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4/27/2021

(R-2021-447)

RESOLUTION NUMBER R- 313521

DATE OF FINAL PASSAGE APR 27 2021

A RESOLUTION OF THE COUNCIL OF THE CITY OF
SAN DIEGO DENYING THE APPEAL, AFFIRMING THE
PLANNING COMMISISON DECISION WITH A
MODIFICATION, AND GRANTING SITE DEVELOPMENT
PERMIT NO. 2397979, NEIGHBORHOOD DEVELOPEMNT
PERMIT NO. 2506601, AND NEIGHBORHOOD USE PERMIT
NO. 2397980 FOR CALIFORNIA THEATRE PROJECT -
PROJECT NO. 657138.

WHEREAS, Caydon San Diego Property LLC, a Delaware limited liability company,
Owner/Permittee, filed an application with the City of San Diego for a Site Development Permit
(SDP), Neighborhood Development Permit (NDP), and Neighborhood Use Permit (NUP) to
construct a 41-story, 431-foot tall mixed-use development comprised of 336 dwelling units
(DU), 190 hotel guest rooms, 3,686 square feet (SF) of commercial space, and 194 parking
spaces for a project known as California Theatre (Project), located at 1122 Fourth Avenue and
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, in the
Downtown Community Plan area (Downtown), in the Core land use district of the Centre City
Planned District Ordinance (CCPDO);

WHEREAS, Development within the Downtown Community Planning area is covered
under the following documents, all referred to as the "Downtown FEIR": Final Environmental
Impact Report (FEIR) for the San Diego Downtown Community Plan, Centre City Planned
District Ordinance, and 10th Amendment to the Centre City Redevelopment Plan, certified by the
former Redevelopment Agency (Former Agency) and the City Council on March 14, 2006

(Resolutions R-04001 and R-301265, respectively); subsequent addenda to the FEIR certified by the Former Agency on August 3, 2007 (Former Agency Resolution R-04193), April 21, 2010 (Former Agency Resolution R-04510), and August 3, 2010 (Former Agency Resolution R-04544), and certified by the City Council on February 12, 2014 (City Council Resolution R-308724), July 14, 2014 (City Council Resolution R-309115), and November 17, 2020 (City Council Resolution R-313302); the Final Supplemental Environmental Impact Report for the Downtown San Diego Mobility Plan certified by the City Council on June 21, 2016 (Resolution R-310561); and, the Final Supplemental Environmental Impact Report for the 1122 4th Avenue Redevelopment Project certified by the City Council on April 4, 2017 (Resolution R-311016). Development within the Downtown Community Planning area is also covered under the following documents, all referred to as the "CAP FEIR": FEIR for the City of San Diego Climate Action Plan (CAP), certified by the City Council on December 15, 2015 (City Council Resolution R-310176), and the Addendum to the CAP, certified by the City Council on July 12, 2016 (City Council Resolution R-310595). The Downtown FEIR and CAP FEIR are both "Program EIRs" prepared in compliance with California Environmental Quality Act (CEQA) Guidelines Section 15168. The information contained in the Downtown FEIR and the CAP FEIR reflects the independent judgement of the City of San Diego as the Lead Agency. The environmental impacts of the park projects were adequately addressed in the Downtown FEIR and CAP FEIR; the park project are within the scope of the development program described in the Downtown FEIR and CAP FEIR and are adequately described within both documents for the purposes of CEQA; and, none of the conditions listed in CEQA Guidelines Section 15162 exist. Therefore, no further environmental documentation is required under CEQA; and

WHEREAS, on February 11, 2021, the Planning Commission of the City of San Diego considered SDP/NDP/NUP No. 657138, and pursuant to Resolution No. 5128-PC, voted 7-0-0 to approve the Project; and

WHEREAS, on February 25, 2021, Rick Bates on behalf of Unite Here Local 30 appealed the Planning Commission decision to the Council of the City of San Diego; and

WHEREAS, under Charter section 280(a)(2), this resolution is not subject to veto by the Mayor because this matter requires City Council to act as a quasi-judicial body and where a public hearing was required by law implicating due process of 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; and

WHEREAS, the matter was set for a public hearing on April 27, 2021, testimony having been heard, evidence having been submitted, and the City Council having fully considered the matter and being fully advised concerning the same; NOW, THEREFORE,

BE IT RESOLVED by the Council of the City of San Diego, that it adopts the following findings with respect to SDP/NDP/NUP No. 657138:

A. SITE DEVELOPMENT PERMIT [San Diego Municipal Code (SDMC) Section 126.0505]

1. Findings for all Site Development Permits:

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

The applicable land use plans for this site are the DCP and the CCPDO because it is located in the Civic/Core neighborhood of the DCP and the Core land use district of the CCPDO. The Project proposes 336 residential DU, 190 hotel guest rooms, and 3,686 SF of commercial/retail space. Multi-family residential, hotel, and retail land uses are permitted in the Core District, which serves as the center of Downtown, both physically and functionally, where government offices combine with commercial office, cultural, hotel, and some residential activity. The Project proposes a Floor Area Ratio (FAR) of 18.56, where the Base Maximum identified in the CCPDO is 10.0 and can be increased up to 20.0 with

the CCPDO FAR Bonus Programs (SDMC Sec. 156.0309(e)), which the Project is utilizing by providing three-bedroom DUs for an additional 2.0 FAR, achieving LEED Gold certification for 2.0 FAR, and purchasing 4.56 FAR. With a FAR of 18.56, the Project complies with the allowable FAR established in the CCPDO. The development regulations of the CCPDO regulate the urban form of the Project. Eight deviations from the development regulations are proposed by the Project, which are permitted with approval of an NDP pursuant to Section 126.0404 and the applicable findings therein. The NDP findings for the deviations can be found in Section B below. With approval of an NDP for the deviations, the Project is consistent with the CCPDO.

The DCP states that the Civic/Core neighborhood should develop as 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 (DCP, 6.1-G-1). The mix of uses in Civic/Core is a strength that the DCP calls to embrace that will contribute to an ultimate Civic/Core population target of 5,000 people and 35,000 employees. The Project proposes a 336-DU residential tower with a total FAR of 18.56 on a 25,101 SF site. This is a dense project, as the residential DU totals roughly 672 DU per acre on this approximately half-acre site, where 190 hotel guest rooms, 3,686 SF of commercial/retail space, and 194 parking spaces are also provided. The mix of uses is also consistent with the DCP's goal of fostering a rich mix of uses in all neighborhoods (DCP, 3.5-G-2). The placement of the 190-room hotel is appropriate for its location due to its close proximity to Downtown attractions like the San Diego Civic Theatre and the Gaslamp Quarter, as well as transit access at the Civic Center Trolley Station, which is consistent with the DCP policy to locate high intensity developments in or near trolley corridors to maximize the level of activity with strong transit accessibility (DCP, 7.3-P-1).

With 336 DUs on a 25,101 SF site, the Project is providing a high-intensity land use that is consistent with a dense, urban, Downtown environment and the goals of the DCP for high overall intensities that use land efficiently in order to meet employment and population targets (DCP, 3.2-G-5), while partially replicating a historical resource. Historic Preservation is addressed in Chapter 9 of the DCP and states that locally designated resources are to be retained on-site whenever possible and that "Partial retention, relocation or demolition of a resource shall only be permitted through applicable City procedures," that are outlined in SDMC Section 143.02 "Historical Resources Regulations." Substantial alteration of a designated historical resource means demolition, destruction, relocation, new construction, or alteration activities that would impair the significance of a historical resource. The Applicant proposes to demolish the historical resource, the California Theatre (Historic Resources Board Site No. 291) (Resource) and partially replicate it, including the nine-story office tower and the C Street façade and rehabilitate and integrate original ornamental historical features. The demolition and partial replication cannot be determined to be consistent with the Secretary of the Interior's Standards for Historical Properties due to the total loss of historical resource. Therefore, the proposed redevelopment and partial

replication of the Resource is, by definition, a substantial alteration requiring an SDP, consistent with SDMC Section 143.0251. Therefore, the processing of this SDP complies with and will not adversely affect the applicable land use plan.

The goals and policies of the DCP generally stipulate that historical resources should be retained on-site and integrated into the Downtown fabric in a way that contributes to the achievement of the goals for significant development and population intensification (DCP, 9.2-G-1). A Structural Condition Assessment by A.B. Court & Associates concluded that much of the existing structure is structurally unsound and the Resource would require major structural upgrades to bring the structure into compliance with current building and safety codes. The Applicant retained the London Moeder Advisors (LMA) to conduct an economic analysis to evaluate the Project (Base Project) and four alternatives for potential feasible measures to avoid the complete loss of the Resource. The LMA analysis concluded that the three alternatives that retained portions of the existing Resource or all of the Resource and include new construction above the Resource are not economically feasible due to their failure to meet the minimum Return on Investment (ROI) and Margin on Revenue (MOR) needed to achieve project feasibility and financing (see #2.c below). Alternative 4, to fully rehabilitate and reuse the Resource as a theater, results in a loss of \$39.1 million. Therefore, it was determined that the Project, which includes full demolition and partial replication of the Resource, was the only project that is economically feasible on the site and no other feasible measures, including a less environmentally damaging alternative, can further minimize the potential adverse effects on the Resource.

As part of the mitigation required, the Project will salvage any architectural material for donation to museums, archives curation facilities, or public and nonprofit organizations prior to demolition, and an interpretive display and material that could be in a brochure format and will be installed at the site, as well as rehabilitate and integrate original ornamental historical features, which is consistent with the DCP goal of incorporating elements of the historical resource into the Project to impart heritage (DCP, 9.2-P-1). The proposed development will serve to add 336 DU to a currently underutilized, dilapidated site, providing the desired density, while at the same time, partially replicating the Resource. With compliance with the CCPDO and advancement of the goals of the DCP, the proposed development will not adversely affect the applicable land use plan.

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

The granting of the SDP and approval of the Project will not have a detrimental impact to the public health, safety, and general welfare. The Project is consistent with the plans for the Civic/Core neighborhood as envisioned in the DCP by contributing to intense district with large and tall buildings reflecting Civic/Core's character (DCP, 6.1-G-1) and foster a rich mix of uses in all neighborhoods (DCP, 3.5-G-2) by constructing a 41-story high-rise with 336 DU, 190 hotel rooms, and 3,686 SF of commercial/retail space, and incorporating elements of a

historical building in new projects to impart heritage (DCP, 9.2-P-1) by salvaging ornamental architectural features of a historical resource into the new Project. The addition of new residents and hotel guests will contribute to the vitality of the neighborhood and the C Street corridor. Therefore, because the Project will improve the existing condition of the site and neighborhood by advancing the vision of the DCP, the proposed development will not be detrimental to the public health, safety, and welfare.

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

The requested historical resource deviation will allow for the demolition of a designated historical resource, the California Theatre (HRB Site No. 291) and construction of a new project that partially replicates it. Although the DCP encourages the retention of historical resources on-site, it also outlines goals for the maximization of intensities in the Downtown area. The Applicant commissioned a Structural Conditions Assessment by A.B. Court & Associates that concluded the existing historical resource is structurally unsound and would require major upgrades to comply with current building and safety codes. The Applicant provided an economic analysis by London-Moeder Associates (LMA) that assessed four alternatives to the full demolition of the historical resource, which concluded that any alternative would not be financially feasible. The Project as proposed, although demolishing the historical resource, would partially replicate it, along with the construction of a high-rise mixed-use development with an FAR of 18.56, which exceeds the CCPDO Base Maximum FAR of the site is 10.0 through the use of CCPDO FAR Bonus programs, contributing to an intense Civic/Core neighborhood (DCP, 6.1-G-1). With approval of the SDP to allow the demolition and new construction, including the SDP Supplemental Findings included in Section 2 below, as well as a NDP for deviations from the development regulations of the CCPDO (the findings for which are included in Section B of this resolution), the proposed development will comply with all regulations of the LDC.

2. **Supplemental Findings – Historical Resources deviation for Substantial Alteration of a Designated Historical Resource or Within a Historical District:**

- a. **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 Project proposes demolition of the existing Resource and replacing it with a 41-story mixed-use tower with five levels of subterranean parking, 336 residential DU and 190 hotel guest rooms. The base of the tower is designed to partially replicate the street facades of the Resource, although the massing, details, and materials differ from the existing resource. The Project includes the installation of

a replicated entrance canopy/ marquee on Fourth Avenue, the "California" projecting sign at the corner of Fourth Avenue and C Street, and the "Caliente" wall sign on Third Avenue. The design of the Third Avenue façade of the Project replicates the volume of the fly loft of the existing Resource and continues the architectural aesthetic of the Resource; however, the approximately 15-foot setback of the existing fly loft from Third Avenue has been eliminated and windows have been added on upper floors for the hotel guest rooms contained within.

The Applicant submitted a Structural Condition Assessment by A.B. Court & Associates that analyzed the current condition of the site and concluded that much of the existing structure is structurally unsound and would require major structural upgrades to bring the structure into compliance with current building and safety codes. As demonstrated in the structural report, any reuse of this site will likely result in substantial alterations to the Resource. Additionally, because of the desire to maintain all parking levels below-grade, any Project that retains the Resource further constrains the possible configurations of the parking. The Project currently proposes five levels of below-grade parking containing 194 parking spaces, which is less than one parking space per DU.

To evaluate the Project and four alternatives for potential feasible measures to avoid the complete loss of the Resource, the Applicant retained the London Moeder Advisors (LMA) to conduct an economic analysis of the Project (referred to as the "Base Project" in the LMA analysis) and the alternatives. Each alternative to the Base Project examined preserving all or a portion of the original existing Resource and its economic impact on the financial feasibility of the Project. The City's Urban Division staff compared the LMA analysis to previous economic alternatives analyses for Downtown projects and found the assumptions consistent with those analyses. The following alternatives were evaluated in the LMA analysis and are summarized in the table below:

Alternative	Description
Base	Demolish entire Resource, replicate Fourth Avenue and C Street facades, construct mixed-use high-rise above
1	Retain and rehabilitate only the office tower on Fourth Avenue, and construct mixed-use behind and high-rise above
2	Retain and rehabilitate both the office tower and C Street façade, and construct mixed-use high-rise behind and above
3	Retain and rehabilitate both the office tower and C Street façade, construct mixed-use high-rise behind and above, but add a 20-foot wide galleria between the office tower and the new construction behind it
4	Full rehabilitation of the entire Resource and reuse as a theater

The LMA analysis concluded that the three alternatives that retained portions of the existing structure of the Resource and include new construction above the

Resource are not economically viable due to their failure to meet the minimum Return on Investment (ROI) and Margin on Revenue (MOR) needed to achieve project financing (see Finding A.2.c below). Specifically, these alternatives add significant costs to the proposed development and a ROI below the 50% minimum threshold is economically infeasible. Alternatives 1, 2, and 3 have a range of 35% to 45% ROI. In addition, these alternatives have a single-digit MOR ranging from 9.4% to 15.3%. According to the LMA analysis, "there is not enough project margin, or financial "cushion," for private investors and other sources of capital to achieve their required minimum rates of return."

Alternative 4, to fully rehabilitate and reuse the Resource as a theater, results in a loss of \$39.1 million. Therefore, the Base Project, which includes full demolition and partial replication of the facades of the Resource, is the only economically project and no other feasible measures, including a less environmentally damaging alternative, can further minimize the potential adverse effects on the Resource.

- b. 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.**

The Project proposes the minimum deviation necessary to afford relief and accommodate the development of the site in accordance with the density and development regulations of the SDMC and the population and employment goals of the DCP. An economic analysis of alternatives to demolition that retain some or all of the original Resource was provided by the Applicant in the LMA analysis, which concluded that of the five projects evaluated, only the Base Project that proposes to demolish and partially replicate the facades of the Resource, accommodates an economically viable development of the site because it is the only project that exceeds the minimum ROI and MOR necessary to make the Project financially feasible. As discussed in the SEIR, impacts to the California Theatre were determined significant and unavoidable even with implementation of project-specific mitigation measures (Mitigation Measures HR-1 through HR-3). Implementation of Mitigation Measure HIST-A.1-3, which reduces the impact of demolishing a Designated Local Historical Resource, would still be required to ensure the project would not result in any new or more severe impacts to historical resources. The City of San Diego Environmental Division determined that the project is consistent with the Downtown FEIR as amended by the SEIR. The Mitigation Monitoring and Reporting Program (MMRP) for the SEIR requires the implementation of a documentation program submitted to City Historic Resources Division staff for review and approval, a pre-construction meeting, and implementation of measures pertaining to the demolition. The Resource was documented through the measured drawings and photography consistent with the Historical American Building Survey (HABS). A copy of this documentation will be archived with the City and other depositories as outlined in the MMRP. Additionally, mitigation required as part of the SEIR include

architectural salvage of any architectural material for donation to museums, archives curation facilities, the public and nonprofit organizations prior to demolition, and an interpretive display and material that could be in a brochure format will be installed at the site. Therefore, the Project is designed with the minimum necessary deviation to afford relief to and accommodate the Project and reasonable, feasible measures to mitigate the loss of the Resource are proposed.

- c. **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 the property and it is not feasible to derive a reasonable economic return from the property.**

The LMA analysis used the ROI and MOR as measures to determine the economic feasibility of each alternative. As stated in the report, for a for-sale residential project to be economically feasible, it must achieve a minimum ROI of 50% and a MOR of 12% to 13% or higher; anything less would be unlikely to attract investors and achieve project financing. The table below summarizes the conclusions of the LMA analysis for each alternative. Note that Alternative 4 proposes full rehabilitation of the Resource and reuse as a theater without a residential component. The analysis states that there is no "sale value" for the Resource because there is no positive income generated by a theater. Therefore, the ROI and MOR metrics are not applicable for Alternative 4.

Alternative	ROI Min: 50%	MOR Min: 12-13%
Base	56%	14%
1	35%	9.4%
2	25%	6.8%
3	-45%	-15.3%
4	N/A	N/A

The LMA Analysis concluded that only the Base Project is economically feasible, as the three alternatives with residential components fail to meet the minimum ROIs and MORs to successfully attract investors and achieve project financing. As shown in the report, Alternative 4 results in a loss of \$39.1 million.

In addition, a Structural Condition Assessment by A.B. Court & Associates analyzed the current condition of the site and concluded that much of the existing structure is structurally unsound and would require major structural upgrades to bring the structure into compliance with current building and safety codes. As demonstrated in the structural report, any reuse of this site will likely result in substantial alterations to the Resource. Therefore, denial of the Project would result in economic hardship to the owner because there is no reasonable beneficial use of the property that does not require complete demolition and redevelopment in order to derive a reasonable economic return from the property.

B. NEIGHBORHOOD DEVELOPMENT PERMIT [SDMC Section 126.0404]

1. Findings for all Neighborhood Development Permits:

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

The proposed Project is consistent with the objectives of the DCP, CCPDO, and the Downtown Design Guidelines (DDG). The Project advances the goals and policies of the DCP by contributing to the creation of an intense district with large and tall buildings reflecting Civic/Core's character (DCP, 6.1-G-1) and foster a rich mix of uses in all neighborhoods (DCP, 3.5-G-2) by constructing a 41-story high-rise with 336 DU, 190 hotel rooms, and 3,686 SF of commercial/retail space, and incorporating elements of a historical building in new projects to impart heritage (DCP, 9.2-P-1) by salvaging ornamental architectural features of a historical resource into the new Project and recreating the original historical resource's entrance canopy/marquee, corner projecting sign, and west elevation wall sign. The mixed-use Project adds to the balance of uses in Downtown (DCP, 3.1-G-2) in a centralized location close to many amenities, attractions, and transit options, as it is located on the C Street trolley corridor (DCP, 7.3-P-1). With the 25,101 SF lot size and the high-intensity of the site with 336 DU, 190 hotel rooms, 3,686 SF of commercial space, and 194 parking spaces, the Project provides the desired diversity and mix of uses, while also contributing to high overall intensities in Downtown and using land efficiently to advance the population and employment targets of the DCP (DCP, 3.2-G-5).

The Project is designed at a scale that is similar to other existing buildings in the nearby vicinity, such as the 23-story Wells Fargo Plaza to the east and the 20-story Civic Center Plaza to the northwest. In the CCPDO, residential and commercial/retail uses are permitted land uses in the Core land use district. Per the DDG, the Project utilizes architectural articulations, provides street level activation, and uses high-quality materials. The building's massing is modulated through the use of a variety of glazing, including a large gray-tone curtainwall that appears to wrap the tower like a ribbon. The glazing, along with varying materials around the Project, like aluminum window frames and exposed concrete slabs, provide visual interest and architectural variation. Standing in contrast to the tower, the building's base is inspired by the historic California Theatre (HRB Site No. 291) recreating some of its architectural characteristics, like the office tower and historic entrance canopy/marquee on Fourth Avenue, and reusing some salvaged elements from the original building. Retail spaces at the street-level will create an activity that engages pedestrians.

The construction of private structures in the public right-of-way are proposed to allow for the replication of the original historical resource's entrance canopy/marquee and corner projecting sign. In addition, eight deviations from the development regulations are proposed that are to reduce the required parking area drive aisle width and the distance from the curb cut to the property line, increase

the allowable size of the recessed entry, the street wall height, and the tower floor plate, reduce the required number of DU with private open space and personal storage, and eliminate the requirement for hotel parking. As an in-fill/sustainable project in a mixed-use zone (See Finding B.2 below), deviations from the SDMC are permitted with approval of an NDP pursuant to Section 126.0402(p). With approval of the NDP, the Project is consistent with the CCPDO.

Because the Project provides design solutions that are consistent with the DDGs and compatible with the neighborhood, advances the goals of the DCP, and provides a land use that is compatible with the CCPDO, the proposed development will not adversely affect any applicable land use plans.

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

The granting of the deviations and the approval of the Project will not have a detrimental impact to the public health, safety, and general welfare. The Project is consistent with the plans for the Civic/Core neighborhood as an intense district with large and tall buildings (DCP, 6.1-G-1) and fostering a rich mix of uses (DCP, 3.5-G-2) by constructing a 41-story high-rise with 336 DU, 190 hotel rooms, and 3,686 SF of commercial/retail space, while incorporating elements of a historical building in new projects to impart heritage (DCP, 9.2-P-1) by salvaging ornamental architectural features of a historical resource into the new Project and recreating other elements of the original historical resource, including the entrance canopy/marquee, corner projecting sign, and west elevation wall sign. The mixed-use Project adds to the balance of uses in Downtown (DCP, 3.1-G-2) in a centralized location close to many amenities, attractions, and transit options, as it is located on the C Street trolley corridor (DCP, 7.3-P-1). The Project will contribute to its vitality by adding 336 residential units to the neighborhood and providing an attractive and engaging streetscape that includes ground level commercial lease space in a building design inspired by a historical resource, adding character to the neighborhood. Because the components of this Project increase activity in the neighborhood, improve the aesthetics of the site, and advance the vision of the DCP, the proposed development will not be detrimental to the public health, safety and welfare.

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

With approval of the NDP for the replication of the original historical resource's entrance canopy/marquee and corner projecting sign and the eight requested deviations, the proposed development complies with all applicable regulations of the LDC, including the CCPDO and other applicable sections of the SDMC. The requested deviations serve to maximize the density and use of the site and allow for the new construction at its base to emulate the historic California Theatre, which is proposed to be demolished. With the proposed deviations, the Project is

able to provide the desired diversity and mix of uses, while also contributing to high overall intensities in Downtown and using land efficiently to advance the population and employment targets of the DCP (DCP, 3.2-G-5). For example, the reduction of the personal storage requirement and increase in tower lot coverage and tower floor plate serve to increase the buildable area and therefore allow for the highest and best use of the site by providing more housing units than would otherwise be feasible on the site. The maximization of the property with the provision of housing opportunities advances the population goals of the DCP. With the allowed deviations, the Project complies with the LDC and CCPDO.

2. Supplemental Findings – Affordable Housing, In-Fill Projects, or Sustainable Buildings Deviation

a. The development will materially assist in accomplishing the goal of providing affordable housing, in-fill projects, or sustainable building opportunities.

The Project is an in-fill project because it proposes the construction of a mixed-use development within a Transit Priority Area, per SDMC Section 143.0915(b). The Project is a high-intensity development, maximizing the use of the 25,101 SF lot to provide 336 residential DU, 190 hotel rooms, and 3,686 SF of commercial/retail space located on the C Street transit corridor and adjacent to the Civic Center Trolley Station.

Additionally, the Project proposes LEED Gold certification to obtain a 2.0 FAR Bonus. Section 156.0303(e)(8) of the CCPDO allows for a 2.0 FAR Bonus for either LEED Gold certification or California Green Building Standards Code (CALGreen) Tier 2 performance. SDMC Section 143.0915(c) identifies a project that incorporates the voluntary Tier 2 measures of CALGreen as a sustainable building. As an equivalent threshold to earn a 2.0 FAR Bonus, the Project is proposing LEED Gold certification and is therefore a sustainable building, consistent with SDMC Section 143.0915(c).

b. Any proposed deviations are appropriate for the proposed location.

The requested deviations to the CCPDO development regulations will allow for (1) a reduction in the required width for a two-way drive aisle from 24 feet to 22 feet, (2) a reduction in the required distance from the north property line to the driveway on Third Avenue from three feet to zero feet, (3) an increase in the allowable recessed entry width from 25 feet to 26'-5" and depth from 15 feet to 16'-5" to recreate the historical resource's recessed entry, (4) an increase in the allowable street wall height on Fourth Avenue from 85 feet to 100'-8" and setback on Level 2 on C Street from five feet to seven feet to recreate the historical resource's façade, (5) an increase in the allowable east-west tower floor plate dimension from 130 feet to 150'-5", (6) a reduction in the required number of DU with private open space from 50% (168 DU) to 29% (99 DU), (7) a reduction in the required number of DU with personal storage from 100% (336 DU) to 50% (168 DU), and (8) elimination of the requirement for hotel parking.

The site is constrained by its relatively small lot size in the context of achieving the desired density for a development of this size. With these constraints, buildable space is limited so deviations are requested to allow for the highest use of the site to maximize the FAR and number of DU and hotel rooms in the Project to advance the population and employment goals of the DCP by providing as many DU and hotel rooms as feasible in the Project.

The deviation regarding the driveway location adjacent to the north property line instead of three feet away allows for the design of the street-level floor plan to concentrate vehicular entry points to only a portion of the Third Avenue and maximize the pedestrian-oriented frontage of the Project. For safety, the Project proposes convex mirrors located within the site to enhance the visibility of pedestrians, cyclists, and other vehicles. The reduction also serves to minimize the vehicular use of the frontage, which improves the pedestrian and streetscape environment in Downtown consistent with the Section 3.2.1 and 4.5.11 of the DDG and Section 5.4 of the DCP. Therefore, this deviation is appropriate for the location.

The deviation to reduce the required drive aisle width within the parking garage for two-way drive aisles is also a result of the relatively narrow north-south lot width of 100 feet and location of structural columns. With the two-foot relief, the Project is able to maximize the amount of parking in the subterranean parking garage. The narrower drive aisle is mostly provided where perpendicular parking is only adjacent on one side, which provides enough space for a vehicle to back out, as there would be no conflict from vehicles on the opposite side.

Additionally, this deviation is entirely underground so it does not impact the building design and therefore has no impact on the character of the neighborhood. Further, the parking garage is proposed to be for residential use only and no hotel parking is proposed, so the vehicular traffic would be regularly used by residents of the building only. Therefore, the proposed drive aisle reduction is appropriate at the site.

The deviation regarding the 190-room hotel parking reduces the number of spaces required for the hotel from 57 (0.3 spaces per room) to zero. Downtown is a dense, urban area with many amenities and attractions within walking distance and many transit options available. It is anticipated that many visitors staying at the hotel would not have a car. If a hotel guest has a car, off-site valet parking will be provided for hotel guests with a designated valet zone that will be located along Fourth Avenue, between the hotel entrance and the existing MTS bus stop. The Applicant is currently in negotiations with ACE parking company for valet services. Hotel guests with cars can also utilize one of the nearby public parking garages within a few blocks of the site, such as Horton Plaza at Fourth Avenue and F Street, Civic Center Plaza at First Avenue and A Street, and the garage at Fifth Avenue and Broadway. Hotel guests without cars are anticipated because there are many attractions in the Downtown area that are accessible by foot from the site, like the historic Gaslamp Quarter, and there are many alternative modes

of transportation available to reach other attractions, such as the trolley station adjacent to the site at Third Avenue and C Street, several bus stops one block to the south on Broadway, as well as the Downtown CIRCUIT shuttle, rentable scooters, and rideshare apps. Because of the nearby parking options and the nature of the Project's urban location, the elimination of hotel parking is appropriate for the location.

The increase in the tower floor plate dimensions maximizes the buildable area of the site in order to provide more DU. The tower floor plate dimension deviation increases the east-west tower dimension from 130 feet to 151'-6". The Project site is surrounded by properties within the Employment Overlay of the CCPDO, in which east-west tower floor plate dimensions are allowed to be 150 feet by-right. The Project proposes an additional one foot, five inches of width beyond what any tower constructed around it would be limited to; therefore, the deviation to increase the tower floor plate dimension is consistent with potential future development surrounding the site and wouldn't adversely impact the character of the Civic/Core neighborhood. The Project makes efforts to address the increased mass of the building caused by the increased tower floor plate dimension deviations by adhering to the DDG on building tower design. The tower is designed with a majority of the facades composed of glazing (DDG, 4.5.4.F) and, overall, expresses variety, avoids monotony, and distinguishes different building volumes (DDG, 4.4.1.C) by employing multiple glazing colors and different materials that span the height of the tower. Considering the minimal impact of the massing on neighboring properties, the enhanced design, and the advancement of the population and goals of the DCP, these deviations are appropriate for the proposed location.

The deviation to reduce the required private open space from 50% of the DU, totaling 168 DU, to 29%, totaling 99 DU, does not adversely impact the quality of life of the residents or the overall design of the tower. The Project is meeting the common outdoor open space requirement by providing 3,765 SF of outdoor space that is available for use by all residents. These spaces include pool areas, lounge areas, landscaping, and barbeque and bar space. Additionally, the balconies play a role in the overall design of the tower by being strategically located to create the openings in the glass curtainwall that create the "ribbon" effect that appears to wrap the tower. The DDG encourages the incorporation of balconies and architectural projections to provide desirable elevation and composition variety (DDG, 4.5.4.E), which the Project is providing to create a high-quality, unique tower design.

The Project proposed a reduction in the number of required personal storage units from the required 100% of units to 50%. The CCPDO requires personal storage units that are at least 240 cubic feet in size for each DU, which in this case is 336 DU. If the footprint of each personal storage unit is approximately 38.6 SF (estimated 6.22-foot height, length, and width), the additional 168 personal storage units needed without the deviation would equal over 6,000 SF of space,

which, after accounting for circulation, core, access, etc., would likely use the equivalent of approximately half a floor (typical tower square footage in the Project is about 12,200 SF), so it is reasonable to conclude the number of DU and/or hotel rooms would be decreased if the full personal storage requirement was fully implemented.

The remaining two deviations regarding the street wall and the recessed entry are related to the partial replication of the original historical resource, the California Theatre (HRB Site No. 291). While the preceding deviations advance the population and intensity goals of the DCP, these deviations advance the historical resource goals of the DCP to incorporate elements of historical buildings in new projects to impart heritage (DCP, 9.2-P-1). The base of the Project is designed to recreate the facades of the original historical resource as close as possible. The original historical resource was built in 1927 and does not comply with all the development regulations of the current municipal code, so in order to replicate it, deviations are necessary for two elements. The street wall of the historic office tower along Fourth Avenue is approximately 15 feet higher than the current 85-foot maximum and on C Street, part of the streetwall above the first two levels is set back seven feet where five feet is the maximum. Secondly, the recessed entry on Fourth Avenue is approximately ten feet wider and ten feet deeper than is allowed. These deviations do not adversely impact the neighborhood; rather, they contribute to the creation of a unique icon for the neighborhood. These two deviations will contribute to the overall design of the building that will impart history and heritage of the site and the city to both visitors and residents, consistent with the DCP; therefore, it is appropriate at the site.

C. NEIGHBORHOOD USE PERMIT [SDMC Section 126.0305]

1. Findings for all Neighborhood Use Permits:

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

The Comprehensive Sign Plan proposes to deviate from the Sign Regulations of chapter 14, Article 2, Division 12 of the SDMC in order to construct signage that replicates historic signs that were original to the historical resource, the California Theatre. The Project proposes a canopy/marquee on Fourth Avenue that replicates the historic theater marquee, a projecting sign at the corner of Fourth Avenue and C Street that replicates the historic "California" projecting sign, and a wall sign on the west elevation façade on Third Avenue that replicates the historic "Caliente" wall sign. The canopy/marquee requires a NUP per SDMC Section 141.1106 and the projecting and wall signs exceed the allowable sign area per SDMC Sections 142.1230(b) and 142.1225(b) respectively. Deviations from the Sign Regulations of the SDMC are permitted with approval of a Comprehensive Sign Plan pursuant to SDMC Section 141.1103. The Project is located within the Core Land Use District of the DCP area, in which Comprehensive Sign Plans are permitted 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 SDMC.

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

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 proposed signs replicate historic signage that has been a part of the character and architecture of the historical resource for decades. The conditions of approval are anticipated to include conditions that stipulate that the proposed signs may not be utilized for commercial tenant signage, and furthermore, that the signs may only be used to re-create the historic signage dimensions, materials, and sign copy. The placement of these signs and proposed deviations do not impede pedestrian or vehicular traffic or have an adverse impact on the character of the neighborhood; therefore, the proposed use will not be detrimental to the public health, safety, and welfare.


c. The proposed use will comply with the regulations of the LDC including any allowable deviations pursuant to the LDC.

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. In order to replicate the historic signage that previously existed on the historical resource, the deviations from the Sign Regulations of the Land Development Code include increasing the allowable sign area of the projecting sign from 100 SF (50 SF per sign face) to 400 SF (200 SF per sign face) and sign area of the west elevation wall sign from 350 SF to 3,882 SF and allowing the construction of a marquee. The Project will obtain all additional applicable permits as required by the City of San Diego Development Services Department, including any necessary building or sign permits.

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

BE IT FURTHER RESOLVED, that the appeal of Rick Bates on behalf of Unite Here Local 30 is denied; the decision of the Planning Commission is affirmed with a modification to the permits to change the condition for the Affordable Housing Regulations to require the proposed 7 affordable dwelling units on-site; and SDP No. 2397979/NDP No. 2506601/NUP No. 2397980 is granted to Caydon San Diego Property LLC, Owner/Permittee, under the terms and conditions set forth in the attached permit which is made a part of this resolution.

APPROVED: MARA W. ELLIOTT, City Attorney

By 
Corrine Neuffer
Chief Deputy City Attorney

CLN:soc
05/06/2021
Or. Dept: Planning
IO#: 24008521
Doc. No.: 2655410
Adopted on: April 27, 2021

Attachment: SDP/NDP/NUP No. 657138

RECORDING REQUESTED BY
CITY OF SAN DIEGO
URBAN DIVISION
1222 FIRST AVE. THIRD FLOOR
SAN DIEGO, CA 92101

WHEN RECORDED MAIL TO
PROJECT MANAGEMENT
PERMIT CLERK
MAIL STATION 501

INTERNAL ORDER NUMBER: 24008521 SPACE ABOVE THIS LINE FOR RECORDER'S USE

SITE DEVELOPMENT PERMIT 2397979
NEIGHBORHOOD DEVELOPMENT PERMIT 2506601
NEIGHBORHOOD USE PERMIT 2397980
CALIFORNIA THEATRE - PROJECT NO. 657138
CITY COUNCIL

This Site Development Permit/Neighborhood Development Permit/Neighborhood Use Permit is granted by the City Council of the City of San Diego ("City") to Caydon San Diego Property, LLC, Owner/Permittee, pursuant to San Diego Municipal Code (SDMC) Section 126.0505, 126.0404, 125.0440, and 126.0305, to allow 1) the demolition of a historical resource, 2) eight deviations from the development regulations of the SDMC, 3) the construction of private structures within the public right-of-way (ROW), and 4) a Comprehensive Sign Plan for California Theatre ("Project"). The approximately 25,101 square-foot (SF) site is located at 1122 Fourth Avenue (north side of C Street between Third and Fourth avenues) in the Civic/Core neighborhood of the Downtown Community Plan (DCP) area and within the Centre City Planned District. The Project site 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.

Subject to the terms and conditions set forth in this Permit, permission is granted to the Owner/Permittee to construct and operate a development and uses as described and identified by size, dimension, quantity, type, and location on the approved exhibits (Exhibit "A") dated January 15, 2021, on file in the Development Services Department (DSD).

The Project shall include:

- Construction of a 41-story, 431-foot tall mixed-use development, totaling approximately 465,907 SF, and comprised of 336 residential dwelling units, 190 hotel guest rooms, approximately 3,686 SF of commercial space, and five levels of below-grade parking containing 194 parking spaces.
- **Site Development Permit (SDP):** Demolition of designated Historical Resources Board (HRB) Site No. 291, the California Theatre, pursuant to Sec. 126.0502(d)(1)(E).

- **Neighborhood Development Permit (NDP):**

- a. Construction of private structures in the public ROW pursuant to Sec. 126.0402(j) for the replication of the historic entrance canopy/marquee and historic corner projecting sign per the specifications listed in the Comprehensive Sign Plan permitted in the NUP below.
- b. Eight deviations from the SDMC pursuant to Sec. 126.0402(q) as follows:
 1. Sec. 142.0560(c) – Automobile Parking Aisles: Reduce the minimum width required for two-way drive aisle widths from 24 feet to 22 feet.
 2. Sec. 142.0560(j)(3) – Driveway and Access Regulations: Reduce the required distance from north property line to driveway on Third Avenue from three feet to zero feet.
 3. Sec. 156.0310(d)(1)(B)(iii) – Recessed Entrance: Increase the allowable width of the recessed entrance of the replicated historic façade on Fourth Avenue from 25 feet to 26'-5" and increase the allowable depth from 15 feet to 16'-5".
 4. Sec. 156.0310(d)(1) – Street Wall: Increase the allowable maximum street wall height on Fourth Avenue from 85 feet to 100'-8" and setback on Level 2 on C Street from five feet to seven feet for the replicated historic façade.
 5. Sec. 156.0310(d)(3)(B) – Tower Floor Plate: Increase the allowable maximum east-west tower floor plate dimension from 130 feet to 151'-6".
 6. Sec. 156.0310(g)(3) – Private Open Space: Reduce the number of required DU with private open space from 50% of DU (168 DU) to 29% of DU (99 DU)
 7. Sec. 156.0310(g)(4) – Personal Storage: Reduce the number of required personal storage areas from 100% of DU (336 DU) to 50% of DU (168 DU).
 8. Sec. 156.0313(b) – Non-Residential Off-Street Parking: Reduce the number of required off-street parking spaces for the Project's 190-room hotel from 57 spaces (0.3 spaces per guest room) to zero spaces.

- **Neighborhood Use Permit (NUP):** Comprehensive Sign Plan per Sec. 142.1208(a)(1) for the signage on the replicated historic entrance canopy/marquee on Fourth Avenue, the replicated historic "California" projecting sign at the corner of Fourth Avenue and C Street, and the replicated historic "Caliente" wall sign as follows:

Criteria for Replicated "California" Projecting Sign	
Location	Southeast corner of the site on the replicated office building
Overall Area	Sign area not to exceed 400 SF (200 SF per sign face)
Max. Dimensions	52' in height, 4' in width, 10" in depth
Max. Projection	5' from the corner of the building
Sidewalk Clearance	33'-6" from bottom of sign to sidewalk
Sign Copy	Limited to "California" as per historic sign. No on-site tenant or off-site signage is allowed on the projecting sign.
Letter Height	Not to exceed height of historic letter height of projecting sign.
Logos	Not permitted
Materials	Painted metal
Lighting	Individual bulbs
Design	The replicated design shall be based on historic photographs of the projecting sign

Criteria for Replicated Entrance Canopy/Marquee	
Location	Ground floor of east elevation on the replicated office building
Overall Area	Overall marquee signage not to exceed 342 SF
Max. Dimensions	33 feet in width, 6 feet in height, 12 feet in depth
Max. Projection	11'-2" from the face of the building
Sidewalk Clearance	10'-5" from bottom of canopy to sidewalk
Sign Copy	Limited to historic sign copy and/or sign copy for the residential component of the project. No commercial tenant signage or off-site signage is allowed on the marquee sign.
Letter Height	Limited to maximum allowed by Chapter 14 of the SDMC for any signage related to the residential component of the Project. Letter heights may match letter heights of historic marquee sign.
Logo Height	Limited to maximum allowed by Chapter 14 of the SDMC for any signage related to the residential component of the Project. Logo heights may match logo heights of the historic marquee sign.
Materials	Painted metal or Plexiglass face, no box signs permitted
Lighting	Lighting shall be based on historic photographs of the entrance canopy/marquee sign
Design	The replicated design shall be based on historic photographs of the entrance canopy/marquee sign

Criteria for Replicated "Caliente" Wall Sign	
Location	Facade of the west elevation on Third Avenue
Overall Area	Overall wall signage not to exceed 3,882 SF
Max. Dimensions	87'-1" in width, 44'-1" in height
Sign Copy	Limited to historic sign copy only. No commercial tenant signage or off-site signage is allowed on the wall sign.
Materials	May be painted, incorporated into a scrim, or other application as approved by the City
Lighting	Only exterior lighting permitted
Design	The replicated design shall be based on historic photographs of the wall sign

- Public and private accessory improvements determined by DSD to be consistent with the land use and development standards for this site in accordance with the adopted community plan, the California Environmental Quality Act (CEQA) and the CEQA Guidelines, the City Engineer's requirements, zoning regulations, conditions of this Permit, and any other applicable regulations of the SDMC.

STANDARD REQUIREMENTS:

1. This permit must be utilized within thirty-six (36) months after the date on which all rights of appeal have expired. If this permit is not utilized in accordance with Chapter 12, Article 6,

Division 1 of the SDMC within the 36-month period, this permit shall be void unless an Extension of Time has been granted. Any such Extension of Time must meet all SDMC requirements and applicable guidelines in effect at the time the extension is considered by the appropriate decision maker. This permit must be utilized by April 27, 2024.

2. No permit for the construction, occupancy, or operation of any facility or improvement described herein shall be granted, nor shall any activity authorized by this Permit be conducted on the premises until:
 - a. The Owner/Permittee signs and returns the Permit to DSD; and
 - b. The Permit is recorded in the Office of the San Diego County Recorder.
3. While this Permit is in effect, the subject property shall be used only for the purposes and under the terms and conditions set forth in this Permit unless otherwise authorized by the appropriate City decision maker.
4. This Permit is a covenant running with the subject property and all of the requirements and conditions of this Permit and related documents shall be binding upon the Owner/Permittee and any successor(s) in interest.
5. The continued use of this Permit shall be subject to the regulations of this and any other applicable governmental agency.
6. Issuance of this Permit by the City does not authorize the Owner/Permittee for this Permit to violate any Federal, State or City laws, ordinances, regulations or policies including, but not limited to, the Endangered Species Act of 1973 [ESA] and any amendments thereto (16 U.S.C. § 1531 et seq.).
7. The Owner/Permittee shall secure all necessary building permits. The Owner/Permittee is informed that to secure these permits, substantial building modifications and site improvements may be required to comply with applicable building, fire, mechanical, and plumbing codes, and State and Federal disability access laws.
8. Construction plans shall be in substantial conformity to Exhibit "A." Changes, modifications, or alterations to the construction plans are prohibited unless appropriate application(s) or amendment(s) to this Permit have been granted.
9. All of the conditions contained in this Permit have been considered and were determined necessary to make the findings required for approval of this Permit. The Permit holder is required to comply with each and every condition in order to maintain the entitlements that are granted by this Permit.
10. If any condition of this Permit, on a legal challenge by the Owner/Permittee of this Permit, is found or held by a court of competent jurisdiction to be invalid, unenforceable, or unreasonable, this Permit shall be void. However, in such an event, the Owner/Permittee shall have the right,

by paying applicable processing fees, to bring a request for a new permit without the "invalid" condition(s) back to the discretionary body which approved the Permit for a determination by that body as to whether all of the findings necessary for the issuance of the proposed permit can still be made in the absence of the "invalid" condition(s). Such hearing shall be a hearing de novo, and the discretionary body shall have the absolute right to approve, disapprove, or modify the proposed permit and the condition(s) contained therein.

11. The Owner/Permittee shall defend, indemnify, and hold harmless the City, its agents, officers, and employees from any and all claims, actions, proceedings, damages, judgments, or costs, including attorney's fees, against the City or its agents, officers, or employees, relating to the issuance of this permit including, but not limited to, any action to attack, set aside, void, challenge, or annul this development approval and any environmental document or decision. The City will promptly notify Owner/Permittee of any claim, action, or proceeding and, if the City should fail to cooperate fully in the defense, the Owner/Permittee shall not thereafter be responsible to defend, indemnify, and hold harmless the City or its agents, officers, and employees. The City may elect to conduct its own defense, participate in its own defense, or obtain independent legal counsel in defense of any claim related to this indemnification. In the event of such election, Owner/Permittee shall pay all of the costs related thereto, including without limitation reasonable attorney's fees and costs. In the event of a disagreement between the City and Owner/Permittee regarding litigation issues, the City shall have the authority to control the litigation and make litigation related decisions, including, but not limited to, settlement or other disposition of the matter. However, the Owner/Permittee shall not be required to pay or perform any settlement unless such settlement is approved by Owner/Permittee.
12. Development Impact Fees: The development will be subject to Downtown Development Impact Fees. The fee shall be determined in accordance with the fee schedule in effect at the time of building permit issuance and with the SDMC. The Owner/Permittee shall provide to the City's Facilities Financing Department the following information at the time of application for building permit plan check: 1) total square footage for commercial lease spaces and all areas within the building dedicated to support those commercial spaces including, but not limited to: loading areas, service areas and corridors, utility rooms, and commercial parking areas; and 2) applicable floor plans showing those areas outlined for verification. In addition, it shall be responsibility of the Owner/Permittee to provide all necessary documentation for receiving any "credit" for existing buildings to be removed.
13. This development shall comply with the standards, policies, and requirements in effect at the time of approval of this development, including any successor(s) or new policies, financing mechanisms, phasing schedules, plans and ordinances adopted by the City.
14. No permit for construction, operation, or occupancy of any facility or improvement described herein shall be granted, nor shall any activity authorized by this Permit be conducted on the premises until this Permit is recorded in the Office of the San Diego County Recorder.

ENVIRONMENTAL/MITIGATION REQUIREMENTS:

15. As required by SDMC Sec. 156.03049(h), the development shall comply with all applicable Mitigation, Monitoring, and Reporting Program (MMRP) measures from the 2006 Downtown Final Environmental Impact Report (Downtown FEIR) for the DCP and as amended by subsequent addenda; and the Final Supplemental Environmental Impact Report (SEIR) for the Downtown San Diego Mobility Plan certified by the City Council on June 21, 2016 (Resolution R-310561) and the Final SEIR for the 1122 4th Avenue Redevelopment Project certified by the City Council on April 4, 2017 (Resolution R-311016), to the satisfaction of DSD and the City Engineer. Prior to issuance of any construction permit, all conditions of the MMRP shall be adhered to, to the satisfaction of the City Engineer. All mitigation measures described the MMRP of the Final SEIR for the 1122 4th Avenue Redevelopment Project shall be implemented for the following issue areas:

AQ-B.1-1; HIST-A.1-3; HIST-B.1-1; HR-1; HR-2; HR-3; LU-B.4-1; NOI-B.1-1; NOI-C.1-1; TRF-A.1.1-2

CLIMATE ACTION PLAN REQUIREMENTS:

16. Owner/Permittee shall comply with the Climate Action Plan (CAP) Consistency Checklist stamped as Exhibit "A." Prior to issuance of any construction permit, all CAP strategies shall be noted within the first three (3) sheets of the construction plans under the heading "Climate Action Plan Requirements" and shall be enforced and implemented to the satisfaction of DSD, including:
- a. Cool/Green Roofs: Roofing materials with a minimum three-year aged solar reflection and thermal emittance or solar reflection index equal to or greater than the values specified in the voluntary measures under California Green Building Standards Code (CAL Green).
 - b. Plumbing Fixtures & Fittings:
 - i. Residential:
 - 1. Kitchen faucets: Maximum flow rate not to exceed 1.5 gallons per minute at 60 PSI;
 - 2. Standard dishwashers: 4.25 gallons per cycle;
 - 3. Compact dishwashers: 3.5 gallons per cycle;
 - 4. Clothes washers: Water factor of six gallons per cubic feet of drum capacity.
 - ii. Nonresidential:
 - 1. Plumbing fixtures and fittings that do not exceed the maximum flow rate specified in Table A5.303.2.3.1 (voluntary measures) of CAL Green.
 - 2. Appliances and fixtures for commercial applications that meet the provisions of Section A5.303.3 (voluntary measures) of CAL Green.
 - c. Electric Vehicle Charging: Of the total required listed cabinets, boxes, or enclosures, 50% have the necessary electric vehicle supply equipment installed to provide active electric vehicle charging stations ready for use.
 - d. Bicycle Parking Spaces: Project provides more short- and long-term bicycle parking spaces than required in the SDMC.

- e. Shower Facilities: The Project includes changing/shower facilities in accordance with the voluntary measures under CAL Green for the nonresidential component.
- f. Designated Parking Spaces: The Project provides designated parking for a combination of low-emitting, fuel-efficient, and carpool/vanpool vehicles.
- g. Transportation Demand Management: The Project will accommodate over 50 tenant-occupants (employees) and therefore will provide a Transportation Demand Management program for tenants that includes:
 - i. At least one of the following components:
 - 1. Parking cash out program
 - 2. Parking management plan that includes charging employees market-rate for single-occupancy vehicle parking and providing reserved, discounted, or free spaces for registered carpools or vanpools
 - 3. Unbundled parking whereby parking spaces would be leased or sold separately from the rental or purchase fees for the development for the life of the development
 - ii. And at least three of the following components:
 - 1. Commitment to maintaining an employer network in the SANDAG iCommute program and promoting its RideMatcher service to tenants/employees
 - 2. On-site carsharing vehicle(s) or bikesharing
 - 3. Flexible or alternative work hours
 - 4. Telework program
 - 5. Transit, carpool, and vanpool subsidies
 - 6. Pre-tax deduction for transit or vanpool fares and bicycle commute costs
 - 7. Access to services that reduce the need to drive, such as cafes, commercial stores, banks, post offices, restaurants, gyms, or childcare, either onsite or within 1,320 feet (1/4 mile) of the structure/use.

AFFORDABLE HOUSING REQUIREMENTS:

- 17. Prior to issuance of any residential building permit associated with this Project, the Owner/Permittee shall comply with the provisions of the Inclusionary Affordable Housing Regulations of SDMC Chapter 14, Article 2, Division 13 and the Inclusionary Housing Procedures Manual. The Owner/Permittee shall enter into a written Agreement with the San Diego Housing Commission which shall be drafted and approved by the San Diego Housing Commission, executed by the Owner/Permittee, and secured by a deed of trust which incorporates applicable affordability conditions consistent with the SDMC. The Agreement will specify that in exchange for the City's approval of the Project, the Owner/Permittee shall provide seven affordable units with prices of no more than 100% Area Median Income (AMI).

AIRPORT REQUIREMENTS:

- 18. The Owner/Permittee shall comply with conditions established by the City Airport Approach Overlay Zone (and any successor or amendment thereto) which were approved by the Airport Land Use Commission (ALUC) on January 8, 2021. The ALUC Board made the determination that

the project is conditionally consistent with the San Diego International Airport Land Use Compatibility Plan (ALUCP). Owner/Permittee shall comply with the following ALUC conditions:

- a. The structure and temporary construction crane shall be marked and lighted in accordance with Federal Aviation Administration (FAA) procedures.
- b. An aviation easement for airspace shall be recorded with the County Recorder prior to building permit issuance.
- c. The ALUCP requires that a means of overflight notification be provided for new residential land uses. In instances when an aviation easement is required, the overflight notification requirement is satisfied.

ENGINEERING REQUIREMENTS:

19. The SDP/NDP/NUP shall comply with all Conditions of the Tentative Map No. 2413271.
20. Prior to the issuance of any building permits, the Owner/Permittee shall assure, by permit and bond, the reconstruction of the existing curb with City standards curb and gutter, adjacent to the site on Third and Fourth avenues, satisfactory to the City Engineer.
21. Prior to the issuance of any building permits, the Owner/Permittee shall assure, by permit and bond, the reconstruction of existing sidewalk with current City Standard sidewalk, preserving the contractor's stamp, adjacent to the site on Third Avenue, Fourth Avenue, and C Street, satisfactory to the City Engineer.
22. Prior to the issuance of any building permits, the Owner/Permittee shall assure, by permit and bond, the reconstruction of existing curb ramps at the southeast corner of Fourth Avenue and C Street and at the southwest corner of Third Avenue and C Street, per current City Standard Drawing SDG-130 and SDG-132, satisfactory to the City Engineer.
23. Prior to the issuance of any building permits, the Owner/Permittee shall assure, by permit and bond, the construction of a City Standard Bus Pad, adjacent to the site on Fourth Avenue, satisfactory to the City Engineer.
24. Prior to the issuance of any building permits, the Owner/Permittee shall obtain an Encroachment Maintenance Removal Agreement (EMRA), for the proposed private improvements of any kind, including enhanced sidewalk, private storm drain connections, landscaping and irrigation, trash receptacles, street trees, block planters, and electrical conduits to be installed within the In the Third Avenue, Fourth Avenue, and C Street ROW, satisfactory to the City Engineer.
25. Prior to the issuance of any building permits, the Owner/Permittee shall obtain an Encroachment Maintenance Agreement (EMA), for the proposed entrance canopy/marquee and projecting sign to be installed within the Fourth Avenue and C Street ROW, satisfactory to the City Engineer.

26. Prior to the issuance of any building permits, the Owner/Permittee shall assure, by permit and bond, the removal of existing driveway, and replace it with City standards curb, gutter and sidewalk, adjacent to the site on Fourth Avenue, satisfactory to the City Engineer.
27. Prior to the issuance of any construction permit, the Owner/Permittee shall provide documentation that Metropolitan Transit System (MTS) supports the Project adjacent to the MTS ROW, satisfactory to the City Engineer.

GEOLOGY REQUIREMENTS:

28. The Owner/Permittee shall submit a geotechnical investigation report or update letter that specifically addresses the proposed construction plans. The geotechnical investigation report or update letter shall be reviewed for adequacy by the Geology Section of DSD prior to issuance of any construction permits.
29. The Owner/Permittee shall submit an as-graded geotechnical report prepared in accordance with the City's "Guidelines for Geotechnical Reports" following completion of the grading. The as-graded geotechnical report shall be reviewed for adequacy by the Geology section of DSD prior to exoneration of the bond and grading permit close-out.

HISTORICAL RESOURCES REQUIREMENTS:

30. The Project shall comply with all applicable Historical Resources MMRP measures from the 2006 Downtown FEIR for the DCP as applicable, including HIST-A.1-3, HR-1, HR-2 and HR-3.
31. Prior to the issuance of a demolition permit, the Historic American Building Survey (HABS) documentation as approved by HRB and City Historical Resources staff on January 28, 2021 shall be submitted for archival storage with the City of San Diego HRB, South Coastal Information Center, the California Room of the City of San Diego Public Library, the San Diego Historical Society, the Library of Congress and/or other historical society group(s).
32. Prior to the issuance of a demolition permit, the Owner/Permittee's qualified historic preservation professional (QHPP) shall make available for donation architectural materials from the site consistent with Mitigation Measure HR-1. Once the items for salvage are identified, the QHPP will submit this information to the City's Historical Resources Section for approval.
33. Prior to the issuance of a demolition permit, the Owner/Permittee will create a display and interpretive material to the satisfaction of Historical Resources Board staff for public exhibition concerning the history of the California Theatre consistent with Mitigation Measure HR-3. The display shall be installed at the site by the applicant prior to the Certificate of Occupancy, after construction similar to other demolished historical resources.

LANDSCAPE REQUIREMENTS:

34. Prior to issuance of any grading permit, the Owner/Permittee shall submit complete construction documents for the revegetation and hydro-seeding of all disturbed land in

accordance with the City Landscape Standards, Storm Water Design Manual, and to the satisfaction of DSD. All plans shall be in substantial conformance to this permit (Including Environmental conditions) and Exhibit "A," on file at DSD.

35. Prior to issuance of any public improvement permit, the Owner/Permittee shall submit complete landscape construction documents for ROW improvements to DSD for approval. Improvement plans shall show, label, and dimension a 40-square-foot area around each tree which is unencumbered by utilities. Driveways, utilities, drains, water and sewer laterals shall be designed so as not to prohibit the placement of street trees. Plant material located in the public ROW, other than trees, shall not exceed 36-inches in height.
36. Prior to issuance of any building permit (including shell), the Owner/Permittee shall submit complete landscape and irrigation construction documents, which are consistent with the Landscape Standards, to DSD for approval. The construction documents shall be in substantial conformance with Exhibit "A," Landscape Development Plan, on file in DSD. Construction plans shall provide a 40-square-foot area around each tree that is unencumbered by hardscape and utilities unless otherwise approved per Sec. 142.0403(b)5.
37. The Owner/Permittee shall be responsible for the maintenance of all landscape improvements shown on the approved plans, including in the ROW, unless long-term maintenance of said landscaping will be the responsibility of another entity approved by DSD. All required landscape shall be maintained consistent with the Landscape Standards in a disease, weed, and litter free condition at all times. Severe pruning or "topping" of trees is not permitted.
38. If any required landscape (including existing or new plantings, hardscape, landscape features, etc.) indicated on the approved construction documents is damaged or removed, the Owner/Permittee shall repair and/or replace in kind and equivalent size per the approved documents to the satisfaction of DSD within 30 days of damage or Certificate of Occupancy.
39. In the event that a foundation only permit is requested by the Owner/Permittee, a site plan or staking layout plan, shall be submitted to DSD identifying all landscape areas consistent with Exhibit "A," Landscape Development Plan, on file at DSD. These landscape areas shall be clearly identified with a distinct symbol, noted with dimensions, and labeled as 'landscaping area.'

PUBLIC UTILITIES REQUIREMENTS:

40. Prior to the issuance of any building permits, the Owner/Permittee shall assure, by permit and bond, the design and construction of new water and sewer service(s) outside of any driveway or drive aisle and the abandonment of any existing unused water and sewer services within the ROW adjacent to the Project site, in a manner satisfactory to the Public Utilities Director and the City Engineer.
41. Owner/Permittee shall apply for a plumbing permit for the installation of appropriate private back flow prevention device(s) (BFPD), on each water service (domestic, fire and irrigation), in a manner satisfactory to the Public Utilities Director and the City Engineer. BFPDs shall be located above ground on private property, in line with the service and immediately adjacent to the ROW.

42. All proposed private water and sewer facilities are to be designed to meet the requirements of the California Uniform Plumbing Code and will be reviewed as part of the building permit plan check.
43. No trees or shrubs exceeding three feet in height at maturity shall be installed within ten feet of any sewer facilities and five feet of any water facilities.

TRANSPORTATION REQUIREMENTS:

44. All on-site parking stalls and aisle widths shall not be converted and/or utilized for any other purpose; unless otherwise authorized in writing by the appropriate City decision maker in accordance with the SDMC.
45. Prior to the issuance of any building permits, the Owner/Permittee shall assure by permit and bond the construction of a new 20-foot driveway for vehicle access and a new 14-foot driveway for loading area access along Third Avenue per Exhibit "A," satisfactory to the City engineer.
46. Prior to first occupancy, the Owner/Permittee shall install and maintain convex mirrors on both sides of the garage access and a speed bump, both internal to Project site, near the garage connection with the sidewalk, to the satisfaction of the City Engineer.
47. Prior to first tenant occupancy, the Owner/Permittee shall provide and maintain Transportation Demand Management measures for the Project, to include the following:
 - a. Provide a 50% transit subsidy to hotel and retail tenant employees working on the property. The subsidy value will be limited to the equivalent value of 50% of the cost of an MTS "Regional Adult Monthly/30-Day Pass" (currently \$72 for a subsidy value of \$36 per month). Subsidies will be available and offered from the first tenant occupancy for five years. The subsidy will be required of hotel and retail tenant employees as a lease condition.
 - b. Provide on-site showers and locker facilities for hotel and retail tenant employees.
 - c. Upgrade transit stop adjacent to the Project on Fourth Avenue, including shelter, seating, lighting and ongoing routine maintenance through an agreement with MTS for the life of the improvement.

PLANNING/DESIGN REQUIREMENTS:

48. Floor Area Ratio (FAR) Bonus: The Project achieves a FAR of **18.56** through the following FAR bonuses to increase the Project FAR above the Base Maximum of 10.0 pursuant to the SDMC:
 - a. *Sec. 156.0309(e)(7) FAR Payment Program* – The Project is entitled to **4.56** FAR (114,479 SF) under the FAR Payment Bonus Program. The Owner and/or Permittee will be required to pay \$2,206,010.33 (based on the FY 2019 fee structure at \$19.27 per SF) prior to the issuance of a

building permit for the Project, which will be deposited into a fund to be used for the construction of public parks and enhanced public ROW improvements in the DCP area.

- b. *Sec. 156.0309(e)(3) Three-Bedroom Units* – The Project is entitled to **2.0 FAR (50,204 SF)** for the provision of 34 three-bedroom DU, equivalent to 10% of the total 336 DU within the development. The development shall provide a minimum of 80% of the gross floor area for residential uses. Eligible three-bedroom DU shall contain a minimum of 700 square feet, with additional area for an enclosed closet. Covenants, Conditions and Restrictions (CC&R's) shall be recorded on the property to ensure the number of bedrooms in the DUs used to earn the FAR are not reduced. Such CC&Rs shall be in a form approved by DSD and the City Attorney's Office and shall be recorded prior to issuance of a Building Permit.
- c. *Sec. 156.0309(e)(8) Green Building* – The Project is entitled to **2.0 FAR (54,204 SF)** for the provision of Centre City Green (CCG) Building Incentive Program awards development incentives for buildings that exceed CALGreen. The Owner/Permittee shall construct LEED-Certified Gold buildings in accordance with the US Green Building Council (USGBC) standards for new construction. CC&Rs shall be recorded on the property to ensure the LEED-Certification level for construction of each building. Such CC&Rs shall be in a form approved by DSD and City Attorney's Office and shall be recorded prior to issuance of Building Permit.

Prior to the issuance of any Building Permit, the Permittee shall provide a financial surety, deposit, or other suitable guarantee approved by DSD and the City Attorney's Office to ensure that the Owner/Permittee completes the LEED certification for the development as proposed to obtain a FAR Bonus under this section.

LEED certification must be demonstrated through an Independent report provided by the USGBC that confirms achievement of a LEED Gold level of performance of the Project. The financial surety, deposit, or other suitable guarantee shall be in an amount equivalent to the values which would be required to purchase an equivalent amount of FAR under the FAR Payment Bonus Program (based on the FY 2019 fee structure at \$19.27 per SF). Within 180 days of receiving the final Certificate of Occupancy for a development, the Owner/Permittee shall submit documentation that demonstrates achievement of the applicable LEED rating as proposed under this section.

If the Owner/Permittee fails to submit a timely report or demonstrate LEED Gold certification, payment shall be deducted against the financial security, deposit, or other suitable guarantee and deposited in the FAR Bonus Fund established under the FAR Payment Bonus Program. The amount of payment shall be calculated according to the following formula:

$$P = \text{FAR \$} \times ((\text{LCP} - \text{CPE}) / \text{LCP})$$

P = the payment amount to be paid to the FAR Bonus Fund

FAR\$ = the amount of money which would be required to purchase the equivalent amount of FAR under the FAR Payment Bonus Program

LCP = LEED Certification Points needed to achieve the proposed LEED certification level (Gold)

CPE = LEED Certification Points actually earned by the development as certified by the USGBC

All funds provided by the Owner/Permittee for the LEED certification surety, deposit, or other suitable guarantee that are not paid to the FAR Bonus Fund shall be refunded to the Owner/Permittee. In the event that the Owner/Permittee submits a timely report and demonstrates the necessary level of LEED certification for the Owner/Permittee's desired FAR Bonus, the entire amount of the surety, deposit, or other suitable guarantee shall be refunded to the Owner/Permittee.

49. FAR Exemption: A maximum of 96,402 SF shall be exempted from the total gross floor area for the purposes of calculating the FAR for the floor area within the building envelope of the existing designated historic resource, the California Theatre (HRB Site No. 291) pursuant to SDMC Sec. 156.0309(f)(1).
50. Parking: No on-site parking is required for the residential DUs and the Project shall not provide more than 336 parking spaces for the residential DUs (one space per DU, excluding tandem spaces). A deviation is approved to reduce the number of required parking spaces for the hotel from 57 spaces (0.3 spaces per guest room) to zero spaces. The Project proposes 194 total parking spaces. The parking spaces shall be designed to City standards, except as permitted in SDMC Sec. 156.0313(k), and subject to the following provisions:
 - a. The residential off-street parking spaces shall consist only of unbundled parking. All parking spaces shall be sold or leased separately from the sale or lease of any residential unit.
 - b. The number of accessible off-street parking spaces shall be provided in accordance with Title 24 of the California Code of Regulations (California Building Standards Code).
 - c. The number of off-street electric vehicle charging spaces shall be provided in accordance with the California Green Building Standards Code, which requires 10% of total parking spaces to be capable of supporting electric vehicle charging stations, or 20 spaces with the 194 parking spaces as proposed.
 - d. One motorcycle parking space shall be provided for every ten parking spaces provided for the residential DU, or 19 spaces with the 194 parking spaces as proposed.
51. Bicycle Parking: Secured bicycle storage shall be provided to accommodate a minimum of 68 bicycles (one bicycle for every five DU). Bicycle storage areas shall be within a secured enclosure with access restricted to authorized persons and provide devices for the locking of individual bicycles.
52. Transportation Demand Management: The Project is required to implement measures to reduce single-occupant vehicle trips for the Project, per Table 0313-D of Section 156.0313(o) of the CCPDO, achieving a minimum of 25 points, for the life of the Project. The Owner/Permittee shall demonstrate such measures prior to Issuance of any Building Permit for the Project.

53. Residential Amenities and Facilities: The Project includes the following residential amenities and facilities as illustrated on the approved Exhibit "A," on file at DSD, which shall be required to be maintained within the development in perpetuity:
- a. Common Outdoor Open Space – A minimum of 3,765 SF of common outdoor open space shall be provided. The space may contain active and passive areas and a combination of hardscape and landscape features, but a minimum of 10% of the common outdoor open space must be planting area.
 - b. Common Indoor Space – A minimum of 500 SF of common indoor amenity space shall be provided. The space(s) shall be maintained for use by residents of the development and must be accessible through a common corridor. The area may contain active or passive recreational facilities, meeting space, computer terminals, or other activity space.
 - c. Private Open Space – A minimum of 99 DU shall provide private open space on a balcony, patio, or roof terrace. A deviation is approved to reduce the number of required DU with private open space from 50% of DU (168 DU) to 29% of DU (99 DU).
 - d. Pet Open Space – A minimum of 200 SF of pet open space shall be provided, improved for use by pets and clearly marked for such exclusive use. Such areas shall include permeable surfaces, a hose bib, and be drained to the public sewer system.
54. Urban Design Standards: The Project, including its architectural design concepts and off-site improvements, shall be consistent with the Centre City Planned District Ordinance (CCPDO) and Centre City Streetscape Manual (CCSM). These standards, together with the following specific conditions, will be used as a basis for evaluating the development through all stages of the development process.
55. Architectural Standards: The architecture of the development shall establish a high quality of design and complement the design and character of the Civic/Core neighborhood as shown in the approved Exhibit "A," on file at DSD. The development shall utilize a coordinated color scheme consistent with the approved Exhibit "A," on file at DSD.
56. Form and Scale: The development shall consist of a 41-story mixed-use development (approximately 431 feet tall) measured to the top of the roofline, with roof equipment enclosures, elevator penthouses, and mechanical screening above this height permitted per the CCPDO and the FAA. All building elements shall be complementary in form, scale, and architectural style.
57. Building Materials: All building materials shall be of a high quality as shown in Exhibit "A," on file at DSD and approved materials board. All materials and installation shall exhibit high-quality design, detailing, and construction execution to create a durable and high-quality finish. The base of the buildings shall be clad in upgraded materials and carry down to within one inch of finish sidewalk grade, as illustrated in the approved Exhibit "A," on file at DSD. Any graffiti coatings shall be extended the full height of the upgraded base materials or up to a natural

design break such a cornice line. All downspouts, exhaust caps, and other additive elements shall be superior grade for urban locations, carefully composed to reinforce the architectural design. Reflectivity of the glass shall be the minimum reflectivity required by Title 24 of the California Code of Regulations (Title 24). All construction details shall be of the highest standard, as shown in the approved Exhibit "A," on file at DSD, and executed to minimize weathering, eliminate staining, and not cause deterioration of materials on adjacent properties or the ROW. No materials/colors substitutions shall be permitted without prior written City consent.

58. **Street Level Design:** Street level windows shall be clear glass and may be lightly tinted. Architectural features such as awnings and other design features which add human scale to the streetscape are encouraged where they are consistent with the design theme of the structure. Exit corridors including garage entrances shall provide a finished appearance to the street with street level exterior finishes wrapping into the openings a minimum of ten feet, or the garage door, whichever is deeper. All exhaust caps, lighting, sprinkler heads, and other elements on the undersides of all balconies and surfaces shall be logically composed and placed to minimize their visibility, while meeting code requirements. All soffit materials shall be high quality and consistent with adjacent elevation materials and incorporate drip edges and other details to minimize staining and ensure long-term durability.
59. **Utilitarian Areas:** Areas housing trash, storage, or other utility services shall be completely concealed from view of the ROW and adjoining developments, except for utilities required to be exposed by the City or utility company. The development shall provide trash and recyclable material storage areas per SDMC Sec. 142.0810 and 142.0820. Such areas shall be provided within an enclosed building area and kept clean and orderly at all times.
60. **Mail and Delivery Locations:** It is the Owner/Permittee's responsibility to coordinate mail service and mailbox locations with the United States Postal Service and to minimize curb spaces devoted to postal and loading use. The Owner/Permittee shall locate all mailboxes and parcel lockers outside of the ROW either within the building or recessed into a building wall.
61. **Circulation and Parking:** Owner/Permittee shall prepare a plan which identifies the location of curbside parking control zones, parking meters, fire hydrants, valet services if any, trees, street lights to the satisfaction of the City, and consistent with the performance standards in the CCPDO and CCSM. Such plan shall be submitted in conjunction with Construction Permits. All parking shall meet the requirements of the Building Department, Fire Department and City Engineer. All parking shall be mechanically ventilated. The exhaust system for mechanically ventilated structures shall be located to mitigate noise and exhaust impacts on the public ROW. The garage doors shall be a minimum 80% opaque to prevent views into the garage areas.
62. **Underground Parking Structures:** Any subterranean storage and parking facilities encroaching into the public ROW shall be located: 1) a minimum of three feet behind the face of curb; 2) three feet below the finished sidewalk level; and, 3) eight feet below grade within six feet from the face of curb, all measured to the outside of any shoring. An EMRA shall be obtained from the City to allow any encroachment of the subterranean garage into the ROW.

63. Open Space and Development Amenities: A landscape plan that illustrates the relationship of the proposed on and off-site improvements and the location of water, and electrical hookups to the satisfaction of the City and consistent with the performance standards in the CCPDO, shall be submitted with construction drawings.
64. Roof Tops: A rooftop equipment and appurtenance location and screening plan and consistent with the performance standards in the CCPDO shall be prepared and submitted to the satisfaction of the City with construction drawings. Any roof-top mechanical equipment shall be grouped, enclosed, and screened from surrounding views.
65. Signage: All signs shall comply with the City Sign Regulations and the CCPDO, with the exception of the replicated historic entrance canopy/marquee, the replicated historic "California" projecting sign, and the replicated historic "Caliente" wall sign approved per the Comprehensive Sign Plan.
66. Lighting: A lighting plan which highlights the architectural qualities of the proposed development and also enhances the lighting of the public ROW shall be submitted with construction drawings. All lighting shall be designed to avoid illumination of, or glare to, adjoining properties, including those across any street.
67. Noise Control: All mechanical equipment, including but not limited to, air conditioning, heating and exhaust systems, shall comply with the City Noise Ordinance and California Noise Insulation Standards as set forth in Title 24. The Owner/Permittee shall provide evidence of compliance with construction drawings.
68. Street Address: Building address numbers shall be provided that are visible and legible from the ROW.
69. On-Site Improvements: All on-site improvements shall be designed as part of an integral site development. An on-site improvement plan shall be submitted to the satisfaction of the City with construction drawings.
70. Off-Site Improvements: Public improvements shall be installed in accordance with the Centre City Streetscape Manual (CCSM) and City Street Design Manual.
71. Street Trees: Street trees shall be Carrot Wood on C Street and Fern Pine on Third and Fourth avenues, per the CCSM. All trees shall be planted at a minimum 36-inch box size with tree grates provided as specified in the CCSM and shall meet the requirements of Title 24. Tree spacing shall be accommodated after street lights have been sited, and generally spaced 20 to 25 feet on center. All landscaping shall be irrigated with private water service from the subject development. Associated tree grates shall be Special on C Street and CCDC Standard on Third and Fourth avenues, per the CCSM.
72. Street Lights: Street lights shall be per MTS on C Street and Standard on Third and Fourth avenues, per the CCSM. All existing lights shall be evaluated to determine if they meet current City requirements and shall be modified or replaced if necessary.

73. Sidewalk Paving: Paving shall be Terra Cotta Tile on C Street and CCDC Standard on Third and Fourth avenues, per the CCSM. Any specialized paving materials shall be approved through the execution of an EMRA with the City.
74. Litter Containers: The development shall include two trash receptacles, one at each intersection.
75. Landscaping: All required landscaping shall be maintained in a disease, weed, and litter free condition at all times. If any required landscaping (including existing or new plantings, hardscape, landscape features, etc.) indicated on the approved construction documents is damaged or removed during demolition or construction, it shall be repaired and/or replaced in kind and equivalent in size per the approved documents and to the satisfaction of the City within 30 days of damage or Certificate of Occupancy, whichever occurs first.
76. Planters: Planters shall be permitted to encroach into the ROW a maximum of three feet. The planter encroachment shall be measured from the property line to the face of the curb/wall surrounding the planter. A minimum five-foot clear path shall be maintained between the face of the planter and the edge of any tree grate or other obstruction in the ROW.
77. On-Street Parking: Owner/Permittee shall maximize the on-street parking, wherever feasible.
78. Franchise Public Utilities: The Owner/Permittee shall be responsible for the installation or relocation of franchise utility connections including, but not limited to, gas, electric, telephone and cable, to the development and all extensions of those utilities in public streets. Existing franchised utilities located above grade serving the property and in the sidewalk ROW shall be removed and incorporated into the adjoining development. All franchise utilities shall be installed as identified in Exhibit A. Any above grade devices shall be screened from public view.
79. Construction Fence: Owner/Permittee shall install a construction fence pursuant to specifications of, and a permit from, the City Engineer. The fence shall be solid plywood with wood framing, painted a consistent color with the development's design, and shall contain a pedestrian passageway, signs, and lighting as required by the City Engineer. The fencing shall be maintained in good condition and free of graffiti at all times. The construction fence, any construction staging area, any pedestrian passageway associated with the project construction, or any similar construction-related feature may not encroach into Third Avenue beyond the existing curb line on the east side of the street. All aforementioned construction features must be located within the extant Third Avenue sidewalk area.
80. Development Identification Signs: Prior to commencement of construction on the site, the Owner and/or Permittee shall prepare and install, at its cost and expense, one sign on the barricade around the site which identifies the development. The sign shall be at least four feet by six feet and be visible to passing pedestrian and vehicular traffic. The signs shall at a minimum include: 1) Color rendering of the development, 2) Development name, 3) Developer, 4) Completion Date, 5) For information call _____. Additional development signs may be provided around the perimeter of the site. All signs shall be limited to a maximum of 160 sq. ft. per street frontage. Graphics may also be painted on any barricades surrounding the site. All signs and graphics shall be submitted to the City for approval prior to installation.

APPROVED by the City Council of the City of San Diego on April 27, 2021 and Resolution No. R-313521

Approval No. SDP 2397979, NDP 2506601, NUP 2397980

Project No. 657138

Date of Approval: April 27, 2021

AUTHENTICATED BY THE CITY OF SAN DIEGO URBAN DIVISION

James Alexander
Senior Planner, Urban Division
Development Services Department

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

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

Caydon San Diego Property, LLC
Owner/Permittee

By _____
Emma Alexander
Authorized Signatory for Owner/Permittee

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

Passed by the Council of The City of San Diego on APR 27 2021, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Joe LaCava	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jennifer Campbell	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Stephen Whitburn	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Monica Montgomery Steppe	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Marni von Wilpert	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Cate	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Raul A. Campillo	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Vivian Moreno	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sean Elo-Rivera	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage APR 27 2021.

(Please note: When a resolution is approved by the Mayor, the date of final passage is the date the approved resolution was returned to the Office of the City Clerk.)

AUTHENTICATED BY:

TODD GLORIA
Mayor of The City of San Diego, California.

(Seal)

ELIZABETH S. MALAND
City Clerk of The City of San Diego, California.

By Connie Patterson Deputy

Office of the City Clerk, San Diego, California

Resolution Number R- 313521