

(R-90-737)

RESOLUTION NUMBER R-274504

ADOPTED ON OCTOBER 3, 1989

WHEREAS, Mobil Oil Corporation, by Kenneth B. Huepper, appealed the decision of the Planning Commission in denying Conditional Use Permit No. 89-0326 submitted by Mobil Oil Corporation, Owner/Permittee, proposing to demolish an existing service station structure and construct a new 1,596 square foot service station/mini market and car wash, located on the southwest corner of Governor Drive and Genesee Avenue, north of SR-52 and east of Radcliffe Drive (3861 Governor Drive), described as Lot 2, University City Service Station Sites, Map No. 5291, in the University City Community Plan area, in the CN zone; and

WHEREAS, the matter was set for public hearing on October 3, 1989, 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. 89-0326:

1. The proposed use will fulfill an individual and/or community need and will not adversely affect the General Plan or the community plan. There is an existing service station on site and the commercial use is consistent with the commercial land use designation of the community plan.

2. The proposed use, because of 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 restricted hours of operation of the station and car wash along with the new six-foot-high wall and landscape buffer greatly reduced any negative affect on adjacent residential land use.

3. The proposed use will comply with the relevant regulations in the Municipal Code. The buildings are of new construction and the project will meet all current development standards.

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 Mobil Oil Corporation is granted; the decision of the Planning Commission is overruled, and Condition Use Permit No. 89-0326 is hereby granted to Mobil Oil 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:lc
12/05/89
Or.Dept:Clerk
R-90-737
Form=r.permit

CONDITIONAL USE PERMIT NO. 89-0326

CITY COUNCIL

This Conditional Use Permit is granted by the City Council of The City of San Diego to MOBIL OIL COMPANY, a California Corporation, Owner/Permittee, pursuant to Section 101.0510 of the Municipal Code of The City of San Diego.

1. Permission is granted to Owner/Permittee to to demolish an existing auto service station and reconstruct a new 912-square-foot mini market/sales office, 646-square-foot carwash, and four pump islands with canopy, located on the southwest corner of Governor Drive and Genesee Avenue (3861 Governor Drive), described as Lot 2, University City Service Stations Sites, Map No. 5291, in the CN Zone.
2. The facility shall consist of the following:
 - a. A 912-square-foot mini-market/sales office, a 646-square-foot car wash and four pump islands with canopy.
 - b. Signs as depicted on Exhibit "A," dated October 3, 1989.
 - c. Off-street parking; and
 - d. Accessory uses as may be determined incidental and approved by the Planning Director.
3. No fewer than eight (8) off-street parking spaces shall be maintained on the property in the approximate location shown on Exhibit "A," dated October 3, 1989, on file in the office of the Planning Department. Parking spaces shall be consistent with Division 8 of the Zoning Regulations of the Municipal 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, 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 Conditional Use 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 October 3, 1989, 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 October 3, 1989, 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 Conditional Use Permit must be used within 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 Municipal code. Any extension of time shall be subject to all standards and criteria in effect at the time of 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; or
 - b. The proposed use meets every requirement of the zone existing for the property at the time of conversion; or
 - c. The permit has been revoked by the City.
11. This Conditional Use 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 Conditional Use 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. 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 feet in height. Refuse shall not be visible from outside the enclosed area.
18. 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.
19. A copy of this Conditional Use 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.
20. 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.
21. 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.
22. Plantings, planter boxes and/or vines shall be placed around the mini-market building in a manner satisfactory to the Planning Director.
23. 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.

24. 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.
25. When operations are discontinued at an automobile service station for a period approaching 12 months, the permittee of the Conditional Use Permit has the following options:
- a. Apprise the City Planning Department that the Conditional Use Permit should be rescinded pursuant to Municipal Code Section 101.0510.0 ("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 Conditional Use Permit, as set forth in Municipal Code Section 101.0510.I. ("Amendment to Permit").
 - c. Resume use as a service station under the existing Conditional Use 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 Municipal Code Section 101.0508. ("Failure to Conform or Comply with Conditions").

26. In the event that the gasoline sales service facility is abandoned or vacated for a continuous period of one year (12 months), 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.

27. Noise attenuation measures shall be installed that would assure that noise emissions do not exceed 62.5dB(A) at any property line and that noise emissions do not exceed 62.6 dB(A), hourly noise level from 7:00 a.m. to 7:00 p.m., and 57.5 decibels from residentially zoned property. These attenuating measures shall include the installation of closable exit doors on the carwash structure and the deletion of the dryer/blower, designed to the satisfaction of the Noise Abatement Office and the Planning Director.
28. Hours of operation for the service station and mini market shall be between the hours of 6:00 a.m. and 12:00 midnight daily. Hours of operation for the carwash shall be between 8:00 a.m. and 8:00 p.m. daily, provided that the above required noise attenuating measures are installed to the satisfaction of the Noise Abatement Office and the Planning Director.
29. The applicant shall be responsible for notifying the Planning Department, in writing, when the noise attenuating measures are installed. On-site inspection by Planning Department and Noise Abatement staff will determine if the noise attenuating measures are in conformity with the approved plans. Issuance of a Certificate of Occupancy for the carwash shall not occur until the Planning Department and the Noise Abatement Office have determined that the mitigation program has been completed.
30. Prior to the issuance of any building permits, the applicant shall dedicate an additional three feet of right-of-way on Governor Drive, in a manner satisfactory to the City Engineer.
31. Prior to the issuance of any building permits, the applicant shall assure, by permit and bond, the widening of Governor Drive with six feet of additional paving and the replacement of curb and sidewalk, in a manner satisfactory to the City Engineer. The City Engineer will recommend to the City Council the City's share in an amount not to exceed \$24,000 towards the cost of the traffic signal relocation resulting from the proposed widening. The applicant should apply for a participation agreement to be forwarded to the City Council for the final approval prior to the issuance of the public improvement permit issued by the City Engineer.
32. The proposed six foot masonry block wall along the southern property line shall be relocated to the top of slope to the satisfaction of the Planning Director.
33. Revised landscape plans shall be submitted prior to building permit issuance which landscapes the southern wall to the satisfaction of the Planning Director.

34. Any future public telephone shall be located (away from residential property) in the north west portion of the project site to the satisfaction of the Planning Director.
35. Permittee shall offer to construct a shelter for transit patrons and to convey the shelter and the real property on which it is located to MTDB, at no cost to MTDB. The offer shall be made in writing and a copy shall be provided to the Planning Director. If the offer is rejected by MTDB, the Planning Director shall be so informed, in writing, by the permittee.
36. Ensure wheelchair accessibility to the stop by providing a pedestrian ramp at the intersection with Governor Drive, and by installing a level, hard-surface pad at the head of the bus stop with minimum dimensions of four feet in width by eight feet in depth to accommodate a wheelchair lift.
37. Provide a minimum 50 foot red curb south of the proposed curb cut on Genesee Avenue adjacent to the bus stop, and an additional red curb north of the curb cut for bus queuing.
38. Beer and wine shall not be sold after 10:00 p.m. daily to the satisfaction of the Planning Director.
39. Prior to building permit issuance the County Health Department shall approve the project for compliance with current remediation efforts governed by the County Health Department to the satisfaction of the Planning Director.
40. 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 Council of The City of San Diego on October 3, 1989.

FCC:lc
12/07/89
r-90-737-p

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 _____, 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.

MOBIL OIL CORPORATION
Permittee

By _____

By _____

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

R-274504

OCT 3 1989

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 type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
H. Wes Pratt	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ed Struiksma	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" 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 checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mayor Maureen O'Connor	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input 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 *Phonda R. Barnes*, Deputy.

Office of the City Clerk, San Diego, California

Resolution Number R-274504 Adopted OCT 3 1989