

(R-95-1862)

RESOLUTION NUMBER R-285909

ADOPTED ON JUNE 6, 1995

WHEREAS, on October 19, 1992, LA COSTA PACIFIC BUILDERS INCORPORATED, a California Corporation, Owner/Permittee, filed an application for a Conditional Use Permit and Mid-City Development Permit to construct and operate a ninety-space parking lot within a residential zone located at 5556-5586 University Avenue, described as a portion of Lot 29, Lemon Villa, Map No. 734, in the MR-1000 Zone; and

WHEREAS, on June 6, 1995, the City Council of The City of San Diego considered Permit No. 92-0657, pursuant to Sections 101.0510 and 103.1501 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 Council adopts the following findings with respect to Permit No. 92-0657:

CONDITIONAL USE PERMIT FINDINGS:

- A. THE PROPOSED USE WILL NOT ADVERSELY AFFECT THE NEIGHBORHOOD OR THE GENERAL PLAN OR THE COMMUNITY PLAN AND IF CONDUCTED IN CONFORMITY WITH THE CONDITIONS PROVIDED BY THE PERMIT, WILL NOT BE DETRIMENTAL TO THE HEALTH, SAFETY AND GENERAL WELFARE OF PERSONS RESIDING OR WORKING IN THE AREA.

The proposed project is located on a lot which has two zone designations, MR-1000 and CA. The proposed parking lot will satisfy the requirement for parking for the proposed three-story office building to be located on the CA portion of the lot. The parking lot will not adversely affect the adjacent lots as they are occupied by commercial uses. Obtaining this Conditional Use and Mid-City Development Permit will enable the project to be compatible with neighborhood

development and to conform with the Community Plan.

B. THE PROPOSED USE WILL COMPLY WITH THE RELEVANT REGULATIONS IN THE SAN DIEGO MUNICIPAL CODE.

The proposed project with the conditions for landscaping applied to it complies with the applicable regulations of the Conditional Use Permit Section of the Municipal Code.

MID-CITY DEVELOPMENT PERMIT FINDINGS:

A. CONFORMANCE WITH COMMUNITY PLAN AND DESIGN MANUALS.

The proposed use and project design meet the purpose and intent of the Mid-City Communities Planned District Ordinance (Section 103.1501). The proposed parking lot complies with the applicable design manuals and intent of the Planned District, in that said design manuals do not address parking lots.

B. COMPATIBILITY WITH SURROUNDING DEVELOPMENT.

The proposed development will be compatible with existing and planned land use on adjoining properties and will not constitute a disruptive element to the neighborhood and community. In addition, architectural harmony with the surrounding neighborhood and community will be achieved as far as practicable. The surrounding area is developed with commercial uses, therefore, the project is considered to be a compatible use. The proposed use will comply with the relevant regulations in the Municipal Code.

C. NO DETRIMENT TO HEALTH, SAFETY AND WELFARE.

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.

STREET VACATION AND DRAFT FINDINGS:

The findings, as required under Council Policy 600-15, can be made and are described as follows:

- A. The right-of-way proposed to be vacated is not required for present or prospective public use, since the right-of-way may be considered excess and surplus to the City's needs.
- B. The proposed vacation is consistent with the General Plan and the Mid-City Community Plan.

- C. The public will benefit from the vacation through improved utilization of the land and relieving the City of maintenance and liability responsibilities.
- D. The facilities for which the right-of-way was originally acquired will not be detrimentally affected since the existing improvements will remain unchanged and the old alignment has been superseded by relocation.

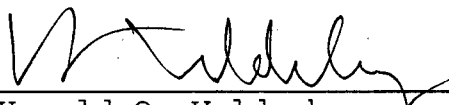
The Engineering Department therefore, recommends approval of the proposed street vacation, subject to the following conditions:

- A. An easement must be reserved for all existing Pacific Bell franchise facilities within the vacation area.
- B. Easements must be reserved for the existing eight-inch water main and the existing drainage facilities within the vacation area.

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 by the City Council, Conditional Use Permit and Mid-City Development Permit No. 92-0657 is hereby granted to LA COSTA PACIFIC BUILDERS INCORPORATED, a California corporation, Owner/Permittee under the terms and conditions set forth in Permit No. 92-0657, a copy of which is attached hereto and made a part hereof.

APPROVED: JOHN W. WITT, City Attorney

By 
Harold O. Valderhaug
Chief Deputy City Attorney

HOV:ps
06/26/95
Or.Dept:Clerk
R-95-285909

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

CONDITIONAL USE PERMIT AND
MID-CITY DEVELOPMENT PERMIT NO. 92-0657
CITY COUNCIL

This Conditional Use Permit and Mid-City Development Permit is granted by the City Council of The City of San Diego to LA COSTA PACIFIC BUILDERS INCORPORATED, a California corporation, Owner/Permittee, pursuant to Sections 101.0510 and 103.1501 of the Municipal Code of the City of San Diego.

1. Permission is granted to Owner/Permittee to construct a 90-space parking lot within a residential zone, located at 5556-5586 University Avenue, also described as a portion of Lot 29, Lemon Villa Map No. 734, in the MR-1000 Zone.
2. The facility shall consist of the following:
 - a. A ninety-space parking lot and associated grading and landscaped crib walls;
 - b. Off-street parking; and
 - c. Accessory uses as may be determined incidental and approved by the Development Services Director.
3. No fewer than ninety off-street parking spaces shall be maintained on the property in the approximate location shown on Exhibit "A," dated June 6, 1995, on file in the office of the Development Services Department. Parking spaces shall be consistent with Chapter X, Article 1, Division 8, Section 101.0800, of the Municipal Code and shall be permanently maintained and not converted for any other use. Parking spaces and aisles shall conform to Municipal Code standards. Parking areas shall be marked at all times. Landscaping located in any parking area shall be permanently maintained and not converted for any other use.
4. No permit for construction of any facility shall be granted nor shall any activity authorized by this permit be conducted on the premises until:

R-285909

- a. The Permittee signs and returns the permit to the Development Services Department;
- b. The Conditional Use Permit is recorded by the Development Services Department in the office of the County Recorder.

5. Before issuance of any building permits, complete grading and building plans shall be submitted to the Development Services Director for approval. Plans shall be in substantial conformance to Exhibit "A," dated June 6, 1995, on file in the office of the Development Services Department. No change, modifications or alterations shall be made unless findings of substantial conformance or amendment of this permit shall have been granted.

6. Before issuance of any grading or 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 conformance to Exhibit "A," dated June 6, 1995, on file in the office of the Development Services 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.

7. MITIGATION, MONITORING AND REPORTING PROGRAM:

a. Noise

Prior to issuance of a building permit, an acoustical analysis shall be prepared and submitted to the Noise Abatement Officer, Development Services Department. The report shall show that interior noise levels in the proposed office building would be reduced to 55 dB(A) CNEL or less, based on future traffic volumes of 28,000 ADT on University Avenue.

b. Paleontology

A qualified paleontologist shall attend any preconstruction meetings to consult with the excavation contractor. A qualified paleontologist is defined as an individual with a PhD or MS 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.

Prior to issuance of a land development or building permit, the requirement for paleontological monitoring shall be noted on the construction drawings. 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 results report. These duties are defined as follows:

1) Monitoring

The paleontologist or paleontological monitor shall be on-site during the initial cutting of previously undisturbed areas 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.

2) 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.

3) 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).

4) Monitoring Results Report

Prior to the issuance of a building permit, a monitoring results report, with appropriate graphics, summarizing the results, analysis and conclusions of the above program shall be submitted to EAS for approval.

c. Hazardous Materials

Subsequent to demolition of the existing site improvements, the Permittee shall define the limits of contamination to the satisfaction of the County of San Diego, Hazardous Materials Management Division.

If soil and/or groundwater contamination is considered significant by the County of San Diego's Hazardous Materials Management Division (HMMD), the applicant shall prepare a remediation plan for site clean-up. This program must be approved by HMMD. If groundwater contamination is found, the San Diego Regional Water Control Board must also approve the remediation plan.

A report summarizing the results of the hydrocarbon investigation and remediation program shall be submitted to the Principal Planner, Environmental Analysis Section for approval prior to issuance of building permits.

8. This permit must be used within 36 months after the date of City approval or the permit shall be void. An Extension of Time may be granted as set forth in Section 111.1122 of the Municipal Code. Any extension of time shall be subject to all standards and criteria in effect at the time the extension is considered.

9. Prior to the issuance of any permit(s) for any activity on the property specified within this permit, the Permittee shall cause the completion and consummation of a land sale for City fee owned property, consisting of the area within the street vacation.

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 Commission; 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.

12. This Permit may be revoked by the City if there is a material breach or default in any of the conditions of this permit.

13. Prior to the issuance of any building permits, the Permittee shall obtain City Council approval for the street vacation of excess portions of University Avenue and shall conform with all conditions associated with the approved vacation. IF THE STREET VACATION IS DENIED BY THE CITY COUNCIL THIS PERMIT (CUP/MCD 92-0657) SHALL BE VOID.

14. Prior to the issuance of any building permits, the Permittee shall obtain an Encroachment Removal Agreement, from the City Engineer, for all landscaping and private improvements within the public right-of-way. This condition does not constitute approval of the Encroachment Removal Agreement, which requires separate application.

15. Prior to the issuance of any building permits, the Permittee shall assure, by permit and bond, the removal of any unused curb cuts and their replacement with standard curb, gutter and sidewalk, satisfactory to the City Engineer.

16. Transportation Demand Management (TDM) Requirements:

- a. The Permittee shall provide pedestrian pathways from each office building to the public sidewalk and to the driveway leading to Villa View Hospital on the adjacent property.
- b. The Permittee shall provide carpool parking spaces upon request by tenants or employees. These parking spaces shall be clearly labeled and conveniently located.
- c. The Permittee shall provide bicycle racks upon request by tenants or employees. 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.

17. Prior to the issuance of any building permits, the Permittee shall:

- a. Ensure that building address numbers are visible and legible from the street (UFC 10.208).
- b. Show the location of all fire hydrants on the plot plan (UFC 10.301).
- c. Provide access in conformance with Fire Department Policy A-89-1 (UFC 10.207).

18. This development may be subject to a building permit park fee in accordance with San Diego Municipal Code Section 96.0401 et seq.

19. This development may be subject to impact fees, as established by the City Council, at the time of issuance of building permits.

20. 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 in this permit and all referenced documents.

21. 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.

22. All of the conditions contained in this Permit have been considered and have been determined to be necessary in order to make the findings required for this discretionary permit. It is the intent of the City that the holder of this Permit be required to comply with each and every condition in order to be afforded special rights which the holder of the permit is obtaining as a result of this permit. It is the intent of the City that the owner of the property which is the subject of this permit either utilize the property for any use allowed under the zoning and other restrictions which apply to the property or, in the alternative, that the owner of the property be allowed the special and extraordinary rights conveyed by this permit, but only if the owner complies with all the conditions of this Permit.

In the event that any condition of this Permit, on a legal challenge by the Owner/Permittee of this Permit, is found or held by a court of competent jurisdiction to be invalid, unenforceable or unreasonable, this permit shall be void. However, in such event, the Owner/Permittee shall have the right, by paying applicable processing fees, to bring a request for a new permit without the "invalid" condition back to the discretionary body which approved the permit for a determination by that body as to whether all of the findings necessary for the issuance of the permit can still be made in the absence of the "invalid" condition(s). Such hearing shall be a hearing de novo and the discretionary body shall have the absolute right to approve, disapprove or modify the proposed permit and the condition(s) contained therein.

23. 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.).

24. The street vacation is subject to the following conditions, and construction and grading plans shall indicate compliance with these conditions:

- a. An easement must be reserved for all existing Pacific Bell franchise facilities within the vacation area.
- b. Easements must be reserved for the existing eight-inch water main and the existing drainage facilities located within the vacation area.

APPROVED by the Council of The City of San Diego on June 6, 1995, by Resolution No. R-285909.

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.

LA COSTA PACIFIC BUILDERS
INCORPORATED, a California
corporation
Owner/Permittee

By _____

By _____

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