

(R-95-953)

RESOLUTION NUMBER R-285100

ADOPTED ON DECEMBER 6, 1994

WHEREAS, MIDWAY CENTER PARTNERS and SAN DIEGO COMMUNITY COLLEGE DISTRICT, Owners/Permittees, filed an application with the Development Services Department to demolish an existing adult educational facility and implement various retail and institutional land uses and related improvements (as identified on the corresponding approved Exhibits "A" and associated conditions of approval per Planned Commercial Development Permit No. 94-0533) on portions of an improved 5.4-acre site, legally described as a portion of Lot 221 of Recorded Map No. 36, located on the northeast corner of Kenyon Street and Kemper Street, south of Midway Drive, within the Midway/Pacific Highway Corridor Community Planning Area in the CO Zone; and

WHEREAS, on December 6, 1994, the City Council of the City of San Diego considered Planned Commercial Development Permit No. 94-0533 pursuant to Section 101.0910 of the Municipal Code of the City of San Diego; NOW, THEREFORE,

BE IT RESOLVED, by the Council of The City of San Diego, that this City Council adopts the following findings with respect to Planned Commercial Development Permit No. 94-0533:

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

The development and use of this site for institutional

(school) and retail (grocery store) uses is consistent with recommended land use designations and development guidelines and standards of the existing CO Zone, the Planned Commercial Development Ordinance (which permits retail oriented uses in any commercial zone), the City's Progress Guide and General Plan, the Midway/Pacific Highway Corridor Community Plan, and would be compatible with existing and planned commercial/office land uses surrounding the development site.

2. 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 draft permit prepared for this project (PCD No. 94-0533) includes a number of conditions of approval relevant to project compliance with applicable regulations of the Municipal Code to assure the continued health, safety and general welfare of persons residing or working in the area.

The development of this site is compatible with the existing and planned office/commercial character of the surrounding area of the Midway/Pacific Highway Corridor Community Plan and therefore would not adversely affect other property in the vicinity.

3. THE PROPOSED USE WILL FULLY COMPLY WITH THE RELEVANT REGULATIONS OF THE MUNICIPAL CODE.

The development of this site for institutional and commercial uses is consistent with the relevant regulations of the Municipal Code in effect for this site, including requirements for building setbacks, floor area ratios, building

height and various site coverages as specified by the existing CO Zone, CEQA Guidelines, the Midway/Pacific Highway Corridor Community Plan, the Planned Commercial Development Ordinance, and the City's Progress Guide and General Plan.

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

BE IT FURTHER RESOLVED, that based on the findings hereinbefore adopted, Planned Commercial Development Permit No. 94-0533 is hereby granted, in the form and 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  
12/16/94  
Or.Dept:Clerk  
R-95-953  
Form=r-t

RECORDING REQUESTED BY  
CITY OF SAN DIEGO  
DEVELOPMENT SERVICES DEPARTMENT

AND WHEN RECORDED MAIL TO  
PERMIT INTAKE  
MAIL STATION 501

SPACE ABOVE THIS LINE FOR RECORDER'S USE

PLANNED COMMERCIAL DEVELOPMENT PERMIT NO. 94-0533  
CITY COUNCIL  
(MIDWAY CENTER)

This Permit is granted by the Council of The City of San Diego to MIDWAY CENTER PARTNERS and SAN DIEGO COMMUNITY COLLEGE DISTRICT, Owners/Permittees, pursuant to Section 101.0910 of the Municipal Code of The City of San Diego.

Permission is hereby granted by the City Council to the referenced Owner/Permittee to demolish an existing adult educational facility and implement various retail and institutional land uses and related improvements (as described within this permit) on portions of an improved 5.4-acre site located on the northeast corner of Kenyon Street and Kemper Street, south of Midway Drive, within the Midway/Pacific Highway Corridor Community Plan Area, legally described as a portion of Lot 221 of Recorded Map No. 36, in the CO Zone.

1. This permit shall consist of the following facilities and site improvements as identified by size, dimension, location and quantity on the approved Exhibits "A," dated December 6, 1994, on file in the office of the Development Services Department:
  - a. Demolish and/or remove existing "Midway Continuing Education Center" facility structures and related improvements on this site and;
  - b. Construct and operate a 50,000-square-foot San Diego Community College District (SDCCD) classroom and administration facility (maximum 30-foot height) and implement related improvements in the northeast portion of the project site and;
  - c. Construct and operate a 53,000-square-foot (Food-4-Less) grocery store (maximum 30-foot height) and implement related improvements in the southwest portion of the project site and;
  - d. Provide supplemental site landscaping and enhanced paving and;

- e. Provide off-street surface parking facilities (See Condition No. 2) and;
  - f. Provide limited tenant and project signage and;
  - g. Accessory uses and improvements as may be determined incidental and approved by the Development Services Department.
2. No fewer than 328 off-street parking spaces shall be maintained on the property at all times in the approximate location shown on the approved Exhibits "A."
  3. 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.
  4. Parking spaces and aisles shall conform to Development Services Department standards and shall be clearly marked 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 Development Services Department;
    - b. The Permit is recorded in the office of the County Recorder.
  6. Prior to issuance of any building permits from the State Architect's Office, complete building plans shall be submitted to the Development Services Department for approval. Plans shall be in substantial conformity to the approved Exhibits "A."
  7. No changes, modifications or alterations shall be made unless appropriate applications, Findings of Substantial Conformance or amendment of this permit shall have been granted by the appropriate decision-maker.
  8. Approved planting on this site 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.
  9. 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.
  10. The permit must be utilized within 36 months after the effective date of final City approval, following all appeals.

11. Construction and operation of the approved use shall comply at all times with the regulations of this or any other governmental agencies.
12. The property included within this 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 Department or the permit has been revoked by the City of San Diego.
13. This 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 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. The use of textured or enhanced paving shall be permitted only with the approval of the City Engineer and Development Services Department, and shall meet standards of these departments as to location, noise and friction values, and any other applicable criteria.
16. Street trees and other public right-of-way improvements shown on the approved Exhibits "A" shall be permitted only by an Encroachment Permit obtained from the City Engineer.
17. The Permittee/Applicant shall comply with all requirements of the Uniform Building Code (UBC) and secure all necessary building permits prior to construction.
18. Final approval of this permit, and the land uses and site improvements described herein, is subject to City Council adoption of the associated amendment to the Midway/Pacific Highway Community Plan proposed for this site.
19. Prior to building occupancy, the applicant shall conform to Section 62.0203 of the Municipal Code, "Public Improvement Subject to Desuetude or Damage." If repair or replacement of such public improvements is required, the owner shall obtain the required permits for work in the public right-of-way, satisfactory to the permit-issuing authority.
20. Prior to the issuance of any building permits, the applicant shall assure, by permit and bond, the installation of a five-foot-wide sidewalk adjacent to this site along property fronting Kemper Street and along property fronting Kenyon Street, in a manner satisfactory to the City Engineer.
21. Prior to the issuance of any building permits, the applicant shall assure, by permit and bond, the closure of the existing driveway at the northwest corner of Kenyon

Street and Fordham Street and the reduction of the existing 35-foot-wide driveway to a 30-foot-maximum-width driveway and the restoration of these areas with full-height curb, gutter, and sidewalk, in a manner satisfactory to the City Engineer.

22. Prior to the issuance of any building permits, the applicant shall assure, by permit and bond, the installation of driveways in accordance with San Diego Regional Standard Drawings G-14, G-16, and SDG-114, in a manner satisfactory to the City Engineer.
23. Prior to the issuance of any building permits, the applicant shall assure, by permit and bond, the installation of a pedestrian ramp at the northeast corner of Kemper Street and Kenyon Street, in a manner satisfactory to the City Engineer.
24. The developer shall install fire hydrants at locations satisfactory to the Fire Department and the City Engineer. If more than two (2) fire hydrants are located on a dead-end main, then a dual-fed system shall be installed.
25. Prior to the issuance of any building permits, the applicant shall:
  - a. Ensure that building address numbers are visible and legible from the street fronting the property (UFC 10.208).
  - b. Show the location of all fire hydrants on the plot plan (UFC 10.301).
  - c. Provide access in conformance with Fire Department Policy A-89-1 (UFC 10.207).
  - d. Ensure that post indicator valves, Fire Department connections, and alarm bell are located on the address/access side of the structure (UFC 10.301).
26. The Transportation Demand Management Plan prepared for this project, dated September 27, 1994, and on file with the TDM Administrator, shall be implemented, including the following requirements:
  - a. An alternative transportation bulletin board shall be maintained at all times on-site, providing at a minimum transit schedules and information regarding available carpools and bicycle facilities.
  - b. Bicycle racks to accommodate at least 20 bicycles. Bicycle racks shall allow the locking of both wheels and the frame without the use of chains or cables. These facilities should be in visible, well-lit areas. Bicycle parking should not interfere with pedestrian

traffic and should be protected from potential damage by motor vehicles:

- c. The pedestrian circulation system shall include connections between sidewalks and building entrances.
27. The applicant shall comply with the provisions of the Public Facilities Financing Plan in effect for this community in a manner satisfactory to the Planning Director. This compliance shall be achieved by payment of a Development Impact Fee (DIF) and Housing Trust Fund Fee prior to the recordation of this permit with the County Recorder.
28. This development will be subject to fees and charges based on the rate and calculation method in effect at the time of payment.
29. In accordance with use provisions of the Planned Commercial Development Ordinance (San Diego Municipal Code section 101.0910), this permit allows the retail sale of packaged alcohol beverages (for off-site consumption only) within the grocery store.
30. In accordance with the associated amendment to the Midway/Pacific Highway Corridor Community Plan, permitted retail use(s) on this site shall be restricted to a grocery store only. Any other retail use proposed for this site will require an amendment of this permit and/or the community plan.
31. Retail signage on this site shall be limited to the three wall signs identified on the approved Exhibits "A" with the possible exception of an additional monument sign along the Kemper Street project frontage, provided said monument sign is determined by the Sign Code Administrator to be in conformance with relevant criteria of the City's Sign Ordinance.
32. Prior to the issuance of occupancy permits for any structures on this site, the applicant shall coordinate with the construction of the City-funded traffic signal at the intersection of Midway Drive and Fordham Street, including an interconnection to the two adjacent traffic signals on Midway Drive, in a manner satisfactory to the City Engineer.
33. The applicant shall provide the City Engineer with a plan to restripe Kemper Street from Midway Drive to Kenyon Street for two lanes in each direction, plus striping for a two-way left-turn lane. The restriping plan shall be implemented by the applicant and verified by the City Engineer prior to occupancy of the grocery store.
34. The sidewalk along Kemper Street and the portion of the sidewalk along Kenyon Street adjacent to the grocery store shall be installed by the applicant and verified by the City

Engineer prior to occupancy of the grocery store. Additionally, the sidewalk along Kenyon Street (adjacent to the education center and parking area) shall be installed prior to occupancy of the education center.

35. Unless the applicant has obtained approval of an amendment of this permit and/or the adopted community plan, this property shall not be used for any other purpose(s) other than those described herein.
36. Upon expiration of the lease for the grocery store, the San Diego Community College District shall assure that the retail structure will be modified to more resemble the adjacent education building on site.

Modifications of the retail structure shall include, at a minimum; closure of the 35-foot-wide service area driveway on Kenyon Street; removal of loading dock facilities along the rear of the building; replacement landscaping around the southwestern perimeter of the building and various modifications to the exterior of the retail structure to more visually resemble an office/institutional structure.

Exterior modifications of the retail structure should incorporate conceptual elements of the education building design, including reflective glass with colored aluminum framing at both floor levels, curtain walls, and facade off-sets at minimum 50-foot intervals (particularly along the southwest side of the building).

APPROVED by the City Council of The City of San Diego on December 6, 1994, by Resolution No. R-285100.

**AUTHENTICATED BY:**

SUSAN GOLDING, Mayor  
The City of San Diego

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

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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.  
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