

RESOLUTION NUMBER R-289453

ADOPTED ON NOVEMBER 18, 1997

WHEREAS, the General Dynamics Corporation, Owner/Permittee, filed an application with Development Services for a Planned Industrial Development/Resource Protection Ordinance Permit and a Planned Commercial Development/Resource Protection Ordinance Permit to redevelop the 243.7-acre Kearny Mesa General Dynamics site with a mixture of retail/entertainment, commercial and industrial uses, an approximately 7-acre Missile Park and a 4.3-acre vernal pool conservation bank, legally described as Lots 4, 5, 6, 11, 12, 13 and Portion of Lots 20, 21 and 22 of the Highlands, Map No. 284; Portion of Blocks 1, 2, 9 and 10 of Rosedale, Map No. 826, located at 5001 Kearny Villa Road, between Clairemont Mesa Boulevard and Balboa Avenue in the Kearny Mesa Community Planning Area; and

WHEREAS, on November 18, 1997, the City Council of the City of San Diego considered Planned Industrial Development/Resource Protection Ordinance Permit No. 96-0165 and Planned Commercial Development/Resource Protection Ordinance Permit No. 96-0165, pursuant to San Diego Municipal Code sections 101.0920, 101.0910 and 101.0462 respectively, and voted 9 to 0 to approve the project; NOW, THEREFORE,

BE IT RESOLVED, by the Council of The City of San Diego, that this Council adopts the following findings with respect to Planned Industrial Development/Resource Protection Ordinance Permit No. 96-0165 and Planned Commercial Development/Resource Protection Ordinance Permit No. 96-0165:

SAN DIEGO CITY

-PAGE 1 OF 8-

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**PLANNED INDUSTRIAL DEVELOPMENT AND PLANNED COMMERCIAL DEVELOPMENT PERMIT FINDINGS:**

- A. THE PROPOSED USE WILL FULFILL AN INDIVIDUAL AND/OR COMMUNITY NEED AND WILL NOT ADVERSELY AFFECT THE GENERAL PLAN OR THE COMMUNITY PLAN.

The Project Site is currently unoccupied and virtually all of the pre-existing buildings have been demolished. Redevelopment of the project site in accordance with the uses identified in the New Century Center Master Plan and New Century Center Development Standards would promote a number of important objectives identified in the Progress Guide and General Plan and the Kearny Mesa Community Plan, including the creation of a substantial number of permanent jobs and growth opportunities; the revitalization of the Kearny Mesa Community; and the establishment of a forward-looking Master Plan for the General Dynamics site.

The project includes proposed amendments to the Progress Guide and General Plan and the Kearny Mesa Community Plan to change the site's designation on the western portion of the site from Industrial and Business Park to General Commercial, and redesignates Missile Park to Open Space/Park. These changes would maintain consistency between the land use designations, objectives, and goals contained in the Progress Guide and General Plan and the Kearny Mesa Community Plan.

- B. THE PROPOSED USE, BECAUSE OF CONDITIONS THAT HAVE BEEN APPLIED TO IT, WILL NOT BE DETRIMENTAL TO THE HEALTH, SAFETY AND GENERAL WELFARE OF PERSONS RESIDING OR WORKING IN THE AREA AND WILL NOT ADVERSELY AFFECT OTHER PROPERTY IN THE VICINITY.

A Program Environmental Impact Report has been prepared for the project in accordance with the California Environmental Quality (CEQA) Act and the CEQA Guidelines. A Mitigation Monitoring and Reporting Program has also been prepared, and a statement of overriding considerations has been adopted.

Conditions have been added to the PID and PCD permits to minimize potential impacts to the Community to the extent feasible and to avoid impacts that would be materially detrimental to the health, safety, and general welfare of persons residing or working in the area. Implementation of the proposed uses would promote revitalization of property in the vicinity of the project site, would have a positive fiscal impact on the City, and would create a substantial number of jobs.

- C. THE PROPOSED USE WILL COMPLY WITH THE RELEVANT REGULATIONS OF THE MUNICIPAL CODE.

Redevelopment of the project site in accordance with the New Century Center Master Plan, Development Standards, and Design Manual will comply with all relevant regulations of the Municipal Code.

**RESOURCE PROTECTION ORDINANCE PERMIT FINDINGS:**

- A. THE PROPOSED DEVELOPMENT WILL NOT ADVERSELY AFFECT THE CITY OF SAN DIEGO'S PROGRESS GUIDE AND GENERAL PLAN.

The New Century Center project includes proposed amendments to the Progress Guide and General Plan to change the site's designation on the western portion of the property from Industrial and Business Park to General Commercial, and redesignates Missile Park to Open Space/Park. These changes would maintain consistency between the proposed project and the land use designations, objectives, and goals contained within the Progress Guide and General Plan.

Redevelopment of the Kearny Mesa General Dynamics project site in accordance with the uses identified in the New Century Center Master Plan, Development Standards and Design Manual, together with the conditions contained within the PID, PCD, and RPO permits and the Vesting Tentative Map, would promote a number of important objectives identified in the Progress Guide and General Plan, and will not adversely affect the City of San Diego's Progress Guide and General Plan.

- B. THE PROPOSED DEVELOPMENT WILL CONFORM TO THE COMMUNITY PLAN FOR THE AREA AND ANY OTHER APPLICABLE PLANS, POLICIES AND ORDINANCES.

The project includes proposed amendments to the Progress Guide and General Plan and the Kearny Mesa Community Plan. These changes would maintain consistency between the land use designations, objectives, and goals contained within both the Kearny Mesa Community Plan and the Progress Guide and General Plan. In addition, development of the project will be governed through a number of regulatory documents including the New Century Center Master Plan, Development Standards and Design Manual, a Planned Commercial Development, Planned Industrial Development, Resource Protection Ordinance Permit, Vesting Tentative Map, and a Development Agreement. These documents, together with the conditions contained therein, conform with the Kearny Mesa Community Plan and the City of San Diego's Municipal Code.

- C. THE PROPOSED DEVELOPMENT WILL BE SITED, DESIGNED, CONSTRUCTED AND MAINTAINED TO MINIMIZE, IF NOT PRECLUDE ADVERSE IMPACTS ON ENVIRONMENTALLY SENSITIVE LANDS.

The project's impacts to approximately 9.0 acres of Diegan coastal sage scrub, direct

impacts to one pair of coastal California gnatcatchers, and indirect impacts to a second pair of gnatcatchers, will be mitigated as contemplated in the Resource Protection Ordinance through (1) payment of a fee for the purchase of habitat within key biological areas (i.e., areas within the Multiple Species Conservation Program area); or (2) acquisition of off-site coastal sage scrub habitat within key biological areas for permanent preservation.

Mitigation measures have been included in the EIR which require the applicant to implement either an on-site or off-site preservation, restoration, and enhancement program designed to ensure that no net loss of function and value will occur with respect to the sensitive wetlands and vernal pool habitat which is present within an approximately 0.2 acre portion of the Property (referred to as the "Eastern Section" in the EIR). These measures include preservation of approximately 0.4 acres of higher quality vernal pool habitat within the Southern Section (as defined in the EIR) of the property as a vernal pool preserve; restoration of the habitat within the vernal pool preserve through the removal of debris, the installation of fencing, the establishing of a native plant buffer, the relocation of an existing dirt road; and the creation of at least 1500 square feet of new vernal pool basin within the vernal pool preserve. The off-site mitigation measures identified require levels of preservation, restoration, and enhancement exceeding the acreage impacted by development of the Eastern Section, thereby ensuring no net loss of function or value.

Notwithstanding the mitigation of impacts to wetlands and vernal pool habitat and the various endangered species associated therewith, any loss of vernal pool basin is considered to be significant and requires the alternative compliance findings set forth below.

- D. THE PROPOSED DEVELOPMENT WILL BE SITED AND DESIGNED TO PREVENT ADVERSE IMPACTS ON ANY ENVIRONMENTALLY SENSITIVE LANDS AND RESOURCES LOCATED IN ADJACENT PARKS AND PUBLIC OPEN-SPACE AREAS AND WILL PROVIDE ADEQUATE BUFFER AREAS TO PROTECT SUCH RESOURCES.

No environmentally sensitive lands and resources are located in adjacent parks or public open space areas. Mitigation measures associated with the on-site vernal pool preserve contemplate preservation of the existing watershed supporting the vernal pool areas, as well as the installation of fencing and the establishing of a native plant buffer sufficient to protect these on-site resources.

- E. THE PROPOSED DEVELOPMENT WILL MINIMIZE THE ALTERATIONS OF NATURAL LANDFORMS AND WILL NOT RESULT IN UNDUE RISKS FROM GEOLOGICAL AND EROSIONAL FORCES/AND OR FLOOD AND FIRE HAZARDS.

A substantial portion of the wetlands and vernal pools located in the Eastern Section which would be impacted by the project are believed to be located above concrete slabs and other subterranean structures constructed in conjunction with General Dynamic's prior activities within the site. These structures are included within the applicant's ongoing environmental assessment and remediation program. As a result, it is questionable whether impacts to the vernal pool habitat within the Eastern Section could be avoided even if the applicant did not proceed with development of the project. As described further in RPO Finding C above, direct impacts of the project to the wetlands, vernal pools, and associated endangered species within the Eastern Section have been mitigated through conditions attached to the Permits.

Although most of the project site has already been substantially disturbed through past activities associated with General Dynamic's Atlas Missile facility, mitigation measures have been added as permit conditions which, when implemented, will minimize alteration of any remaining natural land forms and their impact on surrounding property. These mitigation measures include: preparation of a geotechnical reconnaissance report prior to recordation of the first final map; temporary and permanent erosion/siltation control measures locating temporary desilting basins at drainage confluence points to intercept storm water runoff from developed areas. No flood or fire hazards associated with the proposed development have been identified.

F. FEASIBLE MEASURES, AS DEFINED IN THIS SECTION, TO PROTECT AND PRESERVE THE SPECIAL CHARACTER OF THE SPECIAL HISTORICAL, ARCHITECTURAL, ARCHAEOLOGICAL OR CULTURAL VALUE OF THE AFFECTED SIGNIFICANT PREHISTORIC SITE OR RESOURCE HAVE BEEN PROVIDED BY THE APPLICANT.

The applicant has agreed to mitigation measures as conditions to the PCD and PID permits which are intended to avoid any significant impacts to significant historical, architectural, archaeological, or cultural sites present on the property. These measures include a condition that the applicant submit a soils report with each grading plan to determine the locations of the Linda Vista and Friars formations (which may potentially contain paleontological resources). In the event the soils report identifies the presence of these formations and the grading plan would disturb same, the applicant has been required to retain a qualified paleontologist to implement a monitoring program. The implementation of this program, as reflected in additional mitigation measures, would ensure that potential direct and cumulative impacts to paleontological resources are adequately mitigated.

**RESOURCE PROTECTION ORDINANCE - ALTERNATIVE COMPLIANCE FINDINGS**

THE CITY COUNCIL MAY GRANT ALTERNATIVE COMPLIANCE TO ENSURE THE

PROVISION OF EXTRAORDINARY BENEFIT TO THE GENERAL PUBLIC ON MAKING FINDINGS OF OVERRIDING SOCIAL AND ECONOMIC CONSIDERATIONS IN ADDITION TO THE FOLLOWING FINDINGS.

- A. THERE ARE NO FEASIBLE MEASURES THAT FURTHER MINIMIZE THE POTENTIAL ADVERSE EFFECTS ON ENVIRONMENTALLY SENSITIVE LANDS WHILE STILL PROVIDING THE EXTRAORDINARY BENEFIT.

The mitigation measures added as conditions to the PCD and PID permits ensure that no net loss of function and value for wetlands and vernal pool habitat will occur as a result of development of the Eastern Section. Further mitigation would require avoidance of disturbance of the wetlands and vernal pool areas. Because of the location of these areas within the Eastern Section, the practical effect of such avoidance would be to leave approximately 36 acres of the project site undeveloped, which is not considered feasible.

The strict application of the Resource Protection Ordinance would preclude development of all legal parcels upon which any sensitive resources are located, effectively eliminating development of approximately 36 acres of Industrial and Business Park uses within the project site. This loss of development could prevent a number of extraordinary benefits provided through the project including: 1) pursuant to the development agreement, the project will be providing funding for the Serra Mesa Library, the I-15 auxiliary lane, funding for other Kearny Mesa community facilities, and the dedication and conservation of over 1,000 acres of habitat within Sycamore Canyon; 2) the generation of significant revenues and a positive fiscal impact to the City; 3) the generation of a substantial number of permanent and construction jobs and growth opportunities; 4) the retention of more than 8 acres of Missile Park for public recreational purposes; 5) the provision of a number of off-site circulation improvements including funding for the SR 163-Clairemont Mesa Boulevard interchange.

In addition the large reduction of industrial acreage in favor of open space preservation and the resulting loss of employment generating uses would also conflict with the existing objectives of the Kearny Mesa Community Plan. The reduction in development would also substantially impair efforts to successfully support the costs associated with the amenities and infrastructure improvements necessary to develop the remaining portions of the property, making it unlikely that the project developer could provide all of the amenities, including Market Square, necessary to develop the entertainment and mixed-use areas of the remaining property. Reduction in industrial acreage would also make the project substantially less attractive to high end users seeking to relocate to a larger urban center. To the extent the property does not attract entertainment-oriented mixed uses due to the loss of amenities, infrastructure improvements, and critical mass, development of the property would likely focus on lower end industrial uses, raising serious question concerning the feasibility of timely redevelopment of the project site. For all these reasons, the strict application of the Resource Protection Ordinance would

preclude a number of extraordinary benefits without providing any corresponding benefits to the community.

B. THE PROPOSED DEVELOPMENT WILL NOT ADVERSELY AFFECT THE CITY OF SAN DIEGO'S PROGRESS GUIDE AND GENERAL PLAN.

The New Century Center project includes proposed amendments to the Progress Guide and General Plan to change the site's designation on the western portion of the property from Industrial and Business Park to General Commercial, and redesignates Missile Park to Open Space/Park. These changes would maintain consistency between the proposed project and the land use designations, objectives, and goals contained within the Progress Guide and General Plan.

Redevelopment of the Kearny Mesa General Dynamics project site in accordance with the uses identified in the New Century Center Master Plan, Development Standards and Design Manual, together with the conditions contained within the PID, PCD, and PRO permits and the Vesting Tentative Map, would promote a number of important objectives identified in the Progress Guide and General Plan, and will not adversely affect the City of San Diego's Progress Guide and General Plan.

C. THE PROPOSED DEVELOPMENT CONFORMS TO THE ADOPTED COMMUNITY PLAN FOR THE AREA.

The project includes proposed amendments to the Progress Guide and General Plan and the Kearny Mesa Community Plan. These changes would maintain consistency between the land use designations, objectives, and goals contained within both the Kearny Mesa Community Plan and the Progress Guide and General Plan. In addition, development of the project will be governed through a number of regulatory documents including the New Century Center Master Plan, Development Standards and Design Guidelines, a Planned Commercial Development, Planned Industrial Development, Resource Protection Ordinance Permit, Vesting Tentative Map, and a Development Agreement. These documents, together with the conditions contained therein, conform with the Kearny Mesa Community Plan and the City of San Diego's Municipal Code.

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

BE IT FURTHER RESOLVED that, based on the Findings adopted by the City Council, Planned Industrial Development/Resource Protection Ordinance Permit No. 96-0165 and Planned Commercial Development/Resource Protection Ordinance Permit No. 96-0165 are

granted, under the terms and conditions set forth in the attached Planned Industrial Development/Resource Protection Ordinance Permit No. 96-0165 and Planned Commercial Development/Resource Protection Ordinance Permit No. 96-0165, incorporated by this reference.

APPROVED: CASEY GWINN, City Attorney

By Prescilla Dugard  
Prescilla Dugard  
Deputy City Attorney

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DEVELOPMENT SERVICES

AND WHEN RECORDED MAIL TO  
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SPACE ABOVE THIS LINE FOR RECORDER'S USE

PLANNED INDUSTRIAL DEVELOPMENT/RESOURCE PROTECTION  
ORDINANCE PERMIT NO. 96-0165  
**NEW CENTURY CENTER**  
CITY COUNCIL

This Permit is granted by the City Council of the City of San Diego to GENERAL DYNAMICS PROPERTIES, a Delaware Corporation, Owner and Permittee pursuant to Section 101.0920 and 101.0462 of the Municipal Code of the City of San Diego on a 159-acre site. The project site is located at south of Clairemont Mesa Boulevard, west of Ruffin Road, north of Electronics Way, and east of Kearny Villa Road in the M-1B and M-1A zones of the Kearny Mesa Community Plan area. The project site is legally described as a Portion of Blocks 1, 2, 9 and 10 of Rosedale Map No. 826 and Lots 4, 5, 10, 11, 12, 13 and Portion of Lots 20, 21 and 22 of Highlands Map No. 284 (Lots 1 through 32 and Lots 69 through 84 of Vesting Tentative Map 96-0165.

1. Subject to the terms and conditions set forth in this permit, permission is granted to Owner and Permittee to develop a light industrial office park with support commercial described herein as identified by size, dimension, quantity, type and location on the approved Exhibits "A", dated November , 1997 on file in the Office of Development Services. The facility shall include:

- a. A total of 2,400,000 to 3,035,000 square feet of industrial, business park, and support commercial uses all in conformance with the New Century Center Conceptual Master PID Plan, Development Standards and Design Manual (part of Exhibit "A");
- b. Landscaping (planting, irrigation and landscape related improvements); and
- c. Off-street parking facilities; and
- d. Approximately 7 acres of the existing Missile Park and a biological resources preserve located in the south east corner of the project site.

- e. Accessory improvements determined by the City Manager to be consistent with the land use and development standards in effect for this site per the approved Development Standards and adopted Community Plan, California Environmental Quality Act guidelines, public and private improvement requirements of the City Engineer, the underlying zone(s), conditions of this permit, and any other applicable regulations of the Municipal Code in effect for this site.
2. Construction, grading or demolition must commence and be pursued in a diligent manner within 36 months, or as allowed by the Development Agreement, after the effective date of final approval by the City, following all appeals. Failure to utilize the permit within 36 months, or as allowed by the Development Agreement, will automatically void the permit unless an extension of time has been granted. Any such extension of time must meet all the Municipal Code requirements and applicable guidelines in effect at the time the extension is considered by the appropriate decisionmaker.
  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 Permittee signs and returns the permit to Development Services; and
    - b. The permit is recorded in the office of the San Diego County Recorder.
  4. Unless this permit has been revoked by the City of San Diego the property included by reference within this permit shall be used only for the purposes and under the terms and conditions set forth in this permit unless otherwise authorized by the City Manager.
  5. This permit is a covenant running with the subject property and shall be binding upon the Permittee and any successor or successors, and the interests of any successor shall be subject to each and every condition set out in this permit and all referenced documents.
  6. The utilization and continued use of this permit shall be subject to the regulations of this and any other applicable governmental agencies.

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

8. The Owner/Permittee shall secure all necessary building permits. The Owner/Permittee is informed that to secure these permits, substantial modifications to the building and/or site improvements to comply with applicable building, fire, mechanical and plumbing codes and State law requiring access for disabled people may be required.

9. Before issuance of any building permits, complete grading and working drawings shall be submitted to the City Manager for approval. Plans shall be in substantial conformity to Exhibit "A," dated November , 1997, on file in the Office of Development Services. No change, modifications or alterations shall be made unless appropriate applications or amendment of this permit shall have been granted or as allowed in accordance with the implementation provisions of the Development Standards.

10. All of the conditions contained in this Permit have been considered and have been determined to be necessary in order to make the findings required for this discretionary permit. It is the intent of the City that the holder of this Permit be required to comply with each and every condition in order to be afforded special rights which the holder of the Permit is obtaining as a result of this Permit. It is the intent of the City that the Owner of the property which is the subject of this Permit either utilize the property for any use allowed under the zoning and other restrictions which apply to the property or, in the alternative, that the Owner of the property be allowed the special and extraordinary rights conveyed by this Permit, but only if the Owner complies with all the conditions of the Permit.

In the event that 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 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. Prior to issuance of any grading permits for individual site plans for this project, a final subdivision map shall be recorded on the subject property. Subdivider may obtain land development grading permit prior to recordation of first final map subject to provisions of the Municipal Code for a specific permit.

12. Rezoning of the subject property shall become effective with recordation of the corresponding final subdivision map for the project site.

13. All projects submitted for plan check for the purpose of obtaining building permits shall concurrently submit building plans which meet the submittal requirements of the "Applicant's Guide to Project/Permit Applications;" items 11 through 29, as applicable; together with appropriate plan check fees.

14. All projects shall be in compliance with Section 101.0101.25 (Gross Floor Area) of the Municipal Code and all appropriate related definitions.

#### **REVISED TRAFFIC MITIGATION (p. 4.2-93)**

##### **Ramp Metering**

15. Prior to any development above the Redevelopment Increment, in the event that traffic at the SR-163/Kearny Villa Road northbound on-ramp exceeds the meter rate during the p.m. peak hour, either CalTrans will increase the ramp meter rate to ensure that a significant impact does not occur to City streets, or a) in the event a significant impact will occur during the first phase of development above the Redevelopment Increment the applicant will install, on a fair share basis, an HOV bypass lane to the satisfaction of CalTrans and the City Engineer; or b) in the event a significant impact will occur during subsequent phases of development, the applicant shall either install, on a fair share basis, an HOV bypass lane to the satisfaction of CalTrans and the City Engineer or shall post a bond or other security satisfactory to the City Engineer ensuring that the HOV bypass lane shall be constructed prior to such significant impact.

##### **Interchanges**

16. Prior to any development above the Redevelopment Increment, and within 90 days after the City and CalTrans have approved the Project Study Report (PSR) for the SR-163/Clairemont Mesa Boulevard interchange and its associated construction budget,

construction of the interchange improvements shall be assured to the satisfaction of the City Engineer.

Prior to any development above the Redevelopment Increment, the applicant shall demonstrate that the following has occurred:

- The City and CalTrans have approved a Project Study Report (PSR) that recommends "partial cloverleaf" improvements (without widening of the existing structures) and a construction budget for the SR-163/Clairemont Mesa Boulevard interchange as described further in the Kimley-Horn and Associates Traffic Impact Analysis (see Figure 4.3-3 in Appendix B), or any other alternative project sufficient to address the year 2006 conditions identified through the PSR process. The City has initiated a Capital Improvement Program project for construction of the project approved through the PSR process. The applicant has advanced the funding for construction of the required improvements consistent with an approved construction budget. However, such sums shall be reduced by the amount of fair share contributions collected by the City of San Diego from other development projects which impact the SR-163/ Clairemont Mesa Boulevard interchange and by any funds which have been specifically allocated to the construction of such improvements as set forth in the Kearny Mesa Facilities Financing Plan.

17. Upon issuance of each building permit subsequent to the approval of the Redevelopment Increment Site Plan, the applicant shall pay development impact fees as required by the Kearny Mesa Community Facilities Financing Plan. Note: to the extent that the applicant's construction of traffic improvements results in contributions in excess of the applicant's fair share, credits may be obtained against the payment of additional development impact fees for improvements to SR-163 and Clairemont Mesa Boulevard in accordance with the conditions of approval for Vesting Tentative Map 96-0165 or the Development Agreement Exhibit H.

18. The Owner/Permittee shall apply for an amendment to the Kearny Mesa Community Facilities Financing Plan to include the "over and above" Community Plan improvements identified as necessary at buildout in the Kimley-Horn and Associates Traffic Impact Analysis.

19. Prior to issuance of building permits, the Owner/Permittee shall show setbacks and/or sound walls and/or berms and/or other design features on building plans to the satisfaction of the City

Manager so that the proposed project's exterior use areas for offices along Ruffin Road, Electronics Way east of Kearny Villa Road, and Convair Drive east of Kearny Villa Road are not exposed to noise levels greater than 70 CNEL. If the applicant decides only to use setbacks, the recommended setbacks from the roadway centerline distances are provided in Table 4.10-4 of the New Century Center EIR.

Prior to issuance of certificates of occupancy, the City Manager shall verify compliance with building plans.

20. Prior to issuance of a grading permit, the Owner/Permittee shall submit a soils report with each grading plan to determine the locations of Lindavista and/or Friars Formations on-site. If the soils report identifies the presence of these formations and the grading plan shows cutting where they are located, the applicant shall retain a qualified paleontologist to implement a monitoring program with the provisions specified below.

21. The Owner/Permittee shall provide verification that a qualified paleontologist and/or paleontological monitor has been retained to implement the monitoring program. Verification shall be in the form of a letter from the applicant to the City Manager. A qualified paleontologist is defined as an individual with a Ph.D. or M.S. degree in paleontology or geology, and who is a recognized expert in the application of paleontological procedures and techniques such as screen-washing of materials and identification of fossil deposits. A paleontological monitor is defined as an individual who has experience in the collection and salvage of fossil materials, and who is working under the direction of a qualified paleontologist. All persons involved in the paleontological monitoring program shall be approved by EAS prior to any pre-construction meeting.

22. The qualified paleontologist shall attend any pre-construction meetings to discuss grading plans with the excavation contractor. The requirement for paleontological monitoring shall be noted on the grading plans.

23. The paleontologist or paleontological monitor shall be on-site half-time during the original cutting of previously undisturbed sediments of the Lindavista Formation and on-site full-time during the original cutting of the Friars Formation to perform periodic inspections of excavations, and, if necessary, to salvage exposed fossils. The frequency of inspections will be determined by the paleontological monitor and will depend on the rate of excavation, the materials excavated, and the abundance of fossils.

24. In the event that well-preserved fossils are found, the paleontologist shall have the authority to divert, direct, or temporarily halt grading activities in the area of discovery to allow evaluation and recovery of exposed fossils. At the time of discovery, the paleontologist shall immediately notify EAS staff of such finding. EAS shall approve salvaging procedures to be performed before construction activities are allowed to resume.

25. All collected fossil remains shall be cleaned, sorted, and cataloged following standard professional procedures. The collection should be donated to a scientific institution with a research interest in the materials (such as the San Diego Natural History Museum).

26. Mitigation Monitoring and Reporting Program requires that a monitoring results report shall be submitted to the City Manager prior to issuance of building permits. The monitoring results report, with appropriate graphics, shall summarize the results, analysis, and conclusions of the paleontological monitoring program, even if negative.

27. Prior to the issuance of building permits, the project applicant shall prepare a waste management plan, subject to approval by the City of San Diego Environmental Services Department. The construction manager shall be involved in the development of the waste management plan for the construction and post-construction phases of the project consisting of the following elements, where appropriate:

- type of materials expected to enter the waste stream
- quantity of material
- source separation techniques to be used
- on-site storage of separated materials
- method of transportation to be used
- destination of materials
- buy-recycled program to be implemented

The waste management plan shall include specific goals for waste reduction and recycling. It shall emphasize source separation, and specify material reuse and recycling, where possible.

28. Prior to the issuance of building permits, the project applicant shall prepare a waste management plan, subject to approval by the City of San Diego Environmental Services Department. Development of the waste management plan for the ongoing solid waste impacts of the proposed project shall include:

- Source reduction, source separation and recycling measures shall focus on paper goods, yard waste, plastic, wood waste, and glass;
- "Buy-recycled" policies, such as price preferences for recycled products;
- Source reduction policies;
- Off-site composting;
- In-house recycling;
- Drop-off sites;
- Monetary compensation for equipment and service needs;
- Employee education;
- Customer education; and
- Manufacturing design modification to promote source reduction or recycling.

The waste management plan shall include specific goals for waste reduction and recycling. It shall emphasize source separation, and specify material reuse and recycling, where possible.

**ENGINEERING REQUIREMENTS:**

29. The PID and PCD Permit shall comply with the conditions of the final map for Vesting Tentative Map No. 96-0165.

30. The Owner/Permittee shall be eligible to utilize and maintain a Shared Parking Program as defined in the New Century Center Development Standards, to the satisfaction of the Development Services Director and City Engineer.

31. The Owner/Permittee shall maintain a Trip Generation Program and adhere to the aggregate trip limit as defined in the new Century Center Development Standards approved Traffic Study and Final EIR, to the satisfaction of the Development Services Director and City Engineer.

32. The Owner/Permittee shall maintain an Internal Shuttle Program as defined in the New Century Center Development Standards, to the satisfaction of the Development Services Director and City Engineer.

33. The Owner/Permittee shall maintain a Transportation Demand Management program as defined in the New Century Center Development Standards.

34. The Owner/Permittee shall provide the transportation improvements as defined in the Project Design Features and Mitigation Table in the New Century Center Final EIR, to the satisfaction of the City Engineer (and CalTrans when applicable).



35. The Owner/Permittee shall implement the Transportation Phasing Plan as defined in the New Century Center Development Agreement, to the satisfaction of the City Engineer.

36. The Owner/Permittee shall implement the Final Tract Map Phasing for on-site roadway improvements as defined in the New Century Center Development Agreement, to the satisfaction of the City Engineer.

37. The Owner/Permittee shall construct the internal roadway network to the classifications and cross-sections as defined in the New Century Center Final EIR, Development Standards, and Vesting Tentative Map, to the satisfaction of the City Engineer. The owner/permittee shall retain the ability to reclassify on-site roadways pursuant to additional traffic analysis and upon approval of the City Engineer.

38. Prior to recordation of the first final map, the Owner/Permittee shall enter into an agreement with MTDB to dedicate in fee up to 2.0 acres for a Bus Transit Center containing up to 10 stalls in the bus staging area: In addition, a Park and Ride facility containing up to 50 parking spaces shall be provided through a shared use agreement.

**PLANNING/DESIGN REQUIREMENTS:**

39. No fewer than a ratio of one space to three hundred square feet of gross floor area of industrial use or one space to two hundred square feet of gross floor area of support commercial use off-street parking spaces shall be maintained on the property at all times in the approximate locations shown on the approved Exhibits "A," dated November 18, 1997, on file in the Office of Development Services. Parking spaces shall comply at all times with Division 8 of the Municipal Code and shall not be converted for any other use unless otherwise authorized by the City Manager.

40. The Owner/Permittee shall comply with the regulations of the underlying zone(s) unless a deviation to a specific regulation(s) is approved as a provision of this permit or governed by the Development Standards. Where there is a conflict between a provision of this permit (including exhibits) and a regulation of the underlying zone, the regulation shall prevail unless the provision was specifically approved as part of this permit.

41. Any future requested amendment to this permit shall be reviewed for compliance with the regulations of the underlying zone(s) which are in effect on the date of the submittal of the requested amendment.

42. All new signage associated with this development shall be consistent with sign criteria established by either of the following:

- a. New Century Center Design Manual and Development Standards (Exhibit "A," dated November 18, 1997, on file in the Office of Development Services) or;
- b. Citywide sign regulations.

43. All private outdoor lighting shall be shaded and adjusted to fall on the same premises where such lights are located.

44. The use of textured or enhanced paving shall meet applicable City standards as to location, noise and friction values.

45. The subject property and associated common areas on site shall be maintained in a neat and orderly fashion at all times.

46. All uses, except storage and loading, shall be conducted entirely within an enclosed building. Outdoor storage of merchandise, material and equipment is permitted in any required interior side or rear yard, provided the storage area is completely enclosed by walls, fences or a combination thereof. Walls or fences shall be solid and not less than six feet in height and, provided further, that no merchandise, material or equipment stored not higher than any adjacent wall.

47. No mechanical equipment, tank, duct, elevator enclosure, cooling tower or mechanical ventilator or air conditioner shall be erected, constructed, converted, established, altered, or enlarged on the roof of any building, unless all such equipment and appurtenances are contained within a completely enclosed structure whose top and sides may include grillwork, louvers and latticework.

48. No merchandise, material or equipment shall be stored on the roof of any building.

49. No mechanical equipment shall be erected, constructed, or enlarged on the roof of any building on this site, unless

all such equipment is contained within a completely enclosed architecturally integrated structure.

**LANDSCAPE REQUIREMENTS:**

50. Prior to issuance of any grading or building permits for individual site development plans, complete landscape construction documents for the development phase proposed, including plans, details and specifications (including a permanent automatic irrigation system unless otherwise approved), shall be submitted to the City Manager for approval. The construction documents shall be in substantial conformance with the Development Standards and Design Manual, Exhibit "A," dated November 18, 1997, on file in the Office of Development Services. No change, modification or alteration shall be made unless appropriate application or amendment of this Permit shall have been granted. If land development permits are obtained prior to recordation of final maps, temporary erosion control and landscaping will be allowed.

51. Prior to issuance of grading permits, interim landscape and erosion control measures, including hydroseeding per the City's grading ordinance, shall be submitted to the satisfaction of the City Manager (including the Environmental Section) and City Engineer. All plans shall be in substantial conformance to Exhibit "A," dated November 18, 1997, on file in the Office of Development Services and all other applicable conditions of related permits.

52. Prior to issuance of any Certificate of Occupancy it shall be the responsibility of the Permittee to install all required landscape and obtain all required landscape inspections and to obtain a No Fee Street Tree Permit for the installation, establishment and on-going maintenance of all street trees. Copies of these approved documents must be submitted to the City Manager.

53. All required landscape shall be maintained in a disease, weed and litter free condition at all times and shall not be modified or altered unless this Permit has been amended. Modifications such as severe pruning or "topping" of trees is not permitted unless specifically noted in this Permit. The Permittee, or subsequent Owner shall be responsible to maintain all street trees and landscape improvements consistent with the standards of the *Landscape Technical Manual*.

54. If any required landscape (including existing or new plantings, hardscape, landscape features, etc.) indicated

on the approved plans is damaged or removed during demolition, it shall be repaired and/or replaced in kind and equivalent size per the approved plans within 30 days of completion of construction by the Permittee. The replacement size of plant material after three years shall be the equivalent size of that plant at the time of removal (the largest size commercially available and/or an increased number) to the satisfaction of the City Manager.

APPROVED by the City Council of The City of San Diego on November 18, 1997, by Resolution No. R- 289453.

AUTHENTICATED BY THE CITY MANAGER

By \_\_\_\_\_

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

**GENERAL DYNAMICS**  
Owner/Permittee

By \_\_\_\_\_

By \_\_\_\_\_

**NOTE: Notary acknowledgments  
must be attached per Civil Code  
section 1180 et seq.  
12/03/97**

RECORDING REQUESTED BY  
CITY OF SAN DIEGO  
DEVELOPMENT SERVICES

AND WHEN RECORDED MAIL TO  
PERMIT INTAKE  
MAIL STATION 501

SPACE ABOVE THIS LINE FOR RECORDER'S USE

PLANNED COMMERCIAL DEVELOPMENT/RESOURCE PROTECTION ORDINANCE  
PERMIT NO. 96-0165  
**NEW CENTURY CENTER**  
CITY COUNCIL

This Permit is granted by the City Council of the City of San Diego to GENERAL DYNAMICS PROPERTIES, a Delaware Corporation, Owner and Permittee, pursuant to Section 101.0910 and 101.0462 of the Municipal Code of the City of San Diego on a 85-acre site. The project site is located south of Clairemont Mesa Boulevard, west of Ruffin Road, north of Electronics Way, and east of Kearny Villa Road in the M-1B (proposed CA zone) of the Kearny Mesa Community Plan area. The project site is legally described as Lots 1, 2, 9 and 10 of Rosedale, Map No. 826 and Lots 4, 5, 6, 11, 12, 12 and Portion of Lots 20, 21, and 22 of Highlands Map No. 284 (Lots 33 through 68 of Vesting Tentative Map 96-0165).

1. Subject to the terms and conditions set forth in this permit, permission is granted to Owner and Permittee to develop a commercial retail and entertainment center to described herein as identified by size, dimension, quantity, type and location on the approved Exhibits "A", dated November 18, 1997, on file in the Office of Development Services. The facility shall include:

- a. A total of 1,270,000 to 1,430,000 square feet of retail, entertainment, mixed-use commercial, a central "Market Square", and hotel uses all in conformance with the New Century Center Conceptual Master PCD Plan and Design Manual (part of Exhibit "A");
- b. Landscaping (planting, irrigation and landscape related improvements); and
- c. Off-street parking facilities; and
- d. Accessory improvements determined by the City Manager to be consistent with the land use and development

standards in effect for this site per the approved Development Standards and the adopted Community Plan, California Environmental Quality Act guidelines, public and private improvement requirements of the City Engineer, the underlying zone(s), conditions of this permit, and any other applicable regulations of the Municipal Code in effect for this site.

2. Construction, grading or demolition must commence and be pursued in a diligent manner within 36 months or as allowed by the Development Agreement after the effective date of final approval by the City, following all appeals. Failure to utilize the permit within 36 months, or as allowed by the Development Agreement, will automatically void the permit unless an extension of time has been granted. Any such extension of time must meet all the Municipal Code requirements and applicable guidelines in effect at the time the extension is considered by the appropriate decisionmaker.

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 Permittee signs and returns the permit to Development Services; and
- b. The permit is recorded in the office of the San Diego County Recorder.

4. Unless this permit has been revoked by the City of San Diego the property included by reference within this permit shall be used only for the purposes and under the terms and conditions set forth in this permit unless otherwise authorized by the City Manager.

5. This permit is a covenant running with the subject property and shall be binding upon the Permittee and any successor or successors, and the interests of any successor shall be subject to each and every condition set out in this permit and all referenced documents.

6. The utilization and continued use of this permit shall be subject to the regulations of this and any other applicable governmental agencies.

7. Issuance of this permit by the City of San Diego does not authorize the applicant for said permit to violate any Federal, State or City laws, ordinances, regulations or policies including, but not limited to, the Federal Endangered Species Act

of 1973 and any amendments thereto (16 U.S.C. Section 1531 et seq.)

8. The Owner/Permittee shall secure all necessary building permits. The applicant is informed that to secure these permits, substantial modifications to the building and/or site improvements to comply with applicable building, fire, mechanical and plumbing codes and State law requiring access for disabled people may be required.

9. Before issuance of any building permits, complete grading and working drawings shall be submitted to the City Manager for approval. Plans shall be in substantial conformity to Exhibit "A," dated November 18, 1997, on file in the Office of Development Services. No change, modifications or alterations shall be made unless appropriate applications or amendment of this permit shall have been granted or as allowed and in accordance with the implementation provisions of the New Century Center Development Standards (Exhibit A).

10. All of the conditions contained in this Permit have been considered and have been determined to be necessary in order to make the findings required for this discretionary permit. It is the intent of the City that the holder of this Permit be required to comply with each and every condition in order to be afforded special rights which the holder of the Permit is obtaining as a result of this Permit. It is the intent of the City that the Owner of the property which is the subject of this Permit either utilize the property for any use allowed under the zoning and other restrictions which apply to the property or, in the alternative, that the Owner of the property be allowed the special and extraordinary rights conveyed by this Permit, but only if the Owner complies with all the conditions of the Permit.

In the event that 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 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. Prior to issuance of any grading permits for individual site plans for this project, a final subdivision map shall be recorded on the subject property. Subdivider may obtain land development grading permit prior to recordation of the first final map subject to provisions of the Municipal Code for a specific permit.

12. Rezoning of the subject property shall become effective with recordation of the corresponding final subdivision map for the project site.

13. All projects submitted for plan check for the purpose of obtaining building permits shall concurrently submit building plans which meet the submittal requirements of the "Applicant's Guide to Project/Permit Applications;" items 11 through 29, as applicable; together with appropriate plan check fees.

#### **REVISED TRAFFIC MITIGATION (p. 4.2-93)**

##### **Ramp Metering**

14. Prior to any development above the Redevelopment Increment, in the event that traffic at the SR-163/Kearny Villa Road northbound on-ramp exceeds the meter rate during the p.m. peak hour, either Caltrans will increase the ramp meter rate to ensure that a significant impact does not occur to City streets, or a) in the event a significant impact will occur during the first phase of development above the Redevelopment Increment the applicant will install, on a fair share basis, an HOV bypass lane to the satisfaction of Caltrans and the City Engineer; or b) in the event a significant impact will occur during subsequent phases of development, the applicant shall either install, on a fair share basis, an HOV bypass lane to the satisfaction of Caltrans and the City Engineer or shall post a bond or other security satisfactory to the City Engineer ensuring that the HOV bypass lane shall be constructed prior to such significant impact.

##### **Interchanges**

15. Prior to any development above the Redevelopment Increment, and within 90 days after the City and CalTrans have approved the Project Study Report (PSR) for the SR-163/Clairemont Mesa Boulevard interchange and its associated construction budget, construction of the interchange improvements shall be assured to the satisfaction of the City Engineer.

Prior to any development above the Redevelopment Increment, the applicant shall demonstrate that the following has occurred:

The City and CalTrans have approved a Project Study Report (PSR) that recommends "partial cloverleaf" improvements (without widening of the existing structures) and a construction budget for the SR-163/Clairemont Mesa Boulevard interchange as described further in the Kimley-Horn and Associates Traffic Impact Analysis (see Figure 4.3-3 in Appendix B), or any other alternative project sufficient to address the year 2006 conditions identified through the PSR process. The City has initiated a Capital Improvement Program project for construction of the project approved through the PSR process. The applicant has advanced the funding for construction of the required improvements consistent with an approved construction budget. However, such sums shall be reduced by the amount of fair share contributions collected by the City of San Diego from other development projects which impact the SR-163/ Clairemont Mesa Boulevard interchange and by any funds which have been specifically allocated to the construction of such improvements as set forth in the Kearny Mesa Facilities Financing Plan.

16. Upon issuance of each building permit subsequent to the approval of the Redevelopment Increment Site Plan, the Owner/Permittee shall pay development impact fees as required by the Kearny Mesa Community Facilities Financing Plan. Note: to the extent that the applicant's construction of traffic improvements results in contributions in excess of the applicant's fair share, credits may be obtained against the payment of additional development impact fees for improvements to SR-163 and Clairemont Mesa Boulevard in accordance with the conditions of approval for Vesting Tentative Map 96-0165/or the Development Agreement, Exhibit H.

17. The Owner/Permittee shall apply for an amendment to the Kearny Mesa Community Facilities Financing Plan to include the "over and above" Community Plan improvements identified as necessary at buildout in the Kimley-Horn and Associates Traffic Impact Analysis.

18. Prior to issuance of building permits, the Owner/Permittee shall show setbacks and/or sound walls and/or berms and/or other design features on building plans to the satisfaction of the City Manager so that the proposed project's exterior use areas for offices along Ruffin Road, Electronics Way east of Kearny Villa Road, and Convair Drive east of Kearny Villa Road are not exposed to noise levels greater than 70 CNEL. If the applicant decides only to use setbacks, the recommended setbacks from the roadway

centerline distances are provided in Table 4.10-4 of the New Century Center EIR.

Prior to issuance of certificates of occupancy, the City Manager shall verify compliance with building plans.

19. Prior to issuance of a grading permit, the Owner/Permittee shall submit a soils report with each grading plan to determine the locations of Lindavista and/or Friars Formations on-site. If the soils report identifies the presence of these formations and the grading plan shows cutting where they are located, the applicant shall retain a qualified paleontologist to implement a monitoring program with the provisions specified below.

20. The Owner/Permittee shall provide verification that a qualified paleontologist and/or paleontological monitor has been retained to implement the monitoring program. Verification shall be in the form of a letter from the applicant to the City Manager. A qualified paleontologist is defined as an individual with a Ph.D. or M.S. degree in paleontology or geology, and who is a recognized expert in the application of paleontological procedures and techniques such as screen-washing of materials and identification of fossil deposits. A paleontological monitor is defined as an individual who has experience in the collection and salvage of fossil materials, and who is working under the direction of a qualified paleontologist. All persons involved in the paleontological monitoring program shall be approved by EAS prior to any pre-construction meeting.

21. The qualified paleontologist shall attend any pre-construction meetings to discuss grading plans with the excavation contractor. The requirement for paleontological monitoring shall be noted on the grading plans.

22. The paleontologist or paleontological monitor shall be on-site half-time during the original cutting of previously undisturbed sediments of the Lindavista Formation and on-site full-time during the original cutting of the Friars Formation to perform periodic inspections of excavations, and, if necessary, to salvage exposed fossils. The frequency of inspections will be determined by the paleontological monitor and will depend on the rate of excavation, the materials excavated, and the abundance of fossils.

23. In the event that well-preserved fossils are found, the paleontologist shall have the authority to divert, direct, or temporarily halt grading activities in the area of discovery to allow evaluation and recovery of exposed fossils. At the time of discovery, the paleontologist shall immediately notify EAS staff

of such finding. EAS shall approve salvaging procedures to be performed before construction activities are allowed to resume.

24. All collected fossil remains shall be cleaned, sorted, and cataloged following standard professional procedures. The collection should be donated to a scientific institution with a research interest in the materials (such as the San Diego Natural History Museum).

25. Mitigation Monitoring and Reporting Program requires that a monitoring results report shall be submitted to the City Manager prior to issuance of building permits. The monitoring results report, with appropriate graphics, shall summarize the results, analysis, and conclusions of the paleontological monitoring program, even if negative.

26. Prior to the issuance of building permits, the project applicant shall prepare a waste management plan, subject to approval by the City of San Diego Environmental Services Department. The construction manager shall be involved in the development of the waste management plan for the construction and post-construction phases of the project consisting of the following elements, where appropriate:

- type of materials expected to enter the waste stream
- quantity of material
- source separation techniques to be used
- on-site storage of separated materials
- method of transportation to be used
- destination of materials
- buy-recycled program to be implemented

The waste management plan shall include specific goals for waste reduction and recycling. It shall emphasize source separation, and specify material reuse and recycling, where possible.

27a. Prior to the issuance of building permits, the project applicant shall prepare a waste management plan, subject to approval by the City of San Diego Environmental Services Department. Development of the waste management plan for the ongoing solid waste impacts of the proposed project shall include:

- Source reduction, source separation and recycling measures shall focus on paper goods, yard waste, plastic, wood waste, and glass;
- "Buy-recycled" policies, such as price preferences for recycled products;
- Source reduction policies;
- Off-site composting;

- In-house recycling;
- Drop-off sites;
- Monetary compensation for equipment and service needs;
- Employee education;
- Customer education; and
- Manufacturing design modification to promote source reduction or recycling.

The waste management plan shall include specific goals for waste reduction and recycling. It shall emphasize source separation, and specify material reuse and recycling, where possible.

**ENGINEERING REQUIREMENTS:**

27. The PID and PCD Permit shall comply with the conditions of the final map for Vesting Tentative Map No. 96-0165.

28. The Owner/Permittee shall be eligible to utilize and maintain a Shared Parking Program as defined in the New Century Center Development Standards, to the satisfaction of the Development Services Director and City Engineer.

29. The Owner/Permittee shall maintain a Trip Generation Program and adhere to the aggregate trip limit as defined in the New Century Center Development Standards, approved Traffic Study and Final EIR, to the Satisfaction of the Development Services Director and City Engineer.

30. The Owner/Permittee shall provide the transportation improvements as defined in the Project Design Features and Mitigation Table in the New Century Center Final EIR, to the satisfaction of the City Engineer (and CalTrans when applicable).

31. The Owner/Permittee shall implement the Transportation Phasing Plan as defined in the New Century Center Development Agreement, to the satisfaction of the City Engineer.

32. The Owner/Permittee shall implement the Final Tract Map Phasing for on-site roadway improvements as defined in the New Century Center Development Agreement, to the satisfaction of the City Engineer.

33. The Owner/Permittee shall construct the internal roadway network to the classifications and cross-sections as defined in the New Century Center Final EIR, Development Standards, and Vesting Tentative Map, to the satisfaction of the City Engineer. The subdivider shall retain the ability

to reclassify on-site roadways pursuant to additional traffic analysis and upon approval of the City Engineer.

34. Prior to recordation of the first final map, the Owner/Permittee subdivider shall enter into an agreement with MTDB to dedicate in fee up to 2.0 acres for a Bus Transit Center containing up to 10 stalls in the bus staging area: In addition, a Park and Ride facility containing up to 50 parking spaces shall be provided through a shared use agreement.

35. The Owner/Permittee shall maintain an Internal Shuttle Program as defined in the New Century Center Development Standards, to the satisfaction of the Development Services Director and City Engineer.

36. The Owner/Permittee shall maintain a Transportation Demand Management Program as defined in the New Century Center Development Standards.

**PLANNING/DESIGN REQUIREMENTS:**

37. No fewer than a ratio of one to two hundred off-street parking spaces shall be maintained on the property at all times in the approximate locations shown on the approved Exhibits "A,". Parking spaces shall comply at all times with Division 8 of the Municipal Code and shall not be converted for any other use unless otherwise authorized by the City Manager.

38. The Owner/Permittee shall comply with the regulations of the underlying zone(s) unless a deviation to a specific regulation(s) is approved as a provision of this permit. Where there is a conflict between a provision of this permit (including exhibits) and a regulation of the underlying zone, the regulation shall prevail unless the provision was specifically approved as part of this permit.

39. Any future requested amendment to this permit shall be reviewed for compliance with the regulations of the underlying zone(s) which are in effect on the date of the submittal of the requested amendment.

40. The freeway sign as depicted on Exhibit "A" shall be to identify the center in general, and not include sign(s) for major or minor tenants to the satisfaction of the City Manager.

41. All new signage associated with this development shall be consistent with sign criteria established by either of the following:

42.

- a. New Century Center Design Manual and Development Standards (Exhibit "A," dated November 18, 1997, or;
- b. Citywide sign regulations.

43. All private outdoor lighting shall be shaded and adjusted to fall on the same premises where such lights are located.

44. The use of textured or enhanced paving shall meet applicable City standards as to location, noise and friction values.

45. The subject property and associated common areas on site shall be maintained in a neat and orderly fashion at all times.

46. All uses, except storage and loading, shall be conducted entirely within an enclosed building. Outdoor storage of merchandise, material and equipment is permitted in any required interior side or rear yard, provided the storage area is completely enclosed by walls, fences or a combination thereof. Walls or fences shall be solid and not less than six feet in height and, provided further, that no merchandise, material or equipment stored not higher than any adjacent wall.

47. No mechanical equipment, tank, duct, elevator enclosure, cooling tower or mechanical ventilator or air conditioner shall be erected, constructed, converted, established, altered, or enlarged on the roof of any building, unless all such equipment and appurtenances are contained within a completely enclosed structure whose top and sides may include grillwork, louvers and latticework.

48. No merchandise, material or equipment shall be stored on the roof of any building.

49. No mechanical equipment shall be erected, constructed, or enlarged on the roof of any building on this site, unless all such equipment is contained within a completely enclosed architecturally integrated structure.

50. Prior to issuance of any grading or building permits for individual site development plans, complete landscape construction documents for the development phase proposed,

including plans, details and specifications (including a permanent automatic irrigation system unless otherwise approved), shall be submitted to the City Manager for approval. The construction documents shall be in substantial conformance with Development Standards and Design Manual, Exhibit "A," dated November , 1997, on file in the Office of Development Services. No change, modification or alteration shall be made unless appropriate application or amendment of this Permit shall have been granted. If land development permits are obtained prior to recordation of final maps, temporary erosion control and landscaping will be allowed.

51. Prior to issuance of any Certificate of Occupancy it shall be the responsibility of the Permittee to install all required landscape and obtain all required landscape inspections and to obtain a No Fee Street Tree Permit for the installation, establishment and on-going maintenance of all street trees. Copies of these approved documents must be submitted to the City Manager.

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53. If any required landscape (including existing or new plantings, hardscape, landscape features, etc.) indicated on the approved plans is damaged or removed during demolition, it shall be repaired and/or replaced in kind and equivalent size per the approved plans within 30 days of completion of construction by the Permittee. The replacement size of plant material after three years shall be the equivalent size of that plant at the time of removal (the largest size commercially available and/or an increased number) to the satisfaction of the City Manager.

APPROVED by the City Council of the City of San Diego on November 18, 1997, by Resolution No. R- 289453 .



AUTHENTICATED BY THE CITY MANAGER

By \_\_\_\_\_

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

**GENERAL DYNAMICS**  
Owner/Permittee

By \_\_\_\_\_

By \_\_\_\_\_

**NOTE: Notary acknowledgments  
must be attached per Civil Code  
section 1180 et seq.  
12/03/97**