

RESOLUTION NUMBER R- 298996

ADOPTED ON MAR 23 2004

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN DIEGO CERTIFYING THAT THE CITY COUNCIL HAS REVIEWED AND CONSIDERED INFORMATION CONTAINED IN THE MASTER ENVIRONMENTAL IMPACT REPORT (MEIR) FOR THE CENTRE CITY REDEVELOPMENT PROJECT, THE SUBSEQUENT ENVIRONMENTAL IMPACT REPORT TO THE MEIR FOR THE PROPOSED BALLPARK AND ANCILLARY DEVELOPMENT PROJECTS, AND ASSOCIATED PLAN AMENDMENTS, AND THE SECONDARY STUDY AND MITIGATED NEGATIVE DECLARATION FOR THE KUSI MIXED USE DEVELOPMENT, AS THEY PERTAIN TO THE PROPOSED AMENDMENT TO THE MARINA PLANNED DISTRICT ORDINANCE PROVIDING FOR THE KUSI MIXED USE DEVELOPMENT AND THE PROPOSED NINTH AMENDMENT TO THE CENTRE CITY REDEVELOPMENT PLAN (THE "KUSI MIXED USE DEVELOPMENT AMENDMENT") AND THE IMPLEMENTATION ACTIVITIES THEREFOR, AND INCLUDING CONDITIONAL USE PERMIT 2003-33 AND COMPREHENSIVE SIGN PLAN 2003-33, AND APPROVAL OF THE SALE OF CERTAIN PROPERTY IN THE CENTRE CITY REDEVELOPMENT PROJECT AREA TO MCKINNON PROPERTIES, INC. PURSUANT TO AN AMENDED AND RESTATED OWNER PARTICIPATION AGREEMENT; MAKING CERTAIN FINDINGS REGARDING THE ENVIRONMENTAL IMPACTS OF THE PROPOSED MIXED USE DEVELOPMENT AND RELATED ACTIONS; APPROVING AND ADOPTING A MITIGATED NEGATIVE DECLARATION WITH RESPECT THERETO; AND ADOPTING A REPORTING AND MONITORING PROGRAM.

WHEREAS, the Redevelopment Agency of the City of San Diego [Agency] is engaged in activities necessary and appropriate to carry out and implement the Redevelopment Plan for the Centre City Redevelopment Project [Redevelopment Project]; and

WHEREAS, the Agency has previously prepared, and the Agency by Resolution No. 2081 and the City Council of the City of San Diego [City Council] by Resolution No. 279875 have certified the Final Master Environmental Impact Report for the Centre City Redevelopment Project [referred to herein as the MEIR]; and

WHEREAS, the Agency has also previously prepared, and the Agency by Resolution No. R-03058 and the City Council by Resolution No. 292363 have certified the Final Subsequent Environmental Impact Report to the MEIR for the Proposed Ballpark and Ancillary Development Projects, and Associated Plan Amendments [referred to herein as the SEIR, and referred to collectively with the MEIR as the MEIR/SEIR for the Redevelopment Project]; and

WHEREAS, in order to carry out the Redevelopment Project, the Agency is considering approving a residential, hotel and office/television studio mixed use development proposal within the Redevelopment Project Area, on the block bounded by First, Second, Island and J streets, if accomplished in accordance with specific amendments to the Centre City Redevelopment Plan and Marina Planned District Ordinance and a specific Amended and Restated Owner Participation Agreement and a specific Marina Development Permit, Conditional Use Permit and Comprehensive Sign Permit, approved by the Agency and/or this City Council within the Redevelopment Project Area; and

WHEREAS, in order to implement the mixed use development and related activities, the City Council proposes to approve Amendments to the Marina Planned District Ordinance and the Centre City Redevelopment Plan, and a Conditional Use Permit and Comprehensive Sign Plan, and the Amended and Restated Owner Participation Agreement with McKinnon Properties, Inc., a California corporation [Developer] for the sale of certain property in the Project Area to the Developer and the construction of such mixed use development; and

WHEREAS, the residential, hotel and office/television studio mixed use development contemplated by Amendments to the Marina Planned District Ordinance and the Centre City Redevelopment Plan, and the Conditional Use Permit and Comprehensive Sign Plan, and the Amended and Restated Owner Participation Agreement, are redevelopment implementation

activities whose environmental impacts are assessed in the MEIR/SEIR for the Redevelopment Project; and

WHEREAS, the Centre City Development Corporation, Inc., acting on behalf of the Agency, prepared a Secondary Study, and a Mitigated Negative Declaration for the KUSI Mixed Use Development, to further assess certain potential environmental impacts of the proposed mixed use development, and circulated such Mitigated Negative Declaration for review, comment and consultation with citizens, professional disciplines and public agencies pursuant to the California Environmental Quality Act of 1970 [CEQA] and state and local guidelines and regulations adopted pursuant thereto; and

WHEREAS, the Final Mitigated Negative Declaration relating to the proposed mixed use development and responding to the concerns raised during the review period, has been prepared pursuant to the CEQA and said guidelines and regulations; and

WHEREAS, the City Council, in connection with its consideration of the approval of the proposed mixed use development has reviewed and considered the information contained in the MEIR/SEIR for the Redevelopment Project and the Secondary Study and Mitigated Negative Declaration; NOW, THEREFORE,

BE IT RESOLVED, by the City Council of the City of San Diego, as follows:

1. The City Council hereby certifies that the Secondary Study of environmental impacts, and Mitigated Negative Declaration, with respect to the proposed mixed use development within the Centre City Redevelopment Project has been prepared and completed in compliance with CEQA and state and local guidelines and regulations adopted pursuant thereto, and that the Agency has certified thereto.

2. The City Council hereby further certifies that the MEIR/SEIR for the Redevelopment Project, and the Secondary Study and Mitigated Negative Declaration, were presented to the members of the City Council, and that the information contained in the MEIR/SEIR, and the Secondary Study and Mitigated Negative Declaration, has been reviewed and considered by the members of the City Council.

3. The City Council hereby further certifies that the Secondary Study and Mitigated Negative Declaration (as with the MEIR/SEIR for the Redevelopment Project) represents the City Council's independent judgment and analysis.

4. The City Council hereby finds and determines that:

a. No substantial changes are proposed in the Centre City Redevelopment Project, or with respect to the circumstances under which the Redevelopment Project is to be undertaken, as a result of the mixed use development, which will require important revisions in the MEIR/SEIR for the Project, due to the involvement of new significant environmental impacts not covered in the MEIR/SEIR for the Project.

b. Except as assessed in the Secondary Study and Mitigated Negative Declaration, no new information of substantial importance to the Redevelopment Project has become available which was not known or could not have been known at the time the MEIR/SEIR for the Project was certified as complete, and which shows that the Project will have any significant effects not discussed previously in the MEIR/SEIR, or that any significant effects previously examined will be substantially more severe than shown in the MEIR/SEIR, or that any mitigation measures or alternatives previously found not to be feasible or not previously considered, would substantially reduce or lessen any significant effects of the Project on the environment.

c. No subsequent environmental impact report, or supplement or addendum to the MEIR/SEIR, is necessary or required.

d. Based upon specific information now available with respect to the proposed mixed use development, as set forth in the Secondary Study, the Agency prepared a Mitigated Negative Declaration with respect to certain potentially significant effects of the development, which will be reduced to a less than significant level, as described in Attachment A hereto. The Final Mitigated Negative Declaration is hereby approved and adopted.

e. The mixed use development will have no significant effect on the environment, except as identified and considered in the MEIR/SEIR for the Redevelopment Project.

5. The activity specific Mitigation Monitoring and Reporting Program with respect to the proposed mixed use development, Attachment A to the Secondary Study and Mitigated Negative Declaration for the KUSI Mixed Use Development, is hereby approved and adopted.

APPROVED: CASEY GWINN, City Attorney

By



Douglas K. Humphreys
Deputy City Attorney

DKH:ai
03/04/04
Or.Dept: CCDC
R-2004-934
REDV: RA-2004-105

Attachment A

FINDINGS REGARDING MITIGATED NEGATIVE DECLARATION

The Mitigated Negative Declaration (MND) for the proposed mixed use development (including the Amendments to the Marina Planned District Ordinance and the Centre City Redevelopment Plan, and Marina Development Permit No. 2003-33 as referred to therein, and the Conditional Use Permit and Comprehensive Sign Plan related thereto, and the Amended and Restated Owner Participation Agreement), concludes changes have been made in the development and/or conditions applied to the permit which reduce potentially significant impacts to below a level of significance. The potential impacts and the mitigating measures are summarized below.

Land Use Compatibility

Impact. Noise associated with live broadcasting from within the outdoor plaza area, including personal interviews as well as live music performances, could interrupt residential activities occurring within adjacent residential units within the Harbor Club development. Noise during early morning and late night hours would represent the greatest potential disruption. Live music performances would generate the highest noise levels.

Finding. Potential land use compatibility impacts with respect to adjacent residential activities would ultimately be controlled by the City of San Diego's Noise Ordinance which establishes maximum hourly noise levels for specific periods; noise levels are lowest during late night and early morning hours. In order to help assure that the Noise Ordinance would not be exceeded, the following conditions of approval have been included in Conditional Use Permit 2003-33.

- Studio sponsored events within the Event Area may only occur between the following hours. All function set-up, take-down, and clean-up activities shall be undertaken and completed within these time restrictions.

- Monday-Thursday:	8 a.m. - 8 p.m.
- Friday	8 a.m. - 10 p.m.
- Saturday:	10 a.m. - 10 p.m.
- Sunday:	10 a.m. - 6 p.m.

- Studio sponsored events within the Event Area shall be limited to a maximum of eighty (80) hours per month, including all set-up, take-down, and clean-up activities. The studio shall maintain a log of all dates, times and duration of events, including all set-up, take-down, and clean-up for review by CCDC and/or the appropriate responsible City department.

- Studio sponsored events may utilize localized amplification equipment, but only to the extent necessary to be audible to the audience within the Event Area. Except as specifically provided for amplified music, only human voices may be amplified. All speakers shall face in a southwest to west direction (away from nearby residential developments).
- Amplified music may occur in the Event Area a maximum of two days within a single week period (Sunday through Saturday). Any speakers shall face in a southwest to west direction. The location of any amplified music set-up shall be located at, or to the west of, the approximate mid-point of the J Street Plaza as shown in the Basic Concept Drawings for the project. Amplified music shall be shielded from adjacent residential areas to the southeast and east through the use of a solid background material behind, and cover over, the source of the amplified music.
- All outdoor activities within the Event Area, including amplified music, shall comply with the above time restrictions and the City of San Diego Noise Ordinance, except as may be allowed by the issuance of a Special Event Permit by the City of San Diego on a case-by-case basis.
- Speakers for the covered studio viewing area directly adjacent to the studio windows shall be located only within the covered viewing area and shall not be visible to the exterior of the project. These speakers shall be kept at low volume so as to be clearly audible from the covered viewing area, but not from the adjoining First Avenue sidewalk or J Street Plaza.
- If at any time (despite diligent and good faith efforts by the Owner to program and conduct activities within the J Street Plaza which meet the requirements of the Conditional Use Permit and which are intended not to be a detriment to the Marina neighborhood), the City Council, after holding a duly noticed public hearing, determines that any or all aspects of the activities permitted by the Conditional Use Permit constitute a "public nuisance" as defined by the City of San Diego Municipal Code, then (i) the specific aspect or aspects of the activities which create or constitute a public nuisance shall be restricted, restructured, reconfigured, and/or redesigned to the minimum extent necessary to eliminate the public nuisance, or (ii) such specific aspects of the activities which constitute a public nuisance may no longer be permitted, as reasonably determined by the City Council, if it is not reasonably possible to restrict, restructure, reconfigure, and/or redesign as necessary to eliminate the public nuisance.