

RESOLUTION NUMBER R- 309069

DATE OF FINAL PASSAGE JUN 17 2014

A RESOLUTION APPROVING CONDITIONAL USE PERMIT NO. 1198401 FOR THE SAN DIEGO RESCUE MISSION (AMENDING CONDITIONAL USE PERMIT NO. 8673) – PROJECT NO. 342550.

WHEREAS, the San Diego Rescue Mission, Owner/Permittee, filed an application with the City of San Diego for a Conditional Use Permit (Amendment to Conditional Use Permit No. 8673) to modify specific conditions of Conditional Use Permit No. 8673 and add a child care center within the existing San Diego Rescue Mission facility, known as the San Diego Rescue Mission Amendment project, located at 120 Elm Street and 1840 First Avenue, and legally described as Lots D through L of Block 224, and Lots I through K of Block 223, Horton's Addition, according to Map thereof made by L.L. Lockling, on file in the Office of the County Recorder of San Diego County, in the Uptown Community Plan area, in the NP-3 Zone of the Mid-City Communities Planned District; 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 June 17, 2014, 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 Conditional Use Permit No. 1198401:

CONDITIONAL USE PERMIT – SAN DIEGO MUNICIPAL CODE SECTION 126.0305:

1. The proposed development will not adversely affect the applicable land use plan.

The amendment seeks to modify specific conditions of Conditional Use Permit No. 8673 and add a child care center within the existing San Diego Rescue Mission facility located at 120 Elm Street and 1840 First Avenue. The NP-3 Zone of the Mid-City Communities Planned District permits a mix of office, professional and residential uses. There are no specific references to Conditional Use Permits in the Mid-City Communities Planned District Ordinance (PDO). However, the General Provisions for Planned Districts (Land Development Code Section 103.0105(e)(7), (15) and (18)) permit Transitional Housing, Residential Care Facilities and Homeless Facilities with a Conditional Use Permit in any zone that permits residential uses, subject to the Separately Regulated Uses regulations where incorporated by reference in the PDO. The proposed is consistent with the office and residential designation of this site, since the NP-3 Zone allows child care centers as a limited use subject to the limitations specified in San Diego Municipal Code Section 141.0606(c). The San Diego Rescue Mission has been successfully operating at this location since 2004.

The Uptown Community Plan (1988) designates the project site located at 120 Elm Street and 1840 First Avenue as Office/Residential allowing residential at 15 to 29 dwelling units per acre. The project proposes no new physical development other than the addition of child care operations which are permitted as a limited use by the NP-3 Zone that implements the existing land use. Policy ME-A.2 of the Mobility Element and policy UD-B.7 of the Urban Design Element in the City's General Plan (2008) call for the design and implementation of safe

pedestrian routes and ensuring maintenance of safe and attractive neighborhoods through adequate law enforcement, code enforcement, and litter and graffiti control. The project proposes the removal of its Litter and Loiter Control Plan annual reporting requirement, but continue to maintain its efforts at implementing its Litter and Loiter Control Plan. Although the establishment of advisory committees to address and monitor specific issues related to development projects is not addressed in the community plan or General Plan, law enforcement and City code enforcement are already established services that will continue to be in place to serve the area to address any concerns that may arise. As proposed, the project would not adversely impact the Uptown Community Plan or the City's General Plan.

Therefore, 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 and welfare.

The amendment seeks to modify specific conditions of Conditional Use Permit No. 8673 and add a child care center within the existing San Diego Rescue Mission facility located at 120 Elm Street and 1840 First Avenue. The San Diego Rescue Mission serves the San Diego homeless population by providing shelter, meals, clothing, medical attention, educational opportunities, job skills and training, transitional living, and spiritual and legal aid. The proposed amendment would also add a child care center to these existing services. This public service is provided without any cost to the taxpayers. The San Diego Rescue Mission accepts no government funding and program participants are required to relinquish all government support to achieve their goal of independent living.

The Permit contains sufficient conditions to address potential public health and safety concerns. Those conditions include a Litter and Loiter Control Plan which makes the applicant responsible for keeping the site and a one-block area surrounding the site free of graffiti, litter, trash and other nuisances. The applicant will establish and enforce policies to discourage littering and loitering in and around the property. All persons waiting for services will be required to wait indoors or in outdoor waiting areas screened from public view. There will be no lines outside the facility. Lighting will be provided to illuminate all entrances and passage ways to provide surveillance opportunities of the neighborhood by the public, employees, residents and visitors.

In addition, the applicant has contracted with a security company to provide a security system for the interior of the building to prevent commingling of the different program populations. Interior and exterior surveillance cameras will be installed to provide 24-hour monitoring. The applicant, at its own expense, will contract with the Downtown Partnership's Clean and Safe program to perform regular security patrol for the area surrounding the site. The applicant has also signed an agency letter with the San Diego Police Department granting them permission to enter the property as necessary to enforce laws.

The applicant proposes to modify the conditions of the existing CUP 8673 regarding annual reporting requirements for the Litter and Loiter Control Plan, and the Neighborhood Advisory Committee. The San Diego Rescue Mission has been successfully operating at this location since 2004. As evidenced in required reporting, the Litter and Loiter issues have declined. The Mission has fulfilled the conditions set forth in the CUP for the Litter and Loiter Control Plan. The Mission will continue to enforce the Litter and Loiter Control Plan, however is requesting the annual reporting requirement be removed, and proposes to provide any reports

to the Development Services Department on request. The Neighborhood Advisory Committee (NAC) served a useful purpose in originally bringing the Park West community and the San Diego Rescue Mission together in responding to concerns regarding the effects of the Mission's presence in the neighborhood. These concerns have diminished throughout the years, resulting in minimal issues from the neighbors. Three main NAC members (California Western School of Law, the City of San Diego Development Services Department, and Westminster Towers) who consistently attend the meetings have all indicated that there is not a compelling reason to continue the meetings. The Mission now has a strong relationship with the neighborhood and believes that the role of the NAC is no longer necessary. The Mission has indicated their commitment to continue their collaboration with the Park West community and residents to keep their neighborhood safe and clean.

Based on the above information, the proposed development will not be detrimental to the public health, safety and welfare.

3. The proposed development will comply with the regulations of the Land Development Code including any allowable deviations pursuant to the Land Development Code.

The amendment seeks to modify specific conditions of Conditional Use Permit No. 8673 and add a child care center within the existing San Diego Rescue Mission facility located at 120 Elm Street and 1840 First Avenue. The NP-3 Zone allows child care centers as a limited use, subject to the limitations specified in San Diego Municipal Code Section 141.0606(c). While the use is allowed, the existing CUP entitlement on this property carries specific parking requirements, which are modified with this request to incorporate the proposed use.

The NP-3 zone permits a mix of office, professional and residential uses. There are no specific references to Conditional Use Permits in the Mid-City Communities Planned District Ordinance (PDO). However, the General Provisions for Planned Districts (LDC §§103.0105(e)(7), (15) and (18)) permit Transitional Housing, Residential Care Facilities and Homeless Facilities with a CUP in any zone that permits residential use, subject to the Separately Regulated Uses regulations where incorporated by reference in the PDO.

The project complies with the Separately Regulated Use regulations for Transitional Housing (LDC §141.0313(a) through (i)) with respect to square footage for sleeping, living and storage space for each resident, bathroom facilities and parking. The project complies with the Separately Regulated Use regulations for Residential Care Facilities (LDC §141.0312 (a) through (j)) with respect to square footage for sleeping, living and storage space for each resident, distance between similar facilities, bathroom facilities and parking.

The project complies with the Separately Regulated Use regulations for Congregate Meal Facilities (LDC §141.0412(b)(1) through (10)) and Emergency Shelters (LDC §141.0412(c)(1) through (9)), including required distance between similar facilities, square footage requirements, hours of operation and parking. In addition, the regulations require a specific plan for communicating with the neighbors and resolving community and neighborhood issues and a plan to minimize littering and loitering in the area. The applicant has submitted and agreed to those plans which are conditions of permit approval.

The project complies with the Separately Regulated Use regulations for Child Care Centers allowed as limited uses (LDC §141.0606(c)(1) through (8)), including required distance from hazardous and regulation substances, drop off, parking, and playground requirements. The site does not contain a school, and is not within the Coastal Overlay Zone, therefore LDC

§141.0606(c)(9) and (10) do not apply. Sufficient additional parking is provided onsite to accommodate the child care center in addition to the current uses, and the conditions of the permit have been modified to reflect this requirement.

No other deviations are proposed with this project. Therefore, the proposed development will comply with the regulations of the Land Development Code including any allowable deviations pursuant to the Land Development Code.

4. The proposed use is appropriate at the proposed location.

The amendment seeks to modify specific conditions of Conditional Use Permit No. 8673 and add a child care center within the existing San Diego Rescue Mission facility located at 120 Elm Street and 1840 First Avenue. CUP 8673 allows the operation of the San Diego Rescue Mission which provides transitional housing and residential care facilities accommodating up to 416 persons, including an Emergency Shelter for 60 women and children, while adding a new child care center with this permit. The Uptown Community Plan recommends development of adequate housing for those with special needs, including low income, handicapped and homeless persons. This use implements the goals and objectives found in the Uptown Community Plan, and provides for a higher density use, as encouraged within the Plan, to create a transition area between Centre City and Uptown.

The proposed project implements recommendations found in the Progress Guide and General Plan by providing decent, safe and sanitary shelter for homeless people and emergency shelter services for women and children. The site is located near a transit corridor making it accessible to the residents and clients of the San Diego Rescue Mission, who mostly walk or use public transit. The transitional housing and residential care facilities are permitted within the

zone by CUP 8673. The proposed child care center is permitted as a limited use in the NP-3 Zone.

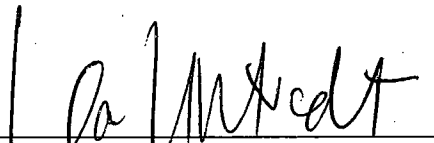
The applicant proposes to modify the conditions of the existing CUP 8673 regarding annual reporting requirements for the Litter and Loiter Control Plan, and the Neighborhood Advisory Committee. The San Diego Rescue Mission has been successfully operating at this location since 2004. As evidenced in required reporting, the Litter and Loiter issues have declined. The Mission has fulfilled the conditions set forth in the CUP for the Litter and Loiter Control Plan. The Mission will continue to enforce the Litter and Loiter Control Plan, however is requesting the annual reporting requirement be removed, and proposes to provide any reports to the Development Services Department on request. The Neighborhood Advisory Committee (NAC) served a useful purpose in originally bringing the Park West community and the San Diego Rescue Mission together in responding to concerns regarding the effects of the Mission's presence in the neighborhood. These concerns have diminished throughout the years, resulting in minimal issues from the neighbors. Three main NAC members (California Western School of Law, the City of San Diego Development Services Department, and Westminster Towers) who consistently attend the meetings have all indicated that there is not a compelling reason to continue the meetings. The Mission now has a strong relationship with the neighborhood and believes that the role of the NAC is no longer necessary. The Mission has indicated their commitment to continue their collaboration with the Park West community and residents to keep their neighborhood safe and clean.

The project complies with the development regulations within the LDC, therefore, the proposed use is appropriate at the proposed location.

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

BE IT FURTHER RESOLVED, that Conditional Use Permit No. 1198401 is granted to the San Diego Rescue Mission, Owner/Permittee, under the terms and conditions set forth in the attached permit which is made a part of this resolution.

APPROVED: JAN I. GOLDSMITH, City Attorney

By 
Inga B. Hintvedt
Deputy City Attorney

IBL:mm
5/30/2014
Or.Dept: DSD
Document No: 796652_2

RECORDING REQUESTED BY
CITY OF SAN DIEGO
DEVELOPMENT SERVICES
PERMIT INTAKE, MAIL STATION 501

WHEN RECORDED MAIL TO
CITY CLERK
MAIL STATION 2A

SPACE ABOVE THIS LINE FOR RECORDER'S USE

INTERNAL ORDER NUMBER: 24004127

CONDITIONAL USE PERMIT NO. 1198401
SAN DIEGO RESCUE MISSION - PROJECT NO. 342550
AMENDMENT TO CONDITIONAL USE PERMIT NO. 8673
CITY COUNCIL

This Conditional Use Permit No. 1198401 (Amendment to Conditional Use Permit No. 8673) is granted by the City Council of the City of San Diego to the SAN DIEGO RESCUE MISSION, INC., A CALIFORNIA NONPROFIT CORPORATION, Owner/Permittee, pursuant to San Diego Municipal Code [SDMC] section 126.0303. The 1.38-acre site is located at 120 Elm Street and 1840 First Avenue in the NP-3 Zone of the Mid-City Communities Planned District, within the Uptown Community Plan. The project site is legally described as: Lots D through L of Block 224, and Lots I through K of Block 223, Horton's Addition, according to Map thereof made by L.L. Lockling, on file in the Office of the County Recorder of San Diego County.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee to modify specific conditions of Conditional Use Permit No. 8673 and add a child care center within the existing San Diego Rescue Mission facility, described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated June 17, 2014, on file in the Development Services Department.

The project shall include:

- a. The addition of a child care center within the existing facility, as described more fully in Condition No. 16 of this permit, below;
- b. The modification of Condition 24 of Conditional Use Permit No. 8673 (*Litter and Loiter Control Plan*), to remove the requirement of providing an annual status report to the City Manager on the performance/compliance with the provision of the Litter and Loiter Control Plan, as described more fully in Condition No. 15 of this permit, below;

- c. The removal of Condition 25 of Conditional Use Permit No. 8673 (*Neighborhood Advisory Committee*);
- d. The continued operation of the Transitional Housing Program; Residential Care Facility; Homeless Facilities including Congregate Meal Facilities and an Emergency Shelter; Corporate Offices; incidental uses such as offices, reception, kitchen, training rooms, recreation areas, and parking, as authorized by Conditional Use Permit No. 8673; and
- e. Public and private accessory improvements determined by the Development Services Department to be consistent with the land use and development standards for this site in accordance with the adopted community plan, the California Environmental Quality Act [CEQA] and the CEQA Guidelines, the City Engineer's requirements, zoning regulations, conditions of this Permit, and any other applicable regulations of the SDMC.

STANDARD REQUIREMENTS:

1. This permit must be utilized within thirty-six (36) months after the date on which all rights of appeal have expired. If this permit is not utilized in accordance with Chapter 12, Article 6, Division 1 of the SDMC within the 36 month period, this permit shall be void unless an Extension of Time has been granted. Any such Extension of Time must meet all SDMC requirements and applicable guidelines in effect at the time the extension is considered by the appropriate decision maker. This permit must be utilized by June 17, 2017.
2. No permit for the construction, occupancy, or operation of any facility or improvement described herein shall be granted, nor shall any activity authorized by this Permit be conducted on the premises until:
 - a. The Owner/Permittee signs and returns the Permit to the Development Services Department; and
 - b. The Permit is recorded in the Office of the San Diego County-Recorder.
3. While this Permit is in effect, the subject property shall be used only for the purposes and under the terms and conditions set forth in this Permit unless otherwise authorized by the appropriate City decision maker.
4. This project shall conform to the provisions of Conditional Use Permit No. 8673 (Project No. 1826), which remains in effect for this site, unless otherwise addressed in this permit. Specifically, this Conditional Use Permit Amendment differs from the Conditional Use Permit (CUP) No. 8673, by allowing:
 - a. The operation of the child care center (Condition No. 16 of this new permit);
 - b. The addition of Condition Nos. 12, 13 and 14 in this new permit, which are associated with the addition of the child care center;

- c. The modification of Condition No. 24 of CUP No. 8673 regarding the *Litter and Loiter Control Plan* (see new Condition No. 15 of this permit); and
 - d. The removal of Condition No. 25 of CUP No. 8673 regarding the *Neighborhood Advisory Committee* (no new condition required due to removal);
5. This Permit is a covenant running with the subject property and all of the requirements and conditions of this Permit and related documents shall be binding upon the Owner/Permittee and any successor(s) in interest.
 6. The continued use of this Permit shall be subject to the regulations of this and any other applicable governmental agency.
 7. Issuance of this Permit by the City of San Diego does not authorize the Owner/Permittee for this Permit to violate any Federal, State or City laws, ordinances, regulations or policies including, but not limited to, the Endangered Species Act of 1973 [ESA] and any amendments thereto (16 U.S.C. § 1531 et seq.).
 8. The Owner/Permittee shall secure all necessary building permits. The Owner/Permittee is informed that to secure these permits, substantial building modifications and site improvements may be required to comply with applicable building, fire, mechanical, and plumbing codes, and State and Federal disability access laws.
 9. Construction plans shall be in substantial conformity to Exhibit "A." Changes, modifications, or alterations to the construction plans are prohibited unless appropriate application(s) or amendment(s) to this Permit have been granted.
 10. All of the conditions contained in this Permit have been considered and were determined-necessary to make the findings required for approval of this Permit. The Permit holder is required to comply with each and every condition in order to maintain the entitlements that are granted by this Permit.

If any condition of this Permit, on a legal challenge by the Owner/Permittee of this Permit, is found or held by a court of competent jurisdiction to be invalid, unenforceable, or unreasonable, this Permit shall be void. However, in such an event, the Owner/Permittee shall have the right, by paying applicable processing fees, to bring a request for a new permit without the "invalid" condition(s) back to the discretionary body which approved the Permit for a determination by that body as to whether all of the findings necessary for the issuance of the proposed permit can still be made in the absence of the "invalid" condition(s). Such hearing shall be a hearing de novo, and the discretionary body shall have the absolute right to approve, disapprove, or modify the proposed permit and the condition(s) contained therein.

11. The Owner/Permittee shall defend, indemnify, and hold harmless the City, its agents, officers, and employees from any and all claims, actions, proceedings, damages, judgments, or costs, including attorney's fees, against the City or its agents, officers, or employees, relating to the issuance of this permit including, but not limited to, any action to attack, set aside, void, challenge, or annul this development approval and any environmental document or decision.

The City will promptly notify Owner/Permittee of any claim, action, or proceeding and, if the City should fail to cooperate fully in the defense, the Owner/Permittee shall not thereafter be responsible to defend, indemnify, and hold harmless the City or its agents, officers, and employees. The City may elect to conduct its own defense, participate in its own defense, or obtain independent legal counsel in defense of any claim related to this indemnification. In the event of such election, Owner/Permittee shall pay all of the costs related thereto, including without limitation reasonable attorney's fees and costs. In the event of a disagreement between the City and Owner/Permittee regarding litigation issues, the City shall have the authority to control the litigation and make litigation related decisions, including, but not limited to, settlement or other disposition of the matter. However, the Owner/Permittee shall not be required to pay or perform any settlement unless such settlement is approved by Owner/Permittee.

ENGINEERING REQUIREMENTS:

12. Within 90 days after the recordation of this permit, the Owner/Permittee shall replace the existing driveway, on First Avenue, with City standard driveway, per Standard Drawing SDG-159, satisfactory to the City Engineer.

13. Within 90 days after the recordation of this permit, the Owner/Permittee shall construct the sidewalk transition, on the north side of the existing driveway on First Avenue, satisfactory to the City Engineer.

PLANNING/DESIGN REQUIREMENTS:

14. Owner/Permittee shall maintain a minimum of 118 off-street parking spaces (105 spaces for the existing Rescue Mission use; 13 spaces for the new child care center use) on the property at all times in the approximate locations shown on the approved Exhibit "A," to the satisfaction of the Development Services Department. Parking spaces shall comply at all times with the SDMC and shall not be converted for any other use unless otherwise authorized by the appropriate City decision maker in accordance with the SDMC.

15. The Owner/Permittee shall strictly enforce Litter and Loiter Control Plan on file in the Development Services Department. No changes, modifications or alterations shall be made to the Plan, unless there is written permission from the Development Services Department. The Owner/Permittee shall provide a report to the Development Services Department upon request.

16. The operation of a child care center is authorized on-site in accordance with the regulations of the San Diego Municipal Code (Section 141.0606) and on the approved Exhibit "A," satisfactory to the Development Services Department.

INFORMATION ONLY:

- The issuance of this discretionary use permit alone does not allow the immediate commencement or continued operation of the proposed use on site. The operation allowed by this discretionary use permit may only begin or recommence after all conditions listed on this permit are fully completed and all required ministerial permits have been issued and received final inspection.
- Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of this Permit, may protest the imposition within ninety days of the approval of this development permit by filing a written protest with the City Clerk pursuant to California Government Code-section 66020.
- This development may be subject to impact fees at the time of construction permit issuance.

APPROVED by the City Council of the City of San Diego on June 17, 2014, by Resolution No.

R-309069

Conditional Use Permit No. 1198401
June 17, 2014

AUTHENTICATED BY THE CITY OF SAN DIEGO DEVELOPMENT SERVICES
DEPARTMENT

MICHELLE SOKOLOWSKI
Development Project Manager

**NOTE: Notary acknowledgment
must be attached per Civil Code
section 1189 et seq.**

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

SAN DIEGO RESCUE MISSION
Owner/Permittee

By _____
NAME
TITLE

**NOTE: Notary acknowledgments
must be attached per Civil Code
section 1189 et seq.**

Passed by the Council of The City of San Diego on JUN 17 2014, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Sherri Lightner	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ed Harris	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Todd Gloria	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Myrtle Cole	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mark Kersey	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lorie Zapf	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Scott Sherman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
David Alvarez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Marti Emerald	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage JUN 17 2014

(Please note: When a resolution is approved by the Mayor, the date of final passage is the date the approved resolution was returned to the Office of the City Clerk.)

AUTHENTICATED BY:

KEVIN L. FAULCONER
Mayor of The City of San Diego, California.

ELIZABETH S. MALAND
City Clerk of The City of San Diego, California.

(Seal)

By *May Sherman*, Deputy

Office of the City Clerk, San Diego, California

Resolution Number R- 309069