

RESOLUTION NUMBER R-_____

DATE OF FINAL PASSAGE _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF
SAN DIEGO GRANTING CENTRE CITY DEVELOPMENT
PERMIT/SITE DEVELOPMENT PERMIT/CENTRE CITY
PLANNED DEVELOPMENT PERMIT/NEIGHBORHOOD USE
PERMIT NO. 2014-76.

WHEREAS, Sloan Capital Partners, LLC, Owner, and 1122 4th Avenue, LLC, Permittee ("Owners/Permittee"), filed an application with Civic San Diego to allow the construction of a mixed-use development containing 40 stories (up to 422 feet tall) comprised in total of approximately 282 residential dwelling units (DU) including indoor and outdoor amenity spaces, approximately 11,000 square feet (SF) of commercial space, and approximately 325 automobile parking spaces, commonly referred to as 1122 4th Avenue ("Project"); and

WHEREAS, the project site is located on a 25,000 square foot premises located on the north side of C Street between Third and Fourth avenues in the Civic/Core neighborhood of the Downtown Community Plan area; and

WHEREAS, the property is legally described as Lots E, F, G, H, & I in Block 16 of Horton's Addition in the City of San Diego, County of San Diego, State of California, according to partition map thereof, made by L.L. Lockling, filed in the Office of the County Recorder of San Diego County.; and

WHEREAS, on January 18, 2017, the Downtown Community Planning Council considered Centre City Development Permit / Site Development Permit / Centre City Planned Development Permit / Neighborhood Use Permit (CCDP/SDP/CCPDP/NUP) No. 2014-76 and voted 19-1 to recommend approval of Permit No. 2014-76; and

WHEREAS, on January 25, 2017, the Civic San Diego Board of Directors considered CCDP/SDP /CCPDP/NUP No. 2014-76 and voted 8-1 to recommend approval of Permit No. 2014-76; and

WHEREAS, on January 26, 2017, the Historic Resources Board considered Site Development Permit No. 2014-76 and voted 5-3 to recommend disapproval of Site Development Permit No. 2014-76; and

WHEREAS, on February 23, 2017, the Planning Commission of the City of San Diego held a duly noticed public hearing, considered a staff report and public testimony for Centre City Development Permit / Site Development Permit / Centre City Planned Development Permit / Neighborhood Use Permit No. 2014-76 and voted to recommend to City Council approval of Permit No. 2014-76; and

WHEREAS, on _____, 2017, the City Council held a duly notice public hearing and considered a staff report and public testimony for CCDP/SDP/CCPDP/NUP No. 2014-76; and

WHEREAS, under Charter section 280(a)(2), this resolution is not subject to veto by the Mayor because this matter requires the City Council to act as a quasi-judicial body 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; NOW, THEREFORE,

BE IT RESOLVED, by the City Council of the City of San Diego, that it adopts the following findings with respect to Centre City Development Permit/Site Development Permit/Centre City Planned Development Permit/Neighborhood Use Permit No. 2014-76: **CENTRE CITY DEVELOPMENT PERMIT (CCPDO §156.0304(e)(1)(D).)**

1. The proposed development is consistent with the DCP, CCPDO, SDMC, and all other adopted plans and policies of the City of San Diego pertaining to the CCPD.

The proposed development is consistent with the DCP (subject to the proposed amendment), CCPDO (subject to the proposed amendments), SDMC, and all other adopted plans and policies of the City of San Diego pertaining to the CCPD as the development advances the goals and objectives of the DCP and CCPD by:

- *Providing for an overall balance of uses;*
- *Adding to the range of Downtown housing opportunities;*
- *Contributing to the vision of Downtown as a major residential neighborhood;*
- *Increasing the Downtown residential population;*
- *Providing the production of affordable housing; and,*
- *Creating an intense district with large and tall buildings reflecting Civic/Core's character as San Diego's business and political center, while promoting a mix of uses;*

In addition, with approval of the Amendments to the Employment Overlay and CCDP/SDP/CCPDP/NUP No. 2014-76, this Project will be consistent with the requirements of the SDMC and CCPDO.

SITE DEVELOPMENT PERMIT (SDMC § 126.0504(a)(i))

The following three findings are required for all SDPs:

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

With approval of the EO removal amendments to the DCP and CCPDO, the proposed Project would be consistent with the objectives of the DCP, CCPDO, and the DDGs in that the Project provides a mixed-use development that is consistent with the orderly growth and scale of the neighborhood and would have a negligible impact on the surrounding neighborhood and would not affect the applicable land use plan.

The goals and policies of the DCP generally stipulate that NHRP and CRHR eligible buildings should be retained on-site, and furthermore, any improvements, renovation, rehabilitation and/or adaptive reuse should facilitate preservation consistent with the Secretary of the Interior's Standards. While the DCP's policies call for the preservation and rehabilitation of NHRP and CRHR eligible buildings, it also encompasses economic development, improvement to neighborhoods, and the development of the Core neighborhood as goals and policies. The Project site plays a role in the continued challenges that face the C Street corridor due the Project site's vacant status of the last 25-plus years. Implementation of the Project would allow for economic development and improvements to the C Street corridor and the surrounding Core neighborhood, thus promoting the goals and policies of the DCP and not adversely affecting the DCP.

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

The granting of the SDP and approval of the Project will not negatively impact the public health, safety, and general welfare. Overall, the proposed development is consistent with the plans for this neighborhood and will contribute to its vitality by providing a contextual development and demolishing a structurally unsound building.

3. The proposed development will comply with the regulations of the Land Development Code (LDC) including any allowable deviations pursuant to the LDC.

The proposed development will comply to the maximum extent feasible with the regulations of the CCPDO and City of San Diego Land Development Code with approval of the SDP, including obtaining all additional applicable permits as required by the City of San Diego Development Services Department.

In addition to the above findings, the SDMC requires the following findings for substantial alterations of a designated historical resource:

1. There are no feasible measures, including a less environmentally damaging alternative, that can further minimize the potential adverse effects on the designated historical resource or historical district;

The Base Project proposes to remove all existing improvements on the site with the demolition of the existing California Theatre building and construction of a mixed-use development comprised of a 40-story tower (approximately 422 feet tall) and podium located on a 25,000 square-foot site on the north side of C Street between Third and Fourth avenues in the Civic/Core neighborhood of the Downtown Community Plan area. The Base Project is comprised of 282 dwelling units (DU), approximately 11,000 SF of retail space, and 325 automobile parking spaces.

Five project alternatives have been analyzed. The Project alternatives range in scope from demolition and replication of select facades to a complete rehabilitation consistent with the Secretary of the Interior's Standards for reuse. More specifically, the project alternatives are as follows:

1. *Project Alternative 1 would remove all existing improvements on the site as proposed in the Base Project, construct the Base Project's 40-story mixed-use tower, and construct a connected new nine-story tower with two reconstructed facades replicating the Fourth Avenue and C Street facades of the existing office tower.*
2. *Project Alternative 2 would remove all existing improvements on the theater portion of the site, construct the Base Project's 40-story mixed-use tower at the location of the demolished theater portion of the building, and retain and rehabilitate the nine-story office tower building.*
3. *Project Alternative 3 would remove all existing improvements on the theater portion of the site with the exception of the ground floor C Street facade and the decorative elements above it, which would be rehabilitated. This alternative would also construct the Base Project's 40-story mixed-use tower at the location of the demolished theater portion of the building, and retain and rehabilitate the nine-story office tower building.*
4. *Project Alternative 4 would remove all existing improvements on the theater portion of the site with the exception of the ground floor C Street facade and the decorative elements above it, which would be rehabilitated. This alternative would also construct the Base Project's 40-story mixed-use tower at the location of the demolished theater portion of the building, and retain and rehabilitate the nine-story office tower building. This alternative differs from Alternative 3 by creating a 20-foot-wide galleria running north-south between the nine-story tower and any new construction to the west of the galleria, creating an open space from the ground level through the ninth floor.*
5. *Project Alternative 5 would rehabilitate all existing improvements on the site in accordance with the Secretary of the Interior's Standards for adaptive re-use as a theater and office building and would maintain the 5,000 SF parking lot. No additional area would be added and no changes in the building's massing would occur.*

As outlined in Finding #3 below, the Base Project and Project Alternative 1 are the only projects that would not result in an economic hardship to the owner. Given these circumstances, there are no less environmentally damaging alternatives (specifically, Alternative 2-5) that can further minimize the potential adverse effects on the designated historical resource

2. The deviation is the minimum necessary to afford relief and accommodate the development and all feasible measures to mitigate for the loss of any portion of the historical resource have been provided by the applicant; and

Demolition of the existing California Theatre proposed under the Base Project and Alternative 1 are the only economic viable options given current economic conditions and the condition of the building. The demolition and construction of the Project featured under the Base Project and Alternative 1 would allow for a project that may result in a 10% return on investment – a figure that has been estimated by the Project's economic analysis as the minimum figure that could potentially obtain financing. The other analyzed project alternatives (Alternatives 2-5) that proposed an array of mitigation

measures would not result in a Project that would yield a return on investment that would be eligible for financing.

3. The denial of the proposed development would result in economic hardship to the owner. For purposes of this finding, “economic hardship” means there is no reasonable beneficial use of a property and it is not feasible to derive a reasonable economic return from the property.

In the Applicant’s economic analysis of the Project alternatives, only the Base Project and Project Alternative 1 were able to achieve a minimum 10% return on investment, which according to the report, is typically the minimum return on investment that would need to be demonstrated to lenders to obtain financing. A peer review of the Applicant’s economic analysis of the Project alternatives yielded results that were less optimistic. The peer review analysis estimated the Base Project will only result in a 6.7% return as a percentage of value or a 7.4% return as a percentage of cost; thus, questioning the proposed Project’s economic viability. However, the peer review confirmed that Project Alternatives 2-5 were not economically viable. Given the return on investment numbers that were generated in both reports, only the Base Project and Project Alternative 1 appear economically viable. Denial of the proposed development (either the Base Project or Project Alternative 1) would result in economic hardship to the owner.

CENTRE CITY PLANNED DEVELOPMENT PERMIT (SDMC § 156.0304(f)(2))

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

With approval of the EO removal amendments to the DCP and CCPDO, the proposed Project would be consistent with some objectives of the DCP, CCPDO, and the DDGs in that the Project provides a mixed-use development that is consistent with the orderly growth and scale of the neighborhood, and furthermore, would allow for economic development and improvements to the C Street corridor and the surrounding Core neighborhood. The requested deviation for the maximum east-west dimension will allow development that is of similar size to other developments in the neighborhood, including a number of surrounding high-rise developments. The streetwall setback and streetwall height deviations will allow for the re-creation of the historic office building. The surrounding streetwall heights vary greatly in the Project vicinity with streetwalls ranging between two stories and 12 stories plus. Given the varied streetwall heights of the Project vicinity, staff believes that the proposed streetwall heights are consistent with the neighborhood and will not adversely affect of the vision of the built environment for the neighborhood. These requested deviations would provide relief from the strict application of the development standards and would have a negligible impact on the surrounding neighborhood.

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

The granting of the deviations and approval of the Project will not negatively impact the public health, safety, and general welfare. Overall, the proposed development is consistent with the plans for this neighborhood by providing a tall, intense contextual development that will activate

the C Street corridor and will contribute to its vitality at a project site that has been underutilized for over 25 years. Additionally, the building currently represents a structurally unsound building that would be demolished under the project.

3. The proposed development will comply to the maximum extent feasible with the regulations of the CCPDO; except for any proposed deviations which are appropriate for this location and will result in a more desirable project than would be achieved if designed in conformance with the strict regulations of the CCPDO; and,

The proposed development will meet all of the requirements of the SDMC and CCPDO with the approval of the deviations, which are allowable under a CCPDP. Furthermore, the EO removal amendment of the CCPDO would need to be approved. The maximum east-west tower dimension deviation at 150 feet in width will allow development that is of similar size to other high-rise developments found in the immediate project vicinity. The streetwall setback and streetwall height deviations will allow for the re-creation of the historic office building and will provide for a contextual streetwall design as described in above Finding No. 1.

4. The development is consistent with the Downtown Design Guidelines (DDG) and exhibits superior architectural design.

Approval of the requested deviations will result in a mixed-used development consistent with the surrounding area and the DDGs. The mixed-use Project exhibits appropriate massing in scale with the long-term development plans for the Core neighborhood. The development will provide a tower design that features an upper tower design, tower glazing and tower lighting that are consistent with the DDGs. Blank podium walls and property line walls have been appropriately designed and enhanced, consistent with the DDGs. The ground-floor, particularly the C Street frontage, will provide highly activated retail spaces with gracious ground-floor heights that are consistent with the DDGs. Furthermore, the DCP envisions the Core neighborhood having a rich mix of the uses and large, tall, intense developments. Overall, the Project will result in a distinctive development compatible with the surrounding neighborhood that exhibits superior architectural design.

NEIGHBORHOOD USE PERMIT - COMPREHENSIVE SIGN PLAN (SDMC § 141.1103.)

1. That the proposed sign, as a whole, is in conformance with the intent of the sign regulations and any exceptions result in an improved relationship among the signs and building facades on the premises;

The proposed signs, as whole, are in conformance with the intent of the sign regulations, suitable for the location, and do not interfere with the existing design of the building. The requested sign areas and placements are proportional to the heights and widths of the buildings and will also help re-create historic signs that were once located on the property. The proposed signage is designed in a fashion that maintains a balanced relationship with the architecture of the building so as to not detract from the Project design.

2. That the proposed use will not adversely affect the applicable land use plan;

The proposed Comprehensive Sign Plan is located within the Core Land Use District of the DCP area. The tower sign and the re-created historic signage are permitted within this land use district through a Comprehensive Sign Plan with approval of an NUP. Therefore, the proposed Comprehensive Sign Plan does not adversely affect the applicable land use plan as the proposed use with approval of an NUP is consistent with the regulations of the CCPDO.

3. That the proposed use will not be detrimental to the public health, safety and welfare; and,

The proposed Comprehensive Sign Plan will not be detrimental to the public health, safety, and welfare of the community when installed in compliance with the recommended conditions of approval. The conditions of approval are anticipated to include conditions that stipulate that the proposed signs may not be utilized for tenant signage, and furthermore, that the signs may only be used to re-create the historic signage dimensions, materials, and sign copy. The tower sign will contain limitations on signage dimensions and illumination.

4. That the proposed use will comply with the regulations of the Land Development Code including any allowable deviations pursuant to the Land Development Code.

The proposed use will comply to the maximum extent feasible with the regulations of the CCPDO and City of San Diego Land Development Code with approval of an NUP, including obtaining all additional applicable permits as required by the City of San Diego Development Services Department.

NEIGHBORHOOD USE PERMIT - OUTDOOR SEATING ASSOCIATED

WITH AN EATING AND DRINKING ESTABLISHMENT (CCPDO § 156-

0308-A)

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

The outdoor use area will be open to the general public. Outdoor use areas associated with eating and drinking establishments are an allowed use in the CCPDO.

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

The proposed uses will not be detrimental to the public health, safety, and welfare provided the Owner and Permittee adheres to the standard and Project-specific conditions of approval including, but not limited to, conditions related to hours of operations, activity restrictions, and sound and security measures to ensure that the use is compatible with the surrounding neighborhood.

3. The proposed use or development will comply to the maximum extent feasible with the regulations of the SDMC.

The proposed uses are permitted uses in the CCPDO and SDMC with approval of a NUP, and will comply to the maximum extent feasible with the regulations of SDMC and the CCPDO with approval of a NUP.

BE IT FURTHER RESOLVED, that based on the findings hereinbefore adopted by the City Council, Centre City Development Permit/Site Development Permit/Centre City Planned Development Permit/Neighborhood Use Permit No. 2014-76 is hereby granted to the referenced Owner/Permittee, in the form, exhibits, terms, and conditions set forth in Permit No. 2014-76, a copy of which is attached hereto and made a part hereof.

APPROVED: MARA W. ELLIOTT, City Attorney

By _____
Deputy City Attorney

Date
Or.Dept: Civic San Diego
Doc. No.: _____

I certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of _____.

ELIZABETH S. MALAND
City Clerk

By _____
Deputy City Clerk

Approved: _____
(date) KEVIN L. FAULCONER, Mayor

Vetoed: _____
(date) KEVIN L. FAULCONER, Mayor