

RESOLUTION NUMBER R-284512

ADOPTED ON AUGUST 9, 1994

WHEREAS, BURNHAM PACIFIC PROPERTIES, INC., a California Corporation, Owner/Permittee, filed an application to establish a Planned Commercial Development, described as Miramar Home Improvement Center, Lot 1, Miramar Business and Industrial Park, Map No. 9715, located at 7550-7590 Miramar Road within the Mira Mesa Community Plan area in the M-1B (to be rezoned to CC) Zone; and

WHEREAS, the matter was set for public hearing on August 9, 1994, 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. 93-0618:

- a. The proposed use will fulfill an individual and/or community need and will not adversely affect the General Plan or the community plan. The PCD Permit and associated rezone to CC zone will bring the property into conformance with the specialized commercial land use designation of the Mira Mesa Community Plan. The

land use focuses on Auto Services and Home Furniture/
Furnishings which was found to be a needed use.

- 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. As conditions of this permit improvements to the mass transit system, on site traffic improvements and future traffic improvements to Miramar Road are intended to improve public health and safety. Owner/Permittee shall waive any right to oppose formation of an assessment district for such street improvements. These improvements will better the site to make the transition to commercial land use from industrial.
- c. The proposed use will comply with the relevant regulations in the Municipal Code. With the required landscape improvements the project will meet all the minimum Municipal Code requirements. The buildings are existing with no changes proposed to them.

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

BE IT FURTHER RESOLVED, that Planned Commercial Development Permit No. 93-0618 is hereby granted to BURNHAM PACIFIC


284512

ORIGINAL

PROPERTIES, INC., under the terms and conditions set forth in the permit attached hereto and made a part hereof.

APPROVED: JOHN W. WITT, City Attorney

By



Harold O. Valderhaug
Chief Deputy City Attorney

HOV:ps:pev
09/20/94
02/08/95 COR.COPY
Or.Dept:Clerk
R-95-332

PLANNED COMMERCIAL DEVELOPMENT PERMIT NO. 93-0618
MIRAMAR HOME IMPROVEMENT CENTER
CITY COUNCIL

This Planned Commercial Development Permit is granted by the City Council of The City of San Diego to BURNHAM PACIFIC PROPERTIES, INC., a California Corporation, 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 establish a Planned Commercial Development located at 7550-7590 Miramar Road, described as a Portion of Lot 1, Miramar Business and Industrial Park, Map No. 9715, in the M-1B (proposed CC) Zone.
2. The facility shall consist of the following:
 - a. An existing three building business center totalling 100,795 square feet;
 - b. Landscape, pedestrian, and street improvements;
 - c. Off-street parking;
 - d. Accessory uses as may be determined incidental and approved by the Development Services Director.
3. This list of permitted uses and limited permitted uses shall supersede that of the CC Zone. The following is a list of permitted uses:

Auto Body Repair and Painting
Auto Parts and Accessories
Auto Repair
Auto Towing
Automobiles, Light Trucks and Motorcycles
Building and Landscaping Materials and Equipment, including
Pools and Spas
Car Washes and Detailing Operations
Computer Sales and Service
Home and Office Furnishings, including:
 Art Supplies and Equipment
 Electronic Equipment and Appliances
 Floor and Window Coverings
 Home Furnishings and Accessories, including doors and
 windows
 Musical Instruments and Supplies
 Office Furniture, Equipment and Supplies
Leather Goods and Luggage
Tire Repair
Interior Design Service

Corrected page 03/22/95

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R-284512

The following is a list of limited uses which must not constitute more than 15 percent of the total leasable square footage:

Apparel
Barber and Beauty
Bicycle Sales and Service
Books
Card/Gift Shops
Catering Services
Child Care Centers, Day Nurseries
Clothing Rental
Dry Cleaning
Health Clubs
Hobby Stores
Newsstands
Optical Goods
Pharmacies
Photographic Equipment and Film Processing
Postal Services
Florist
Sporting Goods
Jewelry Stores
Restaurants, including lounge and bar

General, financial and professional (including medical with no overnight patients) office uses are a limited use which must not constitute more than 35-percent of the total leasable square footage. It shall be the responsibility of the Owner/Permittee to up-date and tabulate the tenant roster by use and leasable square footage. The current tabulation shall be submitted with each tenant improvement (building permit) which involves a change in occupancy/use.

4. No fewer than 663 off-street parking spaces shall be maintained on the property in the approximate location shown on Exhibit "A," dated August 9, 1994, on file in the office of the Development Services 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 Development Services Department standards. Parking areas shall be marked.
5. No building permit, including tenant improvements 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 Development Services Department;
 - b. The Planned Commercial Development Permit is recorded in the office of the County Recorder.

6. Before issuance of any building permits, including tenant improvements, complete building plans shall be submitted to the Development Services Director for approval. Plans shall be in substantial conformity to Exhibit "A," dated August 9, 1994, on file in the office of the Development Services 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. Future development shall conform to the M-1B Zone setbacks and lot coverage under which this site was developed:

Minimum yards:

- Front - 25 feet
- Side - 10 percent of lot width but need not exceed 25 feet
- Street Side - 25 feet
- Rear - None

Maximum lot coverage - 50 percent

8. All new outdoor lighting or modification to existing 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 Development Services Director, as set forth in San Diego Municipal Code section 101.0910 K. 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 Development Services 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 Development Services 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 Development Services 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. 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 Development Services Department.
16. The use of textured or enhanced paving shall be permitted only with the approval of the City Engineer and Development Services Director, and shall meet standards of these departments as to location, noise and friction values, and any other applicable criteria.
17. 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.
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. This development may be subject to impact fees, as established by the City Council, at the time of issuance of building permits.
20. 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.
21. 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.).

22. Prior to the issuance of any building permits, a complete landscape plan, including a permanent irrigation system, shall be submitted to the Development Services Director for approval. The plans shall be in substantial conformity to Exhibit "A," dated August 9, 1994, on file in the office of the Planning Department, and shall indicate the proposed new additional landscaping required by this Planned Commercial Development permit as shown on Exhibit "A." Approved planting, and irrigation system, shall be installed before the issuance of any new occupancy permits on any buildings. 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. The planting plans submitted shall indicate the planting of four, twenty-four inch box trees to be parking lot trees planted in a minimum area of forty square feet. Planter areas shall have a minimum dimension of five feet. Approved trees shall be a canopy type broadleaf tree which is characterized by upward sweeping branching, evergreen or deciduous variety, and generally known as deeply rooting and without surface root problems. All new landscape and irrigation shall conform to the City of San Diego *Landscape Technical Manual* and all other applicable City and Regional standards for landscape installation and maintenance. All new landscape and irrigation shall not interfere with existing or proposed underground utility lines.

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.

23. Prior to the issuance of the next occupancy permit which is associated with a building permit the Owner/Permittee shall provide evidence that the existing on-site bus stop is in compliance with the American Disability Act.
24. As a condition of this permit, the applicant shall provide on-site signage and stripping to delineate the most easterly driveway as an entrance only, and the driveway west as an exit only, and the driveway west as an exit only, satisfactory to the City Engineer.
25. The property owner shall enter into an agreement with the City waiving the right to oppose special assessment proceedings initiated for the improvement of Miramar Road.
26. A 20-foot front yard building setback is granted as a variance, only for that existing improvement not observing the required 25-foot front yard setback requirement. This five-foot deviation is for an existing condition as shown on "Exhibit "A," dated August 9, 1994, and will not apply to any future development.

27. Prior to the issuance of any building permits, a final subdivision map (lot split) shall be recorded on the subject property.

APPROVED by the Council of The City of San Diego on August 9, 1994, by Resolution No. R-284512.

AUTHENTICATED BY:

SUSAN GOLDING, Mayor
The City of San Diego

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

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.

Owner/Permittee

By _____

By _____

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