

RESOLUTION NUMBER R-295200

ADOPTED ON JULY 24, 2001

WHEREAS, Kilroy Realty, L.P., Owner/Permittee, filed an application with the City of San Diego for Planned Industrial Development [PID] Permit No. 99-1351 and amendment to Planned Industrial Development Permit No. 83-0861 to lease or rent office space to single and multiple tenant users known as the Kilroy Carmel Mountain Technology Center project, located at 15435 Innovation Drive on the northwest corner of the intersection of Avenue of Science and Innovation Drive and 15445 Innovation Drive on the southwest corner of the intersection of Avenue of Science and Innovation Drive, and legally described as Parcel 1 and Parcel A of Parcel Map No. 13090, in the Rancho Bernardo Community Plan area, in the IH-2-1 zone (previously referred to as the M-LI zone) which is proposed to be rezoned to the IP-2-1 zone (previously referred to as the M-IP zone); and

WHEREAS, on May 24, 2001, the Planning Commission of the City of San Diego considered PID Permit No. 99-1351, and pursuant to Resolution No. 3142-PC voted to recommend City Council approval of the permit; and

WHEREAS, the matter was set for public hearing on July 24, 2001, testimony having been heard, evidence having been submitted, and the City Council having fully considered the matter and being fully advised concerning the same; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that it adopts the following findings with respect to PID Permit No. 99-1351 and amendment to PID Permit No. 83-0861:

## **PLANNED INDUSTRIAL DEVELOPMENT PERMIT FINDINGS**

**1. The proposed use will fulfill a community need and will not adversely affect the City's Progress Guide and General Plan or the adopted Community Plan.**

The proposed rezone and planned industrial development amendment of this property to rezone from the industrial IH-2-1 zone (formerly M-LI zone) to industrial IP-2-1 zone (formerly the M-IP zone) and amend Planned Industrial Development Permit No. 83-0861 to allow both single and multiple tenants at two developed sites will fulfill a community need by providing additional sites within the community for industrial development. The site is identified by the Rancho Bernardo Community Plan and the City's Progress Guide and General Plan for development with industrial uses. The proposed uses on this site, which are consistent with the land use policy documents guiding development in the community, will not adversely affect the community or City.

**2. The proposed use 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 properties in the vicinity.**

Conditions of approval found within the Planned Industrial Development Permit No. 99-1351 address the health, safety, and general welfare of persons residing or working the area and properties in the vicinity to preclude detrimental effects from the existing development. Compliance with all building, electrical, plumbing, and zoning regulations as allowed through a Planned Industrial Development, will be achieved by the proposed development at this site.

**3. The proposed use will fully comply with the relevant regulations of the San Diego Municipal Code in effect for this site.**

As allowed through a Planned Industrial Development, the proposed development and subdivision will comply with all relevant regulations of the San Diego Municipal Code. The project application and existing development is consistent with the proposed IP-2-1 zone (formerly the M-IP zone) requirements.

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 Planned Industrial Development Permit No. 99-1351 and amendment to Planned Industrial Development Permit No. 83-0861 is granted to Kilroy Realty, L.P., 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   
Mary Jo Lanzafame  
Deputy City Attorney

MJL:mdw:lc  
08/29/01  
Or.Dept:Clerk  
R-2002-279  
Form=permitr.frm  
Reviewed by John Fisher

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

**AND WHEN RECORDED MAIL TO  
CITY CLERK  
MAIL STATION 2A**

SPACE ABOVE THIS LINE FOR RECORDER'S USE

**Planned Industrial Development No. 99-1351 (MMRP)  
Amendment to PID No. 83-0861  
KILROY CARMEL MOUNTAIN**

City Council

This Planned Industrial Development [PID] Permit No. 99-1351 and Amendment to Planned Industrial Development No. 83-0861 is granted by the Council of the City of San Diego to Kilroy Realty, L.P., Owner/Permittee, pursuant to San Diego Municipal Code [SDMC] section 101.0920. The 8.65 acre site at 15435 Innovation Drive on the northwest corner and the 4.65 acre site at 15445 Innovation Drive on the southwest corner at the intersection of the Avenue of Science and Innovation Drive in the IH-2-1 zone (previously referred to as the M-LI zone) which is proposed to be rezoned to the IP-2-1 zone (previously referred to as the M-IP zone) in the Rancho Bernardo Community Plan area. The project site is legally described as Parcel 1 and Parcel A of Parcel Map 13090.

Subject to the terms and conditions set forth in this permit, permission is granted to Owner/Permittee to lease or rent office space to single and multiple tenant users at 15435 and 15445 Innovation Drive.

1. All conditions of the original Planned Industrial Development Permit No. 83-0861 shall remain in force and effective at this site except as replaced or provided herein.
2. Construction, grading or demolition must commence and be pursued in a diligent manner within thirty-six months after the effective date of final approval by the City, following all appeals. Failure to utilize the permit within thirty six months will automatically void the permit unless an Extension of Time has been granted. Any such Extension of Time must meet all the SDMC requirements and applicable guidelines in effect at the time the extension is considered by the appropriate decision maker.
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 the Development Services Department; 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 Owner/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 Endangered Species Act of 1973 and any amendments thereto (16 U.S.C. § 1531 *et seq.*)
8. 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 entitled 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 proposed permit can still be made in the absence of the "invalid" condition(s). Such hearing shall be a hearing de novo and the discretionary body shall have the absolute right to approve, disapprove or modify the proposed permit and the condition(s) contained therein.

9. No access shall be permitted onto or off of Camino del Norte via the existing emergency driveway with the exception of authorized emergency vehicles. The gate and bollards that have been installed within this access driveway shall be kept in a permanently locked configuration and maintained in good repair at all times.
10. All lighting within this project shall be placed and shielded so as not to be hazardous to vehicles traveling on Interstate 15.
11. All private outdoor lighting shall be shaded and adjusted to fall on the same premises where such lights are located.

**ENVIRONMENTAL/MITIGATION REQUIREMENTS:**

12. Prior to the issuance of the first building permit, the Owner/Permittee shall assure by permit and bond the re-construction of the southbound approach at the intersection of Carmel Mountain Road with Rancho Carmel Drive (South) to provide one left, two through, and two right-turn lanes including signal modification, satisfactory to the City Engineer.

APPROVED by the Council of the City of San Diego on July 24, 2001, by Resolution No. R-295200.

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.

**Kilroy Realty, L.P.**  
Owner/Permittee

By \_\_\_\_\_

By \_\_\_\_\_

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

8/29/01

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