

(R-96-214)

RESOLUTION NUMBER R-286264

ADOPTED ON AUGUST 15, 1995

WHEREAS, DAVID KEIPLER, Owner/Permittee, filed an application with the Development Services Department for a Southeast Development and Conditional Use Permit to construct a self-service gasoline station, mini-mart, automatic car wash and implement related site improvements (as described in and by reference to the corresponding conditions and exhibits of approval for SED/CUP 94-0618) on a vacant 22,845-square-foot site located at the northeast corner of Imperial Avenue and 47th Street within the Southeast San Diego Community Plan area (Southeast San Diego Planned District) in the MF-2500 and CSR-1 (proposed CSR-1) Zones. The project site is legally described as a portion of Lots 1-11 of Parcel Map 1804; and

WHEREAS, on August 15, 1995, the City Council of the City of San Diego considered Southeast Development and Conditional Use Permit No. 94-0618 pursuant to Sections 103.1707 and 101.0510 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 Southeast Development and Conditional Use Permit No. 94-0618:

- A. **THE PROPOSED USE AND PROJECT DESIGN MEET THE GENERAL PURPOSE AND INTENT OF THIS DIVISION AND THE SOUTHEAST SAN DIEGO COMMUNITY PLAN, AND WILL NOT ADVERSELY AFFECT THE SOUTHEAST SAN DIEGO COMMUNITY PLAN, THE GENERAL PLAN OR OTHER APPLICABLE PLANS ADOPTED BY THE CITY COUNCIL.**

With adoption by the City Council to approve the associated amendments to the Southeast San Diego Community Plan, the Southeast Planned District Ordinance, the Central Imperial Redevelopment Plan, and corresponding rezone from multi-family residential to neighborhood commercial over a portion of the site, the project would be consistent with land use designations and development standards of the community plan and the Southeast PDO. The project site is appropriate for commercial development because of its location at the intersection of two heavily travelled collector streets (Imperial Avenue and 47th Street) within the community and the existence of neighborhood commercial (CSR-1) zoning over the easterly portion of the project site.

Additionally, the project design incorporates the various development standards of the CSR-1 Zone, applicable City of San Diego Service Station Development Guidelines, and is consistent with existing commercial uses (auto repair) to the south, across Imperial Avenue. Therefore, the project is not anticipated to adversely affect the adopted Southeast Community Plan or the City's General Plan and, as designed, would comply with the general purpose and intent of the adopted community plan, the Southeast PDO and the Central Imperial Redevelopment Plan (as amended).

**B. THE PROPOSED DEVELOPMENT SHALL BE COMPATIBLE WITH EXISTING AND PLANNED LAND USES ON ADJOINING PROPERTIES AND SHALL NOT CONSTITUTE A DISRUPTIVE ELEMENT TO THE NEIGHBORHOOD AND COMMUNITY.**

With the provision of noise abatement measures identified in the project's mitigation monitoring and reporting program, the proposed development and use of this site would be compatible with adjoining residential land uses to the north and east. Furthermore, the development incorporates site design standards (including building setbacks and driveway access) consistent with requirements of the CSR-1 Zone and applicable City of San Diego Service Station Design Guidelines.

The proposed project design and neighborhood commercial use of this site is compatible with surrounding non-residential land uses as well, including a church to the west (across the project site on 47th Street) and a public high school and auto repair business to the south (across the project site on Imperial Avenue). Additionally, varying limits on the hours of operation for commercial uses on the site shall contribute to project compatibility with surrounding land uses.

Therefore, the proposed use and design of this site for commercial development would be consistent with existing and planned land uses adjoining the subject property and would not constitute a disruptive element to the surrounding neighborhood and community.

**C. 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 draft permit prepared for the project includes a number of conditions of approval intended to limit the type, intensity and design of development on the project site, including varying restrictions on the permitted hours of commercial operation on site and a requirement to implement additional noise abatement measures for the car wash facility, if deemed by staff to be necessary.

Additionally, sidewalks, off-street parking, bicycle facilities, landscaping and driveways (along Imperial Avenue and 47th Street) shall be implemented in accordance with requirements of the City Street Design Manual and *Landscape Technical Manual* to provide adequate, safe pedestrian and vehicular access to the site. Therefore, the project (as designed) will not be detrimental to the health, safety and general welfare of persons residing or working in the area and would not adversely affect other property in the vicinity of the project site.


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

With adoption by the City Council to approve the associated amendments to the Southeast San Diego Community Plan, the Southeast San Diego Planned District Ordinance, the Central Imperial Redevelopment Plan, and corresponding rezone from multi-family residential to neighborhood commercial over a portion of the site, the project design would comply with the land use, density, public improvement and development design standards in effect for this site per the relevant regulations of the Municipal Code, including development provisions contained within the Community Plan and the Southeast PDO (as amended), the proposed CSR-1 Zone and applicable Service Station Development Guidelines.

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, Southeast Development and Conditional Use Permit No. 94-0618 is hereby granted to Owner/Permittee in the form and with the terms and conditions set forth in Permit No. 94-0618, 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  
08/23/95  
Or.Dept:Clerk  
R-96-214  
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

SOUTHEAST DEVELOPMENT AND CONDITIONAL USE  
PERMIT NO. 94-0618  
MOBIL MART AND CARWASH  
CITY COUNCIL

This permit is granted by the City Council of the City of San Diego to DAVID KEIPLER, Owner/Permittee, under the conditions contained in Sections 103.1707 and 101.0510 of the Municipal Code of the City of San Diego.

Permission is hereby granted by the City Council to the referenced Owner/Permittee to construct a neighborhood commercial development and implement related improvements (as described herein) on a vacant 22,845-square-foot site located at the northeast corner of Imperial Avenue and 47th Street in the CSR-1 Zone of the Southeast San Diego Community Plan (Southeast San Diego Planned District). The project is legally described as a portion of Lots 1-11 of Parcel Map 1804.

1. The permit shall include the total of the following uses, facilities and site improvements as identified by size, dimension, quantity and location on the corresponding approved Exhibits "A," dated August 15, 1995, on file in the office of the Development Services Department:

- a. A one-story (1,570-square-foot) retail mini-mart structure with an attached 18-foot-high canopy over six self-serve gasoline dispensers; and
- b. A 12-foot-high (570-square-foot) automatic car wash facility; and
- c. Site landscaping; and
- d. Trash enclosure area; and
- e. A six-foot-high cement block noise wall along a portion of the north and east perimeter of the site; and
- f. Accessory uses and improvements as may be determined by

the Development Services Department to be consistent with the underlying commercial zone and development standards of the Southeast San Diego Community Plan and Southeast Planned District Ordinance in effect for this site.

2. Rezoning of a portion of the subject property from MF-2500 to CSR-1 shall become effective with the recordation of this permit with the County Recorder.

3. Prior to the issuance of any building permits, complete grading, building and landscape plans shall be submitted to the Development Services Department for approval. All plans shall be submitted in substantial conformance to the approved Exhibits "A." No change, modification or alterations to either the approved uses and/or improvements on this site as described herein shall be made unless application for either substantial conformance or an amendment of this permit shall have been granted by the appropriate decisionmaker.

4. The construction and continued use of this permit shall be subject at all times to the regulations of this or other governmental agencies.

5. Seven off-street parking spaces shall be provided at all times to accommodate both patrons and employees of the commercial uses on this site. Each parking space shall be permanently maintained and not converted for any other use at any time. Each space shall be maintained on the subject property in the approximate location as shown on the approved Exhibits "A." No charge shall be made at any time for use of these off-street parking spaces.

6. All private outdoor lighting shall be shaded and adjusted to fall on the same premises where such lights are located.

7. The permit must be utilized within 36 months after the effective date of approval. Failure to utilize the permit within 36 months will automatically void the permit unless an extension of time via discretionary approval has been granted by the appropriate decisionmaker. Any such extension of time must meet all the Municipal Code requirements and applicable guidelines in effect at the time the extension is considered by the decisionmaker.

8. No development shall commence, nor shall any permit for construction be issued, 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.
9. If the signed permit is not received by the Development Services Department within 90 days of the decision of the City Council, then the permit shall be deemed void.
  10. 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 otherwise authorized by the Development Services Department.
  11. This permit may be canceled or revoked by either the City or Permittee if the City Manager concludes that there is any material breach or default in any of the conditions of this permit.
  12. This permit shall constitute a covenant running with the land; all conditions and provisions shall be binding upon the permittee and any successor(s), and the interests of any successor(s) shall be subject to every condition herein.
  13. All signs to be erected for this project shall conform to Citywide Sign Regulations and be administered by the Sign Code Administration Division of the Development Services Department.
  14. 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.
  15. Final approval of this permit is subject to City Council adoption of the associated Rezone from MF-2500 to CSR-1 over a portion of this site and corresponding amendments to the Southeast San Diego Community Plan, the Southeast San Diego Planned District Ordinance and approval by the City's Redevelopment Agency of proposed amendments to the Central Imperial Redevelopment Plan.
  16. Prior to the issuance of any building permits, the applicant shall provide a striping plan to restripe 47th Street to allow right turns in and out only at the proposed driveway on 47th Street, in a manner satisfactory to the City Engineer.
  17. Prior to the issuance of any building permits, the applicant 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).

18. 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.

19. The applicant shall bring the noise decibel level at the north property line into compliance with the City's Noise Ordinance (Section 59.5.0401) to establish a maximum decibel level of 60 (Db{A}), Community Noise Equivalent Level (CNEL), between the hours of 7:00 a.m. and 7:00 p.m. Therefore, prior to issuance of an occupancy permit for any facility on this site, the following mitigation measures shall be implemented in order to lower the decibel output to a level in compliance with the City's Noise Ordinance:

- a. Install pneumatic metal doors at both the car wash entrance and exit. These doors must be able to close and open automatically when the car wash is in operation.
- b. Construct a minimum 6-foot-high, minimum 8-inch thick cement block wall along the eastern portion of the site, and along the northern property line for 100 feet starting at the intersection of the eastern and northern property lines.
- c. The applicant shall provide the Development Services Department with a noise study of the car wash facility after it has been constructed and prior to the issuance of occupancy permits. The noise study must conclude that the mitigation measures have lowered the noise level to no more than 60 Db(A), CNEL, at the property line to the north. The report must be submitted to the Noise Abatement Officer of the Development Services Department for approval. The car wash can be certified for occupancy subsequent to approval by the Noise



Abatement Officer of the additional noise report/study.

- d. The preceding mitigation measures will require additional fees and/or deposits to be collected by the Development Services Department prior to the issuance of building permits and/or certificates of occupancy to ensure the successful completion of the Mitigation Monitoring and Reporting Program.

20. 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.).

21. Permitted hours of operation for the car wash facility on this site shall be limited to the hours of 7:00 a.m. to 7:00 p.m.

22. Permitted hours of operation for the gasoline service station and mini-mart facility on this site shall be limited to the hours of 6:00 a.m. to midnight.

23. Prior to the issuance of occupancy permits, the applicant shall implement various bus stop improvements, including the provision of a concrete sidewalk pad along the project frontage on Imperial Avenue at least eight (8) feet from the rear of the curb and forty (40) feet parallel to the curb, satisfactory to the Metropolitan Transit Development Board (MTDB).

24. Prior to the issuance of any building permits, the applicant shall assure, by permit and bond, the installation of three separate commercial driveways along the project frontage, including two (30 feet wide) driveways on Imperial Avenue and one (24-foot-wide) driveway on 47th Street in accordance with San Diego Regional Standard Drawings G-16 and SDG 114, in a manner satisfactory to the City Engineer.

25. This permit shall expire on August 15, 2005. Upon expiration of this permit, the commercial uses and improvements described herein shall be removed from this site and the property shall be restored to its original condition. Prior to the expiration date of this permit, the applicant may submit to the Development Services Department for an Extension of Time, to be considered by the Planning Commission via a noticed public hearing, to allow the uses and improvements described herein to continue operating on this site.

26. Retail alcohol sales and automobile repair service shall be prohibited on this site.

27. Prior to the issuance of building permits, the applicant

shall enter into an Owner Participation Agreement with the Southeastern Economic Development Corporation.

28. Prior to the issuance of building permits, the applicant shall obtain separate permit approval from the San Diego Air Pollution Control District (APCD) and San Diego County Environmental Health Services (EHS).

29. The cement block noise walls along the north and east sides of the site shall be treated on both sides with a graffiti retardant sealant.

30. Prior to issuance of occupancy permits, the applicant shall install Queen palm trees along the project frontage on 47th Street and Escuela Street.

31. Site landscaping shall be maintained by the operator (tenant) of the facility in a disease and litter free condition at all times.

APPROVED by the Council of The City of San Diego on August 15, 1995, by Resolution No. R-286264.

AUTHENTICATED BY THE CITY MANAGER

By \_\_\_\_\_

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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.

DAVID KEIPLER  
Owner/Permittee

By \_\_\_\_\_

By \_\_\_\_\_

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