

334
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RESOLUTION NUMBER R- 312463

DATE OF FINAL PASSAGE MAY 14 2019

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO DENYING THE APPEAL AND GRANTING COASTAL DEVELOPMENT PERMIT NO. 1325596, PLANNED DEVELOPMENT PERMIT NO. 2191992, AND NEIGHBORHOOD USE PERMIT NO. 1884778 FOR VIRGINIA AVENUE PARKING GARAGE – PROJECT NO. 375960.

WHEREAS, BAJA-MEX INSURANCE SERVICES, Inc., a California Corporation, Owner/Permittee, filed an application with the City of San Diego for a Coastal Development Permit, Neighborhood Use Permit, and Planned Development Permit for the demolition of an existing commercial building and the construction of a five-level parking structure over 13,210 square feet of retail space, known as the Virginia Avenue Parking Garage project, located at 4575 Camino de la Plaza, and legally described as Lot 16 of International Gateway of the Americas Phase IA, in the City of San Diego, County of San Diego, State of California, as shown on the Map No. 14259, thereof recorded as File No. 2001-0581338 in the official records of the San Diego County Recorder on August 15, 2001, in the San Ysidro Community Plan area, in the CR-1-2, San Ysidro Commercial District, San Ysidro Discretionary Review Overlay Zone, Transit Priority Area, and the Federal Aviation Administration (FAA) Part 77 Notification Overlay Zones; and

WHEREAS, on October 25, 2018, the Planning Commission of the City of San Diego considered and approved Coastal Development Permit No. 1325596, Neighborhood Use Permit No. 1884778, and Planned Development Permit No. 2191992; and

WHEREAS, Shamrock/Outlets at the Border LLC appealed the Planning Commission decision to the Council of the City of San Diego; 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 and where a public hearing was required by law implicating due process rights of individuals affected by the decision and 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 May 14, 2019, 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 Coastal Development Permit No. 1325596, Neighborhood Use Permit No. 1884778, and Planned Development Permit No. 2191992:

A. COASTAL DEVELOPMENT PERMIT – SAN DIEGO MUNICIPAL CODE (SDMC) SECTION 126.0708

1. Findings for all Coastal Development Permits:

a. The proposed coastal development will not encroach upon any existing physical accessway that is legally used by the public or any proposed public accessway identified in a Local Coastal Program land use plan; and the proposed coastal development will enhance and protect public views to and along the ocean and other scenic coastal areas as specified in the Local Coastal Program land use plan. The 0.733-acre project site is located at 4575 Camino de la Plaza in the CR-1-2 (Commercial-Regional) Zone within the urbanized community of the San Ysidro Community Planning area, immediately north of the United States-Mexico International Border. The project site was part of the 57.67-acre International Gateway of the Americas development's Coastal Development Permit (CDP) No. 40-0338, which was approved by City Council on November 21, 2000. Though this CDP covered the entire development area, the proposed project site is located on the eastern boarder of the development and is not located within the boundaries of the Coastal Overlay Zone. This amendment of CDP No. 40-0338 will remove the project site property from CDP No. 40-0338.

The project proposes the demolition of the existing one-story building and associated paved parking lot, and the construction of a five-level parking structure over 13,210 square feet of retail space at the ground level, and approximately 349 parking spaces. The site is predominantly flat at an elevation of 56 feet Above Mean Sea Level (AMSL). Land uses immediately surrounding the site are commercial uses, including the Las Americas Premium Outlets to the west; the Outlets at the Border to the southwest; a transit center, and the Land Port

of Entry from Mexico to the south and southeast; and parking lots to the northeast and east. The project site is located approximately 5.14-miles from the Pacific Ocean.

The project site is not within the Coastal Overlay Zone and does not contain and will not encroach upon any existing physical accessway that is legally used by the public or any proposed public accessway identified in a Local Coastal Program land use plan. Therefore, the development has been designed to meet the development regulations of the underlying zone with approval of the deviations through a Planned Development Permit, and will enhance and protect any public views to and along the ocean and other scenic coastal areas as specified in the Local Coastal Program Land Use Plan.

b. The proposed coastal development will not adversely affect environmentally sensitive lands. The 0.733-acre project site does not contain Environmentally Sensitive Lands (ESL) areas, nor is it located on or adjacent to Multi-Habitat Planning Area (MHPA) lands. The site is disturbed and does not contain sensitive habitat nor does it support sensitive plant or wildlife species.

Addendum No. 375960 to Program Environmental Impact Report (PEIR) No. 310690/SCH No. 2015111012 prepared for the San Ysidro Community Plan Update has been prepared for the project in accordance with California Environmental Quality Act guidelines. Based upon a review of the current project, it has been determined that there are no new significant environmental impacts not considered in the previous PEIR, no substantial changes have occurred with respect to the circumstances under which the project is undertaken, and there is no new information of substantial importance to the project. Therefore, for these reasons, the proposed coastal development would not adversely affect ESL.

c. The proposed coastal development is in conformity with the certified Local Coastal Program land use plan and complies with all regulations of the certified Implementation Program. The 0.733-acre project site is located at 4575 Camino de la Plaza and the site was part of the 57.67-acre International Gateway of the Americas CDP No. 40-0338, which was approved by City Council on November 21, 2000. Though this CDP covered the entire development area, the proposed project site is located on the eastern border of the development and is not located within the boundaries of the Coastal Overlay Zone. The amendment of CDP No. 40-0338 will remove the project site from CDP No. 40-0338.

The project proposes the demolition of the existing one-story building and associated paved parking lot, and the construction of a five-level parking structure over 13,210 square feet of retail space at the ground level, and approximately 349 parking spaces. The project has been designed in conformance with the San Ysidro Community Plan and Local Coastal Program Land Use Plan update that was approved by the City Council on November 15, 2016 and the Local Coastal Program that was certified by the California Coastal Commission on December 13, 2017. The parking structure would be approximately 70 feet in height and the maximum permitted height is 60 feet within the CR-1-2 zone; however, the project requests a deviation from this height limit. With the deviation, the overall height complies with SDMC Section 132.0505(h) since the structure would be within the additional five-acres that would allow for a maximum eighty feet in height, as granted by the November 7, 2000, amendment of the Coastal

Zone height restriction (People's Ordinance No. O-10960 (New Series)-Proposition D). Therefore, for these reasons, the development is in conformity with the certified Local Coastal Program Land Use Plan and complies with all regulations of the certified Implementation Program.

d. For every Coastal Development Permit issued for any coastal development between the nearest public road and the sea or the shoreline of any body of water located within the Coastal Overlay Zone the coastal development is in conformity with the public access and public recreation policies of Chapter 3 of the California Coastal Act. The 0.733-acre project site is located at 4575 Camino de la Plaza and was part of the 57.67-acre International Gateway of the Americas CDP No. 40-0338, which was approved by City Council on November 21, 2000. Though this CDP covered the entire development area, the proposed project site is located on the eastern boarder of the development and is not located within the boundaries of the Coastal Zone. The amendment of CDP No. 40-0338 will remove the project site from CDP No. 40-0338. Therefore, the proposed development does not have to comply with the public access and recreation policies of Chapter 3 of the California Coastal Act since the site is not located within the Coastal Overlay Zone.

B. PLANNED DEVELOPMENT PERMIT- SAN DIEGO MUNICIPAL CODE (SDMC) SECTION 126.0604

1. Findings for all Planned Development Permits SDMC Section 126.0604(a):

a. The proposed development will not adversely affect the applicable land use plan. The 0.733-acre project site is located at 4575 Camino de la Plaza in the CR-1-2 (Commercial-Regional) Zone within the urbanized community of the San Ysidro Community Planning area, immediately north of the United States-Mexico International Border. The project proposes the demolition of the existing one-story building and associated paved parking lot, and the construction of a five-level parking structure over 13,210 square feet of retail space at the ground level, and approximately 349 parking spaces.

The community plan designates the site as Regional Commercial, with Residential Prohibited, which is intended to serve "an area beyond the community, with a wide variety of uses, including commercial service, civic, retail, office, and limited industrial uses." The project proposes a mix of uses consisting of an above-grade, multi-level parking structure with retail at the ground floor. The parking structure is an efficient use of land compared to the existing surface lot. Due to its proximity to the international border crossing, the parking structure is intended to serve cross-border traffic. The existing Mexican insurance business onsite is intended to occupy one of six retail suites on the ground floor. The development would provide regional serving uses that are compatible with community plan land use as well as its location at the international border.

The San Ysidro Community Plan is organized into walkable-multimodal neighborhoods, districts, and villages. The project site is located within the San Ysidro Commercial District and is adjacent to the Port of Entry District at Virginia Avenue. The San Ysidro Commercial District contains a mix of community and regional commercial uses that serve patrons on either side of the international border. The Port of Entry District is largely delineated by the Port of Entry

footprint where federal government uses provide for cross-border travel and growing pedestrian needs are to be accommodated. Development is also expected to beautify and enhance this important and highly traveled international gateway and complement the contemporary architecture of the Port of Entry Intermodal Transportation Center. The project site is adjacent to the future Virginia Avenue southbound pedestrian border crossing within the Port of Entry District. The proposed parking and commercial uses as well as contemporary architecture would not detract from existing uses within the San Ysidro Commercial District and would complement the architecture of, and facilitate cross-border travel at, the Port of Entry.

Community Plan Urban Design Element policies applicable to this development would address the following topics: community gateways, appropriate building proportions, ground level pedestrian interest, enhancement of commercial districts, and screening of parking. The project addresses all these topics in a manner fitting its scope as a commercial parking use. The plan's urban design concept map identifies the corner of Virginia Avenue and Camino De La Plaza as a primary intersection/activity node and potential gateway opportunity. This would be achieved through use of a combination of community signage and iconic building design, including distinctive architecture, accentuated building corners and frontages (including an increase in the overall building height), public plazas or entry courts that promote pedestrian activity, pedestrian amenities, public art, and landscaped features. The building accentuates its corner location through appropriate use of height, architectural detail and active uses at the ground floor. The parking structure will have a unique facade with a combination of metal mesh and printed fabric screening, including a large international-themed graphic simulating motion. A combination of open and covered entry courts, walkways and landscape features are proposed at the ground level to access the retail spaces and promote pedestrian activity.

The plan intends for developments to scale building form (i.e., height and massing) to the primary street they front. Camino De La Plaza is the primary fronting street and is relatively wide. The added height and massing of the parking structure is appropriate for Camino De La Plaza. Virginia Avenue is the secondary street and is a narrower width (50 feet). The parcel adjoins a ten-foot-wide non-buildable lot adjacent to Virginia Avenue and the building would be setback an additional 6 ½ feet. The first floor would also be pulled back six feet under the building. These building setbacks would reduce the apparent scale of the building along this street.

Ground level retail spaces would face Virginia Avenue and Camino De La Plaza and walkways and landscaping would accentuate the street. The retail level would be covered with a colored plaster and aluminum storefront, and horizontal aluminum sun screens above the windows. The extent of retail storefronts and design detail proposed at ground level would provide façade interest that enhances the commercial district. The parking levels would be screened from Camino De La Plaza and Virginia Avenue with a polyvinyl chloride (PVC) fabric mural and metal screen, and all open parking spaces on the roof deck would have horizontal PVC fabric screening over 50-percent of the total parking spaces. Therefore, for these reasons, the development would not adversely affect the applicable land use plan.

b. The proposed development will not be detrimental to the public health, safety, and welfare. The project proposes the demolition of the existing one-story

building and associated paved parking lot, and the construction of a five-level parking structure over 13,210 square feet of retail space at the ground level, and approximately 349 parking spaces. The parking structure will have secure parking convenient to the new border pedestrian crossing (Mexico Land Port of Entry [LPOE]), the proposed Transit Center at the end of Virginia Avenue, and both existing and proposed commercial retail spaces. The parking structure will have a gated entrance with a ticket machine to control access. The project will have a full-time security person, an on-site management office, controlled access, security cameras and lighting that along with increased foot traffic will enhance the safety of the surrounding area. "Pay to use" public restrooms will provide a sanitary facility which will be for customers and pedestrians crossing the border. The parking structure provides parking that will replace a portion of the parking lost due to construction of the LPOE and the transit center.

Addendum No. 375960 to PEIR No. 310690/SCH No. 2015111012 prepared for the San Ysidro Community Plan Update has been prepared for the project in accordance with California Environmental Quality Act guidelines. Based upon a review of the current project, it has been determined that there are no new significant environmental impacts not considered in the previous PEIR, no substantial changes have occurred with respect to the circumstances under which the project is undertaken, and there is no new information of substantial importance to the project.

The permit for the project includes various conditions and referenced exhibits of approval relevant to achieving project compliance with the applicable regulations of the SDMC in effect for this project. Such conditions within the permit have been determined as necessary to avoid adverse impacts upon the health, safety and general welfare of persons residing or working in the surrounding area. The project will comply with the development conditions in effect for the subject property as described in CDP No. 1325596, Neighborhood Use Permit (NUP) No. 1884778, and Planned Development Permit (PDP) No. 2191992, and other regulations and guidelines pertaining to the subject property per the SDMC for the project site. Prior to issuance of any building permits for the proposed development, the plans will be reviewed for compliance with all Building, Electrical, Mechanical, Plumbing and Fire Code requirements, and the owner/permittee will be required to obtain a grading and public improvement permit. Therefore, the proposed development would not be detrimental to the public health, safety and welfare.

c. The proposed development will comply with the regulations of the Land Development Code including any proposed deviations pursuant to Section 126.0602(b)(1) that 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; and any allowable deviations that are otherwise authorized pursuant to the Land Development Code. The project proposes the demolition of the existing one-story building and associated paved parking lot, and the construction of a five-level parking structure over 13,210 square feet of retail space at the ground level, and approximately 349 parking spaces. As outlined in CDP Finding (A)(1)(a) listed above, the project includes an amendment of CDP No. 40-0338 to remove the project site from CDP No. 40-0338. As outlined in NUP Findings (C) listed below, the project includes a NUP to allow for an off-premise directional signage.

In addition, an applicant may request deviations from the applicable development regulations pursuant to a Planned Development Permit provided that findings can be made and the deviation results in a more desirable project. The following table is a matrix of the proposed deviations, followed by the justifications for the deviations:

Deviations Summary			
Deviation Description	Deviation from SDMC	Required	Proposed
Setback	Section 131.0531(b) and Table 131-05(D)	Minimum 10 feet	6.5 feet on east side and a 5-foot west side setback; 3-foot rear-yard setback on south side
Building Height Deviation	Section 131.0531(b) and Table 131-05(D)	Maximum 60 feet	70 feet
Ground Floor Height	Section 131.0548	Average of 15 feet with a minimum of 13 feet	Average 14 feet 8 inches with a minimum of 12 feet
Signage: Virginia Avenue	Section 142.1225 (b) and Table 142-12C	Maximum 350 square feet	Approximately 410 square feet of combined wall sign copy area along Virginia Avenue
Signage: Camino De La Plaza	Section 142.1225 (b) and Table 142-12C	Maximum 184.5 square feet	Approximately 214 square feet of combined wall sign copy area along Camino De La Plaza

1. **Setback Deviation:** deviation to SDMC Section 131.0531(b) and Table 131-05(D) to allow a perimeter setback of 6.5 feet on the east side and a 5-foot west side setback where 10 feet is required for side yards; and a 3-foot rear-yard setback on the south side where 10 feet is required.

Justification- Along the Virginia Avenue frontage the project site adjoins a ten-foot-wide non-buildable lot adjacent to Virginia Avenue, between the public right-of-way and the subject property, which is reserved as a water and drainage easement to the City of San Diego. This non-buildable easement area effectively provides a minimum 10-foot setback from the public right-of-way. While the project proposes a setback from this lot/property line of 6 ½ feet at the upper parking levels, where 10 feet would be required, the ground floor will sit at 12 feet 9 inches from the property line, exceeding the 10-foot setback requirement and supporting pedestrian activity at the street level.

The Community Plan urban design concept map identifies the corner of Virginia Avenue and Camino De La Plaza as a primary intersection/activity node and potential gateway opportunity. The project's proposed ground level retail spaces would face Virginia Avenue and Camino De La Plaza, providing various storefront façades, along with walkways and landscaping, to enhance the pedestrian experience and activity. Through the reduced setbacks of the upper level, and rear and western setbacks, the proposed building will have an increased visible presence at this primary intersection/activity node, supporting the concept of a community gateway and focal point through use of a combination of community signage, public art, and iconic building design, including distinctive architecture, accentuated building corners and frontages, and an increase in the overall building height.

2. Building Height Deviation: deviation to SDMC Section 131.0531(b) and Table 131-05(D) to allow parking structure elements (parapet, façade and elevator shaft) to have heights ranging from approximately 58 to 70 feet, where the CR-1-2 zone limits height to 60 feet. The structural parapet height of the proposed parking structure goes from a height of 58 feet on the south end to a height of 62 feet on the north end. The facade has been extended up to 66.75 feet to coordinate with the required shade canopies on the top deck parking. The top of the elevator shaft is the highest portion of the building extending to 70 feet.

Justification- An increase above the 60-foot height limitation is necessary to incorporate the architectural elements needed to provide the trans-border graphic which will be visible to all people using the new LPOE. Building height was dictated by the need to provide a minimum number of parking spaces and physical conditions of the site, which do not allow for subterranean parking levels. At least two levels of subterranean parking would have been economically feasible and desirable, however existing storm drain pipes crossing the site make this unfeasible. The height deviations are minimal and allow for an elevator to serve all floors, and support the use of architectural features to enhance the project's iconic design. The building accentuates its corner location through appropriate use of height, architectural detail and active uses at the ground floor. The parking structure will have a unique facade with a combination of metal mesh and printed fabric screening, including a large international-themed graphic simulating motion. In addition, the overall height complies with SDMC Section 132.0505(h) since the structure would be within the additional 10-acres that would allow for a maximum of 80 or 150 feet in height, as granted by the November 7, 2000, amendment of the Coastal Zone height restriction (People's Ordinance No. O-10960 (New Series)-Proposition D).

3. Ground Floor Height Deviation to the SDMC Section 131.0548 for a ground floor height deviation to allow for an average 14 feet 8 inches with a minimum of 12 feet where the average of 15 feet with a minimum of 13 feet is required.

Justification- The ground floor height requirement was established to assure a minimum finished floor to ceiling height to allow for the incorporation of high quality design and accommodate the potential for changing commercial uses over time. As the project is primarily a parking structure, with retail accents at street level, there is not a fundamental need to accommodate a large extent of changing commercial uses. The proposed minor ground floor height deviation incorporated into this project will still allow the project to provide ground level retail spaces with architecturally interesting facades facing Virginia Avenue and Camino De La Plaza, as noted in Deviation No. 1 above, to enhance the pedestrian experience, while meeting the purpose and intent of the ground floor height requirements.

4. Signage Deviation to SDMC Section 142.1225 (b) and Table 142-12C to allow approximately 410 square feet of combined wall sign copy area where 350 square feet is allowed along Virginia Avenue (square footage does not include the off-premise directional signage).

Justification- The project is located in a very complex traffic area due to the Transit Center, international border crossing and surrounding retail and commercial uses. The additional signage is appropriate to provide the public with clear information regarding the project, including directional signage for the project and adjacent retail center. The public right-of-way improvements and landscaping along Virginia Avenue are being installed as part of the LPOE to Mexico and the Transit Center development projects. The landscape improvements include a row of canopy tree along Virginia Avenue, and with the first floor being setback 6 feet further than the upper parking levels, limits the visibility of the ground floor tenant space signage from the public right-of-way. Visibility of the tenant signage is essential for a business to prosper; therefore, additional signage areas have been established higher along the façade. In addition, to assist the vehicle traffic flow coming from the east along Camino De La Plaza directional signage to the parking entrance on Camino De La Plaza has been incorporated within the façade along Virginia Avenue.

5. Signage Deviation to SDMC Section 142.1225 (b) and Table 142-12C to allow approximately 214 square feet of combined wall sign copy area where 184.5 square feet is allowed along Camino De La Plaza.

Justification- The additional requested signage will assist safe and orderly vehicle traffic flow along Camino De La Plaza with clear directional signage to the parking entrance on Camino De La Plaza.

Each of the requested deviations has been reviewed as they relate to the proposed design of the project, the property configuration, and the surrounding development. The deviations are appropriate and will result in a more desirable project that efficiently utilizes the site and achieves the revitalization and re-use of

the existing commercial lot as a primary intersection/activity node and community gateway, while meeting the purpose and intent of the development regulations.

The deviations are appropriate and will result in a more desirable project that efficiently utilizes the site and achieves the revitalization and re-use of the existing commercial lot as a primary intersection/activity node and community gateway, while meeting the purpose and intent of the development regulations. Other than the requested deviations, the project meets all applicable regulations and policy documents, and is consistent with the recommended land use, design guidelines, and development standards in effect for this site per the Land Development Code (LDC).

C. NEIGHBORHOOD USE PERMIT – SAN DIEGO MUNICIPAL CODE (SDMC) SECTION 126.0205

1. Findings for all Neighborhood Use Permit SDMC Section 126.0205:

a. The proposed development will not adversely affect the applicable land use plan. As outlined in PDP Finding (B)(1)(a) listed above, the project is consistent with the goals, objectives, and proposals of the San Ysidro Community Plan. The project includes an approximate 192-square-foot directional sign “The Outlets at The Border” on the west elevation along Virginia Avenue, which is classified as an “off-premise directional signage” for a business that is not located within the boundaries of the property. This sign requires the approval of a NUP pursuant to SDMC Section 142.1255(j). The proposed signage is for the property south of the project site, which was impacted by the development of the Land Port of Entry to Mexico and the Transit Center at the end of Virginia Avenue. The property to the south was required to provide an Irrevocable Offer to Dedicate (IOD) of 90 to 102 feet wide x 280 feet long portion of the property along Virginia Avenue. This IOD was a condition for the approval of retail development called “The Outlets at The Border,” which was approved by the City Council on October 22, 2012, under Project No. 194101. The retail development is set back from Virginia Avenue by approximately 140 feet and the proposed parking structure may prevent the retail development from being seen from Camino De La Plaza right-of-way; therefore, off-premise directional signage is incorporated into the project which will not adversely affect the applicable land use plan.

b. The proposed development will not be detrimental to the public health, safety, and welfare. As outlined in SDP Finding (B)(1)(b) listed above, the permit for the project includes various conditions and referenced exhibits of approval relevant to achieving project compliance with the applicable regulations of the SDMC in effect for this project. Such conditions within the permit have been determined as necessary to avoid adverse impacts upon the health, safety and general welfare of persons residing or working in the surrounding area.

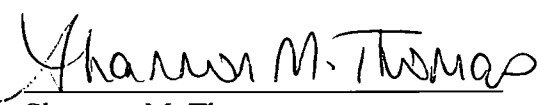
c. **The proposed development will comply with the regulations of the Land Development Code including any allowable deviations pursuant to the Land Development Code.** As outlined in SDP Findings (B)(1)(c) listed above, the project includes deviations to setbacks, height, ground floor height, and signage. Each of the requested deviations has been reviewed as they relate to the proposed design of the project, the property configuration, and the surrounding development. The deviations are appropriate and will result in a more desirable project that efficiently utilizes the site and achieves the revitalization and re-use of the existing commercial lot as a primary intersection/activity node and community gateway, while meeting the purpose and intent of the development regulations.

As outlined in Findings (C)(1)(a) listed above, the project includes an approximate 192-square-foot directional sign "The Outlets at The Border" on the west elevation along Virginia Avenue, which is classified as an "off-premise directional signage" for a business that is not located within the boundaries of the property. The retail development is set back from Virginia Avenue by approximately 140 feet and the proposed parking structure may prevent the retail development to be seen from Camino De La Plaza right-of-way; therefore, off-premise directional signage was incorporated into the project.

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 appeal of Shamrock/Outlets at the Border LLC is denied; and Coastal Development Permit No. 1325596, Neighborhood Use Permit No. 1884778, and Planned Development Permit No. 2191992 is granted to BAJA-MEX INSURANCE SERVICES, Inc., Owner and Permittee, under the terms and conditions set forth in the attached permit which is made a part of this resolution.

APPROVED: MARA W. ELLIOTT, City Attorney

By 
Shannon M. Thomas
Senior Deputy City Attorney

SMT:als
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Or.Dept:DSD
Doc. No.: 2006205

Attachment: Coastal Development Permit No. 1325596, Neighborhood Use Permit No. 1884778, and Planned Development Permit No. 2191992

**RECORDING REQUESTED
BY
CITY OF SAN DIEGO
DEVELOPMENT SERVICES
PERMIT INTAKE, MAIL
STATION 501**

**WHEN RECORDED MAIL TO
PROJECT MANAGEMENT
PERMIT CLERK
MAIL STATION 501**

INTERNAL ORDER NUMBER: 24004811 SPACE ABOVE THIS LINE FOR RECORDER'S USE

**COASTAL DEVELOPMENT PERMIT NO. 1325596
NEIGHBORHOOD USE PERMIT NO. 1884778
PLANNED DEVELOPMENT PERMIT NO. 2191992
VIRGINIA AVE PARKING GARAGE - PROJECT NO. 375960
AMENDMENT TO COASTAL DEVELOPMENT PERMIT NO. 40-0338
CITY COUNCIL**

This Coastal Development Permit No. 1325596, Planned Development Permit No. 2191992, and Neighborhood Use Permit No. 1884778, an amendment to Coastal Development Permit No. 40-0338, is granted by the City Council of the City of San Diego to Baja-Mex Insurance Services, Inc., a California Corporation, Owner/Permittee, pursuant to San Diego Municipal Code (SDMC) Sections 126.0205, 126.0605, and 126.0708. The 0.733-acre site is located at 4575 Camino de la Plaza in the CR-1-2 (Commercial-Regional) zone within the urbanized community of the San Ysidro Community Planning area, immediately north of the United States-Mexico International Border. In addition, the project is located in the San Ysidro Community Plan, San Ysidro Commercial District, San Ysidro Discretionary Review Overlay Zone, Transit Priority Area, and the Federal Aviation Administration (FAA) Part 77 Notification area. The project site is legally described as Lot 16 of International Gateway of the Americas Phase IA, in the City of San Diego, County of San Diego, State of California, as shown on the Map No. 14259, thereof recorded as File No. 2001-0581338 in the official records of the San Diego County Recorder on August 15, 2001.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee for the demolition of an existing commercial building and the construction of a five-level parking structure over 13,210 square feet of retail space, described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated May 14, 2019, on file in the Development Services Department.

The project shall include:

- a. Demolition of the existing one-story building and associated paved parking lot, and the construction of a five-level parking structure over 13,210 square feet of retail space at the ground level, and approximately 349 parking spaces;

- b. Amendment of Coastal Development Permit No. 40-0338 to remove the project site from the permit requirements because the project site is no longer a part of the Las Americas project and the site is not located within the Coastal Overlay Zone;
- c. One 32-foot x 6-foot (total of 192 square feet) off-premise directional sign;
- d. Deviations from the SDMC:
 - 1. Setback Deviation to SDMC Section 131.0531(b) and Table 131-05(D) to allow a perimeter setback of 6.5 feet on the east side and a 5-foot west side setback where 10 feet is required for side yards; and a 3-foot rear-yard setback on the south side where 10 feet is required;
 - 2. Building Height Deviation to SDMC Section 131.0531(b) and Table 131-05(D) to allow for a maximum building height of 70 feet where 60 feet is allowed;
 - 3. Ground Floor Height Deviation to the SDMC Section 131.0548 for a ground floor height deviation to allow for an average 14 feet 8 inches with a minimum of 12 feet where the average of 15 feet with a minimum of 13 feet is required;
 - 4. Signage Deviation to SDMC Section 142.1225 (b) and Table 142-12C to allow approximately 410 square feet of combined wall sign copy area where 350 square feet is allowed along Virginia Avenue;
 - 5. Signage Deviation to SDMC Section 142.1225 (b) and Table 142-12C to allow approximately 214 square feet of combined wall sign copy area where 184.5 square feet is allowed along Camino De La Plaza; and
- e. Landscaping (planting, irrigation and landscape related improvements);
- f. Off-street parking; and
- g. Public and private accessory improvements determined by the Development Services Department to be consistent with the land use and development standards for this site in accordance with the adopted community plan, the California Environmental Quality Act (CEQA) and the CEQA Guidelines, the City Engineer's requirements, zoning regulations, conditions of this Permit, and any other applicable regulations of the SDMC.

STANDARD REQUIREMENTS:

- 1. This permit must be utilized within thirty-six (36) months after the date on which all rights of appeal have expired. If this permit is not utilized in accordance with Chapter 12, Article 6, Division 1 of the SDMC within the 36-month period, this permit shall be void unless an

Extension of Time has been granted. Any such Extension of Time must meet all SDMC requirements and applicable guidelines in effect at the time the extension is considered by the appropriate decision maker. This permit must be utilized by May 14, 2022.

2. This Coastal Development Permit shall become effective on the eleventh working day following receipt by the California Coastal Commission of the Notice of Final Action, or following all appeals.

3. No permit for the construction, occupancy, or operation of any facility or improvement described herein shall be granted, nor shall any activity authorized by this Permit be conducted on the premises until:

- a. The Owner/Permittee signs and returns the Permit to the Development Services Department; and
- b. The Permit is recorded in the Office of the San Diego County Recorder.

4. While this Permit is in effect, the subject property shall be used only for the purposes and under the terms and conditions set forth in this Permit unless otherwise authorized by the appropriate City decision maker.

5. This Permit is a covenant running with the subject property and all of the requirements and conditions of this Permit and related documents shall be binding upon the Owner/Permittee and any successor(s) in interest.

6. The continued use of this Permit shall be subject to the regulations of this and any other applicable governmental agency.

7. Issuance of this Permit by the City of San Diego does not authorize the Owner/Permittee for this Permit to violate any Federal, State or City laws, ordinances, regulations or policies including, but not limited to, the Endangered Species Act of 1973 (ESA) and any amendments thereto (16 U.S.C. § 1531 et seq.).

8. The Owner/Permittee shall secure all necessary building permits. The Owner/Permittee is informed that to secure these permits, substantial building modifications and site improvements may be required to comply with applicable building, fire, mechanical, and plumbing codes, and State and Federal disability access laws.

9. Construction plans shall be in substantial conformity to Exhibit "A." Changes, modifications, or alterations to the construction plans are prohibited unless appropriate application(s) or amendment(s) to this Permit have been granted.

10. All of the conditions contained in this Permit have been considered and were determined necessary to make the findings required for approval of this Permit. The Permit holder is required to comply with each and every condition in order to maintain the entitlements that are granted by this Permit.

If any condition of this Permit, on a legal challenge by the Owner/Permittee of this Permit, is found or held by a court of competent jurisdiction to be invalid, unenforceable, or unreasonable, this Permit shall be void. However, in such an event, the Owner/Permittee shall have the right, by paying applicable processing fees, to bring a request for a new permit without the "invalid" condition(s) back to the discretionary body which approved the Permit for a determination by that body as to whether all of the findings necessary for the issuance of the proposed permit can still be made in the absence of the "invalid" condition(s). Such hearing shall be a hearing de novo, and the discretionary body shall have the absolute right to approve, disapprove, or modify the proposed permit and the condition(s) contained therein.

11. The Owner/Permittee shall defend, indemnify, and hold harmless the City, its agents, officers, and employees from any and all claims, actions, proceedings, damages, judgments, or costs, including attorney's fees, against the City or its agents, officers, or employees, relating to the issuance of this permit including, but not limited to, any action to attack, set aside, void, challenge, or annul this development approval and any environmental document or decision. The City will promptly notify Owner/Permittee of any claim, action, or proceeding and, if the City should fail to cooperate fully in the defense, the Owner/Permittee shall not thereafter be responsible to defend, indemnify, and hold harmless the City or its agents, officers, and employees. The City may elect to conduct its own defense, participate in its own defense, or obtain independent legal counsel in defense of any claim related to this indemnification. In the event of such election, Owner/Permittee shall pay all of the costs related thereto, including without limitation reasonable attorney's fees and costs. In the event of a disagreement between the City and Owner/Permittee regarding litigation issues, the City shall have the authority to control the litigation and make litigation related decisions, including, but not limited to, settlement or other disposition of the matter. However, the Owner/Permittee shall not be required to pay or perform any settlement unless such settlement is approved by Owner/Permittee.

12. Coastal Development Permit No. 40-0338 shall remain in force and effect except as amended by this Permit.

CLIMATE ACTION PLAN REQUIREMENTS:

13. Owner/Permittee shall comply with the Climate Action Plan (CAP) Consistency Checklist stamped as Exhibit "A." Prior to issuance of any construction permit, all CAP strategies shall be noted within the first three (3) sheets of the construction plans under the heading "Climate Action Plan Requirements" and shall be enforced and implemented to the satisfaction of the Development Services Department.

ENGINEERING REQUIREMENTS:

14. The project proposes to export no material from the project site. Any excavated material that is exported, shall be exported to a legal disposal site in accordance with the Standard Specifications for Public Works Construction (the "Green Book"), 2015 edition and Regional Supplement Amendments adopted by Regional Standards Committee.

15. The drainage system proposed for this development, as shown on the site plan, is private and subject to approval by the City Engineer.

16. Prior to the issuance of any construction permits, the Owner/Permittee shall enter into an agreement to indemnify, protect and hold harmless the City, its officials and employees from any and all claims, demands, causes or action, liability or loss because of, or arising out of, the Public storm water that is transported through the property within the private storm drain system, satisfactory to the City Engineer.

17. The Owner/Permittee shall not construct any private improvements that encroach into the Camino De La Plaza or Virginia Avenue Right-of-Way.

18. Prior to the issuance of any construction permits, the Owner/Permittee shall enter into a Maintenance Agreement for the ongoing permanent Best Management Practices (BMP) maintenance, satisfactory to the City Engineer.

19. Prior to the issuance of any construction permits, the Owner/Permittee shall incorporate any construction BMPs necessary to comply with Chapter 14, Article 2, Division 1 (Grading Regulations) of the SDMC, into the construction plans or specifications.

20. Prior to the issuance of any construction permits, the Owner/Permittee shall submit a Water Pollution Control Plan (WPCP). The WPCP shall be prepared in accordance with the guidelines in Appendix E of the City's Storm Water Standards.

LANDSCAPE REQUIREMENTS:

21. Prior to issuance of any construction permits for public improvements, the Owner/Permittee shall submit complete landscape construction documents for right-of-way improvements to the Development Services Department for approval. Improvement plans shall show, label, and dimension a 40-square foot area around each tree which is unencumbered by utilities. Driveways, utilities, drains, water and sewer laterals shall be designed so as not to prohibit the placement of street trees.

22. Prior to issuance of any construction permits, the Owner/Permittee shall submit complete landscape and irrigation construction documents, which are consistent with the Landscape Standards, to the Development Services Department for approval. The construction documents shall be in substantial conformance with Exhibit "A," Landscape Development Plan, on file in the Development Services Department. Construction plans shall provide a 40-square foot area around each tree that is unencumbered by hardscape and utilities unless otherwise approved per §142.0403(b)(5).

23. The Owner/Permittee shall be responsible for the maintenance of all landscape improvements shown on the approved plans, including in the right-of-way, unless long-term maintenance of said landscaping will be the responsibility of another entity approved by the Development Services Department. All required landscape shall be maintained consistent with

the Landscape Standards in a disease, weed, and litter free condition at all times. Severe pruning or "topping" of trees is not permitted.

24. If any required landscape (including existing or new plantings, hardscape, landscape features, etc.) indicated on the approved construction documents is damaged or removed during demolition or construction, the Owner/Permittee shall repair and/or replace in kind and equivalent size per the approved documents to the satisfaction of the Development Services Department within 30 days of damage or Certificate of Occupancy.

PLANNING/DESIGN REQUIREMENTS:

25. A topographical survey conforming to the provisions of the SDMC may be required if it is determined, during construction, that there may be a conflict between the building(s) under construction and a condition of this Permit or a regulation of the underlying zone. The cost of any such survey shall be borne by the Owner/Permittee.

26. All signs associated with this development shall be consistent with sign criteria established by the approved Exhibit "A" or City-wide sign regulations.

27. All private outdoor lighting shall be shaded and adjusted to fall on the same premises where such lights are located and in accordance with the applicable regulations in the SDMC.

28. Prior to issuance of a Certificate of Occupancy, the Owner/Permittee shall have all building art work, as shown on the approved Exhibit "A" plans, installed and completed on the building structure.

29. Prior to the issuance of construction permits, construction documents shall fully illustrate the incorporation of a roof-mounted photovoltaic system consisting of solar panels, as shown on the approved Exhibit "A" plans.

TRANSPORTATION REQUIREMENTS:

30. A minimum of 66 automobile spaces (including 2 standard accessible spaces and 1 van accessible space) and 10 zero emission/carpool spaces, 2 motorcycle spaces, 3 long term bicycle spaces and 3 short term bicycle spaces are required by the Land Development Code as shown on the project's Exhibit "A." The Owner/Permittee is providing 21 short term bicycle spaces and bicycle storage room with 28 bicycle spaces, as noted and shown on the approved Exhibit "A" plans. All on-site parking stalls and aisle widths shall be in compliance with requirements of the City's Land Development Code and shall not be converted and/or utilized for any other purpose, unless otherwise authorized in writing by the appropriate decision-maker in accordance with the SDMC.

31. Prior to issuance of any construction permits for the building structure, the Owner/Permittee shall assure by permit and bond the widening of Camino De La Plaza for a distance of approximately 180 feet to the west of Virginia Avenue on the north side of the street to allow for the construction of a westbound left turn lane into the site. This improvement will include raised

median, standard height curb, gutter and sidewalk and reconstruction of the curb ramp at the northwest corner of Camino De La Plaza and Virginia Avenue, satisfactory to the City Engineer.

32. The Owner/Permittee shall provide and maintain 10 feet by 10 feet visibility triangle area on both sides of the driveway measured along the property line on Camino De La Plaza. No obstruction higher than 36 inches shall be located within this area (e.g. shrubs, landscape, walls, columns signs, etc.).

33. Prior to issuance of a Certificate of Occupancy, the Owner/Permittee shall install and have a fully operational a Smart Parking System, as noted and shown on the approved Exhibit "A" plans.

PUBLIC UTILITIES DEPARTMENT REQUIREMENTS:

34. Prior to the issuance of any construction permits, the Owner/Permittee shall apply for a plumbing permit for the installation of appropriate private Back Flow Prevention Device(s) [BFPDs], on each water service (domestic, fire and irrigation), in a manner satisfactory to the Public Utilities Director and the City Engineer. BFPDs shall be located above ground on private property, in line with the service and immediately adjacent to the right-of-way. The Public Utilities Department will not permit the required BFPDs to be located below grade or within the structure.

35. Prior to the issuance of any construction permits, the Owner/Permittee shall assure, by permit and bond, the design and construction of all public water and sewer facilities are to be in accordance with established criteria in the most current City of San Diego Water and Sewer Design Guides.

36. All public water and sewer facilities are to be in accordance with the established criteria in the most current City of San Diego Water and Sewer Design Guides.

37. All proposed private water and sewer facilities located within a single lot are to be designed to meet the requirements of the California Uniform Plumbing Code and will be reviewed as part of the building permit plan check.

38. No trees or shrubs exceeding three feet in height at maturity shall be installed within ten feet of any sewer facilities and five feet of any water facilities.

INFORMATION ONLY:

- The issuance of this discretionary permit alone does not allow the immediate commencement or continued operation of the proposed use on site. Any operation allowed by this discretionary permit may only begin or recommence after all conditions listed on this permit are fully completed and all required ministerial permits have been issued and received final inspection.

- Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of this Permit, may protest the imposition within ninety days of the approval of this development permit by filing a written protest with the City Clerk pursuant to California Government Code-section 66020.
- This development may be subject to impact fees at the time of construction permit issuance.

APPROVED by the City Council of the City of San Diego on May 14, 2019, and by Resolution No. R- 312463.

Permit Type/PTS Approval No.: CDP No. 1325596
NUP No. 1884778
PDP No. 2191992
Date of Approval: May 14, 2019

AUTHENTICATED BY THE CITY OF SAN DIEGO DEVELOPMENT SERVICES
DEPARTMENT

Tim Daly
Development Project Manager

**NOTE: Notary acknowledgment
must be attached per Civil Code
section 1189 et seq.**

**The undersigned Owner/Permittee, by execution hereof, agrees to each and every condition of
this Permit and promises to perform each and every obligation of Owner/Permittee hereunder.**

**BAJA-MEX INSURANCE SERVICES, Inc.,
a California Corporation
Owner/Permittee**

By: _____
Name:
Title:

**NOTE: Notary acknowledgments
must be attached per Civil Code
section 1189 et seq.**

Passed by the Council of The City of San Diego on MAY 14 2019, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Barbara Bry	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jennifer Campbell	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Ward	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Monica Montgomery	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mark Kersey	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Cate	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Scott Sherman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Vivian Moreno	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Georgette Gómez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage MAY 14 2019.

(Please note: When a resolution is approved by the Mayor, the date of final passage is the date the approved resolution was returned to the Office of the City Clerk.)

AUTHENTICATED BY: KEVIN L. FAULCONER
Mayor of The City of San Diego, California.

(Seal) ELIZABETH S. MALAND
City Clerk of The City of San Diego, California.

By *Hy Ready*, Deputy

Office of the City Clerk, San Diego, California
Resolution Number R- 312463