

RESOLUTION NUMBER R-288968

ADOPTED ON JULY 15, 1997

WHEREAS, Clairemont Rental Properties, a General Partnership, Owner, and Great Western Bank, Permittee, filed an application to amend Planned Commercial Development ("PCD") Permit No. 12 to utilize a vacant building, formerly used by the Great Western Savings Bank, to now be occupied by retail businesses, located at 5075 Clairemont Drive, as more particularly described as Lot 57, Clairemont Manor Unit 4, Map No. 3016, and Lot 4, Block 1, Bay Hills Mesa Subdivision, Map No. 2189, in the Clairemont Mesa Community Plan area, in the CO (Commercial Office) zone (proposed CN (Commercial Neighborhood) zone); and

WHEREAS, on May 29, 1997, the Planning Commission of The City of San Diego (the "Planning Commission") recommended approval of Planned Commercial Development Permit No. 96-7235 amending PCD Permit No. 12; and

WHEREAS, the matter was set for public hearing on July 15, 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 Planned Commercial Development Permit No. 96-7235 amending PCD Permit No. 12:

**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 use will fulfill both individual and community needs by providing more neighborhood related types of retail and service oriented businesses to the surrounding residential area. The project is consistent with the General Plan and the Clairemont Mesa Community Plan in that the site is designated for commercial use. It is adjacent to other commercial businesses, and provides sufficient parking and landscaping so as not to impact the surrounding area.

**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 proposed project seeks to amend Planned Commercial Development Permit No. 12 to allow for only those commercial uses allowed in the CN (Neighborhood Commercial) Zone. The project site has existed in its current form since September 1975 and has not been detrimental to the health, safety, and general welfare of persons living or working in the area. The proposed amendment from the CO to the CN Zone will restrict development intensity due to the limited nature of CN zoning. Additionally, PCD No. 96-7235 has been conditioned to require an amendment for any future redevelopment of the site.

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

The proposed amendment to the existing Planned Commercial Development Permit will limit the use of the site to only those uses allowed in the CN (Neighborhood Commercial) Zone. The existing development meets or exceeds all applicable code regulations of the CN Zone and all other relevant code sections.

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 Planned Commercial Development Permit No. 96-7235 amending PCD Permit No. 12 is hereby granted to Clairemont Rental Properties, a General Partnership, Owner, and

Great Western Bank, Permittee, under the terms and conditions set forth in the permit attached hereto and made a part hereof.

BE IT FURTHER RESOLVED, that the hours of operation for PCD Permit No. 96-7235 shall be from 6:00 a.m. to 12:00 Midnight; however, if the business becomes a nuisance, using a reasonable person standard, then the City Manager shall docket the matter for a publicly noticed hearing before the City Council for it to consider whether a modification of the permit is necessary to place additional restrictions upon the use.

APPROVED: CASEY GWINN, City Attorney

By

  
Richard A. Duvernay  
Deputy City Attorney

RAD:lc

08/14/97

08/28/97 COR. COPY

Or. Dept: Clerk

R-98-94

Form=permitr.frm

RECORDING REQUESTED BY  
CITY OF SAN DIEGO  
DEVELOPMENT SERVICE

AND WHEN RECORDED MAIL TO  
PERMIT INTAKE  
MAIL STATION 501

SPACE ABOVE THIS LINE FOR RECORDER'S USE

PLANNED COMMERCIAL DEVELOPMENT PERMIT NO. 96-7235  
AMENDMENT TO PCD NO. 12  
**GREAT WESTERN BANK**  
CITY COUNCIL

This Planned Commercial Development Permit Amendment is granted by the Council of The City of San Diego to CLAIREMONT RENTAL PROPERTIES, a General Partnership, Owner, and GREAT WESTERN BANK, Permittee, pursuant to in Section 101.0910 of the Municipal Code of The City of San Diego.

1. Permission is granted to Owner/Permittee, to occupy and use the existing structure for any allowable commercial use of the CN (Neighborhood Commercial) Zone located at 5074 Clairemont Drive, described as Lot 57, Clairemont Manor Unit 4, Map No. 3016, and Lot 4, Block 1, Bay Hills Mesa, Map No. 2189, in the proposed CN Zone.
2. The facility shall consist of the following:
  - a. An existing one-story 4,530-square-foot building;
  - b. Landscaping;
  - c. Off-street parking;
  - d. Accessory uses as may be determined incidental and approved by Development Services.
3. Modifications consisting of an increase or decrease in square footage to the existing building, or an increase or decrease in parking spaces, or future redevelopment of this site will require an amendment to this PCD.
4. No fewer than 45 off-street parking spaces shall be maintained on the property in the approximate location shown on Exhibit "A," dated July 15, 1997, on file in the Office of Development Services. Parking spaces shall be consistent with Chapter 10, Article 1, Division 8, of the Municipal Code and shall be permanently maintained

and not converted for any other use. Parking spaces and aisles shall conform to Development Services standards. Parking areas shall be marked.

5. No permit for construction of tenant improvements to the 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 Office of Development Services;
- b. The Planned Commercial Development Permit is recorded in the office of the County Recorder.

6. Before issuance of any building permits, complete building plans shall be submitted to the City Manager for approval. Plans shall be in substantial conformity to Exhibit "A," dated July 15, 1997, on file in the Office of Development Services. No change, modifications or alterations shall be made unless appropriate applications, Findings of Substantial Conformance or amendment of this Permit shall have been granted.

7. Prior to the issuance of any building permits, complete landscape construction documents, including plans, details and specifications (including a permanent automatic irrigation system unless otherwise approved), shall be submitted to the City Manager for approval. The construction documents shall be in substantial conformance with Exhibit "A," dated July 15, 1997, Landscape Concept Plan, on file in the Office of Development Services. No change, modifications or alterations shall be made unless appropriate applications or amendment of this Permit shall have been granted.

8. Prior to the issuance of any Certificate of Occupancy for any building, it shall be the responsibility of the Permittee to install all approved landscape and obtain all required landscape inspections.

9. All approved landscape shall be maintained in a disease, weed and liter free condition at all times and shall not be modified or altered unless this Permit has been amended. Modifications such as severely pruning or "topping" of trees is not permitted unless specifically noted in this Permit.

10. 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 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.

11. All outdoor lighting shall be so shaded and adjusted that the light is directed to fall only on the same premises as light sources are located.

12. The effective date of this Permit shall be the date of final action following all appeal dates and proceedings and the effective date of the 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 by the City Manager, as set forth in Section 101.0910(M) of the Municipal Code. 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 City Manager.

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

14. After establishment of the project, the property shall not be used for any other purposes unless:

- a. Authorized by the City Manager; 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.

15. The hours of operation shall be from 6:00 a.m. to 12:00 Midnight. Should it be determined by the City Manager, utilizing a reasonable person standard, that any uses occupying the property governed by this Planned Commercial Development are creating a public nuisance, then notwithstanding normal provisions set forth in the Municipal Code related to revocation or modification of Planned Commercial Development Permits or provisions regarding enforcement of public nuisances, the City Manager shall docket the matter for a publicly noticed hearing before the City Council for the City Council to consider whether modification of this Permit is necessary to place additional restrictions upon the use.

16. 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 City Manager or the Permit has been revoked by The City of San Diego.

17. This Planned Commercial Development 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 of San Diego or Permittee.

18. 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.

19. Unless otherwise provided specifically within this Permit, all signs requested and proposed for this project shall conform to City-wide Sign Regulations and be administered by the Sign Code Administration Division of the Development Services.

20. The use of textured or enhanced paving shall be permitted only with the approval of the City Manager, and shall meet standards of these departments as to location, noise and friction values, and any other applicable criteria.

21. The Permittee/Applicant shall comply with all requirements of the Uniform Building Code (UBC) and secure all necessary building permits prior to construction.

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.

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.).

APPROVED by the Council of The City of San Diego on July 15, 1997, by Resolution No. R-288968.

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.

**CLAIREMONT RENTAL PROPERTIES**  
Owner

By \_\_\_\_\_

**GREAT WESTERN BANK**  
Permittee

By \_\_\_\_\_

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

8/28/97 COR.COPY

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