

RESOLUTION NUMBER R-293929

ADOPTED ON OCTOBER 3, 2000

WHEREAS, Lennar Partners, Owner/Permittee, filed an application with The City of San Diego to amend Planned Industrial Development/Planned Commercial Development [PID/PCD] Permit No. 96-0165 for the San Diego Spectrum project, located on a site bounded by Clairemont Mesa Boulevard to the north, State Route 163 and Kearny Villa Road to the west, Ruffin Road to the east, and Balboa Avenue to the south, and legally described as Parcel 4 Map No. 18204 of the Highlands Map No. 284, in the Kearny Mesa Community Plan area; and

WHEREAS, on August 17, 2000, the Planning Commission of The City of San Diego considered PID/PCD Permit No. 99-1269, amending PID/PCD No. 96-0165, and voted to recommend City Council approval of the permit; and

WHEREAS, the matter was set for public hearing on October 3, 2000, 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 PID/PCD Permit No. 99-1269, amending PID/PCD No. 96-0165:

PLANNED INDUSTRIAL DEVELOPMENT/PLANNED COMMERCIAL DEVELOPMENT FINDINGS:

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 project site has been partially developed consistent with the original New Century Center Master Plan. Remaining Development Standards of the project site in accordance with the uses identified in the revised New Century Center Master Plan and New Century Center Development Standards would promote a number of important objectives identified in the Progress Guide and General Plan and the Kearny Mesa Community Plan, including the creation of a substantial number of permanent jobs and growth opportunities; the revitalization of the Kearny Mesa Community; and the establishment of a forward-looking Master Plan for the General Dynamics site.

The project includes proposed amendments to the Progress Guide and General Plan and the Kearny Mesa Community Plan to change the site's designation on the western portion of the site from Retail Entertainment to Mixed Use Commercial Industrial and Business Park. These changes would maintain consistency between the land use designations, objectives, and goals contained in the Progress Guide and General Plan and the Kearny Mesa Community Plan.

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 THE PERSONS RESIDING OR WORKING IN THE AREA AND WILL NOT ADVERSELY AFFECT OTHER PROPERTY IN THE VICINITY.

An Addendum to the Environmental Impact Report has been prepared for the project in accordance with the California Environmental Quality (CEQA) Act and the CEQA Guidelines. The proposed use is consistent with the existing Mitigation Monitoring and Reporting Program.

Conditions have been added to the PID and PCD permits to minimize potential impacts to the Community to the extent feasible and to avoid impacts that would be materially detrimental to the health, safety, and general welfare of the persons residing or working in the area. Implementation of the proposed uses would promote revitalization of property in the vicinity of the project site, and would create a substantial number of jobs.

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

Development of the project site in accordance with the Revised New Century Center Master Plan, Development Standards, and Design Manual will comply with all relevant regulations of the Municipal Code.

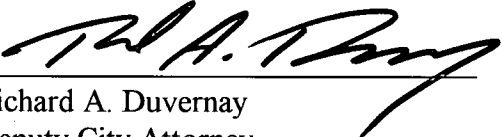
The above findings are supported by the minutes, maps and exhibits, all of which are herein incorporated by reference.

BE IT FURTHER RESOLVED, that the recommendation of the Planning Commission is sustained, and PID/PCD Permit No. 99-1269, amending PID/PCD No. 96-0165, is granted to

Lennar Partners, Owner/Permittee, under the terms and conditions set forth in the permit attached hereto and made a part hereof.

APPROVED: CASEY GWINN, City Attorney

By


Richard A. Duvernay
Deputy City Attorney

RAD:lc

11/20/00

Or.Dept:Clerk

R-2001-902

Form=permitr.frm

Reviewed by Farah Mahzari

RECORDING REQUESTED BY
CITY OF SAN DIEGO
PLANNING AND DEVELOPMENT REVIEW
PERMIT INTAKE, MAIL STATION 501

AND WHEN RECORDED MAIL TO
CITY CLERK
MAIL STATION 2A

SPACE ABOVE THIS LINE FOR RECORDER'S USE

PLANNED INDUSTRIAL DEVELOPMENT/
PLANNED COMMERCIAL DEVELOPMENT
[PID/PCD] PERMIT NO. 99-1269
(Amendment to PID/PCD Permit No. 96-0165)

SAN DIEGO SPECTRUM

CITY COUNCIL

This Planned Commercial Development/Planned Industrial Development Permit [PCD/PID] is granted by the City Council of the City of San Diego to Lennar Partners, Owner/Permittee, pursuant to the San Diego Municipal Code [SDMC]. The 244 acre site is bounded by Clairemont Mesa Boulevard to the north, State Route 163 and Kearny Villa Road to the west, Ruffin Road to the east, and Balboa Avenue to the south in the Kearny Mesa Community Planning Area. The project site is legally described as San Diego Spectrum Phase 1 Map No. 13826, Phase 2 Map No. 13827, Phase 3 Map No. 13980, Parcel 4 of Parcel Map No. 18204.

Subject to the terms and conditions set forth in this permit, permission is granted to Owner/Permittee to revise vesting tentative map, revise Market Square and Street geometry and a Rezone and Street Vacation described as, and identified by size, dimension, quantity, type and location on the approved Exhibits "A," dated October 3, 2000, on file in the Office of Planning and Development Review Department. The facility shall include:

- a. The 244 acre site will consist of approximately 85 acres of General Commercial and Residential areas in the western portion of the property and their associated streets and parkways, and approximately 159 acres of Industrial and Business Park along with Business Support Commercial uses located in the central and eastern portions of the site.
- b. Landscaping (planting, irrigation and landscape related improvements).
- c. Off-street parking facilities.
- d. Spectrum Commons, a centrally located landscape amenity area that will provide hardscape, walkways, open-air seating areas and large areas of turf. Small-scale freestanding retail, such as a restaurant, outdoor cafe, kiosks or other specialty retail.
- e. Accessory improvements determined by the City Manager to be consistent with the land use and development standards in effect for this site per the adopted Community

Plan, California Environmental Quality Act guidelines, public and private improvement requirements of the City Engineer, the underlying zone(s), conditions of this permit, and any other applicable regulations of the San Diego Municipal Code in effect for this site.

1. Construction, grading or demolition must commence and be pursued in a diligent manner within 36 months after the effective date of final approval by the City, following all appeals. Failure to utilize the permit within 36 months will automatically void the permit unless an Extension of Time has been granted. Any such Extension of Time must meet all the San Diego Municipal Code requirements and applicable guidelines in effect at the time the extension is considered by the appropriate decision maker.

2. No permit for the construction, occupancy or operation of any facility or improvement described herein 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 Planning and Development Review Department; and

b. The Permit is recorded in the office of the San Diego County Recorder.

3. Unless this permit has been revoked by the City of San Diego the property included by reference within this permit shall be used only for the purposes and under the terms and conditions set forth in this permit unless otherwise authorized by the City Manager.

4. 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.

5. The utilization and continued use of this permit shall be subject to the regulations of this and any other applicable governmental agencies.

6. 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.).

7. The Owner/Permittee shall secure all necessary building permits. The applicant is informed that to secure these permits, substantial modifications to the building and/or site improvements to comply with applicable building, fire, mechanical and plumbing codes and State law requiring access for disabled people may be required.

8. Before issuance of any building or grading permits, complete grading and working drawings shall be submitted to the City Manager for approval. Plans shall be in substantial conformity to Exhibit "A," dated October 3, 2000, on file in the Office of the Planning and Development Review Department. No changes, modifications or alterations shall be made unless appropriate applications or amendment of this permit shall have been granted.

9. 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

9. 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 the 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 an 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(s) 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 new 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.

10. Prior to issuance of any grading permits for this project, a final subdivision map shall be recorded on the subject property.

11. Rezoning of the subject property shall become effective with recordation of the corresponding final subdivision map for the project site.

12. All terms and conditions of the original PID/PCD Permit No. 96-0165 are in effect unless otherwise noted in this permit.

ENVIRONMENTAL/MITIGATION REQUIREMENTS:

13. The City of San Diego as Lead Agency under CEQA has prepared an Addendum to an Environmental Impact Report (EIR), LDR No. 99-1269, covering the proposed project. The previously certified EIR, LDR No. 96-0165, dated September 25, 1997, was prepared for the New Century Center Project. The proposed project would not result in any new or substantially more severe environmental impacts beyond those identified in the previously certified EIR. Because only minor technical changes and additions to the previously certified EIR were deemed necessary, an Addendum was prepared in accordance with Section 15164 of the State CEQA Guidelines.

PLANNING/DESIGN REQUIREMENTS:

14. There shall be compliance with the regulations of the underlying zone(s) unless a deviation or variance to a specific regulation(s) is approved or granted as condition of approval of this permit. Where there is a conflict between a condition (including exhibits) of this permit and a regulation of the underlying zone, the regulation shall prevail unless the condition provides for a deviation or variance from the regulations. Where a condition (including exhibits) of this permit establishes a provision which is more restrictive than the corresponding regulation of the underlying zone, then the condition shall prevail.

15. The height(s) of the building(s) or structure(s) shall not exceed those heights set forth in the conditions and the exhibits (including, but not limited to, elevations and cross sections) or the maximum permitted building height of the underlying zone, whichever is lower, unless a deviation or variance to the height limit has been granted as a specific condition of this permit.
16. A topographical survey conforming to the provisions of SDMC section 101.0216 may be required if it is determined, during construction, that there may be a conflict between the building(s) under construction and a condition of this permit or a regulations of the underlying zone. The cost of any such survey shall be borne by the permittee.
17. Any future requested amendment to this permit shall be reviewed for compliance with the regulations of the underlying zone(s) which are in effect on the date of the submittal of the requested amendment.
18. No building additions, including patio covers, shall be permitted unless approved by the homeowners association and the Planning and Development Review Department Director. Patio covers may be permitted only if they are consistent with the architecture of the dwelling unit.
19. All signage associated with this development shall be consistent with sign criteria established by either of the following:
 - a. Approved project sign plan (Exhibit "A," dated October 3, 2000, on file in the Office of the Planning and Development Review Department); or
 - b. Citywide sign regulations.
20. All private outdoor lighting shall be shaded and adjusted to fall on the same premises where such lights are located.
21. The use of textured or enhanced paving shall meet applicable City standards as to location, noise and friction values.
22. The subject property and associated common areas on site shall be maintained in a neat and orderly fashion at all times.
23. All uses, except storage and loading, shall be conducted entirely within an enclosed building. Outdoor storage of merchandise, material and equipment is permitted in any required interior side or rear yard, provided the storage area is completely enclosed by walls, fences or a combination thereof. Walls or fences shall be solid and not less than six feet in height and, provided further, that no merchandise, material or equipment stored not higher than any adjacent wall.
24. No mechanical equipment, tank, duct, elevator enclosure, cooling tower or mechanical ventilator or air conditioner shall be erected, constructed, converted, established, altered, or enlarged on the roof of any building, unless all such equipment and appurtenances are contained within a completely enclosed structure whose top and sides may include grillwork, louvers and latticework.
25. No merchandise, material or equipment shall be stored on the roof of any building.

26. No mechanical equipment shall be erected, constructed, or enlarged on the roof of any building on this site, unless all such equipment is contained within a completely enclosed architecturally integrated structure.

27. Prior to the issuance of building permits, construction documents shall fully illustrate compliance with the Citywide Storage Standards for Trash and Recyclable Materials (SDMC section 101.2001) to the satisfaction of the City Manager. All exterior storage enclosures for trash and recyclable materials shall be located in a manner that is convenient and accessible to all occupants of and service providers to the project, in substantial conformance with the conceptual site plan marked Exhibit "A," dated October 3, 2000, on file in the Office of the Planning and Development Review Department.

LANDSCAPE REQUIREMENTS:

28. Prior to 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 the City Manager for approval. The construction documents shall be in substantial conformance with Exhibit "A," Landscape Concept Plan, dated October 3, 2000, on file in the Office of the Planning and Development Review Department. No change, modification or alteration shall be made unless appropriate application or amendment of this Permit shall have been granted.

29. Prior to issuance of any Certificate of Occupancy it shall be the responsibility of the Permittee to install all required landscape and obtain all required landscape inspections and to obtain a No Fee Street Tree Permit for the installation, establishment and on-going maintenance of all street trees. Copies of these approved documents must be submitted to the City Manager.

30. All required 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 landscape improvements consistent with the standards of the *Landscape Technical Manual*.

31. If any required landscape (including existing or new plantings, hardscape, landscape features, etc.) indicated on the approved plans is damaged or removed during demolition, 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.

32. Prior to issuance of any engineering permits for right-of-way improvements, complete landscape construction documents for right-of-way and median (if applicable) improvements shall be submitted to the City Manager for approval. Improvement plans shall identify a station point for each street tree location. Each street tree location must take into account a 40 square foot area around each tree which is unencumbered by utilities. Driveways, utilities, drains, water and sewer laterals shall be designed so as not to prohibit the placement of street trees. Location of street trees shall be identified and reserved during improvement activities and on all site plans prepared for subsequent building permit applications with actual installation taking place prior to issuance of a certificate of occupancy for a specific building permit. The construction documents shall be in substantial conformance with Exhibit "A," Landscape Concept Plan, dated October 3, 2000, on file in the Office of the Planning and Development Review Department.

INFORMATION ONLY:

33. Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of this development permit/tentative map, may protest the imposition within 90 days of the approval of this development permit/tentative map by filing a written protest with the City Clerk pursuant to California Government Code section 66020.

APPROVED by the Council of the City of San Diego on October 3, 2000, by Resolution No. R-293929.

11/20/00

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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.

LENNAR PARTNERS
Owner/Permittee

By _____

By _____

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

11/20/00

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