

RESOLUTION NUMBER R-285916

ADOPTED ON JUNE 6, 1995

WHEREAS, MIRAMAR RANCH NORTH, a general partnership, Owner/Permittee, filed an application to commercially develop 28.4 acres as a Planned Commercial Development, Scripps Ranch North, Unit 2, Lots 1-5 described as Lots 1 thru 5, Unit 2, Map No. 12788, located at the southwest corner of Spring Canyon Road and Scripps Poway Parkway in the Miramar Ranch North Community Plan area in the MIP and CN 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. 94-0333 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. 94-0333:

- 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.

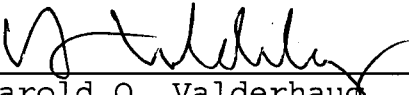
On a conceptual basis, the conditions included in this permit will insure conformance with the Municipal Code. An amendment to the permit with site specific design plans is required to assure compliance with the Municipal Code.

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. 94-0333, Scripps Ranch North, Unit 2, Lots 1 thru 5, 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. 94-0333, 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 94-0333
R-95-1858

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. 94-0333
CITY COUNCIL
AMENDMENT TO PCD NO. 88-1006

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 28.4 acres as a Planned Commercial Development located at the southwest corner of Spring Canyon Road and Scripps Poway Parkway, described as Lots 1 thru 5, Unit 2, Map No. 12788, in the MIP and CN Zones (existing) and the CA Zone (proposed).
2. The facility shall consist of the following:
 - a. 28.4 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. 94-0333 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.

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.
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
Book stores
Recreational facilities including bowling lanes, miniature
golf courses, skating rinks, gymnasiums and health
centers
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
 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 those uses listed above.

5. Prior to the issuance of any building permits, the applicant/owner shall comply with all recommendations and requirements as identified in the August 26, 1994 traffic study for this project. All recommendations and requirements shall be installed and/or provided for in a manner satisfactory to the City Engineer.

6. No 24-hour commercial operations shall be conducted on the easterly one third of the project site.

7. Prior to the issuance of any building permits, the Permittee shall dedicate and improve additional right-of-way and assure by permit and bond the improvement of Scripps Summit Drive south of

Scripps Poway Parkway to provide a 60-foot curb-to-curb width within an 80-foot-wide right-of-way to allow for two southbound lanes and three northbound lanes, in a manner satisfactory to the City Engineer.

8. Prior to the issuance of any building permits, the Permittee shall assure by permit and bond, the following improvements and items for the intersection of Scripps Poway Parkway and Scripps Summit Drive, in a manner satisfactory to the City Engineer:

- a. Installation of a dual left-turn lane for westbound Scripps Poway Parkway to Southbound Scripps Summit Drive.
- b. Traffic signal modifications as necessary.
- c. Additional right-of-way as necessary.
- d. Median modification and relocation of curb, gutter, and sidewalk as necessary.

9. Prior to the issuance of any building permits, the Permittee shall dedicate and improve additional right-of-way to accommodate a right-turn lane from eastbound Scripps Poway Parkway to southbound Spring Canyon Road and traffic signal modifications as necessary, in a manner satisfactory to the City Engineer.

10. Prior to the issuance of any building permits, the Permittee shall dedicate additional right-of-way to provide a 72-foot-wide right-of-way and shall provide improvements adjacent to this site for North Brookville Drive, to include curb, gutter, and sidewalk and paving with a 52-foot curb-to-curb width to allow for an eastbound left-turn lane (eastbound to northbound), a shared left-/through-lane, and a right-turn lane (eastbound to southbound), said improvements being extended to this project's driveway on North Brookville Drive, in a manner satisfactory to the City Engineer.

11. Prior to the issuance of any building permits, the Permittee shall assure, by permit and bond, the installation of a traffic signal at Spring Canyon Road and North Brookville Drive and shall provide an interconnect with it and the traffic signal at Scripps Poway Parkway and Spring Canyon Road, in a manner satisfactory to the City Engineer.

12. Access to this site from North Brookville Drive must be located a minimum of 220 feet (or to a lesser minimum if acceptable to the City Engineer) from the centerline of Spring Canyon Road.

13. 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 unless an acceleration/deceleration is provided between scripps Summit Drive and Spring Canyon Road. Requirements for the acceleration/deceleration lane include additional dedication, additional pavement, and relocation of curb, gutter, and sidewalk. A single driveway may be installed for this site (providing the acceleration/deceleration lane is provided), the location of which is subject to approval by the City Engineer.

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

15. 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 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.

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

17. 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.

18. No encroachments into Lot "A" of Map 12788, which is an open space easement for brush management, shall be permitted without Planning Commission review and approval through a Process 4 hearing of an amendment to the subdivision map in conjunction with the Commission's consideration of a site specific PCD for this subject property.

19. No encroachments into Lot "B" of Map 12788, which is City-owned in fee title, shall be permitted.

20. 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 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 (Adeste) are located on a dead-end main, then a dual-fed system shall be installed.
- c. Installation of a system of gravity sewer mains of adequate capacity to serve this development.
- d. Calculations to show that the size and grade of the sewer will provide adequate capacity and have cleansing velocities.
- e. 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.

21. The Peñasquitos Trunk Sewer is approaching its ultimate capacity. If any wastewater from this development flows into the Peñasquitos Trunk Sewer, then connections may be limited. A moratorium on connections shall be imposed in the event of the trunk sewer becoming a hazard to the public health and safety.

22. Providing water and sewer for this development is dependent upon the prior construction of certain water and sewer mains in previously approved development 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.

23. Future design of the commercial structures on this site shall be compatible with the height, bulk, scale and architectural design of structures located on the commercial site located to the north.

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

25. Proposed private drives, recreation centers and related open space areas within the Phase 1 development sites; all manufactured slopes (excluding slopes adjacent to Scripps Poway Parkway and Spring Canyon Road) and Brush Management areas will be maintained by homeowner association(s), private owners or tenants, or a combination thereof in accordance with the adopted Miramar Ranch North Community Plan Area in accordance with Exhibit "A," on file in the Development Services Department.

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

27. 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 San Diego Municipal Code by the Development Services Director.

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

29. 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.

30. 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.

31. 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.

32. 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.

33. 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.

34. 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-285916.

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