

(R-92-1795)

RESOLUTION NUMBER R-279870

ADOPTED ON APRIL 28, 1992

WHEREAS, on February 13, 1992, the Planning Commission recommended approval of Planned Commercial Development ("PCD") Permit No. 90-0435 (Canyon Hills Commercial Center) submitted by J. L. Elder Company, individual, Owner/Permittee, for the construction of a 21,760 square-foot commercial/retail center with associated signs, a fast food restaurant, and an automotive service station with a convenience store and a car wash, located at the northwest corner of Interstate 15 and Mercy Road on both sides of Alemania Road and described as Lot 125 and Lot A of Map No. 11833 and a portion of Sections 20 and 29 in Township 14 South, Range 2 West, SBM, in the Mira Mesa Community Plan area, in the CA and A-1-10 zones; and

WHEREAS, the applicant also requested a variance to allow signage for the restaurant, service station and retail uses to be located off-site of the user's legal lot but within the three lot PCD project site; and

WHEREAS, the matter was set for public hearing on April 28, 1992, 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 Planned Commercial Development Permit No. 90-0435 and variance:

1. Planned Commercial Development Findings

a. The proposed use will fulfill an individual and community need and will not adversely affect the General Plan or the community plan. The proposed commercial/retail center will comply with the Specialized Commercial land use designation of the Mira Mesa Community Plan.

b. 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 Mitigated Negative Declaration DEP No. 90-0435 requires that the traffic/circulation impacts be mitigated to a level of insignificant through the inclusion of specific conditions which have been added to the permit.

c. The proposed use will comply with the relevant regulations in the Municipal Code. The project will be of new construction and comply with all existing development standards except for variances for sign location.

2. Variance Findings

a. There are special circumstances or conditions applying to the land or buildings for which the adjustment is sought, which circumstances or conditions are peculiar to such land or buildings and do not apply generally to the land or buildings in the neighborhood. Such conditions shall not have resulted from any act of the applicant subsequent to the adoption of the applicable zoning ordinance.

The proposed freeway oriented sign and monument sign are located within the PCD site and are governed under one permit which is subdivided into three legal parcels. The reduced setback for the monument signs is designed into the project as a whole through the landscape and architectural design and the reduced setback is needed due to street widening.

b. The aforesaid circumstances or conditions are such that the strict application of the provisions of the ordinance would deprive the applicant of the reasonable use of the land or buildings and that the variance granted by the City is the minimum variance that will accomplish this purpose.

The strict application of the provisions would allow a pole sign on each parcel of land and would require the monument signs to be located back within the parking area of the center. The proposed design is viewed to be aesthetically superior.

c. The granting of the variance will be in harmony with the general purpose and intent of the zoning regulations and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

The three lots within the PCD project site will function as one lot, even if three lots exist, which is consistent with the code's intent. The monument signs are to be sited to provide adequate traffic sight distance.

d. The granting of the variance will not adversely

affect the Progress Guide and General Plan of The City of San Diego or the adopted community plan for the area.

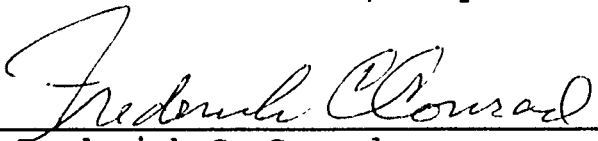
The variance should add to the architectural and aesthetic quality of the project by reducing the number of potential pole signs from 3 to 1, and by locating the monument sign within the landscape and mounded street frontage berm.

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 recommendation of the Planning Commission is sustained, and Planned Commercial Development Permit No. 90-0435 is hereby granted to J. L. Elder Company, individual, Owner/Permittee, under the terms and conditions set forth in the permit attached hereto and made a part hereof.

BE IT FURTHER RESOLVED, that the Council approves the variance to allow the signage for the restaurant, service station and retail uses off-site of the user's legal lot but within the three lot PCD project site.

APPROVED: JOHN W. WITT, City Attorney

By 
Frederick C. Conrad
Chief Deputy City Attorney

FCC:lc
05/22/92
Or.Dept:Clerk
R-92-1795
Form=r.permit

PLANNED COMMERCIAL DEVELOPMENT PERMIT NO. 90-0435
CITY COUNCIL

This Planned Commercial Development Permit is granted by the City Council of the City of San Diego to J. L. ELDER COMPANY, Individual, Owner/Permittee, pursuant to Section 101.0910 of the Municipal Code of the City of San Diego.

1. Permission is granted to Owner/Permittee, to construct a Planned Commercial Development located at the northwest corner of Interstate 15 and Mercy Road on both sides of Alemania Road, described as Lot 125 and Lot A of Map No. 11833 and a portion of Section 20 and 29 in the T14S, R2W, SBBM, in the CA (portion A-1-10 to be CA) Zone.

2. The facility shall consist of the following:

- a. 21,760 square-foot commercial/retail center;
- b. 1,574 square-foot service station/convenience store and carwash (under CUP 90-0435).
- c. 2,334 square-foot drive-thru restaurant and other improvements;
- d. Off-street parking;
- e. Variance for signage location. The 50-foot-high sign to be located on Parcel 1 may contain signage for freeway oriented uses to be located on Parcels 2 and 3. Monument signs located along Mercy Road may reduce the front setback to 5 feet with adequate traffic sight distance. One monument sign for the retail center on parcel 1 may be located on the service station site, parcel 2.
- f. Accessory uses as may be determined incidental and approved by the Planning Director.

3. Prior to the issuance of any building permits, a final subdivision map shall be recorded on the subject property. Rezoning of the subject property shall be approved by the City Council and become effective with the recordation of the subdivision map.

4. No fewer than 136 off-street parking spaces shall be maintained on the property in the approximate location shown on Exhibit "A," dated April 28, 1992, on file in the office of the Planning Department. Parking spaces shall be consistent with Division 8 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.

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5. 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 Planned Commercial Development Permit is recorded in the office of the County Recorder.

6. 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 April 28, 1992, 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.

7. 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 April 28, 1992, 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.

8. 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.

9. The effective date of this permit shall be the date of final action following all appeal dates and proceedings or the effective date of a concurrent rezoning case. The permit must be utilized within 36 months after the effective date. Failure to utilize the permit within 36 months will automatically void the permit unless an extension of time has been granted by the Planning Director, as set forth in Section 101.0910.M, of the Municipal Code. Any such extension of time must meet all the Municipal Code requirements and applicable guidelines in effect at the time the extension is considered by the Planning Director.

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

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

- a. Authorized by the Planning Director; or
- 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.

12. The property included within this Planned Commercial Development shall be used only for the purposes and under the terms and conditions set forth in this permit unless authorized by the Planning Director or the permit has been revoked by the City of San Diego.

13. This Planned Commercial Development Permit may be cancelled or revoked if there is any material breach or default in any of the conditions of this permit. Cancellation or revocation may be instituted by the City of San Diego or Permittee.

14. This Planned Commercial Development 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.

15. Permanent and/or temporary signs shall be approved by the Planning Director and shall be consistent with the criteria established by the sign plan, part of Exhibit "A," dated April 28, 1992.

Unless otherwise provided specifically within this permit, all signs requested and proposed for this project shall conform to City wide Sign Regulations and be administered by the Sign Code Administration Division of the Planning Department.

16. This Planned Commercial Development may be developed in phases. Each phase shall be constructed prior to the sale or lease to individual owners or tenants to ensure that all development is consistent with conditions and exhibits submitted to and approved by the Planning Director.

17. The use of textured or enhanced paving shall be permitted only with the approval of the City Engineer and Planning Director, and shall meet standards of these departments

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as to location, noise and friction values, and any other applicable criteria.

18. 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.

19. Noise walls, street trees, decorative pavements and other public right-of-way improvements shown on Exhibit "A," dated April 28, 1992, shall be permitted by an Encroachment Permit obtained from the City Engineer.

20. The permittee/applicant shall comply with all requirements of the Uniform Building Code (UBC) and secure all necessary building permits prior to construction.

21. Environmental Mitigation:

- a. Dedicate right-of-way for Mercy Road and Alemania Road, and improve Alemania Road to the satisfaction of the City Engineer.
- b. Modify the Mercy Road median at Alemania Road to prohibit left turn exists onto Mercy Road to the satisfaction of the City Engineer.
- c. Construct a U-turn pocket for northwest bound Mercy Road traffic at Kika Court to the satisfaction of the City Engineer.

22. The Planned Residential/Planned Commercial/Conditional Use Permit shall comply with the conditions of the final map for Tentative Map No. 90-0435.

23. Prior to issuance of any building permits, the applicant shall provide a Transportation Demand Management Plan, satisfactory to the City Engineer.

24. Prior to the issuance of any building permits, the applicant shall:

- a. Ensure that building address numbers are visible and legible from the street (UFC 10.208).
- b. Show the location of all fire hydrants on the plot plan (UFC 10.301).

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25. The developer shall install fire hydrants at locations satisfactory to the Fire Department and the City Engineer.
26. The developer shall provide evidence, satisfactory to the Water Utilities Director showing that each parcel will have its own water service and sewer lateral.
27. This subdivision is in a community plan area designated in the General Plan as Planned Urbanizing. As such, special financing plans have been, or will be, established to finance the public facilities required for the community plan area.

Therefore, in connection with Council approval of the final map, the subdivider shall comply with the provisions of the financing plan then in effect for this community plan area, in a manner satisfactory to the City Engineer. This compliance shall be achieved by entering into an agreement for the payment of the assessment, paying a Facilities Benefit Assessment (FBA) or such other means as may have been established by the City Council.

28. This subdivision may be subject to payment of School Impact Fees at the time of issuance of building permits, as provided by California Government Code Section 53080 (b) (Statutes of 1986, Chapter 887), in accordance with procedures established by the Director of Building Inspection.
29. This community may be subject to impact fees, as established by the City Council, at the time of issuance of building permits.
30. Prior to the issuance of any building permits, the applicant shall assure adequate sight distance at all driveways, satisfactory to the City Engineer.
31. Prior to the issuance of any building permits for monument signs along Mercy Road, the applicant shall assure adequate sight distance satisfactory to the City Engineer and the Planning Director.
32. The proposed 50-foot-high freeway sign may only contain signage for freeway oriented uses (i.e., restaurant and auto service station) to the satisfaction of the Planning Director.
33. The proposed service station must comply with both this PCD Permit and the associated CUP 90-0435 and TM 90-0435.
34. Prior to building permit issuance of the 50-foot high freeway sign and the retail center monument sign located on

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parcel 2, a joint maintenance agreement shall be recorded to the satisfaction of the Planning Director.

35. The depth of on site landscaping along Mercy Road measured from the property line shall be a minimum of eight feet. The associated landscape berm and mounding which is to screen the vehicular areas is to be a minimum of three feet in height measured from adjacent sidewalk grade.

36. 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 a court of competent jurisdiction to be invalid, unenforceable or unreasonable, this permit shall be void. However, in the event that a challenge pertaining to future growth management requirements is found by a court of competent jurisdiction to be invalid, unenforceable or unreasonable, the Planning Director shall have the right, but not the obligation, to review this permit to confirm that the purpose and intent of the original approval will be maintained.

APPROVED by the City Council of the City of San Diego on April 28, 1992.

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Passed and adopted by the Council of The City of San Diego on APR 28 1992,
by the following vote:

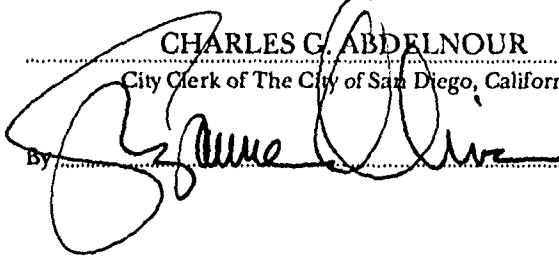
Council Members	Yeas	Nays	Not Present	Ineligible
Abbe Wolfsheimer	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ron Roberts	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
John Hartley	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
George Stevens	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Tom Behr	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Valerie Stallings	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Judy McCarty	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" 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:

(Seal)

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

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

By , Deputy.

Office of the City Clerk, San Diego, California

Resolution Number R-279870 Adopted APR 28 1992