



THE CITY OF SAN DIEGO

Report to the Hearing Officer

DATE ISSUED: September 11, 2024 REPORT NO. HO-24-046

HEARING DATE: September 18, 2024

SUBJECT: Tacos El Cabron Live Entertainment, 534 Fifth Ave, Process Three Decision

PROJECT NUMBER: [1051280](#)

OWNER/APPLICANT: Lincoln Hotel 5th Avenue LLC. (Owner)
Abyan Properties on 5TH, LLC (Applicant)

SUMMARY

Issue: Should the Hearing Officer approve a Conditional Use Permit (CUP) to allow indoor live entertainment at Tacos El Cabron ("Project"), a restaurant/bar located at [534 Fifth Avenue](#) within the Gaslamp Quarter Planned District and the Horton/Gaslamp neighborhood of the [Downtown Community Planning \(DCP\) area](#) (Council District 3)?

Proposed Action: APPROVE Conditional Use Permit (CUP) No. 3233540.

Fiscal Considerations: No fiscal impact; Project is privately owned and funded.

Code Enforcement Impact: No code enforcement impact. There are no active code enforcement cases on the property.

Housing Impact Statement: No housing impact. Project proposes indoor live entertainment within a restaurant/bar in an existing commercial space.

Community Planning Group Recommendation: On July 19, 2023, the Downtown Community Planning Council voted 9-0 to recommend approval of the Project (Attachment 8).

Other Recommendations: On August 27, 2024, the San Diego Police Department provided correspondence with a recommendation to deny the Project (Attachment 9).

Environmental Impact: The Development Services Department completed a California Environmental Quality Act (CEQA) review for the Project. On October 4, 2023, the Environmental Analysis Section (EAS) determined that the Project is consistent with the previously certified City of San Diego Downtown Environmental Impact Report (SCH# 2003041001). Development within the Downtown Community Planning area is covered under the following documents, referred to

collectively as the “Downtown FEIR”: (1) Final Environmental Impact Report (FEIR) for the San Diego Downtown Community Plan (DCP), Centre City Planned District Ordinance, and 10th Amendment to the Centre City Redevelopment Plan, certified by the former Redevelopment Agency (“Former Agency”) and the City Council on March 14, 2006 (Resolutions R-04001 and R-301265, respectively); (2) Subsequent Addenda to the FEIR certified by the Former Agency and City Council on: August 3, 2007 (Resolution R-04193 and R-302932, respectively); April 13, 2010 (Council Resolution R-305759); April 21, 2010 (Former Agency Resolutions R-04509 and R-04510); August 3, 2010 (Former Agency Resolution R-04544 and Council Resolution R-30614); February 12, 2014 (City Council Resolution R-308724); July 14, 2014 (City Council Resolution R-309115); and (3) Final Supplemental Environmental Impact Report for the Downtown San Diego Mobility Plan certified by the City Council on June 21, 2016 (Resolution R-310561).

Development within the DCP area is also covered under the following documents, referred to collectively as the “CAP FEIR”: FEIR for the City of San Diego Climate Action Plan (CAP) Project No. 416603/SCH No. 2015021053, certified by the City Council on December 15, 2015 (City Council Resolution R-310176), and the Addendum to the CAP, certified by the City Council on July 12, 2016 (City Council Resolution R- 310595).

The Downtown FEIR and CAP FEIR are “Program EIRs” prepared in compliance with California Environmental Quality Act (CEQA) Guidelines Section 15168. The information contained in the Downtown FEIR and CAP FEIR reflects the independent judgment of the City of San Diego as the Lead Agency. The environmental impacts of the Project were adequately addressed in the Downtown FEIR and CAP FEIR; the Project is within the scope of the development program described in the Downtown FEIR and CAP FEIR and is adequately described within each document for the purposes of CEQA; and, none of the conditions listed in CEQA Guidelines Section 15162 exist. Therefore, no further environmental documentation or review is required under CEQA. All environmental documents for the DCP area and CAP FEIR, are available on the City website.

BACKGROUND

The Project is located on the 2,598 square-foot site at the west side of Fifth Avenue between Market Street and Island Avenue (Attachment 1) within the boundaries of the Gaslamp Quarter Planned District (GQPD) (Attachment 2) in the Horton/Gaslamp neighborhood of the DCP area. The site is surrounded by a mixture of uses including retail, restaurants, hotels, residential, and other live entertainment venues.

The existing building, originally constructed in 1913, is known as the Lincoln Hotel, and is a contributing resource to the nationally and locally designated historic Gaslamp Quarter (Historical District Contributing Site #127-030) and the Chinese/Asian Thematic Historic District (Historic District Contributing Site #207-003). A full-service restaurant and bar is proposed to operate on the ground level of the four-story building. A building permit for the tenant improvement for the restaurant/bar was issued by the Development Services Department in August 2023 under PRJ-1082888. The upper three floors contain 41 single-room occupancy (SRO) units.



Pursuant to Gaslamp Quarter Planned District Ordinance (GQPDO) Section [157.0305\(c\)\(2\)\(A\)](#), establishments providing performances by live non-acoustic musicians, disc jockeys, or patron dancing are required to obtain approval of a CUP. A CUP is a Process Three, Hearing Officer decision with appeal rights to the Planning Commission. According to San Diego Municipal Code (SDMC) Section [126.0305](#), Findings for Conditional Use Permit Approval, the decision maker may approve a CUP if the decision maker finds that the proposed use: 1) will not adversely affect the applicable land use plan; 2) will not be detrimental to the public health, safety, and welfare; 3) will comply with the regulations of the SDMC Land Development Code; and 4) is appropriate at the proposed location.

DISCUSSION

Project Description:

The Applicant is seeking to allow live entertainment in the proposed restaurant/bar at 534 Fifth Avenue. The live entertainment is proposed to be limited to the ground level only and comprised of amplified music by live bands or disc jockeys (DJ) and a dance floor for patrons. A designated DJ booth area has been identified near the western end of the interior of the space by the kitchen (Attachment 12). The speaker system is proposed to be inward facing and all doors and windows will remain closed during the live entertainment.

The proposed hours of live entertainment are no later than 1:30 AM seven days per week, which is consistent with the other live entertainment CUPs approved in the Gaslamp Quarter. Restaurant operations and food service are proposed to continue during all business hours; however, tables will be relocated to allow for a small, dedicated dance floor near the western end of the interior of the space by the proposed DJ booth. No physical alterations or new construction are proposed as a part of this CUP request. A building permit for tenant improvements for the restaurant/bar (PRJ-1082888) were issued by the DSD on August 15, 2023. A Project narrative and plans are included as Attachment 12 to this report.

The Applicant also provided a Noise Impact Analysis that evaluated potential noise and vibration impacts to the surrounding neighborhood and SRO units on the premises (Attachment 10). The Noise Impact Analysis found that live music played at 70 decibels inside the restaurant/bar, with doors and windows closed, results in noise levels of 42.8 decibels at the property line, which does not exceed the 60-decibel noise limit for mixed-use/commercial districts as specified in the Noise Ordinance of SDMC Section 59.5.0401. Additionally, the noise level through the ceiling to the second-floor SRO units was measured at 49 decibels, which does not exceed the 50-decibel SDMC Noise Ordinance limit for multi-unit residential uses. Compliance with the Noise Impact Analysis will ensure the proposed live entertainment remains within the limits of the SDMC Noise Ordinance.

Permits Required

A Conditional Use Permit per SDMC Section 157.0305(c)(2)(A) for performances by live non-acoustic musicians, disc jockeys, and patron dancing.

Neighborhood Context

The Horton/Gaslamp neighborhood offers a variety of entertainment, shopping, arts, cultural, and dining experiences. The Gaslamp Quarter was Downtown's first commercial and business center

and now operates as San Diego’s prime entertainment and celebration destination with a mixture of restaurants, cafes, nightclubs, and bars that draw tourists and residents alike. The Gaslamp Quarter is a National Register Historic District, and its historic buildings serve the entertainment uses well by providing a fine-grained, pedestrian-scaled environment and recalling the district’s colorful past.

As San Diego’s prime entertainment destination, the Gaslamp Quarter hosts many establishments with live entertainment. Within a one block radius of the Project site, 13 establishments have been granted CUPs for live entertainment, as listed in the table below and the vicinity map (Attachment 4).

Address	CUP No.
454 Sixth Ave	2005-47AA
465 Fifth Ave	3172084
550 J St	2017-13
500 Fourth Ave	1996
415 Market St	2011-37
421 Market St	2011-27
560 Fifth Ave	2008-36
548 Fifth Ave	3182130
535 Fourth Ave	2014-37
555 Market St	2015-27
600 Fifth Ave	2012-12
611 Fifth Ave	2010-09
627 Fourth Ave	2012-45

Community Plan Analysis:

The Project is consistent with multiple DCP goals and policies for Downtown and the Horton/Gaslamp neighborhood, including:

- 3.1-G-2 - Provide for an overall balance of uses—employment, residential, cultural, government, and destination—as well as a full compendium of amenities and services.
- 3.5-G-2 - Foster a rich mix of uses in all neighborhoods, while allowing differences in emphasis on uses to distinguish between them.
- 3.5-P-2 - Emphasize neighborhood character in each district to promote diversity & complexity.
- 6.4-G-1 - Maintain Horton/Gaslamp as an entertainment and shopping district, with broad mix of uses, high activity, and wide-ranging appeal.

Project-Related Issues:

The Project was forwarded to the San Diego Police Department (SDPD) for review. On August 27, 2024, SDPD provided correspondence with a recommendation to deny the Project, based on the current operating restrictions of the premises’ California Department of Alcoholic Beverage Control (ABC) license, which prohibit live entertainment on the site. However, the Applicant has stated that they have applied to amend their ABC license to accommodate the proposed live entertainment. Therefore, as a condition of approval in the draft permit, the Owner/Permittee is required to secure and maintain compliance with all necessary licenses and regulatory approvals from relevant agencies, including from SDPD and ABC.

During the review of the Project, no significant issues or major concerns were identified by City staff and the Downtown Community Planning Council voted unanimously on July 19, 2023, to recommend approval of the Project (Attachment 8). To address any potential adverse impacts of the proposed live entertainment, standard operational conditions are included in the draft permit to ensure that the use is not detrimental to the neighborhood, including:

- Live entertainment shall be limited to no later than 1:30 AM seven days per week.
- Live entertainment may consist of amplified live music from disc jockeys, musicians, or live bands located indoors only (no outdoor live entertainment).
- All doors and windows must be closed when live entertainment occurs.
- Security staff must be provided during the hours of live entertainment.

CONCLUSION

Staff has reviewed the Project and all issues identified through the review process have been resolved in conformance with the regulations of the SDMC. Staff has provided a draft resolution with findings (Attachment 5) and draft permit with conditions (Attachment 6) and recommends the Hearing Officer APPROVE CUP No. 3233540.

ALTERNATIVES

1. Approve CUP No. 3233540, with modifications.
2. Deny CUP No. 3233540, if the findings required to approve the project cannot be affirmed.

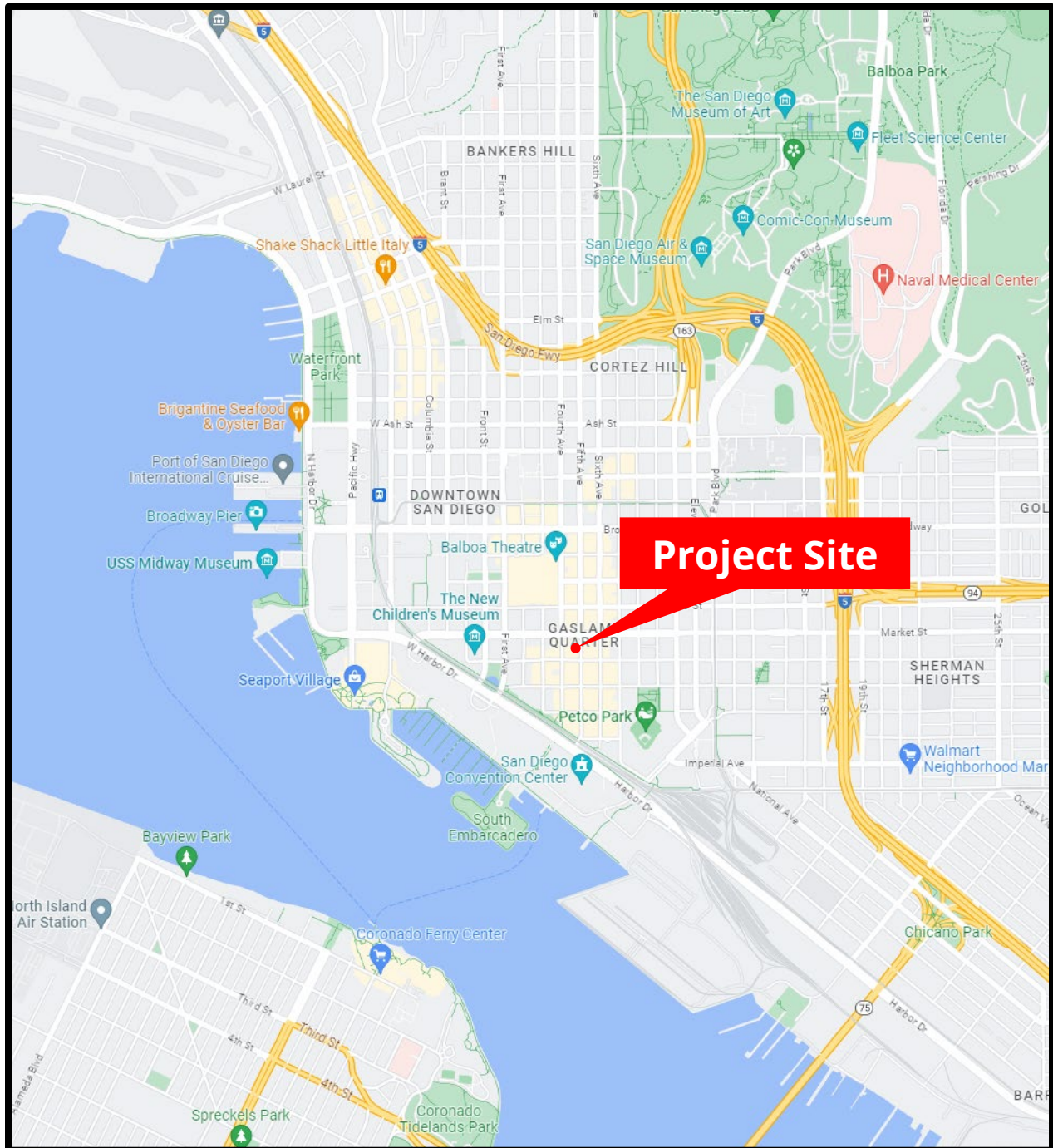
Respectfully submitted,



Saba Raisesmaili
Senior Planner, Urban Innovation Division
Development Services Department

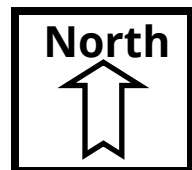
Attachments

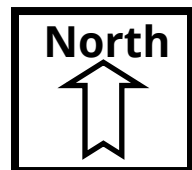
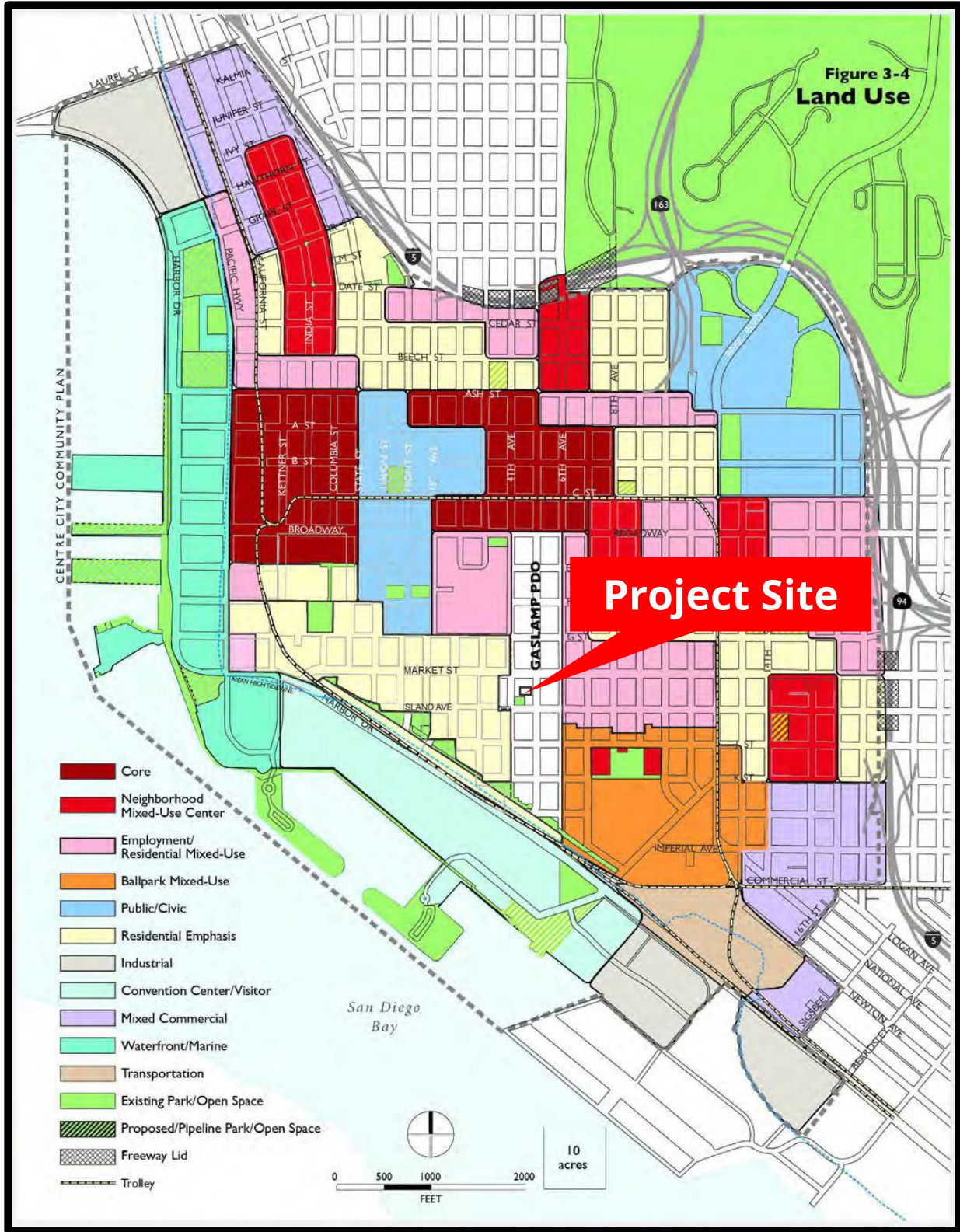
1. Project Location Map
2. Community Plan Land Use Map
3. Aerial Photograph
4. Live Entertainment Vicinity Map
5. Draft Resolution with Findings
6. Draft Permit with Conditions
7. Ownership Disclosure Statement
8. Community Planning Group Recommendation
9. San Diego Police Department Recommendation
10. Noise Impact Analysis
11. Environmental CEQA 15162 Memo
12. Applicant's Letter of Request
13. Project Plans



Project Location Map

**Tacos El Cabron Live Entertainment, Project No. 1051280
534 Fifth Avenue**

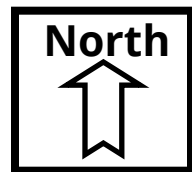


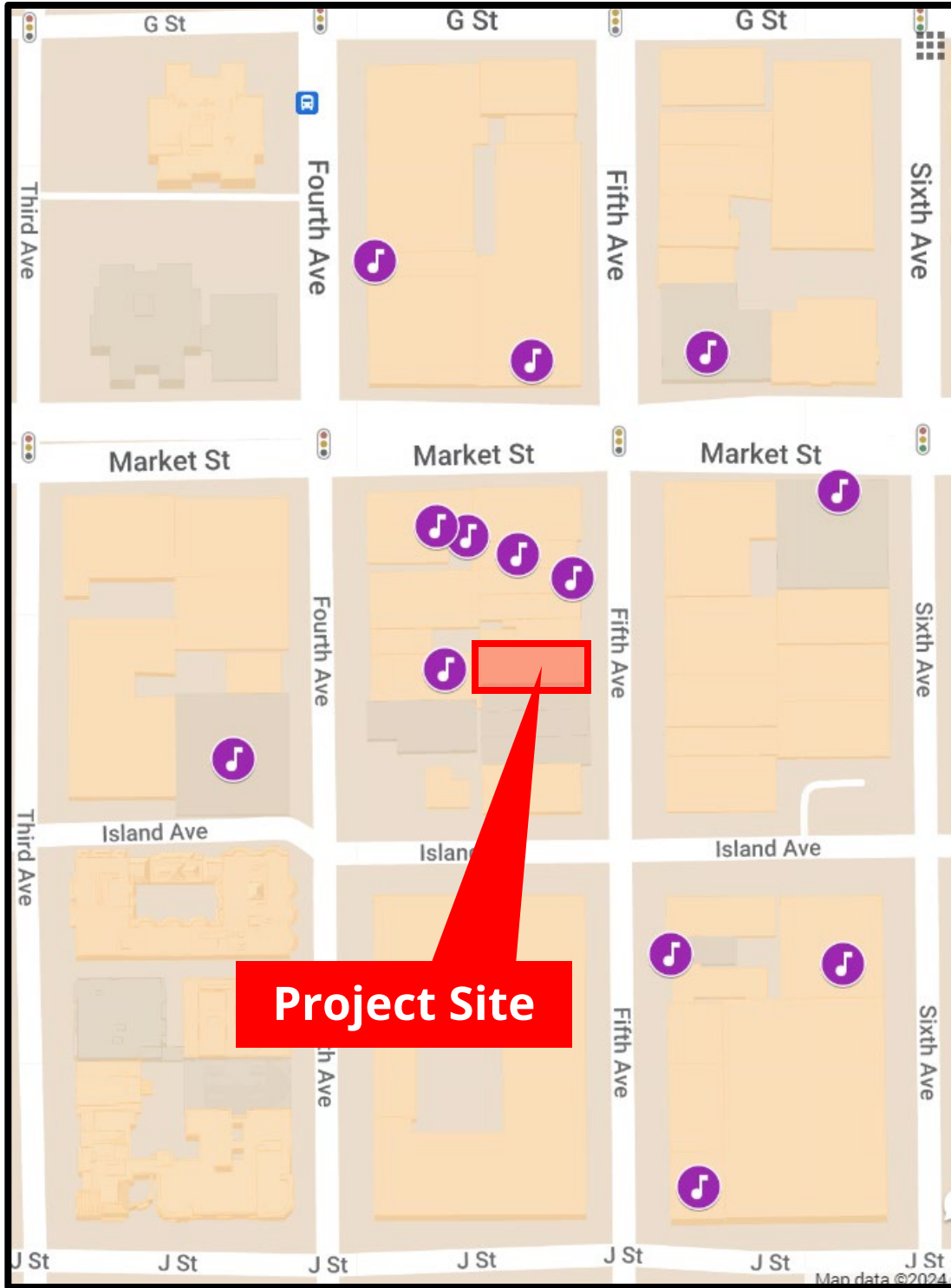




Aerial Photo

Tacos El Cabron Live Entertainment, Project No. 1051280
534 Fifth Avenue



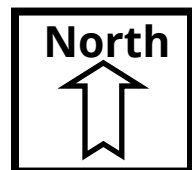


 = Existing Conditional Use Permit for Live Entertainment



Live Entertainment Vicinity Map

Tacos El Cabron Live Entertainment, Project No. 1051280
534 Fifth Avenue



HEARING OFFICER
RESOLUTION NO. HO-24-046
CONDITIONAL USE PERMIT NO. 3233540
TACOS EL CARBRON LIVE ENTERTAINMENT - PROJECT NO. 1051280

WHEREAS, LINCOLN HOTEL 5TH AVENUE LLC., Owner, and ABYAN PROPERTIES ON 5TH, LLC, Permittee, filed an application for a Conditional Use Permit (CUP) with the City of San Diego to allow indoor live entertainment ("Project") at a restaurant/bar located within a 2,598 square-foot ground floor tenant space, as described in and by reference to the approved Exhibit "A" and corresponding conditions of approval for the associated CUP No.3233540;

WHEREAS, the Project site is located at 534 Fifth Avenue in the Gaslamp Quarter Planned District (GQPD) and within Horton/Gaslamp neighborhood of the Downtown Community Plan (DCP) area ("Downtown");

WHEREAS, the Project site is legally described in Exhibit "B";

WHEREAS, on August 22, 2024, the City determined that the Project is consistent with the previously certified Downtown Final Environmental Impact Report (Downtown FEIR) (SCH# 2003041001);

WHEREAS, development within the Downtown Community Planning area is covered under the following documents, referred to collectively as the "Downtown FEIR": (1) Final Environmental Impact Report (FEIR) for the San Diego Downtown Community Plan, Centre City Planned District Ordinance, and 10th Amendment to the Centre City Redevelopment Plan, certified by the former Redevelopment Agency ("Former Agency") and the City Council on March 14, 2006 (Resolutions R-04001 and R-301265, respectively); (2) subsequent addenda to the FEIR certified by the Former Agency and City Council on: August 3, 2007 (Resolution R-04193 and R-302932, respectively); April 13, 2010 (Council Resolution R-305759); April 21, 2010 (Former Agency Resolutions R-04509 and R-04510); August 3, 2010 (Former Agency Resolution R-04544 and Council Resolutions R-30614),

February 12, 2014 (City Council Resolution R-308724); July 14, 2014 (City Council Resolution R-309115); and (3) Final Supplemental Environmental Impact Report for the Downtown San Diego Mobility Plan certified by the City Council on June 21, 2016 (Resolution R-310561);

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

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

WHEREAS, based on the foregoing, no further environmental documentation or review is required under CEQA.

WHEREAS, on September 18, 2024, the Hearing Officer of the City of San Diego considered CUP No. 3233540 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, that it adopts the following findings with respect to CUP No. 3233540:

A. CONDITIONAL USE PERMIT [SDMC Section 126.0305]

1. Findings For all Conditional Use Permit:

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

The proposed use consists of a CUP request for indoor live entertainment, comprised of amplified music by live bands or disc jockeys (DJs) and a designated dance floor, in the proposed restaurant/bar. The Project site is located at 534 Fifth Avenue on the west side of Fifth Avenue between Market Street and Island Avenue within the GQPD and the Horton/Gaslamp neighborhood of the DCP area.

Live entertainment is permitted in the GQPD with approval of a CUP, pursuant to Gaslamp Quarter Planned District Ordinance (GQPDO) Section 157.0305(c)(2)(A). Conditions of approval have been incorporated into the permit, including restrictions on the hours of live entertainment to no later than 1:30 a.m. seven days per week, increased security, and noise abatement measures such as keeping the windows and doors closed, to ensure that the Project complies with the provisions of the GQPDO and San Diego Municipal Code (SDMC) and does not create a nuisance for neighbors.

Per the DCP, the Horton/Gaslamp neighborhood offers a variety of entertainment, shopping, arts, cultural, and dining experiences. The Gaslamp Quarter was Downtown's first commercial and business center and now operates as San Diego's prime entertainment and celebration destination with a mixture of restaurants, cafes, nightclubs, and bars that draw visitors and residents alike. The Project provides a live entertainment venue that is consistent with other establishments in the neighborhood and the goals of the DCP to maintain Gaslamp as an entertainment district (DCP Goal 6.4-G-1). Within one block of the Project site, 13 establishments have been granted CUPs for live entertainment.

Live entertainment in the proposed restaurant/bar will enhance the mixed-use nature of the neighborhood by increasing the entertainment experiences available for patrons of the Gaslamp Quarter and Downtown as a whole. This is consistent with DCP Goals 3.1-G-2, to provide for an overall balance of uses—employment, residential, cultural, government, and destination—as well as a full compendium of amenities and services, and 3.5-G-2, to foster a rich mix of uses in all neighborhoods, while allowing differences in emphasis on uses to distinguish between them, because the live entertainment will contribute to the mix of uses by adding an entertainment aspect to the restaurant space, while also furthering the Horton/Gaslamp neighborhood's unique qualities as an entertainment district by providing another entertainment venue for residents and visitors alike.

Similarly, the project is consistent with DCP Policy 3.5-P-2 to emphasize neighborhood character in each district. The proposed restaurant/bar is located on the ground level within a contributing resource to both the Gaslamp Quarter National Register Historic District (Historical District Contributing Site #127-030) and the Chinese/Asian Thematic Historic District (Historic District Contributing Site #207-003). No new construction is proposed as part of the Project; therefore, the building will retain its historic character as a contributing structure to the districts. Moreover, the Gaslamp Quarter is identified by the DCP as an entertainment and shopping district. By providing on-site live entertainment activity, and therefore increasing the use of the historical building, this Project will further emphasize the Gaslamp Quarter's unique neighborhood character as a historical district and live entertainment destination.

This Project will also advance DCP Goal 6.4-G-1, to maintain the Horton/Gaslamp neighborhood as an entertainment and shopping district, with a broad mix of uses, high activity, and wide-ranging appeal. By providing a live entertainment venue, the Project will continue to foster the neighborhood's character as an entertainment district and increase activity within the Gaslamp Quarter.

Because live entertainment is permitted with the approval of a CUP in the GQPD and the Project advances the goals and policies of the Horton/Gaslamp neighborhood as described above, the proposed use will not adversely affect the applicable land use plan.

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

The proposed development will not be detrimental to the public health, safety, and welfare because conditions of approval will be implemented to ensure that the indoor live entertainment will not become a nuisance to the community. These conditions are consistent with other nearby CUPs for live entertainment and include limiting the hours that live entertainment can occur, specifying what kinds of live entertainment are allowed on the premise, specifying where the live entertainment can occur within the premise, and providing adequate security to monitor patron behavior. Moreover, measures to abate the noise impact of live entertainment on the area will be required, including keeping the doors and windows closed throughout the duration of live entertainment. A Noise Impact Analysis was conducted for the project, which found that live music played at 70 decibels inside the restaurant, with doors and windows closed, results in noise levels of 42.8 decibels at the property line, which does not exceed the 60-decibel noise limit for mixed-use/commercial districts as specified in the Noise Ordinance of SDMC Section 59.5.0401. Additionally, the noise level through the ceiling to the second-floor single-room occupancy (SRO) units is 49 decibels, staying below the 50-decibel noise limit for residential mixed-use, ensuring full compliance with the SDMC Noise Ordinance.

The conditions of approval and noise abatement measures will ensure that the live entertainment use does not become a nuisance to the surrounding neighborhood, and therefore will not be detrimental to the public health, safety, and welfare.

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

The Project complies with the Land Development Code (LDC) because the proposed live entertainment is allowed in the GQPD with approval of a CUP (SDMC Section 157.0305(c)(2)(A)). No deviations from LDC or GQPDO requirements are proposed as part of the Project. Moreover, when operated in compliance with the conditions of approval, which include providing security and monitoring patron conduct, the use will be consistent with all applicable regulations. The proposed use will also be required to obtain any other applicable government approvals and comply with the applicable requirements of the State Department of Alcoholic Beverage Control and the San Diego

Police Department (SDPD). By obtaining a CUP and complying with the conditions of approval with no deviation, the proposed live entertainment will be compliant with the regulations of the Land Development Code.

d. The proposed use is appropriate at the proposed location.

Live entertainment is appropriate at the proposed location because the project is located within the Gaslamp Quarter, which the DCP describes as San Diego's prime entertainment and celebration destination. By providing live entertainment, the Project furthers the DCP goals for the neighborhood to be a high-activity, mixed-use entertainment destination (DCP Goal 6.4-G-1) because it provides an additional entertainment attraction in the neighborhood for use by residents and visitors. Furthermore, the live entertainment is appropriate for the location because the building is situated within a mixed-use, commercial area where a number of similar venues with live entertainment already co-exist with the Gaslamp Quarter's existing mix of uses. In a one-block radius surrounding the Project site, thirteen establishments currently hold CUPs for live entertainment. The proposed Project will be consistent with those already-permitted establishments, with similar hours of operation, noise monitoring and abatement measures, and security conditions. Therefore, the proposed live entertainment is appropriate for the location.

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

BE IT FURTHER RESOLVED that, based on the findings hereinbefore adopted by the Hearing Officer, Conditional Use Permit No. 3233540 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. 3233540, a copy of which is attached hereto and made a part hereof.



Saba Raisesmaili
Senior Planner, Urban Innovation Division
Development Services Department

Adopted on: September 18, 2024

IO#: 24009245

ATTACHMENT: Conditional Use Permit No. 3233540

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

INTERNAL ORDER NUMBER: 24009245

SPACE ABOVE THIS LINE FOR RECORDER'S USE

CONDITIONAL USE PERMIT NO. 3233540
TACOS EL CABRON LIVE ENTERTAINMENT PROJECT NO. 1051280
HEARING OFFICER

This Conditional Use Permit No. 3233540 is granted by the Hearing Officer of the City of San Diego ("City") to LINCOLN HOTEL 5TH AVENUE LLC, Owner, and ABYAN PROPERTIES ON 5TH, LLC, Permittee, pursuant to San Diego Municipal Code (SDMC) Section 126.0305 to allow indoor live entertainment for a restaurant/bar ("Project") on the 2,598 square-foot site located at 534 Fifth Avenue in the Gaslamp Quarter Planned District and within the Horton/Gaslamp neighborhood of the Downtown Community Plan area. The Project site is legally described in Exhibit "B".

Subject to the terms and conditions set forth in this Permit, permission is granted to the Owner/Permittee to allow indoor live entertainment within the building as described and identified by size, dimension, quantity, type, and location on the approved exhibits (Exhibit "A") dated September 18, 2024, on file in the Development Services Department (DSD).

The Project shall include:

- a. Indoor live entertainment within a restaurant/bar on the ground level of the building located at 534 Fifth Avenue.
- b. Public and private accessory improvements determined by DSD to be consistent with the land use and development standards for this site in accordance with the adopted community plan, the California Environmental Quality Act [CEQA] and the CEQA Guidelines, the City Engineer's requirements, zoning regulations, conditions of this Permit, and any other applicable regulations of the SDMC.

STANDARD REQUIREMENTS:

- 1. This permit must be utilized within thirty-six (36) months after the date on which all rights of appeal have expired. If this permit is not utilized in accordance with Chapter 12, Article 6, Division 1 of the SDMC within the 36-month period, this permit shall be void unless an Extension of Time has been granted. Any such Extension of Time must meet all SDMC requirements and applicable guidelines in effect at the time the extension is considered by the appropriate decision maker. This permit must be utilized by October 2, 2027.

2. No permit for the construction, occupancy, or operation of any facility or improvement described herein shall be granted, nor shall any activity authorized by this Permit be conducted on the premises until:
 - a. The Owner/Permittee signs and returns the Permit to 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 does not authorize the Owner/Permittee for this Permit to violate any Federal, State or City laws, ordinances, regulations or policies including, but not limited to, the Endangered Species Act of 1973 [ESA] and any amendments thereto (16 U.S.C. § 1531 et seq.).
7. The Owner/Permittee shall secure all necessary building permits. The Owner/Permittee is informed that to secure these permits, substantial building modifications and site improvements may be required to comply with applicable building, fire, mechanical, and plumbing codes, and State and Federal disability access laws.
8. Construction plans shall be in substantial conformity to Exhibit "A." Changes, modifications, or alterations to the construction plans are prohibited unless appropriate application(s) or amendment(s) to this Permit have been granted.
9. All of the conditions contained in this Permit have been considered and were determined necessary to make the findings required for approval of this Permit. The Permit holder is required to comply with each and every condition in order to maintain the entitlements that are granted by this Permit.
10. If any condition of this Permit, on a legal challenge by the Owner/Permittee of this Permit, is found or held by a court of competent jurisdiction to be invalid, unenforceable, or unreasonable, this Permit shall be void. However, in such an event, the Owner/Permittee shall have the right, by paying applicable processing fees, to bring a request for a new permit without the "invalid" condition(s) back to the discretionary body which approved the Permit for a determination by that body as to whether all of the findings necessary for the issuance of the proposed permit can still be made in the absence of the "invalid" condition(s). Such hearing shall be a hearing de novo,

and the discretionary body shall have the absolute right to approve, disapprove, or modify the proposed permit and the condition(s) contained therein.

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

LIVE ENTERTAINMENT REQUIREMENTS:

12. The primary use of the site shall be a restaurant/bar. The live entertainment shall be accessory to the primary use. The intended uses shall be in conformance with permitted uses as outlined in the Gaslamp Quarter Planned District Ordinance (SDMC Section 157.0304) and all other relevant regulations in the SDMC. Any proposed change in use shall be reviewed and approved by the City. Any significant remodel or tenant improvements shall be reviewed by the City for consistency with the uses as approved in this Permit.
13. Live entertainment may include amplified music by live bands or disc jockeys (DJs) and a designated dance floor for patron dancing.
14. Live entertainment shall occur no later than 1:30 a.m. seven days per week.
15. All live entertainment shall take place indoors and be confined to the interior of the building. All doors and windows shall remain closed whenever live entertainment is occurring, except for normal ingress and egress, and in case of emergency. No music shall be permitted in the sidewalk café area.
16. The Owner/Permittee shall secure and maintain compliance with all necessary licenses and regulatory approvals from relevant agencies, including from the San Diego Police Department and the California Department of Alcoholic Beverage Control (ABC).
17. Sound and amplification equipment shall be monitored during business hours to ensure that audible noise remains at acceptable levels. Noise levels shall be in conformance with the noise abatement standards of the SDMC and the City's Noise Ordinance (SDMC Section 59.5.0401). In the event that a noise or vibration complaint is filed, the appropriate decision maker shall evaluate

the complaints and if it is determined that the business is potentially creating a nuisance to the neighborhood, a duly noticed hearing shall be scheduled. After receiving public testimony, the City Hearing Officer may revoke or modify the permit.

18. During the hours of live entertainment, the Permittee shall employ one security officer for every fifty (50) patrons of the live entertainment venue(s). The security officers shall wear clothing that identifies them as security officers and shall be on duty from the time live entertainment and dancing begins until one-half hour after the live entertainment ceases. Their primary duty shall be to patrol the interior and the exterior of the premises in order to alleviate police problems, excessive noise, abusive behavior, disturbances, and any other violations of law that occur on or about the licensed premises.
19. During the hours of live entertainment, a minimum of one (1) additional security officer shall be required for the entrance to that portion of the premises designated for live entertainment.
20. During the hours of live entertainment, the Permittee shall post a minimum of one (1) additional security guard for every twenty (20) or fewer patrons who are awaiting admission or exiting the premises.
21. Any queuing of patrons outside of the establishment shall be maintained in an orderly manner and shall be so situated as to allow a clear pedestrian path of at least eight (8) feet on all sidewalk areas. Any queuing may not obstruct access to any other business.
22. Patrons awaiting entrance as well as those leaving the establishment shall be monitored so as to not create a nuisance by obstructing the sidewalk in the area of the business or adjacent business or by being publicly inebriated, noisy, or rowdy.
23. A point of contact shall be kept on file with the City in case any complaints arise. Complaints shall be responded to by the Owner/Permittee within 24 hours.
24. This Permit may be revoked by the City of San Diego if there is a material breach or default in any of the conditions of this permit. If the business creates a nuisance to the surrounding neighborhood, based on a determination of the City of San Diego, this permit may be revoked after the holding of a public hearing.

INFORMATION ONLY:

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

approval of this development permit by filing a written protest with the City Clerk pursuant to California Government Code-section 66020.

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

APPROVED by the Hearing Officer of the City of San Diego on September 18, 2024 and Resolution No. HO-24046.

Permit Type/PTS Approval No.: PMT-3233540
Date of Approval: September 18, 2024

AUTHENTICATED BY THE CITY OF SAN DIEGO DEVELOPMENT SERVICES DEPARTMENT

Saba Raisesmaili
Senior Planner, Urban Innovation Division
Development Services Department

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

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

LINCOLN HOTEL 5TH AVENUE LLC
Owner

By _____
Signature

PRINT NAME:
TITLE:

ABYAN PROPERTIES ON 5TH, LLC
Permittee

By _____
Signature

PRINT NAME:
TITLE:

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

EXHIBIT "B"
LEGAL DESCRIPTION

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF SAN DIEGO, IN THE COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

ALL BUILDINGS, STRUCTURES AND IMPROVEMENTS NOW OR HEREAFTER LOCATED ON THE FOLLOWING REAL PROPERTY:

THE NORTH HALF OF LOT "I" AND ALSO ALL THAT PORTION OF LOT "J" IN BLOCK 95 OF HORTON'S ADDITION, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF MADE BY L.L. LOCKLING ON FILE IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, SAID PORTION OF LOT "J" BEING DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF SAID LOT "J";

THENCE NORTH ALONG THE EAST LINE OF SAID LOT, 8";

THENCE WEST ON A LINE PARALLEL WITH AND DISTANT 8" NORTH OF THE SOUTH LINE OF SAID LOT, 60' 3";

THENCE NORTH 18' 4";

THENCE WEST 39' 9" TO THE WEST LINE OF LOT "J";

THENCE SOUTH ALONG THE WEST LINE, 19.00 FEET TO THE SOUTHWEST CORNER THEREOF;

THENCE EAST ALONG THE SOUTH LINE OF SAID LOT, 100.00 FEET TO THE POINT OF BEGINNING.

EXCEPTING ALL OIL, GAS AND OTHER HYDROCARBON SUBSTANCES, IN AND UNDER ALL OF THE ABOVE DESCRIBED REAL PROPERTY, BUT WITHOUT ANY RIGHT TO PENETRATE, USE OR DISTURB THE SURFACE OF SAID PROPERTY OR ANY PORTION OF SAID PROPERTY WITHIN 500 FEET OF THE SURFACE THEREOF.

APN: 535-082-12-00



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

Ownership Disclosure Statement

FORM
DS-318
 October 2017

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: CONDITIONAL USE PERMIT - LIVE ENTERTAINM **Project No. For City Use Only:** _____

Project Address: 534 5TH AVENUE, SAN DIEGO, CA 92101

Specify Form of Ownership/Legal Status (please check):

Corporation Limited Liability -or- General - What State? CA Corporate Identification No. 202109710761
 Partnership Individual

By signing the Ownership Disclosure Statement, the owner(s) acknowledge that an application for a permit, map or other matter 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), applicant(s), and other financially interested persons of the above referenced property. A financially interested party includes any individual, firm, co-partnership, joint venture, association, social club, fraternal organization, corporation, estate, trust, receiver or syndicate with a financial interest in the application. If the applicant includes a corporation or partnership, include the names, titles, addresses of all individuals owning more than 10% of the shares. If a publicly-owned corporation, include the names, titles, and addresses of the corporate officers. (A separate page may be attached if necessary.) If any person is a nonprofit organization or a trust, list the names and addresses of **ANY** person serving as an officer or director of the nonprofit organization or as trustee or beneficiary of the nonprofit organization. A signature is required of at least one of the property owners. 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.

Property Owner

Name of Individual: LINCOLN HOTEL 5TH AVENUE LLC Owner Tenant/Lessee Successor Agency

Street Address: 10717 CAMINO RUIZ, SUITE 246

City: SAN DIEGO State: CA Zip: 92126

Phone No.: 858-733-1136 Fax No.: _____ Email: cyrus@cyrusemilia.com

Signature: _____ Digitally signed by Cyrus Raplan Date: 2023.06.21 14:06:42 -07'00' Date: 06/21/2023

Additional pages Attached: Yes No

Applicant

Name of Individual: ABYAN PROPERTIES ON 5TH, LLC Owner Tenant/Lessee Successor Agency

Street Address: 534 5TH AVENUE

City: SAN DIEGO State: CA Zip: 92101

Phone No.: _____ Fax No.: _____ Email: tacoselcabron@gmail.com

Signature: _____ Date: 06/14/2023

Additional pages Attached: Yes No

Other Financially Interested Persons

Name of Individual: _____ Owner Tenant/Lessee Successor Agency


Street Address: _____

City: _____ State: _____ Zip: _____

Phone No.: _____ Fax No.: _____ Email: Jamesdbehav@mail.com

Signature: _____ Date: 06/22/23

Additional pages Attached: Yes No

Page 3	City of San Diego · Information Bulletin 620		August 2018
	City of San Diego Development Services 1222 First Ave., MS-302 San Diego, CA 92101		<h2 style="text-align: center;">Community Planning Committee Distribution Form</h2>
Project Name: Tacos El Cabron		Project Number: PRJ-1051280	
Community: Downtown			
<p>For project scope and contact information (project manager and applicant), log into OpenDSD at https://aca.accela.com/SANDIEGO.</p> <p>Select "Search for Project Status" and input the Project Number to access project information.</p>			
<input checked="" type="checkbox"/> Vote to Approve <input type="checkbox"/> Vote to Approve with Conditions Listed Below <input type="checkbox"/> Vote to Approve with Non-Binding Recommendations Listed Below <input type="checkbox"/> Vote to Deny			Date of Vote: July 19, 2023
# of Members Yes 9	# of Members No 0	# of Members Abstain 0	
Conditions or Recommendations: N/A			
<input type="checkbox"/> No Action (Please specify, e.g., Need further information, Split vote, Lack of quorum, etc.)			
NAME: Manny Rodriguez			
TITLE: Chair, Downtown Community Planning Council		DATE: July 18, 2024	

Visit our web site at www.sandiego.gov/development-services.

Upon request, this information is available in alternative formats for persons with disabilities.

DS-5620 (08-18) ONLINE FORM

From: [Mcelroy, Adam](#)
To: [Raisesmaili, Saba](#)
Subject: RE: Offline Reviewer Form for PRJ-1051280
Date: Tuesday, August 27, 2024 12:58:54 PM

Senior Planner Raisesmaili,

Regarding the live-entertainment Conditional Use Permit #PRJ-1051280 at 534 5th Avenue in San Diego. The San Diego Police Department does not recommend live entertainment at this location. The building's commercial activity consists of a very small taco shop restaurant in the bottom floor with residential units above it. ABC has issued a license at the location and has taken this into consideration. The ABC license issued at the location denies any type of live-entertainment at the location based on these factors. This recommendation is consistent with our objection to a request of modification the applicant has submitted for the ABC license at the location.

Cordially,
Adam McElroy
SDPD Vice Permits and Licensing

**SOUND TESTS, ACOUSTICAL ANALYSIS
AND DESIGN FOR THE EL CABRON
RESTAURANT LOCATED AT 534 FIFTH
AVENUE, SAN DIEGO, CA 92101**

To: Mr. Marco Polo Cortes
President
MP PERMIT INC.
640 West Beech Street, Site 3 B
San Diego. CA 92101

ABYAN PROPERTIES ON 5TH LLC
517 4TH AVENUE STE 103
San Diego. CA 92101-6868

From: Dr. Leslie E. Penzes
Certified Acoustic Consultant, P. E.

DR. PENZES & ASSOCIATES
18210 Aceituno Street
San Diego, CA 92128

January 18, 2023

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	ARCH STUDY (C) Full Arch
. DRAWINGS	SPACE PLAN
	SPACE PLAN Hybrid Option
	SECTIONS Arches and Map Study
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SUMMARY AND RECOMMENDATIONS

DR. PENZES & ASSOCIATES
ACOUSTICS

Reports, Testing and Research

SOUND TESTS, ACOUSTICAL ANALYSIS AND DESIGN FOR THE EL CABRON
RESTAURANT LOCATED AT 534 FIFTH AVENUE IN SAN DIEGO, CA. 92101

Summary:

A noise survey was performed to determine the noise levels generated by patrons and music from the El Cabron Restaurant at the outside at the property lines of the adjacent existing commercial and residential properties in the course of normal operations. This noise survey was also performed to determine to see if the noise levels generated by music and patrons from the Restaurant comply with the Noise Level Limits mandated by the Noise Ordinance in the Municipal Code of the City of San Diego (Ref.1).

The EL Cabron Restaurant establishment is proposed to offer Bar and Restaurant amenities. During operations, the establishment will provide music generated via an in-house music system (DJ) in inside the building. The volume of the music is to be at reasonable sound levels as to allow the patrons to comfortably engage in libation, dining and in normal conversation. This survey involved performing measurements conducted the dimensions of the Windows and Exterior Walls of the present existing building on the site.

The present measured noise levels indicated that the primary noise around the outside area of the site is mainly due to the noise generated by the traffic on Fifth Avenue.

Based on the following Recommendations with also patron generated noise taken into account, Music played at reasonably normal level does not violate the Noise Ordinance Limits of the City of San Diego (Ref. 1).

RECOMMENDATIONS :

STC RATING OF THE CONSTRUCTION COMPONENTS OF EL CABRON RESTAURANT.

EXTERIOR WALLS

Exterior Walls of the Building is satisfactory.

Windows

Considering the Music, the Existing Windows are satisfactory

Exterior Doors

Entry Doors should be in the Range of STC 26 (Table 1).

HVAC SYSTEM

Due to the restriction of closed windows, forced ventilation is required. This is established by Air Conditioning System (HVAC) by UBC Code.

The Ventilation of the building complies with Section 3203.3 of the California Building Code (CBC).

Dr Leslie E. Penres

Certified Acoustical Consultant, P.E.

January 18, 2023



DISCUSSION

DISCUSSIONSurrounding Properties

All of the Building around this Restaurant are COMMERCIAL and RESIDENTIAL BUILDINGS.

Noise analyzes were performed to determine the noise levels generated by music and patrons from inside the El Cabron Restaurant at the surrounding commercial residential property lines. The noise analyzes were also performed to ensure that the noise levels generated EL Cabron Restaurant comply with the Noise Ordinance of the City of San Diego (Ref. 1). The analysis applied the INA Noise Analysis (INA) Computer Program), which was modified for External Noise Analysis.

Based on the Noise Ordinance of the City of San Diego (Ref. 1), the Noise Limits at the property lines of Commercial areas are:

65 dBA from 7:00 AM - 7:00 PM
 60 dBA from 7:00 PM - 10:00 PM
 60 dBA from 10:00 PM - 7:00 AM

For Residential (Multi-Family) Property Lines:

55 dBA from 7:00 AM - 7:00 PM
 50 dBA from 7:00 PM - 10:00 PM
 45 dBA from 10:00 PM - 7:00 AM

Other Residential (Mixed-Use):

60 dBA from 7:00 AM - 7:00 PM
 55 dBA from 7:00 PM - 10:00 PM
 50 dBA from 10:00 PM - 7:00 AM

NOISE LEVELS OF THE OUTSIDE DINING AREAS

El Cabron Restaurant, the general description of the Outside Dining Areas is shown by sheet SPACE PLAN.

The Average Noise Level conducting normal conversations provided by Ref. 2, Fig. 14.1, which is 59 dBA at the Maximum. An excellent explanation is also provided by Ref. 2 page 2-12 and Fig. 2.13.

Ref. 3 resents a formula of Noise Reduction between Two Persons conducting conversation as:

$$L,PT = L,Pl + 10\log(1 + 10\text{EXP}(-\text{DEL}/10))$$

where

L,PT = Combined Sound pressure level due to both sources

L,Pl = the greater of the two sound level contribution

DEL= The difference between the contributions, all in
da

The values of this formula is also shown by Fig. 1.5.4 of Ref. 3.

The difference of noise levels between two locations is provided by Ref. 4, page 21.

The combination of Noise at Sitting Location A.10 is 60 da (Table 1). The Noise Level at the Property Line of the Street is 75 Ft from the Sitting Location A.10:

$$\underline{L, \text{equ.}} = 60 - 20\text{LOG}(75/3.3) = \underline{33 \text{ da}}$$

The Noise Level of 33 da is negligible in comparison to the Night Noise Limit of 60 dBA at the Property Line.

NOISE LEVELS OF THE El Cabron RESTAURANT

General Application of the INA Computer Program

The Modified INA (Ref. 5) Computer Program is applied to determine the Outside Noise Levels of the Restaurant.

Side Facing the Street

For the Application of the Program a 15 Ft Outside Floor Strip is considered for the Outside Noise Levels of the Building.

Once the Outside Noise Levels of the Building is determined the Noise Levels at the Different locations can be computed by the well known formula of the Distance Reduction D.R. as:

Table 1 presents the Noise Level of 70 da of the DJ Music Outside Building. The Stucco Wall is based on Ref. 4, page 204, Table TL, Case 9, STC = 39.

Therefore, the Noise Level at the Opposite Side of the Street is:

$$L_{\text{equ.}} = 70 - 20\text{LOG}(75/3.281) = \underline{42.8 \text{ dBA} < 45 \text{ dBA}}$$

This Noise Level is less, then the Commercial Noise Limit of 60 dBA (Night), even less then the Residential Noise Limit (Multi-Family Residential) 45 dBA (Night).

Table 2 provides the BUILDING ELEMENT SOUND TRANSMISSION LOSS INFORMATION.

NOISE LEVEL BETWEEN ROOMS FROM THE MUSIC

Table 3 presents the Music through the Wall between the Walls:

$$L_{\text{equ.}} = \underline{50 \text{ dBA}} = < \underline{50 \text{ dBA}}$$

This Noise Level is equal to the Residential Mixed Use for the Night 50 dBA.

Table 4 provides the BUILDING ELEMENT SOUND TRANSMISSION LOSS INFORMATION.

NOISE LEVEL THROUGH THE CEILING-FLOOR

Table 5 provides the Noise Level 49 dBA through the Ceiling-Floor to the Second Floor Rooms. This Noise Level is less then the Residential Mixed Use for the Night 50 dBA.

CONCLUSION

The Noise of DJ Music from the El Cabron Restaurant has not exceed the Noise Limit of the Noise Ordinance of the City of San Diego at the Surrounding Areas.

REFERENCES

REFERENCES

1. San Diego Municipal Code, Chapter 5 Morals and Welfare, Article 9.5, Noise Abatement and Control, Division 4: Limits, 59.5. 0401, Sound Level Limits, September 22, 1976.
2. Handbook of Noise Control. Second Edition. Cyril M. Harris. Ph.D. McGraw-Hill Publishing Company.1979.
3. NOISE Control. Charles E. Wilson. HSARPER & ROW. PUBLISHING, New York.1989.
4. ARCHITECTURAL ACOUSTICS, M. David Egan, McGraw-Hill, Inc. 1988.
5. Internal Noise Analysis (INA) Computer Program, Version 2.1, Dr. Alexander Segal, 1990, Licensed to Dr. Leslie E. Penzes.

PHOTOGRAMS

EXISTING BOH

SITE PHOTOS



ARCH STUDY

[C] FULL ARCH



DRAWINGS

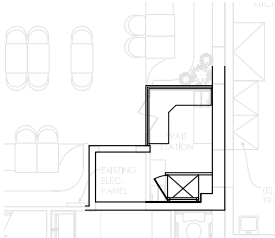
SPACE PLAN

3/32" = 1'-0"

139 TOTAL SEAT COUNT
*INCLUDING PATIO

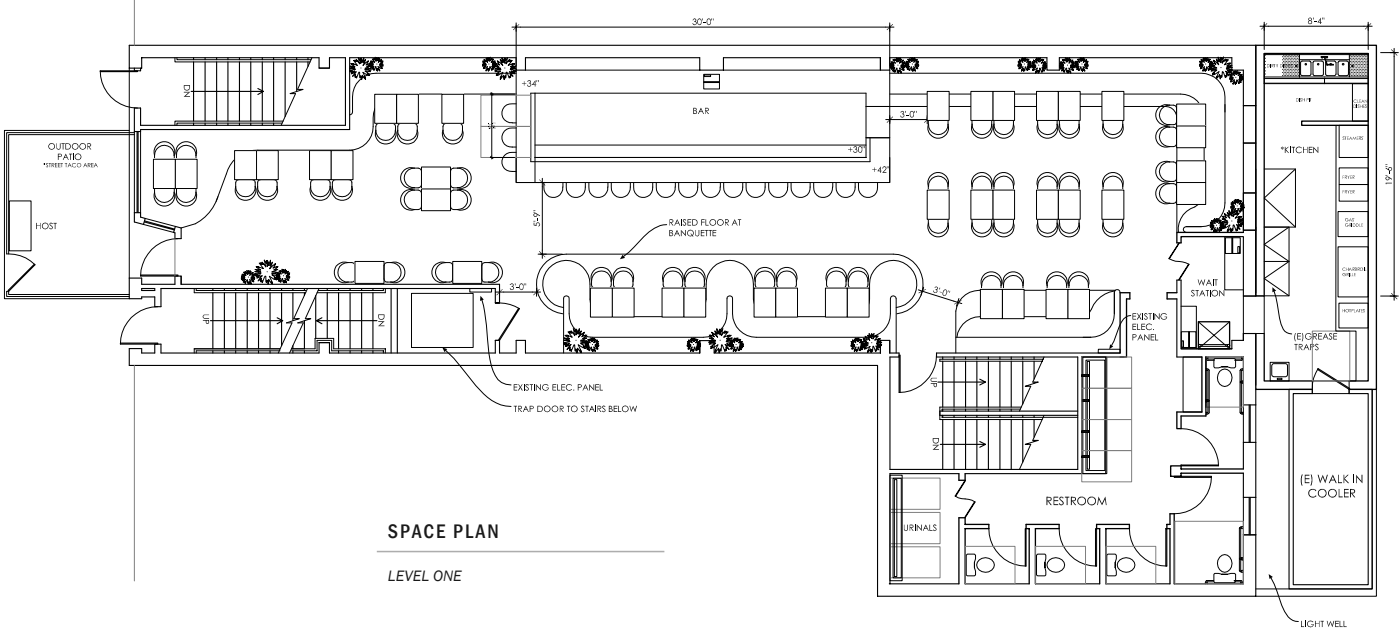
2,668 TOTAL SF
*DOES NOT INCLUDE RESTROOMS

93 INTERIOR SEAT COUNT	1,675 INTERIOR DINING SQ FEET	/ LOAD FACTOR 30	= OCCUPANCY LOAD 76
18 BAR SEAT COUNT	604 MEZZANINE SQ FEET	/ LOAD FACTOR 30	
28 EXTERIOR SEAT COUNT	249 KITCHEN SQ SEAT	/ LOAD FACTOR 400	= OCCUPANCY LOAD 1
	140 STORAGE SQ SEAT	/ LOAD FACTOR 5000	= OCCUPANCY LOAD 1



SPACE PLAN

LEVEL TWO

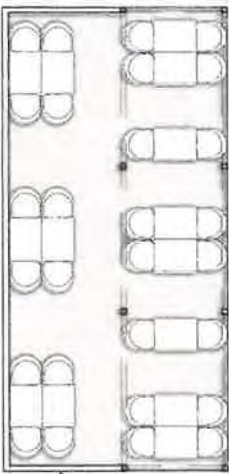


SPACE PLAN

LEVEL ONE

SPACE PLAN

HYBRID OPTION



TEMP
 OUTDOOR PATIO
 STREET FACING AREA



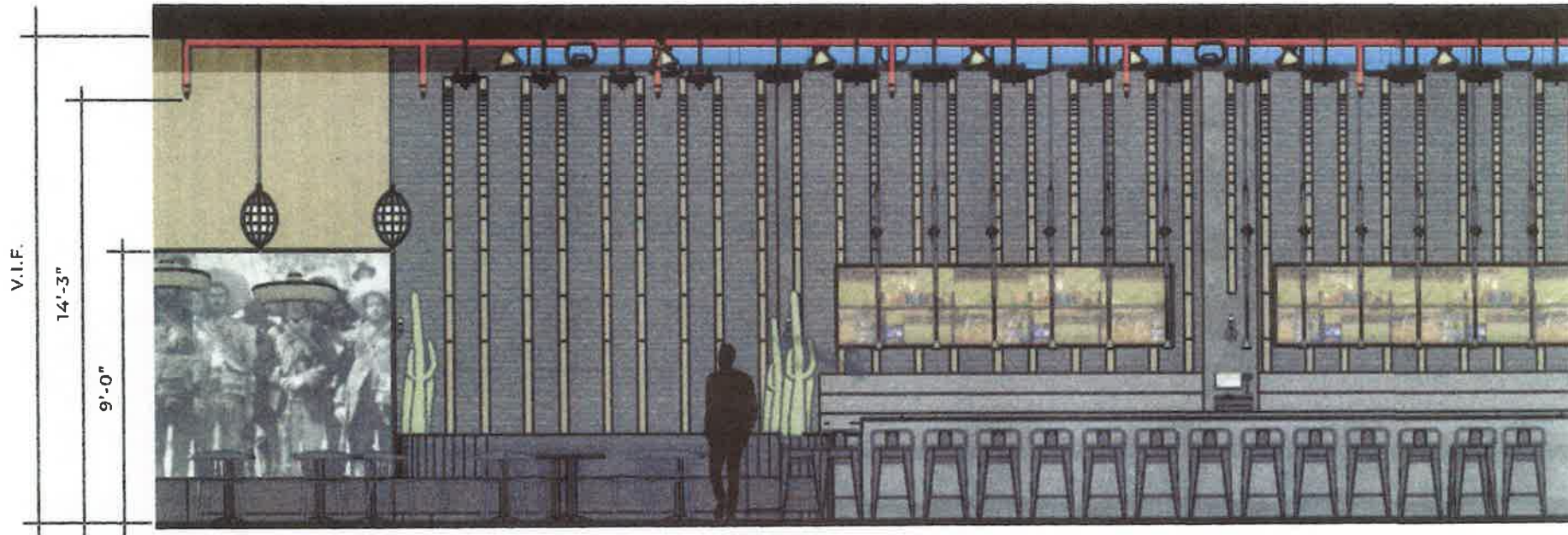
EXISTING ELEC PANEL
 TRAP DOOR TO STAIRS BELOW

HYBRID ARCH PLAN

SCALE: 3/32" = 1'-0"

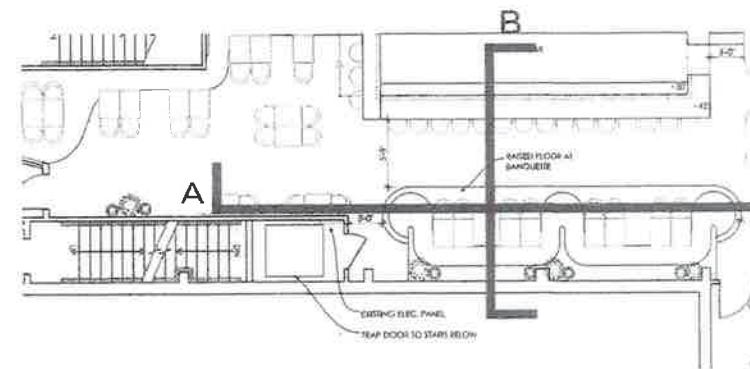
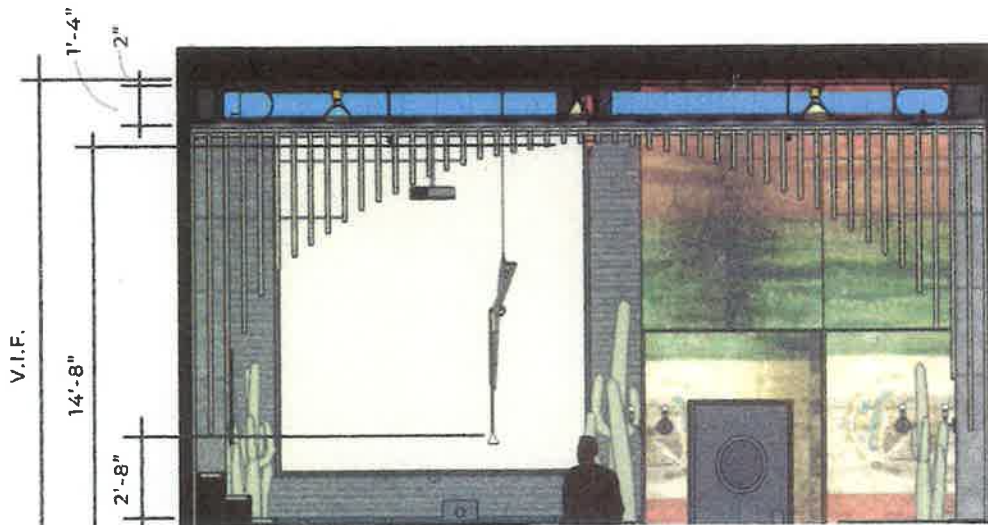
SECTIONS

ARCHES & MEP STUDY



[A] BUILDING SECTION

SCALE: NTS



TABLES

Dr. Leslie E. Penzes

01-09-2023
REPORT-

ATTACHMENT

TABLE 1

RESULTS OF INTERIOR NOISE ANALYSIS

Location - SIDE FACING THE STREET

Noise Source - TRAFFIC NOISE (NBS, 1978)

		Octave Band Center Frequency, Hz					
		125	250	500	1000	2000	4000
A-weighted Exterior Noise Spectrum (re total A-weighted level of 100 dB)		86.0	90.7	93.5	95.8	92.7	87.0
Room Sound Absorption in Sabins		60	60	60	60	60	60

BUILDING FACADE REFLECTION CORRECTION - 0.0 dB
 QUALITY CORRECTION - 3.0 dB

NOISE TRANSMISSION THROUGH CONSTRUCTIONS

#	Building Element Information			Exterior NOISE	Interior NOISE with Construction		
	NAME	STC	AREA SQ. FT		CLOSED	OPEN	%
1.	WOOD SIDING WALL	38	93.0	85	60	60	0
2.	WINDOW (1/8" GLASS)	26	100.0	85	65	65	0
3.	HOLLOW CORE WOOD DOOR	20	28.0	85	67	67	0

INTERIOR NOISE LEVEL IN THE ROOM 70 70

01-08-2023
REPORT-

Dr. Leslie E. Penzes

ATTACHMENT

TABLE 2

BUILDING ELEMENTS SOUND TRANSMISSION LOSS INFORMATION

	SOUND TRANSMISSION LOSS AT OCTAVE BAND CENTER FREQUENCY					
	125	250	500	1000	2000	4000
1. WOOD SIDING WALL-WOOD STUD, CAVITY INSULATION, NBS, W-5-72 STC = 38	17	31	38	47	52	51
2. HOLLOW CORE WOOD DOOR-BRASS WEATHER STRIP, NBS, W-92-71 STC = 20	13	14	17	18	23	28
3. WINDOW (1/8" GLASS)-ALUMINUM SLIDING, PREMIER SERIES 500, #87-130 STC = 26; Construction is operable for ventilation	20	21	25	27	27	27

01-09-2023
REPORT-

Dr. Leslie E. Penzes

ATTACHMENT

TABLE 3

RESULTS OF INTERIOR NOISE ANALYSIS

Location - WALLS BETWEEN ROOMS

Noise Source - TRAFFIC NOISE (NBS, 1978)						
Octave Band Center Frequency, Hz						
125	250	500	1000	2000	4000	
A-weighted Exterior Noise Spectrum (re total A-weighted level of 100 dB)						
86.0	90.7	93.5	95.8	92.7	87.0	
Room Sound Absorption in Sabins						
120	120	120	120	120	120	
BUILDING FACADE REFLECTION CORRECTION - 0.0 dB						
QUALITY CORRECTION - 3.0 dB						

NOISE TRANSMISSION THROUGH CONSTRUCTIONS

#	Building Element Information NAME	STC	AREA SQ. FT	Exterior NOISE	Interior NOISE with Construction		
					CLOSED	OPEN	%
1.	EXTERIOR WALL	52	530.0	85	50	50	0
INTERIOR NOISE LEVEL IN THE ROOM					50	50	

01-08-2023
REPORT-

Dr. Leslie E. Penzes

ATTACHMENT

TABLE 4

BUILDING ELEMENTS SOUND TRANSMISSION LOSS INFORMATION

SOUND TRANSMISSION LOSS AT OCTAVE BAND CENTER FREQUENCY					
125	250	500	1000	2000	4000
1. EXTERIOR WALL-LIMESTONE TYPE (B&P)					
STC = 52					
31	47	51	51	56	61

01-08-2023
REPORT-

Dr. Leslie E. Penzes

ATTACHMENT

TABLE 5

RESULTS OF INTERIOR NOISE ANALYSIS

Location - FLOOR CEILING

Noise Source - TRAFFIC NOISE (NBS, 1978)

Octave Band Center Frequency, Hz						
125	250	500	1000	2000	4000	
A-weighted Exterior Noise Spectrum (re total A-weighted level of 100 dB)						
86.0	90.7	93.5	95.8	92.7	87.0	
Room Sound Absorption in Sabins						
355	355	355	355	355	355	

BUILDING FACADE REFLECTION CORRECTION - 0.0 dB
QUALITY CORRECTION - 3.0 dB

NOISE TRANSMISSION THROUGH CONSTRUCTIONS

#	Building Element Information			Exterior NOISE	Interior NOISE with Construction		
	NAME	STC	AREA SQ. FT		CLOSED	OPEN	%
1.	COMPOSITE CONCRETE WALL	51	708.0	85	49	49	0
INTERIOR NOISE LEVEL IN THE ROOM					49	49	

Dr. Leslie E. Penzes

01-08-2023
REPORT-

ATTACHMENT

TABLE 6

BUILDING ELEMENTS SOUND TRANSMISSION LOSS INFORMATION

	SOUND TRANSMISSION LOSS AT OCTAVE BAND CENTER FREQUENCY					
	125	250	500	1000	2000	4000
1. COMPOSITE CONCRETE WALL-8" Concrete, Resilient Channel, 1/2" Gypsum B STC = 51	30	41	49	57	63	68



THE CITY OF SAN DIEGO

M E M O R A N D U M

DATE: August 22, 2024

TO: Environmental/Project File
Development Services Department

FROM: Kelli Rasmus, Associate Planner
Development Services Department

SUBJECT: **Tacos El Cabron Live Entertainment (PRJ-1051280)**
California Environmental Quality Act – Section 15162 Evaluation

The Development Services Department (DSD) has completed a California Environmental Quality Act (CEQA) Section 15162 – Subsequent Environmental Impact Reports and Negative Declarations consistency evaluation for the proposed Tacos El Cabron CUP (project). See 14 C.C.R. §15162.

This evaluation was performed to determine if conditions specified in CEQA Guidelines Sections 15162 would require preparation of additional CEQA review for the proposed project. As outlined in the evaluation, DSD has determined that the proposed Project is consistent with the original Final Environmental Impact Report (FEIR) for the Downtown Community Plan, Centre City Planned District Ordinance (CCPDO), 10th Amendment to the Centre City Redevelopment Plan (State Clearinghouse (SCH) No. 2003041001) and subsequent addenda to the FEIR, and the Final Supplemental Environmental Impact Report (SEIR) for the Downtown San Diego Mobility Plan; and would not result in new impacts.

BACKGROUND

The purpose of the Downtown Community Plan was to establish the land use vision and development polices for the downtown community as a component of the City of San Diego's General Plan. The Community Plan provides strategies and specific implementation actions that allow the vision to be accomplished. In addition, the Community Plan also provides a basis for evaluating whether specific development proposals and public projects are consistent with Plan policies, standards and the FEIR.

The Final Environmental Impact Report (FEIR) for the Downtown Community Plan, Centre City Planned District Ordinance (CCPDO), and 10th Amendment to the Centre City Redevelopment Plan (State Clearinghouse (SCH) No. 2003041001) was certified by the former Redevelopment Agency

Page 2
Environmental/Project File
July 3, 2024

(Former Agency) and the Council of the City of San Diego (City Council) on March 14, 2006 (Resolutions R-04001 and R-301265, respectively); and subsequent addenda to the FEIR certified by the Former Agency on August 3, 2007 (Former Agency Resolution R- 04193), April 21, 2010 (Former Agency Resolutions R-04508 and R-04510), August 3, 2010 (Former Agency Resolution R-04544) and certified by City Council on February 12, 2014 (Resolution R-308724) and July 14, 2014 (Resolution R309115), and November 17, 2020 (Resolution R-313302); and the Final Supplemental Environmental Impact Report (SEIR) for the Downtown San Diego Mobility Plan (SCH No. 2014121002) certified by the City Council on July 6, 2016 (Resolution R-310561). The Downtown FEIR is a Program EIR prepared in compliance with the California Environmental Quality Act ("CEQA") Guidelines Section 15168.

PROJECT DESCRIPTION

A Conditional Use Permit (CUP) for non-acoustic disc jockey, live entertainment and a dance floor within an approximately 2,500 square-foot fully enclosed ground floor restaurant located at 534 5th Avenue between Market Street and Island Avenue in the Gaslamp Quarter neighborhood of the Downtown Community Plan area (District 3).

CEQA 15162 CONSISTENCY EVALUATION

DSD conducted a review pursuant to CEQA Guidelines Section 15162 to determine consistency with the previously certified original Final Environmental Impact Report (FEIR) for the Downtown Community Plan, Centre City Planned District Ordinance (CCPDO), 10th Amendment to the Centre City Redevelopment Plan (State Clearinghouse (SCH) No. 2003041001) and subsequent addenda to the FEIR, and the Final Supplemental Environmental Impact Report (SEIR) for the Downtown San Diego Mobility Plan. It was determined that the project would not result in a change in environmental impacts relative to those assessed in the EIR and subsequent addenda. In addition, live entertainment within the enclosed ground floor restaurant does not constitute a change in circumstances and would not result in new significant environmental effects or a substantial increase in the severity of previously identified significant effects. In addition, there is no new information of substantial importance that was not known at the time of the EIR approval. As previously noted, there is no change in impact or impact severity relative to that identified in the EIR and subsequent addenda, and no new or different mitigation that would substantially reduce one or more significant effects that the applicant has declined to adopt.

CONCLUSION

Overall, implementation of the proposed would not result in any significant direct, indirect or cumulative impacts over and above those disclosed in the previously certified EIR and subsequent addenda.

Section 15162 of the CEQA Guidelines states:

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When an EIR has been certified or a negative declaration adopted for a project, no subsequent EIR shall be prepared for that project unless the lead agency determines, on the basis of substantial evidence in the light of the whole record, one or more of the following:

- (1) Substantial changes are proposed in the project which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;
- (2) Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or
- (3) New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete or the negative declaration was adopted, shows any of the following:
 - (A) The project will have one or more significant effects not discussed in the previous EIR or negative declaration;
 - (B) Significant effects previously examined will be substantially more severe than shown in the previous EIR;
 - (C) Mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or
 - (D) Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

Based upon a review of the current project, none of the situations described in Section 15162 of the State CEQA Guidelines apply. No changes in circumstances have occurred, and no new information of substantial importance has manifested, which would result in new significant or substantially increased adverse impacts because of the project. This evaluation, therefore, supports the use of the previously certified EIR and subsequent addenda, under CEQA Guidelines Section 15162, in that previous environmental documents adequately covers the proposed project.

Kelli Rasmus
Associate Planner



August 14, 2024

Willy Aglupos
Development Project Management 2, Urban Division
Development Services Department
1222 First Avenue
San Diego, CA 92101

RE: APPLICANT RESPONSE TO ISSUES - 534 5TH AVENUE, SAN DIEGO, CA 92101;

Mr. Aglupos -

The applicant is an existing restaurant on the ground floor that includes a bar along the Southern end of the interior. The applicant proposes to put the disc jockey booth at the end of the restaurant dining area.

The live entertainment will include a disc jockey, live band, karaoke, and dancing. The dance floor will be located at the Western end of the premises adjacent to the disc jockey. The proposal hours are for live entertainment from 10:00AM to 1:30AM daily.

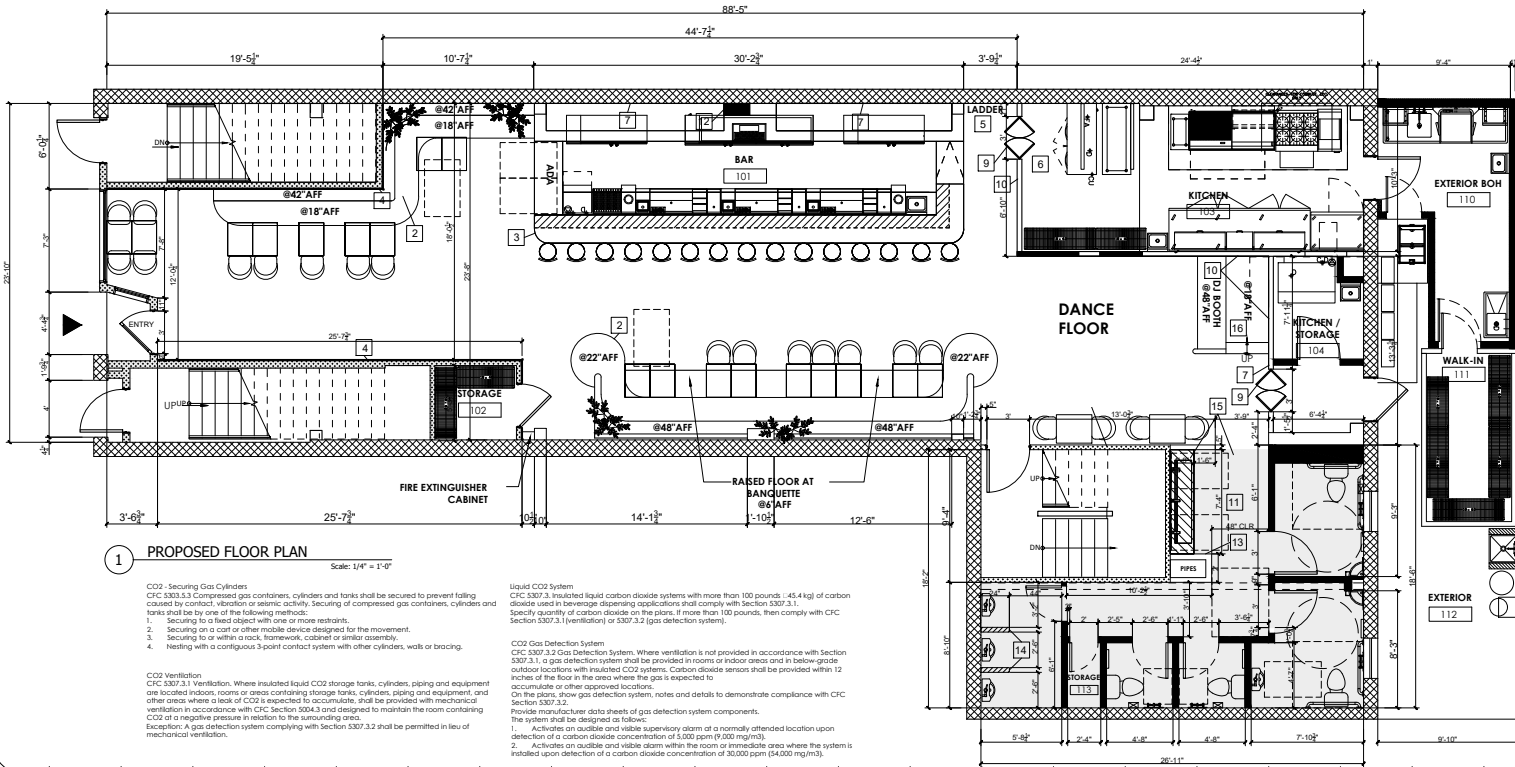
Lastly, the speaker system will be facing into the interior of the premises and not outward onto the entrance.

Thank you for your consideration to this matter.

Kind regards,

Marco Polo Cortés

Marco Polo Cortés
President



1 PROPOSED FLOOR PLAN

Scale: 1/4" = 1'-0"

CO2 - Securing Gas Cylinders
CFC 3303.3.3 Compressed gas containers, cylinders and tanks shall be secured to prevent falling caused by contact, vibration or seismic activity. Securing of compressed gas containers, cylinders and tanks shall be by one of the following methods:
1. Securing to a fixed object with one or more restraints.
2. Securing on a cart or other mobile device designed for the movement.
3. Securing to or within a rack, framework, cabinet or similar assembly.
4. Nesting with a contiguous 3-point contact system with other cylinders, walls or bracing.

CO2 Ventilation
CFC 3307.3.1 Ventilation. Where insulated liquid CO2 storage tanks, cylinders, piping and equipment are located indoors, rooms or areas containing storage tanks, cylinders, piping and equipment and/or areas where a leak of CO2 is expected to accumulate, shall be provided with mechanical ventilation in accordance with CFC Section 3004.3 and designed to maintain the room containing CO2 at a negative pressure in relation to the surrounding area.
Exception: A gas detection system complying with Section 3307.3.2 shall be permitted in lieu of mechanical ventilation.

Liquid CO2 System
CFC 3307.3 Insulated liquid carbon dioxide systems with more than 100 pounds (45.4 kg) of carbon dioxide used in beverage dispensing applications shall comply with Section 3307.3.1.
Specify quantity of carbon dioxide on the plans. If more than 100 pounds, then comply with CFC Section 3307.3.1 (ventilation) or 3307.3.2 (gas detection system).

CO2 Gas Detection System
CFC 3307.3.2 Gas Detection System. Where ventilation is not provided in accordance with Section 3307.3.1, a gas detection system shall be provided in rooms or indoor areas and in below-grade outdoor locations with insulated CO2 systems. Carbon dioxide sensors shall be provided within 12 inches of the floor in the area where the gas is expected to accumulate or other approved locations.
On the plans, show gas detection system, notes and details to demonstrate compliance with CFC Section 3307.3.2.
Provide manufacturer data sheets of gas detection system components.
The system shall be designed as follows:
1. Activates on audible and visible supervisory alarm at a normally attended location upon detection of a carbon dioxide concentration of 5,000 ppm (9,000 mg/m3).
2. Activates on audible and visible alarm within the room or immediate area where the system is installed upon detection of a carbon dioxide concentration of 30,000 ppm (54,000 mg/m3).

- KEYNOTES**
- 1 NOT USED
 - 2 NEW BOOTHS, SEE SHEET ID-10 FOR DETAILS
 - 3 NEW BAR FINISHES AND FIXTURES, SEE SHEET ID-09 FOR DETAILS
 - 4 PREP WALL FOR WALL COVERING INSTALLATION
 - 5 NEW WALL METAL LADDER FOR MEZZANINE ACCESS
 - 6 MEZZANINE
 - 7 FILL SCREEN TVS
 - 8 FLAT IN WALL
 - 9 NEW ELIASON DOOR
 - 10 NEW WALL TREATMENT
 - 11 RESTROOMS NEW FIXTURES AND FINISHES
 - 12 FILL IN COLUMN TO MAKE BAR SYMMETRICAL
 - 13 FILL IN COLUMN TO HIDE PIPES
 - 14 NEW PONY WALL TO BE FINISHED WITH TILE
 - 15 DRYWALL CEILING @ 7'-3"AFF AND SOFFIT @ 6'-8"AFF
 - 16 DJ BOOTH AT 18"AFF

- GENERAL NOTES**
1. NOTES APPEAR ON VARIOUS DRAWINGS FOR RELATED SYSTEMS AND MATERIALS. REVIEW ALL SHEETS AND APPLY NOTES TO DIFFERENT BUILDING COMPONENTS.
 2. REFER TO COMPLETE SET OF ISSUED CONTRACT DOCUMENTS FOR APPLICABLE NOTES, ABBREVIATIONS, AND SYMBOLS.
 3. WHERE MATERIALS ARE APPLIED TO, OR ARE IN DIRECT CONTACT WITH WORK INSTALLED BY ANOTHER SUBCONTRACTOR, COMMENCEMENT OF WORK IMPLIES ACCEPTANCE OF THE SUBSTRATE AS SUITABLE FOR THE APPLICATION INTENDED.
 4. ISOLATE DISSIMILAR METALS TO PREVENT GALVANIC CORROSION.
 5. DO NOT SCALE THE DRAWING. IF DIMENSIONS ARE IN QUESTION OBTAIN CLARIFICATION FROM THE DESIGNER BEFORE CONTINUING.
 6. PRIOR TO COMMENCEMENT OF RELATED WORK: REVIEW, MEASURE, AND CONFIRM DIMENSIONS AND UTILITY CONNECTIONS OF OWNER PROVIDED EQUIPMENT AND FURNISHINGS. COORDINATE WITH THE OWNER ON DELIVERY AND INSTALLATION OF OWNER FURNISHED / CONTRACTOR INSTALLED (OFFIC) EQUIPMENT. MINIMUM REQUIRED OPENINGS AND ACCESSIBLE ROUTES TO THE INSTALLATION AREA SHALL BE COORDINATED WITH THE SUPPLIER.
 7. INSTALL STIFFENERS, BRACING, BACKING PLATES AND/OR BLOCKING AS REQUIRED FOR SECURE INSTALLATION OF WALL AND CEILING MOUNTED ITEMS INCLUDING, BUT NOT LIMITED TO, TOILET PARTITIONS, DOORS AND WALL-MOUNTED DOOR HARDWARE, HANDRAILS, WALL-MOUNTED CASEWORK, ARTWORK, OPERABLE PARTITIONS, DEMOUNTABLE PARTITIONS, GLAZINGS, MISCELLANEOUS FURNISHINGS AND EQUIPMENT, MECHANICAL, PLUMBING AND ELECTRICAL EQUIPMENT, WOOD BLOCKINGS, IF USED, SHALL BE FIRE AND MOISTURE TREATED. PROVIDE DELEGATED DESIGN FOR STRUCTURAL SUSPENSION SYSTEMS.
 8. LOCATE ACCESS PANELS AS INDICATED ON DRAWINGS. FOR ACCESS PANELS NOT SHOWN, BUT REQUIRED BY PROVISIONS OF THE CONTRACT DOCUMENTS, LOCATE PANELS IN ACCORDANCE WITH APPLICABLE CODES. ACCESS PANELS SHALL BE LOCATED AS REQUIRED TO ACCESS ALL ELECTRICAL AND MECHANICAL EQUIPMENT REQUIRING NORMAL MAINTENANCE OR OPERATION INCLUDING, BUT NOT LIMITED TO, CONSTANT AIR OR VARIABLE AIR VOLUME BOXES, REHEAT COILS, VALVES, FANS, BALANCING DAMPERS, FIRE DAMPERS, SMOKE DAMPERS, FIRE/SMOKE DETECTORS, CLEAN OUTS, JUNCTION BOXES, BUS DUCTS, TRANSFORMERS, AND BATTERIES. CO-LOCATE ITEMS TO MINIMIZE THE NEED FOR ACCESS PANELS. SUBMIT PROPOSED LOCATIONS TO THE ARCHITECT FOR REVIEW AND ACCEPTANCE PRIOR TO INSTALLATION.
 9. FULLY LAY OUT STRUCTURAL GRIDS, WALL, AND WALL OPENINGS WITHIN CONSTRUCTION AREA PRIOR TO START OF PARTITION INSTALLATION. VERIFY THAT DIMENSIONS ARE CONSISTENT WITH REQUIREMENTS INDICATED IN THE DRAWINGS. REPORT ANY CONFLICTS OR DIMENSIONAL INCONSISTENCIES TO THE ARCHITECT PRIOR TO INSTALLATION.
 10. FLATTEN FLOORS THAT EXCEED 1/4" VARIANCE IN A 10'-0" RADIUS.
 11. CAULK AT JUNCTURE OF INTERIOR FACES OF DOOR FRAMES, VIEW WINDOW FRAMES, EXTERIOR WINDOW FRAMES, AND CABINET WORK WITH ADJACENT MATERIALS.
 12. COORDINATE LOCATION OF ALL CEILING MOUNTED DEVICES INCLUDING, BUT NOT LIMITED TO, DIFFUSERS, SPEAKERS, SPRINKLER HEADS, DETECTORS, ACCESS PANELS, AV EQUIPMENT, AND LIGHTING. REPORT ANY CONFLICTS TO THE ARCHITECT PRIOR TO INSTALLATION.
 13. EXIT SIGNS AND SMOKE DETECTORS LOCATED IN CEILINGS SHALL BE POSITIONED AS REQUIRED BY THE AUTHORITY HAVING JURISDICTION. EXIT SIGNS SHALL TYPICALLY BE CENTERED IN CORRIDORS AND LOCATED ABOVE DOORWAYS A DISTANCE OF 1'-0" FROM THE WALL TO THE CENTER OF THE FIXTURE UNLESS NOTED OTHERWISE.
 14. GANG MULTIPLE SWITCHES TOGETHER INTO ONE BOX WITH A SINGLE COVER PLATE WHENEVER POSSIBLE. MULTIPLE SWITCHES, WHICH CANNOT BE GANGED TOGETHER IN THE SAME BOX, SHALL BE LOCATED AS CLOSE TOGETHER AS POSSIBLE AND MOUNTED AT THE SAME HEIGHT. DEVICES WITH VARYING HEIGHT REQUIREMENTS MOUNTED ON COLUMNS OR ADJACENT TO DOORS SHALL BE STACKED VERTICALLY ALONG THEIR CENTERLINES.
 15. DO NOT INSTALL OUTLET OR JUNCTION BOXES BACK-TO-BACK ON OPPOSITE SIDES OF THE WALL. BOXES MUST BE SEPARATED BY A STUD.
 16. ACOUSTICALLY SEAL ALL THROUGH-FLOOR ELECTRICAL DEVICES AND WALL MOUNTED JUNCTION BOXES WITH AN ACOUSTIC SEALANT OR PUTTY PAD AS REQUIRED TO MAINTAIN INDICATED STC RATINGS.
 17. ACCESSORIES SUCH AS GRAB BARS, TOWEL BARS, PAPER DISPENSERS AND SOAP DISHES INSTALLED WITHIN 2' OF A URINAL, WATER CLOSET, SINK OR LAVATORY SHALL BE MOISTURE SEALED.

LEGEND / WALL TYPES

	EXISTING PARTITION TO REMAIN
	EXISTING MASONRY/BRICK WALL
	EXISTING 1/2" HW WALL
	EXISTING 2" HW WALL
	3/8" METAL STUD METAL STUD WALL (FULL HEIGHT) WITH 5/8" GIP. RD. EACH SIDE
	3/8" METAL STUD METAL STUD WALL (LOW WALL) WITH 5/8" GIP. RD. EACH SIDE
	DRYWALL CEILING @ 7'-3" AFF
	SOFFIT @ 6'-8" AFF

REVISION:	09/28/22
REVISION:	09/22/22
REVISION:	10/04/23
REVISION:	02/12/2024
REVISION:	06/08/2023
REVISION:	01/22/2024
REVISION:	
BID SET:	
HEALTH SUBMITTAL:	
CITY SUBMITTAL:	
TENANT APPROVAL:	
SCALE:	
PROJECT NO.:	
DRAWN:	
DATE:	10/17/2022
PROPOSED FLOOR PLAN	
SHEET NO.:	ID-02

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