

RESOLUTION NUMBER R-285280

ADOPTED ON JANUARY 31, 1995

WHEREAS, Jeffrey Chine, appealed the decision of the Planning Commission in denying Community Plan Implementation Overlay Zone Permit No. CPIOZ-93-0443 submitted by Sally Flaherty, Owner/Permittee, for the construction, operation and maintenance of a two-story industrial facility, located at 5322 Banks Street, described as Lot 12, except southeasterly 11 feet of southwesterly 72 feet and all of Lot 13, Block 3, Vernon Park Subdivision, Map No. 569, in the Linda Vista Community Plan area, in the M1-A, CPIOZ and Moreno Revitalization Program Overlay zones; and

WHEREAS, the matter was set for public hearing on January 10, 1995, testimony having been heard, evidence having been submitted; and

WHEREAS, the matter was continued to January 31, 1995, 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 Community Plan Implementation Overlay Zone Permit No.

CPIOZ-93-0443:

1. The proposed use will fulfill an individual and/or community need and will not adversely affect the General Plan or the Linda Vista Community Plan. The applicant will comply with the conditions of the permit and with the requirements of the

underlying M1-A zone and meet the minimum setback, parking and landscape requirements.

2. The proposed use, because of the conditions that have been applied to it, will not be detrimental to the health, safety and general welfare of persons residing or working in the area and will not adversely affect other property in the vicinity. The applicant has accepted the required permit conditions for this project and the project will not be detrimental to anyone residing or working in the area nor will the project adversely affect other property in the vicinity.

3. The proposed use will comply with the relevant regulations in the Municipal Code. The project as approved with conditions will meet M1-A requirements and the CPIOZ(B), Morena Revitalization Program Overlay Zone.

VARIANCE FINDINGS:

1. There are special circumstances or conditions applying to the land or buildings for which the adjustment is sought, which circumstances or conditions are peculiar to such land or buildings and do not apply generally to the land or buildings in the neighborhood.

The special circumstances are as follows: that the underlying M1-A Zone requires a minimum 75'-0" of street frontage for development. The applicant's lot contains only 39'-0" street frontage. The 6,250-square-foot lot is smaller than the minimum 15,000 square feet required for M-1A.

2. The circumstances or conditions are such that the strict application of the provisions of the ordinance would

deprive the applicant of the reasonable use of the land or buildings and that the variance granted by the City is the minimum variance that will accomplish this purpose.

The strict application of the provisions would deprive the applicant of the reasonable use of the land since the applicant's lot is smaller than the average in the community. The 1'-0" sideyard setback would be the minimum that would accomplish this purpose.

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

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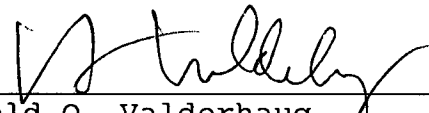
The above findings are supported by the minutes, maps and exhibits, all of which are herein incorporated by reference.

BE IT FURTHER RESOLVED, that The City Manager be and he is hereby directed to have the applicant, Sally Flaherty, bring in some plans that meet the City development requirements for the site located at 5322 Banks Street in the Linda Vista Community Plan area.

BE IT FURTHER RESOLVED, that the appeal of Jeffrey Chine, is granted; the decision of the Hearing Officer is overruled, and Community Plan Implementation Overlay Zone Permit No.

CPIOZ-93-0443 is hereby granted to Sally Flaherty, 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:pev
02/13/95
Or.Dept:Clerk
R-95-1203
Form=r.permit

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

**COMMUNITY PLAN IMPLEMENTATION OVERLAY ZONE PERMIT NO. 93-0443
FLAHERTY BUILDING**

This Community Plan Implementation Overlay Zone Permit No. CPIOZ-93-0443 is approved by the Council of The City of San Diego and granted to SALLY FLAHERTY, Owner/Permittee, for the purposes and under the terms and conditions as set out herein pursuant to the authority contained in Section 101.0457 of the Municipal Code of The City of San Diego.

1. Permission is hereby granted to the owner to construct, operate and maintain a two-story industrial facility on a 6,250-square-foot site located at 5322 Banks Street in the M1-A Zone, and the CPIOZ and Morena Revitalization Program Overlay Zone. The site is more particularly described as Lot 12, except the southeasterly 11 feet of southwesterly 72 feet and all of Lot 13, Block 3, Vernon Park Subdivision, Map 569.
2. The Community Plan Implementation Overlay Zone Permit shall consist of the following:
 - a. Partial demolition of an existing building and construction of a two-story addition resulting in a building of approximately 2,636 square feet;
 - b. Seven parking spaces;
 - c. Landscaping as required per the Citywide Landscape Ordinance;
 - d. Variance of 1'-0" sideyard setback;
 - e. Incidental accessory uses as may be determined and approved by the Development Services Director, DEP Division; and
 - f. Reduction of an existing driveway to 23'-0" as required by the City Engineer.
 - g. Site plan must be reconfigured to show a viable method of accessing the loading area and trash bin.

3. Prior to any application for building permits the applicant shall submit a revised site plan and landscape plan to the Development Services Department, DEP Division. These revised plans shall be subject to review and approval by the Development Services Director and shall conform with the minimum requirements of the MI-A zone, the Morena Revitalization Program/CPIOZ and the Citywide Landscape Ordinance. The revised plans shall reflect conformance with these regulations including minimum setbacks, reduced curbcut, seven parking spaces and a landscape plan that conforms to the Citywide Landscape Ordinance. This approval must be obtained prior to submission for building permits.
4. Not fewer than seven (7) off-street parking spaces shall be maintained on the property. Parking spaces shall be consistent with Chapter X, Article 1, Division 8 of the Municipal Code and shall be permanently maintained and not converted for any other use.
5. The subject property shall be maintained in a neat and orderly fashion at all times.
6. Prior to the issuance of any building permits, complete building plans shall be submitted to the Development Services Department, DEP Division for approval. These plans shall be in substantial conformance to those required to be reviewed and approved under Condition 3 above. The property shall be developed in accordance with the approved building plans except where regulations of this or other governmental agencies require deviation therefrom. Prior to and subsequent to the completion of the project, no changes, modifications or alterations shall be made unless and until appropriate applications for amendment of this permit or findings of substantial conformance shall have been approved and granted.
7. Prior to the issuance of any building permits, a complete landscaping plan, including a permanent irrigation system, shall be submitted to the Development Services Department, DEP Division for approval. Said plans shall be in conformance with the regulations of the Citywide Landscape Ordinance contained in Section 101.0700 and shall also be in conformance with those plans required to be reviewed and approved under Condition 3 above. Approved planting shall be installed prior to the issuance of any occupancy permit for any building. Such planting shall not be modified or altered unless and until this permit shall have been amended to permit such modification or alteration. Plant materials shall be maintained in a healthy growing condition at all times. All landscape areas shall be maintained in a weed and litter free condition at all times.

8. Construction and operation of the approved permit shall comply at all times with the regulations of this or any other governmental agencies.
9. This approval of this Community Plan Implementation Overlay Zone Permit shall be final following action by the City Council.
10. In addition to any other remedy provided by law, any breach of any of the terms or conditions of this permit or any default on the part of the Permittee or its successors in interest, shall be deemed a material breach hereof and this Community Plan Implementation Overlay Zone Permit may be canceled or revoked. Cancellation or revocation of this Community Plan Implementation Overlay Zone Permit may be instituted by the City or Permittee.
11. This Community Plan Implementation Overlay Zone Permit shall inure to the benefit of and shall constitute a covenant running with the land, and the terms, conditions and provisions hereof shall be binding upon Permittee and any successor or successors thereto, and the interests of any successor shall be subject to each and every condition herein set out.
12. This Community Plan Implementation Overlay Zone Permit shall be utilized within 36 months after the date of City approval or the permit shall be void. An extension of time may be granted for the permit pursuant to Section 111.1122 of the Municipal Code. Any extension of time shall be subject to all terms and conditions in effect at the time the extension is applied for.
13. All outdoor lighting shall be so shaded and adjusted that it does not shine on adjacent streets or properties.
14. 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.
15. Prior to the issuance of any building permits, the applicant shall assure, by permit and bond, the reduction of the existing driveway width to a maximum of 23 feet, satisfactory to the City Engineer. In addition, the driveway must be located a minimum of three feet from the side property line and any utility poles, per City of San Diego Standard Drawing G-16.
16. Prior to the issuance of any building permits, the applicant shall:

- a. Ensure that building address numbers are visible and legible from the street (Uniform Fire Code "UFC" section 10.208).
 - b. Show the location of all fire hydrants on the plot plan (UFC section 10.301).
17. This development may be subject to impact fees, as established by the City Council, at the time of issuance of building permits.
 18. Noise walls, street trees, decorative pavements and other public right-of-way improvements shall be permitted only by an Encroachment Removal Agreement obtained from the City Engineer.
 19. The permittee/applicant shall comply with all requirements of the Uniform Building Code (UBC) and secure all necessary building permits prior to construction.
 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. This project shall meet the minimum requirements of the M1-A Zone, the minimum requirements of the CPIOZ Zone, Engineering and Development requirements for parking and with the conditions as stated on page 1 of this document.

Approved and adopted by the City Council on January 31, 1995 by Resolution No. R-285280.

AUTHENTICATED BY THE CITY MANAGER

By _____

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

R- 285280