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(R-2008-330)
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RESOLUTION NUMBER R- 303174

DATE OF FINAL PASSAGE NOV 13 2007

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN DIEGO APPROVING CENTRE CITY CONDITIONAL USE PERMIT/VARIANCE 2007-24 FOR THE 15TH & COMMERCIAL PROJECT LOCATED WITHIN THE SAN DIEGO DOWNTOWN COMMUNITY PLAN AREA AND THE EAST VILLAGE DISTRICT OF THE EXPANSION SUB AREA OF THE CENTRE CITY REDEVELOPMENT PROJECT.

WHEREAS, pursuant to the Centre City Planned District Ordinance, S.V.D.P.

Management Inc. has applied for Conditional Use Permit/Variance 2007-24, a proposal to amend and supersede Conditional Use Permit 88-1224 to build a 12-story, 142-foot tall building and a single-story building on the south end of the block bounded by Imperial Avenue and 15th, 16th and Commercial Streets; and

WHEREAS, the existing Conditional Use Permit 88-1224 encompasses the entire approximately 60,000 square foot block, which allows an emergency center for the homeless including meals, showers, permanent and temporary housing, and related support programs at the existing two buildings located on-site known as the Joan Kroc Center [JKC] and Bishop Maher Center [BMC]; and

WHEREAS, the proposed amendment results in changes to only the southern one-third of the block and consists of: (a) a new 12-story building that will replace and upgrade the existing 12-story building occupied by the BMC which provides transitional housing facilities (150 beds) and will add 64 income-restricted Living Units, one manager's unit, and three guest rooms (not for rent but for use by visiting staff and similar); and (b) a new single story building to accommodate the child day care center facilities currently located at the JKC; and

WHEREAS, the proposed project will not result in an expansion of this or other regulated Conditional Use Permit uses (such as the number of beds/dorms or allowed uses) or in a change in operations at either the replacement facility on this site or those remaining at the JKC; and

WHEREAS, the proposed project also requires approval of a Variance from the minimum streetwall height development standard for the proposed single story building to be located between two non-buildable setbacks (seismic fault and pre-existing utility easement); and WHEREAS, the Conditional Use Permit and Variance have been reviewed and recommended for approval with unanimous vote by the Centre City Advisory Committee and the Centre City Development Corporation; and

WHEREAS, the City Council has held a public hearing on October 30, 2007 to consider the Conditional Use Permit and Variance, having duly published and mailed notice of such public hearing and permitted interested citizens and area residents to review and comment on the proposed conditions of the Conditional Use Permit and Variance; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that it adopts the following findings with respect to Centre City Conditional Use Permit/Variance No. 2007-24 under San Diego Municipal Code [SDMC] Sections 126.0305 and 126.0805:

1. **That there are special circumstances or conditions applying to the land or premises for which the Variance is sought that are peculiar to the land or premises and do not apply generally to the land or premises in the neighborhood, and these conditions have not resulted from any act of the applicant after the adoption of the applicable zoning regulations.** Development of this site is constrained by the two seismic faults located just east of mid-block on Commercial Street, as well as a previously existing SDG&E easement at the southeast corner. The faults and the easement are both non-buildable areas and result in the project not being able to meet streetwall development standards along 89 feet of the 201-foot length of the Commercial Street frontage and all 100 feet of the 16th Street frontage. The project proposes a one-story building outside these setbacks to occupy 32 feet of the Commercial Street frontage. At 18 feet in height along this frontage, the one-story building does not meet the minimum 45-foot streetwall height established by the Centre City Planned District Ordinance

[PDO]. Additional floor levels are not needed for this facility and are limited by the relatively small size of the development footprint (between the no-build zones).

2. **That the circumstances or conditions are such that the strict application of the regulations of the Land Development Code would deprive the applicant of reasonable use of the land or premises and the Variance granted by the City is the minimum Variance that will permit the reasonable use of the land or premises.** The no-build setbacks restrict the use of a significant portion of the project site. The one-story building is proposed to provide necessary additional floor area for the child day care facility that cannot be accommodated in the main building because building code restrictions do not allow building area for toddlers to be above grade level. This building assists the project in meeting streetwall development standards along the length of the project site where possible. The Variance relating to streetwall height is the minimum required to allow use of this portion of the development site.

3. **That the granting of the Conditional Use Permit/Variance will be in harmony with the general purpose and intent of the regulations and will not be detrimental to the public health, safety or welfare.** The Variance only results in an aesthetic impact, which is not detrimental to the public health, safety or welfare. The intent of streetwall development standards is to enhance the pedestrian realm by providing a consistent, activated and attractive streetwall in all new development. Given the reduced developable area, the project strives to meet the intent of these standards by providing an attractive landscaped fence along the perimeter adjacent to the no-build zones and enclosed building area, where feasible, and by incorporating an attractive design for the one-story building to be compatible with the redeveloping context of the neighborhood. Furthermore, the project as a whole provides members of our community with needed services and living facilities, and the hours of operation and conditions of approval will further ensure that the use is not a detriment to the public health, safety, and welfare of the surrounding neighborhood.

4. **That the granting of the Conditional Use Permit/Variance will not adversely affect the applicable land use plan.** The granting of the Conditional Use Permit/Variance does not adversely affect the applicable land use plan, including the San Diego Downtown Community Plan and the Centre City Planned District Ordinance, as the uses in the project are allowable with approval of a Conditional Use Permit or are allowed by right, and the granting of the Variance would only provide relief from strict application of the minimum streetwall height standard in order to allow additional building area within a constrained development site. Furthermore, the project replaces a deteriorating building that currently provides the same uses as those in the project and which are allowed in this land use district with approval of a Conditional Use Permit, and provides a new facility that improves the living conditions of the transitional residents, including upgraded day care facilities for their children, and increases the supply of affordable housing in this vicinity.

5. **That the proposed use or development will comply to the maximum extent feasible with the regulations of the Land Development Code.** The project will continue operations and programs that have existed on-site and complied with the regulations affecting the site for thirty years. The facility is designed, and will continue to operate, in conformance with

the regulations of the City's Land Development Code and the Centre City Planned District Ordinance.

6. **That the proposed use is appropriate at the proposed location.** The project replaces an aged facility that is currently located on this site and operates in conjunction with the adjacent programs and facilities at the JKC, which are both covered under a single Conditional Use Permit. The site is within the Mixed Commercial District which allows the use with approval of a Conditional Use Permit.

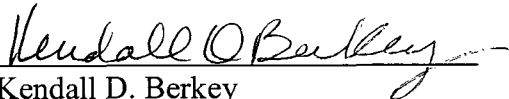
The above findings are supported by the minutes, plans and exhibits, all of which are incorporated herein by this reference.

BE IT FURTHER RESOLVED, that based on the findings hereinbefore adopted by the Council, Centre City Conditional Use Permit/Variance No. 2007-24 [Permit] is hereby granted to S.V.D.P. Management, Inc. [Permittee], subject to and under the terms and conditions set forth in the Permit, attached hereto, incorporated herein and made a part of this Resolution, which shall amend and supersede Conditional Use Permit 88-1224.

BE IT FURTHER RESOLVED, that this activity is covered under the Final Environmental Impact Report [FEIR] for the San Diego Downtown Community Plan, Centre City Planned District Ordinance, and Redevelopment Plan for the Centre City Redevelopment Project, which was certified by the Redevelopment Agency by Resolution R-04001 and by the City Council by Resolution R-301265 on March 14, 2006, and the Addendum to the FEIR for the 11th Amendment to the Redevelopment Plan for the Centre City Redevelopment Project, Amendments to the San Diego Downtown Community Plan, Centre City Planned District Ordinance, Marina Planned District Ordinance, and Mitigation, Monitoring and Reporting Program of the FEIR for the San Diego Downtown Community Plan, Centre City Planned District Ordinance, and the Redevelopment Plan for the Centre City Redevelopment Project certified by the Redevelopment Agency by Resolution R-04193 and by the City Council by R-302932 on July 31, 2007. This activity is adequately addressed in the environmental documents

noted above and the secondary study prepared for this project reveals there is no change in circumstance, additional information, or project changes to warrant additional environmental review. Because the prior environmental documents adequately covered this activity as part of the previously approved project, this activity is not a separate project for purposes of review under the California Environmental Quality Act [CEQA] pursuant to CEQA Guidelines Sections 15060(c)(3), 15180, and 15378(c).

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By 
Kendall D. Berkey
Deputy City Attorney

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