

RESOLUTION NUMBER R- 301233

DATE OF FINAL PASSAGE FEBRUARY 7, 2006

WHEREAS, Whitewater Investment Group, LLC, a Limited Liability Company, Owner/ Volunteers of America, a California Non-Profit Corporation, Permittee, filed an application with the City of San Diego for a coastal development permit, conditional use permit and planned development permit, to convert an existing restaurant building and adjoining medical office building to a Transitional Housing and Residential Care Facility with a treatment center encompassing a full range of treatment and recovery services, including pretreatment, detoxification, education and long-term residential care, and legally described as Parcel 1, Parcel Map No. 2023 and a Portion of Lot 4, Eureka Lemon Tract, Map No 753 in the Pacific Beach Community Plan area, in the CC-4-2 zone, Coastal Overlay Zone (non-appealable area), and the Coastal Height Limit Overlay Zone; and

WHEREAS, the matter was set for public hearing on November 29, 2005, and continued to February 7, 2006, 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 Coastal Development Permit [CDP] No. 238780/Conditional Use Permit [CUP] No. 238781/Planned Development Permit [PDP] No. 238782:

**A. COASTAL DEVELOPMENT PERMIT – SAN DIEGO MUNICIPAL CODE
[SDMC] SECTION 126.0708**

1. The proposed coastal development will not encroach upon any existing physical access way that is legally used by the public or any proposed public accessway identified in a Local Coastal Program land use plan; and the proposed coastal development will enhance and protect public views to and along the ocean and other scenic coastal areas as specified in the Local Coastal Program land use plan. The project proposes to convert an existing restaurant building and an adjoining medical office building at 3565 and 3567 Del Rey Street within the boundaries of the Pacific Beach Community Plan area to a Transitional Housing and Residential Care Facility and treatment center encompassing a full range of treatment and recovery services, including pretreatment, detoxification, education and long-term residential care. The project site is zoned CC-4-2 and the surrounding neighborhood is developed with a variety of uses from residential to commercial and a former hospital. The Interstate 5 Freeway [I-5] abuts this site on the east. The site is two miles easterly of the shoreline and waters of the Pacific Ocean and approximately 0.5 miles from Mission Bay Park and the waters of Mission Bay. The public rights-of-way are fully developed with curb, gutter, sidewalk and paved streets for both pedestrian and vehicular access.

This change of use application will not encroach upon any existing physical accessway that is legally used by the public or any proposed public accessway identified in the Local Coastal Program land use plan. The development is comprised of two buildings that are 2- and 3-stories in height and would be modified to meet accessible requirements, needs of the user to serve clients and link internally the floor plans and uses. The site lies below the I-5 right-of-way and would not degrade or not protect public views to and along the ocean and other scenic coastal areas as identified in the Local Coastal Program land use plan.

2. The proposed coastal development will not adversely affect environmentally sensitive lands. The 24,709 square-foot site at 3565 and 3567 Del Rey Street has not been identified as containing or impacting sensitive coastal resources or environmentally sensitive lands. The site and surrounding neighborhood has been previously developed and the two structures on this site are proposed to be developed for a Transitional Housing and Residential Care Facility and treatment center encompassing a full range of treatment and recovery services, including pretreatment, detoxification, education and long-term residential care.

A Mitigated Negative Declaration has been prepared for this project and a Mitigation Monitoring and Reporting Program [MMRP] will be established.

3. The proposed coastal development is in conformity with the certified Local Coastal Program land use plan and complies with all regulations of the certified Implementation Program. The proposed project is subject to City Council approval, needing a Conditional Use Permit, Planned Development Permit and Coastal Development Permit subject to City Council approval to evaluate for the requested use at this location and of the surrounding neighborhood and community areas. The site is located within the Coastal Overlay Zone in a non-appealable area lying approximately two miles east of the Pacific Ocean and 0.5 mile from

Mission Bay The site is designated for Regional Commercial use in the Pacific Beach Community Plan and zoned for Community Commercial use The existing neighborhood is developed with a mix of land uses that includes residential dwellings The proposed Transitional Housing and Residential Care facility is allowed within the commercial zone by a Conditional Use Permit. The Pacific Beach Community Plan, and the certified Local Coastal Program land use plan, does not address the proposed use. The reuse of these existing buildings with the modifications proposed, will be in conformity with the certified Local Coastal Program land use plan The project proposes deviations from parking on-site, setback and living area minimums which are permitted through the Planned Development Permit Therefore, the project complies with all the regulations of the certified Implementation Program

4. For every Coastal Development Permit issued for any coastal development between the nearest public road and the sea or the shoreline of any body of water located within the Coastal Overlay Zone the coastal development is in conformity with the public access and public recreation policies of Chapter 3 of the California Coastal Act. This site at 3565 Del Rey Street is between Mission Bay Drive and the I-5 Freeway on the eastern boundary of the Pacific Beach Community Plan area. The Pacific Ocean lies two miles to the west while the waters of Mission Bay Park approximately 0.5 miles to the south. This coastal development is not between the nearest public road and the sea or shoreline of any body of water located within the Coastal Overlay Zone and the coastal development is in conformity with the public access and public recreation policies of Chapter 3 of the California Coastal Act. There are no public parks, recreational areas, public pathways or parking lots serving coastal resources on or within the neighborhood where this site is located

B. CONDITIONAL USE PERMIT – SAN DIEGO MUNICIPAL CODE [SDMC] SECTION 126.0305

5. The proposed development will not adversely affect the applicable land use plan. The subject 0.57 acre site is currently developed with two structures consisting of an adjoining restaurant and medical office building at 3565 and 3567 Del Rey Street within the Pacific Beach Community Plan area The subject site is designated for Regional Commercial use in the Pacific Beach Community Plan. The neighborhood is a mix of land uses with commercial activity dominating Mission Bay Drive two blocks to the west, a former hospital/current research center to the north, a medical office building to the west across the street and a variety of residential to the south which includes a new mixed use development under construction. The proposed Transitional Housing and Residential Care Facility encompasses a full range of treatment and recovery services, including pretreatment, detoxification, education and long-term residential care. The proposed use is not addressed in the community plan; however, the implementing commercial zone allows this facility through a Conditional use Permit. Therefore, the proposed reuse of the site will not adversely affect the Pacific Beach Community Plan. The proposal includes building modifications to unite the structures into one functioning building, adapting it to the nature of the use and to meet accessibility requirements. Conditions in the permit assure adequate off-street parking and that the facility will operate as intended so that any negative impacts to the neighborhood are minimized. The proposed use is permitted by a Conditional Use Permit and would be in compliance with the appropriate land use plans and the General Plan of the City of San Diego

6. **The proposed development will be detrimental to the public health, safety, and welfare.** The proposed project is an application for the conversion of an existing restaurant building and adjoining medical office building to a Transitional Housing and Recreational Care Facility and treatment center encompassing a full range of treatment and recovery services, including pretreatment, detoxification, education and long-term residential care at 3565 and 3567 Del Rey Street within the Pacific Beach Community Plan area. The Volunteers of America facility will provide on-site services for persons under the influence of alcohol and drugs for the betterment of the public health, safety and welfare of the City of San Diego. The existing facility is located in the East Village area of Downtown San Diego but must vacate the premises. The existing buildings are available, and with modifications, can be developed to continue their programs designed to assist the San Diego Police Department with the detention of alcoholic inebriated persons and possible education and enrollment in treatment programs to break persons from dependency on this problem. However, the usage at this location will be detrimental to the health, safety or welfare of persons residing or working in the vicinity. The surrounding neighborhood also includes residential dwelling units, new mixed-use development with 'affordable' units, and within the vicinity, are schools, parks, youth athletic fields and other commercial uses conflicting with this proposed use. Additionally, transportation issues in and out of the area for the users of the facility during all hours of the day create a burden on the residential neighborhood. Other support services are lacking in the area that would provide a link for persons treated in this facility.

7. **The proposed development will comply to the maximum extent feasible with the regulations of the Land Development Code.** The proposed Conditional Use Permit regulated facility is also subject to Coastal Overlay Zone and Planned Development Permit regulations and review as well as conformity to the CC-4-2 zone that defines lot development criteria. The project modifies two adjoining buildings previously constructed under the City of San Diego land development regulations. The change of use requires deviations to on-site parking, a setback and the minimum assigned living area space for the residents. These deviations are permitted under the consideration of the Planned Development Permit. Off-street parking will be satisfied through a shared parking agreement with neighboring facilities subject to approval by the City Manager and City Engineer. This is a discretionary permit subject to compliance with conditions of approval. The City Council may cancel or revoke this permit if there are violations of the permit. To the maximum extent feasible, this project will comply with the regulations of the Land Development Code.

8. **The proposed use is not appropriate at the proposed location.** The proposed Transitional Housing and Residential Care Facility and treatment center, encompassing a full range of treatment and recovery services, including pretreatment, detoxification, education and long-term residential care, is a type of land use requiring a Conditional Use Permit so that the decision-maker can fully evaluate the use, operation of the use, existing neighborhood conditions and all other considerations so that a determination can be made as to the appropriateness of the facility at the location subject to conditions. Typically a Conditional Use Permit is a use not allowed as a 'matter of right' in any particular zone but is a use generally located within communities and desirable but needs to be specifically evaluated against all aspects of the proposed location and compatibility of the use. The facility requested is in a

location where redevelopment is forcing a move. There is a record of operation for this user and their commitment to maintain their operation to not be a burden or adverse impact on the proposed new neighborhood has been expressed. The San Diego Police Department has spoken of the positive need for this facility while being neutral on a specific location.

With the I-5 Freeway abutting the site, a medical office facility across the street and the former Mission Bay Hospital to the north, and a residential neighborhood primarily comprising the area to the south, this facility is not an appropriate use at this proposed location. The residential uses nearby and the commercial dominance to the west will be adequately protected by the permit conditions, method of internal operational controls and ability of the City of San Diego to monitor the use for compliance. The Pacific Beach Community Plan does not specifically address this use but the land use designations for visitor serving commercial and regional commercial, along with the established older residential uses existing, create a conflict. With no other similar support facilities and community serving resources in the neighborhood, this proposed use is not appropriate for this location.

**C. PLANNED DEVELOPMENT PERMIT – SAN DIEGO MUNICIPAL CODE
[SDMC] SECTION 126.0604**

9. The proposed development will not adversely affect the applicable land use plan. The subject 0.57 acre site is currently developed with two structures consisting of an adjoining restaurant and medical office building at 3565 and 3567 Del Rey Street within the Pacific Beach Community Plan area. The subject site is designated for Regional Commercial use in the Pacific Beach Community Plan. The neighborhood is a mix of land uses with commercial activity dominating Mission Bay Drive two blocks to the west, a former hospital/current research center to the north, a medical office building to the west across the street and a variety of residential to the south which includes a new mixed use development under construction. The proposed Transitional Housing and Residential Care Facility encompasses a full range of treatment and recovery services, including pretreatment, detoxification, education and long-term residential care. The proposed use is not addressed in the community plan, however, the implementing commercial zone allows this use by a Conditional Use Permit. Therefore, the proposed reuse of the site will not adversely affect the Pacific Beach Community Plan. The proposal includes building modifications to unite the structures into one functioning building, adapting it to the nature of the use and to meet accessibility requirements. Conditions in the permit assure adequate off-street parking and that the facility will operate as intended so that any negative impacts to the neighborhood are minimized. The proposed use is permitted by a Conditional Use Permit and would be in compliance with the appropriate land use plans and the General Plan of the City of San Diego.

10. The proposed development will be detrimental to the public health, safety, and welfare. The proposed conversion of an existing restaurant building and adjoining medical office building to a residential care facility and treatment center encompassing a full range of treatment and recovery services, including pretreatment, detoxification, education and long-term residential care, will be detrimental to the public health, safety, and welfare at 3565 and 3567 Del Rey Street within the Pacific Beach Community Plan area. The use currently operates at 1111 Island Avenue in the East Village neighborhood of the Centre City area of the

City of San Diego The facility has to vacate their existing site and has requested the required permits and approvals to relocate to this requested site. By its function, the use serves the public health, safety and welfare of persons in need of the services offered but, even with proposed building usage, site changes, interior design and function, entry and exit design and other operational measures, in addition to draft conditions of approval considered by the City Council, the facility will be detrimental to the public health, safety and welfare of persons residing, visiting or working in the area

The City Council has determined that the proposed facility would be detrimental to the surrounding neighborhood which has a significant number of residential dwelling units and residential population in addition to public schools, a golf course, public parks, a youth athletic field complex and other existing uses not compatible to this use at this location. The Pacific Beach Community Plan designates the area for a regional commercial center and for visitor serving uses while the residential is an old and well established use in the area. There are no supporting type facilities and resources in the area, thus creating an isolated facility.

11. The proposed development will comply with the regulations of the Land Development Code. This use requires a Conditional Use Permit as a facility for sobering services (Inebriate Reception Center), detoxification center, pretreatment education facility and as a long-term residential care facility (Sobering House) and to convert two existing commercially used buildings (restaurant and medical offices), this Planned Development Permit has been requested to permit a deviation to a rear-yard setback for a new stairway serving the building and meeting exiting needs, a deviation from parking on-site that allows parking needs to be satisfied by a shared-parking agreement for an off-site location, and a fourth deviation for the open space for a residential development. The existing buildings were previously built to comply with regulations of the Municipal code of the City of San Diego and through these three permits, subject to conditions of approval, the requested use and facility will comply with current regulations of the Land Development Code.

12. The proposed development, when considered as a whole, will not be beneficial to the community. The proposed use of this facility, when considered as a whole, will be beneficial to the Pacific Beach Community and the City of San Diego. The facility serves as a Transitional Housing and Residential Care Facility and treatment center encompassing a full range of treatment and recovery services, including pretreatment, detoxification, education and long-term residential care, primarily for the alcohol inebriated individual. The service provided is not perceived as a desirable facility by individual neighbors, the neighborhood where sited or the community area as a whole, and by the City Council recognized Pacific Beach community Planning Committee. While the service is recognized as necessary and beneficial to the City of San Diego as a whole, the City Council does not believe that the facility, as planned for this specific location, is beneficial to the community and neighborhood with a significant residential population and visitor serving commercial uses.

The proximity to schools, parks and youth oriented facilities and lack of resources linking like programs and services within this area also makes this proposal not beneficial to the community.

13. Any proposed deviations pursuant to SDMC/LDC Section 126.0602(b)(1) are appropriate for this location and will result in a more desirable project than would be achieved if designed in strict conformance with the development regulations of the applicable zone. The conversion of an existing restaurant and a medical office building at 3565 and 3567 Del Rey Street in the Pacific Beach Community to a residential care facility and treatment center encompassing a full range of treatment and recovery services, including pretreatment, detoxification, education and long-term residential care, requires four deviations to the underlying zone and City regulations relative to this use at this location. A deviation for a stairway encroaching into the rear yard setback adjacent to the I-5 Freeway is requested for another ingress and egress to the facility

A second deviation is requested for the project to meet minimum off-street parking requirements for the totality of the programs operated at the site and the greatest parking demands at the peak usage period. The prior uses satisfied the parking requirements but the change in use, and elimination of some parking spaces on site to develop a dining room, require that the applicant enter into a 'Shared Parking Agreement' satisfactory to the City Engineer to meet the parking requirements when Alcoholic Anonymous meetings are held on one weekday evening and one session on a weekend afternoon.

The third deviation is a reduction of the minimum private and storage space for the residents entered into the facilities programs. The minimal deviations allow the facility to meet the needs of persons seeking treatment and education while providing the full range of uses on-site.

The fourth deviation allows for the project to deviate from the requirements to provide any open space. The open space requirement is a supplemental development regulation for a Planned Development Permit, and is intended for projects that are proposed residential dwelling units. The proposed project is not a typical, long-term residential project and instead is a facility that offers residential care and transitional housing uses.

These deviations are desirable as they permit a community serving facility to relocate from an existing location that must be vacated and achieve its goals and purposes at a location within two existing buildings developed for a different purpose and subject to other constraints. The structures will be modified to co-ordinate usage, meet ADA requirements, needs of the function of the applicant and will be done without a negative impact on the neighborhood and community. Strict application of the development regulations would result in fewer persons being able to be served and the project would be less desirable.

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

BE IT FURTHER RESOLVED, that Coastal Development Permit No 238780/

Conditional Use Permit No 238781/Planned Development Permit No 238782 is denied

APPROVED: MICHAEL J AGUIRRE, City Attorney

By Shannon M Thomas

Shannon M Thomas
Deputy City Attorney

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