

ORDINANCE NUMBER O-_____ (NEW SERIES)

DATE OF FINAL PASSAGE _____

AN ORDINANCE AMENDING CHAPTER 13, ARTICLE 2,
DIVISION 4 OF THE SAN DIEGO MUNICIPAL CODE BY
AMENDING SECTIONS 132.1402 AND 132.1403, RELATING
TO THE MIDWAY COMMUNITY PLAN IMPLEMENTATION
OVERLAY ZONE AND THE MIDWAY RISING PROJECT.

RECITALS

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

A. Midway Rising, LLC, A California Limited Liability Company, submitted an application to the City of San Diego to demolish an existing entertainment/sports center (San Diego International Sports Arena) and to construct approximately 4,254 housing units (2,000 affordable units); public parks and open space; a 16,000-seat, multi-purpose Entertainment Center; and up to 130,000 square feet of commercial and retail uses, known as the Midway Rising project. The project includes, among other things, a Specific Plan, Midway-Pacific Community Plan Amendment, and a General Plan Amendment.

B. The 49.23-acre site is located at 3220, 3240, 3250, 3350, and 3500 Sports Arena Boulevard within the Midway Pacific Highway Community Plan in the CC-3-6 zone and designated for Community Commercial-Residential Permitted by the Midway Pacific Highway Community Plan. The project site is legally described as PARCEL 1: THOSE PORTIONS OF PUEBLO LOTS 241, 242, 259, 276, 311, 312, 313, 314, 337 AND 338 OF THE PUEBLO LANDS OF SAN DIEGO, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF MADE BY JAMES PASCOE, A COPY OF WHICH SAID MAP WAS FILED IN THE OFFICE OF COUNTY RECORDER OF SAN DIEGO COUNTY, AND KNOWN AS MISCELLANEOUS MAP NO. 36,

TOGETHER WITH LOT "A" AND A PORTION OF LOT "B" OF PUEBLO LOT 339, ACCORDING TO PARTITION MAP THEREOF ON FILE IN THE OFFICE OF THE COUNTY CLERK OF SAID COUNTY, IN AN ACTION ENTITLED "STEELE VS. STEELE", SUPERIOR COURT, CASE NO. 5620, TOGETHER WITH MAP OF CASS AND MCELWEE SUBDIVISION, ACCORDING TO MAP THEREOF NO. 1581, FILED IN THE OFFICE OF COUNTY RECORDER OF SAN DIEGO COUNTY;

PARCEL 2: ALL THAT PORTION OF PUEBLO LOTS 242, 243, 259 AND 311 OF THE PUEBLO LANDS OF SAN DIEGO, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO THE MAP THEREOF MADE BY JAMES PASCOE IN 1870; A COPY OF WHICH MAP WAS FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, NOVEMBER 14, 1921; PARCEL 3: THAT PORTION OF PUEBLO LOT 259 OF THE PUEBLO LANDS OF SAN DIEGO, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF MADE BY JAMES PASCOE, A COPY OF WHICH SAID MAP WAS FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY AND KNOWN AS MISCELLANEOUS MAP NO. 36; PARCEL 4: EXCEPTING THEREFROM A PORTION OF SAID LAND, ALL URANIUM, THORIUM, AND ALL OTHER MATERIALS DETERMINED PURSUANT TO SECTION 5(B) (1) OF THE ATOMIC ENERGY ACT OF 1946 (60 STAT. 761), TO BE PECULIARLY ESSENTIAL TO THE PRODUCTION OF FISSIONABLE MATERIAL, CONTAINED IN WHATEVER CONCENTRATION IN DEPOSITS IN THE LANDS COVERED BY THIS INSTRUMENT, TOGETHER WITH THE RIGHT OF THE UNITED STATES THROUGH ITS AUTHORIZED AGENTS OR REPRESENTATIVES AT ANY TIME TO ENTER UPON THE LAND AND

PROSPECT FOR, MINE AND REMOVE THE SAME, AS RESERVED FOR THE USE OF THE UNITED STATES, IN A DEED RECORDED JANUARY 31, 1955 IN BOOK 5514, PAGE 182 OF OFFICIAL RECORDS.

C. Ordinance O-_____ (Rezone), Ordinance O-_____ (Midway Rising Specific Plan), and Resolution R-_____, (General Plan and Midway-Pacific Highway Community Plan amendments) which were considered along with this ordinance, adopt amendments to the Midway-Pacific Highway Community Plan and General Plan, rezone the Project site from the CC-3-6 zone to the RMX-2 zone, and adopt the Midway Rising Specific Plan.

D. Implementation of the proposed Midway Rising Specific Plan and Community Plan Amendment to the Midway-Pacific Highway Community Plan requires amendments to the San Diego Municipal Code relating to the Community Plan Implementation Overlay Zone (CPIOZ) at Chapter 13, Article 2, Division 14 to remove the Midway Rising Specific Plan area.

E. The Office of the City Attorney prepared this Ordinance based on the information provided by City staff (including information provided by affected third parties and verified by City staff), with the understanding that this information is complete and accurate.

F. Under San Diego Charter section 280(a)(1), this Ordinance is not subject to the Mayor's veto because this matter requires the Council to act as a quasi-judicial body and where a public hearing was required by law implicating due process rights of individuals affected by the decision and where the Council was required by law to consider evidence at the hearing and to make legal findings based on the evidence presented..

ACTION ITEMS

Be it ordained by the Council of the City of San Diego:

Section 1. Chapter 13, Article 2, Division 4 of the San Diego Municipal Code is amended by amending sections 132.1402 and 132.1403, to read as follows:

§132.1402 Where the Community Plan Implementation Overlay Zone Applies

- (a) This overlay zone applies to properties that are identified in a community plan as areas requiring supplemental development regulations or processing of a *development permit* and that have been incorporated by ordinance into this overlay zone. Table 132-14A lists the community plan areas in which this overlay zone has been applied and the corresponding rezone maps that indicate which properties are within the boundaries of the overlay zone. These maps are filed in the office of the City Clerk. The properties within this overlay zone are shown generally on Diagrams 132-14A through 132-14U.

**Table 132-14A
Community Plans with Property in the Community Plan Implementation Overlay Zone**

Community Plan	Map Number Showing Boundaries of CPIOZ Area
Barrio Logan (See Diagram 132-14T) through Mid-City Eastern Area-Chollas Triangle (See Diagram 132-14N)	[No change in text.]
Midway-Pacific Highway (See Diagram 132-14D)	B-4379
Mira Mesa (See Diagram 132-14U) through Uptown (See Diagram 132-14K)	[No change in text.]

- (b) [No change in text.]

**Table 132-14B
Community Plan Implementation Overlay Zone Applicability**

[No change in text.]

§132.1403 Exception to the Community Plan Implementation Overlay Zone

The City Manager may grant an exception to the requirements of this division for the *development* that is minor, temporary, or incidental and is consistent with the intent of this division. Exceptions made by the City Manager shall be recorded and entered in the project files prepared in the process of approving the *development*.

DIAGRAM 132-14A through DIAGRAM 132-14C

[No change in text.]

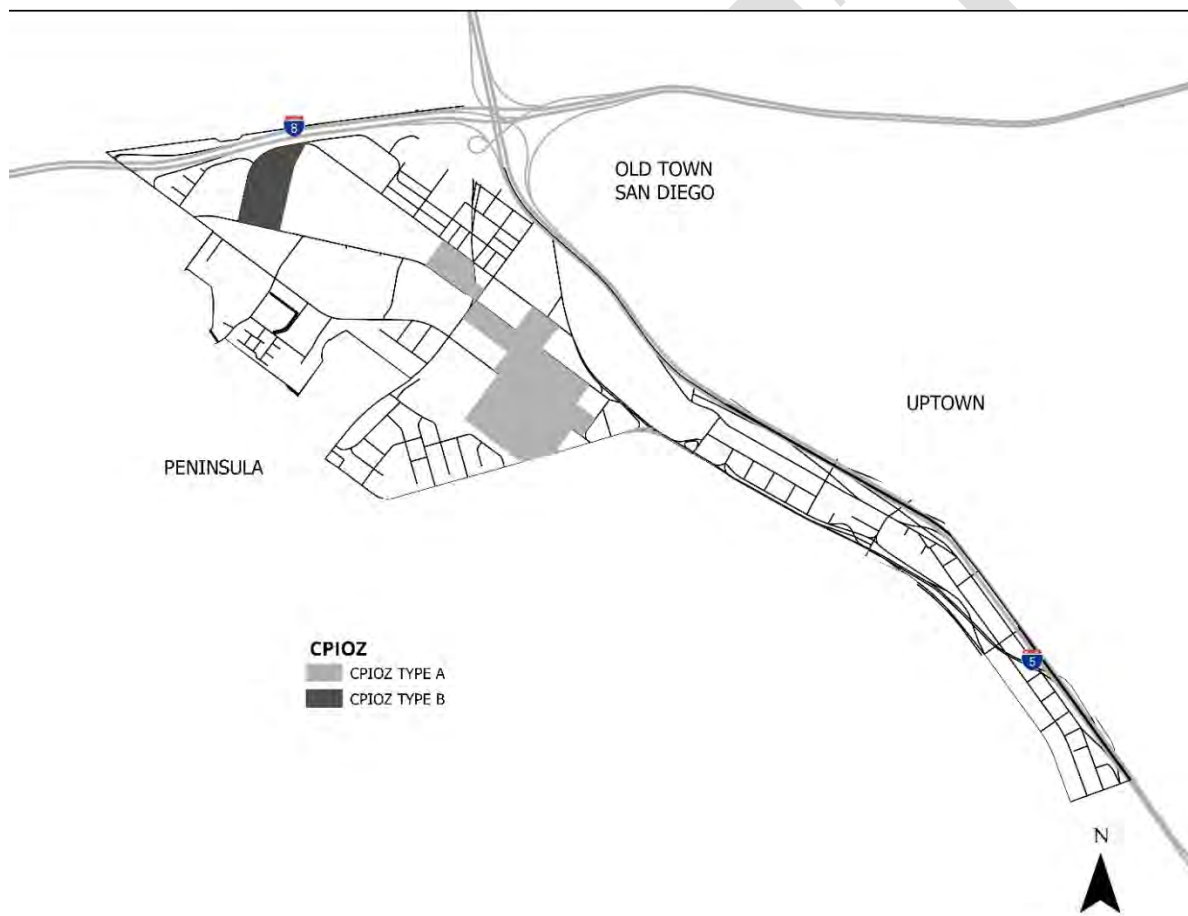


DIAGRAM 132-14D
Midway-Pacific Highway
Community Plan Implementation Overlay Zone

This is a reproduction of Map No. B-4379 for illustration purposes only.

DIAGRAM 132-14E through DIAGRAM 132-14U

[No change in text.]

Section 2. A full reading of this Ordinance is dispensed with prior to passage, a written or printed copy having been available to the Council and the public prior to the day of its passage.

Section 3. The Council dispenses with a full reading of this Ordinance before its passage because a written copy of this Ordinance was made available to the Council and the public before the date of its passage.

Section 4. Before becoming effective, this Ordinance will be submitted to the San Diego County Regional Airport Authority (SDCRAA) acting as the Airport Land Use Commission (ALUC) for a consistency finding with the Airport Land Use Compatibility Plans (ALUCPs) for San Diego International Airport (SDIA) and Naval Air Station North Island (NASNI). If the ALUC determines this Ordinance is consistent with the ALUCPs for SDIA and NASNI, this Ordinance shall take effect and be in force on the date of the finding of consistency, provided that at least 30 days have passed from the date of final passage, or the date that R-_____, adopting amendments to the Midway-Pacific Community Plan becomes effective, or the date that O-_____, adopting the Midway Rising Specific Plan becomes effective, whichever is later, except that provisions of this Ordinance inside the Coastal Overlay Zone, which are subject to California Coastal Commission jurisdiction as a City of San Diego Local Coastal Program amendment, will not take effect until the date the California Coastal Commission unconditionally certifies those provisions as a local coastal program amendment.

If the ALUC determines this Ordinance is inconsistent or conditionally consistent, subject to proposed modifications, with the ALUCP, this Ordinance will be submitted to the Council for reconsideration. If the ALUC determines this Ordinance is conditionally consistent with the

ALUCPs for SDIA and/or NASNI, but consistency is subject to the proposed modifications, the Council may amend this Ordinance to accept the proposed modifications, and this Ordinance as amended will take effect and be in force on the thirtieth day from and after its final passage, or the date that R-_____, adopting amendments to the Midway-Pacific Community Plan becomes effective, or the date that O-_____, adopting the Midway Rising Specific Plan becomes effective, whichever is later, except that provisions of this Ordinance inside the Coastal Overlay Zone, which are subject to California Coastal Commission jurisdiction as a City of San Diego Local Coastal Program amendment, will not take effect until the date the California Coastal Commission unconditionally certifies those provisions as a local coastal program amendment. A proposed decision by the Council to overrule a determination or inconsistency, or to reject the proposed modifications for a finding of conditional consistency, will include the findings required pursuant to California Public Utilities Code section 21670 and require a two-thirds vote. The proposed decision and findings will be forwarded to the ALUC, the California Department of Transportation, Division of Aeronautics, and the airport operators for the applicable airports; and the Council will hold a second hearing not less than 45 days from the date the proposed decision and findings were provided. At the hearing, any comments submitted by the public agencies will be considered and a final decision to overrule a determination of inconsistency will require a two-thirds vote. If the Council makes a final decision to overrule a determination of inconsistency, this Ordinance will take effect on the thirtieth day after that final decision, or the date that R-_____, adopting amendments to the Midway-Pacific Community Plan becomes effective, or the date that O-_____, adopting the Midway Rising Specific Plan becomes effective, whichever is later, except that provisions of this Ordinance inside the Coastal Overlay Zone, which are subject to California Coastal Commission

jurisdiction as a City of San Diego Local Coastal Program amendment, will not take effect until the date the California Coastal Commission unconditionally certifies those provisions as a local coastal program amendment.

Section 5. No building permits for development inconsistent with the provisions of this Ordinance will be issued unless the application was made prior to the date of adoption of this Ordinance.

APPROVED: HEATHER FERBERT, City Attorney

By

Attorney Name
Deputy City Attorney

STRIKEOUT ORDINANCE

OLD LANGUAGE: ~~Struck Out~~

NEW LANGUAGE: Double Underline

ORDINANCE NUMBER O-_____ (NEW SERIES)

DATE OF FINAL PASSAGE _____

AN ORDINANCE AMENDING CHAPTER 13, ARTICLE 2,
DIVISION 4 OF THE SAN DIEGO MUNICIPAL CODE BY
AMENDING SECTIONS 132.1402 AND 132.1403, RELATING
TO THE MIDWAY COMMUNITY PLAN IMPLEMENTATION
OVERLAY ZONE.

§132.1402 Where the Community Plan Implementation Overlay Zone Applies

- (a) This overlay zone applies to properties that are identified in a community plan as areas requiring supplemental development regulations or processing of a *development permit* and that have been incorporated by ordinance into this overlay zone. Table 132-14A lists the community plan areas in which this overlay zone has been applied and the corresponding rezone maps that indicate which properties are within the boundaries of the overlay zone. These maps are filed in the office of the City Clerk. The properties within this overlay zone are shown generally on Diagrams 132-14A through 132-14U.

Table 132-14A
Community Plans with Property in the Community Plan Implementation Overlay Zone

Community Plan	Map Number Showing Boundaries of CPIOZ Area
Barrio Logan (See Diagram 132-14T) through Mid-City Eastern Area-Chollas Triangle (See Diagram 132-14N)	[No change in text.]
Midway-Pacific Highway (See Diagram 132-14D)	B-4331 <u>B-4379</u>

Community Plan	Map Number Showing Boundaries of CPIOZ Area
Mira Mesa (See Diagram 132-14U) through Uptown (See Diagram 132-14K)	[No change in text.]

(b) [No change in text.]

Table 132-14B
Community Plan Implementation Overlay Zone Applicability

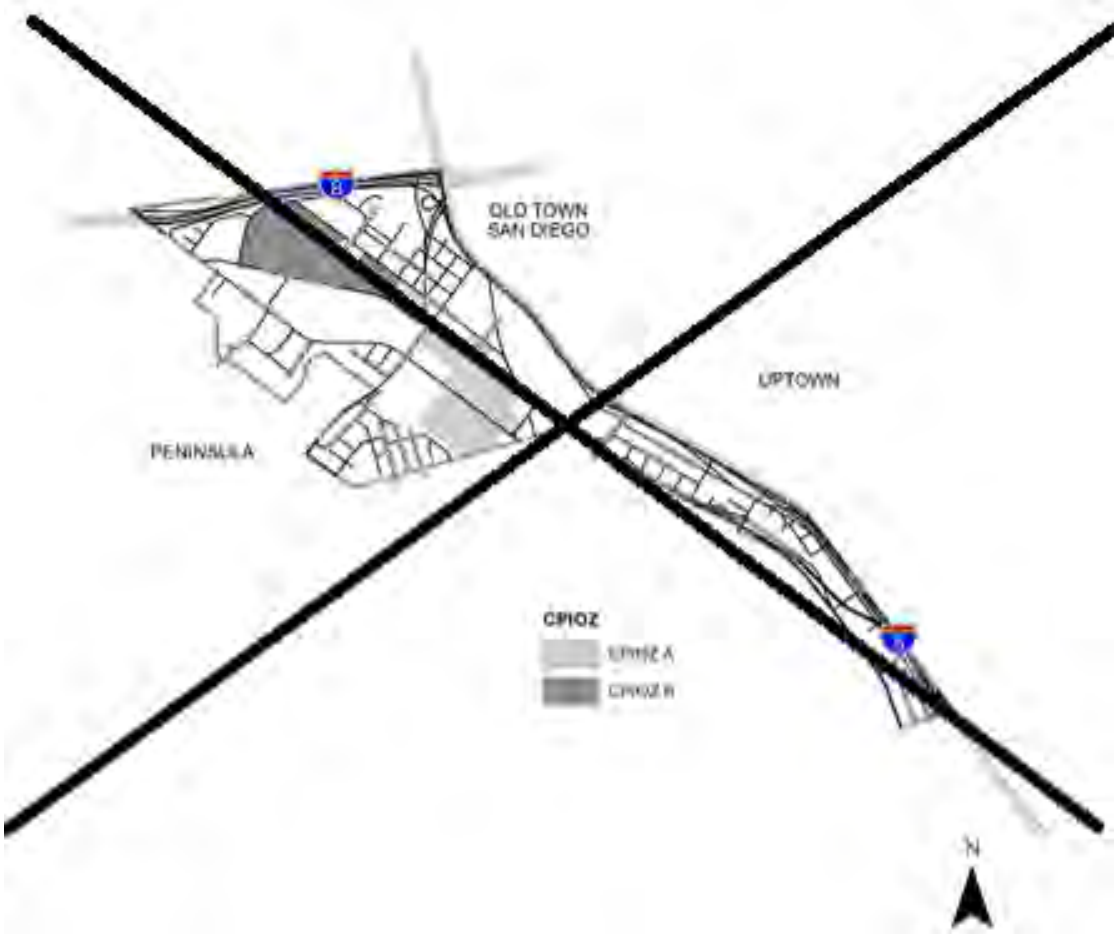
[No change in text.]

§132.1403 Exception to the Community Plan Implementation Overlay Zone

The City Manager may grant an exception to the requirements of this division for the *development* that is minor, temporary, or incidental and is consistent with the intent of this division. Exceptions made by the City Manager shall be recorded and entered in the project files prepared in the process of approving the *development*.

DIAGRAM 132-14A through DIAGRAM 132-14C

[No change in text.]



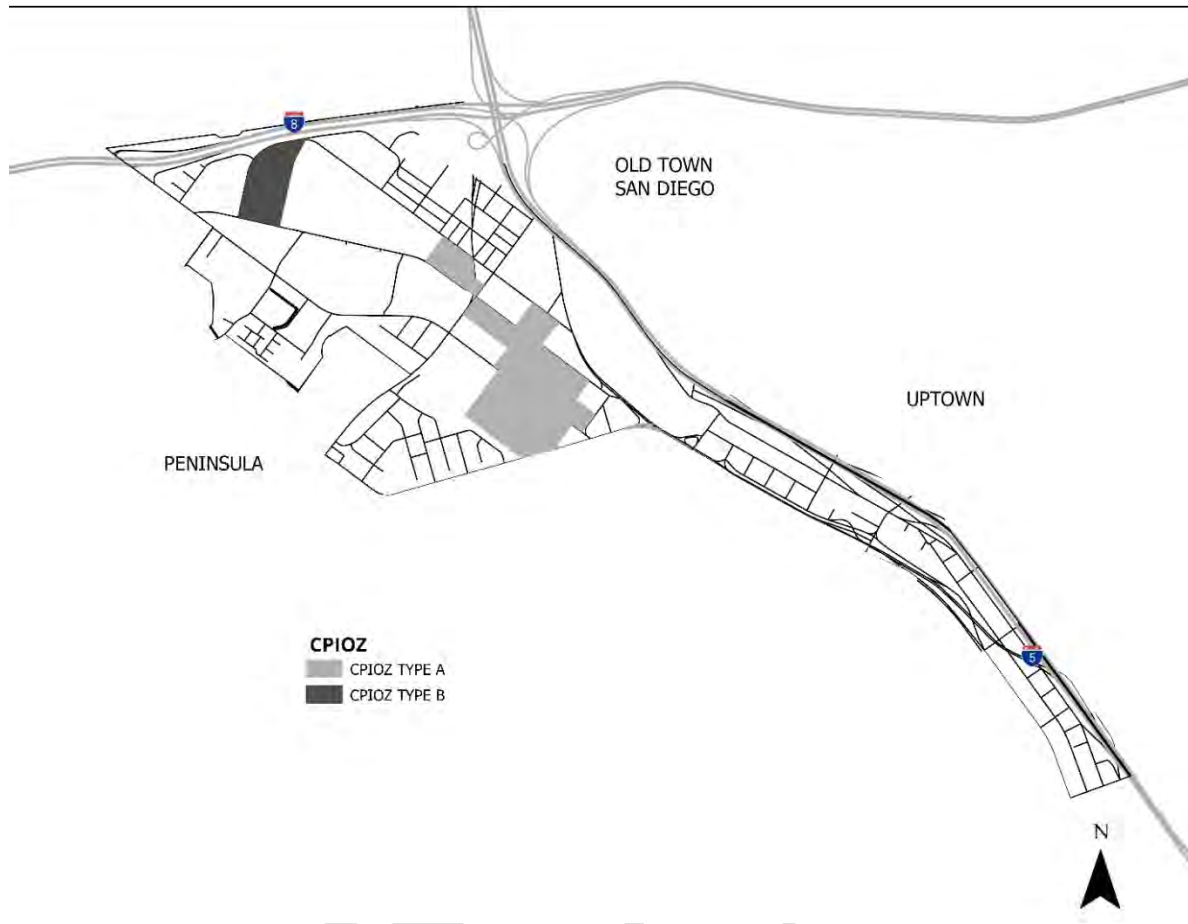


DIAGRAM 132-14D
Midway-Pacific Highway
Community Plan Implementation Overlay Zone

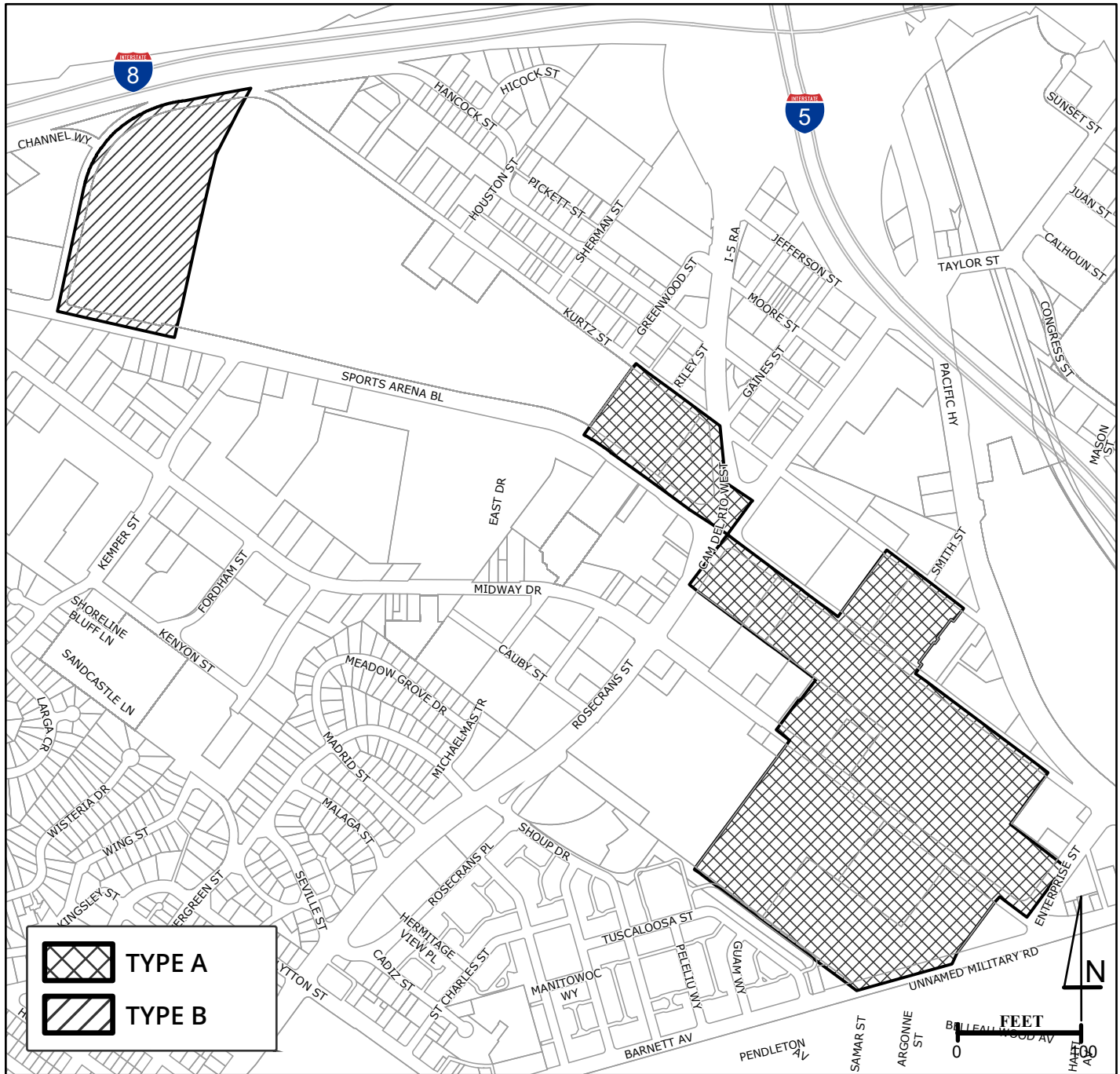
This is a reproduction of Map No. ~~B-4331~~ B-4379 for illustration purposes only.

DIAGRAM 132-14E through DIAGRAM 132-14U

[No change in text.]



Midway Pacific Highway - Community Plan Implementation Overlay Zone



		B-4379
ORDINANCE NO. _____	REQUEST	
EFF. DATE ORD. _____	PLANNING COMM. RECOMMENDATION	DEVELOPMENT SERVICES MANAGER
ZONING SUBJ. TO _____	CITY COUNCIL ACTION	
BEFORE DATE _____		
EFF. DATE ZONING _____		Supersedes B-4331

RESOLUTION NUMBER R-_____

DATE OF FINAL PASSAGE _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF
SAN DIEGO ADOPTING A VARIANCE TO THE
INCLUSIONARY AFFORDABLE HOUSING REGULATIONS
TO ALLOW FOR AN ALTERNATIVE PHASING PLAN FOR
THE 2,000 ON-SITE AFFORDABLE HOUSING DWELLING
UNITS, RELATED TO THE MIDWAY RISING PROJECT.

RECITALS

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

- A. MIDWAY RISING, LLC, Permittee, applied for a variance to the Inclusionary Affordable Housing Regulations to allow for an alternative phasing plan for the 2,000 on-site affordable dwelling units for the property located at 3220, 3240, 3250, 3350, and 3500 Sports Arena Boulevard.
- B. The site is legally described as: PARCEL 1: THOSE PORTIONS OF PUEBLO LOTS 241, 242, 259, 276, 311, 312, 313, 314, 337 AND 338 OF THE PUEBLO LANDS OF SAN DIEGO, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF MADE BY JAMES PASCOE, A COPY OF WHICH SAID MAP WAS FILED IN THE OFFICE OF COUNTY RECORDER OF SAN DIEGO COUNTY, AND KNOWN AS MISCELLANEOUS MAP NO. 36, TOGETHER WITH LOT "A" AND A PORTION OF LOT "B" OF PUEBLO LOT 339, ACCORDING TO PARTITION MAP THEREOF ON FILE IN THE OFFICE OF THE COUNTY CLERK OF SAID COUNTY, IN AN ACTION ENTITLED "STEELE VS. STEELE", SUPERIOR COURT, CASE NO. 5620, TOGETHER WITH MAP OF CASS AND MCELWEE SUBDIVISION, ACCORDING TO MAP THEREOF NO. 1581, FILED IN THE OFFICE OF COUNTY RECORDER OF SAN DIEGO COUNTY; PARCEL 2: ALL THAT PORTION OF PUEBLO

LOTS 242, 243, 259 AND 311 OF THE PUEBLO LANDS OF SAN DIEGO, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO THE MAP THEREOF MADE BY JAMES PASCOE IN 1870; A COPY OF WHICH MAP WAS FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, NOVEMBER 14, 1921; PARCEL 3: THAT PORTION OF PUEBLO LOT 259 OF THE PUEBLO LANDS OF SAN DIEGO, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF MADE BY JAMES PASCOE, A COPY OF WHICH SAID MAP WAS FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY AND KNOWN AS MISCELLANEOUS MAP NO. 36; PARCEL 4: EXCEPTING THEREFROM A PORTION OF SAID LAND, ALL URANIUM, THORIUM, AND ALL OTHER MATERIALS DETERMINED PURSUANT TO SECTION 5(B) (1) OF THE ATOMIC ENERGY ACT OF 1946 (60 STAT. 761), TO BE PECULIARLY ESSENTIAL TO THE PRODUCTION OF FISSIONABLE MATERIAL, CONTAINED IN WHATEVER CONCENTRATION IN DEPOSITS IN THE LANDS COVERED BY THIS INSTRUMENT, TOGETHER WITH THE RIGHT OF THE UNITED STATES THROUGH ITS AUTHORIZED AGENTS OR REPRESENTATIVES AT ANY TIME TO ENTER UPON THE LAND AND PROSPECT FOR, MINE AND REMOVE THE SAME, AS RESERVED FOR THE USE OF THE UNITED STATES, IN A DEED RECORDED JANUARY 31, 1955 IN BOOK 5514, PAGE 182 OF OFFICIAL RECORDS.

C. On September 25, 2025, the Planning Commission of the City of San Diego considered the variance to the Inclusionary Affordable Housing Regulations, and pursuant to Resolution No. _____-PC, voted to recommend approval of the variance.

D. The matter was set for public hearing before the Council on _____, 2025, testimony having been heard, evidence having been submitted, and the Council having fully considered the matter and being fully advised on this issue.

E. The Office of the City Attorney prepared this Resolution based on the information provided by City staff (including information provided by affected third parties and verified by City staff), with the understanding that this information is complete and accurate.

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

ACTION ITEMS

Be it resolved by the Council of the City of San Diego:

1. The Council adopts the following findings with respect to the variance to the Inclusionary and Affordable Housing Regulations and Inclusionary and Affordable Housing Regulations Variance Findings.

**VARIANCE TO THE INCLUSIONARY AFFORDABLE HOUSING REGULATIONS
SAN DIEGO MUNICIPAL CODE (SDMC) SECTION 142.1311**

The City's Inclusionary Affordable Housing Regulations SDMC sections 142.1304(e)(1) generally require a development project to construct affordable housing units no later than the date the market rate units receive final inspection. A project may obtain a variance for an alternative inclusionary development schedule/phasing plan in accordance with SDMC sections 142.1310 and 142.1311.

While simultaneous development of market rates units and affordable housing units is common for a single building or single-phase project, the Inclusionary Affordable Housing Implementing and Monitoring Procedures ("Affordable Housing Manual") recognizes there are special circumstances unique to a project when it proposes to be constructed in phases and encourages the applicant and San Diego Housing Commission to enter into an affordable housing agreement with an alternative phasing schedule.

This Inclusionary Affordable Housing Regulation Variance is for an alternative phasing plan described below. The flexibility of the alternative phasing plan is necessary for the Developer to provide extraordinary benefits through the Development Agreement. With approval of the Development Agreement, the following Inclusionary Affordable Housing Regulation Variance Findings are concurrently approved and authorized:

1. Special circumstances unique to that development, justify granting the variance, waiver, adjustment, or reduction.

While simultaneous development of market rate units and affordable housing units is common for a single building or single-phase project, the Affordable Housing Manual recognizes there are special circumstances unique to a project when it proposes to be constructed in phases and encourages the applicant and San Diego Housing Commission to enter into an affordable housing agreement with an alternative phasing schedule. The Project is particularly unique because it is a very large 4,254-unit multi-phased project constructing 2,000 units as affordable housing units pursuant to a Development Agreement, Disposition and Development Agreement (“DDA”), and Specific Plan. Most projects processed by the City are not this large, do not have a Development Agreement, and do not propose such a high number or percentage of affordable housing units. Through the Development Agreement, the Project provides approximately \$1.6 billion in unique, desirable extraordinary benefits. The Project is also unique because it will be comprised of individual pads that are developed by market rate or affordable developers, thus preventing the Project from sequencing affordable units linearly as is required for more conventional housing projects. The financial burden of providing the extraordinary benefits along with the large number and percentage of affordable units, justify the variance, because it would not be feasible for the Project to meet the timing requirements of SDMC § 142.1304(e)(1). Therefore, special circumstances justify granting a variance for an alternative phasing plan for this large, multi-phase project.

2. The development would not be feasible without the modification.

The Project would not be feasible without a variance to follow the phasing plan described below for several reasons. First, as described in the Development Agreement, the Project includes approximately \$1.6 billion in extraordinary benefits. The Developer only agrees to provide extraordinary benefits through the Development Agreement in exchange for the vested rights and flexibility described in the Development Agreement, including the phasing plan described below. The Developer would not provide the extraordinary benefits if the City would not grant flexibility in the timing of providing affordable housing. Accordingly, the Project, including its extraordinary benefits, would not be feasible without the variance. Second, without this variance, the development would be required to provide 2,000 affordable housing units at the time of issuance of the first Certificate of Occupancy for any market rate units. This would be financially infeasible and contrary to the Affordable Housing Manual’s policy of allowing large multi-phase projects to build the affordable units in accordance with an alternative phasing plan. Third, the Project’s highly-unusual size, with a total of 4,254 residential including 2,000 affordable units, and multi-phase nature requires more flexibility. Multi-phased developments of this scale cannot provide such high levels of affordable units at the beginning of the Project in an economically-viable fashion. Fourth, as described above, the Project will be comprised of individual pads that are developed by market rate or affordable developers, thus preventing the

Project from sequencing affordable units linearly as is required for more conventional housing projects. Each of the reasons above independently support the finding.

3. A specific and substantial financial hardship would occur, if the variance, waiver, adjustment, or reduction were not granted.

Without this affordable housing variance, the Project would face a specific and substantial financial hardship. The first hardship is that the Project and its benefits would not occur without the variance. As described in the Development Agreement, the project includes approximately \$1.6 billion in extraordinary benefits, which are part of the Project. The Developer only agrees to provide extraordinary benefits through the Development Agreement in exchange for the vested rights and flexibility described in the Development Agreement, including this phasing plan. The Developer would not provide the extraordinary benefits or move forward with the Project if the City will not grant flexibility in the timing of providing affordable housing. Second, providing 2,000 affordable units prior to issuance of Certificate of Occupancy for the first market rate unit would create substantial financial hardship for the developer. The City commissioned an economic analysis from Keyser Marston and Associates in advance of the latest major amendment to the City's Inclusionary Housing Ordinance, which noted a 10% affordable housing set-aside at 65% AMI generated a moderate impact on a San Diego multi-family projects' feasibility, but increasing the affordable housing set-aside to 15% or 20% generated a high impact on a San Diego multi-family project causing a greater than 25% decrease in residual land value, which the economist noted "may result in a financially infeasible project." [Table 2A, Scenario B.1, "Feasibility of Alternative Inclusionary Set-Asides: Economic Feasibility Analysis: San Diego Housing Commission." (Keyser Marston October 25, 2018).] Without the variance, the project would be required to provide 2,000 affordable units within the first phase, which is far above the 10% level that the City's economic expert found to be feasible for multi-family development in the City. Accordingly, a specific and substantial financial hardship would occur if the variance were not granted. Each of the reasons above independently support the finding.

4. No alternative means of compliance are available that would be more effective in attaining the purposes of this Division than the relief requested.

The alternative phasing plan described below is the most effective alternative phasing plan for attaining the purposes of the Inclusionary Affordable Housing Regulations, which includes the creation of diverse and balanced neighborhoods with housing available for households of all income levels.

Phasing Plan. The Project's phasing is specified in Specific Plan Section 8.8. Within the first phase, at least 10% of the Project's total units must be constructed as affordable units. In each subsequent phase, Developer must construct a minimum of 10% of the housing units within that phase as affordable units, unless the Project has constructed in excess of 10% of the units as affordable during prior phases, as specified below.

If in any phase, Developer constructs affordable units in excess of 10% during that phase, the affordable units may be used to satisfy the 10% requirement in subsequent phases. The required affordable units, as defined above, must receive a certificate of occupancy within 54

months of receipt of the certificate of occupancy of the first market-rate units constructed within each phase. If in the event Developer demonstrates that Developer is unable to secure financing for the required affordable units in each phase, as defined above, Developer may proceed with constructing additional market-rate units. Developer may show that one of the following conditions is present to demonstrate that Developer, through its affordable developer partner, is unable to secure financing:

- Identified Gap financing is unavailable, and affordable developer is therefore not able to apply for Gap financing, which must be secured before an affordable project can submit a tax credit financing application, in line with the anticipated phasing schedule.
 - Examples of Gap financing: (1) the Affordable Housing and Sustainable Communities (“AHSC”) financing program is typically offered once per year with applications due in February each year; (2) each year the Department of Housing and Community Development (“HCD”) will publish Notices of Availability (“NOFA”) for various financing sources such as Multifamily Housing Program (“MHP”). The amount and timing of the various funding sources to be made available each year is determined as part of the annual state budget process.
- The affordable developer made a timely application for Gap financing, but the application for Gap financing sources was unsuccessful due to competitive nature of the financing program.
- The affordable developer made a timely application for tax credit financing, but the application for tax credit financing was unsuccessful due to competitive nature of the financing program.

This phasing plan is the most effective means of compliance because it follows the intent of the Inclusionary Affordable Housing Regulations to supply diverse and balanced neighborhoods. If all 2,000 affordable units were in the first phase, then the rest of the Project would lack income diversity and balance. Moreover, this phasing plan is aligned with the City’s existing economic analysis of a feasible percentage of affordable units for a multi-family project. In order for a phasing plan to be effective, it has to be feasible and not create an undue financial hardship. For all these reasons, this variance allows the parties to enter into the Development Agreement, where the phasing plan is assured to be effective in providing the purposes of the Inclusionary Affordable Housing Regulations. A different phasing plan in an agreement without adequate security or that required an infeasible percentage of affordable units within a phase would not be as effective in attaining the purposes of the Inclusionary Affordable Housing Regulations. Each of the reasons above independently support the finding.

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

2. Based on the findings previously adopted by the Council that the variance to the Inclusionary Affordable Housing Regulations is granted to MIDWAY RISING LLC, under the terms and conditions set forth in San Diego Ordinance O-_____, adopting the Site Development Permit PMT-3318619, and contingent upon final passage of San Diego Ordinance O-_____, adopting the Development Agreement.

3. The Council grants the variance to the Inclusionary Affordable Housing Regulations, a copy of which is on file in the office of the City Clerk as Document No. RR-_____.

APPROVED: HEATHER FERBERT, City Attorney

By

Attorney Name
Deputy City Attorney

RESOLUTION NUMBER R-_____

DATE OF FINAL PASSAGE _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO ADOPTING AN AMENDMENT TO THE GENERAL PLAN TO REDESIGNATE PORTIONS OF LAND LOCATED AT 3220, 3240, 3250, AND 3500 SPORTS ARENA BOULEVARD FROM MULTIPLE USE TO COMMUNITY VILLAGE; AND AN AMENDMENT TO THE MIDWAY-PACIFIC HIGHWAY COMMUNITY PLAN TO REDESIGNATE PORTIONS OF LAND FROM COMMUNITY COMMERCIAL-RESIDENTIAL PERMITTED TO COMMUNITY VILLAGE, RELATED TO THE MIDWAY RISING SPECIFIC PLAN PROJECT.

RECITALS

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

A. Midway Rising, LLC, a Delaware Limited Liability Company, requested an amendment to the General Plan to change the designated land uses for the property located at 3220, 3240, 3250, and 3500 Sports Arena Boulevard on Figure LU-1 (General Plan Land Use and Street System) from Multiple Use to Community Village. Midway Rising, LLC also requested an amendment to the Midway-Pacific Highway Community Plan to allow an increased density of dwelling unit from 0 – 44 dwelling units per acre (du/ac) to 0 - 72 du/ac; to refine mobility needs, street design and classifications adjacent to the project site, and multi-modal connections; to update streetscape requirement for the project site; to identify park locations and public spaces; and to identify infrastructure improvements.

B. The site is legally described as: Portions of APN 441-590-04 and more precisely PARCEL 1: THOSE PORTIONS OF PUEBLO LOTS 241, 242, 259, 276, 311, 312, 313, 314, 337 AND 338 OF THE PUEBLO LANDS OF SAN DIEGO, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF

MADE BY JAMES PASCOE, A COPY OF WHICH SAID MAP WAS FILED IN THE OFFICE OF COUNTY RECORDER OF SAN DIEGO COUNTY, AND KNOWN AS MISCELLANEOUS MAP NO. 36, TOGETHER WITH LOT "A" AND A PORTION OF LOT "B" OF PUEBLO LOT 339, ACCORDING TO PARTITION MAP THEREOF ON FILE IN THE OFFICE OF THE COUNTY CLERK OF SAID COUNTY, IN AN ACTION ENTITLED "STEELE VS. STEELE", SUPERIOR COURT, CASE NO. 5620, TOGETHER WITH MAP OF CASS AND MCELWEE SUBDIVISION, ACCORDING TO MAP THEREOF NO. 1581, FILED IN THE OFFICE OF COUNTY RECORDER OF SAN DIEGO COUNTY; PARCEL 2: ALL THAT PORTION OF PUEBLO LOTS 242, 243, 259 AND 311 OF THE PUEBLO LANDS OF SAN DIEGO, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO THE MAP THEREOF MADE BY JAMES PASCOE IN 1870; A COPY OF WHICH MAP WAS FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, NOVEMBER 14, 1921; PARCEL 3: THAT PORTION OF PUEBLO LOT 259 OF THE PUEBLO LANDS OF SAN DIEGO, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF MADE BY JAMES PASCOE, A COPY OF WHICH SAID MAP WAS FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY AND KNOWN AS MISCELLANEOUS MAP NO. 36; PARCEL 4: EXCEPTING THEREFROM A PORTION OF SAID LAND, ALL URANIUM, THORIUM, AND ALL OTHER MATERIALS DETERMINED PURSUANT TO SECTION 5(B) (1) OF THE ATOMIC ENERGY ACT OF 1946 (60 STAT. 761), TO BE PECULIARLY ESSENTIAL TO THE PRODUCTION OF FISSIONABLE MATERIAL, CONTAINED IN WHATEVER CONCENTRATION IN DEPOSITS IN THE LANDS COVERED BY THIS INSTRUMENT,

TOGETHER WITH THE RIGHT OF THE UNITED STATES THROUGH ITS AUTHORIZED AGENTS OR REPRESENTATIVES AT ANY TIME TO ENTER UPON THE LAND AND PROSPECT FOR, MINE AND REMOVE THE SAME, AS RESERVED FOR THE USE OF THE UNITED STATES, IN A DEED RECORDED JANUARY 31, 1955 IN BOOK 5514, PAGE 182 OF OFFICIAL RECORDS.

C. On September 25, 2025, the Planning Commission considered this proposed amendment and found it consistent with the General Plan and the Midway-Pacific Community Plan. The Planning Commission recommends Council adopts these amendments.

D. On _____, the Council held a public hearing for the purpose of considering the amendments to the General Plan and the Midway-Pacific Community Plan. The Council considered the Planning Commission record and recommendation, as well as the maps, exhibits, and written documents contained in the file for these amendments on record in the City of San Diego, and has considered the oral presentation given at the public hearing. The Council found, based on the hearing record, the proposed Midway-Pacific Community Plan amendment is consistent with and implements the City of San Diego's General Plan and that the proposed plan amendment helps achieve long-term community and citywide goals.

E. The Office of the City Attorney prepared this Resolution based on the information provided by City staff (including information provided by affected third parties and verified by City staff), with the understanding that this information is complete and accurate.

F. Under San Diego Charter section 280(a)(2), this Resolution is not subject to veto by the Mayor because this matter requires the Council to act as a quasi-judicial body and where a public hearing was required by law implicating due process rights of individuals affected by the

decision and where the Council was required by law to consider evidence at the hearing and to make legal findings based on the evidence presented.

ACTION ITEMS

Be it resolved by the Council of the City of San Diego:

1. The Council adopts the amendments to the General Plan and the Midway-Pacific Highway Community Plan, a copy of which is on file in the office of the City Clerk as Document No. RR- .

2. Before becoming effective, this Resolution will be submitted to the San Diego County Regional Airport Authority (SDCRAA) acting as the Airport Land Use Commission (ALUC) for a consistency finding with the Airport Land Use Compatibility Plan (ALUCP) for San Diego International Airport and North Island Naval Air Station (collectively Airports). If the ALUC determines this Resolution is consistent with the ALUCP for the Airports, this Resolution shall take effect and be in force on the date of the finding of consistency, or the date that O-_____, adopting the Midway Rising Specific Plan becomes effective, whichever is later.

If the ALUC determines this Resolution is inconsistent or conditionally consistent, subject to proposed modifications, with the ALUCP, this Resolution will be submitted to the Council for reconsideration. If the ALUC determines this Resolution is conditionally consistent with the ALUCP for the Airports, but consistency is subject to the proposed modifications, the Council may amend this Resolution to accept the proposed modifications, and this Resolution as amended will take effect after the finding of consistency, or upon its final passage, or the date the O-_____, adopting the Midway Rising Specific Plan becomes effective, whichever is later.

A proposed decision by the Council to overrule a determination or inconsistency, or to reject the proposed modifications for a finding of conditional consistency, will include the findings required pursuant to California Public Utilities Code section 21670 and require a two-thirds vote. The proposed decision and findings will be forwarded to the ALUC, the California Department of Transportation, Division of Aeronautics, and the airport operators for the Airports; and the Council will hold a second hearing not less than 45 days from the date the proposed decision and findings were provided. At the hearing, any comments submitted by the public agencies will be considered and a final decision to overrule a determination of inconsistency will require a two-thirds vote. If the Council makes a final decision to overrule a determination of inconsistency, this Resolution will take effect upon final passage, or the date that O-_____, adopting the Midway Rising Specific Plan becomes effective, whatever is later.

APPROVED: HEATHER FERBERT, City Attorney

By

Attorney Name
Deputy City Attorney