impacts of the Project were adequately addressed in the Downtown FEIR and CAP FEIR; the Project is within the scope of the development program described in the Downtown FEIR and CAP FEIR and is adequately described within each document for the purposes of CEQA; and none of the conditions listed in CEQA Guidelines section 15162 exist.

N. The matter was set for public hearing on SEP 17 2024, testimony having been heard, evidence having been submitted, and the Council having fully considered the matter and being fully advised concerning the same.

O. 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, understanding that this information is complete, true, and accurate.

P. Under San Diego Charter section 280(a)(2), this Resolution is not subject to veto by the Mayor because this matter requires the Council to act as a quasi-judicial body and where a public hearing was required by law implicating due process rights of individuals affected by the decision and where the Council was required by law to consider evidence at the hearing and to make legal findings based on the evidence presented.

ACTION ITEMS

Based on the Recitals set forth above, the Council resolves as follows:

1. The Council of the City of San Diego adopts the following findings with respect to Site Development Permit No. 3260729:

A. SITE DEVELOPMENT PERMIT [SDMC Section 126.0505]

1. Findings for all Site Development Permits:

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

The Overrule to allow a land use deviation from the maximum land use intensity limit pertains to the Visitor Accommodations use category of the Airport Land Use Compatibility Overlay Zone (ALUCOZ). Visitor Accommodations within Safety Zone 2E in the Airport Land Use Compatibility Plan are conditionally compatible provided certain regulations are met such as limiting Visitor Accommodations to no more than 56 rooms per acre and prohibiting other uses unless ancillary to the hotel use. Ancillary uses are defined in the ALUCP Policy S.9 as uses primarily intended for use by the employees and occupants of a land use project and cumulatively occupy no more than 10 percent of the total floor area of a building. Accordingly, the 24,754-SF (0.57 acre) subject site allows for a maximum of 32 hotel guest rooms. The

Overrule raises the maximum land use intensity limit from 32 hotel guest rooms to 60 hotel guest rooms, increases the allowable ancillary use area from 10% to 15.6% of the total gross floor area of the building, and allows other non-ancillary uses (restaurants and office space) for the site. The ancillary uses include hotel amenities such as spa, massage, and gym. The Overrule raises the maximum land use intensity limit, increases the ancillary use area, and allows other uses (restaurant and office) for the subject site. This action is necessary for a development project to move forward at the subject site. Future development of the site will require all necessary permits to allow for construction.

The Overrule satisfies the purpose of the Centre City Planned District which establishes land use regulations to implement the Downtown Community Plan. The subject site is within the Mixed-Commercial land use district of the Centre City Planned District (CCPD-MC). The Mixed-Commercial land use district accommodates a diverse array of uses, including residential, artist studios, live/work spaces, hotels, offices, research and development, and retail. Per Table 156-0308-A of Section 156.0308, visitor accommodations, offices, and eating and drinking establishments are uses permitted by right. Therefore, the proposed uses are allowed in the underlying land use district of the Centre City Planned District.

The Overrule implements the goals and policies of the General Plan by allowing potential mixed-use projects where sites are developed in an integrated, compatible, and comprehensively planned manner involving two or more land uses (LU-B.3). The General Plan Land Use Designation for Downtown, including Little Italy, is Multiple Use. The goal of the Multiple Use designation is to provide a range of single and multiple uses in a setting of high intensity appropriate to Downtown's unique role as the regional center (Table LU-4, Land Use and Community Planning Element of the City's General Plan). Therefore, the deviation to allow a hotel use with other uses meets the General Plan by integrating hotel, office, and restaurant uses that is compatible with the land use intensity of the surrounding existing uses.

The Downtown Community Plan envisions Little Italy as a neighborhood that emphasizes historic qualities with strategic intensification to increase neighborhood vitality. The Overrule will allow a mix of hotel, office, and restaurant uses, thus the Overrule provides an overall balance of uses such as employment and full compendium of amenities and services (Goal 3.1-G-3). With the Overrule, the average intensity for the block (includes the subject site and abutting existing properties) would be 270 people per acre (Sheet AP052, Attachment 5), which is 39 people per acre less than the average occupancy level of the blocks surrounding the subject site (309 people per acre); therefore, the Overrule maintains a range of development intensities to provide diversity, while maintaining high overall intensities to use land efficiently and permit population and employment targets to be met (Goal 3.2-G-2). The DCP acknowledges that the

development intensities in the northern portions of the Little Italy may be restricted due to the location of the San Diego International Airport – Lindbergh Field approach path. The subject site is within Safety Zone 2E in the Airport Land Use Compatibility Plan. Visitor Accommodations within Safety Zone 2E in the Airport Land Use Compatibility Plan are conditionally compatible provided certain regulations are met such as limiting Visitor Accommodation uses to no more than 56 rooms per acre and prohibiting other uses unless ancillary to the hotel use. However, a land use deviation from the maximum land use intensity limit may be requested as a Process Five SDP with an overrule action by the City Council pursuant to Section 132.1555. The overrule will provide a new maximum land use intensity for the site; which will in turn restrict any construction permit to the new maximum land use intensity. Therefore, the proposal will meet Goal 3.2-P-5 in that it will restrict building intensities underneath the approach path to Lindbergh Field consistent with the Airport Land Use Compatibility Plan (ALUCP).

In addition, the Overrule aligns with the City's Climate Action Plan (CAP), specifically Measure 3.5 of Strategy 3 – Mobility and Land Use. The measure focuses on delivering new mixed-use development on sites that are underutilized lots within Transit Priority Area (TPA) and areas of the City with the lowest amount of vehicular travel. Since the subject site is located within the TPA, within close proximity to San Diego International Airport, Downtown amenities, and Trolley lines, it allows residents, employees, and visitors of the subject site to safely and conveniently travel by foot or by transit to the site.

Given the proposed uses are permitted in the underlying land use district and the proposed uses advance the goals of the CCPDO, DCP, GP, and CAP, the Overrule will not adversely affect the applicable land use plans.

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

The Overrule to allow a land use deviation from the maximum land use intensity limit pertains to the Visitor Accommodations use category of the Airport Land Use Compatibility Overlay Zone (ALUCOZ). Visitor Accommodations within Safety Zone 2E in the Airport Land Use Compatibility Plan are conditionally compatible provided certain regulations are met such as limiting Visitor Accommodations to no more than 56 rooms per acre and prohibiting other uses unless ancillary to the hotel use. Ancillary uses are defined in the ALUCP Policy S.9 as uses primarily intended for use by the employees and occupants of a land use project and cumulatively occupy no more than 10 percent of the total floor area of a building. Accordingly, the 24,754-SF (0.57 acre) subject site allows for a maximum of 32 hotel guest rooms. The Overrule raises the maximum land use intensity limit from 32 hotel guest rooms to 60 hotel guest rooms, increases the allowable ancillary use area from 10% to 15.6% of the total gross floor area of the building, and allows other non-ancillary uses

(restaurants and office space) for the site as shown in Table 1 below. The ancillary uses include hotel amenities such as spa, massage, and gym. The Overrule raises the maximum land use intensity limit, increases the ancillary use area, and allows other uses (restaurant and office) identified in Table 1 below for the subject site. This action is necessary for a development project to move forward at the subject site. Future development of the site will require all necessary permits to allow for construction.

	Maximum Allowed	Proposed	Difference
Hotel Guest Rooms	32 Rooms	60 rooms	+28 rooms
Ancillary Uses ²	10% (4,309 SF)	15.6% (6,721 SF)	+5.6% (2,412 SF)
Other Uses	Not allowed	Restaurants and Offices	+ Restaurants and Offices

¹ For visitor accommodations, no more than 56 rooms per acre, no conference facilities, and no other uses unless ancillary.

² Ancillary uses are primarily intended for use by the employees/residents/occupants of a land use project and cumulatively occupy no more than 10 percent of the total floor area per Airport Land Use Compatibility Plan - Policy 5.9.

The applicant submitted an application narrative and supporting diagrams included with the staff report as Attachments 4 and 5. In the submitted documents, they describe the Overrule as compatible with the land use intensity of the surrounding existing uses. The California Airport Land Use Planning Handbook measures and compares compatibility of land use types using intensity (the number of people per acre) and defines compatibility as "uses that can coexist with a nearby airport without either constraining the safe and efficient operation of the airport or exposing people living or working nearby to unacceptable levels of noise or (safety) hazards." The applicant surveyed similar uses and occupancy levels (people per square-foot) within a two-block radius of the subject site to compare the proposed land use intensity for the site to existing surrounding sites, as shown on the drawings (Sheet AP051, Attachment 5). Based upon the survey, the applicant determined that the average occupancy level of the blocks surrounding the subject site is 309 people per acre.

Pursuant to Section 132.1515(h) of the ALUCOZ, hotel uses cannot contain other uses unless they are ancillary to the hotel use. The Overrule will allow visitor accommodations use with non-ancillary uses. In this case, the land use intensity is calculated as a mix of two or more nonresidential uses, per Section 132.1515(c)(3)(B)(iv). The number of people in a

building can be calculated by dividing the total floor area of a proposed use by the minimum square feet (SF) per occupant (occupancy factor) requirement listed in Table 132-15J of Section 132.1515. The maximum occupancy can then be divided by the size of the parcel in acres to determine the people per acre (intensity).

As shown in Table 2 below, a 60-hotel room within a 20,196 SF area with an occupancy factor of 200 SF per person equates to 100 people per acre. A wellness center within a 2,412 SF (5.6% over the required 10% of a building area) with an occupancy factor of 215 SF per person equates to 11 people per acre. A restaurant within a 6,831 SF area with an occupancy factor of 60 SF per person equates to 114 people per acre. Lastly, an office use within a 5,300 SF area with an occupancy factor of 215 SF per person equates to 25 people per acre. Thus, the overrule will allow for an average land use intensity of 438 people per acre for the subject site.

	Occupancy Factor	Proposed Uses (SF)	Proposed Occupants (people per acre)
Hotel Guest Rooms	200 SF/person	20,196 SF	100
Ancillary Uses	215 SF/person (Wellness)	6,721 SF	11 ¹
Other Uses	60 SF/person (restaurant)	6,831 SF (restaurant)	114
	215 SF/person (office)	5,300 SF (office)	25
Auxiliary Back of House	0	4,042 SF	0
Total Occupancy		43,090 SF	250
Site Area		24,754 SF (0.57 acre)	
Total Occupancy Level for Site			438 ²

¹ Based on the 2,412 SF beyond the 10% ancillary use limitation per Footnote 5 to Table 142-15I of Sec. 132.1515(h). 4,309 SF of ancillary use is permitted by right.

² Total occupancy for the site is derived from 250 people / acre divided by 0.57 acre.

Given the intensity for each use in Section 132.1515(h), the

Overrule will allow for an average land use intensity of 438 people per acre for the subject site; however, as the applicant's survey concluded, the average intensity for the block (includes the subject site and abutting existing properties) would be 270 people per acre (Sheet AP052, Attachment 5), which is 39 people per acre less than the average occupancy level of the blocks surrounding the subject site (309 people per acre).

The subject site is within the 75+ decibel Community Noise Equivalent Level (dB CNEL) noise exposure contour. The ALUCP identifies Visitor Accommodation, Office and Eating & Drinking Establishment uses located within the 75+ dB CNEL noise contour as conditionally compatible with airport uses, provided that sleeping rooms are sound attenuated to 45 dB CNEL interior noise level and other indoor areas are attenuated to 50 dB CNEL interior noise level. Any construction permit must adhere to Noise Compatibility requirement pursuant to Section 132.1510 such as providing noise attenuation via the use of STC rated windows and doors to achieve a 45 db CNEL interior noise level within sleeping rooms and 50 dB CNEL noise level within other interior areas. The ALUC consistency determination acknowledges the location of the site in the 75+ dB CNEL noise exposure but does not state an inconsistency or objection based upon noise.

The subject site is within the Review Area 1. Within each airport influence area, an airspace protection area is designated to protect navigable airspace and to avoid creation of hazards to aircraft in flight in accordance with Code of Federal Regulations, Title 14, Part 77 (Federal Aviation Regulations Part 77). Any construction permit must adhere to the Airspace Protection Compatibility requirement pursuant to Section 132.1520 such as obtaining a Determination of no Hazard to Air Navigation from the Federal Aviation Administration and an aviation easement for airspace to be recorded with the County Recorder. The ALUC consistency determination stated that the project would be compatible with the ALCUP airspace protection surfaces provided that the structure is marked and lighted in accordance with a Determination of no Hazard to Air Navigation from the Federal Aviation Administration and an aviation easement for airspace to be recorded with the County Recorder. As such, the proposed development will minimize the public's exposure to excessive noise and safety hazards to the extent feasible.

The number of people in the subject site is lower than the average intensity of neighboring blocks, thus minimizing non-residential intensity and activities that attract people in the location and the risk resulting in the Overrule is no greater than that currently exist within the vicinity of the airport. In addition, the ALUC consistency determination does not state an inconsistency or objection based upon noise and airspace protection. Therefore, it is not detrimental to the public health, safety, or welfare of the community and it will minimize the public's exposure to excessive noise and safety hazards to the extent feasible.

- c. The proposed development will comply with the regulations of the Land Development Code including any allowable deviations pursuant to the Land Development Code.

The Overrule to allow a land use deviation from the maximum land use intensity limit pertains to the Visitor Accommodations use category of the Airport Land Use Compatibility Overlay Zone (ALUCOZ). Visitor Accommodations within Safety Zone 2E in the Airport Land Use Compatibility Plan are conditionally compatible provided certain regulations are met such as limiting Visitor Accommodations to no more than 56 rooms per acre and prohibiting other uses unless ancillary to the hotel use. Ancillary uses are defined in the ALUCP Policy S.9 as uses primarily intended for use by the employees and occupants of a land use project and cumulatively occupy no more than 10 percent of the total floor area of a building. Accordingly, the 24,754-SF (0.57 acre) subject site allows for a maximum of 32 hotel guest rooms. The Overrule raises the maximum land use intensity limit from 32 hotel guest rooms to 60 hotel guest rooms, increases the allowable ancillary use area from 10% to 15.6% of the total gross floor area of the building, and allows other non-ancillary uses (restaurants and office space) for the site. The ancillary uses include hotel amenities such as spa, massage, and gym. The Overrule raises the maximum land use intensity limit, increases the ancillary use area, and allows other uses (restaurant and office) for the subject site. This action is necessary for a development project to move forward at the subject site. Future development of the site will require all necessary permits to allow for construction.

A land use deviation from the maximum land use intensity limit may be requested as a Process Five SDP with an overrule action by the City Council pursuant to Section 132.1555 and in accordance with Municipal Code sections 132.1550(c)(2).

On November 9, 2023, the Applicant submitted an application for a Site Development Permit (SDP) No. PRJ-1107392 to allow a deviation from the intensity thresholds established in the Airport Land Use Compatibility Overlay Zone (ALUCOZ) of the San Diego Municipal Code (SDMC). The deviation includes raising the maximum land use intensity limit, increasing the ancillary use area, and allowing other uses for the Visitor Accommodation use provisions as outlined in Table 132.15I of the SDMC Section 132.1515(h). Proposed uses identified as limited within the ALUCOZ that deviate from intensity thresholds are required to obtain a consistency determination from the ALUC prior to approval of the use pursuant to Section 132.1550(c) of the SDMC. If ALUC determines a proposed use is inconsistent with the ALUCP, then an overrule action by the City Council may be requested as a Process Five SDP pursuant to Section 132.1555.

On December 15, 2023, an application was submitted to ALUC for a Determination of Consistency, and a determination letter from ALUC was received on January 5, 2024, determining that the proposed uses and intensity are inconsistent with the ALUCP.

Pursuant to Section 21676.5(a) of the CPUC, the City Council has the authority to overrule the ALUC's determination. Upon receiving the ALUC determination of inconsistency, the Applicant requested to proceed with a City Council overrule of the ALUC inconsistency determination.

The applicant proposes the Overrule will be compatible with the land use intensity of the surrounding existing uses. The California Airport Land Use Planning Handbook measures and compares compatibility of land use types using intensity (the number of people per acre) and defines compatibility as "uses that can coexist with a nearby airport without either constraining the safe and efficient operation of the airport or exposing people living or working nearby to unacceptable levels of noise or (safety) hazards." The applicant surveyed similar uses and occupancy levels (people per square-foot) within a two-block radius of the subject site to compare the proposed land use intensity for the site to existing surrounding sites, as shown on the drawings (Sheet AP051, Attachment 5). Based upon the survey, the applicant determined that the average occupancy level of the blocks surrounding the subject site is 309 people per acre.

Pursuant to Section 132.1515(h) of the ALUC0Z, hotel uses cannot contain other uses unless they are ancillary to the hotel use. The Overrule will allow visitor accommodations use with non-ancillary uses. In this case, the land use intensity is calculated as a mix of two or more nonresidential uses, per Section 132.1515(c)(3)(B)(iv). The number of people in a building can be calculated by dividing the total floor area of a proposed use by the minimum SF per occupant (occupancy factor) requirement listed in Table 132-15J of Section 132.1515. The maximum occupancy can then be divided by the size of the parcel in acres to determine the people per acre (intensity).

As shown in Table 2 below, a 60-hotel room within a 20,196 SF area with an occupancy factor of 200 SF per person equates to 100 people per acre. A wellness center within a 2,412 SF area (5.6% over the required 10% of a building area) with an occupancy factor of 215 SF per person equates to 11 people per acre. A restaurant within a 6,831 SF area with an occupancy factor of 60 SF per person equates to 114 people per acre. Lastly, an office use within a 5,300 SF area with an occupancy factor of 215 SF per person equates to 25 people per acre. Thus, the overrule will allow for an average land use intensity of 438 people per acre for the subject site.

	Occupancy Factor	Proposed Uses (SF)	Proposed Occupants (people per acre)
Hotel Guest Rooms	200 SF/person	20,196 SF	100

Ancillary Uses	215 SF/person (Wellness)	6,721 SF	11 ¹
Other Uses	60 SF/person (restaurant) 215 SF/person (office)	6,831 SF (restaurant) 5,300 SF (office)	114 25
Auxiliary Back of House	0	4,042 SF	0
Total Occupancy		43,090 SF	250
Site Area		24,754 SF (0.57 acre)	
Total Occupancy Level for Site			438 ²

¹ Based on the 2,412 SF beyond the 10% ancillary use limitation per Footnote 5 to Table 142-15I of Sec. 132.1515(h). 4,309 SF of ancillary use is permitted by right.

² Total occupancy for the site is derived from 250 people / acre divided by 0.57 acre.

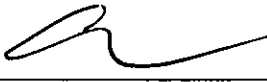
Given the intensity for each use in Section 132.1515(h), the Overrule will allow for an average land use intensity of 438 people per acre for the subject site; however, as the applicant's survey concluded, the average intensity for the block (includes the subject site and abutting existing properties) would be 270 people per acre (Sheet AP052, Attachment 5), which is 39 people per acre less than the average occupancy level of the blocks surrounding the subject site (309 people per acre). The number of people in the subject site is lower than the average intensity of neighboring blocks, thus minimizing non-residential intensity and activities that attract people in the location and the risk resulting in the Overrule is no greater than that currently exist within the vicinity of the airport; therefore, it is not detrimental to the public health, safety, or welfare of the community. Accordingly, the Overrule complies with any allowable deviations pursuant to the Land Development Code.

2. The above findings are supported by the minutes, maps, and exhibits, all incorporated in this Resolution by this reference.

3. Based on the findings hereinbefore adopted by the Council, Site Development Permit No. 3260729 is hereby GRANTED by the Council to the referenced Owner/Permittee, in

the form, exhibits, terms, and conditions as outlined in Permit No. 3260729, a copy of which is attached to and made a part of this Resolution.

APPROVED: MARA W. ELLIOTT, City Attorney


By 

Corrine L. Neuffer
Senior Chief Deputy City Attorney

CLN:cm
September 3, 2024
Or.Dept: Development Services Department
Doc. No. 3778711

Attachment: Site Development Permit No. 3260729

I certify that the Council of the City of San Diego adopted this Resolution at a meeting held on
SEP 17 2024

DIANA J.S. FUENTES
City Clerk
By 

Deputy City Clerk

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: 24009750 SPACE ABOVE THIS LINE FOR RECORDER'S USE

SITE DEVELOPMENT PERMIT NO. 3260729
ALUC OVERRULE AT 2345 KETTNER BOULEVARD - PROJECT NO. 1107392
CITY COUNCIL

This Site Development Permit No. 3260729 is granted by the City Council of the City of San Diego to Inside Voice Ventures, LLC, Owner/Permittee, pursuant to San Diego Municipal Code (SDMC) Sections 126.0505 and 132.1550(c)(2) to overrule the determination of inconsistency with the San Diego International Airport (SDIA) Land Use Compatibility Plan by the San Diego County Regional Airport Authority, acting as the Airport Land Use Commission (ALUC) for SDIA, to allow a deviation from the maximum land use intensity of the Airport Land Use Compatibility Overlay Zone to allow a deviation from the maximum land use intensity of the Airport Land Use Compatibility Overlay Zone to allow hospitality, restaurant, office, and wellness center on the 24,754 square-foot (SF) site at the northeast corner of Kettner Boulevard and West Juniper Street at 2311-2345 Kettner Boulevard and 2328 India Street in the Mixed-Commercial land use district of the Centre City Planned District (CCPD-MC) and Little Italy neighborhood of the Downtown Community Plan (DCP) area ("Downtown").

The subject site is legally described as Lot 3 In Block 66 of Middletown, in the City Of San Diego, County Of San Diego, State Of California, According to Partition Map thereof made by J.E. Jackson, on file in the Office of the County Clerk; 2311 Kettner Boulevard, and legally described as Lot 6 In Block 66 of Middletown, in the City of San Diego, County of San Diego, State Of California, According to Partition Map made by J.E. Jackson, filed in the Office of the County Recorder of said San Diego County, October 19, 1874.; 2321 Kettner Boulevard, and legally described as Lot 5 In Block 66 of Middletown, in the City of San Diego, County of San Diego, State of California, According to the Map thereof made by J. E. Jackson on file In the Office of the Clerk of said County; 2327 Kettner Boulevard, and legally described as Lot 4 In Block 66 of Middletown, in the City of San Diego, County of San Diego, State of California, According to the Map therefore made By J. E. Jackson on file in the Office of the Clerk of said County; and 2328 India Street, and legally described as Lot 10 In Block 66 of Middletown, in the City Of San Diego, County of San Diego, State of California, According to the Map thereof made By J. E. Jackson on File in the Office of the Clerk of said County

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/ Permitted to utilize the subject site as described and identified by size, dimension, quantity, type, and location on the approved

exhibits (Exhibit "A") dated SEP 17 2024, on file in the Development Services Department (DSD).

The overrule shall include:

- a. Site Development Permit (SDP): A deviation from SDMC Section 132.1515(h) of the Airport Land Use Compatibility Overlay Zone pursuant to SDMC Section 132.1550(c)(2) to increase the maximum land use to total 438 people per acre on the site for hospitality, restaurant, office, and wellness center land uses as follows:
 - Increase the maximum number of hotel guest rooms for a visitor accommodations land use from 32 to 60 hotel guest rooms;
 - Increase the maximum ancillary use area for visitor accommodations land use from 10% 15.6% of the gross floor area of the building;
 - Allow non-ancillary restaurant and office land uses not to exceed 6,831 SF and 5,300 SF respectively.

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 SEP 17 2027 [3 years, including the appeal time].
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. 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.

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.

9. The Owner/Permittee shall defend, indemnify, and hold harmless the City, its agents, officers, and employees from any and all claims, actions, proceedings, damages, judgments, or costs, including attorney's fees, against the City or its agents, officers, or employees, relating to the issuance of this permit including, but not limited to, any action to attack, set aside, void, challenge, or annul this development approval and any environmental document or decision. The City will promptly notify Owner/Permittee of any claim, action, or proceeding and, if the City should fail to cooperate fully in the defense, the Owner/Permittee shall not thereafter be responsible to defend, indemnify, and hold harmless the City or its agents, officers, and employees. The City may elect to conduct its own defense, participate in its own defense, or obtain independent legal counsel in defense of any claim related to this indemnification. In the event of such election, Owner/Permittee shall pay all of the costs related thereto, including without limitation reasonable attorney's fees and costs. In the event of a disagreement between the city and Owner/Permittee regarding litigation issues, the City shall have the authority to control the litigation and make litigation related decisions, including, but not limited to, settlement or other disposition of the matter. However, the Owner/Permittee shall not be required to pay or perform any settlement unless such settlement is approved by Owner/Permittee.

ENVIRONMENTAL REQUIREMENTS:

10. Mitigation requirements in the Final Environmental Impact Report (FEIR) for the San Diego Downtown Community Plan, SCH NO. 2003041001 Mitigation, Monitoring, and Reporting Program [MMRP] shall apply to this Permit. These MMRP conditions are hereby incorporated into this Permit by reference.
11. The mitigation measures specified in the MMRP and outlined in the Final Environmental Impact Report (FEIR) for the San Diego Downtown Community Plan, SCH NO. 2003041001, shall be noted on the construction plans and specifications under the heading ENVIRONMENTAL MITIGATION REQUIREMENTS.
12. The Owner/Permittee shall comply with the MMRP as specified in the Final Environmental Impact Report (FEIR) for the San Diego Downtown Community Plan, SCH NO. 2003041001, 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:

Air Quality
Historical Resources
Land Use
Noise
Paleontological Resources
Traffic and Circulation

AIRPORT REQUIREMENTS:

13. Prior to issuance of a building permit, the Owner/Permittee shall provide a "Determination of No Hazard to Air Navigation" issued by the Federal Aviation Administration (FAA).
14. Prior to the issuance of any building permit, the Owner/Permittee shall grant an aviation easement to the San Diego County Regional Airport Authority as the operator of the San Diego International Airport 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 Owner/Permittee shall use the aviation easement form provided by the San Diego County Regional Airport Authority.

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 SEP 17 2024
and Resolution No. R-315772.

Site Development Permit No.: 3260729

Date of Approval:

SEP 17 2024

AUTHENTICATED BY THE CITY OF SAN DIEGO DEVELOPMENT SERVICES DEPARTMENT

Johnwilly Aglupos
Development Project Manager, Urban Innovation Division
Development Services Department

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

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

Inside Voice Ventures, LLC
Owner/Permittee

By

Signature

PRINT NAME:

TITLE:

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

Passed by the Council of The City of San Diego on SEP 17 2024, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Joe LaCava	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Jennifer Campbell	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" 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 SEP 17 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- <u>315772</u>