



**Centre City
Development
Corporation**

REPORT NO. CCDC-07-42

DATE ISSUED: November 28, 2007

ATTENTION: Honorable Chair and Members of the Redevelopment Agency
Docket of December 4, 2007

ORIGINATING DEPT.: Centre City Development Corporation

SUBJECT: Acceptance of Pedestrian Easement Agreement for the
Rehabilitation of the Historic Balboa Theatre (located at Fourth
Avenue and E Street) – Horton Plaza Redevelopment Project

COUNCIL DISTRICT: 2

REFERENCE: None

STAFF CONTACT: Gary J. Bosse, Senior Project Manager – Construction
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REQUESTED ACTION: That the Redevelopment Agency (“Agency”) take such actions as necessary to accept and execute the Pedestrian Easement Agreement.

STAFF RECOMMENDATION: That the Agency accept and execute the Pedestrian Easement Agreement.

SUMMARY: In April 2006, subsequent to the issuance of the building permit for the final phase of the Balboa Theatre (“Theatre”), a code modification request was made by Centre City Development Corporation (“Corporation”) staff to the City of San Diego Development Services Department/Building Development Review Division. The code modification request was made by Corporation staff and the architectural design consultant team engaged on the project on behalf of the Agency.

In summary, two new doors on the south side of the building at the stage level were required for egress from both the stage and from the basement level. The south side of the building is on the property line. These two new doors would satisfy the California Building Code (“CBC”) requirements for emergency egress. However, the CBC does not permit openings from an A-1 occupancy within five feet of a property line. The code modification request was to allow openings and exit discharge at two egress points from the existing Theatre stage into an existing exit court and exit passage on an adjoining property by means of an easement. The code modification request was approved by the Development Services Department, subject to the recording of an easement acceptable to the adjoining property owners, City Attorney and the Building Official.

There are two adjoining property owners to the south of the Theatre. The easterly half of the south facing wall of the Theatre adjoins the Horton 4th Avenue Apartment development and the westerly half of the south facing wall adjoins the Horton Plaza Shopping Center. The attached Pedestrian Easement Agreement for Access Purposes and Declaration of Restrictions and Covenants has been agreed to by the adjoining property owners (“the Grantors”) as evidenced by their execution of the document. The City Attorney’s Office and the Development Services Department have also concurred that the document satisfies its intended purpose.

FISCAL CONSIDERATIONS: None with this action. The acceptance and execution of this easement does not create any financial obligations for the Agency.

CENTRE CITY DEVELOPMENT CORPORATION RECOMMENDATION: None.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: In 2003, at the initiation of the design, the design team performed a program and budget development process via a series of work sessions with the stakeholders. These work sessions provided the stakeholders, which included the Corporation, San Diego Theatres, potential user groups, technical representatives, and public representatives, a forum to define the mission, design goals, program requirements, budget goals, and schedule objectives. Ultimately these goals were incorporated in the Project Planning Guide.

KEY STAKEHOLDERS AND PROJECTED IMPACTS: The key stakeholders for the project are the proposed future operator, San Diego Theatres, and the future arts organizations that will use the Theatre. Without the Agency’s acceptance and execution of the easement, the Theatre will not comply with the CBC, and therefore, cannot receive a Certificate of Occupancy and be put into service.

BACKGROUND

The rehabilitation of the Theatre advances the Visions and Goals of the Centre City Community Plan and the Objectives of the Horton Plaza Redevelopment Project by:

- Eliminating blight through the rehabilitation and upgrade of a significant historic structure;
- Strengthening the Arts District, thereby contributing to the growth of making downtown the dominant regional center for the arts, entertainment, dining and public festivals; and
- Providing a community facility to cater toward both downtown residents and visitors.

In addition, the Historic Preservation Focus Plan and the 2004-2009 Implementation Plans for Centre City and Horton Plaza specifically list the rehabilitation of the Theatre as a focus project.

Environmental Impact – The restoration, maintenance, permitting or licensing of a public structure involving no expansion or change of use is subject to a categorical exemption from the requirements of CEQA, pursuant to CEQA Guidelines, Section 15301, subdivision (d). The proposed easement that is the “project” for the purposes of CEQA is such a “permitting” or

“licensing” action within the meaning of section 15301(d). The provision of access for emergency egress purposes does not fall within any of the categories of projects for which a categorical exemption may not be applied. (Pub. Resources Code, § 21084.) Moreover, the project triggers none of the exceptions under CEQA Guidelines section 15300.2 to the application of a categorical exemption. Therefore, staff has determined the application of the categorical exemption under CEQA Guidelines section 15301, subdivision (d), to be appropriate to the project here.

CONCLUSION

The restoration of the Theatre will play a vital role in fostering community participation in the arts and economic growth. The Theatre will become a multi-purpose performing arts center in the heart of downtown San Diego. This community treasure will become an exciting venue for cultural, commercial, community and convention activities. Acceptance and execution of this easement ensures the Theatre will meet these objectives.

Respectfully submitted,

Concurred by:



Gary J. Bosse
Senior Project Manager - Construction



Nancy C. Graham
President

Attachment(s): A - Pedestrian Easement Agreement