

RESOLUTION NUMBER R-288917

ADOPTED ON JULY 1, 1997

WHEREAS, Paul S. Rossis, Christine Rossis, George Stathis and Ethel Stathis, Owners, and Brian J. Ashe, Permittee, filed an application for a Rezone/Mid-City Communities Development Permit to rezone a property from Neighborhood Professional (NP)-1 to Commercial Linear (CL)-5 and to convert an existing vacant 829 square-foot building to restaurant use on a 5,016 square foot property located at 4229 Front Street, also described as Lots 7 & 8 in Block 1 of the First Street Addition, in the City of San Diego, County of San Diego, State of California, according to the Map thereof No. 896, filed in the Office of the County Recorder of the County of San Diego on May 14, 1903, in the Uptown Community Plan area, in the NP-1 zone of the Mid-City Communities Planned District; and

WHEREAS, on February 27, 1997, the Planning Commission of The City of San Diego recommended approval of Mid-City Communities Development Permit No. 96-0540 pursuant to San Diego Municipal Code Sections 103.1501 and 111.0801 through 111.0808; and

WHEREAS, the matter was set for public hearing on July 1, 1997, testimony having been heard, evidence having been submitted, and 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 Mid-City Communities Development Permit No. 96-0540:

1. THE PROPOSED USE AND PROJECT DESIGN MEET THE PURPOSE AND INTENT OF THE MID-CITY COMMUNITIES PLANNED DISTRICT (SECTION 103.1501), THE UPTOWN COMMUNITY PLAN, AND WILL NOT

ADVERSELY AFFECT THE UPTOWN COMMUNITY PLAN AND THE PROGRESS GUIDE AND GENERAL PLAN OF THE CITY OF SAN DIEGO.

This finding can be made because the Mid-City Communities Development Permit will allow a single use of the property as a restaurant. The size of the restaurant will be limited by the existing development on the site and small restaurants are consistent with the Uptown Community Plan's designation of the site for hospital uses because the proposed restaurant will serve as an accessory use to the hospital on a nearby property. Any redevelopment on the site or change of use of the site will require an amendment to the Mid-City Communities Development Permit by the Planning Commission and additional conditions and/or restrictions may be placed on the property at that time.

2. 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 IS ACHIEVED AS FAR AS PRACTICABLE.

This finding can be made because the planned land use for the project area is for a hospital with surrounding supporting uses. The proposal to establish a restaurant at the site is consistent with the hospital and related uses because it will be a small scale establishment that will be accessory to the nearby hospital. The proposal to rezone the property to CL-5 could potentially allow other intrusive commercial uses inconsistent with the community plan's intended hospital and related uses, but the Mid-City Communities Development Permit limits the use of the property to only the restaurant use and any change in use would require further review by the Planning Commission.

3. 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.

This finding can be made because the Mid-City Development Permit has been conditioned to allow only a restaurant as an accessory use to the nearby hospital and no other uses of the site will be allowed without further review by the Planning Commission. The proposed coffee shop will fulfill a need in the neighborhood by serving the visitors and employees of the neighboring hospital.

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

This finding can be made because the proposed use is allowed in the CL-5 zone and the existing development complies with the legally non-conforming regulations in the San Diego Municipal Code.

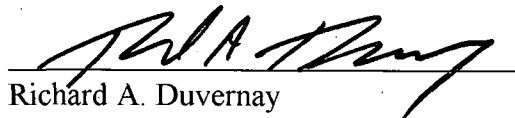
The above findings are supported by the minutes, maps and exhibits, all of which are herein incorporated by reference.

BE IT FURTHER RESOLVED, that the recommendation of the Planning Commission is sustained, and Mid-City Communities Development Permit No. 96-0540 is hereby granted to Paul S. Rossis, Christine Rossis, George Stathis and Ethel Stathis, Owners, and Brian J. Ashe, Permittee, under the terms and conditions set forth in the permit attached hereto and made a part hereof.

BE IT FURTHER RESOLVED, that staff is hereby directed to return to the Land Use and Housing Committee, with a memo to the Mayor and City Council, with their recommendations of how the procedure for this type of permit approval could be changed so it is not this difficult next time around.

APPROVED: CASEY GWINN, City Attorney

By


Richard A. Duvernay
Deputy City Attorney

RAD:lc
08/31/97
Or.Dept:Clerk
R-98-128
Form=permitr.frm

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

MID-CITY COMMUNITIES DEVELOPMENT PERMIT NO. 96-0540
RENAISSANCE COFFEE CO.
CITY COUNCIL

This Mid-City Communities Development Permit is granted by the Council of The City of San Diego to PAUL S. ROSSIS, CHRISTINE ROSSIS, GEORGE STATHIS AND ETHEL STATHIS, Owners, and BRIAN J. ASHE, Permittee, under the conditions contained in Section 103.1501 of the Municipal Code of The City of San Diego.

1. Permission is granted to Owners/Permittee to convert an existing, vacant, 829 square-foot building to restaurant use on a 5,016 square foot property located at 4229 Front Street, also described as Lots 7 & 8 in Block 1 of the First Street Addition, in the City of San Diego, County of San Diego, State of California, according to the Map thereof No. 896, filed in the Office of the County Recorder of the County of San Diego on May 14, 1903. The project is located in the CL-5 Zone of the Mid-City Communities Planned District in the Uptown Community Plan area.

2. The Mid-City Communities Development Permit shall include the total of the following facilities:

- a. A 829 square foot restaurant; and
- b. Seven (7) on-site parking spaces.

3. No fewer than seven (7) off-street parking spaces are required and shall be maintained on the property in the location shown on Exhibit "A," dated July 1, 1997, on file in the office of the Development Services Business Center. Parking spaces and aisles 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.

4. The hours of operation for the restaurant will be limited to 7:00 a.m to 10:00 p.m.

5. All signage on the property shall be subject to the City-wide sign regulations and the Permittee shall obtain any required sign permits for all signs.

6. Prior to the issuance of building permits, complete building plans, shall be submitted to Development Services for approval. All plans shall be in substantial conformity to Exhibit "A," dated July 1, 1997, on file with Development Services. Subsequent to the approval of this project, no changes in the project or the plans shall be made unless a finding of substantial conformity or an amendment to this permit shall have been granted.

7. The construction and continued use of this permit shall be subject to the regulation of this and any other governmental agencies.

8. All outdoor lighting for the entire property shall be designed, manufactured and installed to allow shading, adjusting, and shielding of the light source so that all outdoor lighting is directed to fall only on the same premises as the light sources are located.

9. The effective date of this permit shall be the eleventh working day after the date of final action by the City Council. If an appeal is filed, the effective date shall be the date of final action by the City Council. 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 by the City Manager, as set forth in Section 111.1122 of the Municipal Code. Any such Extension of Time must meet all the Municipal Code requirements and applicable guidelines in effect at the time of the consideration of the Extension of Time.

10. No development shall commence, nor shall any permit for construction be issued, until:

- a. The Permittee signs and returns the Permit to Development Services; and
- b. The Permit is recorded by Development Services in the Office of the County Recorder.

11. After establishment of the project, the property included within this Permit shall be used only for the purposes and under the terms and conditions set forth in this permit unless:

- a. The permit is amended by a "Process 4" decision process; or
- b. The permit has been revoked by the City of San Diego.

12. This Permit may be canceled 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 or Permittee.

13. 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.

LANDSCAPE CONDITIONS:

14. Prior to the issuance of any grading, or building permits, complete landscape construction documents, including plans, details and specifications (including a permanent automatic irrigation system unless otherwise approved), shall be submitted to Development Services for approval. The construction documents shall be in substantial conformance with Exhibit "A," Landscape Concept Plan, dated July 1, 1997, on file in the office of Development Services. No changes shall be made unless a finding of substantial conformity or an amendment to this permit shall have been granted.

15. Prior to the issuance of any Certificate of Occupancy it shall be the responsibility of the Owners/Permittee to install all approved landscape and obtain all required landscape inspections and to obtain a NO FEE STREET TREE PERMIT for all street trees. All conditions of the no fee street tree permit shall be binding upon the Owners/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. Copies of these approved documents must be submitted to the City Manager.

16. All approved landscape shall be maintained in a disease, weed and litter free condition at all times and shall not be modified or altered unless this permit has been amended. Modifications such as severe pruning or "topping" of trees is not permitted unless specifically noted in this permit. The Permittee, or subsequent owner shall be responsible to maintain all street trees and related landscape improvements consistent with the standards of the Landscape Technical Manual.

17. If any existing or installed landscape (including hardscape, landscape features, etc.) indicated on the approved plans is damaged or removed during demolition, construction or at any time after issuance of any permit or Certificate of Occupancy, it shall be repaired and/or replaced in kind and equivalent size per the approved plans within 30 days of completion of construction by the Permittee. The replacement size of plant material after three years shall be the equivalent size of that plant at the time of removal (the largest size commercially available and/or an increased number) to the satisfaction of the City Manager.

18. 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 this 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 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 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 have the absolute right to approve, disapprove or modify the proposed permit and the condition(s) contained therein.

APPROVED by the City Council of The City of San Diego on July 1, 1997, by Resolution No. R-288917.

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.

Owners:

Paul S. Rossis

Christine Rossis

George Stathis

Ethel Stathis

Permittee:

Brian J. Ashe

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

7/31/97

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