

RESOLUTION NUMBER R- 302086

DATE OF FINAL PASSAGE NOV 14 2006

WHEREAS, Qualcomm, Incorporated, Owner/Permittee, filed an application with the City of San Diego for a conditional use permit to construct and operate an elevated helistop on top of a 475,218 square foot, 10-story research and development building known as the Qualcomm Building "N" Helistop project, located at 5665 Morehouse Drive, and legally described as Parcel 1 of Parcel Map 13866, in the City of San Diego, County of San Diego, State of California, Township 15 South, Range 3 West, San Bernardino Base Meridian, in the Mira Mesa Community Plan area, in the IL-2-1 zone (previously referred to as the M-1B zone); and

WHEREAS, on May 25, 2006, the Planning Commission of the City of San Diego considered Conditional Use Permit [CUP] No. 224802, and pursuant to Resolution No. 4043-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 NOV 14 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 Conditional Use Permit No. 224802 :

**CONDITIONAL USE PERMIT – SAN DIEGO MUNICIPAL CODE [SDMC]
SECTION 126.0305**

Findings for all Conditional Use Permits

1. **The proposed development will not adversely affect the applicable land use plan.** The subject property is an 18.02-acre site presently being developed with a 10-story, 475,218 square foot office building with associated parking structure and landscaping improvements. It is located in the IL-2-1 and Airport Environs Overlay Zones within the Mira Mesa Community Plan area. The proposed project has been reviewed and determined to be consistent with the MCAS Miramar's Comprehensive Land Use Plan [CLUP]. The proposed helistop is allowed as a Conditional Use (helicopter landing facilities) by the San Diego Municipal Code Section 126.0303 (c). The proposed use will not adversely affect the Mira Mesa Community Plan which designates the site for light-industrial use. The helistop's separated distances to residential areas, educational facilities, and public assembly areas exceed that required by the San Diego Municipal Code.

2. **The proposed development will not be detrimental to the public health, safety, and welfare.** The proposed development is the construction of a helistop on the top of a 10-story, 475, 218 square foot research and development building on a 18.02-acre site located at 5665 Morehouse Drive. The Qualcomm Building 'N' helistop project is allowed to develop and operate only in strict accordance with those conditions contained within this permit, which include a maximum of fifteen landings per month, minimizing nighttime operations as much as possible, minimizing helicopter idling time as much as possible, and a requirement that noise monitoring be conducted during the initial stages of operations to determine compliance with local noise criteria. In the event that the noise criteria are exceeded, the operations should be reviewed to determine further noise control measures. Health, safety, and welfare regulations contained within state and federal laws will also be implemented both through this permit, (operating permits) and during the building development (building permit) review process. In addition, approvals from the Federal Aviation Administration [FAA] and Caltrans Division of Aeronautics are necessary for the operation of the helistop.

3. **The proposed development will comply with the regulations of the Land Development Code.** The subject property is an 18.02-acre site presently being developed with a 10-story, 475,218 square foot office building with associated parking structure and landscaping improvements. The proposed development is the construction of a helistop on the top of a 10-story, 475, 218 square foot research and development building currently under construction on a 18.02-acre site located at 5665 Morehouse Drive. The site is located in an area designated as "Light Industrial" within the Mira Mesa Community Plan and is in the IL-2-1 and Airport Environs Overlay Zones. The subject project complies with the development regulations and

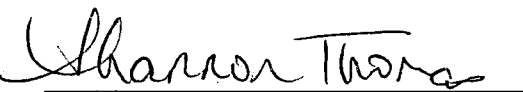
standards of the underlying IL-2-1 and Airport Environs Overlay Zones, as well as other applicable regulations of the City's Land Development Code.

4. The proposed use is appropriate at the proposed location. The subject property is an 18.02-acre site presently being developed with a 10-story, 475,218 square foot office building with associated parking structure and landscaping improvements. The proposed development is the construction of a helistop on the top of a 10-story, 475, 218 square foot research and development building on a 18.02-acre site located at 5665 Morehouse Drive. The proposed project site is located in the IL-2-1 and Airport Overlay Zones in an area designated for Light-Industrial use within the Mira Mesa Community Plan. The proposed helistop is allowed as a Conditional Use under the IL-2-1 base zone (SDMC § 126.0303 (c)), is consistent with the CLUP for MCAS Miramar, and meets all requirements of CALTRANS Aeronautics Division. The light-industrial zoned site is appropriate for the proposed use. It is located adjacent to a major arterial roadway (Mira Mesa Boulevard and Lusk Boulevard) and within one-half mile of the I-805 freeway. Proper approach and departure paths have been identified and avoid residential developments, schools, and highly populated areas. Additionally, several options for emergency landing areas exist on site.

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

BE IT FURTHER RESOLVED, that Conditional Use Permit No. 224802 is granted to Qualcomm, Incorporated, Owner/Permittee, under the terms and conditions set forth in the attached permit which is made a part of this resolution.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By 
Shannon M. Thomas
Deputy City Attorney

SMT:als
09/05/06
11/16/06 REV.COPY
Or.Dept:DSD
R-2007-246
MMS#3731

PERMITS\Permit Resolution 09-20-05.doc

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

WHEN RECORDED MAIL TO
CITY CLERK
MAIL STATION 2A

SPACE ABOVE THIS LINE FOR RECORDER'S USE

JOB ORDER NUMBER 42-4585

CONDITIONAL USE PERMIT NO. 224802
QUALCOMM BUILDING "N" HELISTOP
CITY COUNCIL

This Conditional Use Permit No.224802 is granted by the City Council of the City of San Diego to Qualcomm Incorporated, Owner/Permittee, pursuant to San Diego Municipal Code [SDMC] section 126.0303. The 18.02-acre site is located at 5665 Morehouse Drive in the IL-2-1 and Airport Environs Overlay zones of the Mira Mesa Community Plan. The project site is legally described as Parcel 1 of Parcel Map 13866 in the City of San Diego, County of San Diego, State of California.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee to construct and operate an elevated helistop on top of a 475, 218 square-foot, 10-story research and development building described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated NOV 14 2006, on file in the Development Services Department.

The project or facility shall include:

- a. An elevated helistop on a 475,218 square foot, 10-story research and development building;
- b. Accessory improvements determined by the City Manager to be consistent with the land use and development standards in effect for this site per 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 SDMC in effect for this site.

STANDARD REQUIREMENTS:

1. Construction 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.
2. 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
3. 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.
4. 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.
5. The utilization and continued use of this Permit shall be subject to the regulations of this and any other applicable governmental agency.
6. Issuance of this Permit by the City of San Diego does not authorize the Permittee for this permit to violate any Federal, State or City laws, ordinances, regulations or policies including, but not limited to, the Endangered Species Act of 1973 [ESA] and any amendments thereto (16 U.S.C. § 1531 et seq.).
7. The Owner/Permittee shall secure all necessary building permits. The applicant is informed that to secure these permits, substantial modifications to the building and site improvements to comply with applicable building, fire, mechanical and plumbing codes and State law requiring access for disabled people may be required.
8. Before issuance of any building permits, complete working drawings shall be submitted to the City Manager for approval. Plans shall be in substantial conformity to Exhibit "A." No changes, modifications or alterations shall be made unless appropriate application(s) or amendment(s) to this Permit have been granted.

9. 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 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 the special rights which the holder of the Permit is entitled as a result of obtaining this 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.

PLANNING/DESIGN REQUIREMENTS:

10. There shall be compliance with the regulations of the underlying zone(s) unless a deviation or variance to a specific regulation(s) is approved or granted as a condition of approval of this Permit. Where there is a conflict between a condition (including exhibits) of this Permit and a regulation of the underlying zone, the regulation shall prevail unless the condition provides for a deviation or variance from the regulations. Where a condition (including exhibits) of this Permit establishes a provision which is more restrictive than the corresponding regulation of the underlying zone, then the condition shall prevail.

11. The height(s) of the building(s) or structure(s) shall not exceed those heights set forth in the conditions and the exhibits (including, but not limited to, elevations and cross sections) or the maximum permitted building height of the underlying zone, whichever is lower, unless a deviation or variance to the height limit has been granted as a specific condition of this Permit.

12. A topographical survey conforming to the provisions of the SDMC may be required if it is determined, during construction, that there may be a conflict between the building(s) under construction and a condition of this Permit or a regulation of the underlying zone. The cost of any such survey shall be borne by the Permittee.

13. 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.

14. The applicant is required to obtain a license to construct and/or operate a permanent helistop, pursuant to Municipal Code, section 68.0205.

15. Prior to issuance of any construction permit the Owner/Permittee shall provide to the City Engineer a consistency determination from the San Diego Regional Airport

Authority's Airport Land Use Commission for development within the adopted Airport Land Use Compatibility Plan's Airport Influence Area for MCAS Miramar.

16. The subject property and associated common areas on site shall be maintained in a neat and orderly fashion at all times.
17. Helistop operations shall not exceed fifteen landings per month.
18. The number of evening and night time operations should be minimized as much as possible.
19. Helicopter idle-time should be minimized as much as possible.
20. Noise monitoring shall be conducted during the initial stages of operations to determine compliance with local noise criteria. A noise report shall be submitted to the Development Services Department (Mitigation Monitoring Coordinator) prior to the end of the first year of operation.

The number of noise measurements shall be determined by a qualified acoustician to adequately measure the sound exposure/level of helicopter arrivals and departures. The method of analysis shall be disclosed in the noise report submitted. The report shall also include a measurement (24-hour period) of the existing noise levels (that would include, but not be limited to, noise influences from MCAS Miramar flights). The report shall also include a total of all helicopter idling time, and all night time and evening operations during the period covered by the report.

In the event that the noise criteria is exceeded (both CNEL and 75 dB one-hour ratings and 94 dB single, peak-event), the applicant shall determine and implement further noise control measures, as approved by the Development Services Department. The measurements shall be taken of, but is not limited to, noise data at ground level, taken at the following locations: approximately two miles out from the helistop along the northeastern approach path; approximately one mile out from the helistop along the western departure path; and/or comparative noise monitoring distance (s) similar to Montgomery Field noise monitoring distance (s).

Subsequent noise reports may be required if the type of helicopter or use changes.

21. Flight paths shall be designed in such a way as to avoid nearby residential areas.

FEDERAL AVIATION ADMINISTRATION REQUIREMENTS:

22. The landing area, established at an elevation of 486 feet above mean sea level, is operated for private use only.

23. Operations are to be conducted at this facility only during Visual Flight Rule [VFR] conditions, and in accordance with the restrictions or requirements of the overlaying class of airspace.
24. Operations are for Qualcomm building headquarters only and not intended to be significant usage for Qualcomm-sponsored events in the San Diego area, whose arrivals would have to be coordinated and sequenced by Southern California TRACON.
25. Routes of ingress/egress are established and maintained obstruction free.
26. If operations are to be conducted between sunset and sunrise, the Federal Aviation Administration [FAA] recommends that landing area lighting be installed in accordance with FAA Advisory Circular (AC) 150/5390-2B, Heliport Design.
27. Heliport is designed and constructed in accordance with FAA Advisory Circular [AC] 150/5390-2B, Heliport Design.
28. Coordinate with the California Department of Transportation, Aeronautics Division to obtain the necessary application and approval before proceeding with the establishment of the subject landing facility.

ADDED CONDITIONS:

1. Beginning in 2007 and annually thereafter, the CUP shall be reviewed through Substantial Conformance review (as defined in Sec. 113.0103 of the SDMC). Notwithstanding the foregoing, if written complaints of operations pursuant to the CUP have not been received by the City within each 12 month period, Substantial Conformance review will not be required for that year.
2. If the City receives written complaints concerning operations permitted by the CUP, the Permittee will work with the City Council District 5 office to resolve such complaints.
3. If, within 3 months of City's receipt of written complaints concerning operations permitted by the CUP. Such complaints cannot be resolved by Permittee in consultation with the City Council District 5 office, then Substantial Conformance review before the City Council will be required. A written notice of the hearing regarding the Substantial Conformance review will be sent to Permittee at least 60 calendar days prior to the hearing.
4. The Permittee may apply to amend the CUP to increase the number of flights if, within any given 12 month period: (i) the City has not received written complaints concerning operations permitted by the CUP; or (ii) written complaints concerning operations permitted by the CUP received by the City have been resolved.

Applicant shall defend, indemnify and hold City and City's agents, officers, and employees [all together, Indemnitees] harmless from any claim, action, or proceeding

against any Indemnitee to attack, set aside, void, or annul, any use or construction permit for this project brought within the limitations period, and from any claim, action or proceeding against any Indemnitee arising from the operation of the project. City shall promptly notify Applicant of any such claim, action, or proceeding, and shall fully cooperate in the defense thereof.

City may elect to conduct its own defense, participate in its own defense, or obtain independent legal counsel in defense of any claim related to this indemnification. In the event of such election, Owner/Permittee shall pay all of the costs related thereto, including without limitation reasonable attorney's fees and costs.

INFORMATION ONLY:

- Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of this development permit may protest the imposition within ninety days of the approval of this development permit by filing a written protest with the City Clerk pursuant to California Government Code section 66020.
- This development may be subject to impact fees at the time of building/engineering permit issuance.

APPROVED by the City Council of the City of San Diego on NOV 14 2006 and resolution number R-302086.

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.

QUALCOMM INCORPORATED
Owner/Permittee

By _____

By _____

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

PERMIT/OTHER - Permit Shell 11-01-04

*Revised 11/16/06

Passed by the Council of The City of San Diego on NOV 14 2006, by the following vote:

Council Members	Yeas	Nays	Not Present	Ineligible
Scott Peters	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Kevin Faulconer	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Toni Atkins	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Anthony Young	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Brian Maienschein	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Donna Frye	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jim Madaffer	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ben Hueso	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage NOV 14 2006

AUTHENTICATED BY:

(Seal)

JERRY SANDERS

Mayor of The City of San Diego, California.

ELIZABETH S. MALAND

City Clerk of The City of San Diego, California.

By *Debbie Swenson Cruz*, Deputy

Office of the City Clerk, San Diego, California

Resolution Number

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