

RESOLUTION NUMBER R- 304605

DATE OF FINAL PASSAGE JAN 20 2009

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN DIEGO APPROVING CENTRE CITY CONDITIONAL USE/PLANNED DEVELOPMENT PERMIT 2008-25 FOR THE 14TH & COMMERCIAL TEMPORARY TRANSITIONAL HOUSING PROJECT WITHIN THE DOWNTOWN COMMUNITY PLAN AREA.

WHEREAS, pursuant to the Centre City Planned District Ordinance and City of San Diego Municipal Code, S.V.D.P. Management, Inc., Owner/Permittee, has applied for Conditional Use Permit/ Planned Development Permit [CUP/PDP] No. 2008-25 to allow a temporary transitional housing facility on the block bounded by Imperial Avenue and 14th, 15th, and Commercial Streets;

WHEREAS, On November 17, 2007, the City Council approved Conditional Use Permit No. 2007-24 to allow the construction of the 15th & Commercial project; a 12-story, 142-foot tall building on the south end of the block bounded by Imperial Avenue and 15th, 16th and Commercial streets; and

WHEREAS, the proposed temporary transitional housing facility will accommodate the relocation of 150 beds during the construction of the 15th & Commercial project for a period not to exceed thirty months and will be relocated within thirty days after issuance of a Certificate of Occupancy for the 15th & Commercial project; and

WHEREAS, the project requires approval of a Conditional Use/Planned Development Permit for deviations from the Development Regulations listed in Section 156.0310 of the Centre City Planned District Ordinance, including but not limited, to minimum Floor Area Ratio [FAR] requirements, minimum street wall height, and street level design to allow the construction of a

temporary tent structure for a period not to exceed 30 months; and deviations from the Transitional Housing requirements listed in Section 141.0313 of the LDC including; the provision requiring a minimum of 5 square feet of living area per bed, requirement to provide a minimum of 70 square feet of sleeping space for each resident, and minimum off-street parking requirements; and

WHEREAS, the Conditional Use/Planned Development Permit has been reviewed and approval recommended by the Centre City Advisory Committee and the Centre City Development Corporation; and

WHEREAS, under Charter section 280(a)(2) this resolution is not subject to veto by the Mayor because this matter requires the City Council to act as a quasi-judicial body and where a public hearing was required by law implicating due process rights of individuals affected by the decision and where the Council was required by law to consider evidence at the hearing and to make legal findings based on the evidence presented; and

WHEREAS, the matter was set for public hearing on JAN 20 2009, 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 City Council of the City of San Diego, that it adopts the following findings with respect to Centre City Conditional Use/Planned Development Permit No. 2008-25:

A. CONDITIONAL USE PERMIT

1. The proposed use or development will not adversely affect the applicable land use plan. The existing transitional housing facility has operated in downtown San Diego for thirty years, providing valuable services critical to the needy members of our community, including the homeless and those at-risk of becoming homeless. The proposed temporary

transitional housing facility will allow continued services to those enrolled in the program while the construction of a new building that improves the living conditions of the transitional housing residents. The short-term operation of the temporary transitional housing facility will not adversely affect the applicable land use plan as the Planned District Ordinance [PDO] and Land Development Code [LDC] require the review and approval of a CUP/PDP to address the proposed use and any issues that may conflict with the surrounding neighborhood.

2. The proposed use or development will not be detrimental to the public health, safety, and welfare. The proposed use will not be detrimental to, but rather contribute to, public health, safety, and welfare by continuing to provide members of the community with needed services and living facilities during construction of the new facility. The proposed conditions of approval will ensure that the use is not a detriment to the public health, safety, and welfare of the surrounding neighborhood by providing all services on-site with appropriate security. The new facility will greatly improve the surrounding area as it will consolidate uses, provide a more attractive building and greatly improve the quality of life for the residents.

3. The proposed use or development will comply to the maximum extent feasible with the regulations of the Land Development Code. The proposed facility is designed, and will continue to operate, in conformance with the regulations of the City's LDC, the Downtown Community Plan, and the Centre City PDO to the maximum extent feasible. Due to the temporary nature of the facility, it is appropriate to allow flexibility from the development standards of the PDO and LDC for transitional housing facilities. The LDC allows for facilities such as this to exist within certain areas of the city with reasonable conditions of approval and provides the ability to grant exceptions through the PDP process provided certain findings can be made.

4. The proposed use is appropriate at the proposed location. The proposed temporary transitional housing facility site is located within the Mixed Commercial District which allows the proposed use with the approval of a CUP. The facility will be located on a vacant site and conditions of approval will require that the site be properly screened and maintained so as not to create a nuisance to the surrounding neighborhood. The facility would be located at this site only during construction of the new facility (no more than thirty months).

B. PLANNED DEVELOPMENT PERMIT FINDINGS:

1. The proposed development will not adversely affect the applicable land use plan. The project site is within the Mixed Commercial land use district which accommodates a wide variety of uses, including residential, commercial services, transportation, retail, and the separately regulated uses proposed in the project. Under this land use classification, a CUP is required for Transitional Housing Facilities. The granting of the CUP/PDP for a temporary facility would only provide relief from strict application of the development standards and transitional housing requirements in order to allow the relocation of an existing facility for a limited period of time. This accommodates the construction of a more attractive and functional project for the neighborhood, which would not negatively affect the applicable land use plan.

2. The proposed development will not be detrimental to the public health, safety, and welfare. The proposed use will not be detrimental to, but rather contribute to public health, safety, and welfare by providing members of our community with needed services and living facilities. When the new 15th & Commercial project is complete, it will significantly improve the transitional housing and day care facilities currently located on-site and add much-needed affordable housing in an attractive new building. The project is consistent with the Downtown Community Plan and complies with all requirements of the Centre City PDO and LDC. The project will provide an attractive building for this site that is compatible in scale and materials with the redeveloping neighborhood.

3. The proposed development will comply with the regulations of the Land Development Code. The proposed project will not meet many of the requirements of the LDC and Centre City PDO as described above. However, deviations are allowed with the approval of the PDP and the project will meet such regulations of the LDC and PDO as needed to ensure the temporary facility is compatible with surrounding land uses. Three deviations to the Transitional Housing Requirements listed in Section 141.0313 of the LDC with this project as follows: Approximately 3.3 square feet of living area per bed, not including sleeping space, dining areas, and kitchen areas shall be allowed where 5 square feet of living areas is usually required; 20 square feet of sleeping space for each resident shall be allowed where 70 square feet is required; no off-street parking requirements per bed will be required and six off-street parking spaces for employees allowed where are least one off-street parking space for each employee and one off-street parking space for every seven beds would be required.

4. The proposed development, when considered as a whole, will be beneficial to the community. When considered as a whole, the proposed project would be beneficial to the community by allowing the existing services to relocate for a short period of time to facilitate the construction of the new project as discussed earlier.

5. Any proposed deviations pursuant to 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 proposed deviations are appropriate for this location given the temporary nature of the facility. The deviations will not result in any negative adverse impacts on the surrounding land uses as the use will only be at the proposed location for a defined period of time. The development standards in the PDO are intended to apply to structures that will exist for significant periods of time, not temporary structures such as the proposed facility.

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

BE IT FURTHER RESOLVED, this activity is covered under the Final Environmental Impact Report [FEIR] for the San Diego Downtown Community Plan, Centre City Planned District Ordinance, the Redevelopment Plan for the Centre City Project Area, 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 the Redevelopment Plan for the Centre City Project Area certified by the Redevelopment Agency by Resolution R-04193 and by the City Council by R-302932 on July 31, 2007. The activity is adequately addressed in the environmental documents noted above and 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, the activity is not a separate project for the purposes of the California Environmental Quality Act [CEQA] review per CEQA Guidelines Sections 15060(c)(3) and 15378 (c).

BE IT FURTHER RESOLVED, that the Centre City Conditional Use/Planned Development Permit No. 2008-25 is granted to S.V.D.P. Management, Inc., Owner/Permittee, under the terms and conditions set forth in the attached permit which is made a part of this resolution.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By Shannon M. Thomas
Shannon M. Thomas
Deputy City Attorney

SMT:pev
11/17/08
Or.Dept:CCDC
R-2009-652

RECORDING REQUESTED BY
CENTRE CITY DEVELOPMENT CORPORATION
ARCHITECTURE AND PLANNING DIVISION
401 B STREET, #400
SAN DIEGO, CA 92101

WHEN RECORDED MAIL TO
CENTRE CITY DEVELOPMENT CORPORATION
ARCHITECTURE AND PLANNING DIVISION
401 B STREET, #400
SAN DIEGO, CA 92101

SPACE ABOVE THIS LINE FOR RECORDER'S USE

**NOTE: COUNTY RECORDER, PLEASE RECORD
AS RESTRICTION ON USE OR
DEVELOPMENT OF REAL PROPERTY
AFFECTING THE TITLE TO OR
POSSESSION THEREOF**

CENTRE CITY CONDITIONAL USE/PLANNED DEVELOPMENT
PERMIT NO. 2008-25
14TH & COMMERCIAL
1402 Commercial Street

City Council

This Conditional Use/Planned Development Permit is granted by the City of San Diego City Council to SVDP Management, Inc., Owner/Permittee, pursuant to San Diego Municipal Code Chapter 12, Article 6, Division 3 and Chapter 12, Article 6, Division 6. The site is located at 1402 Commercial Street in the East Village District of the Downtown Community Planning Area. The project site is further described as Lots C through J of block 169 of Horton's Addition, according to the map thereof on file in the Office of the County Recorder of San Diego County, excepting therefrom that portion of Lot F lying in National Avenue deeded to the City of San Diego by deed dated July 20, 1904 and recorded March 22, 1905, in book 361, page 298 of deeds, located in the Mixed Commercial District of the Downtown Community Plan Area; and,

Subject to the terms and conditions set forth in this Permit, permission is granted to the Permittee to construct and operate buildings and uses as described and identified by size, dimension, quantity, type and location as follows and on the approved exhibits on file in the offices of Centre City Development Corporation [CCDC]:

1. Permitted Uses

The permitted uses for the site shall consist of a 150 bed Temporary Transitional Housing facility during the construction of the 15th & Commercial project (CUP No. 2007-24) to be located within a 6,734 square-foot tent structure on a 38,857 square-foot site (Exhibit A) located on the block bounded by Imperial Avenue and 14th, 15th, and Commercial streets.

2. Planned Development Permit Deviations

- (a) Deviations from the Development Regulations listed in Section 156.0310 of the Centre City PDO including but not limited to minimum Floor Area Ratio [FAR] requirements, minimum street wall height, and street level design to allow the construction of a temporary tent structure for a period not to exceed thirty months; and
- (b) Deviations from the Transitional Housing requirements listed in Section 141.0313 of the LDC including:
 - (1) The provision requiring a minimum of 5 square feet of living area per bed.
 - (2) Requirement to provide a minimum of 70 square feet of sleeping space for each resident.
 - (3) Minimum off-street parking requirements.

Permitted uses shall be subject to the conditions listed below:

- 1. The Permit shall become effective no earlier than sixty days prior to the start of construction of the 15th and Commercial project. Full construction plans for the 15th and Commercial project shall have completed at least one plan check with the City, and proof of financing for the project shall be provided to the Corporation.
- 2. The proposed temporary transitional housing facility shall be permitted at the proposed location for a period not to exceed thirty months. The facility shall be relocated within thirty days after issuance of a Certificate of Occupancy for the 15th & Commercial project (CUP No. 2007-24). At no one time shall the total occupancy of the two facilities exceed more than 150 residents.
- 3. All activities associated with the facility shall occur within the confines of the site.
- 4. Patrons of the facility shall not loiter on the sidewalks directly in front of the facility.

5. Security fencing shall be installed around the perimeter of the site with exiting and fire access provided where necessary. All fencing shall be attractive and approved by CCDC prior to installation.

6. The operator shall be responsible for maintaining the site and adjacent public sidewalks shall remain free of litter and graffiti at all times.

7. If at any time the City and/or the Corporation receive complaints that are validated as violations of the terms of the Permit or the activities permitted under the Permit constitute a "public nuisance" as defined by the City of San Diego Municipal Code, then the operator shall be formally notified by the Corporation. Once formally notified by the Corporation, the operator shall not accept any new residents until the facility has been found to be in conformance with the CUP and all applicable conditions. The operator shall have six weeks to cure any violation and/or resolve any nuisance activities. If the violations and/or nuisance activities are not resolved after four weeks, a public hearing shall be scheduled before the Corporation to consider if the violations and/or the nuisance activities exist after the six week period, and the Corporation shall make a recommendation to the Council on whether the conditions of the Permit should be modified or the Permit revoked. The Council shall hold a public hearing to consider the status of the CUP and may modify or revoke the Permit after considering a staff report and public testimony.

8. Construction and operation of the approved use shall comply at all times with the regulations of this or any other governmental agencies.

9. This Permit is a covenant running with the lands and shall be binding upon the Permittee and any successor or successors, and the interest of any successor shall be subject to each and every condition set out.

10. No permit for construction, operation or occupancy of any facility shall be granted nor shall any activity authorized by this permit be conducted on the premises until this Permit is recorded in the OFFICE OF THE COUNTY RECORDER.

APPROVED by the City Council of the City of San Diego on JAN 20 2009, by Resolution No. R- 304605.

AUTHENTICATED BY THE CITY MANAGER

By _____

The undersigned Permittee, by execution hereof, agrees to each and every condition of this Permit and promises to perform each and every obligation of Permittee hereunder.

SDVP MANAGEMENT, INC.
Owner/Permittee

By _____
Father Joseph Carroll

By _____

**NOTE: Notary acknowledgments
must be attached per Civil Code
section 1180 et seq.**

PERMIT/OTHER – Permit Shell 11-01-04