

(R-89-169)

RESOLUTION NUMBER R-271419

ADOPTED ON JULY 12, 1988

WHEREAS, Circle K Corporation, a California corporation, by James J. Lantry, appealed the decision of the Planning Commission in approving Conditional Use Permit No. 87-0968 submitted by Circle K Corporation, a California corporation, Owner/Permittee, approximately 0.5 acres, located on the northwest corner of Camino Ruiz and Reagan Road, in the Mira Mesa Community Plan area, in the CA Zone; and

WHEREAS, the matter was set for public hearing on July 12, 1988, 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 this Council adopts the following findings with respect to Conditional Use Permit No. 87-0968:


1. The proposed use will fulfill an individual and/or community need and will not adversely affect the General Plan or the Mira Mesa Community Plan.

2. The proposed use, because of the conditions that have been applied to it, will not be detrimental to the health, safety and general welfare of persons residing or working in the area and will not adversely affect other property in the vicinity.

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

BE IT FURTHER RESOLVED, that the appeal of Circle K Corporation, a California corporation, is granted; the decision of the Planning Commission is sustained, and Conditional Use Permit No. 87-0968 is hereby granted to Circle K Corporation, a California corporation, under the terms and conditions set forth in the permit attached hereto and made a part hereof.

APPROVED: JOHN W. WITT, City Attorney

By 
Frederick C. Conrad
Chief Deputy City Attorney

FCC:ta
07/22/88
Or.Dept:Clerk
R-89-169
Form=r.permit

CONDITIONAL USE PERMIT NO. 87-0968

CITY COUNCIL

This Conditional Use Permit ("Permit") is granted by the Council of The City of San Diego to CIRCLE K CORPORATION, a California corporation, ("Owner/Permittee"), pursuant to Section 101.0510 of the Municipal Code of The City of San Diego ("Code").

1. Permission is granted to Owner/Permittee to construct and operate a convenience market and a gasoline service station, located at the northwest corner of Camino Ruiz and Reagan Road in the Mira Mesa Community, described as Parcel 16 of Map No. 12698, in the CA Zone.

2. The facility shall consist of the following:

a. Two thousand nine hundred fifty-two (2,952) square foot convenience market.

b. Two (2) gasoline islands.

c. Off-street parking.

d. Accessory uses as may be determined incidental and approved by the Planning Director.

3. No fewer than ten (10) off-street parking spaces shall be maintained on the property in the approximate location shown on Exhibit "A," dated July 12, 1988, on file in the office of the Planning Department. Parking spaces shall be consistent with Division 8 of the Zoning Regulations of the Code and shall be permanently maintained and not converted for any other use. Parking spaces and aisles shall conform to Planning Department standards. Parking areas shall be marked at all times. Landscaping located in any parking area shall be permanently maintained and not converted for any other use.

4. 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:

a. The Permittee signs and returns the Permit to the Planning Department.

b. The Permit is recorded in the office of the County Recorder.

5. Before issuance of any building permits, complete grading and building plans shall be submitted to the Planning Director for approval. Plans shall be in substantial conformity to Exhibit "A," dated July 12, 1988, on file in the office of the Planning Department. No change, modifications or alterations shall be made unless appropriate applications, findings of

substantial conformance or amendment of this Permit shall have been granted.

6. Before issuance of any grading or building permits, a complete landscape plan, including a permanent irrigation system, shall be submitted to the Planning Director for approval. The plans shall be in substantial conformity to Exhibit "A," dated July 12, 1988, on file in the office of the Planning Department. Approved planting shall be installed before issuance of any occupancy permit on any building. Such planting shall not be modified or altered unless this Permit has been amended and is to be maintained in a disease-, weed- and litter-free condition at all times.

7. All outdoor lighting shall be so shaded and adjusted that the light is directed to fall only on the same premises as light sources are located.

8. This Permit must be used within thirty-six (36) months after the date of City approval or the Permit shall be void. An extension of time may be granted as set forth in Section 101.0510.k. of the Code. Any extension of time shall be subject to all standards and criteria in effect at the time the extension is applied for.

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

10. After establishment of the project, the property shall not be used for any other purposes unless:

a. Authorized by the Planning Commission.

b. The proposed use meets every requirement of the zone existing for the property at the time of conversion.

c. The Permit has been revoked by the City.

11. This Permit may be revoked by the City if there is a material breach or default in any of the conditions of this Permit.

12. This Permit is a covenant running with the subject property and shall be binding upon the Permittee and any successor or successors, and the interests of any successor shall be subject to each and every condition set out in this Permit and all referenced documents.

13. If any existing hardscape or landscape indicated on the approved plans is damaged or removed during demolition or construction, it shall be repaired and/or replaced in kind per the approved plans.

14. Pennants, portable signs or banners shall not be permitted on the premises.

15. Signaling devices to alert station attendants to entering vehicles shall be located and adjusted so as to cause no noise disturbances to adjoining properties.

16. The requirements of the County Health Department and The City of San Diego Fire Department for storage of all hazardous materials, including underground chemical storage, shall be met at all times.

17. There will be no deliveries made between the hours of 10:00 p.m. and 6:00 a.m., no sale of alcohol between the hours of midnight and 6:00 a.m., and no sale of gasoline between the hours of midnight and 6:00 a.m.

18. All trash shall be stored in suitable containers and the containers shall be placed within the building or within enclosed solid walls or fences at least six (6) feet in height. Refuse shall not be visible from outside the enclosed area.

19. A letter from the lessee stating that they have read, understand and agree to comply with the conditions imposed on the service station shall be written, signed and sent to the parent oil company and a copy sent to The City of San Diego Planning Department.

20. A copy of this Permit shall be posted on the premises of the service station at all times and be available for viewing by any person or persons who may desire to see the document.

21. The service station shall not commence operation prior to 6:00 a.m. nor continue operation later than 12 midnight of any day. Signs and area lighting shall not be lighted between the hours of 12 midnight and 6:00 a.m.

22. No loitering signs shall be placed in and around the mini-market facility and no loitering enforced by the Permittee, any lessee or subsequent owner.

23. Plantings, planter boxes and/or vines shall be placed around the mini-market building in a manner satisfactory to the Planning Director.

24. Performance of minor automotive maintenance and repair, including all government-mandated automobile diagnostic evaluations are permitted. Major automotive repair and engine rebuilding is specifically prohibited. Any such repair and maintenance permitted shall be done within enclosed buildings.

25. Activities specifically prohibited on-site include:

a. Painting, body and fender work.

b. Sales or rentals of any new or used vehicle, boat or trailer.

c. Sales or rental of power tools.

d. Outdoor storage and display of any product for sale, other than automotive fuels, lubricants, supplies and accessories.

e. Stand-alone kiosks providing services and sales of products.

26. When operations are discontinued at an automobile service station for a period approaching twelve (12) months, the Permittee of the Permit has the following options:

a. Apprise The City of San Diego Planning Department that the Permit should be rescinded pursuant to Code Section 101.0510.O., "Rescission of Permit by Applicant." In the underlying zone or planned district, including underground tanks, shall be removed.

b. Redevelop the property as a service station through an amended Permit, as set forth in Code Section 101.0510.I., "Amendment to Permit."

c. Resume use as a service station under the existing Permit.

If none of the above options is taken by the Permittee, and operations remain discontinued beyond the twelfth month, the City may initiate proceedings to rescind the Permit and abate the nonconforming structures, as set forth in Code Section 101.0508, "Failure to Conform or Comply with Conditions."

27. In the event that the gasoline sales service facility is abandoned or vacated for a continuous period of one (1) year, the property owner shall cause to have all structures, buildings, signs, and accessory uses related to the gasoline service station and other potentially hazardous conditions removed from the premises. Underground fuel storage tanks shall also be removed from the premises. Underground fuel storage tanks shall also be removed or capped satisfactory to the Fire Department.

28. In the event that any condition of this Permit, on a legal challenge by the Owner/Permittee of this Permit, is found or held by court of competent jurisdiction to be invalid, unenforceable or unreasonable, this Permit shall be void.

PASSED AND ADOPTED by the City Council on July 12, 1988.

AUTHENTICATED BY:

MAUREEN O'CONNOR, Mayor
The City of San Diego

CHARLES G. ABDELNOUR, City Clerk
The City of San Diego

STATE OF CALIFORNIA)
) ss.
COUNTY OF SAN DIEGO)

On this _____ day of _____, 198____, before me, the undersigned, a notary public in and for said County and State, residing therein, duly commissioned and sworn, personally appeared CHARLES G. ABDELNOUR, known to me to be the City Clerk of The City of San Diego, the municipal corporation that executed the within instrument, and known to me to be the person whose name is subscribed to the within instrument, as a witness thereto, who being by me duly sworn, deposes and says that he was present and saw MAUREEN O'CONNOR, known to him to be the Mayor of The City of San Diego, and known to him to be the person who executed the within instrument on behalf of the municipal corporation therein named, and acknowledged to me that such municipal corporation executed the same, and that said affiant subscribed his name to the within instrument as a witness.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal in the County of San Diego, State of California, the day and year in this certificate first above written.

Notary Public in and for the County
of San Diego, State of California

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.

CIRCLE K CORPORATION
(Owner/Permittee)

By _____

By _____

NOTE: Notary acknowledgments must be attached per Civil Code Section 1180, et seq.

Printed

JUL 12 1988

Passed and adopted by the Council of The City of San Diego on.....
by the following vote:

| Council Members | Yeas | Nays | Not Present | Ineligible |
|------------------------|-------------------------------------|--------------------------|-------------------------------------|--------------------------|
| Abbe Wolfsheimer | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Ron Roberts | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Gloria McColl | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| H. Wes Pratt | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Ed Struiksmma | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| J. Bruce Henderson | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Judy McCarty | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Bob Filner | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Mayor Maureen O'Connor | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |

AUTHENTICATED BY:

MAUREEN O'CONNOR
.....
Mayor of The City of San Diego, California.

(Seal)

CHARLES G. ABDELNOUR
.....
City Clerk of The City of San Diego, California.

By *Charles G. Abdelnour* Deputy.

Office of the City Clerk, San Diego, California

Resolution **R-271419** Adopted **JUL 12 1988**
 Number Adopted