

53  
(J)  
3/20/07

ORDINANCE NUMBER O- 19594 (NEW SERIES)

DATE OF FINAL PASSAGE MAR 27 2007

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SAN DIEGO REPEALING CHAPTER 10, ARTICLE 3, DIVISION 11, OF THE SAN DIEGO MUNICIPAL CODE, AND AMENDING CHAPTER 15, BY ADDING ARTICLE 17, DIVISION 1 TITLED "GENERAL RULES," SECTIONS 1517.0101, 1517.0102, 1517.0103 AND 1517.0104; DIVISION 2 TITLED "PERMITS AND PROCEDURES," SECTIONS 1517.0201, 1517.0202, 1517.0203, 1517.0204 AND 1517.0205; DIVISION 3 TITLED "ZONES AND SUBDISTRICTS," SECTIONS 1517.0301, 1517.0302, 1517.0303, 1517.0304, 1517.0305 AND 1517.0306; DIVISION 4 TITLED GENERAL AND SUPPLEMENTAL REGULATIONS," SECTIONS 1517.0401, 1517.0402, 1517.0403 AND 1517.0404, ALL RELATING TO THE OTAY MESA DEVELOPMENT DISTRICT.

BE IT ORDAINED, by the Council of the City of San Diego, as follows:

Section 1. That Chapter 10, Article 3, Division 11, is repealed, and Chapter 15 of the San Diego Municipal Code is amended by adding Article 17, Division 1, Sections 1517.0101, 1517.0102, 1517.0103 and 1517.0104, to read as follows:

**Article 17: Otay Mesa Development District**

**Division 1: General Rules**

**§1517.0101 Purpose and Intent**

The purpose of the Otay Mesa Development District Ordinance is to create and promote the development of the City's largest and potentially most significant industrial area. It is also the purpose of the Otay Mesa Development District Ordinance to control the use, development intensity, and development design of a primarily industrial area which includes a large commercial subdistrict and a border station mixed use subdistrict. An objective of the Otay Mesa Development

District Ordinance is to expedite the processing of development permit applications.

It is intended that this District will provide for a full range of industrial uses emphasizing base sector manufacturing and also including wholesaling and distribution, assembly operations, and necessary support services. Because of its location adjacent to the international border, its accessibility to Mexico, and its abundance of large, readily developable parcels, Otay Mesa is a unique area. It has the potential of becoming a major industrial center, not only in San Diego County, but also in the southwestern United States. It is situated near, and accessible to the Mesa de Otay industrial complex in Tijuana B.C.; Mexico. It is intended that the Otay Mesa Development District provide the necessary facilities and services to complement the Otay Mesa border crossing. It is also intended that the Otay Mesa Development District Ordinance provide commercial use types necessary to support both the industrial area and the border crossing.

The Otay Mesa Development District Ordinance provides for, and encourages, agricultural activities as an interim use throughout its area of applicability.

**§1517.0102 Area of Applicability**

The regulations contained in this Development District Ordinance, shall apply in the Otay Mesa Development District, the boundaries of which are shown on Map Drawing No. C-855 and described in the appended boundary description filed in the office of the City Clerk under Document No. OO-17985. The Otay Mesa Development District contains approximately 3,731 acres of industrially designated land, 240 acres of commercially designated land, 239 acres of canyon

and hillside areas, 43 acres of land designated as the Brown Field Flight Activity Zones, 348 acres of land designated as the Brown Field Approach Zones, and a 450-acre Otay International Center Precise Plan Subdistrict.

**§1517.0103 Applicable Regulations**

Where not otherwise specified in the Otay Mesa Development District Ordinance, the following provisions of the Land Development Code apply:

- Chapter 11 (Land Development Procedures);
- Chapter 12 (Land Development Reviews);
- Chapter 13 (Zones);
- Chapter 14, Article 1 (Separately Regulated Use Regulations);
- Chapter 14, Article 2, Division 1 (Grading Regulations);
- Chapter 14, Article 2, Division 2 (Drainage Regulations);
- Chapter 14, Article 2, Division 3 (Fence Regulations);
- Chapter 14, Article 2, Division 4 (Landscape Regulations);
- Chapter 14, Article 2, Division 5 (Parking Regulations);
- Chapter 14, Article 2, Division 6 (Public Facility Regulations);
- Chapter 14, Article 2, Division 8 (Refuse and Recyclable Materials Storage Regulations);
- Chapter 14, Article 2, Division 12 (Sign Regulations);
- Chapter 14, Article 3 (Supplemental Development Regulations);
- Chapter 14, Article 4 (Subdivision Regulations);
- Chapter 14, Article 5 (Building Regulations);
- Chapter 14, Article 6 (Electrical Regulations); and

Chapter 14, Article 7 (Plumbing and Mechanical Regulations)

Where there is a conflict between the Land Development Code and the Otay Mesa Development District Ordinance, the Development District Ordinance applies.

**§1517.0104 Otay Mesa Development Council**

(a) Otay Mesa Development Council Created

- (1) There is hereby created an Otay Mesa Development Council which shall be composed of seven members who shall serve without compensation. The members shall be appointed by the Mayor and confirmed by the City Council. The members shall serve 2-year terms and each member shall serve until his successor is duly appointed and qualified. The members shall be appointed in such a manner that the terms of not more than four members shall expire in any one year. The expiration date shall be April 1. During April of each year, the Mayor may designate one member as Chairman; however, in the absence of such designation, the Board shall, on or after May 15, select a Chairman from among its members.
- (2) At the time of appointment and during incumbency four members shall be residents or business operators within the Otay Mesa Development District, two shall be property owners within the Otay Mesa Development District, and one member shall be appointed at large. Members of the Council shall include persons who shall be specifically qualified by reason of interest, training or experience in land development, landscape, architecture, planning,

urban design or other relevant business or profession upon the property values, and development of surrounding areas.

- (3) The Council may adopt rules of procedure to supplement those contained within this Development District. Four voting members shall constitute a quorum for the transaction of business and a majority vote; and not less than four affirmative votes shall be necessary to make any Council decision.
- (4) The City Manager or his designated representative shall serve as Secretary of the Council and as an ex-officio member and maintain records of all official actions of the Council. The Secretary shall not be entitled to vote.
- (5) All officers of the City shall cooperate with the Council and render all reasonable assistance to it.
- (6) The Council shall render a report annually on March 31, or on request, to the Mayor.

(b) Powers and Duties

It shall be the duty of the Council to review and comment on the Facilities Benefit Assessment Program and on major public improvements, particularly drainage facilities. The Council shall submit its recommendations or comments on these items to the Planning Commission and City Council. The Council shall also recommend to the Planning Commission any changes to the regulations, provided such changes are necessary for the proper execution of the adopted plan.

The Council shall also consider items of broader scope that may affect the Otay Mesa Development District Ordinance and, when appropriate, offer its recommendations on these matters to the City Manager.

Section 2. That Chapter 15 of the San Diego Municipal Code is amended by adding Article 17, Division 2, Sections 1517.0201, 1517.0202, 1517.0203, 1517.0204 and 1517.0205, to read as follows:

**Article 17: Otay Mesa Development District**

**Division 2: Permits and Procedures**

**§1517.0201 Administrative Regulations**

(a) General Provisions

- (1) The City Manager shall administer the Otay Mesa Development District Ordinance and ensure compliance with the regulations and procedures of this Ordinance. The Otay Mesa Community Plan as presently adopted or as amended from time to time, shall also be used in reviewing any development permit applied for under this Ordinance.
- (2) The City Manager shall not issue any building permit for the erection, construction, conversion, establishment, alteration or enlargement of any building or structure in any portion of the Otay Mesa Development District until an Otay Mesa Development Permit has been obtained by the applicant or owner. Each application for a building permit or occupancy permit shall state therein the purpose for which the proposed building, structure or

improvement is intended to be used. Approval of an Otay Mesa Development District Permit is not required for interior modifications, repairs or remodeling, nor any exterior repairs or alterations for which a building permit or occupancy permit is not required.

- (3) Expansion or enlargement of previously conforming uses is not permitted in this Development District. Land Development Code Chapter 12, Article 7, Division 1 (General Review Procedures for Previously Conforming Premises and Uses) applies to previously conforming uses with the exception of those provisions which permit expansion or enlargement of a previously conforming use.

**§1517.0202 General Permit Procedures**

- (a) The following projects may be approved or denied by the City Manager in accordance with Process One, and do not require an Otay Mesa Development District Permit.
  - (1) The proposed use is consistent with the land use designation and text of the Otay Mesa Community Plan.
  - (2) The proposal is in compliance with this Ordinance, particularly Section 1517.0204 (Financing of Public Facilities), Section 1517.0301 (Permitted Uses), and Section 1517.0305 (Property Development Regulations).

- (3) The proposal is within the Otay International Center Precise Plan Subdistrict (Section 1517.0302) and meets all regulations contained therein.
  
- (b) The following projects shall be required to obtain an Otay Mesa Development District Permit in accordance with Section 1517.0203 (Otay Mesa Development District Permit):
  - (1) Any project that uses transfer of development rights and any project that uses acquired development rights.
  - (2) Any project within the Canyon and Hillside Subdistrict Section 1517.0303 (Canyon and Hillside Subdistrict).
  - (3) Any project which deviates from the regulations of this Ordinance.
  - (4) Any project which includes a hotel or motel.
  - (5) Any project for which a tentative map has not been approved subsequent to March 14, 1985 (Otay Mesa Reorganization).
  
- (c) Any development within Otay Corporate Center North (VTM 88-1144) or South (VTM 89-0302) is subject to the Otay Corporate Center Design Guidelines, which are to be used in conjunction with this Ordinance.

**§1517.0203 Otay Mesa Development District Permit**

- (a) An application for an Otay Mesa Development District Permit, including fees or deposits, shall be processed in the same manner as an application for a Site Development Permit, in accordance with Land Development Code Chapter 11, Article 2 (Required Steps in Processing) and Chapter 12, Article 6, Division 5 (Site Development Permit Procedures).



- (b) In reviewing and approving development plans, the Hearing Officer shall limit review and consideration to the following:
- (1) Landscaping, pursuant to Section 1517.0402 (Landscaping).
  - (2) Preservation of existing topography where feasible.
  - (3) Layout of site with respect to location and width of driveways and private streets.
  - (4) Orientation and location of existing and proposed structures with respect to the site and adjacent properties.
  - (5) Location of business support services, if any.
  - (6) Signs in relation to site location and fronting streets.
  - (7) Parking lot location, traffic flow, marking of spaces, placement of lighting and screening from adjacent property.
  - (8) Location of loading docks and off-street loading facilities in relation to the adjacent property.
  - (9) Outdoor storage area location and screening in relation to adjacent property, streets and highways.
  - (10) Building materials utilized for exterior walls and, when appropriate, roofs.
  - (11) Building elevations in relation to minimum yard requirements and topographical features of the premises.
  - (12) Design guidelines provided in the Community Environmental Design Element of the Otay Mesa Community Plan as presently

adopted or hereinafter amended and in Section 1517.0306 (Design Standards) and Section 1517.0404 (Special Regulations).

- (13) Environmental constraints, if any identified during site-specific review of the development proposal.
  - (14) Needed public improvements.
  - (15) The location, size and spacing of projects using business support services in combination with acquired development rights. The location, size and spacing of such projects shall be consistent with the commercial and transportation goals of the Otay Mesa Community Plan and the Progress Guide and General Plan for the City of San Diego.
- (c) An application for an Otay Mesa Development District Permit may be approved, conditionally approved or denied by a Hearing Officer in accordance with Process Three. A Hearing Officer may approve or conditionally approve an Otay Mesa Development District Permit if it is found from the evidence presented that all of the following facts exist:
- (1) The application is complete and conforms with all City regulations, policies, guidelines, design standards and density;
  - (2) The proposed use and project design meet the purpose and intent of this Ordinance and the Otay Mesa Community Plan;
  - (3) The proposed use, because of conditions that have been applied to it, will not be detrimental to the health, safety and general welfare

of persons residing or working in the area, and will not adversely affect other property in the vicinity;

(4) The proposed use will comply with the relevant regulations in the Municipal Code; and

(5) A plan for the financing of public facilities as provided in Section 1517.0204 (Financing of Public Facilities) of the Otay Mesa Development District has been approved by the City Engineer.

(d) The premises shall be developed in substantial conformance with approved development plans, and substantial conformance shall be determined by the City Manager.

(e) In approving an Otay Mesa Development District Permit, a suspension or variance of any of the Property Development Regulations, as set forth in Section 1517.0305, may be approved by the Hearing Officer, provided such suspension or variance shall be based on sufficient showing that there are special circumstances or conditions affecting the property in question, that granting suspension or variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare, and that the granting of the suspension or variance will not adversely affect the Progress Guide and General Plan of the City.

(f) Otay Mesa Development District Permits are issued to development projects and projects to operate facilities. The term "development" includes the following activities: landform alteration, grading, construction or reconstruction of buildings and parking areas, provision of

on- and off-site public facilities, and landscaping. The term "operation" includes the conduct of business on a property consistent with City codes and regulations. The applicant seeking an Otay Mesa Development District Permit that involves the development may be charged development impact fees for both permanent and interim uses. Fees may be prorated for interim uses.

- (g) The Hearing Officer's decision may be appealed to the Planning Commission in accordance with Land Development Code Section 112.0506.

**§1517.0204 Financing of Public Facilities**

- (a) Purpose and Intent

The public health, safety, and welfare require that residents in newly developing areas be adequately served with access, parks, schools, open space, libraries, fire stations and other public facilities concurrent with the need.

- (b) Financial Responsibility

All necessary public facilities shall be provided by the project applicant, either directly by the applicant or by other means such as a charge against the area within the Otay Mesa Development District in accordance with the adopted Otay Mesa Community Plan.

- (c) Financial Programs for Municipal Facilities

The Municipal Facilities required for the Otay Mesa community shall be financed through these programs:

- (1) Facilities Benefit Assessment or Development Impact Fee.
  - (A) For facilities which already exist outside of the Otay Mesa community, but which require additions or expansions to existing facilities to meet the requirements of the Otay Mesa community: i.e., police and public work facilities.
  - (B) For new facilities necessitated by the Otay Mesa community: i.e., fire station and transportation facilities.
  - (C) For facilities which extend beyond the limit of the Otay Mesa community, whose service area is also greater than the Otay Mesa community and the need for which is not solely created by the Otay Mesa community: costs for improvements so constructed may be partially offset by reimbursements from development in those service areas greater than the Otay Mesa community.
  - (D) For facilities within or without the community which are intended for the use of residents such as: street scene improvements (landscaping of the medians and right-of-way along major streets), traffic signals at the intersection of major streets, and other transportation facilities.

(2) Improvement District

An Improvement District under the provisions of state law or local procedural ordinance may be created to create assessments

against the land to generate funds to finance facilities which are related to each individual planned district area by amount of benefit received. The facilities to be provided by this improvement district may include, but not be limited to: major perimeter streets; transit improvements; both municipal and other public utilities and drainage facilities contained therein. The boundary of each improvement district will be the centerline of the bordering perimeter streets, or other applicable limit, of each individual development plan area within the Otay Mesa community as the City shall determine.

(3) On-Site Municipal Improvements

The on-site municipal facilities, those within the individual neighborhood and not provided by Sections 1517.0204(c)(1)(A) and 1517.0204(c)(1)(B), such as: streets, storm drains, and sewer, water, gas, power, and telephone utilities, will be provided by the subdivider under the conventional bonded subdivision agreement.

(4) Off-Site Municipal Improvements

The off-site municipal improvements are those outside of an individual development plan area at the time of its development and not provided under the conventional subdivision process for off-site improvements. The off-site improvements so constructed may be subject to a reimbursement agreement between the

persons who constructed the improvements and the City of San Diego.

Reimbursement pursuant to that agreement will be generated by the subdivider(s) of the subsequent development plan areas, where adjacent, and will be paid to the appropriate subdivider(s) as and when such funds are generated within the subareas covered by the reimbursement agreement.

(5) Any other programs approved by the City Council.

(6) Implementation

No final subdivision map, building permit or Otay Mesa Development District Permit for the development of the property shall be approved by the City Manager unless and until the following have been accomplished:

(A) A financing plan for all public facilities needed to support the project, as required by the Otay Mesa Community Plan, has been adopted pursuant to Council Policy 600-28.

(B) There has been established either a Facilities Benefit Assessment or a Development Impact Fee applicable to the property covered by the development plan, or a greater area, and the City Council has by resolution, set the amount of such Facilities Benefit Assessment or Development Impact Fee.

(7) Financing Agreement

The requirements of Section 1517.0204(c)(4) (Off-Site Municipal Improvements) shall be deemed to be met if the project applicant has entered into a binding financing agreement, approved by the City Council. Said agreement shall require that the project applicant pay its pro rata share of all public facilities needed to support the project.

**§1517.0205 Transfer of Development Rights Option**

(a) Purpose and Intent

The purpose of the transfer of development rights option is to provide a program in the Industrial Subdistrict whereby the owner(s) of property which have not utilized their 5 percent of gross ownership area for business support services may sell their development rights for these uses. This transfer is optional, and the negotiation shall be made exclusively between the private parties owning the subject properties.

(b) Determination of Development Rights

The development rights associated with a lot or an ownership shall herein be defined as the maximum square footage which may be transferred from one legal lot or ownership to a second legal lot or ownership, calculated on permitted area for business support services on the first legal lot or ownership

(c) Conditions for Transferring Development Rights

- (1) The owner of any property in the Industrial Subdistrict may enter into a transfer of development rights agreement.



- (2) Any property from which business support uses are transferred may utilize the vacated square footage for any other category of industrial uses permitted in the Industrial Subdistrict.
- (3) Any property to which business support uses are transferred must accommodate the acquired square footage within the permitted floor area ratio.
- (4) The transfer of development rights shall be limited to a transfer of the total 5 percent of the gross lot or ownership area. Partial transfers shall not be permitted.
- (5) Any project utilizing the transfer of development rights shall be required to obtain an Otay Mesa Development District Permit pursuant to Section 1517.0203.

(d) Registration of Development Rights

The party acquiring development rights shall register all development right transfers prior to their utilization, with the City Manager. Failure to register transfer and utilization transactions shall render the right to utilize acquired development rights null and void.

Registration shall include a copy of the contract between the property owner(s) and the development rights acquired which reflects that the contract has been recorded with the County Recorder, and which shall include:

- (1) Street address, legal description and Assessor's parcel number of the property from which the development rights are being transferred;
  - (2) Name and address of the owner(s) of the property from which the development rights are being transferred and the development rights acquired;
  - (3) Street address, legal description and Assessor's parcel number of the property to which the development rights are being transferred;
  - (4) Name and address of the owner(s) of the property to which the development rights are being transferred; and,
  - (5) Square footage of development rights transferred by the property owner(s).
- (e) Conditions for Utilizing Acquired Development Rights

Development and redevelopment projects utilizing acquired development rights shall comply with all the regulations of the Otay Mesa Development District Ordinance.

(1) Transfer Area

Development rights shall be acquired from and utilized in the Industrial Subdistrict as shown on Map Drawing No. C-680.2.

(2) Maximum Business Support Services

Acquired development rights for business support services plus permitted area for any property ownership for business support

services together may total no more than 20 percent of the gross area of the ownership which receives the development rights, and no single business support services development shall exceed 5 acres in size.

(3) Application

Applications to use acquired development rights shall be filed by the owner(s) of the property where the acquired development rights are to be used, and shall be filed concurrently with applications for permits and/or with the submittal of development plans to the City Manager.

Section 3. That Chapter 15 of the San Diego Municipal Code is amended by adding Article 17, Division 3, Sections 1517.0301, 1517.0302, 1517.0303, 1517.0304, 1517.0305 and 1517.0306, to read as follows:

**Article 17: Otay Mesa Development District**

**Division 3: Zones and Subdistricts**

**§1517.0301 Permitted Uses**

(a) Industrial Subdistrict

No building or improvement or portion thereof shall be erected, constructed, converted, established or enlarged, nor shall any premises be used except for one or more of the following purposes:

- (1) All uses permitted in the IH-2-1 zone (Land Development Code Section 131.0622 Use Regulations Table for Industrial Zones).
- (2) Research Services.

(A) Scientific research and development activities.

Administrative offices shall be permitted in conjunction with the primary use where such office use is accessory and subordinate to the primary use.

(B) Manufacturing, fabrication, and/or production of products requiring advance technology and skills and directly related to research and development activities on the premises

(C) Manufacturing of biochemical research and diagnostic compounds for scientific research and developmental testing purposes

(D) Production of experimental products, and the manufacturing of such products as may be necessary to the development of production or operating systems where such systems are to be installed and operated at another location

(E) Medical, dental, biological and X-ray laboratories

(3) General Industrial

Establishments engaged in the custom manufacturing, manufacturing, fabricating, assembly, testing, repair, servicing, and processing of a wide range of products. Administrative offices shall be permitted in conjunction with the primary use where such office use is accessory and subordinate to the primary use.

- (4) Motor Vehicles and Equipment
  - (A) Aircraft, automobile and boat repair shops
  - (B) Aircraft and accessories, sales or rental
  - (C) Boats and accessories, sales or rental
  - (D) Farm and construction vehicles, farm equipment, farm and garden supplies, sales or rental
  
- (5) Construction Sales and Service
  - (A) Equipment and tool rental establishments
  - (B) Storage yards for building materials storage contractor's plant or storage yard, concrete pipe storage, impound storage yard
  - (C) Lumber sales
  - (D) Building and building maintenance materials
  - (E) Fire-fighting equipment and supplies sales
  - (F) Swimming pools and supplies sales
  
- (6) Wholesaling, Storage and Distribution
  - (A) Storage warehouses
  - (B) Wholesale distribution of:
    - (i) Drugs, chemicals, and allied products
    - (ii) Dry goods and apparel
    - (iii) Groceries and related products
    - (iv) Electrical goods

- (v) Hardware, plumbing, and heating equipment and supplies
- (vi) Machinery, equipment and supplies
- (vii) Tobacco and tobacco products
- (viii) Beer, wine and distilled alcoholic beverages
- (ix) Paper, paper products, and kindred supplies
- (x) Furniture and home furnishings
- (xi) Fuel and ice
- (xii) Agricultural products
- (xiii) Motor vehicles and automotive equipment
- (C) Truck terminals and freight forwarding facilities.
- (D) Customs brokerage operations.
- (E) Postal services.
- (F) Truck and tractor trailer parking facilities.
- (7) Business Support Services
  - (A) These uses shall be limited to 5 percent of the gross ownership area. Projects utilizing business support service uses may be processed by using the Commercial Subdistrict Property Development Regulations contained in Section 1517.0305.
  - (B) The use of any property for business support service uses requires notice be given by certified mail to the City Manager for the purpose of recording the location and

quantities of property to be used for such purposes. Such notice shall be filed with the City Manager prior to the City Manager's approval or denial of the ministerial permit.

- (C) Business support service uses shall be the same as Commercial Subdistrict uses except that hotels, motels, and automobile and truck sales and rental agencies shall not be permitted.

(8) Major Utilities and Services

- (A) Trade schools instructing in subjects related to a use permitted within the Industrial Subdistrict
- (B) Emergency hospitals
- (C) Central electric plants
- (D) Public utility electric substations
- (E) Data processing facilities

(9) Agricultural Uses

Uses permitted in the AR-1-2 or AR-1-1 zones (Land Development Code Section 131.0322 Use Regulations Table for Industrial Zones) except for single dwelling units and churches.

(b) Commercial Subdistricts

No building or improvement or portion thereof shall be erected, constructed, converted, established or enlarged, nor shall any premises be used except for one or more of the following purposes:

- (1) Uses identified as business support uses in Section 1517.0301(a)(7) (Business Support Services)
- (2) Business and professional office uses
- (3) Labor unions and trade associations
- (4) Medical, dental, biological and x-ray laboratories
- (5) Hotels and motels
- (6) Retailing of consumer convenience goods and dispensing of consumer services from the following establishments:
  - (A) Barber shops
  - (B) Beauty shops
  - (C) Drug stores
  - (D) Recreational facilities
  - (E) Stationers
  - (F) Automobile and truck sales and rental agencies
  - (G) Automobile wash establishments
  - (H) Financial institutions (including currency exchanges)
  - (I) Photographic equipment, supplies, and film processing stores
  - (J) Restaurants and bars, including live entertainment
  - (K) Tire sale, repair and recapping establishments if entirely within an enclosed building
  - (L) Custom shops for curtains, draperies, floor covering, upholstery and wearing apparel
  - (M) Laundries if entirely within an enclosed building



(N) Lithography shops and printing establishments

(7) Within the area bounded on the north by Otay Mesa Road, on the south by Airway Road, on the west by Alisa Court (to Airway Road), all uses described in section 1517.0301(a) are also permitted.

(c) Additional Uses - Commercial and Industrial Subdistricts

Other uses shall be permitted within the Commercial and Industrial Subdistricts as follows:

- (1) Accessory uses for any of the foregoing permitted uses including signs. As specified in Land Development Code Chapter 14, Article 2, Division 12 (Sign Regulations), for sign regulatory purposes this Otay Mesa Development District shall be deemed to be an industrial zone.
- (2) Any other uses which the Planning Commission finds, in accordance with Process Four, to be similar in character to the uses enumerated in the Otay Mesa Development District Ordinance and which are clearly within the intent and purpose of the Otay Mesa Development District. The adopted resolution embodying any such finding shall be filed in the office of the City Clerk.

**§1517.0302 Otay International Center Precise Plan Subdistrict**

In the Otay International Center Precise Plan Subdistrict identified on Map Drawing No. C-680.2, the property development regulations as set forth within

the Otay International Center Precise Plan shall apply, and no building or improvement or portion thereof, shall be erected, constructed, converted, established, altered or enlarged, nor shall any premises be used except for one or more of the land uses permitted on the parcel by the Precise Plan.

**§1517.0303 Canyon and Hillside Subdistrict**

- (a) The Canyon and Hillside Subdistrict, as identified on Map Drawing No. C-680 shall be applied to properties having slopes with a natural gradient in excess of 25 percent and a minimum elevation differential of 50 feet.
- (b) All projects within this Subdistrict shall require an Otay Mesa Development District Permit (Section 1517.0201(a)(2) Administrative Regulations). The regulations contained in Land Development Code Chapter 14, Article 3, Division 1 (Environmentally Sensitive Lands Regulations) Section 1517.0305 (Property Development Regulations) shall be used in processing the Otay Mesa Development District Permit.
- (c) Permitted Uses: Industrial Subdistrict uses may be considered as appropriate uses in conjunction with processing of the Otay Mesa Development District Permit.

**§1517.0304 Brown Field Flight Activity Subdistrict and Approach Zone**

The Brown Field Flight Activity Subdistrict and Approach Zone, as identified on Map Drawing No. C-680.2, shall be applied to properties adjacent to the ends of the runways which aircraft use on either arrivals or departures.

The regulations contained in Section 1517.0305 (Property Development Regulations) and Section 1517.0404 (Special Regulations) shall be used in processing the application.

(a) Permitted Uses - Flight Activity Subdistrict

No building or improvement, or portion thereof, shall be erected, constructed, converted, established or enlarged, nor shall any premises be used except for one or more of the following purposes:

- (1) Wholesaling, storage and distribution, however, warehousing or storage of flammables, explosives, and corrosives shall not be permitted.
- (2) Agricultural uses permitted in the AR-1-1 or AR-2-1 zones (Land Development Code Section 131.0322) except for single dwelling units and churches.

(b) Permitted Uses - Approach Zones

Permitted uses in the approach zones shall be the same as the permitted uses in the underlying Industrial or Commercial Subdistricts.

(c) Federal Aviation Administration Determination Required

In addition to compliance with Section 1517.0305 (Property Development Regulations) and Section 1517.0306 (Design Standards) all proposed projects within the Brown Field Flight Activity Subdistrict and Approach Zones shall obtain a letter from the Air Traffic Division of the Western Pacific Regional Office of the Federal Aviation Administration stating

that the proposed construction has been determined not to be a hazard to air navigation and such determination has become final.

**§1517.0305 Property Development Regulations**

No building or portion thereof shall be erected, constructed, converted, established, altered, enlarged, nor shall any legal lot or premises be used unless the legal lot or premises and building comply with the following regulations and standards:

- (a) Front, rear and street side yard setbacks on all Class I roadways as identified on Map Drawing No. C-680.2 shall be 30 feet.
- (b) Two adjoining lots which have a common interior side or rear lot line and which are developed concurrently may be developed with zero side yard setbacks on said common lot line, provided that the opposite side yard setback is not less than 30 feet.
- (c) All applications for the development of buildings or objects higher than 150 feet above ground level within this district shall be required to obtain Federal Aviation Administration Determination as provided in Section 1517.0304(c).

**Table 1517-03A  
Lot Requirements**

	SUBDISTRICT	
	Industrial	Commercial Lot
Area	30,000 sq. ft.	10,000 sq. ft.
Street Frontage	100 ft. <sup>(1)</sup>	100 ft.
Lot Width	100 ft.	100 ft.
Minimum Yards		
Front Yard Setback	20 ft.	15 ft.
Interior Side Yard	15 ft.	0 ft.
Abutting residential zone	30 ft.	
Street Side Yard Setback	20 ft.	15 ft.
Rear Yard Setback	25 ft.	10 ft.
Abutting residential zone	50 ft.	
Floor Area Ratio	2.0	2.0

<sup>(1)</sup> Any lot which fronts on a turnaround or curving street having a radius of curvature of less than 100 feet, the minimum frontage shall be 60 feet.

### §1517.0306 Design Standards

(a) Building Materials and Construction Types

(1) Industrial Subdistrict

Any building using other than concrete tilt-up, precast concrete, concrete block, wood or similar materials as the basic type of construction for 75 percent of the exterior walls shall require an Otay Mesa Development District Permit.

(2) Commercial Subdistrict and Business Support Services Where Processed Ministerially

Any building using other than concrete tilt-up, precast concrete, concrete block, wood or similar materials as the basic type of construction for 75 percent of the exterior walls shall require an

Otay Mesa Development District Permit. Exterior surfaces of wood-frame constructed walls shall be wood or stucco.

(b) Wall Surface Treatment

- (1) Buildings with any single exterior wall surface area exceeding 5,000 square feet shall provide architectural reveals to break up the surfaces of individualized wall panels. Architectural reveals shall have a minimum depth of 0.75-inch and be applied to an area greater than one percent of the exterior surface area of all building walls. Building wall reliefs, appliques, and building plane variations may be substituted in place of architectural reveals at the discretion of the City Manager. Where such substitutions are provided they shall meet the same minimal dimensional requirements as architectural reveals above.
- (2) Buildings with any single exterior wall surface area exceeding 20,000 square feet, in addition to architectural reveals as required by Section 1517.0306(b)(1), shall contain variations in the exterior wall surface texture of all walls. Variations in texture may include molded patterns, painted, or sandblasted surfaces and shall be applied to the upper portion of all exterior walls. Variations in texture shall be applied so that at least 10 percent but not more than 40 percent of any applicable exterior wall surface is treated.

(c) Roofs

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 fully screened by:

- (A) The extension of the building side walls to a height no less than the highest piece of equipment or appurtenances; or
- (B) A structure whose walls or sides may include grillwork, louvers, and/or latticework.

Section 4. That Chapter 15 of the San Diego Municipal Code is amended by adding Article 17, Division 4, Sections 1517.0401, 1517.0402, 1517.0403 and 1517.0404, to read as follows:

**Article 17: Otay Mesa Development District**

**Division 4: General and Supplemental Regulations**

**§1517.0401 Fence Regulations**

- (a) Regulations governing fences and walls shall be the same as set forth in Land Development Code Chapter 14, Article 2, Division 3 (Fence Regulations).
- (b) In addition to the above, the following regulations apply:
  - (1) Chain link fences shall be vinyl coated.
  - (2) Coiled, spiraled, or rolled fencing such as razor wire or concertina wire shall not be permitted.

**§1517.0402 Landscaping**

Unless otherwise specified below, the landscape regulations of the Land Development Code Chapter 14, Article 2, Division 4, apply.

(a) Front and Street Side Yard Setbacks as described in Section 1517.0305.

- (1) Industrial Subdistrict - Front and street side yard setbacks shall be 100 percent landscaped. Driveways, pedestrian ways outside the right-of-way, and other city-required improvements are exempted from this requirement.
- (2) Commercial Subdistrict - A minimum of 75 percent of front and street side yard setbacks shall be landscaped. Driveways, pedestrian ways outside the right-of-way, and other city-required improvements are exempted from this requirement.
- (3) Properties with front, rear and street side yard setbacks that are adjacent to Class I roadways identified and designated on Map Drawing No. C-680.2 shall landscape 100 percent of the required minimum yard setback area. Where any portion of a building is set back more than 30 feet from the right-of-way, an equal reduction in the depth of the 100 percent landscaped yard setback will be permitted; however, in no instance shall the 100 percent landscaped yard setback be less than 20 feet. Where the yard setback adjacent to the right-of-way on Class I roadways is reduced to less than 30 feet the portion that is not required to be



landscaped may be used for parking or a combination of parking and driveways.

(b) Interior Side and Rear Yards - Industrial and Commercial Subdistricts

(1) A 5-foot-wide landscape strip shall be planted in all interior side yard setbacks from the front or street side yard to a point 5 feet beyond the front or street side of the building.

(2) Developments that utilize the zero side yard setback option described in Section 1517.0305 shall not be required to landscape the common interior side yard setback area unless said area is used for parking.

(c) Parking Areas

An area equivalent to 3 percent of the parking area shall be landscaped within the parking area.

(d) Points

(1) Front, street side, and interior side yards shall be planted with a combination of trees and shrubs to achieve a minimum of .025 points per square foot of total area.

(2) Parking areas shall be planted with a combination of trees and shrubs to achieve a minimum of .015 points per square foot of total area.

(3) The point schedule in Table 1517-04A shall be used:

**Table 1517-04A**  
**Point Schedule**

	Points
<b>Trees</b>	
48-inch box	100
36-inch box	55
24-inch box	30
15- gallon	10
5-gallon	3
<b>Shrubs</b>	
15-gallon	10
5-gallon	4
1-gallon	2
<b>Existing Trees in Required Landscape Areas</b>	
8-inch caliper or greater	120
4-8 inch caliper	100

(e) Maintenance

All required landscaped areas shall be maintained free of debris and litter and all plant material shall be maintained in a healthy growing condition. Diseased or dead plant material shall be satisfactorily treated or replaced within 30 days with material of an equivalent point value.

(f) Irrigation

An automatic irrigation system shall be provided as required for proper irrigation, development and maintenance of the vegetation. The design of the system shall provide adequate support for the vegetation selected.

(g) Landscape Application Procedures

- (1) Permit applications shall be accompanied by a site plan and supplementary information required to establish that all landscaping shall be developed in conformance with the Landscape Guidelines of the Land Development Manual.

- (2) At the time of an application for a certificate of occupancy, the applicant will provide verification that the landscape improvements are in conformance with the approved landscape plan and in conformance with the Landscape Guidelines of the Land Development Manual.
- (3) If, at the time of an application for a certificate of occupancy, the required landscaping is not yet in place, the City Manager may, at his discretion, require the owner to make fiscal arrangements by bond, certificate of deposit, or a nonrevocable letter of credit to ensure that the landscaping is installed. This option shall be considered by the City Manager only in cases when demonstrated extenuating circumstances prevent the installation of landscape improvements before the issuance of the occupancy permit. The fiscal arrangements shall reflect the cost of required landscaping not yet in place to ensure that such landscaping is installed. Any owner wishing to make such fiscal arrangements must also grant license to the City or its licensed and contracted agent, to enter upon the land for the purposes of installing the required landscaping, in the event that such landscaping is not in place by the date specified in the agreement. Such fiscal arrangements shall be released when landscape improvement verification is received.

**§1517.0403 Parking Regulations**

- (a) Every premises used for one or more of the permitted uses listed in Section 1517.0301 shall be provided with minimum off-street parking accommodations on the same premises or on a lot or premises lying within 500 feet horizontal distance from the premises on which the permitted use or uses are located, in accordance with Land Development Code Chapter 14, Article 2, Division 5 (Parking Regulations).
- (b) The alteration or conversion of any property which results in increasing the need for parking facilities shall require that an agreement or covenant be executed by the owners of the affected properties. Such agreement or covenant shall be recorded in the office of the County Recorder and a copy filed with the City Manager.
- (c) The land used for required off-premises parking shall be owned or controlled by the owner or owners of the use requiring the off-premises parking. In this connection, the owner or lessee of record of the off-premises parking site shall furnish evidence satisfactory to the City Manager that he owns or has sufficient interest in such property to provide the off-premises parking required by this section.
- (d) Where off-premises parking is to be provided on property owned or controlled by a person other than the applicant, there shall have been recorded in the office of the County Recorder an agreement or covenant executed by the owners of such property on which the off-premises parking is proposed for the benefit of the City to the effect that the owners

will continue to maintain such parking space so long as the off-premises parking is required by this Code. Such agreement or covenant will also recite that this title to and the right to use the lots upon which the parking spaces are to be provided will be subservient to the title to the premises where the primary use which it serves is situated and shall warrant that such lots are not and will not be made subject to any other agreement or covenant or contract for such use without the prior written consent of the City. In the event the owners of such use shall thereafter provide parking space equal in area under the same conditions as to ownership upon another lot other than the premises made subservient in a prior such agreement or covenant, the City will upon written application therefore accompanied by the filing of a similar agreement or covenant, release such original subservient premises from such prior covenant.

- (e) The owners shall furnish, at their own expense, such title reports or other evidence as the City may require to insure compliance with the provisions of this section.
- (f) Off-premises parking spaces required by this section shall be maintained so long as they are required by the provisions of this section. In no event shall off-premises parking facilities which are provided to meet the requirements of this section be considered as providing any of the required spaces for any other structure or use.
- (g) Where ambiguity exists in the application of these off-street parking requirements or when any use not specified in Section 1517.0301 is found

by the Planning Commission to be a permitted use in accordance with Section 1517.0301(c)(2), the off-street parking requirements shall be determined by the City Manager.

(h) Driveway Widths and Locations

Driveway width and spacing shall be in conformance with Land Development Code Section 142.0560.

**§1517.0404 Special Regulations**

(a) All uses, except storage, loading and outdoor work, shall be conducted entirely within an enclosed building. Outdoor work; storage of merchandise, material, and equipment is permitted in interior side or rear yards, provided the area is completely enclosed by sight obscuring walls, fences, or a combination thereof.

(b) Lighting

(1) Lighting in all subdistricts of the Otay Mesa Development District shall comply with Land Development Code Section 142.0740.

(2) In addition, where attached to buildings, lighting fixtures and structures shall be architecturally integrated into the building.

(c) Glazing - Silver colored reflective glass shall not be permitted.

(d) Screening

(1) All storage and outdoor work areas shall be screened with sight-obscuring walls or fences from public rights-of-way and neighboring properties. All walls and fences shall be constructed

of materials and finishes that are compatible with adjacent buildings.

- (2) Storage shall not be permitted within required front or street side yard setback areas, or in rear yards that are adjacent to the right-of-way.
- (3) Refuse containers shall be screened with 6 feet or higher sight-obscuring walls or fences and shall be located at least 25 feet from pedestrian building entries and entry drives.
- (4) Exterior facilities such as plumbing, heating, cooling, electrical, chemical processing, compressors, motors, and incinerators shall be screened with sight-obscuring walls or fences.

(e) Off-street Loading Facilities

Loading or unloading facilities shall be so sized and located so that they do not require trucks to be located in required front or street side yards during loading and unloading activities.

(f) On-site Access and Circulation

- (1) Properties within the Commercial Subdistrict may take access onto Otay Mesa Road and Airway Road by providing an additional traffic lane in front of all commercial properties as approved by the City Engineer.
- (2) Where the maneuvering of trucks and service vehicles may conflict with employee pedestrian circulation, pedestrian accessways shall be clearly marked and identified.

(g) Signs

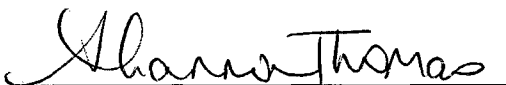
Signs in all Subdistricts of the Otay Mesa Development District shall comply with Land Development Code Chapter 12, Article 2, Division 12 (Sign Regulations).

Section 5. That a full reading of this ordinance is dispensed with prior to its final passage, a written or printed copy having been available to the City Council and the public a day prior to its final passage.

Section 6. That this ordinance shall take effect and be in force on the thirtieth day from and after its final passage.

Section 7. That this activity is not a project and is therefore not subject to California Environmental Quality Act [CEQA] pursuant to State CEQA Guidelines Section 15060(c)(3).

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By   
Shannon M. Thomas  
Deputy City Attorney

SMT:als  
01/18/07  
Or.Dept:DSD  
O-2007-82  
MMS#3987



I hereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at this meeting of MAR 20 2007.

ELIZABETH S. MALAND  
City Clerk

By *Sara Richardson*  
Deputy City Clerk

Approved: 3-27-07  
(date)

*JSL*  
JERRY SANDERS, Mayor

Vetoed: \_\_\_\_\_  
(date)

\_\_\_\_\_  
JERRY SANDERS, Mayor