

RESOLUTION NUMBER R-295466

ADOPTED ON SEPTEMBER 18, 2001

WHEREAS, the City of San Diego and the Redevelopment Agency of the City of San Diego, Owners, and Mercado Alliance LLC, Permittee, filed an application with the City of San Diego for a permit to develop a commercial shopping center, the San Diego Mercado at Crosby Street project, consisting of approximately 114,506 square feet, located on a site which is bounded by Crosby Street, Main Street, National Avenue and Chicano Park, and legally described as Lots 3 through 18 inclusive, Lots 31 through 47 inclusive, and portions of Lots 1, 2, 19 and 48 of Block 95; Lots 2 through 17 inclusive, Lots 32 through 46 inclusive, and portion of Lots 1, 47 and 48 of Block 129, of Mannasse and Shiller's Subdivision of Pueblo Lot 1157, in the City of San Diego, County of San Diego, State of California, according to Map thereof No. 209, filed in the office of the County Recorder of San Diego County, July 11, 1870, together with segments of Newton Avenue and the unnamed alleys in said Blocks 95 and 129 as dedicated to public use, in the Coastal Overlay Zone and the Redevelopment Subdistrict of the Barrio Logan Planned District, and the Barrio Logan/Harbor 101 Community Plan area; and

WHEREAS, on August 9, 2001, the Planning Commission of the City of San Diego considered Site Development Permit/Coastal Development Permit [SD/CD] Permit No. 40-0401, and pursuant to Resolution No. 3167-PC voted to recommend City Council approval of the permit; and

WHEREAS, the matter was set for public hearing on September 18, 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 Site Development Permit/Coastal Development Permit No. 40-0401:

A. FINDINGS FOR SITE DEVELOPMENT PERMIT APPROVAL - MUNICIPAL CODE SECTION 126.0504:

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

The proposed land use identified in the Community Plan for the proposed project site is residential/commercial/industrial. The proposed commercial center is therefore consistent with the land use identified in the Community Plan. The project site is also located in the Redevelopment Subdistrict of the Barrio Logan Planned District, specifically identified as the Mercado District. The proposed San Diego Mercado at Crosby Street has been designed to implement the goals of the Mercado District by providing a mixed use area of commercial, retail and services with quality architecture, landscaping and urban design. The proposed project will therefore not adversely affect the applicable land use plans.

The proposed development is a Redevelopment Agency project which will provide a retail/commercial center in the Barrio Logan/Harbor 101 Community Plan area. The project site is the two block area bounded by Crosby Street on the northwest, National Avenue on the northeast, Main Street on the southeast and the Coronado Bay Bridge right-of-way and Chicano Park on the south and southeast. The proposed retail center project includes construction of four buildings and two building pads with a total combined leaseable area of approximately 114, 505 square feet. The San Diego Mercado at Crosby Street would provide a convenient, attractive retail/commercial center for the Barrio Logan community. The major anchor tenant for the center would be a 33,553 square foot grocery store, specializing in Latino foods. Other tenants that have been identified to date include Factory 2 U, an apparel/general merchandise store (15,005 sq. ft.), Benny's Food Court (4,000 sq. ft.), Oriental Gardens Restaurant (1,000 sq. ft.), Oasis Insurance (962 sq. ft.) and Spinx, a clothing store (3,800 sq. ft.). The buildings and building pads are orientated around the periphery of the property, surrounding an interior parking lot that would provide 358 off-street parking spaces. Direct pedestrian and vehicle access to the center would be provided on Crosby Street, National Avenue, and Newton Street. Pedestrian access would also be provided to the center from Chicano Park, which lies immediately to the southeast of the project site. The proposed commercial structures would be constructed in the Spanish architectural style with well articulated facades and a range of architectural treatments.

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

The proposed project is the redevelopment of a 6.55 acre site bounded by Crosby Street on the northwest, National Avenue on the northeast, Main Street on the southeast and the Coronado Bay Bridge right-of-way, and Chicano Park on the south and southeast. The proposed development is consistent with the Community Plan and will not be detrimental to the public health, safety, or welfare. The site is currently vacant: all pre-existing structures were demolished in 1995 for the redevelopment. A finding of No Significant Impact/Environmental Assessment (FONSI/EA) for the Mercado del Barrio project, was prepared and certified in 1992. An addendum to that document was prepared for the San Diego Mercado at Crosby Street project, in accordance with State CEQA Guidelines. The Addendum includes a Mitigation, Monitoring and Reporting Program which must be implemented by the applicant for several issue areas, including Hazardous Materials/Public Safety, and Traffic and Circulation. Implementation of the required mitigation measures for these issue areas will insure that the proposed development will not be detrimental to the public health, safety and welfare.

The proposed new development will include three single story buildings, one two story building, and two building pads which will provide a total leaseable area of approximately 114,505 square feet. Project features include 358 on-site parking spaces, landscaping, and appropriate signage. The proposed project has been designed to comply with all applicable health and safety codes and regulations, including those pertaining to traffic design, pedestrian access, handicap access, noise, trash facilities, and fire and emergency access.

The San Diego Mercado at Crosby Street project, as designed and conditioned, is a redevelopment project that will enhance the existing neighborhood and will not be detrimental to the public health, safety and welfare.

3. The proposed development will comply with the applicable regulations of the Land Development Code.

The proposed project includes construction of three single story buildings, one 2-story building, and 2 building pads for a combined total leaseable area of 114,505 square feet. The project also includes 358 off-street parking spaces, where 286 spaces are required, appropriate landscaping, signage, and small patio areas for meeting areas. The project as proposed complies with all of the applicable regulations of the Land Development Code, including FAR, set backs, parking, pedestrian access, fire and emergency access, handicap accessibility, architectural design details, traffic, and landscaping.

B. FINDINGS FOR COASTAL DEVELOPMENT PERMIT APPROVAL - MUNICIPAL CODE SECTION 126.0708:

1. The proposed coastal development will not encroach upon any existing physical access way that is legally used by the public or any proposed public accessway identified in a Local Coastal Program land use plan; and the proposed coastal development

will enhance and protect public views to and along the ocean and other scenic coastal areas as specified in the Local Coastal Program land use plan.

The 6.55 acre project site is located along Crosby Street between National Avenue and Main Street and is bordered on the south by the Coronado Bridge Right of Way (CalTrans). The "Community Environment Urban New Development Recommendations" of the Barrio Logan/Harbor 101 Community Plan identify a Bay Access way south of the project site at the extension of Crosby Street. The proposed project will not impact this public access point. There is no other public accessway identified in the Local Coastal Program land use plan in the vicinity of the project site. The proposed development complies with the height limitation of the Barrio Planned District Ordinance and will not diminish public views to and along the ocean or bay.

The Barrio Logan/Harbor 101 Community Plan identifies Crosby Street as a view corridor. The proposed project will not encroach into the required setbacks along Crosby Street and will therefore not impact public views. There are no other identified public view points identified in the Local Coastal Program in the immediate vicinity of the project site. The proposed development will enhance public views by providing an attractive, convenient new commercial development in an economically depressed area which is underserved by quality commercial facilities.

2. The proposed coastal development will not adversely affect environmentally sensitive lands.

The project site, though currently vacant, was previously fully developed with a mixture of, outdoor storage facilities, and light and heavy industrial structures and three single family residences. All previously existing structure were demolished in 1995. The site currently has disturbed and bare soil overgrown in areas with ruderal weeds, and scattered debris. No environmentally sensitive lands are present on the project site, nor is the project site adjacent to environmentally sensitive lands. Therefore, the proposed development will not adversely affect environmentally sensitive lands.

3. The proposed coastal development is in conformity with the certified Local Coastal Program land use plan and complies with all regulations of the certified Implementation Program.

The proposed San Diego Mercado at Crosby Street project would provide a much-needed commercial/retail center in the Barrio Logan Community and is in conformity with the Local Coastal Program. Although the Barrio Logan is not considered a special community under the narrow Coastal Act definition, since it does not serve as a visitor-destination center for recreational purpose, the California Coastal Plan designates the Barrio Logan area as "community with special qualities of greater than local significance." The proposed project implements the goals of the Local Coastal Program by reinforcing the unique ethnic character of the community, and providing an attractive pedestrian friendly retail/commercial center with well designed buildings, adequate parking, and attractive landscaping. The proposed development is in

conformity with the Local Coastal Program land use plan and complies with all regulations of the certified Implementation Program.

4. For every Coastal Development Permit issued for any coastal development between the nearest public road and the sea or the shoreline of any body of water located within the Coastal Overlay Zone the coastal development is in conformity with the public access and public recreation policies of Chapter 3 of the California Coastal Act.

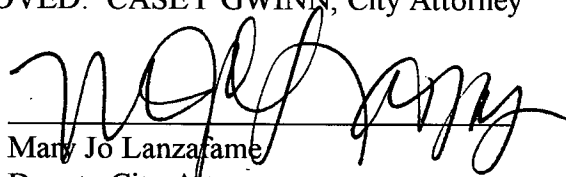
The proposed San Diego Mercado at Crosby Street project is located on the two block area bounded by Crosby Street, National Avenue, Main Street, and Chicano Park and the Coronado Bridge Right of Way. The project site is approximately 1660 feet from the shoreline of San Diego Bay. The project site is not between the nearest (first) public road and the sea or the shoreline of San Diego Bay. Therefore, the proposed project is in conformance with the public access and public recreation policies of Chapter 3 of the California Coastal Act.

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 Site Development Permit/Coastal Development Permit No. 40-0401 is granted to the City of San Diego and the Redevelopment Agency of the City of San Diego, Owners, and Mercado Alliance LLC, 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 Lanza fame
Deputy City Attorney

MJL:lc
11/02/01
Or.Dept:Clerk
R-2002-456
Form=permitr.frm
Reviewed by Vicky Gallagher

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

SITE DEVELOPMENT PERMIT/COASTAL DEVELOPMENT PERMIT No. 40-0401
(MMRP)

SAN DIEGO MERCADO AT CROSBY STREET

City Council

This Site Development/Coastal Development [SD/CD] Permit No. 40-0401, is granted by the Council of the City of San Diego to the City of San Diego, a Municipal Corporation, and the Redevelopment Agency of the City of San Diego, a public body corporate and politic, Owners, and Mercado Alliance LLC, a California Limited Liability Company, Permittee, pursuant to San Diego Municipal Code [SDMC] sections 126.0501 and 126.0701. The 6.55 acre is a 2 block area bounded by Crosby Street on the northwest, National Avenue on the northeast, Main Street on the southwest, and the Coronado Bay Bridge Right-of-Way and Chicano Park on the south and southeast. The project site is in the Redevelopment Subdistrict of the Barrio Logan Planned District, the Barrio Logan/Harbor 101 Community Plan Area, and in the Coastal Overlay Zone.

The project site is legally described as being a lot consolidation of Lots 3 through 18 inclusive, Lots 31 through 47 inclusive, and portions of Lots 1, 2, 19 and 48 of Block 95; Lots 2 through 17 inclusive, Lots 32 through 46 inclusive, and portion of Lots 1, 47 and 48 of Block 129, of Mannasse and Shiller's Subdivision of Pueblo Lot 1157, in the City of San Diego, County of San Diego, State of California, according to Map thereof No. 209, filed in the office of the County Recorder of San Diego County, July 11, 1870, together with segments of Newton Avenue and the unnamed alleys in said Blocks 95 and 129 as dedicated to public use.

Subject to the terms and conditions set forth in this permit, permission is granted to the City of San Diego and the City of San Diego Redevelopment Agency, Owners, and Mercado Alliance LLC, Permittee, to develop an approximately 114,506 square-foot retail commercial center described and identified by size, dimension, quantity, type and location on the approved Exhibits 'A', dated September 18, 2001, on file in the Development Services Department. The project shall include:

- a. Construction of four buildings and two building pads to provide a commercial center with a total of approximately 114,506 square feet of commercial space;
- b. Landscaping (planting, irrigation and landscape related improvements);
- c. 358 off-street parking spaces, where 286 spaces are required; and

- d. 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.
2. 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.
 3. 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.
 4. 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.
 5. 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.
 6. The utilization and continued use of this permit shall be subject to the regulations of this and any other applicable governmental agencies.
 7. 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. § 1531 *et seq.*)
 8. 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.
 9. At all bus stops within the project area, if any, the applicant shall be responsible for installing sidewalk improvements where needed to comply with Americans with Disabilities Act [ADA] requirements and in accordance with standards contained in the City of San Diego Street Design Manual.
 10. 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 September 18, 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.

11. 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.

12. This Coastal Development Permit shall become effective on the eleventh working day following receipt by the Coastal Commission of the Notice of Final Action, following all appeals.

ENVIRONMENTAL/MITIGATION REQUIREMENTS:

13. The applicant shall comply with the Mitigation, Monitoring, and Reporting Program [MMRP] as specified in the addendum to Findings of No Significant Impact/ Environmental Assessment (FONSI/EA), LDR No. 40-0401, satisfactory to the City Manager and the City Engineer. Prior to the issuance of a grading permit, all mitigation measures as specifically outlined in the MMRP shall be implemented for the following areas: Historical Resources, Paleontological Resources, Water Quality, Hazardous Material/Public Safety, Traffic and Circulation.

14. The MMRP shall require a deposit of \$450.00 to be collected prior to the issuance of the first grading permit to cover the City's costs associated with implementation of the MMRP and to ensure the successful completion of the monitoring program.

ENGINEERING REQUIREMENTS:

15. Prior to the issuance of any building permits, the applicant shall assure, by permit and bond, the closure of all non-utilized driveways and alley openings with full-height curb and gutter and sidewalk satisfactory to the City Engineer.

16. Prior to the issuance of any building permits, the applicant shall assure, by permit and bond, the installation of standard driveways at the following locations: one 30 foot-wide driveway on Main Street; one 30 foot-wide driveway at the intersection of Dewey Street and Newton Avenue; and one 25 foot-wide driveway on National Avenue satisfactory to the City Engineer.

17. The closure of the Newton Avenue segment at the northerly leg of the Newton Avenue and Dewey Street "T" intersection, resulting from the street vacation action, shall be achieved with a radial curb and gutter connection between the perpendicular curblines in a manner satisfactory to the City Engineer.

18. Prior to the issuance of any building permits, the applicant shall obtain a bonded grading permit for the grading proposed with this project. All grading shall conform to requirements in accordance with grading sections of the City of San Diego Municipal Code in a manner satisfactory to the City Engineer.

19. Prior to the issuance of any building permits, the applicant shall assure, by permit and bond, the installation of standard driveway perpendicular to the curvilinear curblines at the reconfigured intersection of Dewey Street and Newton Street, the curb to propertyline distance for this curvilinear segment shall be maintained at 10 feet satisfactory to the City Engineer.

20. The drainage system proposed for this project, as shown on the approved plans, is subject to approval by the City Engineer.

21. This Site Development Permit/Coastal Development Permit shall not become effective unless and until the street vacation for Newton Avenue and alley segments associated with this San Diego Mercado at Crosby Street has been approved by Council action. In the event that the street vacation for Newton Avenue and alley segments associated with this San Diego Mercado at Crosby Street is not approved concurrently with this project, this project shall become void.

22. Prior to building occupancy, the applicant shall conform to Section 62.0203 of the Municipal Code entitled 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.

PLANNING/DESIGN REQUIREMENTS:

23. No fewer than 286 off-street parking spaces (358 are proposed) shall be maintained on the property at all times in the approximate locations shown on the approved Exhibits "A," dated September 18, 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.

24. 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.

25. 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.

26. 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.

27. 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.

28. 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 September 18, 2001, on file in the Development Services Department or;
- b. Citywide sign regulations.

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

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

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

32. 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 no merchandise, material or equipment shall be stored higher than any adjacent wall.

33. 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.

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

35. 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.

36. 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 September 18, 2001, on file the Development Services Department.

TRANSPORTATION REQUIREMENTS:

37. Prior to the issuance of any building permits, the applicant shall assure, by permit and bond, signal modification at Crosby Street/Newton Avenue/project main driveway with a 20 foot inbound lane, an 11 foot outbound left turn lane, an 18 foot outbound right through lane, and a 4 foot wide median with no break in the median satisfactory to the City Engineer.

38. Prior to the issuance of any building permits, the applicant shall assure, by permit and bond, re-striping Crosby Street between Kearney Avenue and Main Street with appropriate transition and any needed modifications to the signals and loop detectors in this segment of Crosby Street, to provide two travel lanes in each direction with a center turn lane and no on-street parking satisfactory to the City Engineer.

39. Prior to the issuance of any building permits, the applicant shall assure, by bond, a fair share contribution of 14.6 percent of the estimated cost towards future signalization of Logan Avenue/Beardsley Street intersection satisfactory to the City Engineer.

40. Prior to the issuance of any building permits, the applicant shall assure, by permit and bond, compliance with all current street lighting standards according to the City of San Diego Street Design Manual (Document No. 769830, filed January 30, 1997) and the amendment to Council Policy 200-18 approved by City Council on January 10, 2000, satisfactory to the City Engineer.

WATER REQUIREMENTS:

41. Prior to the issuance of any building permits, the developer shall assure, by permit and bond, the design and construction of 12-inch water facilities within the Crosby Street right-of-way from Newton Avenue to National Avenue, and the abandonment of the public water facilities traversing the project site, in a manner satisfactory to the Director of the Water Department and the City Engineer.

42. All on-site water facilities shall be private.

43. Prior to the issuance of any building permits, the developer shall assure, by permit and bond, the relocation of public water facilities within the Dewey Street and Newton Avenue rights-of-way, in a manner satisfactory to the Director of the Water Department and the City Engineer, to maintain an acceptable alignment of existing public water facilities.

44. Prior to the issuance of any building permits, the developer shall install fire hydrants at locations satisfactory to the Fire Department, the Director of the Water Department and the City Engineer.

45. Prior to the issuance of any building permits, the developer shall assure, by permit and bond, the design and construction of new water services (domestic, fire, and irrigation) and the removal of all existing unused water services within the adjacent rights-of-way, in a manner satisfactory to the Water Department Director and the City Engineer.

46. Prior to the recordation of the Newton Avenue street vacation, all on-site public water facilities shall be abandoned in a manner satisfactory to the Director of the Water Department and the City Engineer.

47. The developer agrees to design, construct, and abandon all public water facilities in accordance with established criteria in the most current edition of the City of San Diego Water

Facility Design Guidelines and City regulations, standards and practices pertaining thereto. Water facilities as shown on Exhibit 'A' dated September 18, 2001, on file in the Development Services Department, will be modified at final engineering, as required.

WASTEWATER REQUIREMENTS:

48. Prior to the submittal of any public improvement drawings, including grading plans, the developer shall provide a sewer study, satisfactory to the Director of the Metropolitan Wastewater Department for the sizing, grade and alignment of public gravity sewer mains and to show that the existing and proposed public sewer facilities will have adequate capacity and have cleansing velocities necessary to serve this development and the drainage basin in which it lies.

49. Prior to the issuance of any building permits, the developer shall assure, by permit and bond, the construction of all public sewer facilities as required by the accepted sewer study necessary to serve this development, including vehicular access within easements. Sewer facilities, as shown on the approved grading plan, may require modification based on the accepted sewer study.

50. Prior to the issuance of any building or grading permits, the developer shall abandon the two existing 6" sewer mains in the two proposed alley vacations, satisfactory to the Director of the Metropolitan Wastewater Department.

51. The developer shall design and construct all proposed public sewer facilities to the most current edition of the City of San Diego's Sewer Design Guide. Proposed facilities that do not meet the current standards shall be private or re-designed.

52. The developer shall grant adequate sewer, or access easements, including vehicular access to each manhole, for all public sewer facilities that are not located within public rights-of-way, satisfactory to the Director of the Metropolitan Wastewater Department. The minimum easement width for sewer mains with manholes is 20 feet. The easements shall be located within single lots. Vehicular access roadbeds shall be a minimum of 20 feet wide and surfaced with suitable approved material satisfactory to the Director of the Metropolitan Wastewater Department. Vehicular access roadbeds to sewer mains with laterals shall be a minimum 24 foot wide and paved full width. An additional 5 feet of width per additional utility is required for easements containing more than one utility. For sewer mains more than 10 feet deep, two feet of additional easement width for each foot of depth over 10 feet shall be required.

53. No structures or landscaping that would inhibit vehicular access shall be installed in or over any sewer access easement, satisfactory to the Director of the Metropolitan Wastewater Department.

54. No structures or landscaping, including private sewer facilities and enhanced paving, shall be installed in or over any easement prior to the applicant obtaining an Encroachment Maintenance and Removal Agreement.

55. No trees or shrubs exceeding three feet in height at maturity shall be installed within 10 feet of any public sewer facilities.

56. 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.

LANDSCAPE REQUIREMENTS:

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

58. In the event that a foundation only permit is requested by the Permittee or subsequent Owner, a site plan or staking layout plan shall be submitted identifying all landscape areas consistent with Exhibit 'A' Landscape Concept Plan, dated September 18, 2001, on file in the Development Services Department. These landscape areas shall be clearly identified with a distinct symbol, noted with dimensions and labeled as 'landscaping area.'

59. 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 Concept Plan, dated September 18, 2001, on file in the Development Services Department.

60. Prior to issuance of any engineering permits for right-of-way improvements, complete landscape construction documents for right-of-way improvements shall be submitted to the City Manager for approval. The landscape construction document shall identify a 40 square feet water permeable planting area for each street tree in the right-of-way. This area shall be identified as a rectangle with an 'X' through it and labeled 'planting area for street tree.' 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 September 18, 2001, on file in the Development Services Department.

61. 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. 40-0401 (including Environmental conditions) and Exhibit 'A,' dated September 18, 2001, on file in the Development Services Department.

62. 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 and/or permanent) and appurtenances shall be installed in accordance with the approved plans and the Landscape Standards.

63. Prior to issuance of any Certificate of Occupancy, it shall be the responsibility of the Permittee or subsequent Owner 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.

64. 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.

65. The Permittee or subsequent Owner 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.

66. 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.

INFORMATION ONLY

Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of this development permit 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 City Council of the City of San Diego on September 18, 2001, by Resolution No. R-295466

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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.

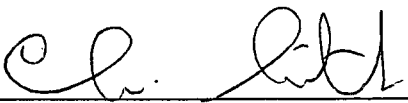
City of San Diego, a Municipal Corporation,
Owner

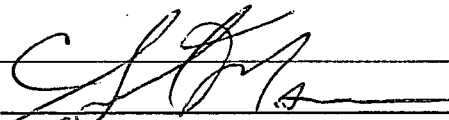
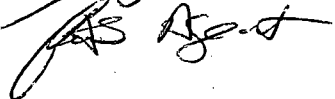
By _____

The Redevelopment Agency of the City of San Diego,
a public body corporate and politic,
Owner

By _____

Mercado Alliance LLC,
a California Limited Liability Company,
Permittee

By  _____

By 


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

9/26/01

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CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of SAN DIEGO } SS.

On OCTOBER 9, 2001, before me, SANDEE H. KING NOTARY PUBLIC

Date

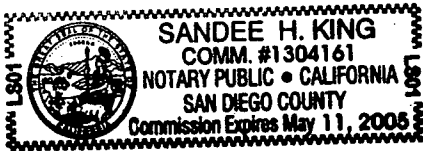
Name and Title of Officer (e.g., "Jane Doe, Notary Public")

personally appeared CHRIS SMITH AND C. SAMUEL MARASCO

Name(s) of Signer(s)

- personally known to me
- proved to me on the basis of satisfactory evidence

to be the person(s) whose name(s) ~~is~~ are subscribed to the within instrument and acknowledged to me that ~~he/she~~ they executed the same in ~~his/her~~ their authorized capacity(ies), and that by ~~his/her~~ their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



Place Notary Seal Above

WITNESS my hand and official seal.

[Signature]
Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: _____

Document Date: _____ Number of Pages: _____

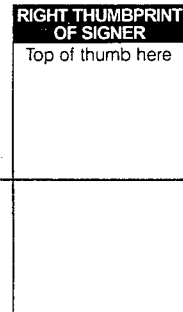
Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer

Signer's Name: _____

- Individual
- Corporate Officer — Title(s): _____
- Partner — Limited General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: _____

Signer Is Representing: _____



R-295466