

(R-94-605)

RESOLUTION NUMBER R-282812

ADOPTED ON OCTOBER 12, 1993

WHEREAS, on September 23, 1993, the Planning Commission recommended approval of Land Development/Planned Commercial Development/Resource Protection Ordinance/Conditional Use Permit No. 92-0736 submitted by Gatlin Development Company, Owner/Permittee, for the purpose of constructing, operating and maintaining a maximum 617,000-square-foot commercial retail center, including two major anchor tenants, various smaller retail tenant development pads, related site landscaping and various other public and private improvements necessary to implement the approved development of the site for retail commercial use, located the southeast corner of Palm Avenue and I-805, in the Otay Mesa/Nestor Community Plan area, in the CA Zone; and

WHEREAS, the matter was set for public hearing on October 12, 1993, 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, as follows:

1. That this Council adopts the following findings with respect to Planned Commercial Development ("PCD") and Conditional Use Permit ("CUP") No. 92-0736:

a. "THE PROPOSED USE WILL FULFILL A COMMUNITY NEED AND WILL NOT ADVERSELY AFFECT THE GENERAL PLAN AND THE ADOPTED COMMUNITY PLAN."

The proposed development of this site requires amendments to both the adopted Otay Mesa Community Plan ("Community Plan") and City of San Diego General Plan and Progress Guide to redesignate the property from single-family residential to commercial-retail development. The General Plan designates the site as Planned Urbanizing. The project is consistent with such an urbanized use and therefore would not adversely affect the goals and objectives of the Progress Guide and General Plan.

The project incorporates a commercial center which would contribute incrementally to local and regional general economic activity. The project would provide needed goods and services to the existing and planned residential communities within the project vicinity and would not attract residents from a broader region.

Community Need. The need for a regional retail facility at this location is evidenced by the fact that, as outlined in the London Group Study prepared for this project, the City stands to recapture \$1.6 million of retail sales tax dollars from residents that currently shop outside of the City.

Existing commercially zoned property in the Community Plan area cannot physically or economically support the project due to inadequate acreage, insufficient infrastructure, or a lack of adjacent residential development to support retail sales.

Further evidence of the demand for a regional retail facility can be gleaned from the willingness of national retail entities to commit to the project after having completed market studies of the Community Plan area.

After approval of the project, the property designated for retail use within the Otay Mesa Community Plan would equal 4.75 percent of the total acreage. Not all of the acreage designated for retail or commercial use in the Community Plan is likely to be developed for such uses.

In any event, the 4.75 percent compares favorably with the percentages designated for commercial use within the urbanized areas of the City and County of San Diego, as well as other communities in South San Diego. For example, the following communities contain similar percentages of land designated for commercial uses: City of Chula Vista - 4.6 percentage; County of San Diego - 4 percent; and City of San Diego - 4.7 percent.

The following communities in South San Diego also contain similar or higher percentages of land dedicated for commercial use: San Ysidro - 14.48 percent and Otay Mesa-Nestor - 3.0 percent.

Moreover, 17.5 percent of the acreage within the Community Plan has been reserved for future development. If at some point it is determined that additional residential development is needed in order to maintain a balanced community, a substantial portion of the remaining 17.5 percent of the future development acreage could be designated for residential use.

Community Plan. The Otay Mesa Community Plan currently designates the project site for very low density residential use. The project requires a land use designation change to Commercial Use and adds a Commercial Element to the Community Plan.

After approval of the project, commercially designated property would constitute 4.75 percent of the total acreage within the Community Plan, a percentage comparable to that of other communities in the South Bay and the urbanized areas of the City and County. The loss of the residential units would result in only a 0.33 percent decrease in the total estimated dwelling units in the western portion of the Community Plan.

The project is not consistent with all of the environmental goals of the Community Plan. The Community Plan identifies a number of environmental goals that relate to preservation of landform features, site planning, landscaping, parking, utilities, and open space. The project does not achieve the goals of the Community Plan concerning landform features and open space. The EIR prepared for this project concluded that the impact to landform features was significant based on the maximum 10-foot slope height threshold contained in the Community Plan. The landform features impact is a result of the alignment of "A" Street and the accompanying 85-foot slope.

The alignment of "A" Street is constrained due to the fixed location of the connection of this street to Palm Avenue, City engineering requirements concerning appropriate radiuses, the need to maintain a safe distance between the Del Sol Boulevard connection and the Interstate 805 underpass, and the contiguous

retail pad areas needed to support the proposed Walmart and Sam's Club.

Contour grading techniques will be incorporated into the project provided they will not result in greater impacts to sensitive habitats, particularly Diegan coastal sage scrub. The alignment of "A" Street does attempt to follow the natural contours of the adjacent slopes to the extent possible in light of environmental habitat preservation efforts and safety and engineering requirements.

The project does not fully achieve the Community Plan goal of completely preserving landform features by exceeding the slope height threshold. Such an impact is unavoidable due to the slope resulting from the alignment of "A" Street as a four-lane major street proposed to accommodate this project.

The EIR also states that the project would be inconsistent with the open space goals of the Community Plan. The EIR for the project does conclude that the project fully mitigates its impacts to sensitive environmental habitats and contributes to providing a connection to the open space corridor of an adjacent development.

Based upon the preceding statements presented relevant to the proposed commercial development of this site, the City Council has determined that the project fully complies with the above-referenced finding of approval.

b. "THE PROPOSED USE 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 PROPERTIES IN THE VICINITY."

The project is located in a relatively undeveloped portion of the Otay Mesa Community Plan. The project is bounded by Interstate 805 on the west, Palm Avenue on the north, undeveloped mesa tops and canyons on the east, and vacant land to the south.

No persons reside in the immediate vicinity of the project site, although the proposed California Terraces Precise Plan is located to the east and is both adjacent and above the project and the Robinhood Ridge residential development is located to the northeast (but is not adjacent to the project).

The Gateway Fair project, which is located to the immediate north of Palm Avenue, is an approved retail commercial development that would provide complementary retail uses to those in the Walmart project. The existing mixed residential and commercial development to the west and southwest of Interstate 805 would not be negatively impacted by the project. In fact, the project would service the retail needs of the residential development to the west and southwest of Interstate 805.

The draft permit prepared for this project includes a number of conditions of approval relevant to project compliance with applicable regulations of the Municipal Code to assure the health, safety and general welfare of persons residing or working in the area.

As designed, the proposed use would be compatible with the existing and planned character of the surrounding area, would

provide a needed retail service and therefore would not adversely affect other properties in the vicinity.

Based upon the preceding statements presented relevant to the proposed commercial development of this site, the City Council has determined that the project fully complies with the above-referenced finding of approval.

c. "THE PROPOSED USE WILL COMPLY WITH THE RELEVANT REGULATIONS OF THE MUNICIPAL CODE."

The proposed development and use of this site is consistent with relevant structural and site design regulations of the Municipal Code in effect for this site, including requirements for landscaping, off-street parking, building setbacks, floor area ratios, building height, various site coverages, structural and site design guidelines as specified by the CA Zone and Subdivision Map Regulations.

Based upon the preceding statements presented relevant to the proposed commercial development of this site, the City Council has determined that the project fully complies with the above-referenced finding of approval.

2. That this Council adopts the following findings with respect to Resource Protection Ordinance ("RPO") Permit No. 92-0736:

a. "THE PROPOSED DEVELOPMENT WILL NOT ADVERSELY AFFECT THE CITY OF SAN DIEGO'S PROGRESS GUIDE AND GENERAL PLAN."

The proposed development requires amendments to both the Otay Mesa Community Plan and City of San Diego General Plan and

Progress Guide to redesignate the property from very low density residential to community/regional commercial center.

The City of San Diego General Plan designates the project site as Planned Urbanizing. The project is consistent with such an urbanized use. The proposed project will not adversely affect the goals and objectives of the Progress Guide and General Plan.

Based upon the preceding statements presented relevant to the proposed commercial development of this site, the City Council has determined that the project fully complies with the above-referenced finding of approval.

b. "THE PROPOSED DEVELOPMENT WILL CONFORM TO THE COMMUNITY PLAN FOR THE AREA AND ANY OTHER APPLICABLE PLANS, POLICIES AND ORDINANCES."

Under guidelines of the City's Resource Protection Ordinance (RPO), the project exceeds the maximum allowed encroachment into both sensitive slopes and biologically sensitive lands identified on the property. The applicant is proposing a mitigation program intended to reduce the project's impact relative to RPO; however, the amount of mitigation proposed is not adequate to fully mitigate RPO impacts.

The project site and related off-site improvement areas contain 11.1 acres of slopes in excess of a 25 percent gradient and approximately 18.2 acres of biologically sensitive lands as defined in RPO. Implementation of the project will impact approximately 2.0 acres of the sensitive slope category on site and 7.8 acres of biologically sensitive lands.



Based on the percentage of the project site containing steep slopes and biologically sensitive lands, no encroachment into either one of these resources would be allowed under RPO.

However, pursuant to the Resource Protection Ordinance, the project may be approved through the "alternative compliance" provisions if it can be adequately demonstrated that it complies with RPO to the maximum extent feasible and that it provides extraordinary benefits to the general public.

The decision-maker may approve a RPO Permit for a project based on a finding of alternative compliance, which is designed to ensure the provision of extraordinary benefit to the general public based on a finding of overriding social and economic considerations and provided the findings enumerated in San Diego Municipal Code section 101.0462(L)(3)(a), (b) and (c), are also made.

Extraordinary Benefits Finding. The extraordinary benefits to the general public as provided by the project include increased revenues to the City, increased employment opportunities, and contribution to the City's open space system.

The project would provide substantial public revenues to the City in the form of retail sales tax revenues. According to the Board of Equalization, the City received one percent of retail sales revenue.

Based on the average sales per square foot of the proposed tenants of the project, it is estimated that the project would generate approximately \$1.6 million of additional sales tax

revenue for the City per year that currently is being lost to adjacent cities due to the fact that no regional retail facilities are located in the part of the City where the project will be developed.

Furthermore, the project would generate an estimated 1,122 new permanent jobs and 450 temporary construction jobs. Thus, the project would enhance the economic base of the region.

These new jobs are desperately needed in the region to compensate for job opportunities which have recently been lost due to the general downturn in the economy and, in particular, a significant decline in the local defense industry which has traditionally been an important employer in the San Diego region.

The existing Community Plan designation for the project site does not include any designated open space. The project includes 19.66 acres of open space, which is designated as a continuation of proposed adjacent open space areas in order to provide for a contiguous, community-wide open space system.

No Feasible Alternatives Finding. There are no feasible measures that would further minimize the potential adverse effects on environmentally sensitive lands while still providing the extraordinary benefits to the City.

The adverse effects of the project on environmentally sensitive lands are due to the necessary provision of "A" Street and the creation of the development pad west of "A" Street to accommodate the Sam's Club facility. The proposed "A" Street is a required improvement of the project and is a regionally

significant circulation road which links Palm Avenue and Del Sol Boulevard.

If the site were to be developed for single-family residential development as the Community Plan currently provides, the alignment of "A" Street would still result in 40-foot-high slopes that could represent an inconsistency with the environmental goals of the Community Plan and constitute a significant landform impact under CEQA Guidelines. In any event, such a residential project would not provide the extraordinary benefits to the City.

Based on projected traffic volumes for the project, "A" Street is classified as a four-lane major street and must meet design standards established by the City. The location of "A" Street cannot be altered significantly because of the required engineering radiuses, the need to maintain a safe distance between the Del Sol Boulevard connection and the Interstate 805 underpass, the fact that the location of the Palm Plaza connection is fixed, and the project goal of maintaining a contiguous commercial development that includes a Walmart and Sam's Club anchor facility.

Minimum acceptable standards are also established by the tenants for pad size, access, orientation, and design. The project has been designed in order to satisfy the minimum required design standards for "A" Street as well as providing for acceptable development areas to accommodate the proposed retail uses of potential tenants.

One alternative that would reduce potentially adverse effects would be to eliminate the Sam's Club facility or substantially reduce other retail pad sizes, but that would jeopardize the economic viability of the project and would result in a direct reduction in the extraordinary benefits to the City.

Another alternative, which was discussed in the final EIR, is the partial off-site alternative, which included moving the Walmart and 80,000 square feet of commercial retail use to the Gateway Fair site which is located to the north, across the other side of Palm Avenue.

Such an alternative is not viable in part because the Gateway Fair site contemplates different retail uses and demands and would have to be significantly redesigned to accommodate the Walmart facility.

In fact, such a reconfiguration of the grading of the Gateway Fair site would eliminate the contour grading pattern of the existing 90-foot slopes created along the project's frontage and would instead require a 30-foot height increase on existing 40-foot-high slopes, the combination of which would result in significantly greater visual impacts due to their visibility to the freeway and roughly the equivalent encroachment into steep slopes as proposed by the Walmart plan.

Based upon the preceding statements relevant to the proposed commercial development of this site, the City Council has determined that the project fully complies with the above-referenced finding of approval.

c. "THE PROPOSED DEVELOPMENT WILL BE SITED, DESIGNED, CONSTRUCTED AND MAINTAINED TO MINIMIZE, IF NOT PRECLUDE, ADVERSE IMPACTS ON ENVIRONMENTALLY SENSITIVE LANDS."

Biological Resource Impacts. The loss of biological resources found on the project site is considered to be cumulatively significant. Specifically, the proposed development would result in direct and cumulative impacts to sensitive vegetation and wildlife.

On site, 3.9 acres of Diegan coastal sage scrub and 1.5 acres of maritime succulent scrub would be lost as a result of the project design. The habitat impacted by the proposed development is generally disturbed, having been graded during previous landfill operations on site.

The City of San Diego has determined appropriate compensation ratios for Diegan coastal sage scrub and maritime succulent scrub to be 2:1. Mitigation for the impact of the project on coastal California gnatcatchers is more problematic due to the fact that the bird has only recently been listed as threatened and no guidelines exist to define adequate mitigation. However, traditionally, a 2:1 compensation ratio for impacted gnatcatcher habitat has been used.

The mitigation for the impacts to the 3.9 acres of Diegan coastal sage scrub and 1.5 acres of maritime succulent scrub would be accomplished by preserving 7.8 acres of high quality Diegan coastal sage scrub and 3.0 acres of high quality maritime succulent scrub within the area shown on Figure IV-17 of the EIR. Off-site compensation may also occur at other approved locations.

A recorded easement document or other document assuring acquisition of the mitigation acreage shall be provided which defines the conditions and limitations for the use of the mitigation area.

No mitigation measures are proposed to reduce the cumulative biological impact on mule fat scrub and seasonal isolated wetland to below a level of significance. The impact would only be avoided by the no project or partial off-site alternative.

However, the project applicant is proposing to contribute \$10,000 to the City of San Diego's Mitigation Bank Program to help compensate for the cumulative biological impacts. This contribution, however, does not fully mitigate for these impacts.

Geology/Soils Impacts. The project would be constructed on alluvium deposits, expansive soils and unconsolidated trash deposits from previous landfill operations on the site. The La Nacion Fault Zone, clay and landslide deposits could adversely affect the stability of the proposed manufactured slopes.

As a mitigation measure, the Building Inspection Department will require the completion of a geotechnical reconnaissance prior to the issuance of any building permits for the project. Proper engineering design of the new structures are intended to ensure that the potential for geologic impacts resulting from regional hazards would be less than significant.

Paleontological Resources Impacts. Limitations of past field surveys prevent a precise determination of the potential for significant fossil finds. However, development of the

project site could result in significant impacts to paleontological resources occurring when mass grading operations cut into the potentially fossil-bearing layers of the Otay formations, San Diego formations and quaternary terrace deposits.

The potential for significant paleontological resources is high in the Otay formation and low in the San Diego formation and quaternary terrace deposits. The potential resources would be destroyed unless recovered during grading.

Therefore, approval of the proposed project shall contain a paleontological mitigation monitoring program in the Otay Mesa geologic formations to mitigate potentially significant impacts to paleontological resources.

The tentative map and discretionary permit shall include measures for a paleontologist to monitor earth movement during grading, which would allow salvaging any exposed fossil remains. In addition, prior to the issuance of building permits a summary report, even if negative, shall be prepared and submitted to the Planning Department to confirm that a paleontological study has been conducted for the project.

Water Quality Impacts. The proposed project would contribute to the cumulative urban run-off problems within the Otay and Tijuana River basins. Run-off from proposed streets and parking lots would collect pollutants such as rubber, oil, metals and trash.

Therefore, mitigation measures to reduce water quality impacts to a level below significant shall include pollution

control devices consistent with the Best Management Practices ("BMP") and acceptable to the City Engineer.

Landform Alteration. The project site and related off-site improvement areas contain 11.1 acres of slopes in excess of a 25 percent gradient and approximately 18.2 acres of biologically sensitive lands as defined in RPO. Implementation of the project will impact approximately 2.0 acres of the sensitive slope category on site and 7.8 acres of biologically sensitive lands.

Based on the percentage of the project site containing steep slopes and biologically sensitive lands, no encroachment into either one of these resources would be allowed under RPO.

However, pursuant to the Resource Protection Ordinance (RPO), the project may be approved through the "alternative compliance" provisions if it can be adequately demonstrated that it complies with RPO to the maximum extent feasible and provides extraordinary benefits to the general public.

The decision-maker may approve a RPO Permit for a project based on a finding of alternative compliance, which is designed to ensure the provision of extraordinary benefit to the general public based on a finding of overriding social and economic considerations and provided the findings enumerated in San Diego Municipal Code section 101.0462(L)(3)(a), (b) and (c) are also made.

The landform features impact is a result of the alignment of "A" Street, a four-lane street that ultimately is needed even if the project is not approved. For example, even if the site were to be developed for single-family residential development as the



Community Plan currently provides, the alignment of "A" Street is constrained due to the fixed location of the connection to Palm Avenue, various City engineering requirements concerning appropriate radiuses, the need to maintain a safe distance between the Del Sol Boulevard connection and the Interstate 805 underpass, and the contiguous retail pad areas needed to support the proposed Walmart and Sam's Club.

Contour grading techniques will be incorporated into the project provided they do not result in greater impacts to sensitive habitats, particularly Diegan coastal sage scrub. The alignment of "A" Street does attempt to follow the natural contours of the adjacent slopes to the extent possible in light of environmental habitat preservation efforts and safety and engineering requirements.

Although the project does not fully achieve the Community Plan goal of completely preserving landform features, more specifically not exceeding the maximum slope height threshold of 10 feet, such an impact is unavoidable to develop this site and not sufficient enough to warrant a determination that the project adversely affects the Community Plan.

The EIR for the project does conclude that with incorporation of the Mitigation Monitoring and Reporting Program, the project fully mitigates its impacts to environmentally sensitive habitats and contributes significantly to providing a connection to the open space corridor of an adjacent development.

Based upon the preceding statements presented relevant to the proposed commercial development of this site, the

City Council has determined that the project fully complies with the above-referenced finding of approval.

d. "THE PROPOSED DEVELOPMENT WILL BE SITED AND DESIGNED TO PREVENT ADVERSE IMPACTS ON ANY ENVIRONMENTALLY SENSITIVE LANDS AND RESOURCES LOCATED IN ADJACENT PARKS AND PUBLIC OPEN-SPACE AREAS AND WILL PROVIDE ADEQUATE BUFFER AREAS TO PROTECT SUCH RESOURCES."

There are no existing public parks located adjacent to the project site. Therefore, no buffer areas will be required to protect such a resource and no significant adverse impacts to environmentally sensitive lands associated with such a resource would occur as a result of project implementation. Therefore, no mitigation in this area will be necessary to approve the project.

Based upon the preceding statements presented relevant to the proposed commercial development of this site, the City Council has determined that the project fully complies with the above-referenced finding of approval.

e. "THE PROPOSED DEVELOPMENT WILL MINIMIZE THE ALTERATIONS OF NATURAL LANDFORMS AND WILL NOT RESULT IN UNDUE RISKS FROM GEOLOGIC AND EROSIONAL FORCES AND/OR FLOOD AND FIRE HAZARDS."

The proposed project would be constructed on alluvium deposits, expansive soils and unconsolidated trash deposits from previous landfill operations on the site. The La Nacion Fault Zone, clay and landslide deposits could adversely affect the stability of the proposed manufactured slopes.

Therefore, as a mitigation measure and permit condition of approval, the Building Inspection Department shall require the

completion of a geotechnical reconnaissance report by the applicant prior to the issuance of any building permits for the project. Proper engineering design of the new structures is intended to ensure that the potential for geologic impacts resulting from regional hazards would be less than significant.

The proposed project would contribute to the cumulative urban run-off problems within the Otay and Tijuana River basins. Run-off from proposed streets and parking lots would collect pollutants such as rubber, oil, metals and trash.

Therefore, mitigation measures to reduce water quality impacts associated with the design of the project will include pollution control devices consistent with the Best Management Practices (BMP) and acceptable to the City Engineer.

In addition to preferred mitigation, the proposed grading and brush management plans for the project include controlled finished site grades and a corresponding drainage plan to further mitigate the potential for erosion, flood and fire hazards, including the potential for excessive, uncontrolled runoff.

Based upon the preceding statements presented relevant to the proposed commercial development of this site, the City Council has determined that the project fully complies with the above-referenced finding of approval.

f. "FEASIBLE MEASURES TO PROTECT AND PRESERVE THE SPECIAL CHARACTER OR THE SPECIAL HISTORICAL, ARCHITECTURAL, ARCHAEOLOGICAL OR CULTURAL VALUE OF AN AFFECTED SIGNIFICANT

completion of a geotechnical reconnaissance report by the applicant prior to the issuance of any building permits for the project. Proper engineering design of the new structures is intended to ensure that the potential for geologic impacts resulting from regional hazards would be less than significant.

The proposed project would contribute to the cumulative urban run-off problems within the Otay and Tijuana River basins. Run-off from proposed streets and parking lots would collect pollutants such as rubber, oil, metals and trash.

Therefore, mitigation measures to reduce water quality impacts associated with the design of the project will include pollution control devices consistent with the Best Management Practices (BMP) and acceptable to the City Engineer.

In addition to preferred mitigation, the proposed grading and brush management plans for the project include controlled finished site grades and a corresponding drainage plan to further mitigate the potential for erosion, flood and fire hazards, including the potential for excessive, uncontrolled runoff.

Based upon the preceding statements presented relevant to the proposed commercial development of this site, the City Council has determined that the project fully complies with the above-referenced finding of approval.

f. "FEASIBLE MEASURES TO PROTECT AND PRESERVE THE SPECIAL CHARACTER OR THE SPECIAL HISTORICAL, ARCHITECTURAL, ARCHAEOLOGICAL OR CULTURAL VALUE OF AN AFFECTED SIGNIFICANT

PREHISTORIC OR HISTORIC SITE OR RESOURCE HAVE BEEN PROVIDED BY THE APPLICANT."

The project site is underlain by the Otay Mesa geologic formation. The Otay Mesa formation has strong potential for containing terrestrial vertebrae remains.

Therefore, approval of the proposed project shall contain a paleontological monitoring program in the Otay Mesa geologic formations to mitigate potentially significant impacts to paleontological resources to a level below significant.

Correspondingly, the tentative map and discretionary permit shall include conditions of approval requiring a paleontologist to monitor earth movement during grading, which would allow salvaging any exposed fossil remains.

In addition, prior to the issuance of building permits a summary report, even if negative, shall be prepared by the applicant and submitted to the Planning Department to confirm that a paleontological study has been conducted for the project.

The Mitigation Monitoring and Reporting Program prepared for the project includes adequate and feasible measures to reduce the relative potential for significant impacts to paleontological resources to a level below significant.

These measures have been provided to City staff by the applicant and have been accepted as adequate mitigation to retain the special character and/or special significance of the referenced resources.

Based upon the preceding statements presented relevant to the proposed commercial development of this site, the City

Council has determined that the project fully complies with the above-referenced finding of approval.

3. That the Council adopts the following findings with respect to Resource Protection Ordinance ("RPO") (Alternative Compliance) Permit No. 92-0736:

a. "THERE ARE SPECIAL CIRCUMSTANCES OR CONDITIONS APPLYING TO THE LAND THAT ARE PECULIAR TO SUCH LAND AND NOT OF THE APPLICANT'S MAKING WHEREBY THE STRICT APPLICATION OF THE PROVISIONS OF THIS SECTION WOULD DEPRIVE THE PROPERTY OWNER OF REASONABLE USE OF THE LAND."

Pursuant to the Resource Protection Ordinance (RPO), the project may be approved through "alternative compliance" provisions if it can be adequately demonstrated that the proposal complies with RPO to the maximum extent feasible and that it provides extraordinary benefits to the general public.

The decision-maker may approve a RPO Permit for a project based on a finding of alternative compliance (which is designed to ensure the provision of extraordinary benefit to the general public) based on a finding of overriding social and economic considerations and provided the findings enumerated in San Diego Municipal Code section 101.0462(L)(3)(a), (b) and (c) are also made.

Extraordinary Benefits Finding. The extraordinary benefits to the general public as provided by the project include increased revenues to the City, increased employment opportunities, and contributions to the City's open space system.

The project would provide substantial public revenues to the City in the form of retail sales tax revenues. According to the Board of Equalization, the City received one percent of retail sales revenue.

Based on the average sales anticipated per square foot of the proposed tenants of the project, it is estimated that the project would generate approximately \$1.6 million of additional sales tax revenue for the city per year that currently is being lost to adjacent cities due to the fact that no regional retail facilities are located in the part of the City where the project will be developed.

Furthermore, the project would generate an estimated 1,122 new permanent and 450 temporary construction jobs. Thus, the project would enhance the economic base of the region.

These new jobs are desperately needed in the region to compensate for job opportunities which have recently been lost due to the general downturn in the economy and, in particular, a significant decline in the local defense industry which has traditionally been an important employer in the San Diego region.

The existing Community Plan designation for the project site does not include any designated open space. The project includes 19.66 acres of open space, which is designated as a continuation of proposed adjacent open spaces areas in order to provide for a contiguous, community-wide open space system.

No Feasible Alternatives Finding. There are no feasible measures that would further minimize the potential adverse

effects on environmentally sensitive lands while still providing the extraordinary benefits to the City.

The project will result in cumulatively fewer traffic impacts to the community than it would if it were located in the vicinity of most of the existing commercially designated property in the Community Plan area. Although the Otay Mesa community contains approximately 500 acres of vacant land designated for commercial development no commercially designated property currently exists in the community to accommodate the various needs and demands of the project.

The site is located adjacent to Interstate 805 which allows for easy access to and from the project site without significantly impacting traffic in other parts of the Community Plan, particularly those areas designated for residential development.

Future residents in the area will be able to stop at this facility and complete their shopping on the way back from destinations outside of the Community Plan area, thereby minimizing the cumulative level of traffic on local streets. Nevertheless, the project would generate more traffic impacts as a commercial development than it would if it were to remain residentially designated and zoned property.

The adverse effects of the project on environmentally sensitive resources on the site are primarily due to the necessary provision of "A" Street and the creation of the retail development pad west of "A" Street to accommodate the Sam's Club facility. The proposed "A" Street is a required



improvement/element of the project and is a regionally significant circulation road which links Palm Avenue and Del Sol Boulevard.

If the site were to be developed for single-family residential development as the Community Plan currently provides, the alignment of "A" Street could still result in 40-foot-high slopes that would represent an inconsistency with the environmental goals of the community plan and constitute a significant landform impact under CEQA Guidelines. In any event, such a residential project would not provide the extraordinary benefits to the City.

Based on projected traffic volumes for the project, "A" Street is classified as a four-lane major street and must satisfy various design standards established by the City.

The location of "A" Street cannot be altered significantly because of the required engineering radiuses, the need to maintain a safe distance between the Del Sol Boulevard connection and the Interstate 805 underpass, the fact that the location of the Palm Plaza connection is fixed, and the project goal of maintaining a contiguous commercial development that includes a Walmart and Sam's Club anchor facility.

Minimum acceptable standards are also established by the retail tenants for pad size, access, orientation, building materials, landscaping, parking and design. The project has been designed in order to satisfy the minimum required design standards for "A" Street as well as providing for acceptable

development areas to accommodate the proposed retail uses of potential tenants.

One alternative that would reduce potentially adverse effects associated with the project would be to eliminate the Sam's Club facility or substantially reduce other retail pad sizes, but that would jeopardize the economic viability of the project and would result in a direct reduction in the extraordinary benefits to the City.

Another alternative, which is discussed in the Final EIR for the project, is the partial off-site alternative, which included moving the Walmart and 80,000 square feet of commercial retail use to the Gateway Fair site. Such an alternative is not viable in part because the Gateway Fair site contemplates different retail uses and demands and would have to be significantly redesigned to accommodate the Walmart facility.

In fact, such a reconfiguration of the grading of the Gateway Fair site would necessitate the elimination of the contour grading pattern of the existing 90-foot-high slopes created along the project frontage and would instead require a 30-foot increase in existing 40-foot-high slopes, the combination of which would result in significantly greater visual impacts due to their visibility to the freeway and roughly the equivalent encroachment into steep slopes as proposed by the Walmart plan.

Based upon the preceding statements presented relevant to the proposed commercial development of this site, the City Council has determined that the project fully complies with the above-referenced finding of approval.

b. "THERE ARE NO FEASIBLE MEASURES AVAILABLE THAT CAN FURTHER MINIMIZE THE POTENTIAL ADVERSE EFFECTS ON ENVIRONMENTALLY SENSITIVE LANDS."

There are no feasible measures that would further minimize the potential adverse effects on environmentally sensitive resources identified on the project site while still providing the extraordinary benefits to the City.

The adverse effects of the project on environmentally sensitive lands and resources are due primarily to the necessary provision of "A" Street and the creation of the development pad west of "A" Street (a four-lane road) to accommodate the Sam's Club facility. "A" Street is a required improvement of the project and is a regionally significant circulation road which links Palm Avenue and Del Sol Boulevard.

Based on projected traffic volumes for the project, "A" Street is classified as a four-lane major street and must satisfy design standards established by the City.

The location of "A" Street cannot be altered significantly because of the required engineering radiuses, the need to maintain a safe distance between the Del Sol Boulevard connection and the Interstate 805 underpass, the fact that the location of the Palm Plaza connection is fixed, and the project goal of maintaining a contiguous commercial development that includes a Walmart and Sam's Club anchor facility.

If the site were to be developed for single-family residential development as the Community Plan currently provides, the alignment of "A" Street could still result in 40-foot-high

slopes that would represent an inconsistency with the environmental goals of the community plan and constitute a significant landform impact under CEQA Guidelines. In any event, such a residential project would not provide the extraordinary benefits to the City.

Minimum acceptable standards are also established by the retail tenants for pad size, access, orientation, building materials, landscaping and design. The project has been designed in order to satisfy the minimum required design standards for "A" Street as well as providing for acceptable development areas to accommodate the proposed retail uses of potential tenants.

One alternative that would reduce potentially adverse effects associated with the project would be to eliminate the Sam's Club facility or substantially reduce other retail pad sizes, but that would jeopardize the economic viability of the project and would result in a direct reduction in the extraordinary benefits to the City.

Another alternative, which is discussed in the Final EIR for the project, is the partial off-site alternative, which included moving the Walmart and 80,000 square feet of commercial retail use to the Gateway Fair site. Such an alternative is not viable in part because the Gateway Fair site contemplates different retail uses and demands and would have to be significantly redesigned to accommodate the Walmart facility.

In fact, such a reconfiguration of the grading of the Gateway Fair site would necessitate the elimination the contour grading pattern of the existing 90-foot-high slopes created along

the project frontage and would instead require a 30-foot increase in existing 40-foot-high slopes, as proposed by the Walmart plan.

Although the EIR for the project states that the proposed plan would not fully achieve the environmental goals of the Community Plan concerning landform features and open space, such inconsistencies do not result in the type of adverse impacts that are significant enough to preclude approval of the project. In fact, the EIR concluded that the impact to landform features was significant based on the maximum 10-foot slope threshold contained in the Community Plan. .

The alignment of "A" Street does attempt to follow the natural contours of the adjacent slopes to the extent possible in light of environmental habitat preservation efforts and safety and engineering requirements. Contour grading techniques will be incorporated into the project provided they do not result in greater impacts to sensitive habitats, particularly Diegan coastal sage scrub.

Based upon the preceding statements presented relevant to the proposed commercial development of this site, the City Council has determined that the project fully complies with the above-referenced finding of approval.

c. "ALTERNATIVE RPO COMPLIANCE FOR THE DEVELOPMENT WILL NOT ADVERSELY AFFECT THE PROGRESS GUIDE AND GENERAL PLAN FOR THE CITY OF SAN DIEGO."

The proposed development requires amendments to both the Otay Mesa Community Plan and City of San Diego General Plan and Progress Guide to redesignate the property from very low density

residential (0-5 dwelling units per acre) to a regional commercial center.

The City of San Diego General Plan designates the project site as Planned Urbanizing. The project is consistent with such an urbanized use and therefore would not adversely affect the goals and objectives of the Progress Guide and General Plan.

Based upon the preceding statements presented relevant to the proposed commercial development of this site, the City Council has determined that the project fully complies with the above-referenced finding of approval.

d. "THE PROPOSED DEVELOPMENT WILL NOT CONFORM TO THE ADOPTED COMMUNITY PLAN FOR THE AREA AND ANY OTHER APPLICABLE PLANS, POLICIES AND ORDINANCES."

The proposed development and use of this site is consistent with the relevant structural and site design regulations of the Municipal Code in effect for this site, including requirements for landscaping, off-street parking, building setbacks, floor area ratios, building height, various site coverages, and structural and site design guidelines as specified by the CA Zone and Subdivision Map Regulations.

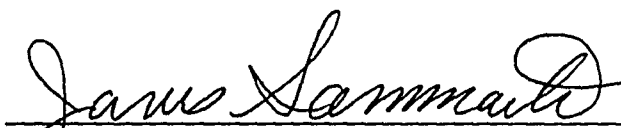
The City of San Diego General Plan designates the project site as Planned Urbanizing. The project is consistent with such an urbanized use. The project also includes an amendment to the General Plan and Progress Guide to accommodate the proposed change in land use. The proposed project will not adversely affect the goals and objectives of the Progress Guide and General Plan.

Based upon the preceding statements presented relevant to the proposed commercial development of this site, the City Council has determined that the project fully complies with the above-referenced finding of approval.

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 Land Development/Planned Commercial Development/Resource Protection Ordinance/Conditional Use Permit No. 92-0736 is hereby granted to Gatlin Development Company, under the terms and conditions set forth in the permit attached hereto and made a part hereof.

APPROVED: JOHN W. WITT, City Attorney

By   
Janis Sammartino  
Senior Chief Deputy City Attorney

JS:lc  
10/18/93  
Or. Dept: Clerk  
R-94-605  
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PLANNED COMMERCIAL DEVELOPMENT PERMIT, LAND DEVELOPMENT PERMIT,  
RESOURCE PROTECTION ORDINANCE PERMIT AND CONDITIONAL USE PERMIT  
NO. 92-0736

PALM PLAZA - WALMART

CITY COUNCIL

This Planned Commercial Development (PCD) Permit, Land Development (LD) Permit, Resource Protection Ordinance (RPO) Permit and Condition Use Permit (CUP) No. 92-0736 is granted by the Council of The City of San Diego to GATLIN DEVELOPMENT COMPANY, Owner/Permittee, pursuant to Section 101.0910 of the Municipal Code of The City of San Diego.

1. Permission is granted by the City Council to Owner/Permittee to construct, operate and maintain a commercial retail center and related public and private improvements and facilities as described herein by this permit on a 59.4 acre portion of the subject 88-acre vacant site located at the southeast corner of I-805 and Palm Avenue in the CA Zone of the Otay Mesa-Nestor Community Plan area.
2. The permit shall consist of the following facilities and related site improvements:
  - a. Construct, operate and maintain a regional commercial retail center (consisting of a maximum total of 617,000 square feet of gross floor area) including two major anchor tenants, various smaller retail tenant development building pads, related site landscaping and various public and private improvements necessary to serve the development on portions of the subject 88-acre site as identified by size, location and dimension on the approved Exhibit "A," dated October 12, 1993, on file in the Planning Department;
  - b. Site landscaping and other improvements;
  - c. Off-street parking; and
  - d. 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 (Tentative Map No. 92-0736). Rezoning of the subject property from A-1-10 to CA (commercial) shall become effective with the recordation of the subdivision map associated with this project/permit.
4. Off-street parking spaces shall be maintained on the property at all times in the approximate location shown on

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Exhibit "A," dated October 12, 1993, on file in the office of the Planning Department. Parking spaces shall be consistent with San Diego Municipal Code Chapter X, Article 1, Division 8, 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 accordingly at all times.

5. No permit for the construction 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.
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 October 12, 1993, on file in the office of the Planning Department. No changes, 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 October 12, 1993, 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 effective date of the 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 Municipal Code section 101.0910(M). 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.
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; or
  - c. The permit has been revoked by the City; or
  - d. The property included within this permit 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.
12. This permit may be canceled 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.
13. 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.
14. Primary signage, as addressed, shall conform to the project's approved sign plan, part of Exhibit "A," dated October 12, 1993. Secondary signage not specifically addressed in the sign plan shall comply with the relevant sections of Municipal Code Chapter X, Article 1, Division 11.
15. 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 as to location, noise and friction values, and any other applicable criteria.
16. 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.
17. Noise walls, street trees, decorative pavements and other public right-of-way improvements shown on the approved Exhibit "A," shall be permitted by an Encroachment Permit obtained from the City Engineer.

18. The permittee/applicant shall comply with all requirements of the Uniform Building Code (UBC) and secure all necessary building permits prior to construction.
19. 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.
20. Curb-return-type access shall be permitted only at signalized locations; standard City commercial driveways must be utilized for all other locations.
21. The applicant/developer shall provide evidence that a mutual-/reciprocal-access agreement exists between the proposed parcels on this site as illustrated on the associated Tentative Map No. 92-0736.
22. Prior to the issuance of any building permits, the applicant shall:
  - Ensure that building address numbers are visible and legible from the street fronting the property (Uniform Fire Code (UFC) 10.208).
  - Show the location of all fire hydrants on the plot plan (UFC 10.301).
  - Provide access in conformance with Fire Department Policy A-89-1 (UFC 10.207).
  - Provide temporary street signs for street "A."
  - Post indicator valves, Fire Department connections, and alarm bell are to be located on the address/access side of the structure (UFC 10.301).
  - Install fire hydrants at locations satisfactory to the Fire Department and City Engineer.
  - If more than two (2) fire hydrants are located on a dead-end main, then a dual-fed system shall be installed.
23. This community may be subject to impact fees, as established by the City Council, at the time of issuance of building permits. Development on any property within this site shall pay the fees as set by the City Council and in effect in the community at the time of building permit issuance. Fees will be paid at the time the building permit is issued.
24. No mechanical equipment, tank, duct, elevator enclosure, cooling tower or mechanical ventilator or air conditioner shall be erected, constructed, converted, established,

altered, or enlarged on the roof of any building, unless the visual impacts of all such equipment and appurtenances are minimized to the satisfaction of the City Planning Director.

25. No merchandise, supplies or equipment shall be stored on the roof of any building.
26. In accordance with condition No. 4 of this permit, the applicant shall provide and maintain at all times the following off-street parking ratios and requirements of the CA Zone:
  - One space per 200 square feet of retail floor area.
  - One space per 80 square feet of restaurant floor area.
27. Architectural designs proposed for the remaining (smaller) development pads on the west side of the site along "A" Street must be generally consistent with the architectural appearance, treatment and materials of the main anchor buildings. These smaller buildings shall incorporate, at a minimum, acceptable standards for building design and scale including varied window elements, compatible material and color treatment, adequate off-street parking facilities, supplemental landscaping, and alternative site features which would be consistent with conceptual designs approved for the anchor tenant and secondary retail structures approved per this permit and other acceptable design criterion which would achieve a complimentary visual profile and interest.

Plans for these structures shall be approved ministerially, unless the proposed architectural elements or building materials scheme substantially deviates from those illustrated by the main anchor tenants, as identified by the approved Exhibit "A" for this permit/file. In this instance, the plans would require either Substantial Conformance Review (SCR) approval or an amendment of this permit. Submittals deemed by the Planning Department to be substantially inconsistent with the prescribed architectural design guidelines and standards established for the project shall be deemed inappropriate and may require an amendment of this permit via a noticed public hearing before the Hearing Officer.

28. In accordance with the preceding architectural design and preferred structural profile condition, the project shall incorporate development guidelines which are intended to establish criteria for the review of subsequent development proposals within Permit No. 92-0736, particularly relating to development of the free-standing pads. The proposed development shall be required at all times to meet the following criteria for a finding of substantial conformity or cause the PCD permit to be revised via an amendment of

this permit and resulting noticed public hearing before the hearing officer:

a. Building Placement

- Buildings shall be located in general conformance or similarity to the layouts shown on the approved site plan. Pedestrian walkway connections between A Street and the building entrances are strongly encouraged.
- Service areas and equipment shall be adequately screened from view by landscaping and/or screen walls.
- Building size may vary slightly within individual development area/footprints but in no case shall the aggregate square footage exceed the maximum allowed by the PCD Permit.

b. Roof Forms

- A variation in roof form is required; large flat roof areas are to be accented by either sloping roof areas, stepped parapets or trellis forms.
- Roof-mounted equipment is to be screened from immediate public view by sloping roof forms, parapets or roof screens.
- Roof materials on visible roof forms shall consist of either concrete or clay tiles or prefinished metal.

c. Building Materials

- Materials and colors shall be complimentary to the material palette established for the overall project and anchor tenants.
- Wall finishes shall consist of cement plaster articulated with either dimensional trim shapes or ceramic tile accents, wood siding or split-face concrete block.
- Storefronts shall consist of aluminum or wood; wood shall be painted with full body stain and aluminum shall be provided in either anodized finish or painted accent colors.

d. Landscape

- Landscape shall comply with the relevant requirements and standards of the Land Development Ordinance, City of San Diego Landscape Ordinance, the *Landscape Technical Manual* and the approved PCD for this site.
  - Plant material for pad buildings shall be similar in character, size, quantity, variety, and quality to the approved landscape plan for the entire PCD site.
  - Planting shall satisfy coverage and point requirements for vehicular use areas, street yards and remaining yards.
  - One 24-inch-box tree shall be located within each 30 feet of any designated parking stall.
  - All landscaped areas in or adjacent to vehicular use areas must be protected from vehicular damage by a minimum six-inch raised curb.
  - A minimum 30-inch-high shrub screen is required between parking areas and the street.
  - A minimum four-foot walkway or landscape separation is required between vehicular use areas and the street wall of buildings.
  - All landscaped areas must be irrigated to properly establish and maintain the selected plant material with a minimum of overspray and without significant potential for causing erosion.
  - All landscaped areas must be maintained in a clean and healthy condition at all times. Dead plants shall be replaced in kind within 30 days.
29. The issuance of this permit by The City of San Diego does not authorize the applicant for said permit to violate any federal, state or city laws, ordinances, regulations or policies including, but not limited to, the Federal Endangered Species Act of 1973 and any amendments thereto (16 U.S.C. Section 1531 et seq.).
30. This development 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.

31. Prior to issuance of a grading permit, final landscape and irrigation plans shall be reviewed and approved by the Planning Department to confirm that naturalized plant materials will be used. These plans shall be in general conformance with the conceptual landscape plan.
32. Prior to issuance of a Notice of Completion and Acceptance, the Field Engineering Division of the Engineering and Development Department shall conduct a final inspection of the site to confirm that landscaping has been implemented pursuant to the approved plans.
33. Prior to issuance of a grading permit, the applicant shall demonstrate to the satisfaction of the City Planning Director that 7.8 acres of high quality Diegan coastal sage scrub and 3.0 acres of high quality maritime succulent scrub have been preserved within the area as shown on Figure IV-17 of the EIR. A recorded easement document or other document assuring acquisition of the mitigation acreage shall be provided to the Planning Director which defines the conditions and limitations for the use of the mitigation area. Compensation may occur at other locations with the approval of the City Planning Director.
34. Prior to issuance of a grading permit, the applicant shall provide written verification that a qualified paleontologist and/or paleontological monitor have been retained to implement this monitoring program. Verification shall be in the form of a letter from the project applicant to the Principal Planner of the Environmental Analysis Section (EAS) of The City of San Diego Planning Department.

A qualified paleontologist is defined as an individual with a Ph.D. or M.S. degree in paleontology or geology, who is a recognized expert in the application of paleontological procedures and techniques such as screen washing of materials and identification of fossil deposits. A paleontological monitor is defined as an individual who has experience in the collection and salvage of fossil materials and who is working under the direction of a qualified paleontologist. All persons involved in the paleontological monitoring shall be approved by EAS prior to any preconstruction meetings.

35. The qualified paleontologist shall attend any pre-construction meetings to consult with the excavation contractor. The project applicant shall notify the Planning Department of any pre-construction meeting dates, and of the start and end of construction.

The requirement for paleontological monitoring shall be noted on all grading plans. The paleontologist's duties shall include monitoring, salvaging, preparation of materials for deposit at a scientific institution that

houses paleontological collections, and preparation of a report summarizing the results of the monitoring efforts. The duties are defined as follows:

a. Monitoring

The paleontologist or paleontological monitor shall be on-site during the original cutting of previously undisturbed areas of the formations to inspect for well-preserved fossils. The paleontologist shall work with the contractor to determine the monitoring locations and the amount of time necessary to ensure adequate monitoring of the project.

b. Salvaging

In the event that well-preserved fossils are found, the paleontologist shall have the authority to divert, direct, or temporarily halt construction activities in the area of discovery to allow recovery of fossil remains in a timely manner. Recovery is anticipated to take from one hour to a maximum of two (2) days. At the time of discovery, the paleontologist shall contact EAS. EAS must concur with the salvaging methods before construction is allowed to resume.

c. Preparation

Fossil remains shall be cleaned, sorted, catalogued, and then deposited in a scientific institution that houses paleontological collections (such as the San Diego Natural History Museum).

d. Monitoring Report

A monitoring report, with appropriate graphics, summarizing the results, analysis and conclusions of the above program shall be prepared and submitted to EAS and the San Diego History Museum within three (3) months following termination of the paleontological monitoring program. Building permits shall not be approved prior to receipt of this report.

36. Prior to issuance of a grading permit, the City Engineer shall review the grading plan to ensure that adequate erosion control measures are provided. The project applicant shall provide written evidence to the City Engineer indicating compliance with the National Pollutant Discharge Elimination System requirements by filing a Notice of Intent with the State of California Water Resources Control Board (SWRCB), and by implementing a Storm Water Pollution Prevention Plan satisfactory to the SWRCB.



37. Prior to issuance of a Certificate of Occupancy and Final Inspection, the Inspection Services Division of the Building Inspection Department shall conduct a final inspection of the site to confirm that water pollution control devices have been installed pursuant to the approved building plans.
38. The project applicant shall prepare a Transportation Demand Management (TDM) Plan for approval by the TDM Administrator prior to building permit issuance. The Transportation Demand Management Plan shall contain enforcement provisions subject to the satisfaction of the TDM Administrator.
39. Prior to approval of a grading permit, the plans shall be reviewed by the City Engineer to assure that appropriate dust control measures are proposed. Implementation of these measures shall be confirmed during periodic inspections by the Field Engineering Division during the grading operation.
40. The applicant/developer shall provide various bus stop zone improvements along "A" Street and along Palm Avenue at "A" Street in accordance with relevant Metropolitan Transit Development Board (MTDB) standards and requirements. Bus stop zones (i.e. sidewalks) at identified areas adjacent to this site shall be provided at a minimum 10-foot deep from the face of the curb and at a distance of 60 feet parallel to the improved street. All bus stop zones shall be cleared of landscaping at all times and all transit facilities and services shall be installed and maintained to the satisfaction of MTDB.
41. In accordance with the preceding public transit service and facilities condition, the applicant shall install and maintain a pedestrian walkway linking "A" Street onto the project site to the satisfaction of the Planning Department and City Engineer.
42. Prior to issuance of a grading permit, a soils investigation shall be prepared by the project applicant to the satisfaction of the City Engineer. The City Engineer shall assure that the approved remedial measures have been incorporated into the project's grading plan.
43. Prior to issuance of a Notice of Completion and Acceptance, the Field Engineering Division of the Engineering and Development Department shall conduct a final inspection of the site to confirm that remedial grading measures have been implemented pursuant to the approved plans.
44. Prior to building permit issuance, all project building plans shall be approved to the satisfaction of the City Engineer for compliance to the Uniform Building Code.
45. Prior to issuance of a grading permit, the Planning Department shall confirm that appropriate soil preparation

and irrigation measures are proposed to facilitate landscape establishment.

46. This development shall comply with all conditions of approval for Tentative Map No. 92-0736.
47. Prior to issuance of building permits, written verification shall be obtained from the Water Utilities Department to ensure that adequate sewer service will be supplied to the project.
48. Prior to the issuance of a building permit for the first building within the project, final landscape and irrigation plans shall be reviewed and approved by the City Planning Director.
49. Prior to issuance of a grading permit for any portion of the project site, proof of an incidental take permit under Section 7 or Section 10a of the Endangered Species Act relative to the California gnatcatcher shall be provided to the Principal Planner of the Planning Department Environmental Analysis Section. If such permit is not required, written verification to that effect from the U.S. Fish and Wildlife Service shall be provided. Any project redesign required in obtaining a Section 7 or 10a permit will require reconsideration by the appropriate City decision-making body.
50. Applicant shall design and construct a public restroom facility at Palmridge Neighborhood Park to the satisfaction of the Park and Recreation Director prior to issuance of any Certificate of Occupancy at the Palm Promenade project site.
51. The applicant shall provide and install, or otherwise ensure, a maximum of 38 palm trees to be provided in accordance with CIP Project 52-512.0 for a portion of Palm Avenue located west of I-805 to the satisfaction of the City Engineer and Planning Director. The applicant shall also provide, or otherwise ensure, maintenance of the trees for a maximum period of nine years. All additional construction, repairs, irrigation, utilities, or other work included in CIP Project 52-512.0 shall be the responsibility of the City.

APPROVED by the Council of The City of San Diego on October 12, 1993, by Resolution No. R-282812.

**AUTHENTICATED BY:**

\_\_\_\_\_  
SUSAN GOLDING, 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 SUSAN GOLDING 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.

GATLIN DEVELOPMENT COMPANY  
Owner/Permittee

By \_\_\_\_\_

By \_\_\_\_\_

NOTE: Notary acknowledgments  
must be attached per Civil  
Code Section 1180, et seq.  
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Passed and adopted by the Council of The City of San Diego on .....  
by the following vote:

OCT 12 1993

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 checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
George Stevens	<input type="checkbox"/>	<input checked="" 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 checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Juan Vargas	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mayor Susan Golding	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

AUTHENTICATED BY:

(Seal)

**SUSAN GOLDING**  
Mayor of The City of San Diego, California.

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

By *Mary Lopez* Deputy.

Office of the City Clerk, San Diego, California	
Resolution Number <i>A-282812</i>	Adopted <b>OCT 12 1993</b>