

RESOLUTION NUMBER R-295033

ADOPTED ON JUNE 19, 2001

WHEREAS, Mesa Shopping Center - East, LLC, Owner/Permittee, filed an application with the City of San Diego for a Planned Development Permit to construct a 38,250 square foot single-user retail building known as the Best Buy Mira Mesa project, located at northeast corner of Westview Parkway and Mira Mesa Boulevard, and legally described as Parcels 1-3, Parcel Map No. 12628, in the Mira Mesa Community Plan area, in the CC-1-3 zone; and

WHEREAS, on May 10, 2001, the Planning Commission of the City of San Diego considered Planned Development [PD] Permit No. 40-0819, and pursuant to Resolution No. 3130-1-PC voted to recommend City Council approval of the permit; and

WHEREAS, the matter was set for public hearing on June 19, 2001, 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 it adopts the following findings with respect to PD Permit No. 40-0819:

I. PLANNED DEVELOPMENT PERMIT APPROVAL FINDINGS - SAN DIEGO MUNICIPAL CODE SECTION 126.0604

A Planned Development Permit may be approved or conditionally approved only if the decision maker makes all of the findings in Section 126.0604(a) that are applicable to the proposed development as specified in this section.

A. The proposed development will not adversely affect the applicable land use plan.

The subject 3.92 acre site is located within the boundaries of the Mira Mesa Community Plan and is designated as Visitor Commercial and subject to the provisions and entitlements of a

previously approved Planned Commercial Development [PCD] Permit No. 85-0500. In order to consider the proposed development of a 38,250 square-foot single-user retail store for this site, the City of San Diego Progress Guide and General Plan and the Mira Mesa Community Plan must be amended to redesignate the site for Community Commercial, and to amend PCD Permit No. 85-0500. The project site is located on the north side of Mira Mesa Boulevard, the major entry street to the community, and is located near the intersection with the Interstate 15 Freeway. Surrounding properties to the west and south are developed with large scale shopping complexes. The change in land use will not adversely affect the Mira Mesa Community Plan as the hotels, motels, specialty shops and restaurants catering to visitors are well enumerated within the boundaries of the community and the proposed large, single-user retail planned for the site, has received the positive support of the community plan group as a desired need within the community.

B. The proposed development will not be detrimental to the public health, safety, and welfare.

The development of a 38,250 square-foot single-user retail store on this 3.92 acre site will not be detrimental to the public health, safety and welfare as the development will comply with all development regulations of the CC-1-3 zone and the guidelines of the Mira Mesa Community Plan. No new driveways will be added to Mira Mesa Boulevard to serve this site, which is close to the Interstate 15 Freeway ramps, with the primary access coming from Westview Parkway and through a shared access agreement with the CalTrans Park and Ride lot immediately to the east. The Park and Ride lot has an existing driveway access to Mira Mesa Boulevard which the users of this proposed facility will be able to utilize. The proposed structure exceeds all minimum setbacks which enables landscaping to screen the building mass and enhance the visual appearance of the site at this community entry location. Parking and pedestrian circulation paths meet requirements for the layout of the site and user needs.

C. The proposed development will comply with the regulations of the San Diego Municipal Code.

To develop this proposed 38,250 square-foot single-user retail facility on this 3.92 acre site, requires a Progress Guide and General Plan and Mira Mesa Community Plan amendment to change the land use designation from Visitor Commercial to Community Commercial. In addition, the facility is required to comply with the CC-1-3 zone and the Landscape Technical Manual as well as Fire safety regulations. Staff review has determined that the project will meet or exceed all land development regulations, including design guidelines of the Mira Mesa Community Plan.

D. The proposed development when considered as a whole will be beneficial to the community.

Although the 3.92 acre site is currently designated as Visitor Commercial, which allows for hotels, motels, specialty shops and restaurants to serve visitors, the Mira Mesa Community Planning Group has voted to support the land use redesignation to Community Commercial,

which will allow the development of a 38,250 square-foot single-user retail store. The community and City staff have evaluated the locations and numbers of existing and planned hotels, motels and shopping centers providing restaurant and specialty shop availability and have determined that there is a good balance throughout the community and in the immediate areas to the project site and have determined that this project will be beneficial to the community as a whole.


E. Any proposed deviations pursuant to San Diego Municipal Code section 126.0602(b)(1) are appropriate for this location and will result in a more desirable project than would be achieved if designed in strict conformance with the development regulations of the applicable zone.

The development of a 38,250 square-foot, single-user retail facility on this 3.92 acre site complies with all base zone regulations of the CC-1-3 zone and is not proposing any deviations in order to accommodate this use on the site.

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 Development Permit No. 40-0819 is granted to Mesa Shopping Center - East, LLC, 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 
Mary Jo Lanzafame
Deputy City Attorney

MJL:mdw:lc
07/18/01
Or.Dept:Clerk
R-2001-1778
Form=permitr.frm
Reviewed by Robert Korch

RECORDING REQUESTED BY
CITY OF SAN DIEGO
DEVELOPMENT SERVICES DEPARTMENT
PERMIT INTAKE, MAIL STATION 501

AND WHEN RECORDED MAIL TO
CITY CLERK
MAIL STATION 2A

SPACE ABOVE THIS LINE FOR RECORDER'S USE

PLANNED DEVELOPMENT PERMIT AND MMRP NO. 40-0819
BEST BUY MIRA MESA
AMENDMENT TO PLANNED COMMERCIAL DEVELOPMENT PERMIT NO. 85-0500
CITY COUNCIL

This Planned Development [PD] Permit, which serves as an Amendment to Planned Commercial Development Permit No. 85-0500, is granted by the Council of the City of San Diego to Mesa Shopping Center - East, LLC, Owner/Permittee, pursuant to San Diego Municipal Code [SDMC] sections 126.0603 and 112.0509. The 3.92 acre site is located at the northeast corner of the intersection of Westview Parkway and Mira Mesa Boulevard in the CC-1-3 zone of the Mira Mesa Community Plan. The project site is legally described as Parcels 1-3, Parcel Map No. 12628.

Subject to the terms and conditions set forth in this permit, permission is granted to Owner/Permittee to construct a 38,000 square-foot single-user retail store and a 250 square-foot kiosk with required off-street parking and landscaping described and identified by size, dimension, quantity, type and location on the approved Exhibit "A," dated June 19, 2001, on file in the Development Services Department. The project shall include:

- a. One structure containing 38,000 square feet of retail space designed for a single-user and a kiosk structure of approximately 250 square feet;
- b. Landscaping (planting, irrigation and landscape related improvements);
- c. Off-street parking facilities consisting of 190 parking spaces, bicycle racks and loading docks for delivery vehicles;
- d. Crib type retaining walls, perimeter fencing, security and decorative lighting, pedestrian sidewalks accessing the site and building and shared access to the adjacent Caltrans Park and Ride lot; and
- 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 SDMC in effect for this site.

1. Construction, grading or demolition must commence and be pursued in a diligent manner within thirty-six months after the effective date of final approval by the City, following all appeals. Failure to utilize the permit within thirty-six months will automatically void the permit unless an Extension of Time has been granted. Any such Extension of Time must meet all the SDMC 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 Development Services 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 Endangered Species Act of 1973 and any amendments thereto (16 U.S.C. § 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 June 19, 2001, on file in the Development Services 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 condition in order to be afforded special rights which the holder of the Permit is entitled 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 proposed 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.

ENVIRONMENTAL/MITIGATION REQUIREMENTS:

10. The Applicant shall comply with the Mitigation, Monitoring, and Reporting Program [MMRP] as specified in the Mitigated Negative Declaration, LDR No. 40-0819, satisfactory to the City Manager and the City Engineer. Prior to issuance of any grading permit, all mitigation measures as specifically outlined in the MMRP shall be implemented for the following issue area: Water Quality

ENGINEERING REQUIREMENTS:

11. Prior to the issuance of any building permits, the applicant shall obtain a bonded grading permit from the City Engineer (referred to as an engineering permit) for the grading proposed for this project. All grading shall conform to requirements in accordance with the SDMC in a manner satisfactory to the City Engineer.

12. The drainage system proposed with this development is subject to approval by the City Engineer.

13. Prior to the issuance of any permits, the applicant shall provide evidence of a shared access agreement with Cal Trans for the access driveway from Westview Parkway to the park & ride lot easterly of this development.

14. 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 Notice of Intent [NOI] shall be filed with the SWRCB. A copy of the acknowledgment 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.

In addition, the owner(s) and subsequent owner(s) of any portion of the property covered by this grading permit and by SWRCB Order No. 92-08-DWQ, and any subsequent amendments thereto, shall comply with special provisions as set forth in Section C.7 of SWRCB Order No. 92-08-DWQ.

15. Prior to building occupancy, the applicant shall conform to the section of the SDMC titled "Public Improvement Subject to Desuetude or Damage." If repair or replacement of such public improvements is required, the owner shall obtain the required permits for work in the public right-of-way, satisfactory to the permit-issuing authority.

16. Driveways shall have a maximum width of 30 feet.

PLANNING/DESIGN REQUIREMENTS:

17. No fewer than 190 off-street parking spaces shall be maintained on the property at all times in the approximate locations shown on the approved Exhibit "A," dated June 19, 2001, on file in the Development Services Department. Parking spaces shall comply at all times with requirements of the SDMC and shall not be converted for any other use unless otherwise authorized by the City Manager.

18. 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.

19. 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.

20. A topographical survey conforming to the provisions of the SDMC 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.

21. 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.

22. All signage associated with this development shall be consistent with sign criteria established by the Citywide sign regulations.

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

24. The use of textured or enhanced paving shall meet applicable City standards as to location, noise and friction values.

25. The subject property and associated common areas on site shall be maintained in a neat and orderly fashion at all times.

26. 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, not less than 6 feet in height and no merchandise, material or equipment shall not be stored higher than any adjacent wall.

27. 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.

28. No merchandise, material or equipment shall be stored on the roof of any building.

29. Prior to the issuance of building permits, construction documents shall fully illustrate compliance with the Citywide Storage Standards for Trash and Recyclable Materials 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 June 19, 2001, on file in the Development Services Department.

LANDSCAPE REQUIREMENTS:

30. No change, modification or alteration shall be made to the project unless appropriate application or amendment to this Permit shall have been granted by the City.

31. There shall be nine street trees planted on Westview Parkway and fourteen street trees planted on Mira Mesa Boulevard, between the curb and abutting property line. If there is a conflict in street tree placement because of utilities, the street trees shall be planted on the property line and private property, and shall not be removed to be in accordance with SDMC section 142.0409.

32. In the event that a foundation only permit is requested by the Owner/Permittee or subsequent Owner/Permittee, a site plan or staking layout plan shall be submitted identifying all landscape areas consistent with Exhibit "A," Landscape Plan, dated June 19, 2001, on file in the Development Services Department. These landscape areas shall be clearly identified with a distinct symbol and noted with dimensions and labeled as Landscaping Area.

33. Prior to issuance of any construction permits for structures (including shell), complete landscape and irrigation construction documents consistent with the landscape standards (including planting and irrigation plans, details and specifications) shall be submitted to the City Manager for approval. The construction documents shall be in substantial conformance with Exhibit "A," Landscape Plan, dated June 19, 2001, on file in the Development Services Department.

34. 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 feet 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 Plan, dated June 19, 2001, on file in the Development Services Department.

35. Prior to issuance of any engineering permits for grading, construction documents for slope planting or revegetation and hydroseeding of all disturbed land including irrigation shall be submitted in accordance with the Landscape Standards and to the satisfaction of the City Manager. All plans shall be in substantial conformance to Permit No. 40-0819 (including environmental conditions) and Exhibit "A," dated June 19, 2001, on file in the Development Services Department.

36. Installation of slope planting and erosion control including seeding of all disturbed land (slopes and pads) consistent with the approved landscape and grading plans is considered to be in the public interest. The Permittee shall initiate such measures as soon as the grading has been accomplished. Such erosion control, slope planting and the associated irrigation systems (temporary or permanent) and appurtenances shall be installed in accordance with the approved plans and the Landscape Standards.

37. Prior to issuance of any Certificate of Occupancy, it shall be the responsibility of the Owner/Permittee or subsequent Owner/Permittee to install all required landscape and obtain all required landscape inspections. A No Fee Street Tree Permit, if applicable, shall be obtained for the installation, establishment and on-going maintenance of all street trees.

38. All required landscape shall be maintained in a disease, weed and litter free condition at all times. Severe pruning or "topping" of trees is not permitted unless specifically noted in this Permit.

39. The Owner/Permittee or subsequent Owner/Permittee shall be responsible for the maintenance of all street trees and landscape improvements (right-of-way and median landscaping) consistent with the landscape standards unless long-term maintenance of street trees, right-of-way and median landscaping will be the responsibility of a Landscape Maintenance District or other approved entity. In this case, a landscape maintenance agreement shall be submitted for review by a landscape planner.

40. If any required landscape (including existing or new plantings, hardscape, landscape features, etc.) indicated on the approved construction document plans is damaged or removed during demolition or construction, it shall be repaired and/or replaced in kind and equivalent size per the approved documents to the satisfaction of the City Manager within thirty days of damage or Certificate of Occupancy.

WASTEWATER REQUIREMENTS:

41. No structures or landscaping, including private storm drains, enhanced paving and irrigation, shall be installed in or over any easement prior to the applicant obtaining an encroachment removal agreement.

42. No trees or shrubs exceeding three feet in height at maturity shall be installed within ten feet of any public sewer facilities.

43. Proposed private underground sewer facilities located within a single lot shall be designed to meet the requirements of the California Uniform Plumbing Code and shall be reviewed as part of the building permit plan check.

INFORMATION ONLY:

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 ninety days of the approval of this development permit 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 June 19, 2001, by Resolution No. R-295033.

7/19/01

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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.

MESA SHOPPING CENTER - EAST, LLC,
Owner/Permittee

By _____

By _____

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

7/19/01

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