

ORDINANCE NUMBER O- 19597 (NEW SERIES)

53 (M)

DATE OF FINAL PASSAGE MAR 27 2007

3/20/07

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SAN DIEGO REPEALING CHAPTER 10, ARTICLE 3, DIVISION 14, OF THE SAN DIEGO MUNICIPAL CODE, AND AMENDING CHAPTER 15, BY ADDING ARTICLE 4, DIVISION 1 TITLED "GENERAL RULES," SECTIONS 154.0101, 154.0102, 154.0103, AND 154.0104; DIVISION 2 TITLED "PERMITS AND PROCEDURES," SECTIONS 154.0201, 154.0202, 154.0203, 154.0204, 154.0205 AND 154.0206; DIVISION 3 TITLED "ZONING AND SUBDISTRICTS," SECTIONS 154.0301, 154.0302, 154.0303 AND 154.0304; DIVISION 4 TITLED "GENERAL AND SUPPLEMENTAL REGULATIONS," SECTIONS 154.0401, 154.0402, 154.0403, 154.0404, 154.0405 AND 154.0406, ALL RELATING TO THE CASS STREET COMMERCIAL PLANNED DISTRICT.

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

Section 1. That Chapter 10, Article 3, Division 14 is repealed, and Chapter 15 of the San Diego Municipal Code is amended by adding Article 4, Division 1, Sections 154.0101, 154.0102, 154.0103 and 154.0104, to read as follows:

**Article 4: Cass Street Commercial Planned District**

**Division 1: General Rules**

**§154.0101 Purpose and Intent**

The purpose of the Cass Street Commercial Planned District is to retain the existing mix of residential and commercial uses on Cass Street, and to provide for establishments catering to the lodging, dining, shopping and service needs of the adjacent single-family and multi-family residential neighborhoods with the inclusion of adequate parking facilities. This Planned District is intended to encourage a pedestrian-oriented scale and aesthetically pleasing environment that is compatible with the surrounding single-family and multi-family residential development.

**§154.0102 Boundaries**

The regulations in Chapter 15, Article 4, shall apply along the commercial areas of Cass Street within the boundaries of the Pacific Beach Community Planning Area designated on that certain Zone Map Drawing No. B-3741 filed in the office of the City Clerk under Document No. OO-16543.

**§154.0103 Applicable Regulations**

Where not otherwise specified by the Cass Street Commercial Planned District Ordinance, the following chapters 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 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 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 this Planned District, the Cass Street Commercial Planned District applies.

**§154.0104 Definitions**

**Auto repair facilities** - means establishments which provide services for the maintenance and repair of automobiles.

**Live entertainment** - means entertainment provided by performers appearing in person.

Where there is a conflict between the Land Development Code and this Planned District, the Cass Street Commercial Planned District applies.

Section 2. That Chapter 15, Article 4, Division 2 of the San Diego Municipal Code is amended by adding Sections 154.0201, 154.0202, 154.0203, 154.0204, 154.0205, and 154.0206, to read as follows:

**Article 4: Cass Street Commercial Planned District**

**Division 2: Permits and Procedures**

**§154.0201 Activities Regulated**

No building, structure or improvement or portion thereof shall be erected, constructed, converted, demolished, established, altered or enlarged, nor shall the use of any building or structure be changed, nor shall any building, structure or improvement be used or occupied unless it shall comply with the requirements of this Planned District.

**§154.0202 Approval Required Before Issuance of Permit**

- (a) The City Manager shall not issue any permit for the installation of fixtures or equipment, or for the erection, construction, conversion, demolition, establishment, alteration or enlargement of any building, structure or improvement, or for the occupancy of any building or structure in the Cass Street Commercial Planned District until approval of the appropriate decision-maker has been obtained by the applicant or owner. Each application for a planned district permit shall state therein the purpose for which the proposed building, structure or improvement is intended to be used.
- (b) A permit is not required for interior modifications or repairs, nor any exterior repairs or maintenance for which a building permit is not required, unless otherwise specified by the provisions of this planned district.

**§154.0203 Procedures and Fees**

An application for the permits listed in Section 154.0204 shall be filed in accordance with Land Development Code Chapter 11, Article 2, (Required Steps in Processing). The contents of application shall include the following:

- (a) The purpose for which the proposed building, structure or improvement, or portion thereof, is intended to be used. The proposed uses shall be specified according to each building level;
- (b) Fully dimensioned plans and specifications (plot plan) indicating dwelling unit density, uses and gross square footage, lot area, lot coverage, floor

area, lots, landscaping and surfaced or paved areas (existing and proposed, on-site and on public right-of-way); off-street parking areas, and traffic circulation. The plans shall include any proposals that will require an encroachment permit on the public right-of-way;

- (c) Fully dimensioned plans and specifications for the buildings and improvements showing the exterior elevations, height, architectural detailing, roof designs, materials and color and existing adjacent structures, including exterior treatments, materials and colors;
- (d) Fully dimensioned plans and specifications for any accessory buildings, court yards, fences/walls, setbacks, view corridors, grading, signs, outdoor lighting, pedestrian areas, street furniture, and traffic and/or pedestrian circulation;
- (e) Any other information deemed necessary by the City Manager to judge compliance with the regulations contained herein and other applicable laws and regulations; and
- (f) No building or improvement, or portion thereof, shall be erected, constructed, converted, established, altered or enlarged, except in accordance with such plans as have been submitted and approved in accordance with these regulations.

**§154.0204 Decision Process**

- (a) Administrative Review
  - (1) Projects that meet these Planned District regulations, and are not subject to other discretionary decisions, may be approved or denied

by the City Manager in accordance with Process One. Projects that require the issuance of variations from the regulations contained in this Division, or require discretionary review, are subject to Section 154.0204(b).

- (2) Improvements requiring an encroachment permit shall be reviewed by the City Manager and the encroachment permit may be approved or denied, in accordance with Process One, by the City Engineer.
- (3) The City Manager may conduct further review and approve or deny an application for an exception from the provisions of the Cass Street Commercial Planned District in accordance with Process Two, when the application is for limited relief in the case of new construction or remodeling which would result in a finished project (all structures on the premises) deviating 20 percent or less from applicable development regulations pertaining to: required yards or setbacks, or facade offsets. However, the City Manager shall require additional landscaping that may be feasible placed on the site or parkway according to City-wide landscape standards, and/or other architectural features or improvements. The City Manager shall in no case provide Administrative Review or approve an application for an exception from floor area ratio, height, density, amount of parking, or use. The decision of the City Manager shall be based upon substantial conformance with the

regulations and the Purpose and Intent of the Cass Street Commercial Planned District. The granting of a deviation shall be for the purpose of providing design flexibility resulting in a project which benefits surrounding properties and the community. The City Manager's decision may be appealed to a Hearing Officer in accordance with Land Development Code Section 112.0504.

(b) Cass Street Commercial Development Permit

- (1) Except as set out in Section 154.0204(b)(3), requests for variances, conditional use permits, Special Use Permits, other special permits, final or parcel maps, or other City discretionary permits, shall be acted upon in accordance with the applicable provisions of the Land Development Code.
- (2) The decisionmaker may approve the request if a set of specific written findings can be made that the request is consistent with this Planned District's purpose and intent and is the basis for his/her decision. The written findings shall identify the benefits and impacts to the community.
- (3) Public improvements and encroachment permits shall be reviewed by the City Manager and City Engineer for consistency with this Planned District. These permits are subject to approval by the City Engineer and may be appealed under the provisions of the Land Development Code.

**§154.0205 Special Use Permits**

A Special Use Permit (SUP) is required for certain specified uses in the Cass Street Commercial Planned District, and for all other applicable discretionary development permits required by this Code such as conditional use and planned commercial development permits located within the boundaries of the Cass Street Commercial Planned District. An application for a SUP may be approved, conditionally approved or denied by a Hearing Officer in accordance with Process Three. The Hearing Officer's decision may be appealed to the Planning Commission in accordance with Land Development Code section 112.0506. The Hearing Officer may approve the application for a SUP if the following specific findings can be made:

- (a) The project is consistent with the purpose and intent of the Cass Street Commercial Planned District;
- (b) The project is consistent with the property and building development regulations of the Cass Street Commercial Planned District; and
- (c) The project is consistent with all of the standards of the Planned District.

**§154.0206 Permit Time Limits and Time Extension**

- (a) A valid permit approved under this Planned District shall expire and become void 36 months after the Date of Final Action of the permit if the permit is not utilized in the manner set forth in Land Development Code Sections 126.0108 and 126.0109.
  - (1) The applicant shall submit documentation showing that due to an unusual economic hardship beyond his/her control, the project



could not be financed, and therefore the permit option could not be exercised in a timely fashion; and

(2) Development regulations have not changed, so that the prior approval is still consistent with existing regulations.

(b) The expiration date of a valid permit approved under this Planned District may be extended in accordance with Land Development Code section 126.0111.

Section 3. That Chapter 15, Article 4, Division 3 of the San Diego Municipal Code is amended by adding Sections 154.0301, 154.0302, 154.0303 and 154.0304, to read as follows:

**Article 4: Cass Street Commercial Planned District**

**Division 3: Zoning and Subdistricts**

**§154.0301 Permitted Uses**

In the Cass Street Commercial Planned District, no building or improvement, or portion thereof, shall be altered, constructed, converted, demolished, erected, established, or enlarged, nor shall any premises be used except for one or more of the following purposes; provided, however, that no premises shall contain a single establishment exceeding a total of 5,000 square feet in gross floor area; and further provided, that no premises shall contain auto repair services, live entertainment or funeral parlors unless approved pursuant to a Special Use Permit. Business and professional offices may be permitted on the ground floor in accordance with the provisions of ~~Section 154.0301(f)~~. Building occupancy shall be limited to those uses identified in Sections ~~154.0301(a)~~ through ~~154.0301(k)~~ in accordance with the provisions of those paragraphs.

- (a) Hotels and motels
- (b) Residential and apartment development to a maximum density of one dwelling unit per 1,500 square feet of lot area, except that this density may be exceeded in conjunction with a density bonus for the provision of affordable housing pursuant to Land Development Code Chapter 14, Article 3, Division 7 (Affordable Housing Density Bonus Regulations)
- (c) Retailing goods and services from the following establishments except drive-through facilities:
  - (1) Antique shops
  - (2) Apparel shops
  - (3) Art stores and art galleries
  - (4) Automobile repair services by Special Use Permit only, as provided in Section 154.0301(g)
  - (5) Bakeries
  - (6) Barber shops
  - (7) Bars, excluding live entertainment, except as provided in Section 154.0301(h)
  - (8) Beauty shops
  - (9) Bicycle shops, including rental and repair
  - (10) Book stores
  - (11) Confectioners
  - (12) Curtain, drapery and upholstery shops
  - (13) Delicatessens

- (14) Dry cleaning establishments (no truck delivery or finished cleaning)
- (15) Drug stores
- (16) Florists
- (17) Food stores
- (18) Gift shops
- (19) Greeting card shops
- (20) Gymnasiums, where equipped for physical fitness activities and athletic training programs
- (21) Hardware stores including the sale of appliances (new and used) and building materials
- (22) Hobby shops
- (23) Interior decorators
- (24) Jewelry stores
- (25) Laundromats
- (26) Liquor stores
- (27) Music stores
- (28) Nurseries - plant
- (29) Paint and wallpaper stores
- (30) Photographic equipment retail outlets
- (31) Photographic studios
- (32) Radio, television and home appliance repair shops
- (33) Restaurants including outdoor dining, but excluding live entertainment except as provided in Section 154.0301(h)

- (34) Rug and carpet stores
  - (35) Shoe stores and shoe repair shops
  - (36) Sporting goods stores, including rental and repair
  - (37) Stationers
  - (38) Studios for teaching art, dancing and music
  - (39) Variety stores
- (d) Public utility electrical substations, gas regulators, and communications' equipment buildings developed in accordance with building and landscaping plans approved by the City Manager
- (e) Any uses which, the Planning Commission finds, in accordance with Process Four, to be similar in character to the uses enumerated in this section and are clearly within the intent and purpose of this zone. The adopted resolution embodying any such finding shall be filed in the office of the City Clerk
- (f) Business and professional offices (excluding employment agencies and hiring halls) shall be permitted; provided, however, that none may occupy any portion of the ground floor of any building except in conjunction with the rehabilitation of an existing structure or a planned commercial development
- (1) A Planned Commercial Development with office use on the ground floor may be permitted by Special Use Permit, if all of the following conditions and operational requirements are met:

- (A) Ground floor office uses shall be limited to those office uses which serve residents of surrounding neighborhoods.
  - (B) Building street facades of ground floor office uses shall include pedestrian-oriented design features such as enhanced entry ways and windows.
- (2) Such lot or parcel may not be used by one or more practitioners who, among them, medically treat, or medically or psychologically counsel, on a group or individual basis, five or more persons in one calendar year who have committed, been charged by criminal indictment or complaint, or convicted of a sex-related offense outside the family unit as defined in the California Penal Code, Part 1, Title 9, Chapter 1, or in Sections 286, 286.5, 288, 288a, 289 of Chapter 5, or in Section 314 of Chapter 8, or any amendment or recodification or any such sections, if such lot or parcel is located within 1,000 feet of any premises occupied by an elementary, junior, or senior high school, or the office use shall become previously conforming use and be subject to Land Development Code Chapter 12, Article 7 (Previously Conforming Premises and Uses).
- (g) Automobile repair shops may be permitted subject to a Special Use Permit if all of the following conditions and operational requirements are met:

- (1) Adequate on-site parking facilities and auto storage area shall be provided. Parking and storage areas shall be completely screened from streets, alleys, and adjacent development with walls and landscaping. No parking or auto storage areas shall be located in front of buildings. No off-site storage of vehicles shall be permitted. One on-site parking space shall be provided for each 300 square feet of gross floor area.
- (2) Access to parking and auto storage areas shall be from an alley or side street. If no alley or side street access is available, one driveway with a maximum width of 24 feet shall be permitted.
- (3) All repair activities shall take place in an enclosed building. Noise, dust, and fumes shall be controlled within such building. No automobile painting facilities shall be permitted.
- (4) Hours of operation shall not be earlier than 7:00 a.m. nor later than 6:00 p.m. and shall be limited to Mondays through Fridays.
- (5) Auto repair facilities shall not be located on any parcel that is within 50 feet of any residential zone.
- (6) Building height, bulk, roof line and materials shall be compatible with surrounding buildings.
- (7) All development regulations of this planned district shall be met, including but not limited to streetscape development regulations.

- (h) Live entertainment in conjunction with a bar or restaurant may be permitted subject to a Special Use Permit if all of the following conditions and operational requirements are met:
  - (1) Live entertainment shall not be located on a parcel that is within 50 feet of any residential zone.
  - (2) Hours of operation shall not be earlier than 9:00 a.m. nor later than 12:00 midnight.
- (i) Funeral parlors may be permitted subject to a Special Use Permit if all of the following conditions and operational requirements are met:
  - (1) Adequate parking areas shall be provided in accordance with Section 154.0401.
  - (2) Loading areas shall be fully enclosed and shall be accessed from the alley or side street.
  - (3) All external effects shall be controlled.
- (j) Other uses that may be permitted by conditional use permit in the CN-1-2 Zone may be permitted subject to a Special Use Permit. Outdoor storage and display of new unregistered motor vehicles shall not be permitted.
- (k) Parking lots and facilities; provided, however that, except for covered parking facilities which are located completely below grade such parking lots and facilities shall be accessory to a use permitted in Section 154.0301(a) through (j) which shall be located on the same premises.

**§154.0302 Additional Use Regulations**

- (a) All uses except off-street parking, outdoor dining facilities, signs and the storage and display of art exhibits, handcrafted goods, recreational equipment, and nursery plants shall be operated entirely within enclosed buildings.
- (b) All accessory uses shall be located in the same building as the permitted use or uses which they serve. There shall be no entrance to any such accessory uses except through a foyer, court, lobby, patio or similar area.
- (c) No permitted commercial use shall commence operating prior to 6:00 a.m. nor continue later than 12:00 midnight of any day.
- (d) Artificial lighting used to illuminate the premises shall be directed away from adjacent properties.

**§154.0303 Development Regulations**

- (a) Minimum Lot Area and Dimensions
  - (1) Area - 5,000 square feet
  - (2) Street frontage - 50 feet
  - (3) Width - 50 feet
  - (4) Depth - 100 feet
  - (5) Exception: Any lot which qualifies under the definition of a lot as set forth in the Land Development Code and which does not comply in all respect with the minimum lot dimensions specified herein may nevertheless be used as permitted and otherwise regulated by the provisions applicable to this Planned District.



(b) Building Setbacks

(1) Front - 10 feet, landscaped with 90 percent vegetation. Five-foot encroachments may be permitted for no more than 50 percent of the building length; provided, however, that a 15-foot landscaped setback is provided in the remaining 50 percent of the lot area.

(2) Side

(A) Interior - none, except that a 5-foot side yard shall be provided if any portion of the side lot line abuts residentially zoned property. Such side yard shall be increased 3 feet for any building of a height greater than 20 feet. A minimum of 50 percent of such side yard shall be vegetated.

(B) Street - 5 feet, landscaped with 90 percent vegetation.

(3) Rear - None, except that a 15-foot landscaped rear yard shall be provided if any portion of the rear lot line abuts residentially zoned property. A minimum of 30 percent of such rear yard shall be vegetated. Such rear yard shall be increased 3 feet for any building of a height greater than 20 feet.

(c) Maximum Floor Area Ratio

(1) The maximum floor area ratio (FAR) shall be 1.0 for any exclusively commercial use building. The floor area ratio may be increased to 2.0 for mixed use projects combining commercial and

residential development, provided that the residential component shall be a minimum of 1.0 FAR and shall not exceed 1.5 FAR.

- (2) The maximum floor area ratio for exclusively residential development shall be 1.5.

(d) Facade Offsets

- (1) Any continuous facade greater than 25 feet in length shall be provided with recessed offsets or indentations extending the full height of the facade. There shall be one offset or indentation for each 25 feet of facade length. Such recessed offsets or indentations shall each have a minimum average depth of 2 feet, and a minimum length of 4 feet measured along the vertical plane of the facade, and their inward angles shall be not less than 30 degrees when measured from such plane.
- (2) Bay windows may be used for facade offsets, provided they are located at least 10 feet apart and are a minimum of 7 feet in width.
- (3) Street facades shall be a maximum of 20 feet in height at the 10-foot set back line. All parts of the building above the established street facade shall be setback behind an imaginary plane beginning at the top of the established building street facade and sloping back toward the interior of the lot at a 45 degree angle from horizontal.

Section 4. That Chapter 15, Article 4, Division 4 of the San Diego Municipal Code is amended by adding Sections 154.0401, 154.0402, 154.0403, 154.0404, 154.0405 and 154.0406, to read as follows:

**Article 4: Cass Street Commercial Planned District**

**Division 4: General and Supplemental Regulations**

**§154.0401 Landscaping Regulations**

- (a) Prior to the use and occupancy of any premises, the required front yard setback within said premises abutting public street rights-of-way (except for approved ways of ingress and egress) shall be suitably landscaped with shrubs, trees, and ornamental ground cover. Prior to the issuance of any building permits, a complete landscaping plan shall be submitted to the City Manager for approval. Said landscaping plan shall be in substantial conformance with standards and specifications adopted by the Planning Commission as set forth in the document entitled "Developmental Standards and Operational Standards - Landscaped Strips," on file in the office of the Development Services Department. Substantial conformance shall be determined by the City Manager. Landscaping and required watering systems shall be installed prior to the use of the premises. All landscaping material in required landscaped areas shall be permanently maintained in a growing and healthy condition, including trimming, as appropriate to the landscaping material in accordance with the "Developmental Standards and Operational Standards - Landscaped Strips."

- (b) When landscape screening is used to enclose areas used for outdoor display or storage, a minimum landscaping strip of 5 feet shall be included with trees of a minimum height of 8 feet at the time of installation. Such a screening proposal shall be submitted to the City Manager for review and approval. The landscape screening shall be developed in conformance with standards adopted by the Planning Commission as set forth in the document entitled "Development and Maintenance Standards - Landscaping" on file in the office of the Development Services Department. Substantial conformance shall be determined by the City Manager. Landscape screening shall be permanently maintained in accordance with the adopted standards referred to above.
- (c) All edges of parking areas (lots plus above ground structures) shall be landscaped with a 5-foot landscaping buffer. Wheel stops shall be placed 2 feet away from the landscaped buffer.
- (d) Surface parking lots with more than two rows of parking shall include 5-foot-wide landscaping islands between rows and wheel stops at 2 feet from this landscaped area. Canopied trees of low water consumption shall be planted within this landscaped strip. One tree of a minimum 24-inch box or 15-gallon size and a minimum 8 feet in height at the time of installation shall be required per 2,000 square foot of parking lot area. Where a 5-foot-wide landscaped island is not feasible, patterned paving shall be required with one crated tree of minimum 24-inch box or 15-gallon size and a minimum 8 feet in height at the time of installation for every 1,000 square feet of parking lot area.

**§154.0402 Off-Street Parking Regulations**

- (a) Every premises used for one or more of the permitted uses listed in Section 154.0301 shall be provided with a minimum of off-street parking spaces on the same lot or premises, except as otherwise provided in Land Development Code Chapter 14, Article 3, Division 5 (Parking Regulations).
- (b) Access to parking shall be from the alley exclusively except when no alley access is available. No access to parking shall be permitted from Cass Street except where such access is the only access available, in which case the maximum driveway size shall be limited to 24 feet.
- (c) Parking areas shall be located behind the building and the street sideyard setbacks. No parking areas shall be permitted in front of any building on Cass Street or on any side street.
- (d) Adjacent parking areas, not divided by a street or an alley, shall be linked to allow for multiple use of parking, and a more efficient overall parking and circulation layout. A temporary gate may be constructed in these linkage areas, if needed to protect parking areas from overcrowding.
- (e) **Rehabilitation and Small Addition Projects**  
Any rehabilitation of an existing building or small addition (1,500 square feet or less) shall be exempted from the required parking, provided that the proposed use of the building is consistent with Section 154.0301 and that one new parking space is provided off the alley for each 10 feet of unbuilt *alley* frontage. In no event shall the number of additional parking spaces exceed the number required by the size of the addition.

- (f) Parking reductions may be permitted for lot consolidation and mixed use projects. The request for reduction in the amount of reduced parking may be approved, conditionally approved or denied, by a Hearing Officer, in accordance with Process Three, after considering the recommendations of the City Manager. The Hearing Officer's decision may be appealed to the Planning Commission in accordance with Section 112.0506. The amount of reduced parking will depend on the uses and hours of operation proposed for the project, as established through the development permit.
- (g) All off-street parking facilities shall be constructed, maintained, and operated in compliance with Land Development Code Chapter 14, Article 3, Division 5 (Parking Regulations).

**§154.0403 Enclosure Regulations**

- (a) No mechanical equipment, tank, duct, elevator enclosure, cooling tower, or mechanical ventilator shall be erected, constructed, maintained, or altered anywhere on the premises unless all such equipment and appurtenances are contained within a completely enclosed penthouse or other portion of a building having walls or visual screening with construction and appearance similar to the main building.
- (b) Prior to the use or occupancy of any premises, a wall not less than 6 feet in height shall be constructed along all portions of the perimeter of said premises that abut residentially zoned property except on public alleys; provided, however, that within any required front or street side yard such wall shall not be required. In the case of rehabilitation of an existing structure, no wall shall

be required unless parking is to be located adjacent to residentially zoned property.

**§154.0404 Outdoor Storage, Display and Activity Regulations**

- (a) The following listed merchandise sold or rented on the premises may be displayed outdoors without screening walls or fences, except along property lines that abut residentially zoned lots:
  - (1) Artwork and pottery
  - (2) Flowers and plants
  - (3) Food Products
  - (4) Handcrafted products and goods
  - (5) Recreational equipment such as roller skates, bicycles, and surfboards
- (b) All other merchandise sold on the premises may be displayed outdoors during hours of operation, provided that the display area is completely enclosed by walls, fences, buildings, or landscape screening, or a combination thereof.
- (c) All walls and fences required in Section 154.0404(b) shall be a minimum of 6 feet in height and shall be constructed and maintained with not less than 50 percent of the surface area impervious to light. Deviation from this requirement may be permitted subject to the approval of the City Manager for areas which are to be used exclusively for display purposes. The location, materials and design of required walls and fences shall be subject to approval by the City Manager. Whenever feasible, the approval of the City Manager shall be based upon the similarity of architectural design and appearance of the wall or fence to existing buildings on the premises or to buildings being

constructed concurrently on the premises. Such walls or fences shall be maintained in accordance with the provisions set forth in Land Development Code Section 142.0380.

**§154.0405 Streetscape Development Regulations/Encroachment Permits**

Within the Cass Street Commercial District, no alteration, construction, development or use of the abutting public right-of-way shall be permitted unless the streetscape and encroachment permit standards are met.

The following Streetscape and Encroachment Permit Standards shall be the basis for project review by the City Manager.

(a) **Driveways and Curb Cuts**

- (1) Driveway widths shall be in conformance with Land Development Code Section 142.0560. No new driveways shall be permitted on Cass Street, except as provided in 154.0405(a)(3) and (4).
- (2) Existing driveways and curb cuts may be maintained except that such driveways shall be limited to one per lot. Whenever projects are processed where existing driveways are abandoned, the applicant shall be required to remove the driveway and reconstruct the sidewalk and curbs to match the adjacent sidewalk and curb areas.
- (3) No new driveways or curb cuts shall be approved on properties that have alley access provided that safety problems are not caused by this policy.

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- (4) Properties without alley access may be permitted one driveway per property, such driveway shall not exceed 24 feet in width, or as required for safety reasons.
- (5) Driveway entrances across the sidewalk right-of-way shall continue the paving pattern utilized in the adjacent sidewalk areas. Projects subject to Special Use Permits, and requiring driveway access, shall improve the sidewalk area in a manner consistent with this section's standards, unless such requirement is specifically waived. Driveway entrances across the sidewalk shall be signed to provide for pedestrian safety at all times.

(b) Underground Parking Encroachments

- (1) Encroachment for underground parking spaces may be permitted only if a more efficient underground parking design, as determined by the City Manager, can be provided without resulting in a major expansion to the underground parking area.
- (2) No encroachments into the street for parking or (underground and aboveground) access ramps parallel to the street shall be permitted.
- (3) Any access from underground parking areas to the street shall be signed to provide for pedestrian safety at all times.

(c) Sidewalk Development

- (1) Minimum Width

All existing and new sidewalks shall maintain their present width and shall also maintain standard sidewalk elevation in relation to the curb for the entire distance between the curb and property line.

(2) Clear Path

A minimum clear path (free of obstruction) of 8 feet in width shall be maintained at all points within the sidewalk right-of-way. The clear path shall be linear, and shall not impede handicapped access. A clear path of greater than 8 feet may be required if necessary to maintain a line of sight essential for traffic or pedestrian safety.

(3) Surface Treatment (Sidewalk Paving)

All development proposing to improve the abutting sidewalk areas through an encroachment permit shall be in accordance with the following standards:

- (A) The sidewalk surface (exclusive of permanently landscaped areas) shall be paved with brick, clay or ceramic tile, or interlocking concrete pavers. Standards for each of these materials shall be as set forth below.
- (B) Materials, surface textures, pavement patterns and colors for enhanced pavement shall be compatible with the materials of adjacent buildings and paved areas.
- (C) The objective of these standards is to provide a complementary palette of paving materials and colors which provide an element of unity and continuity throughout the district while

encouraging the development of improved pedestrian sidewalk areas.

(i) Materials

Brick: Bricks shall be standard size 8 inches by 4 inches, and shall be set in mortar.

Tile: Tile shall be square, not to exceed 10 inches on any side. Minimum tile thickness shall be 0.25 inches for ceramic or quarry tile, and 0.75 inches for clay tile.

Tiles shall be set in mortar.

Concrete Pavers: Concrete pavers and interlocking pavers may be of any uniform shape provided each unit does not exceed 10 inches across its longest dimension.

Pavers shall be set in mortar.

(ii) Surface Textures

All paving materials shall provide an even, slip-resistant surface at least equal to the City standard broom sweep sidewalk. All grouting shall be paced flush with the top of the pavers.

(iii) Pavement Patterns

The pavement patterns shall be maintained constant except to define an entrance or an adjacent public plaza in which case paving patterns may be integrated with other paving to form bands or dividers in harmony with

architectural themes. Unit pavers may be arranged in any uniform pattern that is perpendicular to the curb line, provided that the spaces created flow together and avoid sharp changes at the property line. Pavement patterns shall be consistent with the safety standards required for handicapped access.

(iv) Colors

The color of paving shall generally be within the red to orange range (including reddish browns) with muted (non-bright) tones. Dark brown and other dark tones and colors are not appropriate.

(d) Parkway Landscaping and Street Trees

- (1) Landscaping of areas between the sidewalk and the curb shall be encouraged on Cass Street and on side streets. Such planting within the street right-of-way shall be subject to the approval of the City Manager as required by Section 62.0603. The provision of street trees and vegetated parkway areas shall be included in the calculation of the required vegetation in front yards and street side yards. Vegetated parkway areas with the specified street tree species shall be permitted to contribute up to two-thirds of the required front and street side yard vegetation. Each one square foot of vegetated parkway area with street trees provided shall satisfy 1.5 square feet of the front and street side yard vegetated area requirements.

- (2) Existing street trees shall be preserved to provide continuity and to enhance the character of the street. New street trees on Cass Street shall be of the species *Agonis flexuosa* (Peppermint Willow), which is the most prevalent species located on Cass Street. New street trees on side streets shall be of the species which is most prevalent on that side street.
- (3) Trees shall be planted in the ground between the sidewalk and the curb. The minimum size tree shall be a standard 24-inch box or 15 gallon size and a minimum of 8 feet high. Trees with a low spreading branch structure shall typically not be used in the street rights-of-way. Individual specimens shall be selected, planted, and pruned, if necessary, such that major scaffold branches are at least 8 feet above the finish surface or finish grade, as measured at the trunk.
- (4) Trees shall be positioned and kept maintained so that any branches that extend out over dedicated street rights-of-way have a minimum of 14 feet-6 inches of clearance above the surface of the street.

(A) Tree Spacing

Trees shall be planted in a straight line spaced 20 feet apart except where such spacing conflicts with the location of pedestrian oriented light standards, in which case trees shall be spaced 30 feet apart. The placement of street trees shall be coordinated with the placement of light standards.

(B) Tree Grates

Tree grates shall meet safety requirements of Title 24 of the California Building Code. The maximum size of grid opening shall be no larger than 0.50 inches. All tree grates shall be installed flush with the sidewalk surface and shall be set a minimum of 2 inches above a gravel base. The grates shall be factory primed and painted black. Tree grates shall not be required if trees are planted in a landscaped parkway, provided no safety hazards are caused by this exception.

(C) Root Control Barriers

A root control barrier shall be provided for each tree to avoid possible root damage to sidewalks and other facilities in the public right-of-way or surrounding buildings.

(D) Street Tree Irrigation

All landscaping in the public right-of-way shall have a permanently installed and maintained irrigation system designed by registered landscaped architect, or as approved by the City Manager as follows:

- (i) All street trees shall be irrigated.
- (ii) Irrigation water shall be metered through the property owner's meter.
- (iii) PVC pipe (SCH 40) or better to each tree well shall be in place prior to pouring public sidewalk or paving.

- (iv) PVC pipe to each tree well shall be laid perpendicular to the curb and connected to the irrigation system on private property where applicable.
- (v) Each tree shall have a minimum of one adjustable bubbler-type head or approved equal.
- (vi) All irrigation systems shall have anti-syphon, backflow prevention and shall be operated by an approved automatic timer on private property.

(e) Curbs, Gutters and Handicapped Ramps

The design of curbs, gutters and handicap ramps shall meet the City of San Diego standards. A sprayed or rolled-on retarder (for light surface penetration) shall be applied to all curbs, gutters and handicap ramps. All joints in exposed aggregate concrete work shall be saw-cut.

(f) Utilities

- (1) For all areas finished with enhanced paving, all concrete utility covers shall be replaced with metal covers. All covers shall be painted black.
- (2) Large utility covers (exceeding 8 square feet) if not avoidable, shall be covered with veneer to match the sidewalk paving material.
- (3) Public utility systems and service facilities shall be located underground within the property boundaries as provided for in Land Development Code Section 144.0240. Any waiver granted to this requirement shall be subject to the property owner's agreement not to oppose the formation of an undergrounding district in the future.

(g) Street Furniture

(1) Light Standards

Light standards shall be equal to the product specified as "San Diegan Series Type C." manufactured by Western Lighting Standards, 18060 Mount Washington, Fountain Valley, California.

(2) Benches

(A) Materials

Benches located in the sidewalk right-of-way shall conform to one or more of the following materials: wood; wood and iron; wrought iron or cast iron; and formed iron.

(B) The siting of benches shall be as follows:

(i) Benches shall not encroach into the required 8-foot sidewalk clearpath.

(ii) Benches shall not be located within 5 feet from the center of the sidewalk.

(iii) A bench located parallel to the sidewalk shall face the center of the sidewalk.

(iv) If two or more benches are situated perpendicular to the sidewalk, the benches shall be sited to face each other.

(C) Advertisement on benches located in the public right-of-way shall be prohibited.

(3) Awnings and Canopies



Awnings and canopies made of canvas or any other material permitted by Uniform Building Code standards, and approved by the City Engineer, may be permitted to encroach on the street right-of-way to provide shade or sun protection for exhibit areas.

(h) Sidewalk Cafes

Sidewalk cafes shall be permitted throughout the planned district as regulated by Land Development Code Section 141.0621.

(i) Maintenance and Repairs

All encroachment permits shall require adequate maintenance consistent with City Engineer standards. Except for those improvements which are the responsibility of public utilities, private improvements to the public right-of-way shall be maintained privately until an alternative maintenance program is available. All public utility and improvement repairs and maintenance, undertaken in an improved sidewalk area shall match the existing material and color.

**§154.0406 Sign Regulations**

- (a) The aggregate area of all signs permitted on the premises (excluding signs designating the premises for sale, rent or lease) shall not exceed 0.5 square feet for each lineal foot of the street frontage of the premises, provided that the aggregate area of all signs used by a single place of business need not be less than 15 square feet. Signs may be utilized to identify the uses of the premises, to offer the premises for sale, rent, or lease, to advertise products, services or events provided on the premises or to display public

interest messages as described in Land Development Code Section 142.1210(a)(1)(B) through (D).

- (b) Wall signs as defined in Land Development Code Section 113.0103, are permitted provided that no such sign shall project above the nearest parapet or eave of the building to which it is affixed. It is further provided that the area of wall signs shall not exceed 2 feet in height multiplied by the width of the premises, or 15 square feet per premise, whichever is less.
- (c) Wall graphics shall be permitted in addition to a wall sign provided that the wall graphic contains only a pictorial image of the product or service provided or the logo of the business establishment. No lettering shall be included in a wall graphic. Wall graphics shall be limited to a maximum of 15 square feet per establishment.
- (d) As an alternative to a wall sign, a projecting sign may be permitted, provided, however, that it meets the following standards:
  - (1) The sign projects horizontally from the building and is oriented to the pedestrian;
  - (2) The sign does not project more than 3 feet from the face of the building;
  - (3) The bottom of the sign shall not be higher than 7 feet above ground level and shall not exceed 5 square feet in size;
  - (4) A projecting sign may be 2-sided;
  - (5) A hanging projecting sign with a vertical clearance of less than 7 feet may be placed in a vegetated area set back a minimum of 5

- feet from the property line and not accessible by pedestrians,  
provided that the height of the sign does not exceed 6 feet; and
- (6) A projecting sign with a vertical clearance of less than 7 feet may be placed over a vegetated area not accessible by pedestrians.
- (e) One ground monument sign may be permitted for premises containing more than four uses. The sign shall be permitted on one street yard setback only, and set back a minimum of 5 feet from the property line. The sign and monument shall not exceed 30 square feet and 4 feet in height.
- (f) One window graphic shall be permitted per premises. The window graphic shall be limited to individual letters and graphic symbols identifying the premises, the service provided, and the hours of operation. The lettering shall be placed on a transparent board or directly affixed to a window or door. The window graphic shall not exceed 25 percent of the glass area of the window or door.
- (g) Signs permitted herein may be lighted; however, none shall contain visibly moving parts or be illuminated by flashing lights. No sign shall be lighted prior to 6:00 a.m. or after 12:00 midnight of any day.
- (h) One temporary wall or ground sign for each street frontage, having a maximum area of 8 square feet, designating the premises for sale, rent or lease.
- (i) All signs permitted by the provisions of this section shall also comply with the provisions of Land Development Code Chapter 12, Article 9, Division 8 (Sign Permit Procedures).

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 the California Environmental Quality Act [CEQA] pursuant to State CEQA Guidelines Section 15060(c)(3).

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By Shannon M. Thomas  
Shannon M. Thomas  
Deputy City Attorney

SMT:als  
12/19/06  
Or.Dept:DSD  
O-2007-63  
MMS#3397

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 Jara Richardson  
Deputy City Clerk

Approved: 3-27-07  
(date)

JSL  
JERRY SANDERS, Mayor

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

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