

RESOLUTION NUMBER R-296615

ADOPTED ON JUNE 4, 2002

WHEREAS, 44th and El Cajon, LLC, Owner/Permittee, filed an application with the City of San Diego for a permit to demolish two retail business structures and a single dwelling unit; vacate an alley; and construct a 15,943 square-foot, 24-hour drugstore with a single-lane drive-thru pharmacy on a 45,302 square-foot lot known as the Sav-on Drug Store project, legally described as Lots 1, 2, & 3 in Block 3 of the Orangewood subdivision, Map No. 1293; and the north 101.2 feet of Lots 1 & 2 of the Orchard Villa subdivision, Map No. 1332, in the Kensington-Talmadge Community of the Mid-City Communities Planning area, in the CU-2-4 and CT-2-4 zones; and

WHEREAS, on April 25, 2002, the Planning Commission of the City of San Diego considered Planned Development Permit [PDP] No. 5921, and pursuant to Resolution No. 3257-PC voted to recommend City Council approval of the permit; and

WHEREAS, the matter was set for public hearing on June 4, 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 Planned Development Permit No.5921:

1. The proposed development will not adversely affect the applicable land use plan. The Mid-City Community Plan for Kensington-Talmadge currently designates the project site for Commercial and Commercial/Residential purposes. The land is zoned CU-2-4 (commercial central urbanized; heavy commercial and limited industrial uses) and CT-2-4 (commercial transition zone; heavy commercial and limited industrial uses with residential uses). The property is surrounded by multi-family housing to the north and commercial businesses to the west, east

and south. The project proposes a Sav-on drive-thru drugstore, a commercial use, and, therefore, conforms with the "Commercial and Community/Residential Transition Zone" land use designation, and would not adversely affect the General Plan or the Community Plan. The Sav-on project is suitable for the project site because of its access from, and location on the corner of a four-lane, heavily traveled circulation corridor (El Cajon Boulevard). The Sav-on drugstore would provide both a visual and noise buffer between the El Cajon Boulevard and adjacent residential development.

2. The proposed development will not be detrimental to the public health, safety and welfare. The environmental document for this project (Mitigated Negative Declaration LDR No. 41-0589) has determined that, the proposed project, would not have a significant effect on the environment, and therefore, would not be detrimental to the health, safety, and general welfare of persons residing or working in the area. Potential water quality effects are mitigated by permit conditions that would require the applicant to vacuum-sweep the parking lot on a weekly basis and steam clean the lot three times a year. The permit would require the pressure washing/steam cleaning system to collect and prepare the water for appropriate disposal. No wastewater associated with this operation will be discharged into the public drainage system.

3. The proposed development will comply with the regulations of the Land Development Code. The project design would be consistent with the relevant regulations for this site per the Municipal Code including design standards and development regulations required under the Planned Development Permit process. The project as designed would create parking areas and access drives that would avoid conflicts with internal pedestrian circulation, street systems and adjacent properties. The project would also comply with the land use designation, densities, and design standards of the adopted Mid-City Communities Plan. Maximum Building Height and Floor Area Ratio are observed. Finally, the proposed permit conditions would assure compliance with the Municipal Code. Therefore, the proposed use would comply with the relevant regulations and the Municipal Code in effect for this site.

4. The proposed development, when considered as a whole, will be beneficial to the community. The Sav-on drugstore would fulfill a community need by providing convenient commercial development which will meet the shopping needs of surrounding residential development. The project would provide convenient commercial and medicinal services to the community accessible 24-hours a day. In addition, the Sav-on drugstore would provide customers with expedient access to prescription drugs by offering drive-thru window service.

5. Any proposed deviations pursuant to San Diego Municipal Code [SDMC] 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 deviations for this location are appropriate given the existing conditions of the site. The existing one-story commercial structure on the corner of Highland Avenue and El Cajon Boulevard that is not part of the proposed project, limits the physical layout of the drugstore proposal. In addition, if the drugstore were designed to eliminate the deviations and strictly comply with the Land Development Code setback and pedestrian access requirements, the resulting building layout would reduce parking to below required levels

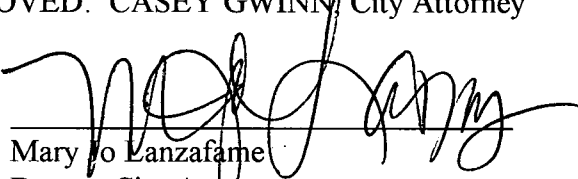
and conflict with ingress and egress to the drugstore and drive-thru feature of the design. Therefore, the requested deviations are appropriate for this location and will result in a more desirable project than would be achieved if designed in strict conformance with the development regulations of the applicable zone.

The 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. 5291 is granted to 44th & El Cajon, 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:pev
7/25/02
Or.Dept:Clerk
R-2002-1782
Form=permitr.frm
Reviewed by Morris Dye

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 NO. 5921
SAV-ON DRUGSTORE EL CAJON BOULEVARD (MMRP)
CITY COUNCIL

This Planned Development Permit No. 5921 is granted by the City Council of the City of San Diego to 44th and El Cajon, LLC , Owner/Permittee, pursuant to the Land Development Code of the City of San Diego. The 1.04-acre site is located in the CU-2-4 and CT-2-4 zones, in the Kensington-Talmadge Community of the Mid-City Communities Planning Area. The project site is legally described as Lots 1, 2, & 3 in Block 3 of the Orangewood subdivision, Map No. 1293; and the north 101.2 feet of Lots 1 & 2 of the Orchard Villa subdivision, Map 1332.

Subject to the terms and conditions set forth in this permit, permission is granted to Owner/ Permittee to demolish two retail business structures and a single dwelling unit; to vacate an alley; and construct a 15,943 square-foot drugstore with single-lane drive-through pharmacy on a 45,302 square-foot lot described as, and identified by size, dimension, quantity, type and location on the approved Exhibit "A," dated June 4, 2002, on file in the office of the Development Services Department. The facility shall include:

- a. Demolition of two retail business structures and a single dwelling unit;
- b. Vacation of an alley;
- c. Construction of a 15,943 square-foot 24-hour drugstore with single-lane drive-thru pharmacy;
- d. Landscaping (planting, irrigation and landscape related improvements);
- e. Off-street parking facilities; and

 - 296615

- f. 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 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 San Diego Municipal Code [SDMC]/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 agency.
 6. The Owner and/or 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.
 7. The issuance of this Permit by The City of San Diego does not authorize the Permittee for this permit to violate any Federal, State or City laws, ordinances, regulations or policies including,

but not limited to, the Endangered Species Act of 1973 [ESA] and any amendments thereto (16 U.S.C. § 1531 et seq.).

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 4, 2002, on file in the office of 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 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 the special rights which the holder of the Permit is entitled to as a result of obtaining this Permit. It is the intent of the City that the Owner/Permittee 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/Permittee of the property be allowed the special and extraordinary rights conveyed by this Permit, but only if the Owner complies with all the conditions of this Permit.

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 Permittee shall comply with the Mitigation, Monitoring and Reporting Program (MMRP) as specified in Mitigated Negative Declaration, PTS Project No.1960, to the satisfaction of the City Manager and City Engineer. Prior to issuance of any grading permits and/or building permits, mitigation measures as specifically outlined in the MMRP shall be implemented for water quality.

ENGINEERING REQUIREMENTS:

11. Prior to the issuance of any building permits, the applicant shall assure by permit and bond the closure of non-utilize driveways with City standard curb, gutter and sidewalk, along the project frontage on 44th Street and Highland Avenue, satisfactory to the City Engineer.

12. Prior to the issuance of any building permits, the applicant shall assure by permit and bond the installation of one 30-foot wide driveway on 44th Street and one 30-foot wide driveway on Highland Avenue per Standard Drawings G-14A, G-16 and SDG-100, satisfactory to the City Engineer.
13. Prior to the issuance of any building permits, the applicant shall assure by permit and bond the replacement of any damaged sidewalk with City standard sidewalk, along the project frontage on 44th Street, El Cajon Boulevard and Highland Avenue, per Standard Drawings G-7, G-9 and G-10, satisfactory to the City Engineer.
14. Prior to the issuance of any building permits, the applicant shall assure by permit and bond the replacement of existing curb with City standard curb and gutter, along the project frontage on 44th Street, El Cajon Boulevard and Highland Avenue, per Standard Drawings G-2 and SDG-100, satisfactory to the City Engineer.
15. Prior to the issuance of any building permits, the applicant shall dedicate an additional 3.5 feet right-of-way, along the project frontage on Highland Avenue, to provide the required 10-foot curb-to-propertyline distance, satisfactory to the City Engineer.
16. Prior to building occupancy, the applicant shall conform to the SDMC, "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.
17. 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.

RIGHT-OF-WAY REQUIREMENTS:

18. Prior to the issuance of any building permits the Owner and/or Permittee shall submit to the City of San Diego letters from San Diego Gas And Electric, Pacific Bell and Cox Cable indicating that they have no further objection to the alley vacation.

LANDSCAPE REQUIREMENTS:

19. No change, modification or alteration shall be made to the project unless appropriate application or amendment of this Permit has been granted by the City. All plan specifications and notes mentioned in the conditions below shall be consistent with the Land Development Code section 142.0401 and Landscape Standards, Exhibit "A," Landscape Development Plan, dated

June 4, 2002, on file in the Development Services Department, Details and Notes on file in the Development Services Department

20. All required landscape plant materials shall be maintained in a disease, weed and litter free condition at all times. Severe pruning or "topping" of trees is not permitted. The trees shall be maintained in a safe manner to allow each tree to grow to it's mature height and spread.
21. The Permittee or subsequent Owner shall be responsible for the maintenance of all street trees and landscape improvements consistent with the Landscape Standards.
22. If any required landscape improvements (including, but not limited to, existing or new planning, hardscape, landscape features) are damaged or removed during demolition or construction, they shall be repaired or replaced in kind and equivalent size per the approved documents to the satisfaction of the City Manager, within thirty days of damage and prior to any Certificate of Occupancy.
23. Prior to issuance of any Certificate of Occupancy, it shall be the responsibility of the Permittee or subsequent Owner to install all required landscape improvements and obtain all required landscape inspections. A No Fee Street Tree Permit, shall be obtained for the installation, establishment and on-going maintenance of all street trees.
24. In the event that a Foundation Only permit is requested by the Permittee or subsequent Owner, a staking layout plan identifying all landscape areas shall be submitted to the City Manager for approval. These landscape areas shall be clearly identified with a distinct symbol, noted with dimensions and labeled as "Planting Area (PA)."
25. Prior to issuance of any construction permits for structures (including shell), complete landscape and irrigation plans, details and specifications (including maintenance specifications), shall be submitted to the City Manager for approval.
26. Prior to issuance of any engineering permits for grading, temporary erosion control plans for hydroseeding of all disturbed land including irrigation shall be submitted in accordance with the Landscape Standards and to the satisfaction of the City Manager.

PLANNING REQUIREMENTS:

27. Transparency shall be clear glass visible into the commercial use or window displays may be used.

TRANSPORTATION REQUIREMENTS:

28. A minimum of thirty-four off-street parking spaces shall be permanently maintained on the property within the approximate location shown on the project's Exhibit "A," dated June 4, 2002, on file in the Development Services Department. Further, all parking stalls and aisle widths shall be in compliance with requirements of the City's Land Development Code, and shall not be converted and/or utilized for any other purpose, unless otherwise authorized in writing by the City Manager.

29. Project shall comply 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.

WATER REQUIREMENTS:

30. Prior to the issuance of any building permits, the Owner/Permittee shall assure, by permit and bond, the design and construction of new water service(s), and the removal of existing unused services fronting the project site in a manner satisfactory to the Water Department Director and the City Engineer.

31. The Owner/Permittee shall install fire hydrants at locations satisfactory to the Fire Department and the City Engineer.

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

33. The Owner/Permittee agrees to design and construct all proposed 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.

APPROVED by the City Council of the City of San Diego on June 4, 2002, by Resolution No. RR-296615.

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.

44TH AND EL CAJON, LLC
Owner/Permittee

By _____

By _____

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

R- 296615