

RESOLUTION NUMBER R- 298998

ADOPTED ON MAR 23 2004

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN DIEGO  
APPROVING CONDITIONAL USE PERMIT 2003-33 FOR THE KUSI MIXED  
USE DEVELOPMENT

WHEREAS, McKinnon Broadcasting Company filed an application for a conditional use permit to operate a television broadcast studio within the proposed KUSI Mixed Use development, including outdoor studio-sponsored events within the Event Area within the J Street Plaza, which is located within the Marina Planned District of the Centre City Community Plan Area; and

WHEREAS, on March 23, 2004, the City Council held a duly noticed public hearing and considered Conditional Use Permit No. 2003-33, including a staff report and recommendation and public testimony; NOW, THEREFORE,

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

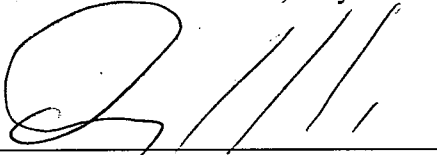
1. The proposed development will not adversely affect the applicable land use plan.
2. The proposed development will not be detrimental to the public health, safety, or welfare.
3. The proposed development will comply to the maximum extent feasible with the regulations of the Land Development Code and Marina Planned District Ordinance.

4. The City Council approves Conditional Use Permit 2003-33 as provided in

Exhibit A.

APPROVED: CASEY GWINN, City Attorney

By



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Douglas K. Humphreys  
Deputy City Attorney

DKH:ali  
03/04/04  
Or.Dept: CCDC  
R-2004-936  
**REDV: RA-2004-103**

**EXHIBIT A**  
**CONDITIONAL USE PERMIT 2003-33**  
**KUSI TELEVISION STUDIOS**

WHEREAS, McKinnon Broadcasting Company filed an application for a conditional use permit to operate a television broadcast studio within the proposed KUSI Mixed Use development, including outdoor studio-sponsored events within the Event Area within the J Street Plaza (as shown on Exhibit A), which is located within the Marina Planned District of the Centre City Community Plan Area;

WHEREAS, on March 23, 2004, the City Council held a duly noticed public hearing and considered Conditional Use Permit 2003-33, including a staff report and recommendation and public testimony.

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

1. The proposed development will not adversely affect the applicable land use plan;
2. The proposed development will not be detrimental to the public health, safety, or welfare;
3. The proposed development will comply to the maximum extent feasible with the regulations of the Land Development Code and Marina Planned District Ordinance;
4. The proposed use is appropriate at the proposed location;

BE IT FURTHER RESOLVED that, based on the Findings hereinbefore adopted by the City Council, Conditional Use Permit 2003-33 is hereby GRANTED, subject to the following conditions:

1. The television studio may conduct studio sponsored events within the area illustrated on Exhibit A (the "Event Area"), which is a part of the J Street Plaza (the public plaza within the former J Street right-of-way), and as provided for by the mutual easements executed between the Redevelopment Agency (City) and the Owner. Such easements are the "Park Easement" (Park Parcel A) granted to the Redevelopment Agency (City) by the Owner and the "Event Easement" (Park Parcel B) granted to the Owner by the Redevelopment Agency (City).
2. The television studio may conduct studio sponsored events in the Event Area which may be open or closed to the general public subject to the following conditions:
  - a. Studio sponsored events within the Event Area may only occur between the following hours:

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.

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All function set-up, take-down, and clean-up activities shall be undertaken and completed within these time restrictions.

- b. Studio sponsored events within the Event Area may include live broadcasts, interviews, promotional activities, social functions, and live performances. Any private events shall be separated from the areas utilized by the general public by temporary barriers and shall be appropriately signed.
- c. 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.
- d. 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 provided for in Condition #2.e., only human voices may be amplified. All speakers shall face in a southwest to west direction (away from nearby residential developments).
- e. 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.
- f. 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.
- g. The Event Area shall generally be cleared of all temporary event equipment immediately after the conclusion of each event. For large equipment such as stages, etc., the Event Area shall be cleared by 2 p.m. the following day except as permitted under a Special Event Permit issued by the City of San Diego.
- h. All lighting within the Event Area, including both permanent and temporary lighting, shall be shielded to avoid the direct illumination of any adjoining private properties.
- i. Security shall be provided in the J Street Plaza area commensurate with the level of studio sponsored activity.

3. Visitors to the studio and plaza events shall not be restricted from parking within the project garage, depending on space availability.
4. 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.
5. The studio shall provide personnel, as may be required, to ensure that the First Avenue public sidewalk is not obstructed by studio observers.
6. 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 this 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 this 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, and this Conditional Use Permit shall be modified accordingly, 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 by this Conditional Use Permit, 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.
7. After establishment of the television broadcasting studio on the Site, the studio area shall not be used for other uses unless:
  - a. The uses are consistent with all zoning and development regulations of the Marina Planned District Ordinance and have been approved by CCDC; or
  - b. This permit has been revoked by CCDC.
8. This Permit is a Covenant running with the lands and shall be binding upon, and inure to the benefit of, the Permittee and any successor or successors, and the interests of any successor shall be subject to each and every condition set out in this permit and all referenced documents.
9. It shall be a condition precedent to issuance of this Permit by CCDC that all amendments to land use regulations necessary to allow the development under this permit to proceed have taken effect.
10. It shall be a condition precedent to issuance of this Permit by CCDC that the Permittee has acquired the Sales Parcel and the Grant of Park Easement and Grant of Event Easement have been recorded, pursuant to that certain Owner Participation Agreement entered into with the Agency on or about the date the

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Agency approves this Permit. If such Owner Participation Agreement is terminated for any reason, this Permit shall not be issued and the approval thereof shall automatically be null and void.

Passed and adopted by the City Council on March 23, 2004.

CENTRE CITY DEVELOPMENT  
CORPORATION

PERMITTEE(S) SIGNATURE

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Brad Richter, Principal Planner

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McKinnon Broadcasting Company