

RESOLUTION NUMBER R- 306959

DATE OF FINAL PASSAGE JUL 26 2011

A RESOLUTION APPROVING CONDITIONAL USE PERMIT NO. 586793, SITE DEVELOPMENT PERMIT NO. 586794, PLANNED DEVELOPMENT PERMIT NO. 840713, AND NEIGHBORHOOD USE PERMIT NO. 623983 FOR THE ARCO BALBOA PROJECT NO. 163653.

WHEREAS, Seven Clairemont Properties, Owner, and West Coast Products, LLC, Permittee, filed an application with the City of San Diego for a Conditional Use Permit (CUP) No. 586793, Site Development Permit (SDP) No. 586794, Planned Development Permit (PDP) No. 840713, Neighborhood Use Permit (NUP) No. 623983, and amendment to Conditional Use Permit No. 83-0729, to continue to operate an alcoholic beverage outlet, and to demolish an existing gas station and construct a new gas station with a 2,400 square foot convenience store and 3,400 square foot canopy with six (6) fuel dispensers, known as the Arco Balboa project, located at 6130 Balboa Avenue, and legally described as Lot 3, Balboa Annex Unit No. 2, Map No. 5119, in the Clairemont Mesa Community Plan area, in the CN-1-2 zone which are proposed to be rezoned to the CC-1-3 zone, and located within the Airport Influence Overlay, FAA Part 77, Clairemont Mesa Height Limit Overlay, and Community Plan Implementation Overlay zone Area B; and

WHEREAS, on June 23, 2011, the Planning Commission of the City of San Diego considered CUP No. 586793, SDP No. 856794, PDP No. 840713, NUP No. 623983, and amendment to CUP No. 83-0729, pursuant to Resolution No. PC-4708 voted to recommend City Council approval of the Project; and

WHEREAS, under Charter section 280(a)(2) this resolution is not subject to veto by the Mayor because this matter requires the City Council to act as a quasi-judicial body, a public

hearing was required by law implicating due process rights of individuals affected by the decision, where the Council was required by law to consider evidence at the hearing and to make legal findings based on the evidence presented; and

WHEREAS, the matter was set for public hearing on JUL 26 2011,

testimony having been heard, evidence having been submitted, and the City Council having fully considered the matter and being fully advised concerning the same; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that it adopts the following findings with respect to CUP No. 586793, SDP No. 856794, PDP No. 840713, NUP No. 623983, and amendment to CUP No. 83-0729:

**A. CONDITIONAL USE PERMIT – SAN DIEGO MUNICIPAL CODE (SDMC)  
SECTION 126.0305**

**1. Findings for all Conditional Use Permits:**

**a. The proposed development will not adversely affect the applicable land use plan.** The proposed project would demolish the existing service station with convenience store which operates under an existing Conditional Use Permit, and construct a new gas station with a 2,400 square foot convenience store and 3,400 square foot canopy with six (6) fuel dispensers on a 0.42 acre site. The existing service station has a Type 20 Alcohol Sales License (off-premise consumption, beer and wine only), and the license would remain at this location.

The proposed project is in conformance with the commercial designation of the Clairemont Mesa Community Plan. The Plan designates this site as a portion of the Community Core and places it in the CPIOZ, Type B, recommending that a Planned Development Permit be obtained. Further, the proposed project would implement the Balboa Avenue Revitalization Action Program (RAP) by enhancing the aesthetics of the site and providing improved landscaping and pedestrian amenities. Specific project features include: an outdoor patio area, direct pedestrian access from the sidewalk to the building, the closure and consolidation of several driveways, and the installation of street trees with tree grates. These features are intended to help promote walkability along Balboa Avenue and establish pedestrian and bicycle connections to the adjacent residential neighborhoods. Therefore, the proposed project will not adversely affect the applicable land use plan.

**b. The proposed development will not be detrimental to the public health, safety, and welfare.** The ARCO Balboa Avenue project would demolish the existing service station with convenience store which operates under an existing Conditional Use Permit, and construct a new gas station with a 2,400 square foot convenience store and 3,400 square foot

canopy with six (6) fuel dispensers on a 0.42 acre site. The existing service station has a Type 20 Alcohol Sales License (off-premise consumption, beer and wine only), and the license would remain at this location.

The conditions of approval for the project will require compliance with several operational constraints and development controls intended to assure the continued protection of public health, safety, and welfare. The development will also provide for the health, safety, and welfare of the customers and nearby residents by constructing all buildings in accordance with current construction standards and building codes. All of the construction plans associated with the project will be reviewed prior to issuance of a construction permit and inspected during construction to assure the project will meet or exceed all relevant and applicable building, electrical, mechanical, plumbing and fire codes.

**c. The proposed development will comply to the maximum extent feasible with the regulations of the Land Development Code.** The ARCO Balboa Avenue project would demolish the existing service station with convenience store which operates under an existing Conditional Use Permit, and construct a new gas station with a 2,400 square foot convenience store and 3,400 square foot canopy with six (6) fuel dispensers on a 0.42 acre site. The existing service station has a Type 20 Alcohol Sales License (off-premise consumption, beer and wine only), and the license would remain at this location.

Part of the proposed project is to rezone the project site from CN-1-2 to CC-1-3. Although the Gas station has been in existence since 1966 under Use permits, the current proposal to demolish and rebuild the 24-hour service station and store requires rezoning. Once rezoned, the proposed use can be permitted under a Conditional Use Permit and the station has been designed to comply with all the regulations of the CC-1-3 zone. The station is proposed to operate on a 24-hour basis as it has since at least 1983.

**d. The proposed use is appropriate at the proposed location.** The ARCO Balboa Avenue project would demolish the existing service station with convenience store which operates under an existing Conditional Use Permit, and construct a new gas station with a 2,400 square foot convenience store and 3,400 square foot canopy with six (6) fuel dispensers on a 0.42 acre site. The existing service station has a Type 20 Alcohol Sales License (off-premise consumption, beer and wine only), and the license would remain at this location.

Although the Gas station has been in existence since 1966 under use permits, the current proposal to demolish and rebuild the 24-hour service station and store requires rezoning of the property. Once rezoned, the proposed use can be permitted under a Conditional Use Permit and the station has been designed to comply with all the regulations of the CC-1-3 zone. The station is proposed to operate on a 24-hour basis as it has since at least 1983.

The proposed project would implement the Balboa Avenue Revitalization Action Program (RAP) by enhancing the aesthetics of the site and providing improved landscaping and pedestrian amenities. Specific project features include: an outdoor patio area, direct pedestrian access from the sidewalk to the building, the closure and consolidation of several driveways, and the installation of street trees with tree grates. These features are intended to help promote

walkability along Balboa Avenue and establish pedestrian and bicycle connections to the adjacent residential neighborhoods.

**B. SITE DEVELOPMENT PERMIT- SAN DIEGO MUNICIPAL CODE (SDMC)  
SECTION 126.0504**

**1. Findings for all Site Development Permits:**

**a. The proposed development will not adversely affect the applicable land use plan.** The proposed project would demolish the existing service station with convenience store which operates under an existing Conditional Use Permit, and construct a new gas station with a 2,400 square foot convenience store and 3,400 square foot canopy with six (6) fuel dispensers on a 0.42 acre site. The existing service station has a Type 20 Alcohol Sales License (off-premise consumption, beer and wine only), and the license would remain at this location.

The proposed project is in conformance with the commercial designation of the Clairemont Mesa Community Plan. The Plan designates this site as a portion of the Community Core and places it in the CPIOZ, Type B, recommending that a Planned Development Permit be obtained. Further, the proposed project would implement the Balboa Avenue Revitalization Action Program (RAP) by enhancing the aesthetics of the site and providing improved landscaping and pedestrian amenities. Specific project features include: an outdoor patio area, direct pedestrian access from the sidewalk to the building, the closure and consolidation of several driveways, and the installation of street trees with tree grates. These features are intended to help promote walkability along Balboa Avenue and establish pedestrian and bicycle connections to the adjacent residential neighborhoods. Therefore, the proposed project will not adversely affect the applicable land use plan.

**b. The proposed development will not be detrimental to the public health, safety, and welfare.** The ARCO Balboa Avenue project would demolish the existing service station with convenience store which operates under an existing Conditional Use Permit, and construct a new gas station with a 2,400 square foot convenience store and 3,400 square foot canopy with six (6) fuel dispensers on a 0.42 acre site. The existing service station has a Type 20 Alcohol Sales License (off-premise consumption, beer and wine only), and the license would remain at this location.

The conditions of approval for the project will require compliance with several operational constraints and development controls intended to assure the continued protection of public health, safety, and welfare. The development will also provide for the health, safety, and welfare of the customers and nearby residents by constructing all buildings in accordance with current construction standards and building codes. All of the construction plans associated with the project will be reviewed prior to issuance of a construction permit and inspected during construction to assure the project will meet or exceed all relevant and applicable building, electrical, mechanical, plumbing and fire codes.

**c. The proposed development will comply with the applicable regulations of the Land Development Code.** The ARCO Balboa Avenue project would demolish the existing service station with convenience store which operates under an existing Conditional Use Permit,

and construct a new gas station with a 2,400 square foot convenience store and 3,400 square foot canopy with six (6) fuel dispensers on a 0.42 acre site. The existing service station has a Type 20 Alcohol Sales License (off-premise consumption, beer and wine only), and the license would remain at this location.

Part of the proposed project is to rezone the project site from CN-1-2 to CC-1-3. Although the Gas station has been in existence since 1966 under Use permits, the current proposal to demolish and rebuild the 24-hour service station and store requires rezoning. Once rezoned, the proposed use can be permitted under a Conditional Use Permit and the station has been designed to comply with all the regulations of the CC-1-3 zone. The station is proposed to operate on a 24-hour basis as it has since at least 1983.

C. **PLANNED DEVELOPMENT PERMIT – SAN DIEGO MUNICIPAL CODE (SDMC) SECTION 126.0604**

1. **Findings for all Planned Development Permits:**

a. **The proposed development will not adversely affect the applicable land use plan.** The proposed project would demolish the existing service station with convenience store which operates under an existing Conditional Use Permit, and construct a new gas station with a 2,400 square foot convenience store and 3,400 square foot canopy with six (6) fuel dispensers on a 0.42 acre site. The existing service station has a Type 20 Alcohol Sales License (off-premise consumption, beer and wine only), and the license would remain at this location.

The proposed project is in conformance with the commercial designation of the Clairemont Mesa Community Plan. The Plan designates this site as a portion of the Community Core and places it in the CPIOZ, Type B, recommending that a Planned Development Permit be obtained. Further, the proposed project would implement the Balboa Avenue Revitalization Action Program (RAP) by enhancing the aesthetics of the site and providing improved landscaping and pedestrian amenities. Specific project features include: an outdoor patio area, direct pedestrian access from the sidewalk to the building, the closure and consolidation of several driveways, and the installation of street trees with tree grates. These features are intended to help promote walkability along Balboa Avenue and establish pedestrian and bicycle connections to the adjacent residential neighborhoods. Therefore, the proposed project will not adversely affect the applicable land use plan.

b. **The proposed development will not be detrimental to the public health, safety, and welfare.** The ARCO Balboa Avenue project would demolish the existing service station with convenience store which operates under an existing Conditional Use Permit, and construct a new gas station with a 2,400 square foot convenience store and 3,400 square foot canopy with six (6) fuel dispensers on a 0.42 acre site. The existing service station has a Type 20 Alcohol Sales License (off-premise consumption, beer and wine only), and the license would remain at this location.

The conditions of approval for the project will require compliance with several operational constraints and development controls intended to assure the continued protection of public health, safety, and welfare. The development will also provide for the health, safety, and welfare of the customers and nearby residents by constructing all buildings in accordance with current construction standards and building codes. All of the construction plans associated with the project will be reviewed prior to issuance of a construction permit and inspected during construction to assure the project will meet or exceed all relevant and applicable building, electrical, mechanical, plumbing and fire codes.

**c. The proposed development will comply with the regulations of the Land Development Code.** The ARCO Balboa Avenue project would demolish the existing service station with convenience store which operates under an existing Conditional Use Permit, and construct a new gas station with a 2,400 square foot convenience store and 3,400 square foot canopy with six (6) fuel dispensers on a 0.42 acre site. The existing service station has a Type 20 Alcohol Sales License (off-premise consumption, beer and wine only), and the license would remain at this location.

Part of the proposed project is to rezone the project site from CN-1-2 to CC-1-3. Although the Gas station has been in existence since 1966 under Use permits, the current proposal to demolish and rebuild the 24-hour service station and store requires rezoning. Once rezoned, the proposed use can be permitted under a Conditional Use Permit and the station has been designed to comply with all the regulations of the CC-1-3 zone. The station is proposed to operate on a 24-hour basis as it has since at least 1983.

**d. The proposed development, when considered as a whole, will be beneficial to the community.** The ARCO Balboa Avenue project would demolish the existing service station with convenience store which operates under an existing Conditional Use Permit, and construct a new gas station with a 2,400 square foot convenience store and 3,400 square foot canopy with six (6) fuel dispensers on a 0.42 acre site. The existing service station has a Type 20 Alcohol Sales License (off-premise consumption, beer and wine only), and the license would remain at this location.

The proposed project would implement the Balboa Avenue Revitalization Action Program (RAP) by enhancing the aesthetics of the site and providing improved landscaping and pedestrian amenities. Specific project features include: an outdoor patio area, direct pedestrian access from the sidewalk to the building, the closure and consolidation of several driveways, and the installation of street trees with tree grates. These features are intended to help promote walkability along Balboa Avenue and establish pedestrian and bicycle connections to the adjacent residential neighborhoods. Therefore when considered as a whole, the continued use of a service station with convenience store and alcohol sales, will be beneficial to the community.

**e. Any proposed deviations pursuant to Section 126.0602(b)(1) are appropriate for this location and will result in a more desirable project than would be achieved if designed in strict conformance with the development regulations of the applicable zone.** The ARCO Balboa Avenue project would demolish the existing service station with convenience store which operates under an existing Conditional Use Permit, and construct a

new gas station with a 2,400 square foot convenience store and 3,400 square foot canopy with six (6) fuel dispensers on a 0.42 acre site. The existing service station has a Type 20 Alcohol Sales License (off-premise consumption, beer and wine only), and the license would remain at this location.

Part of the proposed project is to rezone the project site from CN-1-2 to CC-1-3. Although the Gas station has been in existence since 1966 under use permits, the current proposal to demolish and rebuild the 24-hour service station and store requires this rezoning. Once rezoned, the proposed use can be permitted under a Conditional Use Permit and the station has been designed to comply with all the regulations of the CC-1-3 zone, with no deviations. The station is proposed to operate on a 24-hour basis as it has since at least 1983.

**D. NEIGHBORHOOD USE PERMIT – SAN DIEGO MUNICIPAL CODE (SDMC)  
SECTION 126.0605**

**1. Findings for all Neighborhood Use Permits:**

**a. The proposed development will not adversely affect the applicable land use Plan.** The proposed project would demolish the existing service station with convenience store which operates under an existing Conditional Use Permit, and construct a new gas station with a 2,400 square foot convenience store and 3,400 square foot canopy with six (6) fuel dispensers on a 0.42 acre site. The existing service station has a Type 20 Alcohol Sales License (off-premise consumption, beer and wine only), and the license would remain at this location.

The proposed project is in conformance with the commercial designation of the Clairemont Mesa Community Plan. The Plan designates this site as a portion of the Community Core and places it in the CPIOZ, Type B, recommending that a Planned Development Permit be obtained. Further, the proposed project would implement the Balboa Avenue Revitalization Action Program (RAP) by enhancing the aesthetics of the site and providing improved landscaping and pedestrian amenities. Specific project features include: an outdoor patio area, direct pedestrian access from the sidewalk to the building, the closure and consolidation of several driveways, and the installation of street trees with tree grates. These features are intended to help promote walkability along Balboa Avenue and establish pedestrian and bicycle connections to the adjacent residential neighborhoods. Therefore, the proposed project will not adversely affect the applicable land use plan.

**b. The proposed development will not be detrimental to the public health, safety, and welfare.** The ARCO Balboa Avenue project would demolish the existing service station with convenience store which operates under an existing Conditional Use Permit, and construct a new gas station with a 2,400 square foot convenience store and 3,400 square foot canopy with six (6) fuel dispensers on a 0.42 acre site. The existing service station has a Type 20 Alcohol Sales License (off-premise consumption, beer and wine only), and the license would remain at this location.

The conditions of approval for the project will require compliance with several operational constraints and development controls intended to assure the continued protection of public health, safety, and welfare. The development will also provide for the health, safety, and

welfare of the customers and nearby residents by constructing all buildings in accordance with current construction standards and building codes. All of the construction plans associated with the project will be reviewed prior to issuance of a construction permit and inspected during construction to assure the project will meet or exceed all relevant and applicable building, electrical, mechanical, plumbing and fire codes.

**c. The proposed development will comply with the applicable regulations of the Land Development Code.** The ARCO Balboa Avenue project would demolish the existing service station with convenience store which operates under an existing Conditional Use Permit, and construct a new gas station with a 2,400 square foot convenience store and 3,400 square foot canopy with six (6) fuel dispensers on a 0.42 acre site. The existing service station has a Type 20 Alcohol Sales License (off-premise consumption, beer and wine only), and the license would remain at this location.


Part of the proposed project is to rezone the project site from CN-1-2 to CC-1-3. Although the Gas station has been in existence since 1966 under Use permits, the current proposal to demolish and rebuild the 24-hour service station and store requires rezoning. Once rezoned, the proposed use can be permitted under a Conditional Use Permit and the station has been designed to comply with all the regulations of the CC-1-3 zone. The station is proposed to operate on a 24-hour basis as it has since at least 1983.

The above findings are supported by the minutes, maps and exhibits, all of which are incorporated herein by this reference.

BE IT FURTHER RESOLVED, that the recommendation of the Planning Commission is sustained, and CUP No. 586793, SDP No. 856794, PDP No. 840713, NUP No. 623983, and amendment to CUP No. 83-0729, is granted to Seven Clairemont Properties, Owner, BP West Coast Products, LLC, Permittee, under the terms and conditions set forth in the attached permit which is made a part of this resolution.

APPROVED: JAN I. GOLDSMITH, City Attorney

By

  
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Nina M. Fain  
Deputy City Attorney

NMF:jls:als  
6/30/2011  
Or.Dept:DSD