

(R-2006-590)
(COR COPY)

RESOLUTION NUMBER R- 301160

DATE OF FINAL PASSAGE JAN 17 2006

WHEREAS, NCR Corporation, a Maryland Corporation, Owner/Permittee, filed an application with the City of San Diego for a planned development permit/site development permit to amend Manufacturing Industrial Permit No 91-0831 and Tentative Map No. 8529 to create a subdivision of one parcel into five parcels, maintain three existing buildings with parking and other site improvements and construct three new buildings, a parking structure and other site improvements known as the Vista at Rancho Bernardo project, located at 17087 - 17097 Via Del Campo, and legally described as Parcel 2 of Parcel Map No 13441, filed August 24, 1984, as file no. 84-324480 of official records, in the Rancho Bernardo Community Plan area, in the IP-2-1 zone; and

WHEREAS, on November 10, 2005, the Planning Commission of the City of San Diego considered Planned Development Permit [PDP] No. 8528/Site Development Permit [SDP] No. 260305 to amend Manufacturing Industrial Permit No. 91-0831, and pursuant to Resolution No 3881-PC voted to recommend City Council approval of the permit; and

WHEREAS, under Charter section 280(a)(2) this resolution is not subject to veto by the Mayor because this matter requires the City Council to act as a quasi-judicial body and where a public hearing was required by law implicating due process rights of individuals affected by the decision and where the Council was required by law to consider evidence at the hearing and to make legal findings based on the evidence presented, and

WHEREAS, the matter was set for public hearing on JAN 17 2006, 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 PDP No. 8528/SDP Permit No. 260305:

A. PLANNED DEVELOPMENT PERMIT – SAN DIEGO MUNICIPAL CODE [SDMC] SECTION 126.0604

1. Findings for all Planned Development Permits

a. The proposed development will not adversely affect the applicable land use plan. The proposed project is located in the Rancho Bernardo Community Planning area and is designated for industrial land uses. According to the Rancho Bernardo Community Plan, Industrial Element, industrial lands presently vacant are proposed to be used for research and development facilities, manufacturing establishments and ancillary industrial activities commensurate with modern and advanced technologies.

The proposed uses on lots numbered two through four will include Industrial uses as identified in the Rancho Bernardo Community Plan, Industrial Element and uses ancillary to Industrial activities Regional and Corporate Headquarters of 40,000 sq.ft. or greater and related to the administration of industries identified has been determined to be consistent with the land use plan A maximum allowance for office space will be 25 percent within the development. Under these conditions the proposed development will not adversely affect the Rancho Bernardo Community Plan.

b. The proposed development will not be detrimental to the public health, safety, and welfare. The permit controlling the development and continued use of the development proposed for this site contains conditions addressing the project compliance with the City's regulations and other regional, state and federal regulations to prevent detrimental impacts to the health, safety, and general welfare of persons residing and/or working in the area. Conditions of approval require compliance with several operational constraints and development controls intended to assure the continued health, safety and general welfare of persons residing or working in the area All Building, Fire, Plumbing, Electrical, Mechanical Code and the City regulations governing the construction and continued operation of the development apply to this site to prevent adverse affects to those persons or other properties in the vicinity.

c. The proposed development will comply with the regulations of the Land Development Code. Specific conditions of approval require the continued compliance with all relevant regulations of the City of San Diego effective for this site and have been written as such into Planned Development Permit No 8528 and Site Development Permit No 260305. Development of the property shall meet all requirements of the regulations and development

criteria of the IP-2-1 zone, except as specifically allowed and modified by the Planned Development Permit No. 8528 which allows specific deviations. All relevant regulations shall be complied with at all times for the life of the project, except as allowed through specific deviations

d. The proposed development, when considered as a whole, will be beneficial to the community. The development will create high value jobs in the Rancho Bernardo community adding significantly to the regional economic base. The project will also utilize land designated for industrial uses to create a quality development within the Rancho Bernardo community. The project will comply with the development regulations in effect at the site, except as provided for by the Planned Development regulations. For these specific reasons, the proposed development, when considered as a whole, will be beneficial to the community.

e. Any proposed deviations pursuant to Section 126.0602(b)(1) are appropriate for this location and will result in a more desirable project than would be achieved if designed in strict conformance with the development regulations of the applicable zone. Development of the property shall meet all requirements of the regulations and development criteria of the IP-2-1 zone, except as specifically allowed and modified by Planned Development Permit No. 8528 which allows specific deviations as listed here. 1) The project proposes 98 feet of required street frontage where 100 feet is required, 2) Lots 2, 3 and 4 do not meet the minimum dimensions for lot depth where 200 feet is required and 169, 169 and 154 feet, respectively, is provided, 3) Lots 2, 3 and 4 do not meet the minimum front yard setback where 25 feet is required and 20 feet on each lot is provided; 4) Lots 2, 3 and 4 do not meet the minimum rear yard setback where 25 feet is required and 20, 20 and 5 feet, respectively, is provided; and 5) Lots 3 and 4 do not meet the minimum side yard setback where 15 feet is required and 5 and 13 feet, respectively, is provided. The Planned Development Permit regulations allow for deviations to the minimum requirements of the zoning regulations affecting a site if the proposed design is demonstrated to be an imaginative and creative design solution which would not result from the strict application of the regulations. The proposed project will be such a creative and imaginative design. The deviations are therefore allowable through the Planned Development Permit regulations. Concept plans for the project identify compliance with all other development criteria in effect for the site. All relevant regulations shall be complied with at all times for the life of the project, except as allowed through the specific deviations listed above.

B. SITE DEVELOPMENT PERMIT – SAN DIEGO MUNICIPAL CODE [SDMC] SECTION 126.0504

1. Findings for all Site Development Permits

a. The proposed development will not adversely affect the applicable land use plan. The proposed project is located in the Rancho Bernardo Community Planning area and is designated for industrial land uses. According to the Rancho Bernardo Community Plan, Industrial Element, industrial lands presently vacant are proposed to be used for research and development facilities, manufacturing establishments and ancillary industrial activities

commensurate with modern and advanced technologies See Finding A.1 of the Planned Development Permit – SDMC section 126.0604 above for further information

b. The proposed development will not be detrimental to the public health, safety, and welfare The propose project will provide for the health, safety and welfare of the residents and persons who work in the area by providing for the orderly development of the site consistent with the Rancho Bernardo Community Plan. In this way the proposed development will not be detrimental to the public health, safety, and welfare to persons living and working in the area. See Finding A.2 of the Planned Development Permit – SDMC section 126 0604 above for further information.

c. The proposed development will comply with the applicable regulations of the Land Development Code. Concept plans for the project identify compliance with all other development criteria in effect for the site. All relevant regulations shall be complied with at all times for the life of the project, except as allowed through specific deviations. See Finding A.3 of the Planned Development Permit – SDMC section 126 0604 above for further information

2. Supplemental Findings--Environmentally Sensitive Lands

a. The site is physically suitable for the design and siting of the proposed development and the development will result in minimum disturbance to environmentally sensitive lands. The design and layout of the proposed project has been developed to conform, to the extent possible, with the existing landforms and to avoid environmentally sensitive lands. The project site is not located within nor is it adjacent to the City's Multiple Species Conservation Program [MSCP] Multi-Habitat Planning Area [MHPA]. Development of the proposed project is designed to encompass the flat and gently sloping central portions of the site and has avoided the steep slopes around the perimeter of the site.

In order to fulfill the purpose of the project and the objectives of the adopted Rancho Bernardo Community Plan, the development will provide approximately 277,000 square feet of building space in three buildings on site To accommodate the parking requirements associated with the proposed square footage of the project, both surface parking and a parking structure are proposed. Various alternative designs and configurations to minimize adverse effects to environmentally sensitive lands have been evaluated and it is determined that the proposed design is the least damaging practical alternative with minimal disturbance to environmentally sensitive lands. Of the approximately 10.6 acres of natural upland vegetation on the 38 42-acre site, the proposed project would impact a total of 0.64 acres of natural upland vegetation

The Permittee shall be required to fully mitigate the impacts with the acquisition of off-site upland habitat within the MHPA or pay into the City's Habitat Acquisition Fund the amount necessary to purchase 0.64 acre. As a result, the project would be consistent with the City's policy that development is directed into non-MHPA areas and mitigation is directed into the MHPA.

b. The proposed development will minimize the alteration of natural land forms and will not result in undue risk from geologic and erosional forces, flood hazards, or fire hazards. The Rancho Bernardo Community Plan was designed to accommodate development of the community with a full range of land uses while preserving the unique character of the community prior to development. The development footprint has been located to minimize erosion, flood, and fire hazards. The development complies with the Region-wide erosion control plan. The plan exceeds the otherwise City-wide applicable requirements related to storm water runoff and best management practices as related to storm water runoff. As such the proposed development will minimize the alteration of natural landforms and will not result in undue risk from geologic and erosional forces, flood hazards, or fire hazards.

c. **The proposed development will be sited and designed to prevent adverse impacts on any adjacent environmentally sensitive lands.** When adopted, the Rancho Bernardo Community Plan analyzed environmentally sensitive lands within the plan area per City Council Policy 600-40. The proposed development has been sited and designed to prevent adverse impacts on adjacent lands and is consistent with the requirements of the Environmentally Sensitive Lands regulations. The proposed project site is surrounded by urban land uses and is not located within nor is it adjacent to the City's MSCP/MHPA or properties containing environmentally sensitive lands. To minimize development impacts, the project has been sited primarily within an area currently used for a gravel parking lot and recreation area that contains disturbed sensitive habitat, sand volleyball courts, a basketball court, a baseball/softball field, and decomposed-granite path and trail area. Therefore, the proposed development has been sited and designed to prevent adverse impacts on adjacent lands and is consistent with the requirements of the Environmentally Sensitive Lands regulations.

d. **The proposed development will be consistent with the City of San Diego's Multiple Species Conservation Program [MSCP] Subarea Plan.** The proposed project will be consistent with the Environmentally Sensitive Lands regulations. Project specific mitigation is proposed to counter impacts to sensitive habitats of coastal sage scrub and southern mixed chaparral. The project site is not within or adjacent to the City's Multi-Habitat Planning Area for the MSCP. Impacts to sensitive biological resources will occur and mitigation will be provided pursuant to the City's Biology Guidelines. All other requirements of the MSCP have been met or exceeded for the developable portions of the proposed development. Therefore, the proposed project will be consistent with the City's MSCP Subarea Plan.

e. **The proposed development will not contribute to the erosion of public beaches or adversely impact local shoreline sand supply.** The proposed development is located approximately ten miles east of the Pacific Ocean's beaches and local shoreline. The on-site development will not contribute to erosion of public beaches or adversely impact shoreline sand supply in that all current water quality and erosion control measures will be required of the project during construction and post-construction. All drainage will be directed to the existing public storm drain system and to the extent possible will substantially decrease the potential for downstream siltation. The proposed development will not contribute to the erosion of public beaches or adversely impact local shoreline sand supply.

f. **The nature and extent of mitigation required as a condition of the permit is reasonably related to, and calculated to alleviate, negative impacts created by the proposed development.** Mitigated Negative Declaration No. 4873 prepared during the California Environmental Quality Act [CEQA] review process included a site specific impact analysis for this proposed development. An initial study has been conducted for the proposed development on this site and concluded that Mitigated Negative Declaration No. 4873 should include requirements to mitigate for potential impacts to Transportation/Circulation, Paleontological Resources and Biological Resources and in fact the development will mitigate for these impacts with the implementation of the project. All mitigation is related to and calculated to alleviate impacts created by the proposed development and has been or will be incorporated into the conditions of the development permit.

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

BE IT FURTHER RESOLVED, that Planned Development Permit No. 8528/Site Development Permit No 260305 to Amend Manufacturing Industrial Permit No. 91-0831 is granted to NCR Corporation, a Maryland Corporation, Owner/Permittee, under the terms and conditions set forth in the permit attached hereto and made a part hereof.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By Shannon M. Thomas
Shannon M. Thomas
Deputy City Attorney

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Or Dept:DSD
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