

**Exhibit A**

**Candidate Findings of Fact**

**Final Supplemental Environmental Impact Report for the Removal of the  
Midway-Pacific Highway Community Planning Area from the Coastal Height  
Limit**

**SCH# 2022030324**

**July 2022**

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**Candidate Findings of Fact**  
**Final Supplemental Environmental Impact Report for the Removal of the**  
**Midway-Pacific Highway Community Planning Area from the Coastal**  
**Height Limit**  
**City of San Diego**  
**SCH# 2022030324**

Section 21081(a) of the California Environmental Quality Act (CEQA) and Section 15091(a) of the CEQA Guidelines require that no public agency shall approve or carry out a project for which an Environmental Impact Report (EIR) has been certified identifying one or more significant effects on the environment that would occur if the project is approved or carried out unless such public agency makes one or more of the following Findings:

- (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant effects on the environment;
- (2) Those changes or alterations are within the responsibility and jurisdiction of another public agency and have been, can, or should be adopted by that other agency; or
- (3) Specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or alternatives identified in the EIR.

CEQA also requires that the Findings made pursuant to Section 15091 of the CEQA Guidelines be supported by substantial evidence in the record (CEQA Guidelines, Section 15091[b]). Under CEQA, substantial evidence means enough relevant information has been provided and reasonable inferences may be derived from this information that a fair argument can be made to support a conclusion even though other conclusions might also be reached. Substantial evidence must include facts, reasonable assumptions predicated upon facts, and expert opinion supported by facts (CEQA Guidelines, Section 15384).

The Supplemental Candidate Findings (Candidate Findings) included herein have been submitted by the City of San Diego (City) Planning Department (Planning Department) to the City Council as Candidate Findings to be made by the decision-making body. It is the exclusive discretion of the decision-maker certifying the Final Supplemental EIR (Final SEIR) for the proposed Removal of the Midway-Pacific Highway Community Planning Area from the Coastal Height Limit (project) to determine the adequacy of the proposed Candidate Findings. It is the role of staff to independently evaluate the proposed Candidate Findings and to make a recommendation to the decision-maker regarding their legal adequacy.

## 1.0 INTRODUCTION

The purpose of this document is to supplement prior 2018 Findings of Fact (Findings) and Statement of Overriding Considerations (SOC) made on September 28, 2018, in accordance with Section 15091 of the CEQA Guidelines (14 CCR 15000 et seq.) by the City Council. The 2018 Findings/SOC were adopted at the time of certification of the 2018 Midway-Pacific Highway Community Plan Update Revised Final Program EIR (2018 PEIR) prepared for the Midway-Pacific Highway Community Plan Update and associated discretionary actions (2018 Community Plan). In the 2018 Findings/SOC, the City Council identified significant effects of the 2018 Community Plan, including those effects that would not be mitigated to below a level of significance. As further required by the CEQA Guidelines, the City Council balanced the benefits of the proposed plan against the identified unavoidable environmental risks (CEQA Guidelines, Section 15093) and adopted the SOC, which states the specific reasons why the benefits of the 2018 Community Plan outweigh the unavoidable adverse environmental effects of the proposed plan and explains that the unavoidable environmental effects are considered acceptable.

The Candidate Findings presented herein are made relative to the specific conclusions of the Final SEIR for the project. As explained in Chapter 3.0, Project Description, of the Final SEIR, the project would remove the existing 30-foot height limit on buildings constructed in the Coastal Height Limit Overlay Zone in the Midway-Pacific Highway Community Plan area. The City, as the CEQA lead agency, determined that the project involved new information of substantial importance and that the project could have one or more significant effects not discussed in the 2018 PEIR. Therefore, the Final SEIR was prepared pursuant to Section 15163(a) of the CEQA Guidelines to provide an updated analysis necessary to make the 2018 PEIR adequate. Likewise, these Findings and SOC are intended to update the 2018 Findings/SOC. The following documents are incorporated by reference: 2018 PEIR, 2018 Findings/SOC, and Final SEIR for the project.

The following Candidate Findings are hereby adopted by the City in its capacity as the CEQA lead agency. The CEQA Guidelines also require that the City Council balance the benefits of the project against the unavoidable environmental effects identified in the Final SEIR in determining whether to approve the project. The City Council has carefully considered the benefits of the project. The Final SEIR identifies significant environmental effects that could remain significant even with the implementation of the identified mitigation measures. Therefore, the City Council hereby also adopts the SOC, which states the specific reasons why the benefits of the project, each of which standing alone, are sufficient to support approval of the project, outweigh the unavoidable adverse environmental effects of the project, and explain that the unavoidable environmental effects are considered acceptable.

## 2.0 DESCRIPTION OF THE PROPOSED PROJECT

The project is a proposed ballot measure that would amend the previous citizens' initiative, Proposition D, currently codified in the San Diego Municipal Code (SDMC), to remove the Midway-Pacific Highway Community Planning area (CP area) from the existing 30-foot height limit on buildings constructed in the Coastal Height Limit Overlay Zone. The existing height limit was approved in 1972 by a citizens' initiative ballot measure that generally limited the height of buildings to 30 feet in the Coastal Height Limit Overlay Zone. Voters adopted the original language and, thus, are asked in this ballot measure to consider an amendment to the law to remove the CP area from the height limitation. If approved by a majority vote of qualified voters, the ballot measure would amend the law in the SDMC to remove the height limit in the area defined as the CP area. The amendment would take effect after the results of the election are certified in a City Council resolution. The amendment would take effect in the Coastal Zone after the California Coastal Commission approves the ordinance. The project would not change the underlying base zone regulations, including the base zone's height limit or density.

The project would not approve any specific development. Any proposed future development must comply with all governing laws. Building height would still be regulated by zoning laws in the SDMC.

## 3.0 RECORD OF PROCEEDINGS

For the purposes of CEQA and these Candidate Findings, the Record of Proceedings for the project consists of the following documents and other evidence at a minimum:

- The Notice of Preparation and all other public notices issued by the City in conjunction with the project
- 2018 Midway-Pacific Highway Community Plan Update Revised Final Program EIR
- The Draft SEIR
- The Final SEIR
- All written comments submitted by agencies or members of the public during the public review comment period on the Draft SEIR
- All responses to written comments submitted by agencies or members of the public during the public review comment period on the Draft SEIR and included in the Final SEIR
- The Mitigation Monitoring and Reporting Program (MMRP)
- The technical reports included or incorporated by reference in the Final SEIR

- Matters of common knowledge to the City Council, including but not limited to federal, state, and local laws and regulations
- Any documents expressly cited in these Candidate Findings and SOC
- The Coastal Height Limit Overlay Zone – Regulatory Barriers to Maximizing Density memo (dated July 15, 2022)
- Any other materials required to be in the Record of Proceedings by Section 21167.6(e) of CEQA

#### **4.0 SUMMARY OF IMPACTS**

The Final SEIR evaluated only those issue areas where changes were necessary to make the 2018 PEIR adequate. Therefore, the Final SEIR included an analysis of impacts on visual effects and neighborhood character. All other issue areas remain as previously analyzed in the 2018 PEIR. The Final SEIR concludes that implementation of the project would have new or substantially increased significant impacts related to visual effects and neighborhood character, some of which would not be mitigated to below a level of significance. No new impacts have been identified to other issue areas addressed by the 2018 PEIR.

#### **5.0 FINDINGS OF FACT**

CEQA and the CEQA Guidelines require that the environmental impacts of a project be examined before a project is approved. Specifically, regarding Findings, CEQA Guidelines, Section 15091, provides:

- (a) No public agency shall approve or carry out a project for which an EIR has been certified that identifies one or more significant environmental effects of the project unless the public agency makes one or more written findings for each of those significant effects, accompanied by a brief explanation of the rationale for each Finding. The possible findings are as follows:
  1. Changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen the significant environmental effect as identified in the Final SEIR.
  2. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency.
  3. Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the Final SEIR.

- (b) The findings required by subdivision (a) shall be supported by substantial evidence in the record.
- (c) The findings in subdivision (a)(2) shall not be made if the agency making the findings has concurrent jurisdiction with another agency to deal with identified feasible mitigation measures or alternatives. The findings in subdivision (a)(3) shall describe the specific reasons for rejecting identified mitigation measures and project alternatives.
- (d) When making the findings required in subdivision (a)(1), the agency shall also adopt a program for reporting on or monitoring the changes which it has either required in the project or made a condition of approval to avoid or substantially lessen significant environmental effects. These measures must be fully enforceable through permit conditions, agreements, or other measures.
- (e) The agency shall specify the location and custodian of the documents or other materials that constitute the record of the proceedings upon which its decision is based.
- (f) A statement made pursuant to Section 15093 does not substitute for the findings required by this section.

The “changes or alterations” referred to in CEQA Guidelines, Section 15091(a)(1), that are required in, or incorporated into, the project that mitigate or avoid the significant environmental effects of the project, may include a variety of measures or actions as set forth in CEQA Guidelines, Section 15370, including the following:

- (a) Avoiding the impact altogether by not taking a certain action or parts of an action
- (b) Minimizing impacts by limiting the degree or magnitude of the action and its implementation
- (c) Rectifying the impact by repairing, rehabilitating, or restoring the impacted environment
- (d) Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action
- (e) Compensating for the impact by replacing or providing substitute resources or environments, including through permanent protection of such resources in the form of conservation easements.

Should significant and unavoidable impacts remain after changes or alterations are applied to a project, a Statement of Overriding Considerations must be prepared. The statement provides the lead agency’s views on whether the benefits of a project outweigh its unavoidable adverse

environmental impacts. Regarding a Statement of Overriding Considerations, CEQA Guidelines, Section 15093 provides:

- a) CEQA requires the decision-making agency to balance, as applicable, the economic, legal, social, technological, or other benefits, including region-wide or statewide environmental benefits, of a proposed project against its unavoidable environmental risks when determining whether to approve the project. If the specific economic, legal, social, technological, other benefits, including region-wide or statewide environmental benefits, of a proposed project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered “acceptable.”
- b) When the lead agency approves a project which will result in the occurrence of significant effects which are identified in the final EIR but are not avoided or substantially lessened, the agency shall state in writing the specific reasons to support its action based on the final EIR and/or other information in the record. The statement of overriding considerations shall be supported by substantial evidence in the record.
- c) If an agency makes a statement of overriding considerations, the statement should be included in the record of the project approval and should be mentioned in the notice of determination. This statement does not substitute for, and shall be in addition to, findings required pursuant to Section 15091.

#### **5.1 FINDINGS REGARDING SIGNIFICANT IMPACTS MITIGATED TO BELOW A LEVEL OF SIGNIFICANCE (CEQA GUIDELINES, SECTION 15091[A][1])**

As discussed in Section 4.0, the Final SEIR evaluated only those issue areas where changes were necessary to make the 2018 PEIR adequate. Therefore, the Final SEIR addressed only visual effects and neighborhood character because this was the only issue area not adequately addressed by the 2018 PEIR for the project. No significant effects mitigated to below a level of significance were identified in the Final SEIR.

#### **5.2 FINDINGS REGARDING MITIGATION THAT IS WITHIN THE RESPONSIBILITY AND JURISDICTION OF ANOTHER PUBLIC AGENCY (CEQA GUIDELINES, SECTION 15091[A][2])**

No changes or alterations are within the responsibility and jurisdiction of another public agency or the agency making the Finding.



### **5.3 FINDINGS REGARDING SIGNIFICANT AND UNAVOIDABLE IMPACTS (CEQA GUIDELINES, SECTION 15091[A][3])**

#### **Visual Effects and Neighborhood Character**

##### **Issue 1: Scenic Vistas or Views**

##### **Significant Effect**

Section 5.1.3.1, Issue 1: Scenic Vistas or Views, of the Final SEIR determined that the public view corridors looking north and west to Mission Bay and west and south to San Diego Bay within the Uptown Community Plan area would have the potential to be obstructed by future development in the CP area consistent with the project, resulting in a significant impact. Future development in the CP area would change views due to building heights of 100 feet or more west of Interstate (I-) 5. Future development consistent with the project would also result in increased building heights that could obstruct scenic vistas or views from public viewing locations outside the CP area. Therefore, impacts on scenic vistas or views would be potentially significant.

##### **Finding**

Pursuant to Section 21081(a)(3) of CEQA and Section 15091(a)(3) of the CEQA Guidelines, the City Council finds that there are no feasible mitigation measures, including a less environmentally damaging alternative, that would mitigate the following impacts to below a level of significance and that specific economic, social, technological, or other considerations make infeasible the mitigation measures and alternatives identified in the Final SEIR. The impacts are considered significant and unavoidable.

##### **Facts in Support of Findings**

Based on the project-specific Visual Impact Analysis (Appendix D), the Final SEIR determined that implementation of the project could obstruct scenic views or vistas from public viewing locations in the Uptown Community Plan area due to building height increases in the CP area. Future development consistent with the project would also result in increased building heights that could obstruct scenic vistas and views from public viewing locations outside the CP area. Project impacts on scenic views and vistas would be potentially significant. Representative key views were evaluated in the project-specific Visual Impact Analysis (Appendix D) to make this determination. Specifically, Key View 9 (see Figure 5.1-10, Key View 9 - View West from Andrews Street, of the Final SEIR) represents the view looking west from Andrews Street immediately south of West Washington Street in the Uptown Community Plan area. Due to proposed building height increases in the CP area, visual changes would occur in the midground views, which currently encompass existing development of low-rise structures, large parking surfaces, and the San Diego International Airport (SDIA).

The City considered mitigation measures to limit building heights in scenic view corridors to reduce the impact; however, the expansive scenic views across the CP area would require height restrictions in most of the higher density zones in the CP area. Base zones in the CP area that would allow building heights greater than 30 feet include Residential-Multiple Unit (RM)-2-5, RM-3-8, RM-3-9, RM-4-10, Community Commercial (CC)-1-3, CC-3-6, CC-3-7, CC-3-8, CC-3-9, CC-4-5, Commercial-Office (CO)-3-1, Commercial-Neighborhood (CN)-1-6, Industrial-Park (IP)-2-1, and Industrial-Small Scale (IS)-1-1. Implementation of selective height restrictions would not be feasible because it would limit the City's ability to provide a diverse range of housing types to accommodate the density approved in the 2018 Community Plan, as discussed in the Coastal Height Limit Overlay Zone – Regulatory Barriers to Maximizing Density memo (CHLOZ Memo; July 15, 2022) and other documents and materials included in the administrative record.

In addition, the City does not have land use authority over federal property and on lands regulated by the Port Master Plan and/or the SDIA Airport Land Use Compatibility Plan, and building heights for developments in those areas would be governed by their respective regulating documents, such as the Port Master Plan, SDIA Airport Land Use Compatibility Plan, and Navy Old Town Campus (OTC) Revitalization Project Environmental Impact Statement. Finally, the City's Complete Communities Program encourages development in Transit Priority Areas (TPAs), which applies to the majority of the CP area. Restricting height may impede the ability to develop a wide range of housing types and would be inconsistent with the City's objective of providing housing for a variety of people, as discussed in the CHLOZ Memo and other documents and materials included in the administrative record.

### **Rationale and Conclusions**

Future development consistent with the project would result in increased building heights that could obstruct scenic vistas or views from public viewing locations outside the CP area. Implementation of selective height restrictions would not be feasible because it would limit the City's ability to provide a diverse range of housing types to accommodate the density approved in the 2018 Community Plan, as discussed in the CHLOZ Memo and other documents and materials included in the administrative record. In addition, some areas are governed by other regulating documents, where the City does not have land use authority. Finally, the City's Complete Communities Program encourages development in TPAs, which applies to the majority of the CP area. Restricting height may impede the ability to develop a wide range of housing types and would be inconsistent with the City's objective of providing housing for a variety of people, as discussed in the CHLOZ Memo and other documents and materials included in the administrative record. Therefore, no mitigation is feasible and impacts would remain significant and unavoidable.

## **Issue 2: Neighborhood Character**

### **Significant Effect**

Section 5.1.3.2, Issue 2: Neighborhood Character, of the Final SEIR determined that implementation of the project could result in future building heights up to and greater than 100 feet that could result in a substantial adverse alteration to the character of the CP area. Under the buildout scenario, several key views would experience a level of change that would result in a potentially significant impact.

### **Finding**

Pursuant to Section 21081(a)(3) of CEQA and Section 15091(a)(3) of the CEQA Guidelines, the City Council finds that there are no feasible mitigation measures, including a less environmentally damaging alternative, that would mitigate the following impacts to below a level of significance and that specific economic, social, technological, or other considerations make infeasible the mitigation measures and alternatives identified in the SEIR. The impacts are considered significant and unavoidable.

### **Facts in Support of Findings**

Ten key views were chosen to evaluate the existing view and the hypothetical view resulting from buildout of the CP area at maximum building height limits as regulated by the zoning laws in the SDMC. Visual impacts resulting from development of the CP area were evaluated by viewing the existing visual character of the landscape from each key view and assessing the degree to which construction of buildings at maximum height limits would change those views and result in a substantial adverse alteration (e.g., bulk, scale, materials, or style) to the existing or planned (adopted) character of the area. If the level of change was identified as moderate to high, a significant impact was identified. Significant impacts were identified for Key Views 1, 2, 3, 5, and 9, as listed below.

#### ***Key View 1 – View South from Sea World Drive Bridge (refer to Final SEIR Figure 5.1-2)***

Visual changes in Key View 1 would generally be in the background views. Foreground and midground views would not change. Taller buildings would be visible along the horizon, primarily toward the southeast, with development of the CP area at maximum building height. The most visible buildings would be the Navy OTC buildings (shown in gray) in the center-left background view and buildings in the Sports Arena area (shown in beige) in the center-right background view as shown on Figure 5.1-2, Key View 1 – View South from Sea World Drive Bridge. The coastal height limit does not apply to federal property, and the future Navy OTC development is not part of the project because the City lacks land use jurisdiction over federal government property.

Key View 1 represents a typical view from a southbound I-5 traveler. Viewers would notice a change in the view; however, the level of impact on view quality would depend on distance from their vantage point and any obstructions from traffic. There would be an increase in sense of direction and destination given the concentrated presence of taller buildings in the direction travelers would be headed. Overall viewer response would be low to moderate depending on the vantage point.

Under the buildout scenario, Key View 1 would result in a low to moderate level of change as a result of the project, which would result in a potentially significant impact.

***Key View 2 – View South from Fiesta Island (refer to Final SEIR Figure 5.1-3)***

Visual changes at Key View 2 would occur in the background view with taller buildings primarily toward the southeastern horizon upon development of the CP area at maximum building height. The most noticeable potential changes would be seen in the left and center background portions of the view. Building heights above 40 feet can be seen from this key view, which changes the view quality of the horizon. The taller buildings associated with the Navy OTC development (shown in gray) are not part of the project because the coastal height limit does not apply to federal property, and the City lacks land use jurisdiction over federal government property. The development would not obstruct views beyond the CP area due to the distance of the vantage point. Figure 5.1-3, Key View 2 - View South from Fiesta Island, depicts the existing conditions and buildout scenario at Key View 2.

Key View 2 represents a typical view from travelers (motorists, bicyclists, and pedestrians) on Fiesta Island Road. Despite the change in horizon, the development would neither obstruct views beyond the CP area due to the distance of the vantage point nor change the views in the immediate vicinity, which attracts recreational users to the area. Overall viewer response would be moderate.

Under the buildout scenario, Key View 2 would result in a moderate level of change as result of the project, which would result in a potentially significant impact.

***Key View 3 – View Southeast from Old Sea World Drive (refer to Final SEIR Figure 5.1-4)***

Visual changes at Key View 3 would be in the midground views, with significant potential changes of the horizon toward the CP area. The building heights would obstruct views toward Downtown San Diego and of higher-elevation neighborhoods in the Peninsula and Uptown Community Plan areas. The tallest buildings in the Navy OTC development would be visible, but the massing of buildings in the Sports Arena area would have the greatest potential impact on views from this vantage point. Figure 5.1-4, Key View 3 - View Southeast from Old Sea World Drive, depicts the existing conditions and buildout scenario at Key View 3.

Key View 3 represents a typical view from recreational users and motorists, who are considered temporary visitors to the area, on Old Sea World Drive, motorists on Sea World Drive, and recreational users at South Shores Park. These viewers will notice a significant change in the view due to the proximity and heights of development in the CP area. Overall viewer response would be high.

Under the buildout scenario, Key View 3 would result in a high level of change, which would result in a potentially significant impact.

***Key View 5 – View Southeast from the San Diego River Trail (refer to Final SEIR Figure 5.1-6)***

The view from Key View 5 would change significantly with development in the CP area at maximum building height limits. Pechanga Arena would no longer be visible due to the new intervening development that could be constructed adjacent to the I-8, obstructing it from the Key View 5 location. The skyline would primarily comprise new development of 65- to 100-foot-tall buildings. Figure 5.1-6, Key View 5 - View Southeast from San Diego River Trail, depicts the existing conditions and buildout scenario at Key View 5.

Key View 5 represents a typical view from recreational users on the San Diego River Trail. These viewers would notice a significant change in the view due to the proximity of the development in the CP area and the additional height of the buildings. Overall viewer response would be high.

Under the buildout scenario, Key View 5 would result in a high level of change as result of the project, which would result in a potentially significant impact.

***Key View 9 – View West from Andrews Street (refer to Final SEIR Figure 5.1-10)***

Visual changes at Key View 9 would be visible in the midground views, which currently encompass existing development of low-rise structures, large parking surfaces, and the SDIA. Development in the CP area would change northwestern views due to building heights of 100 feet or more west of I-5. The Navy OTC development up to 350 feet in height would be visible in the right midground view. However, the coastal height limit does not apply to federal property, and the future Navy OTC development is not part of the project because the City lacks land use jurisdiction over federal government property. The majority of the background view of the SDIA and the Peninsula Community Plan area would be unchanged. Figure 5.1-10, Key View 9 - View West from Andrews Street, depicts the existing conditions and buildout scenario at Key View 9.

Key View 9 represents a typical view from a resident in the western Uptown Community Plan area. These viewers would notice a change in the built landscape; however, the change may not

be perceived as detrimental compared to the existing views. Overall viewer response would be low to moderate.

Under the buildout scenario, Key View 9 would result in a low to moderate level of change as a result of the project, which would result in a potentially significant impact.

The removal of the height limit would result in a major change in bulk and scale of buildings in the CP area, which would result in a high level of change for Key Views 1, 2, 3, 5, and 9. Therefore, the project would have the potential to result in a substantial adverse alteration to the neighborhood character of the CP area and its surroundings.

### **Rationale and Conclusions**

Future discretionary development would be required to incorporate design features that enhance neighborhood character and minimize adverse impacts associated with increased bulk, scale, and height, including building materials, style, and architectural features, as identified in the 2018 Community Plan's Urban Design Element and Land Use, Villages, and Districts Element policies, zoning, and City's Land Development Code (LDC) regulations. Ministerial projects would be subject to the development standards in the City's LDC. However, implementation of the project could result in development at heights that would substantially alter the existing neighborhood character and ministerial projects would not be required to incorporate the design features of the Community Plan's Urban Design Element and the policies of the Land Use, Villages, and Districts Element. Therefore, the project would have the potential to result in a substantial adverse alteration to the character of the CP area and its surroundings. Impacts would be significant.

The City considered mitigation measures to limit building heights in areas where neighborhood character would be impacted, including Key Views 1, 2, 3, 5, and 9. However, these views do not represent all possible views of the CP area; they are representative views selected to demonstrate the change in views from surrounding areas adjacent to the CP area. Restricting building height limits in these areas would not necessarily reduce impacts from all possible view locations or improve the impact on neighborhood character in all areas of the CP area. Implementation of selective height restrictions would not be feasible because it would limit the City's ability to provide a diverse range of housing types to accommodate the density approved in the 2018 Community Plan, as discussed in the CHLOZ Memo and other documents and materials included in the administrative record. Furthermore, it would be inconsistent with the City's objective of providing housing for a variety of people.

In addition, the City does not have land use authority over federal property and on lands regulated by the Port Master Plan and/or the SDIA Airport Land Use Compatibility Plan, and building heights for developments in those areas would be governed by their respective regulating documents, such as the Port Master Plan, SDIA Airport Land Use Compatibility

Plan, and Navy OTC Revitalization Project Environmental Impact Statement. Finally, the City's Complete Communities Program encourages development in TPAs, which applies to the majority of the CP area. Therefore, impacts would remain significant and unavoidable.

**Findings Regarding Alternatives (CEQA Section 21081[a][3] and CEQA Guidelines, Section 15091[a][3])**

Because the project would cause one or more unavoidable significant environmental effects, the City must make findings with respect to the alternatives to the project considered in the Final SEIR, evaluating whether these alternatives could feasibly avoid or substantially lessen the project's unavoidable significant environmental effects while achieving most of its objectives (listed in Section 3.3 of the Final SEIR).

The City, having reviewed and considered the information contained in the Final SEIR and the Record of Proceedings, and pursuant to California Public Resource Code, Section 21081(a)(3), and CEQA Guidelines, Section 15091(a)(3), makes the following findings with respect to the alternatives identified in the Final SEIR.

Specific economic, legal, social, technological, or other considerations, including considerations of the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or alternatives identified in the Final SEIR as described below.

“Feasible” is defined in Section 15364 of the CEQA Guidelines to mean “capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social, and technological factors.” The CEQA statute (Section 21081) and CEQA Guidelines (Section 15019[a][3]) also provide that “other” considerations may form the basis for a finding of infeasibility. Case law makes clear that a mitigation measure or alternative can be deemed infeasible on the basis of its failure to meet project objectives or on related public policy grounds.

**Background**

Three alternatives to the project were evaluated in Chapter 8.0, Alternatives, of the Final SEIR:

- A. No Project Alternative (Maintain the Coastal Height Limit)
- B. Reduced Height Alternative
- C. Reduced Density Alternative

These three project alternatives are summarized below, along with the findings relevant to each alternative.

### **No Project Alternative (Maintain the Coastal Height Limit)**

Under the No Project Alternative (Maintain the Coastal Height Limit), the existing 30-foot height limit on buildings constructed in the Coastal Height Limit Overlay Zone would continue to apply to future development in the CP area that is subject to the City’s land use authority. The 2018 Community Plan would continue to guide development in the CP area. Refer to Final SEIR Figure 8-1, No Project Alternative (Maintain the Coastal Height Limit).

#### **Impacts**

Impacts on scenic vistas or views under the No Project Alternative (Maintain the Coastal Height Limit) would be reduced compared to the impacts under the project as the degree of change would be less compared to the project due to the height restrictions. Existing view corridors and key views would not substantially change from the existing 30-foot building heights. In addition, significant impacts associated with a substantial adverse alteration to the neighborhood character of the area would be reduced compared to impacts under the project because the degree of change in bulk and scale of future buildings in the CP area would be reduced due to the 30-foot building height restriction.

In addition, the No Project Alternative (Maintain the Coastal Height Limit) would result in less than significant impacts related to distinctive or landmark trees, landform alteration, and light and glare because future development projects in the CP area would be required to comply with the 2018 Community Plan Conservation Element and Urban Design Element policies, the outdoor lighting regulations outlined in Section 142.0740 of the City’s LDC, the glare regulations outlined in Section 142.0730 of the City’s LDC, and the City’s Multi-Habitat Planning Area (MHPA) Land Use Adjacency Guidelines.

#### **Finding and Supporting Facts**

The No Project Alternative (Maintain the Coastal Height Limit) would meet all project objectives identified in the Final SEIR except Project Objective 10 to encourage housing for families (housing with three or more bedrooms) by removing development restrictions, which would allow housing developments to maximize zoned density while facilitating a diverse housing inventory with a range of housing types and prices. The No Project Alternative (Maintain the Coastal Height Limit) would limit the range of dwelling unit sizes that could be constructed in the CP area, which would reduce the available residential opportunities, as discussed in the CHLOZ Memo and other documents and materials included in the administrative record. In addition, maintaining the height restrictions under this alternative could affect the amount and type of housing available to families, as discussed in the CHLOZ Memo and other documents and materials included in the administrative record. Thus, the No



Project Alternative (Maintain the Coastal Height Limit) would be inconsistent with the City’s objective of providing housing for a variety of people.

**Rationale and Conclusion**

The No Project Alternative (Maintain the Coastal Height Limit) is rejected as infeasible because it fails to meet the 10 project objectives to the same extent as the project.

**Alternative 1: Reduced Height Alternative**

Under this alternative, building heights would be limited to 50 feet in areas along the northeastern boundary south of I-8, including the Camino Del Rio District and the northern portions of the Kurtz District, and along the entire eastern CP area boundary adjacent to I-5, including the Hancock District and Kettner District. The following zones would be height restricted to 50 feet by the Reduced Height Alternative: Residential Multi-Family (RM) 4-10; Commercial-Community (CC)-2-5, CC-3-8, and CC-3-9; and Industrial-Small Scale (IS) 1-1. These areas have the potential to cause the most impacts on visual effects and neighborhood character because they would have a maximum building height of 100 feet or no maximum height under the project. Table 1, Comparison of Maximum Building Heights under the Reduced Height Alternative, identifies the heights allowed in each zone under the project and the Reduced Height Alternative.

**Table 1. Comparison of Maximum Building Heights under the Reduced Height Alternative**

Village, District, or Area	Zoning Designation <sup>1</sup>	Project Maximum Height Limit	Reduced Height Alternative Maximum Height Limit
Sports Arena Community Village	CC-3-6	65 feet	65 feet
	RM-3-8	50 feet	50 feet
Kemper Neighborhood Village	RM-2-5	40 feet	40 feet
	RM-3-8	50 feet	50 feet
	CC-1-3	45 feet	45 feet
Dutch Flats Urban Village <sup>2</sup>	CC-3-6	65 feet	65 feet
	CO-3-1	50 feet	50 feet
	RM-3-8	50 feet	50 feet
Camino Del Rio District	CC-1-3	45 feet	45 feet
	CO-3-1	50 feet	50 feet
	CC-3-8	100 feet	50 feet
Channel District	RM-3-8	50 feet	50 feet
	CC-3-6	65 feet	65 feet
Rosecrans District	CC-1-3	45 feet	45 feet

**Table 1. Comparison of Maximum Building Heights under the Reduced Height Alternative**

Village, District, or Area	Zoning Designation <sup>1</sup>	Project Maximum Height Limit	Reduced Height Alternative Maximum Height Limit
	CC-3-6	65 feet	65 feet
	RM-3-8	50 feet	50 feet
Cauby District	CC-1-3	45 feet	45 feet
	CC-3-7	65 feet	65 feet
	RM-3-8	50 feet	50 feet
Lytton District	CN-1-6	65 feet	65 feet
	RM-1-1	30 feet	30 feet
	RM-3-8	50 feet	50 feet
Kurtz District <sup>2</sup>	CO-3-1	50 feet	50 feet
	CC-2-5	100 feet	50 feet
	CC-3-8	100 feet	50 feet
	IP-2-1	No limit	No limit
Hancock Transit Corridor	CC-2-5	100 feet	50 feet
	CC-3-8	100 feet	50 feet
	RM-3-9	60 feet	60 feet
	CC-3-9	No limit	50 feet
	RM-4-10	No limit	50 feet
Kettner District	CC-3-8	100 feet	50 feet
	IS-1-1	No limit <sup>3</sup>	50 feet
MCRD <sup>4</sup>	None	None	None

**Sources:** City of San Diego 2018, 2022.

**Notes:** MCRD = Marine Corps Recruit Depot

<sup>1</sup> CC = Commercial – Community; CN = Commercial-Neighborhood; CO = Commercial-Office; IP = Industrial – Park; IS = Industrial – Small Scale; RM = Residential-Multifamily

<sup>2</sup> Includes Naval Base Point Loma, which does not have a zoned height limit. The highest intensity scenario (Alternative 4) identified under the Navy OTC Revitalization Project Environmental Impact Statement proposes buildings of up to 350 feet in height. The Coastal Height Limit does not apply to federal, state, or San Diego Unified Port District (Port) property, and the City has no land use authority over federal property (i.e., Naval Base Point Loma).

<sup>3</sup> Includes Port-owned lands regulated by the Port Master Plan, which requires that structures shall not exceed 130 feet in height. The Coastal Height Limit does not apply to federal, state, or Port property, and the City has no land use authority over Port property.

<sup>4</sup> The MCRD does not have a zoning designation; therefore, there is no height limit governing this area. The Coastal Height Limit does not apply to federal, state, or Port property, and the City has no land use authority over the federal property (i.e., MCRD).

Under this alternative, a Community Plan Implementation Overlay Zone would be established as a mechanism to implement reduced height limits in these areas. Per Chapter 13, Article 2, Division 14, Section 132.1401, of the SDMC, the purpose of a Community Plan Implementation Overlay Zone is to provide supplemental development regulations that are tailored to specific sites in Community Plan areas of the City. The intent of these regulations is to ensure that development proposals are reviewed for consistency with the use and

development criteria that have been adopted for specific sites as part of the Community Plan Update process. In addition, the City does not have land use authority on lands regulated by the Port Master Plan and/or the SDIA's Airport Land Use Compatibility Plan.

Similar to the project, under the Reduced Height Alternative, building heights in the remainder of the CP area would continue to be regulated by the zoning designation maximum height allowed in the SDMC.

### **Impacts**

Impacts on scenic vistas under the Reduced Height Alternative would be reduced compared to the project. Specifically, the level of change to public view corridors outside the CP area would be reduced in the Uptown Community Plan area, represented by Key View 9. This is identified as a significant impact for the project. Under the Reduced Height Alternative, future development west of I-5 in the Pacific Highway corridor would be lower in height than depicted in the buildout scenario. The coastal height limit does not apply to federal property, and the City does not have land use jurisdiction over federal property (i.e., Naval Base Point Loma). Therefore, the project would not impact the future Navy OTC Revitalization Project, and the taller buildings associated with the development in the right midground view would remain unchanged. The project's direct impact from Key View 9 would be reduced under this alternative but not to below a level of significance because viewers would still notice a change in the built landscape.

In addition, impacts associated with a substantial adverse alteration to the neighborhood character of the area would be reduced compared to impacts associated with the project. Specifically, the level of change to the existing setting would be reduced in Key Views 1, 2, 3, 5, and 9 due to the elimination of the potential for future development of 65- to 100-foot-tall buildings along the northeastern boundary south of I-8, including the Camino Del Rio District and the northern portions of the Kurtz District, and along the entire eastern CP area boundary adjacent to I-5, including the Hancock District and Kettner District. In addition, because the Reduced Height Alternative would restrict building heights to 50 feet in these areas, viewer sensitivity would also be reduced because future development would not be as noticeable in Key Views 1, 2, 3, 5, and 9.

Similar to the project, the Reduced Height Alternative would result in less than significant impacts related to distinctive or landmark trees, landform alteration, and light and glare because future development projects in the CP area would be required to comply with the 2018 Community Plan Conservation Element and Urban Design Element policies, the outdoor lighting regulations outlined in Section 142.0740 of the City's LDC, the glare regulations outlined in Section 142.0730 of the City's LDC, and the City's MHPA Land Use Adjacency Guidelines.

The Reduced Height Alternative would reduce some but not all of the project's significant impacts associated with a substantial adverse alteration to the character of the area. In addition, the 10 key views of the CP area are representative views selected to demonstrate the change in views from surrounding areas adjacent to the CP area. Restricting building height limits in these areas would not necessarily reduce impacts from all possible view locations or improve the impact on neighborhood character in all areas of the CP. Therefore, impacts would be reduced compared to the project but not to below a level of significance.

### **Finding and Supporting Facts**

The Reduced Height Alternative would not fully implement Project Objective 6 to provide housing and commercial uses in proximity to transit or Project Objective 10 to encourage housing for families (housing with three or more bedrooms) by removing development restrictions, which would allow housing developments to maximize zoned density while facilitating a diverse housing inventory with a range of housing types and prices. The height restrictions in the northern, eastern, and southern CP area boundaries would limit the range of dwelling unit sizes that could be constructed in the CP area, which could affect the type of housing available to families, as discussed in the CHLOZ Memo and other documents and materials included in the administrative record. This would be inconsistent with the City's objective of providing housing for a variety of people.

### **Rationale and Conclusion**

The Reduced Height Alternative is rejected because it would not fully implement Project Objective 6 to provide housing and commercial uses in proximity to transit or Project Objective 10 to encourage housing for families (housing with three or more bedrooms) by removing development restrictions, which would allow housing developments to maximize zoned density while facilitating a diverse housing inventory with a range of housing types and prices. The height restrictions in the northern, eastern, and southern CP area boundaries would limit the range of dwelling unit sizes that could be constructed in the CP area, which could affect the type of housing available to families, as discussed in the CHLOZ Memo and other documents and materials included in the administrative record. This would be inconsistent with the City's objective of providing housing for a variety of people.

While visual effects and neighborhood character impacts would be reduced under the Reduced Height Alternative compared to the project, the Reduced Height Alternative is rejected as infeasible because this alternative would not reduce any of the significant and unavoidable effects of the project to a less than significant level. Additionally, the Reduced Height Alternative fails to meet Project Objectives 6 and 10 to the same extent as the project.

### Alternative 2: Reduced Density Alternative

Under this alternative, density in certain areas in the CP area would be reduced to accommodate lower building heights through rezoning. The lower density areas for the Reduced Density Alternative would be similar to the reduced height areas for the Reduced Height Alternative because these areas have the potential to cause the most impacts on visual resources and neighborhood character. Lower density would occur along the northeastern boundary south of I-8, including the Camino Del Rio District and the northern portions of the Kurtz District, and along the entire eastern CP area boundary adjacent to I-5, including the Hancock District and Kettner District. In these areas, the CC-3-8 and CC-3-9 would be rezoned to CC-3-7 and Residential Multi-Family (RM) 4-10 would be rezoned to RM-3-9. Building heights would be regulated by the zoning designation maximum height allowed in the SDMC. The CC-3-7 zone allows for a maximum building height of 65 feet, and Residential Multi-Family (RM) 3-9 allows for a maximum building height of 60 feet. Table 2, Comparison of Maximum Building Heights under the Reduced Density Alternative, identifies the zoning designation and heights allowed in each zone under the project and the Reduced Density Alternative.

**Table 2. Comparison of Maximum Building Heights under the Reduced Density Alternative**

Village, District, or Area	Project Zoning Designation <sup>1</sup>	Project Maximum Height Limit	Reduce Density Alternative Zoning Designation	Reduced Density Alternative Maximum Height Limit
Sports Arena Community Village	CC-3-6	65 feet	CC-3-6	65 feet
	RM-3-8	50 feet	RM-3-8	50 feet
Kemper Neighborhood Village	RM-2-5	40 feet	RM-2-5	40 feet
	RM-3-8	50 feet	RM-3-8	50 feet
	CC-1-3	45 feet	CC-1-3	45 feet
	CC-3-6	65 feet	CC-3-6	65 feet
Dutch Flats Urban Village <sup>2</sup>	CO 3-1	50 feet	CO 3-1	50 feet
	CC-3-6	65 feet	CC-3-6	65 feet
	RM-3-8	50 feet	RM-3-8	50 feet
Camino Del Rio District	CC-1-3	45 feet	CC-1-3	45 feet
	CO-3-1	50 feet	CO-3-1	50 feet
	CC-3-8	100 feet	CC-3-7	65 feet
Channel District	RM-3-8	50 feet	RM-3-8	50 feet
	CC-3-6	65 feet	CC-3-6	65 feet
Rosecrans District	CC-1-3	45 feet	CC-1-3	45 feet
	CC-3-6	65 feet	CC-3-6	65 feet
	RM-3-8	50 feet	RM-3-8	50 feet
Cauby District	CC-1-3	45 feet	CC-1-3	45 feet

**Table 2. Comparison of Maximum Building Heights under the  
Reduced Density Alternative**

Village, District, or Area	Project Zoning Designation <sup>1</sup>	Project Maximum Height Limit	Reduce Density Alternative Zoning Designation	Reduced Density Alternative Maximum Height Limit
	CC-3-7	65 feet	CC-3-7	65 feet
	RM-3-8	50 feet	RM-3-8	50 feet
Lytton District	CN-1-6	65 feet	CN-1-6	65 feet
	RM-1-1	30 feet	RM-1-1	30 feet
	RM-3-8	50 feet	RM-3-8	50 feet
Kurtz District <sup>2</sup>	CO-3-1	50 feet	CO-3-1	50 feet
	CC-2-5	100 feet	CC-2-5	100 feet
	CC-3-8	100 feet	CC-3-7	65 feet
	IP-2-1	No limit	IP-2-1	No limit
Hancock Transit Corridor	CC-2-5	100 feet	CC-2-5	100 feet
	CC-3-8	100 feet	CC-3-7	65 feet
	RM-3-9	60 feet	RM-3-9	60 feet
	CC-3-9	No limit	CC-3-7	65 feet
	RM-4-10	No limit	RM-3-9	60 feet
Kettner District	CC-3-8	100 feet	CC-3-7	65 feet
	IS-1-1	No limit <sup>3</sup>	IS-1-1	No limit
MCRD <sup>4</sup>	None	None	None	None

**Sources:** City of San Diego 2018, 2022.

**Notes:** MCRD = Marine Corps Recruit Depot

<sup>1</sup> CC = Commercial – Community; CN = Commercial-Neighborhood; CO = Commercial-Office; IP = Industrial – Park; IS = Industrial – Small Scale; RM = Residential-Multifamily

<sup>2</sup> Includes Naval Base Point Loma, which does not have a zoned height limit. The highest intensity scenario (Alternative 4) identified under the Navy OTC Revitalization Project Environmental Impact Statement proposes buildings of up to 350 feet in height. The Coastal Height Limit does not apply to federal, state, or San Diego Unified Port District (Port) property, and the City has no land use authority over federal property (i.e., Naval Base Point Loma).

<sup>3</sup> Includes Port-owned lands regulated by the Port Master Plan, which requires that structures shall not exceed 130 feet in height. The Coastal Height Limit does not apply to federal, state, or Port property, and the City has no land use authority over Port property.

<sup>4</sup> The MCRD does not have a zoning designation; therefore, there is no height limit governing this area. The Coastal Height Limit does not apply to federal, state, or Port property, and the City has no land use authority over federal property (i.e., MCRD). The City has no land use authority on lands regulated by the Port Master Plan and/or the SDIA's Airport Land Use Compatibility Plan.

## **Impacts**

Impacts on scenic vistas or views under the Reduced Density Alternative would be reduced compared to the project. Specifically, the level of change to public view corridors outside the CP area would be reduced in the Uptown Community Plan area, represented by Key View 9. Under the Reduced Density Alternative, future development west of I-5 in the Pacific Highway corridor would be lower in height than depicted in the buildout scenario on Final SEIR Figure 5.1-10. The coastal height limit does not apply to federal property, and the City does not have

land use authority over federal property (i.e., Naval Base Point Loma). Therefore, the project would not impact this development, and the taller buildings associated with the Navy OTC development in the right midground view would remain unchanged. Therefore, the project's direct impact from Key View 9 would be reduced under this alternative but not to below a level of significance because viewers would still notice a change in the built landscape.

In addition, impacts associated with a substantial adverse alteration to the character of the area would be reduced compared to the project. Specifically, the level of change to the existing setting would be reduced in Key Views 1, 2, 3, 5, and 9 due to the elimination of the potential for future development of up to 100-foot-tall buildings along the northeastern boundary south of I-8, including the Camino Del Rio District and the northern portions of the Kurtz District, and along the entire eastern CP area boundary adjacent to I-5, including the Hancock District and Kettner District. In addition, because the Reduced Density Alternative would result in a rezone limiting building heights to 65 feet in these areas, viewer sensitivity would also be reduced because future development would not be as noticeable in Key Views 1, 2, 3, 5, and 9.

The Reduced Density Alternative would reduce some, but not all, of the project's significant impacts associated with a substantial adverse alteration to the character of the area. In addition, the 10 key views of the CP area are representative views selected to demonstrate the change in views from surrounding areas adjacent to the CP area. Restricting development density through rezoning in these areas would not necessarily reduce impacts from all possible view locations or improve the impact on neighborhood character in all areas of the CP area. Therefore, impacts would be reduced compared to the project but not to below a level of significance.

Similar to the project, the Reduced Density Alternative would result in less than significant impacts related to distinctive or landmark trees, landform alteration, and light and glare because future development projects in the CP area would be required to comply with the 2018 Community Plan Conservation Element and Urban Design Element policies, the outdoor lighting regulations outlined in Section 142.0740 of the City's LDC, the glare regulations outlined in Section 142.0730 of the City's LDC, and the City's MHPA Land Use Adjacency Guidelines.

### **Finding and Supporting Facts**

The Reduced Density Alternative would not fully implement Project Objective 6 to provide housing and commercial uses in proximity to transit; Project Objective 7 to maintain employment uses including industrial, business park, and commercial office uses to support the City's economy to the same extent as the project; or Project Objective 10 to encourage housing for families (housing with three or more bedrooms) by removing development restrictions, which would allow housing developments to maximize zoned density while facilitating a diverse housing inventory with a range of housing types and prices. This is due to the reduced

development density in the northern, eastern, and southern CP area boundaries, which would impede the City's ability to achieve the buildout density identified in the 2018 Community Plan and maximize the development potential in the CP area. The reduction in density of the commercial base zones would limit the number of potential employment uses within the CP area and would not meet Project Objective 7 to the same extent as the project. Furthermore, this alternative would limit the range of dwelling unit sizes that could be constructed in the CP area because there would be a reduction in density allowed, which could affect the type of housing available to families and would be inconsistent with the City's objective of providing housing for a variety of people.

### **Rationale and Conclusion**

The Reduced Density Alternative is rejected as infeasible because it does not meet three of the 10 project objectives to the same extent as the project. Furthermore, this alternative would limit the range of dwelling unit sizes that could be constructed in the CP area, which could affect the type of housing available to families and would be inconsistent with the City's objective of providing housing for a variety of people. While visual effects and neighborhood character impacts would be substantially reduced compared to the project, the Reduced Density Alternative is rejected as infeasible because this alternative would not reduce any of the significant and unavoidable effects of the project to a less than significant level.

## **6.0 REFERENCES**

- City of San Diego 2018. Midway-Pacific Highway Community Plan. Accessed June 2022. <https://www.sandiego.gov/planning/community-plans/midway-pacific-highway>.
- City of San Diego. 2022. San Diego Municipal Code. Accessed June 2022. <https://www.sandiego.gov/city-clerk/officialdocs/municipal-code>.