

**DATE ISSUED:** November 2, 2006 **REPORT NO.** PC-06-283

**ATTENTION:** Planning Commission, Agenda of November 9, 2006

**SUBJECT:** **THE MARKETPLACE - PTS No. 47993**  
PROCESS 4

**REFERENCE:** Planned Commercial Development Permit Amendment No. 83-0074,  
Planned Commercial Development Permit No. 49 Amendment No. 1

**OWNER/  
APPLICANT:** UC Marketplace Partnership/David Cherashore (Attachment 8)

**SUMMARY**

Issue(s) - Should the Planning Commission approve a request to extend the hours of operation for two businesses, a fitness center at 3338 Governor Drive to operate twenty-four hours a day and a restaurant/coffee house at 3202 Governor Drive to open at five o'clock a.m. and close at twelve o'clock a.m. in the University community?

Staff Recommendation -

1. **APPROVE** the Planned Development Permit No. 141834

Community Planning Group Recommendation - The University Community Planning Board voted on three motions on December 14, 2004. Two motions to recommend approval failed. The final motion to recommend denial of the application succeeded by a vote of 8:3:0. The Board's full motion is presented in the Discussion section of this report.

Environmental Review - The project is exempt from the California Environmental Quality Act (CEQA) pursuant to Article 19, Section 15301(k) as "Existing Facilities." This project is not pending an appeal of the environmental determination. The environmental exemption determination for this project was made on October 21, 2004, and the opportunity to appeal that determination ended November 4, 2004. This application has no outstanding environmental appeals.

Fiscal Impact Statement - None with this action. All costs are recovered through a deposit account funded by the applicant.

Code Enforcement Impact - None with this action.

Housing Impact Statement - None with this action.

## **BACKGROUND**

The Marketplace is located in the University Community Plan (Plan) area. The site is designated by the Plan for community commercial uses (Attachment 1). The site, located more specifically at 3202 and 3338 Governor Drive between Regents Road and Scripps Place (Attachment 2), was developed after the approval of two previous Planned Commercial Development (PCD) permits; Planned Commercial Development Permit No. 49 and Commercial Development Permit No. 83-0074. The first PCD was approved on January 3, 1980 while the second PCD was approved on January 6, 1984. The first PCD allowed a maximum of 92,500 square feet of commercial development, parking, landscaping, improvements in the public right-of-way and other incidental improvements. The second PCD allowed the maximum square feet to increase to 98,974 square feet and an increase of parking to no fewer than 490 off-street spaces.

The site is zoned CN-1-2. The surrounding land uses include single family developments to the north, east, south and west and commercial uses on the corners of the intersection of Governor Drive and Regents Road. The single family properties are zoned RS-1-7 while the commercial properties are zoned CN-1-2. The original buildings, except the one at 3202 Governor Drive, were built in 1961/1962. The building at 3202 Governor Drive was completed in 1985 (Attachment 3).

## **DISCUSSION**

### Project Description

The Marketplace proposes a Planned Development Permit (PDP) to amend the previous PCD permits to allow a deviation from the CN-1-2 zone development regulations which control the hours of operation. The PDP would authorize one business, a fitness center at 3338 Governor Drive, to operate twenty-four hours a day and the second business, a restaurant/coffee house at 3202 Governor Drive, to open at five o'clock a.m. and close at twelve a.m. All other remaining conditions of the previous PCD permits would remain in full force and effect. No new construction or development of the site would result should the proposal be approved.

The development of property is controlled through the application of the zoning regulations. Within the zoning regulations, the hours of operation are one of the many controls on development directing how specific properties are used. Applicants are provided with the opportunity to request deviations to the hours of operation established by the zone through the PDP process. The purpose and intent of the PDP process is to encourage imaginative and innovative planning in concert with the land use plan to achieve a result greater than would be achieved without a deviation process. The deviation process in this case allowed City staff to examine and analyze the specific request while considering the context of the site. City staff considered that while the request is limited to two specific uses of the many other uses on the site, it would further the employment opportunities in the community and allow these specific uses to follow their successful business models. These two specific uses are located and oriented away from the single family residences adjacent to the site on the north, east and across Governor

Drive to the south and west. Allowing the expansion of the hours of operation at this location is not anticipated to have any adverse affect to other persons or properties in the immediate area.

### Community Plan Analysis

The project site is located in the South University Subarea of the University Community Plan and is designated for Community Commercial Uses. The proposed uses, a fitness center and a restaurant/coffee house, are consistent with the community plan designation and are allowed by the base zone. The permit amendment relates only to the revision of hours of operation for the fitness center and for the restaurant/coffee house uses. The City has determined the change in hours of operation for these specified uses would be consistent with the University Community Plan.

### Environmental Analysis

The project is exempt from the California Environmental Quality Act (CEQA) pursuant to Article 19, Section 15301(k) as "Existing Facilities." No issues covered by CEQA were identified by staff's review of the proposed permit amendment.

### Community Planning Group Recommendation

The University Community Planning Board voted on three motions December 14, 2004. The first motion proposed to recommend approval of the application with a condition that the east driveway access during late night hours be restricted and only breakfast and breakfast items be extended to 5 a.m. The motion failed by a vote of 3:8:0. The second motion proposed to recommend approval of the application with a condition that only breakfast and breakfast items be extended to 5 a.m. The second motion failed by a vote of 5:6:0. The final motion to recommend denial of the application succeeded by a vote of 8:3:0. Minutes from the meeting are provided as attachment 5.

### **CONCLUSION**

The proposal to allow an expansion of store hours at 3202 and 3338 Governor Drive will compliment an existing commercial development at the northeast corner of Governor Drive and Regents Road. The proposed deviation from the CN-1-2 zone regulations may be approved through the processing of a Planned Development Permit. The proposed hours of operation would supplement an existing neighborhood commercial center and meets all the guidelines and regulations relevant for this site, as allowed by a Planned Development Permit. Further, the proposal would provide additional employment and service opportunities within the neighborhood. All issues identified as a result of the staff review of the project have been resolved in a manner consistent with the regulations and policies of the City of San Diego. The proposed project would fulfill a community need for additional commercial development. No public correspondence was received regarding the proposal. Draft findings of approval have been prepared for the proposal (Attachment 6). Draft conditions of approval have been prepared for the project (Attachment 7).

### **ALTERNATIVES**

1. **APPROVE** Planned Development Permit No. 141834, with modifications.
2. **DENY** Planned Development Permit No. 141834 if the findings required to approve the project cannot be affirmed.

**Respectfully submitted,**

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**Mike Westlake**  
**Program Manager**  
**Development Services Department**

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**John S. Fisher**  
**Development Project Manager**  
**Development Services Department**

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Attachments:

1. Community Plan Land Use Map
2. Vicinity Map
3. Aerial Photograph
4. Site Plan
5. University Community Planning Board recommendation
6. Draft Planned Development Permit Resolution
7. Draft Planned Development Permit No. 141834
8. Ownership Disclosure Statement
9. Project Chronology
10. Project Data Sheet
11. Planned Commercial Development Permit Amendment No. 83-0074
12. Planned Commercial Development Permit No. 49 Amendment No. 1