



THE CITY OF SAN DIEGO  
**REPORT TO THE CITY COUNCIL**

DATE ISSUED: June 10, 2014

REPORT NO.: 14-048

ATTENTION: Council President and City Council

SUBJECT: San Diego Rescue Mission. Project No. 342550. Council District 3. Process 5.

REFERENCE: Report to the City Council No. 02-263;  
<http://docs.sandiego.gov/reportstocouncil/2002/02-263.pdf>

REQUESTED ACTION: Approval of condition changes for the San Diego Rescue Mission, located at 120 Elm Street and 1840 First Avenue, within the Uptown Community Plan area.

STAFF RECOMMENDATION: Approve Conditional Use Permit No. 1198401 (Amendment to Conditional Use Permit No. 8673).

SUMMARY:

Background:

The San Diego Rescue Mission ("Mission") has been operating at the existing location since 2004, via approved Conditional Use Permit No. 8673. The site is improved with a six-story building and two three-story parking structures used for transitional housing and residential care facilities. The current Mission use consists of: a 416-bed transitional housing and year-long residential care facility; homeless facilities that include congregate meal facilities; an Emergency Shelter to accommodate 60 women and children nightly; incidental uses such as offices, reception, kitchen, training rooms, recreation areas, and two onsite parking structures.

The project site lies within the NP-3 (Neighborhood Professional) Zone of the Mid-City Communities Planned District (Attachment 2), the Airport Approach Overlay Zone and the Airport Environs Overlay Zone, and is located within the Uptown Community Planning area (Attachment 1). The use is located on two properties on opposite sides of First Avenue, between Elm and Fir Streets. The main Rescue Mission use and one parking structure are located at 120 Elm Street, between First and Second Avenues; while the other parking structure is located at 1840 First Avenue, between Elm and Fir Streets (Attachment 3).

The San Diego Municipal Code (SDMC) allows the operation of transitional housing uses with a Conditional Use Permit decided in accordance with Process Five. Such requests do not require a Planning Commission recommendation, and shall proceed directly to City Council, per SDMC Sections 141.0412(c) and 141.0313.

## Existing Conditional Use Permit No. 8673/Settlement Agreement

The San Diego Rescue Mission currently operates at this site via Conditional Use Permit (CUP) No. 8673, which was approved by the City Council on November 19, 2002. After this hearing, litigation was filed challenging the approval. On August 22, 2003, Judge Peterson provided a ruling on this litigation, which was set aside after a settlement agreement was reached on December 9, 2003, between the San Diego Rescue Mission and the petitioners in the Washington Elementary Parent Action Group et al vs. the City of San Diego lawsuit (Attachment 9 - Summary of Terms of the Settlement Agreement).

Specifically, CUP 8673 remains in effect and the San Diego Rescue Mission must abide by the terms of both CUP 8673 and the settlement agreement. After the settlement agreement was reached, the Mission moved into the existing location in January 2004, and has been successfully operating since that time.

Although CUP 8673 allows for clothing distribution and personal hygiene services, as well as a phased operation for the Congregate Meal Program, the Mission operates only three congregate meals per year (Thanksgiving, Christmas and Easter.) The phasing schedule for breakfast meal service program and clothing and hygiene distribution were not implemented due to the settlement agreement the Rescue Mission entered with the litigants (neighbors).

This CUP amendment request does not affect the terms of the privately-enforced settlement agreement.

### Current Project Description:

The applicant has submitted a request to amend CUP 8673. This CUP Amendment has three objectives: to include a child care center within the existing facility; to remove the annual reporting requirement of the Litter and Loiter Control Plan; and to remove the requirement of a Neighborhood Advisory Committee.

The issues and analyses are summarized below:

1. Child Care Center – addition of use: Request to allow the operation of a child care center within the existing San Diego Rescue Mission facility.

Staff Analysis: The NP-3 Zone allows the child care center as a permitted 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 child care center use. An additional 13 parking spaces are required onsite to accommodate the child care center. Accordingly, the parking condition has been updated to include this number. The existing San Diego Rescue Mission facility has 189 onsite parking spaces available within two parking structures. The Mission operation requires 105 parking spaces, while the proposed child care center requires 13 parking spaces, for a total of 118 parking spaces required. At this time, the San Diego Rescue Mission provides 70 parking spaces to another nearby use via a shared parking

agreement. New conditions have been incorporated into the draft permit amendment which are associated with the addition of the child care center (Conditions 4.a, 4.b, 12, 13, 14, and 16).

2. Litter and Loiter Control Plan – modification of condition: The applicant is requesting the current Condition No. 24 of CUP 8673 be revised to remove the annual reporting requirement of the Litter and Loiter Control Plan.

Staff Analysis: The Litter and Loiter Control Plan is aimed primarily at mitigating the public behavior of non-residents participating in Rescue Mission services within the eight-block impacted area around 120 Elm Street. The non-residents participating in the Mission services were identified as homeless people who participated in the Mission's Breakfast Meal Service Program at the old location on J Street. When the Mission moved to the current facility in January 2004, the Breakfast Meal Service Program was not implemented due to the settlement agreement dated December 9, 2003. Despite this, the Mission agreed to implement the Litter and Loiter Control Plan required in the CUP and has provided reports as required. As such, the Mission developed its "Neighborhood Ambassador" program and nighttime security patrol, which canvasses the impacted area surrounding the building during business hours, picking up trash and encouraging loiterers to move on. As evidenced in the reports, 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. New conditions have been incorporated into the draft permit amendment which address this modification (Conditions 4.c and 15).

3. Neighborhood Advisory Committee – removal of condition: The applicant is requesting the current Condition No. 25 of CUP 8673 be removed.

Staff Analysis: The current CUP required the establishment of a Neighborhood Advisory Committee (NAC) to review and evaluate interaction of the Park West community and the clients and conduct of the San Diego Rescue Mission. The NAC was comprised of one representative from 11 community/agency/City groups. The NAC first met in February 2003. During the first year of NAC operations, approximately 18 people attended each monthly meeting. Committee discussion primarily focused on the Rescue Mission's relocation efforts. A dedicated voice mail and email address was established for community members to express concerns and raise issues. The NAC met every month for three years, but gradually committee member attendance has decreased, with sometimes only two attendees at meetings. Meetings became bimonthly in 2007, becoming quarterly in 2008 due to the attendee decline and lack of issues. In June 2008, the Rescue Mission administration proactively contacted agencies, businesses and residents within the impacted area to recruit NAC members, with not much success. In 2010, the meetings were reduced to biannual status. Currently, the NAC meets once a year with the second meeting optional. The last meeting in February 2013 has only three members attending. The 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 draft of the new permit amendment reflects this removal (Condition 4.d).

Because this request is so limited in scope, the draft permit amendment is minimal in nature. The majority of the conditions of CUP 8673 still apply. Accordingly, the draft permit amendment specifically conditions the required continued conformance of the Mission use of the site to the provisions of Conditional Use Permit No. 8673 (Project No. 1826), unless otherwise addressed in the draft permit amendment (Condition 4).

#### Community Plan Analysis:

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 would only propose 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.

#### Environmental Analysis:

The Development Services Department has completed a California Environmental Quality Act Section 15162 evaluation for the San Diego Rescue Mission Conditional Use Permit Amendment project. The review was limited to consideration of California Environmental Quality Act issues associated with the project.

It is the determination of the Development Services Department that the requested project is consistent with the previously adopted Mitigated Negative Declaration (MND) No. 1826/ LDR No. 41-0900, which was before the City of San Diego City Council and certified on November 19, 2002, by Resolution No. R-297362. A Mitigation Monitoring and Reporting Program as

detailed in Section V of the MND No. 1826/LDR No. 41-0900 was adopted for the project to reduce potentially significant Noise Impacts. Those impacts were addressed prior to issuance of building permits in conjunction with the permits issued for the location of the San Diego Rescue Mission on the current site.

Taking into consideration the additional analysis conducted by Development Services Department along with review of the previously certified environmental document, Environmental Analysis Section staff concluded that the project would not result in a substantially changed project. The project would not result in new impacts or changed circumstances that would require a new environmental document.

Section 15162 of the California Environmental Quality Act Guidelines states that when an Environmental Impact Report has been certified or a Negative Declaration adopted for a project, no subsequent or supplemental Environmental Impact Report or Negative Declaration shall be prepared for that project unless one or more of the following events occur:

1. Substantial changes are proposed to the project;
2. Substantial changes occur with respect to circumstances under which the project is being undertaken; and
3. New information, which was not known or could not have been known at the time the Environmental Impact Report or Negative Declaration was certified as complete, becomes available.

Therefore, because none of the three above criteria have occurred, Development Services Department did not find the need to prepare a subsequent or supplemental environmental document for the proposed San Diego Mission Conditional Use Permit Amendment project. All project issues and mitigation for significant impacts have been adequately addressed pursuant to the California Environmental Quality Act for the project.

#### Community Communication

A few communications were received during the processing of the CUP Amendment in response to the Notice of Application. They were general in nature, and expressed basic opposition to the San Diego Rescue Mission's location at this site.

The applicant has stated the individual representing the litigants is aware of the proposal and is in support of the requested amendments, although staff has not received any communications.

**FISCAL CONSIDERATIONS:** The cost of processing this request is being paid through a deposit account established by the applicant.

**PREVIOUS COUNCIL and/or COMMITTEE ACTION:** The City Council approved Conditional Use Permit No. 8673 to allow the operation of the San Diego Rescue Mission at this location on November 19, 2002, by a vote of 9-0. There has been no other action in response to this proposed amendment to that permit.

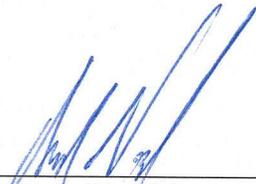
COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: The Uptown Planners discussed the proposed CUP Amendment at their meeting on April 1, 2014. As described by the applicant, and confirmed by the Uptown Planners' chair, there was more discussion/concern about the removal of the Litter and Loiter Control Plan reporting than the child care use. Accordingly, they separated the vote into three different motions.

1. To approve the child care use. Vote: 15 in favor; 0 opposed
2. To remove the Neighborhood Advisory Committee Requirement: Vote: 9 in favor; 6 opposed.
3. To remove the requirement for Litter and Loiter Control Plan Reporting. Vote: 11 in favor; 4 opposed.

Items 2 and 3 are related. Discussion after the vote on 2 resulted in some members changing their position, which is why there are more people in favor on Item 3 than Item 2.

KEY STAKEHOLDERS:

San Diego Rescue Mission, Owner/Applicant; Herb Johnson, President and CEO. Park West community within the Uptown Community Plan area.



Robert A. Vacchi  
Director, Development Services Department



Ronald H. Villa  
Deputy Chief Operating Officer:  
Neighborhood Services

ATTACHMENTS:

1. Aerial Photograph
2. Community Plan Land Use Map
3. Project Location Map
4. Draft Permit Amendment Resolution with Findings
5. Draft Permit Amendment with Conditions
6. Memorandum regarding Environmental Determination
7. Project Plans
8. Recorded Permit & Resolution No. 8673 (Project No. 1826)
9. Summary of Settlement Agreement dated December 9, 2003
10. Litter and Loiter Control Plan Report Summary (2005-2013)
11. Neighborhood Advisory Committee Minutes (available upon request)