

(R-2002-1000)

RESOLUTION NUMBER R-295960

ADOPTED ON JANUARY 15, 2002

WHEREAS, John M. Percival, John A. Percival, Francis M. Smith, and Lawrence W. Percival, Individuals/Owners, and K.A. La Jolla, LLC, Permittee, filed an application with the City of San Diego for a permit to amend Coastal Development Permit/La Jolla Shores Planned District Permit [CDP/PDP] No. 96-0112 to add a 648 square foot carwash facility to a previously approved gasoline service station, mini-mart, and future restaurant at 2204 Torrey Pines Road, at the convergence of La Jolla Shores Drive and Torrey Pines Road, and legally described as a Portion of Pueblo Lot 1286, in the La Jolla Shores Planned District within the boundaries of the La Jolla Community Plan, in the "V" (Visitor) zone; and

WHEREAS, on November 1, 2001, the Planning Commission of the City of San Diego considered Coastal Development/Site Development [CD/SD] Permit No. 41-0161, amending CDP/PDP No. 96-0112, and pursuant to Resolution No. 3186-PC voted to approve the permit; and

WHEREAS, the La Jolla Shores Association appealed the Planning Commission decision to the Council of the City of San Diego; and

WHEREAS, the matter was set for public hearing on January 15, 2002, 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 CD/SD Permit No. 41-0161, amending CDP/PDP No. 96-0112:

I. COASTAL DEVELOPMENT PERMIT FINDINGS - 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 0.7 acre project site, previously approved for a gasoline service station, mini-mart, and restaurant is being amended to add a 648 square foot carwash facility and is located approximately one-half mile from the coastline. The project features and overall development of the site will not encroach upon any existing or proposed physical access to the coast, nor will it obstruct ocean or other scenic views from public vantage points. The project site is located at a major intersection providing vehicular and pedestrian access in and out of the community and to the nearby beach areas.

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

The 0.7 acre project site was previously developed with a gasoline service station and sit-down restaurant prior to being redeveloped with a new gasoline service station, mini-mart and pad for a future restaurant. The current proposal adds a 648 square foot carwash facility to the site as an accessory use to the service station and will not affect any environmentally sensitive lands. All surrounding properties have been developed.

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 addition of a 648 square foot carwash facility to a previously approved gasoline service station, mini-mart and restaurant pad is in compliance with the City of San Diego adopted La Jolla Shores Planned District Ordinance (which permits by right, a gasoline station on this site), the La Jolla Community Plan, and the Progress Guide and General Plan. In addition, the redevelopment of this site was approved on May 6, 1997, and was determined to be in conformity to the Certified Local Coastal Program and the Implementation Program; the addition of the carwash facility as an accessory use also complies with the adopted and certified coastal regulations.

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 0.7 acre site, developed with a gasoline service station, mini-mart and restaurant pad and being amended to add the requested 648 square-foot carwash facility, is not located between the first public road and the sea or coastline. Public access to the sea and public recreation areas has not been impaired by the redevelopment of this site. The street intersection adjacent to the site is a major traffic signal controlled access in and out of the community and gateway to the coastal amenities. Public sidewalks have been maintained.

II. SITE DEVELOPMENT PERMIT FINDINGS - MUNICIPAL CODE
SECTION 126.0504

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

The 0.7 acre project site has been utilized as a gasoline service station and restaurant site prior to being redeveloped in 1997, with the addition of a new gasoline service station, mini-mart and graded pad for a new restaurant (not yet built). The current proposal adds a 648 square-foot carwash facility to the site as an accessory use to the service station. The La Jolla Shores Planned District Ordinance specifically permits a gasoline service station on this site without the requirement for a Conditional Use Permit. The project site is also located within the boundaries of the La Jolla Community Plan and Coastal Zone. The carwash is an accessory use to the service station and is not a 'drive-thru' facility which is not permitted. All requirements for, and conditions of approval, assure that the development will not adversely affect the applicable land use plans.

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

The gasoline service station, mini-mart and restaurant pad on this 0.7 acre site were recently permitted as a redevelopment of similar prior existing uses, and the current proposal adds a 648 square-foot carwash to the site. The proposed development of the carwash will comply with all City regulations for circulation and siting and will not result in any detriments to the public health, safety, and welfare. The hours of operation will be limited to 7:00 A.M. to 9:00 P.M., waste water will be discharged into the sewer system and not the storm drains, and the proposed equipment has been determined not to contribute to adverse noise impacts. In addition, the City's Transportation Engineers have determined that the circulation pattern for the carwash facility will present no problems for the area.

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

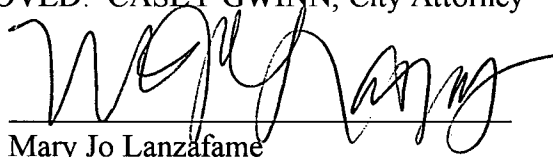
The addition of a 648 square-foot carwash facility to an existing gasoline service station, mini-mart and restaurant site will comply to the La Jolla Shores Planned District Ordinance and Local Coastal Program for the La Jolla Community Plan area. The gasoline service station is an expressly permitted use for this specific site. The site is zoned "V" for Visitor Commercial use and the site complies with the requirements of that zone.

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 appeal of the La Jolla Shores Association is denied; the decision of the Planning Commission is upheld; and Coastal Development/Site Development Permit No. 41-0161, amending CDP/PDP No. 96-0112, is granted to John M. Percival, John A. Percival, Francis M. Smith, and Lawrence W. Percival, Individuals/Owners, and K.A. La Jolla, 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 Lanzafame
Deputy City Attorney

MJL:lc
01/24/02
Or.Dept:Clerk
R-2002-1000
Form=permitr.frm
Reviewed by Robert Korch

RECORDING REQUESTED BY
CITY OF SAN DIEGO
DEVELOPMENT SERVICES DEPARTMENT

AND WHEN RECORDED MAIL TO
CITY CLERK
MAIL STATION 2A

SPACE ABOVE THIS LINE FOR RECORDER'S USE

COASTAL DEVELOPMENT/SITE DEVELOPMENT PERMIT NO. 41-0161 (MMRP)
LA JOLLA MOBIL CARWASH
AMENDMENT TO PERMIT NO. 96-0112
CITY COUNCIL

This Coastal Development/Site Development [CD/SD] Permit No. 41-0161, Amendment to Coastal Development Permit/La Jolla Shores Planned District Permit [CDP/PDP] No. 96-0112, is granted by the Council of the City of San Diego to John M. Percival, John A. Percival, Francis M. Smith and Lawrence W. Percival, Individuals/Owners, and K.A. La Jolla, LLC, Permittee, pursuant to San Diego Municipal Code sections 126.0701 and 126.0501. The 0.70 acre site is located at 2204 Torrey Pines Road at the convergence of Torrey Pines Road and La Jolla Shores Drive, in the 'V' (Visitor) zone of the La Jolla Shores Planned District Ordinance and within the boundaries of the La Jolla Community Plan area. The project site is legally described as a Portion of Pueblo Lot 1286.

Subject to the terms and conditions set forth in this permit, permission is granted to Owners/ Permittee to continue to operate an automobile service station with a mini-mart, a future free-standing restaurant and to add a 648 square-foot carwash facility to the gas station operations, described as, and identified by size, dimension, quantity, type and location on the approved Exhibits "A," dated January 15, 2002, on file in the Development Services Department. The facility shall include:

- a. A 2,735 square-foot restaurant;
- b. An automobile service station, consisting of:
 - (1) Canopy covered fuel dispensing islands,
 - (2) A maximum 2,000 square-foot mini-mart structure,
 - (3) A free-standing, 648 square foot carwash facility to operate only between 7:00 A.M. and 9:00 P.M.,

- (4) The operation of the automobile service station portion of the project, shall be consistent with the definition of an automobile service station contained in the Municipal Code / Land Development Code. The following uses are permitted incidental to the sale of gasoline: cashier sales, sales of auto related products and services as defined in this permit/conditions, office, general storage, restrooms and utility space;
- c. Landscaping (planting, irrigation and landscape related improvements);
 - d. Off-street parking facilities, and signage for each permitted use; 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 Land Development 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 Municipal/Land Development 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 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 Federal 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. 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 Disability Act (ADA) requirements and in accordance with standards contained in the City of San Diego Street Design Manual.

9. 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 January 15, 2002, 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.

10. 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.

11. 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:

12. The owner/permittee, as a condition of this permit, shall implement the mitigation measures required to reduce potential adverse impacts in the area of noise and water quality, as identified in the Mitigation, Monitoring and Reporting Program of Mitigated Negative Declaration, LDR No. 41-0161.

ENGINEERING REQUIREMENTS:

13. Prior to the issuance of any building permits, the applicant shall assure, by permit and bond, the closure of the easterly existing driveway on Torrey Pines Road with restoration to full-height curb, gutter and sidewalk, the installation of a new 14-foot driveway and the removal of 2 above-grade pieces of metal located about 15 feet from the pedestrian ramp in the sidewalk along Torrey Pines Road, all satisfactory to the City Engineer.

14. Prior to building occupancy, the applicant shall conform to SDMC section 62.0203, "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.

15. No fewer than 10 parking spaces shall be maintained on this site at all times (see condition No. 21).

16. Prior to the issuance of any building permit, applicant shall assure by permit and bond, installation of and "Do Not Enter /Exit Only" signs at the car-wash's exit driveway for the traffic on Torrey Pines Road, satisfactory to the City Engineer.

17. Prior to the issuance of any building permit, applicant shall assure by permit and bond, replacement of all abandoned driveways on Torrey Pines Road with full height curb, gutter and sidewalk, satisfactory to the City Engineer.

18. Prior to the issuance of any building permit, applicant shall assure by permit and bond, installation of signs on Ardath Road and La Jolla Shores Drive rights-of-way parking lots identifying the lots to be open to the public, satisfactory to the City Engineer.

19. The Owners/Permittee shall close the car wash facility within 60 days of notice from the City of San Diego that the public right-of-way of Ardath Road, adjoining the easterly rear boundary of the project site, is required for public usage and that the Encroachment Removal Agreement is canceled.

20. Prior to the issuance of the building permit for the carwash facility, the City Engineer shall ensure that waste water from the carwash will be discharged into the sanitary sewer system and not into the storm drain system.

PLANNING/DESIGN REQUIREMENTS:

21. No fewer than 10 of the 38 provided on-site/off-street parking spaces shall be maintained on the property at all times in the approximate locations shown on the approved Exhibits "A," dated January 15, 2002, on file in the Development Services Department. Parking spaces shall comply at all times with requirements of the Municipal/Land Development Code and shall not be converted for any other use unless otherwise authorized by the City Manager. Of the required spaces, 3 shall be provided for handicapped accessibility, one space for dispensing air and water and one space for emergency repairs (flat tires/replacing batteries, etc.).
22. 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.
23. 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.
24. A topographical survey conforming to the provisions of the Municipal/Land Development Code 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.
25. 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.
26. The carwash operating hours shall be limited to the hours of 7:00 A.M. to 9:00 P.M.
27. Sales of alcoholic beverages is not permitted in the mini-mart nor on the premises of the gasoline service station.
28. The restaurant, fuel pump islands and the mini-mart may operate from 6:00 A.M. to 12:00 midnight. During off hours, lighting shall be reduced to the minimum necessary for reasonable security requirements. Use of any amplified sound system or outdoor intercom system is prohibited.

29. Signaling devices to alert station attendants to entering vehicles shall be located and adjusted so as to cause no noise disturbances to adjoining properties.
30. All signage associated with this development shall be consistent with sign criteria established by the La Jolla Planned District Ordinance regulations. Pennants, portable signs and banners, shall not be permitted on the premises.
31. A 22-square-foot "Touchless Car Wash" sign shall be permitted as shown on the Exhibit "A," dated January 15, 2002, on file in the Development Services Department, for the southwest elevation only. Signs of the same logo for the northeast and southeast walls have been deleted.
32. The freestanding ground monument gas station identification and price sign on Torrey Pines Road may utilize the empty plaque space to identify the carwash or other on-site service.
33. The future restaurant monument sign on Torrey Pines Road shall be temporarily removed until such time as the building permits for the restaurant are issued by the City. No additional permits will be required to re-install this sign.
34. "No loitering" signs shall be placed in and around the mini-mart facility and "no loitering" shall be enforced by the Permittee, any lessee or subsequent owner.
35. All private outdoor lighting shall be shaded and adjusted to fall on the same premises where such lights are located. Outdoor lights may be mounted only to buildings, walls or on free-standing posts not to exceed a height of 14 feet. Energy conservation is encouraged.
36. The requirements of the County Health Department and the City of San Diego Fire Department for storage of all hazardous materials, including underground chemical storage, shall be met all times.
37. The use of textured or enhanced paving shall meet applicable City standards as to location, noise and friction values.
38. The subject property and associated common areas on site shall be maintained in a neat and orderly fashion at all times.
39. All uses, except storage and loading, shall be conducted entirely within an enclosed building. All trash and refuse shall be stored within an area enclosed by a wall at least six feet high. Wall material shall match the exterior of the main building. Doors to the area shall be closeable and constructed of solid materials. refuse shall not be visible from outside the enclosed area.
40. Automobile repairs shall be limited to fixing flat tires or charging batteries. No merchandise or supplies shall be stored or displayed outdoors.

41. No merchandise, material or equipment shall be stored on the roof of any building.
42. 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.
43. Prior to the issuance of building permits, construction documents shall fully illustrate compliance with the Citywide Storage Standards for Trash and Recyclable Materials of the SDMC 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 January 15, 2002, on file in the Development Services Department.
44. When operations are discontinued at the automobile service station for a period approaching 24 months, the Permittee has the following options:
 - a. Apprise the Development Services Department that the Coastal Development Permit/Site Development Permit should be rescinded. In this case, all buildings and structures not conforming to the underlying zone/planned district regulations, including underground tanks, shall be removed.
 - b. Redevelop the property as a service station through an amended Coastal/Site Development Permit, as set forth in the Municipal/Land Development Code.
 - c. Resume use as a service station under this permit.

If none of the above options are taken by the Permittee, and operations remained discontinued beyond the 24-month period, the City may initiate proceedings to rescind the permit and require removal of the structures.

45. In the event that the gasoline sales service facility is abandoned or vacated for a continuous period of two years, the property owner shall cause to have all structures, buildings, signs and other related accessory uses related to the gasoline service station and other potentially hazardous conditions, removed from the premises. Underground fuel storage tanks shall also be removed from the premises or capped satisfactory to the Fire Department.

LANDSCAPE REQUIREMENTS:

46. No change, modification or alteration shall be made to the project unless appropriate application or amendment of this Permit shall have been granted by the City.
47. Prior to issuance of any construction permits for structures, complete landscape and irrigation construction documents consistent with the Landscape Standards shall be submitted to the City Manager for approval. The construction documents shall be in substantial conformance

with Exhibits "A," Landscape Concept Plan, dated January 15, 2002, and the Existing Landscape Plan, dated May 6, 1997, on file in the Development Services Department.

48. 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.

49. The Permittee shall be responsible for the maintenance of all street trees and landscape improvements consistent with the Landscape Standards.

50. 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 30 days of damage or Certificate of Occupancy.

51. Additional landscape shall be added to the area adjacent to the southwest elevation of the carwash facility in the form of medium height shrubs and/or vines that will cover a minimum of 50% of the exterior wall area, to the satisfaction of the Land Development Review Senior Landscape Planner.

POSTING REQUIREMENT:

52. A copy of this permit shall be posted on the premises of the service station at all times and be available for viewing by any person or persons who may desire to see the document.

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 90 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 January 15, 2002, by Resolution No. R-295960.

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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.

OWNERS:

John M. Percival

John A. Percival

Francis M. Smith

Lawrence W. Percival

PERMITTEE:

K.A. La Jolla, LLC

By _____

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

1/24/02
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