

DATE ISSUED: April 7, 2010

ATTENTION: Honorable Chair and Members of the Redevelopment Agency
Council President and City Council
Docket of April 13, 2010

ORIGINATING DEPT.: Centre City Development Corporation

SUBJECT: Proposed Amendments to the Downtown Community Plan, Centre City Planned District Ordinance, Marina Planned District Ordinance, and Revisions to the Mitigation Monitoring and Reporting Program of the 2006 Final Environmental Impact Report for the Downtown Community Plan, Centre City Planned District Ordinance and Redevelopment Plan for the Centre City Redevelopment Project – Areawide **JOINT PUBLIC HEARING**

COUNCIL DISTRICTS: Districts 2 & 8

REFERENCE: None

STAFF CONTACT: Brad Richter, CCDC Assistant Vice President, Current Planning, 619-533-7115

REQUESTED ACTION: That the Redevelopment Agency (“Agency”) certify the Second Addendum to the 2006 Final Environmental Impact Report (FEIR) for the Downtown Community Plan (DCP), Centre City Planned District Ordinance (PDO), and Redevelopment Plan for the Centre City Redevelopment Project for the Amendments to the DCP, Centre City PDO, Marina PDO, and Mitigation Monitoring and Reporting Program (MMRP) of the FEIR; and adopt the revised MMRP.

That the City Council (“Council”) state for the record that it has reviewed and considered the Second Addendum to the 2006 FEIR prior to making a decision on the proposed amendments to land development regulations for the Downtown Community Planning Area, including the DCP, Centre City PDO and Marina PDO.

In addition, that the Council take the following actions:

Adopt the resolution approving amendments to the Downtown Community Plan.

Introduce and adopt the ordinance amending Chapter 10, Article 3, Divisions 19.3, 19.4, 19.6, 19.7, and 19.8 and Chapter 15, Article 6, Division 3 of the San Diego Municipal Code relating to the Centre City Planned District regulations.

Introduce and adopt the ordinance amending Chapter 15, Article 11, Division 4 of the San Diego Municipal Code relating to the Marina Planned District regulations.

STAFF RECOMMENDATION:

That the Agency:

- Approve the Second Addendum for the Amendments to the DCP, Centre City PDO, Marina PDO, and revised MMRP of the FEIR for the DCP, Centre City PDO, and Redevelopment Plan for the Centre City Redevelopment Project (State Clearinghouse Number 2003041001, revised March 2006); and
- Adopt the revised MMRP for the 2006 FEIR for the DCP, Centre City PDO, and Redevelopment Plan for the Centre City Redevelopment Project.

And, that the Council:

- State for the record that it has reviewed and considered the Second Addendum prepared for the Amendments to the DCP, Centre City PDO, Marina PDO, and revised MMRP of the FEIR for the DCP, Centre City PDO, and Redevelopment Plan for the Centre City Redevelopment Project (State Clearinghouse Number 2003041001, revised March 2006);
- Adopt the resolution approving amendments to the Downtown Community Plan, including adding the revised MMRP as Appendix A.
- Introduce and adopt the ordinance amending Chapter 10, Article 3, Divisions 19.3, 19.4, 19.6, 19.7, and 19.8 and Chapter 15, Article 6, Division 3 of the San Diego Municipal Code relating to the Centre City Planned District regulations; and
- Introduce and adopt the ordinance amending Chapter 15, Article 11, Division 4 of the San Diego Municipal Code relating to the Marina Planned District regulations.

SUMMARY: Centre City Development Corporation (“Corporation”) is proposing specific amendments to the MMRP of the 2006 FEIR for downtown and the land development regulations for the Downtown Community Planning Area, including the DCP, the Centre City PDO, and the Marina PDO. The purpose of these proposed amendments includes providing better implementation of the policies of the DCP, creating consistency among planning documents, streamlining documents, enhancing the historic preservation goals and policies for downtown, and numerous minor cleanups in the texts of the various documents.

FISCAL CONSIDERATIONS: None.

CENTRE CITY DEVELOPMENT CORPORATION RECOMMENDATION: On May 30, 2007, the Corporation Board of Directors (“Corporation Board”) voted 5–0 to support the proposed amendments.

PLANNING COMMISSION RECOMMENDATION: On June 28, 2007, the Planning Commission held a public hearing to consider the amendments and voted 4–0 to recommend approval of the various amendments as recommended by staff and the Corporation Board.

CENTRE CITY ADVISORY COMMITTEE: On May 23, 2007, the Centre City Advisory Committee (CCAC), downtown’s community planning group, and the Project Area Committee (PAC) voted unanimously to support these amendments.

PREVIOUS COUNCIL ACTION: On October 30, 2007, the Council voted 6–0 to approve the substantive amendments to the various planning documents and directed the City Attorney’s office to prepare the applicable ordinances and resolutions.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: During 2007, Corporation staff held public workshops for the proposed amendments before the CCAC and its subcommittees, the Corporation Board and its subcommittees, and the Planning Commission.

KEY STAKEHOLDERS AND PROJECTED IMPACTS: The proposed amendments affect land use regulations throughout the downtown planning area and therefore affect property owners, businesses, developers, residents and area visitors.

BACKGROUND

The Centre City Redevelopment Project Area includes approximately 1,500 acres at the metropolitan core of San Diego, bounded by Interstate 5 on the north and east and San Diego Bay on the south and southwest. The Strategic Framework Element of the City’s General Plan recognizes downtown San Diego as the regional center, promoting greater residential development densities as well as its role as the business, government and cultural hub. Because downtown San Diego is both a Community Planning Area as well as a Redevelopment Project Area, development downtown is subject to both the DCP and Redevelopment state law.

On February 28, 2006, the Council adopted the DCP, Redevelopment Plan for the Centre City Redevelopment Project, and Centre City PDO, the framework for downtown land development. At the time of adoption, staff anticipated it would be necessary to amend these documents within a year to make a variety of refinements based on the lessons learned in implementation of the new programs and policies. Staff prepared a series of amendments to address a variety of issues that developed since the DCP’s adoption, including land use and other map changes and

adjustments to Floor Area Ratio (FAR) bonus program calculations. The Marina PDO was also planned to be amended to add the parking regulations adopted in the 2006 Centre City PDO.

The Save our Heritage Organisation (SOHO) filed litigation over certification of the 2006 FEIR (and its MMRP) and adoption of the various planning documents. The City and the Corporation began settlement negotiations with SOHO, attempting to resolve the litigation by amending the MMRP and the various planning documents, and concurrently began processing the amendments with these negotiations.

On April 24, 2007, the Council formally initiated the proceedings for the proposed amendments. On July 31, 2007, the Council and Agency held a joint public hearing to consider the proposed amendments and approved several resolutions and ordinances affecting most of the amendments. However, due to a request from the City Attorney's office to be given additional time to review amendments affecting historical resources in conjunction with the negotiations with SOHO over the Settlement Agreement, those amendments were continued until September 25 and subsequently continued again until October 30.

On October 30, 2007, the Council approved the amendments to the DCP and Centre City and Marina PDOs and directed the City Attorney's office to prepare the applicable resolutions and ordinances. The proposed revisions to the MMRP were still being evaluated by the City Attorney's office, to be finalized and brought back for final adoption by the Agency and Council.

Since October 30, 2007, discussions continued among the Corporation, the City Attorney's office and SOHO as to the final wording of the MMRP mitigation measures for potential impacts to archaeological resources. During this period, the MMRP for the City's General Plan was also challenged by SOHO and City staff worked with the Corporation, the City Attorney's office and SOHO to finalize the mitigation measure for archaeological resources to ensure that the best practices for such mitigation were being incorporated into both MMRPs. Finally, on October 28, 2008, the Council approved a Settlement Agreement with SOHO (executed in early December 2008) which included the requirement that these amendments be presented to the Council for consideration. It must be emphasized that the Settlement Agreement does not require approval of the amendments.

City and Corporation staff have continued to work with the City Attorney's office during the past year to finalize the wording of the amendments to the PDOs, including non-substantive housekeeping changes. All documents have now been finalized and are being presented for formal adoption. The proposed amendments are consistent with all provisions of the 2008 Settlement Agreement with SOHO.

These proposed amendments advance the Visions and Goals of the DCP and the Objectives of the Centre City Redevelopment Project by:

- Ensuring that the DCP accurately reflects the goals and policies of stakeholders;

- Refining zoning incentives to achieve goals outlined in the City of Villages Strategy and DCP; and
- Establishing consistent zoning practices throughout downtown.

DISCUSSION

This public hearing is to consider a package of amendments to the following land use documents: the DCP; the Centre City PDO and the Marina PDO. In addition, proposed revisions to the MMRP for the 2006 FEIR are being considered. Amendment of these documents will create consistency among planning documents (e.g., Marina PDO/Centre City PDO), enhance and clarify historic preservation policies, as well as incorporate numerous minor cleanups in the PDOs' language.

SUMMARY OF PROPOSED REVISIONS TO DOCUMENTS

There are four documents proposed to be amended in this effort, as follows:

1. 2006 FEIR MMRP

The proposed MMRP revisions include additional requirements in the mitigation measures for potential impacts to historical, archaeological and paleontological resources, incorporate the current best practices in the field and are consistent with the Settlement Agreement with SOHO.

2. Downtown Community Plan

The proposed DCP amendments concern policies and programs affecting historical resources, correcting language and reinforcing the City's policies toward historical resources in the downtown area. The revised MMRP also will be included as an Appendix of the DCP so that it is readily available to the public for review.

3. Centre City PDO

The proposed modifications focus mainly on regulations affecting historical resources, but there are numerous other minor amendments in the wording of the adopted regulations as requested by the City Attorney's office. Proposed changes can be summarized as follows:

- (a) Historical Resources Reviews – Strengthens language to conform to the City's review process of historical resources.
- (b) Historical Resources Relocation Preference – Establishes preference for the relocation of historical resources in the downtown area when no feasible

alternative to incorporate the historical resource into a proposed new development is feasible.

- (c) Transfer of Development Rights (TDR) – Allows expanded opportunities for the transfer of development rights from historical resources in certain circumstances.
- (d) Uses Occupying Historical Resources – Adds a new section allowing a wider range of conditions under which certain uses may occupy historical resources.
- (e) Historical Signs – Allows new sign(s) on a historical resource to deviate from City sign regulations when the new sign replicates historical signs of its period of significance, and when recommended by the Historical Resources Board and approval of a Neighborhood Use Permit.
- (f) Numerous minor edits occur throughout the text to achieve consistency with the City’s nomenclature.
- (g) Alcohol Sales Regulations – The City Attorney’s office has requested that a record be established regarding the continuation of regulations affecting the retail sale of alcohol downtown. Since 1992, retail alcohol sales in the downtown area have required approval of a conditional use permit and have been subject to the following conditions:
 - 1. No wine or distilled spirits shall be sold in containers of less than seven hundred fifty milliliters.
 - 2. No malt beverage products shall be sold in less than six pack quantities per sale.
 - 3. Quarterly gross sales of alcoholic beverages shall not exceed 25 percent of the quarterly gross sales of the primary use.
 - 4. No alcoholic beverages shall be sold except between the hours of 10 a.m. and 10 p.m. each day of the week.

These conditions were instituted in 1992 in an effort to regulate the secondary effects associated with alcohol sales and consumption. Such secondary effects include public drunkenness and problems associated with the downtown homeless population, including nuisance issues such as loitering, littering, disorderly conduct and excessive noise. Subsequently, due to specific concerns with the sale of liquor, fortified wines and malt beverages within the East Village and adjoining areas, the Agency adopted the East Village Focus Plan in 1994, which emphasized the need for the elimination and/or restriction of nuisance uses linked to the sale of alcoholic beverages. The plan encouraged incorporation of the above-mentioned conditions throughout downtown. The conditions limiting the alcohol size and quantity (a and b, respectively) have been very effective in

downtown in deterring public drunkenness, specifically with the homeless population, as they do not allow the purchase of single cans of beer or small bottles of liquor that are easily accessible, concealed and consumed on the street. The conditions relative to the percentage of gross sales and the limitations on the hours of operation ensure that there is not an over concentration of alcohol-related establishments within the district, although each of these may be modified on a case-by-case basis through the conditional use permit process. The State of California Department of Alcoholic Beverage Control has often incorporated these conditions into liquor licenses it approves in the downtown area. The existing and proposed alcohol provisions have been, and will continue to be, vital for the protection of the public health, safety and welfare of the downtown area.

4. Marina PDO

This amendment adds the parking regulations that were included in the 2006 Centre City PDO amendments of the Marina PDO (amendments to the Gaslamp Quarter PDO currently are being processed separately). The old parking regulations (i.e., 0.5 spaces per residential unit) are still currently in effect in the Marina District. With this action and an additional amendment to the Gaslamp PDO to be presented to the Council soon, all three downtown Planned Districts – Centre City, Gaslamp Quarter and Marina – will have consistent parking regulations.

Environmental Review/Addendum to the 2006 FEIR – On July 31, 2007, the Agency Certified an Addendum to the 2006 FEIR for the 2007 amendments. In accordance with the California Environmental Quality Act (CEQA), a Second Addendum to the 2006 Final Environmental Impact Report (FEIR) for the DCP, Centre City PDO, and Redevelopment Plan for the Centre City Project Area has been prepared to evaluate the current proposed amendments to determine if additional detail beyond that analyzed in the 2006 FEIR and 2007 Addendum met any of the requirements for the preparation of a Subsequent or Supplemental EIR, per Sections 15162-15163 of the State CEQA Guidelines. Based on the results of the Initial Study prepared for the Second Addendum, none of the amendments or the circumstances under which they are being undertaken would result in any new significant impacts not discussed in the FEIR, or any substantial increase in the severity of impacts identified by the FEIR. In addition, no new information of substantial importance has become available since the FEIR was prepared regarding new significant impacts, or feasibility of mitigation measures, or alternatives that apply to the proposed project. Therefore, staff is recommending that the Agency Certify the Second Addendum for the proposed Amendments to the DCP, Centre City PDO, Marina PDO and revised MMRP of the 2006 FEIR.

CONCLUSION

The proposed amendments would make a variety of changes that enhance the mitigation measures for historical, archaeological and paleontological resources, create consistency among

planning documents, enhance and clarify historic preservation policies, and achieve relatively minor clean-up and clarification changes to the documents. Therefore, staff recommends that the Agency and Council approve the staff recommendation.

Respectfully submitted,

Concurred by:



Brad Richter
Assistant Vice President, Current Planning



Frank J. Alessi
Executive Vice President and Chief
Financial Officer

Attachment: Second Addendum to the 2006 Final Environmental Impact Report for the Downtown Community Plan, Centre City Planned District Ordinance and Redevelopment Plan for the Centre City Redevelopment Project