

DATE ISSUED: April 7, 2010

ATTENTION: Honorable Chair and Members of the Redevelopment Agency  
Council President and City Council  
Docket of April 13, 2010

ORIGINATING DEPT.: Centre City Development Corporation

SUBJECT: Proposed Centre City Planned District Ordinance Amendment  
2009-01 to consider allowing educational facilities, cultural  
institutions and places of religious assembly in the Residential  
Emphasis District of the Centre City Planned District and the  
associated Third Addendum to the 2006 Final Environmental  
Impact Report for the Downtown Community Plan, Centre City  
Planned District Ordinance and Redevelopment Plan for the Centre  
City Redevelopment Project – Areawide  
**JOINT PUBLIC HEARING**

COUNCIL DISTRICTS: 2 and 8

REFERENCE: None

STAFF CONTACT: Brandon Nichols, Associate Planner, 619-533-7182

**REQUESTED ACTION:** That the Redevelopment Agency (“Agency”) certify the Third Addendum to the 2006 Final Environmental Impact Report for the Downtown Community Plan, Centre City Planned District Ordinance and Redevelopment Plan for the Centre City Redevelopment Project (2006 FEIR) for the Proposed 2009 Residential Emphasis District (“RE District”) Amendments to the Centre City Planned District Ordinance (CCPDO);

That the City Council (“Council”) review and consider the aforementioned Third Addendum to the 2006 FEIR, and introduce and adopt the proposed amendments to the CCPDO regulations to allow educational facilities and cultural institutions to locate, by-right, in the RE District of the Centre City Planned District.

**STAFF RECOMMENDATION:** That the Agency Certify the Third Addendum to the 2006 FEIR for the Proposed 2009 RE District Amendments to the CCPDO.

And that the Council:

- State for the record that it has reviewed and considered the Third Addendum to the 2006 FEIR for the Proposed 2009 RE District Amendments to the CCPDO.

- Introduce and adopt CCPDO Amendment 2009-01 to allow educational facilities and cultural institutions to locate, by-right, in the RE District of the Centre City Planned District (“Amendment”). Places of religious assembly are not included in the recommendation due to potential land use impacts associated with days of worship, special events, and other common activities such as feeding programs).

**SUMMARY:** The CCPDO establishes the various land use districts with the Centre City Planned District, and all districts allow for mixed-use development. The RE District was created to ensure that an adequate amount of residential units would be constructed downtown to meet the housing goals of the DCP and of the City of San Diego (“City”). To achieve this goal, projects within the RE District are required to have 80 percent of their floor area devoted to residential use. This requirement is one of the primary differences between the RE District and other CCPDO districts (in addition to the exclusion of educational facilities and cultural institutions from the district). Educational facilities and cultural institutions, however, are permitted by-right in all other CCPDO districts allowing residential mixed-use development. A number of educational facilities and cultural institutions currently operate throughout downtown, including within or adjacent to RE District areas, with negligible impacts on surrounding residential land uses. Allowing the proposed uses in the RE District advances the goals of the DCP and will not significantly impact residential uses or undermine the intent of the RE District.

**FISCAL CONSIDERATIONS:** None.

**CENTRE CITY DEVELOPMENT CORPORATION RECOMMENDATION:** The Corporation Board considered the proposed Amendment at the September 16, 2009 meeting, and voted 6-0 to recommend that educational facilities and cultural institutions be permitted by-right in the RE District. Places of religious assembly were not included in the recommendation due to concerns over potential land use impacts (associated with days of worship, special events, and other common activities such as feeding programs) and the issues and conflicts that could arise if the uses were regulated and conditioned through a discretionary review process.

**PLANNING COMMISSION RECOMMENDATION:** The Planning Commission considered the proposed Amendment at the October 8, 2009 meeting, and voted 7-0 to recommend that the Council adopt the proposed amendment to allow educational facilities and cultural institutions to be permitted by-right in the RE District.

**OTHER RECOMMENDATIONS:** The San Diego Regional County Regional Airport Authority Airport Land Use Commission considered the proposed Amendment at the December 3, 2009 meeting and found the amendment to be conditionally consistent with the San Diego International Airport Airport Land Use Compatibility Plan.

**COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:** The proposed Amendment was reviewed at a number of public meetings before the Corporation Board Real Estate Committee, the Centre City Advisory Committee, the Corporation Board and the Planning Commission. All property owners within the DCP area were noticed in accordance with the

requirements of the Municipal Code, which included mailed notice of the Planning Commission hearing and this City Council hearing.

This item was reviewed by the Centre City Advisory Committee (CCAC) at the September 9, 2009 meeting. The CCAC voted 16-5 to recommend that educational facilities and cultural institutions be permitted in the RE District subject to the approval of a Conditional Use Permit (CUP). This differs from the staff recommendation to allow the two use classes by-right. Reasons for the five “no” votes included:

- A desire to permit educational facilities and cultural institutions by-right (consistent with the staff recommendation); and
- A desire to include places of religious assembly in the amendment and allow all three use classes in the RE District subject to the approval of a Conditional Use Permit.

KEY STAKEHOLDERS AND PROJECT IMPACTS: Both the Monarch School and developer OliverMcMillan requested consideration of the proposed Amendment. OliverMcMillan submitted a deposit to cover costs associated with public notice and environmental review for the proposed Amendment.

### BACKGROUND

This proposed amendment advances the Visions and Goals of the DCP and the Objectives of the Centre City Redevelopment Project by:

- Providing a land use and development framework to guide downtown’s evolution as a premier regional and global center of commerce, residence, arts, education and recreation;
- Providing for an overall balance of uses - employment, residential, cultural, government, and destination - as well as a full compendium of amenities and services; and
- Creating an intense, yet livable downtown that contributes to the areas vitality and its economic success and allows residents to live close to work, transit and culture.

In 2006, the City Council adopted the DCP and approved major amendments to the CCPDO to implement the DCP’s goals and policies. As part of these amendments, institutional uses such as educational facilities, cultural institutions and places of religious assembly were removed from the list of allowed uses in the RE District due to concerns over potential impacts these uses could have on primarily residential developments within the district. From 1992 to 2006 these uses were permitted by-right in the RE District, and the uses continue to be permitted by-right in all other CCPDO districts allowing residential development.

In April 2009, Corporation staff was approached by the Monarch School (“School”), which serves homeless and disadvantaged children at 808 West Cedar Street in the Little Italy neighborhood. The School was considering relocating and expanding its facilities into an office building located on B Street. However, the site lies within the RE District which does not allow

educational facilities. Although the existing office building is considered a Previously Conforming Use and can continue to be used as offices, or converted to residential uses (with possible ground-floor retail), it cannot be not be converted to an educational facility per the City's Land Development Code (LDC).

As a result, the School asked CCDC to consider an amendment to the CCPDO to facilitate the possibility of relocation. On May 20, 2009, the CCDC Board voted to support consideration of the Amendment if the School reimbursed the Corporation for outside costs, consisting of public noticing and environmental review. Although the School is still considering relocation, they elected not to pursue the Amendment due to complications with real estate negotiations. However, developer OliverMcMillan contacted CCDC staff with a similar situation regarding leasing space to a school use in its recently constructed Lofts at 707 Tenth Avenue project. Since the project is also located in the RE District, OliverMcMillan requested that CCDC continue consideration of the Amendment and submitted a deposit to cover associate outside costs. On July 23, 2009, The Planning Commission voted 5-0 to initiate CCPDO Amendment 2009-01 for the preparation of a potential amendment to the CCPDO, and directed staff to evaluate whether educational facilities, places of religious assembly and cultural institutions are appropriate in the RE District.

## DISCUSSION

The CCPDO establishes various land use districts within the DCP area (outside of the Gaslamp Quarter and Marina planned districts). All districts allow mixed-use developments; however, some uses are not allowed in certain districts. The CCPDO defines the RE District as follows:

“This district accommodates primarily residential development. Small-scale businesses, offices, and services, and small-scale ground floor active commercial uses (such as cafes and retail stores) are also allowed, subject to size and area limitations. Within the Residential Emphasis District, at least 80 percent of the Gross Floor Area (GFA) must be occupied by residential land uses. Nonresidential land uses may occupy no more than 20 percent of the GFA. Floor area dedicated to active commercial uses to satisfy the requirements of either the Main Street or Commercial Street overlay districts shall not be counted against the maximum non-residential percentage of GFA.”

The primary purpose for the creation of the RE District (and its 80 percent residential requirement) was to ensure that an adequate minimum base of residential units would be constructed downtown in order to meet the housing goals of the DCP and the City. Commercial uses are permitted in projects constructed in the RE District, subject to the 20 percent maximum FAR regulation. In the East Village neighborhood, a number of RE District properties lie along Main and Commercial streets (identified in the DCP), which require projects to have active ground-level commercial space.

Permitted land uses within the RE District are shown in the CCPDO Land Use Table included as Attachment A (the table incorrectly shows “R” instead of “RE”, however, staff has added **(RE)** for clarification). Similar to other downtown districts, a wide range of commercial uses are permitted in the RE District, including restaurant, retail, and office uses; educational facilities, cultural institutions, and places of religious assembly are classified as institutional uses and are not currently permitted in the RE District.

Prior to the 2006 amendments to the CCPDO, educational facilities, cultural institutions, and places of religious assembly were permitted by-right in all downtown districts. The uses were excluded from the RE District during the 2006 CCPDO update due to concerns over potential parking and noise impacts that large congregations of people could have on adjacent residential uses. All three use classes continue to be permitted by-right in all other CCPDO districts allowing residential development. Other districts where these uses are not permitted include the Industrial, Transportation, and Open Space districts.

As shown on the attached Land Use Map (the colored DCP Land Use Map is provided for legibility purposes and is identical to the CCPDO Land Use District Map), RE District areas are distributed throughout downtown. Most RE District areas are narrow, two-block-wide sections of downtown that are surrounded on all sides by districts that allow educational facilities, cultural institutions, and places of religious assembly, and nearly every one of the approximately 60 RE designated blocks lies directly across the street from a district that allows the uses by-right. The RE district areas are not isolated, low-density neighborhoods and are not distinct from other areas of downtown in terms of maximum allowed intensity of development; in fact, many of the RE District areas allow a maximum Floor Area Ratio (FAR) in the mid to upper end of the FAR range permitted downtown (from 10 to 20 FAR). Several of the districts also lie along busy streets such as Tenth and Eleventh avenues and F, G and Market streets in the East Village.

Given the wide range of commercial uses currently permitted in RE District areas, their proximity and adjacency to areas allowing the proposed uses, and considering the dense, mixed-use character of downtown, the potential impacts of permitting educational facilities and cultural institutions in the RE District appear minimal. A number of these uses operate throughout downtown, including Newschool of Architecture (located in the RE District), Monarch School, California Western School of Law, and the Museum of Contemporary Art, with negligible impacts on surrounding residential land uses.

It should be noted, however, during the review of the amendment at the CCAC and CCDC Board meetings, a variety of concerns were expressed regarding the potential impacts of places of religious assembly. Members of the public, CCAC and the CCDC Board voiced concerns over potential land use impacts (including noise, parking and traffic) associated with days of worship, special events, and other common activities such as feeding programs. Allowing places religious assembly via a Conditional Use Permit was also discussed; however, this process was viewed as problematic considering the First Amendment protections afforded to such uses use, and the inherent difficulties associated with applying a fair and consistent discretionary review process

(and set of conditions) to these institutions. For these reasons, places of religious assembly have been excluded from the current staff recommendation.

### Parking

Because the CCPDO does not contain specific parking requirements for educational facilities, cultural institutions, and places of religious assembly, staff applies the commercial parking standard of one space per 1,000 square feet of lease space (per the CCPDO, projects containing less than 30,000 square feet of commercial space are exempt from providing parking). The Thomas Jefferson School of Law in East Village, currently under construction, is parked at this ratio. Given that 80 percent of the GFA of RE District projects must be residential (parked at one space per unit), and considering downtown land and lease costs, staff does not anticipate the proliferation of large educational facilities or cultural institutions (or significant increases in parking demand) as a result of the amendment. Rather, it is likely that developers who choose to create ground-level commercial space will now have additional lease options to help alleviate overbuilt retail spaces, reduce vacant ground-level spaces, and further activate downtown streets. As with all non-residential uses downtown, it is also anticipated that parking demand would be reduced, as significant numbers of students and patrons utilizing the facilities would walk or utilize public transit.

### Traffic Generation

As part of this analysis, staff researched trip generation rates for the various institutional uses being discussed, as well as common commercial uses currently permitted in the RE District. Based on the trip generation numbers contained in the LDC Trip Generation Manual, educational facilities (with the exception of elementary schools) generate fewer trips per 1,000 square feet of floor area than many commercial uses, including neighborhood commercial centers, specialty retail centers, restaurants, convenience stores and drugstores, all of which are permitted in the RE District. Places of religious assembly also generate less trips than most commercial uses (except on days of worship). The Trip Generation Manual does not contain data for cultural institutions; however, staff estimates that such uses will typically generate less traffic than many common commercial uses.

It should be noted that most RE District areas within the DCP area are located adjacent to, or near, freeways and transit lines, partially mitigating potential traffic-related impacts. It should also be expected that downtown residential densities and inherent walkability would decrease potential parking and traffic related impacts, since a portion of students and patrons would either work and/or live downtown.

### By-Right/Discretionary Review

As part of this analysis, staff researched the manner in which institutional uses, such as educational facilities, places of religious assembly and cultural institutions, are regulated by the City outside of downtown, in zones approximating the RE District. The City's Residential –

Multiple Unit (RM) zones can accommodate higher-density multiple unit projects and limited commercial uses, while the majority of the City’s commercial zones permit some form of residential development. It should be noted, however, that very few areas or zones in the City offer a fair comparison to the density and intensity of uses found or anticipated in downtown. The following table summarizes how educational facilities, places of religious assembly and cultural institutions are regulated in RM and commercial zones outside of the DCP area.

	RM	Commercial
<b>Educational Facilities</b>		
Kindergarden- Grade 12	P	C ( allowed in most zones)
Colleges/Universities	C	C ( allowed in most zones)
Vocational/Trade School	–	P (allowed in some zones)
<b>Cultural institutions</b>		
Museums	–	C or P (allowed in some zones)
Interpretive Centers	–	–
Places of religious assembly	P	C (allowed in most zones)

P = Permitted by-right  
 C = Conditional Use Permit  
 – = Not Permitted

As shown in the table, places of religious assembly and most educational facilities are permitted either by-right or CUP in many of the City’s RM and Commercial zones, while cultural institutions are permitted either by-right or via a CUP in some of the City’s Commercial zones. Conditional and Neighborhood Use Permits (NUPs) provide an elevated level of review, and the ability to impose conditions, for uses that could negatively impact surrounding areas if not properly regulated. Requiring an elevated level of review for these uses may be appropriate outside of downtown, as the impacts associated with the uses are more acute when they are located in lower density and/or non mixed-use areas that are not walkable or well served by transit. However, as stated, few areas or zones in the City are comparable to downtown in terms of existing and/or planned density, intensity and mix of land uses; therefore, staff is recommending that educational facilities and cultural institutions be permitted by-right in the RE District (as they are in other downtown districts that permit residential development). Staff is also seeking to encourage educational and cultural institutions to locate downtown, and avoid long, potentially drawn-out reviews for uses that are compatible with downtown’s dense urban character. The longer Conditional or Neighborhood Use Permit review process could pose a competitive disadvantage for these uses when compared to other permitted retail and business uses.

Environmental Impact – The environmental impacts associated with the implementation of the San Diego Downtown Community Plan and the Centre City Planned District Ordinance were evaluated by 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. In accordance with the provisions of the FEIR, an Environmental Secondary Study was initiated to determine whether the environmental impacts

associated with the proposed amendment were adequately addressed in the FEIR, and to verify that there is no change in circumstance, additional information, or project changes to warrant additional environmental review. It was determined during the Secondary Study process that the proposed amendment required the preparation of an addendum to the FEIR, but not a subsequent or supplemental EIR pursuant to Public Resources Code section 21166 and CEQA Guideline sections 15162 and 15163. The attached Third Addendum concludes that the proposed amendment to the Centre City PDO does not substantially change the original project, introduce new or more severe significant environmental impacts, require major revisions to the FEIR, increase previously identified significant effects, make previously infeasible mitigation measures or alternatives feasible, or require adoption of additional mitigation measures or alternatives.

### CONCLUSION

CCDC has sought to encourage educational and cultural institutions to locate downtown to further the goals of the DCP, and the proposed Amendment would expand potential locations. The 80 percent residential requirement of the RE District would remain, limiting the size of all non-residential uses, and ensuring that the district would continue to accommodate primarily residential development. A number of educational facilities and cultural institutions are currently located downtown, including within or adjacent to RE District areas, with negligible impacts on surrounding residential land uses. Allowing the proposed uses in the RE District advances the goals of the DCP, will not significantly impact residential uses, and does not undermine the intent of the RE District. Therefore, staff recommends that:

#### The Agency:

- Certify the Third Addendum to the 2006 FEIR for the Proposed 2009 RE District Amendments to the CCPDO.

#### The Council:

- State for the record that it has reviewed and considered the Third Addendum to the 2006 FEIR for the Proposed 2009 RE District Amendments to the CCPDO.
- Introduce and adopt CCPDO Amendment 2009-01 to allow educational facilities and cultural institutions to locate, by-right, in the RE District of the Centre City Planned District.



ALTERNATIVES

1. Recommend approval of an amendment that would permit all or a portion of the aforementioned uses to locate in the RE District. Individual uses could be permitted by-right, or through a discretionary review process.
2. Recommend that none of the aforementioned uses be permitted in the RE District.

Respectfully submitted,

Concurred by:

  
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Brandon Nichols  
Associate Planner

  
\_\_\_\_\_  
Frank J. Alessi  
Executive Vice President & Chief Financial  
Officer

Attachments: A – Current CCPDO Land Use Table  
B – Downtown Community Plan (DCP) Land Use Map  
C – Developer Disclosure Statement from Oliver McMillan  
D – Addendum to the Downtown Community Plan Final Environmental Impact  
Report for Proposed Amendments to the Centre City Planned District Ordinance