

RESOLUTION NUMBER R-285915

ADOPTED ON JUNE 6, 1995

WHEREAS, MIRAMAR RANCH NORTH, a general partnership, Owner/Permittee, filed an application to commercially develop 6.8 acres as a Planned Commercial Development, located at Scripps Ranch North, Unit 1, Lots 1 & 2, Map No. 12786, located north of Scripps Poway Parkway, on the east and west sides of Scripps Summit Drive in the Miramar Ranch North Community Plan area in the MIP Zone (existing) and CA Zone (proposed); and

WHEREAS, on June 6, 1995, the City Council of the City of San Diego considered Planned Commercial Development Permit No. 94-0332 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. 94-0332:

- 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 proposed project, although conceptual in nature, is consistent with the Miramar Ranch North Community Plan. Conditions have be included in the permit to assure conformance with the Community Plan at the time the amendment and site specific plans are submitted.

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.

The Planned Commercial Development Permit lists permitted uses for the site and requires an amendment to the PCD for the approval of site specific design plans. The permit and future amendments require that the project be in conformance with the development standards and regulations of the Municipal Code to assure that there will be no adverse effect to health, safety and general welfare of persons and property in the vicinity.

C. THE PROPOSED USE WILL COMPLY WITH THE RELEVANT REGULATIONS IN THE MUNICIPAL CODE.

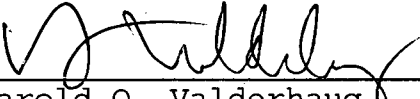
On a conceptual basis, the conditions included in this permit will insure conformance with the Municipal Code. An amendment to the permit with site specific design plans is required to assure compliance with the Municipal Code.

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, Planned Commercial Development Permit No. 94-0332, Scripps Ranch North, Unit 1, Lots 1 & 2, is hereby granted to Miramar Ranch North,

Owner/Permittee, in the form and with the terms and conditions set forth in Planned Commercial Development Permit No. 94-0332, 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
08/04/95
Or.Dept:Clerk
PCD 94-0332
R-95-1857

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. 94-0332
CITY COUNCIL

This Planned Commercial Development Permit is granted by the City Council of the City of San Diego to MIRAMAR RANCH NORTH, a general partnership, 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 commercially develop 6.8 acres as a Planned Commercial Development located north of Scripps Poway Parkway, on the east and west sides of Scripps Summit Drive, described as Lots 1 and 2, Unit 1, Map No. 12786, in the MIP Zone (existing) and CA Zone (proposed).
2. The facility shall consist of the following:
 - a. 6.8 acres of commercial development;
 - b. Off-street parking;
 - c. Accessory uses as may be determined incidental and approved by the Development Services Director.
3. No building permit for development of this property may be issued until an amendment to this Planned Commercial Development Permit No. 94-0332 is approved by the City in accordance with Municipal Code Section 101.0910. The Planned Commercial Development Amendment must include site specific design plans. Plans shall be in substantial conformance with the approved concept plan as shown on Exhibit "A," dated June 6, 1995, on file in the office of the Development Services Department, Development and Environmental Planning Division.
4. Only the following uses shall be permitted to operate on the property. Permission to operate uses not listed below requires an amendment to the Planned Commercial Development Permit.

Business and professional office uses. Such uses may include: accountants, advertising agencies, architects, attorneys, contractors, doctors, engineers, financial institutions, insurance agencies, medical clinics (no overnight patients), photographers, real estate brokers, securities brokers, surveyors and graphic artists

Business machine sales, display and service
Drafting blueprint and copying services
Electronic data processing, tabulating and record keeping services
Office furniture and equipment sales
Pharmacies
Restaurants (not including drive-thru's)
Travel Bureaus
Labor Unions (no hiring halls) and trade associations
Private Clubs
Retailing of consumer convenience goods and dispensing of consumer services from the following establishments:

Apparel shops
Bakeries
Barber shops
Beauty shops
Bicycle shops
Drug Stores
Dry cleaning establishments (no truck delivery of finished cleaning)
Dry cleaning and laundry agencies and self-service dry cleaning and laundry establishments.
Recreational facilities not exceeding 2,500 square feet in gross floor area
Florists
Food stores
Hardware stores excluding the sale of used building materials, used appliances, and used plumbing supplies
Hobby shops
Jewelry stores
Nurseries-retail sales of plants and nursery products
Paint and wallpaper stores
Photographic studios
Radio, television and home appliance sales and repair shops
Shoe stores
Shoe repair shops
Stationers
Studios for teaching of art, dancing, music, aerobics, martial arts and cooking
Variety stores
Bookstores
Antique Shops
Automobile wash establishments

Building materials stores, provided that open storage areas are completely enclosed by walls or buildings or a combination thereof; said walls and buildings shall be not less than six feet in height, and provided also there shall be no out-door storage of merchandise, material, equipment or other goods to a height greater than that of any enclosing wall or building

Dairy stores, including drive-in

Dry good stores

Equipment and tool rental establishments (no man-ridden equipment)

Financial institutions

Furniture stores

Leather goods and luggage shops

Liquor stores

Locksmith shops

Music shops

Pet shops and supplies

Photographic equipment, supplies, and film processing stores

Post offices

Sporting goods stores

Theaters, nightclubs and bars, with or without live entertainment, or any combination thereof shall not be permitted except by Conditional Use Permit if the size of the establishment exceeds 5,000 square feet in gross floor area

Retail sale of cards and gifts

Retail sale and rental of videos

Veterinary office (no boarding or overnight facilities for animals)

Auto lube and tune-up (not heavy auto repair)

Retail sale of computers (hardware and software)

Retail sale of art and picture frames

Retail sale of candy, confectioneries, coffee, ice cream, yogurt and donuts

Retail sale of auto parts

Child day care and development center

Parent with toddler and play center

Installation and sales of cellular phones

Clothing alteration shop

Sale of comic books, trading cards

Sale of eyeglasses

Drive-thru restaurants

Recreational Facilities including bowling lanes, miniature golf courses, skating rinks, gymnasium and health centers.

Any use the Development Services Director determines to be similar in nature to these uses listed above.

5. No 24-hour commercial uses are permitted on Lot 2. Commercial uses hours of operation on Lot 2 are limited to 6:00 a.m. to 12:00 midnight.

6. Prior to the issuance of any building permits, the Permittee shall comply with all recommendations and requirements as identified in the traffic study for this project. All recommendations and requirements shall be installed and/or provided for in a manner satisfactory to the City Engineer.

7. Scripps Poway Parkway is classified as a six-lane primary arterial adjacent to this site. Ingress and egress to this site will not be permitted from Scripps Poway Parkway.

8. Prior to the issuance of any building permits, the Permittee shall restripe the intersection of Scripps Summit Drive with Wexford Street to provide left-turn pockets for the northbound and southbound approaches, in a manner satisfactory to the City Engineer.

9. Prior to the issuance of building permits, a Transportation Demand Management (TDM) Plan shall be submitted to, and approved by, the TDM Administrator.

10. Development of this project shall comply with all requirements of State Water Resources Control Board (SWRCB) Order No. 92-08-DWQ (NPDES General Permit No. CAS000002), *Waste Discharge Requirements for discharges of Storm Water Runoff Associated With Construction Activity*. In accordance with said permit, a Storm Water Pollution Prevention Plan (SWPPP) and a Monitoring Program Plan shall be developed and implemented concurrently with the commencement of grading activities, and a complete and accurate Notice of Intent (NOI) shall be filed with the SWRCB. A copy of the acknowledgement from the SWRCB that an NOI has been received for this project shall be filed with the City of San Diego when received; further, a copy of the completed NOI from the SWRCB showing the permit number for this project shall be filed with the City of San Diego when received.

In addition, the owner(s) and subsequent owner(s) of any portion of the property covered by this grading permit and by SWRCB Order No. 92-08-DWQ, and any subsequent amendments thereto, shall comply with special provisions as set forth in Section C.7 of SWRCB Order No. 92-08-DWQ.

11. The drainage system proposed for this development, as shown on the approved site plan, is subject to approval by the City Engineer.

12. Prior to the issuance of any building permits, the Permittee shall assure the following in a manner satisfactory to the Water Utilities Director:

- a. Installation of a 12-inch water main in Scripps Summit Drive, from Scripps Poway parkway to the cul-de-sac.

- b. Installation of 12-inch water main in Wexford Street, from Scripps Poway Parkway to the northerly property line.
 - c. Installation of fire hydrants at locations satisfactory to the Fire Department and the City Engineer. If more than two (2) fire hydrants and/or thirty (30) Equivalent Dwelling Units (EDUs) are located on a dead-end main, then a dual-fed system shall be installed.
 - d. Installation of a system of gravity sewer mains of adequate capacity to serve this development.
 - e. Calculations to show that the size and grade of the sewer will provide adequate capacity and have cleansing velocities.
 - f. Evidence showing that each lot will have its own water service and sewer lateral, or CC&R's for the operation and maintenance of on-site private water and sewer mains that serve more than one lot. The developer shall provide private easements for the private mains.
 - g. Adequate water and sewer easements for all on-site water and sewer mains and appurtenances that are not located in the public rights-of-way. No structures or landscaping of any kind shall be installed in or over the easement prior to the developer obtaining an encroachment removal agreement from the City Engineer.
13. The Peñasquitos Truck Sewer is approaching its ultimate capacity. If any wastewater from this development flows in the Peñasquitos Truck Sewer, then connections may be limited. A moratorium on connections shall be imposed in the event of the truck sewer becoming a hazard to the public health and safety.
14. Providing water and sewer for this development is dependent upon the prior construction of certain water and sewer mains in previously approved developments in this area. If they have not been constructed when required for this development, then the construction of certain portions of these previously approved water and sewer mains, as required by the City Engineer, will become off-site improvement requirements for this development.
15. All landscaping plans for this project are subject to approval by the Park Development Division and the Open Space Division of the Park and Recreation Department whenever such landscaping is adjacent to the existing landscaping that is maintained by a landscape maintenance district.
16. Future design of the commercial structures on this site shall be compatible with the height, bulk, scale and architectural design of commercial structures located south of Scripps Poway Parkway.

17. Future commercial service areas (i.e., loading docks, etc.) shall be clustered and screened from view from adjacent sites to the extent feasible.

18. No permit for 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, Development and Environmental Planning Division;
- b. The Planned Commercial Development Permit is recorded by the Development Services Department in the office of the County Recorder.

19. 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 in accordance with Section 111.1122 of the City of San Diego Municipal Code.

20. Construction and operation of the approved use shall comply at all times with the regulations of this or any other governmental agencies.

21. 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.

22. 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.

23. 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.

24. 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.

25. 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.

26. 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.).

APPROVED by the Council of The City of San Diego on June 6, 1995, by Resolution No. R-285915.

The following are included as information only:

- a. This development may be subject to a building permit park fee in accordance with San Diego Municipal Code Section 96.0401 et seq.
- b. This development may be subject to impact fees, as established by the City Council at the time of issuance of building permits.
- c. The City and Owner/Permittee/Applicant previously have provided for the construction and financing of major public facilities through the existing Miramar Ranch North Public Facilities Financing Plan ("Financing Plan"). The Financing Plan provides primarily for the construction of "turn key facilities." Community Facilities District No. 1 (Miramar Ranch North) has been established as a funding mechanism to finance many of these facilities. Furthermore, the City and Owner/Permittee/Applicant have entered into associated agreements including, without limitation, the Settlement Agreement dated September 18, 1990 (and amended April 29, 1991) and Development Agreement effective February 21, 1991, which describe the respective rights and obligations of the City and the Owner/Permittee/Applicant.

To the extent the provisions and conditions of this Permit may be inconsistent with and legally control the provisions and conditions of the Settlement Agreement dated September 18, 1990 between McMillin-BCED/Miramar Ranch North and the City of San Diego (and amended April 28, 1991) and Development Agreement between McMillin-BCED/Miramar Ranch North and the City of San Diego effective February 21, 1991, the provisions and conditions of this Permit shall govern.

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.

MIRAMAR RANCH NORTH,
a general partnership
Owner/Permittee

By _____

By _____

NOTE: Notary acknowledgments
must be attached per Civil
Code Section 1180, et seq.
Form=p.ack
08/04/95