

(R-99-600)

RESOLUTION NUMBER R-291087

ADOPTED ON DECEMBER 8, 1998

WHEREAS, Kilroy Realty Corporation on behalf of K-Mart Corporation and Piazza Partners, L.P., collectively Owner/Permittee, submitted an application to amend Carmel Valley Planned District, Coastal Development and Conditional Use Permit [CVPD/CD/CUP] No. 93-0451 to implement various finished grading activities on a vacant, partially improved 17.33-acre site as necessary to accommodate the construction of a professional office development consisting of four (five-story) detached steel frame office buildings, with a combined total gross floor area for all four structures of approximately 495,000 square feet of office space and approximately 5,000 square-feet of commercial (restaurant) floor area; and

WHEREAS, the project also features construction of a three-level parking structure, landscaping and decorative paving features, surface parking stalls, project wall and monument signage, and associated site improvements; and

WHEREAS, the project site is located at the southwest corner of Valley Centre Drive and Carmel Creek Road in the SC (Specialized Commercial) zone of the Neighborhood 6 Precise Plan area of the Carmel Valley Planned District; and

WHEREAS, the project site is legally described as Lots 1 through 6 and 9, Unit 1 of recorded Piazza Carmel Map No. 13138; and

WHEREAS, on November 19, 1998, the Planning Commission of The City of San Diego considered Carmel Valley Planned District and Coastal Development Permit [CVPD/CDP]

No. 98-0227, amending CVPD/CD/CUP No. 93-0451, and pursuant to Resolution No. 730-PC-1 voted to recommend City Council approval of the permit; and

WHEREAS, the matter was set for public hearing on December 8, 1998, 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 this Council adopts the following findings with respect to Carmel Valley Planned District and Coastal Development Permit No. 98-0227, amending CVPD/CD/CUP No. 93-0451:

- A. The proposed development will not encroach upon any existing physical accessway legally utilized by the public or any proposed public accessway identified in an adopted Local Coastal Program [LCP] Land Use Plan; nor will it obstruct views to and along the ocean and other scenic coastal areas from public vantage points.**

The subject property, which is privately owned, is not identified in the City's certified LCP Land Use Plan as a public accessway legally utilized by the general public. The subject property is located on the east side of Interstate 5, approximately two miles from the ocean, and therefore the proposed development features are not anticipated to significantly obstruct views to and along the ocean (and other scenic coastal areas) from public vantage points.

- B. The proposed development will not adversely affect marine resources, environmentally sensitive areas, or archaeological or paleontological resources.**

The entire project site has been graded and padded in accordance with previously approved maps for the property (TM 87-0228, TM 88-0941 and TM 93-0451). Therefore, there are no biologically sensitive habitat, natural landforms or canyons existing on the site. The project site, which is located approximately two miles east of the Pacific Ocean, contains no marine or sensitive coastal resources.

However, mitigation will be incorporated into the project (via conditions of CDP/CVPD permit approval) to reduce archaeological impacts to a level below significant. A cultural resources survey prepared in 1985 identified eight archaeological sites on the subject property. A subsequent 1989 investigation found that all cultural resource sites on the site had been destroyed without correct surveying for archaeological resource significance.

The applicant has acknowledged that appropriate mitigation was not completed for the cultural resource sites in question and has agreed to compensate for the loss of these resources through a monetary contribution to the City's historical resource preservation fund. The total

contribution amount shall be submitted to the Environmental Analysis Section of Development Services prior to the issuance of any building permits for the project (per conditions of the CVPD/CDP permit).

- C. The proposed development will comply with the requirements related to biologically sensitive lands and significant prehistoric and historic resources as set forth in the Resource Protection Ordinance, San Diego Municipal Code [SDMC] Section 101.0462, unless by the terms of the Resource Protection Ordinance, it is exempted therefrom.**

The entire project site has been graded and padded in accordance with previously approved maps for the property (TM 87-0228, TM 88-0941, and TM 93-0451). Therefore, there are no biologically sensitive lands remaining on the site. However, mitigation will be incorporated into the project (via conditions of CVPD/CDP permit approval) to reduce archaeological impacts to a level below significant. The scope of mitigation measures for impacts to archaeological resources on the site is further described in Finding B above and would be consistent with similar requirements of the Resource Protection Ordinance as they pertain to minimizing and/or precluding adverse impacts to significant prehistoric and historic resources.

- D. The proposed development will not adversely affect recreational or visitor-serving facilities or coastal scenic resources.**

The subject property, which is privately owned, is not identified in the City's certified LCP Land Use Plan as a coastal scenic resource, recreational or visitor-serving facility. The subject property is located on the east side of Interstate 5, approximately two miles from the ocean. No adverse impacts to these resources are anticipated to occur as a result of project implementation.

- E. The proposed development will be sited and designed to prevent adverse impacts to environmentally sensitive habitats and scenic resources located in adjacent parks and recreation areas, and will provide adequate buffer areas to protect such resources.**

No adjacent public parks or public recreational areas presently exist or were identified in the City's certified LCP Land Use Plan for the area adjacent to and immediately surrounding the subject site. Therefore, no impacts to these resources are anticipated to occur as a result of project implementation.

- F. The proposed development will minimize the alterations of natural landforms and will not result in undue risks from geologic and erosional forces and/or flood and fire hazards.**

The entire project site has been graded and padded in accordance with previously approved maps on the property (TM 87-0228, TM 88-0941 and TM 93-0451). As a result, no

significant natural landforms exist on the site and therefore, it is concluded that project implementation would not result in the significant alteration of such resources.

The on-site drainage system designed for the project has been conceptually accepted by the City Engineer and would assure that all run-off from the property would be diverted into the City's existing sewer system along the project frontage. Soil compaction techniques incorporated into the project's finished grading plan would assure that the proposed above ground improvements (i.e., proposed structures and surface parking facilities) will be constructed to avoid adverse geologic stability and erosional impacts.

Additionally, prior to the issuance of any grading permits for this project, the applicant will also be required (via conditions of the CVPD/CDP permit) to submit a Notice of Intent (NOI) with the State Water Resources Control Board (SWRCB) for the application of a National Pollutant Discharge Elimination System (NPDES) permit. A Notice of Receipt from the SWRCB, and Storm Water Pollution Prevention Plan (SWPPP) shall also be submitted and deemed satisfactory to the City Engineer. The SWPPP shall be incorporated into the project's grading and drainage design plans, and shall provide for implementation of construction and post-construction Best Management Practices (BMPs) on-site to reduce the amount of pollutants and sediments in construction and post-construction surface runoff before it is discharged into the off-site natural drainage system. The grading plans shall also be required to note the condition requiring a SWPPP and Monitoring Program Plan. Additionally, no grading shall be performed during the rainy season (November 15 through February 15) without special erosion control measures approved by the City Engineer.

Prior to the issuance of the first building permit for the project, a site inspection of the drainage system by the City Engineer shall occur as part of the project's Mitigation Monitoring and Reporting Program (per MND 98-0227). Existing runoff catchment basins or temporary erosion control devices shall not cease operations until the drainage system is approved by the City Engineer.

Additionally, the CVPD/CDP permit for the project will require that the drainage system be cleaned and maintained every four months (or as necessary) to ensure the system functions properly. An annual letter report prepared by the Permittee identifying the quarterly clean-out dates, system conditions and required maintenance shall be provided to the City Engineer.

G. The proposed development will be visually compatible with the character of surrounding areas, and where feasible, will restore and enhance visual quality in visually degraded areas.

The design, intensity (floor area) and scale of the project's physical components would be generally compatible with the character of the surrounding area, which includes a mix of attached residential (Coral Cove Condominiums) and commercial development to the north and northwest, existing visitor-commercial development (Doubletree Hotel) to the west, existing commercial development to the east (mini-mart, gas station and carwash) and Highway 56 to the south. The design of the proposed office buildings will incorporate a variety of exterior building materials,

colors and architectural forms that would contribute to achieving compatibility with existing surrounding land uses.

The project reflects a superior design within the area and meets the overall land use and architectural/site design objectives of the Neighborhood 6 Precise Plan, the Local Coastal Program, and the Carmel Valley Community Plan and would be visually compatible with existing commercial/office development in the surrounding area. Additionally, the architectural design incorporated into the proposed office buildings would contribute significantly to enhancing the visual appearance of the project site and overall quality of development in this portion of the Precise Plan area.

The design of the proposed office buildings does not fully comply with SDMC section 101.0428.F(3)(b), which requires that any continuous building facade greater than 50-feet in length incorporate recessed off-sets (average depth of two feet and a minimum length of three feet) to extend the full height of the facade. The general intent of the applicable code section is to establish a minimum standard for the articulation of structures with expansive facades, with the objective of minimizing bulk and scale and to encourage the use of articulating features to enhance the visual appearance of such structures as necessary to achieve visual compatibility with adjoining land uses.

The proposed deviation does not require a variance because the discretionary permit process within the Carmel Valley PDO allows for deviations of the underlying zoning regulation(s) to occur, provided the decision maker concludes that the overall merits of the project design alternatively achieve the spirit and intent of the applicable zoning regulation(s). In an attempt to achieve alternative compliance with this section of the code, the applicant has incorporated a variety of architectural features designed to achieve an acceptable degree of facade articulation which would, in effect, minimize the bulk and scale of the proposed office buildings to an acceptable level consistent with the spirit and intent of the referenced code requirement.

These features include the utilization of varied building orientations, curvilinear facade exposures, cantilevered lower floor levels, horizontal and vertical aluminum banding offsets, colored metal panels, a mix of clear and reflective glass, and varying exterior color treatments.

Furthermore, the proposed land use redesignation of the project site from specialized commercial to commercial office (and subsequent construction of the proposed 500,000 square foot office complex) would provide an opportunity to implement economically viable office land uses within this portion of the Precise Plan area.

H. The proposed development will conform with the general plan, the Local Coastal Program, and any other applicable adopted plans and programs.

Approval of the proposed development requires City Council approval of amendments to the Carmel Valley Community Plan, the General Plan, and the Development Unit Six Precise Plan (Carmel Valley Planned District). The various plan amendments are required in order to redesignate the site from the existing commercial to an office land use designation. Project

implementation will also require that the State Coastal Commission adopt an amendment to the City's LCP in order to reflect the proposed change in land use designation for this portion of the coastal zone.

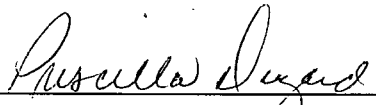
The existing SC (Specialized Commercial) zoning on the property (Development Unit Six Precise Plan) allows the proposed office land uses and corresponding intensity on the site. Therefore, it will not be necessary to rezone the property in order to accommodate the proposed land uses associated with this project.

With City Council and State Coastal Commission approval of the proposed land use plan amendments, it is concluded that the proposed land uses, development intensity, building design, and corresponding site improvements represented by the proposed project would be in general conformance with the applicable land use plans, policies and programs in affect for the project site (as amended by this development application).

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

BE IT FURTHER RESOLVED, that the recommendation of the Planning Commission is sustained, and Carmel Valley Planned District and Coastal Development Permit No. 98-0227, amending CVPD/CD/CUP No. 93-0451, is hereby granted to K-Mart Corporation, a Michigan corporation, and Piazza Partners, L.P., a California limited partnership, collectively Owner/Permittee, under the terms and conditions set forth in the permit attached hereto and made a part hereof.

APPROVED: CASEY GWINN, City Attorney

By 
Prescilla Dugard
Deputy City Attorney

PD:lc
02/18/99
Or.Dept:Clerk
R-99-600
Form=permitr.frm
Reviewed by Kevin Sullivan

**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

**CARMEL VALLEY PLANNED DISTRICT
AND COASTAL DEVELOPMENT PERMIT NO. 98-0227
(AMENDMENT TO CARMEL VALLEY PLANNED DISTRICT, COASTAL
DEVELOPMENT AND CONDITIONAL USE PERMIT NO. 93-0451)
KILROY CARMEL CENTER
CITY COUNCIL**

This Coastal Development and Carmel Valley Planned District Permit (Amendment) is granted by the Council of The City of San Diego to K-Mart Corporation and Piazza Partners, L.P., collectively Owner/Permittee, pursuant to an application submitted on their behalf by Kilroy Realty Corporation, under conditions in San Diego Municipal Code [SDMC] sections 103.0300 and 105.0200.

1. Permission is hereby granted by the City Council to the referenced Owner/Permittee to implement finished site grading activities on a vacant, previously graded 17.33-acre site as necessary to accommodate the construction of an approximately 500,000 square-foot (GFA) office development and implement associated site improvements and facilities (as described in Condition No. 2 of this permit). The project site is located at the southwest corner of Valley Centre Drive and Carmel Creek Road in the SC (Specialized Commercial) zone of the Neighborhood Six Precise Plan area of the Carmel Valley Planned District (Carmel Valley Community Plan) and the City of San Diego coastal zone. The project site is legally described as Lots 1 through 6 and 9, Unit 1 of recorded Piazza Carmel Map No. 13138.
2. This permit shall consist of the following facilities and site improvements as identified by size, dimension and location on the approved Exhibits "A" for this project [Exhibits "A"], dated December 8, 1998, on file in the Office of Development Services:

- a. Construct four (five-story) detached steel frame office buildings. Total combined gross floor area for all four structures would consist of approximately 495,000 square feet of office and approximately 5,000 square-foot of commercial (restaurant) floor area; and
 - b. Landscaping, permanent irrigation and decorative paving features; and
 - c. Off-street parking (refer to Condition No. 3); and
 - d. Finished grading activities not to exceed approximately 51,500 cubic yards of balanced cut and fill material. No import/export material will be required to implement the project design; and
 - e. Construction of a three-level concrete parking structure consisting of a total of 1,394 parking spaces; and
 - f. Project monument and wall signage (refer also to Condition No. 14 of this permit); and
 - g. Accessory uses and site improvements/facilities determined by the City Manager (or designated representative) to be generally consistent with the applicable development regulations, land use standards and design criteria in effect for this site per the existing SC zone, the adopted Precise Plan for Development Unit Six (Carmel Valley Planned District Ordinance), State CEQA guidelines, the City's Landscape Technical Manual, the City's Local Coastal Program, the Carmel Valley Community Plan, public and private improvement requirements of the City Engineer, and any other applicable regulations of the Municipal Code.
3. A minimum of 2,290 parking spaces (including approximately 1,394 parking structure stalls and 896 ground level/surface parking spaces) shall be provided at all times on the project site in the approximate location shown on the approved Exhibits "A." All required parking spaces shall be designed to be consistent with the Municipal Code and shall be permanently maintained and not converted for any other use. Parking spaces and aisles shall conform to standards of the City Engineer.
 4. Before issuance of any grading or building permits, complete grading construction documents and corresponding technical studies shall be submitted by the Permittee to Development Services for approval. All submitted plans shall be in substantial conformity to the approved Exhibits "A" for the project, as determined by the City Manager (or designated representative). No changes, modifications or alterations to the approved Exhibits "A" for this project shall be

made unless the Permittee obtains approval from Development Services of either an amendment of this permit (via a noticed public hearing) or approval of a Substantial Conformance Review (SCR) application.

5. All outdoor lighting shall be so shaded and adjusted that the light is directed to fall only on the same premises as light sources are located.
6. This Permit must be used within 36 months after the date of final approval of this project by the California State Coastal Commission, or the permit shall be deemed void. An Extension of Time may be granted as set forth in SDMC section 101.0920.
7. Construction and operation of the approved uses associated with this permit shall comply at all times with the regulations of this or any other governmental agencies.
7. No permit shall be granted nor shall any activity authorized by this permit be conducted on the premises until:
 - a. The Permittee obtains State Coastal Commission approval of the proposed project; and
 - b. The Permittee signs and returns the permit to Development Services; and
 - c. The Permit is recorded in the Office of the County Recorder.
8. As determined by the City Attorney and City Manager, this permit may be canceled or revoked if there is a material breach or default in any of the conditions of this permit. Cancellation or revocation may be instituted by The City of San Diego or the Permittee.
9. 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.
10. The use of texture or enhanced paving shall be permitted only with the approval of the City Engineer and shall meet standards as to location, noise and friction values, and any other applicable criteria.
12. Final approval of this permit and the facilities, improvements and land uses described herein is subject to approval by the State Coastal Commission of the

associated amendment to the City of San Diego Local Coastal Program (LCP) required for project implementation.

13. After establishment of the project, the property shall not be used for any other purposes unless:
 - a. Authorized by the City Manager; or
 - b. The proposed use meets every requirement of the zone(s) existing for the property at the time of conversion; or
 - c. The permit has been revoked by the City.
14. Prior to the issuance of any sign permits for this project, the Permittee shall obtain approval of a Comprehensive Signage Program from the Carmel Valley Community Planning Board's Signage Subcommittee. All signs proposed for the site shall comply with relevant standards and criteria of the City-wide Sign Code and the Carmel Valley Signage Guidelines and Criteria, adopted by the City Council on January 9, 1991, and filed in the Office of the City Clerk as Document No. OO-17578.
15. Prior to the issuance of any building permits, the permittee shall:
 - a. Ensure that building address numbers are visible and legible from the street fronting the property (UFC 901.4.4).
 - b. Show the location of all existing fire hydrants within 600-feet of the property on the site plan (UFC 903.2).
 - c. Provide access in conformance with Fire Department Policy A-89-1 (UFC 10.207).
 - d. Ensure that post indicator valves, Fire Department connections, and alarm bell are located on the address/access side of the structure (UFC 1001.4).
 - e. Provide fire access roading signs (or red curbs) in accordance with BFLS Policy A-96-1.
 - f. Install fire hydrants at locations satisfactory to the Fire Department and the City Engineer. If more than two fire hydrants or thirty equivalent dwelling units are located on a dead-end main, then the Permittee shall be required by the City to install a looped water system.

16. This development may be subject to payment of School Impact Fee at the time of issuance of building permits, as provided by California Government Code section 53080 (b) (Statutes of 1986, Chapter 887), in accordance with procedures established by the Director of Building Inspection.
17. This development may be subject to impact fees, as established by the City Council, at the time of issuance of building permits. The Permittee shall pay the fees as set by the City Council and in effect in the community at the time of building permit issuance. Fees will be paid at the time the building permit is issued.
18. The Permittee shall provide notice to future tenants of the proximity of the site to Miramar's Vektored Departure Corridors and the potential over flights and associated noise generated by various military aircraft in the area.
19. Final approval of this permit replaces the land uses, development standards, building siting and design guidelines, landscape, off-street parking, and public and private improvement standards previously in effect for this site per Conditional Use, Coastal Development and Carmel Valley Planned District Permit No. 93-0451.
20. Prior to the issuance of building permits, the Permittee shall complete payment of Facilities Benefit Assessment fees applicable for this development at the rate of \$51,143 per gross acre (FY 1998).
21. Prior to the issuance of building permits, the Permittee shall complete payment of Housing Impact Fees at the following (FY 1998) rates: \$1.06 per square-foot of gross office floor area and \$0.64 per square-foot of gross restaurant floor area.
22. Prior to the issuance of any building permits, the Permittee shall record a mutual access and/or shared parking agreements from the City Engineer to facilitate access to the project site from adjacent properties to the east and west.
23. Prior to the issuance if any occupancy permits, the Permittee shall demonstrate conformance with Municipal Code requirements for "Public Improvement Subject to Desuetude or Damage." If repair or replacement of such public improvements is required, the Owner/Permittee shall obtain the required permits for work in the public right-of-way, in a manner satisfactory to the permit-issuing authority.

24. The drainage system proposed for this development, as shown on the concept grading plan, is subject to approval by the City Engineer prior to the issuance of a grading permit.
25. Prior to the issuance of any building permits, the Permittee shall obtain an Encroachment Removal Agreement from the City Engineer for proposed landscaping in the public right-of way along the project frontage on Valley Center Drive.
26. Prior to the issuance of any building permits, the Permittee shall obtain a grading permit from the City Engineer (referred to as an "engineering permit") for the grading proposed for this project. All grading shall conform to the San Diego Municipal Code, in a manner satisfactory to the City Engineer.
27. Development of this project shall comply with all requirements of State Water Resources Control Board (SWRCB) Order No. 92-08-DWQ (NPDES General Permit No. CAS000002), Waste Discharge Requirements for Discharges of Storm Water Runoff Associated With Construction Activity. In accordance with said permit, a Storm Water Pollution Prevention Plan (SWPPP) and a Monitoring Program Plan shall be developed and implemented by the Permittee concurrently with the commencement of grading activities, and a complete and accurate Notice of Intent (NOI) shall be filled by the Permittee with the SWRCB. A copy of the acknowledgment from the SWRCB that an NOI has been received for this project shall be filed with The City of San Diego when received; further, a copy of the completed NOI from the SWRCB showing the permit number for this project shall be filed with The City of San Diego when received. In addition, the Owner(s) and subsequent owner(s) of any portion of the property covered by this permit and by SWRCB Order No. 92-08-DWQ, and any subsequent amendments thereto, shall comply with special provisions as set forth in Section C.7 of SWRCB Order No. 92-08-DWQ.
28. Prior to the issuance of any building permits, the Permittee shall provide proof that the previously approved grading and improvement plans for Piazza Carmel II, work order 940189, drawing number 27337-D (all sheets), have been as-built, in a manner satisfactory to the City Engineer. If the proposed sewer and water mains and easements are not a part of those plans, a separate engineering permit must be obtained before any building permits are issued.
29. Prior to the submittal of any public improvement drawings for this project, the Permittee shall provide a sewer study (in a manner satisfactory to the Metropolitan Wastewater Department Manager) for the sizing of gravity sewer mains. The sewer study shall show that the existing and proposed mains will provide adequate capacity and have cleansing velocities necessary to serve this development and the drainage basin in which it lies.

30. Prior to the issuance of any certificate of occupancy for this project, the Permittee shall install all water and sewer facilities (required by the accepted sewer study) as necessary to serve this development. Sewer facilities, as shown on the approved grading plan for this project, may require modifications based upon the conclusions of the accepted sewer study.
31. The Permittee shall design all proposed public water and sewer facilities to the most current edition of the "City of San Diego Water & Sewer Design Guide." Proposed facilities that do not meet the current standards shall be private or redesigned.
32. Prior to the issuance of any certificate of occupancy, the Permittee shall grant to the City Engineer adequate water, sewer, and/or access easements, including vehicular access to each appurtenance (meters, blow offs, air valves, manholes, etc.), for all public water and sewer facilities that are not located within public rights-of-way, in a manner satisfactory to the Water and Metropolitan Wastewater Department Managers. Vehicular access roadbeds on site shall be a minimum of 20 feet wide and surfaced with suitable approved material satisfactory to the appropriate Department Manager. Minimum easement widths include the following: water mains with services or fire hydrants - 24 feet; and sewer mains with manholes - 20 feet. No structures of any kind shall be installed in or over any easement prior to the applicant obtaining an encroachment removal agreement.
33. Providing water and sewer facilities for this development is dependent upon prior construction of certain water and sewer facilities in previously approved developments in this area. If they have not been constructed when required for this development, then the construction of certain portions of these previously approved water and sewer facilities, as required by the City Engineer, will become off-site improvements required for this development.
34. Prior to the issuance of any building permits, complete site improvement, landscape and irrigation, and concept construction documents shall be submitted by the Permittee to Development Services for approval. All submitted plans shall be in substantial conformity to the approved Exhibits "A" for the project, as determined by the City Manager (or designated representative). No changes, modifications or alterations to the approved Exhibits "A" for this project shall be made unless the Permittee obtains approval from Development Services of either an amendment of this permit (via a noticed public hearing) or approval of a Substantial Conformance Review (SCR) application.
35. Accessory retail and office support land uses on this site shall not exceed 15% of the total gross floor area approved per this development permit.

36. Any proposal to convert this site from office land uses (as approved herein) to a regional-serving retail complex shall require subsequent approval by the City Council of an amendment of this permit and the Carmel Valley PDO (via a noticed public hearing) and possibly additional environmental review and documentation per State CEQA guidelines.
37. At no time shall there be a charge for the use of off-street parking spaces on this site.
38. Prior to the issuance of each building permit, an 8-foot-high sound attenuation berm (located between the project's exterior usable areas and State Route 56) shall be shown on the site plans as necessary to achieve a 70 dB(A) exterior noise level for all exterior usable areas, in a manner satisfactory to Development Services. The proposed sound attenuation berm shall be solid and continuous with no gaps or openings.
39. Prior to the issuance of a Certificate of Occupancy for each building on site, Development Services shall verify that the preceding described sound attenuation berm adjacent to each individual building has been constructed in accordance with the approved grading plans for the site.
40. Prior to the issuance of the first building permit, a final acoustical report and specific interior noise attenuation measures shall be submitted to and approved by Development Services as necessary to achieve a 50 dB(A) interior noise level for the proposed office buildings approved herein. Attenuation of interior noise levels may be accomplished through upgraded construction materials with mechanical ventilation and special construction techniques. This may include the use of glazing products sound rated as high as STC 45, which generally requires a double-paned slider. Baffling or elimination of attic vents, and resilient channels in exterior walls may also be required. Sound attenuation greater than 30 dB(A) shall require special construction techniques.
41. Prior to the issuance of the first building permit, the Permittee shall complete the construction of various improvements at the intersection of El Camino Real and Valley Center Drive, in manner satisfactory to the City Engineer. The improvements shall include: re-stripping the eastbound approach to provide single left- and right-turn lanes to the project site and to provide a shared left-through- and right-turn lane; re-stripping the westbound approach to provide single left- and right-turn lanes and a shared left- and right-turn lane; implementing east-west split phasing; and improving the northbound approach to provide a northbound right-turn lane.

42. Prior to the issuance of the first building permit, the Permittee shall provide for the design and construction of a traffic signal at the intersection of Valley Center Drive and Carmel View Road, in a manner satisfactory to the City Engineer.
43. Prior to the issuance of the first building permit, the Permittee shall widen the eastbound approach of Valley Center Drive and Carmel Creek Road to accommodate an eastbound to southbound right-turn lane, to the satisfaction of the City Engineer.
44. Prior to the issuance of any grading permits, the Permittee shall submit a Notice of Intent (NOI) with the State Water Resources Control Board (SWRCB) for the application of a National Pollutant Discharge Elimination System (NPDES) permit. A Notice of Receipt from the SWRCB, and Storm Water Pollution Prevention Plan (SWPPP) shall be submitted and deemed satisfactory to the City Engineer. The SWPPP shall be incorporated into the grading and drainage design plans, and shall provide for implementation of construction and post-construction Best Management Practices (BMPs) on-site to reduce the amount of pollutants and sediments in construction and post-construction surface run-off before it is discharged into the natural drainage. The final grading plans for the project shall note the condition requiring a SWPPP and Monitoring Program Plan. No grading shall be performed during the rainy season (November 15 through February 15) without special erosion control measures approved by the City Engineer.
45. Prior to the issuance of the first building permit, the Permittee shall obtain a site inspection of the project's drainage system by the City Engineer. Existing run-off catchment basins or temporary erosion control devices shall not cease operations until the SWPPP and drainage system are approved by the City Engineer. The drainage system for the project shall be cleaned and maintained every four months, or as necessary, to ensure the system functions properly. An annual letter report prepared by the Permittee identifying the quarterly clean-out dates, system conditions and required maintenance shall be provided by the Permittee to the satisfaction of the City Engineer. Spot checks of the project's drainage system may be made by the City Engineer to ensure proper clean-out and maintenance.
46. A cultural resources survey prepared in 1985 for Neighborhoods 4, 5, and 6 Precise Plan identified eight archaeological sites on the subject property. A subsequent 1989 investigation concluded that all sites on the subject property had been destroyed without adequate evaluation for archaeological resource significance. The Permittee has acknowledged that appropriate mitigation was not completed for these archaeological resource sites and has agreed to compensate for the loss of these resources through a monetary contribution to the City's archaeological library and record keeping efforts. The amount of

monetary damages shall be determined by calculating a pro-rata share of the \$40,000 total cost (\$5,000 per site) of the eight archaeological sites, based on a ratio of project acreage to Precise Plan acreage. Using this method, the Permittee shall contribute \$630 $[(17.34 \text{ acres} / 1,100 \text{ acres}) \times \$40,000]$. This amount shall be submitted to the Environmental Analysis Section of Development Services prior to the issuance of the first building permit.

47. Prior to issuance of the first building permit, the Permittee shall submit exterior elevations, to the satisfaction of Development Services, indicating that no more than 50% of any exterior building elevation on site will be constructed of materials with a light reflectivity greater than 30% to reduce potentially adverse hazards associated with light and glare on motorists traveling SR 56.
48. Prior to the issuance of any certificate of occupancy for any building site, the Permittee shall provide an additional deposit of \$3,200 to the Environmental Analysis Section of Development Services to ensure the successful completion of the project's environmental monitoring program (in accordance with State CEQA guidelines).
49. Prior to the issuance of any grading permits, the Permittee shall verify in writing to Development Services that a fee, in the amount of \$15,420.24, has been provided towards the Los Peñasquitos Watershed Enhancement Program. The amount of this fee is based upon the calculation of \$0.03 per square foot of all impervious paving surfaces created by the proposed development of this site.

Passed and adopted by the Council of The City of San Diego on December 8, 1998, by Resolution No. R-291087.

02/18/99
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AUTHENTICATED BY THE CITY MANAGER

By _____

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.

K-MART CORPORATION
a Michigan corporation
Owner/Permittee

By _____

PIAZZA PARTNERS, L.P.
a California limited partnership
Owner/Permittee

By: Allen Development, Inc.
a California corporation
General Partner

By _____

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

2/18/99
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