



THE CITY OF SAN DIEGO

REPORT TO THE HEARING OFFICER

HEARING DATE: August 14, 2013 REPORT NO. HO 13-068

ATTENTION: Hearing Officer

SUBJECT: PALM PROPERTIES
PROJECT NUMBER: 271456

LOCATION: Block bounded by Quince Street, Fifth Avenue, Palm Street and Sixth Avenue. Current addresses are: 2901, 2929 and 2941 Fifth Avenue; 2900 and 2950 Sixth Avenue; and 535 N. Quince Street

OWNER: Palm Properties, LP
APPLICANT: William A. Steen & Associates

SUMMARY

Issue: Should the Hearing Officer approve a request for a Site Development Permit to demolish existing structures (except the historical structure located at 2900 6th Avenue) and construct a new 145-unit, multi-family residential building, a 66-unit extended stay hotel, with retail and commercial spaces, and subterranean parking located in the block bounded by Quince Street, 5th Avenue, Palm Street and Sixth Avenue in the Uptown Community Plan area?

Staff Recommendations:

1. Certify Mitigated Negative Declaration No. 271456 and Adopt the Mitigation, Monitoring and Reporting Program; and
2. Approve Site Development Permit No. 954116.

Community Planning Group Recommendation: The Uptown Planners voted 14-0-1 to recommend approval of the proposed project on October 2, 2012, with no recommended conditions.

Environmental Review: A Mitigated Negative Declaration, Project No. 271456, has been prepared for the project in accordance with State of California Environmental Quality Act (CEQA) Guidelines. A Mitigation, Monitoring and Reporting Program has been prepared and will be implemented which will reduce, to below a level of significance,

any potential impacts identified in the environmental review process regarding Historical Resources (Archaeology), Paleontological Resources and Transportation.

Housing Impact Statement: The Uptown Community Plan designates the 1.337-acre project site for Commercial/Residential (73 to 110 dwelling units per acre) and Very High Residential (73 to 110 dwelling units per acre) uses. According to the project's site area, approximately 98 to 147 dwelling units would be allowed. The proposal of a mixed development consisting of 145 dwelling units, ground level commercial retail, and a 66-unit extended stay hotel would implement the existing land use designation. The project would result in the demolition of existing commercial structures and the creation of 145 for-rent housing units. No affordable housing units are proposed with this project.

BACKGROUND

The project site is the full block bounded by Quince Street, 5th Avenue, Palm Street and 6th Avenue in the CV-1 and MR-400 Zones of the Mid-City Communities Planned District, the Airport Approach Overlay Zone, the FAA Part 77 Notification Area, the Transit Area Overlay Zone, and the Residential Tandem Parking Overlay Zone, within the Uptown Community Plan area. Current addresses include: 2901, 2929 and 2941 5th Avenue; 2900 and 2950 6th Avenue; and 535 N. Quince Street. The site is comprised of Assessor's Parcel Nos. 452-663-04, 04, 05, 06, 07, 08, 09 and 10.

The project proposal includes the demolition of most structures within the square block, and the construction of a new mixed use development. With project implementation, only the existing historical structure located at 2900 6th Avenue (HRB Site No. 938 - George and Alice Hazzard House), would remain on the site. This historical building is currently used as office space (approximately 5,600 square feet), which would continue. The new improvements would include the construction of a new, 145-unit, multi-family residential building (approximately 200,358 square feet) and a new, 66-unit extended stay hotel (approximately 58,846 square feet), with retail and commercial space (approximately 8,965 square feet) and recreational and support space (approximately 12,300 square feet) in two, approximately 150-foot-high towers. Off-street parking (343 parking spaces required; 377 spaces provided, which includes 12 tandem spaces) are proposed in a subterranean parking structure.

Surrounding land uses consist of residential and commercial uses to the north and west, and the Urban Discovery Academy (a charter school serving students K-8) to the south. Balboa Park is located on the east side of the project site, on the other side of 6th Avenue.

DISCUSSION

Site Development Permit:

A Site Development Permit for the Mid-City Communities Planned District is required for the proposed mixed-use development exceeding the thresholds in Table 1512-02A, per SDMC Section 1512.0203(b)(2), and for one deviation from the development regulations. This one

deviation is from Street Wall Height requirement of the CV-1 zone, and is specified as stepping the building above the street wall back 8 to 11 feet from the street wall instead of 15 feet as required. This deviation is supported because the overall design of the building meets the purpose and intent of the regulation by providing a strong horizontal division separating the base of the building at the maximum street wall height from the remainder of the building shaft which is stepped back from the face of the street wall. This reduces the perceived scale of the height of the building as viewed by a pedestrian in the right-of-way adjacent to the site, which is the intent of the regulation.

Community Plan Consistency:

Through the incorporation of a 15-foot setback from the property line with landscaping along Quince Street, the project would meet the objective and recommendation in the Urban Design Element of the community plan for maintaining and enhancing pedestrian and auto views of Balboa Park and as well as assist in creating visual entryways to Balboa Park. A pool and terrace that would be located on the roof of the northwest portion of the proposed project, balconies for the residential units, and plaza located along 6th Avenue would implement the guideline in the Urban Design Element of the community plan for maximizing useable open space for residential projects. Additionally, the proposed project would implement policies within the Urban Design Element for the provision of streets trees through the incorporation of 36-inch box canopy trees and 24-inch box palm trees along Quince Street, 5th Avenue, and Palm Street. A double row of palm trees would be planted along 6th Avenue to complement the existing tree pattern along 6th Avenue and on the Balboa Park side of the street.

The project would also meet the objective in the Conservation, Cultural, and Heritage Resources objective of preserving historic structures at their original location as well as in their historic context whenever possible, by maintaining the existing, historic 2-story structure at its current location at 2900 6th Avenue (HRB Site No. 938 - George and Alice Hazzard House).

The proposed project is located along 5th Avenue which is identified in the community plan as a Class III bikeway. A goal of the Mobility Element of the General Plan is to encourage bicycling as a viable travel choice within the City. The project would assist in attaining this goal by providing 93 bicycle spaces where 71 are required and locating bicycle storage facilities on all parking levels. In addition five locations for bike racks would be provided at street level along 5th Avenue where the commercial-retail component of the project is proposed.

Policy NE-A.4 of the Noise Element of the General Plan requires an acoustical study consistent with Acoustical Study Guidelines (Table NE-4 of the General Plan) for proposed developments in areas where the existing or future noise level exceeds or would exceed the "compatible" noise level thresholds as indicated on the Land Use – Noise Compatibility Guidelines (Table NE-3 of the General Plan), so that noise mitigation measures can be included in a development project's design to meet noise guidelines. According to Table NE-3, a proposed mixed-use project with an exterior noise exposure level of 60 to 65 CNEL would be "conditionally compatible" and must attenuate exterior noise to an indoor noise level of 45 CNEL. An acoustical report prepared for the proposed project evaluated traffic noise impacts on 5th and 6th

Avenues as well as minor contributions from Palm and Quince Streets. The outdoor balcony areas of residences facing 5th and 6th Avenues or those with a partial street view, as well as other outdoor balcony areas below a height of 60 feet, would exceed the 65 CNEL requirement for outdoor noise levels. To mitigate for exterior noise impacts at all outdoor residential use areas (up to a height of 60 feet) the proposed project would incorporate as a design feature, 4-foot-high noise walls along balconies or higher noise barriers in exterior use areas to attenuate exterior noise to below 65 CNEL. The sound attenuations barriers would need to be constructed as stated in the acoustical report to reduce noise exposure levels at or below 45 CNEL. Incorporation of this project design feature would attenuate exterior traffic noise to below a level of significance. The requirement for the incorporation of these design features has been included as a Condition of permit approval.

To mitigate for interior noise below 45 CNEL within the proposed residential development or 50 CNEL for commercial, the project would be required to comply with Title 24. The project will be required to complete an interior noise analysis (exterior to interior study) prior to building permit issuance to show the incorporation of appropriate architectural materials, and techniques that would achieve interior noise levels in habitable rooms, specifically 45 CNEL for residential and 50 CNEL threshold for outdoor areas established by the City's General Plan. The requirement for this interior noise analysis has been included as a Condition of permit approval.

Phasing of Improvements:

The applicant has requested approval for phasing of the proposed development, and has provided a phasing plan within Exhibit A. Staff has reviewed the proposed phasing plan, and has included specific conditions of approval within the draft permit to ensure the proposed development will comply with applicable requirements and potential issues that can arise during phasing, including public improvements, parking, landscaping, etc. Proposed phasing includes:

- Phase 1:
 - a. Remodel/remove 15' end of existing buildings fronting 5th Avenue
 - b. Construct a portion of the basement parking with an interim ramp
 - c. Construct the residential (north) tower
 - d. Construct the vehicular driveway
 - e. Construct a portion of the commercial motor court
 - f. Construct the outdoor gathering place between residential tower and historic building
 - g. Restore the historic structure
 - h. Construct the easterly public improvements

- Phase 2:
 - a. Demolish remainder of 2 northwesterly buildings fronting 5th Avenue
 - b. Construct a portion of the basement parking with the permanent ramp
 - c. Demolish the interim ramp

- d. Construct the residential motor court
- e. Construct the 2-story building as retail with community amenities above
- f. Construct the 1-story building as retail with outdoor pool terrace above
- g. Construct the northwesterly public improvements

- **Phase 3:**

- a. Demolish remaining buildings fronting 5th Avenue
- b. Construct the remaining basement parking under the commercial (south) tower
- c. Construct the commercial (south) tower
- d. Construct the remaining portion of the commercial motor court
- e. Construct the southwesterly public improvements

Historic Preservation:

Project implementation includes the preservation of the existing structure at 2900 6th Avenue (HRB Site No. 938 - George and Alice Hazzard House) in its current location, which is at the northwest corner of 6th Avenue and Palm Street. The proposed project has been designed around this existing structure. The building is currently used as an office and this use is proposed to continue. The project as presented is consistent with the U.S. Secretary of the Interior's Standards and is therefore exempt from the requirement to obtain a Site Development Permit in accordance with SDMC Section 143.0220(a). The permit has been conditioned to ensure that any and all revisions to this structure, no matter how minor, will require review and approval by the City of San Diego, Development Services Department, Plan-Historic staff, consistent with the San Diego Municipal Code.

Mitigated Negative Declaration:

A Mitigated Negative Declaration, Project No. 271456, has been prepared for the project in accordance with state of California Environmental Quality Act (CEQA) Guidelines. A Mitigation, Monitoring and Reporting Program has been prepared and will be implemented which will reduce, to below a level of significance, any potential impacts identified in the environmental review process regarding Historical Resources (Archaeology), Paleontological Resources and Transportation. The mitigation measures primarily include monitoring for archaeological and paleontological resources, and payment of a fairshare contribution of 20.1% of the cost of installation of a traffic signal at the intersection of 5th Avenue and Quince Street, along with any needed restriping and signage modifications.

Community Concerns:

The Uptown Planners voted unanimously to recommend approval of the proposed project after discussion in which the applicant confirmed their agreement to leave the existing historic structure in place. No other comments have been received during the course of project review.

Conclusion:

Staff has determined the proposed project complies with the applicable sections of the San Diego Municipal Code as described in the draft permit and resolution, and recommends the Hearing Officer approve the project as conditioned.

ALTERNATIVES

1. Approve Site Development Permit No. 954116, with modifications.
2. Deny Site Development Permit No. 954116, if the findings required to approve the project cannot be affirmed.

Respectfully submitted,



Michelle Sokolowski, Development Project Manager

Attachments:

1. Aerial Photograph
2. Community Plan Land Use Map
3. Project Location Map
4. Project Data Sheet
5. Draft Permit Resolution with Findings
6. Draft Permit with Conditions
7. Draft Environmental Resolution with MMRP
8. Project Plans (Hearing Officer only)
9. Community Planning Group Recommendation
10. Ownership Disclosure Statement

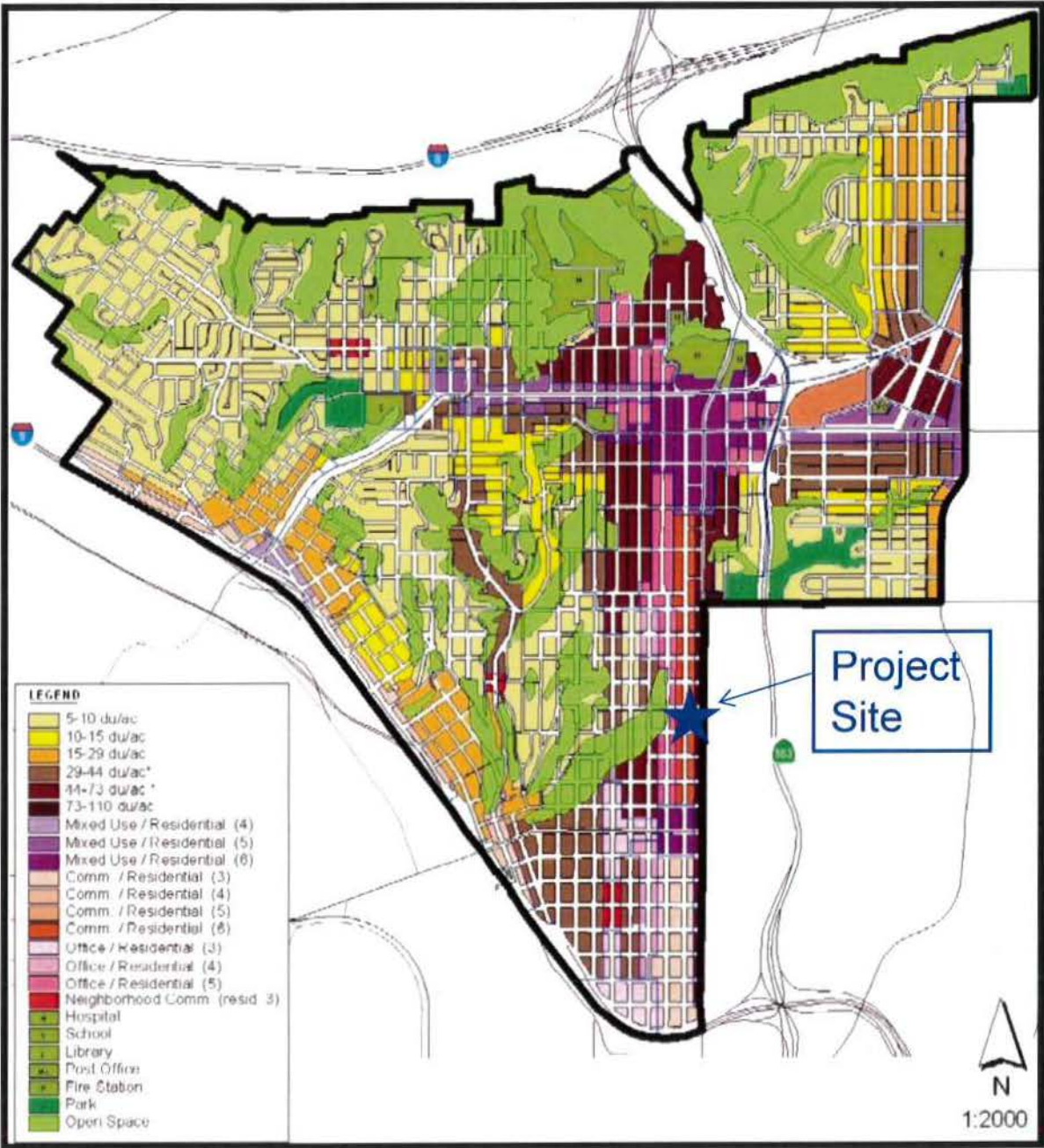


Aerial Photo

PALM PROPERTIES - PROJECT NO. 271456

Block bounded by Quince Street, 5th Avenue, Palm Street and 6th Avenue





Community Land Use Map



PALM PROPERTIES - PROJECT NO. 271456

Block bounded by Quince Street, 5th Avenue, Palm Street and 6th Avenue



Project Location Map



PALM PROPERTIES - PROJECT NO. 271456

**Block bounded by Quince Street, 5th Avenue, Palm Street
and 6th Avenue**



PROJECT DATA SHEET

PROJECT NAME:	Palm Properties – Project No. 271456	
PROJECT DESCRIPTION:	Demolish existing structures (except for a designated historic building) and construct two 150-foot-high towers containing 145 dwelling units, approximately 67,811 square feet of extended-stay hotel & commercial space and approximately 12,300 square feet of recreational and support space above 377 subterranean parking spaces.	
COMMUNITY PLAN AREA:	Uptown Community Plan area.	
DISCRETIONARY ACTIONS:	Site Development Permit	
COMMUNITY PLAN LAND USE DESIGNATION:	Commercial/Residential (73 to 110 dwelling units per acre) and Very High Residential (73 to 110 dwelling units per acre)	
<u>ZONING INFORMATION EAST HALF:</u> ZONE: CV-1 Mid-City Communities PDO DENSITY: one dwelling unit per 400 sq.ft. of lot area. HEIGHT LIMIT: 150-Foot maximum height limit. LOT SIZE: 5,000 square-foot minimum lot size. FLOOR AREA RATIO: 1.50 max. commercial, no max. residential FRONT SETBACK: 0 feet. SIDE SETBACK: 0 feet. STREETSIDE SETBACK: 0 feet. REAR SETBACK: 0 feet. PARKING: 343 required, 377 provided	<u>ZONING INFORMATION WEST HALF:</u> ZONE: MR-400 Mid-City Communities PDO DENSITY: one dwelling unit per 400 sq.ft. of lot area. HEIGHT LIMIT: 150-Foot maximum height limit. LOT SIZE: 6,000 square-foot minimum lot size. FLOOR AREA RATIO: 3.75 max. + Bonus FRONT SETBACK: 5 feet. SIDE SETBACK: 6 feet. STREETSIDE SETBACK: 10 feet. REAR SETBACK: 15 feet. PARKING: 343 required, 377 provided	
<u>ADJACENT PROPERTIES:</u>	LAND USE DESIGNATION & ZONE	EXISTING LAND USE
NORTH:	Commercial & Very High Density Residential; CV-1 & MR-400.	Medical Offices and Residential
SOUTH:	Commercial & Very High Density Residential; CV-1 & MR-400.	School & Offices
EAST:	Public Park; Unzoned.	Public Park (Balboa Park)
WEST:	Commercial; CV-1.	Medical & Business Offices
DEVIATIONS OR VARIANCES REQUESTED:	To allow the building above the street wall in the CV-1 zone to step back 8 to 11 feet instead of 15 feet as required.	
COMMUNITY PLANNING GROUP RECOMMENDATION:	On October 2, 2012, the Uptown Community Planning Committee voted to approve the request for the Site Development Permit. The motion passed 14-0-1.	

**HEARING OFFICER
RESOLUTION NO. _____
SITE DEVELOPMENT PERMIT NO. 954116
PALM PROPERTIES - PROJECT NO. 271456 (MMRP)**

DRAFT

WHEREAS, PALM PROPERTIES LP, A DELAWARE LIMITED PARTNERSHIP and PALM PROPERTIES LP, A CALIFORNIA LIMITED PARTNERSHIP, Owner/Permittee, filed an application with the City of San Diego for a permit to demolish existing structures (except the historical structure located at 2900 6th Avenue, which will remain as office space) and construct a new 145-unit, multi-family residential building, a 66-unit extended stay hotel, with retail and commercial spaces, recreational and support facilities, and subterranean parking (as described in and by reference to the approved Exhibits "A" and corresponding conditions of approval for the associated Permit No. 954116), on portions of a 1.337-acre site;

WHEREAS, the project site is the full block bounded by Quince Street, 5th Avenue, Palm Street and 6th Avenue in the CV-1 and MR-400 Zones of the Mid-City Communities Planned District, the Airport Approach Overlay Zone, the FAA Part 77 Notification Area, the Transit Area Overlay Zone, and the Residential Tandem Parking Overlay Zone, within the Uptown Community Plan area. Current addresses include: 2901, 2929 and 2941 5th Avenue; 2900 and 2950 6th Avenue; and 535 N. Quince Street;

WHEREAS, the project site is legally described as Lots A through L, inclusive, Block 29, Horton's Addition, according to Map thereof by L.L. Lockling on file in the Office of the San Diego County Recorder (APN 452-663-04, 04, 05, 06, 07, 08, 09 and 10);

WHEREAS, on August 14, 2013, the Hearing Officer of the City of San Diego considered Site Development Permit No. 954116 pursuant to the Land Development Code of the City of San Diego; NOW, THEREFORE,

BE IT RESOLVED by the Hearing Officer of the City of San Diego as follows:

That the Hearing Officer adopts the following written Findings, dated August 13, 2013.

FINDINGS:

Site Development Permit Findings – SDMC Section 126.0504(a)

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

The proposed project includes the demolition of existing structures (except the historical structure located at 2900 6th Avenue, which will remain as office space) and construction of a new 145-unit, multi-family residential building, a 66-unit extended stay hotel, with retail and commercial spaces, recreational and support facilities, and subterranean parking.

The Uptown Community Plan designates the 1.337-acre project site for Commercial/Residential (73 to 110 dwelling units per acre) and Very High Residential (73 to 110 dwelling units per acre) uses. According to the project's site area, approximately 98 to 147 dwelling units would be allowed. The proposal of a mixed development consisting of 145 dwelling units, ground level commercial retail, and a 66-unit extended stay hotel would implement the existing land use designation. The project would result in the demolition of existing of commercial structures (except the historic building located at 2900 6th Avenue [HRB Site No. 938 - George and Alice Hazzard House]) and the creation of 145 rental housing units.

Through the incorporation of a 15-foot setback from the property line with landscaping along Quince Street, the project would meet the objective and recommendation in the Urban Design Element of the community plan for maintaining and enhancing pedestrian and auto views of Balboa Park and as well as assist in creating visual entryways to Balboa Park. A pool and terrace that would be located on the roof of the northwest portion of the proposed project, balconies for the residential units, and plaza located along 6th Avenue would implement the guideline in the Urban Design Element of the community plan for maximizing useable open space for residential projects. Additionally, the proposed project would implement policies within the Urban Design Element for the provision of streets trees through the incorporation of 36-inch box canopy trees and 24-inch box palm trees along Quince Street, 5th Avenue, and Palm Street. A double row of palm trees would be planted along 6th Avenue to complement the existing tree pattern along 6th Avenue and on the Balboa Park side of the street.

The project would also meet the objective in the Conservation, Cultural, and Heritage Resources objective of preserving historic structures at their original location as well as in their historic context whenever possible, by maintaining the existing, historic 2-story structure at its current location at 2900 6th Avenue (HRB Site No. 938 - George and Alice Hazzard House).

The proposed project is located along 5th Avenue which is identified in the community plan as a Class III bikeway. A goal of the Mobility Element of the General Plan is to encourage bicycling as a viable travel choice within the City. The project would assist in attaining this goal by providing 93 bicycle spaces where 71 are required and locating bicycle storage facilities on all parking levels. In addition five locations for bike racks would be provided at street level along 5th Avenue where the commercial-retail component of the project is proposed.

Policy NE-A.4 of the Noise Element of the General Plan requires an acoustical study consistent with Acoustical Study Guidelines (Table NE-4 of the General Plan) for proposed developments in areas where the existing or future noise level exceeds or would exceed the "compatible" noise level thresholds as indicated on the Land Use – Noise Compatibility Guidelines (Table NE-3 of the General Plan), so that noise mitigation measures can be included in a development project's design to meet noise guidelines. According to Table NE-3, a proposed mixed-use project with an exterior noise exposure level of 60 to 65 CNEL would be "conditionally compatible" and must attenuate exterior noise to an indoor noise level of 45 CNEL. An acoustical report prepared for the proposed project evaluated traffic noise impacts on 5th and 6th Avenues as well as minor contributions from Palm and Quince Streets. The outdoor balcony areas of residences facing 5th and 6th Avenues or those with a partial street view, as well as other outdoor balcony areas below a height of 60 feet, would exceed the 65 CNEL requirement

for outdoor noise levels. To mitigate for exterior noise impacts at all outdoor residential use areas (up to a height of 60 feet) the proposed project would incorporate as a design feature, 4-foot-high noise walls along balconies or higher noise barriers in exterior use areas to attenuate exterior noise to below 65 CNEL. The sound attenuations barriers would need to be constructed as stated in the acoustical report to reduce noise exposure levels at or below 45 CNEL. Incorporation of this project design feature would attenuate exterior traffic noise to below a level of significance. The requirement for the incorporation of these design features has been included as a Condition of permit approval.

To mitigate for interior noise below 45 CNEL within the proposed residential development or 50 CNEL for commercial, the project would be required to comply with Title 24. The project will be required to complete an interior noise analysis (exterior to interior study) prior to building permit issuance to show the incorporation of appropriate architectural materials, and techniques that would achieve interior noise levels in habitable rooms, specifically 45 CNEL for residential and 50 CNEL threshold for outdoor areas established by the City's General Plan. The requirement for this interior noise analysis has been included as a Condition of permit approval.

As proposed, the project would be consistent with the Uptown Community Plan, as well as with applicable Mobility and Noise Element policies contained in the General Plan, therefore the project would not adversely impact the applicable land use plans.

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

The proposed project includes the demolition of existing structures (except the historical structure located at 2900 6th Avenue, which will remain as office space) and construction of a new 145-unit, multi-family residential building, a 66-unit extended stay hotel, with retail and commercial spaces, recreational and support facilities, and subterranean parking.

The proposed project would comply with the development regulations in effect for the subject property as described in Site Development Permit No. 954116, as well as other regulations and guidelines pertaining to the subject property per the San Diego Municipal Code. The proposed development would comply with all applicable building and fire code requirements.

Policy NE-A.4 of the Noise Element of the General Plan requires an acoustical study consistent with Acoustical Study Guidelines (Table NE-4 of the General Plan) for proposed developments in areas where the existing or future noise level exceeds or would exceed the "compatible" noise level thresholds as indicated on the Land Use – Noise Compatibility Guidelines (Table NE-3 of the General Plan), so that noise mitigation measures can be included in a development project's design to meet noise guidelines. According to Table NE-3, a proposed mixed-use project with an exterior noise exposure level of 60 to 65 CNEL would be "conditionally compatible" and must attenuate exterior noise to an indoor noise level of 45 CNEL. An acoustical report prepared for the proposed project evaluated traffic noise impacts on 5th and 6th Avenues as well as minor contributions from Palm and Quince Streets. The outdoor balcony areas of residences facing 5th and 6th Avenues or those with a partial street view, as well as other outdoor balcony areas below a height of 60 feet, would exceed the 65 CNEL requirement

for outdoor noise levels. To mitigate for exterior noise impacts at all outdoor residential use areas (up to a height of 60 feet) the proposed project would incorporate as a design feature, 4-foot-high noise walls along balconies or higher noise barriers in exterior use areas to attenuate exterior noise to below 65 CNEL. The sound attenuations barriers would need to be constructed as stated in the acoustical report to reduce noise exposure levels at or below 45 CNEL. Incorporation of this project design feature would attenuate exterior traffic noise to below a level of significance. The requirement for the incorporation of these design features has been included as a Condition of permit approval.

To mitigate for interior noise below 45 CNEL within the proposed residential development or 50 CNEL for commercial, the project would be required to comply with Title 24. The project will be required to complete an interior noise analysis (exterior to interior study) prior to building permit issuance to show the incorporation of appropriate architectural materials, and techniques that would achieve interior noise levels in habitable rooms, specifically 45 CNEL for residential and 50 CNEL threshold for outdoor areas established by the City's General Plan. The requirement for this interior noise analysis has been included as a Condition of permit approval.

A Mitigated Negative Declaration has been prepared for the project in accordance with State of California Environmental Quality Act (CEQA) Guidelines. A Mitigation Monitoring and Reporting Program has been prepared and will be implemented which will reduce, to below a level of significance, any potential impacts identified within the environmental review process regarding Historical Resources (Archaeology), Paleontological Resources and Transportation.

Therefore, the proposed development would not be detrimental to the public health, safety and welfare.

3. The proposed development will comply with the applicable regulations of the Land Development Code.

The proposed project includes the demolition of existing structures (except the historical structure located at 2900 6th Avenue, which will remain as office space) and construction of a new 145-unit, multi-family residential building, a 66-unit extended stay hotel, with retail and commercial spaces, recreational and support facilities, and subterranean parking.

The site is located in the CV-1 and MR-400 Zones of the Mid-City Communities Planned District, the Airport Approach Overlay Zone, the FAA Part 77 Notification Area, the Transit Area Overlay Zone, and the Residential Tandem Parking Overlay Zone, within the Uptown Community Plan area. A Site Development Permit is required for the proposed mixed-use development exceeding the thresholds in Table 1512-02A, per SDMC Section 1512.0203(b)(2), and for one deviation from the development regulations. This one deviation is from Street Wall Height requirement of the CV-1 zone, and is specified as stepping the building above the street wall back 8 to 11 feet from the street wall instead of 15 feet as required. This deviation is supported because the overall design of the building meets the purpose and intent of the regulation by providing a strong horizontal division separating the base of the building at the maximum street wall height from the remainder of the building shaft which is stepped back from

the face of the street wall. This reduces the perceived scale of the height of the building as viewed by a pedestrian in the right-of-way adjacent to the site, which is the intent of the regulation.

Conditions are included with the permit that require conformance with all applicable regulations, including the deviation as allowed through the Site Development Permit process.

Therefore, the proposed development will comply with the applicable regulations of the Land Development Code.

Mid-City Development Permit Findings – Section 1512.0204

1. **Conformance with Community Plan and Design Manuals.** The proposed use and project design meet the purpose and intent of the Mid-City Communities Planned District (Section 1512.0101), and the following documents, as applicable to the site: the Mid-City Community Plan, the Greater North Park Community Plan, the State University Community Plan, the Uptown Community Plan, the Mid-City Design Plan (California State Polytechnic University, Pomona; Graduate studies in Landscape Architecture; June, 1983), Design Manual for the Normal Heights Demonstration Area and the City Heights Demonstration Area (HCH Associates and Gary Coad; April, 1984), The Design Study for the Commercial Revitalization of El Cajon Boulevard (Land Studio, Rob Quigley, Kathleen McCormick), The North Park Design Study, Volume 1, Design Concept and Volume 2, Design Manual (The Jerde Partnership, Inc. and Lawrence Reed Moline, Ltd.), Sears Site Development Program (Gerald Gast and Williams-Kuebelbeck and Assoc.; 1987) and will not adversely affect the Greater North Park Community Plan, the Uptown Community Plan or the General Plan of the City of San Diego.

The proposed project includes the demolition of existing structures (except the historical structure located at 2900 6th Avenue, which will remain as office space) and construction of a new 145-unit multi-family residential building, a 66-unit extended stay hotel, with retail and commercial spaces, recreational and support facilities, and subterranean parking.

A Site Development Permit for the Mid-City Communities Planned District is required for the proposed mixed-use development exceeding the thresholds in Table 1512-02A, per SDMC Section 1512.0203(b)(2), and for one deviation from the development regulations. This one deviation is from Street Wall Height requirement of the CV-1 zone, and is specified as stepping the building above the street wall back 8 to 11 feet from the street wall instead of 15 feet as required. This deviation is supported because the overall design of the building meets the purpose and intent of the regulation by providing a strong horizontal division separating the base of the building at the maximum street wall height from the remainder of the building shaft which is stepped back from the face of the street wall. This reduces the perceived scale of the height of the building as viewed by a pedestrian in the right-of-way adjacent to the site, which is the intent of the regulation.

The Uptown Community Plan designates the 1.337-acre project site for Commercial/Residential (73 to 110 dwelling units per acre) and Very High Residential (73 to 110 dwelling units per acre) uses. According to the project's site area, approximately 98 to 147 dwelling units would be

allowed. The proposal of a mixed development consisting of 145 dwelling units, ground level commercial retail, and a 66-unit extended stay hotel would implement the existing land use designation. The project would result in the demolition of existing commercial structures (except the historic building located at 2900 6th Avenue [HRB Site No. 938 - George and Alice Hazzard House]) and the creation of 145 rental housing units.

Through the incorporation of a 15-foot setback from the property line with landscaping along Quince Street, the project would meet the objective and recommendation in the Urban Design Element of the community plan for maintaining and enhancing pedestrian and auto views of Balboa Park and as well as assist in creating visual entryways to Balboa Park. A pool and terrace that would be located on the roof of the northwest portion of the proposed project, balconies for the residential units, and plaza located along 6th Avenue would implement the guideline in the Urban Design Element of the community plan for maximizing useable open space for residential projects. Additionally, the proposed project would implement policies within the Urban Design Element for the provision of streets trees through the incorporation of 36-inch box canopy trees and 24-inch box palm trees along Quince Street, 5th Avenue, and Palm Street. A double row of palm trees would be planted along 6th Avenue to complement the existing tree pattern along 6th Avenue and on the Balboa Park side of the street.

The project would also meet the objective in the Conservation, Cultural, and Heritage Resources objective of preserving historic structures at their original location as well as in their historic context whenever possible, by maintaining the existing, historic 2-story structure at its current location at 2900 6th Avenue (HRB Site No. 938 - George and Alice Hazzard House).

The proposed project is located along 5th Avenue which is identified in the community plan as a Class III bikeway. A goal of the Mobility Element of the General Plan is to encourage bicycling as a viable travel choice within the City. The project would assist in attaining this goal by providing 93 bicycle spaces where 71 are required and locating bicycle storage facilities on all parking levels. In addition five locations for bike racks would be provided at street level along 5th Avenue where the commercial-retail component of the project is proposed.

Policy NE-A.4 of the Noise Element of the General Plan requires an acoustical study consistent with Acoustical Study Guidelines (Table NE-4 of the General Plan) for proposed developments in areas where the existing or future noise level exceeds or would exceed the "compatible" noise level thresholds as indicated on the Land Use - Noise Compatibility Guidelines (Table NE-3 of the General Plan), so that noise mitigation measures can be included in a development project's design to meet noise guidelines. According to Table NE-3, a proposed mixed-use project with an exterior noise exposure level of 60 to 65 CNEL would be "conditionally compatible" and must attenuate exterior noise to an indoor noise level of 45 CNEL. An acoustical report prepared for the proposed project evaluated traffic noise impacts on 5th and 6th Avenues as well as minor contributions from Palm and Quince Streets. The outdoor balcony areas of residences facing 5th and 6th Avenues or those with a partial street view, as well as other outdoor balcony areas below a height of 60 feet, would exceed the 65 CNEL requirement for outdoor noise levels. To mitigate for exterior noise impacts at all outdoor residential use areas (up to a height of 60 feet) the proposed project would incorporate as a design feature, 4-foot-high noise walls along balconies or higher noise barriers in exterior use areas to attenuate

exterior noise to below 65 CNEL. The sound attenuations barriers would need to be constructed as stated in the acoustical report to reduce noise exposure levels at or below 45 CNEL. Incorporation of this project design feature would attenuate exterior traffic noise to below a level of significance. The requirement for the incorporation of these design features has been included as a Condition of permit approval.

To mitigate for interior noise below 45 CNEL within the proposed residential development or 50 CNEL for commercial, the project would be required to comply with Title 24. The project will be required to complete an interior noise analysis (exterior to interior study) prior to building permit issuance to show the incorporation of appropriate architectural materials, and techniques that would achieve interior noise levels in habitable rooms, specifically 45 CNEL for residential and 50 CNEL threshold for outdoor areas established by the City's General Plan. The requirement for this interior noise analysis has been included as a Condition of permit approval.

As proposed, the project would be consistent with the Uptown Community Plan, as well as with applicable Mobility and Noise Element policies contained in the General Plan. The use and project design do meet the purpose and intent of the Mid-City Communities Planned District Ordinance and would not adversely affect the Uptown Community Plan.

2. **Compatibility with surrounding development. The proposed development will be compatible with existing and planned land use on adjoining properties and will not constitute a disruptive element to the neighborhood and community. In addition, architectural harmony with the surrounding neighborhood and community will be achieved as far as practicable.**

The proposed project includes the demolition of existing structures (except the historical structure located at 2900 6th Avenue, which will remain as office space) and construction of a new 145-unit, multi-family residential building, a 66-unit extended stay hotel, with retail and commercial spaces, recreational and support facilities, and subterranean parking.

The project proposal includes the demolition of most structures within the square block, and the construction of a new mixed use development. With project implementation, only the existing historical structure located at 2900 6th Avenue (HRB Site No. 938 - George and Alice Hazzard House), would remain on the site. This historical building is currently used as office space (approximately 5,600 square feet), which would continue. The new improvements would include the construction of a new, 145-unit, multi-family residential building (approximately 200,358 square feet) and a new, 66-unit extended stay hotel (approximately 58,846 square feet), with retail and commercial space (approximately 8,965 square feet) and recreational and support space (approximately 12,300 square feet) in two, approximately 150-foot-high towers. Off-street parking (343 parking spaces required; 377 spaces provided, which includes 12 tandem spaces) are proposed in a subterranean parking structure.

Surrounding land uses consist of residential and commercial uses to the north and west, and the Urban Discovery Academy (a charter school serving students K-8) to the south. Balboa Park is located on the east side of the project site, on the other side of 6th Avenue.

The proposed project is a mixed use residential and commercial project within an area designated for such uses. The project provides for the preservation of designated historic resources, while upgrading commercial uses, as emphasized in the Plan. The building design utilizes urban design features to provide custom design, which will enhance the neighborhood and is compatible with the surrounding development, and observes all development regulations, with the exception of street wall deviation, which is permitted as allowed through the Site Development Permit process.

Therefore, the proposed project would achieve architectural harmony with the surrounding neighborhood and community to the extent possible.

- 3. No Detriment to Health, Safety and Welfare. The proposed use, because of conditions that have been applied to it, will not be detrimental to the health, safety and general welfare of persons residing or working in the area, and will not adversely affect other property in the vicinity.**

The proposed project includes the demolition of existing structures (except the historical structure located at 2900 6th Avenue, which will remain as office space) and construction of a new 145-unit, multi-family residential building, a 66-unit extended stay hotel, with retail and commercial spaces, recreational and support facilities, and subterranean parking.

The proposed project would comply with the development regulations in effect for the subject property as described in Site Development Permit No. 954116, as well as other regulations and guidelines pertaining to the subject property per the San Diego Municipal Code. The proposed development would comply with all applicable building and fire code requirements.

Policy NE-A.4 of the Noise Element of the General Plan requires an acoustical study consistent with Acoustical Study Guidelines (Table NE-4 of the General Plan) for proposed developments in areas where the existing or future noise level exceeds or would exceed the “compatible” noise level thresholds as indicated on the Land Use – Noise Compatibility Guidelines (Table NE-3 of the General Plan), so that noise mitigation measures can be included in a development project’s design to meet noise guidelines. According to Table NE-3, a proposed mixed-use project with an exterior noise exposure level of 60 to 65 CNEL would be “conditionally compatible” and must attenuate exterior noise to an indoor noise level of 45 CNEL. An acoustical report prepared for the proposed project evaluated traffic noise impacts on 5th and 6th Avenues as well as minor contributions from Palm and Quince Streets. The outdoor balcony areas of residences facing 5th and 6th Avenues or those with a partial street view, as well as other outdoor balcony areas below a height of 60 feet, would exceed the 65 CNEL requirement for outdoor noise levels. To mitigate for exterior noise impacts at all outdoor residential use areas (up to a height of 60 feet) the proposed project would incorporate as a design feature, 4-foot-high noise walls along balconies or higher noise barriers in exterior use areas to attenuate exterior noise to below 65 CNEL. The sound attenuations barriers would need to be constructed as stated in the acoustical report to reduce noise exposure levels at or below 45 CNEL. Incorporation of this project design feature would attenuate exterior traffic noise to below a level of significance. The requirement for the incorporation of these design features has been included as a Condition of permit approval.

To mitigate for interior noise below 45 CNEL within the proposed residential development or 50 CNEL for commercial, the project would be required to comply with Title 24. The project will be required to complete an interior noise analysis (exterior to interior study) prior to building permit issuance to show the incorporation of appropriate architectural materials, and techniques that would achieve interior noise levels in habitable rooms, specifically 45 CNEL for residential and 50 CNEL threshold for outdoor areas established by the City's General Plan. The requirement for this interior noise analysis has been included as a Condition of permit approval.

A Mitigated Negative Declaration has been prepared for the project in accordance with State of California Environmental Quality Act (CEQA) Guidelines. A Mitigation Monitoring and Reporting Program has been prepared and will be implemented which will reduce, to below a level of significance, any potential impacts identified within the environmental review process regarding Historical Resources (Archaeology), Paleontological Resources and Transportation.

Therefore, the proposed development would not be detrimental to the public health, safety and welfare, and will not adversely affect other property in the vicinity.

4. **Adequate Public Facilities (Park deficient neighborhoods)** For residential and mixed residential/commercial projects within the park-deficient neighborhoods shown on Map Number B-4104 that are not exempted by Section 1512.0203(b)(1)(A) or (B), the proposed development provides a minimum of 750 square feet of on-site usable recreational open space area per dwelling unit. The on-site usable recreational open space area shall not be located within any area of the site used for vehicle parking, or ingress and egress, and shall be configured to have a minimum of 10 feet in each dimension. The area will be landscaped and may also include hardscape and recreational facilities.

The proposed project includes the demolition of existing structures (except the historical structure located at 2900 6th Avenue, which will remain as office space) and construction of a new 145-unit, multi-family residential building, a 66-unit extended stay hotel, with retail and commercial spaces, recreational and support facilities, and subterranean parking.

The project site is not located in a park deficient neighborhood, therefore, this finding does not apply to this project. The Mid-City Communities Planned District identifies facility deficient neighborhoods as those neighborhoods that are shown on Map No. B-4104. The Central Urbanized Planned District now incorporates all neighborhoods that are shown on Map No. B-4101 and those neighborhoods are no longer within the Mid-City Communities Planned District.

5. **Adequate Lighting.** In the absence of a street light within 150 feet of the property, adequate neighborhood-serving security lighting consistent with the Municipal Code is provided on-site.

The proposed project includes the demolition of existing structures (except the historical structure located at 2900 6th Avenue, which will remain as office space) and construction of a new 145-unit, multi-family residential building, a 66-unit extended stay hotel, with retail and commercial spaces, recreational and support facilities, and subterranean parking. The project has been conditioned to conform with all current street lighting standards according to the adopted City of

San Diego Street Design Manual and Council Policy 200-18. Implementation and review of these requirements will occur during the construction permit stage of this project.

6. The proposed use will comply with the relevant regulations in the San Diego Municipal Code.

The proposed project includes the demolition of existing structures (except the historical structure located at 2900 6th Avenue, which will remain as office space) and construction of a new 145-unit, multi-family residential building, a 66-unit extended stay hotel, with retail and commercial spaces, recreational and support facilities, and subterranean parking.

The site is located in the CV-1 and MR-400 Zones of the Mid-City Communities Planned District, the Airport Approach Overlay Zone, the FAA Part 77 Notification Area, the Transit Area Overlay Zone, and the Residential Tandem Parking Overlay Zone, within the Uptown Community Plan area. A Site Development Permit is required for the proposed mixed-use development exceeding the thresholds in Table 1512-02A, per SDMC Section 1512.0203(b)(2), and for one deviation from the development regulations. This one deviation is from Street Wall Height requirement of the CV-1 zone, and is specified as stepping the building above the street wall back 8 to 11 feet from the street wall instead of 15 feet as required. This deviation is supported because the overall design of the building meets the purpose and intent of the regulation by providing a strong horizontal division separating the base of the building at the maximum street wall height from the remainder of the building shaft which is stepped back from the face of the street wall. This reduces the perceived scale of the height of the building as viewed by a pedestrian in the right-of-way adjacent to the site, which is the intent of the regulation.

Conditions are included with the permit that require conformance with all applicable regulations, including the deviation as allowed through the Site Development Permit process.

Therefore, the proposed development will comply with the applicable regulations of the Land Development Code.

BE IT FURTHER RESOLVED that, based on the findings hereinbefore adopted by the Hearing Officer, Site Development Permit No. 954116 is hereby GRANTED by the Hearing Officer to the referenced Owner/Permittee, in the form, exhibits, terms and conditions as set forth in Permit No. 954116, a copy of which is attached hereto and made a part hereof.

Michelle Sokolowski
Development Project Manager
Development Services

Adopted on: August 14, 2013

Job Order No. 24002485

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

WHEN RECORDED MAIL TO
PROJECT MANAGEMENT
PERMIT CLERK
MAIL STATION 501

SPACE ABOVE THIS LINE FOR RECORDER'S USE

INTERNAL ORDER NUMBER: 24002485

SITE DEVELOPMENT PERMIT NO. 954116
PALM PROPERTIES - PROJECT NO. 271456 (MMRP)
HEARING OFFICER

DRAFT

This Site Development Permit No. 954116 is granted by the Hearing Officer of the City of San Diego to PALM PROPERTIES LP, A DELAWARE LIMITED PARTNERSHIP and PALM PROPERTIES LP, A CALIFORNIA LIMITED PARTNERSHIP, Owner/Permittee, pursuant to San Diego Municipal Code [SDMC] section 1512.0203. The 1.337-acre site is the full block bounded by Quince Street, 5th Avenue, Palm Street and 6th Avenue, in the CV-1 and MR-400 Zones of the Mid-City Communities Planned District, the Airport Approach Overlay Zone, the FAA Part 77 Notification Area, the Transit Area Overlay Zone, and the Residential Tandem Parking Overlay Zone, within the Uptown Community Plan area. The project site is legally described as: Lots A through I, inclusive, Block 29, Horton's Addition, according to Map thereof by L.L. Lockling on file in the Office of the San Diego County Recorder (APN 452-663-04, 04, 05, 06, 07, 08, 09 and 10). Current addresses include: 2901, 2929 and 2941 5th Avenue; 2900 and 2950 6th Avenue; and 535 N. Quince Street.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee to demolish existing structures (except the historical structure located at 2900 6th Avenue, which will remain as office space) and construct a new 145-unit, multi-family residential building, a 66-unit extended stay hotel, with retail and commercial spaces, recreational and support facilities, and subterranean parking, described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated August 14, 2013, on file in the Development Services Department.

The project shall include:

- a. The demolition of all structures, with the exception of the existing historical structure located at 2900 6th Avenue (HRB Site No. 938 - George and Alice Hazzard House), which will remain as office space, approximately 5,600 square feet;
- b. The construction of a new, 145-unit, multi-family residential building (approximately 200,358 square feet) and a new, 66-unit extended stay hotel (approximately 58,846 square feet), with retail and commercial space (approximately 8,965 square feet) and recreational and support space (approximately 12,300 square feet) in two, approximately 150-foot-high towers above subterranean parking (343 parking spaces required; 377 spaces provided, which includes 12 tandem spaces);
- b. A deviation from the Street Wall Height requirement of the CV-1 zone to allow the building above the street wall to step back 8 to 11 feet from the street wall instead of 15 feet as required;
- c. Landscaping (planting, irrigation and landscape related improvements);
- d. Off-street parking (343 parking spaces required; 377 spaces provided, which includes 12 tandem spaces) in a subterranean parking structure; and
- e. 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 I 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 August 28, 2016.
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.
- 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.
10. This Permit may be developed in phases. Each phase shall be constructed prior to lease to individual tenants to ensure that all development is consistent with the conditions and exhibits approved for each respective phase per the approved Exhibit "A," and as conditioned further within this Permit.

ENVIRONMENTAL/MITIGATION REQUIREMENTS:

11. 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.

12. The mitigation measures specified in the MMRP and outlined in Mitigated Negative Declaration, No. 271456, shall be noted on the construction plans and specifications under the heading ENVIRONMENTAL MITIGATION REQUIREMENTS.

13. The Owner/Permittee shall comply with the MMRP as specified in Mitigated Negative Declaration No. 271456, 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 (Archaeology), Paleontological Resources and Transportation.

AFFORDABLE HOUSING REQUIREMENTS:

14. Prior to the issuance of any building permits, the Owner/Permittee shall comply with the affordable housing requirements of the City's Inclusionary Affordable Housing Regulations (SDMC § 142.1301 et seq.).

AIRPORT REQUIREMENTS:

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

ENGINEERING REQUIREMENTS:

16. Prior to the issuance of a building permit, the Owner/Permittee shall obtain a bonded 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.

17. This project proposes to export 80,000 cubic yards of material from the project site. All export material shall be discharged into a legal disposal site. The approval of this project does not allow the onsite processing and sale of the export material unless the underlying zone allows a construction and demolition debris recycling facility with an approved Neighborhood Use Permit or Conditional Use Permit per LDC Section 141.0620(i).

18. Prior to the issuance of any construction permits, the Owner/Permittee shall enter into a Maintenance Agreement for the ongoing permanent BMP maintenance, satisfactory to the City Engineer.

19. Prior to the issuance of any construction permits, the Owner/Permittee shall incorporate any construction Best Management Practices necessary to comply with Chapter 14, Article 2, Division 1 (Grading Regulations) of the San Diego Municipal Code, into the construction plans or specifications, satisfactory to the City Engineer.
20. Prior to the issuance of any construction permits, the Owner/Permittee shall submit a Water Pollution Control Plan (WPCP). The WPCP shall be prepared in accordance with the guidelines in Appendix G of the City's Storm Water Standards, satisfactory to the City Engineer.
21. Prior to the issuance of any construction permits, the Owner/Permittee shall update the Water Quality Technical Report (WQTR) incorporate and show the type and location of all post-construction Best Management Practices (BMPs) on the final construction drawings, in accordance with the approved Water Quality Technical Report, satisfactory to the City Engineer.
22. All driveways and curb openings shall comply with City Standard Drawings SDG-159 SDG-163 and SDG-163, satisfactory to the City Engineer.
23. Prior to issuance of any building permit, the Owner/Permittee for Phase 1 shall pay its fair share contribution (20.1%) towards future signalization of the intersection of Fifth Avenue and Quince Street with any needed re-stripping and signage modification, satisfactory to the City Engineer, consistent with Condition 13 of this Permit.

LANDSCAPE REQUIREMENTS:

24. In the event that the Landscape Plan and the Site Plan conflict, the Site Plan shall be revised to be consistent with the Landscape Plan such that landscape areas are consistent with the Exhibit 'A' Landscape Development Plan.
25. For the phased construction of the development, all landscaping required for each section of the block in each phase shall be installed at the time that phase of the project is constructed, satisfactory to the Development Services Department.
26. Prior to issuance of any construction permits for public right-of-way improvements, complete landscape construction documents for right-of-way improvements shall be submitted 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.
27. Prior to issuance of any grading permits, complete landscape construction documents, including an automatic permanent irrigation system, shall be submitted to the Development Services Department for approval. The plans shall be in substantial conformance to Exhibit 'A,' on file in the office of Development Services.

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

29. Prior to issuance of any construction permits for buildings complete landscape and irrigation construction documents consistent with the Land Development Manual: Landscape Standards shall be submitted 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 Office of the Development Services Department. Construction plans shall provide a 40 square foot area around each tree which is unencumbered by hardscape and utilities as set forth under LDC 142.0403(b)5.

30. Prior to issuance of any Certificate of Occupancy, it shall be the responsibility of the Owner/Permittee to install all required landscape and obtain all required landscape inspections. A "No Fee" Street Tree Permit shall be obtained for the installation, establishment, and on-going maintenance of all street trees.

31. All required landscape shall be maintained in a disease, weed and litter free condition at all times. Severe pruning or "topping" of trees is not permitted. The trees shall be maintained in a safe manner to allow each tree to grow to its mature height and spread.

32. Prior to issuance of any construction permit for parking structures, the Owner/Permittee shall submit on the planting and irrigation plans a signed statement by a Registered Structural Engineer indicating that supporting structures are designed to accommodate the necessary structural loads and associated planting and irrigation.

33. Any required planting that dies within 3 years of installation shall be replaced within 30 calendar days of plant death with the same size and species of plant material shown on the approved plan. Required shrubs or trees that die 3 years or more after installation shall be replaced with 15 gallon size or 60-inch box size material, respectively. Development Services may authorize adjustment of the size and quantity of replacement material where material replacement would occur in inaccessible areas or where the existing plant being replaced is larger than a 15 gallon shrub or 60-inch box tree.

PLANNING/DESIGN REQUIREMENTS:

34. Owner/Permittee shall maintain a minimum of 343 off-street parking spaces (230 residential and 113 commercial parking spaces (including 10 accessible spaces); 18 motorcycle parking spaces, 71 bicycle parking spaces; and 2 off-street loading spaces) on the property at all times in the approximate locations shown on the approved Exhibit "A," to the satisfaction of the Development Services Department. Parking spaces shall comply at all times with the SDMC and shall not be converted for any other use unless otherwise authorized by the appropriate City decision maker in accordance with the SDMC. At all times and during all phases of the project, the minimum number of parking spaces required by the Land Development Code will be

provided onsite for each phase/portion of the project, and as further specified in Condition 43, below.

35. A minimum of 2 off-street loading areas shall be maintained permanently on the property in the approximate location shown on the site plan, satisfactory to the Development Services Department. All loading areas shall conform to the San Diego Municipal Code standards and shall not be converted and/or utilized for any other purpose, unless otherwise authorized in writing by the Development Services Department Director.

36. 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.

37. The project includes a deviation from the Street Wall Height requirement of the CV-1 zone to allow the building above the street wall to step back 8 to 11 feet from the street wall instead of 15 feet as required, as more fully shown on Exhibit "A," dated August 14, 2013.

38. All signs associated with this development shall be consistent with sign criteria established by the City-wide sign regulations.

39. 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.

40. The project as presented is consistent with the U.S. Secretary of the Interior's Standards and is therefore exempt from the requirement to obtain a Site Development Permit in accordance with SDMC Section 143.0220(a). Any and all revisions to this structure, no matter how minor, will require review and approval by the City of San Diego, Development Services Department, Plan-Historic staff, consistent with the San Diego Municipal Code.

NOISE MITIGATION REQUIREMENTS:

41. The project shall incorporate design features and additional studies specified in the "*Acoustical Report for Palm Properties, LLC – 5th and Palm Project*," prepared by Helix Environmental Planning dated November 9, 2012, (herein incorporated with Exhibit "A") as noise mitigation measures in accordance with the Noise Element of the City of San Diego's General Plan, satisfactory to the Development Services Department.

- a. Prior to building permit issuance, conformance with noise mitigation measures shall be required and shall include:
 - i. Provision of project design features to ensure that on-site operation of retail and commercial uses do not cause internal project exceedance of City noise ordinances at the proposed residences, commercial uses, and the extended-stay (hotel);
 - ii. Provision of project design features for exterior use areas;

- iii. Provision of an interior noise analysis of the proposed residences to determine the appropriate measures that shall be incorporated into building design to ensure that residential interior noise levels would be below 45 CNEL; and
 - iv. Provision of design features described in iii., above.
- b. Prior to final inspection:
- i. The Owner/Permittee shall submit one copy of the interior noise Analysis with construction documents to the Building Inspector; and
 - ii. The Building Inspector shall verify the sound attenuation barrier has been constructed in accordance with the Construction documents.

ENVIRONMENTAL SERVICES DEPARTMENT REQUIREMENTS:

42. Prior to obtaining a building permit for each phase, the Environmental Services Department shall attend a preconstruction meeting to ensure compliance with the Waste Management Plan and the City's Municipal Code requirements, which shall be confirmed by Development Services Department, Planning Review staff.

TRANSPORTATION DEVELOPMENT REQUIREMENTS:

43. Phased improvements shall be allowed as follows:

- a. Phase 1 shall include: Payment of the fairshare contribution (20.1% of the cost of installation of a traffic signal at the intersection of 5th Avenue and Quince Street with any needed re-striping and signage modification, satisfactory to the City Engineer) as required in the Mitigation, Monitoring and Reporting Program for this project consistent with Condition 13 of this permit; installation of main driveways from Palm and Quince Streets; and parking for Phase 1.
- b. Phase 2 shall include: Parking for Phase 2.
- c. Phase 3 shall include: Parking for Phase 3 and completion of all remaining requirements per Exhibit "A," and this permit.

PUBLIC UTILITIES DEPARTMENT REQUIREMENTS:

44. Phased improvements shall be allowed as follows:

- a. Phase 1 shall include: The abandonment of the existing 6 inch water mains and replacement with 12 inch water mains in Quince and Palm Streets, and the acceptance by PUD of the City of San Diego.
- b. Phase 2 shall include: the abandonment of existing unused water services and the installation of new water services (the completion of all remaining requirements per Exhibit "A," and this permit.)

- c. No improvements will be required in Phase 3 since all required improvements shall occur during Phases 1 and 2.

45. 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), on each water service (domestic, fire and irrigation), in a manner satisfactory to the Director of Public Utilities and the City Engineer. BFPDs shall be located above ground on private property, in line with the service and immediately adjacent to the right-of-way.

46. Prior to the issuance of any building permits, the Owner/Permittee shall assure, by permit and bond, the design and construction of all public water facilities, including services and meters, in accordance with established criteria in the most current edition of the City of San Diego Water Facility Design Guidelines and City regulations, standards and practices pertaining thereto.

47. Prior to the issuance of any building permits, the Owner/Permittee shall assure, by permit and bond, the design and construction of all public sewer facilities are to be in accordance with established criteria in the most current City of San Diego sewer design guide.

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

49. No trees or shrubs exceeding three feet in height at maturity shall be installed within ten feet of any water and sewer facilities.

50. Prior to the issuance of any building permits, the Owner/Permittee shall assure, by permit and bond, to cap (abandon) at the property line any existing unused sewer lateral and install new sewer lateral(s) which must be located outside of any driveway or vehicular use area.

51. Prior to the issuance of any building permits, the Owner/Permittee shall assure, by permit and bond, to remove (kill) at the main any existing unused water service.

INFORMATION ONLY:

- The issuance of this discretionary use permit alone does not allow the immediate commencement or continued operation of the proposed use on site. The operation allowed by this discretionary use 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 Hearing Officer of the City of San Diego on August 14, 2013, by Resolution No. _____.

DRAFT

Site Development Permit No. 954116
Date of Approval:

AUTHENTICATED BY THE CITY OF SAN DIEGO DEVELOPMENT SERVICES
DEPARTMENT

MICHELLE SOKOLOWSKI
Development Project Manager

**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.

PALM PROPERTIES LP, A DELAWARE
LIMITED PARTNERSHIP
Owner/Permittee

By _____
NAME
TITLE

PALM PROPERTIES LP, A CALIFORNIA
LIMITED PARTNERSHIP
Owner/Permittee

By _____
NAME
TITLE

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

**PALM PROPERTIES - PROJECT NO. 271456
HEARING OFFICER
RESOLUTION NO. HO-_____**

ADOPTED ON AUGUST 14, 2013

WHEREAS, on February 17, 2012, Larry Cushman submitted an application to Development Services Department for a Site Development Permit for the Palm Properties Project; and

WHEREAS, the matter was set for a Public Hearing to be conducted by the Hearing Officer of the City of San Diego; and

WHEREAS, the issue was heard by the City of San Diego Hearing Officer on August 14, 2013; and

WHEREAS, under Charter section 280(a)(2) this resolution is not subject to veto by the Mayor because this matter requires the City Council to act as a quasi-judicial body, a public hearing is required by law implicating due process rights of individuals affected by the decision, and the Council is required by law to consider evidence at the hearing and to make legal findings based on the evidence presented; and

WHEREAS, the City of San Diego Hearing Officer considered the issues discussed in Mitigation Negative Declaration No. 271456 (Declaration) prepared for this Project; NOW THEREFORE,

BE IT RESOLVED, by the Hearing Officer that it is certified that the Declaration has been completed in compliance with the California Environmental Quality Act of 1970 (CEQA) (Public Resources Code Section 21000 et seq.), as amended, and the State CEQA Guidelines thereto (California Code of Regulations, Title 14, Chapter 3, Section 15000 et seq.), that the Declaration reflects the independent judgment of the City of San Diego as Lead Agency and that the information contained in said Declaration, together with any comments received during the public review process, has been reviewed and considered by the City of San Diego Hearing Officer in connection with the approval of the Project.

BE IT FURTHER RESOLVED, that the City of San Diego Hearing Officer finds on the basis of the entire record that project revisions now mitigate potentially significant effects on the environment previously identified in the Initial Study, that there is no substantial evidence that the Project will have a significant effect on the environment, and therefore, that said Declaration is hereby adopted.

BE IT FURTHER RESOLVED, that pursuant to CEQA Section 21081.6, the City of San Diego Hearing Officer hereby adopts the Mitigation Monitoring and Reporting Program, or alterations to implement the changes to

the Project as required by this Hearing Officer in order to mitigate or avoid significant effects on the environment, which is attached hereto as Exhibit A.

BE IT FURTHER RESOLVED, that the Declaration and other documents constituting the record of proceedings upon which the approval is based are available to the public at the office of the Development Services Department, 1222 First Avenue, San Diego, CA 92101.

BE IT FURTHER RESOLVED, that Development Services Staff is directed to file a Notice of Determination with the Clerk of the Board of Supervisors for the County of San Diego.

By: _____
Michelle Sokolowski, Development Project Manager

ATTACHMENT: Exhibit A, Mitigation Monitoring and Reporting Program

EXHIBIT A**MITIGATION MONITORING AND REPORTING PROGRAM**

Site Development Permit

PROJECT NO. 271456

This Mitigation Monitoring and Reporting Program is designed to ensure compliance with Public Resources Code Section 21081.6 during implementation of mitigation measures. This program identifies at a minimum: the department responsible for the monitoring, what is to be monitored, how the monitoring shall be accomplished, the monitoring and reporting schedule, and completion requirements. A record of the Mitigation Monitoring and Reporting Program will be maintained at the offices of the Entitlements Division, 1222 First Avenue, Fifth Floor, San Diego, CA, 92101. All mitigation measures contained in the Mitigated Negative Declaration No. 271456 shall be made conditions of Site Development Permit as may be further described below.

A. GENERAL REQUIREMENTS – PART I**Plan Check Phase (prior to permit issuance)**

1. Prior to the issuance of a Notice To Proceed (NTP) for a subdivision, or any construction permits, such as Demolition, Grading or Building, or beginning any construction related activity on-site, the Development Services Department (DSD) Director's Environmental Designee (ED) shall review and approve all Construction Documents (CD), (plans, specification, details, etc.) to ensure the MMRP requirements are incorporated into the design.

2. In addition, the ED shall verify that the MMRP Conditions/Notes that apply ONLY to the construction phases of this project are included VERBATIM, under the heading, "ENVIRONMENTAL/MITIGATION REQUIREMENTS."

3. These notes must be shown within the first three (3) sheets of the construction documents in the format specified for engineering construction document templates as shown on the City website:

<http://www.sandiego.gov/development-services/industry/standtemp.shtml>

4. The **TITLE INDEX SHEET** must also show on which pages the "Environmental/Mitigation Requirements" notes are provided.

5. **SURETY AND COST RECOVERY** – The Development Services Director or City Manager may require appropriate surety instruments or bonds from private Permit Holders to ensure the long term performance or implementation of required mitigation measures or programs. The City is authorized to recover its cost to offset the salary, overhead, and expenses for City personnel and programs to monitor qualifying projects.

B. GENERAL REQUIREMENTS – PART II**Post Plan Check (After permit issuance/Prior to start of construction)**

1. **PRE CONSTRUCTION MEETING IS REQUIRED TEN (10) WORKING DAYS PRIOR TO BEGINNING ANY WORK ON THIS PROJECT.** The PERMIT HOLDER/OWNER is responsible to arrange and perform this meeting by contacting the CITY RESIDENT ENGINEER (RE) of the Field

Engineering Division and City staff from MITIGATION MONITORING COORDINATION (MMC). Attendees must also include the Permit holder's Representative(s), Job Site Superintendent and the following consultants:

Qualified Archaeologist
Qualified Native American monitor
Qualified Paleontologist

Note:

Failure of all responsible Permit Holder's representatives and consultants to attend shall require an additional meeting with all parties present.

CONTACT INFORMATION:

- a) The PRIMARY POINT OF CONTACT is the RE at the **Field Engineering Division – 858-627-3200**
- b) For Clarification of ENVIRONMENTAL REQUIREMENTS, it is also required to call RE and MMC at **858-627-3360**

2. MMRP COMPLIANCE: This Project, Project Tracking System (PTS) # 271456 and /or Environmental Document # 271456, shall conform to the mitigation requirements contained in the associated Environmental Document and implemented to the satisfaction of the DSD's Environmental Designee (MMC) and the City Engineer (RE). The requirements may not be reduced or changed but may be annotated (i.e. to explain when and how compliance is being met and location of verifying proof, etc.). Additional clarifying information may also be added to other relevant plan sheets and/or specifications as appropriate (i.e., specific locations, times of monitoring, methodology, etc)

Note:

Permit Holder's Representatives must alert RE and MMC if there are any discrepancies in the plans or notes, or any changes due to field conditions. All conflicts must be approved by RE and MMC BEFORE the work is performed.

3. OTHER AGENCY REQUIREMENTS: Evidence of compliance with all other agency requirements or permits shall be submitted to the RE and MMC for review and acceptance prior to the beginning of work or within one week of the Permit Holder obtaining documentation of those permits or requirements. Evidence shall include copies of permits, letters of resolution or other documentation issued by the responsible agency.

NONE

4. MONITORING EXHIBITS

All consultants are required to submit , to RE and MMC, a monitoring exhibit on a 11x17 reduction of the appropriate construction plan, such as site plan, grading, landscape, etc., marked to clearly show the specific areas including the **LIMIT OF WORK**, scope of that discipline's work, and notes indicating when in the construction schedule that work will be performed. When necessary for clarification, a detailed methodology of how the work will be performed shall be included.

NOTE:

Surety and Cost Recovery – When deemed necessary by the Development Services Director or City Manager, additional surety instruments or bonds from the private Permit Holder may be required to ensure the long term performance or implementation of required mitigation measures or

programs. The City is authorized to recover its cost to offset the salary, overhead, and expenses for City personnel and programs to monitor qualifying projects.

5. OTHER SUBMITTALS AND INSPECTIONS:

The Permit Holder/Owner's representative shall submit all required documentation, verification letters, and requests for all associated inspections to the RE and MMC for approval per the following schedule:

Document Submittal/Inspection Checklist

<i>Issue Area</i>	<i>Document submittal</i>	<i>Assoc Inspection/Approvals/Notes.</i>
General	Consultant Qualification Letters	Prior to Pre-construction Meeting
General meeting	Consultant Const. Monitoring Exhibits	Prior to or at the Pre-Construction
Paleontology	Paleontology Reports	Paleontology site observation
Archaeology	Archaeology Reports	Archaeology/Historic site observation
Bond Release	Request for Bond Release letter	Final MMRP inspections prior to Bond Release Letter

C. SPECIFIC MMRP ISSUE AREA CONDITIONS/REQUIREMENTS

HISTORICAL RESOURCES (ARCHAEOLOGY)

I. Prior to Permit Issuance

A. Entitlements Plan Check

1. Prior to issuance of any construction permits, including but not limited to, the first Grading Permit, Demolition Plans/Permits and Building Plans/Permits or a Notice to Proceed for Subdivisions, but prior to the first preconstruction meeting, whichever is applicable, the Assistant Deputy Director (ADD) Environmental designee shall verify that the requirements for Archaeological Monitoring and Native American monitoring have been noted on the applicable construction documents through the plan check process.

B. Letters of Qualification have been submitted to ADD

1. The applicant shall submit a letter of verification to Mitigation Monitoring Coordination (MMC) identifying the Principal Investigator (PI) for the project and the names of all persons involved in the archaeological monitoring program, as defined in the City of San Diego Historical Resources Guidelines (HRG). If applicable, individuals involved in the archaeological monitoring program must have completed the 40-hour HAZWOPER training with certification documentation.
2. MMC will provide a letter to the applicant confirming the qualifications of the PI and all persons involved in the archaeological monitoring of the project meet the qualifications established in the HRG.
3. Prior to the start of work, the applicant must obtain written approval from MMC for any personnel changes associated with the monitoring program.

II. Prior to Start of Construction

A. Verification of Records Search

1. The PI shall provide verification to MMC that a site specific records search (1/4 mile radius) has been completed. Verification includes, but is not limited to a copy of a

confirmation letter from South Coastal Information Center, or, if the search was in-house, a letter of verification from the PI stating that the search was completed.

2. The letter shall introduce any pertinent information concerning expectations and probabilities of discovery during trenching and/or grading activities.
3. The PI may submit a detailed letter to MMC requesting a reduction to the ¼ mile radius.

B. PI Shall Attend Precon Meetings

1. Prior to beginning any work that requires monitoring, the Applicant shall arrange a Precon Meeting that shall include the PI, Native American consultant/monitor (where Native American resources may be impacted), Construction Manager (CM) and/or Grading Contractor, Resident Engineer (RE), Building Inspector (BI), if appropriate, and MMC. The qualified Archaeologist and Native American Monitor shall attend any grading/excavation related Precon Meetings to make comments and/or suggestions concerning the Archaeological Monitoring program with the Construction Manager and/or Grading Contractor.
 - a. If the PI is unable to attend the Precon Meeting, the Applicant shall schedule a focused Precon Meeting with MMC, the PI, RE, CM or BI, if appropriate, prior to the start of any work that requires monitoring.
2. Identify Areas to be Monitored
 - a. Prior to the start of any work that requires monitoring, the PI shall submit an Archaeological Monitoring Exhibit (AME) (with verification that the AME has been reviewed and approved by the Native American consultant/monitor when Native American resources may be impacted) based on the appropriate construction documents (reduced to 11x17) to MMC identifying the areas to be monitored including the delineation of grading/excavation limits.
 - b. The AME shall be based on the results of a site specific records search as well as information regarding existing known soil conditions (native or formation).
3. When Monitoring Will Occur
 - a. Prior to the start of any work, the PI shall also submit a construction schedule to MMC through the RE indicating when and where monitoring will occur.
 - b. The PI may submit a detailed letter to MMC prior to the start of work or during construction requesting a modification to the monitoring program. This request shall be based on relevant information such as review of final construction documents which indicate site conditions such as depth of excavation and/or site graded to bedrock, etc., which may reduce or increase the potential for resources to be present.

III. During Construction

A. Monitor(s) Shall be Present During Grading/Excavation/Trenching

1. The Archaeological Monitor shall be present full-time during all soil disturbing and grading/excavation/trenching activities which could result in impacts to archaeological resources as identified on the AME. **The Construction Manager is responsible for notifying the RE, PI, and MMC of changes to any construction activities such as in the case of a potential safety concern within the area being monitored. In certain circumstances OSHA safety requirements may necessitate modification of the AME.**
2. The Native American consultant/monitor shall determine the extent of their presence during soil disturbing and grading/excavation/trenching activities based on the AME and provide that information to the PI and MMC. If prehistoric resources are encountered during the Native American consultant/monitor's absence, work shall stop and the Discovery Notification Process detailed in Section III.B-C and IV.A-D shall commence.
3. The PI may submit a detailed letter to MMC during construction requesting a modification to the monitoring program when a field condition such as modern

disturbance post-dating the previous grading/trenching activities, presence of fossil formations, or when native soils are encountered that may reduce or increase the potential for resources to be present.

4. The archaeological and Native American consultant/monitor shall document field activity via the Consultant Site Visit Record (CSV). The CSV's shall be faxed by the CM to the RE the first day of monitoring, the last day of monitoring, monthly (**Notification of Monitoring Completion**), and in the case of ANY discoveries. The RE shall forward copies to MMC.

B. Discovery Notification Process

1. In the event of a discovery, the Archaeological Monitor shall direct the contractor to temporarily divert all soil disturbing activities, including but not limited to digging, trenching, excavating or grading activities in the area of discovery and in the area reasonably suspected to overlay adjacent resources and immediately notify the RE or BI, as appropriate.
2. The Monitor shall immediately notify the PI (unless Monitor is the PI) of the discovery.
3. The PI shall immediately notify MMC by phone of the discovery, and shall also submit written documentation to MMC within 24 hours by fax or email with photos of the resource in context, if possible.
4. No soil shall be exported off-site until a determination can be made regarding the significance of the resource specifically if Native American resources are encountered.

C. Determination of Significance

1. The PI and Native American consultant/monitor, where Native American resources are discovered shall evaluate the significance of the resource. If Human Remains are involved, follow protocol in Section IV below.
 - a. The PI shall immediately notify MMC by phone to discuss significance determination and shall also submit a letter to MMC indicating whether additional mitigation is required.
 - b. If the resource is significant, the PI shall submit an Archaeological Data Recovery Program (ADRP) which has been reviewed by the Native American consultant/monitor, and obtain written approval from MMC. Impacts to significant resources must be mitigated before ground disturbing activities in the area of discovery will be allowed to resume. **Note: If a unique archaeological site is also an historical resource as defined in CEQA, then the limits on the amount(s) that a project applicant may be required to pay to cover mitigation costs as indicated in CEQA Section 21083.2 shall not apply.**
 - c. If the resource is not significant, the PI shall submit a letter to MMC indicating that artifacts will be collected, curated, and documented in the Final Monitoring Report. The letter shall also indicate that that no further work is required.

IV. Discovery of Human Remains

If human remains are discovered, work shall halt in that area and no soil shall be exported off-site until a determination can be made regarding the provenance of the human remains; and the following procedures as set forth in CEQA Section 15064.5(e), the California Public Resources Code (Sec. 5097.98) and State Health and Safety Code (Sec. 7050.5) shall be undertaken:

A. Notification

1. Archaeological Monitor shall notify the RE or BI as appropriate, MMC, and the PI, if the Monitor is not qualified as a PI. MMC will notify the appropriate Senior Planner in the Environmental Analysis Section (EAS) of the Development Services Department to assist with the discovery notification process.
2. The PI shall notify the Medical Examiner after consultation with the RE, either in person or via telephone.

- B. Isolate discovery site
1. Work shall be directed away from the location of the discovery and any nearby area reasonably suspected to overlay adjacent human remains until a determination can be made by the Medical Examiner in consultation with the PI concerning the provenance of the remains.
 2. The Medical Examiner, in consultation with the PI, will determine the need for a field examination to determine the provenance.
 3. If a field examination is not warranted, the Medical Examiner will determine with input from the PI, if the remains are or are most likely to be of Native American origin.
- C. If Human Remains **ARE** determined to be Native American
1. The Medical Examiner will notify the Native American Heritage Commission (NAHC) within 24 hours. By law, **ONLY** the Medical Examiner can make this call.
 2. NAHC will immediately identify the person or persons determined to be the Most Likely Descendent (MLD) and provide contact information.
 3. The MLD will contact the PI within 24 hours or sooner after the Medical Examiner has completed coordination, to begin the consultation process in accordance with CEQA Section 15064.5(e), the California Public Resources and Health & Safety Codes.
 4. The MLD will have 48 hours to make recommendations to the property owner or representative, for the treatment or disposition with proper dignity, of the human remains and associated grave goods.
 5. Disposition of Native American Human Remains will be determined between the MLD and the PI, and, if:
 - a. The NAHC is unable to identify the MLD, OR the MLD failed to make a recommendation within 48 hours after being notified by the Commission; OR;
 - b. The landowner or authorized representative rejects the recommendation of the MLD and mediation in accordance with PRC 5097.94 (k) by the NAHC fails to provide measures acceptable to the landowner; THEN;
 - c. In order to protect these sites, the Landowner shall do one or more of the following:
 - (1) Record the site with the NAHC;
 - (2) Record an open space or conservation easement on the site;
 - (3) Record a document with the County.
 - d. Upon the discovery of multiple Native American human remains during a ground disturbing land development activity, the landowner may agree that additional conferral with descendants is necessary to consider culturally appropriate treatment of multiple Native American human remains. Culturally appropriate treatment of such a discovery may be ascertained from review of the site utilizing cultural and archaeological standards. Where the parties are unable to agree on the appropriate treatment measures the human remains and items associated and buried with Native American human remains shall be reinterred with appropriate dignity, pursuant to Section 5.c. above.
- D. If Human Remains are **NOT** Native American
1. The PI shall contact the Medical Examiner and notify them of the historic era context of the burial.
 2. The Medical Examiner will determine the appropriate course of action with the PI and City staff (PRC 5097.98).
 3. If the remains are of historic origin, they shall be appropriately removed and conveyed to the San Diego Museum of Man for analysis. The decision for internment of the human remains shall be made in consultation with MMC, EAS, the applicant/landowner, any known descendant group, and the San Diego Museum of Man.

V. Night and/or Weekend Work

- A. If night and/or weekend work is included in the contract
 - 1. When night and/or weekend work is included in the contract package, the extent and timing shall be presented and discussed at the precon meeting.
 - 2. The following procedures shall be followed.
 - a. No Discoveries
In the event that no discoveries were encountered during night and/or weekend work, the PI shall record the information on the CSVR and submit to MMC via fax by 8AM of the next business day.
 - b. Discoveries
All discoveries shall be processed and documented using the existing procedures detailed in Sections III - During Construction, and IV - Discovery of Human Remains. Discovery of human remains shall always be treated as a significant discovery.
 - c. Potentially Significant Discoveries
If the PI determines that a potentially significant discovery has been made, the procedures detailed under Section III - During Construction and IV - Discovery of Human Remains shall be followed.
 - d. The PI shall immediately contact MMC, or by 8AM of the next business day to report and discuss the findings as indicated in Section III-B, unless other specific arrangements have been made.
- B. If night and/or weekend work becomes necessary during the course of construction
 - 1. The Construction Manager shall notify the RE, or BI, as appropriate, a minimum of 24 hours before the work is to begin.
 - 2. The RE, or BI, as appropriate, shall notify MMC immediately.
- C. All other procedures described above shall apply, as appropriate.

VI. Post Construction

- A. Preparation and Submittal of Draft Monitoring Report
 - 1. The PI shall submit two copies of the Draft Monitoring Report (even if negative), prepared in accordance with the Historical Resources Guidelines (Appendix C/D) which describes the results, analysis, and conclusions of all phases of the Archaeological Monitoring Program (with appropriate graphics) to MMC for review and approval within 90 days following the completion of monitoring. **It should be noted that if the PI is unable to submit the Draft Monitoring Report within the allotted 90-day timeframe resulting from delays with analysis, special study results or other complex issues, a schedule shall be submitted to MMC establishing agreed due dates and the provision for submittal of monthly status reports until this measure can be met.**
 - a. For significant archaeological resources encountered during monitoring, the Archaeological Data Recovery Program shall be included in the Draft Monitoring Report.
 - b. Recording Sites with State of California Department of Parks and Recreation
The PI shall be responsible for recording (on the appropriate State of California Department of Park and Recreation forms-DPR 523 A/B) any significant or potentially significant resources encountered during the Archaeological Monitoring Program in accordance with the City's Historical Resources Guidelines, and submittal of such forms to the South Coastal Information Center with the Final Monitoring Report.
 - 2. MMC shall return the Draft Monitoring Report to the PI for revision or, for preparation of the Final Report.
 - 3. The PI shall submit revised Draft Monitoring Report to MMC for approval.
 - 4. MMC shall provide written verification to the PI of the approved report.

5. MMC shall notify the RE or BI, as appropriate, of receipt of all Draft Monitoring Report submittals and approvals.
- B. Handling of Artifacts**
1. The PI shall be responsible for ensuring that all cultural remains collected are cleaned and catalogued
 2. The PI shall be responsible for ensuring that all artifacts are analyzed to identify function and chronology as they relate to the history of the area; that faunal material is identified as to species; and that specialty studies are completed, as appropriate.
 3. The cost for curation is the responsibility of the property owner.
- C. Curation of artifacts: Accession Agreement and Acceptance Verification**
1. The PI shall be responsible for ensuring that all artifacts associated with the survey, testing and/or data recovery for this project are permanently curated with an appropriate institution. This shall be completed in consultation with MMC and the Native American representative, as applicable.
 2. The PI shall include the Acceptance Verification from the curation institution in the Final Monitoring Report submitted to the RE or BI and MMC.
 3. When applicable to the situation, the PI shall include written verification from the Native American consultant/monitor indicating that Native American resources were treated in accordance with state law and/or applicable agreements. If the resources were reinterred, verification shall be provided to show what protective measures were taken to ensure no further disturbance occurs in accordance with Section IV – Discovery of Human Remains, Subsection 5.
- D. Final Monitoring Report(s)**
1. The PI shall submit one copy of the approved Final Monitoring Report to the RE or BI as appropriate, and one copy to MMC (even if negative), within 90 days after notification from MMC that the draft report has been approved.
 2. The RE shall, in no case, issue the Notice of Completion and/or release of the Performance Bond for grading until receiving a copy of the approved Final Monitoring Report from MMC which includes the Acceptance Verification from the curation institution.

PALEONTOLOGICAL RESOURCES

I. Prior to Permit Issuance

A. Entitlements Plan Check

1. Prior to issuance of any construction permits, including but not limited to, the first Grading Permit, Demolition Plans/Permits and Building Plans/Permits or a Notice to Proceed for Subdivisions, but prior to the first preconstruction meeting, whichever is applicable, the Assistant Deputy Director (ADD) Environmental designee shall verify that the requirements for Paleontological Monitoring have been noted on the appropriate construction documents.

B. Letters of Qualification have been submitted to ADD

1. The applicant shall submit a letter of verification to Mitigation Monitoring Coordination (MMC) identifying the Principal Investigator (PI) for the project and the names of all persons involved in the paleontological monitoring program, as defined in the City of San Diego Paleontology Guidelines.
2. MMC will provide a letter to the applicant confirming the qualifications of the PI and all persons involved in the paleontological monitoring of the project.
3. Prior to the start of work, the applicant shall obtain approval from MMC for any personnel changes associated with the monitoring program.

II. Prior to Start of Construction

A. Verification of Records Search

1. The PI shall provide verification to MMC that a site specific records search has been completed. Verification includes, but is not limited to a copy of a confirmation letter from San Diego Natural History Museum, other institution or, if the search was in-house, a letter of verification from the PI stating that the search was completed.
2. The letter shall introduce any pertinent information concerning expectations and probabilities of discovery during trenching and/or grading activities.

B. PI Shall Attend Precon Meetings

1. Prior to beginning any work that requires monitoring, the Applicant shall arrange a Precon Meeting that shall include the PI, Construction Manager (CM) and/or Grading Contractor, Resident Engineer (RE), Building Inspector (BI), if appropriate, and MMC. The qualified paleontologist shall attend any grading/excavation related Precon Meetings to make comments and/or suggestions concerning the Paleontological Monitoring program with the Construction Manager and/or Grading Contractor.
 - a. If the PI is unable to attend the Precon Meeting, the Applicant shall schedule a focused Precon Meeting with MMC, the PI, RE, CM or BI, if appropriate, prior to the start of any work that requires monitoring.
2. Identify Areas to be Monitored
Prior to the start of any work that requires monitoring, the PI shall submit a Paleontological Monitoring Exhibit (PME) based on the appropriate construction documents (reduced to 11x17) to MMC identifying the areas to be monitored including the delineation of grading/excavation limits. The PME shall be based on the results of a site specific records search as well as information regarding existing known soil conditions (native or formation).
3. When Monitoring Will Occur
 - a. Prior to the start of any work, the PI shall also submit a construction schedule to MMC through the RE indicating when and where monitoring will occur.
 - b. The PI may submit a detailed letter to MMC prior to the start of work or during construction requesting a modification to the monitoring program. This request shall be based on relevant information such as review of final construction documents which indicate conditions such as depth of excavation and/or site graded to bedrock, presence or absence of fossil resources, etc., which may reduce or increase the potential for resources to be present.

III. During Construction

A. Monitor Shall be Present During Grading/Excavation/Trenching

1. The monitor shall be present full-time during grading/excavation/trenching activities as identified on the PME that could result in impacts to formations with high and moderate resource sensitivity. **The Construction Manager is responsible for notifying the RE, PI, and MMC of changes to any construction activities such as in the case of a potential safety concern within the area being monitored. In certain circumstances OSHA safety requirements may necessitate modification of the PME.**
2. The PI may submit a detailed letter to MMC during construction requesting a modification to the monitoring program when a field condition such as trenching activities that do not encounter formational soils as previously assumed, and/or when unique/unusual fossils are encountered, which may reduce or increase the potential for resources to be present.
3. The monitor shall document field activity via the Consultant Site Visit Record (CSVR). The CSVR's shall be faxed by the CM to the RE the first day of monitoring, the last day

of monitoring, monthly (**Notification of Monitoring Completion**), and in the case of ANY discoveries. The RE shall forward copies to MMC.

B. Discovery Notification Process

1. In the event of a discovery, the Paleontological Monitor shall direct the contractor to temporarily divert trenching activities in the area of discovery and immediately notify the RE or BI, as appropriate.
2. The Monitor shall immediately notify the PI (unless Monitor is the PI) of the discovery.
3. The PI shall immediately notify MMC by phone of the discovery, and shall also submit written documentation to MMC within 24 hours by fax or email with photos of the resource in context, if possible.

C. Determination of Significance

1. The PI shall evaluate the significance of the resource.
 - a. The PI shall immediately notify MMC by phone to discuss significance determination and shall also submit a letter to MMC indicating whether additional mitigation is required. The determination of significance for fossil discoveries shall be at the discretion of the PI.
 - b. If the resource is significant, the PI shall submit a Paleontological Recovery Program (PRP) and obtain written approval from MMC. Impacts to significant resources must be mitigated before ground disturbing activities in the area of discovery will be allowed to resume.
 - c. If resource is not significant (e.g., small pieces of broken common shell fragments or other scattered common fossils) the PI shall notify the RE, or BI as appropriate, that a non-significant discovery has been made. The Paleontologist shall continue to monitor the area without notification to MMC unless a significant resource is encountered.
 - d. The PI shall submit a letter to MMC indicating that fossil resources will be collected, curated, and documented in the Final Monitoring Report. The letter shall also indicate that no further work is required.

IV. Night and/or Weekend Work

A. If night and/or weekend work is included in the contract

1. When night and/or weekend work is included in the contract package, the extent and timing shall be presented and discussed at the pre-con meeting.
2. The following procedures shall be followed.
 - a. **No Discoveries**
In the event that no discoveries were encountered during night and/or weekend work, The PI shall record the information on the CSV and submit to MMC via fax by 8AM on the next business day.
 - b. **Discoveries**
All discoveries shall be processed and documented using the existing procedures detailed in Sections III - During Construction.
 - c. **Potentially Significant Discoveries**
If the PI determines that a potentially significant discovery has been made, the procedures detailed under Section III - During Construction shall be followed.
 - d. The PI shall immediately contact MMC, or by 8AM on the next business day to report and discuss the findings as indicated in Section III-B, unless other specific arrangements have been made.

B. If night work becomes necessary during the course of construction

1. The Construction Manager shall notify the RE, or BI, as appropriate, a minimum of 24 hours before the work is to begin.
2. The RE, or BI, as appropriate, shall notify MMC immediately.

C. All other procedures described above shall apply, as appropriate.

V. Post Construction

A. Preparation and Submittal of Draft Monitoring Report

1. The PI shall submit two copies of the Draft Monitoring Report (even if negative), prepared in accordance with the Paleontological Guidelines which describes the results, analysis, and conclusions of all phases of the Paleontological Monitoring Program (with appropriate graphics) to MMC for review and approval within 90 days following the completion of monitoring.
 - a. For significant paleontological resources encountered during monitoring, the Paleontological Recovery Program shall be included in the Draft Monitoring Report.
 - b. Recording Sites with the San Diego Natural History Museum
The PI shall be responsible for recording (on the appropriate forms) any significant or potentially significant fossil resources encountered during the Paleontological Monitoring Program in accordance with the City's Paleontological Guidelines, and submittal of such forms to the San Diego Natural History Museum with the Final Monitoring Report.
2. MMC shall return the Draft Monitoring Report to the PI for revision or, for preparation of the Final Report.
3. The PI shall submit revised Draft Monitoring Report to MMC for approval.
4. MMC shall provide written verification to the PI of the approved report.
5. MMC shall notify the RE or BI, as appropriate, of receipt of all Draft Monitoring Report submittals and approvals.

B. Handling of Fossil Remains

1. The PI shall be responsible for ensuring that all fossil remains collected are cleaned and catalogued.
2. The PI shall be responsible for ensuring that all fossil remains are analyzed to identify function and chronology as they relate to the geologic history of the area; that faunal material is identified as to species; and that specialty studies are completed, as appropriate.

C. Curation of fossil remains: Deed of Gift and Acceptance Verification

1. The PI shall be responsible for ensuring that all fossil remains associated with the monitoring for this project are permanently curated with an appropriate institution.
2. The PI shall include the Acceptance Verification from the curation institution in the Final Monitoring Report submitted to the RE or BI and MMC.

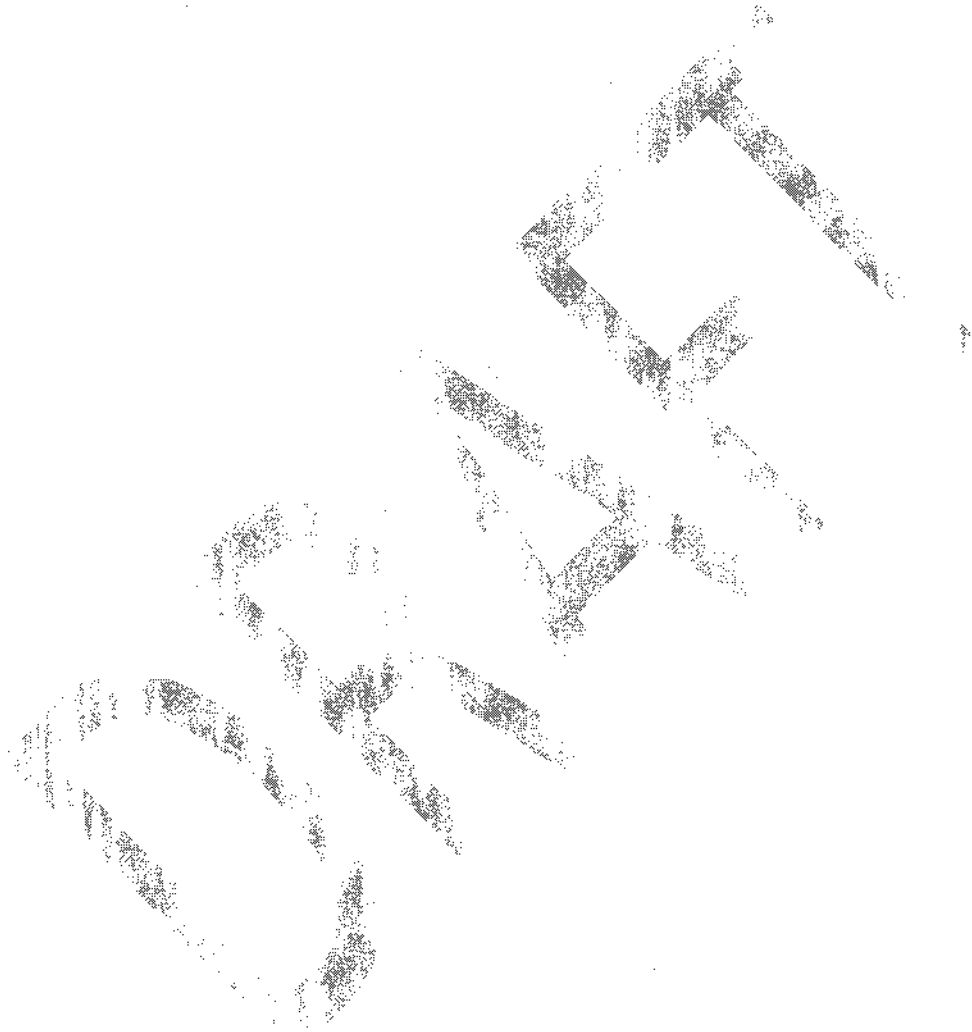
D. Final Monitoring Report(s)

1. The PI shall submit two copies of the Final Monitoring Report to MMC (even if negative), within 90 days after notification from MMC that the draft report has been approved.
2. The RE shall, in no case, issue the Notice of Completion until receiving a copy of the approved Final Monitoring Report from MMC which includes the Acceptance Verification from the curation institution.

TRANSPORTATION

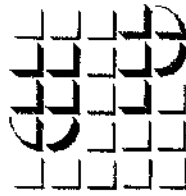
1. Prior to issuance of any building permit, the Owner/Permittee for Phase 1 shall pay a fair share contribution of 20.1% of the cost of installation of a traffic signal at the intersection of Fifth Avenue and Quince Street with any needed re-striping, and signage modification satisfactory to the City Engineer.

The above mitigation monitoring and reporting program will require additional fees and/or deposits to be collected prior to the issuance of building permits, certificates of occupancy and/or final maps to ensure the successful completion of the monitoring program.



PROJECT PLANS

As attachment to Hearing Officer
Package Only



UPTOWN PLANNERS

MEMORANDUM OF MOTION

MOTION APPROVED ON OCTOBER 2, 2012

BY THE BOARD OF UPTOWN PLANNERS

Motion Approved By Uptown Planners on October 2, 2012:

The board of Uptown Planners passed the following motion regarding the Palm Street Properties project at its October 2, 2012 meeting; the item was noticed on the agenda as indicated below:

- 1. 2900 SIXTH AVENUE SDP ("PALM STREET PROPERTIES") – Process Four –**
Bankers Hill/Park West – Site Development Permit to construct two 150 ft. high buildings with 145 for-rent residential units and a 56-room extended stay hotel and relocate an existing historically designated building on a 1.33-acre site at 2900 Sixth Avenue in the CV-1 and MR-400 Zones; FAA Park 77, Transit Area Overlay Zone, Residential Tandem Parking Overlay Zone.

After public comment and board discussion, which included an agreement by the applicant to let the existing historically designated building remain in its present location, the board of Uptown Planners voted 14-0-1 to recommend approval of the project as presented; non-voting chair Jaworski abstaining.

Voting YES 14 Voting NO 0 Abstain 1 (non-voting chair)

Beth Jaworski,
Chair, Uptown Planners



City of San Diego
 Development Services
 1222 First Ave., MS-302
 San Diego, CA 92101
 (619) 446-5000

ATTACHMENT 10
Ownership Disclosure Statement

Approval Type: Check appropriate box for type of approval (s) requested: Neighborhood Use Permit Coastal Development Permit
 Neighborhood Development Permit Site Development Permit Planned Development Permit Conditional Use Permit
 Variance Tentative Map Vesting Tentative Map Map Waiver Land Use Plan Amendment Other _____

Project Title **Project No. For City Use Only**
 Palm Properties LLC
Project Address:
 2901, 2929 & 2941 5th Ave; 2900 & 2950 6th Ave; 535 N. Quince St., San Diego, CA 92103

Part I - To be completed when property is held by individual(s)

By signing the Ownership Disclosure Statement, the owner(s) acknowledge that an application for a permit, map or other matter, as identified above, will be filed with the City of San Diego on the subject property, with the intent to record an encumbrance against the property. Please list below the owner(s) and tenant(s) (if applicable) of the above referenced property. The list must include the names and addresses of all persons who have an interest in the property, recorded or otherwise, and state the type of property interest (e.g., tenants who will benefit from the permit, all individuals who own the property). A signature is required of at least one of the property owners. Attach additional pages if needed. A signature from the Assistant Executive Director of the San Diego Redevelopment Agency shall be required for all project parcels for which a Disposition and Development Agreement (DDA) has been approved / executed by the City Council. Note: The applicant is responsible for notifying the Project Manager of any changes in ownership during the time the application is being processed or considered. Changes in ownership are to be given to the Project Manager at least thirty days prior to any public hearing on the subject property. Failure to provide accurate and current ownership information could result in a delay in the hearing process.

Additional pages attached Yes No

Name of Individual (type or print): _____
 Owner Tenant/Lessee Redevelopment Agency
 Street Address: _____
 City/State/Zip: _____
 Phone No: _____ Fax No: _____
 Signature : _____ Date: _____

Name of Individual (type or print): _____
 Owner Tenant/Lessee Redevelopment Agency
 Street Address: _____
 City/State/Zip: _____
 Phone No: _____ Fax No: _____
 Signature : _____ Date: _____

Name of Individual (type or print): _____
 Owner Tenant/Lessee Redevelopment Agency
 Street Address: _____
 City/State/Zip: _____
 Phone No: _____ Fax No: _____
 Signature : _____ Date: _____

Name of Individual (type or print): _____
 Owner Tenant/Lessee Redevelopment Agency
 Street Address: _____
 City/State/Zip: _____
 Phone No: _____ Fax No: _____
 Signature : _____ Date: _____

Project Title:
Fifth Ave. and Palm St.

Project No. (For City Use Only)

Part II - To be completed when property is held by a corporation or partnership

Legal Status (please check):

Corporation Limited Liability -or- General) What State? _____ Corporate Identification No. _____
 Partnership

By signing the Ownership Disclosure Statement, the owner(s) acknowledge that an application for a permit, map or other matter, as identified above, will be filed with the City of San Diego on the subject property with the intent to record an encumbrance against the property. Please list below the names, titles and addresses of all persons who have an interest in the property, recorded or otherwise, and state the type of property interest (e.g., tenants who will benefit from the permit, all corporate officers, and all partners in a partnership who own the property). A signature is required of at least one of the corporate officers or partners who own the property. Attach additional pages if needed. **Note:** The applicant is responsible for notifying the Project Manager of any changes in ownership during the time the application is being processed or considered. Changes in ownership are to be given to the Project Manager at least thirty days prior to any public hearing on the subject property. Failure to provide accurate and current ownership information could result in a delay in the hearing process. **Additional pages attached** Yes No

Corporate/Partnership Name (type or print):
Palm Properties LP

Owner Tenant/Lessee


Street Address:
2900 6th Avenue

City/State/Zip:
San Diego, CA 92103

Phone No: (619) 299-4160 Fax No: (619) 291-5544

Name of Corporate Officer/Partner (type or print):
Lawrence M. Cushman

Title (type or print):
Secretary / Treasurer

Signature:  Date: 1/31/12

Corporate/Partnership Name (type or print):

Owner Tenant/Lessee

Street Address:

City/State/Zip:

Phone No: Fax No:

Name of Corporate Officer/Partner (type or print):

Title (type or print):

Signature : Date:

Corporate/Partnership Name (type or print):

Owner Tenant/Lessee

Street Address:

City/State/Zip:

Phone No: Fax No:

Name of Corporate Officer/Partner (type or print):

Title (type or print):

Signature : Date:

Corporate/Partnership Name (type or print):

Owner Tenant/Lessee

Street Address:

City/State/Zip:

Phone No: Fax No:

Name of Corporate Officer/Partner (type or print):

Title (type or print):

Signature : Date:

Corporate/Partnership Name (type or print):

Owner Tenant/Lessee

Street Address:

City/State/Zip:

Phone No: Fax No:

Name of Corporate Officer/Partner (type or print):

Title (type or print):

Signature : Date:

Corporate/Partnership Name (type or print):

Owner Tenant/Lessee

Street Address:

City/State/Zip:

Phone No: Fax No:

Name of Corporate Officer/Partner (type or print):

Title (type or print):

Signature : Date: